



**CITY OF EDGEWOOD
COUNCIL STUDY SESSION AGENDA**

Tuesday, July 5, 2022 – 7:00 PM ♦ City Hall – 2224 104th Avenue East ♦ Edgewood, WA
Meeting Link: <https://us06web.zoom.us/j/83058367801>

1. CALL TO ORDER

Roll Call, Pledge of Allegiance

2. COUNCIL BUSINESS

- A. Discussion** – Equity, Diversity and Inclusion (Trainings, Planning, etc.)
- B. Discussion** – Resolution – RCO Grant Authorization – Interurban Trail
- C. Discussion** – Meridian Preliminary Design (CIP T-8 / TIP #2)
- D. Discussion** – Resolution – WSDOT HSIP Supplemental Agreement – Chrisella Safety Improvements
- E. Discussion** – Dhaliwal Town Center (TC) Landing Development Agreement
- F. Discussion** – Plotter Purchase
- G. Discussion** – August 2nd, and 30th Study Sessions
- H. Discussion** – Core Distinctions Group Agreement-Hotels
- I. Discussion** – Resolution – Dhaliwal LID Segregation

3. OTHER COUNCIL ITEMS

4. ADJOURN

Study Sessions are meetings for Council to review upcoming and pertinent business of the City, no action is taken by the City Council. Study Sessions are open to the public, but public input is reserved for the regular Council meetings



City Of Edgewood Council Agenda Summary Sheet

Subject: Discussion – Resolution – RCO Grant Authorization – Interurban Trail	Agenda Item #: 2.B
	For Agenda of: 7/5/2022
	Prepared by: Jeremy Metzler
Attachments (list): 1. DRAFT Resolution - RCO grant 2. SampleProjAgreement	
Approval of Materials: Jeremy Metzler Rachel Pitzel 6/30/2022 Dave Gray 6/30/2022 Daryl Eidinger 6/30/2022	Expenditure Required: None at this time Amount Budgeted: TBD Timeline: 07/05/2022 SS 07/12/2022 RCM

Summary Statement:

Staff is currently seeking RCO grant funds to design and construct Phase III of the Interurban Trail, which will connect the Jovita Crossroads Trailhead to West Valley Highway via Jovita Canyon. Agencies are required to include "Authorizing Resolutions" with grant applications submitted to the Washington State Recreation and Conservation Office (RCO). Staff has prepared the attached draft resolution for Council's consideration, as well as the sample project agreement which the City will be asked to enter into with RCO.

Item History:

N/A

Recommended Action:

Hold a discussion and provide staff guidance regarding **Discussion** – Resolution – RCO Grant Authorization – Interurban Trail

Fiscal Note/Consideration:

This grant application represents nearly half of the total estimated cost for this project.

RESOLUTION NO. 22-0XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, PIERCE COUNTY, WASHINGTON, AUTHORIZING THE MAYOR TO ACT AS THE AUTHORIZED REPRESENTATIVE/AGENT ON BEHALF THE CITY OF EDGEWOOD AND TO LEGALLY BIND THE CITY OF EDGEWOOD WITH RESPECT TO THE INTERURBAN TRAIL PHASE III PROJECT FOR WHICH WE SEEK GRANT FUNDING ASSISTANCE MANAGED THROUGH THE RECREATION AND CONSERVATION OFFICE (“RCO” OR THE “OFFICE”).

WHEREAS, grant assistance is requested by our organization to aid in financing the cost of the Project referenced above;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. Our organization has applied for or intends to apply for funding assistance managed by the Office for the above “Project.”

Section 2. Our organization authorizes Daryl Eidinger, Mayor, to execute the following documents as an “authorized representative / agent” for the purposes of binding our organization on the above project: (1) Grant application, including submission thereof, (2) Project contact (day-to-day administering of the grant and communicating with the RCO), (3) RCO Grant Agreement (Agreement), (4) Agreement amendments, and (5) Authorizing property and real estate documents (Notice of Grant, Deed of Right or Assignment of Rights if applicable; These are items that are typical recorded on the property with the county). Our organization shall comply with a request from the RCO to provide documentation of persons who may be authorized to execute documents related to the grant.

Section 3. Our organization has reviewed the sample RCO Grant Agreement on the Recreation and Conservation Office’s WEB SITE at: <https://rco.wa.gov/wp-content/uploads/2019/06/SampleProjAgreement.pdf>. We understand and acknowledge that if offered an agreement to sign in the future, it will contain an indemnification and legal venue stipulation and other terms and conditions substantially in the form contained in the sample Agreement and that such terms and conditions of any signed Agreement shall be legally binding on the sponsor if our representative/agent enters into an Agreement on our behalf. The Office reserves the right to revise the Agreement prior to execution.

Section 4. Our organization acknowledges and warrants, after conferring with its legal counsel, that its authorized representative(s)/agent(s) have full legal authority to act and sign on behalf of the organization for their assigned role/document.

Section 5. Grant assistance is contingent on a signed Agreement. Entering into any Agreement with the Office is purely voluntary on our part.

Section 6. Our organization understands that grant policies and requirements vary depending on the grant program applied to, the grant program and source of funding in the Agreement, the characteristics of the project, and the characteristics of our organization.

Section 7. Our organization further understands that prior to our authorized representative(s)/agent(s) executing any of the documents listed above, the RCO may make revisions to its sample Agreement and that such revisions could include the indemnification and the legal venue stipulation. Our organization accepts the legal obligation that we shall, prior to execution of the Agreement(s), confer with our authorized representative(s)/agent(s) as to any revisions to the project Agreement from that of the sample Agreement. We also acknowledge and accept that if our authorized representative(s)/agent(s) executes the Agreement(s) with any such revisions, all terms and conditions of the executed Agreement shall be conclusively deemed to be executed with our authorization.

Section 8. Any grant assistance received will be used for only direct eligible and allowable costs that are reasonable and necessary to implement the project(s) referenced above.

Section 9. Our organization acknowledges that if it receives grant funds managed by the Office, the Office will pay us on only a reimbursement basis. We understand reimbursement basis means that we will only request payment from the Office after we incur grant eligible and allowable costs and pay them. The Office may also determine an amount of retainage and hold that amount until all project deliverables, grant reports, or other responsibilities are complete.

Section 10. Our organization acknowledges that any property owned by our organization that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the purpose of the grant in perpetuity unless otherwise allowed by grant program policy, or Office in writing and per the Agreement or an amendment thereto.

Section 11. This resolution/authorization is deemed to be part of the formal grant application to the Office.

Section 12. Our organization warrants and certifies that this resolution/authorization was properly and lawfully adopted following the requirements of our organization and applicable laws and policies and that our organization has full legal authority to commit our organization to the warranties, certifications, promises and obligations set forth herein.

Section 13. Effective Date. This resolution will take effect immediately upon passage by the City Council.

ADOPTED THIS 12TH DAY OF JULY, 2022

Daryl Eiding, Mayor

ATTEST:

Rachel Pitzel, CMC
City Clerk

DRAFT

This agreement template is used by the Recreation and Conservation Office (RCO) for the management of the grant and other programs it administers. This example is provided for review by applicants' and their counsel as they seek grant funding managed by RCO.

This grant agreement will contain changes at issuance based on the specifics of each funded project. For instance, changes will occur based on the applicant, funding program, fund source, project type, rule or law changes, and other factors. Applicants that receive funding from RCO are encouraged to thoroughly review their customized grant agreement prior to final signature.

RCO reserves the right to make updates to this template.

RCO GRANT AGREEMENT

Project Name: _____

Project Number: _____

Issuance Date: _____

A. PARTIES OF THE GRANT AGREEMENT.

1. This Recreation and Conservation Office Grant Agreement (Agreement) is entered into between the State of Washington {FundingAgency} Recreation and Conservation Office (RCO), P.O. Box 40917, Olympia, Washington 98504-0917 and {PrimarySponsorNameAddress} {SecondarySponsorNameAddress}, and shall be binding on the agents and all persons acting by or through the parties.
2. The Sponsor's Data Universal Numbering System (DUNS) Number is {DUNNSNumber}.
3. All Sponsors are equally and independently subject to all the conditions of this Agreement except those conditions that expressly apply only to the primary Sponsor.
4. Prior to and During the Period of Performance, Per the Applicant Resolution/Authorizations submitted by all sponsors (and on file with the RCO), the identified Authorized Representative(s)/Agent(s) have full authority to legally bind the Sponsor(s) regarding all matters related to the project, including but not limited to, full authority to: (1) sign a grant application for grant assistance, (2) enter into this project agreement on behalf of the Sponsor(s) including indemnification, as provided therein, (3) enter any amendments thereto on behalf of Sponsor(s), and (4) make any decisions and submissions required with respect to the project. Agreements and amendments must be signed by the Authorized Representative/Agent(s) of all Sponsors, unless otherwise allowed in the AMENDMENTS TO AGREEMENT Section.
 - a. During the Period of Performance, in order for a Sponsor to change its Authorized Representative/Agent as identified on the original signed Applicant Resolution/Authorization the Sponsor must provide the RCO a new Applicant

Resolution/Authorization signed by its governing body. Unless a new Applicant Resolution/Authorization has been provided, the RCO shall proceed on the basis that the person who is listed as the Authorized Representative in the last Resolution/Authorization that RCO has received is the person with authority to bind the Sponsor to the Agreement (including any amendments thereto) and decisions related to implementation of the Agreement.

- b. Amendments After the Period of Performance. RCO reserves the right to request and Sponsor has the obligation to provide, authorizations and documents that demonstrate any signatory to an amendment has the authority to legally bind the Sponsor as described in the above Sections A and J.
5. For the purposes of this Agreement, as well as for grant management purposes with RCO, only the primary Sponsor may act as a fiscal agent to obtain reimbursements (See PROJECT REIMBURSEMENTS Section).

B. PURPOSE OF AGREEMENT.

This Agreement sets out the terms and conditions by which a grant is made from the {AccountName} of the State of Washington. The grant is administered by the RCO.

C. DESCRIPTION OF PROJECT.

{ProjectDescription}

D. PERIOD OF PERFORMANCE.

1. The period of performance begins on {StartDate} (project start date) and ends on {EndDate} (project end date). No allowable cost incurred before or after this period is eligible for reimbursement unless specifically provided for by written amendment or addendum to this Agreement, or specifically provided for by applicable RCWs, WACs, and any applicable RCO manuals as of the effective date of this Agreement.
2. The RCO reserves the right to summarily dismiss any request to amend this Agreement if not made at least 60 days before the project end date.

E. STANDARD TERMS AND CONDITIONS INCORPORATED.

The RCO Standard Terms and Conditions of the Agreement are hereby incorporated by reference as part of this Agreement.

F. LONG-TERM OBLIGATIONS.

(This is a custom section based on project, program, and sponsor type. See [attached spreadsheet of those that may apply.](#))

G. PROJECT FUNDING.

The total grant award provided for this project shall not exceed {RCOAmount}. The RCO shall not pay any amount beyond that approved for grant funding of the project and within the percentage as identified below. The Sponsor shall be responsible for all total project costs that exceed this amount. The minimum matching share provided by the Sponsor shall be as indicated below:

{FundingTable}

H. FEDERAL FUND INFORMATION.

(This section only appears if there is federal funding nexus)

{FederalFundingInfo}

This funding is not research and development (R&D).

If the Sponsor's total federal expenditures are \$750,000 or more during the Sponsor's fiscal-year, the Sponsor is required to have a federal single audit conducted for that year in compliance with 2 C.F.R. Part 200, Sub Part F—Audit Requirements, Section 500 (2013). The Sponsor must provide a copy of the final audit report to RCO within nine months of the end of the Sponsor's fiscal year, unless a longer period is agreed to in advance by the federal agency identified in this section.

Sponsor shall comply with the federal "Omni-circular" (2 C.F.R. Part 200).

RCO may suspend all reimbursements if the Sponsor fails to timely provide a single federal audit; further the RCO reserves the right to suspend any and all RCO Agreement(s) with the Sponsor if such noncompliance is not promptly cured.

I. RIGHTS AND OBLIGATIONS INTERPRETED IN LIGHT OF RELATED DOCUMENTS.

All rights and obligations of the parties under this Agreement are further specified in and shall be interpreted in light of the Sponsor's application and the project summary and eligible scope activities under which the Agreement has been approved and/or amended as well as documents produced in the course of administering the Agreement, including the eligible scope activities, the milestones report, progress reports, and the final report. Provided, to the extent that information contained in such documents is irreconcilably in conflict with this Agreement, it shall not be used to vary the terms of the Agreement, unless the terms in the Agreement are shown to be subject to an unintended error or omission. This "Agreement" as used here and elsewhere in this document, unless otherwise specifically stated, has the meaning set forth in the definitions of the Standard Terms and Conditions.

The following Exhibits are attached as part of this Agreement:

(This is a custom section listing things like "Expanded Scope of Work," "Milestones," and "Eligible Scope Items," which become part of this agreement.)

If an exhibit is referenced in this Agreement as an exhibit or attached to this Agreement, regardless whether it is on this list, it shall still be considered part of this Agreement.

J. AMENDMENTS TO AGREEMENT.

1. Except as provided herein, no amendment (including without limitation, deletions) of this Agreement will be effective unless set forth in writing signed by all parties. Exception: extensions of the Period of Performance and minor scope adjustments need only be signed by

RCO's director or designee and consented to in writing (including email) by the Sponsor's Authorized Representative/Agent or Sponsor's designated point of contact for the implementation of the Agreement (who may be a person other than the Authorized Agent/Representative), unless otherwise provided for in an amendment. This exception does not apply to a federal government Sponsor or a Sponsor that requests and enters into a formal amendment for extensions or minor scope adjustments.

2. It is the responsibility of a Sponsor to ensure that any person who signs an amendment on its behalf is duly authorized to do so.
3. Unless otherwise expressly stated in an amendment, any amendment to this Agreement shall be deemed to include all current federal, state, and local government laws and rules, and policies applicable and active and published in the applicable RCO manuals or on the RCO website in effect as of the effective date of the amendment, without limitation to the subject matter of the amendment. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone. However, any such amendment, unless expressly stated, shall not extend or reduce the long-term obligation term.

K. COMPLIANCE WITH APPLICABLE STATUTES, RULES, AND POLICIES.

1. This Agreement is governed by, and the sponsor shall comply with, all applicable state and federal laws and regulations, applicable RCO manuals as identified below, Exhibits, and any applicable federal program and accounting rules effective as of the date of this Agreement or as of the effective date of an amendment, unless otherwise provided in the amendment. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone unless otherwise expressly stated in the amendment.
2. For the purpose of this Agreement, {WAC...} shall apply as terms of this Agreement.
3. For the purpose of this Agreement, the following RCO manuals are deemed applicable and shall apply as terms of this Agreement:

{CustomApplicableManuals}

Provided, where a manual refers to a funding board's responsibility and/or authority but the funding board is not involved with the grant or successor to an entity that was involved, the RCO director shall have that responsibility and/or authority if such responsibilities and/or authority falls within the RCO's statutory responsibilities and/or authority or within a lawful delegation by the board to the RCO.

L. SPECIAL CONDITIONS.

{CustomSpecialConditionsAsMayApply}

M. AGREEMENT CONTACTS.

The parties will provide all written communications and notices under this Agreement to either or both the mail address and/or the email address listed below:

{CustomProjectContacts}

These addresses and contacts shall be effective until receipt by one party from the other of a written notice of any change. Unless otherwise provided for in this Agreement, decisions relating to the Agreement must be made by the Authorized Representative/Agent, who may or may not be the Project Contact for purposes of notices and communications.

N. ENTIRE AGREEMENT.

This Agreement, with all amendments and attachments, constitutes the entire Agreement of the parties. No other understandings, oral or otherwise, regarding this Agreement shall exist or bind any of the parties.

O. EFFECTIVE DATE.

1. Unless otherwise provided for in this Agreement, this Agreement, for project {ProjectNumber}, shall not be effective and binding until the date signed by both the sponsor and the RCO's authorized representative, whichever is later (Effective Date). Reimbursements for eligible and allowable costs incurred within the period of performance identified in the PERIOD OF PERFORMANCE Section are allowed only when this Agreement is fully executed and an original is received by RCO.
2. The Sponsor has read, fully understands, and agrees to be bound by all terms and conditions as set forth in this Agreement and the STANDARD TERMS AND CONDITIONS OF THE RCO GRANT AGREEMENT. The signators listed below represent and warrant their authority to bind the parties to this Agreement.

Signatures:

Sponsor/Date

Recreation and Conservation Office/Date

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STANDARD TERMS AND CONDITIONS OF THE RCO GRANT AGREEMENT

Last Updated: February 12, 2020

1. CITATIONS, HEADINGS AND DEFINITIONS.

- A)** Any citations referencing specific documents refer to the current version on the effective date of this Agreement or the effective date of any amendment thereto.
- B)** Headings used in this Agreement are for reference purposes only and shall not be considered a substantive part of this Agreement.
- C)** Definitions. As used throughout this Agreement, the following terms shall have the meaning set forth below:

acquisition project – A project that purchases or receives a donation of a right to or in real property including, but not limited to, fee simple land acquisition, conservation easement, access/trail/recreational easements, covenants, leases, water rights, and mineral rights.

Agreement, terms of the Agreement, or project agreement – The document entitled “RCO GRANT AGREEMENT” accepted by all parties to the present project and transaction, including without limitation the Standard Terms and Conditions of the RCO Grant Agreement, all exhibits, attachments, addendums, amendments, and applicable manuals, and any intergovernmental agreements, and/or other documents that are incorporated into the Agreement subject to any limitations on their effect under this Agreement.

applicable manual(s), manual -- A manual designated in this Agreement to apply as terms of this Agreement, subject (if applicable) to substitution of the “RCO director” for the term “board” in those manuals where the project is not approved by or funded by the referenced board, or a predecessor to the board.

applicable WAC(s) -- Designated chapters or provisions of the Washington Administrative Code that apply by their terms to the type of grant in question or are deemed under this Agreement to apply as terms of the Agreement, subject to substitution of the “RCO director” for the term “board” or “agency” in those cases where the RCO has contracted to or been delegated to administer the grant program in question.

applicant – Any party, prior to becoming a Sponsor, who meets the qualifying standards/eligibility requirements for the grant application or request for funds in question.

application – The documents and other materials that an applicant submits to the RCO to support the applicant’s request for grant funds; this includes materials required for the “Application” in the RCO’s automated project information system, and other documents as noted on the application checklist including but not limited to legal opinions, maps, plans, evaluation presentations and scripts.

archeological, cultural, and historic resources - Archeological sites and artifacts, and traditional areas or items of religious, ceremonial and/or social (significance to) (uses of) tribes affected by or interested in the project. This also refers to built environments and places with historical significance for the nation, state, or local area.

authorized representative/agent – A Sponsor’s agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor’s signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

C.F.R. – Code of Federal Regulations

completed project or project completion - The status of a project when all of the following have occurred:

1. The grant funded project has been inspected by the RCO and the RCO has determined that all scopes of work to implement the project have been completed satisfactorily,
2. A final project report is submitted to and accepted by RCO,
3. Any needed amendments to the Agreement have been entered by the Sponsor and RCO and have been delivered to the RCO
4. A final reimbursement request has been paid by RCO.
5. Property rights (including RCO’s as may apply) have been recorded (as may apply)

contractor – An entity that receives a contract from a Sponsor related to performance of work or another obligation under this Agreement.

compliance period, or long-term compliance period – The term of years, beginning on the end date of the agreement, when long-term obligations exist for the Sponsor. The start date and end date of the compliance period may also be prescribed by RCO per the Agreement.

conversion – A conversion occurs 1) when facilities acquired, developed, renovated or restored within the project area are changed to a use other than that for which funds were approved, without obtaining prior written formal RCO or board approval, 2) when property interests are conveyed to a third party not otherwise eligible to receive grants in the program from which funding was approved without obtaining prior written formal RCO or board approval, or 3) when obligations to operate and maintain the funded property are not complied with after reasonable opportunity to cure.

development project – A project that results in the construction of, or work resulting in, new elements, including but not limited to structures, facilities, and/or materials to enhance outdoor recreation resources. A development project may also involve activities that redevelop or renovate an existing facility, and these may occur exclusively in the project or in combination with new construction. For projects in the Boating Facilities Program, the term “development project” includes all of the above and may also include those activities that are defined as maintenance in 50 C.F.R 86.

director or Director – The chief executive officer of the Recreation and Conservation Office or that person’s designee.

education project – A project that provides information, education, and outreach programs and/or services for the benefit of outdoor recreationists. This project may involve limited amounts of capital construction or installation of tangible property.

education and enforcement project – A project that provides information, education, and outreach programs or services; encourages responsible recreational behavior, and may provide law enforcement for the benefit of outdoor recreationists. This project may involve limited amounts of capital construction or installation of tangible property, and equipment purchases.

effective date – The date when the signatures of all parties to this agreement are present in the agreement.

enhancement project – A project that (i) supports hatchery reform to improve hatchery effectiveness to minimize impacts to wild fish populations, (ii) ensures compatibility between hatchery production and salmon recovery programs, or (iii) supports sustainable fisheries (WAC 420.04.010).

equipment – Tangible personal property (including information technology systems) having a useful service life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the Sponsor or \$5,000 (2 C.F.R. § 200.33 (2013)).

funding board or board – The Washington State Recreation and Conservation Funding Board, or the Washington State Salmon Recovery Funding Board. Or both as may apply.

Funding Entity – the entity that approves the project that is the subject to this Agreement.

grant program – The source of the grant funds received. May be an account in the state treasury, or a grant category within a larger grant program, or a federal source.

indirect cost – Costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved (2 C.F.R. § 200.56 (2013)).

compliance period, or long-term compliance period – The term of years, beginning on the end date of the agreement, when long-term obligations exist for the Sponsor. The start date and end date of the compliance period may also be prescribed by RCO per the Agreement.

long-term obligations – Sponsor's obligations after the project end date, as specified in the Agreement and manuals and other exhibits as may apply.

landowner agreement – An agreement that is required between a Sponsor and landowner for projects located on land not owned or otherwise controlled by the Sponsor.

maintenance project – A project that maintains existing areas and facilities through repairs and upkeep for the benefit of outdoor recreation.

maintenance and operation project – A project that maintains and operates existing areas and facilities through repairs, upkeep, and routine services for the benefit of outdoor recreationists.

match or matching share – The portion of the total project cost provided by the Sponsor.

milestone – An important event with a defined date to track an activity related to implementation of a funded project and monitor significant stages of project accomplishment.

monitoring project – Means a project that tracks the effectiveness of salmon recovery restoration actions, or provides data on salmon populations or their habitat conditions.

monitoring and research project – Means a project that tracks the effectiveness of salmon recovery restoration actions, or provides data on salmon populations or their habitat conditions.

Office – Means the Recreation and Conservation Office or RCO.

notice of grant – As required by RCO or another authority, a document that has been legally recorded on the property title of the project area(s) in the county or counties where the project property is located, or with the United States Government, that describes the project area on the property, the funding sources, and agencies responsible for awarding the grant.

pass-through entity – A non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program (2 C. F. R. § 200.74 (2013)). If this Agreement is a federal subaward, RCO is the pass-through entity.

period of performance – The period beginning on the project start date and ending on the project end date.

planning project - A project that results in one or more of the following: 1) a study, a plan, assessment, project design, inventory, construction plans and specifications, and permits; or 2) a project that provides money to facilitate the work of an organization engaged in planning and coordination, or resource stewardship.

pre-agreement cost – A project cost incurred before the period of performance.

primary Sponsor – The Sponsor who is not a secondary Sponsor and who is specifically identified in the Agreement as the entity to which RCO grants funds to and authorizes and requires to administer the grant. Administration includes but is not limited to acting as the fiscal agent for the grant (e.g. requesting and accepting reimbursements, submitting reports). Primary Sponsor includes its officers, employees, agents and successors.

project – The undertaking that is funded by this Agreement either in whole or in part with funds administered by RCO.

project area - A geographic area that delineates a grant assisted site which is subject to project agreement requirements.

project area (for projects where WAC 420 is applied) - The area consistent with the geographic limits of the scope of work of the project and subject to project agreement requirements. For restoration projects, the project area must include the physical limits of the project's final site plans or final design plans. For acquisition projects, the project area must include the area described by the legal description of the properties acquired for or committed to the project (WAC 420.04.010).

completed project or project completion - The status of a project when all of the following have occurred:

1. The grant funded project has been inspected by the RCO and the RCO has determined that all scopes of work to implement the project have been completed satisfactorily,
2. A final project report is submitted to and accepted by RCO,
3. Any needed amendments to the Agreement have been entered by the Sponsor and RCO and have been delivered to the RCO
4. A final reimbursement request has been paid by RCO.
5. Property rights (including RCO's as may apply) have been recorded (as may apply)

project cost – The total allowable costs incurred under this Agreement and all required match share and voluntary committed matching share, including third-party contributions (see also 2 C.F.R. § 200.83 (2013) for federally funded projects).

project end date – The specific date identified in the Agreement on which the period of performance ends, as may be changed by amendment. This date is not the end date for any long-term obligations.

project start date – The specific date identified in the Agreement on which the period of performance starts.

RCFB – Recreation and Conservation Funding Board

RCO – Recreation and Conservation Office – The state agency that administers the grant that is the subject of this Agreement. RCO includes the director and staff.

RCW – Revised Code of Washington

Recreational Trails Program (RTP) – A Federal Highways Administration grant program.

reimbursement – RCO's payment of funds to the Sponsor for eligible and allowable costs that have already been paid by the Sponsor per the terms of the Agreement.

renovation project – A project intended to improve an existing site or structure in order to increase its useful service life beyond current expectations or functions. This does not include maintenance activities to maintain the facility for its originally expected useful service life.

research project – Means a project that studies salmon and the effectiveness of recovery restoration efforts on the population or habitat condition.

restoration project – A project intended to bring a site back to its historic function as part of a natural ecosystem, or one intended to improve the ecological or habitat functionality or capacity of (or part of) a site, landscape, marine environment, or watershed.

restoration and enhancement project – A project intended to bring a site back to its historic function as part of a natural ecosystem or that improves the ecological functionality of a site or a larger ecosystem which improvement may include benefiting (or exclusively benefit) fish stocks.

secondary Sponsor – One of two or more Sponsors who is not a primary Sponsor. Only the primary Sponsor may be the fiscal agent for the project.

Sponsor – A Sponsor is an organization that is listed in and has signed this Agreement.

Sponsor Authorized Representative/Agent – A Sponsor’s agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

SRFB – Salmon Recovery Funding Board

State. The funding board and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of Washington state government.

subaward – Funds allocated to the RCO from another organization, for which RCO makes available to or assigns to another organization via this Agreement. Also, a subaward may be an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of any award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal or other program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract. Also see 2 C.F.R. § 200.92 (2013). For federal subawards, a subaward is for the purpose of carrying out a portion of a Federal award and creates a federal assistance relationship with the subrecipient (2 C.F.R. § 200.330 (2013)). If this Agreement is a federal subaward, the subaward amount is the grant program amount in the PROJECT FUNDING Section.

subrecipient – Subrecipient means an entity that receives a subaward. For non-federal entities receiving federal funds, a subrecipient is an entity that receives a subaward from a pass-through entity to carry out part of a federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency (2 C.F.R. § 200.93 (2013)). If this Agreement is a federal subaward, the Sponsor is the subrecipient.

tribal consultation – Outreach, and consultation with one or more federally recognized tribes (or a partnership or coalition or consortium of such tribes, or a private tribal enterprise) whose rights will or may be significantly affected by the proposed project. This includes sharing with potentially-affected tribes the scope of work in the grant and potential impacts to natural areas, natural resources, and the built environment by the project. It also includes responding to any tribal request from such tribes and considering tribal recommendations for project implementation which may include not proceeding with parts of the project, altering the project concept and design, or relocating the project or not implementing the project, all of which RCO shall have the final approval of.

useful service life – Period during which a built asset, equipment, or fixture is expected to be useable for the purpose it was acquired, installed, developed, and/or renovated, or restored per this Agreement.

WAC – Washington Administrative Code.

2. PERFORMANCE BY THE SPONSOR.

- a. The Sponsor shall undertake the project as described in this Agreement, and in accordance with the Sponsor's proposed goals and objectives described in the application or documents submitted with the application, all as finally approved by the RCO (to include any RCO approved changes or amendments thereto). All submitted documents are incorporated by this reference as if fully set forth herein.
- b. Timely completion of the project and submission of required documents, including progress and final reports, is important. Failure to meet critical milestones or complete the project, as set out in this Agreement, is a material breach of the Agreement.

3. ASSIGNMENT.

Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the Sponsor without prior written approval of the RCO.

4. RESPONSIBILITY FOR PROJECT.

- a. While RCO administers the grant that is the subject of this Agreement, the project itself remains the sole responsibility of the Sponsor. The RCO and Funding Entity (if different from the RCO) undertakes no responsibilities to the Sponsor, or to any third party, other than as is expressly set out in this Agreement.
- b. The responsibility for the implementation of the project is solely that of the Sponsor, as is the responsibility for any claim or suit of any nature by any third party related in any way to the project. When a project has more than one Sponsor, any and all Sponsors are equally responsible for the project and all post-completion stewardship responsibilities and long-term obligations unless otherwise stated in this Agreement.
- c. The RCO, its employees, assigns, consultants and contractors, and members of any funding board or advisory committee or other RCO grant review individual or body, have no responsibility for reviewing, approving, overseeing or supervising design, construction, or safety of the project and leaves such review, approval, oversight and supervision exclusively to the Sponsor and others with expertise or authority. In this respect, the RCO, its employees, assigns, consultants and contractors, and any funding board or advisory committee or other RCO grant review individual or body will act only to confirm at a general, lay person, and nontechnical level, solely for the purpose of project eligibility and payment and not for safety or suitability, that the project apparently is proceeding or has been completed as per the Agreement.

5. INDEMNIFICATION.

- a. The Sponsor shall defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the actual or alleged acts, errors, omissions or negligence in connection with this Agreement (including without limitation all work or activities thereunder), or the breach of any obligation under this Agreement by the Sponsor or the Sponsor's agents, employees,

contractors, subcontractors, or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

- b. Provided that nothing herein shall require a Sponsor to defend or indemnify the State against and hold harmless the State from claims, demands or suits based solely upon the negligence of the State, its employees and/or agents for whom the State is vicariously liable.
- c. Provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the Sponsor or the Sponsor's agents or employees, and (b) the State, or its employees or agents the indemnity obligation shall be valid and enforceable only to the extent of the Sponsor's negligence or its agents, or employees.
- d. As part of its obligations provided above, the Sponsor specifically assumes potential liability for actions brought by the Sponsor's own employees or its agents against the State and, solely for the purpose of this indemnification and defense, the Sponsor specifically waives any immunity under the state industrial insurance law, RCW Title 51. Sponsor's waiver of immunity under this provision extends only to claims against Sponsor by Indemnitee RCO, and does not include, or extend to, any claims by Sponsor's employees directly against Sponsor.
- e. Sponsor shall ensure that any agreement relating to this project involving any contractors, subcontractors and/or vendors of any tier shall require that the contracting entity indemnify, defend, waive RCW 51 immunity, and otherwise protect the State as provided herein as if it were the Sponsor. This shall not apply to a contractor or subcontractor is solely donating its services to the project without compensation or other substantial consideration.
- f. The Sponsor shall also defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the Sponsor or the Sponsor's agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable, in performance of the work under this Agreement or arising out of any use in connection with the Agreement of methods, processes, designs, information or other items furnished or communicated to the State, its agents, officers and employees pursuant to the Agreement. Provided, this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from the State's, its agents', officers' and employees' failure to comply with specific written instructions regarding use provided to the State, its agents, officers and employees by the Sponsor, its agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

- g. The funding board and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of state government.

6. INDEPENDENT CAPACITY OF THE SPONSOR.

- a. The Sponsor and its employees or agents performing under this Agreement are not officers, employees or agents of the RCO or Funding Entity. The Sponsor will not hold itself out as nor claim to be an officer, employee or agent of the RCO or the Funding Entity, or of the state of Washington, nor will the Sponsor make any claim of right, privilege or benefit which would accrue to an employee under RCW 41.06.
- b. The Sponsor is responsible for withholding and/or paying employment taxes, insurance, or deductions of any kind required by federal, state, and/or local laws.

7. CONFLICT OF INTEREST.

- a. Notwithstanding any determination by the Executive Ethics Board or other tribunal, RCO may, in its sole discretion, by written notice to the Sponsor terminate this Agreement if it is found after due notice and examination by RCO that there is a violation of the Ethics in Public Service Act, RCW 42.52; or any similar statute involving the Sponsor in the procurement of, or performance under, this Agreement.
- b. In the event this Agreement is terminated as provided herein, RCO shall be entitled to pursue the same remedies against the Sponsor as it could pursue in the event of a breach of the Agreement by the Sponsor. The rights and remedies of RCO provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

8. COMPLIANCE WITH APPLICABLE LAW.

- a. In implementing the Agreement, the Sponsor shall comply with all applicable federal, state, and local laws (including without limitation all applicable ordinances, codes, rules, and regulations). Such compliance includes, without any limitation as to other applicable laws, the following laws:
 - i. Nondiscrimination Laws. The Sponsor shall comply with all applicable federal, state, and local nondiscrimination laws and/or policies, including but not limited to: the Americans with Disabilities Act; Civil Rights Act; and the Age Discrimination Employment Act (if applicable). In the event of the Sponsor's noncompliance or refusal to comply with any nondiscrimination law or policy, the Agreement may be rescinded, cancelled, or terminated in whole or in part, and the Sponsor may be declared ineligible for further grant awards from the RCO or Funding Entity. The Sponsor is responsible for any and all costs or liability arising from the Sponsor's failure to so comply with applicable law. Except where a nondiscrimination clause required by a federal funding agency is used, the Sponsor shall insert the following nondiscrimination clause in each contract for

construction of this project: "During the performance of this contract, the contractor agrees to comply with all federal and state nondiscrimination laws, regulations and policies."

- ii. **Secular Use of Funds.** No funds awarded under this grant may be used to pay for any religious activities, worship, or instruction, or for lands and facilities for religious activities, worship, or instruction. Religious activities, worship, or instruction may be a minor use of the grant supported recreation and conservation land or facility.
- iii. **Wages and Job Safety.** The Sponsor agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington or other jurisdiction which affect wages and job safety. The Sponsor agrees when state prevailing wage laws (RCW 39.12) are applicable, to comply with such laws, to pay the prevailing rate of wage to all workers, laborers, or mechanics employed in the performance of any part of this contract, and to file a statement of intent to pay prevailing wage with the Washington State Department of Labor and Industries as required by RCW 39.12.40. The Sponsor also agrees to comply with the provisions of the rules and regulations of the Washington State Department of Labor and Industries.
 - Pursuant to RCW 39.12.040(1)(a), all contractors and subcontractors shall submit to Sponsor a statement of intent to pay prevailing wages if the need to pay prevailing wages is required by law. If a contractor or subcontractor intends to pay other than prevailing wages, it must provide the Sponsor with an affirmative statement of the contractor's or subcontractor's intent. Unless required by law, the Sponsor is not required to investigate a statement regarding prevailing wage provided by a contractor or subcontractor.
- iv. **Exception, Service Organizations of Trail and Environmental Projects (RCW 79A.35.130).** If allowed by state and federal law and rules, participants in conservation corps programs offered by a nonprofit organization affiliated with a national service organization established under the authority of the national and community service trust act of 1993, P.L. 103-82, are exempt from provisions related to rates of compensation while performing environmental and trail maintenance work provided:
(1) The nonprofit organization must be registered as a nonprofit corporation pursuant to RCW 24.03; (2) The nonprofit organization's management and administrative headquarters must be located in Washington; (3) Participants in the program must spend at least fifteen percent of their time in the program on education and training activities; and (4) Participants in the program must receive a stipend or living allowance as authorized by federal or state law. Participants are exempt from provisions related to rates of compensation only for environmental and trail maintenance work conducted pursuant to the conservation corps program.
- b. **Restrictions on Grant Use.** No part of any funds provided under this grant shall be used, other than for normal and recognized executive-legislative relationships, for publicity or

propaganda purposes, or for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the U.S. Congress or any state legislature. No part of any funds provided under this grant shall be used to pay the salary or expenses of any Sponsor, or agent acting for such Sponsor, related to any activity designed to influence legislation or appropriations pending before the U.S. Congress or any state legislature.

- c. No part of any funds provided under this grant shall be used to pay the salary or expenses of any Sponsor, or agent acting for such Sponsor, related to any activity designed to influence legislation or appropriations pending before the U.S. Congress or any state legislature.
- d. Debarment and Certification. By signing the Agreement with RCO, the Sponsor certifies that neither it nor its principals nor any other lower tier participant are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by Washington State Labor and Industries. Further, the Sponsor agrees not to enter into any arrangements or contracts related to this Agreement with any party that is on Washington State Department of Labor and Industries' "Debarred Contractor List."
- e. Requirements for RTP Subawards.
 - i. The subrecipient (Sponsor) shall follow such policies and procedures prescribed by and allowed by the State, as well as federal law and federal rules issued by the Federal Highways Administration and 2 CFR 200.
 - ii. Sponsor may be required to pay prevailing wage rates as required by the Davis Bacon Act as amended.

9. ARCHAEOLOGICAL AND CULTURAL RESOURCES RESPONSIBILITIES

RCO shall administratively review, and Sponsor shall assist RCO in such review, For all funded projects, including land acquisitions for the purpose of capital construction or renovation, not undergoing Section 106 review under the National Historic Preservation Act of 1966, RCO shall review and, if it deems appropriate, confer with the Washington State Department of Archeology and Historic Preservation, tribes, and with any other party/parties that have an interest in, or responsibility for, Project review and protection of archeological, cultural, and historical resources, to determine potential impacts to archeological, cultural and historic resources and plans for protection of such resources. The Sponsor shall cooperate in all such reviews.

1. Plans. Sponsor shall comply with all plans RCO or another state or federal agency may develop for the protection of archeological, cultural, and historical resources in the project area, and adjacent areas that may be impacted by the project. This subsection also applies to those projects where a categorical exclusion (subsection 5) may apply.

2. Authorities. At a minimum, review, management, and protection of archeological, cultural, and historic resources, and tribal consultation, shall be performed in the project area and adjacent areas impacted by the project for compliance with the following authorities (as may apply and as in effect at the time of the review):
 - i. Washington State Department of Archeology and Historic Preservation policies and procedures and rule,
 - ii. Sponsor, RCO, and landowners' plans, policies and procedures, directives, laws and rules,
 - iii. State Environmental Policy Act,
 - iv. National Environmental Policy Act,
 - v. National Historic Preservation Act of 1966,
 - vi. Governor's Executive Order 05-05,
3. Scope of Archeological, Cultural, and Historic Resources Review. RCO recognizes that the project area may include multiple parcels with multiple landowners, and additional parties with property rights in the project area. The Sponsor shall apply this section independently to each separately owned property, provided that reviews undertaken must include impacts to individual parcels and cumulative impacts.
4. Compliance. At all times, the Sponsor shall take reasonable action to avoid, minimize, or mitigate adverse effects to archeological, cultural, and historic resources in the project area, and adjacent areas that may be impacted by the project, and comply with any RCO direction for such avoidance, minimization, and mitigation, and reporting and notification thereof.
5. Categorical Exemption. If the Sponsor has reviewed the activities in this grant for impacts to archeological, cultural, and historical resources, and the same for any planned projects in any land acquired with this grant, and determined the project is categorically exempt from further archaeological, historical and cultural resources review, as well as tribal consultation, Sponsor shall notify the RCO in writing prior to beginning the project describing 1) the specific statutory or regulatory exemptions that apply, and 2) their applicability to the specific project. Alternatively, the RCO may determine the project is covered by a categorical exemption, in whole or in part, and notify the Sponsor of such determination.

However, any categorical exemption must meet the standards of and be consistent and allowable by ALL of the following:

1. the project area landowner(s) legal documents and governing documents (if applicable),
2. Sponsor's own policies and procedures and rules,
3. All applicable laws,
4. RCO applicable policies, manuals and/or other guidance, and
5. Washington Department of Archaeology and Historic Preservation's rules and policies.

Alternatively, the RCO may assign a categorical exemption to the project based on its own review.

Regardless of the applicability of any categorical exemption, the RCO reserves the right at any time to require Sponsor to comply with any and all of the provisions of this section.

6. Project Areas Reviewed by a Permitting Authority. For those project areas where a permitting authority for the project conducts an archeological, cultural, and historical resources review and tribal consultation under section 106 of the Historic Preservation Act, NEPA, SEPA, or Governor's Executive Order 05-05, such review and consultation shall substitute for the land owner's, provided that such substitution is allowed only if (a) the permitting authority and landowner are not the same, and (b) the RCO determines that the review and consultation performed by the permitting authority meets RCO standards. When a permitting authority conducts such reviews and tribal consultation, all other subsections herein shall still apply to the Sponsor(s).
7. Project Areas on Sponsor-Owned Property. Unless a categorical exemption applies as stated above, the Sponsor shall perform and be bound by the following:
 - a. Project Review. For project areas not reviewed by a permitting authority (see above), prior to implementing in the project area any ground disturbance, altering or demolishing structures or other property appurtenances, removing or altering vegetation, geologic elements, or waterways, or impacting wildlife, in and adjacent to the project area, areas where project mitigation shall occur, or any other areas that may be affected by project implementation, the Sponsor shall review the project for its potential and actual impacts, including any planned projects on lands acquired as part of the project, to any and all archaeological, cultural and historical resources in and adjacent to the project area, in areas where project mitigation shall occur, or other areas that may be affected by project implementation. In this review, Sponsor shall follow its policies and procedures, plans, guidance, rules, and directives, as well as act in compliance with Governor's Executive Order 05-05, the National Historic Preservation Act, the State Environmental Policy Act, the National Environmental Policy Act, and any local laws as may apply. If another governmental agency is responsible in whole or in part for this review the Sponsor shall assist with such review.
 - b. Tribal Consultation. For project areas not reviewed by a permitting authority (see above), prior to implementing in the project area any ground disturbance, altering or demolishing structures or other property appurtenances, removing or altering vegetation, geologic elements, or waterways, or impacting wildlife, in and adjacent to the project area, areas where project mitigation shall occur, or any other areas that may be affected by project implementation, Sponsor shall conduct tribal consultation with any interested or affected tribes as defined above. .
 - c. Reporting to RCO and Approval of Project Activities. Sponsor shall provide RCO evidence (which RCO shall prescribe) that it has conducted project review and tribal consultation as described and receive written approval of such review and consultation from RCO prior to Sponsor implementing in the project area any ground disturbance, altering or demolishing structures or other property appurtenances, removing or altering vegetation, geologic elements, or waterways, or impacting wildlife, in and adjacent to the project area, areas

where project mitigation shall occur, or any other areas that may be affected by project implementation.

- d. **Changes to Project.** RCO reserves the right to request Sponsor change its scope of work and project outcomes to avoid, mitigate, or minimize impacts to archeological, cultural, and historic resources.
- e. **Termination.** RCO retains the right at any time to terminate a project due to anticipated or actual impacts to archaeology and cultural resources.
- f. **Monitoring.** RCO may require on-site monitoring for impacts to archeology, cultural, and historic resources during any demolition, construction, land clearing, restoration, or repair work, and may direct that work stop to minimize, mitigate, or avoid impacts to archaeology, cultural, and historical resource impacts or concerns.
- g. **Inadvertent Discovery Plan.** The Sponsor shall request, review, and be bound by the RCO Inadvertent Discovery Plan (IDP), and keep the IDP at the project site, make the IDP readily available to anyone working at the project site, discuss the IDP with staff and contractors working at the project site, and Implement the IDP when cultural resources or human remains are found at the project site.
- h. **Discovery.** If any archeological or historic resources are found while conducting work under this Agreement, the Sponsor shall immediately stop work and notify the property owner, RCO, the Department of Archaeology and Historic Preservation at (360) 586-3064, and any affected Tribe, and stop any activity that may cause further disturbance to the archeological or historic resources until such time as the reviewing authority with jurisdiction over the found object(s) and areas notifies Sponsor and RCO that work can resume.
- i. **Human Remains.** If any human remains are found while conducting work under this Agreement, Sponsor shall immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, and then RCO, all in the most expeditious manner, and stop any activity that may cause disturbance to the remains. Sponsor shall secure the area of the find will and protect the remains from further disturbance until the RCO provides a new notice to proceed on the project. Any human remains discovered shall not be touched, moved, or further disturbed unless directed by RCO or the Department of Archaeology and Historic Preservation (DAHP). The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, then they will report that finding to the Department of Archaeology and Historic Preservation (DAHP) who will then take jurisdiction over the remains. The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the affected tribes. The DAHP will then handle all consultation with

the affected parties as to the future preservation, excavation, and disposition of the remains and the resumption of work.

8. Project Areas on State or Federal Property Not Owned By Sponsor.

Categorical Exemption. For project area(s) owned by a state or federal agency, and not under review via a permitting nexus (see above), the state or federal agency landowner performing archeological, cultural, and historic resources review and tribal consultation shall make the determination that the project, in whole or in part, is covered by a categorical exemption, and may notify and report such to the Sponsor, or to RCO on behalf of Sponsor.

Project Review and Tribal Consolation. If the project is not categorical exception to archeological, cultural, and historical resources review and tribal consultation, and the project area is located on property owned by the State of Washington or a federal agency, Sponsor shall:

- a. Follow its own policies and procedures, rules, and any applicable laws, for the review, protection, and management of archaeological, cultural, and historic resources, and tribal consultation and other consultations as may apply.
- b. Assist the land owner and other applicable agencies, and the RCO, with its/their review of archaeological, cultural and historic resources, and tribal consultation for the project area.
 - i. RCO may consult directly with the landowner to complete land owner project review and tribal consultation.
- c. Provide RCO evidence that the landowner has 1) conducted archeological, cultural and historic resources review and tribal consultation according to its policies and procedures and applicable laws, and 2) provided Sponsor with permission to begin project implementation in the project area owned by the state or federal agency.
- d. Changes to Project. RCO reserves the right to request Sponsor change its scope of work and project outcomes to avoid, mitigate, or minimize impacts to archeological, cultural, and historic resources.
- e. Termination. RCO retains the right at any time to terminate a project due to anticipated or actual impacts to archaeology and cultural resources.
- f. Monitoring. RCO or the federal or state landowner may require on-site monitoring for impacts to archeology and cultural resources during any demolition, construction, land clearing, restoration, or repair work, and may direct that work stop to minimize, mitigate, or avoid impacts to archaeology and cultural resource impacts or concerns.
- g. Inadvertent Discovery Plan. The Sponsor shall request, review, and be bound by the RCO Inadvertent Discovery Plan (IDP), and keep the IDP at the project site, make the IDP readily available to anyone working at the project site, discuss the IDP with staff and contractors

working at the project site, and Implement the IDP when cultural resources or human remains are found at the project site.

- h. Discovery. If any archeological or historic resources are found while conducting work under this Agreement, the Sponsor shall immediately stop work and notify the property owner, RCO, the Department of Archaeology and Historic Preservation at (360) 586-3064, and any affected Tribe, and stop any activity that may cause further disturbance to the archeological or historic resources.

- i. Human Remains. If any human remains are found while conducting work under this Agreement, Sponsor shall immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, and then RCO, all in the most expeditious manner, and stop any activity that may cause disturbance to the remains. Sponsor shall secure the area of the find will and protect the remains from further disturbance until the RCO provides a new notice to proceed on the project. Any human remains discovered shall not be touched, moved, or further disturbed unless directed by RCO or the Department of Archaeology and Historic Preservation (DAHP). The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, then they will report that finding to the Department of Archaeology and Historic Preservation (DAHP) who will then take jurisdiction over the remains. The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the affected tribes. The DAHP will then handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains.

- 9. Costs. Costs associated with Sponsor's responsibilities under this section of the Agreement are eligible for reimbursement under this Agreement. Costs that exceed the budget grant amount shall be the responsibility of the Sponsor.

10. RECORDS.

- a. Digital Records. If requested by RCO, the Sponsor must provide a digital file(s) of the project property and funded project site in a format specified by the RCO.
- b. Maintenance and Retention. The Sponsor shall maintain books, records, documents, data and other evidence relating to this Agreement and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. Sponsor shall retain such records for a period of nine years from the date RCO deems the project complete, as defined in the PROJECT REIMBURSEMENTS Section. If any litigation, claim or audit is started before the expiration of the nine (9) year period, the records

shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

- c. In order to satisfy 15 CFR 24.42(b) & (c) and 2 CFR 200.333, for projects that contain Pacific Coast Salmon Recovery Funds or are used as match to Pacific Coast Salmon Recovery Funds the sponsor shall retain records for a period of nine years from the date RCO deems the project complete as defined in the PROJECT REIMBURSEMENTS Section.
- d. Access to Records and Data. At no additional cost, the records relating to the Agreement, including materials generated under the Agreement, shall be subject at all reasonable times to inspection, review or audit by RCO, personnel duly authorized by RCO, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement. This includes access to all information that supports the costs submitted for payment under the grant and all findings, conclusions, and recommendations of the Sponsor's reports, including computer models and methodology for those models.
- e. Public Records. Sponsor acknowledges that the RCO is subject to RCW 42.56 and that this Agreement and any records Sponsor submits or has submitted to the State shall be a public record as defined in RCW 42.56. RCO administers public records requests per WAC 286-06 and 420-04 (which ever applies). Additionally, the Sponsor agrees to disclose any information in regards to the expenditure of that funding as if the project sponsor were subject to the requirements of chapter 42.56 RCW. By submitting any record to the State, Sponsor understands that the State may be requested to disclose or copy that record under the state public records law, currently codified at RCW 42.56. The Sponsor warrants that it possesses such legal rights as are necessary to permit the State to disclose and copy such document to respond to a request under state public records laws. The Sponsor hereby agrees to release the State from any claims arising out of allowing such review or copying pursuant to a public records act request, and to indemnify against any claims arising from allowing such review or copying and pay the reasonable cost of state's defense of such claims.

11. PROJECT FUNDING.

- a. Authority. This Agreement and funding is made available to Sponsor through the RCO.
- b. Additional Amounts. The RCO or Funding Entity shall not be obligated to pay any amount beyond the dollar amount as identified in this Agreement, unless an additional amount has been approved in advance by the RCO director and incorporated by written amendment into this Agreement .
- c. Before the Agreement. No expenditure made, or obligation incurred, by the Sponsor before the project start date shall be eligible for grant funds, in whole or in part, unless specifically provided for by the RCO director, such as a waiver of retroactivity or program specific eligible pre-Agreement costs. For reimbursements of such costs, this Agreement must be fully executed and an original received by RCO. The dollar amounts identified in this Agreement may be reduced as necessary to exclude any such expenditure from reimbursement.

- d. Requirements for Federal Subawards. Pre-Agreement costs before the federal award date in the FEDERAL FUND INFORMATION Section are ineligible unless approved by the federal award agency (2 C.F.R § 200.458 (2013)).
- e. After the Period of Performance. No expenditure made, or obligation incurred, following the period of performance shall be eligible, in whole or in part, for grant funds hereunder. In addition to any remedy the RCO or Funding Entity may have under this Agreement, the grant amounts identified in this Agreement shall be reduced to exclude any such expenditure from participation.

12. PROJECT REIMBURSEMENTS.

- a. Reimbursement Basis. This Agreement is administered on a reimbursement basis per WAC 286-13 and/or 420-12, whichever has been designated to apply. Only the primary Sponsor may request reimbursement for eligible and allowable costs incurred during the period of performance. The primary Sponsor may only request reimbursement after (1) this Agreement has been fully executed and (2) the Sponsor has remitted payment to its vendors. RCO will authorize disbursement of project funds only on a reimbursable basis at the percentage as defined in the PROJECT FUNDING Section. Reimbursement shall not be approved for any expenditure not incurred by the Sponsor or for a donation used as part of its matching share. RCO does not reimburse for donations. All reimbursement requests must include proper documentation of expenditures as required by RCO.
- b. Reimbursement Request Frequency. The primary Sponsor is required to submit a reimbursement request to RCO, at a minimum for each project at least once a year for reimbursable activities occurring between July 1 and June 30 or as identified in the milestones. Sponsors must refer to the most recent applicable RCO manuals and this Agreement regarding reimbursement requirements.
- c. Compliance and Payment. The obligation of RCO to pay any amount(s) under this Agreement is expressly conditioned on strict compliance with the terms of this Agreement and other agreements between RCO and the Sponsor.
- d. Conditions for Payment of Retainage. RCO reserves the right to withhold disbursement of the total amount of the grant to the Sponsor until the following has occurred:
 - i. RCO has accepted the project as a completed project, which acceptance shall not be unreasonably withheld.
 - ii. On-site signs are in place (if applicable); Any other required documents and media are complete and submitted to RCO; Grant related fiscal transactions are complete, and
 - iii. RCO has accepted a final boundary map of the project area for which the Agreement terms will apply in the future.

- iv. A Notice of Grant for any property rights acquired or donated (if applicable) have been filed with the county lands records office (or United State Government) and a stamped copy received by RCO, and any property rights owned to RCO have been likewise recorded.
- e. Requirements for Federal Subawards: Match. The Sponsor's matching share must comply with 2 C.F.R. § 200.306 (2013). Any shared costs or matching funds and all contributions, including cash and third-party in-kind contributions, can be accepted as part of the Sponsor's matching share when such contributions meet all of the following criteria:
 - i. Are verifiable from the non-Federal entity's (Sponsor's) records;
 - ii. Are not included as contributions for any other Federal award;
 - iii. Are necessary and reasonable for accomplishment of project or program objectives;
 - iv. Are allowable under 2 C.F.R. Part 200, Subpart E—Cost Principles (2013);
 - v. Are not paid by the Federal Government under another Federal award, except where the Federal statute authorizing a program specifically provides that Federal funds made available for such program can be applied to matching or cost sharing requirements of other Federal programs;
 - vi. Are provided for in the approved budget when required by the Federal awarding agency identified in the FEDERAL FUND INFORMATION Section of this Agreement; and
 - vii. Conform to other provisions of 2 C.F.R. Part 200, Subpart D—Post Federal Award Requirements (2013), as applicable.
- f. Requirements for Federal Subawards: Close out. Per 2 C.F.R § 200.343 (2013), the non-Federal entity (Sponsor) must:
 - i. Submit, no later than 90 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the Federal award. The Federal awarding agency or pass-through entity (RCO) may approve extensions when requested by the Sponsor.
 - ii. Liquidate all obligations incurred under the Federal award not later than 90 calendar days after the end date of the period of performance as specified in the terms and conditions of the Federal award.
 - iii. Refund any balances of unobligated cash that the Federal awarding agency or pass-through entity (RCO) paid in advance or paid and that are not authorized to be retained by the non-Federal entity (Sponsor) for use in other projects. See OMB Circular A-129 and see 2 C.F.R § 200.345 Collection of amounts due (2013), for requirements regarding unreturned amounts that become delinquent debts.
 - iv. Account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with 2 C.F.R §§ 200.310 Insurance coverage through 200.316 Property trust relationship and 200.329 Reporting on real property (2013).

13. ADVANCE PAYMENTS.

Advance payments of or in anticipation of goods or services are not allowed unless approved by the RCO director and are consistent with legal requirements and Manual 8: Reimbursements.

14. RECOVERY OF PAYMENTS.

- a. Recovery for Noncompliance. In the event that the Sponsor fails to expend funds under this Agreement in accordance with state and federal laws, and/or the provisions of the Agreement, or meet its percentage of the project total, RCO reserves the right to recover grant award funds in the amount equivalent to the extent of noncompliance in addition to any other remedies available at law or in equity.
- b. Return of Overpayments. The Sponsor shall reimburse RCO for any overpayment or erroneous payments made under the Agreement. Repayment by the Sponsor of such funds under this recovery provision shall occur within 30 days of demand by RCO. Interest shall accrue at the rate of twelve percent (12%) per annum from the time the Sponsor received such overpayment. Unless the overpayment is due to an error of RCO, the payment shall be due and owing on the date that the Sponsor receives the overpayment from the RCO. If the payment is due to an error of RCO, it shall be due and owing 30 days after demand by RCO for refund.
- c. Requirements for Federal Subawards. RCO, acting as a pass-through entity, may impose any of the remedies as authorized in 2 C.F.R §§ 200.207 Specific conditions and/or 200.338 Remedies for noncompliance (2013).

15. COVENANT AGAINST CONTINGENT FEES.

The Sponsor warrants that no person or selling agent has been employed or retained to solicit or secure this Agreement on an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Sponsor for the purpose of securing business. RCO shall have the right, in the event of breach of this clause by the Sponsor, to terminate this Agreement without liability or, in its discretion, to deduct from the Agreement grant amount or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

16. INCOME (AND FEES) AND USE OF INCOME.

See WAC 286-13-110 for additional requirements for projects funded from the RCFB.

Income.

- a. Farm and Forest Account (Farmland and Forestland Preservation Grants). Excepted from this section is income generated and fees paid on/for properties which received funds from the Farm and Forest Account (RCW 79A.15.130).
- b. Firearms and Archery Range Recreation Projects. Excepted from this section are safety classes (firearm and/or hunter) for which a facility/range fee must not be charged (RCW 79A.25.210).

- c. Compatible source. The source of any income generated in a funded project or project area must be compatible with the funding source and the Agreement and any applicable manuals, RCWs, and WACs.
- d. Use of Income. Subject to any limitations contained in applicable state or federal law and applicable rules and policies, income or fees generated at a project work site (including entrance, utility corridor permit, cattle grazing, timber harvesting, farming, rent, franchise fees, ecosystem services, etc.) during or after the reimbursement period cited in the Agreement, must be used to offset:
 - i. The Sponsor's matching resources;
 - ii. The project's total cost;
 - iii. The expense of operation, maintenance, stewardship, monitoring, and/or repair of the facility or program assisted by the grant funding;
 - iv. The expense of operation, maintenance, stewardship, monitoring, and/or repair of other similar units in the Sponsor's system;
 - v. Capital expenses for similar acquisition and/or development and renovation; and/or
 - vi. Other purposes explicitly approved by RCO.
- e. Fees. User and/or other fees may be charged in connection with land acquired or facilities developed, maintained, renovated, or restored and shall be consistent with the:
 - i. Grant program laws, rules, and applicable manuals;
 - ii. Value of any service(s) furnished;
 - iii. Value of any opportunities furnished; and
 - iv. Prevailing range of public fees in the state for the activity involved.
- f. Requirements for Federal Subawards. Sponsors must also comply with 2 C.F.R. § 200.307 Program income (2013).

17. PROCUREMENT REQUIREMENTS.

- a. Procurement Requirements. If the Sponsor has, or is required to have, a procurement process that follows applicable state and/or federal law or procurement rules and principles, it must be followed, documented, and retained. If no such process exists the Sponsor must follow these minimum procedures:
 - i. Publish a notice to the public requesting bids/proposals for the project;
 - ii. Specify in the notice the date for submittal of bids/proposals;
 - iii. Specify in the notice the general procedure and criteria for selection; and
 - iv. Sponsor must contract or hire from within its bid pool. If bids are unacceptable the process needs to be repeated until a suitable bid is selected.
 - v. Comply with the same legal standards regarding unlawful discrimination based upon race, gender, ethnicity, sex, or sex-orientation that are applicable to state agencies in selecting a bidder or proposer. Alternatively, Sponsor may choose a bid from a bidding

cooperative if authorized to do so. This procedure creates no rights for the benefit of third parties, including any proposers, and may not be enforced or subject to review of any kind or manner by any entity other than the RCO. Sponsors may be required to certify to the RCO that they have followed any applicable state and/or federal procedures or the above minimum procedure where state or federal procedures do not apply.

b. Requirements for Federal Subawards.

- i. For all Federal subawards, non-Federal entities (Sponsors) must follow 2 C.F.R §§ 200.318 General procurement standards through 200.326 Contract Provisions (2013).
- ii. For RTP subawards, Sponsors shall follow such policies and procedures allowed by the State when procuring property and services under a Federal award (2 C.F.R § 1201.317 (2013)).

18. TREATMENT OF EQUIPMENT AND ASSETS.

- a. Equipment shall be used and managed only for the purpose of this Agreement , unless otherwise provided herein or in the applicable manuals, or approved by RCO in writing.
- b. Discontinued Use. Equipment obtained under this Agreement shall remain in the possession of the Sponsor for the duration of the project, or RULES of applicable grant assisted program. When the Sponsor discontinues use of the equipment for the purpose for which it was funded, RCO may require the Sponsor to deliver the equipment to RCO, or to dispose of the equipment according to RCO published policies.
- c. Loss or Damage. The Sponsor shall be responsible for any loss or damage to equipment.
- d. Requirements for Federal Subawards. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part under a Federal award or match for the award, until disposition takes place will, at a minimum, meet the following requirements (2 C.F.R § 200.313 (2013)):
 - i. Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the Federal Award Identification Number), who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.
 - ii. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
 - iii. A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.
 - iv. Adequate maintenance procedures must be developed to keep the property in good condition.

- v. If the non-Federal entity is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.
- e. Requirements for RTP Subawards.
 - i. The subrecipient (Sponsor) shall follow such policies and procedures prescribed by and allowed by the State, as well as federal law and federal rules issued by the Federal Highways Administration and 2 CFR 200.

19. RIGHT OF INSPECTION.

The Sponsor shall provide right of access to the project to RCO, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, long-term obligations, compliance, and/or quality assurance under this Agreement. If a landowner agreement or other form of control and tenure limits access to the project area, it must include (or be amended to include) the RCO's right to inspect and access lands acquired or developed with this funding assistance.

20. STEWARDSHIP AND MONITORING.

Sponsor agrees to perform monitoring and stewardship functions as stated in the applicable WACs and manuals, this Agreement, or as otherwise directed by RCO consistent with the existing laws and applicable manuals. Sponsor further agrees to utilize, where applicable and financially feasible, any monitoring protocols recommended by the RCO; provided that RCO does not represent that any monitoring it may recommend will be adequate to reasonably assure project performance or safety. It is the sole responsibility of the Sponsor to perform such additional monitoring as may be adequate for such purposes.

21. PREFERENCES FOR RESIDENTS.

Sponsors shall not express a preference for users of grant assisted projects on the basis of residence (including preferential reservation, membership, and/or permit systems) except that reasonable differences in admission and other fees may be maintained on the basis of residence. Fees for nonresidents must not exceed twice the fee imposed on residents. Where there is no fee for residents, but a fee is charged to nonresidents, the nonresident fee shall not exceed the amount that would be imposed on residents at comparable state or local public facilities.

22. ACKNOWLEDGMENT AND SIGNS.

- a. Publications. The Sponsor shall include language which acknowledges the funding contribution of the applicable grant program to this project in any release or other publication developed or modified for, or referring to, the project during the project period and in the future.
- b. Signs.
 - i. During the period of performance through the period of long-term obligation, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations on the project area that acknowledge the applicable grant program's funding contribution, unless waived by the director; and

- ii. During the period of long-term obligations, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations to notify the public of the availability of the site for reasonable public access.
- c. Ceremonies. The Sponsor shall notify RCO no later than two weeks before a dedication ceremony for this project. The Sponsor shall verbally acknowledge the applicable grant program's funding contribution at all dedication ceremonies and in all advertisements and mailings thereof, and any and all of its related digital media publications.
- d. Federally Funded Projects. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing a project funded in whole or in part with federal money provided for in this grant, Sponsors shall clearly state:
 - i. The fund source;
 - ii. The percentage of the total costs of the project that is financed with federal money;
 - iii. The dollar amount of federal funds for the project; and
 - iv. The percentage and dollar amount of the total costs of the project that is financed by nongovernmental sources.

23. PROVISIONS APPLYING TO DEVELOPMENT, MAINTENANCE, RENOVATION, AND RESTORATION PROJECTS.

- a. The following provisions shall be in force:
 - i. Operations and Maintenance. Properties, structures, and facilities developed, maintained, or operated with the assistance of money granted per this Agreement and within the project area shall be built, operated, and maintained according to applicable regulations, laws, building codes, and health and public safety standards to assure a reasonably safe condition and to prevent premature deterioration. It is the Sponsor's sole responsibility to ensure the same are operated and maintained in a safe and operable condition. The RCO does not conduct safety inspections or employ or train staff for that purpose.
 - ii. Document Review and Approval. Prior to commencing construction or finalizing the design, the Sponsor agrees to submit one copy of all construction and restoration plans and specifications to RCO for review solely for compliance with the scope of work to be identified in the Agreement. RCO does not review for, and disclaims any responsibility to review for safety, suitability, engineering, compliance with code, or any matters other than the scope so identified. Although RCO staff may provide tentative guidance to a Sponsor on matters related to site accessibility by persons with a disability, it is the Sponsor's responsibility to confirm that all legal requirements for accessibility are met even if the RCO guidance would not meet such requirements.
- b. Change orders that impact the amount of funding or changes to the scope of the project as described to and approved by the RCO must receive prior written approval of the RCO.

- c. **Control and Tenure.** The Sponsor must provide documentation that shows appropriate tenure and term (such as long-term lease, perpetual or long-term easement, or perpetual or long-term fee simple ownership, or landowner agreement or interagency agreement for the land proposed for construction, renovation, or restoration. The documentation must meet current RCO requirements identified in this Agreement as of the effective date of this Agreement unless otherwise provided in any applicable manual, RCW, WAC, or as approved by the RCO.
- d. **Use of Best Management Practices.** Sponsors are encouraged to use best management practices including those developed as part of the Washington State Aquatic Habitat Guidelines (AHG) Program. AHG documents include “Integrated Streambank Protection Guidelines”, 2002; “Land Use Planning for Salmon, Steelhead and Trout: A land use planner’s guide to salmonid habitat protection and recovery”, 2009”, “Protecting Nearshore Habitat and Functions in Puget Sound”, 2010; “Stream Habitat Restoration Guidelines”, 2012; “Water Crossing Design Guidelines”, 2013; and “Marine Shoreline Design Guidelines”, 2014. These documents, along with new and updated guidance documents, and other information are available on the AHG Web site. Sponsors are also encouraged to use best management practices developed by the Washington Invasive Species Council (WISC) described in “Reducing Accidental Introductions of Invasive Species” which is available on the WISC Web site.
- e. At no time shall the Sponsor design, construct, or operate this grant funded project in a way that unreasonably puts the public, itself, or others at risk of injury or property damage. The Sponsor agrees and acknowledges that the Sponsor is solely responsible for safety and risk associated with the project, that RCO does not have expertise, capacity, or a mission to review, monitor, or inspect for safety and risk, that no expectation exists that RCO will do so, and that RCO is in no way responsible for any risks associated with the project.

24. PROVISIONS APPLYING TO ACQUISITION PROJECTS.

- a. The following provisions shall be in force:
 - i. **Evidence of Land Value.** Before disbursement of funds by RCO as provided under this Agreement, the Sponsor agrees to supply documentation acceptable to RCO that the cost of the property rights acquired has been established according to all applicable manuals and RCWs or WACs.
 - ii. **Evidence of Title.** The Sponsor agrees to provide documentation that shows the type of ownership interest for the property that has been acquired. This shall be done before any payment of financial assistance.
 - iii. **Legal Description of Real Property Rights Acquired.** The legal description of any real property rights purchased with funding assistance provided through this Agreement (and protected by a recorded conveyance of rights to the State of Washington) shall be delivered to RCO before final payment.
 - iv. **Conveyance of Rights to the State of Washington.** When real property rights (both fee simple and lesser interests) are acquired, the Sponsor agrees to execute an appropriate document (provided or approved by RCO) conveying certain rights and responsibilities to RCO or the Funding Entity on behalf of the State of Washington or another agency of the

- state, or federal agency, or other organization. These documents include a Deed of Right, Assignment of Rights, Easements and/or Leases as described below. The Sponsor agrees to use document language provided by RCO, to record the executed document in the County where the real property lies, and to provide a copy of the recorded document to RCO. The document required will vary depending on the project type, the real property rights being acquired and whether or not those rights are being acquired in perpetuity.
- v. Deed of Right. The Deed of Right as described in RCO Manual #3 conveys to the people of the state of Washington the right to preserve, protect, access, and/or use the property for public purposes consistent with the funding source and project agreement. Sponsors shall use this document when acquiring real property rights that include the underlying land. This document may also be applicable for those easements where the Sponsor has acquired a perpetual easement for public purposes.
 - vi. Assignment of Rights. The Assignment of Rights as described in RCO Manual #3 document transfers certain rights to RCO and the state such as public access, access for compliance, and enforcement. Sponsors shall use this document when an easement or lease is being acquired under this Agreement. The Assignment of Rights requires the signature of the underlying landowner and must be incorporated by reference in the easement document.
 - vii. Easements and Leases. The Sponsor may incorporate required language from the Deed of Right or Assignment of Rights directly into the easement or lease document, thereby eliminating the requirement for a separate document. Language will depend on the situation; Sponsor must obtain RCO approval on the draft language prior to executing the easement or lease.
 - viii. Real Property Acquisition and Relocation Assistance. In the event that housing and relocation costs and procedures are required by local, state, tribal, or federal law, or rule; the Sponsor agrees to provide such housing and relocation assistance as a condition of the Agreement and receiving grant funds.
- b. Buildings and Structures. In general, grant funds are to be used for outdoor recreation, conservation, or salmon recovery. Sponsors agree to remove or demolish ineligible structures. Sponsor must consult with RCO regarding treatment of such structures and compliance with COMPLIANCE WITH APPLICABLE LAW SECTION, Archeological and Cultural Resources paragraph.
- c. Hazardous Substances.
- i. Certification. The Sponsor shall inspect, investigate, and conduct an environmental audit of the proposed acquisition site for the presence of hazardous substances, as defined in RCW 70.105D.020(13), and certify:
 - ii. No hazardous substances were found on the site, or
 - iii. Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal laws, and the site deemed "clean."
 - iv. Responsibility. Nothing in this provision alters the Sponsor's duties and liabilities regarding hazardous substances as set forth in RCW 70.105D.
 - v. Hold Harmless. The Sponsor will defend, protect and hold harmless the State and any and all of its employees and/or agents, from and against any and all liability, cost (including but not limited to all costs of defense and attorneys' fees) and any and all loss

of any nature from any and all claims or suits resulting from the presence of, or the release or threatened release of, hazardous substances on the property the Sponsor is acquiring, except to the extent, if any, that the State, its officers and agents caused or contributed to the release. The Funding Entity and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of state government.

- d. Requirements for Federal Subawards. The non-federal entity (Sponsor) must submit reports the federal funding agency, through RCO, at least annually on the status of real property in which the federal government retains an interest, unless the federal interest in the real property extends 15 years or longer. In those instances where the federal interest attached is for a period of 15 years or more, the federal awarding agency or the pass-through entity (RCO), at its option, may require the Sponsor to report at various multi-year frequencies (e.g., every two years or every three years, not to exceed a five-year reporting period; or a federal awarding agency or RCO may require annual reporting for the first three years of a federal award and thereafter require reporting every five years) (2 C.F.R § 200.329 (2013)).
- e. Developing and Restoring Purchased Property. If the Sponsor intends to develop or restore the property acquired it shall do so within the timeline and deadline provided by the funding program or board policies that apply to the grant funded project, or as provided for in this Agreement.

25. LONG-TERM OBLIGATIONS OF THE PROJECTS AND SPONSORS.

- a. Long-Term Obligations. This section applies to completed projects only.
- b. Perpetuity. For acquisition, development, and restoration projects, or a combination thereof, unless otherwise allowed by applicable manual, policy, program rules, or this Agreement, or approved in writing by RCO. The RCO requires that the project area continue to function for the purposes for which these grant funds were approved, in perpetuity.
- c. Conversion. The Sponsor shall not at any time convert any real property (including any interest therein) or facility acquired, developed, renovated, and/ or restored pursuant to this Agreement, unless provided for in applicable statutes, rules, and policies. Conversion includes, but is not limited to, putting such property (or a portion of it) to uses other than those purposes for which funds were approved or transferring such property to another entity without prior approval via a written amendment to the Agreement. All real property or facilities acquired, developed, renovated, and/or restored with funding assistance shall remain in the same ownership and in public use/access status in perpetuity unless otherwise expressly provided in the Agreement or applicable policies or unless a transfer or change in use is approved by the RCO through an amendment. Failure to comply with these obligations is a conversion. Further, if the project is subject to operation and or maintenance obligations, the failure to comply with such obligations, without cure after a reasonable period as determined by the RCO, is a conversion. Determination of whether a conversion has occurred shall be based upon all terms of the Agreement, and all applicable state or federal laws or regulation.

- i. For acquisition projects that are expressly term-limited in the Agreement, the restriction on conversion shall apply only for the length of the term, unless otherwise provided by this Agreement and incorporated documents, WACs, or any applicable state or federal law or regulation.
- ii. When a conversion has been determined to have occurred, the Sponsor shall remedy the conversion as set forth in this Agreement (with incorporated documents) and as required by all applicable policies, manuals, WACs and laws that exist at the time the remedy is implemented or the right to the remedy is established by a court or other decision-making body, and the RCO may pursue all remedies as allowed by the Agreement or law.

26. CONSTRUCTION, OPERATION, USE, AND MAINTENANCE OF ASSISTED PROJECTS.

- a. The following provisions shall be in force for this agreement:
 - i. Property and facility operation and maintenance. Sponsor must ensure that properties or facilities assisted with the grant funds, including undeveloped sites, are built, operated, used, and maintained:
 - a. According to applicable federal, state, and local laws and regulations, including public health standards and building codes;
 - b. In a reasonably safe condition for the project's intended use;
 - c. Throughout its estimated useful service life so as to prevent undue deterioration;
 - d. In compliance with all federal and state nondiscrimination laws, regulations and policies.
 - ii. Open to the public. Unless otherwise specifically provided for in the Agreement, and in compliance with applicable statutes, rules, and applicable WACs and manuals, facilities must be open and accessible to the general public, and must:
 - a. Be constructed, maintained, and operated to meet or exceed the minimum requirements of the most current guidelines or rules, local or state codes, Uniform Federal Accessibility Standards, guidelines, or rules, including but not limited to: the International Building Code, the Americans with Disabilities Act, and the Architectural Barriers Act, as amended and updated.
 - b. Appear attractive and inviting to the public except for brief installation, construction, or maintenance periods.
 - c. Be available for appropriate use by the general public at reasonable hours and times of the year, according to the type of area or facility, unless otherwise stated in RCO manuals or, by a decision of the RCO director in writing. Sponsor shall notify the public of the availability for use by posting and updating that information on its website and by maintaining at entrances and/or other locations openly visible signs with such information.

27. RECORDED NOTICE OF GRANT.

At the request of RCO, another state agency, or a federal agency, Sponsor shall record a notice of grant on property subject to this Agreement and shall submit to the RCO a recorded and registry stamped copy of such notice. The purpose of the notice of grant is to provide constructive notice of the grant and project and to ensure that the present and future use of the project area is and shall remain subject to the terms and conditions described in this Agreement. The notice of grant shall be in a format specified by RCO.

28. PROVISIONS RELATED TO CORPORATE (INCLUDING NONPROFIT) SPONSORS.

- a. A corporate Sponsor, including any nonprofit Sponsor, shall:
 - i. Maintain corporate status with the state, including registering with the Washington Secretary of State's office, throughout the Sponsor's obligation to the project as identified in the Agreement.
 - ii. Notify RCO before corporate dissolution at any time during the period of performance or long-term obligations. Within 30 days of dissolution the Sponsor shall name a qualified successor that will agree in writing to assume any on-going project responsibilities, and transfer all property and assets to the successor. A qualified successor is any party eligible to apply for funds in the subject grant program and capable of complying with the terms and conditions of this Agreement. RCO will process an amendment transferring the Sponsor's obligation to the qualified successor if requirements are met.
 - iii. Maintain sites or facilities open to the public and may not limit access to members.

29. PROVISIONS FOR FEDERAL SUBAWARDS.

The following provisions shall be in force for this agreement:

- a. Sub-Recipient (Sponsor) must comply with the cost principles of 2 C.F.R. Part 200 Subpart E (2013). Unless otherwise indicated, the cost principles apply to the use of funds provided under this Agreement to include match and any in-kind matching donations. The applicability of the cost principles depends on the type of organization incurring the costs.
- b. Binding Official. Per 2 CFR 200.415, Sponsor certifies through its actions or those of authorized staff, at the time of a request for reimbursement, the following: "To the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812)."
- c. Equal Employment Opportunity. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60-1.4(b), in accordance with Executive Order 11246, Equal Employment Opportunity (30 Fed. Reg. 12319,

12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, Amending Executive Order 11246 Relating to Equal Employment Opportunity, and implementing regulations at 41 C.F.R. Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor). See 2 C.F.R. Part 200, Appendix II, paragraph C.

- d. Federally Assisted Construction Contract. The regulation at 41 C.F.R. § 60-1.3 defines a “federally assisted construction contract” as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.
- e. Construction Work. The regulation at 41 C.F.R. § 60-1.3 defines “construction work” as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.
- f. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities (Sponsors) must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity (Sponsor) must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity (Sponsor) must report all suspected or reported violations to the federal awarding agency identified in the Federal Fund Information Section. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U. S. C. 3145), as supplemented by Department of Labor regulations (29 C.F.R Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient (Sponsor) must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity (Sponsor) must report all suspected or reported violations to the Federal awarding agency identified in Section H: FEDERAL FUND INFORMATION.

- g. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-federal entity (Sponsor) in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- h. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 C.F.R § 401.2(a) and the recipient or subrecipient (Sponsor) wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient (Sponsor) must comply with the requirements of 37 C.F.R Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
- i. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as Amended. Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency identified in Section H: FEDERAL FUND INFORMATION and the Regional Office of the Environmental Protection Agency (EPA).
- j. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). By signing this Agreement, the Sponsor certifies (per the certification requirements of 31 U.S.C.) that none of the funds that the Sponsor has (directly or indirectly) received or will receive for this project from the United States or any agency thereof, have been used or shall be used to engage in the lobbying of the Federal Government or in litigation against the United States. Such lobbying includes any influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this project. Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying

with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier-to-tier up to the non-federal award.

- k. **Procurement of Recovered Materials.** A non-federal entity (Sponsor) that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- l. **Required Insurance.** The non-federal entity (Sponsor) must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with federal funds as provided to property owned by the non-federal entity. Federally-owned property need not be insured unless required by the terms and conditions of the Federal award (2 C.F.R § 200.310 (2013)).
- m. **Debarment and Suspension (Executive Orders 12549 and 12689).** The Sponsor must not award a contract to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the Office of Management and Budget (OMB) guidelines at 2 C.F.R § 180 that implement Executive Orders 12549 (3 C.F.R part 1986 Comp., p. 189) and 12689 (3 C.F.R part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- n. **Conflict of Interest.** Sponsor agrees to abide by the conflict of interest policy and requirements of the federal funding agency established pursuant to 2 C.F.R 200.

30. PROVISIONS FOR BOATING INFRASTRUCTURE GRANTS.

Use of Sport Fish Restoration Logo. Per 50 CFR 86 Sec 75 and 76, the user of the logo must indemnify and defend the United States and hold it harmless from any claims, suits, losses, and damages from; any allegedly unauthorized use of any patent, process, idea, method, or device by the user in connection with its use of the logo, or any other alleged action of the user; and any claims, suits, losses, and damages arising from alleged defects in the articles or services associated with the logo. No one may use any part of the logo in any other manner unless the United States Fish and Wildlife Service's Assistant Director for Wildlife and Sport Fish Restoration or Regional Director approves in writing.

31. PROVISIONS FOR FIREARMS AND ARCHERY RANGE RECREATION PROJECTS.

The following provisions shall be in force for this agreement:

- a. **Liability Insurance.** The Sponsor of a firearms or archery range recreation project shall procure an endorsement, or other addition, to liability insurance it carries, or shall procure a new policy of liability insurance, in a total coverage amount the Sponsor deems adequate to ensure it will have resources to pay successful claims of people who may be killed or injured, or suffer damage to property, while present at the range facility to which this grant is related, or by reason of being in the vicinity of that facility; provided that the coverage shall be at least one million dollars (\$1,000,000) for the death of, or injury to, each person.
- b. **Insurance Endorsement.** The liability insurance policy, including any endorsement or addition, shall name Washington State, the funding board, and RCO as additional insured and shall be in a form approved by the funding board or director.
- c. **Length of Insurance.** The policy, endorsement or other addition, or a similar liability insurance policy meeting the requirements of this section, shall be kept in force throughout the Sponsor's obligation to the project as identified in this Agreement.
- d. **Notice of Cancellation.** The policy, as modified by any endorsement or other addition, shall provide that the issuing company shall give written notice to RCO not less than thirty (30) calendar days in advance of any cancellation of the policy by the insurer, and within ten (10) calendar days following any termination of the policy by the Sponsor.
- e. **Government Agencies.** The requirement of Subsection a through d above shall not apply if the Sponsor is a federal, state, or municipal government which has established an adequate program of self-insurance or a policy of self-insurance with respect to claims arising from its facilities or activities generally, including such facilities as firearms or archery ranges, when the applicant declares and describes that program or policy to the RCO.
- f. **Sole Duty of the Sponsor.** By this requirement, the funding board and RCO does undertake to review, approve, or monitor the safety of the design, construction, or operation of the project and does not assume any duty to any individual person with respect to death, injury, or damage to property which that person may suffer as a result of the project which this grant relates. Any such person, or any other person making claims based on such death, injury, or damage, must look to the Sponsor, or others, for any and all remedies that may be available by law.

32. PROVISIONS FOR LAND AND WATER CONSERVATION FUND PROJECTS.

This project has been approved by the National Park Service, US Department of the Interior, for funding assistance from the federal Land and Water Conservation Fund (LWCF), therefore the "Land and Water Conservation Fund General Provisions" are made part of this Agreement and incorporated herein. The Sponsor shall abide by these LWCF General Provisions, in addition to this Agreement, as they now exist or are hereafter amended. Further, the Sponsor agrees to provide RCO with reports or documents needed to meet the requirements of the LWCF General Provisions.

33. PROVISIONS FOR FARMLAND AND FORESTLAND PRESERVATION PROJECTS.

The following sections of this Agreement shall not apply if they are included and covered separately in a recorded RCO-approved Agricultural Conservation Easement, or Forest Conservation Easement (or other method):

- a. Income and Income Use; Stewardship and Monitoring; Acknowledgement and Signs; Provisions Applying To Acquisition Projects: Conveyance of Rights to the State of Washington, Building and Structures, and Hazardous Substances; Long-Term Obligations of the Projects and Sponsors: Perpetuity; and Construction, Operation, Use and Maintenance of Assisted Projects.

34. PROVISIONS FOR SALMON RECOVERY FUNDING BOARD PROJECTS.

For habitat restoration projects funded in part or whole with federal funds administered by the SRFB the Sponsor shall not commence with clearing of riparian trees or in-water work unless either the Sponsor has complied with 50 C.F.R. § 223.203 (b)(8) (2000), limit 8 or until an Endangered Species Act consultation is finalized in writing by the National Oceanic and Atmospheric Administration. Violation of this requirement may be grounds for terminating this Agreement. This section shall not be the basis for any enforcement responsibility by RCO.

35. PROVISIONS FOR PUGET SOUND ACQUISITION AND RESTORATION PROJECTS.

The following provisions shall be in force for this Agreement if the project is funded in part or wholly from the Puget Sound Acquisition and Restoration program. The Sponsor agrees to the following terms and conditions:

- a. Cost Principles/Indirect Costs For State Agencies. GRANT RECIPIENT agrees to comply with the cost principles of 2 CFR 200 Subpart E as appropriate to the award. In addition to the US Environmental Protection Agency's General Terms and Conditions "Indirect Cost Rate Agreements," if the recipient does not have a previously established indirect cost rate, it agrees to prepare and submit its indirect cost rate proposal in accordance with 2 CFR 200 Appendix VII.
- b. Credit and Acknowledgement. In addition to the ACKNOWLEDGEMENT AND SIGNS section, materials produced must display both the Environmental Protection Agency (EPA) and Puget Sound Partnership (PSP) logos and the following credit line: "This project has been funded wholly or in part by the United States Environmental Protection Agency. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does mention of trade names or commercial products constitute endorsement or recommendation for use." This requirement is for the life of the product, whether during or after the Agreement period of performance.
- c. Hotel Motel Fire Safety Act. Sponsor agrees to ensure that all conference, meeting, convention, or training space funded in whole or part with federal funds, complies with the federal Hotel and Motel Fire Safety Act (PL 101-391, as amended). Sponsors may search the Hotel-Motel National Master List @ <http://www.usfa.dhs.gov/applications/hotel> to see if a property is in compliance or to find other information about the Act.

- d. Drug Free Workplace Certification. Sub-recipient (Sponsor) shall make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in 2 C.F.R. Part 1536 Subpart B. Additionally, in accordance with these regulations, the recipient organization shall identify all known workplaces under its federal awards, and keep this information on file during the performance of the award. Sponsors who are individuals must comply with the drug-free provisions set forth in 2 C.F.R. Part 1536 Subpart C. The consequences for violating this condition are detailed under 2 C.F.R. Part 1536 Subpart E.
- e. Management Fees. Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term “management fees or similar charges” refers to the expenses added to direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities or for other similar costs that are not allowable. Management fees or similar charges may not be used to improve or expand the project funded under this Agreement, except for the extent authorized as a direct cost of carrying out the scope of work.
- f. Trafficking in Persons and Trafficking Victim Protection Act of 2000 (TVPA). This provision applies only to a sub-recipient (Sponsor), and all sub-awardees of sub-recipient (Sponsor), if any. Sub-recipient (Sponsor) shall include the following statement in all sub-awards made to any private entity under this Agreement: “You as the sub-recipient, your employees, sub-awardees under this award, and sub-awardees’ employees may not engage in severe forms of trafficking in persons during the period of time that the award is in effect; procure a commercial sex act during the period of time that the award is in effect; or use forced labor in the performance of the award or sub-awards under this Award.” The sub-recipient (Sponsor), and all sub-awardees of sub-recipient (Sponsor) must inform RCO immediately of any information you receive from any source alleging a violation of this prohibition during the award term. The federal agency funding this Agreement may unilaterally terminate, without penalty, the funding award if this prohibition is violated, Section 106 of the Trafficking Victims Protection Act of 2000, as amended.
- g. Lobbying. The chief executive officer of this recipient agency (Sponsor) shall ensure that no grant funds awarded under this Agreement are used to engage in lobbying of the Federal Government or in litigation against the United States, unless authorized under existing law. The recipient (Sponsor) shall abide by its respective Cost Principles (OMB Circulars A-21, A-87, and A-122), which generally prohibits the use of federal grant funds for litigation against the United States, or for lobbying or other political activities. The Sponsor agrees to comply with 40 C.F.R. Part 34, New Restrictions on Lobbying. Sponsor shall include the language of this provision in award documents for all sub-awards exceeding \$100,000, and require that sub-awardees submit certification and disclosure forms accordingly. In accordance with the Byrd Anti-Lobbying Amendment, any Sponsor who makes a prohibited expenditure under 40 C.F.R. Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each expenditure. All contracts awarded by Sponsor shall contain, when applicable, the anti-lobbying provisions as stipulated in the Appendix at 40 C.F.R. Part 30. Pursuant to Section 18 of the Lobbying Disclosure Act, Sponsor

affirms that it is not a non-profit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986; or that it is a non-profit organization described in Section 501(c)(4) of the code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.

- h. Reimbursement Limitation. If the Sponsor expends more than the amount of RCO funding in this Agreement in anticipation of receiving additional funds from the RCO, it does so at its own risk. RCO is not legally obligated to reimburse the Sponsor for costs incurred in excess of the RCO approved budget.
- i. Disadvantaged Business Enterprise Requirements. The Sponsor agrees to comply with the requirements of EPA's Utilization of Small, Minority and Women's Business Enterprises in procurements made under this award.
- j. Minority and Women's Business Participation. Sponsor agrees to solicit and recruit, to the maximum extent possible, certified minority owned (MBE) and women owned (WBE) businesses in purchases and contracts initiated after the effective date of this Agreement.

These goals are expressed as a percentage of the total dollars available for purchase or agreement and are as follows: Purchased Goods 8% MBE 4% WBE; Purchased Services 10% MBE 4% WBE; Professional Services 10% MBE 4% WBE. Meeting these goals is voluntary and no agreement award or rejection shall be made based on achievement or non-achievement of the goals. Achievement of the goals is encouraged, however, and Sponsor and ALL prospective bidders or people submitting qualifications shall take the following affirmative steps in any procurement initiated after the effective date of this Agreement:
 - i. Include qualified minority and women's businesses on solicitation lists.
 - ii. Assure that qualified minority and women's business are solicited whenever they are potential sources of services or supplies.
 - iii. Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
 - iv. Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
 - v. Use the services and assistance of the State Office of Minority and Women's Business Enterprises (OMWBE) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.
- k. MBE/WBE Reporting. In accordance with the deviation from 40 C.F.R. §33.502, signed November 8, 2013, DBE reporting is limited to annual reports and only required for assistance agreements where one or more the following conditions are met:
 - l. There are any funds budgeted in the contractual/services, equipment or construction lines of the award; and/or \$3,000 or more is included for supplies; or there are funds budgeted for subawards or loans in which the expected budget(s) meet the conditions as described in items

(a) and (b). When completing the form, recipients (Sponsors) should disregard the quarterly and semi-annual boxes in the reporting period Section 1B of the form. For annual submissions, the reports are due by October 30th of each year or 90 days after the end of the project period, whichever comes first. The reporting requirement is based on planned procurements. Recipients (Sponsors) with funds budgeted for non-supply procurement and/or \$3,000 or more in supplies are required to report annually whether the planned procurements take place during the reporting period or not. If no procurements take place during the reporting period, the recipient should check the box in Section 5B when completing the form. MBE/WBE reports should be sent to the DBE Coordinator in the Sponsor's region. Contact information can be found at <http://www.epa.gov/osbp/contactpage.htm>. The coordinators also can answer any questions. Final MBE/WBE reports must be submitted within 90 days after the project period of the grant ends. To be in compliance with regulations, the Sponsor must submit a final MBE/WBE report. Non-compliance may impact future competitive grant proposals. The current EPA Form 5700-52A can be found at the EPA Office of Small Business Program's Home Page at http://www.epa.gov/osbp/dbe_reporting.htm.

- m. Procurement involving an EPA Financial Assistance Agreement. Pursuant to 40 C.F.R. § 33.301, the Sponsor agrees to make the following six good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients (Sponsors), and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained.
- n. Ensure Disadvantaged Business Enterprise (DBEs) are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For State and Local and Government Sponsors, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- o. Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- p. Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For State and local Government Sponsors, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
- q. Encourage contracting with a consortium of DBEs when an agreement is too large for one of these firms to handle individually.
- r. Use the services and assistance of the Small Business Administration (SBA) and the Minority Business Development of the Department of Commerce.

- s. If the Sponsor awards subcontracts, require the Sponsor to take the steps in paragraphs (a) through (e) of this section.
- t. Lobbying & Litigation. By signing this Agreement, the Sponsor certifies that none of the funds received from this Agreement shall be used to engage in the lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. The chief executive officer of this Sponsor agency shall ensure that no grant funds awarded under this Agreement are used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. The Sponsor shall abide by its respective Attachment in 2 C.F.R. Part 200, which prohibits the use of federal grant funds for litigation against the United States or for lobbying or other political activities. For subawards exceeding \$100,000, EPA requires the following certification and disclosure forms:
 - I. Certification Regarding Lobbying, EPA Form 6600-06:
http://www.epa.gov/ogd/AppKit/form/Lobbying_sec.pdf
 - II. Disclosure of Lobbying Activities, SF LLL:
http://www.epa.gov/ogd/AppKit/form/sflllin_sec.pdf
- u. Legal expenses required in the administration of Federal programs are allowable. Legal expenses for prosecution of claims against the Federal Government are unallowable.
- v. Payment to Consultants. EPA participation in the salary rate (excluding overhead) paid to individual consultants retained by recipients (Sponsors) or by a recipients' (Sponsor's) contractors or subcontractors shall be limited to the maximum daily rate for Level IV of the Executive Schedule (formerly GS-18), to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed (the recipient will pay these in accordance with his/her normal travel reimbursement practices). Subagreements with firms for services that are awarded using the procurement requirements in 40 C.F.R. Parts 30 or 31, are not affected by this limitation unless the terms of the contract provide the recipient (Sponsor) with responsibility for the selection, direction and control of the individual who will be providing services under the contract at an hourly or daily rate of compensation. See 40 C.F.R. § 30.27(b) or 40 C.F.R. § 31.369(j), as applicable, for additional information. As of January 1, 2020, the limit is \$654.71 per day \$81.83 per hour.
- w. Peer Review. Where appropriate, prior to finalizing any significant technical products the Principal Investigator (PI) of this project must solicit advice, review, and feedback from a technical review or advisory group consisting of relevant subject matter specialists. A record of comments and a brief description of how respective comments are addressed by the PI will be provided to the Project Monitor prior to releasing any final reports or products resulting from the funded study.
- x. International Travel (Including Canada). All International Travel must be approved by the US Environmental Protection Agency's Office of International and Tribal Affairs (OITA) BEFORE

travel occurs. Even a brief trip to a foreign country, for example to attend a conference, requires OITA approval. Please contact your Partnership Project manager as soon as possible if travel is planned out of the country, including Canada and/or Mexico, so that they can submit a request to the EPA Project Officer if they approve of such travel.

- y. Unliquidated Obligations (ULO). Sub-recipients, and all sub-awardees of Sub-Recipients, if any, should manage their agreement and subaward funding in ways that reduce the length of time that federal funds obligated and committed to subaward projects are unspent (not yet drawn down through disbursements to sub-recipients and sub-awardees).

- z. Light Refreshments And/Or Meals.

Unless the event(s) and all of its components are described in the approved workplan, the recipient agrees to obtain prior approval from EPA for the use of grant funds for light refreshments and/or meals served at meetings, conferences, training workshops, and outreach activities (events). The recipient must send requests for approval to the EPA Project Officer and include:

- 1) An estimated budget and description for the light refreshments, meals, and/or beverages to be served at the event(s);
- 2) A description of the purpose, agenda, location, length and timing for the event; and,
- 3) An estimated number of participants in the event and a description of their roles.

Cost for light refreshments and meals for recipient staff meetings and similar day-to-day activities are not allowable under EPA assistance agreements.

- aa. State grant cybersecurity.

- (a) The recipient agrees that when collecting and managing environmental data under this assistance agreement, it will protect the data by following all applicable State law cybersecurity requirements.
- (b) (1) EPA must ensure that any connections between the recipient's network or information system and EPA networks used by the recipient to transfer data under this agreement, are secure.
(2) The recipient agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in (b)(1) if the subrecipient's network or information system is connected to EPA networks to transfer data to the AGecy using systems other than the Environmental Information Exchange Network or EPA's Central Data Exchange.

36. ORDER OF PRECEDENCE.

- a. This Agreement is entered into, pursuant to, and under the authority granted by applicable federal and state laws. The provisions of the Agreement shall be construed to conform to those laws. In the event of a direct and irreconcilable conflict between the terms of this Agreement and any applicable statute, rule, or policy or procedure, the conflict shall be resolved by giving precedence in the following order:

- i. Federal law and binding executive orders;

- ii. Code of federal regulations;
- iii. Terms and conditions of a grant award to the state from the federal government;
- iv. Federal grant program policies and procedures adopted by a federal agency that are required to be applied by federal law;
- v. State Constitution, RCW, and WAC;
- vi. Agreement Terms and Conditions and Applicable Manuals
- vii. Applicable deed restrictions, and/or governing documents.

37. LIMITATION OF AUTHORITY.

Only RCO's Director or RCO's delegate authorized in writing (delegation to be made prior to action) shall have the authority to alter, amend, modify, or waive any clause or condition of this Agreement; provided that any such alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding unless made as a written amendment to this Agreement and signed by the RCO Director or delegate.

38. WAIVER OF DEFAULT.

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of the Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such in writing, signed by the director, or the director's designee, and attached as an amendment to the original Agreement.

39. APPLICATION REPRESENTATIONS – MISREPRESENTATIONS OR INACCURACY OR BREACH.

The Funding Entity (if different from RCO) and RCO rely on the Sponsor's application in making its determinations as to eligibility for, selection for, and scope of, funding grants. Any misrepresentation, error or inaccuracy in any part of the application may be deemed a breach of this Agreement.

40. SPECIFIC PERFORMANCE.

RCO may enforce this Agreement by the remedy of specific performance, which means Sponsors' completion of the project and/or its completion of long-term obligations as described in this Agreement. However, the remedy of specific performance shall not be the sole or exclusive remedy available to RCO. No remedy available to the RCO shall be deemed exclusive. The RCO may elect to exercise any, a combination of, or all of the remedies available to it under this Agreement, or under any provision of law, common law, or equity, including but not limited to seeking full or partial repayment of the grant amount paid and damages.

41. TERMINATION AND SUSPENSION.

- a. The RCO requires strict compliance by the Sponsor with all the terms of this Agreement including, but not limited to, the requirements of the applicable statutes, rules, and RCO policies, and with the representations of the Sponsor in its application for a grant as finally approved by RCO. For federal awards, notification of termination will comply with 2 C.F.R. § 200.340.
- b. For Cause.

- i. The RCO director may suspend or terminate the obligation to provide funding to the Sponsor under this Agreement:
 - a. If the Sponsor breaches any of the Sponsor's obligations under this Agreement;
 - b. If the Sponsor fails to make progress satisfactory to the RCO director toward completion of the project by the completion date set out in this Agreement. Included in progress is adherence to milestones and other defined deadlines; or
 - c. If the primary and secondary Sponsor(s) cannot mutually agree on the process and actions needed to implement the project;
 - d. Prior to termination, the RCO shall notify the Sponsor in writing of the opportunity to cure. If corrective action is not taken within 30 days or such other time period that the director approves in writing, the Agreement may be terminated. In the event of termination, the Sponsor shall be liable for damages or other relief as authorized by law and/or this Agreement.
 - ii. RCO reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the Sponsor from incurring additional obligations of funds during the investigation of any alleged breach and pending corrective action by the Sponsor, or a decision by the RCO to terminate the Contract.
- c. For Convenience. Except as otherwise provided in this Agreement, RCO may, by ten (10) days written notice, beginning on the second day after the mailing, terminate this Agreement, in whole or in part when it is in the best interest of the state. If this Agreement is so terminated, RCO shall be liable only for payment required under the terms of this Agreement prior to the effective date of termination. A claimed termination for cause shall be deemed to be a "Termination for Convenience" if it is determined that:
- i. The Sponsor was not in default; or
 - ii. Failure to perform was outside Sponsor's control, fault or negligence.
- d. Rights of Remedies of the RCO.
- i. The rights and remedies of RCO provided in this Agreement are not exclusive and are in addition to any other rights and remedies provided by law.
 - ii. In the event this Agreement is terminated by the director, after any portion of the grant amount has been paid to the Sponsor under this Agreement, the director may require that any amount paid be repaid to RCO for redeposit into the account from which the funds were derived. However, any repayment shall be limited to the extent it would be inequitable and represent a manifest injustice in circumstances where the project will fulfill its fundamental purpose for substantially the entire period of performance and of long-term obligation.
 - iii. Non-Availability of Funds. The obligation of the RCO to make payments is contingent on the availability of state and federal funds through legislative appropriation and state allotment. If amounts sufficient to fund the grant made under this Agreement are not appropriated to RCO for expenditure for this Agreement in any biennial fiscal period, RCO shall not be obligated to pay any remaining unpaid portion of this grant unless and until the necessary action by the Legislature or the Office of Financial Management occurs. If RCO participation

- is suspended under this section for a continuous period of one year, RCO's obligation to provide any future funding under this Agreement shall terminate. Termination of the Agreement under this section is not subject to appeal by the Sponsor.
- iv. **Suspension:** The obligation of the RCO to manage contract terms and make payments is contingent upon the state appropriating state and federal funding each biennium. In the event the state is unable to appropriate such funds by the first day of each new biennium RCO reserves the right to suspend the Agreement, with ten (10) days written notice, until such time funds are appropriated. Suspension will mean all work related to the contract must cease until such time funds are obligated to RCO and the RCO provides notice to continue work.
 - v. **No Waiver.** The failure or neglect of RCO to require strict compliance with any term of this Agreement or to pursue a remedy provided by this Agreement or by law shall not act as or be construed as a waiver of any right to fully enforce all rights and obligations set forth in this Agreement and in applicable state or federal law and regulations.

42. DISPUTE HEARING.

- a. Except as may otherwise be provided in this Agreement , when a dispute arises between the Sponsor and the RCO, which cannot be resolved, either party may request a dispute hearing according to the process set out in this section. Either party's request for a dispute hearing must be in writing and clearly state:
 - i. The disputed issues;
 - ii. The relative positions of the parties;
 - iii. The Sponsor's name, address, project title, and the assigned project number.
- b. In order for this section to apply to the resolution of any specific dispute or disputes, the other party must agree in writing that the procedure under this section shall be used to resolve those specific issues. The dispute shall be heard by a panel of three persons consisting of one person chosen by the Sponsor, one person chosen by the director, and a third person chosen by the two persons initially appointed. If a third person cannot be agreed on, the persons chosen by the Sponsor and director shall be dismissed and an alternate person chosen by the Sponsor, and one by the director shall be appointed and they shall agree on a third person. This process shall be repeated until a three person panel is established.
- c. Any hearing under this section shall be informal, with the specific processes to be determined by the disputes panel according to the nature and complexity of the issues involved. The process may be solely based on written material if the parties so agree. The disputes panel shall be governed by the provisions of this Agreement in deciding the disputes.
- d. The parties shall be bound by the majority decision of the dispute panelists, unless the remedy directed by that panel is beyond the authority of either or both parties to perform, as necessary, or is otherwise unlawful.

- e. Request for a disputes hearing under this section by either party shall be delivered or mailed to the other party. The request shall be delivered or mailed within thirty (30) days of the date the requesting party has received notice of the action or position of the other party which it wishes to dispute. The written agreement to use the process under this section for resolution of those issues shall be delivered or mailed by the receiving party to the requesting party within thirty (30) days of receipt by the receiving party of the request.
- f. All costs associated with the implementation of this process shall be shared equally by the parties.

43. ATTORNEYS' FEES.

In the event of litigation or other action brought to enforce the terms of this Agreement each party agrees to bear its own attorney fees and costs.

44. GOVERNING LAW/VENUE.

This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington. In the event of a lawsuit involving this Agreement, venue shall be in Thurston County Superior Court if legally proper; otherwise venue shall be in the Superior Court of a county where the project is situated, if venue there is legally proper, and if not, in a county where venue is legally proper. The Sponsor, by execution of this Agreement acknowledges the jurisdiction of the courts of the State of Washington.

45. SEVERABILITY.

The provisions of this Agreement are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.

46. END OF AGREEMENT.

This is the end of the agreement.



City Of Edgewood Council Agenda Summary Sheet

Subject: Discussion – Meridian Preliminary Design (CIP T-8 / TIP #2)	Agenda Item #: 2.C
	For Agenda of: 7/5/2022
	Prepared by: Jeremy Metzler
Attachments (list): 1. FINAL - 2023 TIP Budget Spreadsheet 2. FINAL - 2022 CIP Program (excerpt) 3. SIGNED RTP Comment Letter	
Approval of Materials: Jeremy Metzler Rachel Pitzel 6/30/2022 Dave Gray 6/30/2022 Daryl Eidinger 6/30/2022	Expenditure Required: est. \$325,000
	Amount Budgeted: \$455,000
	Timeline: 07/05/2022 SS

Summary Statement:

This agenda item is an update for the City Council regarding Meridian Avenue East (State Route 161), reviewing the actions taken to-date, with the goal of discussing how staff should proceed.

As described in the 2015 Comprehensive Plan, the "Meridian Preliminary Design" project is a "corridor study and preliminary design of 3-lane cross-section and supporting intersection treatments" between 24th Street East and 36th Street East. As described in the current Capital Improvement Plan (CIP), the current Regional Transportation Plan (RTP) indicates WSDOT still has plans to extend a 5-lane cross-section from its current terminus at 24th south to 36th, but shows no funding until at least 2035. This project was included in the City's 2015 Comprehensive Plan and has been included in the City's Transportation Improvement Plan (TIP) and CIP each year since at least 2019, with the current iterations (attached) identifying up to \$455,000 for spending in 2022. The City previously funded an access management study in 2020 as a first step in this project, looking at intersection control and improvement strategies for the entire Meridian Corridor.

Due to a Level of Service (LOS) deficiency, an intersection improvement feasibility assessment was conducted in 2020 at 32nd Street East, looking at replacing the existing two-way stop control with a traffic signal or roundabout. Due to the relatively low volume of traffic on the east and west approaches, the traffic signal was found to not meet WSDOT signal warrants in the evaluation. A roundabout was found to be the preferred alternative, but construction was estimated to cost more than \$2 million dollars. Therefore, due to the high cost and low benefit of the resulting preferred alternative, the decision was made to explore other options to improve this intersection's LOS.

More recently, the City has reviewed and discussed several alternatives to improve traffic operations and safety at 36th Street East / Chrisella Road East. This effort has once again identified a roundabout as the preferred alternative at Meridian, but there would be a higher benefit at this location than at 32nd due to the

higher traffic volumes, and the costs would be similar. Paired with other access management treatments along the Meridian corridor and appropriate "u-turn" accommodations, a roundabout at 36th could improve the LOS at 32nd. Staff expects this Meridian Preliminary Design project to provide clarity on this point.

Finally, as Meridian is a State Route, it is imperative that the City closely coordinate any design efforts with WSDOT, and funding of any construction efforts with the Washington State Legislature. As mentioned earlier, the RTP shows no state funding for Meridian until at least 2035. The City Council submitted a letter to the Puget Sound Regional Council in February 2022 (attached) articulating their concerns with this delay in funding, as well as the apparent lack of provision for Meridian south of 36th, among other points. Staff recommends proceeding with this project as a locally funded planning and design effort, which will result in tangible concepts and deliverables that can be leveraged to bring attention to Meridian (SR-161) as a transportation route of regional significance.

Therefore, in coordination with the City's transportation engineering consultants, staff requested a scope of work to complete the Meridian Preliminary Design project. To help with WSDOT coordination, confirm long-term strategy for operational and safety needs, obtain WSDOT approval for future detailed design, and support the Town Center Plan and the other planned land use growth along the corridor, this project will gather data, complete a detailed analysis of the corridor and intersections, prepare preliminary design plans, and develop a list of short-term and long-term corridor improvements. Armed with this information, the City can then lobby for regional and federal funding and support to implement the strategy, complete engineering designs, and solicit construction contracts as funding comes available.

Item History:

N/A

Recommended Action:

Hold a discussion and provide staff direction to **Discussion** – Meridian Preliminary Design (CIP T-8 / TIP #2)

Fiscal Note/Consideration:

Staff proposes tasking the City's transportation engineering consultants with this project, utilizing existing on-call contracts that were authorized by City Council in July 2021. There is ample room under each of these consulting contracts to accommodate the anticipated budget of this project.

Transportation Improvement Program (TIP)
Years 2023-2028

Project No.		Transportation Project	Estimated Annual Project Expenditures									Total Project Cost	Comments
TIP	TIF Program		Prior Years (Actual)	2022 Estimate	2023	2024	2025	2026	2027	2028	Future Years		
1	R-3, R-9	Meridian/32nd & Meridian/36th Intersection improvements	\$ 35,000	\$ -	\$ -	TBD - Pending results of Project No. 2, below					\$ -	TBD	Coordinate intersection needs and alternatives with WSDOT, then construct improvements.
2	S-1	Meridian Ave E (SR-161) Preliminary Design	\$ 71,500	\$ 455,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 526,500	Completed access management study, reviewed parallel roads; need to review cross section and intersection treatment needs south of 24th. (80% TIF Eligible)
3	N/A	Emergency Road Repair (Weather Related - Annual)		\$ 25,000	\$ 25,000	\$ 25,000	\$ 25,000	\$ 25,000	\$ 25,000	\$ 25,000		\$ 175,000	Annual Program - Road failures associated with severe weather events, wear and tear from freeze/thaw events and other causes.
4	R-4	Edgewood Drive Safety Improvements	\$ 495,532	\$ 66,985	\$ -	\$ 535,000	\$ -	\$ -	\$ 4,500,000	\$ 5,500,000	\$ -	\$ 11,097,517	2021: Intersection repair at bottom of hill. (67% TIB) 2023+: Roadway widening, curb & gutter, stormwater system and pedestrian walkway. (40% TIF Eligible)
5	R-10	Chrisella Road East Safety Improvements	\$ 25,752	\$ 1,174,248	\$ 450,000	\$ -	\$ 5,970,000	\$ -	\$ -	\$ -	\$ -	\$ 7,620,000	2021/2022: Improved markings, signage, lighting, sight distance, possible traffic calming measures; 2024+: Sidewalk, repair slopes south of 48th St E (40% TIF Eligible)
6	N/A	Citywide Road Preservation Program (Annual)		\$ 330,000	\$ 345,000	\$ 360,000	\$ 375,000	\$ 390,000	\$ 400,000	\$ 415,000		\$ 2,615,000	Annual program - Full width rubberized chipseal and/or 2" HMA grind and overlay. Minor crack sealing and digout repairs are included.
7	S-3, N-1	Interurban Trail Phase III, Connection Feasibility Study	\$ -	\$ 100,000	\$ 200,000	\$ 4,000,000	\$ 2,300,000	\$ -	\$ -	\$ -	\$ -	\$ 6,600,000	Develop approximately 1.05-mile corridor as a trail from 114th Avenue East to the City of Pacific. (20% TIF Eligible)
8	TBD - "N" Projects	Citywide Pedestrian Mobility and Safety Improvements (Annual)		\$ 75,000	\$ 75,000	\$ 75,000	\$ 75,000	\$ 75,000	\$ 75,000	\$ 75,000		\$ 525,000	Annual Program - Walkways and/or trails with vegetated buffers for traffic safety, low level pedestrian lighting where appropriate, signs and pavement markings, as shown in the 2004 Pedestrian Study (20% TIF Eligible)
9	N/A	Citywide Traffic Safety Program (Annual)		\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000		\$ 350,000	Annual program - Neighborhood Traffic Calming Projects, Safety Projects and reconstruction of ADA deficiencies.
10	N/A	Citywide Road Maintenance Program (Annual)		\$ 75,000	\$ 75,000	\$ 75,000	\$ 75,000	\$ 75,000	\$ 75,000	\$ 75,000		\$ 525,000	Annual program - Repair and maintenance of City transportation infrastructure, including traffic operations, signing and markings
11	MCE-2, MCE-7, MCE-16	Meridian Parallel Road Network Construction - Various Segments	\$ 288,426	\$ 950,000	\$ 2,700,000	\$ 2,700,000	\$ 1,670,000	\$ -	\$ -	\$ -	\$ -	\$ 8,308,426	Construct high-priority parallel road segments, closing gaps and fixing access deficiencies - Priority Order: MCE-16 (Chrisella), MCE-7, MCE-2. (60% TIF Eligible)
12	NP-3	Meridian Ave E / Emerald Street Signal Improvements	\$ 84,760	\$ 365,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 449,760	Coordinate signal mast arm and detection design & constructon with WSDOT. (100% TIF Eligible)
13	S-2, N-9	36th Street E Walkway Extension Feasibility/Design/Build	\$ -	\$ -	\$ 100,000	\$ 650,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 750,000	Design and construct extension of existing walkway to new park property. (20% TIF Eligible)
Annual Totals			\$ 1,000,970	\$ 3,666,233	\$ 4,020,000	\$ 8,470,000	\$ 10,540,000	\$ 615,000	\$ 5,125,000	\$ 6,140,000	\$ -	\$ 39,542,203	
					Proposed 6-Year Program Total:					\$ 34,910,000			
TIB Funding:				\$ 44,870	\$ 80,000	\$ 520,000	\$ -	\$ -	\$ -	\$ -		\$ 644,870	2022: Edgewood Dr, 2023/2024: 36th St E Walkway
FHWA Funding (PSRC/PCRC):				\$ -	\$ -	\$ -	\$ 3,582,000	\$ -	\$ 2,700,000	\$ 3,300,000		\$ 9,582,000	Request for 2025/2026 in 2022, 2027/2028 in 2024
WSDOT Funding:				\$ 1,174,248	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ 1,174,248	Chrisella HSIP Grant (work in progress)
Public Works Trust Fund Loan:				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -	
Total Unidentified Grant Funds:				\$ -	\$ -	\$ 2,670,000	\$ 1,380,000	\$ -	\$ -	\$ -		\$ 4,050,000	
Total Anticipated Grant Funding:				\$ 1,219,118	\$ 80,000	\$ 3,190,000	\$ 4,962,000	\$ -	\$ 2,700,000	\$ 3,300,000		\$ 15,451,118	
Total City Funds Needed:				\$ 2,447,115	\$ 3,940,000	\$ 5,280,000	\$ 5,578,000	\$ 615,000	\$ 2,425,000	\$ 2,840,000		\$ 23,125,115	
Traffic Impact Fees				\$ 1,334,000	\$ 1,875,000	\$ 2,779,000	\$ 3,865,000	\$ 15,000	\$ 1,815,000	\$ 2,215,000		\$ 13,898,000	
REET Funds				\$ 901,000	\$ 965,000	\$ 1,031,000	\$ 725,000	\$ 290,000	\$ 210,000	\$ 200,000		\$ 4,322,000	
School Zone Camera Fees				\$ 110,000	\$ 110,000	\$ 110,000	\$ 110,000	\$ 110,000	\$ 110,000	\$ 110,000		\$ 770,000	
Park Impact Fees				\$ -	\$ 160,000	\$ 800,000	\$ 460,000	\$ -	\$ -	\$ -		\$ 1,420,000	
Surface Water Fund / ARPA				\$ 22,115	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ 22,115	2022: Edgewood Drive
General Fund				\$ 80,000	\$ 830,000	\$ 560,000	\$ 418,000	\$ 200,000	\$ 290,000	\$ 315,000		\$ 2,693,000	
Prepared by: Jeremy Metzler, P.E.													
Date Prepared: 4/20/2022													



CAPITAL IMPROVEMENT PLAN

Annual Update for years 2022–2027

City of Edgewood 2022 - 2027 Capital Improvement Plan

Project	2022 Estimate	2023 Estimate	2024 Estimate	2025 Estimate	2026 Estimate	2027 Estimate	Totals
Transportation							
T-1 Citywide Road Preservation Program (TIP No. 6)	\$ 330,000	\$ 345,000	\$ 360,000	\$ 375,000	\$ 390,000	\$ 400,000	\$ 2,200,000
T-2 Citywide Traffic Safety Program (TIP No. 9)	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 300,000
T-3 Interurban Trail Phase III, Connection Feas. Study (TIP No. 7)	\$ 100,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 100,000
T-4 Chrisella Road East Safety Improvements (TIP No. 5)	\$ 1,175,000	\$ -	\$ 450,000	\$ -	\$ -	\$ 5,970,000	\$ 7,595,000
T-5 Edgewood Drive Safety Improvements (TIP No. 4)	\$ -	\$ 535,000	\$ -	\$ 4,500,000	\$ 5,500,000	\$ -	\$ 10,535,000
T-6 Transporation Engineering / Plan Support	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 300,000
T-7 Meridian / 32nd Intersection Improvements (TIP No. 1)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
T-8 Meridian Ave E. Preliminary Design (TIP No. 2)	\$ 455,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 455,000
T-9 Citywide Pedestrian Mobility and Safety Improvements (TIP No. 8)	\$ 75,000	\$ 75,000	\$ 75,000	\$ 75,000	\$ 75,000	\$ 75,000	\$ 450,000
T-10 Meridian Parallel Road Network Constr. - Various Seg's (TIP No. 11)	\$ 950,000	\$ 2,700,000	\$ 2,700,000	\$ 1,670,000	\$ -	\$ -	\$ 8,020,000
T-11 Meridian / Emerald Signal Improvements (TIP No. 12)	\$ 350,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 350,000
T-12 36th Street East Walkway Extension (TIP No. 13)	\$ 84,800	\$ 650,300	\$ -	\$ -	\$ -	\$ -	\$ 735,100
Total Transportation	\$ 3,619,800	\$ 4,405,300	\$ 3,685,000	\$ 6,720,000	\$ 6,065,000	\$ 6,545,000	\$ 31,040,100

T-8 – Meridian Avenue East Preliminary Design (TIP No. 2)

Fund:

General Fund

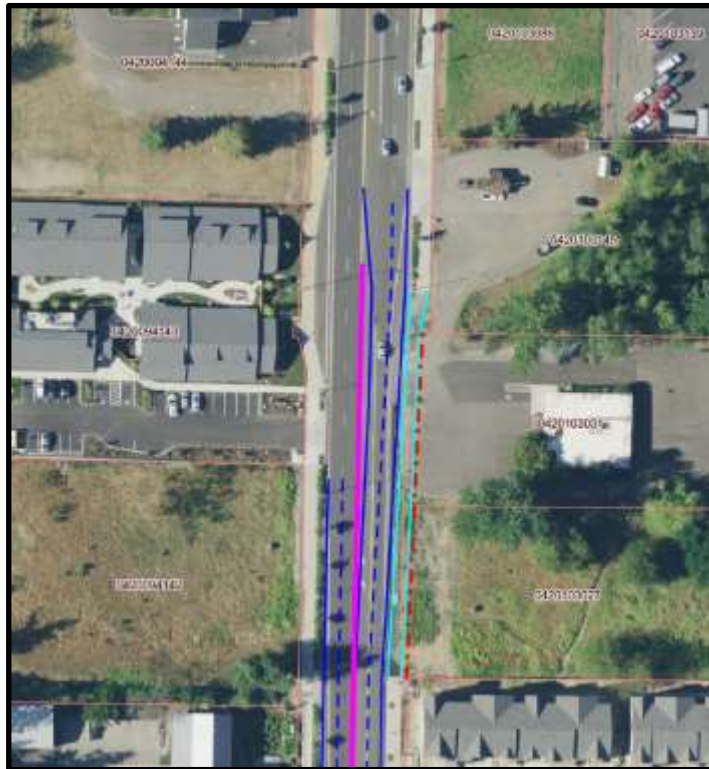
Project Category:

Transportation

Comprehensive Plan

Transportation Element

Project S-1



Project Description: As described in the current Comprehensive Plan, this project will be a “Complete corridor study and preliminary design of 3-lane cross-section and supporting intersection treatments” between 24th Street East and 36th Street East. However, the current regional transportation plan indicates WSDOT plans to extend the 5-lane cross-section from its current terminus at 24th to 36th, but funding for this work has been delayed by the legislature to the year 2035 and beyond.

An access management study was completed by the City in 2020, as there are additional safety concerns along the segment of Meridian Ave E south of 36th St E. The City is interested in closely coordinating efforts with WSDOT on improving this corridor without duplicating efforts or creating conflicts.

Applicable Comprehensive Plan Goals –

- **T.I:** Develop a safe and efficient street system that accommodates all transportation modes and maximizes people-carrying capacity. Improve the operating efficiency of the existing system and maintain the capacity to adequately serve present and future travel demand.
- **T.VIII:** Adequately fund the transportation system to meet current and future capital, maintenance and operational needs.
- **CF.I:** Provide capital facilities and public services necessary to support existing and new development envisioned in the Land Use Element.
- **CF.II:** Provide adequate capital facilities that address past deficiencies, meet the needs of growth and enhance the quality of life through acceptable levels of service.
- **CF.III:** Ensure that planned capital facilities are financially feasible.

Service Impact: Evaluating AM-peak northbound capacity and PM-peak southbound capacity, coordinating with WSDOT on regional network impacts and local access needs.

Total 6-Year Project Budget: \$455,000

Funding Sources:

- Traffic Impact Fees
- Real Estate Excise Taxes

Critical Milestones:

- 2022 – Design / Planning

T-8							
Meridian Ave E. Preliminary Design (TIP No. 2)							
Total Project Budget:	\$ 455,000						
Phase	6-Year Projected Plan						Projected 6-Year
	2022	2023	2024	2025	2026	2027	
Project Expenditures:							
Design	\$ 455,000						\$ 455,000
Right of Way							
Construction							
Total Expenditures	\$ 455,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 455,000
Revenue Sources:							
Grant Revenue (TBD)							
School Zone Camera Fees							
REET 1 (Gen. Fund Capital)	\$ 91,000						\$ 91,000
REET 2 (Pub. Works Capital)							
Traffic Impact Fund	\$ 364,000						\$ 364,000
Total Revenues	\$455,000	\$0	\$0	\$0	\$0	\$0	\$455,000
General Fund Impacts:	-	-	-	-	-	-	-



February 23, 2022

Puget Sound Regional Council
1011 Western Ave #500
Seattle, WA 98104

RE: Draft 2022-2050 Regional Transportation Plan – Public Comment

To Whom It May Concern:

The City of Edgewood has concerns regarding Washington State Department of Transportation (WSDOT) Project #5344 – *SR 161/36th to Vicinity 24th St E*. Found on Page 171 of the Draft Regional Transportation Plan's Appendix D, this project completes widening of Meridian Ave E (SR 161) from three to five lanes south of 24th St E to 36th St E, an estimated cost of \$33,074,148, and would include intersection and access control improvements. While the project is listed with a MTP Status of "Approved" and prioritization score of 41, it currently has a listed completion year of 2037.

Reviewing Appendix D for other projects sponsored by WSDOT Olympic Region, the following have a completion date sooner than 2037, with a MTP Status lower than "Approved", lower prioritization score, and/or higher estimated project cost than the aforementioned project:

ID #	Project	Year Complete	MTP Status	Estimated Cost	Priority Score
497	SR 162: SR 410 – 96th St E	2028	Candidate	\$152,296,952	24
1812	SR 99/I-5 Interchange – Fife	2031	Unprogrammed	\$ 5,868,011	40
1832	SR 3/Big Valley Rd to SR 104	2027	Candidate	\$ 27,569,945	21
3618	SR 302/Elgin Clifton Rd to 144th St	2031	Unprogrammed	\$ 21,285,763	10
4180	SR 3/SR 305 to SR 104	2027	Unprogrammed	\$ 75,482,848	31
4181	SR 3/Pioneer Way NW to Big Valley	2029	Candidate	\$ 15,090,399	27
4183	SR 3/SR 304 Interchange	2028	Candidate	\$ 59,043,870	29
4185	SR 3/SR 16 Interchange	2027	Candidate	\$ 32,557,725	41
4243	SR 512/Meridian St to Pioneer Ave	2029	Candidate	\$ 62,165,612	41
5440	SR 302/Establish New Corridor	2028	Unprogrammed	\$286,447,308	13
5678	SR 104/Kingston Ferry Terminal	2030	Unprogrammed	\$ 10,594,084	21

This list represents nearly \$750 Million in estimated costs. Given each of these projects' apparent lower status and/or ranking, our City is troubled that these projects would be prioritized, funded and programmed for completion several years before Project #5344.

Also, we noted there is nothing included in this draft plan for the segment of SR 161 (Meridian Ave E) between 36th St E and the City of Puyallup. This segment was identified in the WSDOT Olympic Region's Route Development Plan (January 1997) as needing at least two lanes in each direction. In recent years the condition of the road has deteriorated, with apparent settlement of the southbound lane abutting steep drop-offs, and guardrails in very poor condition. Furthermore, the old concrete bridge spanning the

February 22, 2022

Draft Regional Transportation Plan – Public Comment

Page 2 of 3

Union Pacific Railroad at the City's southern boundary was constructed in 1938, listed as structurally deficient in the 1997 plan, and originally slated for replacement in 2013.

Finally, Edgewood's Town Center is designated as a Center of Local Importance (COLI) by the Pierce County Regional Council (PCRC), recognizing it as a focal point for our community and surrounding area(s). A COLI includes a variety and concentration of uses at higher densities and provides a multiple transportation options and pedestrian-friendly designs. SR 161 (Meridian Ave E) is a vital connection that runs through the heart of this COLI to surrounding areas. In fact, Pierce Transit has provided letters of support for Edgewood's COLI planning efforts and is studying improvements to Route 402, along with a new Park-and-Ride to serve Bus Rapid Transit (BRT). Pierce Transit's long-range vision is for this BRT extension to connect Puyallup to the Federal Way Transit Center, and this vision cannot be achieved without improvements to SR 161 in Edgewood.

We strongly urge the Puget Sound Regional Council, WSDOT and the State Legislature to prioritize investments in SR 161, utilizing any and all resources available, before this critical north-south route of regional significance experiences a catastrophic failure. This route requires the additional capacity these projects would provide to appropriately serve all modes of transportation to the benefit of Edgewood and our neighboring communities. It was recently brought to our attention that the 2019 State Legislature's failure to fund Project #5344 resulted in its delay to 2037, even as Edgewood has remained one of the fastest growing communities in Washington State since 2016, with SR 161 serving as a gateway between the Seattle Metropolitan Area and Central Pierce County communities of Puyallup, Sumner, South Hill, Midland, Spanaway, Parkland, Fredrickson, and Graham.

We appreciate this opportunity to comment on the Draft Regional Transportation Plan. If you would like to discuss these concerns in more detail, please contact Mayor Daryl Eiding by phone at 253-831-4246, or email at mayor@cityofedgewood.org.

Respectfully yours,



Daryl Eiding, Mayor

Mark Creley,
Edgewood City Council
Position 1

Christi Keith,
Edgewood City Council
Position 3

Erica Buckley,
Edgewood City Council
Position 6



Rosanne Tomin, Deputy Mayor

Ryan Day,
Edgewood City Council
Position 2

John West,
Edgewood City Council
Position 5

Nate Lowry,
Edgewood City Council
Position 7

February 22, 2022

Draft Regional Transportation Plan – Public Comment

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Cc:

WSDOT Olympic Region

WA Legislative District #2: Senator Jim G. McCune, Rep. Andrew Barkis, Rep. J.T. Wilcox

WA Legislative District #25: Senator Chris Gildon, Rep. Kelly Chambers, Rep. Cyndy Jacobsen

WA Legislative District #29: Senator Steve E. Conway, Rep. Melanie Morgan, Rep. Steve T. Kirby

WA Legislative District #30: Senator Claire Wilson, Rep. Jamila Taylor, Rep. Jesse Johnson

WA Legislative District #31: Senator Phil D. Fortunato, Rep. Drew Stokesbary, Rep. Eric E. Robertson



City Of Edgewood Council Agenda Summary Sheet

Subject: Discussion – Resolution – WSDOT HSIP Supplemental Agreement – Chrisella Safety Improvements	Agenda Item #: 2.D
	For Agenda of: 7/5/2022
	Prepared by: Jeremy Metzler
Attachments (list): 1. RESOLUTION NO. 22-0xxx - GO PE Work for Chrisella Road 2. Edgewood - Chrisella Rd E Safety Imprs - Supplemental Agree No. 1	
Approval of Materials: Jeremy Metzler Rachel Pitzel 6/30/2022 Dave Gray 6/30/2022 Daryl Eidinger 6/30/2022	Expenditure Required: \$146,832.50 Amount Budgeted: \$128,464.00 Timeline: 07/05/2022 SS 07/12/2022 RCM

Summary Statement:

The City was awarded grant funds through the Washington State Department of Transportation's (WSDOT) City Safety Program in December 2020 for Chrisella Road East. The City Council authorized a WSDOT consultant agreement with Gray & Osborne, Inc. under Resolution 21-0603 for Preliminary Engineering (PE) design work on November 9, 2021. Since this authorization, staff has confirmed the need for right-of-way acquisition within the project area, which requires additional survey work, right-of-way plan preparation, preliminary property valuation and title report acquisition before WSDOT can obligate grant funds for said acquisition. These tasks are all grant-eligible PE expenses, and WSDOT has confirmed grant funds are available.

Therefore, in coordination with Gray & Osborne, the attached Supplemental Agreement has been prepared to complete the additional work necessary. These additional expenses will be covered by the WSDOT grant funds, requiring no offsetting or matching city funds. Also attached for Council's consideration is an authorizing resolution.

Item History:

11/02/2021 SS
 11/09/2021 RCM

Recommended Action:

Hold a discussion and provide staff guidance regarding **Discussion** – Resolution – WSDOT HSIP Supplemental Agreement – Chrisella Safety Improvements

Fiscal Note/Consideration:

The original grant application required 10% local participation in all pre-construction phases. Due to the COVID-19 emergency, however, the program is now covering 100% of all costs, saving the City at least \$30,000 over the course of this project.

RESOLUTION NO. 22-0xxx

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE SUPPLEMENTAL AGREEMENT NUMBER 1 FOR THE CHRISSELLA ROAD EAST SAFETY IMPROVEMENTS PROJECT DESIGN (PE PHASE) WITH GRAY & OSBORNE, INC.

WHEREAS, by passing Resolution 21-0603 on November 9, 2021, the City Council authorized execution of a Local Agency A&E Professional Services – Negotiated Hourly Rate Consultant Agreement (“Agreement”) with Gray & Osborne, Inc. (“G&O”) for the Chrisella Road East Safety Improvements Project Design (PE Phase); and

WHEREAS, since the Agreement was executed, the City and G&O have mutually agreed to additional preliminary work not included in the original scope of the Agreement that have been deemed necessary in order to obligate grant funds for the next phase of work: right-of-way acquisition; and

WHEREAS, City staff has worked with WSDOT Local Programs staff to verify and secure funding authorization for the additional work under the PE Phase; and

WHEREAS, staff negotiated an acceptable scope of work and budget for said additional work with G&O following WSDOT procedures, resulting in a revised contract total of \$146,832.50, an increase of \$18,368.50; and

WHEREAS, these additional expenses will be covered by the WSDOT grant funds, requiring no offsetting or matching city funds; and

WHEREAS, the City Council considered staff’s recommendation during its study session of July 5, 2022 and regular Council meeting of July 12, 2022;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. The City Council hereby authorizes the Mayor to execute Supplemental Agreement Number 1 between the City of Edgewood and Gray & Osborne, Inc. for the revised total amount of \$146,832.50 for the Chrisella Road East Safety Improvements Project Design (PE Phase). A copy of said agreement is attached hereto as Exhibit A.

Section 2. This resolution will take effect immediately upon passage by the City Council.

ADOPTED THIS 12TH DAY OF JULY, 2022

Daryl Eidinger, Mayor

ATTEST:

Rachel Pitzel, City Clerk

DRAFT

Exhibit A
Supplemental Agreement Number 1
(WSDOT Form)

DRAFT



**Washington State
Department of Transportation**

Supplemental Agreement Number <u>1</u>		Organization and Address	
Original Agreement Number		Gray & Osborne, Inc. 1130 Rainier Ave S, Suite 300 Seattle, WA 98144	
Project Number HSIP 3209007		Phone: 206-284-0860	Completion Date December 31, 2023
Project Title Chrisella Road East Safety Improvements		New Maximum Amount Payable \$146,832.50	
Description of Work Additional survey work for Preliminary ROW Plan Preparation, sub-consultant for Preliminary Valuation and title report acquisition.			

The Local Agency of City of Edgewood
desires to supplement the agreement entered in to with Gray & Osborne, Inc.
and executed on 11/10/2021 and identified as Agreement No. HSIP 3209007
All provisions in the basic agreement remain in effect except as expressly modified by this supplement.
The changes to the agreement are described as follows:

I

Section 1, SCOPE OF WORK, is hereby changed to read:

The first paragraph of the Scope of Work described in Exhibit A of the original agreement is amended to add the additional scope of work as shown in Exhibit A-1.

II

Section IV, TIME FOR BEGINNING AND COMPLETION, is amended to change the number of calendar days for completion of the work to read: Completion Date is revised to 12/31/2023

III

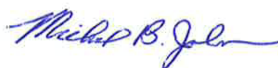
Section V, PAYMENT, shall be amended as follows:

As set forth in Supplemental Agreement No 1 Exhibit A attached and incorporated by reference adding \$18,368.50. Basic Agreement \$128,464.00 + Supplemental No. 1 \$18,368.50 = \$146,832.50.

as set forth in the attached Exhibit A, and by this reference made a part of this supplement.

If you concur with this supplement and agree to the changes as stated above, please sign in the Appropriate spaces below and return to this office for final action.

By: Michael B Johnson, P.E. By: _____



Consultant Signature

Approving Authority Signature

Date

EXHIBIT A

Summary of Payments

	Basic Agreement	Supplement No. 1	Total
Direct Salary Cost	\$39,896.30	\$2,191.40	\$42,087.70
Overhead (Including Payroll Additives)	\$75,862.81	\$4,166.95	\$80,029.76
Direct Non-Salary Costs	\$736.00	\$0.00	\$736.00
Fixed Fee	\$11,968.89	\$657.42	\$12,626.31
Subconsultant	\$0.00	\$11,352.73	\$11,352.73
Total	\$128,464.00	\$18,368.50	\$146,832.50

Our scope of work is more particularly described below.

TASK 9 – PROJECT MANAGEMENT (ADDITIONAL PE WORK)

Objective: Provide overall project management of CONSULTANT resources, provide subconsultant management, manage and oversee the budget, schedule of deliverables, and provide client contact.

CONSULTANT Responsibilities

1. Contract execution, internal accounting, and auditing.
2. Internal resource management and prioritization of resources.
3. Subconsultant coordination and their contract administration.
4. Preparation of monthly progress reports (to be submitted with monthly invoices).
5. Manage and oversee the schedule of deliverables.

Assumptions

1. CONSULTANT will provide standard CONSULTANT-formatted invoices identifying personnel, hours, and direct costs (mileage, printing, etc.). Invoices will be provided on a monthly basis.
2. CONSULTANT will transmit a monthly progress letter with each monthly invoice.

AGENCY Responsibilities

1. Review and process monthly invoices in a timely fashion.

Deliverables

1. Monthly reports identifying major work items completed during invoice period and identification of any impacts to the schedule of deliverables, scope, and/or budget.
2. Monthly invoices.
3. Original and/or courtesy copies of electronic mail, letters, photographs, etc., applicable to the development of the project.

TASK 10 – RIGHT-OF-WAY PLANS, LEGAL DESCRIPTIONS AND EXHIBITS

Objective: Prepare right-of-way plans identifying acquisition areas and prepare legal descriptions/exhibits for five strip takes on five parcels: Tax Lot 3025000051 (Ownen); Tax Lot 3025000030 (Giugler and Johnson); Tax Lot 3025000020 (Collins and Precht); Tax Lot 0420153041 (Chmyr); and Tax Lot 0420153015 (Sowers).

CONSULTANT Responsibilities

1. Prepare legal descriptions and exhibits for five acquisition areas.
2. Prepare right-of-way plans for the project.

Assumptions

1. The development and/or recording of a “Record of Survey” is not required or included in this scope of work.
2. No relocations are required.
3. No boundary survey is included in this scope of work.

Deliverables

1. Copy of electronic files of right-of-way plans, legal descriptions, exhibits.

TASK 11 – ROW FUNDING ESTIMATE AND TITLE REPORTS (EPIC LAND SERVICES)

Objective: Perform right-of-way funding estimates for five parcels and order title reports for five parcels.

Project Description:

The City of Edgewood (AGENCY) is planning to construct safety improvements to Chrisella Road East, between 36th Street East to 48th Street East, for a total project length of .87 miles. The project will design and construct associated ADA and utility upgrades, pavement marking removal, sign/post removal or relocation and replacement, as needed. The project involves shoulder widening, guardrail installation, installation of profile thermoplastic dual-yellow, widely spaced centerlines, raised pavement markers, rumble strip, profile thermoplastic wide edge stripes, LEF perimeter lit curve warning chevrons, speed limit signage and speed feedback signs.

The project is funded in part by federal Highway Safety Improvement Program (HSIP) [Federal Aid Project No. HSIP-3209007]. Due to federal funding, right of way tasks are subject to Washington State Department of Transportation (WSDOT) oversight and will require a WSDOT Right of Way Funding Estimate and ROW Certification in accordance with WSDOT Local Agency Guidelines (LAG), and WSDOT Right of Way Manual.

Gray & Osborne, Inc. (PRIME) was contracted by the AGENCY to perform the Design Phase (Preliminary Engineering) services for this project. The AGENCY is anticipating valuation and right of way acquisition tasks will be required to complete the project. Property rights, including temporary construction easements (TCEs) and narrow permanent roadway easements (“strip takes”), may be needed from up to five tax parcels owned by five unique entities, listed in the table below. No full parcel acquisitions or relocation assistance is required.

Assessor’s Parcel Number (APN)/Tax Lot	Property Owner	Land Use
3025000051	Owen	Residential
3025000030	Giugler and Johnson	Residential
3025000020	Collins and Precht	Residential
0420153041	Chmyr	Residential
0420153015	Sowers	Residential

Right-of-Way Subconsultant Services – Scope of Work:

Epic Land Solutions, Inc. (SUBCONSULTANT) will interface with the PRIME and AGENCY to manage the full scope of right of way acquisition services necessary for the PE phase of the project. The SUBCONSULTANT will perform all right of way tasks in compliance with applicable local, state and federal policies, including the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, as amended (URA), Washington State laws under the Revised Code of Washington (RCW) 8.26 and the Washington Administrative Code (WAC) 468-100, and any requirements as outlined by the AGENCY’s funding source that pertain to Appraisal/Acquisition. Standard project management services include periodic meetings and progress reports, monthly invoices for time-and-materials, file maintenance, file closeout, and budget tracking/analysis.

Key milestones include the following tasks:

1. Title Reports and Title Review

SUBCONSULTANT will obtain and review Preliminary Title Reports (PTRs) for the affected parcels. The PTRs will be obtained from a third-party title services provider. SUBCONSULTANT will provide an

Encumbrance Report identifying all potential encumbrances to project team members.

2. Right-of-Way Funding Estimate

In accordance with WSDOT Right of Way Manual and Local Agency Guidelines (LAG) for Federal Aid projects, SUBCONSULTANT will prepare a Right-of-Way Funding Estimate for the acquisition of property rights. For this proposal, it is assumed that five tax parcels possessed by five unique property owners are affected. The funding estimate for the tax parcels will include right-of-way acquisition (land and improvements), severance damages, escrow, demolition and clearance, legal costs and other support costs for the affected parcel. Data will be provided justifying estimate costs. SUBCONSULTANT will deliver the estimate to the AGENCY for approval. The AGENCY will forward to WSDOT Local Agency Coordinator for comment and approval. SUBCONSULTANT will provide updates to the funding estimate based on AGENCY and WSDOT review and commentary.

3. Project Time Frame

Our staff has the availability to start the acquisition process once ROW plans are received. The expected term of the project is 3 months from issuance of the Notice to Proceed (NTP).

Assumptions

- Assumes that Epic will perform only right of way tasks in the PE phase of the project.
- Appraisals, appraisal reviews, and/or AOSs are not included as part of this scope.
- Acquisition or relocation services are not included as part of this scope.
- Preliminary Title Reports will be supplied by Epic.
- Assumes legal descriptions, plat maps, and right of way plans will be provided by others.
- Assumes five tax parcels with five unique owners affected.
- Right-of-Way Funding Estimate to be delivered 2 weeks after NTP.

Exhibit D-1: Prime Consultant Cost Computation

Project Name: Chrisella Road East Safety Improvements - Supplement No. 1

Contract Name: Fed. Aid # HSIPE-3209007

Consultant: Gray & Osborne, Inc.

Date: Thursday, June 02, 2022

Employee	Tani Stafford		David Roman Sanchez		Brian Bollen		Dylan Majewski		Benny Hayden		Brian Schulkin		Rick Bond		Zack Leibowitz		Ron Albrecht		Jim Dougherty		Brian Sourwine		Myron Basden		Kerri Sidebottom		Totals
Function/Title	Principal/PM		Civil Engr		Civil Engineer		Engineer in Training		Technician		Surveyor		Professional Land Surveyor		Surveyor		Surveyor		Biologist		Principal		Structural Engineer		Civil Engineer		
Employee Rate	\$56.45		\$39.60		\$40.00		\$30.00		\$25.50		\$38.80		\$49.50		\$29.50		\$36.50		\$37.50		\$55.45		\$51.75		\$40.50		
Project Rate	\$180.72		\$126.78		\$128.06		\$96.05		\$81.64		\$124.22		\$158.47		\$94.44		\$116.85		\$120.06		\$177.52		\$165.68		\$129.66		
Task	hrs	\$	hrs	\$	hrs	\$	hrs	\$	hrs	\$	hrs	\$	hrs	\$	hrs	\$	hrs	\$	hrs	\$	hrs	\$	hrs	\$	hrs	\$	
9- Project Management (Added PE work)	1	\$180.72	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00	\$180.72
10 -ROW Plan and Legal Descriptions/Exhibits	10	\$1,807.25	0	\$0.00	8	\$1,024.48	0	\$0.00	8	\$653.11	0	\$0.00	20	\$3,169.49	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00	\$6,654.32
11 - ROW Funding Estimate and Title Reports (Subconsultant, see below)	1	\$180.72	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00	\$180.72
Hourly Subtotals	12	\$2,168.70	0	\$0.00	8	\$1,024.48	0	\$0.00	8	\$653.11	0	\$0.00	20	\$3,169.49	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00	\$7,015.77
Mgt Res		\$0.00		\$0.00		\$0.00		\$0.00		\$0.00		\$0.00		\$0.00		\$0.00		\$0.00		\$0.00		\$0.00		\$0.00		\$0.00	\$0.00
Hourly Totals	12	\$2,168.70	0	\$0.00	8	\$1,024.48	0	\$0.00	8	\$653.11	0	\$0.00	20	\$3,169.49	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00	\$7,015.77

Fee	0.300
Overhead	1.9015

Actuals not to exceed Table	
Labor	\$7,015.77
Subconsultants	
Epic Land Services	\$11,352.73
Direct Expenses	\$0.00
Total Supplement No 1	\$18,368.50



**Washington State
Department of Transportation**

Development Division
Contract Services Office
PO Box 47408
Olympia, WA 98504-7408
7345 Linderson Way SW
Tumwater, WA 98501-6504

TTY: 1-800-833-6388
www.wsdot.wa.gov

March 18, 2021

Gray & Osborne, Inc.
1130 Rainier Avenue S. #300
Seattle, WA 98144

Subject: Acceptance FYE 2019 ICR – Risk Assessment Review

Dear Melissa Drysdale:

Based on Washington State Department of Transportation's (WSDOT) Risk Assessment review of your Indirect Cost Rate (ICR), we have accepted your proposed FYE 2019 ICR of 190.15%. This rate will be applicable to Local Agency Contracts in Washington only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with your firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at **(360) 705-7019** or via email consultantrates@wsdot.wa.gov.

Regards;

Jonson, Erik

Mar 19 2021 11:30 AM

cosign

ERIK K. JONSON
Contract Services Manager

EKJ:ah

Tani Stafford

From: WSDOT Consultant Rates <ConsultantRates@WSDOT.WA.GOV>
Sent: Tuesday, May 24, 2022 11:30 AM
To: Melissa Drysdale
Cc: Tani Stafford
Subject: RE: [EXTERNAL] FW: Edgewood - Chrisella Road E Safety Improvements Supplement - G&O ICR
Attachments: Acceptance FYE 2019 Gray & Osborne ICR - Local Agency

Hello,

The last ICR risk review completed was for your FYE 2019 ICR which was delivered to you on March 19, 2021. Thank you.

Maryna Ya - Agreement Compliance Engineer
WSDOT – Contract Services Office

From: Melissa Drysdale <mdrysdale@g-o.com>
Sent: Tuesday, May 24, 2022 9:44 AM
To: WSDOT Consultant Rates <ConsultantRates@WSDOT.WA.GOV>
Cc: Tani Stafford <tstafford@g-o.com>
Subject: [EXTERNAL] FW: Edgewood - Chrisella Road E Safety Improvements Supplement - G&O ICR

WARNING: This email originated from outside of WSDOT. Please use caution with links and attachments.

Good Morning:

Please send us an email confirming the attached Risk Review is the most currently reviewed one at this time, so that we may forward it with our supplement to the City of Edgewood. We have advised Local Programs that we have one in the hopper, but they just want to confirm that we do not have another completed Risk Assessment out there.

Thank you!

Melissa Drysdale

Melissa Drysdale | 206.284.0860 p | 206.283.3206 f
Gray & Osborne, Inc. | 1130 Rainier Avenue South, #300, Seattle, WA, 98144



Please consider the environment before printing this email.

From: Tani Stafford [<mailto:tstafford@g-o.com>]
Sent: Tuesday, May 24, 2022 9:19 AM
To: 'Melissa Drysdale'
Subject: Edgewood - Chrisella Road E Safety Improvements Supplement - G&O ICR

Hi Melissa – we are working on a supplement to our contract with Edgewood for the Chrisella Road E Safety Improvements, which is FWHA funded. WSDOT Local Programs has requested that the supplement contain our most recently approved WSDOT ICR.

The ICR we have included is the attached. WSDOT Local Programs has requested an email from WSDOT Consultant Services verifying that the 190.15% the most recently approved ICR for G&O.

Thanks - Tani

Tani Stafford, P.E. | 206.284.0860 office | 206-498-2888 cell | 206.283.3206 fax
Gray & Osborne, Inc. | 1130 Rainier Avenue South, Suite 300, Seattle, WA, 98144



Please consider the environment before printing this email.

Electronic File Transfer-

Note that these electronic files are provided as a courtesy only. Gray & Osborne, Inc. in no way guarantees the accuracy or completeness of the digital data contained within these files. Furthermore, Gray & Osborne, Inc. assumes no liability for any errors or omissions in the digital data herein. Anyone using the information contained herein should consult the approved or certified hard copy drawings or reports for the most current information available.

Exhibit E-1: Subconsultant Cost Computation

Project Name:	Chrisella Road East Safety Improvements - Supplement No 1
Contract Name	Fed. Aid # HSIPE-3209007
Consultant:	Gray & Osborne, Inc.
Date:	Friday, May 27, 2022

Employee									Budget & Financial Controls				Totals
Function/Title	Principal in Charge		Project Manager		Senior ROW Agent		ROW Agent				Project Support		
Employee Rate	\$84.59		\$61.63		\$48.44		\$32.63		\$50.89		\$43.28		
Project Rate	\$244.59		\$178.20		\$140.06		\$94.35		\$147.15		\$125.14		
Task	hrs		hrs	\$	hrs	\$	hrs	\$	hrs	\$	hrs	\$	
1. Title Reports & Title Review	3	\$733.78	10	\$1,782.03	10	\$1,400.64	10	\$943.50	2	\$294.30	9	\$1,126.30	\$6,280.54
2. Right of Way Funding Estimate	2	\$489.18	8	\$1,425.63	9	\$1,260.58		\$0.00		\$0.00		\$0.00	\$3,175.39
		\$0.00	0	\$0.00		\$0.00		\$0.00		\$0.00		\$0.00	\$0.00
Hourly Subtotals	5	\$1,222.96	18	\$3,207.66	19	\$2,661.22	10	\$943.50	2	\$294.30	9	\$1,126.30	\$9,455.93
Mgt Res		\$0.00		\$0.00		\$0.00		\$0.00		\$0.00		\$0.00	\$0.00
Hourly Totals	5	\$1,222.96	18	\$3,207.66	19	\$2,661.22	10	\$943.50	2	\$294.30	9	\$1,126.30	\$9,455.93

Fee	0.300
Overhead	1.5915

Actuals not to exceed Table

Labor	\$9,455.93	\$2,953.59
Subconsultants		
	\$0.00	
<u>Direct Expenses</u>		
Mileage (IRS allowable rate) 1 roundtrips @ 80 miles x \$.585	\$46.80	
Preliminary Title Reports [assumes 5 @ \$350 each]	\$1,750.00	
Online Data Services- Catalyst @ \$100/mo for 1 month	\$100.00	
Total Epic Land Services	\$11,352.73	



**Washington State
Department of Transportation**

Development Division
Contract Services Office
PO Box 47408
Olympia, WA 98504-7408
7345 Linderson Way SW
Tumwater, WA 98501-6504

TTY: 1-800-833-6388
www.wsdot.wa.gov

July 27, 2021

Epic Land Solutions, Inc.
2601 Airport Drive, Suite 115
Torrance, CA 90505

Subject: Acceptance FYE 2020 ICR – Audit Office Review

Dear Cheryl Sinclair:

Transmitted herewith is the WSDOT Audit Office's memo of "Acceptance" of your firm's FYE 2020 Indirect Cost Rate (ICR) of 159.15% of direct labor. This rate will be applicable for WSDOT Agreements and Local Agency Contracts in Washington only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with your firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at **(360) 705-7019** or via email consultantrates@wsdot.wa.gov.

Regards;

A handwritten signature in blue ink that reads "Erik K. Jonson".

ERIK K. JONSON
Contract Services Manager

EKJ:ah



City Of Edgewood Council Agenda Summary Sheet

Subject: Discussion – Dhaliwal Town Center (TC) Landing Development Agreement	Agenda Item #: 2.E
	For Agenda of: 7/5/2022
	Prepared by: Darren Groth, Morgan Dorner
Attachments (list): 1. Dhaliwal DA 6.20.22 2. Exhibit A_Legal Descriptions 3. Exhibit B_Vicinity Map 4. Exhibit C_Site Plan 5. Exhibit D_Development Regulations 6. Exhibit E_Phasing Plan 7. Exhibit F_Public Benefit Improvement	
Approval of Materials: Darren Groth, Morgan Dorner Rachel Pitzel 6/30/2022 Dave Gray 7/1/2022 Daryl Eidinger 7/1/2022	Expenditure Required: TBD
	Amount Budgeted: N/A
	Timeline: June 21, Council Study Session June 28, 2022 Public Hearing July 5, Council Study Session July 12, 2022 Council Meeting

Summary Statement:

On July 13, 2020, Dhaliwal TC Landing LLC submitted an application under City of Edgewood Permit/Application No. 20-1348 for Dhaliwal Town Center (TC) Landing, a proposed mixed-use development consisting of 578 apartment units and approximately 30,000 square feet of ground-level commercial space on approximately 12.41 acres located at 1914 Meridian Avenue East, as depicted in Exhibits B and C. The application was deemed complete by City staff on August 24, 2020.

This Development Agreement (DA) is for certain off-site public improvements, which include:

1. construction of a new intersection at 20th Street East and Meridian Avenue East (“20th /Meridian Intersection”) and a collector arterial, “100th Avenue East”, between the Subject Property and 24th Street East, as depicted on the City’s Functional Classification System Map (Comprehensive Plan, Figure 9); and
2. compensatory mitigation for unavoidable alterations to the Impacted Wetland located with the right-of-way for 100th Avenue East and Pierce County Parcel No. 0420091014.

The City requires all new projects to undergo traffic concurrency review subject to Chapter 18.105 EMC, and

the City issued a Concurrency Reservation Certificate (CRC) for the Project on June 26, 2020. In order to develop the Subject Property as proposed, the applicant must construct a new intersection at 20th Street East and Meridian Avenue East and a planned collector. Arterial, "100th Avenue East", between the subject property and 24th Street East, as depicted on the City's Functional Classification System Map (Comprehensive Plan, Figure 9). There is a category III wetland and wetland buffer within and adjacent to the right-of-way for 100th Avenue East; this wetland and buffer ("Impacted Wetland") will be impacted by construction of 100th Avenue East. The Impacted Wetland was previously unavoidably altered by the City's installation of a public sewer main under Local Improvement District #1 and Chapter 14.40 EMC requires compensatory mitigation for unavoidable alterations to wetlands and buffers. The City has conducted studies documenting cost and demand for new facilities and services pursuant to chapter 4.30 EMC, Traffic Impact Fees; pursuant to EMC 4.30.040, the development of this project will require payment of traffic impact fees. A development agreement must be approved by resolution after a public hearing (RCW 36.70B.200). A public hearing for this Development Agreement is scheduled for June 28, 2022, and potential action by City Council is anticipated for the July 12, 2022 Council Meeting.

Per EMC 18.55.020(B), Development agreements are not project permit applications and are not subject to the permit processing procedures in Chapter 36.70B RCW and Chapter 18.40 EMC. A development agreement shall constitute a binding contract between the city and the property owner and the subsequent owners of any later-acquired interests in the property identified in the development agreement. A development agreement governs the project identified in the development agreement during the term of the development agreement, or for all or that part of the build-out period specified in the development agreement, and may not be subject to an amendment to a zoning ordinance or development standard adopted after the effective date of the agreement. A permit or approval issued/granted by the city after execution of a valid development agreement must be consistent with the development agreement.

Item History:

Council Study Session Discussion on June 21, 2022

Recommended Action:

Hold a discussion and provide staff guidance regarding **Discussion** – Dhaliwal Town Center (TC) Landing Development Agreement

Fiscal Note/Consideration:

**DEVELOPMENT AGREEMENT
BY AND BETWEEN THE CITY OF EDGEWOOD
AND DHALIWAL TC LANDING LLC FOR THE
DHALIWAL TC LANDING DEVELOPMENT**

PREAMBLE

THIS DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF EDGEWOOD AND DHALIWAL TC LANDING LLC FOR THE DHALIWAL TC LANDING DEVELOPMENT (“Development Agreement”) is made and entered into this ____ day of _____, 2022, by and between the City of EDGEWOOD, a non-charter, optional code Washington municipal corporation (“City”), and DHALIWAL TC LANDING LLC, a limited liability corporation organized under the laws of the State of Washington (“Developer”), and Carol A. Davis (“Davis”). The City, Developer, and Davis are collectively referred to in this Agreement as the “Parties,” and individually as a “Party.”

RECITALS

WHEREAS, development agreements between a local government and a person having ownership or control of real property within its jurisdiction are authorized by RCW 36.70B.170(1) and Chapter 18.55 of the Edgewood Municipal Code (“EMC”); and

WHEREAS, a development agreement must set forth the development standards and other provisions that shall apply to, govern and vest the development, use and mitigation of the development of the real property for the duration specified in the agreement (RCW 36.70B.170(1)); and

WHEREAS, for the purposes of this Development Agreement, “development standards” includes those listed and attached hereto as Exhibit D; and

WHEREAS, pursuant to RCW 36.70B.170(1), a development agreement must be consistent with the applicable development regulations adopted by a local government planning under chapter 36.70A RCW and the City’s regulations, including but not limited to chapter 18.55. EMC.; and

WHEREAS, this Development Agreement relates to the development known as Dhaliwal TC Landing (City File No. 20-1348), located at: 1914 Meridian Avenue East, Edgewood, WA 98372 (“Subject Property”); and

WHEREAS, the City requires all new projects to undergo traffic concurrency review subject to Chapter 18.105 EMC, and the City issued a Concurrency Reservation Certificate (CRC) for the Project on June 26, 2020; and

WHEREAS, in order to develop the Subject Property as proposed, the applicant must construct a new intersection at 20th Street East and Meridian Avenue East and a planned collector

arterial, “100th Avenue East”, between the Subject Property and 24th Street East, as depicted on the City’s Functional Classification System Map (Comprehensive Plan, Figure 9); and

WHEREAS, there is a category III wetland and wetland buffer within and adjacent to the right-of-way for 100th Avenue East; this wetland and buffer (“Impacted Wetland”) will be impacted by construction of 100th Avenue East; and

WHEREAS, the Impacted Wetland was previously unavoidably altered by the City’s installation of a public sewer main under Local Improvement District #1; and

WHEREAS, Chapter 14.40 EMC requires compensatory mitigation for unavoidable alterations to wetlands and buffers; and

WHEREAS, the City has conducted studies documenting cost and demand for new facilities and services pursuant to chapter 4.30 EMC, Traffic Impact Fees; pursuant to EMC 4.30.040, the development of this Project will require payment of traffic impact fees; and

WHEREAS, a development agreement must be approved by resolution after a public hearing (RCW 36.70B.200); and

WHEREAS, a public hearing for this Development Agreement was held on June 28, 2022, and the City Council approved this Development Agreement by Resolution _____ on _____;

NOW THEREFORE, in consideration of the mutual promises set forth here, the parties hereto agree as follows:

AGREEMENT

Section 1. The Subject Property. The Subject Property is legally described and depicted in Exhibits A and B, respectively, attached hereto and incorporated herein by this reference. The Subject Property consists of four tax parcels under the following ownership:

- A. Parcel A (APN 0420091134), Parcel B (APN 0420091012), and Parcel C (APN 0420091051) are owned by Dhaliwal TC Landing LLC.
- B. Parcel D (APN 0420091032) is owned by Carol A. Davis.

Section 2. The Project. The Project is the development and use of the Subject Property, consisting of approximately 12.41 acres in the City of Edgewood. Permit/Application No. 20-1348 describes the Project as a mixed-use development consisting of 578 apartment units and ground-level commercial space, as depicted in Exhibit C (the “Project”). Off site, the Project includes:

- A. construction of a new intersection at 20th Street East and Meridian Avenue East (“20th /Meridian Intersection”) and a collector arterial, “100th Avenue East”, between the

Subject Property and 24th Street East, as depicted on the City's Functional Classification System Map (Comprehensive Plan, Figure 9); and

- B. compensatory mitigation for unavoidable alterations to the Impacted Wetland located with the right-of-way for 100th Avenue East and Pierce County Parcel No. 0420091014.

Section 3. Definitions. As used in this Development Agreement, the following terms, phrases and words shall have the meanings and be interpreted as set forth in this Section.

A. "Adopting Resolution" means the Resolution which approves this Development Agreement, as required by RCW 36.70B.200.

B. "Council" means the duly elected legislative body governing the City of Edgewood.

C. "Effective Date" means the effective date of the Adopting Resolution.

D. "Existing Development Standards" means the ordinances adopted by the City Council of Edgewood listed and attached in Exhibit D. Existing Development Standards do not include non-land use regulations, which includes taxes and impact fees.

E. "Landowner" is the party who has acquired any portion of the Subject Property and unless otherwise released as provided in this Development Agreement, shall be subject to the applicable provisions of this Development Agreement.

F. "Vesting date" means August 24, 2020, the date the complete Design Standards Review Application was submitted.

Section 4. Exhibits. Exhibits to this Development Agreement are as follows:

- A. Exhibit A – Legal description of the Subject Property.
- B. Exhibit B – Map showing Development/Site Plan.
- C. Exhibit C – Conceptual Site Plan of Project.
- D. Exhibit D – Development Standards list and attachments
- E. Exhibit E – Phasing plan, which includes the information required by EMC 18.55.060(C)(1) – (4) and (6) – (8).
- F. Exhibit F – Public Benefit Improvements

Section 5. Parties to Development Agreement. The parties to this Development Agreement are:

A. The "City" is the City of Edgewood, located at 2224 104th Avenue East, Edgewood, WA 98372.

B. The "Developer" is DHALI WAL TC LANDING LLC, a limited liability corporation organized under the laws of the State of Washington, a private enterprise that owns a fee simple

partial interest in the Subject Property and whose principal office is located at 5218 76th Avenue Court West, University Place, WA 98467-4586.

C. Carol A. Davis owner of a fee simple partial interest in the Subject Property.

D. The “Landowner” as defined in Section 3. From time to time, as provided in this Development Agreement, the Developer and Davis may sell or otherwise lawfully dispose of a portion of the Subject Property to a Landowner who, unless otherwise released as provided in this Development Agreement, shall be subject to the applicable provisions of this Development Agreement related to such portion of the Subject Property. Developer is a Landowner at the time this Development Agreement is executed. Davis is a landowner at the time this Development Agreement is executed.

Section 6. Project is a Private Undertaking. It is agreed among the parties that the Project is a private development and that the City has no interest therein except as authorized in the exercise of its governmental functions or as explicitly outlined in this Development Agreement.

Section 7. Effective Date and Term. This Development Agreement shall commence upon the Effective Date of the Adopting Resolution approving this Development Agreement and shall continue in force until _____, 2027, which is five years from the Effective Date. The Term of the Development Agreement may be extended pursuant to EMC 18.55.080(B). Following the expiration of the term or extension thereof, or if sooner terminated, this Development Agreement shall have no force and effect, subject however, to post-termination obligations of the Developer or Landowner.

Section 8. Public Benefit.

A. Pursuant to EMC 18.55.060(C)(5), the Landowner shall complete the mitigation, creation and enhancement planting for the Impacted Wetland associated with City’s installation of public sewer main under Local Improvement District #1 (“Public Benefit Improvements”). These Public Benefit Improvements are detailed in Exhibit F.

B. The Landowner shall install and maintain through the associated monitoring period all wetland mitigation, creation, and enhancement planting obligations on the Impacted Wetland associated with the Public Benefit Improvements.

Section 9. Right-of-way Construction.

A. Landowner shall construct and install all roadway improvements associated with the development, including the 20th/Meridian Intersection, public roads internal to the development site, and the offsite extension of 100th Avenue East.

B. Because the 20th/Meridian Intersection is on the City’s Transportation Improvement Program, the City has performed preliminary design and survey work through Transpo Group and Bush, Roed & Hitchings Inc. The City will provide the results of same to Landowner. The City

will also facilitate coordination with Washington State Department of Transportation (“WSDOT”) for the 20th /Meridian Intersection in support of this Project.

As mitigation under the State Environmental Policy Act, the City has previously collected from the Puyallup School District \$300,553.93 and \$34,750 from Jupiter Tennis Center as fees-in-lieu of constructing and installing improvements associated with the portions of 100th Avenue East necessary for the Project. The City shall remit \$335,303.93 to the Landowner at the completion of construction for 100th Avenue East.

C. For costs incurred above those provided in B), Landowner shall be entitled to a credit against the applicable TIF collected, in accordance with RCW 82.02.060(4), under the fee schedule adopted pursuant to chapter 4.30 EMC for the value of any dedication of land for, improvement to, or new construction of, any system improvements provided by the applicant, to facilities associated with the construction 100th Avenue East.

Section 10. Phasing. As identified under EMC 18.55.060, the Landowner must construct the project in the phases and in the numerical order of the phases listed below with reference to Buildings in Exhibit C and E.

A. Phase 1 shall consist of the following buildings along with all required parking and road infrastructure to support them.

- Building 4: a 1-story clubhouse, to include a 3-seasons room and outdoor pool.
- Building 5: a 4-story, 36-unit elevated low-rise structure.
- Building 6: a 4-story, 36-unit elevated low-rise structure.
- Building 7: a 4-story, 36-unit elevated low-rise structure.
- Building 8: a 4-story, 36-unit elevated low-rise structure.
- Construction of the 20th Street East/Meridian Intersection, public roads internal to the development site, and the offsite extension of 100th Avenue East.

B. Phase 2 shall consist of the following buildings along with all required parking and road infrastructure to support them.

- Building 1: a 5-story, 181-unit mixed-use building with 304 parking stalls provided on two tiers below the structure.
- Building 3: a 4-story, 48-unit elevated low-rise structure.

C. Phase 3 shall consist of the following buildings along with all required parking and road infrastructure to support them.

- Building 2: a 5-story, 58-unit mixed-use building with 114 parking stalls provided on two tiers below the structure.
- Building 9: a 4-story, 36-unit elevated low-rise structure.
- Building 10: a 4-story, 48-unit elevated low-rise structure.
- Building 11: a 4-story, 36-unit elevated low-rise structure.
- Building 12: a 3-story, 27-unit walk-up structure.

Section 11. Occupancy.

A. Prior to occupancy being granted from the City for Phase 1, the 20th Street East Meridian Avenue Intersection must be operational and completed to a level acceptable by the City, and 100th Avenue East must have approved Site Development Application and be under construction. The final construction of the 20th Street East leg of the intersection is to be completed in the final phase when 20th Street East is no longer being used as a construction entrance.

B. Prior to occupancy being granted from the City for all other buildings:

- all improvements to the Impacted Wetland in Section 8, Public Benefit, must be completed;
- all internal public roads for the Project and 100th Avenue East must be completed as specified in Section 9, Right-of-way Construction; and
- vehicle parking, bike parking, parking lot striping, landscaping, hardscaping, lighting, and any other associated development standards must be installed, performed, completed, and accepted for the building's phase listed above.

Section 12. Vested Rights. During the term of this Development Agreement, unless sooner terminated in accordance with the terms hereof, in developing the Subject Property consistent with the Project described herein, Landowner is assured, and the City agrees, that the development rights, obligations, terms and conditions specified in Exhibit D to this Development Agreement, are fully vested in the Developer and may not be changed or modified by the City, except as may be expressly permitted by, and in accordance with, the terms and conditions of this Development Agreement, including the Exhibits hereto, or as expressly consented thereto by the Landowner.

Section 13. Major and Minor Modifications. Modifications from the approved permits or the exhibits attached hereto may be approved as outlined below.

A. Minor Modifications. A proposed modification to the permits or exhibits shall be considered a minor modification if the proposal does not materially modify the size or scope of the Project as defined by the Development Agreement. The Mayor or his/her designee may approve minor modifications upon submission of a written application by the Developer describing the proposal in sufficient detail to determine whether the proposal qualifies as a minor modification. If the application does not provide sufficient information, the Mayor or his/her designee may request additional information from the Developer or reject the application. If the Mayor or his/her designee determines that the proposal qualifies as a minor modification, the modification may be administratively approved by noting the changes in Land Use File 20-1348.

B. Major Modifications. A proposed modification to the permits or exhibits shall be considered a major modification if the proposal does not constitute a minor modification. If the Mayor or his/her designee determines that the proposal constitutes a major modification, the Developer shall submit the proposal for an amendment to this Development Agreement by following the process established by law for the adoption of a development agreement in accordance with Section 30 of this Development Agreement.

C. The Mayor's determination on modifications shall be a final decision.

Section 14. Further Discretionary Actions. Developer acknowledges that the Existing Land Use Regulations contemplate the exercise of further discretionary powers by the City. These powers include, but are not limited to, review of additional permit applications under SEPA. Nothing in this Development Agreement shall be construed to limit the authority or the obligation of the City to hold legally required public hearings, or to limit the discretion of the City and any of its officers or officials in complying with or applying Existing Land Use Regulations.

Section 15. Existing Land Use Fees and Impact Fees.

A. Land use fees adopted by the City by resolution as of the Effective Date of this Development Agreement may be increased by the City from time to time, and are applicable to permits and approvals for the Subject Property, as long as such fees apply to similar applications and projects in the City.

B. All impact fees shall be paid as set forth in the approved permit or approval, or as addressed in Title 4 of the Edgewood Municipal Code.

GENERAL PROVISIONS

Section 16. Assignment of Interests, Rights, and Obligations. This Development Agreement shall be binding and inure to the benefit of the Parties. No Party may assign its rights under this Agreement without the written consent of the other Party, which consent shall not unreasonably be withheld. This Development Agreement shall be binding upon and shall inure to the benefit of the heirs, successors, and assigns of Landowner and the City.

Section 17. Incorporation of Recitals. The Recitals contained in this Development Agreement, and the Preamble paragraph preceding the Recitals, are hereby incorporated into this Development Agreement as if fully set forth herein.

Section 18. Severability. The provisions of this Development Agreement are separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of this Development Agreement, or the validity of its application to other persons or circumstances.

Section 19. Termination. This Development Agreement shall expire and/or terminate as provided below:

A. This Development Agreement shall expire and be of no further force and effect if upon completion of a Phase in Exhibit E and Section 10, the Landowner fails to submit complete building permit application for the next phase within one (1) year. Nothing in this Development Agreement shall extend the expiration date of any permit or approval issued by the City for this Project.

B. This Development Agreement shall expire and be of no further force and effect if the Landowner does not construct the Project as contemplated by the permits and approvals identified in this Development Agreement and submits applications for development of the Subject Property that are inconsistent with such permits and approvals.

C. This Development Agreement shall terminate upon the expiration of the term identified in Section 7 or when the Subject Property has been fully developed, which ever first occurs, and all of the Landowner's obligations in connection therewith are satisfied as determined by the City. Upon termination of this Development Agreement, the City shall record a notice of such termination in a form satisfactory to the City Attorney that the Development Agreement has been terminated. This Development Agreement shall automatically terminate and be of no further force and effect as to any residential dwelling unit or any non-residential building and the lot or parcel upon which such residence or building is located, when it has been approved by the City for occupancy.

D. This Development Agreement shall terminate upon the abandonment of the Project by the Landowner. The Landowner shall be deemed to have abandoned the Project if/when reasonable substantial progress on the Project has ceased for a period of six months.

E. This Development Agreement may terminate pursuant to Section 18, Severability or Section 25, Default, or as otherwise outlined in this Development Agreement.

Section 20. Effect Upon Termination on Landowner Obligations. Termination of this Development Agreement as to the Landowner of the Subject Property or any portion thereof shall not affect any of the Landowner's obligations to comply with the City Comprehensive Plan and the terms and conditions or any applicable zoning code(s) or subdivision map or other land use entitlements approved with respect to the Subject Property, any other conditions of any other development specified in the Development Agreement to continue after the termination of this Agreement or obligations to pay assessments, liens, fees or taxes.

Section 21. City's Obligations and Effects of Upon Termination on City.

A. The City's duties under this Development Agreement are expressly conditioned upon the Landowner's substantial compliance with each and every term, condition, provision and/or covenant in the Development Agreement, all applicable federal, state and local laws and regulations and the Landowner's obligations as identified in any approval or project permit for the Subject Property.

B. Upon any termination of this Development Agreement as to the Landowner of the Subject Property, or any portion thereof, the entitlements, conditions of development, limitations on fees and all other terms and conditions of this Development Agreement shall no longer be vested hereby with respect to the Subject Property affected by such termination (provided that vesting of such entitlements, conditions or fees may then be established for such property pursuant to then existing planning and zoning laws).

Section 22. Specific Performance. The parties specifically agree that damages are not an adequate remedy for breach of this Development Agreement, and that the parties are entitled to compel specific performance of all material terms of this Development Agreement by any party in default hereof.

Section 23. Governing Law and Venue. This Agreement shall be construed and enforced in accordance with the laws of the State of Washington. Venue for any action shall lie in Pierce County Superior Court or the U.S. District Court for Western Washington.

Section 24. Attorneys' Fees. In the event of any litigation or dispute resolution process between the Parties regarding an alleged breach of this Development Agreement, the prevailing party shall be entitled to an award of attorneys' fees.

Section 25. Notice of Default/Opportunity to Cure/Dispute Resolution.

A. In the event a Party, acting in good faith, believes the other Party has violated the terms of this Development Agreement, the aggrieved Party shall give the alleged offending Party written notice of the alleged violation by sending a detailed written statement of the alleged breach. The alleged offending Party shall have thirty (30) days from receipt of written notice in which to cure the alleged breach unless the Parties agree, in writing, to additional time. This notice requirement is intended to facilitate a resolution by the Parties of any dispute prior to the initiation of litigation. Upon providing notice of an alleged breach, the Parties agree to meet and agree upon a process for attempting to resolve any dispute arising out of this Development Agreement. A lawsuit to enforce the terms of this Development Agreement shall not be filed until the latter of (a) the end of the cure period or (b) the conclusion of any dispute resolution process.

B. After notice and expiration of the cure period, if such default has not been cured or is not being diligently cured in the manner set forth in the notice, the other party or Landowner to this Development Agreement may, at its option, institute legal proceedings pursuant to this Development Agreement. In addition, the City may decide to file an action to enforce the City's Codes, and to obtain penalties and costs as provided in the Edgewood Municipal Code for violations of this Development Agreement and the EMC.

C. Pursuant to EMC 18.55.020(F), any breach of this Development Agreement by the City shall give rise only to damages under state contract law and shall not give rise to any liability under Chapter 64.40 RCW, the Fifth and Fourteenth Amendments to the U.S Constitution, or similar state constitutional provisions.

Section 26. No Third-Party Beneficiaries. This Development Agreement is for the benefit of the Parties hereto only and is not intended to benefit any other person or entity, and no person or entity not a signatory to this Development Agreement shall have any third-party beneficiary or other rights whatsoever under this Development Agreement. No other person or entity not a Party to this Development Agreement may enforce the terms and provisions of this Development Agreement.

Section 27. Integration. This Development Agreement and its exhibits represent the entire agreement of the parties with respect to the subject matter hereof. There are no other agreements, oral or written, except as expressly set forth herein.

Section 28. Authority. The Parties each represent and warrant that they have full power and actual authority to enter into this Development Agreement and to carry out all actions required of them by this Development Agreement. All persons are executing this Development Agreement in their representative capacities and represent and warrant that they have full power and authority to bind their respective organizations.

Section 29. Covenants Running With the Land. The conditions and covenants set forth in this Development Agreement and incorporated herein by the Exhibits shall run with the land and the benefits and burdens shall bind and inure to the benefit of the parties. The Developer, Landowner and every purchaser, assignee or transferee of an interest in the Subject Property, or any portion thereof, shall be obligated and bound by the terms and conditions of this Development Agreement, and shall be the beneficiary thereof and a party thereto, but only with respect to the Subject Property, or such portion thereof, sold, assigned or transferred to it. Any such purchaser, assignee or transferee shall observe and fully perform all of the duties and obligations of a Landowner contained in this Development Agreement, as such duties and obligations pertain to the portion of the Subject Property sold, assigned or transferred to it.

Section 30. Amendment to Agreement; Effect of Agreement on Future Actions. This Development Agreement may be amended by mutual consent of all of the parties, provided that any such amendment shall follow the process established by law for the adoption of a development agreement (*see*, RCW 36.70B.200). However, nothing in this Development Agreement shall prevent the City Council from making any amendment to its Comprehensive Plan, Zoning Code, Official Zoning Map or development regulations affecting the Subject Property during the term of this Development Agreement, as the City Council may deem necessary to the extent required by a serious threat to public health and safety. Nothing in this Development Agreement shall prevent the City Council from making any amendments of any type to the Comprehensive Plan, Zoning Code, Official Zoning Map or development regulations relating to the Subject Property upon termination of this Development Agreement.

Section 31. Releases. Developer, and any subsequent Landowner, may free itself from further obligations relating to the sold, assigned, or transferred property, provided that the buyer, assignee or transferee expressly assumes the obligations under this Development Agreement as provided herein.

Section 32. Notices. Notices, demands, correspondence to the City and Developer shall be sufficiently given if dispatched by pre-paid first-class mail to the addresses of the parties as designated in Section 5 of this Development Agreement. Notice to the City shall be to the attention of both the City Clerk and the City Attorney. Notices to subsequent Landowners shall be required to be given by the City only for those Landowners who have given the City written notice of their address for such notice. The parties hereto may, from time to time, advise the other of new addresses for such notices, demands or correspondence.

Section 33. Reimbursement for Agreement Expenses of the City. Landowner agrees to reimburse the City for actual expenses incurred over and above fees paid by Landowner as an applicant incurred by City directly relating to this Development Agreement, including recording fees, publishing fees and reasonable staff and consultant costs not otherwise included within application fees. This Development Agreement shall not take effect until the fees provided for in this section, as well as any processing fees owed to the City for the Project are paid to the City. This Development Agreement shall be terminated if the Landowner does not pay to the City the fees provided for in this section. Upon payment of all expenses, the Landowner may request written acknowledgement of all fees. Such payment of all fees shall be paid, at the latest, within thirty (30) days from the City's presentation of a written statement of charges to the Landowner.

Section 34. Police Power. Nothing in this Development Agreement shall be construed to diminish, restrict or limit the police powers of the City granted by the Washington State Constitution or by general law.

Section 35. Third Party Legal Challenge. In the event any legal action or special proceeding is commenced by any person or entity other than a party or a Landowner to challenge this Development Agreement or any provision herein, the City may elect to tender the defense of such lawsuit or individual claims in the lawsuit to Developer and/or Landowner(s). In such event, Developer and/or such Landowners shall hold the City harmless from and defend the City from all costs and expenses incurred in the defense of such lawsuit or individual claims in the lawsuit, including but not limited to, attorneys' fees and expenses of litigation, and damages awarded to the prevailing party or parties in such litigation. The Developer and/or Landowner shall not settle any lawsuit without the consent of the City. The City shall act in good faith and shall not unreasonably withhold consent to settle.

Section 36. No Presumption Against Drafter. This Development Agreement has been reviewed and revised by legal counsel for both Parties and no presumption or rule that ambiguity shall be construed against the party drafting the document shall apply to the interpretation or enforcement of this Development Agreement.

Section 37. Headings. The headings in this Development Agreement are inserted for reference only and shall not be construed to expand, limit or otherwise modify the terms and conditions of this Agreement.

Section 38. Recording. Landowner shall record an executed copy of this Development Agreement with the Pierce County Auditor, pursuant to RCW 36.70B.190, no later than fourteen (14) days after the Effective Date.

Section 39. Legal Representation. In entering into this Development Agreement, Landowner represents that it has been advised to seek legal advice and counsel from its attorney concerning the legal consequences of this Development Agreement; that it has carefully read the foregoing Development Agreement and knows the contents thereof, and signs the same of its own free act; and that it fully understands and voluntarily accepts the terms and conditions of this Development Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Development Agreement to be executed as of the dates set forth below:

DHALIWAL TC LANDING LLC

By _____
Name Printed: _____
Title: _____
Date: _____

CAROL A. DAVIS

By _____
Date: _____

CITY OF EDGEWOOD

By _____
Mayor Daryl Eiding
Date: _____

ATTEST:

By _____
Rachel Pitzel, City Clerk

APPROVED AS TO FORM:

By _____
Ann Marie Soto, City Attorney

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

On this _____ day of _____, 2022, before me personally appeared _____, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument, and acknowledged as the _____ of DHALIWAL TC LANDING LLC to be the free and voluntary act of said party for the uses and purposes mentioned in this instrument.

Print name: _____
NOTARY PUBLIC in and for the State of
Washington
Residing at _____
Commission expires: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

On this _____ day of _____, 20__, before me personally appeared Carol A. Davis and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument, and acknowledged to be the free and voluntary act of said party for the uses and purposes mentioned in this instrument.

Print name: _____
NOTARY PUBLIC in and for the State of
Washington
Residing at _____
Commission expires: _____

Commission expires:

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

On this _____ day of _____, 20__, before me personally appeared _____, to me known to be the Mayor of the CITY OF EDGEWOOD, a Washington State municipal corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

Print name:
NOTARY PUBLIC in and for the State of
Washington
Residing at

Commission expires:

Exhibit A

Legal Descriptions, 20-1347 Dhaliwal TC Landing

LEGAL DESCRIPTIONS

2010 Meridian Avenue E | Parcel No. 0420091012

THE NORTH HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 9, TOWNSHIP 20 NORTH, RANGE 4 EAST OF THE W.M.;
EXCEPT THE SOUTH 118 FEET THEREOF;
ALSO, EXCEPT MERIDIAN STREET NORTH;
ALSO, EXCEPT THAT PORTION CONVEYED TO STATE OF WASHINGTON, DEPARTMENT OF TRANSPORTATION BY DEED RECORDED MAY 7, 2008 UNDER RECORDING NO. 200805070182.

1926 Meridian Avenue East | Parcel No. 0420091032

THE EAST 340 FEET OF THE SOUTH 135 FEET OF THE SOUTH HALF OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 9, TOWNSHIP 20 NORTH, RANGE 4 EAST OF THE WILLAMETTE MERIDIAN.
EXCEPT PUYALLUP-EDGEWOOD COUNTY ROAD ON THE EAST.
ALSO, EXCEPT THAT PORTION CONVEYED TO THE STATE OF WASHINGTON BY WARRANTY DEED RECORDED SEPTEMBER 9, 2008 UNDER RECORDING NO. 200809090439.
SITUATE IN THE CITY OF EDGEWOOD, COUNTY OF PIERCE, STATE OF WASHINGTON.

1914 Meridian Ave E | Parcel No. 0420091134

THE SOUTH HALF OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 9, TOWNSHIP 20 NORTH, RANGE 4 EAST OF THE W.M.;
EXCEPT EAST 340 FEET OF SOUTH 135 FEET THEREOF;
ALSO, EXCEPT EAST 30 FEET FOR PUYALLUP-EDGEWOOD (GARDELLA) COUNTY ROAD;
ALSO, EXCEPT THE WEST 200 FEET THEREOF CONVEYED TO THE CITY OF MILTON THROUGH STATUTORY WARRANTY DEED RECORDED APRIL 6, 1995 UNDER RECORDING NO. 9504060295;
ALSO, EXCEPT THAT PORTION CONVEYED TO THE STATE OF WASHINGTON, DEPARTMENT OF TRANSPORTATION FOR ROAD BY WARRANTY DEED RECORDED NOVEMBER 5, 2008 UNDER RECORDING NO. 200811050774.
SITUATE IN THE CITY OF EDGEWOOD, COUNTY OF PIERCE, STATE OF WASHINGTON.

XXX Meridan Avenue N | Parcel No. 0420091051

THE SOUTH 118.00 FEET OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 9, TOWNSHIP 20 NORTH, RANGE 4 EAST OF THE W.M.;
EXCEPT THE EAST 252.00 FEET THEREOF.
SITUATE IN THE CITY OF EDGEWOOD, COUNTY OF PIERCE, STATE OF WASHINGTON.

Exhibit B

Vicinity Map, 20-1347 Dhaliwal TC Landing

Dhaliwal Town Center Landing Vicinity Map

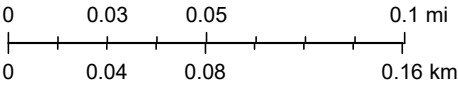


5/23/2022, 7:28:56 AM

Pierce County Tax Parcels

 Base Parcel

1:4,514



Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community, Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

Exhibit C

Site Plan, 20-1347 Dhaliwal TC Landing

Site Information

Site Address: 1914; 2010; Meridian Ave E, Edgewood, Washington

Legal Description: Parcel # 0420091134 Section 09 Township 20 Range 04 Quarter 11 S 1/2 OF S 1/2 OF NE OF NE EXC E 340' FT OF S 135' FT THEREOF EXC W 200' FT THEREOF CYD TO CY OF MILTON PER ETN 886495 EXC RDS ALSO EXC THAT POR CYD TO STATE OF WASH PER ETN 4201538 OUT OF 1-034 SEG G-0907 JU 5/16/95JU DC4/22/09JU

Parcel # 0420091012 Section 09 Township 20 Range 04 Quarter 14 1/2 of NE of SE of NE EXC S 118' FT Thereof & EXC Meridian St N EXC that Por Cyd to State of Wash Per ETN 4189112 DC10/22/08JU

Parcel # 0420091051 Section 09 Township 20 Range 04 Quarter 14 : S 118' FT of N 1/2 of NE of SE of NE of SEC less E 252' FT thereof

Parcel # 0420091032 Section 09 Township 20 Range 04 Quarter 11 E 340' FT of S 1/2 of S 1/2 of NE of NE of SEC EXC RDS EXC that POR CYD to state of Wash By AFN 200809090439 DC10/27/08JU

Parcel Numbers: 0420091134, 0420091012, 0420091051, 0420091032

Zoning: TC

Site Area: Parcel 0420091134 = 313,156 SF or 7.19 acres
Parcel 0420091012 = 129,064 SF or 2.96 acres
Parcel 0420091051 = 48,385 SF or 1.11 acres
Parcel 0420091032 = 39,865 SF or 0.92 acres
Total of all parcels = 530,470 SF or 12.18 acres

Existing buildings on Site:

0420091012 = 2,000 SF Single Family residence and 1,894 SF residential garage
0420091134 = 12,960 SF Multiple Storage Buildings.
0420091032 = 2,304 SF Multiple Commercial Buildings.

NOTE: ALL EXISTING BUILDINGS TO BE REMOVED

Proposed Site Statistics

Total Building Footprints 204,071 SF
Lot Coverage 39%
Max Hard Surface Allowed 90%
Hard Surface Proposed 402,839 SF (76%)
Max Impervious Allowed 75%
Impervious Proposed 374,587 SF (71%)

Max Building Height 45' (57' with 3:1 FAR Bonus)
Proposed building height 36'-2" Res, 56'-2" Mixed Use

Minimum Setback to Zones TC, C, MUR or BP
Other than TC, C, MUR or BP

Min Lot Frontage 50% (35% Meridian)
Lot Frontage Proposed See Sheet A3
Max FAR 1:1 (4:1 with FAR Bonus)
Building Area Proposed 860,411 SF
FAR Proposed 1.62 (1.5 FAR Bonus for Parallel Road Network)

Min Public Open Space 1.5% gross floor area all buildings
Public Open Space Proposed See Sheet A3
Max Density Allowed 48 Units per Acre
Density Proposed 48 Units per Acre

Unit Count

Apartments
Studio/1 Bath Units = 64
1 Bedroom 1 Bath Units = 265
2 Bedroom 2 Bath Units = 245
3 Bedroom 2 Bath Units = 4
Total Units = 578 units

Commercial SF ≈ 31,500 SF

Parking (Residential)

Required: 1 stall per studio and 1 bed (329)
1.5 stall per 2 bed (368)
2 stall per 3 bed (8)
1 guest per 10 units (58)
Total 763

Parking (Commercial)

Required: 3 stall per 1,000 sq. ft. (95)

Total Required = 858

Parking Provided:

Standard Surface Stalls 213 stalls
Compact Surface Stalls 25 stalls
Parallel Stalls 35 stalls
Standard Structured Stalls 369 stalls
Compact Structured Stalls 195 stalls
HC Surface Stalls 25 stalls
HC Structured Stalls 21 stalls
Van Surface Stalls 5 stalls
Van Structured Stalls 5 stalls
Total 893 stalls

Electric vehicle charging per IBC section 427: 5% of parking shall be provided with electric vehicle charging infrastructure.
893 total stalls = 45 required EV stalls with 1 required at handicap stall.

46 EV stalls provided: 19 surface stalls, 3 HC surface stalls and 24 structured stalls.

Legend

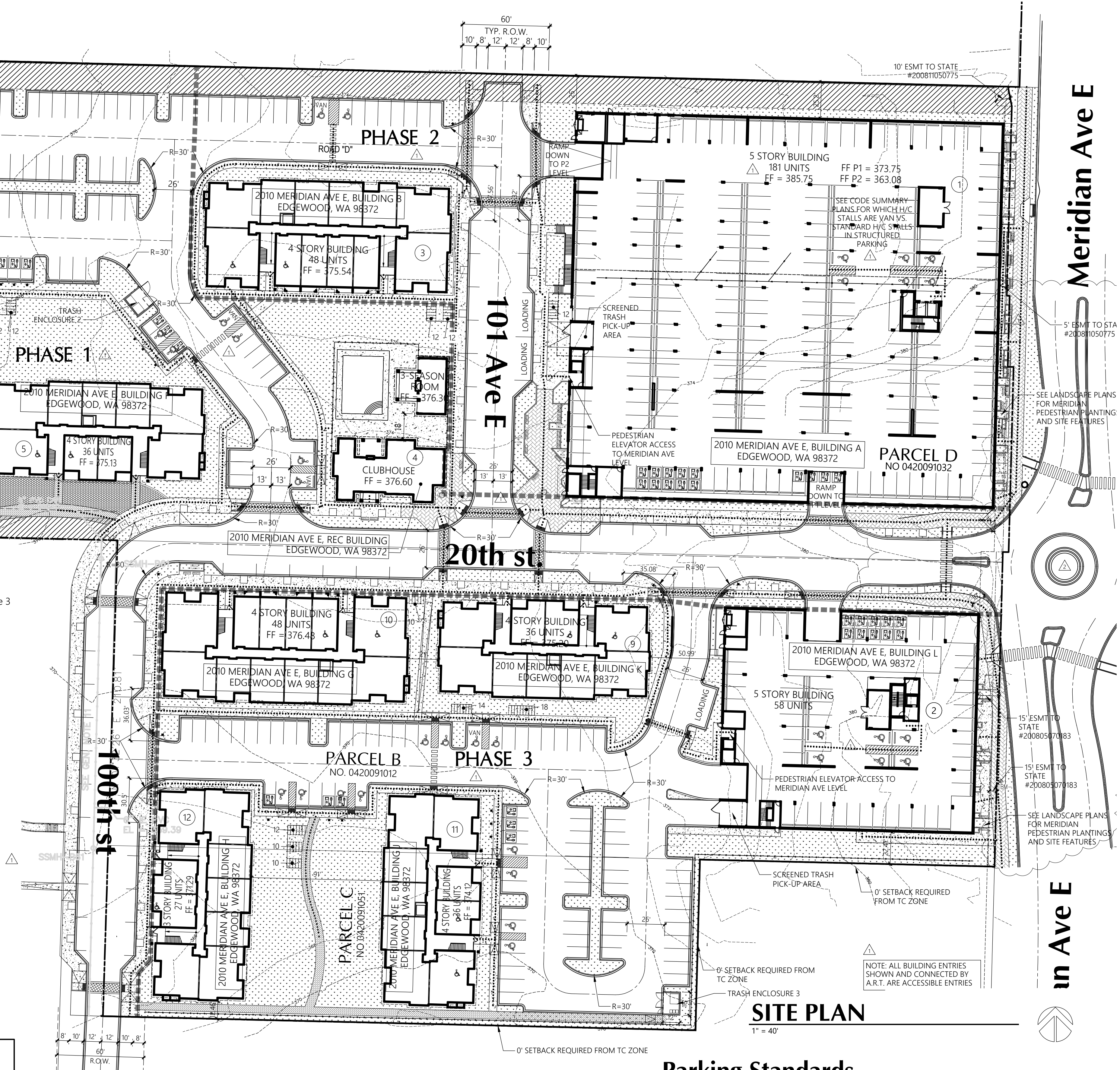
	DECORATIVE PLAZA PAVING		PERMEABLE PAVING AREAS (HANOVER PERMEABLE 4"x8" PAVERS OR EQUIVALENT)
	CONCRETE PERMEABLE SIDEWALKS		GRASSCRETE CAPABLE OF SPORTING FIRE RESCUE VEHICLE (TUFFTRACK GRASSROAD PAVERS OR EQUIVALENT)
	RAISED ENHANCED PEDESTRIAN CROSSINGS		PLANTED LANDSCAPE AREA
	ACCESSIBLE ROUTE OF TRAVEL (A.R.T. SEE SHEET A5 FOR REQUIREMENTS)		BUILDING INCLUDED IN THIS PERMIT
	FUTURE ELECTRIC VEHICLE CHARGING STALL		BIKE PARKING STALLS WHERE XX IS NUMBER OF STALLS - 1 BIKE ON EACH SIDE OF A BIKE RACK
	PHASING LINE		

Mixed use mix based off of 18.80.080 Table 1 Footnote 3
Site area 81018.2 SF
Commercial Area Bldg 1 16998.7 SF
Commercial Area Bldg 2 10177 SF
Percentage of Commercial Area 33.5%

Bike Parking Required:

1 per 12 car stalls (75)
1 per 2 units (289)
Total 364
Surface Structured Bldg 1 (see Bldg plan) 172
Structured Bldg 2 (see Bldg plan) 86
Total 420

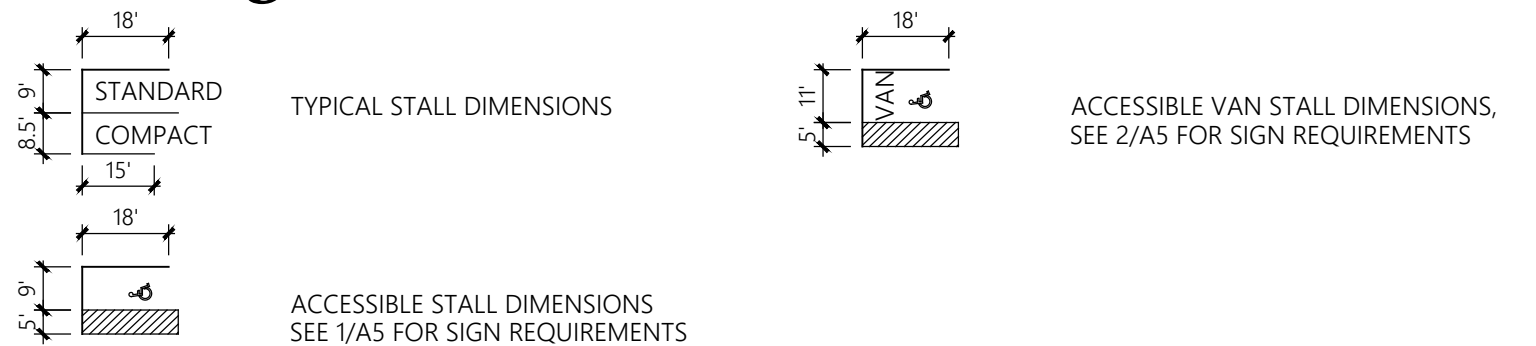
Provided



SITE PLAN

1" = 40'

Parking Standards



Dhaliwal TC Landing
A 578 Unit Mixed Use Multifamily Development
Edgewood, WA
Satwant Singh

Site Plan

Scale: 1" = 40'-0"	Drawn By: DJV/JH	Date: 07-24-20	Date Plotted: 5-20-22	Sheet No.: A2
				Job No.: 1742

Exhibit D

Development Regulations, 20-1347 Dhaliwal TC Landing

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Title 12

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Chapter 12.02

DESIGN OF HIGHWAYS AND STREETS

Sections:

- 12.02.010 AASHTO policy adopted.
- 12.02.020 Copies on file.

12.02.010 AASHTO policy adopted.

The AASHTO Green Book, “A Policy on Geometric Design of Highways and Streets” (6th Edition, 2011), including any subsequent amendments thereto, is hereby adopted by reference. Said policy shall apply only with respect to State Route 161. (Ord. 16-482 § 2 (Exh. A); Ord. 09-313 § 1).

12.02.020 Copies on file.

Pursuant to RCW 35A.12.140 and 35A.13.180, at least one copy of the policy adopted under EMC 12.02.010 shall be maintained at Edgewood City Hall and shall be made available for public inspection and copying upon request. (Ord. 16-482 § 2 (Exh. A); Ord. 09-313 § 2).

Chapter 12.03

UNDERGROUND INSTALLATION OF UTILITIES

Sections:

- 12.03.010 Purpose – Intent.
- 12.03.020 Underground installation of utilities.

12.03.010 Purpose – Intent.

The purpose of this chapter is to define the circumstances under which the city may assume responsibility for connecting buildings, residences, and other structures with utility facilities that have recently been converted from overhead to underground. It is the intent of this chapter that the city will assume such responsibility only where the underground conversion of utility facilities is necessitated by a major public works project. Nothing in this section shall be construed as requiring the city to assume and/or pay for the cost of underground conversion except as may be required under law. (Ord. 10-348 § 2).

12.03.020 Underground installation of utilities.

A. Except as provided in currently valid tariffs on file with the Washington State Utilities and Transportation Commission, or under existing franchise agreements, which provide for responsibility for payment of undergrounding costs by the customer and/or the city, the cost and expense of converting existing overhead facilities

to underground, or installing new facilities underground, and connection from such facilities to buildings, residences and other structures, shall be borne by the serving utilities, or the owners or occupants of the real property served or persons applying for such underground service.

B. Notwithstanding subsection (A) of this section, if the city determines that the public health, welfare, convenience and pedestrian and vehicular traffic safety in any street or road widening or relocation project requires conversion of existing overhead facilities to an underground installation, with connection to the buildings, residences and other structures served thereby, then in any such event, the utility or utilities affected shall provide such work; provided, however, that in order for the utility or utilities to connect the undergrounded services to buildings, residences and other structures to be served, each property owner shall convey and grant to the utility or utilities easements or licenses and permission to enter onto the property of such owner for the purpose of connecting such service; provided, further, that the city shall be required to assume and pay, as part of the cost of the project, all or a portion of the cost of underground connection from rights-of-way to buildings, residences or structures to be served as provided within the scope of the project. (Ord. 10-348 § 2).

Chapter 12.05

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- 12.05.010 Authority to adopt interim road and rights-of-way code.
- 12.05.015 *Repealed.*
- 12.05.020 Adoption of administrative rules.
- 12.05.030 Adoption of certain other laws.
- 12.05.040 Reference to hearing bodies.

12.05.010 Authority to adopt interim road and rights-of-way code.

A. Pursuant to RCW 35.21.180, 35A.11.020, and 35A.21.160, and except as otherwise provided herein, the city adopts by reference PCC Title 12, Roads and Rights-of-Way, as presently constituted or hereinafter amended, as the city's interim roads and rights-of-way code.

B. The following provisions of PCC Title 12 are excluded from the scope of subsection (A) of this section and are expressly not adopted by reference under this section:

1. Chapter 12.20 PCC;
2. Chapter 12.32 PCC.

C. In accordance with RCW 35A.12.140, a copy of the regulations adopted by reference under this section shall be filed in the office of the city clerk, and shall be made available for use and examination by the public. (Ord. 16-465 § 1; Ord. 05-245 § 1; Ord. 96-16 § 1).

12.05.015 Vacation.

Repealed by Ord. 18-529. (Ord. 16-465 § 2).

12.05.020 Adoption of administrative rules.

There are further hereby adopted by reference any and all implementing administrative rules and enforcement remedies now in effect regarding PCC Title 12, Roads and Rights-of-Way, that have been adopted elsewhere in the Pierce County Code except that, unless the context requires otherwise, any reference to the "county" or to "Pierce County" shall refer to the city of Edgewood, and any reference to county staff shall refer to the mayor or designee. (Ord. 15-447 § 1 (Exh. A); Ord. 96-16 § 2).

12.05.030 Adoption of certain other laws.

To the extent that any provision of the Pierce County Code, or any other law, rule or regulation referenced in the attached roads and rights-of-way code is necessary or convenient to establish the validity, enforceability or

interpretation of the attached roads and rights-of-way code, then such provision of the Pierce County Code, or other law, rule or regulation, is hereby adopted by reference. (Ord. 96-16 § 3).

12.05.040 Reference to hearing bodies.

To the extent that the attached roads and rights-of-way code refers to planning commissions, board of appeals, hearing examiner, or any other similar body, the city council shall serve in all such roles, but retains the right to establish any one or more of such bodies, at any time and without regard to whether any quasi-judicial or other matter is then pending. (Ord. 96-16 § 4).

Chapter 12.06

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AND PERMITS FOR PUBLIC

AND PRIVATE UTILITIES

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12.06.218	Restoration bond.
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12.06.010 Purpose.

The purpose of this chapter is to regulate the use of the public right-of-way, to establish standards for the granting of city right-of-way franchises for public and private utilities, and to ensure consistency of such franchises with the city comprehensive plan, sound engineering and design standards, health and sanitation regulations, and the public interest. The provisions of this chapter shall apply to all franchisees unless otherwise specified; provided, that should

the provisions of a specific franchise conflict with the provisions of this chapter, the provisions of the franchise shall control. (Ord. 17-488 § 2; Ord. 05-245 § 2).

12.06.020 Franchises required.

Persons and private or municipal corporations are required to obtain a right-of-way franchise approved by the Edgewood city council in order to use the right-of-way for the construction and maintenance of waterworks, gas pipes, telephone, telegraph, and electric lines, sewers, petroleum products, and any other such public and private utilities, except that:

A. The Edgewood department of public works and any entity under contract with Edgewood shall be exempt from this requirement.

B. The waterworks, specifically including without limitation any pipelines owned and/or operated by any municipal utility for which a valid recorded easement or use right has been granted by the city council, shall be exempt from this requirement.

C. A service provider of “cable television service,” “personal wireless services,” and “telecommunications service,” as these services are defined in Chapter 35.99 RCW, shall be required to follow the procedures adopted by the city for franchises, master use permits and/or the issuance of use permits for these services in the city’s right-of-way, as required by Chapter 35.99 RCW.

D. In lieu of a franchise, site-specific facilities may be authorized through a right-of-way use agreement approved by the city council. (Ord. 17-488 § 3; Ord. 09-315 § 2; Ord. 05-245 § 2).

12.06.030 Nonexclusive grant.

No franchise granted hereunder shall confer any exclusive right or authorization to occupy or use the right-of-way. (Ord. 05-245 § 2).

12.06.040 Term of grant.

Unless otherwise specified in the franchise, or unless otherwise renewed, a franchise granted hereunder shall be in effect for a term of not more than five years. (Ord. 05-245 § 2).

12.06.050 Eminent domain.

Nothing herein shall be deemed or construed to impair or affect, in any way or to any extent, the city’s power of eminent domain. (Ord. 05-245 § 2).

12.06.060 Application.

Applications for right-of-way franchises shall be submitted in the form approved by the public works director to the Edgewood department of public works. (Ord. 17-488 § 4; Ord. 05-245 § 2).

12.06.070 Franchise fees.

There is established a fee for each franchise application, as established by resolution within the fee schedule, described in EMC 3.35.010. Said fee will provide reimbursement to the city of Edgewood for the administrative costs and expenses associated with processing the application. The fee shall be payable in its entirety at the time each separate application for a new franchise or franchise renewal, amendment, supplement, or assignment is filed with the department of public works. Each applicant shall reimburse the city for public notice advertising and publication costs incurred in respect to each application in addition to the established fee. Further, to the fullest extent allowed by law, all grantees shall reimburse the city for all direct and indirect costs and expenses over and above the established fee incurred by the city in connection with any grant, modification, amendment, renewal, or transfer of any franchise, within 30 days after written demand thereof. (Ord. 17-488 § 5; Ord. 05-245 § 2).

12.06.080 Review of applications.

The Edgewood department of public works shall be responsible for the administration and enforcement of franchises, right-of-way permits and alternative annual utility right-of-way permits. (Ord. 17-488 § 6; Ord. 05-245 § 2).

12.06.090 Utility right-of-way permit or alternative annual utility right-of-way permit required.

Persons and private or municipal corporations are required to obtain a utility right-of-way permit or an alternative annual utility right-of-way permit approved by the Edgewood public works director for construction and maintenance of utility facilities in the public right-of-way of city roads, as outlined in EMC 12.06.020, except as noted in EMC 12.06.120 and 12.06.160. (Ord. 17-488 § 7; Ord. 05-245 § 2).

12.06.095 Alternative, annual utility right-of-way permit.

A. Purpose. It is the intent of this section to establish an alternative, streamlined permitting process under which franchisee may obtain a single, annual permit collectively authorizing repetitive, marginally intrusive activities by utilities within the city right-of-way that individually are of very short duration, do not entail disruption to traffic or pedestrian flows, and are objectively minor in nature. Such activities include:

1. Minor utility service adjustments or repair located within the right-of-way, but outside the paved roadway, shoulder, sidewalk and/or ditchlines.
2. Other, similarly minor and marginally-intrusive activities within the right-of-way, as may be approved by the public works director.

B. Duration. An alternative annual utility right-of-way permit will be valid for a maximum of one calendar year and will serve as a blanket, collective authorization for all of the activities referenced above and as further approved by the public works director.

C. Cost Reimbursement. The permittee shall reimburse the city for all of the city's direct and indirect costs and expenses in review, inspection and documentation of activities with this permit, establishing an initial cash reserve balance in the amount of \$1,000, to be drawn upon as staff, consultant and/or legal expenses are for these activities, at hourly rates established within the city of Edgewood's adopted fee schedule. Said cash reserve balance shall be replenished when the balance reaches a level below \$200.00, within 30 days after written notice thereof by the finance director.

D. Notice. The permittee shall provide no less than two business working days' written notice to the public works director before performing any of the activities authorized under an alternative annual utility right-of-way permit. Said notice shall include the nature, commencement date, location, duration and anticipated completion date of the activities. Once the activity is completed, the permittee shall notify the city of work completion and readiness for final inspection by the city.

E. Requirements – Conditions. Except as otherwise provided under this section, all other applicable requirements of this chapter shall apply with respect to alternative annual utility right-of-way permits. Without limitation of the foregoing, the public works director may impose such reasonable conditions of approval upon any such permit as deemed necessary or appropriate by the director in order to protect the public health, safety and welfare. (Ord. 17-488 § 8).

12.06.100 Application.

Applications for utility right-of-way permits and alternative annual utility right-of-way permits shall be submitted to the Edgewood department of public works in the form approved by the public works director. (Ord. 17-488 § 9; Ord. 05-245 § 2).

12.06.110 Utility right-of-way permit fees.

All permit applications to perform work on any city-owned and maintained public road surface shall be accompanied by an application fee, as indicated within the most current version of the city's fee schedule. In addition, any excavation work on any city-owned and maintained public road surface shall be accompanied with a cash deposit as identified below:

On chip sealed surfaces where estimated pavement cuts are less than 180 square feet, a cash deposit toward the final fee of a sum equal to \$4.60 per square foot, times the estimated paved surface on each excavation to be made is required. For estimated pavement cuts greater than 180 square feet on chip sealed surfaces, the cash deposit shall be the sum equal to \$828.00, plus an additional \$828.00 per 100 lineal feet, or portion of trench length exceeding the first 100 feet.

On full depth asphalt or concrete surfaces where estimated pavement cuts are less than 960 square feet, a cash deposit is required toward the final fee of a sum equal to \$4.00 per square foot, times the estimated paved surface on each excavation to be made. For estimated pavement cuts greater than 960 square feet, the cash deposit shall be the sum equal to \$3,840 per 100 lineal feet or portion of the trench length exceeding the first 100 feet. (Ord. 17-488 § 10; Ord. 05-245 § 2).

12.06.120 Permit exception.

A. Any utility performing work as a result of a city construction or maintenance project shall be exempt from any applicable permit fee.

B. A right-of-way use permit shall not be required of utilities or franchised utilities when responding to emergencies that require work in the right-of-way, including without limitation water or sewer main breaks, gas leaks, downed power lines or similar emergencies; provided, that the department shall be notified by the responding utility or city contractor verbally or in writing, as soon as practicable following onset of an emergency. Nothing herein shall relieve a responding utility or city contractor from the requirement to apply for a right-of-way use permit within 48 hours after beginning emergency work in the right-of-way. (Ord. 17-488 § 11; Ord. 05-245 § 2).

12.06.130 Interference with the right-of-way.

No utility may locate or maintain its facilities so as to unreasonably interfere with the use of the right-of-way by the city, by the general public or other persons authorized to use or be present in or upon the right-of-way. All such facilities shall be moved by and at the expense of the utility, temporarily or permanently, as determined by the city.

The city of Edgewood promotes a coordinated planning effort between the department of public works and the franchised utility to minimize the need for cutting pavement that is less than 36 months old. Except as exempted in EMC 12.06.120, the fee for permission to cut pavement that is less than 36 months old is established at an additional \$2.00 per square foot of disturbed pavement. (Ord. 05-245 § 2).

12.06.140 Damage to property.

No utility or any person acting on a utility's behalf shall take any action or permit any action to be done that may impair or damage any right-of-way, specifically including city property, real or personal, or other property located in, on or adjacent thereto. (Ord. 05-245 § 2).

12.06.150 Relocation or removal of facilities.

Within 30 days from the date of written notice from the city engineer, or such longer period as may be specified following written notice from the city engineer, a utility shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any facilities within the right-of-way whenever the city engineer shall have determined that such removal, relocation, change or alteration is reasonably necessary for:

A. The construction, repair, maintenance or installation of any city or other public improvement in or upon the right-of-way.

B. The operations of the city or other governmental entity in or upon the right-of-way. (Ord. 05-245 § 2).

12.06.160 Removal of unauthorized facilities.

Within 30 days from the date of written notice from the city engineer, any utility, or other person that owns, controls or maintains any unauthorized facility or related appurtenances within the rights-of-way shall, at its own expense, remove such facilities or appurtenances from the right-of-way. If such utility fails to remove such facilities or appurtenances, the city may cause the removal and charge the utility for the costs incurred. A facility is unauthorized and subject to removal in the following circumstances:

A. Upon expiration or termination of the grantee's franchise.

B. Upon abandonment of a facility within the right-of-way.

C. If the system or facility was constructed or installed without the prior grant of a franchise.

D. If the system or facility was constructed or installed without the prior issuance of a required utility right-of-way permit.

E. If the system or facility was constructed or installed at a location not permitted by the utility's franchise.

F. Any such other reasonable circumstances deemed necessary by the city engineer. (Ord. 05-245 § 2).

12.06.170 Failure to relocate.

If a utility is required to relocate, change or alter the facilities constructed, operated and/or maintained hereunder and fails to do so, the city may cause such to occur and charge the utility for the costs incurred. (Ord. 05-245 § 2).

12.06.180 Emergency removal or relocation of facilities.

The city retains the right and privilege to cut or move any facilities located within the right-of-way as the city may determine to be necessary, appropriate or useful in response to any public health or safety emergency. (Ord. 05-245 § 2).

12.06.190 Damage to utility's facilities.

Unless directly and proximately caused by the willful, intentional or malicious acts of the city, the city shall not be liable for any damage to or loss of any facility within right-of-way as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling, or work of any kind in the right-of-way by or on behalf of the city. (Ord. 05-245 § 2).

12.06.200 Restoration of right-of-way or other private property.

A. When a utility, or any person acting on its behalf, does any work in or affecting any right-of-way, or any other property, it shall, at its own expense, promptly remove any obstructions from the area and restore such ways or property to the same condition that existed before the work was undertaken.

B. If weather or other conditions do not permit the complete restoration required hereunder, the utility shall temporarily restore the affected right-of-way or other property. Such temporary restoration shall be at the utility's sole expense and the utility shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration.

C. A utility or person acting on its behalf shall use suitable barricades, flags, flaggers, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting right-of-way or any other property. (Ord. 05-245 § 2).

12.06.210 Duty to provide information.

Within 10 days of completion of the work, each utility shall furnish the city engineer with information sufficient to demonstrate:

A. That the utility has complied with all requirements of this chapter.

B. That all fees due the city in connection with the facilities provided by the utility have been properly collected and paid by the utility.

C. That all books, records, maps and other documents maintained by the utility with respect to its facilities within right-of-way shall be made available for inspection by the city engineer at reasonable times and intervals.

D. That "as-built" drawings of the work have been completed and are on file with the grantee. (Ord. 05-245 § 2).

12.06.215 Grantee insurance.

Unless otherwise conditioned, each utility or contractor shall, as a condition of the grant, secure and maintain the following liability insurance policies, insuring both the grantee and the city, and its elected and appointed officers, officials, agents, representatives, and employees as additional insureds:

A. Comprehensive general liability insurance with limits not less than:

1. Two million dollars for bodily injury or death to each person;
2. Two million dollars for property damage resulting from any one accident; and

3. Two million dollars for all other types of liability.

B. Automobile liability for owned, nonowned and hired vehicles with a limit of \$1,000,000 for each person and \$3,000,000 for each accident.

C. Worker's compensation within statutory limits and employer's liability insurance with limits of not less than \$1,000,000.

D. Comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed operation hazard policies with limits of not less than \$2,000,000.

E. The liability insurance policies required by this section shall be maintained at all times by the grantee. Each such insurance policy shall contain the following endorsement:

It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until 90 days after receipt by the City, by registered mail, of a written notice addressed to the City Risk Manager of such intent to cancel or not to renew.

F. Within 60 days after receipt by the city of said notice, and in no event later than 30 days prior to said cancellation, the grantee shall obtain and furnish to the city replacement insurance policies meeting the requirements of this chapter.

G. If the grantee can show to the city risk manager's satisfaction that an entity is financially able to self-insure the exposures, a substitution for insurance will be considered. (Ord. 05-245 § 2).

12.06.216 General indemnification.

In addition to and distinct from the insurance requirements of this chapter, each grantee shall agree in writing to defend, indemnify, and hold the city and its officers, officials, employees, agents, and representatives harmless from and against any and all damages, losses and expenses, including reasonable attorneys' fees and costs of suit or defense, arising out of, resulting from, or alleged to arise out of or result from the acts, omissions, failure to act, or misconduct of the grantee or its affiliates, officers, employees, agents, contractors, or subcontractors in the construction, operation, maintenance, repair, or removal of its facilities and in providing or offering services over the facilities or network, whether such acts or omissions are authorized, allowed, or prohibited by this chapter or by a grant agreement made or entered into pursuant to this chapter. (Ord. 05-245 § 2).

12.06.217 Performance and restoration surety.

Before a franchise granted pursuant to this chapter is effective, and as necessary thereafter, the grantee shall provide and deposit such monies, bonds, letters of credit, or other instruments in form and substance acceptable to the city as may be required by this chapter, or by an applicable franchise or other applicable code, ordinance, or rules and regulations of the city. (Ord. 05-245 § 2).

12.06.218 Restoration bond.

Unless otherwise provided in a franchise, each utility or contractor shall provide a restoration bond, written by a surety acceptable to the city, equal to at least 100 percent of the estimated cost of restoration as required as a result of constructing the grantee's facilities within rights-of-way, shall be deposited before construction commences.

A. The restoration bond shall remain in force until 60 days after substantial completion of the work, as determined by the city engineer or designee, including restoration of all rights-of-way and other property affected by the construction.

B. The restoration bond shall guarantee, to the satisfaction of the city:

1. Timely completion of restoration;
2. Restoration in compliance with applicable plans, permits, technical codes, and standards;
3. Proper restoration of the facilities as specified by the city; and

4. Restoration of the rights-of-way and any other property affected by the construction. (Ord. 05-245 § 2).

12.06.220 Penalties.

Any person found violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this chapter is subject to a civil penalty pursuant to Chapter 1.10 EMC for each act. Each day constitutes a separate act. (Ord. 05-245 § 2).

12.06.230 Other remedies.

Nothing in this chapter shall be construed as limiting any judicial remedies that the city may have, at law or in equity, for enforcement of this chapter. (Ord. 05-245 § 2).

12.06.240 Severability.

If any section, subsection, sentence, clause, phrase, or other portion of this chapter, or its application to any person is, for any reason, declared invalid, in whole or in part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof. (Ord. 05-245 § 2).

Chapter 12.12

NONMOTORIZED TRANSPORTATION SYSTEMS

Sections:

- 12.12.010 Purpose.
- 12.12.020 Scope.
- 12.12.030 General development standards.
- 12.12.040 Specific development standards.

12.12.010 Purpose.

The city requires motorized and nonmotorized transportation systems to move goods and people. Motorized transportation systems are those streets and roads that carry motorized vehicles. Nonmotorized systems are those involving trails, sidewalks, pathways and linear parks that handle pedestrians, bicycles and other nonmotorized modes of transportation. Within the city of Edgewood, proper pedestrian facilities are a community goal. (Ord. 06-269 § 3).

12.12.020 Scope.

The nonmotorized transportation system encompasses the entire community. These include adequate facilities for trails, pathways, sidewalks and linear parks that connect to all community, educational, recreational and commercial facilities. (Ord. 06-269 § 3).

12.12.030 General development standards.

New development shall provide adequate nonmotorized transportation systems in accordance with the following city standards:

- A. Provide internal pedestrian circulation by means of sidewalks and trails.
- B. Connect internal trails and sidewalks to other residential, community, recreational, educational or commercial areas via area trails.
- C. City standards for the pedestrian circulation are:
 - 1. Major citywide recreational trails to community facilities are to be no more than one-half mile apart.
 - 2. Provide trails and/or sidewalks that shall connect all residential areas to schools, parks and major commercial areas.

3. The city of Edgewood pedestrian safety study alternative strategies trail map, and other studies approved by the city council, shall be used as a guide.

4. The pedestrian safety study alternative strategies trail plan map and the interurban trail shall serve as the basis for developing and connecting the city's public trail system. (Ord. 06-269 § 3).

12.12.040 Specific development standards.

The development of pathways and trails shall be designed to meet the following criteria. These standards may be modified when, in the opinion of the city engineer, it would allow for better nonmotorized movement due to environmental constraints:

Type of Nonmotorized Improvement	Typical Width*	Required Surface	Development Criteria
On-street bicycle pathway	5 feet	Concrete, asphalt, or other all-weather surface materials	Striped lane within the street right-of-way
Off-street paved bicycle/pedestrian pathway	6 – 12 feet	Concrete, asphalt, or other all-weather surface materials	Reflect local site conditions
Off-street unpaved bicycle/pedestrian pathway	6 – 12 feet	Gravel, wood chip, natural earth or similar materials	Reflect local site conditions
On-street separated bicycle/pedestrian pathway	5 – 8 feet	Asphalt or other all-weather surface materials	Separated from the roadway by a 4-foot-wide buffer
Sidewalks	5 feet	According to street design standards set forth in Chapter 12.05 EMC	

*Lower number of the range is the minimum width unless modified by the city engineer.

(Ord. 06-269 § 3).

EXHIBIT B

City of Edgewood Trails Plan

By Functional
Classification



PEDESTRIAN STUDY APRIL 13, 2004

Chapter 12.14

STREET AND ALLEY VACATIONS

Sections:

- 12.14.010 Petition for vacation by property owners.
- 12.14.020 Vacation initiated by council resolution.
- 12.14.030 Appraisals.
- 12.14.040 Objections – Prohibition on further proceedings.
- 12.14.050 Processing of petition or council resolution.
- 12.14.060 Public hearing.
- 12.14.070 Compensation.
- 12.14.080 Vacation of waterfront streets.
- 12.14.090 Recording.
- 12.14.100 Use of proceeds.

12.14.010 Petition for vacation by property owners.

A. Who May File. The owners of an interest in real estate abutting upon any street, alley, public place or portion thereof created by easement may petition the city council for a vacation of such area.

B. Elements of Petition. The petition shall include a description of the property to be vacated, as prepared by a licensed surveyor. In addition, the petitioners shall provide evidence that the public has an easement upon such street or alley (and that the property is not owned in fee by the city). A nonrefundable fee, as established by the city council (in its fee resolution), must also be submitted for the purpose of defraying the administrative costs associated with the processing of the vacation petitions. This fee is also applicable to petitions under the nonuser statute (EMC 12.14.050(B)).

C. Where to File Petition. The petition shall be filed with the city clerk, who shall confirm that it is signed by the owners of more than two-thirds of the property abutting upon the part of the street or alley to be vacated.

D. Date Set for Hearing. If the petition meets the requirements of subsections (B) and (C) of this section, it shall be placed on the council agenda. The city council shall adopt a resolution fixing a time for a public hearing, when the petition will be considered by the council, as described in EMC 12.14.060. The date set for the public hearing shall not be more than 60 days nor less than 20 days after the date of the passage of the resolution.

E. Notice to Public of Public Hearing.

1. Posting of Notice. After the council passes the resolution, the city clerk shall post written notice of the public hearing on the city website and in three of the most public places in the city. In addition, this notice shall be posted in a conspicuous place on the street or alley sought to be vacated.

2. Content of Notice. The notice shall contain: (a) a statement that a petition has been filed to vacate the street or alley (or portion thereof) described in the notice; (b) a description of the part of the street or alley to be vacated; (c) identification of the petitioners; (d) a statement of the time and place fixed for the hearing of the petition; (e) a statement that public testimony is allowed at the hearing and that anyone objecting to the proposed vacation should attend the public hearing or submit written testimony to the city council indicating his or her objection prior to the hearing; (f) a statement that the vacation and hearing will proceed in the manner described in this chapter; and (g) a statement that the area proposed for vacation is public access. (Ord. 18-529 § 2).

12.14.020 Vacation initiated by council resolution.

A. Council Initiated.¹ The city council may propose a vacation of a street, alley, public place or portion thereof, by council resolution.

B. Elements of Resolution. The council's resolution shall describe the purpose for the proposed vacation and the date fixed for the public hearing on the proposed vacation, and shall state whether the abutting property owners shall be required to make payment to the city for the vacation.

C. Fees and Compensation. The council may initiate a vacation that does not require the abutting property owners to make payment to the city for the city's administrative costs and/or compensation for the area vacated, where:

1. The street, alley or public place was not acquired at public expense;
2. After a review of the transportation element of the city's comprehensive plan, the city council determines that the street, alley or public place is not needed for public travel now or in the foreseeable future; and
3. The city's maintenance or upkeep of the street, alley or public place is unrelated to any use of the street, alley, or public place for public travel.

D. Date of Public Hearing. The date set for the hearing on the proposed vacation shall not be more than 60 days nor less than 20 days after the date of the passage of the resolution.

E. Notice to Public of Public Hearing. After the council passes the resolution, the city clerk shall provide notice of the public hearing as described in EMC 12.14.010(D). In addition, the city clerk shall send out mailed notice at least 15 days prior to the date fixed for the hearing. This mailed notice shall be sent to the owners or reputed owners of all lots, tracts or parcels of land or other property abutting upon any street or alley or any part thereof sought to be vacated, as these property owners are identified and their addresses are shown on the rolls of the county treasurer. (Ord. 18-529 § 2).

12.14.030 Appraisals.

This section applies when the council passes a resolution under the circumstances described in EMC 12.14.010 and when the council initiates a street vacation by resolution under EMC 12.14.020 (and does not require the payment of fees or compensation, pursuant to EMC 12.14.020(C)). It does not apply to vacation petitions that have been determined to be subject to the nonuser statute (EMC 12.14.050(B) and 12.14.070(E)).

A. Appraisal Fee. After the city council passes the resolution setting the date for a public hearing, the petitioner(s) or abutting property owner(s) shall deposit sufficient funds to cover the city's estimated cost of a full appraisal of the street, alley, public place or portion thereof to be vacated. The appraisal shall determine the value of the property after vacation (or after the removal of the public's easement for travel, taking into account any easement that the city may require under EMC 12.14.060(B)(3) as a condition of the vacation).

B. Difference in Appraisal Cost. In the event that the appraisal cost is less than the amount deposited, the compensation paid by the petitioner to the city shall be reduced by the difference between the deposit and the actual cost, or, in the alternative, such difference shall be refunded. In the event the actual cost of the appraisal is more than the amount deposited, the compensation payable to the city by the petitioner shall be increased by the difference between the deposit and the actual appraisal cost.

C. Exchanges of Right-of-Way. The city is also authorized to obtain appraisals from qualified, independent real estate appraisers for the fair market value of alternate right-of-way land proposed by petitioners to be granted or dedicated to the city in lieu of a cash payment, as described in EMC 12.14.070. For appraisals of alternate right-of-way land, an additional appraisal deposit fee shall be paid for the appraisal of such property. (Ord. 18-529 § 2).

12.14.040 Objections – Prohibition on further proceedings.

If, prior to the public hearing, written objections are filed with the city by 50 percent of the owners of property abutting the street, alley, public place or portion thereof subject to the vacation petition or council resolution for vacation, the city is prohibited from proceeding with the vacation. (Ord. 18-529 § 2).

12.14.050 Processing of petition or council resolution.

A. Staff Report. Prior to the public hearing, the staff shall prepare a report and recommendation on the proposed vacation to the city council, which shall include:

1. The history of private and public use of the area sought to be vacated, including the type of use (pedestrian, vehicular, etc.) and length of time such use has occurred;
2. A description of the manner in which the area sought to be vacated was acquired (whether by dedication, public expense, etc.);
3. A physical description of the street or alley area sought to be vacated, whether the right-of-way is improved, whether there are sidewalks, curbs, gutters, etc.;
4. A description of all utilities or other public services that currently utilize the area sought to be vacated, whether by easement or otherwise;
5. The staff's recommendation on the functionality of the area sought to be vacated for public purposes;
6. Identification of any references to any planning document, such as the city's comprehensive plan, the transportation element of the comprehensive plan, the six-year road plan or the capital facilities element of the comprehensive plan that mention the area sought to be vacated for any purpose;
7. The staff's recommendation whether the area sought to be vacated will be needed in the future as part of the city's transportation system (pedestrian, bicycle or vehicular) or for utility access, and any other matters pertinent to future use;
8. The staff's recommendation on the compensation to be paid to the city, considering the factors identified in EMC 12.14.070; and
9. A statement that the street vacation is exempt from SEPA under WAC 197-11-800(2)(i).
10. If the area proposed to be vacated abuts a body of fresh or salt water, the procedures in EMC 12.14.080 shall be followed.

B. Nonuser Statute. For those petitions involving a vacation of a portion or all of a street or alley subject to 1889-90 Laws of Washington, Chapter 19, Section 32 (nonuser statute), the city staff report shall include an analysis of the pertinent facts to demonstrate that the street or alley is subject to the nonuser statute, as well as a description of the use(s) that has been made of the street or alley since operation of the statute. The city attorney shall identify any annexation, adverse possession or prescriptive easement issues that may prevent the council's granting of the proposed street vacation.

C. No Deadline for Council Decision. Pursuant to RCW 36.70B.140(1), street vacations are not subject to project permit processing requirements in RCW 36.70B.080, which imposes a deadline on the issuance of a final decision. (Ord. 18-529 § 2).

12.14.060 Public hearing.

A. City Clerk. The city clerk shall enter all of the written comments received on the proposed vacation into the record, and shall specifically identify any objections received from abutting property owners.

B. Council Action. The city council shall hold a public hearing on the proposed vacation and shall:

1. Consider the written recommendations of staff, abutters, the public and all testimony provided at the hearing;
2. Determine whether compensation must be paid to the city under the factors set forth in EMC 12.14.070, and the amount of such compensation;
3. Decide whether any conditions should be imposed on the vacation, such as the retention of an easement or the right to exercise and grant easements with respect to the vacated land for the construction, repair and maintenance of public utilities and services; and
4. Determine whether the public interest is served by such vacation.

C. Findings and Conclusions. The city council shall adopt written findings and conclusions in support of its decision to either grant the vacation, grant it with conditions or deny it.

D. Final Decision/Ordinance. If the city council decides to grant a vacation petition, the ordinance granting such vacation shall provide that it shall not become effective until the owners of property abutting upon the street or alley, or part thereof so vacated, shall compensate the city for such vacation as calculated under EMC 12.14.070 or 12.14.080(C). There is no administrative appeal of the city council's decision. (Ord. 18-529 § 2).

12.14.070 Compensation.

Ordinances vacating any street, alley, public place or portion thereof shall not be adopted by the city council until the council determines the amount of compensation to be paid to the city based on the factors set forth below:

A. If the street, alley, public place or portion thereof has not been part of a dedicated public right-of-way for 25 years or more, or if the subject property to be vacated was not acquired at public expense, the owners of property abutting the street shall compensate the city in an amount that does not exceed one-half of the appraised value of the street.

B. If the street, alley, public place or portion thereof has been part of a dedicated public right-of-way for 25 years or more, or if the subject property to be vacated was acquired at public expense, the city may require the owners of the property abutting the street to compensate the city in an amount that does not exceed the full appraised value of the area vacated.

C. The full fair market value, as shown on the appraisal, shall be paid upon vacation of any streets, alleys or public places abutting upon bodies of water, as provided in EMC 12.14.080.

D. In-Lieu Transfers of Property. Conveyances of other property acceptable to the city may be made in lieu of the payment required by this section, whether required to mitigate adverse impacts of the vacation or otherwise. When such a transfer is proposed for street purposes, the value of the property (as determined in subsection (A), (B) or (C) of this section) shall be credited to the required payment. When the value of the in-lieu parcel is less than the payment required by subsection (A), (B) or (C) of this section, the petitioner shall pay the difference to the city. When the value of the in-lieu parcel exceeds the payment required by subsection (A), (B) or (C) of this section, the city shall pay the difference to the petitioner. In addition, the petitioner shall be responsible for all costs associated with this transfer, in the same manner as a property purchase, including, but not limited to, title insurance, attorney review of the title, hazardous materials/waste testing, etc.

E. Vacations of Streets Subject to 1889-90 Laws of Washington, Chapter 19, Section 32 (nonuser statute). The city council's adoption of a vacation ordinance for those streets and alleys subject to RCW 36.87.090 (nonuser statute) shall not require compensation by the abutting owners. However, the property owners initiating such vacation shall pay the city's administrative fees relating to research and processing of the vacation request. (Ord. 18-529 § 2).

12.14.080 Vacation of waterfront streets.

A. The city shall not vacate any street or alley if any portion of the street or alley abuts a body of fresh or salt water unless:

1. The vacation is sought to enable the city to acquire the property for port purposes, beach or water access purposes, boat moorage or launching sites, park, public view, recreation, or educational purposes, or other public uses;
2. The city council adopts an ordinance which declares that the street or alley is not presently being used as a street or alley and that the street or alley is not suitable for any of the following purposes: port, beach or water access, boat moorage, launching sites, park, public view, recreation or education; or
3. The vacation is sought to enable the city to implement a plan, adopted by resolution or ordinance, that provides a comparable or improved public access to the same shoreline area which the streets or alleys sought to be vacated abut, had the properties included in the plan not been vacated.

B. Before adopting an ordinance vacating a street or alley under subsection (A)(2) of this section, the city shall:

1. Compile an inventory of all rights-of-way within the city that abut the same body of water that is abutted by the street or alley sought to be vacated;
2. Conduct a study to determine if the street or alley to be vacated is suitable for use by the city for any of the following purposes: port, boat moorage, launching sites, beach or water access, park, public view, recreation or education;
3. Notice the public hearing as required by EMC 12.14.010(E), and hold a public hearing on the proposed vacation in the manner required by EMC 12.14.060; and
4. Make a finding that the street or alley sought to be vacated is not suitable for any of the purposes listed under subsection (B)(2) of this section, and that the vacation is in the public interest.

C. No vacation shall be effective until the fair market value has been paid for the street or alley or portion thereof to be vacated. (Ord. 18-529 § 2).

12.14.090 Recording.

Posting and mailing of the notices described in this chapter shall be the responsibility of the city clerk. As required by RCW 35.79.030, a certified copy of the ordinance vacating the street, alley, public place or portion thereof shall be recorded by the city clerk with the Pierce County office of records and elections (or county auditor), after all fees and the compensation for the value of the property, as determined by the council in the vacation ordinance, have been paid to the city. (Ord. 18-529 § 2).

12.14.100 Use of proceeds.

A. Nonwaterfront Streets and Alleys. One-half of the revenue received by the city as compensation for the area vacated must be dedicated to the acquisition, improvement, development and related maintenance of public open space or transportation capital improvements in the city.

B. Waterfront Streets and Alleys. Monies received from the vacation may be used by the city only for acquiring additional beach or water access, acquiring additional public view sites to a body of water, or acquiring additional moorage or launching sites. (Ord. 18-529 § 2).

¹ RCW 35.79.020.

Chapter 12.16

STREET USE PERMITS

Sections:

- 12.16.010 Purpose.
- 12.16.020 Applicability.
- 12.16.030 Nuisances.
- 12.16.040 Exceptions.
- 12.16.050 Street use permits.
- 12.16.060 Processing of applications.
- 12.16.070 Criteria for approval.
- 12.16.080 Approval of street use permit.
- 12.16.090 Assurances required.
- 12.16.100 Indemnity deposit with finance department.
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- 12.16.130 Liability insurance.
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- 12.16.180 Compliance with permit.
- 12.16.190 Newsstands.
- 12.16.200 Appeals.
- 12.16.210 Definitions.

12.16.010 Purpose.

The purpose of this chapter shall be:

- A. To maintain the use of city streets for travel, transportation and incidental authorized purposes and to retain the use of other public places for the purposes established;
- B. To consider the interests of owners and occupants of property adjacent to public places while respecting the rights of all users thereof;
- C. To preserve the appearance of city streets and public places, to carry out design controls in areas subject thereto, encourage improvements that make public places more pleasing; and
- D. To establish a process for the review, approval, denial and appeal of permits for uses of the public streets, alleys and other public places so as to ensure the protection of the public health, safety and welfare and the prevention of obstructions and/or public nuisances. (Ord. 19-550 § 1).

12.16.020 Applicability.

This chapter shall authorize, through a temporary, revocable permit, certain limited use of public alleys, places and streets by private individuals. Newsstands are regulated in EMC 12.16.190. This chapter shall not apply to the particular uses of city streets and sidewalks that are regulated by the other chapters of this title. This chapter shall require a permit for any existing use of any public right-of-way, street or other public place. Owners seeking a temporary use of city rights-of-way must obtain a permit before the use begins. (Ord. 19-550 § 1).

12.16.030 Nuisances.

A. Any structure built, or material placed or dumped in or on any public place by anyone without having first obtained and complied with a permit issued under this chapter may be declared a public nuisance and abated as set forth in Chapter 8.09 EMC or Chapter 7.48 RCW. Other equivalent proceedings may be taken as are authorized by law or city ordinances.

B. The director may declare that a street tree, or any portion of a privately owned tree extending into the right-of-way, is a public nuisance if it impacts the safe operations of the transportation system, including but not limited to: impeding signs and signals, or harbors a contagious disease or an insect infestation that threatens the health of other trees or vegetation. The city may follow the process in Chapter 8.15 EMC to eliminate overhanging vegetation. (Ord. 19-550 § 1).

12.16.040 Exceptions.

When required by the United States Constitution, Washington State Constitution, or a federal or state statute enacted thereunder, the director shall suspend the application of any particular section of this chapter or waive compliance with a requirement, including payment of fees, the provision of an indemnity deposit or contract, and the furnishing of insurance. The director shall maintain a record of all such granted waivers and suspensions. (Ord. 19-550 § 1).

12.16.050 Street use permits.

A. Permit Required. It is unlawful for anyone to make use, as defined in EMC 12.16.210, of any public place: (1) without first securing a written permit as authorized by this chapter; (2) without complying with all conditions of such permit; and (3) without complying with the city's public works standards and other applicable code provisions. The city public works department is not required to obtain a permit or comply with permit procedures for street maintenance/improvement work performed by the city.

B. Review Procedures. A street use permit is exempt from permit processing procedures in the city's land use development code, EMC Title 18 (pursuant to RCW 36.70B.140), unless otherwise specified within this chapter. The director makes a final decision on the street use permit application without a hearing, which can be administratively appealed as set forth in EMC 12.16.200. Issuance of a street use permit is not a quasi-judicial decision and the city is not required to hold an open record or closed record hearing (as defined in RCW 36.70B.020) on any decision.

C. Elements of a Complete Application. A complete street use permit application shall consist of the following:

1. Application Form. A completed street use permit application form, including the applicant's name, address, phone number and email address. If the applicant's designee is completing the application, then an affidavit signed by the applicant must be submitted, verifying that the applicant has given permission to the designee for the submission of the street use permit application;
2. Other Permit Applications. If the street use permit is associated with a proposed project, copies of the related permit applications must be submitted;
3. Identification of the Public Place. The public place or defined portion of the public place to be used must be identified in detail;
4. Identification of the Proposed Use. The application must specifically identify the proposed use of the public place and provide detail on the amount of space required for the proposed use and the dates proposed for such use;
5. Plans and Specifications. The plans and specifications for any utility or structure proposed in or on the public place;
6. Existing Structures. A plan identifying and locating any existing public improvements, utilities, or structures in the area to be used and any trees that may be affected by the proposed use;
7. Authorization of Property Owner. When the proposed use involves a structural building overhang, a retaining wall, or a permanent method of lateral support, the application shall also be accompanied by documentation showing the individual or entity that is the record owner of the premises served by the proposed use and showing the record owner of the premises consents to the premises being served by the proposed use;
8. Fees. The street use permit fee shall be billed at current staff hourly rates, unless otherwise established by the city in the adopted fee resolution.

D. Assurances. Before the city issues any street use permit, the applicant will be required to provide certain assurances (deposit of funds, surety bond, indemnification agreement, etc.), as needed, all as described in EMC 12.16.090 through 12.16.140. (Ord. 19-550 § 1).

12.16.060 Processing of applications.

A. The director shall review each application for a permit for compliance with any applicable codes.

B. The director may require additional information or material when he/she deems appropriate, including, but not limited to: a map, photographs, construction plans, or a survey of the site; the director may inspect the premises, solicit comments from other abutters or the public, post or require posting of notice at the site inviting comment to the authorized department, or give notice of the submission of a street use permit application according to requirements for an administrative review applicable to the notice of application procedure in EMC 18.40.180 (RCW 36.70B.110).

C. If an application for a street use permit requires a permit under any other chapter of the city's code, but the other permit application has not been filed with the appropriate department, then the street use permit application shall be sent to the appropriate director/department for review. The director/department with the authority to review the associated permit applications shall send his/her findings and comments to the director.

D. If the director determines that engineering or other studies should be prepared before a permit is approved, the applicant shall prepare the studies, or authorize the city to prepare the studies at the applicant's expense, before the application will be further processed. (Ord. 19-550 § 1).

12.16.070 Criteria for approval.

Factors for the director's consideration in evaluating an application for a permit include, but are not limited to:

A. The applicant's constitutional rights;

B. The impact of the proposed use on the following:

1. The paramount purpose of streets for travel and transportation;
2. Utilities; authorized secondary street uses; and any use being made by the public of the site;
3. Fire access and public safety;
4. Uses under permit; street trees; and other proposed or past uses of the site;
5. Rights of light, air, and access and lateral support of abutting properties and on access or easements of properties dependent upon the public place for access;
6. The environment, including but not limited to efforts to minimize impervious surface, loss of native vegetation, and stormwater runoff;
7. Drainage, surface and underground; springs and watercourses; and the stability of soils; and
8. Where applicable: city land use, transportation, open space, shoreline, and beautification policies;

C. The abutter's property rights;

D. The public and private benefits of the proposed use;

E. The site and its terrain;

F. In addition to the considerations listed above, where the following situations occur, factors for consideration include:

1. For public places used as parks or open space, the impact of the proposed use on their character as a park drive or boulevard, or as open space;
2. For environmentally critical areas, the requirements of EMC Titles 14 and 20. (Ord. 19-550 § 1).

12.16.080 Approval of street use permit.

A. If the application conforms to the requirements of this chapter, all other applicable codes and the proposed use is consistent with the rights of the public, the director may approve the application; fix the duration and the terms or conditions of the permit; and, when required, upon the applicant's furnishing of a deposit or surety bond, insurance, covenant, and indemnification (as required by EMC 12.16.090 through 12.16.140), and payment of all required fees, issue the permit. The original permit shall remain in the custody of the city, and a copy shall be given to the permittee and shall be posted or available at the site.

B. The permit shall specify the portion of the public place that may be occupied, the dates or days and hours of use, and the allowed use. The permit shall only be valid for the portion of the public place, the dates or days and hours of use, and the use as identified on the permit. Every permit shall include the language in EMC 12.16.150(A) on the face of the permit.

C. Every permit shall be conditioned to state that all activities in the public place shall implement stormwater best management practices (BMPs) in accordance with the city's current stormwater manual, as amended (Chapter 13.05 EMC). Failure to implement stormwater BMPs shall be a violation of this chapter and subject to enforcement. (Ord. 19-550 § 1).

12.16.090 Assurances required.

Before the city approves a street use permit, the director shall determine the appropriate assurances (as set forth in EMC 12.16.100 through 12.16.140) as necessary to assist the city in (1) the collection of expenses charged under this chapter and costs associated with a use under a permit; (2) assure performance of the requirements of this chapter and the covenants or conditions in a permit; (3) place on the permittee the risks associated with the use and provide a degree of financial responsibility in the event of an accident or injury; and (4) restoration of the public place when the permittee's use has been revoked or terminated to at least as good a condition as required by current applicable standards. The city's acceptance of an indemnity deposit/agreement, a surety bond, or insurance does not limit an applicant's or a permittee's liability to the amount deposited or stated in the instrument. The director, when required to do so by a constitutional provision, or state or federal law, may waive compliance with any of the conditions of EMC 12.16.100 through 12.16.140. (Ord. 19-550 § 1).

12.16.100 Indemnity deposit with finance department.

A. If the director determines that there is a substantial risk of injury, damage, or expense to the city or probable city expenditures arising from an applicant's proposed use of any public place, the director may require the applicant to make an indemnity deposit with the finance director in an amount based on the director's estimate of the injury, damage, or expense to the city, or cost of restoring the public place if a mishap or accident occurs.

B. The establishment of an indemnity deposit with the city shall provide a source of funds, held by the city, to pay probable city expenditures arising from: (1) a proposed use or restoration of the public place after the use; (2) reimbursement of the city for the time associated with city employees' inspection and code enforcement activities; and (3) ancillary city expenses relating to the permit. Annual street use permit fees are billed separately. A deposit establishes a balance with the city in favor of the applicant or permittee against which a city department may deduct fees and charges as they occur, including annual fees and deposits for particular permits.

C. The indemnity deposit shall also be used to pay the cost of: (1) restoring the public place; (2) removal of any earth or other debris; (3) replacing or repairing any damaged utility or trees in the public place; (4) completing any work left unfinished; (5) resetting any traffic control devices; (6) performing engineering and other studies required by the applicant's use of the public place; and (7) any other expense that the city may sustain in conjunction with the permitted work. The deposit shall also be used to pay the city's administrative expenses equal to the city's costs for services such as inspections, surveys, preparing plans, letting contracts, and contract administration or supervision. The balance of the cash indemnity deposit, if any, after all such deductions, shall be returned to the applicant or permittee. If the indemnity deposit is insufficient, the applicant or permittee shall be liable for the deficiency. (Ord. 19-550 § 1).

12.16.120 Surety bond.

A. A surety bond provides a promise by a licensed surety company, within the limits and according to the terms of the bond, to perform work or pay the city's expenses to perform the work in the event of the permittee's default. A surety bond is not a substitute for providing the city public liability insurance for any tortious injury. The director may authorize the filing of a surety bond consistent with the procedures in this chapter in lieu of making all or part of an indemnity deposit.

B. If required by the authorizing official, the applicant or permittee shall deliver to the director, in lieu of or in addition to the indemnity deposit, a sufficient surety bond executed by a surety company authorized and qualified to do business in the state of Washington and is approved as to surety and as to form by the city attorney. The bond shall: assume all the requirements provided in EMC 12.16.100 in relation to an indemnity deposit; run for the full period of the permit; be in an amount fixed by the director; be conditioned that the permittee shall comply with all the terms of the permit and all the provisions of this title and all other ordinances of the city; and to the extent permitted by law, indemnify and save the city harmless from any and all claims, actions, suits, liability, loss, costs, expense, or damages of every kind and description, excepting only damages that may result from the sole negligence of the city and that may accrue to, be asserted by, or be suffered by any person or property, including, without limitation, damage or injury to the permittee, its officers, agents, employees, contractors, invitees, tenants and tenants' invitees, or licensees, by reason of the use of any public place, as provided for in the application.

C. If the application proposes to construct, reconstruct, repair, maintain, or remove any pavement, utility, street lighting, or appurtenance, and/or perform any grading in the public place, the applicant shall file with the director a sufficient surety bond executed by a surety company authorized and qualified to do business in the state of Washington and is approved as to surety and as to form by the city attorney. The bond shall: be in an amount fixed by the director; be conditioned such that the permittee shall complete all portions of the work according to the city's standard plans and specifications and the special plans approved by the authorizing official; and be conditioned that the permittee shall comply with all the terms of the permit and all the provisions of this title and all other ordinances of the city; and to the extent permitted by law, indemnify and save the city harmless from any and all claims, actions, suits, liability, loss, costs, expense, or damages of every kind and description, excepting only damages that may result from the sole negligence of the city, that may accrue to, be asserted by, or be suffered by any person or property, including, without limitation, damage or injury to the permittee, its officers, agents, employees, contractors, invitees, tenants and tenants' invitees, or licensees, by reason of the use of any public place, as provided for in the application. The bond shall run for the full period of the permit plus two years after city acceptance of the permitted work. (Ord. 19-550 § 1).

12.16.130 Liability insurance.

A. Liability insurance protects the city as an additional insured from public liability as a result of an accident, injury, or damage arising from the use of a public place; and assists in making permittees financially responsible for meeting liabilities that may arise from their use of public places.

B. Every permittee, as a condition of every street use permit, shall obtain and maintain in full force and effect, at its own expense, public liability insurance in an amount sufficient to protect the city from all potential claims and risks of loss from perils in connection with any activity that may arise from or be related to the permittee's activity upon or the use or occupation of the public place allowed by the permit and claims and risks in connection with activities performed by the permittee by virtue of the permission granted by the permit. The insurance policy shall: (1) be in effect for the duration of the permit; name the city of Edgewood, its elected and appointed officers, officials, employees, and agents as additional insureds for primary and noncontributory limits of liability subject to a separation of insureds clause; (2) apply as primary insurance regardless of any insurance that the city may carry; and (3) obligate the insurance company to give notice to both the director and the city clerk at least 30 calendar days before any cancellation of the policy.

C. The director, in consultation with the city attorney, shall establish the amount of the insurance and, unless constitutional liberties prohibit it, shall require that the insurance be provided prior to issuance of the permit. The city requires insurance coverage to be placed with an insurer admitted and licensed to conduct business in Washington State or with a surplus lines carrier according to Chapter 48.15 RCW, except that if it is infeasible to obtain coverage with the required insurer, the city may approve an alternative insurer. Evidence of such insurance shall be provided before the city issues the street use permit. (Ord. 19-550 § 1).

12.16.140 Indemnification agreement.

A. The indemnification agreement holds the city harmless from all claims, actions, suits, liability, loss, costs, expense, or damages of every kind and description. The permittee shall agree to defend, indemnify, and hold harmless the city of Edgewood, its officials, officers, employees, and agents from and against:

1. Any liability, claims, actions, suits, loss, costs, expense judgments, attorneys' fees, or damages of every kind and description resulting directly or indirectly from any act or omission of the permittee, its subcontractors, anyone directly or indirectly employed by them, and anyone for whose acts or omissions they may be liable, arising out of the permittee's use or occupancy of the public place; and
2. All loss by the failure of the permittee to fully or adequately perform, in any respect, all authorizations of obligations under permit.

B. If the application is for a permit to use or occupy a public place with a bulkhead, steps, retaining wall, rockery, structure, or an extension or appurtenance to a structure or any facility with an anticipated continued occupancy of a public place of more than one year, the owner of the adjacent property, and any existing lessee, sublessee, tenant and subtenant using or occupying the part of the premises served or connected to the permitted use, shall, in the manner provided by law for the execution of deeds, execute and deliver to the city upon a form to be supplied by the authorizing official an agreement in writing: signed and acknowledged by the owners and by any existing lessee, sublessee, tenant and subtenant; containing an accurate legal description of the premises; covenanting on the part of the owner, lessee, sublessee, tenant and subtenant, for themselves and their heirs, executors, administrators, successors, assigns, lessees, sublessees, tenants and subtenants and forever defending, indemnifying, and holding harmless the city, its officials, officers, employees, and agents from and against any and all claims, actions, suits, liability, loss, costs, expense, attorneys' fees, or damages of every kind and description, excepting only damages that may result from the sole negligence of the city, that may accrue to, be asserted by, or be suffered by any person or property, including, without limitation, damage, death, or injury to members of the public or to the permittee's officers, agents, employees, contractors, invitees, tenants and tenants' invitees, licensees or its successors and assigns, arising out of or by reason of:

1. The existence, condition, construction, reconstruction, modification, maintenance, operation, use, or removal of the permitted area or any portion thereof, or the use, occupation, or restoration of the public place or any portion thereof by the owner, lessee, sublessee, tenant and subtenant, heirs, executors, administrators, successors, assigns, lessees, sublessees, tenants and subtenants;
2. Anything that has been done or may at any time be done by the owner, lessee, sublessee, tenant and subtenant, heirs, executors, administrators, successors, assigns, lessees, sublessees, tenants and subtenants by reason of the permit; or
3. The owner, lessee, sublessee, tenant and subtenant, heirs, executors, administrators, successors, assigns, lessees, sublessees, tenants and subtenants failing or refusing to strictly comply with every provision of the permit; or arising out of or by reason of the permit in any other way.

C. The director may require that the indemnification agreements for the types of structures identified in subsection (B) of this section shall be a covenant running with the land and shall be recorded against the property at the applicant's cost.

D. In addition, the agreement shall contain a provision which expressly states that the permit:

1. Is wholly of a temporary nature;
2. Vests no permanent right whatsoever;
3. May be revoked, the structures and obstructions removed, and public place restored to the condition that existed prior to use occurring in the public place upon 30 calendar days' notice, posted on the premises, or published in the official newspaper of the city; or without notice, if the permitted use is dangerous or the structures are insecure or unsafe, as determined by the director, or are not constructed, maintained, or used in accordance with this code.

E. An agreement after it has been received and recorded with the county auditor shall be retained by the city clerk in the files and records of the clerk's office.

F. The director may waive execution of the signature on an agreement by a tenant or subtenant on a month-to-month lease or on a tenancy at will. If the application is made by a condominium or cooperative apartment, the authorizing official may accept an agreement by the condominium or apartment association together with documentation showing its authority to execute the agreement in lieu of executing the agreement by all unit or apartment owners. (Ord. 19-550 § 1).

12.16.150 Permit duration, revocation and restoration of the public place.

A. Every street use permit approved under this chapter shall state on its face that the permit is of a temporary nature and shall vest no permanent right; and may in any case be revoked upon 30 calendar days' notice; or may be revoked without notice where the use or occupation is dangerous or any structure or obstruction permitted is insecure or unsafe, as determined by the director, or is not constructed, maintained, or used in accordance with the provisions of this code.

B. If a permit to use a public place is revoked, terminated or expired, the permittee/applicant shall restore the public place to the condition that existed prior to use occurring in the public place.

C. If any structure, obstruction, use, or occupancy is not discontinued after notice from the city to do so, the director, with respect to public places, may:

1. Prohibit its further use;
2. Remove it from the public place;
3. Make repairs to it as may be necessary to render it secure and safe at the expense of the permittee or the permittee's successor or user responsible for the structure, obstruction, use, or occupancy; and
4. Collect expenses incurred in rendering it secure and safe and restoring the public place in the manner provided by this chapter and other applicable law. (Ord. 19-550 § 1).

12.16.160 Permit fees.

A. From time to time, the director shall prepare and recommend for adoption by the city council a schedule of fees applicable to reviewing and administering all permits for public places.

1. Fees for using or occupying the public place may take into consideration the undesirability of the use or occupation relative to the rights of the public, such as the city policy of discouraging certain types of encroachments inconsistent with the public right of access, including access to the shorelines or other public places, and shall be included in the schedule of fees for use of public places under the jurisdiction of the director.
2. The director is authorized to collect a monetary deposit for services to be conducted related to the review or inspection of a permit prior to or at permit issuance.
3. The director is authorized to collect fees for other city departments that provide services related to the review of a permit for use of the public place.

B. The fee schedule, when adopted by ordinance, shall govern the fee for permits issued and reviewed. All permit and review fees shall be commensurate with the cost of administering, inspecting, and policing involved in issuing and continuing the permits and with the use and occupation granted by the permits. The fee shall be collected as a condition to issuing or continuing any permit or use. (Ord. 19-550 § 1).

12.16.170 Exception/waiver, fees and assurances.

A. The director may grant an exception from paying fees, making an indemnity deposit, posting a surety bond, or providing liability insurance from the United States of America.

B. The authorizing official may grant an exception from paying fees, making an indemnity deposit, posting a surety bond, or providing liability insurance when the primary purpose of the project is environmental remediation and the project is being conducted in compliance with 42 U.S.C. § 9621 and is subject to 42 U.S.C. § 9621(e).

C. The authorizing official may grant an exception from paying fees, making an indemnity deposit, posting a surety bond, or providing liability insurance when the use is for a public transportation-related infrastructure project, like light rail, and is authorized under a separate ordinance, or when the use is for a city transportation project.

D. An authorizing official may waive the requirement for an indemnity deposit or surety bond for a use by the state of Washington or a local government. (Ord. 19-550 § 1).

12.16.180 Compliance with permit.

A. Construction of a structure or improvement shall be in accord with the approved permit and plans accompanying the approved permit unless the director first approves a revised permit authorizing the change.

B. If a proposed change is substantial and objections or adverse comments are received before the permit authorizing the revision is issued, the director shall give notice to the persons making the objection or comments about the proposed change, or require the applicant or permittee to do so, and allow public comment before reaching a decision on the proposed change. (Ord. 19-550 § 1).

12.16.190 Newsstands.

A. This section shall be interpreted and implemented in a manner that will enable the public to acquire a wide variety of publications with a diversity of news, information, ideas and opinions, at convenient locations in public places. It shall also be interpreted and implemented in a way so as to facilitate the distribution of publications in public places as contemplated by the Constitution of the State of Washington and the First Amendment to the U.S. Constitution. In addition, the city shall implement this section by preserving the appearance of public places and carry out design controls in areas subject thereto, encourage improvements that will make public places more pleasing and promote the use of modern aesthetically pleasing newsstands in congested areas.

B. Newsstands in compliance with the following standards may be placed in public places without a street use permit:

1. All newsstands in a public place shall align parallel with the curb, allow at least five feet of clear sidewalk space for pedestrian passage, be detectable by pedestrians using canes for guidance, be maintained in a safe condition, be able to withstand strong winds and be in good repair at all times. The newsstand may not exceed the following dimensions: six feet by 12 feet;
2. No newsstand shall be placed or maintained so as to obstruct the use of any crosswalk, wheelchair ramp, driveway, hydrant, or city emergency facility, or be less than 18 inches from the curb;
3. No newsstand shall impair loading at any bus, taxi, passenger or truck loading zone; hinder egress to parked vehicles in marked parking stalls; obstruct sight lines of motorists at an intersection; orient toward the roadway; or obscure any regulatory sign; or
4. No newsstand shall be fastened to any bus shelter or any utility pole or tree.

C. A street use permit is required for the placement of a newsstand in a public place if the newsstand exceeds the size limitations in subsection (B)(1) of this section; or if the owner proposes to: (1) permanently affix the newsstand to the surface of the public place; or (2) the owner proposes to place a newsstand which conflicts with design guidelines adopted for historical or special review districts, or proposes to place the newsstand within 120 feet of the limits of a street improvement that provides for the integration of newsstands into structures located therein. The director may issue a street use permit to allow the placement of a newsstand under this subsection whenever the same constitutes a reasonable accommodation that furthers the public interest. (Ord. 19-550 § 1).

12.16.200 Appeals.

A. A person aggrieved by any of the following decisions of the director may timely request an appeal of the decision to the city council:

1. The approval or denial according to EMC 12.16.070 and 12.16.080 of a street use permit;
2. The revocation of any street use permit;
3. The approval or denial according to EMC 12.16.190 of a request for a permit for a newsstand location not generally permitted by EMC 12.16.190.

B. An aggrieved person may appeal the director's decision by paying the appeal fee and filing an appeal statement with the city clerk within 10 calendar days of the date of the decision. The appeal shall identify the decision for which review the objection(s) to the decision, and the specific alternative being proposed. The city clerk shall schedule the appeal with the city council on their regular meeting calendar. The director may, at his/her discretion, stay implementation of a decision pending the appeal. The city council shall consider the appeal during a public hearing, and issue written findings and conclusions at a subsequent meeting. The decision of the city council shall be final, binding and conclusive. (Ord. 19-550 § 1).

12.16.210 Definitions.

"Adjacent property" means and includes the property abutting the margin of and contiguous to the public place.

"Alley" means a public way not designed for general travel and used primarily as a means of access to the rear of residences and business establishments. (RCW 46.04.020.)

"Applicant" means the individual or entity that has applied for a permit to use the public place on their or another individual's or entity's behalf.

"Crosswalk" means the portion of the roadway between the intersection area and a prolongation or connection of the farthest sidewalk line or in the event there are no sidewalks then between the intersection area and a line 10 feet therefrom, except as modified by a marked crosswalk. (RCW 46.04.160.)

"Director" shall mean the director of public works or his/her designee.

"Driveway or private road" means every way or place in private ownership and used for travel of vehicles by the owner or those having express or implied permission from the owner, but not by other persons. (RCW 46.04.420.)

"Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. (RCW 46.04.197.)

"Newsstand" means any stand, box, structure, rack or other device that is designed or used for the sale or distribution of newspapers, periodicals, magazines, or other publications, or any combination of the above.

"Permittee" means a person or entity that has received a permit to use a public place.

"Public place" means public right-of-way and the space above or beneath its surface, whether or not opened or improved, including streets, avenues, ways, boulevards, drives, places, alleys, sidewalks, planting strips, squares, triangles and plazas that are not privately owned.

"Right-of-way" means the strip of land platted, dedicated, condemned, established by prescription or otherwise legally established for the use of vehicles, pedestrians or utilities.

"Roadway" means that portion of a highway or street improved, designed, or ordinarily used for vehicular travel, exclusive of the sidewalk or shoulder even though such sidewalk or shoulder is used by persons riding bicycles. (RCW 46.04.500.)

"Sidewalk" means that property between the curb lines or the lateral lines of a roadway and the adjacent property, set aside and intended for the use of pedestrians or such portion of private property parallel and in proximity to a public street and dedicated to use by pedestrians. (RCW 46.04.540.)

"State highway" means every highway or part thereof which has been designated as a state highway or branch thereof by legislative enactment. (RCW 46.04.560.)

“Street” means every public highway or part thereof located within the city limits except alleys. (RCW 46.04.120.)

“Unopened” means a city right-of-way that exists by dedication or deed, but within which there is no road, improved or unimproved, that has been opened and accepted for public use and maintenance by the city.

“Use” means exercising dominion or control over, or occupying all or part of, a public place with or without the right to do so. “Use” includes constructing, storing, erecting, placing upon, maintaining, or operating any inanimate thing or object in, upon, over or under any public place.

1. “Use” includes, but is not limited to, any of the following:

- a. Placement or installation of any marquee, awning, clock, newsstand, sign, banner, sidewalk elevator or door, fuel opening, sidewalk cafe, or other structure;
- b. Placement or installation of fencing, staging, scaffolding, an elevator or other structure or material, machinery or tools used or to be used in connection with excavating, erecting, altering, demolishing, repairing, maintaining, or painting any building;
- c. Moving any building along or across any public place;
- d. Storing or placing any material, equipment, inanimate object, or thing in any public place. But “use” shall not include placing an inanimate object in a location and for a limited duration of time that, under the circumstances, no reasonable person could conclude that the public’s right to use or enjoy the public place, in whole or in part, has been or potentially could be interfered with;
- e. Raising or lowering any safes, machinery, or other heavy articles;
- f. Making or having any fire on any public place;
- g. Doing any work in, or erecting any structure under, along or over, any public place, except when permitted by ordinance;
- h. Vending of goods, tickets, things or services of any kind other than publications in newsstands regulated under EMC 12.16.190;
- i. Using sound-amplifying equipment other than aids for the disabled; or
- j. Closing or altering the appearance of streets including filming, block parties or street fairs.

2. With respect to trees and plantings, “use” means planting, removing, injuring, destroying, topping, or major pruning of any tree in any public place; cutting or pruning of any tree planted or maintained by the city; and removing, injuring or destroying any flower, plant, or shrub in any public place. “Use” excludes cutting grass, trimming shrubs, planting flowers, seeding, weeding, edging and other gardening activities for the care of planting strips commonly performed by or for an owner or occupant of property adjacent to a public place; and it excludes berry-picking and recreational activities that may have an incidental impact upon grass or shrubbery.

3. “Use” excludes a customer’s temporary placement of the customer’s garbage and recyclables for curbside/alley collection, removing snow and ice, sweeping sidewalks and removing leaves and debris. (Ord. 19-550 § 1).

Title 14

CRITICAL AREAS

Chapters:

- 14.10 General Provisions**
- 14.20 Definitions**
- 14.30 Use and Activity Regulations**
- 14.40 Wetlands**
- 14.50 Critical Fish and Wildlife Habitat Areas**
- 14.60 Aquifer Recharge and Wellhead Protection Areas**
- 14.70 Volcanic Hazard Areas**
- 14.80 Flood Hazard Areas**
- 14.90 Landslide Hazard Areas**
- 14.100 Seismic (Earthquake) Hazard Areas**
- 14.110 Erosion Hazard Areas**
- 14.120 Natural Resource Lands**

Chapter 14.10

GENERAL PROVISIONS

Sections:

- 14.10.010 Authority.
- 14.10.020 Purpose.
- 14.10.030 Interpretation.
- 14.10.040 Applicability.
- 14.10.050 Administration.
- 14.10.060 Relationship to other regulations.
- 14.10.070 Critical area protective measures.
- 14.10.080 Critical areas reports.
- 14.10.090 Mitigation plans.
- 14.10.100 Variances to critical areas.
- 14.10.110 Reconsideration and appeal procedures.
- 14.10.120 Fees.
- 14.10.130 Compliance.
- 14.10.140 Warning and disclaimer of liability.
- 14.10.145 Enforcement.
- 14.10.150 Appendix.

14.10.010 Authority.

A. This title is established and adopted pursuant to the Growth Management Act (RCW 36.70A.060).

B. As provided herein, the director or their designee is given the authority to interpret, apply, and enforce this title. (Ord. 20-572 § 6 (Exh. F); Ord. 17-513 § 3 (Exh. A)).

14.10.020 Purpose.

A. The purpose of this title is to protect the critical areas of Edgewood from the impacts of development by establishing minimum standards for development activity on sites that contain or adjoin any critical area or its buffer(s). Further, the purpose of these regulations is to mitigate the potential hazard(s) to development in and near critical areas.

B. The purpose is further envisioned to promote the public health, safety, and welfare by:

1. Avoiding impacts to critical areas;
2. Mitigating unavoidable impacts of regulated activities;
3. Protecting critical areas from impacts of development;
4. Protecting the public against losses from:
 - a. Costs of public emergency rescue and relief operations where the causes are avoidable; and
 - b. Degradation of the natural environment and the expense associated with repair or replacement;
5. Preventing adverse impacts on water availability, water quality, wetlands, and streams;
6. Protecting unique, fragile, and valuable elements of the environment, including critical fish and wildlife habitat conservation areas;
7. Providing community development department (department) staff with sufficient information to adequately protect critical areas and proposed development activity when approving, conditioning, or denying public or private regulated activities;

8. Providing the public with sufficient information and notice of potential risks associated with development in critical areas; and

9. Implementing the goals and requirements of the Growth Management Act (RCW 36.70A.060), the State Environmental Policy Act (SEPA), the city's comprehensive plan, and all updates, amendments, functional plans, and other land use policies formally adopted or accepted by the city. (Ord. 17-513 § 3 (Exh. A)).

14.10.030 Interpretation.

A. In the interpretation and application of this title, all provisions shall be:

1. Considered the minimum necessary for compliance; and
2. Liberally construed to serve the purposes of this title.

B. Nothing contained herein shall be deemed to limit or repeal any other powers under state statute. (Ord. 17-513 § 3 (Exh. A)).

14.10.040 Applicability See attached Ordinance 17-0513, Exhibit A

14.10.050 Administration.

A. Critical Areas Permit or Approval Required. In order to conduct any development activity or regulated activity on any property located within 300 feet of a critical area, as each critical area is defined in this title or as shown on the city's critical areas map(s), a critical areas permit or an approval must be obtained from the city.

B. Critical Areas Approval.

1. If the city requires that another permit application be submitted under a different code chapter in order to allow the proposed development activity or regulated activity, then a separate critical areas permit is not required. Instead, the city shall review the underlying application, together with the application materials required herein, to determine compliance or noncompliance with this title. The determination on such compliance or noncompliance shall be incorporated within the decision on the underlying application.

2. In addition to the materials required to make the underlying application complete as required by the city's code outside of this title, the applicant shall also submit the materials set forth herein, where the subject property is within 300 feet of a critical area. The city shall not issue a determination that the underlying application is complete until all materials have been submitted.

3. The critical areas materials shall be reviewed following the same process as the underlying application.

C. Critical Areas Permit.

1. If the city does not require any other permit in order to allow the proposed development activity or regulated activity, the applicant shall be required to obtain a separate critical areas permit in order for the proposed development activity to proceed.

2. A complete application for a critical areas permit shall consist of the materials set forth in subsection (D) of this section.

3. The process for review of a critical area permit where there is no underlying application is the Type II process, as set forth within EMC 18.40.090.

D. Elements of a Complete Permit Application. A complete application for approval of a critical areas permit under this title shall consist of the following materials:

1. A completed permit application form, which must be signed by the record owner of the property (the person(s) whose name is on the most recently recorded deed or contract purchaser with written permission from the record owner). An application form may be signed by an agent for the record owner, as long as the

application is also accompanied by a verified statement signed by the record owner, which specifically authorizes the agent to submit the application on the record owner's behalf;

2. The subject site's street address, legal description, or both items if necessary for property identification;
3. A complete description of the proposed development activity;
4. All items identified in this title that are necessary to complete the application for the specific critical area; and
5. The required application fee.

E. Critical areas reports shall not be submitted without an accompanying permit application for an underlying action, such as, but not limited to, a building permit, subdivision or boundary line adjustment action, site development, TPCHD permit, or an administrative, conditional, or special use permit, with the exception of applications required by the department as a result of an enforcement action, reports required by TPCHD for septic design approval, or associated with a request under the Pierce County open space public benefit rating system tax program.

F. Modifications. The department may request an update of any required assessment, report, or delineation due to the potential for change in the existing environment that may have been caused by a natural event, e.g., seismic event, landslides, or flooding- or human-induced activity that degraded the existing conditions after the original document was submitted.

G. Public Notice. Public notice provisions for notice of application, public hearing, if applicable, and final decision pursuant to this title are outlined in EMC 18.40.190, Notice of public hearing.

H. Review.

1. Initial Review. The department shall conduct an initial review of any application in accordance with the provisions outlined in EMC 18.40.150, Determination of completeness.

2. Review Responsibilities.

- a. The department is responsible for administration, circulation, and review of any applications and approvals required by this title.
- b. Any reasonable use exception applications shall follow EMC 14.30.050.
- c. Other city or Pierce County departments and state agencies, as determined by the department, may review an application and forward their respective recommendations to the director or hearing examiner, as appropriate.

3. Review Process.

- a. The department shall perform a critical area review for any building or land use application submitted for a regulated activity. Reviews for multiple critical areas shall occur concurrently.
- b. The department shall, to the extent reasonable, consolidate the processing of related aspects of other city regulatory programs which affect activities in any regulated critical area.
- c. As part of the initial review of all related permit applications, the department shall review the information to:
 - i. Confirm the nature and type of the critical area and evaluate whether any assessments, reports, or studies are required;
 - ii. Determine whether the development proposal is consistent with this title;

- iii. Determine whether any proposed alterations to the site containing critical areas are necessary; and
 - iv. Determine if the mitigation and monitoring plans submitted by the applicant are sufficient to protect the public health, safety, and welfare consistent with the goals, purposes, objectives, and requirements of this title.
- d. Regulated activities subject to SEPA shall also be reviewed with consideration for impacts on critical areas as identified in this title. Regulated activities that pose a significant adverse impact which are not addressed by the standards and criteria established in this title may be subject to additional mitigation measures as determined through the SEPA process. A threshold determination issued pursuant to EMC Title 20, SEPA, may not be made prior to the department's review of any special studies or technical reports required by this title, except where the applicant requests a declaration of significance so that environmental review is required.
- e. Critical areas applications required under this title shall be approved prior to approval of any underlying permit action.
- f. The department may waive the requirement to submit a critical area report when the proposed project area for a regulated activity is located in an area that has been the subject of a previously submitted and approved assessment or report, if all of the following conditions have been met:
 - i. The provisions of this title have been previously addressed as part of another approval;
 - ii. There has been no material change in the potential impact to the critical area or required buffer since the prior review;
 - iii. There is no new information available that is applicable to any critical review of the site or particular critical area;
 - iv. The permit or approval has not expired, or, if there is no expiration date, no more than five years have elapsed since the issuance of that permit or approval; and
 - v. Compliance with any standards or conditions placed upon the prior permit or approval has been achieved or secured.
- 4. Burden of Proof. The applicant has the burden of proving that a proposed application complies with the standards set forth in this title.
- 5. Final Decision.
 - a. The department may approve, approve with conditions, or deny any critical areas applications or underlying applications for development within any critical area. Approval of a development proposal does not discharge the obligation of the applicant to comply with the provisions of this title.
 - b. Applicants shall comply with the recommendations or mitigation measures contained in final approved assessments or reports and any final decision and conditions of approval.
 - c. Approval of an application required under this title must be given prior to the start of any development activity on a site.
- 6. Time Period for Final Decision. The provisions for issuing a notice of final decision on any application filed pursuant to this title is set forth in EMC 18.40.040, Coordination of development permit procedures.

I. Time Limitations.

- 1. Expiration of Approval.

- a. Approvals granted under this title shall be valid for the same time period as the underlying permit. If the underlying permit does not contain a specified expiration date, then approvals granted under this title shall be valid for a period of three years from the date of issue, unless a longer or shorter period is specified in the final decision.
- b. The approval shall be considered null and void upon expiration, unless a time extension is requested and granted as set forth in subsection (I)(2) of this section.

2. Time Extensions.

- a. The applicant or owner(s) may request in writing a one-time, one-year extension of the original approval. To receive the extension, the applicant must demonstrate that circumstances beyond their control dictated the need for the extension. The extension would set a new expiration date one year later than the initial expiration.
- b. Knowledge of the expiration date and initiation of a request for a time extension is the responsibility of the applicant or owner(s).
- c. A written request for a time extension shall be filed with the department at least 60 days prior to the expiration of the approval.
- d. Upon filing of a written request for a time extension, a copy shall be sent to each party of record together with governmental departments or agencies that were involved in the original approval process. By letter, the department shall request written comments be delivered to the department within 30 days of the date of the letter.
- e. Prior to the granting of a time extension, the department may require a new application(s), updated study(ies), and fee(s) if:
 - i. The original intent of the approval is altered or enlarged by the renewal;
 - ii. The circumstances relevant to the review and issuance of the original approval have changed substantially; or
 - iii. The applicant failed to abide by the terms of the original approval.

J. Recording.

1. Approvals.

- a. Approvals to modify a critical area or which otherwise require mitigation and or monitoring shall be recorded on the title of the project parcel(s) at the Pierce County auditor's office by city of Edgewood staff prior to issuance of any permit authorizing the project to proceed and at the sole expense of applicant.
- b. EMC 14.10.070(F), Title and Land Division Notification, contains additional recording requirements.
- c. Work within a recorded, existing utility easement is not required to meet subsection (J)(1)(a) of this section.

2. Right of Entry.

- a. When an application has been submitted, the city shall have a right of entry to verify the submitted information is correct; to ensure any applicable condition(s) of approval were satisfied; to confirm any required monitoring is being performed; or to attest that all outstanding items subject to a performance bond were completed.
- b. The right of entry shall extend until the last condition in the permit has been satisfied. (Ord. 17-513 § 3 (Exh. A)).

14.10.060 Relationship to other regulations.

A. This title shall apply in addition to zoning and other regulations adopted by the city and concurrently with review conducted under SEPA.

B. Compliance with the provisions of this title does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required. The applicant is responsible for complying with all other requirements, apart from the process established in this title.

C. Regulated activities that may impact critical areas or their buffers, but do not require any other city permits or approvals, may be reviewed as a critical areas permit. (Ord. 17-513 § 3 (Exh. A)).

14.10.070 Critical area protective measures.

A. General. All critical area tracts, conservation easements, land trust dedications, and other similarly preserved areas shall remain undeveloped in perpetuity, except as they may be allowed to be altered pursuant to this title.

1. Conservation easements and other similarly preserved areas restrict both the current use as well as future uses of the land to some important conservation quality such as habitat preservation, open space, or scenic views.

2. A land trust or governmental entity that manages properties for long-term goals typically holds the conservation easement or other similarly preserved area.

B. Mitigation Sequence. Adverse impacts caused by new activities and developments shall be mitigated using the following action(s) in order of priority:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;
3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
4. Reducing or eliminating the impact over time by preservation and maintenance operations;
5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
6. Monitoring the impact and the compensation project and taking appropriate corrective measures.

C. Identification of Critical Areas and Required Buffers on Construction Plans. Critical areas and required buffers shall be clearly identified on all construction plans.

D. Building Setbacks.

1. Unless otherwise provided in this title, buildings and other structures shall be set back a distance of 15 feet from the edge of all critical area buffers or, where no buffers are required, the edge of the critical area.

2. The following uses and activities may be allowed in the building setback area:

- a. Landscaping;
- b. Uncovered decks;
- c. Building overhangs extending 18 inches or less into the setback area;
- d. Impervious ground surfaces, such as driveways, parking lots, roads, walkways, and patios; provided, that such improvements conform to the water quality standards set forth in the city's adopted stormwater

management manual and that construction equipment does not enter the buffer during the construction process;

e. Clearing and grading; or

f. Any combination of items in subsections (D)(2)(a) through (e) of this section.

3. All other uses and activities not listed in subsections (D)(2)(a) through (e) of this section are prohibited.

E. Financial Guarantees.

1. The city may require an applicant to submit one or more financial guarantees, e.g., surety bond, cash escrow, cash set aside, assignment of funds, or letter of credit, to guarantee any performance, mitigation, maintenance, or monitoring required as a condition of permit approval. The approval for the project will not be granted until the financial guarantee is received by the department. Projects where the city or one of its departments is the applicant shall not be required to post a financial guarantee.

2. Financial guarantee instruments required under this title shall be:

a. In addition to any other site development guarantees required for project approval;

b. Submitted on financial guarantee forms approved by the city;

c. In the amount of 125 percent of the city engineer's estimate of the cost of mitigation or monitoring to allow for inflation and administration should the city have to complete the mitigation or monitoring; and

d. Released by the city only when the applicant's appropriate technical professional has provided written confirmation that the performance, mitigation, or monitoring requirements have been met and the department or its agent inspected the site(s) for compliance.

3. Failure to complete any performance, mitigation, or monitoring may result in the forfeiture or release of the guarantee. Applicants who have previously defaulted will no longer be allowed to post a bond guarantee for improvements necessary for approval of a land use application. Applicants who have previously defaulted will be allowed to post cash guarantees for subsequent critical area mitigation work needed for approval of a land use application or permit, but the guarantee must be by cash guarantee only.

F. Title and Land Division Notification.

1. General.

a. Title or land division notice(s) shall be required to be recorded with the Pierce County auditor on each site that contains a critical area at the time of approval of any regulated activity on a site.

b. If more than one critical area subject to the provisions of this title exists on the site, then one notice which addresses all of the critical areas may be sufficient.

c. Title or land division notifications and notes shall be approved by the department and shall be consistent with EMC 14.10.150, Appendix.

d. Applicant shall be responsible for the recording costs of the notice.

e. Notice on title is not required for utility line easements on lands not owned by the jurisdiction conducting the regulated activity, e.g., gas pipelines.

2. Land Division Notification and Notes. As referenced in EMC 14.10.150, Appendix, there shall be notes included on the face of any final plat, final binding site plan, short plat, or boundary line adjustment that contain any critical areas or buffers. The critical area boundaries and the boundary of any associated buffers shall be identified on the face of these documents prior to submission to the city for approval.

G. Conservation Easements.

1. Prior to any final critical area approval, the part of the critical area and required buffer which is located on the site shall be protected with a conservation easement or other similar permanent deed restriction.
2. The conservation easement shall indicate allowable and prohibited uses within the critical area and required buffer.

H. Tracts. Critical area tracts must adhere to the provisions in EMC 16.01.100 and the face of the plat shall include the requirement that the owners of all lots shall be required to preserve, protect, and maintain the critical areas.

I. Homeowner's Covenants.

1. A description of the critical area and required buffer shall be placed in any required homeowner's covenants to provide notice to the homeowners of their responsibility to preserve, protect, and maintain the critical areas in perpetuity.
2. Such covenants shall contain a detailed description of the allowable uses within the critical area and, if applicable, associated buffer and long-term management and maintenance requirements of the critical area.

J. Markers, Fencing, and Signage.

1. Markers.

- a. Prior to final approval of any critical areas application, the outer edge of the critical areas boundaries or required buffer boundaries on the site shall be flagged by the qualified professional, as outlined in each chapter.
- b. The boundaries shall then be identified with rebar and cap permanent markers and flagged by a licensed surveyor, unless otherwise stated in this title. The permanent markers shall be clearly visible, durable, and permanently affixed to the ground.

2. Fencing.

a. Temporary Construction Fencing.

- i. Temporary fencing is required when vegetation is to be retained in an undisturbed condition within the critical area and required buffer.
- ii. When temporary fencing is required, the applicant shall construct silt fencing, construction fencing, or other city-approved method of temporary fencing at the edge of the critical area or the edge of the required buffer prior to beginning construction on the site.

b. Permanent Fencing. Where deemed necessary by the department to provide protection to the critical area, the applicant will be required to construct permanent, wildlife-passable fencing along the buffer boundary.

3. Signage.

- a. The department shall require permanent signage to be installed at the edge of the critical area or the edge of the required buffer.
- b. The sign shall indicate the type of critical area and if the area is to remain in a natural condition as permanent open space.
- c. Exact sign locations, wording, size, and design specifications shall be established by the department.
- d. Signage shall be clearly visible, durable, and permanently affixed to the ground.

e. Prior to final approval of any critical area application, the applicant shall submit an affidavit of posting to the department as proof that the required signs were posted on the site. (Ord. 17-513 § 3 (Exh. A)).

14.10.080 Critical areas reports.

A. The applicant shall submit a critical areas report as required per this title.

B. The critical areas report shall use scientifically valid methods and studies in the analysis of critical area data and field reconnaissance to evaluate the proposed development and all probable impacts to critical areas in accordance with the provisions of this title. The report shall reference the source(s) of science used in accordance with WAC 365-195-900 through 365-195-925.

C. At a minimum the report shall contain the following 10 items:

1. The name and contact information of the applicant;
2. A description of the proposal;
3. The site plan for the proposed development, including a map drawn to scale depicting critical areas, buffers, the proposed development, and any areas to be cleared or altered;
4. The date of the report and names and qualifications of the persons preparing the report;
5. Documentation of any fieldwork performed on the site;
6. Identification and characterization of all critical areas and buffers on and adjacent to the proposed development;
7. A statement specifying the accuracy of the report, and all assumptions made and relied upon;
8. A discussion of the performance standards applicable to the critical area and proposed development;
9. A mitigation plan in accordance with EMC 14.10.090, if mitigation is required; and
10. Any additional report information required for the critical area as specified herein. (Ord. 17-513 § 3 (Exh. A)).

14.10.090 Mitigation plans.

A. When mitigation is required, the applicant shall submit a mitigation plan.

B. The mitigation plan shall include all of the following details outlined in subsections (B)(1) through (6) of this section:

1. Mitigation Sequencing. A description of reasonable efforts made to apply mitigation sequencing pursuant to EMC 14.10.070(B) to avoid, minimize, and mitigate impacts to critical areas and buffers.
2. Mitigation Details.
 - a. A description of the anticipated impacts to the critical area and buffer, including impacts to critical area functions and values;
 - b. The type of mitigation proposed, e.g., on-site or off-site; site selection criteria; identification of compensation goals; and identification of critical area functions;
 - c. The environmental goals and objectives of the mitigation, together with specific measurable criteria and performance standards for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained;
 - d. A review of the best available science supporting the proposed mitigation; and

e. An analysis of the likelihood of success of the mitigation project.

3. Construction Details. The mitigation plan shall include written specifications, descriptions, and drawings of the mitigation proposed, including:

- a. Construction sequence, timing, and duration;
- b. Grading and excavation details;
- c. Erosion and sediment control features; and
- d. Planting plan specifying plant species, quantities, locations, size, spacing, density, and measures to protect and maintain plants until established. All plant species must be native to the region.

4. Monitoring Details.

- a. A program for monitoring construction and assessing the outcome of the mitigation project, including the schedule for site monitoring, e.g., monitoring shall occur in year one, three, and five after site construction, and how the monitoring data will be evaluated to determine if the performance standards are being met. Monitoring reports shall be submitted to document milestones, successes, problems, and contingency actions of the compensation project. The mitigation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period of less than five years. For example, 10 years or more of monitoring are needed for forested and scrub-shrub communities. Mitigation monitoring shall be the responsibility of the applicant.
- b. A contingency plan with courses of action and corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

5. Mitigation Cost Estimate. A mitigation cost estimate for the entire compensatory mitigation project, per the requirements of EMC 14.10.070(E).

6. Other Requirements. The mitigation plan shall address any additional mitigation requirements relevant to the specific critical area as specified in the following chapters. (Ord. 17-513 § 3 (Exh. A)).

14.10.100 Variances to critical areas.

A. General. Variances are reviewed pursuant to the same permit process as a general variance, as outlined in Chapter 18.40 EMC and EMC 18.50.080. The criteria for approval for critical area variances are contained herein, and are not subject to the criteria for general variances contained in EMC 18.50.080(D)(2). Conditions may be attached to any critical area variance which will serve to meet the goals, objectives, and policies of this title.

B. Variance Criteria. A variance may be granted from the requirements of this chapter only if the decision maker makes written findings that the applicant has demonstrated that the requested action conforms to all of the criteria set forth as follows:

- 1. Special conditions and circumstances exist that are peculiar to the land, the lot, or something inherent in the land, and that are not applicable to other lands in the same district; and
- 2. The special conditions and circumstances do not result from the actions of the applicant; and
- 3. A literal interpretation of the provisions of this title would deprive the applicant of all reasonable economic uses and privileges permitted to other properties in the vicinity and zone of the subject property under the terms of this title, and the variance requested is the minimum necessary to provide the applicant with such rights; and
- 4. Granting the variance requested will not confer on the applicant any special privilege that is denied by this title to other lands, structures, or buildings under similar circumstances; and

5. The granting of the variance is consistent with the general purpose and intent of this title, and will not further degrade the functions or values of the associated critical areas or otherwise be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the subject property; and

6. The decision to grant the variance incorporates the best available science and gives special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish habitat; and

7. The granting of the variance is consistent with the general purpose and intent of the Edgewood comprehensive plan and adopted development regulations.

C. Additional Criteria for Flood Hazard Area Variances. Refer to Chapter 14.80 EMC, Flood Hazard Areas, for specific criteria.

D. Should a variance be denied, the applicant may submit a reasonable use exception application. (Ord. 17-513 § 3 (Exh. A)).

14.10.110 Reconsideration and appeal procedures.

Procedures for appeal of a final decision on a critical areas permit, a decision relating to critical areas in the underlying permit, a critical areas variance, or a critical areas flood hazard variance are set forth in Chapter 18.40 EMC. (Ord. 17-513 § 3 (Exh. A)).

14.10.120 Fees.

A. Fees for applications or reviews of reports, studies, or plans filed pursuant to this title are set forth in the adopted fee schedule and as identified herein.

B. Fee Establishment. The city, by resolution, shall establish fees for filing of critical area review processing and other services provided by the city as required by this title.

C. Applicant Responsibilities. Unless otherwise indicated in this title, the applicant shall be responsible for the initiation, preparation, submission, and expense of all required reports, assessment(s), studies, plans, reconnaissance(s), peer review(s) by qualified consultants, and other work prepared in support of or necessary to review the application. For those items initiated by the city, e.g., peer review(s), the applicant is responsible for the expense and both the preparation and submission of the application materials, and not initiation of the review or preparation of the package submitted to the respective peer reviewer.

D. Payment. Fees established in accordance with this title shall be paid upon submission of a signed application or petition for appeal, or as otherwise provided by any fee ordinance or resolution adopted by the city council.

E. Investigation Fee. To investigate violations of this title, all city fees associated with investigation of violations of this title may be assessed at the adopted billable staff hour rate in addition to any required consultant costs, legal costs, and other expenses necessary to complete the investigation of the violation. The payment of such investigation fees shall not exempt any person from compliance with all other provisions of this title, nor from penalties prescribed by law. (Ord. 17-513 § 3 (Exh. A)).

14.10.130 Compliance.

A. The regulations for compliance with the provisions of this title are set forth in EMC 18.30.040, Scope and compliance.

B. When a critical area or its required buffer has been altered in violation of this title, the department shall require the property owner to bring the site into compliance. The property owner shall be required to submit the appropriate critical areas application, as applicable for each chapter of this title. In addition to any required site investigation, delineations, assessments, or reports, the property owner shall be required to submit a restoration plan that identifies the proposed mitigation to bring the subject property into compliance with the requirements of this title. (Ord. 17-513 § 3 (Exh. A)).

14.10.140 Warning and disclaimer of liability.

A. The degree of protection required through application of this title is deemed to be reasonable for regulatory purposes and is based on best available science; however, natural events that may exceed the geographic boundaries

regulated under this title can and will occur, e.g., flood heights that are higher than anticipated. This title does not imply that land outside designated hazard areas or uses permitted within such areas will be free from damages.

B. The express purpose of this title is to provide for the health, safety and welfare of the general public, and not to protect individuals or create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this title. The obligation of complying with the requirements of this title and the liability for failing to do so is hereby placed upon the property owner and/or persons responsible for the condition of the property, buildings or premises.

C. Nothing in this title is intended to be nor shall be construed to create or form the basis for any liability on the part of the city, its officers, officials, employees or agents for any injury or damage resulting from the failure of the owner of property or land to comply with the provisions of this title or by reason or in consequence of any inspection, notice, order, certificate, permission or approval, authorized or issued or done in connection with the implementation or enforcement of this title, or by reason of any action or inaction on the part of the city, related in any manner to the enforcement of the title by its officers, officials, employees or agents. (Ord. 17-513 § 3 (Exh. A)).

14.10.145 Enforcement.

Unless otherwise specified, violations of this title shall be deemed civil violations subject to enforcement pursuant to EMC Title 7, Code Enforcement. (Ord. 20-572 § 6 (Exh. F)).

14.10.150 Appendix.

A. Title and Plat Notification Forms.

APPENDIX A

TITLE AND PLAT NOTIFICATION FORMS

A. Notice for Title Notification.

1. Example:

Tax Parcel Number:

Address:

Legal Description:

Present Owner:

NOTICE: This property contains [identify Critical Area, e.g., Wetlands or Wetland Buffers] as defined by EMC Title 14. The site was the subject of a development proposal for application number [insert case file number] filed on [insert date]. Restrictions on use or alteration of the site may exist due to natural conditions of the property and resulting regulations. Review of such application has provided information on the location of the [identify Critical Area, e.g., Wetlands or Wetland Buffers] and any restriction on use.

Date _____

Signature of owner _____

Notary acknowledgment and notary seal

B. Additional Title Notification Statements.

1. Title notification for liquefaction and dynamic settlement hazard areas shall include a statement of the performance criteria, i.e., protection of life safety only, provision for minimal structural damage so that postearthquake functionality is substantially unchanged, no structural damage for the design earthquake.

2. Title notification for fault rupture hazard areas shall include a statement that a fault rupture hazard area or associated buffer exists on the site. The title notification shall include a site plan of the subject property with the fault rupture hazard area and associated buffer identified.

3. Properties that contain flood hazard areas pursuant to Chapter 14.80 EMC shall include the following statement:

Flood Elevation Certificates are kept on file by the Department.

C. Notice for Plat Notification/Plat Notes.

1. General. The following notice shall be placed on the face of the final plat, short plat, large lot, or binding site plan documents when said subdivision contains any critical area or buffer:

Notice: This site lies within a [insert type of Critical Area] as defined in EMC Title 14. Restrictions on use or alteration of the site may exist due to natural conditions of the site and resulting regulation.

2. Native Vegetation Preservation Areas. The following notice shall be placed on the face of the final plat, short plat, large lot, or binding site plan documents when said subdivision contains any critical area or buffer and when said critical area or buffers have been identified as native or natural vegetation preservation areas:

Notice: The Critical Areas appearing on this [final site plan/preliminary plat/final plat/short plat/large lot/engineering drawing] contain areas of Native Vegetation intended to Buffer the Critical Area from the adverse effects of development. These Critical Areas shall remain and be maintained in a natural, undeveloped, open space state. There shall be no Clearing and Grading or construction within the Critical Areas, except as shown on plans or documents approved by the City of Edgewood and contained in the official files for this development. Each Critical Area shall remain undisturbed except for periodic watering and hand weeding of plants designated as noxious by the State of Washington.

3. Plat Notes for Flood Hazard Areas. The following notes shall be placed on the face of any final plat, short plat, large lot, or binding site plan documents which lie within a flood hazard area:

a. Clearing and Grading within the limits of the 100-year Floodplain is prohibited, except for watercourse related construction, repair, or maintenance work that is done by the City for management operations.

b. If a higher frequency event occurs or if existing conditions upon which the Flood Hazard Area boundaries were based were to change or occur differently than depicted, then the level of protection afforded by the existing levee, if applicable, and Flood Hazard Area standards may not be adequate to prevent the subject site from flooding.

c. All purchasers, developers, and their agents of property within the subject development area or parcel shall take notice of the above conditions and hereby agree to defend, indemnify, and hold harmless the City from any and all claims, losses, costs, liabilities, or damages of any nature imposed upon or asserted against Edgewood arising out of or caused by the City's issuance of approval or by issuance of any other permits arising out of this approval.

d. All occupants or owners of property in the subject area assume the risk of flooding which may occur and waive any claims against the City arising out of damage or injury to person or property resulting therefrom.

(Ord. 17-513 § 3 (Exh. A)).

Chapter 14.20 DEFINITIONS

Sections:

14.20.010 Definitions. See attached Ordinance 17-0513 Section 3, Ex. A

Chapter 14.30

USE AND ACTIVITY REGULATIONS

Sections:

14.30.010 Permitted uses.
 14.30.020 Regulated uses and activities.
 14.30.030 Exemptions.
 14.30.040 Nonconforming uses and structures.
 14.30.050 Reasonable use exceptions.
 14.30.060 Current use assessment program.

14.30.010 Permitted uses.

Uses permitted on properties designated as critical areas shall be the same as those permitted in the zone classification shown in the city's official zoning map unless specifically prohibited by this title. (Ord. 17-513 § 3 (Exh. A)).

14.30.020 Regulated uses and activities.

A. Unless the requirements of this title are met, the department shall not grant any approval or permission to alter the condition of any land, water, or vegetation, or to construct or alter any structure or improvement regulated through the following: building permit, commercial or residential; binding site plan; franchise right-of-way construction permit; site development permit; right-of-way permit; short subdivision; large lots; use permits; subdivision; utility permits; or any subsequently adopted permit or required approval not expressly exempted by this chapter.

B. The following activities are regulated within any critical area and its buffer, unless exempted by EMC 14.30.030:

1. Removing, excavating, disturbing, or dredging soil, sand, gravel, minerals, organic matter, or materials of any kind;
2. Dumping, discharging, grading, or clearing and grading;
3. Draining, flooding, or disturbing the water level or water table. In addition, an activity which involves intentional draining, flooding, or disturbing the water level or water table in a wetland or stream in which the activity itself occurs outside the regulated area shall be considered a regulated activity;
4. Driving, piling, or placing obstructions, including placement of utilities;
5. Constructing, reconstructing, installing, demolishing, or altering the size of any structure or infrastructure, including manufactured and mobile homes;
6. Altering the character of a regulated area by destroying or altering vegetation through clearing, harvesting, cutting, intentional burning, shading, or planting;
7. The division of land;
8. The creation of hard surfaces; and

9. Any additional activities regulated in Chapter 14.80 EMC, Flood Hazard Areas. (Ord. 17-513 § 3 (Exh. A)).

14.30.030 Exemptions.

A. Individuals, organizations, or associated parties shall avoid potential impacts to critical areas and their buffers to the greatest degree feasible. To be exempt from this title does not give permission to degrade a critical area or its buffer or ignore risk from natural hazards. Any incidental damage to, or alteration of, a critical area or its buffer that is not a necessary outcome of the exempted activity shall be restored, rehabilitated, or replaced at the responsible party's expense.

B. The following activities are exempt from the provisions of this title:

1. Operation, maintenance, or repair of existing structures, infrastructure improvements, utilities, public or private roads, dikes, levees, or drainage systems that do not require construction permits, if the activity does not further alter or increase the impact to, or encroach further within, the critical area or buffer and there is no increased risk to life or property as a result of the proposed operation, maintenance, or repair. "Operation and maintenance" includes vegetation management performed in accordance with BMPs that are a part of ongoing maintenance of structures, infrastructure, or utilities; provided, that such management actions are part of ongoing maintenance, do not expand further into the critical area or buffer, are not the result of an expansion of the structure or utility, and do not directly impact an endangered or threatened species.

2. Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements within the past three years. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition including, but not limited to, its size, shape, configuration, location, and external appearance, within three years after decay or partial destruction, except where repair causes substantial adverse effects to critical areas or their buffers. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including, but not limited to, its size, shape, configuration, location, and external appearance and the replacement does not expand further into the critical area or buffer. Refer to EMC 14.30.040(A)(4) for requirements associated with repair of substantial damage of nonconforming structures.

3. Reconstruction, remodeling, or maintenance of existing single-family residential structures and accessory structures that are located outside a flood hazard area and active landslide hazard area; provided, that a one-time-only expansion of the building footprint does not increase by more than 25 percent and that the new construction or related activity does not further intrude into the critical area or related buffer. The exemption shall not apply to reconstruction which is proposed as a result of structural damage associated with a critical area.

4. Reconstruction, remodeling, or maintenance of structures other than single-family structures and accessory structures that are located outside a flood hazard area or active landslide hazard area; provided, that such reconstruction, remodeling, or maintenance does not increase the floor area nor extend beyond the existing ground coverage. The exemption shall not apply to reconstruction which is proposed as a result of site or structural damage associated with a critical area, such as slope failure in a landslide hazard area or flooding in a flood hazard area.

5. Site investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests, and other related activities. Critical area impacts shall be minimized and disturbed areas shall be immediately restored.

6. Emergency actions necessary to prevent imminent threat or danger to public health or safety, or to public or private property, or serious environmental degradation.

- a. The department shall review all proposed emergency actions to determine the existence of the emergency and reasonableness of the proposed actions taken; however, post-emergency actions, such as submittal of permits, completion of city review, modification or removal of the emergency repair work, or mitigation shall be required by the department.

b. Erosion protection measures shall only be allowed as an emergency action when the owner can demonstrate that there is an imminent threat to an existing residential, commercial, industrial, or agricultural structure. The owner shall retain either city staff or an engineering geologist to conduct a site investigation and provide adequate documentation that the situation is actually an emergency. An emergency action is not warranted when the structure is located outside the active landslide area.

c. After the emergency, the person or agency undertaking the action shall fully fund and conduct necessary restoration 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 shall apply for review, and the alteration, critical area report, and mitigation shall be reviewed by the department in accordance with the review procedures contained herein. Restoration or mitigation activities must be initiated within 90 days of the date of the emergency activity and both must be fully completed within one year.

7. Installation, construction, replacement, repair, operation or alteration of natural gas, cable and telecommunication facilities, electric facilities and lines, water, sewer or storm lines, pipes, mains, equipment, or appurtenances in publicly owned right-of-way, which may be within or adjacent to any critical areas or buffers, subject to full review and approval of the department, including any mitigation or restoration requirements established by the department.

8. Removal by hand of manmade litter and control of noxious weeds that are included on the state noxious weed list (Chapter 16-750 WAC) or invasive plant species as identified by the city. Control may be conducted by clipping, pulling, or digging, or by an alternative nonmechanical method upon approval of a plan by the department.

9. Activities undertaken to comply with a United States Environmental Protection Agency superfund order, or a Washington Department of Ecology order, pursuant to the Model Toxics Control Act, including the following activities:

- a. Remediation or removal of hazardous or toxic substances;
- b. Source control; and
- c. Natural resource damage restoration.

10. Activities within a portion of a wetland buffer or fish and wildlife habitat conservation area buffer located landward of an existing, substantially developed area, such as a paved area, dike, levee, or permanent structure, which eliminates or greatly reduces the impact of the proposed activities on the wetland or fish and wildlife habitat conservation area. The department shall review the proposal to determine the likelihood of associated impacts.

11. Passive recreation such as hunting, hiking, fishing, and wildlife viewing that does not involve the construction of trails.

12. Enhancement actions that do not involve clearing, grading or construction activities, e.g., revegetation with native plants and installation of nest boxes. Enhancement activity proposals shall be reviewed by the department.

13. Forest practices conducted in accordance with the requirements of the Forest Practices Act (Chapter 76.09 RCW) and its rules, with the exception of the conversion of forest land to a use other than commercial forestry (Class IV conversions).

14. Existing and ongoing agricultural activities; provided, that they comply with the provisions of Chapter 14.80 EMC, Flood Hazard Areas, and implement the applicable BMP contained in the latest editions of the USDA Natural Resources Conservation Service Field Official Technical Guide; or develop a farm conservation plan in coordination with the local conservation district. The BMPs or farm plans should address potential impacts to critical areas from livestock, nutrient and farm chemicals, soil erosion and sediment control, and

agricultural drainage infrastructure. The BMPs or farm plans should ensure that ongoing agricultural activities minimize their effects on water quality, riparian ecology, salmonid populations, and wildlife habitat. (Ord. 17-513 § 3 (Exh. A)).

14.30.040 Nonconforming uses and structures.

A. An established use or existing structure located in a wetland, fish and wildlife habitat conservation area, landslide or erosion hazard area, flood hazard area, and their associated buffers that was lawfully permitted prior to the effective date of this title, but which is not currently in compliance with this title, may continue subject to the following:

1. Nonconforming Use Expansion. Nonconforming uses shall not be expanded or changed in any way that increases the nonconformity without a permit issued pursuant to the provisions of this title.
2. Nonconforming Structure Expansion. Existing structures shall not be expanded or altered in any manner that will increase the nonconformity without a permit issued pursuant to the provisions of this title, except as provided in EMC 14.30.030(B).
3. Discontinued Uses. Activities or uses which are discontinued for 12 consecutive months shall be allowed to resume only if they are in compliance with this title.
4. Substantial Damage. Nonconforming structures, except for structures located in a flood hazard area or active landslide hazard area, which are damaged or destroyed by fire, explosion, flood, or other casualty may be restored or replaced if reconstruction is commenced within one year of such damage and is substantially completed within 18 months of the date such damage occurred. The reconstruction or restoration shall not serve to expand, enlarge, or increase the nonconformity except as allowed through the provisions in EMC 14.30.030(B). Structures in a floodway or active landslide hazard area may be allowed to be restored only up to the limits of substantial improvement, as set forth in each chapter.

B. The provisions of EMC 18.90.110 may also apply to nonconformities not expressly described in this chapter. (Ord. 17-513 § 3 (Exh. A)).

14.30.050 Reasonable use exceptions.

A. If the application of this chapter would deny all reasonable use of the property, the applicant may apply for a reasonable use exception pursuant to this section. The hearing examiner may approve alterations to a critical area or its buffers to allow a reasonable use not otherwise allowed by this chapter when the following criteria are met:

1. The application of this chapter would deny all reasonable use of the property;
2. There is no other reasonable use with less impact on the critical area;
3. The proposed development does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site and is consistent with the general purposes of this title and the public interest; and
4. Any alterations permitted to the critical area or its buffer shall be the minimum necessary to allow for reasonable use of the property; and any authorized alteration of a critical area under this subsection shall be subject to conditions established by the department including, but not limited to, mitigation under an approved mitigation plan.

B. Application Requirements. A complete application for a reasonable use exception shall include the following nine items:

1. A description of the areas of the site that contain a critical area, buffers, or are within setbacks required under this title;
2. A description of the amount of the site that is within setbacks required by other standards of the zoning code;
3. A description of the proposed development, including a site plan;

4. An analysis of the impact that the amount of development described in subsection (B)(3) of this section would have on the critical area;
5. An analysis of whether any other reasonable use with less impact on the critical area and associated buffer(s) is possible;
6. A design of the proposal so that the amount of development proposed as reasonable use will have the least impact practicable on the critical area;
7. An analysis of the modifications needed to the standards of this title to accommodate the proposed development;
8. A description of any modifications needed to the required front, side, and rear setbacks, building height, and buffer widths to provide for a reasonable use while providing greater protection to the critical area;
9. Such other information the department determines is reasonably necessary to evaluate the issue of reasonable use as it relates to the proposed development, such as but not limited to a wetland analysis report, mitigation plan, habitat evaluation study, or a buffer enhancement plan.

C. Review. A reasonable use exception shall be processed according to the procedures in EMC 18.40.080.

D. Findings and Determinations. A reasonable use exception may be approved if all of the findings are made in writing and are supported by the record. (Ord. 17-513 § 3 (Exh. A)).

14.30.060 Current use assessment program.

A. An owner of agricultural land, timberland, or open space desiring current use classification under Chapter 84.34 RCW may file for such current use classification with the Pierce County assessor-treasurer's office.

B. The department shall notify the assessor-treasurer's office when restrictions on development occur on a particular site.

C. The assessor-treasurer's office shall consider the critical areas and buffering requirements of this title in determining the fair market value of land. Any owner of an undeveloped buffer which has been placed in a separate tract or tracts, protective easement, public or private land trust dedication, or other similarly preserved area shall have that portion of land assessed consistent with those restrictions. (Ord. 17-513 § 3 (Exh. A)).

Chapter 14.40

WETLANDS

Sections:

- 14.40.010 Purpose.
- 14.40.020 Identification, delineation, mapping, and rating.
- 14.40.030 Buffer standards – Wetlands.
- 14.40.040 Wetland review procedures.
- 14.40.050 Allowed activities.
- 14.40.060 Mitigation requirements.
- 14.40.070 Appendices.

14.40.010 Purpose.

A. The purpose of this chapter is to avoid or, in appropriate circumstances, to minimize, rectify, reduce, or compensate for impacts arising from land development and other activities affecting wetlands, and to maintain and enhance the biological and physical functions and values of wetlands with respect to water quality maintenance, stormwater and floodwater storage and conveyance, fish and wildlife habitat, primary productivity, recreation, education, and historic and cultural preservation. When wetland impacts occur, mitigation will be required to achieve no net loss of wetlands in terms of acreage, function, and value.

B. This chapter is intended to be consistent with the requirements of Chapter 36.70A RCW and to implement the goals and policies of the city's comprehensive plan for protecting wetlands. (Ord. 17-513 § 3 (Exh. A)).

14.40.020 Identification, delineation, mapping, and rating.

A. Designation. All areas within the city meeting the definition of "wetland" in Chapter 14.20 EMC are hereby designated as critical areas.

B. Identification and Delineation.

1. Wetlands shall be identified and delineated by a qualified wetland specialist in accordance with the approved federal wetland delineation manual and applicable regional supplements.
2. A wetland delineation is valid for five years, after which date the city shall require verification that the wetland boundaries and prior conditions have not changed to determine whether a revision or additional assessment is needed.

C. Mapping.

1. The approximate location and extent of wetlands are shown on maps maintained by the city.
2. These maps are useful as a guide for project applicants and property owners, but the maps do not provide a conclusive or definitive indication of a wetland presence or its extent.
3. Wetlands may exist that do not appear on the maps and some wetlands that appear on the maps may not meet all of the wetland designation criteria.

D. Rating. Wetlands shall be rated according to the Washington Department of Ecology Wetland Rating System, as set forth in the Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology Publication No. 14-06-029, or as revised and approved by the Department of Ecology).

E. Illegal Modifications. Wetland rating categories shall not change due to illegal modifications made by the applicant or with the applicant's knowledge. (Ord. 17-513 § 3 (Exh. A)).

14.40.030 Buffer standards – Wetlands.

A. Determining Buffer Widths. Buffer widths shall be measured horizontally from the perpendicular line established at the wetland edge as shown in Table 14.40.030.1. Note that Table 14.40.030.1 is reduced wetland buffers with minimization of impacts. See Table 14.40.030.3 for buffers that apply without minimization techniques.

B. The following buffer widths have been established in accordance with the best available science. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology Publication No. 14-06-029, or as revised and approved by Ecology). The adjacent land use intensity is assumed to be high.

1. For wetlands that score five points or more for habitat function, the buffers in Table 14.40.030.1 can be used if both of the following criteria are met:

a. A relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and any other priority habitats as defined by the Washington Department of Fish and Wildlife.

i. The latest definitions of priority habitats and their locations are available on the WDFW website at: <http://wdfw.wa.gov/hab/phshabs.htm>.

ii. The corridor must be protected for the entire distance between the wetland and the priority habitat by some type of legal protection such as a conservation easement.

iii. Presence or absence of a nearby habitat must be confirmed by a qualified biologist. If no option for providing a corridor is available, Table 14.40.030.1 may be used with the required measures in Table 14.40.030.2 alone.

b. The measures in Table 14.40.030.2 are implemented, where applicable, to minimize the impacts of the adjacent land uses.

2. For wetlands that score three to four habitat points, only the measures in Table 14.40.030.2 are required for the use of Table 14.40.030.1

Table 14.40.030.1

Buffer Standards – Wetlands

Wetland Category	Buffer Width (Wetland scores 3-4 habitat points)	Buffer Width (Wetland scores 5 habitat points)	Buffer Width (Wetland scores 6-7 habitat points)	Buffer Width (Wetland scores 8-9 habitat points)
Category I: Based on total score	75 ft.	105 ft.	165 ft.	225 ft.
Category I: Bogs and wetlands of high conservation value	190 ft.	190 ft.	190 ft.	225 ft.
Category I: Forested	75 ft.	105 ft.	165 ft.	225 ft.
Category II (all)	75 ft.	105 ft.	165 ft.	225 ft.
Category III (all)	60 ft.	105 ft.	165 ft.	225 ft.
Category IV (all)	40 ft.	40 ft.	40 ft.	40 ft.

C. Required Measures to Minimize Impacts to Wetlands. Measures to minimize the impacts of the land use adjacent to wetlands shall be applied as shown in Table 14.40.030.2.

Table 14.40.030.2

Wetland Impact Minimization Measures

Disturbance	Required Measures to Minimize Impacts
Lights	• Direct lights away from any wetland
Noise	• Locate activity that generates noise away from any wetland • For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10-foot heavily vegetated buffer strip immediately adjacent to the outer buffer
Toxic runoff	• Route all new, untreated runoff away from any wetland while ensuring the wetland is not dewatered • Establish covenants limiting use of pesticides within 150 feet of wetlands • Apply integrated pest management
Stormwater runoff	• Retrofit stormwater detention and treatment for roads and existing adjacent development • Prevent channelized flow from lawns that directly enters the buffer • Use low impact development techniques
Change in water regime	• Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	• Use privacy fencing or plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion • Place wetland and its buffer in a separate tract or protect with a conservation easement
Dust	• Use BMPs to control dust

D. Modification of Buffer Widths. The standard buffer widths of subsection (A) of this section may be modified by averaging or increasing.

1. Buffer Averaging. Buffer width averaging may be allowed only where the applicant demonstrates all of the following through the submittal of a wetland report that is prepared by a qualified professional:

- a. Buffer encroachment is unavoidable;
- b. The wetland contains variations in sensitivity due to existing physical characteristics;
- c. Width averaging will provide equal or greater protection of current wetland functions and values;
- d. The total buffer area after averaging is no less than the buffer area prior to averaging;
- e. The width of the buffer at any given point after averaging shall be no smaller than 75 percent of the standard buffer;
- f. The averaging is accomplished within the project boundaries; and
- g. Measures will be taken to ensure that there is no loss of wetland function due to the buffer averaging.

2. Buffer Increases.

- a. The department may require increased buffer width(s) when any of the following are identified:
 - i. A larger buffer is necessary to maintain viable populations of existing species;
 - ii. The wetland is used by, or associated with, species listed by the federal government or the state as endangered, threatened, sensitive, or as documented priority species or habitats, or essential or outstanding potential sites such as heron rookeries or raptor nesting areas;

- iii. The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse wetland impacts;
 - iv. The adjacent land has minimal vegetative cover, or slopes greater than 20 percent.
- b. If an applicant chooses not to apply the wetland impact minimization measures identified in Table 14.40.030.2, then the wetland buffers applicable to the site shall be per Table 14.40.030.3.

Table 14.40.030.3**Wetland Buffers without Minimization of Impacts**

Wetland Category	Buffer Width (Wetland scores 3-4 habitat points)	Buffer Width (Wetland scores 5 habitat points)	Buffer Width (Wetland scores 6-7 habitat points)	Buffer Width (Wetland scores 8-9 habitat points)
Category I: Based on total score	100 ft.	140 ft.	220 ft.	300 ft.
Category I: Bogs and wetlands of high conservation value	250 ft.			300 ft.
Category I: Forested	100 ft.	140 ft.	220 ft.	300 ft.
Category II (all)	100 ft.	140 ft.	220 ft.	300 ft.
Category III (all)	80 ft.	140 ft.	220 ft.	300 ft.
Category IV (all)	50 ft.			

(Ord. 17-513 § 3 (Exh. A)).

14.40.040 Wetland review procedures.

A. Wetland Report Requirements. If the department's maps indicate that a proposed project may be located within 300 feet of a wetland, the applicant shall submit a wetland critical areas report prepared by a qualified wetland specialist. The report requirement may be waived if the department determines that there are no potential direct or indirect impacts on the wetland or its buffers that would result from the proposed development. Wetland critical areas reports shall comply with the requirements of this chapter.

B. Single-Family Dwelling Wetland Review. Construction of a single-family dwelling and regulated activities accessory to a single-family dwelling, such as driveways, gardens, fences, walls, lawns, or on-site septic systems, may utilize an alternative wetland review procedure, subject to the following:

1. Prior to issuance of a building permit, site development permit, or on-site sewage system permit, the applicant shall submit a single-family wetland certification form completed by a wetland specialist that certifies either:
 - a. No regulated wetlands are present within 300 feet of the project area; or
 - b. Wetlands are present within 300 feet of the project area, but the buffer does not extend onto the project site.
2. The single-family certification form may be used only to authorize single-family dwellings and accessory structures. It may not be used for new agricultural activities, expansion of existing agricultural activities, forest practices activities, commercial projects, land divisions, or buffer width modifications. (Ord. 17-513 § 3 (Exh. A)).

14.40.050 Allowed activities.

A. The three types of wetlands identified in subsections (A)(1) through (3) of this section are exempt from the requirement to avoid impacts in EMC 14.10.070(B) and may be altered if the impacts are fully mitigated based on the remaining mitigation sequencing actions in EMC 14.10.070(B). In order to verify the following conditions, a wetland critical areas report meeting the requirements of EMC 14.40.070, Appendices, must be submitted:

1. All isolated Category IV wetlands less than 4,000 square feet that:
 - a. Are not associated with riparian areas or their buffers;
 - b. Are not part of a wetland mosaic;
 - c. Are not associated with shorelines of the state or their associated buffers;
 - d. Do not score five or more points for habitat functions based on current version of the Washington State Wetland Rating System for Western Washington (Ecology, 2014);
 - e. Do not contain a priority habitat or a priority area for a priority species identified by the Washington Department of Fish and Wildlife, federally listed species or their critical habitat, or habitats of and species of local importance as identified in Chapter 14.50 EMC.
2. Wetlands less than 1,000 square feet that meet the criteria specified in subsection (A)(1) of this section.
3. Utility projects within the outer 25 percent of any wetland buffers which have minor or short-duration impacts, as determined by the department in accordance with the criteria below, and which do not significantly impact the function or values of wetlands; provided, that such projects are constructed with BMPs and additional restoration measures are provided. Minor activities shall not result in the transport of sediment or increased stormwater. Such allowed minor utility projects shall meet the following criteria:
 - a. There is no practical alternative to the proposed activity with less impact on wetlands;
 - b. The activity involves the placement of a utility pole, street signs, anchor, or vault or other small component of a utility facility; and
 - c. The activity involves disturbance of an area less than 75 square feet.

B. The activities listed below are allowed in wetlands and their buffers, except where such activities would result in a loss of the functions and values of a wetland or wetland buffer. A critical areas report must be submitted to the department to determine if function or value will be lost. These activities include:

1. Activities in wetlands in areas managed according to a special area management plan or other plan adopted by the department and specifically designed to protect wetland resources.
2. Trimming of vegetation for purposes of providing a view corridor will be allowed. The trimming is limited to a maximum 20-foot width and the benefit to fish and wildlife habitat may not be reduced. No more than 30 percent of the live crown of a tree may be removed. Trimming shall be limited to hand pruning of branches and vegetation and does not include felling, topping, or the removal of trees.
 - a. Trimming and limbing of vegetation for the creation and maintenance of view corridors shall occur in accordance with the pruning standards of the International Society of Arboriculture. (See articles published by the International Society of Arboriculture, Consumer Information Program, updated July 2005.)
 - b. The activity will not increase the risk of landslide or erosion.
3. Drilling for utilities or utility corridors under a wetland, with an entrance or exit portal located completely outside of the wetland buffer; provided, that the drilling does not interrupt the groundwater connection to the wetland or percolation of surface water down through the soil column. Specified studies by a hydrologist are

necessary to determine whether the groundwater connection to the wetland or percolation of surface water down through the soil column will be disturbed. (Ord. 17-513 § 3 (Exh. A)).

14.40.060 Mitigation requirements.

A. Mitigation. Compensatory mitigation is required for all unavoidable alterations to wetlands or their buffers, except for buffer averaging when done in accordance with this chapter. Compensatory mitigation actions shall replace functions affected by the alteration and shall provide equal or greater functions compared to the impacted wetland. All projects must first demonstrate compliance with EMC 14.10.070(B) prior to development of compensatory mitigation plans.

B. Preference of Mitigation Actions. Compensatory mitigation of wetland areas shall occur in the following order of preference:

1. Restoration. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former or degraded wetland. For the purpose of tracking net gains in wetland acres, restoration is divided into:
 - a. Reestablishment. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. The reestablishment must result in a gain in wetland acres and functions. Activities could include removing fill material, plugging ditches, or breaking drain tiles.
 - b. Rehabilitation. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions of a degraded wetland. The rehabilitation must result in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or return tidal influence to a wetland
2. Creation. The manipulation of the physical, chemical, or biological characteristics of a site to develop a wetland on an upland or deep water site where a wetland did not previously exist. Creation results in a gain in wetland acres. Activities typically involve excavation of upland soils to elevations that will produce a wetland hydroperiod, create hydric soils, and support the growth of hydrophytic plant species.
3. Enhancement. The manipulation of the physical, chemical, or biological characteristics of a wetland site to heighten, intensify, or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, floodwater retention, or wildlife habitat. Enhancement results in a change in some wetland functions and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. Activities typically consist of planting vegetation, controlling nonnative or invasive species, modifying site elevations or the proportion of open water to influence hydroperiods, or some combination of these activities.

C. Approaches to Compensatory Mitigation. Mitigation for alterations to wetland and their buffers shall rely on the approaches listed below:

1. Wetland Mitigation Banks. Credits from a certified wetland mitigation bank may be used to compensate for impacts within the service area specified in the mitigation bank instrument. Use of credits from a wetland mitigation bank certified under Chapter 173-700 WAC is allowed if:
 - a. The department determines that it would provide appropriate compensation for the proposed impacts;
 - b. The impact site is located in the service area of the bank;
 - c. The proposed use of credits is consistent with the terms and conditions of the certified bank instrument; and
 - d. Replacement ratios for projects using bank credits is consistent with replacement ratios specified in the certified mitigation bank instrument.

2. In-Lieu Fee Mitigation. Credits from an approved in-lieu fee program may be used when all the following apply:

- a. The approval authority determines that it would provide environmentally appropriate compensation for the proposed impacts.
- b. The proposed use of credits is consistent with the terms and conditions of the approved in-lieu fee program instrument.
- c. Projects using in-lieu fee credits shall have debits associated with the proposed impacts calculated by the applicant's qualified wetland specialist using the credit assessment method specified in the approved instrument for the in-lieu fee program.
- d. The impacts are located within the service area specified in the approved in-lieu fee instrument.

3. Permittee-Responsible Mitigation. In this situation, the permittee performs the mitigation after the permit is issued and is ultimately responsible for implementation and success of the mitigation. Permittee-responsible mitigation may occur at the site of the permitted impacts or at an off-site location within the same watershed. If available, the use of wetland mitigation banks and in-lieu fee programs are preferable to permittee-responsible mitigation.

D. Wetland Mitigation Ratios. The ratios listed in Table 14.40.060 apply to permittee-responsible mitigation. The first number specifies the acreage of replacement wetlands required, and the second number specifies the acreage of wetlands altered or relocated.

Table 14.40.060

Wetland Mitigation Ratios

Category and Type of Wetland	Creation or Reestablishment	Rehabilitation	Enhancement
Category I: High conservation value/bog	Not considered possible	Not considered possible	Not considered possible
Category I: Mature and old growth forest	6:1	12:1	24:1
Category I: Based on functions	4:1	8:1	16:1
Category II	3:1	6:1	12:1
Category III	2:1	4:1	8:1
Category IV	1.5:1	3:1	6:1

The director may increase the ratios under the following circumstances:

1. Uncertainty as to the probable success of the proposed restoration or creation;
2. Significant period of time between destruction and replication of wetland values;
3. Projected losses in functional value; or
4. The compensatory mitigation is off site.

E. Wetland Buffer Mitigation. To mitigate unavoidable impacts to functions and values of wetland buffers, a minimum buffer ratio of 1:1 (alteration area: mitigation area) is required. This ratio assumes that creation or restoration of a wetland buffer with appropriate native vegetation is sufficient to compensate for the wetland buffer functions and values affected by alteration of an existing wetland buffer. If enhancement of an existing buffer is proposed as mitigation, a higher mitigation ratio may be required. For any proposed buffer activities, the applicant must demonstrate that the functions and values of the altered buffer will be fully replaced by the proposed mitigation. The department may increase the buffer mitigation ratios under the following circumstances:

1. The replacement ratio needed to recover the lost functions and values of buffer area is greater than 1:1 based upon the existing type of vegetative cover of either the impact site or the proposed mitigation site;
2. Uncertainty exists as to the probable success of the proposed restoration or creation;
3. A significant period of time will elapse between impact and replication of wetland functions; or
4. The impact was an unauthorized impact.

F. Wetland and Buffer Mitigation Plans. Compensatory wetland mitigation plans shall be consistent with Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Ecology, 2006); and Selecting Wetland Mitigation Sites Using a Watershed Approach (Ecology, 2009), or as revised. Mitigation plans shall comply with the requirements established in EMC 14.40.070(B). (Ord. 17-513 § 3 (Exh. A)).

14.40.070 Appendices.

A. Wetland Report.

B. Wetland Mitigation Plan.

APPENDIX A

WETLAND REPORT

A. A wetland critical areas report shall, at a minimum, include the following:

1. The general critical areas report requirements in EMC 14.10.080;
2. Map showing the location of all wetlands and required buffers within 300 feet of the proposed development;
3. An analysis of the on-site wetland(s) include the following site- and proposal-related information:
 - a. Documentation of any fieldwork performed on the site, including, but not limited to, field delineation data sheets for delineations and wetland rating forms;
 - b. Wetland acreage;
 - c. Wetland category;
 - d. A discussion of the water sources supplying the wetland and documentation of hydrologic regime (locations of inlet and outlet features, water depths throughout the wetland, evidence of recharge or discharge);
 - e. A discussion of the functions of existing wetlands, including vegetative, faunal, and hydrologic conditions; and
 - f. A description of the methodologies used to conduct the wetland delineations;
4. A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing wetlands;
5. A detailed discussion of the direct and/or indirect potential impacts on the wetland by the project; and
6. The wetland mitigation plan requirements of Appendix B of this section, if the activity will result in unavoidable impacts to wetlands or their buffers.

APPENDIX B

WETLAND MITIGATION PLAN

A. A wetland mitigation plan shall, at a minimum, include the general mitigation plan requirements in EMC 14.10.090 and the following information:

1. Existing and proposed wetland acreage;
2. Vegetative and faunal conditions;
3. Surface and subsurface hydrologic conditions including an analysis of existing and future hydrologic regime and proposed hydrologic regime for enhanced, created, or restored mitigation areas;
4. Relationship within watershed and to existing water bodies;
5. Soils and substrate conditions, topographic elevations;
6. Existing and proposed adjacent site conditions;
7. Required wetland buffers (including any buffer reduction or averaging and mitigation proposed to enhance buffers);
8. Property ownership;
9. A discussion of ongoing management practices that will protect wetlands after the project site has been developed, including proposed monitoring and maintenance programs;

10. A bond estimate for the installation, site preparation, plant materials and installation, fertilizers, mulch, and the proposed monitoring and maintenance work for the required number of years, pursuant to EMC 14.10.070(E). (Ord. 17-513 § 3 (Exh. A)).

Chapter 14.50

CRITICAL FISH AND WILDLIFE HABITAT AREAS

Sections:

- 14.50.010 Purpose.
- 14.50.020 Fish and wildlife habitat conservation area identification and classification.
- 14.50.030 Buffer standards – Fish and wildlife habitat conservation areas.
- 14.50.040 Fish and wildlife habitat conservation area review procedures.
- 14.50.050 Allowed activities.
- 14.50.060 Alteration of watercourses.
- 14.50.070 Mitigation requirements.
- 14.50.080 Appendix.

14.50.010 Purpose.

Many land use activities can impact the habitats of fish and wildlife. Special care must be taken in the management of lands that support fish and wildlife species to ensure that development occurs in a manner that is sensitive to their habitat needs. The purpose of this chapter is to identify fish and wildlife habitat conservation areas and establish habitat protection procedures and mitigation measures that are designed to result in no net loss of habitat functions and values. These areas are necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created as designated by WAC 365-190-080(5). (Ord. 17-513 § 3 (Exh. A)).

14.50.020 Fish and wildlife habitat conservation area identification and classification.

A. Designation. Fish and wildlife habitat conservation areas include:

1. Waters of the State. Waters of the state include lakes, rivers, ponds, streams, and all other surface waters and watercourses within jurisdiction of the state of Washington, as classified in WAC 222-16-030.
2. Areas with which federally designated endangered, threatened, and sensitive species have a primary association. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service should be consulted for current federal listing status.
3. Areas with which state designated endangered, threatened, and sensitive species have a primary association. The Washington Department of Fish and Wildlife should be consulted for current state listing status.
4. State priority habitats and areas associated with state priority species. The Washington Department of Fish and Wildlife should be consulted for current listing of priority habitats and species.
5. Habitats of and Species of Local Importance. The following fish and wildlife species and their associated habitat areas shall be regulated under this chapter:
 - a. Fish. Coho salmon (*Oncorhynchus kisutch*), pink salmon (*Oncorhynchus gorbuscha*), chum salmon (*Oncorhynchus keta*), cutthroat trout (*Oncorhynchus clarkia*), and steelhead (*Oncorhynchus mykiss*).
 - b. Birds. Great blue heron (*Ardea herodias*) and green heron (*Butorides virescens*).
 - c. Areas with which state-listed monitor or candidate fish or wildlife species or federally listed candidate fish or wildlife species have a primary association, and which if altered may reduce the likelihood that the species will survive and reproduce over the long term.
 - d. Heron rookeries.
6. Areas Not Included. Fish and wildlife habitat conservation areas do not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

B. Habitat Boundary Survey. If the department determines that a regulated habitat conservation area may be present within the project vicinity, the department may require the habitat area to be delineated and/or mapped by a qualified fisheries biologist or wildlife biologist who is knowledgeable of fish and wildlife habitat within western Washington, or by the Washington Department of Fish and Wildlife. The boundary of aquatic habitats shall be the ordinary high water mark of the water body. The management recommendations for Washington's priority habitats and species or federal equivalent should be used as a tool for identifying and delineating wildlife habitat boundaries. The city may waive this requirement if there is adequate information available on the area proposed for development to determine the impacts of the proposed development and appropriate mitigating measures.

C. Mapping. The approximate location and extent of waters of the state and fish presence within the city are shown on maps maintained by the city. The city shall update the maps periodically as new information becomes available. The approximate location and extent of other fish and wildlife habitat conservation areas are shown on maps maintained by the Washington Department of Fish and Wildlife and other state and federal agencies. These maps are to be used as a guide and do not provide definitive information about fish and wildlife habitat conservation area size or presence. Fish and wildlife habitat conservation areas may exist that do not appear on the maps.

D. Waters of the State Classification. The city hereby adopts the water typing system specified in WAC 222-16-030, as described below:

1. Type S. All waters, within their ordinary high water mark, meeting the criteria as "shorelines of the state" and "shorelines of statewide significance" under Chapter 90.58 RCW. As of the effective date of this title, there are no Type S streams within the city's jurisdiction.
2. Type F. Segments of natural waters other than Type S waters, which are within the bankfull widths of defined channels and periodically inundated area of their associated wetlands, or within lakes, ponds, or impoundments having a surface area of 0.5 acre or greater at seasonal low water and which in any case contain fish habitat.
3. Type Np. All segments of natural waters within the bankfull width of defined channels that are perennial non-fish-habitat stream. Perennial stream waters do not go dry any time of a year of normal rainfall. However, for the purpose of water typing, Type Np waters include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow.
4. Type Ns. All segments of natural waters within the bankfull width of the defined channels that are not Type S, F, or Np waters. These are seasonal, non-fish-habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np water. Ns waters must be physically connected by an aboveground channel system to Type S, F, or Np waters. (Ord. 17-513 § 3 (Exh. A)).

14.50.030 Buffer standards – Fish and wildlife habitat conservation areas.

A. Determining Buffer Widths. Buffers shall be required as set forth for each habitat type. The required buffers shall be delineated, both on a site plan or plat, and on the property prior to approval of any regulated activity.

1. Aquatic Habitat Conservation Areas.

- a. Buffers for aquatic habitat conservation areas shall be based upon the water type classification of the water body as specified in WAC 22-16-030. Refer to Table 14.50.030 for the water types and the associated buffer requirements.
- b. The required buffer width shall be measured in all directions from the ordinary high water mark.
- c. The required buffer shall be extended to include any adjacent regulated wetland, landslide hazard area, or erosion hazard area and their respective buffers.

2. Nonaquatic Habitat Conservation Areas. Appropriate buffers for critical habitat areas and species not listed in Table 14.50.030 shall be determined by the Washington Department of Fish and Wildlife or by a qualified wildlife biologist and documented in an approved habitat management plan.

**Table 14.50.030
Buffer Standards**

Water Type	Buffer Width¹
Type S	150 ft. ²
Type F	100 ft.
Type Np	60 ft.
Type Ns	35 ft.

¹ In the event that buffers for any habitat conservation area or other critical area are contiguous or overlapping, the landward-most edge of all such buffers shall apply.

² As of the effective date of this title, there are no Type S streams within the city's jurisdiction.

B. Modification to Buffer Width Requirements. The standard buffer widths of subsection (A) of this section may be modified as follows:

1. **Buffer Width Reductions.** A buffer width reduction may be proposed through submittal of a habitat management plan. Buffer reductions of up to a maximum of 25 percent may be allowed when the applicant demonstrates the following circumstances:

- a. Buffer encroachment is unavoidable.
- b. The existing buffer is predominately unvegetated, composed of nuisance species, or is in an otherwise highly disturbed condition.
- c. Buffer reduction with enhancement will provide equal or greater protection of current habitat functions and values and will not adversely affect salmon habitat.
- d. The buffer reduction will not increase the risk of slope failure or downslope stormwater drainage impacts.
- e. The minimum width of the buffer at any given point shall be at least 75 percent of the standard width, or 25 feet, whichever is greater.
- f. The project includes a buffer enhancement plan as part of the mitigation required by EMC 14.50.070. The buffer enhancement plan shall use native plant species.

2. **Buffer Width Increases.** The department may require increased buffer width(s) when any of the following are identified:

- a. A larger buffer is necessary to maintain viable populations of existing species or protect the existing functions of the habitat area;
- b. The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse habitat impacts;
- c. The adjacent land has minimal vegetative cover or slopes greater than 20 percent; or
- d. The habitat area is in an area of high tree blow-down potential. In these cases the habitat area may be expanded an additional 50 feet on the windward side. (Ord. 17-513 § 3 (Exh. A)).

14.50.040 Fish and wildlife habitat conservation area review procedures.

A. Habitat Management Plan. If the department's maps, sources, or field investigations indicate that the proposed project area is located within 300 feet of a known or suspected fish or wildlife habitat conservation area, then the applicant shall submit a habitat management plan prepared by a qualified fisheries biologist or wildlife biologist.

The requirement to provide a habitat conservation plan for habitat conservation areas may be waived if the department determines that there are no potential direct or indirect impacts on designated species or habitats that would result from the proposed development activity. Habitat management plans shall comply with the requirements established in EMC 14.50.080, Appendix. (Ord. 17-513 § 3 (Exh. A)).

14.50.050 Allowed activities.

A. The following activities may be permitted in habitat conservation areas and/or their buffers when all reasonable measures have been taken to avoid and mitigate adverse effects on species and habitats and a net loss of habitat functions will not occur. In order to verify the following conditions, a habitat management plan meeting the requirements of EMC 14.50.080, Appendix, must be submitted.

1. Stream Erosion Control Measures. New or replacement stream erosion control measures shall be subject to the following standards:
 - a. The proposal complies with the provisions set forth in Chapter 14.110 EMC.
 - b. The required habitat management plan demonstrates the following:
 - i. Natural stream processes will be maintained. The project will not result in increased beach erosion or alterations to, or loss of, stream substrate within one-quarter mile of the site.
 - ii. The stream erosion control measure will not adversely impact fish or wildlife habitat conservation areas or associated wetlands.
2. Docks and Launching Ramps. Construction, reconstruction, repair, and maintenance of docks and public or private launching ramps are subject to all of the following:
 - a. The dock or ramp is located and oriented and constructed in a manner that minimizes adverse effects on water quality, movement of aquatic and terrestrial life, ecological processes, spawning habitat, and wetlands.
 - b. Docks and ramps shall meet or exceed all relevant state and federal permit requirements.
3. Roads, Trails, Bridges, and Rights-of-Way. Construction of trails, roadways, bridges, and culverts may be allowed subject to the following standards:
 - a. There is no other feasible alternative route with less impact on the environment.
 - b. The crossing minimizes interruption of downstream movement of wood, ice and gravel and the movement of all fish and wildlife.
 - c. Stream crossings, where necessary, shall only occur as near to the perpendicular with the stream as possible and be limited to the minimum width necessary.
 - d. Road bridges and culverts are designed according to the latest versions of the Washington Department of Fish and Wildlife Water Crossing Design Guidelines (Washington Department of Fish and Wildlife) and the Anadromous Salmonid Passage Facility Design guidelines (National Marine Fisheries Service).
 - e. Trails and associated viewing platforms shall be made of pervious materials.
4. Utility Facilities. New utility lines and facilities are permitted to cross habitat conservation areas if they comply with the following standards:
 - a. Avoid fish and wildlife habitat conservation areas to the maximum extent possible.
 - b. Cross at an angle greater than 60 degrees to the centerline of the channel in streams or perpendicular to the channel centerline whenever boring under the channel is not feasible.

- c. Crossings are contained within the footprint of an existing road or utility crossing where possible.
- d. Avoid paralleling the stream or following a down-valley course near the channel.
- e. Do not increase or decrease the natural rate of shore migration or channel migration.
- f. Bore beneath the scour depth and hyporheic zone of the water body and channel migration zone (CMZ) where feasible.

5. Public Flood Protection Measures. New public flood protection measures and expansion of existing facilities may be approved, subject to the department's review and approval of a habitat management plan.

6. Instream Structures. New instream structures (such as, but not limited to, high flow bypass, sediment ponds, instream ponds, retention and detention facilities, dams, weirs, etc.) shall be allowed only as part of an approved mitigation or restoration project or watershed basin plan approved by the department and upon acquisition of any required state or federal permits. The structure shall be designed to avoid modifying flows and water quality in ways that may adversely affect critical fish species. Proposals for placement of water quality, water quantity, or other instruments or structures within a stream to gather data, or as a mitigation measure, shall be exempt from the provisions of this title upon review and approval by the department.

7. Stormwater Conveyance Facilities. Conveyance structures whose sole purpose is to convey stormwater already treated for quality, or water bypassed around water quality treatment facilities pursuant to an approved stormwater plan, may be constructed subject to the following standards:

- a. No other feasible alternatives with less impact exist;
- b. Mitigation for impacts is provided;
- c. Stormwater conveyance facilities shall incorporate fish habitat features;
- d. Vegetation shall be maintained and, if necessary, added adjacent to all open channels and ponds in order to retard erosion, filter out sediments, and shade the water.

8. On-Site Sewage Systems and Wells.

- a. New on-site sewage systems and individual wells are permitted if accessory to an approved structure.
- b. Repairs to failing on-site sewage systems associated with an existing structure shall be accomplished by utilizing one of the following methods that result in the least impact:
 - i. Connection to an available public sewer system;
 - ii. Replacement with a new on-site sewage system located in a portion of the site that has already been disturbed by development and is located landward as far as possible, provided the proposed sewage system is in compliance with the provisions in Chapter 14.80 EMC; or
 - iii. Repair to the existing on-site septic system.

B. The activities listed below are allowed in habitat conservation areas and their buffers and do not require submission of a habitat management plan, except where such activities would result in a loss of the functions and values of habitat conservation areas or buffers.

1. Vegetation Removal, Disturbance, and Introduction. Limited vegetation removal shall be allowed subject to EMC 18.90.180, Tree preservation, and the following standards:

- a. Hazard trees may be cut; provided, that:

- i. The applicant submits a report from a certified arborist, licensed architect, or professional forester that documents the hazard and provides a replanting schedule for the replacement trees and receives written approval from the city authorizing the tree removal;
 - ii. Tree cutting shall be limited to limbing and crown thinning, unless otherwise justified by the landowner's expert. Where limbing or crown thinning is not sufficient to address the hazard, trees should be topped to remove the hazard rather than cut at or near the base of the tree. All vegetation cuttings (tree stems, branches, tops, etc.) shall be left within the habitat area or buffer unless removal is warranted due to the potential for disease transmittal to other healthy vegetation;
 - iii. The landowner shall replace any trees that are felled or topped with new trees at a ratio of two replacement trees for each tree felled or topped. Tree species that are native and indigenous to the site shall be used;
 - iv. Hazard trees determined to pose an imminent threat or danger to public health or safety, or to public or private property, or serious environmental degradation may be removed or topped by the landowner prior to receiving written approval from the department; provided, that within 14 days following such action, the landowner shall submit the necessary report and replanting schedule demonstrating compliance with subsections (B)(1)(a)(i) through (iii) of this section.
- b. Trimming of vegetation for purposes of providing a view corridor will be allowed. The trimming is limited to a maximum 20-foot width and the benefit to fish and wildlife habitat may not be reduced. No more than 30 percent of the live crown may be removed. Trimming shall be limited to hand pruning of branches and vegetation and does not include felling, topping, or the removal of trees.
2. Fencing. Fencing shall be placed in such a manner as to maintain wildlife movement corridors and not create any fish passage blockages. The department shall approve the location, type, and height of any proposed fencing. (Ord. 17-513 § 3 (Exh. A)).

14.50.060 Alteration of watercourses.

Any alteration of a watercourse shall comply with the following standards:

- A. The city will notify adjacent communities and the Washington State Department of Ecology prior to any alteration or relocation of a watercourse proposed by the applicant and submit evidence of such notification to the Federal Insurance Administration.
- B. The city shall require that maintenance be provided within the altered or relocated portion of said watercourse, so that the flood-carrying capacity is not diminished. Therefore, if the maintenance program calls for future cutting of planted native vegetation used in performing the alteration, the system shall be oversized at the time of construction to compensate for said vegetation growth or any other natural factor that may need future maintenance.
- C. Alterations and relocations, including stabilization projects, shall not degrade fish habitat and shall be subject to the following provisions:
 - 1. Structures that cross all watercourses and water bodies shall meet fish habitat requirements of the Washington Department of Fish and Wildlife.
 - 2. Any culverts that are used on fish-bearing watercourses shall be arch/bottomless culverts or equivalent that provide comparable fish protection, and must meet fish habitat requirements of the latest edition of Washington Department of Fish and Wildlife's Design Manual for Culverts.
 - 3. Bridges or other crossings shall allow for uninterrupted downstream movement of wood and gravel, be as close to perpendicular to the watercourse as possible, and be designed to minimize fill and to pass the base flood flows.
 - 4. Watercourse alterations shall maintain natural meander patterns, channel complexity, and floodplain connectivity. Where feasible, such characteristics shall be restored as part of the watercourse alteration.

5. The applicant shall identify the channel migration zone for the watercourse at the project site and for a reasonable reach upstream and downstream of the site, and shall not undertake actions as part of the alteration that would in any way inhibit movement of the channel.

6. Existing culverts that do not meet fish habitat requirements shall be removed or replaced as part of the approved watercourse alteration project.

7. Watercourse alteration projects shall not result in a fish blockage of side channels. Known fish barriers into side channels shall be removed as part of the approved watercourse alteration project.

8. For any watercourse alteration of a Type S or F water pursuant to EMC 14.50.020(D) whose channel is subject to migration, bioengineered (soft) armoring of stream banks is required to allow for woody debris recruitment, gravels for spawning, and creation of side channels. The bioengineering technique used must be designed in accordance with the latest edition of Washington Department of Fish and Wildlife's Integrated Streambank Protection Guidelines.

D. The project engineer shall design the watercourse alteration so the activity does not increase the water surface elevation (zero-rise); decrease the capacity, storage, and conveyance of the watercourse; or cause an adverse impact to adjacent, cross-channel, or upstream or downstream properties. (Ord. 17-513 § 3 (Exh. A)).

14.50.070 Mitigation requirements.

A. Mitigation. Compensatory mitigation is required for all unavoidable alterations to fish and wildlife habitat conservation areas or their buffers. Mitigation of alteration to habitat areas shall achieve equivalent or greater biological functions. Mitigation shall address each functional attribute affected by the alteration to achieve functional equivalency or improvement on a per function basis. Mitigation elements to be addressed may include, but are not limited to: restoration of previously degraded areas and key habitat features, restoration of riparian vegetation communities to provide shade and large woody debris, addition of large woody debris, and installation of upland habitat features. All projects must first demonstrate compliance with EMC 14.10.070(B) prior to development of compensatory mitigation plans.

B. Type of Mitigation Required. In determining the extent and type of mitigation required, the department may consider all of the following:

1. The ecological processes that affect and influence habitat structure and function within the watershed or sub-basin;
2. The individual and cumulative effects of the action upon the functions of the critical area and associated watershed;
3. Observed or predicted trends regarding the gains or losses of specific habitats or species in the watershed, in light of natural and human processes;
4. The likely success of the proposed mitigation measures;
5. Effects of the mitigation actions on neighboring properties; and
6. Opportunities to implement restoration actions formally identified by an adopted shoreline restoration plan, watershed planning document prepared and adopted pursuant to Chapter 90.82 RCW, a salmonid recovery plan or project that has been identified on the Salmon Recovery Board habitat project list or by the Washington Department of Fish and Wildlife as essential for fish and wildlife habitat enhancement.

C. Location. Compensatory mitigation shall be provided on site or off site in the location that will provide the greatest ecological benefit to the species or habitats affected and have the greatest likelihood of success. Mitigation shall occur as close to the impact site as possible, within the same sub-basin, and in a similar habitat type as the permitted alteration. If the applicant submits a watershed- or landscape-based analysis that demonstrates mitigation within an alternative sub-basin of the same watershed would have greater ecological benefit, then the director may approve the demonstrated alternate mitigation.

D. Mitigation Plans. When required by this chapter, the applicant shall submit a fish and wildlife habitat conservation area mitigation plan meeting the requirements of this chapter. (Ord. 17-513 § 3 (Exh. A)).

14.50.080 Appendix.

APPENDIX A

HABITAT MANAGEMENT PLAN

A. A habitat management plan shall, at a minimum, include the following:

1. The general critical areas report requirements;
2. Identification of any endangered, threatened, sensitive, or candidate species that have a primary association with habitat on the project area;
3. Map showing the location of the ordinary high water mark and locations of wildlife habitat conservation area(s) and their buffers;
4. The vegetative, faunal, topographic, and hydrologic characteristics of the habitat conservation area;
5. A discussion of any federal, state, or local special management recommendations, including Washington Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitat located on or adjacent to the project area;
6. A detailed discussion of the direct and/or indirect potential impacts on the habitat conservation area by the project. Such discussion shall include a discussion of the ongoing management practices that will protect habitat after the project site has been developed;
7. Mitigation plan, if the activity will result in unavoidable impacts to habitat conservation areas. Mitigation measures may include:
 - a. Prohibition or limitation of use and development activities within the habitat conservation area;
 - b. Retention of vegetation and/or revegetation of areas/habitats critically important to species;
 - c. Special construction techniques;
 - d. Implementation of erosion and sediment control measures;
 - e. Habitat restoration or enhancement, i.e., fish passage barrier removal;
 - f. Seasonal restrictions on construction activities on the subject property;
 - g. Clustering of development activities on the subject property; and/or
 - h. Any other requirements and/or recommendations from federal, state, or local special management recommendations, including the Washington Department of Fish and Wildlife's habitat management guidelines. (Ord. 17-513 § 3 (Exh. A)).

Chapter 14.60

AQUIFER RECHARGE AND WELLHEAD PROTECTION AREAS

Sections:

- 14.60.010 Purpose.
- 14.60.020 Critical aquifer recharge areas identification.
- 14.60.030 Critical aquifer recharge areas review procedures.
- 14.60.040 Critical aquifer recharge areas standards.

14.60.010 Purpose.

The purpose of this chapter is to protect critical aquifer recharge areas from degradation or depletion resulting from new or changed land use activities. Due to the exceptional susceptibility and vulnerability of groundwater underlying aquifer recharge areas to contamination and the importance of such groundwater as sources of public water supply, it is the intent of this chapter to safeguard groundwater resources and wellhead protection areas by mitigating or precluding future discharges of any contaminant from new land use activities. (Ord. 17-513 § 3 (Exh. A)).

14.60.020 Critical aquifer recharge areas identification.

A. General. Critical aquifer recharge areas are areas that have a critical recharging effect on groundwater used for potable water supplies and/or that demonstrate a high level of susceptibility or vulnerability to groundwater contamination from land use activities. These areas include the following:

1. Aquifer recharge areas, which are the boundaries of the two highest DRASTIC zones that are rated 180 and above on the DRASTIC index range, as identified in Map of Groundwater Pollution Potential, Edgewood, Washington, National Water Well Association, U.S. Environmental Protection Agency (EPA);
2. Wellhead protection areas, as defined in Chapter 14.20 EMC; and
3. Sole source aquifers, which are areas that have been designated by the EPA pursuant to the Federal Safe Drinking Water Act. As of the effective date of this title, there are no designated sole source aquifers within city limits. (Ord. 17-513 § 3 (Exh. A)).

14.60.030 Critical aquifer recharge areas review procedures.

A. General Requirements.

1. The city's critical aquifer recharge areas map provides an indication of where critical aquifer recharge areas are located within the city and the map is updated as necessary.
2. Any proposed development located within critical aquifer recharge areas shall comply with the standards set forth in this chapter.
3. Any hazardous uses shall require the submittal of a hydrogeologic assessment, as set forth in subsection (B) of this section.
4. The department may waive critical area protective measure provisions contained in Chapter 14.10 EMC, as deemed appropriate by the director and can be shown to meet the requirements associated with best available science, if required.

B. Hydrogeologic Assessment.

1. The hydrogeologic assessment shall be prepared, signed, and dated by a state licensed geologist or hydrogeologist.
2. The hydrogeologic assessment shall be submitted in the form of a report detailing the subsurface conditions, the design of a proposed land use action, and the facilities operation which indicates the susceptibility and

potential for contamination of groundwater supplies. The hydrogeologic assessment shall, at a minimum, include the general critical area report requirements of Chapter 14.10 EMC in addition to the following 15 items:

- a. Information sources;
- b. Geologic setting – includes well logs or borings used to identify information;
- c. Background water quality;
- d. Groundwater elevations;
- e. Location and depth to perched water tables;
- f. Recharge potential of a facility site, i.e., the permeability and transmissivity;
- g. Groundwater flow direction and gradient;
- h. Current available data on wells located within one-quarter mile of the site;
- i. Current available data on any spring within one-quarter mile of the site;
- j. Surface water location and recharge potential;
- k. Water source supply to a facility, e.g., a high capacity well;
- l. Any sampling schedules necessary;
- m. Discussion of the effects of the proposed project on the groundwater resource;
- n. Discussion of potential mitigation measures, should it be determined that the proposed project will have an adverse impact on groundwater resources; and
- o. Any other information as required by the TPCHD, including information required under Washington Department of Ecology Publication No. 97-30.

C. Storage Tank Permits. In addition to the requirements set forth in this title, the following agencies also have the authority to regulate the installation, repair, replacement, or removal of any UST:

1. The Pierce County fire prevention bureau regulates and authorizes permits for all USTs, pursuant to the International Fire Code (Article 79) and this chapter.
2. The Washington Department of Ecology regulates and authorizes permits for all USTs (Chapter 173-360 WAC).
3. The TPCHD regulates and authorizes permits for the removal of any UST (Pierce County Code, Chapter 8.34). (Ord. 17-513 § 3 (Exh. A)).

14.60.040 Critical aquifer recharge areas standards.

A. General. All regulated activities that are not exempt or prohibited under the provisions of this chapter shall ensure sufficient groundwater recharge. In order to achieve sufficient groundwater recharge, the applicant shall comply with the city's adopted stormwater manual, Chapter 13.05 EMC, and demonstrate that the total post-development infiltration rate for the project area will be equal to or better than the predevelopment rate.

B. Prohibited Uses. Landfills (other than inert and demolition landfills), Class I, III, and IV underground injection wells, metals mining, wood treatment facilities, pesticide manufacturing, petroleum refining facilities (including distilled petroleum facilities), the storage of large volumes of petroleum products, and other uses or activities determined by the department to have a significant adverse impact on groundwater are prohibited within critical aquifer recharge areas.

C. Exemptions. In addition to the general exemptions listed in EMC 14.30.030, the following uses or activities are exempt from the requirements of this chapter:

1. Sewer lines and appurtenances;
2. Biosolids and sludge land application sites; provided, that these activities comply with the requirements established in Chapters 173-200, 173-216, and 173-304 WAC; and
3. Single-family and two-family dwellings and associated accessory structures.

D. Agricultural Activities. New agricultural activities that do not involve hazardous substance handling or application are allowed within an aquifer recharge or wellhead protection area subject to the following:

1. The applicant is required to submit a farm management plan prepared by the USDA, NRCS, Pierce County Conservation District, or Washington State University Cooperative Extension Office, that certifies that water quality and quantity within the aquifer recharge area is maintained. The farm management plan shall at a minimum address the following:
 - a. The limits of the proposed agricultural activities.
 - b. The proposed scope of agricultural activities, including the use of any pesticides, fertilizers, or other chemicals.
 - c. The existing nitrate levels on the site and any proposed increases in nitrate levels.
2. Integrated pest management (IPM) practices for pest control and BMPs for the use of fertilizers, as described by the Washington State University Pierce County Cooperative Extension Office, shall be utilized.
3. Nitrate levels at down-gradient property line shall not exceed 2.5 mg/L or, if the background nitrate concentration exceeds 2.5 mg/L, the concentration will not be increased more than 0.1 mg/L.
4. Additional protective measures may be required if deemed necessary by the department or TPCHD to protect public health or safety.

E. Nonhazardous Uses. Subdivision of land as defined in EMC Title 16, residential structures housing three or more units, and all commercial and industrial sites or activities that do not include or involve hazardous substance processing or handling in critical aquifer recharge areas are allowed subject to the following standards:

1. Stormwater quality treatment and flow control shall be provided in conformance with the city's adopted stormwater management manual.
2. Floor drains shall not be allowed to drain to the stormwater system and must be designed and installed to meet the Uniform Plumbing Code (UPC) Section 303.
3. If any roof venting carries a contaminant, then the portion of the roof draining from this area must go through pretreatment pursuant to UPC Section 304(b).
4. All nonresidential vehicle washing must be self-contained or be discharged to a sanitary sewer system, if approved by the sewer utility, and is subject to UPC Sections 708 and 711.
5. Integrated pest management (IPM) practices for pest control and BMPs for the use of fertilizers, as described by the Washington State University Pierce County Cooperative Extension Office, shall be utilized.
6. For new or changes in regulated activities served by on-site sewage systems, the applicant must demonstrate to the TPCHD that nitrate levels at the down-gradient property line will not exceed 2.5 mg/L or that if the background nitrate concentration exceeds 2.5 mg/L the concentration will not be increased more than 0.1 mg/L.

7. Additional protective measures may be required if deemed necessary by the department or TPCHD to protect public health or safety.

F. Hazardous Uses – General. Hazardous substance processing or handling, hazardous waste treatment and storage facilities, animal containment areas, and solid waste facilities that require a solid waste handling permit from the TPCHD, requiring approval from the city, shall be allowed only in critical aquifer recharge areas subject to review and approval of a hydrogeologic assessment by the department and review by the TPCHD. The department has the authority to apply whatever standards deemed necessary to mitigate any negative impacts that may be associated with the proposed development and will consider comments by TPCHD.

G. Hazardous Uses – Storage Tanks. In addition to the requirement to submit a hydrogeologic assessment, the following standards apply to storage tanks in critical aquifer recharge areas:

1. Underground Tanks. All new underground storage facilities used or to be used for the underground storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:

- a. Prevent releases due to corrosion or structural failure for the operational life of the tank;
- b. Be protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substance;
- c. Use material in the construction or lining of the tank which is compatible with the substance to be stored; and
- d. The installation of any UST shall also be subject to other state and local permit requirements.

2. Aboveground Tanks.

- a. No new aboveground storage facility or part thereof shall be fabricated, constructed, installed, used, or maintained in any manner which may allow the release of a hazardous substance to the ground, groundwater, or surface water within any critical aquifer recharge areas.
- b. A new aboveground tank that will contain a hazardous substance will require both a double-walled tank and a secondary containment system separate from the tank that will hold 110 percent of the tank's capacity. The secondary containment system or dike system must be designed and constructed to contain material stored in the tank(s). (Ord. 17-513 § 3 (Exh. A)).

Chapter 14.70

VOLCANIC HAZARD AREAS

Sections:

- 14.70.010 Purpose.
- 14.70.020 Volcanic hazard areas.
- 14.70.030 Volcanic hazard area review procedures.
- 14.70.040 Volcanic hazard area standards.

14.70.010 Purpose.

At over 14,411 feet high, Mount Rainier dominates the skyline of the southern Puget Sound region. This glacier-clad mountain is a dormant volcano capable of generating large floods and lahars which have historically reached the floors of the lowlands south of the city of Seattle and out to Commencement Bay in the Port of Tacoma, spewing ash from pyroclastic eruptions. The purpose of this chapter is to promote the public health, safety, and general welfare of the citizens of Edgewood by providing standards that minimize the loss of life that may occur as a result of volcanic events emanating from Mount Rainier. (Ord. 17-513 § 3 (Exh. A)).

14.70.020 Volcanic hazard areas.

A. General. Volcanic hazard areas are areas subject to pyroclastic flows, lava flows, and inundation by debris flows, mudflows, or related flooding resulting from geologic and volcanic events on Mount Rainier.

B. Volcanic Hazard Area Categories. Volcanic hazard areas are areas that have been historically inundated by Case I, Case II, or Case III lahars or other types of debris flow; affected by pyroclastic flows, pyroclastic surges, lava flows, or ballistic projectiles in future eruptions; or are located in other drainages expected to be inundated by a future Case I, Case II, or Case III debris flow. Volcanic hazard areas are classified into the following categories:

1. Inundation Zone for Case I Lahars. Areas that could be affected by cohesive lahars that originate as enormous avalanches of weak chemically altered rock from the volcano. Case I lahars can occur with or without eruptive activity. The average reoccurrence rate for Case I lahars on Mount Rainier is about 500 to 1,000 years.
2. Inundation Zone for Case II Lahars. Areas that could be affected by relatively large noncohesive lahars, which most commonly are caused by the melting of snow and glacier ice by hot rock fragments during an eruption, but which can also have a noneruptive origin. The average time interval between Case II lahars from Mount Rainier is near the lower end of the 100- to 500-year range, making these flows analogous to the so-called “100-year flood” commonly considered in engineering practice.
3. Inundation Zone for Case III Lahars. Areas that could be affected by moderately large debris avalanches or small noncohesive lahars, glacial outburst floods, or other types of debris flow, all of noneruptive origin. The average time interval between Case III lahars at Mount Rainier is about one to 100 years.
4. Pyroclastic Flow Hazard Zone. Areas that could be affected by pyroclastic flows, pyroclastic surges, lava flows, and ballistic projectiles in future eruptions. During any single eruption, some drainages may be unaffected by any of these phenomena, while other drainages are affected by some or all phenomena. The average time interval between eruptions of Mount Rainier is about 100 to 1,000 years.

C. Travel Time Zones. The ability to evacuate people from within a volcanic hazard area correlates to the distance from the source of an event, i.e., those areas closest to the event will have less time to evacuate than those areas farther away from the source of an event. The amount of time that is anticipated for a debris flow, lahar, flood, or avalanche to travel geographically has been classified into the following travel time zones:

1. Time Zone A. Time Zone A is an estimated one-hour travel distance from the source of the event.
2. Time Zone B. Time Zone B is an estimated one-and-one-half-hour travel distance from the source of the event.

3. Time Zone C. Time Zone C is an estimated two-hour travel distance from the source of the event.
4. Time Zone D. Time Zone D is an estimated two-hour or greater travel distance from the source of the event. (Ord. 17-513 § 3 (Exh. A)).

14.70.030 Volcanic hazard area review procedures.

A. The city's Critical Areas Atlas – Volcanic Hazard Area Map provides an indication of where volcanic hazard areas are located within the city.

B. The department will complete a review of the volcanic hazard area maps for any development proposal to determine whether the proposed project area for a regulated activity falls within a volcanic hazard area.

C. When the department's maps or sources indicate that the proposed project area for a regulated activity is located within a volcanic hazard area, the department shall apply the standards for regulated activities in volcanic hazard areas, as set forth in EMC 14.70.040. (Ord. 17-513 § 3 (Exh. A)).

14.70.040 Volcanic hazard area standards.

The following standards apply within the inundation zones for Case I, II, and III lahars and within the pyroclastic flow hazard zone (refer to Table 14.70.040):

- A. Bonus densities, as set forth in EMC 18.90.080, Housing incentives program, shall be prohibited.
- B. All critical facilities shall be prohibited, except sewer collection facilities and any other utilities that are located underground or not likely to cause harm to people or the environment if inundated by a lahar.
- C. Special occupancy structures, as defined in Chapter 14.20 EMC, are subject to the following:
1. Travel Time Zone A. Special occupancy structures located within the Travel Time Zone A area shall be limited to a maximum 100-person occupancy.
 2. Travel Time Zone B. Special occupancy structures located within the Travel Time Zone B area shall be limited to a maximum 500-person occupancy.
 3. Travel Time Zone C. Special occupancy structures located within the Travel Time Zone C area shall be limited to a maximum 1,000-person occupancy.
 4. Travel Time Zone D. Special occupancy structures located within the Travel Time Zone D area shall be limited to a maximum 5,000-person occupancy.

**Table 14.70.040
Volcanic Hazard Area Standards**

Facility/Occupancy List	Case I Lahar Inundation Zone	Case II Lahar Inundation Zone	Case III Lahar Inundation Zone	Pyroclastic Flow Hazard Zone
Bonus Densities ⁽¹⁾	Not Allowed	Not Allowed	Not Allowed	Not Allowed
Critical Facilities ⁽²⁾	Not Allowed	Not Allowed	Not Allowed	Not Allowed
Special Occupancies ⁽³⁾	In Time Travel Zone A - Limited to 100-person occupant load. In Time Travel Zone B - Limited to 500-person occupant load. In Time Travel Zone C - Limited to 1,000-person occupant load. In Time Travel Zone D - Limited to 5,000-person occupant load.			
Other Occupancies	No Limitation	No Limitation	No Limitation	No Limitation

(1) Bonus density as set forth in EMC 18.90.080, Housing incentives program.

- (2) Critical facility as defined in Chapter 14.20 EMC.
 - (3) Special occupancy structures as defined in Chapter 14.20 EMC.
- (Ord. 17-513 § 3 (Exh. A)).

Chapter 14.80 FLOOD HAZARD AREAS

See the attached Ordinance No. 17-0513, Section 3, Ex. A, for all sections listed below.

Sections:

- 14.80.010 Purpose and applicability.
- 14.80.011 Abrogation and greater restrictions.
- 14.80.012 Interpretation.
- 14.80.013 Methods of reducing flood losses.
- 14.80.014 Designation of the floodplain administrator.
- 14.80.015 Duties and responsibilities of the floodplain administrator.
- 14.80.020 Basis for establishing the areas of special flood hazard.
- 14.80.030 Definitions.
- 14.80.040 Additional special flood hazard areas.
- 14.80.045 Establishment of development permit.
- 14.80.050 Flood hazard area review procedures.
- 14.80.060 Provisions for flood hazard reduction.
- 14.80.070 Variances to flood hazard areas.
- 14.80.075 Penalties for noncompliance.
- 14.80.080 Appendices.

Chapter 14.90 LANDSLIDE HAZARD AREAS

Sections:

- 14.90.010 Purpose.
- 14.90.020 Landslide hazard areas.
- 14.90.030 Landslide hazard area review procedures.
- 14.90.040 Landslide and erosion hazard area standards.
- 14.90.050 Buffer requirements.
- 14.90.060 Appendices.

14.90.010 Purpose.

The purpose of this chapter is to:

- A. Protect human life and health.
- B. Regulate uses of land in order to avoid damage to structures and property being developed and damage to neighboring land and structures.

C. Identify and map active landslide hazard areas.

D. Minimize the ill effects on wetlands and critical fish and wildlife habitat that can result from landslides.

E. Establish permit requirement and review procedures for development proposals in areas with potential landslides. (Ord. 17-513 § 3 (Exh. A)).

14.90.020 Landslide hazard areas.

A. Landslide Hazard Areas. Landslide hazard areas are areas potentially subject to mass movement due to a combination of geologic, seismic, topographic, hydrologic, or manmade factors. Landslide hazard areas are identified by the presence of any of the following five indicators.

1. Areas of historic failures, including areas of unstable, old and recent landslides or landslide debris within a head scarp.
2. Areas with all three of the following characteristics:
 - a. Slopes steeper than 15 percent with a vertical relief of 20 feet or more; and
 - b. Hillside that intersect geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
 - c. Springs or groundwater seepage.
3. Areas exhibiting geomorphological features indicative of past slope failure within the last 10,000 years, such as hummocky ground, back-rotated benches on slopes, tension cracks, etc.
4. Any area with a slope of 40 percent or steeper and with a vertical relief of 15 or more feet.
 - a. Slopes may be exempted from the requirements of this section; provided, that it can be demonstrated by a qualified geotechnical professional that such an exemption does not result in an increased risk of landsliding or damage to the subject site, nearby properties, and existing structures. Any associated hazards to proposed structures must be suitably mitigated.
 - b. For the purposes of determining whether a slope is considered to be a landslide hazard area, the horizontal and vertical distance between the top of slope and toe of slope are utilized.
5. Areas that are at risk of mass movement due to seismic events.

B. Potential Landslide Hazard Areas. Potential landslide hazard areas, as depicted on the geologically hazardous areas map, are those areas where the suspected risk of slope instability and landslide is sufficient to require a geological assessment to assess the potential for active landslide activity. Potential landslide hazard areas are determined by using the following criteria:

1. Areas that possess one or more of the landslide hazard area indicators (stratigraphy, topography, emergent groundwater seepage, etc.) as set forth in subsection (A) of this section and any adjacent area within a distance of 65 feet. These areas include, but are not necessarily limited to, those areas designated on the city's geologically hazardous areas map as moderate or steep slope areas. (Ord. 17-513 § 3 (Exh. A)).

14.90.030 Landslide hazard area review procedures.

A. General Requirements.

1. The city's geologically hazardous areas map provides an indication of where potential landslide hazard areas are located within the city. The actual presence or location of landslide hazard areas that have not been mapped, but may be present on or adjacent to a site, shall be determined using the geological assessment procedures established in this chapter.

2. The department will complete a review of the geologically hazardous areas map and other source documents for any proposed regulated activity to determine whether the site is, or may be, located within a landslide hazard area or potential landslide hazard area. Identification of a landslide hazard area or potential landslide hazard area may also occur as a result of field investigations conducted by department staff.
3. When the department's maps or sources indicate that the site for a proposed regulated activity is or may be located within a landslide hazard area or potential landslide hazard area, the department shall require the submittal of a geological assessment as outlined in subsection (B) of this section.
4. Unless otherwise stated in this chapter, the critical protective measure provisions contained in Chapter 14.10 EMC shall apply.

B. Geological Assessment. A geological assessment is a site investigation process to evaluate the on-site geology affecting a subject property. The findings of the geological assessment shall be presented in a landslide hazard geotechnical verification or geotechnical report.

1. Geological assessments shall be submitted to the department for review and approval together with a landslide hazard area application and associated fee.
2. A geological assessment shall include a field investigation and may include the use of historical air photo analysis, LiDAR mapping, review of regional geologic mapping, review of public records and documentation, and interviews with adjacent property owners, etc.
3. The geological assessment shall include the following information and analysis:
 - a. A determination of which areas on the site or within the vicinity of the site meet the criteria for a landslide hazard area as set forth herein.
 - b. Consider the run-out hazard of landslide debris to the proposed development that starts upslope (whether part of the subject property or on a neighboring property) and/or the impacts of landslide run-out on downslope properties.
 - c. The geological assessment shall include a detailed review of the field investigations, published data and references, data and conclusions from past geological assessments, or geotechnical investigations of the site, site-specific measurements, tests, investigations, or studies, as well as the methods of data analysis and calculations that support the results, conclusions, and recommendations.
 - d. All of the information required per EMC 14.10.080(C).
4. Geological assessments shall be prepared, signed, and dated by a geotechnical professional. The format shall be pre-approved by the department.
5. A geotechnical professional shall complete a field investigation and geological assessment to determine whether or not a landslide hazard area is likely to exist within 300 feet of the site. Where access to off-site properties is not available to the geotechnical professional, evaluation of off-site landslide hazards must include review of regional geologic mapping and LiDAR based topographic mapping.
 - a. The geological assessment shall be submitted in the form of geotechnical verification when the geotechnical professional finds that no landslide hazard area exists within 300 feet of the project area.
 - b. The geological assessment shall be submitted in the form of a geotechnical report when the geotechnical professional finds that a landslide hazard area exists within 300 feet of the proposed project area or when a geotechnical professional determines that mitigation measures are necessary in order to construct or develop within a potential landslide hazard area.
6. Geological assessments that do not contain the required information will be returned to the geotechnical professional for revision.

7. The department shall review the geological assessment and either:

- a. Accept the geological assessment; or
- b. Reject the geological assessment and require revisions or additional information.

8. A geological assessment for a specific site may be valid for a period of up to five years when the proposed land use activity and surrounding site conditions are unchanged. However, if any environmental conditions associated with the site change during that five-year period, the applicant may be required to submit an amendment to the geological assessment. (Ord. 17-513 § 3 (Exh. A)).

14.90.040 Landslide and erosion hazard area standards.

A. Landslide Hazard Areas. Any development, encroachment, clearing and grading, building structures, impervious surfaces, or vegetation removal shall be prohibited within landslide hazard areas and associated buffers except as specified in the following standards:

- 1. Stormwater Conveyance. Stormwater conveyance shall be allowed when it is conveyed through a high-density polyethylene stormwater pipe with fuse-welded joints and when no other stormwater conveyance alternative is available. The pipe shall be located on the surface of the ground and be properly anchored so that it will continue to function in the event of an underlying slide.
- 2. Utility Lines. Utility lines will be permitted when no other conveyance alternative is available. The line shall be located above ground and properly anchored and/or designed so that it will continue to function in the event of an underlying slide.
- 3. Roads, Bridges, and Trails. Roads, bridges, and trails shall be allowed when all of the following conditions have been met:
 - a. Mitigation measures are provided that ensure the roadway prism and/or bridge structure will not be susceptible to damage from landslide-induced ground deformation or impact/coverage by landslide debris. Mitigation measures shall be designed for static and seismic loading conditions in accordance with the most recent version of the American Association of State Highway and Transportation Officials (AASHTO) Manual.
 - b. The road is not a sole access for a development.
 - c. The removal or disturbance of vegetation and grading activities shall be prohibited during the wet season from November 1st until May 1st.

B. Landslide Hazard Management Areas. All regulated activities may be allowed in areas located within 300 feet of a landslide hazard area subject to the following standards:

- 1. The department reviews and approves a geological assessment – geotechnical report and determines that the potential landslide hazard area is stable.
- 2. The proposed development is located outside of a landslide hazard area and any required buffer.
- 3. The proposed recommendations and mitigation measures contained within the geotechnical report are adequate to reduce or mitigate risks to health and safety.
- 4. The proposed development shall not decrease the factor of safety for landslide occurrence below the limits of 1.5 for static conditions and 1.1 for dynamic conditions. Analysis of dynamic (seismic) conditions shall be based on a minimum horizontal acceleration as established by the current version of the International Building Code.
- 5. The removal and disturbance of vegetation and grading activities shall be limited to the area of the approved development and shall not be allowed during the wet season from November 1st until May 1st unless adequate

provisions for wet season erosion have been addressed in the geotechnical report and approved by the department.

6. Surface drainage from developed areas, including downspouts and runoff from paved or unpaved surfaces upslope, shall not be directed through a landslide hazard area or its associated buffer unless it is conveyed in conformance with the provisions in EMC 14.90.030.

7. Stormwater retention facilities, including infiltration systems utilizing perforated pipe, are prohibited unless the slope stability impacts of such systems have been analyzed and mitigated by a geotechnical professional and the impacts have been determined to be negligible.

8. The proposed development shall not create a need for larger landslide hazard area buffers and setbacks on neighboring properties unless approved through a notarized written agreement with the affected property owner(s).

9. The proposed development shall be sited far enough from regressing slope faces to project 120 years of useful life for the proposed structure(s) or infrastructure.

10. Any proposed lots must be completely located outside any identified landslide hazard areas or their associated buffers.

11. Landslide hazard areas that are directly adjacent to any riparian areas, or wetlands, may be subject to additional buffer requirements and standards. See Chapter 14.50 EMC, Critical Fish and Wildlife Habitat Areas, and Chapter 14.40 EMC, Wetlands, for additional details. (Ord. 17-513 § 3 (Exh. A)).

14.90.050 Buffer requirements.

A. Determining Buffer Widths.

1. The buffer width shall be measured on a horizontal plane from a perpendicular line established at the edge of the landslide hazard area limits, both from the top and toe of the slope.

2. A buffer of undisturbed vegetation shall be required for a landslide hazard area. The required buffer width is the greater amount of the distances described in this chapter:

a. Fifty feet from all edges of the active landslide hazard area limits; or

b. A distance of one-third the height of the slope at the top of the active landslide hazard area and a distance of one-half the height of the slope at the bottom of an active landslide hazard area.

B. Modification of Buffer Widths. The department may require a larger buffer width than the buffer distance, as determined in subsection (A) of this section, if any of the following are identified:

1. The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse impacts.

2. The area has a severe risk of slope failure or downslope stormwater drainage impacts. (Ord. 17-513 § 3 (Exh. A)).

14.90.060 Appendices.

A. Geological Assessment – Landslide Hazard Geotechnical Verification.

B. Geological Assessment – Landslide Hazard Geotechnical Report.

APPENDIX A

GEOLOGICAL ASSESSMENT – LANDSLIDE HAZARD GEOTECHNICAL VERIFICATION

A. A geotechnical verification shall include the following:

1. The general critical areas report requirements.
2. A description of the surface and subsurface geology, hydrology, soils, and vegetation at the site and a list of the landslide hazard area indicators that were found on or in the vicinity of the site.
3. A summary of the results, conclusions, and recommendations resulting from the geological assessment of the landslide hazards on or in the vicinity of the site.
4. An accurate site plan drawn at a scale of one inch equals 20 feet, one inch equals 30 feet, one inch equals 50 feet (or other scale deemed appropriate by the department) is required. The department may require that the site plan information listed below be based on a field survey by a licensed surveyor. The site plan shall include:
 - a. The limits and location of any active landslide hazard area.
 - b. The limits and location of the required landslide hazard buffer.
 - c. The location of any existing and proposed structures, utilities, on-site septic systems, wells, and stormwater management facilities.
 - d. The full geographical limits of the proposed project area or area to be developed.
 - e. A dimension of the closest distance between the identified active landslide hazard area boundary and the project area.
 - f. Existing topography on the site presented in two-foot contours.
 - g. Property lines for the site.
 - h. North arrow and plan scale.

B. The geotechnical professional who prepared the verification document shall stamp the verification with their license stamp or seal.

C. Geotechnical verifications shall be in conformance with a format that is pre-approved by the department.

APPENDIX B

GEOLOGICAL ASSESSMENT – LANDSLIDE HAZARD GEOTECHNICAL REPORT

A. At a minimum, a geotechnical report shall include the following:

1. The general critical areas report requirements.
2. A description of the surface and subsurface geology, hydrology, soils, and vegetation of the site and a list of the landslide hazard area indicators that were found on or in the vicinity of the site.
3. A summary of the results, conclusions, and recommendations resulting from the geological assessment of the landslide hazards on or in the vicinity of the site.
4. An accurate site plan drawn at a scale of one inch equals 20 feet, one inch equals 30 feet, one inch equals 50 feet (or other scale deemed appropriate by the department) is required. The department may require that the site plan information listed below be based on a field survey by a licensed surveyor. The site plan shall include:
 - a. The limits and location of any landslide hazard area within the site. Delineation of the landslide hazard area limits shall identify any areas of historic landslide activity.
 - b. The limits and location of the required landslide hazard buffer.

- c. The location of any existing and proposed structures, utilities, on-site septic systems, wells, and stormwater management facilities.
- d. The full geographical limits of the proposed project area or area to be developed.
- e. Location and unique identifier of geotechnical borings, CPT soundings, or other surveys or explorations used to characterize subsurface conditions.
- f. Extent of cross-section(s) used to evaluate the three-dimensional subsurface geologic and groundwater conditions at the site.
- g. Extent of cross-section(s) used in the evaluation of slope instability.
- h. Existing topography on the site presented in two-foot contours.
- i. Property lines for the site.
- j. North arrow and plan scale.

5. Subsurface characterization data must be provided. The data shall be based on both existing and new information that may include soil borings, test pits, geophysical surveys, or other appropriate subsurface exploration methods, development of site-specific soil and/or rock stratigraphy, and measurement of groundwater levels including variability resulting from seasonal changes, alterations to the site, etc.

- a. Geotechnical borings or CPT soundings will be advanced to a depth sufficient to characterize geologic conditions within and below the existing or potential landslide mass.
- b. Other methods used for subsurface characterization shall be assigned a unique identifier, and the basic data presented in appropriate graphical and/or tabular format.
- c. The three-dimensional subsurface conditions at the site shall be presented using one or more cross-sections showing location and depth penetration of geotechnical borings, CPT soundings, or other subsurface characterization methods, interpretation of the geometry of major soil units, and projected location of the static groundwater surface determined from the subsurface exploration. The cross-sections shall be presented at a scale of one inch equals 20 feet, one inch equals 30 feet, one inch equals 50 feet (or other scale deemed appropriate by the department). Each cross-section shall have a legend with a description of the various major soil units.

6. A detailed description of any prior grading activity, soil instability, or slope failure.

7. Where deemed appropriate by the geotechnical professional, assessments and conclusions regarding slope stability for both the existing and developed conditions shall be presented and documented. These assessments and conclusions shall include the information provided below in this appendix. The project geotechnical professional must provide justification for not including a slope stability analysis if one is excluded. The city's geotechnical professional reserves the right to request a slope stability analysis based on site conditions. If a dispute arises between the project geotechnical professional and the city's geotechnical professional regarding the need for a slope stability analysis, then the city reserves the right to require an independent, third party review to be paid for by the applicant to resolve the dispute.

- a. Determination of the potential type(s) of landslide failure mechanisms, debris flow, rotational slump, or translational slip that may affect the site.
- b. Quantitative stability evaluation of slope conditions of the various failure mechanisms using state-of-the-practice modeling techniques. Limiting equilibrium methods of analysis shall state the stability conditions as a factor of safety. The most unstable failure geometry(ies) shall be presented in the form of a cross-section(s), with the least stable failure geometry for each failure mechanism clearly indicated. The stability evaluation shall also consider dynamic (earthquake) loading, and shall use a minimum horizontal acceleration as established by the current version of the International Building Code.

c. An analysis of slope regression rate shall be presented in those cases where stability is impacted or influenced by erosional processes (e.g., wave cutting, stream meandering, etc.) acting on the toe of the slope.

8. Mitigation recommendations using engineered measures to protect the proposed structure(s) and any adjacent structures, infrastructure, adjacent wetlands, or critical fish and wildlife habitat from damage or destruction as a result of proposed construction activities shall be designed by a professional engineer. Design plans and detailed geotechnical recommendations may be provided in a document separate from the geotechnical report. When appropriate, such recommendations/plans may include, but are not necessarily limited to:

a. Design plans and associated design calculations for engineered structures or drainage systems (e.g., structural foundation requirements, retaining wall design, etc.).

b. Recommendations and requirements pertaining to the handling of surface and subsurface runoff in the developed condition.

c. Identification of necessary geotechnical inspections to assure conformance with the report mitigation and recommendations.

d. Proposed angles of cut and fill slopes, site grading requirements, final site topography shown as two-foot contours, and the location of any proposed structures, on-site septic systems, wells, stormwater management features, or facilities associated with the development detailed within the body of the report and shown on a site map at the same scale as that required in subsection (A)(4) of this appendix.

e. Soil compaction criteria and compaction inspection requirements.

f. An analysis that indicates how the proposal meets the standards outlined in this chapter.

g. Structural foundation requirements and estimated foundation settlement shall be provided if structures are proposed.

h. Lateral earth pressures.

i. Suitability of on-site soil for use as fill.

j. Mitigation measures for building construction on each lot for short plats, large lots, or formal plats such that additional geotechnical professional involvement is minimized during building construction.

B. The geotechnical report shall be prepared by an engineering geologist and shall be co-written by both an engineering geologist and professional engineer where both geological interpretations and engineering analyses and designs are necessary or prudent in the mitigation of the landslide hazard.

C. The geotechnical professional(s) who prepared the geotechnical report shall stamp the report with their license stamp or seal.

D. The department may request a geotechnical professional to provide additional information in the geotechnical report based upon existing conditions, changed conditions, or unique circumstances occurring on a case-by-case basis.

E. Geotechnical reports shall be in conformance with a format that is pre-approved by the department. (Ord. 17-513 § 3 (Exh. A)).

Chapter 14.100

SEISMIC (EARTHQUAKE) HAZARD AREAS

Sections:

- 14.100.010 Purpose.
- 14.100.020 Seismic hazard areas.
- 14.100.030 Seismic hazard area review procedures.
- 14.100.040 Seismic hazard area standards.
- 14.100.050 Buffer requirements.
- 14.100.060 Appendices.

14.100.010 Purpose.

Earthquakes have historically occurred throughout the Puget Sound region. Large earthquakes have caused loss of life and over a billion dollars in property damage. The purpose of this chapter is to protect the public health, safety, and general welfare of the citizens of Edgewood from the damaging effects of earthquakes. This chapter provides standards to ensure life safety and minimize public and private losses that may occur within a seismic hazard area. (Ord. 17-513 § 3 (Exh. A)).

14.100.020 Seismic hazard areas.

A. General. Seismic hazard areas are areas subject to severe risk of damage as a result of earthquake induced landsliding, seismic ground shaking, dynamic settlement, fault rupture, or soil liquefaction.

B. Potential Seismic Hazard Areas. Potential seismic hazard areas are those areas where the suspected risk of earthquake induced landsliding, dynamic settlement, fault rupture, ground deformation caused by soil liquefaction, or flooding is sufficient to require a further seismic hazard area review. These potential seismic hazard areas are determined using the following criteria:

1. Earthquake Induced Landslide Hazard Areas. Areas identified as potential landslide hazard areas in EMC 14.90.020.
2. Liquefaction or Dynamic Settlement Hazard Areas. Areas identified as high and moderate liquefaction and dynamic settlement hazard areas on the geologically hazardous areas map.
3. Fault rupture hazard areas.

C. Seismic Hazard Area Categories.

1. Earthquake Induced Landslide Hazard Areas. Earthquake induced landslide hazard areas include slopes that can become unstable as a result of strong ground shaking, even though these areas may be stable under nonseismic conditions.
2. Liquefaction and/or Dynamic Settlement Hazard Areas.
 - a. Liquefaction hazard areas are areas underlain by unconsolidated (corrected Standard Penetration Test blow counts, $[(N_1)_{60}]$ less than 30) sandy or silt soils (Unified Soil Classification System S or M soil types) and a shallow groundwater table (static groundwater depth less than 30 feet) capable of liquefying in response to earthquake shaking.
 - b. Dynamic settlement hazard areas are areas underlain by a significant thickness (more than 10 feet) of loose or soft soil not susceptible to liquefaction (e.g., peats or organic silts and clays, unsaturated loose sands or silts), but that could result in vertical settlement of the ground surface in response to earthquake shaking.
3. Fault Rupture Hazard Areas. Fault rupture hazard areas include:

- a. Active fault rupture hazard areas are areas where displacement (movement up, down, or laterally) of the ground surface has occurred during past earthquake(s) in the Holocene epoch; and
- b. Areas adjacent to the active fault rupture hazard area that may be potentially subject to ground surface displacement in a future earthquake. (Ord. 17-513 § 3 (Exh. A)).

14.100.030 Seismic hazard area review procedures.

A. General Requirements.

1. The city's geologically hazardous areas map provides an indication of where potential seismic hazard areas are located within the city.
2. The department will complete a review of the Critical Areas Atlas – Seismic Hazard Area Map for any regulated activity to determine whether the site for a proposed regulated activity is located within a seismic hazard area.
3. When the department's maps indicate that the site for a proposed regulated activity is located within a potential liquefaction or dynamic settlement hazard area, the department shall require the submittal of a geological assessment as outlined in subsection (B) of this section.
4. When the department's maps indicate that the site for a proposed regulated activity is located within a potential fault rupture hazard area, the department shall require the submittal of a geological assessment as outlined in subsection (B) of this section. The requirement to submit a geological assessment may be waived at the department's discretion when it is determined that the proposed project area for the regulated activity is located outside the potential fault rupture hazard area.
5. When the department's maps indicate that the site for a proposed regulated activity is or may be located within a potential earthquake induced landslide hazard area, the department shall conduct a review pursuant to the requirements set forth in Chapter 14.90 EMC.
6. Unless otherwise stated in this chapter, the critical area protective measure provisions contained in Chapter 14.10 EMC shall apply.

B. Geological Assessments. A geological assessment is a site investigation process to evaluate the on-site geology affecting a subject property and define the extent and severity of potential seismic hazards.

1. A geological assessment shall be required when the department's maps, sources, or field investigation indicate a site contains a potential liquefaction, dynamic settlement, or fault rupture hazard area. Geological assessments shall be submitted to the department for review and approval together with a seismic hazard area application.
2. A geotechnical professional(s) shall complete a field investigation and geological assessment to determine whether or not the site for a proposed regulated activity is located within a liquefaction or dynamic settlement hazard area.
 - a. The geological assessment shall be submitted in the form of a geotechnical verification when the geotechnical professional(s) finds that no liquefaction or dynamic settlement hazard area exists within the proposed project area.
 - b. The geological assessment shall be submitted in the form of a geotechnical report when the geotechnical professional(s) finds that a liquefaction or dynamic settlement hazard area exists within the proposed project area.
3. A geotechnical professional shall complete a field investigation and geological assessment presented in the form of a geotechnical report to determine whether or not the site for a proposed regulated activity is located within a fault rupture hazard area. Any structural recommendations proposed to mitigate the fault rupture hazard that are included in the geotechnical report shall be prepared by an engineer.

4. All geological assessments for seismic hazards submitted under this chapter shall include, at a minimum, the following items identified in subsections (B)(4)(a) through (i):

- a. All of the items required per EMC 14.10.080(C).
- b. The parcel number(s) of the subject property.
- c. Site address, if the city has assigned one.
- d. A brief description of the project (including the proposed land use) and the area to be developed.
- e. A map showing the property lines for the site, existing two-foot contours of the existing site topography, and the location of any existing structures, utilities, wells, stormwater or septic systems, or other developments.
- f. A site plan delineating the limits of the proposed development and the location of all areas of the site subject to potential seismic hazards based on the geologically hazardous areas map and, if applicable, limits of associated buffers.
- g. A description of the surface and subsurface geology, hydrology, soils, and vegetation of the site.
- h. A detailed overview of the field investigations, published data and references, data and conclusions from past geological assessments or geotechnical investigations of the site, site-specific measurements, tests, investigations, or studies, as well as the methods of data analysis and calculations that support the determination regarding whether liquefaction and/or dynamic settlement hazards are present on the site.
- i. The results, conclusions, and recommendations resulting from the geological assessment of the liquefaction and/or dynamic settlement hazards on the subject property as prepared by a geotechnical professional(s).

5. Geological assessments shall be prepared, signed, stamped, and dated by the appropriate geotechnical professional(s) and the format shall be pre-approved by the department.

6. Geological assessments that do not contain the minimum required information will be returned to the geotechnical professional(s) for revision.

7. The department shall review the geological assessment and either:

- a. Accept the geological assessment and approve the application; or
- b. Reject the geological assessment and require revisions or additional information.

8. A geological assessment for a specific site may be valid for a period of up to five years when the proposed land use activity and surrounding site conditions are unchanged. However, if any environmental conditions associated with the site change during that five-year period, the applicant may be required to submit an amendment to the geological assessment. (Ord. 17-513 § 3 (Exh. A)).

14.100.040 Seismic hazard area standards.

A. Earthquake Induced Landslide Hazard Areas. All standards set forth in Chapter 14.90 EMC shall apply to earthquake induced landslide hazard areas.

B. Liquefaction or Dynamic Settlement Hazard Areas.

- 1. All building structures shall conform to the standards set forth in EMC Title 15, Buildings and Construction.
- 2. Utility Lines. Utility lines, except for gas pipelines, which are prohibited, will be permitted when no other conveyance alternative is available. The line shall be located above ground and properly anchored and/or

designed so that it will continue to function in the event of seismically induced ground deformation. Provision for automatic shutoff of utilities in a ground-rupturing event will be required.

3. Roads, Bridges, and Trails. Roads, bridges, and trails shall be allowed when mitigation measures are provided that ensure the roadway prism or bridge structure will not be susceptible to damage from seismic induced ground deformation. Mitigation measures shall be designed for static and seismic loading conditions in accordance with the most recent version of the American Association of State Highway and Transportation Officials (AASHTO) Manual and also for an estimated range of ground surface offset presented in the geotechnical report.

C. Fault Rupture Hazard Areas. Any development, encroachment, clearing and grading, or building structures shall be prohibited within fault rupture hazard areas and associated buffers except as specified in the following standards:

1. Utility Lines. Utility lines, except for gas pipelines, which are prohibited, will be permitted when no other conveyance alternative is available. The line shall be located above ground and properly anchored and/or designed so that it will continue to function in the event of seismically induced ground deformation. Provision for automatic shutoff of utilities in a ground-rupturing event will be required.

2. Roads, Bridges, and Trails. Roads, bridges, and trails shall be allowed when all of the following conditions have been met:

a. Mitigation measures are provided that ensure the roadway prism and/or bridge structure will not be susceptible to damage from seismically induced ground deformation. Mitigation measures shall be designed for static and seismic loading conditions in accordance with the most recent version of the American Association of State Highway and Transportation Officials (AASHTO) Manual and also for an estimated range of ground surface offset presented in the geotechnical report.

b. The road is not a sole access for a development. (Ord. 17-513 § 3 (Exh. A)).

14.100.050 Buffer requirements.

A. Determining Buffer Widths.

1. The buffer width shall be measured on a horizontal plane from a perpendicular line established at the edge of the fault rupture hazard area limits.

2. A buffer is an area that is adjacent to a fault rupture hazard area that may be potentially subject to ground surface displacement in a future earthquake. No development shall be permitted within a fault rupture hazard area and its associated buffer. The required buffer width is the greater amount of the following distances:

a. Fifty feet from all edges of a fault rupture hazard area, except for high occupancy or essential facilities, where the minimum buffer distance shall be 100 feet; or

b. The required buffer width is the minimum distance recommended by the geotechnical professional(s).

B. Modification of Buffer Widths. The department may require a larger buffer width than the buffer distance, as determined in subsection (A) of this section, if the department determines the standard or proposed buffer is not adequate to protect the health, safety, or welfare of any proposed development. (Ord. 17-513 § 3 (Exh. A)).

14.100.060 Appendices.

A. Geological Assessments – Liquefaction or Dynamic Settlement Hazard Areas.

B. Geological Assessments – Fault Rupture Hazard Area Geotechnical Report.

APPENDIX A

GEOLOGICAL ASSESSMENTS – LIQUEFACTION OR DYNAMIC SETTLEMENT HAZARD AREAS

Article I. Geotechnical Verification

A. A geotechnical verification shall, at a minimum, include the following:

1. The general critical areas report requirements.
2. The geotechnical verification shall include all mandatory items listed in this chapter.
3. The geological assessment must include a determination that no liquefaction or dynamic settlement hazard exists within the proposed project area.
4. The verification shall include an accurate site plan drawn at a scale of either one inch equals 20 feet, 30 feet, or 50 feet, unless otherwise approved by the department. The department may require that the site plan information be based on a field survey by a licensed surveyor. The site plan shall include:
 - a. Property lines for the site, and the location of any existing structures.
 - b. The full geographical limits of the proposed project area or conceptual project area (i.e., area to be developed) and the location of any proposed structures, on-site septic systems, wells, and stormwater management features or facilities associated with the development, if known.

B. The geotechnical professional(s) who prepared the geotechnical verification shall stamp the verification with their license stamp or seal.

C. Hold harmless clauses, disclaimers, and limitations are not allowed within a geotechnical verification.

Article II. Geotechnical Report

A. A geotechnical report shall, at a minimum, include the following:

1. The general critical areas report requirements.
2. The document shall include all mandatory items listed in this chapter. The report shall be prepared by an engineer and shall be co-written by an engineering geologist where geological interpretations and conclusions critical to the assessment of liquefaction and/or dynamic settlement hazard and potential effects are necessary or prudent. The report shall specify the desired performance level of the structures and other development facilities, e.g., safety to building occupants, minimal damage to structure, post-earthquake serviceability for pre-earthquake operations, or no damage.
3. The results, conclusions, and recommendations resulting from the geological assessment of the liquefaction or dynamic settlement hazards on the subject property as prepared by the geotechnical professional(s).
4. The geological assessment geotechnical report shall include:
 - a. A statement that the proposed project area falls within a liquefaction and/or dynamic settlement hazard area.
 - b. A detailed engineering evaluation of expected ground displacements or other liquefaction or dynamic settlement effects, e.g., bearing failures, flotation of buried tanks, or similar, and proposed mitigation measures to ensure an acceptable level of risk for the proposed structure type or other development facilities, as well as the proposed land use type or occupancy category. The minimum level of acceptable risk for any proposed structure or development facility shall ensure the life safety of any occupant. Where appropriate, a range of mitigation options should be considered depending on site conditions, the intended use of the structures, and acceptable levels of settlement.
5. The report shall include a site plan drawn to scale. The department may require that the site plan information be based on a field survey by a licensed surveyor. The site plan shall include:
 - a. Property lines for the site and the location of any existing structures.

- b. The limits or location of any liquefaction or dynamic settlement hazard area(s).
 - c. The full geographical limits of the proposed project area or conceptual project area (i.e., area to be developed) and the location of any proposed structures, on-site septic systems, wells, and stormwater management features or facilities associated with the development, if known.
 - d. Location and unique identifier of geotechnical explorations used to characterize subsurface conditions.
6. The geotechnical study shall include field exploration sufficient to assess the potential for liquefaction or dynamic settlement hazards and options for mitigation of those hazards. Copies of the exploration logs shall be provided in the report. The geotechnical study shall include field exploration sufficient to assess the potential for liquefaction or dynamic settlement hazards and options for mitigation of those hazards. Copies of the exploration logs shall be included in the report. The project geotechnical professional must provide justification for the scope of the field exploration program. The city's geotechnical professional reserves the right to request additional exploration if deemed appropriate. If a dispute arises between the city's geotechnical professional and the project geotechnical professional regarding the scope of the field exploration, the city reserves the right to require an independent, third party review to be paid for by the applicant to resolve the dispute.
7. If beneficial to the assessment of seismic hazards for the project, the three-dimensional subsurface conditions at the site shall be presented using one or more cross-sections showing location and depth penetration of borings or CPT soundings, interpretation of the geometry of major soil units, and projected location of the static groundwater surface determined from the subsurface exploration. The cross-sections shall be presented at a scale of one inch equals 20 feet, one inch equals 30 feet, one inch equals 50 feet (or other scale deemed appropriate by the department). Each cross-section shall have a legend with a description of the various major soil units. The city's geotechnical professional reserves the right to request inclusion of one or more cross-sections in the geotechnical report. If a dispute arises between the project geotechnical professional and the city's geotechnical professional regarding this issue, then the city reserves the right to require an independent, third party review to be paid for by the applicant to resolve the dispute.
8. All assessments of liquefaction or dynamic settlement hazards and effects will be based on a design earthquake using ground motion parameters consistent and equivalent to those specified in the most current version of the International Building Code. These assessments shall use the shallowest groundwater table observed during or inferred from subsurface exploration and characterization, e.g., the measured depth of static groundwater immediately prior to abandonment of borings, or observation of iron oxide mottling of soils samples.
9. Results of laboratory testing of samples retrieved during drilling and sampling shall be presented in order to support the values of fines contents used in subsequent analysis of liquefaction and/or dynamic settlement hazard. Where only CPT methods are used in site assessment, the correlation between fines content and CPT measurements will be discussed and documented. This documentation will require rigorous correlation of CPT and fines content measurements from similar geological deposits within the Puget Sound region.
10. The geotechnical report shall include a detailed assessment of the liquefaction and/or dynamic settlement hazard based on analysis of available subsurface data using state-of-the-practice methodologies. The results of the analysis shall be documented, and all results of intermediate and final calculations and results, including factors of safety, shall be included.
11. When appropriate, the geotechnical report shall include an assessment of the potential for large lateral spreads or flow failures, bearing failures, settlement, limited lateral displacement, and flotation of buried facilities. The methodologies used must be, at a minimum, state-of-the-practice, and the conclusions regarding the potential and severity of the possible liquefaction and/or dynamic settlement induced failure modes shall be presented.
12. Alternative mitigative measures including structural and foundation design options and/or soil improvement techniques shall be evaluated and compared for their effectiveness in reaching the level of performance specified in the report introduction. Effectiveness of soil improvement techniques shall be specified in terms of post-treatment densification or strength improvement as measured by appropriate subsurface investigation and

testing. The extent of the post-treatment verification testing shall be provided on a site map at the same scale as the map presented in Article I. Geotechnical review of all final plans is required and the findings of the review shall be documented in writing.

B. The geotechnical professional(s) who prepared the geotechnical report shall stamp the report with their license stamp or seal.

C. Hold harmless clauses, disclaimers, and limitations are not allowed within a geotechnical report.

APPENDIX B

GEOLOGICAL ASSESSMENTS – FAULT RUPTURE HAZARD AREA GEOTECHNICAL REPORT

A. A geotechnical report shall, at a minimum, include the following:

1. The general critical areas report requirements contained herein.
2. The report shall be prepared by an engineer and shall be co-written by an engineering geologist where geological interpretations and conclusions critical to the assessment of liquefaction and/or dynamic settlement hazard and potential effects are necessary or prudent.
3. The following topics should be considered and addressed in detail where essential to support opinions, conclusions, and recommendations in any geologic report on faults. It is not expected that all the topics or investigative methods would be necessary in a single investigation. In specific cases, it may be necessary to extend some of the investigative methods well beyond the site or property being investigated.
 - a. Purpose and scope of investigation; description of proposed development.
 - b. Geologic and tectonic setting. Include seismicity and earthquake history.
 - c. Site description and conditions, including dates of site visits and observations. Include information on geologic units, graded and filled areas, vegetation, existing structures, and other factors that may affect the choice of investigative methods and interpretation of data.
 - d. Methods of Investigation.
 - i. Review of published and unpublished literature, maps, and records concerning geologic units, faults, groundwater barriers, and other factors.
 - ii. Stereoscopic interpretation of aerial photographs, review of LiDAR based topography, and other remotely sensed images to detect fault-related topography (geomorphic features), vegetation and soil contrasts, and other lineaments of possible fault origin. The area interpreted usually should extend beyond the site boundaries.
 - iii. Surface observations, including mapping of geologic and soil units, geologic structures, geomorphic features and surfaces, springs, deformation of engineered structures due to fault creep, both on and beyond the site.
 - iv. Subsurface Investigations.
 - (A) Trenching and other excavations to permit detailed and direct observation of continuously exposed geologic units, soils, and structures; must be of adequate depth and be carefully logged (Taylor & Cluff 1973, Hatheway & Leighton 1979, McCalpin 1996b).
 - (B) Borings and test pits to permit collection of data on geologic units and groundwater at specific locations. Data points must be sufficient in number and spaced adequately to permit valid correlations and interpretations.

(C) Cone penetrometer testing (CPT) (Grant et al., 1997, Edelman et al., 1996). CPT must be done in conjunction with continuously logged borings to correlate CPT results with on-site materials. The number of borings and spacing of CPT soundings should be sufficient to adequately image site stratigraphy. The existence and location of a fault based on CPT data are interpretative.

v. Geophysical Investigations. These are indirect methods that require a knowledge of specific geologic conditions for reliable interpretations. They should seldom, if ever, be employed alone without knowledge of the geology (Chase & Chapman 1976). Geophysical methods alone never prove the absence of a fault nor do they identify the recency of activity. The types of equipment and techniques used should be described and supporting data presented (California Board of Registration for Geologists and Geophysicists, 1993).

(A) High-resolution seismic reflection (Stephenson et al., 1995, McCalpin, 1996b).

(B) Ground penetrating radar (Cai et al., 1996).

(C) Other methods include: seismic refraction, magnetic profiling, electrical resistivity, and gravity (McCalpin, 1996b).

vi. Age-dating techniques are essential for determining the ages of geologic units, soils, and surfaces that bracket the time(s) of faulting (Pierce, 1986, Birkeland et al., 1991, Rutter & Catto, 1995, McCalpin, 1996a).

(A) Radiometric dating (especially ¹⁴C).

(B) Soil profile development.

(C) Rock and mineral weathering.

(D) Landform development.

(E) Stratigraphic correlation of rocks, minerals, and fossils.

(F) Other methods: artifacts, historical records, tephrochronology, fault scarp modeling, thermoluminescence, lichenometry, paleomagnetism, dendrochronology, etc.

vii. Other methods should be included when special conditions permit or requirements for critical structures demand a more intensive investigation.

(A) Aerial reconnaissance overflights.

(B) Geodetic and strain measurements.

(C) Microseismicity monitoring.

e. Conclusions.

i. Location and existence (or absence) of hazardous faults on or adjacent to the site; ages of past rupture events.

ii. Type of faults and nature of anticipated offset, including sense and magnitude of displacement, if possible.

iii. Distribution of primary and secondary faulting (fault zone width) and fault-related deformation.

- iv. Probability of, or relative potential for, future surface displacement. The likelihood of future ground rupture seldom can be stated mathematically, but may be stated in semiquantitative terms such as low, moderate, or high, or in terms of slip rates determined for specific fault segments.
 - v. Degree of confidence in, and limitations of data and conclusions.
- f. Recommendations.
- i. The recommended increase from the standard buffer distance (50 feet) of proposed structures from fault rupture hazard areas. The recommended buffer distance generally will depend on the quality of data and type and complexity of fault(s) encountered at the site and the proposed land use type (i.e., occupancy). In order to establish an appropriate buffer distance from a fault located by indirect or interpretative methods (e.g., borings or cone penetrometer testing), the area between data points also should be considered underlain by a fault unless additional data are used to more precisely locate the fault. Additional measures (e.g., strengthened foundations, engineering design, and flexible utility connections) to accommodate warping and distributive deformation associated with faulting (Lazarte and others, 1994).
 - ii. Risk evaluation relative to the proposed development.
 - iii. Limitations of the investigation; need for additional studies.
- g. References.
- i. Literature and records cited or reviewed; citations should be complete.
 - ii. Aerial photographs or images interpreted: list type, data, scale, source, and index numbers.
 - iii. Other sources of information, including well records, personal communications, and other data sources.
- h. Illustrations. The following illustrations should be provided:
- i. A location map that identifies site locality, significant faults, geographic features, regional geology, seismic epicenters, and other pertinent data; 1:24,000 scale is recommended.
 - ii. A site development map that shows site boundaries, existing and proposed structures and limits of the proposed project area, graded areas, streets, exploratory trenches, borings geophysical traverses, locations of faults, and other data; recommended scale is 1:2,400 (one inch equals 200 feet), or larger.
 - iii. A geologic map that shows the distribution of geologic units (if more than one), faults and other structures, geomorphic features, aerial photographic lineaments, and springs; on topographic map 1:24,000 scale or larger; can be combined with subsection (A)(3)(h)(i) or (ii) of this appendix.
 - iv. Geologic cross-sections, if needed, to provide three-dimensional picture.
 - v. Logs of exploratory trenches and borings that show details of observed features and conditions (note: these should not be generalized or diagrammatic). Trench logs should show topographic profile and geologic structure at a 1:1 horizontal-to-vertical scale; scale should be 1:60 (one inch equals five feet) or larger.
 - vi. Geophysical data and geologic interpretations.
- i. Appendix. Attach any supporting data not included above, e.g., water well data, photographs, and aerial photographs.
4. The geotechnical professional who prepared the geotechnical report shall stamp the report with their license stamp or seal.

5. The department may request a geotechnical professional to provide additional information in the geotechnical report based upon existing conditions, changed conditions, or unique circumstances occurring on a case-by-case basis.

6. Hold harmless clauses, disclaimers, and limitations are not allowed to be included, neither expressly nor implied, within a geological assessment. (Ord. 17-513 § 3 (Exh. A)).

Chapter 14.110

EROSION HAZARD AREAS

Sections:

- 14.110.010 Purpose.
- 14.110.020 Erosion hazard area.
- 14.110.030 Erosion hazard area review procedures.
- 14.110.040 Erosion hazard area standards.
- 14.110.050 Buffer requirements.
- 14.110.060 Appendices.

14.110.010 Purpose.

The following statements describe the purpose of this chapter:

- A. Protect human life and health;
- B. Regulate uses of land in order to avoid damage to structures and property being developed and damage to neighboring land and structures;
- C. Identify and map any erosion hazard area;
- D. Minimize impacts on wetlands and critical fish and wildlife species and their associated habitat that can result from erosion;
- E. Establish a permit requirement and review procedures for development proposals in areas with potential erosion hazards;
- F. Strike a balance between the need to maintain natural shoreline erosion/regression processes and the need to protect existing and proposed development. (Ord. 17-513 § 3 (Exh. A)).

14.110.020 Erosion hazard area.

A. Erosion Hazard Area Indicators. Erosion hazard areas are areas potentially subject to land regression or retreat due to a combination of geologic, seismic, hydrologic, or manmade factors. Erosion hazard areas can be identified by indicators of active land retreat as a result of fluvial processes.

B. Erosion Hazard Area Categories.

1. Potential Erosion Hazard Areas. Potential erosion hazard areas, as depicted on the geologically hazardous areas map, are those areas where the suspected risk of erosion through either loss of soil, slope instability, or land regression is sufficient to require additional review to assess the potential for active erosion activity or apply additional standards. These potential erosion hazard areas are determined using the following criteria:

- a. Shoreline Erosion Hazard Areas. Areas within 200 feet of a freshwater lake, pond, or shoreline. The distance shall be measured landward perpendicularly from the edge of the ordinary high water mark.
- b. Riverine Erosion Hazard Areas. The rivers subject to regulation as a CMZ listed in EMC 14.80.040(B)(4).

c. Soil Erosion Hazard Areas. Areas identified as having slopes of 20 percent or greater and that are classified as having severe or very severe erosion potential by the Soil Conservation Service, United States Department of Agriculture (USDA).

2. Active Shoreline Erosion Hazard Areas. Land areas located directly adjacent to surface water bodies that, through the geological assessment process, are identified as regressing, retreating, or potentially unstable as a result of undercutting by wave action or bluff erosion. The limits of the active shoreline erosion hazard area shall extend landward to include that land area that is calculated, based on the rate of regression, to be subject to erosion processes within the next 10-year time period.

3. Riverine Erosion Hazard Areas or CMZs. Riverine erosion hazard areas are located within the lateral extent of likely watercourse channel movement due to bank destabilization and erosion, rapid incision, and shifts in location of watercourse channels. Rivers and streams subject to erosion are regulated as a CMZ.

4. Soil Erosion Hazard Areas. Soil erosion hazard areas are identified by the presence or absence of natural vegetative cover, soil texture condition, slope, and rainfall patterns, or man-induced changes to such characteristics that create site conditions which are vulnerable to erosion of the upper soil horizon. Soil erosion hazard areas include those areas with slopes of 20 percent or greater and that are classified as having severe or very severe erosion potential by the USDA Natural Resources Conservation Service. (Ord. 17-513 § 3 (Exh. A)).

14.110.030 Erosion hazard area review procedures.

A. General Requirements.

1. The city's geologically hazardous areas map provides an indication of where potential erosion hazard areas are located. The actual presence or location of an erosion hazard area or additional potential erosion hazard area that has not been mapped, but may be present on or adjacent to a site, shall be determined using the procedures and criteria established in this chapter.
2. The department will complete a review of the geologically hazardous areas map, and any other source documents for any proposed regulated activity, to determine whether the site for the regulated activity is located within a potential erosion hazard area.
3. When the department's maps, sources, or field investigations indicate that the site for a proposed regulated activity is located within a potential shoreline erosion hazard area, the department shall require a geological assessment as outlined in subsection (B) of this section.
4. When the department's maps, sources, or field investigations indicate that the proposed project area for a regulated activity is located within a potential riverine erosion hazard area or CMZ, the department shall conduct a review pursuant to Chapter 14.80 EMC.
5. When the department's maps, sources, or field investigations indicate that the proposed project area for a regulated activity is located within a potential soil erosion hazard area, the department shall require submittal of an erosion control plan pursuant to the requirements set forth in EMC Title 15.
6. Applicants requesting to develop a bulkhead along a shoreline shall be required to submit a geotechnical report.

B. Geological Assessment. A geological assessment is a site investigation process to evaluate the on-site geology affecting a subject property and proposed development.

1. Geological assessments shall be submitted to the department for review and approval together with a shoreline erosion hazard area application.
2. The geological assessment shall include a field investigation and may also include review of public records and documentation, analysis of historical air photos, LiDAR mapping, published data and references, etc.
3. The geological assessment shall include the following information and analysis:

- a. An analysis of the shoreline erosion processes on and in the vicinity of the site including an evaluation of erosion and shoreline retreat that has occurred over the past decade and an estimated probable rate of erosion based upon the historic rate of erosion that has occurred on the site.
 - b. A determination of which areas on the site meet the criteria for an active shoreline erosion hazard area.
 - c. A determination of the area on the site or in the vicinity of the site that will experience regression in the next 120 years given natural processes.
 - d. All of the information required per EMC 14.10.080(C).
4. Geological assessments shall be prepared, signed, and dated by a geotechnical professional and the format shall be pre-approved by the department.
5. A geotechnical professional shall complete a field investigation and geological assessment to determine whether or not an active shoreline erosion hazard area exists within 200 feet of the site.
- a. The geological assessment shall be submitted in the form of a geotechnical letter when the geotechnical professional finds that no active shoreline erosion hazard area exists within 200 feet of the site.
 - b. The geological assessment shall be submitted in the form of geotechnical verification when the geotechnical professional finds that an active shoreline erosion hazard area exists but is located more than 200 feet away from the proposed project area.
 - c. The geological assessment shall be submitted in the form of a geotechnical report when the geotechnical professional finds that an active shoreline erosion hazard area exists within 200 feet of the proposed project area or when a geotechnical professional determines that mitigation measures, such as a bulkhead, are necessary in order to construct or develop within a potential shoreline erosion hazard area.
6. The department shall review the geological assessment and either:
- a. Accept the geological assessment and approve the application; or
 - b. Reject the geological assessment and require revisions or additional information.
7. A geological assessment for a specific site may be valid for a period of up to five years when the proposed land use activity and surrounding site conditions are unchanged. However, if any environmental conditions associated with the site change during that five-year period, the applicant may be required to submit an amendment to the geological assessment.

C. Riverine Erosion Hazard Area (Channel Migration Zones) Review. Riverine erosion hazard areas shall be reviewed pursuant to the requirements set forth in Chapter 14.80 EMC.

D. Soil Erosion Hazard Area Review. Soil erosion hazard areas shall be reviewed pursuant to the requirements set forth in EMC Title 15, Buildings and Construction. (Ord. 17-513 § 3 (Exh. A)).

14.110.040 Erosion hazard area standards.

A. Active Shoreline Erosion Hazard Areas. Any development, encroachment, clearing and grading, timber harvest, building structures, impervious surfaces, and vegetation removal shall be prohibited within active shoreline erosion hazard areas and associated buffers except as specified in the following standards:

1. Shoreline Erosion Protection Measures. Shoreline erosion protection measures located within or adjacent to freshwater or marine shorelines shall be allowed subject to the following:
 - a. The proposed shoreline protection measure shall comply with the standards set forth in Chapter 14.50 EMC, Critical Fish and Wildlife Habitat Areas.

- b. A geological assessment geotechnical report that indicates that the shoreline is currently experiencing active erosion, i.e., land retreat or regression.
- c. The use of the shoreline erosion protection measure will not cause a significant adverse impact on adjacent properties or critical fish and wildlife species and their associated habitat (i.e., increase erosion on adjacent properties).
- d. The use of soft armoring techniques is the preferred method for shoreline protection.
- e. Hard armoring shoreline erosion control measures shall be approved only when a geological assessment – shoreline erosion geotechnical report has been completed and indicates the following:
 - i. The regression has been monitored on a yearly interval for a period of at least five consecutive years prior to allowing a bulkhead to be constructed. This monitoring shall be conducted by field survey measurements of a licensed surveyor. The department may shorten or eliminate the monitoring period if there are indicators that the regression rate is rapid and an existing structure may be threatened prior to completion of the monitoring period;
 - ii. The use of beach nourishment alone or in combination with soft armoring techniques is not adequate to protect the property from shoreline erosion processes; and
 - iii. The property contains an existing structure(s) that will be threatened within the next 10 years or the buildability of an undeveloped site will be threatened within the next 10 years if a hard armoring method of shoreline erosion protection is not provided.
- f. Hard armoring shoreline protection measures shall not be allowed when structures can be located landward of the 120-year rate of regression area.

2. Stormwater Conveyance. Surface drainage into an active shoreline erosion hazard area should be avoided. If there are no other alternatives for discharge, then drainage must be collected upland of the top of the active shoreline erosion hazard area and directed downhill in a high density polyethylene stormwater pipe with fuse welded joints that includes an energy dissipating device at the base of the active landslide hazard area. The pipe shall be located on the surface of the ground and be properly anchored so that it will continue to function in the event of an underlying slide. The number of these pipes should be minimized along the slope frontage.

3. Utility Lines. Utility lines will be permitted when no other conveyance alternative is available. The line shall be located above ground and properly anchored and/or designed so that it will continue to function in the event of an underlying slide.

4. Roads, Bridges, and Trails. Roads, bridges, and trails shall be allowed when all of the following conditions have been met:

- a. Mitigation measures are provided that ensure the roadway prism and/or bridge structure will not be susceptible to damage from active erosion.
- b. The road is not a sole access for a development.

B. Shoreline Erosion Hazard Management Area. All regulated activities such as but not limited to building structures, impervious surfaces, vegetation removal, timber harvest, or grading activities may be allowed in areas located within 200 feet of an active shoreline erosion hazard area subject to the following standards:

- 1. The department reviews and approves a geological assessment – shoreline erosion hazard geotechnical report and determines that the proposed project area is located outside an active shoreline hazard area and the required buffer.
- 2. The proposed recommendations and mitigation measures contained within the geotechnical report are adequate to reduce or mitigate risks to the natural environment, health, and safety.

3. Surface drainage from the proposed project area, including downspouts, landscape irrigation systems, and runoff from paved or unpaved surfaces upland of the shoreline, shall not be directed through an active shoreline erosion hazard area or its associated buffer unless it is conveyed in conformance with the provisions in subsection (A)(2) of this section.

4. Stormwater retention and detention systems, such as dry wells and infiltration systems utilizing buried pipe or French drains, shall not be permitted unless such systems are designed by a professional engineer and the geotechnical report indicates that such a system will not affect the stability of the shoreline.

5. Proposed developments, with the exception of shoreline erosion protection measures, shall be sited far enough from regressing shorelines to ensure 120 years of useful life for any proposed structures or infrastructure.

C. Riverine Erosion Hazard Area or CMZ Review. Riverine erosion hazard areas shall be reviewed pursuant to the requirements set forth in Chapter 14.80 EMC.

D. Soil Erosion Hazard Area Review. Soil erosion hazard areas shall be reviewed pursuant to the requirements set forth in EMC Title 15, Buildings and Construction. (Ord. 17-513 § 3 (Exh. A)).

14.110.050 Buffer requirements.

A. Determining Buffer Widths.

1. The buffer width shall be measured on a horizontal plane from a perpendicular line established at the edge of the active shoreline erosion hazard area limits.

2. An undisturbed buffer of existing vegetation shall be required for an active shoreline erosion hazard area. The required standard buffer width is either subsection (A)(2)(a) or (b) of this section, whichever is greater:

a. Fifty feet from all edges of the active shoreline erosion hazard area limits; or

b. A distance of one-third the height of the slope at the top of the slope and a distance of one-half the height at the bottom of the slope.

3. The buffer width may be reduced or eliminated upon the director's approval of a geotechnical report that demonstrates that such a reduction would not result in an increased risk of erosion either on or off of the subject property.

B. Modification of Buffer Widths. The department may require a larger buffer width than the standard buffer distance, as determined in subsection (A) of this section, if any of the following are identified through the geological assessment process:

1. The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse impacts.

2. The area has a severe risk of slope failure or downslope stormwater drainage impacts. (Ord. 17-513 § 3 (Exh. A)).

14.110.060 Appendices.

A. Geological Assessment – Shoreline Erosion Hazard Geotechnical Letter.

B. Geological Assessment – Shoreline Erosion Hazard Geotechnical Verification.

C. Geological Assessment – Shoreline Erosion Hazard Geotechnical Report.

APPENDIX A

GEOLOGICAL ASSESSMENT – SHORELINE EROSION HAZARD GEOTECHNICAL LETTER

A. A geotechnical letter shall, at a minimum, include the following:

1. The general critical areas report requirements.
2. A summary of the findings of the site visit, a site plan, and a summary of the findings from the review of documents listed in EMC 14.110.030(B)(2). The appropriate professional preparing the geotechnical letter shall provide conclusions and recommendations as to shoreline stability for the proposed development.

B. The geotechnical professional who prepared the geotechnical letter shall stamp the letter with his or her seal.

C. Hold harmless clauses, disclaimers, and limitations are not allowed within a geotechnical letter.

APPENDIX B

GEOLOGICAL ASSESSMENT – SHORELINE EROSION HAZARD GEOTECHNICAL VERIFICATION

A. A geotechnical verification shall, at a minimum, include the following:

1. The general critical areas report requirements.
2. A summary of the results, conclusions, and recommendations resulting from the geological assessment, as set forth in EMC 14.110.030(B). The verification will also include a summary of the findings of the site visit, a site plan, and a summary of the findings from the review of the documents listed in EMC 14.110.030(B)(2).
3. An accurate site plan drawn at a scale of one inch equals 20 feet, one inch equals 30 feet, one inch equals 50 feet (or other scale deemed appropriate by the department) is required. The department may require that the site plan information listed below be based on a field survey by a licensed surveyor. The site plan shall include:
 - a. The limits and location of the active shoreline erosion hazard area(s).
 - b. The limits of the required shoreline erosion hazard buffer.
 - c. The limits and location of the shoreline erosion hazard management area.
 - d. The limits and location of the 120-year regression area.
 - e. The location of any existing structures, utilities, on-site septic systems, wells, and stormwater management facilities.
 - f. The location of any proposed structures, utilities, on-site septic systems, wells, and stormwater management facilities.
 - g. The full geographical limits of the proposed project area to be developed.
 - h. Dimension of the closest distance between the identified active shoreline hazard area boundary and the proposed project area.
 - i. Dimension of the closest distance between the 120-year regression line and the proposed project area.
 - j. Existing contours on the site at two-foot intervals.
 - k. Property lines for the site.
 - l. North arrow and scale.

B. The geotechnical professional who prepared the geotechnical verification shall stamp the verification with their seal.

C. Hold harmless clauses, disclaimers, and limitations are not allowed within a geotechnical verification.

APPENDIX C

GEOLOGICAL ASSESSMENT – SHORELINE EROSION HAZARD GEOTECHNICAL REPORT

A. A geotechnical report shall, at a minimum, include the following:

1. The general critical areas report requirements.
2. A summary of the results, conclusions, and recommendations resulting from the geological assessment. The report will also include a summary of the findings of the site visit, a site plan, and a summary of the findings from the review of documents listed in EMC 14.110.030(B)(2). The summary shall specifically address:
 - a. Whether it is possible given the physical constraints of the property (size, shape, building setbacks, utility requirements, etc.) to locate the proposed development outside of the 120-year area of regression based on natural shoreline processes.
 - b. If it is not possible to locate the development outside of the 120-year area of regression (based on natural processes), determine whether beach nourishment, soft armoring techniques, or both can be used to slow the rate of regression such that the proposed development is no longer within the 120-year regression area.
 - c. If it is not possible to locate the development outside of the 120-year area of regression, based on the use of beach nourishment or soft armoring techniques, outline the strategy to monitor the rate of regression on the site.
 - d. Determine whether any proposed shoreline erosion protection measures will cause an increase in the rate of regression on neighboring properties.
3. An accurate site plan drawn at a scale of one inch equals 20 feet, one inch equals 30 feet, one inch equals 50 feet (or other scale deemed appropriate by the department) is required. The department may require that the site plan information listed below be based on a field survey by a licensed surveyor. The site plan shall include:
 - a. The limits and location of the active shoreline erosion hazard area(s).
 - b. The limits of the required shoreline erosion hazard buffer based upon the requirements.
 - c. The limits and location of the shoreline erosion hazard management area.
 - d. The limits and location of the 120-year regression area based on natural shoreline processes and, if applicable, based upon proposed shoreline protection measures.
 - e. The location of any existing structures, utilities, on-site septic systems, wells, and stormwater management facilities.
 - f. The location of any proposed structures, utilities, on-site septic systems, wells, and stormwater management facilities.
 - g. The full geographical limits of the proposed project area to be developed.
 - h. Dimension of the closest distance between the identified active shoreline hazard area boundary and the proposed project area.
 - i. Dimension of the closest distance between the 120-year regression line and the proposed project area.
 - j. Existing contours on the site at two-foot intervals.
 - k. Property lines for the site.
 - l. North arrow and scale.

4. A discussion of any proposed shoreline protection measures including design and construction drawings is required.

5. A list of references utilized in preparation of the report.

B. The geotechnical professional(s) who performed the geological assessment shall stamp the report with their license stamp or seal. The report must be co-authored by a licensed professional engineer when engineering designs or interpretations are necessary to address the report requirements. The engineer must also stamp the report with their license stamp or seal.

C. The department may request a geotechnical professional to provide additional information in the geotechnical report based upon existing conditions, changed conditions, or unique circumstances occurring on a case-by-case basis.

D. Hold harmless clauses, disclaimers, and limitations are not allowed within a geotechnical report.

E. Geotechnical reports shall be in conformance with a format that is pre-approved by the department. (Ord. 17-513 § 3 (Exh. A)).

Chapter 14.120

NATURAL RESOURCE LANDS

Sections:

14.120.010	Purpose.
14.120.020	Intent.
14.120.030	Applicability.
14.120.040	Mineral resource lands designation.
14.120.050	Natural resource lands noticing requirements.
14.120.060	Current use assessment.
14.120.070	Variances and appeals.
14.120.080	Review process.
14.120.090	Title, plat, and regulated activities notification.
14.120.100	Permitted uses.
14.120.110	Appendices.

14.120.010 Purpose.

This chapter establishes requirements and regulations to protect natural resource lands and is established pursuant to WAC 197-11-908 and RCW 36.70A.170 and 36.70A.060. The city therefore designates agricultural lands and mineral resource lands, and all associated buffers as being critical areas and designated natural resource lands. By regulating development within 500 feet of natural resource lands, this chapter seeks to implement the following goals and policies to:

A. Inform the public of the existence, location and potential incompatibility impacts of development on, or within 500 feet of, these critical areas within the city.

B. Encourage the retention of open space, development of recreational opportunities, conserve priority habitat, increase access to natural resource lands and water, and develop parks.

C. Assure the conservation of resource lands and related activities by limiting encroachment of incompatible development thereon.

D. Promote the conservation of mineral resource lands through inclusion of known deposits of minerals and materials.

E. Assure that undeveloped mineral and material resources will not be forever lost by prior development of the land for other purposes.

F. Allow for the necessary mineral processing to convert such minerals and materials into marketable products.

G. Protect the environment and enhance the state's high quality of life, including air and water quality and the availability of water.

H. Maintain and enhance the biological and physical functions and values of wetlands. (Ord. 17-513 § 3 (Exh. A)).

14.120.020 Intent.

Resource lands are of special concern to the citizens, the city, and the state. The intent of this chapter is to conserve resource lands by establishing standards for development of sites which contain, or are within 500 feet of, resource lands to promote the public health, safety, and welfare by:

A. Noticing of property on, or within, natural resource land areas;

B. Mitigating unavoidable impacts by regulating development;

C. Protecting from development impacts;

D. Protecting the public against losses from:

1. Costs of public emergency rescue and relief operations where the causes are avoidable;

2. Degradation of the natural environment and the expense associated with repair or replacement;

E. Preventing adverse impacts on water availability, water quality, wetlands, and streams;

F. Protecting unique, fragile, and valuable elements of the environment, including fish and wildlife habitat;

G. Providing sufficient information to show that critical areas are adequately protected prior to approving, conditioning, or denying public or private development activity;

H. Providing the public with sufficient information and notice of potential risks associated with development in any critical area or sensitive area;

I. Implementing the goals and requirements of the Growth Management Act (RCW 36.70A.060), the city's comprehensive plan, and all updates and amendments, functional plans, and other land use policies formally adopted or accepted by the city. (Ord. 17-513 § 3 (Exh. A)).

14.120.030 Applicability.

This chapter shall apply to all properties designated as resource lands, agricultural lands, mineral resource lands, or properties within 500 feet of designated resource lands within Edgewood. When the requirements of this title are more stringent than those of other local, state, or federal law, codes, or regulations, the requirements of this title shall apply.

A. Agricultural Lands. Lands that are not already characterized by urban growth and that have long-term significance for the commercial production of food or other agricultural products. Agricultural lands are those lands meeting all of the following criteria:

1. Lands in parcels which are 10 acres or larger in size;

2. Lands which are on prime or unique soils as identified in:

a. United States Department of Agriculture (USDA), Soil Conservation Service, February 1979, Soil Survey of Pierce County Area, Washington; or

b. USDA, Soil Conservation Service, June 1981, Important Farmlands of Pierce County, Washington;

- c. Lands which are primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, or livestock, and which have long-term commercial significance for agricultural production; and
- d. Lands which are not within 500 feet of lots of record of one acre or less on more than 50 percent of the perimeter of the parcel.

B. Mineral Resource Lands. Mineral resource lands shall be identified by the city using the criteria set forth in WAC 365-190-070, as now exists or as may hereafter be amended or modified.

C. Property Adjacent to Resource Lands. All plats, short plats, development permits, and building permits issued for development activities within 500 feet of lands designated as natural resource lands shall contain a notice that a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration. (Ord. 17-513 § 3 (Exh. A)).

14.120.040 Mineral resource lands designation.

A. The city has classified the following areas as potential mineral resource lands.

- 1. Parcels: 0420164023, 0420164024, 0420164016 (commonly known as Olson); and
- 2. Parcels: 0420162047, 0420162048 (commonly known as Josties); and
- 3. Parcels: 0420084072, 0420084002, 0420084005, 0420084069, 0420084068, 0420171073, 0420171057, 0420171000, 0420171059 (commonly known as Fife Sand and Gravel).

B. The city staff shall study each area and prepare a written analysis of each area.

C. The city council shall review the staff analysis and recommendation(s) and shall, by ordinance, approve, deny, or modify the particular study area designation using the criteria in EMC 14.120.060. (Ord. 17-513 § 3 (Exh. A)).

14.120.050 Natural resource lands noticing requirements.

Pursuant to RCW 36.70A.060, the city shall require that all plats, development applications, or permits issued for development activities on, abutting, or within 500 feet of lands designated as natural resource lands contain a notice (see Appendices A through C of this chapter).

A. General. If more than one natural resource land subject to the provisions of this title intersects the subject parcel, then one notice addressing all of the natural resource areas shall be sufficient.

B. Title Notification.

- 1. When the city determines that activities not exempt from this title are proposed, the owner shall file a notice with the Pierce County auditor in accordance with Appendices A through C of this chapter. The notice shall provide a public record of the presence of any sensitive area; the application of this title to the property; and any limitations on activity in or affecting such sensitive area.
- 2. The notice shall be notarized and recorded with the Pierce County auditor before approval of any regulated use or activity on the site.

C. Plat Notification. For all proposals requiring a plat within any sensitive area, the applicant shall note the face of the plat consistent with the language set forth in Appendices A through C of this chapter.

D. Permit Notification. The department shall require that all permits issued for regulated activities on or within 500 feet of natural resource lands contain a notice as set forth in Appendices A through C of this chapter. (Ord. 17-513 § 3 (Exh. A)).

14.120.060 Current use assessment.

A. An owner of natural resource lands or open space desiring current use classification under Chapter 84.40 RCW may file for such current use classification.

B. An owner of undeveloped land with critical areas which has been placed in a separate tract or tracts, protective easement, public or private land trust dedication, or other similarly preserved area for the protection of these critical areas may have that portion of land reviewed for reassessment by the assessor-treasurer's office consistent with those restrictions to determine the fair market value of the land pursuant to RCW 84.40.030.

C. The owner shall notify the assessor-treasurer's office when restrictions on development occur on a particular site, and shall provide a plat map in addition to the following, or other special study documents as may be required by the department. (Ord. 17-513 § 3 (Exh. A)).

14.120.070 Variances and appeals.

Procedures for variances and appeals of an administrative decision issued pursuant to this chapter are set forth in Chapter 18.40 EMC. (Ord. 17-513 § 3 (Exh. A)).

14.120.080 Review process.

A. The department shall review any permit or application requested for any regulated activity, including, but not limited to, those set forth in this chapter, on a site which includes, or is within 500 feet of, one or more resource lands, unless otherwise provided in this title.

B. As part of all development applications, the department shall review the information submitted by the applicant to:

1. Confirm the nature and type of the resource land and evaluate any required title, plat, or regulated activity notification;
2. Determine whether the development proposal is consistent with this title; and
3. Determine whether any proposed alterations to the site containing resource lands are necessary.

C. The city may approve, approve with conditions, or deny any development proposal in order to comply with the requirements and carry out the goals, purposes, objectives, and requirements of this title.

D. Approval of a development proposal does not discharge the obligation of the applicant to comply with the provisions of this title. (Ord. 17-513 § 3 (Exh. A)).

14.120.090 Title, plat, and regulated activities notification.

A. If more than one resource land subject to the provisions of this title exists on the site, then one notice addressing all of the resource lands shall be sufficient.

B. Notification shall be approved by the department and shall be consistent with the forms set forth in EMC 14.120.110, Appendices A through C, as applicable.

C. Title notifications shall be notarized and recorded with the Pierce County auditor prior to approval of any regulated use or activity for the site. (Ord. 17-513 § 3 (Exh. A)).

14.120.100 Permitted uses.

Uses permitted on designated resource land sites shall be the same as those permitted in the zone classifications shown on the city zoning map. (Ord. 17-513 § 3 (Exh. A)).

14.120.110 Appendices.

A. Property Adjacent to Resource Lands.

B. Agriculture Lands Noticing.

C. Mineral Resource Lands Noticing.

APPENDIX A

PROPERTY ADJACENT TO RESOURCE LANDS

A. Title Notification.

Parcel Number: _____

Site Address: _____

NOTICE: This parcel lies within 500 feet of land designated resource lands by Edgewood. A variety of commercial and industrial activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of chemicals, or from spraying or extraction which occasionally generates dust, smoke, noise, and odor. The City has established resource uses as priority uses on productive resource lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary commercial resource lands operations.

Signature of Owner

(NOTARY ACKNOWLEDGMENT)

B. Plat Notification. The owner of any site within 500 feet of land designated as resource lands on which a large lot, short subdivision, or formal subdivision is submitted shall record a notice on the face of the plat. Such notification shall be in the form as set forth below.

PROPERTY ADJACENT TO RESOURCE LANDS PLAT NOTIFICATION. This property lies within 500 feet of land designated resource lands by Edgewood. A variety of commercial and industrial activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of chemicals, or from spraying or extraction which occasionally generates dust, smoke, noise, and odor. The City has established resource uses as priority uses on productive resource lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary commercial resource lands operations.

C. Regulated Activities Notification. The department shall require that permits issued for regulated activities, as defined in this chapter, within 500 feet of lands designated as resource lands, contain a notice as set forth below.

REGULATED ACTIVITIES NOTIFICATION. This property lies within 500 feet of land designated resource lands by Edgewood. A variety of commercial and industrial activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of chemicals, or from spraying or extraction which occasionally generates dust, smoke, noise, and odor. The City has established resource uses as priority uses on productive resource lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary commercial resource lands operations.

APPENDIX B

AGRICULTURAL LANDS NOTICING

A. Title Notification.

Parcel Number: _____

Site Address: _____

NOTICE: This parcel lies within 500 feet of an area identified as Agricultural Lands by Edgewood. A variety of commercial Agricultural Activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of agricultural chemicals, including herbicides, pesticides, and fertilizers; or from spraying, pruning, and harvesting which occasionally generate dust, smoke, noise, and odor. Edgewood has established agriculture as a priority use on productive Agricultural Lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary farm operations.

Signature of Owner

(NOTARY ACKNOWLEDGMENT)

B. Plat Notification. The owner of any site within this designation on which a large lot, short subdivision, or formal subdivision is submitted shall record a notice on the face of the plat. Such notification shall be in the form as set forth below.

AGRICULTURAL LANDS PLAT NOTIFICATION. This parcel lies within an area identified as Agricultural Lands by Edgewood. A variety of commercial Agricultural Activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of agricultural chemicals, including herbicides, pesticides, and fertilizers; or from spraying, pruning, and harvesting which occasionally generate dust, smoke, noise, and odor. The City has established agriculture as a priority use on productive Agricultural Lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary farm operations.

C. Regulated Activities Notification. The department shall require that all permits issued for regulated activities, as defined in this chapter, within this zone classification contain a notice as set forth below.

REGULATED ACTIVITIES NOTIFICATION. This parcel lies within 500 feet of an area identified as Agricultural Lands by Edgewood. A variety of commercial Agricultural Activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of agricultural chemicals, including herbicides, pesticides, and fertilizers; or from spraying, pruning, and harvesting which occasionally generate dust, smoke, noise, and odor. The City has established agriculture as a priority use on productive Agricultural Lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary farm operations.

APPENDIX C

MINERAL RESOURCE LANDS NOTICING

A. Title Notification.

Parcel Number: _____

Site Address: _____

NOTICE: This parcel lies within 500 feet of an area of land designated mineral resource lands by the City. A variety of commercial mineral extraction activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of heavy equipment, chemicals, and spraying which may generate dust, smoke, and noise associated with the extraction of mineral resources. Edgewood has established mineral resource extraction as a priority use on productive mineral resource lands, and residents of adjacent

property should be prepared to accept such inconveniences or discomfort from normal, necessary mineral resource extraction operations.

Signature of Owner

(NOTARY ACKNOWLEDGMENT)

B. Plat Notification. The owner of any site within this overlay district on which a large lot, short subdivision, or formal subdivision is submitted shall record a notice on the face of the plat. Such notification shall be in the form as set forth below.

MINERAL RESOURCE LANDS PLAT NOTIFICATION. This property lies within 500 feet of an area of land designated mineral resource lands by the City of Edgewood. A variety of mineral resource extraction activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of heavy equipment, chemicals, and spraying which may generate dust, smoke, and noise associated with the extraction of mineral resources. Edgewood has established mineral resource extraction as a priority use on productive mineral resource lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary mineral resource extraction lands.

C. Regulated Activities Notification. The department shall require that all permits issued for regulated activities, as defined in this chapter, within this designation contain a notice as set forth below.

REGULATED ACTIVITIES NOTIFICATION. This property lies within 500 feet of an area of land designated mineral resource lands by Edgewood. A variety of mineral resource extraction activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of chemicals and extraction of minerals, which occasionally generates dust, smoke, noise, and odor. The City has established mineral resource extraction as a priority use on productive mineral resource lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary mineral resource extraction lands.

(Ord. 17-513 § 3 (Exh. A)).

Title 18

DEVELOPMENT STANDARDS

Chapters:

18.10	Introduction
18.20	Definitions
18.30	General Administration
18.50	Discretionary Permits and Administrative Decisions – Review Criteria
18.55	Development Agreements
18.70	Land Use Types and Levels
18.80	Land Use Zones
18.85	Enforcement
18.90	Development Standards – Citywide Applicability
18.95	Design Standards
18.97	Sign Code
18.100	Development Standards – Use Specific

18.105 Concurrency Management

Chapter 18.10

INTRODUCTION

Sections:

- 18.10.010 Title.
- 18.10.020 Intent and purpose.
- 18.10.030 How to use this code.

18.10.010 Title.

This title shall be cited as the “city of Edgewood development standards.” It may also be known as the development code, or hereinafter referred to as “this title” or “this code.” (Ord. 16-482 § 2 (Exh. F); Ord. 03-203 § 1).

18.10.020 Intent and purpose.

A. The purpose of this title is to implement the city of Edgewood comprehensive plan, as adopted and subsequently amended. The goal is to protect and promote the health, safety, and general welfare of Edgewood’s citizens by guiding planning and land use decisions. This title promotes development, reduced street congestion, and enhanced fire and public safety. It also encourages adequate public infrastructure, such as transportation, domestic water, sanitary sewer, sanitary septic, schools, parks, and storm drainage. Additional goals of this code are to:

1. Promote quality building and development that is compatible with the surrounding environment, and enhances the community.
2. Support a variety of affordable housing opportunities for Edgewood’s diversifying population and enhance a safe and livable community.
3. Pursue a strong and diverse economy that protects the neighborhood character.
4. Protect the natural environment and preserve environmentally sensitive areas.
5. Improve human services as the community changes and diversifies.
6. Balance transportation needs of the community with regional objectives by improving both street and multimodal transportation systems.
7. Provide adequate public facilities and services to support land development.
8. Maintain effective administration and enforcement of the regulations contained herein.
9. Require the use of low impact development (LID) practices to the maximum extent feasible, as described under Minimum Requirement No. 5 in the 2015 Pierce County Stormwater Management and Site Development Manual (as adopted in Chapter 13.05 EMC, and any revisions thereto). Variances from minimum development standards, dimensions, and/or requirements may be allowed (pursuant to EMC 18.50.080) to accommodate the use and installation of LID system(s).

B. The standards and regulations contained herein are enacted for the benefit of the public at large and not for the benefit of any one person or groups of persons. The city does not intend to create a duty to enforce this code except to the public at large. (Ord. 16-482 § 2 (Exh. F); Ord. 03-203 § 1).

18.10.030 How to use this code.

A. The development standards is EMC Title 18 (this title). This title contains many chapters, which are enumerated and represented in a format in conjunction with EMC Title 18. For example, Chapter 10, Introduction, is represented as Chapter 18.10 EMC.

B. Each chapter contains sections and subsections. Sections are enumerated and represented in the following format: EMC 18.10.020, Intent and purpose. Subsections are enumerated in the following format:

A.

1.

a.

i.

B.

C. Each chapter begins with a listing of the sections and a statement of that chapter's purpose and applicability. General definitions and abbreviations are contained in Chapter 18.20 EMC, Definitions. In some instances, specialized definitions may be found within the chapter where those definitions are used. Cross-references to other chapters and sections of this title and to other titles within the Edgewood Municipal Code can be found throughout this title. (Ord. 03-203 § 1).

Chapter 18.20

DEFINITIONS

Sections:

18.20.010	Purpose.	
18.20.020	Words not defined, administrative interpretation.	
18.20.030	Additional definitions.	
18.20.040	A definitions.	See attached Ordinance 20-579 Exhibit A
18.20.050	B definitions.	
18.20.060	C definitions.	
18.20.070	D definitions.	
18.20.080	E definitions.	
18.20.090	F definitions.	
18.20.100	G definitions.	
18.20.110	H definitions.	
18.20.120	I definitions.	
18.20.130	J definitions.	
18.20.140	K definitions.	
18.20.150	L definitions.	
18.20.160	M definitions.	
18.20.170	N definitions.	
18.20.180	O definitions.	
18.20.190	P definitions.	
18.20.200	Q definitions.	
18.20.210	R definitions.	
18.20.220	S definitions.	
18.20.230	T definitions.	
18.20.240	U definitions.	
18.20.250	V definitions.	
18.20.260	W definitions.	
18.20.270	X definitions.	
18.20.280	Y definitions.	
18.20.290	Z definitions.	

18.20.010 Purpose.

The purpose of this chapter is to define words that are used throughout this title. Definitions may also be found in specific sections of this title. (Ord. 20-579 § 1 (Exh. A); Ord. 03-203 § 1).

18.20.020 Words not defined, administrative interpretation.

Refer to EMC 18.50.020(F), Administrative Interpretations. (Ord. 20-579 § 1 (Exh. A); Ord. 03-203 § 1).

18.20.030 Additional definitions.

The definitions contained in this title are generally those listed in this chapter, except for those definitions specified in EMC 18.97.300, Definitions (sign code), EMC 18.100.100, Sexually oriented businesses, and in the North American Industry Classification System.

A. Signs (refer to Chapter 18.97 EMC, Sign Code).

B. Sexually oriented businesses (refer to EMC 18.100.100, Sexually oriented businesses).

C. North American Industry Classification System (NAICS). NAICS provides definitions for land uses in the city. The NAICS code is available on the city website or can be viewed at City Hall. (Ord. 20-579 § 1 (Exh. A); Ord. 11-359 § 7 (Exh. D); Ord. 03-203 § 1).

18.20.040. A definitions See attached Ordinance No. 20-0579, Exhibit A

18.20.050. B definitions See attached Ordinance No. 20-0579, Exhibit A

18.20.060 C definitions.

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

“Canopy” means an architectural projection that provides weather protection, identity or decoration and is supported by the building to which it is attached. A canopy is comprised of a rigid structure over which a rigid covering is attached.

“Car washes” means mechanical facilities for the washing, waxing and vacuuming of automobiles, light trucks, and vans. Further described in NAICS 811192.

“Caretaker residence” means an attached or detached dwelling unit providing independent living facilities for on-site caretaking of property and improvements.

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

“Carrier on wheels” or “cell on wheels (COW)” means a portable self-contained telecommunications facility that can be moved to a location and set up to provide wireless services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom as the antenna support structure.

“Cattle feedlots” means uses involving feeding cattle for fattening. Further described in NAICS 112112.

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

“Cemeteries” means land used or intended to be used for the burial of the dead and dedicated to cemetery purposes, including columbaria, mausoleums and mortuaries, when operated in conjunction with and within the boundary of such cemetery. Further described in NAICS 812220.

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

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

“Child daycare services, all other” means a building or structure in which care is regularly provided for a group of children for periods of less than 24 hours not in the provider’s home. Daycare facilities include family daycare homes and daycare centers regulated by the Washington State Department of Social and Health Services or successor agency. This use includes pre-school and nursery school facilities not part of the K through 12 education program. Further described in NAICS 624410.

“Child daycare services, home-based” means a building or structure in which care is regularly provided for a group of no more than 12 children, including immediate family members who reside in the home, for periods of less than 24 hours based in the living quarters of the provider’s home. Daycare facilities include family daycare homes and daycare centers regulated by the Washington State Department of Social and Health Services or successor agency. This use includes home-based pre-school and nursery school facilities not part of the K through 12 education program. Further described in NAICS 624410.

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

“Clearing” means the removal of timber, brush, grass, groundcover, or other vegetative matter from a site which exposes the earth’s surface on the site.

“Clear-vision area” means a triangular area at intersections or public drives where visual obstructions are to be kept clear, as directed by the public works director or designee.

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

“Collocation” means the mounting or installation of transmission equipment on an existing support structure for the purpose of transmitting, receiving, or both transmitting and receiving radio frequency signals for communication purposes. When applied to eligible facilities requests, “collocation” means the mounting or installation of transmission equipment on an eligible support structure.

“Collocation of wireless telecommunications facilities” means the use of wireless telecommunications facilities by more than one service provider.

“Combined use building” means residential use types in combination with other use types.

“Commercial activity” means any activity carried out for the purpose of financial gain for an individual or organization, whether profit or nonprofit.

“Commercial and industrial equipment rentals” means establishments primarily engaged in renting or leasing commercial-type and industrial-type machinery and equipment, typically catering to a business clientele without a retail-like or storefront facility. Further described in NAICS 5323 and 5324.

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

“Communications facilities” means power and communications lines and towers, antennas and microwave receivers.

“Community development director” means the director of the community development department of the city of Edgewood or his/her designee.

“Comprehensive plan” means the document, including maps, adopted by the city council which outlines the city’s goals and policies relating to management of growth, and prepared in accordance with Chapter 36.70A RCW. The term also includes any adopted subarea plans prepared in accordance with Chapter 36.70A RCW.

“Concealed telecommunications facility” means any telecommunications facility that is integrated as an architectural feature of an existing structure or any new support structure designed so that the purpose of the facility or support structure for providing wireless services is not readily apparent to a casual observer. “Concealment” shall also refer to an eligible support structure and transmission facility designed to look like some feature other than a wireless tower or base station.

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

“Condominium” means real property, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real property is not a condominium unless the undivided interest in the common elements are vested in the unit owners, and unless a declaration and a survey map and plans have been recorded. Condominiums must meet all provisions of Chapter 64.34 RCW.

“Consumer goods rental” means establishments primarily engaged in renting personal and household-type goods from a retail-like or storefront facility. Further described in NAICS 5322 and 5323.

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

“Cornice” means the molded and projecting horizontal member that crowns an architectural composition.

“Correctional institutions” means facilities for holding persons in custody or in detention, including county jails, state prisons, juvenile detention facilities, prerelease facilities, work release facilities, and other facilities in which a person may be incarcerated upon arrest or pursuant to sentencing by court. Further described in NAICS 92.

“Cottage court” means five to nine detached dwelling units organized around an internal shared courtyard.

“Cottage housing” means a development of detached dwellings, which has the following characteristics:

1. Each unit is of a size and function suitable for a single person or small family;
2. Each unit has the construction characteristics of a single-family house;
3. The density is typically eight to 17 units per acre (but is subject to minimum and maximum densities established under applicable zoning regulations);
4. All units are located either on a commonly owned piece of property or individual small lots;

5. The development is designed with a coherent concept and includes:

- a. Shared usable open space;
- b. Off-street parking;
- c. Access within the site and from the site;
- d. Amenities such as a multipurpose room, workshop, or garden;
- e. Coordinated landscaping.

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

“Crematoria” means an accessory use where the dead, both animal and human, are prepared for and cremated, but not in the same facility. Further described in NAICS 812220.

“Crop production, all other” means uses which involve the raising and harvesting of row crops, field crops, or tree crops on an agricultural or commercial basis, including packing, primary processing, and storage facilities. This use category does not include the production of marijuana. Further described in NAICS 111.

“Curb cut” is a depression in the curb for a driveway to provide vehicular access between private property and the street. (Ord. 20-579 § 1 (Exh. A); Ord. 18-526 § 2 (Att. B); Ord. 15-448 § 2 (Exh. A); Ord. 11-359 § 7 (Exh. D); Ord. 03-203 § 1).

18.20.070 D definitions.

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

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

“Daycare center” means a daycare facility which operates in a place other than a residence, with no limitation as to the number of clients.

“Daycare facility” means a building or structure in which care is regularly provided for a group of children or adults for periods of less than 24 hours. Daycare facilities include family daycare homes and daycare centers regulated by the Washington State Department of Social and Health Services or successor agency, as presently defined and as may be hereafter amended (Chapter 74.15 RCW, WAC 388-150-010).

“Daycare, home” means a daycare facility which operates in the provider’s residence and is subject to a limitation on the number of clients.

“Daycare, home-based” means a daycare facility with no more than 12 persons in attendance at any one time in the provider’s home in the family living quarters, including immediate family members who reside in the home.

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

“Deciduous tree” means a tree which loses its foliage annually.

“Decision” means an interpretation of compliance with the city’s municipal code.

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

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

“Department” means the city of Edgewood community development department.

Design Details. Architectural or building “design details” refer to the minor building elements that contribute to the character or architectural style of the structure. Design details may include moldings, mullions, rooftop features, the style of the windows and doors, and other decorative features.

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

“Designated zone facility” means any hazardous waste facility that requires an interim or final status permit under rules adopted under Chapter 70.105 RCW and Chapter 173-303 WAC, and that is not a preempted facility as defined in RCW 70.105.010 or in Chapter 173-303 WAC. A hazardous waste treatment or storage facility is a designated zone facility.

“Detached dwelling” means one dwelling unit on an individual lot with yards on all sides.

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

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

“Development permit” means any document granting, or granting with conditions, an application for a site plan, building permit, discretionary decision, or other official action of the city having the effect of authorizing the development of land.

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

“Development regulation” means regulation of the location and size of development, including, but not limited to, setbacks, landscaping, screening, height, site coverage, signs, building layout, parking and site design and related features of land use.

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

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

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

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

“Drinking places for alcoholic beverages” means bars, taverns, nightclubs, or drinking places primarily engaged in preparing and serving alcoholic beverages for immediate consumption, which may also provide limited food services. Further described in NAICS 722410.

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

“Drive-up windows” means any use that provides goods and services using a window or microphone, while customers remain in their vehicle. Drive-up windows may also be called drive-through facilities.

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

“Duplex” means one detached residential building, vertically or horizontally attached, containing two dwelling units totally separated from each other by a one-hour firewall or floor, designed for occupancy by not more than two families.

“Duplex: back to back” means two dwelling units on an individual lot separated vertically back-to-back that share a common wall.

“Duplex: side by side” means two dwelling units on an individual lot separated vertically side-by-side that share a common wall.

“Duplex: top and bottom” means two dwelling units on an individual lot separated horizontally with one unit on top of the other unit.

“Dwelling” means a building or portion thereof designed exclusively for human habitation, but not including hotel or motel units.

“Dwelling unit” means one room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure or on the same property, and containing independent cooking, sleeping and sanitary facilities. All rooms comprising a dwelling unit shall have access through an interior door to other parts of the dwelling unit.

“Dwelling unit, multifamily” means a dwelling unit contained in a building consisting of two or more dwelling units which may be stacked, or one or more dwellings included in a structure with nonresidential uses.

“Dwelling unit, single-family attached” means a building containing one dwelling unit that occupies space from the ground to the roof, and is attached to one or more other dwellings by common walls. (Ord. 20-579 § 1 (Exh. A); Ord. 11-359 § 7 (Exh. D); Ord. 03-203 § 1).

18.20.100 E definitions. See attached Ordinance No. 20-0579, Exhibit A

18.20.100 F definitions. See attached Ordinance No. 20-0579, Exhibit A

18.20.100 G definitions.

“Gambling industries” means establishments (except casino hotels) primarily engaged in operating gambling facilities, such as casinos, bingo halls, and video gaming terminals, or in the provision of gambling services, such as lotteries and off-track betting. Further described in NAICS 7132.

“Garage” means an enclosed automobile structure with direct driveway access principally for vehicular equipment such as automobiles, boats, etc., used by the tenants of the building(s). A garage may be integrated with, attached to, or detached from the primary structure. Also see “parking structure.”

“Gasoline stations” means a building or lot having pumps and storage tanks where fuels, oils or accessories for motor vehicles are dispensed, sold or offered for sale at retail prices only, repair service is incidental and no storage or parking space is offered for rent. Further described in NAICS 447.

“Geologic” means relating to the occurrence and properties of earth. Geologic hazards include faults, land and mudslides, and earthquakes.

“Golf courses and country clubs” means a facility under public or private ownership designed and developed for golf activities, which may include accessory uses such as but not limited to: driving ranges, pro shops, restaurants, meeting facilities, and other recreational facilities. Further described in NAICS 713910.

“Governing authority” means the city council of the city of Edgewood.

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

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

“Grade, preconstruction” means, prior to any grade, fill or disturbance of soil or vegetation.

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

“Gross area” means the total sum area of the lot.

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

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

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

“Group assembly” means any facility that provides for the regular assembly of individuals for entertainment or social purposes.

“Guyed tower” means a support structure, such as a pole or narrow metal framework, which is held erect by the use of wires, anchors, or a combination of wires and anchors. This definition is used whether the tower is partially, temporarily, or additionally guyed. (Ord. 20-579 § 1 (Exh. A); Ord. 18-526 § 2 (Att. B); Ord. 11-359 § 7 (Exh. D); Ord. 10-346 § 8; Ord. 03-203 § 1).

18.20.120 H definitions. See attached Ordinance No. 20-0579, Exhibit A

18.20.120 I definitions.

“Impervious surface” means a hard surface area which either prevents or retards the entry of water into the soil mantle as it entered under natural conditions preexistent to development, or that hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow under natural conditions preexistent to development. Common impervious surfaces include, but are not limited to, rooftops, concrete or asphalt paving, paved walkways, patios, driveways, parking lots or storage areas, grasscrete, and oiled, macadam or other surfaces which similarly impede the natural infiltration of surface water. Open, uncovered retention/detention facilities shall not be considered impervious surfaces. When applied as a development standard, it is expressed as a percentage of the lot area.

“Incidental use” means a use that is in conjunction with, and smaller than the main part of a facility or use.

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

“Indoor arts, entertainment, and recreation activities, other” means facilities or places of business primarily engaged in the provision of sports, entertainment, or recreational services to the general public or members in indoor facilities. Examples include, but are not limited to, video arcades, teen clubs, athletic clubs, swimming pools, billiard parlors, bowling alleys, ice or roller skating rinks, indoor movie theaters, and sports arenas. This definition does not include golf courses and country clubs.

“Interior landscaping area” means any area of a lot that is not within a required perimeter landscaping or landscape buffer area. In the case of single-family residences in residential zones, the entire lot shall be considered the interior

landscaping area. Interior landscaping areas are required within large parking lot areas to provide aesthetic visual relief and provide for some shading of parking spaces.

“International Building Code (IBC)” means the current version of the International Building Code, or equivalent, published by the International Code Council, and adopted by the city. (Ord. 20-579 § 1 (Exh. A); Ord. 11-359 § 7 (Exh. D); Ord. 06-268 § 1; Ord. 03-203 § 1).

18.20.130 J definitions.

“Judicial appeals” means appeals filed by a party of record in Pierce County superior court.

“Junior colleges, colleges, universities, and professional schools” means establishments primarily engaged in furnishing academic, or academic and technical, courses and granting graduate, baccalaureate, or associate degrees; certificates; or diplomas. Further described in NAICS 6112, 6113, and 6114. (Ord. 20-579 § 1 (Exh. A); Ord. 03-203 § 1).

18.20.140 K definitions.

“Kennels” means an enclosure or structure in which any combination of six or more dogs, cats, or a combination of either that individually exceed six months of age are kept for breeding, sale, training, boarding, or sporting purposes. Further described in NAICS 812910.

“Kick plate” means a plate applied to the face of the lower rail of a door or sidelight to protect against abrasion or impact loads.

“Kitchen” means any room or rooms, or portion of a room or rooms, used or intended or designed to be used for cooking or the preparation of food. (Ord. 20-579 § 1 (Exh. A); Ord. 11-359 § 7 (Exh. D); Ord. 03-203 § 1).

18.20.160 L definitions. See attached Ordinance No. 20-0579, Exhibit A

18.20.160 M definitions.

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

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

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

“Major modifications” means improvements to existing telecommunications facilities or support structures that result in a substantial increase to the existing structure. Collocation of new telecommunications facilities to an existing support structure without replacement of the structure shall not constitute a “major modification.”

“Manufactured home” means a factory-assembled structure that was constructed in accordance with the 1976 or later [HUD] Federal Manufactured Housing Construction and Safety Standards Act in effect at the time of construction;

1. Displays the appropriate HUD or Department of Labor and Industries label;
2. Is suitable for movement along public highways;
3. Is intended solely for human habitation; and
4. Has sleeping, eating and plumbing facilities.

Manufactured homes do not include modular homes or recreational vehicles as herein defined. For the purpose of flood hazard regulations only, a manufactured home is a structure, transportable in one or more sections, which is

built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It includes recreational vehicles or travel trailers that are placed on a site for more than 180 consecutive days.

“Manufacturing, craft” means on-site production or assembly of arts, crafts, foods, beverages, or other type of product involving the use of hand tools or other similarly small-scale sized equipment. Establishments must include a retail/eating/drinking/tasting component that occupies a minimum of 10 percent of usable space, and street frontage or a well-marked and visible entrance at sidewalk level, and must be open to the public. All production, processing and distribution activities are to be conducted within an enclosed building. This can include, but is not limited to, ceramic art, glass art, candle-making, custom jewelry manufacture, bakeries, confectioneries, butchers, woodworkers, coffee roasting establishments, breweries, distilleries, wineries, cideries, and food production and nonalcoholic beverage production.

“Manufacturing, heavy” means facilities, typically larger in size, engaged in the processing of raw materials or parts into finished products. Such facilities may have a higher degree of negative environmental impacts due to the processes employed and operations. Further described in NAICS 23, 321, 322, 323, 324, 325, 326, 327, 331, 332, 333, 334, 335, 336, and 339.

“Manufacturing, light” means small-size facilities where no heavy manufacturing or specialized industrial processes takes place. Typical light manufacturing activities include, but are not limited to, printing, material testing, and assembly components. Further described in NAICS 23, and 311 (except 3116), 312, 313, 314, 315, 316, and 337.

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

“Marijuana processing” means activities that include processing of marijuana into marijuana concentrates, usable marijuana, and marijuana-infused products, packaging and labeling marijuana concentrates, usable marijuana, and marijuana-infused products for sale in retail outlets, and selling marijuana concentrates, usable marijuana, and marijuana-infused products at wholesale to marijuana retailers.

“Marijuana production” means any use involving the planting, growing, harvesting, drying, curing, grading, trimming, or otherwise processing of marijuana plants or any part thereof. Further described in NAICS 111.

“Marijuana retailers” means uses that involve the sale of marijuana concentrates, usable marijuana, and marijuana-infused products in a retail outlet. Further described in NAICS 453998.

“Mass” means the physical volume or bulk of a solid body. The mass of a building is its three-dimensional form, bulkiness and relationship to exterior spaces. During the design process, massing is one of many aspects of form considered by an architect or designer and can be the result of both exterior and interior design considerations. Architectural massing can be used to identify a building entry, denote a stairway or simply create visual depth to soften the visual mass of the overall structure.

“Maximum density” means the maximum number of dwelling units allowed per developable area (dua).

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

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

“Medical office” means a facility that provides diagnoses and outpatient care on a routine basis but is unable to provide prolonged in-house medical or major surgical care. Medical clinics are included in this definition.

“Microcell” means a wireless communications facility consisting of an antenna that is either:

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

“Mining, quarrying, and oil and gas extraction” means uses that include the operation and/or development of oil and gas field properties, mining, mine site development, and beneficiating (i.e., preparing) metallic minerals and nonmetallic minerals, including coal. Further described in NAICS 21.

“Mini-warehouses and self-storage units” means a facility consisting of separate storage units that are rented to customers having exclusive access to their respective units for storage of residential or commercial oriented goods. No business is conducted out of storage units and habitation is prohibited. Further described in NAICS 531130.

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

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

1. Four feet in height and with an area of not more than 580 square inches;
2. If a tubular antenna, no more than 12 inches in diameter and no more than six feet high; and the associated equipment cabinets that are less than or equal to six feet in height and no more than 48 square feet in floor area; or
3. A whip antenna which is four inches or less in diameter and no more than 15 feet in length.

“Minor modification” means improvements to existing structures that result in some material change to the facility or support structure but of a level, quality or intensity that is less than a substantial increase. “Minor modifications” include the replacement of the structure.

“Mitigate” means to alleviate the negative impacts of a particular action.

“Mitigation” means any action that, to some degree, softens the impact of development on critical or sensitive areas. This may include all or any one of the following actions:

1. Avoiding the impact altogether by not taking a certain action or parts of an action.
2. Minimizing impacts by limiting the degree or magnitude of an action and its implementation.
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.
5. Compensating for the impact by creation, restoration, or enhancement of critical or sensitive areas to maintain their functional processes, such as natural biological productivity, habitat, and species diversity, unique features and water quality. Any mitigation action or combination of actions may involve monitoring and remedial follow-up measures.

“Mixed use” means development that contains a mix of residential and commercial uses, either in the same building or in separate buildings. Where a density or floor area bonus is provided for mixed use development, please see applicable development standards for specific requirements.

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

“Mobile transmission facility” means a movable, nonstationary transmission facility that contains wireless telecommunications equipment including any antenna, support structure, accessory structures, and may include other uses associated with and ancillary to wireless telecommunications facilities.

“Mobile vendors” means uses involving food or similar food services provided from motorized vehicles or nonmotorized carts. Further described in NAICS 722330.

“Modification of wireless telecommunications facilities” means the changing of any portion of a wireless telecommunications facility from its description in a previously approved permit, excluding routine maintenance and repair. Examples include, but are not limited to, changes in design or structure, changes in the heights of towers or monopoles, changes in any accessory structures or appurtenances that are affiliated with or support a wireless telecommunications facility.

“Modular home” means a detached dwelling that is designed for human habitation, is either entirely or substantially prefabricated at a place other than a building site, and is constructed or installed on the site in accordance with the UBC and bearing the appropriate insignia indicating such compliance. Modular homes are also commonly referred to as “prefabricated,” “panelized,” or “factory-built” units.

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

“Monopole” means a single tubular support structure erected as a freestanding pole supporting one or more antennas. A “monopole” is not a tower.

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

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

“Multifamily design review” means an administrative process for the purpose of reviewing multifamily development applications for compliance with specific site design, landscape design and building design criteria.

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

“Multiple tenant building” means a single structure housing two or more of the following establishments: office, residence, industry, or commercial business.

“Multi-plex” means three or four attached dwelling units vertically or horizontally integrated on an individual lot.

“Museums and art galleries” means facilities open to the public where works of art, scientific specimens, or other objects of permanent value are kept and displayed. Further described in NAICS 712 (except 712130). (Ord. 20-579 § 1 (Exh. A); Ord. 18-526 § 2 (Att. B); Ord. 11-359 § 7 (Exh. D); Ord. 10-346 § 9; Ord. 03-203 § 1).

18.20.170 N definitions.

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

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

“Net area” means the developable area after the area of street rights-of-way has been subtracted.

“Net developable area” means the gross site area minus any environmentally constrained lands and roads.

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

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

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

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

“Nursery, horticultural” mean a place where trees, shrubs, vines, etc., are propagated for transplanting or for use as stocks for grafting and where such flora can be sold.

“Nursing and residential care facilities” means any facility which provides convalescent or chronic care for 24 consecutive hours for three or more patients not related by blood or marriage to the operator, who by reason of illness or infirmity are unable to properly care for themselves.

“Nursing home” means a multi-unit or multi-bed facility that is licensed or approved to provide living accommodations and round-the-clock health care and medical supervision. (Ord. 20-579 § 1 (Exh. A); Ord. 11-359 § 7 (Exh. D); Ord. 10-346 § 10; Ord. 03-203 § 1).

18.20.180 O definitions.

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

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

“Office, general” means an office used as a place of business by licensed professionals, or persons in other generally recognized professions, which use training or knowledge of a technical, scientific or other academic discipline as opposed to manual skills, and which does not involve outside storage or fabrication, or on-site sale or transfer of commodities. Further described in NAICS 51 (except 517) 52, 531, 533, 54 (except 541940), 55, 561, and 813.

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

“Official maps” means maps that show the designation, location and boundaries of the various districts which have been adopted and made a part of this title.

“Off-site hazardous waste treatment or storage facility” means any hazardous waste treatment or storage facility which treats or stores wastes that are generated off the site.

“On-site hazardous waste treatment or storage facility” means any hazardous waste treatment or storage facility that treats or stores only that waste which is generated on the site.

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

“Open space” means land used for farm or forest uses, and any land area that would, if preserved and continued in its present use:

1. Conserve and enhance natural or scenic resources;
2. Protect air, streams or water supply;
3. Promote conservation; or
4. Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature preservations or sanctuaries or other open space.

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

“Ordinary maintenance” means ensuring that telecommunications facilities and support structures are kept in good operating condition. “Ordinary maintenance” includes inspections, testing and modifications that maintain functional capacity, aesthetic and structural integrity. “Ordinary maintenance” includes replacing antennas of a similar size, weight, shape and color and accessory equipment within an existing telecommunications facility and relocating the antennas of approved telecommunications facilities to different height levels on an existing monopole or tower upon which they are currently located. “Ordinary maintenance” does not include minor and major modifications.

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

“Other repair and maintenance, commercial/industrial” means establishments primarily engaged in the repair and maintenance of commercial and industrial machinery and equipment. Further described in NAICS 811 (except 8111).

“Other repair and maintenance, consumer” means establishments primarily engaged in repairing and maintaining consumer goods, without retailing new products. Further described in NAICS 811 (except 8111).

“Outdoor arts, entertainment, and recreation activities, other (special)” means facilities or places of business primarily engaged in the provision of sports, entertainment, or recreational services to the general public or members with outdoor facilities. Examples include swimming pools, ice or roller skating rinks, drive-in theaters, miniature golf courses, golf courses, theme parks, amusement parks, and sports arenas.

“Outside displays” means the display of products, vehicles, equipment, and machinery for sale or lease on the exterior of a building. Typically, this is an outdoor showroom for customers to examine and compare products, and does not have to be visible to the street. This does not include vehicles or equipment being serviced, bulk goods and materials, and car and boat sales and leasing when such vehicles are not accessible to customers to inspect and compare, which are considered outdoor storage.

“Outside storage” means all or part of a lot which is used for the keeping of materials, vehicles, or products in an open, uncovered yard or in an unwall building. Such materials may include tractors, backhoes, heavy equipment, construction materials, bulk products, and other similar items.

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

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

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

“Ownership” means the existence of legal equitable title to land. (Ord. 20-579 § 1 (Exh. A); Ord. 18-526 § 2 (Att. B); Ord. 11-359 § 7 (Exh. D); Ord. 03-203 § 1).

18.20.190 P definitions. See attached Ordinance No. 20-0582, §1

18.20.200 Q definitions. See attached Ordinance No. 20-579, Exhibit A

18.20.210 R definitions.

“Rapid charging station” means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set forth by Chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

“Recorded” means, unless otherwise stated, filed for record with the auditor of the county of Pierce, state of Washington.

“Recreation” means the refreshment of body and mind through forms of play, amusement or relaxation. The recreational experience may be active, such as boating, fishing, and swimming, or may be passive such as enjoying the natural beauty of the shoreline or its wildlife. Facilities included as low-intensity recreation may include picnic tables, trail signs, unpaved trails and portable restrooms.

“Recycling center” means a center for the receiving and storage of recyclable materials such as paper, glass and aluminum. The center would receive materials from the general public. This use may involve some outside storage.

“Recycling collection site” means a site with collection boxes or other containerized storage where citizens can leave materials for recycling.

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

“Religious assembly” means establishments in which the principal purpose is religious worship and for which the principal building or other structure contains the sanctuary or principal place of worship, which may include accessory uses in the main building or in separate buildings or structures such as religious educational classrooms, assembly rooms, library or reading room, recreation hall, and a single dwelling unit for caretaker or clergy and his/her immediate family. Further described in NAICS 813110, assembly only.

“Remote switching unit” means a device or group of devices in a telephone system having the necessary equipment for terminating and interconnecting subscribers’ lines, farmer lines, toll lines and inter-facilities trunks, normally dependent on one or more central office switching units for full operability.

“Replacement” means constructing a new support structure of proportions and of equal height or such other height that would not constitute a substantial increase to a preexisting support structure in order to support a telecommunications facility or to accommodate collocation and removing the preexisting support structure.

“Restaurants, full service” means restaurants providing food services to patrons who order and are served while seated (i.e., waiter/waitress service) and pay after eating. Further described in NAICS 722511.

“Restaurants, limited service” means restaurants providing food services (except snack and nonalcoholic beverage bars) where patrons generally order or select items and pay before eating. Food and drink may be consumed on premises, taken out, or delivered to the customer’s location. Further described in NAICS 722513 and 722514.

“Retail trade, all other” means the sale of goods and merchandise for final use or consumption. Further described in NAICS 44-45.

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

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

“Roadside stand” means a temporary structure designed or used for the display or sale of agricultural products primarily produced on the premises upon which such a stand is located.

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

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

“RV parks and recreational camps” means establishments primarily engaged in operating sites to accommodate campers and their equipment, including tents, tent trailers, travel trailers, and RVs (recreational vehicles), which may include accessory uses such as washrooms, laundry rooms, recreation halls, playgrounds, stores, and snack bars. Further described in NAICS 7212. (Ord. 20-579 § 1 (Exh. A); Ord. 18-526 § 2 (Att. B); Ord. 16-463 § 4; Ord. 11-359 § 7 (Exh. D); Ord. 03-203 § 1).

18.20.220 S definitions. See attached Ordinance No. 20-0582, §2

18.20.230 T definitions. See attached Ordinance No. 20-0579, Exhibit A

18.20.240 U definitions.

“Unified enclosure” means a small cell facility providing concealment of antennas and equipment within a single enclosure.

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

“Use” means the purpose or activity for which land or buildings are designed, arranged, intended, divided, or occupied, maintained, rented, or leased, and includes any manner of performance of such activity with respect to the performance standards of these development standards. A use often involves the placement of structures or facilities for industry, commerce, habitation, or recreation.

“Use category” means a group of similar use types that are associated with each other to such an extent that they represent a general land use function.

“Use, permitted” means any use allowed in a zoning district and subject to the restrictions applicable to the specific use.

“Use, principal” means the primary or predominant use of any lot or parcel.

“Use type” means a group of similar uses that are fundamentally related to each other, contain equivalent characteristics, and which fall within the same use category.

“Utilities” means public facilities including electrical substation, electrical generation facilities, electrical transmission, telephone or communications lines, pipelines, sewer lines, water lines, natural gas lines, or similar transmission facilities, natural gas gate valve and storage facilities, sewage collection and treatment facilities, waste disposal facilities, waste/recycling transfer facilities, and water supply facilities.

“Utility facility, major” means large-scale facilities that serve a regional need, have major above-ground visual impacts and/or result in noise, odors, or other activities that are incompatible with residential and other less intensive uses. Such facilities may include sewage treatment plants, transfer stations, electrical substations, high voltage transmission lines, regional water storage tanks and reservoirs, storage yards and regional sewer collectors and interceptors. This definition does not include wireless communication facilities.

“Utility facility, minor” means a small-scale facility serving primarily local distribution needs within the city, including underground power lines, water distribution lines, sewer lift stations, and stormwater conveyance pipes, fiber optic cable, pump stations and hydrants, switching boxes, and other structures normally found in a street right-of-way to serve adjacent properties.

“Utility support structure” means utility poles or utility towers supporting electrical, telephone, cable, or other similar facilities; street light standards; pedestrian light standards; traffic light structures; traffic sign structures; or water towers. (Ord. 20-579 § 1 (Exh. A); Ord. 18-526 § 2 (Att. B); Ord. 11-359 § 7 (Exh. D); Ord. 03-203 § 1).

18.20.250 V definitions.

“Validity” means legally binding with the laws as established in the Edgewood Municipal Code.

“Variance” means a modification of regulations of this title when authorized by the community development director or designee or hearing examiner after finding that the literal application of the provisions of this title would cause undue and unnecessary hardship in view of certain facts and conditions applying to a specific parcel of property.

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

“Vesting” entitles the applicant to improve and use land in the manner permitted under the ordinances in effect on the date the application is deemed complete by a jurisdiction.

“Veterinary services” means any premises to which animals are brought, or where they are temporarily kept, solely for the purpose of diagnosis or treatment, care, observation, or treatment of any illness or injury to domestic or exotic animals. Further described in NAICS 541940.

“Vocational rehabilitation services” means vocational rehabilitation or habilitation services such as job counseling, job training, and work experience, provided to unemployed and underemployed persons, persons with disabilities, and persons who have a job market disadvantage because of lack of education, job skill, or experience; and other training and employment to persons with disabilities. Further described in NAICS 624310. (Ord. 20-579 § 1 (Exh. A); Ord. 15-448 § 2 (Exh. A); Ord. 11-359 § 7 (Exh. D); Ord. 03-203 § 1).

18.20.260 W definitions.

“Warehousing and storage, all other” means a structure or part of a structure, used for storing goods, wares, and merchandise, whether for the owner of the structure or for others. This category does not include mini-warehouses and self-storage units. Further described in NAICS 493.

“Waste management and remediation services, all other” means other establishments primarily engaged in providing waste management services except solid waste collection and local solid waste hauling. This includes waste treatment and disposal, remediation, operation of materials recovery facilities, septic tank pumping, and related services. Further defined in NAICS 5622 and 5629.

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

“Wastewater transfer facility” means equipment, structures, driving and parking surfaces, and appurtenances used for loading wastewater for transport to wastewater treatment facilities.

“Water purification facility” means treatment plants or facilities for disinfecting water.

“Whip antenna” means an omnidirectional dipole antenna of cylindrical shape that is no more than six inches in average diameter.

“Wholesale trade” means establishments primarily engaged in selling merchandise to retailers; industrial, commercial, institutional, or professional business users; or other wholesalers; or acting as agents or brokers and buying for or selling merchandise to such individuals or companies; and professional and commercial equipment suppliers. Further described in NAICS 423, 424, and 425.

“Wireless communication facilities” means establishments primarily engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular phone services, paging services, wireless Internet access, and wireless video services. Further described in NAICS 517312 and 517919, part. (Ord. 20-579 § 1 (Exh. A); Ord. 18-526 § 2 (Att. B); Ord. 03-203 § 1).

18.20.270 X definitions.

Reserved. (Ord. 20-579 § 1 (Exh. A); Ord. 03-203 § 1).

18.20.280 Y definitions.

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

“Yard sale” means all temporary and intermittent sales which may be variously referred to as “garage sale,” “lawn sale,” “attic sale,” “rummage sale,” “estate sale,” or any similar casual sale of tangible personal property from a residence or community use which is advertised by any means whereby the public at large is or can be made aware of the sale, and which is clearly secondary to the primary use of the site.

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

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

“Yard, side” means an open, unoccupied space on a lot, between the side wall line of the main building and the side property line of the lot. (Ord. 20-579 § 1 (Exh. A); Ord. 03-203 § 1).

18.20.290 Z definitions.

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

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

“Zoos, aquariums, and botanical gardens” means a facility housing and displaying live animals and/or botanical collections, privately owned and operated for a fee or owned and operated by the city, another public agency, or a nonprofit of some other enterprise. Further described in NAICS 71213. (Ord. 20-579 § 1 (Exh. A); Ord. 03-203 § 1).

Chapter 18.30

GENERAL ADMINISTRATION

Sections:

- 18.30.010 Authority.
- 18.30.020 Repeal/savings.
- 18.30.030 Severability and validity.
- 18.30.040 Scope and compliance.
- 18.30.050 Consistency with comprehensive plan, development regulations and State Environmental Policy Act.
- 18.30.060 Conflict of provisions.
- 18.30.070 Responsibility and authority.
- 18.30.080 Official records.
- 18.30.090 Burden of proof.
- 18.30.100 Forms and supportive documentation.
- 18.30.110 Fees.
- 18.30.120 Security mechanisms.
- 18.30.130 *Repealed.*

18.30.010 Authority.

This title is adopted by city of Edgewood Ordinance No. 03-0203 pursuant to Chapter 36.70A RCW et seq. (Planning Enabling Act). (Ord. 03-203 § 1).

18.30.020 Repeal/savings.

Chapter 17.10 EMC, Planning and Development, and EMC Title 18, the city of Edgewood interim development standards, zoning code, is hereby repealed in its entirety and replaced with this title; provided, that such repeal shall not affect the validity of any permit lawfully issued thereunder nor any pending enforcement action. (Ord. 03-203 § 1).

18.30.030 Severability and validity.

The sections, paragraphs, sentences, clauses, and phrases of this title are severable. If any section, paragraph, sentence, clause, or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this title, which shall continue in full force and effect. Further, if any section, paragraph, sentence, clause, or phrase of this title is adjudged invalid or unconstitutional as applied to a particular property, use, building, or other structure, the application of said portion of this title to other property, uses, buildings, or structures shall not be affected. (Ord. 03-203 § 1).

18.30.040 Scope and compliance.

The provisions of this title shall apply to all incorporated areas of the city of Edgewood, Washington. A parcel of land or water area may be used, developed by land division or otherwise, and a structure may be used or developed by construction, reconstruction, alteration, occupancy or otherwise only as this title permits. Each development shall comply with the applicable standards set forth in this title. The requirements of this title apply to the property owner, the person undertaking a development, the user of a development, and any successors in interest. (Ord. 03-203 § 1).

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

A. When the city receives a project permit application, consistency between the proposed project and the applicable regulations and comprehensive plan will be considered using the process set forth in this title and EMC Title 20, SEPA. During project permit application review, the city shall determine whether the proposed project complies

with applicable development regulations. In the absence of applicable development regulations, the city shall determine whether the proposed project is consistent with the comprehensive plan. This determination of consistency shall include the following:

1. The type of land uses permitted at the site, including uses that may be allowed under certain circumstances, if the criteria for their approval are satisfied;
2. The level of development, such as the number of units per acre, density of residential development in urban growth areas, or other measures of density;
3. Availability and adequacy of infrastructure, including public facilities and services identified in the comprehensive plan, if the plan or development regulations provide for funding of these facilities as required by RCW 36.70A.120; and
4. Characteristics of the development, as provided in this title. In deciding whether a project is consistent, the determinations made pursuant to this section shall be controlling. The determination of consistency shall not prohibit the city from denying, conditioning, or mitigating impacts due to other aspects of the project.

B. Initial SEPA Analysis. The city shall also review the project permit application under the requirements of the State Environmental Policy Act (SEPA) and EMC Title 20, SEPA. (Ord. 03-203 § 1).

18.30.060 Conflict of provisions.

The standards, procedures and requirements of this chapter are the minimum necessary to promote the health, safety, and welfare of the residents of the city. The city is free to adopt more rigorous or different standards, procedures and requirements whenever this becomes necessary. If the provisions of this chapter conflict or overlap one with another, or if a provision of this chapter conflicts or overlaps with the provision of another ordinance of the city, the most restrictive provision or the provision imposing the highest standard prevails. (Ord. 03-203 § 1).

18.30.070 Responsibility and authority.

A. The community development director or designee is charged with the responsibility of carrying out the provisions of this title.

B. The community development director or designee is authorized and empowered to make administrative decisions and determinations pursuant to EMC 18.50.020, Administrative interpretations.

C. The community development director or designee is authorized to revoke any permit issued to the permit holder who fails to comply with this code or conditions of the permit approval, or if there was a permit issued in error or based on false or misleading information. (Ord. 15-448 § 2 (Exh. A); Ord. 03-203 § 1).

18.30.080 Official records.

A. The community development director or designee is charged with the responsibility of compiling and maintaining an official file on each application or petition submitted under this title, consisting of the following, if applicable:

1. Application or petition materials submitted by the applicant or appellant.
2. Staff reports.
3. Written testimony received.
4. Record of any public hearing held.
5. Written decision of the granting authority.
6. Other information relevant as judged by the staff member assigned to the project.

B. The official file is a public record which shall be maintained and made available for public inspection consistent with the city's retention schedule and laws governing public disclosure. Availability may be temporarily disrupted

prior to or during public hearings while staff is preparing for the hearing. (Ord. 15-448 § 2 (Exh. A); Ord. 03-203 § 1).

18.30.090 Burden of proof.

Except for Process V, legislative actions, the burden of proof is upon the proponent. The greater the impact of the proposal to the area, the greater the burden upon the proponent. The proposal shall not be approved unless the applicant has provided evidence demonstrating that the proposal conforms to the applicable elements of the comprehensive plan and provisions of this title, especially the specific criteria set forth for the particular type of decision under consideration. (Ord. 03-203 § 1).

18.30.100 Forms and supportive documentation.

The community development director or designee is charged with the responsibility of creating and developing administrative guidelines, applications, maps, charts, reference materials, forms, brochures, handouts and other tools to aid the public, applicants, staff, and decision-makers in interpreting and administering this title. (Ord. 15-448 § 2 (Exh. A); Ord. 03-203 § 1).

18.30.110 Fees.

A. The community development director or designee is charged with the responsibility of collecting appropriate fees charged to applicants for any permits or discretionary approval processes provided for in this title. The amount of the fees charged shall be as established by resolution or ordinance of the city council filed in the office of the city clerk and may be, from time to time, changed without amendment to this title.

B. Fees shall be paid upon submission of a signed application or petition for appeal, or as otherwise provided by any fee ordinance or resolution adopted by the city council. In the event the resolution or ordinance does not clearly establish a fee for the application or petition, then the community development director or designee shall charge the applicant or petitioner based on the hourly rates established for the appropriate staff member. A department of the city of Edgewood shall not be required to pay application fees when applying for a permit regulated under this title. Where such an application will require substantial review time or expenditures, the community development director may, at the community development director's sole discretion, direct that the department initiating the permit request to reimburse the community development department for some or all of costs expended for the application review.

C. Work without an Application.

1. Whenever any work for which an application and/or project permit is required by this code has commenced without first obtaining approval of said application, a special investigation fee shall be assessed before a permit may be issued for such work.

2. An investigation fee, in addition to the application or permit fee, shall be collected whether or not an application is then subsequently issued. The investigation fee shall be equal to the amount of the application fee required by this code. The minimum investigation fee shall be the same as the minimum fee set forth in the adopted fee schedule. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this code nor from penalties prescribed by law.

D. The community development director or designee may authorize a full or partial refund when an application is withdrawn, based on the estimated expenditure of staff resources at the time of withdrawal. (Ord. 15-448 § 2 (Exh. A); Ord. 03-203 § 1).

18.30.120 Security mechanisms.

A. The purpose of this section is to provide the city with financial mechanisms to ensure that conditions, requirements and all applicable provisions of this title associated with permit approvals are met. The city may require a cash guarantee, letter of credit or the posting of a performance, completion, or maintenance bond, or its equivalent, with the city to ensure the subsequent completion and continued maintenance of all permit conditions. Permits for single-family residences, except related stormwater facility or road improvements, are exempt from this requirement.

B. Bonding.

1. A surety bond or equivalent shall be in a form acceptable to the city and shall represent a percentage of the estimated cost of design, materials, and labor related to the project in question, based on the estimated costs on the last day covered by the device, of installing, replacing, or repairing, as appropriate, the improvements covered by the security, as agreed to by the community development director or designee.

a. Performance and/or completion bond: 125 percent of the costs specified above, for the duration specified by the city, or until all improvements are installed and accepted by the city, whichever is less.

b. Maintenance bond: 20 percent of the costs specified above, for the duration specified by the city, or until the city is satisfied that maintenance shall continue, whichever is less. However, the bond or equivalent shall be extended if repairs are made at the end of the bonding period which, in the opinion of the community development director or designee, require additional guarantee of workmanship.

2. The surety bond or equivalent, if required, may be presented to the city after preliminary approval of a project, but in all circumstances shall be presented prior to the issuance of a site development permit. The conditions of performance to which the bond is subject shall be listed on the permit attached thereto. No final certificate of occupancy, or other permit for which a bond is required, shall be issued until all such conditions are satisfied. All securities shall be held until released by the community development director or designee.

C. In each case where a security is posted, the applicant and the community development director or designee shall sign a notarized security agreement, approved in form by the city attorney. The agreement shall provide the following information:

1. A description of the work or improvements covered by the security.

2. Either the period of time covered by the maintenance security or the date after which the city will use the proceeds of the performance security to complete the required work or improvements.

3. The amount and nature of the security and the amount of any cash deposit.

4. The rights and duties of the city and applicant.

5. An irrevocable easement or other authority to allow the employees, agents, or contractors of the city to enter the subject property for the purpose of inspecting and, if necessary, performing the work or making the improvements covered by the security.

6. After the work or improvements covered by a performance security have been completed, or at the end of the time covered by a maintenance security, the applicant may request that the city release the security. If the applicant has complied with the security agreement and applicable permit conditions, the community development director or designee shall release the remaining security. If the work has not been completed or repairs not made, then the city shall not release the security until such work is completed. Partial release of the security may be allowed provided the developer provides a new security equal to 125 percent of the cost of the remaining work.

D. During the period of time covered by a maintenance security, or after the date by which the required work or improvements are to be completed under a performance security, if the community development director or designee determines that the security agreement has not been complied with, the city shall so notify the applicant. The notice must state:

1. Work or improvements that must be completed to comply with the security agreement; and

2. Amount of time that the applicant has to commence and complete the required work or improvements; and

3. If not commenced and completed within the time specified, the city will use the proceeds of the security to complete the work or improvements.

E. If the work or improvements covered by the security are not completed within the time specified in the notice, the city shall obtain the proceeds of the security and cause such work to be completed.

F. The applicant shall be responsible for all costs incurred by the city in administering, maintaining, or making the improvements covered by the security. The city shall release or refund the balance of the remaining security after subtracting all costs for completing the work. The applicant shall reimburse the city for any amount expended by the city that exceeds the proceeds of the security. The city may file a lien against the subject property for the amount of any excess.

G. In each case where the city uses any of the funds of a security, it shall give the applicant an itemized statement of all funds used. (Ord. 15-448 § 2 (Exh. A); Ord. 03-203 § 1).

18.30.130 Enforcement.

Repealed by Ord. 17-495. (Ord. 15-448 § 2 (Exh. A); Ord. 03-217 § 1; Ord. 03-203 § 1).

Chapter 18.50

DISCRETIONARY PERMITS AND ADMINISTRATIVE DECISIONS – REVIEW CRITERIA

Sections:

- 18.50.010 Purpose.
- 18.50.020 Administrative interpretations.
- 18.50.030 Administrative use permit.
- 18.50.035 Residential cluster development.
- 18.50.040 Conditional use.
- 18.50.045 Nonconforming use permit.
- 18.50.050 Design standards review.
- 18.50.060 Public facilities permit.
- 18.50.070 Temporary use permits.
- 18.50.080 Variances.
- 18.50.090 *Repealed.*
- 18.50.095 *Repealed.*

18.50.010 Purpose.

The purpose of this chapter is to establish the procedures and decision criteria for a variety of permits that involve discretion or a recommendation or decision made by the community development director or designee, hearing examiner, or other hearing body, as appropriate. An interpretation of the provisions of this chapter clarifies conflicting or ambiguous wording, or the scope or intent of the provisions of this chapter. An interpretation of the provisions of this chapter may not be used to amend this chapter. (Ord. 15-448 § 2 (Exh. A); Ord. 03-203 § 1).

18.50.020 Administrative interpretations.

A. The purpose of an administrative interpretation is to provide a degree of flexibility in the administration of this title while following the intent of the city council. Administrative interpretations are subject to applicable requirements of Process I applications pursuant to EMC 18.40.080, Process I – Administrative approval. A decision by the community development director or designee as to the meaning, application or intent of any development regulation in this chapter is known as an “interpretation.” An interpretation may be requested in writing by any person or may be initiated by the community development director or designee. This section establishes the procedure and criteria that the city will use in deciding, upon a written request, to interpret the provisions of this chapter and in issuing any other written interpretation of this chapter. The interpretation of the provisions of a concomitant agreement will be treated as an interpretation of this chapter. Any appeals of an interpretation by the community development director or designee under this section may be appealed to the city’s hearing examiner as provided for in this title.

B. All interpretations of this title shall be made by the community development director or designee. Official interpretations shall be written and maintained in an orderly, retrievable record. Such administrative interpretations shall include determinations of uses permitted in the various districts, and approval or disapproval of development

plans and zoning decisions. Other interpretations may be made as specific circumstances arise which require such interpretations.

C. Interpretations of Text.

1. The more restrictive provision shall govern, where the conditions imposed by one provision of this title are less restrictive than comparable conditions imposed by any other provisions of this title.
2. The most restrictive shall apply, whenever the requirements of this title differ from the requirements of any other laws, ordinances, regulations, covenants or codes.
3. Except where specifically noted, examples of uses listed in this title are intended to typify but not be an inclusive list or limit allowable uses and shall be used to identify appropriate zones and regulatory levels for a given use based on substantial similarity, in terms of activities, intensity, size, and performance, to a listed use.

D. Land uses that are listed as primary uses in each zoning district shall be permitted subject to the review processes, standards, and regulations specified in this title. If a use is not listed as a use in a zoning district it shall be considered to be a prohibited use. However, it is inevitable that certain valid, justifiable uses of land will be missing from the listings of uses permitted in various zoning districts, therefore the community development director or designee is authorized to make an administrative interpretation pursuant to subsection (D)(1) of this section.

1. If a proposed use is not specifically listed, an applicant may request an interpretation from the community development director or designee as to whether or not such use is a permitted use. In determining whether a proposed use closely resembles a use expressly authorized in the applicable zoning district(s), the community development director or designee shall examine the characteristics of the development and use and shall make a determination as to what zone(s) the development and use may be allowed as a primary permitted use, permitted with an administrative use permit, or a conditional use permit based on the following criteria:

- a. The requested use is substantially similar to the listed uses permitted in the district in which the request is being sought, as opposed to its similarity to the listed uses permitted in other districts based on the following criteria:
 - i. The activities involved in or equipment or materials employed in the use;
 - ii. The effects of the use on the surrounding area, such as traffic impacts, noise, dust, odors, vibrations, lighting and glare, impacts on public services and facilities, and aesthetic appearance; and
 - iii. The use has a high degree of potential to be consistent, compatible, and homogenous with listed uses.
- b. The use is consistent with the stated purpose of the applicable district or districts.
- c. The use is compatible with the applicable goals and policies of the comprehensive plan.

2. Unlisted developments and uses for which the community development director or designee has made an administrative interpretation as to appropriate zone and type similarity shall be considered to constitute an official interpretation and shall subsequently be applied and used for future administration in reviewing other proposals. The community development director or designee shall report such decisions to the planning commission when it appears desirable and necessary to amend this code.

3. The community development director or designee's determination is classified as a Process I application and shall be processed and subject to the applicable requirements of EMC 18.40.080, Process I – Administrative approval, and may be appealed as provided in EMC 18.40.090, Process II – Administrative action.

E. Where uncertainty exists as to any of the zone boundaries as shown on the zoning map, the following rules shall apply:

1. A boundary shown on the zoning map as approximately following a lot line or parcel boundary shall be construed as following the lot line or parcel boundary as it actually existed at the time the zoning boundary was established. If, subsequent to the establishment of the zoning boundary, a lot line should be moved as a result of a legally performed boundary line adjustment, the zoning boundary shall be construed as moving with the lot line only if the lot line is moved no more than 10 feet and remains generally parallel to the original line.
2. A boundary shown on the zoning map as approximately following a creek, lake, or other water course shall be construed as following the actual centerline of the water course. If, subsequent to establishment of the boundary, the centerline of the water course should move as a result of natural processes, the boundary shall be construed as moving with the centerline of the water course.
3. A boundary shown on the zoning map as approximately following a ridgeline or topographic contour line shall be construed as following the actual ridge or contour line. If, subsequent to the establishment of the boundary, the ridge or contour line should move as a result of natural processes, the boundary shall be construed as moving with the ridge or contour line.
4. A boundary shown on the zoning map as approximately following a street or railroad line shall be construed as following the centerline of the street or railroad right-of-way. If, subsequent to the establishment of the boundary, the centerline of the street or railroad right-of-way should be moved as a result of its widening or minor realignment (such as at an intersection), the boundary shall be construed as moving with the centerline only if the centerline is moved no more than 20 feet.
5. Whenever any street or other public right-of-way is vacated in the manner prescribed by law, the zoning district adjoining each side of said street or other public right-of-way shall be automatically extended to the centerline of the former street or other public right-of-way, and all of the area included in the vacation shall then and henceforth be subject to all regulations of the extended districts.
6. Whenever a single lot, one acre or less in size, is located within two or more different zoning districts, the district regulations applicable to the district within the larger portion of the lot lies shall apply to the entire lot.
7. Whenever a single lot greater than one acre in size is located within two or more different zoning districts, each portion of that lot shall be subject to all the regulations applicable to the district in which it is located.
8. If the specific location of a zoning boundary line cannot be determined from application of the above rules to the zoning map, it shall be determined by the use of the scale designated on the zoning map.
9. Where questions still arise concerning the exact location of a district boundary, the community development director or designee shall interpret the zone boundaries.

F. The definition of any word or phrase, not listed in this title, which is in question when administering this title, shall be defined from one of the following sources that are incorporated herein and adopted by reference. Said sources shall be utilized to find the desired definition in the order listed as follows: city of Edgewood development code, the city of Edgewood comprehensive plan, any other portion of the Edgewood Municipal Code or other city resolution, ordinance, or regulations; any statute or regulation of the state of Washington (i.e., the most applicable); legal definitions from applicable case law; legal definitions from the most recent edition of Black's Law Dictionary; Moskowitz and Lindbloom, 1993, The New Illustrated Book of Development Definitions, Webster's, or other common dictionary.

G. Applications.

1. Any person, personally or through an agent, may make application for an interpretation.
2. The applicant shall file a completed master land use application along with a written description, which at a minimum clearly states:
 - a. The interpretation requested;

- b. The applicable Edgewood city code section(s) which the applicant requests the community development director or designee to interpret; and
- c. Relevant information and arguments which support the requested interpretation.

3. With the application, the applicant shall submit the fee established by the city. The application shall not be accepted unless it is accompanied by the required fee.

4. The community development director or designee may modify the submittal requirements as deemed appropriate.

5. An application for an interpretation shall be routed to the community development department. The director may route for comment an application for an interpretation to other staff members or departments.

H. The community development director or designee may, acting on their own initiative or in response to a written inquiry, in the format outlined in subsection (D)(1) of this section, issue interpretations of any of the provisions of this chapter.

1. A code interpretation requested by a person other than the project proponent or property owner must be requested prior to the date of expiration of any applicable administrative appeal period for a land use decision on the application to which the request relates. Any code interpretation requested after the applicable administrative appeal period shall not affect an issued permit or decision.

2. The community development director or designee shall base an interpretation on:

- a. The defined or the common meaning, as applicable, of the words in the provision;
- b. The general purpose of the provision as expressed in the provision; and
- c. The logical or likely meaning of the provision viewed in relation to the comprehensive plan, this chapter, the Edgewood Municipal Code as a whole, or other plans and studies prepared or adopted by the city.

3. The community development director or designee shall mail a written response to any person filing a written request to interpret the provisions of this chapter within 28 days of having received that request.

4. An interpretation of this chapter will be enforced as if it is part of this chapter.

5. The community development director or designee shall maintain an interpretation file that contains all interpretations of this chapter that are in effect. The interpretation file shall be available for public inspection and copying in the community development department during regular business hours.

6. An interpretation of the provisions of this chapter remains in effect until rescinded in writing by the community development director or designee or until the subject text of this chapter has been amended consistent with this section.

7. Interpretations issued by the community development director or designee that are related to a land use or subdivision application shall be incorporated into the decision and be subject to applicable notice provisions for the decision. Interpretations issued by the community development director or designee that are not related to a land use or subdivision application shall be subject to the notice provisions under this section.

- a. The community development director or designee shall prepare a notice of each interpretation that is not related to a land use or subdivision application, containing the following information:
 - i. The citation, if any, of the provision(s) of the Edgewood city code that is the subject of the interpretation along with a brief description of the subject provision(s).
 - ii. A summary statement of the interpretation of the affected provision.

- iii. The date of the interpretation.
 - iv. A statement of the availability of the official file.
 - v. A summary of the rights, as established in this chapter, of any person to submit an appeal of the interpretation.
 - vi. The deadline for filing appeals of the interpretation.
- b. Upon issuance of the interpretation, the community development director or designee shall distribute this notice of the interpretation as follows:
- i. Published in the official newspaper of the city.
 - ii. Posted on each of the official notification boards of the city and public libraries located within the city.
8. Any person who is aggrieved by an interpretation issued by the designee may appeal that interpretation within 14 days of the date of interpretation.
- a. The appellant must file a letter of appeal indicating how the interpretation affects his or her property and presenting any relevant arguments or information on the correctness of the interpretation. The applicant shall include appeals fees as established by the city. The appeal will not be accepted unless it is accompanied by the required fee.
 - b. An appeal of an interpretation of this chapter will be reviewed and decided upon using the process for appeals outlined in EMC 18.40.100, Process III – Hearing examiner action.
 - c. If the interpretation of the designee is modified, the designee shall:
 - i. Place the modifying decision in the interpretation file; and
 - ii. Change or remove, as appropriate, the interpretation that was modified. (Ord. 15-448 § 2 (Exh. A); Ord. 03-203 § 1).

18.50.030 Administrative use permit.

A. The purpose of this section is to establish an administrative review process and decision criteria to evaluate proposed land uses that, due to unique qualities or circumstances, may require some additional regulation or control. The administrative use permit (AUP) process is intended to ensure that the proposed activity, if established, will be in full compliance with applicable regulations, that the unique qualities of the use is addressed and mitigated, and that such use is compatible with the comprehensive plan and adjacent uses.

B. Existing Uses.

- 1. Any use existing at the time of adoption of this title that is within the scope of uses requiring an administrative use permit in the zoning district in which the property is situated shall be deemed a conforming use without necessity of obtaining an AUP.
- 2. Any expansion of an existing administrative use shall be required to apply for a new AUP if the community development director or designee finds that there is a change in the nature of the use or a significant change in the intensity of the use created by such an expansion.
- 3. Any use operating under the provisions of an existing AUP at the time of adoption of this title that is within the scope of uses requiring an AUP in the zoning district in which the property is situated shall be deemed conforming use without necessity of a new AUP, unless a proposed expansion would result in a change in the nature of the use or a significant change in the intensity of the use created by such an expansion.

4. Any use operating under the provisions of an existing AUP at the time of adoption of this title which is within the scope of primary permitted uses in the applicable zoning district shall be deemed a conforming use.

C. An AUP is a Process II application type and subject to all the procedural requirements applicable to this application type.

1. An applicant proposing to develop an administrative use shall provide facts and evidence to enable the community development director or designee to make a determination. The application shall be on the form prescribed by the community development department and shall include all of the information and materials required by the application form. The established fee shall be submitted at time of application.
2. Administrative use permit applications shall be filed with the community development department. The AUP application shall be reviewed and circulated for comment by city staff.

D. The community development director or designee shall approve an AUP only if all of the following findings can be made regarding the proposal and are supported by the record:

1. The approval of the proposed AUP will not be detrimental to the public health, safety, and general welfare; nor will it be injurious to, or adversely affect, the uses, property, or improvements adjacent to and in the vicinity of the site upon which the proposed use is proposed to be located;
2. The approval of the proposed AUP is consistent and compatible with the intent of goals, objectives and policies of the comprehensive plan and any other city ordinances;
3. The proposed use and the project design comply with the zoning district and all applicable development regulations;
4. All conditions necessary to mitigate the impacts of the proposed use have been included in the project design or approval, and are capable of being monitored and enforced;
5. All requirements for a specific use have been addressed by the applicant.

E. When granting an administrative use permit, the community development director or designee may attach specific conditions to the permit that will serve to accomplish the standards, and/or meet the criteria, and policies established in the comprehensive plan and this title. The community development director or designee may deny an application for an AUP if the establishment of the use would be incompatible with the surrounding area or incapable of complying with specific standards set forth in this code, or if any of the above required findings are not supported by evidence in the record as determined by the community development director or designee.

1. In addition to demonstrating compliance with the criteria as determined by EMC 18.50.020(D), the applicant shall accept those conditions that the community development director or designee finds are appropriate to obtain compliance with the criteria as listed below;
2. In permitting an administrative use, the community development director or designee may impose any of the following conditions:
 - a. Limit the manner in which the use is conducted, including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.
 - b. Establish a special yard or other open space, lot area or dimension.
 - c. Limit the height, size or location of a building or other structure.
 - d. Designate the size, number, location or nature of vehicle access points.
 - e. Increase the amount of street dedication, roadway width or improvements within the street right-of-way.

- f. Designate the size, location, screening, drainage, surfacing or other improvement of a parking or truck loading areas.
- g. Limit or otherwise designate the number, size, location, and height of lighting of signs.
- h. Limit the location and intensity of outdoor lighting or require its shielding.
- i. Require screening, landscaping or another facility to protect adjacent or nearby property and designate standards for installation or maintenance of the facility.
- j. Design the size, height, location or materials for a fence.
- k. Protect existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.
- l. Require provisions for public access, physical and visual, to natural, scenic and recreational resources.
- m. Require provisions for stormwater management, including implementation of LID to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM), and designating the size, location, screening, or other improvements needed for stormwater management facilities, if applicable.
- n. Impose special conditions on the proposed development to ensure that development is in conformance with the surrounding neighborhood and the intent and purpose of the zoning district classification.
- o. Require such financial guarantees and evidence that any applied conditions will be complied with.

F. Authorization of an AUP shall be void after a period of one year unless the use has begun within that time or substantial construction or action pursuant thereto has taken place. However, the city may, at the discretion of the community development director or designee, extend authorization for six additional months upon request, provided such request is submitted in writing at least 30 days, but not more than 60 days, prior to the expiration of the permit, with payment of appropriate fees as listed in the current fee schedule. (Ord. 16-482 § 2 (Exh. F); Ord. 15-448 § 2 (Exh. A); Ord. 03-203 § 1).

18.50.035 Residential cluster development.

A. Intent. The purpose of residential cluster development (RCD) is to preserve large areas of open land and protect environmentally sensitive areas while permitting residential development at the underlying densities in a manner that reduces the perceived intensity of development and provides privacy to existing homes. Specific objectives include:

- 1. To maintain and protect the existing character of the neighborhood by preserving important landscape elements, including those areas containing environmentally sensitive areas.
- 2. To promote fee-simple ownership of dwellings within the city.
- 3. To preserve scenic views and minimize impacts on adjacent properties.
- 4. To provide greater design flexibility and efficiency in location of dwellings and other development features.
- 5. To promote cost savings in infrastructure installation and maintenance by such techniques as reducing the distance over which utilities, such as water and sewer lines, and roads, need to be extended.
- 6. To create groups of dwellings with direct visual and physical access to common open space.
- 7. To permit various means for owning common open space and for protecting it from development in perpetuity.

B. General Provisions.

1. A RCD may be approved for development containing residential uses located within the Single-Family Low (SF-2), Single-Family Moderate (SF-3), Single-Family High (SF-5), Mixed Residential (MR-1 and MR-2), Mixed Use Residential (MUR), Commercial (C), and Town Center (TC) zoning districts.
2. The city or the owner of the subject land, or their authorized agent, may initiate an application for a RCD.
3. The appropriate fee prescribed in Chapter 3.35 EMC shall accompany an application for a RCD.
4. A RCD application shall be submitted and reviewed pursuant to the requirements and procedures set forth in Chapter 18.40 EMC for a Process III hearing examiner action.
5. All principal and accessory uses authorized by the applicable zoning district shall be allowed within a RCD, subject to the following:
 - a. Use/uses included in the RCD approval shall be exempt from requirements to obtain an administrative use permit or conditional use permit; and
 - b. The exemption from the requirement for an administrative use permit or conditional use permit shall not prevent the hearing examiner from imposing conditions on specific uses within the RCD as a condition for approving the RCD; and
 - c. Approval of a RCD shall not be construed as authorizing any primary or accessory use not allowed by the underlying zoning district.
6. If two or more zoning districts are located within the boundaries of the RCD, the following shall apply in determining the development that may be allowed:
 - a. The portion of land in each zoning district shall be subject to the uses, density and development standards applicable to the underlying zoning district in which that portion of land is located; and
 - b. The total development allowed within the RCD shall be the sum of development allowed for each portion of land located within each zoning district; and
 - c. Use/uses included in the RCD approval may be located anywhere within the boundaries of the RCD and shall not be dependent on the boundaries of the underlying zoning district, unless the location of the use would adversely affect adjacent properties.
7. Scope of Approval.
 - a. Approval of a RCD constitutes an overlay to the zoning district. Modifications to any provisions for minimum lot size, setbacks, number of stories, maximum square footage of the floor space and/or building footprints for residential uses, lot coverage and impervious surface coverage may be granted at the discretion of the approving authority.
 - b. Approval of a RCD shall govern the design of the site to only those designs and standards that are specifically included as set forth in the approved site plan, and the underlying zoning district standards shall apply to all present and future uses not specifically addressed in the approved site plan.

C. Density and Dimensional Standards.

1. The maximum density of the underlying zoning district shall apply. Density is based on the net buildable area as prescribed in EMC 18.90.040.
2. The modifications to development standards allowed pursuant to subsection (B)(7)(a) of this section shall be subject to the following limitations:
 - a. The maximum building height shall be the same as that set forth in the underlying zoning district where the building is located and the provision in subsection (B)(6)(c) of this section shall not apply.

b. Each lot shall have a minimum net buildable area in accordance with EMC 18.80.040(E)(2) or the following Table 1.

Table 1: Minimum Net Buildable Area Lot Size

Zoning District	Land Use Type	Net Buildable Area (square feet)
SF-5/MR-1	Single-Family Detached	5,000
	All Other Allowed Uses	3,000
MR-2	All Allowed Uses	3,000
MUR	Single-Family Detached	4,000
	All Other Allowed Uses	2,000
TC	All Allowed Uses	None
C	All Allowed Uses	None

c. The following development standards shall be applied to the entire RCD rather than to individual lots:

- i. Maximum impervious surface (not to include surface areas for roads, sidewalks, bicycle and pedestrian pathways, utilities such as stormwater and sewers, and similar infrastructure); and
 - ii. Maximum lot coverage (not to include structures that house utilities and similar infrastructure); and
 - iii. The minimum number of required off-street parking spaces.
- d. The setbacks of the underlying zoning district shall apply to the perimeter of the RCD, except when adjacent to single-family zoned property where the minimum setback shall be 25 feet from all property lines abutting the single-family zoning district.
- e. Buildings containing residential uses shall maintain a minimum 10-foot distance separation between the buildings as measured from the outdoor side of the exterior walls.

D. Design Standards for Cluster Groups. Residential dwellings/lots shall be formed into cluster groups with one or more groups allowed per each RCD. Cluster groups shall incorporate the following design standards into their site layout:

1. All lots within a cluster group shall have access from interior streets located within the development.
2. Interior streets serving more than 30 residential dwellings shall provide vehicle access from at least two directions.
3. Streets and parking areas shall contribute to the overall aesthetic design of the project. The city engineer may approve alternative designs for roads and pedestrian accessways that reduce impervious surfaces; provided, that the alterations do not adversely affect traffic congestion.

E. Design Standards for Common Open Space.

1. A percentage of the total gross land area within the RCD shall be preserved as common open space in accordance with the following standards:
 - a. Single-Family Five (SF-5) and Mixed Residential One (MR-1) zones: at least 30 percent.
 - b. Mixed Residential Two (MR-2) zone: at least 15 percent.

- c. Mixed Use Residential (MUR), Town Center (TC) and Commercial (C) zones: at least 15 percent.
2. Common open space shall be classified as active or passive. Passive open space includes natural features and environmentally constrained lands where disruptions to the natural environment are subject to the regulations set forth in EMC Title 14 (Critical Areas). Active open space includes recreational activities such as sport fields, pea patches, picnic areas, playgrounds, athletic courts and similar types of facilities. A trail that is improved to city standards set forth in Chapter 12.12 EMC, whether public or private, shall be included as active open space.
 3. The following areas shall not be included as part of the common open space:
 - a. Private lot areas;
 - b. Areas for parking, driveways or streets, except areas for on-street bicycle pathways may be included;
 - c. Areas set aside for required landscaping;
 - d. Areas for stormwater and other infrastructure improvements, except when such facilities are located underground;
 - e. Perimeter and yard setbacks for buildings and structures; and
 - f. Isolated passive open space areas less than 2,000 square feet that are not connected in accordance with the provisions set forth in subsection (E)(4) of this section.
 4. All common open space areas shall be part of a larger continuous and integrated open space system within the development. At least 75 percent of the common open space shall be contiguous to each other. For the purpose of meeting this standard, "contiguous" means within 100 feet of each other with no impediments to access between the areas. Access can be by trails, greenbelt corridors, sidewalks, or other means approved by the director.
 5. Trails that are located within 50 feet of homes in cluster groups shall be identified by plantings, fences, or other landscape features.
 6. Common open space shall be restricted in perpetuity from further subdivision and/or land development by deed restriction, conservation easement, or other agreement that restricts development and protects the specified open space in a form acceptable to the city and duly recorded in the office of the Pierce County auditor.
 7. Within the MUR, TC and C zones, the director may reduce or waive the requirement for common open space if an improved pedestrian-oriented public space is provided that incorporates the following:
 - a. The area of the public space is at least five percent of the net buildable area, plus one percent of the nonresidential building gross floor area (excluding service and structured parking areas); and
 - b. An easement or dedication to the public's use of the public space; and
 - c. Pedestrian access to buildings with residential uses; and
 - d. Paved walking surfaces of unit pavers, stone, brick or concrete with special texture, pattern and/or other decorative features that provide an inviting pedestrian environment; and
 - e. At least two linear feet of seating area (bench, ledge, etc.) or one individual seat per 60 square feet of public space, with no more than 50 seats or 100 linear feet of seating area being required; and
 - f. Landscaping and art features, such as murals, sculptures, water features, and/or decorative surfaces; and
 - g. Has solar exposure during the summer; and

- h. Provides public access and visibility from the nearest public sidewalk and/or street; and
- i. No improved public space shall be less than 30 feet at its smallest dimension and less than 2,000 square feet in area, except an improved public space may be less than 2,000 square feet in area if it represents the entire amount of improved public space required under this section.

8. The requirement to provide common open space shall not relieve the requirement to pay park impact fees pursuant to Chapter 4.20 EMC, which mitigates the development's impact to public park facilities in the city.

F. Landscaping Requirements.

1. The preservation of existing vegetation shall always be preferred to the installation of new plant materials. Any area of the development not built upon shall either be maintained with existing healthy vegetation (not to include weeds or noxious plants identified pursuant to Chapter 8.24 PCC, as adopted in EMC Title 8), or landscaped with new plantings. Proposed landscaping shall incorporate LID systems to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM) with design, installation, and maintenance following the standards outlined in the PCM and associated reference documents.

2. A planted landscape buffer at least 15 feet wide shall be established to provide substantial visual blockage from abutting properties to the RCD wherever dwellings within the RCD are located 100 feet or less from the perimeter interior and rear property lines of the parcel. The planted landscaped buffer shall incorporate the following:

- a. Use a combination of plants, medium shrubs and evergreen/deciduous trees to provide visual blockage;
- b. At least one tree per 20 lineal feet of planted landscape buffer;
- c. Plants and trees shall meet the standards set forth in EMC 18.90.090(E); and
- d. The planted buffer shall provide a minimum six-foot in height visual blockage within three years of planting.
- e. A fence, earthen berm or wall may be incorporated into the buffer, but shall not count towards meeting the visual blocking requirements.
- f. LID systems to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM), with design, installation, and maintenance following standards outlined in the PCM and associated reference documents.

3. All public and private streets associated with the RCD shall have landscaping in accordance with EMC 18.90.090(G)(2), Type II, Streetscapes. This includes, but is not limited to, the following:

- a. At least one street tree per 40 feet of lineal frontage;
- b. Trees shall be approved by the city and have a minimum two-inch caliper at the time of planting;
- c. Landscaping strip of vegetative groundcover of at least eight feet, which may be reduced by the director when it supports the design of the RCD;
- d. Decorative tree wells are required when trees are placed within a sidewalk; and
- e. LID systems to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM) with design, installation, and maintenance following standards outlined in the PCM and associated reference documents.

4. The use of native and drought tolerant, low water use plants is encouraged. When determined by the director to be necessary to ensure survival of the vegetation, irrigation shall be provided in accordance with the provisions set forth in EMC 18.90.090(F).

5. A licensed landscape architecture or other professional approved by the director shall prepare a landscape plan to accompany the application for the RCD. A vegetative maintenance plan shall be submitted with the landscaping plan. The plan shall include a program to replace any dead or dying trees and vegetation within one year of the plant or tree being identified as needing replacement.

G. Sewers. Sewer systems for cluster development may be public, individual private disposal systems, or community private disposal systems.

1. Connection to the city's public sewer system shall be in accordance with the provisions in Chapter 11.40 EMC.

2. Private disposal systems are subject to approval by the Tacoma-Pierce County health department or the Washington State Department of Ecology. When connecting to a private disposal system is allowed pursuant to Chapter 11.55 EMC, the following shall apply:

a. The city may require the installation of dry sewer systems as a condition of approving private disposal systems to serve the RCD. Property owners are subject to the requirements in Chapter 11.55 EMC to disconnect from the private disposal system and connect to the city sewer system when it becomes available.

b. Private disposal systems may be exempted from the requirement to be located on the same lot as the building they are designed to serve as set forth in EMC 13.15.010 when, in the opinion of the director, it is necessary to allow for design of the RCD.

c. Private disposal systems located on land other than the lot containing the building it serves shall be located on land held in common ownership, subject to the provisions set forth in subsection (H) of this section.

3. Sewer facilities located underground may be located within common open space areas.

H. Ownership and Maintenance of Common Facilities and Open Space. To ensure adequate planning for ownership, operation, and maintenance of common open space, recreational facilities, stormwater facilities (including LID systems), sewage disposal facilities, common parking areas and driveways, private streets and other common or community facilities, the following shall apply:

1. All common facilities shall be held in common ownership as undivided proportionate interest by the members of a homeowners' association.

2. The homeowners' association shall be established under the provisions set forth in Chapter 64.38 RCW and subject to the following provisions:

a. The organization shall be established as a corporation or a limited liability company by the owner or applicant and shall be in existence with financial subsidy by the applicant, if necessary, prior to the sale of any dwelling units in the development.

b. Membership in the organization shall be mandatory for all purchasers of dwelling units/property therein and their successors.

c. The applicant shall provide a description of the organization, including its bylaws, and all documents governing maintenance requirements and use restrictions for common facilities. Such documents shall be reviewed and approved to form by the city.

d. The organization shall share equitably the costs of maintaining, insuring, and operating common facilities. Dedicated funds and/or accounts shall be established for maintenance and operation of common facilities. The documents governing maintenance of common facilities shall include adequate financial measures such as homeowners' dues to cover such costs.

e. The organization shall have or hire adequate staff, contractor or property management company to administer, maintain, and operate common facilities.

f. The covenants, conditions, and restrictions (CC&R) shall contain language that is acceptable to the city governing the maintenance of common facilities. The language shall include provisions granting the city an access easement and the ability, but not the obligation, to inspect, maintain and repair common facilities.

g. Additional provisions in the CC&R may be required by the Tacoma-Pierce County health department governing the maintenance of private disposal systems. When a private disposal system is utilized, Tacoma-Pierce County health department approval of the CC&R is required.

3. In addition to the homeowners' association or as an alternative thereto, fee-simple dedication of common facilities to a public agency is allowed, provided the public agency agrees to such dedication. The residents of the RCD shall hold a conservation easement on the land and facilities so dedicated, protecting the common open space from development in perpetuity.

4. The applicant shall provide a plan and written narrative for the use, maintenance and insurance of all common facilities, including provisions for funding, to the city. The city's approval of the plan is required. The plan shall at a minimum include the following:

- a. The defined ownership (members of the homeowners' association);
- b. Responsibilities for regular and periodic maintenance services;
- c. A contract for professional maintenance services for private disposal systems, if the private disposal system serves more than one property owner;
- d. An open space plan that includes provisions for long-term management of the open space lands; and
- e. Provisions for an escrow fund, if the city, as a condition for approving the RCD, requires that sufficient funds are available for up to one year's worth of maintenance and operation costs of common facilities.

5. In the event the homeowners' association, any successor organization thereto, or the property owners within the RCD fail to properly maintain all or any portion of the common areas or facilities, the city may serve written notice setting forth the nature of corrections required and the time within which the corrections shall be made. Upon failure to comply within the time specified in the written notice, the homeowners' association, any successor organization thereto, or the property owners within the RCD shall be considered in violation of the conditions of approving the RCD, in which case the city shall have the right to enter the premises and take the needed corrective actions. The costs of corrective actions by the city shall be assessed against the properties that have the right of enjoyment of the common areas and facilities.

6. Common open space lands may be leased by the RCD to another person or other entity for use, operation, and maintenance; provided, that:

- a. The residents of the RCD shall at all times have access to such leased lands;
- b. The common open space lands to be leased shall be maintained for the purposes set forth in this section; and
- c. The lease, and any transfer or assignment thereof, shall be subject to the approval of the city.

I. Lapse of Approval. If not acted upon within three years from the date of the decision, approval of the RCD shall expire. Expiration is automatic and notice is not provided. The director may grant a single six-month extension if the applicant makes such a request in writing prior to the expiration of the RCD and can show good cause for granting the extension. (Ord. 18-535 § 1; Ord. 16-482 § 2 (Exh. F); Ord. 07-288 § 1).

18.50.040 Conditional use.

A. This section is to establish procedures and decision criteria for uses that possess unique characteristics and are of such a nature that they may not be appropriate for every location within a given zoning district. Conditional uses are those uses deemed unique due to factors such as size, technological processes, equipment, or location with respect to surroundings, streets, existing improvements, or demands upon public facilities. Such uses require a special degree of review and control to ensure compatibility with the comprehensive plan and adjacent uses.

B. Any use existing at the time of adoption of this title that is within the scope of uses requiring a conditional use permit (CUP) in the zoning district in which the property is situated shall be deemed a conforming use without necessity of obtaining a CUP.

1. Any expansion of an existing conditional use shall be required to apply for a new CUP if the community development director or designee finds that there is a change in the nature of the use or a significant change in the intensity of the use created by such an expansion.
2. Any use operating under the provisions of an existing conditional use permit/public facilities permit at the time of adoption of this title that is within the scope of uses requiring a CUP in the zoning district in which the property is situated shall be deemed a conforming use without necessity of a new CUP, unless a proposed expansion would result in a change in the nature of the use or a significant change in the intensity of the use created by such an expansion.
3. Any use operating under the provisions of an existing CUP at the time of adoption of this title that is within the scope of primary permitted uses within the applicable zoning district shall be deemed a conforming use.

C. Application for a Conditional Use Permit.

1. A CUP is a Process III application type and subject to all the procedural requirements applicable to this application type.
2. CUP applications shall be on the form prescribed by the community development department and shall include all of the information and materials required by the application form. An applicant shall provide sufficient facts and evidence to enable the hearing examiner to make a decision. The established fee shall be submitted at time of application.
3. Applications for CUP shall be filed with the community development department. The CUP application shall be reviewed and circulated for comment by city staff.
4. Notice of application shall be provided pursuant to EMC 18.40.180, Notice of application.
5. Public notices shall be pursuant to EMC 18.40.180, Notice of application.
6. Public hearings shall be pursuant to EMC 18.40.190, Notice of public hearing.
7. A CUP shall only be granted after the hearing examiner has reviewed the proposed use and has made written findings that all of the standards and criteria set forth below have been met or can be met, subject to conditions of approval:
 - a. The size of the site is adequate for the proposed use, including all facilities and amenities that are required by this title or desired by the applicant.
 - b. The proposed use will not be detrimental to the public health, safety, and general welfare of the community and will not introduce hazardous conditions at the site that cannot be mitigated to protect adjacent properties.
 - c. The topography, soils, and other physical characteristics of the site are appropriate for the use and potential problems due to weak foundation soils can be eliminated or reduced to the extent necessary to avoid hazardous situations.

- d. The proposed use will not be injurious to, or adversely affect the uses, property, or improvements adjacent to, or in the vicinity of, the site upon which the proposed use is to be located.
- e. The proposed use will be compatible with adjacent land uses and consistent with the character of the surrounding area.
- f. The proposed use will be supported by adequate water, sewer/septic, storm drainage, schools, electrical, police, and fire protection facilities and services. The use will not overburden or adversely affect said public facilities and services.
- g. The traffic generated by the proposed use will not unduly burden the traffic circulation system in the vicinity.
- h. An adequate site layout is proposed for on-site circulation and transportation activities, considering the potential impacts of the proposed use on traffic flow and control, emergency vehicle movements and safety associated with the suitability of access points, on-site drives, parking, loading and unloading areas, refuse collection and disposal points, sidewalks, bike paths, or other transportation facilities required by this title or desired by the applicant.
- i. The proposed use will cause no unreasonably adverse effects to wetlands, shorelands, wildlife habitat, and other critical areas.
- j. The public interest will suffer no substantial detrimental effect.
- k. Buffering devices such as fencing, landscaping or topographic characteristics adequately protect adjacent properties from adverse effects of the proposed use, including adverse visual or auditory effects.
- l. The granting of the proposed conditional use is consistent and compatible with the intent of the goals, objectives and policies of the comprehensive plan. For essential public facilities, the hearing examiner shall balance the goals and policies of the comprehensive plan, the intent of this code, and the public need for the proposed facility.
- m. The proposed use complies with the appropriate development and performance standards and all other applicable provisions of the city of Edgewood development standards.
- n. All conditions necessary to lessen any impacts of the proposed use have been included in the project design or will be required as conditions of approval pursuant to EMC 18.40.100, Process III – Hearing examiner action.
- o. In addition to demonstrating compliance with the criteria as determined by the hearing examiner, the applicant shall accept those conditions that the hearing examiner finds are appropriate to obtain compliance with the criteria.
 - i. In permitting a conditional use, the hearing examiner may impose any of the following conditions:
 - (A) Limit the manner in which the use is conducted, including restricting the time an activity may take place and restraints to minimize such environmental effects such as noise, vibration, air pollution, glare and odor.
 - (B) Establish a special yard or other open space, lot area or dimension.
 - (C) Limit the height, size or location of a building or other structure.
 - (D) Designate the size, number, location or nature of vehicle access points.
 - (E) Increase the amount of street dedication, roadway width or improvements within the street right-of-way.

(F) Designate the size, location, screening, drainage, surfacing or other improvement of a parking or truck loading areas.

(G) Limit or otherwise designate the number, size, location, and height of lighting of signs.

(H) Limit the location and intensity of outdoor lighting or require its shielding.

(I) Require screening, landscaping or another facility to protect adjacent or nearby property and designate standards for installation or maintenance of the facility.

(J) Design the size, height, location or materials for a fence.

(K) Protect existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.

(L) Require provisions for public access, physical and visual, to natural, scenic and recreational resources.

(M) Require provisions for stormwater management, including implementation of LID to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM), and designating the size, location, screening, or other improvements needed for stormwater management facilities, if applicable.

(N) Impose special conditions on the proposed development to ensure that development is in conformance with the surrounding neighborhood and the intent and purpose of the zoning district classification.

(O) Require such financial guarantees and evidence that any applied conditions will be complied with.

(P) Require appeals to be pursuant to EMC 18.40.090(L), Appeals.

ii. Authorization of a conditional use shall be void after a period of one year unless the use is begun within that time or substantial construction or action pursuant thereto has taken place. However, the city may, at the discretion of the community development director or designee, extend authorization for one additional year upon request, provided such request is submitted in writing at least 30 days but not more than 60 days prior to expiration of the permit with payment of appropriate fees as listed in the current fee schedule. (Ord. 16-482 § 2 (Exh. F); Ord. 15-448 § 2 (Exh. A); Ord. 03-203 § 1).

18.50.045 Nonconforming use permit.

A. The purpose of a nonconforming use permit (NUP) is to allow the continued use of existing, legal nonconforming sand and gravel surface mining operations that legally operated within the city of Edgewood prior to incorporation and have continued to extract sand and gravel to the effective date of the ordinance codified in this section. Sand and gravel surface mining operations do not include bioremediation and/or concrete recycling operations.

B. The process for obtaining a NUP and the criteria for approval shall be the same as set forth for the conditional use permit in EMC 18.50.040. The hearing examiner and city staff shall consider conditions imposed in prior approvals by other government agencies with jurisdiction in the review of any application for a NUP.

C. Issuance of a NUP shall not remove the legal nonconforming nature of the business or use. (Ord. 04-235 § 1).

18.50.050 Design standards review.

A. Design standards is an administrative process, the purpose of which is to implement and give effect to the comprehensive plan, its policies or parts thereof through the adoption of design criteria for development relative to site layout, landscape, architecture, and exterior structure design. It is the intent of the city that this process will serve to aid applicants in understanding the principal expectations of the city concerning design, and to encourage a diversity of imaginative solutions to development through the review and application of the design standards.

B. The adoption of the design guidelines is an element of the city's regulation of land use, which is statutorily authorized. The design standards review process adopted herein is established as a Process I administrative function

delegated to the community development director or designee pursuant to RCW 35A.13.080. Therefore, in implementing the administrative design standards review process, the community development director or designee may adopt such rules and procedures as are necessary to provide for expeditious review of proposed projects. In the administration of this process, the community development director or designee may develop supplementary handbooks for the public, which shall pictorially illustrate and provide additional guidance on the interpretation of the design standards established, as well as provide a detailed explanation of the design review process.

C. Design standards review is a Process I application type and subject to all the procedural requirements applicable to this application type.

1. Design standards review applications shall be on a form prescribed by the community development department and shall include all of the information and materials required by the application form. An applicant shall provide sufficient facts and evidence to enable the community development director or designee to make a decision. The established fee shall be submitted at time of application.
2. Applications for design standards review shall be filed with the community development department.
3. The community development director or designee shall provide the applicant with a written decision either approving, denying or approving the application with modifications and/or conditions of approval.

D. The decision of the community development director or designee under the administrative design standards review process is final unless an appeal is made in accordance with the requirements of EMC 18.40.090(L), Appeals. (Ord. 15-448 § 2 (Exh. A); Ord. 03-203 § 1).

18.50.060 Public facilities permit.

A. This process is intended to ensure that public facilities (PF), as needed to support orderly growth and delivery of public services, are sited in a timely and efficient manner. It is also intended to provide the city with additional regulatory authority to require mitigation of impacts that may occur as a result of essential PF siting. Finally, it is intended to promote enhanced public participation that will produce siting decisions consistent with community goals. Public facilities are public or privately owned or operated facilities serving a public purpose that are typically difficult to site. They include but are not limited to: airports, state educational facilities, state or regional transportation facilities; prisons, jails and other correctional facilities, and solid waste handling facilities pursuant to WAC 365-195-340(1), Siting essential public facilities.

B. Any use existing at the time of adoption of this title, which is within the scope of uses requiring a public facilities permit (PFP) in the zoning district in which the property is situated, shall be deemed a conforming use without the necessity of obtaining a PFP.

1. Any expansion of an existing public facility use shall be required to apply for a new PFP if the community development director or designee finds that there is a change in the nature of the use or a significant change in the intensity of the use created by such an expansion.
2. Any use operating under the provisions of an existing conditional use permit at the time of adoption of this title, which is within the scope of uses requiring a PFP in the zoning district in which the property is situated, shall be deemed a conforming use without the necessity of a new PFP, unless a proposed expansion would result in a change in the nature of the use or a significant change in the intensity of the use created by such an expansion.
3. Any use operating under the provisions of an existing PFP at the time of adoption of this title, which is within the scope of primary permitted uses within the applicable zoning district, shall be deemed a conforming use.

C. A PFP is a Process III application type and is subject to all the procedural requirements applicable to this application type.

1. PFP applications shall be on the form prescribed by the community development department and shall include all of the information and materials required by the application form in order to be accepted as

complete by the city. An applicant shall provide sufficient facts and evidence to enable the hearing examiner to make a decision. The established fee shall be submitted at time of application.

2. Applications for PFPs shall be filed with the community development department. The PFP application shall be reviewed and circulated for comment by city staff.

3. Notice of application shall be provided pursuant to EMC 18.40.180, Notice of application.

D. A PFP shall be pursuant to EMC 18.40.190, Notice of public hearing.

E. A PFP shall only be granted after the hearing examiner has reviewed the proposed use and has made written findings that all the standards and criteria set forth below have been met or can be met subject to conditions of approval:

1. The project applicant has demonstrated a need for the project, as supported by an analysis of the projected service population, an inventory of existing and planned comparable facilities, and the projected demand for the type of facility proposed.
2. If applicable, the project would serve a significant share of the city's population, and the proposed site will reasonably serve the project's overall service population.
3. The applicant has reasonably investigated alternative sites, as evidenced by a detailed explanation of site selection methodology.
4. The project is consistent with the applicant's own long-range plans for facilities and operations.
5. The applicant's public participation plan has provided an opportunity for public participation in the siting decision and mitigation measures that is appropriate in light of the project's scope.
6. The project will not result in a disproportionate burden on a particular geographic area.
7. The proposed project shall comply with all applicable provisions of the comprehensive plan, development standards, SEPA, and other federal, state and local statute, codes and ordinances.
8. The project site meets the facility's minimum physical site requirements, including projected expansion needs. Site requirements may be determined by the minimum size of the facility, access, support facilities, topography, geology, and on-site mitigation needs.
9. The project site, as developed with the proposed facility and under the proposed mitigation plan, is compatible with surrounding land uses.
10. The applicant has proposed mitigation measures that substantially reduce or compensate for adverse impacts on the environment.

F. Action of Hearing Examiner. In addition to demonstrating compliance with the criteria as determined by the hearing examiner, the applicant shall accept those conditions that the hearing examiner finds are appropriate to obtain compliance with the criteria.

The hearing examiner may impose any of the following conditions:

1. Limit the manner in which the use is conducted, including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.
2. Establish a special yard or other open space or lot area or dimension.
3. Limit the height, size or location of a building or other structure.
4. Designate the size, number, location or nature of vehicle access points.

5. Increase the amount of street dedication, roadway width or improvements within the street right-of-way.
6. Designate the size, location, screening, drainage, surfacing or other improvement of a parking or truck loading areas.
7. Limit or otherwise designate the number, size, location, and height of lighting of signs.
8. Limit the location and intensity of outdoor lighting or require its shielding.
9. Require screening, landscaping or another facility to protect adjacent or nearby property and designate standards for installation or maintenance of the facility.
10. Design the size, height, location or materials for a fence.
11. Protect existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.
12. Require provisions for public access, physical and visual, natural, scenic and recreational resources.
13. Require provisions for stormwater management, including implementation of LID to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM) and designating the size, location, screening, or other improvements needed for stormwater management facilities, if applicable.
14. Impose special conditions on the proposed development to ensure that development is in conformance with the surrounding neighborhood and the intent and purpose of the zoning district classification.
15. Require such financial guarantees and evidence that any applied conditions will be adhered to.

G. Appeals shall be pursuant to EMC 18.40.090(L), Appeals.

H. Authorization of a public facility use shall be void after a period of one year unless the use began within that time or substantial construction or action pursuant thereto has taken place. However, the city may, at the discretion of the community development director or designee, extend authorization for one additional year upon request, provided such request is submitted in writing at least 30 days and not more than 60 days prior to expiration of the permit. (Ord. 16-482 § 2 (Exh. F); Ord. 15-448 § 2 (Exh. A); Ord. 03-203 § 1).

18.50.070 Temporary use permits.

A. The provisions of this section are designed to provide standards and criteria for temporary relief to situations resulting from strict application of this title. Provisions authorizing temporary uses are intended to permit occasional temporary uses, activities and structures when consistent with the purpose of this title and when compatible with the general vicinity and adjacent uses.

B. The following types of temporary uses, activities and associated structures may be authorized, subject to specific limitations in this section and such additional conditions as may be established by the community development director or designee:

1. Model homes or apartments and related real estate sales and display activities located within the subdivision or residential development to which they pertain.
2. Contractor's office, storage yard and equipment parking and servicing on the site of an active construction project.
3. Circuses, carnivals, rodeos, fairs or similar transient amusement or recreational activities.
4. Indoor or outdoor art and craft shows and exhibits.
5. Christmas tree sales lots limited to location on nonresidential lots in Commercial, Business Park or Industrial zoning districts.

6. Mobile home residences used for occupancy by supervisory and security personnel on the site of an active construction project.

7. Indoor or outdoor special sales, including swap meets, flea markets, parking lot and sidewalk sales, warehouse sales or similar activities, limited to locations on nonresidential lots in commercial or industrial districts, and when operated not more than 10 days in the same month, unless otherwise permitted by the city.

8. Temporary use of mobile trailer units or similar portable structures for nonresidential purposes, located in districts where the intended use is permitted.

9. Seasonal retail sales of agricultural or horticultural products raised or produced on individual farms.

10. Neighborhood or community garage sales, moving sales and similar activities for the sale of personal belongings when operated not more than three days in the same week or more than twice in the same calendar year.

11. The community development director or designee may authorize additional temporary uses not listed in this subsection when it is found that the proposed uses are in compliance with the requirements and findings of this section.

12. Temporary Housing Unit. A temporary housing unit may be placed on a lot or tract of land in any zone for occupancy during the period of time necessary to construct a permanent use or structure on the same lot or tract or abutting property leased or owned by the applicant. Existing dwelling units may be converted to a temporary housing unit. A temporary housing unit is subject to the following:

- a. The unit shall be removed from the site within 60 days after final inspection of the project, or within one year from the date the unit is first moved to the site, whichever may occur sooner. The unit is not located in any required yard.
- b. A temporary permit shall be issued by the building division prior to occupancy of the unit on the construction site.

13. Temporary Housing Units – Mother-in-Law. Temporary housing units are permitted in all zones as follows:

a. A temporary housing permit for a temporary housing unit may be issued by the building division if the applicant can satisfy the criteria set forth in subsection (B)(13)(b) of this section and attests by affidavit that:

- i. The information furnished with the application is true and correct.
- ii. The standards and conditions set forth in the permit will remain satisfied as long as the temporary housing unit remains on the site.

b. The following are the minimum standards applicable to temporary housing units:

- i. The temporary housing unit shall be occupied by the parent or parents of the occupants of the dwelling, or not more than one individual who is a close relative of the occupants of the principal dwelling.
- ii. An occupant of the temporary housing unit because of age, disability, prolonged infirmity, or other similar incapacitation is unable to independently maintain a separate type of residence without human assistance.
- iii. The temporary housing unit must bear the Housing and Urban Development (HUD) 3280 seal.
- iv. In the event the health department requires the installation of separate water supply and/or sewerage disposal systems, said requirements shall not at a later time constitute grounds for the continuance or

permanent location of a temporary housing unit beyond the length of time authorized in the permit or renewal of said permit.

v. Prior to the issuance of a temporary housing permit, the city shall review the application and may require the installation of such fire protection/detection equipment as may be deemed necessary as a condition to the issuance of the temporary housing permit.

vi. The temporary housing unit shall be removed from the lot or tract of land not more than 60 days from the date the temporary permit expires or occupancy ceases.

c. Renewals. Temporary housing permits shall be valid for the period of time the parent or close relative resides in the temporary housing unit; provided, that after obtaining initial approval, annual renewals of the temporary housing permit must be obtained from the building official or designee. When obtaining a renewal, the building official or designee shall confirm by affidavit from the applicant that the requirements specified herein are satisfied. Application for renewals must be made 60 days before the expiration of the current permit. Renewals of said permits shall be automatically granted if the applicant is in compliance with the provisions herein and no notice of such renewal is required.

C. Application and Authorization.

1. A temporary use permit is a Process I application type and subject to all the procedural requirements applicable to this application type.
2. Temporary use applications shall be on a form prescribed by the community development department and shall include all of the information and materials required by the application form. An applicant shall provide sufficient facts and evidence to enable the community development director or designee to make a decision. The established fee shall be submitted at time of application.
3. Applications for temporary use permits shall be filed with the community development department. Application shall be made at least 15 days prior to the requested date for commencement of the temporary use.
4. The community development director or designee shall provide the applicant with a written decision approving, denying, or approving the application with modifications and/or conditions of approval, within 10 days after the date of submission of a complete application.
5. A temporary use authorized pursuant to this section shall be subject to all of the applicable standards of subsection (D) of this section, and shall not be exempted or relieved from compliance with any other ordinance, law, permit or license applicable to such use, except where specifically noted.

D. Standards for Temporary Use.

1. Each site occupied by a temporary use shall be left free of debris, litter or other evidence of temporary use upon completion or removal of the use.
2. A temporary use conducted in a parking facility shall not occupy or remove from availability more than 20 percent of the spaces required for the permanent use.
3. Each site occupied by a temporary use must provide or have available sufficient off-street parking and vehicular maneuvering area for customers. Such parking need not comply with the development requirements of EMC 18.90.130, Parking, but must provide safe and efficient interior circulation and ingress and egress from the public right-of-way.
4. No temporary use shall occupy or use public rights-of-way, parks or other public lands in any manner unless specifically approved by the city council.
5. No temporary use shall occupy a site or operate within the city for more than 90 days within any calendar year, except as follows:

a. When authorized by the community development director or designee, a temporary use may operate an additional 90 days if it is found that such an extension will be consistent with the requirements of Chapter 18.80 EMC, Land Use Zones, and this subsection (D).

b. A temporary use may be given an additional extension if unique circumstances exist that necessitate a longer use such as construction office or security housing for an active construction site and such an extension will be consistent with the requirements of Chapter 18.80 EMC, Land Use Zones, and this subsection (D), or can be consistent, subject to conditions of approval.

6. All signs shall comply with the requirements of Chapter 18.97 EMC, Sign Code, except as otherwise specified in this section.

7. All temporary uses shall obtain all required city permits, licenses or other approvals, prior to occupancy of the site.

8. The community development director or designee may establish such additional conditions as may be deemed necessary to ensure land use compatibility and to minimize potential impacts on nearby uses. These include, but are not limited to, time and frequency of operation, setbacks, special yards, and spaces; control of points of vehicular ingress and egress, temporary arrangements for parking, loading and traffic circulation, requirements for screening or enclosure, site maintenance during use, and guarantees for site restoration and cleanup following temporary use.

E. A temporary use permit shall only be granted when the community development director or designee, after consultation and coordination with all other applicable city departments and other agencies, has determined that:

1. The temporary use will be compatible with uses in the general vicinity and on adjacent properties.

2. The temporary use will not create a material adverse effect on the livability or appropriate development of abutting properties and the surrounding community.

3. The temporary use will not impair the normal, safe and effective operation of a permanent use on the same site.

4. The temporary use will comply with the requirements of the zone within which it is proposed.

5. The temporary use shall comply with all applicable standards of the Pierce County health department.

6. In applying temporary use criteria and determination of appropriate conditions, consideration shall be given, but not limited to:

a. The harmony and scale, bulk, coverage, and density;

b. The availability of public facilities and utilities;

c. The harmful effect, if any, upon a desirable neighborhood character;

d. The generation of traffic and the capacity of surrounding streets and roads;

e. The creation of noise, vibration, odors, or other similar nuisances; and

f. Any other relevant impact on the peace, quiet, comfort, and enjoyment by and of the abutting properties and the surrounding community.

F. The community development director or designee shall provide the applicant with a written decision approving, denying, or approving the application with modifications and/or conditions of approval, within 10 days after the date of submission of a complete application. (Ord. 16-482 § 2 (Exh. F); Ord. 15-448 § 2 (Exh. A); Ord. 03-203 § 1).

18.50.080 Variances.

A. The intent of this section is to provide an avenue of relief where, by reason of exceptional configuration, or by reason of other unique and extraordinary situations or conditions existing on a piece of property, the strict application this title would result in peculiar, exceptional and undue hardship upon the owner of such property, which was not the result of actions of the applicant, property owner or a previous property owner or agent.

B. Administrative variance shall not relieve an applicant from any of the procedural provisions of this title, conditions of approval established during prior permit review, any of the provisions of the critical areas code, except for the required buffer widths. The variance process shall not allow the establishment of a use that is not otherwise permitted in the zoning district in which the proposal is located, nor allow an increase in density or reduction in the standard lot size.

C. Administrative Variances. The community development director or designee shall have the authority to grant an administrative variance for up to 20 percent of the numerical standard for building setbacks from lot lines, lot coverage, and impervious surface coverage as provided in this title.

1. An administrative variance is a Process II application type and subject to all the procedural requirements applicable to this application type.

- a. Applications for administrative variances shall be on the form prescribed by the community development department and shall include all of the information and materials required by the application form. An applicant shall provide sufficient facts and evidence to enable the community development director or designee to make a decision.

- b. Applications for administrative variances shall be filed with the community development department.

2. The community development director or designee may grant an administrative variance if it is shown that it:

- a. Does not detract from the desired character and nature of the vicinity in which it is proposed; and

- b. Enhances or protects the character of the neighborhood and/or the vicinity by protecting natural features, historic sites, open space, or other resources; and

- c. Does not interfere with or negatively impact the operations of existing land uses and all legally permitted uses within the zoning district it occupies; and

- d. Does not constitute a threat to the public health, safety and general welfare within the city; and

- e. Is the minimum adjustment necessary for the reasonable use of the land.

3. Authorization of an administrative variance shall be void after a period of one year unless the use is begun within that time or substantial construction or action pursuant thereto has taken place. However, the city may, at the discretion of the community development director or designee, extend authorization for six additional months upon request, provided such request is submitted in writing at least 30 days but not more than 60 days prior to expiration of the permit with payment of appropriate fees as listed in the current fee schedule.

D. Variances. The hearing examiner shall have the authority to grant a variance when some exceptional physical condition related to a parcel of land results in unnecessary hardship from the strict application of certain development provisions and is preventing the owner from using the property as intended by this title. Any variance granted shall be the minimum adjustment necessary for the reasonable use of the land.

1. A variance is a Process III application type and subject to all the procedural requirements applicable to this application type.

- a. Applications for variances shall be on the form prescribed by the community development department and shall include all of the information and materials required by the application form. An applicant shall provide sufficient facts and evidence to enable the hearing examiner to make a decision. The established fee shall be submitted at time of application.

b. Variance applications shall be filed with the community development department. The variance application shall be reviewed and circulated for comment by city staff.

2. A variance shall only be granted after the hearing examiner has reviewed the proposed use and has made written findings that the standards and criteria set forth below have been met or can be met subject to conditions of approval:

a. Unique circumstances or conditions exist that are applicable to the land or buildings for which a variance is sought. Said circumstances or conditions are peculiar to such land or buildings and do not apply generally to the land or buildings in the area. The hearing examiner may consider legal, nonconforming aspects of existing structures for the purpose of this finding.

b. There must be proof of undue hardship if the variance is not granted. It is not sufficient proof of hardship to show that a greater profit would result if a variance were granted; nor shall loss of value be a valid reason to grant a variance. Furthermore, the hardship cannot be self-created, nor can it be created by one who purchases property with or without the knowledge of restrictions present. The hardship must result from the strict application of this title and be suffered directly by the property in question. Evidence of a variance granted under similar circumstances shall not be considered as a solely sufficient cause to grant hardship relief.

c. The granting of the variance is necessary for the development of a parcel of land, that in conjunction with adjacent land in the same ownership, is not otherwise reasonably capable of development and use under the provisions of this title, and the variance granted is the minimum variance that will accomplish this purpose.

d. The granting of the variance shall be consistent with the comprehensive plan and in agreement with the general purpose and intent of the regulations imposed by this title.

e. The granting of the variance shall neither be injurious to the neighborhood or community, nor otherwise detrimental to the public welfare.

f. The granting of the variance will not confer upon the applicant any special privilege that is denied by this title to other lands, structures, or buildings in the area.

g. The granting of the variance will not permit the establishment of any development or use which is not permitted by the title.

3. Authorization of a variance shall be void after a period of one year unless substantial construction or action pursuant thereto has taken place. However, the city may, at the discretion of the community development director or designee, extend authorization for an additional six months upon request, provided such request is submitted in writing at least 30 days but not more than 60 days prior to expiration of the permit with payment of appropriate fees as listed in the current fee schedule. (Ord. 15-448 § 2 (Exh. A); Ord. 03-203 § 1).

18.50.090 Development agreement.

Repealed by Ord. 17-497. (Ord. 16-482 § 2 (Exh. F); Ord. 07-285 § 1).

18.50.095 Planned residential developments.

Repealed by Ord. 17-514. (Ord. 14-416 § 2 (Exh. A)).

Chapter 18.55

DEVELOPMENT AGREEMENTS

Sections:

- 18.55.010 Intent and purpose.
- 18.55.020 Form of agreement, effect and general provisions.
- 18.55.030 Application requirements.
- 18.55.040 Public notice of the public hearing.
- 18.55.050 SEPA.
- 18.55.060 Phasing.
- 18.55.070 Processing procedures and appeals.
- 18.55.080 Revisions to approved development agreements.

18.55.010 Intent and purpose.

The purpose of this chapter is to authorize the use of development agreements, consistent with RCW 36.70B.170 through 36.70B.210. The city may, but under no circumstances is required to, enter into a development agreement with a person having ownership or control of real property within the city (or real property lying outside the city limits but within the urban growth area). The development agreement may address such project elements as those set forth in RCW 36.70B.170B(3). The development agreement shall be consistent with the applicable portions of the comprehensive plan as well as the development regulations of the city. The consideration provided by the property owner for the city's decision to enter into the development agreement may vary, depending on the benefit the development agreement will provide to the city and/or the public in general. (Ord. 17-497 § 3).

18.55.020 Form of agreement, effect and general provisions.

A. Form. All development agreements shall be on the standard form approved in advance by the city attorney for this purpose.

B. Effect. Development agreements are not project permit applications and are not subject to the permit processing procedures in Chapter 36.70B RCW and Chapter 18.40 EMC. A development agreement shall constitute a binding contract between the city and the property owner and the subsequent owners of any later-acquired interests in the property identified in the development agreement. A development agreement governs the project identified in the development agreement during the term of the development agreement, or for all or that part of the build-out period specified in the development agreement, and may not be subject to an amendment to a zoning ordinance or development standard adopted after the effective date of the agreement. A permit or approval issued/granted by the city after execution of a valid development agreement must be consistent with the development agreement.

C. Limitations. Any provision of the development agreement which requires the city to: (1) forgo adoption of any development regulations affecting the property identified in the agreement; and/or (2) allow vesting beyond the applicable deadlines for a phased development; shall be limited to a period of five years. The development agreement shall also reserve authority to impose new or different regulations during the term of the development agreement, to the extent required by a serious threat to public health and safety. This proviso shall clearly state that the city may, without incurring any liability, engage in action that would otherwise be a breach if the city adopts findings of fact to support a determination on the record that the action is necessary to avoid a serious threat to public health and safety, or if the action is required by federal or state law.

D. Developer's Compliance. The development agreement shall include a clause stating that the city's duties under the agreement are expressly conditioned upon the property owner's substantial compliance with each and every term, condition, provision and/or covenant in the development agreement, all applicable federal, state and local laws and regulations and the property owner's obligations as identified in any approval or project permit for the property identified in the development agreement.

E. No Third Party Rights. Except as otherwise provided in the development agreement, the development agreement shall create no rights enforceable by any party who/which is not a party to the development agreement.

F. Liability. The development agreement shall include a clause providing that any breach of the development agreement by the city shall give rise only to damages under state contract law and shall not give rise to any liability under Chapter 64.40 RCW, the Fifth and Fourteenth Amendments to the U.S. Constitution or similar state constitutional provisions.

G. Termination. Every development agreement shall have an identified, specific termination date. Upon termination, any further development of the property shall conform to the development regulations applicable to the property. (Ord. 17-497 § 3).

18.55.030 Application requirements.

A complete application for a development agreement shall consist of the following:

A. Name, address, telephone number and e-mail address of the property owner. If the applicant is not the property owner, the applicant must submit a verified statement from the property owner that the applicant has the property owner's permission to submit the application. Only the property owner has authority to sign the development agreement;

B. Address, parcel number and legal description of the property proposed to be subject to the development agreement;

C. Recent title report confirming that the property identified in the application is owned by the applicant-property owner;

D. Identification of any application (project permit application, comprehensive plan amendment application, development regulation amendment application) that is related to the proposed development agreement;

E. SEPA checklist;

F. A completed application form and the application fee established by the city for this purpose;

G. Description of the purpose of the development agreement, or the proposed language to be included in the development agreement, and how it complies with both the city's comprehensive plan and development regulations; and

H. Any other information requested by the community development director relevant to the processing of the development agreement. (Ord. 17-497 § 3).

18.55.040 Public notice of the public hearing.

A. Project Permit Applications. Public notice of the public hearing on a development agreement associated with an underlying project permit application shall be provided consistent with EMC 18.40.190.

B. Legislative Action. Public notice of the public hearing on development agreements associated with an underlying legislative action or application shall be provided consistent with EMC 18.40.190.

C. No Underlying Application or Action. Public notice of the public hearing on development agreements for which there is no underlying application or action, such as revisions to development agreements, shall be provided consistent with both this chapter and EMC 18.40.190. (Ord. 17-497 § 3).

18.55.050 SEPA.

The city shall comply with SEPA, Chapter 20.05 EMC, in order to process a development agreement to a final decision. Appeals of the city's SEPA threshold decision shall be consolidated with the public hearing on the underlying project permit application or legislative application/action and addressed as set forth in Chapter 20.05 EMC (SEPA). (Ord. 17-497 § 3).

18.55.060 Phasing.

A. In order to phase a development, and to extend the vested rights associated with an underlying project permit application, a development agreement is required. This ensures the availability of public facilities and services to all of the property in the identified individual phases, allows tracking of the available capacity of public facilities and

utilities during each phase of construction, and, with the extension of the vested rights associated with the project, provides certainty to the developer in the subsequent development approval process.

B. The deadlines in the city's code relating to each type of project permit application must be consulted to establish the baseline vesting period. The city is not required to extend the vesting period, and the city shall not extend any vested rights to regulations relating to stormwater. If the city decides to do so through a development agreement, it must be in exchange for the property owner's provision of corresponding benefits to the city in the form of, for example, contributions to public facilities and amenities over and above what would normally be required. In any event, the city shall not allow vesting to extend beyond the established five-year period in EMC 18.55.020(C) after approval of the project permit application.

C. A development agreement for a phased development (such as a subdivision) shall include (in addition to all of the information in EMC 18.55.030) all of the following:

1. Identification of the phasing schedule;
2. Identification of the number of phases and all lots included in each phase;
3. Identification of the approximate dates for construction of public streets, public utilities and other improvements in each phase;
4. Identification of the approximate dates for commencement of development of each lot, lot sales and building occupancy;
5. Identification of the benefits that the property owner will provide to the city in exchange for permission to phase the development according to the proposed schedule;
6. Establishment of the deadline for the property owner to submit development applications, including building permit applications, for each phase;
7. A description of the manner in which each phase is designed such that all site requirements are satisfied independently of phases yet to be given final approval and constructed;
8. A description of the manner in which the property owner will ensure that adequate public facilities are available when the impact of development occurs. The property owner shall acknowledge in the development agreement that if the demand for public facilities or services needed to accommodate a subsequent development phase increases following the issuance of a development permit for a prior phase in the approval process, or if public facilities or services included in a concurrency or SEPA determination are not constructed as scheduled in the city's capital facilities plan, final development approval may have to be delayed for future phases pending the achievement of the adopted levels of service. (Ord. 17-497 § 3).

18.55.070 Processing procedures and appeals.

Development agreements are not defined as "project permit applications" in RCW 36.70B.020 and are not subject to the permit processing procedures in Chapter 36.70B RCW.

A. Project Permit Applications. Development agreements associated with project permit applications shall be processed as follows:

1. Consolidation. Whenever possible, the development agreement shall be consolidated for processing with an underlying project permit application or other application for approval. If the development agreement is consolidated with a project permit application, the property owner must agree to waive the deadline in RCW 36.70B.080 for issuance of a final decision on the underlying application, as well as the prohibition on no more than one open record hearing and one closed record hearing on the underlying project permit application in RCW 36.70B.060(3).
2. Recommendation, Public Hearing and Final Decision.

a. **Hearing Examiner Makes Final Decision.** If the final decision on the underlying project permit application is made by the hearing examiner, then he/she shall consider both the project permit application and the proposed development agreement together, during the public hearing. The hearing examiner shall make a recommendation to the council on the development agreement, and his/her decision on the underlying permit application shall be held in abeyance until the city council considers the proposed development agreement in a public hearing. If the city council approves the development agreement, the council shall, by resolution or ordinance, authorize the mayor to execute the development agreement on behalf of the city. At this point, the hearing examiner may issue his/her final decision on the underlying project permit application. Nothing in this section obligates the hearing examiner to forward a recommendation to the city council on the development agreement if the hearing examiner denies the underlying project permit application.

b. **Staff Makes Final Decision.** If the final decision on the underlying project permit application is made by the city administrative staff, then the city staff shall consider both the project permit application and the proposed development agreement together. The city staff shall make a recommendation to the city council on the development agreement, and the city staff's decision on the underlying project permit application shall be held in abeyance until the city council considers the proposed development agreement in a public hearing. If the city council approves the development agreement, the council shall, by resolution or ordinance, authorize the mayor to execute the development agreement on behalf of the city. At this point, the city staff may then issue its final decision on the underlying project permit application. Nothing in this section obligates the city staff to forward a recommendation to the city council on the development agreement if the city staff denies the underlying project permit application.

B. Legislative Applications. A development agreement associated with a legislative action such as a comprehensive plan amendment or area-wide rezone shall be processed in accordance with the procedures established for legislative actions. The planning commission shall make its recommendation to the city council on any development agreement relating to legislative action. A public hearing shall be held on the development agreement (and underlying legislative action) and, if consistent with this chapter, the council may pass a resolution or ordinance authorizing the mayor to execute the development agreement on behalf of the city.

C. Appeal.

1. A development agreement associated with an underlying project permit application may be judicially appealed in the same manner and within the same deadline as the underlying project permit application.

2. A development agreement associated with a legislative approval, such as a comprehensive plan amendment, may be appealed in the same manner and within the same deadline as the legislative approval. Appeals may be directed to the Growth Management Hearings Board, the Shoreline Hearings Board or to the Superior Court, but there is no further administrative appeal before the city.

D. Recording Against the Property. The city shall record the development agreement against the property (at the property owner's cost) in the real property records of the Pierce County auditor. (Ord. 17-497 § 3).

18.55.080 Revisions to approved development agreements.

All of the provisions of EMC 18.55.020 shall apply to revisions to approved development agreements. A complete application for a revision to an approved development agreement shall consist of the materials described in EMC 18.55.030.

A. Criteria for Approval. The proposed revision to the development agreement must be consistent with: (1) the applicable portions of the comprehensive plan in effect at the time the revision application is submitted; (2) the applicable portions of the development regulations at the time the revision application is submitted; (3) the decision in the underlying project permit application or the underlying legislative decision. If the revision involves an extension of the termination date, the city council must make findings and conclusions after evaluation of all of the information in subsection (B) of this section. The city council shall not approve any revision of an approved development agreement involving an extension of the termination date for purposes of extension of the applicant's vested rights, unless the council makes a finding that the extension is in the public interest.

B. Extension of Termination Date. If the applicant requests an extension of the termination date in order to extend his/her vested rights with regard to phasing of the development, the application materials submitted by the applicant shall provide the following additional information for the council to review:

1. A list of the development regulations that have been amended by the city since the development agreement was originally approved;
2. A comparison of the effect of the amended development regulations (identified in subsection (B)(1) of this section) with the development regulations used to approve the original development agreement; and
3. An up-to-date concurrency evaluation of the city's water rights, sewer capacity and transportation system as applied to the proposed revision, and the effect that approval of the proposed revisions to the development agreement would have on the city's water availability, sewer capacity and transportation concurrency.

C. Public Hearing. In order to revise an approved development agreement, the city must follow the procedures associated with approval of the original development agreement. See EMC 18.55.070(A).

D. Recording Against the Property and Appeals. Appeals of a revised development agreement shall follow the procedures in EMC 18.55.070(C). The development agreement shall be recorded against the property as set forth in EMC 18.55.070(D). (Ord. 17-497 § 3).

Chapter 18.70 PERMITTED LAND USES

See attached Ordinance No. 20-0579, Exhibit B for all section list below.

Sections:

- 18.70.010 Purpose of provisions.
- 18.70.020 Characterization of use and organization.
- 18.70.040 Establishing use.
- 18.70.050 Land use table.

Chapter 18.80 LAND USE ZONES

Sections:

- 18.80.010 Purpose.
- 18.80.020 Establishment of zones.
- 18.80.030 Zoning map.
- 18.80.040 Single-Family Residential zoning districts.
- 18.80.050 Mixed Residential zoning districts.
- 18.80.060 *Repealed.*
- 18.80.070 *Repealed.*
- 18.80.080 Town Center, Commercial, Mixed Use Residential and Business Park zoning districts.
- 18.80.090 *Repealed.*
- 18.80.100 Industrial zoning district.
- 18.80.110 Public zoning district.
- 18.80.120 Reserved.

- 18.80.010 Purpose.** See Ordinance No. 20-0579, Exhibit C
- 18.80.020 Establishment of zones.** See Ordinance No. 20-0579, Exhibit C
- 18.80.030 Zoning map.** See Ordinance No. 20-0579, Exhibit C
- 18.80.040 Single-Family Residential zoning districts.** See Ordinance No. 20-0579, Exhibit C
- 18.80.050 Mixed Residential zoning districts.** See Ordinance No. 20-0579, Exhibit C
- 18.80.060 Mixed Use Residential zoning district.** See Ordinance No. 20-0579, Exhibit C
- 18.80.070 Commercial zoning district.** See Ordinance No. 20-0579, Exhibit C
- 18.80.080 Town Center, Commercial, Mixed Use Residential and Business Park zoning districts.** See attached Ordinance No. 20-0580, Exhibit A
- 18.80.090 Business Park zoning district.** See Ordinance No. 20-0579, Exhibit C
- 18.80.100 Industrial zoning district.** See Ordinance No. 20-0579, Exhibit C
- 18.80.110 Public zoning district.** See Ordinance No. 20-0579, Exhibit C
- 18.80.120 Reserved.** See Ordinance No. 20-0579, Exhibit C

Chapter 18.85 ENFORCEMENT

Sections:

- 18.85.010 Intent.
- 18.85.015 Enforcement.
- 18.85.020 Violations.
- 18.85.030 Authority to enforce.
- 18.85.040 *Repealed.*
- 18.85.050 *Repealed.*
- 18.85.060 *Repealed.*
- 18.85.070 *Repealed.*
- 18.85.075 *Repealed.*
- 18.85.076 *Repealed.*
- 18.85.080 *Repealed.*
- 18.85.085 *Repealed.*
- 18.85.090 *Repealed.*
- 18.85.095 *Repealed.*
- 18.85.096 *Repealed.*
- 18.85.100 *Repealed.*
- 18.85.104 *Repealed.*
- 18.85.105 *Repealed.*
- 18.85.110 *Repealed.*
- 18.85.120 *Repealed.*
- 18.85.130 *Repealed.*
- 18.85.140 *Repealed.*

18.85.010 Intent.

This chapter shall be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons. It is the intent of this chapter to place the obligation of complying with its requirements upon the owner, occupier or other person responsible for the condition of the land and buildings within the scope of this title; the Critical Areas Code, EMC Title 14; and the Subdivisions Code, EMC

Title 16. No provision of, or any term used in, this chapter is intended to impose any duty to enforce, or any other duty, upon the city or any of its officers or employees which would subject them to damages in a civil action. (Ord. 20-572 § 9 (Exh. I); Ord. 19-543 § 1 (Exh. A); Ord. 17-495 § 4).

18.85.015 Enforcement.

Unless otherwise specified, violations of this chapter shall be deemed civil violations subject to enforcement pursuant to EMC Title 7, Code Enforcement. (Ord. 20-572 § 9 (Exh. I)).

18.85.020 Violations.

A. It is a violation of this title; the Critical Areas Code, EMC Title 14; and the Subdivisions Code, EMC Title 16, for any person to initiate, maintain or cause to be initiated or maintained the use of any structure, land or property within the city, without first obtaining the permits or authorizations required for the use by the aforementioned codes.

B. It is a violation of this title; the Critical Areas Code, EMC Title 14; and the Subdivisions Code, EMC Title 16, for any person to use, construct, locate, demolish or cause to be used, constructed, located, or demolished any structure, land or property within the city, in any manner that is not permitted by the terms of any permit or authorization issued pursuant to the aforementioned titles; provided, that the terms or conditions are explicitly stated on the permit or the approved plans.

C. In addition to the above, it is a violation of EMC Titles 14 and 16 and this title to:

1. Remove or deface any sign, notice, complaint or order required by or posted in accordance with the aforementioned titles; and
2. Misrepresent any material fact in any application, plans or other information submitted to obtain any building or construction authorization. (Ord. 20-572 § 9 (Exh. I); Ord. 19-543 § 1 (Exh. A); Ord. 17-495 § 4).

18.85.030 Authority to enforce.

A. The community development director shall have the authority to enforce this chapter. The director may call upon the police, fire, building, public works, or other appropriate city departments to assist in enforcement. As used in this chapter, "community development director" or "director" shall also mean his or her duly authorized representative(s).

B. Upon presentation of proper credentials, the director may, with the consent of the owner or occupier of a building or premises, or pursuant to a lawfully issued inspection warrant, enter at reasonable times any building or premises subject to the consent or warrant, in order to perform the responsibilities imposed by this chapter. (Ord. 20-572 § 9 (Exh. I); Ord. 19-543 § 1 (Exh. A); Ord. 17-495 § 4).

18.85.040 Investigation and notice of civil infraction.

Repealed by Ord. 20-572. (Ord. 19-543 § 1 (Exh. A); Ord. 17-495 § 4).

18.85.050 Time to comply.

Repealed by Ord. 20-572. (Ord. 19-543 § 1 (Exh. A); Ord. 17-495 § 4).

18.85.060 Stop work order.

Repealed by Ord. 20-572. (Ord. 19-543 § 1 (Exh. A); Ord. 17-495 § 4).

18.85.070 Emergency order.

Repealed by Ord. 20-572. (Ord. 19-543 § 1 (Exh. A); Ord. 17-495 § 4).

18.85.075 Prohibition on permit approvals.

Repealed by Ord. 20-572. (Ord. 19-543 § 1 (Exh. A); Ord. 17-495 § 4).

18.85.076 Response to notice.

Repealed by Ord. 20-572. (Ord. 19-543 § 1 (Exh. A); Ord. 17-495 § 4).

18.85.080 Contesting the determination and civil infraction.

Repealed by Ord. 20-572. (Ord. 19-543 § 1 (Exh. A); Ord. 17-495 § 4).

18.85.085 Failure to respond.

Repealed by Ord. 20-572. (Ord. 19-543 § 1 (Exh. A); Ord. 17-495 § 4).

18.85.090 Hearings – Rules of procedure – Counsel.

Repealed by Ord. 20-572. (Ord. 19-543 § 1 (Exh. A); Ord. 17-495 § 4).

18.85.095 Hearings – Contesting determination that infraction committed – Appeal.

Repealed by Ord. 20-572. (Ord. 19-543 § 1 (Exh. A); Ord. 17-495 § 4).

18.85.096 Hearings – Explanation of mitigating circumstances.

Repealed by Ord. 20-572. (Ord. 19-543 § 1 (Exh. A); Ord. 17-495 § 4).

18.85.100 Monetary penalties – Restitution – Restoration orders.

Repealed by Ord. 20-572. (Ord. 19-543 § 1 (Exh. A); Ord. 17-495 § 4).

18.85.104 Order of court – Modification of penalty – Community restitution.

Repealed by Ord. 20-572. (Ord. 19-543 § 1 (Exh. A); Ord. 17-495 § 4).

18.85.105 Costs and attorneys’ fees.

Repealed by Ord. 20-572. (Ord. 19-543 § 1 (Exh. A); Ord. 17-495 § 4).

18.85.110 Failure to respond to notice of infraction – Failure to satisfy penalty.

Repealed by Ord. 20-572. (Ord. 19-543 § 1 (Exh. A); Ord. 17-495 § 4).

18.85.120 Additional relief.

Repealed by Ord. 20-572. (Ord. 19-543 § 1 (Exh. A); Ord. 17-495 § 4).

18.85.130 Penalties for subdivision violations.

Repealed by Ord. 20-572. (Ord. 19-543 § 1 (Exh. A); Ord. 17-495 § 4).

18.85.140 Record of notices to be kept – Audit.

Repealed by Ord. 20-572. (Ord. 19-543 § 1 (Exh. A); Ord. 17-495 § 4).

Chapter 18.90

DEVELOPMENT STANDARDS – CITYWIDE APPLICABILITY

Sections:

- 18.90.010 Purpose.
- 18.90.015 *Repealed.*
- 18.90.020 Accessory buildings.
- 18.90.030 *Repealed.*
- 18.90.040 Density standards.
- 18.90.050 *Reserved.*
- 18.90.060 Fences, bulkheads, and retaining walls.
- 18.90.070 Height standards.
- 18.90.080 Housing incentives program.
- 18.90.090 Landscaping.
- 18.90.100 Lot standards.
- 18.90.110 Nonconformities.
- 18.90.120 Outdoor storage.
- 18.90.130 Parking.

- 18.90.140 Performance standards.
- 18.90.150 Setback standards.
- 18.90.160 *Repealed.*
- 18.90.170 Streetscapes.
- 18.90.180 Tree preservation.
- 18.90.190 Accessory dwelling units.

18.90.010 Purpose.

A. This section, in conjunction with other chapters and sections of the development code of the Edgewood Municipal Code (EMC), provide specific minimal development standards and methodologies for applying development standards.

B. These development standards are applicable to all land development and uses, including improvements, intensification, changes in use, or building and development permits and land use approvals and actions. (Ord. 03-203 § 1).

18.90.015 Modifications – Development agreement.

Repealed by Ord. 17-497. (Ord. 07-285 § 2).

18.90.020 Accessory buildings.

A. Residential detached accessory structures which are less than 120 square feet in size and not higher than 10 feet, including garden sheds or greenhouses or combination of both; children's play equipment; arbors; and gazebos, placed in a rear half of a lot shall have a minimum three-foot setback. Attached accessory structures must have the same setbacks as the main building.

B. In the single-family (SF-2/3/5) and mixed residential (MR-1/2) zoning districts, garages, or other accessory buildings greater than 120 square feet but not exceeding 1,000 square feet, and which do not exceed 14 feet in height, may be placed within the rear or interior yard.

1. The structure must maintain a minimum five-foot setback, unless the zoning district allows a lesser setback; and
2. Be located at least six feet from a primary structure located on an adjacent property.

C. Pools, hot tubs, and similar accessory structures may not be located in the rear or interior yard setbacks.

D. Areas for ingress and egress for automobiles shall be designed in such a manner that adequate visibility is ensured.

E. Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be located on lots as to provide safe and convenient access for servicing and required off-street parking.

F. The parking pad shall have a durable surface. Materials meeting LID standards (e.g., permeable pavement) shall be used to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM). (Ord. 16-482 § 2 (Exh. F); Ord. 03-203 § 1).

18.90.030 Concurrency.

Repealed by Ord. 17-499. (Ord. 03-203 § 1).

18.90.040 Density standards.

A. Gross area is the total area of the lot (see Figure 1 below).

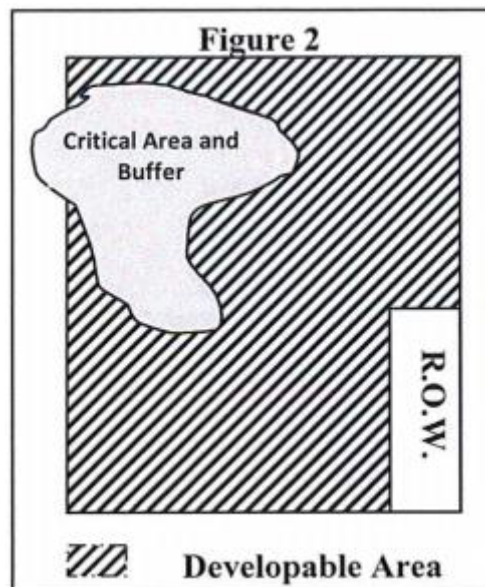
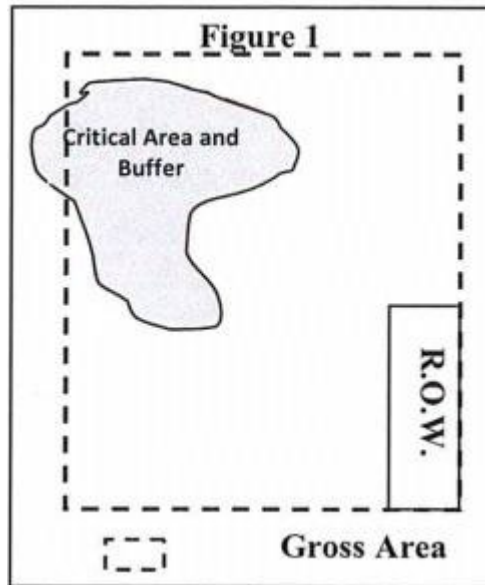
B. The developable area is the area of a lot remaining after public and/or private rights-of-way and critical area/buffers are subtracted from the gross area (see Figure 2 below).

C. The maximum density for single-family zoning districts (SF-2, SF-3 and SF-5) is the maximum number of dwelling units allowed per net developable area of an acre, and is expressed as a ratio, i.e., one dwelling unit per net

developable acre. Accessory dwelling units shall be excluded from the maximum number of allowable dwelling units. The minimum lot size does not determine maximum density.

D. The maximum density for all other zoning districts shall be based on the gross area minus any critical areas and associated buffers.

E. Density standards for the single-family residential zoning districts shall fall within the ranges stated in EMC 18.80.040(E)(1).



(Ord. 18-535 § 3; Ord. 16-469 § 2 (Exh. A); Ord. 10-346 § 2; Ord. 03-203 § 1).

18.90.050 Reserved.

Repealed by Ord. 11-360. (Ord. 09-321 §§ 2, 3; Ord. 03-211 § 1; Ord. 03-203 § 1).

18.90.060 Fences, bulkheads, and retaining walls.

A. Artificially constructed barriers to enclose, screen, or separate areas may be erected within required setbacks as follows, provided fences or other barriers:

1. Do not obstruct the sight distance of a driveway, private street, or public street;
2. Within the interior and rear setbacks do not exceed a maximum height of six feet;
3. Within the front yard setbacks do not exceed a maximum height of four feet:
 - a. Except the back half of a front yard setback on a corner lot, the rear lot line and the rear of the structure may be enclosed with a maximum six-foot-high fence, and
 - b. Except that within the required front yard setback of a lot fronting on a principal arterial street, the maximum height shall be six feet;
4. Razor wire, embedded glass, or other similar materials construction not to include electric fences or barbed wire, or anti-entry techniques, which may cause injury, shall not be permitted.

B. Bulkheads and Retaining Walls. Any structure constructed and erected between lands of different elevations which is used to resist the lateral displacement of any material, control erosion, or protect structures may be placed within required setbacks to a maximum height of four feet on front property lines and eight feet on side and rear property lines, provided all applicable site distance requirements and building permit requirements are met.

C. Access control shall be applied, at the discretion of the community development director or designee, to all street frontages to minimize traffic conflicts and, where appropriate, to preserve on-street parking and promote nonmotorized modes. (Ord. 15-448 § 2 (Exh. A); Ord. 03-203 § 1).

18.90.070 Height standards.

A. For the SF-2 and SF-3 zones, building height is determined as the vertical distance from the average final grade of a building footprint to the highest point of the structure; except, where a structure is proposed on fill material, final height shall be determined from the existing grade (See Figures 2 and 3).

B. For I, BP, C, TC, MUR, MR-1 and MR-2, SF-5, building height is determined as the vertical distance from the curb level, or the equivalent final grade of a building site at the front of the building to the highest point of the underside of the ceiling. In the case of a flat roof, to the deck side of a mansard roof; and to the mean level of the underside of the rafters between the eaves and the ridge of a gable, hip, or gambrel roof. Where no curb level has been established, the height of a building may be measured from the mean elevation of the finished lot grade at the front of the building.

C. Height standards shall not apply to religious assembly spires, belfries, and domes; chimneys, household antennas, ventilation stacks, or similar appurtenances that are required to be placed above the roof level.

D. The height of a fence located on a rockery, retaining wall, or berm shall be measured from the top of the fence to the ground on the high side of the rockery, retaining wall, or berm. Net fences, such as those used on golf courses and/or driving ranges, shall not be higher than 35 feet and shall meet the setbacks required for structures.

E. Flagpoles shall not exceed 50 feet in height from the average grade. All such poles shall be placed so as to neither obstruct nor obscure adjacent property owners' lines of vision. Such poles shall not display more than three flags at any one time.

Figure 2

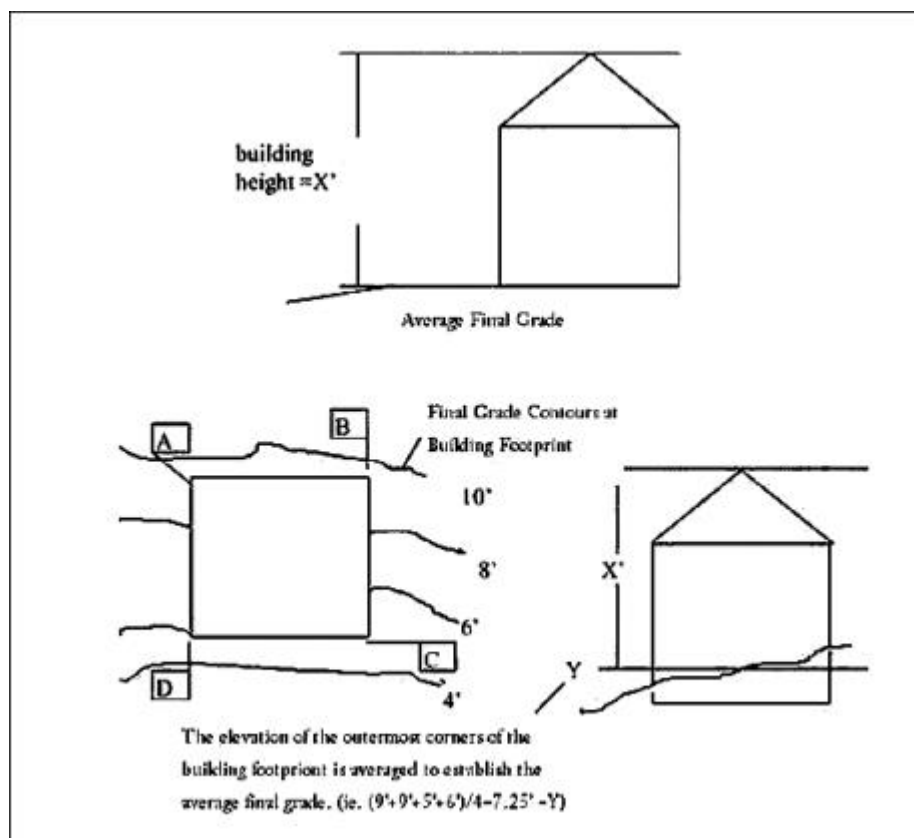
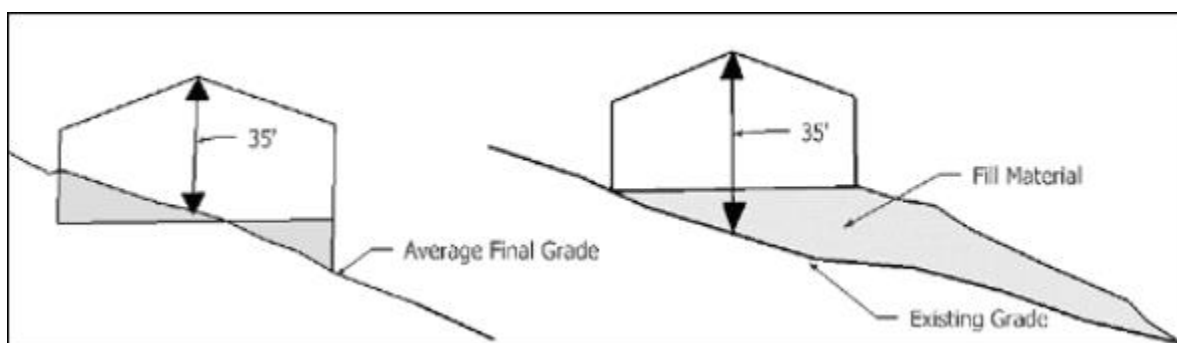


Figure 3



(Ord. 09-322 §§ 2 – 4; Ord. 03-203 § 1).

18.90.080 Housing incentives program.

A. The city is responsible for establishing regulations that will result in a variety of housing opportunities. To that end, the city's comprehensive plan contains policies designed to encourage affordable and special needs housing. Not only are a number of regulatory tools available to help stimulate the development of desired housing in the city, but some of these tools offer an additional benefit to the city as a whole in dispersing "qualified" housing such as affordable units throughout the city.

B. This section applies, at the developer's option, to land use applications for housing in identified zones below, except the construction of a single-family dwelling on one lot that can accommodate only one dwelling based upon the underlying zoning designation. This section shall not apply to adult family homes, nursing and residential care facilities, assisted living facilities and all group homes.

C. All housing developed under these standards shall meet all applicable federal, local, and state guidelines and requirements for limiting occupancy to identified qualified groups.

D. Inclusionary Density Bonuses.

1. In return for the inclusion of a number of on-site units dedicated to serving low-income and/or below market rate persons, one-half additional, on-site market-rate unit is permitted as a bonus for each qualified unit, to the extent that no more than a maximum total of 150 units are provided throughout the city. This must not exceed the prescribed density above the maximum density permitted in the underlying zoning district as shown below; provided, that only one-half bonus unit may be awarded per qualified unit, no matter how many qualifying categories it serves as shown the table below.

Table 4 Density Bonus

Zone	Permitted Density	Density Bonus	Maximum Density
Mixed Residential 1	4 dua	2 dua	6 dua
Mixed Residential 2	8 dua	4 dua	12 dua
Mixed Use Residential	6 dua	3 dua	9 dua
Commercial	8 dua	4 dua	12 dua
Town Center	10 dua	5 dua	15 dua

For the purpose of this section only, fractions of 0.5 or greater shall be rounded up to the nearest whole number when calculating the number of dwelling units or residential building lots that are permitted to be constructed.

2. Prior to the final approval of any land use application for which density bonuses are being sought, the owner of the affected parcel shall deliver to the city a duly executed covenant running with the land, in a form approved by the city attorney. The owner/applicant shall be responsible for the cost of preparing and recording the covenant and the owner/applicant or subsequent owner or operator shall be responsible for administering the covenant. The commencement date shall be the date that the first lease agreement with a renter within an applicable qualification group becomes effective.

3. The qualified units constructed under these provisions shall be integrated and dispersed within the development for which the density bonus is granted. The physical segregation of qualified housing units from unqualified market-rate housing units, or the congregation of qualified housing units into a single physical portion of the development is prohibited.

4. The size of the qualified units constructed under the provisions of this chapter shall be proportionate to the size of the units contained in the entire project (i.e., if 50 percent of the units in the project are one-bedroom units and 50 percent are two-bedroom units, then the qualified units shall be divided equally between one- and two-bedroom units).

5. If a project is to be phased, the proportion of qualified units to be completed with each phase shall be determined as part of the phasing plan approved by the community development director or designee.

E. A preapplication conference will be required for any land use application that includes a proposal for a density bonus under this program. Density bonus proposals shall be reviewed and approved concurrently with the related

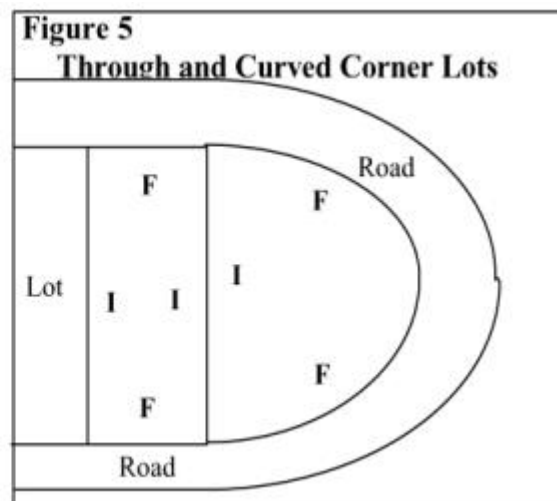
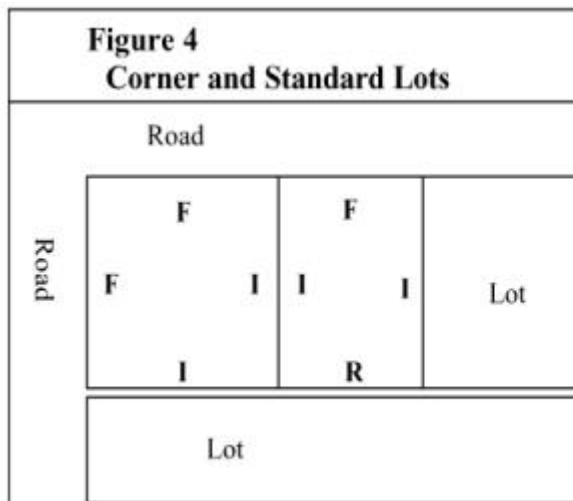
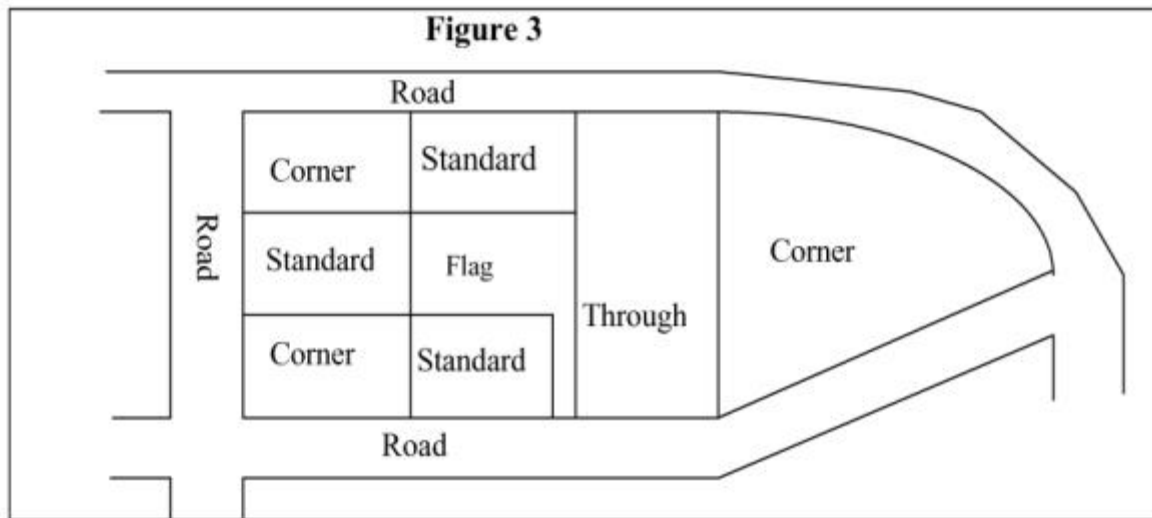
primary land use application and shall follow the established procedures for review and appeal, if necessary, of the permit type.

F. The community development department shall maintain a list of all qualified units created under this program. In conjunction with comprehensive plan review and amendment processes, the level and type of unit production and other factors relating to this program shall be evaluated to gauge how effectively these regulations are functioning and to direct necessary adjustments in the program. (Ord. 20-579 § 4; Ord. 15-448 § 2 (Exh. A); Ord. 03-203 § 1).

18.90.100 Lot standards.

A standard lot is a lot that has only one front lot line and one rear lot line, and all remaining lot lines are considered interior lot lines (see Figure 3).

A. Corner Lots. If a lot abuts the intersection of two or more street rights-of-way, a front yard setback is required abutting each right-of-way. This process is also applicable to a lot fronting a single right-of-way, which simulates a corner lot as shown in Figure 4 below.



B. In the case of a through lot, a front yard setback is required abutting each street right-of-way (see Figure 5).

C. A flag lot shall have setbacks of 20 feet from all property lines for both principal and accessory structures.

1. Flag lots in residential zones (SF-2, SF-3, SF-5, MR-1, and MR-2) shall have a minimum frontage of 20 feet on a public road or street from which access is taken. If such frontage does not exist, an easement to a public road or street shall be a minimum of 20 feet in width.

2. Flag lots in nonresidential zones (MUR, C, TC, BP, I, and P) shall have a minimum frontage of 24 feet on a public road or street from which an access way is taken. If such frontage does not exist, an easement to a public road or street shall be a minimum of 24 feet in width.

D. Irregular Lots. Where the shape of a lot does not generally conform to the types of lots described above, the city shall make a determination on the location of front, rear, and interior lot line, applicable setbacks and the applicable development standards for the lot.

1. In the case of triangular or otherwise irregularly shaped lots, a line at least 10 feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line may be considered to the “rear lot line” at the city’s discretion.

2. In the case of an interior lot or “landlocked” lot that does not meet the minimum frontage required for access, the standards shall be the same, as those required for flag lots. (Ord. 03-203 § 1).

18.90.090 Landscaping. See Ordinance No. 16-0482, Exhibit F

18.90.100 Lot standards. See Ordinance No. 20-0582, §3

18.90.110 Nonconformities.

A. Within the zoning districts established by this title, or as amended, there may exist lots, uses, and structures that were lawfully established but which no longer conform to the provisions and standards of the zoning district in which they are located. Nonconformities may adversely affect the development and redevelopment of the city consistent with the provisions of the comprehensive plan. This section provides for the regulation of these legally existing nonconformities and attempts to balance the rights of property owners to continue the use of their properties and the perpetuation of uses envisioned under the city’s comprehensive plan and this title. These standards specify the circumstances, conditions, and procedures under which such nonconformities are permitted to endure.

B. This section shall apply to legally existing nonconformities, except the following:

1. Nonconforming sexually oriented businesses as defined in EMC 18.100.100, Sexually oriented businesses, which shall instead be governed by standards set forth in that section.
2. Nonconforming signs as defined in EMC 18.97.300, which shall instead be governed by standards set forth in Chapter 18.97 EMC.
3. Nonconforming wireless telecommunications facilities as defined in EMC 18.100.110, Personal wireless communications facilities, which shall instead be governed by standards set forth in that section.
4. Permit applications at the time of this title’s passage that constitute vested development shall instead be governed by existing standards. Future plans to further develop property shall not constitute a basis for nonconformity status, whether or not documented in public record, except when they constitute a vesting. Nothing in this section shall be construed to require a change in plans, construction, or intended use related to vested development, though it may thereafter be regulated as a nonconformity.

C. The provisions of this section apply only to nonconformities that were lawful, either by right or by discretionary permit, when initially established and these provisions may not be used as an alternative to removal or cessation of activities, structures, and uses which were illegal at the time of their establishment.

1. This provision shall not apply to dwelling units located in residential zones or in established mobile home parks, which may be reconstructed or replaced with no substantial change in floor area or other nonconforming feature.

D. The entire contiguous ownership of land shall be considered as a single parcel of land for determination of nonconformance as a consideration of development. A record of separate lot or parcel boundaries shall be disregarded. It is recognized that the dimensions of some nonconforming lots of record are so constrained that meeting some development regulations such as setbacks would render such lots essentially unbuildable. The city will consider unusual hardships in reviewing applications for such development. Pursuant to EMC 18.50.080, Variances, variances may be granted in such instances based on individual circumstances and may be conditioned to mitigate any negative effect on the surrounding area.

E. Nonconforming lots may not be altered in any way that would increase the degree of nonconformity; provided, this does not preclude acquisition or dedication of additional public right-of-way when deemed necessary by the community development director or designee.

F. Nonconforming Uses. Nonconforming uses may continue to be operated except as provided below. Routine maintenance and repairs may be performed on land or structures containing a nonconforming use. A nonconforming use shall not be changed to another nonconforming use. Nonconforming uses outside of a structure, which occupy only a portion of a lot, may not be relocated to any other portion of the property except as allowed in subsection (G) of this section. Nonconforming uses may not be expanded unless such expansion is required by law or a public agency in order to comply with public health, safety or welfare regulations. All applicable construction permits must first be obtained for any such work.

G. Nonconforming Use Outside of a Structure – Relocation Without Expansion. A nonconforming use outside of a structure may be fully or partially relocated to another area of the underlying property, but only if such relocation: (1) reduces the degree of nonconformity between one or more parcel lines, and (2) does not expand the total area of the nonconformity. Approval for such relocation may be granted only once per nonconforming use and requires an administrative use permit pursuant to EMC 18.50.030 in addition to all other applicable regulations.

H. Nonconforming Structures. Maintenance, minor improvements and minor alterations to nonconforming structures are allowed to prevent them from becoming blighted and having detrimental impacts on the surrounding neighborhood. Nothing in this section shall be construed to prevent the strengthening or restoring to a safe condition of any nonconforming structure or part thereof declared to be unsafe by the building official or other proper authority. No nonconforming structure shall be moved, altered, or enlarged unless required by law or a public agency in order to comply with public health, safety or welfare regulations. Any such movement, alteration, or enlargement of a nonconforming structure shall be the minimum necessary to achieve compliance with the regulation that is allowing the expansion.

I. The burden of demonstrating that nonconformity is lawful under this title rests with the property or business owner. Some examples of evidence that may indicate legal nonconforming status include: tax assessment records, construction or other permit records, personal or business income tax records, business license records, dated past advertising, dated business receipts to customers, dated rent receipts, affidavits from neighbors or tenants, testamentary documents, photographs whose date may be clearly ascertained, and other such information which is competent and factual. The city may, at its discretion, request such records from a property or business owner as a basis for determining whether nonconformity was legally established and preexisting.

J. Termination of Nonconforming Status.

1. A nonconforming development or use shall terminate under the following conditions:

- a. When the use has been vacated or abandoned for a period of six or more months.
 - b. When the structure, which is nonconforming, has been damaged or destroyed to an extent exceeding 50 percent or more of its fair market value as indicated by the records of the Pierce County assessor.

2. Provided, that damaged uses that are allowed to reestablish, as provided in subsection (K) of this section, Damage or Destruction, shall not be considered to be terminated. Once terminated, the use shall not be reestablished, and any subsequent use must comply with the regulations of the zoning district in which it is located.

K. Damage or Destruction.

1. If a nonconforming use or structure is damaged or destroyed by any means to the extent of 50 percent or more of last assessed value, it may not be reestablished except in compliance with the regulations of the zoning district in which it is located.
2. If a nonconforming use or structure is damaged due to an involuntary event of fire, natural disaster or other casualty, to the extent of less than 50 percent of fair market value, it may be restored to substantially the same extent of nonconformance as preexisted the damage; provided, that all applicable construction permits are obtained prior to commencement of demolition and reconstruction. This provision shall not be construed as reducing any requirements of construction standards in effect for rebuilt structures. Restoration or replacement shall commence within one year from the date of damage.

L. The transfer of ownership of a nonconforming lot, use, or structure will not alter its legal nonconforming status.

M. By their nature, nonconformities can be unique and difficult to identify and equitably regulate. If questions arise with regard to nonconforming status or replacement when abandonment, damage, or destruction has occurred, the community development director or designee is hereby empowered to issue case-by-case determinations based on individual circumstances. Such determinations will constitute administrative determinations as set forth in EMC 18.50.020, Administrative interpretations, and shall be appealable as established in EMC 18.40.090, Process II – Administrative action. (Ord. 21-600 § 1 (Exh. 1); Ord. 20-582 § 3; Ord. 15-448 § 2 (Exh. A); Ord. 10-342 § 2; Ord. 03-203 § 1).

18.90.120 Outdoor storage.

A. The storage or parking of a recreational vehicle or a sporting vehicle on any residential premises in any zone that allows residential uses shall be subject to the following standards:

1. Recreational and sporting vehicles shall not be stored on a noncontiguous lot where no residential use exists.
2. No more than two recreational and/or sporting vehicles as defined in Chapter 18.20 EMC, Definitions, or equipment shall be stored outside an enclosed building or structure on residential property.
3. Said vehicles and equipment shall be screened from view of surrounding neighbors to the maximum extent feasible and shall not be used for habitation.
4. Recreational and sporting vehicles shall not be used for dwelling purposes.
5. Recreational and sporting vehicles shall be stored on a parking pad or in the driveway of the residence. No portion of the vehicle shall be located within the public right-of-way, even if vehicle is located in the driveway, a portion of which may be located within the public right-of-way.
6. The parking pad shall have a durable surface.

B. Outdoor Storage Areas and Yards.

1. Outdoor storage areas and yards shall be paved with asphalt or concrete, including contractor storage yards and areas where vehicles or heavy equipment will be parked or stored.
2. Nonvehicle storage areas such as those for materials may utilize alternative surface materials if the following standards are met:
 - a. Maneuver areas, aisles, assembly areas, and public access areas of the lot shall be paved.
 - b. No hazardous materials shall be stored or utilized in unpaved areas.
 - c. The community development director or designee may only approve alternative surface materials for the portion of the yard that may, in the community development director or designee's opinion, be used for material storage.

d. The storage area shall be screened and fenced pursuant to EMC 18.90.090, Landscaping. (Ord. 15-448 § 2 (Exh. A); Ord. 03-203 § 1).

18.90.130 Parking.

A. The purpose of this section is to regulate parking and loading activities in order to improve traffic circulation and contribute to the public health, safety, general welfare and aesthetics of the city of Edgewood by providing sufficient on-site areas for the maneuvering and parking of motor vehicles. Furthermore, it is the intent of this section to allow the provision of sufficient off-street parking to meet the needs of urban development, but not an excess surplus of spaces, and to promote more efficient use of the city's transportation facilities by encouraging the movement of people from place to place via alternative modes of transportation to the single occupancy vehicle.

B. This section is applicable to all new developments and all alterations and additions to, or expansion of, existing developments in the city of Edgewood, except for single-family residences.

C. Parking Standards.

1. Where any structure is enlarged, expanded, erected, major exterior remodeled, or the use is changed, off-street parking spaces shall be provided for said expansion or enlargement in accordance with this section. A change in use in an existing structure may require additional off-street parking spaces as set forth in this section.

2. In the case of a use that is not specifically mentioned in this section, the requirements for off-street parking facilities shall be determined by the community development director or designee based upon the requirements for the most comparable use specified in this section; or, where in the opinion of the community development director or designee no comparable use exists, based upon a reasonable rationale provided an official determination written to the applicant. The community development director or designee may require that the applicant conduct a parking study to evaluate the parking needs associated with a proposed use.

3. All areas used for parking, maneuvering, circulation, pedestrian access, and loading or unloading shall be paved with asphalt or concrete (either conventional or permeable) and shall be improved and available for use at the time of final building inspection. Pervious alternative materials that meet LID standards (e.g., pervious asphalt, etc.) shall be used to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM). Refer to the PCM and associated guidance documents for additional information, restrictions, and standards for alternative paving materials.

4. Off-street parking facilities shall be located on the same property as the use they are required to serve and within 300 feet of the use. Where a distance is specified, such distance shall be the walking distance measured from the nearest point of the parking facilities to the nearest point of the building that such facility is required to serve.

a. For a nursing home, assisted living facility, convalescent home, or group home, the parking facilities shall be located within 100 feet of the building they are required to serve.

b. *Repealed by Ord. 10-336.*

5. Size and Access.

a. A standard parking space shall have a minimum width of nine feet and a minimum length of 18 feet. Compact stalls shall have a minimum width of eight and one-half feet and a minimum length of 15 feet (see Figure 6).

b. Up to 30 percent of the required parking for a development may consist of compact stalls. No more than four compact stalls may be adjacent to each other, and the compact stalls shall be evenly dispersed throughout the parking area and clearly identified with permanent marking on the pavement as approved by the community development director or designee.

c. Two-way drive aisles shall have a minimum width of 24 feet where providing access to spaces at a 90-degree angle to the drive aisle, and 20 feet where spaces are at angles of 70 degrees or less to the drive

aisle. One-way drive aisles shall have a minimum width of 20 feet where providing access to spaces at a 90-degree angle to the drive aisle. Where spaces are at angles of 70 degrees or less to the drive aisle, the standards listed in Table 3 shall apply:

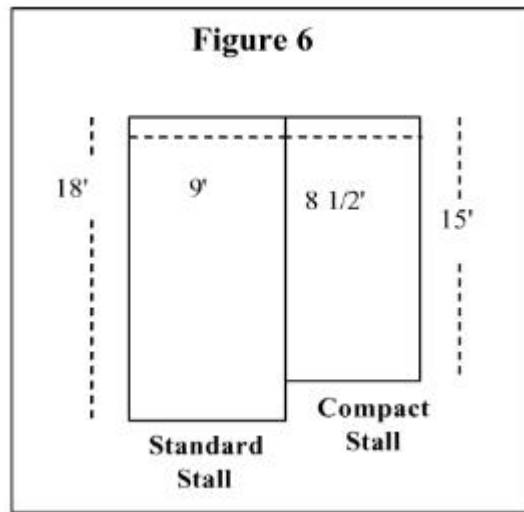


Table 3

Parking Angle	Minimum One-Way Aisle Width
50 degrees or less	15'
55	16'
60	17'
65	18'
70	19'

d. Except for a single-family dwelling, groups of more than two parking spaces shall be provided with adequate aisles or turnaround areas so that all vehicles may enter the street in a forward manner. More than three parking spaces shall be served by a driveway designed and constructed to facilitate the flow of traffic on and off the site, with due regard to pedestrian and vehicle safety, and which shall be clearly and permanently marked and defined.

e. Driveways, aisles, turnaround areas, and ramps shall have a minimum vertical clearance of 14 feet for their entire length and width but such clearance may be reduced in parking structures.

f. For the purpose of loading and unloading children, one-way driveways with a continuous forward flow design shall be located on the site of schools and daycares which have a capacity greater than 50 children.

g. Wheel stops, a minimum of two feet from any obstruction or the end of the parking stall, shall be required in the following locations:

- i. Where the parking stall abuts a building or where vehicles may overhang a property line;
- ii. Where the parking stall abuts a raised pedestrian walkway of less than eight feet in width;
- iii. Where a parking stall abuts any physical object that may be impacted, such as light standards, fire hydrants, fences, power vaults, utility poles, etc.;

- iv. Where a hazardous grade difference exists between the parking area and the abutting property;
 - v. Where the parking stall abuts an LID system;
 - vi. Where hazardous situations may exist as determined by the community development director or designee.
- h. Multiple-level parking structures developed either as a single use structure or as parking incorporated into a structure shall be designed and laid out in accordance with the dimension and numeric requirements of this section.
6. Unit of Measurement.
- a. Where stationary, nonmovable seating is used by patrons or spectators in places of assembly, each 20 inches of width shall count as one seat for the purpose of determining requirements of off-street parking facilities under this section.
7. Where off-street parking is required, a plan indicating how the off-street parking and loading requirement is to be provided and shall accompany the application for a development permit. Applications for single-family dwellings are exempt from the requirements of this section. The plan shall show all those elements necessary to indicate that these requirements will be fulfilled including but not limited to:
- a. Location and dimensions of LID systems (if applicable);
 - b. Delineation and dimensions of individual parking spaces, both regular and compact spaces, and loading and unloading areas;
 - c. Dimensions of circulation and maneuvering areas necessary to serve spaces;
 - d. Access to streets, alleys, and properties served;
 - e. Curb cuts and curb placement;
 - f. Dimensions, continuity and substance of landscaping and screening;
 - g. Grading, drainage, surfacing and subgrading details;
 - h. Delineation of all structures or other obstacles to parking, circulation and visual clearance on the site;
 - i. Specifications as to location of signs and wheel stops;
 - j. Sidewalks and pedestrian pathways;
 - k. Vision clearance areas for all points of ingress and egress.
8. Parking Study Requirements. When directed by the community development director or designee, the applicant will prepare a parking study evaluating the parking needs associated with a proposed use. This study will contain a recommendation of effective parking management strategies to improve traffic circulation and contribute to the public health, safety, general welfare and aesthetics of the city of Edgewood by providing sufficient on-site areas for the maneuvering and parking of motor vehicles. This study shall have all the elements necessary to indicate that parking needs have been mitigated including, and not limited to:
- a. Existing parking conditions.
 - b. Parking supply.
 - c. Parking utilization data.
 - d. Parking demand.

- e. Parking capacity.
- f. Average parking duration.
- g. Other jurisdictions' parking policies.
- h. Comparison of minimum parking requirements.

9. Accessible parking for persons with disabilities shall be provided consistent with state and federal regulations.

10. Parking areas shall meet the applicable landscaping requirements of EMC 18.90.090, Landscaping.

11. Parking areas shall meet the applicable landscaping requirements of Chapter 18.95 EMC, Design Standards.

D. Any building that is erected or enlarged shall provide a minimum of one off-street or off-alley loading area.

1. The minimum area required for commercial and industrial loading spaces is as follows:

- a. Two hundred fifty square feet for buildings of 5,000 to 20,000 gross square feet.
- b. Five hundred square feet for buildings of 20,000 to 30,000 gross square feet.
- c. Additional loading space shall be required of buildings based on the size, proposed use, potential uses, and location as deemed necessary by the community development director or designee.

2. Each loading space shall measure not less than 30 feet by 12 feet and shall have an unobstructed height of 14 feet.

3. Each loading space shall be made permanently available for such purpose, and shall be surfaced, improved, maintained, and screened in accordance with this section and EMC 18.90.090, Landscaping.

4. Loading spaces shall be located adjacent to the building to be served thereby in such a way that trucks in these spaces shall not encroach upon or interfere with areas reserved for off-street parking nor project into any public right-of-way or interior pedestrian area. Loading space or maneuvering areas shall be in addition to required off-street parking spaces.

5. Loading berths shall be located not closer than 50 feet to any residential district, unless wholly enclosed within a building, or unless screened from such residential area by a wall or uniformly painted fence not less than six feet in height and Type V, solid barrier landscaping.

6. Space for loading berths may occupy all or any part of any required setback except for landscaping setback requirements as long as the loading berth is uncovered. A covered loading area shall comply with the minimum building setback requirements for the district.

7. If the site upon which such loading space or spaces is to be located abuts upon an alley, such loading space or spaces shall be off-alley.

8. Buildings that utilize dock-high loading doors shall provide a minimum of 100 feet of clear maneuvering area in front of each door. Buildings that utilize ground level service or loading doors shall provide a minimum of 45 feet of clear maneuvering area in front of each door.

E. Use- and Site-Specific Standards.

1. Drive-up Windows. All establishments and businesses which maintain drive-up windows, which are intended to serve customers who remain in their motor vehicles during the business transactions or are designed in such a manner that customers must leave their automobiles temporarily in a driving line located adjacent to the facility, shall provide stacking space for the stacking of motor vehicles as follows:

- a. The drive-up window shall be so located that sufficient stacking space is provided for the handling of motor vehicles using such facility during peak business hours of such a facility.
- b. Entrances and exits shall not be so located as to cause congestion in any public right-of-way.
- c. When located in a shopping center, drive-through facilities shall provide sufficient stacking space to handle peak business demands and shall not in any way obstruct the normal circulation pattern of the shopping center.

2. Transit Support Facilities.

- a. For developments that generate a parking demand of greater than 24 parking spaces, the developer shall fund the purchase and installation of one or more transit shelters and/or other related transit support facilities as determined by Pierce Transit operational criteria, based on the size and nature of the use.
- b. When a transit shelter is not required to be installed, transit stops shall include design features or changes in materials that demarcate the stop. A bench is to be provided at a bus stop where at least five transit riders are expected to board buses on an average weekday, and a shelter is to be provided at a bus stop where at least 10 transit riders are expected to board buses on an average weekday.
- c. Any single-family development with 100 to 250 units, or multifamily residential with 50 to 100 units that will be located on a street where regularly scheduled transit service is provided, shall be required to provide a concrete pad adjacent to the sidewalk and a transit shelter with all required transit support facilities. The required "concrete pad" must utilize appropriate material(s) as agreed with the transit service provider.
- d. Any single-family development with over 250 units, or multifamily residential with over 100 units that will be located on a street where regularly scheduled transit service is provided, shall be required to provide two concrete pads adjacent to the sidewalk and two transit shelters with all required transit support facilities. The required "concrete pad" must utilize appropriate material(s) as agreed with the transit service provider.
- e. Transit facilities shall be sited in accordance with the requirements of the appropriate transit agency and this title. Transit shelters and related facilities shall be provided for transit stops that are located adjacent to or within 600 feet of the development site on each side of the street that has a transit route. This requirement may be waived when the appropriate transit agency has determined that current and projected ridership do not warrant the installation of a shelter within the 600-foot distance.
- f. When a transit shelter is required to be installed, seating, garbage receptacles, and lighting shall also be provided.
- g. Transit pullouts shall be provided as an element of street improvements if Pierce Transit and the city determine that a pullout is necessary to provide a safe refuge for transit vehicles or to minimize conflicts with other vehicles.

F. Joint use of required parking spaces may be permitted where two or more uses on the same site or separate sites in close proximity are able to share the same parking spaces because their parking usage does not materially overlap (e.g., uses primarily of a daytime vs. nighttime or weekday vs. weekend nature). Shared parking shall be legally encumbered and shall meet all of the applicable standards of this section. Joint use of required nonresidential parking spaces may be authorized by the community development director or designee if the following documentation is submitted in writing to the community development department:

- 1. The names and addresses of the owners and/or tenants that are sharing the parking;
- 2. The uses that are involved in the shared parking;
- 3. The location and number of parking spaces that are being shared:

- a. An analysis showing that the peak parking times of the uses occur at different times and that the parking area will be large enough for the anticipated demands of both uses; and
- b. A legal instrument such as an easement or deed restriction that guarantees continuing access to the parking for both uses subject to the review and approval by the city attorney.

G. Parking Space Standards by Land Use.

1. The size of a development and the proposed use type determine the minimum number of required parking spaces. Unless otherwise specified, the number of parking requirements is based on the gross square footage (gsf) of the building.
2. The parking requirement for any office space associated with a use shall be calculated at the rate of one parking space for each 250 gsf of office use.
3. One parking space shall be required for each commercial vehicle that originates from the site or is regularly present on the site.
4. The number of employee spaces required shall be based on the maximum number of employees who may be on-site at any one time.
5. **Maximum Parking Requirements.** Parking for a specific use in zones covered by this section shall be limited to no more than 50 percent greater than the minimum parking requirement required above. The parking maximum does not apply to the following:
 - a. If parking spaces are provided above/below grade.
 - b. If the director determines additional off-street parking spaces are warranted based on a parking study. In making such a decision, the director shall also consider whether the proposal is consistent with the stated purposes, objectives, goals or policies established in this section and the design standards. The director shall also have the authority to restrict parking for a specific use to an amount that is less than the maximum amount allowed in this section if the proposal would substantially conflict with the stated purposes, objectives, goals or policies contained in the Edgewood comprehensive plan and similar plans and policy documents as adopted by the city of Edgewood.
6. Since a fraction of a parking space cannot be provided, parking calculations from Table 1, Minimum Parking Requirements, shall be rounded up to the nearest whole number.

Table 1: Minimum Parking Requirements

Residential	
<i>Accessory</i>	
Accessory Dwelling Unit (ADU), Attached	One per dwelling unit
ADU, Detached (Backyard Cottage)	One per dwelling unit
Caretaker Residence	One per dwelling unit
<i>Single-Family</i>	
Detached Dwelling	Two per dwelling unit
Cottage Court	Two per dwelling unit
<i>Multifamily</i>	
Duplex: Side by Side	Two per dwelling unit

Duplex: Back to Back	Two per dwelling unit
Duplex: Top and Bottom	Two per dwelling unit
Attached Dwelling	Two per dwelling unit
Multi-Plex	1.5 per dwelling unit
Townhouse	1.5 per dwelling unit
Apartment	1.5 per dwelling unit
<i>Other</i>	
Adult Family Home	One per three beds plus one per employee
Nursing and Residential Care Facilities	One per four beds
Assisted Living Facilities	One per three beds plus one per employee
Live/Work Unit	One per business use in addition to the residential use
Agriculture and Resource	
Family Farm	Parking study required
Agricultural Sales	One per 300 gross square feet
<i>Crop Production</i>	
Marijuana Production	Parking study required
Crop Production, All Other	Parking study required
<i>Animal Production and Aquaculture</i>	
Hog and Pig Farming	Parking study required
Cattle Feedlots	Parking study required
Animal Production and Aquaculture, All Other	Parking study required
Mining, Quarrying, and Oil and Gas Extraction	Parking study required
Utilities	
Electric Power Generation	NA
Potable Water Treatment	Parking study required
Sewage Collection or Treatment Facility	NA
Wireless Communication Facilities	Parking study required
Manufacturing	
Animal Slaughtering and Processing	Parking study required
Marijuana Processing	See city Ordinance Nos. 11-0356, 13-0410, 14-0425, and/or 17-0502
Manufacturing, Craft (special)	One per 1,000 gross square feet
Manufacturing, Light	One per 1,000 gross square feet
Manufacturing, Heavy	One per 1,000 gross square feet
Wholesale and Retail Trade	

Wholesale Trade	Three per 1,000 square feet
Retail Trade	
Automobile and Other Motor Vehicle Dealers	One space per 500 square feet of sales area, or one space per 1,000 square feet of lot area, whichever is greater
Gasoline Stations	0.75 per fueling station multiple product dispenser
Pet and Pet Supplies Stores	One per 300 gross square feet
Fuel Dealers	One per 750 gross square feet of building devoted to maintenance
Marijuana Retailers	See city Ordinance Nos. 11-0356, 13-0410, 14-0425, and/or 17-0502
Sexually Oriented Retail Businesses	One per 100 gross square feet
Retail Trade, All Other	Three per 1,000 square feet
Transportation and Warehousing	
Transportation	
Pipeline Transportation	NA
Transportation, All Other	Parking study required
Warehousing and Storage	
Mini-Warehouses and Self-Storage Units	One per 2,000 gross square feet
Warehousing and Storage, All Other	One per 2,000 gross square feet
Business and Professional Services (Sector 51-56)	
General (All Office Use)	Three per 1,000 square feet
Rental and Leasing	
Passenger Car Rental and Leasing	One per 5,000 gross square feet
Truck, Utility Trailer, and RV Rental and Leasing	One per 5,000 gross square feet
Consumer Goods Rental	One per 500 gross square feet
Commercial and Industrial Equipment Rentals	One per 5,000 gross square feet
Waste Management and Remediation Services	
Waste Management and Remediation Services, All Other	Parking study required
Educational Services	
Elementary and Secondary Schools	For primary schools, two per employee, plus one per 30 children, plus parking for buses. For secondary schools and higher educational facilities, two per employee, plus one per four students, plus parking for buses.
Junior Colleges, Colleges, Universities, and Professional Schools	Two per employee, plus one per four students, plus parking for buses
Technical and Trade Schools	Two per employee, plus one per four students, plus parking for buses
Educational Services, All Other	Two per employee, plus one per four students, plus parking for buses
Health Care and Social Assistance	
Ambulatory Health Care Services, All Other	One per 250 gross square feet

Hospitals	Parking study required
Social Assistance	
Services for the Elderly and Persons with Disabilities	One per 250 gross square feet
Vocational Rehabilitation Services	One per 250 gross square feet
Child Daycare Services, Home-Based	Two per facility, plus one per employee
Child Daycare Services, All Other	One per employee, plus one per five clients, and loading area
Social Assistance, All Other	One per 250 gross square feet
Arts, Entertainment, and Recreation	
Libraries	One per 250 gross square feet
Museums and Art Galleries	One per 250 gross square feet
Zoos, Aquariums, and Botanical Gardens	Parking study required
Golf Courses and Country Clubs	Parking study required
Sexually Oriented Entertainment	One per 100 gross square feet
Gambling Industries	Parking study required
Indoor Arts, Entertainment, and Recreation Activities, Other (Special)	Parking study required
Outdoor Arts, Entertainment, and Recreation Activities, Other (Special)	Parking study required
Accommodation	
Hotels (except Casino Hotels) and Motels	1.1 per bedroom
Bed-and-Breakfast Inns	One per guest room
RV Parks and Recreational Camps	Parking study required
Food Service and Drinking Places	
Special Food Services	Parking study required or follow primary use parking standards
Mobile Vendors	NA
Drinking Places for Alcoholic Beverages	One per 100 square feet in dining, lounge and customer ordering area
Restaurants, Full Service	One space per 100 square feet of seating or waiting area or one space for every three seats, whichever is greater
Restaurants, Limited Service	One per 100 square feet in dining, lounge and customer ordering area
Snack and Nonalcoholic Beverage Bars	One per 100 square feet in dining, lounge and customer ordering area
Services (Sector 811-812)	
Automotive Repair and Maintenance	
Automotive Oil Change and Lubrication Shops	Parking study required
Car Washes	Parking study required
Automotive Repair and Maintenance, All Other	Parking study required
Personal Care Services	One per 250 gross square feet
Other Repair and Maintenance	

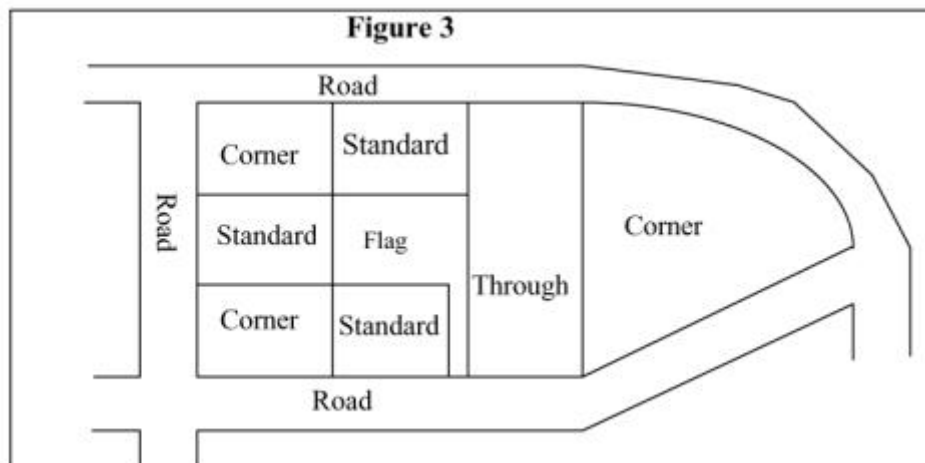
Other Repair and Maintenance, Consumer	One per 500 gross square feet
Other Repair and Maintenance, Commercial/Industrial	One per 500 gross square feet
Funeral Homes and Funeral Services	One per three seats
Crematoria	One per three seats
Pet Care Services	
Kennels	One per 300 gross square feet
Veterinary Services	One per 300 gross square feet
Pet Care Services, All Other	One per 300 gross square feet
Civic and Public Uses	
Cemeteries	Parking study required
Religious Assembly	
up to 10,000 sq. ft.	One per five fixed seats plus one per 50 square feet of gross floor area without fixed seats used for assembly purposes
10,000 to 19,999 sq. ft.	One per five fixed seats plus one per 50 square feet of gross floor area without fixed seats used for assembly purposes
20,000 to 29,999 sq. ft.	Parking study required
30,000 to 39,999 sq. ft.	Parking study required
40,000 sq. ft. or greater	Parking study required
Correctional Institutions (922140)	Parking study required
Administrative Government Facilities and Services	One per 250 gross square feet
Parks, Open Space, and Public Recreation	Parking study required

(Ord. 20-579 § 5 (Exh. D); Ord. 16-482 § 2 (Exh. F); Ord. 16-469 § 2 (Exh. A); Ord. 15-448 § 2 (Exh. A); Ord. 10-336 § 2; Ord. 03-203 § 1).

18.90.140 Performance standards. See attached Ordinance No. 20-0572, Exhibit I

18.90.150 Setback standards.

A property line is a line of record bordering a lot that divides one lot from another lot or from a public or private street right-of-way or any other private or public space. See Figure 3.



- A. Front lot line is the portion of a lot line abutting a street right-of-way.
- B. Interior lot line is any lot line other than a front or rear lot line.
- C. Rear lot line is the lot line opposite and most distant from the front lot line.
- D. All lots shall contain at least one front yard setback. A front yard setback shall be required abutting each right-of-way on corner lots and through lots. All lots shall contain one rear yard setback except for through lots. All other setbacks will be considered interior yard setbacks.
- E. Projection Exception.
 - 1. Fireplace structures, cornices, canopies, sunshades, bay or garden windows or similar ornamental features may project into any setback, provided such projections are:
 - a. Not wider than 10 feet;
 - b. Not more than 18 inches into an interior, front, or rear yard setback.
 - 2. Eave overhangs may project two feet into any required setback.
 - 3. Porches, decks, and other structures which do not exceed 30 inches height from the finished lot grade may project into any setback, provided such projections do not extend more than three feet into a front, rear, or interior yard setback.
 - 4. Wheelchair ramps may project into any required setback. (Ord. 03-203 § 1).

18.90.160 Signs.

Repealed by Ord. 19-552. (Ord. 15-448 § 2 (Exh. A); Ord. 03-203 § 1; Ord. 02-188 § 2).

18.90.170 Streetscapes.

A. Streetscapes shall be improved as specified in Chapter 18.95 EMC, Design Standards, EMC 18.90.090, Landscaping, and EMC 18.90.130, Parking.

B. The community development director or designee may modify commercial streetscape improvement requirements for structure remodeling or tenant improvements in accordance with Chapter 18.95 EMC, Design Standards, EMC 18.90.090, Landscaping, and EMC 18.90.130, Parking, and the following:

- 1. The community development director or designee may permit modification of streetscape improvements, requirements and standards when development of the required landscaping improvement(s), in the opinion of

the community development director or designee, is not practical due to physical limitations of the site which are no fault of the applicant.

2. The community development director or designee may permit modification of streetscape improvement standards where the required streetscape, in the opinion of the community development director or designee, is not roughly proportionate to the impact, type, scale, and cost of the proposed development action.

3. The streetscape design alternatives shall be documented as an administrative determination. Mailing of notice to adjacent property owners potentially affected by the development regulation modifications is required. (Ord. 15-448 § 2 (Exh. A); Ord. 03-203 § 1).

18.90.180 Tree preservation See attached EMC 18.90.180, which applies without any of the proposed edits shown.

18.90.190 Accessory dwelling units.

A. Purpose. Accessory dwelling units (ADUs) are intended to increase the supply of affordable and independent housing for a variety of households, increase home and personal security, and provide flexible options for property owners and their families. This should occur by utilizing the existing infrastructure and community resources throughout the city while protecting the existing character of single-family neighborhoods.

B. Procedures. Any landowner seeking to establish an ADU shall apply for and obtain approval in accordance with the following procedures:

1. Application. The landowner shall apply for a building permit for an ADU. A complete application form must demonstrate that all size thresholds and design standards are met.
2. Septic System Approval. A site with or proposing an on-site sanitary sewer (OSS) for the proposed ADU shall have an approved sanitary sewer inspection or separate septic system review by Tacoma-Pierce County Health Department (TPCHD) and must provide the TPCHD-approved site plan at the time of ADU application.
3. Application Review. Accessory dwelling unit determination of completeness, department review and approval shall be subject to the procedures for a Process I administrative approval as prescribed in EMC 18.40.080.
4. Business License. If the ADU shall be made available for rental occupancy, the landowner shall obtain a business license for such rental pursuant to Chapter 5.05 EMC. The state application for a business license or city of Edgewood business license shall be included in the landowner's ADU permit application.
5. Preexisting Accessory Dwelling Units. Preexisting accessory dwelling units, established prior to the enactment of this code section, may obtain legal status using the same standards and procedures for a new ADU. After approval, the landowner must provide title notification establishing that the ADU was legally constructed.

C. General Requirements. The creation of an ADU shall be subject to the following general requirements:

1. Number. One ADU shall be allowed per lot of record as an accessory use in conjunction with any detached single-family structure. ADUs shall not be counted in site net density calculations pursuant to EMC 18.90.040.
2. Type of Unit. An ADU shall be permitted as a second dwelling unit either attached to, or detached from, the primary residence.
3. Size. An ADU shall be no greater than 1,200 square feet (net square feet including only livable space) or 80 percent of primary residence size, whichever is less.
4. Design. Each ADU shall be architecturally consistent with the primary dwelling unit on site in the following ways:

- a. Exterior finish materials shall visually match in color, texture, type, size and placement, the exterior finish materials of the primary dwelling.
- b. The roof style shall match the predominant roof style of the primary dwelling.
- c. New construction of a detached ADU or conversion of an existing detached structure to an ADU shall not be permitted within the required front, side, or rear yard setback. An exception to the required rear and side yard setback shall be allowed if the rear yard abuts an alley.
- d. For detached ADUs, the building height of the ADU shall not be greater than the principal dwelling's building height.
- e. An ADU shall have a permanent foundation.
- f. An attached ADU must utilize a private entrance; contain a bath, kitchen and sleeping quarters; and provide fire separation from the main unit.

5. Utilities. The landowner shall be responsible for obtaining all necessary utility service for an ADU, including without limitation, water, sewer, electric, and phone service, in accordance with applicable rules, regulations, and policies.

6. Parking. One off-street parking space shall be required for the ADU in addition to off-street parking required for the principal dwelling pursuant to EMC 18.90.130, Parking.

D. Prohibition. ADUs that have not been approved pursuant to this section are prohibited. (Ord. 18-536 § 1; Ord. 16-469 § 2 (Exh. A)).

Chapter 18.95

DESIGN STANDARDS

Sections:

- 18.95.010 Purpose.
- 18.95.020 Applicability.
- 18.95.030 Site planning.
- 18.95.040 Building design.
- 18.95.050 Special residential design standards applicable to all zones.

18.95.010 Purpose.

A. The purpose of this chapter is to assure that quality physical development occurs in the city of Edgewood and to establish a comprehensive site plan design review process. Key objectives include:

- 1. Promote economic vitality and a sense of place consistent with the community vision;
- 2. Emphasize human scale design with a main street character in mixed use and commercial areas;
- 3. Allow for flexibility to accommodate creative design that meets the intent of adopted standards;
- 4. Provide clear and straightforward regulations that can be understood by a wide range of users;
- 5. Establish an efficient and objective design review process; and
- 6. To provide for the review of development proposals with respect to overall site design and to provide a means for guiding development in a logical, safe, attractive, and expedient manner, while also allowing property to be developed in phases.

B. The following standards are intended to accomplish the objectives above. The intent is to provide clear objective standards for applicants during the development design review process.

C. Where there is a conflict between the Edgewood development regulations and these design standards, then EMC 18.30.060, Conflict of provisions, will apply.

D. When a standard uses the word “shall,” the standard is mandatory. When a standard uses the word “should,” the standard is mandatory unless the applicant can demonstrate, to the satisfaction of the director, an equal or better means of satisfying the intent statement listed in that subsection has been provided. When a standard uses the word “may,” the city has the discretion to require the standard or exception if it is consistent with the intent statement. (Ord. 20-582 § 4; Ord. 11-360 § 3 (Exh. B)).

18.95.020 Applicability.

A. Site plan design review shall be required prior to the issuance of construction permits in any of the following circumstances:

1. The new construction of a nonresidential building or other structure;
2. The expansion, remodel, or alteration of any building or other structure by more than five percent of its existing floor area, or overall size in cases where floor area standards are not applicable;
3. The expansion of any building or structure that creates a new dwelling unit;
4. A change of use, or where traffic, parking, noise or other impacts are greater than the impacts for the previously existing use, as determined by the director; or
5. The construction and reconstruction of driveway approaches, gates, roads, shared access facilities, alleys, and driving surfaces within ingress/egress easements.

B. The following activities shall not require site plan design review:

1. Permits authorizing residential construction for detached single-family residential use and accessory dwelling units.
2. Any activity that does not require a building permit or is not considered a change in use, as determined by the director.
3. Any activity on the exterior of a building that does not exceed a 25 percent change in any existing facade or roof form.
4. Interior work that does not alter the exterior of the structure or affect parking standards as determined by the director.
5. Normal building maintenance and repair. (Ord. 20-582 § 5; Ord. 16-469 § 2 (Exh. A); Ord. 11-360 § 3 (Exh. B)).

18.95.030 Site planning.

A. Compatibility with Surrounding Properties.

1. Intent. Promote the functional and visual compatibility between adjacent properties.
2. Implementing Measures.
 - a. Physical and visual connections between properties should be considered during the design phase.
 - b. Site planning should seek to preserve natural site features and vistas where possible.

c. Landscaping, building height, building location and orientation, massing, and architectural style should reflect the zone purpose statements in EMC 18.80.080(B).

d. Landscape screening shall be provided along property lines adjacent to “incompatible uses.” Incompatible uses include outdoor storage areas next to any other use, service areas next to any other use, auto-oriented commercial next to residential, and commercial, mixed use or industrial development adjacent to a residentially zoned or developed property. See subsection (H) of this section.



Figure 1 – Landscape screen between incompatible uses: gas station and mixed use development. A wider buffer, a mix of native trees and architectural fencing would improve this landscape treatment.



Figure 2 – Trellis and landscaping provides screening between drive-through use and residential.

B. Building Location and Orientation.

1. Intent. Create physical and visual connections between businesses, streets, and open spaces in order to create a vibrant and attractive business and streetscape environment.

2. Implementing Measures.

a. Building location shall conform with the lot frontage requirements contained in EMC 18.80.080(D).

b. Innovative organizational schemes should be incorporated into project design such as a “village green,” “small town grid,” “pedestrian square,” “perimeter walk,” etc., that integrate the proposed project into existing or future development and create a pedestrian focus.

c. Buildings shall be oriented to face a public street or public space.

- d. Buildings should emphasize a physical and visual connection to the public realm by orienting a significant facade, primary entrance and display windows towards the public street or other public space. Within the BP zone, the degree of orientation to the street may be less if the development is intended for light industrial and similar uses; however, building entrances should be clearly visible from and connected to the street and any adjacent open spaces or trails.
- e. Solid, blank facades and service areas shall be oriented away from public streets and other public spaces.
- f. The location of all buildings and site improvements shall accommodate and reflect programmed improvements incorporated into the city's capital improvement plan.
- g. The following shall be included to ensure that the site design encourages safety:
 - i. Site design should enable a passerby on the adjacent street to look through a site's perimeter features and visually observe common areas and primary entrances on the site.
 - ii. Site design shall avoid creating potential entrapment areas.
 - iii. Buildings should be arranged on the site to overlook pedestrian routes and parking areas to allow for informal surveillance of these areas.
 - iv. Housing units, offices or other uses that allow for informal surveillance should surround courtyards and open spaces.



Figure 3 – Mixed use buildings oriented around a village green.



Figure 4 – Commercial buildings with display windows oriented toward the public street and pedestrians.



Figure 5 – Facade oriented towards a public space, with significant visibility to ensure safety.

C. Streetscape Features.

1. Intent. Create a streetscape that is safe, convenient, comfortable and appealing for people on foot.

2. Implementing Measures.

a. Development shall include the site planning measures below to define the street edge, encourage pedestrian access, and provide pedestrian amenities.

i. Public street design shall comply with EMC Title 12, including (but not limited to) the Meridian Corridor and Town Center street design standards.

ii. Clear Walkway Area. A clear five-foot dimension for pedestrian travel shall be maintained. Signs, street furniture, planters and other amenities, as well as outdoor dining, shall not encroach upon the clear walkway area. LID materials (e.g., permeable pavement, etc.) shall be utilized to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM).

iii. No large item display areas in the front yard area such as auto sales. Small, temporary displays for items such as groceries, hardware, plants, books, etc., may be allowed along sidewalk edge.

iv. Commercial and mixed use development should provide at least two of the following pedestrian amenities near the sidewalk:

(A) Pedestrian furniture such as seating, lighting, drinking fountain.

(B) Pedestrian-oriented space, such as a widened sidewalk or small courtyard for outdoor seating, incorporating LID features to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM).

(C) Landscaping that exceeds minimum code requirements, incorporating LID to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM).

(D) Artwork.

(E) Space for transit stop with seating.

(F) Pedestrian-oriented signage, e.g., blade or awning sign.

(G) Decorative screen wall, trellis or other building or site feature.

(H) Other element that encourages pedestrian activities as approved by the city. All site configurations and elements shall be as approved by the city.

b. New development on corner lots at intersections shall include public spaces that meet the design requirements of subsection (F) of this section.

c. Residential development should provide interest along the streetscape, such as substantial landscaping, porches, entry features, artwork and/or other techniques.



Figure 6 – Clear walkway area with pedestrian signs, street furniture, planters and other amenities.



Figure 7 – Streetscape featuring substantial landscaping and pedestrian benches.



Figure 8 – Residential sidewalk showing clear walkway area and substantial landscaping for visual interest.

D. Access.

1. Intent. Provide safe and efficient access to the site and buildings from the street for pedestrians and vehicles.

2. Implementing Measures.

a. Pedestrian and vehicle access to the site shall be visible, and easily accessible from the street.

b. Driveways should be shared and consolidated in order to reduce the number of curb cuts to ensure smoother, more organized traffic movements and less disruption of pedestrian movement. Curb cuts (driveway openings) should be:

i. Limited to 13 feet wide per entry, exit or turn lane.

ii. A minimum of 300 feet apart from any other curb cut or street intersection.

iii. Not interrupt the paving material of the sidewalk with another material. Sidewalk paving should be continuous.

iv. Vehicular access to corner lots shall be located on the lowest classified roadway and as close as practical to the property line most distant from the intersection. Location of vehicle access to streets shall be subject to street engineering standards.

c. Each development shall include at least one paved pedestrian path connecting the sidewalk along each street frontage to the entrance(s) of building(s) on the site. Paved paths shall use materials that meet LID standards (e.g., permeable pavement, etc.) to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM). Please see subsection (G) of this section, Pedestrian Connections, for additional requirements, and the PCM and associated reference documents regarding requirements for materials meeting LID standards.

d. Access Roads. The city may require all development projects on properties that front on two streets to provide an internal vehicular connection between the two frontage streets. The required access may be part of the parking lot/site circulation, but parking, other than parallel parking, fronting directly on the street or access drive shall be prohibited. Location of ingress to and egress from the access shall be as approved by the city.



Figure 9 – Street frontage with limited curb cuts conducive to pedestrian activity.



Figure 10 – Shared access between adjoining properties.



Figure 11 – Garage accessed off an alley minimizes disruption of traffic and pedestrian movements.

E. Parking Lot Design.

1. Intent. To minimize the visual impact of parking facilities, ensure that they do not dominate the pedestrian realm, allow for shade and landscaping to soften their appearance and maintain the safety and viability of businesses.

2. Implementing Measures.

- a. Parking lot location shall comply with EMC 18.80.080(D) and (H)(3) regarding lot frontage requirements and parking lot location. In most cases, parking lots should not be located between the structure and the street. In those cases where they are allowed in this configuration, additional landscaping, pedestrian amenities and clear, separated pedestrian connections shall be provided between the sidewalk and building entrance.
- b. Smaller separated parking areas are preferred.
- c. Parking lots shall integrate main drive aisles (where applicable) to appear more like streets, and shall include sidewalks, landscaping, and pedestrian scaled lighting.
- d. Masonry walls and other structural screening features may be used for corner accents or screening headlights if necessary, but shall not be used as a substitute for landscaping.
- e. Surface parking landscaping should comply with subsection (H) of this section and EMC 18.90.090; provided, that where parking is adjacent to the street frontage, landscaping should be increased and there shall be at least one tree planted for every five parking stalls. Landscaping shall spatially define the street edge and create a distinctive perimeter along the street front. Landscaping shall incorporate LID to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM).
- f. Parking aisles shall be designed to create a central pedestrian access to building entries where applicable.
- g. Parking aisles should incorporate landscaping between parking rows. Consistent with Chapter 13.05 EMC, applicants are required to implement LID (e.g., drainage swales, bioretention cells, etc.) to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM).



Figure 12 – Parking lot featuring smaller parking areas, significant landscaping and integrated low impact development stormwater facilities.



Figure 13 – Significant landscaping along street edge to screen parking and define pedestrian realm. Additional trees would improve this landscaping design and further screen views.

F. Open Spaces and Common Areas.

1. Intent. Enhance the vitality of the business environment and the pedestrian experience by linking public plazas, courtyards, green spaces and other gathering spaces to the public sidewalk and each other.

2. Implementing Measures.

a. Development shall include outdoor common areas or open spaces, pursuant to EMC 18.80.080(F).

b. Open space may be provided in the form of grassy meadows with native plantings, green space with formal landscaping, plazas, courtyards or wider sidewalks with seating. Open space design in specific areas should consider the opportunities and concepts contained within the Town Center and Meridian Corridor plan, including realization of a greenway that celebrates the rural history and connects mixed use and commercial development with parks, open spaces and the civic campus. Open space(s) and adjacent plazas, courtyards, and/or sidewalks shall incorporate LID to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM).

c. Open spaces on adjoining properties should be physically connected where possible and should consider the design attributes of adjacent open spaces to provide for logical transitions.

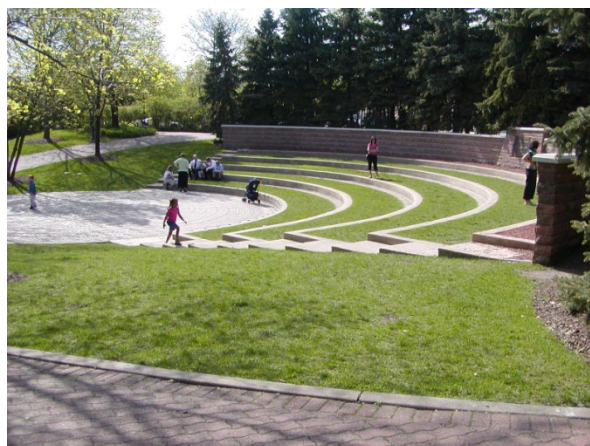


Figure 14 – Large common area with landscaping and outdoor seating encourages pedestrian activity.



Figure 15 – Outdoor plaza with seating and landscaping adjacent to sidewalk edge.

d. Required open space and open space that is included as part of the development intensity development options in EMC 18.80.080(D), Table 3, are referred to as “pedestrian-oriented spaces” and shall address the following requirements. Any disturbed or altered open space(s) shall incorporate LID to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM).

i. Spaces shall include landscaping conducive to pedestrians, lighting, public art, benches and brick or other special paving.

- ii. Paved walking surfaces of either concrete or approved unit paving shall be provided.
 - iii. Benches and/or low seating walls should be provided.
 - iv. Driveways, service areas or any other areas subject to regular vehicle use shall not occupy public space.
 - v. Pedestrian-oriented spaces should be oriented toward the south (for solar exposure) when possible to create a more comfortable microclimate.
- e. Pedestrian-oriented spaces shall be directly linked both visibly and physically from public sidewalks and walkways.
- f. Corners should include pedestrian-oriented spaces. Rather than extending to the corner, new buildings should incorporate forecourts, plazas or gardens that welcome the public and offer a dramatic statement at the corner. Significant landscaping, decorative screen walls, or gateway signage (as applicable), or other features approved by the director as meeting the design intent shall be included.
- g. Where the front building facade is not directly adjacent to the sidewalk, the space between the sidewalk pavement and the building shall be developed as a garden and/or pedestrian-oriented space. Within the TC zone, the area shall be developed specifically as a pedestrian-oriented space meeting the requirements of subsection (F)(2)(d) of this section.



Figure 16 – Open space in mixed use areas designed to integrate natural areas and pedestrian connections.



Figure 17 – Public space in building setback area adjacent to sidewalk with amenities provided.



Figure 18 – Corner treatment with public space, architectural feature and landscaping creates an inviting entry and place for social activity.

G. Pedestrian Connections.

1. Intent. Ensure that there are clear pedestrian connections within and between commercial and mixed use districts.
2. Implementing Measures.
 - a. Pedestrian facilities such as sidewalks, crosswalks and bus shelters should connect all modes of transportation. Pedestrian facilities and connections shall incorporate LID to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM).
 - b. Develop an on-site pedestrian circulation concept. An overall on-site pedestrian circulation plan shall be required. Paths should be integrated with the required parking lot landscaping.
 - c. Bicycle circulation shall be considered in the site design.
 - d. Safe bicycle parking shall be provided.
 - e. Pedestrian paths of eight-foot minimum unobstructed width should be provided to connect all businesses and the entries of multiple buildings on the same development site.
 - f. Buildings with entries not facing the street or that have parking areas between the building and the street shall have a clear and obvious pedestrian path from the street to the entry.
 - g. The pedestrian path from the street sidewalk to the building main entry should be at least 60 inches wide (preferably 96 inches wide).
 - h. A specially marked or paved crosswalk should be provided through parking lots greater than 150 feet long (measured parallel to the street front) or more than two bays deep (approximately 75 feet measured perpendicular from street front). Generally, paths should be provided every four rows and a maximum distance of 150 feet should be maintained between paths.

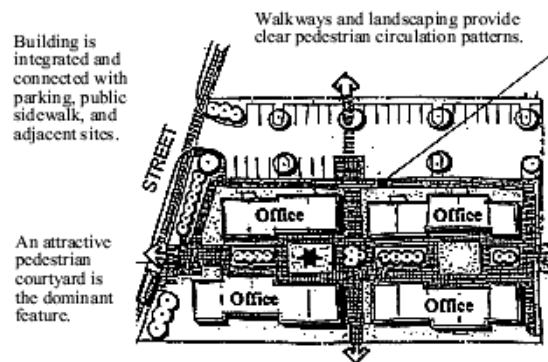


Figure 19 – Site plan showing clear and comprehensive pedestrian circulation concept, strong connections, common open space and shared parking.



Figure 20 – Architectural feature clearly marks pedestrian connection between street and commercial shops down below.



Figure 21 – Building entrance connected to street with public art and public space integrated into design.

- i. Pedestrian access routes through parking areas shall be separated from vehicular parking and travel lanes by use of contrasting paving material, which may be raised above the vehicular pavement, excluding the use of speed bumps.
- j. In all zones of the city, transit stops adjacent to development shall be integrated into the development of adjacent site improvements as required in EMC 18.90.130(E)(2). This may be done by providing extra space for waiting areas, incorporating bus pull outs or stops into the site's circulation scheme and/or providing a path (preferably covered) directly from the transit stop into the project's entrance. Pavement for expanded waiting areas and connecting paths may be located within required setbacks and may count as landscape areas.
- k. Encourage pedestrian paths from all transit stops through Mixed Use and Commercial zones to connect adjacent residential areas.
- l. Where possible, provide steps and ramps across retaining walls and slopes in accordance with the Edgewood Municipal Code.
- m. Gates shall be provided to breach fences if they impede pedestrian movement to shopping and other common activities, especially to transit.
- n. Pedestrian paths shall be designed and maintained in a safe and adequately lighted condition to promote pedestrian safety.
- o. Adjacent landscaping shall not block visibility to and from a pedestrian path, especially where it approaches a roadway or driveway.



Figure 22 – Pedestrian access route through parking area separated by curb and distinctive pavement.



Figure 23 – Path connecting residential development and sidewalk to adjacent park.



Figure 24 – Pedestrian path through grocery store lot that is separated from vehicle use areas.

H. Landscaping.

1. Intent. Provide landscaping that is attractive, drought tolerant and appropriate for conditions. Landscaping is intended to soften the built form and should be integrated with the overall design of the site.

2. Implementing Measures.

a. Landscaping shall be provided in locations and quantities pursuant to the standards in EMC 18.80.080(H).

b. A site landscape design concept shall be developed. Applicants are required to implement LID to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM). The landscaping concept should be suitable and fitting with the character of Edgewood as a community bordering rural and agricultural areas. Existing substantive vegetation and native materials in informal plantings and arrangements should be considered in the concept. More structured or formal landscaping is appropriate where it is necessary to control planting due to limited space and in areas adjacent to the streetscape.



Figure 25 – Landscape design that enhances adjacent development and creates a sense of place.



Figure 26 – Landscaping that is creative and integrated with site design.



Figure 27 – On-site landscaping integrated with public space.

c. The landscape concept should include the following elements:

- i. A unified pedestrian circulation system with amenities and plantings.
- ii. A coordinated system of open spaces and/or planted areas that shall provide the required pedestrian areas. The plan should indicate how the various spaces and plantings relate to and achieve the project's site design objectives of continuity, variety, activity, etc.
- iii. Plantings and/or site features that enhance the buildings' architectural qualities.
- iv. In addition, the concept shall consider the following landscape design objectives where appropriate:
 - (A) Coordinate selection of plant material to provide a succession of blooms, seasonal color and a variety of texture.
 - (B) Provide a transition in landscaping design and plant materials, including trees, shrubs, and groundcovers between adjacent sites, within a site and from native vegetation areas in order to achieve greater continuity.
 - (C) Provide pedestrian-oriented spaces and design landscaping to create definition between public and private (residential) spaces.
 - (D) Use plantings to highlight significant site features and to define the function of the site, including parking, circulation, entries and open space.
 - (E) Integrate interior surface parking landscaping with required LID systems, biofiltration swales, or surface water detention ponds to the maximum extent practicable.
 - (F) Incorporate or protect natural features including wetlands, significant trees and vegetation, and slopes.
 - (G) Preserve distant views.
 - (H) Create extensions or connection to a local park or a regional bicycle/pedestrian trail system.
- d. Consider alternative building and parking siting strategies to preserve and protect stands of existing trees.
- e. Low impact development (LID) stormwater management techniques are required to be used to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM), and smaller, dispersed facilities that include native plant materials are preferred. Facilities should not impede pedestrian circulation and should be designed as positive landscaping features. Stormwater facilities should be integrated into the overall site design and landscaping plan, through one of the following techniques, generally listed in order of preference:
 - i. Locate swales, rain gardens, bioretention cells, and other systems at the side or rear of the lot where feasible (per Minimum Requirement No. 5 of the PCM) and incorporate them into perimeter landscaping.
 - ii. Locate facilities within parking lots and service areas, e.g., between parking rows.
 - iii. Locate facilities on the front edge of the property and incorporate them creatively into the landscaping. Enhanced landscaping should be used for this option. Storage ponds shall not be located along the front edge of the property unless no feasible alternative exists.
 - iv. Other techniques approved by the director as meeting the design intent of this section.



Figure 28 – Tree retention near parking lot and sidewalk.



Figure 29 – Low impact development stormwater facility integrated into parking lot design and pedestrian circulation concept of a large format retail site is highly functional and enhances the overall aesthetic appeal.

I. Service Areas and Outdoor Storage Areas.

1. Intent. Reduce the impact of service areas, mechanical equipment and utilities.
2. Implementing Measures.

- a. Service areas (loading docks, trash dumpsters, compactors, mechanical equipment, and storage yards) shall be located to avoid negative visual, olfactory, auditory (noise), or physical impact on the street environment, and adjacent residentially zoned or developed properties.
- b. Service areas shall be located in the less visible sides of the site and shall be screened from view from public areas, sidewalks and adjacent properties by structures, enclosure and/or landscaping. Berms may also be used in combination with the above. Trash collection areas, outdoor storage tanks, and similar service areas shall be located within enclosed structures constructed of similar materials and quality as the associated building, with a gate that can be closed.
- c. Consideration should be given to developing common service courts at the interior of blocks to accommodate loading trash bins, recycling facilities, storage areas and utilities. Service areas shall be located and designed for easy access by each tenant. Any emissions of noise, vapor, heat or fumes shall be appropriately mitigated.
- d. Within the Town Center and Mixed Use Residential zones, the total area for outdoor storage and display should be less than five percent of the total gross square footage of building occupied by the use unless it is screened from public view in such a way as it is not visible from public streets, sidewalks or residential areas located adjacent to the sites.
- e. Public utilities should be screened along the street by landscaping, where feasible.
- f. Undergrounding of utilities shall be required within a site for all major construction (see EMC 18.95.020(B)(1)) and shall be required along the street frontage of new streets or widened existing streets. This requirement of undergrounding of utilities shall be applied to both private and public streets.



Figure 30 – Dumpster area screened from view from public areas.



Figure 31 – Dumpster area screened from view from public areas.

J. Site Lighting.

1. Intent. Establish site lighting compatible with the development as well as the surrounding area and streetscape, promote pedestrian and vehicular safety, and improve the aesthetic appearance of the development.
2. Implementing Measures.
 - a. All lighting shall be shielded, equipped with refractors or placed indirectly to prevent stray upward light.
 - b. Lighting shall be provided with gradual transition to unlit areas. Avoid creating highly contrasting pools of light and dark areas that can be temporarily blinding.
 - c. Pedestrian-scale lighting shall be provided on walkways, building entrances, parking lots, open spaces and other areas where pedestrian activity is expected.
 - d. Lighting shall be provided in parking lots, pedestrian paths and building entrances. A minimum of two footcandles of light is required, with higher levels of lighting at building entrances, e.g., four footcandles.

- e. Search lights and strobe lights that project beyond the subject property are prohibited.
- f. Light fixtures shall be no glare and mounted no more than 25 feet above the ground to minimize the impact onto adjacent properties. All fixtures over 15 feet in height shall be fitted with a full cut-off shield.
- g. Accent lights are encouraged to be integrated with landscaping and streetscape features. All building lights shall be directed onto the building itself or the ground immediately adjacent to it. The light emissions should not be visible above the roofline of the building.
- h. Fixtures should be located to eliminate interference with windows adjacent to the parking area.
- i. Provide lighting at the building entries and paths and paths through parking lots. For safety, at least four footcandles of light is required at the entry and two footcandles at the paths.
- j. Use pedestrian-scaled lighting where there is pedestrian activity.
- k. Design lighting to enable users to identify a face 15 yards away, in order to reduce anonymity and to give the pedestrian the opportunity to choose another route.
- l. Parking lot light fixtures shall be no glare and mounted no more than 25 feet above the ground to minimize the impact onto adjacent properties. All fixtures over 15 feet in height shall be fitted with a full cut-off shield.
- m. Fixtures should be located to eliminate interference with windows adjacent to the parking area.
- n. All building lights shall be directed onto the building itself or the ground immediately adjacent to it. The light emissions should not be visible above the roofline of the building.



Figure 32 – Pedestrian-scale lighting along public walkway.



Figure 33 – Site lighting detail.



Figure 34 – Pedestrian lighting sconce detail.

K. Drive-Through Facilities.

1. Intent. Reduce vehicle and pedestrian conflicts and improve the pedestrian environment.
2. Implementing Measures.
 - a. Drive-through facilities shall comply with the following:
 - i. Drive-through facilities and stacking lanes shall not be located along a facade of the building that faces a right-of-way.
 - ii. Stacking lanes shall accommodate all vehicles on site.
 - iii. Drive-through windows and stacking lanes shall be partially screened from the street(s) by landscaping and/or architectural elements, or combination thereof, provided such elements reflect the primary building and provide appropriate screening. Stacking lanes and associated screening and/or landscaping shall incorporate LID to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM).
 - iv. The stacking lane shall be physically separated from the parking lot, sidewalk, and pedestrian areas by landscaping and/or architectural elements, or combination thereof, provided such elements reflect the primary building and provide appropriate separation. Painted lanes are not sufficient. Where pedestrian exits cross a drive-through lane or stacking lane, speed bumps shall be required between the pedestrian path and the oncoming traffic.
 - v. A bypass/escape lane is required for all drive-through facilities.



Figure 35 – Drive-through lane located behind building and screened by landscaping and architectural element.

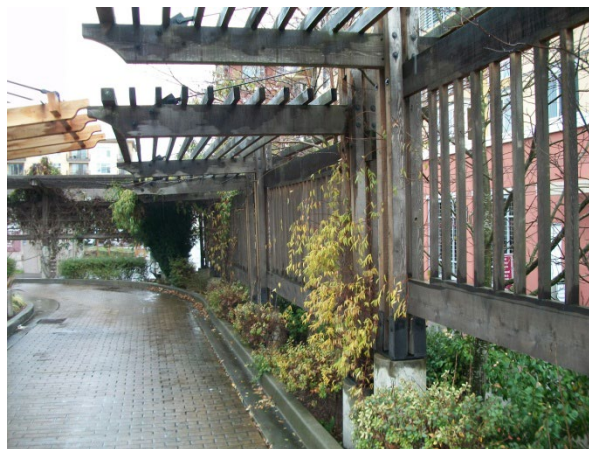


Figure 36 – Drive-through lane detail – note paving treatment, plantings and architectural element.

(Ord. 16-482 § 2 (Exh. F); Ord. 11-360 § 3 (Exh. B)).

18.95.040 Building design.

A. Massing and Articulation.

1. Intent. To reduce the apparent bulk of buildings, maintain a human scale and provide both variety and an overall sense of consistency along the street face.
2. Implementing Measures.
 - a. The “base” of the building should be distinguished at ground level using articulation and materials such as stone, masonry, or decorative concrete.
 - b. The “middle” of the building should be distinguished by a change in materials or color, windows, balconies, step-backs and signage.
 - c. The “top” of the building will emphasize a distinct profile or outline with elements such as projecting parapet, cornice, upper level step-back or pitched roofline.

d. Buildings shall include articulation along the facades facing and visible from public streets or other public spaces. The purpose is not to create a regular rigid solution but rather to break up the mass in creative ways. All major construction shall employ at least two of the following elements. If a proposed building is over two stories in height, greater than 10,000 square feet or more than 100 feet wide as measured along any facade facing a street and visible from that street, then the building shall use at least three of the following implementing measures:

- i. Changes in materials.
- ii. Individual bays or protruding storefronts.
- iii. Balconies or decks on upper floors.
- iv. Separated, distinct roof forms.
- v. Extrusion of corners.
- vi. Distinct window patterns.
- vii. Changes in colors.
- viii. Other features approved by the director as meeting the intent.
- ix. Provided, that for all development within the Town Center and MUR zones building facades over 100 feet that are adjacent to or visible from the street shall include at least two items from subsections (A)(2)(d)(ii) through (iv) of this section.

e. Reduce Scale of Large Buildings. All new buildings over 50,000 square feet in gross building footprint shall:

- i. Provide a modulated roofline by alternating dormers, stepped roofs, gables, or other roof elements;
or
- ii. Provide a gable, hipped, gambrel or shed roof with at least a 4/12 pitch; and at least two of the features listed below:
- iii. Cluster smaller uses and activities in individual storefronts or bay windows around entrances on street-facing facades.
- iv. Provide significant pedestrian-oriented spaces and landscaping along the building facade.
- v. Provide upper story step-backs, e.g., above ground floor.

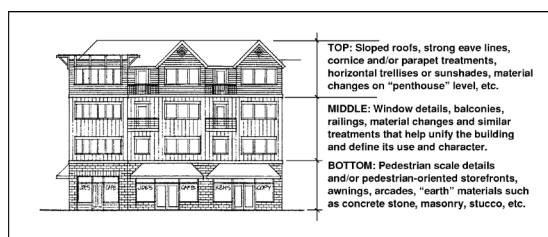


Figure 37 – The basics of building design: defining a base, middle and top.



Figure 38 – Building articulation and changes in materials reduce the apparent bulk of the structure.



Figure 39 – Facade showing changes in materials, distinct window patterns, changes in color, and articulation.

B. Prominent Entrances.

1. Intent. To ensure that entrances are easily identifiable and accessible from streets and sidewalks.
2. Implementing Measures.

- a. Primary entrances shall be located so that they are visible from the public right-of-way or plazas.
- b. Primary entrances to the building shall be made visible and prominent by using architectural elements, such as canopies, fixed seating, large doors, porches, or protruding or recessed entrances.
- c. The primary public entrances of all businesses and multifamily residential buildings shall be enhanced by two or more of the following at or near the entry:
 - i. Provide at least 200 square feet of landscaping.
 - ii. Provide pedestrian facilities, such as benches, kiosks, special paving, bicycle racks, etc.
 - iii. Provide a trellis, arbor or other building element that incorporates landscaping.
 - iv. Provide special pedestrian-scaled lighting.
 - v. Provide adjacent window displays.
 - vi. Provide building ornamentation such as mosaic tile, relief sculpture, ornamental wood or metal trim, etc.
 - vii. Provide artwork or special pedestrian scaled signs.
 - viii. Other methods approved by the director as meeting the intent.



Figure 40 – Building articulation, changes in materials and separated roof forms.

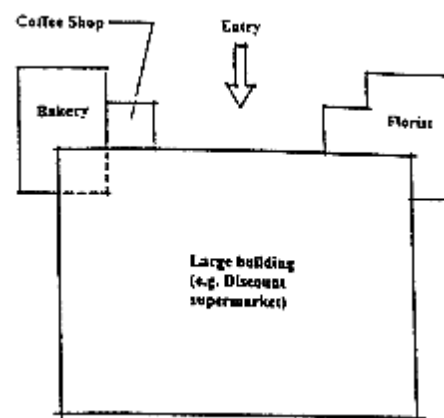


Figure 41 – Smaller uses and activities clustered around entrances reduce the scale of large buildings.

- d. Residential uses should incorporate a porch, stoop or recessed or protruding entry as a transition between the public and private realm.
- e. Consider the following in the design of building entrances to increase personal safety:
 - i. Avoid hidden building entrances and ensure visually unobstructed sight lines into entries.
 - ii. Sufficiently illuminate inset doorways and alcoves to ensure unobstructed visibility and enhance personal safety.



Figure 42 – Apparent building mass is reduced through varied roof forms, step-backs and individual storefronts.



Figure 43 – Prominent building entry.



Figure 44 – Residential building incorporating a porch at a secondary entrance as a transition between the private and public realm.

C. Treatment of Corners.

1. Intent. Encourage unique, identifiable architectural features at building corners at street intersections.

2. Implementing Measures.

a. All new buildings located on properties at the intersection of two public streets shall employ two or more of the following design elements or treatments to the building corner facing the intersection:

i. Provide at least 100 square feet of sidewalk area or pedestrian-oriented space in addition to the building setback that is otherwise required. Upper stories may or may not be set back from the corner.

ii. Provide a corner entrance to courtyard, building lobby, atrium, or pedestrian pathway. Courtyards, pedestrian pathways, and other outdoor public spaces shall incorporate LID to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM).

iii. Include a corner architectural element such as:

(A) Bay window or turret.

(B) Roof deck or balconies on upper stories.

(C) Building core setback “notch” or curved facade surfaces.

(D) Sculpture or artwork either bas-relief, figurative or distinctive use of materials subject to administrative review.

iv. Provision of pedestrian weather protection canopy at the corner of the building.

v. Other similar treatment or element approved by the city.



Figure 45 – Mixed use building with recessed entrances and awnings.



Figure 46 – Corner treatment – prominent entry, distinctive materials and pedestrian space.



Figure 47 – Corner treatment with building art and open space.

D. Ground Level Details.

1. Intent. To reinforce the character of the streetscape and provide pedestrian amenities.

2. Implementing Measures.

a. All new buildings shall include on the facades that face a public street, park, or pedestrian route at least four of the following:

i. Decorative treatment of windows and doors such as moldings, kick-plates, projecting window sills, glazing, or door designs, around all ground floor windows.

ii. Decorative railings, grillwork, or landscape guards.

iii. Landscaped trellises and arbors.

iv. Exterior lighting sconces.

v. Decorative brick, tile, stone work or wood details on the ground floor facade.

vi. Decorative paving in the sidewalk.

vii. Artwork. The artwork may be freestanding or attached to the building. All artwork is subject to approval by the director.

viii. Pedestrian scale signage, such as blade signage.

ix. Benches and seat walls along 20 percent of the length of the facade.

x. Other similar features approved by the director as meeting the intent of this subsection.

b. For commercial and mixed use buildings in the Town Center zone, ground floors should be a minimum height of 12 feet measured from finished floor to ceiling to provide a visual connection to the street and reinforce the main street design intent.



Figure 48 – Building with awnings, ground floor windows, exterior lighting sconces, pedestrian signage, and integration of public spaces.



Figure 49 – Decorative grillwork creates visual interest.



Figure 50 – Clear vision glass along ground floor gives this retail frontage a high degree of transparency. Also note weather protection.

E. Transparency Zone.

1. Intent. To provide a visual connection between activities inside and outside of buildings.
2. Implementing Measures.
 - a. Commercial and mixed use buildings in the Commercial and Mixed Use Residential zones shall include windows with clear vision glass on at least 35 percent of the area between two and 12 feet above grade for all ground floor building facades that are visible from an adjacent street.
 - b. All development in the Town Center shall include windows with clear vision glass on at least 60 percent of the area between two and 12 feet above grade for all ground floor building facades that are visible from an adjacent street.

F. Weather Protection.

1. Intent. Improve comfort and pedestrian activity.
2. Implementing Measures.
 - a. All businesses should provide pedestrian weather protection at least four feet wide along at least 75 percent of the length of building facades that are adjacent to the street or that include entrances. The weather protection may be in the form of awnings, marquees, canopies or building overhangs to create a covered outdoor pedestrian space of at least 100 square feet.
 - b. Pedestrian weather protection should be provided at public entries.
 - c. Canopies or awnings should be placed between eight feet and 12 feet above the sidewalk and should be a minimum depth of six feet. The color, material and configuration of the pedestrian coverings shall be as approved by the city. Coverings with visible corrugated fiberglass are not permitted, but corrugated metal may be used as an architectural detail. Fabric and rigid metal awnings are acceptable if they meet the applicable standards. All lettering and graphics on pedestrian coverings shall conform to Chapter 18.97 EMC, Sign Code.



Figure 51 – Weather protection built into building design.



Figure 52 – Weather protection attached to building.



Figure 53 – Building material detail showing durable materials and changes in materials creating variation.

G. Building Materials.

1. Intent. Encourage the use of high-quality materials that enhance the character of the building and make Mixed Use and Commercial zones more attractive to customers.

2. Implementing Measures.

- a. Exterior building materials shall be high-quality and selected for durability and suitability. Materials that show permanence such as brick, stone, glass, steel and wood are preferred.
- b. Natural wood materials such as wood timbers, shake siding, plank siding, shiplap siding, brick and stone are particularly encouraged.
- c. Colors should be muted; bright colors should be used only as accents.
- d. Building facades that use a combination of materials to add variation are encouraged.
- e. The use of sustainably harvested, salvaged, recycled or reused materials, particularly those that reflect an agrarian context, are encouraged.
- f. Metal building exteriors are not permitted unless the specific materials and design are otherwise consistent with these design standards and the overall intent is met as approved by the director.
- g. Concrete block walls should not be visible from a public street or open space unless they are architecturally treated and landscaping is incorporated, or the concrete block is used in combination with other materials. At a minimum, 85 percent of the surface shall incorporate colored or split-faced blocks or similar treatments.
- h. Mirrored glass, corrugated fiberglass, T-111, and vinyl plank siding shall not be permitted.
- i. Chain link fencing should not be used in visible locations along street frontages.



Figure 54 – Building showing preferred use of materials: stone, brick and metal that convey permanence and durability of construction.



Figure 55 – Artwork along a parking garage to reduce visual impact of the blank wall.

H. Treatment of Blank Walls.

1. Intent. Reduce the visual impact and apparent size of large walls that do not have windows.
2. Implementing Measures.
 - a. All blank walls, as defined in EMC 18.20.050, B definitions, (see Figure 19) within 50 feet of the street right-of-way, park or adjacent lot and visible from that street, park or adjacent lot shall be treated in one or more of the following implementing measures:
 - i. A vertical trellis in front of the wall with climbing vines or plant materials.
 - ii. A landscaped planting bed with plant materials that obscure or screen at least 50 percent of the wall's surface within three years.
 - iii. Artwork (mosaic, mural, sculpture, relief, etc.) over at least 50 percent of the blank wall surface. The property owner shall maintain all artwork in good condition.

- iv. Other method as approved by the director to ensure that the intent of this standard has been satisfied.



Figure 56 – Raised parapet wall to screen roof mounted mechanical equipment.



Figure 57 – Example of what NOT to do – unscreened equipment can be unsightly from adjacent properties.

I. Screening and Siting of Roof-Mounted Equipment.

1. Intent. Minimize adverse visual, olfactory or auditory impacts of building mechanical equipment and service apparatus.
2. Implementing Measures.
 - a. Roof-mounted mechanical equipment should be located and screened so as not to be visible from the street, from the ground level of adjacent properties or from adjacent residential areas at higher elevations. An extended parapet wall or other roof form that is integrated with the architecture of the building should accomplish the screening.
 - b. Utility meters, electrical conduit and other service and utilities apparatus related to the building shall be located and screened so as not to be visible from the street. (Ord. 16-482 § 2 (Exh. F); Ord. 15-437 § 2; Ord. 11-360 § 3 (Exh. B)).

18.95.050 Special residential design standards applicable to all zones.

A. Applicability. This section identifies special design standards for specific residential building types located in all zones. When development of the residential building types identified in this section occurs in the Town Center, Commercial or Mixed Use Residential zones, these design standards are in addition to those contained in EMC 18.95.010 through 18.95.040. If the standards contained in this section conflict with those contained elsewhere in the Edgewood Municipal Code, the standards contained in this section shall apply. Accessory dwelling units are allowed as accessory units to the 1) small lot single-family or 2) cluster arrangement building types and follow these design standards when part of such developments. The following building types are addressed:

1. Small lot single-family.
2. Cluster arrangement.
3. Semi-attached single-family buildings.
4. Duplex, townhouse and triplex building units.



Figure 58 – Small lot single-family with alley access for vehicles and architectural variation.

B. Small Lot Single-Family. Single-family detached dwelling units configured on small lots.

1. Intent. Small lot single-family development should be oriented to the street and pedestrians, with alley access for parking. The visual impact of vehicles should be minimized. Repetition with variety is a key design principle. When similar building floor plans and/or shapes are repeated in a development, architectural elements should be varied to add variety.

2. Implementing Measures.

a. Setbacks: see individual setbacks specific to each zone.

b. Access and Curb Cuts.

i. If an alley exists or it can be provided within the block development, vehicle access shall be from the alley.

ii. If an alley does not exist and it is not feasible to provide it within the block development in the opinion of the director, parking lot entrances, driveways and other vehicle access routes onto private property from a public right-of-way shall be restricted to no more than one entrance lane and one exit lane per 300 linear feet of property line as measured horizontally along the street face. Properties with less than 300 linear feet of street frontage shall be limited to one entry and one exit lane for vehicle access. Driveway lanes crossing a public sidewalk shall be no wider than 13 feet per entry lane or exit lane. All driveways, vehicle entrances and exits shall be flared. The city may impose additional restrictions to parking lot and vehicle access point location to reduce impacts to public safety, pedestrian movement, and on-street vehicle circulation and visual qualities.

c. Parking.

i. The standards contained in EMC 18.80.080(H), Parking, Access and Circulation, shall apply.

ii. Parking spaces shall not be located nor positioned to cause headlights to shine directly into windows of residential units.

iii. Designated Off-Street Overflow Parking. Designated off-street overflow parking is provided in shared or cooperative parking areas with common access drive(s).

iv. Primary Parking. Primary parking should consist of a garage for each dwelling unit served by a common access alley that shall meet the minimum IFC standard for access or 15 feet, whichever is greater.



Figure 59 – Example of small lot single-family home with alley access. Basic house design is similar to adjoining properties but colors and architectural elements add variety.

d. Building Design.

i. Height. Refer to height requirements listed in each individual land use district.

ii. Repetition with Variety. Architectural design features shall be utilized to achieve variety in architectural massing within detached single-family developments. This can be accomplished using various architectural styles or variety in facade treatments, rooflines, colors, building materials, trim details, or building attachments such as porches, decks and bay windows. Groups of dwelling units shall add variety to repeated basic designs through front facade treatments, building attachments such as porches and decks, bay windows, and trim details, etc. Only 30 percent of the structures in a grouping shall be architecturally identical. Differences should not be limited solely to facade color or trim alterations. Examples of repetition with variety include:

(A) Reversing elevations;

(B) Combining different elements such as porches, entries, or dormers and gables; and

(C) Adding a different building style or different scale of the same design.

iii. Building Styles. Encouraged building styles for detached single-family building developments include one story and one and a half story cottage and bungalow, one and a half to two story farmhouse.

iv. Colors. Colors should be muted, with bright colors used primarily for accents.

v. Accessory Structures. Accessory structures shall contain building materials and, where roofed, roofing materials and roof forms similar and complementary to that of the primary multifamily residential structure.



Figure 60 – One and a half story cottages clustered around a common green with a mix of hardscape, landscaping and native tree retention.

C. Cluster Arrangement.

1. Intent. Detached buildings of cottage and/or bungalow scale are appropriate for cluster configurations where open space can be aggregated for better efficiency in providing recreational space and natural feature protection areas for trees, tree clusters, and wetlands. Buildings are clustered around common open space and/or an arrangement of private open spaces aggregated together in “commons.” Common open spaces and pathways shall incorporate LID to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM).

2. Implementing Measures.

a. Site Design.

- i. Setbacks: see individual land use district for lot setbacks. When units are constructed as a condominium, zoning setbacks between structures on the same lot do not apply.
- ii. Orientation. Buildings shall be oriented around one or more common open space areas, composed of joint-use and individual open space areas. The commons should be oriented toward the primary pedestrian street or to a designated and dedicated pedestrian connector to the primary pedestrian street. The pedestrian connectors shall be a minimum of six feet in width.

b. Access and Curb Cuts. The provisions of subsection (B)(2)(b)(ii) of this section shall apply.

c. Parking. The provisions of subsection (B)(2)(c) of this section shall apply.

d. Open Space.

- i. Pedestrian paths are required to connect common and individual open space areas to the primary pedestrian street, and can be included in the common open space calculation. These pedestrian paths should be constructed of asphalt, concrete, approved unit pavers, or other low impact development materials where feasible (per Minimum Requirement No. 5 of the PCM), and should be a minimum of six feet in width. See EMC 18.95.030(G), Pedestrian Connections.

- ii. Existing natural features such as trees, tree clusters, wetlands, habitats, rock outcroppings and others should be retained and incorporated into the site and open space design.
- iii. Consistent with Chapter 13.05 EMC, applicants are required to implement LID to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM).
- e. Building Design. The provisions of subsection (B)(2)(d) of this section shall apply.



Figure 61 – Site plan for cottages oriented around common greens with alley access for vehicles. Pedestrian connections are provided through common greens and designated pedestrian paths.

D. Townhouse Units. A townhouse for the purposes of these design standards is defined as three or more attached single-family dwelling units with individual front entries.

1. Intent.

- a. Add variety and interest to building groupings.
- b. Create the design ambiance of a small town neighborhood:
 - i. Vary key building elements of the basic dwelling design (entry hoods, porches, dormers, trellises, bay windows, gables, etc.); and/or
 - ii. Provide a diversity and variety of buildings within each development.
 - iii. Orientation. Townhouse buildings can be configured in a block grid arrangement with primary orientation of the building fronts to the primary pedestrian street; or in a cluster arrangement with the primary orientation of building fronts to a common open space, connected to the primary pedestrian street with a pedestrian connector (sidewalk, trail, promenade, etc.).



Figure 62 – Townhomes clustered around a common park area.



Figure 63 – Alley access for vehicles is required for semi-attached and townhome units.

2. Implementing Measures.

a. Cluster Arrangement Standards.

i. Setbacks for Primary Buildings (See Individual Land Use District for Setbacks). Where buildings are in a cluster with the front building facades oriented inward to a common open space, setbacks of buildings adjacent to the street are to be treated as the front or street setback. Setbacks are the same as referenced for all sides except where the buildings are attached.

ii. Orientation. Buildings shall be oriented around one or more common open space areas, composed of joint-use and individual open space areas. The commons shall be oriented toward the primary pedestrian street or to a designated and dedicated pedestrian connector to the primary pedestrian street. The pedestrian connectors shall be a minimum of six feet in width.

iii. Access and Curb Cuts. Garage access by alley shall be required. Where dwellings are attached at the garage walls, both dwellings are required to share the same driveway approach to the attached garages, using a maximum 12-foot-wide flared approach.

iv. Parking. The provisions of subsection (B)(2)(c) of this section shall apply.

v. Open Space.

(A) Open space is aggregated for the benefit of all cluster dwellings. It shall consist of the following hierarchy of open space: a minimum of 120 square feet of attached private open space for the rear and the front facades of each dwelling unit. This is inclusive of decks, patios, and

other pedestrian-only areas; and an additional common open space shared by all dwellings equal to a summation of a minimum of 50 percent of the total ground level building area of each cluster dwelling.

(B) Pedestrian paths are required to connect common and individual open space areas to the primary pedestrian street, and can be included in the common open space calculation. These pedestrian paths should be a minimum of six feet in width. See EMC 18.95.030(G), Pedestrian Connections.

(C) Existing natural features such as trees, tree clusters, wetlands, habitats, rock outcroppings and others should be retained as a part of the site design in both block grid and cluster configurations.

(D) Consistent with Chapter 13.05 EMC, applicants are required to implement LID to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM).



Figure 64 – Pedestrian paths are required to connect open space areas in townhouse developments to the street.

b. Block Grid Standards.

- i. Setbacks for Primary Buildings (See Individual Land Use District for Setbacks). Setbacks are the same as referenced for all sides except where the buildings are attached.
 - ii. Access and Curb Cuts. Garage access shall be by alley. Where dwellings are attached at the garage walls, both dwellings shall share the same driveway approach to the attached garages, using a 12-foot-wide flared approach.
 - iii. Parking. The provisions of subsection (B)(2)(c) of this section shall apply.
 - iv. Open Space. The provisions of EMC 18.95.030(F)(2) shall apply.
- c. Building Design.** The provisions of subsection (B)(2)(d) of this section shall apply.



Figure 65 – Residential street showing primary vehicle access via an alley, on-street parking, and a diversity in building designs, sizes, types and materials.

(Ord. 20-579 § 6 (Exh. E); Ord. 16-482 § 2 (Exh. F); Ord. 16-469 § 2 (Exh. A); Ord. 11-360 § 3 (Exh. B)).

Chapter 18.97

SIGN CODE

Sections:

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- 18.97.020 Applicability and interpretations.
- 18.97.030 Exemptions.
- 18.97.040 Prohibited signs.

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- 18.97.210 Projecting signs.
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- 18.97.270 Master sign plans.
- 18.97.280 Sign variances.
- 18.97.290 Nonconforming signs, maintenance, removal and enforcement.

Article V. Definitions

- 18.97.300 Definitions.
- Article I. General Provisions

18.97.010 Intent and purpose.

A. Intent. Signs have a strong visual impact on the character and quality of the community. As a prominent part of the scenery, they attract or repel the viewing public, affect the safety of vehicular traffic, and their suitability or appropriateness helps to set the tone for the neighborhood. The city relies upon its scenery and physical beauty to attract commerce; aesthetic considerations assume economic value. It is the intent of the city, through this chapter, to protect and enhance the city's historic and residential character and its economic base through the provision of appropriate and aesthetic signage. In addition, it is the intent of the city to limit the size, type and location of signs in order to minimize their distracting effect on drivers and thereby improve traffic safety.

B. Purpose. The purpose of this chapter is to promote the public health, safety and welfare through a comprehensive system of reasonable, effective, consistent, content-neutral and nondiscriminatory sign standards and requirements. This chapter has also been adopted to:

1. Promote and accomplish the goals, policies and objectives of the city's comprehensive plan and the Edgewood Municipal Code (EMC), specifically this title, Development Standards;
2. To provide minimum standards in order to safeguard life, health, property and public welfare, and promote traffic safety by controlling the design, quality of materials, construction, illumination, size, location and maintenance of signs and sign structures;
3. Recognize free speech rights by regulating signs in a content-neutral manner;
4. Promote the free flow of traffic and protect pedestrians and motorists from injury and property damage caused by, or which may be fully or partially attributable to, cluttered, distracting, or illegible signage;
5. Protect the beauty of the city's built environment by encouraging signs that are compatible with the architectural style, characteristics, and scale of the building to which they may be attached, and to encourage signs that are compatible with adjacent buildings and businesses;
6. Protect property values, the local economy, and the quality of life by preserving and enhancing the appearance of the streetscape;
7. Provide consistent sign design standards;
8. Encourage creative and innovative approaches to signage, and signs that are of a quality design, pleasing in appearance and are appropriate in size, materials and illumination to the surrounding neighborhood;
9. Provide an improved visual environment for the citizens of and visitors to the city;

10. Adopt clear, understandable regulations which enable the fair and consistent enforcement of this chapter; and

11. Address emerging trends in digital and electronic sign technologies and provide regulations that facilitate the use of such technologies while ensuring the protection of motorists and pedestrians from the hazards of glare, startling bursts of light, and use of virtual movement and animation intended to attract driver attention, hold driver gaze, or otherwise distract drivers from the safe operation of their vehicles. Protect neighborhoods, surrounding development, and the night sky from the nuisance factors associated with such glare, movement, and animation of digital and electronic signs. (Ord. 19-552 § 2 (Exh. A)).

18.97.020 Applicability and interpretations.

A. This chapter applies to all signs, as defined in EMC 18.97.300, Definitions, within the city that are visible or audible from any street, sidewalk, or public place, regardless of the type or nature.

B. This chapter is not intended to, and shall not be interpreted to, restrict speech on the basis of its content, viewpoint, or message. Any classification of signs in this chapter which purports to permit speech by reason of the type of sign, identity of the sign user or otherwise shall be interpreted to allow commercial or noncommercial speech on the sign. No part of this chapter shall be construed to favor commercial speech over noncommercial speech. To the extent that any provision of this chapter is ambiguous, the term shall be interpreted not to regulate speech on the basis of the content of the message.

C. Nothing in this chapter shall be construed to prohibit a person from holding a sign while picketing or protesting on public property that has been determined to be a traditional or designated public forum, e.g., a sidewalk or park, so long as the person holding the sign does not block ingress to and egress from buildings; create a safety hazard by impeding travel on sidewalks, in bike or vehicle lanes, or on trails; or violate any other reasonable time, place, and manner restrictions adopted by the city. (See EMC 18.97.230, Sign walkers.) (Ord. 19-552 § 2 (Exh. A)).

18.97.030 Exemptions.

The following signs or activities relating to signs are not subject to the permitting requirements of this chapter, as long as they meet the standards set forth below:

A. Changes to the face or copy of changeable copy signs, digital signs, or EMCS, provided such changes do not change the material, appearance, size, or dimensions of the sign as originally permitted by the city.

B. The normal repair and maintenance of conforming or legal nonconforming signs.

C. Temporary signs meeting the requirements in EMC 18.97.240, Temporary signs.

D. Building identification signs that meet one or more of the following four criteria:

1. Signs not exceeding one square foot in area for residential buildings, or not exceeding two square feet in area for nonresidential buildings.
2. Business name and address signs on an entry door that do not exceed two square feet in area.
3. Certain stone or cement plaques and cornerstones with engraved or cast text or symbols that are permanently embedded in the building's foundation or masonry siding materials; provided, that none of these exceed four square feet in area.
4. Other building identification signs meeting these requirements as required pursuant to the city's building code (EMC Title 15, Buildings and Construction) or zoning code (this title, Development Standards), public works standards, or any other city or state code, ordinance, or regulation.

E. Governmental Signs. Signs installed by the city, county, or a federal or state governmental agency for the protection of the public health, safety, and general welfare, including, but not limited to, the following:

1. Emergency and warning signs necessary for public safety or civil defense;

2. Traffic or wayfinding signs erected and maintained by an authorized public agency;
3. Signs required to be displayed by law;
4. Signs showing the location of public facilities; and
5. Any sign, posting, notice, or similar sign placed by or required by a governmental agency in carrying out its responsibility to protect the public health, safety, and general welfare.

F. Flags. Any flags; provided, that they conform to all provisions of this chapter for signs.

G. Interior Signs. Signs or displays located entirely inside of a building and located at least three feet away from transparent doors and windows.

H. Nondiscernable Signs. Signs and associated sign support structures that are not visible, odorous, or audible beyond the boundaries of the lot or parcel upon which they are located, or from any public right-of-way.

I. Vehicle Signs. Any sign on a vehicle not prohibited by EMC 18.97.040(I) and placed in accordance with EMC 18.97.070(B).

J. Temporary Signs in Windows. Any temporary sign taped or otherwise affixed to the inside of a window, in such a manner as to be easily removed; provided, that the total area of such sign in any one window does not exceed the size limitations in EMC 18.97.250, Window signs, and EMC 18.97.240, Temporary signs.

K. Bench Signs. Any outdoor bench or furniture with any signs, other than plaques, that do not exceed one square foot in area.

L. Private Signs. Privately maintained traffic control signs in a subdivision with private roads or privately maintained traffic control signs in a private parking lot. (Ord. 19-552 § 2 (Exh. A)).

18.97.040 Prohibited signs. See attached Ordinance 19-0552, Exhibit A

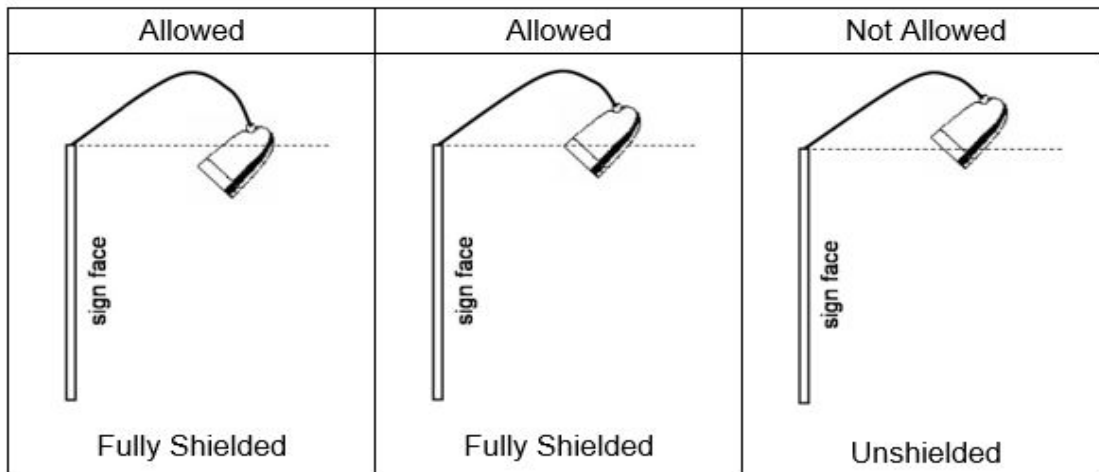
18.97.050 Sign illumination.

A. General. No temporary sign may be illuminated. No sign located in a residential zone may be illuminated, except that on parcels two acres in size or greater, signs may be halo illuminated or illuminated as necessary for allowable digital signs. Permanent signs allowed by this chapter may be nonilluminated, or illuminated by internal light fixtures, halo illuminated, or have external indirect illumination, unless otherwise specified. All illuminated signs shall comply with the time limitations of subsection (D) of this section.

B. Externally Illuminated Signs.

1. Except as provided in this subsection, externally illuminated signs shall be illuminated only with steady, stationary, fully shielded light sources directed solely onto the sign without causing glare. Light shielding shall ensure that the lamp or light source is not visible beyond the premises and shall further ensure that the light is contained within the sign face.
2. A light fixture mounted above the sign face may be installed with its bottom opening tilted toward the sign face, provided:
 - a. The bottom opening of the light fixture is flat, i.e., it could be covered by a flat board allowing no light to escape; and
 - b. The uppermost portion of the fixture's opening is located no higher than the top of the sign face, as shown in Figure 1 below. Light fixtures aimed and installed in this fashion shall be considered fully shielded.

Figure 1



C. Internally Illuminated Signs.

1. Internally illuminated signs shall be constructed with an opaque sign face background with translucent text, symbols, logo shields, or any combination of these. If the sign owner desires to have the entire sign face visible at night, an external light source may be used to illuminate the sign, subject to the illumination standards in this chapter.
2. In no case may an internally illuminated sign, a digital sign, or an EMCS exceed a light output of 50 nits in a residential zone or 100 nits in a nonresidential zone during nighttime hours.
3. Neon sign lighting is allowed only within the TC, C, MUR, BP, I, and P zoning districts. Neon lighting shall not exceed 100 nits per sign face and may be used as text or copy, but shall not be used as a sign graphic. Neon signs with solid backgrounds are not allowed in windows in order to ensure maximum light and visibility through windows. Examples of neon signs are shown in Figures 2a and 2b below.

Figure 2a (Allowed)**Figure 2b (Prohibited)**

D. Time Limitations. All illuminated signs over three square feet in area shall be turned off by 11:00 p.m., or when the business closes, whichever is later. Signs subject to time limitations are required to have functioning and properly adjusted automatic shut-off timers. (Ord. 19-552 § 2 (Exh. A)).

18.97.060 Sign materials.

A. Temporary Signs. The construction of temporary signs is limited to the materials described in the definition of “temporary sign” in EMC 18.97.300, Definitions. In addition, the temporary sign must also conform to the requirements of this chapter, including, but not limited to, EMC 18.97.240, Temporary signs.

B. Permanent Signs. Permanent signs must be manufactured of durable materials that are designed to withstand the natural elements and the effects of water and wind (see Figures 3 and 4). The following additional requirements apply to any permanent sign larger than 30 square feet, except for window signs located inside glass:

1. Paper-faced signs, including vinyl-coated paper and those applied with adhesives, are not allowed. Canvas or vinyl signs must be made of minimum 20-ounce materials with polymeric plasticizers for durability.

2. Sign faces made of canvas, fabric, vinyl, or similar pliable materials that are attached to permanent sign structures must be mounted behind a perimeter frame or trim cap so that the edges of the sign face are not exposed. Flags made of 100 percent spun polyester are exempt from this requirement.

Figure 3



Figure 4



(Ord. 19-552 § 2 (Exh. A)).

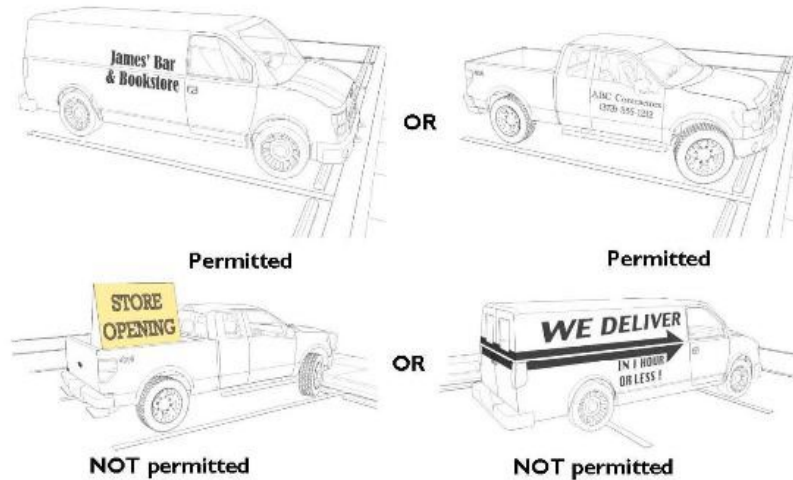
18.97.070 Sign placement and location restrictions.

A. Rights-of-Way. No sign may be placed within the roadway portion of any city right-of-way, except as otherwise permitted by first obtaining a street use permit or a special event permit from the city. No permanent sign may be placed within the right-of-way. See EMC 18.97.240(G) for restrictions on temporary signs within the right-of-way but outside the roadway.

B. Attached to Vehicles on Private Premises. No sign may be mounted, attached, or painted on a trailer, boat, or motor vehicle that is parked, stored, or displayed conspicuously on private premises in a manner intended to attract the attention of the public, excluding signs that are permanently painted or wrapped on the surface of the vehicle, or adhesive vinyl film affixed to the interior or exterior surface of a vehicle window, or signs magnetically attached to motor vehicles or rolling stock that are actively used in the daily conduct of business (see Figure 5). All vehicles

covered by this subsection shall be operable and parked in a lawful or authorized manner within a required parking stall that is marked and striped for the parking of vehicles.

Figure 5



C. Attached to Other Fixtures. No sign may be painted, attached, or mounted on any fuel tanks, storage containers, or solid waste receptacles or their enclosures, except for information that is required by law.

D. Freeway-Oriented Signs. Freeway-oriented signs are prohibited, except in the following instances:

1. Building-mounted wall signs per EMC 18.97.160, window signs per EMC 18.97.250, and temporary signs per EMC 18.97.240 as otherwise allowed by this chapter may face the freeway if:

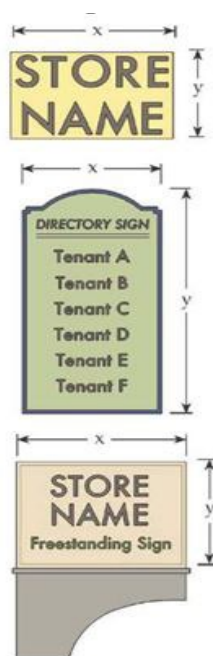
- a. They are installed by a business that has its primary customer entrance facing the freeway; and
- b. The wall, window or temporary sign also faces an intervening parking lot or frontage road that serves the business.

2. Freestanding signs as otherwise allowed by this chapter may be permitted for businesses located on and facing frontage roads along freeways, even if such signs are incidentally visible from the freeway. (Ord. 19-552 § 2 (Exh. A)).

18.97.080 Sign area measurements.

Sign area for all sign types is measured as follows:

A. Background Panel or Surface. Sign copy mounted, affixed, or painted on a background panel or surface distinctively painted, textured, or constructed as a background for the sign copy is measured as that area contained within the smallest rectangle, parallelogram, triangle, or circle that will enclose the sign copy and the background, as shown in Figure 6.

Figure 6

B. Individual Letters or Graphics. Sign copy mounted as individual letters or graphics against a wall, fascia, mansard, or parapet of a building or surface of another structure, that has not been painted, textured, or otherwise altered to provide a distinctive background for the sign copy, is measured as the sum of the smallest square, rectangle, parallelogram, triangle, or circle that will enclose every word, sentence, and complete message, and each graphic in the sign.

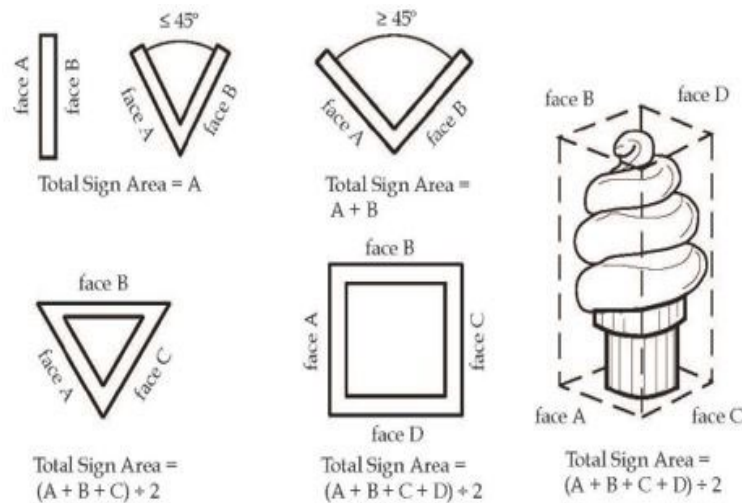
C. Illuminated Surface. Sign copy mounted, affixed or painted on an illuminated surface or illuminated element of a building or structure is measured as the entire illuminated surface or illuminated element which contains sign copy, as shown in Figure 7. Such elements may include, but are not limited to, illuminated canopy fascia signs, interior illuminated awnings, or both.

Figure 7

D. Backlit Translucent Panels. Backlit translucent panels and spandrels, with or without text or graphics, are measured as the area of the height and width of any internally illuminated translucent panel or spandrel, including the side panels if the structure or spandrel is greater than six inches in width.

E. Multi-Face Signs. Multi-face signs, as shown in Figure 8, are measured as follows:

1. Two-Face Signs. If the interior angle between the two sign faces is 45 degrees or less, the sign area is of one sign face only. If the angle between the two sign faces is greater than 45 degrees, the sign area is the sum of the areas of the two sign faces.
2. Three- or Four-Face Signs. The sign area is 50 percent of the sum of the areas of all sign faces.
3. Spherical, free-form, sculptural or other nonplanar sign area is measured as 50 percent of the sum of the areas using only the four vertical sides of the smallest four-sided polyhedron that will encompass the sign structure, as show in Figure 8 below. Signs with greater than four polyhedron faces are prohibited.

Figure 8

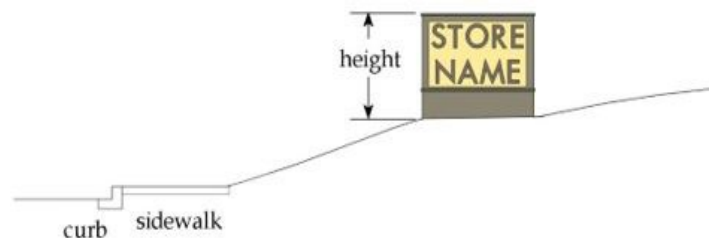
(Ord. 19-552 § 2 (Exh. A)).

18.97.090 Sign height measurement.

Sign height is measured as follows:

A. Freestanding Signs. Sign height is measured as the vertical distance from natural grade at the base of a sign to the top of the sign, including the sign support structure; except that signs within 25 feet of an adjacent road may be measured as follows:

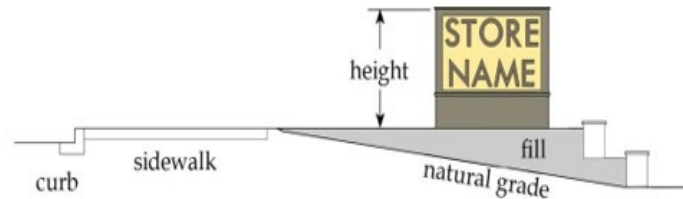
1. If natural grade at the base of a sign is higher than the grade of the adjacent road, sign height shall be measured from the base of the sign as shown in Figure 9.

Figure 9

2. If natural grade at the base of the sign is lower than the grade of an adjacent road, the height of the sign shall be measured from the top of curb or road-grade elevation; provided, that fill is placed between the curb and the

sign and extends at least five feet beyond the base of the sign in all directions, as shown in Figure 10. Any cut, fill, or grading work must comply with applicable site grading, fill, or excavation requirements contained elsewhere in the EMC.

Figure 10



(Ord. 19-552 § 2 (Exh. A)).

18.97.100 Sign structure and installation.

A. Support Elements. Any angle iron, bracing, guy wires, or similar features used to support a sign shall not be visible.

B. Electrical Service. When electrical service is provided to freestanding signs or landscape wall signs, all such electrical service is required to be underground and concealed. Electrical service to building-mounted wall signs, including conduit, housings, and wire, shall be concealed. A building permit (electrical) must be issued prior to the installation of any new signs requiring electrical service.

C. Raceway Cabinets. Raceway cabinets, where used as an element of building-mounted wall signs, shall match the building color scheme at the location of the building where the sign is located. Where a raceway cabinet provides a contrast background to sign copy, the colored area is considered part of the sign face and is counted in the aggregate sign area permitted for the site or business. Examples of raceway cabinets are shown in Figure 11.

Figure 11



D. Limitation on Attachments and Secondary Uses. All permitted sign structures and their associated landscape areas shall be kept free of supplemental attachments or secondary uses, including, but not limited to, supplemental signs not part of a permitted sign, light fixture, newspaper distribution rack, or trash container. The use of sign structures and associated landscape areas as bicycle racks or support structures for outdoor signs is prohibited. (Ord. 19-552 § 2 (Exh. A)).

18.97.110 Digital signs.

A digital sign is not a separately allowed sign type. The purpose of this section is to regulate the manner in which digital sign technology can be applied to sign types that are otherwise allowed in this chapter. This section is not intended to allow more signs or larger signs than otherwise permitted in this chapter. No permit shall be issued for a digital sign that does not comply with the following standards:

A. Zoning. Allowed in all zoning districts.

B. Number. One digital sign per 100 feet of street frontage in the TC, C, MUR, BP, I, and P zoning districts. One digital sign per 100 feet of street frontage in residential zones on parcels two acres or greater in size, not to exceed one sign per parcel.

C. Setback Location. As allowed under the specific sign type; however, a minimum separation spacing in the TC, C, MUR, BP, I, and P zoning districts of 100 feet is required in order to comply with subsection (B) of this section.

D. Size and Area. Maximum of 30 square feet, or as otherwise limited by the size limits of this chapter.

E. Height. As allowed under the specific sign type.

F. Design. Maximum luminance: 50 nits during nighttime hours. Motion limits: no motion allowed except for instantaneous change of message. Minimum hold between messages: eight seconds.

G. Programming. To ensure that digital signs are programmed and continue to operate according to local standards, digital signs shall be designed for local on-site control and programming. (Ord. 19-552 § 2 (Exh. A)).

18.97.120 Electronic message center signs (EMCS).

An EMCS is not a separately allowed sign type. The purpose of this section is to regulate the manner in which EMCS technology can be applied to sign types that are otherwise allowed in this chapter. This section is not intended to allow more signs or larger signs than otherwise permitted in this chapter. No permit shall be issued for an EMCS that does not comply with the following standards:

A. Zoning. Only allowed in the TC, C, MUR, BP, I, and P zoning districts.

B. Number. One EMCS per 100 feet of street frontage, not to exceed one per business or tenant space. Parcel area must meet or exceed one acre and contain at least 100 feet of contiguous street frontage to allow an EMCS.

C. Setback Location. As allowed under the specific sign type; however, a minimum separation spacing of 100 feet is required in order to comply with subsection (B) of this section.

D. Size and Area. Maximum of 30 square feet, or as otherwise limited by the size limits of this chapter.

E. Height. As allowed under the specific sign type.

F. Design – Maximum Luminance.

1. Daytime: 5,000 nits.

2. Nighttime: 50 nits.

3. Signs shall include auto-dimming features with light-sensory capabilities to dim the sign to allowable luminance levels during nighttime hours.

G. Motion Limits. No motion except for a fade-in of the next message with the fade transition being no more nor less than one and one-half seconds. Fade transition is required rather than instantaneous message changes to avoid sudden or startling flashes of light. The minimum hold between messages shall be 10 seconds, plus one and one-half seconds for a transition fade. Signs shall have no flashing copy or lights; revolving beacon lights; chasing, blinking, or stroboscopic lights; or fluttering, undulating, swinging, or otherwise moving parts.

H. Programming. To ensure that EMCS are programmed and continue to operate according to local standards, EMCS shall be designed for local on-site control and programming. The applicant shall provide a written certificate from the sign manufacturer that the nighttime light intensity has been factory preset not to exceed allowable levels under this section, and that this setting is protected from end-user modification by password-protected software or other method that ensures compliance. (Ord. 19-552 § 2 (Exh. A)).

Article III. Sign Types

18.97.130 Permanent signs.

Permanent signs shall comply with the sign area, height, number, type, and other requirements of this section and any other applicable sections, as well as the following Table 1 in this section¹. Sign permits are required for all permanent signs in accordance with EMC 18.97.260, Sign permits.

Table 1 – Standards for Permanent Signs by Sign Type.

Type	Zone	Number of Signs	Maximum Height (feet)	Maximum Area (sq. ft.)	Setbacks
Accessory Sign (EMC 18.97.140)	Only allowed in the TC, C, MUR, BP, I, and P zoning districts	1 sign at each vehicle ingress or egress, no more than 4 accessory signs per parcel	Building- mounted max. of 8 ft.; freestanding max. of 3 ft. from grade	3 sq. ft. per sign face; may be double-sided	Flexible, see EMC 18.97.140
Accessory Sign – Drive Through, Large (EMC 18.97.140)	Only allowed in the TC, C, MUR, BP, I, and P zoning districts	In addition to other accessory signs, 1 large accessory sign for each point of entry to a drive-up window	5.5 ft., including the associated sign structure	45 sq. ft. per drive-up point of entry	Signs shall be oriented so that the sign face is not visible from the public right-of-way
Awning or Canopy Sign (EMC 18.97.150)	Only allowed in the TC, C, MUR, BP, I, and P zoning districts	1 awning sign for each primary entrance to a tenant space, see EMC 18.97.150 for secondary entrances	Awning sign cannot be mounted higher than a max. of 25 ft. above the ground floor	On primary elevation, sign shall not exceed 1 sq. ft. of sign per linear foot of awning or canopy width	Cannot project beyond the edges of the awning on which it is displayed. Cannot project above, below, or beyond the edges of the building wall on which it is located.
Building-Mounted Wall Signs (EMC 18.97.160)	Residential parcels larger than 2 acres in any zoning district	1 per each building facade on an accessory structure, e.g., barn that is parallel to and visible from a street frontage	Shall not project above rooflines or obscure architectural details and may not exceed 70% of the blank wall height	50 sq. ft., but cannot exceed 3% of the area of the facade of building where sign is mounted	Mounted on building that must comply with setbacks
Building-Mounted Wall Signs (EMC 18.97.160)	In the TC, C, MUR, BP, I, and P zoning districts	1 per each building facade that is parallel to and visible from a street frontage	Shall not project above rooflines or obscure architectural details and may not exceed 70% of the blank wall height	Up to 5% of the area of the facade upon which sign is placed, not to exceed 60% of the width of wall plane or tenant space	Mounted on building that must comply with setbacks
Changeable Copy Signs (EMC 18.97.170)	In all zoning districts	1 per parcel but 1 additional sign allowed if placed 100 ft. from right-of-way and other restrictions	15 ft. max.	No more than 20% of the allowed wall sign area or 50% of a freestanding sign may be changeable copy; if at least 100 ft. from streets, may be a max. of 50% of wall sign area	If building-mounted, building must comply with setbacks; if freestanding, sign must comply with setbacks for freestanding signs
Freestanding Signs (EMC 18.97.180)	TC, C, MUR, BP, I, and P zoning districts ¹	See code – 1 for each site frontage	See code – depending on street frontage, 6 to 15 ft.	See code – depending on street frontage, 20 to 100 sq. ft.	5 ft. from street property line; 25 ft. from any interior side lot line; and 30 ft. from any residential zone
Ground-Mounted or Landscape Wall Signs (EMC 18.97.190)	Allowed in all zones but not allowed on individual single-family lots	1 per development	5 ft. max. from grade	Between 24 sq. ft. to 32 sq. ft., see EMC 18.97.190	At least 5 ft. from street property line; 25 ft. from any interior side lot line
Portable Signs (EMC 18.97.200)	Only allowed in the TC, C, MUR, BP, I, and P zoning districts	1 per business or tenant space	Sandwich board signs, max. of 4 ft. in height; pole-mounted signs, max. of 5 ft. in height	Sandwich board signs, 3 ft. in width; pole-mounted, 2 ft. in width	Must be located no further than 10 ft. from primary building of business; prohibited on city right-of-way, sidewalk without

Table 1 – Standards for Permanent Signs by Sign Type.

Type	Zone	Number of Signs	Maximum Height (feet)	Maximum Area (sq. ft.)	Setbacks
					street use permit
Projecting Signs (EMC 18.97.210)	All zoning districts	1 per tenant space or building frontage, allowed in addition to wall signage	No higher than the first story level of the building; no lower than 8 ft. above the grade of sidewalk, walkway or driveway	Nonresidential zones: cannot exceed 12 sq. ft.; residential zones: face of sign cannot exceed 1.5 sq. ft. in area	Must be attached to building which complies with setbacks, may extend a max. of 4 ft. from building and hung a minimum of 6 inches from building
Service Island Signs (EMC 18.97.220)	Only allowed in the TC, C, MUR, BP, I, and P zoning districts	1 sign on canopy fascia per street frontage, not to exceed 20% of area of canopy fascia	See building-mounted wall sign requirements	20% of area of canopy fascia to which sign is mounted	Mounted on building that must comply with setbacks
Sign Walker (EMC 18.97.230)	Only allowed in the TC, C, MUR, BP, and I zoning districts	No limit	Shall not exceed 8 ft. in height when held in place	8 sq. ft. in area	Minimum of 30 ft. from street intersection; prohibited on public property or public right-of-way, in driveways, parking stalls, driving lanes, etc.
Window Sign² (EMC 18.97.250)	All zoning districts	No more than 1 permanent window sign per window	No higher than second-story windows for permanent window signs	Shall not exceed 25% of area of window in which sign is displayed	Building in which window sign is displayed must comply with setbacks

1. See EMC 18.97.240 for temporary freestanding signs which are allowed in residential areas.

2. Window signs may be permanent or temporary. This table includes the regulations for permanent window signs.

(Ord. 19-552 § 2 (Exh. A)).

18.97.140 Accessory signs. See Ordinance No. 20-0572, Exhibit I

18.97.150 Awning or canopy signs.

No permit shall be issued for an awning or canopy sign which does not comply with the following standards:

A. Zone. Only allowed in the TC, C, MUR, BP, I, and P zoning districts.

B. Number. One awning or canopy sign is allowed for each primary entrance to a building or tenant space. In addition, one awning or canopy sign may be allowed on a secondary entrance which faces a public street or on-site parking area. The awning or canopy sign may only be placed on the ground-floor level facade of the building. Awning or canopy signs shall be included in the calculations for allowable wall signage per facade.

C. Setback Location.

1. An awning or canopy sign may not be mounted higher than a maximum of 25 feet above the ground floor.
2. An awning or canopy sign shall not project above, below, or beyond the edges of the face of the building wall or architectural element on which it is located.
3. No part of the sign, as a part of, or displayed on, the vertical surface of an awning or canopy, shall project beyond the edges of the awning or canopy surface on which it is displayed. If an awning or canopy is placed on

multiple store fronts, each business or tenant space is permitted signage no greater than 60 percent of the store width or tenant space.

4. The awning or canopy sign shall not extend horizontally a distance greater than 60 percent of the width of the awning, canopy, or valance on which it is displayed.

D. Dimensions. The sign area on the primary elevation shall not exceed one square foot of sign area per linear foot of awning or canopy width. A maximum of 40 percent of an awning or canopy on which signage is proposed may be of an angle greater than 60 degrees from horizontal.

Figure 13



E. Height. See subsection (C) of this section (Setback Location).

F. Design. If sign letters or logos are backlit or internally illuminated, only the face area containing the letters or logos may be illuminated. The sign may also be externally illuminated as allowed by EMC 18.97.050. (Ord. 19-552 § 2 (Exh. A)).

18.97.160 Building-mounted wall signs.

No permit shall be issued for a building-mounted wall sign which does not comply with the following standards:

A. Residential. Wall signs are not allowed on residential parcels smaller than two acres in size in any zoning district, except for address numbers as required by law and building identification signs allowed by EMC 18.97.030.

1. Number. One per each accessory building facade that is parallel to and visible from a street frontage.
2. Setback Location. Permitted on the building wall of an individual building.
3. Dimensions. Total area shall not exceed 100 square feet or three percent of the area of the facade upon which the sign is placed, whichever is less. Width: not to exceed 60 percent of the width of the wall plane upon which the sign is placed.

Figure 14

4. Height. Shall not project above rooflines or obscure architectural details and may not exceed 70 percent of the blank wall height.

5. Design. Nonilluminated only.

B. Nonresidential Zones.

1. Number. One per each building facade that is parallel to and visible from a street frontage.

2. Location on Building. Signs may not cover or obscure architectural details of a building, such as stair railings, windows, doors, decorative louvers or similar elements intended to be decorative features of a building design. Signs must appear to be a secondary feature of the building facade.

3. Dimensions.

a. Area. The total signage area may be up to five percent of the area of the facade upon which the sign is placed.

b. Width. Not to exceed 60 percent of the width of the wall plane upon which the sign is placed or the width of the tenant space.

c. Height. Shall not project above rooflines or obscure architectural details and may not exceed 70 percent of the blank wall height.

4. Size of Parcel or Site. No restrictions.

5. Design.

a. Illumination, Flush- or Tight-Mounted. All individual letter signs shall be installed to appear flush-mounted. If the letters are illuminated and require a raceway, the letters shall be installed tight against the raceway, which shall be painted to match the color of the surface to which the raceway is mounted. Where possible – especially on new construction – the raceway should be recessed to allow letters to be flush with the wall surface.

b. Where more than one sign is allowed for a business, all signs shall be consistent in design, style, color, and method of illumination. Where there are multiple businesses or tenants on a site, all signs shall conform to a master sign plan, consistent with EMC 18.97.270. (Ord. 19-552 § 2 (Exh. A)).

18.97.170 Changeable copy sign.

No permit shall be issued for a changeable copy sign which does not comply with the following standards:

A. Zones. Changeable copy signs are allowed in all zoning districts, but only as an integral part of a building-mounted wall sign or freestanding sign.

B. Number. No more than one changeable copy sign shall be allowed for each parcel, except that additional changeable copy signs are permitted as follows:

1. The additional changeable copy sign(s) must be placed at least 100 feet from abutting streets or rights-of-way; and
2. The additional changeable copy sign(s) must not exceed the maximum area, height, and quantity standards otherwise applicable to any freestanding or building-mounted wall sign on the parcel.

Figure 15



C. Setback Location. Placement is allowed only as an integral part of a building-mounted wall sign or a freestanding sign. Changeable copy signs that are portable are not permitted.

D. Dimensions. No more than 20 percent of the allowed building-mounted wall sign area if placed less than 100 feet from abutting streets and no more than 50 percent of a freestanding sign face may be changeable copy; however, these size limitations do not apply to signs required by law. Building-mounted wall signs with changeable copy placed at least 100 feet from abutting streets may be a maximum of 50 percent of permitted wall sign area.

E. Height above Grade. Fifteen feet maximum. Building-mounted wall signs are limited to the maximum height for freestanding signs.

F. Design. Nonilluminated in all zones. Internally or indirectly illuminated in nonresidential zones subject to the illumination standards in EMC 18.97.050. (Ord. 19-552 § 2 (Exh. A)).

18.97.180 Freestanding signs.

No sign permit shall be issued for a freestanding sign that does not comply with the following standards:

A. Zone. Permanent freestanding signs are only allowed in the TC, C, MUR, BP, I, and P zoning districts.²

B. Number.

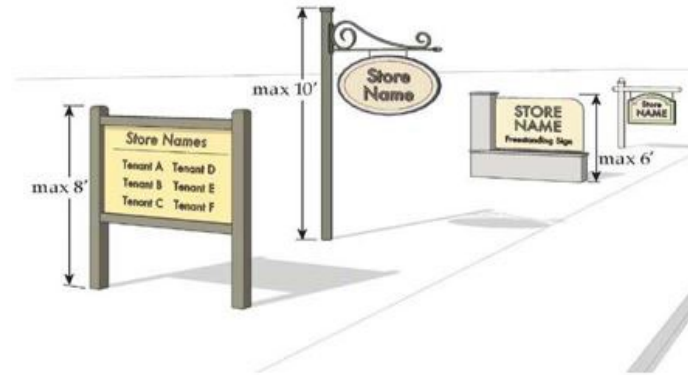
1. The number and type of freestanding signs for single and multiple-tenant uses are derived from the use, zone, location, and length of development site frontage as described in this section.
2. One individual freestanding sign is allowed per parcel for each street frontage. Multiple shared freestanding signs may be permissible in accordance with the minimum separation distance in subsection (C)(4) of this section, and subject to a master sign plan. Flag lot sites with frontage on a public street are permitted one sign on the frontage providing primary access to the site and may request or apply for a master sign plan with adjoining properties to erect a shared freestanding sign that complies with the street frontage requirements of the properties joined in the master sign plan.
3. Shopping centers, mixed-use developments, adjoining parcel development, or multi-tenant buildings may request or apply for a master sign plan for the comprehensive review of all signs proposed within the site development.

Figure 16



C. Setback and Location.

1. No freestanding sign shall be permitted on any site that does not have street frontage.
2. Freestanding signs shall be set back a minimum of five feet from the street side property line, a minimum of 25 feet from any interior side lot line and a minimum of 30 feet from any residential district.
3. No freestanding sign shall be located in the triangular area(s) measured 15 feet by 15 feet where a driveway enters onto a street, or in any other area which may obstruct the vision of motorists so as to create a safety hazard. Additionally, all signs are subject to the public works standards regarding sight distances.
4. Where more than one freestanding sign is proposed on a site with multiple frontages, a minimum of 150 linear feet shall separate each sign.

Figure 17**D. Dimensions.**

1. Maximum sign size and height dimensions are determined based on the property's linear distance of total street frontage and are subject to both the setback and location criteria in subsection (C) of this section and the following requirements:

Individually Permitted Freestanding Signs

Total Street Frontage	<u>Maximum Size</u>	Maximum Height
0 – 60 feet	40 square feet	6 feet
61 – 119 feet	50 square feet	8 feet
120 feet or more	75 square feet	10 feet

Shared Freestanding Signs (approved under a master sign plan)

Total Street Frontage	<u>Maximum Size</u>	Maximum Height
0 – 60 feet	48 square feet	7.5 feet
61 – 119 feet	60 square feet	10 feet
120 feet or more	90 square feet	12 feet

2. An individual freestanding sign may be permitted up to a maximum height of 12 feet and a maximum size of 120 square feet and a shared freestanding sign may be permitted up to a maximum height of 15 feet, in accordance with subsection (D)(2)(c) of this section, and a maximum size of 150 square feet; provided, that all of the following conditions are satisfied:

- a. The sign is ground-mounted on a monument-style base, made or covered with brick or stone, which extends at least the full width of the sign face and is at least one-fourth of the total sign height. An alternate material may be approved by the director if he or she finds that the material better reflects the materials and architecture of the closest or principal building on the site;
- b. The sign cabinet and the associated trim caps that secure and frame the sign face are dark bronze, black, or an earth tone color that reflects the color of the sign base or the color of the siding or trim of the building to which the sign applies;

- c. The sign is no taller than 75 percent of the height of the tallest building on the property or within the master sign plan area, as measured to the midpoint between the fascia line and the ridge on a pitched roof building, or the top of the highest cornice or parapet on a flat roof building; and
- d. The sign maintains a setback separation distance of 200 feet from any other freestanding sign on the same property or subject to the same master sign plan.

E. Design. The following design standards apply to freestanding signs:

1. The sign face may be either nonilluminated or externally illuminated. An internally illuminated sign is allowed if the background of the sign is totally opaque and only the graphics, text, or both are illuminated.
2. The permanent sign base shall have a minimum aggregate width of 40 percent of the width of the sign cabinet or face. (Ord. 19-552 § 2 (Exh. A)).

18.97.190 Ground-mounted or landscape wall sign.

No permit shall be issued for a ground-mounted or landscape wall sign which does not comply with the following standards:

Figure 18



- A. Zones. Allowed in all zones but not allowed on individual single-family lots in the single-family zone.
- B. Number. Multiple signs are permitted to a maximum of 24 square feet and sign(s) shall not cover more than 40 percent of the landscape wall's background area.
- C. Setback. Perimeter/screen walls shall be located at least five feet from either the sidewalk or public right-of-way.
- D. Dimensions.
 1. Single-family subdivisions or multifamily developments: one sign up to a maximum of 24 square feet in area.
 2. Nonresidential use in TC, C, MUR, BP, I, and P zoning districts: one sign up to a maximum of 24 square feet in area.
 3. Civic uses in all zoning districts: one sign up to a maximum of 32 square feet.
- E. Height. Maximum of five feet above grade. The sign copy shall be a minimum of six inches below the top of the wall and 12 inches above ground level. Signs shall not project above or beyond the top or sides of the landscape wall.

F. Design. Illumination is permitted. (Ord. 19-552 § 2 (Exh. A)).

18.97.200 Portable signs.

No permit shall be issued for a portable sign, sandwich board sign, or pole-mounted sign that does not comply with the following standards:

A. Zone. Allowed only in the TC, C, MUR, BP, I, and P zoning districts, except that temporary portable signs are allowed in residential zones, subject to the provisions of EMC 18.97.240, Temporary signs.

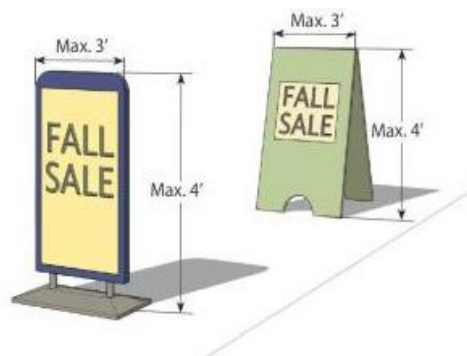
B. Number. Not more than one portable sign may be displayed per business or per tenant space.

C. Location. Must be located no farther than 10 feet from the primary building of the business, or, if there is only one business or tenant space on the site, it may be located not farther than 10 feet from the site's driveway entrance. No portable sign may be located within, over, or on the city right-of-way or any public sidewalk without a street use permit issued by the city.

D. Dimensions – Size and Height. Sandwich board signs: a maximum of four feet in height as measured in the flat standing position and not the open standing position, and a maximum of three feet in width. Pole-mounted signs: a maximum of five feet in height, and a maximum of two feet in width.

E. Design and Materials. Must be constructed with durable materials that are designed to withstand the natural elements and the effects of water and wind, otherwise they will be regulated as temporary signs under EMC 18.97.240. Portable signs must be designed to withstand typical prevailing winds and must include a heavy weighted base for pole-mounted signs, and a heavy weight suspended between the opposing faces of a sandwich board sign.

Figure 19



F. Display Hours. Portable signs and temporary portable signs may only be displayed during business operating hours.

G. Type. Portable signs may not be changeable copy signs or illuminated in any manner. (Ord. 19-552 § 2 (Exh. A)).

18.97.210 Projecting signs.

No permit shall be issued for any projecting sign that does not comply with the following standards:

A. Zone. Allowed in all zoning districts.

B. Number. One projecting sign may be allowed per tenant space or building frontage. Projecting signs are permitted in addition to allowable wall signage.

C. Location.

1. No part of any projecting sign shall be located closer than eight feet above the grade of the sidewalk, walkway, or driveway directly below and within three feet of the sign.

2. Projecting signs may extend a maximum of four feet from the building and shall be separated a minimum of six inches away from the building.
3. No projecting sign shall be located within 25 feet of another projecting sign on the same site or on the same building.
4. No projecting sign shall be located higher than the first-story level of the building.
5. No projecting sign shall extend into the right-of-way, including the sidewalk, without an approved street use permit issued by the city.

D. Dimensions.

1. Nonresidential Zones. The face of a projecting sign shall not exceed 12 square feet in area.
2. Residential Zones. The face of a projecting sign shall not exceed one and one-half square feet in area.

Figure 20



E. Height. No higher than the first-story level of the building, and a maximum of 25 feet above grade.

F. Design.

1. Nonresidential Zones. May be illuminated, internally or indirectly. In residential zones, projecting signs may not be illuminated.
2. Projecting signs shall be perpendicular to the building wall to which they are affixed.
3. Projecting signs shall not exceed four inches in thickness.
4. Projecting signs shall be supported by or suspended from solid rods or otherwise tethered or reinforced to avoid movement in wind. (Ord. 19-552 § 2 (Exh. A)).

18.97.220 Service island signs.

No permit shall be issued for a service island sign that does not comply with the following standards:

A. Zone. Allowed only in the TC, C, MUR, BP, I, and P zoning districts.

B. Number and Size.

1. Island Canopies. One sign on the canopy fascia per street frontage, not to exceed 20 percent of the area of canopy fascia to which the sign is mounted.

2. Spandrel Signs and Canopy Support Signs. Spandrel signs shall not exceed 20 percent of the spandrel area, and both spandrel signs and signs attached to canopy support columns shall be deducted from allowable wall signage on the associated principal building on the site.

C. Setback – Location. Mounted on building that must comply with setbacks.

D. Height. Shall not project above rooflines or obscure architectural details and may not exceed 70 percent of the blank wall height.

E. Design. Spandrel signs may be internally illuminated, subject to the illumination standards of EMC 18.97.050. Signs attached to canopy support columns shall not be illuminated. (Ord. 19-552 § 2 (Exh. A)).

18.97.230 Sign walkers.

Sign walkers are allowed, subject to the following standards:

A. Permit. A permit is not required for a sign walker, but the sign walker shall comply with all applicable requirements of this chapter.

B. Zone. Only allowed in the TC, C, MUR, BP, and I zoning districts.

C. Number. No limit.

D. Location. Sign walkers are restricted to a minimum of 30 feet from a street or driveway intersection, measured from the back of the curb or edge of pavement if no curb exists, and shall not be located in any of the following places:

1. On any public property or within public right-of-way, although sign walkers are allowed on public sidewalks;
2. In parking aisles or stalls;
3. In driving lanes;
4. On fences, walls, boulders, planters, other signs, vehicles, utility facilities or other structures; or
5. In a manner which results in a sign walker or the sign walker's sign physically interfering with motorists, pedestrians, or bicyclists.

E. Dimensions. The sign walker's sign shall not exceed eight square feet in area, and shall not exceed eight feet in height when held in place.

F. Design. The sign walker's sign cannot be illuminated. Sign walkers shall be limited to daylight hours only. A sign walker's sign may not include any element of a prohibited sign as described in EMC 18.97.040. (Ord. 19-552 § 2 (Exh. A)).

18.97.240 Temporary signs.

A. No Permit Required – Materials. No sign permit is required for temporary signs that comply with the standards in this section. Temporary signs are primarily distinguished by the materials which make up the sign (see definition of "temporary sign" in EMC 18.97.300 and EMC 18.97.060, Sign materials). Temporary signs shall comply with the requirements of this chapter.

B. Removal. Temporary signs shall be removed if the sign is in need of repair, is worn, dilapidated, or creates a public nuisance.

C. City Property (Excluding City Right-of-Way). See EMC 18.97.020(C). Temporary signs on city-owned property (excluding city right-of-way) are allowed only in conjunction with a city approved and issued special event permit.

D. Residential Zones. Temporary signs may be placed on property residentially zoned in accordance with the requirements of this chapter and the following:

1. Building-/Surface-/Wall-Mounted Signs. Not allowed on properties under two acres in size. For larger parcels, see subsection (F) of this section.
2. Changeable Copy Signs. See applicable sign type.
3. Freestanding Signs (Includes Post-Mounted, Stake-Mounted, and Portable Signs).
 - a. Single-Family Properties. Temporary freestanding signs shall not exceed four square feet in size and five feet in height if the sign is mounted on the ground. Temporary freestanding signs shall not exceed three feet in height if the sign is stake-mounted or portable.
 - b. Multifamily Properties. Temporary freestanding signs shall not exceed six square feet in size and five feet in height if the sign is post-mounted on the ground. Temporary freestanding signs shall not exceed three feet in height if the sign is stake-mounted or portable.
4. Window Signs. Limited to no more than one temporary window sign per residential unit, not to exceed four square feet.

E. Nonresidential or Mixed-Use Properties. Temporary signs are allowed on properties within the TC, C, MUR, BP, and P zoning districts in accordance with the requirements of this chapter and the following:

1. Building-/Surface-/Wall-Mounted Signs.
 - a. Size. Limited to 40 square feet total per building site, not to exceed 20 square feet per individual sign.
 - b. Location. Must be flatly affixed to walls below the fascia or parapet line, or flatly affixed to on-site fences either facing the abutting street, or facing inward to the subject site. Signs shall not be attached or tethered to other site improvements.
2. Freestanding Signs (Including Post-Mounted, Stake-Mounted, and Portable Signs) – Size and Height. Limited to four square feet in area, and sign cannot exceed five feet in height if the temporary sign is post-mounted in the ground and cannot exceed three feet in height if the temporary sign is stake-mounted or portable. No more than two on-site freestanding temporary signs may be displayed per site.
3. Window Signs. Limited to one temporary sign per window not to exceed 50 percent of the individual window area, and not to exceed 20 percent of the total ground-floor window area on any given facade, subject to the window sign requirements of EMC 18.97.250.

F. Temporary Signs on Large Properties within Any Zoning District. The following temporary signs may be placed on any site at least two acres in size, in accordance with the requirements of this section and the following:

1. Type. Any type.
2. Size and Height. Not to exceed 64 square feet and up to eight feet above ground level.
3. Exclusivity. The sign allowed under this subsection is in lieu of and shall not be displayed with or be in addition to other temporary signs allowed by this section.

G. City Right-of-Way. Temporary signs are prohibited in the roadway. Temporary signs on city right-of-way (placed outside of the roadway) must comply with the following requirements:

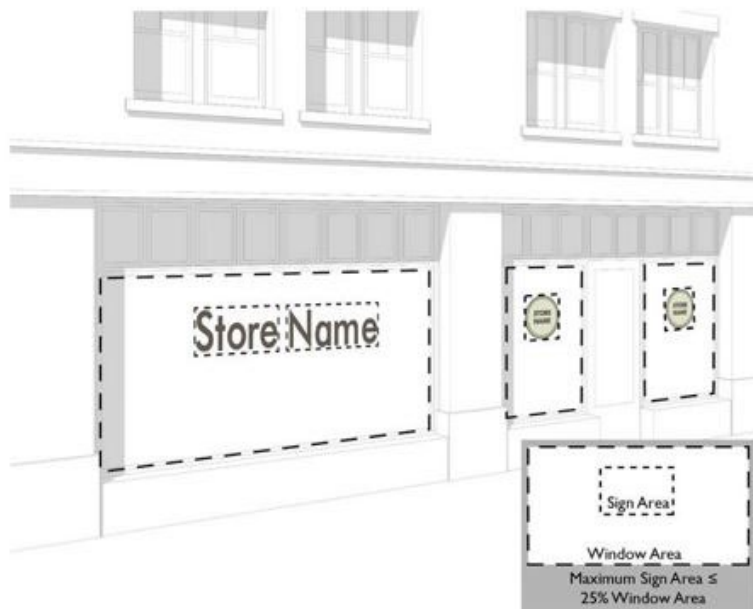
1. Location. Allowed only between the property line and the back edge of the nearest sidewalk, or where no sidewalk exists, between the property line and a line five feet away from the nearest edge of the roadway pavement. Signs may not be placed on sidewalks, driveways, or other paved areas designed for pedestrian or vehicular use; in planter strips; or as conditioned in a street use permit. Approval of the abutting owner is recommended.
2. Type. Signs on stakes that can be manually pushed or hammered into the ground are allowed. All other signs are prohibited, unless specifically allowed by a street use permit.
3. Size and Height. Limited to four square feet, and three feet in height.
4. Other Signs. The city may allow other signs in city right-of-way with a street use permit.
5. Attachments. Signs in the right-of-way may not include attachments such as balloons, streamers, or other attention-getting devices. (Ord. 19-563 § 1 (Exh. A); Ord. 19-552 § 2 (Exh. A)).

18.97.250 Window signs.

No permit shall be issued for a permanent window sign that does not comply with the following standards:

- A. Zone. Allowed in all zoning districts.
- B. Number. No more than one permanent window sign may be placed in a single window.

Figure 21



C. Setback – Location. No higher than second-story windows for permanent window signs. For the requirements applicable to temporary window signs, see EMC 18.97.240.

D. Window Coverage. Window signs, whether temporary or permanent, shall not exceed 25 percent of the area of the window on which they are displayed.

E. Height. No higher than the first-story level of a building, maximum height 25 feet from grade.

F. Design. Permanent window signs are limited to individual painted or vinyl cut-out letters and graphics, or neon signs constructed with or without a solid or opaque background. Permanent signs with solid backgrounds are not

permitted in windows in order to ensure maximum light and visibility through windows. Temporary window signs are exempt from the restrictions in this subsection. (Ord. 19-552 § 2 (Exh. A)).

Article IV. Permitting

18.97.260 Sign permits.

A. What Is a Sign Permit? A sign permit is the approval granted by the city for any person to erect, alter, expand, or relocate a sign. For some signs, a building permit may also be required.

B. Is a Sign Permit Required? A sign permit is not required for any sign that is erected, altered, expanded, or relocated in accordance with the criteria listed in EMC 18.97.030, Exemptions. Even if a permit is not required, the sign must conform to this sign code.

C. Who Approves the Application? Sign permits are approved by the community development director or designee. If a building permit is required for the sign, the building official approves the building permit. If a street use permit is required, the public works director approves the permit.

D. Who May Submit an Application? The owner or tenant of the property where the sign will be located, or the owner's agent on their behalf and with their written consent.

E. How Do I Submit an Application? A complete sign permit application must be submitted to the city and the application must include all of the following:

1. Application Form. A completed sign permit application, including the applicant's name, address, phone number, and email address. If the applicant is not the property owner, then the property owner must be identified, and the application must include an affidavit from the property owner, verifying that the property owner has given permission to the applicant for the submission of the sign permit application and for the installation or posting of the sign on the property owner's land.
2. Other Permit Applications. If required by the building code, a completed building permit application. In some instances, a street use permit application or a special event permit application may be required.
3. Building Elevation/Site Plan. Signs proposed to be mounted on a building require a building elevation drawn to scale that specifies the locations and size of existing signs on the building, the location and size of new signs proposed on the building, the dimensions of the wall plane upon which the signs will be placed, and drawings or photographs which show the scale of the sign in relation to surrounding doors, windows and other architectural features. Freestanding signs require a site plan indicating the proposed sign location as it relates to property lines, surrounding landscaping, adjacent streets, driveways and adjacent buildings.
4. Detailed Description of Sign. A scaled colored rendering or drawing of the sign and its associated structure, including dimensions of all sign faces, and descriptions of materials to be used on the sign and associated trim caps, fixtures and support structure, description of the sign face illumination and methods used to ensure that only text, graphics and logo shields are internally illuminated.
5. Scaled Installation Drawing. A scaled drawing that includes the sign description, proposed materials, size, weight, manner of construction and method of attachment, including all hardware necessary for proper sign installation, and, if applicable, foundation design.
6. Lighting. A drawing indicating the location and fixture type of all exterior lighting for the proposed signs. The drawing shall specify wattage and lamp type to ensure compatibility with the illumination standards in EMC 18.97.050.
7. Master Sign Plan. If the sign is subject to a master sign plan as described in EMC 18.97.270, a master sign plan must be included as part of a complete sign permit, unless a master sign plan for the site or building has already been approved, is current and is on file with the city.
8. Fees. Payment of the appropriate sign permit fee (and all other fees, such as building permit and/or electrical permit fees) must be paid.

F. How Is Notice Provided? There is no notice to the public that a sign permit application has been submitted.

G. How Is an Application Reviewed? A sign permit application follows the Process I procedure in EMC 18.40.070 and 18.40.080. The application is categorically exempt from SEPA and, pursuant to RCW 36.70B.140(2), is exempt from the other permit processing requirements in RCW 36.70B.060 and 36.70B.110, including, but not limited to, the notice of application, determination of completeness and issuance of a final decision within the time permit set forth in RCW 36.70.080.

H. What Approval Criteria Are Used?

1. A sign permit application shall not be approved unless the director makes written findings and conclusions that the criteria applicable to each sign type, as well as the sign standards in this chapter, are satisfied.
2. Building permit applications associated with the sign shall be reviewed by the building official for consistency with the building code.
3. If the sign uses electrical wiring and connections, a licensed electrician must submit a copy of the electrical permit application to the city, with the original submitted for approval to the state of Washington. If the sign requires a street use or special event permit, the application shall be submitted with the sign permit application for review by the public works director.

I. What If an Application Is Denied? The applicant may file an administrative appeal as provided in EMC 18.40.080(D).

J. What Happens after Approval? Once the sign permit issues, the sign must be installed within 180 days or the sign permit will expire. Building permits and street use permits shall expire in accordance with other applicable code provisions. No sign may be erected, altered or relocated if the sign permit has expired, even if the associated building permit or street use permit has not expired. (Ord. 19-552 § 2 (Exh. A)).

18.97.270 Master sign plans.

A. What Is a Master Sign Plan? A master sign plan is a plan that includes, in a coordinated fashion, all of the signs needed for spaces in a proposed mixed-use or nonresidential, multi-tenant building(s) or site development or for coordination of adjoining parcels seeking to combine their total street frontage subject to the sizing requirements in EMC 18.97.180(D). In addition, a master sign plan may be voluntarily developed by the owner or agent of any new or existing nonresidential use.

B. Who Approves the Application? The community development director or designee.

C. Who May Submit an Application? The owner of the buildings or site development.

D. How Do I Submit an Application? A complete application for a master sign plan must be submitted, which includes all of the following information:

1. A complete master sign plan application, including the applicant's name, address, phone number and email address. If the applicant is not the property owner(s), then the property owner(s) must be identified and the application must include an affidavit from the property owner(s), verifying that the property owner(s) has given permission for the applicant to submit the master sign plan application. No master sign plan application may be submitted without written consent from all affected property owners, and no sign may be placed upon real property without the consent of the real property owner(s);
2. A site plan drawn to legible scale, indicating the location of all buildings, driveways and pavement areas, landscape areas, abutting streets, and proposed freestanding signs on the site;
3. Elevation drawings of each building on a site that indicate proposed sign locations on each of the buildings;
4. Maximum allowable signage on each elevation based upon a five percent calculation of all facades;

5. The master sign plan application shall identify the sign features and sign types proposed to be used on each building and the proposed location. In addition, the applicant shall include a statement describing the manner in which the building or site owner wishes to allocate allowable signage among tenants and where specific tenant signage shall be located;

6. A narrative description of the development to demonstrate that the master sign plan meets the required design standards of this chapter;

7. Fees. Payment of all of the appropriate fees for a master sign plan.

E. How Is Notice Provided? There is no notice provided to the public that a master sign plan application has been submitted.

F. How Is an Application Reviewed? A master sign plan application follows the Process I procedure in EMC 18.40.070 and 18.40.080. The application is categorically exempt from SEPA and, pursuant to RCW 36.70B.140(2), is exempt from the other permit processing requirements in RCW 36.70B.060 and RCW 36.70B.110, including, but not limited to, the notice of application, determination of completeness and issuance of a final decision within the time permit set forth in RCW 36.70.080.

G. What Approval Criteria Are Used? All signs in the master sign plan must meet the criteria for approval of a sign permit in this section. In addition, all of the signs in the master sign plan:

1. Shall be architecturally similar and visually related to each other through the incorporation of common design elements. Up to two sign types may be used on any one building. All sign cabinets, trim caps, and all sign supports, such as poles and braces, shall be of a common color;
2. Shall be architecturally integrated with the buildings included in the master sign plan; and
3. Must not obscure the view of other signs which are consistent with this chapter.

H. What Happens If a Master Sign Plan Is Denied? The applicant may file an administrative appeal as provided in EMC 18.40.080(D).

I. What Happens after Approval? Once the master sign plan issues, the signs depicted in the approved plan must be installed within 180 days or the master sign plan will expire. Building permits and street use permits for any signs shown in the master sign plan shall expire in accordance with other applicable code provisions. No sign may be erected, altered or relocated if the master sign plan has expired, even if the associated sign permit, building permit or street use permit has not expired.

J. Can the Master Sign Plan Be Amended? An application for an amendment to an approved master sign plan can be submitted at any time, subject to the same requirements and procedures that apply to the original master sign plan application. Tenants whose signs are included in the amendment application need the property owner's consent to file such application. In order to approve any such amendment, the director shall consider the existing signs on the building(s) subject to the approved master sign plan when determining whether the application meets the criteria for approval in subsection (G) of this section. (Ord. 19-552 § 2 (Exh. A)).

18.97.280 Sign variances.

A. What Is a Sign Variance? A variance application is submitted concurrent with a sign permit application when the property owner/tenant seeks to deviate from the strict application of the regulations in this chapter which apply to:

1. Sign placement on a parcel or building frontage;
2. Sign area; or
3. Sign height (as limited in this chapter).

A variance may not be granted to allow any prohibited signs or prohibited sign features, as described in EMC 18.97.040, or for any other purpose that is not specifically listed in this subsection. The variance procedure in this section does not apply to the processing of any street use permit or building permit.

First Amendment Exception. Where an applicant can demonstrate that the strict application of the regulations in this chapter would violate his/her First Amendment rights, the city may grant a First Amendment exception that does not conform to all of the variance criteria in subsection (G) of this section. However, the applicant shall submit an application which provides his/her response to each of the variance criteria in subsection (G) of this section. In order to process a First Amendment exception, the city shall follow all other requirements of this section. In order to approve a First Amendment exception, the city must make written findings, and may only grant such exception to the extent reasonably necessary to protect the applicant's First Amendment rights. If a First Amendment exception is granted, it shall be processed as an approval of a variance for purposes of this chapter.

B. Who Approves the Application? After a public hearing on the consolidated applications of the sign permit and sign variance, the hearing examiner approves the applications.

C. Who May Submit an Application? The owner of the buildings, the owner of the property or site development.

D. How Do I Submit an Application? A complete application for a sign variance shall consist of the following:

1. **Application Form.** A completed sign variance application, including the applicant's name, address, phone number and email address. If the applicant is not the property owner, then the property owner must be identified and the application must include an affidavit from the property owner, verifying that the property owner has given permission to the applicant for the submission of the sign variance application and for the installation/posting of the sign on the property owner's property.
2. Sign permit application (all of the materials required by EMC 18.97.260(E)).
3. A narrative report which describes the requested variance in detail. The report shall identify all of the sections of this chapter from which the applicant is requesting the variance, as well as the nature and extent of the variance (in size, area, location on the property, height).
4. The narrative report shall also include the applicant's description of the manner in which the sign variance satisfies all of the variance criteria in subsection (G) of this section.
5. Payment of the appropriate sign variance fee.

E. How Is Notice Provided? The public is given notice of a sign variance application and the associated sign permit application through issuance of a notice of application, as described in EMC 18.40.180.

F. How Is an Application Reviewed? The sign variance application is consolidated for processing, with the associated sign permit application, as Process III (hearing examiner review) in EMC 18.40.100. The city determines whether the applications are complete (EMC 18.40.150), the notice of application issues (EMC 18.40.180), a notice of public hearing issues (EMC 18.40.190) and a public hearing is held by the hearing examiner (EMC 18.40.190(E)). The hearing examiner issues a decision (EMC 18.40.100(Q) and (R)).

G. What Approval Criteria Are Used? Sign variance applications shall be reviewed by the hearing examiner to determine whether all of the following criteria are satisfied. In order to approve any sign variance, the director must make written findings to show that all of the following criteria have been met:

1. The request for a sign variance is due to unusual conditions pertaining to sign visibility needs for a specific building or lot; and
2. The sign will not create a hazard; and
3. The sign will not violate any state statute or any city code provision (other than the ones identified in subsections (A)(1) through (3) of this section); and

4. The sign will not negatively affect adjacent property; and
5. The sign will be in keeping with the general character of the surrounding area and the granting of the variance would not result in an alteration of the essential character of the surrounding area; and
6. The proposed variance is consistent with the purposes and intent of the zoning/development code and the purposes of this chapter; and
7. The variance is consistent with the city's comprehensive plan; and
8. The applicant has established that there are practical difficulties in complying with the provision(s) of this chapter identified in subsections (A)(1) through (3) of this section and that the proposed sign is a reasonable use of the property (economic considerations alone do not constitute practical difficulties); and
9. The plight of the applicant is due to circumstances unique to the property, which were not created by the applicant or landowner; and
10. The variance will not permit any sign or use that is not allowed in the zoning district where the affected land is located, nor will it allow any sign or sign feature prohibited under EMC 18.97.040.

H. What If an Application Is Denied? The applicant may file an administrative appeal as provided in EMC 18.40.100(T) and (X).

I. What Happens after Approval? Once the variance and sign permit issue, the sign must be installed within 180 days or the variance and sign permit will expire. Building permits and street use permits shall expire in accordance with other applicable code provisions. No sign may be erected, altered or relocated if the sign permit has expired, even if the associated building permit or street use permit has not expired. (Ord. 19-552 § 2 (Exh. A)).

18.97.290 Nonconforming signs, maintenance, removal and enforcement. See Ordinance No. 20-0572, Exhibit I

18.97.300 Sign variances. See Ordinance No. 20-0572, Exhibit I; Ordinance No. 19-0552, §2, Exhibit A; and

Chapter 18.100

DEVELOPMENT STANDARDS – USE SPECIFIC

Sections:

- 18.100.010 Accessory residential vehicle service and repair standards.
- 18.100.030 Animals.
- 18.100.040 Daycare facilities.
- 18.100.050 Essential public facilities.
- 18.100.070 Home business.
- 18.100.080 Limited home businesses.
- 18.100.090 Manufactured homes on individual lots.
- 18.100.100 Sexually oriented businesses.
- 18.100.110 Wireless communications facilities.
- 18.100.120 Marijuana-related uses – Prohibited.

18.100.010 Accessory residential vehicle service and repair standards.

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

- A. Work shall be limited to the noncommercial repair and maintenance of motor vehicles, recreational vehicles, sporting vehicles and vehicular equipment that is currently registered to a resident of the premises or a member of the residents' family, which shall be limited to parents, grandparents, spouse, or children related by blood, marriage or adoption.
- B. Such work is prohibited in residential complexes consisting of three or more dwelling units on a parcel.
- C. Such work shall be conducted on no more than one vehicle at any one time.
- D. Such work shall be conducted only between the hours of 7:00 a.m. and 10:00 p.m. on weekdays and 9:00 a.m. and 7:00 p.m. on weekends.
- E. Assembly, disassembly or bodywork shall only be conducted within a fully enclosed garage or accessory building. Minor service and repair work may be performed in an open accessory structure or in the driveway directly adjacent to the garage or carport. Such work shall not be performed in the public right-of-way nor shall vehicles be stored in the public right-of-way even if the driveway is located in the public right-of-way.
- F. Parts, equipment, debris, excess materials or other supplies needed for the repair of a vehicle on the premises shall be stored within a fully enclosed structure such as a garage or accessory building. No items shall be left outside overnight.
- G. The performance of such work shall not create a nuisance to the neighbors.
- H. Upon completion of any work allowed by this section, the property shall be cleaned of all debris, oil, grease, gasoline, cloths or rags, and all other equipment or material used in the work, and the property shall be left in such a condition that no hazard to persons or property shall remain. Storage and disposal of all hazardous materials shall be in accordance with state and local regulations.
- I. Disposal of all waste products shall be in accordance with state and local regulations.
- J. Painting of vehicles is prohibited. (Ord. 20-579 § 7 (Exh. F); Ord. 03-203 § 1).

18.100.030 Animals.

A. Four small farm animals (noncommercial) shall be allowed per legal lot of record. Lots that are one contiguous half acre in size or greater shall be allowed no more than 12 small farm animals per acre. All small farm animals kept outside shall be cooped or kept in hutches or pens or similar enclosures.

B. No other animals are allowed in residential districts other than pets. (Ord. 20-579 § 7 (Exh. F); Ord. 03-203 § 1).

18.100.040 Daycare facilities.

A. Affordable, good quality, licensed daycare within Edgewood is a needed service critical to the well-being of parents, children, elders, and disabled persons in the community. It is the purpose of this section to facilitate the location of licensed facilities in the city in a manner that both simplifies the review and approval process and ensures that the facilities are compatible with the surrounding land uses.

B. This section shall apply to child daycare services, as defined in this title, operating within the city of Edgewood. It shall not apply to foster care, group homes, and other residential programs providing round-the-clock care; nor shall it apply to care services of a casual, nonrecurring nature or provided in the home of the person being cared for (i.e., baby-sitting) or cooperative, reciprocal care by a group of individuals in their respective homes (i.e., childcare co-operative).

C. The community development director or designee, or hearing examiner, as appropriate, shall approve applications for family daycare homes and daycare centers subject to the following general requirements and the requirements of RCW 36.70A.450(2)(a) through (e):

1. Washington State daycare licensure and all applicable state and local licensure and land use permits shall be obtained prior to operation and shall be maintained.
2. The facility shall comply with all building, fire safety, health code, and business licensing requirements.
3. A safe passenger loading area shall be provided and certified by the department of early learning licensuror.
4. Signage, if any, shall conform to the requirements of Chapter 18.97 EMC, Sign Code.
5. Parking shall conform to the requirements of EMC 18.90.130, Parking.
6. No structural or decorative alteration shall be made to the dwelling, which will alter the single-family character of an existing or proposed residential structure, or which is incompatible with surrounding residences.
7. In addition to the general requirements above, child daycare services, home-based (624410, part) are subject to the following requirements:
 - a. The outdoor recreation areas shall be enclosed by at least six-feet-high fence.
 - b. The outdoor play equipment for child daycare facilities shall not be located in any required front or side yard setback area.
8. In addition to the requirements above, child daycare services, all other (624410, part) are subject to the following requirements:
 - a. The daycare center shall not be located within 300 feet of another daycare facility.
 - b. Outdoor recreation areas shall be enclosed by a six-foot-high fence.
 - c. Outdoor play equipment for child daycare facilities shall not be located in any required front or side yard setback area.
 - d. The permit may be conditioned in order to reduce potential conflicts between the daycare center and surrounding neighborhood, including, but not limited to, noise attenuation, special parking needs, and hours of operation.
 - e. There shall be a clearly marked, off-street area for loading and unloading clients. Adequate vehicle turnaround shall be provided on site for parking and loading so as to preclude the necessity of backing out onto the street. (Ord. 20-579 § 7 (Exh. F); Ord. 16-463 § 6 (Exh. B); Ord. 15-448 § 2 (Exh. A); Ord. 03-203 § 1).

18.100.050 Essential public facilities.

Under the state Growth Management Act, essential public facilities include those facilities that are typically difficult to site such as airports, state education facilities and state or regional transportation facilities as defined in RCW 47.06.140; state and local correctional facilities; solid waste handling facilities; and in-patient facilities including substance abuse facilities, mental health facilities, and group homes. For the purposes of and within this title, essential public facilities are treated as listed or substantially similar to listed use types, thereby affirming their siting in appropriate areas; except as applied to public lands, where they are liberally construed to include a broad array of public services. Essential public facilities do not include wireless telecommunications facilities. (Ord. 20-579 § 7 (Exh. F); Ord. 03-203 § 1).

18.100.070 Home business.

The purpose of this section is to provide standards which allow residents of single- or multifamily dwellings to operate businesses or conduct commercial activity from their principal residence or from a permitted accessory structure while achieving the goals of retaining the residential character of the dwelling and the neighborhood.

A. Home businesses are limited to an accessory use in conjunction with a single-family detached dwelling use type. Obtaining a home business permit is required in addition to the general business license required by Chapter 5.05 EMC. The home business permit is administered through the city clerk's office.

B. The following uses are exempt from the regulations of this section:

1. Child daycare services, home-based (624410, part), which are subject to EMC 18.100.040.
2. Accommodation (Sector 721) – bed-and-breakfast inns (721191).
3. Garage sales, yard sales, bake sales, temporary home bazaars for hand-crafted items or parties for the display of clothing, gifts and household products, and other similar uses shall not be subject to regulation pursuant to this section; provided, that:
 - a. Any such use shall not be in existence for more than four times in any one calendar year, and is not in violation of any other section of the title or other city ordinances; and
 - b. Any such garage sales and yard sales involve only the sale of household goods, none of which were purchased for the purpose of resale.
4. For the profit sale of produce or other food products is limited to the temporary seasonal sale of produce grown on the premises.
5. Hobbies which do not result in payment to those engaged in such activity.

C. Prohibited Activities.

1. No home business or business use on residential property that a person owns, occupies or is in lawful control of, contrary to the provisions of this section.
2. The following on-site activities are prohibited as home businesses:
 - a. Motor vehicle, commercial truck and heavy equipment repair.
 - b. Motor vehicle, commercial truck and heavy equipment bodywork.
 - c. Motor vehicle, commercial truck and heavy equipment painting.
 - d. Motor vehicle, commercial truck and heavy equipment wash and/or detailing services.
 - e. Storage of motor vehicles, commercial trucks or heavy equipment.
 - f. Storage of used parts of vehicles and/or used machinery in inoperable condition.
 - g. Storage of building materials such as lumber, plasterboard, pipe, paint or other construction materials unless being used to construct a specific structure on the premises, pursuant to a current city building permit.

D. The following performance standards prescribe the parameters under which home business activities may be conducted when incidental to a residential use. Activities that exceed these performance standards are subject to Chapter 18.70 EMC, Permitted Land Uses, to determine the appropriate civic, commercial, or industrial use category that applies to the activity.

1. The following standards apply to all home business activities within the city of Edgewood:

- a. A home business permit shall be obtained directly through the city clerk's office for each home business and any property on which a home business is undertaken.
- b. A city business registration shall be obtained and maintained for each home business as described in Chapter 5.05 EMC.
- c. The home business shall be clearly incidental and secondary to the use of the property as residential purposes and shall not change the residential character of the dwelling or neighborhood.
- d. There shall be no more than three deliveries per week to the residence by suppliers.
- e. Traffic generated by a home business shall not exceed 16 round trips per day associated with the home business, including deliveries and client-related trips.
- f. Utility demand for sewer, water, electricity, garbage or natural gas shall not exceed normal residential levels.
- g. Equipment or operation processes shall not be utilized which would produce or cause the emission of gases, dust, odors, vibration, electrical interference, smoke, noise, or light in a manner likely to cause offense or irritation to neighboring residents.
- h. The home business(es) shall not use electrical or mechanical equipment that results in:
 - i. A change to the fire rating of the structure(s) used for the home business(es);
 - ii. Visual or audible interference in radio or television receivers, or electronic equipment located off premises; or
 - iii. Fluctuations in line voltage at or beyond the property line.
- i. There shall be no storage, distribution and/or production of toxic or flammable materials, nor spray painting or spray finishing operations that involve toxic or flammable materials, which in the judgment of the fire marshal pose a dangerous risk to the residence, its occupants, and/or surrounding properties. An applicant shall make available the material safety data sheets, listing all potentially toxic and/or flammable materials associated with the home business, to the fire marshal if requested for review.

E. One or more home business may be conducted in a single-family residential detached dwelling use type as an accessory use, except as prohibited in subsection (C) of this section, Prohibited Activities; provided, that the home business shall:

- 1. Be operated by a resident of the property on which the business is located.
- 2. Employ no more than one full- or part-time person, other than residents of the dwelling.
- 3. Be operated within the dwelling or other accessory buildings normally associated with uses permitted in the zone in which the property is located.
- 4. Not interfere with existing uses on nearby land or with other uses permitted in the zone in which the property is located.
- 5. Comply with all conditions imposed pursuant to this section.
- 6. Have one parking space per employee provided on the same parcel of land, in addition to that parking required for the dwelling.
- 7. Not utilize more than two vehicles and utility trailers, with a gross vehicle and trailer weight of more than 10,000 pounds, in the operation of the home business. Parking for said vehicles and/or trailers shall be provided on the subject property.

8. Store all materials, parts, tools and other equipment used in the operation of the home business entirely within the dwelling or accessory building.
9. Comply with building, land use and fire code requirements for permits, occupancy, and inspection, including use of hazardous materials or equipment.
10. Limit manufacturing to the small-scale assembly of already manufactured parts but shall not preclude production of small, individually hand-crafted items, furniture or other wood items as long as the activity meets the other standards of this section.
11. Prohibit customers or clients on the premises prior to 8:00 a.m. and after 8:00 p.m. on Mondays through Fridays, and prior to 9:00 a.m. and after 5:00 p.m. on weekends and state or federal holidays.
12. Limit the home business activity to 40 percent of the gross floor area of the residence, including garages and unfinished basements, and accessory buildings; or 2,000 square feet, whichever is less.
13. Meet the signage requirements of Chapter 18.97 EMC, Sign Code.
14. Each business must meet the requirement of Chapter 5.05 EMC, Business Licenses and Regulations.

F. The decision to approve, approve with conditions, or deny an application for a home business permit shall be made by the community development director or designee upon findings of whether or not the purposed home business is or will be:

1. In compliance with the standards contained in this section;
2. Subordinate to the residential use of the property; and
3. Undertaken in a manner that is not detrimental or disruptive in terms of appearance or operation to neighboring properties or the community.
4. The community development director or designee may impose conditions upon the approval of a home business permit to ensure compatibility with adjacent residential uses and surrounding neighborhoods. These conditions may include, but are not limited to, the following:
 - a. Further limiting the hours, days, place and manner of operation.
 - b. Requiring site and building design features that minimize environmental impacts such as noise, vibration, air pollution, glare, odor and dust.
 - c. Requiring additional building setbacks, and increased lot area, depth or width.
 - d. Further limiting the building area used by the home business and restricting the location of the use on the site in relationship to adjoining uses.
 - e. Designating the size, number, location and design of vehicle access points.
 - f. Requiring street right-of-way to be free at all times of vehicles associated with the home business.
 - g. Requiring landscaping, buffering and/or screening of the home business from adjoining uses and establishing standards for the continued maintenance of these improvements.
 - h. Requiring storm drainage improvements, and surfacing of parking and loading areas.
 - i. Limiting the extent and type of interior or exterior building remodeling necessary to accommodate the home business.
 - j. Limiting or setting standards for the location and intensity of outdoor lighting.

k. Requiring and designating the size, height, location of fences and materials used for their construction.

G. Permit Revocation and Expiration.

1. The community development director or designee may revoke a home business permit if the conditions of approval have not been complied with and the home business is otherwise being conducted in a manner contrary to this title.
2. When a home business permit has been revoked due to violation of these standards, a minimum period of one year shall elapse before another application for a home business permit by the applicant(s) or member of the family residing on the subject property will be considered.
3. A home business permit shall become invalid if the applicant moves his or her residence.

H. An ongoing home business may be granted nonconforming status; provided, that it was permitted under Pierce County authority prior to Edgewood's incorporation and has been in continuous operation since initial approval. The burden of providing a home business's nonconforming status rests with the property owner or tenant. A home business without city or county approval which cannot prove nonconforming status shall be considered in violation of this section and shall cease until the appropriate approvals have been granted. (Ord. 20-579 § 7 (Exh. F); Ord. 15-448 § 2 (Exh. A); Ord. 10-351 § 3 (Exh. B); Ord. 03-203 § 1).

18.100.080 Limited home businesses.

A. The purpose of this section is to provide standards which allow residents of single- or multifamily dwellings to operate businesses or conduct commercial activity from their principal residence or from a permitted accessory structure while achieving the goals of retaining the residential character of the dwelling and the neighborhood.

B. Limited home businesses are permitted as an accessory use in conjunction with single-family detached dwelling, single-family attached dwelling, and multifamily attached dwelling use types.

C. The following uses are exempt from the regulations of this section:

1. Child daycare services, home-based (624410, part), which are subject to EMC 18.100.040.
2. Accommodation (Sector 721) – bed-and-breakfast inns (721191).
3. Garage sales, yard sales, bake sales, temporary home bazaars for hand-crafted items or parties for the display of clothing, gifts and household products, and other similar uses shall not be subject to regulation pursuant to this section; provided, that:
 - a. Any such use shall not be in existence for more than four times in any one calendar year and is not in violation of any other section of the title or other city ordinances; and
 - b. Any such garage sales and yard sales involve only the sale of household goods, none of which were purchased for the purpose of resale.
4. For the profit sale of produce or other food products is limited to the temporary seasonal sale of produce grown on the premises.
5. Hobbies, which do not result in payment to those engaged in such activity.

D. Prohibited Activities.

1. No limited home business or such use on property that a person owns, occupies or is in lawful control of, contrary to the provisions of this section.
2. The following on-site activities are prohibited as home businesses:
 - a. Motor vehicle, commercial truck and heavy equipment repair.

- b. Motor vehicle, commercial truck and heavy equipment bodywork.
- c. Motor vehicle, commercial truck and heavy equipment painting.
- d. Motor vehicle, commercial truck and heavy equipment wash and/or detailing services.
- e. Storage of motor vehicles, commercial trucks or heavy equipment.
- f. Storage of used parts of vehicles and/or used machinery in inoperable condition.
- g. Storage of building materials such as lumber, plasterboard, pipe, paint or other construction materials unless being used to construct a specific structure on the premises, pursuant to a current city building permit.

E. The following performance standards prescribe the parameters under which limited home business activities may be conducted when incidental to a residential use. Activities that exceed these performance standards are subject to Chapter 18.70 EMC, Permitted Land Uses, to determine the appropriate civic, commercial, or industrial use category that applies to the activity.

The following standards apply to all limited home business activities within the city of Edgewood:

1. A limited home business permit shall be obtained directly through the city clerk's office for each limited home business and any property on which a limited home business is undertaken.
2. A city general business license must be obtained and maintained for each limited home business as described in Chapter 5.05 EMC.
3. The limited home business shall be clearly incidental and secondary to the use of the property as residential purposes and shall not change the residential character of the dwelling or neighborhood.
4. All the activities of the limited home business(es) shall be conducted indoors, except for those related to growing or storing of plants used by the limited home occupation(s).
5. No modification shall be made to the dwelling to establish or operate the limited home business that would cause it to resemble anything other than a dwelling.
6. There shall be no more than three deliveries per week to the residence by suppliers.
7. Traffic generated by a limited home business shall not exceed 16 round trips per day associated with the home business, including deliveries and client-related trips.
8. Sales, either retail or wholesale, shall be limited to mail order and telephone sales with off-site delivery.
9. Services to patrons shall be arranged by appointment or provided off site.
10. Utility demand for sewer, water, electricity, garbage or natural gas shall not exceed normal residential levels.
11. Equipment or operation processes shall not be utilized which would produce or cause the emission of gases, dust, odors, vibration, electrical interference, smoke, noise, or light in a manner likely to cause offense or irritation to neighboring residents.
12. The home business(es) shall not use electrical or mechanical equipment that results in:
 - a. A change to the fire rating of the structure(s) used for the home business(es);
 - b. Visual or audible interference in radio or television receivers, or electronic equipment located off premises; or

c. Fluctuations in line voltage at or beyond the property line.

13. There shall be no storage, distribution and/or production of toxic or flammable materials, nor spray painting or spray finishing operations that involve toxic or flammable materials, which in the judgment of the fire marshal pose a dangerous risk to the residence, its occupants, and/or surrounding properties. An applicant shall make available the material safety data sheets, listing all potentially toxic and/or flammable materials associated with the home occupation, to the fire marshal if requested for review.

F. One or more limited home business may be conducted in a residential dwelling as accessory uses, excepted as prohibited in EMC 18.100.070(C), Prohibited Activities; provided, that the limited home business shall:

1. Not have any employee, volunteer or other person engaged in the commercial activity on the site, other than residents of the dwelling.
2. Be operated in its entirety within the principal dwelling.
3. Not have a separate entrance from outside the building.
4. Not use any mechanical equipment except that which is used normally for purely domestic or household purposes.
5. Not utilize more than 25 percent of the total floor area of the living space of the dwelling. Areas within attached garages, unfinished basements and storage buildings shall not be considered living space for purposes of calculating allowable home business area but may be used for storage of goods associated with the limited home business.
6. Not show any evidence that a business is being conducted from the premises.
7. Not have any exterior signage that identifies the property as a business location.
8. Not allow clients or customers to visit the premises for any reason.
9. Not have any exterior storage of materials.
10. Each business must meet the requirement of Chapter 5.05 EMC, Business Licenses and Regulations.

G. Permit Revocation and Expiration.

1. The community development director or designee may revoke a home business permit if the conditions of approval have not been complied with and the home business is otherwise being conducted in a manner contrary to this title.
2. When a home business permit has been revoked due to violation of these standards, a minimum period of one year shall elapse before another application for a home business permit by the applicant(s) or member of the family residing on the subject property will be considered.
3. A home business permit shall become invalid if the applicant moves his or her residence.

H. An ongoing home business may be granted nonconforming status; provided, that it was permitted under Pierce County authority prior to Edgewood's incorporation and has been in continuous operation since initial approval. The burden of providing a home business' nonconforming status rests with the property owner or tenant. A home business without city or county approval, which cannot prove nonconforming status, shall be considered in violation of this section and shall cease until the appropriate approvals have been granted. (Ord. 20-579 § 7 (Exh. F); Ord. 15-448 § 2 (Exh. A); Ord. 10-351 § 4 (Exh. C); Ord. 03-203 § 1).

18.100.090 Manufactured homes on individual lots.

A manufactured home that is placed on an individual lot shall be considered a single-family detached dwelling. The manufactured home shall:

- A. Be placed on a permanent conventional foundation and set up in accordance with building code requirements;
- B. Be oriented on the lot so that the longest facade is parallel or predominately parallel to the public or private street;
- C. Be comprised of at least two fully enclosed parallel sections each not less than 12 feet wide by 36 feet long;
- D. Have exterior siding similar in appearance to siding material commonly used on conventionally built housing;
- E. Include either an attached or detached carport or garage;
- F. Include a finished porch or deck for each entrance door;
- G. A title elimination is required prior to building occupancy;
- H. Be a new manufactured home. (Ord. 05-252 § 3; Ord. 03-203 § 1).

18.100.100 Sexually oriented businesses.

A. The purpose of this section is to protect Edgewood's residents and corporate citizens from documented harmful secondary effects attributable to sexually oriented businesses as documented by the findings of a municipal task force organized to study these issues and the findings of other jurisdictions dealing with similar issues. The regulations included herein are intended to shield the community from crime, disease, and prostitution; to provide a quality environment for children in the community; to advance the goals and purposes of schools and religious organizations serving Edgewood; and to foster and preserve the family orientation of the city's residential neighborhoods.

B. This section shall apply to all sexually oriented businesses, as defined herein and as may be hereafter defined, located within the city of Edgewood.

C. Sexually oriented business uses are prohibited:

1. Within 330 feet of any property zoned for any residential use or of any property used for any single-family or multiple-family residential use;
2. Within 330 feet of any public or private elementary or secondary school property;
3. Within 330 feet of any child daycare center, child care service, nursery, preschool, or community youth center;
4. Within 330 feet of any church or other facility or institution used primarily for religious purposes;
5. Within 330 feet of any public park, open space or other place where children are likely to congregate;
6. Within 500 feet of any public or school bus stop; and
7. Within 1,000 feet of any other sexually oriented business use;
8. As used herein, the distances shall mean the straight-line distance between the edge or corner of the property on which the use is located to the nearest edge or corner of the property of another sexually oriented business use or any of the sensitive receptor areas set forth above.

D. Any business subject to the regulations of this section shall be required to obtain a conditional use permit, in conformance with EMC 18.50.040, Conditional use.

E. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

1. Any establishment where the business or activity of the facility includes the following:
 - a. Any exhibition, performance, dance or conduct of any type conducted in a premises where such exhibition, performance, or dance involves a person who is unclothed or in such costume, attire, or

clothing as to expose any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, or wearing any device or covering exposed to view which simulates the appearance of any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, or human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

b. Any exhibition, performance, dance or conduct of any type conducted in a premises where such exhibition, performance or dance is distinguished or characterized by a predominant emphasis on the depiction, description, simulation or relation to the following specified sexual activities:

i. Human genitals in a state of sexual stimulation or arousal; or

ii. Acts of human masturbation, sexual intercourse or sodomy; or

iii. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast; or

iv. Any exhibition, performance, dance or conduct which is intended to sexually stimulate any member of the public and which is conducted on a regular basis or as a substantial part of the activities in these premises. This includes, but is not limited to, any such exhibition, performance, dance or conduct performed for, arranged with or engaged in with fewer than all members of the public on the premises at that time, for which payment is made, either directly or indirectly, for such performance, exhibition, dance or conduct and which is commonly referred to as table dancing, couch dancing, taxi dancing, lap dancing, private dancing or straddle dancing, or similar types of performances, exhibitions, dances or conduct.

c. Provided, however, that for the purposes of this section, adult entertainment activities do not include the following: plays, operas, musicals, or other dramatic works that are not obscene; classes, seminars and lectures which are held for serious scientific or educational purposes and which are not obscene; or exhibitions, performances, expressions or dances that are not obscene.

d. Provided, further, that these exemptions shall not apply to the sexual conduct defined in Chapter 5.10 EMC, Business License, nor the sexual conduct described in RCW 7.48A.010(2)(b)(ii) and (iii).

2. Any goods, products, commodities, or other wares, including, but not limited to, videos, CD-ROMs, DVDs, magazines, books, pamphlets, posters, cards, periodicals or nonclothing novelties, which depict, describe or simulate specified anatomical areas or specified sexual activities.

3. A retail establishment which, for money or any other form of consideration, either:

a. Has, as a primary part of its business, the purpose or function of selling, exchanging, renting, loaning, trading, transferring, and/or providing for viewing or use, off the premises, any adult oriented merchandise; or

b. Provides for, as its substantial stock in trade, the sale, exchange, rental, loan, trade, transfer, and/or provide for viewing or use, off the premises, any adult-oriented merchandise.

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

Also, for the purposes of this section, a “substantial stock in trade” refers to, but is not limited to, instances where 20 percent or more of the revenue generated by the business is derived from the sale, exchange, rental, loan, trade,

transfer, and/or provision of adult-oriented merchandise; 20 percent or more of the inventory of the business is adult-oriented merchandise; or 20 percent or more of the customers of the business buy, exchange, rent, borrow, trade, transfer, and/or shop for adult-oriented merchandise in or from the business.

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

5. Those uses and zoning designations where children are likely to congregate, including property zoned for residential use or any single-family or multifamily residential use; public or private elementary or secondary schools; daycare facilities, nurseries, or preschools for children; churches or other facilities or institutions used primarily for religious purposes; and public parks or open spaces where children are likely to congregate.

6. A business that includes, as a primary part of its business, any one or more of the following as defined herein: “adult entertainment facility,” “adult-oriented merchandise,” “adult retail use,” and/or “panoram”; or a similar facility, merchandise, or entertainment.

7. Specified Anatomical Areas. Any of the following:

- a. Less than completely and opaquely covered human genitals, anus, pubic region, buttock, or female breast below a point immediately above the top of the areola; or
- b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

8. Specified Sexual Activities. Any of the following:

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

F. If any portion of this section is deemed to be in conflict or inconsistent with any other provisions of the Edgewood Municipal Code, including, but not limited to, other sections of this title, such other provisions shall be construed in conformity herewith; provided, that if such other provisions are not able to be so construed, the provisions of this section shall control, and such other provisions shall be deemed modified to conform herewith, for the purposes of this section only. (Ord. 20-579 § 7 (Exh. F); Ord. 03-203 § 1).

18.100.110 Wireless Communications facilities. See attached Ordinance No. 18-0526 Attachments A and B

18.100.120 Marijuana-related uses – Prohibited.

A. Definitions.

- 1. The definitions in RCW 69.51A.010 (relating to medical cannabis) are hereby adopted by reference.
- 2. The definitions in RCW 69.50.101 are hereby adopted by reference.
- 3. “Marijuana-related business” means any facility for the growing, production, processing, transportation, sale and/or delivery of marijuana or marijuana products in accordance with the provisions of Chapter 69.50 RCW. Without limitation of the foregoing, marijuana-related businesses specifically include marijuana producers, marijuana processors and marijuana retailers as defined by Chapter 69.50 RCW. “Cooperatives” as described in RCW 69.51A.250 are included in this definition of “marijuana-related businesses.”

4. “Illegal marijuana uses” means any growing, production, processing, transportation, sale and/or delivery of cannabis or marijuana or marijuana products under Chapters 69.50 and 69.51A RCW which is in violation of either state or federal law; provided, however, that nothing herein shall be construed as criminalizing the growing or manufacture of cannabis by a qualifying patient or designated provider in accordance with RCW 69.51A.040.

B. Prohibition. Cooperatives, marijuana-related businesses and illegal marijuana uses are prohibited in the following zoning districts:

1. All single-family, multifamily and mixed residential zones, including without limitation SF-2, SF-3, SF-5, MR-1, MR-2 and MUR;
2. All town center, commercial and business park zones, including without limitation TC, C, and BP;
3. All industrial zones, including without limitation I;
4. All public zones, including without limitation P; and
5. Any new zoning district established after October 28, 2014.

C. Additional Violations.

1. It is unlawful to own, establish, operate, use or permit the establishment or operation of a marijuana-related business, marijuana cooperative, or to produce, process, dispense, barter, sell or deliver medical or recreational marijuana, except as otherwise allowed in the definition of “illegal marijuana uses” in subsection (A)(4) of this section. This prohibition extends to producers, processors, retailers and collectives, even if the same are licensed by the state of Washington. This prohibition applies to any person who participates as an employee, contractor, agent or volunteer, or in any other manner or capacity, in any marijuana-related business or illegal marijuana use, regardless of whether he/she has a license from the state of Washington.
2. It is unlawful to perform any group marijuana cultivation activities, including cooperatives, anywhere in the city, regardless of whether such group cultivation or cooperatives are addressed in Chapter 69.51A RCW and allowed with a license from the state.
3. It is unlawful to lease, rent, or otherwise allow any site, whether located indoors, outdoors, in any building, premises, location or land in the city, for marijuana-related businesses or illegal marijuana uses, regardless of whether such activity has been licensed by the state of Washington.
4. The city shall not issue any business license for any marijuana-related business or illegal marijuana use. Any business license obtained through misrepresentation of the activities conducted by the individual business or use shall be invalid and of no force and effect.

D. No Vested or Nonconforming Rights. Neither this section nor any other city ordinance, city action, failure to act, statement, representation, certificate, license, approval or permit issued by the city or its departments, or their respective representatives, agents, employees, attorneys or assigns, shall create, confer, or convey any vested or nonconforming right or benefit regarding any marijuana-related business or illegal marijuana use, even if licensed by the state of Washington.

E. Penalty. Violations of this section shall be enforced as set forth in Chapter 18.85 EMC, or, as applicable, the Uniform Controlled Substances Act, Chapter 69.50 RCW. In addition to any other applicable remedy and/or penalty, any violation of this section is declared to be a public nuisance per se, and may be abated by the city attorney under applicable provisions of this code or state law, including but not limited to the provisions of Chapters 1.10, 8.05 and 18.85 EMC. (Ord. 20-579 § 7 (Exh. F); Ord. 20-572 § 9 (Exh. I); Ord. 17-502 § 1; Ord. 14-425 § 2).

Chapter 18.105

CONCURRENCY MANAGEMENT

Sections:

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18.105.050	Capacity evaluations required for certain rezones and comprehensive plan amendments.
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18.105.080	Effect of LOS standards.
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18.105.100	Application for capacity evaluation.
18.105.110	Submission and acceptance of a CRC application.
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18.105.150	Use of reserved capacity.
18.105.160	Transfer of reserved capacity.
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18.105.190	Expiration of CRC and extensions of time.
18.105.200	Appeals.
18.105.210	Purpose and procedure for administration.
18.105.220	Annual reporting and monitoring.
18.105.230	Road LOS monitoring and modeling.
18.105.240	Traffic impact analysis standardized format.

18.105.010 Purpose.

The purpose of this chapter is to implement the concurrency provisions of the transportation and utilities elements of the city's comprehensive plan, the water and sewer comprehensive plans, all in accordance with RCW 36.70A.070(6)(b), consistent with WAC 365-195-510 and 365-195-835. All applications that are not exempt (as defined herein) shall be processed under and shall comply with this chapter, which shall be cited as the city's "concurrency management ordinance." (Ord. 17-499 § 2).

18.105.020 Authority.

The director of public works or his/her designee shall be responsible for implementing and enforcing this concurrency management chapter. (Ord. 17-499 § 2).

18.105.030 Exempt development. See attached Ordinance No. 17-499, §2

18.105.040 Capacity evaluation required for a change in use.

Any nonexempt development activity shall require a capacity evaluation in accordance with this chapter.

A. Increased Impact on Road Facilities. If a change in use will have a greater impact on road facilities than the previous use, as determined by the director, based on review of information submitted by the applicant and such supplemental information as available, a CRC shall be required for the net increase only; provided, that the applicant shall provide reasonably sufficient evidence that the previous use has been actively maintained on the site during the five-year period prior to the date of application for the capacity evaluation.

B. Decreased Impact on Road Facilities. If a change in use will have an equal or lesser impact on road facilities than the previous use as determined by the director, based on review of information submitted by the applicant and supplemental information as available, a CRC will not be required.

C. No Capacity Credit. If no use existed on the site for the five-year period prior to the date of application, no capacity credit shall be issued pursuant to this section.

D. Demolition or Termination of Use. In the case of a demolition or termination of an existing use or structure, the capacity evaluation for future redevelopment shall be based upon the net increase of the impact on road facilities for the new or proposed land use, as compared to the land use existing prior to demolition; provided, that such credit is utilized through a CRC within five years of the date of the issuance of the demolition permit. (Ord. 17-499 § 2).

18.105.050 Capacity evaluations required for certain rezones and comprehensive plan amendments.

A capacity evaluation shall be required as part of any application for a comprehensive plan amendment or zoning map amendment (rezone) which, if approved, would increase the intensity or density of permitted development. As part of that capacity evaluation, the director shall determine whether capacity is available to serve both the extent and density of development which would result from the zoning/comprehensive plan amendment. The capacity evaluation shall be submitted as part of the staff report and shall be considered by the city in determining the appropriateness of the comprehensive plan or zoning amendment. (Ord. 17-499 § 2).

18.105.060 All capacity determinations exempt from project permit processing.

The processing of applications pursuant to the authority in this chapter shall be exempt from project permit processing procedures as described in Chapter 18.40 EMC, except that the appeal procedures of Chapter 18.40 EMC shall apply as indicated in this chapter. The city's processing of capacity determinations and resolving capacity disputes involves a different review procedure due to the necessity to perform continual monitoring of facility and service needs, to ensure continual funding of facility improvements, and to develop annual updates to the transportation and utilities elements of the comprehensive plan. (Ord. 17-499 § 2).

18.105.070 Level of service standards.

A. Generally. Level of service (LOS) is the established minimum capacity of public facilities or services that must be provided per unit of demand or other appropriate measure of need, as mandated by Chapter 36.70A RCW. LOS standards shall be used to determine if public facilities or services are adequate to support a development's impact. The concept of concurrency is based on the maintenance of specified levels of service through capacity monitoring, allocation and reservation procedures. Concurrency describes the situation in which road facilities are available when the impacts of development occur. For road facilities, this time period is statutorily established as within six years from the time of development. (See RCW 36.70A.070(6)(b) and WAC 365-195-210.)

1. Roads. The city has designated levels of service for road facilities in the transportation element of the city's comprehensive plan:

- a. To conform to RCW 47.80.030 for transportation facilities subject to regional transportation plans;
- b. To reflect realistic expectations consistent with the achievement of growth aims;
- c. For road facilities according to WAC 365-195-325; and
- d. To prohibit development if concurrency for road facilities is not achieved (RCW 36.70A.070), and if sufficient public and/or private funding cannot be found, land use assumptions in the city's comprehensive plan will be reassessed to ensure that level of service standards will be met, or level of service standards will be adjusted. (Ord. 17-499 § 2).

18.105.080 Effect of LOS standards.

A. Roads. The director shall use the LOS standards set forth in the transportation element of the city's comprehensive plan to make concurrency evaluations as part of the review of any application for a transportation concurrency reservation certificate (CRC) issued pursuant to this chapter. (Ord. 17-499 § 2).

18.105.090 Capacity evaluations required prior to issuance of CRC.

A. A capacity evaluation for transportation shall be required for any of the nonexempt activities identified in EMC 18.105.030.

B. The director shall utilize the requirements in EMC 18.105.070 through 18.105.080 to conduct a capacity evaluation prior to issuance of a CRC. In addition to the requirements set forth in these sections, the director may also utilize state law or the Washington Administrative Code, or such other rules regarding concurrency, which may be established from time to time by administrative rule. In cases where LOS standards do not apply, the director shall have the authority to utilize other factors in preparing capacity evaluations to include, but not be limited to, independent LOS analysis.

C. A capacity reservation certificate (CRC) will not be issued except after a capacity evaluation performed pursuant to this chapter, indicating that capacity is available in all applicable city road facilities. (Ord. 17-499 § 2).

18.105.100 Application for capacity evaluation.

A. An application for a CRC and the application for the underlying development permit, or other activity, shall be accompanied by the requisite fee, as determined by city council resolution. An applicant for the CRC shall submit the following information to the director, on a form provided by the director, together with the underlying development application:

1. Date of submittal;
2. Developer's name, address, telephone number and email;
3. Legal description of property as required by the underlying development permit application, together with an exhibit showing a map of the property;
4. Proposed use(s) by land use category, square feet and number of units;
5. Phasing information by proposed uses, square feet and number of units, if applicable;
6. Existing use of property;
7. Acreage of property;
8. Proposed site design information, if applicable;
9. The applicant's proposed mitigation (if any) for the impact on the city's transportation facilities;
10. Written consent of the property owner, if different from the developer;
11. Proposed request of capacity by legal description, if applicable;
12. Stormwater drainage report prepared by a licensed professional engineer.

B. Additional Information for Transportation Capacity Evaluations Only.

1. A preliminary site plan, which is a plan showing the approximate layout of proposed structures and other development, type and number of dwelling units, type and number of nonresidential building areas with gross square footage, the land use codes per the most recent edition of Trip Generation from the Institute of Transportation Engineers (ITE) and an analysis of the points of access to existing and proposed roadways;
2. The applicant is not required to submit a traffic impact analysis from an independent traffic engineer. Instead, those applicants with a transportation CRC application that are required to have the city provide a traffic report in accordance with EMC 18.105.090 shall instead pay to the city a deposit equal to the estimated fee for the city's preparation of a traffic report. The amount of the fee shall be determined by city resolution and paid at the time the transportation CRC application is submitted. The fee shall vary based on the number of new p.m. peak-hour trips produced by the development. The applicant shall be subject to repayment of fees for any subsequent revisions to the original traffic report. Fees for revisions may be calculated in proportion to the original fee depending on the effort involved to revise the traffic report. Even if the traffic report is based on an estimate of the impact, the applicant will still be bound by the estimate of the impact, and any upward deviation from the estimated traffic impact shall require at least one of the following: (a) a finding that the additional

concurrency sought by the developer through a revised application is available to be reserved by the project; (b) mitigation of the additional impact under SEPA; (c) revocation of the CRC. (Ord. 17-499 § 2).

18.105.110 Submission and acceptance of a CRC application.

A. Notice of Application. Issuance of a notice of application for the underlying permit application shall be handled by the planning director or designee, following the process in Chapter 18.40 EMC. The notice of application required by Chapter 18.40 EMC shall state that an application for a concurrency determination has been received by the city.

B. Determination of Completeness. The planning director shall immediately forward all CRC applications received with development applications to the public works/engineering staff. Within 28 days after receiving an application for a CRC, the public works/engineering staff shall mail or personally deliver to the applicant a determination which states either:

1. That the concurrency application is complete; or
2. That the concurrency application is incomplete and what is necessary to make the application complete.

C. Additional Information. An application for a CRC is complete for purposes of initial processing when it meets the submission requirements in EMC 18.105.100. The determination of completeness shall be made when the application is sufficiently complete for review, even though additional information may be required or project modifications may be undertaken subsequently. The director's determination of completeness shall not preclude the director's ability to request additional information or studies.

D. Incomplete Applications.

1. Whenever the city issues a determination that the CRC is not complete, the CRC application shall be handled in the same manner as a project permit application under Chapter 18.40 EMC.
2. Date of Acceptance of Application. An application for a CRC shall not be officially accepted or processed until it is complete and the underlying development application has been determined complete. When an application is determined complete, the director shall accept it and note the date of acceptance. (Ord. 17-499 § 2).

18.105.120 Method of capacity evaluation.

A. Generally. In order to determine concurrency for the purposes of issuance of a transportation CRC, the director shall make the determination described in subsections (B) and (C) of this section. The director may deem the development concurrent with transportation facilities, with the condition that the necessary facilities or services shall be available through a financial commitment in an enforceable development agreement (see Chapter 18.55 EMC). In no event shall the director determine concurrency for a greater amount of capacity than is needed for the development proposed in the underlying application.

B. Transportation.

1. Upon submission and acceptance of a complete transportation CRC application, the director shall conduct a traffic impact analysis and issue a traffic report for those applications meeting the requirements of EMC 18.105.110(B)(1).
2. In performing the concurrency evaluation for transportation facilities, and to prepare the transportation CRC, the director shall determine, based on the conclusions of the traffic report, whether a proposed development can be accommodated within the existing or planned capacity of transportation facilities. This shall involve the following:
 - a. A determination of anticipated total capacity at the time the proposed impacts of development occur or within six years of such time;
 - b. Calculation of how much of that capacity will be used by existing developments and other planned developments at the time the impacts of the proposed development occur;

- c. Calculation of the available capacity for the proposed development;
- d. Calculation of the impact on the capacity of the proposed development, minus the effects of any mitigation identified by the applicant to be provided by the applicant at the applicant's cost;
- e. Comparison of available capacity with proposed development impacts.

3. The director shall determine if the capacity of the city's transportation facilities, less the capacity which is reserved, can be provided while meeting the level of service performance standards set forth in the city's comprehensive plan, and if so, shall provide the applicant with a transportation CRC. The director's determination will be based on the application materials provided by the applicant, which must include the applicant's proposed mitigation for the impact on the city's transportation facilities.

C. Lack of Concurrence.

1. Transportation. If the director determines that the proposed development will cause the LOS of a city-owned transportation facility to decline below the standards adopted in the transportation element of the city's comprehensive plan, and improvements or strategies to accommodate the impacts of development are not planned to be made concurrent with development, a transportation CRC and the underlying development permit, if such an application has been made, shall be denied. Upon denial, the applicant may perform one of the following:

- a. Appeal the findings of the traffic report in accordance with Chapter 18.40 EMC; or
- b. Offer alternative data and/or perform an independent traffic impact analysis at the applicant's sole expense in support of alternative conclusions. Any study shall be in accordance with EMC 18.105.090; or
- c. Modify the development proposal to lessen the traffic impacts and/or identify voluntary transportation improvements as mitigation to be provided by the applicant at the applicant's cost and reapply for capacity review. Reapplication shall require repayment of the traffic report preparation fee in accordance with EMC 18.105.100(B)(2); or
- d. Withdraw the CRC application. (Ord. 17-499 § 2).

18.105.130 Purpose of capacity reservation certificate.

A. A transportation CRC is a determination by the director that: (1) the proposed development identified in the CRC application does not cause the level of service on a city-owned transportation facility to decline below the standards adopted in the transportation element of the city's comprehensive plan; or (2) that a financial commitment (embodied in a development agreement) is in place to complete the necessary improvements or strategies within six years. Upon issuance of a transportation CRC, the director will reserve transportation facility capacity for this application until the expiration of the underlying development permit or as otherwise provided in Chapter 18.40 EMC. Although the CRC may identify the number of projected trips associated with the proposed development, nothing in this chapter (including the trip transfer procedures) shall imply that the applicant "owns" or has any ownership interest in the projected trips. (Ord. 17-499 § 2).

18.105.140 Procedure for capacity reservation certificates.

After receipt of a complete application for a CRC, the director shall process the application in accordance with this chapter and issue the CRC or a denial letter. (Ord. 17-499 § 2).

18.105.150 Use of reserved capacity.

When a CRC and a development permit issue for a project, the CRC shall continue to reserve the capacity unless the development permit lapses or expires without issuance of a certificate of occupancy. (Ord. 17-499 § 2).

18.105.160 Transfer of reserved capacity.

Reserved capacity shall not be sold or transferred to property not included in the legal description provided by the applicant in the CRC application. The applicant may, as part of a development permit application, designate the amount of capacity to be allocated to portions of the property, such as lots, blocks, parcels or tracts included in the application. Capacity may be reassigned or allocated within the boundaries of the original reservation certificate by

application to the director. At no time may capacity or any certificate be sold or transferred to another party or entity to real property not described in the original application. (Ord. 17-499 § 2).

18.105.170 Denial letter.

If the director determines that there is a lack of concurrency under the above provisions, the director shall issue a denial letter, which shall advise the applicant that capacity is not available. If the applicant is not the property owner, the denial letter shall also be sent to the property owner. At a minimum, the denial letter shall identify the application and include the following information:

A. For Roads.

1. An estimate of the level of the deficiency on the transportation facilities; and
2. The options available to the applicant such as the applicant's agreement to construct the necessary facilities at the applicant's cost.

B. For All. A statement that the denial letter may be appealed if the appeal is submitted to the city engineer within 10 days after issuance of the denial letter, and that the appeal must conform to the requirements in Chapter 18.40 EMC. Any appeal of a denial letter must be filed according to this section, prior to issuance of the city's decision on the underlying development application. If an appeal is filed, processing of the underlying development application shall be stayed until the final decision on the appeal of the denial letter. (Ord. 17-499 § 2).

18.105.180 Notice of concurrency determination.

A. Notice of the concurrency determination shall be given to the public together with, and in the same manner as, that provided for the SEPA threshold determination for the underlying development permit, unless the project is exempt from SEPA, in which case notice shall be given in the same manner as a final decision on the underlying development permit without any accompanying threshold determination. In the case of an approved CRC, any mitigation identified by the applicant to be provided by the applicant at the applicant's cost shall be included in the SEPA threshold determination or underlying permit decision (if categorically exempt from SEPA).

B. If a denial letter is not timely appealed, the underlying permit application will be processed and, in most instances, will result in a denial. If a denial letter is appealed, any mitigation or conditions included in the appeal decision shall be included in the SEPA threshold decision or underlying permit decision (if categorically exempt from SEPA). (Ord. 17-499 § 2).

18.105.190 Expiration of CRC and extensions of time.

A. Expiration. If a certificate of occupancy has not been requested prior to the expiration of the underlying permit or termination of the associated development agreement, the director shall convert the reserved capacity to available capacity for the use of other developments. The act of requesting a certificate of occupancy before expiration of the CRC shall only convert the reserved capacity to used capacity if the building inspector finds that the project actually conforms with applicable codes. If a complete underlying project permit application is expired as provided for in Chapter 18.40 EMC, the director shall convert any reserved capacity allocated to the underlying project permit for use by other developments.

B. Extensions for Road Facilities. The city shall assume that the developer requests an extension of transportation capacity reservation when the developer is requesting a renewal of the underlying development permit. No unused capacity may be carried forward beyond the duration of the transportation CRC or any subsequent extension.

C. If a CRC has been granted for a rezone or comprehensive plan amendment, the CRC shall expire when the development agreement for the comprehensive plan or rezone terminates. If there is no associated development agreement, the CRC shall expire within five years after the CRC approval anniversary date. (Ord. 17-499 § 2).

18.105.200 Appeals.

Upon receipt of an appeal of the denial letter, the director shall handle the appeal as follows:

A. A meeting shall be scheduled with the applicant to review the denial letter and the application materials, together with the appeal statement.

B. Within 14 days after the meeting, the director shall issue a written appeal decision, which will list all of the materials considered in making the decision. The appeal decision shall either affirm or reverse the denial letter. If the denial letter is reversed, the director shall identify the mitigation that the applicant proposes to provide at the applicant's cost, which will be imposed on the application approval in order to achieve concurrency.

C. The mitigation identified in the appeal decision shall be incorporated into the city's SEPA threshold decision on the application.

D. The appeal decision shall state that it may be appealed with any appeal of the underlying application or activity, pursuant to Chapter 18.40 EMC. (Ord. 17-499 § 2).

18.105.210 Purpose and procedure for administration.

A. "Capacity" refers to the ability or availability of water in the city's water system. "Capacity" refers to the ability to treat effluent in the city's wastewater treatment plant to the levels and volume limits in the city's NPDES permit. "Capacity" also refers to the ability or availability of road facilities to accommodate users, expressed in an approximate unit of measure, such as LOS for road facilities. "Available capacity" represents a specific amount of capacity that may be reserved by or committed to future users of the city's road facilities.

B. There are two capacity accounts to be utilized by the director in the implementation of this chapter for water, sewer and transportation. These accounts are:

1. The available capacity account; and
2. The reserved capacity account.

Capacity is withdrawn from the available capacity account and deposited into a reserved capacity account when a CRC is issued. Once the proposed development is constructed and an occupancy certificate is issued, the capacity is considered "used." Each capacity account of available or reserved capacity will experience withdrawals on a regular basis. Only the director may transfer capacity between accounts. (Ord. 17-499 § 2).

18.105.220 Annual reporting and monitoring.

A. The director is responsible for completion of annual transportation capacity availability reports. These reports shall evaluate reserved capacity and permitted development activity for the previous 12-month period, and determine existing conditions with regard to available capacity for roads. The evaluations shall report on capacity used for the previous period and capacity available for the six-year capital facilities of the city's comprehensive plan, six-year transportation plan for road facilities, based on LOS standards. Forecasts shall be based on the most recently updated schedule of capital improvements, growth projections, public road facility inventories, and revenue projections, and shall, at a minimum, include:

1. A summary of development activity;
2. The status of each capacity account;
3. The six-year transportation plan;
4. Actual capacity of selected street segments and intersections and current LOS;
5. Recommendations on amendments to CIP and annual budget, to LOS standards, or other amendments to the transportation element of or to the comprehensive plan.

B. The findings of the annual capacity availability report shall be considered by the council in preparing the annual update to the capital improvement element, any proposed amendments to the CIP and six-year TIP, and shall be used in the review of development permits and capacity evaluations during the next period.

C. Based upon the analysis included in the annual capacity availability reports, the director shall recommend to the city council each year any necessary amendments to the CIP, TIP and comprehensive plan. The director shall also report on the status of all capacity accounts when public hearings for comprehensive plan amendments are heard. (Ord. 17-499 § 2).

18.105.230 Road LOS monitoring and modeling.

A. The city shall monitor level of service standards through an annual update of the six-year transportation plan which will add data reflecting development permits issued and trip allocations reserved.

B. A new trip allocation shall be assigned for each traffic analysis zone, based on the results from the traffic demand model used by the city, to ensure that the city is achieving the adopted LOS standards described in this chapter and the transportation element of the comprehensive plan.

C. Amendments to the trip allocation program that exceed the total aggregate annual trip allocation per zone for any given year shall require an amendment to the comprehensive plan. Monitoring and modeling shall be required and must include anticipated capital improvements, growth projections, and all reserved and available capacity. (Ord. 17-499 § 2).

18.105.240 Traffic impact analysis standardized format.

Incorporated herein by this reference are the standardized Traffic Impact Analysis Guidelines, originally dated March 2012 or subsequently updated, of the required format for any submitted developer's independent traffic impact analysis. The traffic impact analysis may be completed at the time of submittal of the original application or upon denial of a transportation CRC application. (Ord. 17-499 § 2).

Exhibit E

Phasing Plan, 20-1347 Dhaliwal TC Landing

Exhibit F

Public Benefit Improvement, 20-1347 Dhaliwal TC Landing

MITIGATION PLAN
for
Unavoidable Project Wetland Impacts

NORTHWOOD ACCESS EASEMENT

Dhaliwal TC Landing LLC & Alpine Landing LLC

RAI Project # 2018-097-119
City File #20-1348

Pierce County Parcel No.
0420091014

Adjacent East of 9917 24th St. E
City of Edgewood, Washington

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REV 2
February 2, 2022

EXECUTIVE SUMMARY

The Northwood Easement Project Site, 9917 24th Street East and adjacent east Right of Way is located generally north of 24th Street East, in the City of Edgewood, Washington. The project site is one parcel approximately 38,453 sq. ft.(0.88 acre) and an undeveloped Right of Way adjacent east. The site is bounded on the north and east by commercial development, west by an elementary school, and south by residential development. The site contains a sanitary sewer transport pipeline.

As part of the site planning process an assessment of the project site was completed following the procedures outlined in the *Washington State Wetlands Identification and Delineation Manual* (Wash. Manual) and the *Corps of Engineers Wetland Delineation Manual* (2010 Supplement). Drainage corridors were also assessed in accordance with the criteria established by the City of Edgewood and the State of Washington Department of Natural Resources (WDNR) Forest Practice Rules (WAC 222-16-030). These assessment activities resulted in the identification of one wetland area (See *Wetland and Drainage Corridor Evaluation and Delineation Report and Conceptual Wetland and Buffer Mitigation Plan*, Northwood Easement, BCES, April 4, 2021). The site is totally encumbered by regulated wetlands and their buffers.

The selected site development action for this project site is the improvement of the existing Right of Way to support the multi-family residential complex to the north. This improvement is required by City of Edgewood consistent with the City of Edgewood comprehensive plan and local land use zoning. Through site planning the project team has been able to design the road improvement to minimize impacting the identified onsite wetlands. However, to obtain use of the Right of Way, the Cat. 3 Wetland on the site must be reduced by 5,294 sq. ft. To mitigate for the encroachment into the wetland and standard buffer, the reduced buffer area will be revegetated with native trees and shrubs and an additional wetland area of 2,088 sq ft. will be created.

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STANDARD OF CARE

Prior to extensive site planning, this document should be reviewed and the wetland boundaries verified by the appropriate resource and permitting agencies. Wetland boundaries, wetland classifications, wetland ratings, proposed buffers, and proposed compensatory mitigation should be reviewed and approved by City of Edgewood Planning dept. personnel and potentially other resource agency staff. BCES has provided professional services that are in accordance with the degree of care and skill generally accepted in the nature of the work accomplished. No other warranties are expressed or implied. BCES is not responsible for design costs incurred before this document is approved by the appropriate resource and permitting agencies.

Mark Heckert
Beaver Creek Environmental Services [BCES]

INTRODUCTION

This report details activities to mitigate for unavoidable impacts to regulated City of Edgewood environmentally Critical Areas as an initial element of the site planning process for the NORTHWOOD EASEMENT project (Parcel # 0420091014 and Right of Way (RoW) adjacent East). The project site is one parcel, approximately 38,453 sq. ft. and an unimproved RoW adjacent east of the parcel. The site is bounded on the north and east by commercial development, west by an elementary school, and south by residential development. The site contains a sanitary sewer transport pipeline.

STUDY PURPOSE

This purpose of this document is to present the plan for mitigation of unavoidable impacts to the regulated wetland and buffer within the RoW site. This study was designed to accommodate site planning and potential regulatory actions. This report is suitable for submittal to federal, state, and local authorities for wetland boundary verification and permitting actions.

SITE DESCRIPTION

The site is irregular, approximately 0.88 ac., sloping to the south throughout, and located within an urbanizing area of the City of Edgewood.

Movement of surface water runoff across the site is generally to the south to the stream (Simmons Cr.) which coalesces south of 24th Street East.

MITIGATION PLAN

The selected site development action for the Northwood Easement is the development of an improved RoW to serve the multi-family development to the north consistent with the City of Edgewood comprehensive plan and local land use zoning. The development of this RoW will include the improvement of the road surface and required roadway amenities. Through site planning the project team has been able to design the roadway associated utilities to minimize adversely impacting the identified onsite wetland and buffer. The wetland must be reduced by 5,294 sqft. And the standard buffer of the wetland must be reduced by 21,890 sqft. to obtain access to the multi-family development to the north.

Mitigation Sequencing:

Site planning for impact mitigation follows the required mitigation sequencing protocol of Avoidance, Minimization, Mitigation.

Avoidance: The improvement of the right-of-way is required to provide access to the development to the north. It is the only access site existing. The roadway must follow the existing dedicated right-of-way.

Minimization: The site to the west is a middle school and will not allow access across their property for safety. The footprint of the right-of-way is dimensioned according to Transportation regulations and may not be reduced.

Mitigation: Impacts which cannot be avoided or minimized are enumerated according to City of Edgewood regulations (Att. 1b). The proposed development is the minimum required to achieve reasonable use of the site. The development is situated as far from the wetland as practicable.

Through this compensatory mitigation the development would **not** result in a “net loss” of regulated wetland area, function, or value consistent with City of Edgewood Zoning Code.

Due to site constraints and the imperative of the access, the wetland must be reduced by 5,294 sq. ft. The buffer must be reduced by 21,890 sq. ft. for this impact. This adjacent site also carries a 7,447 sq. ft. buffer impact from the 2009 development of transiting a sewer main across the site. Together, these buffer impacts total 29,337 sq. ft..

Proposed mitigation for the permanent alteration of the buffer of Wetland ABC will focus on enhancing the remaining onsite buffer.

This easement is essential for access to the Northwoods development. The easement cannot be relocated or altered in configuration. As a consequence, the development will result in unavoidable fill of regulated wetland and buffer.

Impact Area Analysis – (in sq. ft.)

Area	Development Impact	Mitigation required?	Mitigation ratio	Mitigation Sq. Ft.
Buffer –	21,890	YES	1:1	21,890
Buffer Impact from Sewer Pipe Placement - 2009	7,447	YES	1:1	7,447
TOTAL BUFFER IMPACT		YES	1:1	29,337
		YES		
Wetland	5,294 Cat. 3	YES	Creation or Reestablishment 2:1	10,588
			Rehabilitation 4:1	21,176
			Enhancement 8:1	42,352
TOTAL	35,261			

After Right-of-Way improvement, the remaining wetland area on the site is 36,066 sq. ft.

The entire wetland and buffer area has been intensively manipulated in the past 10-20 years. The site was farmed until ca. 2000. The construction of the sewer line constricted the wetland and buffer. Siting of the sewer line has allowed the site to revegetate, which has resulted in different seral stages occurring through the wetland. Even in areas of canopy closure, there are areas of exotic invasive vegetation. The

entire wetland is degraded by previous development, and dominated by reed canarygrass through a majority of the site.

Wetland enhancement will include installation of trees and shrubs opportunistically through the entire wetland. Areas of overstory closure will be enhanced thorough understory planting and removal of exotic vegetation. The entire wetland will derive functional lift from enhancement.

Enhancement sq. ft. needed for mitigation is 42,352 sq. ft.. Wetland enhancement will account for 36,066 sq. ft. needed wetland mitigation leaving a deficit of 786 sq. ft. Wetland creation of 2:1 ratio necessitates 2,088 sq. ft. of wetland creation to mitigate the deficit.

City of Edgewood Table 14.40.060

Wetland Mitigation Ratios

Category and Type of Wetland	Creation or Reestablishm	Rehabilitation	Enhancement
Category I: High conservation value/b	Not considered possible	Not considered possible	Not considered possible
Category I: Mature and old growth for	6:1	12:1	24:1
Category I: Based on functions	4:1	8:1	16:1
Category II	3:1	6:1	12:1
Category III	2:1	4:1	8:1
Category IV	1.5:1	3:1	6:1

The east branch of the wetland passes through the right-of-way and continues on the site to east. To maintain connectivity with the wetland west of the right-of-way, a box culvert 28 in. wide and 20 in. high will be installed where the wetland crosses the right-of-way.

Fencing: A fence will be installed at the southern reduced buffer boundary of the wetland and stream. City of Edgewood wetland buffer boundary will be attached on every third post. No further activity will occur within the fenced area once enhancement planting is complete.

The existing wetland in the interior of the site has been degraded by prior filling and clearing of vegetation.

Potential impacts to habitat from the development are:

1). **Short-term construction disruption.** This impact will be mitigated thru the placement of silt fence barriers in every area which may flow into the wetland and stream (see Northwood Easement Site Civil Plans, erosion control Plan) and oversight by the project biologist during construction. The project biologist will observe and consult with construction crews during construction to ensure compliance with best management practices during the excavation of the buffer area.

2). **Long-term impacts from development:**

- a). Permanent loss of habitat area. There will be no functional loss of habitat area. The present wetland and buffer in the mitigation area is poor functional. Functional buffer area will increase as a result of installation of trees.
- b). Loss of habitat utility due to light and noise from the development and increased visitation by people. Lighting of the developed area will increase “spill-over” of light to the mitigated buffer and wetland. All lighting will be directed away from the mitigation area. A boundary planting of shrubs will be placed within the retained buffer to provide light and auditory shading. The boundary fence will be a 2-post cedar fence to inhibit intrusion by people.

MITIGATION FUNCTIONAL COMPARISON

ENVIRONMENTAL FUNCTION	EXISTING	PROPOSED
Hydrological Support Function	Low	Moderate
Stormwater Storage Function	High	High
Floodwater Storage Function	High	High
Water Quality Function	Moderate	High
Groundwater Recharge Function	Moderate	Moderate
Natural Biological Functions	Moderate	High
Education and Recreational Opportunities	Low	Moderate
Threatened and Endangered Species	Moderate	High

(after Adamus et al. 1987; Reppert et al. 1979)

MITIGATION PLAN ELEMENTS– WETLAND

The proposed mitigation for the wetland impact of 5,294 sq. ft. will be (Att. 1b):

- 36,066 sq. ft. of wetland enhancement = 6.8:1 mitigation ratio [4,508 sq ft less than needed]
 - 5,294 sq. ft. minus 4,508 sq. ft. = 786 sq. ft. remaining wetland impact to be mitigated @ 2:1 ratio.
 - 2,088 sq. ft. sq. ft. of wetland creation adjacent to existing Wetland = 2.7:1 ratio.
1. As mitigation for the unavoidable impact to 5,294 sq. ft. of City of Edgewood regulated Category 3 Wetland at the center of the project site, the remaining wetland of 36,066 sqft. will be enhanced with native trees and shrubs. The wetland area to be enhanced is presently dominated by reed canarygrass. The wetland areas to be enhanced will be cleared of exotic species and planted with native shrubs around existing vegetation. Supportive hydrology will continue to be provided by the existing flow.
 2. As mitigation for the unavoidable impact to 5,294 sq. ft. of City of Edgewood regulated Category 3 Wetland, 2,088 sqft wetland will be created adjacent to existing wetland and planted with native trees, shrubs, and emergents. The creation site will be

excavated to 1 ft. below OHWM mark, and benchmarked by adjacent wetland elevation.

3. The creation area will be backfilled with organic topsoil from an approved source to ½ ft. below the OHWM.
4. The buffer enhancement and creation areas will be replanted with native trees, shrubs, and emergents.
5. Reed Canarygrass and other exotic invasives will be removed by hand pulling and raking. Herbicide use contingent on removal success.
6. Pulled and cleared areas will be hydroseeded with wetland emergents.

MITIGATION PLAN ELEMENTS- BUFFER

The proposed mitigation for 29,337 sq. ft. of buffer impact will be (Att. 1a):

- 49,488 sq. ft. of buffer enhancement contiguous with the existing wetland = 1.7:1 mitigation ratio
1. As mitigation for the unavoidable impact to 29,337 sq. ft. of City of Edgewood regulated Category 3 Wetland buffer, an area of 49,488 sqft of the remaining buffer will be enhanced with native trees and shrubs. The buffer area to be enhanced is presently dominated by reed canarygrass and Himalayan blackberry. The buffer areas to be enhanced will be cleared of exotic species and planted with native trees and shrubs around existing vegetation. Supportive hydrology will continue to be provided by the existing flow.
 2. Reed Canarygrass and other exotic invasives will be removed by hand pulling and raking. Herbicide use contingent on removal success.
 3. Pulled and cleared areas will be hydroseeded with buffer emergents.

MITIGATION PLAN ELEMENTS - COMMON

1. All onsite activities will be monitored by the project biologist. Following the completion of onsite planting activities a "record-drawing" plan will be prepared and submitted to City of Edgewood. A **five-year** monitoring program will be undertaken to assure the success of the buffer enhancement program. A series of financial guarantees will also be implemented to assure that the proposed work is completed and is successful.
2. The outer boundaries of the established buffer tract would be marked with standard City of Edgewood buffer boundary signs. The buffer boundaries will be fenced to limit human intrusions between the upland boundary of the remaining buffer and the developed portion of the site. In addition, the project team will remove the trash, debris, and invasive shrubs within the retained wetland and buffer areas.

3. Wetland and buffer vegetation cleared or otherwise damaged during the installation of the mitigation plan shall be revegetated with appropriate native plants installed at an appropriate density to restore the damaged condition. These plants shall be subject to the same performance standards indicated in the mitigation plan.

GOAL AND OBJECTIVE OF THE MITIGATION PLAN

The **GOAL** of the Mitigation Plan is to fully compensate for the unavoidable adverse impact to regulated wetland and buffer areas. Upon the completion of this mitigation plan there will be no net loss of wetland acreage, functions, or values; and an increase in the potential for the buffer to protect aquatic habitats.

To achieve the defined **GOAL**, the following **OBJECTIVES and PERFORMANCE CRITERIA** have been established to apply to the compensatory mitigation wetland area.:

Objective A. The enhanced wetland area will total 36,066 sq. ft. and be located in present configuration. The enhanced wetland will be hydrologically connected to the adjacent City of Edgewood Category III wetland. The enhanced wetland area will exhibit a tree vegetation class within five years following initial planting.

Performance Criterion #A1: As defined by plant counts 100% of the trees and shrubs installed as a part of the initial planting phase will be alive at the end of the first growing season.

Performance Criterion #A2: As defined by plant counts 80% of the shrubs installed as a part of the initial planting phase will be alive at the end of the fifth growing season.

Performance Criterion #A3: As defined by aerial cover, invasives will cover less than 10% of the planting area in any one year.

Objective B. The created wetland of 2,088 sqft. will be located adjacent to the existing wetland. The created wetland will be hydrologically connected to the City of Edgewood Category III wetland. The created wetland area will exhibit a tree vegetation class within five years following initial planting.

Performance Criterion #B1: As defined by plant counts 100% of the trees and shrubs installed as a part of the initial planting phase will be alive at the end of the first growing season.

Performance Criterion #B2: As defined by plant counts 80% of the trees and shrubs installed as a part of the initial planting phase will be alive at the end of the fifth growing season.

Performance Criterion #B3: As defined by aerial cover, invasives will cover less than 10% of the planting area in any one year.

Objective C. The enhanced buffer area will total 49,488 sq. ft. and be located adjacent to the site wetland. The enhanced buffer will be hydrologically connected to the adjacent City of Edgewood Category III wetland. The enhanced buffer area will exhibit a tree and shrub vegetation class within five years following initial planting.

Performance Criterion #C1: As defined by plant counts 100% of the trees and shrubs installed as a part of the initial planting phase will be alive at the end of the first growing season.

Performance Criterion #C2: As defined by plant counts 80% of the shrubs installed as a part of the initial planting phase will be alive at the end of the fifth growing season.

Performance Criterion #C3: As defined by aerial cover, invasives will cover less than 10% of the planting area in any one year.

SELECTED PLANT COMMUNITIES

The plant communities and plants selected for the created wetland and buffer areas will be obtained as nursery stock. These selected species are native and commonly occur in the local area. The plant species prescribed are selected to increase plant diversity, match present onsite communities, increase wildlife habitats, and enhance the aquatic environment. Plantings will be located as depicted on the attached Northwood Easement Mitigation Plan drawing.

WETLAND MITIGATION PLANTING AREA A:

Retained Wetland Enhancement – Mature tree cover

7,651 sq. ft.

No planting.

Exotic Invasive vegetation to be hand removed.

WETLAND MITIGATION PLANTING AREA B:

Retained Wetland Enhancement – 100% Reed canarygrass

All vegetation to be removed by grubbing and herbicide

6,029 sq. ft. @ 0.012/sq. ft. = 72 trees

To be planted opportunistically among existing vegetation

	COMMON NAME SCIENTIFIC NAME	LOCATION	PROPOSED SPACING (oc)	PROPOSED SIZE	INDICATOR STATUS
11	Western red cedar (THP) <i>Thuja plicata</i>	Wetland	9 ft	4 ft height minimum	FAC
11	Sitka spruce (PIS) <i>Picea sitchensis</i>	Wetland	9 ft	4 ft height minimum	FAC
11	Western Paper Birch (BEP) <i>Betula papyrifera</i>	Wetland	9 ft	4 ft height minimum	FAC
11	Pacific willow (SAL) <i>Salix lasiandra</i>	Wetland	9 ft	4 ft height minimum	FACW
11	Cascara (RAP) <i>Rhamnus purshiana</i>	Wetland	9 ft	4 ft height minimum	FAC
11	Western (black) Hawthorne (CRD) <i>Crataegus douglasii</i>	Wetland	9 ft	4 ft height minimum	FAC
11	Oregon ash (FRL) <i>Fraxinus latifolia</i>	Wetland	9 ft	4 ft height minimum	FACW

6,029 sq. ft. @ 0.028/sq. ft. = 169 shrubs

	COMMON NAME SCIENTIFIC NAME	LOCATION	PROPOSED SPACING (oc)	PROPOSED SIZE	INDICATOR STATUS
16	Western crabapple (MAF) <i>Malus fusca</i>	Wetland	6 ft	2 gal	FACW
16	Vine maple (ACC) <i>Acer circinatum</i>	Wetland	6 ft	2 gal	FAC
16	Nootka rose (RON) <i>Rosa nutkana</i>	Wetland	6 ft	2 gal	FAC
16	Black twinberry (LOI) <i>Lonicera involucrata</i>	Wetland	6 ft	2 gal	FAC
16	Pacific ninebark (PHC) <i>Physocarpus capitatus</i>	Wetland	6 ft	2 gal	FACW
16	Western Labrador-Tea (RHC) <i>Rhododendron columbianum</i>	Wetland	6 ft	2 gal	OBL
16	Red-osier dogwood (COS) <i>Cornus stolonifera</i>	Wetland	6 ft	2 gal	FACW
16	Wild Gooseberry (RID) <i>Ribes divaricatum</i>	Wetland	6 ft	2 gal	FAC

16	Prickly currant (RIL) <i>Ribes lacustre</i>	Wetland	6 ft	2 gal	FAC
16	Black currant (RIB) <i>Ribes bracteosum</i>	Wetland	6 ft	2 gal	FAC
16	Salmonberry (RUS) <i>Rubus spectabilis</i>	Wetland	6 ft	2 gal	FAC

WETLAND MITIGATION PLANTING AREA: C

Retained Wetland Enhancement – Submature trees with Blackberry understory

Exotic Invasive vegetation to be hand removed

No tree planting – shrubs planted opportunistically around trees

7948 sq. ft. @ 0.028/sq. ft. = 222 shrubs

	COMMON NAME SCIENTIFIC NAME	LOCATION	PROPOSED SPACING (oc)	PROPOSED SIZE	INDICATOR STATUS
23	Western crabapple (PYF) <i>Pyrus fusca</i>	Wetland	6 ft	2 gal	FACW
23	Vine maple (ACC) <i>Acer circinatum</i>	Wetland	6 ft	2 gal	FAC
23	Nootka Rose (RON) <i>Rosa nutkana</i>	Wetland	6 ft	2 gal	FAC
23	Black twinberry (LOI) <i>Lonicera involucrata</i>	Wetland	6 ft	2 gal	FAC+
23	Pacific ninebark (PHC) <i>Physocarpus capitatus</i>	Wetland	6 ft	2 gal	FACW-
23	Western Labrador-Tea (RHC) <i>Rhododendron columbianum</i>	Wetland	6 ft	2 gal	OBL
23	Red-osier dogwood (COS) <i>Cornus stolonifera</i>	Wetland	6 ft	2 gal	FACW
23	Wild Gooseberry (RID) <i>Ribes divaricatum</i>	Wetland	6 ft	2 gal	FAC
23	Nootka Rose (RON) <i>Rosa nutkana</i>	Wetland	6 ft	2 gal	FAC
23	Black currant (RIB) <i>Ribes bracteosum</i>	Wetland	6 ft	2 gal	FAC
23	Salmonberry (RUS) <i>Rubus spectabilis</i>	Wetland	6 ft	2 gal	FAC

WETLAND MITIGATION PLANTING AREA: D

Retained Wetland Enhancement – Submature trees with Blackberry understory

Exotic Invasive vegetation to be hand removed

No tree planting – shrubs planted opportunistically around trees

1864 sq. ft. @ 0.028/sq. ft. = 53 shrubs

	COMMON NAME SCIENTIFIC NAME	LOCATION	PROPOSED SPACING (oc)	PROPOSED SIZE	INDICATOR STATUS
5	Western crabapple (PYF) <i>Pyrus fusca</i>	Wetland	6 ft	2 gal	FACW
5	Vine maple (ACC) <i>Acer circinatum</i>	Wetland	6 ft	2 gal	FAC
5	Nootka Rose (RON) <i>Rosa nutkana</i>	Wetland	6 ft	2 gal	FAC
5	Black twinberry (LOI) <i>Lonicera involucrata</i>	Wetland	6 ft	2 gal	FAC
5	Pacific ninebark (PHC) <i>Physocarpus capitatus</i>	Wetland	6 ft	2 gal	FACW
5	Western Labrador-Tea (RHC) <i>Rhododendron columbianum</i>	Wetland	6 ft	2 gal	OBL
5	Red-osier dogwood (COS) <i>Cornus stolonifera</i>	Wetland	6 ft	2 gal	FACW
5	Wild Gooseberry (RID) <i>Ribes divaricatum</i>	Wetland	6 ft	2 gal	FAC
5	Nootka Rose (RON) <i>Rosa nutkana</i>	Wetland	6 ft	2 gal	FAC
5	Black currant (RIB) <i>Ribes bracteosum</i>	Wetland	6 ft	2 gal	FAC
5	Salmonberry (RUS) <i>Rubus spectabilis</i>	Wetland	6 ft	2 gal	FAC

WETLAND MITIGATION PLANTING AREA : E

Retained Wetland Enhancement – 100% Reed canarygrass

All vegetation to be removed by grubbing and herbicide

10,316 sq. ft. @ 0.012/sq. ft. = 124 trees

To be planted opportunistically among existing vegetation

	COMMON NAME SCIENTIFIC NAME	LOCATION	PROPOSED SPACING (oc)	PROPOSED SIZE	INDICATOR STATUS
18	Western red cedar (THP) <i>Thuja plicata</i>	Wetland	9 ft	4 ft height minimum	FAC
18	Sitka spruce (PIS) <i>Picea sitchensis</i>	Wetland	9 ft	4 ft height minimum	FAC
18	Western Paper Birch (BEP) <i>Betula papyrifera</i>	Wetland	9 ft	4 ft height minimum	FAC
18	Pacific willow (SAL) <i>Salix lasiandra</i>	Wetland	9 ft	4 ft height minimum	FACW
18	Cascara (RAP) <i>Rhamnus purshiana</i>	Wetland	9 ft	4 ft height minimum	FAC
18	Western (black) Hawthorne (CRD) <i>Crataegus douglasii</i>	Wetland	9 ft	4 ft height minimum	FAC
18	Oregon ash (FRL) <i>Fraxinus latifolia</i>	Wetland	9 ft	4 ft height minimum	FACW

10,316 sq. ft. @ 0.028/sq. ft. = 289 shrubs

	COMMON NAME SCIENTIFIC NAME	LOCATION	PROPOSED SPACING (oc)	PROPOSED SIZE	INDICATOR STATUS
27	Western crabapple (MAF) <i>Malus fusca</i>	Wetland	6 ft	2 gal	FACW
27	Vine maple (ACC) <i>Acer circinatum</i>	Wetland	6 ft	2 gal	FAC
27	Nootka Rose (RON) <i>Rosa nutkana</i>	Wetland	6 ft	2 gal	FAC
27	Black twinberry (LOI) <i>Lonicera involucrata</i>	Wetland	6 ft	2 gal	FAC
27	Pacific ninebark (PHC) <i>Physocarpus capitatus</i>	Wetland	6 ft	2 gal	FACW
27	Western Labrador-Tea (RHC) <i>Rhododendron columbianum</i>	Wetland	6 ft	2 gal	OBL
27	Red-osier dogwood (COS) <i>Cornus stolonifera</i>	Wetland	6 ft	2 gal	FACW
27	Wild Gooseberry (RID) <i>Ribes divaricatum</i>	Wetland	6 ft	2 gal	FAC
27	Nootka Rose (RON) <i>Rosa nutkana</i>	Wetland	6 ft	2 gal	FAC
27	Black currant (RIB) <i>Ribes bracteosum</i>	Wetland	6 ft	2 gal	FAC
27	Salmonberry (RUS) <i>Rubus spectabilis</i>	Wetland	6 ft	2 gal	FAC

WETLAND MITIGATION PLANTING AREA: F

Retained Wetland Enhancement – Submature trees with Blackberry understory

Exotic Invasive vegetation to be hand removed

No tree planting – shrubs planted opportunistically around trees

2227 sq. ft. @ 0.028/sq. ft. = 53 shrubs

	COMMON NAME SCIENTIFIC NAME	LOCATION	PROPOSED SPACING (oc)	PROPOSED SIZE	INDICATOR STATUS
6	Western crabapple (MAF) <i>Malus fusca</i>	Wetland	6 ft	2 gal	FACW
6	Vine maple (ACC) <i>Acer circinatum</i>	Wetland	6 ft	2 gal	FAC
6	Nootka Rose (RON) <i>Rosa nutkana</i>	Wetland	6 ft	2 gal	FAC
6	Black twinberry (LOI) <i>Lonicera involucrata</i>	Wetland	6 ft	2 gal	FAC
6	Pacific ninebark (PHC) <i>Physocarpus capitatus</i>	Wetland	6 ft	2 gal	FACW
6	Western Labrador-Tea (RHC) <i>Rhododendron columbianum</i>	Wetland	6 ft	2 gal	OBL
6	Red-osier dogwood (COS) <i>Cornus stolonifera</i>	Wetland	6 ft	2 gal	FACW

6	Wild Gooseberry (RID) <i>Ribes divaricatum</i>	Wetland	6 ft	2 gal	FAC
6	Nootka Rose (RON) <i>Rose nutkana</i>	Wetland	6 ft	2 gal	FAC
6	Black currant (RIB) <i>Ribes bracteosum</i>	Wetland	6 ft	2 gal	FAC
6	Salmonberry (RUS) <i>Rubus spectabilis</i>	Wetland	6 ft	2 gal	FAC

MITIGATION PLANTING AREA: CREATED WETLAND –
2,088 sq. ft. @ 0.012/sq. ft. = 25 trees
To be planted opportunistically among existing vegetation

	COMMON NAME SCIENTIFIC NAME	LOCATION	PROPOSED SPACING (oc)	PROPOSED SIZE	INDICATOR STATUS
4	Western red cedar (THP) <i>Thuja plicata</i>	Wetland	9 ft	4 ft height minimum	FAC
4	Sitka spruce (PIS) <i>Picea sitchensis</i>	Wetland	9 ft	4 ft height minimum	FAC
4	Western Paper Birch (BEP) <i>Betula papyrifera</i>	Wetland	9 ft	4 ft height minimum	FAC
4	Pacific willow (SAL) <i>Salix lasiandra</i>	Wetland	9 ft	4 ft height minimum	FACW
4	Cascara (RAP) <i>Rhamnus purshiana</i>	Wetland	9 ft	4 ft height minimum	FAC
4	Western (black) Hawthorne (CRD) <i>Crataegus douglasii</i>	Wetland	9 ft	4 ft height minimum	FAC
4	Oregon ash (FRL) <i>Fraxinus latifolia</i>	Wetland	9 ft	4 ft height minimum	FACW

2,088 sq. ft. @ 0.028/sq. ft. = 58 shrubs

	COMMON NAME SCIENTIFIC NAME	LOCATION	PROPOSED SPACING (oc)	PROPOSED SIZE	INDICATOR STATUS
8	Western crabapple (MAF) <i>Malus fusca</i>	Wetland	6 ft	2 gal	FACW
8	Black twinberry (LOI) <i>Lonicera involucrata</i>	Wetland	6 ft	2 gal	FAC
8	Pacific ninebark (PHC) <i>Physocarpus capitatus</i>	Wetland	6 ft	2 gal	FACW
8	Red-osier dogwood (COS) <i>Cornus stolonifera</i>	Wetland	6 ft	2 gal	FACW
8	Wild Gooseberry (RID) <i>Ribes divaricatum</i>	Wetland	6 ft	2 gal	FAC
8	Nootka Rose (RON) <i>Rose nutkana</i>	Wetland	6 ft	2 gal	FAC
8	Black currant (RIB) <i>Ribes bracteosum</i>	Wetland	6 ft	2 gal	FAC

6	Salmonberry (RUS) <i>Rubus spectabilis</i>	Wetland	6 ft	2 gal	FAC

2,088 sq. ft. @ 1 lb./500 sq. ft. = 5 lbs. native wetland plant seed mix hydroseeded over plantings.

Native Wetland emergent mix

- 45% Rice Cutgrass
- 40% NW Mannagrass
- 10% Bluejoint Reedgrass
- 3% Spike Bentgrass
- 2% Wool-grass

BUFFER MITIGATION PLANTING AREA: A

Retained Buffer Enhancement –

100% Himal Blackberry

All exotic invasive vegetation to be removed by grubbing & herbicide

20,167 sq. ft. @ 0.012/sq. ft. = 242 trees

To be planted opportunistically among existing vegetation

	COMMON NAME SCIENTIFIC NAME	LOCATION	PROPOSED SPACING (oc)	PROPOSED SIZE	INDICATOR STATUS
41	Western red cedar (THP) <i>Thuja plicata</i>	Buffer	9 ft	4 ft height minimum	FAC
41	Sitka spruce (PIS) <i>Picea sitchensis</i>	Buffer	9 ft	4 ft height minimum	FAC
41	Western Paper Birch (BEP) <i>Betula papyrifera</i>	Buffer	9 ft	4 ft height minimum	FAC
41	Scouler willow (SAC) <i>Salix scouleriana</i>	Buffer	9 ft	4 ft height minimum	FAC
41	Cascara (RAP) <i>Rhamnus purshiana</i>	Buffer	9 ft	4 ft height minimum	FAC
41	Western (black) Hawthorne (CRD) <i>Crataegus douglasii</i>	Buffer	9 ft	4 ft height minimum	FAC

20,167 sq. ft. @ 0.028/sq. ft. = 565 shrubs

	COMMON NAME SCIENTIFIC NAME	LOCATION	PROPOSED SPACING (oc)	PROPOSED SIZE	INDICATOR STATUS
63	Western crabapple (MAF) <i>Pyrus fusca</i>	Buffer	6 ft	2 gal	FACW
63	Vine maple (ACC) <i>Acer circinatum</i>	Buffer	6 ft	2 gal	FAC
63	Wild rose (ROG) <i>Rosa gymnocarpa</i>	Buffer	6 ft	2 gal	FACU
63	Black twinberry (LOI) <i>Lonicera involucrata</i>	Buffer	6 ft	2 gal	FAC
63	Hazelnut (COC) <i>Corylus cornuta</i>	Buffer	6 ft	2 gal	FACU

63	Wild Gooseberry (RID) <i>Ribes divaricatum</i>	Buffer	6 ft	2 gal	FAC
63	Wild Rose (ROG) <i>Rosa gymnocarpa</i>	Buffer	6 ft	2 gal	FACU
63	Black currant (RIB) <i>Ribes bracteosum</i>	Buffer	6 ft	2 gal	FAC
63	Thimbleberry (RUP) <i>Rubus parviflorus</i>	Buffer	6 ft	2 gal	FACU

BUFFER MITIGATION PLANTING AREA: B

Retained Buffer Enhancement – Submature trees with Blackberry understory

Exotic Invasive vegetation to be hand removed

No tree planting – shrubs planted opportunistically around trees

2981 sq. ft. @ 0.028/sq. ft. = 84 shrubs

	COMMON NAME SCIENTIFIC NAME	LOCATION	PROPOSED SPACING (oc)	PROPOSED SIZE	INDICATOR STATUS
10	Western crabapple (MAF) <i>Malus fusca</i>	Buffer	6 ft	2 gal	FACW
10	Vine maple (ACC) <i>Acer circinatum</i>	Buffer	6 ft	2 gal	FAC
10	Wild rose (ROG) <i>Rosa gymnocarpa</i>	Buffer	6 ft	2 gal	FACU
10	Black twinberry (LOI) <i>Lonicera involucrata</i>	Buffer	6 ft	2 gal	FAC
10	Hazelnut (COC) <i>Corylus cornuta</i>	Buffer	6 ft	2 gal	FACU
10	Wild Gooseberry (RID) <i>Ribes divaricatum</i>	Buffer	6 ft	2 gal	FAC
10	Nootka Rose (RON) <i>Rosa nutkana</i>	Buffer	6 ft	2 gal	FACU
10	Black currant (RIB) <i>Ribes bracteosum</i>	Buffer	6 ft	2 gal	FAC
10	Thimbleberry (RUP) <i>Rubus parviflorus</i>	Buffer	6 ft	2 gal	FACU

BUFFER MITIGATION PLANTING AREA: C

Retained Buffer Enhancement – Submature trees with Blackberry understory

Exotic Invasive vegetation to be hand removed

No tree planting – shrubs planted opportunistically around trees

8493 sq. ft. @ 0.028/sq. ft. = 238 shrubs

	COMMON NAME SCIENTIFIC NAME	LOCATION	PROPOSED SPACING (oc)	PROPOSED SIZE	INDICATOR STATUS
27	Western crabapple (MAF) <i>Malus fusca</i>	Buffer	6 ft	2 gal	FACW

27	Vine maple (ACC) <i>Acer circinatum</i>	Buffer	6 ft	2 gal	FAC
27	Wild rose (ROG) <i>Rosa gymnocarpa</i>	Buffer	6 ft	2 gal	FACU
27	Black twinberry (LOI) <i>Lonicera involucrata</i>	Buffer	6 ft	2 gal	FAC
27	Hazelnut (COC) <i>Corylus cornuta</i>	Buffer	6 ft	2 gal	FACU
27	Wild Gooseberry (RID) <i>Ribes divaricatum</i>	Buffer	6 ft	2 gal	FAC
27	Nootka Rose (RON) <i>Rose nutkana</i>	Buffer	6 ft	2 gal	FAC
27	Black currant (RIB) <i>Ribes bracteosum</i>	Buffer	6 ft	2 gal	FAC
27	Thimbleberry (RUP) <i>Rubus parviflorus</i>	Buffer	6 ft	2 gal	FACU

BUFFER MITIGATION PLANTING AREA: D

Retained Buffer Enhancement –

100% Himal Blackberry

All exotic invasive vegetation to be removed by grubbing & herbicide

9,180 sq. ft. @ 0.012/sq. ft. = 111 trees

To be planted opportunistically among existing vegetation

	COMMON NAME SCIENTIFIC NAME	LOCATION	PROPOSED SPACING (oc)	PROPOSED SIZE	INDICATOR STATUS
19	Western red cedar (THP) <i>Thuja plicata</i>	Buffer	9 ft	4 ft height minimum	FAC
19	Sitka spruce (PIS) <i>Picea sitchensis</i>	Buffer	9 ft	4 ft height minimum	FAC
19	Western Paper Birch (BEP) <i>Betula papyrifera</i>	Buffer	9 ft	4 ft height minimum	FAC
19	Scouler willow (SAC) <i>Salix scouleriana</i>	Buffer	9 ft	4 ft height minimum	FAC
19	Cascara (RAP) <i>Rhamnus purshiana</i>	Buffer	9 ft	4 ft height minimum	FAC
19	Western (black) Hawthorne (CRD) <i>Crataegus douglasii</i>	Buffer	9 ft	4 ft height minimum	FAC

9180 sq. ft. @ 0.028/sq. ft. = 257 shrubs

	COMMON NAME SCIENTIFIC NAME	LOCATION	PROPOSED SPACING (oc)	PROPOSED SIZE	INDICATOR STATUS
29	Western crabapple (MAF) <i>Malus fusca</i>	Buffer	6 ft	2 gal	FACW
29	Vine maple (ACC) <i>Acer circinatum</i>	Buffer	6 ft	2 gal	FAC
29	Wild rose (ROG) <i>Rosa gymnocarpa</i>	Buffer	6 ft	2 gal	FACU

29	Black twinberry (LOI) <i>Lonicera involucrata</i>	Buffer	6 ft	2 gal	FAC
29	Hazelnut (COC) <i>Corylus cornuta</i>	Buffer	6 ft	2 gal	FACU
29	Wild Gooseberry (RID) <i>Ribes divaricatum</i>	Buffer	6 ft	2 gal	FAC
29	Nootka Rose (RON) <i>Rose nutkana</i>	Buffer	6 ft	2 gal	FAC
29	Black currant (RIB) <i>Ribes bracteosum</i>	Buffer	6 ft	2 gal	FAC
29	Thimbleberry (RUP) <i>Rubus parviflorus</i>	Buffer	6 ft	2 gal	FACU

PLANTING GUIDELINES

1. Trees 9' O.C., or 0.012 per square foot of area; (this assumes 2-5 gal. size) — such trees are to be at least 50% conifers;
2. Plus shrubs 6' O.C., or 0.028 per square foot (this assumes 1-2 gal. size);
- **To be planted opportunistically around existing trees
- 3 Created Wetland hydroseeded @ 1 lbs. / 500 sq. ft.

CONSTRUCTION INSPECTION

Essential to the success of the compensatory mitigation program is the accurate inspection of onsite activities immediately prior to and during the wetland creation and planting phases. These activities include pre-construction site inspection, onsite inspection and technical direction during wetland creation and planting activities, and post-creation/planting site inspection and evaluation.

The pre-creation site inspection allows the project proponent and the project biologist to evaluate and, if necessary, adjust the onsite construction steps. These steps include analysis of project site elevation features, project sequencing and timing, final grade analysis, unforeseen required minor modifications to the original establishment plan, and the establishment of environmental protections (silt fences, etc.) required during construction. Interaction with City of Edgewood wetland staff is also an essential element during pre-construction site inspections and discussions. Onsite technical inspection during construction and planting activities will be implemented by the project biologist. The project biologist will perform oversight and address minor unforeseen difficulties to assure that the intent of the wetland mitigation plan is met.

The project biologist shall also be responsible for ensuring that the species and sizes of native plants selected are utilized during initial planting. If selected native species become unavailable, the project biologist will consult with City of Edgewood wetland staff for substitute plant species to ensure that the intent of the wetland mitigation plan is met.

Post-creation site inspection/evaluation will include the preparation of a "record-drawings" which will be submitted to City of Edgewood wetland staff.

VEGETATION MAINTENANCE PLAN

Maintenance of the created wetland and buffer plant communities may be required to assure the long-term health and welfare of the wetland's and buffer's environmental functions. The overall objective is to establish undisturbed plant communities that do not require maintenance.

The reduced wetland buffer will require irrigation for the monitoring period. Irrigation will be supplied June 1 thru September 1 at a rate of 1 inch per week.

Activities will include, but are not limited to, the removal of invasive non-native vegetation and the additional irrigation of selected areas. Established maintenance activities include the removal of any trash within the buffer.

MITIGATION CONSTRUCTION SCHEDULE

PROJECT TASK	TASK SCHEDULE (on or before)
Onsite pre-creation meeting	September, 2022
Placement of protective fencing, final marking, and identification of work area.	September, 2022
Planting of enhancement wetland & buffer	November, 2022
Record-drawings report to City	December, 2022

PROJECT MONITORING

Following the successful completion of the proposed compensatory mitigation plan a **five-year** monitoring and evaluation program will be undertaken. The purpose of this program is to assure the success of the selected mitigation as measured by an established set of performance criteria (see *above*). This monitoring will also provide valuable information on the effectiveness of mitigation procedures.

STANDARDS OF SUCCESS

Vegetation Sampling Methodology and Monitoring Schedule

Onsite monitoring will count and clearly identify each tree and shrub installed during the initial planting phase. Such monitoring will also include any subsequent planting required to meet the performance criteria. These defined performance criteria will be applied at the time of monitoring. All installed trees and shrubs will be visually evaluated to determine the rate of survivorship, health, and vigor of each plant.

Vegetation Monitoring

1. Upon the completion of initial planting and as a part of each monitoring period the project biologist will count the number of live plants which were planted within the wetland and buffer areas. Plants will be identified to species and observations of general plant condition (i.e., plant health, amount of new growth) are to be recorded for each plant.
2. The project biologist will count the number of undesirable invasive plants and estimate the aerial coverage (as if the observer were looking straight down from above) of these invasive plants. Undesirable plants include blackberries, Scot's broom, tansy ragwort, and other such plants listed in the Washington State Noxious Weed List.
3. The project biologist will count the number of desirable "volunteer" plants and estimate the aerial coverage of these plants within the mitigation area.
4. The project biologist will take photographs that show the entire mitigation area. During the five-year monitoring period photos will be taken in the same direction and at the

same location to provide a series of photos. These photos will show plant growth, plant species, and plant coverage.

5. Upon the completion of the initial project planting and upon the completion of each monitoring period the project biologist will prepare a report defining methods, observations, and results along with the date the observations were completed. Each report will be sent to the City of Edgewood Planning Dept..
6. The monitoring schedule is defined as:
 - A. **At the completion of initial project planting.** This report will include a “record drawing” defining the species used, locations, and general site conditions. This report will also include a “lessons learned” section to assist in future monitoring and final project assessment. This “record drawing” and report will be provided to the City within two weeks after the completion of onsite planting.
 - B. **Once per year for five years following the completion of initial onsite planting.** Onsite monitoring will be completed once near the end of the growing season (late September). For each onsite monitoring activity a report will be prepared and provided to the City within two weeks after the completion of onsite monitoring.

The last monitoring report will include notification to the City biologist that the monitoring program has concluded and that City review and site inspection is required for project analysis and release of the financial guarantee. This final report will also include a “lessons learned” section to assist and final project assessment and to potentially assist in the evaluation other mitigation projects.

Vegetation Monitoring Sequencing

IDENTIFIED TASK	DATE OF COMPLETION (on or before)
First growing season fall plant inspection	September 30, 2022
First growing season fall report	October 15, 2022
Second growing season fall plant inspection	September 30, 2023
Second growing season fall report	October 15, 2023
Third growing season fall plant inspection	September 30, 2024
Third growing season fall report	October 15, 2024
Fourth growing season fall plant inspection	September 30, 2025
Fourth growing season fall report	October 15, 2025
Fifth growing season fall plant inspection	September 30, 2026
Fifth growing season fall report	October 15, 2026

WILDLIFE OBSERVATIONS

Observations of wildlife will coincide with the onsite activities undertaken as part of the Vegetation Monitoring Program. The onsite team will document the extent of bird species

abundance, site utilization, nesting and feeding activities, and species diversity. In addition, documentation of terrestrial and aquatic reptiles, amphibians, and mammals observable without trapping will also be documented. Wildlife observations will be documented within the Vegetation Monitoring Reports noted above.

REMOVAL OF INVASIVE NON-NATIVE VEGETATION

As a contingency, should the removal of invasive non-native vegetation become necessary, the project proponent will contact City of Edgewood wetland staff to establish and define specific actions to be taken. Resultant contingency plan activities will be implemented when the ongoing vegetation monitoring program indicates that plants listed in the Washington State Noxious Weed List and Scot's broom are becoming dominant in the community (greater than 20%).

Following initial planting of the wetland and buffer areas the project team will undertake an invasive vegetation control program through the five-year monitoring program. This control program will focus on biannual hand-removal of re-sprouting invasive shrubs and will not adversely impact the desirable plants within the wetland and buffer.

SALVAGE AND REUSE OF WOODY MATERIAL

Woody material salvaged from trees cleared for construction of the new home will be salvaged and installed as large woody debris in the retained wetland and the wetland mitigation planting areas. No woody material will be imported to the site.

Vegetation Control Program Schedule

TASK	TO BE COMPLETED ON OR ABOUT
First growing season fall removal	September 15, 2022
Second growing season fall removal	September 15, 2023
Third growing season fall removal	September 15, 2024
Fourth growing season spring removal	September 15, 2025
Fifth growing season fall removal	September 15, 2026

COVERAGE FOR EXPOSED BUFFER AREA

Coverage for all exposed surfaces within the mitigation area will be completed within two weeks following the completion of onsite grading.
Coverage will be by hydroseeding wetland buffer mix.

CONTINGENCY PLAN

As a contingency, should the proposed compensatory plan fail to meet the performance criteria the project proponent will undertake required remedial actions. Where plant survival is the failing component the project proponent will replant and ensure the success of this second planting which would be held to the same standard of success as measured by threshold criteria and monitoring processes. Should additional remedial actions be

required, the project proponent will meet with City of Edgewood environmental staff to establish and define actions to be taken to meet the desired goal of this program.

PLANTING NOTES

All plant materials shall be native to the southern Puget Sound Region. The project biologist shall inspect plant materials to ensure the appropriate plant schedule and plant characteristics are met. The project proponent shall warrant that all plants will remain alive and healthy for a period of one year following completion of planting activities. The project proponent shall replace all dead and unhealthy plants with plants of the same specifications.

WETLAND MITIGATION PERFORMANCE BOND

A Wetland Mitigation Performance Bond will be provided for this project. This bond will be held by the City of Edgewood and be equal to 125% of the actual estimated costs for identified activities. This increased percentage will allow for adequate funds to be available as a contingency should actions be required to meet the goals of these plans.

The Performance Bond will be deemed to be released upon meeting the established threshold criteria and acceptance by the City of Edgewood of the required reporting documents after completion of the 5-year monitoring period.

The amount of these guarantees shall be established as a part of the final mitigation plan.

Construction Guarantee: (see Bond Quantity Worksheet, Attached)

TASK	ASSOCIATED COST
Plants and installation	\$ 97,905
Habitat Structures	\$
Erosion Control	\$ 3,892
Fencing	11,110
Mobilization	11,291
30% contingency	\$33,873
CONSTRUCTION GUARANTEE TOTAL	\$158,069

Performance Guarantee

TASK	ASSOCIATED COST
Onsite Maintenance (\$1,600/yr. x 5 years)	\$ 8,000
Onsite Monitoring with report (\$900/yr. 5 years)	\$ 7,200
PERFORMANCE GUARANTEE TOTAL	\$15,200

REFERENCE LIST

Adamus, P.R., E.J. Clairain Jr., R.D. Smith, and R.E. Young. 1987. Wetland Evaluation Technique (WET); Volume II: Methodology, Operational Draft Technical Report Y-87, U.S. Army Engineer Waterways Experiment Station, Vicksburg, Mississippi.

Cowardin, L.M., V. Carter, F.C. Golet, and E.T. LaRoe. 1979. Classification of Wetlands and Deepwater Habitats of the United States. Office of Biological Services, U.S. Fish and Wildlife Service, U.S. Department of the Interior, FWS/OBS-79/31.

Environmental Laboratory. 1987. "Corps of Engineers Wetlands Delineation Manual," Technical Report Y-87-1, US army Engineer Waterways Experiment Station, Vicksburg, Miss.

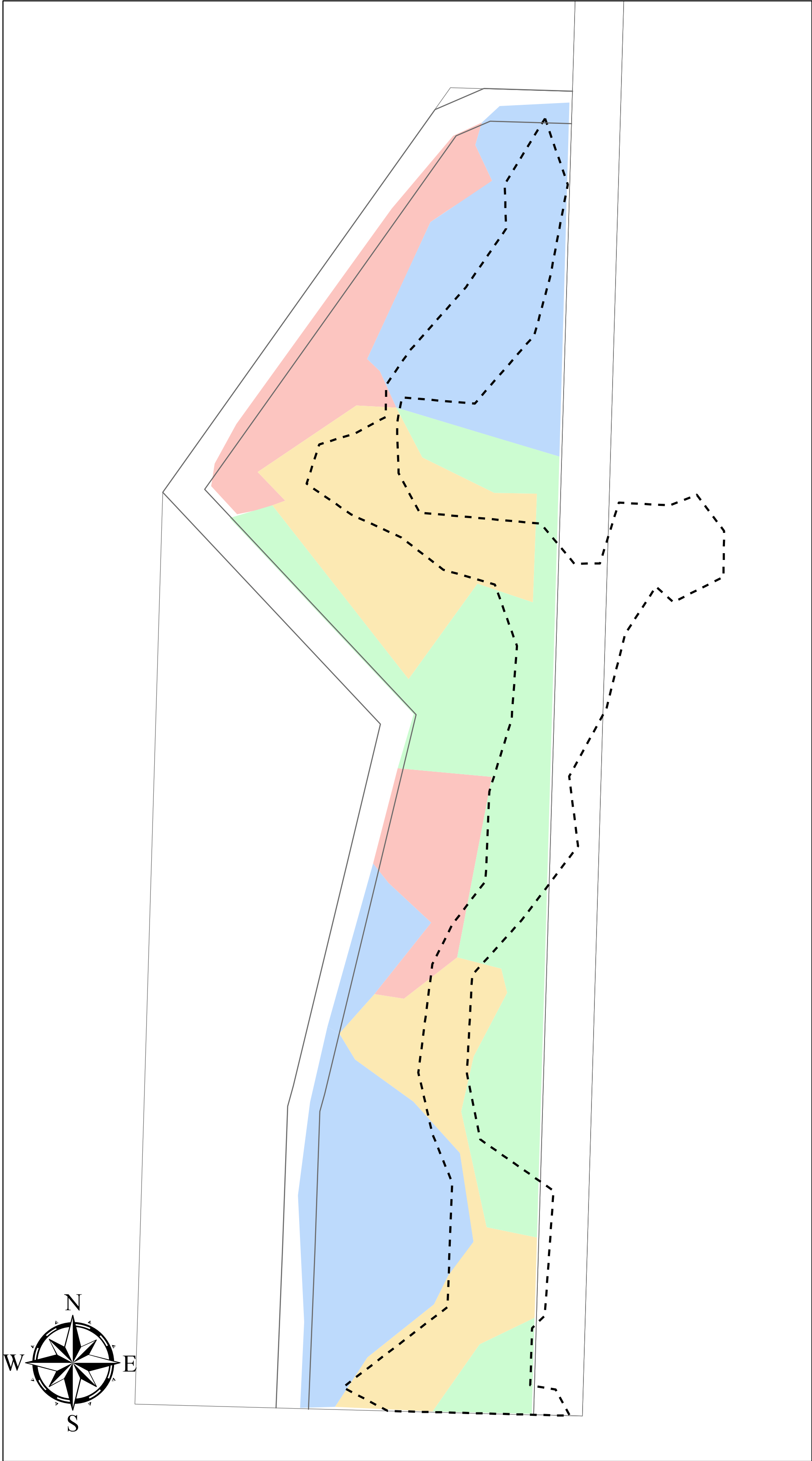
Hitchcock, C.L., A. Cronquist. 1977. Flora of the Pacific Northwest. University of Washington Press. Seattle, Washington.

Reppert, R.T., W. Sigleo, E. Stakhiv, L. Messman, and C. Meyers. 1979. Wetland Values - Concepts and Methods for Wetland Evaluation. Research Report 79-R1, U.S. Army Corps of Engineers, Institute for Water Resources, Fort Belvoir, Virginia.

U.S. Army Corps of Engineers. 2010. Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (Version 2.0), ed. J. S. Wakeley, R. W. Lichvar, and C. V. Noble. ERDC/EL TR-10-3. Vicksburg, MS: U.S. Army Engineer Research and Development Center.

U.S. Department of Agriculture, Soils Conservation Service. Soils Survey of King County Area Washington, February 1979.

Washington State Department of Ecology. 1997. Washington State Wetlands Identification and Delineation Manual. Publication Number 96-94.



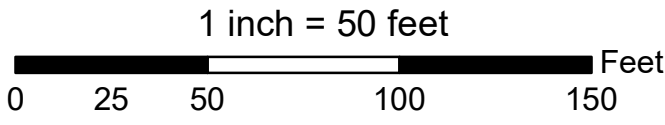
Legend

WETLAND BOUNDARY

EXISTING VEGETATION AREAS

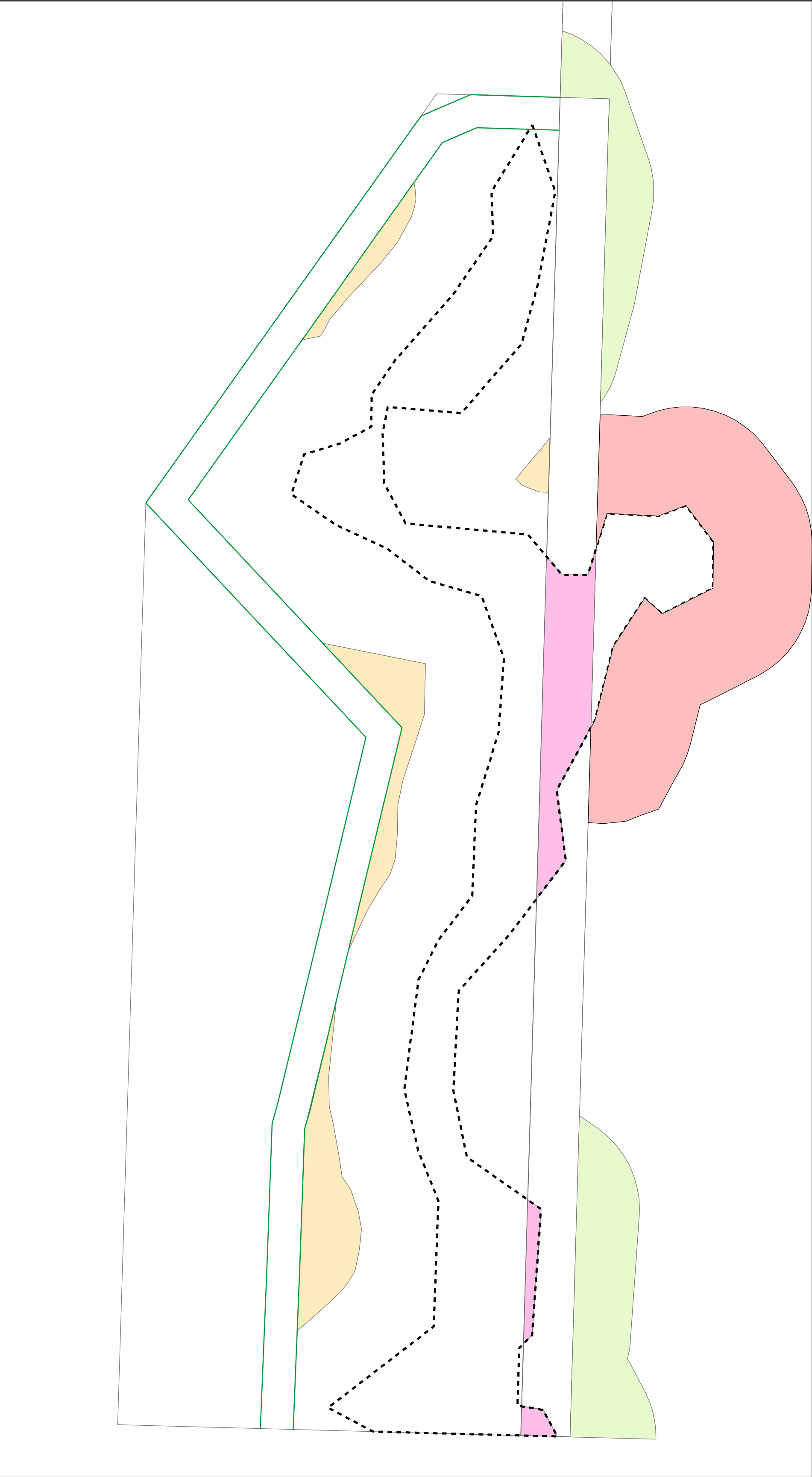
BLACKBERRY REED CANARYGRASS

MATURE TREES TREES BLACKBERRY UNDERSTORY



**PIERCE COUNTY TAX PARCEL
0420091014
& EASEMENT ADJACENT EAST**

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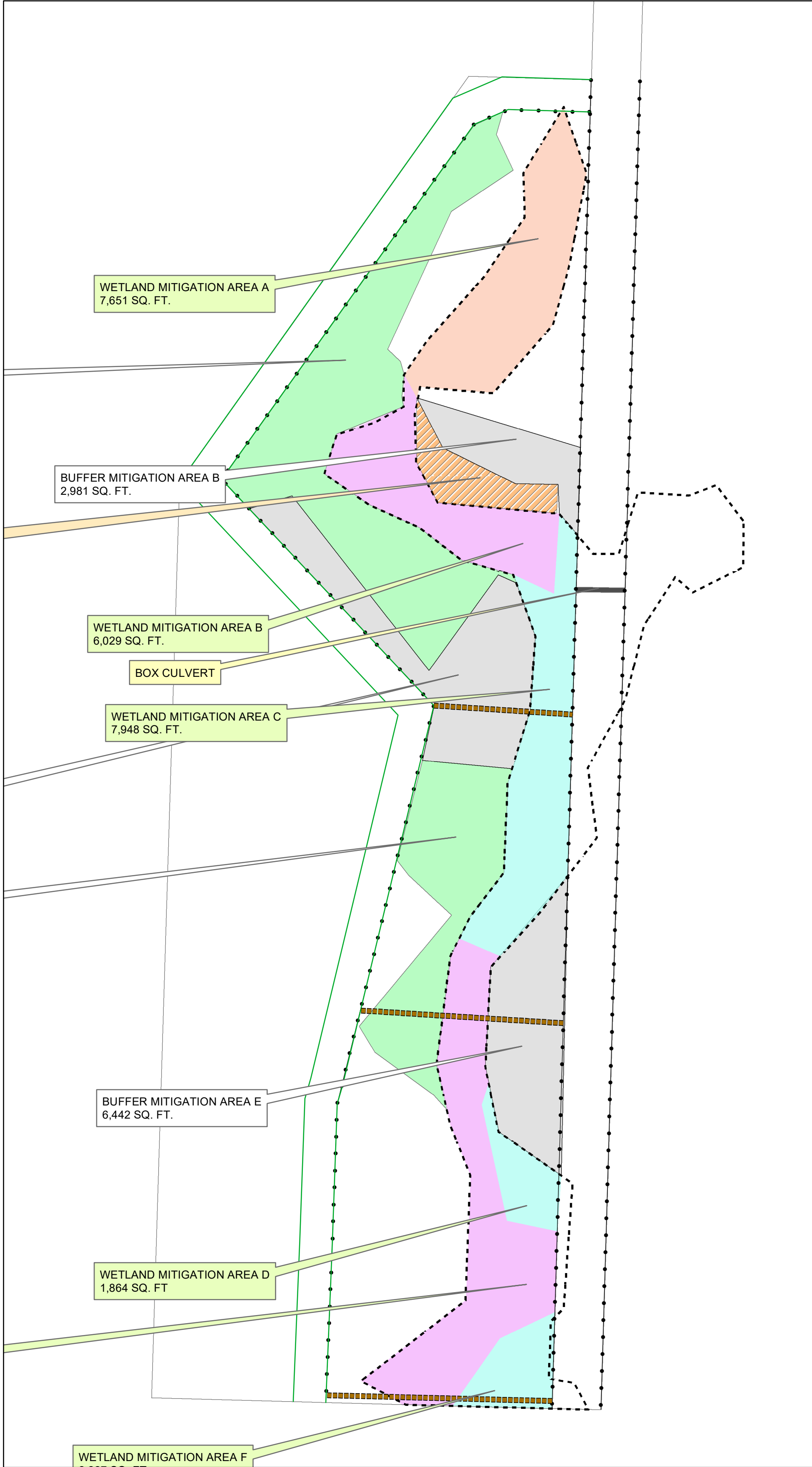


Legend

RETAINED BUFFER WETLAND REDUCTION AREAS - 5,294 SQ. FT.

BUFFER REDUCE AREAS EDGEWOOD SEWER MIT AREAS

WETLAND BOUNDARY



Legend - MITIGATION ACTION PLAN

WETLAND MITIGATION AREA

FULL REVEGETATION REMOVE INVASIVES UNDERSTORY REVEGETATION

WETLAND CREATION AREA

UNDERSTORY REVEGETATION

SILT FENCE PERMANENT HAY BALE EROSION CONTROL

To accompany Wetland Mitigation Plan

Drawn By: MARK HECKERT

Sheet No.
PAGE 1 OF 3

Checked by:
Date: REV 2 February 2, 2022

1.0 Unavoidable Impacts
The applicant proposes to improve the access easement from 24th Street to the multi-family residential development to the north. The City of Edgewood requires Mitigation for unavoidable wetland and buffer impacts.

Buffer enhancement of the retained Category III wetland buffer is proposed. Enhancement of the wetland buffer will increase the functions and values of the buffer by reestablishing a native plant community.

Wetland Creation and Enhancement is proposed to mitigate the wetland impacts.

2.0 Description of the Existing Site Conditions
The existing wetland is the headwaters of Simons Creek. The wetland is dominated by red alder (*Alnus rubra*), reed canarygrass (*Phalaris arundinacea*), creeping buttercup (*Ranaculus repens*), black hawthorne (*Crataegus douglasii*), and soft rush (*Juncus effuses*). The soils mapped is Alderwoodt gravelly loamd. Wetland hydrology is seasonally saturated and a shallow perched water table. Occasionally the wetland has shallow surface water. The wetland has a small shallow pond that has surface water throughout the wet season. Wetland buffers have large patches of Himalayan blackberry (*Rubus armeniacus*).

Within the wetland there is an undefined stream channel that was probably excavated for drainage purposes. The stream outflows to a culvert at the south property line.

There is a school located at the west boundary, and commercial and residential development to the east and north.

The wetland functions are wildlife habitat, water quality, and flood benefits. These functions have not been quantified. The source is sheet flow.

3.0 Description of Potential Impacts
The acreage of wetland will decrease 3,206 square feet. Wetland function will be replaced by creation and enhancement of existing wetland. The Cowardin classes of the created wetland is Palustrine forested (PFO). The hydrogeomorphic class is depressional. The wetland rating does not change as a result of creating wetland, enhancing wetland and enhancing wetland buffer.

4.0 Summary of the Proposed Approach for Mitigation
Direct filing of wetland cannot be avoided, because the city requires the access easement be improved in the designed location.

5.0 Potential Compensatory Mitigation Site Selection
The mitigation area was selected adjacent to the existing wetland. The proposed mitigation area allows use of existing hydrology of the wetland by grading, so that hydrology naturally flows into the created wetland area. Grading of the wetland buffer is necessary to remove invasive plants, prepare the soil for replanting with native plant species, and to create additional wetland area.

6.0 Approach Used to Identify Opportunities for Compensation Sites
On-site mitigation is the preferred option for mitigation because of the proximity to impact and potential to improve functions of the wetland. Other mitigation measures are not available, including a fee-in-lieu program or mitigation bank.

7.0 Description of the Existing Mitigation Site Conditions
including a brief description of the targeted functions, landscape position/HGM classification, and categories of wetlands. Performance standards that will be used to assess whether the project is achieving its objectives. Ecological performance standards must be based on the best available science that can be measured or assessed in a practicable manner.

The existing mitigation area is dominated by unidentified non-native grasses, Himalayan blackberry, and red alder. The targeted functions are to replace flood storage capacity and improve wildlife habitat for the wetland and wetland buffer. Water quality improvements are additive but unquantified. The category of the wetland may not change, but the habitat functions and rating habitat points may increase. Performance standards for plant materials will be used to determine if the project is achieving its objectives. Ecological performance standards are based on best available science.

8.0 Overall Goals & Objectives of the Proposed Mitigation
The goals of mitigation are to replace wetland area and to restore the functions and values of the remaining critical area buffer. The objectives necessary to meet the above stated goal area as follows:

- ☐ Install silt fencing
- ☐ Remove non-native vegetation
- ☐ Grade created wetland
- ☐ Place topsoil
- ☐ Install plant materials & mulch
- ☐ Install split rail fencing and required signage
- ☐ Maintain and monitor the enhancement area for a period of five years or until the site meets the specified performance standards
- ☐ Record the sensitive area in a "Notice on Title"
- ☐ If the enhancement area fails to meet performance standards provide a contingency plan to rectify the situation.

9.0 Description of the Proposed Hydroperiod and Design Considerations
Detailed hydrologic studies are generally not required for a conceptual plan. However, when wetland creation or re-establishment is proposed, the plan shall include a description of the proposed hydroperiod for the site and design considerations to ensure there is sufficient water to support the proposed compensatory mitigation project.

The proposed hydroperiod will match the existing hydrologic condition of the wetland, in the existing wetland immediately adjacent to the created wetland. The hydroperiod for the existing adjacent existing wetland will be determined by baseline hydrology measurements between March and May 2022.

Performance standards to be used in the long-term monitoring will be the following:

- 100% survival of all planted shrubs, trees, and groundcovers for one year after planting. All woody plantings that do not survive through the end of the first growing season will be replaced with the same or similar species and specifications. Contact biologist to confirm if a species change is needed. Upon installation of replacement plantings at the conclusion of the first year, the 100% survival standard will be considered to be met;
- 85% survival of all planted trees, shrubs and groundcovers after three years. Sufficient plantings will be replaced, as necessary, with the same or similar species and specifications in order to meet the 85% survival performance standard. Upon installation of replacement plantings at the conclusion of the third year, the 85% survival standard will be considered to be met;
- At the end of year 5, at least 2 species of native trees and 4 species of native shrubs will each provide at least 5% relative cover in the scrub-shrub and forested wetland, and in the enhanced buffer.
- Total aerial coverage by shrub and tree species (including native volunteers) within buffer enhancement and wetland creation area shall be:
 - at least 5% after one year
 - at least 20% after three years
 - at least 50% after five years;
 - at least 60% after seven years;
 - at least 70% after ten years.
- Total coverage by herbaceous species (including native volunteers) within the wetland creation area being planted with emergents only shall be:
 - at least 5% after one year
 - at least 20% after five years
- Minimize erosion through the use of mulch and herbaceous plants.
- There shall be no more than 10% cover during the ten-year monitoring period of the following species: Himalayan blackberry (*Rubus armeniacus*), cut leaf blackberry (*Rubus laciniatus*), English laurel (*Prunus laurocerasus*), English holly (*Ilex aquifolium*), reed canarygrass (*Phalaris arundinacea*), scot's broom (*Cytisus scoparius*), English ivy (*Hedera helix*), Japanese knotweed (*Fallopia japonica*) or other species as determined by the project biologist.
- The wetland creation will be inundated or saturated to the surface for a minimum of 30 days during the growing season and meet requirements of the U.S. Army Corps of Engineers (Environmental Laboratory 1987) and Washington Department of Ecology (1997) wetland delineation manuals, as clarified in the Regional Supplement to the U.S. Army Corps of Engineers Delineation Manual: Western Mountains, Valleys, and Coasts Region (COE 2010), for the presence of wetland hydrology.
- In year 5 and at the end of year 10, the wetland boundary for the created wetland will be delineated using currently approved methods by the US Army Corps of Engineers and the Washington Department of Ecology. The wetland creation + enhancement area will contain at least 38,154 sf of wetland.

MITIGATION PLAN ELEMENTS - COMMON

1. ☐ All onsite activities will be monitored by the project biologist. Following the completion of onsite planting activities a "record-drawing" plan will be prepared and submitted to City of Edgewood. A five-year monitoring program will be undertaken to assure the success of the buffer enhancement program. A series of financial guarantees will also be implemented to assure that the proposed work is completed and is successful.

2. ☐ The outer boundaries of the established buffer tract would be marked with standard City of Edgewood buffer boundary signs. The buffer boundaries will be fenced to limit human intrusions between the upland boundary of the remaining buffer and the developed portion of the site. In addition, the project team will remove the trash, debris, and invasive shrubs within the retained wetland and buffer areas.

3. ☐ Wetland and buffer vegetation cleared or otherwise damaged during the installation of the mitigation plan shall be revegetated with appropriate native plants installed at an appropriate density to restore the damaged condition. These plants shall be subject to the same performance standards indicated in the mitigation plan.

Impact Area Analysis – (in sq. ft.)					
Area	Development Impact	Mitigation required?	Mitigation ratio	Mitigation Sq. Ft.	
Buffer –	21,890	yes	1:1	21,890	
Buffer Impact from Sewer Pipe Placement - 2009	7,447	Yes	1:1	7,447	
TOTAL BUFFER IMPACT		YES	1:1	29,337	
Wetland	5,294 Cat. 3	yes	Creation or Reestablishment 2:1	10,588	
			Rehabilitation 4:1	21,176	
			Enhancement 8:1	42,352	
TOTAL	35,261				

MITIGATION PLAN ELEMENTS- BUFFER

The proposed mitigation for 29,337 sq. ft. of buffer impact will be (Att. 1a):

• 49,488 sq. ft. of buffer enhancement contiguous with the existing wetland = 1.7:1 mitigation ratio

1. ☐ As mitigation for the unavoidable impact to 29,337 sq. ft. of City of Edgewood regulated Category 3 Wetland buffer, an area of 49,488 sqft of the remaining buffer will be enhanced with native trees and shrubs. The buffer area to be enhanced is presently dominated by reed canarygrass and Himalayan blackberry. The buffer areas to be enhanced will be cleared of exotic species and planted with native trees and shrubs around existing vegetation. Supportive hydrology will continue to be provided by the existing flow.

2. ☐ Reed Canarygrass and other exotic invasives will be removed by hand pulling and raking. Herbicide use contingent on removal success.

3. ☐ Pulled and cleared areas will be hydroseeded with buffer emergents.

MITIGATION PLAN ELEMENTS– WETLAND

The proposed mitigation for the wetland impact of 5,294 sq. ft. will be (Att. 1b):

• 36,066 sq. ft. of wetland enhancement = 6.8:1 mitigation ratio [4,508 sq ft less than needed]

• 5,294 sq. ft. minus 4,508 sq. ft. = 786 sq. ft. remaining wetland impact to be mitigated @ 2:1 ratio.

• 2,088 sq. ft. sq. ft. of wetland creation adjacent to existing Wetland = 2.7:1 ratio.

1. As mitigation for the unavoidable impact to 5,294 sq. ft. of City of Edgewood regulated Category 3 Wetland at the center of the project site, the remaining wetland of 36,066 sqft. will be enhanced with native trees and shrubs. The wetland area to be enhanced is presently dominated by reed canarygrass. The wetland areas to be enhanced will be cleared of exotic species and planted with native shrubs around existing vegetation. Supportive hydrology will continue to be provided by the existing flow.

2. As mitigation for the unavoidable impact to 5,294 sq. ft. of City of Edgewood regulated Category 3 Wetland, 2,088 sqft wetland will be created adjacent to existing wetland and planted with native trees, shrubs, and emergents. The creation site will be excavated to 1 ft. below OHWM mark, and benchmarked by adjacent wetland elevation.

3. The creation area will be backfilled with organic topsoil from an approved source to ½ ft. below the OHWM.

4. The buffer enhancement and creation areas will be replanted with native trees, shrubs, and emergents.

5. Reed Canarygrass and other exotic invasives will be removed by hand pulling and raking. Herbicide use contingent on removal success.

6. Pulled and cleared areas will be hydroseeded with wetland emergents.

**NORTHWOOD EASEMENT
MITIGATION CREATION
AND ENHANCEMENT AREAS
PIERCE COUNTY TAX PARCEL 0420091014
& EASEMENT ADJACENT EAST
City File# 20-1348**

**SATWANT SINGH
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206 391 3311
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**Beaver Creek Environmental Services, Inc.
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Sheet No. PAGE 2 OF 3	To Accompany Wetland Mitigation Plan	
	Drawn By:	MARK HECKERT
	Checked by:	
Date: FEBRUARY 2, 2022		

MITIGATION PLANTING AREA: CREATED WETLAND –
2,088 sq. ft. @ 0.012/sq. ft. = 25 trees
To be planted opportunistically among existing vegetation

	COMMON NAME SCIENTIFIC NAME	LOCATION	PROPOSED SPACING (oc)	PROPOSED SIZE	INDICATOR STATUS
4	Western red cedar (THP) <i>Thuja plicata</i>	Wetland	9 ft	4 ft height minimum	FAC
4	Sitka spruce (PIS) <i>Picea sitchensis</i>	Wetland	9 ft	4 ft height minimum	FAC
4	Western Paper Birch (BEP) <i>Betula papyrifera</i>	Wetland	9 ft	4 ft height minimum	FAC
4	Pacific willow (SAL) <i>Salix lasianдра</i>	Wetland	9 ft	4 ft height minimum	FACW
4	Cascara (RAP) <i>Rhamnus purshiana</i>	Wetland	9 ft	4 ft height minimum	FAC
4	Western (black) Hawthorne (CRD) <i>Crataegus douglasii</i>	Wetland	9 ft	4 ft height minimum	FAC
4	Oregon ash (FRL) <i>Fraxinus latifolia</i>	Wetland	9 ft	4 ft height minimum	FACW

2,088 sq. ft. @ 0.028/sq. ft. = 58 shrubs

	COMMON NAME SCIENTIFIC NAME	LOCATION	PROPOSED SPACING (oc)	PROPOSED SIZE	INDICATOR STATUS
8	Western crabapple (MAF) <i>Malus fusca</i>	Wetland	6 ft	2 gal	FACW
8	Black twinberry (LOI) <i>Lonicera involucrata</i>	Wetland	6 ft	2 gal	FACW
8	Pacific ninebark (PHC) <i>Physocarpus capitatus</i>	Wetland	6 ft	2 gal	FACW
8	Red-osier dogwood (COS) <i>Cornus stolonifera</i>	Wetland	6 ft	2 gal	FACW
8	Wild Gooseberry (RID) <i>Ribes divaricatum</i>	Wetland	6 ft	2 gal	FAC
8	Nootka Rose (RON) <i>Rosa nutkana</i>	Wetland	6 ft	2 gal	FAC
8	Black currant (RIB) <i>Ribes bracteosum</i>	Wetland	6 ft	2 gal	FAC
6	Salmonberry (RUS) <i>Rubus spectabilis</i>	Wetland	6 ft	2 gal	FAC

WETLAND MITIGATION PLANTING AREA: E
Retained Wetland Enhancement – 100% Reed canarygrass
All vegetation to be removed by grubbing and herbicide
10,316 sq. ft. @ 0.012/sq. ft. = 124 trees
To be planted opportunistically among existing vegetation

	COMMON NAME SCIENTIFIC NAME	LOCATION	PROPOSED SPACING (oc)	PROPOSED SIZE	INDICATOR STATUS
18	Western red cedar (THP) <i>Thuja plicata</i>	Wetland	9 ft	4 ft height minimum	FAC
18	Sitka spruce (PIS) <i>Picea sitchensis</i>	Wetland	9 ft	4 ft height minimum	FAC
18	Western Paper Birch (BEP) <i>Betula papyrifera</i>	Wetland	9 ft	4 ft height minimum	FAC
18	Pacific willow (SAL) <i>Salix lasianдра</i>	Wetland	9 ft	4 ft height minimum	FACW
18	Cascara (RAP) <i>Rhamnus purshiana</i>	Wetland	9 ft	4 ft height minimum	FAC
18	Western (black) Hawthorne (CRD) <i>Crataegus douglasii</i>	Wetland	9 ft	4 ft height minimum	FAC
18	Oregon ash (FRL) <i>Fraxinus latifolia</i>	Wetland	9 ft	4 ft height minimum	FACW

10,316 sq. ft. @ 0.028/sq. ft. = 289 shrubs

	COMMON NAME SCIENTIFIC NAME	LOCATION	PROPOSED SPACING (oc)	PROPOSED SIZE	INDICATOR STATUS
27	Western crabapple (MAF) <i>Malus fusca</i>	Wetland	6 ft	2 gal	FACW
27	Vine maple (ACC) <i>Acer circinatum</i>	Wetland	6 ft	2 gal	FAC
27	Nootka Rose (RON) <i>Rosa nutkana</i>	Wetland	6 ft	2 gal	FAC
27	Black twinberry (LOI) <i>Lonicera involucrata</i>	Wetland	6 ft	2 gal	FAC
27	Pacific ninebark (PHC) <i>Physocarpus capitatus</i>	Wetland	6 ft	2 gal	FACW
27	Western Labrador-Tea (RHC) <i>Rhododendron columbianum</i>	Wetland	6 ft	2 gal	OBL
27	Red-osier dogwood (COS) <i>Cornus stolonifera</i>	Wetland	6 ft	2 gal	FACW
27	Wild Gooseberry (RID) <i>Ribes divaricatum</i>	Wetland	6 ft	2 gal	FAC
27	Nootka Rose (RON) <i>Rosa nutkana</i>	Wetland	6 ft	2 gal	FAC
27	Black currant (RIB) <i>Ribes bracteosum</i>	Wetland	6 ft	2 gal	FAC
27	Salmonberry (RUS) <i>Rubus spectabilis</i>	Wetland	6 ft	2 gal	FAC

BUFFER MITIGATION PLANTING AREA: C
Retained Buffer Enhancement – Submature trees with Blackberry understory
Exotic Invasive vegetation to be hand removed
No tree planting – shrubs planted opportunistically around trees

8493 sq. ft. @ 0.028/sq. ft. = 238 shrubs

	COMMON NAME SCIENTIFIC NAME	LOCATION	PROPOSED SPACING (oc)	PROPOSED SIZE	INDICATOR STATUS
27	Western crabapple (MAF) <i>Malus fusca</i>	Buffer	6 ft	2 gal	FACW
27	Vine maple (ACC) <i>Acer circinatum</i>	Buffer	6 ft	2 gal	FAC
27	Wild rose (ROG) <i>Rosa gymnocarpa</i>	Buffer	6 ft	2 gal	FACU
27	Black twinberry (LOI) <i>Lonicera involucrata</i>	Buffer	6 ft	2 gal	FAC
27	Hazelnut (COC) <i>Corylus cornuta</i>	Buffer	6 ft	2 gal	FACU
27	Wild Gooseberry (RID) <i>Ribes divaricatum</i>	Buffer	6 ft	2 gal	FAC
27	Nootka Rose (RON) <i>Rosa nutkana</i>	Buffer	6 ft	2 gal	FAC
27	Black currant (RIB) <i>Ribes bracteosum</i>	Buffer	6 ft	2 gal	FAC
27	Thimbleberry (RUP) <i>Rubus parviflorus</i>	Buffer	6 ft	2 gal	FACU

WETLAND MITIGATION PLANTING AREA: C
Retained Wetland Enhancement – Mature tree cover
7,651 sq. ft.
No planting
Exotic Invasive vegetation to be hand removed.

WETLAND MITIGATION PLANTING AREA: B
Retained Wetland Enhancement – 100% Reed canarygrass
All vegetation to be removed by grubbing and herbicide
6,029 sq. ft. @ 0.012/sq. ft. = 72 trees
To be planted opportunistically among existing vegetation

	COMMON NAME SCIENTIFIC NAME	LOCATION	PROPOSED SPACING (oc)	PROPOSED SIZE	INDICATOR STATUS
11	Western red cedar (THP) <i>Thuja plicata</i>	Wetland	9 ft	4 ft height minimum	FAC
11	Sitka spruce (PIS) <i>Picea sitchensis</i>	Wetland	9 ft	4 ft height minimum	FAC
11	Western Paper Birch (BEP) <i>Betula papyrifera</i>	Wetland	9 ft	4 ft height minimum	FACW
11	Pacific willow (SAL) <i>Salix lasianдра</i>	Wetland	9 ft	4 ft height minimum	FACW
11	Cascara (RAP) <i>Rhamnus purshiana</i>	Wetland	9 ft	4 ft height minimum	FAC
11	Western (black) Hawthorne (CRD) <i>Crataegus douglasii</i>	Wetland	9 ft	4 ft height minimum	FAC
11	Oregon ash (FRL) <i>Fraxinus latifolia</i>	Wetland	9 ft	4 ft height minimum	FACW

6,029 sq. ft. @ 0.028/sq. ft. = 169 shrubs

	COMMON NAME SCIENTIFIC NAME	LOCATION	PROPOSED SPACING (oc)	PROPOSED SIZE	INDICATOR STATUS
16	Western crabapple (MAF) <i>Malus fusca</i>	Wetland	6 ft	2 gal	FACW
16	Vine maple (ACC) <i>Acer circinatum</i>	Wetland	6 ft	2 gal	FAC
16	Nootka rose (RON) <i>Rosa nutkana</i>	Wetland	6 ft	2 gal	FAC
16	Black twinberry (LOI) <i>Lonicera involucrata</i>	Wetland	6 ft	2 gal	FAC
16	Pacific ninebark (PHC) <i>Physocarpus capitatus</i>	Wetland	6 ft	2 gal	FACW
16	Western Labrador-Tea (RHC) <i>Rhododendron columbianum</i>	Wetland	6 ft	2 gal	OBL
16	Red-osier dogwood (COS) <i>Cornus stolonifera</i>	Wetland	6 ft	2 gal	FACW
16	Wild Gooseberry (RID) <i>Ribes divaricatum</i>	Wetland	6 ft	2 gal	FAC
16	Prickly currant (RLI) <i>Ribes lacustre</i>	Wetland	6 ft	2 gal	FAC

WETLAND MITIGATION PLANTING AREA: F
Retained Wetland Enhancement – Submature trees with Blackberry understory
Exotic Invasive vegetation to be hand removed
No tree planting – shrubs planted opportunistically around trees

2227 sq. ft. @ 0.028/sq. ft. = 53 shrubs

	COMMON NAME SCIENTIFIC NAME	LOCATION	PROPOSED SPACING (oc)	PROPOSED SIZE	INDICATOR STATUS
6	Western crabapple (MAF) <i>Malus fusca</i>	Wetland	6 ft	2 gal	FACW
6	Vine maple (ACC) <i>Acer circinatum</i>	Wetland	6 ft	2 gal	FAC
6	Nootka Rose (RON) <i>Rosa nutkana</i>	Wetland	6 ft	2 gal	FAC
6	Black twinberry (LOI) <i>Lonicera involucrata</i>	Wetland	6 ft	2 gal	FAC
6	Pacific ninebark (PHC) <i>Physocarpus capitatus</i>	Wetland	6 ft	2 gal	FACW
6	Western Labrador-Tea (RHC) <i>Rhododendron columbianum</i>	Wetland	6 ft	2 gal	OBL
6	Red-osier dogwood (COS) <i>Cornus stolonifera</i>	Wetland	6 ft	2 gal	FACW
6	Wild Gooseberry (RID) <i>Ribes divaricatum</i>	Wetland	6 ft	2 gal	FAC
6	Nootka Rose (RON) <i>Rosa nutkana</i>	Wetland	6 ft	2 gal	FAC
6	Black currant (RIB) <i>Ribes bracteosum</i>	Wetland	6 ft	2 gal	FAC
6	Salmonberry (RUS) <i>Rubus spectabilis</i>	Wetland	6 ft	2 gal	FAC

BUFFER MITIGATION PLANTING AREA: D
Retained Buffer Enhancement –
100% Himal Blackberry
All exotic invasive vegetation to be removed by grubbing & herbicide

9,180 sq. ft. @ 0.012/sq. ft. = 111 trees
To be planted opportunistically among existing vegetation

	COMMON NAME SCIENTIFIC NAME	LOCATION	PROPOSED SPACING (oc)	PROPOSED SIZE	INDICATOR STATUS
19	Western red cedar (THP) <i>Thuja plicata</i>	Buffer	9 ft	4 ft height minimum	FAC
19	Sitka spruce (PIS) <i>Picea sitchensis</i>	Buffer	9 ft	4 ft height minimum	FAC
19	Western Paper Birch (BEP) <i>Betula papyrifera</i>	Buffer	9 ft	4 ft height minimum	FAC
19	Scouler willow (SAC) <i>Salix scouleriana</i>	Buffer	9 ft	4 ft height minimum	FAC
19	Cascara (RAP) <i>Rhamnus purshiana</i>	Buffer	9 ft	4 ft height minimum	FAC
19	Western (black) Hawthorne (CRD) <i>Crataegus douglasii</i>	Buffer	9 ft	4 ft height minimum	FAC

WETLAND MITIGATION PLANTING AREA: C
Retained Wetland Enhancement – Submature trees with Blackberry understory
Exotic Invasive vegetation to be hand removed
No tree planting – shrubs planted opportunistically around trees

7948 sq. ft. @ 0.028/sq. ft. = 222 shrubs

	COMMON NAME SCIENTIFIC NAME	LOCATION	PROPOSED SPACING (oc)	PROPOSED SIZE	INDICATOR STATUS
23	Western crabapple (PYF) <i>Pyrus fusca</i>	Wetland	6 ft	2 gal	FACW
23	Vine maple (ACC) <i>Acer circinatum</i>	Wetland	6 ft	2 gal	FAC
23	Nootka Rose (RON) <i>Rosa nutkana</i>	Wetland	6 ft	2 gal	FAC
23	Black twinberry (LOI) <i>Lonicera involucrata</i>	Wetland	6 ft	2 gal	FAC+
23	Pacific ninebark (PHC) <i>Physocarpus capitatus</i>	Wetland	6 ft	2 gal	FACW-
23	Western Labrador-Tea (RHC) <i>Rhododendron columbianum</i>	Wetland	6 ft	2 gal	OBL
23	Red-osier dogwood (COS) <i>Cornus stolonifera</i>	Wetland	6 ft	2 gal	FACW
23	Wild Gooseberry (RID) <i>Ribes divaricatum</i>	Wetland	6 ft	2 gal	FAC
23	Nootka Rose (RON) <i>Rosa nutkana</i>	Wetland	6 ft	2 gal	FAC
23	Black currant (RIB) <i>Ribes bracteosum</i>	Wetland	6 ft	2 gal	FAC
23	Salmonberry (RUS) <i>Rubus spectabilis</i>	Wetland	6 ft	2 gal	FAC

BUFFER MITIGATION PLANTING AREA: A
Retained Buffer Enhancement –
100% Himal Blackberry
All exotic invasive vegetation to be removed by grubbing & herbicide

20,167 sq. ft. @ 0.012/sq. ft. = 242 trees
To be planted opportunistically among existing vegetation

	COMMON NAME SCIENTIFIC NAME	LOCATION	PROPOSED SPACING (oc)	PROPOSED SIZE	INDICATOR STATUS
41	Western red cedar (THP) <i>Thuja plicata</i>	Buffer	9 ft	4 ft height minimum	FAC
41	Sitka spruce (PIS) <i>Picea sitchensis</i>	Buffer	9 ft	4 ft height minimum	FAC
41	Western Paper Birch (BEP) <i>Betula papyrifera</i>	Buffer	9 ft	4 ft height minimum	FAC
41	Scouler willow (SAC) <i>Salix scouleriana</i>	Buffer	9 ft	4 ft height minimum	FAC
41	Cascara (RAP) <i>Rhamnus purshiana</i>	Buffer	9 ft	4 ft height minimum	FAC
41	Western (black) Hawthorne (CRD) <i>Crataegus douglasii</i>	Buffer	9 ft	4 ft height minimum	FAC

20,167 sq. ft. @ 0.028/sq. ft. = 565 shrubs

	COMMON NAME SCIENTIFIC NAME	LOCATION	PROPOSED SPACING (oc)	PROPOSED SIZE	INDICATOR STATUS
63	Western crabapple (MAF) <i>Malus fusca</i>	Buffer	6 ft	2 gal	FACW
63	Vine maple (ACC) <i>Acer circinatum</i>	Buffer	6 ft	2 gal	FAC
63	Wild rose (ROG) <i>Rosa gymnocarpa</i>	Buffer	6 ft	2 gal	FACU
63	Black twinberry (LOI) <i>Lonicera involucrata</i>	Buffer	6 ft	2 gal	FAC
63	Hazelnut (COC) <i>Corylus cornuta</i>	Buffer	6 ft	2 gal	FACU
63	Wild Gooseberry (RID) <i>Ribes divaricatum</i>	Buffer	6 ft	2 gal	FAC
63	Wild Rose (ROG) <i>Rosa gymnocarpa</i>	Buffer	6 ft	2 gal	FACU
63	Black currant (RIB) <i>Ribes bracteosum</i>	Buffer	6 ft	2 gal	FAC
63	Thimbleberry (RUP) <i>Rubus parviflorus</i>	Buffer	6 ft	2 gal	FACU

9180 sq. ft. @ 0.028/sq. ft. = 257 shrubs

	COMMON NAME SCIENTIFIC NAME	LOCATION	PROPOSED SPACING (oc)	PROPOSED SIZE	INDICATOR STATUS
29	Western crabapple (MAF) <i>Malus fusca</i>	Buffer	6 ft	2 gal	FACW
29	Vine maple (ACC) <i>Acer circinatum</i>	Buffer	6 ft	2 gal	FAC
29	Wild rose (ROG) <i>Rosa gymnocarpa</i>	Buffer	6 ft	2 gal	FACU
29	Black twinberry (LOI) <i>Lonicera involucrata</i>	Buffer	6 ft	2 gal	FAC
29	Hazelnut (COC) <i>Corylus cornuta</i>	Buffer	6 ft	2 gal	FACU
29	Wild Gooseberry (RID) <i>Ribes divaricatum</i>	Buffer	6 ft	2 gal	FAC
29	Nootka Rose (RON) <i>Rosa nutkana</i>	Buffer	6 ft	2 gal	FAC
29	Black currant (RIB) <i>Ribes bracteosum</i>	Buffer	6 ft	2 gal	FAC
29	Thimbleberry (RUP) <i>Rubus parviflorus</i>	Buffer	6 ft	2 gal	FACU

WETLAND MITIGATION PLANTING AREA: D
Retained Wetland Enhancement – Submature trees with Blackberry understory
Exotic Invasive vegetation to be hand removed
No tree planting – shrubs planted opportunistically around trees

1864 sq. ft. @ 0.028/sq. ft. = 53 shrubs

	COMMON NAME SCIENTIFIC NAME	LOCATION	PROPOSED SPACING (oc)	PROPOSED SIZE	INDICATOR STATUS
5	Western crabapple (PYF) <i>Pyrus fusca</i>	Wetland	6 ft	2 gal	FACW
5	Vine maple (ACC) <i>Acer circinatum</i>	Wetland	6 ft	2 gal	FAC
5	Nootka Rose (RON) <i>Rosa nutkana</i>	Wetland	6 ft	2 gal	FAC
5	Black twinberry (LOI) <i>Lonicera involucrata</i>	Wetland	6 ft	2 gal	FAC
5	Pacific ninebark (PHC) <i>Physocarpus capitatus</i>	Wetland	6 ft	2 gal	FACW
5	Western Labrador-Tea (RHC) <i>Rhododendron columbianum</i>	Wetland	6 ft	2 gal	OBL
5	Red-osier dogwood (COS) <i>Cornus stolonifera</i>	Wetland	6 ft	2 gal	FACW
5	Wild Gooseberry (RID) <i>Ribes divaricatum</i>	Wetland	6 ft	2 gal	FAC
5	Nootka Rose (RON) <i>Rosa nutkana</i>	Wetland	6 ft	2 gal	FAC
5	Black currant (RIB) <i>Ribes bracteosum</i>	Wetland	6 ft	2 gal	FAC
5	Salmonberry (RUS) <i>Rubus spectabilis</i>	Wetland	6 ft	2 gal	FAC

BUFFER MITIGATION PLANTING AREA: B
Retained Buffer Enhancement – Submature trees with Blackberry understory
Exotic Invasive vegetation to be hand removed
No tree planting – shrubs planted opportunistically around trees

2981 sq. ft. @ 0.028/sq. ft. = 84 shrubs

	COMMON NAME SCIENTIFIC NAME	LOCATION	PROPOSED SPACING (oc)	PROPOSED SIZE	INDICATOR STATUS
10	Western crabapple (MAF) <i>Malus fusca</i>	Buffer	6 ft	2 gal	FACW
10	Vine maple (ACC) <i>Acer circinatum</i>	Buffer	6 ft	2 gal	FAC
10	Wild rose (ROG) <i>Rosa gymnocarpa</i>	Buffer	6 ft	2 gal	FACU
10	Black twinberry (LOI) <i>Lonicera involucrata</i>	Buffer	6 ft	2 gal	FAC
10	Hazelnut (COC) <i>Corylus cornuta</i>	Buffer	6 ft	2 gal	FACU
10	Wild Gooseberry (RID) <i>Ribes divaricatum</i>	Buffer	6 ft	2 gal	FAC
10	Nootka Rose (RON) <i>Rosa nutkana</i>	Buffer	6 ft	2 gal	FACU
10	Black currant (RIB) <i>Ribes bracteosum</i>	Buffer	6 ft	2 gal	FAC
10	Thimbleberry (RUP) <i>Rubus parviflorus</i>	Buffer	6 ft	2 gal	FACU

PLANTING GUIDELINES

- Trees 9' O.C., or 0.012 per square foot of area; (this assumes 2-5 gal. size) — such trees are to be at least 50% conifers;
 - Plus shrubs 6' O.C., or 0.028 per square foot (this assumes 1-2 gal. size);
- **To be planted opportunistically around existing trees**
- Created Wetland hydroseeded @ 1 lbs. / 500 sq. ft.

Impact Area Analysis – (in sq. ft.)					
Area	Development Impact	Mitigation required?	Mitigation ratio	Mitigation Sq. Ft.	
Buffer – Sewer Pipe Placement - 2009	21,890	yes	1:1	21,890	
TOTAL BUFFER IMPACT	7,447	Yes	1:1	7,447	
		YES	1:1	29,337	
Wetland	5,294 Cat. 3	yes	Creation or Reestablishment 2:1	10,588	
			Rehabilitation	4:1	21,176
			Enhancement	8:1	42,352
TOTAL	35,261				

**NORTHWOOD EASEMENT
MITIGATION CREATION
AND ENHANCEMENT AREAS**
**PIERCE COUNTY TAX PARCEL 0420091014
& EASEMENT ADJACENT EAST
City File# 20-1348**

SATWANT SINGH
15445 -53rd Ave. S., Ste. 120,
Tukwila, WA 98118
206 391 3311
PMYRSINGH@GMAIL.COM

Beaver Creek Environmental Services, Inc.
POB 731695 • Puyallup WA 98373
(253) 732-6515
MHeckert@Q.com

To Accompany Wetland Mitigation Plan



City Of Edgewood Council Agenda Summary Sheet

Subject: Discussion – Resolution – Dhaliwal LID Segregation	Agenda Item #: 2.F
	For Agenda of: 7/5/2022
	Prepared by: Dave Gray
Attachments (list): 1. Resolution to Segregate Assessment 2. Exhibit A - Segregation Request 3. Exhibit B - Parcel Diagram 4. Exhibit C - Segregation of Assessment	
Approval of Materials: Dave Gray Rachel Pitzel 7/5/2022 Dave Gray 7/5/2022 Daryl Eidinger 7/5/2022	Expenditure Required: N/A The applicant pays the cost of the consolidataion processing by Public Finance Inc.
	Amount Budgeted: N/A
	Timeline: July 5th Study Session for Council review and discussion. July 11 for Potential Council action.

Summary Statement:

Formal combining of four parcels into one for the Dhaliwal Development results in the need to consolidate the LID No. 1 individual assessments into one.

Item History:

Recommended Action:

Discuss the consolidation of 4 parcel assessments into 1 for the Dhaliwal Development.

Fiscal Note/Consideration:

RESOLUTION NO. 22-0000

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF EDGEWOOD, TO SEGREGATE
ORIGINAL ASSESSMENTS UNDER LOCAL
IMPROVEMENT DISTRICT NO. 1, PURSUANT TO
SECTION 35.44.410 OF THE REVISED CODE OF
WASHINGTON**

WHEREAS, the City of Edgewood has received written request from the record owners of real property identified on the application form attached as Exhibit A requesting the segregation of original assessments within Local Improvement District No. 1; and

WHEREAS, Section 35.44.410 of the Revised Code of Washington authorizes the City Council to order the segregation of local improvement district assessments whenever property subject to such assessments is altered by a boundary line adjustment; and

WHEREAS, the new parcel configuration is shown on the diagram attached as Exhibit B; and

WHEREAS, RCW 35.44.410 requires that the new assessment equal the amount of the sum of the original assessments before segregation;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EDGEWOOD,
WASHINGTON, HEREBY RESOLVES AS FOLLOWS:**

Section 1. The assessment roll of Local Improvement District No. 1, which was confirmed and adopted by Ordinance No. 11-0366 on July 19, 2011, shall be modified to reflect the requested segregation.

Section 2. The original assessments shall be segregated in accordance with Section 35.44.410 of the Revised Code of Washington and shall result in the amended assessment as shown in the table attached hereto and incorporated by this reference as Exhibit C.

Section 3. The amended assessment shall equal the combined sum of the amounts of the original assessments before segregation, and the assessment roll is in all other respects reaffirmed.

Section 4. Effective Date. This resolution will take effect immediately upon passage by the City Council.

ADOPTED THIS 11TH DAY OF JULY 2022

Daryl Eidinger, Mayor

ATTEST:

Rachel Pitzel, CMC
City Clerk

Exhibit A — Segregation Request

CITY OF EDGEWOOD APPLICATION TO SEGREGATE LID ASSESSMENT

PLEASE COMPLETE AND RETURN THIS FORM TO:	City of Edgewood, Finance Department 2224 104th Ave E, Edgewood WA 98372-1513
---	--

Owner	Dhaliwal TC Landing LLC	Carol Davis
Mailing Address	5218 76th Avenue Ct W University Place WA 98467-4586	PO Box 1475 Milton WA 98354-1475

Existing Parcels (Tax Parcel No.)	Original Assessment
042009-1012	\$328,267.00
042009-1051	\$100,678.00
042009-1134	\$790,535.00
042009-1032	\$89,911.00

New Parcel Descriptions
Lot Line Elimination & Consolidation BLA

(If additional space is required, please attach the requested information on a separate sheet)

1. The undersigned holds an ownership interest in the above referenced parcel(s) located within a local improvement district in the City of Edgewood, Pierce County, Washington.
2. The City of Edgewood is hereby requested to segregate the assessment amount(s) listed above in accordance with the new property configuration.
3. This application for segregation of assessment is made under the provisions of § 35.44.410 of the Revised Code of Washington.

Property Owners (please print)

Signature

Date

Carol A Davis Carol Davis 7/1/2022
SATWANT SINGH Satwant Singh 07/01/2022

ASSESSMENT SEGREGATION FEE

A segregation fee is due per §35.44.410 of the Revised Code of Washington as a condition of final map approval. The fee for less than 10 new assessed lots is \$990. Please include payment with this completed form. Questions may be directed to Public Finance at (425) 885-1604.

CITY USE: RECEIPT # _____ DATE _____ BY _____

Exhibit B — Parcel Diagram

CITY OF EDGEWOOD LOT LINE ELIMINATION

A PORTION OF THE NE 1/4 & SE 1/4, NE 1/4, SEC. 9, T. 20 N., R. 4 E., W.M.
CITY OF EDGEWOOD, PIERCE COUNTY, WASHINGTON

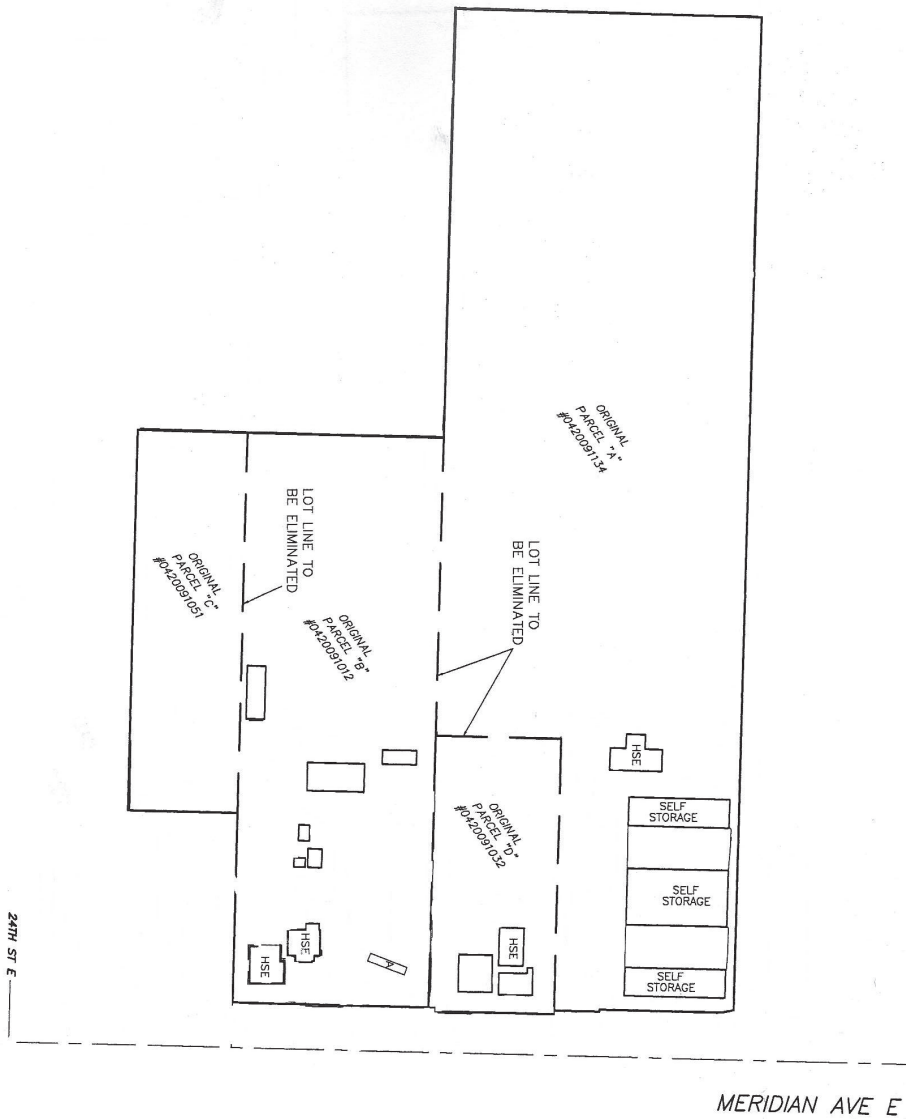


Exhibit C — Segregation of Assessment

CITY OF EDGEWOOD

Sewer Local Improvement District No. 1

ORIGINAL ASSESSMENTS

Account	Tax Parcel	Assessment	Prin Balance	Interest Due	Penalties	Pay in Full
068R	042009-1134	\$790,535.00	\$592,901.25	\$54,552.09	\$18,234.15	\$665,687.49
070	042009-1032	89,911.00	44,368.88	931.75	0.00	45,300.63
071R	042009-1012	328,267.00	246,200.25	21,993.11	7,436.60	275,629.96
079R	042009-1051	100,678.00	75,508.50	6,745.18	2,280.77	84,534.45
		\$1,309,391.00	\$958,978.88	\$84,222.13	\$27,951.52	\$1,071,152.53

AMENDED ASSESSMENT

Account	Assessment	Prin Balance	Interest Due	Penalties	Pay in Full
068R1	\$1,309,391.00	\$958,978.88	\$84,222.13	\$27,951.52	\$1,071,152.53
	\$1,309,391.00	\$958,978.88	\$84,222.13	\$27,951.52	\$1,071,152.53



City Of Edgewood Council Agenda Summary Sheet

Subject: Discussion – Plotter Purchase	Agenda Item #: 2.G
	For Agenda of: 7/5/2022
	Prepared by: Matthew Ray
Attachments (list): 1. Canon TZ30000 Omnia Proposal	
Approval of Materials: Matthew Ray Rachel Pitzel 6/30/2022 Dave Gray 6/30/2022 Daryl Eidinger 6/30/2022	Expenditure Required: \$16,000
	Amount Budgeted: \$25,000
	Timeline:

Summary Statement:

The City currently has an HP DesignJet T2300 eMFD that was originally manufactured in 2011 and was end of life in October of 2019. This is a large format printer and scanner, frequently referred to as a Plotter, and prints the large maps/posters you see throughout the City.

End of Life means:

No longer supported by the manufacturer

Difficult to source ink cartridges and parts

No longer fully compatible with the Windows Operating System.

A team was assembled of City staff to look at possible replacement devices from our most frequent users. As part of the evaluation process, we looked at our current limitations, needs and space and what it would look like to outsource our printing and scanning needs. The unanimous consensus was to move forward with the purchase of the Canon TZ-30000 MFP Z36

<https://www.usa.canon.com/internet/portal/us/home/products/details/professional-large-format-printers/technical-documents/canon-imageprograf-multifunction/multifunction-imageprograf-tz-30000-mfp-z36>

As with any decade jump in technology, the new unit is smaller, faster, and comes with a host of new features.

Item History:

The current device has been on a time and materials (Pay as you go) support plan. Staff's recommendation is to evaluate the new device during its nine-month warranty but to keep the same type of agreement with the new device.

Recommended Action:

Direct the Mayor to sign the purchase order for the Conon TZ-30000 MFP Z36

Fiscal Note/Consideration:

The City has the ability to lease this unit instead of purchasing and has the ability to put it on a Maintenance plan to cover any mechanical issues.

OmniaPartners DuPage Cooperative FI-R-0251-18/ City of Edgewood

Line Qty	Item Code	Description	OP Pricing
1	5517C003	36 INCH IMAGEPROGRAF TZ-30000 MFP Z36	\$11,422.63
1	1156C002	MAINTENANCE CARTRIDGE MC-30	\$82.00
2	4774C001	CANON INK TANK PFI-340 BK - PIGMENT BLACK INK TANK 330ML	\$314.00
2	4776C001	CANON INK TANK PFI-340 M - PIGMENT MAGENTA INK TANK 330ML	\$314.00
2	4775C001	CANON INK TANK PFI-340 C - PIGMENT CYAN INK TANK 330ML	\$314.00
2	4777C001	CANON INK TANK PFI-340 Y - PIGMENT YELLOW INK TANK 330ML	\$314.00
2	4773C001	CANON INK TANK PFI-340 MBK - PIGMENT MATTE BLACK INK TANK 330ML	\$314.00
1	1972V064	ESP NEXT GEN PCS POWER FILTER (120V/15A) XG-PCS-15D	\$117.00
1	3954V773	CSA IMAGEPROGRAF TZ-30000 MFP Z36 INSTALL PAK (INSIDE ESS SERVICE TERRITOR	\$1,226.98
Total			\$14,418.61

The 5-color 36" imagePROGRAF TZ-30000 MFP Z36 is built with production, efficiency, and versatility in mind. The imagePROGRAF TZ large-format printer is a new hybrid solution uniquely qualified to seize and expand the production aqueous inkjet market with its ability to print black-and-white line drawings and full-color posters on multiple media substrates.

TZ-30000 Box Includes: imagePROGRAF TZ-30000, Top Output Stacker Basket, 2?/3? Core Media Spool (Adaptors Included), US AC Power Cable, Tools and Screws, Print Head PF-06, Maintenance Cartridge (Installed), 5 Ink Tanks (330 ml: MBK, 160 ml: C/M/Y/BK), Ethernet Card (built-in), USB 2.0 High-speed Interface, USB Connection Sheet, iWR Service Terms Leaflet, User Manual, Quick Setup Guide, User Software CD for Windows (Printer Driver Utilities), PosterArtist Lite CD, User Registration Card, Warranty Statement

Z36 Scanner Box includes: Z36 Scanner with power cord, USB 3.0 Cable, 15.6" System Controller, 3:1 Trident Power Cord, Power Supply, Mount for system controller, (2) Paper Edge Guides, (3) Document Return Guides, Calibration Target, Assembly and Start-up Guide



City Of Edgewood Council Agenda Summary Sheet

Subject: Discussion – Core Distinctions Group Agreement-Hotels	Agenda Item #: 2.1
	For Agenda of: 7/5/2022
	Prepared by: Dave Gray
Attachments (list): 1. Resolution 2022-xxxx Core Distinction Group Hotel - AMS edits_clean 2. Core Distinction Group Contract - Edgewood WA	
Approval of Materials: Dave Gray Rachel Pitzel 6/30/2022 Dave Gray 7/1/2022 Daryl Eidinger 7/1/2022	Expenditure Required: Agreement is \$12,500, authorization ask is not to exceed 13,750.00 (sales tax potential)
	Amount Budgeted: 001-058-000-558-70-41- 02 Professional Services - Marketing Plan \$25,000
	Timeline: 07/05/2022 Study Session for presentation and discussion.

Summary Statement:

As part of the ongoing city strategy to attract targeted industry to achieve the vision of the community, which includes a diversified "roof-top" model, the Mayor and Development Staff attended RECon in May. RECon is the largest Real Estate Development Conference in the world and is attended by many municipalities looking to attract targeted development to their jurisdictions. At RECon the City made a connection with a hotel project developer currently building hotels in Lynden and Bellingham. They are interested in expanding discussions with the city. To identify the style and type of hotel development that could succeed in Edgewood the City, upon recommendation of both the City's Retail Strategy consultant and this Hotel Project Developer, wishes to retain a consultant that does feasibility studies for private and municipal clients. Core Distinctions Group was recommended and has done both feasibility studies for the projects in Lynden and Bellingham.

Item History:

Recommended Action:

Review and discuss the agreement.

Fiscal Note/Consideration:

The scope of work called out is associated with a \$12,500 cost. The payment plan is 50% up-front to pay for

the initial feasibility study and 50% upon completion of a jurisdictional specific analysis that the city can provide potential developers.

RESOLUTION NO. 22-0XXX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
EDGEWOOD, PIERCE COUNTY, WASHINGTON,
AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT
WITH CORE DISTINCTION GROUP FOR A
COMPREHENSIVE HOTEL MARKET FEASIBILITY STUDY**

WHEREAS, the City wishes to attract specific industry with attributes that match the vision of the City Council representing the community as a whole; and

WHEREAS, in the interest of that effort, the City has contracted with consultants, attended development conferences, formed a marketing and branding strategy, and launched staff efforts for community engagement including connecting property owners with developers, financial backing and retail strategists representing various retail and commercial enterprises; and

WHEREAS, after direct talks with members of the hotel industry, the City has determined it is in the interest of the community to ascertain through a specialized cost benefit study, those hotels and hotel development groups that may best blend the vision of the City with the propensity for retail success of a hotel development in Edgewood; and

WHEREAS, Core Distinction Group, a company known by the City's retail strategy consultant to have successfully completed studies in Lynden and Bellingham, Washington resulting in the construction of mid-range hotel projects in both cities, has been selected by the City Council to perform such a study for the City of Edgewood;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. Agreement Authorized. The City Council authorizes the Mayor to execute the Comprehensive Hotel Market Feasibility Study Service Agreement with Core Distinction Group incorporated herein and attached as Exhibit A.

Section 2. Effective Date. This resolution will take effect immediately upon passage by the City Council.

ADOPTED THIS 12TH DAY OF JULY, 2022

Daryl Eidinger, Mayor

ATTEST:

Rachel Pitzel, CMC
City Clerk

COMPREHENSIVE HOTEL MARKET FEASIBILITY STUDY SERVICE AGREEMENT

THIS AGREEMENT (“this agreement”) made this 28th day in June, in 2022, by and between, the City of Edgewood, a Washington State Municipal Corporation (collectively, the “Client”), and Core Distinction Group, an S Corporation formed in the State of Wisconsin, (the “Vendor”), (collectively, the “Parties”) to conduct a Comprehensive Hotel Market Feasibility Study in Edgewood, Washington (the “Market”).

WHEREAS, Client desires to employ Vendor to render certain services to prepare a demand and market feasibility study of the development of a hotel, as set forth in the Vendor’s Proposal; and

WHEREAS, Vendor represents that it has the expertise, knowledge, and ability, and is qualified to render the services described in this Agreement and that it is willing to provide such services under the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the Parties agree to the following:

VENDOR RESPONSIBILITIES

For the performance of services described in this Agreement, Vendor shall be responsible in accordance with the following:

- A. Vendor shall provide services as described throughout this Agreement. Vendor shall be required to complete the Services within 30 (thirty) days of receiving the Retainer payment, this executed Agreement and the completion of the Vendor’s Field Work or Site Visit to the Market.
- B. Vendor shall communicate and deal with Client’s authorized representative. Vendor shall not disclose any confidential information of the Client’s without Client’s consent.

CLIENT RESPONSIBILITIES

For the performance of services described in this Agreement, Client shall be responsible in accordance with the following:

- A. Client shall provide compensation as described throughout this Agreement.
- B. Client shall communicate and deal with Vendor’s authorized representative. Client shall not disclose any confidential information of the Vendor’s without Vendor’s consent.

COMPENSATION

For the performance of services described in this Agreement, Client shall compensate Vendor in accordance with the following:

- A. The all-inclusive fee to the Vendor, for services in rendering the Comprehensive Hotel Market Feasibility Study will be \$12,500 (twelve thousand, five hundred dollars). For the avoidance of doubt, this fee represents the only consideration payable by the Client hereunder and includes all costs and expenses incurred in the performance of services, including without limitation associated research, travel expenses, on site evaluations, and report completion.
- B. A 50% (fifty-percent) Retainer (the “Retainer”) will be required prior to commencing work on this project, the Retainer is non-refundable.
- C. In the event the Client wishes to pay by credit or debit card, Vendor will charge an additional fee of 3% (three percent).
- D. The remaining 50% (fifty percent) of fee due (the “Final Payment”) to the Vendor will be required prior to the Client receiving the Final Draft of the Comprehensive Hotel Market Feasibility Study.
- E. If at any point during Vendor’s research, should the market lack initial support for hotel development, the Vendor would cease further research of this market. At this time Vendor would send a termination letter to the Client highlighting the reasons for the lack of support for a hotel development in this market with a potential date for follow up in the future. If this rare situation takes place, Client will not be responsible for the Final Payment.
- F. All invoices for project work are due upon receipt; any unpaid balance beyond 30 (thirty) days is subject to a 12% (twelve percent) finance charge.
- G. Client will receive the Final Comprehensive Hotel Market Feasibility Study within, equal to or less than the number of days taken by Client to pay the Final Payment Invoice.
- H. All payments made to the Vendor will be paid by Client to the following address:

Core Distinction Group LLC
2384 Burnwood Drive
Oshkosh, WI 54902

OWNERSHIP OF DOCUMENT/WORK

The Comprehensive Hotel Market Feasibility Study prepared by Vendor in the performance of its obligations under this Agreement shall be remitted to the Client by the Vendor upon Final Payment described in this Contract. Vendor shall not use, willingly allow or cause to have such materials prepared exclusively for the Client used for any purpose other than performance of Vendor's obligations under this contract without the prior written consent of the Client. Prior to the Final Payment of this Agreement, all work and documents remain the property of the Vendor.

GENERAL SCOPE OF WORK

The following are the general conditions that are incorporated into this Agreement for services associated with the Comprehensive Hotel Market Feasibility Study.

A. GENERAL APPROACH

Outlining the General Approach Vendor will take in researching the market Vendor will schedule the project and conclude field work to review the market to determine the need for further research to be performed. At this time, the market research will show the following:

1. Should the market appear strong and supportive of a hotel development, Vendor will proceed with the completion of the Feasibility Study outlined below.
2. Should the market lack initial support for hotel development, Vendor would cease further research of this market. At this time, Vendor will communicate with Client and send a termination letter to the payee highlighting the reasons for the lack of support for a hotel development in this market with a potential date for follow up in the future.

B. GENERAL PROJECT EXPECTATIONS

The scope is to conduct a specific Comprehensive Hotel Market Feasibility Study for the possible development of a hotel for the Client. Recommendations regarding the style and size of the hotel will be provided based upon demand and competitive supply factors. These factors can be weighted by certain project conditions. It is the understanding of the Client and the Vendor that the following to be true:

1. The general subject site for this hotel has been identified at this time; more specific details about the site will be discussed upon commencement of this research.
2. The hotel product category has not yet been identified at this time.
3. The price category for this hotel has not yet been determined.
4. The size of the proposed hotel has not been identified at this time. Specific size suggestions will be made in this feasibility study report as determined by the size of the site, the demand sources, and competitive supply in the market.

C. GENERAL PROJECT RECOMMENDATIONS

The scope is to conduct a specific Comprehensive Hotel Market Feasibility Study for the possible development of a hotel for the Client. Recommendations regarding the style and size of the hotel will be provided based upon demand and competitive supply factors. These factors can be weighted by certain project conditions. It is the understanding of the Client and the Vendor that the following to be included in the Comprehensive Hotel Market Feasibility Study:

1. Recommendations of the hotel product category or market segment based upon research, demand, and competitive supply factors will be provided by Vendor.
2. Recommendations of the hotel development's scale chain based upon research, demand, and competitive supply factors will be provided Vendor.
3. Recommendations of the hotel development's potential location or locations for the hotel project based upon research, demand, and competitive supply factors will be provided by Vendor.
4. Recommendations for the hotel development's amount of rooms or units based upon research, demand, and competitive supply factors will be provided by Vendor.
5. Recommendations for the amenities of the hotel development based upon research, demand, and competitive supply factors will be provided by Vendor.

D. TIMING

The Comprehensive Hotel Market Feasibility Study will be completed within 30 (thirty) days of the conclusion of Vendor's Field Work or Site Visit to the Market. Vendor will begin gathering preliminary research as soon as we receive your acceptance of this engagement letter and the retainer check; at which time, an exact start and completion date will be determined. Should there be any unforeseen delays which would change this completion date determined, Vendor will communicate with Client accordingly.

E. FINAL REPORT & CHANGES

Vendor warrants that the report completed in connection with the Comprehensive Hotel Market Feasibility Study project will be prepared with the best of their knowledge of industry standards and processes for such reports. It is the understanding of Client and the Vendor that at the time the report is complete, the following will commence:

1. Upon completion of the Comprehensive Hotel Market Feasibility Study project, a "draft" version of the report will be presented for Client review.
2. At this time, the remaining balance due of this Agreement will be required for Vendor to release a final version of the study report, which is suitable for sharing with lenders, investors, etc.
3. If the final payment is not paid in full, the Comprehensive Hotel Market Feasibility Study report remains the property of Vendor until the final payment is made. Any use or distribution of the report to third-parties is prohibited until the payment is made in full.
4. Upon review of the "pending" version of the report, Vendor will provide one complimentary revision to the report.
5. This revision is for minor changes only (i.e. spelling errors, punctuation, minor additions, or deletions not affecting the report outcome).
6. Client will receive the Final Comprehensive Hotel Market Feasibility Study within, equal to or less than the number of days taken by Client to pay the Final Payment Invoice.
7. An electronic copy of the final report will be provided to you once final payment is received.
8. If Final Payment is not received by Vendor within 90 (ninety) days of Client's invoice, Vendor retains the right to use the Comprehensive Hotel Market Feasibility Study retained in this Agreement at its own discretion.
9. Additional copies may be obtained at a reproduction cost.

CONFIDENTIALITY

Vendor is an independent contractor and will maintain its own separate legal identity and entity. There is no indication in this Agreement that Vendor and the Client are business partners or have formed a joint venture to complete the project work defined. All information concerning Client's interests, as well as Vendors, including business data, policies, procedures, operations, and other information are confidential and are not to be disclosed by Client or Vendor.

INDEMNIFICATION

Vendor shall defend, indemnify and hold the Client, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Vendor in performance of this Agreement, except for injuries and damages caused by the sole negligence of the Client.

However, should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Vendor and the Client, its officers, officials, employees, and volunteers, the Vendor's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Vendor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Vendor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

INSURANCE

A. INSURANCE TERM

The Vendor shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Vendor, its agents, representatives, or employees.

B. NO LIMITATION

The Vendor's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Vendor to the coverage provided by such insurance, or otherwise limit the Client's recourse to any remedy available at law or in equity.

C. MINIMUM SCOPE OF INSURANCE

The Vendor shall obtain insurance of the types and coverage described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.
2. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap independent contractors and personal injury and advertising injury. The Client shall be named as an additional insured under the Vendor's Commercial General Liability insurance policy with respect to the work performed for the Client using an additional insured endorsement at least as broad as ISO endorsement form CG 20 26.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

D. MINIMUM AMOUNTS OF INSURANCE

The Vendor shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.

E. OTHER INSURANCE PROVISIONS

The Vendor's Automobile Liability and Commercial General Liability insurance policies are to contain or be endorsed to contain that they shall be primary insurance as respect the Client. Any insurance, self-insurance, or self-insured pool coverage maintained by the Client shall be excess of the Vendor's insurance and shall not contribute with it.

F. ACCEPTABILITY OF INSURERS

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

G. VERIFICATION OF COVERAGE

The Vendor shall furnish the Client with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Agreement before commencement of the work.

H. NOTICE OF CANCELLATION

The Vendor shall provide the Client with written notice of any policy cancellation within two business days of their receipt of such notice.

I. FAILURE TO MAINTAIN INSURANCE

Failure on the part of the Vendor to maintain the insurance as required shall constitute a material breach of contract, upon which the Client may, after giving five business days' notice to the Vendor to correct the breach, immediately terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so

expended to be repaid to the Client on demand, or at the sole discretion of the Client, offset against funds due the Vendor from the Client.

J. FULL AVAILABILITY OF VENDOR LIMITS

If the Vendor maintains higher insurance limits than the minimums shown above, the Client shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Vendor, irrespective of whether such limits maintained by the Vendor are greater than those required by this Agreement or whether any certificate of insurance furnished to the Client evidences limits of liability lower than those maintained by the Vendor.

IN WITNESS WHEREOF, the Parties hereto have executed, or caused to be executed by their fully authorized officials, this Agreement on the date first above written.

CLIENT

By: _____

Position: _____

At: _____

VENDOR

By: *Jessica Junker*

Position: Managing Partner

At: Core Distinction Group, LLC

Signature Certificate

Reference number: CPDMW-TXB9R-JA798-CUDKG

Signer

Timestamp

Signature

Jessica Junker

Email: j.junker@coredistinctiongroup.com

Sent:

30 Jun 2022 17:20:42 UTC

Signed:

30 Jun 2022 17:20:42 UTC

Jessica Junker

IP address: 65.25.228.74

Location: Appleton, United States

Document completed by all parties on:

30 Jun 2022 17:20:42 UTC

Page 1 of 1



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