

City of Tenino

149 Hodgen Street South

Tenino, WA 98589

Planning Commission Meeting

Wednesday, September 09, 2026 at 6:00 PM

Agenda

CALL TO ORDER

HOUSEKEEPING

PUBLIC COMMENT

PUBLIC HEARINGS

REPORTS

UNFINISHED BUSINESS

- [1.](#) Continued discussion of the Critical Areas Ordinance

NEW BUSINESS

- [2.](#) BLA No. 2026-01-TE Final Map - ROW Vacation Petition

Customer requested vacation of utility alley, water/sewer lines are in this alley.

PUBLIC COMMENT

ADJOURN

File Attachments for Item:

1. Continued discussion of the Critical Areas Ordinance



City of Tenino Planning Commission Critical Areas Ordinance Update

To: City of Tenino Planning Commission
From: Malissa Burgess, Contract Planner, SCJ Alliance
Date: September 9, 2026
Project: Comprehensive Plan Periodic Update
Subject: Critical Areas Ordinance Update: Status and Next Steps

Summary

The City has completed the initial review and drafting phase of the Critical Areas Ordinance (CAO) update. In December 2025, staff completed the Washington Department of Commerce Critical Areas Checklist and prepared draft revisions to Title 112, Critical Areas, with related definitions and administrative provisions in Title 100. The draft addresses the five critical-area categories required by the Growth Management Act and is intended to improve consistency with state law, best available science, and current permitting practices.

Commerce amended portions of Chapter 365-195 WAC in December 2025, effective January 23, 2026. The updated rules clarify that cities must conduct a best available science review when updating critical-area regulations, that the complexity of the review should reflect the scope of the amendments, and that the supporting scientific information must be evaluated for local applicability. Staff therefore recommends one additional reconciliation and documentation step before returning the ordinance to the Planning Commission for detailed review and a recommendation to the City Council.

Purpose of This Discussion

This meeting is intended to reorient the Planning Commission to the CAO update after completion of the broader periodic update work and to confirm the remaining steps. No final recommendation is requested at this meeting. Staff is asking the Commission to:

- Confirm its understanding of the work completed to date;
- Identify any local conditions or policy questions that should be addressed in the next draft; and
- Confirm the proposed path for completing the technical record and legislative review.

Where We Are

The following work has been completed or substantially completed:



Commerce checklist review. The City's existing regulations were evaluated against the state checklist to identify required and recommended updates.

Draft Title 112 revisions. A working draft reorganizes and updates the City's environmental review and critical-area provisions, including general requirements, critical-area reports, mitigation sequencing, reasonable use, and standards for each critical-area type.

Related Title 100 revisions. Definitions and administrative provisions were reviewed so the CAO functions consistently with the remainder of the development code.

Initial policy discussion. The Commission previously discussed habitat conservation area buffers, including fixed-width and Site Potential Tree Height approaches, and the administrative implications of each.

Before the draft is ready for the formal recommendation process, the remaining work includes:

- Updating the checklist and draft against the WAC provisions effective January 23, 2026;
- Completing and organizing the best available science record, including an explanation of local applicability;
- Obtaining targeted technical review where needed;
- Confirming consistency between Titles 100 and 112, the Comprehensive Plan, and other development regulations; and
- Completing SEPA, state agency notice, public notice, and hearing procedures before adoption.

Why the Critical Areas Ordinance Is Important

State compliance and legal defensibility. The Growth Management Act requires cities to designate and protect critical areas, include best available science in policies and development regulations, protect critical-area functions and values, and give special consideration to measures necessary to preserve or enhance anadromous fisheries. The supporting record should show what science was considered, how it applies to Tenino, and why the City selected its regulatory approach.

Public health and safety. The CAO helps ensure that development is appropriately located and designed in areas subject to flooding, erosion, landslides, seismic hazards, and other geologic hazards. It also protects groundwater used for public water supplies from contamination.

Protection of environmental functions. Wetlands, streams, riparian areas, habitat, floodplains, and groundwater systems provide flood storage, water-quality treatment, aquifer recharge, habitat, and other functions that are difficult or expensive to replace after they are lost.

Predictable permitting. Clear definitions, report requirements, exemptions, buffers, mitigation standards, and review procedures help applicants, property owners, staff, and decision-makers understand what is required at the beginning of project review.

Reasonable use of property. The ordinance should avoid and minimize impacts while retaining a reasonable-use process for situations in which strict application would otherwise deny all reasonable use of a property.

Key Topics for the Next Draft

Staff will focus the next review on whether the draft provides clear, current, and locally supportable standards for:



- Designation and protection of all five critical-area categories;
- Best available science and no net loss of critical-area functions and values;
- Wetland identification, delineation, rating, buffers, and mitigation;
- Groundwater quality and quantity within critical aquifer recharge areas;
- Frequently flooded areas and consistency with applicable floodplain requirements;
- Erosion, landslide, seismic, volcanic, and other geologically hazardous areas;
- Fish and wildlife habitat conservation areas, waters of the state, riparian protections, and anadromous fisheries; and
- Critical-area reports, qualified professionals, exemptions, allowed activities, mitigation sequencing, reasonable use, enforcement, and other administrative procedures.

Local Jurisdiction Comparison

The local comparison shows that jurisdictions are at different stages and have not converged on one riparian standard. Thurston County is conducting the most active and detailed review of new WDFW riparian recommendations. The surrounding cities generally continue to administer fixed or site-specific buffers while completing broader periodic-update work. Staff did not identify an adopted SPTH-based system in Olympia, Lacey, Tumwater, or Yelm.

Thurston County. The County's CAO update is currently before its Planning Commission, with completion planned for the end of 2026. During 2026, the Commission reviewed riparian best available science, terrestrial and prairie habitat, WDFW recommendations, and an FWHCA gap analysis. The County is evaluating fixed buffers, WDFW's riparian management zone and Site Potential Tree Height framework, and possible hybrid approaches. No final approach has been adopted. County staff also received grant funding to study SPTH implementation, but that work is not expected to be completed until 2027. The County's Habitat Conservation Plan addresses four federally listed species, while other prairie habitat and state-listed species remain subject to the CAO.

City of Olympia. Staff did not identify a separate comprehensive CAO rewrite comparable to the County's current process. Olympia has considered critical-area and habitat policies through Olympia 2045, while its existing critical-area regulations remain in effect. Olympia uses mapped and site-verified habitat areas, critical-area reports, buffers, mitigation sequencing, and project-specific conditions. Some aquatic and riparian areas are also regulated through the Shoreline Master Program. Staff did not identify an adopted SPTH-based buffer system.

City of Lacey. Lacey continues to administer LMC Chapter 14.33. Its approach relies on designated habitat areas, habitat assessments or reports, buffers where needed to protect habitat, mitigation, and approval criteria tied to habitat functions and site conditions. Staff did not identify an adopted citywide SPTH formula or a current standalone CAO rewrite.

City of Tumwater. Tumwater continues to use existing critical-area mapping and site investigation, habitat reports or management plans, protective buffers, and mitigation. Federally protected prairie species may also require federal review or coverage through applicable habitat-conservation mechanisms. Staff did not identify a separate 2026 CAO rewrite or an adopted SPTH-based buffer system.

City of Yelm. Yelm has addressed critical-area provisions through its recent periodic-update materials. Its approach uses stream classifications, fixed buffers, critical-area reports, protections for listed and priority species,



WDFW recommendations, and mitigation requirements. Staff did not identify an adopted SPTH-based buffer system; final ordinance citations should be confirmed before relying on Yelm as a direct code model.

Implications for Tenino

Tenino is not outside the local norm by retaining fixed stream buffers. The regional trend is toward a stronger BAS record, current stream typing, explicit consultation of WDFW Priority Habitats and Species information, and clearer protection of riparian functions. Thurston County's ongoing work also shows that SPTH implementation remains an active policy and administrative question rather than a settled local standard.

A locally supportable approach for the next Tenino draft could:

- Retain fixed stream buffers for predictability while documenting how the selected widths protect identified riparian functions;
- Use the current state stream-typing system and field verification where mapped information is incomplete;
- Account for the channel migration zone, where present, when establishing the protected riparian area;
- Authorize increased protection when spth, habitat conditions, stream temperature, slope, erosion, or other site-specific information demonstrates that the standard buffer is inadequate;
- Require a qualified professional to address current wdfw recommendations when a proposal may affect priority habitat or species; and
- Apply mitigation sequencing and require no net loss of critical-area functions and values.

This approach would not adopt WDFW's full SPTH recommendation. If Tenino selects different standards, the BAS record should explain the science considered, local conditions, administrative considerations, and the measures relied upon to protect functions and values.

Recommended Next Steps

- Staff reconciles the December 2025 checklist and draft with the rules effective January 23, 2026.
- Staff completes the best available science record and obtains targeted technical review where necessary.
- Staff returns to the Planning Commission with a revised draft, a summary of substantive changes, and any policy questions requiring direction.
- The City completes required SEPA, state agency, public notice, hearing, and adoption procedures.

Title 112 CRITICAL AREAS¹

¹Editor's note(s)—Ord. No. 880, § 14, adopted September 12, 2017, repealed the former Title. 112, §§ 112.10.010—112.500.090, and enacted a new Title 112 as set out herein. The former Title 112 pertained to development regulations critical areas and natural resource lands. See Code Comparative Table for complete derivation.

PART II - LAND DEVELOPMENT REGULATIONS CODE
Title 112 - CRITICAL AREAS
CHAPTER 112.10 ENVIRONMENTAL REVIEW

CHAPTER 112.10 ENVIRONMENTAL REVIEW

112.10.010. Purpose.

The purpose of an environmental review is to coordinate the application of critical area protection standards and other environmental standards on a site. Environmental review of a project does not result in an application approval; it results in recommended critical area and environmental protections for an application.

(Ord. No. 880, § 14, 9-12-2017)

112.10.020. Authority.

The city may withhold, condition, or deny development permits or activity approvals to ensure that the proposed action is consistent with the provisions of this title and Title 110, State Environmental Policy Act (SEPA).

(Ord. No. 880, § 14, 9-12-2017)

112.10.030. Critical area reports.

A. *Applicability.*

1. If the proposed project is within, adjacent to, or is likely to impact a critical area, an applicant must provide a critical area report unless the community development director grants a waiver.
2. A required critical area report must be submitted and reviewed as part of an application for a permit or approval.

B. *Waivers.* The community development director may waive the requirement for a critical area report when the best available science shows that the proposed activity is unlikely to degrade the functions or values of the critical area. A waiver may be granted only if there is substantial evidence that all of the following requirements are met:

1. The critical area and buffer will not be altered;
2. The development proposal will not impact the critical area in a manner contrary to the purpose, intent, and requirements of this Chapter; and
3. The proposal is consistent with other applicable regulations and standards.

C. *Professional preparation required.*

1. Critical area reports must be prepared by a qualified professional with expertise in the relevant scientific discipline based on education, professional certifications, and experience in the field. A qualified professional must have:

- a. A B.S., B.A., or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology, or related field; and
- b. Two years of related work experience.

2. The following table identifies who is considered a qualified professional for each critical area:

Critical Area	Qualified Professional
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Wetland	Certified professional wetland scientist or a non-certified professional wetland scientist with at least 5 years of experience in the field of wetland science.
Critical Aquifer Recharge Area	Hydrogeologist, geologist, or engineer that is licensed in the state of Washington and has experience in preparing hydrogeologic assessments.
Fish and Wildlife Habitat Conservation Area	Biologist with experience preparing reports for the relevant type of habitat.
Geologically Hazardous Area	Engineer or geologist that is licensed in the state of Washington and has experience analyzing geologic, hydrologic, and ground water flood systems.
Frequently Flooded Area	Hydrologist or engineer that is licensed in the state of Washington and has experience in preparing flood hazard assessments.

- D. *Incorporate best available science.* The critical area report must use scientifically valid methods and studies in analyzing critical area data, field reconnaissance, and reference the source of science used. The critical area report must evaluate the proposal and all probable impacts to critical areas in accordance with the provisions of this chapter.
- E. *Minimum report contents.* At a minimum, the report must contain the following:
1. The name and contact information of the applicant, a description of the proposal, and permit type requested;
 2. The name, qualifications, and contact information for the primary author(s) of the report;
 3. Documentation of any fieldwork performed on the site, including the dates of any site visits.
 4. A site plan of the development proposal that includes:
 - a. A map to scale depicting critical areas and buffers within 300 feet of the project area, the development proposal, and any areas to be cleared. For critical areas and buffers that are not on the property subject to the request, estimate conditions within 300 feet of the project boundaries using the best available information; and
 - b. A description of the proposed stormwater management plan for the development and how impacts to drainage alterations will be accounted for;
 5. Identification and characterization of all critical areas, wetlands, water bodies, and buffers adjacent to the proposed project area;
 6. A statement specifying the accuracy of the report, and all assumptions made and relied upon;
 7. An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development;
 8. An analysis of site development alternatives including a no development alternative;
 9. A description of reasonable efforts made to apply mitigation sequencing pursuant to TMC Section 112.10.040, Mitigation for Impacts to Critical Areas;
 10. Proposed mitigation plan, if applicable;
 11. A discussion of the standards applicable to the critical area and proposed activity;
 12. Financial guarantees pursuant to TMC Section 112.20.050.B. to ensure compliance; and
 13. Any additional information required for the critical area as specified in TMC Chapter 112.20.
- F. *Additional report contents.*

1. *Supplemental information.* Unless prohibited by another part of this Code, a critical area report may be supplemented by or composed of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the Community Development Director.
2. *Habitat assessment.* A critical area report for a habitat conservation area must contain a habitat assessment. A habitat assessment evaluates the potential presence or absence of designated critical fish or wildlife species or habitat in the project area. At a minimum, a habitat assessment must include the following site- and proposal-related information:
 - a. *Vegetation.* Detailed description of vegetation on and adjacent to the project area and its associated buffer;
 - b. *Species.* Identification of any priority species or endangered, threatened, sensitive, or candidate species that have a primary association with habitat on or adjacent to the project area, and an assessment of potential project impacts to the use of the site by the species;
 - c. *Special management recommendations.* A discussion of any federal, state, or local special management recommendations, including Washington Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area;
 - d. *Impacts.* A detailed discussion of the direct and indirect potential impacts on habitat by the project, including potential impacts to water quality;
 - e. *Mitigation sequencing.* A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the current proposed land use activity and to be conducted in accordance with mitigation sequencing; and
 - f. *Management practices.* A discussion of ongoing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.
3. *Additional information.* The city may require additional information be included in the critical area report. The additional information must be necessary for reviewing the proposed activity in accordance with this chapter. Additional information may include, but is not limited to, historical data, grading and drainage plans, and information specific to the type, location, and nature of the critical area.
- G. *Requirement modifications.*
 1. *Geographic area.* The city may limit the required geographic area of the critical area report as appropriate if:
 - a. The applicant, with assistance from the city, cannot obtain permission to access properties adjacent to the project area; or
 - b. The proposed activity will affect only a limited part of the subject site.
 2. *Required contents.* The required contents of the critical area report may be modified as appropriate if:
 - a. The applicant consults with the city prior to or during preparation of the critical area report; and
 - b. In the judgment of a qualified professional, more or less information is required to adequately address the potential critical area impacts and required mitigation.
- H. *Hold harmless clauses.* Hold harmless clauses, disclaimers, and limitations are prohibited in a critical area report.

I. *Requirement modifications.*

1. *Geographic area.* The city may limit the required geographic area of the critical area report as appropriate if:
 - a. The applicant, with assistance from the city, cannot obtain permission to access properties adjacent to the project area; or
 - b. The proposed activity will affect only a limited part of the subject site.
2. *Required contents.* The required contents of the critical area report may be modified as appropriate if:
 - a. The applicant consults with the city prior to or during preparation of the critical area report; and
 - b. In the judgment of a qualified professional, more or less information is required to adequately address the potential critical area impacts and required mitigation.

(Ord. No. 880, § 14, 9-12-2017)

112.10.040. Mitigating for impacts to critical areas.

- A. *Mitigation for impacts required.* Impacts that degrade the functions and values of a critical area or areas must be avoided if at all possible. If alteration to the critical area is unavoidable, all adverse impacts to critical areas and buffers must be mitigated using the best available science. The proposed mitigation must:
 1. Be in accordance with an approved critical area report and SEPA documents;
 2. Result in no net loss of critical area functions and values;
 3. Be in kind and on site, when possible;
 4. Be sufficient to maintain the functions and values of the critical area;
 5. Prevent risk from a hazard posed by a critical area; and
 6. Not be implemented until after city approval of a critical area report.
- B. *Mitigation sequencing.* Applicants must demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas. When an alteration to a critical area is proposed, the alteration must be avoided, minimized, or compensated for in the following sequential order of preference:
 1. Avoiding the impact altogether by not taking a certain action or parts of an action.
 2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts.
 3. Rectifying the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to the historical conditions or the conditions existing at the time of the initiation of the project.
 4. Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods.
 5. Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action.
 6. Compensating for the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by replacing, enhancing, or providing substitute resources or environments.
 7. Monitoring the hazard or other required mitigation and taking remedial action when necessary.

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8. Mitigation for individual actions may include a combination of the above measures.
 - C. *Mitigation plan.* When mitigation is required, the critical area report must include a mitigation plan that addresses all of the following:
 1. *Environmental goals and objectives.* A written report identifying environmental goals and objectives of the mitigation proposed, which must be related to the functions and values of the impacted critical area.
 2. *Anticipated impacts and mitigation measures.* A description of the anticipated impacts to the critical areas, the mitigating actions proposed, and the purposes of the mitigation measures. The description of impacts must include:
 - i. Site selection criteria;
 - ii. Compensation goals;
 - iii. Resource functions; and
 - iv. Dates for beginning and completion of site compensation construction activities.
 3. *Best available science.* A review of the best available science supporting the proposed mitigation and a description of the report author's experience to date in restoring or creating the type of critical area proposed.
 4. *Success analysis.* An analysis of the likelihood of mitigation success.
 5. *Performance standards.* The mitigation plan must include specific, measurable criteria for evaluating whether or not the goals and objectives of the mitigation project and the requirements of this Chapter have been met.
 6. *Detailed construction plans.* Written specifications, descriptions, drawings, and maps of the mitigation proposed. Detailed construction plans may include, but are not limited to:
 - a. The proposed construction sequence, timing, and duration;
 - b. Grading and excavation details;
 - c. Erosion and sediment control features;
 - d. A planting plan specifying plant species, quantities, locations, size, spacing, and density; and
 - e. Measures to protect and maintain plants until established.
 - f. Detailed site diagrams and scaled cross-sectional drawings; or
 - g. Topographic maps showing slope percentage and final grade elevations.
 7. *Monitoring program.* A program for monitoring construction of the mitigation project and for assessing a completed project. A protocol must be provided that outlines:
 - a. The schedule for site monitoring (for example, monitoring will occur in years one, three, five, and seven after site construction);
 - b. How the monitoring data will be evaluated to determine if the performance standards are being met.
 8. *Contingency plan.* A list of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.
 - D. *Financial guarantee.* A financial guarantee pursuant to TMC Section 112.20.050.B. may be required to ensure that the mitigation plan is fully implemented.
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- E. *Monitoring reports.* Monitoring reports required by the monitoring program must be submitted as needed to document milestones, successes, problems, and contingency actions of the mitigation project. The mitigation project must be monitored for at least five years but may be monitored for a longer period if necessary to establish that performance standards have been met.

(Ord. No. 880, § 14, 9-12-2017)

112.10.050. Review process.

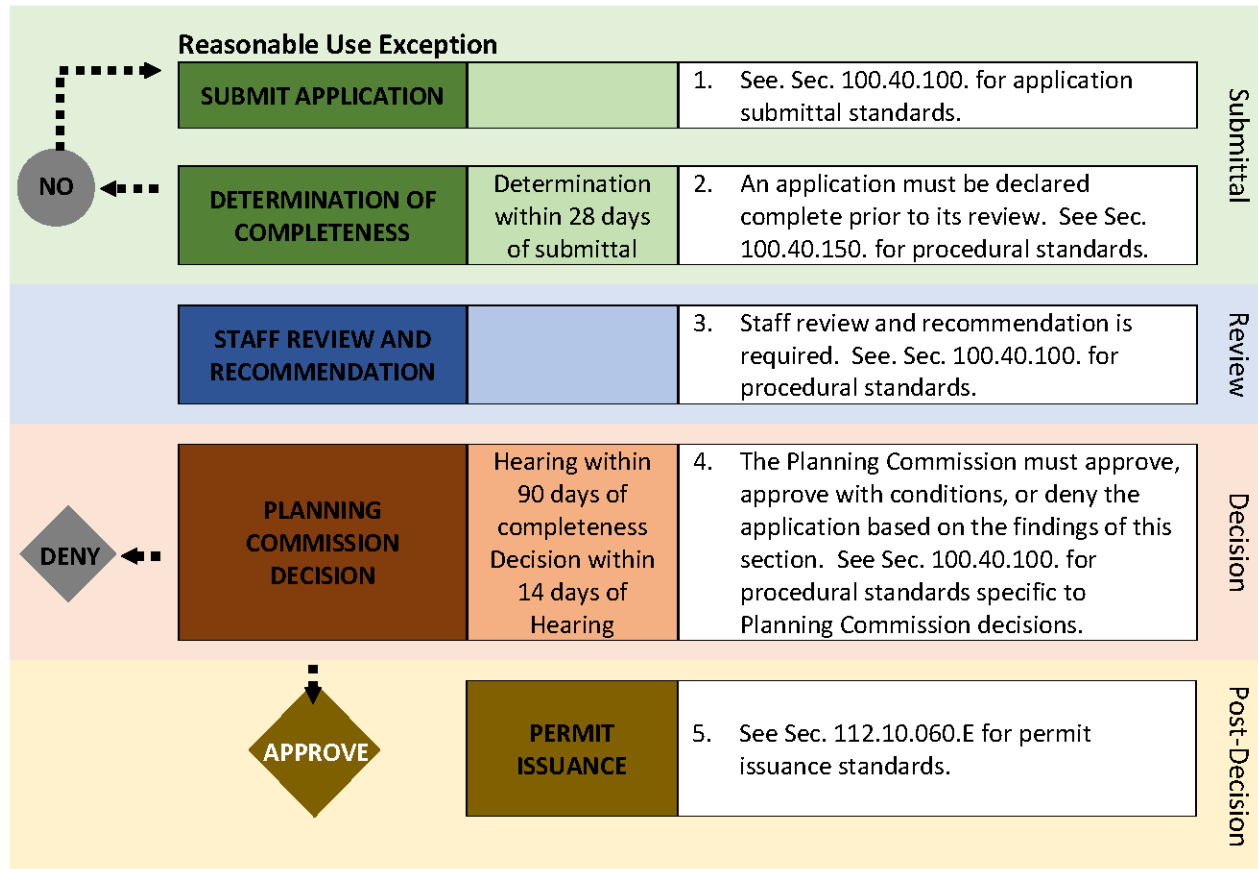
- A. *Purpose.* The city must determine whether the proposed activity and mitigation, if any, is consistent with the provisions of this chapter.
- B. *Findings.* A proposed activity and mitigation project may be approved upon finding:
1. The proposal minimizes the impact on critical areas in accordance with mitigation sequencing;
 2. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
 3. The proposal is consistent with the general purposes of this chapter and the public interest;
 4. Any alterations permitted to the critical area are mitigated in accordance with mitigation requirements;
 5. The proposal protects the critical area functions and values consistent with the best available science and results in no net loss of critical area functions and values; and
 6. The proposal is consistent with other applicable regulations and standards.
- C. *Conditions of approval.* The city may condition the proposed activity as necessary to mitigate impacts to critical areas and to conform to the standards required by this chapter.
- D. *Permit denials.* Except as provided for by this chapter, projects that cannot adequately mitigate their critical area impacts in the sequencing order of preferences must be denied.
- E. *Completion of the critical area review.* The city's determination regarding critical areas pursuant to this chapter must be final concurrent with the final decision to approve, condition, or deny the development proposal or other activity involved.
- F. *Appeals.* Any decision to approve, condition, or deny a development proposal or other activity based on the requirements of this chapter may be appealed according to, and as part of, the appeal procedure for the permit or approval involved.

(Ord. No. 880, § 14, 9-12-2017)

112.10.060. Reasonable use exception.

- A. *Purpose.* The intent of the city is that every landowner in the city enjoy reasonable use of their land. The procedures set forth in this Section are intended to permit landowners who believe they have been deprived of the reasonable use of their land to apply to the city for relief from application of this chapter. Applications for a reasonable use exception automatically constitute an application for a variance to reduce front, side, or rear yard setback requirements. Reductions in setback requirements must be given preference over granting a reasonable use exception.
- B. *Applicability.* An application may be made for a reasonable use exception for new construction, expansions, additions, replacements, and redevelopment projects.
- C. *Findings.*

1. *Essential public facilities.* A reasonable use exception may be approved for an essential public facility upon finding:
 - a. There is no other practical alternative to the proposed development with less impact on the critical areas;
 - b. The application of this chapter would unreasonably restrict the ability to provide utility services to the public;
 - c. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
 - d. The proposal attempts to protect and mitigate impacts to the critical area functions and values consistent with the best available science; and
 - e. The proposal is consistent with other applicable regulations and standards.
2. *All other exception requests.* A reasonable use exception may be approved for all other requests upon finding:
 - a. The application of this division would deny all reasonable economic use of the property;
 - b. No other reasonable economic use of the property has less impact on the critical area;
 - c. The proposed impact to the critical area is the minimum necessary to allow for reasonable economic use of the property;
 - d. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant;
 - e. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site; and
 - f. The proposal will result in no net loss of critical area functions and values consistent with the best available science, or the proposal is consistent with other applicable regulations and standards.
- D. *Effect.* Approval of a reasonable use exception does not permit any physical development, use, development option, or subdivision that has not been approved pursuant to these LDRs and does not ensure approval of any future application.
- E. *Permit issuance.* An approved reasonable use exception must not commence or be acted upon until the permit is issued.
 1. Within 14 days of fulfillment of all conditions of approval that must be met prior to permit issuance, the community development director must issue the permit to the applicant, and make a copy available at the city for review during normal business hours.
 2. The permit must include any outstanding conditions of approval.
- F. *Review process.* All steps and deadlines in the following chart are required unless noted otherwise. An applicant must complete each step before moving to the step below.



(Ord. No. 880, § 14, 9-12-2017)

CHAPTER 112.20. CRITICAL AREAS

112.20.010. Purpose and general provisions.

- A. *Purpose.* State law (WAC 365-190-080) requires communities to protect critical areas. In order to protect ecologically sensitive and hazardous areas, protect their functions and values, and to allow reasonable use of private property, this chapter establishes protection standards for critical areas and regulates physical development, activity, and use within, adjacent to, or likely to affect critical areas.
- B. *Findings.* Critical areas provide valuable biological and physical functions that benefit the city and its residents. Critical areas may also pose a threat to human safety or to public and private property. The beneficial functions and values provided by critical areas include, but are not limited to:
 1. Water quality protection and enhancement.
 2. Fish and wildlife habitat.
 3. Flood water storage.
 4. Flood water conveyance and attenuation.
 5. Ground water recharge and discharge.

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(Supp. No. 5)

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6. Erosion control.
 7. Protection from hazards.
 8. Recreational opportunities.
 - C. *Establishment of critical areas.*
 1. Critical areas regulated by this chapter include:
 - a. Wetlands;
 - b. Critical aquifer recharge areas;
 - c. Frequently flooded areas;
 - d. Geologically hazardous areas; and
 - e. Fish and wildlife habitat conservation areas.
 2. All areas within the city that meet the definition of at least one critical area, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter.
 3. Areas adjacent to critical areas are also subject to the standards of this chapter. Adjacent means any activity located:
 - a. On a site bordering a critical area;
 - b. Within the critical area's buffer or building setback;
 - c. Within 300 feet upland from a stream, wetland, or water body;
 - d. Within the floodplain; or
 - e. Within 200 feet of a critical aquifer recharge area.
 - D. *Relationship to other regulations.*
 1. These critical areas regulations apply as an overlay in addition to zoning and other regulations adopted by the city.
 2. When a property or development is subject to more than one critical area overlay or other regulations apply to a development, the more restrictive applies.
 3. Compliance with the provisions of this chapter does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required. The applicant is responsible for complying with these requirements in addition to the process established in this chapter.
 - E. *Interpretation.* In the interpretation and application of this chapter, the provisions of this chapter are:
 1. Considered the minimum requirements necessary;
 2. Are liberally construed to serve the purpose of this chapter; and
 3. Do not limit or repeal any other provisions under state statute.
 - F. *Protection of critical areas.*
 1. *Equivalent or greater functions.* Any action taken pursuant to this Chapter must result in equivalent or greater functions and values of the critical areas associated with the proposed action, as determined by the best available science.
 2. *Mitigation sequencing required.* All actions and developments must be designed and constructed to avoid, minimize, and restore all adverse impacts. Applicants must first demonstrate an inability to avoid
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or reduce impacts, before restoring and compensating for impacts will be allowed. Activities or uses that result in a net loss of the functions or values of critical areas are prohibited.

- G. *Title notification.* Activity in critical areas may require a notice to title, recorded with the Thurston County auditor.

(Ord. No. 880, § 14, 9-12-2017)

112.20.020. Best available science.

- A. *Definition.* Best available science is that scientific information applicable to the critical area prepared by local, state, or federal natural resource agencies, a qualified scientific professional, or team of qualified scientific professionals that is consistent with criteria established in WAC 365-195-900 through 365-195-925.
- B. *Sources.* Sources of the best available science are included in *Citations of Recommended Sources of Best Available Science for Designating and Protecting Critical Areas*, published by the Washington State Department of Community, Trade and Economic Development (now the Washington State Department of Commerce) and as updated, amended or replaced.
- C. *Characteristics of a valid scientific process.* In the context of critical areas protection, a valid scientific process is one that produces reliable information useful in understanding the consequences of a local government's regulatory decisions, and in developing critical areas policies and development regulations that will be effective in protecting the functions and values of critical areas. To determine whether information received during the permit review process is reliable scientific information, the community development director must determine whether the source of the information displays the characteristics of a valid scientific process. Such characteristics are as follows:
1. *Peer Review.* The information has been critically reviewed by other persons who are qualified scientific experts in that scientific discipline. The proponents of the information have addressed the criticism of the peer reviewers. Publication in a refereed scientific journal usually indicates that the information has been appropriately peer-reviewed;
 2. *Methods.* The methods used to obtain the information are clearly stated and reproducible. The methods are standardized in the pertinent scientific discipline or, if not, the methods have been appropriately peer-reviewed to ensure their reliability and validity;
 3. *Logical conclusions and reasonable inferences.* The conclusions presented are based on reasonable assumptions supported by other studies and consistent with the general theory underlying the assumptions. The conclusions are logically and reasonably derived from the assumptions and supported by the data presented. Any gaps in information and inconsistencies with other pertinent scientific information are adequately explained;
 4. *Quantitative analysis.* The data have been analyzed using appropriate statistical or quantitative methods;
 5. *Context.* The information is placed in proper context. The assumptions, analytical techniques, data, and conclusions are appropriately framed with respect to the prevailing body of pertinent scientific knowledge; and
 6. *References.* The assumptions, analytical techniques, and conclusions are well referenced with citations to relevant, credible literature and other pertinent existing information.
- D. *Nonscientific information.* Nonscientific information may supplement scientific information, but it is not an adequate substitute for valid and available scientific information. Common sources of nonscientific information include anecdotal information, non-expert opinions, and hearsay.

E. *Absence of valid scientific information.* Where there is an absence of valid scientific information or incomplete scientific information relating to a critical area leading to uncertainty about the risk to critical area function of permitting an alteration of or impact to the critical area, the Community Development Director must:

1. Take a precautionary or no-risk approach that strictly limits development and land use activities until the uncertainty is sufficiently resolved; and
2. Require application of an effective adaptive management program that relies on scientific methods to evaluate how well regulatory and non-regulatory actions protect the critical area. An adaptive management program is a formal and deliberate scientific approach to taking action and obtaining information in the face of uncertainty. An adaptive management program must:
 - a. Address funding for the research component of the adaptive management program;
 - b. Change course based on the results and interpretation of new information that resolves uncertainties; and
 - c. Commit to the appropriate timeframe and scale necessary to reliably evaluate regulatory and non-regulatory actions affecting protection of critical areas and anadromous fisheries.

(Ord. No. 880, § 14, 9-12-2017)

112.20.030. Applicability, exemptions, and exceptions.

A. *Applicability.*

1. A critical area or buffer must not be altered by any person, company, agency, or applicant except as consistent with the purposes and requirements of this chapter. The provisions of this chapter apply to all:
 - a. Lands, uses, and development activity;
 - b. Structures and facilities in the city, whether or not a permit or authorization is required; and
 - c. Persons, firms, partnerships, corporations, groups, governmental agencies, or other entities that own, lease, or administer land within the City.
2. *Compliance required.* The city must ensure compliance with the requirements of this chapter prior to approving a permit or otherwise issuing authorization to:
 - a. Alter the condition of land, water, or vegetation; or
 - b. Construct or alter structures or improvements in, over, or on a critical area or associated buffer.

B. *Exemptions.*

1. *Impacts to critical areas.* All exempted activities must use reasonable methods to avoid potential impacts to critical areas. To be exempt from this chapter does not give permission to degrade a critical area or ignore risk from natural hazards. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity must be restored, rehabilitated, or replaced at the responsible party's expense.
2. *Exempt activities.* The following developments, activities, and associated uses are exempt from the provisions of this chapter, provided they are otherwise consistent with the provisions of other local, state, and federal laws and requirements:
 - a. *Emergencies.* Activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of damage to private property and require corrective or

preventative action in a timeframe too short to allow for compliance with the requirements of this chapter must meet the following standards:

- i. *Minimize impacts.* Emergency actions that create an impact to a critical area or its buffer must use reasonable methods to address the emergency while minimizing possible impacts to the critical area or its buffer.
- ii. *Notification and determination.* The person or agency undertaking emergency action must notify the city within one working day following initiating such action. Within 30 days, the city will determine if the action taken was within the scope of the emergency actions allowed in this subsection. If the city determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, then enforcement provisions of TMC Section 100.30.130, enforcement, apply.
- iii. *Restoration/mitigation required.*
 - a) After the emergency, the person or agency undertaking the action must fully fund and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved critical area report and mitigation plan.
 - b) The person or agency undertaking the action must apply for review of the work. The city will review the alteration, critical area report, and mitigation plan in accordance with the review procedures contained herein.
 - c) Restoration and/or mitigation activities must be initiated within one year of the date of the emergency, and completed in a timely manner;
- b. *Operation, maintenance, or repair.* Operation, maintenance, or repair of existing structures, infrastructure improvements, utilities, public or private roads, and drainage systems may be exempt provided the activity:
 - i. Does not require construction permits;
 - ii. Does not further alter or increase the impact to or encroach further within a critical area or buffer; and
 - iii. Does not increase risks to life or property; and
- c. *Passive outdoor activities.* Recreation, education, and scientific research activities that do not degrade the critical area, including fishing, hiking, and bird watching are exempt.
- C. *Exceptions.*
 - 1. *Public agencies and utilities.* If the application of this chapter would prohibit a development proposal by a public agency or public utility, the agency or utility may apply for an exception pursuant to TMC Section 112.10.060.
 - 2. *Reasonable use.* If the application of this chapter would deny all reasonable economic use of the subject property, the city must determine if compensation is an appropriate action, or the property owner may apply for an exception pursuant to TMC Section 112.10.060.

(Ord. No. 880, § 14, 9-12-2017)

112.20.040. Allowed activities.

- A. *Critical area report.* Activities allowed under this chapter must be reviewed and approved by the city, but do not require submittal of a separate critical area identification form or critical area report, unless required

previously for the underlying permit. The city may apply conditions to the underlying permit or approval to ensure that the allowed activity is consistent with the provisions of this chapter to protect critical areas.

B. *Best management practices required.*

1. All allowed activities must be conducted using the best management practices that result in the least amount of impact to the critical areas. Best management practices must be used for the following:
 - a. Tree and vegetation protection;
 - b. Construction management;
 - c. Erosion and sedimentation control;
 - d. Water quality protection; and
 - e. Regulation of chemical applications.
2. The city must observe the use of best management practices to ensure that the activity does not result in degradation to the critical area. Any incidental damage to, or alteration of, a critical area must be restored, rehabilitated, or replaced at the responsible party's expense.

C. *Allowed activities.* The following activities are allowed in critical areas:

1. *Permit requests following critical area review.* Development permits and approvals that involve both discretionary land use approvals and construction approvals if all the following conditions have been met:
 - a. The provisions of this chapter have been previously addressed as part of another approval;
 - b. There have been no material changes in the potential impact to the critical area or buffer since the prior review;
 - c. There is no new information available that is applicable to any critical area review of the site or particular critical area;
 - d. The permit or approval has not expired or, if no expiration date, no more than five years has elapsed since the issuance of that permit or approval; and
 - e. Compliance with any standards or conditions placed upon the prior permit or approval has been achieved or secured.
2. *Modifications to existing structures.* Structural modification of, addition to, or replacement of an existing, legally constructed structure that does not further alter or increase the impact to the critical area or buffer, provided:
 - a. There is no increased risk to life or property as a result of the proposed modification or replacement; and
 - b. For structures substantially damaged by fire, flood, or act of nature, restoration must be initiated within one year of the date of such damage, as evidenced by the issuance of a valid building permit, and diligently pursued to completion.
3. *Activities within the improved right-of-way.* Except for substations, replacement, modification, installation, or construction of utility facilities, lines, pipes, mains, equipment, or appurtenances may be allowed provided:
 - a. Such facilities are located within the improved portion of the public right-of-way or a city-authorized private roadway;

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- b. The activity does not alter a wetland, watercourse, or result in the transport of sediment or increased stormwater;
 - c. Critical area and/or buffer widths are increased, where possible, equal to the width of the right-of-way improvement, including disturbed areas;
 - d. Native vegetation is retained or replanted wherever possible along the right-of-way improvement and resulting disturbance; and
 - e. Invasive species are removed.
 - 4. *Minor utility projects.* Utility projects that have minor or temporary impacts to critical areas, such as the placement of a utility pole, street sign, anchor, vault, or other small component of a utility facility, may be allowed provided:
 - a. The activity involves disturbance of an area less than 75 square feet;
 - b. There is no practical alternative to the proposed activity with less impact on critical areas;
 - c. The utility project does not significantly impact the function or values of critical areas, is constructed with best management practices, and additional restoration measures are provided; and
 - d. The activity does not result in sediment transport or increased stormwater runoff.
 - 5. *Public and private pedestrian trails.* Public and private pedestrian trails that are not located in wetlands, fish and wildlife habitat conservation areas, or their buffers, may be allowed subject to the following:
 - a. The trail surface meets all other requirements including water quality standards set forth in the locally adopted stormwater management regulations;
 - b. Critical area and/or buffer widths are increased, where possible, equal to the width of the trail corridor, including disturbed areas; and
 - c. Trails proposed to be located in landslide or erosion hazard areas are constructed in a manner that does not increase the risk of landslide or erosion and in accordance with an approved geotechnical report.
 - 6. *Select vegetation removal activities.* Upon approval from the city, the following vegetation removal activities in a critical area or its buffer may be allowed:
 - a. The removal of the following vegetation with hand labor and light equipment:
 - i. Invasive and noxious weeds;
 - ii. English Ivy (*Hedera helix*);
 - iii. Himalayan blackberry (*Rubus discolor*, *R. procerus*);
 - iv. Evergreen blackberry (*Rubus laciniatus*); and
 - v. Scotch broom (*Cytisus scoparius*);
 - b. The removal of trees from critical areas and buffers that are hazardous and pose a threat to public safety or an imminent risk of damage to private property, provided that:
 - i. The applicant submits a report from a certified arborist, registered landscape architect, or professional forester that documents the hazard and provides a replanting schedule for the replacement trees;
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- ii. Tree cutting is limited to pruning and crown thinning, unless otherwise justified by a qualified professional. Where pruning or crown thinning is not sufficient to address the hazard, trees may be removed or converted to wildlife snags;
 - iii. All vegetation cut (tree stems, branches, etc.) must be left within the critical area or buffer unless removal is warranted due to the potential for disease or pest transmittal to other healthy vegetation;
 - iv. The landowner must replace any trees that are removed with new trees at a ratio of two replacement trees for each tree removed (2:1) within one year in accordance with an approved restoration plan.
 - a) Replacement trees may be planted at a different, nearby location if it can be determined that planting in the same location would create a new hazard or potentially damage the critical area.
 - b) Replacement trees must be species that are native and indigenous to the site and a minimum of one inch in diameter-at-breast height (dbh) for deciduous trees and a minimum of six feet in height for evergreen trees as measured from the top of the root ball;
 - v. If a tree to be removed provides critical habitat, such as an eagle perch, a qualified wildlife biologist must be consulted to determine timing and how best to minimize impacts; and
 - vi. Hazard trees.
 - a) Hazard trees may be removed or pruned by the landowner prior to receiving written approval from the city only if the hazard tree poses:
 - 1) An imminent threat or danger to public health or safety;
 - 2) An imminent threat to public or private property; or
 - 3) An imminent threat of serious environmental degradation.
 - b) Within 14 days of removing a hazard tree, the landowner must submit a restoration plan that demonstrates compliance with the provisions of this chapter;
 - c. Measures to control a fire or halt the spread of disease or damaging insects consistent with the state Forest Practices Act found in RCW 76.09. The removed vegetation must be replaced in-kind or with similar native species within one year in accordance with an approved restoration plan; and
 - d. The necessary removal of vegetation or woody debris from a habitat conservation area or wetland as part of an approved alteration or as otherwise provided;
 - 7. *Chemical applications.* The application of herbicides, pesticides, organic or mineral-derived fertilizers, or other hazardous substances, if necessary, as approved by the city and consistent with state department of fish and wildlife management recommendations, state department of agriculture regulations, state department of ecology regulations, and the U.S. Environmental Protection Agency regulations;
 - 8. *Minor site investigative work.* Work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads or significant amounts of excavation. In every case, impacts to the critical area must be minimized and disturbed areas must immediately be restored; and
 - 9. *Boundary markers.* Construction or modification of boundary markers.
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(Ord. No. 880, § 14, 9-12-2017)

112.20.050. Critical area protective measures.

A. Critical area markers and signs.

1. The boundary at the outer edge of critical area tracts and easements must be delineated with permanent survey stakes as established by local survey standards.
2. The boundary at the outer edge of the critical area or buffer must be identified with temporary signs prior to any site alteration. The temporary signs must be replaced with permanent signs prior to occupancy or use of the site.
3. These provisions may be modified by the community development director as necessary to ensure protection of sensitive features or wildlife needs.

B. Financial guarantee to ensure mitigation, maintenance, and monitoring.

1. When required mitigation is not completed prior to final permit approval, the city must require the applicant to post a financial guarantee in a form and amount deemed acceptable by the city. If the development proposal is subject to mitigation, the applicant must post a financial guarantee in a form and amount deemed acceptable by the city to ensure mitigation is fully functional.
2. The bond must be in the amount of 150 percent of the estimated cost of the uncompleted actions or the estimated cost of restoring the functions and values of the critical area that are at risk, whichever is greater.
3. Financial guarantees must remain in effect until the city determines in writing that the standards bonded for have been met. Bonds or other security must be held by the city for a minimum of five years to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods when necessary.
4. Depletion, failure, or collection of bond funds do not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.
5. Public development proposals may be exempt from having to provide a financial guarantee if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.
6. Any failure to satisfy critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within 30 days after it is due or comply with other provisions of an approved mitigation plan constitute a default. The city may demand payment of any financial guarantees or require other action authorized by city code or any other law.
7. Funds recovered pursuant to this section must be used to complete the required mitigation.

C. Critical area inspections. Reasonable access to the site must be provided to the city, state, and federal agency review staff for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period.

(Ord. No. 880, § 14, 9-12-2017)

112.20.060. Wetlands.

A. Definition. Wetlands are those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions.

1. *Includes:*

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- a. Swamps.
 - b. Marshes.
 - c. Bogs.
 - 2. *Does not include:*
 - a. Artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities.
 - b. Wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway.
 - 3. *May include:*
 - a. Artificial wetlands intentionally created for wetland mitigation purposes.
 - B. *Designation.* All areas within the city meeting the wetland designation criteria in the approved federal wetland delineation manual and applicable regional supplements are hereby designated critical areas and are subject to the provisions of this chapter.
 - C. *Delineation.* Wetlands must be identified and delineated in accordance with the approved federal wetland delineation manual and applicable regional supplement. Wetland delineations are valid for five years.
 - D. *Rating.*
 - 1. Wetlands must be rated according to the Washington State Department of Ecology wetland rating system found in the Washington State Wetland Rating System for Western Washington (Ecology Publication #14-06-029) or as revised by Ecology. This document contains the definitions and methods for determining if the criteria below are met.
 - a. *Category I wetlands.*
 - i. *Definition.* Category I wetlands are those that:
 - a) Represent a unique or rare wetland type; or
 - b) Are more sensitive to disturbance than most wetlands; or
 - c) Are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or
 - d) Provide a high level of functions.
 - ii. *Presence.* Category I wetlands may be located within the city. Wetlands of high conservation value can be designated based on the presence of a rare plant, rare or high-quality common plant community, or both. There are no known rare plants or high-quality wetland plant communities known to occur in the city or its vicinity.
 - b. *Category II wetlands.*
 - i. *Definition.* Category II wetlands are those that are difficult, though not impossible to replace, and provide high levels of some functions.
 - ii. *Presence.* Category II wetlands may be located within the city.
 - c. *Category III wetlands.*
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- i. *Definition.* Category III wetlands are wetlands with a moderate level of functions that can often be adequately replaced with a well-planned mitigation project and small interdunal wetlands one acre or less in size.
 - ii. *Presence.* Category III wetlands are likely located within the city.
 - d. *Category IV wetlands.*
 - i. *Definition.* Category IV wetlands are wetlands that have the lowest levels of functions and are often heavily disturbed.
 - ii. *Presence.* Category IV wetlands are likely located within the city.
 - 2. *Illegal modifications.* Illegal modifications made by the applicant or with the applicant's knowledge do not change the wetland's rating.
 - E. *Activities allowed in wetlands.* The activities listed below are allowed in wetlands in addition to those activities listed in, and consistent with, the provisions established in Section 112.20.040, allowed activities. An activity listed below does not require a critical area report except when the activity results in a loss of functions or values of a wetland or wetland buffer. Activities allowed in wetlands include:
 - 1. *Conservation.* Soil, water, vegetation, fish, shellfish, and other wildlife conservation or preservation that does not entail changing the structure or functions of the existing wetland.
 - 2. *Low-impact harvesting.* Harvesting wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require soil tilling, crop planting, chemical applications, or wetland alterations as a result of changing topography, water conditions, or water sources.
 - 3. *Utilities.* Drilling for utilities under a wetland; provided, that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column is disturbed.
 - 4. *Wetland enhancement by removing nonnative invasive species.* Weeding is restricted to hand removal and weeded material must be removed from the site. Bare areas that remain after weed removal must be revegetated with native shrubs and trees at natural densities. Some hand seeding may also be done over the bare areas with native herbs.
 - F. *Supplemental information for wetland reports.* In addition to the requirements of Section 112.10.030, critical area reports, a wetland report must also include the following:
 - 1. Existing wetland acreage;
 - 2. A list of all local, state, and/or federal wetland-related permit(s) required for the project;
 - 3. Documentation of any fieldwork performed on the site must include field data sheets for delineations, rating system forms, baseline hydrologic data, etc.
 - 4. A description of the methodologies used to conduct the wetland delineations, wetland ratings, or impact analyses, including references.
 - 5. Wetland rating, including a description of and score for each function, per Section 112.20.060.D of this chapter;
 - 6. Vegetative, faunal, and hydrologic characteristics;
 - 7. To the extent possible, hydrologic information such as estimated water depths within the wetland and estimated hydroperiod patterns based on visual cues;
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8. An evaluation of the functions of the wetland and its buffer. Include references for the method used and data sheets.
 9. A habitat and native vegetation conservation strategy that addresses methods to protect and enhance on-site habitat and wetland functions.
 - G. *Compensatory Mitigation*. Mitigation is required according to the sequence outlined in Section 112.10.040, mitigating for impacts. Where impacts to wetlands are unavoidable, compensatory mitigation measures may be utilized and must be consistent with this subsection.
 1. *Compensating for lost or affected functions*. The proposed compensatory mitigation must achieve functional equivalency or represent an improvement over existing functions except in the following situations:
 - a. *Minimal Functions*. The lost wetland provides minimal functions; and
 - i. The proposed mitigation represents equivalent functions or an improvement over existing functions; or
 - ii. The proposed mitigation will provide functions shown to be limiting within a watershed through a formal Washington State watershed assessment plan or protocol.
 - b. *Out-of-kind mitigation*. Out-of-kind mitigation will best meet formally identified watershed goals, such as replacement of historically diminished wetland types.
 2. *On-site mitigation wherever feasible*. On-site mitigation must be provided wherever feasible. Where it is demonstrated that on-site mitigation is not feasible, off-site mitigation may be allowed.
 3. *Mitigation Plan*. In addition to the requirements outlined in Section 112.10.040.C., wetland mitigation plans must:
 - a. Be consistent with the publication *Wetland Mitigation in Washington State - Part 2: Developing Mitigation Plans* (Ecology Publication #06-06-011b) or as revised by Ecology;
 - b. Identify how construction of mitigation projects will be timed to reduce impacts to existing wildlife and vegetation; and
 - c. Include a monitoring plan that ensures the goals of the proposed mitigation have been met. Monitoring must occur for at least five years but may be required for a longer period of time to ensure that lost or affected functions have been fully compensated for.
 4. *Mitigation action preference*. Mitigation actions that require compensation by restoring, creating, enhancing, or protecting must occur in the following order of preference:
 - a. *Restoration*. Restoration may involve one or more of the following:
 - i. Re-establishing wetlands that used to exist. Re-establishing wetlands results in an increase in wetland area and functions.
 - ii. Rehabilitating existing wetlands that are degraded. Rehabilitation increases wetland functions but does not increase the wetland area.
 - b. *Creation/establishment*. Creating or establishing a new wetland area in a location where it did not previously exist. Creating or establishing a wetland area results in an increase in wetland area and functions.
 - c. *Enhancement*. Enhancing a wetland to intensify or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes. Enhancing a wetland results in a change in wetland function(s) but may lead to a
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decline in other wetland functions. Enhancing a wetland does not result in an increase in wetland area.

- d. *Protection/maintenance.* Protecting/maintaining a wetland removes a threat to or prevents the decline of the wetland. Protection/maintenance does not result in an increase in wetland area but may, over time, result in an increase of wetland functions.

5. *Mitigation ratios.*

- a. *Minimum ratios.* The following table identifies the minimum amount of mitigation required based on the type of mitigation proposed.

Mitigation Ratio Based on Action (acres proposed per acre impacted)			
Wetland Category	Re-Establishment or Creation	Rehabilitation	Enhancement
Category I	4:1	8:1	16:1
Category II	3:1	6:1	12:1
Category III	2:1	4:1	8:1
Category IV	1.5:1	3:1	6:1

- b. *Ratio increases.* The community development director may increase the mitigation ratio or require a different mitigation action under the following circumstances:

- i. The proposed impacts are to a category I bog, natural heritage site, or mature forested wetland;
- ii. Uncertainty exists as to the probable success of the proposed restoration or creation;
- iii. A significant period of time will elapse between the wetland impact and the replication of wetland functions;
- iv. Proposed mitigation will result in a lower category wetland or reduced functions relative to the wetland being impacted; or
- v. The impact was not authorized when it occurred.

- c. *Approved mitigation ratio alternatives.* As an alternative to the table above, the community development director may allow mitigation based on the credit/debit method outlined in *Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report* (Ecology Publication #10-06-011), or as revised by Ecology.

H. *Buffers.*

1. *Required buffers.* All physical development and use is required to be set back from wetlands a distance based on the wetland rating and habitat score as follows:

Wetland Category	Required Buffer Based on Habitat Score			
	3-4	5	6-7	8-9
I	100'	140'	220'	300'
II	100'	140'	220'	300'
III	80'	140'	220'	300'
IV	50'	50'	50'	50'

2. *Measurement.* All buffers must be measured perpendicular from the wetland boundary as surveyed in the field.

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- a. Buffers for a required mitigation site shall be based on subsection H.1. above.
 - b. Buffers must be fully vegetated in order to be included in buffer area calculations. Lawns, walkways, driveways, and other mowed or paved areas shall not be considered buffers or included in buffer area calculations.
 - 3. *Buffer increases.* Buffer widths may be increased on a case-by-case basis as determined by the Community Development Director when a larger buffer is necessary to protect wetland functions and values. This determination must be supported by appropriate documentation showing that it is reasonably related to protection of the functions and values of the wetland. The documentation must include, but is not limited to, the following information:
 - a. The wetland is used by a state or federally listed plant or animal species or has essential or outstanding habitat for those species, or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees; or
 - b. The adjacent land is susceptible to severe erosion, and erosion-control measures will not effectively prevent adverse wetland impacts; or
 - c. The adjacent land has minimal vegetative cover or slopes greater than 30 percent.
 - 4. *Buffer averaging.*
 - a. *Wetland protection.* Buffer averaging to improve wetland protection may be permitted when all of the following conditions are met:
 - i. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a "dual-rated" wetland with a category I area adjacent to a lower-rated area.
 - ii. The buffer is increased adjacent to the higher-functioning area of habitat or more-sensitive portion of the wetland and decreased adjacent to the lower-functioning or less-sensitive portion as demonstrated by a critical areas report from a qualified wetland professional.
 - iii. The total area of the buffer after averaging is equal to the area required without averaging.
 - iv. The buffer at its narrowest point is never less than either 75 percent of the required width or 75 feet for category I and II, 50 feet for category III, and 25 feet for category IV, whichever is greater.
 - b. *Reasonable use.* Averaging to allow reasonable use of a parcel may be permitted when all of the following are met:
 - i. There are no feasible alternatives to the site design that could be accomplished without buffer averaging.
 - ii. The averaged buffer will not result in degradation of the wetland's functions and values as demonstrated by a critical areas report from a qualified wetland professional.
 - iii. The total buffer area after averaging is equal to the area required without averaging.
 - iv. The buffer at its narrowest point is never less than either 75 percent of the required width or 75 feet for category I and II, 50 feet for category III and 25 feet for category IV, whichever is greater.
 - 5. *Maintenance.* Except as otherwise specified or allowed in accordance with this chapter, wetland buffers must be retained in an undisturbed or enhanced condition. Removal of invasive non-native weeds is required for the duration of the mitigation bond.
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6. *Impacts.* Impacts to buffers must be mitigated at a rate of one acre of mitigation for one acre of impact. Buffer mitigation must replace those buffer functions lost from development.
7. *Overlapping critical area buffers.* If buffers for two contiguous critical areas overlap (such as buffers for a wildlife habitat area and a wetland), the wider buffer applies.

(Ord. No. 880, § 14, 9-12-2017)

112.20.070. Critical aquifer recharge areas (CARAs).

- A. *Definition.* Critical aquifer recharge areas are areas with a critical recharging effect on aquifers used for potable water, as defined by WAC 365-190-030(3). A critical aquifer recharge area has prevailing geologic conditions associated with infiltration rates that create a high potential for contamination of ground water resources or contribute significantly to the replenishment of ground water.
 1. *Includes:*
 - a. Wellhead protection areas, as identified in the City of Tenino Water Plan and mapped by Washington State Department of Health.
 - b. Areas having an extreme or high susceptibility to contamination, as identified by the Thurston Geodata Center.
- B. *Designation.* All areas within the city meeting one or more of these criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter. Critical aquifer recharge areas must be managed consistent with the best available science.
- C. *Standards.*
 1. *Activities.*
 - a. Activities may only be permitted in a critical aquifer recharge area if the applicant can show that the proposed activity will not cause contaminants to enter the aquifer and that the proposed activity will not adversely affect the recharging of the aquifer.
 - b. Activities must comply with the water source protection requirements and recommendations of the U.S. Environmental Protection Agency, Washington State Department of Health, and the Environmental Health Division of Thurston County Public Health and Human Services Department.
 2. *Storage tanks.* Storage tanks proposed to be located in a critical aquifer recharge area must comply with local building code requirements and must conform to the following requirements:
 - a. *Underground tanks.* All new underground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes must be designed and constructed so as to:
 - i. Prevent releases due to corrosion or structural failure for the operational life of the tank;
 - ii. Be protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substances; and
 - iii. Use material in the construction or lining of the tank that is compatible with the substance to be stored.
 - b. *Aboveground tanks.* All new aboveground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes must be designed and constructed so as to:

- i. Not allow the release of a hazardous substance to the ground, ground waters, or surface waters;
 - ii. Have a primary containment area enclosing or underlying the tank or part thereof; and
 - iii. A secondary containment system either built into the tank structure or a dike system built outside the tank for all tanks.
3. *Vehicle repair and servicing.*
- a. Vehicle repair and servicing must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing must be stored in a manner that protects them from weather and provides containment should leaks occur.
 - b. Dry wells are prohibited in critical aquifer recharge areas on sites used for vehicle repair and servicing. Dry wells existing on the site prior to facility establishment must be abandoned using techniques approved by the state Department of Ecology prior to commencement of the proposed activity.
4. *Residential use of pesticides and nutrients.* Application of household pesticides, herbicides, and fertilizers must not exceed times and rates specified on the packaging.
5. *Use of reclaimed water for surface percolation or direct recharge.* Water reuse projects for reclaimed water must be in accordance with the adopted water or sewer comprehensive plans that have been approved by the state departments of ecology and health.
- a. Use of reclaimed water for surface percolation must meet the ground water recharge criteria given in RCW 90.46.010(10) and 90.46.080(1). The State Department of Ecology may establish additional discharge limits in accordance with RCW 90.46.080(2).
 - b. Direct injection must be in accordance with the standards developed by authority of RCW 90.46.042.

(Ord. No. 880, § 14, 9-12-2017)

112.20.080. Frequently flooded areas.

- A. *Definition.* Frequently flooded areas are lands in the floodplain subject to a one percent or greater chance of flooding in any given year and lands that provide important flood storage, conveyance, and attenuation functions. Classifications of frequently flooded areas include, at a minimum, the 100-year floodplain designation of the Federal Emergency Management Agency and the National Flood Insurance Program.
1. *Includes:*
- a. *Areas identified on the flood insurance map(s).* Areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Thurston County, Washington and Incorporated Areas" dated October 16, 2012, and any revisions thereto, with accompanying flood insurance rate maps (FIRM) dated October 16, 2012, and any revisions thereto. The flood insurance study and accompanying map(s) are hereby adopted by reference, declared part of this chapter, and are available for public review at the city.
- B. *Designation.* Frequently flooded areas perform important hydrologic functions and may present a risk to persons and property. Frequently flooded areas are hereby designated critical areas and are subject to the provisions of this chapter and must be managed consistent with the best available science.

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- C. *Maintenance of records.* Where base flood elevation data is provided through the flood insurance study or required through this chapter, the city must obtain and record the flood elevation certificates of all new or substantially improved structures, whether or not the structure contains a basement. The city must also maintain for public inspection all records of floodplain hazards, certificates of flood-proofing, and flood elevation data.
- D. *Standards.*
1. *Critical facilities prohibited.* Critical facilities are prohibited within frequently flooded areas unless there is no other practical alternative.
 2. *Septic systems prohibited.* On-site sewage disposal systems, including drain fields, are prohibited within the 100-year floodplain.
 3. *Flood elevations.* The base flood elevation for high ground water flood hazard areas corresponds to the elevation of the outer edge of the high ground water flood hazard area.
 4. *Delineation of the base flood elevation.* Applicants must submit to the approval authority hydrologic and hydrogeologic studies as necessary to delineate the high ground water flood hazard area and the base flood elevation.
 5. *Buffer required.* A minimum buffer of 50 feet is required from the outer edge of the high ground water hazard area or extending to a ground elevation two feet above the base flood elevation, whichever is less.
 6. *Infiltration basins.* The bottom of any infiltration facility for stormwater discharge must be located at least six feet above the base flood elevation.
 7. *Subdivision proposals.* Subdivision proposals must:
 - a. Be consistent with the need to minimize flood damage;
 - b. Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
 - c. Must have adequate drainage provided to reduce exposure to flood damage.
 - d. Generate base flood elevation data when it is not available from another authoritative source.
 8. *Building permit review.* Where elevation data is not available either through the flood insurance study or from another authoritative source, applications for building permits must be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.
 9. *Nonresidential construction.* All nonresidential construction must have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy, and be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this section based on their development and/or review of the structural design, specifications and plans.
- E. *Warning and disclaimer of liability.* The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter does not create liability on the part of the
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city, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(Ord. No. 880, § 14, 9-12-2017)

112.20.090. Geologically hazardous areas.

- A. *Definition.* Geologically hazardous areas are areas that may not be suitable for development because of their susceptibility to erosion, sliding, earthquakes or other geological events.
1. *Includes:*
- a. *Erosion hazard areas.* Erosion hazard areas are those areas identified by the United States Department of Agriculture Soil Conservation Service as having a severe rill and inter-rill erosion hazard. Rill or inter-rill are areas subject to sheet wash, or steep-sided channels resulting from accelerated erosion. The city has limited lands that possess these characteristics, and will therefore regulate any potential erosion hazards through grade and fill regulations pursuant to Title 5, Buildings and Construction, and Title 109, Shoreline Designations.
 - b. *Landslide Hazard Areas.* Landslide hazard areas are areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible because of factors including, but not limited to, bedrock, soil, slope, slope aspect, structure, and hydrology. Examples of landslide hazard areas include, but are not limited to:
 - i. Areas of historic failures.
 - ii. Areas with all three of the following characteristics:
 - a) Slopes in excess of 15 percent;
 - b) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
 - c) Springs or groundwater seepage.
 - iii. Areas that have shown movement during the Holocene epoch (from 10,000 years ago to the present) or which are underlain or covered by mass wastage debris of that epoch.
 - iv. Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials.
 - v. Slopes in excess of 80 percent that are subject to rockfall during seismic shaking.
 - vi. Areas with a slope of 40 percent or more that have a vertical relief of ten or more feet. This does not include areas composed of consolidated rock. A slope is delineated by establishing its toe and top and is measured by averaging the inclination over at least ten feet of vertical relief.
 - vii. Areas that include alluvial or colluvial fans located at the base of steep slopes and drainages.
 - c. *Seismic hazard areas.* Seismic hazard areas are areas subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, lateral spreading, or surface faulting. One indicator of potential for future earthquake damage is a record of earthquake damage in the past. Ground shaking is the primary cause of earthquake damage in Washington. The strength of ground shaking is primarily affected by:
 - i. The magnitude of an earthquake;

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- ii. The distance from the source of an earthquake;
 - iii. The type of thickness of geologic materials at the surface; and
 - iv. The type of subsurface geologic structure.
- B. *Designation.* Geologically hazardous areas pose a threat to the health and safety of citizens when incompatible development is sited in areas of significant hazard. Incompatible development may place itself at risk and increase the hazard to surrounding developments and uses. All areas within the city meeting one or more of these criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter and must be managed consistent with the best available science.
- C. *Standards.*
- 1. *Septic systems prohibited.* On-site sewage disposal systems, including drain fields, are prohibited within erosion and landslide hazard areas and related buffers.
 - 2. *Critical facilities prohibited.* Critical facilities are prohibited within geologically hazardous areas unless there is no other practical alternative.
 - 3. *Point discharges prohibited.* Point discharges from surface water facilities and roof drains onto or upstream from an erosion or landslide hazard area is prohibited.
 - 4. *Buffers.* Buffers are used to eliminate or minimize the risk of property damage, death, or injury resulting from landslides caused in whole or in part by the development. A buffer must be provided from all edges of landslide hazard areas.
 - a. *Minimum buffer.* The minimum buffer required is equal to the height of the slope.
 - b. *Buffer reduction.* The buffer may be reduced to a minimum of ten feet when a qualified professional demonstrates to the city's satisfaction that the reduction will adequately protect the proposed development, adjacent developments and uses, and the subject critical area.
 - c. *Buffer increases.* The city may require a wider buffer when it is necessary to prevent the risk of damage to proposed and existing development.
 - 5. *Alterations.* Alterations of geologically hazardous areas or associated buffers may be allowed only if a hazards analysis has been submitted and certifies that the alterations:
 - a. Will not increase the threat of the geological hazard to adjacent properties beyond pre-development conditions;
 - b. Will not adversely impact other critical areas;
 - c. Are designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than pre-development conditions; and
 - d. Are certified to be safe as designed and under anticipated conditions by a qualified engineer or geologist, licensed in the state of Washington.
 - e. The development will not increase surface water discharge or sedimentation to adjacent properties beyond pre-development conditions;
 - f. The development will not decrease slope stability on adjacent properties; and
 - 6. *Vegetation retention.* Removing vegetation in an erosion hazard area, landslide hazard area, or required buffer is prohibited unless otherwise provided for in this chapter or as part of an approved alteration.
 - 7. *Seasonal restriction.* Clearing may only be allowed during the dry season, generally from May 1st to October 1st of each year.
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- a. The city may extend or shorten the dry season on a case-by-case basis depending on actual weather conditions.
- b. Timber harvest, not including brush clearing or stump removal, may be allowed during other times of the year provided an approved forest practice permit has been issued by the Washington State Department of Natural Resources.
8. *Utility lines and pipes.* Utility lines and pipes may be permitted in erosion and landslide hazard areas only when the applicant demonstrates that no other practical alternative is available.
 - a. Lines or pipes in erosion and landslide hazard areas must be located above ground, properly anchored, and designed so that it will continue to function in the event of an underlying slide.
 - b. Stormwater conveyance in erosion and landslide hazard areas must be through a high-density polyethylene pipe with fuse-welded joints, or a similar product that is technically equal or superior.
9. *Land divisions.*
 - a. Land that is located wholly within a landslide hazard area or its buffer must not be subdivided.
 - b. Land that is located partially within a landslide hazard area or its buffer may be divided; only if each resulting lot has sufficient buildable area outside of, and will not affect, the landslide hazard or its buffer.
 - c. Access roads and utilities serving the proposed subdivision may be permitted within the landslide hazard area and buffer only if the city determines that no other feasible alternative exists.

(Ord. No. 880, § 14, 9-12-2017)

112.20.100. Fish and wildlife habitat conservation areas.

- A. *Definition.* Fish and wildlife habitat conservation areas are areas necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created.
1. *Includes:*
 - a. *Endangered, threatened, and sensitive species.* Habitat areas associated with state or federally designated endangered, threatened, and sensitive species. Designated species known to occur in the city or its vicinity include, but are not limited to, the following:
 - i. *Animals:*
 - a) Oregon Vesper Sparrow.
 - b) Mazama Pocket Gopher (Olympia, Tenino, and Yelm subspecies).
 - c) Taylor's Checkerspot Butterfly.
 - d) Mardon Skipper Butterfly.
 - ii. *Plants:*
 - a) Water Howellia.
 - b) Golden Paintbrush.
 - b. *Priority habitats and species.* Priority habitats and species, as identified by the Washington State Department of Fish and Wildlife. Priority habitats and species known to occur in the city or its vicinity include, but are not limited to, the following:

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- i. *Habitats:*
 - a) Oregon White Oak Woodlands.
 - b) West Side Prairie.
 - c) Freshwater Wetlands.
 - ii. *Species:*
 - a) Western Gray Squirrel.
 - b) Oregon Vesper Sparrow.
 - c) Mazama Pocket Gopher.
 - c. *Rare plants and high-quality ecosystems.* Areas of rare plant species and high-quality ecosystems identified by the Washington State Department of Natural Resources through the Natural Heritage Program. Rare plant species known to occur in the city or its vicinity include, but are not limited to, the following:
 - i. White-Top Aster.
 - d. *Wildlife corridors and connections.* Land useful or essential for preserving connections between habitat areas and open spaces.
 - e. *Waters of the state.* Waters of the state, including but not limited to lakes, rivers, ponds, streams, inland waters, underground waters, and salt waters. Scatter Creek is classified as a water of the state. Standards for underground waters are addressed in Section 112.20.070, critical aquifer recharge areas.
 - f. *Ponds.* Naturally occurring ponds under 20 acres, including their submerged aquatic beds that provide fish or wildlife habitat and artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds. Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds, and landscape amenities unless intentionally created for mitigation purposes. Small ponds are known to occur in the city and its urban growth area.
 - B. *Designation.* All areas within the city meeting one or more of the criteria in subsection A. above, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter. Fish and wildlife habitat conservation areas must be managed consistent with the best available science.
 - C. *Standards.*
 - 1. *Indigenous species.* Only plant, wildlife, or fish species that are indigenous to the region may be introduced into a habitat conservation area unless otherwise authorized by a state or federal permit or approval.
 - 2. *Activity approvals.* The city may condition approval of activities that are allowed within or adjacent to a habitat conservation area or its buffers in order to minimize or mitigate any potential adverse impacts. Conditions must be based on the best available science.
 - 3. *Alteration approvals.* Any approval of alterations or impacts to a habitat conservation area must be supported by the best available science.
 - 4. *Mitigation.*
 - a. *Contiguous corridors.* Mitigation sites must be located to preserve or achieve contiguous wildlife habitat corridors in accordance with a mitigation plan.
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- i. The mitigation plan must be submitted and approved as part of the critical area report to minimize the isolating effects of development on habitat areas.
 - ii. Aquatic habitat mitigation areas must be located within the same aquatic ecosystem as the area disturbed.
 - b. *Equivalent or greater biological functions.* Mitigation areas must:
 - i. Achieve functional equivalency or represent an improvement of existing biologic and hydrologic functions;
 - ii. Include mitigation for adverse impacts upstream or downstream from the development proposal site; and
 - iii. Address each function affected by the alteration to achieve functional equivalency or improvement on a per function basis.
 - 5. *Native growth protection areas required.* Habitat conservation areas and their buffers must be preserved in perpetuity through the use of native growth protection areas and critical area tracts. Native growth protection areas include areas where native vegetation is preserved for the purpose of preventing harm to property and the environment including, but not limited to, the following:
 - a. Controlling surface water runoff and erosion.
 - b. Maintaining slope stability.
 - c. Buffering.
 - d. Protecting plants and animal habitat.
 - 6. *Buffers.*
 - a. *Buffers Required.* Buffers are used to protect the integrity, functions, and values of each affected habitat. A buffer must be provided when it is needed to protect the habitat conservation area. Buffers must consist of an undisturbed area of native vegetation or areas identified for restoration.
 - b. *Buffer width.* Required buffer widths must reflect the sensitivity of the habitat as well as the type and intensity of human activity proposed. Buffer widths must be consistent with the management recommendations issued by the Washington Department of Fish and Wildlife.
 - c. *Seasonal restrictions.* When a species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions may apply. Larger buffers may be required, and activities may be further restricted during the specified season.
 - d. *Buffer averaging.* The city may allow the recommended buffer width to be reduced in accordance with a critical area report, the best available science, and the management recommendations issued by the Washington Department of Fish and Wildlife, only if:
 - i. Buffer averaging does not reduce stream or habitat functions;
 - ii. Buffer averaging provides additional natural resource protection, such as buffer enhancement;
 - iii. The total area contained in the buffer after averaging is no less than that which would be contained within the standard buffer; and
 - iv. The buffer width is not reduced by more than 25 percent in any location, as recommended by the Washington Department of Fish and Wildlife.
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7. *Land divisions.*

- a. Land that is located wholly within a habitat conservation area or its buffer must not be subdivided.
- b. Land that is located partially within a habitat conservation area or its buffer may be divided only if the developable portion of each new lot and its access is located outside of the habitat conservation area and buffer.
- c. Access roads and utilities serving the proposed subdivision may be permitted within the habitat conservation area and buffer only if the City determines that no other feasible alternative exists.

8. *Endangered, threatened, and sensitive species.*

- a. *Development.* Only development consistent with a management plan established by the Washington Department of Fish and Wildlife or applicable state or federal agency may be allowed in a habitat conservation area or buffer associated with endangered, threatened, or sensitive species.
 - b. *Protection Measures.* Protection measures identified in a critical area report that has been approved by the city, must be utilized for habitat conservation areas associated with endangered, threatened, or sensitive species.
 - c. *Alterations to habitat conservation areas.* Approval to alter habitat conservation areas or buffers associated with endangered, threatened, or sensitive species will not occur prior to consulting with:
 - i. For animal species, the Washington Department of Fish and Wildlife;
 - ii. For plant species, the Washington State Department of Natural Resources; and
 - iii. Other appropriate federal or state agencies.
9. *Wetland habitats.* Activities within or adjacent to habitat conservation areas containing wetlands must conform to the wetland standards set forth in Section 112.20.060, wetlands. If non-wetland habitat and wetlands are present at the same location, the provisions of this section or the wetlands section, whichever provides greater protection to the habitat, apply.

(Ord. No. 880, § 14, 9-12-2017)

Title 100 GENERAL PROVISIONS¹

¹State law reference(s)—1990 Growth Management Act requiring certain counties and cities to adopt comprehensive plans and development regulations that manage growth and prevent urban sprawl, RCW 36.70A.010 et seq.

PART II - LAND DEVELOPMENT REGULATIONS CODE
Title 100 - GENERAL PROVISIONS
CHAPTER 100.10. INTRODUCTION

CHAPTER 100.10. INTRODUCTION

100.10.010. Title.

Title 112, pertaining to building and construction, this title pertaining to development standards and general provisions, title 104, pertaining to comprehensive plan and annexations, titles 106 and 108, pertaining to zoning, title 110, pertaining to environmental policy (SEPA), title 112, pertaining to critical areas, and title 114, pertaining to subdivisions and platting, shall comprise and be cited as the "City of Tenino Land Development Regulations Code" hereinafter referred to as the "development regulations," "LDR" or "this Code."

(Ord. No. 710, § 18.10.010, 4-26-2004; Ord. No. 731, 2-13-2007)

100.10.020. Purpose, goal, and intent.

- A. *Purpose.* The purpose of this title is to outline general provisions for development regulations regarding application filing, department review, public notice, time periods, code interpretations, and enforcement and penalties. It is also provided to implement the city comprehensive plan as adopted and subsequently amended.
- B. *Goal.* The goal is to protect and promote the health, safety, and general welfare of Tenino's citizens by guiding planning and land use decisions. This title promotes development, reduced street congestion, and enhanced fire and public safety. It also encourages adequate public infrastructure, such as transportation, domestic water, sanitary sewer (when available), sanitary septic, schools, parks, and storm drainage. Additional goals of this Code are to:
 - 1. Promote quality building and development that is compatible with the surrounding environment and land uses to enhance the community.
 - 2. Support a variety of affordable housing opportunities for Tenino's population and enhance a safe and livable community.
 - 3. Pursue a strong and diverse economy that protects the neighborhood character.
 - 4. Protect the natural environment and preserve environmentally sensitive areas.
 - 5. Improve human services as the community changes.
 - 6. Balance transportation needs of the community with regional objectives by improving both street and multimodal transportation systems.
 - 7. Provide adequate public facilities and services to support land development.
 - 8. Maintain effective administration and enforcement of the regulations contained herein.
- C. *Intent.* The intent of this regulation is to enact standards for the benefit of the public at large and not for the benefit of any one person or groups of persons. The city does not intend to create a duty to enforce this Code except to the public at large.

(Ord. No. 710, § 18.10.020, 4-26-2004; Ord. No. 731, 2-13-2007)

100.10.030. How to use this Code.

- A. The development standards, general provisions, is title 100 of the Tenino Municipal Code. This title contains chapters that are enumerated and represented in a consistent format. For example, chapter 10, introduction, is represented as 100.10.
- B. Each chapter contains sections and subsections. Sections are enumerated and represented in the following format: LDR 100.10.020, purpose. Subsections are enumerated in the following format:
 - A.
 - 1.
 - a.
 - 1)
- C. Each chapter begins with a listing of the sections and a statement of that chapter's purpose and applicability. General definitions and abbreviations are contained in LDR chapter 100.20, pertaining to definitions. In some instances, specialized definitions may be found within the chapter where those definitions are used. Cross references to other chapters and sections of this title and to other titles within this Code can be found throughout this title.
- D. Supplemental development regulations to these general provisions include:
 - 1. LDR title 104, pertaining to comprehensive plan and annexations;
 - 2. LDR titles 106 and 108, pertaining to zoning;
 - 3. LDR title 110, pertaining to environmental (SEPA);
 - 4. LDR title 112, pertaining to critical areas; and
 - 5. LDR title 114, pertaining to subdivisions and platting.
- E. The city foresees a need to develop additional future supplemental development regulations that may arise to assist in the orderly development of lands within the city. Therefore, additional development regulation titles will hence be sequentially identified beginning with LDR title 116 and is reserved for the next development regulation title adopted by the city.

(Ord. No. 710, § 18.10.030, 4-26-2004; Ord. No. 731, 2-13-2007)

100.10.040. Reference applies to all amendments.

Whenever a reference is made to this Code as the "City of Tenino Land Development Regulations Code," the "development regulations," or "this Code," or to any portion thereof, or to any ordinance of the city the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made.

100.10.050. Title, chapter and section headings.

Title, chapter and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section hereof.

100.10.060. Effect of Code on past actions and obligations.

Neither the adoption of this Code nor the repeal or amendment of any ordinance or part or portion of any ordinance of the city shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date of the ordinance codified in this Code, nor be construed as a waiver of any

permit, fee, or penalty at the effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such permit, fee, or penalty, or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof, required to be posted, filed or deposited pursuant to any ordinance and all rights and obligations thereunder appertaining shall continue in full force and effect.

CHAPTER 100.20. DEFINITIONS

100.20.010. Purpose.

The purpose of this chapter is to define words that are used throughout these development regulations. Definitions may also be found within the other development regulation titles.

(Ord. No. 710, § 18.20.010, 4-26-2004; Ord. No. 731, 2-13-2007)

100.20.015. Rules of construction.

- A. *Generally.* The words used in this Code shall be construed to affect the intended purposes. Definitions of various words and phrases used throughout this Code are provided in this chapter. Other definitions may be found in specific sections of the Code and apply only to that section or portion of the Code. All words or phrases not specifically defined shall be given their common and usual meanings as determined by general usage and standard dictionary references (Webster's Merriam Collegiate Dictionary, 11th edition, 2003).
- B. *Usage; general rules of construction.* The following general rules of interpretation shall apply:
 - 1. The present tense includes the future, and, where appropriate, the past.
 - 2. The singular number includes the plural, and vice versa. The male gender includes the female, and vice versa.
 - 3. The term "shall" is mandatory; the term "may" is permissive.
 - 4. Reference in one section of this Code to another section of this Code or the Tenino Municipal Code by section number shall include all subsections within that section.
 - 5. Where appropriate to the context, words and terms defined in RCW 36.70A.010 et seq. shall apply here.
 - 6. Where appropriate to the context, words not included herein but defined in title 1, pertaining to general provisions, shall be construed as defined in title 1, pertaining general provisions.
 - 7. Words not included herein but defined in the building code or other municipal codes shall be construed as defined therein.
 - 8. Some sections of this Code contain separate definitions sections intended primarily for use in connection with the relevant section or portion of the Code.
 - 9. Determinations as to the meaning of a word or term shall be the responsibility of the city, whose decision may be appealed.

100.20.020. Words not defined.

For words not defined in this chapter, refer to **LDR 100.50.020(F)**, administrative interpretation.

(Ord. No. 710, § 18.20.020, 4-26-2004; Ord. No. 731, 2-13-2007)

100.20.030. Additional definitions.

The definitions contained in this chapter are generally those listed in **LDR 100.20.040**. Definitions specific to individual titles appear, and are listed in, those titles.

(Ord. No. 710, § 18.20.030, 4-26-2004; Ord. No. 731, 2-13-2007)

100.20.040. A definitions.

Abandon or abandonment of wireless telecommunication facilities means to:

1. Cease operation for a period of 60 or more consecutive calendar days;
2. Reduce the effective radiated power of an antenna by 75 percent for 60 or more consecutive calendar days unless new technology or the construction of additional cells in the same locality allows reduction of effective radiated power by more than 75 percent, so long as the operator still serves essentially the same customer base;
3. Relocate an antenna at a point less than 80 percent of the height of an antenna support structure; or
4. Reduce the number of transmissions from an antenna by 75 percent for 60 or more consecutive calendar days provided that nonoperation or reduced operation for a period of 60 or more consecutive calendar days to facilitate maintenance, redesign or other changes about which the city was notified in advance, shall not constitute abandonment.

Access means the way or means by which pedestrians and vehicles enter and leave a property.

Accessory dwelling unit. See **LDR 108.40.110.B**.

Accessory structure means a separate structure that is secondary and subordinate to another structure on the same property.

Accessory (Use). See LDR 108.40.110.

Actions includes new and continuing activities (including projects and programs) entirely or partly financed, assisted, conducted, regulated, licensed, or approved by agencies; new or revised agency rules, regulations, plans, policies, or procedures; and legislative proposals. Actions fall within one of two categories:

1. *Project actions*. A project action involves a decision on a specific project, such as a construction or management activity located in a defined geographic area. Projects include and are limited to agency decisions to:
 - a. License, fund, or undertake any activity that will directly modify the environment, whether the activity will be conducted by the agency, an applicant, or under contract;
 - b. Purchase, sell, lease, transfer, or exchange natural resources, including publicly owned land, whether or not the environment is directly modified.
2. *Nonproject actions*. Nonproject actions involve decisions on policies, plans, or programs.
 - a. The adoption or amendment of legislation, ordinances, rules, or regulations that contain standards controlling use or modification of the environment;
 - b. The adoption or amendment of comprehensive land use plans or zoning ordinances;
 - c. The adoption of any policy, plan, or program that will govern the development of a series of connected actions (WAC 197-11-060), but not including any policy, plan, or program for which approval must be obtained from any federal agency prior to implementation;
 - d. Creation of a district or annexations to any city, town or district;

- e. Capital budgets; and
- f. Road, street, and highway plans.
- 3. *Exclusion.* Actions do not include activities listed in subsections 1 and 2 of this definition when an agency is not involved. Actions do not include bringing judicial or administrative civil or criminal enforcement actions.

Activity means any use conducted on a site.

Adequate public facilities means adequate public facilities which have the capacity to serve development without decreasing levels of service below locally established minimums.

Adjacent means lots located across a right-of-way, railroad or street, except limited access roads.

Agency means any state or local governmental body, board, commission, department, or officer authorized to make law, hear contested cases, or otherwise take the actions stated in WAC 197-11-704, except the judiciary and state legislature. An agency is any state agency (WAC 197-11-796) or local agency (WAC 197-11-762).

Agriculture. See Sec. 108.40.030.B.

Alley means a public or private way not more than 30 feet wide, which provides a means of access to abutting property that is not intended for general traffic circulation. Alleys are not considered streets for the purpose of calculating setbacks.

Alterations means any repair, reconstruction, or improvement of a structure, the cost of which does not equal or exceed 50 percent of the market value of the structure in a two-year period.

Amendment means any change in the wording, context, or substance of this Code or the comprehensive plan; a change in the zoning map or comprehensive plan map; a change to the official controls of city Code; or any change to a condition of approval or modification of a permit or plans reviewed or approved by the planning commission, city council or designee.

Amusement. See LDR 108.40.080.B.

Amusement and recreation (use). See LDR 108.40.080.

Anchor means the device to which tie-downs are secured or fastened having a holding power of not less than 4,800 pounds. The term "anchor" includes, but are not necessarily limited to, screw auger, expanding or concrete "dead men" type anchors, and are to be constructed as to accommodate over the top and frame type tie-downs, used singly or in conjunction.

Antenna means any system of electromagnetically tuned wires, poles, rods, reflecting discs or similar devices used to transmit or receive electromagnetic waves between terrestrial and/or orbital base points.

Antenna, ancillary means an antenna that is less than 12 inches in its largest dimension and is not directly used to provide wireless communications services.

Example: antennas used for global positioning satellites (GPS).

Antenna, panel means a directional antenna which transmits and receives radio frequency signals in a specific directional pattern of up to 120 degrees, typically thin and rectangular in shape.

Antenna, parabolic or dish antenna means a bowl-shaped antenna that receives and/or transmits in a narrow and specific direction.

Antenna, tubular means a hollow tube typically 12 inches in diameter containing either omni-directional or directional antennas, depending on the specific site requirement.

Typically placed on top of light standards and power poles, tubular antennas are often used to mitigate the visual impacts of wireless telecommunications facilities.

Antenna, whip means an omni-directional antenna that transmits and receives radio frequency signals in a 360-degree radial pattern, typically four inches or less in diameter.

Antenna height or height means, when referring to a tower or other wireless telecommunication facilities, the vertical distance measured from the finished grade of the parcel at the base of the tower pad or antenna support structure to the highest point of the structure, even if said highest point is an antenna. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

Antenna support structure means any pole, telescoping mast, tower, tripod, or other structure which supports a device used in the transmitting or receiving of radio frequency signals.

Appeal means a proceeding by which an aggrieved party requests that a disputed matter is brought before a higher authority for review of a decision made by the city.

Applicant means any natural person or entity, including an agency, applying for a license from an agency.

Approval means permission to proceed with a land-use action for development.

Aquifer means a geological formation, group of formations, or part of formation that can yield a significant amount of water to a well or spring.

Arcade means a linear pedestrian walkway that abuts and runs along the facade of a building. An arcade is covered, but not enclosed and open at all times to public use. Typically, an arcade has a line of columns along its open side. There may be habitable space above the arcade.

Art or artwork means a device, element, or feature with a primary purpose to express, enhance or illustrate aesthetic quality, feeling, physical entity, idea, local condition, historical or mythical happening, or cultural or social value. Examples of artwork include sculpture, bas-relief sculpture, mural, or unique, specially crafted lighting, furniture, pavement, landscaping, or architectural treatment that is intended primarily, but necessarily exclusively, for aesthetic purpose. Signs, upon approval by the city, may be considered artwork, provided they exhibit an exceptionally high level of craftsmanship, special material or construction and include decorative devices or design elements that are not necessary to convey information about the business or product. Signs that are primarily names or logos are not considered art.

Assembly. See LDR 108.40.060.B.

Attached single-family unit. See LDR 108.40.040.D.

(Ord. No. 710, § 18.20.040, 4-26-2004; Ord. No. 731, 2-13-2007; Ord. No. 880, § 1, 9-12-2017; Ord. No. 881, § 1, 9-26-2017)

100.20.050. B definitions.

Base flood elevation means that elevation, expressed in feet above mean sea level, determined by the Federal Insurance Administration, U.S. Department of Housing and Urban Development, to which floodwater, on an average, can be expected to rise on a frequency of once in every 100 years.

Battery charging station. See LDR 108.40.110.H.

Battery exchange station. See LDR 108.40.070.J.

Bed and breakfast. See LDR 108.40.110.C.

Berm means a landscaped elevation formed of earth, sand, or stone.

Best Available Science. See LDR 112.20.020.

Blank walls means walls subject to requirements which meet the following criteria:

1. Any wall or portion of a wall that has a surface area of 400 square feet of vertical surface without a window, door, or building modulation as defined in subsection 2. of this definition or other architectural feature.
2. Any ground level wall surface or section of a wall over four feet in height at ground level that is longer than 15 feet as measured horizontally without having a ground level window or door lying wholly or in part within that 15-foot section.

Block means all land along one side of a street that is between two intersections or intercepting streets, or interrupting streets and a railroad right-of-way, or unsubdivided land or watercourse.

Boundary line adjustment. See LDR 114.10.040 definition "Boundary line adjustment".

Buffer means an area of land or a structure used or created for the purpose of insulating or separating a structure or land use from other lands, uses or structures, in such a manner as to reduce or mitigate any adverse impacts of one or the other.

Buffer, critical area means the naturally existing area contiguous with a critical area that is required for the integrity, maintenance, function, enhancement, or structural stability of the critical area.

Buildable area means the portion of a lot or site, exclusive of required yard areas, setbacks, landscaping or open space within which a structure may be built.

Building means any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals or property of any kind.

Building code means the code promulgated by the international conference of building officials, as adopted by the city council, and as now in effect or hereafter amended.

Building coverage means the measurement of the gross footprint of all the structures, to include accessory and exempt structures, on a lot. The gross footprint includes all structural elements and projections of a building and includes, but is not limited to; eaves, projections, decks, balconies, elevated patios, breezeways, or canopies.

Building, detached means a building detached from one or more buildings by common roofs, walls, or floors.

Building facade or facade means the visible wall surface, excluding the roof, of a building when viewed from a public right-of-way or adjacent property. If more than one wall is predominately visible, the walls may be considered one facade for the purposes of signage. A building facade is measured in gross square feet and does not include the roof area.

Building height means the vertical distance from the average natural, undisturbed grade of a site to the highest point of the structure.

Building site. See "Buildable area".

Bulkhead means a vertical wall of steel, timber or concrete used for erosion protection or as a retaining wall.

Business means the purchase, sale, or other transaction involving the handling or disposition of any article, service, substance, or commodity for livelihood or profit; or the management of office buildings, offices, recreational or amusement enterprises; or the maintenance and use of buildings, offices, structures, and premises by professions and trades rendering services.

(Ord. No. 710, § 18.20.050, 4-26-2004; Ord. No. 731, 2-13-2007; Ord. No. 801, § 1, 11-22-2011; Ord. No. 823, § 1, 11-13-2012; Ord. No. 880, § 2, 9-12-2017; Ord. No. 881, § 2, 9-26-2017)

100.20.060. C definitions.

Camouflage means to disguise, hide, or integrate with an existing or proposed structure or with the natural environment so as to be significantly screened from view.

Campground. See LDR 108.40.050.C.

Carport means a covered automobile structure open on one or more sides, with direct driveway access for the parking stall. A carport may be integrated with, attached to, or detached from the primary structure.

Cell site or site means a tract or parcel of land that contains wireless telecommunications facilities including any antenna, support structure, accessory buildings, and parking, and may include other uses associated with and ancillary to wireless telecommunication facilities.

Change of use means a change of use shall be determined to have occurred when it is found that the general character of the use in question has been modified. This determination shall include review of, but not be limited to:

1. Hours of operation;
2. Materials processed or sold;
3. Required parking;
4. Traffic generation;
5. Impact on public utilities;
6. Clientele;
7. General appearance and location; and
8. Change in use type.

Christmas tree sales. See LDR 108.40.120.C.

Circulation means the movement or flow of traffic from one place to another through available routes. Traffic includes a variety of modes of travel including pedestrian, motor vehicle and nonmotorized methods, such as bicycles.

City means the City of Tenino and/or city staff members.

City designee or designee means the community development department director, senior planner, or other as appointed by the mayor.

Clearing means the removal of timber, brush, grass, ground cover, or other vegetative matter from a site that exposes the earth's surface on the site.

Clear-vision areas means a triangular area at intersections or public drives where visual obstructions are to be kept clear (see Sight distance zone).

Clinic means a place where medical or dental care is furnished to persons on an outpatient basis by professionals in the health care field.

Closed record appeals means administrative appeals under RCW 36.70B.110, which are heard by the city council following an open record hearing on a project permit application when the appeal is on the record with no or limited new evidence or information allowed to be submitted, and only appeal arguments allowed.

Co-location of wireless telecommunication facilities means the use of a wireless telecommunication facilities by more than one service provider.

Commercial (use). See LDR 108.40.070.

Commercial truck means any motorized vehicle licensed by the state including, but not limited to, a car, truck, truck trailer, tractor, grading machine, bulldozer, scraper, boat, motorized crane, etc., that is used in the operation of a business to store, transfer, or deliver commodities or in construction, road grading, or logging activities.

Community development director means the director of the community development department of the city or designee of that department.

Comprehensive plan means the document, including maps, adopted by the city council that outlines the city's goals and policies relating to management of growth, and prepared in accordance with RCW 36.70A.010 et seq. The term "comprehensive plan" also includes any adopted subarea plans prepared in accordance with RCW 36.70A.010 et seq.

Concurrency means ensuring that adequate public improvements or strategies are in place at the time of development, and the ability and financial commitment of the service provider to expand capacity or maintain the level-of-service for new development through capital improvements within a six-year period as noted in the Transportation Capital Improvement Plan.

Condominium means an estate in real property consisting of an undivided interest in common in a portion of a lot of record together with a separate interest in space in a building on such real property.

Conventional lodging. See LDR 108.40.050.B.

Contiguous means bordering upon, to touch upon, or in physical contact with.

Correctional group home. See LDR 108.40.040.F.

Council means the City Council of the City of Tenino.

County means the County of Thurston.

Courtyard means a courtyard is an open space, usually landscaped, which is enclosed on at least three sides by a structure or structures.

Craft food production. See LDR 108.40.090.B.

Critical aquifer recharge area. See LDR 112.20.070.

Critical facility means a facility for which even a slight chance of flooding, inundation, or impact from a hazard event might be too great.

Example: Examples of critical facilities include but are not limited to: schools; nursing homes; hospitals; police fire and emergency response installations; and installations that produce use or store hazardous materials or hazardous waste.

Curb cut means a curb cut is a depression in the curb for a driveway to provide vehicular access between private property and the street.

(Ord. No. 710, § 18.20.060, 4-26-2004; Ord. No. 731, 2-13-2007; Ord. No. 823, § 2, 11-13-2012; Ord. No. 880, § 3, 9-12-2017; Ord. No. 881, § 3, 9-26-2017)

100.20.070. D definitions.

Dangerous waste means any discarded, useless, unwanted, or abandoned substances including, but not limited to, certain pesticides, or any residues or containers of such substances which are disposed of in such quantity or concentration as to pose a substantial, present or potential hazard to human health, wildlife, or the environment because such wastes or constituents or combinations of such wastes:

1. Have short-lived, toxic properties that may cause death, injury, or illness or have mutagenic, teratogenic, or carcinogenic properties; or
2. Are corrosive, explosive, flammable, or may generate pressure through decomposition or other means. Includes wastes designated in WAC 173-303-070 through 173-303-103 as dangerous wastes.

Daycare center. See LDR 108.40.060.C.

Daycare, home. See LDR 108.40.060.C.

Decibel means a unit of measurement of the intensity (loudness) of sound. Sound level meters which are employed to measure the intensity of sound are calibrated in decibels.

Decision means a determination arrived at after consideration.

Deck means a deck is a roofless, outdoor, above-ground platform projecting from the wall of a building and supported by piers or columns.

Dedication means the transfer of property by the owner to another party.

Density means the permissible number of dwelling units that may be developed on a specific amount of land area measured in number of dwelling units per acre.

Department means the city community development department.

Design details means architectural or building design details refer to the minor building elements that contribute to the character or architectural style of the structure. The term "design details" may include moldings, mullions, rooftop features, the style of the windows and doors, and other decorative features.

Design, wireless telecommunication facilities, means the appearance of wireless telecommunication facilities, including such features as their materials, colors, and shape.

Detached single-family unit. See LDR 108.40.040.B.

Developed recreation. See LDR 108.40.080.D.

Development means any constructed changes to improved or unimproved land, including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating, or drilling operations or the subdivision of property.

Development activity means any action taken either in conjunction with a use, or to make a use possible. Activities do not in and of themselves result in a specific use. Most activities may take place in conjunction with a variety of uses.

Development permit means any document granting, or granting with conditions, an application for a site plan, building permit, discretionary decision, or other official action of the city having the effect of authorizing the development of land, which includes all process I through process V applications.

Development plan means a plan drawn to scale, indicating, but not limited to, the proposed use, the actual dimensions and shape of the lot to be built upon, the exact sizes and locations of buildings already existing on the lot, if any, and the location on the lot of the proposed building or alteration, yards, setbacks, landscaping, off-street parking, ingress and egress, and signs.

Development regulations means the controls placed on development or land use activities, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto. The term "development regulation" does not include a decision to approve a project permit application, as defined in RCW 36.70B.020, even though the decision may be expressed in a resolution or ordinance of the legislative body of the city.

Discontinuance means the abandonment or nonuse of a building, structure, sign or lot.

Discretionary permit means a decision which requires special analysis or review due to the nature of the application or because special consideration was requested by the applicant.

Disposal. See LDR 108.40.090.E.

District means an area designated by this title, with specific boundaries, in which lie specific zones, or special purpose area as described in this title.

Domesticated animal means those domestic beasts such as any dog, cat, rabbit, horse, mule, ass, bovine animal, lamb, goat, sheep or hog, or other animal made to be domestic.

Double-frontage lot means a lot other than a corner lot with frontage on more than one street.

Dripline means a circle drawn at the soil line directly under the outermost branches of a tree.

Drive-up facility. See LDR 108.40.110.F.

Driveway means a paved or graveled surface a minimum of 15 feet in width that provides access to a lot from a public or private right-of-way.

Duplex. See LDR 108.40.040.C.

Durable surface means concrete, brick or asphalt material for driving, parking or storing materials.

Dwelling unit means a unit used residentially and is also known as a residential unit. See LDR 108.40.040. for a definition of a residential use.

(Ord. No. 710, § 18.20.070, 4-26-2004; Ord. No. 731, 2-13-2007; Ord. No. 823, § 3, 11-13-2012; Ord. No. 881, § 4, 9-26-2017)

100.20.080. E definitions.

Easement means a nonpossessory interest in the land of another which entitles the owner of the interest to a limited use or enjoyment of the other's land for the purpose of and protection from interference with this use by a public or private street, railroad, utility, transmission line, walkway, sidewalk, bikeway, equestrian trail, and other similar uses. The term "easement" may be exclusive or include more than one user.

Electric vehicle. Any vehicle that operates, either partially or exclusively, on electrical energy from the grid, or an off-board source that is stored on-board for a motive purpose.

Electromagnetic field (EMF) means the field produced by the operation of equipment used in transmitting and receiving radio frequency signals.

Emergency services. See LDR 108.40.060.E.

Erect means the act of placing or affixing a component of a structure upon the ground or upon another such component.

Erosion means the detachment and movement of soil, sediment, or rock fragments by water, wind, ice, and/or gravity.

Erosion hazard area. See LDR 112.20.090.

Essential public facility means a state or regional facility and service of state-wide significance that is typically difficult to site.

Example: Examples of essential public facilities include airports, state education facilities, state or regional transportation facilities, state and local correctional facilities, solid waste handling facilities, and in-patient

facilities including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities.

Evergreen tree means a tree, often a coniferous tree, which retains its foliage and remains green year round.

Excavate means the removal by man of sand, sediment, or other material from an area of land or water for other use than commercial or industrial.

Extremely hazardous waste means any waste which will persist in a hazardous form for several years or more at a disposal site and which in its persistent form presents a significant environmental hazard and may be concentrated by living organisms through a food chain or may affect the genetic constitution of humans or other living creatures and is disposed of at a disposal site in such quantities as would present an extreme hazard to man or the environment. Those wastes designated in WAC 173-303-070 through 173-303-103 as extremely hazardous wastes.

(Ord. No. 710, § 18.20.080, 4-26-2004; Ord. No. 731, 2-13-2007; Ord. No. 801, § 2, 11-22-2011; Ord. No. 880, § 4, 9-12-2017; Ord. No. 881, § 5, 9-26-2017)

100.20.090. F definitions.

Facade means the exterior wall and related roof elements of a building.

Family means one or more individuals related by blood, marriage, adoption, or guardianship, or not more than six individuals not so related, occupying a dwelling unit and living as a single housekeeping unit.

Farm stand. See LDR 108.40.120.D.

Fence means a wall or barrier for the purpose of enclosing space or separating parcels of land.

Fence, sight-obscuring, means a fence constructed of solid wood, masonry, metal or other appropriate material that totally conceals the subject use from adjoining uses.

Fill/filling means the placement by man of sand, sediment or other material to raise the elevation of the land.

Final development plan means a plan or set of plans that comply with the conditions set forth in a preliminary approval and, once approved, authorizes the granting of a discretionary permit.

Fish and Wildlife Habitat Conservation Area. See LDR 112.20.100.

Flag means any piece of cloth of individual size, color and design, used as a symbol, signal, emblem, or for decoration.

Flagpole means a staff or pole that is designed to display a flag. A flagpole may be freestanding or attached to a building or to a private light standard.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters and/or the unusual and rapid accumulation of runoff of surface waters from any source.

Floor area means the sum of the gross horizontal areas of several floors of a building, measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings, but not including, attic space providing headroom of less than seven feet, basement, if more than 50 percent of the basement is less than grade.

Floor area ratio (FAR) means the floor area ratio of the building or buildings on any lot means the gross floor area of the building or buildings on that lot, divided by the gross area of such lot.

Footprint means the perimeter of the foundation of a structure as it is measured at grade.

Footcandle means a unit used for measuring the amount of illumination on a surface. The amount of usable light from any given source is partially determined by the angle of incidence of the source and the distance to the illuminated surface.

Forest Resource Lands. See LDR 108.30.160.F.

Frequently flooded areas. See LDR 112.20.080.

Frontage refers to length of a property line along a public street or right-of-way.

(Ord. No. 710, § 18.20.090, 4-26-2004; Ord. No. 731, 2-13-2007; Ord. No. 880, § 5, 9-12-2017; Ord. No. 881, § 6, 9-26-2017)

100.20.100. G definitions.

Garage means a building or floor area within a building intended to be used for the parking or storage of motor vehicles.

Geologically hazardous area. See LDR 112.20.090.

Governing authority means the City Council of the City of Tenino.

Grade, average, means the average elevation of the undisturbed ground prior to construction at all exterior corners of the proposed structure.

Grade, finished, means the finished surface of the ground, street, paving or sidewalk.

Grade, pre-construction, means prior to any grade, fill or disturbance of soil or vegetation.

Greenhouse means a glass or plastic structure specially designed for the growing of plants that provides a controlled growing environment that allows plants to grow when they would not otherwise do so.

Gross area means the total sum area of the lot after public rights-of-way are subtracted.

Gross density means a calculation of the number of housing units that is allowed on a property based on the maximum density permitted.

Gross square feet (GSF) means the sum of the total square footage of any building, lot, property or area.

Ground cover means low-growing vegetative materials with a mound or spreading manner of growth that provides solid cover.

Group home. See LDR 108.40.040.E.

Guyed tower means a wireless communication support structure that is typically over 100 feet tall and is steadied by wire guys in a radial pattern around the tower.

(Ord. No. 710, § 18.20.100, 4-26-2004; Ord. No. 731, 2-13-2007; Ord. No. 880, § 6, 9-12-2017; Ord. No. 881, § 7, 9-26-2017)

100.20.110. H definitions.

Habitat means the place or type of site where an organism lives; the place occupied by an entire community, such as a freshwater tidal marsh community.

Hazardous substance means any liquid, solid, gas or sludge, including any material, substance, product, commodity or waste, regardless of quantity, that exhibits any of the physical, chemical or biological properties described in RCW ch. 70.105, in WAC 173-303-090, or WAC 173-303-100.

Hazardous waste means any dangerous or extremely hazardous waste as designated pursuant to RCW ch. 70.105 or WAC 173-303, including substances composed of radioactive and hazardous components but not including moderate risk wastes.

Heavy industry. See LDR 108.40.090.D.

Heavy retail/service. See LDR 108.40.070.G.

Height means the vertical distance measured from the average grade to the highest point on the building or structure.

Home business. See LDR 108.40.110.E.

Home daycare. See LDR 108.40.110.

Home occupation. See LDR 108.40.110.D.

Household pet means animals or fowl customarily permitted in the house and kept for company or pleasure, including dogs, cats, canaries and similar pets.

Human scale means the size of a building element or space relative to the dimensions and proportions of a human being. A building is considered to have "good human scale" if there is an expression of human activity or use that indicates the building's size. For example, traditionally sized doors, windows, and balconies are elements that respond to the size of the human body, so these elements in a building indicate a building's overall size.

(Ord. No. 710, § 18.20.110, 4-26-2004; Ord. No. 731, 2-13-2007; Ord. No. 880, § 7, 9-12-2017; Ord. No. 881, § 8, 9-26-2017)

100.20.120. I definitions.

Impervious surface means a hard surface area that prevents or retards the entry of water into the soil mantle as under natural conditions prior to development, or a hard surface area that causes water to run off the surface in greater quantities or at an increased rate of flow than under natural conditions prior to development.

Example: Examples of impervious surfaces include, but are not limited to: rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, gravel parking lots, packed earthen materials, and oiled macadam or other surfaces that similarly impede the natural infiltration of stormwater. Open, uncovered retention/detention facilities are not considered as impervious surfaces.

Incidental use. See LDR 108.40.020.B.2.

Incompatible uses means, for the purpose of community design, incompatible uses are those uses, including, but not limited to, outdoor storage, utilities equipment and apparatus, and loading and service facilities, which are considered to be visually intrusive, unsightly and which require site design and screening to mitigate the negative impacts to retail, service and office commercial uses and residential development.

Industrial (use). See LDR 108.40.090.

Infill means new development on vacant lots in established neighborhoods, to facilitate in keeping urban densities.

Institutional (use). See LDR 108.40.060.

Interior landscaping area means any area of a lot that is not within a required perimeter landscaping or landscape buffer area. In the case of single-family residences in residential zones, the entire lot shall be considered the interior landscaping area. Interior landscaping areas are required within large parking lot areas to provide aesthetic visual relief and provide for some shading of parking spaces.

(Ord. No. 710, § 18.20.120, 4-26-2004; Ord. No. 731, 2-13-2007; Ord. No. 880, § 8, 9-12-2017; Ord. No. 881, § 9, 9-26-2017)

100.20.130. J definitions.

Judicial appeals means appeals filed by a party of record in the county superior court.

(Ord. No. 710, § 18.20.130, 4-26-2004; Ord. No. 731, 2-13-2007)

100.20.140. K definitions.

Kennel means an enclosure or structure in which any combination of six or more dogs that individually exceed six months of age are kept for breeding, sale, training, boarding, or sporting purposes.

Kitchen means any room or rooms, or portion of a room or rooms, used or intended or designed to be used for cooking or the preparation of food.

(Ord. No. 710, § 18.20.140, 4-26-2004; Ord. No. 731, 2-13-2007)

100.20.150. L definitions.

Landscaping means vegetative cover including shrubs, trees, flowers, ground cover and other similar plant material. Required landscaping must conform to the planting standards contained in this Code. An area may be determined to be landscaped if it is planted with vegetation in the form of hardy trees, shrubs, or grass or evergreen ground cover maintained in good condition.

Landslide hazard area. See LDR 112.20.090.

Lattice tower means a support structure which consists of a network of crossed metal braces, forming a tower which is usually triangular or square in cross-section.

Level of service (LOS) standards means indicators of the extent or degree of service provided by, or proposed to be provided by, a facility based on and related to the operational characteristics of the facility. LOS indicates the capacity per unit of demand for each public facility. LOS standards reflect existing or desired public facility conditions.

Light industry. See LDR 108.40.090.C.

Livestock means all cattle, sheep, goats, or animals of the bovine family; all horses, mules, or animals of the equine family; all pigs, swine, or animals of the guinea family; and ostriches, rhea, and emus.

Loading area or space means the portion of a site developed for loading or unloading motor vehicles or trailers, including loading berths, aisles, access drives, and related landscaped areas.

Local road or street means a road or street which is used or intended to be used primarily for providing access to abutting properties and to discourage through traffic.

Lodging (use). See LDR 108.40.050.

Lot. See LDR 114.10.040 definition of the term "lot."

Lot area means the total area, in gross square feet, within the lot lines of a lot, excluding any public right-of-way. For the purposes of flood regulations, any portion of a lot lying below the ordinary high-water mark or lawfully constructed bulkhead shall not be included in a lot area calculation.

Lot, buildable, means a lot of record which is proposed for use in compliance with this title, and has received approval of the water supply, stormwater retention/detention system and sewage disposal method as appropriate to such use.

Lot, corner, means a lot of which at least two adjacent sides abut streets other than alleys.

Lot coverage means the area of a lot covered by a building or buildings, expressed as a percentage of the total lot area.

Lot, cul-de-sac, means a lot that has a front lot line contiguous with the outer radius of the turn-around portion of a cul-de-sac.

Lot depth means the perpendicular distance measured from the mid-point of the front lot line to the mid-point of the opposite lot line.

Lot determination. See LDR 114.10.040 definition of the term "lot determination."

Lot, flag, means a flag lot is surrounded by abutting lots with an extended access way to a street right-of-way.

Lot interior means a lot other than a corner lot.

Lot line means the property line bounding a lot.

Lot line, front, normally, means the property line separating the lot from the street, other than an alley, from which access is provided to the lot. For the purpose of establishing setback requirements, orientation of the dwelling unit shall be independent of access to the parcel. In the case of a corner lot, the front lot line shall be the property line with the narrow dimension adjacent to the street.

Lot line, rear, means the lot line which is opposite and most distant from the front lot line and which is in the same plane and runs parallel to the front lot.

Lot line, side, means any property line that is neither a front nor a rear lot line.

Lot of record. See LDR 114.10.040 definition of the term "lot of record."

Lot, through, means an interior lot having frontage on two streets, and which is not a corner lot.

Lot, width, means the average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot lines, except that portion of a flag lot that usually forms an extended access way to a street right-of-way.

Low income means households whose incomes do not exceed 80 percent of the median income for the city as determined by department of housing and urban development.

(Ord. No. 710, § 18.20.150, 4-26-2004; Ord. No. 731, 2-13-2007; Ord. No. 880, § 9, 9-12-2017; Ord. No. 881, § 10, 9-26-2017)

100.20.160. M definitions.

Maintenance means routine upkeep (the cleaning, painting, repairing, or replacement of defective parts) of existing structure, facilities, or signs which are in current use or operation.

Major exterior remodel means a proposed improvement to any existing building structure or property that changes the exterior appearance of the property and meets either of the following criteria:

1. Estimated value of construction exceeds 50 percent of the value of the existing built facilities as determined by the city's building valuation procedure.
2. Construction includes an addition to or extension of an existing building.

Manufactured home means a structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to required utilities. For floodplain management purposes only, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for more than 180 consecutive days.

Map means a representation, usually on a flat surface, of the whole or part of an area.

Marijuana business. See LDR 108.40.070.K.

Marijuana land use means any use involving the growing, manufacturing, processing or distribution of marijuana permitted under state law.

Marijuana land use, medical means any marijuana use permitted under Chapter 69.51A RCW as now or hereafter amended.

Marijuana land use, recreational means any use regulated by the Liquor Control Board under WAC 314-55.

Maximum density means the maximum number of dwelling units allowed per buildable acre. The maximum density of each zoning district is measured per net buildable area of an acre, and is expressed as a ratio, i.e., one dwelling unit per net buildable acre. The minimum lot size does not determine maximum density.

Maximum lot size means the largest lot area size, expressed in gross square feet, permitted for short plat subdivisions, lot line adjustments, and subdivisions utilizing standard development regulations. The maximum lot size does not apply to open space parcels or residential parcels that are more than 35 percent encumbered by dedicated natural or critical areas or associated buffers.

Mean high-water (MHW) means the average height of all high waters over a 19-year period.

Microcell means a wireless communication facility consisting of an antenna that is either:

1. Four feet in height and with an area of not more than 580 square inches; or
2. If a tubular antenna, no more than 12 inches in diameter and no more than six feet in length.

Mineral resource lands. See LDR 108.30.160.E.

Minor exterior remodel means any improvement that changes the visual appearance or exterior configuration of a building, structure or property, and which has a value of less than 50 percent of the existing built facilities as determined by the city's building valuation procedure. Painting and restorative maintenance are not considered minor remodels.

Minor facility means a wireless communication facility consisting of up to three antennas, each of which is either:

1. Four feet in length with a maximum area of 580 square inches; or
2. For tubular antennas, a maximum diameter of 12 inches and maximum length of six feet. Associated equipment cabinets must be no more than six feet in height and no more than 48 square feet in area; or
3. For whip antennas, a maximum diameter of four inches and a maximum length of 15 feet.

Mitigate means to avoid, minimize, or compensate for adverse impacts.

Mobile food vendor. See LDR 108.40.070.F.

Mobile home means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy that is being used for residential purposes, that was constructed prior to June 15, 1976, and/or does not conform to [HUD] Manufactured Housing Construction and Safety Standards Act. Mobile homes do not include recreational vehicles. The appropriate HUD or department of labor and industries label is displayed.

Mobile home park means an area of land in single or corporate ownership, on which space is made available for the location of mobile homes on a month-to-month basis. Such mobile homes would, generally, be owned by the occupants who pay a fee for the use of the ground space.

Modulation means a stepping back or projecting forward of portions of a building facade within specified intervals of building width and depth as a means of breaking up the apparent bulk of a structure's continuous exterior walls.

Monopole tower means a support structure which consists of a single pole sunk into the ground and/or attached to a foundation.

Mount of wireless telecommunications facility means the structure or surface upon which wireless telecommunications facilities are mounted. There are three types of mounts:

1. Building mounted means a wireless telecommunications facility mount fixed to the roof or side of a building.
2. Ground mounted means a wireless telecommunications facility mount fixed to the ground, such as a tower.
3. Structure mounted means a wireless telecommunications facility fixed to a structure other than a building, such as light standards, utility poles, water towers, and bridges.

Multiple building complex means two or more structures on the same lot where those structures are physically separate and do not share a common wall.

(Ord. No. 710, § 18.20.160, 4-26-2004; Ord. No. 731, 2-13-2007; Ord. No. 823, § 4, 11-13-2012; Ord. No. 833, § 1, 11-12-2013; Ord. No. 849, § 1, 11-12-2014; Ord. No. 880, § 10, 9-12-2017; Ord. No. 881, § 11, 9-26-2017)

100.20.170. N definitions.

Native vegetation means a mix of plant species comprising herbs, grasses, grass-like plants, shrubs and trees indigenous to the Puget Sound region that reasonably could be expected to occur naturally on a site.

Natural areas means all or portions of a parcel of land undisturbed by development and maintained in a manner which preserves the indigenous plant materials.

Neighborhood park or playground means an area for recreational activities, such as, but not limited to, field games, court games, crafts, playground apparatus area, skating, walking, viewing, picnicking, wading pools, swimming pools.

Net acreage means the buildable area after the area of street rights-of-way have been subtracted.

Net developable acreage means the gross site acreage minus any environmentally constrained lands and roads.

Nonconforming lot means a lot which does not conform to the design or density requirements of the zoning district in which it is located. A nonconforming lot is a lot that was legal when it was created, but no longer meets the current area, width, or depth dimensional requirements for the zoning district in which the property is located. Nonconforming lots may be occupied by any permitted use in the district, provided that all other development regulations in effect at the time of development are met.

Nonconforming structure means one which was lawfully erected in conformance with the regulations in effect at the time of its construction, but which no longer conforms to current development standards including, but not limited to design, height, setback or coverage requirements of the zoning district in which it is located.

Nonconforming use means the use of land, a building or a structure lawfully existing prior to the effective date of this title or subsequent amendments thereto, which does not conform with the regulations of the district in which it is located.

Nonconformity means any land use, structure, lot or sign legally established prior to the effective date of this title or subsequent amendment, which is no longer permitted by or in full compliance with the regulations of this title.

Nursery. See LDR 108.40.070.I.

(Ord. No. 710, § 18.20.170, 4-26-2004; Ord. No. 731, 2-13-2007; Ord. No. 823, § 5, 11-13-2012; Ord. No. 880, § 11, 9-12-2017; Ord. No. 881, § 12, 9-26-2017)

100.20.180. O definitions.

Occupancy means the purpose for which a building is used or intended to be used. The term "occupancy" includes the building or room housing such use. Change of occupancy is not intended to include change of tenants or proprietors.

Odor control structure means equipment or structures appurtenant to wastewater conveyance facilities used to lessen the odors of the liquids being transported.

Office. See LDR 108.40.070.B.

Official controls means legislatively defined and enacted policies, standards, precise detailed maps and other criteria, all of which control the physical development of the city, and are the means of translating into regulations and ordinances all or any part of the general objectives of the comprehensive plan.

Official map means maps that show the designation, location and boundaries of the various districts, land, or manmade features which have been adopted and made a part of this Code, or other plan or policy documents.

Open record hearing means a hearing held by a decision-making body that is authorized by the city to conduct such hearings, that creates the city's record through testimony and submission of evidence and information, under procedures prescribed by the city by ordinance or resolution.

Open space (use). See LDR 108.40.030.

Open space, required. Required open space is undeveloped area that is required in order to receive approval of a development or use.

Ordinary high-water mark means that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on the effective date of this title, or as it may naturally change thereafter; provided, that in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark shall be the line of mean high-water.

Ornamental tree means a tree that is either a conifer or deciduous tree that is accessory, decorative, enhances and/or accents the general landscaping of the site. Ornamental trees are generally between eight and 20 feet tall at maturity.

Outdoor recreation. See LDR 108.40.080.C.

Overlay district/zone means a defined geographic area where sets of development regulations are established to achieve a specific public purpose. These regulations are in addition to those of the underlying zoning district and are shown on the zoning map. Also can be a supplementary district that places special restrictions or preempts the use of land beyond those required in the underlying zones.

Owner means the owner of record of real property as shown on the tax rolls of the county assessor, or a person who is purchasing a piece of property under contract.

Owner occupant means a property owner as reflected in title records that makes his legal residence at the site, and actually resides at the site more than six months out of any given year.

Ownership means the existence of legal equitable title to land.

(Ord. No. 710, § 18.20.180, 4-26-2004; Ord. No. 731, 2-13-2007; Ord. No. 881, § 13, 9-26-2017)

100.20.190. P definitions.

Parapet means that portion of a building wall that extends above the roof of the building.

Parcel means a lot or plot of land proposed or created in accordance with this Code, LDR title 114, or prior subdivision ordinance and state law and intended as a unit for the purpose, whether immediate or future, of transfer of ownership. The external boundaries existing as of the date of incorporation of the city shall be used to establish what a parcel is for the purposes of this Code. For parcels that have not been conveyed since that date, the legal description used in the conveyance closest to that date shall control.

Parking (use). See LDR 108.40.100.B.

Parking lot means five or more adjacent parking spaces.

Parties of record means persons with legal standing with respect to an application including the applicant, property owner as identified by the records available from the county assessor's office, or any person who testified at the open record public hearing on the application and/or; any person who submitted written comments during administrative review or has submitted written comments concerning the application at the open record public hearing, excluding persons who have only signed petitions or mechanically produced form letters.

Passive recreation means an outdoor leisure time activity that usually occurs in a natural or designed urban setting. Passive recreation may occur in common open lawn areas and, where determined appropriate, critical area buffers, aquifer recharge and floodwater storage areas. Activities may include picnicking, sightseeing, walking, hiking, biking, horseback riding, and nature walks. Accessory structures associated with passive recreation include: playground equipment, picnic shelters and tables, barbecue pits, exercise stations, restroom facilities, benches, directory signs, garbage containers, and landscaped areas with walkways.

Patio means a recreation area adjoining a dwelling which is often paved or a wood platform of 30 inches or less above finished grade.

Pedestrian-oriented facades means the ground floor facades facing pedestrian-oriented streets and public parks shall feature pedestrian-friendly street front facades which consist of one or more of the following characteristics:

1. Transparent window area or window displays along the majority of the ground floor facade.
2. Sculptural, mosaic or base-relief artwork over the majority of the ground floor facade.
3. Pedestrian-oriented space, as defined in this section, at least 500 square feet must be located along the sidewalk for every 100 linear feet of facade as measured along the property line adjacent to the street right-of-way. The pedestrian-oriented space shall also include at least 200 square feet of landscaping for every 100 linear feet of building facade as measured along the property line adjacent to the street right-of-way. The landscaping must conform to the planting standards contained in this Code.

Pedestrian-oriented space means an area between a building and a public street or another building that promotes visual and pedestrian access onto the site and that provides pedestrian-oriented amenities and landscaping to enhance the public's use of the space. The term "pedestrian-oriented spaces" include, but are not limited to, outdoor plazas, arcades, courtyards, seating areas, and amphitheaters. Pedestrian-oriented spaces have:

1. Visual and pedestrian access, including handicapped access, into the site from the public right-of-way.
2. Special textured paved walking surfaces of either concrete or approved unit paving.

3. On-site or building-mounted lighting providing at least four footcandles (average) on the ground.
4. Seating; at least two feet of seating area (bench, ledge, etc.) or one individual seat per 60 square feet of plaza area or open space.
5. Landscaping, including trees and seasonal plantings, that defines the space, but does not act as a visual barrier to views from the street or adjacent buildings.
6. Site furniture, artwork or amenities such as fountains, kiosks, etc.
7. Pedestrian weather protection or other enclosure, such as an arcade or gazebo. Generally, pedestrian-oriented spaces shall not have:
 - a. Asphalt or gravel pavement.
 - b. Adjacent unscreened parking lots.
 - c. Adjacent chainlink fences.
 - d. Adjacent blank walls without blank wall treatment.

Pedestrian-oriented use means a commercial use in which customers commonly arrive on foot, or where signage, advertising, window display and entryways are oriented toward pedestrian traffic on a public sidewalk. Pedestrian-oriented businesses may include restaurants, retail shops, personal service businesses, travel services, banks, (except drive-through windows), and similar establishments.

Performance standards means criteria to control noise, odor, smoke, toxic or noxious matter, vibration, fire and explosive hazards, or glare or heat generated by or inherent in uses of land or buildings.

Person means any natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government, or any other person or combination acting as a unit, with legal rights and duties, whether acting by themselves or by a servant, agent, employee, or guardian.

Planned unit development means any development, whether residential, commercial or industrial, which is approved and developed in accordance with the terms of this title.

Plat. See LDR 114.10.040 definition of the term "plat."

Plat, preliminary. See LDR 114.10.040 definition of the term "preliminary plat."

Plat, short. See LDR 114.10.040 definition of the term "short plat."

Plaza means a pedestrian space that is available for public use and is situated near a main entrance to a building or is clearly visible and accessible from the adjacent right-of-way. Typical features include special paving, landscaping, lighting, and seating areas, water features and art.

Preliminary approval means an approval, based upon an application and conceptual plan for a discretionary land use permit, granted by the city that sets forth certain conditions.

Premises means a parcel of land with its appurtenances and buildings that, because of its unity of use, may be regarded as the smallest conveyable unit of real estate.

Principal use. See LDR 108.40.020.B.1.

Project action means a project action involves a decision on a specific project, such as a construction or management activity located in a defined geographic area. Projects include and are limited to agency decisions to:

1. License, fund, or undertake any activity that will directly modify the environment, whether the activity will be conducted by the agency, an applicant, or under contract.

2. Purchase, sell, lease, transfer, or exchange natural resources, including publicly owned land whether or not the environment is directly modified.

Project permit means any land use or environmental permit or license required from the city, county, or a state or a federal agency for a project action:

1. Including, but not limited to:
 - a. Building permits;
 - b. Site development permits;
 - c. Fill and grade permit;
 - d. Subdivisions;
 - e. Binding site plans;
 - f. Planned unit developments;
 - g. Conditional uses;
 - h. Shoreline substantial development permits;
 - i. Development plan review;
 - j. Site specific rezones authorized by the comprehensive plan;
2. Excluding adoption or amendment of the comprehensive plan and development regulations, zoning of newly annexed land, area-wide rezones, and zoning map amendments except as otherwise specifically included in this subsection.

Proponent. See "person".

Public facilities includes streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, storm waste facilities, parks and recreational facilities, governmental buildings, and schools.

Public meeting means an informal or formal meeting, workshop, or other public gathering of persons to obtain comments from the public or other agencies on a proposed project permit prior to the city's decision, but is not an open record hearing.

(Ord. No. 710, § 18.20.190, 4-26-2004; Ord. No. 731, 2-13-2007; Ord. No. 881, § 14, 9-26-2017)

100.20.200. Q definitions.

Qualified architect or engineer means an architect or engineer registered in the state who, by reason of this training and experience, is considered qualified to pass judgment on design, materials, and methods of construction. The qualifications of the architect or engineer design must be reviewed and found to be acceptable by the city.

(Ord. No. 710, § 18.20.200, 4-26-2004; Ord. No. 731, 2-13-2007)

100.20.210. R definitions.

Recorded means unless otherwise stated, filed for record with the county auditor.

Recreation means the refreshment of body and mind through forms of play, amusement or relaxation. The recreational experience may be active, such as boating, fishing, and swimming, or may be passive such as enjoying

the natural beauty of the shoreline or its wildlife. Facilities included as low-intensity recreation may include picnic tables, trail signs, unpaved trails and portable restrooms.

Recreation, active, means leisure activities usually performed with others, often requiring equipment and taking place at prescribed places, sites or fields. The term "active recreation" includes, but is not limited to, swimming, tennis and other court games, baseball and other field sports, golf and playground activities.

Recreation facilities means public or private facilities for use by the general public such as boat or yacht clubs, docks, swimming pools, athletic clubs, golf and country clubs.

Recreation, passive, means low intensity recreational uses or activities including but not limited to, viewpoints, unpaved trails, limited picnic facilities, hiking nature study, photography and fishing.

Recreational and utility vehicles means licensed travel trailers, folding tent trailers, motor homes, truck campers removed from a truck or pickup, horse trailers, boats, boat trailers with or without boats, utility trailers and mobile homes not qualified as a permanent family home structure, being of such size and weight as to be operable over highways without requirement of a special highway movement permit.

Regulated activities means, but is not limited to, any of the following activities that are undertaken directly or originate in a regulated critical area or its buffer: building permit, commercial or residential; binding site plan; franchise right-of-way construction permit; site development permit; right-of-way permit; shoreline permits; short subdivision; use permits; subdivision; utility permits; or any subsequently adopted permit or required approval not expressly exempted by this title.

Rehabilitation means infrequent, extensive repair of more than a routine nature to existing structures or facilities which are in current use or operation.

Residential (use). See LDR 108.40.040.

Restaurant/Bar. See LDR 108.40.070.E.

Retail. See LDR 108.40.070.C.

Rezone means a change in zoning classification of an area from one use district to another.

Right-of-way means land owned, dedicated or conveyed to the public, used primarily for the movement of vehicles, wheelchair, bicycle, and pedestrian traffic. Right-of-way may be intended to be occupied by electric transmission lines, oil or gas pipelines, water line sanitary storm sewer, and other similar uses. The term "right-of-way" may also include land privately owned, provided that such land has been developed and constructed in compliance with all applicable laws and standards for a public right-of-way.

Riprap means a layer, facing, or protective mound of stones randomly placed to prevent erosion, scour or sloughing of a structure or embankment; also, the stone so used. In local usage, the similar use of other hard material, such as concrete rubble, is also frequently included as riprap.

Roofline means the top edge of a roof or building parapet, whichever is higher, excluding any mansards, cupolas, pylons, chimneys, or minor projections.

Room means any space in a building enclosed or set apart by partitions which is habitable and shall be deemed to apply to any room used as a bedroom, dining room, living room, sitting room, parlor, kitchen, sewing room, library, den, music room, dressing room, sleeping porch, sun room, sun porch, party room, recreation room, breakfast room, study, and similar uses.

(Ord. No. 710, § 18.20.210, 4-26-2004; Ord. No. 731, 2-13-2007; Ord. No. 823, § 6, 11-13-2012; Ord. No. 881, § 15, 9-26-2017)

100.20.220. S definitions.

School. See LDR 108.40.060.D.

Security barrier means a wall, fence, or berm that has the purpose of securing a wireless telecommunications facilities wireless service facility from unauthorized entry or trespass.

Service (use). See LDR 108.40.070.D.

Service areas means areas, enclosed or open, that contain equipment and uses such as ground level mechanical equipment, utility vaults, loading zones, outdoor storage areas, and trash and recycling areas.

Service provider means the department, district or agency responsible for providing the specific public facility or service.

Setback means the minimum required distance between any structure and a specified line such as a property line or buffer line that is required to remain free of structures unless otherwise provided herein.

Sewer facility. See LDR 108.40.100.D.

Sexually oriented business. See LDR 108.40.070.L.

Shading vegetation means vegetation planted on the south side of a major creek that generally provides shade from mid-morning to mid-afternoon. Examples of shading vegetation are specified in LDR title 108, pertaining to landscaping.

Shoreline means a line determined by the ordinary high-water mark, as defined in the Shoreline Management Act of 1971 (RCW 90.58.010 et seq.).

Sign. See LDR 108.30.130, pertaining to signs.

Significant tree means an existing tree, which:

1. Is measured at average breast height above grade and is 15 inches in diameter;
2. Be in good health;
3. Not detrimental to the community (e.g., is not diseased, dying, or likely of falling into public open space or right-of-way, etc.) or obscuring safe sight distance requirements;
4. Is not an identified species pursuant to LDR title 112, pertaining to critical areas and natural resource lands; and
5. Is not one of the following species:
 - a. Cottonwood;
 - b. Alder;
 - c. Poplar; or
 - d. Big-leaf maple.

Site planning means the arrangement of buildings, driveways, sidewalks, public open spaces, landscaping, parking, utilities, and other facilities on a specific site.

Soil means the surface layer of earth supporting plant life.

Solid waste means all wastes, including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, discarded commodities, sludge from wastewater treatment plants, seepage from septic tanks, wood wastes, dangerous wastes, and problem wastes.

Sound level means in decibels, the quantity measured by an instrument that satisfies American National Standard Specification for Sound Level Meters, S1.4a-1985, or the most recent revision thereof. Sound level is understood to be measured with the A-weighted filter and slow response of the instrument.

Stabilization means the process of controlling or stilling the movement of sand and eroding soil by natural vegetative growth, planting of grasses and shrubs, or mechanical means such as wire net, fencing.

Storage. See LDR 108.40.070.H.

Story. See Uniform Housing Code or International Building Code.

Street means a public way located within a right-of-way that was created to provide ingress and/or egress to one or more lots, parcels, areas or tracts of land and includes the terms road, highways, lanes, avenue, or similar designation.

Street, cul-de-sac, means a street having only one outlet for vehicular traffic, with a turnaround at the closed end and which is not planned to be extended or continued to serve future subdivisions or development on adjacent lands.

Street furniture means the objects placed on or near a sidewalk for use, convenience or enjoyment primarily by pedestrians such as benches or other seating arrangements, trash receptacles, mail and newspaper boxes, kiosks, light poles, and art objects.

Street tree means a species of tree approved by the city to be planted in along street frontages in accordance with the provisions of LDR title 108, pertaining to landscaping.

Street wall means the construction of buildings adjacent to the edge of the sidewalk and which abut each other or are in very close proximity to one another, to create the effect of a continuous wall of building facades along the sidewalk at the property lines.

Streetscape means the streetscape is the visual character and quality of a street as determined by various elements located between the edge of the street and the building face, such as trees and other landscaping, street furniture, lighting, artwork, transit stops, signage, utility fixtures and equipment, and paving treatments. Where there are frequent and wide spaces between buildings, the streetscape will be defined by the pattern of building and open space and the character of that open space.

Structural alteration means any change to the supporting members of a building including foundations, bearing walls or partitions, columns, beams, girders, or any structural change in the roof or in the exterior walls.

Structure means a walled and roofed building, a manufactured home, and a gas or liquid storage tank that is principally above ground. Structure can also be defined as anything that is constructed in or on the ground or over water, including any edifice, gas or liquid storage tank, and any piece of work artificially built up or composed of parts and joined together.

Structure, landscaping, means a fence, wall, trellis, statue or other similar landscaping or ornamental object.

Subdivision. See LDR 114.10.040, definition, subdivision, and RCW 58.17.

Subdivision, clustered housing planned developments means a subdivision development in which building lots are smaller and placed closer together than conventional development in order to preserve the remaining undeveloped land as open space and/or recreational land. Density requirements for clustered subdivisions are described in the text for the applicable zoning district. See LDR 114.10.040, definition, subdivision, and RCW 58.17.

Survey and monument means the boundaries of a partition parcel, road right-of-way or road easement. (Ord. No. 710, § 18.20.220, 4-26-2004; Ord. No. 731, 2-13-2007; Ord. No. 823, § 7, 11-13-2012; Ord. No. 881, § 16, 9-26-2017)

100.20.230. T definitions.

Telecommunications means the transmission, between or among points specified by the user, of information of the user's choosing without change in the form or content of the information as sent and received.

Telecommunications service means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

Temporary (use). See LDR 108.40.120.

Temporary gravel processing. See LDR 108.40.120.H.

Temporary real estate sales office. See LDR 108.40.120.E.

Temporary shelter. See LDR 108.40.120.F.

Tower, for the purposes of wireless telecommunication facilities, means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telecommunications, including, but not limited to, radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers or personal communications services towers, alternative tower structures and other similar communication purposes. The term includes the structure, all structural supports, and all related buildings and appurtenances.

Townhouse means a single-family dwelling unit, including the ground beneath the unit, with a single unit going from ground to roof.

Toxic materials means a substance (liquid, solid, or gaseous), which by reason of an inherent deleterious property tends to destroy life or impair health.

Tract. See LDR 114.10.040 definition, lot.

Trailer, commercial/private, means a vehicle without motor power designed to be drawn by a motor vehicle and which trailer is used or is to be used for carrying goods and property.

Transmission tower means a structure that is constructed above ground or water, or is attached to or on top of another structure, and is intended to support an antenna and accessory equipment, or which is itself an antenna.

Transportation and infrastructure (use). See LDR 108.40.100.

Travel trailer means a vehicular, portable structure built on a chassis and designed to be used for temporary occupancy for travel, recreational or vacation purposes, or for intermittent road use, but not for permanent residential use. It shall have a visible manufacturer's certification tag showing it to be a travel trailer. The term "travel trailer" is a structure that will not meet the requirements of the uniform building code, and the purpose of this title, the term "travel trailer" shall not be deemed a mobile home.

Tree means any living woody plant characterized by one main trunk and many branches, and having a diameter of two inches or more measured at three feet above ground level.

Tree removal permit means an approval granted by the community development department to remove significant trees within the city.

(Ord. No. 710, § 18.20.230, 4-26-2004; Ord. No. 731, 2-13-2007; Ord. No. 881, § 17, 9-26-2017)

100.20.240. U definitions.

Uniform building code (UBC) means the current version of the building code as adopted by the state, or equivalent, published by the international conference of building officials, and adopted by the city.

Unlicensed wireless services means commercial mobile services that operate on public frequencies and are not required to have an FCC license to operate.

Use. See LDR 108.40.020.A.

Use, accessory. See LDR 108.40.020.B.3.

Use, administrative. See LDR 108.40.010.B.

Use, conditional. See LDR 108.40.010.C.

Use, incidental. See LDR 108.40.020.B.2.

Use, primary. See LDR 108.40.020.B.4.

Use, principal. See LDR 108.40.020.B.1.

Use, public facility. See LDR 108.40.010.D.

Use, temporary. See LDR 108.40.020.B.5.

Utility facility. See LDR 108.40.100.C.

(Ord. No. 710, § 18.20.240, 4-26-2004; Ord. No. 731, 2-13-2007; Ord. No. 823, § 8, 11-13-2012; Ord. No. 881, § 18, 9-26-2017)

100.20.250. V definitions.

Validity means legally binding with the laws as established in this Code.

Variance means a modification of regulations of this title when authorized by the city after finding that the literal application of the provisions of this title would cause undue and unnecessary hardship in view of certain facts and conditions applying to a specific parcel of property because of the unusual nature, shape, exceptional topographic conditions, or extraordinary situation or conditions connected with a specific piece of property.

Vegetative groundcover means low growing vegetation that does not usually exceed one foot in height and eventually grows together to form a continuous mass.

Vesting means vesting entitles the applicant to improve and use land in the manner permitted under the ordinances from which this title is derived is in effect on the date the application is deemed complete by the city or regulatory agency/jurisdiction.

(Ord. No. 710, § 18.20.250, 4-26-2004; Ord. No. 731, 2-13-2007; Ord. No. 881, § 19, 9-26-2017)

100.20.260. W definitions.

Wastewater means water that carries waste from domestic, commercial or industrial facilities together with other waters which may inadvertently enter the sewer system through infiltration and inflow.

Water supply, potable, means a water source that complies with appropriate state agency regulations as to quality and quantity for use as a drinking source.

Wellhead protection area means the surface and subsurface areas surrounding a well or wellfield that supplies a public water system through which contaminants are likely to pass and eventually reach the water well as designated under the Federal Clean Water Act.

Wetland. See Sec. 112.20.060.

Wireless telecommunication facility. See LDR 108.40.100.E.

(Ord. No. 710, § 18.20.260, 4-26-2004; Ord. No. 731, 2-13-2007; Ord. No. 880, § 12, 9-12-2017; Ord. No. 881, § 20, 9-26-2017)

100.20.270. X definitions. Reserved.

100.20.280. Y definitions.

Yard means an open area on a lot with a building and bounded on one or more sides by such building, such space being unoccupied land unobstructed from the ground upward.

Yard, front, means an open space on the same lot with the building, between the front line of the building, exclusive of steps, and the front property line or right-of-way, including the full width of the lot to its side-line.

Yard, rear, means an open space on the same lot with the building between the rear line of the building, exclusive of steps, porches and accessory buildings, and the rear line of the lot, including the full width of the lot to its side-lines.

Yard sale. See LDR 108.40.120.B.

Yard, side, means an open, unoccupied space on a lot, between the side-wall line of the main building and the side property line of the lot.

(Ord. No. 710, § 18.20.280, 4-26-2004; Ord. No. 731, 2-13-2007; Ord. No. 881, § 21, 9-26-2017)

100.20.290. Z definitions.

Zone means a land use area or district established by the city council and depicted on the official zoning map.

Zoning means the regulation of the use of lands or the manner of construction related thereto in the interest of implementing the goals and policies of the comprehensive plan. The term "zoning" includes both the division of land into separate and district zoning districts, and the specific use and development standards that regulate development. Such regulation shall also govern those public and quasi-public land use and buildings that provide for government activities and proprietary type services for the community's benefit, except as prohibited by law. State and federal governmental activities are strongly encouraged to cooperate under these regulations to secure harmonious city development.

Zoning district means an area accurately defined as to boundaries and location, and classified by the zoning code as available for certain types of uses and within which other types of uses are excluded.

(Ord. No. 710, § 18.20.290, 4-26-2004; Ord. No. 731, 2-13-2007)

CHAPTER 100.30. GENERAL ADMINISTRATION

100.30.010. Authority.

This Code is adopted by city pursuant to RCW 36.70A et seq. (Planning Enabling Act).

(Ord. No. 710, § 18.30.010, 4-26-2004; Ord. No. 731, 2-13-2007)

100.30.020. Reserved.

100.30.030. Severability and validity.

The sections, paragraphs, sentences, clauses, and phrases of this Code are severable. If any section, paragraph, sentence, clause, or phrase is declared unconstitutional or otherwise invalid by any court of competent

jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this title, which shall continue in full force and effect. Further, if any section, paragraph, sentence, clause, or phrase of this title is adjudged invalid or unconstitutional as applied to a particular property, use, building, or other structure, the application of said portion of this title to other property, uses, buildings, or structures shall not be affected.

(Ord. No. 710, § 18.30.030, 4-26-2004; Ord. No. 731, 2-13-2007)

100.30.040. Scope and compliance.

The provisions of this Code shall apply to all incorporated areas of the city. A parcel of land or water area may be used, developed by land division or otherwise, and a structure may be used or developed by construction, reconstruction, alteration, occupancy, or otherwise only as this Code or appropriate development regulation titles permit. Each development shall comply with the applicable standards set forth in this Code and other appropriate TMC titles. The requirements of this Code apply to the property owner, the person undertaking a development, the user of a development, and any successors in interest.

(Ord. No. 710, § 18.30.040, 4-26-2004; Ord. No. 731, 2-13-2007)

100.30.050. Consistency with comprehensive plan, development regulations and State Environmental Policy Act.

- A. When the city initiates an action or receives an application for an action, consistency between the proposed project and the applicable regulations and comprehensive plan will be considered using the processes set forth in this Code and LDR 110, State Environmental Policy Act (SEPA).
- B. Initial SEPA analysis. The city shall review the application pursuant to the State Environmental Policy Act (TMC title 110, State Environmental Policy Act (SEPA)) the responsible official shall render a threshold determination pursuant to WAC 197-11-310.
- C. During project permit application review, the city shall determine whether the proposed project complies with applicable development regulations. In the absence of applicable zoning regulations, the city shall determine whether the proposed project is consistent with the comprehensive plan. This determination of consistency shall include the following:
 - 1. The type of land uses permitted at the site, including uses that may be allowed under certain circumstances, if the criteria for their approval are satisfied;
 - 2. The level of development, such as the number of units per acre, density of residential development in urban growth areas, or other measures of density;
 - 3. Availability and adequacy of infrastructure, including public facilities and services identified in the comprehensive plan, if the plan or development regulations provide for funding of these facilities as required by RCW 36.70A; and
 - 4. Characteristics of the development, as provided in this Code. In deciding whether a project is consistent, the determinations made pursuant to this section shall be controlling. The determination of consistency shall not prohibit the city from denying, conditioning, or mitigating impacts due to other aspects of the project.

(Ord. No. 710, § 18.30.050, 4-26-2004; Ord. No. 731, 2-13-2007)

100.30.060. Conflict of provisions.

The standards, procedures and requirements of this chapter are the minimum necessary to promote the health, safety, and welfare of the residents of the city. The city is free to adopt more rigorous or different standards, procedures and requirements whenever this becomes necessary. If the provisions of this chapter conflict or overlap one with another, or if a provision of this chapter conflicts or overlaps with the provision of another ordinance of the city, the most restrictive provision or the provision imposing the highest standard prevails.

(Ord. No. 710, § 18.30.060, 4-26-2004; Ord. No. 731, 2-13-2007)

100.30.070. Responsibility and authority.

- A. The city is charged with the responsibility of administering the provisions of this Code.
- B. The designee is authorized and empowered to make administrative decisions and determinations pursuant to TMC 100.50.020, pertaining to administrative interpretations.
- C. The designee is authorized to revoke any permit issued to the permit holder who fails to comply with this Code or conditions of the permit approval, or if there was a permit issued in error or based on false or misleading information.

(Ord. No. 710, § 18.30.070, 4-26-2004; Ord. No. 731, 2-13-2007)

100.30.080. Official records.

- A. The designee is charged with the responsibility of compiling and maintaining an official file on each application or petition submitted under this Code, consisting of the following, if applicable:
 - 1. Application or petition materials submitted by the applicant or appellant;
 - 2. Staff reports;
 - 3. Copies of any public notifications;
 - 4. Written testimony received;
 - 5. Record of any public hearing held;
 - 6. Written decision of the granting authority; and
 - 7. Other information relevant as judged by the staff member assigned to the project.
- B. The official file is a public record, which shall be maintained and made available for public inspection consistent with the city's retention schedule and laws governing public disclosure. Availability may be temporarily disrupted prior to, or during, public hearings while staff is preparing for the hearing.

(Ord. No. 710, § 18.30.080, 4-26-2004; Ord. No. 731, 2-13-2007)

100.30.090. Burden of proof.

Except for city proposed actions, the burden of proof is upon the proponent, the greater the impact of the proposal to the area, the greater the burden upon the proponent. The proposal shall not be approved unless the applicant has provided evidence demonstrating that the proposal conforms to the applicable elements of the comprehensive plan and provisions of this Code, especially the specific criteria set forth for the particular type of decision under consideration.

(Ord. No. 710, § 18.30.090, 4-26-2004; Ord. No. 731, 2-13-2007)

100.30.100. Forms and supportive documentation.

The designee is charged with the responsibility of creating and developing administrative guidelines, applications, maps, charts, reference materials, forms, brochures, handouts and other tools to aid the public, applicants, staff, and decision-makers in interpreting and administering this Code.

(Ord. No. 710, § 18.30.100, 4-26-2004; Ord. No. 731, 2-13-2007)

100.30.110. Fees.

- A. The designee is charged with the responsibility of collecting appropriate fees charged to applicants for any permits or discretionary approval process provided for in this Code. The amount of the fees charged shall be as established by resolution of the city council filed in the office of the city clerk and may be, from time to time, changed without amendment to this Code.
- B. Fees shall be paid upon submission of a signed development application or petition for appeal, or as otherwise provided by any fee resolution or ordinance adopted by the city. In the event the resolution does not clearly establish a fee for the application or petition, the designee is authorized to charge the applicant based on the hourly rates established for the appropriate staff member. A department of the city shall not be required to pay application fees when applying for a permit regulated under any municipal code title. Where such an application will require substantial review time or expenditures, the city may direct that the department initiating the application request to reimburse the community development department for some or all of costs expended for any required review.
- C. Work without an application or permit.
 - 1. Whenever any work for which an application and/or project permit is required by this or any development regulation title, and has commenced without first obtaining approval of said application, a special investigation fee shall be assessed before a permit may be issued for such required work.
 - 2. An investigation fee, in addition to the application or permit fee, shall be collected whether or not an application is then subsequently issued. The investigation fee shall be based on the hourly rate of the staff member conducting the investigation, with a one-hour minimum to apply to any investigation. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this Code nor from penalties prescribed by law.
- D. If so allowed by the governing municipal code, the designee may authorize a full or partial refund of any fee when an application is withdrawn. The refund shall be based on the estimated expenditure of staff resources at the time of the withdrawal of the application.

(Ord. No. 710, § 18.30.110, 4-26-2004; Ord. No. 731, 2-13-2007)

100.30.120. Security mechanisms.

- A. The purpose of this section is to provide the city with financial mechanisms to ensure that conditions, requirements and all applicable provisions of this Code associated with permit approvals are met. The city may require a cash guarantee, letter of credit or the posting of a performance, completion, or maintenance bond, or its equivalent, with the city to ensure the subsequent completion and continued maintenance of all permit conditions. Permits for single-family residences, except related stormwater facility or road improvements, are exempt from this requirement.
- B. Bonding.
 - 1. A surety bond or equivalent shall be in a form acceptable to the city and shall represent a percentage of the estimated cost of design, materials, and labor related to the project in question, based on the

- estimated costs on the last day covered by the device, of installing, replacing, or repairing, as appropriate, the improvements covered by the security, as agreed to by the designee.
- a. *Performance and/or completion bond.* 125 percent of the costs specified in subsection B.1 of this section, for the duration specified by the city, or until all improvements are installed and accepted by the city, whichever is less.
 - b. *Maintenance bond.* 20 percent of the costs specified in subsection B.1 of this section, for the duration specified by the city, or until the city is satisfied that maintenance shall continue, whichever is less. However, the bond or equivalent shall be extended if repairs are made at the end of the bonding period, which, in the opinion of the designee, require additional guarantee of workmanship.
2. The surety bond or equivalent, if required, may be presented to the city after preliminary approval of a project, but in all circumstances shall be presented prior to the issuance of a site development permit. The conditions of performance to which the bond is subject shall be listed on the permit attached thereto. No final certificate of occupancy, or other permit for which a bond is required, shall be issued until all such conditions are satisfied. All securities shall be held until released by the designee.
- C. In each case where a security is posted, the applicant and the designee shall sign a notarized security agreement. The agreement shall provide the following information:
 1. A description of the work or improvements covered by the security.
 2. Either the period of time covered by the maintenance security or the date after which the city will use the proceeds of the performance security to complete the required work or improvements.
 3. The amount and nature of the security and the amount of any cash deposit.
 4. The rights and duties of the city and applicant.
 5. An irrevocable easement or other authority to allow the employees, agents, or contractors of the city to enter the subject property for the purpose of inspecting and, if necessary, performing the work or making the improvements covered by the security.
 6. The applicant may request that the city release the security after the work or improvements covered by a performance security have been completed, or at the end of the time covered by a maintenance security. The designee shall release the remaining security when the applicant has complied with the security agreement and applicable permit conditions. If the work has not been completed or repairs not made, then the city shall not release the security until such work is completed. Partial release of the security may be allowed provided the developer provides a new security equal to 125 percent of the cost of the remaining work.
 - D. During the period of time covered by a maintenance security, or after the date by which the required work or improvements are to be completed under a performance security, if the designee determines that the security agreement has not been complied with, the city shall so notify the applicant. The notice must state:
 1. Work or improvements that must be completed to comply with the security agreement;
 2. Amount of time that the applicant has to commence and complete the required work or improvements; and
 3. If not commenced and completed within the time specified, the city will use the proceeds of the security to complete the work or improvements.
 - E. If the work or improvements covered by the security are not completed within the time specified in the notice, the city shall obtain the proceeds of the security and cause such work to be completed.

- F. The applicant shall be responsible for all costs incurred by the city in administering, maintaining, or making the improvements covered by the security. The city shall release or refund the balance of the remaining security after subtracting all costs for completing the work. The applicant shall reimburse the city for any amount expended by the city that exceeds the proceeds of the security. The city may file a lien against the subject property for the amount of any excess.
- G. In each case where the city uses any of the funds of a security, it shall give the applicant an itemized statement of all funds used.

(Ord. No. 710, § 18.30.120, 4-26-2004; Ord. No. 731, 2-13-2007)

100.30.130. Enforcement.

- A. *Purpose.* The purpose of this section is to provide the authority and procedures for the revocation, modification, and expiration of permits and approvals granted pursuant to city regulations.
- B. *Responsibility of enforcement.* It shall be the duty of the community development department to enforce the provisions of all development regulations to protect the public and minimize deficiencies that endanger health and safety. The appropriate use of enforcement power, including prosecution is important both to secure compliance with the law and to ensure that those who have duties under it may be held to account for failures to safeguard health, safety and welfare.
- C. *Revocation, modification, expiration of approvals/permits.*
 - 1. Any conditions or requirements placed upon a development approval/permit by the designee or decision-making body as a result of the provisions of this Code shall be followed. In the event that the permit holder, or assignee, fails to comply with any such conditions, the underlying development permit may be revoked or modified as set forth in subsections C.2 through C.8 of this section.
 - 2. If after an investigation, the city determines that one or more conditions of a permit are not being met, notice shall be mailed to the permit holder or agent by regular mail advising them of the deficiency and requiring that the deficiency be remedied within 14 days from the date the notice is mailed or such other period as the city designee may deem appropriate.
 - 3. If the permit holder or agent fails to remedy the deficiency within this time period, the city designee shall mail notice to the permit holder or agent advising of the intent to revoke the development permit. Such notice shall state that to avoid such action the permit/application holder may appeal the revocation notice in writing. The permit holder shall be afforded a hearing before the city council to show cause why the permit should not be revoked. Such a hearing request must be filed within 14 days of the date of the notice of intent to revoke. The city council may:
 - a. Uphold the permit should it be determined that all conditions have been met or no longer need to be met;
 - b. Modify or add conditions to the permit; or
 - c. Uphold the revocation of the permit.

If the permit holder fails to file a timely request for hearing, the designee shall send a notice advising that the development permit has been revoked and that any further action thereon will be in violation of city development regulations.
 - 4. The provisions of LDR 100.40.040, coordination of development permit procedures, shall apply to all development permits issued prior to and after the date of adoption of this Code.
 - 5. Community development department authority. The designee has the authority to revoke or modify any permit or approval that was issued pursuant to city review. Prior to such revocation or modification,

the designee shall follow procedures concerning notice and appeals as required for the initial consideration thereof, provided that when any permit or approval is not exercised within the time specified in such permit or approval or, if no date is specified, within one year from the approval date of said permit or approval, the permit or approval shall automatically become null and void and no public hearing shall be required on the matter.

6. Initiation of an action. An action to revoke or modify any permit or application may be initiated by:
 - a. The designee; or
 - b. By petition of any aggrieved party directly affected by the project or use together with the adopted appeals filing fee and filed with the city.
 7. Grounds for revocation or modification. Such revocation or modification shall be made on any one or more of the following grounds:
 - a. That the approval or permit was obtained by fraud;
 - b. That the use for which such approval or permit was granted is not being exercised;
 - c. That the use for which such approval or permit was granted has ceased to exist or has been suspended for one year or more;
 - d. That the approval or permit granted is being, or recently has been, exercised contrary to the terms or conditions of such approval or permit, or in violation of any statute, resolution, code, law, or regulation.
 - e. The applicant did not provide complete or correct submittal information and discovery of the inaccuracies are later brought to the attention of the city that require additional permit review, modification, or possible permit revocation.
 - f. That the use for which the approval or permit was granted was so exercised as to be detrimental to the public health or safety, or so as to constitute a nuisance.
 8. Expiration. When any permit or approval is not exercised by the expiration date indicated on the approval or permit or, if no expiration date is specified, one year from the approval date, the permit or approval shall expire. No extension of the expiration date for a permit or approval shall be granted unless such extension is approved pursuant to specific provisions for the relevant permit or approval.
- D. *Notice and orders to correct, stop work orders or any other written order.*
1. *Authority.* The building official/inspector, fire marshal, community development director/senior planner, code enforcement officer, city police, or their respective designees are hereby authorized to issue a notice and order to correct, stop work order, or any other written order when any person, firm, corporation or agent thereof, has erected or maintains any building or structure, or conducts any land use or activity contrary to any provision of the city development regulations.
 2. *Order.* Notice and orders to correct, stop work orders, or any other written orders shall be obeyed upon issuance of the order. Such order shall specify each violation by reference to the specific title, chapter, and section or by reference to the approved permit. Such order shall state that failure to comply with such notice and order to correct, stop work order or other written order may result in the issuance of a civil infraction as defined in RCW 7.80.
 3. *Decisions and appeals.* Orders and civil infractions are a process of administrative approval. The order shall state that the order or infraction may be appealed as specified in LDR 100.40.080D. If a decision is appealed on said matter, the city council shall issue a decision upholding, revoking, or modifying the prior order. The decision of the city council is final and conclusive unless said matter is determined otherwise by the appropriate court.

E. *Cease and desist orders.*

1. *Authority.* The building official/inspector, fire marshal, community development director, building inspector, code enforcement officer, sheriff, or their respective designees are hereby authorized to issue a cease and desist order when any person, firm, corporation, or agent thereof is making or partaking in any use of land, development, or any activity not permitted by the city development regulations.
2. *Orders.* Cease and desist orders shall be obeyed immediately and all activity shall cease upon issuance of the order. The order shall specify each violation by reference to the specific title, chapter, and section or by reference to the approved permit.
3. *Decisions and appeals.* Cease and desist orders are processed as a process of administrative approval. The order shall state that the order may be appealed as specified in LDR 100.40.080D. If a decision is appealed on said matter, the city council shall issue a decision upholding, revoking, or modifying the prior order. The decision of the city council is final and conclusive unless said matter is determined otherwise by the appropriate court.

F. *Violations.* It is a violation of this Code to:

1. Initiate or maintain the use of any structure, land, sign, vegetation or property within the city without first obtaining the permits or authorizations required for the use by this title.
2. Use, construct, locate, or demolish any structure, land, sign, vegetation or property within the city in any manner that is not permitted by the terms of any permit or authorization issued pursuant to this Code, provided, that the terms or conditions are explicitly stated on the permit or the approved plans.
3. Remove or deface any sign, notice, complaint or order required by or posted in accordance with this title or LDR 108.30.130, signs.
4. Misrepresent any material fact in any application, plans or other information submitted to obtain any land use authorization.
5. Fail to comply with the requirements of this title.
6. In addition to any other sanction, penalty, or any remedial, judicial or administrative procedure available under the city Code or state law, violation of any provision of this chapter or failure to comply with a decision of the responsible official or city council issued pursuant to this chapter and RCW 7.80, constitutes a civil infraction (a violation of a city ordinance). Civil infractions are not crimes, and the only penalty for a civil infraction is a monetary fine. The fines shall be as follows:
 - a. Each day or portion thereof during which a violation occurs or exists shall be deemed a separate civil infraction. A person found to have committed a civil infraction shall be assessed a monetary penalty of \$250.00.
 - b. The municipal court may consider dismissing with costs only upon a showing that the violation was corrected within 30 days from issuance of the notice and orders to correct, stop work orders or any other written order to correct the infraction.
 - c. Whenever a court under this chapter imposes the monetary penalty allowed under the provisions of this Code, it is immediately payable. If the person is unable to pay at that time, the court may grant an extension. If the penalty is not paid on or before the time established for payment, the court may proceed to collect the penalty in the same manner as other civil judgments and may notify the prosecuting attorney of the failure to pay.
 - d. Payment of a monetary penalty or performance of the required community service shall not relieve a person of the duty to correct the violation.
 - e. The court may also order a person found to have committed a civil infraction to make restitution.

- G. *Additional enforcement powers.* The city may remove, correct, or replace any improperly constructed facility, structure, or portion thereof and the property owner shall pay all expenses incurred by the city. If the city is required to bring an action to recover such costs, the city will recover reasonable attorney's fees and interest of any unpaid costs at 12 percent per annum to run from the date the work was completed by the city. Applicants must agree to this provision as a condition of issuance of any permit authorized by the development regulations. The city is authorized to make inspections and as required to enforce these regulations. A city representative must present proper identification when entering onto private property.
- H. *Approval/permit durations.*
1. *Use permits.* An approved use permit shall be allowed to develop for a period of one year from the effective date of the permit approval unless a different time limitation was specifically authorized in the final approval. The development of an approved use permit shall be governed by the terms of approval of the permit unless the legislative body finds that a change in conditions creates a serious threat to the public health, safety or welfare.
 2. *Preliminary plat.* See LDR 114.40.040.
 3. *Use permits associated with a preliminary plat.* Use permit applications, such as planned development district applications that are approved as a companion to a preliminary plat application, shall remain valid for the duration of the preliminary and final plat as provided in subsections B and D of this section.
 4. *Final plat.* See LDR chapter 114.40.
 5. *Short plat.* See LDR chapter 114.60.
 6. *Binding site plan.* See LDR chapter 114.90.

All approvals described in this section shall be vested for the specific use, density, and physical development identified in the permit approval.

- I. *Application modification.* Proposed modifications to an application that has been deemed to be complete by the city shall be treated as follows:
1. Modifications proposed by the department to an application shall not be considered a new application.
 2. Any modification to an application may require revised public notice and/or additional review fees.
 3. Modifications proposed by the applicant to a pending application deemed to result in a substantial increase in a project's impacts and shall require a new application. The new application shall conform to the development regulations in effect at the time the new application is submitted. The city shall apply the following criteria to determine if a substantial modification is proposed:
 - a. The perimeter boundaries of the original site are extended by more than five percent of the original lot area;
 - b. The modification adds more than 25 percent gross square footage to proposed structures on the site;
 - c. The modification increases the overall impervious surface on the site by more than 25 percent;
 - d. The modification increases the overall residential density of a site by more than 20 percent;
 - e. The modification reduces designated open space by more than ten percent;
 - f. The modification increases or substantially relocates points of access unless supported by a revised traffic analysis; or

- g. The modification consists of changing the original application's primary use category to a new primary use category of greater intensity, as determined by the new use's impacts, including but not limited to traffic, impervious surface, noise, glare, dust, and hours of operation.

(Ord. No. 710, § 18.30.130, 4-26-2004; Ord. No. 731, 2-13-2007)

100.30.140. Waiving vesting rights.

A property owner (or agent) may voluntarily waive vested rights at any time during the processing of an application by delivering a written and signed waiver to the city stating that the property owner agrees to comply with all development regulations in effect on the date of delivery of the waiver. Any change to the application is subject to the modification criteria and may require revised public notice and/or additional review fees.

(Ord. No. 710, § 18.30.140, 4-26-2004; Ord. No. 731, 2-13-2007)

CHAPTER 100.40. PROCEDURES FOR LAND USE PERMITS AND DECISIONS

100.40.010. Purpose.

The purpose of this chapter is to establish permits and approvals, requirements, process types, determine application completeness, application notifications and public hearings. This chapter provides for and promotes the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the provisions of this chapter.

(Ord. No. 710, § 18.40.010, 4-26-2004; Ord. No. 731, 2-13-2007)

100.40.020. Permit required.

A permit, discretionary or zoning decision shall be issued by the city according to the provisions of this title for all development activities and uses located within the city, except as excluded by LDR 100.40.030, exclusions from permit requirement. The city shall not issue a building permit for the construction, reconstruction or alteration of a structure or a part of a structure for which a zoning decision has not been issued. The city shall not issue a project permit, discretionary or zoning decision for the improvement or use of land that has been previously divided or otherwise developed in violation of this title, regardless of whether the permit applicant created the violation, unless the violation can be rectified as part of the development.

(Ord. No. 710, § 18.40.020, 4-26-2004; Ord. No. 731, 2-13-2007)

100.40.030. Exclusions from permit requirements.

Except as indicated otherwise, an activity, development or use listed in this section is excluded from the requirement for a project permit, discretionary, or zoning decision. Exclusion from the requirements of a permit does not exempt the development or its use from applicable requirements of this title or other applicable federal, state and local regulations.

- A. Landscaping of a single-family detached dwelling that does not involve a structure, grading, fill, excavation or otherwise require a permit.
- B. Fences less than or equal to six feet in height and not obstructing the clear line of vision of vehicular traffic approaching the location from any street or driveway. Fences greater than six feet in height require a building permit and must meet applicable setback standards.
- C. A change internal to a building or other structure that does not substantially affect the use of the structure and that does not require a building permit.

- D. Structures less than 120 square feet and less than ten feet in height are not subject to a development permit, but are required to meet all appropriate setbacks as listed in LDR title 108, setbacks standards, when placed on the owner's property where the owner resides. No structures may be placed on a lot so as to obstruct the clear line of vision of vehicular traffic approaching on any street or from a driveway.
- E. Any emergency measures necessary for the safety or protection of property.
- F. Agricultural uses.
- G. The establishment, performance, construction, or installation of residential accessory uses that do not involve or otherwise require a city permit, license or approval.
- H. The establishment, construction or termination of a public utility facility that directly serves development authorized for any area, including such facilities as a private or public street, sewer, water line, electrical power or gas distribution line, or telephone or television cable system, that do not otherwise require a city permit, license or approval.
- I. Installation or construction of an accessory structure that does not require a building permit.
- JO. The stockpiling or broadcasting of less than 50 cubic yards of landscape material, such as topsoil, peat, sawdust, mulch, bark, or chips.

(Ord. No. 710, § 18.40.030, 4-26-2004; Ord. No. 731, 2-13-2007)

100.40.040. Coordination of development permit procedures.

- A. The designee shall determine the proper procedure for all applications using LDR 100.40.070, process types. If there is a question as to the appropriate process, the designee shall resolve it in favor of the higher process type procedure. Process I requires the least amount of review and process V requires the most deliberate review.
- B. An application that involves two or more procedures shall be processed collectively at the city's sole discretion, under the highest numbered procedure required for any part of the application. Public hearings with other agencies shall be processed according to LDR 100.40.190, notice of public hearing.
- C. Abbreviated findings shall be restricted to process types I and II, where little or no discretion is needed to make a decision. The decision may serve as a permit if all requirements are met.
- D. Except for process types IV and V, city actions on project permits shall be complete within 120-days of determination of a completed application, including resolution of all local appeals. This 120-day period may be extended for a reasonable period of time at the request of the applicant pursuant to LDR 100.40.150, determination of completeness.

(Ord. No. 710, § 18.40.040, 4-26-2004; Ord. No. 731, 2-13-2007)

100.40.050. Certain regulatory authority not affected.

An application for a land use action may be denied or approved conditionally under the authority of the city to protect and enhance the public safety, health, and general welfare, and under the State Environmental Policy Act, even though the applicant has attained a vested right against enforcement of an ordinance which changes the regulations, codes, or procedures affecting the land use action.

(Ord. No. 710, § 18.40.050, 4-26-2004; Ord. No. 731, 2-13-2007)

100.40.060. Terminology and methods used.

The designee shall be responsible for the coordination of the project permit application and decision-making procedures and shall only issue a permit or grant an approval to an applicant whose application and proposed development is in compliance with the provisions of all development regulations. Before issuing any permits or approvals, the city shall be provided with sufficient detail to establish that an application is in full compliance with the requirements of this title.

- A. For purposes of this title, certain terms or words used in this title shall be interpreted as follows:
 - 1. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
 - 2. The term "shall" is mandatory; and the term "may" is permissive.
 - 3. The term "used" or "occupied" includes the term "intended, designed or arranged to be used or occupied."
- B. In computing time for the purposes of this title, the following apply:
 - 1. The term "day" means calendar day.
 - 2. The day that a notice is issued shall not be included in the comment period.
 - 3. The last day of the comment period shall be included unless it is a Saturday, Sunday, a day designated by RCW 1.16.050 or by the city's ordinances as a legal holiday, then it also is excluded and the comment must be submitted by the next business day.
 - 4. The day that a decision is issued shall not be included in the appeal period.
 - 5. The last day of the appeal period shall be included unless it is a Saturday, Sunday, a day designated by RCW 1.16.050 or by the city's ordinances as a legal holiday, then it also is excluded and the filing must be completed on the next business day.
- C. Distances will be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property or parcel upon which the proposed use is to be located, to the nearest point of the parcel, buffer or wetland delineation line, ordinary high water line or the zoning district boundary line from which the proposed use is to be separated.

(Ord. No. 710, § 18.40.060, 4-26-2004; Ord. No. 731, 2-13-2007)

100.40.070. Process types.

Permit applications for review pursuant to this section shall be classified as a process types I, II, or III, all of which are administrative in nature. Process type IV is quasi-judicial and requires a decision by the city council. Process type V are legislative in nature for action by the city council. All land use permit applications and decisions are categorized by process type as set forth in LDR 100.40.010 et seq., procedure for land use permits and decisions. The differences between the processes are generally associated with the different nature of the decisions and the decision-making body, as described in table 100.40.070 as follows:

TABLE 100.40.070
APPLICATION PROCESSING PROCEDURES

	Process I Administrative Approval	Process II Administrative Action	Process III Planning Commission Decision	Process IV Quasi-judicial	Process V Legislative Review
Permit/application types	Administrative interpretations; boundary line adjustments; building permit; business licenses; design standards review; limited home occupations; lot combinations and segregations; manufactured or mobile home permit; site development permit; sign permit; temporary sign permit; temporary use; tree removal permit, zoning decisions; code enforcement; civil infraction citations; notice and orders	administrative use permit; administrative variance; environmental review (SEPA); home occupations; master plan; shoreline permit; short plats, preliminary, amendments, alterations, finals, and extensions.	Binding site plan; conditional use permits; shoreline conditional use permits; density transfer program; public facilities permits; reasonable use permit; variances;	Rezone; plat amendment, preliminary, alteration, extension and final; master plan; priority habitat nominations; comprehensive plan text and map amendments; right-of-way vacation **no hearing or recommendation required from planning commission for final plat or right-of-way vacation	Development regulation text amendments; area-wide land use or zoning map change; annexations; adoption of new or amended ordinances
Impacts	Minimal or no effect on others, so issuance of permit is not dependent on others.	Application of the standards may require some knowledge of impacts and effect upon others	Potential significant effect on some persons or broad impact on a number of persons	Potential significant effect on some persons or broad impact on a number of persons	Potential significant effect on some persons or broad impact on a number of persons

Reviews and recommendations	NA	NA	Designee	Planning commission **except as noted above	Planning commission
Decision-making body	Designee	Designee	Planning commission	City council	City council
Appeal	City council	City council	City council	State agencies, county superior courts	State agencies, county superior courts
Notice/comment	Participation of applicant only	Nearby property owners invited to comment on an application	In addition to applicant, others affected invited to present initial information	In addition to applicant, others affected invited to present initial information	Anyone invited to present information

- A. This section is intended to provide procedures for the processing of permits pursuant to the requirements of RCW 36.70B, including but not limited to, preapplication conferences, SEPA consistency, determination of completeness, notice of application, public notice, public hearing and appeal processes for review of project permits. If the procedural requirement of this title were in direct conflict with the state statute, then the state statute would apply.
- B. All process types III and IV permits, and any process types I and II permits that require environmental review under SEPA (RCW 43.21C and LDR title 110) are subject to the provisions of LDR 100.40.090, process type II, administrative approval. An environmental checklist shall be submitted in conjunction with the submittal of a project permit application subject to LDR 100.40.140, project permit application. The responsible official shall make a threshold determination for all related project permit applications subject to environmental review. The city shall not issue a threshold determination, other than a determination of significance (DS), prior to the submittal of a complete application and the expiration of the public comment period in the notice of application pursuant to LDR 100.40.180, notice of application, but may utilize the public notice procedures as outlined in LDR 100.40.190, notice of public hearing to consolidate public notice.
- C. The following permits or approvals are specifically excluded from the procedures set forth in this chapter:
 1. Landmark designations.
 2. Street vacations.
 3. Street use permits.
 4. Building permits which are categorically exempt from environmental review under SEPA or that do not require street improvements, boundary line adjustments, or other construction permits, pursuant to RCW 36.70B.140.
 5. Administrative approvals which are categorically exempt from environmental review under SEPA, pursuant to RCW 43.21C and LDR title 110, SEPA, for which environmental review has been completed in connection with other project permits.

(Ord. No. 710, § 18.40.070, 4-26-2004; Ord. No. 731, 2-13-2007)

100.40.080. Process I, administrative approval.

- A. *Approval.* Various provisions of this chapter indicate that certain developments, activities, or uses are permitted only if approved by process I review. Under process type I, the city is authorized to make administrative decisions based on certain criteria as set forth in this title or chapter. Any process I application categorically exempt from the State Environmental Policy Act (WAC 197-11-800) shall be reviewed pursuant to the procedural requirements of process I. City decisions under this process may be appealed to the city council.
- B. *Purpose of review.*
 1. To review a proposal for compliance with the provisions of this chapter and all other applicable law.
 2. To ensure that the health, safety, and welfare of the citizens of the city are preserved.
 3. To provide an expedient and reasonable land use review process for administrative decisions and interpretations of this chapter.
- C. *Applications.*
 1. Any person may make application for a process I land use decision.

2. The applicant shall file a completed land use application.
3. The application shall be incomplete unless accompanied by the required fee.
4. The city may modify the submittal requirements as deemed appropriate.
5. An application for an administrative decision shall be routed to the community development department. The designee may route an application to other staff members or departments for comment.

D. *Appeals.*

1. Any person with standing that objects to a city decision has the option to appeal the administrative approval decision.
2. The appeal, in the form of a letter of appeal, must be delivered to the city within 14 calendar days after issuance of the administrative decision. The letter of appeal must contain:
 - a. A statement identifying the administrative decision being appealed;
 - b. A copy of the administrative decision;
 - c. A statement of the alleged errors in the administrative decision, including identification of specific factual findings and conclusions of the city designee disputed by the person filing the appeal; and
 - d. The appellant's name, address, telephone number and fax number or information to communicate with the appellant.
3. The appeal will be considered incomplete unless the required fee is paid.
4. Appeals of process I decisions are heard by the city council.

(Ord. No. 710, § 18.40.080, 4-26-2004; Ord. No. 731, 2-13-2007)

100.40.090. Process II, administrative action.

- A. *Approval.* Various provisions of this chapter indicate that certain developments, activities or uses are permitted only if approved using process type II. Under process type II, the city will make the initial land use decision based on written comments and information. Appeal of the decisions will be decided by the city council after an open record appeal.
- B. *Purpose.* Process II has the following purposes:
 1. Review the proposal for compliance with the provisions of this chapter and all other applicable law.
 2. Help ensure that the proposal is coordinated, as is reasonable and appropriate, with other known or anticipated development on private properties in the area and with known or anticipated right-of-way and other public improvement projects within the area.
- C. *Applications.*
 1. Any person may make application for a decision of process II actions.
 2. The applicant shall file a completed application on the form provided by the department. The applicant shall also provide all information or material specified in the provision of this chapter that describes the decision applied for, all information specified in LDR 100.40.150, determination of completeness, and any additional information or material that the city determines is reasonably necessary for a decision on the matter.

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3. With the application, the applicant shall submit the fee established by the city. The application will not be accepted unless the required fee accompanies it.
 4. The city will apply LDR 100.40.150, determination of completeness to determine if an application is complete.
 5. A determination of completeness shall not preclude the city from requesting additional information or studies, either at the time of the letter of completeness or subsequently, if new information is required or substantial changes in the proposed action occur.
 - D. *Decisions.* The SEPA applies to some of the decision made using this process. The city shall evaluate each application and, where applicable, comply with the provisions of LDR title 110, SEPA.
 - E. *Official file.*
 1. The designee shall compile an official file on the application containing the following:
 - a. All application material submitted by the applicant.
 - b. All written comments received on the matter.
 - c. The written decision of the designee.
 - d. If a city decision is appealed, the following will be included in the file:
 - 1) The letter of appeal.
 - 2) All written comments received regarding the appeal.
 - 3) The staff report regarding the appeal.
 - 4) The electronic audio recording of the hearing on the appeal.
 - 5) Any other information relevant to the matter.
 2. The official file is a public record. It is available for inspection and copying in the city during regular business hours.
 - F. *Notice of application.* Within 14 days of issuing a letter of completeness on the proposal, the designee shall prepare a notice of application containing all specified information in LDR 100.40.180, notice of application.
 - G. *Applicant responsibility on entitlement.* The applicant has the responsibility of convincing the city that under the provisions of this process the applicant is entitled to the requested decision.
 - H. *City consideration.* The city shall consider all written comments and information regarding the requested decision received by the community development department before the deadline contained within the notice of application.
 - I. *City decision.*
 1. Coordination with decisions under the State Environmental Policy Act. If a SEPA threshold determination is required, the threshold determination must follow the end of the public comment period, but precede the city's decision on the land use and design components of the process II project approval. If the SEPA threshold determination is appealed, the city's land use and design components decision shall be issued sufficiently in advance of the open record hearing on the threshold determination appeal, to allow any appeal of the land use and/or design review decision to be consolidated and heard with the appeal of the threshold determination. If the city is unable to issue the final decision on the land use of a process II project application as provided in this subsection, the city shall provide written notice pursuant to LDR 100.40.150(4), determination of completeness.
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2. In making a decision on the application, the city shall use the criteria listed in the provisions of this chapter. In addition, the city may approve the application only if it is consistent with:
 - a. The comprehensive plan;
 - b. All applicable provisions of this chapter;
 - c. The public health, safety, and welfare; and
 - d. The streets and utilities in the area of the subject property are adequate to serve the anticipated demand from the proposal.
 3. The city shall include in the written decision any conditions and restrictions that are reasonably necessary to eliminate or minimize any undesirable effects of granting the application. Any conditions and restrictions become part of the decision. The city shall include the following in the written decision:
 - a. A statement granting, modifying and granting, or denying the application.
 - b. Any conditions and restrictions that are imposed.
 - c. A statement of facts presented to the city that support the decision, including any conditions and restrictions that are imposed.
 - d. A statement of the conclusions based on those facts.
 - e. A statement of the criteria used in making the decision.
 - f. The date of the decision.
 - g. A summary of the rights, as established in this process, of the applicant and others to appeal the decision.
 - h. A statement of any threshold determination made under the LDR title 110, SEPA, threshold determination process.
 - J. *Copy of written decision.* A copy of the city's written decision shall be mailed within five working days after it is issued, to:
 1. The applicant.
 2. Each person who submitted written comments or information to the city.
 3. Any person who has specifically requested it.
 - K. *Final decisions; appeal.* Decisions under this section shall become final subject to the following:
 1. Any person aggrieved by a city decision may appeal the decision within 14 days of the issuance of the decision as specified by LDR 100.40.090C, process II, administrative actions. If a written notice of appeal is received within the appeal period, the decision shall be referred to the city council and shall not become final until the appeal process is complete and a final decision is issued. Upon issuance of the final decision, the applicant may engage in activity based on the decision, provided applicable permits have been approved.
 2. If no appeal is submitted within the 14-calendar-day appeal period, the preliminary approval shall become final on the first calendar day following the expiration of the appeal period. Upon the decision becoming final, the applicant may engage in activity based on the decision, provided applicable permits have been approved.
 - L. *Appeals.*
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1. The decision of the city related to the processes pursuant to table 100.40.070 may be appealed by any person who is to receive a copy of that decision under LDR 100.40.090(l)(3)(a), process II, administrative actions.
2. The appeal, in the form of a letter of appeal, must be delivered to the city within 14 calendar days after issuance of the decision of the city designee. The letter of appeal must contain:
 - a. A statement identifying the decision being appealed;
 - b. A copy of the decision;
 - c. A statement of the alleged errors in the decision, including identification of specific factual findings and conclusions of the designee disputed by the person filing the appeal; and
 - d. The appellant's name, address, telephone number and fax number or information to communicate with the appellant.
3. The appeal will be considered incomplete unless the required fee is paid.
4. Appeals of process II decisions are heard by the city council.
- M. *Notice of public hearing.* Notice of public hearing is required for all types of applications for which a public hearing is held. Notice of public hearing shall be reasonably calculated to give actual notice and shall contain the information as specified in LDR 100.40.190, notice of public hearing.
- N. *Appeal entitlement.* Only those persons entitled to appeal the decision under LDR 100.40.090(l)(3)(a), process II, administrative action, may participate in the appeal. These persons may participate in either or both of the following ways by:
 1. Submitting written comments or information to the community development department prior to the hearing or to the city council during the hearing.
 2. Appearing in person, or through a representative, at the hearing and submitting oral comments directly to the city council. The city council may reasonably limit the extent of the oral comments to facilitate the orderly and timely conduct of the hearing.
- O. *Scope of appeal.* The scope of the appeal is limited to the errors raised or the specific factual findings and conclusions disputed in the letter of appeal. The city council may only consider evidence, testimony or comments relating to errors raised or the disputed findings and conclusions. The city council also may not consider any request for modification or waiver of applicable requirements of this chapter or any other law.
- P. *Appeal staff report.*
 1. The designee shall prepare a staff report on the appeal containing:
 - a. The written decision of the designee.
 - b. All written comments submitted to the designee.
 - c. The letter of appeal.
 - d. All written comments on the appeal received by the community development department from persons entitled to participate in the appeal.
 - e. An analysis of the alleged errors in the decision and any specific factual findings and conclusions disputed in the letter of appeal.
 2. At least seven calendar days before the hearing, the designee shall distribute copies of the staff report on the appeal to:
 - a. The city council.

- b. The applicant.
- c. The appellant.
- d. Each person who received a copy of the city decision.

Q. *Open record appeal.*

- 1. The city council shall hold an open record hearing on the appeal.
- 2. The hearings of the city council are open to the public.
- 3. The city council shall make an audio recording of each hearing.
- 4. The person filing the appeal has the responsibility of convincing the city council by a preponderance of the evidence that the designees' decision contains an error of law or that its findings of fact or conclusions are incorrect pursuant to LDR 100.30.090, burden of proof.
- 5. The city council may continue the hearing if, for any reason, all of the public comments on the appeal are not heard, or if the city council determines that they need more information within the scope of the appeal. If, during the hearing, the city council announces the time and place of the next hearing on the matter and a notice thereof is posted on the door of the hearing room, no further notice of that hearing need be given.

R. *Decision on appeal.*

- 1. The city council shall consider all information and comments within the scope of the appeal submitted by persons entitled to participate in the appeal. The city council shall either affirm or change the findings and conclusions of the designee that were appealed. Based on the city council's findings and conclusions, the council shall either, affirm, reverse or modify the decision being appealed.
- 2. Within ten working days after the public hearing, the city council shall issue a written decision on the appeal and within five working days after issuance, distribute the decision to:
 - a. The applicant.
 - b. The person who filed the appeal.
 - c. Each person who participated in the appeal.
 - d. Each person who specifically requested it.
- 3. The decision by the city council is the final decision of the city.
- S. *City council's decision.* The city council's decision affirming, modifying or reversing the designee's decision denying an application under this process is the final decision of the city. The city council's decision may be reviewed pursuant to RCW 36.70C.040 in the county superior court. The land use petition must be filed within 21 calendar days after issuance of the final land use decision of the city.
 - 1. The applicant under this process must begin construction or submit to the city a complete building permit application for the development activity, use of land or other actions approved under this process within one year after the final decision on the matter, or the decision becomes void.
 - 2. The applicant must substantially complete construction for the development activity, use of land, or other actions approved under this process and complete the applicable conditions listed in the decision within five years after the final decision of the city on the matter, or the decision becomes void. If litigation is initiated pursuant to LDR 18.40.090S, process II, administrative actions, the time limits of this section are automatically extended by the length of time between the commencement and final termination of that litigation.

3. If the development activity, use of land, or other actions approved under this section includes phased construction, the time limits of this section may be extended in the decision on the application, to allow for completion of subsequent phases.
- T. *Request for extension on time limits.* Prior to the lapse of approval under LDR 100.40.090S, process II, administrative actions, the applicants may submit a written application in the form of a letter with supporting documentation to the community development department requesting a one-time extension of those time limits (time extension) of up to one year.
 1. The request must demonstrate that the applicant is making substantial progress on the development activity, use of land or other actions approved under this article and that circumstances beyond the applicant's control prevent compliance with the time limits of LDR 100.40.150A.1, determination of completeness.
 2. The applicant shall include, with the letter of request, the established city fee or the application will not be considered complete.
 3. An application for a time extension will be reviewed and decided upon by the designee.
- U. *Time extension appeal.* Any aggrieved person who by granting or denying a request for a time extension under this section may appeal that decision to the city council. The appellant must file a letter of appeal indicating how the decision on the time extension effects the appellant's property and presenting any relevant material or information supporting the appellant's contention. Pursuant to LDR 100.40.150A, determination of completeness, any time limit upon the city's processing and decision upon applications under this chapter may, except as otherwise specifically stated in this chapter, be modified by a written agreement between the applicant and the designee.
- V. *Security bond.* The city may require a bond under LDR 100.30.120B, security mechanisms, to ensure compliance with any aspect of a permit or approval.
- W. *Complete compliance required.*
 1. Except as specified in subsection W.2 of this section, the applicant must comply with all aspects, including conditions and restrictions, of an approval granted under this article in order to do everything authorized by that approval.
 2. If a specific use or site configuration for the subject property was approved under this process or any administrative process under a previous zoning regulation, the applicant is not required to apply for and obtain approval through this process for a subsequent change in use or site configuration unless:
 - a. There is a change in use and this chapter establishes different or more rigorous standards for the new use than for the existing use; or
 - b. The designee determines that there will be substantial changes in the impacts on the neighborhood or the city as a result of the change.

(Ord. No. 710, § 18.40.090, 4-26-2004; Ord. No. 731, 2-13-2007)

100.40.100. Process III, planning commission decisions.

- A. This chapter establishes criteria to review, approve, deny, notice, and appeal certain developments, activities or uses permitted by using process type III. Under process III, the planning commission will make a decision following a public hearing.
- B. All lower permit and approval process types must receive approval prior to scheduling a public hearing under process III.

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- C. Process III has the following purposes:
1. Review the proposal for compliance with the provisions of this chapter and all other applicable law.
 2. Ensure that the proposal is coordinated, reasonable and appropriate with other known or anticipated development on properties in the area and with known or anticipated right-of-way and other public improvement projects in the general vicinity.
 3. Encourage proposals that embody good design standard principles that will result in high quality development on the subject property.
- D. The applicant shall file the following information with the community development department when filing an application:
1. A completed application on forms provided by the community development department, with supporting affidavits.
 2. Any information or material specified in the provision of this chapter that describes the requested decision in the application.
 3. Any additional information or material that the designee determines reasonably necessary for a decision in the matter.
 4. The city will apply LDR 100.40.150, determination of completeness to determine if an application is complete.
 5. A determination of completeness shall not preclude the city from requesting additional information or studies, either at the time of the letter of completeness or subsequently, if new information is required or substantial changes in the proposed action occur.
 6. An application will not be considered complete unless the required fee is paid.
- E. The designee shall compile an official file on the application containing the following:
1. All application materials submitted by the applicant.
 2. The staff report.
 3. Any process I or II approvals required for the project.
 4. All written comments received on the matter.
 5. The electronic recording of the public hearing on the matter.
- F. If a planning commission decision is appealed, the following will be included in the file:
1. The letter of appeal.
 2. All written comments submitted regarding the appeal.
 3. The staff report on the appeal.
 4. The planning commission decision.
 5. Any other information relevant to the matter.
- G. The official file is a public record. It is available for inspection in the city during regular business hours. Copies of documents may be requested by filing a request for information form, specifying which documents are requested and paying copy fees.
- H. The designee shall, within 14 days of issuing a letter of completeness on the proposal, prepare a notice of application containing all information specified in TMC 18.40.180, notice of application.
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- I. In addition to the information specified LDR 100.40.190, notice of public hearing, the notice of public hearing shall include the following:
 1. Date, time, and place of the public hearing.
 2. A statement of the right of any person to submit written comments to the planning commission and to appear at the public hearing of the planning commission to give comments orally and the right to request a copy of the decision once made.
 3. A statement that only persons who submit written or oral comments regarding the proposal may appeal the decision.
 - J. Provisions of SEPA (LDR title 110) apply to some of the decisions made using this process.
 1. The designee shall evaluate each application and, if applicable, comply with SEPA.
 2. Where a threshold determination under the SEPA is required, the responsible official shall issue a determination at least 29 days prior to the hearing before the planning commission to allow any appeal of the threshold determination to be consolidated with the hearing on the application for process III approval.
 - K. The designee shall prepare a staff report concerning the application being processed.
 1. The staff report shall contain:
 - a. All pertinent application materials.
 - b. All comments regarding the matter received by the city prior to distribution of the staff report.
 - c. An analysis of the application under the relevant provisions of this Code, the comprehensive plan and other applicable city policies and regulations.
 - d. A statement of the facts found by the city designee and the conclusions drawn from those facts.
 - e. A recommendation on the matter.
 2. The designee shall distribute the staff report at least seven calendar days before the hearing to:
 - a. The planning commission.
 - b. The applicant.
 - c. Any person who has specifically requested a copy.
 - L. Public hearing.
 1. The planning commission shall hold a public hearing on each application.
 2. The hearings are open to the public.
 3. Several separate proposals may be scheduled for the same date and time for expediency.
 - M. The planning commission shall make a complete electronic audio recording of each public hearing.
 - N. The applicant has the responsibility of convincing the planning commission that, under the provision of this process, the applicant is entitled to the requested decision.
 - O. Any person may participate in the public hearing by:
 1. Submitting written comments to the city prior to the hearing; or
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2. Providing written or oral comments directly to the planning commission at the hearing either in person or through a representative. However, the planning commission may limit the extent of oral comments to facilitate the orderly and timely conduct of the hearing.
- P. The planning commission may continue the hearing if for any reason they are unable to hear all of the public comments on the matter or if more information on the matter is needed. If, during the hearing, the planning commission announces the time and place of the next hearing on the matter and a notice thereof is posted on the door of the hearing room, no further notice of the subsequent hearing need be given.
- Q. After considering all of the information and comments submitted on the matter, the planning commission shall issue a written decision. Unless the applicant agrees to a longer period, the planning commission must issue the decision within 14 working days after the close of the public hearing using the criteria listed in the provisions of this chapter. In addition, the planning commission may approve the application only if it is consistent with:
 1. The comprehensive plan;
 2. All applicable provisions of this chapter and all other applicable laws;
 3. The public health, safety and welfare;
 4. The streets and utilities in the area of the subject property are adequate to serve the anticipated demand from the proposal; and
 5. The proposed access to the subject property is at the optimal location and configuration for access.
- R. The planning commission shall include in the written decision any conditions and restrictions that the commission determines are reasonably necessary to eliminate or minimize any undesirable effects of granting the application. Any conditions and restrictions that are imposed become part of the decision. The planning commission shall include the following in the commission's written decision:
 1. A statement granting, modifying and granting or denying the application.
 2. Any conditions and restrictions that are imposed.
 3. A statement of facts that supports the decision, including any conditions and restrictions that are imposed.
 4. A statement of the conclusions based on those facts.
 5. A statement of the criteria used by the commission in making the decision.
 6. The date of issuance of the decision and a summary of the rights established in this title to appeal any decision of the commission.
 7. A statement of any threshold determination made under the LDR title 110, SEPA.
 8. The designee shall mail a copy of the decision within five working days after the commission's written decision, to:
 - a. The applicant.
 - b. Each person who submitted written or oral testimony regarding the proposal.
 - c. Any person who has specifically requested it.
- S. Decisions under this section shall become final subject to the following:
 1. An applicant or other party of record who may be aggrieved by the decision may appeal the decision within 14 days of the issuance of the decision by the city consistent with the provisions of LDR 100.40.901.4.a) through c), process II, administrative actions. If a written notice of appeal is received

within the appeal period, the decision shall be referred to the planning commission and shall not become final until the appeal process is complete and the city issues a final decision. Upon issuance of a final decision, the applicant may engage in activity based on the decision, provided applicable permits have been approved.

2. If no appeal is submitted within the 14-calendar day appeal period, the preliminary approval shall become final on the first calendar day following the expiration of the appeal period. Upon the decision becoming final, the applicant may engage in activity based on the decision, provided applicable permits have been approved.

T. Appeals.

1. The decisions of the planning commission may be appealed by any person who is to receive a copy of that decision under LDR 100.40.090I.3.a), process II, administrative actions.
 2. The appeal in the form of a letter must be delivered to the city within 14 calendar days after the issuance of the planning commission's decision. The letter of appeal must contain:
 - a. A statement identifying the decision being appealed;
 - b. A statement of the alleged errors in the planning commission's decision, including specific factual findings and conclusions of the planning commission disputed by the person filing the appeal; and
 - c. The appellant's name, address, telephone number and fax number (if any), and any other information to facilitate communication with the appellant.
 3. The appeal fee must be filed with the letter of appeal.
 4. Appeals of process III planning commission decisions are heard by the city council as a closed record appeal.
- U. Notice of public meeting is required for all types of applications for which a public meeting is held. Notice of public meetings shall be reasonably calculated to give actual notice and shall contain the information as specified in LDR 100.40.190, notice of public hearing.
- V. Only those persons entitled to appeal the decision may participate in either or both of the following ways:
1. By submitting written comments to the city prior to or at the hearing.
 2. By appearing in person, or through a representative, at the hearing and providing written or oral comments directly to the city council. The council may limit the extent of the oral comments to facilitate orderly and timely conduct of the hearing.

W. Appeal staff report.

1. The designee shall prepare an appeal packet containing the following:
 - a. The staff report prepared for the public hearing before the planning commission.
 - b. The written decision of the planning commission.
 - c. All written comments submitted to the city and planning commission.
 - d. A summary of the comments and information presented to the planning commission, a statement of the availability of the electronic sound recording of the hearing, or a written transcript of the commission's proceedings.
 - e. The letter of appeal.

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- f. All written comments received by the city from persons entitled to participate in the appeal and within the scope of the appeal.
 - g. An analysis of the alleged errors and the specific factual findings and conclusions disputed in the letter of appeal.
 - 2. At least seven calendar days before the hearing, the designee shall distribute the packet as follows:
 - a. A copy to each city council member;
 - b. The applicant;
 - c. The person who filed the appeal; and
 - d. Each person who received a copy of the commission's decision.
 - X. Closed record appeal.
 - 1. The city council shall hold a closed record appeal hearing, as defined in RCW 36.70B.020(1).
 - 2. The hearings of the city council are open to the public.
 - 3. The scope of the appeal is limited to the specific errors raised or factual findings disputed in the letter of appeal. The city council shall consider only the following:
 - a. The information received from the designee pursuant to LDR 100.40.100T, process III, planning commission actions;
 - b. The record before the council, including exhibits and evidence admitted by the council;
 - c. Appeal arguments by the appellant and the property owner, provided that appeal argument shall address only the issues raised by the letter of appeal and evidence, if any, allowed under LDR 100.40.100X.3.d), process III, planning commission recommendations; or
 - d. New evidence that was not presented to, or considered by, the planning commission, but only if the city determines that the evidence relates to the validity of the planning commission's decision at the time it was made and the party offering the new evidence did not know and was under no duty to discover or could not reasonably have discovered the evidence until after the planning commission's decision.
 - Y. The city council shall make a complete electronic audio recording of each closed record appeal.
 - Z. The person filing the appeal has the responsibility of convincing the city council by a preponderance of the evidence that the planning commission's decision contains an error of law or that its findings of fact or conclusions are incorrect.
 - AA. After considering the matter as provided in LDR 100.40.100X.3, process III, planning commission recommendations, the city council shall, by motion approved by a majority vote of members present, take one of the following actions:
 - 1. If city council determines that the disputed findings of fact and conclusions are the correct findings of fact and conclusions, the council shall affirm the decision.
 - 2. If city council determines that the disputed findings of fact and conclusions are not correct and that correct findings of fact and conclusions do not support the decision of the planning commission, the council shall modify or reverse the decision.
 - 3. Notice of decision. Following the final decision of the city council, the designee shall prepare a notice of the city's final decision on the application. To the extent the decision does not do so, the notice shall include a statement of any threshold determination made under LDR title 110, SEPA.
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4. The decision of city council is the final decision of the city.
- BB. The action of the city in granting or denying an application under this process may be reviewed pursuant to RCW 36.70C.040 in the county superior court. The land use petition must be filed within 21 calendar days after the final decision of the city. The applicant must begin construction or submit to the city a complete building permit application for the development activity, use of land or other actions approved under this process within one year after the final decision on the matter or the decision becomes void. The applicant must substantially complete construction for the development activity approved under this section and complete the applicable conditions listed in the decision within five years after the final decision of the city on the matter or the decision becomes void. If litigation is initiated pursuant to LDR 100.40.100Z, process III, planning commission action, the time limit of this section are automatically extended by the length of time between the commencement and final termination of that litigation. If the development activity approved under this article includes phased construction, the time limits of this section may be extended in the decision on the application.
- CC. Time extension.
1. Prior to the lapse of approval under LDR 100.40.100AA, process III, planning commission actions, the applicant may submit a written application in the form of a letter with supporting documentation to the city requesting a one-time extension of those time limits of up to one year.
 2. The request must demonstrate that the applicant is making substantial progress on the development activity, use of land or other actions approved under this process and that circumstances beyond the applicant's control prevent compliance with the time limits of LDR 100.40.100AA, process III, planning commission actions.
 3. The applicant shall pay any established city fees with the letter of request, or the application will not be accepted as complete.
 4. An application for a time extension will be reviewed and decided upon by the designee.
 5. Any person who is aggrieved by the granting or denying of a request for a time extension under this section may appeal that decision. The appellant must file a letter of appeal indicating how the decision on the time extension effects the appellant's property and present any relevant material or information to support the appellant's contention. The appeal will be heard and decided upon using process III. Any time limit, pursuant to RCW 36.70B, upon the city's processing and decision upon applications under this chapter may, except as otherwise specifically stated in this chapter, be modified by a written agreement between the applicant and the designee.
- DD. The planning commission and city council may require a bond under LDR 100.30.120, security mechanisms, to ensure compliance with any aspect of a permit or approval.
- EE. Complete compliance required.
1. Except as specified in subsection EE.2 of this section, the applicant must comply with all aspects, including conditions and restrictions, of an approval granted under this process in order to do everything authorized by that approval.
 2. If a specific use or site configuration for the subject property was approved under this process or any quasi-judicial process under a previous zoning ordinance, the applicant is not required to apply for and obtain approval through this article for a subsequent change in use or site configuration unless:
 - a. There is a change in use and this chapter establishes different or more rigorous standards for the new use than for the existing use; or
 - b. The designee determines that there will be substantial changes in the impacts on the neighborhood or the city as a result of the change.
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(Ord. No. 710, § 18.40.100, 4-26-2004; Ord. No. 731, 2-13-2007)

100.40.110. Process IV, quasi-judicial.

- A. Process IV is quasi-judicial in nature that requires a public hearing before the planning commission. Based on the record of that hearing, the planning commission shall provide a recommendation to the city council for consideration in the application decision.
- B. Proposal types (see definition action in LDR 100.20.040):
 - 1. *Nonproject actions.* Nonproject actions involve decisions on policies, plans, or programs, for:
 - a. A rezone is initiated by the city and the subject property is not owned by the city; or
 - b. A proposed zoning change that only changes the intensity of use within the same general land use areas as specified by the future land use map and is not related to a specific project. The future land use map designates the general land use areas (e.g., residential and commercial) within the city and the official zoning map designates intensities of use (e.g., SF-1, SF-2, C-1, and C-2) within each of those general land use areas;
 - c. A comprehensive plan text or map change not related to a specific proposal.
 - 2. *Project actions.* A project action is a decision on a specific project, such as a construction or management activity located in a defined geographic area:
 - a. The proposal does not meet the requirements of subsection B.1 of this section.
 - b. The proposal is based on a specific project (i.e., preliminary plat or, an amendment, alteration or extension thereof, or project related comprehensive plan map or text amendment, or rezone).
- C. Applications.
 - 1. Any person may apply for a decision regarding property they own, either personally or through an agent.
 - 2. The applicant shall file the following information with the city:
 - a. A completed city application form with supporting affidavits;
 - b. Two sets of stamped envelopes, and a list of the same, labeled with the name and addresses of all current owners of real property as shown in the records of the county assessor for the subject property within 300 feet of each boundary of the subject property;
 - c. A copy of the county assessor's map identifying the properties specified in subsection C.2.b. of this section;
 - d. A vicinity map showing the subject property with enough information to locate the property within the larger area;
 - e. Any information or material that is specified in the provision of this chapter that describes the decision requested in the application;
 - f. Any additional information or material that the designee determines is reasonably necessary for a decision on the matter;
 - g. The established fee;
 - h. Meet the requirements of LDR 100.40.150, determination of completeness, and this section for a complete application.

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- D. The State Environmental Policy Act applies to decisions using this process. The designee shall evaluate each application and, where applicable, comply with LDR title 110, SEPA.
 - E. Official file.
 - 1. The designee shall compile an official file on the application containing:
 - a. All application materials submitted by the applicant.
 - b. The staff report.
 - c. All written comments received on the matter.
 - d. The electronic recording of the public hearing on the matter.
 - e. The planning agency recommendation.
 - f. An electronic sound recording or minutes of the commission proceedings on the matter.
 - g. Any other information relevant to the matter.
 - 2. The official file is a public record. It is available for inspection and copying in the city during regular business hours.
 - F. The designee shall prepare a notice of each application containing all the information specified in LDR 100.40.180, notice of application.
 - G. Staff report.
 - 1. The designee shall prepare a staff report containing the following information:
 - a. All pertinent application materials.
 - b. All comments regarding the matter received by the community development department prior to distribution of the staff report.
 - c. An analysis of the application under the relevant provisions of this chapter and the comprehensive plan.
 - d. A statement of the facts and the conclusions drawn from those facts.
 - e. A recommendation on the matter.
 - 2. The staff report shall be distribute at least seven calendar days before the hearing to:
 - a. The city council.
 - b. The applicant.
 - c. Each person who has specifically requested it.
 - H. The planning commission shall hold an open record hearing on each application.
 - 1. The commission hearing is open to the public.
 - 2. The commission serves as the hearing body for the city on process IV applications except as noted in table 100.40.070; application processing procedures process IV.
 - I. The planning commission shall make a complete audio recording of each public hearing.
 - J. The applicant has the responsibility of convincing the city that under the provision of this section, the applicant is entitled to the requested decision.
 - K. Any person may participate in the public hearing in either or both of the following ways:
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1. By submitting written comments to the city or by providing written or oral comments, either personally or through a representative, directly to the planning commission (or city council as appropriate) at the hearing.
 2. The planning commission may reasonably limit the extent of oral comments to facilitate the orderly and timely conduct of the hearing.
 - L. The planning commission may continue the hearing if, for any reason, they are unable to hear all of the public comments on the matter or if the planning commission determines that they need more information on the matter. If, during the hearing, the planning commission announces the time and place of the next hearing on the matter and a notice thereof is posted on the door of the hearing room, no further notice of that hearing need be given.
 - M. Recommendation by the planning commission.
 1. After considering all of the information and comments submitted on the matter, the planning commission shall issue a written recommendation.
 2. Unless a longer period is agreed to by the applicant, the planning commission must issue the recommendation within ten working days after the close of the public hearing.
 3. The planning commission shall use the following criteria for quasi-judicial matters:
 - a. The city may approve an application for a quasi-judicial nonproject action only if it finds that:
 - 1) The proposed nonproject action is in the best interest of the residents;
 - 2) The proposed nonproject action is appropriate because either:
 - i. Conditions in the immediate vicinity of the subject property have so significantly changed since the property initially zoned that under those changed conditions, a rezone is within the public interest; or
 - ii. The nonproject action will correct a comprehensive plan item, a zone classification, or land use or zone boundary that was inappropriate when established;
 - 3) It is consistent with the comprehensive plan;
 - 4) It is consistent with all applicable provisions of the chapter, including those adopted by reference from the comprehensive plan; and
 - 5) It is consistent with the public health, safety, and welfare;
 - 6) Note. Unless an emergency is declared, a comprehensive plan amendment is only once per year.
 - b. The city may approve an application for a quasi-judicial project action related proposal only if:
 - 1) The criteria in subsection 3.a of this section are met;
 - 2) The proposed project complies with this chapter in all respects;
 - 3) The site plan of the proposed project is designed to minimize all adverse impacts on the developed properties in the immediate vicinity of the subject property; and
 - 4) The site plan is designed to minimize impacts upon the public services and utilities.
 - c. The planning commission shall include in the written recommendation any conditions and restrictions determined reasonable and necessary to eliminate or minimize any adverse effects of granting the requested rezone.

4. The planning commission shall include the following statements in the written recommendation to the city council:

- a. Facts presented to the planning commission that supports their recommendation, including any recommended conditions and restrictions.
- b. The commission's conclusions based on those facts.
- c. The criteria used by the commission in making the recommendation.
- d. The date of issuance of the recommendation.

5. The designee shall distribute the commission's recommendation to:

- a. The applicant;
- b. Each person who submitted written or oral testimony to the commission;
- c. Each person who specifically requested it; and
- d. Each member of the city council.

The city designee shall also prepare and provide a copy of a draft resolution or ordinance that embodies the planning commission's recommendation to each council member.

N. The city council shall consider the application at a scheduled meeting within 90 calendar days of the date of issuance of the planning commission's recommendation. This time period may be extended upon written agreement of the designee and the applicant. Calculation of this time period shall not include any time necessary for a reopening of the hearing before the planning commission under subsection N.2 of this section.

1. The city council review of a nonproject or project action application shall be limited to the record of the hearing before the planning commission and the planning commission's written report. These materials shall be reviewed for compliance with review criteria set forth in LDR 100.60.010, Code amendments. The city council may also receive and review new evidence or information not contained in the record of hearing before the planning commission only if the designee determines that the evidence or information:

- a. Relates to the validity of the planning commission's decision at the time it was made; or
- b. The party offering the new evidence did not know and was under no duty to discover or could not reasonably have discovered the evidence until after the planning commission's decision.

2. After consideration of the entire matter, the city council shall, by action approved by a majority of the total membership, take one of the following actions:

a. Project-related action. The city council has the option to:

- 1) Grant the application as proposed, or modify and grant the application. In either case, it shall give effect to this decision by adopting an ordinance.
- 2) The city council shall give effect to a denial by adopting an ordinance pursuant to subsection N.6 of this section.

b. Nonproject action. The city council has the option to:

- 1) Approve the application, or modify and approve the application. In either case, it shall give effect to this decision by adopting an ordinance amending the zoning map of the city.
- 2) The city council shall give effect to a denial by adopting a resolution pursuant to subsection N.3 of this section.

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3. The city council shall use the criteria listed in subsection M.3 of this section.
 4. The city council shall include in the ordinance or resolution granting the project or nonproject action, any conditions and restrictions it determines are necessary to eliminate or minimize any undesirable effects of granting the action. Any conditions and restrictions that are imposed become part of the decision.
 5. The city council shall include in the ordinance or resolution:
 - a. A statement of the facts that support the decision, including any conditions and restrictions that are imposed; and
 - b. The city council's conclusions based on those facts.
 6. The city council decision on an application for either a nonproject/project-related action is the final decision of the city.
 - O. Following the final decision by the city council, the designee shall prepare a notice of the city's final decision on the application. After the city council's final decision, the designee shall distribute a copy to:
 1. The applicant.
 2. Any person who submitted written or oral comments to the planning commission.
 3. Each person who has specifically requested it.
 - P. Effect of city council approval of project-related actions.
 1. Subject to all applicable codes and ordinances, the applicant may develop the subject property in conformity with the resolution of intent to action and the site plan approved as part of that resolution.
 2. If the applicant completes development of the subject property in conformity with the resolution of intent to rezone and the site plan approved as part of that resolution, the city shall give effect to the action by adopting an ordinance that makes the zone boundary or classification change to the zoning map approved in the resolution of intent to rezone.
 3. The applicant may not engage in any activity based on the decision until the third working day after the notice of the final decision is distributed under subsection O of this section.
 4. If the city council approves a quasi-judicial nonproject rezone it will give effect to this decision by adopting an ordinance amending the zoning map of the city.
 - Q. The action of the city in granting or denying an application under this process may be reviewed pursuant to RCW 36.70C.040 in county superior court. A land use petition shall be filed within 21 calendar days of the issuance of the final land use decision of the city.
 - R. Time extension.
 1. Prior to the lapse of approval for a project-related rezone under subsection T of this section, the applicant may submit a written application in the form of a letter with supporting documentation to the city requesting a one-time extension of those time limits of up to one year.
 2. The request must demonstrate that the applicant is making substantial progress on the development activity, use of land, or other actions approved under this process and that circumstances beyond the applicant's control prevent compliance with the time limits of subsection U.1 of this section.
 3. The applicant shall include the required fee with the letter of request to be complete.
 4. An application for a time extension will be reviewed and decided upon by the designee.
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5. Any person who is aggrieved by the granting or denying of a request for a time extension under this section may appeal that decision. The appellant must file a letter of appeal indicating how the decision on the time extension affects the appellant's property and presenting any relevant material or information supporting the appellant's contention. The appeal will be heard and decided upon using process III, described in LDR 100.40.100R, process III, hearing planning commission decision. Any time limit, pursuant to RCW 36.70B, upon the city's processing and decision upon applications under this process may, except as otherwise specifically stated in this chapter, be modified by a written agreement between the applicant and the designee.
- S. Reserved.
- T. The city may require a bond under LDR 100.30.120, security mechanism, to ensure compliance with any aspect of the permit or approval.
- U. Complete compliance required.
 1. Except as specified in subsection U.2 of this section, the applicant must comply with all aspects, including conditions and restrictions, of an approval granted under this process in order to do everything authorized by that approval.
 2. If a specific use or site plan for the subject property was approved under this process, or any quasi-judicial process under a previous Zoning Code, the applicant is not required to apply for and obtain approval through this process for a subsequent change in a use or site plan unless:
 - a. There is a change in use and this chapter establishes different or more rigorous standards for the new use than for the existing use; or
 - b. The designee determines that there will be substantial changes in the impacts on the neighborhood or the city as a result of the change.

100.40.120. Process V, legislative review.

- A. This section describes the processes to review and amend the text of development regulations, amend area-wide land use or zoning map changes, or annexations through this legislative review process.
- B. A proposal that will be reviewed using this process may be initiated by the city council or council committee, requested by the planning commission, city staff, or any interested person, including applicants, citizens, or agencies.
- C. The city shall maintain a docket of all requested changes under this section.
- D. The State Environmental Policy Act applies to some of the decisions using this process. The designee shall evaluate each proposal and, where applicable, comply with the provisions of LDR title 110, SEPA.
- E. City council review.
 1. The city council shall review all requests docketed with the community development department concurrently at least on an annual basis and consistent with RCW 36.70A.130(2). As part of such annual review, the council shall review all requests received prior to December 31 of the calendar year. Requests submitted after December 31 shall be considered during the following annual review.
 2. The city council shall review city-initiated changes to the text of the comprehensive plan concurrently with docketed amendment requests. The city council may also review or amend the comprehensive plan whenever an emergency exists, to resolve an appeal of the comprehensive plan or amendments thereto, or in other circumstances as provided for by RCW 36.70A.130(2)(a). The city council may also review city-initiated changes to the text of the municipal code or the zoning map from time to time at the council's discretion.

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3. The city council may request that the community development department, or any other city department, provide any information or material on the proposal(s), consistent with subsection Q of this section.
 - F. Sixty days prior to December 31 in each calendar year, the city shall notify all persons who submitted application forms after December 31 of the previous calendar year. Notice shall also be given as follows:
 1. Public notice notifying the public that the amendment process has begun shall be published in the city's official newspaper.
 2. Notice shall be posted on the official city public notice boards.
 3. A copy of the notice shall be mailed to other local newspapers.
 4. All agencies, organizations, and adjacent jurisdictions with an interest, and all persons, who in the judgment of the designee may be directly affected by changes to the comprehensive plan shall be sent a copy of the notice. In determining who may be affected by comprehensive plan changes, the director may rely on written correspondence indicating an interest and received after December 31 of the previous year.
 - G. Any person may apply for a site-specific comprehensive plan designation change with respect to property owned or request changes to the text of the comprehensive plan or any codified regulation.
 1. An applicant must complete a docket form prepared by the city. An applicant seeking a site-specific plan or zoning designation change shall also file the information specified in LDR 100.40.110C.2, quasi-judicial, with the community development department.
 2. The designee shall have the authority to waive any of the requirements of this section, if in the city's discretion such information is not relevant or would not be useful to consideration of the proposed amendment.
 3. There is no fee for this initial application. After the prioritization process, applications considered during the amendment process shall submit the required fee.
 - H. Criteria for prioritizing plan amendment requests.
 1. After December 31, but prior to adopting any amendment requests, the planning commission shall hold a public hearing in consideration of all requests for docketed changes to the comprehensive plan.
 2. The planning commission shall consider the following criteria following a public hearing in selecting the comprehensive plan amendments to be considered during the upcoming cycle:
 - a. Whether the same area or issue was studied during the last amendment process and conditions in the immediate vicinity have significantly changed so as to make the requested change within the public interest.
 - b. Whether the proposed amendment is consistent with the overall vision of the comprehensive plan.
 - c. Whether the proposed amendment meets existing state and local laws, including the Growth Management Act.
 - d. In the case of text amendments or other amendments to goals and policies, whether the request benefits the city as a whole versus a selected group.
 3. If the request meets the criteria set forth in subsections H.2.a through d of this section, it shall be further evaluated according to the following criteria:
 - a. Whether the proposed amendment can be incorporated into planned or active projects.
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- b. Amount of analysis necessary to reach a recommendation on the request. If a large-scale study is required, a request may have to be delayed until the following year due to workloads, staffing levels, etc.
 - c. A large volume of requests may necessitate that some requests be reviewed in a subsequent year.
 - d. Order of requests received.
 - 4. Based on its review of requests according to the criteria in subsections H.2 and 3 of this section, the commission shall determine which requests shall be further considered for review and consideration by the city council.
 - 5. The city council will make a final decision on all planning agency recommendations.
 - 6. The council's decision to consider a proposed amendment shall not constitute a decision or recommendation that the proposed amendment should be adopted nor does it preclude later council action to add or delete an amendment for consideration.
 - I. All applicants seeking an amendment to comprehensive land use designations of the official comprehensive plan (site-specific requests) must apply for a preapplication conference with the city's staff.
 - J. Legislative rezones.
 - 1. Legislative rezone is a rezone that meets the following criteria:
 - a. It is initiated by the city; and
 - b. It includes a large number of properties that would be similarly affected by the proposed rezone.
 - 2. All other rezones not meeting the criteria described in subsection J of this section are treated as quasi-judicial rezones and are reviewed and decided upon using LDR 100.040.110, process IV.
 - K. The city may decide to approve a legislative rezone only if it finds that:
 - 1. The proposal is consistent with the comprehensive plan;
 - 2. The proposal bears a substantial relation to public health, safety, or welfare; and
 - 3. The proposal is in the best interest of the residents of the city.
 - L. If the city approves a legislative rezone it will give effect to this decision by making the necessary amendment to the zoning map of the city.
 - M. The city may amend the text of this chapter or other development regulation only if it finds that:
 - 1. The proposed amendment is consistent with the applicable provisions of the comprehensive plan;
 - 2. The proposed amendment bears a substantial relation to public health, safety, or welfare; and
 - 3. The proposed amendment is in the best interest of the residents of the city.
 - N. The city may consider, but is not limited to, the following factors when considering a proposed amendment to the comprehensive plan:
 - 1. The effect upon the physical environment.
 - 2. The effect on open space, streams, and lakes.
 - 3. The compatibility with and impact on adjacent land uses and surrounding neighborhoods.
 - 4. The adequacy of and impact on community facilities including utilities, roads, public transportation, parks, recreation, and schools.
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5. The benefit to the neighborhood, city, and region.
 6. The quantity and location of land planned for the proposed land use type and density and the demand for such land.
 7. The current and projected population density in the area.
 8. The effect upon other aspects of the comprehensive plan.
 9. For site-specific comprehensive plan amendments, the provisions of LDR 100.40.110M, process IV, quasi-judicial shall also apply.
 - O. The city may amend the comprehensive plan only if it finds that:
 1. The proposed amendment bears a substantial relationship to public health, safety, or welfare;
 2. The proposed amendment is in the best interest of the residents of the city; and
 3. The proposed amendment is consistent with the requirements of RCW 36.70A.130 and with the portion of the city's adopted plan not affected by the amendment.
 - P. Official file.
 1. The designee shall compile an official file containing all information and materials relevant to the proposal and to the city's consideration of the proposal.
 2. The official file is a public record, which is available for inspection and copying in the department of community development during regular business hours.
 - Q. Notice provisions under this section shall be followed for both the public hearing during which all requests for changes to the zoning map, zoning text, and the comprehensive plan are prioritized, as well as the public hearing held on individual requests.
 1. The designee shall prepare a notice of each proposal, for which a public hearing will be held, containing the following information:
 - a. The citation, if any, of the provision that would be changed by the proposal along with a brief description of that provision.
 - b. A statement of how the proposal would change the affected provision.
 - c. A statement of what areas, zones, or locations will be directly affected or changed by the proposal.
 - d. The date, time, and place of the public hearing.
 - e. A statement of the availability of the official file.
 - f. A statement of the right of any person to submit written comments to the planning agency and to appear at the public hearing of the planning agency to give comments orally.
 2. The designee shall distribute this notice at least 14 calendar days before the public hearing following the procedures of LDR 100.40.190, notice of public hearing. In addition, the procedures of LDR 100.40.150, determination of completeness, shall be followed for site-specific requests regarding notification of adjacent property owners posting of the site.
 - R. Staff report.
 1. The designee shall prepare a staff report containing:
 - a. An analysis of the proposal and a recommendation on the proposal; and
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- b. Any other information the designee determines is necessary for consideration of the proposal, consistent with subsection E of this section.
 - 2. Prior to the hearing, the designee shall distribute the staff report to:
 - a. Each member of the planning commission.
 - b. Any person requesting it.
 - S. The planning commission shall hold public hearings on each proposal, consistent with LDR 100.40.110, process IV, quasi-judicial, unless the city council elects to hold its own hearings on the proposal, in which case planning commission review pursuant to this process shall not be required.
 - 1. The planning commission hearings are open to the public.
 - 2. Except as provided in subsection S.1 of this section, the planning commission hearing is the hearing for the city council. The city council need not hold another hearing on the proposal.
 - T. Material to be considered.
 - 1. Except as specified in subsections T.2 and 3 of this section, the planning commission and city council may consider any pertinent information or materials in reviewing and deciding upon a proposal under this process.
 - 2. Except as specified in subsection T.3 of this section, the city may not consider a specific site plan or project in reviewing and deciding upon a proposal under this process.
 - 3. If a proposal that will be decided upon using this process is part of a specific project, the city may consider all information pertaining to SEPA environmental review and submitted under subsection D of this section, process V, legislative review, in deciding upon that proposal.
 - U. The planning commission shall make a complete electronic audio recording of each public hearing.
 - V. Any interested person may participate in the public hearing in either or both of the following ways:
 - 1. By submitting written comments to the planning commission either by delivering these comments to the city prior to the hearing or by giving them directly to the planning commission at the hearing.
 - 2. By appearing in person, or through a representative, at the hearing and making oral comments. The planning commission may limit the extent of oral comments to facilitate the orderly and timely conduct of the hearing.
 - W. The planning commission may for any reason continue the hearing on the proposal. If, during the hearing, the planning commission announces the time and place of the next public hearing on the proposal and a notice thereof is posted on the door of the hearing room, no further notice of that hearing need be given.
 - X. Recommendation.
 - 1. Following the public hearing, the planning commission shall consider the proposal in light of the decisional criteria in subsections F, H, and J, process V, legislative review, and take one of the following actions:
 - a. May by a majority vote of the entire membership recommend that the city council adopt the proposal;
 - b. May by a majority vote of the members present recommend that city council not adopt the proposal; or
 - c. That the planning commission makes no recommendation based on the proposal and submitted to the city council with that notation.
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2. The planning commission may modify the proposal in any way and to any degree prior to recommending the proposal to city council for consideration.
- Y. Report to city council. The designee shall:
 1. Prepare a planning commission report on the proposal containing a copy of the proposal along with any explanatory information, and the planning commission recommendation, if any, on the proposal.
 2. Transmit the planning commission report to the city council for consideration.
 3. Promptly send a copy of the planning commission report to any person requesting it.
- Z. City council action.
 1. Within 60 days of receipt of the planning commission report by the designee, the city council shall consider the proposal along with a draft ordinance appropriate to enact or adopt the proposal.
 2. In deciding upon the proposal, the city council shall use the decisional criteria listed in the provisions of this chapter describing the proposal.
 3. After consideration of the planning commission report and, at its discretion, holding its own public hearing on the proposal, the city council shall by majority vote of its total membership:
 - a. Approve the proposal by adopting an appropriate ordinance;
 - b. Modify and approve the proposal by adopting an appropriate ordinance;
 - c. Disapprove the proposal by resolution; or
 - d. Refer the proposal back to the planning commission for further proceedings. If this occurs, the city council shall specify the time within which the planning commission shall report back to the city council on the proposal.
- AA. At least 60 days prior to final action being taken by the city council, but not prior to the close of the planning commission public hearing and transmittal of planning commission recommendation to the state department of community trade and economic development (CTED) and other interested affected local and state agencies, the county and surrounding jurisdictions shall be provided with a copy of the amendments in order to initiate the 60-day comment period. All other parties previously noticed shall be again notified that the draft amendments of the comprehensive plan are available on request on a cost recovery basis. No later than ten days after adoption of comprehensive plan or development regulation amendments, a copy shall be forwarded to CTED and others who submitted written or oral comments.
- BB. The actions of the city in granting, modifying or denying an amendment to this chapter, the comprehensive plan or any other development regulation may be reviewed by the Western Washington Growth Management Hearings Board pursuant to RCW 36.70A.280.

(Ord. No. 710, § 18.40.120, 4-26-2004; Ord. No. 731, 2-13-2007)

100.40.130. Preapplication conference.

The purpose of the preapplication conference is to acquaint the applicant with the substantive and procedural requirements of the Tenino Municipal Code and applicable elements of the comprehensive plan, arrange such technical and design assistance to aid the applicant, and otherwise identify policies and regulations associated with the proposed development. Preapplication conferences are encouraged for all process II applications that require environmental review and for all process III and process IV applications.

(Ord. No. 710, § 18.40.130, 4-26-2004; Ord. No. 731, 2-13-2007)

100.40.140. Project permit applications.

- A. Applications for all project permits shall be submitted upon forms provided by the city and shall, at a minimum, consist of the materials specified in this section, plus any other materials required on the application form or by any required municipal code. Minimum required materials are as follows:
 - 1. A completed development permit application form.
 - 2. An explanation of intent, stating the nature of the proposed development, reasons for the permit request, pertinent background information, information required on the application form, technical reports, studies and data required to address conditions on the site or criteria of the permit or approval requested, and other information that may have a bearing in determining the action to be taken.
 - 3. Proof that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has the consent of all partners in ownership of the affected property.
 - 4. Legal description of the property affected by the application.
 - 5. Additional information required by other sections of this title because of the type of development proposal or the area involved.
 - 6. Payment of the established fee for such application.
- B. Application materials shall be submitted to the designee who shall have the date of submission indicated on each copy of the materials submitted.
- C. Following a determination that an application is complete, the city shall begin project review.

(Ord. No. 710, § 18.40.140, 4-26-2004; Ord. No. 731, 2-13-2007)

100.40.150. Determination of completeness. (RCW 36.70B.070)

- A. For the purposes of this title, a complete application is one that contains all required information, supporting documentation, and signatures, and which is accompanied by payment of any and all fees as required by the city.
 - 1. Time limitations.
 - a. Calculation of time periods for issuance of notice of final decision. In determining the number of calendar days that have elapsed after the city has notified the applicant that the application is complete for purposes of calculating the time for issuance of the notice of decision, the following periods shall be excluded:
 - 1) Any period, during which the applicant has been requested by the city to correct plans, perform required studies, provide additional required information, or otherwise requires the applicant to act. The period shall be calculated from the date the city notifies the applicant of the need for additional information until the earlier of the date the city determines whether the additional information satisfies the request for information or 14 calendar days after the date the information has been provided to the city;
 - 2) If the city determines that the information submitted by the applicant under this section is insufficient or incorrect;
 - 3) Any period during which an environmental impact statement is being prepared following a determination of significance pursuant to RCW 43.21C, if the city by ordinance has established time periods for completion of environmental impact statements, or if the city and the applicant in writing agree to a time period for completion of an environmental impact statement;

- 4) Any period for administrative appeals of project permit applications, if an open record appeal hearing or a closed record appeal, or both, are allowed. The time period for consideration and decision on appeals shall not exceed:
 - a) 90 calendar days for an open record appeal hearing; or
 - b) 60 calendar days for a closed record appeal; unless the parties agree to extend these time periods; and
2. Any extension of time mutually agreed upon by the applicant and the local government.
3. The time limits established in this section do not apply if the project permit application:
 - a. Requires an amendment to the comprehensive plan or a development regulation;
 - b. Requires approval of the siting of an essential public facility as provided in RCW 36.70A.200; or
 - c. Is substantially revised by the applicant, in which case the time period shall start from the date at which the revised project application is determined to be complete pursuant to this section.
4. If the city is unable to issue a final decision within the time limits provided in this chapter, it shall provide written notice of this fact to the project applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of a final decision. The city is not liable for damages due to the city's failure to make a final decision within the time limits established in this chapter.
- B. Within 28 calendar days after receiving a project permit application for review for completeness, the city shall mail or personally provide a written determination of completeness to the applicant which to the extent known by the city identifies other agencies with jurisdiction over the project permit application and states either that the application is complete; or that the application is incomplete and what is necessary to make the application complete. If the city does not provide a written determination to the applicant that the application is incomplete, the application shall be deemed complete. The time period guidelines for review of project permit applications begin following the determination of a complete application. The city's determination of completeness shall not preclude the city from requesting additional information or studies either at the time of the notice of completeness or at some later time, if new or additional information is required or where there are substantial changes in the proposal.
- C. Prior to a determination of a complete application, if the applicant receives a written determination from the city that an application is not complete, the applicant shall have up to 90 calendar days to submit the necessary information to the city. Within 14 calendar days after an applicant has submitted the requested additional information, the city shall make the determination as described in subsection B of this section and notify the applicant in the same manner. If the applicant either refuses, in writing, to submit additional information, or does not submit the required information within the 90-calendar-day period, the application shall lapse because of a lack of information necessary to complete the review.
- D. An application shall be considered complete when it contains the following:
 1. The correct number of completed application forms signed by the applicant which contain a detailed description of the proposed land use, proposed impervious surface, and description of all existing and proposed improvements and easements;
 2. The correct number of documents, plans, or maps identified in the applicable application, as appropriate for the proposed project;
 3. A completed environmental checklist, if required;
 4. For preliminary plats, see LDR chapters 114.20 and 114.30;

5. All studies and materials demonstrating compliance with the applicable municipal code;
6. Water availability letter (this requirement is for preliminary plats and short plats only);
7. Payment of all applicable fees pursuant to the established fee schedule. In the event of insufficient funds on a draft, the application shall be deemed null and void;
8. Proposed applications shall be consistent with the comprehensive plan and applicable development regulations.

(Ord. No. 710, § 18.40.150, 4-26-2004; Ord. No. 731, 2-13-2007)

100.40.160. Incorrect applications.

- A. Following a determination of a complete application and the commencement of project review, the city may make a determination in writing that some information is incorrect and require that corrected information be submitted. The applicant shall have up to 90 calendar days to submit corrected information. The city shall have 14 calendar days to review the submittal of corrected information.
- B. If the corrected information is still not found to be sufficient, the city shall notify the applicant in writing that the submitted information is incorrect, and the time period set forth in subsection A of this section shall be repeated. This process may continue until complete or corrected information is obtained.
- C. If the requested corrected information is sufficient, the city shall continue with project review, in accordance with the time calculations exclusions set forth in LDR 100.40.150, determination of completeness. If the applicant either refuses in writing to submit corrected information or does not submit the corrected information within the 90-calendar-day period, the application shall lapse.
- D. Appeal of an administrative determination of an incomplete or incorrect application shall be made pursuant to LDR 100.40.090L, process II, administrative action.

(Ord. No. 710, § 18.40.160, 4-26-2004; Ord. No. 731, 2-13-2007)

100.40.170. Referral of applications.

Within ten calendar days of determining a complete application, the designee shall transmit a copy of the application, or appropriate parts of the application, to each appropriate agency and city department for review and comment, including those responsible for determining compliance with state, federal and county requirements. The noticed agencies and city departments shall have 15 calendar days to comment. The noticed agency or city department is presumed to have no comments if comments are not received within the specified time period. The designee may grant an extension of time if the application involves unusual circumstances.

(Ord. No. 710, § 18.40.170, 4-26-2004; Ord. No. 731, 2-13-2007)

100.40.180. Notice of application. (RCW 36.70B.060)

- A. A notice of application shall be issued within 14 calendar days after the city has made a determination of completeness pursuant to LDR 100.40.150, determination of completeness for all applications that require SEPA review, and all short plats, and all process III and process IV applications; provided, that the notice of application shall be provided at least 15 calendar days prior to any required open record hearing. One notice of application shall be completed for all applications related to the same project at the time of the earliest complete permit application.
- B. SEPA notice of application. A notice of application shall not be required for project permits that are categorically exempt under SEPA, WAC 197-11-800 categorical exemptions unless a public comment period or an open record hearing is required prior to the decision on the project.

C. The notice of application shall include:

1. The case file number, the date of application, the date of the determination of completeness for the application and the date of the notice of application;
2. A description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested by the review authority pursuant to RCW 36.70B.070;
3. The identification of other required permits which are not included in the application, to the extent known by the city;
4. The identification of existing environmental documents that evaluate the proposed project, and, if not otherwise stated on the document providing notice of application, the location where the application and any studies can be reviewed;
5. A statement regarding critical areas communicating whether or not critical areas have been determined to be present and if so, how they will be protected;
6. A statement of the limits of the public comment period, which shall be not less than 14 nor more than 30 calendar days following the date of notice of application, and statement of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights;
7. The tentative date, time, place and type of hearing. A tentative hearing date may be set at the time of application;
8. A statement of those development regulations that will be used for project mitigation and of consistency as provided in LDR 100.30.050, consistency with comprehensive plan, development regulations, and SEPA;
9. The name of the applicant or applicant's representative and the name, address and telephone number of a contact person for the applicant, if any;
10. A description of the site, including current zoning and nearest road intersections, reasonably sufficient to inform the reader of its location; and
11. Any other information determined appropriate by the city, such as the environmental determination, if complete at the time of issuance of the notice of application or the city's statement of intent to issue a determination of nonsignificance pursuant to the optional determination of nonsignificance process set forth in WAC 197-11-355.

D. The city shall mail a copy of the notice of application to:

1. The applicant.
2. Agencies with jurisdiction.
3. Property owners within 300 feet of the proposal, or at least two parcels deep.
4. Any person who requests such notice in writing.
5. Parties of record.

E. All public comments on the notice of application must be received by the city or postmarked by 5:00 p.m. on the last day of the comment period. Comments should be as specific as possible may be mailed, personally delivered, sent by facsimile, or emailed to the city.

F. In addition to the mailed notice of application, the city will provide notice of application at city hall and posted on the subject property. The available records of the county assessor's office shall be used for determining the property taxpayer of record and used for mailing notices. All public notices shall be deemed

to have been provided or received on the date the notice is deposited in the mail or personally delivered, whichever occurs first. Failure to provide public notice as described in this chapter or irregularity in said notice shall not be grounds for invalidation of any permit decision. In addition to persons to receive notice as required by the matter under consideration, the city shall provide notice to others that may be affected or otherwise represent an interest in, or affected by, the proposed development.

- G. The applicant shall be responsible for posting a notice board on the property. Public notice shall be accomplished through the use of an approved city poster boards as follows:
1. Posting. Posting of the property for site-specific proposals shall consist of one or more notice boards as follows:
 - a. A single notice board shall be placed by the applicant in a conspicuous location on a street frontage bordering the subject property.
 - b. Boards measure three feet by four feet and are affixed to a solid post mounted in the ground.
 - c. Each notice board shall be visible and accessible for inspection by members of the public.
 - d. Additional notice boards may be required when:
 - 1) The site does not abut a public road;
 - 2) Additional notice boards are required under other Code provisions; or
 - 3) The city determines that additional notice boards are necessary to provide adequate public notice.
 - e. Notice boards should be:
 - 1) Installed in accordance with specifications determined by the city and placed securely in the ground;
 - 2) Maintained in good condition by the applicant during the notice period;
 - 3) In place at least 15 calendar days prior to the end of any required comment period; and
 - 4) Removed by the applicant within ten calendar days after the end of the notice period or final hearing date;
 - 5) When a proposal is within an existing subdivision, planned development district or planned unit development, an additional sign shall be posted at each major roadway entrance to the development.
 - f. Notice boards that are removed, stolen, or destroyed prior to the end of the notice period may be cause for discontinuance of the departmental review until the notice board is replaced and remains in place for the specified time period. The city shall notify the applicant when it comes to their attention that notice boards have been removed prematurely, stolen, or destroyed.
 - g. The applicant shall submit an affidavit of posting after installation of the notice board and at least seven calendar days prior to the hearing. If the affidavits are not filed as required, any scheduled hearing or date by which the public may comment on the application may be postponed in order to allow compliance with this notice requirement.
 - h. SEPA information shall be supplied by the city and added by the applicant to the posted sign within applicable deadlines.
 - H. Publication of the notice of application in city's adopted official newspaper is required for applications that require SEPA review, all short plats, and all process III and process IV and process V applications, except subdivision finals, extensions and appeals. Published notice shall include at least the following information:

1. Project number, location and description;
 2. Type of permits required;
 3. Comment period dates; and
 4. The location where the complete application may be reviewed.
- I. The applicant is responsible for payment of any required notifications published in the official newspaper.
(Ord. No. 710, § 18.40.180, 4-26-2004; Ord. No. 731, 2-13-2007)

100.40.190. Notice of public hearing.

- A. Notice of public hearing is required for all types of applications for which a public hearing is held. Notice of public hearing shall be reasonably calculated to give actual notice and shall contain the following information:
1. The name of the applicant or agent;
 2. Description of the affected property, which may be in the form of either a vicinity location sketch or written description, other than a legal description;
 3. The date, time, and place of the hearing;
 4. The nature of the proposed use or development;
 5. A statement that all interested persons may appear and provide testimony;
 6. When and where information may be examined, and when and how written comments addressing findings required for a decision by the hearing body may be admitted;
 7. The name of a city representative to contact and the telephone number where additional information may be obtained;
 8. That a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at the cost of reproduction; and
 9. That a copy of the staff report will be available for inspection at no cost at least five calendar days prior to the hearing and copies will be provided at the cost of reproduction.
- B. Mailed notice of the public hearing shall be provided by the city as follows:
1. All owners of real property as shown by the records of the county assessor's office within 300 feet of the subject property or at least two parcels deep (subdivision and platting exception: If a subdivision or short plat applicant owns adjacent property of the proposed subdivision, notice shall be given to property located within 300 feet, but not less than two parcels deep, around the perimeter of any portion of the boundaries of the adjacent parcels owned by the applicant of the proposed subdivision); and
 2. Any person who submits written comments on an application;
 3. For process V, legislative actions, the city shall publish notice as described in this section and use all other methods of notice as required by RCW 35A.12.160.
- C. Procedure for posted and/or published notice of public hearing.
1. Posted notice of the public hearing is required for all process III and process IV permit actions. The posted notice of hearing shall be added to the sign already posted on the property pursuant to LDR 100.40.180, notice of application of this section.

2. Published notice of the public hearing is required for all process III and process IV procedures. The published notice shall be published at least once in a newspaper of general circulation within the city and contain the following information:
 - a. Project location;
 - b. Project description and nature of issues to be discussed at the hearing;
 - c. Type of permits required;
 - d. Comment period dates and how written comments addressing findings required for a decision by the hearing body may be submitted; and
 - e. The location where the complete application may be reviewed.
- D. Notice shall be mailed, posted and first published not less than 15 days, but not more than 30-days prior to the hearing that requires the notice. The applicant shall remove any posted notice within ten days following the conclusion of public hearing.
- E. Open record hearings shall be conducted in accordance with this section. The designee shall be responsible for the hearing and shall:
 1. Schedule an application for review and public hearing;
 2. Give notice; however, applicant is responsible for some of the notice requirements;
 3. Prepare a staff report stating all decisions made as of the date of the report, including recommendations on project permits in the consolidated permit process that do not require an open record pre-decision hearing. The report shall also include a final environmental impact statement, if necessary or the SEPA determination by the responsible official and state any mitigation required or proposed under the regulatory authority of the city. In the case of a process I or process II project permit application, this report may be considered the permit approval; and
 4. Prepare the notice of decision, if required by the hearing body, and/or mail a copy of the notice of decision to those required by this title to receive such decision;
 5. The hearing body shall be subject to the code of ethics and prohibitions on conflict of interest as set forth in RCW 35A.42.020 and RCW 42.23, as the same now exists or may hereafter be amended.
 6. Ex parte communications.
 - a. No member of the hearing body may communicate, directly or indirectly, regarding any issue in a quasi-judicial proceeding before them, other than to participate in communications necessary to procedural aspects of maintaining an orderly process, unless they provide notice and opportunity for all parties to participate; except as provided in this section:
 - 1) The hearing body may receive advise from legal counsel; or
 - 2) The hearing body may communicate with staff members, except where the proceeding relates to a code enforcement investigation or prosecution.
 - b. If, before serving as the hearing body in a quasi-judicial proceeding, any member of the hearing body receives an ex parte communication of a type that could not properly be received while serving, the member of the hearing body, promptly after starting to serve, shall disclose the communication as described in subsection E.3.c of this section, notice of public hearing.
 - c. If the hearing body receives an ex parte communication in violation of this section, they shall place on the record:
 - 1) All written communications received;

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- 2) All written responses to the communications;
 - 3) The substance of all oral communications received and all responses made; and
 - 4) The identity of each person from whom the hearing body received any ex parte communication.
- d. The hearing body shall advise all parties that these matters have been placed on the record.
 - e. Upon request made within ten calendar days after notice of the ex parte communication, any party desiring to rebut the communication shall be allowed to place a rebuttal statement on the record.
7. Disqualification.
 - a. Any member who is disqualified may be counted only by making full disclosure to the audience, abstaining from voting on the disqualification, vacating the seat on the hearing body and physically leaving the hearing.
 - b. If all members of the hearing body are disqualified, all members present after stating their reasons for disqualification shall be re-qualified and shall proceed to resolve the issues.
 - c. Except for process IV, actions, a member absent during the presentation of evidence in a hearing may not participate in the deliberations or decision unless the member has reviewed the evidence received.
 8. The burden of proof is on the proponent, pursuant to LDR 100.30.090, burden of proof. The project permit application must be supported by proof that it conforms to the applicable elements of the city's development regulations, comprehensive plan and that any significant adverse environmental impacts have been adequately addressed.
 9. The order of proceedings for a hearing will depend in part on the nature of the hearing. The following shall be supplemented by administrative procedures as appropriate.
 - a. Before receiving information on the issue, the following shall be determined:
 - 1) Any objections on jurisdictional grounds shall be noted on the record and if there is objection, the hearing body has the discretion to proceed or terminate; and
 - 2) Any abstentions or disqualification shall be determined.
 - b. The presiding officer may take official notice of known information related to the issue:
 - 1) A provision of any ordinance, resolution, rule, officially adopted development standard or state law; and
 - 2) Other public records and facts judicially noticeable by law.
 - c. Matters officially noticed need not be established by evidence and may be considered by the hearing body in its determination. Parties requesting notice shall do so on the record; however, the hearing body may take notice of matters listed in subsections E.6.a and 6.b of this section if stated for the record. Any matter given official notice may be rebutted.
 - d. The hearing body may view the area in dispute with or without notification to the parties, but shall place the time, manner, and circumstances of such view on the record.
 - e. Information shall be received from the staff and from proponents and opponents. The presiding officer may approve or deny a request from a person attending the hearing to ask a question. Unless the presiding officer specifies otherwise, if the request to ask a question is approved, the presiding officer will direct the question to the person submitting testimony.
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- f. When the presiding officer has closed the public hearing portion of the hearing, the hearing body shall openly discuss the issue and may further question a person submitting information or the staff if opportunity for rebuttal is provided.
10. The hearing body shall issue a recommendation or decision, as applicable, within 14 calendar days of the record being closed.
11. A party of record may ask for a reconsideration of a decision by the city council for a process III or process IV, action, or a recommendation of the planning commission. Reconsideration is not authorized for process I and process II, applications. A reconsideration may be requested if either:
 - a. A specific error of fact or law can be identified; or
 - b. New evidence is available which was not available at the time of the hearing;
 - c. A request for reconsideration shall be filed by a party of record within seven working days of the date of the initial decision/recommendation. Any reconsideration request shall cite specific references to the findings and/or criteria contained in the ordinances governing the type of application being reviewed. A request for reconsideration temporarily suspends the appeal deadline. The city council shall promptly review the reconsideration request and within ten working days issue a written response, either approving or denying the request. If the reconsideration is denied, the appeal deadline of the council's decision shall recommence for the remaining number of days. If a request for reconsideration is accepted, a decision is not final until after a decision on reconsideration is issued.
- F. The designee may combine any public hearing on a project permit application with any hearing that may be held by another local, state, regional, federal, or other agency, on the proposed action, as long as:
 1. The other agency consents to the hearing;
 2. The other agency is not expressly prohibited by statute from doing so;
 3. Sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance, or rule;
 4. The agency has received the necessary information about the proposed project from the applicant in enough time to hold its hearing at the same time as the local government hearing; and
 5. The hearing is held within the city limits.

An applicant may request that the public hearing on a permit application be combined as long as the hearing can be held within the time periods set forth in this chapter. In the alternative, the applicant may agree to a particular schedule if additional time is needed in order to complete the hearings.

- G. Following a decision of a project permit by the applicable decision-making body, the city shall provide a notice of decision that also includes a statement of any threshold determination made under LDR title 110, SEPA (RCW 43.21C) and the procedures for appeal.
 1. The notice of decision shall be issued within 120 calendar days after the city notifies the applicant that the application is complete. The time frames set forth in this section shall apply to project permit applications filed on or after the effective date of this title.
 2. The notice of decision shall be provided to the applicant and to any person who, prior to the rendering of the decision, requested notice of the decision or submitted substantive comments on the application.

3. Notice of the decision shall be provided to the public as set forth in this section. The city shall provide notice of the decision to the county assessor's office if affected property owners' request a change in valuation for property tax purposes.
 4. If the city is unable to issue its final decision on a project permit application within the time limits provided for in this chapter, it shall provide written notice of this fact to the parties of record. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the notice of decision.
- H. Closed record hearings and administrative appeals.
1. This section allows for administrative appeals as provided in the framework in LDR 100.40.090, process II, administrative action. Administrative appeals are heard by the city council.
 2. Consolidated appeals.
 - a. All appeals of project permit application decisions, other than an appeal of determination of significance (DS), shall be considered together in a consolidated appeal.
 - b. Appeals of environmental determinations under LDR title 110, State Environmental Policy Act (SEPA), including administrative appeals of a threshold determination shall proceed as provided in that chapter.
 3. Only parties of record may initiate an administrative appeal on a project permit application.
 4. An appeal must be filed as specified in LDR 100.40.090L, process II, administrative actions.
 5. Appeals shall be in writing, be accompanied by the adopted appeal fee, and contain all the information as specified in LDR 100.40.090L, process II, administrative actions.
 6. The timely filing of an appeal shall stay the effective date of the decision until such time as the appeal is adjudicated by the city council, as applicable, or is withdrawn.
 7. Public notice of the appeal shall be given as provided in this section.
 8. The closed record decision/appeal hearing shall be on the record before the hearing body and no new evidence may be presented. The provisions of subsections E.2 through 6 and G of this section shall apply to a closed record decision/appeal hearing:
- I. Judicial appeals.
1. The city's final decision or appeal decision on a process I, II, III, IV, or V application may be appealed by a party of record with standing to file a land use petition in county superior court.
 2. A land use petition must be filed within 21 calendar days of issuance of the notice of decision or appeal decision.
 3. A land use petition shall be filed according to the procedural standards outlined in RCW 36.70C, judicial review of land use decisions, also known as the Land Use Petition Act (LUPA).
- (Ord. No. 710, § 18.40.190, 4-26-2004; Ord. No. 731, 2-13-2007)

CHAPTER 100.50. DISCRETIONARY PERMITS AND ADMINISTRATIVE DECISIONS

REVIEW CRITERIA

100.50.010. Purpose.

The purpose of this section is to establish the procedures and decision criteria for a variety of permits that involve discretion or a recommendation or decision made by the designee, planning commission, or other hearing body as appropriate. An interpretation of the provisions of this chapter clarifies conflicting or ambiguous wording, or the scope or intent of the provisions of this chapter. An interpretation of the provisions of this chapter may not be used to amend this chapter.

(Ord. No. 710, § 18.50.010, 4-26-2004; Ord. No. 731, 2-13-2007)

100.50.020. Administrative interpretations.

- A. *Purpose.* The purpose of an administrative interpretation is to provide a degree of flexibility in the administration of this title while following the intent of the city council. Administrative interpretations are subject to applicable requirements of process I applications pursuant to LDR 100.40.080, process I, administrative approval. A decision by the designee as to the meaning, application or intent of any development regulation in this chapter is known as an interpretation. An interpretation may be requested in writing by any person or may be initiated by the designee. This section establishes the procedure and criteria that the city will use in deciding, upon a written request, to interpret the provisions of this chapter and in issuing any other written interpretation of this chapter. The interpretation of the provisions of a concomitant agreement will be treated as an interpretation of this chapter. Any appeals of an interpretation by the designee under this section may be appealed to the city council as provided for in this title.
- B. *Designations.* The designee shall make all interpretations of this title. Official interpretations shall be written and maintained in an orderly, retrievable record. Such administrative interpretations shall include determinations of uses permitted in the various districts, and approval or disapproval of development plans and zoning decisions. Other interpretations may be made as specific circumstances arise which require such interpretations.
- C. *Interpretations of text.*
 1. The more restrictive provision shall govern, where the conditions imposed by one provision of this title are less restrictive than comparable conditions imposed by any other provisions of this title.
 2. The most restrictive shall apply, whenever the requirements of this title differ from the requirements of any other laws, ordinances, regulations, covenants or codes.
 3. Except where specifically noted, examples of uses listed in this title are intended to typify but not be an inclusive list or limit allowable uses and shall be used to identify appropriate zones and regulatory levels for a given use based on substantial similarity, in terms of activities, intensity, size, and performance, to a listed use.
- D. *Primary land uses.* Land uses that are listed as primary uses in each zoning district shall be permitted subject to the review processes, standards, and regulations specified in LDR title 104. If a use is not listed as a use in a zoning district, it shall be considered to be a prohibited use. However, it is inevitable that certain valid, justifiable uses of land will be missing from the listings of uses permitted in various zoning districts, therefore the city designee is authorized to make an administrative interpretation pursuant to subsection D.1 of this section, administrative interpretation.
 1. If a proposed use is not specifically listed, an applicant may request an interpretation from the designee as to whether or not such use is a permitted use. In determining whether a proposed use closely resembles a use expressly authorized in the applicable zoning district, the designee shall examine the characteristics of the development and use and shall make a determination as to what zone the

development and use may be allowed as a primary permitted use, permitted with an administrative use permit, or a conditional use permit based on the following criteria:

- a. The requested use is substantially similar to the listed uses permitted in the district in which the request is being sought, as opposed to its similarity to the listed uses permitted in other districts based on the following criteria:
 - 1) The activities involved in or equipment or materials employed in the use;
 - 2) The effects of the use on the surrounding area, such as traffic impacts, noise, dust, odors, vibrations, lighting and glare, impacts on public services and facilities, and aesthetic appearance; and
 - 3) The use has a high degree of potential to be consistent, compatible, and homogenous with listed uses.
- b. The use is consistent with the stated purpose of the applicable district or districts.
- c. The use is compatible with the applicable goals and policies of the comprehensive plan.
2. Unlisted developments and uses for which the designee has made an administrative interpretation as to appropriate zone and type similarity shall be considered to constitute an official interpretation and shall subsequently be applied and used for future administration in reviewing other proposals. The designee shall report such decisions to the planning commission when it appears necessary to amend this Code.
3. The designee's determination is classified as a process I application and shall be processed and subject to the applicable requirements of to LDR 100.40.080, process I, administrative approval and may be appealed as provided in LDR 100.40.090, process II, administrative action.
- E. *Rules that apply.* Where uncertainty exists as to any of the zone boundaries as shown on the zoning map, the following rules shall apply:
 1. A boundary shown on the zoning map as approximately following a lot line or parcel boundary shall be construed as following the lot line or parcel boundary as it actually existed at the time the zoning boundary was established. If, subsequent to the establishment of the zoning boundary, a lot line should be moved as a result of a legally performed boundary line adjustment, the zoning boundary shall be construed as moving with the lot line only if the lot line is moved no more than ten feet and remains generally parallel to the original line.
 2. A boundary shown on the zoning map as approximately following a creek, lake, or other watercourse shall be construed as following the actual centerline of the watercourse. If, subsequent to establishment of the boundary, the centerline of the watercourse should move as a result of natural processes, the boundary shall be construed as moving with the centerline of the watercourse.
 3. A boundary shown on the zoning map as approximately following a ridgeline or topographic contour line shall be construed as following the actual ridge or contour line. If, subsequent to the establishment of the boundary, the ridge or contour line should move as a result of natural processes, the boundary shall be construed as moving with the ridge or contour line.
 4. A boundary shown on the zoning map as approximately following a street or railroad line shall be construed as following the centerline of the street or railroad right-of-way. If, subsequent to the establishment of the boundary, the centerline of the street or railroad right-of-way should be moved as a result of its widening or minor realignment (such as at an intersection), the boundary shall be construed as moving with the centerline only if the centerline is moved no more than 20 feet.

5. Whenever any street or other public right-of-way is vacated in the manner prescribed by law, the zoning district adjoining each side of said street or other public right-of-way shall be automatically extended to the centerline of the former street or other public right-of-way, and all of the area included in the vacation shall then and henceforth be subject to all regulations of the extended districts.
 6. Whenever a single lot one-acre or less in size, is located within two or more different zoning districts, the district regulations applicable to the district within the larger portion of the lot lines shall apply to the entire lot.
 7. Whenever a single lot greater than one acre in size is located within two or more different zoning districts, each portion of that lot shall be subject to all the regulations applicable to the district in which it is located.
 8. If the specific location of a zoning boundary line cannot be determined from application of the rules state herein to the zoning map, it shall be determined by the use of the scale designated on the zoning map.
 9. Where questions still arise concerning the exact location of a district boundary, the designee shall interpret the zone boundaries.
- F. *Definitions.* The definition of any word or phrase not listed in this title, which is in question when administering this title shall be defined from one of the following sources that are incorporated herein and adopted by reference. Said sources shall be utilized to find the desired definition in the order listed as follows: City development regulations, the city comprehensive plan, any other portion of this Code or other city resolutions, ordinances, or regulations; any statute or regulation of the state (i.e., the most applicable); legal definitions from applicable case law; legal definitions from the most recent edition of Black's Law Dictionary; Moskowitz and Lindbloom, 1993, the New Illustrated Book of Development Definitions, Webster's, or other common dictionary.
- G. *Applications.*
1. Any person, personally or through an agent, may make application for an interpretation.
 2. The applicant shall file a completed master land use application along with a written description, which at a minimum clearly states:
 - a. The interpretation requested;
 - b. The applicable sections which the applicant requests the designee to interpret; and
 - c. Relevant information and arguments that support the requested interpretation.
 3. With the application, the applicant shall submit the fee established by the city. The application shall not be accepted unless the required fee accompanies it.
 4. The designee may modify the submittal requirements as deemed appropriate.
 5. An application for an interpretation shall be routed to the community development department. The designee may route an application for interpretation to other staff members or departments for review and comment.
- H. *Issue of interpretations.* The designee may act on initiative, or in response to a written inquiry in the format outlined in LDR 100.40.020(1), administrative interpretation to issue interpretations of any of the provisions of this chapter.
1. A Code interpretation requested by a person other than the project proponent or property owner must be requested prior to the date of expiration of any applicable administrative appeal period for a land

- use decision on the application to which the request relates. Any Code interpretation requested after the applicable administrative appeal period shall not affect any issued permit or prior decision.
2. The designee shall base an interpretation on:
 - a. The defined or the common meaning, as applicable, of the words in the provision;
 - b. The general purpose of the provision as expressed in the provision; and
 - c. The logical or likely meaning of the provision viewed in relation to the comprehensive plan, this chapter, this Code as a whole, or other plans and studies prepared or adopted by the city.
 3. The designee shall mail a written response to any person filing a written request to interpret the provisions of this chapter within 28 days of having received that request.
 4. An interpretation of this chapter will be enforced as if it is part of this chapter.
 5. The designee shall maintain an interpretation file that contains all interpretations of this chapter that are in effect. The interpretation file shall be available for public inspection to copy at the city during regular business hours.
 6. An interpretation of the provisions of this chapter remains in effect until rescinded in writing by the designee or until the subject text of this chapter has been amended consistent with LDR 100.40.020, administrative interpretation.
 7. Interpretations issued by the designee that are related to a land use or subdivision application shall be incorporated into the decision and be subject to applicable notice provisions for the decision. Interpretations issued by the designee that are not related to a land use or subdivision application shall be subject to the notice provisions under this section.
 - a. The designee shall prepare a notice of each interpretation that is not related to a land use or subdivision application, containing the following information:
 - 1) The citation, if any, of the provisions of this Code that is the subject of the interpretation along with a brief description of the subject provisions.
 - 2) A summary statement of the interpretation of the affected provision.
 - 3) The date of the interpretation.
 - 4) A statement of the availability of the official file.
 - 5) A summary of the rights, as established in this article, of any person to submit an appeal of the interpretation.
 - 6) The deadline for filing appeals of the interpretation.
 - b. Upon issuance of the interpretation, the designee shall distribute this notice of the interpretation as follows:
 - 1) Published in the official newspaper of the city.
 - 2) Posted on each of the official notification board of the city and public library located in the city.
 8. Any person who is aggrieved by an interpretation issued by the designee may appeal that interpretation within 14 days of the date of interpretation.
 - a. The appellant must file a letter of appeal indicating how the interpretation affects his property and presenting any relevant arguments or information on the correctness of the interpretation.

The applicant shall include appeals fees as established by the city. The appeal will be considered incomplete unless it is accompanied by the required fee.

- b. An appeal of an interpretation of this chapter will be reviewed and decided upon using the process for appeals outlined in LDR 100.40.100, process III, planning commission decision, of this chapter.
- c. If the interpretation of the designee is modified, the designee shall:
 - 1) Place the modifying decision in the interpretation file; and
 - 2) Change or remove, as appropriate, the interpretation that was modified.

(Ord. No. 710, § 18.50.020, 4-26-2004; Ord. No. 731, 2-13-2007)

100.50.030. Administrative use permit.

- A. *Purpose.* The purpose of this section is to establish an administrative review process and decision criteria to evaluate proposed land uses that, due to unique qualities or circumstances, may require some additional regulation or control. The administrative use permit (AUP) process is intended to ensure that the proposed activity, if established, will be in full compliance with applicable regulations, that the unique qualities of the use is addressed and mitigated, and that such use is compatible with the comprehensive plan and adjacent uses.
- B. *Existing uses.*
 - 1. Any use existing at the time of adoption of this title that is within the scope of uses requiring an administrative use permit in the zoning district in which the property is situated shall be deemed a conforming use without necessity of obtaining an administrative use permit.
 - 2. Any expansion of an existing administrative use shall be required to apply for a new administrative use permit if the designee finds that there is a change in the nature of the use or a significant change in the intensity of the use created by such an expansion.
 - 3. Any use operating under the provisions of an existing administrative use permit at the time of adoption of this title that is within the scope of uses requiring an administrative use permit in the zoning district in which the property is situated shall be deemed a conforming use without necessity of a new administrative use permit, unless a proposed expansion would result in a change in the nature of the use or a significant change in the intensity of the use created by such an expansion.
 - 4. Any use operating under the provisions of an existing administrative use permit at the time of adoption of this title which is within the scope of primary permitted uses in the applicable zoning district shall be deemed a conforming use.
- C. *Process II application.* An administrative use permit is a process II application type and subject to all the procedural requirements applicable to this application type.
 - 1. An applicant proposing to develop an administrative use shall provide facts and evidence to enable the designee to make a determination. The application shall be on the form prescribed by the community development department and shall include all of the information and materials required by the application form. The established fee shall be submitted at time of application.
 - 2. Administrative use permit applications shall be filed with the city, and circulated for review and comment by city staff.
- D. *Approval.* The designee shall approve an administrative use permit only if all of the following findings can be made regarding the proposal and are supported by the record:

1. The approval of the proposed administrative use permit will not be detrimental to the public health, safety, and general welfare; nor will it be injurious to, or adversely affect, the uses, property, or improvements adjacent to and in the vicinity of the site upon which the proposed use is proposed to be located;
 2. The approval of the proposed administrative use permit is consistent and compatible with the intent of goals, objectives and policies of the comprehensive plan and any other city ordinances;
 3. The proposed use and the project design comply with the zoning district and all applicable development regulations;
 4. All conditions necessary to mitigate the impacts of the proposed use have been included in the project design or approval, and are capable of being monitored and enforced;
 5. All requirements for a specific use have been addressed by the applicant.
- E. *Specific conditions attached.* When granting an administrative use permit, the designee may attach specific conditions to the permit that will serve to accomplish the standards, and/or meet the criteria, and policies established in the comprehensive plan and this title. The designee may deny an application for an administrative use permit if the establishment of the use would be incompatible with the surrounding area or incapable of complying with specific standards set forth in this Code, or if any of the required findings in subsection D of this section are not supported by evidence in the record as determined by the designee.
1. In addition to demonstrating compliance with the criteria as determined by subsection D of this section, administrative use permit, the applicant shall accept those conditions that the city designee finds are appropriate to obtain compliance with the criteria as listed in subsection E.2 of this section;
 2. In permitting an administrative use, the designee may impose any of the following conditions:
 - a. Limit the manner in which the use is conducted, including restricting the time an activity may take place and restrains to minimize such environmental effects as noise, vibration, air pollution, glare and odor.
 - b. Establish a special yard or other open space, lot area or dimension.
 - c. Limit the height, size or location of a building or other structure.
 - d. Designate the size, number, location or nature of vehicle access points.
 - e. Increase the amount of street dedication, roadway width or improvements within the street right-of-way.
 - f. Designate the size, location, screening, drainage, surfacing or other improvement of a parking or truck loading areas.
 - g. Limit or otherwise designate the number, size, location, and height of lighting of signs.
 - h. Limit the location and intensity of outdoor lighting or require its shielding.
 - i. Require screening, landscaping or another facility to protect adjacent or nearby property and designate standards for installation or maintenance of the facility.
 - j. Design the size, height, location or materials for a fence.
 - k. Protect existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.
 - l. Require provisions for public access, physical and visual, to natural, scenic and recreational resources.

- m. Require provisions for stormwater drainage including designating the size, location, screening, or other improvements of detention ponds and other facilities.
- n. Impose special conditions on the proposed development to ensure that development is in conformance with the surrounding neighborhood and the intent and purpose of the zoning district classification.
- o. Require such financial guarantees and evidence that any applied conditions will be complied with.
- F. *Authorization period.* Authorization of an administrative use permit shall be void after a period of one year unless the use has begun within that time or substantial construction or action pursuant thereto has taken place. However, the city may, at the discretion of the designee, extend authorization for six additional months upon request, provided such request is submitted in writing at least 30 days, but not more than 60 days, prior to the expiration of the permit, with payment of appropriate fees as listed in the current fee schedule.

(Ord. No. 710, § 18.50.030, 4-26-2004; Ord. No. 731, 2-13-2007)

100.50.040. Conditional use.

- A. This section is to establish procedures and decision criteria for uses that possess unique characteristics and are of such a nature that they may not be appropriate for every location within a given zoning district. Conditional uses are those uses deemed unique due to factors such as size, technological processes, equipment, or location with respect to surroundings, streets, existing improvements, or demands upon public facilities. Such uses require a special degree of review and control to ensure compatibility with the comprehensive plan and adjacent uses.
- B. Any use existing at the time of adoption of this title that is within the scope of uses requiring a conditional use permit (CUP) in the zoning district in which the property is situated shall be deemed a conforming use without necessity of obtaining a conditional use permit.
 - 1. Any expansion of an existing conditional use shall be required to apply for a new conditional use permit if the designee finds that there is a change in the nature of the use or a significant change in the intensity of the use created by such an expansion.
 - 2. Any use operating under the provisions of an existing conditional use permit/public facilities permit at the time of adoption of this title that is within the scope of uses requiring a conditional use permit in the zoning district in which the property is situated shall be deemed a conforming use without necessity of a new conditional use permit, unless a proposed expansion would result in a change in the nature of the use or a significant change in the intensity of the use created by such an expansion.
 - 3. Any use operating under the provisions of an existing conditional use permit at the time of adoption of this title that is within the scope of primary permitted uses within the applicable zoning district shall be deemed a conforming use.
- C. Application for a conditional use permit.
 - 1. A conditional use permit is a process III application type and subject to all the procedural requirements applicable to this application type.
 - 2. CUP applications shall be on the form prescribed by the city and shall include all of the information and materials required by the application form. An applicant shall provide sufficient facts and evidence to enable the planning commission to make a decision. The established fee shall be submitted at time of application.
 - 3. Applications for conditional use permit shall be filed with the city and be circulated and reviewed for comment by city staff.

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4. Notice of application shall be provided pursuant to LDR 100.40.180, notice of application.
 5. Public notices shall be pursuant to LDR 100.40.180, notice of application.
 6. Public hearings shall be pursuant to LDR 100.90.190, notice of public hearing.
 7. A conditional use permit shall only be granted after the planning commission has reviewed the proposed use and has made written findings that all of the following standards and criteria have been met or can be met, subject to conditions of approval:
 - a. The size of the site is adequate for the proposed use, including all facilities and amenities that are required by this title or desired by the applicant;
 - b. The proposed use will not be detrimental to the public health, safety, and general welfare of the community and will not introduce hazardous conditions at the site that cannot be mitigated to protect adjacent properties;
 - c. The topography, soils, and other physical characteristics of the site are appropriate for the use and potential problems due to weak foundation soils can be eliminated or reduced to the extent necessary to avoid hazardous situations;
 - d. The proposed use will not be injurious to, or adversely affect the uses, property, or improvements adjacent to, or in the vicinity of, the site upon which the proposed use is to be located;
 - e. The proposed use will be compatible with adjacent land uses and consistent with the character of the surrounding area;
 - f. Adequate water, sewer/septic, storm drainage, schools, electrical, police, and fire protection facilities and services will support the proposed use. The use will not overburden or adversely affect said public facilities and services;
 - g. The traffic generated by the proposed use will not unduly burden the traffic circulation system in the vicinity;
 - h. An adequate site layout is proposed for on-site circulation and transportation activities, considering the potential impacts of the proposed use on traffic flow and control, emergency vehicle movements and safety associated with the suitability of access points, on-site drives, parking, loading and unloading areas, refuse collection and disposal points, sidewalks, bike paths, or other transportation facilities required by this title or desired by the applicant;
 - i. The proposed use will cause no unreasonably adverse effects to wetlands, shorelands, wildlife habitat, and other critical areas;
 - j. The public interest will suffer no substantial detrimental effect;
 - k. Buffering devices such as fencing, landscaping or topographic characteristics adequately protect adjacent properties from adverse effects of the proposed use, including adverse visual or auditory effects;
 - l. The granting of the proposed conditional use is consistent and compatible with the intent of the goals, objectives and policies of the comprehensive plan. For essential public facilities, the planning commission shall balance the goals and policies of the comprehensive plan, the intent of this Code, and the public need for the proposed facility;
 - m. The proposed use complies with the appropriate development and performance standards and all other applicable provisions of the city development standards;
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- n. All conditions necessary to lessen any impacts of the proposed use have been included in the project design or will be required as conditions of approval pursuant to LDR 100.40.100, process III, planning commission decision;
 - o. In addition to demonstrating compliance with the criteria as determined by the planning commission, the applicant shall accept those conditions that the commission finds appropriate to obtain compliance with the criteria.
- 1) In permitting a conditional use, the commission may impose any of the following conditions:
 - a) Limit the manner in which the use is conducted, including restricting the time an activity may take place and restrains to minimize such environmental effects such as noise, vibration, air pollution, glare and odor.
 - b) Establish a special yard or other open space, lot area or dimension.
 - c) Limit the height, size or location of a building or other structure.
 - d) Designate the size, number, location or nature of vehicle access points.
 - e) Increase the amount of street dedication, roadway width or improvements within the street right-of-way.
 - f) Designate the size, location, screening, drainage, surfacing or other improvement of a parking or truck loading areas.
 - g) Limit or otherwise designate the number, size, location, and height of lighting of signs.
 - h) Limit the location and intensity of outdoor lighting or require its shielding.
 - i) Require screening, landscaping or another facility to protect adjacent or nearby property and designate standards for installation or maintenance of the facility.
 - j) Design the size, height, location or materials for a fence.
 - k) Protect existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.
 - l) Require provisions for public access, physical and visual, to natural, scenic and recreational resources.
 - m) Require provisions for stormwater drainage including designating the size, location, screening, or other improvements of detention ponds and other facilities.
 - n) Impose special conditions on the proposed development to ensure that development is in conformance with the surrounding neighborhood and the intent and purpose of the zoning district classification.
 - o) Require such financial guarantees and evidence that any applied conditions will be complied with.
 - p) Require appeals to be pursuant to LDR 100.40.090L, process II, administrative action.
 - 2) Authorization of a conditional use shall be void after a period of one year unless the use is begun within that time or substantial construction or action pursuant thereto has taken place. However, the city may extend authorization for one additional year upon request
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provided such request is submitted in writing at least 30 days but not more than 60 days prior to expiration of the permit with payment of appropriate fees as listed in the current fee schedule at the discretion of the designee.

(Ord. No. 710, § 18.50.040, 4-26-2004; Ord. No. 731, 2-13-2007)

100.50.050. Design standards review.

- A. Design standards is an administrative process to implement and give effect to the comprehensive plan, its policies, or parts thereof, through the adoption of design criteria for development relative to site layout, landscape, architecture, and exterior structure design. It is the intent of the city that this process will serve to aid applicants in understanding the principal expectations of the city concerning design, and to encourage a diversity of imaginative solutions to development through the review and application of the design standards. Where the design standards cannot be met in full, the planning official is allowed to authorize variations from the standards, so long as the solution selected maintains the intent of the requirements.
- B. The adoption of the design guidelines is an element of the city's regulation of land use, which is statutorily authorized. The design standards review process adopted herein is established as a process I administrative function delegated to the designee pursuant to RCW 35A.11. Therefore, in implementing the administrative design standards review process, the city council may adopt such rules and procedures as are necessary to provide for expeditious review of proposed projects. In the administration of this process, the designee may develop supplementary handbooks for the public, which shall pictorially illustrate and provide additional guidance on the interpretation of the design standards established, as well as provide a detailed explanation of the design review process.
- C. Design standards review is a process I application type and subject to all the procedural requirements applicable to this application type.
 - 1. Design standards review applications shall be on a form prescribed by the city and shall include all of the information and materials required by the application form. An applicant shall provide sufficient facts and evidence to enable the designee to make a decision. The established fee shall be submitted at time of application.
 - 2. Applications for design standards review shall be filed with the community development department.
 - 3. The designee shall provide the applicant with a written decision approving, denying, or approving the application with modifications and/or conditions of approval.
- D. The decision of the designee under the administrative design standards review process is final unless an appeal is made in accordance with the requirements of LDR 100.40.090L, process II, administrative action.

(Ord. No. 710, § 18.50.050, 4-26-2004; Ord. No. 731, 2-13-2007; Ord. No. 851, § 1, 12-9-2014)

100.50.060. Public facilities permit.

- A. This process is intended to ensure that public facilities (PF) as needed to support orderly growth and delivery of public services are sited in a timely and efficient manner. It is also intended to provide the city with additional regulatory authority to require mitigation of impacts that may occur as a result of essential public facilities siting. Finally, it is intended to promote enhanced public participation that will produce siting decisions consistent with community goals. Public facilities are publicly or privately owned or operated facilities serving a public purpose that are typically difficult to site. They include but are not limited to: airports, state educational facilities, state or regional transportation facilities; prisons, jails and other correctional facilities, and solid waste handling facilities pursuant to WAC 365.195.340(a.), siting essential public facilities. In addition, other public facilities that are regulated and permitted pursuant to this section are identified in LDR 106.10.070, utilities use category.

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- B. Any use existing at the time of adoption of this title, which is within the scope of uses requiring a public facilities permit (PFP) in the zoning district in which the property is situated, shall be deemed a conforming use without the necessity of obtaining a public facilities permit.
1. Any expansion of an existing public facility use shall be required to apply for a new public facilities permit if the designee finds that there is a change in the nature of the use or a significant change in the intensity of the use created by such an expansion.
 2. Any use operating under the provisions of an existing conditional use permit at the time of adoption of this title, which is within the scope of uses requiring a public facilities permit in the zoning district in which the property is situated, shall be deemed a conforming use without the necessity of a new public facilities permit, unless a proposed expansion would result in a change in the nature of the use or a significant change in the intensity of the use created by such an expansion.
 3. Any use operating under the provisions of an existing public facilities permit at the time of adoption of this title, which is within the scope of primary permitted uses within the applicable zoning district shall, be deemed a conforming use.
- C. A public facilities permit is a process III application type and is subject to all the procedural requirements applicable to this application type.
1. The public facilities permit use types and permitted zones are identified in LDR 106.20, land use zones.
 2. Public facilities permit applications shall be on the form prescribed by the community development department and shall include all of the information and materials required by the application form in order to be accepted as complete by the city. An applicant shall provide sufficient facts and evidence to enable the planning commission to make a decision. The established fee shall be submitted at time of application.
 3. Applications for public facilities permits shall be filed with the community development department. The public facilities permit application shall be reviewed and circulated for comment by city staff.
 4. Notice of application shall be provided pursuant to LDR 100.40.180, notice of application.
- D. A public facilities permit shall be pursuant to LDR 100.40.190, notice of public hearing.
- E. A public facilities permit shall only be granted after the planning commission has reviewed the proposed use and has made written findings that all the following standards and criteria have been met or can be met subject to conditions of approval:
1. The project applicant has demonstrated a need for the project, as supported by an analysis of the projected service population, an inventory of existing and planned comparable facilities, and the projected demand for the type of facility proposed.
 2. If applicable, the project would serve a significant share of the city's population, and the proposed site will reasonably serve the project's overall service population.
 3. The applicant has reasonably investigated alternative sites, as evidenced by a detailed explanation of site selection methodology.
 4. The project is consistent with the applicant's own long-range plans for facilities and operations.
 5. The applicant's public participation plan has provided an opportunity for public participation in the siting decision and mitigation measures that is appropriate in light of the project's scope.
 6. The project will not result in a disproportionate burden on a particular geographic area.
 7. The proposed project shall comply with all applicable provisions of the comprehensive plan, development standards, SEPA, and other federal, state and local statute, Codes and ordinances.
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8. The project site meets the facility's minimum physical site requirements, including projected expansion needs. Site requirements may be determined by the minimum size of the facility, access, support facilities, topography, geology, and on-site mitigation needs.
 9. The project site, as developed with the proposed facility and under the proposed mitigation plan, is compatible with surrounding land uses.
 10. The applicant has proposed mitigation measures that substantially reduce or compensate for adverse impacts on the environment.
- F. Reserved.
- G. Action of planning commission. In addition to demonstrating compliance with the criteria as determined by the commission, the applicant shall accept those conditions that the commission finds appropriate to obtain compliance with the criteria. The planning commission may impose any of the following conditions:
1. Limit the manner in which the use is conducted, including restricting the time an activity may take place and restrains to minimize such environmental effects as noise, vibration, air pollution, glare and odor.
 2. Establish a special yard or other open space or lot area or dimension.
 3. Limit the height, size or location of a building or other structure.
 4. Designate the size, number, location or nature of vehicle access points.
 5. Increase the amount of street dedication, roadway width or improvements within the street right-of-way.
 6. Designate the size, location, screening, drainage, surfacing or other improvement of a parking or truck loading areas.
 7. Limit or otherwise designate the number, size, location, and height of lighting of signs.
 8. Limit the location and intensity of outdoor lighting or require shielding.
 9. Require screening, landscaping or another facility to protect adjacent or nearby property and designate standards for installation or maintenance of the facility.
 10. Design the size, height, location or materials for a fence.
 11. Protect existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.
 12. Require provisions for public access, physical and visual, natural, scenic and recreational resources.
 13. Require provisions for stormwater drainage, including designating the size, location, screening, or other improvements of detention ponds and other facilities.
 14. Impose special conditions on the proposed development to ensure that development is in conformance with the surrounding neighborhood and the intent and purpose of the zoning district classification.
 15. Require such financial guarantees and evidence that any applied conditions will be adhered to.
- H. Appeals shall be pursuant to LDR 100.40.090L, process II, administrative action.
- I. Authorization of a public facility use shall be void after a period of one year unless the use began within that time or substantial construction or action pursuant thereto has taken place. However, the city may extend authorization for one additional year upon request, provided such request is submitted in writing at least 30 days and not more than 60 days prior to expiration of the permit at the discretion of the designee.

(Ord. No. 710, § 18.50.060, 4-26-2004; Ord. No. 731, 2-13-2007)

100.50.070. Reserved.

Editor's note(s)—Ord. No. 881, § 22, adopted September 26, 2017, repealed § 100.50.070, which pertained to temporary use permits and derived from Ord. No. 710, § 18.50.070, 4-26-2004; Ord. No. 731, 2-13-2007.

100.50.080. Variances.

- A. *Intent.* The intent of this section is to provide an avenue of relief where, by reason of exceptional configuration, or by reason of other unique and extraordinary situations or conditions existing on a piece of property, the strict application this title would result in peculiar, exceptional and undue hardship upon the owner of such property, which was not the result of actions of the applicant, property owner or a previous property owner or agent.
- B. *Administrative variances does not relieve applicant from conditions, provisions, etc., of this title.* Administrative variances shall not relieve an applicant from any of the procedural provisions of this title, conditions of approval established during prior permit review, any of the provisions of the critical areas Code, except for the required buffer widths. The variance process shall not allow the establishment of a use that is not otherwise permitted in the zoning district in which the proposal is located, nor allow an increase in density or reduction in the standard lot size.
- C. *Administrative variances.* The designee shall have the authority to grant an administrative variance for up to 20 percent of the numerical standards for building setbacks from lot lines, lot coverage, and impervious surface coverage as provided in this title.
 - 1. An administrative variance is a process II application type and subject to all the procedural requirements applicable to this application type.
 - a. Applications for administrative variances shall be on the form prescribed by the city and shall include all of the information and materials required by the application form. An applicant shall provide sufficient facts and evidence to enable the designee to make a decision.
 - b. Applications for administrative variances shall be filed with the community development department.
 - 2. The designee may grant an administrative variance if it is shown that it:
 - a. Does not detract from the desired character and nature of the vicinity in which it is proposed;
 - b. Enhances or protects the character of the neighborhood and/or the vicinity by protecting natural features, historic sites, open space, or other resources;
 - c. Does not interfere with or negatively impact the operations of existing land uses and all legally permitted uses within the zoning district it occupies;
 - d. Does not constitute a threat to the public health, safety and general welfare within the city; and
 - e. Is the minimum adjustment necessary for the reasonable use of the land.
 - 3. Authorization of an administrative variance shall be void after a period of one year unless the use is begun within that time or substantial construction or action pursuant thereto has taken place. However, the city may at the discretion of the designee extend authorization for six additional months upon request, provided such request is submitted in writing at least 30 days but not more than 60 days prior to expiration of the permit with payment of appropriate fees as listed in the current fee schedule.
- D. *Granting authority of variances.* The planning commission shall have the authority to grant a variance when some exceptional physical condition related to a parcel of land results in unnecessary hardship from the strict application of certain development provisions and is preventing the owner from using the property as

intended by this title. Any variance granted shall be the minimum adjustment necessary for the reasonable use of the land.

1. A variance is a process III application type and subject to all the procedural requirements applicable to this application type.
 - a. Applications for variances shall be on the form prescribed by the city and shall include all of the information and materials required by the application form. An applicant shall provide sufficient facts and evidence to enable the planning agency to make a decision. The established fee shall be submitted at time of application.
 - b. Variance applications shall be filed with the community development department. The variance application shall be reviewed and circulated for comment by city staff.
2. A variance shall only be granted after the planning commission has reviewed the proposed use and has made written findings that the standards and criteria set forth below have been met or can be met subject to conditions of approval:
 - a. Unique circumstances or conditions exist that are applicable to the land or buildings for which a variance is sought. Said circumstances or conditions are peculiar to such land or buildings and do not apply generally to the land or buildings in the area. The planning commission may consider legal, nonconforming aspects of existing structures for the purpose of this finding.
 - b. There must be proof of undue hardship if the variance is not granted. It is not sufficient proof of hardship to show that a greater profit would result if a variance were granted; nor shall loss of value be a valid reason to grant a variance. Furthermore, the hardship cannot be self-created, nor can it be created by one who purchases property with or without the knowledge of restrictions present. The hardship must result from the strict application of this title and be suffered directly by the property in question. Evidence of a variance granted under similar circumstances shall not be considered as a solely sufficient cause to grant hardship relief.
 - c. The granting of the variance is necessary for the development of a parcel of land, that in conjunction with adjacent land in the same ownership, is not otherwise reasonably capable of development and use under the provisions of this title, and the variance granted is the minimum variance that will accomplish this purpose.
 - d. The granting of the variance shall be consistent with the comprehensive plan and in agreement with the general purpose and intent of the regulations imposed by this title.
 - e. The granting of the variance shall neither be injurious to the neighborhood or community, nor otherwise detrimental to the public welfare.
 - f. The granting of the variance will not confer upon the applicant any special privilege that is denied by this title to other lands, structures, or buildings in the area.
 - g. The granting of the variance will not permit the establishment of any development or use that is not permitted by this title.
3. Authorization of a variance shall be void after a period of one year unless substantial construction or action pursuant thereto has taken place. However, the city may at the discretion of the designee extend authorization for an additional six months upon request, provided such request is submitted in writing at least 30 days, but not more than 60 days prior to expiration of the permit with payment of appropriate fees as listed in the current fee schedule.

(Ord. No. 710, § 18.50.080, 4-26-2004; Ord. No. 731, 2-13-2007)

CHAPTER 100.55. MASTER PLANNED DEVELOPMENTS

100.55.010. Purpose.

The purpose of this chapter is to establish a process by which zoning master plans can be developed and approved for large properties within the city and urban growth areas. Also it is intended to create greater flexibility and creativity of zoning within the city as follows:

- A. To make provision for integrated planning of parcels of land;
- B. To ensure that future growth and developments which occur by virtue of master plans do so in accordance with the comprehensive plan and the planning policies of the city;
- C. To require all plats and binding site plans to be consistent with the terms of the master plan as subdivisions are considered and approved in the future;
- D. To provide for large scale projects that incorporates a full range of land uses, where appropriate and where consistent with the comprehensive plan;
- E. To encourage the provision of more usable and suitably located recreational facilities and other public services than would otherwise be provided under conventional zoning;
- F. To foster and ensure a rational pattern of compatibility between residential, business and industrial uses so as to compliment and minimize impacts on existing neighborhoods;
- G. To provide for use of planned actions under SEPA and relevant agreements to provide a degree of continuity to larger developments.

(Ord. No. 710, § 18E.120.010, 4-26-2004)

100.55.020. Nature of master plans.

- A. Master plans under this chapter shall be characterized as zoning overlays which address the physical layout of the site but do not lay out individual building sites. Individual building sites will be administered under the provisions for subdivision or binding site plan. Application of a master plan to land is a type VI, quasi-judicial process, pursuant to LDR 100.40.110B.2 and is consistent as a project action zoning amendment process. The master plan shall be consistent with the comprehensive plan and planning policies. Master plans may be applied to county land within the city's urban growth areas subject to annexation, and constitutes pre-annexation zoning for such lands.
- B. Master plans and comprehensive plan amendments may be processed jointly.

(Ord. No. 710, § 18E.120.020, 4-26-2004)

100.55.030. Application process.

- A. *Complete application—Textual.* In addition to requirements of LDR 100.40.140, project permit applications, application submittals shall also include:
 - 1. Master plan application;
 - 2. The name, address, zip code and telephone number of applicant and all landowners. If not the owner, a notarized owner/agent agreement;

3. The names and addresses of all property owners located within 1,000 feet of the property included in the master plan;
 4. The legal description and tax parcel number of the property in the master plan;
 5. The existing zoning and plan designation on the subject property; the existing subdivision standards, the existing stormwater control and treatment standards, and existing critical area criteria;
 6. The acreage proposed within the master plan for each proposed zone type and for residential zones, the density and specific zone designation;
 7. The location and availability of public facilities such as water, sewer, schools, fire districts, etc.;
 8. Anticipated phasing of development;
 9. Preliminary development plans and other required supplementary reports;
 10. Environmental checklist. Identification through the SEPA process of potential major anticipated adverse environmental impacts and general mitigating measures, including off-site improvements, which may be incorporated in the master plan; and
 11. Other information such as zoning, subdivision standards, stormwater control requirements, road standards and critical area criteria.
- B. *Same—Maps.* The applicant shall provide the following map information:
1. A vicinity drawing showing the location of the site and its relationship to surrounding areas;
 2. Parcel boundaries and uses proposed for each parcel;
 3. Streets, highways, and freeways that will serve the development;
 4. The location by site of uses to be made of the property, including boundaries of use areas, range of densities and types of uses;
 5. Any changes proposed in zoning or development plans;
 6. Transportation plans, with proposed major roads, points of ingress, and the relationship to existing and area transportation facilities;
 7. Existing site conditions, including watercourses, wetlands, floodplains, unique natural features, forest cover, steep slopes and elevation contours of appropriate intervals to indicate the topography of the entire tract for a reasonable distance beyond the boundaries of the proposed development to include adjacent or nearby lands where project impacts are relevant.
- C. *SEPA compliance.* Provisions of LDR title 108, SEPA, shall apply as a project action approach for master plan approval.
- D. *Review and notification procedures.* The planning department shall commence project review and notification procedures after issuance of a determination of completeness pursuant to LDR 100.40.150.

(Ord. No. 710, § 18E.120.030, 4-26-2004)

100.55.040. Plan approval.

- A. The master plan application shall be reviewed pursuant to LDR 100.40.110, process IV, quasi-judicial.
- B. The master plan approval by city council shall be considered a final action and shall be considered an amendment to the zoning map of the city.

(Ord. No. 710, § 18E.120.040, 4-26-2004)

100.55.050. Term.

Master plan approved by the city council and affirmed by a court on any review, should there be one, shall constitute the zoning for the area described therein for a period of 20-years unless mutually agreed by the city and the responsible developer. The responsible developer shall be the party initiating the master plan process or a successor designated in writing.

(Ord. No. 710, § 18E.120.050, 4-26-2004)

100.55.060. Specific development proposals.

Subdivisions, binding site plans, and other development proposals authorized by this Code, when consistent with the provisions of the master plan, may be approved concurrent with, or subsequent to, approval of the master plan.

- A. *Plats.* When any parcel of land in any master plan is intended for individual ownership, lease or sale, the platting and procedural requirements of this title shall be followed. Applications for preliminary or short subdivision approval may be submitted simultaneously, and processed concurrently, with an application for a master plan or any associated project approval.
- B. *Binding site plans.* For any portion of the master plan, the city may approve a binding site plan for commercial or mixed use sites. The city may attach terms and conditions to the approval of the site plan if necessary to ensure compliance with the master plan. Processing of any preliminary plat or short subdivision, or binding site plan shall be as provided under this title.
- C. *Final plat approval.* An application for final plat approval within a master plan shall be submitted to the city planning department. The platting and procedural requirements of this title, or as amended, pertaining to the subdivision and conveyance of land and the preparation of maps shall be followed.
- D. *Development agreements.* The terms and conditions of any approvals set forth in TMC chapter 100.55 may be set out in a development agreement as authorized under RCW 36.70B and RCW 82.02.020.
- E. *Vesting.* An application is considered vested upon determination of a complete application pursuant to provisions of LDR 100.40.150, determination of completeness.

(Ord. No. 710, § 18E.120.060, 4-26-2004)

CHAPTER 100.60. LEGISLATIVE DECISIONS; REVIEW CRITERIA**100.60.010. Development code amendments.**

- A. This chapter establishes the process for adopting and amending Growth Management Act (GMA) development regulations to ensure early and continuous public participation in the development and amendment of development regulations that implement the city's comprehensive plan. For the purposes of this chapter, development regulations means the controls placed on development or land use activities by the city, including, but not limited to, zoning, SEPA, critical areas ordinances site development, design standards, signs, official controls, subdivision ordinances, and binding site plan ordinances, together with any amendments thereto. A development regulation does not include a decision to approve a project permit application, as defined in RCW 36.70B.020, even though the decision may be expressed in a resolution or ordinance of the city.
- 1. The community development department shall notify the state department of community, trade and economic development (CTED) of the intent to adopt a development regulation or amendment at least

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- 60 days prior to final passage and shall transmit a copy of all passed development regulations to state department of community, trade and economic development within ten days after adoption.
2. Pursuant to RCW 43.21C and WAC 197-11, the responsible official shall conduct the environmental review at the earliest opportunity in the planning process to investigate any potential environmental impacts of the proposed development regulations or amendments. A decision shall be made and issued pursuant to LDR title 110, SEPA, prior to adoption of any proposed development regulation or amendment thereof.
 3. The designee shall prepare a packet of information for the planning commission's review of the proposed development regulation or amendment consisting of:
 - a. A staff report;
 - b. An environmental checklist;
 - c. The environmental determination;
 - d. A map of the affected area (if applicable);
 - e. Any public or agency comment during review period; and
 - f. Any other analysis regarding the proposed regulation or amendment.
 4. The planning commission shall conduct a public hearing on the proposed development regulation or amendment pursuant to criteria set forth LDR 100.40.190, notice of public hearing.
 5. The city shall notice the public hearing required in LDR 100.40.180, notice of application that is reasonably calculated to provide notice to property owners and other affected and interested individuals, tribes, government agencies, businesses, and organizations. Examples of reasonable notice include:
 - a. Posting the property for site-specific proposals;
 - b. Publishing notice in local newspaper;
 - c. Notifying private or public individuals or groups requesting notification in certain proposals or types of proposals being considered;
 - d. Placing notices in appropriate regional, neighborhood, or trade journals as identified by the community development department;
 - e. Publishing notice in the official newspaper or sending notice to city mailing lists established by the community development department, including general lists or lists for specific proposals or subject areas.
 6. Notice of the public hearing shall state when the public may submit written comments on the proposed development regulation provided that the public shall be given notice at least ten days prior to the scheduled public hearing to submit written comments to the city.
 7. After the planning commission conducts the public hearing, the proposed development regulation/amendment is forwarded to the city council with its recommendation.
 8. The city council agenda for the reading of the proposed development regulation shall reflect the full title of the development regulation being reviewed. Errors in exact compliance with this chapter shall not render the development regulation invalid if the spirit of the procedures established by this chapter is observed.
 9. After the requirements of this chapter are met, the city council may act upon a proposed development regulation. The city council shall adopt, adopt as modified, reject, or remand the development
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regulation to the planning commission or community development department for further consideration.

10. State law governs the appeal of a city council decision on a development regulation.
- B. Nothing in this section or in this title shall limit the authority of the city council to make changes in districts or zone designations or requirements as part of more extensive revisions of the comprehensive plan or the city development regulations. Nothing in this chapter shall relieve a use or development from compliance with other applicable laws.

(Ord. No. 710, § 18.60.010, 4-26-2004; Ord. No. 731, 2-13-2007)

100.60.020. Right-of-way vacation.

When a vacation application is specifically for a city street, the procedures for road vacation or street vacation in RCW 36.87 or 35.79 shall be utilized for the street vacation process.

(Ord. No. 710, § 18.60.020, 4-26-2004; Ord. No. 731, 2-13-2007)

100.60.030. Planned actions.

A planned action pursuant to WAC 197-11-164, planned actions does not require a threshold determination or the preparation of an environmental impact statement under LDR title 110, SEPA, but may be subject to environmental review and mitigation under SEPA.

- A. A planned action means one or more types of project actions that are designated planned actions by an ordinance or resolution adopted by the city and have had the significant impacts adequately addressed in an environmental impact statement prepared in conjunction with either a comprehensive plan or sub-area plan adopted under RCW 36.70A or a fully contained community, a master planned resort, a master planned development or a phased project; and are:
 1. Subsequent or implementing projects for the plans, projects or proposals;
 2. Located within an urban growth area, as defined in RCW 36.70A.030;
 3. Consistent with the city's comprehensive plan adopted under RCW 36.70A; and
 4. Are not essential public facilities, as defined in RCW 36.70A.200.
- B. The city shall limit planned actions to certain types of development or to specific geographical areas that are less extensive than the jurisdictional boundaries of the city and may limit a planned action to a time period identified in the environmental impact statement or in the ordinance or resolution designating the planned action under RCW 36.70A.040.
- C. Project review of a planned action shall be used to identify specific project design and conditions relating to the character of development, such as the details of site plans, building plans, pedestrian and vehicular access and circulation, stormwater drainage plans, the payment of any required impact fees, or other measures to mitigate a proposal's probable adverse environmental impacts.

(Ord. No. 710, § 18.60.030, 4-26-2004; Ord. No. 731, 2-13-2007)

100.60.040. Zoning of annexed lands.

- A. It is the purpose of this section to provide a procedure to ensure that the initial zoning of annexed territories is in conformance with city goals, policies and plans. This is a process V, action.

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- B. Whenever the city council shall determine that the best interest and general welfare of the city would be served by annexing territory, the designee will determine if the proposed annexation is within the city's comprehensive plan urban growth area.
1. If the annexation request is within the comprehensive plan urban growth area, the designee will process the annexation request, prepare a staff report and schedule a planning commission public hearing; or
 2. If the proposed annexation request is not within the comprehensive plan urban growth area, the designee will initiate an application for consideration of an update to the comprehensive plan and an application for an initial zoning recommendation.
- C. Upon receipt of an annexation application, the planning commission shall hold a public hearing to consider the proposed annexation. Notice of the time, place and purpose of such hearing shall be mailed to all property owners in the area to be annexed and given by publication in a newspaper of general circulation in the city and the area to be annexed, at least ten calendar days prior to the hearing. Upon completion of the meeting, the planning commission shall transmit a copy of its recommendation of the proposed annexation to the city council for consideration.
1. In addition, the planning commission shall hold a public hearing to consider the initial zoning for the area of the proposed annexation. Notice of the time, place and purpose of such hearing shall be mailed to all property owners in the area to be annexed and those property owners within 300 feet pursuant to LDR 100.40.180, notice of public hearing.
 2. The notice shall be published in a newspaper of general circulation in the city and the area to be annexed, at least ten calendar days prior to the hearing.
- D. Within 60 calendar days of the receipt of the recommendation from the planning commission for the area of the proposed annexation, the city council shall consider the comprehensive plan change necessary to facilitate the annexation at a public meeting. The city council may approve or disapprove the comprehensive plan amendment as submitted, modify and approve as modified, or remand the comprehensive plan amendment back to the planning commission for further proceedings. An affirmative vote of not less than a majority of the total members of the city council shall be required for approval. If the matter is referred back to the planning commission, the council shall specify the time within which the planning commission shall report back to the council with findings and recommendations on the matters referred.
1. Upon receipt of the recommendations of the planning commission for the initial zoning of the area of the proposed annexation, the council shall hold at least two public hearings at least 30 calendar days apart. Notice of the time and place and purpose of such hearing shall be given by publication in a newspaper of general circulation in the city and the area to be annexed, at least ten calendar days prior to the hearing. The ordinance adopting the initial zoning may provide that it will become effective upon the annexation of the area into the city.
 2. If annexation occurs prior to adoption of the comprehensive plan amendment update and initial zoning designation, those areas designated and zoned under the authority and land use provisions of county shall, upon annexation, be assigned as an interim zoning designation until new zoning designations are adopted in conformance with the comprehensive plan. Upon annexation, all prior land use agreements shall be considered binding agreements between the city and the property or business owners, as may be appropriate, unless otherwise modified by mutual consent.
 3. An electronic copy of any changes to city development regulations or the city's comprehensive plan shall be forwarded to the county assessor's office per RCW 36.70B.230.

(Ord. No. 710, § 18.60.040, 4-26-2004; Ord. No. 731, 2-13-2007)

100.60.050. Moratoria.

- A. Nothing in this title shall prevent the city council from establishing development moratoria or other interim land use regulations upon a finding by the city council that, due to unforeseen circumstances or other emergencies, such a moratorium or temporary regulation is necessary in order to protect the purpose and effectiveness of the city's comprehensive plan and regulations, pending completion of the procedures necessary to adopt permanent land use controls. Any such moratorium or interim land use regulation shall be effective only for a period of a time necessary to completion adoption of the permanent land use control, which time shall be specified by the city council in the ordinance adopting the moratorium or other temporary regulation.
- B. Pursuant to RCW 35.63.200, a council that adopts a moratorium without holding a public hearing on the proposed moratorium shall hold a public hearing on the adopted moratorium within at least 60 days of its adoption, whether or not the council or board received a recommendation on the matter from the planning commission or community development department. If the council does not adopt findings of fact justifying its action before this hearing, then the council shall do so immediately after the required public hearing. A moratorium adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium control may be renewed for one or more six-month periods if subsequent public hearings are held and findings of fact are made prior to each renewal.

(Ord. No. 710, § 18.60.050, 4-26-2004; Ord. No. 731, 2-13-2007)

Critical Areas Checklist

A Technical Assistance Tool from Growth Management Services – updated May 2024

Name of city or county: City of Tenino

Staff contact, phone, and e-mail address: Malissa Paulsen (Contract Planner), SCJ Alliance, 253-314-9539, malissa.paulsen@scjalliance.com

INSTRUCTIONS

This checklist is intended to help local governments update their development regulations, pursuant to the schedule in **RCW 36.70A.130(5)**. We strongly encourage but do not require jurisdictions to complete the checklist and return it to Growth Management Services (GMS), along with their updates. **However, If the jurisdiction is using a portion of their Periodic Update Grant (PUG) to update the Critical Areas Ordinance, this checklist is required.**

This checklist may be used by all jurisdictions, including those local governments planning for resource lands and critical areas only. For general information on update requirements, refer to [A Guide to the Periodic Update Process Under the Growth Management Act – Fully Planning Counties & Cities, 2022](#) and [WAC 365-196-610](#).

For additional information, resources, and general checklists pertaining to comprehensive plan and development regulation periodic updates please visit Commerce's [Growth Management Act Periodic Update webpage](#).

Bold items are a GMA requirement or may be related requirements of other state or federal laws. Underlined items are links to Internet sites and may include best practices or other ideas to consider.

Commerce WAC provisions are advisory under Commerce's statutory mandate to provide technical assistance, **RCW 43.330.120** which states that the Department of Commerce "...shall help local officials interpret and implement the different requirements of the act through workshops, model ordinances, and information materials." If you have questions, call GMS at (360) 725-3066.

How to fill out the checklist

Using the current version of your critical areas regulations, fill out each item in the checklist. Select the check box or type in text fields, answering the following question:

Is this item addressed in your current Critical Areas Ordinance (CAO)? If YES, fill in the form with citation(s) to where in the plan or code the item is addressed. We recommend using citations rather than page numbers because they stay the same regardless of how the document is printed. If you have questions about the requirement, follow the hyperlinks to the relevant statutory provision or rules. If you still have questions, visit the [Commerce Growth Management Services Web page](#) or contact one of the [Commerce planners](#) assigned to your region.

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CRITICAL AREAS

Regulations protecting critical areas are required by **RCW 36.70A.060(2)** and **RCW 36.70A.172(1)**. [WAC 365-195-900 through 925](#) provide guidelines. Guidance can also be found in [Commerce's Critical Areas Handbook](#) (2022); the Minimum Guidelines [WAC 365-190-080 through 130](#); Best Available Science [WAC 365-195](#); and Procedural Criteria, [WAC 365-196-485](#) and [WAC 365-196-830](#), and on Growth Management's [Critical Areas](#) webpage.

Regulations required to protect critical areas	Addressed in current plan or regulations? If yes, note where
OVERALL REQUIREMENTS The CAO includes best available science to clearly designate and protect all critical areas that might be found within the jurisdiction. 1. Designation of Critical Areas RCW 36.70A.170(1)(d) requires all counties and cities to designate critical areas. RCW 36.70A.170(2) requires that counties and cities consider the Commerce Minimum Guidelines pursuant to RCW 36.70A.050. RCW 36.70A.050 directs Commerce to adopt the Minimum Guidelines to classify critical areas. WAC 365-190-080 through 130 provide guidance on defining or "designating" each of the five critical areas. WAC 365-190-040 outlines the process to classify and designate natural resource lands and critical areas. TMC 112.20.010 (C) Establishment of critical areas. <i>Designation of critical areas.</i> 1. <i>Critical areas regulated by this chapter include:</i> a. <i>Wetlands;</i> b. <i>Critical aquifer recharge areas;</i> c. <i>Frequently flooded areas;</i> d. <i>Geologically hazardous areas; and</i> e. <i>Fish and wildlife habitat conservation areas.</i> <i>Analysis: Updated to change Establishment to Designation.</i> 2. Definition of Critical Areas RCW 36.70A.030(11) provides definitions for critical areas. Sections (20) regarding geologically hazardous areas; and (48) regarding wetlands were updated in 2010. WAC 365-190-030 provides definitions in the Minimum Guidelines. Critical Areas No definition found, updated TMC 10.20.060 C definitions.	Was BAS documented in the record for the review and updates to the critical areas regulations? ☒ Yes ☐ No Location in Text: TMC 112.20.020 Do your regulations address no net loss and require compensatory mitigation? ☒ Yes ☐ No Location in Text: TMC 112.20.010(F)(1)

1. Analysis: Update required

Critical Aquifer Recharge Areas (CARAs)

TMC 10.20.060 C definitions – “Critical aquifer recharge area” refers to TMC 112.20.070(A)

Critical aquifer recharge areas are areas with a critical recharging effect on aquifers used for potable water, as defined by WAC 365-190-030(3). A critical aquifer recharge area has prevailing geologic conditions associated with infiltration rates that create a high potential for contamination of ground water resources or contribute significantly to the replenishment of ground water.

Analysis: No update required

Fish and Wildlife Habitat Conservation Areas

TMC 10.20.090 F definitions – “Fish and Wildlife Habitat Conservation Areas” refers to TMC 112.20.100(A)

Fish and wildlife habitat conservation areas are areas necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created.

Analysis: Update required

Frequently Flooded Areas

TMC 10.20.090 F definitions – “Frequently flooded areas” refers to TMC 112.20.080(A)

Frequently flooded areas are lands in the floodplain subject to a one percent or greater chance of flooding in any given year and lands that provide important flood storage, conveyance, and attenuation functions. Classifications of frequently flooded areas include, at a minimum, the 100-year floodplain designation of the Federal Emergency Management Agency and the National Flood Insurance Program.

Analysis: Update required

Geologically hazardous areas

TMC 100.20.100 G definitions – “Geologically hazardous areas” refers to TMC 112.20.090(A)

Geologically hazardous areas are areas that may not be suitable for development because of their susceptibility to erosion, sliding, earthquakes or other geological events.

Analysis: Update required

Wetlands

TMC 100.20.260 W definitions – “Wetland” refers to TMC 112.20.060(A)

Wetlands are those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions.

Analysis: Update required

3. Protection of Critical Areas

1. **CW 36.70A.060(2)** requires counties and cities to adopt development regulations that protect the critical areas required to be designated under **RCW 36.70A.170**.

RCW 36.70A.172(1) requires the inclusion of best available science in developing policies and development regulations to protect the functions and values of critical areas. In addition, counties and cities must give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries.

[WAC 365-196-830](#) provides guidance on protection of critical areas.

Critical Areas

No definition found, updated TMC 10.20.060 C definitions.

Analysis: Update required

Critical Aquifer Recharge Areas (CARAs)

TMC 10.20.060 C definitions – “Critical aquifer recharge area” refers to TMC 112.20.070(A)

Critical aquifer recharge areas are areas with a critical recharging effect on aquifers used for potable water, as defined by WAC 365-190-030(3). A critical aquifer recharge area has prevailing geologic conditions associated with infiltration rates that create a high potential for contamination of ground water resources or contribute significantly to the replenishment of ground water.

Analysis: No update required

Fish and Wildlife Habitat Conservation Areas

TMC 10.20.090 F definitions – “Fish and Wildlife Habitat Conservation Areas” refers to TMC 112.20.100(A)

Fish and wildlife habitat conservation areas are areas necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created.

Analysis: Update required

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Analysis: Update required

Geologically hazardous areas

TMC 100.20.100 G definitions – “Geologically hazardous areas” refers to TMC 112.20.090(A)

Geologically hazardous areas are areas that may not be suitable for development because of their susceptibility to erosion, sliding, earthquakes or other geological events.

Analysis: Update required

Wetlands

TMC 100.20.260 W definitions – “Wetland” refers to TMC 112.20.060(A)

1. *Wetlands are those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions.*

Analysis: Update required

4. Inclusion of Best Available Science

RCW 36.70A.172(1) requires inclusion of the best available science (BAS).

[WAC 365-195-900 through 925](#) outlines recommended criteria for determining which information is the BAS, for obtaining the BAS, for including BAS in policies and regulations, for addressing inadequate scientific information, and for demonstrating “special consideration” to conservation or protection measures necessary to preserve or enhance anadromous fisheries.

[WAC 365-195-915](#) provides criteria for including BAS in the record.

Critical Aquifer Recharge Areas (CARAs)

TMC 112.20.070 Critical aquifer recharge areas (CARAs)

Standards do not outright allow any use, language specifies that activities may only be permitted if the applicant can show that the proposed activity will not cause contaminants to enter the aquifer and that the proposed activity will not adversely affect the recharging of the aquifer. (TMC 112.20.070(C)(1)(a))

Analysis: No update required

Fish and Wildlife Habitat Conservation Areas

TMC 112.20.100 Fish and wildlife habitat conservation areas

Standards do not include most recent BAS.

Analysis: Update required

Frequently Flooded Areas

TMC 10.20.090 F definitions – “Frequently flooded areas” refers to TMC 112.20.080(A)

Frequently flooded areas are lands in the floodplain subject to a one percent or greater chance of flooding in any given year and lands that provide important flood storage, conveyance, and attenuation functions. Classifications of frequently flooded areas include, at a minimum, the 100-year floodplain designation of the Federal Emergency Management Agency and the National Flood Insurance Program.

Analysis: Update required

Geologically hazardous areas

TMC 100.20.100 G definitions – “Geologically hazardous areas” refers to TMC 112.20.090(A)

Geologically hazardous areas are areas that may not be suitable for development because of their susceptibility to erosion, sliding, earthquakes or other geological events.

Analysis: Update required

Wetlands

TMC 100.20.260 W definitions – “Wetland” refers to TMC 112.20.060(A)

Wetlands are those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions.

1. **Analysis: Update required**

5. **No net loss** of critical area functions and values is a requirement for development regulations in [WAC 365-196-830\(4\)](#). If development regulations allow harm to critical areas, they must require compensatory mitigation of the harm.

WETLANDS DEFINITION

The definition of wetlands is consistent with [RCW 36.70A.030\(48\)](#).

Is the wetland definition consistent with RCW 36.70A.030(48)?

- ☐ Yes
☐ No
☐ N/A

Location in Text:

WETLANDS DELINEATION

Wetlands are delineated using the approved federal wetland delineation manual and applicable regional supplements in accordance with [WAC 173-22-035](#).

See Ecology's [Wetland Delineation](#) page and [WAC 365-190-090](#) for additional assistance.

Are wetlands delineated using the approved Federal Wetland Delineation Manual and Regional Supplements?

- ☐ Yes
☐ No
☐ N/A

Location in Text:

WETLANDS PROTECTION

Policies and regulations protect the functions and values of wetlands. RCW 36.70A.172(1).

Counties and cities are encouraged to make their actions consistent with the intent and goals of “protection of wetlands”, [Executive Order 89-10](#) as it existed on September 1, 1990.

[WAC 365-190-090\(3\)](#) recommends using a wetlands rating system that evaluates the existing wetland functions and values to determine what functions must be protected. Ecology updated its recommended wetlands rating systems effective January 2015. For information on the rating system, including the July 2018 adjustments to ranges for habitat scores, see:

- [2014 Updates to the Washington State Wetland Rating Systems](#)
- [Washington State Wetland Rating System for Western Washington](#)
- [Washington State Wetland Rating System for Eastern Washington](#)

For other resources and guidance on protecting wetlands, go to Ecology’s [Local Wetland Regulations: Growth Management Act technical assistance](#) and see:

- [Wetland Guidance for Critical Areas Ordinance \(CAO\) Updates: Western and Eastern Washington \(2022\)](#)

Do the regulations use a rating system to determine wetlands protection?

- ☐ Yes
☐ No
☐ N/A

Location in Text:

CRITICAL AQUIFER RECHARGE AREAS

Policies and regulations protect the functions and values of critical aquifer recharge areas. RCW 36.70A.172(1).

Policies and regulations protect the quality and quantity of groundwater used for public water supplies. RCW 36.70A.070(1) and [WAC 365-196-485\(1\)\(d\)](#).

The following references also relate to protection of groundwater resources:

- **RCW 90.44** – Regulation of Public Groundwaters

If groundwater is used for potable water, do regulations protect the quality and quantity of ground water?

- ☐ Yes

CRITICAL AQUIFER RECHARGE AREAS

- **RCW 90.48** – Water Pollution Control
- **RCW 90.54** – Water Resources Act of 1971
- **RCW 36.36.020** - Creation of aquifer protection area (1985)
- [WAC 365-190-100](#) Critical Aquifer Recharge Areas 2023
- [WAC 173-100](#) Groundwater Management Areas and Programs (1988)
- [WAC 173-200](#) Water Quality Standards for Groundwaters of the State of Washington (1990)
- [WAC 365-196-735](#) Consideration of state and regional planning provisions (list) (2010)

The [Critical Aquifer Recharge Areas Guidance Document](#) (2021) provides information on protecting functions and values of critical aquifer recharge areas, best available science, how to work with state and local regulations and adaptive management.

Also, consider the following:

- Prohibiting or strictly regulating hazardous uses in critical aquifer recharge areas (CARAs) and designating and protecting wellhead areas. See Ecology's guidance on [Critical Aquifer Recharge Areas](#).
- Limiting impervious surfaces to reduce stormwater runoff, as required under Phase I and II municipal stormwater permits. Ecology's Stormwater Manual for Western Washington (2012) includes low impact development (LID) related definitions, requirements, and an LID performance standard. See [Stormwater Management and Design Manuals](#) on Ecology's web page.
- For additional guidance on LID resources, see Commerce's [Incentivizing low-impact development guidebook](#).

- ☐ No
☐ N/A

Location in text:

Are the critical aquifer recharge regulations consistent with current mapping of these critical areas?

- ☐ Yes
☐ No
☐ N/A

Location in text:

FREQUENTLY FLOODED AREAS

Regulations protect the functions and values of frequently flooded areas and safeguard the public from hazards to health and safety. [RCW 36.70A.172\(1\)](#).

Are frequently flooded areas designated and regulated using FEMA

REQUENTLY FLOODED AREAS

[WAC 365-196-830](#) provides: "Protection' in this context means preservation of the functions and values of the natural environment, or to safeguard the public from hazards to health and safety."

[WAC 365-190-110](#) directs counties and cities to consider the following when designating and classifying frequently flooded areas:

- (a) Effects of flooding on human health and safety, and to public facilities and services;
- (b) Available documentation including federal, state, and local laws, regulations, and programs, local studies and maps, and federal flood insurance programs, including the provisions for urban growth areas in [RCW 36.70A.110](#);
- (c) The future flow flood plain, defined as the channel of the stream and that portion of the adjoining flood plain that is necessary to contain and discharge the base flood flow at build out;
- (d) The potential effects of tsunamis, high tides with strong winds, sea level rise, and extreme weather events, including those potentially resulting from global climate change;
- (e) Greater surface runoff caused by increasing impervious surfaces.

Classification of and regulations for frequently flooded areas should not conflict with the FEMA requirements for the [National Flood Insurance Program \(NFIP\)](#). See [Ecology's Frequently Flooded areas: Critical Areas Ordinance](#) webpage and [44 CFR 60](#).

Communities that are located on Puget Sound or the Strait of Juan de Fuca, or have lakes, rivers or streams that directly or indirectly drain to those water bodies, are subject to the NFIP Biological Opinion (BiOp) for Puget Sound. The biological opinion required changes to the implementation of the NFIP in order to meet the requirements of the Endangered Species Act (ESA) in the Puget Sound watershed. FEMA Region X has developed an implementation plan that allows communities to apply the performance standards contained in the Biological Opinion by implementing:

- 1) [a model ordinance](#);
- 2) [a programmatic Checklist](#); or
- 3) on a permit by permit basis as long as it can be demonstrated that there is no adverse effect to listed species. Communities have the option of utilizing their CAOs as part of a programmatic response to address the requirements of the biological opinion. FEMA must approve a community's biological opinion compliance strategy.

Additional resources:

[RCW 86.12](#) Flood Control by Counties

[RCW 86.16](#) Floodplain Management

[RCW 86.26](#) State Participation in Flood Control Maintenance

[RCW 86.16.041](#) Floodplain Management Ordinance and Amendments

[WAC 173-158-070](#) Requirements for construction in Special Flood Hazard Areas

and Ecology guidance?

☐ Yes

☐ No

☐ N/A

Location in Text:

Are you utilizing your CAO as part of a programmatic response to the BiOp?

☐ Yes

☐ No

☐ N/A

Location in Text:

DEFINITION OF GEOLOGICALLY HAZARDOUS AREAS

The definition of geologically hazardous areas is consistent with RCW 36.70A.030(20) and WAC 365-190-120(1).

"Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

Is the geologically hazardous areas definition consistent with

RCW 36.70A.030(20)?

☐ Yes

☐ No

☐ N/A

Location in Text:

PROTECTION OF GEOLOGICALLY HAZARDOUS AREAS

Regulations protect the functions and values of geologically hazardous areas and safeguard the public from hazards to health and safety. RCW 36.70A.172(1).

WAC 365-196-830 provides: "Protection" in this context means preservation of the functions and values of the natural environment, or to safeguard the public from hazards to health and safety."

Geologically hazardous areas are designated, and their use is regulated or limited consistent with public health and safety concerns. RCW 36.70A.030(20)

WAC 365-190-120 describes the different types of hazardous areas:

- Geologically hazardous areas include:
 - Erosion hazards
 - Landslide hazards
 - seismic hazards
 - tsunami hazards
 - volcanic hazards
 - channel migration zones
 - areas subject to other geological events such as coal mine hazards including: mass wasting, debris flows, rock falls, and differential settlement.

The Department of Natural Resource's Washington Geological Survey Geologic Hazards and the Environment website includes information on earthquakes and faults, landslides, volcanoes and lahars, tsunamis, hazardous minerals, emergency preparedness, historic mines and includes geologic hazard maps that can be accessed from the Geologic Information Portal.

Are uses in geologically hazardous areas designated and regulated or limited consistent with public health and safety?

☐ Yes

☐ No

☐ N/A

Location in Text:

DEFINITION OF FISH AND WILDLIFE HABITAT AND CONSERVATION AREAS

The definition of fish and wildlife habitat conservation areas is consistent with [WAC 365-190-030\(6\)](#). The definition of fish and wildlife habitat conservation areas was amended to state that they do not include: “***such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company***”.

Is the FWHCA definition consistent with WAC 365-190-030(6)?

- ☐ Yes
☐ No
☐ N/A

Location in Text:

PROTECTION OF FISH AND WILDLIFE HABITAT AND CONSERVATION AREAS

Policies and regulations protect the functions and values of fish and wildlife habitat conservation areas. [RCW 36.70A.172\(1\)](#) and [WAC 365-190-030\(6\)](#).

[WAC 365-190-130\(4\)](#) says local jurisdictions must consult current information on priority habitats and species identified by [WDFW](#). Additional information that must be consulted is available from DNR’s [natural heritage program](#) and [aquatic resources program](#). BAS regarding biodiversity areas and corridors has advanced significantly. Recent updates and resources include:

- [Aquatic Habitat Guidelines](#)
- [Priority Habitat and Species maps](#)
- [Priority Habitats and Species List](#) (updated June 2023)
- [Priority Habitats and Species: Management recommendations:](#)
 - [Landscape Planning for Washington’s Wildlife](#) (2009)
 - [Land Use Planning for Salmon, Steelhead and Trout](#) (2009)
 - [Riparian Ecosystems, Volume 1: Science Synthesis and Management Implications](#) (2020)
 - [Riparian Ecosystems, Volume 2: Management Recommendations](#) (2020)
 - [Riparian Management Zone Checklist for CAOs](#) (2023)
 - [Shrub-Steppe Management Recommendations](#) (2020)
 - [Oregon White Oak Woodlands Ecosystems Management Recommendations](#) (1998)
 - [Management recommendations for Washington's Priority Species](#) (by taxa)

Have you reviewed your regulations regarding any applicable changes in management recommendations for priority habitats and species?

- ☐ Yes
☐ No
☐ N/A

Location in Text

1.

- [Puget Sound Kelp Conservation and Recovery Plan](#) (2020)
- [Stream Habitat Restoration Guidelines](#) (2012)
- [Water Crossing Design Guidelines](#) (2013)

“Areas where endangered, threatened, and sensitive species have a primary association” must be considered per [WAC 365-190-130\(2\)\(a\)](#). Consult WDFW’s [Threatened and Endangered Species list](#) and U.S. Fish and Wildlife Service’s [Information for Planning and Consultation](#) resources for up to date information on all state and federal listed species.

Also see the [Puget Sound Partnership’s Salmon Recovery website](#) for Water Resource Inventory Area (WRIA) Plans in Puget Sound.

Have you reviewed your regulations regarding any changes in species listings?

- ☐ Yes
☐ No
☐ N/A

Location in Text

DESIGNATING AND PROTECTING WATERS OF THE STATE

RCW 90.48.020 defines waters of the state, which include all surface waters, salt waters, groundwater and all other water courses in Washington. [WAC 365-190-130\(2\)\(f\)](#) recommends designating all waters of the state as fish and wildlife habitat conservation areas (FWHCAs).

Stream types are classified in [WAC 222-16-030](#) with field verification, or an alternate system that considers factors listed in [WAC 365-190-130\(4\)\(f\)\(iii\)](#). See <http://www.dnr.wa.gov/forest-practices-water-typing> to use Washington State Department of Natural Resources (DNR)’s stream typing system.

Establish riparian management zones to maintain no net loss of riparian ecosystem functions and values.

Designate areas that risk contaminating or harming shoreline resources including tidelands and bedland suitable for shellfish harvest, kelp and eelgrass beds and forage fish spawning areas.

Do you designate waters of the state as FWHCAs?

- ☐ Yes
☐ No
☐ N/A

Location in Text:

Do your regulations protect waters of the state?

- ☐ Yes
☐ No
☐ N/A

Location in Text:

ANADROMOUS FISHERIES

Policies and regulations for protecting critical areas give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries. RCW 36.70A.172(1) is the requirement and WAC 365-195-925 lists criteria involved. This requirement applies to all five types of critical areas.

WAC 365-190-130(4)(i) recommends sources and methods for protecting fish and wildlife habitat conservation areas, including salmonid habitat. Counties and cities may use information prepared by the United States Department of the Interior Fish and Wildlife Service, National Marine Fisheries Service, the Washington State Department of Fish and Wildlife, the State Recreation and Conservation Office, and the Puget Sound Partnership to designate, protect and restore salmonid habitat. Counties and cities should consider recommendations found in the regional and watershed specific salmon recovery plans (see the Governor's Salmon Recovery Office webpage and the Puget Sound Partnership's Salmon Recovery webpage). Land Use Planning for Salmon, Steelhead and Trout: A land use planner's guide to salmonid habitat protection and recovery (October 2009) is an excellent resource.

Do your regulations give special consideration to anadromous fisheries?

☐ Yes

☐ No

☐ N/A

Location in Text:

REASONABLE USE EXCEPTIONS

The Critical Areas Ordinance (CAO) allows for "reasonable use" if the CAO would otherwise deny all reasonable use of property. Reasonable use provisions should limit intrusions into critical areas to the greatest extent possible and apply the mitigation sequence as needed for no net loss of ecosystem functions and values RCW 36.70A.370. Common exemptions include emergencies, remodels that do not further extend into critical areas, surveying, walking, and development that has already been completed with critical areas review under a previous permit. See Critical Areas Handbook, Chapter 3: Structuring Critical Areas Regulations, p.10 (Updated 2022).

Do you have reasonable use provisions?

☐ Yes

☐ No

Location in Text:

AGRICULTURAL ACTIVITIES (COUNTIES ONLY)**Non-VSP Counties**

Critical areas regulations as they specifically apply to agricultural activities in counties or watersheds not participating in the [Voluntary Stewardship Program \(VSP\)](#) have been reviewed, and if needed, revised pursuant to **RCW 36.70A.130**. **RCW 36.70A.710(6)**

"Agricultural activities" means all agricultural uses and practices as defined in **RCW 90.58.065**.

VSP Counties

After watershed work plan approval, [VSP counties](#) are encouraged to reference and describe their participation in the program within their critical areas development regulations ([WAC 365-196-832](#)). See [Critical Areas Handbook](#), Chapter 5: Protecting Critical Areas in Natural Resource Lands (2022).

Did you review your regulations as they apply to agricultural activities?

☐ Yes

☐ No

☐ N/A

Location in Text:

FOREST PRACTICES APPLICATION REGULATIONS

*If applicable, regulations for forest practices have been adopted: **RCW 36.70A.570**.*

RCW 76.09.240, requires many counties over 100,000 in population, and the cities and towns within those counties to adopt regulations for forest practices. These are often included in clearing and grading ordinances.

Have you adopted forest practices regulations?

☐ Yes

☐ No

☐ N/A

Location in Text:

GOOD IDEAS

Non-regulatory measures to protect or enhance functions and values of critical areas may be used to complement regulatory methods. These may include:

- public education
- stewardship programs
- pursuing grant opportunities
- water conservation
- joint planning with other jurisdictions and non-profit organizations
- stream and wetland restoration activities
- [transfer of development rights](#)

Monitoring and adaptive management is encouraged in [WAC 365-195-905\(6\)](#) to improve implementation of your regulations. See Commerce's Monitoring and Adaptive Management chapter in the [Critical Areas Handbook](#), Chapter 7: Monitoring and Adaptive Management of Critical Areas (2022).

Are you using non-regulatory measures to protect critical areas?

☐ Yes

☐ No

Location in Text:

Do you have a monitoring and adaptive management program for your CAO?

☐ Yes

☐ No

Location in Text:

File Attachments for Item:

2. BLA No. 2026-01-TE Final Map - ROW Vacation Petition

Customer requested vacation of utility alley, water/sewer lines are in this alley.



City of Tenino

PO Box 4016 / 149 S Hodgen Street South
Tenino, WA 98589
PH: (360) 264-2368

HONORABLE MAYOR AND CITY COUNCIL:

We, the undersigned, do hereby petition the Tenino City Council to vacate the following described public right-of-way:

LEGAL DESCRIPTION OF AFFECTED RIGHT-OF-WAY: (Can be an attached document)

PETITIONERS* - Requires at least 2/3 of the abutting property owners.		
Owner's signature	Owner's Names	Parcel Number
	Zachary Leitzke	54901600100
	Zachary Leitzke	54901600200
	Zachary Leitzke	54901600700
	Bruce Slocum	54901600600
	Nina Slocum	54901600600
	Tabatha Sand	54901600300
	Braids and Blossoms LLC	54901600500

*Attach additional sheets as necessary

I verify that each of the above signatures represents a legal and registered owner of the property abutting the above-described right-of-way.

Applicant's Signature

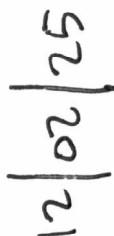
12-3-2025
Date

EXHIBIT "A"RIGHT-OF-WAY VACATION
LEGAL DESCRIPTION

THE NORTH 6 FEET OF LOTS 1 THROUGH 4, INCLUSIVE; TOGETHER WITH THE SOUTH 6 FEET OF LOTS 5 THROUGH 8, INCLUSIVE, ALL IN BLOCK 16, HODGENS ADDITION TO TENINO AS RECORDED IN VOLUME 2 OF PLATS, PAGE 27.
IN THURSTON COUNTY, WASHINGTON.



12/02/25



154

2-27

HODGDENS ADDITION

T^o

TENINO

Situated in Section 19 of Township 16 North of Range 1 West and being a part of the donation Claim of Stephen Hodgden

Scale 180 feet to an Inch.

Blocks 240 feet Square
Lots 60 by 120 feet
Streets 60 feet wide

We hereby declare the accompanying Plat of "Hodgdens Addition to Tenino" to be our free act and deed and that it is our intention to record the same in compliance with the provisions of the Act "In relation to the recording of Town Plats" passed Jan'y 24th 1863

Witness our hands and seals this 11 day of Feb. 1873
M. Rhucus S. Hodgden
A. S. Yantis D. B. Hodgden

Territory of Washington }
County of Thurston }

Before the undersigned personally appeared Stephen Hodgden and D. B. Hodgden his wife to me known to be the persons whose names are signed to the above declaration and acknowledged that they executed the same freely and voluntarily for the uses and purposes therein mentioned and the said D. B. Hodgden wife of the said Stephen Hodgden on an examination separate and apart from her said husband the contents having first been made known to her acknowledged that she executed the same freely and voluntarily and without coercion or fear of her said husband.

Witness my this 11th Feb 1873
A. S. Yantis
Justice of the Peace

Recorded May 22^d 1873
A A Phillips
Recorder

By order of the Board of County Commissioners made April 16, 1894 Block 18 of Hodgden's addition to Tenino was vacated.

Witness my hand and the seal of the said Board this April 24th 1894
C. M. Moore

Auditor & ex officio Clerk of Board
By Lee S. Hopkins
Deputy.

Note - Lots and block dimensions changed and all lots established by decree of court dated June 10, 1914 in Thurston County Superior Court, case No. 5534
Pursuant to order of Tenino Council Oct. 7, 1941 vacation of platley ext. to from Old Hwy to Oglesby St. through Blk 18 Hodgden's Add.
Commissioners Minutes Vol 16 - Page 443
Brush & Baker, Co. Auditor
By W. D. Dwyer Deputy

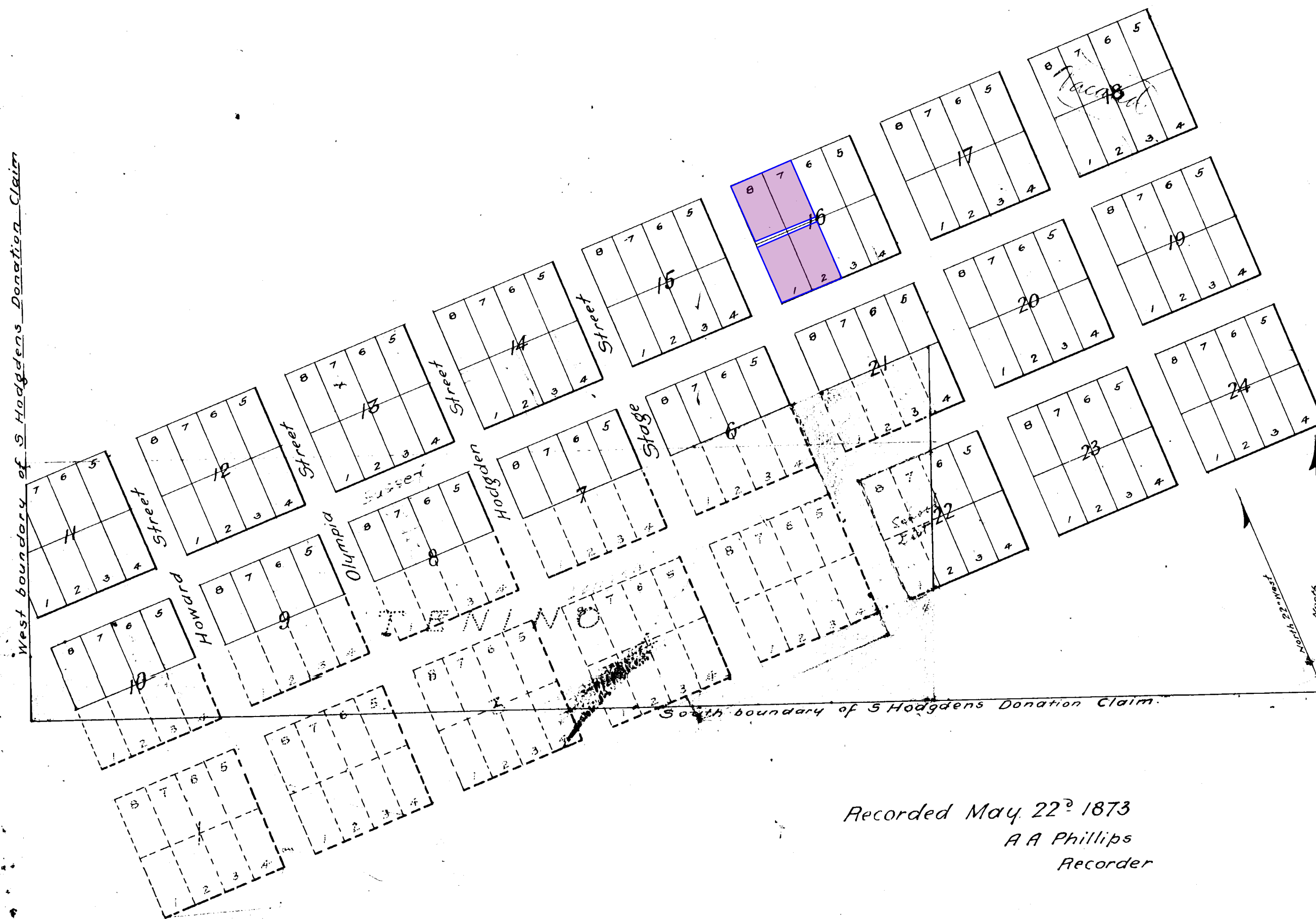
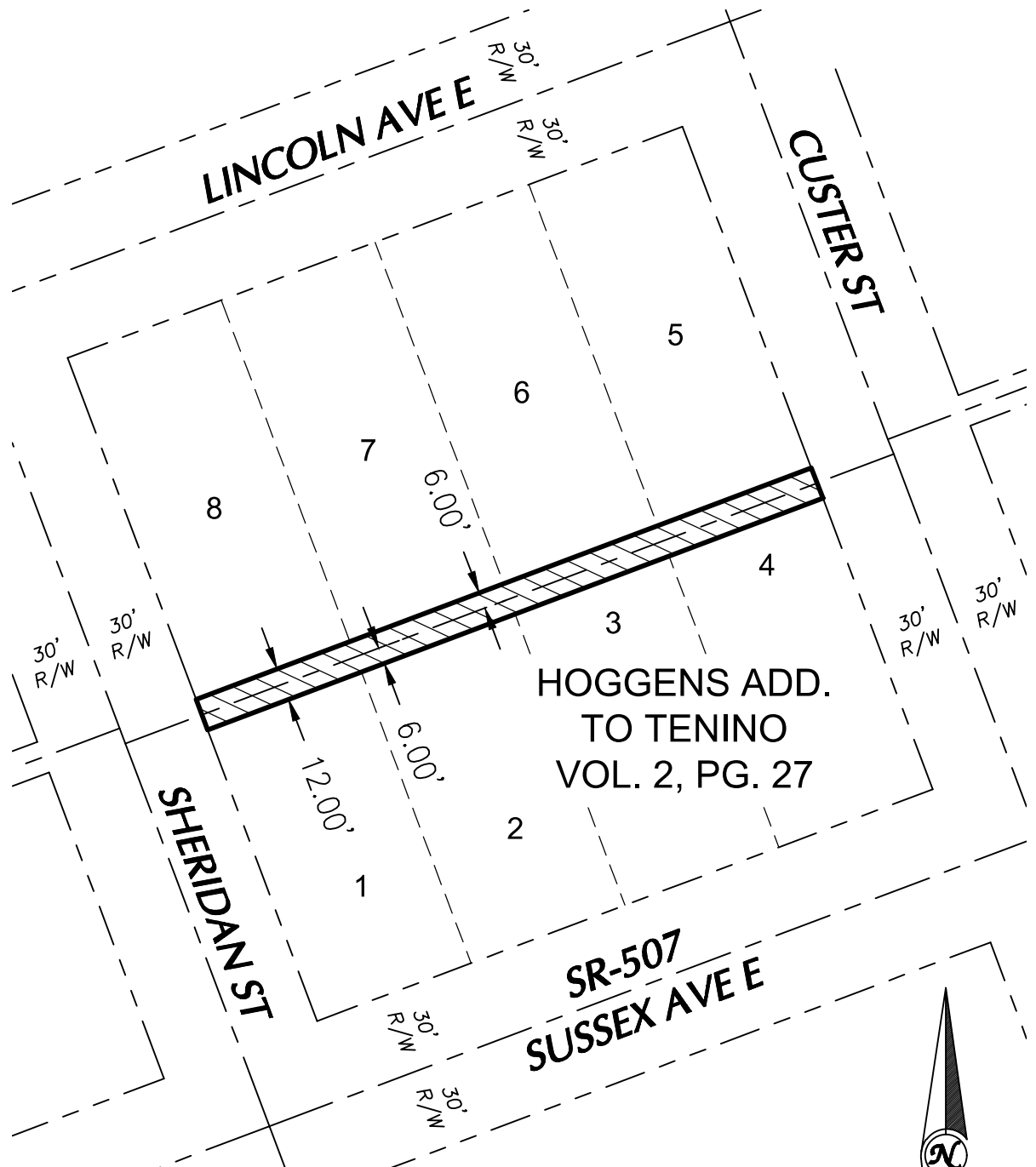


EXHIBIT "A"RIGHT-OF-WAY VACATION
LEGAL DESCRIPTION

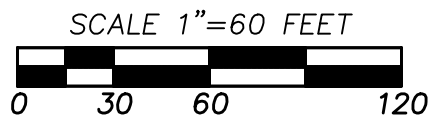
THE NORTH 6 FEET OF LOTS 1 THROUGH 4, INCLUSIVE; TOGETHER WITH THE SOUTH 6 FEET OF LOTS 5 THROUGH 8, INCLUSIVE, ALL IN BLOCK 16, HODGENS ADDITION TO TENINO AS RECORDED IN VOLUME 2 OF PLATS, PAGE 27.
IN THURSTON COUNTY, WASHINGTON.



EXHIBIT "B"



52 | 25
11 | 24 | 11



HATTON GODAT PANTIER
ENGINEERS AND SURVEYORS
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OLYMPIA, WA 98506
TEL: 360.943.1599 FAX: 360.357.6299
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