

# City of Tenino

149 Hodgen Street South

Tenino, WA 98589

## Planning Commission Meeting

Wednesday, February 11, 2026 at 6:00 PM

### Agenda

#### CALL TO ORDER

#### HOUSEKEEPING

1. Agenda Approval

**Recommended Action:** Motion to approve the agenda as presented.

2. Meeting Minutes Approval

**Recommended Action:** Motion to approve 1/14/2025 meeting minutes as presented.

#### PUBLIC COMMENT

#### REPORTS

#### PUBLIC HEARINGS

#### UNFINISHED BUSINESS

3. City Planner presentation:

City Planner, Malissa Paulsen to talk about Development code and answering some of the questions from the December 10, 2025 meeting.

4. Applicants were invited to attend and converse with the Planning Commissioners.

#### NEW BUSINESS

#### PUBLIC COMMENT

#### ADJOURN

**File Attachments for Item:**

2. Meeting Minutes Approval

**Recommended Action:** Motion to approve 1/14/2025 meeting minutes as presented.

## Planning Commission Meeting Wednesday, January 14, 2026

### Minutes

#### CALL TO ORDER

Chair Rutherford convened the meeting at 6:00PM.

#### PRESENT

Commissioner William Bennett II  
Commissioner Matthew Rounsley  
Commissioner William Rutherford  
Commissioner Valerie Roberts

#### HOUSEKEEPING

Commissioners discussed what they would like to focus on for 2026 and tackle since the Comp Plan is pretty much done, so be thinking about that. freeing up 2026. Commissioner Roberts suggested potential grants for improvements, she offered to forward any to the Commissioners that the City could potentially put in for. Items of topic were crosswalks and roundabouts, there have been discussions and a downtown plan in the past regarding roundabouts and might be worth looking at again and look at the process as other cities implement them this year, Yelm is to be putting in three and there is curiosity for what momentum it will allow since one is on Hwy 507 and those are all state dollars and if we can use that for lobbying to continue on the interstate.

Discussions regarding housing, ADU's, and temporary options for people who need family assistance. If Air BNB's and a Hotel could be something our city could house? Air BNB's have not been approved in the past and there is not any land available that would be suitable for a Hotel.

Commissioners were curious about an update at the AG Park and what's happening there and what the next steps are with the Colvin's. Mayor Watterson reported that there is a Pre-Application Conference happening in the next few weeks once they get everyone's schedules coordinated.

#### 1. Agenda Approval

**Recommended Action:** Motion to approve the agenda as presented.

Motion made by Commissioner Rounsley, Seconded by Commissioner Roberts.

Voting Yea: Commissioner Bennett II, Commissioner Rounsley, Commissioner Rutherford, Commissioner Roberts.

Motion passes: 4/0.

#### 2. Meeting Minutes Approval

**Recommended Action:** Motion to approve 12/10/2025 meeting minutes as presented.

Commissioner Rounsley requested an amendment to the minutes, under New Business, regarding resignation of Adam Carney as Planning Commissioner. As mentioned in the agenda

approval but not mentioned in the New Business. Just that he spoke to his resignation as he is joining the City Council and the Commission accepted his resignation. Commissioner Rounsley moved to approve the minutes as amended.

Motion made by Commissioner Rounsley, Seconded by Commissioner Bennett II.

Voting Yea: Commissioner Bennett II, Commissioner Rounsley, Commissioner Rutherford, Commissioner Roberts.

Motion passes: 4/0.

#### **PUBLIC COMMENT**

None.

#### **REPORTS**

Mayor Watterson just wanted to come today to wish you all a happy New Year and thank you all for continuing to be on the Planning Commission. Shared that there were two applicants for the vacant position. There was a third application requested but we have not received that back from him. There has been a lot with the Comp Plan update and knows it has been a lot of work this last year. If any questions about the budget, please feel free to reach out. Lastly, if the Planning commission has anything they want to , please let him know and they could look into it and if it is possible they will try.

#### **PUBLIC HEARINGS**

None.

#### **UNFINISHED BUSINESS**

SCJ will be at next meeting with updated material to go over based off questions and comments from 12/11/25 meeting.

#### **NEW BUSINESS**

##### 3. Applications for Planning Commission

Please review and discuss application for planning commission.

Commissioners reviewed and discussed the two applicants. Both applications came in at the end of December. On the surface Pam looks pretty involved in local stuff and both seem interested enough to do it. Chair Rutherford would request to encourage the applicants to come to the next meeting. The Commissioners would like to encourage any of the applicants to come to the meetings even if they are not selected for the position because there are so few participants that come to these meetings, and to come as a non-voting member.

Commission Chair:

Chair Rutherford stated that we should have put this under New Business but he has been the Chair for a long time and in the past they just would pass the torch to the next Senior Commissioner which would be Matthew Rounsley, if he is interested or they can vote or Commissioner Rutherford could continue to be Chair. Commissioner Rounsley said either way,

he would happily be the Chair but he thinks Chair Rutherford has done a great job. Commissioner Rounsley feels like since he does not live in Tenino that it feels strange for him to be the Chair also. Commissioner Rounsley made a motion to confirm Commissioner Rutherford to be the Chair for the 2026 Planning Commission.

Motion made by Commissioner Rounsley, Seconded by Commissioner Bennett II.

Voting Yea: Commissioner Bennett II, Commissioner Rounsley, Commissioner Rutherford, Commissioner Roberts.

**PUBLIC COMMENT**

None.

**ADJOURN**

Chair Rutherford Adjourned the meeting at 6:50PM

**File Attachments for Item:**

3. City Planner presentation:

City Planner, Malissa Paulsen to talk about Development code and answering some of the questions from the December 10, 2025 meeting.



## City of Tenino Planning Commission Development Regulations Update

**To** City of Tenino Planning Commission  
**From:** Malissa Paulsen, Contract Planner, SCJ Alliance  
**Date:** February 11, 2026  
**Project:** Comprehensive Plan Periodic Update  
**Subject** Development Regulations Code Update

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### Summary

At the Commission's request, staff reviewed how jurisdictions address building materials and riparian buffers in environmentally sensitive areas. Tenino's current regulations do not specify building materials based on environmental sensitivity, relying instead on buffers, land use standards, and best management practices, which is consistent with most Washington jurisdictions. Where material standards exist elsewhere, they are typically performance-based, tied to environmental outcomes such as water quality and erosion control, and applied through shoreline programs, overlays, or permit conditions rather than prescriptive material lists. For riparian buffers, most jurisdictions continue to use fixed distances for administrative predictability, though some are evaluating Site Potential Tree Height (SPTH) as part of best available science. Tenino's average SPTH is approximately 199 feet, providing local context for comparing SPTH-based outcomes to fixed buffer options.

The questions that were asked at the December meeting were:

- Does the City regulate building materials in Environmental Residential Zone, if not then do other jurisdictions regulate this? What would that entail?
- How other jurisdictions are approaching riparian buffers in Critical Areas Ordinance updates, specifically whether they are using Site Potential Tree Height (SPTH) or fixed buffer distances (for example, 150 feet).
- What the Site Potential Tree Height values look like locally in Tenino, to understand how SPTH would function in practice.
- Administrative implications of SPTH-based buffers versus fixed buffers, including who bears responsibility for analysis and reporting.
- Whether Ecology or Commerce expresses a preference for SPTH versus fixed buffers.



## Building Material Regulation in Sensitive Areas

At the Commission's request, this memo provides background information on how some jurisdictions address building materials in environmentally or ecologically sensitive areas, and how those approaches are typically structured. This information is intended to support policy discussion and does not propose specific changes to the City's regulations.

### Existing Approach in Tenino

Currently, the City's development regulations, including zoning and critical areas provisions, do not regulate specific building materials based solely on environmental sensitivity. Instead, they focus on:

- Land use and density
- Setbacks and buffers
- Protection of critical areas and their functions
- Construction timing, mitigation sequencing, and best management practices

This approach is consistent with how most Washington jurisdictions implement critical areas regulations.

### How Other Jurisdictions Address Building Materials

While uncommon, some jurisdictions do regulate or condition building materials in sensitive areas when those requirements are directly tied to environmental protection outcomes. These approaches generally avoid aesthetic regulation and instead focus on performance and impacts.

Examples from other jurisdictions include:

- Limiting impervious surfaces and requiring permeable or infiltrative materials in environmentally sensitive areas.
- Restricting materials known to harm water quality or habitat, particularly near shorelines or streams.
- Requiring exterior materials that reduce erosion, glare, heat, or pollutant runoff.
- Conditioning materials through permit review rather than prohibiting development outright.

In Washington, Shoreline Master Programs are the most common local framework where material-related standards are explicitly applied to protect aquatic resources.

### Common Layout Options Used by Jurisdictions

Jurisdictions that incorporate material considerations typically do so using one or more of the following regulatory layouts:

#### Option 1: Performance-Based Standards

Materials are regulated based on measurable environmental outcomes, such as permeability, toxicity, reflectivity, or erosion potential, rather than naming specific products.



### **Option 2: Environmental Overlay Zones**

Additional standards apply only in mapped environmentally sensitive areas and may include limits on impervious surfaces or restrictions on materials that generate runoff or pollutants.

### **Option 3: Permit-Level Conditions**

Material considerations are addressed during project review through conditions of approval, allowing site-specific tailoring based on environmental constraints.

### **Option 4: Shoreline or Watershed Regulations**

Material standards are applied within shoreline jurisdiction or priority watersheds to protect water quality and habitat, separate from underlying zoning.

## **Key Observations**

- Material regulations are most defensible when clearly tied to environmental protection rather than design preference.
- Jurisdictions generally favor flexibility through performance standards and permit conditions rather than prescriptive material lists.
- Any consideration of materials is typically limited in scope and applied only where environmental sensitivity warrants additional protection.

## **Approaches to Habitat Conservation Area Buffers**

There are two broad approaches jurisdictions are considering for riparian/HCA buffer standards:

### **Site Potential Tree Height (SPTH)-Based Buffers**

This approach uses tree height predictions to calculate buffer extents such as WDFW's recommended SPTH200 (one 200-year site potential tree height from water's edge). SPTH-based buffers are highly variable and tied to local ecological potential.

- The City of Shoreline explicitly referenced use of the WDFW SPTH200 method in its 2025 CAO amendments discussion and sought to balance it with urban development patterns.

Several other jurisdictions are evaluating or considering SPTH-informed riparian protections in draft code updates (e.g., Puyallup in its CAO update materials noted SPTH considerations tied to baseline buffer proposals).

### **What are the administrative implications?**

#### **SPTH-based approach**

- May require site-specific analysis where mapped data is insufficient
- Typically places responsibility on the applicant to provide SPTH verification
- Increases permitting cost and review time
- Requires clear standards for report preparation and review



### Fixed Buffer Distances

Alternatively, some jurisdictions adopt set buffer distances where they find fixed riparian widths more appropriate or administratively predictable:

- Puyallup’s draft standard during its CAO update proposes a fixed baseline riparian buffer (e.g., 100 feet for many stream types) with potential hybrid options that may exceed fixed distances when warranted.

Other jurisdictions use fixed widths guided by local conditions, with potential BAS justification or hybrid approaches (combining fixed minimums with SPTH where appropriate).

#### What are the administrative implications?

##### Fixed buffer approach

- Buffer widths are mapped and known in advance
- Limited need for site-specific technical analysis
- Lower cost and complexity for applicants
- Easier to administer with existing staff resources

### Other Local Jurisdictions

Jurisdiction	CAO Update Status (2025-2026)
Thurston County	Actively drafting a CAO rewrite; not yet adopted (2026 target)
City of Olympia	Preliminary review as part of Comp Plan update (2026 target)
City of Lacey	Draft CAO periodic update in progress (SEPA DNS issued)
City of Tumwater	No clear public update noted in last 12 months (status unchanged)
City of Yelm	No notable CAO updates identified
Lewis County	CAO adopted, kept current regulations

### City of Tenino – SPTH Context

As part of our local analysis, Tenino’s average Site Potential Tree Height (SPTH) is 199 feet. This suggests that if a riparian buffer were scoped using a 200-year SPTH approach, the average recommended buffer would be

3.



**SCJ ALLIANCE**  
CONSULTING SERVICES

approximately 199 feet. This aligns closely with WDFW’s SPTH200 concept and would compare favorably with other urban or mixed rural context jurisdictions considering SPTH-based protections.

PART II - LAND DEVELOPMENT REGULATIONS CODE  
Title 106 ZONING DESIGNATIONS

**Title 106 ZONING DESIGNATIONS**

***CHAPTER 106.10. ESTABLISHMENT OF ZONES<sup>1</sup>***

**106.10.010. Purpose.**

The purpose of this chapter is to establish the zones and overlays that regulate physical development, use, development options, and subdivision. Zone and overlay standards are established in order to achieve the desired future land use articulated in the Comprehensive Plan. The zones are grouped into overlay districts, residential zones, nonresidential zones, and special purpose zones for organizational purposes.

(Ord. No. 823, § 9, 11-13-2012; Ord. No. 881, § 24, 9-26-2017)

**106.10.020. Reserved.**

Editor's note(s)—Ord. No. 881, § 25, adopted September 26, 2017, repealed § 106.10.020, which pertained to establishment of allowed land uses and derived from Ord. No. 823, § 9, 11-13-2012.

**106.10.030. Reserved.**

Editor's note(s)—Ord. No. 881, § 26, adopted September 26, 2017, repealed § 106.10.030, which pertained to organization and derived from Ord. No. 823, § 9, 11-13-2012.

**106.10.040. Establishment of zones.**

- A. Zoning boundaries are depicted on the city's official zoning map, which is hereby adopted by reference. The abbreviated zoning designations used in this title have the same meaning as the entire zoning district classification title and are meant to implement the Comprehensive Plan Future Land Use designations for the city.
- B. Individual water, on-site wastewater, public water and public wastewater availability help determine the zoning densities allowed within each of the established zones. When private water or sewerage facilities are sought within the community, the Thurston county health department is the jurisdiction with approval authority regarding ultimate lot size, which may require more land than is shown in Table 106.10.070-2. This decision is based on physical constraints of the land including proximity of individual water (if applicable) and area requirements for on-site waste systems.
- C. Notwithstanding any provisions in this title to the contrary, surveying the location of lot lines or setback lines at a development site and/or construction related thereto shall be the responsibility of the applicant/owner.

(Ord. No. 823, § 9, 11-13-2012)

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<sup>1</sup>Editor's note(s)—Ordinance No. 881, § 23, adopted September 26, 2017, renamed Chapter 106.10 to read as herein set out. Formerly, such chapter pertained to land use zones.

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### 106.10.050. Zoning map.

- A. The location and boundaries of all zones or districts designated in this title are hereby established as shown on the map entitled, City of Tenino Official Zoning Map, as adopted herewith and as may be amended from time to time, and hereafter may be referred to as "the zoning map." The zoning map shall be as shown on a geographic coverage layer attributed to zoning that is maintained as a part of the city's geographic information system (GIS) under the supervision of the designee. No unauthorized person may alter or modify the zoning geographic information system layer without approval by the designee. This geographic coverage layer, and as amended from time to time, shall constitute the official zoning map for the city's zoning jurisdictions and shall be incorporated into this title by reference as if fully set forth herein. An original, signed copy of the zoning map containing the zoning districts designated at the time of adoption of this title shall be retained in the office of the city clerk pursuant to RCW 35.63.100, and duplicates shall be filed in the community development department for reference and public distribution. All amendments thereafter made to the zoning map shall be made by ordinance and shall be reflected on such map, and it shall be the responsibility of the community development department to ensure that an up-to-date map is maintained at all times.
- B. Where questions arise concerning the location of a district boundary, the designee shall interpret the zone boundaries as a Process I Land Use Action.

(Ord. No. 823, § 9, 11-13-2012)

### 106.10.060—106.10.080. Reserved.

Editor's note(s)—Ord. No. 881, §§ 27—29, adopted September 26, 2017, repealed § 106.10.060—106.10.080, which pertained to purpose of zoning districts; development standards for zoning districts; additional standards for West Tenino Zone and derived from Ord. No. 823, § 9, 11-13-2012; Ord. No. 829, § 1, 10-8-2013.

## **CHAPTER 106.20. OVERLAY DISTRICTS<sup>2</sup>**

### 106.20.010. Historic preservation overlay (HP) district.

- A. The city has a designated historic preservation overlay zone that includes 21 properties with frontage on Sussex Avenue, and encompasses 2.99 acres. The historic preservation (HP) zone district is identified to encourage the preservation of lands, sites, and structures of historical or archaeological significance through continued use of these historic places and structures.
- B. Most of the properties within the HP overlay zone have been submitted for listing on the National Historic Register as historic properties. The current and underlying zoning (C-1) remains in effect, to include height, setbacks, density, and uses as allowed in Tables 106.10.070-1 and 106.10.70-2, except public facility permits

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<sup>2</sup>Editor's note(s)—Ord. No. 823, § 10, adopted November 13, 2012, amended chapter 106.20 in its entirety to read as herein set out. Former chapter 106.20, §§ 106.20.010—106.20.130, pertained to land use zones, and derived from Ord. No. 710, 4-26-2004; Ord. No. 731, 2-13-2007; Ord. No. 754, § 17, 2-24-2009; Ord. No. 791, § 2, 3-8-2011; Ord. No. 801, §§ 5—20, 11-22-2011; Ord. No. 805, §§ 1, 2, 12-13-2011; Ord. No. 810, §§ 1, 2, 2-28-2012.

not allowed within this overlay district. Renovations or new building will require design review pursuant to this code, to preserve the historic buildings or structures.

(Ord. No. 823, § 10, 11-13-2012)

**106.20.020. Historic character overlay (HC) zoning district.**

- A. *Purpose.* The purpose of this district is to promote the city's sandstone heritage by requiring new commercial development in the downtown core to add sandstone to the exterior of its building and to encourage existing buildings to also add sandstone.
- B. *Focal point.* The downtown area is the focal point of the community, and contains most of the area's historic sandstone buildings. The downtown area includes retail and service oriented businesses and is characterized by historic sandstone buildings built in the early 1900s as well as newer development that includes sandstone facades on buildings.
- C. *Intent.* The intent of this zone is to highlight the city's sandstone heritage by requiring design review standards for all new commercial activities fronting the main arterials within this district. Design standards shall require the use of sandstone and/or brick to some degree pursuant to this code. Existing commercial business will be encouraged, but not required, to conform to the design character. The current and underlying zoning (C-1) remains in effect, to include height, setbacks, density and uses as allowed in Tables 106.10.070-1 and 106.10.070-2, except public facility permits not allowed within this overlay district.

(Ord. No. 823, § 10, 11-13-2012)

**106.20.030. Professional office (PO) overlay zoning district.**

- A. *Purpose.* The professional office overlay zone is meant to allow administrative and professional offices and private training school uses in addition to the uses allowed in the underlying zone. The goal of this overlay designation is to provide incentives for owners to rehabilitate existing older single-family homes in the area into uses that are not overly intrusive to other existing residential uses, while providing an additional means of economic development for the city.
- B. *Conformance with standards of underlying zone.* Uses and development standards of this overlay zone shall conform to the requirements of the underlying zoning district.
- C. *Additional permitted uses.* This overlay zone allows for the following office/business uses in addition to the uses allowed by the underlying zone:
  - 1. Administrative and professional offices within existing single-family or duplex units;
  - 2. Small private training schools, such as tutors, music teachers, or similar uses, within existing single-family or duplex units.

**106.20.040. Agricultural Innovation Park (AG) overlay zoning district**

- A. *Purpose.* The Agricultural Innovation Park (AG) Overlay Zoning District is established to promote agricultural entrepreneurship, research, and education by allowing innovative agricultural uses and supporting activities within designated areas. This overlay is intended to enhance the economic viability of agriculture, support value-added processing, and foster community-based food systems while maintaining compatibility with surrounding land uses.
- B. *Applicability.* The AG Overlay may be applied to properties within zoning districts deemed appropriate by the City Council to encourage agricultural innovation and economic development, provided the underlying

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zoning remains in effect. The AG Overlay shall apply additional standards and permitted uses as outlined in this section.

C. *Conformance with standards of underlying zone.* Uses and development standards of this overlay zone shall conform to the requirements of the underlying zoning district.

D. *Additional permitted uses.* This overlay zone allows for the following office/business uses in addition to the uses allowed by the underlying zone:

1. *Agricultural production and cultivation.*
2. *Research and development facilities related to agriculture, horticulture, aquaculture, or food systems.*
3. *Value-added processing facilities, including small-scale food processing, packaging, and distribution centers for agricultural products grown on-site or locally.*
4. *Agricultural education centers, demonstration farms, and training facilities.*
5. *Agricultural technology development and testing facilities.*
6. *Farmers markets and agricultural product sales limited to products grown or produced on-site or within the local region.*
7. *Accessory uses and structures customarily incidental to the above permitted uses.*

#### E. Development Standards

1. *Minimum Lot Size.* The minimum lot size for the AG Overlay shall be consistent with the underlying zoning district, except as otherwise approved for agricultural innovation projects that demonstrate clustering or shared infrastructure to maximize land conservation.
2. *Building Height.* Maximum building height shall be 35 feet, unless otherwise approved for agricultural processing or research facilities demonstrating the need for additional height.
3. *Setbacks.* Setbacks shall conform to the underlying zoning district, except where reduced setbacks are approved to facilitate site design for agricultural innovation, provided impacts to neighboring properties are mitigated.
4. *Parking.* Parking requirements shall be determined based on proposed uses and shall minimize impervious surfaces to support stormwater management and agricultural viability.
5. *Landscaping and Screening.* Landscaping shall be provided along property boundaries adjacent to residential zones or public rights-of-way to buffer agricultural activities. Native and drought-tolerant species are encouraged.
6. *Signage.* Signage shall be limited to identification signs for facilities and directional signage, consistent with TMC 108.30.130.

#### F. Design Guidelines

1. *Site design should integrate agricultural operations with educational, research, and innovation uses.*
2. *Buildings should utilize existing styles to maintain compatibility with surrounding rural and agricultural character.*
3. *Sustainable design practices, including energy-efficient buildings, water conservation, and low-impact development techniques, are encouraged.*

#### G. Review and Approval Process

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(Supp. No. 5)

Development proposals within the AG Overlay shall be reviewed in accordance with the applicable permit processes under Title 100. Projects proposing conditional uses or substantial site development shall require site plan review and may require a conditional use permit.

(Ord. No. 823, § 10, 11-13-2012)

**CHAPTER 106.30 RESIDENTIAL ZONES**

**106.30.010. Single family-environmentally sensitive (SF-ES) zone.**

- A. *Intent.* The single-family-environmentally sensitive zone requires special consideration of environmental constraints, thus typically requiring larger residential lots. This zoning district seeks to reduce potential impacts created by the built environment and any potential impact to the environment, while also considering any potential environmental consequences that may befall existing or permitted uses.
- B. *Physical development.* Standards applicable to physical development in the SF-ES zone are provided on the following pages. Where a cross-reference is listed, see the referenced title, chapter or section for additional standards.

<b>1. Setbacks (min)</b>	<i>Sec. 108.30.040</i>
Front:	20'
Garage/Carport:	20'
Side:	10'
Rear:	20'
<b>2. Impervious surfaces</b>	
Maximum	50%
<b>3. Building coverage</b>	
Maximum	n/a
<b>4. Design standards</b>	<i>Sec. 108.30.140</i>
Buildings	n/a
Lighting	n/a
Landscaping	
Parking lots	n/a
Street trees	n/a
Visual screening	n/a
<b>5. Fencing</b>	<i>Sec 108.30.040</i>
Height in any front yard (max)	4'
Height in any side yard (max)	6'
Height in any rear yard (max)	6'
<b>6. Building height</b>	<i>Sec. 108.30.040</i>
Maximum	35'
<b>7. Environmental standards</b>	
Shoreline development	Title 109
SEPA review	Title 110
Critical area buffers	Title 112
Wetlands	50'—300'

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CARAs	Protect water source
Frequently flooded areas	50'
Geologically hazardous areas	slope ht.
Wildlife habitat	varies
8. Signs	Sec. 108.30.130
9. Grading, erosion control, stormwater (reserved)	
10. Required physical development permits (reserved)	

C. *Allowed uses and use standards.* Standards applicable to use are provided in this subsection. Where a cross-reference is listed, see the referenced title, chapter, or section for additional standards. All standards in Title 106 and Title 108 are applicable unless stated otherwise.

1. Allowed Uses			2. Parking (Ch. 108.50)	
Use	Definition/Standards	Permit	Minimum	Maximum
<i>Open Space Uses</i>				
<u>Agriculture</u>	[108.40.030.B.]	Y	n/a	n/a
<i>Residential Uses</i>				
<u>Detached Single-Family Unit</u>	[108.40.040.B.]	Y	2 per DU	n/a
<i>Lodging Uses</i>				
<u>Transitional Housing</u>	[108.40.050.D.]	C	1.5 per DU	n/a
<u>Permanent Supportive Housing</u>	[108.40.050.E.]	C	1.5 per DU	n/a
<i>Institutional Uses</i>				
Assembly	[108.40.060.B.]	C	Independent Calculation	
Emergency Services	[108.40.060.E.]	C	Independent Calculation	
<i>Amusement and Recreation</i>				
Outdoor Recreation	[108.40.080.C.]	Y	Independent Calculation	
Developed Recreation	[108.40.080.D.]	A	Independent Calculation	
<i>Transportation and Infrastructure Uses</i>				
Utility Facility	[108.40.100.C.]	C	1 per employee + 1 per stored vehicle	1 per employee + 1 per stored vehicle

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Wireless Telecommunications Facility	See Sec. 108.40.100.E.		1 per employee + 1 per stored vehicle	1 per employee + 1 per stored vehicle
<i>Accessory Uses</i>				
Accessory Dwelling Unit	[108.40.110.B.]	A	1 per DU	2 per DU
Bed and Breakfast	[108.40.110.C.]	A	0.75 per LU	1.5 per LU
Home Occupation	[108.40.110.D.]	A	n/a	n/a
Home Business	[108.40.110.E.]	C	1 per employee	1 per employee
Home Daycare	[108.40.110.G.]	A	1 per employee	1 per employee
Battery Charging Station	[108.40.110.H.]	Y	n/a	n/a
<i>Temporary Uses</i>				
Yard Sale	[108.40.120.B.]	Y	n/a	n/a
Farm Stand	[108.40.120.D.]	Y	5 per 1,000 sf display area	5 per 1,000 sf display area
Temporary Real Estate Sales Office	[108.40.120.E.]	A	2	4
Temporary Shelter	[108.40.120.F.]	A	2 per DU	2 per DU
Temporary Gravel Processing	[108.40.120.G.]	A	1 per employee	1 per employee
Y = allowed without use permit A = Administrative Use Permit required C = Conditional Use Permit required PF = Public Facilities Use Permit required (PO) = Only allowed in the PO Overlay				

<i>3. Performance standards</i>	
Outdoor Storage	(Sec. 108.60.020.)
Recreational Vehicles	Allowed if standards are met
Outdoor Storage Areas and Yards	Prohibited
Shipping Containers and Compartments	Allowed if standards are met
Refuse and Recycling	(Sec. 108.60.030.)
Trash and recycling enclosure required	>4 DUs and all nonresidential
Noise	(Sec. 108.60.040.)
Sound level at property line (max)	75 DBA
Vibration	(Sec. 108.60.050.)
Odors	(Sec. 108.60.060.)

Light and Glare	(Sec. 108.60.070.)
Radioactivity and Electrical Disturbances	(Sec. 108.60.080.)

- D. *Lot standards.*
  - 1. *Minimum lot size.*
    - a. *Width:* 75 feet.
    - b. *Depth:* 90 feet.
    - c. *Area:* 10,890 square feet.
  - 2. *Maximum residential density.* Residential density is calculated by dividing the number of dwelling units by the site area. The allowed density is generally based on the availability of a sewer system. Where sewer is not available, the city defers to the Thurston County Health Department to establish maximum densities.
    - a. *Individual water and septic.* Defers to Thurston County standards.
    - b. *Public water and individual septic.* Defers to Thurston County standards.
    - c. *Public water and sewer.* 4 du/ac.

E. *Development options and subdivision.* (Reserved.)

F. *Additional zone-specific standards.*

(Ord. No. 881, § 30, 9-26-2017)

**106.30.020. Single Family (SF) Zone.**

- A. *Intent.* The single-family zone provides for larger residential lots in specific areas where a pattern of larger lots exists. This zone seeks to preserve the identity of these residential areas and reduce traffic volumes to provide safe, family-friendly areas.
- B. *Physical development.* Standards applicable to physical development in the SF zone are provided on the following pages. Where a cross-reference is listed, see the referenced title, chapter or section for additional standards.

<b>1. Setbacks (min)</b>	<i>Sec. 108.30.040.</i>
Front:	10'
Garage/Carport:	20'
Side:	5'
Rear:	20'
<b>2. Impervious Surfaces</b>	
Maximum	50%
<b>3. Building Coverage</b>	
Maximum	n/a
<b>4. Design Standards</b>	<i>Sec. 108.30.140.</i>
Buildings	n/a
Lighting	n/a
Landscaping	
Parking lots	n/a

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Street trees	n/a
Visual screening	n/a
<b>5. Fencing</b>	<i>Sec 108.30.040.</i>
Height in any front yard (max)	4'
Height in any side yard (max)	6'
Height in any rear yard (max)	6'
<b>6. Building Height</b>	<i>Sec. 108.30.040.</i>
Maximum	35'
<b>7. Environmental Standards</b>	
Shoreline Development	Title 109
SEPA Review	Title 110
Critical Area Buffers	Title 112
Wetlands	50'—300'
CARAs	protect water source
Frequently Flooded Areas	50'
Geologically Hazardous Areas	slope ht.
Wildlife Habitat	varies
<b>8. Signs</b>	<i>Sec. 108.30.130.</i>
<b>9. Grading, Erosion Control, Stormwater (reserved)</b>	
<b>10. Required Physical Development Permits (reserved)</b>	

C. *Allowed uses and use standards.* Standards applicable to use are provided in this subsection. Where a cross-reference is listed, see the referenced title, chapter, or section for additional standards. All standards in Title 106 and Title 108 are applicable unless stated otherwise.

1. Allowed Uses			2. Parking (Ch. 108.50)	
Use	Definition/Standards	Permit	Minimum	Maximum
<b>Residential Uses</b>				
Detached Single-Family Unit	[108.40.040.B.]	Y	2 per DU	n/a
<b>Lodging Uses</b>				
<u>Transitional Housing</u>	<u>[108.40.050.D.]</u>	<u>C</u>	<u>1.5 per DU</u>	<u>n/a</u>
<u>Permanent Supportive Housing</u>	<u>[108.40.050.E.]</u>	<u>C</u>	<u>1.5 per DU</u>	<u>n/a</u>
<b>Institutional Uses</b>				
Assembly	[108.40.060.B.]	C	Independent Calculation	
Daycare Center	[108.40.060.C.]	C	0.5 per employee	1 per employee
School	[108.40.060.D.]	C	Independent Calculation	
Emergency Services	[108.40.060.E.]	C	Independent Calculation	

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<i>Commercial Uses</i>				
Office	[108.40.070.B.]	A(PO)	1 per 1,000 sf	5.5 per 1,000 sf
<i>Amusement and Recreation</i>				
Outdoor Recreation	[108.40.080.C.]	Y	Independent Calculation	
Developed Recreation	[108.40.080.D.]	A	Independent Calculation	
<i>Transportation and Infrastructure Uses</i>				
Utility Facility	[108.40.100.C.]	C	1 per employee + 1 per stored vehicle	1 per employee + 1 per stored vehicle
Wireless Telecommunications Facility	See Sec. [108.40.100.E.]		1 per employee + 1 per stored vehicle	1 per employee + 1 per stored vehicle
<i>Accessory Uses</i>				
Accessory Dwelling Unit	[108.40.110.B.]	A	1 per DU	2 per DU
Bed and Breakfast	[108.40.110.C.]	C	0.75 per LU	1.5 per LU
Home Occupation	[108.40.110.D.]	A	n/a	n/a
Home Business	[108.40.110.E.]	C	1 per employee	1 per employee
Home Daycare	[108.40.110.G.]	A	1 per employee	1 per employee
Battery Charging Station	[108.40.110.H.]	Y	n/a	n/a
<i>Temporary Uses</i>				
Yard Sale	[108.40.120.B.]	Y	n/a	n/a
Farm Stand	[108.40.120.D.]	Y	5 per 1,000 sf display area	5 per 1,000 sf display area
Temporary Real Estate Sales Office	[108.40.120.E.]	A	2	4
Temporary Shelter	[108.40.120.F.]	A	2 per DU	2 per DU
Temporary Gravel Processing	[108.40.120.G.]	A	1 per employee	1 per employee

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Y = allowed without use permit A = Administrative Use Permit required C = Conditional Use Permit required PF = Public Facilities Use Permit required (PO) = Only allowed in the PO Overlay

3. Performance Standards	
Outdoor Storage	(Sec. 108.60.020.)
Recreational Vehicles	allowed if standards are met
Outdoor Storage Areas and Yards	Prohibited
Shipping Containers and Compartments	allowed if standards are met
Refuse and Recycling	(Sec. 108.60.030.)
Trash and recycling enclosure required	>4 DUs and all nonresidential
Noise	(Sec. 108.60.040.)
Sound level at property line (max)	75 DBA
Vibration	(Sec. 108.60.050.)
Odors	(Sec. 108.60.060.)
Light and Glare	(Sec. 108.60.070.)
Radioactivity and Electrical Disturbances	(Sec. 108.60.080.)

- D. Lot standards.
  - 1. Minimum lot size.
    - a. Width: 50 feet.
    - b. Depth: 75 feet.
    - c. Area: 5,445 square feet.
  - 2. Maximum residential density. Residential density is calculated by dividing the number of dwelling units by the site area. The allowed density is generally based on the availability of a sewer system. Where sewer is not available, the city defers to the Thurston County Health Department to establish maximum densities.
    - a. Individual water and septic: Defers to Thurston County standards.
    - b. Public water and individual septic: Defers to Thurston County standards.
    - c. Public water and sewer: 8 du/ac.

3.

- E. Development options and subdivision. (Reserved).
- F. Additional zone-specific standards.
  - 1. Battery Charging Stations. Battery charging stations that require a 60 amp or higher dedicated breaker on a 480-volt or higher three-phase circuit with special grounding equipment are not allowed.

(Ord. No. 881, § 30, 9-26-2017)

**106.30.030. Single-family/duplex (SFD) zone.**

- A. *Intent.* The single-family/duplex zone is the city's primary residential zone, which provides for single-family and duplex dwellings in established residential neighborhoods.
- B. *Physical development.* Standards applicable to physical development in the SFD zone are provided on the following pages. Where a cross-reference is listed, see the referenced title, chapter or section for additional standards.

<b>1. Setbacks (min)</b>	<i>Sec. 108.30.040.</i>
Front:	10'
Duplex:	15'
Garage/Carport:	20'
Side:	5'
Rear:	10'
<b>2. Impervious Surfaces</b>	
Maximum	50%
<b>3. Building Coverage</b>	
Maximum	n/a
<b>4. Design Standards</b>	<i>Sec. 108.30.140.</i>
Buildings	n/a
Lighting	n/a
Landscaping	
Parking lots	n/a
Street trees	n/a
Visual screening	n/a
<b>5. Fencing</b>	<i>Sec 108.30.040.</i>
Height in any front yard (max)	4'
Height in any side yard (max)	6'
Height in any rear yard (max)	6'
<b>6. Building Height</b>	<i>Sec. 108.30.040.</i>
Maximum	35'
<b>7. Environmental Standards</b>	
Shoreline Development	Title 109
SEPA Review	Title 110
Critical Area Buffers	Title 112
Wetlands	50'–300'
CARAs	protect water source
Frequently Flooded Areas	50'
Geologically Hazardous Areas	slope ht.
Wildlife Habitat	varies
<b>8. Signs</b>	
<b>9. Grading, Erosion Control, Stormwater (reserved)</b>	
<b>10. Required Physical Development Permits (reserved)</b>	

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C. *Allowed uses and use standards.* Standards applicable to use are provided in this subsection. Where a cross-reference is listed, see the referenced title, chapter, or section for additional standards. All standards in Title 106 and Title 108 are applicable unless stated otherwise.

1. Allowed Uses			2. Parking (Ch. 108.50)	
Use	Definition/Standards	Permit	Minimum	Maximum
<i>Residential Uses</i>				
Detached Single-Family Unit	[108.40.040.B.]	Y	2 per DU	n/a
Duplex	[108.40.040.C.]	Y	2 per DU	n/a
<i>Lodging Uses</i>				
<u>Transitional Housing</u>	<u>[108.40.050.D.]</u>	<u>C</u>	<u>1.5 per DU</u>	<u>n/a</u>
<u>Permanent Supportive Housing</u>	<u>[108.40.050.E.]</u>	<u>C</u>	<u>1.5 per DU</u>	<u>n/a</u>
<i>Institutional Uses</i>				
Assembly	[108.40.060.B.]	C	Independent Calculation	
Daycare Center	[108.40.060.C.]	C	0.5 per employee	1 per employee
School	[108.40.060.D.]	C	Independent Calculation	
Emergency Services	[108.40.060.E.]	C	Independent Calculation	
<i>Amusement and Recreation</i>				
Outdoor Recreation	[108.40.080.C.]	Y	Independent Calculation	
Developed Recreation	[108.40.080.D.]	A	Independent Calculation	
<i>Transportation and Infrastructure Uses</i>				
Utility Facility	[108.40.100.C.]	C	1 per employee + 1 per stored vehicle	1 per employee + 1 per stored vehicle
Wireless Telecommunications Facility	See Sec. 108.40.100.E.		1 per employee + 1 per stored vehicle	1 per employee + 1 per stored vehicle
<i>Accessory Uses</i>				
Accessory Dwelling Unit	[108.40.110.B.]	A	1 per DU	2 per DU

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Bed and Breakfast	[108.40.110.C.]	C	0.75 per LU	1.5 per LU
Home Occupation	[108.40.110.D.]	A	n/a	n/a
Home Business	[108.40.110.E.]	C	1 per employee	1 per employee
Home Daycare	[108.40.110.G.]	A	1 per employee	1 per employee
Battery Charging Station	[108.40.110.H.] [subsection F.1.]	Y	n/a	n/a
<i>Temporary Uses</i>				
Yard Sale	[108.40.120.B.]	Y	n/a	n/a
Farm Stand	[108.40.120.D.]	Y	5 per 1,000 sf display area	5 per 1,000 sf display area
Temporary Real Estate Sales Office	[108.40.120.E.]	A	2	4
Temporary Shelter	[108.40.120.F.]	A	2 per DU	2 per DU
Temporary Gravel Processing	[108.40.120.G.]	A	1 per employee	1 per employee
Y = allowed without use permit A = Administrative Use Permit required C = Conditional Use Permit required PF = Public Facilities Use Permit required (PO) = Only allowed in the PO Overlay				

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<i>3. Performance Standards</i>	
Outdoor Storage	(Sec. 108.60.020.)
Recreational Vehicles	allowed if standards are met
Outdoor Storage Areas and Yards	Prohibited
Shipping Containers and Compartments	allowed if standards are met
Refuse and Recycling	(Sec. 108.60.030.)
Trash and recycling enclosure required	>4 DUs and all nonresidential
Noise	(Sec. 108.60.040.)
Sound level at property line (max)	75 DBA
Vibration	(Sec. 108.60.050.)
Odors	(Sec. 108.60.060.)
Light and Glare	(Sec. 108.60.070.)
Radioactivity and Electrical Disturbances	(Sec. 108.60.080.)

- D. *Lot standards.*
1. *Minimum lot size.*
    - a. *Width:* 50 feet.
    - b. *Depth:* 60 feet.

- c. *Area:* 5,445 square feet.
- 2. *Maximum residential density.* Residential density is calculated by dividing the number of dwelling units by the site area. The allowed density is generally based on the availability of a sewer system. Where sewer is not available, the city defers to the Thurston County Health Department to establish maximum densities.
  - a. *Individual water and septic:* Defers to Thurston County standards.
  - b. *Public water and individual septic:* Defers to Thurston County standards.
  - c. *Public water and sewer:* 15 du/ac.
- E. *Development options and subdivision.* (Reserved).
- F. *Additional zone-specific standards.*
  - 1. *Battery charging stations.* Battery charging stations that require a 60 amp or higher dedicated breaker on a 480-volt or higher three-phase circuit with special grounding equipment are not allowed.

(Ord. No. 881, § 30, 9-26-2017)

**106.30.040. Multi-family residential (MF) zone.**

- A. *Intent.* The purpose of the multi-family residential zone is to promote small-lot detached dwellings and attached structures, such as apartments, condominiums and townhouses. This mix of housing may take a variety of forms, either mixed within a single site or mixed within a general area.
- B. *Physical development.* Standards applicable to physical development in the SFD zone are provided on the following pages. Where a cross-reference is listed, see the referenced title, chapter or section for additional standards.

<b>1. Setbacks (min)</b>	<i>Sec. 108.30.040</i>
Front:	10'
Garage/Carport:	20'
Side:	5'
Rear:	10'
<b>2. Impervious Surfaces</b>	
Maximum	60%
<b>3. Building Coverage</b>	
Maximum	n/a
<b>4. Design Standards</b>	<i>Sec. 108.30.140</i>
Buildings	<i>Sec. 108.30.140</i>
Lighting	90° cut-off angle required
Landscaping	
Parking lots	1 tree per 2,000 sf
Street trees	required
Visual screening	between uses
<b>5. Fencing</b>	<i>Sec. 108.30.040</i>
Height in any front yard (max)	4'
Height in any side yard (max)	6'
Height in any rear yard (max)	6'
<b>6. Building Height</b>	<i>Sec. 108.30.040</i>

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Maximum	35'
<b>7. Environmental Standards</b>	
Shoreline Development	Title 109
SEPA Review	Title 110
Critical Area Buffers	Title 112
Wetlands	50'—300'
CARAs	protect water source
Frequently Flooded Areas	50'
Geologically Hazardous Areas	slope ht.
Wildlife Habitat	varies
8. Signs	Sec. 108.30.130
9. Grading, Erosion Control, Stormwater (reserved)	
10. Required Physical Development Permits (reserved)	

C. *Allowed uses and use standards.* Standards applicable to use are provided in this subsection. Where a cross-reference is listed, see the referenced title, chapter, or section for additional standards. All standards in Title 106 and Title 108 are applicable unless stated otherwise.

1. Allowed Uses			2. Parking (Ch. 108.50)	
Use	Definition/Standards	Permit	Minimum	Maximum
<i>Residential Uses</i>				
Detached Single-Family Unit	[108.40.040.B.]	Y	2 per DU	n/a
Duplex	[108.40.040.C.]	Y	2 per DU	n/a
Attached Single-Family Unit	[108.40.040.D.] [subsection F.1]	Y	1.5 per DU	2 per DU
Group Home	[108.40.040.E.]	Y	0.5 per bed	1.5 per bed
<i>Lodging Uses</i>				
<u>Transitional Housing</u>	[108.40.050.D.]	<u>C</u>	<u>1.5 per DU</u>	<u>n/a</u>
<u>Permanent Supportive Housing</u>	[108.40.050.E.]	<u>C</u>	<u>1.5 per DU</u>	<u>n/a</u>
<i>Institutional Uses</i>				
Assembly	[108.40.060.B.]	C	Independent Calculation	
Daycare Center	[108.40.060.C.]	A	0.5 per employee	1 per employee
School	[108.40.060.D.]	C	Independent Calculation	
Emergency Services	[108.40.060.E.]	C	Independent Calculation	
<i>Commercial Uses</i>				

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Office	[108.40.070.B.]	A	1.5 per 1,000 sf	4 per 1,000 sf
<i>Amusement and Recreation</i>				
Outdoor Recreation	[108.40.080.C.]	Y	Independent Calculation	
Developed Recreation	[108.40.080.D.]	A	Independent Calculation	
<i>Transportation and Infrastructure Uses</i>				
Utility Facility	[108.40.100.C.]	C	1 per employee + 1 per stored vehicle	1 per employee + 1 per stored vehicle
Wireless Telecommunications Facility	See Sec. 108.40.100.E.		1 per employee + 1 per stored vehicle	1 per employee + 1 per stored vehicle
<i>Accessory Uses</i>				
Accessory Dwelling Unit	[108.40.110.B.]	A	1 per DU	2 per DU
Bed and Breakfast	[108.40.110.C.]	Y	0.75 per LU	1.5 per LU
Home Occupation	[108.40.110.D.]	A	n/a	n/a
Home Business	[108.40.110.E.]	C	1 per employee	1 per employee
Home Daycare	[108.40.110.G.]	A	1 per employee	1 per employee
Battery Charging Station	[108.40.110.H.] [subsection F.2.]	Y	n/a	n/a
<i>Temporary Uses</i>				
Yard Sale	[108.40.120.B.]	Y	n/a	n/a
Farm Stand	[108.40.120.D.]	Y	5 per 1,000 sf display area	5 per 1,000 sf display area
Temporary Real Estate Sales Office	[108.40.120.E.]	A	2	4
Temporary Shelter	[108.40.120.F.]	A	2 per DU	2 per DU
Temporary Gravel Processing	[108.40.120.G.]	A	1 per employee	1 per employee

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 PF = Public Facilities Use Permit required (PO) = Only allowed in the PO Overlay

3. Performance Standards	
Outdoor Storage	(Sec. 108.60.020.)
Recreational Vehicles	allowed if standards are met
Outdoor Storage Areas and Yards	Prohibited
Shipping Containers and Compartments	allowed if standards are met
Refuse and Recycling	(Sec. 108.60.030.)
Trash and recycling enclosure required	>4 DUs and all nonresidential
Noise	(Sec. 108.60.040.)
Sound level at property line (max)	75 DBA
Vibration	(Sec. 108.60.050.)
Odors	(Sec. 108.60.060.)
Light and Glare	(Sec. 108.60.070.)
Radioactivity and Electrical Disturbances	(Sec. 108.60.080.)

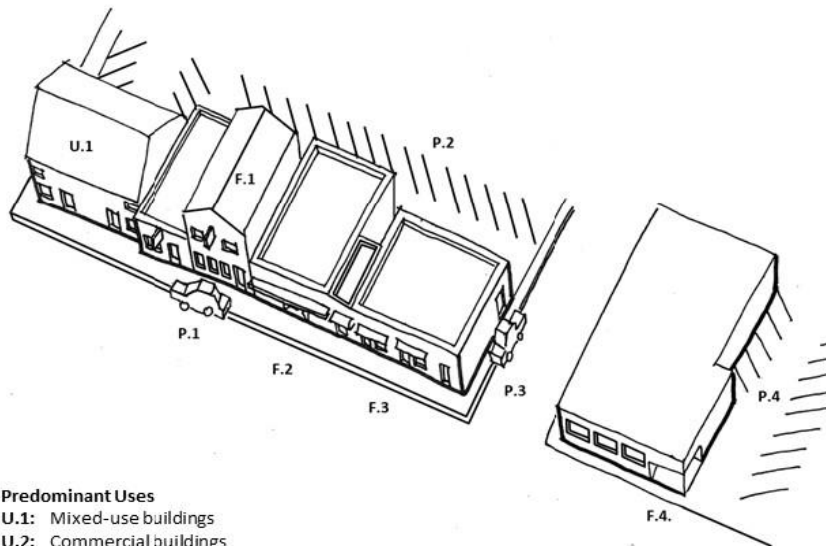
- D. *Lot standards.*
  - 1. *Minimum lot size.*
    - a. *Width:* 20 feet.
    - b. *Depth:* 55 feet.
  - 2. *Maximum residential density.* Residential density is calculated by dividing the number of dwelling units by the site area. The allowed density is generally based on the availability of a sewer system. Where sewer is not available, the city defers to the Thurston County Health Department to establish maximum densities.
    - a. *Individual water and septic:* Defers to Thurston County standards.
    - b. *Public water and individual septic:* Defers to Thurston County standards.
    - c. *Public water and sewer:* 40 du/ac.
- E. *Development options and subdivision.* (Reserved).
- F. *Additional zone-specific standards.*
  - 1. *Attached single-family dwellings.* The side yard setback may be reduced to zero feet when a row of townhouses or other attached dwelling units are constructed on different lots as part of the same development.

(Ord. No. 881, § 30, 9-26-2017)

**CHAPTER 106.40. NONRESIDENTIAL ZONES**

**106.40.010. Commercial 1 (C1) zone.**

A. *Intent.* The commercial 1 zone encompasses the area in and around historic downtown Tenino and is meant to build on the historic and walkable nature of the area. Buildings are meant to be comprised of a high-quality design that compliments the historic architecture of the area, and storefronts are meant to contribute to the creation of a walkable business district, with features such as awnings, large windows and attractive window displays that help to encourage pedestrian exploration and purchasing within the area. Retail, service and certain craft uses, which generate significant pedestrian traffic, are meant to occupy bottom floors of buildings, while offices, services, and residences with lesser turnover are intended to be situated in upper stories or towards the back of structures. Buildings are meant to be set at or near the front property line to help define the walkable, pedestrian-oriented street front, and parking is intended to be located on the street, in shared parking facilities, or behind the structures.



**Predominant Uses**

- U.1: Mixed-use buildings
- U.2: Commercial buildings

**Predominant Form Characteristics**

- F.1: New buildings designed to compliment scale of neighboring structures
- F.2: Pedestrian-oriented design features (high degree of windows on ground floor, doors facing the street, weather protection features such as awnings)
- F.3: Buildings set at front property line or at same setback as neighboring structures, and built to the side property line
- F.4: Doors oriented to both street and side parking area, when side parking lot is utilized

**Parking Arrangements**

- P.1: On-street parking
- P.2: Alley-accessed parking behind building
- P.3: Parking on side streets
- P.4: Side parking lot (allowed but not encouraged)

B. *Physical development.* Standards applicable to physical development in the C1 zone are provided on the following pages. Where a cross-reference is listed, see the referenced title, chapter or section for additional standards.

<b>1. Setbacks (min)</b>		<i>Sec. 108.30.040</i>
Front:		0'
Garage/Carport:		0'
Side:		0'
Rear:		0'
<b>2. Impervious Surfaces</b>		
Maximum		100%
<b>3. Building Coverage</b>		
Maximum		n/a
<b>4. Design Standards</b>		<i>Sec. 108.30.140</i>
Buildings		<i>Sec. 108.30.140</i>
Lighting		90° cut-off angle required
Landscaping		
Parking lots		1 tree per 2,000 sf
Street trees		required
Visual screening		between uses
<b>5. Fencing</b>		<i>Sec 108.30.040</i>
Height in any front yard (max)		4'
Height in any side yard (max)		6'
Height in any rear yard (max)		6'
<b>6. Building Height</b>		<i>Sec. 108.30.040</i>
Maximum		35'
<b>7. Environmental Standards</b>		
Shoreline Development		Title 109
SEPA Review		Title 110
Critical Area Buffers		Title 112
Wetlands		50'—300'
CARAs		protect water source
Frequently Flooded Areas		50'
Geologically Hazardous Areas		slope ht.
Wildlife Habitat		varies
<b>8. Signs</b>		<i>Sec. 108.30.130</i>
<b>9. Grading, Erosion Control, Stormwater (reserved)</b>		
<b>10. Required Physical Development Permits (reserved)</b>		

C. *Allowed Uses and Use Standards.* Standards applicable to use are provided in this subsection. Where a cross-reference is listed, see the referenced title, chapter, or section for additional standards. All standards in Title 106 and Title 108 are applicable unless stated otherwise.

<b>1. Allowed Uses</b>			<b>2. Parking (Ch. 108.50)</b>	
<i>Use</i>	<i>Definition/Standards</i>	<i>Permit</i>	<i>Minimum</i>	<i>Maximum</i>
<i>Residential Uses</i>				

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Attached Single-Family Unit	[108.40.040.D.] [106.40.010.F.1]	A	1.5 per DU	2 per DU
Group Home	[108.40.040.E.] [106.40.010.F.1.]	A	0.5 per bed	1.5 per bed
<i>Lodging Uses</i>				
Conventional Lodging	[108.40.050.B.] [106.40.010.F.2]	Y	0.6 per LU	2 per LU
<u>Transitional Housing</u>	<u>[108.40.050.D.]</u>	<u>C</u>	<u>1.5 per DU</u>	<u>n/a</u>
<u>Permanent Supportive Housing</u>	<u>[108.40.050.E.]</u>	<u>C</u>	<u>1.5 per DU</u>	<u>n/a</u>
<i>Institutional Uses</i>				
Assembly	[108.40.060.B.]	Y	Independent Calculation	
Daycare Center	[108.40.060.C.]	Y	0.5 per employee	1 per employee
Emergency Services	[108.40.060.E.]	A	Independent Calculation	
<i>Commercial Uses</i>				
Office	[108.40.070.B.]	Y	1 per 1,000 sf	4 per 1,000 sf
Retail	[108.40.070.C.]	Y	3 per 1,000 sf	6 per 1,000 sf
Service	[108.40.070.D.]	Y	2 per 1,000 sf	4 per 1,000 sf
Restaurant/Bar	[108.40.070.E.]	Y	5 per 1,000 sf	20 per 1,000 sf
Mobile Food Vendor	[108.40.070.F.]	A	Independent Calculation	
Heavy Retail/Service	[108.40.070.G.]	A	2 per 1,000 sf + 3 per repair bay + 1 per wash bay	6 per 1,000 sf + 3 per repair bay + 1 per wash bay
Nursery	[108.40.070.I.]	A	2 per 1,000 sf + 1 per 4,000 sf outdoor display area + 1 per employee	2 per 1,000 sf + 1 per 4,000 sf outdoor display area + 1 per employee
Battery Exchange Station	[108.40.070.J.]	C	Independent Calculation	

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Marijuana Business	[108.40.070.K.]	A	3 per 1,000 sf	6 per 1,000 sf
<i>Amusement and Recreation</i>				
Amusement	[108.40.080.B.]	A	3 per 1,000 sf	5 per 1,000 sf
Outdoor Recreation	[108.40.080.C.]	Y	Independent Calculation	
Developed Recreation	[108.40.080.D.]	Y	Independent Calculation	
<i>Industrial Uses</i>				
Craft Food Production	[108.40.090.B.]	A	Independent Calculation	
Light Industry	[108.40.090.C.]	C	0.5 per employee + 1 per company vehicle	1 per employee + 1 per company vehicle
<i>Transportation and Infrastructure Uses</i>				
Parking	[108.40.100.B.]	A	n/a	n/a
Utility Facility	[108.40.100.C.]	C	1 per employee + 1 per stored vehicle	1 per employee + 1 per stored vehicle
Wireless Telecommunications Facility	See Sec. 108.40.100.E.		1 per employee + 1 per stored vehicle	1 per employee + 1 per stored vehicle
<i>Accessory Uses</i>				
Bed and Breakfast	[108.40.110.C.]	Y	0.75 per LU	1.5 per LU
Home Occupation	[108.40.110.D.]	Y	n/a	n/a
Home Business	[108.40.110.E.]	A	1 per employee	1 per employee
Drive-Up Facility	[108.40.110.F.]	C	n/a	n/a
Home Daycare	[108.40.110.G.]	A	1 per employee	1 per employee
Battery Charging Station	[108.40.110.H.]	Y	n/a	n/a
<i>Temporary Uses</i>				
Yard Sale	[108.40.120.B.]	Y	n/a	n/a

Christmas Tree Sales	[108.40.120.C.]	Y	1 per 1,000 sf outdoor display area + 1 per employee	1 per 1,000 sf outdoor display area + 1 per employee
Farm Stand	[108.40.120.D.]	Y	5 per 1,000 sf display area	5 per 1,000 sf display area
Temporary Real Estate Sales Office	[108.40.120.E.]	A	2	4
Temporary Shelter	[108.40.120.F.]	A	2 per DU	2 per DU
Temporary Gravel Processing	[108.40.120.G.]	A	1 per employee	1 per employee
Y = allowed without use permit A = Administrative Use Permit required C = Conditional Use Permit required PF = Public Facilities Use Permit required (PO) = Only allowed in the PO Overlay				

<b>3. Performance Standards</b>	
Outdoor Storage	(Sec. 108.60.020)
Recreational Vehicles	allowed if standards are met
Outdoor Storage Areas and Yards	allowed if standards are met
Shipping Containers and Compartments	allowed if standards are met
Refuse and Recycling	(Sec. 108.60.030)
Trash and recycling enclosure required	>4 DUs and all nonresidential
Noise	(Sec. 108.60.040)
Sound level at property line (max)	75 DBA
Vibration	(Sec. 108.60.050)
Odors	(Sec. 108.60.060)
Light and Glare	(Sec. 108.60.070)
Radioactivity and Electrical Disturbances	(Sec. 108.60.080)

D. Lot standards.

1. *Minimum lot size.*
  - a. *Width:* 20 feet.
  - b. *Depth:* 24 feet.
2. *Maximum residential density.* Residential density is calculated by dividing the number of dwelling units by the site area. The allowed density is generally based on the availability of a sewer system. Where sewer is not available, the city defers to the Thurston County Health Department to establish maximum densities.
  - a. *Individual water and septic:* Defers to Thurston County standards.
  - b. *Public water and individual septic:* Defers to Thurston County standards.

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c. *Public water and sewer:* 40 du/ac.

E. *Development Options and Subdivision.* (Reserved).

F. *Additional zone-specific standards.*

1. *Residential uses.* Residential uses may only be allowed as part of a mixed-use development and must not be located on the ground floor.
2. *Conventional lodging.* Conventional lodging may only be allowed as part of a mixed-use development.
3. *On-street parking.* Required parking may be provided on-street provided the following standards are met.
  - a. An on-street parking space shall have the following length of uninterrupted curb adjoining to the lot of record of the proposed use.

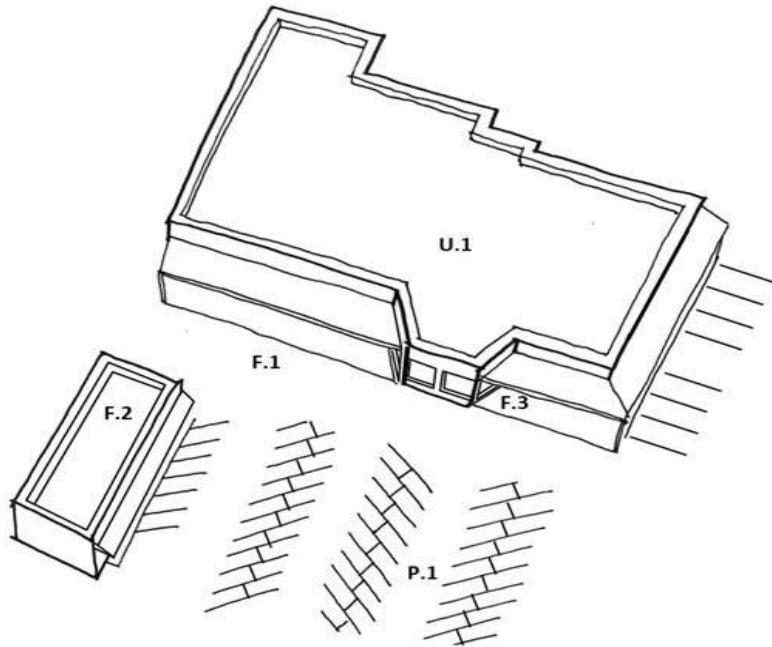
Uninterrupted Curb Per On-Street Parking Space	
Parking Space Angle	Uninterrupted Curb
Parallel	22'
45°/60°	20'
90°	9'

- b. On-street parking shall not be provided along a yellow curb or other no parking areas put in place by the City or WSDOT.
- c. The on-street parking shall follow the established configuration of existing on-street parking.
- d. On-street parking spaces shall be available for use by the public at all times. Signs or actions limiting public use of on-street spaces are prohibited.

(Ord. No. 881, § 31, 9-26-2017)

**106.40.020. Commercial 2 (C2) zone.**

A. *Intent.* The commercial 2 zone is located at entrances to the community and at major community intersections. The zone is meant to accommodate primarily commercial uses, such as retail and service uses, though some dwellings in upper stories of structures are appropriate if desired. The zone is meant to be targeted primarily to passing motorists, though some individuals will walk to the area. Parking is meant to be located on-site.



**Predominant Uses**

**U.1:** Auto-oriented commercial buildings (and possibly mixed-use buildings)

**Predominant Form Characteristics**

**F.1:** Buildings oriented to automobile traffic, though features to promote walking also included

**F.2:** Buildings set either near the front property line or back from the street

**F.3:** Doors oriented to parking lot

**Parking Arrangements**

**P.1:** On-site parking (either between buildings and street or inside parcel)

B. *Physical development.* Standards applicable to physical development in the C2 zone are provided on the following pages. Where a cross-reference is listed, see the referenced title, chapter or section for additional standards.

<b>1. Setbacks (min)</b>	<i>Sec. 108.30.040</i>
Front:	0'
Garage/Carport:	0'
Side:	0'
Rear:	0'
<b>2. Impervious Surfaces</b>	
Maximum	100%
<b>3. Building Coverage</b>	
Maximum	n/a
<b>4. Design Standards</b>	<i>Sec. 108.30.140</i>

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Buildings	Sec. 108.30.140
Lighting	90° cut-off angle required
Landscaping	
Parking lots	1 tree per 2,000 sf
Street trees	required
Visual screening	between uses
5. Fencing	Sec. 108.30.040
Height in any front yard (max)	4'
Height in any side yard (max)	6'
Height in any rear yard (max)	6'
6. Building Height	Sec. 108.30.040
Maximum	35'
7. Environmental Standards	
Shoreline Development	Title 109
SEPA Review	Title 110
Critical Area Buffers	Title 112
Wetlands	50'–300'
CARAs	protect water source
Frequently Flooded Areas	50'
Geologically Hazardous Areas	slope ht.
Wildlife Habitat	varies
8. Signs	Sec. 108.30.130
9. Grading, Erosion Control, Stormwater (reserved)	
10. Required Physical Development Permits (reserved)	

C. *Allowed uses and use standards.* Standards applicable to use are provided in this subsection. Where a cross-reference is listed, see the referenced title, chapter, or section for additional standards. All standards in Title 106 and Title 108 are applicable unless stated otherwise.

1. Allowed Uses			2. Parking (Ch. 108.50)	
Use	Definition/Standards	Permit	Minimum	Maximum
<i>Residential Uses</i>				
Attached Single-Family Unit	[108.40.040.D.] [106.40.020.F.1]	A	1.5 per DU	2 per DU
Group Home	[108.40.040.E.] [106.40.020.F.1]	A	0.5 per bed	1.5 per bed
Correctional Group Home	[108.40.040.F.] [106.40.020.F.1]	PF	0.5 per bed	1.5 per bed
<i>Lodging Uses</i>				
Conventional Lodging	[108.40.050.B.]	Y	0.6 per LU	2 per LU
<u>Transitional Housing</u>	<u>[108.40.050.D.]</u>	<u>C</u>	<u>1.5 per DU</u>	<u>n/a</u>

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<u>Permanent Supportive Housing</u>	<u>[108.40.050.E.]</u>	<u>C</u>	<u>1.5 per DU</u>	<u>n/a</u>
<i>Institutional Uses</i>				
Assembly	[108.40.060.B.]	Y	Independent Calculation	
Daycare Center	[108.40.060.C.]	Y	0.5 per employee	1 per employee
School	[108.40.060.D.]	C	Independent Calculation	
Emergency Services	[108.40.060.E.]	A	Independent Calculation	
<i>Commercial Uses</i>				
Office	[108.40.070.B.]	Y	1.5 per 1,000 sf	4 per 1,000 sf
Retail	[108.40.070.C.]	Y	3 per 1,000 sf	6 per 1,000 sf
Service	[108.40.070.D.]	Y	2 per 1,000 sf	4 per 1,000 sf
Restaurant/Bar	[108.40.070.E.]	Y	5 per 1,000 sf	20 per 1,000 sf
Mobile Food Vendor	[108.40.070.F.]	A	Independent Calculation	
Heavy Retail/Service	[108.40.070.G.]	A	2 per 1,000 sf + 3 per repair bay + 1 per wash bay	6 per 1,000 sf + 3 per repair bay + 1 per wash bay
Nursery	[108.40.070.I.]	A	2 per 1,000 sf + 1 per 4,000 sf outdoor display area + 1 per employee	2 per 1,000 sf + 1 per 4,000 sf outdoor display area + 1 per employee
Battery Exchange Station	[108.40.070.J.]	A	Independent Calculation	
Marijuana Business	[108.40.070.K.]	A	3 per 1,000 sf	6 per 1,000 sf
<i>Amusement and Recreation</i>				
Amusement	[108.40.080.B.]	A	3 per 1,000 sf	5 per 1,000 sf
Outdoor Recreation	[108.40.080.C.]	Y	Independent Calculation	
Developed Recreation	[108.40.080.D.]	Y	Independent Calculation	

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<i>Industrial Uses</i>				
Craft Food Production	[108.40.090.B.]	A	Independent Calculation	
Light Industry	[108.40.090.C.]	A	0.5 per employee + 1 per company vehicle	1 per employee + 1 per company vehicle
<i>Transportation and Infrastructure Uses</i>				
Parking	[108.40.100.B.]	A	n/a	n/a
Utility Facility	[108.40.100.C.]	C	1 per employee + 1 per stored vehicle	1 per employee + 1 per stored vehicle
Wireless Telecommunications Facility	See Sec. 108.40.100.E.		1 per employee + 1 per stored vehicle	1 per employee + 1 per stored vehicle
<i>Accessory Uses</i>				
Bed and Breakfast	[108.40.110.C.]	Y	0.75 per LU	1.5 per LU
Home Occupation	[108.40.110.D.]	Y	n/a	n/a
Home Business	[108.40.110.E.]	A	1 per employee	1 per employee
Drive-Up Facility	[108.40.110.F.]	Y	n/a	n/a
Home Daycare	[108.40.110.G.]	A	1 per employee	1 per employee
Battery Charging Station	[108.40.110.H.] [Subsection F.1.]	Y	n/a	n/a
<i>Temporary Uses</i>				
Yard Sale	[108.40.120.B.]	Y	n/a	n/a
Christmas Tree Sales	[108.40.120.C.]	Y	1 per 1,000 sf outdoor display area + 1 per employee	1 per 1,000 sf outdoor display area + 1 per employee
Farm Stand	[108.40.120.D.]	Y	5 per 1,000 sf display area	5 per 1,000 sf display area

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Temporary Real Estate Sales Office	[108.40.120.E.]	A	2	4
Temporary Shelter	[108.40.120.F.]	A	2 per DU	2 per DU
Temporary Gravel Processing	[108.40.120.G.]	A	1 per employee	1 per employee
Y = allowed without use permit A = Administrative Use Permit required C = Conditional Use Permit required PF = Public Facilities Use Permit required (PO) = Only allowed in the PO Overlay				

<b>3. Performance Standards</b>	
Outdoor Storage	(Sec. 108.60.020)
Recreational Vehicles	allowed if standards are met
Outdoor Storage Areas and Yards	allowed if standards are met
Shipping Containers and Compartments	allowed if standards are met
Refuse and Recycling	(Sec. 108.60.030)
Trash and recycling enclosure required	>4 DUs and all nonresidential
Noise	(Sec. 108.60.040)
Sound level at property line (max)	75 DBA
Vibration	(Sec. 108.60.050)
Odors	(Sec. 108.60.060)
Light and Glare	(Sec. 108.60.070)
Radioactivity and Electrical Disturbances	(Sec. 108.60.080)

- D. *Lot standards.*
  - 1. *Minimum lot size.*
    - a. *Width:* 20 feet.
  - 2. *Maximum residential density.* Residential density is calculated by dividing the number of dwelling units by the site area. The allowed density is generally based on the availability of a sewer system. Where sewer is not available, the city defers to the Thurston County Health Department to establish maximum densities.
    - a. *Individual water and septic:* Defers to Thurston County standards.
    - b. *Public water and individual septic:* Defers to Thurston County standards.
    - c. *Public water and sewer.* 40 du/ac.
- E. *Development options and subdivision.* (Reserved).
- F. *Additional zone-specific standards.*
  - 1. *Residential uses.* Residential uses may only be allowed as part of a mixed-use development and must not be located on the ground floor.
  - 2. *On-street parking.* Required parking may be provided on-street provided the following standards are met.

- a. An on-street parking space shall have the following length of uninterrupted curb adjoining to the lot of record of the proposed use.

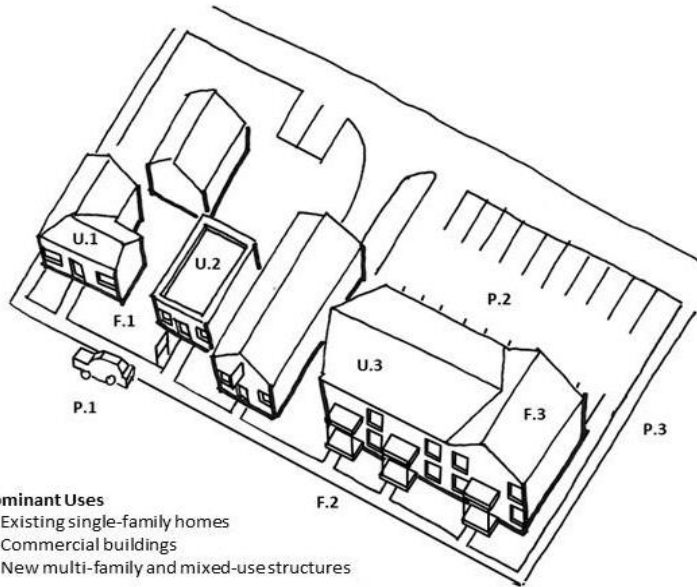
Uninterrupted Curb Per On-Street Parking Space	
Parking Space Angle	Uninterrupted Curb
Parallel	22'
45°/60°	20'
90°	9'

- b. On-street parking shall not be provided along a yellow curb or other no parking areas put in place by the City or WSDOT.
- c. The on-street parking shall follow the established configuration of existing on-street parking.
- d. On-street parking spaces shall be available for use by the public at all times. Signs or actions limiting public use of on-street spaces are prohibited.

(Ord. No. 881, § 31, 9-26-2017)

**106.40.030. Commercial 3 (C3) zone.**

- A. *Intent.* The commercial 3 zone is located along major corridors within the community, and near the historic downtown of Tenino. The zone currently has a mix of existing single-family uses, new and existing multifamily buildings, mixed-use structures, and commercial uses, and is meant to allow this diversity and mix of uses as the area transitions in the future. The area allows existing single-family homes to continue as a conforming use, and permits new uses such as multifamily residential, commercial and some industrial activities. Buildings within the zone are meant to be set back from the street to some degree, to respect the design of the existing structures within the area, though some existing uses that are set on or near the street are not meant to be non-conforming. Parking is intended to be provided on site (preferably in the back of the building and accessed by an alley or on the side of the building) to maintain the appearance of a street front lined with buildings.



**Predominant Uses**

- U.1: Existing single-family homes
- U.2: Commercial buildings
- U.3: New multi-family and mixed-use structures

**Predominant Form Characteristics**

- F.1: New buildings set 5-10' from front property line with parking in back
- F.2: pedestrian-oriented design features (buildings and doors facing the street and building features such as porches, bay windows oriented to the street)
- F.3: New buildings designed to compliment the scale of neighboring structures (through features such as porches and variation in roof lines to break up the building mass)

**Parking Arrangements**

- P.1: On-street parking
- P.2: Alley-accessed parking behind building
- P.3: Parking on side streets
- P.4: *Not Shown* – Side parking lot or front parking lot (allowed but not encouraged)

B. *Physical Development.* Standards applicable to physical development in the C3 zone are provided on the following pages. Where a cross-reference is listed, see the referenced title, chapter or section for additional standards.

<b>1. Setbacks (min)</b>	<i>Sec. 108.30.040</i>
Front:	5'
Garage/Carport:	20'
Side:	5'
Rear:	10'
<b>2. Impervious Surfaces</b>	
Maximum	90%
<b>3. Building Coverage</b>	
Maximum	n/a
<b>4. Design Standards</b>	<i>Sec. 108.30.140</i>

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Buildings	Sec. 108.30.140
Lighting	90° cut-off angle required
Landscaping	
Parking lots	1 tree per 2,000 sf
Street trees	required
Visual screening	between uses
5. Fencing	Sec 108.30.040
Height in any front yard (max)	4'
Height in any side yard (max)	6'
Height in any rear yard (max)	6'
6. Building Height	Sec. 108.30.040
Maximum	35'
7. Environmental Standards	
Shoreline Development	Title 109
SEPA Review	Title 110
Critical Area Buffers	Title 112
Wetlands	50'–300'
CARAs	protect water source
Frequently Flooded Areas	50'
Geologically Hazardous Areas	slope ht.
Wildlife Habitat	varies
8. Signs	Sec. 108.30.130
9. Grading, Erosion Control, Stormwater (reserved)	
10. Required Physical Development Permits (reserved)	

C. *Allowed uses and use standards.* Standards applicable to use are provided in this subsection. Where a cross-reference is listed, see the referenced title, chapter, or section for additional standards. All standards in Title 106 and Title 108 are applicable unless stated otherwise.

1. Allowed Uses			2. Parking (Ch. 108.50)	
Use	Definition/ Standards	Permit	Minimum	Maximum
<i>Residential Uses</i>				
Detached Single-Family Unit	[108.40.040.B.]	Y*	2 per DU	n/a
Attached Single-Family Unit	[108.40.040.D.]	A	1.5 per DU	2 per DU
Group Home	[108.40.040.E.]	A	0.5 per bed	1.5 per bed
<i>Lodging Uses</i>				
Conventional Lodging	[108.40.050.B.]	Y	0.6 per LU	2 per LU
<u>Transitional Housing</u>	<u>[108.40.050.D.]</u>	<u>C</u>	<u>1.5 per DU</u>	<u>n/a</u>

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<u>Permanent Supportive Housing</u>	<u>[108.40.050.E.]</u>	<u>C</u>	<u>1.5 per DU</u>	<u>n/a</u>
<b>Institutional Uses</b>				
Assembly	[108.40.060.B.]	Y	Independent Calculation	
Daycare Center	[108.40.060.C.]	Y	1 per 1,000 sf	1 per 1,000 sf
School	[108.40.060.D.]	C	Independent Calculation	
Emergency Services	[108.40.060.E.]	A	Independent Calculation	
<b>Commercial Uses</b>				
Office	[108.40.070.B.]	Y	1.5 per 1,000 sf	4 per 1,000 sf
Retail	[108.40.070.C.]	Y	3 per 1,000 sf	6 per 1,000 sf
Service	[108.40.070.D.]	Y	2 per 1,000 sf	4 per 1,000 sf
Restaurant/Bar	[108.40.070.E.]	Y	5 per 1,000 sf	20 per 1,000 sf
Mobile Food Vendor	[108.40.070.F.]	A	Independent Calculation	
Heavy Retail/Service	[108.40.070.G.]	Y	2 per 1,000 sf + 1 per 4,000 sf outdoor display area + 1 per employee	2 per 1,000 sf + 1 per 4,000 sf outdoor display area + 1 per employee
Nursery	[108.40.070.I.]	A	2 per 1,000 sf + 3 per repair bay + 1 per wash bay	6 per 1,000 sf + 3 per repair bay + 1 per wash bay
Battery Exchange Station	[108.40.070.J.]	C	Independent Calculation	
Marijuana Business	[108.40.070.K.]	A	3 per 1,000 sf	6 per 1,000 sf
<b>Amusement and Recreation</b>				
Amusement	[108.40.080.B.]	A	3 per 1,000 sf	5 per 1,000 sf
Outdoor Recreation	[108.40.080.C.]	Y	Independent Calculation	
Developed Recreation	[108.40.080.D.]	Y	Independent Calculation	
<b>Industrial Uses</b>				

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Craft Food Production	[108.40.090.B.]	A	Independent Calculation	
Light Industry	[108.40.090.C.]	A	0.5 per employee + 1 per company vehicle	1 per employee + 1 per company vehicle
Transportation and Infrastructure Uses				
Parking	[108.40.100.B.]	A	n/a	n/a
Utility Facility	[108.40.100.C.]	C	1 per employee + 1 per stored vehicle	1 per employee + 1 per stored vehicle
Wireless Telecommunications Facility	See Sec. 108.40.100.E.		1 per employee + 1 per stored vehicle	1 per employee + 1 per stored vehicle
Accessory Uses				
Bed and Breakfast	[108.40.110.C.]	Y	0.75 per LU	1.5 per LU
Home Occupation	[108.40.110.D.]	Y	n/a	n/a
Home Business	[108.40.110.E.]	A	1 per employee	1 per employee
Drive-Up Facility	[108.40.110.F.]	A	n/a	n/a
Home Daycare	[108.40.110.G.]	A	1 per employee	1 per employee
Battery Charging Station	[108.40.110.H.]	Y	n/a	n/a
Temporary Uses				
Yard Sale	[108.40.120.B.]	Y	n/a	n/a
Christmas Tree Sales	[108.40.120.C.]	Y	1 per 1,000 sf outdoor display area + 1 per employee	1 per 1,000 sf outdoor display area + 1 per employee
Farm Stand	[108.40.120.D.]	Y	5 per 1,000 sf display area	5 per 1,000 sf display area
Temporary Real Estate Sales Office	[108.40.120.E.]	A	2	4

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Temporary Shelter	[108.40.120.F.]	A	2 per DU	2 per DU
Temporary Gravel Processing	[108.40.120.G.]	A	1 per employee	1 per employee
<p>Y = allowed without use permit A = Administrative Use Permit required C = Conditional Use Permit required                  PF = Public Facilities Use Permit required (PO) = Only allowed in the PO Overlay                  * = Use that was legally established prior to November 13, 2012 is allowed to continue as an allowed conforming use. No new uses are allowed in the zone.</p>				

<b>3. Performance Standards</b>	
Outdoor Storage	(Sec. 108.60.020)
Recreational Vehicles	allowed if standards are met
Outdoor Storage Areas and Yards	allowed if standards are met
Shipping Containers and Compartments	allowed if standards are met
Refuse and Recycling	(Sec. 108.60.030)
Trash and recycling enclosure required	>4 DUs and all nonresidential
Noise	(Sec. 108.60.040)
Sound level at property line (max)	75 DBA
Vibration	(Sec. 108.60.050)
Odors	(Sec. 108.60.060)
Light and Glare	(Sec. 108.60.070)
Radioactivity and Electrical Disturbances	(Sec. 108.60.080)

- D. *Lot standards.*
  - 1. *Minimum lot size.*
    - a. *Width:* 20 feet.
    - b. *Depth:* 55 feet.
  - 2. *Maximum residential density.* Residential density is calculated by dividing the number of dwelling units by the site area. The allowed density is generally based on the availability of a sewer system. Where sewer is not available, the city defers to the Thurston County Health Department to establish maximum densities.
    - a. *Individual water and septic:* Defers to Thurston County standards.
    - b. *Public water and individual septic:* Defers to Thurston County standards.
    - c. *Public water and sewer.* 40 du/ac.
- E. *Development options and subdivision.* (Reserved).
- F. *Additional zone-specific standards.*
  - 1. *Attached single-family dwellings.* The side yard setback may be reduced to zero feet when a row of townhouses or other attached dwelling units are constructed on different lots as part of the same development.

2. *On-street parking.* Required parking may be provided on-street provided the following standards are met.
- a. An on-street parking space shall have the following length of uninterrupted curb adjoining to the lot of record of the proposed use.

Uninterrupted Curb Per On-Street Parking Space	
Parking Space Angle	Uninterrupted Curb
Parallel	22'
45°/60°	20'
90°	9'

- b. On-street parking shall not be provided along a yellow curb or other no parking areas put in place by the City or WSDOT.
- c. The on-street parking shall follow the established configuration of existing on-street parking.
- d. On-street parking spaces shall be available for use by the public at all times. Signs or actions limiting public use of on-street spaces are prohibited.

(Ord. No. 881, § 31, 9-26-2017)

**106.40.040. Industrial (I) zone.**

- A. *Intent.* The industrial zone provides for some commercial and utilities activities and large-scale industrial types of activities. The designation allows for the manufacturing freight warehousing and finished product movement areas.
- B. *Physical development.* Standards applicable to physical development in the I zone are provided on the following pages. Where a cross-reference is listed, see the referenced title, chapter or section for additional standards.

<b>1. Setbacks (min)</b>	<i>Sec. 108.30.040</i>
Front:	0'
Garage/Carport:	0'
Side:	0'
Rear:	0'
<b>2. Impervious Surfaces</b>	
Maximum	100%
<b>3. Building Coverage</b>	
Maximum	n/a
<b>4. Design Standards</b>	<i>Sec. 108.30.140</i>
Buildings	<i>Sec. 108.30.140</i>
Lighting	90° cut-off angle required
Landscaping	
Parking lots	1 tree per 2,000 sf
Street trees	required
Visual screening	between uses
<b>5. Fencing</b>	<i>Sec 108.30.040</i>
Height in any front yard (max)	4'
Height in any side yard (max)	6'

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Height in any rear yard (max)	6'
<b>6. Building Height</b>	<i>Sec. 108.30.040</i>
Maximum	40'
<b>7. Environmental Standards</b>	
Shoreline Development	Title 109
SEPA Review	Title 110
Critical Area Buffers	Title 112
Wetlands	50'—300'
CARAs	protect water source
Frequently Flooded Areas	50'
Geologically Hazardous Areas	slope ht.
Wildlife Habitat	varies
<b>8. Signs</b>	<i>Sec. 108.30.130</i>
<b>9. Grading, Erosion Control, Stormwater (reserved)</b>	
<b>10. Required Physical Development Permits (reserved)</b>	

C. *Allowed uses and use standards.* Standards applicable to use are provided in this subsection. Where a cross-reference is listed, see the referenced title, chapter, or section for additional standards. All standards in Title 106 and Title 108 are applicable unless stated otherwise.

1. Allowed Uses			2. Parking (Ch. 108.50)	
Use	Definition/Standards	Permit	Minimum	Maximum
<b>Institutional Uses</b>				
Emergency Services	[108.40.060.E.]	A	Independent Calculation	
<b>Commercial Uses</b>				
Mobile Food Vendor	[108.40.070.F.]	A	Independent Calculation	
Heavy Retail/Service	[108.40.070.G.]	C	2 per 1,000 sf + 3 per repair bay + 1 per wash bay	6 per 1,000 sf + 3 per repair bay + 1 per wash bay
Storage	[108.40.070.H.]	A	1 per 10 storage units + 1 per employee	1 per 10 storage units + 1 per employee
Nursery	[108.40.070.I.]	A	2 per 1,000 sf + 1 per 4,000 sf outdoor display area + 1 per employee	2 per 1,000 sf + 1 per 4,000 sf outdoor display area + 1 per employee

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Battery Exchange Station	[108.40.070.J.]	A	Independent Calculation	
Marijuana Business	[108.40.070.K.]	A	3 per 1,000 sf	6 per 1,000 sf
Sexually Oriented Business	[108.40.070.L.]	C	3 per 1,000 sf	6 per 1,000 sf
<i>Industrial Uses</i>				
Craft Food Production	[108.40.090.B.]	Y	Independent Calculation	
Light Industry	[108.40.090.C.]	Y	0.5 per employee + 1 per company vehicle	1 per employee + 1 per company vehicle
Heavy Industry	[108.40.090.D.]	C	0.5 per employee + 1 per company vehicle	1 per employee + 1 per company vehicle
Disposal	[108.40.090.E.]	PF	1 per employee	1 per employee
<i>Transportation and Infrastructure Uses</i>				
Parking	[108.40.100.B.]	A	n/a	n/a
Utility Facility	[108.40.100.C.]	C	1 per employee + 1 per stored vehicle	1 per employee + 1 per stored vehicle
Sewer Facility	[108.40.100.D.]	PF	1 per employee + 1 per stored vehicle	1 per employee + 1 per stored vehicle
Wireless Telecommunications Facility	See Sec. 108.40.100.E.		1 per employee + 1 per stored vehicle	1 per employee + 1 per stored vehicle
<i>Accessory Uses</i>				
Battery Charging Station	[108.40.110.H.]	Y	n/a	n/a
<i>Temporary Uses</i>				
Yard Sale	[108.40.120.B.]	Y	n/a	n/a

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Christmas Tree Sales	[108.40.120.C.]	Y	1 per 1,000 sf outdoor display area + 1 per employee	1 per 1,000 sf outdoor display area + 1 per employee
Farm Stand	[108.40.120.D.]	Y	5 per 1,000 sf display area	5 per 1,000 sf display area
Temporary Real Estate Sales Office	[108.40.120.E.]	A	2	4
Temporary Shelter	[108.40.120.F.]	A	2 per DU	2 per DU
Temporary Gravel Processing	[108.40.120.G.]	A	1 per employee	1 per employee
Y = allowed without use permit A = Administrative Use Permit required C = Conditional Use Permit required PF = Public Facilities Use Permit required (PO) = Only allowed in the PO Overlay				

<b>3. Performance Standards</b>	
Outdoor Storage	(Sec. 108.60.020.)
Recreational Vehicles	allowed if standards are met
Outdoor Storage Areas and Yards	allowed if standards are met
Shipping Containers and Compartments	allowed if standards are met
Refuse and Recycling	(Sec. 108.60.030)
Trash and recycling enclosure required	>4 DUs and all nonresidential
Noise	(Sec. 108.60.040)
Sound level at property line (max)	75 DBA
Vibration	(Sec. 108.60.050)
Odors	(Sec. 108.60.060)
Light and Glare	(Sec. 108.60.070)
Radioactivity and Electrical Disturbances	(Sec. 108.60.080)

- D. Lot standards. (Reserved).
  - E. Development options and subdivision. (Reserved).
  - F. Additional zone-specific standards. (Reserved).
- (Ord. No. 881, § 31, 9-26-2017)

**CHAPTER 106.50. SPECIAL PURPOSE ZONES**

**106.50.010. Public/semi-public (P/SP) zone.**

- A. *Intent.* The public/semi-public zone provides for moderate- and large-scale activities relating to the purposes of state and local governmental entities and semi-public institutions by providing necessary public services. The designation allows for the specialized needs of providing public services to all areas of Tenino.
- B. *Physical development.* Standards applicable to physical development in the P/SP zone are provided on the following pages. Where a cross-reference is listed, see the referenced title, chapter or section for additional standards.

1. <i>Setbacks (min)</i>	<i>Sec. 108.30.040</i>
Front:	0'
Garage/Carport:	0'
Side:	0'
Rear:	0'
2. <i>Impervious Surfaces</i>	
Maximum	100%
3. <i>Building Coverage</i>	
Maximum	n/a
4. <i>Design Standards</i>	<i>Sec. 108.30.140</i>
Buildings	n/a
Lighting	n/a
Landscaping	
Parking lots	n/a
Street trees	n/a
Visual screening	n/a
5. <i>Fencing</i>	<i>Sec 108.30.040</i>
Height in any front yard (max)	4'
Height in any side yard (max)	6'
Height in any rear yard (max)	6'
6. <i>Building Height</i>	<i>Sec. 108.30.040</i>
Maximum	case by case
7. <i>Environmental Standards</i>	
Shoreline Development	Title 109
SEPA Review	Title 110
Critical Area Buffers	Title 112
Wetlands	50' – 300'
CARAs	protect water source
Frequently Flooded Areas	50'
Geologically Hazardous Areas	slope ht.
Wildlife Habitat	varies
8. <i>Signs</i>	<i>Sec. 108.30.130</i>
9. <i>Grading, Erosion Control, Stormwater (reserved)</i>	
10. <i>Required Physical Development Permits (reserved)</i>	

C. *Allowed uses and use standards.* Standards applicable to use are provided in this subsection. Where a cross-reference is listed, see the referenced title, chapter, or section for additional standards. All standards in Title 106 and Title 108 are applicable unless stated otherwise.

1. Allowed Uses			2. Parking (Ch. 108.50)	
Use	Definition/Standards	Permit	Minimum	Maximum
<i>Lodging Uses</i>				
Campground	[108.40.050.C.]	A	1 per campsite + 1 per 7.5 campsites	n/a
<i>Institutional Uses</i>				
Assembly	[108.40.060.B.]	Y	Independent Calculation	
Daycare Center	[108.40.060.C.]	Y	0.5 per employee	1 per employee
School	[108.40.060.D.]	C	Independent Calculation	
Emergency Services	[108.40.060.E.]	A	Independent Calculation	
<i>Commercial Uses</i>				
Office	[108.40.070.B.]	Y	1 per 1,000 sf	5.5 per 1,000 sf
Mobile Food Vendor	[108.40.070.F.]	A		
<i>Amusement and Recreation</i>				
Amusement	[108.40.080.B.]	A	3 per 1,000 sf	5 per 1,000 sf
Outdoor Recreation	[108.40.080.C.]	Y	Independent Calculation	
Developed Recreation	[108.40.080.D.]	Y	Independent Calculation	
<i>Transportation and Infrastructure Uses</i>				
Parking	[108.40.100.B.]	A	n/a	n/a
Utility Facility	[108.40.100.C.]	C	1 per employee + 1 per stored vehicle	1 per employee + 1 per stored vehicle
Sewer Facility	[108.40.100.D.]	PF	1 per employee + 1 per stored vehicle	1 per employee + 1 per stored vehicle

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Wireless Telecommunications Facility	See Sec. 108.40.100.E.		1 per employee + 1 per stored vehicle	1 per employee + 1 per stored vehicle
<i>Accessory Uses</i>				
Battery Charging Station	[108.40.110.H.]	Y	n/a	n/a
<i>Temporary Uses</i>				
Yard Sale	[108.40.120.B.]	Y	n/a	n/a
Farm Stand	[108.40.120.D.]	Y	5 per 1,000 sf display area	
Temporary Real Estate Sales Office	[108.40.120.E.]	A	2	4
Temporary Shelter	[108.40.120.F.]	A	2 per DU	2 per DU
Temporary Gravel Processing	[108.40.120.H.]	A	1 per employee	
Y = allowed without use permit A = Administrative Use Permit required C = Conditional Use Permit required PF = Public Facilities Use Permit required (PO) = Only allowed in the PO Overlay				

<i>3. Performance Standards</i>	
Outdoor Storage	(Sec. 108.60.020)
Recreational Vehicles	allowed if standards are met
Outdoor Storage Areas and Yards	allowed if standards are met
Shipping Containers and Compartments	allowed if standards are met
Refuse and Recycling	(Sec. 108.60.030)
Trash and recycling enclosure required	>4 DUs and all nonresidential
Noise	(Sec. 108.60.040)
Sound level at property line (max)	75 DBA
Vibration	(Sec. 108.60.050)
Odors	(Sec. 108.60.060)
Light and Glare	(Sec. 108.60.070)
Radioactivity and Electrical Disturbances	(Sec. 108.60.080)

- D. *Lot standards.* (Reserved).
  - E. *Development options and subdivision.* (Reserved).
  - F. *Additional zone-specific standards.* (Reserved).
- (Ord. No. 881, § 32, 9-26-2017)

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**106.50.020. West Tenino (WT) zone.**

- A. *Intent.* The purpose of the West Tenino zone is to:
1. Require the adoption of a master plan prior to any subdivision of land, except those subdivisions of land that occur subject to RCW 58.17.040(1), or RCW 58.17.040(3) through 58.17.040(9), to ensure that a number of smaller land divisions do not make the site unusable for future urban development.
  2. Provide requirements and guidelines for the development of the area, including items such as the layout of road connections and certain building forms and uses to facilitate the development of an individual or series of master plans for the site.
  3. Specify the land uses that are allowed in the area prior to the creation of a master plan or any subdivision of property.
- B. *Physical development.* Standards applicable to physical development in the WT zone are provided on the following pages. Where a cross-reference is listed, see the referenced title, chapter or section for additional standards.

1. Setbacks (min)		Sec. 108.30.040
Use Type	Setback based on Street Type	
	Arterial and State Highway	Collector, Local, and Private
<i>Nonresidential Uses</i>		
Front:	35'	25'
Side Street:	10'	10'
Side:	10'	10'
Rear:	10'	10'
<i>Attached Single-Family Uses (3 or more units)</i>		
Front:	30'	20'
Side Street:	10'	10'
Side:	10'	10'
Rear:	10'	10'
<i>Detached Single-Family and Duplex Uses</i>		
Front:	30'	20'
Side Street:	10'	10'
Side:	6'	6'
Rear:	6'	6'
<i>Buildings Housing Animals</i>		
Front:	50'	50'
Side Street:	10'	10'
Side:	35'	35'
Rear:	35'	35'

2. Impervious Surfaces (max)	
Hydrologic soil groups C and D	
Lots less than 5 acres	45%
Lots 5 acres or more	10%

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Hydrologic soil groups A and B	60%
<b>3. Building Coverage (max)</b>	
Lots 10 acres or less	6,000 sf
Lots more than 10 acres	20,000 sf
<b>4. Design Standards</b>	
Buildings	n/a
Lighting	n/a
<b>Landscaping</b>	
Parking lots	n/a
Street trees	n/a
Visual screening	n/a
<b>5. Fencing</b>	
Height in any front yard (max)	4'
Height in any side yard (max)	6'
Height in any rear yard (max)	6'
<b>6. Building Height</b>	
Maximum	35'
<b>7. Environmental Standards</b>	
Shoreline Development	Title 109
SEPA Review	Title 110
Critical Area Buffers	Title 112
Wetlands	50'—300'
CARAs	protect water source
Frequently Flooded Areas	50'
Geologically Hazardous Areas	slope ht.
Wildlife Habitat	varies
<b>8. Signs</b>	
Sec. 108.30.130	
<b>9. Grading, Erosion Control, Stormwater (reserved)</b>	
<b>10. Required Physical Development Permits (reserved)</b>	

C. *Allowed uses and use standards.* Standards applicable to use are provided in this subsection. Where a cross-reference is listed, see the referenced title, chapter, or section for additional standards. All standards in Title 106 and Title 108 are applicable unless stated otherwise.

1. Allowed Uses			2. Parking (Ch. 108.50)	
Use	Definition/Standards	Permit	Minimum	Maximum
<b>Open Space Uses</b>				
Agriculture	[108.40.030.B.]	Y	n/a	n/a
<b>Residential Uses</b>				
Detached Single-Family Unit	[108.40.040.B.]	Y	2 per DU	n/a
<b>Institutional Uses</b>				
Assembly	[108.40.060.B.]	C	Independent Calculation	
<b>Commercial Uses</b>				

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Retail	[108.40.070.C.] [106.40.020.F.2.]	Y	3 per 1,000 sf	6 per 1,000 sf
Restaurant/Bar	[108.40.070.E.] [106.40.020.F.2.]	Y	5 per 1,000 sf	20 per 1,000 sf
Heavy Retail/Service	[108.40.070.G.] [106.40.020.F.3.]	Y	2 per 1,000 sf + 3 per repair bay + 1 per wash bay	6 per 1,000 sf + 3 per repair bay + 1 per wash bay
<i>Amusement and Recreation</i>				
Outdoor Recreation	[108.40.080.C.]	C	Independent Calculation	
Developed Recreation	[108.40.080.D.]	C	Independent Calculation	
<i>Transportation and Infrastructure Uses</i>				
Utility Facility	[108.40.100.C.]	C	1 per employee + 1 per stored vehicle	1 per employee + 1 per stored vehicle
<i>Accessory Uses</i>				
Accessory Dwelling Unit	[108.40.110.B.] [106.40.020.F.1.]	A	1 per DU	2 per DU
Bed and Breakfast	[108.40.110.C.]	Y	0.75 per LU	1.5 per LU
Home Occupation	[108.40.110.D.]	A	n/a	n/a
Home Business	[108.40.110.E.]	C	1 per employee	1 per employee
Home Daycare	[108.40.110.G.]	A	1 per employee	1 per employee
Battery Charging Station	[108.40.110.H.]	Y	n/a	n/a
<i>Temporary Uses</i>				
Farm Stand	[108.40.120.D.]	Y	5 per 1,000 sf display area	5 per 1,000 sf display area
Y = allowed without use permit A = Administrative Use Permit required C = Conditional Use Permit required PF = Public Facilities Use Permit required (PO) = Only allowed in the PO Overlay				

<i>3. Performance Standards</i>	
Outdoor Storage	(Sec. 108.60.020)

Recreational Vehicles	allowed if standards are met
Outdoor Storage Areas and Yards	allowed if standards are met
Shipping Containers and Compartments	allowed if standards are met
Refuse and Recycling	(Sec. 108.60.030.)
Trash and recycling enclosure required	>4 DUs and all nonresidential
Noise	(Sec. 108.60.040)
Sound level at property line (max)	75 DBA
Vibration	(Sec. 108.60.050)
Odors	(Sec. 108.60.060)
Light and Glare	(Sec. 108.60.070)
Radioactivity and Electrical Disturbances	(Sec. 108.60.080)

D. *Lot standards.* (Reserved).

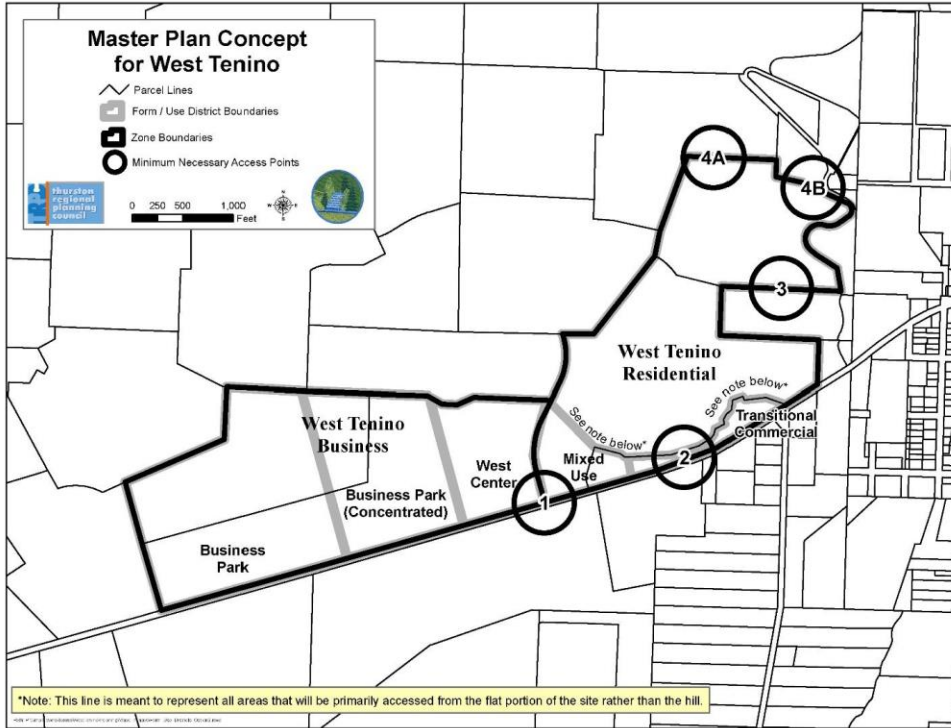
E. *Development options and subdivision.*

1. *Subdivision prohibited.* Subdivision is prohibited prior to establishing a Master Plan except for those divisions that occur subject to RCW 58.17.040(1) or RCW 58.17.040(3) through 58.17.040(9):
  - a. Cemeteries and other burial plots.
  - b. Divisions made by testamentary provisions, or the laws of descent.
  - c. Divisions in accordance with an approved binding site plan.
  - d. Divisions for the purpose of lease in association with an approved binding site plan.
  - e. Boundary line adjustments.
  - f. Divisions for the purpose of leasing land for wireless telecommunications facilities.
  - g. Divisions of land into lots or tracts less than three acres in size for the purpose of establishing a utility facility.

F. *Additional zone-specific standards.*

1. *Accessory dwelling units.*
  - a. *Additional ADUs.* All lots with an existing single-family dwelling that is also actively farmed may be allowed one ADU. For lots that exceed 20 acres in size, one additional ADU is allowed for every 20 additional acres.  
  
*Example:* An agriculture operation is sited on a 79-acre parcel of land. One ADU is allowed outright. One ADU is allowed for every 20 additional acres for a total of 3 ADUs (1 + (79-20)/20 = 3.95).
  - b. The ADUs must be clustered together and in proximity to a principal residential dwelling.
  - c. Accessory dwelling units must not be subdivided separate from the agricultural operation.
  - d. The sewage disposal and water supply must be approved by the City of Tenino.
2. *Retail and restaurants/bars.* Retail and restaurant/bar uses must be in a farmer's market format.
3. *Heavy retail/service.* Heavy retail/service uses shall be limited to no more than 5,000 square feet of floor area.

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4. *West Tenino Master Plans.* A master plan pursuant to Section 100.55, Master Planned Developments, is required for any subdivision of land except for those subdivisions that occur subject to subsection E.1. above.
- a. *Required master plan elements.* The master plan must include the following elements and must describe the fundamental characteristics of the proposed development as well as future development of neighboring properties.
- i. *Transportation element.*
  - ii. *Utilities element.* The utilities element must include a plan for ensuring there are water rights sufficient to accommodate the anticipated uses on the site.
  - iii. *Land use element.* The land use element must include a description of all proposed uses. Residential development must have an average net density of at least 6 dwelling units per acre.
  - iv. *Design guidelines element.* The design guidelines must include information on how sandstone will be used in the area.
- b. *Reserve areas allowed.* Reserve areas for future master plans may be established in the West Tenino Residential area (shown below) as part of a master plan. Reserve areas must be at least 20 acres in size, and have a shape appropriate for the development of a future master plan. When a reserve area is utilized, the transportation element and utilities element of the original master plan must show how roadways and utilities will be provided to the reserve area.
- c. *Master plan principles.* A master plan should be designed in accordance with the following guidelines for the site.
- i. *Form and use principles.* The following principles are meant to articulate the desired placement of building forms and land uses throughout various districts of the master plan area. The general location that these different forms and uses apply is shown below. Variations on the location of these districts are appropriate, so long as the districts meet the fundamental intent for each area as articulated below.



(a) *Business park area.*

- (1) *Form.* Buildings in the business park area may become even more spread out than in the concentrated business park. Buildings should be visually obscured from Old Highway 99 by the existing topography.
- (2) *Access.* Buildings should generally be accessed via a secondary access road (or roads) off of Old Highway 99.
- (3) *Setbacks.* Buildings are encouraged to be set at or near the front property line along the secondary access roads.
- (4) *Uses.* Appropriate uses for the business park area include agriculture, light industry, service, office, and heavy retail/service. Residential uses may also be appropriate, particularly in the northern portion of the area, but must not exceed 35 percent of the area. Residential uses should be consistent with the form principles for the West Tenino Residential area (subsection F.3.d.i.(e). below) rather than the business park area.

(b) *Business park (concentrated) area.*

- (1) *Form.* Transitioning away from the West Center area, buildings may become less dense with yards, landscaping or parking located between the structures, though the structures should continue. Blocks may be

longer than seen in the West Center area, but should not exceed 800 feet in length.

- (2) *Setbacks.* Buildings should be set at or near the front property line.
  - (3) *Uses.* Appropriate uses for the business park (concentrated) area include light industry, office, and heavy retail/service. Residential uses may also be appropriate, particularly in the northern portion of the area, but must not exceed 35 percent of the area. Residential uses should be consistent with the form principles for the West Tenino Residential area (subsection F.3.d.i.(e). below) rather than the business park (concentrated) area.
- (c) *West Center Area.*
- (1) *Form.* The West Center Area of the site should provide a small retail and cultural center that is located close to the residential area on the hill and the business areas on the flat portion of the site. The area should contain a pedestrian-oriented configuration of buildings that frames the street front. Sandstone features should also be present on some of the buildings to acknowledge the city's history. Parking should be located behind the structures and be served by an alley to maintain this pedestrian-oriented street front, though on-street parking is also appropriate and encouraged. Blocks should range in length from 240 to 400 feet.
  - (2) *Setbacks.* Buildings should be set at or near the front property line and should have no side yards.
  - (3) *Uses.* Appropriate uses for the West Center Area include retail, service, offices, and residential. Residential uses must not exceed 35 percent of the area. The pond on the north portion of this area should be considered an amenity and be designed as a park with a trail around the pond, or some other park-like use.
- (d) *Transitional commercial area.*
- (1) *Form.* The western portion of the transitional commercial area should be a continuation of the retail and cultural center functions of the West Center area. Form should generally follow the characteristics listed for the West Center area. The eastern portion of the transitional commercial area (beyond where the hill creates a narrow strip of land between the hillside and roadway) may have buildings that are spread farther apart with parking located between the structures.
  - (2) *Uses.* Appropriate uses for the transitional commercial area include retail, service, light industrial, and office. Residential uses are prohibited unless it can be demonstrated that there is no potential for nuisance odors from the Tenino Wastewater Treatment Plant that could have a negative impact on dwellings at any point in the future.
- (e) *West Tenino residential area.*
- (1) *Form.* A mix of housing types is appropriate. Mixed-use development may also be appropriate but may not in total exceed the ten percent of the area. Mixed use buildings should have some sandstone features and be pedestrian oriented with parking at the rear of buildings.

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- (2) *Access.* Dwellings should generally be accessed by a well-connected street system with few cul-de-sacs. A pedestrian system with paths and/or sidewalks throughout the area should also be incorporated.
  - (3) *Uses.* Appropriate uses for the Residential area include detached single-family dwellings, attached single-family dwellings, and retail when located in a mixed-use building. Open space associated with critical areas, such as the wetlands in the ravines on the hill, could include a trail system, and a park or trail system could provide views from areas on the hill.

ii. *Connectivity principles.*

(a) *Street connections.*

- (1) *Lemon Hill Roadway Network and Access Points.* The figure above shows the general location of necessary access points and the basic road connections that should be made on the hill portion of the West Tenino zone. Roadway locations and access points are meant to depict the primary arterial/collector corridors and minimum connectivity requirements necessary for the site. The figure is not meant to depict all roadways that will be constructed in the area. The placement of each roadway and access point may be moved to best suit the site design. However, the number of connections and access points should not decrease. The basic road connections required include:
  - (A) *Morningside Drive connector.* A connection from the flat portion of the site to Morningside Drive (the line connecting 1 to 4A or 4B). The Morningside Drive connector, should be considered as part of the Main Roadway Spine.
  - (B) *Old Highway 99 connector.* A connection from Old Highway 99 to the Morningside Drive Connector (the line connecting 2 and the line between 1 and 4A or 4B).
  - (C) *City connector.* A connection from the Main Roadway Spine to an adjacent parcel within City limits that is over ten acres in size as of December 13, 2011 (the line connecting 3 and the line between 1 and 4A or 4B).
  - (D) *County connector.* A connection from the Main Roadway Spine to an adjacent parcel more than ten acres in size as of December 13, 2011 that is located outside city limits. The parcel must also be located on Lemon Hill. This connection may be created through a roadway, a dedicated easement or a dedication for a future potential roadway to the adjacent parcel. The connection is intended to ensure connectivity should the land in unincorporated county be developed in the future.
- (2) *Westside Prairie Roadway Network and Access Points.* No access points or roadway network are depicted in the figure above for the flat portion of the site. Within the area, the roadway network may be tailored to best suit the design of the master plan, but should generally include the following characteristics:

- 
- (A) A street system that is consistent with the district form principles articulated in subsection F.3.c.i. above;
  - (B) A well-connected roadway network (with few if any cul-de-sacs); and
  - (C) An extension of the Main Roadway Spine that connects the Spine to Lemon Hill (discussed below).
- (3) *Main Roadway Spine.* The main spine through the site should connect the western part of the flat portion of the site (and Old Highway 99) to Morningside Drive. The Main Roadway Spine should be designed in a manner consistent throughout its entire length. The design should define West Tenino as a unique area and include sidewalks on both sides of the street, planter strips, and bike lanes. A median in the center of the roadway should also be considered to help distinguish the road from others in the community and contribute to the sense that West Tenino is a distinct area of the community.
- (b) *Trail connections.* A trail should be constructed on the site that will eventually link to the Yelm/Tenino Trail. This trail should generally skirt along the bottom edge of Lemon Hill and be connected to trails, sidewalks and/or bike lanes that descend the hill. West of Lemon Hill, the trail may: Continue as an individual, stand-alone trail that travels through the West Center and Business Park areas; tie into bike lanes and sidewalks on the main roadway spine; or travel an alternative route that is based on the placement of parks within the master plan. Bike and pedestrian facilities should be considered a fundamental amenity necessary to connect West Tenino to downtown Tenino.

(Ord. No. 881, § 32, 9-26-2017)

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CHAPTER 5.24. - FLOOD HAZARD REGULATIONS

ARTICLE I. - FINDINGS OF FACT AND PURPOSE

5.24.010. - Findings.

- A. The flood hazard areas of the City of Tenino are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- B. These flood losses are caused by the cumulative effects of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood proofed, elevated or otherwise protected also contribute to flood loss.

(Ord. No. 861, § 6, 8-9-2016)

5.24.020. - Purpose.

See TMC 18D.70.010.

- A. It is further the purpose of these regulations to comply with the requirements of the National Flood Insurance Program by adoption of floodplain management regulations consistent with federal criteria, as set forth in Title 44 CFR, Subchapter B - Insurance and Hazard Mitigation.

(Ord. No. 861, § 6, 8-9-2016)

5.24.030. - Methods of reducing flood losses.

In order to accomplish the foregoing purposes, the following methods shall be employed pursuant to authority of this chapter in reducing flood losses:

- A. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in increases in erosion or flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement;
- C. Controlling the alteration of natural floodplains, stream channels and natural protective barriers which help accommodate the storage or channeling of floodwaters;
- D. Controlling the filling, grading and other development which may increase flood damage;
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas; and
- F. Such other measures as are deemed necessary and appropriate in light of any special vulnerability to flood damage of a specific site due to location or natural features.

(Ord. No. 861, § 6, 8-9-2016)

ARTICLE II. - DEFINITIONS

5.24.040. - Definitions.

Unless specifically defined in this section, words or phrases used in this chapter shall be interpreted to have the meaning they have in common usage and to give this chapter its most reasonable application to effectuate its purposes. The following words and phrases shall for purposes of this chapter have the following meanings:

Alteration of watercourse means any action that will change the location of the channel occupied by water within the banks of any portion of a riverine waterbody.

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*Appeal* means a request for a review of the building official's interpretation of this chapter, or review by superior court of a decision of city council.

*Area of shallow flooding* means a designated AO or AH zone on the flood insurance rate map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow, and AH indicates ponding.

*Area of special flood hazard* means the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as zone A, AO, AH, A1-30, AE, A99, AR (V, VO, V1-30, VE). "Special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard".land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters "A" or "V."

**Commented [RA(2)]:** Additional language mandatory per 44 CFR 59.1

*Base flood* means the flood having a one percent chance of being equaled or exceeded in any given year, and may be used interchangeably with the term "100-year flood."

Base flood elevation (BFE) means the elevation to which floodwater is anticipated to rise during the base flood.

**Commented [RA(3)]:** Mandatory per 44 CFR 59.1

*Basement* means any area of the building having its floor sub grade (below ground level) on all sides.

*Critical facility* means facilities for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, and installations which produce, use or store hazardous materials or hazardous waste.

*Development* means any manmade changes to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within an area of special flood hazard.

*Fill* means any natural or processed earthen material of any nature whatsoever, including, but not limited to, soil, gravel, crushed rock, concrete, and asphalt imported to a lot, tract or parcel, other than those materials that are directly incorporated into a building or structure. For purposes of construction of railroad track, "fill" shall not include such ballast as may be required by state or federal regulations to provide for the stability of the track, not exceeding 16 inches in depth. For purposes of road, driveway, sidewalk or approved parking area construction, "fill" shall include materials used to construct to sub grade, including gravel or rock, but shall not include above-grade concrete, asphalt, gravel or other paving material, if any, not exceeding four inches in total thickness; and further provided, for purposes of public streets, "fill" shall not include materials used to construct to six inches of sub grade to create a roadway crown, where deemed necessary or appropriate by the city engineer.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

**Commented [RA(4)]:** Additional language mandatory per 44 CFR 59.1

1. The overflow of inland or tidal waters; and/or
2. The unusual and rapid accumulation of runoff of surface waters from any source.
3. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

4. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (1) of this definition.

*Flood insurance rate map (FIRM)* means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

*Flood insurance study* means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

*Floodplain* means a land area adjoining a river, stream, watercourse or lake, which is likely to be flooded.

Floodplain administrator means the community official designated by title to administer and enforce the floodplain management regulations.

Commented [RA(5)]: Mandatory per 44 CFR 59.1

*Flood proofing* means any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents. Flood proofed structures are those that have the structural integrity and design to be impervious to floodwater below the Base Flood Elevation.

Commented [RA(6)]: Additional language mandatory per 44 CFR 59.1

*Floodway* means the channel of a river or other watercourse and the adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as "Regulatory Floodway."

*Flood barrier* means any manmade obstruction which serves to prevent, hinder, restrict, bar or alter the passage of flood waters through usual and normal conveyance channels, other than any structure specifically approved as part of a flood control project, which has more than a purely localized effect on conveyance.

~~For purposes of this chapter, lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter. Functionally dependent use means use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.~~

Commented [RA(7)]: Mandatory per 44 CFR 59.1

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Commented [RA(8)]: Mandatory per 44 CFR 59.1

Historic structure means any structure that is:

- 1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- 2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- 3) Individually listed on a state inventory of historic places in states with historic preservation programs

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which have been approved by the Secretary of Interior, or

4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

a) By an approved state program as determined by the Secretary of the Interior, or

b) Directly by the Secretary of the Interior in states without approved programs.

For purposes of this chapter, lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor: provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

*Manufactured home* means a single-family dwelling built in accordance with the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards Act, which is a national, preemptive building code. For purposes of this chapter, the term "manufactured home" shall also include a mobile home, which is defined as a factory-built dwelling built prior to June 15, 1976, to standards other than the HUD code, and acceptable under applicable state codes in effect at the time of construction or introduction of the home into the state. For purposes of this chapter, and other ordinances, statutes or administrative regulations relating to floodplain management, the term also includes park trailers, travel trailers and other similar vehicles placed on a site for more than 180 consecutive days.

*Manufactured home park* means a parcel (or contiguous parcels) of land divided into two or more lots for sale or rent for the placement of manufactured homes.

*Market value* means the value a structure would bring on the open market upon reasonable exposure to sale, excluding the value of the land itself, as determined by the building official. In no event, however, shall such value be less than the assessed value for tax purposes as determined by the King County assessor.

Mean sea level means for purposes of the National Flood Insurance Program, the vertical datum to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

*New construction* means structures for which the start of construction commenced on or after June 25, 1984, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

*Person* includes any individual, or group of individuals, corporation, partnership, association, or other entity, including state and local governments and agencies.

*Recreational vehicle* means a vehicle:

1. Built on a single chassis;
2. Four hundred square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently tow able by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

*Start of construction* includes substantial improvement, and means the date the building permit was issued; provided, the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit issuance date. The actual start of construction means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, and

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Commented [RA(9)]: Mandatory per 44 CFR 59.1

Commented [RA(10)]: Mandatory per 44 CFR 59.1

Commented [RA(11)]: Additional language mandatory per 44 CFR 59.1

includes the placement of a manufactured home upon a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets or walkways; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Commented [RA(12):** Additional language mandatory per 44 CFR 59.1

*Structure* means a walled and roofed building or manufactured home, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home.

**Commented [RA(13):** Additional language mandatory per 44 CFR 59.1

*Substantial damage* means damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

*Substantial improvement.*

1. "Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure:
  - a. Before the improvement or repair is started; or
  - b. If the structure has been damaged and is being restored, before the damage occurred; for purposes of this definition, "substantial improvement" is deemed to occur when the first alteration affects the external dimensions of the structure.
2. The term does not include either:
  - a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and are the minimum necessary to assure safe living conditions; or
  - b. Any alteration of a structure listed on the National Register of Historic Places or a comparable state inventory of historic places.

*Variance* means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited.

(Ord. No. 861, § 6, 8-9-2016)

ARTICLE III. - GENERAL PROVISIONS

5.24.050. - Lands to which chapter applies.

A. This chapter shall apply to all areas of special flood hazard within the corporate limits of the city.

B. The special flood hazard areas identified by the Federal Insurance Administrator in a scientific and engineering report entitled "The Flood Insurance Study (FIS) for THURSTON COUNTY, WASHINGTON AND INCORPORATED AREAS" dated October 19, 2023, and any revisions thereto, with accompanying Flood Insurance Rate Maps (FIRMs) dated June 19, 2020, and any revisions thereto, are hereby adopted by reference and declared to be a part of this ordinance. The FIS and the FIRM are on file at [community address].

**Commented [RA(14):** Additional language/language revision mandatory per Mandatory 44 CFR 60.3 (preamble) and 44 CFR 60.2(h)

The best available information for flood hazard area identification as outlined in Section 5.24.120(B) shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under Section 5.24.120(B). The areas of special flood hazard identified by the Federal Insurance Administration in the most recently adopted flood insurance study for the city, together with the most recent accompanying flood maps as the same now exist or may be hereafter amended, supplemented or revised by the Federal Insurance Administration, are hereby adopted by reference and declared to be a part of this chapter. Copies of the flood insurance study and flood maps shall be maintained on file at City Hall and be available for public inspection during normal business hours.

**Commented [RA(15):** Address of City Hall where maps are on file. (These maps are not usually printed anymore, but still need to cite address of City Hall where Floodplain Administrator works)

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(Ord. No. 861, § 6, 8-9-2016)

5.24.060. - Compliance required—Penalties.

- A. No structure or land shall hereafter be located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations.
- B. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established by the building official pursuant to the authority of this chapter) after notice of violation and order to comply issued by the building official shall constitute a civil infraction. Any person who violates the provisions of this chapter or fails to comply with any of its requirements shall be subject to a cumulative civil penalty of \$500.00 per day from the date set for compliance in the order to comply until such violation is corrected, or compliance with such order occurs. The penalty provided shall be collected by civil action in Tenino Municipal Court.
- C. Nothing contained herein shall be construed to prevent the building official from taking such other lawful action as is necessary to prevent or remedy any violation, and all violations shall also be subject to abatement as a public nuisance pursuant to Chapter 8.08 TMC, including removal of unlawful structures, fill or flood barriers, at the owner's expense.
- D. In any action to collect a civil penalty, the defendant may show that the violation giving rise to such action was caused by the willful act or neglect of another, or that correction of such violation was commenced promptly upon receipt of notice thereof but that full compliance within the time specified was prevented by inability to obtain necessary materials or labor, or other circumstances or conditions beyond the defendant's control, and upon such showing the court may abate all or part of the penalty accumulated as justice may require.

(Ord. No. 861, § 6, 8-9-2016)

5.24.070. - Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where the provisions of this chapter and any other ordinance, easement, covenant, or deed provision conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. No. 861, § 6, 8-9-2016)

5.24.080. - Interpretation.

- A. This chapter shall be strictly interpreted to effectuate its purposes, and where doubt exists as to the meaning of any word or phrase herein, such word or phrase shall be construed in the most restrictive manner in favor of preservation of flood storage and conveyance consistent with the constitutional rights of the owners of property affected hereby, and further provided, the definitions and substantive provisions of Title 44 CFR, Subchapter B - Insurance and Hazard Mitigation may be consulted as an aid to interpretation of these regulations.
- B. All provisions of this chapter shall be considered as minimum requirements, and shall be deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. No. 861, § 6, 8-9-2016)

5.24.090. - Warning and disclaimer of liability.

The degree of flood protection required by this chapter is deemed reasonable for the regulatory purposes for which it is enacted, and this chapter is based upon scientific and engineering considerations. Larger floods than those contemplated by this chapter may occur from time to time, and flood heights may be increased by manmade or natural causes. Nothing contained herein shall be construed to assure or warrant that areas outside those identified as area of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create any liability on the part of the city of Tenino, any officer or employee thereof, or the Federal Insurance Administration, for any damages that result from reliance on this chapter or any administrative decisions lawfully made hereunder.

(Ord. No. 861, § 6, 8-9-2016)

5.24.095. – Severability

This ordinance and the various parts thereof are hereby declared to be severable. Should any Section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the Section so declared to be unconstitutional or invalid.

**Commented [RA(16):** Additional language mandatory per 44 CFR 60.1(b). *The severability cause may be included in the adopting ordinance and left uncodified.*

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ARTICLE IV. - ADMINISTRATION

5.24.100. - Building official to administer.

The building official of the city shall administer and implement the provisions of this chapter, and shall have the authority to grant or deny flood improvement permits in accordance with its provisions.

(Ord. No. 861, § 6, 8-9-2016)

5.24.110. - Development permit required.

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 5.24.050(B). The permit shall be for all structures including manufactured homes, as set forth in the "Definitions," and for all development including fill and other activities, also as set forth in the "Definitions."

See TMC 18D.70

(Ord. No. 861, § 6, 8-9-2016)

**Commented [RA(17):** This language is mandatory per 44 CFR 60.3(b)(1). It is recommended the placeholder language located here referencing another section be replaced by this mandatory language.

5.24.XXX. - Application for Development Permit

Application for a development permit shall be made on forms furnished by the Floodplain Administrator and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

**Commented [RA(18):** The format of this Section is not mandatory but the elevation information in subsection 1 and information in subsections 2 through 7 is mandatory.

Elevation Certificates are not mandatory outside of Community Rating System communities but highly recommended.

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- A. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures recorded on a current elevation certificate with Section B completed by the Floodplain Administrator.
- B. Elevation in relation to mean sea level to which any structure has been flood proofed;
- C. Where a structure is to be flood proofed, certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure meet flood proofing criteria in 5.24.160(B);
- D. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development;
- E. Where development is proposed in a floodway, an engineering analysis indicating no rise of the Base Flood Elevation; and
- F. Any other such information that may be reasonably required by the Floodplain Administrator in order to review the application.

5.24.XXX - Designation of the Floodplain Administrator

The (job title of the appropriate administrative official) is hereby appointed to administer, implement, and enforce this ordinance by granting or denying development permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.

5.24.120. - Duties of the building official.

Duties of the building official shall include but not be limited to the following:

- A. Permit review. Review all development permits to determine that:
  - 1. The permit requirements of this ordinance have been satisfied;
  - 2. All other required state and federal permits have been obtained;
  - 3. The site is reasonably safe from flooding;
  - 4. The proposed development is not located in the floodway. If located in the floodway, assure the encroachment provisions of TMC 5.24.170(A) are met.
  - 5. Notify FEMA when annexations occur in the Special Flood Hazard Area.
  - 6. It shall be the responsibility of the applicant to identify all federal, state or local agencies whose prior approval is required, and all risk of loss or damage for the failure to do so shall be borne solely by the applicant.

~~The building official shall review all applications for flood improvement permits, for compliance with the requirements of this chapter, determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required, determine if the proposed action will occur in the floodway, and if so, determine that all special provisions relating to actions in the floodway have been met, provided, it shall be the responsibility of the applicant to identify all federal, state or local agencies whose prior approval is required, and all risk of loss or damage for the failure to do so shall be borne solely by the applicant.~~

- B. Use of other base flood data. When base flood elevation data has not been provided in accordance with TMC 5.24.050(B), the building official shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of TMC 5.24.160, Specific Standards, and TMC 5.24.170, Floodways.

**Commented [RA(19):** Mandatory (44 CFR 59.22(b)(1))

**Commented [RA(20):** Insert designated FPA's title, often the Building Official.

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**Commented [RA(21):** It is recommended the existing language be replaced with the format of this mandatory language, per 44 CFR 60.1 (b).

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C. *Maintenance of information.* The building official shall obtain, record, and maintain for public inspection the following information:

- 1. The actual (as-built) elevation in relation to mean sea level of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement; and
- 2. For all new or substantially improved flood proofed structures, verify and record the actual elevation in relation to mean sea level, and maintain the flood proofing certifications required by this chapter.

- ~~3. Certification required by 5.24.170(A).~~
- ~~4. Records of all variance actions, including justification for their issuance.~~
- ~~5. Improvement and damage calculations.~~
- ~~6. Maintain for public inspection all records pertaining to the provisions of this ordinance.~~

D. *Alteration of watercourses.* ~~See TMC 18D.70.040.D.~~

~~Whenever a watercourse is to be altered or relocated:~~

- ~~1. Notify adjacent communities and the Department of Ecology prior to such alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administrator through appropriate notification means, and~~
- ~~2. Assure that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained.~~

E. *Interpretation of FIRM boundaries.* The building official shall make interpretations where needed as to the exact location of the boundaries of the areas of special flood hazards, for example, where there appears to be a conflict between a mapped area and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted when consistent with the standards of Section 60.6 of the Rules and Regulations of the National Flood Insurance Program (44 CFR 59-76) as the same now exist or may hereafter be amended.

- F. 1. Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the building official or his designee has reasonable cause to believe that there exists in any building or upon any lands any condition or violation of this chapter, the building official or his designee may enter such building or lands at all reasonable times to inspect the same or to perform any duty imposed on the building official by this chapter, provided, that if such building or lands be occupied, he shall first identify himself and request entry; and if such building or lands is unoccupied, he shall first make a reasonable effort to locate the owner or person having control of the building or lands and request entry. If such entry is refused, the building official or his designee shall have recourse to every remedy provided by law to secure entry.
- 2. No owner or occupant or any other person having charge, care or control of any building or lands shall fail or neglect, after proper request, to promptly permit entry by the building official for the purposes authorized above.

(Ord. No. 861, § 6, 8-9-2016)

G. ~~*Review of Building Permits.* Where elevation data is not available, either through the FIS, FIRM, or from another authoritative source TMC 5.24.120(B), applications for floodplain development shall 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.~~

**Commented [RA(22):** Additional language mandatory per 44 CFR 60.3 (b)(5)

**Commented [RA(23):** It is recommended this be removed and replaced with the mandatory language provided.

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**Commented [RA(24):** Mandatory per 44 CFR 60.3(b)(6) and (7)

**Commented [RA(25):** Mandatory per 44 CFR 60.3(a)(3)

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(Failure to elevate habitable buildings at least two feet above the highest adjacent grade in these zones may result in higher insurance rates.)

H. Changes to Special Flood Hazard Area.

- 1. If a project will alter the BFE or boundaries of the SFHA, then the project proponent shall provide the community with engineering documentation and analysis regarding the proposed change. If the change to the BFE or boundaries of the SFHA would normally require a Letter of Map Change, then the project proponent shall initiate, and receive approval of, a Conditional Letter of Map Revision (CLOMR) prior to approval of the development permit. The project shall be constructed in a manner consistent with the approved CLOMR.
- 2. If a CLOMR application is made, then the project proponent shall also supply the full CLOMR documentation package to the Floodplain Administrator to be attached to the floodplain development permit, including all required property owner notifications.

**Commented [RA(26):** This section is Recommended. However, be aware that 44 CFR 65.3 requires communities to submit new technical information regarding changes affecting flooding conditions. This section gives a community the authority to require necessary information from project proponents.

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5.24.130. - Variances.

- A. The city council of the city shall hear and decide requests for variances from the requirements of this chapter.
- B. In passing upon such applications, the city council shall consider all technical evaluations, relevant factors, standards specified in other sections of this chapter, and the following:
  - 1. The danger that materials may be swept onto other lands to the injury of others;
  - 2. The danger to life and property due to flooding or erosion damage;
  - 3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - 4. The importance of the services provided by the proposed facility to the community;
  - 5. The necessity to the facility of a waterfront location, if applicable;
  - 6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion;
  - 7. The compatibility of the proposed use with existing and anticipated development;
  - 8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - 9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - 10. The expected heights, velocities, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
  - 11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- C. Upon consideration of the factors specified in the foregoing paragraph, the city council may approve, approve with conditions such as it deems necessary to further the purposes of this chapter, or deny the request.
- D. The director of development services shall maintain records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

(Ord. No. 861, § 6, 8-9-2016)

5.24.140. - Conditions for variances.

- A. Variances from the strict application of this chapter may be granted only upon full consideration of the matters set forth in TMC 5.24.130(D). No variances may be granted from the requirements of TMC 5.24.160(A) or TMC 5.24.170(B).
- B. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or a comparable state inventory of historic places, without regard for the procedures set forth in this section.
- C. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
- D. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- E. Variance requests shall be denied unless the city council finds on the basis of clear and convincing evidence that:
  - 1. A showing of good and sufficient cause has been made;
  - 2. Failure to grant the variance would result in exceptional hardship to the applicant; and
  - 3. Granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense or nuisance, or conflict with any other existing local laws or ordinances.
- F. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all variance criteria except subsection (A) of this section, and otherwise complies with the provisions regarding anchoring and construction materials and methods below.
- G. Any applicant to whom a variance is granted shall be given a written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting therefrom. All risk of damage or loss not covered by flood insurance occurring as a result of such variance permitting a reduction in the required elevation for the lowest floor shall be borne solely by the applicant.

(Ord. No. 861, § 6, 8-9-2016)

#### ARTICLE V. - FLOOD HAZARD REDUCTION

##### 5.24.150. - General standards.

- A. *Finished grade after construction.*
  - 1. After construction or other development, but prior to final building inspection, certificate of occupancy or other final approval, the applicant shall obtain and furnish to the city a topographic survey, prepared by a licensed surveyor or engineer, with sufficient scale and contour to interval to adequately assess variation in ground surface and determine the average grade after construction or development, unless the requirement for a topographic survey was waived at the time of application.
  - 2. The average finished grade of all lots, tracts or parcels after construction of a building or other development, excluding the area occupied by the above-grade building or other development, shall be no greater than the average grade of the lot prior to construction or development. After construction or other development but prior to final building inspection, the applicant shall furnish, together with the topographic survey, the written certification of the licensed surveyor or engineer preparing the topographic survey that the finished grade meets the requirement of this subsection. No building or other development shall be occupied or used if the requirements of this section are not met.

3. Any earth material that must be removed from a site in order to comply with the requirements of this chapter shall be transported to an approved disposal site at the applicant's or property owner's sole expense, and evidence of such disposal shall be furnished to the building official.

B. *Anchoring.*

- 1. All new construction and substantial improvements shall be anchored so as to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy, pursuant to a design prepared by a registered professional engineer or architect licensed by the State of Washington.
- 2. All manufactured homes shall be anchored to prevent flotation, ~~collapse~~collapse, or lateral movement, pursuant to a design prepared by a registered professional engineer or ~~architect~~and architect and shall be installed using methods and practices that minimize the flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- 3. An alternative method of anchoring may involve a system designed to withstand a wind force of 85 miles per hour or greater. Certification must be provided to the building official that this standard has been met.

**Commented [RA(27):** Additional language mandatory per 44 CFR 60.3(a)(b)

**Commented [RA(28):** Additional language mandatory per 44 CFR 60.3(b)(8). For more detailed information, refer to guidebook, FEMA-85, "Manufactured Home Installation in Flood Hazard Areas."

C. *Construction materials and methods.*

- 1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- 2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- 3. Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

D. *Utilities.*

- 1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- 2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.
- 3. On-site waste disposal systems, if otherwise permitted, shall be located to avoid impairment to them or contamination from them during flooding.

4. Water wells shall be located on high ground that is not in the floodway.

**Commented [RA(29):** WAC 173-160-171 prohibits new water wells in floodways.

E. *Subdivision, short subdivision, binding site improvement plan and commercial and multifamily site plan approval proposals within areas of special flood hazard.*

~~1. All subdivision, short subdivision, binding site improvement plan and commercial and multifamily site plan proposals within areas of special flood hazard shall be subject to the provisions of TMC Title 18.~~

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All subdivisions, as well as new development shall:

**Commented [RA(30):** Recommend removing and using mandatory language below.

- 1. Be consistent with the need to minimize flood damage;
- 2. Have public utilities and facilities, such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
- 3. Have adequate drainage provided to reduce exposure to flood damage;
- 4. Where subdivision proposals and other proposed developments contain greater than 50 lots or 5 acres (whichever is the lesser) base flood elevation data shall be included as part of the application.

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**Commented [RA(31):** Mandatory per 44 CFR 60.3(a)(4) and (b)(3)

~~F. Review of building permits. Where elevation data is not available see TMC 18D.70.030 D.~~

(Ord. No. 861, § 6, 8-9-2016)

~~F. Storage of Materials and Equipment.~~

~~1. The storage or processing of materials that could be injurious to human, animal, or plant life if released due to damage from flooding is prohibited in special flood hazard areas.~~

~~2. Storage of other material or equipment may be allowed if not subject to damage by floods and if firmly anchored to prevent flotation, or if readily removable from the area within the time available after flood warning.~~

5.24.160. - Specific standards.

A. ~~Residential construction.~~

1. ~~In AE and A1-30 zones or other A zoned areas where the BFE has been determined or can be reasonably obtained, New-new construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.- Mechanical equipment and utilities shall be waterproof or elevated least one foot above the BFE. The following elevation requirements for the first floor of additions to existing residential structures shall apply:~~

- a. A vertical addition not increasing the footprint of the residential structure shall require elevation of the structure only if it constitutes a substantial improvement.
- b. A lateral addition to a residential structure which constitutes a substantial improvement shall require elevation of the structure, regardless of when construction of the structure commenced.
- c. A lateral addition to a residential structure which does not constitute a substantial improvement shall require elevation of the addition to the same elevation as the structure.

2. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, unless they are designed to automatically equalize hydrostatic pressure on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be certified by a registered professional engineer or architect or must meet the following minimum criteria:

- a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
- b. The bottom of all openings shall be no higher than one foot above grade; and
- c. Openings may be equipped with break-away type screens, louvers or other coverings or devices; provided that they permit the automatic entry and exit of floodwaters.

~~d. A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of floodwaters.~~

~~Alternatively, a registered engineer or architect may design and certify engineered openings.~~

~~3. New construction and substantial improvement of any residential structure in an Unnumbered A-zone for which a BFE is not available and cannot be reasonably obtained shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the Highest Adjacent Grade.~~

B. ~~Nonresidential construction.~~

~~Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of subsection 1 or 2, below.~~

**Commented [RA(32):** Section can be removed as has been inserted into 5.24.150(G). The location and format is does not have to follow that order, but it is where this section is usually placed in our Model Ordinance.

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**Commented [RA(33):** This section is recommended.

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**Commented [RA(34):** Additional language mandatory per (44 CFR 60.3(c)(2) and (5)

**Commented [RA(35):** Additional language mandatory per 44 CFR 60.3(c)(5).

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**Commented [RA(36):** Additional language mandatory per 44 CFR 60.3(b)(2)

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**Commented [AR37]:** It is recommended this new Nonresidential Construction section be adopted and replace the one prior. The additional language that is included is mandatory per 44 CFR 60.3(c)(3) and (4).

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1. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet all of the following requirements:

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a. In AE and A1-30 zones or other A zoned areas where the BFE has been determined or can be reasonably obtained:

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New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall have the lowest floor, including basement, elevated one foot or more above the BFE, or elevated as required by ASCE 24, whichever is greater. Mechanical equipment and utilities shall be waterproofed or elevated least one foot above the BFE, or as required by ASCE 24, whichever is greater.

b. If located in an Unnumbered A zone for which a BFE is not available and cannot be reasonably obtained, the structure shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the Highest Adjacent Grade.

c. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

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i. Have a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.

ii. The bottom of all openings shall be no higher than one foot above grade.

iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

iv. A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of floodwaters.

Alternatively, a registered engineer or architect may design and certify engineered openings.

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2. If the requirements of subsection 1 are not met, then new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet all of the following requirements:

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a. Be dry flood proofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water or dry flood proofed to the elevation required by ASCE 24, whichever is greater;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

c. 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 subsection based on their development and/or review of the structural design, specifications and plans.

d. Nonresidential structures that are elevated, not flood proofed, must meet the same standards for space below the lowest floor as described in TMC 5.24.160(A)(2);

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Applicants who are flood proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood proofed level (e.g. a building flood proofed to the base flood level will be rated as one foot below). Flood proofing the building an additional foot will reduce insurance premiums.

- ~~1. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the level of the base flood elevation or together with attendant utility and sanitary facilities, shall:
 
  - ~~a. Be flood proofed so that below one foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;~~
  - ~~b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and~~
  - ~~c. 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 the provisions of this subsection based on their development and/or review of the structural design, specifications and plans, and such certification is provided to the building official.~~~~
- ~~2. Nonresidential structures that are elevated, not flood proofed, must meet the same standards for space below the lowest floor as provided for residential structures.~~
- ~~3. Applicants for floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood proofed level; for example, a building flood proofed to one foot above the base flood level will be rated as at the base flood level.~~

C. *Manufactured homes.*

1. All manufactured homes to be placed or substantially improved within zones A1-30, AH and AE on the FIRM on sites (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision; or (c) in an expansion to an existing manufactured home park or subdivision in which a manufactured home has incurred substantial damage as a result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured homes one foot or more above the base flood elevation, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
2. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home or subdivision within zones A1-30, AH and AE on the FIRM that are not subject to the foregoing manufactured home provisions shall be elevated so that either:
  - a. The lowest floor of the manufactured home is elevated to one foot above the base flood elevation; or
  - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and is securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.
3. For purposes of this section, "substantial damage" of a manufactured home shall mean any damage the cost of which to repair or reconstruct exceeds 50 percent of the market value of the manufactured home before the repair or reconstruction is started.

D. *Recreational vehicles.* Recreational vehicles placed on site within zones A1-30, AH and AE on the FIRM shall either:

1. Be on site fewer than 180 consecutive days;

- 2. Be fully licensed and ready for highway use, be on its wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no permanent attached additions; or
  - 3. Meet the requirements of the elevation and anchoring requirements for manufactured homes.
- E. *Critical facilities.* Construction of new critical facilities shall be, to the extent possible, located outside of the limits of the base floodplain. Construction of new critical facilities shall be permissible within the base floodplain if no feasible alternative site is available. Critical facilities constructed within the base floodplain shall have the lowest floor elevated to three feet or more above the base flood elevation at the site. Floodproofing and sealing measure must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base floodplain shall be provided to all critical facilities to the extent possible.
- F. *Fill.*
- 1. Subject to the provisions of subsection (F)(2) of this section, no fill shall be permitted except where provision has been made on the subject property to balance the capacity to store floodwaters and accommodate potential surface flow in an amount equal to the amount of floodwater likely to be displaced by the fill; provided, provision may be made subject to TMC 5.24.18 to balance the capacity to store floodwaters off the subject property, when it can be demonstrated that the property upon which the balancing capacity is being created is located such that no increase in the base flood discharge will result. Care shall be taken to prevent erosion and surface runoff to adjacent properties. All fill shall be compacted at the time of placement.
  - 2. Any person may place not more than five yards of material used solely for landscape maintenance or gardening at a residence or business in any one calendar year; provided, written notification shall be given to the building official within five business days after the placement of such fill. Such right shall not be assignable, nor shall it carry over from year to year or otherwise be cumulative.
- G. *Clearing and grading.* Clearing and grading shall be approved only when the application provides:
- 1. A plan and profile of the site to be cleared;
  - 2. Identification of the flora to be removed;
  - 3. A reclamation plan to prevent erosion; and
  - 4. A drainage plan in accordance with Title 12 TMC, where a street project is proposed.
- H. *Bank improvements.* Where proposed development or improvements include modification or work along the banks of Scatter Creek, application shall first be made to the State Department of Fisheries and Game for a State Hydraulics Permit. Application for the permit required by this chapter shall not be made until after the state permit is approved, and a certified copy has been provided to the city.
- I. *Hazardous materials.*
- 1. The placement, transfer or storage of chemicals, petroleum products or by-products, fertilizers, insecticides, pesticides, lime, cement or other material that, when inundated will constitute a hazard to life, health and safety, or adversely affect the quality of surface waters, in quantities greater than those declared to be exempt pursuant to the International Building Code is prohibited within areas of special flood hazard.
  - 2. Where a clearing and grading permit is sought in connection with any development for which a shorelines substantial development permit is required, the application shall be reviewed by the planning administrator prior to issuance of a clearing and grading permit.
- J. Enclosed area below the lowest floor. If buildings or manufactured homes are constructed or substantially improved with fully enclosed areas below the lowest floor, the areas shall be used solely for parking of vehicles, building access, or storage.
- K. Detached Accessory Structures (Detached garages and small storage structures). Detached accessory structures used solely for parking of vehicles or limited storage may be constructed such

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that the floor is below the BFE, provided the structure is designed and constructed in accordance with the following requirements:

1. In special flood hazard areas other than coastal high hazard areas (Zones A, AE, AH, AO, and A1-30), the structure is not larger than a one-story two-car garage;
2. The portions of the structure located below the BFE must be built using flood resistant materials;
3. The structure must be adequately anchored to prevent flotation, collapse, and lateral movement;
4. Any machinery or equipment servicing the structure must be elevated or floodproofed to or above the BFE;
5. The structure must comply with floodway encroachment provisions in TMC 5.24.170(A);
6. The structure must be designed to allow for the automatic entry and exit of flood waters in accordance with TMC 5.24.160(A)(2);
7. The structure shall have low damage potential;
8. If the structure is converted to another use, it must be brought into full compliance with the standards governing such use; and
9. The structure shall not be used for human habitation.

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(Ord. No. 861, § 6, 8-9-2016)

5.24.165. - AE and A1-30 Zones with Base Flood Elevations but No Floodways. In areas with BFEs (when a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

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5.24.170. - Floodways.

Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions apply in all areas designated as floodways on the FIRM:

- A. *Encroachments prohibited.* No encroachment, including fill, new construction, substantial improvement or other development shall be permitted within the floodway unless certification by a registered design professional is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.
- B. *Residential construction prohibited.* No new construction or reconstruction of residential structures shall be permitted within the floodway, except for the following:
  1. Repairs, reconstruction or improvements to a structure which do not increase the ground floor area; and

- 2. Repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the market value either:
  - a. Before the repair, reconstruction or improvement is commenced, or
  - b. If the structure has been damaged, and is being restored, before the damage occurred. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and are the minimum necessary to assure safe living conditions or to structures identified as historic places shall not be included in the 50-percent limitation.

C. If the requirements of subsection (A) of this section are met, all new construction and substantial improvement shall comply with all other applicable flood hazard reduction standards of this chapter.

D. *All other building standards apply in the Floodway. If TMC 5.24.170(A) is satisfied or construction is allowed pursuant to TMC 5.24.170(B), all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article V, Flood Hazard Reduction.*

**Commented [RA(41):** Mandatory (44 CFR 60.3(d)(1-4))

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(Ord. No. 861, § 6, 8-9-2016)

5.24.190. - Appeals.

A. Any applicant, resident or taxpayer may appeal from any requirements, decision or determination of the building official when it is alleged that there is an error in the administration of this chapter. All such appeals shall be made by written notice of appeal, filed with the city clerk, which notice shall identify the requirement, decision or determination alleged to be erroneous, and shall state the factual and legal grounds relied upon. Such appeal shall be heard and determined by the city council within 60 days of the date of filing of the notice of appeal, and all decisions shall be in writing supported by findings of fact.

(Ord. No. 861, § 6, 8-9-2016)

*5.24.200. - Livestock Sanctuary Areas. Elevated areas for the for the purpose of creating a flood sanctuary for livestock are allowed on farm units where livestock is allowed. Livestock flood sanctuaries shall be sized appropriately for the expected number of livestock and be elevated sufficiently to protect livestock. Proposals for livestock flood sanctuaries shall meet all procedural and substantive requirements of this chapter. Note: To be "elevated sufficiently to protect livestock" typically means to be elevated at least one foot above the BFE.*

**Commented [RA(42):** Required by RCW 86.16.190. This section should be included by all counties. A city that does not allow livestock can forgo this section. While state law requires that local governments make provision for critter pads, it is extremely important to note that RCW 86.16.190 does not relax NFIP standards, including the no rise standard in floodways, in any way.

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PART II - LAND DEVELOPMENT REGULATIONS CODE  
Title 108 DEVELOPMENT STANDARDS

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**Title 108 DEVELOPMENT STANDARDS**

***CHAPTER 108.30. CITY-WIDE APPLICABILITY***

**108.30.010. Purpose.**

- A. This section, in conjunction with other chapters and sections of the development code provides specific minimal development standards and methodologies for applying development standards.
- B. These development standards are applicable to all land development and uses, including improvements, intensification, changes in use, or building and development permits and land use approvals and actions.

(Ord. No. 710, § 18B.30.010, 4-26-2004)

**108.30.020. Concurrency.**

- A. All new development, improvements, expansion, or intensifications of existing uses shall be connected at applicant expense, to a primary infrastructure system to support the use.
- B. If primary infrastructure is not available to the site or the existing infrastructure does not contain sufficient capacity to support the proposed development, the city may not:
  - 1. Issue development permits which would allow for an increase in the amount of infrastructure demand generated from the site; or
  - 2. Permit subdivision of the property that requires the increased potential development or demand for infrastructure.
- C. Primary infrastructure includes, but is not limited to:
  - 1. Stormwater;
  - 2. Police, fire, and emergency medical service;
  - 3. Water;
  - 4. Transportation and transit facilities;
  - 5. Electrical;
  - 6. Septic systems or, when available, sanitary sewers;
  - 7. Schools; and
  - 8. Parks.

(Ord. No. 710, § 18B.30.020, 4-26-2004)

**108.30.030. Density standards.**

- A. The maximum density of each zoning district is the maximum number of dwelling units allowed 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.
- B. Gross area is the total sum area of the lot. The required critical area buffers and all legally recorded private access easements shall not be subtracted from the gross area.
- C. The buildable area is the area of a lot remaining after public and/or private rights-of-way and critical area/buffers is subtracted from the gross area (see figure 108.30-1).
- D. Also see LDR 112.20.060, transfer of development rights, density transfer program.



Figure 108.30-1. Gross Area

TABLE 108.30.010  
MINIMUM LOT WIDTHS AND DEPTHS FOR EACH ZONING DISTRICT IN FEET

Zone Classification	SF-ES	SF	SF-D	MF	MU	*C-1	C-2	I-1, I-2	Public
Minimum lot width	75	50	50	50	50	24	NA	NA	NA
Minimum lot depth	90	75	60	55	50	24	NA	NA	NA

(Ord. No. 710, § 18B.30.010, 4-26-2004; Ord. No. 755, § 2, 1-27-2009; Ord. No. 810, § 3, 2-28-2012; Ord. No. 823, § 11, 11-13-2012)

**108.30.040. Setbacks, projection exceptions, heights and widths.**

- A. *Setback measurement.* The minimum required distance between any structure and a specified line such as a property line, easement, critical area and/or buffer, or an established public or private street right-of-way or any other private or public space that is required to remain free of structures unless otherwise provided herein. Setbacks are also measured from any future rights-of-way based on that road classification width.
- B. *Designation of required setbacks.* All lots must contain at least one front yard setback except pipestem lots. A front yard setback shall be required abutting each right-of-way on corner lots and through lots. All lots must contain one rear yard setback except for corner, through, and pipestem lots. All other setbacks will be considered interior yard setbacks.
- C. *Corner lot exception.* A lot that abuts the intersection of two or more rights-of-way is allowed to have one of the front yard setbacks reduced to 15 feet, provided the reduced yard does not abut a state highway or major arterial.

(Supp. No. 5)

- D. *Through lots.* If a lot abuts two or more rights-of-way, the front yard setback for the frontage not providing primary access may be reduced to 15 feet, provided the reduced yard does not abut a state highway or major arterial.
- E. *Pipestem or flag lots.*
  - 1. Flag lots in residential zones (SF-ES, SF, SF-D, and MF) shall have a minimum frontage of 20 feet on a public road or street from which access is taken. If such frontage does not exist, an easement to a public road or street shall be a minimum of 20 feet in width.

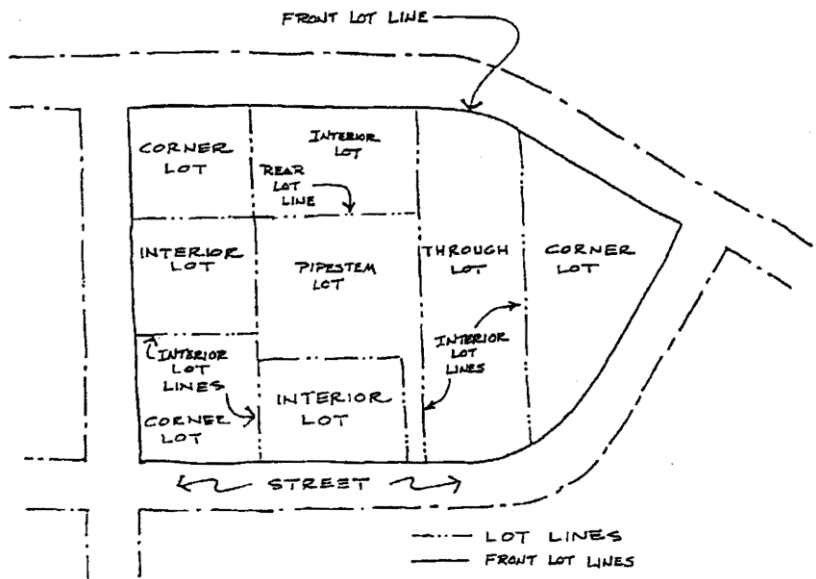


Figure 108.30-2. Required Setback Designations

- 2. Flag lots in nonresidential zones (MU, C-1, C-2, I, and P) shall have a minimum frontage of 24 feet on a public road or street from which an access way is taken. If such frontage does not exist, an easement to a public road or street shall be a minimum of 24 feet in width.
- F. *Front yard setback averaging.* Averaging may be used to reduce a front yard setback requirement when a principal building has been established on an adjacent lot within the required yard. This provision shall not apply if the adjacent lot has received a reduced setback based upon a discretionary land use approval. This exception shall be calculated as follows:
  - 1. Averaging shall be calculated by adding the existing front yard setbacks of the adjacent lots together and dividing that figure by two.
  - 2. In the case of a corner lot or when an adjacent lot is vacant, averaging shall be calculated by adding the front yard setback of the adjacent developed lot with the minimum front yard setback of the zone in which the construction is proposed and dividing that figure by two.

- G. *Slopes.* If the topography of a lot is such that the minimum front yard setback line is eight feet or more above the street grade, and there is no reasonable way to construct a driveway up to the dwelling unit level, a garage/carport may be built into the bank and set at least five feet back from the right-of-way.
- H. *Accessory structures, interior yard exception.* Detached, one-story accessory structures may occupy 25 percent of the total area of an interior yard and shall maintain a minimum three-foot setback, including any projections for the accessory structure (see LDR 106.10.120, accessory uses, for additional requirements).
- I. *Accessory structures, rear yard exception.* Detached, one-story accessory structures may occupy 50 percent of the total area of a rear yard and must maintain a three-foot setback, including any projections for the accessory structure (see LDR 106.10.120, accessory uses, for additional requirements).

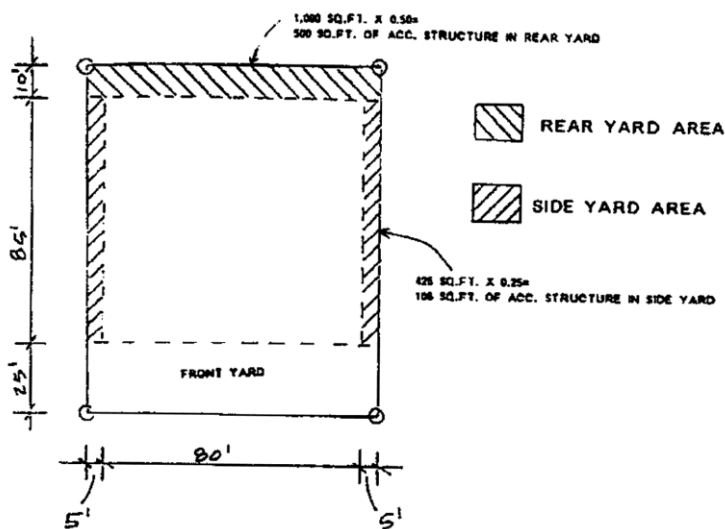


Figure 108.30-3. Accessory Use Setback Exception

- J. *Bus shelters.* Bus shelters for school district or transit authority purposes may be located within a front yard setback when located on private property if they do not exceed 50 square feet of floor area and one story in height, provided that all applicable site distance requirements of the currently adopted site development regulations are met.
- K. *Projection exception.* For principle building and accessory dwelling unit's not located in the SF-ES, SF, or SF-D districts, fireplace structures, bay or garden windows, enclosed stair landings, ornamental features, or similar structures may project into any setback, provided such projections are:
  1. Limited to two per required yard.
  2. Not wider than ten feet.
  3. Not more than two feet into an interior or rear yard setback.
  4. Not more than three feet into a front yard setback.

5. Uncovered porches and decks which do not exceed 30 inches from finished lot grade may project into any setback, provided such projections do not extend more than five feet into a front yard setback.
6. Wheelchair ramps may project into any required setback, including the SF-ES, SF, and SF-D districts.
7. Eave overhangs may project two feet into any required setback.

L. *Rear yards, exception.*

1. In the case of triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line, may be considered the "rear lot line" at the owner's discretion (figure 108.30-4).

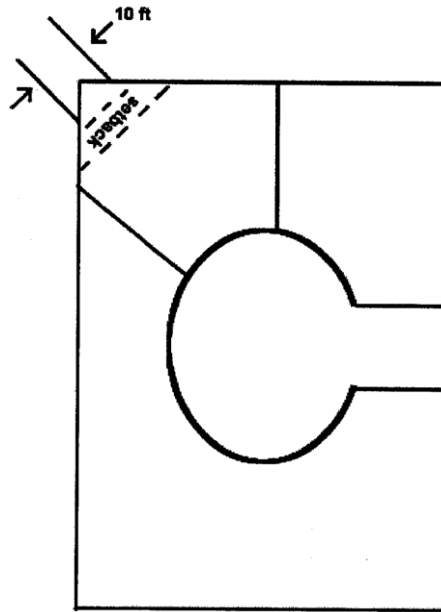


Figure 108.30-4. Rear Yard Exceptions

2. For lots abutting a shoreline pursuant to the shoreline management regulations, the ordinary high-water mark may be considered the rear lot line for purposes of setbacks.
- M. *Interior yards, exception.* Lots located in a SF-ES classification that are 100 feet or less in width may reduce each interior yard setback to ten percent of the lot width. In no case shall the setback be less than three feet unless a variance is approved.
- N. *Height standards.*
1. *Building height.* The height of a building is the vertical distance from the average elevation of the finished grade on each corner of a building to the top of a flat or shed roof, or the deck level on a mansard roof, and the average distance between the bottom of the eaves to the highest point of a pitched, hipped, gambrel, or gable roof.

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2. **Structure height.** The height of all structures (except buildings) is the vertical distance of a structure measured from the average elevation of the finished grade surrounding the structure to the highest point of the structure. Flagpoles shall not exceed 45 feet in height from the average grade. All such poles shall be placed so as to neither obstruct nor obscure adjacent property owners' lines of vision. Such poles shall not display more than three flags at any one time. All structures, greater than six feet in height, require a building permit.

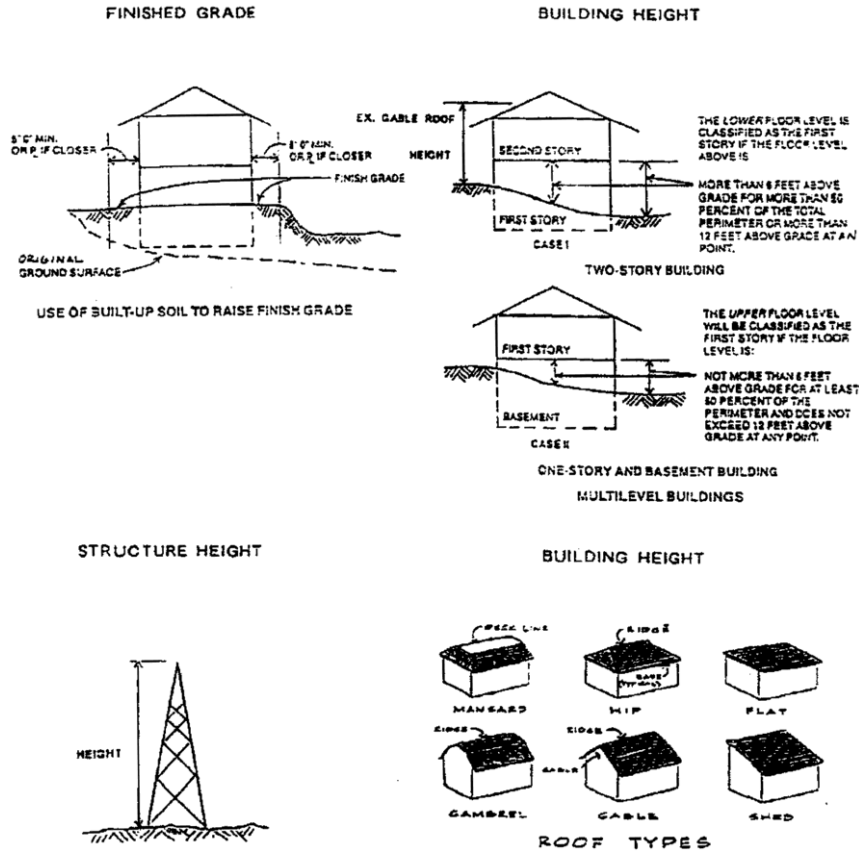


Figure 108.30-5. Building Heights

3. **Measurement; height of a fence/retaining wall.** The height of a fence shall be measured from a point on the ground immediately adjacent to the fence to the top of the fence. The height of a fence located on a rockery, retaining wall, or berm shall be measured from the ground on the high side of the rockery, retaining wall, or berm to the top of the fence. Net fences, such those as used on golf courses and/or driving ranges shall not be higher than 35 feet and shall meet the setbacks required for structures. The top of a fence shall include all attachments, ornamentation, and security devices such as barbed wire. All structures, greater in height than six feet, require a building permit. Fences are

limited to no more than four-feet in height beyond the front of the principle building or structure in front yards and may be built to the property lines unless otherwise provided.

### Fence on Retaining Wall

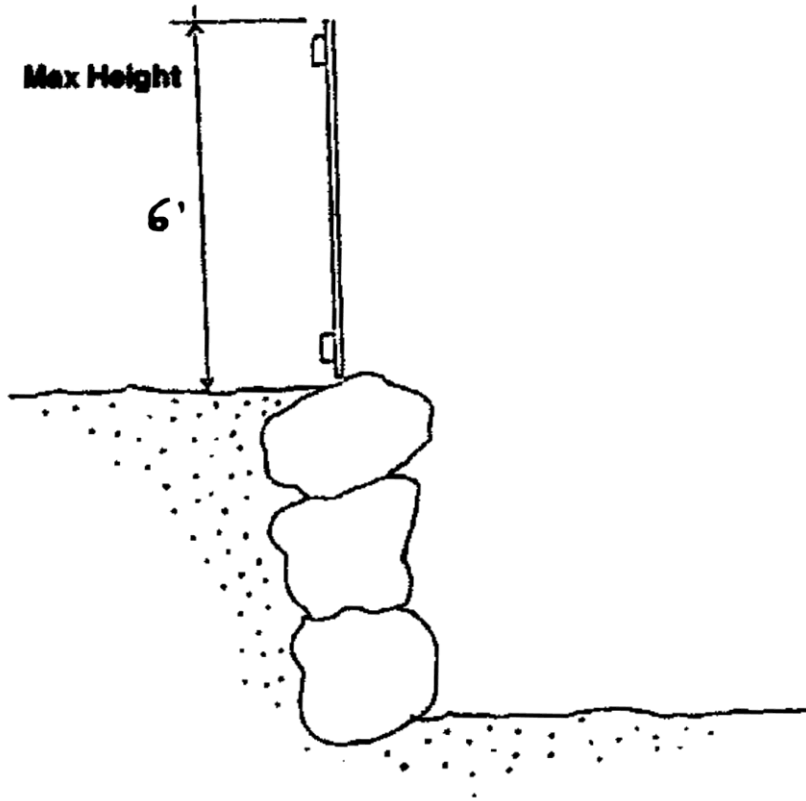


Figure 108.30-6. Fence Height

4. *Exceptions.* Height standards shall not apply to the following:
- Church spires, belfries, domes, chimneys, antennas, satellite dishes, ventilation stacks, or similar structures, provided the structure is set back one additional foot for every foot said structure exceeds the height limitation in the underlying zone classification.
  - Rooftop mechanical equipment. All rooftop mechanical equipment may extend ten feet above the height limit of the zone, provided all equipment is set back ten feet from the edge of the roof.
  - These exceptions still require a building permit.

O. *Lot width measurement.*

1. When a lot has four sides or has more than four sides and has an essentially rectangular, or pie shape, the lot width shall be the horizontal distance between the side lot lines measured at right angles to the line comprising the depth of the lot at a point midway between the lot front and the lot rear line.
2. For pipestem or flag lots, the access easement or lot extension shall not be included in determining the width or depth of the lot.
3. For lots with more than four sides that are irregular in shape, lot width shall be measured at the widest portion of the lot between the side lot lines.

(Ord. No. 710, § 18B.30.040, 4-26-2004; Ord. No. 755, § 3, 1-27-2009; Ord. No. 810, § 4, 2-28-2012)

**108.30.050. Accessory buildings.**

- A. Residential detached accessory structures which are less than 120 square feet in size and not higher than ten feet, including garden sheds or greenhouses or combination of both; children's play equipment; arbors; and gazebos, placed in a rear half of a lot shall have a minimum three-foot setback. Attached accessory structures must meet the same setbacks as the main building.
- B. In the single-family (SF-ES/SF/SF-D) and multifamily residential (MF) zoning districts, garages or other accessory buildings greater than 120 square feet but not exceeding 1,000 square feet, which do not exceed 14 feet in height, may be placed within the rear or interior yard.
  1. The structure must maintain a minimum five-foot setback, unless the zoning district allows a lesser setback; and
  2. Be located at least six feet from a primary structure located on an adjacent property.
- C. Pools, hot tubs, and similar accessory structures may not be located in the rear or interior yard setbacks.
- D. Areas for automobiles shall be designed in such a manner that adequate visibility is ensured for ingress and egress.
- E. Every building hereafter erected or moved shall be on a lot adjacent to a public street or with access to an approved private street, and all structures shall be located on lots as to provide safe and convenient access for servicing and provide for required off-street parking.
- F. Parking areas shall have a durable surface.

(Ord. No. 710, § 18B.30.050, 4-26-2004)

**108.30.060. Reserved.**

Editor's note(s)—Ord. No. 881, § 33, adopted September 26, 2017, repealed § 108.30.060, which pertained to outdoor storage and storage containers. See Code Comparative Table for complete derivation.

**108.30.070. Nonconformities.**

- A. Within the zoning districts established by this title, or as amended, lots, uses, and structures may exist that were lawfully when established but no longer conform to the provisions and standards of the zoning district in which they are located.

Nonconformities may adversely affect the development and redevelopment of the city consistent with the provisions of the comprehensive plan. This section provides for the regulation of these legally existing

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nonconformities and attempts to balance the rights of property owners to continue the use of their properties and the perpetuation of uses envisioned under the city's comprehensive plan and this title. These standards specify the circumstances, conditions, and procedures under which such nonconformities are permitted to endure.

- B. This section shall apply to legally existing nonconformities, except the following:
1. Nonconforming sexually oriented businesses as defined in LDR 108.40.100, sexually oriented businesses, which shall instead be governed by standards set forth in that section.
  2. Nonconforming signs as defined in LDR 108.30.130, signs, which shall instead be governed by standards set forth in that section.
  3. Nonconforming personal wireless telecommunications facilities as defined in LDR 108.40.110, wireless telecommunications facilities, which shall instead be governed by standards set forth in that section.
  4. Permit applications at the time of this title's passage that constitute vested development shall instead be governed by existing standards. Future plans to further develop property shall not constitute a basis for nonconformity status, whether or not documented in public record, except when they constitute a vesting. Nothing in this section shall be construed to require a change in plans, construction, or intended use related to vested development, though it may thereafter be regulated as nonconformity.
  5. Single-family residences within a Commercial-1 (C-1) Zoning District may rebuild to no more than 125 percent of the home's square footage due to damage or destruction, based on assessor records of the prior square footage. Restoration or replacement of the single-family home shall commence within one-year from the date of the damage. Setbacks and other site development standards for restoration or replacement of a damaged or destroyed single-family home shall be based on criteria of LDR 106.20.040 SF-D zoning district, but in no case closer to the property lines than the existing footprint. If the existing footprint is used and is within the setback standards prescribed in LDR 106.20.040 SF-D zoning district, no projection exceptions pursuant to LDR 108.30.040 shall be allowed within this encroachment to the SF-D setback standards.
- C. The provisions of this section apply only to nonconformities that were lawful, either by right or by discretionary permit, when initially established and these provisions may not be used as an alternative to removal or cessation of activities, structures, and uses which were illegal at the time of their establishment. This provision shall not apply to dwelling units located in residential zones or in established mobile home parks, which may be reconstructed or replaced with no substantial change in floor area or other nonconforming feature.
- D. The entire contiguous ownership of land shall be considered as a single parcel of land for determination of nonconformance as a consideration of development. A record of separate lot or parcel boundaries shall be disregarded. It is recognized that the dimensions of some nonconforming lots of record are so constrained that meeting some development regulations such as setbacks would render such lots essentially unbuildable. The city will consider unusual hardships in reviewing applications for such development. Pursuant to LDR 100.50.080, variances, variances may be granted in such instances based on individual circumstances and may conditioned negative effects on the surrounding area are mitigated.
- E. Nonconforming lots may not be altered in any way that would increase the degree of nonconformity; provided, this does not preclude acquisition or dedication of additional public rights-of-way when deemed necessary by the designee.
- F. Nonconforming uses. The following nonconforming uses may continue to operate provided:
1. Routine maintenance and repairs may be performed on land or structures containing a nonconforming use.
  2. A nonconforming use shall not be changed to another nonconforming use.

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3. Nonconforming uses outside of a structure, which occupy only a portion of a lot, may not be expanded to any other portion of the property.
  4. Nonconforming uses may not be materially expanded unless such expansion is required by law or a public agency in order to comply with public health, safety or welfare regulations.
  5. All applicable construction permits must first be obtained for any such work.
- G. Nonconforming structures. Maintenance, minor improvements and minor alterations to nonconforming structures are allowed to prevent them from becoming blighted and having detrimental impacts on the surrounding neighborhood.
- H. Nothing in this section shall be construed to prevent the strengthening or restoring to a safe condition any nonconforming structure or part thereof declared to be unsafe by the building official or other proper authority. No structure partially occupied by a nonconforming use shall be moved, altered, or enlarged in such a way as to permit the enlargement of the space occupied by the nonconforming use. Alterations or expansions of nonconforming structures which are required by law or a public agency in order to comply with public health, safety or welfare regulations are allowable, even if in conflict with other provisions of this title. All applicable construction permits must first be obtained for any such work.
- I. The burden of demonstrating that nonconformity is lawful under this title rests with the property or business owner. Some examples of evidence that may indicate legal nonconforming status include: tax assessment records, construction or other permit records, personal or business income tax records, business license records, dated past advertising, dated business receipts to customers, dated rent receipts, affidavits from neighbors or tenants, testamentary documents, photographs whose date may be clearly ascertained, and other such information which is competent and factual. The city may, at its discretion, request such records from a property or business owner as a basis for determining whether nonconformity was legally established and preexisting.
- J. Termination of nonconforming status. A nonconforming development or use shall terminate under the following conditions:
1. When the use has been abandoned for a period of six or more months.
  2. When the structure, which is nonconforming, has been damaged or destroyed to an extent exceeding 50 percent or more of its fair market value as indicated by the records of the county assessor.
- K. Provided that damaged uses that are allowed to reestablish, as provided in LDR 108.30.070L, nonconformities, shall not be considered to be terminated. Once terminated, the use shall not be reestablished, and any subsequent use must comply with the regulations of the zoning district in which it is located.
- L. Damage or destruction.
1. If a nonconforming use or structure is damaged or destroyed by any means to the extent of 50 percent or more of last assessed value, it may not be reestablished except in compliance with the regulations of the zoning district in which it is located.
  2. If a nonconforming use or structure is damaged due to an involuntary event of fire, natural disaster or other casualty, to the extent of less than 50 percent of fair market value, it may be restored to substantially the same extent of nonconformance as preexisted the damage, provided that all applicable construction permits are obtained prior to commencement of demolition and reconstruction. This provision shall not be construed as reducing any requirements of construction standards in effect for rebuilt structures. Restoration or replacement shall commence within one year from the date of damage.

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- M. The transfer of ownership of a nonconforming lot, use, or structure will not alter its legal nonconforming status.
- N. By their nature, nonconformities can be unique and difficult to identify and equitably regulate. If questions arise with regard to nonconforming status or replacement when abandonment, damage, or destruction has occurred, the designee is hereby empowered to issue case-by-case determinations based on individual circumstances. Such determinations will constitute administrative determinations as set forth in LDR 100.50.020, administrative interpretation, and shall be appealed pursuant to LDR 100.40.090, process II, administrative action.

(Ord. No. 710, § 18B.30.070, 4-26-2004; Ord. No. 731, § 1, 2007)

**108.30.080. Reserved.**

Editor's note(s)—Ord. No. 881, § 34, adopted September 26, 2017, repealed § 108.30.080, which pertained to performance standards. See Code Comparative Table for complete derivation.

**108.30.090. Reserved.**

Editor's note(s)—Ord. No. 881, § 35, adopted September 26, 2017, repealed § 108.30.090, which pertained to parking. See Code Comparative Table for complete derivation.

**108.30.100. Reserved.**

Editor's note(s)—Ord. No. 851, § 2, adopted December 9, 2014, repealed § 108.30.100, which pertained to landscaping and derived from Ord. No. 710, 4-26-2004; Ord. No. 755, § 4, 1-27-2009; Ord. No. 763, § 2, 9-8-2009.

**108.30.110. Reserved.**

Editor's note(s)—Ord. No. 851, § 3, adopted December 9, 2014, repealed § 108.30.110, which pertained to streetscapes and derived from Ord. No. 710, 4-26-2004.

**108.30.120. Tree preservation.**

- A. *Purpose.* The purpose of this section is to:
1. Regulate the removal of trees from property within the city in order to preserve, protect and enhance a valuable natural resource;
  2. Establish standards to limit the removal of and ensure the replacement of trees sufficient to safeguard the ecological and aesthetic environment of a community;
  3. Discourage the unnecessary clearing and disturbance of land so as to preserve the natural and existing growth of vegetation; and
  4. Maintain a minimum number of significant trees.
- B. *Intent.* This section establishes significant tree preservation for any development action or land use development to protect the treed environment within the city by regulating the removal of significant trees and providing incentives to preserve trees that, because of their size, species, or location, provide special benefits. Tree preservation protects and enhances critical areas, facilitates aquifer recharge, reduces erosion and stormwater runoff and helps to define public and private open spaces.

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- C. *Exemption.* Applications for single-family detached dwelling building or construction permits are exempt from the provisions of this section.
- D. *Applicability.* The requirements for tree preservation are applicable to all zoning districts and shall be provided in accordance with the requirements of each individual zoning district and the provisions of this section. In the event a permit is not required for the establishment of a use, the standards of this section still apply.
- E. *Standards.* Significant tree preservation standards shall be required for any development action or land use development permit.
1. A significant tree is an existing tree, which:
    - a. Is measured at average breast height above grade and is 15 inches in diameter;
    - b. Must be in good health;
    - c. Is 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;
    - d. Is not an identified species pursuant to LDR title 112 critical areas and natural resource lands; and
    - e. Is not one of the following species:
      - 1) Cottonwood;
      - 2) Alder;
      - 3) Poplar; or
      - 4) Big-leaf Maple.
  2. In addition, trees will not be considered significant if, following an inspection and concurrence by the city, the tree is determined to be:
    - a. Safety hazards due to potential root, trunk or primary limb failure, or exposure of mature trees which have grown in a closed, forested situation;
    - b. At the discretion of the city, damaged or standing dead trees may be retained and counted toward the significant tree requirement if demonstrated that such trees will provide important wildlife habitat and are not classified as danger trees;
    - c. Authorization by the city is required for the removal of any significant tree or street tree as defined herein or trees removed pursuant to a tree retention plan unless specifically exempted within this section;
    - d. All significant trees shall be preserved according to the following criteria:
      - 1) All significant trees within 15 feet of the lot perimeter or required buffer or setback, whichever is greater, shall be preserved.
      - 2) At the discretion of the designee, significant trees may be removed for access, buildings, sight areas, required roads, utilities, sidewalks, trails, or storm drainage improvements provided they are replaced in accordance with subsection J of this section.
  - e. Tree preservation criteria listed subsection E.4.b of this section shall exclude sensitive/critical areas and their buffers, and designated open space areas and tracts. All trees within such areas shall be retained except as may be specifically indicated in a discretionary land use permit or tree removal plan.
  - f. State Environmental Policy Act requirements. Additional or specific tree retention may be required as SEPA mitigation in addition to the requirements of this section.

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- F. *Retention required.* Significant trees shall be retained on the subject property to the maximum extent possible in all residential, commercial, industrial, or institutional developments as follows:
1. If the approved development on the subject property will require the removal of more than 75 percent of the significant trees on the subject property, significant trees shall be replaced in amount equal to 25 percent of the significant trees which existed on the subject property prior to commencing any development activity.
  2. All significant trees located within any required perimeter landscaping area shall be retained, provided that this requirement shall not apply to commercial zoning districts.
  3. Significant trees required to be retained within on-site sensitive areas can be used toward satisfying the 25 percent on-site significant tree retention regulations.
  4. All significant trees located within required on-site recreation or open spaces shall be retained, provided they do not conflict with on-site active recreation areas.
  5. The significant tree retention requirements of this chapter shall not apply to the city center zoning district.
  6. There shall be no cutting of significant trees without authorization from the city for the purpose of preparing that site for future development.
  7. Up to one-half of the 25 percent significant tree replacement requirement may be satisfied by planting larger trees in required landscape areas such as landscape islands, buffers, and perimeter landscaped areas. Such trees shall be a minimum 12 feet in height for evergreen and 3½-inch caliper for deciduous or broadleaf trees. Example: 100 on-site significant trees requires 25 to be retained or replaced. Applicant may plant 13 larger trees within required landscape areas which meet size requirements mentioned herein.
- G. *Permit required.* A class IV forest practice permit is required by the department of natural resources under provisions of RCW 76.09 unless exempt. The applicant shall submit a tree retention plan concurrent with the first permit application for that development. The tree retention plan shall consist of the following:
1. A tree survey or cluster survey that identifies the location, size, number and species of all significant trees on the site.
  2. A development plan identifying the significant trees that are proposed to be retained, removed, transplanted, or replaced, including a final report on percentage retained and shall contain:
    - a. A tree survey that identifies the location, size and species of all significant trees on a site.
      - 1) The tree survey may be conducted by a method that locates individual significant trees; or
      - 2) Where site conditions prohibit physical survey of the property, standard timber cruising methods may be used to reflect general locations, numbers and groupings of significant trees.
    - b. If tree retention and/or landscape plans are required, no clearing shall be allowed on a site until approval of such plans.
    - c. The tree retention plan shall also show the location, species, and dripline of each significant tree that is intended to qualify for retention credit, and identify the significant trees that are proposed to be retained, and those that are designated to be removed.
    - d. Each significant tree that is located outside of the perimeter area and is retained may be credited as two trees for complying with the retention requirements in subsection G.2.c of this section, provided it meets one or more of the following criteria:

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- 1) The tree exceeds 60 feet in height, or 24 inches in diameter for evergreen trees, or 30 inches in diameter for deciduous trees;
  - 2) The tree is located in a grouping of at least five other significant trees with canopies that touch or overlap;
  - 3) The tree provides energy savings, through wind protection or summer shading, as a result of its location relative to buildings;
  - 4) The tree belongs to a unique or unusual species;
  - 5) The tree is located within 25 feet of any critical area or required critical area buffers; or
  - 6) The tree is 18 inches in diameter or greater and is identified as providing valuable wildlife habitat.
- e. In any required perimeter landscaping area as defined in this section, the applicant shall retain all significant trees, except as provided in this section.
  - f. An area free of disturbance, corresponding to the drip line of the significant tree's canopy shall be identified and protected during the construction stage with a temporary three-foot high chainlink or plastic net fence. No impervious surfaces, fill, excavation, storage of construction materials, operations or parking of vehicles shall be permitted within the area defined by such fencing or stakes.
  - g. A protective tree well may be required to be constructed if the grade level around the tree is to be raised or lowered. The inside diameter of the well shall be at least equal to the diameter of the tree spread dripline, plus at least five feet of additional diameter.
  - h. The designee may approve use of tree protection techniques other than those listed in subsection G.2.f and g of this section if the trees will be protected to an equal or greater degree than by the techniques listed subsection G.2.f and g of this section.
  - i. The applicant shall demonstrate on the tree retention plan those tree protection techniques intended to be utilized and approved by the designee during land alteration and construction in order to provide for the continual healthy life of retained significant trees.
  - j. If any significant tree that has been specifically designated to be retained in the tree preservation plan dies within three years of the development of the site, then the significant tree or replacement shall be replaced at the specified rate.
- H. *Criteria significant tree not located in perimeter landscaping.* Each retained significant tree not located within perimeter landscaping may be credited as two trees for purposes of complying with the retention requirements of subsection F.1 of this section, provided the tree meets at least one of the following criteria:
1. The tree is located in a grouping of at least five trees with canopies that touch or overlap;
  2. The tree provides energy savings through winter wind protection or summer shading as a result of its location relative to proposed buildings; or
  3. The tree belongs to a unique or unusual species of native or nonnative tree not usually found locally.
- I. *Site specific tree plan needed for not retaining significant trees.* Where it is not feasible to retain required significant trees due to site constraints including, but not limited to, topography, ingress/egress requirements, existing and proposed utility locations, trails, storm drainage improvements, a site specific tree plan, drawn to scale, shall be prepared. The tree plan shall show the precise location of all significant trees on the site, in relation to the proposed buildings, streets, parking areas, required landscaped areas, surface water facilities, and utilities. The director of community development shall review the plan in relation

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to the proposed development to ensure tree removal is the minimum amount necessary to comply with the proposed development and meet the purposes of this chapter.

- J. *Replacement of trees.* When required significant trees cannot be retained (see subsection K.7 of this section), significant trees that are removed shall be replaced with:
1. Transplanted or retained on-site trees four-inch caliper or larger, which meet the definition of significant tree in all manner except size, and approved by the community development director, based upon the director's assessment of the location of the tree in relation to the proposed site development;
  2. New evergreen trees that are a minimum ten feet in height, or deciduous trees that are a minimum three-inch caliper; or
  3. The number of replacement trees, combined with the number of retained significant trees, shall equal 25 percent of the amount of on-site significant trees which existed prior to development.
- K. *Management practices.* The following management practices shall be observed on-sites containing significant trees, to provide the best protection for significant trees:
1. No clearing shall be allowed on a proposed development site until the tree retention and landscape plans have been approved by the city;
  2. A no disturbance area, which shall be defined to be to the drip line of the significant tree, shall be identified during the construction stage with either:
    - a. A temporary five-foot chainlink fence.
    - b. A line of five-foot high, orange-colored two-by-four-inch stakes placed no more than ten feet apart connected by highly visible surveyor's ribbon;
  3. No impervious surfaces, fill, excavation, or storage of construction materials shall be permitted within the no disturbance area;
  4. If the grade level around the tree is to be raised by more than one foot, a rock well shall be constructed. The inside diameter of the rock well shall be equal to the diameter of the tree trunk plus ten feet. Proper drainage, and irrigation if necessary, shall be provided in all rock wells;
  5. The grade level shall not be lowered within the larger of the two areas defined as follows;
  6. The drip line of the trees; or
  7. An area around the tree equal to one foot in diameter of each inch of tree trunk diameter measured four feet above the ground;
  8. Alternative protection methods may be used if accepted by the director of community development department to provide equal or greater tree protection;
  9. Encroachment into the no disturbance area may be allowed where the director determines encroachment would not be detrimental to the health of the tree.

(Ord. No. 710, § 18B.30.120, 4-26-2004)

### **108.30.125. Animals and urban agriculture.**

- A. *Purpose.* The purpose of these provisions is to promote local food production through the allowance of certain farm animals and the growth of food crops within the City of Tenino. These provisions are meant to allow landowners flexibility to grow or raise their own food, while ensuring that nuisance situations do not arise. The provisions of TMC Title 4, Animals also applies.

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- B. *Allowed animals.* The following animals are allowed in the City of Tenino.
1. *Household pets.* Household pets are permitted in all zones.
  2. *Chickens or rabbits.* One chicken or rabbit is allowed per every 1,000 square feet of a lot.
  3. *Goats, sheep, miniature pot-bellied pigs.* One goat, sheep, or miniature pot-bellied pig is allowed per every quarter acre of a lot.
  4. *Horses, emus, alpacas.* Horses, emu, and alpaca are allowed on lots over one (1) acre in size.
  5. *Cattle.* Cattle are allowed on lots over one acre in size in the SF-ES and WT zones.
- C. *Structure setbacks.* The following setbacks are required for animal structures.
1. *Chickens and rabbits.* A minimum of ten feet is required from the adjacent property line.
  2. *All other animals.* A minimum of 25 feet is required from the adjacent property line.
  3. *Reduction allowed.* The setbacks listed above may be reduced by 50 percent when measured from a publicly-owned alley located at the rear of a lot.
- D. *Variation from stocking rates, allowed animals and setback standards permitted with approval of farm plan.* Stocking rates, allowed animals and setback standards may be altered from the requirements shown above in cases where a landowner has submitted and received approval for a farm plan from the Thurston County Conservation District.
1. *Farm plan standards.* The farm plan must show that additional animals will be sustainable (i.e. able to graze given stocking rates, not likely to pollute groundwater, etc.), and will not be a nuisance or noxious to neighboring residents. Allowed rates, setbacks and types of animals will be subject to the specifications in the approved plan.
  2. The following animals may be allowed throughout the City of Tenino when a farm plan has been reviewed and approved by the Thurston County Conservation District.
    - a. Cattle.
    - b. Roosters.
    - c. Turkeys.
    - d. Other animals as determined by the planning official.
- E. *Prohibited farm animals.* The following animals are not allowed to be kept as farm animals in the City of Tenino:
1. Peafowl.
  2. Ferrets.
  3. Geese.
  4. Ostriches.
  5. Other animals, as determined by the planning official.
- F. *Performance standards.*
1. *Farm animals.* The following performance standards apply to farm animals:
    - a. *No roaming allowed.* No animals are permitted to roam on public rights-of-way or another person's property.

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- b. *Prevention of rodents.* Structures to house chickens or rabbits must be designed to prevent rodents through the incorporation of at least one of the following:
    - i. Raising the floor area eight to 12 inches above the grade of the ground.
    - ii. Utilizing a portable pen that can be moved every few days to allow clean-up of the ground.
    - iii. Utilizing similar techniques that produce similar results.
  - c. *Compliance with food and health standards.* Sales of goods associated with any raising of animals requires compliance with the FDA Food Code, and any applicable Department of Health standards.
  - d. *Keeping of animals that results in a nuisance.* Livestock, small animals or chickens (and their associated waste) shall not be kept in a manner that constitutes a nuisance, as defined in TMC Chapter 8.08.
  - e. *Slaughtering.* Farm animals such as cows, sheep, goats, and other livestock are permitted to be slaughtered in any zoning district (except public) provided that if a firearm is to be used for dispatch of farm animals within the city limits, and prior to the use of a firearm, the city police department shall be notified.
- 2. *Agricultural crops.* To ensure that pesticides and fertilizers do not enter the water source, the production of more than half an acre of crops in a critical aquifer recharge area or wellhead protection area requires a farm management plan in accordance with TMC 112.50.060.
  - 3. *Electric fences.* Electric fences for the purposes of keeping of animals or the growing of food must meet the following performance standards:
    - a. *Commercial vendor.* All electrical fences must be obtained from a commercial vendor.
    - b. *Installed per instructions.* All electrical fences must be installed per the manufacturer's instructions.
    - c. *Only for agricultural purposes.* All electrical fences must be utilized solely for agricultural purposes or domestic animal control. No fences that would prohibit an individual such as a police officer from entering a property are permitted.
    - d. *Listed product.* All electric fences shall meet the listed standards of a recognized testing lab (UL, ETL, or other as allowed by statute).
    - e. *Hazardous electrical fence.* In addition to the items listed in TMC Chapter 8.08, the Tenino Code Enforcement Officer may declare a nuisance for an electrical fence that is improperly functioning or installed, or does not meet one of the standards listed above.

(Ord. No. 830, § 2, 10-8-2013; Ord. No. 881, § 36, 9-26-2017)

### **108.30.130. Signs.**

- A. *Purpose.* This sign ordinance is adopted under the zoning authority of the city in furtherance of the more general purposes and goals set forth in section 100.10.020. The purposes of this section are to:
  - 1. Encourage the effective use of signs as a means of communication in the city;
  - 2. Maintain and enhance the aesthetic environment and the city of Tenino's ability to attract sources of economic development and growth;
  - 3. Improve pedestrian and traffic safety;

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4. Minimize the possible adverse effect of signs on nearby public and private property; and
5. Allow for fair and consistent enforcement of these sign restrictions.

B. *Definitions.*

1. For words and phrases that are not defined here, chapter 100.20, general provision definitions apply.
2. All other words and phrases will be given their common, ordinary meanings, unless the context clearly requires otherwise.
3. The section headings or captions are for reference purposes only and will not be used in the interpretation of this section.

*Beacon* means any light with one or more beams that rotate or move, directed into the atmosphere, or directed at one or more points on a lot.

*Building face* means that portion of any exterior elevation of a building or other structure extending from grade to the top of a wall and the entire width of that particular building or structure elevation.

*Building marker* means any sign cut into a masonry surface or made of bronze or other permanent material indicating:

- The name of a building;
- The date; and
- Incidental information about its construction.

*Commercial message* means any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a:

- Business;
- Product;
- Service; or
- Other commercial activity.

*Flag* means any fabric or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, business or other similar entity.

*Furniture zone* means the area of sidewalk between the curb and the clear mobility area of the sidewalk.

*Lot.* See section 114.10.040, definition of lot.

*Marquee* means any permanent roof-like structure projecting:

- Beyond a building; or
- Extending along and projecting from the wall of the building.

Note: Marquees are generally designed and constructed to provide protection from the weather.

*Mural* means a work of graphic art painted or applied to a wall of a building or other structure which contains no advertising or logos. When a work of graphic art that is painted or applied to a wall of a building contains a commercial message, the portion of the mural that contains the commercial message is considered a wall sign.

*Pennant* means any material, other than a banner, that is suspended from a rope, wire, or string and designed to move in the wind.

Note: A pennant does not need to contain a message of any kind.

*Scoreboard* means a sign that is associated with an athletic field that includes information and/or statistics pertinent to an on-site game or activity and also includes any sponsor or identification panels.

*Shielded light source* shall have the meaning associated with the nature of the light source, as follows: (1) for an artificial light source directing light upon a sign, "shield light source" shall mean a light source diffused or directed so as to eliminate glare and housed to prevent damage or danger; (2) for light source located within a sign, "shielded light source" shall mean a light source shielded with a translucent material of sufficient opacity to prevent the visibility of the light source; (3) for a light source designed to directly display a message (e.g., LED and neon lighting), "shielded light source" means a light source specifically designed by its manufacturer for outdoor use.

*Sign* means any device, fixture, placard, lighting, writing, or structure that uses any color, form, graphic, illumination, symbols, and/or written copy for the primary purpose of:

- Advertising any establishment, product, goods, services, or events;
- Announcing or identifying the purpose of a person or entity;
- Providing directions; or
- Communicating information to the public.

*Sign, animated* means a sign or display manifesting either kinetic or illusionary motion occasioned by natural, manual, mechanical, electrical, or other means. Animated signs include the following types (also see and note difference from changeable sign):

- *Naturally energized.* Signs whose motion is activated by wind or other atmospheric impingement. Wind-driven signs include: flags, banners, pennants, streamers, spinners, metallic disks, or other similar devices designed to move in the wind.
- *Mechanically energized.* Signs manifesting a repetitious pre-programmed physical movement or rotation in either one or a series of planes activated by means of mechanically based drives.
- *Electrically energized.* Illuminated signs whose motions or visual impression of motion is activated primarily by electrical means. Electrically energized animated signs are of two types:
  - *Flashing signs.* Illuminated signs exhibiting a pre-programmed repetitious cyclical interruption of illumination from one or more sources in which the duration of the period of illumination (on phase) is either the same as or less than the duration of the period of darkness (off phase), and in which the intensity of illumination varies from zero (off) to 100 percent (on) during the programmed cycle.
  - *Illusionary movement signs.* Illuminated signs exhibiting the illusion of movement by means of a pre-programmed repetitious sequential switching action in which illuminated elements of the sign are turned on or off to visually simulate the impression of motion, characteristic of chasing, running, blinking, oscillating, twinkling, scintillating, or expanding and contracting light patterns.

*Sign, area of.*

- *Projecting and freestanding.* The area shall be within a single, continuous perimeter of the sign face. The area of any double-faced signs shall be calculated by determining the area of one face or side of the sign.
- *Wall sign.* The area shall be within a single, continuous perimeter composed of any rectilinear geometric figure that encloses the extreme limits of the sign.
- *Changeable copy signs.* The area shall be within a single, continuous perimeter of the sign face. The area of any double-faced signs shall be calculated by determining the area of one face or side of the sign.

*Sign area total* means the total area allowed for all freestanding, projecting, suspended, marquee and canopy signs, and flags with commercial messages on a project site. The sign area total is found by adding the area of each of the different signs together. Wall signs, banners, portable signs, building markers, identification signs, and integral roof signs are not subject to the sign area total, but are subject to other standards.

*Sign, banner* means a sign made of heavy fabric, canvas or non-rigid plastic (typically with grommets at the corners) that is affixed to a building or other support. "Sign, canopy" means any sign that is a part of, or attached to:

- An awning;
- Canopy; or
- Other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area.

Note: A marquee is not a canopy.

*Sign, changeable copy* means a sign with informational content of characters, letters, graphics or illustrations that can be changed or altered by manual or electric, electromechanical, or electronic means that can be changed or rearranged without altering the surface of the sign. Changeable copy signs include:

- *Manually activated.* Sign with alphabetic, pictographic or symbolic informational content that can be changed or altered by manual means.
- *Electrically activated.* Sign with alphabetic, pictographic, or symbolic informational content that can be changed or altered on a fixed display surface composed of electrically illuminated or mechanically driven changeable segments. This includes the following two types:
  - *Fixed message electronic sign.* Not an animated sign.
  - *Computer controlled variable message electronic signs.* Signs with informational content that can be changed or altered by means of computer driven electronic impulses. Minimum delay shall be set at two seconds.

*Sign, directional* means a sign that directs individuals to a site other than the location on which the sign is placed.

*Sign, dynamic* means a sign or portion thereof that appears to have movement or that appears to change using any method other than a person physically removing and replacing the sign or its components. This includes a display that incorporates a technology or method allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components. This also includes any rotating, revolving, moving, flashing, blinking, or animated display and any display that incorporates rotating panels, LED lights manipulated through digital input, "digital ink" or any other method or technology that allows the sign face to present a series of images or displays.

*Sign, electrical* means a sign or sign structure in which electrical wiring, connections, or fixtures are used.

*Sign, electric awning* means an internally illuminated fixed space-frame structure with translucent, flexible, reinforced covering designed in awning form and with graphics or copy applied to the visible surface of the awning.

*Sign, flashing.* (See "Sign, animated, electrically energized.")

*Sign, freestanding* means any sign supported by structures or supports that are placed on, or anchored in, the ground and independent from any building or other structure.

*Sign, identification* means a sign that is used to identify the tenant of a residential building for visitors. Identification signs typically consist of an individual's last name and have no commercial message. When a commercial message is included, the sign is classified under the relevant sign type and is subject to the provisions of that sign type under this code.

*Sign, incidental* means a sign that assists visitors to a land use in matters such as parking and navigation of the site, once they are on the site of the land use. Examples include "no parking," "entrance," "loading only," "telephone." Note: A sign with a commercial message legible from an area off the lot on where the sign is located will not be considered incidental.

*Sign, illuminated* means a sign or portion thereof that:

- Incorporates an artificial light source as part of the sign including, but not limited to, a sign with LED lights, neon lights or an interior light.
- A sign that has an artificial light source directed upon it.

*Sign, marquee* means any sign permanently attached to or made a part of a marquee.

*Sign, nonconforming* means any sign that does not meet the requirements of this section.

*Sign, political* means a temporary sign used in connection with a local, state, or national election or referendum.

*Sign, portable* means any sign:

- Not permanently attached to the ground or other permanent structure; or
- Designed to be transported. This includes, but is not limited to:
  - Signs designed to be transported by wheels (reader boards);
  - Signs converted to A- or T-frames;
  - Menu and sandwich board signs;
  - Balloons used as signs; and
  - Umbrellas used for advertising.

*Sign, projecting* means any sign attached to a building or wall where its leading edge extends more than six inches beyond the building or wall surface.

*Sign, residential* means any sign:

- Located in a district zoned for residential uses; and
- Doesn't contain a commercial message except for advertising for goods or services legally offered on the premises where the sign is located; and
- The sign conforms to requirements of Title 106 - Zoning and Shoreline Master Program Designations and Title 108 - Development Standards of the Tenino Municipal Code.

*Sign, roof* means any sign:

- Erected and constructed wholly on and over the roof of a building; and
- Supported by the roof structure.

*Sign, roof, integral* means any sign erected or constructed as an integral or essentially integral part of a normal roof structure where no part of the sign is:

- Extending vertically above the highest portion of the roof; and
- Separated from the rest of the roof by more than six inches.

*Sign, snipe* means a temporary sign or poster affixed to a tree, fence, telephone pole, public bench, streetlight, public property, or public right-of-way, except government signs.

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*Sign, suspended* means a sign that is:

- Suspended from the underside of a horizontal plane surface; and
- Supported by that surface.

*Sign, temporary* means any sign that is not permanently mounted and is used for ten days or less.

*Sign, time and temperature* means any sign that displays the current time and temperature.

*Sign, wall* means any sign that is:

- Displaying only one sign surface; and
- Supported by a wall or building where it is:
  - Attached 12 inches or less away from and parallel to a wall;
  - Painted on the wall surface; or
  - Erected and confined within the limits of an outside wall of any building or structure.

*Sign, window* means any sign, pictures, symbol, or combination of these that is:

- Designed to communicate information about the activity, business, commodity, event, sale, or service;
- Placed inside a window, or on the windowpanes or glass; and
- Visible from the exterior of the window.

*Streets*. See section 100.20.220, street definition.

*Street frontage*. See section 100.20.090, frontage definition.

- C. *Scope and effect*. This section applies to erecting, placing, establishing, painting, creating, or maintaining a sign in the city of Tenino. The effect of this section is to:
1. Establish a permit system to allow a variety of types of signs in commercial and industrial zones, and a limited variety of signs in other zones, subject to the standards and permit procedures of this section.
  2. Provide for the enforcement of the provisions of this section.
- D. *Prohibited signs, signs allowed without a permit, and signs allowed subject to a permit*.
1. *Prohibited signs*. The following types of signs are prohibited in all zones:
    - a. Abandoned signs;
    - b. Beacons or searchlights (except by permit for a limited time during a once-per-year event);
    - c. Pennants, balloons with commercial messages, and inflatable advertising devices (except as allowed in subsection (D)(2)(s) of this section);
    - d. Signs imitating or resembling official traffic or government signs or signals;
    - e. Snipe signs;
    - f. Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying said sign (this does not apply to allowed portable signs or to signs or lettering on buses, taxis, or vehicles operating during the normal course of business and excludes signs to advertise the sale of said vehicle);
    - g. Signs placed on a site other than the property that contains the use or activity that the sign is advertising, except in those instances when the sign is a directional sign placed by the City of Tenino to point to sites of historic or community significance;

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- h. Flashing signs not conforming to subsection (F)(3) and (F)(4) of this section;
  - i. Illusionary movement signs not conforming to subsection (F)(3) and (F)(4) of this section;
  - j. Any sign or advertising structure or supporting structure that is torn, damaged, defaced, or destroyed (see subsection (F)(3) of this section);
  - k. Illuminated business signs in residential zones;
  - l. Illuminated temporary signs;
  - m. Any signs that exceed the maximum sign quantity and size per business specified in Table 108.30.130-2; and
  - n. Signs not permitted under this regulation.
2. *Signs not requiring permits or exempt from this regulation.* The following types of signs are exempted from permit requirements but must be in conformance with all other requirements of this section:
- a. Construction signs of 32 square feet or less so long as the signs are removed within ten days of final project completion;
  - b. On-site directional/informational signs of two square feet or less in sign area;
  - c. Signs on private property that are:
    - 1) Less than 16 square feet in size; and
    - 2) Not installed more than ten days in any 30-day period.
  - d. Seasonal or special events decorations, and holiday lights, so long as the long as any signs located in the public right-of-way meet the requirements of subsection (F)(6) of this section;
  - e. Works of art that do not include a commercial message;
  - f. Nameplates of two square feet or less in sign area, which are fastened directly to the building or structure;
  - g. Political signs not to exceed 16 square feet in sign area;
  - h. Any public notice or warning sign required by a valid and applicable federal, state, or local law, regulation, or ordinance;
  - i. Real estate signs not to exceed 16 square feet in sign area so long as the signs are removed within ten days of final closing;
  - j. Window signs;
  - k. Canopies that do not contain a commercial message;
  - l. Incidental signs;
  - m. Any sign not legible from more than three feet beyond the lot line of the lot or parcel where the sign is located;
  - n. Address identification signs with numbers and/or letters no greater than ten inches in height, and/or conforming to fire department regulations;
  - o. Historical plaques on sites designated by a governmental agency;
  - p. Government signs, including government installed directional signs;
  - q. Scoreboards, as long as they are consistent with the building and electric code and the provisions of subsection (F)(3) of this section;

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- r. Building markers;
  - s. Portable signs, as long as the signage does not exceed the maximum number and size per business shown in Table 108.30.130-2;
  - t. Identification signs;
  - u. Kiosks on governmental property that display historic information, maps or similar information;
  - v. Signs designated by the Tenino city council as a sign of potential community significance, which do not meet the standards of this code, but constitute a high quality of new signage due to the use of sandstone or the quality of construction used in the design, so long as the sign is consistent with the building and electric code and the provisions in subsection (F)(3) of this section;
  - w. Flags, so long as the flag does not contain a commercial message. Note: Any pole over six feet in height must obtain a building permit;
  - x. Signs located along a fence or grandstand at a community sports facility so long as the signs are: consistent with the building and electric code and the provisions of subsection (F)(3) of this section; and are primarily targeted to the spectators at the sports facility and not passing pedestrians or motorists.
3. Signs allowed on private property subject to permit process.
- a. Signs are allowed on private property subject to the permit approval type within Table 108.30.130-1, unless otherwise noted within this section:

**Table 108.30.130-1 Permitted Signs by Type and Zoning District**

Sign Type	All Residential	Institutional Uses Permitted in Residential Zones	Commercial/Industrial	Public/Semi-Public
Canopy			P	P
Integral roof			P	
Flag (with commercial message)	P	P	P	P
Freestanding	P	P	P	P
Marquee			P	P
Projecting			P	P
Roof			P	
Suspended	P	P	P	
Wall	P	P	P	P
Blank cell = Not allowed	P = Permit required			

Note: Column labeled "Institutional Uses Permitted in Residential Zones" applies to institutional or commercial uses allowed within residential zones. Uses may include, but are not limited to, group homes, hospice care centers, nursing homes, assisted living facilities, daycare facilities, home occupations, religious assembly uses, funeral homes, and cemeteries.

- b. If the letter "P" appears for a sign type in a column, the sign is allowed with prior permit approval in the zoning districts represented by that column subject to the standards in subsection (F) and Table 108.30.130-2. Special conditions may apply in certain cases.

- c. If cell is blank, the sign is not allowed under any circumstances in the zoning districts represented by that column.

#### Sign Permit Process

1. Sign permits.
  - a. If a sign requiring a permit under the provisions of this section is placed, constructed, erected, or modified on a lot, the lot owner must secure a sign permit prior to the construction, placement, erection, or modification of the sign in accordance with the requirements of subsection (F) of this section.
  - b. No signs will be erected in the public right-of-way except in accordance with the relevant permit requirements of subsection (E) of this section and subsection (F)(6) of this section.
  - c. No sign permit of any kind will be issued for an existing or proposed sign unless the proposed sign meets the requirements of this section.
  - d. Prior to issuance of an illuminated sign permit, the applicant shall provide a written certification from the sign manufacturer that the light intensity has been factory preset not to exceed the levels specified in subsection (F)(3)(d) and (F)(4) of this section.
2. General permit procedures. The following will govern the application for, and issuance of, all sign permits under this regulation.
  - a. Applications. All applications for sign permits of any kind must be submitted to the city in accordance with the application requirements specified by the designee.
  - b. Fees. Each application for a sign permit will be accompanied by applicable fees established by the most currently adopted fee schedule.
  - c. Permit action. The designee will either issue a permit, request additional information, or request application modification to meet requirements of this section.
  - d. Lapse of sign permit. A sign permit will lapse automatically if:
    - 1) The business license for the premises lapses, is revoked, or is not renewed; or
    - 2) The business activity on the premises is discontinued for a period of 180 days or more and is not renewed within 30 days of a notice from the city to the last permit holder, sent to the premises, that the sign permit will lapse if the activity is not renewed.
  - e. Assignment of sign permits. A current and valid sign permit is freely assignable to a successor as owner of the property or holder of a business license for the same premises. The assignment must be accomplished by filing for a business license.
3. Permits to construct or modify signs. Sign permits will be issued in accordance with the following requirements and procedures:
  - a. Permit for new sign or for sign modification. The permit shall include three sets of plans drawn to scale that show in sufficient detail the following:
    - 1) The proposed location and its relationship to the other principal buildings on the lot and on adjacent properties.
    - 2) The size and height of the sign, including any height associated with the base of the sign.
    - 3) The elevation of the centerline of the roadway upon which the sign is oriented, when applicable.
    - 4) The material of the sign and supporting pole or structure.

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- 5) A drawing of any landscaping or other base upon which the sign will be placed.
  - 6) Any other information required by the building official to accurately review the application for conformance to the code, including but not limited to a review by a certified land surveyor and/or professional engineer.
- b. Inspection. If construction is complete and in full compliance with this section and the building and electrical codes, the sign(s) will be permitted by the city.

F. *Standards for signage.*

1. *Sign area and height.* The following requirements apply when determining sign area and sign height.
- a. *Area of individual signs.* The area of individual signs is determined using the method found in the definition "Sign, area of."
  - b. *Sign height.* The height of a sign is determined as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade is the lower of:
    - 1) The existing grade prior to construction; or
    - 2) The newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for locating the sign.

When the normal grade cannot reasonably be determined, sign height must be computed by assuming the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the lot, whichever is lower.

For roof signs, sign height is measured from the normal grade of the building, not the roof.

2. *Number, dimensions, and location of signs.*
- a. Signs are allowed subject to the standards listed in Table 108.30.130-2.

**Table 108.30.130-2 Dimensions of Individual Signs by Zone District**

Sign Type	All Residential	Institutional Uses Permitted in Residential Zones	C-1	C-2	C-3	Industrial	Public/Semi-Public
<b>Total Allowed Sign Area per Storefront<sup>1</sup></b> - Applies to freestanding, projecting, suspended, roof, marquee and canopy signs, and flags with	8 <sup>(2)</sup>	20 <sup>(2)</sup>	100 <sup>(2)(3)</sup>	100 <sup>(2)(3)</sup>	100 <sup>(2)(3)</sup>	100 <sup>(2)(3)</sup>	64 <sup>(2)</sup>

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commercial messages							
Maximum sign height	5	10	20 <sup>(3)</sup>	25 <sup>(3)</sup>	16 <sup>(3)</sup>	12	12
<b>Standards for Signs That Are Not Subject to the Allowed Sign Area Total</b>							
<b>Banner</b>							
Maximum sign area (square feet)	8	8	20	20	20	20	20
<b>Number permitted</b>							
Per lot	1	1	-	-	-	-	-
Per storefront along each street frontage <sup>1</sup>	-	-	1	1	1	1	1
<b>Building Marker</b>							
Maximum sign area (square feet)	4	4	4	4	4	4	4
Number permitted (per building)	1	1	1	1	1	1	1
<b>Identification</b>							
Number permitted (per residence)	1	1	1 (for residential uses)				
<b>Portable</b>							
Maximum sign area (square feet)	6	6	8	8	8	8	8
Number permitted (per business storefront along each street frontage)	1	1	1	1	1	1	1
<b>Roof, Integral</b>							

Number permitted (per building)	NP	NP	2	2	2	2	2
Wall							
Maximum sign area (square feet)	2	10	-	-	-	-	-
Maximum wall area (in percent)	-	-	10% <sup>(3)(4)</sup>	10% <sup>(3)(4)</sup>	10% <sup>(3)(4)</sup>	5% <sup>(3)(4)</sup>	5% <sup>(3)</sup>
<b>Additional Standards</b>	No illumination of business signs is allowed in residential zones (per subsection (D)(1)(k) of this section).						

Note: Column labeled "Institutional Uses Permitted in Residential Zones" applies to institutional or commercial uses allowed within residential zones. Uses may include, but are not limited to, group homes, hospice care centers, nursing homes, assisted living facilities, daycare facilities, home occupations, religious assembly uses, funeral homes, and cemeteries.

<sup>(1)</sup> When a building contains more than one enterprise, each separate entrance to an enterprise from the street shall constitute a storefront. This does not mean, however, that two doorways to an individual business or group of businesses that share the same commercial space are allowed twice the signage. Where a doorway serves an internal hall that provides access to more than two distinct business spaces, 125 percent of the total sign area may be used for all the businesses served by that hall.

<sup>(2)</sup> This number represents the total sign area allowed per business. This total is achieved through the addition of the area of every sign on a project site, except for those signs that are not subject to the sign area total.

<sup>(3)</sup> This dimension standard is not intended to render an existing sign non-conforming. Where a sign that was installed prior to the date of this ordinance is rendered non-conforming as a result of this sign dimension standard, the sign shall not be considered non-conforming and shall be allowed to maintain the size of the sign into the future. Other provisions of this code may however render a sign non-conforming.

<sup>(4)</sup> The percentage figure means the percentage of the area of the wall where the sign is located or where the sign is most nearly parallel.

- b. Signs must be located to allow a clear view at every intersection between heights of three feet and ten feet in a triangle formed by the corner and points on the curb 30 feet from the intersection or entranceway.
- 3. *Sign construction and maintenance.* All signs must be designed, constructed, and maintained in accordance with the following standards:
  - a. All signs must comply with applicable provisions of adopted building and electrical codes of the city at all times;
  - b. All signs must be constructed of permanent materials and must be permanently attached to the ground, a building, or other structure by direct attachment to a rigid wall, frame, or structure. Banners, flags, pennants, political signs, temporary signs, and certain window signs, conforming in all respects with the requirements of this section, are exempt from this requirement;

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- c. All signs must be maintained in good structural condition, in compliance with all building and electrical codes, and in conformance with this code, at all times. Banners, pennants, flags or temporary signs that have been torn, damaged, or destroyed are not considered to be in good structural condition;
  - d. All illuminated signs shall:
    - 1) Have a shielded light source;
    - 2) Not exceed a maximum light intensity of 5,000 nits (candelas per square meter) during daylight hours and a maximum light intensity of 500 nits between dusk to dawn as measured from the sign's face at maximum brightness; and
    - 3) Be equipped with:
      - a) An automatic dimmer control to produce the illumination change required by subsection (F)(3)(d)(2) of this section; and
      - b) A means to immediately turn off the display or lighting if the illuminated sign malfunctions.
4. *Lighting.* All lighting shall be in accordance to the current edition of the National Electrical Code. Unless otherwise prohibited by this section, all signs may be illuminated by one of the following methods:
- a. Internal lighting;
  - b. External direct lighting that is pointed downward when possible; and
  - c. Neon:
    - 1) Signs containing neon lettering and graphics shall be limited to the same size and height limitation as other commercial signs in that zone. If a neon element is proposed to occur on a wall sign or other sign that is not subject to the sign area total, the area around the neon portion of the sign cannot exceed 64 square feet in size.
    - 2) Neon may be used to outline a sign or as a graphic within a sign. Lettering height shall be limited by the ability of the lettering to be contained within the sign's size constraints.
    - 3) Flashing or animated neon signs are not allowed.
    - 4) Neon signs are only allowed in commercial and industrial zones.
5. *Changeable copy.* Unless otherwise specified by this section, any sign herein allowed may use manually, automatically, electrically, or mechanically activated changeable copy. No permit is required to change copy on a legally permitted sign.
6. *Signs in the public right-of-way.* No signs will be allowed in the public right-of-way, except:
- a. *Permanent signs.* The following permanent signs may be allowed in the public right-of-way.
    - 1) Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic;
    - 2) Bus stop signs erected by a public transit company;
    - 3) Informational signs of a public utility regarding its poles, lines, pipes, or facilities; and
    - 4) Awning, projecting, and suspended signs projecting over a public right-of-way meeting the requirements of Table 108.30.130-3. When these signs are suspended or project above a public right-of-way, the issuance and continuation of a sign permit will be conditioned on

the sign owner obtaining and maintaining liability insurance of at least \$1,000,000.00 per occurrence per sign.

- b. *Seasonal and portable signs.* A seasonal sign or a portable sign may be placed in the right-of-way when the sign:
  - 1) Meets the requirements of Tables 108.30.130-2 and 108.30.130-3; and
  - 2) Is for one of the following two types of signs:
    - a) A sign or banner for a seasonal community event, such as a fair or farmers' market, that has been approved for a fixed period of time by the city council and contains less than 20 percent of the sign as a commercial message for the sponsors of the event; or
    - b) A portable sign for a business that meets the requirements of Table 108.30.130-2 and provides no less than four feet in width of open sidewalk area to maintain ADA accessibility requirements.

**Table 108.30.130-3 Minimum Clearance for Permanent and Temporary Signs That Project over a Public Right-of-Way**

Minimum Clearance Required for Signs That Project Over a Right-of-Way	
Clearance required over a sidewalk	9 feet
Clearance required over a street	12 feet

- c. *Emergency signs.* Emergency warning signs may be allowed in the public right-of-way when they are erected by:
    - 1) A government agency;
    - 2) A public utility company; or
    - 3) A contractor doing authorized or permitted work.
  - d. *Other signs.* Any sign installed or placed on public property, except in conformance with the requirements of this section, will be forfeited to the public and subject to confiscation. In addition to other remedies in subsection (G)(2) of this section, the city will have the right to recover from the owner or person placing the sign the full costs of removal and disposal of the sign.
7. *Abandoned and obsolete signs.*
- a. Legal conforming structural supports for obsolete signs may remain if they are installed with a blank sign face and the supporting structures are maintained.
  - b. Signs abandoned for 30 days without the installation of a blank sign face and/or the maintenance of supporting structures are not allowed. The city shall notify the sign owner and allow 30 days to bring the sign into compliance or remove the sign and its support structure.
8. *Signs existing on the effective date.* For any sign existing in the city after the adoption of this section, the sign will be considered an existing conforming or nonconforming sign.
- a. *Nonconforming existing signs.* Signs will be considered a nonconforming sign when:
    - 1) The sign was in existence on or before November 13, 2012, or a later date when a property is annexed to the city; and

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- 
- 2) The sign was constructed in accordance with the ordinances and other applicable laws in effect on the date of its construction, but does not meet these requirements because of its size, height, location, design, or construction;
  - 3) A nonconforming sign that existed at the time of the adoption of the ordinance codified in this section is allowed to remain in place until the sign is replaced or the cost of maintenance for the sign exceeds 50 percent of its value. The degree or extent of the nonconformity shall not be increased;
  - 4) Any nonconforming sign will either be eliminated or made to conform to requirements of this section when any proposed change, repair, or maintenance would constitute an expense of more than 50 percent of the lesser of the original value or replacement value of the sign;
  - 5) This section does not apply to changing information on the face of an existing nonconforming sign.
- b. *Conforming existing signs.* A conforming sign that existed at the time of the adoption of the ordinance codified in this section and meets the requirements of this code is allowed to remain in place without a permit until the sign is replaced or the cost of maintenance for the sign exceeds 50 percent of its value. A permit is required once the maintenance of the sign exceeds this 50 percent threshold.

G. *Additional administrative provisions.*

1. *Variances.*

- a. Any person may apply to the designee for a variance from the requirements of this section. The sign variance shall be processed pursuant to section 100.50.080 and shall also base the findings and conclusions on the following criteria:
  - 1) The variance does not conflict with the purpose and intent of the sign regulations.
  - 2) The variance shall not constitute a grant of special privilege inconsistent with the limitation upon signage of other properties that have had to conform to the provisions of this section.
  - 3) There are exceptional or extraordinary circumstances or conditions applicable to the property involved, or to the intended use of the property, that are not contemplated or provided for by this section.
  - 4) The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated.
  - 5) Alternative signage concepts that comply with the provision to which the variance is requested have been evaluated, and an undue hardship would result if the strict adherence to the provision were required.
- b. Conditions may be imposed upon the application as deemed necessary by the designee. No variance may be granted that would increase the number of signs allowed by this section or allow a type of sign that is prohibited by this section. The fee for an administrative variance is based on the adopted fee schedule.

2. *Enforcement.*

- a. *Sign removal required.* A sign that was constructed, painted, installed, or maintained in conformance with a permit under this section will be required to be removed within 30 days' notice from the city when:

- 
- 1) The permit has lapsed subject to subsection (F)(E)(2)(d) of this section.
  - 2) The sign is no longer in good structural condition or in compliance with all building and electrical codes.
- b. *Lapse of nonconforming sign status.* Allowance of a nonconforming sign will lapse and become void under the same process as any other sign permit that may lapse and become void.
- c. *Violations.* The following are violations of this section and subject to enforcement provisions of section 100.30.130:
- 1) To install, create, erect, or maintain any sign:
    - a) Without a permit, if a permit is required; or
    - b) In a way that is inconsistent with any permit governing the sign or lot where the sign is located.
  - 2) To fail to remove any sign that:
    - a) Is installed, created, erected, or maintained in violation of this regulation; or
    - b) Has a lapsed permit.

Each day of continued violation will be considered a separate violation for each sign installed, created, erected, or maintained when applying penalty portions of this regulation.

(Ord. No. 822, § 1, 11-13-2012)

Editor's note(s)—Ord. No. 822, § 1, adopted November 13, 2012, amended section 108.30.130.1—108.30.125 in its entirety to read as herein set out as § 108.30.130. Former §§ 108.30.130.1—108.30.125 pertained to similar subject matter. See Code Comparative for complete derivation.

**108.30.140. Design standards.**

A. *Context for design standards.* Tenino is unique because of its history, and because of the fact that much of that history remains intact. Sure some windows have been filled in and some new buildings have been constructed, but amazingly since 1906, when a major downtown fire occurred, the character of the town (and especially the downtown) has changed little.

This unique history is one that the city has valued over the past several decades, and seeks to preserve and build on into the future, recognizing that the historic character if emphasized could provide economic benefits to the community, especially through the attraction of residents and visitors that seek something different/more permanent than the rapidly changing products and cheap materials so common today.

B. *Intent.* These design standards are intended to protect this unique and intact historical character by:

1. Bringing out the historic charm of the existing buildings (by encouraging the restoration of things like the original window arrangements); and
2. Ensuring that new buildings and major remodels are constructed in a way that compliments this historic character.

The standards have been crafted based on a number of principles that were originally used in the construction of Tenino. These standards include ensuring that ground floor windows are large (because ground floor windows help to sell merchandise); ensuring some use of sandstone in building construction (because local resources should be used in new construction projects); and ensuring that facades have some variation, depth and detailing (because structures should be designed to last (and look good) for 100 years).

C. *Applicability.* These design standards apply to certain land use proposals in the City of Tenino. To determine if a land use is subject to any of the standards, please see Table 108.30.140-1. Land use zones are shown as well as an abbreviated description of each proposal (new structure, major remodel, minor remodel). Where an application meets both the "ZONE" and "ACTION" classifications, the proposal is subject to the applicable standard. Detailed descriptions of each of the standards are presented following the table.

**TABLE 108.30.140-1: APPLICABLE DESIGN STANDARDS FOR EACH ZONE AND ACTION<sup>1</sup>**

	ZONE					ACTION		
	C1	C2	C3	MF	I	New Structure	Major Remodel	Minor Remodel
<b>PLACEMENT OF BUILDINGS</b>								
C1	x					x	x (If expanding, applies to expansion only)	
Pedestrian-Oriented Site Design		X	x	x	x	x	x (If expanding, applies to expansion only)	
<b>PLACEMENT OF DOORS AND WINDOWS</b>								
Location of Door	x	X	x	x	x	x	x	x
Presence of Windows								

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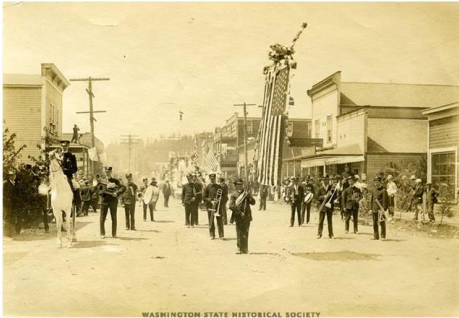
-New Structures	x (Non-residential uses only)					x		
-Existing Structures	x (Non-residential uses only)						x	
-Historic Structures	Encouraged (but not required)						Encouraged (but not required)	
-No Reduction Allowed	x	X	x				x	x
<b>DEPTH ON BUILDINGS</b>								
Building Depth	x	X	x	x	x	x	x	
Blank Wall	x	X	x	x	x	x	x	
<b>BUILDING ARTICULATION</b>	x	X	x	x	x	x	x	
<b>DETAIL</b>								
Building Detail	x (But does not apply to existing single-family uses)					x	x	
Sandstone Detail	x	X	x			x		
<b>LIGHTING</b>	x	X	x	x	x	x	x	
<b>LANDSCAPING</b>								
Street Trees	As shown in City's street tree plan					x		
Parking Lot Landscaping	x	X	x	x	x	x	x (for spaces necessary for any expansion)	
Visual Screen/Visual Block	x	X	x	x	x	x	x	
<b>SCREENING OF FACILITIES</b>	x	X	x	x	x	x	x	x

<sup>1</sup> While the table refers to the C-1, C-2, C-3, MF, and I zones as a whole, the standards do not apply to existing or future single-family residences or duplexes within those zones.

D. *Placement of buildings.*

1. *Downtown.* Within C-1 zone, buildings shall mirror the historic development pattern of the area. New buildings shall occupy the entirety of the lot frontage, and be set at the front lot line (for buildings in the historic district) or near the front lot line (for buildings outside of the historic district). Parking shall be located on street, in common parking lots, or behind the building (see Figure A).

Figure A



*Historic structures in downtown Tenino were typically set on the front property line and faced Sussex Avenue or other streets in the community.*

2. *Pedestrian-oriented site design.* Within all other commercial, industrial, and multifamily zones, building placement and location is less important than in the C-1 zone. Nevertheless, to ensure that parking lots do not dominate Sussex Avenue or other pedestrian-oriented areas (as shown in Map 108.30.140-1), at least 50 percent of a lot's frontage must be occupied by a building or pedestrian-oriented space, instead of parking areas.



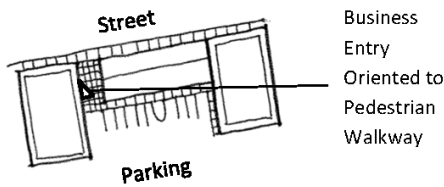
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E. *Placement of doors and windows.*

1. *Location of door.* All businesses located on Sussex Avenue or any other pedestrian-oriented street must have an operable doorway/entrance that is oriented:
  - a. Toward the street; or
  - b. Toward a pedestrian-oriented public walkway or plaza that connects to the street sidewalk (see Figure B).

Figure B



2. *Presence of windows.*
  - a. *New structures* - To ensure an interesting streetfront for pedestrians and vehicles and to promote shopping in Tenino, see-through windows and doorways must occupy at least 50 percent of the ground floor façade area (see Figure C).

Figure C



Historic structures in downtown Tenino contained a high proportion of windows on the ground floor (often more than is currently visible on the front of the buildings today).

- b. *Existing buildings* - Existing downtown and non-residential buildings that currently have 50 percent or less of their façade area devoted to see-through windows and doorways must increase the size of their windows to at least fifty percent of the ground floor façade as part of any significant remodel. This requirement however shall not apply to the following buildings that were originally designed to have less than 50 percent of their façade encompassed by windows:

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- i. Historic residential uses or commercial structures (constructed prior to 1930) or
- ii. Structures found (by the planning official) to be a valuable architectural statement that exhibits a unique character or style for Tenino.

In these instances, maintaining the historic or architectural integrity of the structures is a higher priority than adding new windows.

- c. *Historic structures* - All historic buildings in Tenino are encouraged to reestablish the original window arrangement (including display and transom windows) as part of all remodels.
- d. *No window reduction allowed* - Under no circumstances are building owners of non-residential structures in the downtown allowed to reduce the size of their windows as part of any building remodel.

F. *Depth on buildings.*

- 1. *Building depth.* To ensure that new buildings and major remodels contribute to the character of Tenino (see Figure D), all new facades that are oriented towards a public street and/or primary means of entrance shall incorporate at least three of the following features.

Figure D



*Historic structures in downtown Tenino were not flat, and often had a significant amount of depth through the use of features such as awnings, balconies, recessed windows and recessed entries.*

- a. Awnings or arcades.
- b. Recessed entries at least four feet in depth.
- c. Recessed windows.
- d. Horizontal building modulation greater than 12 inches in depth.
- e. Upper story balconies that contain at least 60 square feet of usable area.
- f. Bay windows.

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- g. Cornices that project out from the building greater than four inches.
  - h. Landscaping methods listed below to break up blank walls.
  - i. Other methods that achieve similar results.
2. *Blank walls.* To limit the number of blank walls viewed by pedestrians and neighboring residences in Tenino, blank walls without a window or entry that are more than 25 feet in length and between two and eight feet in height (from grade), should not face a public open space, street right-of-way, parking lot or adjacent residence. Where such walls are deemed to be unavoidable by the planning official, they shall be treated in two or more of the following ways:
- a. Planters or trellises with vines.
  - b. Landscaping that covers at least 30 percent of wall area within three years of planting.
  - c. Special materials (e.g., decorative patterned masonry) that cover at least 30 percent of the wall area.
  - d. Small setbacks, projections, indentations, or intervals of material change to break up the wall's surface.
  - e. Display windows.
  - f. Other treatment approved by the city.
- G. *Building articulation.* To prevent long stretches of monotonous façade, buildings over 100 feet in length as measured parallel to a roadway or public open space shall be articulated along the façade at intervals (see Figure E). Articulation may be accomplished in several ways, including:

Figure E



*Larger historic structures, like the Columbia Building, were articulated into distinct segments, rather than appearing as one large building. In the Columbia Building, this articulation was accomplished through the creation of two distinct storefronts distinguished by drastically different window arrangements.*

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1. Modulation—the stepping back or projection forward of a portion of the façade.
2. Including significant building elements such as balconies, porches, canopies, towers, entry areas, etc. that visually break up the façade.
3. Including building focal points, such as a tower or turret to emphasize the location of a building's entry.
4. Changing the roofline.
5. Changing materials.
6. Using other methods acceptable to the city.

Each building over 100 feet in length should be articulated into sections averaging not less than 24 feet and not more than 36 feet in length as measured along the portions of the façade visible from a parking lot and or public street.

Articulation of the structure shall not be conducted for artifice alone, but should typically follow specific features (i.e. changes between commercial storefronts, differentiation between residential ground floor entries and commercial entries, etc.). Where it is not possible to follow specific features, the building should feel like one common building with different and distinct components.

#### H. Detail.

1. *Building detail.* Buildings within the commercial and multifamily zones shall include at least one of the following elements on facades that face a public street or park (see Figure F).

**Figure F**



*Historic structures in downtown Tenino often included unique detailing.*

- a. Decorated rooflines, such as ornamental molding, entablature, frieze or other roofline device visible from ground level.
- b. Decorative treatment of windows and doors, such as decorative molding or framing details around all ground floor windows and doors facing a public street, public space and/or parking lot.
- c. Decorative railings, grill work or landscape guards.
- d. Decorative building materials, such as ornamental masonry, shingle, brick or stone; decorative moldings, brackets, eave, trim or lattice work; ceramic tile, stone, Carrera glass, or similar materials; or other materials with decorative or textural qualities approved by the city.

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- e. Landscape trellises.
- f. Decorative light fixtures.
- g. Other similar feature or treatment approved by the city.

The applicant may be required to submit architectural drawings and material samples for approval. Figure F Historic structures in downtown Tenino often included unique detailing.

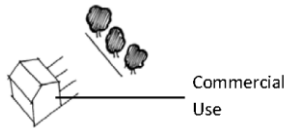
2. *Sandstone detail.* New buildings within commercial zones must additionally incorporate a sandstone element into the design of the structure. Appropriate sandstone elements include:
  - a. A decorative piece of sandstone sculpture at least five feet in height.
  - b. A sandstone pillar incorporated into the building design.
  - c. A low sandstone wall.
  - d. A sandstone bulkhead beneath the display windows.
  - e. Other treatment approved by the city.
- I. *Lighting.* All new projects shall include illuminated parking areas, and sufficient lighting to help patrons travel safely from their car to the building entrance(s). All lighting included as part of projects shall be fully shielded and directed downward to limit the flow of light into the sky and onto adjacent properties.
- J. *Landscaping.*
  1. *Street trees.* To help create a pleasant street front for pedestrians and motorists in Tenino, street trees are required as part of new development or substantial commercial remodels. General locations of these street trees are shown in Tenino's adopted street tree concept.
  2. *Parking lot landscaping.* To help ensure aesthetically pleasing approaches to businesses and other land uses in Tenino; break up the views of large expanses of paved parking; and help control the speed of runoff in parking lots, one tree is required for every 2,000 square feet of parking area on a project site. Trees are encouraged to be placed at the end of parking aisles (see Figure G) or otherwise interspersed through the parking area.

Figure G



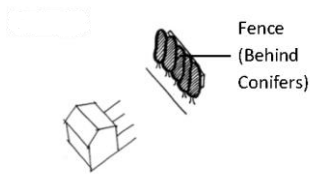
3. *Visual screen/visual block.* To help preserve the residential nature of single-family neighborhoods, applicants are required to provide a visual screen or visual block that is situated along the property line between the residential neighborhoods and the adjacent commercial use. Two types of screening are allowed:
  - a. *Visual Screen* - Visual screens provide a buffer between adjacent land uses, but do not block all views through the landscaping. Conifers or deciduous trees may be utilized (see Figure H).

Figure H



- b. *Visual Block* - Visual blocks incorporate fencing and conifer trees (typically) to block the majority of views between the land uses (see Figure I). Visual blocks shall typically be utilized where a use next to a residential area has the potential for significant aesthetic or noise impacts.

Figure I



Visual screens or visual blocks shall also be planted between commercial uses, mixed uses or multifamily residential uses that do not share a common wall with their neighbors.

- K. *Screening of facilities.* To ensure that the unsightly functions of buildings do not detract from surrounding land uses, facilities such as trash receptacles, loading docks, and heating and cooling equipment (located on the ground or on a building rooftop) must be screened from public view. Fencing or vegetation that creates a visual block is appropriate for facilities located on the ground, and use of items such as a parapet is appropriate for rooftop equipment.

(Ord. No. 851, §§ 4, 5, 12-9-2014)

**108.30.150. Reserved.**

Editor's note(s)—Ord. No. 881, § 37, adopted September 26, 2017, repealed § 108.30.150, which pertained to accessory dwelling units. See Code Comparative Table for complete derivation.

**108.30.160. Natural resource lands.**

- A. *Purpose.* Resource lands are of special concern to the public. In order to protect and promote public health, safety, and welfare, this section establishes noticing requirements for sites that contain or are adjacent to natural resource lands.
- B. *Establishment of natural resource lands.*
  - 1. Natural resource lands regulated by this section include:
    - a. Agricultural resource lands (WAC 365-190-050; RCW 36.70A.170).

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- b. Mineral resource lands (WAC 365-190-070; RCW 36.70A.170).
  - c. Forest resource lands (WAC 365-190-060; RCW 36.70A.170).
2. Properties adjacent to natural resource lands are also subject to the standards of this section. An adjacent property is one that is on a site bordering or within 500 feet of a designated natural resource.
- C. *Notice required.*
- 1. Pursuant to RCW 36.70A.060, all final plats and short plats, and permits issued for development activities on or within 500 feet of any land designated under this Section must contain a note that the subject property is near agriculture, forest, or mineral resource lands of long-term commercial significance, whichever applies. The note must inform the public that a variety of commercial activities may occur that may not be compatible with residential development for certain periods of limited duration.
  - 2. The note must also contain a statement that the ability of owners or occupants to recover damages for nuisances arising from activities on the designated mineral, agricultural or forestry land, whichever applies, may be limited.
  - 3. The note for properties within or near designated mineral lands must also inform the public that an application might be made for mining-related activities, including mining, extraction, washing, crushing, stockpiling, blasting, transporting and recycling of minerals.
  - 4. The resource use notice must be provided in a form and content prescribed by the city.
- D. *Agricultural resource lands.* Agricultural lands are lands that are not already characterized by urban growth and have long-term significance for the commercial production of food or other agricultural products.
- 1. *Location.* The following sites have been designated as agricultural lands:
    - a. *Tenino.* There are no sites within the city designated as agricultural lands.
    - b. *Unincorporated Thurston County.* There are no sites within 500 feet of the city or its urban growth area that have been designated by Thurston County as long-term agriculture.
- E. *Mineral resource lands.* Mineral resource lands are lands that are not already characterized by urban growth and have long-term significance for the extraction of minerals.
- 1. *Location.* The following sites have been designated as mineral resource lands:
    - a. *Tenino.* There are no sites within the city designated as mineral resource lands.
    - b. *Unincorporated Thurston County.* Miles Sand and Gravel quarry, Department of Natural Resources Permit Number 11902.
- F. *Forest resource lands.* Forest resource lands are forestlands that are not already characterized by urban growth and have long-term significance for the commercial production of timber, including Christmas trees.
- 1. *Location.* The following sites have been designated as forest resource lands:
    - a. *Tenino.* There are no sites within the city designated as Forest Resource Land.
    - b. *Unincorporated Thurston County.* There are no sites within 500 feet of the city or its urban growth area that have been designated by Thurston County as long-term forestry.

(Ord. No. 880, § 13, 9-12-2017)

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**108.30.170 Accessory residential vehicle service and repair standards.**

The repair, service, restoration, modification, assembly, disassembly, construction, reconstruction, or other work on a motor vehicle, recreational vehicle or a sporting vehicle on any residential premises in any zone that allows residential uses shall be subject to the following standards:

- A. Work shall be limited to the noncommercial repair and maintenance of motor vehicles, recreational vehicles, sporting vehicles and vehicular equipment that is currently registered to a resident of the premises or a member of the residents' family, which shall be limited to parents, grandparents, spouse, or children related by blood, marriage or adoption.
- B. Such work is prohibited in multifamily residential complexes of three or more dwelling units on a parcel.
- C. Such work shall be conducted on no more than one vehicle at any one time.
- D. Such work shall be conducted only between the hours of 7:00 a.m. and 10:00 p.m. on weekdays and 8:00 a.m. and 7:00 p.m. on weekends.
- E. Assembly, disassembly or bodywork shall only be conducted within a fully enclosed garage or accessory building. Minor service and repair work may be performed in an open accessory structure or in the driveway directly adjacent to the garage or carport. Such work shall not be performed in the public right-of-way nor shall vehicles be stored in the public right-of-way, even if the driveway is located in the public right-of-way.
- F. Parts, equipment, debris, excess materials or other supplies needed for the repair of a vehicle on the premises shall be stored within a fully enclosed structure such as a garage or accessory building. No items shall be left outside overnight.
- G. The performance of such work shall not create a nuisance to the neighbors.
- H. Upon completion of any work allowed by this section, the property shall be cleaned of all debris, oil, grease, gasoline, cloths or rags, and all other equipment or material used in the work, and the property shall be left in such a condition that no hazard to persons or property shall remain. Storage and disposal of all hazardous materials shall be in accordance with state and local regulations.
- I. Disposal of all waste products shall be in accordance with state and local regulations.
- J. Painting of vehicles is prohibited.

(Ord. No. 881, § 38, 9-26-2017)

**108.30.180. Zoning map.**

[A copy of the city's official zoning map can be found in the city] offices.

(Ord. No. 754, § 20, 2-24-2009; Ord. No. 823, §§ 12, 13, 11-13-2012)

PART II - LAND DEVELOPMENT REGULATIONS CODE  
Title 108 - DEVELOPMENT STANDARDS  
CHAPTER 108.40. ALLOWED USES

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***CHAPTER 108.40. ALLOWED USES<sup>1</sup>***

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<sup>1</sup>Editor's note(s)—Ord. No. 881, § 39, adopted September 26, 2017, repealed the former chapter 108.40, §§ 108.40.010—108.40.160, and enacted a new chapter 108.40 as set out herein. The former Ch. 108.40 pertained to development standards; use specific. See Code Comparative Table for complete derivation.

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**108.40.010. Use schedule.**

The Use Schedule establishes the principal, accessory, and temporary uses allowed in each zone. The definitions and standards for each use are established in Sec. 108.40.030 through Sec. 108.40.120 and referenced in the table. Additional uses may be allowed in a zone as part of an allowed development option as specified in Chapter 100.55, Master Planned Developments. The permit required for each allowed use is designated using the following symbols.

- A. "Y" denotes an allowed use that does not require a use permit. Physical development permits are still required as applicable.
- B. "A" denotes an allowed use that requires an Administrative Use Permit to be obtained pursuant to Sec. 100.50.030.
- C. "C" denotes an allowed use that requires a Conditional Use Permit to be obtained pursuant to Sec. 100.50.040. A conditional use is generally compatible with the character of a zone but requires individual review of its configuration, density, and intensity in order to mitigate effects that may be adverse to the desired character of the zone.
- D. "PF" denotes an allowed use that requires a Public Facilities Use Permit to be obtained pursuant to Sec. 100.50.060. Public facilities uses are inherently incompatible with the character of the zone, but essential to the community; and therefore some provision must be made for their existence and operation. Public facilities uses require specified locations due to common neighborhood opposition. These locations shall be determined by a comprehensive community-wide selection process designed to identify locations that best serve the special use while minimizing the negative impacts and obtrusiveness. Public facilities uses also require individual review of their configuration, density, and intensity in order to mitigate effects that are adverse to the desired character of the zone.

USE SCHEDULE												
Key: Y = Use allowed without use permit    A = Administrative Use Permit required C = Conditional Use Permit required PF = Public Facilities Use Permit required    (PO) = Only allowed in the PO Overlay    -- = Use not allowed * = Use that was legally established prior to November 13, 2012 is allowed to continue as an allowed conforming use. No new uses are allowed in the zone.												
Use Category	Residential Zones				Nonresidential Zones				Special Purpose Zones		Def/Std	
	SF-ES	SF	SF-D	MF	C1	C2	C3	I1	P/SP	WT		
<b>Open Space Uses</b>												
Agriculture	Y	--	--	--	--	--	--	--	A	Y		
Value-Added Agriculture	--	--	--	--	--	--	--	--	A	--		
Accessory Uses												
<b>Residential Uses</b>												
Detached Single-Family Unit	Y	Y	Y	Y	--	--	Y*	--	--	Y		
Duplex	--	--	Y	Y	--	--	--	--	--	--		
Attached Single-Family Unit	--	--	--	Y	A	A	A	--	--	--		
Group Home	--	--	--	Y	A	A	A	--	--	--		
Correctional Group Home	--	--	--	--	--	PF	--	--	--	--		
<b>Lodging Uses</b>												
Conventional Lodging	--	--	--	--	Y	Y	Y	--	--	--		
Campground	--	--	--	--	--	--	--	--	A	--		
<u>Transitional Housing</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>--</u>	<u>--</u>	<u>--</u>		
<u>Permanent Supportive Housing</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>--</u>	<u>--</u>	<u>--</u>		
<b>Institutional Uses</b>												
Assembly	C	C	C	C	Y	Y	Y	--	Y	C		
Daycare Center	--	C	C	A	Y	Y	Y	--	Y	--		
School	--	C	C	C	--	C	C	--	C	--		
Emergency Services	C	C	C	C	A	A	A	A	A	--		
<b>Commercial Uses</b>												
Office	--	A(PO)	--	A	Y	Y	Y	--	Y	--		
Retail	--	--	--	--	Y	Y	Y	--	--	Y		
Service	--	--	--	--	Y	Y	Y	--	--	--		
Restaurant/Bar	--	--	--	--	Y	Y	Y	--	--	Y		

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Commented [MP1]: The city shall not prohibit emergency shelters, transitional housing, or permanent supportive housing in zones permitting residential uses or hotels, consistent with RCW 36.70A.695 and E2SHB 1220

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Mobile Food Vendor	—	—	—	—	A	A	A	A	A	—	108.40.070.F.
Heavy Retail/Service	—	—	—	—	A	Y	A	C	—	Y	108.40.070.G.
Storage	—	—	—	—	—	—	—	A	—	—	108.40.070.H.
Nursery	—	—	—	—	A	A	A	A	—	—	108.40.070.I.
Battery Exchange Station	—	—	—	—	C	A	C	A	—	—	108.40.070.J.
Marijuana Business	—	—	—	—	A	A	A	A	—	—	108.40.070.K.
Sexually Oriented Business	—	—	—	—	—	—	—	C	—	—	108.40.070.L.
<b>Amusement and Recreation</b>											108.40.080.
Amusement	—	—	—	—	A	A	A	—	A	—	108.40.080.B.
Outdoor Recreation	Y	Y	Y	Y	Y	Y	Y	—	Y	C	108.40.080.C.
Developed Recreation	A	A	A	A	Y	Y	Y	—	Y	C	108.40.080.D.
<b>Industrial Uses</b>											108.40.090.
Craft Food Production	—	—	—	—	A	A	A	Y	—	—	108.40.090.B.
Light Industry	—	—	—	—	C	A	A	Y	—	—	108.40.090.C.
Heavy Industry	—	—	—	—	—	—	—	C	—	—	108.40.090.D.
Disposal	—	—	—	—	—	—	—	PF	—	—	108.40.090.E.
<b>Transportation and Infrastructure Uses</b>											108.40.100.
Parking	—	—	—	—	A	A	A	A	A	—	108.40.100.B.
Utility Facility	C	C	C	C	C	C	C	C	C	C	108.40.100.C.
Sewer Facility	—	—	—	—	—	—	—	PF	PF	—	108.40.100.D.
Wireless Telecommunications Facility	See Sec. 108.40.100.E.									—	108.40.100.E.
<b>Accessory Uses</b>											108.40.110.
Accessory Dwelling Unit	A	A	A	A	—	—	—	—	—	A	108.40.110.B.
Bed and Breakfast	A	C	C	Y	Y	Y	Y	—	—	Y	108.40.110.C.
Home Occupation	A	A	A	A	Y	Y	Y	—	—	A	108.40.110.D.
Home Business	C	C	C	C	A	A	A	—	—	C	108.40.110.E.
Drive-Up Facility	—	—	—	—	C	Y	A	—	—	—	108.40.110.F.
Home Daycare	A	A	A	A	A	A	A	—	—	A	108.40.110.G.
Battery Charging Station	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	108.40.110.H.
<b>Temporary Uses</b>											108.40.120.
Yard Sale	Y	Y	Y	Y	Y	Y	Y	Y	Y	—	108.40.120.B.

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Christmas Tree Sales	—	—	—	—	Y	Y	Y	Y	—	—	108.40.120.C.
Farm Stand	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	108.40.120.D.
Temporary Real Estate Sales Office	A	A	A	A	A	A	A	A	A	—	108.40.120.E.
Temporary Shelter	A	A	A	A	A	A	A	A	A	—	108.40.120.F.
Temporary Gravel Processing	A	A	A	A	A	A	A	A	A	—	108.40.120.G.

(Ord. No. 881, § 39, 9-26-2017; Ord. No. 896, § II, 2-26-2019; 2021-001, 6-9-2021)

### 108.40.020. Classification of uses.

- A. *Definition of use.* Use means the purpose or activity for which land or buildings are designed, arranged, intended, divided, or occupied, maintained, rented, or leased, and includes any manner of performance of such activity with respect to the performance standards of these development standards. A use often involves the placement of structures or facilities for industry, commerce, habitation, or recreation.
- B. *Classification of uses.*
1. *Principal use.* A principal use is a use that may exist as the sole use of the property. More than one principle use may exist on a property. A principal use includes all incidental uses. Principle uses are organized into ten categories:
    - a. Open space uses (Sec. 108.40.030).
    - b. Residential uses (Sec. 108.40.040).
    - c. Lodging uses (Sec. 108.40.050).
    - d. Institutional uses (Sec. 108.40.060).
    - e. Commercial uses (Sec. 108.40.070).
    - f. Amusement and recreation uses (Sec. 108.40.080).
    - g. Industrial uses (Sec. 108.40.090).
    - h. Transportation and infrastructure uses (Sec. 108.40.100).
    - i. Accessory uses (Sec. 108.40.110).
    - j. Temporary uses (Sec. 108.40.120).
  2. *Incidental use.* An incidental use is a use that is commonly integrated into the operation of a principal use, even if the incidental use would be classified as a different use if it were separated.
  3. *Accessory use.* An accessory use is a use that constitutes a minority of the use or character of the property and is secondary and subordinate to another use of the same property, but which is not an incidental use.
  4. *Primary use.* A primary use is a use to which an accessory use is accessory.
  5. *Temporary use.* A temporary use is a use established for a fixed period of time.
- C. *Multiple uses.* Each use listed as a separate row in the Use Schedule shall require a permit unless the use is incidental to a permitted use or the use is exempt from a permit.
- D. *Use not listed.* If a use is not listed as a use in a zone, it shall be considered to be a prohibited use. The community development director is authorized to make an interpretation pursuant to section 100.50.020 of these LDRs to determine if a use not listed in these LDRs is allowed or prohibited. If the Community development director determines that a use is allowed, the community development director shall also determine the zone(s) in which the use may be permitted and the type(s) of use permit required.

(Ord. No. 881, § 39, 9-26-2017)

### 108.40.030. Open space uses.

- A. *All open space uses.*

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1. *Definition.* An open space use is the enjoyment or maintenance of land that occurs predominately outside of any structure.

B. *Agriculture.*

1. *Definition.* Agriculture is the farming or ranching of land.
  - a. *Includes:*
    - i. Cultivation of the soil.
    - ii. Production of forage or crops.
    - iii. Growing of ornamental or landscaping plants.
    - iv. Greenhouses.
    - v. Rearing, feeding, and management of livestock.
2. *Standards.*
  - a. Agricultural buildings used for primary processing, packaging, and storing of agricultural products shall be limited to no more than 30,000 square feet of total floor area. For the purposes of this subsection, "primary processing" shall mean sorting, cleaning, blending, and milling.

C. *Value-added agricultural accessory uses*

1. *Definition.* Value-added agricultural accessory uses includes but is not limited to the manufacturing, processing, storage, distribution, research, marketing and sales of regional agricultural products from one or more producers, including support services that facilitate these activities.
2. *Standards.* Buildings used to produce or process valued-added agricultural products in these zones must be consistent with standards within an approved site master plan.

(Ord. No. 881, § 39, 9-26-2017; 2021-001, 6-9-2021)

**108.40.040. Residential uses.**

A. *All residential uses.*

1. *Definition.* A residential use is a living facility that includes permanent provision for living, sleeping, eating, cooking, and sanitation.

B. *Detached single-family unit.*

1. *Definition.* A detached single-family unit is a single residential unit occupied by not more than one family having no roof, wall, or floor in common with any other residential unit or nonresidential unit, except as modified below.
  - a. *Includes:*
    - i. Single-family units attached to accessory dwelling units.
    - ii. Individual manufactured homes and modular homes, when sited on a permanent foundation in accordance with Tenino's building code.
  - b. *Does not include:*
    - i. Mobile homes.
    - ii. Individual manufactured homes and modular homes when not sited on a permanent foundation.

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iii. Recreational vehicles, park trailers and travel trailers.

2. *Standards.*

- a. No more than one detached single-family unit shall be located on a lot of record.
- b. A detached single-family unit must be at least 14 feet wide at the narrowest point of its first story.
- c. Each entrance door of a detached single-family unit must have a finished porch or deck.
- d. If the detached single-family unit is a manufactured home, the following standards apply:
  - i. The manufactured home is no more than three years old on the date of installation; and
  - ii. Proof of title elimination must be provided prior to building occupancy.

C. *Duplex.*

1. *Definition.* A duplex is two residential units, each occupied by not more than one family, that are connected to each other by one or more common walls.

a. *Does Not Include:*

- i. Attached single-family units.
- ii. Townhouse.
- iii. Condominium.
- iv. Single-family units attached to accessory dwelling units.

2. *Standards.*

- a. No more than one duplex shall be located on a lot of record.

D. *Attached single-family unit.*

1. *Definition.* An attached single-family unit is a residential unit occupied by not more than one family that is connected to at least two other dwelling units or nonresidential units by one or more common walls.

a. *Includes:*

- i. Attached townhouse unit.
- ii. Condominium.
- iii. Triplex, quadruplex, etc.
- iv. Apartment.

b. *Does not include:*

- i. Single-family units attached to accessory dwelling units.
- ii. Duplexes.

E. *Group home.*

1. *Definition.* A group home is a residential unit occupied by more than six unrelated individuals, which typically offers shelter, medical and mental health services, and other care-related services to residents.

a. *Includes:*

- 
- i. Nursing homes and assisted living facilities.
  - ii. Group living facilities with related sheltered care facilities.
  - iii. Residential facilities for the developmentally disabled including on-site training facilities.
  - iv. Dormitories.
  - b. *Does not include:*
    - i. Correctional group home.

F. *Correctional group home.*

- 1. *Definition.* Correctional group home means publicly or privately operated living accommodations for adults and juveniles under the jurisdiction of the criminal justice system.
  - a. *Includes:*
    - i. State-licensed group care homes or halfway houses for individuals that provide residence in lieu of incarceration.
    - ii. Halfway houses providing residence to individuals needing correction or for individuals selected to participate in state-operated work release and pre-release programs.
    - iii. Group homes for individuals who have been convicted of a violent crime against a person or a crime against property with a sexual motivation and charged or convicted as a sexual or assaultive violent predator.
- 2. *Standards.*
  - a. *Separation.*
    - i. A correctional group home must be located a minimum of 600 feet from all other correctional group homes.
    - ii. Correctional group homes must also be located a minimum of 1,000 feet from the following:
      - 1. Schools, both public and private;
      - 2. Parks and playgrounds; and
      - 3. Daycare centers.
  - b. *Registration and licensing.* Group homes must obtain all licenses necessary for operation by state and federal agencies.

(Ord. No. 881, § 39, 9-26-2017)

**108.40.050. Lodging uses.**

A. *All lodging uses.*

- 1. *Definition.* A lodging use is a sleeping unit or residential unit rented such that occupancy is limited to less than 31 days.

B. *Conventional lodging.*

- 1. *Definition.* Conventional lodging use is any lodging use other than those specifically defined elsewhere in this section.

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- a. *Includes:*
  - i. Hotels.
  - ii. Motels.
- b. *Does not include:*
  - i. Short-term rental unit.
  - ii. Campgrounds.
  - iii. Bed and breakfasts.

C. *Campground.*

1. *Definition.* A campground is an establishment providing campsites for accommodations such as tents, recreational vehicles, campers, or trailers that are brought to the campground for overnight or short-term use.

- a. *Includes:*
  - i. Recreational vehicle (RV) parks.
- b. *Does not include:*
  - i. Mobile home parks.

2. *Standards.*

- a. *Occupancy.*
  - i. Campsite occupancy is limited to short-term use of less than 15 days.
  - ii. Campground employees may be permitted to occupy a campsite for longer than 15 days.
  - iii. Campsite occupancy may be extended with the written approval of the Code Enforcement officer in situations of hardship or unique circumstances.

*Example:* A person requests an extended stay to care for an elderly relative.

- b. *Campsite.* A campground campsite consists of a gravel, paved, or grass area where a tent, RV, camper, or trailer may be parked or located, and includes associated amenities and parking.
  - i. *Size.* Each RV, camper, or trailer campsite must be at least 1,000 square feet in size and may contain only one RV, camper, or trailer. There is no minimum size requirement for tent sites.
  - ii. *Setback.* All campsites must be set back 20 feet from the property line.
- c. *Landscaping and screening.* Campgrounds must provide street trees and visual screening/blocking consistent with section 108.30.140.J.1. and J.3.
- d. *Permanent structures.* A campground may have permanent structures that are solely for the occupants of the campground, including a management office, laundry facilities, storage facilities, sanitary facilities, outdoor or developed recreation facilities such as parks or playgrounds, and other amenities.
- e. *Facilities.* Restroom and shower facilities shall be required for all campgrounds based on the number of campsites and utility hook-ups at the campground.

Number of Sites	Toilets	Lavatories	Showers

	Men	Women	Men	Women	Men	Women
30 full hook-up	1	1	1	1	1	1
15 partial hook-up or tent	1	1	1	1	1	1

D. Transitional Housing

1. Definition. A facility providing temporary housing (generally six months to two years) for individuals or families transitioning to permanent housing. Residents typically receive supportive services, including case management, employment assistance, and life skills training.

2. Standards.

a. Permitted Zones. Transitional housing shall be permitted in all zones where residential dwellings or hotels/motels are permitted, subject to compliance with the standards in this section.

b. Occupancy. Maximum occupancy shall be determined by building code occupancy limits and unit design, not by duration of stay or funding source.

c. Minimum sleeping area size. Units shall provide at least 70 sq. ft. per occupant in sleeping areas to ensure adequate living space.

d. Facilities.

i. Individual dwelling units with private bathrooms and kitchens, or

ii. Shared living facilities with communal kitchens and bathrooms, provided that they comply with applicable health and safety codes.

iii. All facilities shall be housed within one building, no external facilities shall be authorized (i.e. Portable shower, restrooms, kitchens, food trucks, etc).

e. Landscaping and Screening.

i. Transitional housing and permanent supportive housing shall comply with the landscaping requirements of the underlying zoning district.

ii. Where adjacent to single-family residential uses:

- Provide a Type II visual screen (e.g. solid evergreen hedge or 6 ft decorative fence with landscaping) along property lines abutting such uses.
- Maintain landscaped front yard setbacks consistent with underlying zone requirements.

f. Site and Facility Standards

i. On-Site Management. Transitional housing and permanent supportive housing facilities shall provide:

- A staffed management office on-site, or
- A 24-hour contact number for property management posted at the main building entrance.

**Commented [MP2]:** E2SHB 1220 prohibits cities from imposing standards more restrictive than for similar residential uses and mandates allowance in any zone permitting residential or hotel use.

Standards must be objective, clear, and nondiscriminatory, focusing on health, safety, and compatibility rather than population served or funding source.

- ii. Common Areas. Projects with more than 10 units shall provide indoor or outdoor common areas accessible to all residents, totaling at least 150 sq. ft. or 10 sq. ft. per dwelling unit (or sleeping area), whichever is greater.
- iii. Lighting. Exterior lighting shall be provided at entrances, pathways, and parking areas for safety, designed to minimize glare onto adjacent properties.
- iv. Refuse and Recycling. Facilities shall provide refuse and recycling areas in accordance with municipal requirements, screened from public view.
- v. Operational Standards. Facilities shall implement good neighbor policies, including a posted contact for complaints or concerns, strategies to address noise, waste, and loitering issues; and coordination with local law enforcement as needed. Facilities shall comply with all applicable building, fire, and health codes.

g. Design and Compatibility.

- i. Buildings shall comply with design standards of the underlying zone.
- ii. In residential zones. New buildings shall incorporate residential-style architectural features (pitched rooflines, window treatments, modulation) to ensure neighborhood compatibility.
- iii. Entrances and community spaces should be oriented towards the street or public areas to promote safety and community integration.

E. Permanent Supportive Housing

1. Definition. Long-term housing that combines rental assistance with individualized, flexible, and voluntary support services for people with disabilities or experiencing homelessness to help them maintain housing stability.

2. Standards.

- a. Permitted Zones. Transitional housing shall be permitted in all zones where residential dwellings or hotels/motels are permitted, subject to compliance with the standards in this section.
- b. Occupancy. Maximum occupancy shall be determined by building code occupancy limits and unit design, not by duration of stay or funding source.
- c. Minimum sleeping area size. Units shall provide at least 70 sq. ft. per occupant in sleeping areas to ensure adequate living space.
- d. Facilities.
  - i. Individual dwelling units with private bathrooms and kitchens, or
  - ii. Shared living facilities with communal kitchens and bathrooms, provided that they comply with applicable health and safety codes.
  - iii. All facilities shall be housed within one building, no external facilities shall be authorized (i.e. Portable shower, restrooms, kitchens, food trucks, etc).

e. Landscaping and Screening.

- i. Transitional housing and permanent supportive housing shall comply with the landscaping requirements of the underlying zoning district.
- ii. Where adjacent to single-family residential uses:

- Provide a Type II visual screen (e.g. solid evergreen hedge or 6 ft decorative fence with landscaping) along property lines abutting such uses.
- Maintain landscaped front yard setbacks consistent with underlying zone requirements.

f. *Site and Facility Standards*

- i. *On-Site Management.* Transitional housing and permanent supportive housing facilities shall provide:
  - A staffed management office on-site, or
  - A 24-hour contact number for property management posted at the main building entrance.
- ii. *Common Areas.* Projects with more than 10 units shall provide indoor or outdoor common areas accessible to all residents, totaling at least 150 sq. ft. or 10 sq. ft. per dwelling unit (or sleeping area), whichever is greater.
- iii. *Lighting.* Exterior lighting shall be provided at entrances, pathways, and parking areas for safety, designed to minimize glare onto adjacent properties.
- iv. *Refuse and Recycling.* Facilities shall provide refuse and recycling areas in accordance with municipal requirements, screened from public view.
- v. *Operational Standards.* Facilities shall implement good neighbor policies, including a posted contact for complaints or concerns, strategies to address noise, waste, and loitering issues; and coordination with local law enforcement as needed. Facilities shall comply with all applicable building, fire, and health codes.

g. *Design and Compatibility.*

- i. Buildings shall comply with design standards of the underlying zone.
- ii. *In residential zones.* New buildings shall incorporate residential-style architectural features (pitched rooflines, window treatments, modulation) to ensure neighborhood compatibility.
- iii. Entrances and community spaces should be oriented towards the street or public areas to promote safety and community integration.

(Ord. No. 881, § 39, 9-26-2017)

**108.40.060. Institutional uses.**

A. *All institutional uses.*

- 1. *Definition.* An institutional use is the provision of a public or semi-public service by a public or private entity.

B. *Assembly.*

- 1. *Definition.* An assembly use is an institutional use typically characterized by a public-or semi-public gathering area.
  - a. *Includes:*

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- i. Cemeteries.
- ii. Churches.
- iii. Community centers.
- iv. Libraries.
- v. Museums.
- vi. Hospitals.

C. *Daycare center.*

1. *Definition.* Day care center means the provision of care on a regular basis for a group of children or adults for periods of less than 24 hours, with no limitation as to the number of clients.
  - a. *Does not include:*
    - i. Family home day cares.
    - ii. Home day cares.
2. *Standards.*
  - a. Daycare centers must be licensed by the state of Washington and obtain a business license from the city prior to beginning operations.
  - b. Daycare centers must provide one off-street safe passenger loading and unloading area for every seven clients. The loading and unloading area must be clearly marked.
  - c. Outdoor play equipment must not be located in a required front or side yard setback.

D. *School.*

1. *Definition.* School means public or private primary, secondary, vocational, or higher educational facilities.

E. *Emergency services.*

1. *Definition.* Emergency services means the use of a property for police, fire, or emergency medical aid, including private ambulance services.

(Ord. No. 881, § 39, 9-26-2017)

**108.40.070. Commercial uses.**

A. *All commercial uses.*

1. *Definition.* A commercial use is the sale of goods or services.

B. *Office.*

1. *Definition.* An office use is a professional service or other activity customarily provided in an office environment where appointments are scheduled.
  - a. *Includes:*
    - i. Legal, accounting, investment, and financial services.
    - ii. Medical, dental, and other health services.
    - iii. Engineering, architectural, and other design services.

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- iv. Counseling and social services.
  - v. Insurance and real estate.
  - vi. Broadcast studios for television and radio.
  - vii. Administrative and sales offices for business, industry, and government, provided that only administrative, bookkeeping, and clerical types of activities are conducted on site.

- 2. *Professional office overlay.* Offices within the PO overlay may be allowed provided a change of use is obtained. The office must retain the residential character of the zone in which it is located.

C. *Retail.*

- 1. *Definition.* Retail is the sale of goods.

- a. *Includes:*

- i. Retail sale of antiques, apparel and accessories, auto parts, books, sporting goods, hardware, liquor, home furnishings, computers and electronics, and other general specialty merchandise.
- ii. Food stores, delis, health food, drug stores, bakeries.
- iii. Candy and ice cream/yogurt shops.

D. *Service.*

- 1. *Definition.* Service is the provision of a service outside of an office environment, in a typically non-scheduled environment.

- a. *Includes:*

- i. Banks, savings and loans, and credit unions.
- ii. Laundry and dry cleaners, including self-service laundries.
- iii. Beauty and barber shops.
- iv. Tanning and massage.
- v. Repair and maintenance of small appliances, TV and electronics, furniture, garments, shoes and other leather goods, including tack.
- vi. Taxidermy.
- vii. Tutoring or classes.
- viii. Mortuary/funeral home.
- ix. Pet grooming, kennels and veterinary service, with indoor runs only.

E. *Restaurant/Bar.*

- 1. *Definition.* A restaurant or bar is an establishment oriented to the serving of food and/or beverages.

F. *Mobile food vendor.*

- 1. *Definition.* A mobile food vendor is a food establishment that is readily movable.

- a. *Includes:*

- i. Food trucks.
- ii. Pushcarts.

iii. Trailers hauled by a licensed vehicle.

G. *Heavy retail/service.*

1. *Definition.* Heavy retail/service uses are retail or service uses that are of a greater intensity and impact than other retail or service uses and may include outdoor storage areas.

a. *Includes:*

- i. Retail sales of lumber and building supplies and materials.
- ii. Retail sales of fuels, including gasoline service stations.
- iii. Feed and seed outlets.
- iv. Rental and servicing of light motorized and non-motorized tools and equipment.
- v. Motorized vehicle rental, sales, service, and repair.
- vi. Farm implement supplies, sales and repair.
- vii. Veterinary and other pet and livestock services.
- viii. Landscaping services.

H. *Storage.*

1. *Definition.* Storage means a business engaged in the storage of items for personal and business use.

a. *Includes:*

- i. Mini-warehousing.
- ii. Vehicle and boat storage yards.

b. *Does not include:*

- i. Vehicle impound lots.

2. *Standards.*

- a. Business activities other than rental of storage spaces are prohibited.
- b. Indoor/outdoor storage areas shall be limited to no more than 40,000 square feet.

I. *Nursery.*

1. *Definition.* Nursery means an establishment primarily engaged in the retail or wholesale sale of horticultural specialties such as flowers, shrubs and trees, intended for ornamental or landscaping purposes.

J. *Battery exchange station.*

1. *Definition.* A battery exchange station is a fully automated facility that enables the exchange of a depleted electric vehicle battery with one that is fully charged.

2. *Standards.*

- a. *Categorical exemption from the State Environmental Policy Act.* Applications for battery exchange stations for electric vehicles shall be categorically exempt from review under the State Environmental Policy Act subject to the provisions in RCW 43.21C.410.

K. *Marijuana business.*

1. *Definition.* A marijuana business is the growing, manufacturing, processing or distribution of marijuana permitted under state law.

a. *Includes:*

- i. Recreational marijuana retailers in compliance with WAC 314-55.
- ii. Medical marijuana retailers in compliance with WAC 314-55 and RCW 69.51A.

2. *Standards.*

a. *Outdoor activities prohibited.* All marijuana growing operations must occur within a completely enclosed building.

L. *Sexually oriented business.*

1. *Definition.* A sexually oriented business is a use that includes as a primary part of its business any one or more of the following: an adult entertainment facility; adult-oriented merchandise; adult retail use; panoram; or similar facility, merchandise, or entertainment.

a. *Includes:*

- i. *Adult entertainment facility.* Adult entertainment facility means any establishment where the business or activity of the facility includes the following:
  - a) Any exhibition, performance, dance or conduct of any type conducted in a premises where such exhibition, performance, or dance involves a person who is unclothed or in such costume, attire, or clothing as to expose any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, or wearing any device or covering exposed to view which simulates the appearance of any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, or human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
  - b) Any exhibition, performance, dance or conduct of any type conducted in a premises where such exhibition, performance or dance is distinguished or characterized by a predominant emphasis on the depiction, description, simulation or relation to the following specified sexual activities:
    - 1) Human genitals in a state of sexual stimulation or arousal;
    - 2) Acts of human masturbation, sexual intercourse or sodomy;
    - 3) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast; or
    - 4) Any exhibition, performance, dance or conduct which is intended to sexually stimulate any member of the public and which is conducted on a regular basis or as a substantial part of the activities in these premises. This includes, but is not limited to, any such exhibition, performance, dance or conduct performed for, arranged with or engaged in with fewer than all members of the public on the premises at that time, for which payment is made, either directly or indirectly, for such performance, exhibition, dance or conduct and which is commonly referred to as table dancing, couch dancing, taxi dancing, lap dancing, private dancing or straddle dancing, or similar types of performances, exhibitions, dances or conduct.

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For the purposes of these LDRs, adult entertainment activities do not include the following: plays, operas, musicals, or other dramatic works that are not obscene; classes, seminars and lectures which are held for serious scientific or educational purposes and which are not obscene; or exhibitions, performances, expressions or dances that are not obscene. These exemptions shall not apply to the sexual conduct described in TMC Chapter 6.08, Adult Entertainment Industry Licensing and Regulation, or RCW 7.48A.010(2)(b)(ii) and (iii).

- ii. *Adult-oriented merchandise.* Adult-oriented merchandise means any goods, products, commodities, or other wares, including, but not limited to, videos, CD-ROMs, DVDs, magazines, books, pamphlets, posters, cards, periodicals or nonclothing novelties, which depict, describe or simulate specified anatomical areas or specified sexual activities.
- iii. *Adult retail use.* Adult retail use means a retail establishment which, for money or any other form of consideration, either:
  - a) Has, as a primary part of its business, the purpose or function of selling, exchanging, renting, loaning, trading, transferring, and/or providing for viewing or use, off the premises, any adult-oriented merchandise; or
  - b) Provides for, as its substantial stock in trade, the sale, exchange, rental, loan, trade, transfer, and/or provides for viewing or use, off the premises, of any adult-oriented merchandise.

For the purposes of this subsection, a primary part of a business includes, but is not limited to, instances where a business provides or has advertising displays, merchandise, or product information reasonably visible to customers and other persons within the business facilities that shows, displays, or otherwise depicts adult-oriented merchandise or other sexually oriented business activities; provided, however, that it shall not be considered a primary part of a business if such display, merchandise, or product information is only reasonably visible from within a limited portion of the business facility screened from general view, taking up not more than 20 percent of the customer floor space, and where the access to the limited portion can be controlled to prevent accidental or incidental viewing of the display, merchandise, or product information by customers and other persons outside the limited portion of the business facilities.

Also, for the purposes of this subsection, a substantial stock in trade refers to, but is not limited to, instances where 50 percent or more of the revenue generated by the business is derived from the sale, exchange, rental, loan, trade, transfer, and/or provision of adult-oriented merchandise; 50 percent or more of the inventory of the business is adult-oriented merchandise; or 50 percent or more of the customers of the business buy, exchange, rent, borrow, trade, transfer, and/or shop for adult-oriented merchandise in or from the business.

- iv. *Panoram.* Panoram means any device which, for payment of a fee, membership fee, or other charge, is used to view, exhibit, or display a film, videotape, or videodisc. All such devices are denominated in this chapter by the terms "panoram" or "panoram device." The terms "panoram" and "panoram device" as used in this chapter do not include games which employ pictures, views, or video displays; or state-regulated gambling devices.

2. *Standards.*

- a. *Purpose and intent.* The purpose of these standards is to protect Tenino's residents and corporate citizens from documented harmful secondary effects attributable to sexually oriented

businesses as documented by the findings of other jurisdictions dealing with similar issues. The regulations included herein are intended to:

1. Shield the community from crime, disease, and prostitution;
  2. Provide a quality environment for children in the community; and
  3. Foster and preserve family orientation of the city's residential neighborhoods.
- b. *Applicability.* These standards shall apply to all sexually oriented businesses located within the city of Tenino.
- c. *Where prohibited.*
- i. Sexually oriented businesses are prohibited within:
    - a) 1,000 feet of any property zoned with residential or any property with a residential use;
    - b) 1,000 feet of any property owned by a public or private elementary or secondary school;
    - c) 1,000 feet of any child day care center, child care service, nursery, preschool, or community youth center;
    - d) 1,000 feet of any church or other facility or institution used primarily for religious purposes;
    - e) 1,000 feet of any public park, open space or other place where children are likely to congregate;
    - f) 1,000 feet of any public or school bus stop; and
    - g) 100 feet of any other sexually oriented business use.
  - ii. As used herein, the distances shall mean the straight-line distance between the edge or corner of the property on which the use is located to the nearest edge or corner of the property of another sexually oriented business use or any of the sensitive receptor areas set forth above.
- d. *Size limitations.* Sexually oriented businesses shall be limited to a maximum of 5,000 square feet of floor area.
- e. *Definitions.* The following definitions apply throughout these LDRs unless the context clearly requires otherwise.
- i. *Sensitive Receptor Areas.* Sensitive receptor areas means those uses and zoning designations where children are likely to congregate, including property zoned for residential use or any single-family or multifamily residential use; public or private elementary or secondary schools; day care facilities, nurseries, or preschools for children; churches or other facilities or institutions used primarily for religious purposes; and public parks or open spaces where children are likely to congregate.
  - ii. *Specified anatomical areas.* Specified anatomical areas means any of the following:
    - a) Less than completely and opaquely covered human genitals, anus, pubic region, buttock, or female breast below a point immediately above the top of the areola; or
    - b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

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iii. *Specified sexual activities.* Specified sexual activities means any of the following:

- a) Human genitals in a state of sexual stimulation or arousal; or
- b) Acts of human masturbation, sexual intercourse, sodomy, oral copulation, or bestiality; or
- c) Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts, whether clothed or unclothed, of oneself or of one person by another; or
- d) Excretory functions as part of or in connection with any of the activities set forth in this subsection.

f. *Subsection 108.40.070.L controls.* If any portion of this subsection 108.40.070.L is deemed to be in conflict with or inconsistent with any other provisions of the Tenino Municipal Code, such other provisions shall be construed in conformity herewith; provided, that if such other provisions are not able to be so construed, the provisions of this section shall control, and such other provisions shall be deemed modified to conform herewith, for the purposes of this section only.

(Ord. No. 881, § 39, 9-26-2017)

#### **108.40.080. Amusement and recreation uses.**

A. *All amusement and recreation uses.*

1. *Definition.* An amusement and recreation use is the provision of entertainment.
2. *Standards.*
  - a. A traffic study may be required by the community development director. When required, the traffic study must address the amusement and recreation use's probable effect on the traffic volumes of abutting and nearby streets.

B. *Amusement.*

1. *Definition.* Amusement is the provision of non-recreation entertainment.
  - a. *Includes:*
    - i. Bowling alleys.
    - ii. Movie theaters.
    - iii. Music halls.
    - iv. Video arcades.
    - v. Miniature or putt-putt golf course.
    - vi. Pool and billiard halls.
    - vii. Indoor shooting ranges.

C. *Outdoor recreation.*

1. *Definition.* Outdoor recreation is the use of land for passive or active recreational or athletic purposes that requires minimal permanent physical development relative to the open space.
  - a. *Includes:*

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- i. Parks.
  - ii. Arboretums.
  - iii. Athletic fields not in stadiums.
  - iv. Equestrian centers.

2. *Standards.*

- a. Outdoor recreation facilities approved as part of a subdivision proposal do not require a use permit, regardless of the zone in which it is proposed.

D. *Developed recreation.*

- 1. *Definition.* Developed recreation is the use of a physical development for active recreation or athletic purposes.

- a. *Includes:*

- i. Gymnasiums.
- ii. Swimming pools.
- iii. Tennis clubs.
- iv. Skateboarding parks.
- v. Rodeos.
- vi. Skating rinks.
- vii. Racquetball courts.
- viii. Handball courts.
- ix. Rock climbing practice facilities.
- x. Health and exercise clubs.

2. *Standards.*

- a. Developed recreation facilities approved as part of a subdivision proposal do not require a use permit, regardless of the zone in which it is proposed.

(Ord. No. 881, § 39, 9-26-2017)

**108.40.090. Industrial uses.**

A. *All industrial uses.*

- 1. *Definition.* An industrial use is the manufacturing, assembly, processing, or distribution of material.

B. *Craft food production.*

- 1. *Definition.* Craft food production is an industrial use primarily engaged in small-scale manufacturing of food and beverage products.

- a. *Includes:*

- i. Breweries.
- ii. Bakeries, chocolatiers, and creameries.

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b. *Does not include:*

- i. Distilleries.

C. *Light industry.*

1. *Definition.* Light industry is an industrial use where items are manufactured, assembled, processed, or distributed for the end consumer.

a. *Includes:*

- i. Sheet metal fabrication and wood work.
- ii. Building contractors and special trade contractors such as cabinetry, carpet and flooring, insulation, roofing, mechanical, and plumbing and heating.
- iii. Processing and packaging of meat and game.
- iv. Wholesale sales and distributors.
- v. Welding and machine shops.
- vi. Industrial laundries and laundry services.
- vii. Food service and distribution.
- viii. Cleaning and janitorial service and supply.
- ix. Distilleries.

D. *Heavy industry.*

1. *Definition.* Heavy industry is an industrial use where items are manufactured, assembled, processed, or distributed for intermediary users or has relatively more impact than a light industry use.

a. *Includes:*

- i. Truck and transport terminals.
- ii. Bulk storage and distribution facilities for fuels, explosives, pesticides, solvents, corrosives.
- iii. Disinfecting or pest control services.
- iv. Paving, excavation, hauling and other contracting services involving heavy equipment.
- v. Maintenance and repair of trucks and heavy equipment.
- vi. Lumber milling.
- vii. Stone, clay, and glass product manufacturing.

E. *Disposal.*

1. *Definition.* Disposal is an operation dedicated to doing away with material.

a. *Includes:*

- i. Sanitary landfills.
- ii. Sludge disposal or storage.
- iii. Resource recovery or recycling facilities.
- iv. Composting operations of a commercial scale or for commercial purposes.
- v. Trash compaction.

- vi. Transfer stations.
- b. *Does not include:*
  - i. Hazardous waste disposal.

(Ord. No. 881, § 39, 9-26-2017)

#### **108.40.100. Transportation and infrastructure uses.**

##### A. *All transportation and infrastructure uses.*

1. *Definition.* A transportation or infrastructure use is the use of land or water to provide for the movement or storage of vehicles, water, sewage, power, or other utilities.

##### B. *Parking.*

1. *Definition.* Parking is the use of a property for parking of motor vehicles that is not ancillary to another use on-site.
  - a. *Includes:*
    - i. Surface parking.
    - ii. Parking structure.

##### C. *Utility facility.*

1. *Definition.* A utility facility is a central component to the provision of a public or semi-public utility that requires a structure.
  - a. *Includes:*
    - i. Substations for electrical, natural gas, and other similar utilities.
    - ii. Water supply facilities including water tanks and treatment facilities.
    - iii. Broadcasting towers and dish antenna for radio and TV.
  - b. *Does not include:*
    - i. Residential satellite dishes.
    - ii. Antennas used for the reception of television broadcast signals.
    - iii. Transformers.
    - iv. Junction boxes.
    - v. Standard underground utilities such as water, sewer, natural gas, power, and telephone lines.
    - vi. Booster pumps, lift stations, and other small structures appurtenant to standard underground utilities.
    - vii. Pedestals.
    - viii. Other appurtenances that do not require a structure.

2. *Standards.*

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- a. Utilities listed above in subsection 1.b. do not require a use permit. The physical development associated with them is not required to meet structure or site development setbacks if the physical development is located within an easement or tract designated for the utility proposed.
- b. All utility facilities shall be located and designed to minimize negative impacts on natural resources, agricultural operations, and residential development and uses.
- c. Utility facilities housing equipment must be designed with as low a profile as possible. If the surrounding uses are residential, the building style must be compatible with the surrounding land uses.

D. *Sewer facility.*

1. *Definition.* A sewer facility is a facility that removes contaminants from wastewater.
  - a. *Includes:*
    - i. Sewage treatment plants and related septic dump facilities, and substations.
  - b. *Does not include:*
    - i. Utility facilities.
2. *Standards.*
  - a. All sewer facilities must be located and designed to minimize negative impacts on natural resources, agricultural operations, and residential development and uses.

E. *Wireless telecommunications facility.*

1. *Definition.* A wireless telecommunications facility is a wireless service facility and facilities defined in Title 47, United States Code, Chapter I, Part 24, Section 24.5, including all future amendments.
  - a. *Includes:*
    - i. Facilities for the transmission and reception of radio or microwave signals used for communication, telecommunication, cellular phone personal communications services, enhanced specialized mobile radio.
    - ii. Any other services licensed by the FCC.
    - iii. Any other unlicensed wireless services.
  - b. *Does not include:*
    - i. Industrial processing equipment and scientific or medical equipment using frequencies regulated by the Federal Communication Commission (FCC).
    - ii. Antennas and related equipment, no more than three feet in length, that are being stored, shipped, or displayed for sale.
    - iii. Facilities used for purposes of public safety, such as, but not limited to, police, hospitals, and the regional 911 system.
    - iv. Wireless radio utilized for temporary emergency communications in the event of a disaster.
    - v. Licensed amateur (ham) radio stations.
    - vi. Satellite dish antennas less than two meters in diameter, including direct-to-home satellite services, when used as a secondary use of the property.

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- vii. Wireless service facilities, which existed on or prior to adoption of the ordinance codified in this division, except that this exemption does not apply to any modifications of existing facilities or any reporting requirements.
  - viii. Routine maintenance or repair of a wireless service facility and related equipment (excluding structural work or changes in height or dimensions of antennas, towers, or buildings); provided, that compliance with the standards of this title are maintained.
  - ix. Subject to compliance with all other applicable standards of this title, a building permit application need not be filed for emergency repair or maintenance of a wireless service facility until 30 days after the completion of such emergency activity.
  - x. Automated meter reading systems located on utility poles provided:
    - a) Antennas are less than 18 inches from the structure;
    - b) Pole-mounted equipment is no more than 14 inches by 12 inches by 12 inches in size; and
    - c) Equipment and antennas are used only by the owner of the utility pole.
2. *Purpose.* The purpose of this subsection is to address the issues of location and appearance associated with wireless telecommunications facilities. The intent of this subsection is to:
- a. Provide adequate siting opportunities through a range of locations and options;
  - b. Minimize safety hazards and visual impacts sometimes associated with wireless communications technology;
  - c. Encourage the siting of facilities on existing buildings or structures and the collocation of several providers' facilities on a single-support structure; and
  - d. Encourage visual mitigation measures that maintain neighborhood appearance and reduce visual clutter in the city.
3. *Standards.*
- a. *Required permits.*
    - i. *Administrative use permit.* An administrative use permit must be obtained prior to placing wireless telecommunications facility antennas on the following existing buildings and structures:
      - a) Any tower currently used by a permitted wireless telecommunications facility; provided that the tower is in full compliance with all terms and conditions of its approval.
      - b) City water company water tanks; provided that only whip antenna or panel antennas mounted on the side that do not extend above the top of the tank, may be located on water tanks.
      - c) In commercial zones:
        - 1) Existing nonresidential buildings located within 100 feet of Sussex Avenue, Old Highway 99 (at the west end of the city) and Wichman Street. The wireless telecommunications facility must be a microcell or a minor facility.
        - 2) Existing light standards and power poles located in the ROW that are within 100 feet of Sussex Avenue, Old Highway 99 (at the west end of the

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city) and Wichman Street and does not increase the height of the light standard or power pole. The wireless telecommunications facility must consist of a single whip not to exceed 15 feet in height or a tubular antenna not to exceed six feet in height.

- ii. *Conditional use permit.* The following must obtain a conditional use permit prior to installation:
  - a) New freestanding towers, which are only permitted in the industrial and public/semi-public zones.
  - b) Repair and maintenance work that is not exempted under subsection E.1.b above.
  - c) Expansion and/or alteration of existing wireless telecommunications facilities.
  - d) All other wireless telecommunications facilities not meeting the criteria for an administrative use permit.
- b. *Collocation.* The intent of collocation is to encourage several providers to use the same structure to keep the number of wireless telecommunications facilities sites to a minimum as a means to reduce the overall visual effects throughout the community. The following procedures are required to further the intent of wireless telecommunications facilities collocation:
  - i. A permit holder shall cooperate with other wireless telecommunications facilities providers in collocating additional antenna on support structures and/or on existing buildings provided said proposed collocates have received a permit for such use at said site from the city. A permit holder shall allow other providers to collocate and share the permitted site, provided such shared use does not give rise to a substantial technical level impairment of the permitted use (as opposed to a competitive conflict or financial burden).
  - ii. A signed statement indicating that the applicant agrees to allow for the potential collocation of additional wireless telecommunications facilities equipment by other providers on the applicant's structure shall be submitted by the applicant as part of the permit application. If an applicant contends that future collocation is not possible on their structure, they must submit a technical study documenting why.
  - iii. Wireless telecommunications facilities proposed for collocation on an existing support facility that do not involve an increase in height or expansion, may be permitted through an administrative use permit, provided that the applicant can document that the existing support facility is in full compliance with the conditions of its approval.
- c. *General provisions.*
  - i. *Not an essential public facility.* Wireless telecommunications facilities are not considered essential public facilities as defined in the Growth Management Act and shall not be regulated or permitted as essential public facilities.
  - ii. *FCC licensing required.* The applicant must demonstrate that it is licensed by the Federal Communication Commission if it is required to be licensed under Federal Communication Commission regulations. The applicant, if not the telecommunications service provider, shall submit proof of lease agreements with a Federal Communication Commission licensed telecommunications provider if they are required to be licensed by the Federal Communication Commission.
  - iii. *Compliance with dimensional limitations.* For purposes of determining whether the installation of wireless telecommunications facilities complies with development standards,

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such as, but not limited to, setback and lot coverage requirements, the dimensions of the entire lot shall control, even though a wireless telecommunications facility is located on a leased parcel within that lot.

- iv. *Signs prohibited.* No wireless equipment shall be used for the purpose of mounting signs or message displays of any kind.
- v. *Lighting.* Wireless telecommunications facilities shall not be artificially lighted unless required by the Federal Aviation Authority (FAA) or other applicable authority.
- vi. *Consideration for visual effects.* The city shall consider the cumulative visual effects of wireless telecommunications facilities mounted on existing structures and/or located on a given permitted site in determining whether the additional permits can be granted so as to not adversely effect the visual character of the city.
- vii. *Compliance with design standards.* Wireless telecommunications facilities installations shall comply with all relevant provisions of the city design standards.
- viii. *Stealth and screening.*
  - a) *Stealth.* Wireless telecommunications facilities, equipment, and equipment cabinets shall be screened or camouflaged through employing the best available technology. This may be accomplished by use of compatible materials, location, color, stealth technologies such as, but not limited to artificial trees and hollow flagpoles, and/or other tactics to achieve minimum visibility of the facility as viewed from public streets or residential properties.
  - b) *Equipment enclosures.* Electronics equipment enclosures shall conform to the following:
    - 1) Screening of wireless telecommunications facilities equipment enclosures shall be provided with one or a combination of the following: Underground, fencing, walls, landscaping, structures, or topography which will block the view of the equipment shelter, as much as practicable, from any street and/or adjacent properties. Screening may be located anywhere between the enclosure and the herein mentioned viewpoints. Landscaping for the purposes of screening shall be maintained in a healthy condition; and
    - 2) No wireless equipment reviewed under this section shall be located within required building setback areas.
- ix. *Security fencing.* Security fencing, if used, shall conform to the following:
  - a) No fence shall exceed six feet in height;
  - b) Security fencing shall be effectively screened from view through the use of appropriate landscaping materials; and
  - c) Chain-link fences shall be painted or coated with a nonreflective color, and shall have a minimum three-foot deep area to be planted with approved plant species in a manner that will completely screen the fencing.
- x. *Electromagnetic field (EMF) standards.* All wireless telecommunications facilities shall be operated in compliance with the following standards:
  - a) The applicant shall comply with federal standards for electromagnetic field emissions. Within six months after the issuance of its operational permit, and

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annually thereafter, the applicant shall submit a project implementation report which provides cumulative field measurements of radio frequency (electromagnetic field) power densities of all antennas installed at the subject site. The report shall quantify the electromagnetic field emissions and compare the results with established federal standards. Said report shall be subject to review and approval of the city for consistency with the project proposal report and the adopted federal standards. If on review, the city finds that the wireless telecommunications facilities does not meet federal standards, the city may revoke or modify the permit. The applicant shall be given a reasonable time based on the nature of the problem to comply with the federal standards. If the permit is revoked, then the facility shall be removed.

- b) The applicant shall ensure that the wireless telecommunications facilities will not cause localized interference with the reception of, but not limited to, area television or radio broadcasts. If upon review of a registered complaint the city finds that the wireless telecommunications facilities interfere with such reception, the city may revoke or modify the permit. The applicant shall be given a reasonable time based on the nature of the problem to correct the interference. If the permit is revoked, then the facility shall be removed.
- d. *Application requirements.* Applications for a wireless telecommunications facilities shall be in a form prescribed by the city and at a minimum shall contain the following information:
  - i. Photosimulations of the proposed facility from affected residential properties and public rights-of-way at varying distances.
  - ii. A site plan clearly indicating the location, type and height of the proposed wireless communication facilities, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower, and any other proposed structures. A site elevation and landscaping plan indicating the specific placement of the facility on the site, the location of existing structures, trees, and other significant site features, and a complete description of all measures proposed to camouflage the facility, including the type and location of plant materials used to screen the facility, and the proposed color schemes for the facility and the method of fencing.
  - iii. A signed statement indicating that:
    - a) The applicant and landowner agree they will diligently negotiate in good faith to facilitate co-location of additional wireless service facilities by other providers on the applicant's structure or within the same site location;
    - b) The applicant and/or landlord agree to remove the facility within 90 days after abandonment;
    - c) A signed statement from the owner of the site accepting the ultimate responsibility for the removal of abandoned facilities.
  - iv. Copies of any environmental documents required by any federal agency. These shall include the environmental assessment required by FCC paragraph 1.1307, or, in the event that a Federal Communication Commission Environmental Assessment is not required, a statement that describes the specific factors that obviate the requirement for an environmental assessment.
  - v. Evidence of site control.

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- vi. A current map showing the location and service area of the proposed wireless communication facilities, a map showing the locations and service areas of other wireless service facilities operated by the applicant and those proposed by the applicant that are close enough to impact service within the city.
  - vii. Legal description of the parcel.
  - viii. The approximate distance between the proposed tower and the nearest residential unit or residentially zoned properties.
  - ix. A letter signed by the applicant stating the wireless telecommunications facilities will comply with all Federal Aviation Administration regulations and EIA Standards and all other applicable federal, state and local laws and regulations.
  - x. Certification that the antenna usage will not interfere with other adjacent or neighboring transmission or reception functions.
  - xi. If the facility is proposed for location in the city right-of-way or other public property, evidence of bonding and insurance in amounts prescribed by the city.
  - xii. Prepare and submit a copy of an acceptable franchise agreement for those facilities permitted in city right-of-way or other public property that shall be executable prior to completion of final inspection.
  - xiii. The application shall include documentation demonstrating compliance with the city surface water requirements.
  - xiv. If applicable, the applicant shall include documentation as to how the proposed facility meets the specific requirements of the city design guidelines.
  - xv. Application for a city business license that shall be issued upon approval of the appropriate use permit, and annual renewal thereafter.
- e. *Fees.* It is the policy of the city that applicants pay the full cost associated with processing an application.
- i. The fees are established for all wireless telecommunications facilities applications based on the adopted fee schedule for the required type of application.
  - ii. In addition to the application fee, the applicant shall reimburse the city for costs of professional engineers and other consultants hired by the city to review and inspect the applicant's proposal when the city is unable to do so with existing in-house staff. These professional services may include but are not limited to: engineering, technical reviews, legal, planning, environmental review, critical areas review, financial, accounting, soils, mechanical and structural engineering. In the event that a project requires special staff analysis beyond that which is included in the base fee, the applicant shall reimburse the city at the adopted fee schedule staff rate for the staff conducting the review. The city may require the applicant to deposit an amount with the city to cover anticipated costs of retaining professional consultants or performing special staff analysis.
- f. *Standards for approval of an administrative use permit.* A wireless telecommunications facility that requires administrative use approval must meet the following additional standards:
- i. The wireless telecommunications facility consists of a microcell or a minor facility;
  - ii. The combined antennas and supporting hardware shall not extend more than 15 feet above the roof structure, or existing light or utility poles. Antennas may be mounted to

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rooftop appurtenances, provided they do not extend beyond 15 feet above the roof proper; and

- iii. The antennas are mounted on a building, light standard or power pole such that they are located and designed to minimize visual and aesthetic impacts to surrounding land uses and structures and shall, to the greatest extent possible, blend into the existing environment. Panel and parabolic antennas shall be completely screened.
- g. *Standards for approval of a conditional use permit.* A wireless telecommunications facility that requires conditional use approval must meet the following additional standards:
  - i. The applicant shall demonstrate that the wireless telecommunications facilities tower is the minimum height required to function satisfactorily. No freestanding wireless telecommunications facilities shall exceed 45 feet in height from the natural grade of the site. No freestanding wireless telecommunications facilities that are taller than this height shall be approved. Height shall be measured to the top of the antenna.
  - ii. Placement of a freestanding wireless telecommunications facilities shall be denied if placement of the antennas, on an existing structure, can meet the applicant's technical and network location requirements.
  - iii. Monopoles shall be the only freestanding structures allowed in the city.
  - iv. A freestanding wireless communication facilities, including the support structure and associated electronic equipment, shall comply with all required setbacks of the zoning district in which it is located; except when on a lot adjacent to a residential use or residentially zoned property, then the minimum setback from the property lines of the adjacent residential uses shall equal the height of the proposed facility.
  - v. Freestanding wireless telecommunications facilities shall be designed and placed on the site in a manner that takes maximum advantage of existing trees, mature vegetation, and structures so as to use existing site features:
    - a) To screen as much of the total wireless telecommunications facilities as possible from prevalent views; and/or
    - b) As a background so that the total wireless telecommunications facilities blends into the background with increased sight distances.
  - vi. In reviewing the proposed placement of a facility on the site and any associated landscaping, the city may condition the application to supplement existing trees and mature vegetation to more effectively screen the facility.
  - vii. Support structures, antennas, and any associated hardware shall be painted a nonreflective color or color scheme appropriate to the background against which the wireless telecommunications facilities would be viewed from a majority of points within its view shed. The proposed color or color scheme to be approved by the city.
- h. *Permit limitations.* Approved permits issued by the city for wireless telecommunications facilities shall be restricted by the following permit limitations:
  - i. *Expiration after approval.* A permit for wireless telecommunications facilities shall expire five years after the effective date of the permit approval. A permittee wishing to continue the use of specific wireless telecommunications facilities at the end of the five-year period must apply for an application to continue that use at least six months prior to its expiration. The renewal application will be under an administrative use permit provided that no changes, modification or additions to the wireless telecommunications facilities are

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proposed or that no new facilities were developed since the date of the original or renewal permit.

- ii. *Renewal after approval.* Renewal applications that involve any changes, modifications or additions shall be processed as a new conditional use permit application and must conform to the development standards in place at the time the renewal application is deemed to be complete.
- iii. *Expiration.* An approved permit shall be valid for one year from the date of the city's approval, with opportunity for a six-month extension. If not used within one year, or within the extension period, the permit shall become null and void.
- i. *Assignment/sublease.* No facility, site or permit may be sold, transferred, assigned or sublet without written notification of and approval by the city. This notification shall include a statement acknowledging and accepting the terms and conditions of all permits issued for the site and/or facility, and:
  - i. Documentation that the site/facility is currently in full compliance with its permits and applicable city ordinances.
  - ii. A statement ensuring ongoing compliance with all permits and applicable city ordinances.
- j. *Removal.* In instances where a wireless telecommunications facility is to be removed, the removal shall be in accordance with the following procedures:
  - i. The operator of a wireless telecommunications facilities shall notify the city upon the discontinuance of a particular facility. The wireless telecommunications facilities shall be removed by the facility owner within 90 days of the date the wireless telecommunications facilities is discontinued, it ceases to be operational, the permit is revoked, or if the facility falls into disrepair or is abandoned. Disrepair includes structural features, paint, landscaping, or general lack of maintenance which could result in safety or visual impacts; and
  - ii. If the provider fails to remove the facility upon 90 days of its discontinued use, the responsibility for removal falls upon the landholder on which the facility has been located. If the landholder fails to remove the facility within 90 additional days, the city may cause the facility to be removed at the owner's expense.

(Ord. No. 881, § 39, 9-26-2017)

#### **108.40.110. Accessory uses.**

##### A. *All accessory uses.*

1. *Definition.* An accessory use is a use that constitutes a minority of the use or character of the property and is secondary and subordinate to another use of the same property, but which is not an incidental use.
2. *Standards.*
  - a. An accessory use may only be permitted in association with an active primary use designated for the accessory use.
  - b. An accessory use must be abandoned upon abandonment of its primary use.
  - c. An accessory use shall be subject to all dimensional limitations and other development standards applicable to its primary use unless otherwise provided in this section.

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- d. A property with an accessory use shall not be subdivided in any way that results in the accessory use being owned separately from its primary use.

B. *Accessory dwelling unit (ADU).*

1. *Definition.* An accessory dwelling unit (ADU) is a dwelling unit that is secondary to a principal use of the property. The intent is that accessory dwelling units provide workforce housing.
  - a. *Includes:*
    - i. Employee apartment.
    - ii. Caretaker's quarters.
    - iii. Mother-in-law suite.
    - iv. Guesthouse.
2. *Primary uses:*
  - a. All open space uses.
  - b. Detached single-family unit.
3. *Standards.*
  - a. *Number.* One ADU is allowed per lot of record.
  - b. *Density calculations.* ADUs are not included in residential density calculations.
  - c. *Size.* The maximum size of an accessory dwelling unit is 1,000 square feet of habitable floor area or 50% of the primary dwelling unit's floor area, whichever is smaller.-
  - d. *Design.* The accessory dwelling unit must closely match the principal use's design, color scheme, and roof materials whether attached to or detached from the principal structure.

C. *Bed and breakfast.*

1. *Definition.* A bed and breakfast is a residential unit in which bedrooms are rented as lodging units.
2. *Primary uses:*
  - a. Detached single-family unit.
3. *Standards.*
  - a. A bed and breakfast must have no more than four lodging units (bedrooms).
  - b. The owner or manager must reside in the dwelling unit.

D. *Home occupation.*

1. *Definition.* A home occupation is an accessory nonresidential use conducted entirely within a residential unit or on-site structure accessory to the residential unit. The intent of a home occupation is to give small, local businesses a place to start. Home occupations are intended to be at a residential scale; once they grow beyond a certain size they can no longer be characterized as home occupations.
  - a. *Includes:*
    - i. Office (Sec. 108.40.070.B.).
    - ii. Repair and maintenance of small appliances, TVs and electronics, furniture, garments, shoes and other leather goods, including tack.
    - iii. Tutoring or classes.

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- iv. Studios (e.g. art, handcraft, music).
  - b. *Does not include:*
    - i. Motor vehicle, commercial truck and heavy equipment, repair, bodywork, painting, washing and/or detailing services.
    - ii. Storage of:
      - a) Motor vehicles, commercial trucks or heavy equipment.
      - b) Used vehicle parts and/or used machinery in inoperable condition.
      - c) Building materials such as lumber, plasterboard, pipe, paint, or other construction materials.

2. *Primary uses:*

- a. All residential uses.
- b. Accessory dwelling unit.

3. *Standards.*

- a. A home occupation must be operated by a person residing within the dwelling.
- b. No one residing off-site may be employed on the site of a home occupation.
- c. A business license issued by the City of Tenino is required for each home occupation.
- d. The area devoted to the home occupation is limited to no more than 25 percent of the total habitable floor area of the dwelling. For the purposes of this standard, areas within attached garages, unfinished basements, and storage buildings are not considered habitable floor area but may be used for storing goods and materials associated with the home occupation.
- e. Tutoring and classes shall be limited to two students at one time.
- f. More than one home occupation may be allowed on a property. Each home occupation requires a separate use permit.
- g. All parking must be provided on-site, and must be located to the rear of the structure or in another location that is visually unobtrusive.
- h. Window displays or other public displays of material or merchandise connected with the home occupation are prohibited.
- i. No more than one wall sign, not to exceed two 2 square feet in area, may be permitted.

E. *Home business.*

- 1. *Definition.* A home business is an accessory nonresidential use conducted in conjunction with and on the site of a residential use in which employees are employed on-site. The intent of a home occupation is to give small, local businesses a place to start. Home occupations are intended to be at a residential scale; once they grow beyond a certain size they can no longer be characterized as home occupations.
  - a. *Includes:*
    - i. Office (Sec. 108.40.070.B.).
    - ii. Service (Sec. 108.40.070.D.).
    - iii. Building contractors and special trade contractors such as cabinetry, carpet and flooring, insulation, roofing, mechanical, and plumbing and heating.

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- iv. Schools (music, art, other).
  - v. Art studios and galleries.
  - b. *Does not include:*
    - i. Motor vehicle, commercial truck and heavy equipment, repair, bodywork, painting, washing and/or detailing services.
    - ii. Storage of:
      - a) Motor vehicles, commercial trucks or heavy equipment.
      - b) Used vehicle parts and/or used machinery in inoperable condition.

2. *Primary uses:*

- a. All residential uses.
- b. Accessory dwelling unit.

3. *Standards.*

- a. A home business must be operated by a person residing within the dwelling.
- b. No more than two persons residing off-site may be employed on the site of a home business.
- c. A business license issued by the City of Tenino is required.
- d. The area devoted to the home business is limited to no more than 40 percent of the total floor area on the property or 2,000 square feet, whichever is less.
- e. Only one home business may be permitted on a property at any given time.
- f. No more than three deliveries per week to the residence may be made by suppliers.
- g. Traffic generated by a home business must not exceed 16 round trips per day. This includes deliveries and client-related trips.
- h. All vehicles and materials must be stored within buildings.
- i. All parking must be provided on-site, and must be located to the rear of the structure or in another location that is visually unobtrusive.
- j. Window displays or other public displays of material or merchandise connected with the home occupation are prohibited.
- k. No more than one wall sign, not to exceed two 2 square feet in area, may be permitted.

F. *Drive-up.*

1. *Definition.* A drive-in facility is a commercial use catering to customers in vehicles.

- a. Includes:
  - i. Drive-thru restaurants.
  - ii. Drive-up banking facilities.
  - iii. Drive-thru pharmacy.

2. *Primary uses.*

- a. Office (Sec. 108.40.070.B.).
- b. Retail (Sec. 108.40.070.C.).

- c. Service (Sec. 108.40.070.D.).
- d. Restaurant (Sec. 108.40.070.E.).

3. *Standards.*

- a. If abutting land, including land separated by an alley, is in residential use, the operating time of the drive-up facility shall be limited to the hours of 6:00 a.m. to 10:00 p.m.

G. *Home daycare.*

1. *Definition.* Home daycare means the provision of care on a regular basis in a family setting for a group of no more than 12 children or adults for periods of less than 24 hours.

a. *Does not include:*

- i. Babysitting.
- ii. Childcare co-operatives.
- iii. Foster care.
- iv. Group homes.

2. *Primary uses.*

- a. All residential uses.
- b. Accessory dwelling units.

3. *Standards.*

- a. Home daycares must be licensed by the state of Washington and obtain a business license from the city prior to beginning operations.
- b. Home daycares must provide one off-street safe passenger loading and unloading area for every seven clients. The loading and unloading area must be clearly marked.
- c. Outdoor play equipment must not be located in a required front or side yard setback.
- d. A home daycare must be operated by a person residing within the dwelling.
- e. No more than two persons residing off-site may be employed on the site of a home daycare.
- f. Structural or decorative alterations that detract from the single-family character of the residential structure or the surrounding neighborhood are prohibited.
- g. Hours of operation must be compatible with the neighborhood during the week. If care is provided on the weekends, hours of operation must not cause disruptions in the late evening or early morning hours.

H. *Battery charging station.*

1. *Definition.* A battery charging station is an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by Chapter 19.28 RCW and consistent with the rules adopted under RCW 19.27.540.

2. *Standards.*

- a. *State Environmental Policy Act.* Applications for battery charging stations shall be categorically exempt from review under the State Environmental Policy Act (see RCW Sec. 43.21C.410).

- b. *Accessibility.* Charging equipment must not block or restrict pedestrian circulation areas and must not interfere with accessibility requirements of WAC 51-50-005.

*Example:* A charging station is located next to a public sidewalk. The charging equipment must be located so that access to the sidewalk is not blocked.

(Ord. No. 881, § 39, 9-26-2017)

### **108.40.120. Temporary uses.**

A. *All temporary uses.*

1. *Definition.* A temporary use is a use established for a fixed period of time.
2. *Standards.*
  - a. The site occupied by a temporary use must be left free of debris, litter or other evidence of temporary use upon completion or removal of the use.
  - b. A temporary use must not occupy or use public rights-of-way, parks or other public lands in any manner unless specifically approved by the city.
  - c. A temporary use will expire after 90 days unless an alternate expiration is set through the approval of the use permit.
  - d. A temporary use must obtain all required city permits, licenses or other approvals prior to establishing the use.

B. *Yard sale.*

1. *Definition.* A yard sale is the sale of personal property from a private residential use.
  - a. *Includes:*
    - i. Garage sales.
    - ii. Rummage sales.
    - iii. Estate sales.
2. *Standards.*
  - a. A maximum of four yard sales per calendar year are allowed.

C. *Christmas Tree sale.*

1. *Definition.* A Christmas tree sale is the outdoor sale of evergreen trees during the Christmas holiday season.

D. *Farm stand.*

1. *Definition.* A farm stand means a temporary or permanent structure or vehicle used in the sale of regional farm products such as fruits, vegetables, and juices during the time of year when such products are fresh.
2. *Standards.*
  - a. Farm stands shall not be located on sidewalks or in other areas of public rights-of-way.

E. *Temporary real estate sales office.*

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1. *Definition.* Real estate sales office means a structure placed on a development site and used as a sales office or meeting place only during an initial period of marketing a project for sale or lease.
  2. *Standards.*
    - a. A real estate sales office use shall only be on the site of a new development and shall sell only the lots or units on the site of the development.
    - b. The real estate sales office shall be removed when 75 percent of all lots or units in the new development have been sold, leased, or rented.

F. *Temporary shelter.*

1. *Definition.* Temporary shelter means a mobile or manufactured home or conventional camping unit temporarily occupied while a building with a valid building permit is being constructed.
2. *Standards.*
  - a. The temporary shelter may be permitted for a period not to exceed one year. An extension may be granted by the community development director for a period not to exceed two additional years for good cause.
  - b. A temporary shelter may also be permitted when fire or natural disaster has rendered an existing residential unit unfit for human habitation. A building permit for rehabilitation or reconstruction must be obtained within a reasonable period of time, as determined by the city council.

G. *Temporary gravel processing.*

1. *Definition.* Temporary gravel processing is washing and screening gravel extracted from the ground in association with a permitted construction project.
2. *Standards.*
  - a. *Infrastructure.* Projected traffic impacts shall be addressed according to AASHTO guidelines and the cost of all improvements required, on and off-site, shall be borne entirely by the applicant. A payment to compensate for the additional wear and tear on city streets, as determined by the city engineer, also may be required of the applicant.
  - b. *Hours of operation.* Hours of operation shall occur between 8:00 a.m. and 5:00 p.m., Monday through Friday unless otherwise specified by the city council. The hours of operation may be reduced to mitigate adverse impacts on nearby houses or extended to expedite the completion of an operation. Setbacks. A minimum 300-foot setback from all property lines shall be provided. Written permission from adjacent property owners to reduce the required setback shall be obtained if necessary.
  - c. *Duration.* Duration of the gravel processing shall be no longer than six consecutive months. If a project is phased over two or more years, then the total number of days the gravel extraction and processing activities are conducted shall be no more than 180 days.
  - d. *Protecting health and safety.* The proposed gravel processing area shall be bermed, fenced, or otherwise enclosed, where necessary, for protecting health and safety.

(Ord. No. 881, § 39, 9-26-2017)

**108.40.130. Standards for mini-storage.**

- A. *General conditions.* Where mini-storage facilities are allowed, they must be designed and constructed in accordance with the following provisions.

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1. *Signs subject to the requirements of the underlying zone.* All mini-storage facilities must utilize signs no larger than the signs permitted in underlying zone.
2. *Subject to the requirements of underlying zone.* All mini-storage facilities must meet the height limits, setbacks and maximum lot coverage of the underlying zone, provided that any existing mini-storage facilities may continue (and/or remodel) any existing non-conformity, so long as the degree of non-conformity, in regard to the length or height of the building, or other applicable measurement is not increased.
3. *Setbacks.* Where a mini-storage facility is required to meet minimum setback requirements, side, rear and front yard setbacks may be oriented based on the discretion of the Tenino Planning Department. Setbacks shall generally be oriented to ensure the least negative aesthetic impact (or largest setback) in areas:
  - a. Next to existing residential uses in the case of Type 1 facilities, as described in 108.40.120.
  - b. Adjacent to major roadways such as Old Highway 99 and Highway 507 in the case of Type 2 facilities, as described in 108.40.120.
  - c. For mini-storage facilities in the industrial zone that are located adjacent to a neighboring residential use, the facility must have a minimum ten-foot sideyard bordering the adjacent residence.
4. *Lighting.* Lighting shall be shielded and directed downward and shall not spread beyond the lot boundaries of the mini-storage facility lot.

B. *Landscaping.*

1. *Streetscape.* Mini-storage facilities shall present either a Type II or Type IV landscaping strip, when located along arterial or collector streets.
  - a. Type II landscaping, as defined in TMC 108.30.100.G.2, seeks to create a pleasant streetfront and features a mixture of shrubs, trees, and fencing that enhances the streetscapes and gateways to Tenino.
  - b. Type IV landscaping as defined in TMC 108.30.100.G.4, seeks to provide a strong visual block between the neighboring roadway and the land use.
  - c. Deviations from the exact standards specified within TMC 108.30.100.G may be allowed based on the discretion of the planning official so long as the intent of the standards and the descriptions of the landscaping above are met by the development application.
2. *Adjacent to neighboring residentially zoned lots.* Where a mini-storage facility is located adjacent to a neighboring residentially zoned lot, the facility shall present a Type IV landscaping buffer and fencing, as specified in TMC 108.30.100.G.4, along the neighboring property line.
  - a. The required width of the Type IV landscaping may be modified to five feet based on the discretion of the Tenino Planning Department in areas where a five-foot sideyard setback has been established in accordance with 108.40.130.1.d.
  - b. No landscaping is required between an existing non-conforming mini-storage structure and the neighboring residential use. Where a non-conforming structure is proposed to be expanded along a property line, the addition must meet applicable setback and landscaping provisions.

(Ord. No. 829, § 4, 10-8-2013)

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(Supp. No. 5)

### 108.40.140. Standards for recreational vehicle parks.

- A. *Purpose.* The purpose of this ordinance is to provide standards to allow the creation of recreational vehicle (RV) parks while maintaining the health, safety and general welfare of the City of Tenino.
- B. *General site conditions.*
1. *Compliance with site plan.* Where the City of Tenino approves a RV park permit, the development of the area to which the permit pertains shall be in conformity to the site plan as approved. Any development, use, density, or land division which fails to conform to the site plan as approved by the City of Tenino constitutes a violation of this title.
  2. *Maximum length of stay in RV park.* No individual is allowed to stay within an RV park for a period greater than 15 days. This period may be extended with approval of the code enforcement officer in situations of hardship or unique circumstances, such as care for an elderly relative.
  3. *Subject to the requirements of underlying zone.* All RV parks must meet the height limits, density and maximum lot coverage standards for the underlying zone.
  4. *Minimum size of RV space.* The minimum area of an RV space shall be 1,000 square feet; provided, tent areas shall have no minimum space size.
  5. *Setbacks.* All RVs, together with their additions, and appurtenant structures, accessory structures, and other structures on the site (excluding fences) shall observe the following setback requirements (excluding any hitch or towing fixture):
    - a. A minimum 20-foot wide buffer yard shall be established along each property line. This buffer shall contain one of the following types of landscaping:
      - i. Type II landscaping, as defined in TMC 108.30.100.G.2, which seeks to create a pleasant streetfront and features a mixture of shrubs, trees, and fencing that enhances the streetscapes and gateways to Tenino; or
      - ii. Type IV landscaping as defined in TMC 108.30.100.G.4, which seeks to provide a strong visual block between the neighboring roadway and/or land use and the RV park.
      - iii. Deviations from the exact standards specified within TMC 108.30.100.G may be allowed based on the discretion of the planning official so long as the intent of the standards and the description of the landscaping type above are met by the development application.
    - b. A minimum distance of five feet is required between an individual RV unit and an adjoining interior RV park street.
    - c. A minimum distance of five feet is required between an RV unit and the interior line of a perimeter buffer.
    - d. A minimum distance of ten feet is required between RV units, and between an RV unit and unattached structures. Provided, this does not apply to unattached structures used as storage or accessory structures for individual sites.
  6. *Site occupancy.* RV sites shall be occupied by no more than one RV at any one time.
- D. *Public health and safety.*
1. *Water and sewage.*
    - a. *Description of proposal and methods to serve.* All proposals for RV parks shall submit a statement of the type of recreational vehicles anticipated and how water and sewer services will be provided to the units. This statement shall include details as to whether the park will allow long

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or short-term stays, whether the RVs are anticipated to be primarily self-contained and whether any units that do not contain water and sewer services will be allowed.

- b. *Basic requirement for water and sewer.* All visitors and/or residents within an RV park must have access to a clean source of water and a sanitary method to dispose of their waste.
- c. *Method to provide water.* The Tenino Public Works Director must approve of any method proposed to provide water to the RV units. Water connections to individual RVs or a public restroom that includes water may be deemed adequate, if the facility effectively ensures the requirement in TMC 108.40.140.D.1(b) is met and the park meets all city and state standards.
- d. *Methods to ensure adequate treatment of sewage.* The Tenino Public Works Director must approve of the design of any method to treat wastewater. Sewer connections to individual RVs or a shared restroom facility may be deemed adequate, so long as the facility meets the requirement in TMC 108.40.140.D.1(b) and the park meets all city and state standards.

2. *Sanitary dump stations.*

- a. A conveniently located dump station for the disposal of self-contained sewage shall be provided in RV parks with any spaces designated for self-contained units. Additional dump stations may be required in RV parks having 100 or more RV spaces. All dump stations shall be designed and developed to the standards of the Thurston County Health Department and the Washington State Department of Health.
- b. Sanitary dump stations shall be separated from any RV space by a distance of at least 50 feet.

3. *Solid waste.*

- a. RV parks shall contract with the city's garbage service for the storage, collection, and disposal of solid waste.
- b. Approved solid waste containers shall be located not more than 200 feet from any RV space.
- c. Solid waste containers shall be marked with clear wayfinding signs, and screened from other activities by visual barriers such as fences, walls or natural growth.

4. *Fire protection.*

- a. RV park development applications shall be reviewed by the fire marshal.
- b. Fires shall not be permitted except where pits or bases are constructed of a non-combustible material. Vegetation or other combustible materials shall be kept a safe distance from the fire pit.
- c. The fire marshal shall perform annual inspections of all RV parks to ensure that health and life safety issues are known and addressed.

E. *Roads and parking.*

1. *Road standards.*

- a. All interior RV park roads shall be private roads, owned and maintained by the owner or operator of the RV park. Roads shall be open at all times for police and emergency vehicle access.
- b. RV park roads shall be surfaced with crushed rock, blacktop or some other suitable material approved by the public works director.
- c. Road approaches and other points of ingress and egress to city and/or state rights-of-way shall be in compliance with the city and state road standards, and be acceptable to the public works

director. Points of ingress and egress located on state highways shall be in accordance with the Washington State Department of Transportation stipulations.

- d. Interior RV park roads with parking on one-side of the street shall have the following minimum widths:

- i. One-way streets: 22 feet.
- ii. Two-way streets: 32 feet.

If guest parking is provided in an area other than the road within the site, these widths may be reduced.

- e. Road termini shall include a cul-de-sac or some other acceptable road configuration that permits the relative ease of turning and is approved by the public works department and fire protection authority.
- f. Additional ingress/egress routes for emergency access to a public road may be required for RV parks designed for 100 or more RV spaces.

2. *Parking standards.*

- a. Off-street parking shall be provided at the rate of one space for each RV site. The planning official may require additional off-street parking spaces as deemed appropriate to accommodate the parking needs of the RV park.
- b. There shall be at least two off-street parking spaces provided for the RV park office.

F. *Natural vegetation, critical areas, and open space.*

1. *Critical areas.* All RV parks shall conform to the critical areas regulations in title 112.
2. *Open space.* All RV parks shall include a minimum of ten percent of the gross area of the RV park for open space and recreational use. Provided, that at least one outdoor recreational area within the RV park shall contain at least 2,500 square feet. Roads, parking, sites, required setbacks and critical areas and their buffers shall not be counted as open space and recreational areas for the purpose of calculating compliance with this section.
3. *Revegetation.* Lawns or other suitable living ground covers shall be planted and maintained in all areas except those covered by structures, by paved or surfaced areas, or by planting beds. Undisturbed areas such as ravines and streams shall be preserved in their natural state.

G. *Additional standards.*

1. *Lighting.* Adequate lighting shall be provided to illuminate streets, driveways and walkways for the safe movement of pedestrians and vehicles. This lighting shall be shielded and directed downward and shall not spread beyond the lot boundaries of the RV park.
2. *Utilities.* All water, sewer, electric and communication lines shall be located underground when practical, and shall be in accordance with all applicable laws, health department standards and other applicable regulations.
3. *Drainage and stormwater.* RV parks and all expansions of RV parks on the same land beyond four sites, shall conform to the drainage and stormwater standards, requirements, and provisions of the City of Tenino and be approved by the public works director.

- H. *Subject to SEPA.* All RV parks shall be reviewed under SEPA, except when determined to be categorically exempt under TMC chapter 110.30.

(Ord. No. 829, § 5, 10-8-2013)

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(Supp. No. 5)

**108.40.150. Reserved.****108.40.160. Marijuana uses.**

Marijuana land uses are permitted in all districts except the public/semi-public (P/SP) zoning district in accord with permitting and regulatory restrictions, conditions and other limitations imposed for such districts. Marijuana land uses in residential districts shall only be in accord with the standards of a home occupation permit.

1. *Recreational marijuana.* No recreational marijuana land use is permitted other than as approved by the Washington State Liquor Control Board in accord with WAC 314-55 as now or hereafter amended.
2. *Medical marijuana.* No medical marijuana land use allowed under RCW 69.51a is permitted or allowed to continue unless the applicant complies with the location, advertising, and off-site consumption requirements specified in WAC 314-55. The application for any such use shall pay the same fee to the city as would otherwise be imposed by the liquor control board for any original application or renewal thereof.
3. *Design standards.*
  - A. *Structure required.* All marijuana land uses must be sited within a structure (i.e. no growing operations are allowed outdoors).
  - B. *Fencing standard.* Any fences utilized in the enterprise must meet the standards in TMC section 108.30.040(N)(3).
  - C. *Other design standards required.* All applicable design, shoreline, and critical areas standards (parking, lighting, required vegetation, buffers, etc.) are required to be met for any proposed marijuana land use.

(Ord. No. 833, § 2, 11-12-2013; Ord. No. 849, § 2, 11-12-2014; Ord. No. 871, § 2, 1-24-2017)

## **CHAPTER 108.50. PARKING AND LOADING STANDARDS**

**108.50.010. Purpose.**

This chapter is applicable to all new development, alterations and additions to, or expansion of, existing development in the city. This chapter establishes parking and loading standards for various uses. The standards are intended to lessen congestion on streets and to ensure an adequate supply of parking and loading spaces within a reasonable distance of development.

The purpose of this chapter is to:

- A. Improve traffic circulation by regulating parking and loading activities;
- B. Contribute to the public health, safety, general welfare and aesthetics of the city by providing sufficient on-site areas for the maneuvering and parking of motor vehicles;
- C. Meet the needs of urban development by providing sufficient off-street parking without creating an excess surplus of parking spaces; and
- D. Promote more efficient use of the city's transportation facilities by encouraging the movement of people from place to place via modes of transportation other than the single-occupancy vehicle.

(Ord. No. 881, § 40, 9-26-2017)

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**108.50.020. Required parking and loading.**

A. *Required parking.* The table below establishes the minimum required parking spaces that shall be provided for each use in these LDRs. Where a minimum requirement is not listed in the table it shall be determined by the community development director upon finding the proposed use has need for parking. Calculations that reference floor area shall be based on the gross floor area. Calculations that reference employees shall be based on the maximum number of employees normally on duty at any one time.

Required Parking	DU = dwelling unit LU = lodging unit	
Use	Minimum Required Parking	Maximum Required Parking
<i>Open Space Uses</i>		
Agriculture	n/a	n/a
<i>Residential Uses</i>		
Detached Single-Family Unit	2 per DU	n/a
Duplex	2 per DU	n/a
Attached Single-Family Unit	1.5 per DU	2 per DU
Group Home	0.5 per bed	1.5 per bed
Correctional Group Home	0.5 per bed	1.5 per bed
<i>Lodging Uses</i>		
Conventional Lodging	0.6 per LU	2 per LU
Campground	1 per campsite + 1 per 7.5 campsites	2 per campsite + 1 per 7.5 campsites
<u>Transitional Housing</u>	<u>1.5 per DU</u>	<u>n/a</u>
<u>Permanent Supportive Housing</u>	<u>1.5 per DU</u>	<u>n/a</u>
<i>Institutional Uses</i>		
Assembly	Independent Calculation	
Daycare Center	0.5 per employee	1 per employee
School	Independent Calculation	
Emergency Services	Independent Calculation	
<i>Commercial Uses</i>		
Office	1.5 per 1,000 sf	4 per 1,000 sf
Retail	3 per 1,000 sf	6 per 1,000 sf
Service	2 per 1,000 sf	4 per 1,000 sf
Restaurant/Bar	5 per 1,000 sf	20 per 1,000 sf
Mobile Food Vendor	Independent Calculation	
Heavy Retail/Service	2 per 1,000 sf + 3 per repair bay + 1 per wash bay	6 per 1,000 sf + 3 per repair bay + 1 per wash bay
Storage	1 per 10 storage units + 1 per employee	1 per 10 storage units + 1 per employee
Nursery	2 per 1,000 sf + 1 per 4,000 sf outdoor display area + 1 per employee	2 per 1,000 sf + 1 per 4,000 sf outdoor display area + 1 per employee
Battery Exchange Station	Independent Calculation	
Marijuana Business	3 per 1,000 sf	6 per 1,000 sf
Sexually Oriented Business	3 per 1,000 sf	6 per 1,000 sf
<i>Amusement and Recreation</i>		
Amusement	3 per 1,000 sf	5 per 1,000 sf

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Outdoor Recreation	Independent Calculation	
Developed Recreation	Independent Calculation	
<i>Industrial Uses</i>		
Craft Food Production	Independent Calculation	
Light Industry	0.5 per employee + 1 per company vehicle	1 per employee + 1 per company vehicle
Heavy Industry	0.5 per employee + 1 per company vehicle	1 per employee + 1 per company vehicle
Disposal	1 per employee	1 per employee
<i>Transportation and Infrastructure Uses</i>		
Parking	n/a	n/a
Utility Facility	1 per employee + 1 per stored vehicle	1 per employee + 1 per stored vehicle
Sewer Facility	1 per employee + 1 per stored vehicle	1 per employee + 1 per stored vehicle
Wireless Telecommunications Facility	1 per employee + 1 per stored vehicle	1 per employee + 1 per stored vehicle
<i>Accessory Uses</i>		
Accessory Dwelling Unit	1 per DU	2 per DU
Bed and Breakfast	0.75 per LU	1.5 per LU
Home Occupation	n/a	n/a
Home Business	1 per employee	1 per employee
Drive-Up Facility	n/a	n/a
Home Daycare	1 per employee	1 per employee
Battery Charging Station	n/a	n/a
<i>Temporary Uses</i>		
Yard Sale	n/a	n/a
Christmas Tree Sales	1 per 1,000 sf outdoor display area + 1 per employee	1 per 1,000 sf outdoor display area + 1 per employee
Farm Stand	5 per 1,000 sf display area	5 per 1,000 sf display area
Temporary Real Estate Sales Office	2	4
Temporary Shelter	2 per DU	2 per DU
Temporary Gravel Processing	1 per employee	1 per employee

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1. *Administrative variance.* The community development director may establish a lesser parking requirement pursuant to the procedure for administrative variances outlined in TMC Sec. 100.50.080. based on information from reliable sources that demonstrates a lesser standard is workable due to anticipated parking demand and alternative transportation services available.
2. *Change of use.* An applicant for a change of use shall only be required to additionally provide the difference between the parking requirement of the existing use and proposed use, regardless of the actual parking that exists.
3. *Historic preservation overlay.* Nonresidential uses located in the historic preservation overlay may be exempt from the requirement to provide parking.

B. *Shared parking.* If two or more uses occupy a site or structure, the required parking, queuing and loading shall be the additive total for each individual use unless the community development director determines uses are compatible for sharing parking based on the following standards.

1. *Residential and nonresidential uses.* A percentage of the parking spaces required for nonresidential uses may be considered shared with on-site residential uses in accordance with the table below, and the extent to which:
  - a. The residential use provides on-site employee housing; and
  - b. The location and design of the development enhances the shared parking function.

Percentage of Nonresidential Parking Spaces that May Be Shared	
Nonresidential Use	Residential Use
Retail	25%
Office	75%
Restaurant/Bar	20%
Service	25%
All Industrial	75%
Other Nonresidential	20%

2. *Other compatible uses.* Notwithstanding the standard percentages established in the table above, reductions in total parking requirements between and among any uses may be granted in one or more of the following circumstances:
  - a. When it is intended that patrons frequent more than one use in a single trip (example: lodging and restaurant)
  - b. When operating hours are substantially different (example: movie theater and office)
  - c. When peak trip generation characteristics are substantially different (example: lodging and retail)

C. *Required disability parking.* Disability parking requirements defer to the adopted building code.

D. *Required bicycle parking.* All nonresidential uses must provide on-site parking spaces for use by non-motorized vehicles.

1. *Standard.* One bicycle parking space must be provided for every 10 vehicle spaces required.
2. *Required facilities.* Bicycle parking requirements must be fulfilled through the installation of lockers, racks, or equivalent structures in or upon which a bicycle may be locked by the user. All racks must be securely anchored to the ground or building surface. Racks must be designed to accommodate U-shaped locks.
3. *Location.* Bicycle parking must be located in a clearly designated, safe and convenient location. A safe parking location is defined as a location whereby activity around bicycle parking is easily observable, conveniently located to the bicyclist's destination, and adequately separated from motor vehicles and pedestrians. Surfaces around bicycle parking facilities must be maintained and mud free.

E. *Required loading.* A structure, or a complex of structures, that contains uses requiring deliveries or shipments must provide loading facilities. The loading facilities must be designed so as not to interfere with any emergency or disability access. An application must address how the specific loading needs of the proposed use are being addressed.

F. *Required queuing spaces.*

1. *Heavy retail/service.* Heavy retail services must have at least 2 queuing spaces per wash bay.

2. *Drive-up facility.* Drive-up facilities must have at least three queuing spaces per service lane.

(Ord. No. 881, § 40, 9-26-2017)

#### **108.50.030. Location of required parking.**

- A. *On-site, off-street.* Unless a shared parking agreement is approved, all parking spaces, aisles, and turning areas must be located off-street and entirely within the boundaries of the land served.
- B. *Off-site, off-street.* Required parking may be provided off-site with the approval of a shared parking agreement. The off-site parking must be within 1,000 feet of the use it serves as measured along an established pedestrian route. A deed restriction may be required to ensure the off-site parking is permanent.
- C. *Off site, on-street.* Required parking may be provided on the street if allowed in the zone. See the zone-specific standards found in Chapter 106.30 through Chapter 106.50 for more information.
- D. *Parking areas must not encroach.* Off-street parking spaces, aisles, and turning areas must not encroach on any road or other public right-of-way. Parked vehicles must not encroach into any road or public right-of-way.

(Ord. No. 881, § 40, 9-26-2017)

#### **108.50.040. Maintenance of off-street parking and loading.**

- A. *General.* All off-street parking and loading areas shall be maintained adequately for all weather use and be properly drained.
- B. *Storage prohibited.* Off-street parking spaces shall be available for parking operable passenger automobiles of the residents, customers, patrons, and employees of the use for which they are required by this chapter. Storing inoperable vehicles or materials, or parking delivery trucks in such spaces shall be prohibited.
- C. *Display of vehicles for sale.* Vehicles shall not be displayed for sale in nonresidential parking areas except licensed bona-fide automobile dealerships. This does not apply to casual display by vehicle owners who are employees or patrons present on the premises at the times of such display.

(Ord. No. 881, § 40, 9-26-2017)

#### **108.50.050. Off-street parking and loading design standards.**

All off-street parking and loading facilities shall meet the following design standards:

- A. *Surface and drainage.*
1. *Paving required.*
    - a. Outdoor, off-street parking and loading areas, aisles and access drives must be paved, except parking areas, aisles and access drives for detached single-family units, which may be gravel.
    - b. The community development director may approve another surface pursuant to the procedure for administrative variances outlined in TMC Sec. 100.50.080. The community development director must find, based on information from reliable sources, that an alternative surface is warranted and appropriate.

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2. *Paving standards.* Paved parking and loading areas, aisles and access drives shall be paved with concrete, grasscrete, paving blocks, asphalt, or another durable surface.
  3. *Landscape islands.* Parking lots shall include landscaped islands to avoid large expanses of asphalt and shall be screened from off-site, or their view substantially filtered by vegetation.
  4. *Compaction and drainage.* Parking and loading areas, aisles, and access drives shall be compacted and paved or surfaced in conformity with applicable specifications to provide a durable surface, shall be graded and drained so as to dispose of surface water runoff without damage to private or public land, roads, or alleys, and shall conform with any additional standards for drainage prescribed by these LDRs, or other applicable regulations and standards.
- B. *Access and circulation standards.*
1. *Unobstructed access.* Each required parking space must have unobstructed access from a road or alley, or from an aisle or drive connecting with a road or alley except for approved tandem parking.
  2. *Tandem parking.* Tandem parking (one vehicle parking directly behind another) is not permitted, and shall not be credited toward meeting any parking requirement of this chapter except for residential uses not exceeding four units on one lot, provided that the tandem parking spaces are assigned to the same residential unit.
  3. *Backing onto roads and public streets prohibited.* Except for parking facilities serving detached single-family residential lots and parking facilities accommodating four or fewer vehicles, all off-street parking spaces must open directly onto a parking aisle and be designed so that it will not be necessary for vehicles to back out into any road or public street.
  4. *Traffic interference prohibited.* All off-street parking and loading facilities must be designed with access to a street or alley in one or more locations that cause the least interference with traffic movements.
  5. *Nonresidential use access drive width.* Access drives to nonresidential uses shall have a minimum width of 12 feet for drives posted as one-way or 24 feet for two-lane drives.
  6. *Access drive intersections.* Intersections of parking lot aisles shall be at least 40 feet from a curb cut.
- C. *Parking facility dimensions.*
1. *Parking space dimensions.*
    - a. *Width.*
      1. *Standard parking space.* A parking space shall be nine feet in width.
      2. *Compact parking space.* A compact parking space shall be at least eight and one-half feet in width.
    - b. *Length.*
      - i. *Standard parking space.* A standard parking space shall be 18 feet in length.
      - ii. *Compact parking space.* A compact parking space shall be at least 15 feet in length.
      - iii. *Overhang with wheel stop.* The length of parking spaces may be reduced by two feet, including the wheel stop, if an additional two feet of length is provided for the front overhang of the car. The overhang must not reduce the width of an adjacent walkway to less than four feet in width.

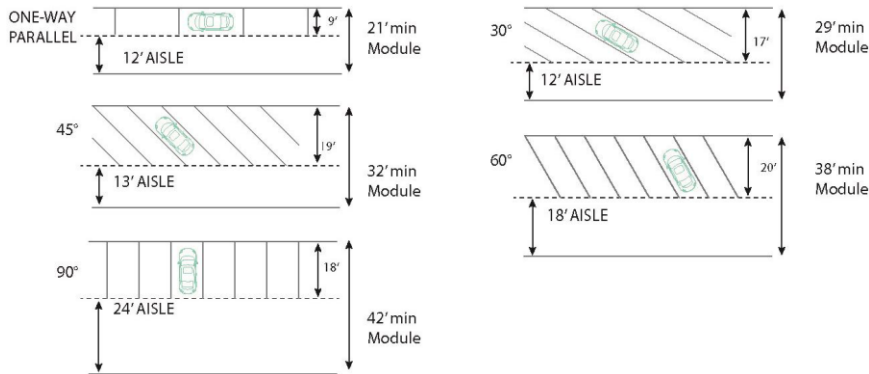
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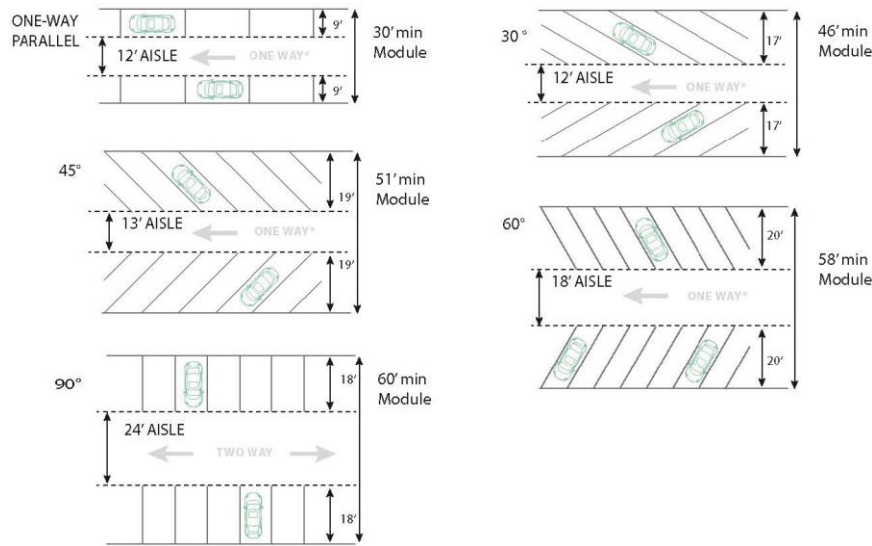
- iv. *Alley access.* Any parking space accessed directly from any alley shall have a minimum length of 22 feet.
  - v. *Parallel parking space.* All parallel parking spaces shall have a minimum length of 22 feet.
- c. *Vertical clearance.* Parking spaces shall have a vertical clearance of at least seven feet.
2. *Parking module dimensions.* The table below specifies the minimum widths for parking rows, aisles, and modules. The figures below illustrate the standards.

Minimum Dimensions for Parking Modules					
	Spacing Angle				
	Parallel	30°	45°	60°	90°
<b>Single Row of Parking</b>					
Parking Space Depth	9'	17'	19'	20'	18'
Drive Aisle Width	12'	12'	13'	18'	24'
Total Module Width	21'	29'	32'	38'	42'
<b>Two Rows of Parking</b>					
Parking Space Depth	9'	17'	19'	20'	18'
Drive Aisle Width	12'	12'	13'	18'	24'
Total Module Width	30'	46'	51'	58'	60'

**Single Row of Parking**



**Two Rows of Parking**



3. *Gravel area dimensions.* The minimum size of a gravel parking area shall be ten percent larger than required of a paved area.
4. *Queuing space design standards.* Queuing spaces shall be a minimum of 20 feet in length and ten feet in width. All required queuing must be contained onsite, must not encroach into any public right-of-way, and must not be designed so as to block entry or exit from other on-site parking.

(Ord. No. 881, § 40, 9-26-2017)

**CHAPTER 108.60. PERFORMANCE STANDARDS**

**108.60.010. In general.**

- A. *Purpose and intent.* Performance standards address the operational aspects of a use or activity and its impact on other adjacent uses, the community, and the public. The intent of these performance standards is to protect public health and general welfare and minimize the adverse impacts a use or activity may have on nearby properties and uses.
- B. *Operator responsibility.* The operator/proprietor of a permitted use or activity is responsible for providing reasonable evidence and technical data to demonstrate that the use or activity is or will be in compliance with the standards of this chapter.
- C. *Compliance required.* The operator/proprietor must comply with the standards of this Chapter whether or not the city requires the operator/proprietor to submit evidence and technical data demonstrating compliance.

(Ord. No. 881, § 41, 9-26-2017)

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**108.60.020. Outdoor storage.**

- A. *Recreational vehicles.* Storing or parking recreational vehicles or sporting vehicles on a residential property is allowed subject to the following standards:
1. Recreational and sporting vehicles must not be stored on a noncontiguous lot where no residential use exists.
  2. No more than two recreational and/or sporting vehicles or equipment may be stored outside on residential property.
  3. Recreational vehicles and equipment must be screened from view of surrounding neighbors to the maximum extent feasible.
  4. Recreational and sporting vehicles must not be used as a dwelling.
  5. Recreational and sporting vehicles must be stored on a parking pad or in the driveway of the residence. The vehicle must not be located within the public right-of-way.
  6. The parking pad must have a durable surface.
- B. *Outdoor storage areas and yards.* Outdoor storage areas and yards may be allowed in nonresidential and special purpose zones subject to the following standards:
1. Outdoor storage areas and yards must be paved with asphalt or concrete, including contractor storage yards and areas where vehicles or heavy equipment will be parked or stored.
  2. Non-vehicle storage areas such as those for materials may utilize alternative surface materials if the following standards are met:
    - a. A plan is submitted and approved showing paved and unpaved portions of the outdoor storage area and yard; and
    - b. Hazardous materials must not be stored or used in unpaved areas.
  3. The storage area must be screened and fenced, consistent with Section 108.30.140.K.
- C. *Shipping containers and compartments.* Shipping containers and compartments are manufactured corrugated metal containers originally designed to hold cargo on trucks, trains or ships. The containers are usually eight feet wide and 20 to 40 feet long.
1. *Temporary construction storage allowed in all zones.* Shipping containers may be used for temporary storage of materials and equipment while construction of subdivision improvements or a building occurs. The shipping container must be removed prior to any required final inspection or certificate of occupancy.
  2. *Where allowed.*
    - a. *Residential zones.* Shipping containers may be placed, stored, or used in the residential zones with approval of a zoning determination. The total floor area of all shipping containers must not exceed 320 square feet.
    - b. *Industrial zone.* Shipping containers may be placed, stored, or used in the industrial zone.
    - c. *All Other zones.*
      - i. One shipping container may be placed, stored, or used per development site in all other zones.

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- ii. Additional shipping containers may be allowed with approval of a zoning determination. The applicant must demonstrate that all screening, setback, and parking requirements can be met and that the shipping containers will not have a negative impact on adjacent properties.
  3. *Setbacks required.* All approved shipping containers allowed under subsection C.2. above must meet the setback requirements of the zone in which it is located.
  4. *Shipping containers as building material.* This section does not prohibit use of shipping containers as a building material, provided the resulting structure complies with all applicable provisions of the development regulations and the building code.

(Ord. No. 881, § 41, 9-26-2017)

#### **108.60.030. Refuse and recycling.**

Trash and recycling enclosures shall be provided for all nonresidential uses and multi-family developments of five or more units. Enclosures must:

- A. Be of similar material and color to the building;
- B. Be entirely enclosed with the side facing the street or alley to be a gate whenever feasible;
- C. Provide adequate space for recycling as determined by the city; and
- D. Be consolidated wherever possible.

(Ord. No. 881, § 41, 9-26-2017)

#### **108.60.040. Noise.**

- A. The provisions of TMC Section 8.72, motor vehicle public disturbance and public nuisance noise, apply.
- B. Frequent, repetitive or continuous sounds emanating from any use or facility must not exceed 75 decibels at the property line. Transportation facilities and temporary construction work are exempt from this requirement.
- C. If the code enforcement officer determines or has reason to believe that noise levels are being exceeded, the owner and/or operator of a use or facility must provide noise reading data for noise levels at all property lines.

(Ord. No. 881, § 41, 9-26-2017)

#### **108.60.050. Vibration.**

Vibrations that are discernible without instruments at the property line are prohibited.

(Ord. No. 881, § 41, 9-26-2017)

#### **108.60.060. Odors.**

Emission of odorous gases or other odorous matter released from any operation or activity in such quantities so as to be obnoxious beyond the property lines is not permitted. The odor threshold is defined as the concentration in the air of a gas or vapor that evokes a response in the human olfactory system.

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(Ord. No. 881, § 41, 9-26-2017)

**108.60.070. Light and glare.**

Direct or reflected light or glare that is visible beyond the property lines or skyward shall be prohibited.

(Ord. No. 881, § 41, 9-26-2017)

**108.60.080. Radioactivity and electrical disturbances.**

The regulations of the Federal Occupational Safety and Health standards apply for all radioactivity and electrical disturbances unless local codes and ordinances supersede this federal regulation.

(Ord. No. 881, § 41, 9-26-2017)

PART II - LAND DEVELOPMENT REGULATIONS CODE  
Title 100 GENERAL PROVISIONS

## Title 100 GENERAL PROVISIONS<sup>1</sup>

### 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~~ Municipal Code" hereinafter referred to as the "development regulations," "~~LDR~~ DMC" 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.

<sup>1</sup>State 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.

- 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~~TR~~M~~C 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~~TR~~M~~C 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~~TR~~M~~C title 104, pertaining to comprehensive plan and annexations;
  2. ~~LDR~~TR~~M~~C titles 106 and 108, pertaining to zoning;
  3. ~~LDR~~TR~~M~~C title 110, pertaining to environmental (SEPA);
  4. ~~LDR~~TR~~M~~C title 112, pertaining to critical areas; and
  5. ~~LDR~~TR~~M~~C 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~~TR~~M~~C 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.

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**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 [LDRPMC 100.50.020\(F\)](#), administrative interpretation. (Ord. No. 710, § 18.20.020, 4-26-2004; Ord. No. 731, 2-13-2007)

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**100.20.030. Additional definitions.**

The definitions contained in this chapter are generally those listed in [LDRPMC 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)

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**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 [LDRPMC 108.40.110.B](#).

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

*Accessory (Use).* See [LDRPMC 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 [LDRPMC 108.40.080.B](#).

*Amusement and recreation (use).* See [LDRPMC 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 omnidirectional 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 [LDRTMC 108.40.060.B](#).

*Attached single-family unit.* See [LDRTMC 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)

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### 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 [LDRPMC 108.40.110.H](#).

*Battery exchange station.* See [LDRPMC 108.40.070.J](#).

*Bed and breakfast.* See [LDRPMC 108.40.110.C](#).

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

*Best Available Science.* See [LDRPMC 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 [LDRPMC 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/TMC 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/TMC 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 [LDRPMC 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 [LDRPMC 108.40.050.B](#).

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

*Correctional group home*. See [LDRPMC 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 [LDRPMC 108.40.090.B](#).

*Critical Areas include the following areas and ecosystems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas. "Fish and wildlife habitat conservation areas" does 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.*

*Critical aquifer recharge area*. See [LDRPMC 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 [LDRPMC 108.40.060.C](#).

*Daycare, home.* See [LDRPMC 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 [LDRPMC 108.40.040.B](#).

*Developed recreation.* See [LDRPMC 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 [LDRPMC 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 [LDRPMC 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 [LDRPMC 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 [LDRPMC 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 [LDRPMC 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 [LDRPMC 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 [LDRPMC 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.

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

*Group home.* See [LDRPMC 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 [LDRPMC 108.40.090.D](#).

*Heavy retail/service.* See [LDRPMC 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 [LDRPMC 108.40.110.E](#).

*Home daycare.* See [LDRPMC 108.40.110](#).

*Home occupation.* See [LDRPMC 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 [LDRIMC 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 [LDRIMC 108.40.090.](#)

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

*Institutional (use).* See [LDRIMC 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 [LDRIMC 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 [LDRPMC 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 [LDRPMC 108.40.050](#).

*Lot.* See [LDRPMC 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 [LDRPMC 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 [LDRPMC 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/TMC 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/TMC 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 [LDRIMC 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.

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*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 [LDRTMC 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 [LDRTMC 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 [LDRTMC 108.40.030](#).

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*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 [LDRPMC 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, [LDRPMC](#) 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 [LDRPMC 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.

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*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.

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*Plat.* See [LDRPMC 114.10.040](#) definition of the term "plat."

*Plat, preliminary.* See [LDRPMC 114.10.040](#) definition of the term "preliminary plat."

*Plat, short.* See [LDRPMC 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 [LDRPMC 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 [LDRPMC 108.40.040](#).

*Restaurant/Bar*. See [LDRPMC 108.40.070.E](#).

*Retail*. See [LDRPMC 108.40.070.C](#).

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

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*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 [LDRPMC 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 [LDRPMC 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 [LDRPMC 108.40.100.D](#).

*Sexually oriented business.* See [LDRPMC 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 [LDRPMC](#) 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 [LDRPMC 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;

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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 [LDRPMC](#) 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 [LDRPMC](#) 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 [LDRPMC](#) 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 [LDRPMC 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 [LDRPMC 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 [LDRPMC 108.40.120](#).

*Temporary gravel processing*. See [LDRPMC 108.40.120.H](#).

*Temporary real estate sales office*. See [LDRPMC 108.40.120.E](#).

*Temporary shelter*. See [LDRPMC 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 [LDRPMC 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 [LDRPMC 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 [LDRPMC 108.40.020.A](#).

*Use, accessory*. See [LDRPMC 108.40.020.B.3](#).

*Use, administrative*. See [LDRPMC 108.40.010.B](#).

*Use, conditional*. See [LDRPMC 108.40.010.C](#).

*Use, incidental*. See [LDRPMC 108.40.020.B.2](#).

*Use, primary*. See [LDRPMC 108.40.020.B.4](#).

*Use, principal*. See [LDRPMC 108.40.020.B.1](#).

*Use, public facility*. See [LDRPMC 108.40.010.D](#).

*Use, temporary*. See [LDRPMC 108.40.020.B.5](#).

*Utility facility*. See [LDRPMC 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 [LDRPMC 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 [LDRPMC 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.

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*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)

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**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~~TMC 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.

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- 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.

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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~~RTMC 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

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- 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 ~~LDRTMC~~ 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.

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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 I administrative approval. The order shall state that the order may be appealed as specified in [LDRPMC 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 [LDRPMC 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 [LDRPMC 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 [LDRPMC](#) chapter 114.40.
5. *Short plat.* See [LDRPMC](#) chapter 114.60.
6. *Binding site plan.* See [LDRPMC](#) 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)

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**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~~LDR~~TMC~~ 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 [LDRPMC](#) 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 [LDRPMC](#) 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 [LDRPMC](#) 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 [LDRPMC](#) 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)

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**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)

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**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 [LDRMC 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

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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

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- 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/TMC~~ title 110) are subject to the provisions of ~~LDR/TMC~~ 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/TMC~~ 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/TMC~~ 100.40.180, notice of application, but may utilize the public notice procedures as outlined in ~~LDR/TMC~~ 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/TMC~~ 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.

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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 [LDRMTC 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/TMC 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/TMC](#) 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/TMC 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/TMC 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~~TRMC 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~~TRMC 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 [LDRPMC 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 [LDRPMC 100.40.190](#), notice of public hearing.
- N. *Appeal entitlement.* Only those persons entitled to appeal the decision under [LDRPMC 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.

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- 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/TMC 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/TMC 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.

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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 [LDRPMC 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 [LDRPMC 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 affects the appellant's property and presenting any relevant material or information supporting the appellant's contention. Pursuant to [LDRPMC 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 [LDRPMC 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 ~~LDRTMC~~ 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 [LDRPMC 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 ([LDRPMC](#) 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
  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.

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- 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 LDRTMC 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 LDRTMC 100.40.90I.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.

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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 [LDRPMC 100.40.0901.3.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 [LDRPMC 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.
  - 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:

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- 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 ~~LR~~DRTMC 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 ~~LR~~DRTMC 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 ~~LR~~DRTMC 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 ~~LR~~DRTMC title 110, SEPA.
  - 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

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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 [LDRPMC 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 [LDRPMC 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 [LDRPMC 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 affects 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 [LDRPMC 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.

(Ord. No. 710, § 18.40.100, 4-26-2004; Ord. No. 731, 2-13-2007)

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**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 [LDRPMC 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 [LDRPMC 100.40.150](#), determination of completeness, and this section for a complete application.
- D. The State Environmental Policy Act applies to decisions using this process. The designee shall evaluate each application and, where applicable, comply with [LDRPMC](#) title 110, SEPA.

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- 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~~LDRTMC 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:
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.

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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:

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- 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~~DRTMC 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.
  3. The city council shall use the criteria listed in subsection M.3 of this section.

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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.
  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

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information supporting the appellant's contention. The appeal will be heard and decided upon using process III, described in [LDRPMC 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 [LDRPMC 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 [LDRPMC](#) 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.
  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.

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- 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 ~~LDRTMC~~ 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.
    - 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.

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- 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 [LDRIMC 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.
    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.

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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 [LDRPMC 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 [LDRPMC 100.40.190](#), notice of public hearing. In addition, the procedures of [LDRPMC 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
    - 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.

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- b. Any person requesting it.
- S. The planning commission shall hold public hearings on each proposal, consistent with ~~LDR~~DRTMC 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.
  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.

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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:

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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:

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- 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/TMC](#) 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);

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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~~LDR~~TMC~~ 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~~LDR~~TMC~~ 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~~LDR~~TMC~~ 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.

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- 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~~TRMC 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:

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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~~**TRMC** 100.40.180, notice of application of this section.

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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 ~~LDRTMC~~ 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 specific error of fact or law can be identified; or
  - New evidence is available which was not available at the time of the hearing;
  - 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:
- The other agency consents to the hearing;
  - The other agency is not expressly prohibited by statute from doing so;
  - Sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance, or rule;
  - 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
  - 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 ~~LDRTMC~~ title 110, SEPA (RCW 43.21C) and the procedures for appeal.
- 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.
  - 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.
  - 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.

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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 LDRPMC 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 LDRPMC 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 LDRPMC 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 LDRPMC 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~~~~TMC~~ 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~~~~TMC~~ 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:

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- 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~~DRTMC 100.40.080, process I, administrative approval and may be appealed as provided in ~~LDR~~DRTMC 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.

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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~~TMC 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

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- 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/TMC 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/TMC 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

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- 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;

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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

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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.
  4. Notice of application shall be provided pursuant to ~~LDRTMC~~ 100.40.180, notice of application.
  5. Public notices shall be pursuant to ~~LDRTMC~~ 100.40.180, notice of application.
  6. Public hearings shall be pursuant to ~~LDRTMC~~ 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:

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- 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;
  - 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 ~~LBRTMC~~ 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 ~~ORD~~**TRIMC** 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 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,

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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/TMC 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/TMC 106.10.070](#), utilities use category.
- 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.

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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 [LDRPMC 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 [LDRPMC 100.40.180](#), notice of application.
- D. A public facilities permit shall be pursuant to [LDRPMC 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.
  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.

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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 ~~LDRIMC~~ 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

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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)

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PART II - LAND DEVELOPMENT REGULATIONS CODE  
 Title 100 - GENERAL PROVISIONS  
 CHAPTER 100.55. MASTER PLANNED DEVELOPMENTS

## **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 [LDRTMC 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 [LDRTMC 100.40.140](#), project permit applications, application submittals shall also include:
  1. Master plan application;

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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 [LDRPMC](#) 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 [LDRPMC](#) 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 [LDRPMC](#) 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~~TMC 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

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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 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/TMC](#) 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/TMC](#) 100.40.190, notice of public hearing.
5. The city shall notice the public hearing required in [LDR/TMC](#) 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.

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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 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 ~~LDRTMC~~ 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.

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(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.
- 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~~TMC 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

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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)

PART II - LAND DEVELOPMENT REGULATIONS CODE  
Title 112 CRITICAL AREAS

**Title 112 CRITICAL AREAS<sup>1</sup>**

**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.*

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<sup>1</sup>Editor'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.

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
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;

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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

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- 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.

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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.
  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.

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- 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.
  - 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)

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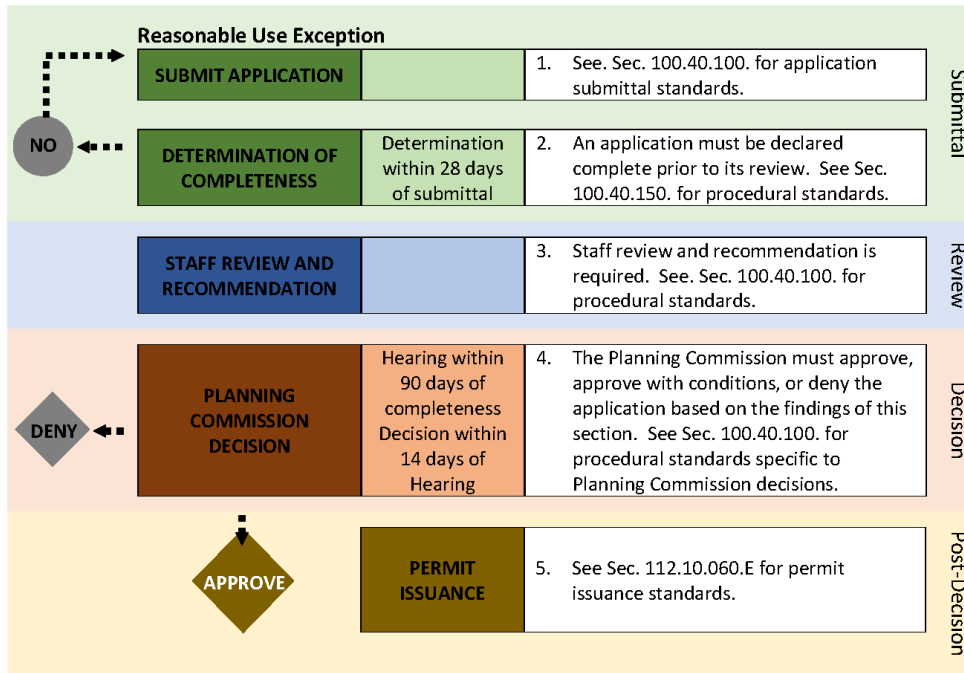
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### 112.10.060. Reasonable use exception.

- 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:

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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.
  6. Erosion control.
  7. Protection from hazards.
  8. Recreational opportunities.

C. *Establishment Designation 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~~*No Net Loss*. 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 comply with the following sequence of mitigation to show avoidance and minimization of impacts. The following are the steps in the mitigation sequence:~~be designed and constructed to avoid, minimize, and restore all adverse impacts. Applicants must first demonstrate an inability to avoid 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.~~
  - a. Avoiding the impact altogether by not taking a certain action or parts of an action.
  - b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts.
  - c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
  - d. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
  - e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments.
  - f. Monitoring the impact and taking appropriate corrective measures.

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;

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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

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- 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;

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- 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;
    - 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

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- 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;
    - 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.

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- 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.

(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.

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- 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.* ~~Wetland or wetlands means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. However, wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate conversion of wetlands, if permitted by the county or city. 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:~~
    - 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.

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- 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. Wetland ratings are valid for five years; after such date the City shall determine whether a revision or additional rating is necessary.
    - 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.*
      - 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.

5. Educational and scientific research activities that do not result in altering the structure or functions of the wetland.

6. Normal and routine maintenance and repair of any existing, legally established public or private facilities within an existing right-of-way, provided that the maintenance or repair does not expand the footprint of the facility or right-of-way and has no adverse effect on the wetland or buffer.

7. Stormwater management facilities. A wetland or its buffer can be physically or hydrologically altered to meet the requirements of a Low Impact Development (LID) methodology or Flow Control BMP if ALL of the following criteria are met:

- a. The wetland is classified as a Category IV or a Category III wetland with a habitat score of 3-5 points.
- b. There will be no net loss of functions and values of the wetland.
- c. The wetland does not contain a breeding population of any native amphibian species.
- d. The hydrologic functions of the wetland can be improved as outlined in questions 3, 4, and 5 of Chart 4 and questions 2, 3, and 4 of Chart 5 in *Selecting Mitigation Sites Using a Watershed Approach*, Western Washington (Ecology Publication #09-06-032, or as revised); or the wetland is part of a restoration plan intended to achieve restoration goals identified in a shoreline master program or a local or regional watershed plan.
- e. The wetland lies in the natural routing of the runoff, and the discharge follows the natural routing.
- f. All regulations regarding stormwater and wetland management are followed, including but not limited to local and state wetland and stormwater codes, manuals, and permits.
- g. Modifications that alter the structure of a wetland or its soils will require permits. Existing functions and values that are lost will need to be compensated.

Stormwater LID BMPs required as part of new and redevelopment projects may potentially be authorized within wetlands and their buffers. However, these areas may contain features that render LID BMPs infeasible. A site-specific characterization is required to determine whether an LID BMP is feasible at the project site.

F. Regulated uses and activities in wetlands. In general, changes in land use that would adversely affect wetland functions or established buffers, or eliminate portions of wetlands or buffers as the result of fill or grading, to also include the following:

1. The activities below are regulated if they occur in a wetland or its buffer:

- a. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind;
- b. The dumping of, discharging of, or filling with any material;
- c. The draining, flooding, or disturbing of the water level or water table;
- d. Pile driving;
- e. The placing of obstructions;
- f. The construction, reconstruction, demolition, or expansion of any structure;
- g. The destruction or alteration of wetland vegetation through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a wetland;
- h. Class IV General Forest Practices under the authority of the 1992 Washington State Forest Practices Act Rules and Regulations, WAC 222-12-030, or as thereafter amended; and
- i. Activities that result in:
  - i. A significant change of water temperature;
  - ii. A significant change of physical or chemical characteristics of the sources of water to the wetland;
  - iii. A significant change in the timing, frequency, depth, or duration of water entering or within the wetland; or
  - iv. The introduction of pollutants.

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G. Exceptions and Emergencies.

1. Exceptions. If the application of these regulations would prohibit public facilities such as utilities within a wetland and/or buffer due to a specific service provision or design constraint, the agency or utility may apply for an exception. Exceptions applications must address mitigation sequencing, and include information meeting the review criteria according to the following:

- a. There is no other practical alternative to the proposed development with less impact on the critical areas;
- b. The application of the critical area regulations 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 best available science; and
- e. The proposal is consistent with other applicable regulations and standards.

2. Emergencies. Emergencies are those 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 that require remedial or preventive action in a timeframe too short to allow for compliance with the requirements of the critical areas regulations. Emergency actions are required to use reasonable methods to address the emergency with the least possible impact to the critical area. The Planning Director will require review of the action to determine whether it was beyond the scope of the exemption and may require permits after the fact, which may include restoration or compensatory mitigation.

**HF.** *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;
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.

**IG.** *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.

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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 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:

Table with 5 columns: Wetland Category, Required Buffer Based on Habitat Score (3-4, 5, 6-7, 8-9). Rows I, II, III, IV.

- 2. Measurement. All buffers must be measured perpendicular from the wetland boundary as surveyed in the field.
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.
3. Buffer increases. Buffer widths may be increased on a case-by-case basis...
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...
ii. The buffer is increased adjacent to the higher-functioning area...
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...

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- 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.
  - 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.

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c. Groundwater sources must be protected, and proposed activities must protect the functions and values, the following shall be required:

- i. Identify where groundwater resources are located.
- ii. Analyze the susceptibility of the natural setting where groundwater occurs.
- iii. Inventory existing potential sources of groundwater contamination.
- iv. Classify the relative vulnerability of groundwater to contamination events.
- v. Designate areas that are most at risk to contamination events.
- vi. Protect by minimizing activities and conditions that pose contamination risks.
- vii. Ensure that contamination prevention plans and best management practices are implemented and followed.
- viii. Manage groundwater withdrawals and recharge impacts to:
  - Maintain availability for drinking water sources.
  - Maintain stream base flow from groundwater to support in-stream flows, especially for salmon-bearing streams.

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.

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- 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 flood plain subject to at least a one percent or greater chance of flooding in any given year, or within areas subject to flooding due to high groundwater. These areas include, but are not limited to, streams, rivers, lakes, coastal areas, wetlands, and areas where high groundwater forms ponds on the ground surface. 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.

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- 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.
- 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.

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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 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.
- F. *Development considerations.* The City handles compliance with the National Flood Insurance Program through TMC Chapter 5.24 Flood Hazard Protection. The regulations as provided above overlap with the requirements of the Flood Hazard Regulations, where a frequently flooded area is identified the flood hazard regulations chapter is required. If regulations contradict each other, the most restrictive regulation applies.

(Ord. No. 880, § 14, 9-12-2017)

#### **112.20.090. Geologically hazardous areas.**

- A. *Definition.* Geologically hazardous areas are areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to siting commercial, residential, or industrial

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~~development consistent with public health or safety concerns. 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;
  - 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.

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- 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.
    - 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 that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors; and areas with high relative population density or species richness. Counties and cities may also designate locally important habitats and species. Habitats of local importance designated as fish and wildlife habitat conservation areas include those areas found to be locally important by counties and cities. Fish and wildlife habitat conservation areas 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. 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.

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- 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.

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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:

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.

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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.
      - 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.
      - i. Riparian Habitat Area Widths. Buffers for fish and wildlife habitat conservation areas associated with streams and riparian wetlands shall be established using a site-specific tree height standard. The minimum buffer width shall be equal to the average mature height of the dominant native tree species present within the adjacent riparian plant community.
        - a) The buffer shall be measured horizontally from the ordinary high water mark of a stream, or from the delineated edge of a riparian wetland.

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- b) The applicant shall submit a report prepared by a qualified professional (e.g., forester, ecologist, or wetland scientist) that:
    - 1. Identified the dominant native tree species on or adjacent to the site;
    - 2. Provides documented mature tree height estimates based on best available local data (e.g., WDFW PHS, NRCS plant guides, or field measurements); and
    - 3. Demonstrates that the proposed buffer width based on tree height will maintain shade, erosion control, and habitat functions equivalent to or greater than the standard buffer width.
  - c) In areas lacking mature native vegetation, the buffer width shall default to 100 feet or the mature height of a regionally appropriate native riparian tree species, whichever is greater. Native revegetation may be required to ensure long-term functional performance.
  - d) Buffers shall be maintained or enhanced in a fully vegetated, undisturbed condition unless otherwise authorized through a permit or habitat management plan consistent with this chapter.
  - e) The City reserves the right to require an increase in the buffer width based on site conditions including slope, erosion hazard, species habitat, or adjacent land uses.
  - ii. Increased Riparian Habitat Area Widths.
    - a) Buffer width shall be increased where necessary to account for site-specific conditions including:
      - 1. Slopes exceeding 30 percent.
      - 2. Highly erodible soils.
      - 3. Documented habitat for federally or state-listed endangered, threatened, or sensitive species.
      - 4. Wetlands with high habitat scores or overlapping critical area buffers.
  - 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.
  - 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.

#### 10. Hazard Trees

- a. The following activities are exempt from the provisions of this chapter:
  - i. Emergency Tree Removal. Any tree that poses an imminent threat to life or property may be removed. The City must be notified within seven (7) days after the emergency tree removal with evidence of the threat for removing the tree to be considered exempt from this chapter. If the Planning Official determines that the emergency tree removal was not warranted or if the removed tree was required to be retained or planted pursuant to a development permit, then the removal will be subject to code enforcement, including fines and restoration.
  - ii. Utility Maintenance. Trees may be removed by the City or a utility provider in situations involving interruption of services provided by a utility only if other arboricultural practices (such as pruning, cabling, or bracing) cannot solve the utility service problems.
- b. Hazard trees within critical areas or their buffers shall be addressed in accordance with the following:
  - i. Where feasible, hazard trees shall be converted to wildlife snags or felled and left in place as large woody debris, consistent with public safety and access needs.
  - ii. (2) Where retaining the snag or log in place is not feasible due to safety or access constraints, the tree may be removed, provided that native replacement trees are planted at a ratio of 3:1 in locations that maintain or enhance the functions of the critical area.

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iii. (3) All work shall use low-impact methods, avoid additional disturbance to soils and vegetation, and comply with any applicable critical areas permits.

(Ord. No. 880, § 14, 9-12-2017)