MUKILTEO PLANNING COMMISSION AGENDA REPORT	
SUBJECT TITLE: Low Impact Development (LID) Code Update	**FOR AGENDA OF:** September 15, 2016
Department Director: Rob McGaughey, Public Works Director	**EXHIBITS:** 1. Draft LID Ordinance 1390 • Exhibit A – Chapter 13.12 Surface Water Management and Chapter 13.16 Storm Drainage System • Exhibit B – Chapter 15.16 Grading and Excavation • Exhibit C – Chapter 17, Various Sections 2. Exhibit D – Findings of Facts and Conclusions 3. SEPA Determination 4. Response to July 21, 2016 PC Comments 5. Opportunity Analysis – Working Document
Contact Staff: Jennifer Adams, Surface Water Programs Manager	

BACKGROUND

The City is required by its Phase II National Pollutant Discharge Elimination System (NPDES) Permit to integrate Low Impact Development (LID) principals and designs as the preferred alternative into the City's Municipal Code (MMC) and development standards. Our Phase II NPDES permit requires the City to complete the review, revision, and adoption of Municipal Code, Development Standards, and other relevant documents by December 31, 2016. The intent of this process is to minimize impervious surfaces, mitigate native vegetation loss, and minimize stormwater runoff in all types of development situations by requiring the use of LID methods.

PURPOSE

The intent of this meeting is to review the proposed ordinance amending the following Code sections:

- Chapter 13.12, Surface Water Management. Revisions to include amending development process to be in line with new *Stormwater Management Manual for Western Washington,* the City's revised Development Standards, and removing development standards from Code.
- Chapter 13.16, Storm Drainage System. Revisions include alignment of language with current definitions
- Chapter 15.16, Grading and Excavation. Revisions include updated tree retention requirements and penalties during construction; remove obsolete LID development techniques, and refer to the current requirements for Soil Management Plan and Tree Retention Plan

- Chapter 17.08, Definitions. Revisions include moving all definitions from Chapters 13.12, 13.16, and 15.16 to one location for continuity of definition, and adding stormwater related definitions that address low impact development
- Chapter 17.13, Land Use and Development Review Procedures. Revisions include addition of a Soil Management Plan and Tree Management Plan as part of permit application submittal requirements.
- Chapter 17.20, Bulk Regulations. Revisions include adding a maximum hard surface area to individual lots and specifying that native vegetation is allowable as screening.
- Chapter 17.25, Design Standards for Mixed-Use Development and WMU District. Revision includes one minor change to address permeable surfaces, where feasible.
- Chapter 17.25B, Mixed-Use Design Standards for the WMU District. Revisions include use of permeable surfaces, where feasible, allowing LID BMPs in passive open space areas, and promoting use of native plants in landscaping.
- Chapter 17.51, Planned Residential Development. Revision includes allowing LID BMPs in passive open space areas.
- Chapter 17.52B, Wetland Regulations. Revision includes allowing stormwater dispersion in the outer 25% of the buffer area.
- Chapter 17.54, Private Driveways and Private Joint-Use Driveways. Revision includes reducing minimum private driveways to 10-feet.
- Chapters 17.56, Off-Street Parking. Revision includes allowing more compact spaces, and allows LID BMPs as landscaping.
- Chapter 17.58, Landscaping. Revisions include defining where LID BMPs and use of native vegetation is allowed.

Title 17 is currently being finalized by the consultant and will be sent under separate cover prior to the public hearing for your review.

Staff anticipates a Council Hearing on November 14, 2016.

PLANNING COMMISSION ACTION:

1. Hear the staff report, presented by the city's consultant, on the proposed ordinance.
2. Commission questions of staff.
3. Receive public testimony.
4. MOTION to close the public hearing.
5. Deliberate.
6. MOTION making a recommendation to the City Council or continue public hearing.

RECOMMENDED PLANNING COMMISSION ACTION:

MOTION to recommend City Council approval of Ordinances 1390 as drafted and to adopt the Findings of Fact & Conclusions.

EXHIBIT 1
CITY OF MUKILTEO
MUKILTEO, WASHINGTON

ORDINANCE NO. 1390

AN ORDINANCE OF THE CITY OF MUKILTEO, WASHINGTON RELATING TO LOW IMPACT DEVELOPMENT; AMENDING CHAPTER 13.12 MMC – SURFACE WATER MANAGEMENT; AMENDING CHAPTER 13.16 MMC - STORM DRINAGE SYSTEM; AMENDING CHAPTER 15.16 MMC – GRADING AND EXCAVATION; AMENDING CHAPTER 17.08 MMC – DEFINITIONS TO THE MUKILTEO MUNICIPAL CODE; AMENDING CHAPTER 17.13 MMC – LAND USE AND DEVELOPMENT REVIEW PROCEDURES; AMENDING CHAPTER 17.20 MMC BULK REGULATIONS; AMENDING CHAPTER 17.25 MMC – DESIGN STANDARDS FOR MIXED-USE DEVELOPMENT; AMENDING CHAPTER 17.25B MMC – MIXED-USE DESIGN STANDARDS FOR THE WMU DISTRICT; AMENDING CHAPTER 17.51 MMC – PLANNED RESIDENTIAL DEVELOPMENT; AMENDING CHAPTER 17.52B MMC – WETLAND REGULATIONS; AMENDING CHAPTER 17.54 MMC – PRIVATE DRIVEWAYS AND PRIVATE JOINT-USE DRIVEWAYS; AMENDING CHAPTER 17.56 MMC; AND AMENDING CHAPTER 17.58 MMC - LANDSCAPING TO MEET THE REGULATORY REQUIREMENTS WITH RESPECT TO THE CITY'S PHASE II NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT; PROVIDING FOR ENFORCEMENT, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the responsible federal and state regulatory authorities have required local governments to meet the regulatory requirements with respect to the City's Phase II National Pollutant Discharge Elimination System (NPDES) Permit to integrate Low Impact Development (LID) principals and designs as the preferred alternative, and,

WHEREAS, the City of Mukilteo must update its codified regulations to implement the requirements of the federal and state regulatory authorities no later than December 31, 2016; and,

WHEREAS, the intent of this ordinance is to comply with these federal and state regulatory requirements to establish best practices for stormwater management; and,

WHEREAS, the ordinance is also intended to require use of Low Impact Development (LID) principals and best management practices in all types of development situations; and,

WHEREAS, the City has complied with the requirements of the State Environmental Policy Act, Ch.43.21C RCW, (SEPA) by issuing a Determination of Nonsignificance (DNS) on July 5, 2016; and

WHEREAS, City Council finds that this ordinance for low impact development regulations is in the best interests of the citizens of the City of Mukilteo;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MUKILTEO, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Chapter 13.12 MMC Chapter 13.12 MMC – Surface Water Management, shall be amended to read as shown in Exhibit A.

Section 2. Chapter 13.16 MMC Chapter 13.16 MMC – Storm Drainage System, shall be amended to read as shown in Exhibit A.

Section 2. Chapter 15.16 MMC. Chapter 15.16 MMC – Grading and Excavation, shall be amended to read as shown in Exhibit B.

Section 3. Chapter 17.08 MMC. Chapter 17.08 MMC – Definitions, shall be amended to read as shown in Exhibit C.

Section 4. Chapter 17.13 MMC. Chapter 17.13 MMC – Land Use and Development Review Procedures, shall be amended to read as shown in Exhibit C.

Section 5. Chapter 17.20 MMC . Chapter 17.20 MMC – Bulk Regulations, shall be amended to read as shown in Exhibit C.

Section 6. Chapter 17.25 MMC. Chapter 17.25 MMC – Design Standards for Mixed-Use Development, shall be amended to read as shown in Exhibit C.

Section 7. Chapter 17.25B MMC. Chapter 17.20 MMC – Mixed-Use Design Standards for the WMU District, shall be amended to read as shown in Exhibit C.

Section 8. Chapter 17.51 MMC. Chapter 17.51 MMC – Planned Residential Development; shall be amended to read as shown in Exhibit C.

Section 9. Chapter 17.52B MMC. Chapter 17.52B Wetland Regulations; shall be amended to read as shown in Exhibit C.

Section 10. Chapter 17.54 MMC. Chapter 17.54 Private Driveways and Private Joint-Use Driveways; shall be amended to read as shown in Exhibit C.

Section 11. Chapter 17.56 MMC. Chapter 17.20 MMC – Off-Street Parking, shall be amended to read as shown in Exhibit C.

Section 12. Chapter 17.58 MMC. Chapter 17.58 MMC – Landscaping, shall be amended to read as shown in Exhibit C.

Section 13. Severability. If any section, subsection, clause, sentence, or phrase of this ordinance should be held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 14. Authority to make necessary corrections. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 15. Enforcement. Violations of this Ordinance are punishable under Title 18 MMC and as otherwise provided by law, and are subject to injunctive and other forms of civil relief which the City may seek.

Section 16. Conflict. In the event that there is a conflict between the provisions of this Ordinance and any other City ordinance, the provisions of this Ordinance shall control.

Section 17. Effective Date. The ordinance shall take effect and be in full force five (5) days after publication of the attached Summary which is hereby approved.

PASSED by the City Council and APPROVED by the Mayor this _____ day of _____, 2016.

APPROVED:

_____
MAYOR, JENNIFER GREGERSON

ATTEST/AUTHENTICATED:

_____
CITY CLERK, JANET KEEFE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

By: _____
ANGELA G. SUMMERFIELD

Surface Water Management Ordinance (final CC approved)

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO. 1390

SUMMARY OF ORDINANCE NO. 1390
of the City of Mukilteo, Washington

On _____, 2016, the City Council of the City of Mukilteo, Washington, approved Ordinance No. 1390, the main point of which may be summarized by its title as follows:

AN ORDINANCE OF THE CITY OF MUKILTEO, WASHINGTON RELATING TO LOW IMPACT DEVELOPMENT; AMENDING CHAPTER 13.12 MMC – SURFACE WATER MANAGEMENT; AMENDING CHAPTER 13.16 MMC - STORM DRINAGE SYSTEM; AMENDING CHAPTER 15.16 MMC – GRADING AND EXCAVATION; AMENDING CHAPTER 17.08 MMC – DEFINITIONS TO THE MUKILTEO MUNICIPAL CODE; AMENDING CHAPTER 17.13 MMC – LAND USE AND DEVELOPMENT REVIEW PROCEDURES; AMENDING CHAPTER 17.20 MMC BULK REGULATIONS; AMENDING CHAPTER 17.25 MMC – DESIGN STANDARDS FOR MIXED-USE DEVELOPMENT; AMENDING CHAPTER 17.25B MMC – MIXED-USE DESIGN STANDARDS FOR THE WMU DISTRICT; AMENDING CHAPTER 17.51 MMC – PLANNED RESIDENTIAL DEVELOPMENT; AMENDING CHAPTER 17.52B MMC – WETLAND REGULATIONS; AMENDING CHAPTER 17.54 MMC – PRIVATE DRIVEWAYS AND PRIVATE JOINT-USE DRIVEWAYS; AMENDING CHAPTER 17.56 MMC; AND AMENDING CHAPTER 17.58 MMC - LANDSCAPING TO MEET THE REGULATORY REQUIREMENTS WITH RESPECT TO THE CITY'S PHASE II NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT; PROVIDING FOR ENFORCEMENT, SEVERABILITY AND AN EFFECTIVE DATE.

The full text of this ordinance will be mailed upon request.

APPROVED by the City Council at their meeting of_____, 2016.

_____
City Clerk, Janet Keefe

EXHIBIT A
Chapter 13.12
SURFACE WATER MANAGEMENT

Sections:

13.12.010 Purpose and intent.
13.12.020 Authority of the city.
13.12.030 Definitions.
13.12.040 Ecology ~~Stormwater~~ Manual adopted.
13.12.050 Establishment of regional facilities.
13.12.060 Emergency disaster plan.
13.12.070 Studies and basin plans.
13.12.080 Discharge of polluting matter—Illicit connections—Prohibited.
13.12.090 Emergency conditions requiring immediate action.
13.12.100 Ownership of the stormwater system.
13.12.110 Fees for permits and specific services.
13.12.120 Installation responsibility for new stormwater facilities—Cost.
13.12.130 Latecomer's agreement—New streets, street extensions, storm sewer and related improvements.
13.12.140 ~~Traffic control.~~Right-of-Way use permit.
13.12.150 Connections or modifications to the stormwater system.
13.12.160 Permits and approvals.
13.12.170 Bonds and liability insurance required.
13.12.180 Construction ~~and warranty~~ inspections.
13.12.185 Warranty inspections and tests.
~~13.12.190 Drainage plan—Submission.~~
~~13.12.200 Drainage plan—Contents.~~
~~13.12.210 Stormwater easement requirements.~~
~~13.12.220 Plan review and approval.~~
~~13.12.230 Mandatory requirements for drainage improvements.~~
~~13.12.240 Stormwater system engineering and design requirements.~~
~~13.12.250 Exceptions to engineering and design requirements.~~
13.12.~~260~~190 Applicability to government entities.
13.12.~~270~~200 Construction of stormwater facilities.
13.12.~~280~~210 Maintenance, repair and operation of the stormwater system.
13.12.~~290~~220 Inspection of private stormwater facilities.
13.12.~~300~~230 Demolition or removal of structures.
13.12.~~310~~240 Enforcement.

13.12.010 Purpose and intent.

A. The purpose of this chapter is to promote sound development guidelines and construction procedures which respect and observe the city's watercourses; to minimize water quality degradation and control the sedimentation of creeks, streams, ponds and other water bodies; to protect property owners adjacent to developing and developed land from increased runoff rates which could cause erosion of abutting property; to protect downstream owners; to preserve and enhance the suitability of waters for recreation; to preserve and enhance the aesthetic quality of the waters; to maintain and protect groundwater resources; to minimize adverse effects of alterations in groundwater quantities, locations and flow patterns; to ensure

the safety of public roads and rights-of-way; and to decrease drainage-related damage to public and private property.

B. This chapter is enacted pursuant to the police power of the city to protect and preserve the public health, safety and general welfare and in compliance with the Federal Clean Water Act (Title 33 United States Code Section 1251 et seq.) and the requirements of the city's National Pollution Discharge Elimination System (NPDES) Phase II permit issued by the Washington State Department of Ecology. Its provisions shall be liberally construed to accomplish the purposes of the program and the protection and preservation of the public health, safety and general welfare.

C. It is the intent of this chapter to provide for and to promote the public health, safety and general welfare of the citizens and not to create or otherwise establish or designate any particular class or group of persons who will or should be specially protected or benefited. This chapter shall not be construed to create any specific rights in any individual nor to create any duty owed by the city toward any individual or class of persons.

D. It is the intent of this chapter to place the obligation of compliance with the requirements of this chapter upon the owner and/or operator of a stormwater facility, whether public or private. Nothing contained in this chapter is intended to be nor shall it be construed to create or form the basis for liability on the part of the city, or its officers, employees or agents, for any injury to persons or damage to property resulting or arising from the act, omission or failure of the owner or operator of any stormwater facility to comply with the provisions of the program, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this chapter by the city, or their officers, employees or agents. (Ord. 1222 § 2 (Exh. A) (part), 2009)

13.12.020 Authority of the city.
The city, by and through the director, shall have the authority to:

A. Develop, adopt, carry out and enforce administrative procedures as needed to implement the program and to carry out other responsibilities of the city.

B. Prepare and update, as needed, engineering standards to establish minimum requirements for the design and construction of the stormwater system and requirements for protecting existing stormwater facilities during construction. The engineering standards shall be consistent with this chapter and adopted city policies.

C. Administer and enforce this chapter and all procedures relating to the planning, acquisition, design, construction, alteration, inspection, and regulation of the stormwater system.

D. Prepare, update, administer and enforce maintenance standards to establish minimum requirements for the maintenance of stormwater facilities so they function as intended, including but not limited to protecting water quality, limiting discharge quantity, and providing flood control.

E. Develop and implement a program that includes administration, inspection and enforcement of private stormwater facilities to ensure compliance with this chapter.

F. Establish and implement programs to protect and maintain water quality and to manage stormwater within the stormwater system in order to maintain compliance, to the maximum

extent possible, with applicable water quality standards established by the city, or by state or federal agencies, as now or hereafter adopted.

G. Carry out such other responsibilities as may be required by this chapter or other city ordinances or regulations relating to stormwater.

H. Conduct public education programs related to the protection and enhancement of the drainage system.

I. Delegate, as appropriate, the authority granted under this chapter to meet the goals and purposes of this chapter.

J. Take any emergency or other action as determined appropriate by the director to operate, repair, safeguard and/or protect the drainage system.

K. Coordinate as necessary or advisable with private and public stakeholders, and federal, state, county, city and regional governments. (Ord. 1222 § 2 (Exh. A) (part), 2009)

13.12.030 Definitions.
Words and phrases when used in this chapter shall have the meanings as defined in Chapter 17.08, Definitions. Words not defined shall have their usual meanings as commonly understood. (Ord. 1222 § 2 (Exh. A) (part), 2009)

13.12.040 Ecology ~~Stormwater~~ Manual adopted.
The city hereby adopts the thresholds, definitions, minimum requirements and exceptions, adjustment and variance criteria found in Appendix I of the NPDES Phase II Municipal Stormwater Permit, including the mandatory incorporated provisions of the ~~2005~~ Ecology ~~Stormwater Management~~ Manual ~~for Western Washington~~. Authority is hereby delegated to the director to adopt such administrative changes or amendments to the Ecology Manual as necessary or appropriate to conform to local circumstances; provided, that such changes and amendments shall be consistent with the purpose and intent of this chapter and in no case be less stringent than currently adopted standards. The director shall at all times maintain and make available for public inspection the Ecology Manual, as amended. (Ord. 1222 § 2 (Exh. A) (part), 2009)

13.12.050 Establishment of regional facilities.
In the event that public benefits would accrue due to modification of the drainage plan for the subject property to better implement the recommendations of the adopted storm drainage study, the director may recommend that the city should assume responsibility for the design, construction, operation and maintenance of the drainage facilities, or any increment of the facilities on the subject property. Should establishment of a regional detention facility at a location not contained in the subject property entail a greater public benefit, the director may require the applicant to participate in the cost of such an off-site regional detention facility in lieu of constructing on-site detention facilities. Such decision shall be made concurrently with review and approval of the plan as specified in Section 13.12.240. In the event that the city decides to assume responsibility for all or any portion of the design, construction, operation and maintenance of the facilities, the applicant will be required to contribute a pro rata share to the construction and maintenance cost of the facilities. The applicant may be required to supply additional information at the request of the director to aid in the determination by the city. (Ord. 1222 § 2 (Exh. A) (part), 2009)

13.12.060 Emergency disaster plan.
The city shall prepare and update an emergency plan, as may be necessary or appropriate, and shall present such plan for review and adoption by the city council as part of the city's overall emergency operation or disaster plan. (Ord. 1222 § 2 (Exh. A) (part), 2009)

13.12.070 Studies and basin plans.
The city may, as appropriate or necessary, conduct studies and develop basin plans for review and adoption by the city council. Basin plans shall be developed according to adopted engineering standards. Once a basin plan has been adopted and implemented, such plan shall supersede the requirements of this chapter; provided, that the basin plan and basin-specific requirements provide an equal or greater level of water quality and stormwater control protection. (Ord. 1222 § 2 (Exh. A) (part), 2009)

13.12.080 Discharge of polluting matter—Illicit connections—Prohibited.
A. Prohibited Discharges. No person shall throw, drain, or otherwise discharge, cause or allow others under its control to throw, drain or otherwise discharge into the municipal storm drain system and/or surface and ground waters any materials other than stormwater, or non-stormwater discharges specifically addressed in this section. Examples ~~or~~ of prohibited contaminants include but are not limited to the following:

1. Trash or debris.

2. Construction materials.

3. Petroleum products including but not limited to oil, gasoline, grease, fuel oil, and heating oil.

4. Antifreeze and other automotive products.

5. Metals in either particulate or dissolved form.

6. Flammable or explosive materials.

7. Radioactive material.

8. Batteries.

9. Acids, alkalis, or bases.

10. Paints, stains, resins, lacquers, or varnishes.

11. Degreasers and/or solvents.

12. Drain cleaners.

13. Pesticides, herbicides, or fertilizers.

14. Steam cleaning wastes.

15. Soaps, detergents, or ammonia.

16. Swimming pool or spa filter backwash.

17. Chlorine, bromine, or other disinfectants.

18. Heated water.

19. Domestic animal wastes.

20. Sewage.

21. Recreational vehicle waste.

22. Animal carcasses.

23. Food wastes.

24. Bark and other fibrous materials.

25. Lawn clippings, leaves, or branches.

26. Silt, sediment, concrete, cement or gravel.

27. Dyes.

28. Chemicals not normally found in uncontaminated water.

29. Any other process-associated discharge except as otherwise allowed in this section.

30. Any hazardous material or waste not listed in subsection A of this section.

B. Allowable Discharges. The following types of discharges shall not be considered illegal discharges for the purposes of this chapter unless the director determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:

1. Diverted stream flows.

2. Rising ground waters.

3. Uncontaminated ground water infiltration—as defined in 40 CFR 35.2005(20).

4. Uncontaminated pumped ground water.

5. Foundation drains.

6. Air conditioning condensation.

7. Irrigation water from agricultural sources that is commingled with urban stormwater.

8. Springs.

9. ~~Water~~ Uncontaminated water from crawl space pumps.

10. Footing drains.

11. Non-stormwater discharges covered by and compliant with another NPDES permit.

~~11~~12. Flows from riparian habitats and wetlands.

~~12~~13. Discharges from emergency ~~fire fighting~~firefighting activities.

C. Conditional Discharges. The following types of discharges shall not be considered illegal discharges for the purposes of this chapter if they meet the stated conditions, or unless the director determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution ~~or~~ of surface water or groundwater:

1. Potable water, including water from water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges shall be dechlorinated to a concentration of 0.1 ppm or less, pH-adjusted if necessary, and in volumes and velocities controlled to prevent resuspension of sediments in the stormwater system.

~~2. Lawn watering and other irrigation runoff are permitted but shall be minimized.~~

~~3~~2. Dechlorinated swimming pool, spa, or hot tub discharges. These discharges shall be dechlorinated to a concentration of 0.1 ppm or less, thermally controlled, pH-adjusted and reoxygenated if necessary, and in volumes and velocities controlled to prevent resuspension of sediments in the stormwater system. Swimming pool, spa, or hot tub cleaning water and filter backwash shall not be discharged to the stormwater drainage systems.

~~4~~3. Street and sidewalk wash water, water used to control dust, and routine external building wash down that does not use detergents are permitted if the amount of street wash and dust control water used is minimized. At active construction sites, street sweeping must be performed prior to washing the street.

~~5~~4. Nonstormwater discharges covered by another NPDES permit; provided, that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations; and provided, that written approval has been granted for any discharge to the storm drain system.

~~6~~5. Other nonstormwater discharges. The discharges shall be in compliance with the requirements of a stormwater pollution prevention plan (SWPPP) reviewed and approved by the city of Mukilteo, which addresses control of such discharges by applying AKART to prevent contaminants from entering surface or ground water.

D. Prohibition of Illicit Connections.

1. The construction, use, maintenance, or continued existence of illicit connections to the storm ~~drain~~water system is prohibited.

2. This prohibition expressly includes, without limitation, illicit connection made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

3. A person is considered to be in violation of this chapter if the person connects a line conveying sewage to the MS4, or allows such a connection to continue. (Ord. 1222 § 2 (Exh. A) (part), 2009)

4. A person found in violation of Section 13.12.080 shall be in violation and subject to enforcement as described in Section 13.12.250~~310~~.

5. The property owner is responsible for correcting any illicit connection found to be coming from the property, including all costs associated with correcting the illicit connection.

13.12.090 Emergency conditions requiring immediate action.

Subject to ~~Section 13.10.100(B) and (C)~~ this chapter, whenever it appears to the director that immediate action is necessary to protect the public health, safety, welfare, environment or public resources, the director or ~~their~~his / her assignee~~s~~ is authorized to enter at all reasonable times in or upon any property, public or private, for the purpose of inspecting, investigating and correcting such emergency conditions. The director may, without prior notice, order the immediate discontinuance of any activity leading to the emergency condition. The director shall have the authority to determine, implement, and accept any intermediate action addressing the emergency condition pending final resolution, and no such action shall constitute precedence for similar or dissimilar actions in the future. (Ord. 1222 § 2 (Exh. A) (part), 2009)

13.12.100 Ownership of the stormwater system.

A. The city shall own all elements of the public stormwater system; provided, that the terms of this chapter are satisfied as to such elements of the public stormwater system.

B. Public stormwater facilities shall be located in the public rights-of-way or on tracts to which the city has legal and physical access rights.

C~~B~~. The owner of property on which a private stormwater facility is located shall be deemed the owner of said private stormwater facility, unless ownership has been transferred to another person in accordance with the terms of this chapter.

~~C~~D. The city may accept ownership of a private stormwater facility only when all of the following conditions are met:

1. A finding of fact is submitted in writing by the owner(s) of the facility to the director, documenting how ~~O~~ownership of the private stormwater facility by the city would provide a public benefit; and

~~2. Necessary and appropriate legal rights, as determined by the city attorney, are granted to the city and recorded in the Snohomish County auditor's office by the person owning and/or responsible for the private stormwater facility, all at no cost to the city. Such rights may include but are not limited to permanent access for operation, maintenance, and repair; and~~

2~~3~~. The private stormwater facility functions as designed and meets maintenance standards ~~substantially meets current standards~~, as determined by the director, or is brought up to

applicable standards by the person owning and/or responsible for the private stormwater facility, and is accepted by the director, before transfer of legal rights to the city; and

3.~~4.~~ The city has adequate resources to thereafter operate and maintain the private stormwater facility; and~~.~~

4. Necessary and appropriate legal rights, as determined by the city attorney, are granted to the city and recorded in the Snohomish County auditor's office by the person owning and/or responsible for the private stormwater facility, all at no cost to the city. Such rights may include but are not limited to permanent access for operation, maintenance, and repair.

~~D.~~E. Except as provided above, the city shall acquire no ownership rights in private stormwater facilities. (Ord. 1222 § 2 (Exh. A) (part), 2009)

13.12.110 Fees for permits and specific services.
Fees for permits and specific services outlined in this chapter shall be determined by city council resolution. (Ord. 1222 § 2 (Exh. A) (part), 2009)

13.12.120 Installation responsibility for new stormwater facilities —Cost.
A. All development within city jurisdiction shall be served by the city stormwater system except where otherwise provided in the Mukilteo Municipal Code. Developers are required to extend the existing system across the full frontage of the property being developed where consistent with city plans, Stormwater Minimum Requirements, and upon approval of construction and conveying or deeding the system so constructed to the city. Joint participation by the city may be applicable where oversizing is deemed appropriate in the city's comprehensive stormwater plan.

B. Private Installation. The property owner shall be responsible for installation of all new stormwater facilities required by this chapter. Installation shall only be authorized through an approved Stormwater P~~p~~ermit issued under this chapter.

C. City Installation. The city may, as it determines necessary or advisable and subject to budgetary limitations, install stormwater facilities to facilitate development, coordinate with other city projects, or for other city purposes, and may recover its costs, including interest, through a facility connection charge.

D. Costs. All installation costs shall be the responsibility of the property owner; provided, that if the city requires a property owner to install an oversized stormwater facility, the city will compensate the property owner for the difference in cost between the normally sized facility and the oversized facility based on the lowest of three bids furnished by the property owner from reputable licensed contractors; and provided further, that a property owner who constructs a public stormwater facility or system extension that directly benefits another property may request a latecomer's agreement under Section 13.12.130. (Ord. 1222 § 2 (Exh. A) (part), 2009)

13.12.130 Latecomer's agreement—New streets, street extensions, storm sewer and related improvements.
A. Purpose. This section is intended to implement and thereby make available to the city and the public the provisions of Chapters 35.72 and 35.91 RCW as presently constituted or as may be subsequently amended.

B. Application Authorized—Term. Any applicant (developer) utilizing private funds to install street, storm sewer or other related improvements and appurtenances may apply to the city to establish a latecomer's agreement for recovery of a pro rata share of the cost of constructing said public improvements from the owners of the other properties that will later derive a benefit from said improvements. No reimbursement agreement or latecomer's agreement under ~~c~~Chapter 35.72 RCW shall extend ~~from~~ for a period longer than fifteen years, unless extended in accordance with RCW 35.72.020(2). No reimbursement agreement or latecomer's agreement under ~~c~~Chapter 35.91 RCW shall extend for a period longer than twenty years, unless extended in accordance with RCW 35.91.020(4). ~~from the date of final acceptance by the city of the applicable public improvement~~. The city council shall have discretion to authorize or not to authorize latecomer's agreements for other reasons on a case-by-case basis.

C. Rights and Nonliability of City. The city reserves the right to refuse to enter into any latecomer's agreement or to reject any application therefor at the city's sole discretion. No latecomer's agreement shall be legally effective until the city council adopts an ordinance approving the latecomer's agreement at a public meeting of the city council. All applications for latecomer's agreements shall be made on the basis that the applicant releases and waives any claims for any liability of the city in the establishment and enforcement of any latecomer's agreements. The city shall not be responsible for locating any beneficiary or survivor entitled to benefits by or through latecomer's agreements.

D. Application Requirements. All applications, procedures and policies for latecomer's agreements shall be approved and established by the mayor or his/her designee, and shall be accompanied by all nonrefundable application fees set forth in the city's land use fee schedule or in any fee schedule subsequently adopted by the city. The latecomer's agreement application must be submitted for city review prior to city acceptance of the improvements for which reimbursement is sought.

E. Eligibility of Applicants. In order to be eligible to apply for a latecomer's agreement, the applicant shall be in compliance with all city ordinances, rules and regulations relating to any development application or project associated with the proposed latecomer's agreement.

F. Procedures for Latecomer's Agreements.

1. The applicant (developer) proposing to establish a latecomer's agreement shall submit a preliminary estimate and proposed reimbursement/benefit area ("benefited area") boundaries as part of the engineering drawings submitted as part of the initial project application. Following utility/street installation/construction and city acceptance of same, the applicant (developer) requesting a latecomer's agreement shall submit detailed construction plans and drawings for the project together with a site plan, map or diagram of the proposed benefited area which documents shall be prepared and stamped by a licensed professional civil engineer and which shall identify the proposed boundaries of the benefited area and each separately owned parcel of real property located within the benefited area and the location of the project in relation to all parcels of real property located within the benefited area, and an itemized cost estimate for the entire project based upon the plans of the civil engineer from which reimbursable costs shall be estimated, together with assessor's reports (including names and mailing addresses) of all real properties within the benefited area, and such other information and documents as the city may require.

2. The applicant (developer) requesting a latecomer's agreement shall submit, along with the application, the nonrefundable application fee set forth in the city's land use fee schedule,

which application fee shall be applied to the city's legal, engineering and administrative costs in processing the application for the latecomer's agreement, which costs shall be included as reimbursable costs in the latecomer's agreement; provided, that whenever the city's actual engineering, legal, administrative or other costs exceed the amount of the initial nonrefundable application fee, the applicant shall be required to pay to the city the estimated cost of said excess costs and the city shall not be obligated to continue to process the application until such costs have been paid to the city in full. In addition, the city will charge an eight percent administrative fee for handling each transaction, said fee to be deducted from all latecomer's fees collected.

3. The mayor or his/her designee will determine the boundaries of the benefited area based upon a determination of which parcels of real property are within the benefited area and which of such parcels will not contribute to the original cost of street and utility system improvements and who may subsequently connect to, drain to or use the same including uses connected to laterals or branches connecting thereto.

4. The mayor or his/her designee, based on information submitted by the applicant with the application for the latecomer's agreement, will establish an estimate of the pro rata share of costs. The director or his designee may require the applicant to supply the city with engineering costs and/or competitive construction bids prior to the establishment of the estimate.

5. The director or his/her designee, at his/her discretion, shall have the right to require the applicant to pay, in advance, the costs of an appraiser retained by the city to assist the director or his designee in formulating the assessment reimbursement area and the estimate of the proration of costs.

6. Prior to the execution of a contract with the applicant for a latecomer's agreement, the mayor or his designee shall deliver by certified mail a notice required by the applicable state law to all property owners within the benefited area stating the preliminary boundaries of the benefited area and pro rata share of assessments for costs of the project, and stating that each property owner has the right to request a public hearing to be held before the city council to consider the application for the latecomer's agreement, including the preliminary boundary of the benefited area and preliminary assessment of costs to the affected property owners. If no hearing is requested, the city council may consider and take final action on the latecomer's agreement at any public meeting held more than twenty days after notice was mailed to the affected property owners. If the city receives a request for a public hearing, a public hearing will be held by the city council thereafter, with notice of the public hearing given to all affected property owners at least twenty days in advance of the hearing. At the hearing, the city council shall determine whether to accept, reject or modify the proposed latecomer's agreement, or any provision thereof, including but not limited to the boundaries or proration of costs. If the city council accepts the latecomer's agreement, the council shall establish the boundaries of the benefited area; provided, that the city council may only modify the boundary of the benefited area upon prior notice to the owners of the property affected by the modification. The decision of the city council shall be final and determinative.

7. The latecomer's agreement shall have no legal effect and shall be null and void unless it is recorded with the Snohomish County auditor within thirty days of the final execution of the agreement. It shall be the sole responsibility of the applicant for the latecomer's agreement to record said agreement at his/her expense.

8. Once recorded, the latecomer's agreement shall be binding on all owners of record of all real properties located within the benefited area who are not party to the latecomer's agreement.

9. Every two years from the date the contract is executed a property owner entitled to reimbursement under this section provide the appropriate county, city, or town with information regarding the current contract name, address, and telephone number of the person, company, or partnership that originally entered into the contract. If the property owner fails to comply with the notification requirements of this subsection within sixty days of the specified time, then the contracting county, city, or town may collect any reimbursement funds owed to the property owner under the contract. Such funds must be deposited in the capital fund of the county, city, or town.

10. The city reserves the right to participate in these agreements.

11. The city shall neither issue a building permit nor similar development permit or approval unless the city has received full payment of the assessment applicable to the property connecting to or using the street and/or utility system improvements constructed by the applicant (developer); provided, if the validity of the latecomer's agreement is challenged, the city reserves the right to issue a permit, approval or permission without liability or prejudice to the city, and without prejudice to any other rights or remedies available to the applicant (developer) under this section or otherwise at law or in equity.

12. Segregation. The director shall, upon the request of any property owner within the benefited area, segregate the assessment among portions of a particular parcel that is legally subdivided. The segregation shall be based upon the same factors applied when the assessments were originally established. The property owner seeking segregation of the assessment shall pay all costs to record the segregation as well as an administrative fee to the city based upon a segregation fee schedule to be established by the city from time to time. (Ord. 1222 § 2 (Exh. A) (part), 2009)

13.12.140 ~~Traffic control.~~ Right-of-Way Use Permit

~~A. The developer/contractor shall be responsible for interim traffic control during construction on or along traveled roadways. Traffic control shall follow the guidelines of the WSDOT/APWA Standard Specifications. All barricades, signs and flagging shall conform to the requirements of the Manual on Uniform Traffic Control Devices (MUTCD).~~

~~B. Signs must be legible and visible and shall be removed or covered at the end of each work day if not applicable after construction hours.~~

~~C. Road closures will not be allowed in normal circumstances. One lane of travel is to remain open to traffic at all times. When road closures and detours cannot be avoided, the contractor/developer shall notify the director forty-eight hours in advance. The city may require a detour plan to be prepared, submitted and approved prior to closing any portion of a city roadway.~~

~~D. A right-of-way use permit shall be required before work in the right-of-way can commence. See requirements in Chapter 12.04 and contact the department of public works for specific permit information. (Ord. 1222 § 2 (Exh. A) (part), 2009)~~

A. A right-of-way use permit shall be required before work in the right-of-way can commence. See requirements in Chapter 12.04, and requirements stated in the development standards.

13.12.150 Connections or modifications to the stormwater system.
Connections to or modifications of the stormwater system, including but not limited to modifying stormwater discharge patterns or constructing or relocating facilities for the treatment, detention, or conveyance of stormwater, shall be allowed only if:

A. Prior written approval has been received from the city; and

B. All applicable requirements of this chapter and city procedures have been met; and

C. All applicable engineering standards have been met or alternative standards have been approved by the city as substantially equal; and

D. The property owner has paid all applicable fees and charges. (Ord. 1222 § 2 (Exh. A) (part), 2009)

13.12.160 Permits and approvals.
A. General.

1. Applications for stormwater permits or approvals under this chapter shall be made by the property owner on forms provided by the city and shall include all fees and information required by the city. Agents for a property owner must have proof of authority and be licensed by the city and properly bonded (if applicable).

2. Stormwater ~~connection~~ permits shall require the property owner to build all the stormwater facilities needed to serve the property, including but not limited to on-site stormwater management BMPs, conveyance systems, detention/retention facilities, and other system components, and shall incorporate stormwater treatment BMPs.

~~3. A building permit shall not be approved until all required stormwater connection permits have been issued.~~

4. When a stormwater ~~connection~~ permit is required to relocate a stormwater facility from under a proposed building, the building permit shall not be approved until the work to relocate the stormwater facility has been completed and accepted by the city, unless the building permit is expressly conditioned by the director to require relocation and approval of the relocated stormwater facility prior to commencement of site construction.

B. Applicability

Stormwater ~~Connection~~ Permit. A stormwater ~~connection~~ permit as defined in Chapter 17.08 shall be required to construct stormwater facilities and/or to make any additions, repairs or connections to an existing stormwater facility, including connecting to the city's stormwater infrastructure.

~~C. Other Permits. The property owner shall be responsible to identify and obtain all other permits and/or approvals required for any proposed work, including but not limited to approvals from the Washington State Department of Fish and Wildlife, the Washington State Department~~

~~of Ecology, the Army Corps of Engineers, the U.S. Fish and Wildlife Service, and the city. (Ord. 1222 § 2 (Exh. A) (part), 2009)~~

1. The applicant shall submit a stormwater permit application to the director for approval prior to the issuance of any of the following permits and approvals:

a. Right-of-way use permit;

b. Building permit;

c. Grading permit;

d. Subdivision approval;

e. Short subdivision approval;

f. Conditional use permit; or

g. Substantial development permit and other permits, approvals, or letters of exemption required under Chapter 90.58 RCW (the Shoreline Management Act).

2. Projects that propose connecting to the city's existing stormwater system, but are not required to meet Minimum Requirement #1 of the Ecology Manual (MR1), shall submit a scaled drawing in lieu of a stormwater site plan and shall submit a Stormwater Pollution Prevention Plan (SWPPP).

3. The city may require additional information during the permit review process. The previous stormwater site plan submittals may be re-submitted provided that all additional required information is shown.

C. Submittal Requirements.

1. Stormwater Permit Application. All applicants required to submit a stormwater permit application pursuant to this Chapter shall include the following:

a. City Standard Engineering Application Form;

b. Stormwater Site Plan, if MR1 applies to the project. Applicants not required to meet MR1 shall submit a scaled drawing. See MMC Section 13.12.160(C)(2) for requirements regarding stormwater site plans;

c. Construction Stormwater Pollution Prevention Plan (SWPPP), to be presented as a stand-alone document. Elements that shall be included in a SWPPP are listed in Volume I, Chapter 2 of the Ecology Manual;

d. Evidence of recording of applicable easements, according to MMC Section 13.12.160(F); and

e. All applicable reports, administrative notices, and plan sets.

f. Other Permits. The property owner shall be responsible to identify and obtain all other permits and/or approvals required for any proposed work, including but not limited to approvals from the Washington State Department of Fish and Wildlife, the Washington State Department of Ecology, the Army Corps of Engineers, the U.S. Fish and Wildlife Service, BNSF, and the city. (Ord. 1222 § 2 (Exh. A) (part), 2009)

2. Stormwater Site Plan. All projects that meet the threshold for the Ecology Manual MR1 shall be required to submit a stormwater site plan delineating surface and pertinent subsurface water flows entering, flowing within, and leaving the subject property both during and after construction, including an evaluation of the drainage network ¼ mile downstream of the project site. Detailed criteria are outlined in Chapter 3 Volume I of the Ecology Manual and Appendix D of the Development Standards. In addition, the following are required as part of the stormwater site plan:

b. General site plan including scale, topographical contours, property lines, structures, roads, wells, utilities, streams, wetlands and buffers, and any recorded easements; and

c. Civil drawings including engineered grading and drainage plans; and

d. Other supporting reports and documents, as may be necessary for the project.

D. Mandatory Stormwater Minimum Requirements for Drainage Improvements.

The drainage improvements submitted by the applicant in the stormwater site plan shall satisfy the Stormwater Minimum Requirements found in the Ecology Manual, the Development Standards, and the following:

a. All new and redevelopment projects shall comply with the hard surface maximums listed in MMC Section 17.20.028.

b. All new and redevelopment projects shall comply with the Stormwater Minimum Requirements of the Ecology Manual that are applicable to the project, as determined by the thresholds identified in Volume I, Chapter 2 of the Ecology Manual.

c. The thresholds to determine applicability of Stormwater Minimum Requirements, are identified in Volume I, Chapter 2 of the Ecology Manual. The Stormwater Minimum Requirements vary depending on the project type and size. Figures 2.4.1 and 2.4.2 of the Ecology Manual shall be used to determine the Minimum Requirements that apply.

d. All additional Stormwater Minimum Requirements identified in the Development Standards.

e. A property owner may seek an Exception from the Stormwater Minimum Requirements by following the process outlined in MMC 13.160 (H).

E. Stormwater System Engineering and Design Requirements.

1. Adoption of Engineering Standards. The director shall prepare and update, as needed, engineering standards to establish minimum requirements for the design and construction of the stormwater system and requirements for protecting existing stormwater facilities during

construction. The engineering standards shall be consistent with this chapter, the Ecology Manual, and adopted city policies.

2. Applicability. The engineering and design requirements set forth in this section, the Development Standards, and the Ecology Manual shall apply to all new development and redevelopment. In the event of a conflict, the most protective standard(s) shall apply.

3. General Requirements. The following requirements shall apply to all new development or redevelopment:

a. The property owner shall prepare all required designs in accordance with this chapter.

b. Use of source control BMPs and stormwater treatment BMPs shall be required whenever land use changes are proposed or occur that could generate pollutants that would constitute a threat to human health, welfare, or the environment.

c. All engineering and design work required under this chapter shall be prepared by a civil engineer licensed in the state of Washington, unless this requirement is waived in writing by the director.

d. Engineering and design work shall conform to the engineering standards, Ecology Manual requirements, and generally accepted engineering practices as determined by the director.

e. The director may impose requirements that differ from the requirements of this section if a basin plan or other study adopted by the city identifies the need for such requirements and identifies alternative requirements that provide an equal or greater level of protection than the requirements of this section.

f. Subject to approval by the director, a property owner may contribute to stormwater facilities that serve multiple sites in lieu of providing such facility(ies) on site.

g. A property owner may seek a deviation from the Development Standards by making a timely written request to the director, as outlined in MMC 13.160 (G). A full list of criteria for a deviation request is included in the development standards.

F. Easements and Covenants.

1. Easement Applicability.

a. Whenever any portion of the public system is constructed on private property; or

b. An easement (or other form of legal document) satisfactory to the city attorney is required whenever a private stormwater facility will be built on property owned by a different private party; or

c. When any portion of the facility will serve two or more properties; or

d. When a new facility proposes to use an existing outfall, and that outfall is not on the property owned by the permit applicant.

2. Easement Requirements.

a. The grantor shall have clear title to the property or interest to be conveyed; and

b. The easement shall contain provisions for long-term repair, maintenance, and replacement; and clearly identify responsible parties, financial obligations, roles and responsibilities, unless deemed unnecessary by the director; and

c. For easements between two private parties, a signed, notarized Notice of Intent to execute the easement, signed by all affected parties, shall be submitted as part of the stormwater permit application. The Notice of Intent shall include a draft of the easement.

d. Easements will be recorded with Snohomish County's Auditor's Office by the developer prior to completion of the work. A conformed copy shall be provided to the City.

e. The easement shall prohibit all structures within the easement area except those that can readily be removed by the property owner at the owner's expense when access to the stormwater facility is required by the city. If such existing structures are within the easement area, they shall be removed prior the recording of the easement, an agreement to remove the structures on request by the city, approved by the city attorney, shall be included in the easement; and

f. Permanent easement widths shall be a minimum of twenty feet for utilities, except that an easement as narrow as fifteen feet may be allowed under special conditions as determined by the director. Construction easements shall be thirty feet minimum in total width, including the permanent easement. When trench depths dictate or where pipe diameter or vault widths exceed four feet, a wider easement may be required by the director.

3. City Access Easement. Construction of any new private stormwater facilities require an access easement, satisfactory to the city attorney, allowing inspection by the city to verify the maintenance condition of the stormwater facility, and allowing the City, without obligation, the ability to correct any deficiency not cured by the owner in a timely manner.

4. Recording. Easements will be recorded with Snohomish County's Auditor's Office by the developer upon satisfactory completion of the work. A conformed copy shall be provided to the City prior to issuance of the final permit.

5. Costs. The property owner shall pay all costs of preparing, reviewing and recording of the easement or other document.

6. Relinquishment of Easement. An easement granted to the City may be relinquished by the City only if the city determines it is no longer needed for the public benefit and the City council authorizes the relinquishment.

7. Covenants. All plans shall include a covenant for maintenance of permanent stormwater improvements. The covenant shall identify the party responsible for maintenance, a site plan showing the stormwater infrastructure, authority to access property, and the maintenance requirements. A signed covenant and maintenance plan shall be submitted with the permit application. The covenant shall satisfy the requirements found in Stormwater Minimum Requirement #9 of the Ecology Manual. The covenant shall be recorded with the Snohomish

County Auditor's office. A conformed copy shall be provided to the city prior to issuance of the final permit.

G. Deviations from development standards.

1. Deviation process. Situations may arise where alternatives to the development standards may better accommodate existing conditions, or allow for more cost-effective solutions. In this case, a deviation may be granted by the director or his/ her designee. A written request and review fee will be required. The written request must be made on the Alternate Materials, Methods, or Modifications Request Form, and must include plans that are completed by the project design engineer. A review fee is required at the time of submittal.

2. Any deviation request shall describe how the criteria outlined in the development standards are met.

3. Appeals. The director or his / her designee reserves the right to direct or deny a deviation from the Development Standards at any time in the interest of public health, safety, and welfare. Appeals to deviations requests denied or approved may be directed to the Public Works Director.

H. Exceptions to Stormwater Minimum Requirements.

1. Exception Process. A property owner may seek an exception to the requirements of MMC Section 13.12.160 (D) by submitting an exception application with the appropriate application fee. The request may require either approval by the director or a public hearing. The director may require an applicant to provide additional information at the applicant's expense, including but not limited to an engineer's report or analysis. The director may grant an exception following legal public notice of an application for an exception, a legal public notice of the administrator's decision on the application, and a written finding of fact that documents the administrator's decision to grant an exception, following the process as outlined in MMC Sections 17.13.050 and 17.13.070.

2. If a public hearing is required to approve a development proposal for which an exception under this chapter is requested, the hearing and the request for exception shall be combined; otherwise, the request for exception shall be reviewed and a determination made by the Public Works Director, as outlined in MMC Sections 17.13.050 and 17.13.070.

3. Decisions regarding exceptions to the Minimum Requirements may be appealed to the Hearing Examiner according to the appeals process in MMC Chapter 17.13.090.

13.12.170 Bonds and liability insurance required.

A. Performance Bond. The director is authorized to require applicants constructing any storm drainage facilities, including but not limited to ~~LID~~ retention, ~~/~~detention, ~~/~~infiltration and/or other drainage treatment/abatement facilities, to post a performance bond(s) which includes site stabilization and erosion control, at a rate of 150% of the engineer's estimated cost of construction. The performance bond shall be submitted prior to final project approval as a guarantee to the city that improvements will be installed in a satisfactory manner.~~.~~ Where such applicants have previously posted, or are required to post, other such bonds on the facility itself or on other construction related to the facility, such person may, with the permission of the

director and to the extent allowable by law, combine all such bonds into a single bond; provided, that at no time shall the amount thus bonded be less than the total amount which would have been required in the form of separate bonds; and provided further, that such a bond shall on its face clearly delineate those separate bonds which it is intended to replace.

B. Maintenance Bonds. After satisfactory completion of the facilities and release of the performance bond, if it was required by the city, the applicant constructing the facility shall commence a two-year period of satisfactory maintenance of the facility. A maintenance bond to be used at the discretion of the director, to correct deficiencies in said maintenance affecting public health, safety and welfare must be posted and maintained throughout the two-year maintenance period. The amount of the maintenance bond shall be fifteen percent of the construction cost of the drainage facilities. In addition, the maintenance bond shall cover the cost of design defects and/or failure in workmanship of the facilities throughout the two-year maintenance period.

C. Liability Policy. The person constructing the facility shall maintain a liability policy in an amount to be determined by the city which shall name the city of Mukilteo as an additional insured and which shall protect the city from any liability for any accident, negligence, failure of the facility, of any other liability whatsoever, relating to the construction or maintenance of the facility. The liability policy shall be submitted to the city prior to permit issuance. The liability policy shall be maintained for the duration of the facility by the owner of the facility; provided, that in the case of facilities assumed by the city for maintenance, the liability policy shall be terminated when the city maintenance responsibility commences. (Ord. 1222 § 2 (Exh. A) (part), 2009)

13.12.180 Construction ~~and warranty~~ inspections.

~~A. Construction and Installation Inspection.~~ All projects involving construction of new stormwater facilities or connections to or modifications of existing stormwater facilities shall be subject to city inspection to ensure compliance with the ~~program~~ approved plans and any related conditions of permit issuance or project approval. Issuance of any such permit or project approval shall ~~be deemed to include~~constitute consent by the property owner or other responsible person for all inspection ~~and testing~~ by the city. Newly installed stormwater facilities shall be inspected~~,~~ and tested according to the adopted ~~D~~development ~~S~~standards. All documentation associated with inspections and testing shall meet the requirement of the development standards and permit conditions and be submitted and accepted by the city prior to final approval.~~and documentation completed according to the city's engineering standards.~~

~~B. Warranty Inspections and Tests. Stormwater facilities and equipment accepted by the city under specific warranties may be reinspected at the city's discretion and, if necessary, shall be repaired by the developer and retested prior to the expiration of the warranty period. Whenever possible, the developer shall assign to the city any warranties applicable to the stormwater facility. (Ord. 1222 § 2 (Exh. A) (part), 2009)~~

13.12.185 Warranty ~~I~~inspections and ~~T~~tests.

A. ~~Reinspect~~Reinspection. Stormwater facilities and equipment accepted by the city under specific warranties may be reinspected at the city's discretion.

B. Repair and Retest. If deficiencies are found upon inspection ~~finds deficiencies~~, the stormwater facilities and equipment shall be repaired by the developer and retested prior to the expiration of the warranty period and final acceptance / ownership by the city.

C. Warranty Transfer. Whenever possible, the developer shall assign to the city any warranties applicable to the stormwater facility, if the ownership is transferred to the city prior to the ~~expiration of the~~ warranty period expiration.

~~**13.12.190 Drainage plan—Submission.**~~

~~A. The applicant shall submit a drainage plan to the director for approval prior to the issuance of any of the following permits and approvals with developmental coverage of one hundred twenty square feet or more of impervious surface and more than five hundred square feet of land disturbance:~~

~~1. Right-of-way permit;~~

~~2. Building permit;~~

~~3. Grading permit;~~

~~4. Subdivision approval;~~

~~5. Short subdivision approval;~~

~~6. Conditional use permits;~~

~~7. Substantial development permit required under Chapter 90.58 RCW (the Shoreline Management Act).~~

~~B. No permits or approvals listed in subsection A of this section shall be granted until such time as final approval of the drainage plan is obtained in accordance with Section 13.12.220.~~

~~C. The same plan submitted during one permit/approval process may be subsequently submitted with such additional information that is required by the director. (Ord. 1222 § 2 (Exh. A) (part), 2009)~~

~~**13.12.200 Drainage plan—Contents.**~~

~~All applicants required to submit a drainage plan pursuant to Section 13.12.210 shall provide a drainage plan for surface and pertinent subsurface water flows entering, flowing within, and leaving the subject property both during and after construction. The detailed form and contents of the drainage plans shall be:~~

~~A. Background Computations for Sizing Drainage Facilities.~~

~~1. Depiction of the surrounding drainage area according to the adopted storm drainage system on a topographical map of approved scale and contour level, acreage of the entire subject property, development, developmental coverage and contours before and after development indicated in intervals not to exceed twenty-five feet or as otherwise required by the director.~~

~~2. Indication of the peak discharge and volume of surface water currently entering and leaving the subject property due to the design storm.~~

~~3. Indication of the peak discharge and amount of runoff which will be generated within the subject property, due to the design storm, if the development or proposed activity is allowed to proceed.~~

~~4. Determination of the peak discharge and amount of water that will be generated by the design storm at various points on the subject property.~~

~~B. Proposed measures for handling the computed runoff and ensuring water quality.~~

~~C. Proposed measures for controlling runoff, maintaining water quality and controlling erosion during construction. (Ord. 1222 § 2 (Exh. A) (part), 2009)~~

~~13.12.210 Stormwater easement requirements.~~

~~A. When Required.~~

~~1. An easement (or other form of legal document) satisfactory to the city attorney is required whenever a private stormwater facility will be built on property owned by a different private party; or~~

~~2. Will serve two or more properties that are not in common ownership or that will no longer be in common ownership following development or redevelopment; or~~

~~3. Is desired to be constructed on public property.~~

~~Public stormwater facilities, including any private stormwater facilities that will be publicly maintained, shall be located in the public right-of-way or on tracts to which the city has proper access rights.~~

~~B. Requirements. All of the following requirements shall be met before the city may accept and approve any easement for access:~~

~~1. The grantor shall have clear title to the property or interest to be conveyed; and~~

~~2. The easement shall be compatible with utility clearance standards, setback and access standards, and other existing utilities or easements; and~~

~~3. The easement shall provide for adequate access to the stormwater facility for repair and maintenance. When deemed necessary by the director, the easement shall contain provisions for long-term maintenance; and~~

~~4. The easement shall prohibit all structures within the easement area except those that can readily be removed by the property owner at the owner's expense when access to the stormwater facility is required by the city. If such structures are within the easement area, an agreement to remove the structures on request by the city, approved by the city attorney, shall be included in the easement; and~~

~~5. Easement widths shall be a minimum of twenty feet for utilities. An easement as narrow as fifteen feet may be allowed under special conditions as determined by the director. Construction easements shall be thirty feet minimum in total width, including the permanent~~

~~easement. When trench depths dictate or where pipe diameter or vault widths exceed four feet, a wider easement may be required by the director.~~

~~C. Easements are required to be prepared by the applicant and submitted in draft, unsigned for review and approval prior to plan approval. Signed copies are required prior to final city acceptance of a project. Any change in design which places an amenity, i.e., water, sewer, sidewalk, etc., outside of the easement may necessitate stopping of construction until plans and easements can be resubmitted and approved. Plan review fee shall be based on the rate as established for third submittal fee. Easements will be recorded by the developer upon satisfactory completion of the work.~~

~~D. Costs. The property owner shall pay all costs of preparing, reviewing and recording of the easement or other document.~~

~~E. Relinquishment of Easement. An easement granted to the city may be relinquished by the city only if the city determines it is no longer needed for the public benefit and the city council authorizes the relinquishment. (Ord. 1222 § 2 (Exh. A) (part), 2009)~~

~~13.12.220 Plan review and approval.~~

~~All surface and storm drainage plans prepared in connection with any of the permits and approvals listed in Section 13.12.210 shall be submitted for review and approval by the director, who shall make such review as soon as possible and in any event within thirty calendar days unless good cause is shown for delay. This review period shall be applicable with each resubmittal by the applicant. (Ord. 1222 § 2 (Exh. A) (part), 2009)~~

~~13.12.230 Mandatory requirements for drainage improvements.~~

~~The drainage improvements submitted by the applicant in the drainage plan shall satisfy the following minimumrequirements:~~

~~A. Surface water entering the subject property shall be received at the naturally occurring location and surface water exiting the subject property shall be discharged at the natural location with adequate energy dissipaters within the subject property to minimize downstream damage and with no diversion at any of these points; and~~

~~B. The peak discharge from the subject property due to the design storm may not be increased due to the proposed development; and~~

~~C. Where open channel construction is used to handle drainage within the subject property, a minimum of fifteen feet will be provided between any structures and the top of the bank of the defined channel. The defined channel and the minimum required building separation area shall be designated as an access easement for maintenance purposes.~~

~~1. In open channel work the water surface elevation will be indicated on the plan and profile drawings. The configuration of the finished grades constituting the banks of the open channel will also be shown on the drawings.~~

~~2. Proposed cross-section of the channel will be shown with stable side slopes as approved by the director.~~

~~3. The water surface elevation of the maximum flow for the design storm will be indicated on the cross-section;~~

D. All plans shall include permanent access easements to the city2 for inspection and maintenance and operation if required;

E. The director may, with the concurrence of the city council, approve alternate methods of storm drainage disposal not meeting the minimum requirements of this section. To obtain such approval, the applicant must satisfy the director that the adverse effects of allowing direct discharge of stormwater runoff into the storm drainage system would, because of the proximity of the subject property to the point of discharge into receiving waters and the location of the subject property in relation to others within the drainage area, be less than the adverse effects of on-site storage at the levels prescribed in this section on cumulative peak discharge from all properties in the drainage area. The director may, with the council's concurrence, condition such approval on construction or improvement of off-site drainage facilities impacted by the direct discharge in order to assure that the adverse effects of such discharge are adequately mitigated;

FD. Site Remodels and Renovations. Site improvements greater than fifty percent of the current assessed value of the existing facilities shall comply with the impervious surface limitations set forth by zone in the table in Section 17.12.010 and shall comply with the LID requirements for parking areas set forth in Chapter 17.56. (Ord. 1222 § 2 (Exh. A) (part), 2009)

13.12.240 Stormwater system engineering and design requirements.

A. Adoption of Engineering Standards. The director shall prepare and update, as needed, engineering standards to establish minimum requirements for the design and construction of the stormwater system and requirements for protecting existing stormwater facilities during construction. The engineering standards shall be consistent with this chapter, the Ecology Manual and adopted city policies.

B. Applicability.

1. The engineering and design requirements set forth in this section and the Ecology Manual shall apply to all new development and redevelopment. The requirements of this section apply to the entire tax lot or lots being developed.

2. After the adoption of engineering standards, both the engineering standards and the requirements of this section and the Ecology Manual shall apply. In the event of an irreconcilable conflict, the most protective standard(s) shall apply.

C. General Requirements. The following requirements shall apply to all new development or redevelopment:

1. The property owner shall prepare all required designs in accordance with this chapter.

2. Source control BMPs and stormwater treatment BMPs shall be required whenever land use changes are proposed or occur that could generate significant pollutants.

3. All engineering and design work required under this chapter shall be prepared by a civil engineer licensed in the state of Washington, unless this requirement is waived in writing by the director.

~~4. Engineering and design work shall conform to the engineering standards, Ecology Manual requirements, and generally accepted engineering practices as determined by the director.~~

~~5. The director may impose requirements that differ from the requirements of this section if a basin plan or other study adopted by the city identifies the need for such requirements and identifies alternative requirements that provide an equal or greater level of protection than the requirements of this section.~~

~~6. Subject to approval by the director, a property owner may contribute to stormwater facilities that serve multiple sites in lieu of providing such facility(ies) on site. (Ord. 1222 § 2 (Exh. A) (part), 2009)~~

~~13.12.250 Exceptions to engineering and design requirements.~~

~~A. Exception Process. A property owner may seek an exception to the requirements of Section 13.12.240 by making a timely written request to the director. No exception may be approved unless written findings and conclusions are adopted that affirmatively address each of the criteria set forth in this section. The property owner shall bear the burden of proof for any requested exception. If a public hearing is required to approve a development proposal for which an exception under this chapter is requested, the project hearing and the request for exception shall be combined; otherwise, the request for exception shall be heard by the board of appeals/adjustment pursuant to Chapter 15.04.~~

~~B. Criteria for Granting Exception. The findings of fact and conclusions required by this section shall affirmatively address all of the following criteria:~~

~~1. The exception provides equivalent environmental protection, is clearly in the public interest, and will fully meet the objectives of safety, function, environmental protection and facility maintenance based upon sound engineering practices and principles; and~~

~~2. There are special physical circumstances or conditions affecting the property such that the strict application of the provisions of this chapter would deprive the property owner of all reasonable economic use of the property, and every effort has been made to find alternative ways to meet the intent and requirements of Section 13.12.240; and~~

~~3. The granting of the exception will not be detrimental to the public health and welfare, will not be injurious to other properties in the vicinity and/or downstream of the property, and will not be injurious to the quality of the waters of the state; and~~

~~4. The exception provides the least possible deviation from the requirements of Section 13.12.240. (Ord. 1222 § 2 (Exh. A) (part), 2009)~~

13.12.~~260~~190 Applicability to government entities.

A. All municipal corporations and governmental entities shall be required to submit a ~~drainage plan~~ stormwater site plan and comply with the terms of this chapter when developing and/or improving land including, but not limited to, road building and widening, buildings, facilities and parking lots within areas of the city.

B. It is recognized that many other city, county, state and federal permit conditions may apply to the proposed action. Although compliance with the provisions of this chapter may not constitute compliance with such other requirements, the city shall attempt to resolve discrepancies in order to avoid unequal enforcement. In all cases, however, the most stringent standards shall be presumed to be applicable. (Ord. 1222 § 2 (Exh. A) (part), 2009)

13.12.~~270~~200 Construction of stormwater facilities.

A. General. All construction or modification of a stormwater facility shall comply with this chapter, the Ecology Manual the city's Development ~~engineering s~~Standards, the approved stormwater ~~connection~~ permit, the approved plans and specifications, the recommendations of the manufacturer of the materials or equipment used, and any applicable local, state or federal requirements.

B. Failure to Complete Work or Meet Requirements.

1. The city may continue to work on, or may complete construction of, a stormwater facility, or take steps to restore a site (e.g., backfilling trenches, or restoring the public right-of-way) if:

a. The work does not meet city requirements;

b. The contractor or person doing the work fails to correct or rectify the condition or work following notification by the city; and

c. The work, in the reasonable opinion of the director, constitutes a hazard to public safety, health or the stormwater system.

2. Costs incurred by the city pursuant to this subsection shall be calculated and charged to the property owner or contractor in charge of such work. The property owner shall pay the city within three days of delivery of written notification to the responsible party or posting of written notification at the location of the work. Such costs shall constitute a civil debt owed to the city jointly and severally by the persons identified in the notice. The debt shall constitute a lien against the property and may be collected in the same manner as any other civil debt owing to the city. Without limiting the foregoing, if a bond, surety or other assurance device has been posted for the project, the city may collect the debt from said bond, surety or other device.

C. Authorized Stormwater Facility Construction. Only the following persons shall be authorized to install stormwater facilities:

1. Drainage connection contractors or other contractors who are properly licensed.

2. Property owners working on their own property; provided, that they have met the requirements of this chapter.

3. Contractors currently under contract with the city if approved for the work by the city.

4. Contractors who have received approval from the city to connect roof and footing drains to an existing stub under an appropriate city permit.

D. Posting of Stormwater ~~Connection~~ Permit. If a stormwater ~~connection~~ permit is required, the permit shall be readily available at the job site for inspection by the city.

E. Location of Connection. Connection to the stormwater system shall be made at a point approved in writing by the city.

F. As-Built Drawings. An as-built plan of the stormwater facilities on the site shall be completed in accordance with the city's ~~engineering~~ development standards, and shall be accepted by the city prior to the city's acceptance of the improvements, issuance of a certificate of occupancy or final sign-off by the city. (Ord. 1222 § 2 (Exh. A) (part), 2009)

13.12.~~280~~ 210 Maintenance, repair and operation of the stormwater system.

A. Public Stormwater Facilities. The city shall be responsible for operating, maintaining, repairing and replacing public stormwater facilities and the public stormwater system.

B. Private Stormwater Facilities. Every property owner and/or person responsible for a private stormwater facility shall be responsible for operating, maintaining, repairing and replacing any private stormwater facility located on said property or under their control. Upon written notice by the city, a private stormwater facility shall be promptly repaired and/or brought up to applicable standards by the property owner or the person responsible for said facility. If a private stormwater facility serves multiple lots and the responsibility for maintenance has not been specified on a subdivision plat, short plat or other legal document, maintenance, operation and repair responsibility shall rest with the homeowners' association, if one exists, or otherwise with the properties served by the facility, or finally, with the owners of the property on which the facilities are located.

C. Assumption of Maintenance Responsibility by City. The city may, at its sole discretion, agree to assume the maintenance of a private stormwater facility; provided, that the city may not agree to maintain any private stormwater facility unless all of the following conditions are met to the director's satisfaction:

1. Maintenance of the facility by the city would provide a public benefit; and

2. Necessary and appropriate property rights and access are provided to the city in accordance with this chapter; and

3. The city has adequate resources, now and in the foreseeable future, to maintain the facility; and

4. At the time the maintenance of the facility is assumed by the city, the facility is in good repair and order, and is functioning in the manner that was intended when designed; and

5. If the request is coming from the owner(s) of the facility, then a formal letter with evidence supporting 1-4 above shall be submitted; and .

~~5~~6. The director has obtained a binding agreement, satisfactory to the city attorney, describing the terms and conditions under which the private facility shall be maintained by the city.

Unless directly caused by the sole negligence of the city, the city shall not be responsible for repair or replacement of failed structures, parts, or components of a private stormwater facility (even if the city has accepted the maintenance of said facility), nor for maintenance or rehabilitation of vegetation (except as may be needed, in the city's sole discretion, for the detention and/or water quality function of the facility). Following assumption by the city of the

maintenance of a private stormwater facility, the private property owner(s) shall continue to be responsible for the entire costs of any repair to and/or replacement of the facility.

D. New Private Stormwater Facilities. In new subdivisions, short plats, and binding site plans, operation and maintenance responsibility for private stormwater facilities shall be specified on the face of the subdivision, short plat or binding site plan to the satisfaction of the director before final approval of the subdivision, short plat or binding site plan may be granted.

E. Maintenance Standards. Stormwater facilities shall be maintained so that they function as designed and intended. Maintenance shall be performed in accordance with the city's maintenance standards and in accordance with the project operation and maintenance plan, if one is developed pursuant to this chapter. (Ord. 1222 § 2 (Exh. A) (part), 2009)

F. Maintenance and correction of drainage problem by city.

1. The failure to maintain stormwater facilities is deemed a threat to human health and the environment. If the property owner fails to maintain a stormwater facility, the city may perform the necessary maintenance, construction, or remedial work, and bill the property owner, the property owner's association, or project proponent for all costs associated with said work. In the event a stormwater facility serves several property owners, each property owner will be billed an equal share.

2. The property owner, the property owners' association, and project proponent are jointly and severally liable for all costs, including a reasonable attorney's fee, incurred in any remedial action performed by the city under this chapter. The city may record a lien on the property owned by such jointly and severally liable entities for payment of costs plus reasonable attorney's fees. Interest shall accrue on costs and fees at the same rate as for real estate tax delinquencies and shall commence on the date of completion of remedial action.

3. The city assumes no liability for performing any action authorized under this section (F) and the property owner retains all responsibility in connection with the private stormwater facility.

13.12.~~290~~220 Inspection of private stormwater facilities.

A. Inspection Program. The city shall have the authority to periodically inspect private stormwater facilities for compliance with this chapter. The city will perform inspections only if shoring and other site conditions conform with WISHA safety standards and other safety requirements, as applicable. If safety standards are not met, the city may take enforcement action ~~per~~according to Section 13.12.~~310~~250.

B. Right of Entry. An authorized representative of the city may enter private property at all reasonable times to conduct inspections, tests or to carry out other duties imposed by the program; provided, that the city shall first obtain permission from the property owner or person responsible for the premises upon presentation of proper credentials to that person. If entry is refused or cannot be obtained, the director shall have recourse to every remedy provided by law to secure entry, including but not limited to obtaining an administrative warrant for entry.

C. Right of Entry in Emergency. In the event of an emergency presenting a threat to public health or safety and requiring immediate action by the director under this chapter, the director may enter onto any property without obtaining consent; provided, that as soon as practicable

thereafter, the director shall advise the property owner or other responsible person of such entry. (Ord. 1222 § 2 (Exh. A) (part), 2009)

13.12.~~300~~230 Demolition or removal of structures.
No structure or stormwater facility connected to the stormwater system shall be altered, removed, demolished, or otherwise interfered with unless the following steps are first taken:

A. Obtain permission from the city after n~~N~~otifying the city in writing and completinge the required application for review and approval at least ten days prior to commencement of any work.

B. Verify the location of the existing on-site drainage facilities.

C. Cap connections that are no longer needed.

D. Provide, as necessary and to the extent determined by the director, alternate means of disposing, treating, and controlling stormwater.

E. Comply with the requirements of ~~the program~~ this chapter and any other conditions imposed by the director or other city departments. (Ord. 1222 § 2 (Exh. A) (part), 2009)

13.12.~~310~~ 240 Enforcement.
A. In the absence of access easements, the city may enter private property within its limits to inspect for drainage problems upon invitation or to the extent allowable by administrative warrant from appropriate authorities to ascertain that drainage facilities are properly functioning, including meeting maintenance standards.

B. In the event deficiencies are found, under any section of this chapter, the property owner shall make such corrections as are necessary within fifteen days of the date of written notice by registered mail, return receipt requested, to the owner of record and the occupant of the property.

C. In the event the person or persons violating this chapter fail to make corrections within fifteen days of the date of written notice by the city, the city may:

1. Correct the problem pursuant to Chapter 13.12.~~280~~220;

~~1.~~2. Prosecute violations of this chapter as a misdemeanor and be subject to the provisions contained in Chapter 1.32, General Penalties; ~~and~~

~~2. By council resolution, determine any conditions which constitute or will constitute a violation of any of the provisions of this chapter, or rules or regulations adopted hereunder, a public nuisance for which the city may seek legal or equitable relief to enjoin any acts or practices or abate any such conditions.~~

3. Revoke the right to occupancy of the subject property and/or may enter if required to make the drainage facilities perform as required by the approved drainage plan. All costs for corrective measures and enforcement actions shall be borne by the property owner.

D4. Additional Remedies.

1A. In addition to any other remedy provided by this chapter or under the Mukilteo Municipal Code, the city may initiate injunction or abatement proceedings or any other appropriate action in courts against any person who violates or fails to comply with any provision of this chapter to prevent, enjoin, abate, and/or terminate violations of this chapter and/or to restore a condition which existed prior to the violation. In any such proceeding, the person violating and/or failing to comply with any provisions of this chapter shall be liable for the costs and reasonable attorneys' fees incurred by the city in bringing, maintaining and/or prosecuting such action.

BD2. Notwithstanding any other provision of this chapter, whenever the director finds that a violation of this chapter or rules or regulations adopted hereunder has created or is creating an unsanitary, dangerous or other condition which, in his judgment, constitutes an immediate hazard, he may suspend or revoke any permit for which the approval of a drainage plan is required on the project or development where the violation exists and suspend or terminate operations under the permit immediately.

3CE. Any person discharging material which will block, damage or contaminate the drainage system of the city shall be liable for all costs incurred by the city or others in cleaning up or correcting said action and may be charged with a misdemeanor punishable by fines.

4DF. Penalty or enforcement provisions provided in this chapter shall not be exclusive, and the city may pursue any remedy or relief deemed appropriate in response to a violation of this chapter or the rules and regulations adopted hereunder. The city council may institute a suit for a mandatory injunction directing a person to remove a structure or make the same comply with its terms. If the city council is successful in its suit, the respondent shall bear the costs of the action.

5EG. The failure or refusal of the city to enforce any provision of this chapter, and as hereafter amended, shall not constitute a waiver or bar to prevent enforcement thereof against any person for a subsequent violation of this chapter, or for any other violation by any other person. (Ord. 1222 § 2 (Exh. A) (part), 2009)

Chapter 13.16
STORM DRAINAGE SYSTEM

Sections:

13.16.010 Purpose.
13.16.020 Definitions.
13.16.030 Rates for surface water drainage service.
13.16.040 Billing.
13.16.041 New account charge.
13.16.045 Annual review of service charges.
13.16.070 Appeals.
13.16.080 Liens.

13.16.010 Purpose.
The ordinance codified in this chapter is adopted to establish the rates, fees, and charges to be levied against property in the city for the use of the surface water drainage system. The ordinance codified in this chapter is adopted under the authority granted by Ordinance 611, dated July 18, 1988, creating the city surface water drainage utility under the authority to Chapter 35.67 RCW. The rates for surface water drainage service are adopted in order to fund the necessary operation, maintenance and improvement to the city's surface water drainage system. (Ord. 634 § 1, 1988)

13.16.020 Definitions.
Words and phrases when used in this chapter shall have the meanings as defined in MCC Chapter 17.08, Definitions. Words not defined shall have their usual meanings as commonly understood.

~~Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage. The following terms are defined for purposes of this chapter only:~~

~~A. "Commercial/multifamily" includes all property zoned or used for multifamily, commercial, industrial, retail, governmental or other nonresidential purposes.~~

~~B. "Dwelling unit" means a building or portion thereof providing a complete housekeeping facility for one family. "Dwelling" shall not be considered to include a hotel, motel, tourist court, or tourist home.~~

~~C. "Family" means one or more persons related by blood, marriage or adoption, or a group of not more than eight persons not related by blood, marriage, or adoption but living together as a single housekeeping unit in a dwelling unit.~~

~~D. "Impervious area" means any part of any parcel of land that has been modified by the action of persons to reduce the land's natural ability to absorb and hold rainfall. This includes areas which have been cleared, graded, paved or compacted, or covered with structures. Excluded are all lawns, landscape areas, and gardens or farming areas.~~

~~E. "Single-family/duplex property" includes all single-family dwellings and all two-family dwellings. "Single-family dwelling" means a detached building designed for and occupied exclusively by one family and the household employees of the family. The term shall not include mobile homes. "Two-family (duplex) dwelling" means a multifamily dwelling consisting of a building containing two independent, but complete housekeeping facilities and designed to be occupied by two separate families. All other residential development shall be classified as "multifamily." (Ord. 634 § 2, 1988)~~

13.16.030 Rates for surface water drainage service.
The owners of all real property in the city which contribute drainage runoff to and/or which benefit from the city's surface water drainage system shall pay a monthly fee as set forth in this section.

A. Single-Family and Duplex Residential Service Charges. Monthly service charges for each single-family and each duplex residential dwelling unit shall be as set forth in the surface water utility monthly charges fee schedule included in the city of Mukilteo fees and charges resolution adopted by the city council.

B. Commercial/Multifamily and Nonresidential Property Service Charges. The monthly fee for all commercial/multifamily and other nonresidential properties shall be computed in accordance with the following formula, and in accordance with the surface water utility monthly charges fee schedule included in the city of Mukilteo fees and charges resolution adopted by the city council:

~~Impervious Area~~Hard Surface Area (in SF) = 1 ERU

2,500 SF

Monthly fee = ERU x (SFD service charge)

Where:

~~IMPERVIOUS AREA~~HARD SURFACE AREA = See Section ~~13.16.020(D)~~17.08.020

SF = Square feet

ERU = Equivalent residential units

SFD = Single-family/duplex

C. Application to All Properties. These rates shall apply to all properties within the city, including those properties classified as nonprofit or tax-exempt for ad valorem tax purposes. It shall apply to all government properties, including properties of the city such as city-owned buildings, parks, and other properties. It shall not apply to city streets or state highway properties within the city. Surface water service charges shall not be levied against undeveloped property that has not been altered from its natural state as defined under Section ~~13.16.020(D),~~17.08.020 hard surface ~~impervious~~ area. Farmland, gardens, and landscaped areas shall also be exempt except for any roads, parking or structures associated therewith.

D. Special Storm Drainage Rates.

1. Citizens meeting the qualifications for low-income senior citizens and low-income disabled citizens set forth in RCW 74.38.070 shall be charged for monthly storm drainage service at a discount of fifty percent of the residential rate for single-family.

2. Claimants for said reduction shall own a single-family home that is their primary residence and live within the corporate limits of the city.

3. Low-income senior citizen claimants shall be required to have a valid property tax exemption from the county, pursuant to state statute.

4. Low-income disabled citizen claimants shall be receiving permanent Social Security disability payments and meet current income criteria as established by state statute.

5. Claimants for Special Storm Drainage Rates shall provide evidence annually to the city that they meet the qualifications as set forth in this chapter.

(Ord. 1372 § 1, 2015; Ord. 1146 § 1, 2005; Ord. 1091 § 1, 2004; Ord. 1068 § 1, 2002; Ord. 1046 § 1, 2001; Ord. 1006 § 2, 1999; Ord. 815, 1994; Ord. 739 § 1, 1993; Ord. 634 § 3, 1988)

13.16.040 Billing.
The fees imposed by this chapter shall be billed to the property owner, or if authorized in writing by the property owner, to the tenant. In either situation, the property owner will be responsible to pay all delinquent or unpaid surface water drainage service charges. Such fees shall be due and payable as provided herein. (Ord. 634 § 4, 1988)

13.16.041 New account charge.
A new account charge in the amount of one-half of the new account charge in effect in the Mukilteo water district is imposed on all new surface water accounts and surface water account charges for properties which are not otherwise served by the Mukilteo water district. The charge is necessary to defray expenses of setting up new accounts and making account charges for accounts to be billed by the Mukilteo water district under contract with the city. (Ord. 792 § 3, 1994)

13.16.045 Annual review of service charges.
The city council shall review the service charges established by Section 13.16.030 on an annual basis in order to ensure that the same continue to reflect the utility's capital, operating and maintenance needs and provide for an equitable system of rates and charges for all classes of customers. (Ord. 792 § 5, 1994)

13.16.070 Appeals.
A. Any customer or property owner who feels that the surface water drainage service charge for their property has been incorrectly computed may petition, in writing, to the city engineer for a review of the computations. The petition shall include the reason for the dispute and evidence of the discrepancy. The ~~city engineer~~ director shall review the petition and render a decision. The ~~city engineer~~ director shall notify the petitioner of the engineer's decision in writing.

B. If the petitioner is not satisfied with the determination of the city engineer, the petitioner may request the mayor or mayor's designee to review the petition and the city engineer's decision. The decision of the mayor or the mayor's designee on the petition shall be final.

C. Any credits authorized by the appeal process shall only be effective against billings subsequent to the date of authorization. (Ord. 634 § 7, 1988)

13.16.080 Liens.
Pursuant to RCW 35.67.200, et seq., the city shall have a lien for delinquent or unpaid surface water drainage service charges. Enforcement and foreclosure of the lien(s) shall be as provided by law. Interest on the unpaid balance shall be eight percent per year or such higher rate as authorized by state law. (Ord. 634 § 8, 1988)

EXHIBIT B
Chapter 15.16
GRADING AND EXCAVATION

Sections:

15.16.010 Purpose.
15.16.020 Definitions.
15.16.030 Permit authority.
15.16.040 Permit required—Application.
15.16.050 Requirements.
15.16.060 Permit—Application.
15.16.070 Permit—Fees.
15.16.080 Permit—Expiration.
15.16.090 Security requirement.
15.16.100 Contractor requirements.
15.16.110 Project inspection.
15.16.120 Cuts.
15.16.130 Fills.
15.16.140 Setbacks.
15.16.150 Drainage and terracing.
15.16.160 Erosion control.
~~15.16.165 Low impact development techniques.~~
15.16.170 Clearing and grading inspection.
15.16.180 Work completion.
15.16.190 Enforcement.

15.16.010 Purpose.

A. This chapter is an amendment to Appendix J of the 2006 International Building Code, Clearing, Excavation and Grading.

B. The purpose of this chapter is to promote, protect and preserve the public interest by regulating land alteration, particularly the clearing and grading of land in the city.

C. This chapter is necessary in order to provide minimum development regulations and construction procedures which will preserve, replace or enhance to the maximum extent practicable, consistent with the zoning and subsequent development of the land, evergreens, specimen deciduous trees, understory and groundcover within the city; to minimize water quality degradation and the sedimentation of creeks, streams, ponds, lakes, wetlands and other water bodies; to minimize the impact of increased runoff erosion and sedimentation on nonconsenting persons caused by improper land development and maintenance practices; to maintain and protect groundwater resources; to minimize adverse effects of alteration in ground and surface water quantities, locations, and flow patterns; to promote safety upon city roads and right-of-way; to decrease potential landslide, flood, and erosion damage to public and private property; and to promote site planning and building practices which are consistent with the city's natural topographical, vegetational and hydrological features.

D. This chapter is intended to promote the health, safety and welfare of the public and nothing in this chapter is intended to or shall be deemed to create a duty in the city to protect or promote the interests of any particular person or class of persons. The existence of these

regulations or any failure, refusal or omission of the city to enforce any provision in this chapter shall not prevent, supplant or affect the right of any person affected by the clearing and grading operations of another to invoke such private remedies as may be available against such other person. (Ord. 1173 § 6 (part), 2007; Ord. 602 (title), § 1, 1988)

15.16.020 Definitions.

Words and phrases when used in this chapter shall have the meanings as defined in Chapter 17.08, Definitions. Words not defined shall have their usual meanings as commonly understood. (Ord. 1222 § 2 (Exh. A) (part), 2009)

~~For the purposes of this chapter, the definitions listed under this section shall be construed as specified in this section:~~

~~1. "Approved" means approved by the designated permit authority for clearing and grading permits.~~

~~2. "As-graded" means the surface condition after the completion of grading.~~

~~3. "Bench" means a relatively level step excavated into earth material on which fill is to be placed.~~

~~4. "Borrow" means earth material acquired from an off-site location for use in grading on a site.~~

~~5. "Brush" means vegetation one foot to four feet in height.~~

~~6. "Civil engineer" means a professional engineer licensed by the state in civil engineering.~~

~~7. "Civil engineering" means the application of knowledge of the forces of nature, principles of mechanics and the properties of materials to the evaluation, design and construction of civil works for the beneficial uses of mankind.~~

~~8. "Clearing" means the act of destroying vegetation by mechanical or chemical means.~~

~~9. "Clearing and grading permit" means the written permission of the permit authority to the permittee to proceed with the act of clearing, grading and land development within the provisions of this chapter.~~

~~10. "Compaction" means the densification of a fill by mechanical means.~~

~~11~~12. ~~"Development standards" means department of public works development standards as approved by the city council.~~

~~12~~14. ~~"Earth material" means any rock, natural soil or any combination thereof.~~

~~13~~15. ~~"Engineering geologist" means a geologist experienced and knowledgeable in engineering geology.~~

~~14~~16. ~~"Engineering geology" means the application of geologic knowledge and principles in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works.~~

~~15. "Erosion" means the wearing away of the ground surface as a result of action by wind, water and/or ice.~~

~~16. "Excavation" means the physical, manmade removal of earth material.~~

~~17. "Existing grade" means the land elevation prior to grading.~~

~~18. "Fill" means a solid material which increases the ground surface elevation.~~

~~19. "Filling" means any act by which earth, sand, gravel, rock or other solid material is deposited, placed, pushed, pulled or transported to a place other than the place from which it is excavated and the materials so placed.~~

~~20. "Finished grade" means the grade of the site after alterations are completed.~~

~~21. "Grade" means the vertical elevation of the ground surface.~~

~~22. "Grading" means any act which changes the elevation of the ground surface.~~

~~23. "Ground cover" means root vegetation normally less than one foot in height.~~

~~24. "Grubbing" means the act of root vegetation removal from beneath the surface of the earth.~~

~~25. "Hydrologist" means a professional who has experience or specialized training in hydrology.~~

~~26. "Impervious" means without significant capacity to transmit water.~~

~~27. "Intermittent" means interrupted at intervals, periodic, recurrent, flowing in the same direction (streams), or depressions which fill on a frequent basis (ponds).~~

~~28. "Key" means a designed compacted fill placed in a trench excavated in earth material beneath the toe of a proposed fill slope.~~

~~29. "Overstory" means vegetation above ten feet in height.~~

~~30. "Permit authority" means the director of the storm and water management. (Engineering department). The director may designate subordinate(s) to make approvals, sign permits, and carry out other responsibilities in application to this code.~~

~~31. "Permittee" means the person(s) or entity to whom a clearing and grading permit is issued.~~

~~32. "Professional finding" means a written professional opinion with the professional's seal, if registered, stating the facts observed or found and comparison of the characteristics of the work with the known minimal required criteria, followed by an opinion of the suitability of such work to perform the intended function.~~

~~33. "Registered professional" means a person currently licensed by the state to practice in engineering, architecture, landscape architecture, and/or surveying.~~

34. "Regulatory agencies" means appropriate departments of a governmental body.

35. "Rough grade" means the stage of construction at which the ground elevations are near the finished elevations planned.

36. "Sediment" means waterborne particles, graded or undefined, occurring by erosive action.

37. "Sedimentation" means the process of deposition of soil and organic particles displaced, transported, and deposited by water or wind.

38. "Sensitive lands" means lands possessing slopes in excess of twenty-five percent on unstable soil, natural drainage, geological or vegetative characteristics which pose potentially hazardous impacts for occupants of the land or its neighbors.

39. "Significant trees" means evergreen trees eight inches or greater in diameter as measured at least four feet above existing grade and deciduous trees twelve inches or greater in diameter as measured at least four feet above existing grade.

40. "Siltation" means deposition of fine textured sediment in streams and surfaced waters.

41. "Site" means that defined portion of any lot(s) or parcel(s) of land or contiguous combination thereof, where clearing and/or grading is performed or permitted.

42. "Slope" means an inclined ground surface the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

43. "Soil" means naturally occurring superficial deposits overlying bedrock.

44. "Soils engineering" means the application of the principles of soils mechanics in the investigation, evaluation and design of civil works involving the use of earth materials and the inspection and/or testing of the construction thereof.

45. "Stage" means a defined increment of work.

46. "Storm return interval" is an expression of the probability with which a storm of a given intensity and duration can be expected to occur; term used by a hydrologist to predict runoff quantities.

47. "Stream" means the surface water route generally consisting of a channel with bed, banks, or sides, in which surface waters flow in draining from higher or lower land, both perennial and intervening; the channel and intervening artificial components, excluding flows which do not persist more than twenty-four hours after cessation of rainfall at some time of the year.

48. "Surface waters" means water bodies exposing a free water surface, with or without movement, such as streams, lakes, bogs, and ponds.

49. "Terrace" means a relatively level step constructed in the face of a graded slope surface for drainage and maintenance purposes.

~~50. "Tree" means a woody perennial plant with one or more main stem(s) or trunk(s) which develop many branches.~~

~~51. "Understory" means vegetation four feet to ten feet in height.~~

~~52. "Vegetation" means all organic plant life growing on the surface of the earth. (Ord. 602 § 2, 1988)~~

15.16.030 Permit authority.
The director of the engineering department or a designee, hereinafter termed the permit authority, is the designated agent for the issuance of clearing and grading permits. The permit authority shall have the authority to develop administrative procedures to carry out the purposes and intent of this clearing and grading code. Such administrative procedures should be developed in consultation with technical advisors as circumstances require and shall be made available to the public for comment at least seventeen days before adoption. (Ord. 602 § 3, 1988)

15.16.040 Permit required—Application.
No person shall make changes or cause changes to be made in the surface of any land by grading, excavating, or the removal or disturbance of the natural topsoil, trees, or other vegetative covering thereon without first having obtained a valid clearing and grading permit, except as provided in the exemptions following:

A. Agricultural crop management;

B. Cemetery grave;

C. Routine landscape maintenance;

D. Landscape installation where fill is confined to less than one foot of topsoil or landscape berms not exceeding four feet in height and fifty cubic yards in volume with side slopes flatter than three feet horizontal to one foot vertical (thirty-three percent) and not subject to the special conditions of subsection I of this section;

E. Emergency situations involving immediate danger to life or property or substantial fire hazards;

F. ~~In any one year an~~An excavation of less than fifty cubic yards of material which:

1. Is less than one foot in depth, or

2. Which does not create a cut slope greater than five feet in height and steeper than two horizontal to one vertical;

G. ~~During any one year a~~A fill less than one foot in depth and placed on natural terrain with a slope flatter than five horizontal to one vertical (twenty percent) or a fill less than three feet in depth and not intended to support structures, which does not exceed fifty cubic yards on any one lot and does not obstruct a stream or surface water;

H. A clearing less than one thousand square feet where the existing zoning is single-family residential. Only one exempted clearing or grading operation per site ~~per year~~ shall be permitted under the exception provided in this subsection;

I. Except for subsections A, C and E of this section, not more than one of the exemptions set forth in this section shall apply on one designated site. (Ord. 602 § 4, 1988)

15.16.050 Requirements.
It is the intent of this section to promote practices consistent with the city's natural topographic, vegetational, and hydrologic features, and to control substantial land alterations of a speculative nature. In considering whether to issue a permit, and in considering whether and what type of conditions should be imposed, the permit authority shall apply the following standards and criteria:

A. General. An Engineering ~~clearing and grading~~ permit shall be issued only in conjunction with one or more of the following:

1. A valid building permit ~~application; provided no clearing and grading permit will be issued until a decision has been issued by the director of the building department approving any required design review~~;

2. Utility extension;

3. A valid Engineering permit to build a p~~P~~roperty access road;

~~4. Conditional use permit;~~

~~5~~4. Approved permit for street, water, storm and sanitary sewer construction ~~drawings~~ for a preliminary plat;

~~6~~5. Approved short plat;

~~7. SEPA approval;~~

~~8. Shoreline permit;~~

~~9~~6. Special permission of the permit authority for site work under five hundred cubic yards based on a demonstration that extenuating circumstances are present and that the project is consistent with the grading and drainage plan with landscaping, soil stabilization and surface groundcover elements including continuous maintenance;

~~10~~7. For site work over five hundred cubic yards, the purpose of which is not to achieve approval or development under subsections (A)(1) through (8) of this section.

a. Decision Criteria. The permit authority may approve or approve with modifications an application submitted under this subsection only if:

i. The proposal is in accord with the comprehensive plan, comprehensive ~~drainage~~ stormwater plan, zoning code, ~~drainage~~ stormwater management code and other city codes and adopted standards,

ii. The approval of the proposal will not pose a threat to or be detrimental to the public health, safety and welfare, and

iii. The applicant has demonstrated that approval of the proposal is necessary for the reasonable development or maintenance of the property.

b. Time Limits May Be Imposed. For any permit authorized under this subsection the permit authority may impose a time limit within which the proposed site work must be completed, generally not to exceed one year.

B. Hazards. Whenever the permit authority determines that any existing excavation or embankment or fill on private property has become a hazard to life and limb, or endangers property, or adversely affects the safety, use or stability of a public way or drainage channel, the owner of the property upon which the excavation or fill is located, or other person or agent in control of the property, upon receipt of notice in writing from the permit authority, shall within the period specified therein repair or eliminate such excavation or embankment so as to eliminate the hazard and be in conformance with the requirements of this code.

C. Clearing. All clearing of vegetation shall conform to the specifications of this section:

1. Clearing shall not affect critical root zone around retained trees. Fencing shall be used as protection, as found in the Development Standards. Stowing and staging of heavy machinery and parking are not allowed on critical root zones.

~~1~~2. Applications for clearing and grading on slopes in excess of thirty-five percent shall be accepted in those cases where tree removal is limited to pruning (provided survival is assured). Provided, however, clearing or grading on slopes in excess of thirty-five percent may be allowed, only upon prior review and approval by the planning commission, to the extent permitted by subsection (C)(2) of this section. Prior to such review, the following information, in addition to any other information that may be required by the applicable codes and ordinances of the city, shall be provided by independent consultants hired by the city at applicant's expense.

a. A slope report prepared by a qualified independent professional retained by the city. The required slope report shall contain the following information, including recommended methods for mitigating identified impacts and a description of how these mitigating measures may impact adjacent property:

i. Soils Report. Investigation and report shall be prepared by or under the supervision of a civil engineer with a soil/geotechnical expertise, licensed by the state of Washington and acceptable to the city. This report shall include data regarding the nature, distribution and strength of existing soils and the characteristics of the underlying geology, infiltration rates, conclusions and recommendations for grading procedures, design criteria for corrective measures and opinions and recommendations covering the carrying capabilities of the site. The applicant shall indicate location of soils that should remain undisturbed or used for stormwater management purposes during the time of construction;

ii. Hydrology Report. The investigation and report shall be prepared by an independent qualified professional hydrologist acceptable to the city. This report shall include an adequate description of the hydrology of the site, conclusions and recommendations regarding the effect of hydrologic conditions on the proposed development and options and recommendations covering the carrying capabilities of the sites to be developed.

b. In addition to all of the information, reports and other material required in Section 15.16.060 and other applicable provisions of the city's codes, a grading plan report shall be provided which shall include a schedule showing when each stage of the project will be completed, including the total area of soil surface which is to be disturbed during each stage and the estimated starting and completion dates; the schedule shall be drawn up to limit to the shortest possible period the time that soil is exposed and unprotected. In no event should the existing vegetative ground cover be destroyed, removed or disturbed more than fifteen days prior to development. In addition, a revegetation report shall be provided which shall be prepared by or under the supervision of a landscape architect licensed by the state of Washington who is acceptable to the city and shall include the following:

i. Measures to be taken for slope stabilization and erosion control;

ii. Measures to be taken for protection and replacement of the natural vegetative cover;

iii. A schedule showing when each stage of the project will be revegetated with estimated starting and completion dates and such other information as may be required by the city.

~~2~~3. Applications for clearing or grading on site or slopes of twenty-five percent to thirty-five percent shall be accepted in those cases where there is a disturbance of no more than forty-five percent of natural vegetation and a retention of fifty-five percent of significant trees.

~~3~~4. Applications for clearing or grading on sites or slopes of fifteen percent to twenty-four percent shall be accepted if clearing does not exceed sixty percent of natural vegetation with retention of forty percent of significant trees on the site.

~~4~~5. Applications for clearing or grading on sites or slopes less than fifteen percent shall be accepted if the plan retains twenty-five percent of all significant trees and ground cover. (Ord. 1308 § 3, 2012; Ord. 665 § 1, 1990; Ord. 602 § 5, 1988)

15.16.060 Permit—Application.

A. Application. To obtain a permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall:

1. Identify the responsible person for the permit and include the address and phone numbers(s) of the same;

2. Identify and describe the work to be covered by the permit for which application is made;

3. Describe the site on which the proposed work is to be done, by legal description, by lot, block, tract, or house and street address, or similar description that will readily identify and definitely locate the proposed building or work;

4. Indicate the use or occupancy for which the proposed work is intended;

5. Estimate the quantities of work involved;

6. Be accompanied by plans and specifications as required in subsection C of this section unless short-form application is made according to subsection B of this section;

7. State the valuation of the proposed work;

8. Be signed by the permittee, or his authorized agent, who may be required to submit evidence to indicate such authority;

9. Give such other information as reasonably may be required by the permit authority.

B. Plans and Specifications. Each application for a permit shall be accompanied by three set plans and specifications. The permit authority may require, as supporting data, one or more reports covering soils engineering, engineering geology and hydrology, and an environmental checklist. The plans and specifications shall be prepared and sealed by a registered professional engineer when required by the permit authority.

C. Information on Plans and in Specifications. Plans shall be drawn to a scale of not more than one inch equals fifty feet upon reproducible media and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that they conform to the provisions of this chapter. The plans shall include the following information:

1. The first sheet of each set of plans shall give:

a. The correct legal description of the property,

b. The name(s), address(es) and phone number(s) of the owner(s) of the land and the person(s) ordering the work to be performed,

c. The total clearing to be performed in acres,

d. The total impervious surface to be created in acres,

e. The estimated total amount of excavation to be performed in cubic yards,

f. The estimated total amount of fill to be performed in cubic yards,

g. The name(s), address(es), phone number(s) and seal, if registered, of professional(s) preparing the plans,

h. The name(s), address(es) and phone number(s) of professional(s) preparing the soils engineering, engineering geology, and/of hydrology reports, when such reports are required.

i. A general vicinity map to scale showing the site and all streets within three hundred feet, together with the names, addresses and locations of abutting landowners, as shown by Snohomish County assessor's records.

2. An accurate plan of the entire site as it exists at the time of the application showing the following minimum information:

a. Topography, taken at not more than a five-foot contour interval over the entire site. Ninety percent of the contours shall be plotted within one-half of a contour interval and the remainder within one contour of the true location. Aerial compilation methods are acceptable; however, all areas obscured by vegetation shall be checked and verified by on-site measurements;

b. Five contour intervals that extend a minimum of two hundred feet off-site, when available;

c. All property lines shown in true location with respect to the plan's topographic information;

d. A copy of a current, generally available aerial photo of the site with property lines;

e. A graphic representation of existing vegetation on the site delineating vegetation boundaries, predominant types (common names) and approximate density of cover according to the following categories:

i. Bare ground: no existing vegetation,

ii. Ground cover: up to one foot in height,

iii. Brush: one foot to four feet in height,

iv. Understory: four feet to ten feet in height,

v. Overstory: greater than ten feet in height,

vi. Impervious: rock, artificial condition.

f. A Tree Retention Plan showing any significant trees that shall be retained or removed. The applicant shall also identify limits of full tree dripline of the canopy and limits of critical root zones. The plan shall identify measures to be taken to protect trees during construction such as fencing of trees, and avoiding disturbance of critical root zones. Tree retention plans shall also identify how requirements set in 15.16.050.C.5 are met, when applicable.

~~f~~g. Description of the upper thirty-six inches of soil mantle according to the procedure in the development standards.

~~g~~h. Location of all existing drainage facilities which transport surface water onto, across, or from the site including: streams and surface waters, artificial channels, drain pipe or culverts;

~~h~~i. Location and estimated capacity of all natural or artificial basins which impound surface water;

~~i~~j. Location and estimated capacity of all visible springs in excess of one gallon per minute;

~~j~~k. Location and elevations of all buildings, structures, utilities or other appurtenances on the property where the work is to be performed and the location of any buildings or structures on land of adjacent owners which are within fifteen feet of the property.

3. An accurate plan of the entire site as it will appear after construction showing the following minimum information:

a. Limiting dimensions, elevations or finished contours to be achieved by the grading;

b. Location and capacity of all drainage facilities and related construction;

c. Boundaries of all areas to remain in the existing or natural condition;

d. Location of all vegetation shown on the plan which will remain after completion of the work and at the minimum distance to the nearest excavation and/or filling;

e. Boundaries of all areas that will be paved or otherwise altered in a manner that will increase stormwater runoff;

f. Boundaries of all areas in which the ~~percolative~~ infiltration capacity of the soil will be retained and/or improved;

g. Method of discharging stormwater off-site at the naturally occurring location together with the provisions needed to restrict the velocity and direction of the discharge in order to avoid damage to other properties;

h. Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams and other protective devices to be constructed with or as a part of the proposed work;

i. Methods of preventing sediment or other pollution from leaving the site during and after construction; i.e. an erosion control plan, and their timing of installation.

D. The permit authority may require additional information when the permit authority finds that the submitted plans, specifications and other data are not sufficiently clear to allow a determination that the proposed work fully conforms to this section, or if there is reasonable cause to believe that the proposed clearing or grading will have a significant effect upon other properties. This information may consist of but is not necessarily limited to any of the following:

1. Calculations of the expected peak runoff of stormwater both reaching and leaving the site for the then existing conditions of the area tributary to the site and ultimate watershed development based upon the current comprehensive land use plan, as now existing or as hereafter amended. If water is to be impounded during construction or as part of the final plan of the site development, inflow-outflow hydrographs shall be plotted for the return period storms showing the impounded volume and maximum discharge.

2. A scaled drawing showing cross-sections of the channel and/or pipe at both upstream and downstream property lines with the elevations of the water surface shown for the specified return period storms thereon for the then existing conditions.

3. A soil engineering report which shall include data regarding the nature, distribution, and strength of existing soils, conclusions and recommendations for clearing and grading procedures, and design criteria for corrective measures when necessary; together with opinions and recommendations covering adequacy of sites to be developed and the extent of significant effects of the site development upon surrounding properties by the proposed clearing and

grading. Recommendations included in the report shall be incorporated in the clearing and grading plan, specifications, or support material.

4. A soil management plan consisting of information of how soil disturbance will be minimized or how native soils will be retained or restored. The soil management plan shall include:

a. Map of soil protection areas, areas to be disturbed, access roads, locations of material storage, permanent infiltration facilities, and soil enhancement areas.

b. A narrative describing measures to be taken either for protection or restoration of functional topsoil conditions (minimum 12 inches deep) over the entire site, including:

i. How protection areas and soil enhancement areas will be protected from compaction.

ii. How disturbed soils will be improved and re-vegetated.

iii. Treatment details for each area scheduled for soil enhancement (disturbed soil areas) and calculations of the quantities of compost and/or compost-amended topsoil and mulch that will be used to meet the provisions of BMP T5.13 of the Ecology Manual~~,~~.

iv. Additional information describing how plan is in accordance with BMP T5.13 of the Ecology Manual.

~~4~~5. An engineering geology report which shall include an adequate description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and opinions and recommendations covering the adequacy of sites to be developed and the extent of significant effects of the site development upon surrounding properties by the proposed clearing and grading. Recommendations included in the report shall be incorporated in the plans, specifications or support material.

~~5~~6. A hydrology report which shall include an adequate hydrology study of the drainage basin in which the development site is located, conclusions setting forth existing and future changes in the hydrology and the extent of significant effects on the surrounding and downstream properties as a result of the proposed clearing, grading and development and design criteria for corrective measures whenever necessary, together with opinions and proposed project conditions. Recommendations included in the report shall be incorporated in the plans, specifications, or support material.

~~6~~7. Additional reports may be required, if, in the judgment of the permit authority, such information is deemed advisable, including but not limited to biological, wildlife, chemical, water quality, bacterial or other factors related to environmental impact. (Ord. 602 § 6, 1988)

15.16.070 Permit—Fees.
Before accepting a set of plans and specifications for checking, the permit authority or his/her designee shall collect a permit fee. Such fee shall be determined according to a standard fee schedule approved by the city council by resolution adopted and reviewed from time to time. (Ord. 602 § 7 (part), 1988)

15.16.080 Permit—Expiration.

The expiration of clearing and grading permits and applications shall follow the same specifications as for building permits and applications therefore as now or hereinafter amended except that the permit authority shall be the official; provided, however, that the permit authority may set specific limits to the permit for project initiation and/or completion if for environmental reasons or for coordination with other permitted site work he/she finds it is advisable to do so. (Ord. 602 § 7 (part), 1988)

15.16.090 Security requirement.

A. The permit authority may require the applicant to establish a security in the form of cash escrow account or an irrevocable letter of credit or other form of credit which may be acceptable to the city at its sole discretion, with his bank in an amount deemed by the permit authority to be sufficient to reimburse the city if it should become necessary for the city to enter the property for the purpose of correcting and/or eliminating hazardous conditions relating to soil stability and/or erosion, or to restore vegetation, and/or for other purposes authorized in this chapter.

B. In no case shall the security be less than the permit authority's estimate of the cost of correcting or eliminating hazardous conditions that reasonably may occur, and/or of insuring compliance with the stipulations of the permit and the approved plans and specifications. In addition, security may be required to protect the city from potential damage claims and/or other damage to city streets, utilities or property in the same manner and extent as may be required prior to issuance of a building permit pursuant to other sections of this code.

C. Should the city, during the course of construction, find it necessary to expend the security to correct any work not in accordance with the approved plans and specifications, a stopwork order shall be issued to the permittee on any additional work until the security is reestablished by the permittee. (Ord. 602 § 8, 1988)

15.16.100 Contractor requirements.

Every contractor or other person performing or directing the performance of any work requiring a permit under this chapter shall have in his/her possession prior to commencement of and during all phases of the work an original or copy of a valid permit therefor, and shall further have a duty to be familiar with the terms and conditions of the permit and approved plans and specifications. (Ord. 602 § 9, 1988)

15.16.110 Project inspection.

A. General. All projects which include clearing and grading shall be subject to inspection by the permit authority or his designee. The permit authority or his designee shall be granted unlimited right of entry to the work site by the application for the purposes of making inspections to determine that the requirements of the plans and permits are being complied with, and for the purposes of taking corrective measures of an emergency nature. The cost of such corrective measures shall be borne by the applicant. The permit authority may require inspection and testing by an approved testing agency at any stage of the application or project.

B. It shall be the permittee's responsibility to notify the permit authority or his designee at least twenty-four hours prior to the time required for inspection. If the permit authority fails to inspect the project within eight working hours after the scheduled inspection time, the permittee may proceed with the project but shall not be relieved from compliance with the requirements of the plans, specifications, and permit as approved. All inspections and testing required shall be determined prior to issuance of the permit, except those that may be required when conditions exist that were not covered in the documents submitted when requesting a permit. The permit authority may require additional inspection or testing if conditions are found to be different than

those presented in the plans or supporting documents; however, if and when conditions change, it shall be the responsibility of the applicant or the professional consultants who submitted the plans or documents to provide the permit authority with recommended changes to procedures, for its review and approval.

C. Suspension of Permits. Whenever the permit authority determines that the act or intended act of clearing, grading, excavation or fill has become or will constitute a hazard to life and limb, or endangers property, or adversely affects the safety, use or stability of a public way, drainage channel, stream or surface water, including siltation and sedimentation therein, the permit authority shall immediately suspend the clearing and grading permit. The permittee or other person or agent in control of the property, upon receipt of notice in writing from the permit authority shall, within the period specified therein, terminate such clearing, grading, excavation, embankment or fill, or eliminate the same from the development plans. (Ord. 602 § 10, 1988)

15.16.120 Cuts.

A. General.

1. Unless otherwise recommended in the approved soils engineering and/or engineering geology report, cuts shall conform to the provisions of this section.

2. In the absence of an approved soils engineering report, these provisions may be waived for minor cuts not intended to support structures.

B. Slope. The slope of cut surfaces shall be no steeper than is safe for the intended use and shall be no steeper than two horizontal to one vertical unless the owner furnishes a soils engineering or an engineering geology report, or both, stating that the site has been investigated and giving an opinion that a cut at a steeper slope will be stable and not create a hazard to public or private property. The report shall be reviewed and approved by the city engineer prior to earth work.

C. Drainage and Terracing. Drainage and terracing shall be provided as required. (Ord. 602 § 11, 1988)

15.16.130 Fills.

A. General.

1. Unless otherwise recommended in the approved soils engineering report, fills shall conform to the provisions of this section.

2. In the absence of an approved soils engineering report, these provisions may be waived for minor fills not intended to support structures.

B. Fill Location. Fill slopes shall not be constructed on natural slopes steeper than two to one.

C. Preparation of Ground. The ground surface shall be prepared to receive fill by removing vegetation, noncomplying fill, topsoil and other unsuitable materials, scarifying to provide a bond with the new fill and, where slopes are steeper than five to one and the height is greater than five feet, by benching into sound bedrock or other competent material as determined by the soils engineer. The bench under the toe of a fill on a slope steeper than five to one shall be at least ten feet wide. The area beyond the toe of fill shall be sloped for sheet overflow or a paved

drain shall be provided. When fill is to be placed over a cut, the bench under the toe of fill shall be at least ten feet wide but the cut shall be made before placing the fill and acceptance by the soils engineer or engineering geologist or both as a suitable foundation for fill.

D. Fill Material.

1. Organic material shall not be permitted in fills. Except as permitted by the building official, no rock or similar irreducible material with a maximum dimension greater than twelve inches shall be buried or placed in fills.

2. Exceptions. The permit authority may permit placement of larger rock when the soils engineer properly devises a method of placement, continuously inspects its placement and approves the fill stability. The following conditions shall also apply:

a. Prior to issuance of the grading permit, potential rock disposal areas shall be delineated on the grading plan.

b. Rock sizes greater than twelve inches in maximum dimension shall be ten feet or more below grade, measured vertically.

c. Rocks shall be placed so as to assure filling of all voids.

E. Compaction. All fills shall be compacted to a minimum of ninety percent of maximum density as determined by the IBC. In-place density shall be determined in accordance with the IBC.

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

G. Drainage and Terracing. Drainage and terracing shall be provided and the area above fill slopes and the surfaces to terraces shall be graded and paved as required. (Ord. 602 § 12, 1988)

15.16.140 Setbacks.

A. General. Cut and fill slopes shall be set back from site boundaries in accordance with this section. Setback dimensions shall be horizontal distances measured perpendicular to the site boundary. Setback dimensions shall be shown in accordance with Appendix J of the 2006 International Building Code.

B. Top of Cut Slope. The top of cut slopes shall be made not nearer to a site boundary line than one fifth of the vertical height of cut with a minimum of two feet and a maximum of ten feet. The setback may need to be increased for any required interceptor drains.

C. Toe of Fill Slope. The toe of fill slope shall be made not nearer to the site boundary line than one-half the height of the slope with a minimum of two feet and a maximum of twenty feet. Where a fill slope is to be located near the site boundary and the adjacent off-site property is developed, special precautions shall be incorporated in the work as the permit authority deems necessary to protect the adjoining property from damage as a result of such grading. These precautions may include but are not limited to:

1. Additional setbacks;

2. Provision for retaining or slough walls;

3. Mechanical or chemical treatment of the fill slope surface to minimize erosion;

4. Provisions for the control of surface waters.

D. Modification of Slope Location. The permit authority may approve alternate setbacks. The permit authority may require an investigation and recommendation by a qualified engineer or engineering geologist to demonstrate that the intent of this section has been satisfied. (Ord. 1173 § 6 (part), 2007; Ord. 602 § 13, 1988)

15.16.150 Drainage and terracing.

A. General. Unless otherwise indicated on the approved clearing and grading plan, drainage facilities and terracing shall conform to the provisions of this section for cut or fill slopes steeper than three horizontal to one vertical.

B. Terrace.

1. Terraces at least six feet in width shall be established at not more than thirty-foot vertical intervals on all cut or fill slopes to control surface drainage and debris except that where only one terrace is required, it shall be at midheight. For cut or fill slopes greater than sixty feet and up to one hundred twenty feet in vertical height, one terrace at approximately midheight shall be twelve feet in width. Terrace widths and spacing for cut and fill slopes greater than one hundred twenty feet in height shall be designed by the civil engineer and approved by the permit authority. Suitable access shall be provided to permit property cleaning and maintenance.

2. Swales or ditches on terraces shall have a minimum gradient of five percent and must be paved with reinforced concrete not less than three inches in thickness or an approved equal paving. They shall have a minimum depth at the deepest point of one foot and a minimum paved width of five feet.

3. A single runoff swale or ditch shall not collect runoff from a tributary area exceeding thirteen thousand five hundred square feet (projected) without discharging into a down drain.

C. Subsurface Drainage. Cut and fill slopes shall be provided with subsurface drainage as necessary for stability.

D. Disposal.

1. All drainage facilities shall be designed to carry water to the nearest practicable drainage way approved by the permit authority. Erosion of ground in the area of discharge shall be prevented by installation of nonerosive down drains or other devices.

2. Building pads shall have a drainage gradient of two percent toward approved drainage facilities, unless waived by permit authority.

3. Exception. The gradient from the building pad may be one percent if all of the following conditions exist throughout the permit area:

a. No proposed fills are greater than ten feet in maximum depth.

b. No proposed finish cut or fill slope faces have a vertical height in excess of ten feet.

c. No existing slope faces, which have a slope face steeper than ten horizontally to one vertically, have a vertical height in excess of ten feet.

E. ~~Interceptor Drains~~Permanent Interceptor Drains. Paved interceptor drains shall be installed along the top of all cut slopes where the tributary drainage area above slopes towards the cut and has a drainage path greater than forty feet measured horizontally. Interceptor drains shall be paved with a minimum of three inches of concrete, or an approved equivalent, ~~or gunite~~ and reinforced. They shall have a minimum depth of twelve inches and a minimum paved width of thirty inches measured horizontally across the drain. The slope of drain shall be approved by the building official. (Ord. 602 § 14, 1988)

15.16.160 Erosion control.

A. Slopes. The faces of cut and fill slopes shall be prepared and maintained to control against erosion. This control may consist of effective planting. The protection for the slopes shall be installed as soon as practicable and prior to calling for final approval. Where cut slopes are not subject to erosion due to the erosion-resistant character of the materials, such protection may be omitted.

B. Other Devices. Where necessary, check dams, cribbing, riprap or other devices or methods shall be employed to control erosion and provide safety.

C. Sequencing. A sequencing schedule shall be provided for any construction project to address timing of land-disturbing activities during periods when soils are most exposed to erosion from wind, rain, runoff, and vehicle tracking. If a summer project is extended into wet (October 1st to April 30th), a Wet Weather Erosion Control Plan shall be provided on or before September 1st for review and approval.

~~C~~D. ~~Winter~~ Wet Weather Erosion Control Plan. Clearing and grading in the wet ~~winter~~ months (October 1st to April 30th) shall only be allowed with the approval of a ~~winter~~ wet weather construction plan implementing the BMPs in the Ecology Manual~~2001 (or most current version) Department of Ecology Best Management Practices Manual~~. The ~~winter~~ wet weather construction plan shall be completely and fully implemented by the developer. Requirements of the ~~winter~~ wet weather construction plan shall include but are not limited to the following best management practices:

1. The area of exposed soils shall be kept to a maximum of five acres at a time to minimize erosion.

2. No more than three hundred feet of trench shall be opened at one time.

3. Excavation material shall be placed to prevent material or eroded material from leaving the project site.

4. Limits of clearing shall be clearly delineated in the field.

5. Temporary seeding shall be provided immediately after grading activities to stabilize disturbed areas, along with ~~straw bale,~~ mulch, matting, or other approved sediment control devices.

6. Stock piles shall be protected.

7. Stormwater runoff shall pass through suitable sediment traps which may include filter fabric fences, check dams, clean gravel sack barriers, pre-settling basin, and/or infiltration ponds prior to leaving the site or entering receiving bodies of water.

8. No soils shall remain unprotected from more than two days.

9. Water shall be used to encourage vegetation growth in those areas seeded for temporary and permanent plant establishment.

10. If sediment is transported onto a road surface, the road shall be cleaned at the end of each day. Sediment shall be removed from the roads by shoveling or sweeping and be transported to a controlled disposal area. The road shall not be washed with water so that sediment enters the storm drain system unless provisions are made to treat the turbid stormwater.

11. Catch basins shall be lined with filters to catch any sediment entering the storm drains. (Ord. 1124 § 1, 2005; Ord. 602 § 15, 1988)

~~15.16.165 Low impact development techniques.~~

~~A. The city encourages the use of low impact development practices in lieu of the standard storm drainage detention methodologies to: maintain the natural hydrology of watersheds; maintain stream and wetland water levels; reduce impacts to wetlands, streams, and geologically sensitive areas by reducing stormwater discharges; protect water quality by reducing sediment and other pollutants; and preserving trees and other native vegetation.~~

~~B. Low impact development designs shall provide for adequate conveyance of stormwater and provide protection of the city's critical areas by replicating or mimicking the site's natural hydrologic functions and characteristics. Developments shall include design elements to maintain the volume and rate of stormwater runoff from the site and to maintain the natural flow patterns of streams and wetlands. Small scale design controls shall be placed strategically throughout the site and be incorporated into the landscape, open space, roads, parking, sidewalks, and buildings to store, evaporate and infiltrate rainwater.~~

~~C. Based on the underlying soil characteristics analyzed in a geotechnical report prepared by a licensed professional, the public works director may allow the following low impact development design features to be used in conjunction with standard stormwater detention methodologies:~~

~~1. Stormwater runoff from impervious areas such as roofs, internal access lanes, private roads, or parking areas shall be directed onto landscaped and vegetated areas to reduce the volume of runoff, to encourage groundwater recharge, and reduce the temperature of the stormwater runoff. The use of curb cuts is encouraged to allow water to pass through to landscaped or naturals areas.~~

~~2. Specialized landscaped areas may be used to filter and store runoff to promote groundwater recharge through infiltration. These areas shall be constructed with specialized soil and plant mixes that meet the Type III and IV landscape requirements contained in Chapter 17.58, Landscaping, and have low maintenance requirements. Sand and organic~~

~~materials such as mulch shall be added to the soil to increase the infiltration characteristics of soil and filter pollutants.~~

~~3. Pavement blocks, porous concrete, or porous asphalt may be used that lets water flow to an underground gravel area where it can be slowly released to the stormwater drainage system.~~

~~4. Container bio-retention areas are encouraged that use soil and crushed stone to store and slow down runoff and filter out pollutants.~~

~~5. Vegetated open swales may be used at the edges of parking lots that receive runoff and that promote infiltration and treat pollutants.~~

~~6. The use of vegetated roundabouts are encouraged in residential developments to reduce impervious area of the streetscape. A homeowners association or other form of agreement must be in place for maintaining the landscaping in the roundabout.~~

~~7. Where additions up to two thousand square feet are proposed to existing residential developments rain barrels or rainwater dispersion separators may be used in lieu of formal detention facilities.~~

~~D. Stormwater detention requirements will be based on the total impervious area created. The stormwater detention volumes required for those portions of the project applying pavement blocks, porous concrete, or porous asphalt may be reduced by the equivalent reduction in impervious area. (Ord. 1124 § 2, 2005)~~

15.16.170 Clearing and grading inspection.

A. General. All grading operations for which a permit is required shall be subject to inspection by the permit authority. When required by the permit authority, special inspection of grading operations and special testing shall be performed in accordance with the provisions of Appendix J of the ~~2006~~ current version of the International Building Code.

B. Grading Designation. All grading in excess of five thousand cubic yards shall be performed in accordance with the approved grading plan prepared by the civil engineer, and shall be designated as "engineered grading." Grading involving less than five thousand cubic yards shall be designated "regular grading" unless the permittee, with the approval of the permit authority, chooses to have the grading performed as "engineered grading."

C. Engineered Grading Requirements.

1. For engineered grading, it shall be the responsibility of the civil engineer who prepares the approved grading plan to incorporate all recommendations from the soils engineer and engineering geology reports into the grading plan. He also shall be responsible for the professional inspection and approval of the grading within his area of technical specialty. This responsibility shall include, but need not be limited to, inspection and approval as to the establishment of line, grade and drainage of the development area. The civil engineer shall act as the coordinating agent in the event the need arises for liaison between the other professionals, the contractor and the building official. The civil engineer also shall be responsible for the preparation of revised plans and the submission of as-graded grading plans upon completion of the work. The grading contractor shall submit in a form prescribed by the building official a statement of compliance to the as-built plan.

2. Soils engineering and engineering geology reports shall be required as specified. During grading all necessary reports, compaction date and soil engineering and engineering geology recommendations shall be submitted to the civil engineer and the permit authority by the soils engineer and the engineering geologist.

3. The soils engineer's area of responsibility shall include, but not be limited to, the professional inspection and approval concerning the preparation of ground to receive fills, testing for required compaction, stability of all finish slopes and the design of buttress fills, where required, incorporating data supplied by the engineering geologist.

4. The engineering geologist's area of responsibility shall include, but need not be limited to, professional inspection and approval of the adequacy of natural ground for receiving fills and the stability of cut slopes with respect to geological matters and the need for subdrains or their groundwater drainage devices. He shall report his findings to the soils engineer and the civil engineer for engineering analysis.

5. The permit authority shall inspect the project at the various stages of the work requiring approval to determine that adequate control is being exercised by the professional consultants.

D. Regular Grading Requirements.

1. The permit authority may require inspection and testing by an approved testing agency.

2. The testing agency's responsibility shall include, but need not be limited to, approval concerning the inspection of cleared areas and benches to receive fill, and the compaction of fills.

3. When the permit authority has cause to believe that geologic factors may be involved, the grading operation will be required to conform to "engineered grading" requirements.

E. Notification of Noncompliance. If, in the course of fulfilling his responsibility under this chapter, the civil engineer, the soils engineer, the engineering geologist or the testing agency finds that the work is not being done in conformance with this chapter or the approved grading plans, the discrepancies shall be reported immediately in writing to the person in charge of the grading work and to the building official. Recommendations for corrective measures, if necessary, shall be submitted.

F. Transfer of Responsibility for Approval. If the civil engineer, the soils engineer, the engineering geologist or the testing agency of record is changed during the course of the work, the work shall be stopped until the replacement has agreed to accept the responsibility within the area of his technical competence for approval upon completion of the work. (Ord. 1173 § 6 (part), 2007; Ord. 602 § 16, 1988)

15.16.180 Work completion.

A. Final Reports. Upon completion of the rough grading work and at the final completion of the work the permit authority may require the following reports and drawings and supplements thereof:

1. An as-graded grading plan prepared by the civil engineer including original ground surface elevations, as-graded ground surface elevations, lot drainage patterns and locations

and elevations of all surface and subsurface drainage facilities. He shall state that to the best of his knowledge the work was done in accordance with the final approved grading plan.

2. A soils-grading report prepared by the soils engineer, including locations and elevations of field density tests, summaries of field and laboratory tests and other substantiating data and comments on any changes made during grading and their effect on the recommendations made in the soil engineering investigation report. He shall render a finding as to the adequacy of the site for the intended use.

3. A geologic grading report prepared by the engineering geologist, including a final description of the geology of the site and any information disclosed during the grading and the effect of same on recommendations incorporated in the approved grading plan. He shall render a finding as to the adequacy of the site for the intended use as affected by geologic factors.

B. Notification of Completion. The permittee or his agent shall notify the permit authority when the clearing and grading operation is ready for final inspection. Final approval shall not be given until all work and all erosion-control measures have been completed in accordance with the final approved grading plan and the required reports have been submitted. (Ord. 602 § 17, 1988)

15.16.190 Enforcement.

A. In the event deficiencies are found, the property owner shall make such corrections as are necessary within fifteen days of the date of written notice by registered mail, return receipt requested, to the owner of record and the occupant of the property.

B. In the event the person or persons violating this chapter shall fail to make corrections within fifteen days of the date of written notice by the city, the city may:

1. Prosecute violations of this chapter as a civil infraction as outlined in Mukilteo Municipal Code Chapter 1.32, General Penalties. The first violation shall constitute a Class III civil infraction, the second offense shall constitute a Class II civil infraction, and the third and each violation thereafter within a one-year period shall be classified as a Class I civil infraction.

2. By council resolution, determine any conditions which constitute or will constitute a violation of any of the provisions of this chapter, or rules or regulations adopted under this chapter, a public nuisance for which the city may seek legal or equitable relief to enjoin any acts or practices or abate any such conditions.

3. Revoke the right to occupancy of the subject property and/or enter on the property as may be required to correct deficiencies as required by the approved grading plan. All costs for corrective measures and enforcement actions shall be borne by the property owner.

C. Notwithstanding any other provision of this chapter, whenever the city engineer finds that a violation of this chapter of rules or regulations adopted under this chapter has created or is creating an unsanitary, dangerous, or other condition which, in his judgment, constitutes an immediate hazard, he may suspend or revoke any permit for which the approval of clearing and grading plan is required on the project or development where the violation exists and suspend or terminate operations under the permit immediately.

D. Any person discharging material which will block, damage or contaminate the drainage system of the city shall be liable for all costs incurred by the city or others in cleaning up or correcting the action and may be charged with a misdemeanor punishable by fines.

E. Penalty or enforcement provisions provided in this chapter shall not be exclusive, and the city may pursue any remedy or relief deemed appropriate in response to a violation of this chapter or the rules and regulations adopted under this chapter. The city council may institute a suit for a mandatory injunction directing a person to remove a structure or make the same comply with its terms. If the city council is successful in its suit, the respondent shall bear the costs of the action.

F. The failure or refusal of the city to enforce any provision of this chapter, and as amended, shall not constitute a waiver or bar to prevent enforcement thereof against any person for any other violation by any other person. (Ord. 1083 § 19, 2003: Ord. 602 § 18, 1988)

DRAFT

EXHIBIT 2

Mukilteo Planning Commission Findings of Fact & Conclusions

Based on the review of the draft of the Low Impact Development Code Amendment Ordinance 1387 the Mukilteo Planning Commission makes the following Findings of Fact and forwarded such to the City Council:

1. The City's Comprehensive Plan sets the policies for development in the City. The following policy direct staff to prepare ordinances to regulate development that are consistent with the Comprehensive Plan and support the proposed code amendment:

   LU2g: Development regulations and standards that maximize on-site landscaping, planting of street trees and use of native planting shall be adopted

   LU2h: Retention of significant trees with special consideration given to coniferous trees, tree groupings, and use of forested areas as wildlife corridors, should be encouraged

   UT7: Surface water management planning and operations shall comply with City, State, and Federal surface water regulations and be consistent with the City of Mukilteo Comprehensive Plan.

   UT7a: Future updates shall ensure new and reconstructed stormwater collection, conveyance, and treatment systems and the construction and reconstruction of streets shall comply with all NPDES requirements and City design standards.

   UT7c: Only stormwater shall be allowed to be discharged into the stormwater system.

   UT7d: Drainage, flooding, and stormwater run-off impacts shall be minimized to the maximum extent practical in land use development proposals and City operations.

   UT8: Streams and wetlands should be an integral part of the stormwater management program, provided they are protected from the negative impacts created by altered flow regimes and pollutant sources.

   UT8a: In order to incorporate wetlands and streams into the stormwater system a stormwater management program using best management practices should be implemented for flow control and water quality treatment that protects wetlands and streams from impacts generated by upstream development and should include planning at the watershed basin scale.

   UT8b: Also, during project review, code amendments, and design, the preferred development and redevelopment stormwater management alternatives are low impact development strategies and the protection of critical areas, major wetlands, and drainage functions.

   UT8c: Techniques that protect wetlands and other critical areas which play a positive role in improving water quality and mitigating peak flows should be considered, including but not limited to, delineating their locations, adopting

additional land use regulations to protect them, and purchasing of development rights.

2. The National Pollutant Discharge Elimination System (NPDES) Permit is a federal permit issued by the Environmental Protection Agency. The Washington State Department of Ecology administers the NPDES Permit and acts as the regulatory authority in the State of Washington.

3. The City of Mukilteo is allowed to discharge stormwater to waters of the state so long as it is covered by, and meets the requirements of, the NPDES Permit for Phase II jurisdictions.

4. One requirement of the NPDES Phase II Permit is to review, revise and make effective local development-related codes, rules, and standards, or other enforceable documents to incorporate and require Low Impact Development (LID) principles and LID BMPs" no later than December 31, 2016.

5. The intent of the revisions shall be to make LID the preferred and commonly-used approach to site development. The revisions shall be designed to minimize impervious surfaces, native vegetation loss, and stormwater runoff in all types of development situations.

6. The intent of this ordinance is to comply with these federal and state regulatory requirements to require LID principals and LID BMPs in all types of development situations.

7. The responsible federal and state regulatory authorities have required local governments to meet the regulatory requirements with respect to the City's Phase II National Pollutant Discharge Elimination System (NPDES) Permit to integrate Low Impact Development (LID) principals and designs as the preferred alternative.

8. The City of Mukilteo must update its codified regulations to implement the requirements of the federal and state regulatory authorities no later than December 31, 2016.

9. The intent of this ordinance is to comply with these federal and state regulatory requirements to establish best management practices for stormwater management.

10. The intended of this ordinance is to promote and facilitate the use of LID for stormwater management to lessen the financial impacts of the City's surface water management program.

11. The intent of the revisions shall be to make LID the preferred and commonly-used approach to site development. The revisions shall be designed to minimize impervious surfaces, native vegetation loss, and stormwater runoff in all types of development situations.

12. LID is a stormwater and land use management strategy that strives to mimic pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation, and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design.

13. Amending Chapter 13.12 Surface Water Management to update and clarify language to meet current NPDES requirements.

14. Amending Chapter 15.16 Grading and Excavating to reflect current low impact development techniques and addressing tree preservation.

15. Amending Title 17 to address low impact development techniques within the urban area.

16. Pursuant to Mukilteo Municipal Code (MMC) 17.72, on July 1, 2016, a copy of the draft ordinance was circulated for review in accordance with the City's normal review procedures.

17. The Planning Commission met in April, May, June and July of 2016 to discuss the proposed low impact development fee code amendment.

18. Pursuant to the State Environmental Policy Act, the City of Mukilteo was designated as the lead agency for review of the proposed amendment. A SEPA Categorical Determination of Non-Significance was issued under WAC 197-11-340(2) on July 1, 2016. There was no appeal of the determination.

19. On September 15, 2016 the Planning Commission held a public hearing to consider the draft Low Impact Development Code Amendment Ordinance and recommended the City Council approve the final draft of Ordinance 1390.

Based on the foregoing Findings of Fact, the Mukilteo City Council hereby makes the following Conclusions:

1. The final draft ordinance as presented is consistent with the goals and policies of the City's Comprehensive Plan and protects the public health, safety and welfare.
2. Amending the Low Impact Development Ordinance is warranted to maintain life, health and safety standards for the residents of Mukilteo.
3. After taking public comment and considering the Planning Commission's recommendation and staff comments at the September 15, 2016 public hearing, the Mukilteo City Council approved the final draft of the Low Impact Development Code Amendment Ordinance 1390.

EXHIBIT 3

CITY OF
MUKILTEO

11930 Cyrus Way, Mukilteo, WA 98275

City of Mukilteo, Washington
DETERMINATION OF NONSIGNIFICANCE (DNS)

PROPOSAL NAME: Low Impact Development (LID) Code Amendment Ordinance (CA-2016-002)

DESCRIPTION OF PROPOSAL:
To meet the regulatory requirements with respect to the City's Phase II National Pollutant Discharge Elimination System (NPDES) Permit to integrate Low Impact Development (LID) principals and designs as the preferred alternative by amending the Mukilteo Municipal Code (MMC) as follows:

- Amending Chapter 13.12 Surface Water Management to update and clarify language to meet current NPDES requirements
- Amending Chapter 15.16 Grading and Excavating to reflect current low impact development techniques and addressing tree preservation
- Amending Chapter 17.08 Definitions to include LID definitions
- Amending Title 17.13 Land Use Development Procedures to include a Soil Management Plan as part of the submittal requirements and changing the resubmittal of insufficient information from "six months" to "ninety days"
- Amending Chapter 17.20 Bulk Regulations to include maximum impervious area
- Amending Chapter 17.25 Design Standards for Mixed-Use Development to include language for landscape based stormwater practices in open space areas
- Amending Chapter 17.25B Mixed-Use Design Standards for the WMU District including language to use native vegetation where possible
- Amending Chapter 17.56 and 17B.56 Off-Street Parking to reflect the current development standards
- Amending Chapter 17.58 Landscaping to include a Soil Management Plan, tree preservation, and the use of native vegetation where possible

PROPONENT: City of Mukilteo

LOCATION OF PROPOSAL: Citywide

LEAD AGENCY: City of Mukilteo
The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

COMMENT/APPEAL PERIOD
This DNS is issued under WAC 197-11-355; the lead agency will not act on this proposal for fourteen (14) days from **Tuesday, July 5, 2016.** Comments/Appeals must be submitted by **Tuesday, July 19, 2016.**

CONTACT PERSON: Jennifer Adams, Surface Water Technician (425) 263-8083

RESPONSIBLE OFFICIAL:	*Patricia Love*
TITLE:	*Community Development Director*
TELEPHONE:	*(425) 263-8041*
ADDRESS:	*11930 Cyrus Way, Mukilteo, WA 98275*

Signature:

Acting Responsible Official

Date: 6-30-16

DATE OF ISSUANCE: Friday, July 1, 2016

APPEALS

You may appeal this determination by filling out the appeal form and submitting it with the applicable appeal fee, which is non-refundable, to the "City of Mukilteo." Submit the appeal form and fee to the City of Mukilteo Department of Planning & Community Development at 11930 Cyrus Way, Mukilteo, WA 98275 by written comment no later than 4:30 pm. on **Monday, July 18, 2016.**

At a State Environmental Policy Act (SEPA) hearing, all testimony shall be "under oath". You should be prepared to make specific factual objections. Contact the Department of Planning & Community Development to read or ask about the procedures for SEPA appeals.

pc:	Review Agencies	SEPA File	CD Director
	Mukilteo Beacon	Project File	Permit Tech.

CITY OF
MUKILTEO

ENVIRONMENTAL CHECKLIST

Purpose of checklist:

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

Instructions for applicants:

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. You may use "not applicable" or "does not apply" only when you can explain why it does not apply and not when the answer is unknown. You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Instructions for Lead Agencies:

Please adjust the format of this template as needed. Additional information may be necessary to evaluate the existing environment, all interrelated aspects of the proposal and an analysis of adverse impacts. The checklist is considered the first but not necessarily the only source of information needed to make an adequate threshold determination. Once a threshold determination is made, the lead agency is responsible for the completeness and accuracy of the checklist and other supporting documents.

Use of checklist for nonproject proposals:

For nonproject proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B plus the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (part D). Please completely answer all questions that apply and note that the words "project," "applicant," and "property or site" should be read as "proposal," "proponent," and "affected geographic area," respectively. The lead agency may exclude (for non-projects) questions in Part B - Environmental Elements –that do not contribute meaningfully to the analysis of the proposal.

11930 Cyrus Way • Mukilteo, Washington 98275 • www.ci.mukilteo.wa.us

A. Background

1. Name of proposed project, if applicable:
   Low Impact Development Code Amendment

2. Name of applicant:
   City of Mukilteo

3. Address and phone number of applicant and contact person:
   Jennifer Adams
   Surface Water Technican
   11930 Cyrus Way
   Mukilteo WA 98275
   425-263-8083

4. Date checklist prepared:

5. Agency requesting checklist:
   City of Mukilteo

6. Proposed timing or schedule (including phasing, if applicable):
   N/A

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.
   N/A

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.
   This checklist

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.
   N/A

10. List any government approvals or permits that will be needed for your proposal, if known.

    The proposed amendments are to be reviewed by the Washington State Department of Commerce. The Mukilteo City Council approves the amendments.

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

    The intent of the propose code amendment and revision of the development standards is to make low impact development (LID) the preferred and commonly-

used approach to site development. The revisions shall be designed to minimize impervious surfaces, native vegetation loss, and stormwater runoff in all types of development situations. The City of Mukilteo is a Phase II Permittee under the National Discharge Elimination Systems (NPDES). Section 5.C.4.f of the NPDES Permit requires the City to make low impact development (LID) the preferred and commonly –used approach to site development. The proposed revisions considered under this project are intended to meet this requirement.

- ***Amending Chapter 13.12 Surface Water Management to update and clarify language to meet current NPDES requirements***
- ***Amending Chapter 15.16 Grading and Excavating to reflect current low impact development techniques and addressing tree preservation***
- ***Amending Chapter 17.08 Definitions to include LID definitions***
- ***Amending Title 17.13 Land Use Development Procedures to include a Soil Management Plan as part of the submittal requirements and changing the resubmittal of insufficient information from "six months" to "ninety days"***
- ***Amending Chapter 17.20 Bulk Regulations to include maximum impervious area***
- ***Amending Chapter 17.25 Design Standards for Mixed-Use Development to include language for landscape based stormwater practices in open space areas***
- ***Amending Chapter 17.25B Mixed-Use Design Standards for the WMU District including language to use native vegetation where possible***
- ***Amending Chapter 17.56 and 17B.56 Off-Street Parking to reflect the current development standards***
- ***Amending Chapter 17.58 Landscaping to include a Soil Management Plan, tree preservation, and the use of native vegetation where possible***

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.
These amendments apply citywide.

B. ENVIRONMENTAL ELEMENTS

1. Earth

a. General description of the site:

(circle one): Flat, rolling, hilly, steep slopes, mountainous, other _____

The City of Mukilteo's physical topography ranges from relatively flat lands to steep sloped ravines and coastal bluffs. Commercial and Industrial areas, and Public Semi-Public zones where service stations are located mostly on flat or nearly-flat areas.

b. What is the steepest slope on the site (approximate percent slope)?
0-100%

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any

agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.

Primarily Vashon Till (Glacial) and Sand with sand lenses. There are no farmlands.

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

Coastal Bluffs and side slopes in the gulches and ravines have a history of being unstable.

e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.

N/A. This is a non-project action.

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe. [

N/A. This is a non-project action.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

N/A. This is a non-project action.

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

N/A. This is a non-project action.

2. Air

a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known.

N/A. This is a non-project action.

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

N/A. This is a non-project action.

c. Proposed measures to reduce or control emissions or other impacts to air, if any:

N/A. This is a non-project action.

3. **Water**

a. Surface Water:

1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

The City of Mukilteo is surrounded by Port Gardner Bay to the north and Possession Bay to the west. Physically the City and its urban growth area has fourteen (14) steep sloped ravines with small streams and drainage ways that feed into Possession Bay or Lake Washington.

Upland there are several wetland systems that feed into these ravines and drainage ways. Japanese, Big, and Picnic Point Gulches are the largest and most critical ravine and stream systems in the City. Lake Serene also lies within the City's MUGA area.

2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

N/A. This is a non-project action.

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

N/A. This is a non-project action for LID amendments to the code. No known wetlands or streams will be impacted by these amendments.

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

N/A. This is a non-project action. The proposed amendment shall be designed to minimize impervious surfaces, native vegetation loss, and stormwater runoff in all types of development situations.

5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.

Mukilteo has two areas within a 100-year flood plain: North Mukilteo in the vicinity of Front Street and Mid Mukilteo, the Naketa Beach area west of the BNSF railroad tracks.

6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

N/A. This is a non-project action.

b. Ground Water:

1) Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

N/A. This is a non-project action.

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals. . . ; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

The majority of the City is on public water and sewer. Properties subject to redevelopment or development are either currently being served by public services or will be required to connect to the public system prior to acceptance or occupancy of their proposed development.

c. Water runoff (including stormwater):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

Not applicable. This non-project action proposes regulations for LID site development approach per the NPDES permit requirements. Generally stormwater is collected, detained, and then released slowly into the City's Storm Water Drainage System, which includes open ditches, culverts, and detention ponds or vaults. Eventually all storm water flows into Possession Bay via naturally occurring streams and / or drainage ways. Roof drains will flow into the storm drainage system, but run-off associated with vehicles will be directed to the sewer system after mechanical cleaning.

2) Could waste materials enter ground or surface waters? If so, generally describe.

N/A. This is a non-project action.

3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.

N/A. This is a non-project action.

d. Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any:

N/A. This is a non-project action.

4. **Plants**

a. Check the types of vegetation found on the site:

_x_ deciduous tree: alder, maple, aspen, other
_x_ evergreen tree: fir, cedar, pine, other
_x_ shrubs
_x_ grass
____ pasture
____ crop or grain
____ orchards, vineyards or other permanent crops.
_x_ wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
_x_ water plants: water lily, eelgrass, milfoil, other
_x_ other types of vegetation

b. What kind and amount of vegetation will be removed or altered?

N/A. This is a non-project action.

c. List threatened and endangered species known to be on or near the site.

No threatened or endangered plant species are known to exist in the City of Mukilteo.

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

N/A. This is a non-project action. The proposed LID code amendment shall be designed to minimize impervious surfaces, native vegetation loss, and stormwater runoff in all types of development situations. All developments will be required to meet the City's grading, critical area, and landscape codes.

e. List all noxious weeds and invasive species known to be on or near the site.

N/A. This is a non-project action.

5. **Animals**

a. List any birds and other animals which have been observed on or near the site or are known to be on or near the site.

Examples include:

birds: **hawk**, **heron**, **eagle**, songbirds, other:
mammals: **deer**, bear, elk, **beaver**, other:
fish: bass, **salmon**, **trout**, herring, shellfish, other _____

b. List any threatened and endangered species known to be on or near the site.

Marine species use Port Gardner Bay & Possession Sound, while bald eagles use Japanese Gulch, Mukilteo Olympic View Ravine, Big Gulch, and Lower Chennault Gulch. Heron have been seen in Japanese Gulch. The City has three active Eagle nesting areas: Japanese Gulch, Mukilteo Olympic View Ravine (76th/ 80th Street), and Possession Sound Park and Tidelands (Sector 11).

Specific threatened and endangered species include:
Bald Eagle nesting Territory – Threatened
Potential Peregrine Falcon Foraging – Threatened
Potential Steller Sea Lion Foraging – Threatened
Puget Sound Chinook Salmon – Endangered
Bull Trout – Endangered
Steelhead - Threatened
Orca - Endangered

c. Is the site part of a migration route? If so, explain

Yes, it is similar to the rest of the Puget Sound area.

d. Proposed measures to preserve or enhance wildlife, if any:

The Comprehensive Plan contains policies requiring the protection of critical areas in the City. Any future development is required to meet the City's adopted critical area regulations, which include: steep slopes, wetlands, and fish and wildlife habitat (streams). Any development utilizing this amendment will be required to meet the critical area codes.

e. List any invasive animal species known to be on or near the site.

6. **Energy and Natural Resources**

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

The City of Mukilteo is currently served with all the utilities necessary to serve an urban environment: public water, sewer, gas, power, telephone, and cable.

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

N/A. This is a non-project action.

c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

N/A. This is a non-project action.

7. **Environmental Health**

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.

N/A. This is a non-project action.

1) Describe any known or possible contamination at the site from present or past uses.

N/A. This is a non-project action.

2) Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.

N/A. This is a non-project action.

3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.

N/A. This is a non-project action.

4) Describe special emergency services that might be required.

N/A. This is a non-project action.

5) Proposed measures to reduce or control environmental health hazards, if any:

N/A. This is a non-project action.

b. Noise

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

Airport traffic, train, emergency services, and vehicle traffic

2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

N/A. This is a non-project action.

3) Proposed measures to reduce or control noise impacts, if any:

City adopted noise regulations, MMC 8.18, establish noise thresholds for residential, commercial, and industrial zones. All subsequent development under these amendments will be required to comply with the City's noise ordinance.

8. **Land and Shoreline Use**

a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.

This proposed LID code amendment applies city-wide and the land uses within the City range from vacant, parks and open space, single family residential, mix-use commercial, multi-family residential, commercial and industrial.

b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use?

This is a non-project action. There are no on-going and sustainable agricultural lands in the City of Mukilteo. In the 19th Century to the mid 20th Century, various parcels in the City have been used for farm animals and fruit trees.

1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how:

N/A. This is a non-project action. There are no on-going and sustainable agricultural lands in the City of Mukilteo.

c. Describe any structures on the site.

N/A. This is a non-project action.

d. Will any structures be demolished? If so, what?

N/A. This is a non-project action.

e. What is the current zoning classification of the site?

All zoning districts are affected.

f. What is the current comprehensive plan designation of the site?

The City's land use designations include:

- ***Single family residential***
- ***Multi family residential***
- ***Commercial***
- ***Industrial***
- ***Mixed Use***
- ***Parks & Open Space***
- ***Public Use***

g. If applicable, what is the current shoreline master program designation of the site?

N/A. This is a non-project action.

h. Has any part of the site been classified as a critical area by the city or county? If so, specify.

Yes. Within the City are streams, wetlands, geologic sensitive areas (steep slopes), fish and wildlife habitat conservation areas, shorelines, and flood hazard areas.

i. Approximately how many people would reside or work in the completed project?

The current City of Mukilteo population is estimated to be 20,050.

j. Approximately how many people would the completed project displace?

N/A. This is a non-project action.

k. Proposed measures to avoid or reduce displacement impacts, if any:

N/A. This is a non-project action.

L. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

The proposed LID code amendment is designed to implement the Comprehensive Plan goals and policies.

m. Proposed measures to ensure the proposal is compatible with nearby agricultural and forest lands of long-term commercial significance, if any:

N/A. This is a non-project action.

9. **Housing**

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

N/A. This is a non-project action.

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

N/A. This is a non-project action.

c. Proposed measures to reduce or control housing impacts, if any:

N/A. This is a non-project action.

10. **Aesthetics**

a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

N/A. This is a non-project action.

b. What views in the immediate vicinity would be altered or obstructed?

N/A. This is a non-project action.

b. Proposed measures to reduce or control aesthetic impacts, if any:

N/A. This is a non-project action.

11. **Light and Glare**

a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

N/A. This is a non-project action.

b. Could light or glare from the finished project be a safety hazard or interfere with views?

N/A. This is a non-project action.

c. What existing off-site sources of light or glare may affect your proposal?

N/A. This is a non-project action.

d. Proposed measures to reduce or control light and glare impacts, if any:

N/A. This is a non-project action.

12. **Recreation**

a. What designated and informal recreational opportunities are in the immediate vicinity?

N/A. This is a non-project action.

b. Would the proposed project displace any existing recreational uses? If so, describe.

N/A. This is a non-project action.

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

N/A. This is a non-project action.

13. **Historic and cultural preservation**

a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers located on or near the site? If so, specifically describe.

The City of Mukilteo has a total of 10 properties listed on either the City, State, or Federal Register of Historic Places:

- ***City Register: McNab-Hogland House, Epps House, Boys and Girls Club, Siemens House, and the Nelson House.***
- ***State Register: Point Elliot Treaty Site, Mukilteo Pioneer Cemetery, and the Fowler Pear Tree Site.***
- ***Federal Register: Mukilteo Light Station and Point Elliot Treaty Monument.***

b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.
Some areas that are now within city boundaries are known to have been a Native American gathering places and seafood processing sites. Other areas are the site of the original non Native American Mukilteo settlement. Also, another area was the site of a Japanese residential area for mill workers. As such, there are some registered archaeological sites in the city.

c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.

N/A. This is a non-project action. Any work within a historical or cultural resources site will be approved by the Department of Archeological and Histororic Preservation.

d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.
N/A. This is a non-project action. No changes or impacts to these historical sites are proposed as a part of the LID Code Update. This will be determined during the project permit review process.

14. **Transportation**

a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any.

N/A. This is a non-project action.

b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?

Yes, the City is served by Community Transit and Everett Transit with transit stops located in the area on SR525, 5th Street, Harbour Pointe Blvd., 47th Pl. W., and Chennault Beach Rd.

c. How many additional parking spaces would the completed project or non-project proposal have? How many would the project or proposal eliminate?

N/A. This is a non-project action.

d. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).

N/A. This is a non-project action.

e. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

N/A. This is a non-project action.

f. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates?

N/A. This is a non-project action.

g. Will the proposal interfere with, affect or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.

N/A. This is a non-project action.

h. Proposed measures to reduce or control transportation impacts, if any:

N/A. This is a non-project action.

15. **Public Services**

a. Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe.

N/A. This is a non-project action.

b. Proposed measures to reduce or control direct impacts on public services, if any.

None

16. **Utilities**

a. Circle utilities currently available at the site:
electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other _____

All utilities are available in the City of Mukilteo

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

N/A. This is a non-project action.

C. Signature

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: J Adams

Name of signee Jennifer Adams

Position and Agency/Organization Surface Water Technician / City of Mukilteo

Date Submitted: 6/29/2016

D. supplemental sheet for nonproject actions

(**IT IS NOT NECESSARY** to use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?
   The proposed LID code amendment will likely not increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise.

   Proposed measures to avoid or reduce such increases are:
   The proposed code amendment shall be designed to minimize impervious surfaces, native vegetation loss, and stormwater runoff in all types of development situations. The City of Mukilteo is a Phase II Permittee under the National Discharge Elimination Systems (NPDES). Section 5.C.4.f of the NPDES Permit requires the City to make low impact development (LID) the preferred and commonly –used approach to site development.

2. How would the proposal be likely to affect plants, animals, fish, or marine life?
   Stormwater will be regulated by the current Department of Ecology Stormwater Management Manual for Western Washington. The proposed LID code amendment will likely increase the amount of native vegetation which will provide habitat for animals and water quality for water going into the Sound which benefits fish and marine life.

   Proposed measures to protect or conserve plants, animals, fish, or marine life are:
   The proposed code amendment shall be designed to minimize impervious surfaces, native vegetation loss, and stormwater runoff in all types of development situations. The City of Mukilteo is a Phase II Permittee under the National Discharge Elimination Systems (NPDES). Section 5.C.4.f of the NPDES Permit requires the City to make low impact development (LID) the preferred and commonly –used approach to site development.

3. How would the proposal be likely to deplete energy or natural resources?
   The proposed LID code amendment is not likely to deplete energy or natural resources.

   Proposed measures to protect or conserve energy and natural resources are:
   None

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?
The proposed LID code amendment allows for LID techniques to be used in open space and park areas as part of the landscaping requirements but does not impact endangered species habitat, historic or cultural sites.

Proposed measures to protect such resources or to avoid or reduce impacts are:

N/A. This is a non-project action

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?
The proposed LID code amendment will likely not affect land and shoreline use and does not encourage uses incompatable with existing plans.

Proposed measures to avoid or reduce shoreline and land use impacts are:
N/A. This is a non-project action

6. How would the proposal be likely to increase demands on transportation or public services and utilities?
The proposed LID code amendment will not increase demands on transportation or public services and utilities.

Proposed measures to reduce or respond to such demand(s) are:
None

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.
The proposed LID code amendment is a requirement of the Department of Ecology and will not conflict with local, state or federal laws or requirements for the protection of the environment.

Linda Ritter

From: Karl Almgren
Sent: Thursday, July 21, 2016 1:57 PM
To: Linda Ritter
Cc: Jennifer Adams
Subject: LID Update Code Notes
Attachments: LID Update Code Notes.docx

Linda,

Please see the attached notes for consideration on the LID Code Update from the draft in the PC packet. If you have any questions, please let me know.

Sincerely,

Karl Almgren, AICP
Assistant Planner
Planning & Community Development
425.263.8045
kalmgren@mukilteowa.gov

CITY OF MUKILTEO

11930 Cyrus Way | Mukilteo, WA 98275

LID Update Comments

General:

- Capitalize Director in place of Public Works Director. The only concern I have is that if we put definitions in Title 17, will we lose which Director is which?
- Capitalize City in place of City of Mukilteo.
- Instead of moving definitions to Title 17, can we move definitions of Title 13,15, and 17 into a new Title 30 for all definitions? The sections that are aren't amending, like business licenses, we can put a reference into the new title and then delete at a later date.
- Code tends to use 'designees' as opposed to assignees when referring to the Director's designees/assignees. Not sure what the difference really is, I typically like to keep it with designees.

13.12.080.C.3 – 'Dechlorinated swimming pool, spa, or hot tub discharges' → 'swimming pool, spa, hot tub, or similar facilities….'

13.12.090.D. 5&6 → Should that be in 13.12.310 for Enforcement?

13.12.090 – "protect the public health, safety, welfare, environment, or public resources" → Health, Safety, General Welfare are from the police power's doctrine of the US Constitution that provides us the rights to regulate. I get uneasy when we insert additional items into the police powers. To keep your intent, and refrain from amending our police powers, I would look at something like:

"Subject to this chapter, whenever it appears to the Director that immediate action is necessary to protect the environment or public resources and enforce regulations for the public health, safety, and general welfare; the Director or their designees is authorized……."

13.12.100.A&B – I feel that A&B are tied together such as A is regulated B. Part A is identifying the terms of the Chapter and Part B is a term. I struggle with the phrase 'Terms of this Chapter' because it is so broad and really this should be a bulleted list of requirements. Perhaps a modification of this:

"A. The City shall own all elements of the public stormwater system subject to the following terms:

1. Public stormwater facilities shall be located in the public right-of-way or on tracts to which the City has legal and physical access rights; and
2. Terms of this Chapter are satisfied as to such elements of the public stormwater systems."

If we can delete #2, I would be happier I think.

13.12.130.D – Good code. Short, Simple, Clear.

13.12.140 Right-of-Way Use Permit

Strike this section. Section 12.04.030 already states it, and the phrase 'contact the department' should never be in code.

13.12.160.A.2 – Strike 'needed'. I assume you would want a permit for anyone building a rain garden on their property even if it is not 'needed'.

13.12.130.B – A.2 and B seem really similar. If we keep both, I would amend the second sentence '

13.12.160.C. – It's BNSF Railway not Burlington Northern Santé Fe Railway anymore. I went through that on Japanese Gulch Master Plan.

General 13.12.190 through 13.12.250 – These sections seem like they should be under one heading as they are all a part of the Stormwater Permit. Maybe section 13.12.190 becomes the entire Stormwater Permit similar to this outline?

13.12.190 Stormwater Permit

13.12.190.A – Applicability (Replace term Submission)

13.12.190.B – Required Elements (List of requirements for submitting covenants, easements, site plans, etc.)

13.12.190.C – Mandatory Stormwater Minimum Requirements for Drainage Improvements (Currently 13.12.230.)

13.12.190.D - Stormwater System Engineering and Design Requirements (Currently 13.12.240)

13.12.190.E – Stormwater Easement Requirements (Currently section 13.12.210, see section E for easements, it was faith)

13.12.190.F – Plan Review and Approval (Currently 13.12.220)

13.12.190.G – Exceptions to Stormwater Minimum Requirements (13.12.250)

Here are comments per section as currently listed:

13.12.210.A – Do we want to add a Purpose section to the private easements? I think this would align with 13.12.210.B's format. Something as simple as:

13.12.210.A. Private Easements. A private easement to ensure xxxxxxxxx.

13.12.210.A.1 Requirements etc.

13.12.210.B. Public Easements. An easement granted to the City will be required when any portion of the public system is construction on private property.

13.12.210.B.1 Requirements etc.

13.12.210.B.2.d – What do we mean of structures that readily removable? The second sentence says there can't be any, but then runs on to be confusing.

13.12.210.B.2.e – Typo – 'eEasement'. This line specifically says Permanent Easement widths. Do we need language for temporary easements?

13.12.210.B.3 – There seems to be two codes here, one for required to submit and two for the necessity to stop construction? Should these be split up into 13.12.210.B.3.a & b.

13.12.230.A – Is this needed given that section 13.12.210 should address what the plans require easements? This is an item that could be moved into a submittal list.

13.12.230.C – This section seems like it should be with the other exceptions since it is an alternative methods. Maybe 13.12.250 should be Alterations and Exceptions.

13.12.230.D – Assessed Improvements Values aren't based on anything real, so I would not use that route. First the assessor's calculate the reasonable total market value of the existing property, then the reasonable value of the bare land. They then subtract the land value from the market value for the 'improvement value'. This has no actual bearing on the cost of construction by any means which is the intent of this threshold renovations. I would suggest that we just have a set price such as if the project has a total project cost of more than $75,000.

13.12.240.C.2 – Police Powers regulations issue again. I would rephrase to "Source control BMPs and stormwater treatment BMPs shall be required in order to protect the environment whenever land use changes are proposed or occur that could generate pollutants that would constitute a threat to the health, safety, and general welfare."

13.12.250.A – Rephrase second sentence. Current is 'No exception may be approved unless written findings and conclusions are approved that affirmatively address each of the criteria set forth in the section'. One option includes 'The Director may only approve exceptions that are supported by written findings and conclusions that affirmatively address each of the criteria set forth in this section.'

13.12.250.A. – Section 17.13.070 doesn't outline a process for the an administrative process other than saying it doesn't require a public hearing. I might just reference in general 17.13.

13.12.250.C – Appeals reference only needs to be 17.13.090, the code doesn't need 17.13.070.

13.12.310.C.2 – Revision of Police Powers again. "By council resolution, determine any conditions which constitute or will constitute a violation of any provision of this chapter, or regulations or adopted hereunder, a threat to the health, safety, general welfare of the city, or a violation of the NPDES Permit for which the city may.....

13.12.310.C.3 - & C.4 – #3 is an abatement process without using the phrase, I would shrink 4a and #3 into one item.

13.16.030 – How are we saying each EDU is 2500 SF if the limits we are setting are much higher in Title 17?

15.16.020 – Strike Definitions as according to Ordinance language.

15.16.050.C.5 – Add definition of critical root zone to 17.08. I would rephrase the code to the following - "Retained trees shall be protected through the implementation of an approved tree retention plan prior to clearing. The tree retention plan shall include the following:

i. Trees identified for retention,

ii. Identified limits of the critical root zone of trees for retention,

iii. Fencing for clearing limits around critical root zones, and

iv. Identification of areas to avoid soil and vegetation compaction by heavy machinery.

17.08.020 – Add Breast Height Diameter and how it is measured for single and multi-trunk trees.

17.08.020 - Add definition of critical root zone to 17.08.

17.08.020 – I think we can expand the definition of Hard Surfaces, such adding decks.

17.08.020 – If we are adding an 'Open space, passive', I think we should include an Open space, active definition.

17.08.020 – 'Significant tree' means any tree that is at least eight inches in breast-height-diameter (BHD). (Language should have been struck and replaced as Title 17 has a definition for Significant Trees).

17.20.018 – Impervious Surface Matrix.

- Why not just do hard surfaces as opposed to impervious? The ERU fee is based on hard surfaces.
- I have heartburn about these limits, specifically that a 9599 SF lot only has 60 SF more development opportunity than a 6000 SF Lot. I also believe we these limits would create a direct code conflict with the existing bulk matrix of lot coverage.
- Add revisions for hard surface/impervious surface to the PRD Standards.
- Moving forward here are my thoughts:
    - Change it from Impervious Surface to Hard Surface to support more vegetated areas and conform with the ERU code.
    - Strike lot coverage as a regulation and only use hard surface limits.
    - Revise the table to a so every lot size isn't retreat within a group, but as each lot get larger, there is less hard surface allowed such as:
        - Every Lot is permitted a minimum of 3,000 SF Hard Surface
        - Lots over 6,000 SF are granted an additional hard surface area of 50% of the lot area larger than 6,000 up to 8,399; and
        - Lots over 8,400 SF are granted an additional hard surface area of 30% of the lot area larger than 8,400 up to 9,599; and

        - Lots over 9,600 SF Lots are granted an additional hard surface area of 10% of the lot area larger than 9600 up to 12,499; and
        - Lots over 12,500 are granted an additional hard surface area of 5% of the lot area larger than 12,500 SF.
            - Math - 25,000 SF Lot = 5,414 SF
            - 13,000 SF Lot = 4,814 SF
            - 10,000 SF Lot = 4,599 SF
            - 7500 SF Lot = 3,750 SF
    - How do we deal with subdivision of property where the impervious coverage is very limited?
    - Can we grant exemptions from impervious coverage for Transfer of Density where the total development is less?
- So a duplex is allowed 90%? I think we may need to split character from high-density multifamily and garden style multi-family.
- Strike language on non-conforming. The definition of nonconforming does not include impervious or hard surface therefore it isn't nonconforming by definition.

17.25B.100 – Should or Shall use native plantings and stormwater BMPs where possible?

EXHIBIT 4

Low Impact Development Code Update
Response to July 21, 2016 Planning Commission Meeting Comments

Code Section	Original Question / Comment	How Addressed
ORDINANCE		
Ordinance Language	Remove Section 13. Enforcement, since not addressed	Removed from the Ordinance
Ordinance Language	Section 9. MMC 17B.56 is Shoreline Code and requires lengthy process; not allowed within our alloted timeframe	Shoreline Code revisions are removed
Gap / Opportunity Analysis	How were the identified items addressed?	See revised Opportunity Analysis spreadsheet
CHAPTER 13.12		
Throughout	Inconsistencies in reference to the Stormwater Management Manual for Western Washington	Amended all reference to be "Ecology Manual"; 17.08.020 defines Ecology Manual
Throughout 13.12.180 - Construction inspections 13.12.230 - Mandatory SW Min Requirements 13.12.230.C 13.12.240.B.1 - Stormwater System Engineering Requirements	Definition of Development Standards vs. Mukilteo Development Standards	Done
13.12.130	Unclear language	Followed Legal Council's advice and left language as-is
13.12.190 - Stormwater Permit	This section is confusing	Section was re-organized to have Application requirements in one section
13.12.190.B	Clean up language -- too many "approvals"	Done
13.12.200 - Stormwater Site Plan	Unclear language	Section was re-organized to have Application requirements in one section

Low Impact Development Code Update
Response to July 21, 2016 Planning Commission Meeting Comments

13.12.210 - SW Easement Requirements	Typographical errors	Fixed
13.12.210B.2.e	Temporary vs. Permanent easement definitions	Definitions were added
13.12.250 - Exceptions to SW Min Requirem	Public Works Director vs. Director	Definition in 17.08.020 covers both PWks and Planning; All references are to "Director"
13.12.300.A - Demolition or removal of stru	RE: "at least ten days" notice prior to commencement of work... Don't we want this?	Language retained.
13.12.300.E	reference to Chapter... which Chapter?	Corrected
13.12.310.4.a - Enforcement	Prefer less legalese	Left as-is
CHAPTER 13.17		
13.16.041 - New Account Charges		
CHAPTER 15.16		
15.16.020 - Definitions	Grading definition of Significant Tree is more detailed than in 17.08.020 - some preference for this.	Definition includes more detailed (as was in grading code)
15.16.050 - Requirements	Did we fill the gap identified in the analysis.	After review, find intent was met
15.16.150 - Drainage and terracing	Concrete lined channels do not seem to be LID	These drainage and terracing techniques are retained in order to deal with stormwater at the top of steep slopes; the intent is to protect the steep slope from stormwater run-on.
15.16.150.E - Interceptor drains	Paved interceptor drains do not seem to be LID	These drainage and terracing techniques are retained in order to deal with stormwater at the top of steep slopes; the intent is to protect the steep slope from stormwater run-on.
CHAPTER 17.25		
17.25.030.B. -	Do not limit surfaces to just permeable pavement	Changed to "Permeable surfaces"

EXHIBIT 5 to the September 15, 2016 Agenda					
MUKILTEO CODE AND STANDARDS - OPPORTUNITY ANALYSIS - WORKING DOCUMENT					
Number	Regulation or Standard Reference	Regulation or Standard Language	Opportunity Analysis	Proposed Changes to Support NPDES Permit	City Comments
1	**13 Title 13 - Public Services**				
2	13.12.040 Ecology Stormwater Manual adopted	The city hereby adopts the thresholds, definitions, minimum requirements and exceptions, adjustment and variance criteria found in Appendix I of the NPDES Phase II Municipal Stormwater Permit, including the mandatory incorporated provisions of the 2005 Ecology Stormwater Management Manual for Western Washington. Authority is hereby delegated to the director to adopt such administrative changes or amendments to the Ecology Manual as necessary or appropriate to conform to local circumstances; provided, that such changes and amendments shall be consistent with the purpose and intent of this chapter and in no case be less stringent than currently adopted standards. The director shall at all times maintain and make available for public inspection the Ecology Manual, as amended. (Ord. 1222 § 2 (Exh. A) (part), 2009)	Update the manual reference	The city hereby adopts the thresholds, definitions, minimum requirements and exceptions, adjustment and variance criteria found in Appendix I of the NPDES Phase II Municipal Stormwater Permit, including the mandatory incorporated provisions of the ~~2005~~ **2012** Ecology Stormwater Management Manual for Western Washington. Authority is hereby delegated to the director to adopt such administrative changes or amendments to the Ecology Manual as necessary or appropriate to conform to local circumstances; provided, that such changes and amendments shall be consistent with the purpose and intent of this chapter and in no case be less stringent than currently adopted standards. The director shall at all times maintain and make available for public inspection the Ecology Manual, as amended. (Ord. 1222 § 2 (Exh. A) (part), 2009)	Changed.

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MUKILTEO CODE AND STANDARDS - OPPORTUNITY ANALYSIS - WORKING DOCUMENT					
Number	**Regulation or Standard Reference**	**Regulation or Standard Language**	**Opportunity Analysis**	**Proposed Changes to Support NPDES Permit**	**City Comments**
3	13.12.080 Discharge of polluting matter - Illicit connections - Prohibited	13.12.080 Discharge of polluting matter—Illicit connections—Prohibited. A. Prohibited Discharges. No person shall throw, drain, or otherwise discharge, cause or allow others under its control to throw, drain or otherwise discharge into the municipal storm drain system and/or surface and ground waters any materials other than stormwater. Examples or prohibited contaminants include but are not limited to the following: ... B. Allowable Discharges. The following types of discharges shall not be considered illegal discharges for the purposes of this chapter unless the director determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater: ... C. Conditional Discharges. The following types of discharges shall not be considered illegal discharges for the purposes of this chapter if they meet the stated conditions, or unless the director determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution or surface water or groundwater:	Review list in permit and update		This has been completed. Reflected in Chapter 13
4	13.12.240(C) Stormwater system engineering and design requirements	2. Source control BMPs and stormwater treatment BMPs shall be required whenever land use changes are proposed or occur that could generate significant pollutants.	Consider updating this requirement to be consistent with the thresholds for new and redevelopment identified in the Ecology Manual.		Appears throughout 13.12
5	**15 Title 15 - Buildings and Construction**				
6	15.16 Grading and Excavation	Protecting existing infiltration	Prepare site design section for the Grading and Excavation chapter (Chapter 15.16 MMC) to address preservation of on-site soils and infiltration areas during construction.		This is addressed in Chapter 15.16 through construction sequencing. Will also be in Ch 4 of Dev Stds
7	15.16.040 Permit Required - Application	Stormwater maintenance provisions	No gap. Pond maintenance falls under the existing code (MMC 15.16.040.C or MMC 15.16.040.F)		This can be handled through policy/procedure; there is already an exemption for permit fee for ROW work

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Number	Regulation or Standard Reference	Regulation or Standard Language	Opportunity Analysis	Proposed Changes to Support NPDES Permit	City Comments
8	15.16.050 Requirements	C. Clearing. All clearing of vegetation shall conform to the specifications of this section: 1. Applications for clearing and grading on slopes in excess of thirty-five percent shall be accepted in those cases where tree removal is limited to pruning (provided survival is assured)....2. Applications for clearing or grading on site or slopes of twenty-five percent to thirty-five percent shall be accepted in those cases where there is a disturbance of no more than forty-five percent of natural vegetation and a retention of fifty-five percent of significant trees. 3. Applications for clearing or grading on sites or slopes of fifteen percent to twenty-four percent shall be accepted if clearing does not exceed sixty percent of natural vegetation with retention of forty percent of significant trees on the site. 4. Applications for clearing or grading on sites or slopes less than fifteen percent shall be accepted if the plan retains twenty-five percent of all significant trees and ground cover.	Consider clearing limits for project sites not encumbered with critical areas		Language is included in 15.16 for tree retention on all project sites; not just steep slopes.
9	15.16.150 Drainage and terracing	E. Interceptor Drains. Paved interceptor drains shall be installed along the top of all cut slopes where the tributary drainage area above slopes towards the cut and has a drainage path greater than forty feet measured horizontally. Interceptor drains shall be paved with a minimum of three inches of concrete or gunite and reinforced. They shall have a minimum depth of twelve inches and a minimum paved width of thirty inches measured horizontally across the drain. The slope of drain shall be approved by the building official.			This detail applies to very specific situations; and can be a valid stormwater management technique on steep slopes. The title was modified to distinguish this as a permanent installation vs Ecology's temporary version.

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Number	Regulation or Standard Reference	Regulation or Standard Language	Opportunity Analysis	Proposed Changes to Support NPDES Permit	City Comments
10	15.16.160 Erosion Control	C. Winter Weather Erosion Control Plan. Clearing and grading in the wet winter months (October 1st to April 30th) shall only be allowed with the approval of a winter weather construction plan implementing the 2001 (or most current version) Department of Ecology Best Management Practices Manual. The winter weather construction plan shall be completely and fully implemented by the developer. Requirements of the winter weather construction plan shall include but are not limited to the following best management practices: 1. The area of exposed soils shall be kept to a maximum of five acres at a time to minimize erosion.	Consider amendments that would provide sequencing for LID construction during grading.		1) 15.16 was revised to require submittal of a wet weather plan in September 2) construction sequence requires identifying protecting infiltration in 15.16
11	15.16.165	Low impact development techniques	This chapter no longer seems necessary in light of the requirement to use LID practices unless infeasible.	Repeal MMC 15.16.165	This was removed.
12	**17 Title 17 - Zoning**				
13	**17.20 Chapter 17.20 Bulk Regulations**				
14	17.20.020 Structure bulk matrix	Maximum square footage	Discuss with City. Not exactly sure what this comment refers to.		This refers to the maximum square footage of hard surface per site. This was addressed in 17.20.028 Staff reviewed recent developments, including one in a TDA. This review was the basis for the hard surface coverage limits.
15	17.20.020 Structure bulk matrix	Bulk and dimensional requirements for zoning districts within the City	Consider a hard surface limitation in addition to the lot coverage standards that currently exist		See note in #14 above
16	17.20.090 Additional development regulations for the MRD zone	Screening. Where adjacent to a single-family residential zone, a sight-obscuring fence or vegetative screen shall be required in accordance with the landscaping matrix contained in Section 17.58.047 of this code. Vegetative screens are to be kept free of weeds and debris, and the vegetation is to be maintained in a healthy condition. Vegetative screens shall not be allowed to grow to a height or width which would obstruct vision of an intersecting street as defined	Code could be strengthened to encourage the use of native vegetation and/or evergreen plantings to achieve the screening objective		Language was added.

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MUKILTEO CODE AND STANDARDS - OPPORTUNITY ANALYSIS - WORKING DOCUMENT					
Number	Regulation or Standard Reference	Regulation or Standard Language	Opportunity Analysis	Proposed Changes to Support NPDES Permit	City Comments
17	17.20.090 Additional development regulations for the MRD zone	A. In the MRD zone the minimum outdoor active or passive recreation area shall be three hundred fifty square feet per dwelling unit for the overall site, exclusive of required landscaping or setbacks. Where the development is within three hundred feet of a developed park, this requirement may be in private open space. A minimum of fifty square feet shall be in private open space.	Code could be strengthened to allow the use of passive recreation areas for bioretention.		Language was added.
18	17.20.120 Additional development regulations for the PCB(S), BP and IP zones	B.2. Where a site has substantial numbers of evergreen trees, site development shall be sensitive to the preservation of such vegetation	Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		No change made.
19	17.20.120 Additional development regulations for the PCB(S), BP and IP zones	A.4. Restrictive Covenants. Restrictive covenants shall be provided which shall ensure the long-term maintenance and upkeep of landscaping, storm drainage facilities, other private property improvements, and open space areas and facilities. Further, said covenants shall reference the binding site development plans and indicate their availability at the planning department, and shall provide that the city is an additional beneficiary with standing to enforce, and shall preclude the avoidance of performance obligations through lease agreements.	Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		No change made.
20	**17.25 Chapter 17.25 Mixed Use Design**				
21	17.25.030(B)	To foster pedestrian usage in the mixed-use district, sidewalks must be a minimum of ten feet in width, except when the public works director determines this width is not feasible.	Consider allowing alternative surfacing materials where feasible as is allowed to occur within the DB and WMU districts. Existing regulatory language could be strengthened to satisfy Special Condition S5.C.4.f.		Sidewalk widths were unchanged. Impermeable surfaces of all kinds are required, where feasible.
22	17.25.060(A)	Buildings shall be built to the property line or right-of-way easement to enclose a pedestrian-oriented landscape.	Although limited flexibility exists for the siting of mixed use structures, the permit is intended to harmonize with other planning goals. This goal is intended to create a compact and walkable mixed use area. Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK

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Number	Regulation or Standard Reference	Regulation or Standard Language	Opportunity Analysis	Proposed Changes to Support NPDES Permit	City Comments
23	17.25.070(G)	All wall-mounted mechanical, electrical, communication, and service equipment, including satellite dishes and vent pipes, shall be screened from public view by parapets, walls, fences, landscaping or other approved means.	Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
24	17.25.090	A development can reduce the required off-street parking spaces up to fifty percent when it can be demonstrated, in a parking-traffic study, prepared by a traffic engineer, that use of transit or demand management programs, special characteristics or customer, client, employee or resident population will reduce expected vehicle use and parking space demand for their development, as compared to standard Institute of Transportation Engineers vehicle trip generation rates and city parking requirements.	Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
25	17.25.090(A)	Off-street parking in commercial areas shall either be behind or to the side of development with ground-floor retail along the street frontage.	Although limited flexibility exists for the siting of parking, the permit is intended to harmonize with other planning goals. This goal is intended to create a compact and walkable mixed use area. Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
26	17.25.100(A)	Development in a mixed-use district should have extensive landscaping of large parking areas, along streetscapes and for pedestrian-oriented open spaces which can be seen from the street and pedestrian-oriented areas. Landscaping can also help to define areas and separate areas thereby bringing a human scale to these intense uses.	Discuss with City. Landscaping for parking areas seems adequate. The language could be strengthened to acknowledge that landscape-based stormwater practices are allowed in the landscape areas that are required under this section of the code.		LID BMPs allowed in parking areas; a new Type V vegetation is proposed
27	17.25.100(C)	Parking lots shall provide landscaping next to buildings and along walkways. Parking lots shall provide enough trees so that fifty percent of the lot is shaded within a five-year period and landscape beds have a ninety percent ground coverage in five years.	Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
28	**17.25A Chapter 17.25A DB District Design Standards**				

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Number	Regulation or Standard Reference	Regulation or Standard Language	Opportunity Analysis	Proposed Changes to Support NPDES Permit	City Comments
29	17.25A.040(A)(1)(b)(i)	Buildings shall be located on the front property line adjacent to the sidewalk,	Although limited flexibility exists for the siting of structures, the permit is intended to harmonize with other planning goals. This goal is intended to create a compact and walkable mixed use area. Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
30	17.25A.040(A)(1)(b)(i)(B)(iii)	Shall not be located between buildings and pedestrian-oriented streets.	Although limited flexibility exists for the siting of parking areas, the permit is intended to harmonize with other planning goals. This goal is intended to create a compact and walkable mixed use area. Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
31	17.25A.040(D)(a)	Required parking spaces. i. Intent. To provide an adequate number of on-site parking spaces for building residents. ii. Standards.	Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
32	17.25A.040(D)(c)(ii)(A)	(A) On-site walkways shall be integrated with required parking lot landscaping. (B) All relevant requirements of Section 17.56.130, Landscaping requirements for parking lots, shall be complied with.	Not sure that you want compaction and soil quality addressed in this code section. Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f. The Ecology Manual BMP T5.13 addresses soil amendments		Soil Management Plan was added as a permit application requirement; details are found in 15.16.
33	**17.25B Chapter 17.25B Mixed-Use Design Standards for the WMU District**				
34	17.25B.030(B)	To foster pedestrian usage, sidewalks shall be a minimum of ten feet in width, except when the public works director determines this width is not feasible.	Require the use of alternative surfacing materials where feasible.		Required , where feasible

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Number	Regulation or Standard Reference	Regulation or Standard Language	Opportunity Analysis	Proposed Changes to Support NPDES Permit	City Comments
35	17.25B.030(D)	Development shall have a zero setback from the right-of-way and the building shall maintain a continuous frontage along Front Street	Although limited flexibility exists for the siting of structures in the WMU District, the permit is intended to harmonize with other planning goals. This goal is intended to create a compact and walkable mixed use area. Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
36	17.25B.060	Buildings should be built to the property line or right-of-way easement to enclose a pedestrian oriented landscape	Although limited flexibility exists for the siting of structures in the WMU District, the permit is intended to harmonize with other planning goals. This goal is intended to create a compact and walkable mixed use area. Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
37	17.25B.070 Building Design	A. Architectural Details. 3. Trees, Plants and Flowers. The use of potted plants and flowers as well as street trees is encouraged, but shall not impede pedestrian traffic.	Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
38	17.25B.070(H) Parks and Open Space	Mixed-use developments will provide twenty percent in parks and open space. Ten percent of the area will be in useable parks, plazas and play areas closest to the nearest activity areas.	Existing language already provides for adequate open space. Consider an amendment that allows landscape-based stormwater practices to be counted toward the 10 percent open space that does not have to be active in nature. Existing regulatory could be strengthened to satisfy Special Condition S5.C.4.f.		Language modified
39	17.25B.090	Behind or to the side of the development	Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK

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Number	Regulation or Standard Reference	Regulation or Standard Language	Opportunity Analysis	Proposed Changes to Support NPDES Permit	City Comments
40	17.25B.090 Off-street parking - Parking facilities - Lots - Structures	Off-street parking in commercial areas shall either be behind or to the side of development with ground-floor retail along the street frontage.	Although limited flexibility exists for the siting of parking in the WMU District, the permit is intended to harmonize with other planning goals. This goal is intended to create a compact and walkable mixed use area. Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
41	17.25B.100 Landscape Design	C. Parking lots shall provide landscaping next to buildings and along walkways	Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
42	**17.51 Chapter 17.51 Planned Residential Development**				
43	17.51.050(E)	PRD - E1-4. Setbacks; front = 1/2 width of ROW; Sum of sides not < 10'; Rear = 5' Townhouses F2-3. front setback not<15'; rear not <5' Multiple Family Dwellings G4 Setbacks same as E1-4	These setbacks seem sufficiently flexible. Discuss with City.		OK as-is
44	17.51.050(F)	Minimum Lot Area and Bulk Requirements for Townhouse Dwellings. 5. Lot coverage. Townhouse and Accessory structures together not more than 55% of lot; patios, driveways and walkways not increase to more that 65% of lot, unless permeable.	The percentage may need to be lowered. At a minimum, the extra allowance for driveways, patios, and walkways needs to be defined as something other than "coverage." Lot coverage is already defined as structures. Recommendation is that a hard surface limitation be defined and established that will address other, non-structural improvements such as patios, driveways, and walkways.		See note on #14 above Hard surface limits table was added
45	17.51.055 Optional PRD standards	E. Lot Coverage. The maximum lot coverage for lots within a single-family zero lot line development may be increased to fifty-five percent of the lot.	Does this truly mean lot coverage or does it also include driveways, patios, etc. Recommendation is that a hard surface limitation be defined and established that will address other, non-structural improvements such as patios, driveways, and walkways.		See note on #14 above Hard surface limits table was added

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Number	Regulation or Standard Reference	Regulation or Standard Language	Opportunity Analysis	Proposed Changes to Support NPDES Permit	City Comments
46	17.51.056 Cottage housing	Cottage has limitations;	Housekeeping item - In section 22, change "woofner" to "woonerf" Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
47	17.51.056 Cottage housing standards	6. Common Open Space. a. Four hundred square feet of common open space is required per unit. b. Fifty percent of units must have their main entry on the common open space. c. All units must be within eight feet of each common open space(s). d. Setbacks and private open space cannot be counted towards the common open space calculation. e. One common open space must be located centrally to the project, with multiple clusters having multiple common spaces with pathways connecting the common open spaces. f. Community buildings or clubhouses can be counted towards the common open space calculation. g. Passive trails within an NGPA are allowed and may count towards the common open space requirement. h. Common open space may be separated from the central common open space that is required for the clusters, but can only account for twenty-five percent of the requirement. i. Cottages must surround the common open space on a minimum of two sides of the green. j. Common open space shall be located outside of stormwater/detention ponds, wetlands, streams, lakes, and critical area buffers, and cannot be located on slopes greater than ten percent. k. The common open space area shall include usable public	Consider allowing LID practices within the common open space.		Completed to allow in passive open spaces, within limits, to still require active open space.

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Number	Regulation or Standard Reference	Regulation or Standard Language	Opportunity Analysis	Proposed Changes to Support NPDES Permit	City Comments
48	17.51.056(D)	Cottage Housing Requirements. The purpose of this section is to establish residential design standards for building, site, and landscape design. The standards are intended to assist development applicants in adhering to the desired form of community design in the neighborhood the development will be located in. In addition to the conditional use permit criteria, all cottage housing developments shall comply with the following design and development standards: 12. Lot Coverage. Buildings or structures may cover up to fifty percent of the lot. Up to sixty percent of the lot may be covered by impervious area. 20. Parking Stalls and Garages. Parking shall be provided as follows: a. Two stalls per unit. b. One-half stall per unit for guest parking.	Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
49	17.51.056(D)(20)	Parking Stalls and Garages. Parking shall be provided as follows: a. Two stalls per unit. b. One-half stall per unit for guest parking.	The high number is justified for guest parking since the homes are not clustered on a street where on-street parking would be allowed. Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
50	17.51.056(D)(3)	Floor Area. Ramblers or one-story cottages shall not exceed a maximum of one thousand square feet on the main floor, excluding garages. One and one-half story buildings shall not exceed a maximum of twelve hundred square feet with a maximum of eight hundred square feet maximum on the main floor, excluding landing and stair areas, second story ceilings less than six feet in height and garages. Cottages shall not be a full two-story coverage of the main floor (two-story narrow, skinny houses are not allowed).	Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
51	17.51.56(D)(9)(c)	Natural vegetation may be allowed in place of fencing and screening if the project is adjacent to natural ravines or other features that provide an equivalent screening.	Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK

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Number	Regulation or Standard Reference	Regulation or Standard Language	Opportunity Analysis	Proposed Changes to Support NPDES Permit	City Comments
52	17.52.035 Native growth protection areas (NGPAs) and buffers	C. All native growth protection areas shall be shown on the development site plans or final plat maps, and shall be noted as follows: There shall be no clearing, excavation, or fill within a native growth protection area shown on the face of this site plan/plat, with the exception of required utility installation, removal of dangerous trees, thinning of woodlands for the benefit of the woodlands as determined by a certified landscape architect or arborist, and removal of obstructions on drainage courses, or as allowed under Section 17.52A.070, Vegetation management on steep slopes.	Consider allowing stormwater practices within the outer 25% of a critical areas buffer for a wetland (obviously not a steep slope).		Modified language to allow within out 25%
53	17.54.020 Private Roads	D. Before building permits may be issued for structures on lots served by a private road, a permit must have been issued for the private road. A permit for the construction of a new private road shall be issued only if the following requirements have been met: .... 2. A joint use and maintenance agreement, reviewed and approved by the city, is executed and recorded with the Snohomish County auditor by the owners of all lots served by the private road. The agreement shall establish the rights to use the road and a method by which the road shall be maintained. Any changes to the agreement shall be reviewed and approved by the city before being executed and recorded with the Snohomish County auditor. .... 4. A land use binder or similar document shall be recorded with the Snohomish County auditor, binding on all lots served by the private road to conditions described in the land use binder and requirements of the joint use and maintenance agreement. The land use binder or similar document shall grant the city the authority to do the following at the owner's expense:	Amend maintenance agreement template to explicitly state that appurtenant storm drainage facilities (LID and conventional) will be maintained in perpetuity.		This will reside as a separate Stormwater access and maintenance agreement requirement in Title 13.

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Number	Regulation or Standard Reference	Regulation or Standard Language	Opportunity Analysis	Proposed Changes to Support NPDES Permit	City Comments
54	17.54.030 Drive aisles	C. In addition to conforming to the standards within this chapter, drive aisles shall conform to other standards in Mukilteo Municipal Code and city of Mukilteo development standards adopted by city council resolution, including but not limited to: 1. Title 15, Buildings and Construction; 2. Title 16, Subdivisions and Planning; 3. Title 17, Zoning; a. Chapter 17.20, Bulk Regulations; b. Chapter 17.25, Design Standards for Mixed-Use Development; c. Chapter 17.51, Planned Residential Development; d. Chapter 17.56, Off-Street Parking; e. Chapter 17.58, Landscaping; 4. City of Mukilteo development standards adopted by Resolution 99-02, Amending Resolution 2001-21, Amending Resolution 2007-14, Amending Resolution 2008-22 and any subsequent amending resolutions. D. The minimum width of the drive aisle shall be in accordance with Section 17.56.100. The width of drive aisles designated as fire lanes shall be in accordance with the International Fire Code.	Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
55	17.54.030 Drive aisles	G. A turnaround area shall be provided at the end of the drive aisle, with a minimum twenty-four-foot backup distance from the end of any driveway apron or parking area. If the drive aisle is designated as a fire lane the turnaround shall conform to the standards in the International Fire Code and development standards adopted by city council resolution. (Ord. 1198 § 4 (part), 2008)	Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK

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Number	Regulation or Standard Reference	Regulation or Standard Language	Opportunity Analysis	Proposed Changes to Support NPDES Permit	City Comments
56	17.54.040 Private driveways and private joint-use driveways	B. Private driveways shall: 1. Serve only one single-family residential lot; 2. Have a pavement surface: a. Constructed of asphalt concrete pavement or approved equal. b. At least twelve feet in width although the director of public works or the fire marshal may require additional width. c. That extends from the edge of the roadway serving the driveway to the front face of the carport, garage or parking area for the lot. d. With a maximum width that does not exceed the standard established by the city of Mukilteo development standards adopted by city council resolution. C. Private joint-use driveways shall: 1. Serve two single-family residential lots; 2. Be within a private easement or tract for ingress and egress that is at least four feet wider than the provided pavement width; 3. Have a binding private maintenance covenant/agreement, reviewed and approved by the city prior to recording of the document to provide constructive notice to subsequent purchasers of their obligation to maintain these private facilities as well as the methods to be used in maintaining the private facilities; 4. Have a pavement surface: a. Constructed of asphalt concrete pavement or approved	Existing language already allows for approved equal to concrete pavement. Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
57	17.54.040 Private driveways and private joint-use driveways	C. Private joint-use driveways shall: 1. Serve two single-family residential lots; 2. Be within a private easement or tract for ingress and egress that is at least four feet wider than the provided pavement width; 3. Have a binding private maintenance covenant/agreement, reviewed and approved by the city prior to recording of the document to provide constructive notice to subsequent purchasers of their obligation to maintain these private facilities as well as the methods to be used in maintaining the private facilities; 4. Have a pavement surface: a. Constructed of asphalt concrete pavement or approved equal.	"Approved equal" to asphalt concrete is appropriate to allow permeable concrete where feasible. The specifications for porous concrete is appropriately placed in the City's development standards. Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK

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MUKILTEO CODE AND STANDARDS - OPPORTUNITY ANALYSIS - WORKING DOCUMENT					
Number	Regulation or Standard Reference	Regulation or Standard Language	Opportunity Analysis	Proposed Changes to Support NPDES Permit	City Comments
58	17.54.040(B)(2)(b)	B. Private driveways shall: ... b. At least twelve feet in width although the director of public works or the fire marshal may require additional width.	Consider reduction for the single use driveway to 10 feet.		Reduced to 10'
59	17.54.040(C)(4)(b)	C. Private joint-use driveways shall: .... 4. Have a pavement surface: .... b. At least sixteen feet in width although the director of public works or the fire marshal may require additional width.	Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
60	17.56.030(B)	B. Off-site parking for uses not specified in subsection A of this section shall not be over three hundred feet from the building or use it serves, except as described in Section 17.56.045(B). Such distance shall be measured from the nearest point of the parking facility to the building or use which the facility is required to serve.	Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
61	17.56.060 thru .080 17.25B.090(H)	Joint or shared access, and off-street parking, internal circulation or parking is encouraged with adjacent uses	Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
62	17.56.100 Parking lot and structure development standards	B. All parking stalls and aisles shall be designed according to Figure 2, Minimum Standards for Off-Street Parking, unless all parking is to be done by parking attendants on duty at all times that the parking lot is in use for the storage of automobiles. Up to fifteen percent of the off-street parking spaces required by this chapter may be designed for compact cars in accordance with Table 2 of Figure 2, Interlocking—Compact Cars. The parking stalls shall be individually marked in the parking plan and on each constructed parking stall as being for compact cars only. Parking at any angle other than those shown is permitted, providing the width of the stalls and aisles is adjusted by interpolation between the specified standards. Parking shall be so designed that automobiles shall not back out into public streets. Handicap parking shall be installed in accordance with the Regulations for Barrier-Free Facilities as adopted by the Washington State Building Code Advisory Council.	Consider a higher percentage of allowable compact parking spaces. Existing regulatory language could be strengthened to satisfy Special Condition S5.C.4.f.		Allowable increased to 35%
63	17.56.100 Parking lot and structure development standards	Figure 2 Minimum Standards for Off Street Parking	Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK

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64	17.56.100 Parking lot and structure development standards	Driving aisle dimensions--	Reducing the width of the access way for perpendicular parking below 25 feet may make parking challenging. If revisions are desired, 24 feet is the lowest recommended width.		25' - OK as is
65	17.56.110 & 17.56.140 C.6	paved parking lot and then later on it asks to look at LID features.	Existing "paved surface" is broad and allows for both permeable and impervious surfaces. Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
66	17.56.130 Landscaping requirements for parking lots	E. Amount and Location. Ten percent of the parking area shall be in landscaping (exclusive of landscaping required by subsection C of this section to be on the street frontage); provided, that: 1. No landscaping area is less than fifty square feet in area; 2. No parking stall is located more than forty-five feet from a landscaped area. The city may approve landscaping plans involving alternatives to this specification for individual properties if it finds the alternatives would be more effective in meeting the purposes of this section; 3. All landscaping must be located between parking stalls, at the end of parking columns, or between stalls and the property line. No landscaping which occurs between the parking lot and a building or recreation area shall be considered in the satisfaction of these requirements.	Discuss with City. Ten percent (10%) is a common amount of parking lot landscaping. This is not necessarily a gap unless staff thinks that it is inadequate.		10% - OK as-is
67	17.56.130(A)(2)	2. To encourage the preservation of mature evergreen and other large trees which presently grow throughout the county;	Discuss with City.		Determined this is not the appropriate location for this issue; Staff recommends a Tree Ordinance 1) 8/27/2016 - Tree ordinance is deferred to later date; it was determined to be outside the scope of the requirement; and limited capacity/resources did not allow a way to meaningfully address a whole code within the timeframe of the update requirements

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68	17.56.130(E)	E. Amount and Location. Ten percent of the parking area shall be in landscaping (exclusive of landscaping required by subsection C of this section to be on the street frontage); provided, that:	The existing standard is within the marketplace of standards from most other Puget Sound communities. Where feasible, this percentage of landscaping amid the parking area should be sufficient to manage the stormwater associated with the parking areas. Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
69	**17.58 Chapter 17.58 Landscaping**				
70	17.58 Landscaping	17.58.010 Intent. 17.58.020 Applicability. 17.58.030 Landscape plans. 17.58.040 Maintenance of landscaping. 17.58.045 Landscape types. 17.58.047 Landscaping requirements. 17.58.050 Landscaping of parking areas. 17.58.060 Landscaping of required yards. 17.58.070 Screening between districts. 17.58.080 General landscaping requirements for PCB(S), BP and IP districts.	Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f. The 2012 Ecology Manual addresses protecting soil areas. Grading is the appropriate area for discussions of protecting soils.		Incorporated into the Soil Management Plan (SMP), as required in the 2012 Ecology Manual, to be a permit submittal requirement. Included in 15.16
71	17.58 Landscaping	17.58.010 Intent. 17.58.020 Applicability. 17.58.030 Landscape plans. 17.58.040 Maintenance of landscaping. 17.58.045 Landscape types. 17.58.047 Landscaping requirements. 17.58.050 Landscaping of parking areas. 17.58.060 Landscaping of required yards. 17.58.070 Screening between districts. 17.58.080 General landscaping requirements for PCB(S), BP and IP districts.	Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f. The Ecology Manual BMP T5.13 addresses soil amendments		Part of SMP requirement

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72	17.58 Landscaping	17.58.010 Intent. 17.58.020 Applicability. 17.58.030 Landscape plans. 17.58.040 Maintenance of landscaping. 17.58.045 Landscape types. 17.58.047 Landscaping requirements. 17.58.050 Landscaping of parking areas. 17.58.060 Landscaping of required yards. 17.58.070 Screening between districts. 17.58.080 General landscaping requirements for PCB(S), BP and IP districts.	Discuss with City. Use of native vegetation species for screening, req'd landscaping, etc. is not included. Consider encouraging the use of native species w/in landscaping requirements Would heritage/significant tree retention be more appropriate for Mukilteo versus setting hard limits for tree retention?		Staff recommends a Tree Ordinance Tree ordinance was deferred. LID BMPs are allowed; and native vegetation is preferred. New landscaping types for frontage and parking areas are proposed.
73	17.58 Landscaping	17.58.010 Intent. 17.58.020 Applicability. 17.58.030 Landscape plans. 17.58.040 Maintenance of landscaping. 17.58.045 Landscape types. 17.58.047 Landscaping requirements. 17.58.050 Landscaping of parking areas. 17.58.060 Landscaping of required yards. 17.58.070 Screening between districts. 17.58.080 General landscaping requirements for PCB(S), BP and IP districts.	Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
74	17.58.045 Landscape types 17.58.047 Landscaping requirements	Screening--Only applies when separating two districts No plant choice limitations 10'-20' width requirement Type I= fence only required	Consider amendments that would allow bioretention within Type II and III provided that the screening objective can be met. The ability to meet the screening objectives of the Type II screen may be challenging, but the Type III screen could probably double as a bioretention function.		Bioretention areas can be used to meet the screening requirement; but they must show that they can meet the screening requirement There is language the prefers native vegetation
75	17.60.050 Yard exceptions for single-family residences	17.60.050 Yard exceptions for single-family residences. Yard requirements shall only be relaxed as provided for in this section. A. Front Yards. Front yard requirements may be adjusted according to the following:	Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
76	**17B.20 Chapter 17B.20 Shoreline Bulk Regulations**				

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Number	Regulation or Standard Reference	Regulation or Standard Language	Opportunity Analysis	Proposed Changes to Support NPDES Permit	City Comments
77	17B.20.020 Bulk matrix	Building Setbacks	Discuss with City.		No changes made.
78	17B.20.20(B) Reference Notes for Bulk Matrix	12. Buildings shall be set back thirty to fifty feet along the waterfront to allow for a twenty-five-foot pedestrian promenade, landscaping, and additional space to be used for outside uses associated with public, commercial and retail uses.	Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.	Code was revised via Downtown Waterfront Master Plan, promenade reduced to 15'	OK
79	**17B.25 Chapter 17B.25 Shoreline Design Standards**				
80	17B.25.060(A)	Building Locations--Buildings should be built to the property line or right-of-way easement to enclose a pedestrian-oriented landscape.	Although limited flexibility exists for the siting of structures within shoreline designation, the permit is intended to harmonize with other planning goals. This goal is intended to create a compact and walkable mixed use area. Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
81	17B.25.070 Building design	G. Screening. 1. All wall-mounted mechanical, electrical, communication, and service equipment, including satellite dishes and vent pipes, shall be screened from public view by parapets, walls, fences, landscaping or other approved means.	Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
82	17B.25.070 H	Individual open space requirements--Parks and Open Space. Mixed-use developments will provide twenty percent in parks and open space.	Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
83	17B.25.070(H)	Plazas, play areas, landscape buffers and open spaces (sensitive areas) can be included. Ten percent of the area will be in useable parks, plazas and play areas.	Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
84	17B.25.090	Off-street parking	Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK

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85	17B.25.090(A)	Parking Area Locations--Off-street parking in commercial areas shall either be behind or to the side of development with ground-floor retail along the street frontage	Although limited flexibility exists for the siting of parking within shoreline designation, the permit is intended to harmonize with other planning goals. This goal is intended to create a compact and walkable mixed use area. Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
86	17B.25.090(H)	Shared driveways--Joint or shared access, and off-street parking, internal circulation or parking is encouraged with adjacent uses.	Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
87	17B.25.100 Landscape Design	C. Landscaping requirements for parking lots--Parking lots should provide landscaping next to buildings and along walkways. Parking lots should provide enough trees so that fifty percent of the lot is shaded within a five-year period and landscape beds have a ninety percent ground coverage in five years.	Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
88	17B.25.110 Pedestrian Walkway	D. Sidewalks along Front Street should be a minimum of ten feet. Sidewalks in the WMU area should be no less than five feet. All sidewalks shall be constructed of concrete.	Consider allowing alternative surfacing materials where feasible as is allowed to occur within the DB and WMU districts. Existing regulatory language could be strengthened to satisfy Special Condition S5.C.4.f.		Other surfaces are required in all development according to SWMMWW. - Done
89	17B.25.120 Design Guidelines	E. Landscaping requirements for street frontages--Other streetscape amenities should include street trees, broad sidewalks, building and pedestrian lighting, overhanging signs for pedestrians, necessary street furniture and on-street parking where feasible.	Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
90	**17B.52 Chapter 17B.52 Critical Areas**				
91	17B.52.035 Native growth protection areas (NGPA) and buffers	C. .....Placement of utilities under paved areas in the ROW	Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK

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92	17B.52.035 Native growth protection areas (NGPA) and buffers	A. Any area in which development is prohibited by the city's critical area regulations shall be set aside in a native growth protection area. NGPAs shall be placed in a separate tract on which development is prohibited, protected by execution of an easement, dedicated to a conservation organization or land trust, or similarly preserved through a permanent protective mechanism acceptable to the city. The location and limitation associated with the critical area and its buffer shall be shown on the face of the deed, site plan, or plat applicable to the property and shall be recorded with the Snohomish County assessor's office.	Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK
93	17B.52.035C & E.	C. All native growth protection areas shall be shown on the development site plans or final plat map, and shall be noted as follows: There shall be no clearing, excavation, or fill within a native growth protection area shown on the face of this site plan/plat, with the exception of required utility installation, removal of dangerous trees, thinning of woodlands for the benefit of the woodlands as determined by a certified landscape architect or arborist, and removal of obstructions on drainage courses, or as allowed under Section 17B.52A.070, Vegetation Management on Steep Slopes. ..... E. A written report by a certified landscape architect, arborist, or wetland specialist shall be provided with all requests to modify or disturb a native growth protection area. The report shall be reviewed by the planning and public works directors, which shall approve, condition, or reject the request based on findings presented.	Discuss with City.		No action taken in Shoreline area.
94	Development standards	Curb detail	Prepare curb detail for development standards to allow stormwater to enter bioretention facilities.		To be addressed in Development Standards

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95		follow landscaping plan by landscape architect.	Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.	No gap. This is addressed in the Ecology Stormwater Management Manual	SMP required
96		Tree retention/preservation	Discuss with City.		Staff recommends Tree Retention Code; they may fall outside the scope of the LID Code update, but staff recommends pursuing in tandem with this process. 1) 8/27/2016 - This was pursued and recommendations can be made for a path forward, but this will be outside the scope of the LID Code Udpate
97		Healthy soils	This would be a departure from the City's current landscape code which specifies the quantity and location of landscaping but leaves the design to a licensed landscape architect. The amendment of soils is already addressed in BMP T5.13 in the City's adopted stormwater manual. The amendment for this section should require the landscape architect to include a detail on his/her plans requiring soil amendments and later certification that the amendment was performed.		SMP will address this
98		Compost amendments	Not sure that there is a gap here. The NGPA is intended to be an area where site development activities do not occur. Existing regulatory language is sufficient to satisfy Special Condition S5.C.4.f.		OK

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99		Inspection access (covenants, easements)	Consider an amendment to MMC 17.52.035 to ensure that the City maintains long-term access to inspect NGPAs. This is already likely found within the conditions of the recording, but the objective could be made more explicit in the code.		Not pursued at this time.
100		Height limits	Consideration of this should include the political feasibility of this course compared with other options for limiting impervious surface coverage and native vegetation loss.		Hard surface coverage limitation was chosen option
101		Compost amendments	This would be a departure from the City's current landscape code which specifies the quantity and location of landscaping but leaves the design to a licensed landscape architect. The amendment of soils (and compaction of landscape areas) is already addressed in BMP T5.13 in the City's adopted stormwater manual. The amendment for this section should require the landscape architect to include a detail on his/her plans requiring soil amendments and later certification that the amendment was performed.		SMP will address this
102		Tree preservation	Consider allowing the preservation of mature trees as justification for deviations from driveway spacing requirements.		Staff recommends comprehensive Tree Ordinance at future date
103		Tree preservation	Discuss potential approaches with City.		Staff recommends comprehensive Tree Ordinance. This recommendation has been deferred.

Notes

BMP	Best Management Practice
LID	Low Impact Development
N/A	Not Applicable
Ecology Manual	Washington State Department of Ecology 2012 Stormwater Management Manual for Western Washington