

**PLANNING COMMISSION
AGENDA COVER SHEET**

MEETING DATE: March 17, 2020

FROM: Tim Woolett, Senior Planner

Initials **TW**

SUBJECT/ISSUE: Proposed “Land Disturbing Activities” Regulations

Discussion dates	3/17/20			
CATEGORY	<input type="checkbox"/>	City Manager Report	<input checked="" type="checkbox"/>	Information Only
	<input type="checkbox"/>	Public Meeting/Hearing	<input type="checkbox"/>	Consent Agenda
	<input type="checkbox"/>	Unfinished Business	<input type="checkbox"/>	New Business

Time Needed for
Presentation

15 min.

PROBLEM/ISSUE STATEMENT:

Land disturbing activities not associated with a land use permit approval are currently unregulated in the City of Sequim. Effects of land disturbing activities include altering the volume, flow, and quality in the storm water runoff from property, and erosion if not properly treated. Stormwater runoff and erosion can potentially degrade water quality and impact waters of the state, result in slope instability and increase the potential for landslides or erosion, and result in adverse impacts to public rights-of-way and drainage ways that may ultimately compromise public safety.

ATTACHMENTS:

1. Draft “Land Disturbing Activities” Regulations

DISCUSSION / ANALYSIS:

Land disturbing activities, whether or not a permit is required, including excavation, clearing, grubbing, grading, tree cutting or removal, and earthworks such as cuts, fills and embankments needs to be regulated to ensure against adverse impacts to property in the vicinity of such activities. Currently, the City of Sequim has no means of regulating land disturbing activities that are not associated with a building or land use permit. This proposed ordinance would provide the City with a mechanism to regulate, through conditions and monitoring, most land disturbing activities where there is no land use permit or building permit; thus, further protecting against the potential for adverse impacts to surrounding properties, water resources, and public rights-of-way.

FINANCIAL IMPLICATIONS:

Additional permit review fees and reduced risk to costs associated with damage repair.

RECOMMENDATION:

None – information only.

MOTION:

None – information only.

Chapter 18.82

LAND DISTURBING ACTIVITIES

Sections:

- 18.82.010 General applicability.
- 18.82.020 Purpose; Interpretation.
- 18.82.030 Definitions.
- 18.82.040 Permit required; General submittal requirements; Permit types; Expiration.
- 18.82.050 Permit fees; Cash or surety bond requirement; Forfeiting of bond.
- 18.82.060 City inspections; Posting of permit; Stop work notices.
- 18.82.070 Performance standards; Hazards.
- 18.82.080 Violations; Enforcement.
- 18.82.090 Exemptions (general) from permit requirement.
- 18.82.100 Engineered grading permits.
- 18.82.110 Regular grading permits.
- 18.82.120 Clearing and grubbing permits; Tree cutting permits.
- 18.82.130 Severability.
- 18.82.140 Work completion.
- 18.82.150 Enforcement.

18.82.010 General applicability.

This chapter applies to all land disturbing activities, whether or not a permit is required, including excavation, clearing, grubbing, grading, tree cutting or removal, and earthworks such as cuts, fills and embankments. All land disturbing activities occurring within the city limits of Sequim must comply with this chapter.

18.82.020 Purpose; Interpretation.

The purpose of this chapter is to regulate land disturbing activities within the city of Sequim to achieve the following objectives:

- A. Establish clear procedures for issuance of permits, plan approval, and inspection of land disturbing activities.
- B. Ensure prompt construction, restoration, replanting, and effective erosion and sedimentation control in properties before, during, and after land disturbing activities.
- C. Prevent sediment and other pollutants from leaving the project site during land disturbing activities by implementing best land development and management practices.
- D. Prevent water quality degradation and the sedimentation of streams, wetlands, and other water bodies, and preserve natural drainage paths and outfalls.
- E. Reduce stormwater runoff rates and volumes through stormwater management controls and ensuring that these management controls are properly maintained and pose no threat to public safety.
- F. Protect downstream properties and public infrastructure.
- G. Enhance the city's aesthetic character by managing the removal of vegetation, trees, and groundcover.
- H. Allow for managed removal of diseased or dangerous trees and vegetation.
- I. Promote safety upon public and private property.
- J. Promote the health, safety, and welfare of the public.

This chapter must be liberally interpreted and construed to secure the health, safety, and welfare of the public, to implement the policies of the city of Sequim including its comprehensive plan, and to comply with all applicable requirements of Washington state law. The rule of strict construction has no application.

18.82.030 Definitions.

A

“Acceptance” as used in this chapter means final acceptance of an engineered grading permit by the city.

“Applicant” means the individual, partnership, association, or corporation applying for a permit to do the work under this chapter and assuming full and complete responsibility therefor, and includes property owners, employees, agents, consultants, contractors, and successors in interest. Applicants assume full and complete responsibility for the project. “Applicant” and “Permittee” may be used interchangeably in this chapter.

“Approval” means approval by the director or designee of a permit or activity required under this chapter.

B

“Backfilling” means returning a site to its original or approved contours after earth materials were removed.

“Blazing” means minor nonvehicular cutting or removal of vegetation, including trees, shrubs, or groundcover, sufficient for line-of-sight surveying and foot access trails to the extent that the site is not otherwise significantly disturbed.

C

“Civil engineer” means a professional engineer licensed by the state of Washington in civil engineering.

“Class IV forest practice activity” means a timber harvest, thinning, or other activity as established by the Washington State Department of Natural Resources Forest Practices Regulations (Chapter 76.09 RCW), whereby a property owner is allowed to harvest a limited amount of timber from their property within the city limits, while still maintaining the right to convert to a use inconsistent with growing timber.

“Clearing and grubbing” includes, but it is not limited to, removing trees, stumps, roots, brush, structures, abandoned utilities, trash, debris, and all other material found on or near the surface of the ground in the construction area.

“Compaction” means the densification or consolidation of earth materials or fill resulting from the weight of overlying deposits or mechanical means.

“Cut” means the change of a grade by excavation.

“Cutting” means the felling or removal of a tree, or any procedure in which the natural result will lead to the death or substantial destruction of a tree. Such acts include but are not limited to the severe cutting back of limbs, and damage inflicted upon the root system of the tree. Cutting does not include normal pruning within the bounds of accepted arboricultural practices.

D

“Dangerous tree” means a tree in a condition or in a location that presents a clear public safety hazard or a foreseeable danger of property damage to an existing structure and such hazard or danger cannot reasonably be alleviated by treatment or pruning.

“DBH” or “diameter at breast height” means a tree’s diameter in inches at 4 ½ feet above the ground. On multi-stemmed or multi-trunk trees the diameter is equivalent to the sum of trunk areas measured at 4 ½ feet above the ground.

“Dead or dying tree” is a tree that is lifeless or in an advanced state of decline because it is diseased, infested by insects, or rotting, and cannot be saved by reasonable treatment or pruning, or which must be removed to prevent the spread of the infestation or disease to other trees.

“Director” is the director of the public works department or the community development department, or their designees. Directors or their designees have authority to take actions appropriate to implement the provisions of this chapter.

“DNR” means Washington State Department of Natural Resources.

“Drip line.” The drip line of a tree is located by the vertical projection of a line at the tips of the outermost branches.

E

“Earth material” means any rock, soil, or combination thereof.

“Erosion” means the wearing away of the ground surface as a result of mass wasting or of the movement of wind, water, ice, or other geological agents.

“Excavation” means the physical removal of earth material by humans or their mechanical equipment.

“Existing grade” means the current surface contour of a site, including minor adjustments to the surface of the site in preparation for construction, or the surface contour that existed immediately prior to grading done without a permit.

“Existing site” means a site prior to any land disturbing activity or any site prior to the passage of the ordinance codified in this chapter.

“Exploratory excavation” means borings or small pits, hand-dug or excavated by mechanical equipment, for the purpose of determining soil characteristics or location of utilities.

F

“Fill” means a deposit of earth material placed by artificial means which increases the ground surface elevation. “Filling” means the activity of depositing fill.

“Finished grade” means the land surface elevation of the site after alterations are completed.

G

“Geotechnical engineer” means a professional civil engineer licensed by the state of Washington who is qualified by reason of experience and education in the practice of evaluating and predicting the engineering properties of soils and geologic formations, or a professional engineering geologist licensed by the state of Washington.

“Grade” means the vertical elevation of the ground surface. “Grading” is the physical manipulation of the earth’s surface and/or surface drainage pattern which includes surcharging, preloading, contouring, cutting, and/or filling. Grading activities fall into two general categories: engineered grading and regular grading.

“Grading permit” means a permit issued by the city of Sequim giving permission for land disturbing activity.

“Groundcover” means any plant matter less than 3 feet in height occurring above the soil layer.

H

“High grading” means a selective type of timber harvesting that removes the highest grade of timber (i.e., the most merchantable stems) in an area of forest.

I

“Impervious surface” means a non-vegetated surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A non-vegetated surface area causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common examples include, but are not limited to, rooftops, walkways, patios, driveways, parking lots, storage areas, concrete or asphalt paving, gravel roads, packed earth materials and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater.

L

“Land disturbing activity” results in a change in existing soil cover, site topography, or vegetation. Land disturbing activities include, but are not limited to, demolition, construction, clearing and grubbing, grading, and logging or other removal of trees and groundcover.

“Limbing” means removal of branches and leaving at least two-thirds of the existing tree branch structure. Limbing does not include topping of trees.

P

“Permittee” (see “Applicant”).

“Protected area” means an area of land within which heightened regulation applies pursuant to local, state, or federal policy or law.

“Pruning” means cutting back of limbs larger than 1-1/2 inches in diameter that is designed and intended to maintain trees in a healthy and safe condition.

S

“Site” includes all the parcels included in the project subject to the land disturbing activity permit.

“Slide” means the movement of a mass of loosened rocks or earth material down a hillside or slope.

“Slope” means an inclined ground surface, the inclination of which is expressed as a ratio of horizontal distance to vertical distance or as an angle from the horizontal.

“Soil” means a mass of mineral particles, with or without organic constituents, resulting from chemical and mechanical weathering of rock and decomposition of organic matter.

T

“Terrace” means a relatively level step constructed in the face of a graded slope surface.

“Thinning” means the removal of trees less than 18 inches DBH or diseased trees where removal is intended to improve the growth of remaining trees.

“Topping” means the cutting back of limbs within a tree’s crown to such a degree as to remove its normal canopy.

“Topsoil” means the weathered surface soil, usually including the organic layer, in which plants have most of their roots.

“Tree” means a living woody plant characterized by one main stem or trunk and many branches and having a diameter of 6 inches or more measured at DBH, or which is generally referred to in the nursery and landscape industry as a tree.

V

“Vegetation” means plant matter, including trees, shrubs and groundcover.

“Vegetation removal” means the act of removing vegetation by digging up, cutting down, or any act which is likely to cause vegetation to die within a period of five years, including but not limited to damage inflicted to the root system by machinery, storage of materials, or soil compaction, change to the ground level in the area of the root system, damage inflicted on vegetation permitting infection or infestation, excessive pruning or any other action which is deemed harmful to vegetation.

18.82.040 Permit required; General submittal requirements; Permit types; Expiration.

A. No land disturbing activity, unless specifically exempted under this chapter, can be performed within the city limits of Sequim without first having obtained a permit from the director or the director’s designee. A land use development permit must be approved before a land disturbing permit will be issued, except as otherwise specifically allowed by this chapter. A separate permit must be obtained for each site.

Unless exempt under this chapter, any project involving earthwork of more than 50 cubic yards of material, or which changes the existing grade by more than 4 feet, within a 12-month period, is required to obtain a grading permit. The quantity threshold is the total earthwork completed and not a net of cut and fill.

B. General submittal requirements. An application for a land disturbing permit must contain the following:

1. The appropriate permit application form and all items identified therein as necessary for submittal.
2. The required application fee(s).
3. A description of work covered by the permit.
4. An estimate of the quantities of work to be done to include area under application, area to be altered, amount of fill, amount of excavation, impervious area, slope of site.
5. A description of any potential hazards, including but not limited to slides, erosion, siltation, and flooding.
6. A description of past land use activities at the site.

7. The signature of the permittee or authorized agent of permittee, who may be required to show proof of authority.

8. Completed environmental checklist in compliance with SEPA, when required. (Note: This requirement may be met with the SEPA checklist/threshold determination for the approved land use permit.)

9. The requested number of copies of plans and specifications, prepared by a professional engineer licensed in the state of Washington, with stamps affixed. The plans and specifications must be at the scale prescribed by the director and must include:

(a) Existing topographic information with a contour interval of not less than 5 feet, including identification of any slopes over 30% in gradient. Contour levels must extend a minimum of 100 feet off site.

(b) Proposed topographic information, including dimensions, elevations and finish contours of not greater than 5-foot intervals, to be achieved by the proposed grading and related construction.

(c) Designation of all critical areas and buffers, tree retention areas, natural vegetation protected areas, or other areas that are not subject to the land disturbing activity.

(d) Prominent physical features of the property, including ponds, watercourses, existing improvements, and utilities.

(e) Date and north arrow.

10. A drainage plan and temporary erosion and sediment control plan that complies with the city's stormwater management regulations.

11. Any additional studies required by the director or designee, such as a soils report, in situ soils testing, hydrology report, or geotechnical engineer report.

C. The following are the types of land disturbing permits available from the city of Sequim:

1. Engineered Grading Permit. See SMC 18.82.100 for specific information. All engineered grading must comply with the Washington State Environmental Policy Act.

2. Regular Grading Permit. Regular grading is grading work that is not required to be engineered. See SMC 18.82.110 for specific information.

3. Clearing and Grubbing Permit. See SMC 18.82.120 for specific information.

4. Tree Cutting Permit. See SMC 18.82.120 for specific information.

Applicants must contact the Washington State Department of Ecology (DOE) to determine if a construction stormwater permit is required.

D. In general, land disturbing permits will expire one year from the date of issuance. The specific time limit must be identified in the permit's conditions of approval. The director or designee may impose a time limit within which the proposed site work must be completed based upon weather and/or

environmental concerns. The director or designee is authorized to grant one or more extensions not exceeding 90 calendar days each. The extensions must be requested in writing with justifiable cause demonstrated and must include a detailed schedule for completion.

18.82.050 Permit fees; Cash or surety bond requirement; Forfeiture of bond.

A. Land disturbing permit fees are as set forth in SMC 3.68, Rates and Fees.

B. Permittee may be required to post a cash or surety bond to guarantee performance of permit conditions in a form and amount to be determined by the city.

C. If permittee fails to perform all conditions of the permit to the satisfaction of the city, the director or designee will notify permittee that the noncompliance must be cured within 30 calendar days or the posted bond will be forfeited. Any posted bonds forfeited under this section will be used solely for the purpose of performing the required work and reimbursing the city for its costs associated with administering the work and enforcing the secured permit conditions. Any unused portion of the bond will be refunded to the person or entity posting the bond.

18.82.060 City inspections; Posting of permit; Stop work notices.

A. All land disturbing activities are subject to inspection by city staff designated by the director. For all engineered grading permits, special inspection of grading operations and special testing is performed in accordance with the provisions of **SMC Title 12, Streets, Sidewalks and Public Places**.

Application for a land disturbing permit grants the city unlimited right of entry to the work site for the purposes of review, making inspections to determine that the requirements of the plans and permits are being complied with, and for the purpose of taking corrective measures of an emergency nature. The cost of such corrective measures will be borne by the permittee. The city may require inspection and testing by an approved testing agency at any stage of the project.

If, during an inspection, site conditions and/or construction of permanent items are found to not be as shown in the permit application or approved plans, the permit may be deemed invalid. No land disturbing activity can be undertaken, or continued, until revised plans have been submitted and approved.

Revised plans may be required when changes are made to the approved grading plans. Land disturbing activities affected by such changes will not be allowed to continue until the revised plans are reviewed and approved by the city.

The city must be notified when work authorized by a permit issued subject to this chapter is ready for final inspection. Final approval will not be granted until all work has been completed in accordance with the approved plans and any required reports have been submitted.

B. Permits issued under this chapter must be posted on the construction site at all times when work is underway.

Every contractor or other person performing or directing the performance of any work requiring a permit must have in their possession prior to commencement of and during all phases of the work an original or copy of the approved permit, and has a duty to be familiar with the terms and conditions of the permit and approved plans.

C. Whenever the city determines that a land disturbing activity has or may become a hazard, or endangers property or adversely affects the safety, use or stability of a public way, drainage channel, stream or surface water, including siltation and sedimentation therein, the city will notify permittee or agent to suspend the land disturbing activity. This initial stop work notice can be verbal or written. If verbal, it will be followed up in writing as early as practicable. The permittee or agent in control of the land disturbing activity, upon receipt of the stop work notice from the city, must immediately terminate the activity.

SMC 18.82.070 Performance standards; Hazards.

A. Performance standards.

1. No land disturbing activity may occur on any site without the written consent of the property owner.
2. All public rights-of-way and easements for roads and utilities must be kept clear of silt, dirt, mud and debris and immediately cleaned and/or restored to their original condition prior to impact.
3. Boundaries, including tree removal boundaries, must be marked by flagging, stakes, paint spots, a continuous ribbon or other readily visible means around the perimeter. Property lines and corners must be clearly identified if land disturbing activity is to occur in close proximity to property boundaries.
4. Open space tracts, tree retention tracts, protected critical areas and buffers, and other areas not subject to the permit must be protected from potentially damaging activities. The applicant and/or authorized contractor must:
 - (a) Install visible protective fencing as required by the director or designee.
 - (b) Maintain the protective barriers in place until the director or designee authorizes their removal or a final certificate of occupancy is issued, whichever occurs first.
 - (c) Ensure that any landscaping done in protected areas subsequent to the removal of barriers is accomplished with light machinery or hand labor.
5. Areas proposed for infiltration must be protected during land disturbing and construction activities.
6. Cuts. The slope of cut surfaces must be no steeper than is safe for the intended use and no steeper than two horizontal to one vertical unless the permittee provides a soils engineering and/or a geotechnical engineering report stating that the site has been investigated and giving an opinion that a cut at a steeper slope will be stable and not create a hazard to public or

private property. The report must be reviewed and approved by the director or designee prior to earthwork. The city may require a third party review of the report, with the costs of review the responsibility of the permittee.

7. Fills. Unless otherwise recommended in the approved soils engineering report, fills must conform to the provisions of this section. These provisions may be waived by the director or designee for minor fills not intended to support structures.

(a) Fills must not be constructed on natural slopes steeper than 2-to-1 unless a geotechnical report has been prepared, reviewed, and approved.

(b) On slopes less than 5-to-1 and height less than 5 feet, the ground surface must be prepared to receive fill by removing vegetation, noncomplying fill, topsoil and other unsuitable materials, scarifying to provide a bond with the new fill. Fills greater than 5 feet or on slopes steeper than 5-to-1 must be completed in accordance with the recommendations and methodology outlined by the geotechnical engineer.

(c) Organic material is not permitted in fills.

(d) In general, rocks or similar irreducible material with a maximum dimension greater than 12 inches must not be used for fill. In limited circumstances the director or designee may permit placement of larger rock when the soils engineer properly devises a method of placement, continuously inspects its placement, and approves the fill stability. All rocks must be placed so as to assure filling of all voids.

(e) Compaction. All fills must be compacted to a minimum of 90% of maximum density or as determined by the geotechnical engineer.

(f) Slope. The slope of fill surfaces must be no steeper than is safe for the intended use. Fill slopes must be no steeper than two horizontal to one vertical.

8. Terracing. Any terracing proposed as part of the project must be designed by a geotechnical engineer and be constructed in accordance with the proposed plan and methodology. The terrace design must account for interceptor drains, terrace widths and locations, and runoff.

9. The director or designee may restrict the timing of land disturbing activities to specific dates when such restrictions are necessary for the public health, safety, or protection of the environment.

10. During the dry weather period, between May 1st and September 30th, no soils can remain unstabilized for longer than 7 calendar days.

11. During the wet weather period, between October 1st and April 30th, no soils can remain unstabilized for longer than 2 calendar days.

12. On or around September 1st, the city may meet with project proponents working under an approved and issued land disturbing permit to discuss the wet weather period and site stabilization requirements. Activity under a permit may be suspended or restricted.

13. Land disturbing activities must maintain appropriate setbacks to all utilities, including existing drainfields and wells.

14. Phasing. Land disturbing activities may be phased or may be required to be phased based on the size, complexity, and risk of the project as determined by the director or designee. Individual phases may be conditioned to be completed and stabilized prior to start of work on next phase.

15. Tree cutting. Trees removed, topped, or limbed, whether or not pursuant to a tree cutting permit, may occur only with the consent of the property owner, and the activity must not result in any damage to abutting lots or parcels, public property, or water resources, including but not limited to trunk, bark, limb or leaf damage, damage to roads, trails or utilities, water or soil contamination, alteration of drainage courses, transport and disposition of dirt, mud, or sediment or the creation of a fire hazard or other unsafe condition.

B. Hazards. If the city determines that any land disturbing activity has or may become a hazard to life and limb, endangers property, causes erosion, or adversely affects drainage, the safety, use, or stability of a public way or drainage channel, the permittee or owner will be notified in writing. Permittee or owner is responsible for mitigating the hazard within the time specified by the city. If not corrected, the land disturbing activity will be deemed to be a violation pursuant to SMC 18.82.080.

SMC 18.82.080 Violations; Enforcement.

A. Unless exempt, any land disturbing activity performed without a permit is considered hazardous and a public nuisance, subject to all enforcement actions and penalties consistent with the Sequim Municipal Code and state and federal law. **An investigation fee may be assessed pursuant to International Building Code Section 108.4.** The fee is payable prior to the issuance of a permit. Payment of the investigation fee does not vest the illegal work with any legitimacy, nor does it establish any right to any permit for continued development of the project.

B. Any person, firm, or corporation violating any of the provisions of this chapter is subject to fines as provided in SMC Chapter 1.13 (Code Enforcement).

C. The director has authority to enforce the provisions of this chapter and may designate city employees as authorized representatives to investigate suspected violations and to issue stop work notices, correction notices, and/or notices of infraction. Enforcement actions will be conducted consistent with SMC Chapter 1.13 (Code Enforcement).

D. Violations of the provisions of this chapter and/or the land disturbing permit conditions of approval subject the permittee to liability for damages to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to such violation or to such other condition acceptable to the city. Restoration may include replacement of all improperly removed materials and the removal of improper fill and stabilization of slopes, and installation and maintenance of interim and emergency erosion control measures until such time as the restored groundcover and vegetation reach sufficient maturation to function. No further work will be allowed until the property is fully restored in compliance with this subsection.

E. Notwithstanding any provision of this chapter, the director or designee may take immediate action to prevent an imminent and substantial danger to the public health, safety, or the environment by the violation of any provision of this chapter.

F. In addition to any other remedy provided in this chapter, the director or designee may, but is not obligated to, forfeit any cash or surety bond posted to guarantee performance of permit conditions. See SMC 18.82.050.

SMC 18.82.090 Exemptions (general) from permit requirement.

No grading permit, either engineered or regular, is required for the land disturbing activities listed in this subsection. However, even exempt activities must be conducted in a manner that protects water quality and provides site stability.

Exemptions from clearing, grubbing, or tree cutting permits do not necessarily exempt a property owner from complying with other conditions, including plat requirements, homeowner association rules, and other applicable local, state, or federal regulations or permit requirements.

Following is a list of activities that are generally exempt from requiring a permit:

A. Excavations which meet all of the following conditions: (1) are less than 3 feet in height; (2) have slopes flatter than 2:1 (H:V); and (3) do not exceed 50 cubic yards on any one lot.

B. Fills which meet all of the following conditions: (1) are less than 2 feet in height; (2) have slopes flatter than 2:1 (H:V); (3) are not intended to support structures; (4) do not obstruct a drainage course; and (5) do not exceed 50 cubic yards on any one lot.

C. An excavation below finished grade for basements and footings of a building, retaining wall, or other structure authorized by a valid building permit. (However, this does not exempt any fill made with the material from such excavation nor exempt any excavation having an unsupported height greater than four feet after the completion of such structure.)

D. Cemetery graves.

E. Refuse disposal sites controlled by other regulations.

F. Excavations to facilitate a septic tank elimination program.

G. Mining, quarrying, excavating, processing, stockpiling of rock, sand, gravel, aggregate, or clay where established and provided for by law and such operations do not affect the lateral support or increase the stresses in or pressure upon any adjacent or contiguous property.

H. Exploratory excavations under the direction of a geotechnical engineer or engineering geologist.

I. Utility trenching within a public right-of-way or upon an easement by a public agency or their designee.

J. Routine maintenance of existing landscaping such as applying new mulch each year, removing weeds, or other similar activities.

K. Routine agricultural activities such as plowing, harrowing, disking, ridging, listing, leveling and similar operations to prepare a field or crop.

L. Removal or cutting of trees on privately owned developed, partially developed, or undeveloped lots when the total area to be disturbed is 7,000 square feet or less per calendar year.

M. Removal or cutting of city owned, preserved, or landmark trees on public land within the city limits, which are instead managed pursuant to SMC Chapter 12.25.

N. Removal of plants designated as noxious weeds by government agencies.

O. Minimal blazing for line-of-sight surveying and foot access, and limited clearing and grading as required to perform geotechnical exploration to characterize geologic formations and soils.

P. Limbing or removal of trees that are damaged during a weather event, such as a windstorm.

Q. Removal of dead, dying, or dangerous trees, certified as such by a professional arborist.

R. Emergency situations involving immediate danger to life or property, substantial fire hazards or other public safety hazards, provided that verbal authorization from the city is acquired and written documentation verifying the need for the work and the nature of the emergency is provided to the city as soon as practicable after the event. If the removal of trees involves disturbing an area of 7,001 square feet or more, or if the trees are located within an open space tract, tree retention tract, required landscaping, designated critical area or shoreline (including buffers) and other protected areas, the city must be notified within 7 calendar days of the removal and an after-the-fact permit may be required.

SMC 18.82.100 Engineered grading permits.

A. Applicability. An engineered grading permit is required for the following land disturbing activities:

1. Grading in excess of 500 cubic yards.
2. Excavations with cut slopes equal to or steeper than 2:1 (H:V) and heights greater than 2 ½ feet.
3. Excavations with cut slopes equal to or steeper than 10:1 (H:V) and heights greater than 4 feet.
4. Fill slopes equal to or steeper than 2:1 (H:V) and heights greater than 2 ½ feet.
5. Fill slopes equal to or steeper than 10:1 (H:V) and heights greater than 4 feet.
6. Grading in the floodplain.
7. Grading in critical areas (SMC Chapter 18.80).
8. Grading in a drainage channel.
9. Grading to support a building or structure of a permanent nature.
10. Grading associated with subdivisions (SMC Chapter 17.20).

11. Grading for engineered driveways, regardless of the amount of excavation or fill required for construction.
12. Grading for all ponds, water features, and manmade lakes greater than 500 square feet in surface area.
13. Major use permits and/or any other project likely to cause major land disturbances as determined by the city.
14. Grading to support other engineering works such as, but not limited to, tanks, towers, machinery, retaining walls, and paving.
15. Projects deemed by the city to be a potential hazard.

B. Exemptions. An engineered grading permit is not required for the following:

1. Grading work already included in a building or other land use permit.
2. Grading work exempted pursuant to SMC 18.82.090.
3. Grading work not meeting the requirements of subsection A of this section. In this latter case, the grading would be considered regular grading.

C. Engineered Grading Permit Submittal Requirements. The minimum documents required for an application for an Engineered Grading Permit are as follows:

1. Completed permit application.
2. Two sets of all required plans stamped by a civil engineer licensed in the state of Washington.
3. Two sets of all required reports, specifications, and supporting information prepared and stamped by a civil engineer or geologist licensed in the state of Washington.
4. Plans must demonstrate compliance with the provisions of this title and all other relevant SMC code provisions and other relevant laws, ordinances, rules, and regulations.
5. Temporary erosion and sediment control (TESC) plan. The TESC plan must include all of the applicable minimum elements specified in the stormwater management provisions of the Sequim Municipal Code (Chapter 13.104). The TESC plan may be prepared by a certified erosion and sediment control technician. All erosion prevention and sediment control measures must be maintained, including replacement and repair as needed. These minimum guidelines are not intended to resolve all project soil erosion conditions. The applicant is responsible for confining all soil on the project site and implementing additional measures as necessary to accommodate changing or unexpected site and weather conditions.
6. When required by the director or designee, a geotechnical evaluation demonstrating compliance with Sequim Municipal Code stormwater management provisions.
7. Drainage report demonstrating compliance with Sequim Municipal Code stormwater management provisions.

8. When required by the development services senior engineer, an engineering geology report including an adequate description of the geology of the site.

9. SEPA checklist, if required.

D. Engineered Grading Permit Final Acceptance. The following items are required prior to final acceptance:

1. Inspection by a qualified professional hired by the applicant; and
2. As-graded grading plans; and
3. A letter from the inspector that certifies that grading was conducted in accordance with the grading plan. Certification requirements must comply with all other provisions of the Sequim Municipal Code.

SMC 18.82.110 Regular grading permits.

A. Applicability. A grading permit is required for all grading operations unless exempted below or in SMC 18.82.090. All grading must comply with the Washington State Environmental Policy Act and any relevant provision of the Sequim Municipal Code. An engineered grading permit is required if the project meets the criteria specified in SMC 18.82.100(A).

B. Exemptions. A regular grading permit is not required for the following land disturbing activities:

1. Grading work already included in a building permit.
2. Work exempt under SMC 18.82.090.
3. Work already included in an engineered grading permit.

C. Regular Grading Permit Submittal Requirements. The minimum documents required for permit application are as follows:

1. Completed permit application.
2. Plans demonstrating compliance with the Sequim Municipal Code and all other applicable laws, ordinances, rules and regulations. The name of the owner and the name of the person who prepared the plan must be included in all submitted plans and documents.
3. Temporary erosion and sediment control (TESC) plan. The TESC plan must include all applicable minimum elements specified in the Sequim Municipal Code's stormwater management chapter (SMC 13.104). The TESC plan may be prepared by a certified erosion and sediment control technician. All erosion prevention and sediment control measures must be maintained, including replacement and repair as needed. These minimum guidelines are not intended to resolve all project soil erosion conditions. The applicant is responsible for confining all soil on the project site and implementing additional measures as necessary to accommodate changing or unexpected site and weather conditions.

SMC 18.82.120 Clearing and grubbing permits; Tree cutting permits.

A. Applicability of clearing and grubbing permit. A grubbing and clearing permit is required for the following land disturbing activities:

1. All grubbing and clearing activities disturbing 5,000 square feet or more of area.
2. Any clearing on slopes, wetlands, erodible soils, critical areas, etc.
3. Any removal of trees and vegetation that does not trigger the grading permit requirements.

B. Exemptions from clearing and grubbing permit requirement. The following land disturbing activities are not required to obtain a clearing and grubbing permit:

1. Commercial agriculture as regulated under RCW 84.34.020.
2. Clearing associated with agricultural uses, excluding timber cutting not otherwise exempted.
3. Forest practices regulated under WAC Title 222, except for Class IV forest practices that are conversions from timberland to other uses.
4. Clearing and grubbing already included in a grading or building permit.
5. The removal of six trees or fewer per acre per parcel.
6. The removal of trees and ground cover by utility companies in emergency situations.
7. Routine landscape maintenance and minor repair.

C. Clearing and grubbing permit submittal requirements. The minimum documents required for a clearing and grubbing permit are as follows:

1. Completed permit application.
2. Plans demonstrating compliance with the Sequim Municipal Code and all other applicable laws, ordinances, rules and regulations.
3. Temporary erosion and sediment control (TESC) plan. The TESC plan must include all of the applicable minimum elements specified in the Sequim Municipal Code's stormwater management chapter (SMC. 13.104). The TESC plan may be prepared by a certified erosion and sediment control technician. All erosion prevention and sediment control measures must be maintained, including replacement and repair as needed. These minimum guidelines are not intended to resolve all project soil erosion conditions. The applicant is responsible for confining all soil on the project site and implementing additional measures as necessary to accommodate changing or unexpected site and weather conditions.

D. Applicability of tree cutting permit. A tree cutting permit may be required for tree limbing, topping, or removal that is not already included in another type of city permit, such as a building permit or clearing and grubbing permit.

A permit and consultation with the director is required for any tree cutting, tree topping, tree trimming, pruning, or thinning within a critical area, critical area buffer, shoreline, or shoreline buffer. The city may

require an applicant to apply for a critical areas or shoreline permit in addition to a permit required under this chapter.

Trees and vegetation in open space tracts, tree retention tracts, and other protected areas may only be removed if the tree is dead, dying, or dangerous and poses potential hazard to persons or property. Removal of such trees requires a permit, and the city may require verification from a professional arborist of the tree's condition. The city can require replanting of trees to replace those removed from protected areas.

A permit may be required for tree topping activities even when the tree is not located in a critical area, shoreline, or tree retention area. Consultation with the director is required prior to topping unless the branches are interfering with utility lines, significant canopy dieback has occurred, or damage from storms or prior incorrect pruning requires correction.

E. Exemptions from tree cutting permit requirement. See general exemptions under SMC 18.82.090. Provided: Even where a permit is not required, tree removal activities must comply with the performance standards in this chapter.

F. Tree cutting permit submittal requirement. The minimum documents required for a tree cutting permit are as follows:

1. A completed tree cutting permit application form and all identified submittal requirements.
2. The required application fee.
3. A description of the work to be covered by the permit.
4. The requested number of copies of plans, at a scale as prescribed by the director or designee, including:
 - (a) Date and north arrow;
 - (b) Prominent physical features of the property, including but not limited to topography, critical areas, and watercourses;
 - (c) General location, type, range of size, and condition of all trees including the species, size and accurate location of all healthy trees having a trunk diameter of at least 6 inches or more measured at DBH.
 - (d) Identification of all trees and groundcover proposed to be cut or removed.
 - (e) Any existing improvements on the property, including but not limited to structures, driveways, ponds, and utilities.
5. Temporary erosion and sedimentation control plan, including sequence for tree removal and other land disturbing activities, schedule for installation and removal of all temporary erosion and sediment control measures, including vegetative measures, and outline of the methods to be used in clearing vegetation and disposing of the cleared vegetative matter.
6. Identification of tree protection provisions for areas not subject to the tree cutting permit.

7. Statement by the applicant that the site proposed for tree cutting is not and has not been subject to a notice of conversion to a non-forestry use for six years prior to the permit application.

SMC 18.82.130 Severability.

If any section, subsection, sentence, clause, or phrase of this chapter is determined invalid for any reason in whole or in part by a court of competent jurisdiction, such decision does not affect the validity of the remaining portions of this chapter.

SMC 18.82.140 Work completion.

A. Upon completion of the rough land disturbing work, and at the final completion of the work the permit authorized, the following drawings and reports may be required by the director or designee:

1. As-graded record drawing prepared by a licensed civil engineer. The civil engineer must state that to the best of their knowledge the work was done in accordance with the final approved plans.
2. A soils-grading report prepared by a soils engineer, including locations and elevations of field density tests, summaries of field and laboratory tests and other substantiating data and comments on any changes made during grading. The soils engineer must render a finding as to the adequacy of the site for the intended use.
3. A geologic grading report prepared by an engineering geologist, including a final description of the geology of the site and any information disclosed during the grading. The engineering geologist must render a finding as to the adequacy of the site for the intended use.

B. The city must complete a final inspection of the land disturbing activities. Final approval will not be given until all work and all erosion-control measures have been completed in accordance with the final approved plan and any required reports have been submitted.

C. Permanent measures must be implemented to stabilize the site completely. This includes establishing vegetation on exposed soils, installation of stormwater facilities and controls, and other measures as required under the permit.

SMC 18.82.150 Disputes and appeals.

Applicants or permittees who wish to dispute the denial of a permit described in this chapter, any condition placed upon such permit, or any city action taken to enforce this code chapter, may appeal the director's decision to the hearing examiner pursuant to the process set forth in SMC Chapter 2.10.

Attachment B
ANCILLARY CODE SECTIONS

Excerpts from SMC 8.368 (Rates and Fees)

F. Community Development.

	Site grading permit review (pre-site construction)	\$250 + hourly after 4 hours
	Site grading plan site inspection	Hourly and charged against escrow deposit

The rest of this subsection remains unchanged.

G. Community Development – Building.

SMC 15.04.030	Single-family residential grading application fee	\$ 50
	Grading permit application fee – Non-single-family residential	<50 CY – \$55 51 – 100 CY – \$140 101 – 1,000 CY – \$360 1,001 – 10,000 CY – \$715 10,001 – 100,000 CY – \$1,810 >100,000 CY – \$2,755 + \$75 per 10,000 CY

The rest of this subsection remains unchanged.

8.36.030 Definitions.

As used in this chapter, the definitions contained in this section shall apply:

A. "Area of shallow flooding" designated as an AO or AH zone on the flood insurance rate map (FIRM). An AO zone has base flood depths that range from one to three feet above the natural ground without a clearly defined channel and an unpredictable and indeterminate path of flooding. AO is characterized as sheet flow. An AH zone indicates ponding and is shown with standard base flood elevations.

B. "Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year (also referred to as the "100-year flood"). Designated on flood insurance rate maps by the letters A or V.

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

D. "Critical facility" means a facility 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.

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

F. "Elevated building" means, for insurance purposes, a nonbasement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, post piers, pilings, or columns.

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

1. The overflow of inland or tidal waters; and/or
2. The unusual and rapid accumulation of runoff of surface waters from any source.

H. "Flood insurance rate map" 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 city of Sequim.

I. "Flood insurance study (FIS)" means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood-boundary map, and the water surface elevation more than one foot.

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

K. "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 nonelevation design requirements found at SMC 8.36.080(F)(1)(b), (i.e., provided there are adequate flood ventilation openings).

L. "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The "manufactured home" does not include a "recreational vehicle."

M. "New construction" means structures for which the "start of construction" commenced on or after the effective date of the ordinance codified in this chapter.

N. "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 towable 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.

O. "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 date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; 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.

P. "Structure" is a walled and roofed building, including a gas or liquid storage tank that is principally above ground.

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

R. "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 either:

1. Before the improvement or repair is started; or
2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term can exclude:

1. Any project for improvement of a structure to correct precited existing violations of state or local health, sanitary, or safety code specifications which have been previously identified by the city of Sequim code enforcement officer and which are the minimum necessary to assure safe living conditions;
or
 2. Any alteration of a structure listed on the National Register of Historic Places or the Washington State Heritage Register.
- S. “Variance” means a grant of relief from the requirements of this chapter that permits construction in a manner that would otherwise be prohibited by this chapter. (Ord. 2006-018 § 1)

Chapter 12.25

PROTECTION AND PRESERVATION OF PUBLIC TREES IN PARKS AND RIGHTS-OF-WAY

Sections:

12.25.010 Purpose.

12.25.020 Definitions.

12.25.030 Tree planting.

12.25.040 Tree pruning and maintenance.

12.25.050 Tree removal.

12.25.060 Landmark trees.

12.25.070 Trees on private property overhanging public rights-of-way.

12.25.080 Damage to city trees.

12.25.090 Penalties.

12.25.010 Purpose.

The purpose of these regulations is to encourage responsible management of public tree resources within the city of Sequim in a fashion consistent with the goals and policies of the parks and recreation master plan. Trees growing on public property provide benefits to the greater public at large and the purpose of this chapter is to provide for the maintenance and enhancement of city street and park trees, and to provide for the preservation of landmark trees, to secure the benefits conferred by a prudently managed urban forest. Proper protection, planting, and maintenance is required to promote tree health and aesthetics, foster species diversity, and to preserve the public tree canopy. Therefore, the purposes of this chapter are:

- A. Encourage the planting of new trees and the maintenance of existing trees for all the benefits they provide to the community.
- B. Maintain public trees in a healthy and nonhazardous condition through good arboricultural practices.
- C. Manage trees and vegetation on public property in a manner that represents the best interests of the public.
- D. Encourage a diversity of appropriate species of trees.
- E. Remove and replace trees in a timely manner so they do not cause damage to city infrastructure such as streets, sidewalks, sewer and water pipes, conduit, and other subsurface elements.
- F. Improve the quality of air and water, reduce storm water runoff and help prevent soil erosion.

G. Increase the aesthetic quality of a community and the sense of community pride.

H. The city recognizes the importance of trees to the ambiance of a city, the environment and property values. (Ord. 2016-018 § 1 (Exh. A))

12.25.020 Definitions.

For the purpose of this chapter certain words and terms are defined as follows:

A. Appropriate Tree. An appropriate tree is a tree suited at maturity for the space which it occupies without creating a hazard to public health and safety.

B. "City" means the city of Sequim.

C. "City tree" or "public tree" means a tree, shrub, bush, and/or other woody plant on land in public rights-of-way of all streets, avenues or ways within the city, within parks, upon the grounds of city buildings and facilities, or otherwise located upon public property within the city.

D. "Climbing spurs" means sharp, pointed devices affixed to the climber's leg used to assist in climbing trees (also known as gaffs, hooks, spurs, spikes, climbers).

E. "Crown reduction pruning" means the reduction of the top, sides, or individual limbs by the means of removal of the leader or longest portion of a limb to a lateral no less than one-third of the total diameter of the original limb removing no more than one-quarter of the leaf surface.

F. Hazard Tree. A hazard tree is any tree with a combination of structural defect and/or disease (which makes it subject to a high probability of failure) and a proximity to persons or property which makes it an imminent threat.

G. "Landmark tree" means a tree designated by the city council as significant because of association with historic figures or events, rarity or extraordinary aesthetic value.

H. "Park tree" means trees growing on property owned in fee-simple by the city of Sequim.

I. "Specimen tree value" means an objective evaluation process used to determine the public value of a tree. The evaluation looks at the size, condition, and location of a public tree to determine whether a tree has a significant public value.

J. "Street tree" means trees growing within the city's rights-of-way.

K. "Topping" means cutting a branch or stem back to a stub or lateral branch not sufficiently large enough to assume the terminal role (also known as heading, stubbing, lopping).

L. "Vegetation management plan" means a plan identifying how vegetation is to be managed on city-owned property.

M. "Urban forester" means the city of Sequim's designated urban forester, either a designated city employee within the parks department, or a certified arborist contracted by the city. (Ord. 2016-018 § 1 (Exh. A))

12.25.030 Tree planting.

A. Tree Planting on City of Sequim Property. Private parties may plant trees on property owned by the city with written permission. To obtain permission the applicant(s) shall:

1. Submit a written request to the city a minimum of 30 days prior to the scheduled planting.
2. Prepare a tree planting plan identifying the species, size, and location of trees to be planted. The proposed species and locations of trees must not create sight distance issues and be consistent with current and potential future uses of the property as determined by city staff review.
3. Comply with the standards for planting, as required per public works standards and policy.
4. Have underground utilities located and obtain approval from any utilities located within 15 feet prior to planting. (Ord. 2016-018 § 1 (Exh. A))

12.25.040 Tree pruning and maintenance.

A. Pruning Street Trees. Private parties may have street trees pruned with written permission from the city. To obtain permission the applicant(s) shall:

1. Submit a written request to the city a minimum of 30 days prior to pruning;
2. Identify the trees to be pruned and describe the specific work to be performed;
3. Pay for all costs associated with the proposed pruning; and
4. Comply with the pruning standards as required per public works standards and policy.

B. Public Tree Care. The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

The city tree board may recommend removal or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest.

C. Topping and climbing trees with spurs is prohibited. Topping of park and street trees is prohibited. Climbing spurs may be used to climb a park or street tree only if it is to be removed.

D. Insect and Disease Abatement. The city may prune, spray, or otherwise maintain park and street trees in order to control infestations of insects or disease or to maintain public safety. Private parties may with written permission hire a certified pest controller to spray street trees adjacent to their property. (Ord. 2016-018 § 1 (Exh. A))

12.25.050 Tree removal.

A. Hazard Trees – City’s Authority to Remove. The city may remove any park or street tree determined to be a hazard by the urban forester.

B. Park or Street Tree Removal Process. No city trees shall be cut down, killed, or removed for any reason without complying with the following procedure:

1. File an application with the urban forester;
2. Receive approval from the city for removal. (Ord. 2016-018 § 1 (Exh. A))

12.25.060 Landmark trees.

A. The director of public works or his/her designee shall maintain a register of trees designated as landmark trees because of association with historic figures or events, rarity or extraordinary aesthetic value.

B. The director of public works or his/her designee shall nominate city trees for designation as landmark trees, and prepare a report for the city tree board, who will make a recommendation to the city council to review such nominations.

C. City council shall designate landmark trees by resolution containing sufficiently specific identification of the tree or trees so designated.

D. After designation of a city tree as a landmark tree, it shall not be removed unless city council makes at least one of the following findings:

1. The tree is dead or diseased and poses a danger to public safety.
2. After consideration of potential alterations to the project to preserve the tree, there is no feasible alternative to accomplishing a public project without removal of the tree.
3. The tree is causing damage to city streets, rights-of-way or buildings or facilities that cannot be corrected without removal of the tree.
4. There are other facts city council deems of greater public value to justify removal of the tree. (Ord. 2016-018 § 1 (Exh. A))

12.25.070 Trees on private property overhanging public rights-of-way.

Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet above the surface of the street or sidewalk. Such owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. (Ord. 2016-018 § 1 (Exh. A))

12.25.080 Damage to city trees.

Any person negligently damaging or deforming a city tree shall be liable to the city for the cost of replacement of the tree, including the cost of nursery stock in close as size to the damaged or deformed tree as is feasible and the city's costs for soil preparation, planting and actual or estimated costs of establishment. (Ord. 2016-018 § 1 (Exh. A))

12.25.090 Penalties.

A. As an additional concurrent penalty, it shall be a civil infraction for a person, firm, or corporation to cut down, prune, kill, or otherwise damage any park or street tree without lawful authority. Each tree cut, pruned or damaged shall be a separate infraction. A person, firm, or corporation found to have committed a civil infraction shall be assessed a monetary penalty as follows:

1. First offense: Class 1 (\$250.00), not including statutory assessments.

2. Second offense: It shall be a gross misdemeanor for any person, firm, or corporation to knowingly cut down, prune, kill, or otherwise damage any park or street tree without lawful authority. The penalty for such violation shall be a fine not to exceed \$1,000, and/or imprisonment not to exceed 90 days or both such fine and imprisonment. Each tree cut, pruned or damaged shall constitute a separate offense. In the event of continuing violation or failure to comply, the second and subsequent days shall constitute a gross misdemeanor, punishable by a fine not to exceed \$5,000 and/or imprisonment for not more than 365 days or both such fine and imprisonment. (Ord. 2016-018 § 1 (Exh. A))

13.98.020 Definitions.

A. "Adjacent" means abutting or having frontage upon the sides or margins of any public roads, streets, rights-of-way or easements in which street system improvements are installed or directly connecting to street and/or utility system improvements.

B. "Benefit" means:

1. Street improvements that would be required for subsequent developers within the reimbursement area, but who do not need to install those improvements because the improvements already exist;
2. Actual and/or physical use of utility system improvements.

C. "Charge" or "charges" means an equitable pro rata charge to be paid by an owner of property within the reimbursement area for the cost of private construction of public street and/or utility system improvements made pursuant to a developer reimbursement collection agreement.

D. "Reimbursement area" means that area that includes all parcels of real property that will benefit, as determined by the public works director, from the installation of public utility and/or street system improvements. For streets, the reimbursement area includes those parcels that are adjacent to street system improvements and that would require similar improvements upon development. For utilities, the reimbursement area includes parcels that are likely to require direct connection to or service by utility system improvements constructed by a developer.

E. "Cost of construction" is the sum of the direct construction costs incurred to construct the street and/or utility system improvements plus indirect costs, which are limited to the city latecomer administrative fee (SMC [13.98.130](#)) and developer administrative costs (subsection G of this section). "Direct construction costs" include but are not limited to all related design services, engineering, surveying, legal services, bonding costs, environment mitigation, relocation and/or new construction of private utilities as required by the city (i.e., power, telephone, and cable), relocation and/or installation of street lights, relocation and/or installation of signage, acquisition of right-of-way and/or easements, government agency fees, testing services, inspection, plan review and approval, labor, materials, equipment rental, and contractor and/or subcontractor fees or charges.

F. "Developer" means the individual or entity that contracts with the city for the construction of street and/or utility system improvements, where such improvements are a requirement for development of real property owned by the entity or individual.

G. "Developer administrative costs" means all indirect costs incurred by the developer in the creation and execution of a developer reimbursement collection agreement and managing the project, such as office supplies, mailings, clerical services, telephone expenses, accounting expenses, project oversight, and the like. Administrative costs shall not exceed three percent of all direct construction costs.

H. "Developer extension agreement" means an agreement between the developer and the city prior to the construction of required city improvements.

I. "Developer reimbursement collection agreement (latecomer's contract)" means a written contract between the city and one or more developers in which the contract provides partial reimbursement for cost of construction of street system improvements and/or utility system improvements to the developer by owners of property who are likely to utilize the improvements and who did not contribute to the original cost of construction. References to "agreement" in this chapter means a developer reimbursement collection agreement.

J. "Direct connection" means a service connection, owned and maintained by the property owner and not the city, from existing or new utility improvements to the property owner's system as may be required by SMC Titles 13 and 15 as enacted or as amended.

K. "Segregation" means a large parcel, upon which is levied a reimbursement charge, is divided into smaller parcels. The associated charge is divided among the smaller parcels in accordance with the provisions of the original means of allocating the reimbursement charge.

L. "Street system improvements" means public street and alley improvements made in existing or subsequently dedicated or granted rights-of-way or easements and any associated improvements, including but not limited to acquisition of right-of-way and/or easements, design, engineering, surveying, inspection, grading, paving, installation of curbs, gutters, pedestrian facilities, street lighting, bike lanes, and traffic control devices, relocation and/or construction of private utilities as required by the city (such as power, telephone, and cable), relocation and/or construction of street lights, traffic control devices, signage, and other similar improvements.

M. "Utility system improvements" means public water, sewer and storm drainage system improvements, including but not limited to the acquisition of rights-of-way and/or easements, design, engineering, surveying, inspection, testing, connection fees, and installation of improvements, which may include increased pipe size, as required by the city and includes all appurtenances. (Ord. 2010-009 § 2)

13.104.030 Purpose.

The provisions of this chapter are intended to guide and advise all who conduct new development or redevelopment within the city. The provisions of this chapter establish the minimum level of compliance which must be met to permit a property to be developed or redeveloped within the city.

It is the purpose of this chapter to:

- A. Minimize water quality degradation and sedimentation in streams, ponds, lakes, wetlands and other water bodies, including ground water;
- B. Minimize the impact of increased runoff, erosion and sedimentation caused by land development and maintenance practices;
- C. Maintain and protect ground water resources;
- D. Minimize adverse impacts of alterations on ground and surface water quantities, locations and flow patterns;
- E. Decrease potential landslide, flood and erosion damage to public and private property;
- F. Provide site planning principles and construction practices that retain native vegetation and minimize impervious surfaces and are consistent with natural topography and hydrologic conditions;
- G. Maintain and protect the city stormwater infrastructure;
- H. Regulate clearing and grading of private and public land in order to protect public health and safety and water quality; and
- I. Provide minimum requirements and best management practices for new development and redevelopment to control the quantity and quality of stormwater runoff to comply with water quality standards and contribute to the protection of beneficial uses of the city's ground and surface water resources. (Ord. 2017-002 § 1 (Exh. A); Ord. 95-003 § 1.3)

13.104.040 Application.

For the purposes of this chapter, the following definitions shall apply:

A. A Definitions.

“Approval” means the proposed work or completed work conforms to this chapter in the opinion of the administrator identified in SMC [13.104.340](#).

B. B Definitions.

“Best management practice” or “BMP” means the schedule of activities, prohibition of practices, maintenance procedures, and structural and/or managerial practices that, when used singly or in combination, prevent or reduce the release of pollutants and other adverse impacts to waters of Washington State. BMPs are listed and described in the manual as well as in guidance materials available from the city.

C. C Definitions.

“Clearing” means the destruction and removal of vegetation by manual, mechanical, or chemical methods.

“Commercial agriculture” means those activities conducted on lands defined in RCW [84.34.020\(2\)](#), and activities involved in the production of crops or livestock for commercial trade. An activity ceases to be considered commercial agriculture when the area on which it is conducted is proposed for conversion to a nonagricultural use or has lain idle for more than five years, unless the idle land is registered in a federal or state soils conservation program, or unless the activity is maintenance of irrigation ditches, laterals, canals, or drainage ditches related to an existing and ongoing agricultural activity.

“Construction stormwater pollution prevention plan” (construction SWPPP) means a document that describes the potential for pollution problems on a construction project and explains and illustrates the measures to be taken on the construction site to control those problems.

D. D Definitions.

“Detention” means the release of stormwater runoff from the site at a slower rate than it is collected by the stormwater facility system, the difference being held in temporary storage.

“Director” means the public works director or a designee.

“Drainage basin” means a geographic and hydrologic subunit of a watershed.

E. E Definitions.

“Earth material” means any rock, natural soil or fill and/or any combination thereof.

“Ecology” means the Washington State Department of Ecology.

“Erosion” means the wearing away of the land surface by running water, wind, ice, or other geological agents, including such processes as gravitational creep. Detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

“Excavation” means the mechanical removal of earth material.

“Experimental BMP” means a BMP that has not been tested and evaluated by the Department of Ecology in collaboration with local governments and technical experts.

F. F Definitions.

“Fill” means a deposit of earth material placed by artificial means.

“Flood” means an overflow or inundation that comes from a river or any other source, including (but not limited to) streams, tides, wave action, storm drains, or excess rainfall. Any relatively high stream flow overtopping the natural or artificial banks in any reach of a stream.

“Forest practice” means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

1. Road and trail construction.
2. Harvesting, final and intermediate.

3. Precommercial thinning.
 4. Reforestation.
 5. Fertilization.
 6. Prevention and suppression of diseases and insects.
 7. Salvage of trees.
 8. Brush control.
- G. G Definitions.

“Ground water” means water in a saturated zone or stratum beneath the land surface or a surface water body.

H. H Definitions.

“Hard surface” means an impervious surface, a permeable pavement, or a vegetated roof.

I. I Definitions.

“Illicit discharge” means all nonstormwater discharges to stormwater drainage systems that cause or contribute to a violation of state water quality, sediment quality or ground water quality standards, including but not limited to sanitary sewer connections, industrial process water, interior floor drains, car washing and greywater systems.

“Impervious surface” means a nonvegetated surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A nonvegetated surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces for the purposes of determining whether the thresholds for application of minimum requirements are exceeded. Open, uncovered retention/detention facilities shall be considered impervious surfaces for purposes of runoff modeling.

“Infiltration” means the downward movement of water from the land surface to the subsoil.

“Interflow” means that portion of rainfall that infiltrates into the soil and moves laterally through the upper soil horizons until intercepted by a stream channel or until it returns to the surface, for example, in a roadside ditch, wetland, spring or seep. Interflow is a function of the soil system depth, permeability, and water-holding capacity.

J. J Definitions. Reserved.

K. K Definitions. Reserved.

L. L Definitions.

“Land disturbing activity” means any activity that results in a change in the existing soil cover (both vegetative and nonvegetative) and/or the existing soil topography. Land disturbing activities include but are not limited to clearing, grading, filling and excavation. Compaction that is associated with stabilization of structures and road construction shall also be considered a land disturbing activity. Stormwater facility maintenance is not considered land disturbing if conducted according to established standards and procedures.

M. M Definitions.

“Mitigation” means, in the following order of preference:

1. Avoiding the impact altogether by not taking a certain action or part 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 to avoid or reduce impacts;
3. Rectifying the impact by repairing, rehabilitating or restoring the affected environment;
4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; and
5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments.

N. N Definitions.

“New development” means land disturbing activities, including Class IV general forest practices that are conversions from timberland to other uses; structural development, including construction or installation of a building or other structure; creation of hard surfaces; and subdivision, short subdivision and binding site plans as defined and applied in Chapter [58.17](#) RCW. Projects meeting the definition of redevelopment shall not be considered new development.

O. O Definitions. Reserved.

P. P Definitions.

“Permanent stormwater control plan (PSCP)” means a plan which includes permanent facilities and BMPs for the control of runoff and pollution from stormwater after construction and/or land disturbing activity has been completed.

“Person” means any individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, agency of the state, or local government unit, however designated.

“Pollution” means contamination or other alteration of the physical, chemical, or biological properties of waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

Q. Q Definitions. Reserved.

R. R Definitions.

“Receiving water body” means naturally occurring and/or reconstructed surface water bodies, such as creeks, streams, rivers, lakes, wetlands, estuaries, and marine waters, or ground water, to which a stormwater drainage system discharges.

“Redevelopment” means, on a site that is already substantially developed (i.e., has 35 percent or more of existing hard surface coverage), the creation or addition of hard surfaces; the expansion of a building footprint or addition or replacement of a structure; structural development including construction, installation or expansion of a building or other structure; replacement of hard surface that is not part of a routine maintenance activity; and land disturbing activities.

“Retention” means the process of collecting and holding surface water and stormwater runoff with no surface outflow.

“Runoff” means water originating from rainfall and other precipitation that is found in drainage facilities, rivers, streams, springs, seeps, ponds, puddles, lakes and wetlands as well as shallow ground water.

S. S Definitions.

“Site” means the area defined by the legal boundaries of a parcel or parcels of land that is (are) subject to new development or redevelopment. For road projects, the length of the project site and the right-of-way boundaries define the site.

“Soil” means the unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of land plants.

“Stormwater” means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, pipes and other features into a defined surface water body, or a constructed infiltration facility.

“Stormwater drainage system” means constructed and natural features which function together as a system to collect, convey, channel, hold, inhibit, retain, detain, infiltrate, divert, treat or filter stormwater.

“Stormwater facility” means a constructed component of a stormwater drainage system, designed or constructed to perform a particular function or multiple functions. Stormwater facilities include, but are not limited to, pipes, swales, ditches, culverts, street gutters, detention basins, retention basins, constructed wetlands, infiltration devices, catchbasins, oil/water separators, permeable pavement, biofiltration swales and bioretention systems.

“Stormwater management manual” or “manual” means the stormwater design, management, and maintenance guidance manual named in SMC [13.104.100](#).

“Stormwater site plan” means the comprehensive report containing all of the technical information and analysis necessary for regulatory agencies to evaluate a proposed new development or redevelopment project for compliance with stormwater requirements. Contents of the stormwater site plan will vary with the type and size of the project and individual site characteristics. It includes a construction

stormwater pollution prevention plan (construction SWPPP) and a permanent stormwater control plan (PSCP). Guidance on preparing a stormwater site plan is contained in the manual.

T. T Definitions. Reserved.

U. U Definitions. Reserved.

V. V Definitions.

“Vegetation” means all organic plant life growing on the surface of the earth.

W. W Definitions.

“Water body” means surface waters including rivers, streams, lakes, marine waters, estuaries, and wetlands.

“Wetlands” means 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 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, including, but not limited to, irrigation and drainage ditches, 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. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.

X. X Definitions. Reserved.

Y. Y Definitions. Reserved.

Z. Z Definitions. Reserved. (Ord. 2017-002 § 1 (Exh. A); Ord. 95-003 § 2)

17.12.020 Procedure – Application.

An application for subdivision, or subdivision exemption, as defined by SMC [17.04.020](#), shall include as applicable, the items specified in Table 17.12.020(A).

Preliminary clearing and grading plans, including cut and fill amounts		X	X	X
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The remainder of this subsection remains unchanged.

17.32.060 Topography.

The placement of streets and lots in relation to topography shall be considered in order to minimize filling, grading or other alterations of existing conditions. (Ord. 2006-019 § 3; Ord. 98-005 § 4)

18.22.040 Grading, tree retention and general site repair.

Where reasonable and practicable, all development shall be designed in a manner which maintains existing natural features and **grade**, significant trees and/or other landscape features, and restores features damaged during development consistent with Comprehensive Plan Policies ENV 3, ENV 4, OSR 11 through 14. The following standards shall be considered:

- A. Where practicable, natural **grades** and significant natural features found on-site shall be incorporated into the overall design of the project.
- B. Existing significant individual trees and groups of trees should be preserved, where possible.
- C. The disturbance of required open space areas should be minimized during development and restored prior to project completion. (Ord. 97-019 § 4, Exh. B)

18.24.032 Design review application.

A. Preapplication. An applicant must request a design review preapplication meeting with city staff. This meeting allows an applicant an opportunity for early project review before formal submittal. The preapplication review does not bind the city in any way, but rather is offered as a convenience to the applicant. No fee shall be assessed for a design preapplication meeting. Preapplication does not vest the application. Applicants may also schedule meetings with city staff prior to the preapplication for early project consultation. Requests for design review preapplication meetings should include the following:

1. Vicinity map showing site location in relation to surrounding sites and development;
2. A sketch or drawing of the site showing its approximate configuration and dimensions;
3. A sketch or drawing of the site showing natural site conditions including topographic information, drainage, and existing vegetation. Photographs are encouraged;
4. Conceptual drawings or sketches of proposed buildings.

B. Design Review Application. Application for design review will be on application forms provided by the city. The city will also furnish applicants with guidelines and standards to assist in design. All applications must be submitted to the city department of community development, which will conduct an initial assessment for completeness and code compliance prior to review routing to city staff.

C. A complete design review application shall include the following:

1. Site Layout. A plan, drawn to scale no smaller than one inch equals 30 feet, showing location and size of all structures, critical areas, required buffer areas, landscape areas, open spaces, common areas or plazas, walkways, preliminary stormwater retention/detention facilities, and parking lot layout and vehicle circulation.
2. Landscape Plan. A plan showing the species, size and location of all existing indigenous and native trees eight inches in diameter or larger, and other significant shrubs, groundcovers, and ornamental grasses within the property subject to the application. This plan must also include all proposed new landscaping, and whether it is associated with stormwater management.
3. Stormwater Site Plan. A plan showing all proposed best management practices to be used in the site design. The plan, defined in Chapter [13.104](#) SMC, shall identify and describe the type of stormwater management technique(s) being used and applicable calculations (e.g., size, capacity, etc.).
4. Preliminary Site Section Drawings. Section drawings which illustrate existing and proposed grades.
5. Preliminary Grading Plan. An accurate topographic map of the property, delineating contours, existing and proposed, at no greater than five-foot intervals. The plan shall indicate all proposed cuts, fills and retaining wall heights and include areas of disturbance necessary to construct all retaining walls, structures and impervious surfaces.
6. Preliminary Utilities Plan. A utilities plan showing the location and type of any utilities proposed in critical areas, critical area buffers and natural vegetation retention areas.

7. Colored Elevation Drawings. Complete colored elevation drawings of all buildings showing dimensions and proposed materials including roofing, siding, windows and trim. Drawings shall include conceptual trim and cornice design and roof pitch. If landscaping is proposed to soften or mitigate architectural modulation or details, additional elevation drawings showing proposed landscaping shall be provided.

8. Equipment Screening. A description of how all mechanical and utility equipment will be screened.

9. Color and Material Palette. The proposed schematic color and material palette for all elements open to exterior view including but not limited to exterior siding, trim, cornice, windows and roofing shall be presented graphically.

10. Fencing. The location and description of any proposed fencing shall be shown on the landscaping plan.

11. Lighting and Signage. A photometric plan identifying the location and height of proposed parking lot, pedestrian and/or building security light structures and poles. Sign type and location shall be identified. A separate city of Sequim sign application will be required for additional sign information.

12. Accessories, Where Applicable. The location of all outdoor furniture, trash receptacles, recycling areas, bicycle racks and other accessories.

13. Applications for design review shall be accompanied by a fee as established periodically by the city council.

D. Applicants pursuing two or more land use and/or building permits on a single project may consolidate the review process in conformance with SMC [20.01.050](#). (Ord. 2018-006 § 1 (Exh. A); Ord. 2017-002 § 1 (Exh. A); Ord. 2011-017 § 1; Ord. 2009-011 § 2 (Exh. B); Ord. 2008-007 § 2)

18.80.050 Permitted uses and development restrictions.

A. Permitted Uses. Uses permitted on properties classified as critical areas must be the same as those permitted in the underlying zone. Each use must be evaluated in accordance with the review process required for the proposed use in the underlying zone in conjunction with the requirements of this chapter and state and federal regulations.

B. Development Restrictions.

1. The following critical areas and their buffers must remain undisturbed pursuant to SMC [18.80.070](#), except as otherwise provided in SMC [18.80.080](#):

a. Wetlands;

b. Surface streams;

c. Ravines and marine bluffs;

d. Beaches and associated coastal-drift processes;

e. Fish and wildlife habitat conservation areas.

2. All other critical areas identified in SMC [18.80.030](#) are developable pursuant to the provisions of SMC [18.80.070](#). The applicant must provide supporting documentation that the proposal incorporates measures pursuant to this chapter that adequately protect the public health, safety and welfare.

3. Special Conditions.

a. As a condition of any land use permit, building permit, grading permit, clearing permit and subdivision or short plat issued pursuant to the Sequim Municipal Code, the property owner and/or applicant are required to create a separate critical area tract or tracts containing the areas determined to be critical area and/or critical area buffer.

b. The common boundary between a separate critical area tract and the adjacent land must be permanently identified. This identification must include permanent wood or metal signs on treated wood or metal posts indicating that property owners, homeowners' associations, or other party is responsible for the care and maintenance of the critical area tract(s).

c. Sign locations and size specification must be approved by the department of community development director or authorized designee.

d. The department of community development director or authorized designee requires permanent fencing of the critical areas when there is a substantial likelihood of the presence or introduction of domestic grazing animals within the development proposal.

e. The department of community development director or authorized designee may attach such additional conditions to the approval of any permit or application as deemed necessary to assure the preservation and protection of affected critical areas and to assure compliance with the purposes and requirements of this chapter.

f. This subsection does not apply to any single-family lot that is a lot of record or any single-family lot within any subdivision or short plat that has received preliminary approval prior to the adoption of this subsection. This subsection must not abrogate any requirements for critical area tracts already required for preliminary subdivisions or short plats approved prior to the adoption of this subsection. (Ord. 2017-005 § 1 (Exh. A); Ord. 2012-001 § 2 (Exh. A); Ord. 2011-017 § 2; Ord. 631 § 1, 1992)

18.80.060 Submittal requirements and support information required.

A. Submittal Requirements. Applications for land uses or developments proposed within critical areas must be filed with all the information requested on the application forms available from the department of community development. All developments proposed on lots or parcels which may contain or adjoin critical areas, as determined by the city, must be evaluated by the applicant to provide the information necessary for the department of community development to determine if and to what extent the site contains critical area characteristics. The department of community development director must make the determination to classify a site or portion of a site as critical area pursuant to the procedures set forth in SMC [18.80.045](#). For applications which are subject to review pursuant to SEPA, the appeal of a determination that a site is a critical area must be made pursuant to the SEPA appeals procedures as set forth in SMC Title [16](#).

B. Supporting Information Required.

1. All land uses and developments proposed on or adjacent to lots or parcels listed, identified, inventoried, classified or rated as critical areas must include supporting studies, prepared to describe the environmental limitations of the site. No construction activity, including clearing or grading, is permitted until the information required by this chapter is reviewed and approved by the city as adequate. Special environmental studies must include a comprehensive site inventory and analysis, a discussion of the potential impacts of the proposed development, and specific measures designed to mitigate any potential adverse environmental impacts of the applicant's proposal, both on site and off site, as follows:

a. A description of how the proposed development will or will not impact each of the following on the subject property and adjoining properties:

i. Erosion and landslide hazard,

ii. Seismic hazards,

iii. Drainage, surface and subsurface hydrology and water quality,

iv. Flood-prone areas,

v. Existing vegetation as it relates to steep slopes, soil stability and natural habitat,

vi. Locally unique landforms: ravines, marine bluffs, beaches and associated coastal-drift processes,

vii. Slopes greater than 40 percent,

viii. Wetlands, and

ix. Critical aquifer recharge areas pursuant to SMC [18.80.100](#);

b. Recommended methods for mitigating identified impacts and a description of how these mitigating measures may impact adjacent properties;

c. Any additional information determined to be relevant by the city or by the professional consultant who prepared the study.

2. Such studies must be prepared by qualified professionals.

C. City Review.

1. An applicant for a development proposal that includes or is within an identified critical area or critical area buffer must enter into a three-party agreement, as approved by the city. The applicant must pay the costs for the city to hire the appropriate consultant(s) to provide a critical area special study to adequately evaluate the proposal and all probable impacts, unless studies have already been prepared by the applicant's consultant. If the applicant has already prepared studies, the applicant must pay for the costs of a peer review of all studies submitted. The applicant must pay for any additional studies that may be required in the peer review. The selection of the consultant(s) hired for the study or peer review by the city must be at the sole discretion of the city.

2. All critical area studies must be prepared under the direction of the city. The department of community development director will make the final determination on the adequacy of these studies.

3. Project proposals with impacts to critical areas must be submitted to the appropriate agencies for review and comment.

4. The city's review of critical area permit applications must not be construed to take the place of any other additional local, state, or federal permits or permit requirements. (Ord. 2017-005 § 1 (Exh. A); Ord. 2012-001 § 2 (Exh. A); Ord. 2011-017 §§ 1, 2; Ord. 631 § 1, 1992)

18.80.070 Development standards.

A. Streams and Stream Buffers. Any development or construction adjacent to streams must preserve an undisturbed buffer which is wide enough to maintain the natural hydraulic and habitat functions of that stream as it relates to an urban environment. The dimensions of stream buffers are listed in subsection (A)(1) of this section. If streams are located within ravines, as defined in SMC [18.80.030](#), buffers will be established according to the criteria set forth in subsection B of this section.

1. Stream Buffers.

a. The following buffers of undisturbed native vegetation must be provided for different classes of streams and their tributaries. Dimensions are measured from the ordinary high-water elevation of the stream or watercourse, or from the top of the bank or dike:

Type 1 150 feet;

Type 2 100 feet;

Type 3 75 feet;

Type 4 50 feet;

Type 5 25 feet.

b. Closed stream segments must have no buffers.

c. Where the FEMA floodplain is wider than these buffers, the width of the floodplain is considered to be the buffer width.

2. Stream buffers must be increased to include streamside wetlands that provide overflow storage for stormwaters, feed water back to the stream during low flows or provide shelter and food for fish.

3. Additional Buffers. The department of community development director may require additional native vegetation or increased buffer sizes when environmental information indicates the necessity for additional vegetation or greater buffers in order to achieve the purposes of this chapter. In cases where additional buffers are not feasible, the department of community development director may require the applicant to undertake alternative on-site or off-site mitigation measures, including but not limited to a financial contribution to projects or programs which seek to improve environmental quality within the same or adjacent watershed.

4. Stream relocation must be allowed only when the relocation:

a. Is part of an approved mitigation or rehabilitation plan;

b. Will result in equal or better habitat and water quality;

c. Will not diminish the flow capacity of the stream; and

d. Will result in equal or better hydrologic continuity.

Any relocation must obtain prior approval from the Washington Department of Fish and Wildlife. Relocation of Type 1 streams is prohibited.

B. Ravines, Marine Bluffs and Beaches and Associated Coastal-Drift Processes. All properties falling within the buffer zones identified in the following subsection are subject to the requirements of this chapter.

1. Buffers. The following buffers of undisturbed vegetation must be established from the top of ravines and the top and toe of marine bluffs and ravine bluffs:

a. Ravines, 50 feet;

b. Marine bluffs, as set forth in the city's adopted shoreline master program;

c. Beaches and associated coastal-drift processes, as set forth in the city's adopted shoreline master program.

2. Buffer Reduction. Undisturbed zones adjoining both marine bluffs and beaches must be sufficient to assure that natural coastal-drift processes will remain unimpaired.

a. Buffers for "feeder" or eroding bluffs must not be reduced.

b. The buffer for noneroding bluffs may be reduced when expert verification and environmental information demonstrate that the proposed construction method will:

i. Not adversely impact the stability of ravine sidewalls and bluffs;

ii. Not increase erosion and mass-movement potential of ravine sidewalls and bluffs;

iii. Use construction techniques which minimize disruption of the existing topography and vegetation; and

iv. Include measures to overcome any geological, soils and hydrological constraints of the site.

c. Buffers must not be reduced to less than 25 feet from the top of a ravine, or the top or toe of a noneroding bluff.

3. Additional Buffers. The department of community development director may require increased buffers if environmental studies indicate such increases are necessary to mitigate landslide, seismic and erosion hazards, or as otherwise necessary to protect the public health, safety and welfare.

4. Viewshed Enhancement. In ravine and marine bluff buffers, tree removal for viewshed enhancement is allowed so long as tree removal does not exceed 50 percent and:

a. Will not increase geological hazards such as erosion potential, landslide potential or seismic hazard potential; or

b. Will not adversely affect significant wildlife habitat areas; and

c. Is based upon a review and recommendation by a certified arborist.

C. Geological Hazard (Erosion, Landslide, Seismic) Areas. Areas containing or adjacent to geological hazard areas must be altered only when the department of community development director concludes, based on environmental information, the following:

1. Landslide Hazard Areas.

a. There will be no increase in surface water discharge or sedimentation to adjacent properties;

b. There will be no decrease in slope stability on adjacent properties; and

c. Either:

i. There is no hazard as proven by evidence of no landslide activity in the past in the vicinity of the proposed development and a quantitative analysis of slope stability indicates no significant risk to the development proposal and adjacent properties,

ii. The landslide hazard area can be modified or the development proposal can be designed so that the landslide hazard is eliminated or mitigated so that the site is as safe as a site without a landslide hazard, or

iii. The alteration is so minor as not to pose a threat;

2. Erosion Hazard Areas.

a. Areas containing erosion hazard areas must have land clearing, grading or filling limited to the period between April 1st and October 1st,

b. Vegetation must be preserved or replaced;

3. Seismic Hazard Areas.

a. Areas containing or adjacent to seismic hazard areas must be altered only when the department of community development director concludes, based on environmental information, the following:

i. There is no actual hazard based on a lack of seismic activity in the past in the area of the development proposal, and a quantitative analysis of potential for seismic activity indicates no significant risk to the development proposal; or

ii. The development proposal can be designed so that it will minimize any risk of harm from seismic activity to public health, safety or welfare on or off the site.

b. Construction on fills allowed through a development permit must be certified by a qualified professional to be safe. This requirement may be waived by the public works director for actions involving minor changes, alterations, or additions to developed properties; provided, that such activities do not jeopardize public health, safety or welfare on or off the site;

4. Geological Hazard Area Buffers. If it is determined that a geological hazard area, particularly landslide hazard and erosion hazard areas or steep slopes, cannot be safely developed and must remain as permanent open space, the geological hazard area must have a buffer of 50 feet from the top and toe of the designated area. This buffer may be reduced (to not less than 25 feet) or enlarged based on

geotechnical review, which assures any such variation provides or is necessary to provide adequate protection of any structures on site.

D. Fish and Wildlife Habitat Conservation Areas. To protect the habitat of animal species which are considered to be endangered or threatened species and thereby maintain and increase their populations, fish and wildlife habitat conservation areas are subject to the following:

1. When a development proposal contains a priority habitat for endangered or threatened species, the applicant must submit a habitat management plan. The need for a habitat management plan must be determined during State Environmental Policy Act (SEPA) review of the proposal. The habitat management plan must identify how the impacts from the proposed project will be mitigated. Possible mitigation measures must include, but are not limited to:

- a. Establishment of buffer zones,
- b. Preservation of critically important plants and trees within the buffer,
- c. Limitation of access to habitat area,
- d. Scheduling construction activities to avoid interference with wildlife and fisheries rearing, resting, nesting or spawning activities,
- e. Using best available technology to avoid or reduce impacts,
- f. Using drainage and erosion control measures to prevent siltation of aquatic areas, and
- g. Possibly reducing the size, scope, configuration or density of the project;

2. Buffer. To retain adequate natural habitat for endangered or threatened species, buffers must be established on a case-by-case basis as described in a habitat management plan;

3. Uses and activities allowed within a significant wildlife habitat area as identified by a habitat management plan must be limited to low-intensity land uses which will not adversely affect or degrade the habitat and which will not be a threat to the critical ecological processes such as feeding, breeding, nesting and resting;

4. Bald eagle habitat must be protected pursuant to the Washington State bald eagle protection rules (WAC [232-12-292](#)). Whenever activities are proposed within 800 feet of a verified nest territory or communal roost, a habitat management plan must be developed by a qualified professional. The director must verify the location of eagle management areas for each proposed activity. Approval of the activity must not occur prior to approval of the habitat management plan by the Washington Department of Fish and Wildlife.

E. Frequently Flooded Areas. Development in frequently flooded areas which are not subject to the standards of other critical areas will be directed by Chapter [8.36](#) SMC, Flood Damage Prevention.

F. Wetlands.

1. The following wetlands are exempt from regulation:

- a. All isolated wetlands less than 1,000 square feet that are not part of a wetland mosaic;

- b. Category III wetlands less than 2,500 square feet;
- c. Category IV wetlands less than 4,356 square feet;
- d. Category IV wetlands greater than 4,356 square feet and less than 10,000 square feet with mitigation; and
- e. Wetlands created directly as a result of poorly maintained storm drainage systems that would not have been created if the drainage system had been properly maintained.
- f. The city reserves the right to require mitigation, after public notice, for small wetland impacts, consistent with ratios established in the table in subsection (F)(7) of this section should a mitigation bank or in-lieu fee program become available in the appropriate watershed.

2. Determination of Regulatory Wetland Boundary.

a. The exact location of the wetland boundary must be determined through the performance of a field investigation applying the wetland definition provided in this chapter. Qualified professionals must perform wetland delineations, which must be delineated in accordance with the procedure outlined in WAC [173-22-035](#) pursuant to RCW [36.70A.175](#) and [90.58.380](#). An applicant for a wetland permit is required to show the location of the wetland boundary on a scaled drawing as a part of the permit application.

b. The city retains the right to obtain its own delineations through a qualified professional pursuant to SMC [18.80.060](#). If the city's delineation differs from the applicant's delineation, the city's delineation must control and must be considered a final decision.

3. Wetland rating categories must be applied to the regulated wetland:

- a. As it exists on the date of adoption of the rating system by the city;
- b. As the regulated wetland may naturally change thereafter; or
- c. As the regulated wetland may change in accordance with permitted activities.
- d. Wetland rating categories must not be altered to recognize illegal modifications made by the applicant or with the applicant's knowledge.

4. Regulated Activities. A permit must be obtained from the city prior to undertaking the following activities in a regulated wetland or its buffer:

- a. The removal, clearing, excavation, grading or dredging of soil, sand, gravel, minerals, organic matter or material of any kind;
- b. Dumping, discharging or filling with any material;
- c. 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 wetlands vegetation through clearing, harvesting, shading, intentional burning or planting of vegetation that would alter the character of a regulated wetland; provided, that these activities are not part of a forest practice governed under Chapter [76.09](#) RCW and its rules, unless those activities are Class IV activities regulated by the city;

h. Stormwater management facilities in Category III or IV wetlands having no other reasonable alternative on-site location if the facilities are located in the outer 25 percent of the buffer; or

i. Development in Category III or IV wetlands having no feasible alternative location if mitigation sequencing is applied; or

j. Activities that result in the introduction of pollutants or a significant change of water temperature, physical or chemical characteristics of wetlands water sources, or in the quantity, timing, or duration of the water entering the wetland.

When such permit applications are submitted, the city must submit applications to the Department of Ecology for comment, pursuant to SMC [18.80.060](#)(C)(3). Ecology should submit its comments or should request an extension of the review period within 30 days of submittal. Extensions may be up to 30 days in length. When submitted, no permit is allowed to be issued under this subsection prior to receipt of such comments or the expiration of the time period or any extensions and receipt of any other necessary permits.

The rest of this section (beginning at subparagraph “5. Buffers” remains unchanged.

18.80.080 Development exceptions.

A. Reasonable Use Exceptions. Nothing in this chapter is intended to preclude reasonable use of property. An applicant for a city permit to develop or use real property located in a critical area may apply for a reasonable use exception as set forth in Chapter [18.72](#) SMC. Applications for modification of critical area development standards must be processed as Type B permits as set forth in Chapter [20.01](#) SMC.

1. An applicant requesting modification must provide the director with the following information:

a. Technical studies and other data that describe the possible injurious effects of the proposed development on occupiers of the land, on other properties, on public resources, and on the environment. Possible injurious effects must be described even when the injurious effect will become significant only in combination with similar effects from other developments; and

b. An explanation with supporting evidence of how and why compliance with the unmodified critical areas development standards would not permit reasonable use of the property.

2. The reasonable use exception must be approved and critical areas development standards may be modified only when all of the following findings can be made:

a. The application of this chapter would deny all reasonable use of the property;

b. No other reasonable 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 use of the property;

d. The inability of the applicant to derive reasonable use of the property is not the result of actions by the applicant after the effective date of the ordinance codified in this chapter or its predecessor;

e. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;

f. To the extent feasible while still allowing for reasonable use of the property, the proposal has been mitigated to avoid, reduce, or compensate for loss of critical area functions and values consistent with the best available science; and

g. The proposal is consistent with other applicable regulations and standards.

3. A critical areas development standard may be reduced, waived or otherwise modified only to the extent necessary to make the standard reasonable in light of all the facts and circumstances of a particular case. In modifying a development standard, the director may impose reasonable conditions that prevent or mitigate the same harm that the modified regulation was intended to prevent or mitigate.

4. A decision to modify a development standard may be appealed pursuant to the provisions of Chapter [20.01](#) SMC. The decision as to whether development pursuant to a modified development standard will cause significant injury must be affirmed unless found to be clearly erroneous. The decision as to whether strict application of a development standard is reasonable must be accorded

substantial weight, and the burden of proof of justifying the reasonable use exception must be on the applicant.

B. Modification of Existing Structures. Existing structures or improvements that do not meet the requirements of this chapter are considered conforming pursuant to SMC [18.80.075](#) and may be remodeled, reconstructed or replaced; provided, that the new construction does not further disturb or encroach upon a critical area or its buffer.

C. Previously Altered Critical Areas or Buffers. If any portion of a critical area or its buffer has been altered from its natural state, the applicant may propose to develop within the altered area pursuant to the following decision criteria:

1. The critical area or buffer was lawfully altered in accordance with the provisions of the city ordinances and any state and federal laws at the time the alteration occurred;
2. The alteration has significantly disrupted the natural functions of the critical area or its buffer as determined by a qualified professional;
3. The proposal utilizes to the maximum extent possible the best available construction, design and development techniques which result in the least adverse impact on the critical area and its buffer as determined by a qualified professional;
4. The proposal incorporates the development standards of SMC [18.80.070](#);
5. The new development will not further degrade the critical area or its buffer as determined by a qualified professional;
6. The proposal is consistent with the purpose and intent of this chapter; and
7. The applicant must mitigate and enhance the remaining critical area or buffer. An enhancement plan must be submitted in accordance with the requirements of SMC [18.80.060](#).

D. Emergencies. The department of community development director may approve improvements that are necessary to respond to emergencies that threaten the public health and safety, or public development proposals, when it determines that no reasonable alternative exists and the benefit outweighs the loss.

1. Emergencies must be verified by a licensed engineer and notice of their existence must be posted in a paper of general circulation within the city.
2. Within 30 days, the director must determine if the action taken was within the scope of the emergency actions allowed in this subsection. If the director determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, then enforcement provisions must apply.
3. 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. The person or agency undertaking the action must apply for review, and the alteration, critical area report, and mitigation plan must be reviewed by the city in accordance with the review procedures contained

herein. Restoration and/or mitigation activities must be initiated within one year of the date of the emergency, and completed in a timely manner.

E. Drainage Facilities. Category III or IV wetlands and their buffers, and stream buffers, may be altered for use as a public drainage facility; provided, that all requirements of the city stormwater management plan and all other local, state and federal laws are satisfied, and so long as increased and multiple natural resource functions are achievable and the benefits outweigh any lost resource. The department of community development director may approve public drainage facilities in a buffer only when he/she determines that long-term impacts are minimal or when there are no practicable or reasonable alternatives and mitigation is provided. Drainage facilities shall be limited to the outer 25 percent of a buffer.

F. Trails and Trail-Related Facilities. Public and private trails and trail-related facilities, such as picnic tables, benches, interpretive centers and signs, and viewing platforms, must be allowed, but use of impervious surface must be minimized. Trails and trail-related facilities must be avoided within streams. The department of community development director may approve such trails and facilities only when he/she determines that there is no practicable or reasonable upland alternative. Trail planning construction and maintenance must adhere to the following additional criteria:

1. Trails and related facilities must, to the extent feasible, be placed on existing levies, road grades, utility corridors or any other previously disturbed areas;
2. Trails and related facilities must be planned, aligned, and constructed to minimize removal of trees, shrubs, snags and important wildlife habitat and disturbance to critical area functions;
3. Trails and related facilities must provide water quality protection measures to assure that runoff from them does not directly discharge to wetlands or streams;
4. Private trail widths must be limited to five feet; public trail widths must be limited to five feet or the minimum necessary to achieve Americans with Disabilities Act (ADA) compliance;
5. Public trails must be constructed and located in a manner that will achieve ADA compliance; and
6. Trails and related facilities must not exceed five percent impervious surface based on the total size of the critical area and its buffer.

G. Utilities. Every attempt must be made to avoid locating new utilities within streams and stream buffers. The department of community development director may approve new utilities in streams and stream buffers only when he/she determines that there is no practicable or reasonable upland alternative.

H. Stream Crossings. Stream crossings, whether for access or utility purposes, must be avoided to the extent possible; but when necessary due to the lack of feasible alternatives, crossing of streams must follow all applicable local, state and federal laws and the following criteria:

1. Bridges are required for streams that support anadromous fish, unless otherwise allowed by the Washington State Department of Fisheries;
2. All crossings using culverts must use superspan, oversize, box or bottomless culverts;

3. All crossings must be constructed and installed during summer low flow between June 15th and September 15th;

4. Crossings must not occur in anadromous fish spawning areas unless no other feasible crossing site exists;

5. Bridge piers or abutments must not be placed in either the floodway or between the ordinary high-water marks unless no other feasible alternative placement exists;

6. Crossings must not diminish flood-carrying capacity;

7. Crossings must provide for maintenance of culverts, bridges and utilities; and

8. Crossings must serve multiple properties whenever possible.

I. Time Limitation. A development exception automatically expires and is void if the applicant fails to file for a building permit or other necessary development permit within one year of the effective date of the development exception, unless either:

1. The applicant has received an extension for the development exception pursuant to subsection J of this section;

2. The development exception approval provides for a greater time period.

J. Time Extension. The department of community development director may extend the development exception, not to exceed one year, if:

1. Unforeseen circumstances or conditions necessitate the extension of the development exception;

2. Termination of the development exception would result in unreasonable hardship to the applicant, and the applicant is not responsible for the delay; and

3. The extension of the development exception will not cause adverse impacts to critical areas.

K. Mitigation. For any allowable development exception provided under this section, the associated adverse impacts must be considered unavoidable but mitigable. The applicant must first demonstrate that they have taken the following mitigation sequencing actions:

- Avoiding the impact altogether by not taking a certain action or parts of an action;

- 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;

- Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

- Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;

- Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or

- Monitoring the impact and taking appropriate corrective measures.

Mitigation must not be implemented until after city approval of the critical area report and mitigation plan prepared in accordance with subsection (K)(4) of this section.

1. General Requirements. The applicant must develop a mitigation plan that provides for construction, maintenance, monitoring and contingencies of the critical areas compensatory mitigation as required by conditions of approval and consistent with the requirements of this chapter. The mitigation plan must be consistent with subsection (K)(4) of this section. All mitigation sites must have buffers consistent with the buffer requirements of this chapter. Where feasible, mitigation projects must be completed prior to activities that will disturb critical areas. In all other cases, mitigation must be completed immediately following disturbance and prior to use or occupancy of the activity or development. Construction of mitigation projects must be timed to reduce impacts to existing wildlife and vegetation. For mitigation projects that involve creating new wetlands or relocating streams, the director of community development must have the authority to modify the buffer requirements on a case-by-case basis to avoid unduly encumbering neighboring properties.

2. On properties where mitigation is required, prior to issuance of any construction, grading, or building permits, or preliminary approval of a major plat, short plat, or binding site plan, a "critical areas performance bond" or other suitable financial guarantee as approved by the city attorney must be submitted to the department of community development. The amount of the bond or other financial guarantee must be equal to 150 percent of the estimated cost of the mitigation. Such bond or other suitable financial guarantee must not be released until all required mitigation is installed.

3. Monitoring. All mitigation projects must be monitored for a period of five years. Monitoring reports must be submitted annually for the first three years following construction and at least upon the completion of the fifth year to document milestones, successes, problems, and contingency actions of the mitigation. The applicant must deposit an amount equal to 125 percent of the full cost of monitoring with the city before monitoring begins. The city must use such funds to pay for monitoring costs associated with the mitigation project. Once the monitoring has been completed, the city must refund any remaining funds to the applicant within 60 days of receiving the final monitoring report. The director must have the authority to extend the monitoring period and require additional monitoring reports beyond the initial five-year monitoring period for any project that does not meet the performance standards identified in the mitigation plan, does not provide adequate replacement for the functions and values of the impacted critical area, or otherwise warrants additional monitoring (such as when forested wetlands are restored or created).

4. Mitigation Plans. All restoration and compensation projects must follow a mitigation plan prepared by qualified professionals containing, at a minimum, the following components:

a. Baseline Information. Quantitative data must be collected and synthesized for both the impacted critical area and the proposed mitigation site, if different from the impacted critical area, following procedures approved by the department of community development;

b. Environmental Goals and Objectives. Goals and objectives describing the purposes of the mitigation measures must be provided, including a description of site selection criteria, identification of target evaluation species and resource functions;

c. Performance Standards. Specific criteria for fulfilling environmental goals and objectives and for beginning remedial action or contingency measures must be provided, including water quality standards, species richness and diversity targets, habitat diversity indices, or other ecological, geological or hydrological criteria;

d. Detailed Construction Plan. Written specifications and descriptions of mitigation techniques must be provided, including the proposed construction sequence, accompanied by detailed site diagrams and blueprints that are an integral requirement of any development proposal;

e. Monitoring Program. A program outlining the approach for assessing a completed project must be provided including descriptions or proposed experimental and control site survey or sampling techniques. A protocol must be included outlining how the monitoring data will be evaluated by agencies that are tracking the progress of the mitigation project. A report must be submitted at least twice yearly documenting milestones, successes, problems and contingency action of the restoration or compensation project. The department of community development director must require that the applicant monitor the project consistent with subsection (K)(3) of this section;

f. Contingency Plan. A plan must be provided fully identifying potential courses of action and any corrective measures to be taken when monitoring or evaluation indicates project standards are not being met;

g. Performance and Maintenance Securities. Securities ensuring fulfillment of the mitigation project, monitoring program and any contingency measures must be posted pursuant to SMC [18.80.110](#).

5. Restoring Closed Stream Segments.

a. The city allows the voluntary opening of previously channelized/culverted streams and the rehabilitation and restoration of streams, especially on public property or when a property owner is a proponent in conjunction with new development.

b. When closed stream segments are restored, a protective buffer must be required of the stream section. The buffer distance must be 25 feet, regardless of stream classification, to allow for restoration and maintenance. The stream and buffer area must include habitat improvements and measures to prevent erosion, landslide and water quality impacts.

c. Removal of pipes conveying streams must only occur when the city determines that the proposal will result in a new improvement of water quality and ecological functions and will not significantly increase the threat of erosion, flooding, slope stability or other hazards.

6. Other mitigation alternatives, such as banking, in-lieu fees, off-site mitigation, and/or advance mitigation, may be used if the city has established procedures.

a. In-Lieu Fee. To aid in the implementation of off-site mitigation, the city may develop a program which prioritizes wetland areas for use as mitigation and/or allows payment in lieu of providing mitigation on a development site. This program must be developed and approved through a public process. The program should address:

i. The identification of sites within the city that are suitable for use as off-site mitigation. Site suitability must take into account wetland functions, potential for wetland degradation, and potential for urban growth and service expansion; and

ii. The use of fees for mitigation on available sites that have been identified as suitable and prioritized.

b. Wetland Mitigation Banks. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:

i. The bank is certified under state rules;

ii. The administrator determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and

iii. The proposed use of credits is consistent with the terms and conditions of the bank's certification.

Replacement ratios for projects using bank credits must be consistent with replacement ratios specified in the bank's certification. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, the service area of the bank may include portions of more than one adjacent drainage basin for specific wetland functions.

7. Final Approval. The department of community development director must grant final approval of a completed restoration or compensation project if the final report of the project mitigation plan satisfactorily documents that the area has achieved all requirements of this section. (Ord. 2017-005 § 1 (Exh. A); Ord. 2012-001 § 2 (Exh. A); Ord. 631 § 1, 1992)