



PLANNING COMMISSION

SPECIAL MEETING PACKET

November 9, 2016

LOW IMPACT DEVELOPMENT

Public Hearing (continued)

City of Oak Harbor Planning Commission Report

Date: November 9, 2016
Subject: Low Impact Development –
Code Amendment

FROM: Dennis Lefevre, AICP, Senior Planner, Development Services Department
Brad Gluth, Civil Engineer, Public Works Department

PURPOSE

This report serves as a continuation for the review of the low impact development (LID) code amendment project.

BACKGROUND

The City of Oak Harbor, a Phase II jurisdiction under the National Pollutant Discharge Elimination System (NPDES), is required to review, revise and make effective code amendments to incorporate and require LID best management practices (BMPs) and principles.

The proposed amendments, distributed prior to your October 25th meeting, includes input from stakeholder groups and staff. The Washington Department of Ecology guidance toolkit provided LID topics and considerations which we utilized to identify possible gaps in our existing code and strategies to fill those gaps. Attachment 1 is a spreadsheet identifying the 12 major topics, sub-topics and considerations for each topic. The spreadsheet further identifies how the considerations were addressed, whether by existing code, proposing code amendments or not addressing the gap due to conflicts with other City adopted regulations.

DISCUSSION

This special meeting is the continuance of the public hearing opened October 25, 2016. Staff will present a list of minor revisions to the previously distributed material (Attachment 2) which should be included in the amendment. In addition, the Planning Commission and public will have another opportunity for questions or comments. The draft ordinance (Attachment 3) is also provided for your review.

As noted in previous presentations, the NPDES permit requires incorporation of this stormwater strategy by December 31, 2016. Our remaining schedule, with City Council adoption December 6, 2016, will satisfy this requirement.

It is important to note that, due to the broad reach of these amendments and the dramatic shift in how we deal with stormwater, subsequent “fine-tune” amendments may be necessary once the code is tested by development proposals.

RECOMMENDED ACTION

Accept public testimony and close the public hearing. Staff will respond to Planning Commission questions or comments. A recommended Planning Commission action is to forward to the City Council a recommendation for approval of Ordinance No. 1784.

SUGGESTED MOTIONS

I move we recommend approval to the City Council of Ordinance No. 1784 incorporating low impact development best management practices and principles into the Oak Harbor Municipal Code.

ATTACHMENTS

1. Ecology conformance matrix.
2. Minor revisions since October 25, 2016.
3. Draft Ordinance No. 1784.

LOW IMPACT DEVELOPMENT

Attachment 1

Ecology conformance matrix

WA DOE Consistency Matrix

Topic/Sub Topic	Conflict/Gap	Where Addressed	Steps Taken	Notes
Topic: Site Planning & Assessment				
Building locations				
Locate buildings away from critical areas and preserve soils with good infiltration.	No	OHMC ¹ 20.12.080(1)(a-c); 20.12.150.	No change	Provides density, lot size, and setback flexibility for parcels impacted by critical areas.
Parking area locations				
Encourage positioning parking areas near the entrance to the site to reduce long driveways.	Yes	DR&G ² 1(i)(4)	No change	Conflicting guidance in a locally adopted document.
Incentives to developers to provide parking within garages rather than surface parking lots?	No	DR&G 1(iv)(6)	No change	Parking reductions allowed for parking structures.
Stormwater treatment/flow control BMP/facility locations				
Require infiltrating LID facilities in good potential areas.	Yes	SMP ³ 4D(9)(c)(8); OHMC 19.48.032(4); 19.48.035(2)(n)	Amend code	Early submittal of engineering reports and identification and dimensions of stormwater treatment, flow control, and LID facilities/BMPs.
Topic: Healthy Soils				
Protecting & restoring healthy soil.				
Soils management plan in place?	Yes	OHMC 12.30.525	Amend code	Amendment requires conformance with 2012/14 manual for SWPPP requirements.
Protection areas required to be fenced?	No	OHMC 19.47.065(6); 20.12.140(2);	No change	Sufficiently addressed in existing code.
Compost Amendments				
Require amendment of disturbed soils.	No	OHMC 19.46.140(4)(f)	No change	Require soil amendment in accordance with BMP T5.13 of the manual.
Could compost be provided to incentivize small projects.	Yes		No change	Cost analysis not prepared for this incentive.
Compaction				
Inclusion of clearing & grading equipment reducing soil compaction.	Yes	OHMC 12.30.525(5)(g)	Amend code	Minimizes compaction in accordance with manual.
Minimize/restrict clearing & grading outside of building footprint.	Yes	OHMC 19.48.054(2); 12.30.525(1)(a & b)	Amend code	Limits construction vehicle access.
Require contractors to reestablish soils permeability.	Yes	OHMC 12.30.525(5)	Amend code	Establishes soil stabilization.
Topic: Landscaping, Native Vegetation, & Street Landscaping				
Tree preservation				
Regulatory controls over tree clearance & removal	No	OHMC 19.46.140(3)(a & b); 19.46.140(4)(a); 19.46.140(8); 19.46.100(2)(b)(i).	No change	Amended as part of LID Tech. Ass. Grant (2011)
Greater emphasis on preservation of conifers.	No	OHMC 19.46.030(4)(b); 19.46.040(1)(a) 19.46.140(4)(e); 19.46.140(2)(a)	No change	Amended as part of LID Tech. Ass. Grant (2011)
Strategies to orient retained veg. and open space to disconnect impervious surfaces.	No	N/A	No change	No change proposed.
Screening				
Screening requirements to include native vegetation retention.	No	OHMC 19.46.035(3)(c);	No change	Amended as part of LID Tech. Ass. Grant (2011)
Veg. within LID facilities count towards open space of landscape requirement.	No	OHMC 19.44.130(5)	No change	Amended as part of LID Tech. Ass. Grant (2011)
Landscape req. for street frontages.				
Include other landscaping between sidewalk and street.	No	OHMC 21.60.070(1)(c); 21.60.190(1)(f)	No change	Amended as part of LID Tech. Ass. Grant (2011)
Veg. within LID facilities count towards open space of landscape	No	OHMC 21.60.070(1)(c); 21.60.190(1)(f)	No change	Amended as part of LID Tech. Ass. Grant (2011)
Landscape req. for parking lots.				
Minimum tree canopy or vegetation requirements.	No	OHMC 19.44.130(5); 19.46.030(5)(a & b)	No change	Amended as part of LID Tech. Ass. Grant (2011)

WA DOE Consistency Matrix

Topic/Sub Topic	Conflict/Gap	Where Addressed	Steps Taken	Notes
Topic: Hard & Impervious Surfaces				
Maximum impervious surface allowances.				
Maximum impervious surface limits for different land use types.	No	OHMC 19.20.180(9); 19.20215(9); 19.20.250(8) 11.17.040(3).	Amend code	Percent of impervious surface/lot in R-1 & 2; C-1,3,4,5; CBD 1 or 2; PBP; PIP; I; PF; OS; Maritime.
Can max impervious be reduced in residential.	Yes	OHMC 19.28.030	Amend code	Addition of 10' in height for LID.
Can portion of impervious be designated non-pollution generating.				
Shared driveways.				
Are shared driveways for MF and/or comm. allowed?	No	OHMC 21.60.130(2-4)	No change	Code amended in 2010.
Can shared driveways for up to 4-6 houses be incorporated?	No	OHMC 21.60.130(2-4)	No change	Shared driveways for up to four du's.
Minimum driveway width.				
Is minimum driveway width specified?	No	Not specified in code	No change	Parking space width of 9' is used as "rule of thumb".
Can minimum driveway width be reduced to 9' (1), 18' (2)				
Use permeable pavement for driveways.				
Are alternative surfaces allowed?	No	OHMC 11.17.110(1)	No Change	Allows alternative surfaces for sidewalks.
Can permeable pavements in driveways be incentivized?	Yes	OHMC Title 12	Amend code	Permeable pavements will become required as feasible.
Two-track driveway.				
	No	Not addressed in code.	No change	No barriers to this design.
Bulk & Dimensional				
Building setbacks.				
Can setbacks be minimized?	No	OHMC 19.66.090(1)(a)	No change	Administrative variance for up to 5% of setbacks.
Can frontage areas be reduced?	No	OHMC 19.66.090(1)(a)	No change	Administrative variance for up to 5% of setbacks.
Are irregular lot shapes allowed?	Yes	Code silent to irregular lot shapes.	No change	Lot width and depth is regulated.
Height limits.				
Can maximum building height be increased?	Yes	OHMC 19.28.030	Amend code	Up to 10 additional feet for MF & commercial projects in accordance with LID BMPs.
Max square footage.				
Are minimizing bldg footprints incentivized?	Yes	Not addressed in code.	No change	Incentives are not proposed for reducing bldg footprint.
Clustering.				
Are cluster developments allowed?	Yes	OHMC 21.60.040	Amend code	Clustering and lot densification used to incorporate LID.
Are cluster developments allowed by right?				
Are flexible site design criteria available?	No	OHMC 19.31.090(2)(a&b); 20.12.080	No change	Building design and site layout flexibility.
Clearing & Grading				
Protecting existing infiltration.				
Do regs. minimize site disturbance & protect native veg.?	No	OHMC 19.46.140(9)	No change	Protect native veg. during/after development.
Conserving native veg/soils.				
Ord preserving native veg.?	No	OHMC 19.47.060(2)	No change	
Is wholesale clearing limited/prohibited?	No	OHMC 19.47.060(2), OHSMP Chap. 3(8)(c)(1)	No change	No more than 5% clearing under minor clearing permit.
Are developments required to set aside a portion of site?				
Are there native veg. retention standards?	No	OHMC 19.47.065(1&3)	No change	Requires natural features and vegetation retention.
Any incentives to conserve open space?	No	OHMC 19.31.090(1)	No change	PRD allows additional density for greater % of open space
Native veg. definitions include: min. tree density, retention reqs. Etc.	No	OHMC 19.46.140(3)	No change	Requires tree density & native veg. retention/protection.
Construction sequencing				
Are there methods to minimize site disturbance?	Yes	All clearing & grading activity and construction sequencing must be in conformance with	Amend code	2014 manual adopted by city.
Do street standards outline construction sequencing?	No			
Can code be amended to limit clearing?	No	2014 SWMMWW.		

WA DOE Consistency Matrix

Topic/Sub Topic	Conflict/Gap	Where Addressed	Steps Taken	Notes
Streets & Roads				
Travel lane widths.				
What is min. travel lane widths based on classification.	No	OHMC 21.60.060	No change	Allows variation from street design standards.
Is travel lane wider than required by fire or emergency responders?				
Can street width be reduced for local access streets?	No	OHMC 11.17.080		
Are narrower pavement widths allowed where there are no houses, building, or intersections?				
Are queuing lanes allowed?	No	Street Design Standards.		Drive-thrus need queuing lanes, streets need turn lanes.
R-O-W widths				
Can min. ROW width be reduced or include flexibility for LID?	No	OHMC 21.50.050(4)	No change	Street, sidewalk, ROW flexibility for LID facilities.
Can sidewalks be placed on one side of the street?	No	OHMC 21.50.050(6), 21.60.070(1)	No change	Sidewalks on one side with LID facilities.
Can alternate pedestrian networks be substituted for sidewalks?				
Use of permeable pavement for streets & roads.				
Can permeable pavement be used for road shoulders, parking lanes, and emergency parking areas?	No	OHMC 11.17.040(3), OHSMP Chap. 4D(10)(c)(8)	No change	Require LID BMPs & pervious pavement when feasible.
Does code require or encourage permeable pavement for future resurfacing projects?	Yes	OHMC 11.17.040(3)	Amend code	Require LID BMPs when feasible.
Placement of utilities under paved areas in the R-O-W.				
Does code allow utilities to be placed under paved section of ROW?	No	Public Works engineering standards	No change	Water and sewer lines and storm facilities.
Required turnaround area.				
Is min. street section necessary for safe access & emergency response being used?	Yes	OHMC 11.17.080; 21.50.070	No change	Int. Fire Code also regulates.
Sidewalk widths.				
What is min. sidewalk width allowed?	No	OHMC 11.17.110(1); 21.60.070(1)(a)	No change	Sidewalk flexibilities with LID.
Can sidewalk widths be reduced in areas where LID BMPs are present?	No	OHMC 21.50.050(6)	No change	Allows alternative sidewalk design w/LID.
Sidewalk slope.				
Does the code contain sidewalk slope direction requirements?	No	Street Design Standards.	No change	
Use of permeable pavement for sidewalks.				
Is permeable pavement allowed for sidewalks?	No	OHMC 21.60.070(1)	No change	Sidewalks may be pervious concrete.
Minimum cul-de-sac radius.				
What is min. cul-de-sac radius?	No	Fire Code min. 96' radius.	No change	
Can landscape island be placed in cul-de-sac?	No	OHMC 21.60.110(3)	No change	Alternative designs encouraged, sw impacts addressed.
Alternatives to cul-de-sacs.				
Can hammerhead or loop roads be used instead of standard cds.?	No	OHMC 21.60.110(3)	No change	Alternative designs & less surface area encouraged.
Parking				
Min. parking ratios.				
What is min. parking for:				
Professional office	No	OHMC 19.44.100		1/400 ft ² of gross floor area, + employee parking.
Shopping center	No	OHMC 19.44.100		(gfa 30k+) 4 1/2 spcs/1k gfa, not to exceed 5 spcs/1k of gfa.
SF residence	No	OHMC 19.44.100		2/du
Can required parking spaces be reduced due to shared parking, proximity to transit, car sharing, etc.?	No	OHMC 19.44.080	No change	Code addresses joint use parking.
Max. parking ratios.				
Are parking requirements set as max or median?	No	OHMC 19.44.105	No change	Max. 250% of minimum allowed.

WA DOE Consistency Matrix

Topic/Sub Topic	Conflict/Gap	Where Addressed	Steps Taken	Notes
Can max. spaces be specified?	No	OHMC 19.44.105	No change	Max. 250% of minimum allowed.
Permeable paving use.				
Can permeable pavement be used?	No	OHMC 19.44.105(2); 19.44.130(2)	Amend code	Added Portland cement concrete as optional material.
Can permeable pavement be incentivized for spillover?	No	OHMC Title 12	Amend code	Title 12 will require permeable pavement in extra prkng.
Parking stall dimensions.				
What is min. stall length and width?		At 90° parking stall standards is 9' x 20'	No change	
Can standard stall be reduced?	Yes	OHMC 19.44.110(1)	Amend code	Reduce length to 18' w/curb or wheel stops = overhang.
Are a fixed percent assigned to compact cars?	Yes	OHMC 19.44.110(2)	Amend code	Increase % from 40% to 50% of parking lot.
Driving aisle dimensions.				
Is driving aisle wider than required by fire or emergency responders?				
Can one-way aisles be used in conjunction with angled parking?	No	OHMC 19.44.110(2)	No change	Code currently allows one-way drive aisles.
Off-street parking regulations.				
Can mechanisms be integrated to reduce parking requirements?	No	OHMC 19.46.140(6)(c)	No change	Allows 10% space reduction for native veg. preserve.
Can structured or tuck-under parking be incentivized?	?			
Design Guidelines & Standards				
Trees and bioretention.				
Are specific tree species included in design guidelines?	No	OHMC 21.60.160	No change	Code identifies acceptable tree species list.
Can flexibility be incorporated to allow alternative tree species that are compatible with bioretention & can meet aesthetic requirements?	Yes	OHMC 21.60.160	Will review	Will need to provide flexibility.
Continuous curb requirements.				
Are conventional curb & gutter required?	No	Street Design Standards	No change	Standard curb & gutter identified.
Can curb and gutter requirements be eliminated or adjusted?	No	Public Works engineering standards	No change	Adjustments allowed by City Engineer.
Curb radii.				
Are min. curb radii requirements specified?		Street Design Standards		
Can curb radii requirements be reduced to provide additional space for LID BMPs?	No	Only at intersections OHMC 21.60.080	No change	Flexibility provided in code.
Stormwater Management & Maintenance				
Maintenance provisions.				
Does adopted stormwater manual outline maintenance?	Yes	OHMC 12.30.310	Amend code	City adopts 2012 DOE manual as amended in Dec 2014.
Inspection access (covenants, easements).				
Does code allow access to inspect, maintain, and repair facility if a private property owner fails to maintain?	Yes	OHMC 12.30.525(12)(b)	Amend code	Inspect & monitor all BMPs as needed.
Enforcement.				
Does code include mechanisms to ensure reimbursement for any maintenance activities conducted?	No	OHMC 12.40.075(5)	No change	
Are public easements, maintenance covenants, or other legal agreements required?	No	OHMC 19.46.140(8); 12.20.070(2)	No change	Protective mechanism for native vegetation inspection program and authority.
Are incentives provided for private property owners that meet their maintenance requirements?	Yes	Not addressed	No change	Incentives are not proposed at this time.
Subdivision and Planned Unit Development (PUD)				
Individual open space requirements.				
Does a min. % of open space have to be managed in a natural condition?	No	OHMC 19.31.120(1)	No change	≤ 50% of PRD open space must be passive/natural.

WA DOE Consistency Matrix

Topic/Sub Topic	Conflict/Gap	Where Addressed	Steps Taken	Notes
Can the open space requirement be increased?	Yes	Not specifically defined.		Increased open space requirement will be problematic for smaller lots looking to utilize PRD flexibilities under OHMC 19.31.
Are open space areas required to be consolidated into larger units?	Yes	Not addressed	No change	Natural corridors are supported when possible.
<u>Passive vs. active open space requirements.</u>				
Are allowable & prohibited uses for open space defined?	No	OHMC 19.31.110; 19.31.120	No change	Uses are defined.
Can LID BMPs count towards passive open space requirements?	Yes	OHMC 19.31.120	Amend code	Passive areas may include native vegetation.
Are native veg. areas that integrate pervious passive recreation areas, stormwater dispersion facilities, or restoration projects allowed?	Yes	OHMC 19.31.120	Amend code	PRD intent to integrate natural features w/passive areas.
<u>Opportunities for performance based designs/PUDs.</u>				
Are PUDs required for high density areas such as city centers?	No	OHMC 19.31	No change	PRDs not required, but likely to be common with built-in flexibilities needed for bulk & dimensional & nat. features
Are native veg. & max. impervious surface standards for PUDs and high density dwellings specified?	No	OHMC 19.20	No change	Max. lot & min impervious surface in R-2,3,4 R-O.
<i>Critical Areas & Shoreline Management</i>				
<u>Allowance of LID BMPs in critical areas/shorelines when compatible.</u>				
Are allowable or prohibited uses of buffers defined?	No	OHMC 20.24.030(6); 20.25.040(6)	No change	Wetland & fish & wildlife allowed uses in buffers.
Are LID BMPs allowed within or adjacent to critical areas/shoreline/sensitive area/wetland buffers?	No	OHMC 20.24.030(6)	No change	LID BMPs allowed in outer 25% of buffer.
Can native veg. associated with LID BMPs be used to meet buffer enhancement requirements?	No	OHMC 19.46.140(4)(e)	No change	Allows native veg. (25%) to meet buffer requirements.
¹ OHMC = Oak Harbor Municipal Code				
² DR & G = Design Regulations & Guidelines				
³ SMP = Shoreline Master Program				

LOW IMPACT DEVELOPMENT

Attachment 2

Minor revisions to the amendment
since October 25, 2016

**LOW IMPACT DEVELOPMENT
MUNICIPAL CODE AMENDMENT
Revision/Refinement Summary (11/3/16)**

The following list identifies proposed changes and refinements to the document distributed at the joint City Council/Planning Commission workshop on October 19, 2016. These changes are reflected in the draft Ordinance 1784 that follows in Attachment 3.

- 1) Chapter 11.08 (Excavations): will not be amended as part of this effort. Public Works will incorporate low impact development revisions into their broader review of this Chapter.
- 2) Chapter 12.20.050: added wording to require covenants and easements for maintenance and inspection purposes.
- 3) Chapter 12.30.525(12)(a): wording refined.
- 4) Chapter 12.30.650: was added.
- 5) Chapter 12.40.030(2): revised stormwater rate wording.
- 6) Chapter 17.28: corrected typo.
- 7) Chapter 19.44.110: revised table to reflect smaller parking space geometry.
- 8) Chapter 20.16: added this section to establish parameter for Oak Tree protections.
- 9) Chapter 21.50.050(3)(c): added requirement to be in conformance with manual.
- 10) Chapter 21.50.050(4): added e) to provide parking flexibility within 10-lot+ subdivisions.

LOW IMPACT
DEVELOPMENT

Attachment 3

Draft Ordinance No. 1784

ORDINANCE NO. 1784

AN ORDINANCE OF THE CITY OF OAK HARBOR, WASHINGTON, AMENDING OAK HARBOR MUNICIPAL CODE TITLE 11, STREETS AND SIDEWALKS; TITLE 12, STORMWATER; TITLE 17, BUILDINGS; TITLE 19, ZONING; TITLE 20, ENVIRONMENT; AND, TITLE 21, SUBDIVISIONS TO INCORPORATE AND REQUIRE LOW IMPACT DEVELOPMENT PRINCIPLES AND BEST MANAGEMENT PRACTICES, PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Washington Department of Ecology has been authorized by the US Environmental Protection Agency to administer the National Pollutant Discharge Elimination System (NPDES) in Washington State; and,

WHEREAS, under the NPDES, a Western Washington Phase II Municipal Stormwater Permit (Permit) is issued authorizing the discharge of stormwater runoff from small and medium municipal separate storm sewer systems (MS4s) into the state's surface waters (i.e., streams, rivers, lakes, sounds, wetlands, etc.) and groundwater as long as municipalities implement Permit-specified actions and activities known as Best Management Practices (BMPs) to protect these receiving waters; and,

WHEREAS, the City of Oak Harbor, as operator of a MS4s system is included in the Phase II Permit requirements; and,

WHEREAS, under the re-issuance of the Phase II Permit issued in August 2012 (effective from August 1, 2013 through July 31, 2018), specific requirements are established for five Permit components:

- Public Education and Outreach
- Public Involvement and Participation
- Illicit Discharge Detection and Elimination (IDDE)
- Controlling Runoff from New Development, Redevelopment, and Construction Sites, and,
- Municipal Operations and Maintenance (O&M); and,

WHEREAS, the Controlling Runoff from New Development, Redevelopment, and Construction Sites component requires all Phase II jurisdictions to review, revise and make effective their local development-related codes, rules, standards, or other enforceable documents to incorporate and require Low Impact Development (LID) principles and Best Management Practices as the preferred and commonly-used approach to site development; and,

WHEREAS, LID seeks to minimize impervious surfaces, native vegetation loss, and stormwater runoff in all types of development situations; and,

WHEREAS, all revisions and amendments to local development-related codes, rules, standards, or other enforceable documents must be in effect no later than December 31, 2016; and,

WHEREAS, the City of Oak Harbor has taken the necessary steps to complete this effort by establishing a work program addressing the six steps to LID code integration as provided by the Washington Department of Ecology in their July 2014, *Low Impact Development – Code Update and Integration Toolkit* (toolkit) document; and,

WHEREAS, a City Project Team was assembled (Step 1) with representation from the Administration, Public Works, Development Services Departments which provided oversight and guidance for this effort; and,

WHEREAS, input was sought through a series of meetings with an Internal Stakeholder group (Step 1) representing building, planning, engineering, emergency services, solid waste, legal, stormwater, and parks; and,

WHEREAS, Step 1 was further implemented through a series of meetings with an External Stakeholders group with representation from a local engineer, realtor, developer, builders association, conservation district, and school district; and,

WHEREAS, the aforementioned groups were involved in discussions to understand the general topics, subtopics and considerations to address as identified in the toolkit (Step 2); and,

WHEREAS, staff engaged in an extensive review of existing codes, rules, and standards to identify where the topics, subtopics, and considerations were addressed and determine where gaps and barriers existed (Step 3); and,

WHEREAS, several areas of the Oak Harbor Municipal Code (OHMC) were amended to fill the gaps and remove barriers (Step 4); and,

WHEREAS, the City of Oak Harbor Planning Commission was presented with periodic updates on the progress of this project on January 26, 2016; August, 23, 2016; September 27, 2016; and,

WHEREAS, the City of Oak Harbor City Council was presented with periodic project updates on July 7, 2015 and September 12, 2016; and,

WHEREAS, the proposed amendment package was presented at a joint special workshop with the City of Oak Harbor Planning Commission and City Council on October 19, 2016; and,

WHEREAS, a State Environmental Policy Act (SEPA) Determination of Non-Significance was issued on October 24, 2016 in conformance with OHMC Chapter 20.04; and,

WHEREAS, procedural requirements have been met by requesting an expedited notice of intent to adopt development regulations with the Washington State Department of Commerce; and,

WHEREAS, in conformance with OHMC 18.20.270, a public hearing was held with the Planning Commission on October 25, 2016 with this public hearing continued to November 9, 2016; and,

WHEREAS, on November 9, 2016 the Planning Commission closed the public hearing and forwarded a recommendation of approval to the City Council; and,

WHEREAS, exercising the option under review process V (OHMC 18.20.270) the City Council held a public hearing on November 15, 2016 to consider this Ordinance; and,

WHEREAS, nothing in this Ordinance is intended, nor shall be construed, to authorize or approve violation of federal or state law;

NOW, THEREFORE, the City Council of the City of Oak Harbor, Washington do ordain as follows:

Section One. OHMC Section 11.17.040(3) is hereby amended to read as follows:

(3) Low impact development (LID) best management practices, such as permeable surfacing alternatives and on-site stormwater management facilities, ~~are encouraged~~ shall be required for street improvements where site and soil conditions make LID feasible. Permeable surfacing and LID stormwater management facilities shall be constructed in accordance with the LID Technical Guidance Manual for Puget Sound (~~January 2005~~ most current edition) and the manufacturer's recommendations. Permeable surfacing includes, but is not limited to: paving blocks, turf block, pervious concrete, porous asphalt, and other similar approved materials. Alternative surfacing methods may be approved for parking areas, emergency parking areas, private roads, road shoulders, bike paths, walkways, patios, driveways, and easement service roads unless site constraints make use of such materials detrimental to water quality. Use of permeable surfacing methods shall meet the imposed load requirements for fire apparatus, and shall be subject to review and approval by the Oak Harbor public works department (engineering division) and the fire chief.

Section Two. OHMC Table 11.17-2 Required Street Improvements is hereby amended to read as follows:

Table 11.17-2 Required Street Improvements

Street Type	Right-of-Way Width*	Face of Curb to Face of Curb Width	Sidewalk Width Each Side	Landscape Strip Width Each Side	Bike Lane Width Each Side
Principal Arterial, 4-Lane	97 – 105 feet	52 feet without bike lanes, 60 feet with bike lanes. Landscaped median is 12 feet.	8 feet	12 feet	4 feet
Minor Arterial, 2-Lane	80 feet	47 feet, with 11-foot center turn-lane	5 feet	10.5 feet	5 feet
Minor Arterial, Industrial	60 feet	38 feet	None	6 feet (bioswale)	4 feet
Collector w/Bike Lanes	66 feet	48 feet	5 feet	3 feet	5 feet
Collector, Industrial	50 feet	26 feet	None	6 feet (bioswale)	4 feet, one side
Local Residential, Narrow	50 feet	28 feet with one parking lane. Or 28 feet including two 4-foot bike lanes and no parking.	5 feet	5 feet	4 feet, optional

Table 11.17-2 Required Street Improvements

Street Type	Right-of-Way Width*	Face of Curb to Face of Curb Width	Sidewalk Width Each Side	Landscape Strip Width Each Side	Bike Lane Width Each Side
Local Residential, Wide	60 feet	36 feet parking on both sides. Or 36 feet with parking on one side and 4-foot bike lanes on both sides.	5 feet	5 feet	4 feet, optional
Local LID Street #1	50 feet	20 feet (two 10-foot travel lanes)	5 feet	8-foot planter strip on elevated side. 10-foot utility corridor on basin side. Bioretention outside of right-of-way.	None
Local LID Street #2	60 feet	28.5 feet, with one 8.5-foot parking lane on basin side of street	5 feet	9.5-foot planter strip on elevated side. 10-foot utility strip on basin side. Bioretention outside of right-of-way.	None
Alley	20 feet	19 feet**	None	None	None

*All street types include a six-inch strip at the outside edge of the physical improvements, but within the right-of-way, with the exception of the "Minor Arterial, Industrial" which has a one-foot strip on the outside edge of right-of-way, the "Collector, Industrial" which has a four-foot strip on the outside edge of right-of-way, and the "Local LID Street #2" which has a one-foot strip on the outside edge of right-of-way.

**Sixteen-foot width pavement sections may be used as approved on alleys by the city engineer.

Note: All streets include six-inch curbs not shown in the dimensions above, with the exception of alleys which do not have curbs.

Section Three. OHMC Chapter 12.10, Storm and Surface Water Utility Code – General Provisions is hereby amended to add Section 12.10.025 as follows:

12.10.025 Definitions.

~~(1)~~ "Administrator" means the local government official(s) authorized to make decisions in regard to Adjustments and Exceptions/Variations.

~~(42)~~ "American Public Works Association" or "APWA" means the Washington State Chapter of the American Public Works Association.

~~(23)~~ "Approval" means the proposed work or completed work conforms to this chapter in the opinion of the director.

~~(34)~~ "Arterial" means a road or street primarily for through traffic. A major arterial connects an interstate highway to cities and counties. A minor arterial connects major arterials to collectors. A collector connects an arterial to a neighborhood. A collector is not an arterial. A local access road connects individual homes to a collector.

~~(45)~~ "As-graded" means the extent of surface conditions on completion of grading.

~~(56)~~ "Basin plan" means a plan and all implementing regulations and procedures including, but not limited to, land use management adopted by ordinance for managing surface and storm water management facilities and features within individual subbasins, that assesses, evaluates, and proposes solutions to existing and potential future impacts to the beneficial uses of, and the physical, chemical, and biological properties of waters of the state within a

basin. Basins typically range in size from 1 to 50 square miles. A plan should include but not be limited to recommendations for:

- Stormwater requirements for new development and redevelopment;
- Capital improvement projects;
- Land Use management through identification and protection of critical areas, comprehensive land use and transportation plans, zoning regulations, site development standards, and conservation areas;
- Source control activities including public education and involvement, and business programs;
- Other targeted stormwater programs and activities, such as maintenance, inspections and enforcement;
- Monitoring; and
- An implementation schedule and funding strategy.

A plan that is “adopted and implemented” must have the following characteristics:

- It must be adopted by legislative or regulatory action of jurisdictions with responsibilities under the plan;
- Ordinances, regulations, programs, and procedures recommended by the plan should be in effect or on schedule to be in effect; and,
- An implementation schedule and funding strategy that are in progress.

~~(67)~~ “Bedrock” means the more or less solid rock in place either on or beneath the surface of the earth. It may be soft, medium, or hard and have a smooth or irregular surface.

~~(78)~~ “Bench” means a relatively level step excavated into earth material on which fill is to be placed.

~~(89)~~ “Best management practice” or “BMP” means physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water. BMPs are listed and described in the manual, the schedules of activities, prohibitions of practices, maintenance procedures, and structural and/or managerial practices, that when used singly or in combination, prevent or reduce the release of pollutants and other adverse impacts to waters of Washington State.

~~(10)~~ “Billing year” means the calendar year that bills are sent.

~~(11)~~ “City” means the city of Oak Harbor.

~~(912)~~ “Civil engineer” means a professional engineer licensed in the state of Washington in civil engineering ~~who is experienced and knowledgeable in the practice of civil engineering.~~

~~(103)~~ “Civil engineering” means the application of the 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.

~~(144)~~ “Certified erosion and sediment control lead (CESCL)” means an individual who has current certification through an approved erosion and sediment control training program that meets the minimum training standards established by the Washington State Department of Ecology (see BMP C160 of Volume II in the Storm Water Management Manual for Western Washington (2005)). A CESCL is knowledgeable in the principles and practices of erosion and sediment control. The CESCL must have the skills to assess site conditions and construction activities that could impact the quality of storm water and the effectiveness of erosion and sediment control measures used to control the quality of storm water discharges. Certification is obtained through an Ecology approved erosion and sediment control class. Course listings are provided online at Ecology’s website.

~~(125)~~ “Clearing” means the destruction and removal of vegetation by manual, mechanical, or chemical methods.

~~(136)~~ “Commercial agriculture” means those activities conducted on lands defined in RCW 84.34.020(2), and activities involved in the production of crops or livestock for commercial wholesale trade. An activity ceases to be considered commercial agriculture when the area on which it is conducted is proposed for conversion to a nonagricultural use or has lain idle for more than five years, unless the idle land is registered in a federal or state soils conservation program, or unless the activity is maintenance of irrigation ditches, laterals, canals, or drainage ditches related to an existing and ongoing agricultural activity.

~~(147)~~ “Compaction” means the densification, of a fill by mechanical means.

settlement, or packing of soil in such a way that permeability of the soil is reduced. Compaction effectively shifts the performance of a hydrologic group to a lower permeability hydrologic group. For example, a group B hydrologic soil can be compacted and be effectively converted to a group C hydrologic soil in the way it performs in regard to runoff. Compaction may also refer to the densification of a fill by mechanical means.

(18) "Condominium" means the ownership of single units or apartments in a building containing two or more units or two or more buildings each containing one or more units with common areas and facilities as provided in Chapter 64.32 RCW and permitted pursuant to OHMC 21.80.025.

~~(159)~~ "Critical areas" means, at a minimum, areas which include wetlands, areas with a critical recharging effect on aquifers used for potable water, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, including unstable slopes, and associated areas and ecosystems.

~~(1620)~~ "Design storm" means a prescribed hyetograph and total precipitation amount (for a specific duration recurrence frequency) used to estimate runoff for a hypothetical storm of interest or concern for the purposes of analyzing existing drainage, designing new drainage facilities or assessing other impacts of a proposed project on the flow of surface water. (A hyetograph is a graph of percentages of total precipitation for a series of time steps representing the total time during which the precipitation occurs.)

~~(1721)~~ "Detention" means the release of storm water runoff from the site at a slower rate than it is collected by the storm water facility system, the difference being held in temporary storage.

~~(1822)~~ "Detention facility" means an above or below ground facility, such as a pond or tank, that temporarily stores storm water runoff and subsequently releases it at a slower rate than it is collected by the drainage facility system. There is little or no infiltration of stored storm water.

(23) "Developed parcel" means any parcel altered from the natural state by the construction, creation, or addition of impervious hard surfaces.

~~(1924)~~ "Drainage basin" means a geographic and hydrologic subunit of a water shed.

(25) "Drainage service charge" and "storm water system service charge" means the fee imposed by the city upon all parcels of real property, except exempted properties, located within the boundaries of the city.

~~(206)~~ "Earth material" means any rock, natural soil or fill and/or any combination thereof. Earth material shall not be considered topsoil used for landscape purposes. Topsoil used for landscaped purposes shall comply with ASTM D 5268 specifications. Engineered soil/landscape systems are also defined independently.

~~(247)~~ "Ecology" means the Washington State Department of Ecology.

~~(228)~~ "Effective impervious surface" means those impervious surfaces that are connected via sheet flow or discrete conveyance to a drainage system. Impervious surfaces ~~on residential development sites~~ are considered ineffective if:

- 1) the runoff is dispersed through at least 100 feet of native vegetation in accordance with BMP T5.30 – "Full Dispersion" as described in Chapter 5 of Volume V;
- 2) residential roof runoff is infiltrated in accordance with Downspout Full Infiltration Systems in BMP 5.10A Volume III; or
- 3) approved continuous runoff modeling methods indicate that the entire runoff file is infiltrated.

~~(239)~~ "Engineering geologist" means a geologist experienced and knowledgeable in engineering geology.

~~(2430)~~ "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.

(31) "Environmentally sensitive areas" means parcels identified pursuant to Chapter 20.12 OHMC and parcels with trees protected under Chapter 20.16 OHMC.

(32) "Equivalent residential unit (ERU)" means a configuration of development or hard impervious surfaces estimated to contribute an amount of runoff to the city's storm water drainage system which is approximately equal

to that created by the average single-family residential parcel. One ERU is equal to 3,300 square feet of impervious surface area or any portion thereof.

~~(2533) “Erosion” means the wearing away of the land surface by running water, wind, ice, or other geological agents, including such processes as gravitational creep. Detachment and movement of soil or rock fragments by water, wind, ice, or gravity. those impervious surfaces that are connected via sheet flow or discrete conveyance to a drainage system. Impervious surfaces are considered ineffective if:~~

- 1) the runoff is dispersed through at least one hundred feet of native vegetation in accordance with BMP T5.30 – “Full Dispersion” as described in Chapter 5 of Volume V;
- 2) residential roof runoff is infiltrated in accordance with Downspout Full Infiltration Systems in BMP 5.10A Volume III; or
- 3) approved continuous runoff modeling methods indicate that the entire runoff file is infiltrated.

~~(2634) “Excavation” means the mechanical removal of earth material.~~

~~(2735) “Existing site conditions” means:~~

- ~~(a) For developed sites with storm water facilities that have been constructed to meet the standards in the minimum requirements of this chapter, “existing site conditions” shall mean the existing conditions on the site.~~
- ~~(b) For developed sites that do not have storm water facilities that meet the minimum requirements, “existing site conditions” shall mean the conditions that existed prior to local government adoption of a storm water management program. If in question, the existing site conditions shall be documented by aerial photograph records or other appropriate means.~~

~~(2836) “Experimental BMP” means a BMP that has not been tested and evaluated by the Department of Ecology in collaboration with local governments and technical experts.~~

~~(2937) “Fill” means a deposit of earth material placed by artificial means.~~

~~(308) “Forest practice” means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber including, but not limited to:~~

- ~~(a) Road and trail construction;~~
- ~~(b) Harvesting, final and intermediate;~~
- ~~(c) Precommercial thinning;~~
- ~~(d) Reforestation;~~
- ~~(e) Fertilization;~~
- ~~(f) Prevention and suppression of diseases and insects;~~
- ~~(g) Salvage of trees;~~
- ~~(h) Brush control.~~

~~(319) “Frequently flooded areas” means the 100-year flood plain designations of the Federal Emergency Management Agency and the National Flood Insurance Program or as defined by the local government.~~

~~(3240) “Full stabilization” means concrete or asphalt paving; quarry spalls used as ditch lining; or the use of rolled erosion products, a bonded fiber matrix product, or vegetative cover in a manner that will fully prevent soil erosion.~~

~~(3341) “Geologically hazardous areas” means areas that because of their susceptibility to erosion, sliding, earthquake or other geological events are not suited to the siting of commercial, residential or industrial development consistent with public health or safety concerns.~~

~~(3442) “Grade” means the slope of a road, channel, or natural ground. The finished surface of a canal bed, road bed, top of embankment, or bottom of excavation; any surface prepared for the support of construction such as paving or the laying of a conduit.~~

- ~~(a) “Existing grade” means the grade prior to grading.~~
- ~~(b) “Rough grade” means the stage at which the grade approximately conforms to the approved plan.~~
- ~~(c) “Finish grade” means the final grade of the site which conforms to the approved plan.~~

~~(3543) “Gradient terrace” means an earth embankment or a ridge and channel constructed with suitable spacing and an acceptable grade to reduce erosion damage by intercepting surface runoff and conducting it to a stable outlet at a stable nonerosive velocity.~~

(3644) To “grade” means to finish the surface of a canal bed, road bed, top of embankment or bottom of excavation.

(3745) “Ground water” means water in a saturated zone or stratum beneath the surface of land or a surface water body.

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

(3847) “Highway” means a main public road connecting towns and cities.

(3948) “Hydroperiod” means the seasonable occurrence of flooding and/or soil saturation; it encompasses depth, frequency, duration, and seasonal pattern of inundation.

(4049) “Impervious surface” means a ~~hard surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development or a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development.~~ Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of storm water. ~~Open, uncovered retention/detention facilities shall not be considered as impervious surfaces for the purposes of determining whether the thresholds for application of minimum requirements are exceeded. Open, uncovered retention/detention facilities shall be considered impervious surfaces for purposes of runoff modeling.~~ non-vegetated surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A non-vegetated surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces for the purposes of determining whether the thresholds for application of minimum requirements are exceeded. Open, uncovered retention/detention facilities shall be considered impervious surfaces for purposes of runoff modeling.

(4450) “Illicit discharge” means all non-storm water discharges to storm water drainage systems that cause or contribute to a violation of state water quality, sediment quality or ground water quality standards, including but not limited to sanitary sewer connections, industrial process water, interior floor drains, car washing and greywater systems.

(4251) “Interflow” means that portion of rainfall that infiltrates into the soil and moves laterally through the upper soil horizons until intercepted by a stream channel or until it returns to the surface, for example, in a wetland, spring or seep. Interflow is a function of the soil system depth, permeability, and water-holding capacity.

(4352) “Land-disturbing activity” means any activity that results in ~~movement of earth, or~~ a change in the existing soil cover (both vegetative and nonvegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to, clearing, grading, filling and excavation. Compaction that is associated with stabilization of structures and road construction shall also be considered a land-disturbing activity. Vegetation maintenance practices, including landscape maintenance and gardening, are not considered land-disturbing activity. Stormwater facility maintenance is not considered land disturbing activity if conducted according to established standards and procedures.

(4453) “Large parcel erosion and sediment control plan” or “large parcel ESC plan” means a plan to implement BMPs to control pollution generated during land-disturbing activity.

(4554) “Low impact development” means a storm water and land use management ~~and land development~~ 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, applied at the parcel and subdivision scale that emphasizes conservation and use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely mimic pre-development hydrologic functions.

(4655) "Maintenance" means activities or repairs conducted on currently serviceable structures, facilities, and equipment that involves no expansion or use beyond that previously existing and results in no significant adverse hydrologic impact. It includes those usual activities taken to prevent a decline, lapse, or cessation in the use of structures and systems. Those usual activities may include replacement of dysfunctional facilities, including cases where environmental permits require replacing an existing structure with a different type structure, as long as the functioning characteristics of the original structure are not changed.

(4756) "Mitigation" means, in the following order of preference:

- (a) Avoiding the impact altogether by not taking a certain action or part of an action;
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
- (c) Rectifying the impact by repairing, rehabilitating or restoring the affected environment;
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; and
- (e) Compensation for the impact by replacing, enhancing, or providing substitute resources or environments.

(57) "NPDES" means the National Pollutant Discharge Elimination System under the federal Clean Water Act, the national program for issuing, modifying, revoking, and reissuing, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 402, 318, and 405 of the federal Clean Water Act, for the discharge of pollutants to surface waters of the state from point sources. These permits are referred to as NPDES permits and in Washington State are administered by the Department of Ecology.

(58) "NPDES Phase II municipal storm water permit" means the permit issued by the Department of Ecology pursuant to the federal Clean Water Act whose requirements are applicable to the city.

(4859) "Native vegetation" means vegetation comprised of plant species, other than noxious weeds, that are indigenous to the coastal region of the Pacific Northwest and which reasonably could have been expected to naturally occur on the site. Examples include trees such as Douglas fir, western hemlock, western red cedar, alder, big-leaf maple, and vine maple; shrubs such as willow, elderberry, salmonberry, and salal; and herbaceous plants such as sword fern, foam flower, and fireweed.

(4960) "Natural location" means the location of those channels, swales, and other nonmanmade conveyance systems as defined by the first documented topographic contours existing for the subject property, either from maps or photographs, or such other means as appropriate. In the case of outwash soils with relatively flat terrain, no natural location of surface discharge may exist.

(5061) "New development" means the following activities: land-disturbing activities, including class IV – general forest practices that are conversions from timber land to other uses, structural development, including construction, or installation or expansion of a building or other structure; creation of hard impervious surfaces; Class IV general forest practices that are conversions from timber land to other uses; and subdivision and short subdivision of land and binding site plans as defined in RCW 58.17.020. Projects meeting the definition of redevelopment shall be considered new development. All other forest practices and commercial agriculture are not considered new development.

(62) "Non-single-family residential properties or parcels" means properties or parcels which contain two or more residential dwelling units and institutional, commercial or industrial properties.

(63) "Parcel" means the smallest separately segregated unit or plot of land having an identified owner(s), boundaries, and area as defined by the Island County assessor and recorded in the Island County assessor real property file or in the Island County assessor maps.

(5164) "Permanent storm water quality control (PSQC) plan" means a plan which includes permanent BMPs for the control of pollution from storm water runoff after construction and/or land-disturbing activity has been completed. For small sites, this requirement is met by implementing a small parcel erosion and sediment control plan. Guidance on preparing a PSQC plan is contained in the manual.

(5265) "Person" means any individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, agency of the state, or local government unit, however designated.

(5366) "Pollution" means contamination or other alteration of the physical, chemical, or biological properties of waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

(5467) "Pollution-generating impervious surface (PGIS)" means those impervious surfaces considered to be a significant source of pollutants in storm water runoff. Such surfaces include those which are subject to: vehicular use; industrial activities (as further defined in the glossary); or storage of erodible or leachable materials, wastes, or chemicals, and which receive direct rainfall or the run-on or blow-in of rainfall. ~~Erodible or leachable materials, wastes, or chemicals are those substances which, when exposed to rainfall, measurably alter the physical or chemical characteristics of the rainfall runoff. Examples include erodible soils that are stockpiled, uncovered process wastes, manure, fertilizers, oily substances, ashes, kiln dust, and garbage dumpster leakage.~~ Metal roofs are also considered to be PGIS unless they are coated with an inert, nonleachable material (e.g., baked-on enamel coating), ~~or roofs that are subject to venting significant amounts of dusts, mists, or fumes from manufacturing, commercial, or other indoor activities.~~

~~A surface, whether paved or not, shall be considered subject to vehicular use if it is regularly used by motor vehicles. The following are considered regularly used surfaces: roads, unvegetated road shoulders, bike lanes within the traveled lane of a roadway, driveways, parking lots, unfenced fire lanes, vehicular equipment storage yards, and airport runways.~~

~~The following are not considered regularly used surfaces: paved bicycle pathways separated from and not subject to drainage from roads for motor vehicles, fenced fire lanes, and infrequently used maintenance access roads.~~

(5568) "Pollution-generating pervious surfaces (PGPS)" means any non-impervious surface subject to vehicular use, industrial activities (as further defined in this glossary); or storage of erodible or leachable materials, wastes or chemicals, and that receive direct rainfall or run-on or blow-in of rainfall, use of pesticides and fertilizers, or loss of soil. Typical PGPS include permeable pavement subject to vehicular use, lawns and landscaped areas including: golf courses, parks, cemeteries, and sports fields (natural and artificial turf). ~~use of pesticides and fertilizers or loss of soil. Typical PGPS include lawns, landscaped areas, golf courses, parks, cemeteries, and sports fields.~~

(5669) "Predeveloped condition" means the native vegetation and soils that existed at a site prior to the influence of Euro-American settlement. The predeveloped condition shall be assumed to be a forested land cover unless reasonable, historic information is provided that indicates the site was prairie prior to settlement.

(5770) "Project site" means that portion of a property, properties, or right-of-way subject to land-disturbing activities, new hard impervious surfaces, or replaced hard impervious surfaces.

(71) "Property owner of record" shall be the person or persons recorded by the Island County assessor to be the owner(s) of property and to whom property tax statements are directed.

(72) "Public benefit nonprofit corporation" means a corporation that complies with the provisions of the Washington Nonprofit Corporation Act, Chapter 24.03 RCW, and that holds a current tax exempt status as provided under 26 USC 501(c)(3) or is not required to apply for its tax exempt status under 26 USC 501(c)(3) as defined in RCW 24.03.490. No property may be designated as a public benefit nonprofit corporation until proof of public benefit nonprofit corporation status pursuant to RCW 24.03.490 is filed with the administrator.

(73) "Rate category" means the classification of properties, based upon the estimated percentage of impervious surface on the parcel, for purposes of establishing drainage service charges.

(5874) "Redevelopment" means, on an already substantially developed (i.e., has 35 percent or more of existing hard impervious surface coverage) site, the creation or addition of hard impervious surfaces, the expansion of a building footprint or addition or replacement of a structure, structural development including construction, installation or expansion of a building or other structure, and/or replacement of hard impervious surface that is not part of a routine maintenance activity, and land-disturbing activities ~~associated with structural or impervious redevelopment.~~

(5975) "Regional retention/detention system" means a storm water quantity control structure designed to correct existing excess surface water runoff problems of a basin or subbasin. The area downstream has been previously identified as having existing or predicted significant and regional flooding and/or erosion problems. This term is

also used when a detention facility is used to detain storm water runoff from a number of new developments ~~different businesses, developments~~ or areas within a catchment.

(6076) "Replaced ~~hard impervious~~ surface" means, for structures, the removal and replacement of ~~hard any exterior impervious~~ surfaces down to or foundation. For other ~~hard impervious~~ surfaces, the removal down to bare soil or base course and replacement.

(77) "Residence" means a building or structure, or portion thereof, designed to be used as a place of abode for human beings and not used for any other purpose. The term "residence" includes the terms "residential," "residential unit," and "dwelling unit" as referring to the type or intended use of a building or structure.

(6478) "Retention/detention facility (R/D)" means a type of drainage facility designed either to hold water for a considerable length of time and then release it by evaporation, plant transpiration, and/or infiltration into the ground; or to hold surface and storm water runoff for a short period of time and then release it to the surface and storm water management system.

(79) "Single-family residential property or parcel" means any property or parcel which contains one residential dwelling unit.

(6280) "Site" means the area defined by the legal boundaries of a parcel or parcels of land that is (are) subject to new development or redevelopment. For road projects, the length of the project site and the right-of-way boundaries define the site.

(6381) "Slope" means the degree of deviation of a surface from the horizontal, measured as a numerical ratio, percent, or in degrees. Expressed as a ratio, the first number is the horizontal distance (run) and the second is the vertical distance (rise), as 2:1. A 2:1 slope is a 50 percent slope. Expressed in degrees, the slope is the angle from the horizontal plane, with a 90-degree slope being vertical (maximum) and 45 degrees being a 1:1 or 100 percent slope.

(6482) "Small parcel erosion and sediment control plan" or "small parcel ESC plan" means a plan for small sites to implement temporary BMPs to control pollution generated during the construction phase only, primarily erosion and sediment. Guidance for preparing a small parcel ESC plan is contained in the manual.

(6583) "Soil" means the unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of land plants.

(6684) "Source control BMP" means a structure or operation that is intended to prevent pollutants from coming into contact with storm water through physical separation of areas or careful management of activities that are sources of pollutants. This manual separates source control BMPs into two types. Structural source control BMPs are physical, structural, or mechanical devices, or facilities that are intended to prevent pollutants from entering storm water. Operational BMPs are nonstructural practices that prevent or reduce pollutants from entering storm water.

(6785) "Storm water" means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, ~~channels or pipes~~ and other features of a stormwater drainage system into a defined surface water body channel, or a constructed infiltration facility.

(6886) "Storm water drainage system" means ~~constructed and natural features which function together as a system to collect, convey, channel, hold, inhibit, retain, detain, infiltrate, divert, treat or filter storm water. the entire system of flood protection and storm and surface water drainage facilities owned or leased by the city or over which the city has right of use for the movement and control of storm and surface water runoff, including both naturally occurring and manmade facilities. The definition also includes the conveyance or storage of storm and surface waters that flow through, under, or over lands, land forms, watercourses, sloughs, streams, rivers, lakes and wetlands, beginning at a point where storm or surface waters enter the city system and ending at a point where such storm or surface waters exit from the city's storm and surface water system, and in width to the full extent of inundation caused by storm or flood conditions.~~ Throughout this chapter, the term "drainage facilities" is used to refer to the storm and surface water drainage facilities.

(6987) "Storm water facility" means a constructed component of a storm water drainage system, designed or constructed to perform a particular function, or multiple functions. Storm water facilities include, but are not limited

to, pipes, swales, ditches, culverts, street gutters, detention ponds basins, retention ponds basins, constructed wetlands, infiltration devices, catch basins, oil/water separators, and biofiltration swales sediment basins and modular pavement.

(7088) "Storm Water Management Manual" or "manual" means the Washington State Department of Ecology 2012~~05~~ Storm Water Management Manual for Western Washington, as amended in December 2014.

(7189) "Storm water site plan" means the comprehensive report containing all of the technical information and analysis necessary for regulatory agencies to evaluate a proposed new development or redevelopment project for compliance with stormwater requirements. Contents of the Stormwater Site Plan will vary with the type and size of the project, and individual site characteristics. It includes a Construction Stormwater Pollution Prevention Plan (Construction SWPPP) and a Permanent Stormwater Control Plan (PSC Plan). Guidance on preparing a Stormwater Site Plan is contained in Chapter 3 of Volume I. a plan which includes an erosion and sediment control (ESC) plan and/or a permanent storm water quality control plan (PSQCP). For small sites, this plan is the equivalent of a small parcel erosion and sediment control plan. Guidance on preparing a storm water site plan is contained in the manual.

(7290) "Threshold discharge area" means an on-site area draining to a single natural discharge location or multiple natural discharge locations that combine within one-quarter mile downstream (as determined by the shortest flowpath).

(7391) "Toe of slope" means a point or line of slope in an excavation or cut where the lower surface changes to horizontal or meets the existing ground slope.

(7492) "Top of slope" means a point or line on the upper surface of a slope where it changes to horizontal or meets the original surface.

(7593) "Treatment BMP" means a BMP that is intended to remove pollutants from storm water. A few examples of treatment BMPs are wetponds detention ponds, oil/water separators, biofiltration swales and constructed wetlands.

(94) "Undeveloped parcel" means any parcel which has not been altered from its natural state by the construction, creation or addition of any impervious hard surfaces.

(7695) "Unstable slopes" means those sloping areas of land which have in the past exhibited, are currently exhibiting, or will likely in the future exhibit mass movement of earth.

(96) "Utility" means the city of Oak Harbor storm water drainage system utility. In this title the term "storm water" is often used to refer to both storm and surface water. (Ord. 1602 § 2, 2011; Ord. 1582 § 1, 2010; Ord. 1128 § 1, 1998; Ord. 1123, 1998; Ord. 1084 § 2, 1997).

(7797) "Water body" means surface waters including rivers, streams, lakes, marine waters, estuaries, and wetlands.

(7898) "Watershed" means a geographic region within which water drains into a particular river, stream, or body of water as identified and numbered by the state of Washington water resource inventory areas (WRIAs) as defined in Chapter 173-500 WAC.

(7999) "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.

(~~80~~100) "Vegetation" means all organic plant life growing on the surface of the earth. (Ord. 1576 § 1, 2010; Ord. 1537 § 2, 2008; Ord. 1086 § 2, 1997; Ord. 1044, 1996).

Section Four. OHMC Section 12.10.115(1) is hereby amended to read as follows:

12.10.115 Facility ownership.

(1) The utility owns all elements of the storm drainage system in public right-of-way and in easements or tracts dedicated to and accepted by the utility, except to the extent private ownership and/or maintenance responsibility is indicated as a matter of record.

Section Five. OHMC Section 12.20.020 is hereby amended to read as follows:

12.20.020 Definitions.

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

(1) ~~“Best management practice” or “BMP” means physical, structural, and/or managerial practices, that when used singly or in combination, prevent or reduce pollution of water. BMPs are listed and described in the storm water management manual.~~

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

(3) ~~“Storm water” means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, channels or pipes into a defined surface water channel or a constructed infiltration facility.~~

(4) ~~“Storm water drainage system” means constructed and natural features which function together as a system to collect, convey, channel, hold, inhibit, retain, detain, infiltrate, divert, treat or filter storm water.~~

(5) ~~“Storm water facility” means a constructed component of a storm water drainage system, designed or constructed to perform a particular function, or multiple functions. Storm water facilities include, but are not limited to, pipes, swales, ditches, culverts, street gutters, detention basins, retention basins, constructed wetlands, infiltration devices, catch basins, oil/water separators, sediment basins and modular pavement. Storm water facilities are described in the manual.~~

(6) ~~“Storm water management manual” or “manual” means the Washington State Department of Ecology’s 2005 Storm Water Management Manual for Western Washington. (Ord. 1537 § 11, 2008; Ord. 1086 § 1, 1997; Ord. 998, 1995).~~

Section Six. OHMC Section 12.20.050 is hereby amended to read as follows:

12.20.050 General requirements.

(1) Maintenance Required. All storm water facilities shall be maintained in accordance with this chapter ~~and the storm water management manual and the Oak Harbor storm water plan~~. Systematic, routine preventative maintenance is preferred.

(2) Minimum Standards. The following are the minimum standards for the maintenance of storm water facilities:

(a) Covenants and easements for maintenance and inspection purposes are required for privately owned or maintained facilities/BMPs.

~~(ab)~~ Facilities shall be inspected annually and cleared of debris, sediment and vegetation when they affect the functioning and/or design capacity of the facility.

~~(bc)~~ Grassy swales and other biofilters shall be inspected monthly and mowed or replanted as necessary. Clippings are to be removed and properly disposed of.

~~(cd)~~ Maintenance shall be in accordance with the approved operations and maintenance program for the stormwater facility and/or the manual. The City has authority to require a stricter operations and maintenance program.

~~(e)~~(e) Where lack of maintenance is causing or contributing to a water quality problem, immediate action shall be taken to correct the problem. Within one month, the public works superintendent or his or her designee shall revisit the facility to assure that it is being maintained.

(3) Disposal of Waste from Maintenance Activities. Disposal of waste from maintenance activities shall be conducted in accordance with the minimum Functional Standards for Solid Waste Handling, Chapter [173-304 WAC](#),

guidelines for disposal of waste materials from storm water maintenance activities, and where appropriate, the Dangerous Waste Regulations, Chapter [173-303WAC](#).

(4) Compliance. Property owners are responsible for the maintenance, operation or repair of storm water drainage systems and BMPs. Property owners shall maintain, operate and repair these facilities in compliance with the requirements of this chapter and the storm water management manual. (Ord. 1537 § 11, 2008; Ord. 1166 § 6, 1999; Ord. 1086 § 1, 1997; Ord. 998, 1995).

Section Seven. OHMC Section 12.20.055 is hereby amended to read as follows:

12.20.055 Operation and Maintenance Manual Required

(1) Projects which are required to be in conformance with Minimum Requirements #1 through #5, as identified in OHMC 12.30.510 and 12.30.520, shall submit an operation and maintenance manual in accordance with City standards as established by the city engineer.

(2) Projects which are required to be in conformance with Minimum Requirements #1 through #9, as identified in the manual, shall submit an operation and maintenance manual in accordance with City standards as established by the city engineer.

Section Eight. OHMC Section 12.20.070(3) is hereby amended to read as follows:

(3) Inspection Schedule. The administrator shall establish a master inspection and maintenance schedule to inspect appropriate storm water facilities that are not owned by the city. Inspections shall be no less frequent than annual. ~~Critical s~~Storm water facilities/BMP's may require a more frequent inspection schedule.

Section Nine. OHMC Section 12.30.010(4) is hereby amended to read as follows:

(4) Storm water quality and quantity controls can be achieved when land is developed or redeveloped by implementing appropriate best management practices (BMPs) including low impact development which emphasizes:

- (a) minimization of impervious surfaces;
- (b) reduction in native vegetation loss;
- (c) use of on-site natural features; and
- (d) integration of stormwater management into project design.

Section Ten. OHMC Section 12.30.020 is hereby amended to read as follows:

12.30.020 Need.

The city finds that this chapter is necessary in order to:

- (1) Minimize or eliminate water quality degradation;
- (2) Prevent erosion and sedimentation in creeks, streams, ponds, lakes and other water bodies;
- (3) Protect property owners adjacent to existing and developing lands from increased runoff rates which could cause erosion of abutting property;
- (4) Preserve and enhance the suitability of waters for contact recreation, fishing, and other beneficial uses;
- (5) Preserve and enhance the aesthetic quality of the water;
- (6) Promote sound development policies which respect and preserve city surface water, ground water and sediment;
- (7) Ensure the safety of city roads and rights-of-way;
- (8) Decrease storm water-related damage to public and private property from existing and future runoff;

~~(9) Provide groundwater recharge:~~

~~(9)10) Protect the health, safety and welfare of the inhabitants of Oak Harbor; and~~

~~(10)1) Comply with the requirements and minimum standards contained in the NPDES Phase II municipal storm water permit for control of storm water for review and permitting of all development, and related activities, inside city limits. (Ord. 1576 § 1, 2010; Ord. 1537 § 2, 2008; Ord. 1086 § 2, 1997; Ord. 1044, 1996).~~

Section Eleven. OHMC Section 12.30.040 is hereby amended as follows:

~~12.30.040 Definitions.~~

~~For the purpose of this chapter, the following definitions shall apply:~~

~~(1) "American Public Works Association" or "APWA" means the Washington State Chapter of the American Public Works Association.~~

~~(2) "Approval" means the proposed work or completed work conforms to this chapter in the opinion of the director.~~

~~(3) "Arterial" means a road or street primarily for through traffic. A major arterial connects an interstate highway to cities and counties. A minor arterial connects major arterials to collectors. A collector connects an arterial to a neighborhood. A collector is not an arterial. A local access road connects individual homes to a collector.~~

~~(4) "As-graded" means the extent of surface conditions on completion of grading.~~

~~(5) "Basin plan" means a plan and all implementing regulations and procedures including, but not limited to, land use management adopted by ordinance for managing surface and storm water management facilities and features within individual subbasins.~~

~~(6) "Bedrock" means the more or less solid rock in place either on or beneath the surface of the earth. It may be soft, medium, or hard and have a smooth or irregular surface.~~

~~(7) "Bench" means a relatively level step excavated into earth material on which fill is to be placed.~~

~~(8) "Best management practice" or "BMP" means physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water. BMPs are listed and described in the manual.~~

~~(9) "Civil engineer" means a professional engineer licensed in the state of Washington in civil engineering who is experienced and knowledgeable in the practice of civil engineering.~~

~~(10) "Civil engineering" means the application of the 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.~~

~~(11) "Certified erosion and sediment control lead (CESCL)" means an individual who has current certification through an approved erosion and sediment control training program that meets the minimum training standards established by the Washington State Department of Ecology (see BMP C160 of in the Storm Water Management Manual for Western Washington (2005)). A CESCL is knowledgeable in the principles and practices of erosion and sediment control. The CESCL must have the skills to assess site conditions and construction activities that could impact the quality of storm water and the effectiveness of erosion and sediment control measures used to control the quality of storm water discharges.~~

~~(12) "Clearing" means the destruction and removal of vegetation by manual, mechanical, or chemical methods.~~

~~(13) "Commercial agriculture" means those activities conducted on lands defined in RCW 84.34.020(2), and activities involved in the production of crops or livestock for wholesale trade. An activity ceases to be considered commercial agriculture when the area on which it is conducted is proposed for conversion to a nonagricultural use~~

or has lain idle for more than five years, unless the idle land is registered in a federal or state soils conservation program, or unless the activity is maintenance of irrigation ditches, laterals, canals, or drainage ditches related to an existing and ongoing agricultural activity.

(14) ~~“Compaction” means densification of a fill by mechanical means.~~

(15) ~~“Critical areas” means, at a minimum, areas which include wetlands, areas with a critical recharging effect on aquifers used for potable water, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, including unstable slopes, and associated areas and ecosystems.~~

(16) ~~“Design storm” means a prescribed hyetograph and total precipitation amount (for a specific duration recurrence frequency) used to estimate runoff for a hypothetical storm of interest or concern for the purposes of analyzing existing drainage, designing new drainage facilities or assessing other impacts of a proposed project on the flow of surface water. (A hyetograph is a graph of percentages of total precipitation for a series of time steps representing the total time during which the precipitation occurs.)~~

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

(18) ~~“Detention facility” means an above or below ground facility, such as a pond or tank, that temporarily stores storm water runoff and subsequently releases it at a slower rate than it is collected by the drainage facility system. There is little or no infiltration of stored storm water.~~

(19) ~~“Drainage basin” means a geographic and hydrologic subunit of a water shed.~~

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

(21) ~~“Ecology” means the Washington State Department of Ecology.~~

(22) ~~“Effective impervious surface” means those impervious surfaces that are connected via sheet flow or discrete conveyance to a drainage system. Impervious surfaces on residential development sites are considered ineffective if the runoff is dispersed through at least 100 feet of native vegetation.~~

(23) ~~“Engineering geologist” means a geologist experienced and knowledgeable in engineering geology.~~

(24) ~~“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.~~

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

(26) ~~“Excavation” means the mechanical removal of earth material.~~

(27) ~~“Existing site conditions” means:~~

~~(a) For developed sites with storm water facilities that have been constructed to meet the standards in the minimum requirements of this chapter, “existing site conditions” shall mean the existing conditions on the site.~~

~~(b) For developed sites that do not have storm water facilities that meet the minimum requirements, “existing site conditions” shall mean the conditions that existed prior to local government adoption of a storm water management program. If in question, the existing site conditions shall be documented by aerial photograph records or other appropriate means.~~

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

(29) ~~“Fill” means a deposit of earth material placed by artificial means.~~

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

~~(a) Road and trail construction;~~

~~(b) Harvesting, final and intermediate;~~

- (c) Precommercial thinning;
- (d) Reforestation;
- (e) Fertilization;
- (f) Prevention and suppression of diseases and insects;
- (g) Salvage of trees;
- (h) Brush control.

(31) "Frequently flooded areas" means the 100-year flood plain designations of the Federal Emergency Management Agency and the National Flood Insurance Program.

(32) "Full stabilization" means concrete or asphalt paving; quarry spalls used as ditch lining; or the use of rolled erosion products, a bonded fiber matrix product, or vegetative cover in a manner that will fully prevent soil erosion.

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

(34) "Grade" means the slope of a road, channel, or natural ground. The finished surface of a canal bed, road bed, top of embankment, or bottom of excavation; any surface prepared for the support of construction such as paving or the laying of a conduit.

(a) "Existing grade" means the grade prior to grading.

(b) "Rough grade" means the stage at which the grade approximately conforms to the approved plan.

(c) "Finish grade" means the final grade of the site which conforms to the approved plan.

(35) "Gradient terrace" means an earth embankment or a ridge and channel constructed with suitable spacing and an acceptable grade to reduce erosion damage by intercepting surface runoff and conducting it to a stable outlet at a stable nonerosive velocity.

(36) To "grade" means to finish the surface of a canal bed, road bed, top of embankment or bottom of excavation.

(37) "Ground water" means water in a saturated zone or stratum beneath the surface of land or a surface water body.

(38) "Highway" means a main public road connecting towns and cities.

(39) "Hydroperiod" means the seasonable occurrence of flooding and/or soil saturation; it encompasses depth, frequency, duration, and seasonal pattern of inundation.

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

(41) "Illicit discharge" means all non-storm water discharges to storm water drainage systems that cause or contribute to a violation of state water quality, sediment quality or ground water quality standards, including but not limited to sanitary sewer connections, industrial process water, interior floor drains, car washing and graywater systems.

(42) "Interflow" means that portion of rainfall that infiltrates into the soil and moves laterally through the upper soil horizons until intercepted by a stream channel or until it returns to the surface, for example, in a wetland, spring or seep.

(43) "Land-disturbing activity" means any activity that results in movement of earth, or a change in the existing soil cover (both vegetative and nonvegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to, clearing, grading, filling and excavation. Compaction that is associated with stabilization of

~~structures and road construction shall also be considered a land-disturbing activity. Vegetation maintenance practices are not considered land-disturbing activity.~~

~~(44) "Large parcel erosion and sediment control plan" or "large parcel ESC plan" means a plan to implement BMPs to control pollution generated during land-disturbing activity.~~

~~(45) "Low impact development" means a storm water management and land development strategy applied at the parcel and subdivision scale that emphasizes conservation and use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely mimic pre-development hydrologic functions.~~

~~(46) "Maintenance" means activities or repairs conducted on currently serviceable structures, facilities, and equipment that involves no expansion or use beyond that previously existing and results in no significant adverse hydrologic impact. It includes those usual activities taken to prevent a decline, lapse, or cessation in the use of structures and systems. Those usual activities may include replacement of dysfunctional facilities, including cases where environmental permits require replacing an existing structure with a different type structure, as long as the functioning characteristics of the original structure are not changed.~~

~~(47) "Mitigation" means, in the following order of preference:~~

~~(a) Avoiding the impact altogether by not taking a certain action or part of an action;~~

~~(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;~~

~~(c) Rectifying the impact by repairing, rehabilitating or restoring the affected environment;~~

~~(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; and~~

~~(e) Compensation for the impact by replacing, enhancing, or providing substitute resources or environments.~~

~~(48) "Native vegetation" means vegetation comprised of plant species, other than noxious weeds, that are indigenous to the coastal region of the Pacific Northwest and which reasonably could have been expected to naturally occur on the site. Examples include trees such as Douglas fir, western hemlock, western red cedar, alder, big leaf maple, and vine maple; shrubs such as willow, elderberry, salmonberry, and salal; and herbaceous plants such as sword fern, foam flower, and fireweed.~~

~~(49) "Natural location" means the location of those channels, swales, and other nonmanmade conveyance systems as defined by the first documented topographic contours existing for the subject property, either from maps or photographs, or such other means as appropriate.~~

~~(50) "New development" means the following activities: land-disturbing activities, structural development, including construction, installation or expansion of a building or other structure; creation of impervious surfaces; Class IV general forest practices that are conversions from timber land to other uses; and subdivision and short subdivision of land and binding site plans as defined in RCW [58.17.020](#). All other forest practices and commercial agriculture are not considered new development.~~

~~(51) "Permanent storm water quality control (PSQC) plan" means a plan which includes permanent BMPs for the control of pollution from storm water runoff after construction and/or land-disturbing activity has been completed. For small sites, this requirement is met by implementing a small parcel erosion and sediment control plan. Guidance on preparing a PSQC plan is contained in the manual.~~

~~(52) "Person" means any individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, agency of the state, or local government unit, however designated.~~

~~(53) "Pollution" means contamination or other alteration of the physical, chemical, or biological properties of waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.~~

~~(54) "Pollution-generating impervious surface (PGIS)" means those impervious surfaces considered to be a significant source of pollutants in storm water runoff. Such surfaces include those which are subject to: vehicular~~

use; industrial activities (as further defined in the glossary); or storage of erodible or leachable materials, wastes, or chemicals, and which receive direct rainfall or the run-on or blow-in of rainfall. Erodible or leachable materials, wastes, or chemicals are those substances which, when exposed to rainfall, measurably alter the physical or chemical characteristics of the rainfall runoff. Examples include erodible soils that are stockpiled, uncovered process wastes, manure, fertilizers, oily substances, ashes, kiln dust, and garbage dumpster leakage. Metal roofs are also considered to be PGIS unless they are coated with an inert, nonleachable material (e.g., baked-on enamel coating).

A surface, whether paved or not, shall be considered subject to vehicular use if it is regularly used by motor vehicles. The following are considered regularly used surfaces: roads, unvegetated road shoulders, bike lanes within the traveled lane of a roadway, driveways, parking lots, unfenced fire lanes, vehicular equipment storage yards, and airport runways.

The following are not considered regularly used surfaces: paved bicycle pathways separated from and not subject to drainage from roads for motor vehicles, fenced fire lanes, and infrequently used maintenance access roads.

(55) "Pollution-generating pervious surfaces (PGPS)" means any non-impervious surface subject to use of pesticides and fertilizers or loss of soil. Typical PGPS include lawns, landscaped areas, golf courses, parks, cemeteries, and sports fields.

(56) "Predeveloped condition" means the native vegetation and soils that existed at a site prior to the influence of Euro-American settlement. The predeveloped condition shall be assumed to be a forested land cover unless reasonable, historic information is provided that indicates the site was prairie prior to settlement.

(57) "Project site" means that portion of a property, properties, or right-of-way subject to land-disturbing activities, new impervious surfaces, or replaced impervious surfaces.

(58) "Redevelopment" means, on an already substantially developed (i.e., has 35 percent or more of existing impervious surface coverage) site, the creation or addition of impervious surfaces, structural development including construction, installation or expansion of a building or other structure, and/or replacement of impervious surface that is not part of a routine maintenance activity, and land-disturbing activities associated with structural or impervious redevelopment.

(59) "Regional retention/detention system" means a storm water quantity control structure designed to correct existing excess surface water runoff problems of a basin or subbasin. The area downstream has been previously identified as having existing or predicated significant and regional flooding and/or erosion problems. This term is also used when a detention facility is used to detain storm water runoff from a number of different businesses, developments or areas within a catchment.

(60) "Replaced impervious surface" means, for structures, the removal and replacement of any exterior impervious surfaces or foundation. For other impervious surfaces, the removal down to bare soil or base course and replacement.

(61) "Retention/detention facility (R/D)" means a type of drainage facility designed either to hold water for a considerable length of time and then release it by evaporation, plant transpiration, and/or infiltration into the ground; or to hold surface and storm water runoff for a short period of time and then release it to the surface and storm water management system.

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

(63) "Slope" means the degree of deviation of a surface from the horizontal, measured as a numerical ratio, percent, or in degrees. Expressed as a ratio, the first number is the horizontal distance (run) and the second is the vertical distance (rise), as 2:1. A 2:1 slope is a 50 percent slope. Expressed in degrees, the slope is the angle from the horizontal plane, with a 90-degree slope being vertical (maximum) and 45 degrees being a 1:1 or 100 percent slope.

(64) "Small parcel erosion and sediment control plan" or "small parcel ESC plan" means a plan for small sites to implement temporary BMPs to control pollution generated during the construction phase only, primarily erosion and sediment. Guidance for preparing a small parcel ESC plan is contained in the manual.

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

(66) "Source control BMP" means a structure or operation that is intended to prevent pollutants from coming into contact with storm water through physical separation of areas or careful management of activities that are sources of pollutants. This manual separates source control BMPs into two types. Structural source control BMPs are physical, structural, or mechanical devices, or facilities that are intended to prevent pollutants from entering storm water. Operational BMPs are nonstructural practices that prevent or reduce pollutants from entering storm water.

(67) "Storm water" means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, channels or pipes into a defined surface water channel, or a constructed infiltration facility.

(68) "Storm water drainage system" means constructed and natural features which function together as a system to collect, convey, channel, hold, inhibit, retain, detain, infiltrate, divert, treat or filter storm water.

(69) "Storm water facility" means a constructed component of a storm water drainage system, designed or constructed to perform a particular function, or multiple functions. Storm water facilities include, but are not limited to, pipes, swales, ditches, culverts, street gutters, detention basins, retention basins, constructed wetlands, infiltration devices, catch basins, oil/water separators, sediment basins and modular pavement.

(70) "Storm Water Management Manual" or "manual" means the Washington State Department of Ecology 2005 Storm Water Management Manual for Western Washington.

(71) "Storm water site plan" means a plan which includes an erosion and sediment control (ESC) plan and/or a permanent storm water quality control plan (PSQCP). For small sites, this plan is the equivalent of a small parcel erosion and sediment control plan. Guidance on preparing a storm water site plan is contained in the manual.

(72) "Threshold discharge area" means an on-site area draining to a single natural discharge location or multiple natural discharge locations that combine within one quarter mile downstream (as determined by the shortest flowpath).

(73) "Toe of slope" means a point or line of slope in an excavation or cut where the lower surface changes to horizontal or meets the existing ground slope.

(74) "Top of slope" means a point or line on the upper surface of a slope where it changes to horizontal or meets the original surface.

(75) "Treatment BMP" means a BMP that is intended to remove pollutants from storm water. A few examples of treatment BMPs are detention ponds, oil/water separators, biofiltration swales and constructed wetlands.

(76) "Unstable slopes" means those sloping areas of land which have in the past exhibited, are currently exhibiting, or will likely in the future exhibit mass movement of earth.

(77) "Water body" means surface waters including rivers, streams, lakes, marine waters, estuaries, and wetlands.

(78) "Watershed" means a geographic region within which water drains into a particular river, stream, or body of water as identified and numbered by the state of Washington water resource inventory areas (WRIAs) as defined in Chapter 173-500 WAC.

(79) "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.

(80) "Vegetation" means all organic plant life growing on the surface of the earth. (Ord. 1576 § 1, 2010; Ord. 1537 § 2, 2008; Ord. 1086 § 2, 1997; Ord. 1044, 1996).

Section Twelve. OHMC Section 12.30.210 is hereby amended to read as follows:

12.30.210 Regulated activities.

Consistent with the 9 minimum requirements ~~as identified in Chapter 2, Volume I of the manual contained in this chapter,~~ the director shall approve or disapprove the following activities, unless exempted in OHMC [12.30.220](#):

(1) New Development.

- (a) Land disturbing activities, ~~including Class IV – general forest practices that are conversions from timber land to other uses;~~
- (b) Structural development, including construction ~~or~~ installation ~~or expansion~~ of a building or other structure;
- (c) Creation ~~or of replacement of impervious hard~~ surfaces;
- (d) ~~Class IV general forest practices that are conversions from timber land to other uses;~~
- (e) Subdivision, short subdivision and binding site plans, as defined ~~and applied~~ in RCW [58.17.020](#).

(2) Redevelopment. On an already substantially developed site (i.e. has 35% or more of existing hard surface coverage), the creation or addition of hard impervious surfaces, the expansion of a building footprint or addition or replacement of a structure, structural development including construction, installation or expansion of a building or other structure, land-disturbing activity, and/or replacement of hard impervious surface that is not part of a routine maintenance activity, and land-disturbing activities associated with structural or impervious redevelopment. (Ord. [1576](#) § 1, 2010; Ord. [1537](#) § 4, 2008; Ord. [1086](#) § 2, 1997; Ord. [1044](#), 1996).

Section Thirteen. OHMC Section 12.30.220 is hereby amended to read as follows:

12.30.220 Exemptions.

(1) Commercial agriculture, ~~and forest~~ practices involving working the land for production are generally exempt. However, the conversion from timberland to agriculture, and the construction of impervious surfaces are not exempt. regulated under WAC Title 222, except for Class IV general forest practices that are conversions from timber land to other uses, are exempt from the provisions of this chapter.

(2) ~~The following pavement maintenance practices are exempt: Road maintenance activities, including~~ pothole and square cut patching, overlaying existing asphalt or concrete pavements with asphalt or concrete without expanding the area of coverage, shoulder grading, reshaping/regrading drainage systems, crack sealing, resurfacing with in-kind material (including bituminous surface treatments over existing asphalt) without expanding the road prism, pavement preservation activities that do not expand the road prism, and vegetation maintenance managements are exempt from the provisions of this chapter.

The following pavement maintenance practices are not categorically exempt. The extent to which the manual applies is explained for each circumstance.

- Removing and replacing a paved surface to base course or lower, or repairing the pavement base: If impervious surfaces are not expanded, Minimum Requirements #1 - #5 apply.
- Extending the pavement edge without increasing the size of the road prism, or paving graveled shoulders: These are considered new impervious surfaces and are subject to the minimum requirements that are triggered when the thresholds identified for new or redevelopment projects are met.
- Resurfacing by upgrading from dirt to gravel, asphalt, or concrete; upgrading from gravel to asphalt, or concrete; or upgrading from a bituminous surface treatment ("chip seal") to asphalt or concrete: These are considered new impervious surfaces and are subject to the minimum requirements that are triggered when the thresholds identified for new or redevelopment projects are met.

(3) ~~Development undertaken by the Washington State Department of Transportation in state highway rights-of-way is regulated by Chapter 173-270 WAC, the Puget Sound Highway Runoff Program. Forest practices regulated under Title 222 WAC, except for Class IV General forest practices that are conversions from timber land to other uses, are exempt from the provisions of the minimum requirements.~~

(4) Underground utility projects that replace the ground surface with in-kind material or materials with similar runoff characteristics are exempt from the provisions of this chapter except for Minimum Requirement #2, Construction Storm Water Pollution Prevention.

All other new development and redevelopment is subject to the minimum requirements identified in the manual of this chapter. (Ord. [1576](#) § 1, 2010; Ord. [1537](#) § 4, 2008; Ord. [1086](#) § 2, 1997; Ord. [1044](#), 1996).

Section Fourteen. OHMC Section 12.30.310 is hereby amended to read as follows:

12.30.310 Stormwater Management Manual for Western Washington adopted.

The 20~~12~~⁰⁵ Stormwater Manual for Western Washington, as amended in December 2014 issued by the Washington State Department of Ecology is hereby adopted by reference and is hereinafter referred to as “the manual,” a copy of which is filed with the city clerk. The director shall maintain a copy of the manual in his/her office. (Ord. [1576](#) § 1, 2010; Ord. [1537](#) § 5, 2008; Ord. [1086](#) § 2, 1997; Ord. [1044](#), 1996).

Section Fifteen. OHMC Section 12.30.320 is hereby amended to read as follows:

12.30.320 Storm water best management practices (BMPs)/Low impact development.

(1) General. BMPs shall be used to control stormwater, pollution from storm water, and provide flow control as required by this Chapter. BMPs shall be used to comply with the standards in this chapter. BMPs are in the manual; provided, that if there is a conflict with the Oak Harbor storm water plan, the provision with the greatest environmental protection shall apply.

(2) Experimental BMPs. The standards and specifications for BMP's identified in the manual are not intended to limit any innovative or creative effort to effectively control erosion and sedimentation. Construction SWPPPs can contain experimental BMPs or make minor modifications to standard BMPs. However, the City must approve such practices before use. All experimental BMPs and modified BMPs must achieve the same or better performance than the BMPs listed in the manual. In those instances where appropriate BMPs are not in the manual, experimental BMPs should be considered. Experimental BMPs are encouraged as a means of solving problems in a manner not addressed by the manual in an effort to improve storm water quality technology. Experimental BMPs must be approved in accordance with the approval process outlined in the manual. (Ord. [1576](#) § 1, 2010; Ord. [1537](#) § 5, 2008; Ord. [1086](#) § 2, 1997; Ord. [1044](#), 1996).

(3) Low impact development. It is the policy of the city to fully implement the requirements of the manual which includes technical requirements, site planning, design considerations, and low impact development stormwater management techniques.

Section Sixteen. OHMC Section 12.30.510 is hereby amended to read as follows:

12.30.510 New development.

(1) All new development shall be required to comply with Minimum Requirement #2.

(2) The following new development shall comply with Minimum Requirements #1 through #5 for the new and replaced ~~hard impervious~~ surfaces and the land disturbed:

- (a) ~~Creates or adds Results in~~ 2,000 square feet, or greater, of new, replaced, or new plus replaced ~~hard impervious~~ surface area; or
- (b) Has land-disturbing activity of 7,000 square feet or greater.

(3) The following new development shall comply with Minimum Requirements #1 through ~~#9~~ ⁴⁰ for the new ~~and replaced hard impervious~~ surfaces and the converted ~~vegetation areas pervious surfaces~~:

- (a) ~~Results in Creates or adds~~ 5,000 square feet, or more, of new ~~plus replaced hard impervious~~ surface area; or
- (b) Converts three-quarters of an acre, or more, of ~~native~~ vegetation to lawn or landscaped areas; or
- (c) Converts two and one-half acres, or more, of native vegetation to pasture. (Ord. [1576](#) § 1, 2010; Ord. [1537](#) § 7, 2008; Ord. [1086](#) § 2, 1997; Ord. [1044](#), 1996).

Section Seventeen. OHMC Section 12.30.515 is hereby amended to read as follows:

12.30.515 Redevelopment.

(1) All redevelopment shall be required to comply with Minimum Requirement #2. In addition, all redevelopment that exceeds certain thresholds shall be required to comply with additional minimum requirements as follows.

(2) The following redevelopment shall comply with Minimum Requirements #1 through #5 for the new and replaced ~~hard impervious~~ surfaces and the land disturbed:

- (a) The new, ~~plus~~ replaced, ~~or total of new plus replaced impervious~~ ~~hard~~ surfaces ~~results in is~~ 2,000 square feet or more; or
- (b) Seven thousand square feet or more of land-disturbing activities.

(3) The following redevelopment shall comply with Minimum Requirements #1 through ~~#9 42~~ for the new ~~hard impervious~~ surfaces and converted pervious areas:

- (a) Adds 5,000 square feet or more of new ~~hard impervious~~ surfaces; or
- (b) Converts three-quarters of an acre, or more, of ~~native~~ vegetation to lawn or landscaped areas; or
- (c) Converts two and one-half acres, or more, of native vegetation to pasture.

~~(4) If the runoff from the new impervious surfaces and converted pervious surfaces is not separated from runoff from other surfaces on the project site, the storm water treatment facilities must be sized for the entire flow that is directed to them.~~

~~(54)~~ The director may allow the minimum requirements to be met for an equivalent (flow and pollution characteristics) area within the same site. For public roads' projects, the equivalent area does not have to be within the project limits, but must drain to the same receiving water.

~~(65)~~ Additional requirements for the project site

~~(a)~~ For road-related projects, runoff from the replaced and new impervious surfaces (including pavement, shoulders, curbs, and sidewalks) ~~and the converted vegetated areas~~ shall meet all the minimum requirements if the new ~~hard impervious~~ surfaces total 5,000 square feet or more and total 50 percent or more of the existing ~~hard impervious~~ surfaces within the project limits. The project limits shall be defined by the length of the project and the width of the right-of-way.

~~(7b)~~ Other types of redevelopment projects shall comply with ~~all~~ the minimum requirements ~~#1 through #9~~ for the new and replaced ~~hard impervious~~ surfaces ~~and the converted vegetated areas~~ if the total of new plus replaced ~~hard impervious~~ surfaces is 5,000 square feet or more, and the valuation of proposed improvements, including interior improvements, exceeds 50 percent of the assessed value of the existing site improvements. (Ord. ~~1576~~ § 1, 2010; Ord. ~~1537~~ § 7, 2008; Ord. ~~1086~~ § 2, 1997; Ord. ~~1044~~, 1996).

~~(c)~~ The City may exempt or institute a stop-loss provision for redevelopment projects from compliance with Minimum Requirements #5 On-site Stormwater Management, Minimum Requirement #6 Runoff Treatment, Minimum Requirement #7 Flow Control, and/or Minimum Requirement #8 Wetlands Protection as applied to the replaced hard surfaces if the City has adopted a plan and a schedule that fulfills those requirements in regional facilities.

~~(d)~~ The City may grant a variance/exception to the application of the flow control requirements to replaced impervious surfaces if such application imposes a severe economic hardship.

Section Eighteen. OHMC Section 12.30.525 is hereby amended to read as follows:

12.30.525 Minimum Requirement #2 – Construction storm water pollution prevention (SWPP).

All new development and redevelopment projects are responsible for preventing erosion and discharge of sediment and other pollutants into receiving waters. ~~All new development and redevelopment shall comply with Construction SWPP Elements #1 through #12 below.~~

Projects in which ~~result in the new, replaced, or new plus replaced impervious surfaces total~~ 2,000 square feet of new plus replaced hard surface area, or more, or disturb 7,000 square feet or more of land must prepare a construction storm water pollution prevention plan (SWPPP) as part of the storm water site plan.

~~Projects that result in add or replace less than 2,000 square feet of new plus replaced hard surface area, or disturb less than 7,000 square feet of land are not required to prepare a construction SWPPP, but must consider all of the 12-3 elements of construction storm water pollution prevention and develop controls for all elements that pertain to the project site.~~

General Requirements

The SWPPP shall include a narrative and drawings. All BMPs shall be clearly referenced in the narrative and marked on the drawings. The SWPPP narrative shall include documentation to explain and justify the pollution prevention decisions made for the project. ~~Sediment and erosion control BMPs shall be consistent with the BMPs contained in Chapters 3 and 4 of Volume II of the manual, and/or other equivalent BMPs contained in technical manuals approved by Ecology.~~ Each of the 123 elements must be considered and included in the construction SWPPP unless site conditions render the element unnecessary and the exemption from that element is clearly justified in the narrative of the SWPPP.

~~Projects that add or replace less than 2,000 square feet of impervious surface or disturb less than 7,000 square feet of land are not required to prepare a construction SWPPP, but must consider all of the 12 elements of construction storm water pollution prevention and develop controls for all elements that pertain to the project site.~~

~~Clearing and grading activities for developments shall be permitted only if conducted pursuant to an approved site development plan (e.g., subdivision approval) that establishes permitted areas of clearing, grading, cutting, and filling. These permitted clearing and grading areas and any other areas required to preserve critical or sensitive areas, buffers, native growth protection easements, or tree retention areas shall be delineated on the site plans and the development site.~~

~~The SWPPP shall be implemented beginning with initial land disturbance and until final stabilization. Sediment and Erosion control BMPs shall be consistent with the BMPs contained in Chapters 3 and 4 of Volume II of the manual.~~

~~Seasonal Work Limitations - From October 1 through April 30, clearing, grading, and other soil disturbing activities shall only be permitted if shown to the satisfaction of the city engineer that silt-laden runoff will be prevented from leaving the site through a combination of the following:~~

- ~~(1) Site conditions including existing vegetative coverage, slope, soil type and proximity to receiving waters.~~
- ~~(2) Limitations on activities and the extent of disturbed areas.~~
- ~~(3) Proposed erosion and sediment control measures.~~

~~The following activities are exempt from the seasonal clearing and grading limitations:~~

- ~~(1) Routine maintenance and necessary repair of erosion and sediment control BMPs.~~
- ~~(2) Routine maintenance of public facilities or existing utility structures that do not expose the soil or result in the removal of the vegetative cover to soil.~~
- ~~(3) Activities where there is one hundred percent infiltration of surface water runoff within the site in approved and installed erosion and sediment control facilities.~~

Project Requirements – Construction SWPPP Elements

- (1) Element #1: Preserve Vegetation/Mark Clearing Limits.
 - (a) Prior to beginning land-disturbing activities, including clearing and grading, all clearing limits, sensitive areas and their buffers, and trees that are to be preserved within the construction area shall be clearly marked, ~~both in the field and on the plans, to prevent damage and off-site impacts.~~
 - ~~(b) Plastic, metal, or stake wire fence may be used to mark the clearing limits.~~

~~(eb) Retain t~~The duff layer, native top soil, and natural vegetation shall be retained in an undisturbed state to the maximum extent practicable. ~~If it is not practicable to retain the duff layer in place, it should be stockpiled on site, covered to prevent erosion, and replaced immediately upon completion of the ground-disturbing activities.~~

(2) Element #2: Establish Construction Access.

(a) ~~Limit c~~Construction vehicle access and exit shall be limited to one route, if possible, ~~or two for linear projects such as roadways where more than one access is necessary for large equipment maneuvering.~~

(b) Access points shall be stabilized with a pad of quarry spalls, ~~or~~ crushed rock, or other equivalent BMPs, ~~prior to traffic leaving the construction site~~ to minimize the tracking of sediment onto public roads.

(c) Wheel wash or tire baths should be located on site if the stabilized construction entrance is not effective in preventing sediment from being tracked onto public roads.

(d) If sediment is tracked off site, public roads shall be cleaned thoroughly at the end of each day, or more frequently during wet weather, if necessary, ~~to prevent sediment from entering waters of the state.~~ Sediment shall be removed from roads by shoveling or pickup sweeping and shall be transported to a controlled sediment disposal area. Street washing will be allowed only after sediment is removed in this manner.

(e) Street wash wastewater shall be controlled by pumping back on site, or otherwise be prevented from discharging into systems tributary to state surface waters.

(3) Element #3: Control Flow Rates.

(a) Properties and waterways downstream from development sites shall be protected from erosion due to increases in the ~~volume,~~ velocity, and peak volumetric flow rate of storm water runoff from the project site, ~~as required by local plan approval authority.~~

~~(b) Downstream analysis is necessary if changes in flows could impair or alter conveyance systems, stream banks, bed sediment or aquatic habitat.~~

~~(c) Where necessary to comply with the bullet above, construct storm water retention or detention facilities as one of the first steps in grading. Assure that detention facilities function properly before constructing site improvements (e.g., impervious surfaces) Minimum Requirement #7, storm water retention/detention facilities shall be constructed as one of the first steps in grading. Detention facilities shall be functional prior to construction of site improvements (e.g., impervious surfaces).~~

~~(d) The director may require pond designs that provide additional or different storm water flow control if necessary to address local conditions or to protect properties and waterways downstream from erosion due to increases in the volume, velocity, and peak flow rate of storm water runoff from the project site.~~

~~(ec) If permanent infiltration ponds are used for flow control during construction, these facilities should be protected from siltation during the construction phase.~~

(4) Element #4: Install Sediment Controls.

~~(a) Prior to leaving a construction site, or prior to discharge to an infiltration facility, storm water runoff from disturbed areas shall pass through a sediment pond or other appropriate sediment removal BMP. Runoff from fully stabilized areas may be discharged without a sediment removal BMP, but must meet the flow control performance standard of Element #3. The director shall inspect and approve areas stabilized by means other than pavement or quarry spalls. Design, install, and maintain effective erosion controls and sediment controls to minimize the discharge of pollutants.~~

~~(b) Construct sediment control BMPs (sSediment ponds, traps, vegetated buffer strips, sediment barriers or filters, etc.) dikes, and other BMPs intended to trap sediment on-site shall be constructed as one of the first steps in grading. These BMPs shall be functional before other land-disturbing activities take place.~~

~~(c) Minimize sediment discharges from the site. The design, installation and maintenance of erosion and sediment controls must address factors such as the amount, frequency, intensity and duration of precipitation, the nature of resulting stormwater runoff, and soil characteristics, including the range of soil particle sizes~~

~~expected to be present on the site. Earthen structures such as dams, dikes, and diversions shall be seeded and mulched according to the timing indicated in Element #5.~~

~~(d) Direct stormwater runoff from disturbed areas through a sediment pond or other appropriate sediment removal BMP, before the runoff leaves a construction site or before discharge to an infiltration facility. Runoff from fully stabilized areas may be discharged without a sediment removal BMP, but must meet the flow control performance standard in Element #3(a).~~

~~(de) Locate BMPs intended to trap sediment on-site must be located in a manner to avoid interference with the movement of juvenile salmonids attempting to enter off-channel areas or drainages, often during nonstorm events, in response to rain event changes in stream elevation or wetted area.~~

~~(f) Where feasible, design outlet structures that withdraw impounded stormwater from the surface to avoid discharging sediment that is still suspended lower in the water column.~~

(5) Element #5: Stabilize Soils.

~~(a) All exposed and unworked soils shall be stabilized by application of effective BMPs that prevent erosion protect the soil from the erosive forces of raindrop impact and flowing water, and wind erosion. Applicable BMPs include, but are not limited to: temporary and permanent seeding, sodding, mulching, plastic covering, erosion control fabrics and matting, soil application of polyacrylamide (PAM), the early application of gravel base early on areas to be paved, and dust control.~~

~~(b) Control stormwater volume and velocity within the site to minimize soil erosion. From October 1st through April 30th, no soils shall remain exposed and unworked for more than two days. From May 1st to September 30th, no soils shall remain exposed and unworked for more than seven days. This condition applies to all soils on site, whether at final grade or not. These time limits may be adjusted by the local permitting authority if it can be shown that the average time between storm events justifies a different standard.~~

~~(c) Control stormwater discharges, including both peak flow rates and total stormwater volume, to minimize erosion at outlets and to minimize downstream channel and stream bank erosion. Soils shall be stabilized at the end of the shift before a holiday or weekend if needed based on the weather forecast.~~

~~(d) Soils must not remain exposed and unworked for more than the time periods set forth below to prevent erosion:~~

- ~~• During the dry season (May 1 - Sept. 30): 7 days~~
- ~~• During the wet season (October 1 - April 30): 2 days~~

~~Applicable practices include, but are not limited to, temporary and permanent seeding, sodding, mulching, plastic covering, soil application of polyacrylamide (PAM), the early application of gravel base on areas to be paved, and dust control.~~

~~(e) Stabilize soils at the end of the shift before a holiday or weekend if needed based on the weather forecast. Soil stabilization measures selected should be appropriate for the time of year, site conditions, estimated duration of use, and potential water quality impacts that stabilization agents may have on downstream waters or ground water.~~

~~(f) Soil stockpiles must be stabilized from erosion, protected with sediment trapping measures, and, when possible, be located away from storm drain inlets, waterways and drainage channels.~~

~~(g) Minimize the amount of soil exposed during construction activity, the disturbance of steep slopes, and minimize soil compaction and, unless infeasible, preserve topsoil. Linear construction activities, including right-of-way and easement clearing, roadway development, pipelines, and trenching for utilities, shall be conducted to meet the soil stabilization requirement. Contractors shall install the bedding materials, roadbeds, structures, pipelines, or utilities and restabilize the disturbed soils so that:~~

~~(i) From October 1st through April 30th, no soils shall remain exposed and unworked for more than two days; and~~

~~(ii) From May 1st to September 30th, no soils shall remain exposed and unworked for more than seven days.~~

(6) Element #6: Protect Slopes.

~~(a) Design and construct cut-and-fill slopes in a manner to minimize erosion. Applicable practices include, but are not limited to, reducing continuous length of slope with terracing and diversions, reducing slope steepness,~~

~~and roughening slope surfaces (for example, track walking). Cut and fill slopes shall be designed and constructed in a manner that will minimize erosion.~~

~~(b) Divert off-site stormwater (run-on) or ground water away from slopes and disturbed areas with interceptor dikes, pipes and/or swales. Off-site stormwater should be managed separately from stormwater generated on the site. Consider soil type and its potential for erosion.~~

(c) Reduce slope runoff velocities by reducing the continuous length of slope with terracing and diversions, reduce slope steepness, and roughen slope surface.

(d) Off-site storm water (run-on) shall be diverted away from slopes and disturbed areas with interceptor dikes and/or swales. Off-site storm water should be managed separately from storm water generated on the site.

(e) At the top of slopes, collect drainage in pipe slope drains or protected channels to prevent erosion. Temporary pipe slope drains shall handle the peak volumetric flow rate calculated using a 10-minute time step from a Type 1A, from a 10-year, 24-hour frequency storm for the event assuming a Type 1A rainfall distribution to the developed condition. Alternatively, the 10-year and 25-year, one-hour flow rates predicted indicated by an approved continuous runoff model, increased by a factor of 1.6, may be used. The hydrologic analysis shall use the existing land cover condition for predicting flow rates from tributary areas outside the project limits. For tributary areas on the project site, the analysis shall use the temporary or permanent project land cover condition, whichever will produce the highest flow rates. If using the Western Washington Hydrology Model to predict flows, bare soil areas should be modeled as landscaped area.

~~(f) Provide drainage to remove ground water intersecting the slope surface of exposed soil areas.~~

~~(f)-(g)~~ Excavated material shall be placed on the uphill side of trenches, consistent with safety and space considerations.

~~(g)~~ ~~(h)~~ Check dams shall be placed at regular intervals within constructed channels that are cut down a slope.

~~(i) Stabilize soils on slopes, as specified in Element #5.~~

(7) Element #7: Protect Drain Inlets.

(a) All storm drain inlets made operable during construction shall be protected so that storm water runoff shall not enter the conveyance system without first being filtered or treated to remove sediment.

~~(b) All approach roads shall be kept clean.~~

~~(b)-(c)~~ Inlets should be inspected weekly at a minimum and daily during storm events. Inlet protection devices should be cleaned or removed and replaced when sediment has filled one-third of the available storage (unless a different standard is specified by the product manufacturer).

(8) Element #8: Stabilize Channels and Outlets.

(a) Design, construct, and stabilize all on-site conveyance channels to prevent erosion from the following expected peak flows:

Channels must handle the peak volumetric flow rate calculated using a 10-minute time step from a Type 1A, 10-year, 24-hour frequency storm for the developed condition. Alternatively, the 10-year, 1-hour flow rate indicated by an approved continuous runoff model, increased by a factor of 1.6, may be used. The hydrologic analysis must use the existing land cover condition for predicting flow rates from tributary areas outside the project limits. For tributary areas on the project site, the analysis must use the temporary or permanent project land cover condition, whichever will produce the highest flow rates. If using the Western Washington Hydrology Model (WWHM) to predict flows, bare soil areas should be modeled as "landscaped area."

~~All temporary on-site conveyance channels shall be designed, constructed and stabilized to prevent erosion from the expected peak 10-minute velocity of flow from a Type 1A, 10-year, 24-hour frequency storm for the developed condition. Alternatively, the 10-year, one-hour flow rate indicated by an approved continuous runoff model, increased by a factor of 1.6, may be used.~~

(b) Stabilization, including armoring material, adequate to prevent erosion of outlets, adjacent stream banks, slopes and downstream reaches shall be provided at the outlets of all conveyance systems.

(9) Element #9: Control Pollutants.

(a) Design, install, implement and maintain effective pollution prevention measures to minimize the discharge of pollutants.

~~(b) Handle and dispose of all pollutants, including waste materials and demolition debris that occur on-site in a manner that does not cause contamination of stormwater. All pollutants, including waste materials and demolition debris, that occur on-site shall be handled and disposed of in a manner that does not cause contamination of storm water. Woody debris may be chopped and spread on site.~~

~~(b) Cover, containment, and protection from vandalism shall be provided for all chemicals, liquid products, petroleum products, and non-inert wastes present on the site (see Chapter 173-304 WAC for the definition of inert waste). On-site fueling tanks shall include secondary containment.~~

(c) Provide cover, containment, and protection from vandalism for all chemicals, liquid products, petroleum products, and other materials that have the potential to pose a threat to human health or the environment. On-site fueling tanks must include secondary containment. Secondary containment means placing tanks or containers within an impervious structure capable of containing 110% of the volume contained in the largest take within the containment structure. Double-walled tanks do not require additional secondary containment.

~~(c) (d) Conduct maintenance, fueling, and repair of heavy equipment and vehicles using spill prevention and control measures. Clean contaminated surfaces immediately following any spill incident. Maintenance and repair of heavy equipment and vehicles involving oil changes, hydraulic system drain-down, solvent and degreasing cleaning operations, fuel tank drain-down and removal, and other activities which may result in discharge or spillage of pollutants to the ground or into storm water runoff must be conducted using spill prevention measures, such as drip pans. Contaminated surfaces shall be cleaned immediately following any discharge or spill incident. Emergency repairs may be performed on site using temporary plastic placed beneath and, if raining, over the vehicle.~~

~~(d) (e) Wheel wash or tire bath wastewater shall be discharged to a separate on-site treatment system that prevents discharge to surface water, such as closed-loop recirculation or upland application, or to the sanitary sewer, with local sewer district approval. or to the sanitary sewer.~~

~~(f) (e) Application of agricultural chemicals, including fertilizers and pesticides, shall be conducted in a manner and at application rates that will not result in loss of chemical to storm water runoff. Manufacturers' recommendations for application rates and procedures shall be followed.~~

~~(g) (f) BMPs shall be used to prevent ~~or treat~~ contamination of storm water runoff by pH-modifying sources. These sources include, but are not limited to, bulk cement, cement kiln dust, fly ash, new concrete washing and curing waters, waste streams generated from concrete grinding and sawing, exposed aggregate processes, dewatering concrete vaults, concrete pumping and mixer washout waters. and concrete pumping and mixer washout waters. Storm water discharges shall not cause or contribute to a violation of the water quality standard for pH in the receiving water.~~

~~(g) Construction sites with significant concrete work shall adjust the pH of storm water if necessary to prevent violations of water quality standards. Construction site operators shall obtain written approval from Ecology prior to using chemical treatment, other than CO₂ or dry ice, to adjust pH.~~

~~(h) Adjust the pH of stormwater if necessary to prevent violations of water quality standards.~~

(i) Assure that washout of concrete trucks is performed off-site or in designated concrete washout areas only. Do not wash out concrete trucks onto the ground, or into storm drains, open ditches, streets, or streams. Do not dump excess concrete on-site, except in designated concrete washout areas. Concrete spillage or concrete discharge to surface waters of the State is prohibited.

(j) Obtain written approval from Ecology before using chemical treatment other than CO₂ or dry ice to adjust pH.

(10) Element #10: Control De-Watering.

(a) Foundation, vault, and trench de-watering water, which has similar characteristics to storm water runoff at the site, shall be discharged into a controlled conveyance system prior to discharge to a sediment trap or sediment pond. ~~Channels must be stabilized, as specified in Element #8.~~

(b) Clean, nonturbid de-watering water, such as well-point ground water, can be discharged to systems tributary to or directly into state surface waters, as specified in Element #8, provided the de-watering flow does not cause erosion or flooding of receiving waters. These clean waters should not be routed through a storm water sediment pond. Note that "surface waters of the State" may exist on a construction site as well as off site; for example, a creek running through a site.

(c) Highly turbid or otherwise contaminated de-watering water, ~~such as from construction equipment operation, clamshell digging, concrete tremie pour, or work inside a cofferdam,~~ shall be handled separately from storm water.

(d) Other treatment or disposal options may include; ~~depending on site constraints, may include:~~ (i) infiltration, (ii) transport off site in a vehicle, such as a vacuum flush truck, for legal disposal in a manner that does not pollute state waters, (iii) Ecology-approved on-site chemical treatment or other suitable treatment technologies, (iv) sanitary or combined sewer discharge with local sewer district approval, if there is no other option, or (v) use of a sedimentation bag that discharges to a ditch or swale with outfall to a ditch or swale for small volumes of localized de-watering.

(11) Element #11: Maintain BMPs.

(a) All temporary and permanent erosion and sediment control BMPs shall be maintained and repaired as needed to assure continued performance of their intended function. ~~All maintenance and repair shall be conducted~~ in accordance with BMP specifications.

(b) All temporary erosion and sediment control BMPs shall be removed within 30 days after final site stabilization is achieved or after the temporary BMPs are no longer needed. ~~Trapped sediment shall be removed or stabilized on site. Disturbed soil areas resulting from removal of BMPs or vegetation shall be permanently stabilized.~~

(12) Element #12: Manage the Project.

(a) ~~Phaseing of Construction. d~~Development projects ~~shall be phased where feasible in order to prevent soil erosion and,~~ to the maximum degree extent practicable and take into account seasonal work limitations.

(b) Inspection and monitoring – Inspect, maintain and repair all BMPs as needed to assure continued performance of their intended function. Projects regulated under the Construction Stormwater General Permit must conduct site inspections and monitoring in accordance with Special Condition S4 of the Construction Stormwater General Permit. For construction sites one acre or larger that discharge storm water to surface waters of the state, a CESCL specialist shall be identified in the construction SWPPP and shall be on-site or on-call at all times. Certification may be obtained through an approved training program that meets the erosion and sediment control training standards established by Ecology.

(c) Maintaining an updated construction SWPPP – Maintain, update, and implement the SWPPP. Whenever inspection and/or monitoring reveals that the BMPs identified in the construction SWPPP are inadequate, due to the actual discharge of or potential to discharge a significant amount of any pollutant, appropriate BMPs or design changes shall be implemented as soon as possible.

(d) Projects that disturb one or more acres must have site inspections conducted by a Certified Erosion and Sediment Control Lead (CESCL). Project sites disturbing less than one acre may have a CESCL or a person without CESCL certification conduct inspections. By the initiation of construction, the SWPPP must identify the CESCL or inspector, who must be present on-site or on-call at all times. The construction SWPPP shall be retained on-site or within reasonable access to the site.

(e) The CESCL or inspector (project sites less than one acre) must have the skills to assess the:

- Site conditions and construction activities that could impact the quality of stormwater.
- Effectiveness of erosion and sediment control measures used to control the quality of stormwater discharges ~~The SWPPP shall be modified whenever there is a significant change in the design,~~

~~construction, operation, or maintenance at the construction site that has, or could have, a significant effect on the discharge of pollutants to waters of the state.~~

~~(f) The CESCL or inspector must examine stormwater visually for the presence of suspended sediment, turbidity, discoloration, and oil sheen. They must evaluate the effectiveness of BMPs and determine if it is necessary to install, maintain, or repair BMPs to improve the quality of stormwater discharges. Based on the results of the inspection, construction site operators must correct the problems identified by:~~

- ~~• Reviewing the SWPPP for compliance with the 13 construction SWPPP elements and making appropriate revisions within 7 days of the inspection.~~
- ~~• Immediately beginning the process of fully implementing and maintaining appropriate source control and/or treatment BMPs as soon as possible, addressing the problems not later than within 10 days of the inspection. If installation of necessary treatment BMPs is not feasible within 10 days, the construction site operator may request an extension within the initial 10-day response period.~~
- ~~• Documenting BMP implementation and maintenance in the site log book (sites larger than 1 acre). The SWPPP shall be modified if, during inspections or investigations conducted by the owner/operator, or the director, it is determined that the SWPPP is ineffective in eliminating or significantly minimizing pollutants in storm water discharges from the site. The SWPPP shall be modified as necessary to include additional or modified BMPs designed to correct problems identified. Revisions to the SWPPP shall be completed within seven calendar days following the inspection.~~

~~(g) The CESCL or inspector must inspect all areas disturbed by construction activities, all BMPs, and all stormwater discharge points at least once every calendar week and within 24 hours of any discharge from the site. (For purposes of this condition, individual discharge events that last more than one day do not require daily inspections. For example, if a stormwater pond discharges continuously over the course of a week, only one inspection is required that week.) The CESCL or inspector may reduce the inspection frequency for temporary stabilized, inactive sites to once every calendar month.~~

~~(13) Element #13: Protect Low Impact Development BMPs.~~

~~(a) Protect all Bioretention and Rain Garden BMPs from sedimentation through installation and maintenance of erosion and sediment control BMPs on portions of the site that drain into the Bioretention and/or Rain Garden the removed soils with soils meeting the design specification.~~

~~(b) Prevent compacting Bioretention and rain garden BMPs by excluding construction equipment and foot traffic. Protect completed lawn and landscaped areas from compaction due to construction equipment.~~

~~(c) Control erosion and avoid introducing sediment from surrounding land uses onto permeable pavements. Do not allow sediment-laden runoff onto permeable pavements or base materials.~~

~~(d) Pavement fouled with sediments or no longer passing an initial infiltration test must be cleaned using procedures in accordance with this manual or the manufacturer's procedures.~~

~~(e) Keep all heavy equipment off existing soils under LID facilities that have been excavated to final grade to retain the infiltration rate of the soils.~~

~~(134) Supplemental Guidelines. If a Construction SWPPP is found to be inadequate (with respect to erosion and sediment control requirements), then the city engineer should require that other BMPs be implemented, as appropriate.~~

~~The city engineer may allow development of generic Construction SWPPP's that apply to commonly conducted public road activities, such as road surface replacement, that trigger this minimum requirement. They may also develop an abbreviated SWPPP format for project sites that will disturb less than 1 acre.~~

~~Clearing and grading activities for developments shall be permitted only if conducted pursuant to an approved site development plan (e.g., subdivision approval) that establishes permitted areas of clearing, grading, cutting, and filling. When establishing these permitted clearing and grading areas, consideration should be given to minimizing removal of existing trees and minimizing disturbance/compaction of native soils except as needed for building purposes. These permitted clearing and grading areas and any other areas required to preserve critical or sensitive areas, buffers, native growth protection easements, or tree retention areas shall be delineated on the site plans and the development site.~~

~~(14) Seasonal Work Limitations. From October 1st through April 30th, clearing, grading, and other soil-disturbing activities shall only be permitted if shown to the satisfaction of the director that silt-laden runoff will be prevented from leaving the site through a combination of the following:~~

~~(a) Site conditions including existing vegetative coverage, slope, soil type and proximity to receiving waters; and~~

~~(b) Limitations on activities and the extent of disturbed areas; and~~

~~(c) Proposed erosion and sediment control measures.~~

(15) Based on the information provided and/or local weather conditions, the director city engineer may expand or restrict the seasonal limitation on site disturbance. The director city engineer shall take enforcement action, such as a notice of violation, administrative order, penalty, or stop work order, under the following circumstances:

(a) If, during the course of any construction activity or soil disturbance during the seasonal limitation period, sediment leaves the construction site causing a violation of the surface water quality standard; or

(b) If clearing and grading limits or erosion and sediment control measures shown in the approved plan are not maintained.

~~(16) The following activities are exempt from the seasonal clearing and grading limitations:~~

~~(a) Routine maintenance and necessary repair of erosion and sediment control BMPs;~~

~~(b) Routine maintenance of public facilities or existing utility structures that do not expose the soil or result in the removal of the vegetative cover to soil; and~~

~~(c) Activities where there is 100 percent infiltration of surface water runoff within the site in approved and installed erosion and sediment control facilities.~~

~~(17)~~ (16) (a) Coordination with Utilities and Other Contractors. The primary project proponent shall evaluate, with input from utilities and other contractors, the storm water management requirements for the entire project, including the utilities, when preparing the construction SWPPP.

~~(b) Inspection and Monitoring. All BMPs shall be inspected, maintained, and repaired as needed to assure continued performance of their intended function. Site inspections shall be conducted by a person who is knowledgeable in the principles and practices of erosion and sediment control. The person must have the skills to~~

~~(i) assess the site conditions and construction activities that could impact the quality of storm water, and~~

~~(ii) assess the effectiveness of erosion and sediment control measures used to control the quality of storm water discharges. (Ord. 1576 § 1, 2010; Ord. 1537 § 7, 2008; Ord. 1086 § 2, 1997; Ord. 1044, 1996).~~

Section Nineteen. OHMC Section 12.30.527 is amended as follows:

12.30.527 Minimum Requirement #3 – Source control of pollution.

~~All known, available and reasonable source control BMPs shall be applied to all projects. Source control BMPs shall be selected, designed, and maintained according to the manual. (Ord. 1576 § 1, 2010; Ord. 1537 § 7, 2008; Ord. 1086 § 2, 1997; Ord. 1044, 1996).~~

Section Twenty. OHMC Section 12.30.530 is amended as follows:

12.30.530 Minimum Requirement #4 – Preservation of natural drainage systems and outfalls.

~~Natural drainage patterns shall be maintained, and discharges from the project site shall occur at the natural location, to the maximum extent practicable. The manner by which runoff is discharged from the project site must not cause a significant adverse impact to downstream receiving waters and down-gradient properties. All outfalls require energy dissipation. (Ord. 1576 § 1, 2010; Ord. 1537 § 7, 2008; Ord. 1086 § 2, 1997; Ord. 1044, 1996).~~

Section Twenty-One. OHMC Section 12.30.535 is hereby amended as follows:

12.30.535 Minimum Requirement #5—On-site storm water management.

~~Projects shall employ on-site storm water management BMPs to infiltrate, disperse, and retain storm water runoff on site to the maximum extent feasible without causing flooding or erosion impacts. Roof downspout control BMPs, functionally equivalent to those described in the manual, and dispersion and soil quality BMPs, functionally equivalent to those in Chapter 5 of Volume V of the manual, shall be required to reduce the hydrologic disruption of developed sites. Use of low impact development practices and BMPs is encouraged and is consistent with the manual. (Ord. 1576 § 1, 2010; Ord. 1537 § 7, 2008; Ord. 1086 § 2, 1997; Ord. 1044, 1996).~~

Section Twenty-Two. OHMC Section 12.30.540 is hereby amended as follows:

12.30.540 Minimum Requirement #6—Runoff treatment.

~~(1) The following require construction of storm water treatment facilities:~~

- ~~(a) Projects in which the total of effective, pollution-generating impervious surface (PGIS) is 5,000 square feet or more in a threshold discharge area of the project; or~~
- ~~(b) Projects in which the total of pollution-generating pervious surfaces (PGPS) is three-quarters of an acre or more in a threshold discharge area, and from which there is a surface discharge in a natural or manmade conveyance system from the site.~~

~~(2) Treatment Type Thresholds.~~

~~(a) Oil Control. Treatment to achieve oil control applies to projects that have high-use sites. High-use sites are those that typically generate high concentrations of oil due to high traffic turnover or the frequent transfer of oil. High-use sites include:~~

- ~~(i) An area of a commercial or industrial site subject to an expected average daily traffic (ADT) count equal to or greater than 100 vehicles per 1,000 square feet of gross building area;~~
- ~~(ii) An area of a commercial or industrial site subject to petroleum storage and transfer in excess of 1,500 gallons per year, not including routinely delivered heating oil;~~
- ~~(iii) An area of a commercial or industrial site subject to parking, storage or maintenance of 25 or more vehicles that are over 10 tons gross weight (trucks, buses, trains, heavy equipment, etc.);~~
- ~~(iv) A road intersection with a measured ADT count of 25,000 vehicles or more on the main roadway and 15,000 vehicles or more on any intersecting roadway, excluding projects proposing primarily pedestrian or bicycle use improvements.~~

~~(b) Basic Treatment. Basic treatment generally applies to:~~

- ~~(i) Project sites that discharge to the ground, unless:
 - ~~(A) The soil suitability criteria for infiltration treatment are met (see Chapter 3 of Volume III of the manual for soil suitability criteria); or~~
 - ~~(B) The project uses infiltration strictly for flow control, not treatment, and the discharge is within one-quarter mile of a phosphorus-sensitive lake (use a phosphorus treatment facility), or within one-quarter mile of a fish-bearing stream or a lake (use an enhanced treatment facility).~~~~
- ~~(ii) Residential projects not otherwise needing phosphorus control as designated by USEPA, Ecology, or by the city of Oak Harbor; and~~
- ~~(iii) Project sites discharging directly to salt waters, river segments, and lakes listed in Appendix I-C of the manual; and~~
- ~~(iv) Project sites that drain to streams that are not fish-bearing, or to waters not tributary to fish-bearing streams; and~~
- ~~(v) Landscaped areas of industrial, commercial, and multifamily project sites, and parking lots of industrial and commercial project sites that do not involve pollution-generating sources (e.g., industrial activities, customer parking, storage of erodible or leachable material, wastes or chemicals) other than parking of employees' private vehicles. For developments with a mix of land use types, the basic treatment requirement shall apply when the runoff from the areas subject to the basic treatment requirement comprise 50 percent or more of the total runoff within a threshold discharge area.~~

~~(3) Treatment Facility Sizing—Water Quality Design Storm Volume. The volume of runoff predicted from a 24-hour storm with a six-month return frequency (a.k.a., six-month, 24-hour storm). Wetpool facilities are sized based upon the volume of runoff predicted through use of the Natural Resource Conservation Service curve number equations in the manual for the six-month, 24-hour storm. Alternatively, the ninety-first percentile, 24-hour runoff volume indicated by an approved continuous runoff model may be used.~~

~~(4) Water Quality Design Flow Rate.~~

~~(a) Preceding Detention Facilities or When Detention Facilities Are Not Required. The flow rate at or below which 91 percent of the runoff volume, as estimated by an approved continuous runoff model, will be treated. Design criteria for treatment facilities are assigned to achieve the applicable performance goal at the water quality design flow rate (e.g., 80 percent TSS removal).~~

~~(b) Downstream of Detention Facilities. The full two-year release rate from the detention facility.~~

~~Alternative methods can be used if they identify volumes and flow rates that are at least equivalent.~~

~~That portion of any development project in which the above PGIS or PGPS thresholds are not exceeded in a threshold discharge area shall apply on-site storm water management BMPs in accordance with Minimum Requirement #5.~~

~~(5) Treatment Facility Selection, Design, and Maintenance. Storm water treatment facilities shall be:~~

~~(a) Selected in accordance with the process identified in the manual;~~

~~(b) Designed in accordance with the design criteria in the manual or the Low Impact Development Technical Guidance Manual for Puget Sound; and~~

~~(c) Maintained in accordance with the maintenance schedule in the manual or the Low Impact Development Technical Guidance Manual for Puget Sound.~~

~~(6) Additional Requirements. Direct discharge of untreated storm water from pollution-generating impervious surfaces to ground water is prohibited, except for the discharge achieved by infiltration or dispersion of runoff from residential sites through use of on-site storm water management BMPs. (Ord. 1576 § 1, 2010; Ord. 1537 § 7, 2008; Ord. 1086 § 2, 1997; Ord. 1044, 1996).~~

Section Twenty-Three. OHMC Section 12.30.545 is hereby amended as follows:

12.30.545 Minimum Requirement #7 – Flow control.

~~(1) Applicability. Projects shall provide flow control to reduce the impacts of storm water runoff from impervious surfaces and land cover conversions. The requirements of this section apply to projects that discharge storm water directly, or indirectly through a conveyance system, into a fresh water, except for projects that discharge to a water in the manual, Appendix I-E – Flow Control-Exempt Receiving Waters, in accordance with the following restrictions:~~

~~(a) Direct discharge to the exempt receiving water does not result in the diversion of drainage from any perennial stream classified as Type 1, 2, 3, or 4 in the State of Washington Interim Water Typing System, or Type S, F, or Np in the Permanent Water Typing System, or from any Category I, II, or III wetland; and~~

~~(b) Flow-splitting devices or drainage BMPs are applied to route natural runoff volumes from the project site to any downstream Type 5 stream or Category IV wetland:~~

~~(i) Design of flow-splitting devices or drainage BMPs will be based on continuous hydrologic modeling analysis. The design will assure that flows delivered to Type 5 stream reaches will approximate, but in no case exceed, durations ranging from 50 percent of the two-year to the 50-year peak flow;~~

~~(ii) Flow-splitting devices or drainage BMPs that deliver flow to Category IV wetlands will also be designed using continuous hydrologic modeling to preserve preproject wetland hydrologic conditions unless specifically waived or exempted by regulatory agencies with permitting jurisdiction; and~~

~~(c) The project site must be drained by a conveyance system that is comprised entirely of manmade conveyance elements (e.g., pipes, ditches, outfall protection, etc.) and extends to the ordinary high water line of the exempt receiving water; and~~

~~(d) The conveyance system between the project site and the exempt receiving water shall have sufficient hydraulic capacity to convey discharges from future build-out conditions (under current zoning) of the site, and the existing condition from nonproject areas from which runoff is or will be collected; and~~

~~(e) Any erodible elements of the manmade conveyance system must be adequately stabilized to prevent erosion under the conditions noted above.~~

~~(2) If the discharge is to a stream that leads to a wetland, or to a wetland that has an outflow to a stream, both this requirement and Minimum Requirement #8 apply.~~

~~(3) Thresholds. The following require construction of flow control facilities and/or land use management BMPs that will achieve the standard requirement for Western Washington:~~

~~(a) Projects in which the total of effective impervious surfaces is 10,000 square feet or more in a threshold discharge area; or~~

~~(b) Projects that convert three-quarters of an acre or more of native vegetation to lawn or landscape, or convert two and one-half acres or more of native vegetation to pasture in a threshold discharge area, and from which there is a surface discharge in a natural or manmade conveyance system from the site; or~~

(c) Projects that, through a combination of effective impervious surfaces and converted pervious surfaces, cause a 0.1 cubic feet per second increase in the 100-year flow frequency from a threshold discharge area as estimated using the Western Washington Hydrology Model or other approved model.

(4) That portion of any development project in which the above thresholds are not exceeded in a threshold discharge area shall apply on-site storm water management BMPs in accordance with Minimum Requirement #5.

(5) Standard Requirement. Storm water discharges shall match developed discharge durations to predeveloped durations for the range of predeveloped discharge rates from 50 percent of the two-year peak flow up to the full 50-year peak flow. The predeveloped condition to be matched shall be a forested land cover unless:

(a) Reasonable, historic information is provided that indicates the site was prairie prior to settlement (modeled as "pasture" in the Western Washington Hydrology Model); or

(b) The drainage area of the immediate stream and all subsequent downstream basins have had at least 40 percent total impervious area since 1985. In this case, the pre-developed condition to be matched shall be the existing land cover condition. Where basin-specific studies determine a stream channel to be unstable, even though the above criterion is met, the pre-developed condition assumption shall be the "historic" land cover condition, or a land cover condition commensurate with achieving a target flow regime identified by an approved basin study.

This standard requirement is waived for sites that will reliably infiltrate all the runoff from impervious surfaces and converted pervious surfaces.

(6) Engineering Analysis Modeling Requirement. Storm water runoff volumes and rates shall be determined using the Department of Ecology Western Washington Hydrology Model as required by the manual or an equivalent continuous runoff model approved for use by the director. A discrete runoff model, such as the Santa Barbara Urban Hydrograph, may be authorized for use by the director when all of the runoff is conveyed to an exempt water body without affecting a wetland, classified stream or other critical area. (Ord. 1576 § 1, 2010; Ord. 1537 § 7, 2008; Ord. 1086 § 2, 1997; Ord. 1044, 1996).

Section Twenty-Four. OHMC Section 12.30.550 is hereby amended as follows:

12.30.550 Minimum Requirement #8 – Wetlands protection.

(1) Applicability. The requirements below apply only to projects whose storm water discharges into a wetland, either directly or indirectly through a conveyance system. These requirements must be met in addition to meeting Minimum Requirement #6, Runoff treatment.

(2) Thresholds. The thresholds identified in Minimum Requirement #6, Runoff treatment, and Minimum Requirement #7, Flow control, shall also be applied for discharges to wetlands.

(3) Standard Requirement. Discharges to wetlands shall maintain the hydrologic conditions, hydrophytic vegetation, and substrate characteristics necessary to support existing and designated uses. The hydrologic analysis shall use the existing land cover condition to determine the existing hydrologic conditions unless directed otherwise by a regulatory agency with jurisdiction. A wetland can be considered for hydrologic modification and/or storm water treatment in accordance with the guidance of the manual.

(4) Additional Requirements. The standard requirement does not excuse any discharge from the obligation to apply whatever technology is necessary to comply with state water quality standards, Chapter 173-201A WAC, or state ground water standards, Chapter 173-200 WAC. Additional treatment requirements to meet those standards may be required by federal, state, or local governments. Storm water treatment and flow control facilities shall not be built within a natural vegetated buffer, except for:

(a) Necessary conveyance systems as approved by the local government; or

(b) As allowed in wetlands approved for hydrologic modification and/or treatment in accordance with Guidesheet 1B.

An adopted and implemented basin plan (Minimum Requirement #9), or a total maximum daily load (TMDL, also known as a water clean-up plan) may be used to develop requirements for wetlands that are tailored to a specific basin. (Ord. 1576 § 1, 2010; Ord. 1537 § 7, 2008; Ord. 1086 § 2, 1997; Ord. 1044, 1996).

Section Twenty-Five. OHMC Section 12.30.555 is hereby amended as follows:

12.30.555 Minimum Requirement #9 – Basin/watershed planning.

~~(1) Projects may be subject to equivalent or more stringent minimum requirements for erosion control, source control, treatment, and operation and maintenance, and alternative requirements for flow control and wetlands hydrologic control as identified in basin/watershed plans. Basin planning may be used to support alternative treatment, flow control, and/or wetland protection requirements to those contained in this chapter, the manual or the requirements of the city of Oak Harbor NPDES Phase II storm water permit. Basin planning may also be used to demonstrate an equivalent level of treatment, flow control, and/or wetland protection through the construction and use of regional storm water facilities.~~

~~(2) In order for a basin plan to serve as a means of modifying the minimum requirements, the following conditions must be met:~~

- ~~(a) The plan must be formally adopted by all jurisdictions with responsibilities under the plan; and~~
- ~~(b) All ordinances or regulations called for by the plan must be in effect; and~~
- ~~(c) The basin plan must be reviewed and approved by Ecology. (Ord. 1576 § 1, 2010; Ord. 1537 § 7, 2008; Ord. 1086 § 2, 1997; Ord. 1044, 1996).~~

Section Twenty-Six. OHMC Section 12.30.560 is hereby amended as follows:

12.30.560 Minimum Requirement #10 – Operation and maintenance.

~~An operation and maintenance manual consistent with the provisions in the manual shall be provided for all proposed storm water facilities and BMPs. The party (or parties) responsible for maintenance and operation shall be identified. At private facilities, a copy of the manual shall be retained on site or within reasonable access to the site, and shall be transferred with the property to the new owner. A record or log of all maintenance activities shall be kept and be available for inspection by the city. Operation and maintenance of all public and private storm water facilities shall be in accordance with Chapter 12.20 OHMC. (Ord. 1576 § 1, 2010; Ord. 1537 § 7, 2008; Ord. 1086 § 2, 1997; Ord. 1044, 1996).~~

Section Twenty-Seven. OHMC Section 12.30.565 is hereby amended as follows:

12.30.565 Minimum Requirement #11 – Financial liability.

~~Performance bonding in the amount of 112 percent of the cost to construct, or other performance surety acceptable to the director, may be required by the director for projects to ensure compliance with these standards. When required by the director, performance sureties shall be posted prior to issuance of the development permit. (Ord. 1576 § 1, 2010; Ord. 1537 § 7, 2008; Ord. 1086 § 2, 1997; Ord. 1044, 1996).~~

Section Twenty-Eight. OHMC Section 12.30.570 is hereby amended as follows:

12.30.570 Minimum Requirement #12 – Off-site analysis and mitigation.

~~Development projects that discharge storm water off site shall submit an off-site analysis report that assesses the potential off-site water quality, erosion, slope stability, and drainage impacts associated with the project and that proposes appropriate mitigation of those impacts. An initial qualitative analysis shall extend downstream for the entire flow path from the project site to the receiving water or up to one mile, whichever is less. If a receiving water is within one quarter mile, the analysis shall extend within the receiving water to one quarter mile from the project site. The analysis shall extend one quarter mile beyond any improvements proposed as mitigation. The analysis must extend upstream to a point where any backwater effects created by the project cease. Upon review of the qualitative analysis, the local director may require that a quantitative analysis be performed.~~

~~The existing or potential impacts to be evaluated and mitigated shall include: conveyance system capacity problems, localized flooding and upland erosion impacts, including landslide hazards. (Ord. 1576 § 1, 2010; Ord. 1537 § 7, 2008).~~

Section Twenty-Nine. OHMC Section 12.30.650 is hereby added to Title 12, Stormwater, and reads as follows:

12.30.650 Additional Standards

The city engineer may set standards for construction of private and public stormwater facilities/BMPs. Such standards may include criteria such as locations, access requirements, setbacks, slopes, geometry, sizes, delineation, the types of approved materials to be used along with the and nature of easement acceptable for use in locating, maintaining, and inspecting stormwater facilities/BMPs. Such standards may be in excess of those specified in this and other chapters of the Oak Harbor Municipal Code so long as these standards are consistent with good engineering practice and are needed to protect the public health, safety and welfare.

Section Thirty. Section 12.40.010 is hereby amended as follows:

12.40.010 Definitions.

~~For purposes of this chapter, the words or phrases below shall have the following meanings:~~

- ~~(1) "Administrator" is the person designated by the mayor to manage the utility.~~
- ~~(2) "Billing year" means the calendar year that bills are sent.~~
- ~~(3) "City" means the city of Oak Harbor.~~
- ~~(4) "Condominium" means the ownership of single units or apartments in a building containing two or more units or two or more buildings each containing one or more units with common areas and facilities as provided in Chapter 64.32 RCW and permitted pursuant to OHMC 21.80.025.~~
- ~~(5) "Developed parcel" means any parcel altered from the natural state by the construction, creation, or addition of impervious surfaces.~~
- ~~(6) "Drainage service charge" and "storm water system service charge" means the fee imposed by the city upon all parcels of real property, except exempted properties, located within the boundaries of the city.~~
- ~~(7) "Environmentally sensitive areas" means parcels identified pursuant to Chapter 20.12 OHMC and parcels with trees protected under Chapter 20.16 OHMC.~~
- ~~(8) "Equivalent residential unit (ERU)" means a configuration of development or hard impervious surfaces estimated to contribute an amount of runoff to the city's storm water drainage system which is approximately equal to that created by the average single family residential parcel. One ERU is equal to 3,300 square feet of impervious surface area or any portion thereof.~~
- ~~(9) "Impervious surface" or "impervious ground cover" means those hard areas which prevent or retard the entry of water into the soil in the manner that such water entered the soil under natural conditions pre-existent to development, or which cause water to run off the surface in greater quantities or at an increased rate of flow than that present under natural conditions pre-existent to development including, but not limited to, such surfaces as rooftops, asphalt or concrete paving, driveways, parking lots, walkways, patio areas, storage areas, hardpan, compacted surfaces, or other surfaces which similarly affect the natural infiltration or runoff patterns existing prior to development.~~
- ~~(10) "NPDES" means the National Pollutant Discharge Elimination System under the federal Clean Water Act, the national program for issuing, modifying, revoking, and reissuing, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 402, 318, and 405 of the federal Clean Water Act, for the discharge of pollutants to surface waters of the state from point sources. These permits are referred to as NPDES permits and in Washington State are administered by the Department of Ecology.~~
- ~~(11) "NPDES Phase II municipal storm water permit" means the permit issued by the Department of Ecology pursuant to the federal Clean Water Act whose requirements are applicable to the city.~~
- ~~(12) "Non-single-family residential properties or parcels" means properties or parcels which contain two or more residential dwelling units and institutional, commercial or industrial properties.~~
- ~~(13) "Parcel" means the smallest separately segregated unit or plot of land having an identified owner(s), boundaries, and area as defined by the Island County assessor and recorded in the Island County assessor real property file or in the Island County assessor maps.~~

~~(14) "Property owner of record" shall be the person or persons recorded by the Island County assessor to be the owner(s) of property and to whom property tax statements are directed.~~

~~(15) "Public benefit nonprofit corporation" means a corporation that complies with the provisions of the Washington Nonprofit Corporation Act, Chapter 24.03 RCW, and that holds a current tax exempt status as provided under 26 USC 501(c)(3) or is not required to apply for its tax exempt status under 26 USC 501(c)(3) as defined in RCW 24.03.490. No property may be designated as a public benefit nonprofit corporation until proof of public benefit nonprofit corporation status pursuant to RCW 24.03.490 is filed with the administrator.~~

~~(16) "Rate category" means the classification of properties, based upon the estimated percentage of impervious surface on the parcel, for purposes of establishing drainage service charges.~~

~~(17) "Residence" means a building or structure, or portion thereof, designed to be used as a place of abode for human beings and not used for any other purpose. The term "residence" includes the terms "residential," "residential unit," and "dwelling unit" as referring to the type or intended use of a building or structure.~~

~~(18) "Single-family residential property or parcel" means any property or parcel which contains one residential dwelling unit.~~

~~(19) "System" or "storm water drainage system" means the entire system of flood protection and storm and surface water drainage facilities owned or leased by the city or over which the city has right of use for the movement and control of storm and surface water runoff, including both naturally occurring and manmade facilities. The definition also includes the conveyance or storage of storm and surface waters that flow through, under, or over lands, land forms, watercourses, sloughs, streams, ponds, rivers, lakes and wetlands, beginning at a point where storm or surface waters enter the city system and ending at a point where such storm or surface waters exit from the city's storm and surface water system, and in width to the full extent of inundation caused by storm or flood conditions. Throughout this chapter, the term "drainage facilities" is used to refer to the storm and surface water drainage facilities.~~

~~(20) "Undeveloped parcel" means any parcel which has not been altered from its natural state by the construction, creation or addition of any impervious surfaces.~~

~~(21) "Utility" means the city of Oak Harbor storm water drainage system utility. In this title the term "storm water" is often used to refer to both storm and surface water. (Ord. 1602 § 2, 2011; Ord. 1582 § 1, 2010; Ord. 1128 § 1, 1998; Ord. 1123, 1998; Ord. 1084 § 2, 1997).~~

Section Thirty-One. Section 12.40.025 is hereby amended to read as follows:

12.40.025 Criteria established.

The council finds that the existence of **hard impervious** surfaces on real property within the city limits contributes to and burdens the city's storm water drainage system. The council further finds that the amount of **hard impervious** surfaces, as reasonably determined for a class or parcel of property, shall be the basis for the imposition of a storm water system service charge. (Ord. 1602 § 2, 2011; Ord. 1582 § 1, 2010).

Section Thirty-Two. Section 12.40.030(2 & 3) are hereby amended to read as follows:

(2) The storm water system service charge established herein shall be based upon the **contribution of increased storm water runoff from a parcel to the system due to hard impervious** surfaces on **that a** parcel. Single-family residential parcels are grouped together in one rate category based on an estimated city-wide average contribution of storm water runoff from single-family residential parcels. The amount of contribution for other properties is measured by the estimated square footage of **hard impervious** surface area on the parcel.

(3) Storm water system service charge rate categories shall be as follows:

(a) Single-Family Residential Rates. The single-family residential flat charge shall be based upon the average parcel size and average percentage of **hard impervious** surfaces on single-family residential parcels in the city limits. The average **hard impervious** surface area attributable to a single-family residence shall be 3,300 square feet.

~~(b) North Whidbey Enterprise Area Rates. To assist in the transition from county jurisdiction outside the scope of the NPDES Phase II permit, to city jurisdiction within the NPDES Phase II permit, the North Whidbey Enterprise Area rates shall be graduated over time from a rate approximate to the existing county rate to the city rate over a period of five years.~~

(be) All other properties shall pay a rate based on the amount of hard impervious surface area to be calculated by multiplying the rate for single-family residential properties by a quotient derived from dividing the total number of square feet of hard impervious surface area by 3,300. The quotient shall be rounded to the nearest tenth.

(ce) For condominiums, the drainage service charge shall be based on the amount of hard impervious surface of the entire parcel; provided, that all of the units in the condominium are served by a single meter. Each condominium unit shall be responsible for an equal proportional amount of the total hard impervious surface on the parcel served by its assigned meter. In the event that a condominium is served by multiple meters, each meter shall be assigned a proportional amount of the total hard impervious surface based on land use code, site visits, and other information to estimate the measurement of impervious area.

Section Thirty-Three. Chapter 17.26 is hereby added to OHMC Title 17, Buildings, and reads as follows:

Chapter 17.26 **LOW IMPACT DEVELOPMENT STANDARDS**

Sections:

- 17.26.010 Title.
- 17.26.100 Purpose.
- 17.26.105 Scope.
- 17.26.110 Application to Properties – New and existing structures – Change of use.
- 17.26.115 Details for plans and specifications.
- 17.26.120 Fees for plan review and inspection.
- 17.26.130 Design requirements.
- 17.26.210 Liability limitations.
- 17.26.220 Penalties.
- 17.26.230 Severability.
- 17.26.240 Hearing examiner to function as appeals board.

17.26.010 Title.

This chapter shall be known as the Low Impact Development building standards of the city of Oak Harbor.

17.26.100 Purpose.

The purpose of this chapter is to safeguard life, health, property and public welfare by ensuring compatibility between the stormwater management practices as outlined in OHMC Title 12, Chapter 12.30 and the provisions of Title 17.

17.26.105 Scope.

The provisions of this chapter shall apply to all properties and all buildings or structures constructed or placed in use for human occupancy on sites as regulated under OHMC Chapter 12.30. This chapter is intended to supplement the provisions of the International Building Code, International Residential Code, and the International Property Maintenance Code. In the case of conflict between this chapter and any other applicable codes the more restrictive requirements shall be met.

17.26.110 Application to Properties – New and Existing Structures – Changes of Use

Consistent with the minimum requirements contained in OHMC Chapter 12.30.210, the building official shall provide comments to the City Engineer for approval or disapproval regarding the following activities, unless exempted in OHMC 12.30.220:

(1) New development.

(a) Land disturbing activities;

(b) Structural development, including construction, installation or expansion of a building or other structure;

(c) Creation or replacement of impervious surfaces.

(2) Redevelopment, on an already developed site. Refer to thresholds in OHMC Chapter 12.30.515

17.26.115 Details for plans and specifications.

The plans and specifications provided for review shall show in sufficient detail all pertinent data and features of the property, buildings and appurtenant improvements as herein governed, including, but not limited to, types, sizes, quantities, systems, controls, plantings, surfaces, porosity and other pertinent data to indicate conformance with the requirements herein.

17.26.120 Fees for Plan Review and Inspection.

The building official is authorized to collect fees for plan review, construction inspection and property maintenance inspection for low impact development activities. These fees shall be established by resolution of the City Council. International Property Maintenance Code shall be administered and enforced by the city building official.

17.26.210 Liability limitations.

Nothing contained in this chapter or in the International Existing Building Code is intended to be, nor shall be, construed to create or form the basis for any liability on the part of the city or its officers, employees or agents, for any injury or damage resulting from the failure of a property or structure to conform to the provisions of the Low Impact Development Standards.

17.26.220 Penalties.

(1) It shall be unlawful for a person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building, structure or building service equipment or cause or permit the same to be done in violation of this chapter or the technical codes.

(2) Civil Violation. Except as provided in subsections (4) and (5) of this section, any violation of any of the provisions of this chapter or of the technical codes constitutes a Class 1 infraction as defined in Chapter 1.28 OHMC.

(3) Criminal Penalty. In addition to or as an alternative to any other penalty provided in this chapter or by law, any person who intentionally or knowingly violates any of the provisions of this chapter or the technical codes shall be guilty of a misdemeanor and upon conviction shall be punishable by a fine of up to \$1,000 or a jail sentence of up to 90 days in jail, or both such fine and jail time.

(4) Violations of Orders under This Chapter. Any person constructing, repairing, operating, maintaining, changing an occupancy, occupying or moving a building, structure, occupancy, or premises contrary to the provisions of this chapter who continues to construct, repair, operate, maintain, change occupancy, occupy or move such building, structure, occupancy or premises when ordered by the building official to desist from violating a provision or provisions of this chapter shall be guilty of a misdemeanor punishable by a fine of up to \$1,000 or a jail sentence of up to 90 days, or both such fine and jail time.

(5) Separate Offense. Each day or portion thereof upon which a violation occurs constitutes a separate offense under subsections (1), (2), (3) and (4) of this section.

(6) Destruction of Notice. It shall be unlawful for any person to remove, mutilate, destroy or conceal any notice issued and posted by the building official pursuant to the provisions of this chapter or the building code, which violations shall be a Class 1 infraction as defined in Chapter 1.28 OHMC.

17.26.230 Severability.

Should any section, paragraph, sentence or word of this chapter or codes hereby adopted be declared for any reason to be invalid, it is the intent of the city council that it would have passed all other portions of this chapter

and of the codes hereby adopted independent of the elimination herefrom of any such portions as may be declared invalid and accordingly such declaration of invalidity shall not affect the validity of this chapter as a whole nor any part hereof other than the part so declared to be invalid.

17.26.240 Hearing examiner to function as appeals board.

All references to the term "board of appeal(s)" shall deem to mean the hearing examiner as per OHMC 18.40.180. Permits under this chapter shall be Type I review process as per OHMC 18.20.230. Appeals of decisions of applicable codes adopted under this chapter shall be to the hearing examiner.

Section Thirty-Four. Section 19.08.067 is hereby added to Title 19, Zoning, and reads as follows:

19.08.067 Best Management Practices.

"Best Management Practices" or BMP's means the schedules of activities, prohibitions of practices, maintenance procedures, and structural and/or managerial practices, that when used singly or in combination, prevent or reduce the release of pollutants and other adverse impacts to waters of Washington State.

Section Thirty-Five. Section 19.08.147 is hereby added to Title 19, Zoning, and reads as follows:

19.08.147 Caliper.

"Caliper" means the diameter of any tree trunk as measured at a height of four feet above the ground on the upslope side of the tree.

Section Thirty-Six. Section 19.08.182 is hereby added to Title 19, Zoning, and reads as follows:

19.08.182 Clearing.

"Clearing" means the act of cutting and/or removing vegetation. This definition shall include grubbing vegetation.

Section Thirty-Seven. Section 19.08.184 is hereby added to Title 19, Zoning, and reads as follows:

19.08.184 Clearing and Grading Permit.

"Clearing and grading permit" shall mean the written approval of the city of Oak Harbor to proceed with the act of clearing property within the city limits of Oak Harbor. The clearing and grading permit includes the associated approved plans and any conditions of approval as well as the permit form itself.

Section Thirty-Eight. Section 19.08.187 is hereby added to Title 19, Zoning, and reads as follows:

19.08.187 Clustering.

"Clustering" means a type of development where buildings are organized together into compact groupings that allow for portions of the development site to remain in open space top preserve natural and cultural features, provide recreation, preserve rural character, and produce more affordable housing.

Section Thirty-Nine. Section 19.08.222 is hereby added to Title 19, Zoning, and reads as follows:

19.08.222 Creek.

"Creek" means those areas where surface waters flow sufficiently to produce a defined channel or bed. A defined channel or bed is indicated by hydraulically sorted sediments or the removal of vegetative litter or

loosely rooted vegetation by the action of moving water. The channel or bed need not contain water year around. This definition is not meant to include storm water runoff devices or other entirely artificial watercourses unless they are used to store and/or convey pass-through stream flows naturally occurring prior to construction.

Section Forty. Section 19.08.224 is hereby added to Title 19, Zoning, and reads as follows:

19.08.224 Critical Area.

"Critical area" means any area designated as a critical area pursuant to RCW 36.70A.170 and Chapter 20.02 OHMC.

Section Forty-One. Section 19.08.251 is hereby added to Title 19, Zoning, and reads as follows:

19.08.251 Development.

"Development" means any activity that requires federal, state, or local approval for the use or modification of land or its resource. These activities include, but are not limited to, subdivisions and short subdivisions; binding site plans; planned residential developments; variances; shoreline substantial development; clearing activity; excavation; embankment; fill and grade work; converting fallow land or undeveloped land to agricultural purposes; activity conditionally allowed; building or construction; and septic approval.

Section Forty-Two. Section 19.08.257 is hereby added to Title 19, Zoning, and reads as follows:

19.08.257 Dry Season.

"Dry season" means the months of May through September.

Section Forty-Three. Section 19.08.272 is hereby added to Title 19, Zoning, and reads as follows:

19.08.272 Ecology.

"Ecology" means the Washington State Department of Ecology.

Section Forty-Four. Section 19.08.277 is hereby added to Title 19, Zoning, and reads as follows:

19.08.277 Erosion.

"Erosion" means the wearing away of the land surface by running water, wind, ice, or other geological agents, including such processes as gravitational creep. Also, the detachment and movement of soil or rock fragments by water, wind, ice, or gravity. The following terms are used to describe different types of water erosion:

Geologic erosion means the normal or natural erosion caused by geological processes acting over long geologic periods and resulting in the wearing away of mountains, building up of floodplains, coastal plains, etc. Synonymous with natural erosion.

Natural erosion means wearing away of the earth's surface by water, ice, or other natural agents under natural environmental conditions of climate, vegetation, etc., undisturbed by humans. Synonymous with geological erosion.

Section Forty-Five. Section 19.08.292 is hereby added to Title 19, Zoning, and reads as follows:

19.08.292 Excavation.

"Excavation" means the removal of material such as earth, sand, gravel, rock, or asphalt from a parcel, tract, or lot of land.

Section Forty-Six. Section 19.08.309 is hereby added to Title 19, Zoning, and reads as follows:

19.08.309 Fill.

"Fill" means earth, sand, gravel, rock, asphalt, or other solid material used to increase the ground surface elevation or to replace excavated material.

Section Forty-Seven. Section 19.08.332 is hereby added to Title 19, Zoning, and reads as follows:

19.08.332 Geotechnical engineer.

"Geotechnical engineer" means a professional engineer currently registered in the state of Washington, qualified by reason of experience and education in the practice of geotechnical engineering, and designated by the owner as the geotechnical engineer of record for the project.

Section Forty-Eight. Section 19.08.337 is hereby added to Title 19, Zoning, and reads as follows:

19.08.337 Grading.

"Grading" means the movement of earth material through mechanical or other means to create the finished surface and contour of a project site.

Section Forty-Nine. Section 19.08.337 is hereby added to Title 19, Zoning, and reads as follows:

19.08.352 Grubbing.

"Grubbing" means the act of removing vegetation by the roots.

Section Fifty. Section 19.08.437 is hereby added to Title 19, Zoning, and reads as follows:

19.08.437 Land disturbing activity.

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

Section Fifty-One. Section 19.08.542 is hereby added to Title 19, Zoning, and reads as follows:

19.08.542 Low Impact Development.

"Low impact development" or LID means 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.

Section Fifty-Two. Section 19.08.642 is hereby added to Title 19, Zoning, and reads as follows:

19.08.642 Partially developed lot.

"Partially developed lot" shall mean a lot or parcel of land upon which a structure (refer to OHMC 19.08.885 for the definition of a structure) is located and which is of sufficient area so as to be capable of accommodating additional development pursuant to the Oak Harbor zoning code; or which may be subdivided in accordance with the city of Oak Harbor subdivision chapter.

Section Fifty-Three. Section 19.08.707 is hereby added to Title 19, Zoning, and reads as follows:

19.08.707 Removal.

"Removal" means the actual destruction or causing the effective destruction through damaging, poisoning or other direct or indirect actions resulting in the death of a tree or ground cover.

Section Fifty-Four. Section 19.08.707 is hereby added to Title 19, Zoning, and reads as follows:

19.08.712 Runoff.

"Runoff" means water from rain, melted snow, or irrigation that flows over the land surface.

Section Fifty-Five. Section 19.08.732 is hereby added to Title 19, Zoning, and reads as follows:

19.08.732 Sedimentation.

"Sedimentation" means the process of gravity-induced settling and deposition of fragmented rock, soil, or organic particles displaced, transported, and deposited by erosive water-based processes.

Section Fifty-Six. Section 19.08.982 is hereby added to Title 19, Zoning, and reads as follows:

19.08.982 Wet season.

"Wet season" means the period of the year between October 1st and April 30th.

Section Fifty-Seven. Section 19.28.030 is hereby amended to read as follows:

19.28.030 Height limits – Exceptions.

Buildings and structures shall not exceed the height limitations as specified for the use district in which they are located unless specifically excepted as set out in OHMC [19.28.040](#) and [19.28.050](#). Additional height, not to exceed 10 feet, may be used for multi-family and commercial uses permitted in the underlying zone for projects that are in accordance with low impact development (LID) through the implementation of the LID performance standards or on-site stormwater BMP lists. . (Ord. 1555 § 11, 2009).

Section Fifty-Eight. Section 19.31.090(1) is hereby amended to read as follows:

19.31.090 Density.

Density in a PRD is regulated by the density standards of the underlying zone. Density bonuses may be permitted under the provisions laid out in this section:

(1) Increases in density as defined for each of the following may be permitted, up to a maximum of 30 percent over that permitted in the underlying zone. Bonus densities are intended to provide the incentive to encourage the development of affordable housing, provide additional public amenities or preserve valuable natural or cultural resources and features. The satisfaction of any of the bonus density criteria specified is considered to be in the public interest and worthy of a bonus density:

(a) Additional Open Space. One percent increase in density for each one percent increase in open space over the minimum required under OHMC [19.31.100](#). Open space design must conform to the requirements of OHMC [19.31.110](#) and [19.31.120](#).

(b) Provision of qualified affordable housing units as defined in OHMC [19.08.695](#), or lots dedicated for use in affordable housing projects. For every one unit of affordable housing provided, applicants are allowed five additional units of market-rate housing. For purposes of density bonuses pursuant to this section, the total of market-rate and affordable units may not exceed 30 percent of the density otherwise allowed in the zone. The continued affordability of the units must be secured through registration of restrictive covenants on title, or other permanent measure.

(c) The following example is offered to show how the density bonus for affordable housing is calculated.

- (i) A project which is five acres in size and is zoned R-1 (maximum of six units per gross acre) is allowed a total of 30 units under the R-1 zone;
- (ii) This same project proposes that six of the 30 units are affordable units with the remaining 24 being market-rate units;
- (iii) Density bonus for affordable housing equals number of affordable units multiplied by five, or six affordable units times five, which equals 30 additional market-rate units, except that the total density bonus cannot exceed 30 percent of the maximum base density, or nine additional units;
- (iv) Total units allowed with density bonus equals maximum density allowed by zone (30 units) plus density bonus (nine additional market-rate units), which equals 39 units;
- (d) Preservation of a scenic vista corridor within and off the site – up to 10 percent increase;
- (e) Public access to common open space, or natural water bodies – up to 20 percent increase;
- ~~(f) Use of low impact development techniques. The density bonus shall be proportional to the ratio of total stormwater runoff from the site which is treated by LID techniques, up to a maximum of 20 percent.~~

Section Fifty-Nine. Section 19.31.120 is hereby amended to read as follows:

19.31.120 Open space – Passive areas.

Passive open space is nonactive open space which preserves natural areas, native vegetation and provides scenic amenities to a PRD. Passive open space shall meet the following minimum requirements:

- (1) Passive open space may be no more than 50 percent of the total required open space in PRDs.
- (2) Preserved natural areas, such as wetlands, streams, and woodlands, may count as passive open space.
- (3) Passive open space may include open fields and landscaped areas which are held in common by the homeowners' association, but which do not contain any other improvements.
- (4) Passive open spaces shall be maintained in conformance with OHMC 19.31.130. (Ord. 1567 § 2, 2010).

Section Sixty. Section 19.31.130 is hereby amended to read as follows:

19.31.130 Dedication and maintenance of common facilities.

Whenever private open space, including private parks, ~~or~~ playgrounds, or commonly held stormwater facilities/BMPs is to be provided, the city council shall require that an association of owners or tenants of the PRD, or other parties responsible for maintenance as approved by the City, be organized under the laws of the state of Washington, which shall adopt such articles of incorporation and bylaws and adopt, impose and record such declaration of covenants and restrictions on such open space and/or common areas that are acceptable to the city.

Said association shall be formed and continued for the purpose of maintaining such open space. Such an association, if required, may undertake other functions. It shall be created in such a manner that owners of property shall automatically be members and shall be subject to assessments levied to adequately maintain said open space for the purposes intended. The period of existence of such association shall be not less than 20 years and it shall continue thereafter and until the members terminate it. Provisions shall be made by the association for the maintenance or disposition of such open space upon any termination of the arrangement hereinabove provided for. If the association of homeowners subsequently disbands, the property owners within the boundaries of the originally approved PRD are responsible for maintenance of all common facilities. (Ord. 1567 § 2, 2010).

Section Sixty-One. Section 19.31.170(7) is hereby amended to read as follows:

19.31.170(7) PRD review criteria.

(7) Applicants must meet either subsection (7)(a) or (b) of this section:

(a) Enhanced design which includes one or more of the following on each building within the development:

- (i) A variety of exterior building materials such as brick, stucco, stone, and wood used as primary siding or as accent materials on front facades; or
- (ii) Building articulation (offsetting walls, inclusion of windows, changes in material types) on side and rear walls of buildings; or
- (iii) Side- or rear-loaded garages; or
- (iv) Other applicant-proposed building design enhancements.

(b) Optional site design elements which includes one or more of the following:

~~(i) Low impact development stormwater techniques are employed on the site.~~

~~(# i)~~ Ten percent or more of units within the development are qualified affordable housing as defined by OHMC [19.08.695](#).

~~(## ii)~~ Inclusion of a mix of residential and nonresidential uses within the development.

~~(# iii)~~ Fifteen percent or more of the gross area is open space.

~~(# iv)~~ The project will not only preserve but enhance or rehabilitate the functions and values of a critical area of the site, such as significant woodlands, wildlife habitats, streams or wetlands, subject to the recommendations in an approved critical areas report. (Ord. 1567 § 2, 2010).

Section Sixty-Two. Section 19.31.180 is hereby amended to read as follows:

19.31.180 PRD development plan – Filing requirements.

The applicant shall file with the director a PRD development plan. If an application for subdivision is submitted concurrently, the plat document required as part of subdivision shall be a separate plan sheet from the PRD development plan and shall include the requirements in OHMC Title [21](#). The PRD development plan shall include the following:

(1) A legal description of the site and plot plan indicating location of all existing and proposed adjacent streets, private rights-of-way and easements;

(2) Ten copies of the proposed site plan and/or drawings. Additional copies of the application may be required at the time the PRD development plan is routed to planning commission or city council for review. The PRD development plan shall include the following information:

(a) Individual trees over 12 inches in trunk diameter measured four feet above the base of the trunk in areas to be developed or otherwise disturbed;

(b) Proposed finished grades of the property with all drainage features;

(c) Location of all proposed structures together with the usage to be contained therein and approximate location of all entrances thereto and heights, and gross floor area thereof;

(d) Code-required side, rear and front building setbacks;

(e) The building envelope for each lot, which is the portion of the lot excluding the building setbacks;

(f) Location and nature of vehicular, pedestrian and bicycle circulation features within the site and adjacent streets and alleys;

(g) The extent, location, arrangement, and proposed improvements of all off-street parking and loading facilities;

(h) The extent, location, arrangement and proposed improvements of all open space, landscaping, fences and walls;

(i) Architectural elevation drawings of all building types (single-family, multifamily, rowhouses, etc.) and all subtypes (single-family model 1, single-family model 2, etc.) and sketches demonstrating the planning and character of the proposed development;

(j) Number of units proposed by type;

(k) Proposed lot, tract and easement boundaries;

(l) Open space calculations for all areas which are proposed to meet the 10 percent common open space requirement. Calculations shall be divided between active and passive open space. Open spaces which are proposed to be included in the open space calculations must be denoted on the plan;

(m) low impact development site analysis requirements including:

(i) a soils report prepared by a licensed geotechnical engineer or geologist;

(ii) preliminary stormwater site plan consistent with the threshold requirements found in OHMC Chapter 12.30.500.

~~(n)~~ (n) Density calculations for the property including any bonuses requested by the applicant; and

~~(o)~~ (o) All other calculations or information as applicable based on the PRD review criteria;

Section Sixty-Three. Section 19.44.105 is hereby amended to read as follows:

19.44.105 Maximum parking space standards.

Impervious parking areas generate stormwater runoff, with negative impacts to water quality, wildlife habitat, and municipal budgets. The following maximum parking space standards are designed to limit the total impervious area resulting from large, off-street parking lots, reducing negative water quality impacts, while at the same time providing sufficient parking for land uses within Oak Harbor.

(1) Applicability. The standards in this section shall apply to all new development and redevelopment which meets both of the following criteria:

(a) All new development, as well as building remodels, site retrofits, and redevelopment which exceeds 60 percent of the total assessed value for the property; and

(b) Off-street parking lots with 100 or more spaces proposed or required.

~~(2) Pervious Requirement. Each additional parking space over 150 percent of the minimum number of required spaces must have a pervious surface approved by the city engineer wherever soil conditions make infiltration feasible. The pervious area may be provided at any location within the parking lot, including drive aisles, as long as its size is equivalent to the area of parking stalls exceeding 150 percent.~~

~~(a) Other LID techniques may be proposed in place of the pervious area requirement in subsection (2) of this section, as approved by the city engineer and in compliance with the Low Impact Development Technical Guidance Manual for Puget Sound (current edition).~~

~~(3)~~ (3) In no case shall more than 250 percent of the required minimum number of parking spaces be approved. (Ord. 1614 § 1, 2011).

Section Sixty-Four. Section 19.44.110 is hereby amended to read as follows:

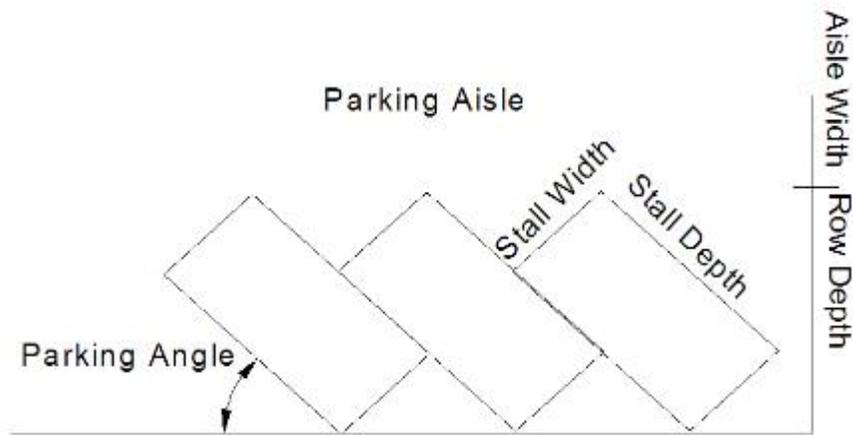
19.44.110 Parking space size and access requirements.

(1) Standard Parking Spaces. All standard parking spaces shall meet the minimum criteria outlined in the table and figure below.

(2) Compact Parking Spaces. Up to 450 percent of required parking spaces may be provided as compact spaces. The aisle widths required for standard spaces shall be applied to compact spaces. Parking space width, parking space depth and row width shall be as shown in the following table. The minimum parking space depth shall be 16 feet and the minimum parking space width shall be eight feet. Compact parking spaces shall be clearly marked by painting the word “compact” on the parking space(s).

Required Parking Dimensions					
Parking Angle	Stall Width	Stall Depth	Row Depth	Aisle Width (One Way)	Aisle Width (Two Way)
0°	Standard: 9' Compact: 8'	Standard: 23' Compact: 19'	Standard: 9' Compact: 8'	10'	18'
30°	Standard: 9' Compact: 8'	Standard: 20' Compact: 16'	Standard: 18' Compact: 15'	12'	20'
40°	Standard: 9' Compact: 8'	Standard: 20' Compact: 16'	Standard: 20' Compact: 16'	12'	20'
45°	Standard: 9' Compact: 8'	Standard: 20' Compact: 16'	Standard: 21' Compact: 17'	12'	20'
50°	Standard: 9' Compact: 8'	Standard: 20' Compact: 16'	Standard: 20' Compact: 16'	15'	20'
60°	Standard: 9' Compact: 8'	Standard: 20' Compact: 16'	Standard: 20' Compact: 16'	17'	20'
70°	Standard: 9' Compact: 8'	Standard: 20' Compact: 16'	Standard: 20' Compact: 16'	20'	20'
80°	Standard: 9' Compact: 8'	Standard: 20' Compact: 16'	Standard: 20' Compact: 16'	24 ³ '	24 ³ '
90° ¹	Standard: 9' Compact: 8'	Standard: 20' Compact: 16'	Standard: 20' Compact: 16'	24 ³ '	24 ³ '

¹ Parking space length may be reduced by up to 2 feet through administrative approval to allow for vehicle overhang when curb or wheel stops are used along vegetated planters at least 5' in width, as measured between hard surfaces.



PARKING PLAN LAYOUT

(Ord. [1614](#) § 1, 2011; Ord. 1555 § 19, 2009).

Section Sixty-Five. Section 19.44.130 is hereby amended to read as follows:

19.44.130 Plans.

The plan of the proposed parking area shall be submitted to the development services department at the time of the application for the building for which the parking area is required. The plan shall clearly indicate the proposed development, including location, size, shape, design, curb cuts, lighting, landscaping, construction details and other features and appurtenances required. The illustrations provided at the end of this chapter shall serve as a guide and illustrate the minimum requirements for parking stall configurations.

A legal description of the property is required and a parking area designated and recorded.

(1) Parking areas shall be designed in conformance with the Oak Harbor design guidelines.

(2) All traffic-control devices such as parking strips designating car stalls, directional arrows or signs, bull rails, curbs, and other developments, shall be installed and maintained as shown on the approved plans. Hard-surfaced parking areas shall use paint or similar devices to delineate car stalls and directional arrows. All driveways, off-street parking areas and public off-street parking areas shall be hard surfaced with a minimum of two inches of asphalt concrete or Portland Cement concrete slab at appropriate depths. Alternative surfaces, including low impact development practices, may be allowed in compliance with OHMC Title 12 the LID Technical Guidance Manual for Puget Sound (current edition) or as approved by the city engineer.

(3) Minimum dimensions of off-street parking areas shall be not less than stated in this chapter.

(4) Screen all parking lots from view of adjoining residential district or use through use of sight-obscuring fences, earth berms or landscaped planting strips, to a height of not less than six feet.

(5) At least 15 percent of every parking lot shall be landscaped. In all cases, landscaping shall be distributed throughout the parking area. LID stormwater management facilities are encouraged to be incorporated into the required landscaping as much as possible, unless site or soil conditions make LID stormwater management facilities infeasible. Parking lot landscaping shall conform to OHMC [19.46.030\(5\)](#) with a preference for native species. For computation of required landscape area, allow 30 square feet per parking space. The landscaping shall consist of deciduous or coniferous plant material and may include turf, shrubs and flowers.

(6) Lighting of areas provided for off-street parking shall be so arranged to not constitute a nuisance or hazard to passing traffic and where said lots share a common boundary with any "R" classified property, the illuminating devices shall be so shaded and directed to play their light away from "R" classified property.

(7) Maintenance of all areas provided for off-street parking shall include removal and replacement of dead and dying trees, grass and shrubs, removal of trash and weeds, and repair of traffic control devices, signs, light standards, fences, walls, surfacing material, curbs and railings. Maintenance of LID stormwater management facilities ~~BMP's shall be in conformance with OHMC Title 12 shall be completed in accordance with the LID Technical Guidance Manual for Puget Sound (current edition), the city's public works maintenance standards and an approved operating and maintenance agreement.~~ (Ord. [1614](#) § 1, 2011; Ord. 1555 § 19, 2009).

Section Sixty-Six. Section 19.46.140(4) is hereby amended to read as follows:

19.46.140(4) Native vegetation standards.

(4) General Provisions. Native vegetation areas shall meet the following additional standards:

(a) Trees shall be retained in stands or clusters. A professional forester, arborist, or landscape architect shall prepare the landscape plan to ensure that retained vegetation is not susceptible to windthrow. See OHMC [19.46.100](#) for landscape plan requirements.

(b) Native vegetation may be accommodated within perimeter landscaping or other required landscaped areas.

(c) The minimum native vegetation retention may be decreased to five percent for nonresidential uses (e.g., churches, schools, etc.) that are permitted outright or conditionally in residential zones.

(d) The calculation of the native vegetation retention area for public school sites shall be based upon the total acreage of the school site minus the areas set aside for playfields in the school site plan; provided, that for the purposes of the calculation, such playfield areas shall not exceed 30 percent of the gross site area.

(e) Critical areas and their buffers may be counted towards this standard so long as they contain existing native vegetation (e.g., a steep slope with Douglas fir may be counted while one with Himalayan blackberry may not). Critical areas and their buffers that will be counted towards native vegetation shall not have to comply with the replanting standards within this chapter. Land below an ordinary high water mark shall not be counted towards the required native vegetation.

(f) Any soils disturbed through the site development process that are to be counted toward the native vegetation requirements shall be amended in accordance with the "[Post Construction Guidelines for Implementing Soil Quality and Depth](#)" (BMP T5.13 in [Volume V of the DOE Stormwater Management Manual for Western Washington 2005](#)).

Section Sixty-Seven. Section 19.46.150 is hereby amended to read as follows:

19.46.150 Tree species.

The following table provides information on selected species of native and non-native trees suitable for replanting. All species listed are suited to the climate conditions found in the Pacific Northwest. The list is for guidance only and is not intended to be all-inclusive. Other tree species may be utilized where appropriate when recommended by a professional forester, certified arborist, licensed landscape architect, or as approved by the director. Species availability and quantity may be limited in some cases. It is best to coordinate in advance with nurseries specializing in native plants. ~~For bioretention areas, a complete list of appropriate plants can be found in Appendix 3 of the LID Technical Guidance Manual for Puget Sound (2005).~~

Section Sixty-Eight. Section 19.47.025 is hereby amended as follows:

19.47.025 Definitions.

~~(1) "Caliper" shall mean the diameter of any tree trunk as measured at a height of four feet above the ground on the upslope side of the tree.~~

~~(2) "Creek" shall mean those areas where surface waters flow sufficiently to produce a defined channel or bed. A defined channel or bed is indicated by hydraulically sorted sediments or the removal of vegetative litter or loosely rooted vegetation by the action of moving water. The channel or bed need not contain water year around. This definition is not meant to include storm water runoff devices or other entirely artificial watercourses unless they are used to store and/or convey pass-through stream flows naturally occurring prior to construction.~~

~~(3) "Clearing" shall mean the act of cutting and/or removing vegetation. This definition shall include grubbing vegetation.~~

~~(4) "Clearing and grading permit" shall mean the written approval of the city of Oak Harbor to proceed with the act of clearing property within the city limits of Oak Harbor. The clearing and grading permit includes the associated approved plans and any conditions of approval as well as the permit form itself.~~

~~(5) "Critical area" shall mean any area designated as a critical area pursuant to RCW 36.70A.170 and Chapter 20.02 OHMC.~~

~~(6) "Development" shall mean any activity that requires federal, state, or local approval for the use or modification of land or its resource. These activities include, but are not limited to, subdivisions and short subdivisions; binding site plans; planned residential developments; variances; shoreline substantial development; clearing activity; excavation; embankment; fill and grade work; converting fallow land or undeveloped land to agricultural purposes; activity conditionally allowed; building or construction; and septic approval.~~

~~(7) "Dry season" shall mean the months of May through September.~~

~~(8) "Ecology" shall mean Washington State Department of Ecology.~~

~~(9) "Erosion" shall mean the wearing away of the land surface by running water, wind, ice, or other geological agents, including such processes as gravitational creep. Also, the detachment and movement of soil or rock fragments by water, wind, ice, or gravity. The following terms are used to describe different types of water erosion:~~

~~(10) "Geological erosion" means the normal or natural erosion caused by geological processes acting over long geologic periods and resulting in the wearing away of mountains, building up of floodplains, coastal plains, etc. Synonymous with natural erosion.~~

~~(11) "Natural erosion" means wearing away of the earth's surface by water, ice, or other natural agents under natural environmental conditions of climate, vegetation, etc., undisturbed by humans. Synonymous with geological erosion.~~

~~(12) "Excavation" shall mean the removal of material such as earth, sand, gravel, rock, or asphalt from a parcel, tract, or lot of land.~~

~~(13) "Fill" shall mean earth, sand, gravel, rock, asphalt, or other solid material used to increase the ground surface elevation or to replace excavated material.~~

~~(14) "Geotechnical engineer" shall mean a professional engineer currently registered in the state of Washington, qualified by reason of experience and education in the practice of geotechnical engineering, and designated by the owner as the geotechnical engineer of record for the project.~~

~~(15) "Grading" shall mean the movement of earth material through mechanical or other means to create the finished surface and contour of a project site.~~

~~(16) "Grubbing" shall mean the act of removing vegetation by the roots.~~

~~(17) "Ground cover" shall mean a dense covering of small plants such as salal, ivy, ferns, mosses, grasses, or other types of vegetation which normally cover the ground.~~

~~(18) "Land disturbance activity" shall mean any activity that results in movement of earth, or a change in the existing soil cover and/or the existing soil topography. Land disturbing activities include, but are not limited to, clearing, grading, filling, and excavation.~~

~~(19) "Low impact development (LID)" shall mean a stormwater management strategy that emphasizes conservation and use of existing natural site features integrated with distributed, small-scale stormwater controls to more closely mimic natural hydrologic patterns in residential, commercial, and industrial settings.~~

~~(20) "Partially developed lot" shall mean a lot or parcel of land upon which a structure (refer to OHMC 19.08.885 for the definition of a structure) is located and which is of sufficient area so as to be capable of accommodating additional development pursuant to the Oak Harbor zoning code; or which may be subdivided in accordance with the city of Oak Harbor subdivision chapter.~~

~~(21) "Permit" shall mean, unless otherwise noted, the clearing and grading permit; see "Clearing and grading permit."~~

~~(22) "Removal" shall mean the actual destruction or causing the effective destruction through damaging, poisoning or other direct or indirect actions resulting in the death of a tree or ground cover.~~

~~(23) "Runoff" shall mean water from rain, melted snow, or irrigation that flows over the land surface.~~

~~(24) "Sedimentation" shall mean the process of gravity induced settling and deposition of fragmented rock, soil, or organic particles displaced, transported, and deposited by erosive water-based processes.~~

~~(25) "Wet season" shall mean the period of the year between October 1st and April 30th. (Ord. 1616 § 1, 2011).~~

Section Sixty-Nine. Section 19.47.065(6) is hereby amended to read as follows:

19.47.065(6) Performance standards.

(6) Native Soil Protection and Amendment. The duff layer and native topsoil ~~should~~ **shall** be retained in an undisturbed state to the maximum extent practicable. In areas requiring grading, remove and stockpile the duff layer and topsoil on site in a designated, controlled area, not adjacent to public resources and critical areas, to be reapplied to other portions of the site where feasible.

Section Seventy. Section 19.47.065(10) is hereby amended to read as follows:

19.47.065(10) Performance standards.

(10) Slash Removal. Slash from clearing ~~should~~ **shall** preferably be chipped and used in native vegetation areas on the site within one year of project completion.

Section Seventy-One. Section 19.48.010 is hereby amended to read as follows:

19.48.010 Purpose and intent.

The purpose of site plan approval shall be to assure that the site plan of proposed uses is compatible with existing and potential uses and complies with development regulations and the comprehensive plan of the city of Oak Harbor. Site plan elements subject to this section include, but are not limited to, site layout, building orientation, pedestrian and vehicular access, signage, landscaping, natural features of the site, **integration of stormwater management techniques**, screening and buffering, parking and loading arrangements, and illumination. Site planning is the horizontal and vertical arrangement of these elements so as to be compatible with the physical characteristics of a site and with the surrounding area. Site plan review may include design review, which addresses the aesthetic considerations of architectural style, exterior treatment and colors. Site plan review should occur at an early stage in the development of a project, when the scale, intensity and layout of a project are known. The intent of the site plan approval shall be to:

(1) Promote integrated project review of various city codes concerned with development;

- (2) Assure consistency with development regulations and plans;
- (3) Protect neighboring owners and uses by assuring that reasonable provisions have been made for such matters as sound and sign buffers, light and air, and those other aspects of site plans which may have substantial effects on neighboring land uses;
- (4) Promote the orderliness of community growth, protect and enhance property values and minimize discordant and undesirable impacts of development both on site and off site;
- (5) Promote coordination of public or quasi-public elements, such as walkways, driveways, paths, and landscaping within segments of larger developments and between individual developments;
- (6) Ensure convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent areas;
- (7) Protect the desirable aspects of the natural landscape and environmental features of the city by minimizing the undesirable impacts of proposed developments on the physical environment;
- (8) Minimize conflicts that might otherwise be created by a mix of uses within allowed zones; and
- (9) Promote the creation of campus-like settings in appropriate zones. (Ord. [1555](#) § 22, 2009).

Section Seventy-Two. Section 19.48.032(4) is hereby amended to read as follows:

19.48.032(4) Requirements for application submittal.

- (4) Three copies of the following:
 - (a) A preliminary storm water report. If the project involves the addition or redevelopment of 2,000 square feet or more of **impervious hard** surfacing, storm water review will be required for the project **and other related engineering reports as required by OHMC Title 12**;
 - (b) A traffic impact study, if applicable, indicating the number of additional average daily trips the proposal could be expected to generate, prepared by a professional engineer certified to practice in Washington State;
 - (c) Any other environmental studies required;

Section Seventy-Three. Section 19.48.035(2) is hereby amended to read as follows:

19.48.035(2) Requirements for the site plan map.

- (2) Site Information.
 - (a) Location of property lines, indicating exterior lines with bold solid lines and interior property lines with long dashed lines;
 - (b) Topographic contour lines showing both existing and proposed elevations, at no more than five-foot intervals, extending a minimum of 10 feet beyond the property line. The interval should be such that the existing and proposed slopes of the property can be determined on the drawing. Proposed contours shall show ties to existing contours and show spot elevations as needed;
 - (c) Easements showing all existing, proposed, public and private easements;
 - (d) Building setbacks indicating the front, rear and side building setbacks with clear dimensions;
 - (e) Distance to adjacent structures on site, if applicable;
 - (f) Proposed building(s), including dimensions;

(g) Sizes and locations of solid waste containers showing details of any site screening fences or structures and screening of dumpsters, etc.;

(h) Location of existing and proposed signs including elevation, size, material, color, design and method of illumination;

(i) Locations and dimensions of off-street parking, including handicap parking, how parking is designated per unit if applicable, lot striping, wheel stops and curbing, include turning radii in the circulation pattern;

(j) Locations and sizes/widths of existing and proposed driveways, traffic flow, and parking lot circulation and maneuvering;

(k) Locations and dimensions of existing and proposed rights-of-way, streets, curbs, gutters, and street centerlines, including pavement edges;

(l) Dimensions and locations of sidewalks and wheelchair ramps;

(m) Limits of the paved areas.

(n) Locations and dimensions of stormwater treatment, flow control, and LID facilities/BMP's.

Section Seventy-Four. Section 19.48.039(2) is hereby amended to read as follows:

19.48.039(2) Timing of certain actions in site plan approval, reviewed development.

(2) Actions that need to be taken, fees that need to be paid and plans that need to be submitted before the building permit will issue. All items can be provided concurrent with site plan application:

Action	Actions That Need to Be Taken Before the Building Permit Will Be Issued
Impact fees for park and transportation.	Fee to be paid before building permit will issue.
System development charges for water and sewer.	Fee to be paid before building permit will issue.
Latecomer's agreement.	Fee to be paid and agreement filed, before building permit will issue.
Engineering <u>plans and reports.</u>	Approved before building permit will issue.
Landscape plan.	Approved before building permit will issue.
Installation of streets.	Before building permit will issue or when bonded for as provided in Chapter 19.90 OHMC.
Installation of public water utility improvements.	Before building permit will issue or when bonded for as provided in Chapter 19.90 OHMC.
Installation of public sewer	Before building permit will issue or when bonded for as

Action	Actions That Need to Be Taken Before the Building Permit Will Be Issued
improvements.	provided in Chapter 19.90 OHMC.
Installation of surface water management facilities.	Before building permit will issue or when bonded for as provided in OHMC 12.30.565 .

Section Seventy-Five. Section 19.48.050 is hereby amended to read as follows:

19.48.050 Decision criteria for site plan review.

The reviewing authority shall review and act upon site plans based upon comprehensive planning considerations and the following criteria in this section. These criteria are objectives of good site plans to be aimed for in development within the city of Oak Harbor. However, strict compliance with any one or more particular criterion may not be necessary or reasonable. These criteria also provide a frame of reference for the applicant in developing a site, but are not intended to be inflexible standards or to discourage creativity and innovation. The site plan review criteria include the following:

- (1) Consistency as determined under Chapter [18.20](#) OHMC;
- (2) Mitigation of impacts to surrounding properties and uses;
- (3) Mitigation of environmental impacts of the proposed site plan to the site;
- (4) Conservation of area-wide property values;
- (5) Safety and efficiency of vehicle and pedestrian circulation;
- (6) Provision of adequate light and air;
- (7) Mitigation of noise, odors and other harmful or unhealthy conditions;
- (8) Availability of public services and facilities to accommodate the proposed use;
- (9) Prevention of neighborhood deterioration and blight.
- [\(10\) Incorporation of stormwater management](#) (Ord. [1555](#) § 22, 2009).

Section Seventy-Six. Section 20.02.020 is hereby amended to read as follows:

20.02.020 Definitions.

- (1) "Alteration" means any human-induced change in an existing condition of a critical area or its buffer. Alterations include, but are not limited to, grading, filling, channelizing, dredging, clearing (vegetation), construction, compaction, excavation, or any other activity that changes the character of the critical area.
- (2) "Anadromous fish" means fish that spawn and rear in freshwater and mature in the marine environment.
- (3) "Applicant" means a person who files an application for a critical areas permit and who is either the owner of the land on which that proposed activity would be located, a contract purchaser, or the authorized agent of such a person.

(4) "Aquifer" means a geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

(5) "Aquifer recharge areas" means areas that, due to the presence of certain soils, geology, and surface water, act to recharge ground water by percolation.

(6) "Best available science" means current scientific information used in the process to designate, protect, or restore critical areas, that is derived from a valid scientific process as defined by WAC [365-195-900](#) through [365-195-925](#). Examples of best available science are included in "Citations of Recommended Sources of Best Available Science for Designating and Protecting Critical Areas," published by the Washington State Department of Community, Trade and Economic Development.

(7) "Best management practices (BMPs)" means ~~the schedules of activities, prohibitions of practices, maintenance procedures, and structural and/or managerial practices, that when used singly or in combination, prevent or reduce the release of pollutants and other adverse impacts to waters of Washington State, conservation practices or systems of practices and management measures that:~~

~~(a) Control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics, or sediment;~~

~~(b) Minimize adverse impacts to surface water and ground water flow and circulation patterns and to the chemical, physical, and biological characteristics of wetlands;~~

~~(c) Protect trees, vegetation and soils designated to be retained during and following site construction and use native plant species appropriate to the site for revegetation of disturbed areas; and~~

~~(d) Provide standards for proper use of chemical herbicides within critical areas.~~

(8) "Bog" means a low nutrient, acidic wetland with organic soils, which is sensitive to disturbance and impossible to re-create through compensatory mitigation.

(9) "Buffer" or "buffer zone" means ~~the zone an area that is~~ contiguous with a sensitive ~~area that to and protects a critical area, which~~ is required for the continued maintenance, functioning, and/or structural stability of a critical area. ~~The critical functions of a riparian buffer (those associated with an aquatic system) include shading, input of organic debris and coarse sediments, uptake of nutrients, stabilization of banks, interception of fine sediments, overflow during high water events, protection from disturbance by humans and domestic animals, maintenance of wildlife habitat, and room for variation of aquatic system boundaries over time due to hydrologic or climatic effects. The critical functions of terrestrial buffers include protection of slope stability, attenuation of surface water flows from stormwater runoff and precipitation, and erosion control.~~

(10) "Critical aquifer recharge area" means as defined in OHMC [20.32.010](#).

(11) "Critical areas" include ~~at a minimum any of the following areas or ecosystems: which include wetlands, areas with a critical recharging effect on aquifers used for potable water, critical aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, including unstable slopes, and associated areas and ecosystems. wetlands, as defined in Chapter 36.70A RCW and this title.~~

(12) "Cumulative impacts or effects" means the combined, incremental effects of human activity on ecological or critical areas functions and values. Cumulative impacts result when the effects of an action are added to or interact with the effects of other actions in a particular place and within a particular time. It is the combination of these effects, and any resulting environmental degradation, that should be the focus of cumulative impact analysis and changes to policies and permitting decisions.

(13) "Developable area" means a site or portion of a site that may be utilized as the location of development, in accordance with the rules of this title.

(14) "Development" means a land use consisting of the construction or exterior alteration of structures; grading, dredging, drilling, or dumping; filling; removal of sand, gravel, or minerals; bulk heading; driving of pilings; or

any project of a temporary or permanent nature which modifies structures, land, or shorelines and which does not fall within the allowable exemptions contained in the Oak Harbor Municipal Code.

(15) "Director" means the director of the city of Oak Harbor department of development services, or other city staff granted the authority to act on behalf of the director.

(16) "Drip line" means a line projected to the ground delineating the outermost extent of a tree's foliage in all directions.

(17) "Fish and wildlife habitat conservation areas" means as defined in OHMC [20.25.010](#).

(18) "Forage fish" means small fish that consume plankton, which are consumed by other fish higher in the food chain, such as salmon.

(19) "Functions and values" means the beneficial roles served by critical areas including, but not limited to, water quality protection and enhancement; fish and wildlife habitat; food chain support; flood storage, conveyance and attenuation; ground water recharge and discharge; erosion control; wave attenuation; protection from hazards; historical, archaeological, and aesthetic value protection; educational opportunities; and recreation.

(20) "Geologically sensitive areas" means as defined in OHMC [20.28.010](#).

(21) "Ground water" means water in a saturated zone or stratum beneath the surface of land or a surface water body.

(22) "Growth Management Act" means Chapters [36.70A](#) and [36.70B](#) RCW, as amended.

(23) "Habitat conservation areas" means areas designated as fish and wildlife habitat conservation areas.

(24) "Hard surface" means an impervious surface, a permeable pavement, or a vegetated roof.

~~(245)~~ "Hazardous substances" means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical, or biological properties described in WAC [173-303-090](#) or [173-303-100](#).

~~(256)~~ "Historic condition" means a condition of the land, including flora, fauna, soil, topography, and hydrology, that existed before the area and vicinity were developed or altered by human activity.

~~(267)~~ "Impervious surface" means a non-vegetated hard surface area that either prevents or retards the entry of water into the soil mantle, as under natural conditions prior to development. A non-vegetated surface area ~~or~~ that causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam or other surfaces which similarly impede the natural infiltration of stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces for the purposes of determining whether the thresholds for application of minimum requirements are exceeded. Open, uncovered retention/detention facilities shall be considered impervious surfaces for purposes of runoff modeling.

~~(278)~~ "Infiltration" means the downward movement entry of water from into the immediate surface to the of subsoil.

~~(289)~~ "In-kind compensation" means to replace critical areas with substitute areas whose characteristics and functions closely approximate those destroyed or degraded by a regulated activity.

~~(2930)~~ "Isolated wetlands" means those wetlands that are outside of and not contiguous to any 100-year floodplain of a lake, river, or stream and have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water, including other wetlands.

(301) "Landslide hazard areas" means areas that are potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors, including: bedrock, soil, slope gradient, slope aspect, geologic structure, ground water, or other factors.

(342) "Mature forested wetland" means a wetland with at least 30 percent of the surface area covered by woody vegetation greater than 20 feet in height, which is at least partially rooted within the wetland, where the largest trees are at least 80 years old or are greater than 21 inches in diameter at breast height.

(323) "Mitigation" means ~~avoiding, minimizing, or compensating for adverse critical areas impacts. Mitigation,~~ in the following ~~sequential~~ order of preference, is:

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

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, ~~such as project redesign, relocation, or timing,~~ to avoid or reduce impacts;

(c) Rectifying the impact ~~to wetlands, critical aquifer recharge areas, and habitat conservation areas~~ by repairing, rehabilitating, or restoring the affected environment ~~to the conditions existing at the time of the initiation of the project;~~

~~(d) Minimizing or eliminating a hazard by restoring or stabilizing the hazard area through engineered or other methods;~~

~~(ed)~~ Reducing or eliminating the impact ~~or hazard~~ over time by preservation and maintenance operations during the life of the action; and,

~~(fe)~~ Compensating for the impact ~~to wetlands, critical aquifer recharge areas, and habitat conservation areas~~ by replacing, enhancing, or providing substitute resources or environments; ~~and,~~

~~(g) Monitoring the hazard or other required mitigation and taking remedial action when necessary.~~

~~Mitigation for individual actions may include a combination of the above measures.~~

(334) "Monitoring" means ~~evaluating the impacts of development proposals on the biological, hydrological, and geological elements of such systems, and assessing the performance of required mitigation measures through the collection and analysis of data by various methods for the purposes of understanding and documenting changes in natural ecosystems and features, evaluating the impacts of development proposals on such systems, and assessing the performance of required mitigation measures imposed as conditions of development, including gathering baseline data.~~

(345) "Native growth protection area (NGPA)" means an area where native vegetation is preserved for the purpose of preventing harm to property and the environment, including, but not limited to, controlling surface water runoff and erosion, maintaining slope stability, buffering, and protecting plants and animal habitat.

(356) "Native vegetation" means vegetation comprised of plant species, other than noxious weeds, that are indigenous to the coastal region of the Pacific Northwest and which reasonably could have been expected to naturally occur on the site. Examples include trees such as Douglas fir, Western Hemlock, Western Red Cedar, Alder, Big-leaf Maple, and Vine Maple; shrubs such as willow, elderberry, salmonberry and salal; and herbaceous plants such as sword fern, foam flower, and fireweed. plant species that are indigenous to the area in question.

(367) "Oak tree" means a Garry Oak (*Quercus garryana*, also known as Oregon White Oak) tree more than six feet tall. "Oak tree" shall not apply to any tree grown or held for sale in a licensed nursery, nor to the first removal or transplanting of a tree pursuant to the operation of a licensed nursery business.

(378) "Off-site compensation" means to replace critical areas away from the site on which a critical area has been impacted.

(389) "On-site compensation" means to replace critical areas at or adjacent to the site on which a critical area has been impacted.

(3940) "Ordinary high water mark" means the line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank; shelving; changes in the character of soil destruction on terrestrial vegetation, or the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding area.

The ordinary high water mark will be found by examining the bed and banks of a stream and ascertaining where the presence and action of waters are so common and usual, and so long maintained in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation. In any area where the ordinary high water mark cannot be found, the line of mean high water shall substitute. In any area where neither can be found, the channel bank shall be substituted. In braided channels and alluvial fans, the ordinary high water mark or substitute shall be measured so as to include the entire stream feature. that mark which is found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, that the soil has a character distinct from that of the abutting upland in respect to vegetation.

(401) "Permeability" means the capacity of an aquifer or confining bed to transmit water. It is a property of the aquifer or confining bed and is independent of the force causing movement.

(412) "Person" means any ~~person~~, individual, ~~partnership, public or private~~ corporation, ~~firm~~, association, organization, cooperative, public or municipal corporation, agency of the state or local government unit, ~~however designated joint venture, partnership, owner, lessee, tenant, or any other entity whatsoever or any combination of such, jointly or severally.~~

(423) "Pesticide" means a general term used to describe any substance - usually chemical - used to destroy or control organisms; includes herbicides, insecticides, algicides, fungicides, and others. Many of these substances are manufactured and are not naturally found in the environment. Others, such as pyrethrum, are natural toxins that are extracted from plants and animals. chemical used to kill pests, including herbicides, insecticides and fungicides.

(434) "Porous soil types" means soils, as identified by the National Resources Conservation Service, U.S. Department of Agriculture, that contain voids, pores, interstices, or other openings which allow the passing of water. High permeable soils in Oak Harbor include: Hoypus gravelly loamy sand, Snakelum Course sandy loam, Keystone loamy sand and Norma loam. Moderate permeable soils include: Coastal Beach, Made Land, Whidbey gravelly sandy loam, Townsend sand loam, and Swantown gravelly sandy loam.

(445) "Potable water" means water that is safe and palatable for human consumption.

(456) "Practical alternative" means an alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, and has less impacts to critical areas.

(467) "Primary association area" means the area used on a regular basis by, that is in close association with, or is necessary for the proper functioning of the habitat of a species protected under the critical areas regulations of this title. "Regular basis" means that the habitat area is normally, or usually, known to contain the species, or it is likely to contain the species based on its known habitat requirements. Regular basis is species and population dependent. Species that exist in low numbers may be present infrequently yet rely on certain habitat types.

(478) "Priority habitat" means habitat type or elements with unique or significant value to one or more species as classified by the State Department of Fish and Wildlife. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element, as identified in WAC [173-26-020](#).

(489) "Project area" means all areas within 50 feet of the area proposed to be disturbed, altered, or used by the proposed activity or the construction of any proposed structures. When the action binds the land, such as a

subdivision, short subdivision, binding site plan, planned unit development, or rezone, the project area shall include the entire parcel, at a minimum.

(4950) "Qualified professional" means a person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant critical area subject in accordance with WAC [365-195-905](#). A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology, or a related field, and have at least five years of related work experience.

(a) A qualified professional for habitats or wetlands must have a degree in biology and professional experience related to the subject species.

(b) A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the state of Washington.

(c) A qualified professional for critical aquifer recharge areas means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments.

(501) "Recharge" means the ~~addition water to the zone of saturation process involved in the absorption and addition of water to ground water.~~

(542) "Repair or maintenance" means an activity that restores the character, scope, size, and design of a serviceable area, structure, or land use to its previously authorized and undamaged condition. Activities that change the character, size, or scope of a project beyond the original design and drain, dredge, fill, flood, or otherwise alter critical areas are not included in this definition.

(523) "Restoration" means ~~actions performed to reestablish wetland functional characteristics and processes that have been lost by alterations, activities, or catastrophic events in an area that no longer meets the definition of a wetland. measures taken to restore an altered or damaged natural feature, including:~~

~~(a) Active steps taken to restore damaged wetlands, streams, protected habitat, or their buffers to the functioning condition that existed prior to an unauthorized alteration; and~~

~~(b) Actions performed to reestablish structural and functional characteristics of the critical area that have been lost by alteration, past management activities, or catastrophic events.~~

(534) "Riparian habitat" means areas adjacent to aquatic systems that contain elements of both aquatic and terrestrial ecosystems that mutually influence each other.

(545) "Salmonids" means members of the Salmonidae family of fishes, including regionally important species such as salmon, steelhead, and trout.

(556) "Seeps" means spots where water oozes from the earth, often forming the source of a small stream.

(567) "Seismic hazard areas" means areas that are subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, or soil liquefaction.

(578) "SEPA" means Washington State Environmental Policy Act, Chapter [43.21C](#) RCW.

(589) "Significant portion of its range" means that portion of a species range likely to be essential to the long-term survival of the population in Washington.

(5960) "Significant tree" means a healthy evergreen or deciduous tree 12 inches or more in diameter measured four feet above existing grade.

(601) "Soil survey" means the most recent soil survey for the local area or county by the National Resources Conservation Service, U.S. Department of Agriculture.

(642) "Species" means any group of animals classified as a species or subspecies as commonly accepted by the scientific community.

(623) "Species, endangered" means any fish or wildlife species that is threatened with extinction throughout all or a significant portion of its range and is listed by the state or federal government as an endangered species.

(634) "Species of local importance" means those species of local concern designated by the city of Oak Harbor due to their population status or their sensitivity to habitat manipulation, or that are game species.

(645) "Species, priority" means any fish or wildlife species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels as classified by the Washington State Department of Fish and Wildlife, including endangered, threatened, sensitive, candidate and monitor species, and those of recreational, commercial, or tribal importance.

(656) "Species, threatened" means any fish or wildlife species that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range without cooperative management or removal of threats, and is listed by the state or federal government as a threatened species.

(667) "Steep slope" means slopes of 40 percent gradient or steeper within a vertical elevation change of at least ten feet. A slope is delineated by establishing its toe and top, and is measured by averaging the inclination over at least ten feet of vertical relief. For the purpose of this definition:

The toe of a slope is a distinct topographic break in slope that separates slopes inclined at less than 40% from slopes 40% or steeper. Where no distinct break exists, the toe of a steep slope is the lowermost limit of the area where the ground surface drops ten feet or more vertically within a horizontal distance of 25 feet; AND The top of a slope is a distinct topographic break in slope that separates slopes inclined at less than 40% from slopes 40% or steeper. Where no distinct break exists, the top of a steep slope is the uppermost limit of the area where the ground surface drops ten feet or more vertically within a horizontal distance of 25 feet.

naturally occurring slopes that rise 10 feet or more for every 25 feet horizontal, with a total vertical relief greater than 10 feet. A slope is delineated by establishing its toe and top. Existing slopes modified with engineering oversight or in accordance with standard construction industry techniques are not considered steep slopes.

(68) "Storm Water Management Manual" or "manual" means the Washington State Department of Ecology 2012 Storm Water Management Manual for Western Washington, as amended in December 2014.

(679) "Stream" means an area where open surface water produces a defined channel or bed, not including irrigation ditches, canals, storm or surface water runoff devices or other entirely artificial watercourses, unless they are used by salmonids or are used to convey a watercourse naturally occurring prior to construction. A channel or bed need not contain water year-round, provided there is evidence of at least intermittent flow during years of normal rainfall.

(6870) "Topping, tree" means the severing of the main stem of a tree in order to reduce its overall height; provided, that no more than 40 percent of the live crown shall be removed.

(6971) "Trimming, tree" means the pruning or removal of limbs; provided, that the main stem is not severed and no more than 40 percent of the live crown is removed.

(702) "Unavoidable" means adverse impacts that remain after all appropriate and practicable avoidance and minimization has been achieved.

(743) "Unstable slope" means a naturally occurring slope with a gradient between 15 and 39 percent (dividing the vertical rise by the horizontal extent), with a total vertical relief greater than 10 feet, where springs or ground water seepage is present on the slope. Existing slopes modified with engineering oversight or in accordance with standard construction industry techniques are not considered unstable slopes.

(724) "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and

similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.

(735) "Wetland mitigation bank" means a site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing advance mitigation to compensate for future, permitted impacts to similar resources.

(746) "Wetland mosaic" means an area with a concentration of multiple small wetlands, in which each patch of wetland is less than one acre; on average, patches are less than 100 feet from each other; and areas delineated as vegetated wetland are more than 50 percent of the total area of the entire mosaic, including uplands and open water. (Ord. 1440 § 1, 2005).

Section Seventy-Seven. Section 20.16.010 is hereby amended to read as follows:

20.16.010 Harm prohibited.

(1) No person shall remove, top, damage, destroy, break, injure, mutilate or kill any oak tree or permit any animal under his control to do so or to permit any toxic chemicals to seep, drain or empty onto or about any oak tree, except as allowed by this chapter.

(2) During building or construction operations, suitable protective barriers shall be erected around oak trees and shrubs which may be subject to injury.

(3) No ~~paving or~~ hard surface area shall be allowed within the drip line of an oak tree to the maximum extent possible. An administrative variance may allow ~~paving or~~ hard surface on up to 25 percent of the area within the drip line when there is no practical alternative. (Ord. 1441 § 1, 2005).

Section Seventy-Eight. Section 20.28.020(1)(c) is hereby amended to read as follows:

(c) Grading and Erosion Control Plan. The plan shall be prepared by a qualified professional and shall include:

(i) A schedule showing when each stage of the project will be completed, and estimate starting and completion dates, limiting the time that soil is exposed and unprotected to the shortest possible period.

(ii) Measures to be taken for slope stabilization and erosion control, using best management practices as contained in the ~~Washington State Department of Ecology's 2005 Stormwater Management Manual for Western Washington manual~~: Volume II, Construction Stormwater Pollution Prevention (Publication No. ~~05-10-032 14-10-055~~), or future updated publications or other methodology as approved by the director.

Section Seventy-Nine. Section 20.28.040 is hereby amended to read as follows:

20.28.040 Modifications and flexibility.

Minor alterations on steep or unstable slopes or associated setbacks may be allowed by the director where all of the following standards have been met:

(1) A site assessment has been submitted showing that the proposal will have no adverse impact on the stability or erosion susceptibility of the slope;

(2) The impacted area totals no more than 20 percent of the entire site;

(3) The modification will not increase surface water discharge or sedimentation to adjacent properties or critical areas beyond predevelopment conditions;

(4) The activity will not adversely impact other critical areas;

(5) The development will not decrease slope stability on adjacent properties; and

(6) Stormwater runoff from any new impervious surface shall be collected in a detention system and directed to an enclosed drainage system. Where minor additions of less than 1,000 square feet of new impervious areas are proposed to existing developed properties that do not have detention facilities, the stormwater runoff shall be directed to the city's storm drainage system or be designed for natural infiltration or dispersion. At no time shall concentrated stormwater runoff be allowed to flow directly over a steep or unstable slope or impact a neighboring property. (Ord. 1440 § 5, 2005).

Section Eighty. Section 20.28.060 is hereby amended to read as follows:

20.28.060 Seasonal restriction and best management practices.

Clearing and grading within the wet weather months (October through April) shall be allowed in or adjacent to geologically sensitive areas only with the approval of the director. The developer shall fully implement a wet weather construction plan using at a minimum the current best management practices as contained in the ~~Washington State Department of Ecology's 2005 Stormwater Management Manual for Western Washington manual~~: Volume II, Construction Stormwater Pollution Prevention (Publication No. ~~05-10-032 14-10-055~~), or future updated publication. If the wet weather construction plan is not implemented or turbid water leaves the site, construction shall be stopped immediately until proper erosion control devices are implemented and established. Best management practices include, but are not limited to:

(1) Exposed soils shall be protected from the forces of rain and flowing water within two days during the winter season and seven days during the summer season.

(2) Erosion control devices shall include as appropriate silt fences, straw mats, bay bails, filter fabrics, plastic sheeting, mulch, retention of vegetative buffers, and soil stabilization plant materials.

(3) Development shall be phased to limit the area of exposed soils to no more than two acres at a time.

(4) Water flows shall be directed away from steep or unstable slopes. At no time shall water be allowed to flow freely over steep or unstable slopes.

(5) Vegetation removal or planting on steep slopes shall be conducted by hand or by nonimpacting procedures as approved by the director. Heavy equipment shall not be allowed on steep or unstable slopes. (Ord. 1440 § 5, 2005).

Section Eighty-One. Section 20.32.030 is hereby amended to read as follows:

20.32.030 Critical areas report.

(1) For all regulated activities, the applicant shall submit a report describing the best management practices to be used to minimize the risk of aquifer contamination. At a minimum, these practices shall include those recommended by the ~~Washington State Department of Ecology in its 2005 Stormwater Management Manual for Western Washington manual~~: Volume IV, Source Control BMPs (Publication No. ~~05-10-032 14-10-055~~) or future updated publications, as applicable, and shall comply with requirements in the Washington Administrative Code for the proposed activity.

Section Eighty-Two. Section 21.10.010 is hereby amended to read as follows:

21.10.010 Purpose.

This title shall be known as the “subdivision ordinance of the city of Oak Harbor, Washington.” The purpose of this title is to regulate the subdivision of land and to promote the public health, safety and general welfare in accordance with the standards established by the state in Chapter [58.17](#) RCW as now or hereafter amended and the city and to:

- (1) Provide for the expeditious review and approval of proposed land divisions which comply with this title, the Oak Harbor zoning ordinance, other city plans, policies and land use controls, and Chapter [58.17](#) RCW;
- (2) Promote safe and convenient traffic circulation;
- (3) Facilitate adequate provision for water, sewerage, drainage, parks and recreational areas, sites for schools and school grounds, and other public requirements;
- (4) Provide for proper ingress and egress;
- (5) Adequately provide for the housing and commercial needs of the citizens of the state and city;
- (6) Require uniform monumenting of land divisions and conveyance by accurate legal description;
- (7) Provide for convenient and safe pedestrian and bicycle movement;
- (8) Promote the integration of new residential neighborhoods with developed areas of the community;
- (9) ~~Encourage~~ Require, where feasible, environmentally sound low impact development techniques to manage stormwater;
- (10) Facilitate development that is aesthetically appealing and appropriate for the community; and
- (11) Implement the goals, objectives and policies of the Oak Harbor comprehensive plan. (Ord. [1617](#) § 1, 2011; Ord. 1568 § 3, 2010).

Section Eighty-Three. Section 21.10.070 is hereby amended to read as follows:

21.10.070 Definitions.

Words used in the present tense shall include the future tense; the future tense shall include the present tense. The singular shall include the plural; the plural shall include the singular. The words “may” and “should” are permissive; “shall” is mandatory.

- (1) “Alley” means a public or private right-of-way, a minimum of 20 feet in width, which affords a secondary access to abutting property.
- (2) “Block” means a group of lots, tracts, or parcels surrounded by public rights-of-way or easements for pedestrian/bike travel.
- (3) “Block length” means the perimeter distance around a block, divided by two.
- (4) “Binding site plan” means a drawing to a scale specified by Chapter [21.80](#) OHMC which:
 - (a) Identifies and shows the areas and locations of all streets, roads, improvements, utilities, open spaces, and any other matters specified by local regulations;
 - (b) Contains inscriptions or attachments setting forth such appropriate limitations and conditions for the use of the land as are established by the city; and
 - (c) Contains provisions requiring development to be in conformity with the site plan.
- (5) “Building” means any structure used or intended for supporting or sheltering a continuous use.

(6) "Building setback line" means a line parallel to the front property line in front of which no structure shall be erected. The location of such line shall be determined from the regulations of the zoning ordinance of the city.

(7) "City" means the city of Oak Harbor.

(8) "City engineer" means the duly appointed engineer for the city.

(9) "City finance director" means the duly appointed treasurer and finance director for the city.

(10) "Comprehensive plan" means the coordinated land use policy statement of the city adopted pursuant to RCW [36.70A.030](#)(4).

(11) "Controlling corner" means all angle points of the perimeter of a subdivision or separate divisions of a subdivision.

(12) "Council" means the city council of the city.

(13) "County assessor" means the duly elected county assessor for the county.

(14) "County auditor" means the duly elected county auditor for the county.

(15) "County engineer" means the duly appointed county engineer for the county.

(16) "County treasurer" means the duly elected county treasurer for the county.

(17) "Dedication" means the deliberate appropriation of land by an owner for any general and public use, reserving to him/her no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. The intention to dedicate shall be evidenced by the owner by the presentation for filing of a final or short plat showing the dedication thereon and the acceptance by the public shall be evidenced by the approval of such plat for filing by the city.

(18) "Director" means the duly appointed director of development services for the city.

(19) "Engineer" means a registered professional engineer licensed to practice engineering in the state of Washington.

(20) "Grid street pattern" means a street layout characterized by rectangular blocks and four-way intersections with streets meeting at right angles. This street pattern is also characterized by no or very few dead ends.

(21) "Modified grid street pattern" means a street layout characterized by rectangular blocks. This street pattern is distinguished from a grid street pattern by a mix of three-way and four-way intersections with streets meeting at right angles.

(22) "Health department" means the county department of health.

(23) "Low impact development" or "LID" means a stormwater management and land development strategy applied at the parcel and subdivision scale that emphasizes conservation and use of on-site existing natural site features integrated with engineered, small hydrologic distributed, small-scale stormwater controls to more closely mimic pre-development hydrologic functions natural hydrologic patterns in residential, commercial, and industrial settings.

(24) "Lot" means a fractional part of subdivided land having fixed boundaries being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include "plots" and "parcels."

(a) "Corner lot" means a lot which abuts on two or more intersecting streets;

(b) "Interior lot" means a lot which has frontage on one street only;

(c) "Through lot" means a lot other than a corner lot abutting more than one street.

(25) "Metes and bounds" means a description of real property which starts at a known point of beginning and describes the bearings and distances of the lines forming the boundaries of the property, and is completed when the description returns to the point of beginning.

(26) "Mid-block connection" is a thoroughfare connecting two sides of a residential block, usually located near the middle of said block and intended for pedestrian and bicycle use.

(27) "Monument" means an object used to permanently mark a surveyed location. The size, shape and design of the monument is to be in accordance with standards specified by the city engineer.

(28) "Open space" means a portion of land excluding building sites and parking areas which is designated and maintained as an area for leisure, recreation and other activities normally carried on outdoors. Open space may include greenbelt and recreational areas.

(29) "Pavement width" means the actual paved surface measured from edge to edge of streets or alley road surface.

(30) "Pipe stem lot," also called a "panhandle" lot, is defined as a parcel of land which resembles a rectangle with a lot taken out of a corner or corners leaving the remainder with considerably less width on the front lot line than the width at the rear of the parcel.

(31) "Planning commission," also referred to as the "commission," means the appointed planning commission of the city.

(32) "Plat" means a map or representation of a subdivision, showing thereon the division of a tract or parcel of land into lots, blocks, streets and alleys or other divisions and dedications.

(a) "Preliminary plat" means a neat and accurately scaled drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks, and other elements, which shall furnish a basis for the approval or disapproval of the subdivision.

(b) "Final plat" means the final drawing of the subdivision and dedication prepared for recording with the county auditor and containing all elements and requirements in Chapter [58.17](#) RCW and the Oak Harbor Municipal Code.

(c) "Redivision" means a map or representation of a subdivision showing thereon the division of a tract or parcel of platted land into two or more lots, blocks, streets, and alleys or other divisions and dedications.

(d) "Short plat" means the map or representation of a short subdivision.

(33) "Plat certificate" means a title report by a title insurance company certifying the ownership, deed restrictions, covenants, etc., of the land being subdivided.

(34) "Right-of-way" or "R/W" means a strip of land deeded or dedicated to the city for street, utility and/or drainage purposes.

(35) "Short subdivision" means the division or redivision of land into nine or less lots, tracts, parcels, or divisions for the purpose of sale or lease.

(36) "[Storm Water Management Manual](#) or "manual" means the [Washington State Department of Ecology 2012 Storm Water Management Manual for Western Washington, as amended in December 2014.](#)

(367) "Street" means a dedicated and accepted public right-of-way for vehicular traffic. The word "street" includes the words "road," "drive," "boulevard" or "way."

(a) "Arterial street" means an existing or proposed roadway designated as a "principal" or "minor" arterial within the transportation element of the comprehensive plan.

(b) "Collector street" means an existing or proposed roadway designated as a "collector" or "collector, industrial" in the transportation element of the comprehensive plan.

(c) "Cul-de-sac" means a turnaround at the termination of a dead-end street designed in such a manner as to provide for the safe and convenient reversal of traffic movement.

(d) "Dead-end street" means a local street whose continuation is not required by the city for access to adjoining properties. For the purposes of this title, eyebrow or crescent turnarounds are not considered to be dead ends.

(e) "Local or minor access street" means a street providing vehicular access to abutting properties.

(f) "Private street" means a privately owned right-of-way which provides access for up to nine residential units and meets the requirements of this title.

(g) "Shared drive" means a privately owned right-of-way for vehicular access for a maximum of four residential units and meets the requirements of this title.

(378) "Street and utility standards of the city" shall consist of the requirements contained in the standard drawings and documents as specified by the city engineer which are on file with the city clerk.

(389) "Subdivider" means any person, firm or corporation who subdivides or develops any land deemed to be a subdivision.

(3940) "Subdivision" means the division or redivision of land into 10 or more lots, tracts, parcels, sites or divisions for the purpose of sale or lease and includes all resubdivision of land.

(401) "Surveyor" means a registered professional land surveyor licensed to practice surveying in the state of Washington.

(412) "Tract" is a nonbuildable unit of land created by a subdivision, short subdivision, deed, or other instrument recorded with the appropriate county recorder. Tracts are usually held in common by the owners of an organization, such as a homeowners' association, for common benefit and are not required to meet minimum lot size and dimensional requirements of the applicable zone. (Ord. 1617 § 1, 2011; Ord. 1568 § 3, 2010).

Section Eighty-Four. Section 21.20.020 is hereby amended to read as follows:

21.20.020 Application and submission requirements.

(1) The preliminary plat shall be prepared, stamped and signed by a licensed land surveyor.

(2) The preparer shall, by placing his or her signature and seal upon the face of the plat, certify that all information is portrayed accurately and that the proposed subdivision complies with the standards and requirements of this title, the Oak Harbor zoning ordinance, and any other applicable land use and development controls.

(3) The preliminary plat must be prepared in accordance with the following minimum requirements:

(a) The preliminary plat shall be reproducible;

(b) All geographic information portrayed by the preliminary plat shall be accurate, legible, and drawn to an engineering (decimal) scale;

(c) The horizontal scale of a preliminary plat shall be 100 feet or fewer to the inch, except that the vicinity sketch and typical street cross sections may be drawn to any other appropriate scale; and

(d) A preliminary plat shall be 24 inches by 36 inches in size, and if more than one sheet is needed, each sheet shall be numbered consecutively and an index sheet showing the entire property and orienting the other sheets, at any appropriate scale, shall be provided.

(4) The preliminary plat must include the following information:

(a) Name of proposed plat;

(b) Name, address and phone number of the subdivider (owner) and the name, address and phone number and seal of the surveyor preparing the plat;

(c) An accurate and complete legal description of the area being platted;

(d) All parcels of land intended to be dedicated or temporarily reserved for public use and the conditions attached thereto shall be accurately indicated;

(e) The lines and names of all streets and other public ways, pedestrian/bicycle connections, parks, playgrounds and easements intended to be dedicated for public use and/or common areas granted for use of inhabitants of the subdivision;

(f) There shall be a vicinity sketch at a scale of not more than 800 feet to the inch showing the proposed plat in relation to surrounding land. All platted or public rights-of-way for a distance of at least a quarter mile shall be shown, and additional area shall be illustrated, if necessary, to show connecting streets or arterials;

(g) Monuments found and established during the preliminary survey;

(h) Names and addresses of all land owners contiguous to the proposed plat;

(i) Present zoning classification on and adjacent to the proposed plat;

(j) Date, scale, north arrow and lot lines; and

(k) All mapped information shall be prepared in a neat and legible manner.

(5) On a separate sheet of paper from the preliminary plat map, a site plan showing the following:

(a) Name of plat;

(b) Topography of the area with maximum five-foot contour intervals;

(c) City datum shall be used;

(d) Location of all utilities and sizing of existing and proposed public utilities, including but not limited to fire hydrants, water, sewer, storm drains, electricity, gas, telephone and cablevision lines, mail boxes; and

(e) Existing structures and natural features and all proposed and existing improvements within and adjoining the proposed subdivision as required by the design standards contained in Chapters [21.50](#) and [21.60](#) OHMC.

(6) A landscape plan showing all of the following:

(a) All buffers, screening, native vegetation and/or tree retention areas, fences and hedges required by Chapter [19.46](#) OHMC;

(b) Landscaping around stormwater ponds as required by this title;

(c) Any landscaping required in the public right-of-way or pedestrian/bicycle connections, including location, type and spacing of street trees; and

(d) Locations of light fixtures in pedestrian/bicycle connections and along all streets.

(7) An environmental checklist and review fee shall be required in accordance with city ordinance upon the submittal of a preliminary plat.

(8) A copy of any deed restrictions or protective covenants existing or proposed.

(9) Low impact development (LID) site analysis. The site analysis shall include:

(a) a soils report prepared by a licensed geotechnical engineer or licensed engineering geologist;

(b) preliminary drainage report in conformance with OHMC Title 12; and,

(c) description of the proposed complete LID project including:

(i) Project narrative showing how the project will fulfill the requirement for on-site management of stormwater to the maximum extent feasible;

(ii) Total area of designated development area;

(iii) Listing and extent of each LID BMP to be used. Explanation and documentation for any determination that an LID BMP was considered infeasible for the site, or a statement that the site will achieve the LID performance standard;

(iv) Maximum hard surfaces proposed for the development;

(v) Total area of hard surface and effective hard surface and how proposed drainage plan reduces (to the maximum extent) or eliminates effective impervious area.

(910) Any additional materials, supporting documentation, and fees necessary to fulfill the requirements of other applicable municipal standards defined in the Oak Harbor Municipal Code. (Ord. 1617 § 2, 2011; Ord. 1568 § 4, 2010).

Section Eighty-Five. Section 21.30.010 is hereby amended to read as follows:

21.30.010 Purpose and applicability.

The purpose of construction plans is to document that the specific construction details for all public and private improvements such as, but not limited to, streets, sewer, water, storm sewer and stormwater facilities, pedestrian/bicycle connections, landscape strips, and sidewalks, required as part of preliminary plat or short subdivision approval, and ensure that they will be built according to city standards.

Construction plans are required of all projects which seek to divide land and create parcels, tracts, or lots through the subdivision or short subdivision process. (Ord. 1568 § 5, 2010).

Section Eighty-Six. Section 21.30.020(3)(a) is hereby amended to read as follows:

21.30.020 Construction plans – Engineering review.

(3) After the city engineer has approved the construction plans and specifications, the subdivider may then proceed as follows:

(a) Prior to the submission of a final plat for approval, all streets, alleys, sidewalks, pedestrian/bike connections, landscaping, storm management facilities drainage, utilities, monumentation, street lights, trees, and any other improvements specified in this title shall be installed and completed by the subdivider to the satisfaction of the city engineer and in conformance with this chapter;

Section Eighty-Seven. Section 21.40.030 is hereby amended to read as follows:

21.40.030 Application requirements.

(1) The application for the final plat shall include all of the following:

(a) A reasonable application processing fee in accordance with RCW [82.02.020](#) to cover the cost of processing the application as set out in the city's comprehensive permit fee list.

(b) The final plat map meeting the requirements of Chapter [58.17](#) RCW, including certifications, dedications and title reports. Every plat containing a dedication filed for record must be accompanied by a title report confirming that the title of the lands as described and shown on said plat is in the name of the owners signing the certificate or instrument of dedication.

(c) A recordable survey and surveyor's signature meeting the requirements of Chapter [58.09](#) RCW and RCW [58.17.250](#).

(d) The subdivider's engineer shall provide cost information for construction and installation of all improvements including but not limited to the following:

(i) Water Mains and Appurtenances. Total cost by size and number of feet and the cost of any other associated improvement by item, including water services;

(ii) Storm Drains **and management facilities**. Total cost by size and number of feet; **Total cost of low impact development BMP's**;

(iii) Sanitary Sewer. Total cost by size and number of feet;

(iv) Streets. Total cost by size and number of feet;

(v) Pedestrian/bike connections. Total cost by size and number of feet;

(vi) Landscaping, including street trees. Total cost;

(vii) Other on- or off-site improvements as required.

(2) The application and number of prints as set forth on the application of the final plat shall be submitted to the director along with the original signed by the owner and registered land surveyor. (Ord. 1568 § 6, 2010).

Section Eighty-Eight. Section 21.40.040(2) is hereby amended to read as follows:

21.40.040(2) Prescribed form.

(2) Specific Requirements. The final plat shall clearly show the following information:

(a) The lines and names of all streets and other public ways, pedestrian/bike connections, parks, playgrounds and easements intended to be dedicated for public use and/or common areas granted for use of inhabitants of the subdivision;

(b) The lines and names of all existing or platted streets or other public ways, pedestrian/bike connections, parks, playgrounds and easements adjacent to the subdivision, including municipal boundaries, township lines, and section lines;

(c) The lengths and bearings of all straight lines, curve radii, curve delta, arcs and semitangents (where appropriate) of all curves;

- (d) All bearings and dimensions along the lines of each lot together with any other data necessary for the location of any lot lines in the field. All bearings shall be referenced to the Washington Coordinate Systems, North Zone;
- (e) All easements and associated restrictions and maintenance provisions;
- (f) Building setbacks;
- (g) Tracts or areas set aside for environmental protection, tree and native vegetation retention and protection, community open space, common stormwater infiltration areas, common access or any other restricted use with associated restrictions and maintenance provisions clearly defined;
- (h) The area of all lots and tracts expressed in square feet;
- (i) Suitable primary control points, approved by the city engineer, on descriptions and ties to such control points, to which all dimensions, angles, bearings and similar data given on the plat shall be referred;
- (j) The location of all permanent monuments;
- (k) The names of all subdivisions immediately adjacent thereto;
- (l) The date, north arrow, scale, datum plane, and date of survey;
- (m) The boundary of the tract with the courses and distances marked thereon as determined by a field survey made by a registered land surveyor of the state;
- (n) A vicinity sketch map of approximately 800 feet to the inch;
- (o) Street names; and
- (p) The stamp and signature of a surveyor licensed in the state of Washington.

Section Eighty-Nine. Section 21.40.040(6)(a) is hereby amended to read as follows:

21.40.040(6)(a) Prescribed form.

(6) Document Forms. All final plats shall contain the elements listed in RCW [58.17.160](#). In addition, the final plat shall contain the legal description of the subdivision and easement provision, a dedication, acknowledgments, and other statements, in substantially the form as follows:

- (a) Easements (Sample Utility Easement).

An easement is reserved for and granted to (the names of all the utilities, public and private, serving the area) and their respective successors and assigns under and upon the exterior ten (10) feet of front boundary lines of all lots and tracts, in which to install, lay, construct, renew, operate, maintain and remove utility and stormwater systems, lines, fixtures and appurtenances attached thereto, for the purpose of providing utility services to the subdivision and other property, together with the right to enter upon the lots and tracts at all times for the purposes stated, with the understanding that any grantee shall be responsible for all unnecessary damage it causes to any real property owner in the subdivision by exercise of rights and privileges herein granted.

Section Ninety. Section 21.50.040(1) is hereby amended to read as follows:

21.50.040 Waiver of requirements – Procedure.

(1) Any subdivider can make application for a waiver from one or more of the design standards contained in this chapter, provided the request is received concurrently with the proposed subdivision, short subdivision, binding site plan or dedication. In addition, the waiver process described in this section may be used to vary from the residential design standards in Chapter [21.60](#) OHMC. A waiver shall be granted only upon a finding

that strict compliance with the provisions for subdivision, short subdivision, binding site plan or dedication would cause unusual and unnecessary hardship on the subdivider due to the following:

- (a) Because of the size of the tract to be subdivided; or
- (b) Its topography or underlying soil conditions; or
- (c) The condition or nature of adjoining areas; or
- (d) The existence of unusual physical conditions.

Section Ninety-One. Section 21.50.050(3) is hereby amended to read as follows:

21.50.050(3) General improvement standards.

The standards of this section shall apply generally throughout the city of Oak Harbor.

(3) Drainage Stormwater.

~~(a) All drainage in and through the subdivision shall be the responsibility of the subdivider. Stormwater management within the subdivision shall be in conformance with manual, when feasible.~~

~~(b) The subdivider may divert or enclose the natural drainage in his subdivision after providing a drainage system approved by the city engineer. The subdivider shall bear all costs associated with diverting or enclosing natural drainage and such alterations shall comply with OHMC Title 20.~~

~~(c) All drainage within street rights-of-way must be contained in underground pipes and culverts except where permitted in gutters, or where low impact development ("LID") stormwater management facilities are approved by the city. The city engineer may determine LID infiltration and bioretention is infeasible without the infiltration testing required by the manual when infiltration and bioretention is known to the City to be infeasible due to any of the following:~~

~~(i) soil conditions;~~

~~(ii) presence of geologically hazardous areas that would be made unstable by infiltration;~~

~~(iii) presence of significant naturally occurring groundwater;~~

~~(iv) conformance with any competing need established under Section 5.3.1, Volume V of the manual; or,~~

~~(v) conformance with any infeasibility criteria established under Section 7.4, Volume V of the manual.~~

~~(d) Where required, the subdivider shall design and install storm drain detention or infiltration systems. When infiltration and biofiltration practices are determined infeasible, alternative methods of stormwater conveyance and treatment shall be in conformance with requirements established in the manual.~~

~~(e) Alternate drainage structures, facilities and conveyances, such as LID techniques, may be acceptable where soil conditions permit, subject to approval by the city engineer.~~

~~(f) For maintenance purposes, all stormwater detention or treatment facilities shall be placed in a tract, unless located within a public right-of-way.~~

Section Ninety-Two. Section 21.50.050(4) is hereby amended to read as follows:

21.50.050(4) General improvement standards.

The standards of this section shall apply generally throughout the city of Oak Harbor.

(4) Streets.

(a) Paved streets, sidewalks, landscape strips and concrete curbs and gutters shall be required on all dedicated street rights-of-way in all subdivisions, unless an alternative design has been approved in accordance with OHMC [21.60.070](#) and [21.60.080](#). LID alternatives such as permeable surfacing and on-site stormwater management facilities are encouraged where site and soil conditions make these feasible alternatives. All improvements shall be constructed in conformance with city street and utility standards

and, when applicable, the “LID Technical [Guidance](#) Manual for Puget Sound” ([Puget Sound Action Team, January 2005 current eEdition](#)).

[\(e\) In subdivisions of 10 lots or more, one public parking space per single family residential unit shall be provided. This ratio may be reduced to a minimum of one public parking space per two units if additional on-parcel parking is provided under the following condition. For each public parking space reduced less than one per unit, a unit shall provide five on-parcel parking spaces with up to three garage spaces counted as part of the five.](#)

Section Ninety-Three. Section 21.50.070(1) is hereby amended to read as follows:

21.50.070(1) Streets – Required improvements.

(1) Table 21.50-1 gives the minimum required dimensional standards for each functional street type [listed in the transportation element of the Oak Harbor comprehensive plan](#). All public rights-of-way proposed within subdivisions, short subdivisions or binding site plans must conform to the requirements in Table 21.50-1, unless an alternative local residential street design has been approved in accordance with OHMC [21.60.070](#) or [21.60.080](#).

Table 21.50-1

Required Street Improvements

Street Type	Right-of-Way Width*	Face of Curb to Face of Curb Width	Sidewalk Width Each Side	Landscape Strip Width Each Side	Bike Lane Width Each Side
Principal Arterial, 4-lane	97 – 105 feet	52 feet without bike lanes, 60 feet with bike lanes. Landscaped median is 12 feet	8 feet	12 feet	4 feet
Minor Arterial, 2-lane	80 feet	47 feet, with 11-foot center turn-lane	5 feet	10.5 feet	5 feet
Minor Arterial, Industrial (enterprise area)	60 feet	38 feet	None	6 feet (bioswale)	4 feet
Collector with Bike Lanes	66 feet	48 feet	5 feet	3 feet	5 feet
Collector, Industrial	50 feet	26 feet	None	6 feet (bioswale)	4 feet, one side
Local Residential, Narrow	50 feet	28 feet with one parking lane, or 28 feet including two 4-foot bike lanes and no parking	5 feet	5 feet	4 feet, optional
Local Residential, Wide	60 feet	36 feet parking on both sides, or 36 feet with parking on one side and 4-foot bike lanes on both sides	5 feet	5 feet	4 feet, optional
Local LID Street	50 feet	20 feet (two 10-foot travel	5 feet	8-foot planter strip on elevated	None

Table 21.50-1

Required Street Improvements

Street Type	Right-of-Way Width*	Face of Curb to Face of Curb Width	Sidewalk Width Each Side	Landscape Strip Width Each Side	Bike Lane Width Each Side
#1		lanes)		side. 10-foot utility corridor on basin side. Bioretention outside of right-of-way	
Local LID Street #2	60 feet	28.5 feet, with one 8.5-foot parking lane on basin side of street	5 feet	9.5-foot planter strip on elevated side. 10-foot utility strip on basin side. Bioretention outside of right-of-way	None
Alley	20	19 feet**	None	None	None

* All street types include a six-inch strip at the outside edge of the physical improvements, but within the right-of-way, with the exception of the "Minor Arterial, Industrial" which has a one-foot strip on the outside edge of right-of-way, the "Collector, Industrial" which has a four-foot strip on the outside edge of right-of-way, and the "Local LID Street #2" which has a one-foot strip on the outside edge of right-of-way.

** Sixteen-foot width pavement sections may be used as approved on alleys by the city engineer.

Note: All streets include six-inch curbs not shown in the dimensions above, with the exception of alleys which do not have curbs.

Section Ninety-Four. Section 21.50.100(1) is hereby amended to read as follows:

21.50.100 Lot dimensions.

The following requirements address the size and shape of lots created as part of subdivisions or short subdivisions and are intended to create a well ordered and efficient arrangement of lots.

(1) Every lot shall have a minimum width of ~~65~~50 feet at the building line. All lots which do not have a width of ~~65~~50 feet at the setback line as referenced under the applicable zoning ordinance shall indicate on the face of the final plat the location of said building line.

Section Ninety-Five. Section 21.60.040 is hereby amended to read as follows:

21.60.040 Blocks – Configuration.

Blocks shall be deep enough to allow two tiers of lots, except where:

- (1) There is an abutting principal or minor arterial defined in the transportation element of the comprehensive plan;
- (2) The location and extent of environmental constraints prevents a two-tiered lot arrangement;

(3) Unusual shape or small size of the lot prevents a two-tiered lot arrangement;

(4) A single-tiered lot arrangement may be permitted on the boundary of a residential subdivision or short subdivision bordering existing nonresidential development;

(5) Prior to approval of a single-tier lot configuration based on exceptions in subsection (1), (2) or (3) of this section, the proponent has demonstrated to the city that a different layout or provision of an alley system is not feasible. (Ord. [1617](#) § 4, 2011; Ord. 1568 § 8, 2010).

~~(6) Clustering and lot densification is utilized to incorporate preservation of native vegetation and the use of stormwater low impact development techniques.~~

Section Ninety-Six. Section 21.60.070(1) is hereby amended to read as follows:

21.60.070(1) Local residential streets – Adjustment application for alternative designs.

The director may, at the request of an applicant, allow adjustments under a Type II review process to the local residential street sections specified in Table 21.50-1, Required Street Improvements, in residential subdivisions. If an adjustment is requested, it must meet both provisions in subsections (1) and (2) of this section.

(1) All of the “essential elements” continue to be provided in the street design. Essential elements are:

(a) Pedestrian facilities must be provided on both sides of the street ~~unless the utilization of low impact development in the form of adjacent biofiltration facilities prevents functional application of this requirement.~~ Pedestrian facilities must be a minimum of five feet in width, but need to be either concrete (pervious or impervious) or hard-packed gravel. However, hard-packed gravel surfaces may only be provided adjacent to critical areas, and shall not be provided adjacent to residential lots.

(b) Adequate public parking is provided. In place of on-street parallel parking lanes, applicants for residential subdivisions may provide public parking in the form of head-in parking, diagonal parking, parking courts, or parking in side alleys. A minimum of one public parking space per two residential units in the subdivision must be provided, whether or not parking is provided in on-street parallel spots, or an alternative design (parking courts, parking alleys, etc.) or a combination. Public parking spaces must meet the parking space size and access requirements specified in OHMC [19.44.110](#), with the exception of on-street parallel spaces which shall be eight feet in width by 20 feet in length. The public parking spaces must be interspersed throughout the subdivision or short subdivision and within convenient walking distance to all units.

(c) A landscaping element which has a total dimension of 10 feet in width. The landscape element may be one or more landscape strips located within the street section. No single landscape strip may be less than three feet in width. Low impact development (LID) bio-retention and stormwater treatment facilities qualify as landscaping elements. ~~as long as they are located within the public right-of-way.~~

(d) Two minimum 10-foot-wide travel lanes.

Section Ninety-Seven. Section 21.60.180 is hereby amended to read as follows:

21.60.180 Landscape buffer – Requirement.

A landscaped buffer shall be required along all minor arterial roads for a width of at least 25 feet abutting all standard residential subdivisions. The purpose of the landscape buffer is to minimize the impact of the roads on adjacent residential uses, encourage tree preservation and planting, and to create visually attractive corridors along these roadways. The landscape buffer shall be established as a separate tract on the face of the plat.

~~The provisions in this section and OHMC [21.60.190](#) and [21.60.200](#) do not apply to short subdivisions.~~

(Ord. [1617](#) § 4, 2011; Ord. 1568 § 8, 2010).

Section Ninety-Eight. Section 21.70.040(3) is hereby amended to read as follows:

21.70.040(3) Procedure.

- (1) Short subdivisions shall be processed under a Type II review process, in accordance with Chapter [18.20](#) OHMC.
- (2) All applications for short subdivisions shall be submitted to the director and the fee, as established in OHMC 3.64.500, shall be paid by the applicant prior to processing.
- (3) Inquiry shall be made into the public use and interest proposed to be served by the establishment of the short subdivision. The director shall make written findings and shall determine:
 - (a) If appropriate provisions are made for, but not limited to, the public health, safety, and general welfare, for open spaces, ~~on-site stormwater treatment and infiltration drainage ways~~, streets or roads, alleys, other public ways, transit stops, pedestrian/bike connections, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds; and
 - (b) Consider all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school; and
 - (c) Ensure that the proposed design meets the general design standards and the residential design standards (if applicable) of this title; and
 - (d) Consider the characteristics of the proposal and its conformance to the policies of the Oak Harbor comprehensive plan; and
 - (e) Whether the public interest will be served by the subdivision and dedication.

Section Ninety-Nine. Section 21.80.110 is hereby amended to read as follows:

21.80.110 Standards for review of commercial and industrial binding site plans.

The following standards shall apply to commercial and industrial binding site plans:

- (1) Division lines between lots in commercial binding site plans shall be considered lot lines under Oak Harbor zoning code.
- (2) Each such tract or lot created by such binding site plan shall have one designated front lot line and one rear lot line including those which have no street frontage.
- (3) All tracts, parcels and lots created by a binding site plan shall be burdened by an approved maintenance agreement maintaining access to the various lots, tracts and parcels and for the cost of maintaining landscaping, ~~stormwater facilities~~, and other common areas.
- (4) When any lot, tract or parcel is created without 30 feet of street frontage, easements shall be given to the city allowing access for police, fire, public and private utilities along the access roads to each tract, lot or parcel.
- (5) If the city elects, the city shall be granted a power to maintain the access easements and file liens on the property for collection of the costs incurred in maintaining such way. The power to maintain such access ways shall impose no duty on the city to maintain the access way.
- (6) The binding site plan shall contain a provision that the owner's failure to keep the fire access lanes open and maintained may subject the property to being abated as a nuisance and the city may terminate occupancy of such properties until the access easement ways are adequately maintained.
- (7) Freestanding signage may be off of the tract, parcel or lot where the business is located as long as sign requirements are met within the area encompassed by the binding site plan.

(8) Sufficient parking for each use must be located on the lot where the use is located or joint parking agreements must be recorded by the owners for the area of the binding site plan. Prior to building permit approval, parking agreements will be reviewed by the director.

(9) Landscaping requirements will be met for each phase of the binding site plan. Landscaping requirements may be met for an area of one or more lots as long as a joint maintenance agreement is recorded or included in declaration of covenants.

(10) Each tract, parcel or lot created by the binding site plan shall provide on-site stormwater management consistent with the requirements found in the manual unless stormwater treatment and infiltration may be met for an area of one or more lots as long as a joint maintenance agreement is recorded or included in declaration of covenants. (Ord. 1657 § 1, 2014; Ord. 1568 § 10, 2010. Formerly 21.80.130).

Section One Hundred. Section 21.80.120 is hereby amended to read as follows:

21.80.120 Standards for binding site plans for condominium developments regulated by Chapter 64.32 and 64.34 RCW.

Development standards for condominiums including residential units or structures shall meet either the standards set out in subsection (1) or (2) of this section:

(1) All lots and development shall meet the minimum requirements of this title as now in effect or hereafter amended. Phase or lot lines shall be used as lot lines for setback purposes under the zoning code.

(2) Condominiums may be developed in phases where ownership of the property is unitary but all structures may not be completed at the same time or differing lenders finance separate structures or areas of the property. The following conditions shall apply to phased condominiums:

(a) All areas not within the building envelope are subject to joint use and are burdened by a joint obligation to maintain any and all access ways and stormwater facilities. The city shall have no obligation to maintain such access ways.

(b) The city of Oak Harbor shall have an easement for access along and over access ways, common areas, and parking areas to allow police, building, fire and utility department personnel to inspect and observe such property, buildings and activities on the property as well as for providing emergency and law enforcement services and easements for utilities over and under such access ways.

(c) Reciprocal easements for parking shall be provided to all tenants and owners.

(d) The developer has entered into a development agreement pursuant to Chapter 18.30 OHMC for completion of all phases.

(e) Phase lines must be treated as lot lines for setback purposes under the zoning code unless the property owner will place a covenant on the binding site plan that the setback area for built phases, contained in all unbuilt phases, shall become common areas and owned by the owners of existing units in the built portions of the condominium upon the expiration of the completion schedule described in the development agreement pursuant to Chapter 18.30 OHMC.

(f) All public improvements are guaranteed by bond or other security satisfactory to the city engineer or his designee.

(g) All built phases in a condominium binding site plan shall have joint and several obligation to maintain landscaping through covenants or easements or both to assure that the responsibility is shared among the various owners. (Ord. 1657 § 1, 2014; Ord. 1568 § 10, 2010. Formerly 21.80.140).

Section One Hundred-One. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances is not affected.

Section One Hundred-Two. Effective Date. This Ordinance shall be in full force and effect five (5) days after publishing.

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

THE CITY OF OAK HARBOR

Veto ()
Approve ()

By _____
Robert Severns, Mayor

Dated: _____

Attest:

Anna Thompson, City Clerk

Approved as to Form:

Nikki Esparza, City Attorney

Published: _____