CITY OF
Oak Harbor
WHIDBEY ISLAND, WASHINGTON

# Low Impact Development

## Proposed amendments to Oak Harbor Municipal Code to incorporate LID stormwater management strategies

*Presented to City of Oak Harbor*
*Planning Commission & City Council*
*By Development Services & Public Works Staff*

**Fall 2016**

October 19, 2016

Dear Reviewer:

This package represents proposed amendments to the City of Oak Harbor Municipal Code (OHMC) to incorporate low impact development (LID) as the preferred stormwater flow mitigation and treatment strategy.

These amendments are an outgrowth of the mandate established in the City's re-issuance of the National Pollution Discharge Elimination System Phase II Permit. Section S5.C.4(f)(i) of the Permit states: "Permittees shall review, revise and make effective their local development-related codes, rules, standards, or other enforceable documents to incorporate and require LID principles and LID Best Management Practices. The intent of the revisions shall be to make LID the preferred and commonly-used approach to site development".

The proposed amendments are divided by OHMC Title. Each Title section begins with a complete list of Chapters within the Title. Chapters with proposed changes are identified in red. Proposed text additions are identified in red underlined text while proposed text deletions are identified in red strikethrough text. Some of the amendments are conceptual at this point and will require refinement. This step in the process is intended to present the mechanisms intended to be used to achieve conformance with the NPDES permit requirement while retaining a large degree of flexibility. Flexibility was the primary feedback received by staff during the external stakeholder's meetings.

While staff is confident these amendments will preserve our conformance with the Phase II Permit requirements, we also understand that there may be some "growing pains" with this new strategy. Staff will monitor the implementation progress of this strategy and look for methods to fine tune, as necessary.

We appreciate the time and effort you spend reviewing this information.

Sincerely,

Brad Gluth, CSM, Civil Engineer I,
City of Oak Harbor Public Works

Dennis Lefevre, AICP, Senior Planner
City of Oak Harbor Development Services

# Title 11
# STREETS AND SIDEWALKS

**Chapters:**


**11.02 Street and Numbering System**

**11.08 Excavations**

**11.12 Sidewalk Repair and Construction**

**11.14 Sidewalk Use Permit**

**11.16 Required Street Improvements**

**11.17 Street Design Standards**

**11.24 Highway Access Management**

**11.32 Transportation Concurrency**


**Chapters in red include proposed amendments, the other Chapters have not been amended.**

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# Chapter 11.08
# EXCAVATIONS

Sections:


11.08.010 Short title.
11.08.020 Definitions.
11.08.030 Excavation permit.
11.08.040 Application.
11.08.050 Excavation permit fees.
11.08.060 Noncancellable two year bond and insurance.
11.08.070 Protective measures – Routing of traffic.
11.08.080 Clearance for vital structures.
11.08.090 Protection of traffic.
11.08.100 Relocation and protection of utilities.
11.08.110 Abandonment of substructures.
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11.08.220 Urgent work.
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11.08.240 Dust, noise and debris.
11.08.250 Preservation of monuments.
11.08.260 Inspection.
11.08.270 Maintenance of drawings.
11.08.280 Liability of city.
11.08.290 Penalties.


## 11.08.010 Short title.

This chapter shall be known and may be cited as the “Street Excavation Ordinance of the City of Oak Harbor.” (Ord. 276 § 1-1001, 1969).

## 11.08.020 Definitions.

For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

(1) “Excavation” means any opening in the surface of a public place made in any manner whatsoever, except an opening into a lawful structure below the surface of a public place, the top of which is flush with the adjoining surface and so constructed as to permit frequent openings without injury or damage to the public place;

(2) “Administrative authority” means the office of the city supervisor;

(3) “Public place” means any public street, way, place, alley, sidewalk, park, square, plaza or any other similar public property owned or controlled by the city of Oak Harbor and dedicated to public use;

(4) “Substructure” means any pipe, conduit, duct, tunnel, manhole, vault, buried cable, or wire, or any other similar structure located below the surface of any public place;

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(5) “Facility” means pipe, pipeline, tube, main, service trap, vent, vault, manhole, meter, gauge, regulator, valve, conduit, wire, cable, junction box, transformer or any other material, structure, or object of any kind or character, whether enumerated herein or not, which is or may be lawfully constructed, left, placed or maintained in, upon, along, across and under any public place;

(6) “Person” means any person, firm, partnership, association, corporation, company or organization of any kind;

(7) “Utility” means a private company and/or corporation, or municipal department engaged in providing a particular service to the general public. (Ord. 276 § 1-1002, 1969).

## 11.08.030 Excavation permit.

No person shall make any excavation or fill any excavation in any public place without first obtaining a permit to do so from the administrative authority except as otherwise provided in this chapter. No permit to make an excavation or fill an excavation in a public place shall be issued except as provided in this chapter. The administrative authority may issue an annual blanket permit for the purpose of replacing or repairing any facility within a public place where the opening or excavation does not exceed two feet in width and four feet in length to the following:

(1) A public utility regulated by the Public Utilities Commission of the state of Washington;

(2) A person holding a franchise from the city;

(3) The water, sewer and street departments of the city. (Ord. 276 § 1-1003, 1969).

## 11.08.040 Application.

No excavation permit shall be issued unless a written application (on a form provided by the administrative authority) for the issuance of an excavation permit is submitted to the administrative authority. The written application shall state the name and address and principle place of business of the applicant, the authority of applicant to occupy the public place for which the permit is sought, the location and dimensions of the installation or removal and the approximate size of the excavation to be made, the purpose of the facility and the approximate time which will be required to complete such work, including backfilling said excavation and removing all obstructions, material and debris. The administrative authority shall require the jacking, boring or pushing of pipes, conduits, and appurtenances of underground facilities in all locations where it is practical. An extension of time may be granted by the administrative authority for good and sufficient reasons. The application, when approved and signed by the administrative authority constitutes a permit. (Ord. 276 § 1-1004, 1969).

## 11.08.050 Excavation permit fees.

The fee for such permit shall be as set forth in the fee schedule in Chapter 3.64 OHMC. (Ord. 504 § 10, 1978; Ord. 276 § 1-1005, 1969).

## 11.08.060 Noncancellable two year bond and insurance.

(1) The contractor shall carry, in a company satisfactory to the owner, liability insurance covering him, the owner and the city of Oak Harbor from claims for damage on account of injury, wrongful death and property damage which may arise from the contract, whether by contractor, subcontractor or employees. Public liability insurance, not less than $50,000 for any one person or $150,000 for any one accident and property damage not less than $50,000 for each accident.

(2) The contractor shall furnish a surety bond in the amount of $6,000 in favor of the city of Oak Harbor in a form and in a company agreeable to the officials of the city of Oak Harbor, providing for the faithful performance of the work as authorized by the permit. If any proposed work done under an authorized permit will exceed $6,000 construction cost the administrative authority shall require additional surety in the amount necessary to cover 100 percent of the construction cost prior to commencement of the work. In addition the bond shall provide that the surety will guarantee the payment of all suppliers, subcontractors, materialmen and laborers and all persons having a claim against said work as provided by law.

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Provided, however, that public utilities operating under the supervision of the Public Utilities Commission, Public Utilities holding a franchise from the city, city departments and other governmental agencies, may be relieved of the obligation of submitting such a bond with the administrative authority; provided, they have filed their current insurance with the administrative authority. (Ord. 276 § 1-1006, 1969).

## 11.08.070 Protective measures – Routing of traffic.

It shall be the duty of every person cutting or making an excavation in or upon any public place, to place and maintain barriers and warning devices necessary for safety of the general public. The provisions of the "Manual on Uniform Traffic Control Devices for Streets and Highways" shall govern.

The permittee shall take appropriate measures to assure that during the performance of the excavation work, traffic conditions as near normal as possible shall be maintained at all times so as to minimize inconvenience to the occupants of the adjoining property and to the general public.

When traffic conditions permit, the administrative authority may by written approval, permit the closing of streets and alleys to all traffic for a period of time prescribed by him, if in his opinion it is necessary. The written approval of the administrative authority may require that the permittee give notification to various public agencies and to the general public. In such cases, such written approval shall not be valid until such notice is given.

Warning signs shall be placed far enough in advance of the construction operation to alert traffic within a public street and cones or other approved devices shall be placed to channel traffic, in accordance with the instructions of the administrative authority. (Ord. 276 § 1-1007, 1969).

## 11.08.080 Clearance for vital structures.

The excavation work shall be performed and conducted so as not to interfere with access to fire hydrants, fire stations, fire escapes, water gates, underground vaults, valve housing structures, and all other vital equipment as designated by the administrative authority. (Ord. 276 § 1-1008, 1969).

## 11.08.090 Protection of traffic.

The permittee shall maintain safe crossing for two lanes of vehicle traffic at all street intersections where possible and safe crossings for pedestrians at intervals of not more than 300 feet. If any excavation is made across any public street, alley or sidewalk adequate crossings shall be maintained for vehicles and for pedestrians. If the street is not wide enough to hold the excavated material without using part of the adjacent sidewalk, a passageway at least one-half of the sidewalk width shall be maintained along with such sidewalk line. (Ord. 276 § 1-1009, 1969).

## 11.08.100 Relocation and protection of utilities.

The permittee shall not interfere with any existing facility without the written consent of the administrative authority and the owner of the facility. If it becomes necessary to relocate an existing facility this shall be done by its owner. No facility owned by the city shall be moved to accommodate the permittee unless the cost of such work be borne by the permittee. The cost of moving privately owned facilities shall be similarly borne by the permittee unless it makes other arrangements with the person owning the facility. The permittee shall support and protect by timbers or otherwise all pipes, conduits, poles, wires or other apparatus which may be in any way affected by the excavation work, and do everything necessary to support, sustain and protect them under, over, along, or across said work. The permittee shall secure approval of method of support and protection from the owner of the facility. In case any of said pipes, conduits, poles, wires or apparatus should be damaged, and for this purpose pipe coating or other encasement or devices are to be considered as part of a substructure, the permittee shall promptly notify the owner thereof. All damaged facilities shall be repaired by the agency or person owning them and the expenses of such repairs shall be charged to the permittee. It is the intent of this section that permittee shall assume all liability for damage to facilities and any resulting damage or injury to anyone because of such facility damage and such assumption of liability as a contractual obligation of the permittee. (The only exception will be such instances where damage is exclusively due to the negligence of the owning utility.) The city shall not be made a party to any action because of this section. The permittee shall inform itself as to the existence and location of all underground facilities and protect the same against damages. (Ord. 276 § 1-1010, 1969).

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## 11.08.110 Abandonment of substructures.

Whenever the use of a substructure is abandoned, except the abandonment of service lines designed to serve single properties, the person owning, using, controlling, or having an interest therein, shall within 30 days after such abandonment file with the administrative authority a statement in writing giving in detail the location of the substructure so abandoned. If such abandoned substructure is in the way, or subsequently becomes in the way, of an installation of the city or any other public body, which installation is pursuant to a governmental function, the owner shall remove such abandoned substructure or pay the cost of its removal during the course of excavation for construction of the facility by the city or any other public body. (Ord. 276 § 1-1011, 1969).

## 11.08.120 Protection of adjoining property.

The permittee shall at all times and at his or its expense preserve and protect from injury any adjoining property by providing proper foundations and taking other measures suitable for the purpose. Whenever in the protection of such property it is necessary to enter upon private property for the purpose of taking appropriate protecting measures, the permittee shall obtain a license from the owner of such private property for such purpose and if he cannot obtain a license from such owner, the administrative authority may authorize him to enter the private premises solely for the purpose of making the property safe. The permittee shall, at its own expense shore up and protect all buildings, walls, fences or other property likely to be damaged during the progress of the excavation work and shall be responsible for all damage to public or private property or highways resulting from its failure properly to protect and carry out said work. Whenever it may be necessary for the permittee to trench through any lawn area said area shall be reseeded or the sod shall be carefully cut and rolled and replaced after ditches have been backfilled as required in this chapter. All construction and maintenance work shall be done in a manner calculated to leave the lawn area clean of earth and debris and in a condition as nearly as possible to that which existed before such work began. The permittee shall not remove, even temporarily, any trees or shrubs which exist in parking strip areas without first obtaining the consent of the appropriate city department or city official having control of such property. (Ord. 276 § 1-1012, 1969).

## 11.08.130 Use and care of excavated material.

No material excavated from trenches on public property shall be used for backfill except as the administrative authority may direct. All waste material shall be hauled to a site chosen by the administrative authority.

All material excavated from trenches and piled adjacent to the trench or in any street shall be piled, and maintained in such manner as not to endanger those working in the trench, pedestrians or users of the street, and so that as little inconvenience as possible is caused to those using streets and adjoining property.

All trench and tunnel excavations and construction shall conform with the safety requirements for shoring, bracing and ladders in trenches in accordance with the Department of Labor and Industries “Safety Standards for Construction Work.”

All material excavated that will be permitted to be used as backfill by the administrative authority shall be laid compactly along the side of the trench and kept trimmed so as to cause as little inconvenience as reasonably possible for vehicular and pedestrian traffic, or as specified by the administrative authority. Whenever necessary, in order to expedite the flow of traffic or to abate the dirt or dust nuisance, toe boards or bins may be required by the administrative authority to prevent the spreading of dirt into traffic lanes. (Ord. 276 § 1-1013, 1969).

## 11.08.140 Cleanup.

As the excavation work progresses, all streets shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All cleanup operations at the location of such excavation shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the administrative authority. Cleanup operations shall avoid and protect stormwater BMP’s, i.e. pervious pavements, bioretention areas, etc. From time to time, as may be ordered by the administrative authority and in any event immediately after completion of said work the permittee shall, at his or its own expense, clean up and remove all refuse and unused materials of any kind resulting from said work, and upon failure to do so within 24 hours after having been notified to do so by the administrative authority, said work may be done by the administrative authority

and the cost thereof charged to the permittee, and the permittee shall also be liable for the cost thereof under the surety bond provided hereunder. (Ord. 276 § 1-1014, 1969).

## 11.08.150 Protection of watercourses.

The permittee shall maintain all gutters free and unobstructed for the full depth of the adjacent curb and for at least one foot in width from the face of such curb at the gutterline. Whenever a gutter crosses an intersecting street, an adequate waterway shall be provided and at all times maintained.

The permittee shall make provisions to take care of all surplus water, muck, silt, slickings, or other runoff pumped from excavations or resulting from sluicing or other operations and shall be responsible for any damage resulting from its failure to so provide. (Ord. 276 § 1-1015, 1969).

## 11.08.160 Breaking through pavement.

(1) Heavy duty pavement breakers may be prohibited by the administrative authority when the use endangers existing substructures or other property.

(2) Saw cutting of Portland cement concrete may be required by the administrative authority when the nature of the work or the condition of the street warrants. When required, the depth of the cut shall not be less than one inch in depth; however, depths greater than one inch may be required by the administrative authority when circumstances warrant. Saw cutting may be required by the administrative authority outside of the limits of the excavation over cave outs, overbreaks and small floating sections.

(3) Approved cutting of bituminous pavement surface ahead of excavations shall be required by the administrative authority to confine pavement damage to the limits of the trench.

(4) Sections of sidewalks shall be removed to the nearest score line or joint.

(5) Unstable pavement shall be removed over cave-outs and overbreaks and the subgrade shall be treated as the main trench.

(6) Pavement edges shall be trimmed back six inches to a vertical face and neatly aligned with the centerline of the trench.

(7) Cutouts outside of the trench lines must be normal or parallel to the trench line.

(8) Boring or other methods to prevent cutting of new pavement shall be required by the administrative authority.

(9) Permittee shall not be required to repair pavement damage existing prior to excavation unless his cut results in small floating sections that may be unstable, in which case permittee shall remove and pave the area. (Ord. 276 § 1-1016, 1969).

## 11.08.170 Depth of structures.

No person shall, without written permission of the administrative authority, install any substructure, except manholes, vaults, valve casings, culverts, and catch basins at a vertical distance less than:

(1) Streets: Thirty inches below the established flow line of the nearest gutter,

> (a) If said flow line is not established, then the depth shall be at a minimum of 30 inches below the surface of the nearest outermost edge of the traveled portion of the street;

(2) Parkway: The minimum depth of any substructure shall be 16 inches below established sidewalk or curb when such substructure is at right angles to the parkway;

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(3) Other Public Places: The minimum depth of any substructure in any other public place shall be 12 inches below the surface; provided, however, that the administrative authority may permit a lesser depth in special cases.

Nothing in this section shall impose a duty upon the permittee to maintain said specifications as required herein upon subsequent changes of grade in the surface unless the grade in said substructure interferes with the maintenance of, or travel on, a public street. (Ord. 276 § 1-1017, 1969).

## 11.08.180 Backfilling.

Fine material, free from lumps and stone, selected from the spoil shall be thoroughly compacted around and under the substructure to the upper level of such substructure. Above the upper level of the substructure, backfill material shall be placed to the subgrade of the pavement in lifts consistent with the type of soil involved and the degree of consolidation specified by the administrative authority. Broken pavement, large stones, roots and other debris shall not be used in the backfill. Backfill in pervious areas shall be hydraulically appropriate for the specific road design and be approved by the city engineer. The number and size of each lift shall be dependent upon the type of soil involved. Such backfill shall be done in a manner that will permit the restoration of the surface to a density condition not less than that existing prior to the excavation unless otherwise specified. The administrative authority may require soil tests to be furnished by a recognized soil testing laboratory or registered professional engineer specializing in soil mechanics when, in his opinion, backfill for any excavation is not being adequately compacted. In order for the resurfacing to be permitted, such tests must show that the backfill material meets the minimum requirements as prescribed by the administrative authority. All expense of such tests shall be borne by the permittee. (Ord. 276 § 1-1018, 1969).

## 11.08.190 Restoration of surface.

The top surface of the backfill shall be covered with one inch of bituminous temporary resurfacing material. Such temporary paving material shall be cold mix, except that the permittee may use, or the administrative authority may require hot mix. Surface restoration shall be of like material except where the city engineer allows non-pervious like materials. All temporary paving material shall conform closely enough to the level of the adjoining paving surface and shall be compacted so that it is hard enough and smooth enough to be safe for pedestrian travel over it as well as for vehicular traffic to pass safely over it at a legal rate of speed. The permittee shall maintain temporary paving for a period not exceeding 30 days after all backfilling is complete, and shall keep same safe for pedestrian and vehicular traffic until the excavation has been resurfaced with permanent paving as required, except that if it is not possible to maintain the surface of the temporary paving in a safe condition for pedestrian travel or vehicular traffic, then the permittee shall maintain barriers and lights where required herein.

The temporary patch will be excavated and the permanent resurfacing made with three inches of crushed top course well compacted and not less than one inch or more than three inches of class B asphalt concrete depending on the thickness of the existing material. All material shall be produced and installed to meet the requirements as set forth in the “Standard Specifications for Municipal Public Construction.”

Where trenches are made in graveled roadway shoulders the backfill shall be as above less the asphalt.

Concrete curbs, gutters, and sidewalks that are cut or damaged during the installation or repair of substructures will be replaced or repaired to the satisfaction of the administrative authority. (Ord. 276 § 1-1019, 1969).

## 11.08.200 Trenches.

The maximum length of open trench permissible at any time shall be 300 feet or as may be specified by the administrative authority and no greater length shall be open for pavement removal, excavation, construction, backfilling, patching and all other operations without the written permission of the administrative authority. (Ord. 276 § 1-1020, 1969).

## 11.08.210 Prompt completion of work.

After an excavation is commenced, the permittee shall prosecute with diligence and expedition all excavation work covered by the excavation permit and shall promptly complete such work and restore the street to its

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original condition, or as near as may be, so as not to obstruct the public place or travel thereon more than is reasonably necessary. (Ord. 276 § 1-1021, 1969).

### 11.08.220 Urgent work.

When traffic conditions, the safety or convenience of the traveling public or the public interest require that the excavation work be performed as emergency work the administrative authority shall have full power to order, at the time the permit is granted, that a crew of men and adequate facilities be employed by the permittee 24 hours a day to the end that such excavation work may be completed as soon as possible. (Ord. 276 § 1-1022, 1969).

### 11.08.230 Emergency action.

Nothing in this chapter shall be construed to prevent the making of such excavations as may be necessary for the preservation of life or property or for the location of trouble in conduit or pipe, or for making repairs, provided that the person making such excavation shall apply to the administrative authority for such a permit on the first working day after such work is commenced. (Ord. 276 § 1-1023, 1969).

### 11.08.240 Dust, noise and debris.

Each permittee shall conduct and carry out excavation work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce to the fullest extent practicable in the performance of the excavation work, noise, dust and unsightly debris and between the hours of ~~10~~9:00 p.m. and 7:00 a.m. shall not use, except with the express written permission of the administrative authority or in case of an emergency as herein otherwise provided, any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property. (Ord. 276 § 1-1024, 1969).

### 11.08.250 Preservation of monuments.

Any monument set for the purpose of locating or preserving the lines of any street or property subdivision, or a precise survey reference point, or a permanent survey benchmark within the city, shall not be removed or disturbed or caused to be removed or disturbed without first obtaining permission in writing from the administrative authority to do so. Permission to remove or disturb such monuments, reference points or benchmarks shall only be granted upon condition that the person applying for such permission shall pay all expenses incident to the proper replacement of the monument by the administrative authority. (Ord. 276 § 1-1025, 1969).

### 11.08.260 Inspection.

The administrative authority shall make such inspections as are reasonably necessary in the enforcement of this chapter. The administrative authority shall have the authority to promulgate and cause to be enforced such rules and regulations as may be reasonably necessary to enforce and carry out the intent of this chapter. (Ord. 276 § 1-1026, 1969).

### 11.08.270 Maintenance of drawings.

Every person owning, using, controlling or having an interest in substructures, under the surface of any public place used for the purpose of supplying or conveying gas, electricity, communication impulse, water, steam, ammonia or oil in the city, shall, when requested, file with the administrative authority within 120 days after the adoption of the ordinance codified herein a map or set of maps each drawn to a scale of not less than one inch to 200 feet, scale showing in detail the plan location, size and kind of installation, if known, of all substructures, except service lines designed to serve single properties beneath the surface of the public place belonging to, used by or under the control of such person having any interest, and shall file with the administrative authority, annually at a time specified by the administrative authority, a corrected map or set of maps each drawn to said scale including all installations made during the previous year to and including the last day of such year provided, however, that a public utility owner may at its option provide corrected atlas sheets at more frequent intervals. (Ord. 276 § 1-1027, 1969).

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## 11.08.280 Liability of city.

This chapter shall not be construed as imposing upon the city or any official or employee any liability or responsibility for damages to any person injured by the performance of any excavation work for which an excavation permit is issued hereunder, nor shall the city or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspections authorized hereunder the issuance of any permit or the approval of any excavation work. (Ord. 276 § 1-1028, 1969).

## 11.08.290 Penalties.

(1) Intentional knowing or reckless violation of this chapter is a misdemeanor. Every person is guilty of a misdemeanor who willfully violates any provision of this chapter or fails or neglects to comply with any requirements of this chapter. Such person is guilty of a separate offense for each and every day during any part of which any such violation or noncompliance occurs and is punishable by a fine of not more than $500.00.

(2) Other violations of this chapter are a Class 1 infraction as defined in Chapter 1.28 OHMC. (Ord. 1717 § 25, 2015; Ord. 1014 § 9, 1995; Ord. 388 § 2, 1974; Ord. 276 § 1-1029, 1969).

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# Chapter 11.17
# STREET DESIGN STANDARDS

Sections:


11.17.010 General requirements.
11.17.020 Standard specifications.
11.17.030 Inspection and fees.
11.17.040 Minimum required improvement standards.
11.17.050 Clearing and grading.
11.17.060 Monuments.
11.17.070 Street and block layout.
11.17.080 Right-of-way requirements.
11.17.090 North Whidbey Enterprise Area street standards.
11.17.100 Street geometry.
11.17.110 Other standards.
11.17.120 Variance.


## 11.17.010 General requirements.

(1) These street standards shall apply to all development within the city of Oak Harbor. The improvements specified under this chapter are necessary prior to issuance of a building permit for any lot, parcel or tract which has access to such street. Bond or equivalent assurances pursuant to the Oak Harbor Municipal Code (OHMC) may be provided in lieu of construction so long as the required improvements are in place prior to occupancy of the premises for which the building permit is provided.

(2) Building permits may be issued without complying with the provisions of this chapter:

(a) For lots or parcels with frontage on streets that:

(i) Were constructed and dedicated to the city prior to October 1, 2004; and

(ii) Met minimum street standards at the time of construction.

(b) Building permits for remodeling, repair or restoration of existing buildings not exceeding 60 percent of the assessed valuation of the structure may be issued without compliance with this chapter.

(3) Exception authorized under subsection (2) of this section shall not apply when:

(a) Street improvements are required by concurrency requirements of the Oak Harbor Municipal Code or by SEPA analysis;

(b) The regulations under the Oak Harbor Municipal Code require sidewalks as a pedestrian amenity for the development; or

(c) Required by local improvement district assessment.

(4) If street improvements are required by this chapter or Chapter 11.16 OHMC and before any building permit is issued, the property owner shall submit to the city engineer to obtain city approval of plans and profiles of the proposed street, drainage plans and profiles, sewer and water plans and profiles, and right-of-way section drawings, including utility line placement. All design drawings and construction inspections shall be completed under the supervision of the developer's engineer, as defined in this title. (Ord. 1613 § 1, 2011; Ord. 1430 § 1, 2005).

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## 11.17.020 Standard specifications.

The adopted DOE standards and standard specifications for municipal public works construction prepared by the Washington State chapter of the American Public Works Association and standard specifications in accordance with the latest edition of the Oak Harbor water systems plan, comprehensive Oak Harbor sewer system plan and Oak Harbor comprehensive plan shall be hereinafter referred to as the "standards" and said standards together with the laws of the state of Washington and the ordinances of the city of Oak Harbor, so far as applicable, shall apply except as amended or superseded by special provisions. (Ord. 1613 § 1, 2011; Ord. 1430 § 1, 2005).

## 11.17.030 Inspection and fees.

The engineering department shall be responsible for approving all engineering drawings, the final inspection and acceptance of all street improvements. A charge for staff review, inspection and administrative time shall be prepared by the city engineer and billed to the developer. The charge shall be based on the city's hourly cost plus fringe benefits as a percentage of the hourly labor rate. (Ord. 1613 § 1, 2011; Ord. 1430 § 1, 2005).

## 11.17.040 Minimum required improvement standards.

(1) Minimum improvements along contiguous arterials and one-half of all other abutting streets shall consist of paved streets, curbs, gutters, sidewalks, monuments, sanitary and storm sewers, street lights, water mains, street name signs and all appurtenances thereto in accordance with specifications approved by the city engineer or adopted by OHMC 11.17.020.

(2) The city engineer shall determine the minimum required improvements. At a minimum, streets shall be constructed in accordance with their classification as determined by the comprehensive plan transportation element. The city engineer may require the submission of a professionally prepared traffic impact analysis to assist in determining the minimum street improvements required of any development. It is further provided that improvements of adjoining streets shall be required only if there is substantial use of the street by the development in question.

(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. (Ord. 1613 § 1, 2011; Ord. 1430 § 1, 2005).

## 11.17.050 Clearing and grading.

All streets, roads and alleys shall be graded to their full width so that pavement and sidewalks can be constructed on the same plane. Before grading is started, the entire right-of-way area shall be cleared of all stumps, roots, brush, other objectionable materials, and all trees not intended for preservation. (Ord. 1613 § 1, 2011; Ord. 1430 § 1, 2005).

## 11.17.060 Monuments.

Brass monuments in cases shall be set at controlling corners and points of curvature in each street, and at all street intersections. All surveys shall be of third order accuracy. The use of state plane coordinates is encouraged. (Ord. 1613 § 1, 2011; Ord. 1430 § 1, 2005).

## 11.17.070 Street and block layout.

The standards in this section address pedestrian, vehicular and bicycle traffic flow on a site as it relates to surrounding sites. These provisions create continuous, multimodal connections across properties and

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developments of different ownership. In so doing, these standards facilitate the efficient and safe movement of pedestrians, bicycles and vehicles, giving each mode multiple route choices from origins to destinations.

(1) Streets, sidewalks, pedestrian or bike paths shall be linked within and between neighborhoods to create a continuous and interconnected network of roads and pathways;

(2) Local streets, arterials and collectors shall be extended to the boundary of the development, unless an exceptional circumstance of topography, critical areas or existing development prohibits the extension. Provided, that if an adjacent property has a reasonable likelihood of redeveloping in the future, the city engineer may require a street stub. Streets that end within a proposed development which will be extended in the future must be designed at least 200 feet beyond the property boundary of the proposed development and shall be shown on the preliminary plat document;

(3) The location of all principal arterials, minor arterials, and collectors must conform to the transportation element of the Oak Harbor comprehensive plan;

(4) All streets dedicated shall be full-width except along the boundary lines of the property. Half-width streets may be permitted along the boundaries of a development upon approval and in compliance with OHMC 11.17.040 where reasonably necessary as a direct result of the proposed development;

(5) The number of intersecting streets with principal or minor arterials shall be held to a minimum;

(6) Street intersecting at right angles or as nearly as possible and T-intersection design shall be utilized insofar as practical;

(7) Alleys provide secondary access to an abutting property. Alleys may be considered as a design solution to provide vehicular or service access to residential, commercial, and industrial properties according to the following provisions:

> (a) When alleys are proposed, they may be publicly dedicated and maintained or privately owned and maintained. All alleys which are dead-ends and do not provide a through connection to the other side of the block shall be privately owned and maintained.
>
> (b) The dimensions of alleys must conform to Table 11.17-2.
>
> (c) Alleys may be required by the city engineer as a design solution to serve residential properties which front on arterials and collectors and to minimize the number of driveway accesses on these streets. Alleys may also be required by the city engineer in commercial and industrial areas.
>
> (d) Where private alleys are proposed, access and utility easements for residential areas may be permitted in lieu of public dedication. All utility easements shall contain access provisions for purpose of public utility maintenance. (Ord. 1613 § 1, 2011; Ord. 1430 § 1, 2005).

## 11.17.080 Right-of-way requirements.

Table 11.17-2 gives the minimum required dimensional standards for each functional street type listed in the transportation element of the Oak Harbor comprehensive plan. All newly proposed public streets must conform to the requirements in Table 11.17-2, unless an alternative local residential street design has been approved per OHMC 21.60.070 or 21.60.080.

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**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 |
| 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 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.

(1) Where landscape strips are required on local residential streets within the public right-of-way, they are to be maintained by the property owner whose property is adjacent to the landscape strip. Such landscape strips shall contain 100 percent groundcover in the form of drought-tolerant grass or turf.

(2) Intersection spacing of less than 125 feet is not allowed.

(3) For land division of commercial or industrial property, dead-end streets may be permitted where the proposed dead-end street will not adversely affect the traffic flow and circulation within the area. Dead-end streets shall terminate in a turnaround approved by the city engineer. The maximum allowable length for dead-end streets is 400 feet, measured from the center of intersection to the dead-end terminus. Requirements for dead-end streets in residential subdivisions or short subdivisions are contained in OHMC21.60.110.

(4) Increased Right-of-Way Requirements. The city engineer may require that street widths be increased from the minimum width in Table 11.17-2 to provide for traffic movement, to reduce or eliminate traffic congestion and for safety reasons. (Ord. 1613 § 1, 2011).

## 11.17.090 North Whidbey Enterprise Area street standards.

(1) The standards contained in this section apply to the North Whidbey Enterprise Area as identified in Exhibit C of the Urban Growth Area Interlocal Agreement between Island County and the city of Oak Harbor, a copy of which is on file with the city clerk and available for public inspection.

(2) Street Right-of-Way Requirements.

**Table 11.17-1 North Whidbey Enterprise Area Street Standards**

| | Right-of-Way Width (in feet) | Width of Pavement (in feet) | Sidewalk Width (in feet) |
|---|---|---|---|
| Industrial Arterial | 60 | 46 | None |
| Industrial Collector | 50 | 30 | None |
| Industrial Local | 50 | 30 | None |

The city engineer may increase the right-of-way requirements for cut slopes or other engineering needs when recommended by a traffic study.

(3) Typical street cross-sections for uses within the North Whidbey Enterprise Area and incorporating the requirements of subsection (2) of this section are on file with the city clerk. (Ord. 1613 § 1, 2011; Ord. 1430 § 1, 2005. Formerly 11.17.075).

## 11.17.100 Street geometry.

(1) Horizontal Curves. Where a deflection angle of more than 10 degrees in the alignment of a street occurs, a curve of reasonably long radius shall be introduced. On streets 60 feet or more in width, the centerline radius of curvature shall be not less than 300 feet; on other streets, not less than 100 feet subject to review and approval by the engineering department.

(2) Vertical Curves. All changes in grade shall be connected by vertical curves of a minimum of 200 feet unless otherwise specified by the engineering department.

(3) Tangents. A tangent of at least 200 feet in length shall be provided between reverse curves for principal and minor arterials; 150 feet for collector streets; and 100 feet for residential access streets. The city engineer may authorize the modification of the above requirement when it can be shown that the minimum tangents would be impractical and where there would be no impact on traffic safety standards.

(4) The minimum grade on any street shall be one-half percent unless otherwise approved by the city engineer. Maximum grades shall not exceed the following grades unless otherwise approved by the city engineer:

(a) Residential streets: 10 percent.

(b) Collectors: 10 percent.

(c) Minor arterials: 10 percent.

(d) Principal arterials: eight percent.

(5) At street intersections, property line corners shall be rounded by an arc, the minimum radius of which shall be 20, except as provided for in OHMC 21.50.100. No rounding shall be required for the intersection of an alley with a street. (Ord. 1613 § 1, 2011).

## 11.17.110 Other standards.

(1) Sidewalks.

(a) Sidewalks shall be installed on both sides of all streets, along dead-end streets and around cul-de-sacs. No physical obstructions such as poles, fire hydrants, utility boxes, utility vaults, or mailboxes shall be constructed in the sidewalk or overhang the sidewalk from zero to eight feet above grade. Sidewalks shall be a minimum of five feet wide and four inches thick. Where rolled curb has been approved by the city engineer all sidewalks adjacent will be a minimum thickness of six inches.

(b) On streets where a proposed subdivision adjoins an existing subdivision or existing street dedication and the existing subdivision or existing street dedication does not meet city standards, the developer shall, as a minimum, be responsible for installing sidewalks on both sides of all streets within the proposed subdivision and on one side on streets around the perimeter of the proposed subdivision. These provisions may be amended for LID projects, when approved by the city engineer and development services director.

(c) All sidewalks shall be completed prior to an occupancy permit being granted for any new building.

(2) Other Utilities.

(a) Street light standards and fixtures shall be provided to supply adequate lighting for the safety and convenience of the public.

(b) Other utilities which are within a reasonable distance to the platted area shall be installed to provide electricity, natural gas, telephone, television cable, and other services to the platted area. Said utilities shall be restricted to underground installation.

(c) All utilities (water, sewer, and electrical, and if available, gas and TV cable) shall be installed to the property line prior to acceptance of the public improvements.

(3) Traffic-Control Devices. The developer shall install street name signs and traffic control signs and/or improvements and devices other than traffic signals to the satisfaction of the city engineer. The city may install such signs and devices at the expense of the developer.

(4) All utilities except water, sewer and storm sewer will be installed behind the sidewalk.

(5) Visibility Triangles. Visibility triangles shall be provided as per AASHTO standards for local roads except where connections to state highways require a different standard. (Ord. 1613 § 1, 2011; Ord. 1430 § 1, 2005. Formerly 11.17.080).

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## 11.17.120 Variance.

(1) Any developer can make application for a variance provided the request is received concurrently with the proposed development application. Such application shall include any and all details necessary to support the application. Variances may be granted under the following circumstances:

(a) Because of the size of the lot or parcel to be developed, its topography, the condition or nature of adjoining streets, or the existence of unusual physical conditions, strict compliance with the provisions of this chapter would cause unusual and unnecessary hardship on the developer; or

(b) The requirements for right-of-way dedication and street construction are not roughly proportional to the burdens imposed by the development on the street system; or

(c) Alternative street designs will further circulation and urban design goals and policies of the comprehensive plan.

(2) Variances are a Type II review process.

(3) Such conditions may be required which may achieve, insofar as practicable, the objectives of the requirements for which a variance is authorized. (Ord. 1613 § 1, 2011; Ord. 1430 § 1, 2005. Formerly 11.17.090).

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# Title 12
# STORM WATER

**Chapters:**


**12.10 Storm and Surface Water Utility Code – General Provisions**

**12.20 Storm Water Facility Maintenance**

**12.30 Storm Water Management**

**12.40 Drainage Utility Charges**

**12.50 Illicit Discharge Prohibited**


**Chapters in red include proposed amendments, the other Chapters have not been amended.**

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# Chapter 12.10
# STORM AND SURFACE WATER UTILITY CODE – GENERAL PROVISIONS

Sections:


12.10.010 Title.
12.10.020 Purpose.
12.10.025 Definitions
12.10.030 Territorial application.
12.10.060 Authority of the utility.
12.10.070 Comprehensive drainage plan.
12.10.075 Studies and basin plans.
12.10.080 Emergency plan.
12.10.100 Connections or modifications to the drainage system.
12.10.115 Facility ownership.
12.10.120 Permits – Approvals.
12.10.150 Latecomer agreements.
12.10.160 Drainage easement requirements.


## 12.10.010 Title.

This chapter shall be known as the storm and surface water utility code and shall be referred to herein as the "code." (Ord. 1085 § 2, 1997).

## 12.10.020 Purpose.

The purpose of this code is to provide for the planning, design, construction, use, maintenance, repair and inspection of the storm and surface water system; to establish programs and regulations to assure the quality of the water in such system and to minimize the chance of flooding; and to provide for the enforcement of the provisions of this code. This code supplements other city ordinances and regulations regarding protection of the storm and surface water system, including but not limited to the critical land and zoning code regulations of the city of Oak Harbor. (Ord. 1085 § 3, 1997).

## 12.10.025 Definitions. *Moved from Section 12.30.040*

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

(~~1~~2) "American Public Works Association" or "APWA" means the Washington State Chapter of the American Public Works Association.

(~~2~~3) "Approval" means the proposed work or completed work conforms to this chapter in the opinion of the director.

(~~3~~4) "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~~5) "As-graded" means the extent of surface conditions on completion of grading.

(~~5~~6) "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

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• 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.

(~~6~~7) "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~~8) "Bench" means a relatively level step excavated into earth material on which fill is to be placed.

(~~8~~9) "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.

(~~9~~12) "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~~3) "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~~4) "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.

(1~~2~~5) "Clearing" means the destruction and removal of vegetation by manual, mechanical, or chemical methods.

(1~~3~~6) "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.

(1~~4~~7) "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.

(1~~5~~9) “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~~20) “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~~21) “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~~22) “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.

(~~19~~24) “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.

(2~~0~~6) “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.

(2~~1~~7) “Ecology” means the Washington State Department of Ecology.

(2~~2~~8) “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.

(2~~3~~9) “Engineering geologist” means a geologist experienced and knowledgeable in engineering geology.

(~~24~~30) “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.

(~~25~~33) “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;

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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.

(~~26~~34) “Excavation” means the mechanical removal of earth material.

(~~27~~35) “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~~36) “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~~37) “Fill” means a deposit of earth material placed by artificial means.

(3~~0~~8) “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.

(3~~1~~9) “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.

(~~32~~40) “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~~41) “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~~42) “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~~43) “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~~44) To “grade” means to finish the surface of a canal bed, road bed, top of embankment or bottom of excavation.

(~~37~~45) “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.

(~~38~~47) “Highway” means a main public road connecting towns and cities.

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(~~39~~48) "Hydroperiod" means the seasona~~bl~~e occurrence of flooding and/or soil saturation; it encompasses depth, frequency, duration, and seasonal pattern of inundation.

(~~40~~49) "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.

(~~41~~50) "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 gre~~a~~ywater systems.

(~~42~~51) "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.

(~~43~~52) "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.

(~~44~~53) "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~~54) "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.~~

(~~46~~55) "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~~56) "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;

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(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.

(~~48~~59) "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~~60) "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.

(~~50~~61) "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 RCW58.17.~~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.

(~~51~~64) "Permanent storm water ~~quality~~ control (PS~~Q~~C) 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~~65) "Person" means any individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, agency of the state, or local government unit, however designated.

(~~53~~66) "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~~67) "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~~

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~~substances, ashes, kiln dust, and garbage dumpster leakage.~~ m~~M~~etal 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.~~

(~~55~~68) "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.~~

(~~56~~69) "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~~70) "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.

(~~58~~74) "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~~.

(~~59~~75) "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 predic~~a~~ted 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.

(~~60~~76) "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.

(~~61~~78) "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.

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

(~~62~~80) "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~~81) "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~~82) "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~~83) "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~~84) "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~~85) "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 waterbody ~~channel~~, or a constructed infiltration facility.

(~~68~~86) "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, 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.

(~~69~~87) "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~~.

(~~70~~88) "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.

(~~71~~89) "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.~~

(~~72~~90) "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~~91) “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~~92) “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~~93) “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.

(~~76~~95) “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).

(~~77~~97) “Water body” means surface waters including rivers, streams, lakes, marine waters, estuaries, and wetlands.

(~~78~~98) “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~~99) “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).

## 12.10.030 Territorial application.

This code shall be in effect throughout the utility service area, which coincides with the area within the Oak Harbor city limits as now or hereafter configured. (Ord. 1085 § 4, 1997).

## 12.10.060 Authority of the utility.

The utility, by and through its administrator, shall have the authority to:

(1) Develop, adopt and carry out procedures as needed to implement this code and to carry out other responsibilities of the utility, including, but not limited to, procedures pertaining to the billing and collection of monthly drainage charges and procedures for periodic adjustment of fees and charges imposed pursuant to this code.

(2) Prepare and update as needed engineering standards to establish minimum requirements for the design and construction of drainage facilities and requirements for protecting existing facilities during construction. The engineering standards shall be consistent with this code and adopted city policies.

(3) Administer and enforce this code and all procedures relating to the planning, acquisition, design, construction and inspection of new storm and surface water facilities and relating to the regulation of storm and surface water system alterations.

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(4) Enter into any contract pursuant to Chapter 35.91 RCW, the Municipal Water and Sewer Facilities Act, including contracts which provide for the reimbursement of owners constructing facilities (latecomer agreements) and agreements with private property owners for the extension of the drainage system (system extension agreements).

(5) Prepare, update, administer and enforce as needed maintenance standards to establish minimum requirements for the maintenance of drainage facilities so they function as intended, protect water quality and provide flood control.

(6) Develop and implement a program that includes administration, inspection and enforcement of private drainage facilities to ensure continued compliance of drainage facilities with this code.

(7) Advise the city council, city supervisor and other city departments and commissions on matters relating to the utility.

(8) Prepare, revise as needed, recommend and implement a comprehensive drainage plan for adoption by the city council. Prepare basin plans and other studies that are approved in the utility's adopted budget.

(9) Administer the special flood hazard area provisions of this code.

(10) Develop a storm water management program, as required by the state for review and adoption by the city council.

(11) Establish and implement programs to protect and maintain water quality and to manage storm water runoff within the storm and surface water system in order to maintain compliance to the maximum extent possible with applicable water quality standards established by state and/or federal agencies as now or hereafter adopted.

(12) Perform or direct the performance of financial review and analysis of the utility's revenues, expenses, indebtedness, rates and accounting and recommend budgets, rates and financial policy for adoption by the city council.

(13) Carry out such other responsibilities as required by this code or other city codes, ordinances or regulations consistent with the Oak Harbor comprehensive plan.

(14) Conduct public education programs related to protection and enhancement of the drainage system. (Ord. 1085 § 5, 1997).

## 12.10.070 Comprehensive drainage plan.

A comprehensive drainage plan shall be developed by the utility for review and adoption by the city council. The utility shall recommend supplements or updated plans for adoption by the city council, as needed. (Ord. 1085 § 6, 1997).

## 12.10.075 Studies and basin plans.

The utility shall conduct studies and shall develop basin plans for review and adoption by the city council. Basin plans shall be developed according to engineering standards. Once a basin plan has been adopted and implemented, such plan shall supersede the requirements of this code; provided, that the basin plan and basin-specific requirements provide an equal or greater level of water quality and runoff control protection. (Ord. 1085 § 7, 1997).

## 12.10.080 Emergency plan.

The utility will prepare and update an emergency plan, as required by state law, as part of the city's emergency operation plan, for review and adoption by the city council. (Ord. 1085 § 8, 1997).

## 12.10.100 Connections or modifications to the drainage system.

Connections or modifications to the public drainage system or to a private drainage system, including, but not limited to, modifying drainage patterns or constructing or relocating facilities for the treatment, detention, or conveyance of drainage, shall be allowed only if:

(1) Approval has been received from the utility pursuant to Chapters 12.20 and 12.30 OHMC; and

(2) All applicable requirements of this code and utility procedures have been met; and

(3) All applicable engineering standards have been met or alternative standards have been approved by the utility as substantially equal; and

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(4) The property owner has paid all applicable fees and charges. (Ord. 1085 § 9, 1997).

## 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.

(2) The utility may accept ownership (or other property rights) and responsibility for privately built drainage facilities when all of the following conditions are met:

(a) Ownership of the facility by the utility would provide a public benefit; and
(b) Necessary and appropriate property rights are offered by the property owner at no cost; and
(c) The facility substantially meets current standards, as determined by the utility, or is brought up to current standards by the owner; and
(d) There is access for utility maintenance in accordance with criteria provided in the engineering standards; and
(e) The utility has adequate resources to maintain the facility; and
(f) In the case of detention facilities, the facility serves a residential subdivision or short plat (rather than a single commercial property); and
(g) The facility is transferred to the utility by bill of sale at no cost to the city. (Ord. 1085 § 10, 1997).

## 12.10.120 Permits – Approvals.

(1) General.
(a) The utility shall administratively determine submittal requirements for the various utility permits/approvals. Within 28 days of submittal, the administrator shall determine whether the application is complete. Procedures under Chapter 18.20 OHMC shall apply in processing these permits.
(b) When a drainage connection permit or drainage system extension agreement is required, it shall require the property owner to build all the drainage facilities needed to serve the property including, but not limited to, conveyance systems, runoff treatment best management practices, detention facilities and other system components.
(c) When a drainage connection permit or drainage system extension agreement is required to provide drainage facilities for a proposed building, the utility will not sign off on the building permit until the drainage connection permit has been issued or the drainage system extension agreement has been initiated. When a drainage connection permit or drainage system extension agreement is required to relocate a drainage facility from under a proposed building, the utility will not sign off on the building permit until the replacement drainage work has been completed and accepted by the utility, unless the building permit is conditioned to require relocation prior to site construction.

(2) Drainage Connection Permit.
(a) A drainage connection permit is required to construct drainage facilities and/or to make any additions, repairs or connections to an existing drainage facility, unless a drainage system extension agreement is required pursuant to OHMC12.10.120(3)(a) or unless connection of a single-family residence to an existing stub is covered under a clearing and grading permit.
(b) A drainage connection permit application must be made by the property owner or his/her city-licensed and bonded contractor.
(c) Drainage connection permits for lots in subdivisions and short plats will be issued only after the drainage extension, if one is required, is accepted by the city.
(d) Drainage connection permits expire 12 months from the date of issuance.

(3) Drainage System Extension Agreement.
(a) The property owner and the utility shall enter into a drainage system extension agreement whenever new development or redevelopment involves any of the following:
(i) More than 400 feet of conveyance pipe; or
(ii) More than two catchbasins or manholes; or
(iii) Detention or other runoff control facilities; or
(iv) Runoff treatment facilities, other than spill control structures; or
(v) Work in an open drainage channel; or

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(vi) Work in the public drainage system or within the right-of-way except for lateral connections to the public drainage system covered under a drainage connection permit or a clearing and grading permit.

(b) The utility will accept constructed facilities as complete once the facilities have been built according to the approved plans and specifications, as confirmed by utility inspectors, as-built drawings have been completed as specified in the engineering standards, and all applicable fees and charges have been paid.

(c) The property owner shall be required to provide surety devices, in a form approved by the city, for drainage system extensions during construction and for a one-year warranty period following acceptance.

(4) Other Permits. It is the applicant's responsibility to identify and obtain all permits/approvals required for any proposed work, such as any approvals required by the Washington State Department of Fish and Wildlife, the Washington State Department of Ecology and the Army Corps of Engineers. (Ord. 1085 § 11, 1997).

## 12.10.150 Latecomer agreements.

The utility may enter into any contracts authorized under Chapter 35.91 RCW, the Municipal Water and Sewer Facilities Act, including contracts which provide for the reimbursement of property owners constructing public facilities, commonly known as latecomer agreements. The procedures for entering into storm water latecomer agreements shall be as described in Chapter 18.35OHMC. (Ord. 1699 § 1, 2014; Ord. 1085 § 12, 1997).

## 12.10.160 Drainage easement requirements.

(1) When Required. An easement is required whenever a private drainage facility will be built on property owned by a different private party and whenever a private drainage facility will serve two or more properties that are not in common ownership or that will no longer be in common ownership following the sale of lots in a subdivision. In addition, public drainage facilities, including any drainage facilities that will be publicly maintained, shall be located in public right-of-way or drainage easements or tracts deeded to the utility.

(2) Requirements. All of the following requirements shall be met before the utility will accept and approve any easement:

(a) Clear title in the grantor shall be demonstrated; and

(b) The proposed easement shall be compatible with utility clearance standards and setback standards and with other utilities or easements; and

(c) The easement shall provide for access to the facility for repair and maintenance. When deemed necessary by the utility, the easement shall contain provisions for long-term maintenance; and

(d) The easement shall prohibit all structures within the easement except those which can readily be removed by the structure's owner at the owner's expense when access to the drainage facility is required by the utility. If such structures are within the easement area, an agreement to remove the structures on request by the utility, approved by the city, shall be recorded; and

(e) The easement dimensions and other requirements shall conform with the engineering standards.

(3) Costs. The property owner shall pay all costs of providing or obtaining and recording the easement.

(4) Relinquishment of Easement. An easement granted to the utility may be relinquished only if the utility determines it is no longer needed and the city council authorizes the relinquishment. (Ord. 1085 § 13, 1997).

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# Chapter 12.20
# STORM WATER FACILITY MAINTENANCE

Sections:

12.20.005 Title – New chapter.
12.20.010 Findings of fact, need and purpose.
~~12.20.020 Definitions.~~
12.20.030 General provisions.
12.20.040 Applicability.
12.20.050 General requirements.
12.20.055 Operation and Maintenance Manual Required
12.20.060 Administration.
12.20.070 Inspection program.
12.20.080 Enforcement.
12.20.090 Severability.

## 12.20.005 Title – New chapter.

There is hereby created a new Chapter 12.20 for the Oak Harbor Municipal Code entitled "Storm Water Facility Maintenance." (Ord. 1537 § 11, 2008; Ord. 1086 § 1, 1997; Ord. 998, 1995).

## 12.20.010 Findings of fact, need and purpose.

(1) Findings of Fact. The city council of the city of Oak Harbor hereby finds that:

(a) Storm water facilities are a common feature of urban development;

(b) In order to function properly so that they will perform as designed to prevent or remove pollution and to reduce flooding, storm water facilities must be regularly inspected and maintained;

(c) If not adequately maintained, storm water facilities can become sources of pollutants to surface water and ground water;

(d) If not adequately maintained, storm water facilities could fail and cause considerable damage to the public.

(2) Need. The city council finds that this chapter is necessary in order to ensure maintenance of all storm water facilities within the city by setting minimum standards for the inspection and maintenance of storm water facilities.

(3) Purpose. The provisions of this chapter are intended to:

(a) Provide for inspection and maintenance of storm water facilities in Oak Harbor and to provide for an effective, functional storm water drainage system;

(b) Authorize the administrator to require that storm water facilities be operated, maintained and repaired in conformance with this chapter;

(c) Establish the minimum level of compliance which must be met;

(d) Guide and advise all who conduct inspections and maintenance of storm water facilities. (Ord. 1537 § 11, 2008; Ord. 1086 § 1, 1997; Ord. 998, 1995).

## ~~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.~~

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~~(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).~~

## 12.20.030 General provisions.

(1) Abrogation and Greater Restrictions. It is not intended that this chapter repeal, abrogate, or impair any existing regulations, easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail.

(2) Interpretation. The provisions of this chapter shall be held to be minimum requirements in their interpretation and application and shall be liberally construed to serve the purposes of this chapter. (Ord. 1537 § 11, 2008; Ord. 1086 § 1, 1997; Ord. 998, 1995).

## 12.20.040 Applicability.

When any provision of any other chapter of the city code conflicts with this chapter, that which provides more environmental protection shall apply unless specifically provided otherwise in this chapter.
The administrator is authorized to adopt written procedures for the purpose of carrying out the provisions of this chapter. (Ord. 1537 § 11, 2008; Ord. 1166 § 5, 1999; Ord. 1086 § 1, 1997; Ord. 998, 1995).

## 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) Facilities shall be inspected annually and cleared of debris, sediment and vegetation when they affect the functioning and/or design capacity of the facility.
(b) Grassy swales and other biofilters shall be inspected monthly and mowed or replanted as necessary. Clippings are to be removed and properly disposed of.
(c) 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.
~~(c)~~ (d) 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).

## 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.

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(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.

## 12.20.060 Administration.

(1) Administrator. The public works superintendent or his or her designee shall administer this chapter. This public works superintendent or his or her designee shall be referred to as the administrator or director in this title. The administrator shall have the authority to develop and implement administrative procedures to administer and enforce this chapter.

(2) Inspection Authority. The administrator is directed and authorized to develop an inspection program for storm water facilities in the city of Oak Harbor.
(3) Enforcement Authority. The administrator shall enforce this chapter. The administrator shall refer criminal and civil court enforcement actions to the city attorney. (Ord. 1537 § 11, 2008; Ord. 1166 § 7, 1999; Ord. 1086 § 1, 1997; Ord. 998, 1995).

## 12.20.070 Inspection program.

(1) Inspection. Whenever implementing the provisions of the inspection program or whenever there is cause to believe that a violation of this chapter has been or is being committed, the inspector is authorized to inspect during regular working hours and at other reasonable times all storm water drainage systems within the city to determine compliance with the provisions of this chapter.

(2) Procedures. Prior to making any inspections, the inspector shall present identification credentials, state the reason for the inspection and request entry.

(a) If the property or any building or structure on the property is unoccupied, the inspector shall first make a reasonable effort to locate the owner or other person(s) having charge or control of the property or portions of the property and request entry.
(b) If, after reasonable effort, the inspector is unable to locate the owner or other person(s) having charge or control of the property, and has reason to believe the condition of the storm water drainage system creates an imminent hazard to persons or property, the inspector may enter.
(c) Unless entry is consented to by the owner or person(s) in control of the property or portion of the property, or unless conditions are reasonably believed to exist which create imminent hazard, the inspector shall obtain a search warrant, prior to entry, as authorized by the laws of the state of Washington.
(d) The inspector may inspect the storm water drainage system without obtaining a search warrant provided for in subsection (2)(c) of this section; provided the inspection can be conducted while remaining on public property or other property on which permission to enter is obtained.

(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.

(4) Inspection and Maintenance Records. As existing storm water facilities are encountered, they shall be added to the master inspection and maintenance schedule. Records of new storm water facilities shall include the following:

(a) As-built plans and locations;
(b) Findings of fact from any exemption granted by the local government;
(c) Operation and maintenance requirements and records of inspections, maintenance actions and frequencies;
(d) Engineering reports, as appropriate.

(5) Reporting Requirements. The administrator shall report annually to the city council about the status of the inspections. The annual report may include, but need not be limited to, the proportion of the components found in and out of compliance, the need to upgrade components, enforcement actions taken, compliance with the inspection schedule, the resources needed to comply with the schedule, and comparisons with previous years. (Ord. 1537 § 11, 2008; Ord. 1086 § 1, 1997; Ord. 998, 1995).

## 12.20.080 Enforcement.

(1) General. Enforcement action shall be taken whenever a person has violated any provision of this chapter. The choice of enforcement action taken and the severity of any penalty shall be based on the nature of the violation, the

damage or risk to the public or to public resources, and/or the degree of bad faith of the persons subject to the enforcement action.

(2) Orders. The administrator shall have the authority to issue to an owner or person an order to maintain or repair a component of a storm water facility or BMP to bring it in compliance with this chapter, the storm water manual, the Oak Harbor storm water management plan and/or city regulations. The order shall include:

(a) A description of the specific nature, extent and time of the violation and the damage or potential damage that reasonably might occur;

(b) A notice that the violation or the potential violation cease and desist and, in appropriate cases, the specific corrective actions to be taken; and

(c) A reasonable time to comply, depending on the circumstances.

(3) Civil Penalty. A person who fails to comply with the requirements of this chapter or who fails to conform to the terms of an approval or order issued shall be subject to a civil penalty.

(a) Amount of Penalty. The penalty shall not be less than $50.00 or exceed $500.00 for each violation. Each day of continued violation or repeated violation shall constitute a separate violation. The maximum penalty shall be no more than $500.00 for each violation.

(b) Aiding or Abetting. Any person who, through an act of commission or omission, aids or abets in the violation shall be considered to have committed a violation for the purposes of the civil penalty.

(c) Notice of Penalty. A civil penalty shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the local government. The notice shall describe the violation, the date(s) of violation, and shall order the acts constituting the violation to cease and desist and, in appropriate cases, require necessary corrective action within a specific time.

(d) Application for Remission or Mitigation. Any person incurring a penalty may apply in writing within 10 days of receipt of the penalty to the city for remission or mitigation of such penalty. Upon receipt of the application, the city supervisor may remit or mitigate the penalty only upon a demonstration of extraordinary circumstances, such as the presence of information or factors not considered in setting the original penalty. The city supervisor's decision may be appealed to the city council within 10 days of the decision.

(e) Appeal of Civil Penalty. Persons incurring a penalty imposed by the administrator may appeal in writing within 10 days of the receipt of the penalty to the city supervisor. The city supervisor's decision may be appealed to the city council within 10 days of the decision.

(4) Penalties Due. Penalties imposed under this section shall become due and payable 30 days after receiving notice of penalty unless application for remission or mitigation is made or an appeal is filed. Whenever an application for remission or mitigation is made, penalties shall become due and payable 30 days after receipt of the decision regarding the remission or mitigation. Whenever an appeal of a penalty is filed, the penalty shall become due and payable after all review proceedings and a final decision have been issued confirming all or part of the penalty. If the amount of a penalty owed is not paid within the time specified in this section, the city may take actions necessary to recover such penalty. (Ord. 1537 § 11, 2008; Ord. 1086 § 1, 1997; Ord. 998, 1995).

## 12.20.090 Severability.

If any provision of this chapter or its application to any person, entity, or circumstance is held invalid, the remainder of this chapter or the application of the provision to other persons, entities, or circumstances shall not be affected. (Ord. 1537 § 11, 2008; Ord. 1086 § 1, 1997; Ord. 998, 1995).

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# Chapter 12.30
# STORM WATER MANAGEMENT

Sections:

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12.30.020 Need.
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**Subchapter 12.30.100 – General Provisions**
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**Subchapter 12.30.000 – Preliminary Provisions**

## 12.30.010 Findings of fact.

The city council of the city of Oak Harbor hereby finds that:

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(1) Storm water pollution is a problem associated with land utilization and development and the common occurrence of potential pollutants such as pesticides, fertilizers, petroleum products, pet wastes and numerous others.
Land utilization and development is also known to increase both the volume and duration of peak flows resulting in erosion, scouring, and deposition of sediment.

(2) An expanding population and increased development of land may lead to possible consequences of water quality degradation through discharge of nutrients, metals, oil and grease, toxic materials, and other detrimental substances; drainage and storm and surface water runoff problems; and safety hazards posed by water runoff on streets and highways.

(3) In the future, such problems and dangers associated with storm water runoff will be reduced or avoided if existing properties and future developers, both private and public, provide for storm water quality and quantity controls.

(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.

(5) Best management practices can be expected to perform as intended only when properly designed, constructed and maintained.

(6) The Federal Clean Water Act and rules established by the Environmental Protection Agency require the Washington State Department of Ecology to issue permits to owners of municipal separate storm sewer systems (MS4).

(7) The city of Oak Harbor is an owner of an MS4 and is subject to the requirements of the NPDES Phase II municipal storm water permit issued by the Department of Ecology. (Ord. 1576 § 1, 2010; Ord. 1537 § 2, 2008; Ord. 1086 § 2, 1997; Ord. 1044, 1996).

## 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

(1~~0~~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).

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## 12.30.030 Purpose.

The provisions of this chapter are intended to guide and advise all who conduct new development or redevelopment within the city. The provisions of this chapter establish the minimum level of compliance which must be met to permit a property to be developed or redeveloped within the city. This chapter is an exercise of the police power for the general public and not for protection of specific individuals.
Specifically, it is the purpose of this chapter to:
(1) Minimize water quality degradation and sedimentation in streams, ponds, lakes, wetlands and other water bodies;

(2) Minimize the impact of increased runoff, erosion and sedimentation caused by land development and maintenance practices;

(3) Maintain and protect ground water resources;

(4) Minimize adverse impacts of alterations on ground and surface water quantities, locations and flow patterns;

(5) Decrease potential landslide, flood and erosion damage to public and private property;

(6) Promote site planning and construction practices that are consistent with natural topographical, vegetational and hydrological conditions;

(7) Maintain and protect the city storm water management infrastructure and those downstream; provided nothing herein shall be construed as providing a right to any individual, class or group of individuals;

(8) Provide a means of regulating clearing and grading of private and public land while minimizing water quality impacts in order to protect public health and safety; and

(9) Provide minimum development regulations and construction procedures which will preserve, replace or enhance, to the maximum extent practicable, existing vegetation to preserve and enhance the natural qualities of wetlands and water bodies and promote enhancement of critical lands. (Ord. 1576 § 1, 2010; Ord. 1537 § 2, 2008; Ord. 1086 § 2, 1997; Ord. 1044, 1996).

## ~~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.~~

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~~(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.~~

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~~(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.~~

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~~(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 greaywater 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~~

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~~binding site plans as defined in RCW58.17.020. 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, tructural 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.~~

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~~(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.~~

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~~(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).~~

**Subchapter 12.30.100 – General Provisions**

## 12.30.110 Abrogation and greater restrictions.

It is not intended that this chapter repeal, abrogate, or impair any existing regulations, easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail. (Ord. 1576 § 1, 2010; Ord.1537 § 3, 2008; Ord. 1086 § 2, 1997; Ord. 1044, 1996).

## 12.30.120 Interpretation.

The provisions of this chapter shall be held to be minimum requirements in their interpretation and application and shall be liberally construed to serve the purposes of this chapter. (Ord. 1576 § 1, 2010; Ord. 1537 § 3, 2008; Ord. 1086 § 2, 1997; Ord. 1044, 1996).

## 12.30.130 Applicability.

(1) When any provision of any other chapter of the city code conflicts with this chapter, that which provides more environmental protection shall apply unless specifically provided otherwise in this chapter.

(2) The director is authorized to adopt written procedures for the purpose of carrying out the provisions of this chapter. Prior to fulfilling the requirements of this chapter, the city shall not grant any approval or permission to conduct a regulated activity including, but not limited to, the following: building permit, commercial or residential; binding site plan; conditional use permit; franchise right-of-way construction permit; grading and clearing permit; master plan development; planned unit development; right-of-way permit; shoreline substantial development permit; shoreline variance; shoreline conditional use permit; unclassified use permit; variance; zone reclassification; subdivision; short subdivision; special use permit; utility and other use permit; zone reclassification; or any subsequently adopted permit or required approval not expressly exempted by this chapter.

(3) Regulated activities shall be conducted only after the director approves a storm water site plan as required by this chapter. (Ord.1576 § 1, 2010; Ord. 1537 § 3, 2008; Ord. 1086 § 2, 1997; Ord. 1044, 1996).

**Subchapter 12.30.200 – Regulated Activities and Allowed Activities**

## 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).

## 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).

**Subchapter 12.30.300 – General Requirements**

## 12.30.310 Stormwater Management Manual for Western Washington adopted.

The 2012~~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).

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## 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.

## 12.30.330 Illicit discharges.

Illicit discharges to storm water drainage systems are prohibited. (Ord. 1576 § 1, 2010; Ord. 1537 § 5, 2008; Ord. 1086 § 2, 1997; Ord. 1044, 1996).

**Subchapter 12.30.500 – Minimum Requirements**

## 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 ~~10~~ 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).

## 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 ~~12~~ 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.

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~~(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.~~

(~~5~~4) 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.

(~~6~~5) 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.

(~~7~~b) 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.

## 12.30.520 Minimum Requirement

All projects meeting the thresholds in OHMC 12.30.510 and 12.30.515 shall prepare and submit a storm water site plan for review. Storm water site plans shall be prepared in accordance with Volume I, Chapter 3, of the manual. (Ord. 1576 § 1, 2010; Ord. 1537§ 7, 2008; Ord. 1086 § 2, 1997; Ord. 1044, 1996).

## 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 1~~2~~ 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 1~~2~~3 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.

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~~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.~~

(~~c~~b) Retain t~~T~~he 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~~C~~onstruction 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

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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.~~

(~~e~~c) 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 (s~~S~~ediment 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).

(~~d~~e) 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.

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(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

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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.~~

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(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 $CO_2$ 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) Phasee ing of Construction. dDevelopment 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. , the transport of sediment from the site during construction. Revegetation of exposed areas and maintenance of that vegetation shall be an integral part of the clearing activities for any phase.

(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

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~~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.

(1~~3~~4) 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.

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~~(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).

## ~~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).~~

## ~~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).~~

## ~~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).~~

## ~~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.);~~

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~~(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).~~

## ~~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:~~

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~~(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).~~

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## ~~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).~~

## ~~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).~~

## ~~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).~~

## ~~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).~~

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## ~~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).~~

## 12.30.575 Adjustments.

An adjustment to the minimum requirements is a minor modification meeting the purpose and intent of the requirements, but does not lift or waive any specific requirement. Adjustments to the minimum requirements may be granted prior to permit approval and construction. The director may grant an adjustment; provided, that a written finding of fact is prepared that addresses the following:
(1) The adjustment provides substantially equivalent environmental protection.
(2) The objectives of safety, function, environmental protection and facility maintenance, based upon sound engineering, are met. (Ord. 1576 § 1, 2010; Ord. 1537 § 7, 2008).

## 12.30.580 Exceptions.

(1) An exception or variance to the minimum requirements either lifts or waives any of the minimum requirements whether in whole or in part. Exceptions or variances to Minimum Requirements #1 through #12 may be granted by the director prior to permit approval and construction. An exception or variance may be granted following legal public notice of an application for an exemption, legal public notice of the director's decision and the director's written finding of fact that documents the following:

(a) The exception provides equivalent environmental protection is not injurious to other properties in the vicinity, and is in the overriding public interest; and that the objectives of safety, function, environmental protection and facility maintenance, based upon sound engineering, are met;
(b) That there are special physical circumstances or conditions affecting the property such that the strict application of these provisions would deprive the applicant of reasonable use of the parcel of land in question;
(c) The exception is the least possible exception that could be granted to comply with the intent of the minimum requirements.

(2) The director is further authorized to grant an exception or variance to the minimum requirements if strict application imposes a severe and unexpected economic hardship.

(3) In determining the economic hardship, the director shall consider the following:

(a) The current (pre-project) use of the site; and
(b) How the application of the minimum requirement(s) restricts the proposed use of the site compared to the storm water regulations in effect prior to 2007; and
(c) The possible remaining uses of the site if the exception were not granted; and
(d) The uses of the site that would have been allowed prior to 2007; and
(e) A comparison of the estimated amount and percentage of value loss as a result of the minimum requirements versus the estimated amount and percentage of value loss as a result of requirements that existed prior to 2007; and
(f) The feasibility for the owner to alter the project to apply the minimum requirements.

(4) The director is authorized to establish application procedures and requirements for consideration of all requests for exceptions or variance to the minimum requirements of this section. Application for an exception to these requirements shall be made on forms provided by the director. In all cases the burden of demonstrating through analysis and supporting documentation that an exception or variance is justified rests with the applicant. (Ord. 1576 § 1, 2010; Ord. 1537 § 7, 2008; Ord. 1086 § 2, 1997; Ord. 1044, 1996. Formerly 12.30.570).

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**Subchapter 12.30.600 – Administration**

## 12.30.610 Director.

The director or his/her designee shall administer this chapter. The director shall have the authority to develop and implement administrative procedures to administer and enforce this chapter. The city engineer or designee is hereby assigned the duty of director under this chapter. (Ord. 1576 § 1, 2010; Ord. 1537 § 8, 2008; Ord. 1086 § 2, 1997; Ord. 1044, 1996).

## 12.30.620 Review and approval.

The director may approve, conditionally approve or deny an application for activities regulated by this chapter. (Ord. 1576 § 1, 2010; Ord. 1537 § 8, 2008; Ord. 1086 § 2, 1997; Ord. 1044, 1996).

## 12.30.625 Review process.

Reviews under this chapter are considered Type I as defined in Chapter 18.20 OHMC. (Ord. 1576 § 1, 2010; Ord. 1537 § 8, 2008).

## 12.30.640 Inspection.

All activities regulated by this chapter, except those exempt in OHMC 12.30.220, shall be inspected by the director. The director shall inspect projects at various stages of the work requiring approval to determine that adequate control is being exercised. Stages of work requiring inspection include, but are not limited to, preconstruction; installation of BMPs; land-disturbing activities; installation of utilities, landscaping, and retaining walls; and completion of project. When required by the director, special inspection and/or testing shall be performed. (Ord. 1576 § 1, 2010; Ord. 1537 § 8, 2008; Ord. 1086 § 2, 1997; Ord. 1044, 1996).

**Subchapter 12.30.700 – Enforcement**

## 12.30.710 General.

Enforcement action shall be in accordance with this chapter whenever a person has violated any provision of this chapter. The choice of enforcement action and the severity of any penalty shall be based on the nature of the violation, the damage or risk to the public or to public resources, and/or the degree of bad faith of the person subject to the enforcement action. (Ord. 1576 § 1, 2010; Ord. 1537 § 9, 2008; Ord. 1086 § 2, 1997; Ord. 1044, 1996).

## 12.30.720 Stop work order.

The director shall have the authority to serve a person a stop work order if an action is being undertaken in violation of this chapter.

(1) Content of Order. The order shall contain:

(a) A description of the specific nature, extent, and time of violation and the damage or potential damage; and

(b) A notice that the violation or the potential violation shall cease and desist and, in appropriate cases, the specific corrective action to be taken within a given time.

(2) Notice. A stop work order shall be imposed by a notice in writing, either by certified mail with return receipt requested, or by personal service, to the person incurring the same.

(3) Effective Date. The stop work order issued under this section shall become effective immediately upon receipt by the person to whom the order is directed.

(4) Compliance. Failure to comply with the terms of a stop work order shall result in enforcement actions including, but not limited to, the issuance of a notice of civil infraction pursuant to Ch. 1.28 OHMC and/or a criminal citation or complaint in accordance with CrRLJ 2.1, as applicable. (Ord. 1576 § 1, 2010; Ord. 1537 § 9, 2008; Ord. 1086 § 2, 1997; Ord. 1044, 1996).

## 12.30.730 Penalties.

(1) The failure to comply with the provisions of this chapter is a civil offense, classified as a Class 1 infraction as defined in Chapter1.28 OHMC. Each day of violation shall be a separate offense. This is an absolute liability offense. No mental element as defined in law is required for proof of violation.

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(2) The knowing or intentional failure or refusal to comply with a stop work order under the provisions of this chapter is a misdemeanor which shall be punishable by the maximum penalty established by RCW 9.92.030 as now or hereafter amended.

(3) An intentional or repeated violation of this chapter by the person responsible shall be a misdemeanor.
(Ord. 1717 § 27, 2015; Ord. 1576 § 1, 2010; Ord. 1537 § 9, 2008; Ord. 1086 § 2, 1997; Ord. 1044, 1996).

## 12.30.740 Enforcement.

(1) Provisions of this chapter will be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.

(2) Civil Infraction Procedures Applicable. If a civil offense is filed against any person, the civil infraction procedures of Chapter 1.28OHMC shall be followed.

(3) Criminal Prosecution. A criminal complaint may be brought by the city attorney or a citation may be issued by a duly commissioned law enforcement officer for violation of the misdemeanor provisions of this chapter, in accordance with CrRLJ 2.1.

(4) Nothing in this section shall limit the authority of the city to take any action, including emergency actions, civil infractions, criminal prosecutions or any other enforcement action, to enforce the provisions of this chapter.
(Ord. 1576 § 1, 2010; Ord. 1537§ 9, 2008; Ord. 1086 § 2, 1997; Ord. 1044, 1996).

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# Chapter 12.40
# DRAINAGE UTILITY CHARGES

Sections:

~~12.40.010 Definitions.~~
12.40.020 Charge system established – Charges imposed.
12.40.025 Criteria established.
12.40.030 Storm water system service charges – Schedule – Exemptions.
12.40.040 Storm water system service charges – Adjustments.
12.40.050 Billing.
12.40.060 Assessment for charges.
12.40.065 Rainwater harvesting rate reduction.
12.40.070 Storm water system fund.
12.40.075 Storm water system service charges – Sufficiency.
12.40.080 Revenue disposition and expenditure conditions.
12.40.085 Annual review of rates.
12.40.090 Liability disclaimer.
12.40.100 Delinquent payments – Enforcement procedures.
12.40.105 Billing and collection procedures.

## ~~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.~~

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~~(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).~~

## 12.40.020 Charge system established – Charges imposed.

A storm water system service charge shall be imposed by the city of Oak Harbor on all real property located within Oak Harbor city limits and the owners thereof, except those granted exemption as listed in OHMC 12.40.030. A system and structure of storm water system service charges are hereby established in accordance with the provisions of this chapter. (Ord. 1602 § 2, 2011; Ord. 1582 § 1, 2010; Ord. 1084 § 3, 1997).

## 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 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).

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## 12.40.030 Storm water system service charges – Schedule – Exemptions.

(1) A storm water system service charge is imposed on every parcel within the city and the owner(s) thereof, except for the following exempted property(ies):

(a) City streets, it being expressly found that all such city streets, roads, alleys and rights-of-way collect and transport storm and surface water from multiple individual properties and that the value of such collection and transport is equal to the reasonable charge therefor that would otherwise be charged by the city; and

(b) State of Washington highways, so long as the state of Washington shall agree to maintain, construct and improve all drainage facilities associated with state highways as required by the utility in conformance with all utility standards for maintenance, construction and improvement hereafter established by the utility and so far as such maintenance, construction and improvements shall be achieved at no cost to the utility or to the city; and

(c) All other streets, so long as such streets provide drainage services in the same manner as city streets and the owner(s) shall agree to maintain, construct and improve all drainage facilities associated with such streets as required by the utility in conformance with all utility standards for maintenance, construction and improvement thereafter established by the utility and so far as such maintenance, construction and improvements shall be achieved at no cost to the utility or to the city; and

(d) Undeveloped parcels.

(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 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.~~

(b~~c~~) 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.

(c~~d~~) 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.

(4) Each bill shall be rounded up to the nearest even number of cents. (Ord. 1602 § 2, 2011; Ord. 1582 § 1, 2010; Ord. 1530 § 1, 2008; Ord. 1494 § 1, 2007; Ord. 1453 § 1, 2006; Ord. 1419 § 1, 2005; Ord. 1293 § 1, 2001; Ord. 1239 § 1, 2000; Ord. 1202 § 1, 1999; Ord. 1193 § 1, 1999; Ord. 1128 § 2, 1998; Ord. 1123, 1998; Ord. 1084 § 4, 1997).

## 12.40.040 Storm water system service charges – Adjustments.

(1) Any person receiving a storm water system service charge may apply in writing to the utility for a bill adjustment so long as the billing is paid. Filing such a request does not extend the period for payment of the charge. Requests for adjustments on delinquent accounts will not be acted upon until paid in full prior to decision.

(2) A request for a bill adjustment may be based on one or more of the following:

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(a) The area of the parcel is incorrect;
(b) The property is not assigned the proper rate category;
(c) The amount of impervious surface on a non-single-family residential parcel is incorrect;
(d) The parcel is exempt under the provisions of OHMC 12.40.030;
(e) The parcel is wholly or partially outside the Oak Harbor city limits; or
(f) The storm water system service charge is otherwise erroneous in applying the terms of this chapter.

(3) Applications for adjustments may be made to the utility and shall be decided by the administrator for the utility or administrator's designee. The burden of proof shall be on the applicant to show that the rate adjustment sought should be granted. All decisions of the utility shall be final.

(4) Applications for rate adjustment must be filed within one year of the billing date. To receive credit in the current billing year, however, applications for rate adjustment must be made no more than 90 days after the initial billing date for that year. Applications received after 90 days of the billing date shall be effective for subsequent years only.

(5) If the utility grants an adjustment which reduces the charge for the current year, the applicant shall receive an adjusted bill or be refunded the amount overpaid. If the utility determines that an adjustment should be made which increases the charge due for the current year, the applicant shall receive a supplemental bill that will be due within 45 days of the date of issue. Applicants for rate adjustments shall be notified in writing of the utility's decision.

(6) Decisions of the administrator on requests for rate adjustments shall be final unless, within 30 days of the date the decision was mailed, the applicant files a petition for a writ of certiorari in the superior court with jurisdiction.
(Ord. 1602 § 2, 2011; Ord. 1582 § 1, 2010; Ord. 1084 § 5, 1997).

## 12.40.050 Billing.

Billing shall be completed by the finance department on a monthly basis as determined to be appropriate by the finance director. (Ord. 1602 § 2, 2011; Ord. 1582 § 1, 2010; Ord. 1084 § 6, 1997).

## 12.40.060 Assessment for charges.

All parcels subject to a storm water system service charge shall be billed based upon the rate category and acreage applicable to each such parcel as of November 1st of the year prior to the billing year. The administrator shall provide to the finance department by that date changes to the listing of parcels and estimated billings for the changes to be applied for the next year starting January 1st. (Ord. 1602 § 2, 2011; Ord. 1582 § 1, 2010; Ord. 1348 § 19, 2003; Ord. 1084 § 7, 1997).

## 12.40.065 Rainwater harvesting rate reduction.

Pursuant to RCW 35.67.020(3), the storm water system charge imposed pursuant to this chapter shall be reduced by 10 percent for any new or remodeled commercial building that utilizes a permissive rainwater harvesting system which is properly sized to utilize the available roof surface of the building. Any customer seeking such a rainwater harvesting rate reduction shall have the burden of establishing that there is a qualified rainwater harvesting system and shall present such evidence by application to the administrator. (Ord. 1602 § 2, 2011; Ord. 1582 § 1, 2010).

## 12.40.070 Storm water system fund.

There is hereby created a storm water system fund which is to be used in the operation of the drainage utility. All storm water system service charges shall be deposited in this fund, to be used only for the purpose of paying all or any part of the cost and expense of providing storm water system services, or to pay or secure the payment of all or any portion of any issue of general obligation or revenue bond issued for such purpose. The storm water system service charge rates shall be established by ordinance. (Ord. 1602 § 2, 2011; Ord. 1582 § 1, 2010; Ord. 1084 § 8, 1997).

## 12.40.075 Storm water system service charges – Sufficiency.

The storm water system service charges, inspection and permit fees, application and connection fees, and such other fees and charges as are provided for the support of the storm water system shall be necessary and sufficient in the opinion of the city council to pay for the following:

(1) The costs associated with the development, adoption and implementation of a comprehensive storm drainage utility master plan;

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(2) The costs, including debt service and related financing expenses, of the construction and reconstruction of storm drainage and water quality facilities necessary and required for the management of storm and surface waters that benefit the service area;

(3) The operation, repair, maintenance, improvement, replacement and reconstruction of storm drainage facilities that benefit the service area;

(4) The purchase of a fee or lesser interest, including easements, in land which may be necessary for the storm drainage system in the service area including, but not limited to, land necessary for the installation and construction of storm drainage facilities and all other facilities which are reasonably required for proper and adequate management of storm water for the benefit of the service area; and

(5) The costs of monitoring, inspection, enforcement, and administration of the utility including, but not limited to, water quality surveillance, private maintenance inspection, construction inspection, and other activities which are reasonably required for the proper and adequate implementation of the city's storm and surface water policies.
The fees and charges to be paid and collected pursuant hereto shall not be used for general or other governmental or proprietary purposes of the city except to pay for the equitable share of the costs of accounting, management, and government thereof incurred on behalf of the utility. (Ord. 1602 § 2, 2011; Ord. 1582 § 1, 2010).

## 12.40.080 Revenue disposition and expenditure conditions.

All moneys obtained pursuant to this chapter shall be credited and deposited in the storm water system fund. Moneys deposited in the storm water system fund from storm water system service charges shall be expended for administering, operating, maintaining, or improving the drainage system, including all or any part of the cost of planning, designing, acquiring, constructing, repairing, replacing, improving, regulating, educating the public, or operating present or future drainage facilities owned by the utility, or to pay or secure the payment of all or any portion of any debt issued for such purpose and the related reserve and coverage requirements. Moneys shall not be transferred to any other funds of the city except to pay for expenses attributable to the system. (Ord. 1602 § 2, 2011; Ord. 1582 § 1, 2010; Ord. 1084 § 9, 1997).

## 12.40.085 Annual review of rates.

The city council should review the storm water system service charges annually to ensure the rates charged are sufficient to cover the operational and capital costs of the storm water drainage system. The rates shall be set by ordinance. (Ord. 1602 § 2, 2011; Ord. 1582 § 1, 2010).

## 12.40.090 Liability disclaimer.

Floods from storm water runoff may occasionally occur which exceed the capacity of drainage facilities constructed and maintained by funds made available under this chapter. This chapter does not imply that property liable for the drainage service charge established herein will always be free from storm water flooding or flood damage. The establishment of this utility does not purport to reduce the need or the necessity for the owner obtaining flood insurance.
This chapter shall be administered and enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.

No provision of or any term used in this chapter is intended to impose any duty upon the city or any of its officers or employees which would subject them to damages in a civil action. (Ord. 1602 § 2, 2011; Ord. 1582 § 1, 2010; Ord. 1084 § 10, 1997).

## 12.40.100 Delinquent payments – Enforcement procedures.

(1) Storm water system service charges or any part thereof which become delinquent shall bear interest as provided in RCW35.67.200 at the rate of eight percent per year, or such rate as may hereafter be authorized by law, computed on a monthly basis from the date of delinquency until paid.

(2) The city shall have a lien for all delinquent and unpaid storm water system service charges, including interest thereon, against any parcel for which the storm water system service charges are delinquent as provided by RCW 35.67.200. The lien shall have superiority as established by RCW 35.67.200 and shall be foreclosed in the manner provided in RCW 35.67.210 through 35.67.290. In the case of foreclosure actions to collect delinquencies, the city shall seek also to collect reimbursement of reasonable costs of collection including, but not limited to, attorney's fees, staff time, and filing fees.

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(3) The city shall have the authority to enforce its lien by cutting off and refusing water service to the premises to which such storm water sewer services were furnished after the charges become delinquent and unpaid, until the charges are paid, as provided in RCW 35.67.290. (Ord. 1602 § 2, 2011; Ord. 1582 § 1, 2010; Ord. 1084 § 11, 1997).

### 12.40.105 Billing and collection procedures.

Billing and collection procedures for the utility shall be as provided in this title and OHMC Title 3 and under state law as now in effect or hereafter amended. (Ord. 1602 § 2, 2011; Ord. 1582 § 1, 2010; Ord. 1348 § 20, 2003).

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Code reviser's note: Section 2 of Ord. 1582, effective December 20, 2010, provides, "The City Council directs that the special rate established for "churches," "charitable organizations" and "schools" pursuant to former OHMC 12.40.030(3)(c) (enacted in Ordinance No. 1084 adopted in 1997) shall be phased out over a five-year period, beginning on the effective date of this Ordinance. This five-year period shall be for the purpose of providing those churches, charitable organizations and schools receiving the discounted special rate as of the effective date of this Ordinance with a transition period to adjust their budgets to the same rate classification as all other non-single family residential users. The special rate shall not be extended to churches, charitable organizations and schools establishing new service after the effective date of this Ordinance."

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# Title 17
# BUILDINGS

**Chapters:**


**17.05 International Building Code**

**17.06 International Residential Code**

**17.08 International Existing Building Code**

**17.10 International Mechanical Code**

**17.12 Uniform Plumbing Code**

**17.15 International Energy Conservation Code, Residential Provisions**

**17.16 International Energy Conservation Code, Commercial Provisions**

**17.20 Flood Damage Prevention**

**17.22 International Property Maintenance Code**

**17.26 Low Impact Development Standards**

**17.24 Sidewalks, Curbs and Gutters Installation**

**17.30 Noise Attenuation Standards**

**17.40 Survey Monuments**


**Chapters in red include proposed amendments, the other Chapters have not been amended.**

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# 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

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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.

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## 19.08.005 Definitions.

As used in this title, words in the present tense include the future, words in the singular number include the plural, and words in the plural number include the singular, the word "person" may be taken for persons, association, firm, partnership or corporation, the word "structure" includes buildings, the word "occupied" includes designed or intended to be used and the word "shall" is always mandatory and not merely directive. The following words and phrases, unless the context of this title otherwise requires, shall have the meanings set forth in this chapter. (Ord. 1555 § 4, 2009).

## 19.08.010 Accessory dwelling unit.

"Accessory dwelling unit" means a habitable living unit added to, created within or detached from a single-family dwelling that provides basic requirements for living, sleeping, eating, cooking and sanitation. (Ord. 1555 § 4, 2009).

## 19.08.015 Accessory use.

"Accessory use" means a use incidental and subordinate to the principal use and located on the same lot or in the same building as the principal use. (Ord. 1555 § 4, 2009).

## 19.08.020 Alley.

"Alley" means a passageway open to public travel which affords generally a secondary means of vehicular access to abutting lots and is not intended for general traffic circulation. (Ord. 1555 § 4, 2009).

## 19.08.025 Alteration.

"Alteration" means a change or rearrangement of the structural parts of existing facilities, or an enlargement by extending the sides or increasing the height or depth, or the moving from one location to another. In buildings for business, commercial, industrial or similar uses the installation or rearrangement of partitions affecting more than one-third of a single floor area shall be considered an alteration. (Ord. 1555 § 4, 2009).

## 19.08.030 Assisted living facility.

"Assisted living facility" means a facility that provides, on a regular basis, personal care, including dressing and eating and health-related care and services, to individuals who require such assistance but who do not require the degree of care and treatment that a hospital or skilled nursing facility provides. (Ord. 1555 § 4, 2009).

## 19.08.035 Auto convenience market.

"Auto convenience market" means a place where gasoline, motor oil, lubricants, or other minor accessories are retailed directly to the public on the premises in combination with the retailing of items typically found in a convenience market or supermarket. (Ord.1555 § 4, 2009).

## 19.08.040 Automatic teller machine.

"Automatic teller machine" means an automated device that performs banking or financial functions at a location remote from the controlling financial institution. (Ord. 1555 § 4, 2009).

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## 19.08.045 Automobile service station including self-service.

"Automobile service station including self-service" means any building, land area or other premises or portion thereof used or intended to be used for the retail dispensing or sales of vehicular fuels and including as accessory use the sale and installation of lubricants, tires, batteries and similar accessories. (Ord. 1555 § 4, 2009).

## 19.08.050 Aviation environs.

"Aviation environs" means the geographic area that is affected by the Whidbey Island Naval Air Station at Ault Field air traffic operations and defined on the basis of those areas immediately affected by the 60 Ldn and greater noise exposure area from the Air Installation Compatible Use Zones Study for NAS Whidbey Island Ault Field. This area is represented on the Oak Harbor noise zone map and designated aviation environs overlay zone (AE). (Ord. 1555 § 4, 2009).

## 19.08.055 Banner.

"Banner" means a flexible material (i.e., cloth, paper, vinyl, etc.) on which a sign is painted or printed. (Ord. 1555 § 4, 2009).

## 19.08.060 Basement.

"Basement" means a space having one-half or more of its floor-to-ceiling height above the average level of the adjoining ground and with the floor-to-ceiling height of not less than seven and one-half feet. (Ord. 1555 § 4, 2009).

## 19.08.061 Bed and breakfast inn.

"Bed and breakfast inn" means a building or group of buildings on a lot which is designed or used for rental for transient lodging, where:

(1) Not more than 10 rooms are available for such rental;

(2) No meals are served to members of the general public;

(3) In residential zones, only accessory business, service, or commercial activity is allowed or provided on premises which shall not exceed 100 square feet in size. Such business shall only serve guests of the bed and breakfast establishment;

(4) No room is rented to more than four persons. (Ord. 1671 § 1, 2013).

## 19.08.062 Bed and breakfast rooms (residential).

"Bed and breakfast room (residential)" means a room used for rental to not more than four persons for transient lodging situated in a building which is used primarily as the dwelling for a nontransient family, or in the case where there is an approved accessory dwelling unit on the same property, the principal dwelling is owner-occupied, and where:

(1) Not more than four rooms are available for such rental;

(2) No meals are served to members of the general public; and

(3) In the residential zones, only accessory business, service, or commercial activity is allowed or provided on premises which shall not exceed 100 square feet in size. Such business shall only serve guests of the bed and breakfast establishment.

(4) If the principal dwelling ceases to be owner-occupied, the bed and breakfast use shall be terminated. (Ord. 1671 § 1, 2013).

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## 19.08.063 Bed and breakfast rooms (commercial).

"Bed and breakfast room (commercial)" means a room used for rental to not more than four persons for transient lodging situated in a building which is used primarily as a commercial establishment, where:

(1) Not more than four rooms are available for such rental;

(2) No meals are served to members of the general public; and

(3) The room(s) are located above the first or street level or behind the street front side of the building. (Ord. 1671 § 1, 2013).

## 19.08.065 Berm.

"Berm" means an earthen mound designed to provide visual interest, screen undesirable views, and/or decrease noise. (Ord. 1555§ 4, 2009).

## 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.

## 19.08.070 Binding site plan.

"Binding site plan" means a drawing to a scale specified by local ordinance which:

(1) Identifies and shows the areas and locations of all streets, roads, improvements, utilities, open spaces, and any other matters specified by local regulations;

(2) Contains inscriptions or attachments setting forth such appropriate limitations and conditions for the use of the land as are established by the local government body having authority to approve the site plan; and

(3) Contains provisions making any development be in conformation with the site plan. (Ord. 1555 § 4, 2009).

## 19.08.075 Hearing examiner.

"Hearing examiner" means a quasi-judicial hearing officer empowered to hear appeals from orders or determinations made by an administrative official charged with the enforcement of this title and to vary or modify certain provisions of this title relating to the use, construction or alteration of buildings or structures or the use of land, so that the spirit of this title is observed, public safety and welfare secured and substantial justice done. (Ord. 1555 § 4, 2009).

## 19.08.078 Building code.

"Building code" means the International Building Code as now in effect or as hereafter amended, added to or otherwise changed and all sections of OHMC Title 17 which provides for a building code for Oak Harbor as it is now in effect or as hereafter amended, added to or otherwise changed. (Ord. 1555 § 4, 2009).

## 19.08.079 Fire code.

"Fire code" means the International Fire Code as now in effect or as hereafter amended, added to or otherwise changed and all sections of OHMC Title 8 which provides for a fire code for Oak Harbor as it is now in effect or as hereafter amended, added to or otherwise changed. (Ord. 1555 § 4, 2009).

## 19.08.080 Brew pub.

"Brew pub" means an establishment which contains a full-service standard restaurant and alcoholic beverages. This establishment also contains a minibrewery as an accessory use; provided, that sales of the minibrewery products are less than 50 percent of total sales. This minibrewery shall be for the brewing of handcrafted,

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natural beer intended for retail consumption on the premises and on any premises that has a license as a standard full-service restaurant owned and operated in its entirety by the same corporate ownership and management as the brew pub. (Ord. 1555 § 4, 2009).

### 19.08.085 Buffer.

"Buffer" means a combination of physical space and vertical elements, such as plants, berms, fences or walls, the purpose of which is to separate and screen land uses from each other. (Ord. 1555 § 4, 2009).

### 19.08.090 Buildable area.

"Buildable area" means that portion of the building site that remains after the required yards and open spaces have been excluded. (Ord. 1555 § 4, 2009).

### 19.08.095 Building.

"Building" means any structure having a roof, but excluding all forms of vehicles even though immobilized. When a use is required to be within a building, or where special authority granted pursuant to this title requires that a use shall be within an entirely enclosed building, then the term "building" means one so designed and constructed that all exterior walls of the structure shall be solid from the ground to the roof line, and shall contain no openings except for windows and doors which are designed so that they may be closed. (Ord. 1555 § 4, 2009).

### 19.08.100 Building, accessory.

"Accessory building" means a subordinate building the use of which is incidental and customary to that of the principal building and which is located on the same lot including a private garage. If any accessory building is attached to the principal building by a common wall or roof, such accessory building shall be considered a part of the principal building. (Ord. 1555 § 4, 2009).

### 19.08.105 Building area.

"Building area" means the total ground coverage of a building or structure which provides shelter measured from the outside of its external walls or supporting members or from a point four feet in from the outside edge of a cantilevered roof, whichever covers the greatest area. (Ord. 1555 § 4, 2009).

### 19.08.110 Building, detached.

"Detached building" means a building surrounded on all sides by open space. (Ord. 1555 § 4, 2009).

### 19.08.115 Building height.

"Building height" means the vertical distance from the average natural grade level to the highest point of the coping of a flat roof or the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. Average natural grade shall be defined as the average elevation of the highest corners and the lowest corners of the lot or parcel. (Ord. 1555 § 4, 2009).

### 19.08.120 Building line.

"Building line" means the line of that face, corner or part of a building nearest the property line, excluding eaves up to three feet. (Ord. 1555 § 4, 2009).

### 19.08.125 Building, multiple-occupancy.

"Multiple-occupancy building" means a single structure housing more than one type of retail business office or commercial venture. (Ord. 1555 § 4, 2009).

### 19.08.130 Building, office.

"Office building" means an office building in the commercial and residential-office land use districts as defined by this title. (Ord.1555 § 4, 2009).

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### 19.08.135 Building, quasi-public.

"Quasi-public building" means a structure occupied by an activity essentially public in nature, supported by public funds under private ownership or contract and nonprofit in character. (Ord. 1555 § 4, 2009).

### 19.08.140 Building, single-occupancy.

"Single-occupancy building" means a commercial building or structure with one major enterprise, generally under one ownership. A building is classified as single occupancy only if it has:

(1) One occupant;

(2) No wall in common with another building;

(3) No part of its roof in common with another building. (Ord. 1555 § 4, 2009).

### 19.08.145 Building site.

"Building site" means a parcel of land occupied or intended to be occupied by a main building and its accessory buildings together with all yards and open spaces required by this title. (Ord. 1555 § 4, 2009).

### 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.

### 19.08.150 Canopy.

"Canopy" means a freestanding structure affording protection from the elements to persons or property thereunder. (Ord. 1555 § 4, 2009).

### 19.08.155 Carport.

"Carport" means a roofed structure providing space for the parking or storage of motor vehicles and enclosed on not more than two sides. (Ord. 1555 § 4, 2009).

### 19.08.160 Certificate of occupancy.

"Certificate of occupancy" means a permit to occupy a premises issued by the building official after inspection has verified compliance with the requirements and provisions of this title and applicable building codes. (Ord. 1555 § 4, 2009).

### 19.08.165 Child day care center.

"Child day care center" means an agency that regularly provides early childhood education and early learning services for a group of children for periods of less than 24 hours. In this context, "agency" shall be defined as found in RCW 43.215.010. (Ord. 1739 § 1, 2015; Ord. 1555 § 4, 2009).

### 19.08.170 Church.

"Church" means an establishment, the principal purpose of which is religious worship and for which the principal building or other structure contains the sanctuary or principal place of worship and which includes related accessory uses in the principal building or in other separate structures. (Ord. 1555 § 4, 2009).

### 19.08.175 City.

"City" shall mean the city of Oak Harbor. (Ord. 1555 § 4, 2009).

### 19.08.180 City staff.

"City staff" shall mean the department(s) directed by the mayor to implement this title. (Ord. 1555 § 4, 2009).

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## 19.08.182 Clearing.

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

## 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.

## 19.08.185 Club.

"Club" means an incorporated or unincorporated association of persons organized for a social, fraternal, athletic, educational, literary or charitable purpose. Property occupied by a club shall be deemed to be semiprivate in character and shall be subject to the regulations governing public buildings and places, excluding groups organized primarily to render a service which is normally considered a business. (Ord. 1555 § 4, 2009).

## 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.

## 19.08.190 Coffee kiosk.

"Coffee kiosk" means a retail food business in a freestanding building that sells coffee, or other beverages, and premade bakery goods from a drive-through window to customers seated in their automobiles for consumption off the premises and that provides no indoor or outdoor seating. (Ord. 1555 § 4, 2009).

## 19.08.195 Commercial use.

"Commercial use" means an activity with goods, merchandise or services for sale or involving a rental fee. (Ord. 1555 § 4, 2009).

## 19.08.200 Commercial vehicle.

"Commercial vehicle" means a motor vehicle used for purposes other than a family car, such as a taxi, delivery or service vehicle. (Ord. 1555 § 4, 2009).

## 19.08.205 Conditional use.

"Conditional use" means a use which, because of special requirements, unusual character, size or shape, infrequent occurrence or possible detrimental effect on surrounding property and for other similar reasons, may be allowed in certain zones only after review by the hearing examiner and the granting of a conditional use permit imposing such performance standards as will make the use compatible with other permitted uses in the same vicinity or zone. (Ord. 1555 § 4, 2009).

## 19.08.210 Condominium.

"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. The term "condominium" refers to the ownership arrangement, not the land use. The unit may be any permitted type. (Ord. 1555 § 4, 2009).

## 19.08.215 Court.

"Court" means an open, unoccupied space other than a yard, on the same lot with a building or buildings and which is bounded on two or more sides by such building or buildings including the open space in a house, court or apartment, providing access to the units thereof. (Ord. 1555 § 4, 2009).

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### 19.08.220 Covered moorage building area.

"Covered moorage building area" means the area of water lying directly beneath that portion of a structure covered by a roof. (Ord.1555 § 4, 2009).

### 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.

### 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.

### 19.08.225 Currency exchange.

"Currency exchange" means any person, except a bank, trust company, savings bank, savings and loan association, credit union or industrial loan and thrift company, engaged in the business of cashing checks, drafts, money orders or traveler's checks for a fee. This term does not include a person who provides these services incidental to the person's primary business if the charge for cashing a check or draft does not exceed $1.00 or one percent of the value of the check or draft, whichever is greater. (Ord. 1555§ 4, 2009).

### 19.08.230 Data processing facility.

"Data processing facility" means an establishment primarily involved in the compiling, storage and maintenance of documents, records and other types of information in digital form utilizing a mainframe computer. This term does not include general business offices, computer-related sales establishments and business or personal services. (Ord. 1555 § 4, 2009).

### 19.08.235 Day-night average sound level (Ldn).

"Day-night average sound level (Ldn)" means a cumulative aircraft noise index that estimates the exposure to aircraft noise at a certain geographic point and relates the estimated exposure to an expected community response. (Ord. 1555 § 4, 2009).

### 19.08.240 Deciduous.

"Deciduous" means a plant with foliage that is shed annually. (Ord. 1555 § 4, 2009).

### 19.08.245 Density.

"Density" means the number of dwelling units divided by the gross acre. (Ord. 1555 § 4, 2009).

### 19.08.250 Design review board.

"Design review board" means a committee, appointed by the city council, consisting of at least one design professional, to advise the planning department concerning the design of projects. (Ord. 1555 § 4, 2009).

### 19.08.252 Director of development services.

The zoning code shall be administered by the "director of development services." The director of development services or his or her designee shall carry out the duties and responsibilities assigned to the "planning director" or "director of planning and community development" under this title. (Ord. 1555 § 4, 2009).

### 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;

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excavation; embankment; fill and grade work; converting fallow land or undeveloped land to agricultural purposes; activity conditionally allowed; building or construction; and septic approval.

### 19.08.255 Dock.

"Dock" means a basin for moorage of boats, including a basin formed between the extension of two piers or the area between a bank or quay and a pier. Docking facilities may include wharves, moorage or docks or any place or structure connected with the shore or upon shore lands providing for the securing of a boat or vessel. (Ord. 1555 § 4, 2009).

### 19.08.257 Dry Season.

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

### 19.08.260 Dwelling, multifamily.

"Multifamily dwelling" means a building designed to house two or more families living independently of each other and having one yard in common. (Ord. 1555 § 4, 2009).

### 19.08.265 Dwelling, single-family.

"Single-family dwelling" means a detached building designed for and occupied exclusively by one family and the household employees of that family. (Ord. 1555 § 4, 2009).

### 19.08.270 Dwelling unit.

"Dwelling unit" means a building or portion thereof providing complete housekeeping facilities for one family. The term "dwelling" does not include motel, tourist court, rooming house, or tourist home. (Ord. 1555 § 4, 2009).

### 19.08.272 Ecology.

"Ecology" means the Washington State Department of Ecology.

### 19.08.275 Electrical distribution substation.

"Electrical distribution substation" means an assembly of equipment designed to receive energy from a high voltage distribution supply system, to convert it to a form suitable for local distribution and distribute the energy to feeders through switching equipment designed to protect the service from the effects of faults. (Ord. 1555 § 4, 2009).

### 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.

### 19.08.280 Essential public facility.

"Essential public facility" means a facility, conveyance, or site whose services are provided by a governmental agency, a private or nonprofit organization under contract to or with substantial funding from government agencies, or a private organization subject to public service obligations, which is necessary to adequately provide a public service and which is typically hard to site. (Ord. 1555§ 4, 2009).

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## 19.08.285 Essential use.

"Essential use" means that use for the preservation or promotion of which the use district was created, and to which all other permitted uses are subordinate. (Ord. 1555 § 4, 2009).

## 19.08.290 Evergreen.

"Evergreen" means a plant with foliage that persists and remains green year-round. (Ord. 1555 § 4, 2009).

## 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.

## 19.08.295 Extended stay motel.

"Extended stay motel" shall mean and include any building containing six or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes for guests and contain kitchen facilities for food preparation, including, but not limited to, such facilities as refrigerators, stoves and ovens. (Ord. 1555 § 4, 2009).

## 19.08.300 Factory-built structure.

"Factory-built structure" means a structure that is designed for occupation or use, or is occupied or used by persons, and that complies with the building code, including factory-built housing and commercial structures. It also includes structures built under federal code declared to be equivalent to the building code. (Ord. 1555 § 4, 2009).

## 19.08.305 Family.

"Family" means not more than four adult persons, unless all are related by blood, marriage, or legal adoption, living together as a single housekeeping unit. A group of related persons living in a household shall be considered a single housekeeping unit. Provided: a group of more than four unrelated adult persons living together in a dwelling unit may also be included within the definition of "family" if they demonstrate to the director that they operate in a manner that is functionally equivalent to a family.

(1) Factors that shall be considered by the director include whether the group of more than four unrelated persons:

(a) Shares the entire dwelling unit or acts as separate roomers;

(b) Includes minor, dependent children regularly residing in the household;

(c) Can produce proof of sharing expenses for food, rent, or ownership costs, utilities, and other household expenses;

(d) Shares common ownership of furniture and appliances among the members of the household;

(e) Constitutes a permanent living arrangement, and is not a framework for transient living;

(f) Maintains a stable composition that does not change from year to year or within the year;

(g) Is not a society, fraternity, sorority, lodge, organization or other group of students or other individuals where the common living arrangement or basis for the establishment of the housekeeping unit is temporary; or

(h) Can demonstrate any other factors reasonably related to whether or not the group of persons is the functional equivalent of a family.

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(2) The director shall issue a written determination of whether a group of more than four unrelated adult persons are operating in a manner that is functionally equivalent to a family.

(3) For purposes of this definition and notwithstanding any other provision of this code, children with familial status within the meaning of 42 U.S.C. 3602(k) and persons with handicaps within the meaning of 42 U.S.C. 3602(h) will not be counted as unrelated persons. (Ord. 1739 § 2, 2015; Ord. 1555 § 4, 2009).

### 19.08.308 Family day care provider.

"Family day care provider" means a child care provider who regularly provides early childhood education and early learning services for not more than 12 children in the provider's home in the family living quarters. (Ord. 1739 § 4, 2015).

### 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.

### 19.08.310 Floor area.

"Floor area" means the sum of the gross horizontal areas of the floors of a building or buildings, measured from the exterior faces of exterior walls and from the centerline of division walls. Floor area shall include: basement space, elevator shafts and stairwells at each floor, mechanical equipment rooms or attic spaces with headroom of seven feet six inches or more, penthouse floors, interior balconies and mezzanines, and enclosed porches. Floor area shall not include: accessory water tanks and cooling towers, mechanical equipment or attic spaces with headroom of less than seven feet six inches, exterior steps or stairs, terraces, breezeways and open spaces. (Ord. 1555 § 4, 2009).

### 19.08.315 Fraternity, sorority or student cooperative.

"Fraternity, sorority or student cooperative" means a building occupied by and maintained exclusively for students affiliated with an academic or professional college or university, or other recognized institution of higher learning and regulated by such institution. (Ord. 1555 § 4, 2009).

### 19.08.320 Garage, commercial.

"Commercial garage" means a building or portion thereof designed and used for the storage, repair or servicing of motor vehicles or boats as a business. (Ord. 1555 § 4, 2009).

### 19.08.325 Gated community.

"Gated community" means a residential area that restricts access to normally public spaces. (Ord. 1555 § 4, 2009).

### 19.08.330 General promotions.

"General promotions" means events which occur on a regular basis in retail business for the purpose of boosting sales, attracting new business, selling of certain items (i.e., year end, seasonal sales, civic events, etc.). (Ord. 1555 § 4, 2009).

### 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.

### 19.08.335 Grade (adjacent ground elevation).

"Grade (adjacent ground elevation)" means the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than five feet from the building, between the building and a line five feet from the building. (Ord. 1555 § 4, 2009).

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## 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.

## 19.08.340 Grand openings and anniversaries.

"Grand openings and anniversaries" means events that are held on a "once per year" basis for the purpose of advertising grand openings, ownership changes, or anniversaries. (Ord. 1555 § 4, 2009).

## 19.08.345 Greenbelt.

"Greenbelt" shall mean dense coniferous plantings, or climbing varieties of nondeciduous vines on permanently installed aluminum mesh fencing, or architectural fencing of such design and material that retains its attractiveness with nominal maintenance. (Ord.1555 § 4, 2009).

## 19.08.350 Ground cover.

"Ground cover" shall mean small plants such as salal, ivy, ferns, mosses, grasses or other types of vegetation which normally cover the ground and shall include trees less than six inches in diameter measured at three feet above the ground level. (Ord. 1555 § 4, 2009).

## 19.08.352 Grubbing.

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

## 19.08.355 Health club.

"Health club" means a commercial establishment within a wholly enclosed building designed for the systematic care, development and rehabilitation of the physique and providing facilities for racquetball, handball, exercise rooms, sauna and/or related facilities. (Ord. 1555 § 4, 2009).

## 19.08.365 Home, foster.

"Foster home" means a foster home licensed by the state which regularly provides care on a 24-hour basis to one or more but not more than six foster children under the age of 18 years or to not more than three expectant mothers or to one or two adult disabled persons in the family dwelling of the person or persons under whose direct care and supervision the child, expectant mother or adult disabled person is placed. (Ord. 1555 § 4, 2009).

## 19.08.370 Home, group.

"Group home" means a group home licensed by the state which regularly provides care on a 24-hour basis to six or more but not more than 10 children (including minor children of the staff residing on the premises) under the age of 18 years, or disabled adults, in the family dwelling of the person or persons under whose direct care and supervision the children or adults are placed, or other suitable facility. (Ord. 1555 § 4, 2009).

## 19.08.375 Home improvement center.

"Home improvement center" means a facility of more than 30,000 square feet of gross floor area, engaged in the retail sale of various basic hardware lines, such as tools, builders' hardware, paint and glass, housewares and household appliances, garden supplies and cutlery. (Ord. 1555 § 4, 2009).

## 19.08.380 Home occupation.

"Home occupation" means an accessory use of the dwelling unit involving the manufacture, provision or sale of goods and/or services which is carried on by members of the family residing on the premises plus no more than one nonresident assistant or employee; provided, that additional nonresident assistants or employees may be permitted but shall require a conditional use permit. Garage sales and home parties are not defined as home occupations. (Ord. 1555 § 4, 2009).

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## 19.08.385 Hospital.

"Hospital" means an institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions and including, as an integral part of the institution, related facilities, such as laboratories, outpatient facilities, training facilities, medical offices and staff residences. (Ord. 1555 § 4, 2009).

## 19.08.390 Hospital, animal.

"Animal hospital" means a building or premises for the medical or surgical treatment of animals or pets, including dog, cat and veterinary hospitals, including the boarding of hospitalized animals, but excluding the boarding of animals not subjected to medical or surgical treatment. (Ord. 1555 § 4, 2009).

## 19.08.395 Hotel.

"Hotel" means any building or portion thereof containing five or more rooms that are rented, or hired out to be occupied or which are occupied for sleeping purposes for compensation whether the compensation be paid directly or indirectly. A central kitchen and dining room and accessory shops and services catering to the general public can be provided. Not included are institutions housing persons under legal restraint or requiring medical attention or care. (Ord. 1555 § 4, 2009).

## 19.08.400 House, apartment.

"Apartment house" means the building or portion of a building arranged or designed to be occupied as three or more separate dwelling units. (Ord. 1555 § 4, 2009).

## 19.08.405 House, boarding, lodging or rooming.

"Boarding, lodging or rooming house" means any building or portion thereof having only one kitchen and used for the purpose of providing lodging with or without meals for compensation for no more than four persons other than the family of the operator occupying such dwelling. (Ord. 1555 § 4, 2009).

## 19.08.410 House, guest.

"Guest house" means a detached structure, being an accessory to a one-family dwelling with not more than two bedrooms, having no kitchen facilities, and which shall be used and/or designed for use primarily by guests and/or servants for sleeping quarters only. (Ord. 1555 § 4, 2009).

## 19.08.415 Institution, educational.

"Educational institution" means a college, junior college or university supported by public or private funds, tuitions, contributions or endowments, giving advanced academic instructions as approved by the State Board of Education or by a recognized accrediting agency, excluding preschool, elementary and junior and senior high schools and trade and commercial schools, including fraternity and sorority houses. (Ord. 1555 § 4, 2009).

## 19.08.420 Junkyard.

"Junkyard" means a lot, land or structure, or part thereof, used for the collecting, storage and sale of waste paper, rags, scrap metal or discarded material, or for the collecting, dismantling, storage, salvaging or sale of parts of machinery or vehicles not in running condition. (Ord. 1555 § 4, 2009).

## 19.08.425 Kennel, commercial.

"Commercial kennel" means any lot or building in which four or more dogs and/or cats, at least four months of age, are kept commercially for board or propagation or treatment. No animals, livestock or poultry of any kind shall be kept, raised or bred on a lot, except chicken hens pursuant to Chapter 7.42 OHMC, and except that dogs, cats or other household pets may be kept, provided they are not kept, bred, or maintained for any commercial purposes. Four dogs, cats or other household pets kept in one place or on one lot, over four months of age, would be considered being kept for commercial purposes. (Ord. 1652 § 4, 2013; Ord.1555 § 4, 2009).

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### 19.08.430 Kitchen.

"Kitchen" means any room used or intended or designed to be used for cooking and/or preparation of food. (Ord. 1555 § 4, 2009).

### 19.08.435 Land clearing.

"Land clearing" shall mean the destruction and removal of vegetation by manual, mechanical, or chemical methods, from any undeveloped or partially developed lot or public lands. (Ord. 1555 § 4, 2009).

### 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.

### 19.08.440 Landscape perimeter.

"Landscape perimeter" means an unobstructed planting area which runs parallel to the rear yard and side yard property lines. (Ord.1555 § 4, 2009).

### 19.08.445 Landscape policy manual.

"Landscape policy manual" means a booklet prepared by the city of Oak Harbor which clarifies the purpose of Chapter 19.46 OHMC by providing examples and illustrations to augment this title. (Ord. 1555 § 4, 2009).

### 19.08.450 Landscape setback.

"Landscape setback" means a minimum required landscaped width adjacent to a property line, common to a public street or private right-of-way. (Ord. 1555 § 4, 2009).

### 19.08.455 Landscaping.

"Landscaping" means any combination of living plants, such as trees, shrubs, vines, ground covers, flowers or grass; natural features such as rock, stone, bark chips or shavings; and structural features, including but not limited to fountains, reflecting pools, outdoor art work, screen walls, fences, or benches. (Ord. 1555 § 4, 2009).

### 19.08.460 Ldn contour.

"Ldn contour" means a line linking together a series of points of equal cumulative noise exposure based on the Ldn metric. (Ord.1555 § 4, 2009).

### 19.08.465 Lot.

"Lot" means a single tract of land no matter how legally described, whether by metes and bounds and/or by lot or lots and block designation as in a recorded plat, which at the time of applying for a building permit is designated by its owner or developer as the tract to be used, developed or built upon as a unit of land and assigned to the particular use for which the building permit is being secured and having frontage on or access to a public street. (Ord. 1555 § 4, 2009).

### 19.08.470 Lot area.

"Lot area" means the total horizontal area within the boundary lines of a lot. (Ord. 1555 § 4, 2009).

### 19.08.475 Lot, corner.

"Corner lot" means a lot at the junction of and having frontage on two or more intersecting streets. (Ord. 1555 § 4, 2009).

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### 19.08.480 Lot coverage.

"Lot coverage" means the portion of a lot that is occupied by the principal and accessory buildings, including all projections except eaves, expressed as a percentage of the total lot area. (Ord. 1555 § 4, 2009).

### 19.08.485 Lot depth.

"Lot depth" means the mean dimension of the lot from the front street line to the rear line. (Ord. 1555 § 4, 2009).

### 19.08.490 Lot, developed single-family residential.

"Developed single-family residential lot" shall mean a platted lot upon which a single-family, habitable dwelling exists, where there are no remaining stands of trees nor significant ground cover. (Ord. 1555 § 4, 2009).

### 19.08.495 Lot, interior.

"Interior lot" means a lot fronting on one street. (Ord. 1555 § 4, 2009).

### 19.08.500 Lot, irregular shaped.

"Irregular shaped lot" means a lot having an interior angle of 45 degrees or less. (Ord. 1555 § 4, 2009).

### 19.08.505 Lot line.

"Lot line" means the property line bounding a lot. (Ord. 1555 § 4, 2009).

### 19.08.510 Lot line, front.

"Front lot line" means, in the case of an interior lot, the lot line separating the lot from the street other than an alley, and in the case of a corner lot, it may be either frontage. (Ord. 1555 § 4, 2009).

### 19.08.515 Lot line, rear.

"Rear lot line" means a lot line which is opposite and most distant from the front lot line, and in the case of a triangular or irregular shaped lot, a line 10 feet in length within the lot parallel to and at the maximum distance from the front lot line. (Ord. 1555 § 4, 2009).

### 19.08.520 Lot line, side.

"Side lot line" means any lot line not a front or rear lot line. (Ord. 1555 § 4, 2009).

### 19.08.525 Lot, partially developed single-family residential.

"Partially developed single-family residential lot" shall mean a lot or parcel of land upon which a single-family dwelling is located, which contains existing stands of trees or substantial ground cover. This may include phased developments or conversions to urban use. (Ord. 1555 § 4, 2009).

### 19.08.530 Lot, through.

"Through lot" means a lot fronting on two streets that do not intersect on the parcel's lot lines. (Ord. 1555 § 4, 2009).

### 19.08.535 Lot, undeveloped.

"Undeveloped lot" shall mean a lot or parcel of land upon which no habitable single-family dwelling exists. (Ord. 1555 § 4, 2009).

### 19.08.540 Lot width.

"Lot width" means the dimension of a lot line at the street, or in an irregularly shaped lot, the dimension across the lot at the building line, or in a corner lot, the narrow dimension of the lot at a street or building line. (Ord. 1555 § 4, 2009).

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## 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.

## 19.08.545 Marquee.

"Marquee" means a covering structure projecting horizontally from and attached to a building, affording protection from the elements to persons or property thereunder. (Ord. 1555 § 4, 2009).

## 19.08.550 Mixed use.

"Mixed use" means properties on which various uses such as office, commercial, institutional and residential are combined in a single building or on a single site in an integrated development project with significant functional interrelationships and a coherent physical design. A "single use" may include contiguous properties. (Ord. 1555 § 4, 2009).

## 19.08.555 Manufactured home.

"Manufactured home" shall mean a factory-built dwelling unit which can be transported in one or more sections and is built according to the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards Act, and as defined by WAC 296-150M-0020. Manufactured homes can be either detached and used as a single-family residence or attached to other housing units in multifamily arrangements. A manufactured home shall also meet the provisions of OHMC 16.04.020, including but not limited to the requirement that it be set upon a permanent foundation. (Ord. 1555 § 4, 2009).

## 19.08.560 Manufactured home park.

"Manufactured home park" means any property used for the accommodation of inhabited manufactured homes on a tenancy, lease or ownership basis which contains shared parking for residents or visitors, shared access drives for vehicle circulation and shared open spaces. (Ord. 1555 § 4, 2009).

## 19.08.565 Manufactured home subdivision.

"Manufactured home subdivision" is a land division (either short plat or long plat) with manufactured homes placed on the lots. Manufactured home subdivisions have lots which take access from public or private streets, rather than common access drives. (Ord. 1555 § 4, 2009).

## 19.08.570 Moorage.

"Moorage" means a place to tie up or anchor a boat or vessel. (Ord. 1555 § 4, 2009).

## 19.08.575 Motel.

"Motel" means a building or buildings, detached or in connected units or designed as a single structure, the units of which are used as individual sleeping or dwelling units, having their own private toilet facilities and may or may not have their own kitchen facilities, and are designed primarily for the accommodation of transient automobile travelers. Accommodations for trailers are not included. This term includes tourist court, motor lodge, auto court, cabin court, motor inn and similar names. (Ord. 1555 § 4, 2009).

## 19.08.580 Multiple-occupancy complex.

"Multiple-occupancy complex" means a group of structures housing more than one type of retail business, office or commercial venture and generally under one ownership and control. (Ord. 1555 § 4, 2009).

## 19.08.585 Neighborhood convenience store.

"Neighborhood convenience store" means an establishment primarily engaged in the provision of frequently or recurrently needed goods for household consumption, such as prepackaged food and beverages, and limited household supplies and hardware. This term does not include fuel pumps or the selling of fuel for motor vehicles. Typical uses include neighborhood markets and country stores. (Ord. 1555 § 4, 2009).

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### 19.08.590 Noise zone map.

"Noise zone map" means a map prepared by the city of Oak Harbor and adopted as an aviation environs (AE) overlay zone, which serves as a geographic interpolation of Aviation Noise Contours as established by the NAS Whidbey Island AICUZ study program. When a property falls within more than one noise zone, the more restrictive noise zone requirements shall apply for the entire property. (Ord. 1555 § 4, 2009).

### 19.08.595 Nonconforming structure.

"Nonconforming structure" means a structure which was lawfully constructed at the time the ordinance codified in this title became effective, but which structure, because of the passage of the ordinance codified in this title, does not conform to the standards of the district in which the structure exists. (Ord. 1555 § 4, 2009).

### 19.08.600 Nonconforming use.

"Nonconforming use" means a use which lawfully occupied a building or land at the time the ordinance codified in this title became effective, but which use, because of the passage of the ordinance codified in this title, does not conform to the use regulations of the district in which the use exists. (Ord. 1555 § 4, 2009).

### 19.08.605 Nonconforming use, land.

"Nonconforming land use" means the use of land which was a lawful use at the time the ordinance codified in this title became effective but which use, because of the passage of the ordinance codified in this title, does not conform to the regulations of the district in which the use exists. (Ord. 1555 § 4, 2009).

### 19.08.610 Occupant.

"Occupant" means the person, firm or corporation that occupies the land or building. (Ord. 1555 § 4, 2009).

### 19.08.615 Opaque.

"Opaque," for the purposes of this title, means visually impenetrable. (Ord. 1555 § 4, 2009).

### 19.08.620 Open space.

"Open space" means any part of a lot unobstructed from the ground upward. (Ord. 1555 § 4, 2009).

### 19.08.625 Parapet.

"Parapet" means that portion of a building wall which extends above the roof of the building. (Ord. 1555 § 4, 2009).

### 19.08.630 Parking, employee.

"Employee parking" shall mean those parking facilities required for the use of employees. (Ord. 1555 § 4, 2009).

### 19.08.635 Parking, off-street.

"Off-street parking" means parking facilities for motor vehicles on other than a public street or alley. (Ord. 1555 § 4, 2009).

### 19.08.640 Parking space.

"Parking space" means a space within or without a building, exclusive of driveways, used to temporarily park a motor vehicle and having access to a public street or alley. (Ord. 1555 § 4, 2009).

### 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.

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## 19.08.645 Penthouse.

"Penthouse" means a structure on top of a building roof such as houses an elevator shaft, mechanical equipment or similar form. (Ord. 1555 § 4, 2009).

## 19.08.650 Permit, conditional use.

"Conditional use permit" means documented evidence of authority granted by the hearing examiner to locate a conditional use at a particular location. (Ord. 1555 § 4, 2009).

## 19.08.655 Permit, land clearing.

"Land clearing permit" shall mean a permit obtained from the city which allows the clearing of trees and/or ground cover. (Ord. 1555§ 4, 2009).

## 19.08.660 Permit, minor clearing.

"Minor clearing permit" shall mean a permit obtained from the city which allows the removal of trees and/or ground cover, when the total trees and ground cover removed will not exceed five percent of the trees and ground cover on the lot. (Ord. 1555 § 4, 2009).

## 19.08.665 Permit, temporary use.

"Temporary use permit" is a mechanism by which the city may permit a use, or multiple uses, to locate within the city on a short-term basis and by which the city may allow seasonal or transient uses not otherwise permitted. (Ord. 1555 § 4, 2009).

## 19.08.670 Permitted use.

"Permitted use" means any use authorized or permitted alone or in conjunction with another use in a specified district and subject to the limitations of the regulations of such use district. (Ord. 1555 § 4, 2009).

## 19.08.675 Primary use.

"Primary use" means the principal or predominant use to which the property is or may be devoted, and to which all other uses on the premises are accessory. (Ord. 1555 § 4, 2009).

## 19.08.680 Professional office.

"Professional office" means an office maintained and used as a place of business conducted by persons engaged in the healing arts for human beings, such as doctors and dentists (but wherein no overnight care for patients is given) and by engineers, attorneys, architects, accountants and other similar professions. (Ord. 1555 § 4, 2009).

## 19.08.685 Property line.

"Property line" means the line denoting the limits of legal ownership of property. (Ord. 1555 § 4, 2009).

## 19.08.690 Public utility.

"Public utility" means a public service corporation performing some public service and subject to special governmental regulations, or a governmental agency performing similar public services, the services by either of which are paid for directly by the recipients thereof. Such services shall include, but are not limited to, water supply, electric power, gas and transportation of persons and freight. (Ord. 1555 § 4, 2009).

## 19.08.695 Qualified affordable housing.

"Qualified affordable housing" is housing which is affordable within the meaning of RCW 43.185A.010(1) for lease, rent or purchase to households with incomes at or below 80 percent of the area median family income. (Ord. 1555 § 4, 2009).

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### 19.08.700 Recreation facilities.

"Recreation facilities" means facilities such as boat or yacht clubs, swimming pools, athletic clubs, golf and country clubs, for the use of the general public and operated by the municipal corporation. (Ord. 1555 § 4, 2009).

### 19.08.705 Recreational vehicle.

"Recreational vehicle" means a vehicular-type unit primarily designed for recreational camping, travel or seasonal use which has its own motive power or is mounted on or towed by another vehicle. The basic entities are: travel trailer, folding camping trailer, park trailer, truck camper, motor home and multi-use vehicles. (Ord. 1555 § 4, 2009).

### 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.

### 19.08.710 Reside.

"Reside" means to have one's home, to dwell permanently or for a considerable time, and to have a settled abode for a time. Out-of-town residents who are visiting and staying with local residents on a temporary basis as guests shall not be considered to be residing thereat. (Ord. 1555 § 4, 2009).

### 19.08.712 Runoff.

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

### 19.08.715 School, commercial.

"Commercial school" means a building where instruction is given to pupils in arts, crafts, or trades, and operated as a commercial enterprise as distinguished from schools endowed and/or supported by taxation. (Ord. 1555 § 4, 2009).

### 19.08.720 Schools – Elementary, junior or senior high, including public, private and parochial.

"Elementary, junior or senior high school, including public, private and parochial" means an institution of learning which offers instruction in the several branches of learning and study required to be taught in the public schools by the Washington State Board of Education. (Ord. 1555 § 4, 2009).

### 19.08.725 Screen.

"Screen" means a method of reducing the impact of noise and unsightly visual intrusions with less offensive or more harmonious elements, such as plants, berms, fences, walls, or any appropriate combination thereof. (Ord. 1555 § 4, 2009).

### 19.08.730 Secondary use, incidental or accessory.

"Incidental or accessory secondary use" means a minor or secondary use for which a lot, structure or building is designed or employed in conjunction with but subordinate to its primary use. (Ord. 1555 § 4, 2009).

### 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.

### 19.08.735 Setback and yard requirements.

"Setback and yard requirements" are the distances that buildings or uses must be removed from their lot lines. Setbacks shall be measured, where applicable, from proposed or actual public or private street right-of-way lines. (Ord. 1555 § 4, 2009).

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## 19.08.740 Shelter station.

"Shelter station" means a shelter for the protection from the elements for the waiting customer of a transportation system. (Ord.1555 § 4, 2009).

## 19.08.745 Shopping center.

"Shopping center" means a group of retail and other commercial establishments that is planned, owned and managed as a single property. On-site parking is provided. The center's size and orientation are generally determined by the market characteristics of the trade area served by the center. The two main configurations of shopping centers are malls and open-air strip centers. (Ord. 1555§ 4, 2009).

## 19.08.750 Shrub.

"Shrub" means a woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground; may be deciduous or evergreen. (Ord. 1555 § 4, 2009).

## 19.08.755 Sign.

"Sign" means any letters, figures, design, symbol, trademark or device intended to attract attention to any activity, service, place, subject, person, firm, corporation, public performance, article, machine or merchandise whatsoever. Sources of light used primarily to illuminate a sign, or a building, or ground surrounding the building, shall not be considered signs themselves; provided, however, that sources of light used primarily to attract attention to the sign itself or as a decorative feature of the display shall be considered as part of the sign. Lighted canopies, with the exception of the signed portion, shall not be considered signs themselves. Excluded from the definition are official traffic signs or signals, sheriff's notices, court notices or official public notices and the flag of a government or noncommercial institution, and signs not visible from the street or sidewalk. (Ord. 1555 § 4, 2009).

## 19.08.760 Sign, abandoned.

"Abandoned sign" means a sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product, or activity, and/or for which no legal owner can be found. (Ord. 1555 § 4, 2009).

## 19.08.765 Sign, area or surface area.

"Area or surface area of sign" means the greatest area of a sign, on which copy is to be placed, enclosed within not more than three circles, rectangles or squares, or any combination of these forms which produces the smallest area. Sign structure, architectural embellishments, framework and decorative features which contain no written or advertising copy and are not internally lighted shall not be included. (Ord. 1555 § 4, 2009).

## 19.08.770 Sign, billboard.

"Billboard sign" means an outdoor advertising sign containing a message, commercial or otherwise, unrelated to any use or activity on the property on which the sign is located, but not including directional signs as defined herein. (Ord. 1555 § 4, 2009).

## 19.08.775 Sign, building-mounted.

"Building-mounted sign" means a single- or multiple-faced sign attached to the face of a building or marquee. (Ord. 1555 § 4, 2009).

## 19.08.780 Sign, canopy.

"Canopy sign" means any sign erected upon, against or directly above a canopy. (Ord. 1555 § 4, 2009).

## 19.08.785 Sign, construction.

"Construction sign" means an information sign which identifies the architect, engineers, contractors and other individuals, or firms involved with the construction of a building, or announcing the character of the building or enterprise, which is erected during the building construction period. (Ord. 1555 § 4, 2009).

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### 19.08.790 Sign, freestanding.

"Freestanding sign" means a single- or multiple-faced sign supported from the ground by one or more columns, uprights or braces. (Ord. 1555 § 4, 2009).

### 19.08.795 Sign, grade.

"Grade (sign)" means the elevation or level of the street closest to the sign to which reference is made, as measured at the street's centerline, or the relative ground level in the immediate vicinity of the sign. (Ord. 1555 § 4, 2009).

### 19.08.800 Sign, height of.

"Height of sign" means the vertical distance from the grade to the highest point of a sign or any vertical projection thereof, including its supporting columns, or the vertical distance from the relative ground level within five feet of the sign. (Ord. 1555 § 4, 2009).

### 19.08.805 Sign, incidental.

"Incidental sign" means a single- or double-faced sign not exceeding two square feet in surface area of a noncommercial nature, intended primarily for the convenience of the public. Included are signs designating rest rooms, address numbers, hours of operation, public telephone, etc. Also included are signs designed to guide pedestrian or vehicular traffic to an area or place on the premises of a business, building or development, as well as building directories with the letters not to exceed four inches in height. (Ord. 1555 § 4, 2009).

### 19.08.810 Sign, low-profile.

"Low-profile sign" means a freestanding sign not exceeding six feet in height measured from the finished grade to the top of the sign and not exceeding 32 square feet in area. (Ord. 1555 § 4, 2009).

### 19.08.815 Sign, noncommercial public service.

"Noncommercial public service sign" means noncommercial signs devoted to religious, charitable, cultural, governmental or educational messages, including, but not limited to, the advertising of events sponsored by a governmental agency, a school, church, civic or fraternal organization or other organizations engaged in activities for profit. (Ord. 1555 § 4, 2009).

### 19.08.820 Sign, political.

"Political sign" means signs advertising a candidate or candidates for public elective office, or a political party, or signs urging a particular vote on a public issue decided by ballot. (Ord. 1555 § 4, 2009).

### 19.08.825 Sign or signs, primary.

"Primary sign or signs" means all signs, including freestanding signs, of a user which are not exempt or which do not come within the category of incidental signs. The term "primary sign" is intended to include virtually all signs of a commercial nature. (Ord. 1555§ 4, 2009).

### 19.08.830 Sign, projection.

"Projection sign" means a projecting sign with no exposed legs or braces, designed to look as though it could have been part of the building structure rather than something suspended from the building. (Ord. 1555 § 4, 2009).

### 19.08.835 Sign, reader board.

"Reader board sign" means a sign or part of a sign on which the letters are readily replaceable such that the copy can be changed from time to time at will. (Ord. 1555 § 4, 2009).

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## 19.08.840 Sign, roof.

"Roof sign" means any sign erected upon, against or directly above a roof or on top of or above the parapet of a building, including a sign affixed to any structure erected upon a roof, including a structure housing building equipment. (Ord. 1555 § 4, 2009).

## 19.08.845 Signs, subdivision.

"Subdivision signs" means signs used to identify a land development which is to be or was accomplished at essentially one time. (Ord. 1555 § 4, 2009).

## 19.08.850 Signs, temporary and special.

"Temporary and special signs" means signs of a temporary or special nature and are limited to construction signs, grand opening displays, real estate signs, open house signs, residential land subdivision signs and subdivision directional signs. (Ord. 1555 § 4, 2009).

## 19.08.855 Sign, window.

"Window sign" means all signs located inside and affixed to or within three feet of windows of a building, whether temporary or permanent, except lighted signs of a commercial advertisement nature which may be viewed from the exterior of the building. The term does not include merchandise located within three feet of a window. Lighted window signs shall be included in determining the number of primary signs and in determining the permissible sign area for each facade. Does not include incidental signs. (Ord. 1555§ 4, 2009).

## 19.08.860 Skilled nursing facility.

"Skilled nursing facility" means an institution or a distinct part of an institution that is licensed to provide health care under medical supervision for 24 or more consecutive hours to two or more patients who are not related to the governing authority or its members by marriage, blood or adoption. (Ord. 1555 § 4, 2009).

## 19.08.865 Solid planting.

"Solid planting" means a planting of evergreen trees and shrubs which will prevent a through and unobscured penetration of sight or light. (Ord. 1555 § 4, 2009).

## 19.08.870 Sorority.

See OHMC 19.08.315, Fraternity, sorority or student cooperative. (Ord. 1555 § 4, 2009).

## 19.08.875 Story.

"Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of the building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar or unused underfloor space is more than six feet above grade (which is the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than five feet from the building, between the building and a line five feet from the building) for more than 50 percent of the total perimeter or is more than 12 feet above grade, as defined in this section, at any point, such basement, cellar or unused underfloor space shall be considered as a story. (Ord. 1555§ 4, 2009).

## 19.08.880 Street.

"Street" means an officially approved public thoroughfare or right-of-way dedicated, deeded or condemned, which has been officially approved by a governmental agency for use as such, other than an alley, which affords the principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare, except as excluded in this code. The word "street" shall include all arterial highways, freeways, traffic collector streets and local streets. (Ord. 1555 § 4, 2009).

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### 19.08.885 Structure.

"Structure" means a combination of materials constructed and erected permanently on the ground or attached to something having a permanent location on the ground. Not included are residential fences less than six feet in height, retaining walls, rockeries and similar improvements of a minor character less than three feet in height. (Ord. 1555 § 4, 2009).

### 19.08.890 Structural alteration.

"Structural alteration" means any change in load or stress of the loaded or stressed members of a building or structure. (Ord. 1555§ 4, 2009).

### 19.08.895 Surface area or facade.

"Surface area or facade" means the area of that front, side or back elevation, including doors and windows, but excluding any roof area and structures or elevators or air conditioning equipment thereon; provided, that in the case of a roof sign, the surface area or facade shall be the area of that front, side or back immediately beneath the roof, including doors and windows, but excluding the roof area and structures for elevators or air conditioning thereon. (Ord. 1555 § 4, 2009).

### 19.08.896 Temporary.

"Temporary" means not having or requiring permanent attachment to the ground, or involving structures which have no required permanent attachment to the ground. (Ord. 1555 § 4, 2009).

### 19.08.897 Tree.

"Tree" shall mean any living woody plant characterized by one main stem or trunk and many branches, and having a diameter of six inches or more measured at three feet above the ground level. (Ord. 1555 § 4, 2009).

### 19.08.898 Tree cluster, grove or stand.

"Tree cluster, grove or stand" means a group of four or more trees of any species or size, where the leaves and outermost branches touch. (Ord. 1555 § 4, 2009).

### 19.08.899 Tree root zone.

"Tree root zone" means a circle described by the outermost branches of a tree projected to the ground, also known as dripline. (Ord.1555 § 4, 2009).

### 19.08.900 Understory.

"Understory" means trees, shrubs or groundcover growing beneath and shaded by a tree. (Ord. 1555 § 4, 2009).

### 19.08.901 Tree, ornamental.

"Ornamental tree" means a tree planted primarily for its ornamental value or for screening purposes; tends to be smaller at maturity than a shade tree. (Ord. 1555 § 4, 2009).

### 19.08.905 Tree, shade.

"Shade tree" means a deciduous tree, rarely an evergreen, planted primarily for its high crown of foliage or overhead canopy. (Ord.1555 § 4, 2009).

### 19.08.910 Tree, significant.

"Significant tree" means a healthy evergreen or deciduous tree, 12 inches or more in diameter, measured four feet above existing grade. Alder trees of any diameter are not considered a significant tree. (Ord. 1555 § 4, 2009).

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## 19.08.915 Upholstery shop.

"Upholstery shop" means a business specializing in the recovering of furniture and automobile interiors including springs and padding, and also may include the retail sale of fabric, padding, upholstery tools and other materials used in the upholstery trade. (Ord. 1555 § 4, 2009).

## 19.08.920 Use.

"Use" means the purpose land or buildings or structures now serve or for which they are occupied, maintained, arranged, designed or intended. (Ord. 1555 § 4, 2009).

## 19.08.925 Use district.

"Use district" means a portion or portions of Oak Harbor designated on official zoning maps as one or more of the categories listed and described in this title. (Ord. 1555 § 4, 2009).

## 19.08.930 Used car lot.

"Used car lot" means any place outside a building where two or more automobiles are offered for sale or are displayed. (Ord. 1555§ 4, 2009).

## 19.08.935 Uses, prohibited.

A "prohibited use" is any use which is not listed in one of the following categories:

(1) Permitted use for the zone;

(2) A lawfully granted conditional use;

(3) A lawfully granted variance;

(4) A lawfully existing nonconforming use;

(5) A lawfully permitted home occupation. (Ord. 1555 § 4, 2009).

## 19.08.940 Variance.

"Variance" means the means by which an adjustment is made in the application of the specific regulations of this title to a particular piece of property, which property, because of special circumstances applicable to it, is deprived of privileges commonly enjoyed by other properties in the same zone or vicinity and which adjustment remedies disparity in privileges. A variance is a form of special exception. (Ord. 1555 § 4, 2009).

## 19.08.945 Vehicular surface area.

"Vehicular surface area" means an open area where motor vehicles are either stored or driven, including private driveways and private streets, parking lots, rental lots, and rental depots, but it does not include parking buildings, underground parking areas, or areas which are used exclusively as loading areas and service areas. (Ord. 1555 § 4, 2009).

## 19.08.950 Video rental store.

"Video rental store" means an establishment primarily engaged in the retail rental or lease of videotapes, films, CD-ROMs, laser discs, electronic games, cassettes or other electronic media. Sales of film, videotapes, laser discs, CD-ROMs and electronic merchandise associated with VCRs, video cameras and electronic games are permitted accessory uses. (Ord. 1555 § 4, 2009).

## 19.08.955 Waste, hazardous.

"Hazardous waste" means all dangerous and extremely hazardous waste as defined in RCW 70.105.010(15), except for moderate risk waste as defined in RCW 70.105.010(17). (Ord. 1555 § 4, 2009).

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### 19.08.960 Waste, hazardous – Off-site treatment and storage facility.

"Hazardous waste off-site treatment and storage facility" means treatment and storage facilities which treat and store hazardous wastes generated on properties other than those on which the off-site facilities are located. (Ord. 1555 § 4, 2009).

### 19.08.965 Waste, hazardous – On-site treatment and storage facility.

"Hazardous waste on-site treatment and storage facility" means treatment and storage facilities which treat and store hazardous wastes generated on the same property. (Ord. 1555 § 4, 2009).

### 19.08.970 Waste, hazardous – Storage of.

"Storage of hazardous waste" means the holding of hazardous waste for temporary periods as regulated by the state dangerous waste regulations, Chapter 173-303 WAC. (Ord. 1555 § 4, 2009).

### 19.08.975 Waste, hazardous – Treatment of.

"Treatment of hazardous waste" means the physical, chemical or biological processing of hazardous waste for the purpose of rendering these wastes nondangerous or less dangerous, safer for transport, amenable for energy or material resource recovery, amenable for storage or reduced in volume as regulated by the state dangerous waste regulations, Chapter 173-303 WAC. (Ord.1555 § 4, 2009).

### 19.08.980 Way open to public.

"Way open to public" means any paved or unpaved area on private property open to the general public for driving or parking. (Ord.1555 § 4, 2009).

### 19.08.982 Wet season.

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

### 19.08.985 Wireless communications facility, macro.

"Macro wireless communications facility" means an attached wireless communications facility which consists of antennas equal to or less than 15 feet in height or a parabolic antenna up to one meter (39.37 inches) in diameter and with an area not more than 75 square feet in the aggregate as viewed from any one point. (Ord. 1555 § 4, 2009).

### 19.08.990 Wireless communications facility, micro.

"Micro wireless communications facility" means an attached wireless communications facility which consists of antennas equal to or less than four feet in height (except omni-directional antennas which may be up to six feet in height) and with an area of not more than 580 square inches in the aggregate (e.g., one-foot diameter parabola or two-foot by one-and-one-half-foot panel) as viewed from any one point. The permitted antenna height includes the wireless communications facility support structure. (Ord. 1555 § 4, 2009).

### 19.08.995 Wireless communications facility, mini.

"Mini wireless communications facility" means an attached wireless communications facility which consists of antennas equal to or less than 10 feet in height or a parabolic antenna up to one meter (39.37 inches) in diameter and with an area not more than 50 square feet in the aggregate as viewed from any one point. (Ord. 1555 § 4, 2009).

### 19.08.1000 Wireless communications facility, monopole.

"Monopole wireless communications facility" means a wireless communications facility which consists of a wireless communications support structure, erected to support wireless communications antennas and connecting appurtenances. (Ord. 1555 § 4, 2009).

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### 19.08.1005 Xeriscape.

"Xeriscape" means a landscaping method which conserves water through the use of drought-tolerant plants and planting techniques. (Ord. 1555 § 4, 2009).

### 19.08.1010 Yard.

"Yard" means an open space in front, rear or side on the same lot with a building or proposed building. (Ord. 1555 § 4, 2009).

### 19.08.1015 Yard, front.

"Front yard" means an open space extending from 30 inches above the general ground level at the principal street line to the building line and including the full width of the lot to its side lines. (Ord. 1555 § 4, 2009).

### 19.08.1020 Yard, rear.

"Rear yard" means an open space extending from 30 inches above the general ground level at the rear lot line to the main building line and including the full width of the lot to its side lines. (Ord. 1555 § 4, 2009).

### 19.08.1025 Yard, service.

"Service yard" means an open area, usually paved, with access to a street or alley, to allow vehicular access to a building or use for purposes of loading or unloading equipment, freight, livestock or people. (Ord. 1555 § 4, 2009).

### 19.08.1030 Yard, side.

"Side yard" means an open space extending from 30 inches above the general ground level at the front yard to the rear yard and from the main building line to the side lot line. (Ord. 1555 § 4, 2009).

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# Chapter 19.28
# LIMITATIONS OF USES

Sections:


19.28.010 Limitations of uses.
19.28.020 Roof equipment.
19.28.030 Height limits – Exceptions.
19.28.040 Height limits – Roof structures.
19.28.050 Height limits – Flagpoles.
19.28.060 Conditional use permits for height limitation structures.


## 19.28.010 Limitations of uses.

Those permitted uses located in the several districts shall be subject to the following limitations:

(1) All sites in a commercially classified district or designated for commercial uses in the Oak Harbor comprehensive plan having a common boundary with a residentially classified property or property designated for residential uses in the Oak Harbor comprehensive plan shall erect and maintain a view-obscuring fence and/or screen buffer in conformance with Chapter 19.46OHMC;

(2) All sites in an industrially classified district or designated for industrial uses in the Oak Harbor comprehensive plan having a common boundary with any residentially classified property or property designated for residential uses in the Oak Harbor comprehensive plan shall erect and maintain a view-obscuring fence and/or screen buffer in conformance with Chapter 19.46OHMC;

(3) All permitted uses established after the effective date of the ordinance codified in this title or enlargements amounting to an increase of 20 percent in gross floor area of a use established prior to the effective date of the ordinance codified in this title shall provide off-street parking and loading areas for each use and enlargement in accordance with the provisions of Chapter 19.44OHMC;

(4) Where lighted signs and illuminated areas are permitted, such illuminating devices shall be shaded and directed so as not to be visible from any residentially classified property or property designated for residential uses in the Oak Harbor comprehensive plan;

(5) Industrial uses shall be subject to the following conditions:

(a) In all industrial districts, the noise emanating from the premises used for industrial activities shall be muffled so as to not become objectionable due to intermittent beat, frequency or shrillness, and where an industrial district adjoins a residential district the noise loudness measured at the boundary line shall not exceed 40 decibels between the hours of 9:00 p.m. and 7:00 a.m. and 60 decibels at other hours;

(b) Industrial and exterior lighting shall not be used in such a manner that produces glare on public highways and neighboring property. Arc welding, acetylene torch cutting or similar processes shall be performed so as not to be seen from any point beyond the outside of the property;

(c) In terms of fire and safety hazards, the storage and handling of inflammable liquids, liquefied petroleum gases and explosives shall comply with rules and regulations falling under the jurisdiction of the city fire chief, the laws of the state and other local ordinances. Bulk storage of inflammable liquids below ground shall be permitted, and the tank shall be located not closer to the property line than the greatest dimension (diameter, length, or height) of the tank;

(d) Provisions must be made for necessary shielding or other preventive measures against the interferences occasioned by mechanical, electrical, and nuclear equipment, uses or processes with electrical apparatus in nearby buildings or land uses;

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(e) Liquid and solid wastes, storage of animal or vegetable waste which attract insects or rodents or otherwise create a health hazard shall be prohibited. No waste products shall be exposed to view from eye level from any property line in an industrial district. (Ord. 1555 § 11, 2009).

## 19.28.020 Roof equipment.

All roof equipment used for heating, cooling or hood ventilation shall have a sight-obscuring screen in accordance with the Oak Harbor design guidelines. (Ord. 1555 § 11, 2009).

## 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~~).

## 19.28.040 Height limits – Roof structures.

Roof structures for the housing of elevators, stairways, tanks, ventilating fans and similar equipment to operate and maintain buildings; fire and parapet walls; skylights; towers, chimneys, smokestacks, wireless masts, television antennas, steeples and similar structures may be erected above the height limits prescribed in this title so long as the following conditions are met:

(1) Such portion of building or structure above the prescribed height limit shall not be allowed or used for the purpose of providing additional floor space;

(2) Structures specified in this section may not extend more than 10 feet above the height limit of the district, whether it is attached or freestanding, unless approved as a conditional use by the hearing examiner;

(3) Freestanding structures exceeding the height limit must be more than 10 feet from the nearest property line or point thereon;

(4) No sign is affixed to the structures above the height limit for the district. (Ord. 1555 § 11, 2009).

## 19.28.050 Height limits – Flagpoles.

(1) There is no height limitation for flagpoles in commercial and industrial districts. Flagpoles must be placed at least 10 feet from the nearest lot line. Lighting of flagpoles is allowed in commercial and industrial districts subject to the following conditions:

(a) The flagpole is located at least 50 feet away from the nearest point of a residential district;

(b) Lighting shall be toward the flagpole, and not create safety hazards for aircraft and automobile traffic.

(2) In residential and residential/office districts, flagpoles shall not exceed 35 feet. Lighting shall be toward the flagpole and not create a nuisance to adjacent property owners.

(3) There is no height limitation for flagpoles permitted under conditional uses and in manufactured home parks. Flagpoles must be located at least 10 feet from a property line. Lighting of flagpoles is allowed subject to the following conditions:

(a) The flagpole is located at least 50 feet away from the nearest point of a residential district;

(b) Lighting shall be toward the flagpole, and not create safety hazards for aircraft and automobile traffic.

(4) Along with all other structures, building permits shall be required for flagpoles prior to construction. In addition, the planning director may require installation of flagpoles in excess of 50 feet to be designed and certified by a registered professional engineer. The city engineer may waive the 10-foot setback when the

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flagpole is designed so that the subsoil lateral support is essentially on the property where the flagpole is located. The standards of the building code, now in effect or as hereafter amended, shall apply to flagpoles. (Ord. 1555 § 11, 2009).

## 19.28.060 Conditional use permits for height limitation structures.

(1) Conditional use permits for buildings or structures enumerated in OHMC 19.28.040 and exceeding 10 feet above the height limitation of the district may be granted so long as the following conditions are met:

(a) It is reasonably necessary for the use of the property;

(b) It is located more than 30 feet from the nearest property line or point thereon;

(c) It can be demonstrated to be safe;

(d) It does not materially impair the view of surrounding properties;

(e) It does not materially increase fire or other safety risks for the property or surrounding area;

(f) It complies with OHMC 19.28.040(1), (3) and (4).

(2) The hearing examiner may require reasonable conditions to be met for granting a conditional use permit to exceed the height limitations, including but not limited to specifying the location, design, lighting, construction and use. (Ord. 1555 § 11, 2009).

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# Chapter 19.31
# PLANNED RESIDENTIAL DEVELOPMENTS

Sections:


19.31.010 Purpose and intent.
19.31.020 Applicability of PRD standards.
19.31.030 Definitions.
19.31.040 Permissive variations in requirements.
19.31.050 Sale of lots.
19.31.060 Planned residential development conformity.
19.31.070 Permitted uses in PRDs.
19.31.080 Secondary use limitations.
19.31.090 Density.
19.31.100 Open space – General requirements.
19.31.110 Open space – Active areas.
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19.31.130 Dedication and maintenance of common facilities.
19.31.140 PRD perimeter.
19.31.150 Application required.
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19.31.170 PRD review criteria.
19.31.180 PRD development plan – Filing requirements.
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19.31.200 PRD development plan – Staff recommendation.
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19.31.240 Mitigation agreement.
19.31.250 Compliance with approved PRD development plan.
19.31.260 Mapping.
19.31.270 Revocation.
19.31.280 Modifications.
19.31.290 Termination of a PRD.
19.31.300 Extension of time for construction.
19.31.310 Limitation on resubmission.
19.31.320 Judicial review.


## 19.31.010 Purpose and intent.

The planned residential development ("PRD") regulations offer applicants regulatory flexibility in return for higher quality site and architectural design with the intent of encouraging the design of more complete and sustainable neighborhood environments consistent with Oak Harbor's comprehensive plan. The PRD regulations allow and promote design flexibility, pedestrian-oriented development, interconnectivity among uses, sensitivity to the natural environment and natural features, and the coordination of development with adequacy of public facilities. (Ord. 1567 § 2, 2010).

## 19.31.020 Applicability of PRD standards.

(1) An application for PRD may be submitted for any residentially zoned (R-1, R-2, R-3 and/or R-4) parcel(s) of land within Oak Harbor. The decision of whether to submit the PRD is the applicant's choice.

(2) The director may determine that a PRD may be submitted for a subdivision or short subdivision of land if the proposed development cannot meet the standards in this title and/or OHMC Title 21. (Ord. 1567 § 2, 2010).

## 19.31.030 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) “Secondary use” means a nonresidential use located within a PRD.

(2) “Town center” means a consolidated area within a PRD which contains secondary uses (commercial, office, and/or mixed uses), primarily intended to serve the residents of the PRD.

(3) “Gross area” means the total area contained within the boundaries of a proposed PRD. (Ord. 1567 § 2, 2010).

## 19.31.040 Permissive variations in requirements.

(1) In considering a proposed planned residential development project, the approval thereof may involve variation in the regulations, requirements and standards of the zone in which the project is located including the general design standards and residential design standards of OHMC Title 21. Variations from the standards and requirements of this chapter are not permitted.

(2) The applicant shall bear the burden of supporting any change in requirements by demonstrating compliance with the review criteria contained in OHMC 19.31.170.

(3) The city may increase any requirement necessary to make the project conform to the purpose and intent of this code; provided, that a connection has been made between the impact of the development and the required mitigation.

(4) Other than the specific standards which are requested to be varied from, PRD applications shall otherwise comply with all relevant standards of the Oak Harbor Municipal Code, including those in this title and OHMC Title 21 (Subdivisions). (Ord. 1567 § 2, 2010).

## 19.31.050 Sale of lots.

Lots in a platted PRD may be sold to separate owners and according to the separate lots as shown in the plat filed and approved in connection therewith. No sale shall be permitted which subdivides a lot in such a manner as will create a new lot line, except as provided in OHMC Title 21. (Ord. 1567 § 2, 2010).

## 19.31.060 Planned residential development conformity.

As of the date of adoption of this chapter, all existing, legally established planned residential developments (PRDs) shall be deemed conforming uses under this chapter. (Ord. 1567 § 2, 2010).

## 19.31.070 Permitted uses in PRDs.

The following uses are permitted by right in PRDs:

(1) Those uses permitted as of right in the underlying zone;

(2) As a secondary use, and subject to the limitations of the Oak Harbor Municipal Code:

(a) Grocery stores;

(b) Drug stores;

(c) Salons/barber shops;

(d) Restaurants;

(e) Uses generally considered accessory to the primary residential use of the PRD, such as club houses, parking areas, open spaces, utilities and public facilities;

(f) Motor vehicle or boat storage for residents of the PRD;

(g) Conditional uses as provided in the underlying zoning;

(h) Home occupations as provided in the underlying zoning; and

(i) Other, unlisted, similar or related uses, provided the planning commission makes a recommendation and the city council determines that:

(i) The use does not conflict with the intent of this chapter or policies of the comprehensive plan;

(ii) The use is appropriate to the size and scale of the residential development and primarily serves the residents of the PRD. Secondary uses which have a regional or city-wide customer base are not appropriate for PRDs.

(iii) Traffic impacts from the proposed secondary use will not have a negative impact on surrounding residential neighborhoods in terms of quantity of traffic and circulation patterns. (Ord. 1567 § 2, 2010).

## 19.31.080 Secondary use limitations.

To ensure they are compatible with primary residential uses, secondary uses shall conform to this section in addition to the standards in OHMC 19.31.070. Secondary uses are also subject to site plan review procedures contained in Chapter 19.48 OHMC and shall be integrated in the PRD application as it was recommended by the planning commission and approved by the city council and are subject to the following additional standards:

(1) The gross floor area of all proposed secondary uses shall not exceed 10 percent of the gross floor area of the development.

(2) All secondary uses shall be architecturally compatible with residential uses in the PRD in terms of mass, scale, height, and exterior materials.

(3) Secondary uses shall be located in a “town center” apart from the residential uses, but easily accessible to the residential uses.

(4) Building permits or occupancy permits for such uses shall not be issued until one-half of the total project is completed unless otherwise approved by the city council. (Ord. 1567 § 2, 2010).

## 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.~~

(2) Density increase may be granted if the applicant satisfactorily demonstrates the following standards have been met:

(a) All applicable PRD and subdivision design standards have been met, exempting those that have been modified through the PRD process;

(b) Building design and site layout with the proposed density increase does not significantly change the characteristics of the neighborhood streetscapes from what would be the case if the bonus was not granted.

(3) For any PRD located in more than one zone, the residential density allowed shall be determined by totaling the number of dwelling units allowed within each of the separate zones according to the density regulations of that zone.

(a) The total residential density shall apply to the entire area of the proposal.

(b) For any PRD located in more than one zone, the permitted percentage of coverage by buildings and structures allowed shall be determined by calculating the percentage of coverage allowed upon the area for each separate zone and averaging it across the entire project. (Ord. 1567 § 2, 2010).

## 19.31.100 Open space – General requirements.

Common open space shall be provided for use as a recreational, park or environmental amenity for the collective enjoyment by occupants of the PRD project, and designed as follows:

(1) Common open space shall comprise at least 10 percent of the gross area of the PRD;

(2) Common open space shall not include public or private streets, driveways, buffers, screens, perimeter landscaping, parking areas or the required or provided yards for buildings or structures;

(3) Common open space shall meet the requirements of OHMC 19.31.110 and 19.31.120. (Ord. 1567 § 2, 2010).

## 19.31.110 Open space – Active areas.

The following standards apply to the provision and design of active open spaces in PRDs:

(1) A minimum of 50 percent of all required open space in a PRD shall be "active" open space. Active open space provides opportunities for physical activity to residents of the PRD. Active open space must meet the following requirements:

(a) Be a minimum of 5,000 square feet in size to be counted toward the minimum 10 percent common open space requirement;

(b) The space must also have a minimum width of 50 feet and depth of 90 feet;

(c) Have a minimum of 40 feet of frontage on a public street.

(2) Shall contain such accessory or complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of residents of the project and shall include at a minimum:

(a) Pedestrian-oriented lighting;

(b) Seating;

(c) Signage indicating the operational hours and rules for the use of the open space;

(d) Trash can(s); and

(e) An activity center such as children's play structure, tennis court(s), basketball court(s), walking/bicycling path(s) or a trail-head kiosk at the entrance of a trail system. There are other types of activity centers other than those listed here which can be proposed by applicants. All proposed activity centers shall provide exercise opportunities for residents of the PRD. Unimproved grass fields do not count as activity centers.

(3) Active open spaces must be visible and accessible to users and not hidden behind residential lots.

(4) Active open spaces must have pedestrian connections to both sides of a residential block on which they are located.

(5) All active open spaces shall be privately owned and maintained by the homeowners' association in accordance with the requirements of OHMC 19.31.130.

(6) Trails can count as active open space, provided they meet minimum design requirements specified in the parks, recreation and open space plan.

(7) Fifty percent of stormwater ponds may count as open space within the PRD. However, no more than 25 percent of the required 10 percent common open space in a PRD may be stormwater pond. Ponds which are counted toward open space requirements must meet a high level of design and be an amenity to residents and must have all of the following characteristics:

(a) Be a wet pond, not a dry pond.

(b) Be surrounded by a trail or be located adjacent to another active open space.

(c) Children's play structures may not be located closer than 150 feet to a stormwater pond.

(d) The pond must be curvilinear in shape, not rectangular.

(e) Only 30 percent of the circumference of the pond may contain berming.

(f) The inside slope of the pond shall be three to one or flatter.

(g) Gravel and asphalt shall not be used for pond access.

(h) No fencing shall be provided around the pond.

(i) The applicant shall place appropriate signage near the pond which says, “This pond is for stormwater detention and/or treatment purposes. Swimming or fishing or other recreational activities are prohibited.” (Ord. 1567 § 2, 2010).

## 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).

## 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).

## 19.31.140 PRD perimeter.

The perimeter of the PRD shall be designed so as to minimize architectural or land use incompatibility of the PRD on adjacent properties and, conversely, to minimize undesirable impact of adjacent land use and development characteristics on the PRD. A building setback of 20 feet shall apply to all exterior boundary lines of the project. (Ord. 1567 § 2, 2010).

## 19.31.150 Application required.

An application for approval of a proposed PRD shall be made to the director upon forms furnished by the city. Application shall be made by the owner or owners of the parcel or parcels intended to be developed as a unit or

their duly authorized agent or agents. Authorization from all owners within the PRD project boundaries is required. (Ord. 1567 § 2, 2010).

## 19.31.160 Combined applications.

The approval of a subdivision shall be required of all projects which involve or contemplate the subdivision of land in a PRD and the procedures set forth in OHMC Title 21 shall be followed concurrently. (Ord. 1567 § 2, 2010).

## 19.31.170 PRD review criteria.

The city (staff, planning commission and city council) shall base its review of the proposed PRD upon the following criteria:

(1) Aside from the specific regulations, requirements or standards proposed to be varied, the project otherwise meets the requirements of the Oak Harbor Municipal Code.

(2) Critical areas should be preserved and incorporated into the open space of the PRD. Buffer averaging and buffer enhancements shall qualify as preservation if such is recommended in an approved critical areas report.

(3) If smaller lot sizes and dimensions or decreased setbacks are proposed from what is required by the underlying zoning, buildings on these lots must meet requirements (3)(a) through (c) of this section or requirement (3)(d) or requirement (3)(e) of this section:

> (a) Garage walls facing the street must be no closer than the wall containing the main entrance, or to the edge of a covered porch or deck if provided.
>
> (b) A garage door wall which faces the street must not be more than one-half of the facade width.
>
> (c) The main entrance must be prominent, easily visible and directly accessible from the street frontage.
>
> (d) No two adjacent buildings on the same side of the street may have the same front setback. Setbacks must alternate from building to building. Minimum front setback variation must be two feet or greater.
>
> (e) Residential buildings are accessed from an alley at the rear of the lots.

(4) If nonresidential uses are included in the PRD, such uses shall be easily accessible to pedestrians, meaning that primary building entrances are oriented to the street and set back no more than 10 feet from the property line or a six-foot-wide pedestrian path is included connecting the nearest public sidewalk to the primary entrance of the secondary use.

(5) Ten percent common open space is provided which complies with OHMC 19.31.110 through 19.31.130.

(6) The PRD shall comply with all of the following adopted standards:

> (a) The requirements of OHMC Title 21, Subdivisions. Variations from the requirements in OHMC Title 21 may be requested and reviewed as part of the PRD application. Other than the specific standards being varied from, PRDs must meet all applicable standards of OHMC Title 21, including the general design standards (Chapter 21.50 OHMC) and the residential design standards (Chapter 21.60 OHMC).
>
> (b) The standards and requirements of this chapter. If there is a conflict between the standards of this chapter and the standards in OHMC Title 21, the standards in this chapter shall take precedence.
>
> (c) The Oak Harbor comprehensive plan policies.
>
> (d) The design guidelines and regulations, if applicable.

(e) All other standards adopted by the city of Oak Harbor, including engineering details and drawings.

(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.~~

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

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

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

(~~v~~ 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).

## 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.

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

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

(3) Proposed conditions, covenants and restrictions including continuous maintenance provisions for the project; and

(4) A text describing conditions or features which cannot be adequately displayed on maps or drawings. (Ord. 1567 § 2, 2010).

## 19.31.190 PRD development plan – Phased developments.

Development of the project may be phased, in which case each complete phase may be processed separately. A map showing all property owned or controlled by the proponent which is contiguous to the development site or which is within the area determined by the director to be relevant for comprehensive planning and environmental assessment purposes, together with a conceptual plan of said properties, shall be submitted with the application for the first phase. The conceptual plan shall conform to the purposes of this title and shall be used by the city to review all phases of the development. (Ord. 1567 § 2, 2010).

## 19.31.200 PRD development plan – Staff recommendation.

After receiving the PRD development plan, the director shall route the same to all appropriate city departments, and each department shall submit comments and recommendations to the director. After receiving such information from the city departments, the director shall present recommendations and conclusions before the planning commission at the public hearing for the PRD development plan. (Ord. 1567 § 2, 2010).

## 19.31.210 PRD development plan – Planning commission review.

(1) The PRD development plan shall be considered at a public hearing before the planning commission.

(2) Upon receipt of the PRD development plan, the planning commission shall examine such plan and determine whether it conforms to all applicable criteria and standards.

(3) In the event the planning commission determines that the development plan does not conform to these criteria and standards, they may require such changes in the proposed project or impose such conditions of approval as are, in its judgment, necessary to ensure conformity.

(4) The planning commission shall review the project to determine if it is consistent with the criteria in OHMC 19.31.170. (Ord. 1567 § 2, 2010).

## 19.31.220 PRD development plan – Planning commission recommendation.

Planning commission shall recommend approval as submitted, approval with conditions or denial. The recommendation of the planning commission shall be forwarded to the city council for consideration at the earliest possible date at a regularly scheduled meeting of the council. (Ord. 1567 § 2, 2010).

## 19.31.230 PRD development plan – Council decision.

The council shall hold a closed record meeting to consider the application. Council shall make one of the following decisions: approval as submitted, approval with conditions or denial. Council decisions on PRD permits shall be final unless appealed to the Island County superior court in accordance with Chapter 36.70C RCW. (Ord. 1567 § 2, 2010).

## 19.31.240 Mitigation agreement.

The applicant shall provide for methods to mitigate development impacts as set forth in OHMC Title 20. Any fees voluntarily proposed or required as mitigation to such development impacts shall be made prior to the issuance of any development permits. (Ord. 1567 § 2, 2010).

## 19.31.250 Compliance with approved PRD development plan.

(1) All lots or other divisions of a subdivided PRD shall remain subject to compliance with the PRD development plan regardless of the fact of subdivision under OHMC Title 21 or subsequent conveyance of such individual lots or divisions, unless a minor or major modification has been approved.

(2) The building official shall only issue building permits and certificates of occupancy for buildings and structures which conform with the approved PRD development plan for the PRD and with all other applicable city ordinances, regulations, rezone, annexation and development agreements.

(3) The construction and development of all the open spaces and recreation facilities of each project phase must be completed or bonded before any certificate of occupancy will be issued for a unit or building within that phase. (Ord. 1567 § 2, 2010).

## 19.31.260 Mapping.

Whenever a PRD permit has been granted, the boundary of the PRD shall be indicated on the zoning map of the city of Oak Harbor as “subdistrict PRD.” (Ord. 1567 § 2, 2010).

## 19.31.270 Revocation.

In the event of a failure to comply with the approved plan or any prescribed condition of approval, including failure to comply with the phased development schedule, city council may, after notice and hearing, revoke the PRD permit. (Ord. 1567 § 2, 2010).

## 19.31.280 Modifications.

Requests for modifications of previously approved PRD development plans shall be made in writing and shall be submitted to the development services department in the manner and form prescribed by the director. Minor modifications may be approved by the director.

(1) Modifications shall be deemed minor if the proposal does not change any of the following:

(a) Land use;

(b) Density, number of dwelling units or lots;

(c) General location or number of access points;

(d) The general design characteristics (location, size, elements contained within) of open space areas. In no case shall the amount of open space be less than 10 percent of the gross site area. However, the director shall not approve less open space under a minor modification if such open space has been provided for density bonuses in accordance with OHMC 19.31.090;

(e) The amount of required or conditionally approved parking;

(f) The general height of structures. However, height of one structure may be modified through a minor modification, provided the height does not exceed 35 feet;

(g) The total lineal feet and dimensions of pedestrian/bicycle facilities by more than 10 percent. Locations of pedestrian/bicycle facilities may be considered a minor modification.

(2) Major modifications are any changes to the approved PRD development plan which do not qualify as minor changes as defined in this section. Major modifications to the PRD development plan shall be reviewed by the planning commission under the same process as outlined under OHMC 19.31.200 through 19.31.230. (Ord. 1567 § 2, 2010).

## 19.31.290 Termination of a PRD.

Construction shall be started within five years following city council approval of the PRD development plan. If a preliminary plat has been reviewed and approved concurrently with the PRD development plan, then the two documents shall terminate at the same time and all permits and approvals issued pursuant to such authorization shall expire and be null and void; termination for a concurrently approved PRD development plan and associated preliminary plat shall be five years from the date of city council approval. If construction has been commenced but the work has been abandoned for a period of one year or more, and if no extension of time has been granted as provided in OHMC 19.31.300, the authorization granted for the PRD project shall terminate and all permits and approvals issued pursuant to such authorization shall expire and be null and void. (Ord. 1567 § 2, 2010).

## 19.31.300 Extension of time for construction.

(1) For good cause shown, the city council, in its discretion, may grant an extension of time for a maximum of one year for commencement or continuation of construction subsequent to approval of the preliminary plat which accompanies the PRD development plan.

(2) Application for extension must be made in writing to the city at least 60 days prior to the termination of the approved PRD plan. (Ord. 1567 § 2, 2010).

## 19.31.310 Limitation on resubmission.

Whenever an application for a PRD permit has been denied, no application using the same area or any portion thereof shall be filed by the same applicant within one year after the date of denial unless there is a change to the PRD development plan which more closely meets the provisions of the Oak Harbor Municipal Code. (Ord. 1567 § 2, 2010).

## 19.31.320 Judicial review.

Any legal action to review a decision of the city council or planning commission under this title shall be filed in Island County superior court within 21 days of the decision, notwithstanding the effective date of any ordinance passed or proposed to effectuate said decision. (Ord. 1567 § 2, 2010).

# Chapter 19.44
# PARKING

Sections:


19.44.010 Purpose and intent.
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19.44.030 Bicycle parking.
19.44.040 Location.
19.44.050 Expansion, enlargement and occupancy.
19.44.060 Mixed occupancies.
19.44.070 Uses not specified.
19.44.080 Joint use.
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19.44.100 Minimum parking space standards.
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19.44.110 Parking space size and access requirements.
19.44.120 Car and van pool parking.
19.44.130 Plans.
19.44.140 Loading areas.


## 19.44.010 Purpose and intent.

Provisions of this chapter are of general application to several of the districts described in Chapter 19.20 OHMC, except as noted in the CBD central business district. It is the intent of this chapter to set down provisions for off-street parking and loading areas to prevent congestion in the streets, promote and protect property values and to provide for the health, safety and welfare of the citizenry. (Ord. 1614 § 1, 2011; Ord. 1555 § 19, 2009).

## 19.44.020 General requirements.

Parking areas, public or private, are permitted as accessory uses, operating in conjunction with permitted uses, unless otherwise permitted by this title. Each off-street parking space shall have a net area of not less than 180 square feet, exclusive of driveways or aisles, and shall be of usable shape and condition. To determine on a gross area basis, 270 square feet shall be allowed per vehicle. If the required parking space for a one-family or two-family dwelling is not provided in a covered garage, then such space shall be not less than 180 square feet. The circulation pattern of all off-street parking areas excepting driveways serving single-family or two-family dwellings shall not have as a part of the pattern any parking or parking maneuvers on a public sidewalk, highway, road, street or alley. (Ord. 1614 § 1, 2011; Ord. 1555 § 19, 2009).

## 19.44.030 Bicycle parking.

Bicycle racks shall be provided for all nonresidential and multifamily uses. Such racks shall provide space for a minimum of one bicycle for each 10 parking spaces required to a maximum of 10 bicycle spaces. (Ord. 1614 § 1, 2011; Ord. 1555 § 19, 2009).

## 19.44.040 Location.

Off-street parking facilities shall be located and operated in conjunction with the permitted use as hereinafter specified; where a distance is specified, such distance shall be the walking distance measured from the nearest point of the parking facility to the nearest point of the building that such facility is required to serve:

(1) For one-family and two-family dwellings, on the same lot with the building they are required to serve;

(2) For multiple dwellings, not more than 100 feet;

(3) For hospitals, skilled nursing facilities, assisted living facilities, rooming houses and boarding houses, fraternity and sorority houses, not more than 300 feet;

(4) For uses other than those specified above, not more than 500 feet;

(5) Parking lots for passenger automobiles only shall be allowed when such parking lots are for the purpose of providing the off-street parking required by this title and are located and improved in accordance with this chapter, except that when any such parking lot is to serve a use first permitted in a less restrictive zone than the zone in which the parking lot is to be located, such parking lot may be allowed only by a variance granted by the hearing examiner after a public hearing and the finding that such parking lot will not be unduly detrimental to surrounding properties; provided, that additional landscaping or fencing as directed by the hearing examiner to visually screen parked cars from all residential properties in the vicinity shall be provided as conditions precedent to the granting of such variance; and provided, that at least 40 lineal feet of the boundary of such parking lot adjoins a less restrictive zone or is separated therefrom only by the width of an alley or street. Such parking lots shall not extend beyond said less restrictive zone more than 150 feet into the more restrictive zone in which the parking lot is to be located. No such parking lots shall be allowed for the purpose of serving nonconforming uses. (Ord. 1614 § 1, 2011; Ord. 1555 § 19, 2009).

## 19.44.050 Expansion, enlargement and occupancy.

All new or substantially altered uses or structures shall be provided with special purpose off-street parking facilities as required by this chapter. No application for a building permit or change of occupancy for a new or substantially altered structure or improvement shall be approved unless there is included with such improvement or use a plot plan showing the required special off-street parking as required in this chapter. Wherever any building is enlarged in height or in ground coverage, off-street parking shall be provided for said expansion or enlargement in accordance with the requirements of the schedule; provided, however, that no parking space need be provided in the case of enlargement or expansion where the number of parking spaces required for such expansion or enlargement is less than 10 percent of the parking spaces specified in the schedule for the building. (Ord. 1614 § 1, 2011; Ord. 1555 § 19, 2009).

## 19.44.060 Mixed occupancies.

In the case of mixed uses, the total requirements for the various uses shall be computed separately. Off-street parking facilities for one use shall not be considered as specified for joint use. (Ord. 1614 § 1, 2011; Ord. 1555 § 19, 2009).

## 19.44.070 Uses not specified.

In the case of uses not specifically mentioned in sections below, the requirements for off-street parking facilities shall be determined by the planning director. Such determination shall be based upon the requirements for the most comparable use listed. (Ord. 1614§ 1, 2011; Ord. 1555 § 19, 2009).

## 19.44.080 Joint use.

Joint use of parking facilities is encouraged, where appropriate. The director, upon application, may authorize the joint use of parking facilities for the following uses or activities under conditions specified:

(1) Up to 50 percent of the parking facilities required by this chapter for primarily nighttime uses such as theaters, bowling alleys, bars, restaurants and related uses may be supplied by certain other types of buildings or uses herein referred to as daytime uses such as banks, offices, retail and personal service shops, clothing, food, furniture, manufacturing or wholesale and related uses;

(2) Up to 50 percent of the parking facilities required by this chapter for primarily daytime uses may be supplied by primarily nighttime uses;

(3) Up to 100 percent of the parking facilities required by this chapter for a church, or for an auditorium incidental to a public or parochial school, may be supplied by the off-street parking facilities provided by uses primarily of a daytime nature. (Ord. 1614 § 1, 2011; Ord. 1555 § 19, 2009).

## 19.44.090 Conditions required for joint use.

The building or use for which application is being made to utilize the off-street parking facilities provided by another building or use shall be located within 500 feet of such parking facilities in addition to which:

(1) The applicant shall show that there is no substantial conflict in the principal operating hours of the two buildings or uses for which joint use of off-street parking facilities is proposed;

(2) The applicant shall present a properly drawn legal instrument to be recorded with the Island County auditor, executed by the parties concerned for joint use of off-street parking facilities and approved as to form and manner of execution by the city attorney, to the hearing examiner upon application, such instrument to be filed with the building official upon approval of the hearing officer. (Ord. 1614 § 1, 2011; Ord. 1555 § 19, 2009).

## 19.44.100 Minimum parking space standards.

| Use | Required Parking |
|---|---|
| Residential, single-family | Two per dwelling |
| Residential, duplex | Two per dwelling |
| Residential, multiple | One and one-half per dwelling unit |
| Three or more bedroom dwelling unit | Two per three or more bedroom dwelling unit. In addition, multifamily projects with eight or more units shall provide one visitor parking space for each eight units. |
| Banks | One per 400 square feet of gross floor area, plus employee parking |
| Bed and breakfast inns and rooms | Two for primary resident or on-site manager plus one for each guest room |
| Bowling alleys | Four per alley, plus employee parking |
| Churches, auditoriums and similar enclosed places of assembly | One per four seats and/or one per 30 square feet of assembly space without fixed seats |
| Skilled nursing facilities | One per five beds, plus owner and employee parking |
| College | One space per 200 square feet of classroom space |
| Assisted living facilities | Minimum of 0.8 spaces per unit, with a maximum of one and one-half spaces per unit |
| Food and beverage places with sales and consumption on premises | One per three seats, plus one space for every two employees on the largest shift |
| Furniture, appliance, hardware, clothing and shoe stores, personal service stores such as beauty parlors, barbershops and physical fitness centers | One per 600 square feet gross floor area, plus employee parking |
| Gasoline stations | 15 spaces, including pump and service area |
| Hospital | One per two beds, excluding bassinets |
| Hotels, motor hotels | One per sleeping room, plus owner and employee parking |
| Libraries and museums | One per 200 square feet gross floor area, plus employee parking |
| Manufacturing uses, research testing and processing, assembling, all industries | One per each two employees on maximum shift and not less than one per each 800 square feet gross floor area |
| Mortuaries | One per 100 square feet of gross floor area used for assembly or one per five seats, plus employee parking |
| Motels | One per unit, plus owner and employee parking |
| Motor vehicle, machinery, plumbing, heating, ventilating, building supplies stores and services | One per 1,000 square feet floor area, plus employee parking |
| Offices, medical and dental (including optometrists) | One per 200 gross square feet of floor area, plus |

| Use | Required Parking |
|---|---|
| | employee parking |
| Offices not providing customer services | One per each employee |
| Offices of opticians, chiropractors and others licensed by the state of Washington to practice the healing arts | One per 400 square feet of gross floor area, plus employee parking |
| Offices, business and professional (other than medical and dental) with on-site customer service | One per 400 square feet of gross floor area, plus employee parking |
| Rooming houses, similar uses | One per dwelling unit |
| Schools, elementary and junior high | One per each employee and faculty member, plus 15 visitor parking |
| Schools, high | One per each 10 students, plus one per each employee and faculty member, plus 15 visitor parking |
| Shopping centers with over 30,000 square feet of gross floor area | Four and one-half spaces per 1,000 square feet gross floor area, but not to exceed five spaces per 1,000 square feet of gross floor area |
| Stadiums, sport arenas and similar open assemblies | One per four seats and/or one each 30 square feet of assembly space without fixed seats |
| Theaters | One per four seats, plus employee parking |
| Warehouses, storage and wholesale business | One per each employee, plus two additional spaces |
| Other retail | One per 300 square feet gross floor area, plus employee parking |

(Ord. 1671 § 9, 2013; Ord. 1614 § 1, 2011; Ord. 1555 § 19, 2009).

## 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).~~

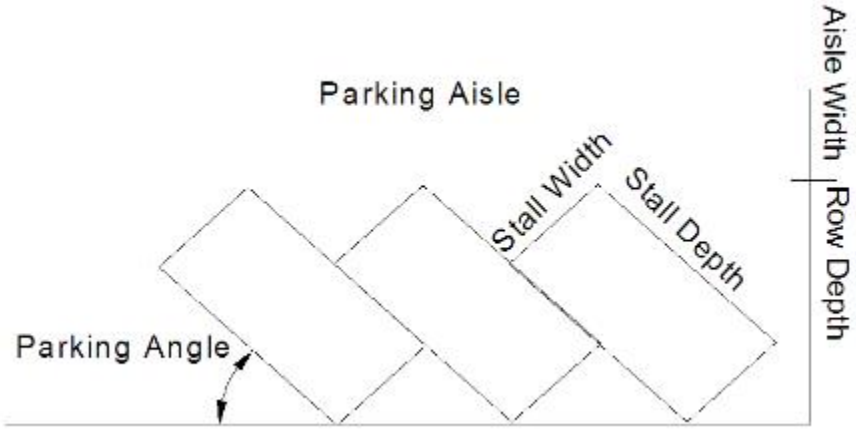
(~~3~~2) In no case shall more than 250 percent of the required minimum number of parking spaces be approved. (Ord. 1614 § 1, 2011).

## 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 ~~4~~50 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'<br>Compact: 8' | Standard: 23'<br>Compact: 19' | Standard: 9'<br>Compact: 8' | 10' | 18' |
| 30° | Standard: 9'<br>Compact: 8' | Standard: 20'<br>Compact: 16' | Standard: 18'<br>Compact: 15' | 12' | 20' |
| 40° | Standard: 9'<br>Compact: 8' | Standard: 20'<br>Compact: 16' | Standard: 20'<br>Compact: 16' | 12' | 20' |
| 45° | Standard: 9'<br>Compact: 8' | Standard: 20'<br>Compact: 16' | Standard: 21'<br>Compact: 17' | 12' | 20' |
| 50° | Standard: 9'<br>Compact: 8' | Standard: 20'<br>Compact: 16' | Standard: 20'<br>Compact: 16' | 15' | 20' |
| 60° | Standard: 9'<br>Compact: 8' | Standard: 20'<br>Compact: 16' | Standard: 20'<br>Compact: 16' | 17' | 20' |
| 70° | Standard: 9'<br>Compact: 8' | Standard: 20'<br>Compact: 16' | Standard: 20'<br>Compact: 16' | 20' | 20' |
| 80° | Standard: 9'<br>Compact: 8' | Standard: 20'<br>Compact: 16' | Standard: 20'<br>Compact: 16' | 24' | 24' |
| 90° | Standard: 9'<br>Compact: 8' | Standard: 20'<br>Compact: 16' | Standard: 20'<br>Compact: 16' | 24' | 24' |




**PARKING PLAN LAYOUT**

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

Consider: reduction to 19' stall depth if stall overhangs planter strip. Reduce aisle width to 23'.

## 19.44.120 Car and van pool parking.

Any nonresidential development which shall provide priority spacing for car pools and van pools shall be allowed to reduce the total amount of required parking by 1.15 spaces for each priority car pool and van pool space provided. (Ord. 1614 § 1, 2011; Ord. 1555 § 19, 2009).

## 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).

## 19.44.140 Loading areas.

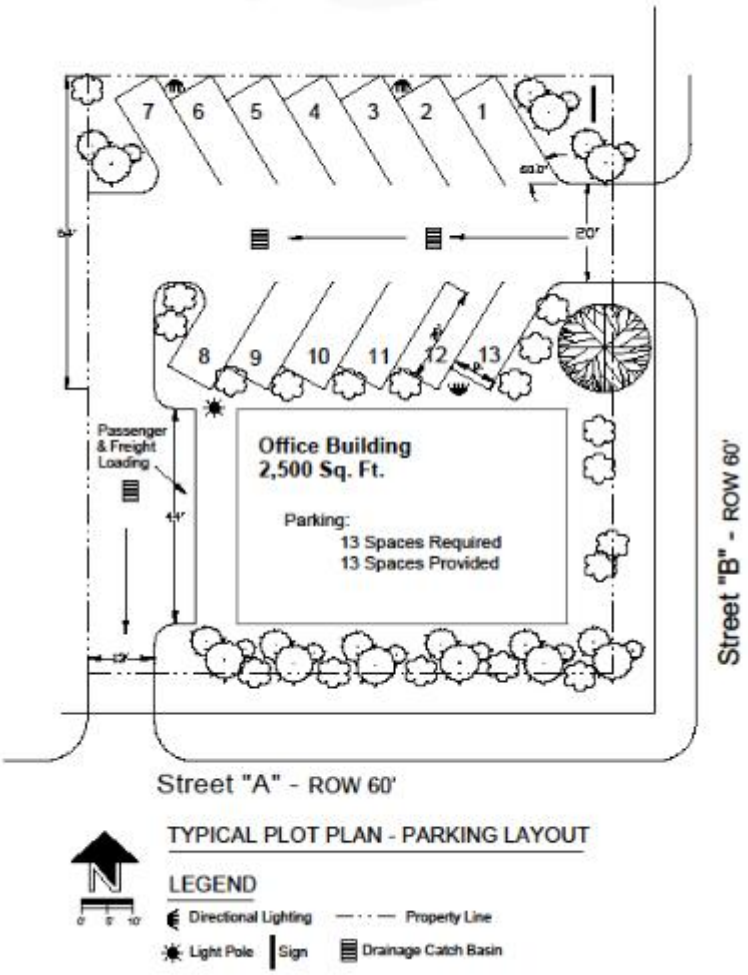
Each off-street loading space shall measure not less than 30 feet by 12 feet and shall have an unobstructed height of 14 feet six inches and shall be made permanently available for such purposes, and shall be hard surfaced, improved and maintained as required by this chapter. Required loading spaces shall be in conformance with the following table:

Department stores, freight terminals, industrial or manufacturing establishments, retail or wholesale stores or storage warehouses or any similar use which has or intends to have 10,000 square feet or more shall provide truck loading or unloading berths:

| Square feet of aggregate gross floor area | Required number of berths |
|---|---|
| 10,000 to 15,999 | 1 |
| 16,000 to 39,999 | 2 |
| 40,000 to 65,000 | 3 |
| Each additional 16,000 | 1 additional |

Auditoriums, convention or exhibit halls, sports arenas, hotels, office buildings, restaurants or similar uses which have or intend to have an aggregate gross floor area of 40,000 square feet or more shall provide truck loading or unloading berths:

| Square feet of aggregate gross floor area | Required number of berths |
|---|---|
| 40,000 to 59,999 | 1 |
| 60,000 to 160,000 | 2 |
| Each additional 60,000 | 1 additional |




**Area of Parking Lot = 5,504 Sq. Ft.**

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

# Chapter 19.46
# LANDSCAPING AND SCREENING

Sections:


19.46.010 Purpose.
19.46.020 Applicability.
19.46.030 Requirements for setbacks, perimeters, buffers, fences, screening, and parking lots.
19.46.035 North Whidbey Enterprise Area landscape requirements.
19.46.040 General landscaping standards.
19.46.050 Fences and hedges.
19.46.070 Conflicts.
19.46.080 Maintenance of required landscape areas.
19.46.100 Landscaping and irrigation plans required.
19.46.110 Review of landscape plans.
19.46.120 Phased projects.
19.46.130 Landscape performance bonding.
19.46.140 Native vegetation standards.
19.46.150 Tree species.
19.46.155 Tree removal outside of native vegetation areas.
19.46.160 Administrative relief and alternative compliance.
19.46.170 Enforcement of chapter.


## 19.46.010 Purpose.

The purpose of this chapter is to provide uniform standards for the development and maintenance of the landscaping of private property and public rights-of-way. The purpose of landscaping is to improve the livability of residential neighborhoods, enhance the customer attraction of commercial areas, increase property values, improve the compatibility of adjacent uses, provide visual separation and physical buffers between incompatible adjacent land uses, provide visual relief from the expanse of parking lots, screen undesirable views, contribute to the image and appeal of the overall community, and mitigate air and noise pollution.

These requirements are also intended to facilitate low impact development techniques through the retention of existing vegetation including trees to the extent feasible and to require replanting if existing trees are removed; to reduce erosion and storm water runoff; to preserve and promote urban wildlife habitats; to enhance the streetscapes along the city's public rights-of-way with an emphasis on trees; to define and separate vehicular and pedestrian traffic areas; to screen the appearance of parking areas from public rights-of-way and adjacent properties; and to make the city a more aesthetically pleasing place to live, shop and work. (Ord.1615 § 1, 2011; Ord. 1555 § 20, 2009).

## 19.46.020 Applicability.

The provisions of this chapter shall apply to any of the following:

(1) All new public and private developments, multifamily housing larger than a duplex, and long plats;

(2) Any additions to existing structures that exceed 30 percent of the gross floor area, or are in excess of 1,000 square feet;

(3) Any expansion of a mobile home park in which the number of new mobile home lots exceeds 10 percent of the number of existing mobile home lots;

(4) Provisions required by Chapter 19.48 OHMC;

(5) Situations where this chapter imposes a requirement for buffering or screening between two uses, one of which is existing and the other new. The responsibility for satisfying this requirement rests entirely on the new use;

(6) Single-family dwellings and duplexes;

(7) Any preexisting vehicular surface area which expands in excess of 25 percent shall provide the landscaping required in OHMC19.46.030. No expenditure made for removing existing asphalt, constructing planting areas, installing irrigation systems, and adding dirt and plant materials which is required in order to comply with these requirements shall be required to exceed four percent of the total assessed real property value of the subject property on which the improvements are being made. (Ord. 1615 § 1, 2011; Ord. 1555 § 20, 2009).

## 19.46.030 Requirements for setbacks, perimeters, buffers, fences, screening, and parking lots.

(1) Required minimum landscape setbacks apply to all zoning districts, except those projects specifically excluded in OHMC19.46.020.

(a) Minimum width of landscape setback, as identified with the city's street classification plan:

(i) Large shopping centers in excess of five acres adjacent to principal arterial streets: 20 feet;

(ii) Any multifamily and nonresidential use constructed on a designated scenic transportation route: 20 feet;

(iii) All other uses adjacent to a principal arterial: 12 feet;

(iv) Adjacent to a minor arterial or collector arterial: 10 feet;

(v) Adjacent to all other streets: eight feet;

(vi) Where roadway right-of-way expansion is proposed, the setback will begin at the anticipated new edge of the road.

(b) Minimum Number of Trees in Landscaped Setbacks. There shall be four trees for every 100 linear feet of frontage of property adjacent to all street classifications. Guidelines for the specific types and locations of trees and other landscape materials in landscape setbacks are contained within the landscape policy manual.

(c) Design Standards.

(i) Some of the required landscape setback trees may be clustered in the setback. Parking lot screening may be included in the landscape setback width. The required landscaped setback trees may be permitted to be partially or totally located in the adjacent public right-of-way area, if:

(A) All of the required trees cannot be placed in the landscaped setback;

(B) There are no conflicts with utility easements;

(C) In the case of the state highway, the city engineer and State Highway Engineer approve;

(D) It shall be the responsibility of the adjacent property owner to care for landscaped rights-of-way;

(E) Where undeveloped adjacent right-of-way occurs, it shall be landscaped.

The required landscaped setback trees may be located in the adjacent public right-of-way area if these trees cannot be placed in the landscaped setback area due to the existing development of the site. However, such trees are required only to the extent that: (1) the city engineer and State Highway Engineer approve the trees in the case of a state highway; and (2) no conflicts exist within utility easements.

(ii) Opaque walls and fences which obstruct view shall be located outside (building side) of the setback to maintain a landscaped appearance along the street.

(iii) Administrative relief of the requirements of this section may be requested in accordance with OHMC 19.46.160.

(2) Required Minimum Landscape Perimeters. Planting areas within side and rear yards that are not occupied by structures shall be as follows:

(a) Minimum Width of Perimeter. Five feet for the length of the property line, unless otherwise specified under screening requirements of this chapter;

(b) Exemptions. Perimeter of industrial site or commercial yard that is not substantially visible from the right-of-way or located where screening is not required, shall be exempt;

(c) Planting Requirements.

(i) A minimum of four trees shall be planted for every 100 linear feet, or fraction thereof, of perimeter planting area;

(ii) Shrubs and ground cover plantings shall be in quantities and spacing that will provide for 80 percent ground coverage within three years;

(iii) When abutting properties with different land use classifications occur, the screening requirements under OHMC19.46.030(3) and (4) shall supersede the requirements of this subsection;

(d) Connecting Driveways. When connecting joint driveways or shared parking lots are provided between sites, the minimum area requirements may be reduced by the area occupied by the driveway that would otherwise be landscaped under the requirements of this subsection.

(3) Required Minimum Landscape Buffers.

(a) Buffers between (1) adjacent nonresidential and residential uses; and (2) adjacent nonresidential uses and single-family residential zones:

(i) Design Standards. The buffer shall be a minimum of 12 feet wide and shall be located on the property line adjacent to any single-family residential community. Said buffer shall generally consist of a mix of predominantly evergreen plantings including trees, shrubs, and ground covers. Evergreen trees shall be a minimum height of four feet at time of planting. Planting shall be chosen and spaced so as to grow together within four years of their planting in a manner that is sufficient to obscure sight through the barrier. The entire planting strip shall be landscaped; however, those plantings used to achieve the sight-obscuring screen shall cover at least six feet of the width of the strip.

(b) Buffers between adjacent multifamily residential and single-family residential zones:

(i) Design Standards. The buffer shall be a minimum of 10 feet wide and shall be located on the property line adjacent to the single-family residential community.

(c) Buffers between nonresidential and residential uses separated by a nonarterial street, public alley or private street:

(i) Design Standards. The buffer shall be a minimum of 12 feet in depth. The minimum number of trees in the buffer shall be two trees for every 20 linear feet of buffer. The trees will consist of a mix of evergreen and deciduous. Depending upon the nonresidential use, evergreens may be increased to help obscure sight between the two uses. An opaque structure with a maximum

height of six feet may be optional along the common property line. If a fence is constructed, planting shall still occur as stated above. The buffer may be reduced to 10 feet if an opaque structure is erected.

(d) Buffers between an industrial classified district and a residential classified district:

(i) Design Standards. All sites in an industrial district having a common boundary with a residential district shall be planted and maintained along such common boundary with a view-obscuring coniferous greenbelt of shrubs, trees and native vegetation not less than six feet in height nor less than 10 feet in width, for screening purposes and controlling access.

(4) Fences and Screening. When applicable, the requirements of this section shall supersede the requirements of other sections of this chapter.

(a) Purpose. The requirements of this subsection are intended to reduce visual impacts and incompatible characteristics of:

(i) Abutting properties with different land use classifications;

(ii) Service areas and facilities, including loading and storage areas;

(iii) Parking areas located in front of buildings;

(iv) Any other use or area as required under this section, or determined to be necessary by the planning director (or designee).

The fence or landscaping screen shall be sight-obscuring, obstructing storage areas from view on the sides of the property abutting, adjoining, or facing a residential district. The fence shall be of such material and design as will not detract from adjacent residences and shall be built according to plans submitted by the owner or his/her authorized agent and approved by the planning director (or designee).

(b) Landscaping. Screen planting shall consist of evergreen trees planted a maximum of 15 feet on center, or hedges with dense evergreen foliage, in combination with deciduous trees and hedges for seasonal color and texture. Ground cover shall be planted at a density to form an effective barrier to cover 85 percent of the ground surface within two years.

(i) On a corner lot there may be placed and maintained:

(A) A fence or screen not more than three feet in height; provided, that it is not sight-obstructing (50 percent of the area of the fence or screen is open) along a public or private street;

(B) A six-foot-high open wire fence along the property line facing the side street; provided, that it does not come closer to the street right-of-way on the front of the lot than the required building setback;

(C) A four-foot-high solid fence or hedge parallel to the property line facing the side street; provided, it is 10 feet back from the side street; and provided, that it does not come closer to the street on the front of the lot than the rear of the building.

(ii) In commercial zones, no fence or hedge may be placed on the front yard setback except where required to screen the property from the adjacent lot; then the screen shall extend to the street right-of-way.

(c) Minimum Width.

(i) Landscape Screening. If screening is to be achieved through the use of plant materials only, the screening area shall be a minimum of 10 feet in width. If other materials, such as fencing, walls or berms, are used in conjunction with the landscaping, the width may be reduced, as described in subsections (4)(c)(ii) through (iv) of this section.

(ii) Earth Berm Alternative. If an earth berm is incorporated into the screening plan, medium sized shrubs and/or evergreen trees shall be spaced a maximum of four and one-half feet on center and the width of the screening area may be reduced to eight feet.

(iii) Fence Alternative. If a fence option is selected, maximum spacing of medium sized shrubs shall be six feet on center, and the width of the screening area may be reduced to seven feet. The fence shall be constructed of exterior weather- resistant wood, or applicable alternative. One alternative may be a cyclone fence; however, such a fence shall include slats, and if the fence is next to a right-of-way, landscaping shall be planted between the fence and the right-of-way. Plantings must obscure 75 percent of a cyclone fence within four years.

(iv) Wall Alternative. If a wall at least five feet high is to be used for screening, the planting requirements shall be as specified under subsection (1) of this section, and the screening width may be reduced to five feet. Screen walls shall be constructed with masonry, block, rockery or textured concrete, subject to design approval by the planning director.

(d) Uses Requiring Screening. The planning director may require screening to protect adjacent properties from negative impacts of any permitted or conditional use in a zoning district.

Except as otherwise required by the planning director, screening shall be required in the following instances:

(i) Developments located in districts listed on the left side of the chart below shall provide screening when they adjoin districts specified on the right side of the chart.

| **District to Be Developed** | **District to Be Screened** |
|---|---|
| Multifamily residential | Single-family residential |
| Semi-public | All residential |
| Commercial/business | All residential |
| Industrial | All residential/commercial |

(ii) Churches, community centers, and other similar conditional uses shall provide perimeter screening when adjoining a residential district.

(e) Fence and screen height limits in the various zones are as follows:

| | | |
|---|---|---|
| **Residential Zones:** | Front yard | 3 feet maximum |
| | Side yard | 6 feet maximum |
| | Rear yard | 6 feet maximum |
| **Commercial Zones:** | Front yard | 0 feet maximum |
| | Side yard | 6 feet maximum |
| | Rear yard | 6 feet maximum |
| **Industrial Zones:** | Front yard | 8 feet maximum |
| | Side yard | 8 feet maximum |
| | Rear yard | 8 feet maximum |

(5) Minimum Parking Lot Requirements.

(a) Required Trees.

(i) One tree of a type suitable for parking lots shall be provided for every 10 open (not in a garage) vehicular parking spaces in parking lots with 10 or more spaces;

(ii) The tree types and minimum planter sizes shall be consistent with the landscape policy manual. Trees chosen shall be appropriate to a parking lot location;

(iii) The required trees may be clustered but shall be located to divide and break up expanses of paving and long rows of parking spaces and to create a canopy effect in the parking lot. In order to be considered within the parking lot, the trees must be located in planters that are bounded on at least three sides of parking lot paving. This means only trees in landscaped “islands” or “fingers” can count toward the parking lot tree requirement;

(iv) Planters shall be of sufficient size and design to accommodate the growth of the trees and to prevent damage to the trees by vehicles;

(v) The number of species required shall vary according to the overall number of trees required to be planted. The species shall be planted in proportion to the required mix. The species mix shall not apply to areas of vegetation required to be preserved by law nor those located in areas designated as natural. The number of species to be planted are indicated below.

| **Required # of trees** | **Maximum # of species** |
|---|---|
| 6 – 10 | 2 |
| 11 – 15 | 3 |
| 16 + | 4 |

(b) Required Landscape Area. At least 15 percent of every parking lot shall be landscaped, unless otherwise required by this title. In all cases, with the exception of vehicular display lots, landscaping shall be distributed throughout the parking area. Landscaping located in required setbacks or buffers may not be used to meet this requirement. If LID rain gardens or bioretention facilities are proposed, they are to be incorporated into the required parking lot landscaping unless site and soil conditions make such facilities infeasible. LID stormwater management facilities shall be designed and constructed in accordance with the Low Impact Development Technical Guidance Manual for Puget Sound (current edition). The landscaping shall consist of deciduous and/or coniferous material and may include turf, shrubs, and flowers.

(c) Required Screening.

(i) Open parking spaces (except those in single-family residential projects in any zone district) shall be screened from the view of adjacent properties and streets to mature minimum height of 30 inches by the use of berms and/or plantings;

(ii) A minimum of two-thirds of the affected street frontage or property boundary, not counting intersecting driveways, must have the required screen;

(iii) The required screening may be a component of the required landscape setback;

(iv) Structures such as decorative walls or fences may be approved through an administrative relief request if the planning director (or other designee) finds that:

(A) The structures avoid a blank and monotonous appearance by such measures as architectural articulation and the planting of vines, shrubs or trees; or

(B) The total use of the berms and/or plantings is not physically feasible; or

(C) The structures attractively complement the use of berms and/or plantings;

(v) The maximum spacing of plants to achieve an acceptable screen and the maximum acceptable grades for screening areas, such as sodded berms and planting beds, shall be consistent with the landscaping policy manual;

(vi) Guidelines for the specific types and location of trees, shrubs and other landscape materials in parking lots are contained within the landscape policy manual as approved by the city council or thereafter amended.

(6) In addition to the requirements and standards of this chapter, the landscape guidelines in the design guidelines shall apply. (Ord.1615 § 1, 2011; Ord. 1555 § 20, 2009).

## 19.46.035 North Whidbey Enterprise Area landscape requirements.

(1) The standards contained in this section apply to the North Whidbey Enterprise Area as identified in Exhibit C of the Urban Growth Area Interlocal Agreement between Island County and the city of Oak Harbor, a copy of which is on file with the city clerk and available for public inspection.

(2) Significant Tree Retention. Significant tree retention in the I, PIP, C-4 and nonresidential development, short subdivision and subdivision in the PRE zones shall meet the following standards:

(a) Applicants should retain 15 percent of the significant trees found on the property except for those trees found in the building footprints, access roads, parking areas and utility line trenches. Applicants should give attention to the following:

(i) Preservation of significant trees along the perimeter of the property; and

(ii) Preservation of significant trees near or adjacent to critical areas; and

(iii) Preservation of significant trees which create a distinctive skyline feature; and

(iv) Preservation of Garry Oak trees; and

(v) Trees that may constitute a safety hazard should be removed; and

(vi) Special attention shall be given to preservation of significant trees on properties identified in the 2001 Oak Harbor Comprehensive Plan, Environmental Element, Woodland Map.

(b) An inventory of significant trees shall be submitted with all applications for subdivision, short subdivision or site plan review.

(3) Landscaping, screening and buffering in the I and PIP zones shall meet the following standards:

(a) Open storage, trash or recycling areas shall be screened by fencing and/or landscaping;

(b) Landscaping including street trees spaced no further than 20 feet on center shall be required in all front yards and the abutting public road; and

(c) Buffers between industrial zones and adjacent residential properties shall be planted along the common boundary. The planting should include coniferous shrubs, trees and native vegetation. Fencing may be incorporated to help ensure an effective visual buffer.

(4) Landscape for I, PIP and C-4 lands abutting Goldie Road and Oak Harbor Road shall meet the following standards:

(a) A 20-foot landscape setback shall be established; and

(b) The area between the property line and drainage swale shall be planted with low profile foliage; and

(c) The landscape area shall be planted with a mixture of native evergreen trees containing a variety of species, colors and textures for a year-round green, attractive appearance; and

(d) If the landscape buffer setback does not have existing significant vegetation, the buffer will be planted with native evergreen trees. If deciduous trees are desired they may be planted at a rate of two evergreen to one deciduous tree; and

(e) Maximum spacing of the trees shall be 10 feet on center or equivalent grouping as determined by site and existing conditions; and

(f) Roadway and intersection requirements shall prevail if a conflict arises with the landscape standards listed herein. (Ord.1615 § 1, 2011; Ord. 1555 § 20, 2009).

## 19.46.040 General landscaping standards.

(1) Landscape Materials.

(a) Landscape materials shall be defined as evergreen or deciduous trees, shrubs, and ground cover plants, perennial or annual flowers, and lawn. River rock, fountains, ponds, rockeries, ornamental or decorative walkways (provided both sides abut landscaping) may be included, where, in the opinion of the director, additional ornamental features may be considered as part of the landscape materials, subject to the administrative relief process.

(b) Suggested tree species suited to the unique soils, geology, and weather patterns of Oak Harbor are contained in OHMC19.46.150.

(c) Planting shall occur based on species' tolerance to the environment in which it will be placed.

(d) No artificial lawn or plants will be permitted in landscaped areas.

(2) Drainage Detention/Retention Ponds. If a proposed detention pond has a slope ratio of 3:1 or greater, where fencing around the pond will be required, a fencing and landscaping plan shall be submitted to the planning department. Submittal of the proposed fencing and landscaping plan shall occur in conjunction with short plat, preliminary plat, or site plan review applications, depending on the project type.

Should pond landscape requirements be altered to be similar to requirements in 21.60.260?

(3) Land Clearing Plan. Clearing of landscaping is required to be in accordance with the provisions of Chapter 19.47 OHMC.

(4) Pollution Control. It shall be the responsibility of the property owner to ensure that storm runoff from landscaped areas does not contain excessive amounts of fertilizer, insecticides, and herbicides that may be harmful to aquatic life, and to take measures to prevent runoff water impacts as required by the Department of Ecology and Wildlife and as specified in the Puget Sound Water Quality Manual. One measure to reduce the use of chemicals is the use of native plants in landscape areas.

(5) Safety Features/Utilities. Installation of landscape materials shall not obstruct access to fire connections, post indicator valves (PIVs) and hydrants, standpipes, sprinkler connections, utility vaults, pedestals, and other public and private utility facilities. Landscaping shall not obstruct fire apparatus access roads.

(6) Visibility Triangle. Along street frontages, within 30 feet of an alley or unsignalized street intersection, or within 25 feet of a driveway, no shrub shall be higher than 30 inches from street gutter grade and no tree shall have branches or foliage below eight feet above street level. At signalized intersections the conditions of this section shall not be necessary, but it shall be required that only deciduous trees be located at signalized

intersections. Under no circumstances shall landscaping interfere with sight distance visibility. In lieu of meeting this standard, visibility triangles shall be provided as per AASHTO standards or in accordance with OHMC 11.17.110(5).

(7) Where practical, landscaping shall be designed to not block solar gain or solar access by surrounding properties.

(8) Special Landscaping Districts. The area of the CBD central business district, for the purpose of this chapter, will be considered a special landscaping district. This area is substantially developed on zero setbacks from the right-of-way, making it impractical to meet the full extent of the requirements of this chapter. Businesses located in this district shall meet parking lot landscaping standards as shown in OHMC 19.46.030(5) and shall participate in a street tree planting program in the street right-of-way adjacent to the parcel frontage.

(9) Xeriscape Process. Xeriscape is a process by which sound horticultural, landscaping, and efficient water-using principles come together. The style of the xeriscapes can be quite variable. Drought-resistant landscaping, such as a contemporary design or a Spanish garden, could qualify as xeriscape when constructed to meet the following six principles:

(a) Good Design. Based on careful selection of low-water-use plants or drought-tolerant plants;

(b) Soil Improvement. Improvements including the addition of manure, compost, or other organic materials which can be amended into the soil;

(c) Use of Mulch. Beauty bark or other organic substance to help maintain moisture in the soil;

(c) Limited Lawn Areas. Minimizing grass areas results in minimal lawn maintenance;

(d) Efficient Water Use. Water between 12:00 midnight and 6:00 a.m. to help prevent fungus growth, and lower the evaporation rate of water;

(e) Good Maintenance. Maintain the landscape to reflect a weed and trash free environment.

(10) Landscaping for Freestanding Signs. All primary freestanding signs shall include, as part of their design, landscaping about their base to prevent automobiles from hitting the sign-supporting structure and to improve the overall appearance of the installation. If the required landscaping is not completed within 60 days after completion of sign installation, the sign is in violation of this chapter.

(11) Groundcover. Groundcover shall be planted and maintained within all required landscaping areas. Groundcover refers to low-growing dense growth of plants, such as pachysandra, planted for ornamental purposes or to prevent soil erosion in areas where turf is difficult to grow, as in deep shade or on a steep slope. Groundcover shall consist of plantings that will achieve complete coverage within two years. Groundcover is not required within the dripline of any shrub or evergreen tree or within a two-foot radius of a deciduous tree trunk.

(12) Undeveloped Areas. Undeveloped areas of a lot which are not required to be landscaped by other requirements of this chapter shall be planted with groundcover. Groundcover may consist of planted or existing vegetation maintained so as not to exceed one foot in height. For the purposes of this section, grass can be considered to be groundcover.

(13) Bark, Mulch and Gravel. Bark, mulch, gravel or other similar nonvegetative material shall only be used to assist vegetative growth and maintenance within landscaping areas. Nonvegetative material shall not be a substitute for, or interfere with, required vegetative groundcover.

(14) Tree Topping and Thinning. Topping and thinning of trees shall be allowed as long as it does not negatively affect the health of the tree.

(15) Calculations/Measurements. All calculations and measurements within this chapter shall be rounded to the nearest whole number with greater than or equal to 0.50 being rounded up. (Ord. 1615 § 1, 2011; Ord. 1555 § 20, 2009).

## 19.46.050 Fences and hedges.

(1) Fences and hedges a maximum of six feet in height may be placed and maintained on the side and rear lot line, and across the front of the property line even with the front of the building on the lot but not closer to the street right-of-way than the required setback. On corner lots the setback shall apply to both streets.

Within the setback area a fence not more than three feet in height may be constructed; provided, that it is not sight-obscuring (50 percent of the area of the fence is open).

Within the setback area a solid hedge may be planted not to exceed a height of more than three feet.

On a corner lot there may be placed and maintained:

(a) A fence or hedge not more than three feet in height; provided, that it is not sight-obstructing (50 percent of the area of the fence or hedge is open);

(b) A six-foot-high open wire fence along the property line facing the side street; provided, that it does not come closer to the street right-of-way on the front of the lot than the required building setback;

(c) A four-foot-high solid fence or hedge parallel to the property line facing the side street; provided, it is 10 feet back from the side street; and provided, that it does not come closer to the street on the front of the lot than the rear of the house.

(2) In commercial zones, no fence or hedge may be placed on the front yard setback except where required to screen the property from the adjacent lot; then the screen shall extend to the street right-of-way.

(3) Fence and hedge limits in the various zones are as follows:

| | | |
|---|---|---|
| **Residential Zones:** | Front yard | 3 feet maximum |
| | Side yard | 6 feet maximum |
| | Rear yard | 6 feet maximum |
| **Commercial Zones:** | Front yard | 0 feet maximum |
| | Side yard | 6 feet maximum |
| | Rear yard | 6 feet maximum |
| **Industrial Zones:** | Front yard | 8 feet maximum |
| | Side yard | 8 feet maximum |
| | Rear yard | 8 feet maximum |

(Ord. 1615 § 1, 2011; Ord. 1555 § 20, 2009).

## 19.46.070 Conflicts.

(1) If the provisions of this chapter conflict with other ordinances or regulations, the more stringent limitation or requirement shall govern or prevail to the extent of the conflict.

(2) In the event that, because of lot configuration, adjacent land uses, or special circumstances, more landscaping is required to meet all requirements of this title, the higher amount of landscaping shall be required. (Ord. 1615 § 1, 2011; Ord. 1555 § 20, 2009).

## 19.46.080 Maintenance of required landscape areas.

(1) Maintenance of Cultivated Areas.

(a) General. The owner of land subject to this chapter shall be responsible for the maintenance of said land in good condition so as to present a healthy, neat, and orderly landscape area.

(b) Maintenance of Plants. All landscaping and screening areas shall be maintained in a healthy, growing condition. Broken, dead, or dying trees, shrubs, or other plants shall be replaced. All landscaping and screening shall be kept free of trash and weeds.

(c) Tree Removal. It shall be the responsibility of each private property owner to remove any dead, diseased, or dangerous trees or shrubs, or part thereof, located on private property which overhang or interfere with traffic control devices, public sidewalks, rights-of-way, or property owned by the city. The city shall have the authority to order the removal and possible replacement of any such trees or shrubs.

(d) Pruning.

(i) All pruning should be accomplished according to good horticultural standards. Trees shall be pruned only as necessary to promote healthy growth;

(ii) Unless special approval is provided, trees shall be allowed to attain their normal size and shall not be severely pruned or “hat racked” in order to permanently maintain growth at a reduced height;

(iii) Trees may be periodically pruned or thinned in order to reduce the leaf mass and stimulate further branching.

(e) Mowing. Grass shall be mown as required in order to encourage deep root growth and therefore the preservation of irrigation water.

(f) Edging. All roadways, curbs, and sidewalks shall be edged when necessary in order to prevent encroachment from the adjacent grass areas.

Power trimmers shall not be used to trim grasses around trees since they will quickly remove bark causing deterioration and eventual death of the tree.

(g) Watering. All watering of planted areas shall be managed so as to:

(i) Maintain healthy flora;

(ii) Make plant material more drought-tolerant;

(iii) Avoid excessive turf growth;

(iv) Minimize fungus growth;

(v) Stimulate deep root growth;

(vi) Minimize leaching of fertilizers;

(vii) Minimize cold damage.

Watering of plants and trees should always be in sufficient amounts to thoroughly soak the root ball of the plant and the surrounding area, thereby promoting deep root growth and drought tolerance.

Whenever possible, automatic irrigation systems should be installed and operation should occur between the hours of 12:00 midnight and 6:00 a.m. Irrigation during these hours helps to reduce fungus growth and loss of water due to evaporation.

If an irrigation system is installed it shall be regularly maintained to eliminate waste of water due to loss of heads, broken pipes, or misjudged nozzles. (Ord. 1615 § 1, 2011; Ord. 1555 § 20, 2009).

## 19.46.100 Landscaping and irrigation plans required.

Landscaping and irrigation plans shall be submitted for any landscaping activity required by OHMC 19.46.020. The landscaping plan shall be reviewed by the director. All landscaping plans shall include information regarding existing vegetation to be preserved on site and newly proposed plantings.

(1) Nature of Required Plans. Landscape plans for lots larger than one and one-half acres in size shall be prepared by and bear the seal of an architect or landscape architect, or other professional with demonstrated qualifications or experience.

(2) Contents of Landscape Plan. The landscape plan shall be drawn to scale with dimensions and distances shown and include the following:

(a) General Information.

(i) Show all property lines and easements for ingress/egress and drainage;

(ii) Show all existing and proposed structures. The square footage and location for each existing and proposed structure shall be identified;

(iii) Show all pedestrian/bike connections and adjacent landscaping areas, storage, garbage, recycling, employee recreation and aboveground stormwater detention and treatment areas;

(iv) Show all paved, impervious surface areas, not including structures. The location of parking, loading and circulation areas and the total paved, impervious surface square footage shall be identified;

(v) Show all proposed and existing outdoor fixtures and equipment such as utility vaults (structures), fire hydrants, light fixtures, fences, retaining walls, ornamental fountains, pools, benches and garbage containers. The size and location of each item above shall be identified;

(b) Information Regarding Vegetation to Be Preserved.

(i) Locations of perimeters of individual trees and native vegetation areas to be preserved. The tree protection area for trees to be preserved shall be shown on the plan in accordance with OHMC 19.46.140(9).

(ii) Size, species, and health of trees to be preserved.

(iii) General locations of trees proposed for removal.

(iv) Limits of construction on site.

(v) Description of tree protection and tree maintenance measures required for the trees to be preserved.

(vi) Timeline for clearing, grading and installation of tree protection measures.

(vii) If native vegetation retention areas are proposed, the acreage of on-site critical areas, excluding critical area buffers and acreage of on-site public and private roads.

(viii) If native vegetation retention areas are proposed, the calculation of average trees per square foot of protected native vegetation area shall be provided.

(c) Information Regarding Newly Proposed Vegetation.

(i) Location, size, species, spacing and number of trees to be planted.

(ii) Each proposed landscaping area shall have its square footage indicated on the plan.

(iii) Description and detail showing any site preparation, installation, and maintenance measures necessary for the long-term survival and health of the vegetation.

(iv) Timeline for site preparation, installation, and maintenance of vegetation.

(v) Cost estimate for the purchase, installation and three years' maintenance.

(3) Irrigation Plan. The landscape plan shall include an irrigation plan. An irrigation plan is required to ensure that the planting will be watered at a sufficient level for plant survival and healthy growth. For projects meeting the one-and-one-half-acre threshold, the irrigation method shall be by a permanent underground system with an automatic controller. An overriding rain sensor switch shall be provided. Also, administrative relief from the irrigation requirement may be requested for planting areas which contain only drought-tolerant vegetation.

(a) The irrigation plan shall show zones, connecting nozzles, distribution valves, irrigation lines, sprinkler heads, timer location, and backflow prevention device, as well as other information integral to the proposed irrigation system.

(b) In lieu of a permanent irrigation system, drought-tolerant plantings may be considered by the city. If drought-tolerant, native species are selected, a watering plan is required for the establishment phase of new plantings. The plan must provide adequate watering of the newly installed trees for a minimum of three years. (Ord. 1615 § 1, 2011; Ord. 1555 § 20, 2009).

## 19.46.110 Review of landscape plans.

(1) Landscape plans shall be submitted and reviewed concurrently with a development or use permit and shall be processed as part of the integrated permit process under OHMC 18.20.360.

(2) Compliance with the approved landscape plans shall be a condition of approval for all development applications approved pursuant to OHMC Title 19, 20, or 21.

(3) The director may allow or approve minor modifications to an approved landscape plan during the site development construction process to account for unforeseen site conditions and circumstances. The submittal of an amended landscape plan meeting the requirements of this chapter may be required. (Ord. 1615 § 1, 2011).

## 19.46.120 Phased projects.

Phased projects include but are not limited to shopping centers, large site developments, subdivisions, planned residential developments, and business parks. Before construction permits are issued for the first phase of any phased project, conceptual approval of the landscaping plan for the site as a whole is required. Final approval of the landscaping plan for each phase is required before construction permits are issued for a phase. Installation of landscaping for each phase of development shall be required prior to releasing occupancy permits for that phase. Relief may be available per OHMC 19.46.160.

Landscaping along a frontage road or perimeter screening may be required to be installed in the first phase. Criteria to be considered in the decision includes but is not limited to the following:

(1) Timing of phases of a project;

(2) Proximity to residential areas. (Ord. 1615 § 1, 2011; Ord. 1555 § 20, 2009. Formerly 19.46.060).

## 19.46.130 Landscape performance bonding.

(1) All required landscaping shall be installed prior to a certificate of occupancy being issued.

(2) Deferment. The installation of landscaping may be deferred for up to six months from the date an applicant receives a temporary certificate of occupancy. A performance bond shall be submitted to the city in order to ensure the completion of the landscaping in accordance with the approved plan. It shall be the responsibility of the applicant and the property owner to contact the city upon completion of the landscaping work and request an inspection prior to the city releasing the bond. Failure to complete all of the required landscaping within six months of the issuance of a certificate of occupancy permit shall constitute a violation and the city shall use the bond to complete the required landscaping.

(3) Maintenance Bond Amount and Type. A three-year maintenance bond shall be required to ensure landscaping completion and a minimum plant survival of 80 percent at the end of three years. The type of bond shall be approved by the city and must be submitted on forms supplied by the city of Oak Harbor. The approved bond shall be posted with the development services department prior to the issuance of a building permit. The bond amount shall be 150 percent of a landscaping maintenance bid amount submitted and approved by the city. The bid amount must include labor and materials.

(4) Subsections (1), (2), and (3) of this section shall apply to all landscaping within a development site including street trees required within the public right-of-way and all landscaping within tracts or lots owned by private entities, such as homeowners' associations. (Ord. 1615 § 1, 2011).

## 19.46.140 Native vegetation standards.

Tree and vegetation retention provides substantial environmental benefits including, but not limited to, erosion prevention, reduction in storm-water runoff, preservation of fish and wildlife habitat, improved water and air quality, energy conservation, reductions in the development impacts on the stormwater drainage system and hydrologic resources, and provides a better transition between adjacent land uses.

(1) Applicability. The native vegetation standards set forth in this section apply to all commercial and residential projects that require one or more of the following approvals: a binding site plan, conditional use permit, manufactured home park development plan, site plan review Type II or IV, planned business park master plan, subdivision, or planned residential development. Short subdivisions and site plan review Type I are exempt from these requirements.

(2) Definition of Native Vegetation and Allowed Uses.

> (a) Definition. Native vegetation includes native, undisturbed areas or rehabilitation of previously disturbed areas. Native vegetation shall consist of plants and trees that are indigenous to the Pacific Northwest. For the purposes of this chapter, native vegetation is defined by a tree density of no less than one tree per 600 square feet plus native understory vegetation.
>
> (b) Allowed Uses. Native vegetation may integrate pervious, passive recreation facilities, stormwater dispersion facilities, and approved surface water restoration projects. Active open space shall not count towards native vegetation requirements. Activities within native vegetation areas shall be limited to passive recreation (e.g., trails), removal of invasive species, amendment of disturbed soils, and planting of native vegetation.

(3) Native Vegetation Retention and Tree Density Standards.

> (a) Minimum Standards. Table 19.46.140-1 provides minimum vegetation retention standards by zone. The native vegetation must be comprised of a minimum tree density of one tree per 600 square feet plus native understory vegetation.

**Table 19.46.140-1: Native Vegetation**

**Standards by Zone**

| Zone | Native Vegetation Requirement (% of site area) |
|---|---|
| PRE, R1 | 15% |
| R2 | 10% |
| R3, R4, OS | 10% |
| RO | 10% |
| C1, C3, C4, C5, CBD | 5% |
| I, PBP, PIP | 5% |
| PF | 5% |

(b) The minimum native vegetation area may be reduced on sites with special circumstances and where replacement and supplemental plantings are proposed. Special circumstances include, but are not limited to:

(i) The retention of native vegetation to the percentages specified in Table 19.46.140-1 precludes development of the property to the minimum density or intensity specified in Chapter 19.20 OHMC.

(ii) Physical limitations such as existing lot size, soils or topography.

(iii) Land dedicated to public infrastructure serving the property for roads, sewer, water, or storm, or other public facilities use substantially more area than is typical of properties in the zone.

The replacement and supplemental plantings should be located in clusters or contiguous tracts and placed to maximize aesthetic, hydrologic, or habitat function and values.

(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~~).

(5) Selection Standards. The following selection standards should be used with the applicant's design concept in order to meet the standards outlined in Table 19.46.140-1.

(a) Fifteen percent of trees on the project site which are 12 inches or greater in diameter and which have a live crown ratio (total tree height in relation to branched portion of the tree) of 50 percent or more shall be preserved.

(b) Utilize site inventory and analysis techniques to determine which portions of the site are best suited to leave native vegetation. Typically these are the most environmentally sensitive areas such as wetlands, steep slopes, floodplains, critical fish and wildlife habitat areas. In residential developments up to 25 percent of the required native vegetation specified in Table 19.46.140-1 may be incorporated into the individual lot design where covenants or other protection measures are put in place. Where individual lots are utilized, they should be connected either physically or hydrologically to other native vegetation or conservation areas.

(c) Minimize changes to natural topography in an effort to maintain predevelopment flow path lengths in natural drainage patterns.

(d) Maintain surface roughness to reduce flow velocities and encourage sheet flow on the lot by preserving native vegetation, forest litter and surface topography.

(6) Flexible Standards to Allow for Native Vegetation Areas.

(a) Administrative relief under OHMC 19.46.160 may be granted to allow intrusion of a building into a setback yard by up to five feet to allow for the provision of native vegetation areas elsewhere on the property.

(b) Setback averaging may be utilized to allow for native vegetation areas elsewhere on the property. A reduced setback shall be compensated by increased setback elsewhere.

(c) Administrative relief under OHMC 19.46.160 may be granted to allow a 10 percent reduction in parking spaces to allow for the provision of native vegetation areas elsewhere on the property.

(7) Replanting Requirements.

(a) If the site or lot has been previously cleared or the proposed native vegetation area does not contain suitable vegetation, then the minimum percentage of native vegetation on the site as required by Table 19.46.140-1 shall be replanted to meet the requirements of subsection (7)(b) of this section. For the purposes of this section, trees subject to blow-down do not constitute suitable vegetation.

(b) New trees that will be planted in native vegetation areas shall meet the revegetation standards in this section and shall be native species. For a list of native species see OHMC 19.46.150.

(i) Replacement deciduous and broad-leaf evergreen trees shall have a minimum two-inch d.b.h. at planting. Replacement coniferous evergreen trees shall have a minimum height of six feet at planting;

(ii) Reforested areas shall be replanted with a minimum of 25 percent deciduous species and 25 percent coniferous species;

(iii) Trees within designated critical areas shall be replanted at a 2:1 ratio.

(8) Permanent Protections. A permanent protective mechanism shall be established to ensure that the proposed native vegetation area is preserved and protected in perpetuity. The protective mechanism shall be in a form that is acceptable to the city and filed with the county auditor's office. Restrictions on the future use of the native vegetation area shall also be recorded on the face of the plat for subdivision applications. A permanent native vegetation area shall be established using one of the following mechanisms:

(a) Placement in a separate nonbuilding tract owned in common by all lots within the subdivision;

(b) Covered by a protective easement or public or private land trust dedication;

(c) Preserved through an appropriate permanent protective mechanism that provides the same level of permanent protection as subsections (8)(a) and (b) of this section as determined by the approval authority.

(9) Protection of Native Vegetation Areas During and After Development.

(a) All trees and tree stands proposed for retention or to be placed in a native vegetation area shall be protected before and during site development and construction through adherence to the following requirements:

(i) A native vegetation area shall be designed to protect each tree or tree stand during site development and construction. The native vegetation area shall conform to the approved landscape plan.

(ii) Native vegetation areas may vary widely in shape, but must extend a minimum of three feet beyond the existing tree canopy area along the outer edge of the tree stand, unless otherwise approved by the director.

(iii) Native vegetation areas shall be shown and clearly labeled on all applicable site development, plat, and construction drawings submitted to the director.

(iv) No clearing, grading, filling, or other development activities shall occur within the native vegetation area, except where approved in advance by the director and noted on the landscape plan.

(v) No vehicles, construction materials, fuel, or other materials shall be placed in native vegetation area. Movement of any vehicles within the native vegetation area shall be prohibited.

(vi) No nails, rope, cable, signs, or fencing shall be attached to any tree proposed for retention.

(vii) The grade level around the tree may not be lowered within the greater of: (A) the area defined by the drip line of the tree at time of development; or (B) an area around the tree equal to one foot in diameter for each one inch of tree diameter as measured one foot above preexisting grade at time of development, unless a registered landscape architect, certified arborist or certified nursery professional determines that the long-term health of the tree will not be significantly harmed.

(viii) Trenching and other activities within or adjacent to native vegetation areas that may cut or damage the roots of trees proposed for retention shall be prohibited unless recommended by a professional forester, certified arborist or licensed landscape architect and approved by the city of Oak Harbor.

(ix) The city of Oak Harbor may approve the use of alternate tree protection techniques if the trees will be protected to an equal or greater degree than provided by this section. A description of alternate techniques shall be submitted to and reviewed by the director along with the site plan, short subdivision, subdivision, planned residential development or other development application.

(10) Tree Topping.

(a) Topping or pollarding of trees within the native vegetation area is prohibited.

(b) Topping or pollarding may occur when there is an identifiable safety hazard, to remove dead, diseased or unhealthy materials, or to avoid overhead utilities.

(11) Maintenance of Native Vegetation Areas.

(a) Removal of trees within native vegetation areas is not allowed, unless the tree is dead or in a state of irreversible decline. In determining tree removal or replacement, the director may require a professional evaluation or tree protection plan by a certified arborist at the applicant's expense, where the director determines that such evaluation is necessary to comply with the standards of this section. The evaluation may include providing a hazardous tree assessment, evaluation of the anticipated effects of a proposed project on the viability of trees on the site, developing a plan for tree protection or replacement and evaluation after construction. Trees that become diseased, severely damaged, or which die shall be replaced. Replacement trees shall be a minimum two-inch caliper for deciduous trees and broadleaf evergreen or a minimum of six feet in height from existing grade for conifers.

(b) Minor trimming of trees within native vegetation areas is permitted as long as trimming activities do not negatively affect the long-term health and survivability of the tree. Trimming of select branches is allowed for safety reasons, e.g. cracked branches which may fall and become a hazard.

(c) General. All native vegetation areas shall be annually cleared of nonnative vegetation and lawn grasses, and cleared of all trash and other debris.

(d) Developer responsibility for maintenance of trees, including removal or replacement of diseased, dead, or dying trees, shall be as follows:

(i) Within residential subdivisions the developer shall be responsible for maintaining trees on individual lots until such time as the individual lots are sold, at which point the individual lot owner shall assume responsibility. Developer responsibility for maintaining trees within common tracts shall remain in effect until such time as the common tract is transferred to the control of a homeowner's association or, where no homeowner's association exists, until such time as all individual lots within the subdivision are sold, at which point the individual lot owners shall assume responsibility.

(ii) Within all other developments, developer responsibility for maintaining trees shall remain in effect until such time as the property sale occurs. Upon the property sale, the new owner shall assume the responsibility for maintenance.

(iii) Compliance with the landscape plan shall be a condition of approval and shall be identified on the face of the binding site plan, conditional use permit, manufactured home park development plan, site plan review, planned business park master plan, subdivision, or planned residential development.

(e) Failure to maintain trees as required in this section shall constitute a violation of this chapter and any associated land use or subdivision approvals. (Ord. 1615 § 1, 2011).

## 19.46.150 Tree species. This list is to be re-examined to ensure genetically approved trees are identified for streetside landscape planters.

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).~~

**Characteristics and Use of Select Tree Species**

| Species ScientificName | Native Tree? | Canopy SizeCategory | Street Tree? | Characteristics |
|---|---|---|---|---|
| Grand fir<br>Abies grandis | Yes | Large | No | Coniferous tree achieving heights of up to 150 feet. Tolerant of a variety of soil conditions, similar needs as Douglas fir. |
| Vine maple<br>Acer circinatum | Yes | Small | No | Deciduous tree typically reaching heights of 5 to 35 feet. Tree-like in open sun, crooked sprawling and vine-like in shade. Good fall color. Tolerant of a wide variety of soil conditions. Prefers moist soils, but can tolerate drier conditions once established. |
| Big leaf maple<br>Acer macrophyllum | Yes | Large | No | Deciduous tree. Form varies widely based upon competition and soil conditions. Typically 20 to 30 feet high when growing in open conditions but can reach heights of 80 feet or more in the forest. Good fall color. Tolerant of a wide variety of soil conditions. Similar environmental needs as Douglas fir. |
| Red alder, Oregon alder, western alder<br>Alnus rubra | Yes | Medium | No | Deciduous tree to 50 feet. Best in restoration settings. Mature trees can be very attractive, especially in naturalized settings. Beautiful, mottled grey bark. |
| Serviceberry<br>Amelanchier alnifolia | Yes | Small | No | Deciduous tree seldom larger than 20 feet in height. Tolerant of a wide variety of soil conditions. Fruit very valuable to wildlife. |
| Madrone<br>Arbutus menziessii | Yes | Medium | No | Attractive tree, but very difficult to establish. Expect high losses. Review plant establishment notes at www.soundnativeplants.com before considering. Do not provide supplemental water once established. |
| Weeping Nootka cypress<br>Chamaecyparis nootkatensis "Pendula" | Yes | Medium | No | Narrow (5-foot), pyramidal evergreen conifer. Main trunk grows straight up with branchlets that weep straight down from drooping branches. |
| Hybrid western dogwood<br>"Eddie's White Wonder"<br>Cornus nutallii x florida | Yes | Small | Yes | Hybrid of Cornus florida and the native western dogwood species. More successful than the native species for transplanting. Deciduous tree up to 30 feet in height. Prefers well drained sites and partial shade. Could work well as a supplemental planting under a canopy of larger trees. |
| Black hawthorn<br>Crataegus douglasii | Yes | Small | No | Deciduous tree up to 30 feet in height. Scarlet fruit. Prefers highly fertile soil and grows best in moist, open areas. |
| Oregon ash<br>Fraxinus latifolia | Yes | Medium | No | Deciduous tree up to 80 feet in height. Prefers moist or wet sites with rich soils. Works well for streamside and wetland plantings. Best in natural or restoration plantings and generally not appropriate for ornamental landscaping applications. |
| Mountain ash | Yes | Medium | Yes | Deciduous perennial tree. Light gray, smooth bark. Flowers |

**Characteristics and Use of Select Tree Species**

| Species ScientificName | Native Tree? | Canopy SizeCategory | Street Tree? | Characteristics |
|---|---|---|---|---|
| | | | | in May or June after leaves are full grown. |
| Incense cedar Libocedrus decurrens | No | Large | Yes | Coniferous tree achieving height of 150 feet. Drought- and wind-resistant. Slow growth. Native to California, Nevada, Oregon. |
| Sitka spruce Picea sitchensis | Yes | Large | No | Coniferous tree achieving 80 to 160 feet. Best in moist areas. |
| Shore pine Pinus contorta | Yes | Medium | No | Coniferous tree to 35 feet tall. Can be trained if a more manicured look is desired. |
| Western white pine Pinus monticola | Yes | Medium | No | Coniferous tree to 60 feet tall. |
| Black cottonwood Populus balsamifera spp. trichocarpa | Yes | Large | No | Heavy-limbed deciduous tree, brittle wood. Best in moist, native plantings where space is plentiful. |
| Choke cherry Prunus virginiana | No | Medium | No | Needs well drained soil. Usually upright branching with an oval crown. Fragrant white flowers. |
| Douglas fir Pseudotsuga menziesii | Yes | Large | No | Fast growing, long lived coniferous tree growing to height of 150 feet or more. Prefers drier sites, but tolerates a wide variety of soil conditions. |
| Western crabapple Pyrus (Malus) fusca | Yes | Small | No | Best in native or restoration plantings and generally not appropriate for ornamental landscape use. |
| Cascara Rhamnus purshiana | Yes | Medium | No | Deciduous tree that produces black berries. |
| Western red cedar Thuja plicata | Yes | Large | No | Coniferous tree growing to height of 150 feet or more. Best under moist, shaded conditions, but tolerates a wide variety of soil conditions once established. |
| Western hemlock Tsuga heterophylla | Yes | Large | No | Fairly fast grower. Picturesque and also makes a good background, screen, or hedge. |
| Japanese maple Acer palmatum | No | Small | Yes | Common deciduous landscape tree. Slow growing; typically grow to no larger than 20 feet in height. Well suited for small lot use. Popular varieties “Atropurpureum” and “Bloodgood.” |
| Norway maple (varieties) Acer platanoides | No | Large | Yes | Common deciduous landscape tree. Typically achieves heights of 50 to 60 feet. Care must be taken near sidewalks and drives as roots can become a problem. |
| Red maple Acer rubrum | No | Small | Yes | Common deciduous landscape tree. Varieties “Armstrong” and “Red Sunset” are recommended for street tree use. Fast growing, typically to 40 feet with brilliant fall color. May be appropriate in a native setting. |
| Whitebarked Himalayan birch Betula utilis var. jacquemontii | No | Medium | No | Prefers rich, moist, well drained soil. Narrow tree with oval crown. Brilliant white bark. Yellow fall color. |

**Characteristics and Use of Select Tree Species**

| Species ScientificName | Native Tree? | Canopy SizeCategory | Street Tree? | Characteristics |
|---|---|---|---|---|
| Incense cedar Calocedrus decurrens | No | Large | No | Coniferous tree achieving height of 150 feet. Drought- and wind-resistant. Slow growth. Native to California, Nevada, Oregon. Appropriate for native restoration areas. |
| European hornbeam Carpinus betulus | No | Medium | Yes | Deciduous tree growing to 40 feet. Variety “Fastigiata” recommended for street tree use. |
| Eastern redbud Cercis canadensis | No | Medium | Yes | Tolerates any soil but wet. Short trunk with spreading branches. Flowers appear before leaves. Heart-shaped leaves emerge reddish and turn dark green. Yellow fall color. |
| Katsura tree Cercidiphyllum japonicum | No | Medium | Yes | Deciduous tree, slow growing to 40 feet. Good fall color. Well suited for small lot use. |
| Washington hawthorn Crataegus phaenopyrum | No | Small | Yes | Small deciduous tree, typically no larger than 25 feet. Well suited for small lot use with good fall color. |
| White ash (varieties) Fraxinus americana | No | Medium | Yes | Prefers deep, moist, well drained soil. Green leaflets turn to purple shades. Fall color may include yellow, orange, red, and dark purple. |
| Green ash Fraxinus pennsylvanica | No | Medium | Yes | Fast growing deciduous tree with height of 40 feet. For street tree use, seedless varieties such as “Marshall” are preferred. |
| Honey locust Gleditsia triacanthos | No | Medium | Yes | Fast growing deciduous tree with height of 40 feet. Varieties “Shademaster,” “Skyline,” and “Moraine” are preferred varieties. |
| American sweet gum Liquidambar styraciflua | No | Medium | Yes | Common landscape tree very tolerant of urban conditions. Achieves heights of 60 feet with good fall color. Not good in windy settings – the branches are brittle and break easily. |
| Tulip tree Liriodendron tulipifera | No | Large | No | Large deciduous tree achieving height of up to 60 feet. Very tolerant of urban conditions. |
| Crabapple Malus sp. | No | Large | Yes | Large deciduous tree achieving height of up to 60 feet. Very tolerant of urban conditions. |
| Dawn redwood Metasequoia glyptostroboides | No | Large | No | A deciduous conifer. Fast growing. Bright green fern-like needles. Fall color ranges from bronze to apricot. |
| Sourwood Oxydendron arboreum | No | Medium | Yes | Medium deciduous tree with good fall color. Achieves height of 18 feet. |
| Yoshino flowering cherry | No | Medium | Yes | Medium sized deciduous tree achieving height of 40 feet. Fast growing. |
| Flowering callery pear | No | Medium | Yes | Widely used in commercial landscaping. Deciduous tree 25 to 40 feet. Well suited to urban conditions. Varieties for |

**Characteristics and Use of Select Tree Species**

| Species ScientificName | Native Tree? | Canopy SizeCategory | Street Tree? | Characteristics |
|---|---|---|---|---|
| Pyrus calleryana | | | | street tree use include “Aristocrat,” “Bradford,” “Capital,” “Chanticlear,” “Redspire” and “Whitehouse.” |
| Pin oak Quercus palustris | No | Large | No | Deciduous tree achieving heights of 50 to 80 feet. Better suited to park or large lot use due to size. |
| Scarlet oak Quercus coccinea | No | Large | No | Oval to round canopy shape with high, open branching pattern. Bright green leaves turn scarlet in fall. Deep roots allow for lawn or perennial plant growth beneath canopy. |
| English oak Quercus robur | No | Large | No | Prefers well drained sites. Open form. Deep green leaves with yellow-brown fall color. Needs ample space. |
| Giant sequoia Sequoiadendron | No | Large | No | A good choice in a landscape with adequate space. |
| Japanese snowbell | No | Medium | Yes | Needs well drained soil and ample water. Medium green foliage with yellow fall color. Blooms in June with fragrant white bell-shaped flowers. |
| Little leaf linden Tilia cordata | No | Small | Yes | Small deciduous tree reaching height of 30 feet. Tolerant of urban conditions. |
| Sawleaf zelkova Zelkova serrata | No | Large | No | Water well initially to establish deep roots. Once established, very drought- and wind-tolerant. Fall foliage varies from yellow to dark red. Smooth gray bark. |
| Notes: Canopy size categories: (a) Large – mature canopy area greater than 1,250 square feet; (b) Medium – mature canopy area 450 to 1,250 square feet; (c) Small – mature canopy area 450 square feet or less. | | | | |

(Ord. 1615 § 1, 2011).

## 19.46.155 Tree removal outside of native vegetation areas.

The director may approve the removal of trees that are not part of a native vegetation area that were required to be retained as part of a previous plan approval, if it is determined that the tree is diseased, physically deteriorated, potentially hazardous, damaged or subject to windthrow. Trees that are removed as approved by the director shall be replaced at a one-to-one ratio. Replacement trees shall be a minimum two-and-one-half-inch caliper for deciduous trees or a minimum of six feet in height from existing grade for conifers.
(Ord. 1615 § 1, 2011).

## 19.46.160 Administrative relief and alternative compliance.

The standards contained in this chapter are intended to encourage development which is economically viable and environmentally satisfying. The standards are not intended to be arbitrary or to inhibit creative solutions. Projects may justify approval of alternative methods for compliance with the standards. Conditions may arise where normal compliance is impractical or impossible, or where maximum achievement of the community’s objectives can only be obtained through alternative compliance.

(1) Requests for alternative compliance and administrative relief may be accepted for any application to which the requirements of this chapter apply, when one or more of the following conditions exist:

(a) Topography, soil, vegetation or other site conditions make it impossible or impractical; or improved environmental quality would result from alternative compliance;

(b) Space limitations, unusually shaped lots, and prevailing practices in the surrounding neighborhood may justify alternative compliance for infill sites, and for improvements and redevelopment in older communities;

(c) Parking lots with five parking spaces or less may apply for administrative relief in order to reconfigure landscaping to be less than 15 percent of the parking lot. For example, a portion of the requirement can be met by landscaping around the perimeter of the parking lot;

(d) Change of use of an existing site increases the buffer required more than it is feasible to provide;

(e) Safety considerations make alternative compliance necessary;

(f) When an alternative proposal is equal to or better than normal compliance in its ability to fulfill all landscaping requirements in this chapter;

(g) Alternative types of irrigation for preexisting conditions.

Alternative compliance shall be limited to the specific project under consideration and shall not establish precedents for acceptance in other cases.

(2) Submittal Requirements.

(a) Requests for alternative compliance shall be accompanied by sufficient explanation and justification, written and/or graphic, to allow appropriate evaluation and decision;

(b) A request for alternative compliance shall be submitted to the planning director (or designee) at the time the landscape plan is submitted. In the case of those plans for which no public hearing is required, the decision of the planning director (or designee) will be final, unless the applicant appeals the decision to the hearing examiner.

(c) The planning director may request modification of proposed standards in the administrative relief proposal. (Ord. 1615 § 1, 2011; Ord. 1555 § 20, 2009. Formerly 19.46.110).

## 19.46.170 Enforcement of chapter.

A violation of any of the provisions of this chapter shall be a civil offense and any person failing to comply therewith shall be punished by a fine not to exceed $250.00 or value of materials and labor to bring the property into compliance with this chapter, whichever is greater. It shall be a separate offense for each and every day or portion thereof during which any violation of any part of the provisions of this chapter is committed, continued or permitted. (Ord. 1615 § 1, 2011; Ord. 1555 § 20, 2009. Formerly 19.46.120).

# Chapter 19.47
# LAND CLEARING

Sections:


19.47.010 Purpose.
19.47.020 Applicability.
19.47.025 Definitions.
19.47.030 Permits.
19.47.040 Exemptions.
19.47.050 Application for land clearing permit.
19.47.060 Minor clearing permit.
19.47.065 Performance standards.
19.47.070 Performance bond or cash guarantee.
19.47.080 Appeals.
19.47.090 Civil/criminal enforcement.
19.47.100 Injunctive enforcement.
19.47.110 Severability.
19.47.120 Permit fees.
19.47.130 Compliance with state law.


## 19.47.010 Purpose.

These regulations are adopted for the following purposes:

(1) To promote the public health, safety and general welfare of the citizens of Oak Harbor;

(2) To preserve and enhance the city's physical and aesthetic character by preventing indiscriminate removal or destruction of trees and ground cover on undeveloped and partially developed property;

(3) To promote land development practices that result in a minimal disturbance to the city's vegetation and soils;

(4) To minimize surface water and ground water runoff and diversion and to prevent erosion and reduce the risk of slides;

(5) To minimize the need for additional storm drainage facilities and to promote low impact development grading and clearing techniques;

(6) To acknowledge that trees and ground cover reduce air pollution by producing pure oxygen from carbon dioxide;

(7) To promote building and site planning practices that are consistent with the city's natural topographic and vegetation features while at the same time recognizing that certain factors such as condition (e.g., disease, danger of falling, etc.), proximity to existing and proposed structures and improvements, interference with utility services, protection of scenic views, and the realization of a reasonable enjoyment of property may require removal of certain trees and ground cover;

(8) To ensure prompt development, restoration and replanting and effective erosion control of property after land clearing through the use of phased development, performance bonds, and other reasonable controls;

(9) To reduce siltation and water pollution;

(10) To implement the goals and objectives of the Washington State Environmental Policy Act;

(11) To maintain the rural character of the city;

(12) To protect and enhance critical lands and their buffers;

(13) To implement the following environmental element policies as stated in the comprehensive plan:

(a) Policy 1.c: Protect the public and public resources and facilities from injury, loss of life, property damage or financial loss due to flooding, erosion, landslides, soil subsidence and slope failure;

(b) Policy 6.c: Require planting or retention of trees and shrubs with new development and substantial development projects;

(c) Policy 6.g: The city shall require developers to submit and receive city approval of erosion control and limit-of-clearing plans, as applicable, prior to release of forest practices permits and land clearing;

(d) Policy 6.h: Consider adopting a land clearing and grading ordinance to prevent indiscriminate removal or destruction of trees and ground cover on undeveloped and partially developed property;

(14) To allow the reasonable development of land in the city of Oak Harbor. (Ord. 1616 § 1, 2011; Ord. 1555 § 21, 2009).

## 19.47.020 Applicability.

This chapter applies to all properties within the city with exceptions as listed in OHMC 19.47.040. This chapter does not apply to oak trees, which are regulated under Chapter 20.16 OHMC. (Ord. 1616 § 1, 2011; Ord. 1555 § 21, 2009).

## 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).~~

## 19.47.030 Permits.

No person, corporation, or other legal entity shall engage in or cause land clearing in the city without having obtained a land clearing permit or minor clearing permit. Obtaining a land clearing permit or minor clearing permit does not exempt any person from obtaining a grading permit, when required. (Ord. 1616 § 1, 2011; Ord. 1555 § 21, 2009).

## 19.47.040 Exemptions.

The following shall be exempt from the provisions of this chapter:

(1) The installation and maintenance of fire hydrants, surface electrical transformer boxes, water meters, water and sewer mains, pumping stations, pedestrian or bicycle connections, and street improvements by the city or its contractors;

(2) Removal of trees and ground cover in emergency situations involving immediate danger to life or property or substantial fire hazards;

(3) Removal of dead or diseased ground cover or trees. If there is a question as to whether ground cover or trees are diseased, an arborist or city staff shall inspect the site and determine whether the plant needs to be removed;

(4) Removal of trees or ground cover on partially developed lots, for purposes of general property and utility maintenance, landscaping or gardening; provided, that this exemption shall not apply to any land clearing which includes the use of a bulldozer or similar mechanical equipment and shall not be construed to eliminate the requirement of permits for land clearing for the purpose of developing the property with substantial permanent improvements such as roads, driveways, utilities, or buildings;

(5) Developed single-family residential lots;

(6) Individual undeveloped single-family residential lots where a building permit has been issued.
(Ord. 1616 § 1, 2011; Ord. 1555 § 21, 2009).

## 19.47.050 Application for land clearing permit.

(1) An application for a land clearing permit shall be submitted by the owner or authorized agent on a form provided by the city and shall be accompanied by such of the following documents and information as are determined to be necessary by the city staff as indicated on the application form.

(2) Applications shall be submitted with the preliminary plat application, where applicable.

(3) City staff shall complete its review and make its decision within 20 working days from the date a complete land clearing application is submitted, if such application is submitted as a stand-alone application. However, if the application is submitted with a preliminary plat, binding site plan, site plan review, planned residential development or other development application, the review shall be completed within the prescribed timelines of Chapter 18.20 OHMC, unless an extension is authorized by the director.

(4) Any permit granted hereunder shall expire six months from the date of issuance. Approved plans shall not be amended without authorization of the city staff. The permit may be suspended or revoked by the city staff because of incorrect information supplied, not following the approved plan or any violation of the provisions of this chapter. A one-time six-month extension may be approved by the director upon submission of a letter from the applicant stating the reason for delay and approximate time clearing will be completed.

(5) The city shall be advised by the property owner or authorized agent the day prior to beginning any land clearing operations.

(6) Land clearing involving the use of heavy equipment shall be limited to those hours indicated in OHMC 6.56.030(1)(h).

(7) The applicant shall be responsible for posting the property as per Chapter 18.21 OHMC.

(8) In the case that multiple owners own a share in a property, a homeowners' association or other similar maintenance association shall be responsible for continued maintenance of the land and remaining vegetation, subsequent to land clearing.

(9) An erosion and sediment control plan shall be approved prior to issuance of a land clearing permit, or as a condition of approval of a land clearing permit. (Ord. 1616 § 1, 2011; Ord. 1555 § 21, 2009).

## 19.47.060 Minor clearing permit.

In the case that a property owner wishes to remove five percent or less of the total trees and ground cover on a site, the owner may apply for a minor clearing permit.

(1) To apply for a permit, the owner must submit a letter requesting approval to remove the trees and/or ground cover. Such letter shall provide the following information:

> (a) The percentage of total ground cover and trees which will be removed, as compared to the existing amount of trees and ground cover on the lot;
>
> (b) Location of the trees and/or ground cover proposed for removal;
>
> (c) If applicable, the approximate date the last minor clearing permit was approved by the city;
>
> (d) Date that trees and/or ground cover are to be removed.

(2) At no time shall the city approve, either by individual permit or by multiple permits, the removal of more than five percent of ground cover and trees on a lot per year through the minor clearing permit. Any proposed tree or ground cover removal above the annual maximum of five percent is subject to the land clearing permit process.

(3) The minor clearing permits may not be used for requesting the removal of trees within a required buffer on arterial streets per OHMC 21.60.180. (Ord. 1616 § 1, 2011; Ord. 1555 § 21, 2009).

## 19.47.065 Performance standards.

Compliance with the following performance standards is required prior to the approval of a land clearing permit in OHMC 19.47.050, unless an exemption is clearly justified in the SWPPP.

(1) Minimize Potential Impacts. All grading and clearing activities shall be conducted so as to minimize potential adverse effects of these activities on forested lands, surface water quality and quantity, groundwater recharge, fish and wildlife habitat, adjacent properties, and downstream drainage channels in accordance with the performance standards in this section.

(2) Stormwater Consistency of Standards. All standards under this code will be consistent with the latest version of the Stormwater Management Manual for Western Washington, pursuant to OHMC Title 12.

(3) Natural Features and Vegetation Retention. Projects shall be phased to the maximum degree practical and shall take into account seasonal work limitations, to decrease exposed soils and minimize adverse impacts to natural features and vegetation resulting from land disturbance activities. The director shall have the authority to require a phased land clearing plan.

(4) Dust Suppression. Dust from clearing, grading, and other construction activities shall be minimized at all times. Impervious surfaces on or near the construction area shall be swept, vacuumed, or otherwise maintained to suppress dust entrainment. Any dust suppressants used shall be approved by the director or designee. Petrochemical dust suppressants are prohibited. Watering the site to suppress dust is also prohibited unless it can be done in a way that keeps sediment out of the drainage system.

(5) Erosion and Sedimentation Control. Erosion and sedimentation control BMPs shall be designed and implemented appropriate to the scale of the project and necessary to prevent sediment from leaving the project site, including but not limited to the standards and requirements described in this chapter, and in the latest edition of the Department of Ecology Stormwater Management Manual for Western Washington.

(a) In addition to the measures in this and other codes and ordinances, the development services director or designee may impose the following erosion control measures, or other additional measures, as appropriate for the project:

(i) Funding additional city inspection time, up to a full-time inspector.

(ii) Stopping work if necessary to control erosion and sedimentation.

(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.

(7) Protection of Critical Areas. The function and values of all critical areas, including all stream types, geologically unstable areas, critical aquifer recharge areas, frequently flooded areas, wetlands, and fish and wildlife conservation areas or habitats, and their critical area buffers located on or adjacent to the site shall be protected from clearing and grading activities that result in sedimentation, erosion, and degradation. Such impacts shall be avoided by appropriate use of setbacks, erosion, and sediment control measures, construction barriers, and other appropriate best development and management practices.

(8) Avoidance of Hazards. Land disturbance activities shall not result in off-site physical damage, nor pose a danger or hazard to life or property.

(9) Cut and Fill Slopes. Cut and fill slopes shall be designed and constructed in a manner that will minimize erosion. In addition, slopes shall be stabilized in accordance with the requirements of this section. The applicant shall:

(a) Submit a geotechnical report, prepared by a geotechnical engineer, when required pursuant to OHMC Title 20 including critical area ordinance provisions for qualified professional reports.

(b) Minimize clearing and grading on slopes 15 percent or greater and meet any geologically sensitive areas performance standards set forth in Chapter 20.28 OHMC.

(c) Comply with the geologically sensitive areas restrictions (Chapter 20.28 OHMC) applicable to slopes 40 percent or greater and to areas of colluvial or landslide deposit on slopes of 15 percent or greater.

(d) Limit the maximum gradient of artificial slopes to no steeper than 2:1 (two feet of horizontal run to one foot of vertical fall) unless a geotechnical engineering report and slope stability analysis is provided and shows that a factor of safety of at least 1.5 for static loads and 1.1 for pseudostatic loads can be met.

(e) Do no clearing, excavation, stockpiling, or filling on the potential slide block of an unstable or potentially unstable slope unless it is demonstrated to the city engineer's satisfaction that the activity would not increase the load, drainage, or erosion on the slope.

(f) Do no clearing, excavation, stockpiling, or filling on any unstable or potentially unstable areas (such as landslide deposits) unless it is demonstrated to the city engineers that the activity would not increase the risk of damage to adjacent property or natural resources or injury to persons.

(g) Intercept any ground water, subsurface water, or surface water drainage encountered on a cut slope and discharge it at a location approved by the city of Oak Harbor development services department. Off-site stormwater (run-on) or groundwater shall be diverted away from slopes and undisturbed areas with

interceptor dikes, pipes and/or swales. Off-site stormwater should be managed separately from stormwater generated on the site.

(h) Design and protect cut and fill slopes to minimize erosion.

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

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

(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.

(11) Seasonality – Temporary Restrictions. Seasonality refers to the wet season (defined as the period from October 1st through April 30th). Clearing, grading, and other land disturbing activities may be approved by the development services director or designee for proposals that have minimal disturbance of soils and are on sites with predominant soils that have low runoff potential, and are not hydraulically connected to sediment/erosion-sensitive features. The following criteria also apply:

(a) Wet season clearing, grading, and other land disturbing activities may be approved provided an erosion and sediment control plan is prepared by a professional engineer that specifically identifies methods of erosion control for wet weather conditions to control erosion/sedimentation, surface water runoff, and safeguard slope stability. In a situation where erosion or sediment is not contained on site, construction activity shall cease immediately and notification of the development services director shall be made within 24 hours.

(b) When approval is issued in the dry season (defined as the months of May through September), and work is allowed to continue in the wet season, the city of Oak Harbor may require additional measures to limit erosion and sedimentation. The director or designee may prohibit land disturbing activities during certain days of the wet season. Determinations shall be made on a site-specific basis and evaluation of the following:

(i) Average existing slope on the site.

(ii) Quantity of proposed cut and/or fill.

(iii) Classification of the predominant soils and their erosion and runoff potential.

(iv) Hydraulic connection of the site to features that are sensitive to erosion impacts.

(v) Storm events and periods of heavy precipitation.

(c) If a clearing and grading approval is issued for work during the wet season and the director subsequently issues a “stop work” order or correction notice for insufficient erosion and sedimentation control, the approval will be suspended until the dry season, or until the director determines that weather conditions are favorable and effective erosion and sedimentation control is in place.

(d) Certain activities are exempted from seasonal restrictions (for a list of exemptions, see Stormwater Management Manual for Western Washington, Construction SWPPP, Vol. 2).

(12) Site-Specific Requirements. Additional, site-specific requirements may be established after a site visit by the city. These requirements shall be based on specific site conditions and are limited to additional temporary erosion and sedimentation control and the mitigation of hazardous or potentially hazardous conditions that pose a threat off site or to habitat preservation.

(13) Tree Retention. Clearing plans shall show tree retention areas and native vegetation retention areas and shall conform to all the requirements of Chapter 19.46 OHMC for protection during construction and development.

(14) Protection of Trees During Construction. Protection of trees during construction and development shall conform to the requirements of OHMC 19.46.140. (Ord. 1616 § 1, 2011).

## 19.47.070 Performance bond or cash guarantee.

The city staff may require, as a condition to the granting of a permit, that the applicant furnish a performance bond or cash guarantee to the city to secure the applicant's obligation, after the approved land clearing has been accomplished, to complete the restoration and replanting of the property in accordance with the terms of the permit and within the term thereof. The bond shall be in an amount equal to the estimated cost of such restoration and replanting, plus an additional 10 percent and with surety and conditions satisfactory to the city staff. (Ord. 1616 § 1, 2011; Ord. 1555 § 21, 2009).

## 19.47.080 Appeals.

Any person or persons aggrieved by any action of the city staff may within 15 days of such action file a written notice of appeal in accordance with Chapter 1.24 OHMC. (Ord. 1616 § 1, 2011; Ord. 1555 § 21, 2009).

## 19.47.090 Civil/criminal enforcement.

A violation of any of the provisions of this chapter shall be a misdemeanor and any person found guilty thereof shall be punished by a fine not to exceed $500.00 or replacement value, whichever is greater. It shall be a separate offense for each and every day or portion thereof during which any violation of any part of the provisions of this chapter is committed, continued or permitted. (Ord.1616 § 1, 2011; Ord. 1555 § 21, 2009).

## 19.47.100 Injunctive enforcement.

Any violation of the provisions of this chapter is hereby declared to be a public nuisance and may be abated through proceedings for injunctive or similar relief in superior court or other court of competent jurisdiction. (Ord. 1616 § 1, 2011; Ord. 1555 § 21, 2009).

## 19.47.110 Severability.

If any section, paragraph, subsection, clause or phrase of this chapter is for any reason held to be unconstitutional or invalid by action of law, such decision shall not affect the validity of the remaining portions of this chapter. (Ord. 1616 § 1, 2011; Ord. 1555 § 21, 2009).

## 19.47.120 Permit fees.

After review and approval of the application a land clearing permit and minor clearing permit will be issued at a cost in accordance with the "City of Oak Harbor Comprehensive Permit and Fee List." (Ord. 1616 § 1, 2011; Ord. 1555 § 21, 2009).

## 19.47.130 Compliance with state law.

All clearing shall be done in accordance with applicable state laws. (Ord. 1616 § 1, 2011; Ord. 1555 § 21, 2009).

# Chapter 19.48
# SITE PLAN REVIEW PROCEDURES

Sections:


19.48.010 Purpose and intent.
19.48.020 Applicability.
19.48.030 Exemptions.
19.48.032 Requirements for application submittal.
19.48.035 Requirements for the site plan map.
19.48.037 General evaluation criteria for site plan approval.
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19.48.054 Supplemental issues in considering mitigation of impacts to the site.
19.48.056 Supplemental issues in considering mitigation of traffic impacts.
19.48.058 Supplemental issues in considering mitigation of impacts from signage and surrounding property.
19.48.060 Commercial and industrial design guidelines.
19.48.070 Site plan review procedures.
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19.48.120 Expiration and extension of site plan approval.
19.48.130 Exception to time limit for phased projects.
19.48.180 Revocation of site plan and design review approval.
19.48.190 Compliance required.
19.48.200 Penalty for noncompliance.


## 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).

## 19.48.020 Applicability.

(1) Site Plan Review. No use shall be commenced nor shall any development permit be issued for any use or structure requiring site plan approval pursuant to this section until the director has approved or approved with conditions a site plan when required by this chapter. Development permits issued shall be in accordance with the approved site plan.

(2) A site plan review shall be required in the following instances:

(a) Original construction of new facilities or structures.

(b) Variances.

(c) Conditional use permits.

(3) Binding Site Plans. If the applicant desires to make the site plan a binding site plan, the applicant shall notify development services in writing, at the time of application, and meet the additional requirements listed in Chapter 21.80 OHMC and pay any additional fees required.

If a binding site plan is applied for anytime after the application for site plan is made, a new or amended site plan may be required to meet the requirements of Chapter 21.40 OHMC, except OHMC 21.40.080.
(Ord. 1555 § 22, 2009).

## 19.48.030 Exemptions.

A site plan shall not be required for remodeling existing buildings or structures, provided:

(1) The alterations conform with any prior approved site plan; and

(2) The alterations do not modify the existing site layout; or for single-family dwellings or single duplexes except those located in critical areas or in cases when two or more duplexes will be built on the same lot.
(Ord. 1555 § 22, 2009).

## 19.48.032 Requirements for application submittal.

The applicant shall submit the following items:

(1) An application fee;

(2) A verified statement by the applicant that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has submitted the application with the consent of all owners of the affected property;

(3) Ten copies of the following:

(a) A cover sheet listing contents of the application package;

(b) An application form with at least one original copy signed by the applicant in ink;

(c) A written narrative that describes the existing conditions and proposed project in detail, describing how the project meets and/or exceeds the site plan review criteria as listed in OHMC 19.48.037 and 19.48.050 and including all information about the proposed and existing use, size, landscaping, screening, lighting, noise, structure(s), structural changes, hours of operation, and capacity (storage, students, etc.) of the project;

(d) A complete and accurate site plan map that conforms to the requirements listed in OHMC 19.48.035;

(e) All associated applications, to the extent applicable, e.g., SEPA, floodplain, habitat, shoreline, wetland, variances, conditional use, transportation concurrency, land clearing;

(f) A mailing list of all property owners adjacent to the project site, along with a map showing locations of the adjacent property owners unless the application requires a review process IV, in which case the list of property owners must include all owners within a 300-foot radius of the site;

(g) Any additional information requested in, or as a result of any, preapplication conference;

(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;

(5) Any other additional copies of application package needed for public hearings. (Ord. 1555 § 22, 2009).

## 19.48.035 Requirements for the site plan map.

The applicant shall submit a site plan map that is complete and accurate with a minimum scale of one inch the equivalent of 20 feet, and of a minimum size of 24 inches by 36 inches with the following information:

(1) General Information.

(a) Project name;

(b) Street address of property;

(c) Page border;

(d) Title block containing the drawing title, scale, revision number, if applicable, north arrow, date;

(e) Vicinity map including streets and surrounding landmarks within 500 feet of the property or enough information to easily locate the site on a large city map;

(f) Legal description of the property as provided by the Island County assessor's office;

(g) Parcel number as provided by the Island County assessor's office;

(h) Parcel map as provided by the Island County assessor's office showing all adjacent parcels;

(i) Existing zoning;

(j) Square footage of floor area in each structure;

(k) Parking spaces and parking lot dimensions;

(l) Type of Construction Proposed. Indicate color and texture of exterior surfaces, e.g., wood, concrete, block, composite;

(m) Number of units, if applicable;

(n) If project will be developed in phases, indicate the number of units or buildings for each phase;

(o) Project density, including number of units per gross acre.

(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.

(3) Building Information.

(a) Architectural elevations of existing and proposed buildings, including height and number of stories, along with any mechanical roof-mounted equipment;

(b) Generalized floor plans, planned uses for each area of building (including occupancy type, if known), finished floor elevations, exiting and accessibility accommodations.

(4) Infrastructure Improvements.

(a) Location of existing and proposed storm sewers, catch basins, manholes, parking lot storm drains, detention structures, etc.;

(b) Location and size of existing and proposed water mains, valves, service lines, size of water meters, sprinkler systems, fire hydrants, and backflow devices;

(c) Location and size of existing and proposed sanitary sewer collectors, manholes, pumping stations, force main and side services, including cleanouts;

(d) Location of other existing and proposed utilities, including, but not limited to, gas, power, telephone, streetlights.

(5) Landscaping. The applicant shall submit a landscape plan that is consistent with the proposed site plan. The plan shall be complete and accurate with a minimum scale of one inch equivalent of 20 feet, and of minimum size of 24 inches by 36 inches with the following information:

(a) Project name;

(b) Street address of property;

(c) Page border;

(d) Title block containing the drawing title, scale, revision number if applicable, north arrow, date;

(e) For lots larger than 1.5 acres in size the landscape plan shall be prepared by and bear the seal of a landscape architect, architect, or other professional with similar qualifications;

(f) Dimensions and distance;

(g) Existing and proposed parking spaces, or other vehicle areas, access aisles, driveways, and similar features;

(h) All landscape features including height, quality, type, botanical and common names, places of planting and all areas of vegetation shall be shown in context with the location and outline of any existing or proposed and other improvements on the site including fences, walls or berms;

(i) Gross acreage, area of preservation, number of trees to be planted and/or preserved, other plants to be planted and/or preserved, and square footage of paved areas shall be included in a table that clearly displays this and other relevant information necessary for the evaluation of compliance with the provisions of Chapter 19.46 OHMC, Landscaping and Screening;

(j) Percentage of parking lot area to be landscaped;

(k) Planting details including soil and staking requirements;

(l) Maintenance requirements; and

(m) Irrigation plan showing number, location and type of heads, zones, and drip systems, if applicable, as well as water meter locations and sizes. (Ord. 1555 § 22, 2009).

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## 19.48.037 General evaluation criteria for site plan approval.

An application that complies with all of the following general evaluation criteria listed below, the requirements of this title, and applicable city standards shall be approved. An application that does not comply with these criteria shall be denied by the city.

(1) Comprehensive Plan. The proposed site plan and other application information proposed for development shall be consistent with the city's comprehensive plan;

(2) Zoning. The proposed site plan and other required application information shall meet the requirements of this title;

(3) Natural Environment. The site plan and other required application information shall meet the requirements of environmentally sensitive area regulations of OHMC Title 20 and the State Environmental Policy Act, Chapter 197-11 WAC;

(4) Public Services. The proposed project shall be designed to meet the following:

(a) Adequate water supply to city standards as listed in OHMC Title 13;

(b) Adequate sewer facilities to city standards as listed in OHMC Title 14;

(c) Appropriate surface water management to city standards as listed in OHMC Title 12;

(d) Adequate fire protection and hydrants to city standards as listed in OHMC Title 8;

(e) Appropriate street improvements (including sidewalks) or site access facilities to city standards for or to all anticipated uses within the project as listed in OHMC Titles 11 and 17 and Chapter 21.40 OHMC;

(f) Provisions for all appropriate deeds, dedications and all other easements; and

(g) Provisions made for access to and maintenance of all common facilities;

(5) Existing Public Facilities and Services. The proposed project shall be designed to not adversely impact the public facilities and services which the city has adopted a level of service for without providing for additional mitigation means meeting the city's approval.

Mitigation measures, if necessary, must be proposed by the applicant and designed by a certified professional in that applicable field;

(6) Phasing Plan. In lieu of requiring the completion of all public/private improvements for the entire site prior to occupancy of any structure on the site, the city may approve a phasing plan. The city may require suitable guarantees as provided in Chapter 19.90OHMC. The public/private improvements in each phase must be designed to stand on their own as required by the city. A phasing plan can only be approved if each city department responsible for the conditions of the permit agrees on the phased development plan. In most cases, those departments are development services, public works, and fire. (Ord. 1555 § 22, 2009).

## 19.48.039 Timing of certain actions in site plan approval, reviewed development.

Unless specifically excepted by other ordinances, generally, the development plan approval process requires the following items be provided at the times specified in the tables below. Provided, however, nothing contained in this section shall be construed as limiting the city from issuing development permits as may be required by this code in a different sequence than required by this section, when use of the alternative contracting procedures set forth in Chapter 39.10 RCW is authorized by resolution of the city council. The sequence of development permits shall be determined by the director as necessary to meet the requirements of the project. Use of the alternative contracting procedures and alternative permit sequence does not relieve the city from the responsibility to obtain all necessary development permits.

(1) Permits to apply for before or with the site plan application:

| Permit | When Permit Application Must Be Made |
|---|---|
| Limited clearing permit. (Only applicable when a SEPA application is not required.) | Before site plan application. |
| Grading permit. | With site plan application. |
| Clearing permit. | With site plan application. |
| SEPA checklist. | With or before site plan application. |
| Concurrency application. | With or before site plan application. |

(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 plans and reports. | 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 Chapter19.90 OHMC. |
| Installation of public water utility improvements. | Before building permit will issue or when bonded for as provided in Chapter19.90 OHMC. |
| Installation of public sewer improvements. | Before building permit will issue or when bonded for as provided in |

| Action | Actions That Need to Be Taken Before the Building Permit Will Be Issued |
|---|---|
| | Chapter19.90 OHMC. |
| Installation of surface water management facilities. | Before building permit will issue or when bonded for as provided in OHMC12.30.565. |

(3) Connections and installations to be made before an occupancy permit will be issued or the use will be approved:

| Connections and Installations | Timing |
|---|---|
| Installation of private sewer improvements (as defined in OHMC14.03.060) outside of building. | Before occupancy permit will issue or use is approved. |
| Connection to an approved water supply. | Before occupancy permit will issue or use is approved. |
| Connection to the sewer system. | Before occupancy permit will issue or use is approved. |
| Installation of landscaping and sprinkler system. | Before occupancy permit will issue or use is approved or when bonded for as provided in OHMC19.46.130. |

(Ord. 1720 § 1, 2015; Ord. 1555 § 22, 2009).

## 19.48.040 Basis for determining the review process.

(1) Unless otherwise directed, the approval of a site plan is a Type II review process.

(2) The site plan approval shall be a Type I review process for projects with a total building square footage less than or equal to 4,000 square feet.

(3) The site plan approval shall be a Type IV review process when one of the following conditions applies:

(a) The director determines that based on departmental comments or public input there are significant unresolved concerns that are raised by the proposal; or

(b) The applicant has requested a public hearing; or

(c) The proposed project is larger than any one of the following:

(i) One hundred semi-attached or attached residential units;

(ii) One hundred fifty thousand square feet of gross floor area for industrial uses;

(iii) Thirty-five thousand square feet of gross floor area for commercial offices or similar uses;

(iv) Four stories or 45 feet in height;

(v) Ten acres in size. (Ord. 1555 § 22, 2009).

## 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).

## 19.48.052 Supplemental issues in considering review of impacts to surrounding properties and use.

The following issues shall be considered in determining impacts on surrounding properties and uses:

(1) Mitigation of undesirable impacts of proposed structures and site layouts that could impair the use of surrounding uses and structures and of the community;

(2) Provision of desirable transition and linkage between uses and to the street, utility, walkway, and trail systems in the surrounding area by the arrangement of easements, landscaping, fencing and/or other buffering techniques, in order to prevent conflicts and to promote coordinated and planned benefit from, and access to, such elements;

(3) Effective location, design and screening of parking and service areas in order to promote efficient function of such facilities, to provide integrated facilities between uses when beneficial, to promote campus-like layouts in appropriate zones, and to prevent unnecessary repetition and conflict between the uses and service areas of facilities;

(4) Mitigation of the unnecessary and avoidable impacts of new construction on views from existing buildings and future development sites, recognizing the public benefit and desirability of maintaining visual accessibility to attractive natural features and of promoting campus-like settings in appropriate zones;

(5) Provision of effective screening from public streets and residential uses for all permitted outdoor storage area (except auto and truck sales), for surface-mounted utility equipment, for rooftop equipment and for all refuse and garbage containers, in order to promote a campus-like setting where appropriate and to preserve the effect and intent of screening or buffering otherwise required by the zoning code; and

(6) Consideration of placement and design of exterior lighting in order to avoid excessive brightness or glare to adjacent properties and streets. (Ord. 1555 § 22, 2009).

## 19.48.054 Supplemental issues in considering mitigation of impacts to the site.

The following issues shall be considered in determining impacts of development to the site:

(1) Building placement and spacing to provide for privacy and noise reduction; orientation to views and vistas and to site amenities, to sunlight and prevailing winds, and to pedestrian and vehicle needs;

(2) Preservation of the desirable natural landscape through retention of existing vegetation and limited soil removal, insofar as the natural characteristics will enhance the proposed development; and

(3) Design and protection of planting areas so that they are not susceptible to damage from vehicles or pedestrian movements. (Ord. 1555 § 22, 2009).

## 19.48.056 Supplemental issues in considering mitigation of traffic impacts.

The following issues shall be considered in determining safety and efficiency of vehicular and pedestrian circulation:

(1) Provision of adequate and safe vehicular access to and from all properties;

(2) Arrangement of the circulation pattern so that all ingress and egress movements may occur at as few points as possible along the public street, the points being capable of channelization for turning movements;

(3) Consolidation of access points with adjacent properties, when feasible;

(4) Promotion of the safety and efficiency of the internal circulation system, including the location, design and dimensions of vehicular and pedestrian access points, drives, parking, turnarounds, maneuvering areas, walkways, bikeways, and emergency access ways; and

(5) Separation of loading and delivery areas from parking and pedestrian areas. (Ord. 1555 § 22, 2009).

## 19.48.058 Supplemental issues in considering mitigation of impacts from signage and surrounding property.

The following issues shall be considered in determining impacts of development from signage on surrounding property and public spaces:

(1) Employment of signs primarily for the purpose of identification;

(2) Management of sign elements, such as size, location and arrangement, so that signs complement the visual character of the surrounding area and appear in proportion to the building and site to which they pertain; and

(3) Moderation of surface brightness or lighting intensity except for that necessary for sign visibility.
(Ord. 1555 § 22, 2009).

## 19.48.060 Commercial and industrial design guidelines.

The commercial and industrial design guidelines, referred to as “design guidelines,” a copy of which is filed with the Oak Harbor city clerk, are hereby adopted as the design guidelines for the commercial and industrial zones of Oak Harbor and shall be applied as follows:

(1) All of the design guidelines apply to new construction.

(2) To the extent reasonably practicable, the design guidelines shall apply to all exterior remodels with a value in excess of 60 percent of the building valuation and which also have a total value in excess of $100,000 ("major exterior remodels").

(3) For exterior remodels with a value less than 60 percent of the building valuation of which have a total value less than $100,000 ("minor exterior remodels"), it is only required that the proposed improvements meet the design guidelines and do not lead to further nonconformance with the design guidelines. For example, if a property owner decides to replace a window, then the window shall meet the guideline standards, but new pedestrian coverings are not required.

(4) The design guidelines do not apply to remodels that do not change the exterior appearance of the building. However, if a project involves both exterior and interior improvements, then the project valuation shall include both exterior and interior improvements.

(5) The design guidelines are intended to supplement the design standards in the city of Oak Harbor's zoning ordinance. Some of the design guidelines state that the city may relax or modify zoning ordinance standards if the design guidelines are met. Other guidelines include provisions, requirements, or considerations that are in addition to the zoning ordinance standards. Where the design guidelines and zoning ordinance standards conflict and there is no provision in the design guidelines, the most restrictive shall apply. (Ord. 1555 § 22, 2009).

## 19.48.070 Site plan review procedures.

(1) Fees shall be as set out in Chapter 3.64 OHMC.

(2) Application forms shall, along with Chapter 18.20 OHMC requirements, include such other items which will allow resolving issues raised by the criteria of this chapter.

(3) Circulation and Review of Application. Upon receipt of a completed application, the director shall route the application for review and comments to various city departments and other jurisdictions or agencies with an interest in the application. This routing should be combined with circulation of environmental information.

(4) Comments from the reviewing departments shall be made in writing. Unless a proposed site plan is subsequently modified, the recommendations of the reviewing departments shall constitute the final comments of the respective departments with regard to the proposed site plan. Lack of comment from a department shall be considered a recommendation for approval of the proposed site plan. However, all departments reserve the right to make later comments of a code compliance nature during building permit review. This includes such requirements as exact dimensions, specifications or any other requirement specifically detailed in the city code.

(5) Revisions or Modifications to Site Plan Application. Whenever a revised site plan or new information is received from an applicant, the development services department may recirculate the application to concerned departments. Consulted departments shall respond in writing within 10 days with any additional comments. In general, the city's environmental determination of significance or nonsignificance will not be issued until after final departmental comments on the site plan or revised site plan are received.

(6) Director to Determine Necessity for Public Hearings. Upon receipt of final departmental comments and after the close of the public comment period, the director shall determine the necessity for a public hearing on the site plan. (Ord. 1555 § 22, 2009).

## 19.48.080 Authority for conditions or plan modifications.

(1) The reviewing authority shall have the power to place reasonable conditions on or modify a site plan in order to satisfy the general purposes of this section and to achieve consistency with the review criteria. Such conditions or modifications may include, but are not limited to, screening, buffering, building location, and orientation, paving, landscaping, vegetation removal, grading and contouring. The reviewing authority shall also have the power to fix the location and configuration of driveways, walkways, parking and loading areas, emergency access, curbs, planting areas and signs. When only a portion of a site is proposed for development,

such power to condition, modify or fix shall be exercised only for that area which is directly related to or may be impacted by the actual proposed development.

(2) To the extent necessary to meet the site review criteria and to the extent necessary to compensate for the impacts attributable to the proposed development, the reviewing authority may impose additional requirements, including:

> (a) Modification of Plan Subsequent to Public Hearing and Prior to Decision. In all cases, if an applicant can demonstrate that a site plan can be made consistent with the review criteria and general purposes by alternative modifications to the site plan, the reviewing authority shall accept the alternative modifications proposed by the applicant.
>
> (b) Denial of Site Plan. If the reviewing authority finds that the site plan application cannot be made consistent with the general purposes and review criteria of this chapter by requiring reasonable conditions, then the site plan shall be denied.

(3) Limitations on Authority. The authority to condition or deny site plan applications should be exercised to the minimum extent necessary to protect the public interest and welfare as expressed in the purposes of this chapter. (Ord. 1555 § 22, 2009).

## 19.48.090 Minor modifications to an approved site plan.

Minor modifications may be permitted by the director. To be considered a minor modification, the amendment must not:

(1) Involve more than a 10 percent increase in area or scale of the development in the approved site plan; or

(2) Have a significantly greater impact on the environment and facilities than the approved plan; or

(3) Change the boundaries of the originally approved plan. (Ord. 1555 § 22, 2009).

## 19.48.100 Major modifications to an approved site plan.

Major modifications to an approved site plan require a new application. The review and approval shall rest with the approval body which approved the original site plan. Major modifications involve a substantial change in the basic site design plan, intensity, density, use and the like generally involving more than a 10 percent change in area or scale. (Ord. 1555 § 22, 2009).

## 19.48.110 Timing of development permits.

Development permits may be processed simultaneously with the site plan review. Development permits shall not be issued until the appeal period for an approved site plan has expired. Provided, however, nothing contained in this section shall be construed as limiting the city from issuing development permits as may be required by this code in a different sequence than required by this section, when use of the alternative contracting procedures set forth in Chapter 39.10 RCW is authorized by resolution of the city council. The sequence of development permits shall be determined by the director as necessary to meet the requirements of the project. Use of the alternative contracting procedures and alternative permit sequence does not relieve the city from the responsibility to obtain all necessary development permits. (Ord. 1720 § 2, 2015; Ord. 1555 § 22, 2009).

## 19.48.120 Expiration and extension of site plan approval.

The final approval of a site plan shall expire within two years of the date of approval. A single two-year extension may be granted for good cause by the approval body which approved the original site plan. Extensions are a Type II review process. (Ord. 1555§ 22, 2009).

## 19.48.130 Exception to time limit for phased projects.

(1) Phasing Permitted. For development proposed on only a portion of a particular site, an applicant may choose to submit a site plan application for either the entire site or a portion of the site. In the latter case, the

application shall state clearly the area of the site and the proposed development, including phases, for which site plan approval is being requested. In every case, the site plan application and review shall cover at least that portion of the site which is directly related to or may be impacted by the actual proposed development, as determined by the director.

(2) Authority for Extension of Time. The director may grant site plan approval for large projects planned to be developed or redeveloped in phases over a period of years, exceeding the normal time limits of this chapter. Such approval shall include clearly defined phases and specific time limits for each phase.

(3) Expiration of Phase(s). If the time limits of a particular phase are not satisfied then site plan approval for that phase and subsequent phases shall expire. The director shall also determine if such a phased project will be eligible for any extensions of the time limits.

(4) Vested for the Purposes of Zoning. As long as the development of a phased project conforms to the approved phasing plan, the zoning regulations in effect at the time of the original approval shall continue to apply. However, all construction shall conform to the building code, fire code and public utility regulations in or adopted under OHMC Titles 12, 13, 14 and 15 or otherwise required by state law, in force at the time of building permit application. (Ord. 1555 § 22, 2009).

## 19.48.180 Revocation of site plan and design review approval.

(1) Revocation or Modification Allowed. Approval of a site plan and design review application may be revoked or modified by the planning commission after a public hearing on any one or more of the following grounds:

(a) That the approval was obtained by fraud or misrepresentation of facts;

(b) That the development or use pursuant to the approved site plan and design review is being or has been exercised contrary to the terms or conditions of such approval, or in violation of any statute, ordinance, law or regulation;

(c) That the development or use for the site plan and design review for which the approval was granted is being or has been so exercised as to be detrimental to the public health, safety or welfare.

(2) Upon determination by the director or his designee that possible grounds for revocation of the site plan and design review approval exist, the matter shall be placed on the planning commission agenda. After the public hearing, the planning commission shall:

(a) Revoke the site plan and design review approval;

(b) Affirm the approval of the site plan and design review as previously granted; or

(c) Modify previously imposed conditions or require additional conditions including periodic review to ensure development or use is in conformance with the site plan and design review, and requirements of the Oak Harbor Municipal Code. (Ord. 1555§ 22, 2009).

## 19.48.190 Compliance required.

No person shall violate or fail to comply with the provisions of this chapter or any adopted site plan and design review approval or any conditions or provisions thereof, nor shall a building permit be issued for any structure which would violate or fail to comply with any adopted site plan and design review approval for the parcel or parcels on which such structure is to be located. (Ord. 1555 § 22, 2009).

## 19.48.200 Penalty for noncompliance.

Anyone found in violation of this chapter shall be guilty of a Class 1 infraction as defined in Chapter 1.28 OHMC. Each day the violation continues may be considered as a separate violation. (Ord. 1717 § 40, 2015; Ord. 1555 § 22, 2009).

# Title 20
# ENVIRONMENT

**Chapters:**


**20.02 Critical Areas Definitions**

**20.04 State Environmental Policy Act**

**20.12 General Critical Areas Regulations**

**20.14 SEPA Environmental Review Process**

**20.16 Oak Tree Protection**

**20.24 Wetlands**

**20.25 Fish and Wildlife Habitat Conservation Areas**

**20.28 Geologically Sensitive Areas**

**20.32 Critical Aquifer Recharge Areas**

**20.50 SEPA Policies for Review of SEPA Checklists**


**Chapters in red include proposed amendments, the other Chapters have not been amended.**

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# Chapter 20.02
# CRITICAL AREAS DEFINITIONS

Sections:

20.02.010 Purpose.
20.02.020 Definitions.

## 20.02.010 Purpose.

For purposes of the city's critical areas regulations, Chapter 20.12, General Critical Areas Regulations; Chapter 20.16, Oak Tree Protection; Chapter 20.24, Wetlands; Chapter 20.25, Fish and Wildlife Habitat Conservation Areas; Chapter 20.28, Geologically Sensitive Areas; and Chapter 20.32, Critical Aquifer Recharge Areas, and to clarify the intent and meaning of certain words or terms, the following list of definitions is provided. All other words used in these chapters carry their customary meanings. Words in the present tense include the past tense and words in the singular include the plural, and vice versa. (Ord. 1440 § 1, 2005).

## 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.~~

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(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, function~~ing~~, 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.

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

(24) “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 or173-303-100.

(25) “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.

(26) “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.

(27) “Infiltration” means the downward movement ~~entry~~ of water from ~~into~~ the ~~immediate~~ surface to the ~~of~~ subsoil.

(28) “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.

(29) “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.

(30) “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.

(31) “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.

(32) “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;~~

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

(~~f~~e) 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.~~

(33) "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 ~~eco~~systems 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.~~

(34) "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.

(35) "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.~~

(36) "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.

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

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

(39) "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.~~

(40) "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.

(41) "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~~.

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(42) “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.~~

(43) “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.

(44) “Potable water” means water that is safe and palatable for human consumption.

(45) “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.

(46) “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.

(47) “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.

(48) “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.

(49) “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.

(50) “Recharge” means the addition water to the zone of saturation ~~process involved in the absorption and addition of water to ground water~~.

(51) “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.

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(52) “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.~~

(53) “Riparian habitat” means areas adjacent to aquatic systems that contain elements of both aquatic and terrestrial ecosystems that mutually influence each other.

(54) “Salmonids” means members of the Salmonidae family of fishes, including regionally important species such as salmon, steelhead, and trout.

(55) “Seeps” means spots where water oozes from the earth, often forming the source of a small stream.

(56) “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.

(57) “SEPA” means Washington State Environmental Policy Act, Chapter 43.21C RCW.

(58) “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.

(59) “Significant tree” means a healthy evergreen or deciduous tree 12 inches or more in diameter measured four feet above existing grade.

(60) “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.

(61) “Species” means any group of animals classified as a species or subspecies as commonly accepted by the scientific community.

(62) “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.

(63) “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.

(64) “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.

(65) “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.

(66) “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

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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.~~

(67)"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.

(6~~7~~8) "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.

(6~~8~~9) "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.

(~~69~~70) "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.

(7~~0~~1) "Unavoidable" means adverse impacts that remain after all appropriate and practicable avoidance and minimization has been achieved.

(7~~1~~2) "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.

(7~~2~~3) "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.

(7~~3~~4) "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.

(7~~4~~5) "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).

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# Chapter 20.28
# GEOLOGICALLY SENSITIVE AREAS

Sections:


20.28.010 Designation of geologically sensitive areas.
20.28.020 Critical areas report.
20.28.030 Building setback.
20.28.040 Modifications and flexibility.
20.28.050 Repair of slope instabilities.
20.28.060 Seasonal restriction and best management practices.


## 20.28.010 Designation of geologically sensitive areas.

(1) Geologically sensitive areas include areas susceptible to erosion, sliding, earthquake, or other geologic events and conditions. Improper and incompatible development sited in these areas can pose a threat to the health and safety of citizens, placing not only itself at risk, but also potentially creating or increasing hazards to surrounding development and land uses. Areas susceptible to one or more of the following types of hazards shall be designated as a geologically sensitive area:

(a) Areas mapped on the city of Oak Harbor geologically sensitive areas map;

(b) Unstable slopes, as defined in OHMC 20.02.020;

(c) Steep slopes, as defined in OHMC 20.02.020; and

(d) Areas of moderate to high liquefaction due to soil type and/or location or seismically induced ground disturbance such as surface rupture, fissuring, and lateral spreading.

(2) As the city is not impacted by mine or volcanic hazards and the current tsunami data is inconclusive, development in the city shall comply with standard International Building Code requirements with respect to these potential hazards. (Ord. 1440 § 5, 2005).

## 20.28.020 Critical areas report.

All single-family residential development within 100 feet of a designated geologically sensitive area and all commercial, industrial, or multifamily developments within 200 feet of a designated geologically sensitive area shall be considered “adjacent” to the geologically sensitive area and required to submit a critical areas report, as described in this section. The director shall approve the critical areas report only if it demonstrates that the proposed development will not increase the risk of harm to public safety or neighboring properties or critical areas. To determine if a critical areas report is required on slopes between 15 and 39 percent, the director may require the applicant to provide a letter prepared by a certified geologist or engineer that determines whether springs or ground water seepage is present on the subject slope.

(1) Geotechnical Analysis. Except as provided in subsections (2) and (3) of this section, all development proposals within or adjacent to a designated geologically sensitive area shall submit a site assessment, geotechnical report, grading and erosion control plan and landscape/revegetation plan. This analysis shall contain the following information:

(a) Site Assessment. Along with the standard site plan requirements, the following information shall be provided for the subject property, prepared by a licensed land surveyor:

(i) Topography map at two-foot contour intervals for the entire site, including abutting public rights-of-way, private roads, or access easements;

(ii) Location of all significant trees;

(iii) Location of all manmade drainage structures or features including pipes, drains, catch basins, drainage structures, culverts, and underdrain pipes;

(iv) Location of all frequently flooded areas, as defined in Chapter 17.20 OHMC, and all other critical areas, as defined in this title, including: oak trees, wetlands, fish and wildlife habitat conservation areas, critical aquifer recharge areas, and geologically sensitive areas;

(v) Location of all existing site improvements and the amount of existing impervious surface area; and

(vi) Location of all utilities, both above and below ground.

The site plan shall also include a vicinity map, showing the location of the property in relationship to surrounding lots and other critical areas.

(b) Geotechnical Report. The report, prepared by a qualified professional, shall include an assessment of the geologic characteristics of the soils, sediments, and/or rock of the project area and potentially affected adjacent properties, and a review of the site history regarding landslides, erosion, and prior grading. Soils analysis shall be prepared in accordance with accepted classification systems in use in the region. The assessment shall include, but not be limited to:

(i) Data regarding underlying geology, slope gradients, soil types, and subsurface information, including boring and/or test pit logs describing soil stratification and results of soil tests conducted;

(ii) Identify any previous landslide activity in the vicinity of the project and provide an assessment of the overall slope stability and the effect the development will have on the slope and adjacent properties over time;

(iii) Recommendations for grading procedures, fill placement, and compaction criteria, temporary and permanent slope inclinations and support, and design criteria for corrective measures and opinions and recommendations regarding the capabilities of the site;

(iv) Evaluation of the seismic stability of the site in drained and saturated conditions, including a statement that the design criteria of proposed structures consider a seismic event with a 10 percent probability of being exceeded in 50 years;

(v) Potential for liquefaction and proposed mitigation measures;

(vi) A description of the hydrology (both surface and subsurface) of the site, including locations of any wetlands, streams, springs, seeps, and ground water along with recommendations consistent with the city's critical areas regulations for addressing any impacts;

(vii) A recommendation on building site location, foundation type and depths, minimum building setbacks, minimum deck and accessory building setbacks, and if necessary the minimum no-disturbance setback from any geologically sensitive area based upon the geotechnical analysis. The report shall also include recommendations on the design of temporary and permanent retaining structures if any are proposed;

(viii) An estimate of bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a 100-year storm event; and

(ix) Recommendations and requirements for handling contaminated soils and materials if encountered on the site.

(c) Grading and Erosion Control Plan. The plan shall be prepared by a qualified professional and shall include:

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(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.

(d) Landscape/Revegetation Plan. A revegetation plan shall be prepared which:

(i) Shows measures to be taken for protection and replacement of the natural vegetative cover;

(ii) Includes a note stating that vegetation trimming debris shall be removed from slopes in such a fashion as to not disturb existing vegetation; and

(iii) Includes a schedule showing when each stage of the project will be revegetated with estimated starting and completion dates.

(2) Geotechnical Letter Requirements. For the following small development applications, a letter prepared by a qualified professional may be prepared in lieu of the full geotechnical reporting requirements:

(a) Building additions less than 30 percent of their entire structure.

(b) Additions to a building's height where the footprint of the existing structure is not changed.

(c) Earth retaining walls less than 10 feet in height and set back more than 50 feet from the top of a steep slope.

(d) Detached auxiliary buildings such as garages and sheds with no living spaces.

A geotechnical letter shall include an assessment of the existing geologic and geotechnical site conditions, including surface water runoff, ground water, soil types, erosion, and slope stability. The qualified professional shall prepare conclusions and recommendations on the suitability of the proposed development and any mitigation necessary to address existing site conditions that may need to be modified due to the proposed development.

(3) Exceptions. For the following single-family and multifamily residential development applications, the director may waive the requirements for geotechnical analysis or letter, if the development is unlikely to have any impact on a geologically sensitive area:

(a) Additions to a single-family residence less than 200 square feet in size, located so that the existing structure is between the addition and a steep or unstable slope.

(b) Detached auxiliary buildings such as garages and sheds that are 50 feet or more away from a steep or unstable slope.

(c) Decks attached to single-family and multifamily structures where no additional load- bearing weight is added to an adjacent steep or unstable slope. (Ord. 1440 § 5, 2005).

## 20.28.030 Building setback.

(1) New structures and additions to existing structures within or adjacent to a geologically sensitive area shall be set back a minimum of 25 feet from the top of a steep or unstable slope unless a larger setback is recommended in a geotechnical analysis. In no case shall the setback be less than 25 feet from a steep or unstable slope unless allowed through the "reasonable use" provisions of OHMC 20.12.060 and supported by a geotechnical report and approved by the director. Decks which add no substantial loading weight to the

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sensitive area and accessory buildings 120 square feet or less may extend into the setback area to within 10 feet of the top or toe of a steep or unstable slope.

(2) Signage. After completion of the project, the top of the steep or unstable slope shall be identified with signs as a critical area or native growth protection area, in accordance with OHMC 20.12.140(2). (Ord. 1440 § 5, 2005).

## 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).

## 20.28.050 Repair of slope instabilities.

Repair of slope instabilities and slope failures on an emergency basis shall be allowed by the director as needed to correct an immediate danger to the public health, welfare and safety. The director shall use the guidance of this chapter when evaluating the necessary repairs and add mitigation measures as appropriate to ensure that the intent of this chapter has been met. (Ord. 1440 § 5, 2005).

## 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).

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# Chapter 20.32
# CRITICAL AQUIFER RECHARGE AREAS

Sections:

20.32.010 Designation of critical aquifer recharge areas.
20.32.020 Regulated activities.
20.32.030 Critical areas report.

## 20.32.010 Designation of critical aquifer recharge areas.

(1) Critical aquifer recharge areas (CARAs) are those areas with a critical recharging effect on aquifers used for potable water. CARAs have prevailing geologic conditions associated with infiltration rates that create a high potential for contamination of ground water resources or contribute significantly to the replenishment of ground water. These include aquifer recharge areas moderately or highly susceptible to degradation, as identified by the Island County aquifer recharge area map or other study using criteria established by the Washington State Department of Ecology for soil permeability, geologic matrix, infiltration and depth to water.

(2) The approximate location and extent of CARAs are shown on the city's adopted critical areas maps. These maps are to be used as a reference for the city, project applicants and property owners and may be superseded by new data. (Ord. 1440 § 6, 2005).

## 20.32.020 Regulated activities.

The following permitted activities or land uses are subject to the requirements of this chapter, when conducted within 200 feet of a CARA:

(1) Above or below ground storage tanks for hazardous substances or hazardous wastes.

(2) Commercial, industrial, institutional or other facilities that include: automobile washers, chemical treatment storage and disposal facilities, dry cleaners, hazardous waste generators, junk yards and salvage yards, oil and gas drilling, on-site sewage systems, pesticide storage and use, petroleum transmission facilities and/or storage tanks, solid waste handling and recycling facilities, vehicle repair and services, wastewater application to land surfaces, and other activities that create a significant risk of contaminating CARAs.

(3) Residential sewage disposal systems that serve two or more residences or that have a density greater than one system per acre.

(4) Stormwater management facilities that infiltrate the majority of water they manage. (Ord. 1440 § 6, 2005).

## 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.

(2) The following general development standards shall apply to all regulated activities:

(a) Floor drains shall be connected to an approved sanitary sewer system;

(b) Vehicle washing facilities must be self-contained and connected to an approved sanitary sewer system;

(c) Underground tanks shall be installed in accordance with Chapter 173-360 WAC, Underground Storage Tanks;

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(d) Vehicle repair and service areas shall be conducted over impermeable pads and located within an enclosed structure;

(e) Chemicals shall be stored in a manner that is protected from the weather and located within containment areas; and

(f) Additional protective measures may be required if deemed necessary by the city of Oak Harbor.

(3) The applicant shall also submit a spill prevention plan that identifies equipment being used or any structures that could fail and contaminate CARAs. The plan shall include provisions for regular inspection, repair, replacement, clean-up methods to be used, and methods to dispose of all spilled materials.

(4) If the director determines that additional precautions may be necessary to protect against ground water contamination, a hydrogeologic site evaluation prepared by a qualified professional may be required. The city may engage an independent qualified professional to review the evaluation, at the applicant's expense. The evaluation shall address some or all of the following, as specified by the director:

(a) Hydrogeologic Setting.

(i) Description of the geologic setting of the site, illustrated with geologic and soil maps;

(ii) Discussion of geologic features which may influence ground water movement, such as faults, landforms, etc.;

(iii) Description of the occurrence and movement of groundwater in the area, including a general discussion of aquifer recharge and discharge, depth of groundwater and groundwater flow patterns; and

(iv) General discussion of groundwater quality in the area.

(b) Site-Specific Hydrogeologic Data.

(i) Scaled map showing the location of wells (in use or inactive) and springs within 1,000 feet of the site or as required by the director;

(ii) Depth to groundwater layer in the immediate vicinity;

(iii) Hydrogeological cross-sections through the site and immediate vicinity with references to information used to prepare the cross-sections;

(iv) Description of groundwater movement beneath the site with considerations for the following:

(A) Areal distribution, stratification and hydraulic conductivity of the water-bearing formations;

(B) Probable migration pathways for contaminants;

(C) An estimate of the probable times of travel through the soil horizontally and vertically from a potential contaminant source;

(v) Description of how the contaminants of concern will be attenuated within the saturated zone; and

(vi) Estimate of the quantity and/or quality of water recharged to the saturated zone under anticipated operation.

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(5) A mitigation plan shall be required to address groundwater impacts identified in the hydrogeologic site evaluation, consistent with OHMC 20.12.090 and 20.12.100. The director may require that the plan include monitoring, process controls, remediation and discussion of alternatives. (Ord. 1440 § 6, 2005).

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# Title 21
# SUBDIVISIONS

**Chapters:**


**21.10 General Provisions**

**21.20 Preliminary Plats**

**21.30 Construction Plans**

**21.40 Final Plats**

**21.50 General Design Standards**

**21.60 Residential Design Standards**

**21.70 Short Subdivisions**

**21.80 Binding Site Plans**

**21.90 Penalty**


**Chapters in red include proposed amendments, the other Chapters have not been amended.**

# Chapter 21.10
# GENERAL PROVISIONS

Sections:


21.10.010 Purpose.
21.10.020 Applicability.
21.10.030 Administration.
21.10.040 City standards.
21.10.050 Consent to access.
21.10.060 Monuments.
21.10.070 Definitions.


## 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).

## 21.10.020 Applicability.

(1) The provisions of this title shall apply to all division of land within the corporate limits of the city of Oak Harbor except as expressly stated in this title.

(2) Division of land into nine or less lots shall be in compliance with the regulations and standards governing short subdivision set out in Chapter 21.70 OHMC unless the binding site plan procedures of Chapter 21.80 OHMC are being followed. Division of land into 10 or more lots shall comply with regulations and standards pertaining to subdivisions contained herein and must follow the preliminary and final procedures hereafter set forth or, if applicable, binding site plan processes.

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(3) Sale of land is prohibited unless it is a duly platted parcel of land or lot or is a tract of record prior to September 16, 1980, or is a parcel of land approved under the short subdivision provisions.

(4) The provisions of this title shall not apply to:

(a) Cemeteries and other burial plats while used for that purpose;

(b) Divisions of land into lots or tracts each of which is one one-hundred-twenty-eighth of a section of land or larger, or five acres or larger if the land is not capable of description as a fraction of a section of land;

(c) Divisions made by testamentary provisions, or the laws of descent;

(d) Divisions of land into lots or tracts classified for industrial or commercial use when the city council has approved a binding site plan for the use of the land in accordance with Chapter 21.80 OHMC;

(e) A division for the purpose of lease when no residential structures other than mobile homes or travel trailers are permitted to be placed upon the land when the city council has approved a binding site plan for the use of the land in accordance with Chapter 21.80 OHMC;

(f) A division made for the purpose of alteration by adjusting boundary lines between platted or unplatted lots or both, which does not create any additional lot, tract, parcel, site, or division nor create any lot, tract, parcel, site, or division which contains insufficient area and dimension to meet minimum lot size requirements for width and area as specified in the underlying zoning;

(g) Divisions of land into lots or tracts if:

(i) Such division is the result of subjecting a portion of a parcel or tract of land to either Chapter 64.32 or 64.34 RCW subsequent to the recording of a binding site plan for all such land;

(ii) The improvements constructed or to be constructed thereon are required by the provisions of the binding site plan to be included in one or more condominiums or owned by an association or other legal entity in which the owners of units therein or their owners' associations have a membership or other legal or beneficial interest;

(iii) The city council has approved the binding site plan for all such land;

(iv) Such approved binding site plan is recorded in Island County;

(h) A division for the purpose of leasing land for facilities providing personal wireless services, as defined in RCW 58.17.040, while used for that purpose;

(i) A division of land into lots or tracts of less than three acres that is recorded in accordance with Chapter 58.09 RCW and is used or to be used for the purpose of establishing a site for construction and operation of consumer-owned or investor-owned electric utility facilities as defined in Chapter 58.17 RCW. This subsection does not exempt a division of land from the zoning and permitting laws and regulations of the Oak Harbor Municipal Code. Furthermore, this subsection only applies to electric utility facilities that will be placed into service to meet the electrical needs of a utility's existing and new customers.

(5) Land which the city council may find to be unsuitable or inappropriate for subdivision due to flooding, inadequate drainage, excessive slope, rock formations, high ground water, or other features likely to be harmful to the safety and general health and welfare of the future residents shall not be subdivided unless adequate corrective methods are provided and approved by city council. (Ord. 1617 § 1, 2011; Ord. 1568 § 3, 2010).

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## 21.10.030 Administration.

The director of development services, referred to in this title as “director,” is delegated and assigned the administrative and coordinating responsibilities contained in this title pursuant to Chapter 58.17 RCW. All applications for land division approval under this title shall be submitted to the development services department. In cases where an environmental impact statement is required under the provisions of the State Environmental Policy Act (SEPA, Chapter 43.21C RCW), the department shall not be considered to be in receipt of an application, for the purpose of complying with time limitations established by this title, until the date of issuance of a final environmental impact statement. (Ord. 1617 § 1, 2011; Ord. 1568 § 3, 2010).

## 21.10.040 City standards.

In addition to compliance with this title, all subdivisions shall adhere to all applicable adopted city standards and regulations including, but not limited to, the comprehensive plan, the sewer comprehensive plan, the water system plan, the comprehensive stormwater drainage plan, and the street and utility standards of the city, which are on file with the city clerk. (Ord. 1617 § 1, 2011; Ord. 1568 § 3, 2010).

## 21.10.050 Consent to access.

Persons applying for land division or lot line adjustment approval under this title shall permit free access to the land subject to the application to all agencies considering the proposal for the period of time extending from the time of application to the time of final action. (Ord. 1617 § 1, 2011; Ord. 1568 § 3, 2010).

## 21.10.060 Monuments.

Brass monuments in cases shall be set at controlling corners of the subdivision, at all points where the street lines intersect the exterior boundaries of the subdivision, at controlling corners and points of curvature in each street, and at all street intersections. All surveys shall be of third order accuracy. The use of state plane coordinates is required.

All other lot corners shall be marked with a permanent suitable metal marker not less than three-eighths inch in diameter and 18 inches long and driven flush with the finished grade. (Ord. 1617 § 1, 2011; Ord. 1568 § 3, 2010).

## 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.

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(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 presentment 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.

(3~~6~~7) “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.

(3~~7~~8) “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.

(3~~8~~9) “Subdivider” means any person, firm or corporation who subdivides or develops any land deemed to be a subdivision.

(~~39~~40) “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.

(4~~0~~1) “Surveyor” means a registered professional land surveyor licensed to practice surveying in the state of Washington.

(4~~1~~2) “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).

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# Chapter 21.20
# PRELIMINARY PLATS

Sections:


21.20.010 Purpose and applicability.

21.20.020 Application and submission requirements.

21.20.030 Prints, application and fee submittal.

21.20.040 Review procedures.

21.20.050 Dedications.

21.20.060 Planning commission public hearing.

21.20.070 City council decision.

21.20.080 Effect of approval.


## 21.20.010 Purpose and applicability.

The purpose of a preliminary plat (preliminary subdivision) application is to:

(1) Accept public comment on the proposed plat application in accordance with the public participation goals and policies of the comprehensive plan; and

(2) Review the proposed division of land for conformance with the comprehensive plan, zoning standards contained in OHMC Title19 and design standards of this title including, but not limited to, lot size, setbacks and density prior to submittal of detailed construction plans and drawings under the provisions of Chapter 21.30 OHMC.

A preliminary plat shall be required when division of land into 10 or more lots, tracts, or parcels is proposed for which a binding site plan process is not being followed. (Ord. 1617 § 2, 2011; Ord. 1568 § 4, 2010).

## 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:

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(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.

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(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.

(~~9~~10) 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).

## 21.20.030 Prints, application and fee submittal.

The preliminary plat application number of prints and applicable fees shall be as set forth on forms provided by the development services department. (Ord. 1617 § 2, 2011; Ord. 1568 § 4, 2010).

## 21.20.040 Review procedures.

(1) Preliminary subdivision approval shall be a Type IV review process as outlined in Chapter 18.20 OHMC.

(2) Upon receipt of the proposed preliminary plat application and determination of fully completed status, the director shall distribute it to each of the following for their review and comments as applicable:

(a) City administrator or such other person as designated by the mayor;

(b) City engineer;

(c) Fire chief;

(d) Police chief;

(e) Public works superintendent;

(f) City park board;

(g) Island County planning department;

(h) Oak Harbor school district;

(i) Post office;

(j) Public and private utilities (such as power and natural gas), telephone, cable TV, telecommunications providers holding franchises in Oak Harbor; and

(k) Other agencies designated by the mayor.

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(3) For purposes of this section, the term “fully completed,” as used in RCW 58.17.033, is the same as “technically complete” as defined and referenced in OHMC 18.20.340.

(4) The director shall prepare and give notice of the time, location and purpose of the hearing to the following agencies, if applicable:

(a) Department of Transportation if the preliminary plat is adjacent to the right-of-way of a state highway or within two miles of the boundary of a state or municipal airport; and

(b) The county if the preliminary plat abuts the city limits. (Ord. 1617 § 2, 2011; Ord. 1568 § 4, 2010).

## 21.20.050 Dedications.

(1) Dedication of land to any public body, provision of public improvements to serve the subdivision, and/or impact fees imposed in conformity with RCW 82.02.050 through 82.02.090 may be required as a condition of subdivision approval. Dedications shall be clearly shown on the final plat. No dedication, provision of public improvements, or impact fees imposed under RCW 82.02.050through 82.02.090 shall be allowed that constitutes an unconstitutional taking of private property. The city shall not, as a condition to the approval of any subdivision, require a release from damages to be procured from other property owners.

(2) If the preliminary plat includes a dedication of a public park with an area of less than two acres and the donor has designated that the park be named in honor of a deceased individual of good character, the city shall adopt the designated name. (Ord. 1617§ 2, 2011; Ord. 1568 § 4, 2010).

## 21.20.060 Planning commission public hearing.

(1) Notice shall be provided of a public hearing before the planning commission.

(a) The director shall set a public hearing before the planning commission on the preliminary plat application.

(b) The director shall publish notice of the hearing not less than 15 days prior to the hearing date in a newspaper of general circulation in the area where the real property which is proposed to be subdivided is located.

(c) The director shall also give special notice of the hearing to landowners of adjacent real property located within 300 feet of any portion of the boundary of the proposed subdivision. If the owner of the real property which is proposed to be subdivided owns another parcel or parcels of real property which lie adjacent to the real property proposed to be subdivided, special notice shall also be given to landowners of real property any portion of the boundaries of which are adjacent to real property owned by the owner of the real property proposed to be subdivided.

(d) All hearing notices shall include a description of the location of the proposed subdivision. The description may be in the form of either a vicinity location sketch or a written description other than a legal description.

(2) The planning commission shall consider the preliminary plat application and make a recommendation to the city council whether to approve or disapprove the proposed subdivision.

(a) The public hearing shall be an open record hearing where testimony and evidence shall be taken subject to the rules of procedure of the planning commission.

(b) The applicant shall be given an opportunity to testify and produce evidence in support of the preliminary plat application.

(c) Members of the public shall also be allowed to testify and to produce evidence.

(d) The planning commission shall review the application to determine whether the proposed subdivision conforms to the city’s comprehensive plan, zoning code, and other planning documents adopted by the city council.

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(e) The planning commission shall enter written findings of fact and conclusions concerning the proposed subdivision and include them in the recommendations to the city council.

(f) The recommendations of the planning commission shall be transmitted to the city council within 14 days of action by the planning commission. (Ord. 1617 § 2, 2011; Ord. 1568 § 4, 2010).

## 21.20.070 City council decision.

(1) The preliminary plat application shall be placed on the agenda for the next regular city council meeting not less than one week after the city council's receipt of the planning commission recommendations.

(2) Consideration of the application by the city council shall be a closed record proceeding. The city council shall make its determination whether to approve or disapprove the application based on the record created before the planning commission and the planning commission's recommendations.

(3) The city council shall inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication(s). It shall make written findings:

(a) Whether appropriate provisions have been made for, but not limited to, the public health, safety and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds, and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school.

(b) Whether the public use and interest will be served by the platting of the subdivision and dedication(s).

(c) The city council may approve or disapprove the application by resolution, which shall include the written findings required in this subsection (3). The city council may condition approval of the preliminary plat upon actions to meet the requirements of this subsection (3). The city council may not require a release from damages to be procured from other property owners as a condition of preliminary plat approval.

(d) The city council decision shall be made within 90 days of the date of the director's determination that the application is fully completed, excluding those excepted time periods specified in RCW 58.17.140, unless the applicant consents in writing to an extension of the time period for decision. (Ord. 1617 § 2, 2011; Ord. 1568 § 4, 2010).

## 21.20.080 Effect of approval.

(1) Approval of the preliminary plat by the city council shall constitute approval for the applicant to develop construction plans and specifications for facilities and improvements, as required, in strict conformance with the approved preliminary plat, street and utility standards adopted by the city, and any special conditions required by the council.

(2) Permission shall not be granted for installation of required improvements until all construction plans and specifications have been approved in writing by the city engineer.

(3) Time for Performance. Except as provided for in OHMC 21.40.020, construction shall be completed within five years of the date of the city council resolution approving the preliminary plat or the preliminary plat approval shall terminate and all permits and approvals issued pursuant to such authorization shall expire and be null and void. If construction has been commenced but the work has been abandoned for a period of one year or more, and if no extension of time has been granted as provided in OHMC21.40.020, the authorization granted for the preliminary plat shall terminate and all permits and approvals issued pursuant to such authorization shall expire and be null and void. (Ord. 1617 § 2, 2011; Ord. 1568 § 4, 2010).

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# Chapter 21.30
# CONSTRUCTION PLANS

Sections:

21.30.010 Purpose and applicability.
21.30.020 Construction plans – Engineering review.

## 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).

## 21.30.020 Construction plans – Engineering review.

(1) Following approval of the preliminary plat or short subdivision by the city council, if the subdivider wishes to proceed with the subdivision, he or she shall submit to the city engineer the applicable plan and other review fees as set out in this title and the city's fee schedule, and three complete sets of construction plans and specifications (sheet size 22 inches by 34 inches) prepared by an engineer registered in the state of Washington showing all improvements as required by the city council in granting the preliminary plat. Such plans must be submitted and approved by the city engineer prior to beginning any grading work on the site.

(2) All construction plans and specifications shall be in conformance with the city street and utility standards. The city engineer shall approve, conditionally approve, or disapprove the submitted plans according to the timelines established in Chapter 18.20 OHMC. The subdivider shall indicate, either on the plans or by separate document, the engineer retained to provide certification of all improvements. Approval shall expire five years from the date of initial preliminary plat approval.

(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;

(b) The subdivider's engineer shall provide as-built drawings of all city-maintained streets and utility improvements related to the subdivision. As-built drawings shall be submitted to and approved by the city engineer prior to acceptance of public improvements;

(c) A performance bond in the amount of 112 percent of the cost to construct required and uninstalled improvements may be posted in lieu of the complete installation of improvements; provided, that such bond is recommended by the city engineer. All deferred improvements shall be completed within two years from the date a bond has been accepted or the city will use securities to complete. The performance bond shall specify exactly what improvements are included, accompanied by a time schedule for completion. In lieu of the performance bond, the developer may provide for other security approved by the city council at the next regularly scheduled council meeting following the city engineer's approval of construction plans;

(d) The subdivider shall promptly proceed with the completion of the guaranteed improvements. If, in the opinion of the city engineer, the subdivider has not proceeded toward the prompt completion of the bonded improvements, he may cause the bond or other security to be updated with new estimates of cost on all incomplete improvements and all increased cost estimates shall be passed on to the bond or other security. If these increased costs are not accepted by the security, then the city shall foreclose on

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the bond or other security. In any event, all bonded improvements must be completed within the period specified in the bond, or the bond shall be forfeited and the city will undertake the installation and completion of all improvements with the bond;

(e) Water, sanitary sewer and storm sewer connections to private property will not be allowed until preliminary approval of all public utility installations has been made by the city engineer. Prior to the acceptance of public improvements, the subdivider shall submit to the city engineer a permanent reproducible mylar of the original construction drawings, said mylar corrected to indicate all as-built information together with a certification by the developer's engineer certifying the accuracy of said as-built information, and conformance of the installation with the approved plans/specifications and all city requirements. In addition to the mylar, one electronic copy and two sets of prints shall be provided;

(f) Before acceptance of the improvements by the city council of the city of Oak Harbor, a maintenance bond or other security acceptable to the city shall be posted by the developer jointly obligating the developer, or some other party acceptable to the city, and a security, acceptable to the city, guaranteeing these improvements from any defects caused by faulty workmanship, materials or design or combination thereof for a period of two years from the date of written acceptance of the improvements. The amount of bond or other security requested shall be determined by the city engineer, but in no event shall the amount be less than 10 percent of the cost of the improvements; and

(g) The city engineer shall be responsible for approving all engineering drawings, the final inspection and acceptance of all subdivision improvements. A reasonable fee to cover the cost to the city of inspecting and reviewing the construction plans shall be billed to the developer. The fee shall be the cost to the city per hour of employee time spent inspecting and reviewing construction plans. This fee shall be paid in full prior to formal acceptance of the improvements by the city council. (Ord. 1568 § 5, 2010).

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# Chapter 21.40
# FINAL PLATS

Sections:


21.40.010 Purpose and applicability.
21.40.020 Timeline for submittal of final plat and extensions for completion of improvements.
21.40.030 Application requirements.
21.40.040 Prescribed form.
21.40.050 Review and approval process.
21.40.060 Filing – Copies.


## 21.40.010 Purpose and applicability.

Final plats are final drawings of the subdivision and dedication prepared for filing with the county auditor in accordance with Chapter58.17 RCW and county and city ordinances. Final plats are required for any land division which uses the subdivision process to create lots, parcels or tracts. Final plats are not required to be submitted for binding site plans. (Ord. 1568 § 6, 2010).

## 21.40.020 Timeline for submittal of final plat and extensions for completion of improvements.

(1) Final plat approval is a Type IV review process, in accordance with Chapter 18.20 OHMC.

(2) An application for final plat approval shall be submitted to the director within five years of the preliminary plat approval and when either:

(a) The subdivider has completed and has received approval of the construction and installation of all improvements; or

(b) The subdivider has submitted an approved performance bond in lieu thereof.

(3) The city council may grant a time extension for completion of the requirements for preliminary plat for a maximum of one year. Said extension shall be conditioned upon:

(a) The plat meeting all subdivision requirements which are in effect at the time the extension is granted; and

(b) Upon a showing that the applicant has attempted in good faith to submit the final plat within the five-year period. (Ord. 1568 § 6, 2010).

## 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:

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(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).

## 21.40.040 Prescribed form.

The final plat shall be submitted to the director in the form and manner prescribed in this section. The prescribed form described in this section also applies to short subdivision maps.

(1) Form.

(a) The final plat, containing all the information specified in this chapter, shall be prepared in a neat and legible manner in permanent drawing ink or equivalent on mylar film or better. Applicant shall also submit an electronic copy to the city of the approved final plat. All documents, maps, survey calculations and notes shall contain the name of the subdivision, the name(s) of the subdivider(s), and the name of the registered land surveyor responsible to the subdivider(s); and

(b) The plat map shall be 18 inches by 24 inches with a one-half-inch border on the top, bottom, and right-hand margins and a two-and-one-half-inch border on the left-hand or binding margin.

(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;

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(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.

(3) All linear dimensions shall be given in feet and decimals of a foot to the nearest hundredth.

(4) The scale of the final plat will be 100 feet to the inch, or as approved by the director.

(5) If the plat constitutes a replat, the lots, blocks, streets, etc., of the original plat shall be shown by dotted lines in their proper positions relative to the new arrangement of the plat, the new plat being clearly shown in solid lines so as to avoid ambiguity.

(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.

(b) Dedication (by Individuals).

Know All Men by these Presents that we, the undersigned owners in the fee simple or contract purchaser and mortgage holder of the land hereby platted, hereby declare this plat and dedicate to the use of the public forever all streets and avenues shown thereon and use thereof for all public purposes not inconsistent with the use thereof for public highway purposes; also the right to make all necessary slopes for cuts and fills upon the lots and blocks shown on this plat in the original reasonable grading of the streets and avenues shown hereon. This subdivision has been made with our free consent and in accordance with our desires.

IN WITNESS WHEREOF we have hereunto set our hands and seals this ____ day of _____, ___.

_____ _____

_____ _____

(c) Dedication (by Corporation).

Know All Men by these Presents that the _____, Inc., a state corporation, owner in the fee simple or contract purchaser and mortgage holder of the land hereby platted, declares this plat and dedicates to the use of the public forever, the streets and avenues shown hereon and the use thereof for all public purposes consistent with the use thereof for public highway purposes together with the right to make all necessary slopes for cuts and fills upon the lots and blocks shown hereon in the original reasonable grading of all such streets and avenues shown hereon. This subdivision has been made with our free consent and in accordance with our desires.

IN WITNESS WHEREOF, the said corporation has caused its corporate name to be hereunto subscribed and its corporate seal to be hereunto affixed this ____ day of _____, ___.

_____, Inc.

By_____

By_____

(d) Acknowledgment (by Individuals).

State of _____, County of _____, I certify that I know or have satisfactory evidence that _____ signed this instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

WITNESS my hand and official seal the day and year first above written.

Notary Public in and for the State of _____

residing at_____

My Appointment Expires_____

(e) Acknowledgment (by Corporations).

State of ____, County of _____. I certify that I know or have satisfactory evidence that _____ signed this instrument, on oath stating that (he/she) was authorized to execute the instrument and acknowledged it as the _____ (type of authority, e.g., officer, trustee, etc.) of _____ (name of party on behalf of whom instrument was executed) to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

IN WITNESS WHEREOF I have set my hand and affixed by official seal the day and year above written.

Notary Public in and for the State of _____

residing at_____

My Appointment Expires_____

(f) Surveyor's Certificate.

I hereby certify that the plat of _____ is based upon a complete and actual survey and subdivision of Section ___, Township ___, Range ____ East W.M.; that the courses and distances are shown correctly thereon; that the monuments have been set and the lot and block corners staked correctly on

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the ground; and that I have fully complied with the provisions of the statutes and platting regulations.
_____

Certificate No._____

Expiration _____

Date _____

(g) City Engineer Approval.

I hereby certify that this final plat is consistent with all applicable city improvement standards and requirements in force on the date of preliminary plat approval, examined and approved this ____ day of _____, 20___.

_____

City engineer

(h) City Council Approval.

Approved by the Council of the City of Oak Harbor, Washington this _____ day of _____, ___.

Attest:

_____ _____

Clerk Mayor

(i) City Finance Director Approval.

I hereby certify that all taxes and delinquent assessments for which the property may be liable as of the date of certification have been duly paid, satisfied or discharged.

This ____ day of _____, ____.

_____

City Finance Director

(j) County Treasurer Approval.

This is to certify that all taxes heretofore levied and which have become a lien upon the lands herein described, have been fully paid and discharged, according to the records of my office, up to and including the year of _____.

(k) County Auditor.

Filed for at the request of _____, this ___ day of _____, 20___, and recorded in Volume ___ of Plats, page(s) ____, Records of Island County, Washington.

_____

County Auditor

(l) The final plat shall be accompanied by a computer check of the boundaries, street centerlines, lots, blocks and lot areas.

DRAFT

(m) All documents submitted under this section shall contain the name of the subdivision and the name and address of the subdivider.

(7) Waivers of claims of damages for damages to adjacent land pursuant to RCW 58.17.165 may be required where the city accepts a street or avenue as part of final plat approval. (Ord. 1568 § 6, 2010).

## 21.40.050 Review and approval process.

(1) The director shall forward the final plat application to the city council if:

(a) The application is in order; and

(b) Improvements are constructed in a satisfactory manner and approved by the city engineer or a bond or other security acceptable to the city engineer has been satisfactorily posted for deferred improvements.

(2) The recommendations of the director regarding the final plat shall be forwarded to the mayor for placement upon city council agenda.

(3) After receipt of the recommendation on any final plat, the city council shall consider the final plat at a public meeting. (Ord. 1568 § 6, 2010).

## 21.40.060 Filing – Copies.

(1) If approved, the subdivider shall file the final plat with the county auditor within 30 working days after approval by the city council. If the final plat has not been recorded within the above specified time frame, the city resolution adopting the final plat will automatically become null and void.

(2) The subdivider shall furnish the director with one permanent reproducible copy, mylar or better quality, of the final plat including all recording data and covenants. Paper and electronic copies shall be supplied within five days of the approval. (Ord. 1568 § 6, 2010).

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# Chapter 21.50
# GENERAL DESIGN STANDARDS

Sections:


21.50.010 Purpose.
21.50.020 Applicability.
21.50.030 Relationship to other plans required by this title.
21.50.040 Waiver of requirements – Procedure.
21.50.050 General improvement standards.
21.50.060 Streets – Access requirements.
21.50.070 Streets – Required improvements.
21.50.080 Streets – Relationship to adjoining development.
21.50.090 Alleys.
21.50.100 Lot dimensions.


## 21.50.010 Purpose.

The design standards in this chapter implement the goals and policies of the Oak Harbor comprehensive plan for the division of land within city boundaries into lots, tracts, and parcels, as well as set requirements for the design and provision of public infrastructure needed to serve land divisions. (Ord. 1617 § 3, 2011; Ord. 1568 § 7, 2010).

## 21.50.020 Applicability.

The general design standards in this chapter apply to all divisions of land within the city of Oak Harbor, including binding site plans, short subdivisions, and subdivisions. (Ord. 1617 § 3, 2011; Ord. 1568 § 7, 2010).

## 21.50.030 Relationship to other plans required by this title.

All improvements required by this chapter for land divisions must be shown on the preliminary plat site plan, short subdivision map, or the binding site plan map, as applicable. (Ord. 1617 § 3, 2011; Ord. 1568 § 7, 2010).

## 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.

(2) No waiver shall be granted which allows a subdivision, short subdivision or binding site plan, which is not in the public interest as identified in RCW 58.17.010 et seq.

(3) Subdivision waivers are a Type IV review process, as described in Chapter 18.20 OHMC, and shall accompany and be processed with the preliminary plat, short subdivision, binding site plan or boundary line adjustment application.

(4) Such conditions may be required which may achieve, insofar as practicable, the objectives of the requirements for which a waiver is authorized.

(5) Application for an adjustment or waiver from the local residential street designs contained in Table 21.50-1 shall be processed in accordance with the provisions of OHMC 21.60.070 and 21.60.080, not the provisions of this section. (Ord. 1617 § 3, 2011; Ord. 1568 § 7, 2010).

## 21.50.050 General improvement standards.

The standards of this section shall apply generally throughout the city of Oak Harbor.

(1) A water distribution system, including fire hydrants, shall provide domestic water service and fire protection to each lot. Said system shall conform to the city's comprehensive water plan, established policy and state requirements. Fire hydrant type and location shall be subject to the review and approval of the fire chief or his designee. Water mains and distribution systems shall be installed as shown on construction plans approved by the city engineer pursuant to Chapter 21.30 OHMC.

(2) Sewer mains shall be installed as shown on drawings approved by the city engineer and shall conform to the city's comprehensive sewer plan. When required, sewer mains, manholes, lift stations and force mains shall be installed in all subdivisions prior to any water service being connected to any improvements. Service connections shall be provided to each lot.

(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~~b) ~~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~~c~~) 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 approved by the city engineer.

~~(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~~d~~)~~ For maintenance purposes, all stormwater detention or treatment facilities shall be placed in a tract, unless located within a public right-of-way.

(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 e~~E~~dition).

(b) The improvements shall be made from intersection to intersection, intersection to subdivision boundary, or from subdivision boundary to subdivision boundary.

(c) All streets, roads and alleys shall be graded to their full width so that pavement and sidewalks can be constructed on the same plane. Before grading is started, the entire right-of-way area shall be cleared of all stumps, roots, brush and other objectionable materials, and all trees not intended for preservation.

(d) On streets where a proposed subdivision adjoins an existing subdivision or existing street dedication and the existing subdivision or existing street dedication does not meet city standards, the subdivider shall, as a minimum, be responsible for installing paved streets, sidewalks, curbs, gutters, landscape strips, street trees, monuments, sanitary and storm sewers, street lights, water mains, and street name signs on both sides of all streets within the subdivision and on one side on streets around the perimeter of the proposed subdivision. Any partial street improvements required on the perimeter of a subdivision shall be designed to allow for two-way vehicular traffic where reasonably necessary as a direct result of the creation of the subdivision.

(5) Alleys shall be constructed to the standards indicated in Table 21.50-1.

(6) Sidewalks.

(a) Sidewalks shall be installed on both sides of all streets, along dead-end streets and around cul-de-sacs. No physical obstructions such as poles, fire hydrants, utility boxes, utility vaults, or mailboxes shall be constructed in the sidewalk or overhang the sidewalk from zero to eight feet above grade. Sidewalks shall be a minimum of five feet wide and four inches thick. Where rolled curb has been approved by the city engineer, all sidewalks adjacent will be a minimum thickness of six inches. Where LID best management practices are implemented in subdivision street design, alternative sidewalk design resulting from LID best management practices may include, but is not limited to: sidewalks on one side of the street, flat curbs, LID bioretention areas incorporated in conjunction with required landscaping, and alternative sidewalk widths. LID best management practices shall be designed in accordance with the LID Technical Guidance Manual for Puget Sound (current edition).

(b) All sidewalks shall be completed prior to an occupancy permit being granted for any new building.

(7) Other Utilities.

(a) Street light standards and fixtures shall be provided to supply adequate lighting for the safety and convenience of the public.

(b) Franchise utilities shall be installed to provide electricity, natural gas, telephone, television/Internet cable, and other services to the platted area. Said utilities shall be restricted to underground installation.

(c) All utilities (water, sewer, and electrical, and if available, gas, TV cable, and Internet cable) shall be installed to the property line prior to acceptance of the public improvements.

(8) The subdivider shall install street name signs and traffic control signs and/or improvements and devices other than traffic signals to the satisfaction of the city engineer. The city may install such signs and devices at the expense of the subdivider.

(9) All utilities except water, sewer and storm sewer will be installed behind the sidewalk. (Ord. 1617 § 3, 2011; Ord. 1568 § 7, 2010).

## 21.50.060 Streets – Access requirements.

(1) Each lot in a subdivision or short subdivision must have access to a public street or road. This requirement does not apply to lots created through a binding site plan. Alternatively, access may be by private access

easement within a residential short subdivision in accordance with the requirements of OHMC 21.60.120 through 21.60.140. In the case of lots intended for use by single-family residences, no more than one driveway access is permitted for each lot, except as authorized by the city engineer.

(2) Whenever a proposed lot created through land divisions abuts two or more streets of a different functional classification, access to the lot must be from the street with the lowest functional classification; provided, that access may be from the street with the highest functional classification if it is determined by the city engineer that access from the street with the lower functional classification is impractical or impossible due to:

(a) Existing site conditions;

(b) Existing structures; and/or

(c) Topography or critical areas constraints of the site. (Ord. 1617 § 3, 2011; Ord. 1568 § 7, 2010).

## 21.50.070 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 |

**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 |
|---|---|---|---|---|---|
| ~~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 | 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.

(2) Where landscape strips are required on local residential streets within the public right-of-way, they are to be maintained by the property owner whose property is adjacent to the landscape strip. Such landscape strips shall contain 100 percent groundcover in the form of drought-tolerant grass or turf.

(3) Intersection spacing of less than 125 feet is not allowed.

(4) For land division of commercial or industrial property, dead-end streets may be permitted where the proposed dead-end street will not adversely affect the traffic flow and circulation within the area. Dead-end streets shall terminate in a turnaround approved by the city engineer. The maximum allowable length for dead-end streets is 400 feet, measured from the center of intersection to the dead-end terminus. Requirements for dead-end streets in residential subdivisions or short subdivisions are contained in OHMC21.60.110.

(5) All public roads shall also meet the requirements of OHMC Title 11. (Ord. 1617 § 3, 2011; Ord. 1568 § 7, 2010).

## 21.50.080 Streets – Relationship to adjoining development.

The standards in this section address pedestrian, vehicular and bicycle traffic flow on a site as it relates to surrounding sites. These provisions create continuous, multimodal connections across properties and developments of different ownership. In so doing, these standards facilitate the efficient and safe movement of pedestrians, bicycles and vehicles, giving each mode multiple route choices from origins to destinations.

(1) Streets, sidewalks, pedestrian or bike paths shall be linked within and between neighborhoods to create a continuous and interconnected network of roads and pathways.

(2) Local streets, arterials and collectors shall be extended to the boundary of the development, unless an exceptional circumstance of topography, critical areas or existing development prohibits the extension; provided, that if an adjacent property has a reasonable likelihood of redeveloping in the future, the director may require a street stub. Streets that end within a subdivision which will be extended in the future must be designed at least 200 feet beyond the limits of the subdivision and shall be shown on the preliminary plat document.

(3) The location of all principal arterials, minor arterials, and collectors must conform to the transportation element of the Oak Harbor comprehensive plan.

(4) All streets dedicated shall be full-width except along the boundary lines of the plat. Half-width streets may be permitted along the boundaries of a development upon approval of a final plat and in compliance with OHMC 21.50.050(4) where reasonably necessary as a direct result of the creation of the subdivision.

(5) The number of intersecting streets with principal or minor arterials shall be held to a minimum.

(6) Increased Right-of-Way Requirements. The city engineer may require that street widths be increased from the minimum width in Table 21.50-1 to provide for traffic movement, to reduce or eliminate traffic congestion and for safety reasons. (Ord. 1617 § 3, 2011; Ord. 1568 § 7, 2010).

## 21.50.090 Alleys.

Alleys provide secondary access to an abutting property. Alleys may be considered as a design solution to provide vehicular or service access to residential, commercial and industrial properties according to the following provisions:

(1) When alleys are proposed, they may be publicly dedicated and maintained or privately owned and maintained. All alleys which are dead ends and do not provide a through connection to the other side of the block shall be privately owned and maintained.

(2) The dimensions of alleys must conform to Table 21.50-1.

(3) Alleys may be required by the city engineer as a design solution to serve residential properties which front on arterials and collectors and to minimize the number of driveway accesses on these streets. Alleys may also be required by the city engineer in commercial and industrial areas.

(4) Where private alleys are proposed, access and utility easements for residential areas may be permitted in lieu of public dedication. All utility easements shall contain access provisions for purpose of public utility maintenance. (Ord. 1617 § 3, 2011; Ord. 1568 § 7, 2010).

## 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 ~~6~~50 feet at the building line. All lots which do not have a width of ~~6~~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.

(2) The size, shape, and orientation of lots shall meet the minimum area and width requirements of the applicable zoning classification and shall be appropriate for the type of development and use contemplated.

(3) Generally, the depth of the lot should not be more than three times the width of the lot.

(4) All lots shall have a minimum frontage of 30 feet on a public street unless access from a shared drive or private street has been approved in accordance with the requirements of OHMC 21.60.120 through 21.60.140.

(5) Insofar as practical, side lot lines shall be at right angles to street lines or radial to curved street lines, and no more than 20 degrees from perpendicular to the front property line with which it intersects.

(6) Side and rear lot lines shall be straight, or composed of straight line elements.

(7) All lot corners in subdivisions and short subdivisions at intersections of dedicated public rights-of-way shall have a minimum radius of 15 feet. (Ord. 1617 § 3, 2011; Ord. 1568 § 7, 2010).

# Chapter 21.60
# RESIDENTIAL DESIGN STANDARDS

Sections:


21.60.010 Purpose.
21.60.020 Applicability.
21.60.030 Relationship to other plans required by this title.
21.60.040 Blocks – Configuration.
21.60.050 Blocks – Size.
21.60.060 Local residential streets – Alternative designs.
21.60.070 Local residential streets – Adjustment application for alternative designs.
21.60.080 Local residential streets – Waiver application for alternative designs.
21.60.090 Local residential streets – Submittal requirements for alternative street designs.
21.60.100 Local residential streets – Layout.
21.60.110 Local residential streets – Limitations on dead ends.
21.60.120 Access easements – When allowed.
21.60.130 Access easements – Design.
21.60.140 Access easements – Utility services.
21.60.150 Street trees – Requirement.
21.60.160 Street trees – Species.
21.60.170 Street trees – Maintenance and protection.
21.60.180 Landscape buffer – Requirement.
21.60.190 Landscape buffer – Design.
21.60.200 Landscape buffer – Maintenance and protection.
21.60.210 Pedestrian/bike connections – When required.
21.60.220 Pedestrian/bike connections – Design.
21.60.230 Pedestrian/bike connections – Safety.
21.60.240 Pedestrian/bike connections – Maintenance and protection.
21.60.250 Stormwater ponds – Location and design.
21.60.260 Stormwater ponds – Landscaping.


## 21.60.010 Purpose.

The following design criteria address the street, block and lot layout, landscaping and aesthetic design of residential subdivisions and short subdivisions and are intended to create attractive and safe neighborhoods and networks for pedestrians, bikes and vehicular travel within Oak Harbor. The criteria promote “walkable” neighborhoods which contribute to the efficient and comfortable movement of pedestrians within Oak Harbor, and a reduction in the growth of vehicle trips, in accordance with the comprehensive plan policies. (Ord. 1617 § 4, 2011; Ord. 1568 § 8, 2010).

## 21.60.020 Applicability.

The design standards contained in this chapter shall apply to all residential subdivisions or short subdivisions of land within the city of Oak Harbor, unless stated otherwise, and are in addition to the general design standards of Chapter 21.50 OHMC. These standards do not apply to the division of land for commercial or industrial use. (Ord. 1617 § 4, 2011; Ord. 1568 § 8, 2010).

## 21.60.030 Relationship to other plans required by this title.

All improvements required by this chapter for land divisions must be shown on the preliminary plat site plan or short subdivision map, as applicable. (Ord. 1617 § 4, 2011; Ord. 1568 § 8, 2010).

## 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.

## 21.60.050 Blocks – Size.

(1) Blocks shall be a maximum of 800 feet in length, as defined in Chapter 21.10 OHMC.

(2) Blocks may be up to a maximum of 1,000 feet in length, provided:

(a) The applicant has demonstrated, through written materials, drawings, and illustrations, submitted as part of the plat application, that an exceptional circumstance exists. Exceptional circumstances are steep topography (exceeding 10 percent), a critical area designated in the comprehensive plan or delineated in a critical areas report; and

(b) An alternative block pattern is proposed which achieves the purpose of this chapter; and

(c) A mid-block pedestrian/bike connection conforming to the design standards of this chapter is provided for all blocks over 800 feet in length. (Ord. 1617 § 4, 2011; Ord. 1568 § 8, 2010).

## 21.60.060 Local residential streets – Alternative designs.

The following process for reviewing alternative street designs applies to local residential streets only. The city has a two-tiered process for reviewing alternative local residential street designs which do not meet the requirements in Table 21.50-1:

(1) In the first tier, applicants for residential subdivisions may request to vary from the standard designs in Table 21.50-1 for local residential streets. Such requests must continue to provide all of the essential elements listed in OHMC 21.60.070.

(2) In the second tier, applicants may propose unique local residential street designs which eliminate one or more of the essential elements found in OHMC 21.60.070 under a Type IV review process which shall be reviewed by planning commission at the time the preliminary plat is reviewed. (Ord. 1617 § 4, 2011; Ord. 1568 § 8, 2010).

## 21.60.070 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.

(2) A narrative is provided which describes how the proposed design will meet all of the following:

(a) How the proposed street section will provide an equal or better street design for vehicles and pedestrians.

(b) The proposed design will not compromise vehicle or pedestrian safety.

(c) Public utilities, such as storm, sewer and water, can continue to be provided, as necessary to serve the development.

(d) All comprehensive plan designated vehicular and pedestrian connections will continue to be provided. (Ord. 1617 § 4, 2011; Ord. 1568 § 8, 2010).

## 21.60.080 Local residential streets – Waiver application for alternative designs.

(1) Applicants for residential subdivisions or short subdivisions may also propose alternative local residential street designs which do not contain all of the essential elements listed in OHMC 21.60.070. The waiver will be reviewed by the planning commission under a Type IV review as specified in OHMC 18.20.260 and must be reviewed concurrently with the preliminary plat application.

(2) If an applicant is proposing to eliminate one or more essential elements listed in OHMC 21.60.070 through the waiver process, all of the criteria for adjustment contained in OHMC 21.60.070(2) must be met. In addition, applicants must meet criteria in subsections (2)(a), (b), and (c) of this section and also meet either criterion in subsection (2)(d) or (e) of this section.

(a) There are unique site conditions (topography, critical areas or size and/or shape of the site) not common to other residential sites, which necessitate street designs that do not have all of the essential elements listed in OHMC 21.60.070(1);

(b) Essential elements which have been eliminated from the street design are unnecessary either from a functional (pedestrian or automobile movement) or safety standpoint;

(c) Essential elements are not being eliminated solely for applicant convenience; and

(d) The applicant proposes to offset the loss of the essential element by replacing it with another element (i.e., bike lanes in place of landscaping) within the street section; or

(e) The unique site conditions limit the applicant's ability to provide either the essential elements listed in OHMC 21.60.070 or any replacement elements referenced in subsection (2)(d) of this section. (Ord. 1617 § 4, 2011; Ord. 1568 § 8, 2010).

## 21.60.090 Local residential streets – Submittal requirements for alternative street designs.

Requests for alternative local residential street designs either under the adjustment or waiver processes must be received from the applicant at the time of preliminary plat submittal and must contain the following:

(1) Section drawings prepared by an engineer certified in the state of Washington that clearly illustrate the proposed street improvements.

(2) Written rationale for requesting to vary from the local residential street improvements which meets all of the criteria in OHMC21.60.070(2) (if adjustment or waiver is pursued) and the criteria in OHMC 21.60.080(2) (if waiver is pursued). (Ord. 1617 § 4, 2011; Ord. 1568 § 8, 2010).

## 21.60.100 Local residential streets – Layout.

The street pattern utilized for short subdivisions and subdivisions shall be a grid or modified grid, with four- or three-way intersections designed at right angles. Blocks shall be rectilinear. The grid or modified grid street pattern may be adjusted to a curvilinear street pattern where the following factors are present on site:

(1) Infeasible due to steep topography (exceeding 10 percent) or presence of critical areas designated in the comprehensive plan; or delineated in a critical areas report in accordance with the requirements of OHMC Title 20; and/or

(2) Substantial improvements exist on adjacent properties which inhibit a grid or modified grid pattern; and/or

(3) In lieu of the requirement for a grid or modified grid street pattern, alley access is an acceptable street pattern, in accordance with the requirements of OHMC 21.50.090. (Ord. 1617 § 4, 2011; Ord. 1568 § 8, 2010).

## 21.60.110 Local residential streets – Limitations on dead ends.

Dead-end streets may only be permitted in residential subdivisions or short subdivisions by the city engineer where, due to demonstrable physical constraints, no future connection to a larger street pattern is physically possible.

Dead-end streets shall only be allowed where:

(1) There exists an exceptional circumstance of steep topography (exceeding 10 percent), a critical area identified in the comprehensive plan or delineated in a critical areas report, or existing development which prohibits a stub street or connection to the adjacent property;

(2) The street length for the dead end as measured from the intersection to the terminus is no longer than 400 feet;

(3) The design of the dead-end turnaround has been approved by the city engineer and the fire department. Oak Harbor encourages alternative dead-end designs which reduce stormwater impacts and use less space. Dead-end designs shall meet minimum turning radius requirements for appropriate design vehicles;

(4) A pedestrian/bike connection has been provided for connectivity or future connectivity at the terminus of the dead end constructed to the standards in OHMC 21.60.210 through 21.60.240; or

(5) A temporary turnaround may be approved when connections to adjacent properties cannot be extended at the time of development, but will be provided in the future and such temporary turnaround is required for emergency vehicles. (Ord. 1617 § 4, 2011; Ord. 1568 § 8, 2010).

## 21.60.120 Access easements – When allowed.

The city may, at the request of the applicant and as permitted by the Oak Harbor zoning code, allow access to residential lots created through a short subdivision by alternative means in the form of shared drives and private streets. The purpose of the provisions in this section through OHMC 21.60.140 is to optimize the

opportunity for efficient and compatible use of land and infrastructure within city limits and where full public street improvements are not needed to serve the development. Alternative access may be provided when the applicant demonstrates that all of the following criteria have been met as part of the short subdivision application:

(1) Public utilities can be accommodated in the access easement or other easements on the site;

(2) The access easement will not compromise pedestrian, bicyclist, or vehicular safety and will provide for efficient traffic movement within the short subdivision and connecting to the surrounding circulation system;

(3) A public street is not necessary to provide access to a future developable area;

(4) A site contains steep topography (exceeding 10 percent) or a critical area(s), and the use of an access easement would reduce impacts to those areas. If a site contains steep topography or critical areas, criteria in subsections (1) through (3) of this section must continue to be met; and

(5) The access easement must conform to the requirements of the transportation element of the comprehensive plan, OHMC21.60.130, and all other relevant street and utility standards as adopted by the city which are on file with the city clerk. (Ord. 1617§ 4, 2011; Ord. 1568 § 8, 2010).

## 21.60.130 Access easements – Design.

(1) Shared drives and private streets shall, at a minimum, be constructed to the following standards:

**Table 21.60-1**

**Access Easement Dimensions**

| Feature | Shared Drives | Private Streets |
|---|---|---|
| Pavement width | Minimum 16 feet for up to 2 units, or 20 feet for 3 or more units | Minimum 20 feet |
| Sidewalk | N/A | 5 feet, one side only |
| On-street parking | N/A | Optional. If provided, parallel parking must be 8 feet wide. The public parking requirements from OHMC 21.60.070 must be met. |
| Maximum length | 150 feet | 400 feet |
| Turnaround required? | N/A | Yes, if more than 150 feet in length, or as required by the city engineer. |

(2) Shared drives may be created which access a total of four residential units in any combination of single-family detached units and/or duplex units.

Shared drives may be connected to private streets as long as the total number of units served by the private street does not exceed nine.

(3) Private streets may be created which access a total of nine residential units in any combination of single-family detached units and/or duplex units.

Where a private street intersects a public street, signage shall be placed at the entrance to the private street indicating that the street is private and is not maintained by the city of Oak Harbor.

(4) All land divisions with more than nine residential units accessing the same street must provide public streets that meet the configurations described in Table 21.50-1. (Ord. 1617 § 4, 2011; Ord. 1568 § 8, 2010).

## 21.60.140 Access easements – Utility services.

A maximum of two lots can be served by private utility side services within an easement, unless the city engineer determines that a public utility main is necessary for adequate area service. Three or more lots served within an easement will require public utilities. (Ord. 1617 § 4, 2011; Ord. 1568 § 8, 2010).

## 21.60.150 Street trees – Requirement.

Street trees shall be required along both sides of local residential streets. The purpose of street trees is to improve the visual quality of streets, improve the pedestrian environment, and provide the environmental benefits of improved air quality, reduced stormwater impacts, and reduced heat island effects associated with large paved areas. (Ord. 1617 § 4, 2011; Ord. 1568 § 8, 2010).

## 21.60.160 Street trees – Species.

The following standards shall apply to the installation of street trees on any local residential street containing landscape strips within a subdivision or short subdivision.

(1) Street trees of a species specified in Table 21.60-2 shall be planted in the designated landscape strip within the public right-of-way, with a maximum spacing of 30 feet along frontage for all divisions of land and on both sides of any public street. Landscape strip minimum dimensions are contained in Table 21.50-1.

(2) At the time of planting, all street trees shall be a species listed in Table 21.60-2, Street Tree Species, or as otherwise approved by the director.

(3) The following table identifies tree species acceptable to the city of Oak Harbor:

**Table 21.60-2**

**Street Tree Species**

| Species | Characteristics |
|---|---|
| Armstrong maple | Common deciduous landscape tree. Fast growing, typically to 40 feet, with brilliant fall color. May be appropriate in a native setting. |
| Red sunset maple | Common deciduous landscape tree. Fast growing, typically to 40 feet, with brilliant fall color. May be appropriate in a native setting. |
| Paper bark maple<br>Acer griseum | Small, compact tree appropriate as a street tree. |
| Japanese hornbeam<br>Carpinus japonica | Deciduous tree, mid-size, compact tree recommended for street tree use. |
| Lavelle hawthorne<br>Crataegus lavelle | Appropriate for street tree use. |
| Little leaf linden<br>Tilia cordata | Small deciduous tree reaching height of 30 feet. Tolerant of urban conditions. |
| Autumn brilliance serviceberry<br>Amelanchier arborea | Slow growing, small, compact tree. |

(Ord. 1617 § 4, 2011; Ord. 1568 § 8, 2010).

## 21.60.170 Street trees – Maintenance and protection.

To protect their function, define management responsibilities, and protect the health of the street trees, the following language shall be placed on face of the plat:

Street trees planted in the designated landscape strip along the frontage of all lots, in accordance with the approved landscape plan associated with the residential plat of _____, shall be maintained by the property owners of lots directly adjacent to the location of the street trees. The replacement of street trees for those that have died is the responsibility of the adjacent property owners. The location and tree species for replacement street trees must be in conformance with the approved landscape plan for the plat or as approved by the director and shall not obstruct the travel lane or parking stalls at full maturity. If property owners do not maintain street trees, the City of Oak Harbor may choose to maintain these trees and invoice the adjacent property owner for the cost of the work.

(Ord. 1617 § 4, 2011; Ord. 1568 § 8, 2010).

## 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).

## 21.60.190 Landscape buffer – Design.

The landscape buffer may incorporate either natural vegetation, applicant proposed vegetation or a combination of both. The purpose of the following requirements is to provide a complete buffer which contains overstory, understory and groundcover vegetation.

(1) The landscape buffer shall include the following landscaping:

(a) Trees planted 30 feet on center along the entire length of the edge closest to the arterial road, and no closer than 10 feet from this edge of the buffer to avoid conflicts with the required utility easement.

(b) Shrubs and bushes to provide 90 percent cover of the buffer area within two years; drought-tolerant, low-maintenance varieties are required.

(c) Sufficient shrubs and bushes to provide a continuous four-foot-high visual screen of the arterial road from within the land division. The plantings must not restrict sight distance at intersections.

(d) In addition to the street trees identified in subsection (1)(a) of this section, throughout the entire buffer area a mix of deciduous and coniferous trees, of a species determined suitable by the city of Oak Harbor, shall be provided at a planting density of at least one tree for every 400 square feet of the buffer area.

(e) All required plantings in the buffer shall avoid conflicts with public utilities and the species shall be selected to avoid root damage to sidewalks, streets and curbing.

(f) The dual use of landscaped buffers as LID stormwater management facilities is encouraged; provided, that the purpose and character of the landscaping is not compromised.

(2) Those areas of the landscape buffer where suitable natural vegetation of understory and ground cover and healthy stands of trees not prone to windthrow or blow-down, after adjacent areas have been cleared, may be retained as substitute for the required landscaping in subsection (1) of this section, provided:

(a) Trees are planted as in accordance with subsection (1)(a) of this section;

(b) Evergreen ground cover is present in accordance with subsection (1)(b) of this section;

(c) Screening is present in accordance with subsection (1)(c) of this section; and

(d) The minimum number of trees are present in accordance with subsection (1)(d) of this section.

(e) Trees which pose a safety hazard from windthrow, as determined by an arborist, must be removed. (Ord. 1617 § 4, 2011; Ord. 1568 § 8, 2010).

## 21.60.200 Landscape buffer – Maintenance and protection.

To protect their function, define management responsibilities, and protect the health of the landscape buffers, the following language shall be placed on face of the plat:

(1) Tract(s) _____, are set aside as landscape buffers. No vehicular access to the adjacent roadway is permitted through the tract(s) to protect vegetation and planting areas for their environmental and aesthetic value to the community; and

(2) Maintenance of Tract(s) _____ shall be the responsibility of the home owners association and not the City of Oak Harbor. If the association disbands, maintenance responsibility for Tract(s) defaults to the individual lot owners within the boundaries of the originally approved residential subdivision. If the landscape buffer is not maintained, the City of Oak Harbor may choose to impose a fee structure or invoice the property owners within the boundaries of the originally approved residential plat to maintain landscape buffers.

(3) All vegetation shall be maintained to preserve the health of the buffer plantings and to maintain the landscaping in a manner that conforms to the original landscape and maintenance plans associated with the residential plat approval, including replacement of dead or diseased plantings.

(4) Trees deemed to be a hazard by a professional arborist certified in the State of Washington may be removed, subject to approval by the City of Oak Harbor. Removed trees must be replaced. The city reserves the right to exempt the requirement for an Arborist's assessment if the tree is obviously a hazard, diseased, or dead.

(5) No dumping of vegetation or debris is allowed in buffer tract(s).

(6) No structures are allowed in buffer tract(s).

(Ord. 1617 § 4, 2011; Ord. 1568 § 8, 2010).

## 21.60.210 Pedestrian/bike connections – When required.

Pedestrian/bike connections shall be integrated into the design of subdivisions to enhance the connectivity throughout the plat. They should generally be placed in locations shown in the comprehensive plan. The applicant shall install pedestrian/bike connections in subdivisions and short subdivisions in any of the following circumstances:

(1) Sidewalks shall be provided along both sides of public streets in accordance with Table 21.50-1, unless an adjustment or waiver is requested in accordance with OHMC 21.60.070 or 21.60.080;

(2) If the pedestrian/bike connection is necessary to provide noncircuitous pedestrian and/or bike access to a park, open space, or activity center within or adjacent to the subdivision;

(3) Mid-block pedestrian/bike connections for blocks that are over 800 feet long;

(4) Pedestrian/bike connections shall be provided to all adjacent uses at no greater than 800-foot intervals. The location of these connections must be coordinated between property owners. Specific connections to adjacent uses may be waived if:

(a) The applicant has exhibited through written materials, drawings, and illustrations, submitted as part of the plat application, that this is impractical or unsafe due to:

(i) Existence of an exceptional circumstance. Exceptional circumstances are steep topography (exceeding 10 percent), critical areas designated in the comprehensive plan or delineated in a critical areas report or existing development;

(ii) The land use characteristics of the adjacent use or potential use as determined by the comprehensive plan land use designation; or

(b) An alternative connection to a bordering street can provide a noncircuitous route to the adjacent use; and

(c) An easement or dedication for future connection is provided to properties which have a reasonable likelihood of redeveloping as determined by the director. (Ord. 1617 § 4, 2011; Ord. 1568 § 8, 2010).

## 21.60.220 Pedestrian/bike connections – Design.

This section provides the minimum design requirements for pedestrian/bike connections which are required by OHMC 21.60.210. Sidewalks do not need to meet the standards specified in this section. Pedestrian/bike connections which meet the design standards in this section and the safety standards in OHMC 21.60.230 may be counted as active open space in planned residential developments.

(1) Pedestrian/bike connections shall be built to the following standards:

(a) Be constructed within an easement 20 feet wide;

(b) The pedestrian/bike connection itself shall be either concrete or asphalt (pervious or impervious) and be a minimum of 10 feet wide;

(c) Hard-packed gravel may be used for walkway surface in areas adjacent to critical areas designated in the comprehensive plan or delineated through a critical areas report;

(d) A landscape strip of five feet shall be provided on either side with 100 percent ground cover and deciduous trees planted at a maximum 30-foot interval with no less than two trees on each side of the pedestrian bike connection. Ground cover shall be low-maintenance, drought-tolerant varieties. Bark mulch and wood chips are not allowed in landscaped areas adjacent to the pedestrian/bike connection.

(2) Fencing along pedestrian connections shall comply with Chapter 19.46 OHMC and shall not be constructed of chain link, plastic, or vinyl strips.

(3) Lots should front on the pedestrian/bike connection, where possible, to provide visual access and safety of these facilities. The sides of lots may be located along pedestrian/bike connections; however, this is a less preferable option, since fencing is required to separate the pedestrian/bike connection from areas on private lots such as side and rear yards. If lots front on pedestrian/bike connections, secondary access to these lots may be provided from an alley.

(4) All pedestrian/bike connections required by this code must be publicly accessible either by way of easement or through public dedication:

(a) The city may choose not to accept dedication of pedestrian/bike connections at its discretion; and

(b) All pedestrian/bike connections must be designed to city standards contained in this section and OHMC 21.60.230.

(5) Continuous pedestrian/bike connections shall be provided by aligning with street ends, other pedestrian/bike facilities, and connecting destinations or trails.

(6) All trails proposed as part of subdivisions or short subdivisions shall be designed in accordance with the parks, recreation and open space plan. (Ord. 1617 § 4, 2011; Ord. 1568 § 8, 2010).

## 21.60.230 Pedestrian/bike connections – Safety.

The following safety requirements apply to all pedestrian/bike connections in subdivisions and short subdivisions with the exception of sidewalks:

(1) Visibility.

(a) Users shall have clear vision from one end of the connection to the other;

(b) Plantings shall provide clear visibility from the ground up to 30 inches above grade;

(c) In natural or critical areas with existing vegetation, sight lines for pedestrian and bike safety may vary if:

(i) The protection required of the critical area by other parts of this code or other applicable regulations prohibits the pedestrian/bike connection design from meeting this requirement.

(2) The entire length of the pedestrian/bike connection must be well lit. Bollard lighting must be used with number of lights and spacing of light fixtures shown on the preliminary plat landscape plan.

(3) Bollard lighting is required at pedestrian/bike connection entrances.

(4) Signage directing users to the pedestrian/bike connection and appropriate use is required at all entrances.

(5) The intersections of pedestrian/bike connections with arterial streets shall provide a 10-foot by 10-foot visibility triangle to promote clear vision into the pedestrian/bike connection.

(6) Mid-block connections which cross more than one residential block and intersect streets must meet the following safety requirements:

(a) Adequate sight distance for vehicles to see pedestrians and bikes and come to a complete stop;

(b) Signage from both directions, warning motorists of the pedestrian/bike crossing;

(c) At a minimum, painted striping must be provided to delineate the crosswalk. Applicants are encouraged to use crossing designs which include different materials, such as pavers or pavement patterns, or rumble strips to warn motorists of the crossing. Raised crosswalks may also be provided;

(d) Staggered bollards at all intersections of mid-block crossings and the public right-of-way must be provided. If safety measures cannot be provided to ensure adequate pedestrian/bike safety, the mid-block crossing may be required at a different location or the city engineer may require additional design features to ensure safety of the facility. (Ord. 1617 § 4, 2011; Ord. 1568 § 8, 2010).

## 21.60.240 Pedestrian/bike connections – Maintenance and protection.

(1) Pedestrian/bike connections and trails shall be maintained by an association of homeowners. If the pedestrian/bike connection is part of the city-wide trail system, the city will maintain the connection.

(2) Language detailing the purpose, maintenance responsibilities of the homeowners' association, and design standards for these facilities must be placed on the face of the plat.

(3) If these facilities are not adequately maintained to allow safe pedestrian and bicycle passage and/or landscaping is overgrown or in a state of decline, the city may choose to maintain the facility and bill the homeowners' association for the cost. (Ord. 1617 § 4, 2011; Ord. 1568 § 8, 2010).

## 21.60.250 Stormwater ponds – Location and design.

Stormwater ponds shall be located and designed with consideration to aesthetics and to incorporate the facility as an amenity to the subdivision or short subdivision with features such as landscaping and natural building materials. The provisions in this section apply to all subdivisions and short subdivisions proposed within Oak Harbor. The following design requirements shall apply to the location and design of stormwater ponds:

(1) To create the visual effect of larger open space areas, stormwater facilities shall be located near open spaces, unless site conditions or topography do not allow.

(2) Structural materials utilized within stormwater pond design must have regard for natural aesthetic principles defined as follows:

(a) All structural elements of ponds shall utilize stone or other natural materials that have decorative finishes. Acceptable pond materials are brick, natural stone, gabions and architectural blocks. Concrete is an acceptable material, subject to the standards of subsection (2)(b) of this section.

(b) Use of concrete in stormwater ponds shall be limited to the following finish types:

(i) Relief or architectural detail;

(ii) Fractured finish;

(iii) Exposed aggregate;

(iv) Cast in patterns or textures.

In addition, when concrete is used as a pond material, it shall be screened by planting to reduce the visual impact of these facilities.

(c) The use of ecology block and synthetic stone veneers in pond construction is prohibited.

(d) All masonry in contact with pond water must be designed to withstand spalling. Porous pond materials shall be placed above the wet zone.

(3) To limit the need for safety fencing resulting from steep slopes, stormwater facilities shall be designed with shallow internal slopes (recommend three to one or flatter), whenever feasible. If safety fencing is required it must:

(a) Be decorative or ornamental in nature. Gray, galvanized, chain-link fencing, chain-link fencing with slats or wood-plank fencing is not permitted. Vinyl-clad chain-link fencing of green, brown or black color is acceptable if screened by plantings;

(b) For safety reasons, fencing must not completely limit visibility to the pond; and

(c) Ponds shall be designed such that safety fencing is not required on more than two sides of the pond or 50 percent of the circumference, whichever is less. (Ord. 1617 § 4, 2011; Ord. 1568 § 8, 2010).

## 21.60.260 Stormwater ponds – Landscaping.

Landscaping shall be required for all stormwater ponds within subdivisions and short plats. The purpose of the landscaping is to improve visual quality. The following standards shall apply to the landscaping for stormwater ponds:

(1) A landscape plan that meets the standards of this section and the DOE (Department of Ecology) stormwater manual shall be designed by a landscape architect certified in the state of Washington and submitted as part of the preliminary plat or the preliminary application.

(2) A perimeter landscape area, a minimum 10 feet wide, is required adjacent to all stormwater ponds and shall be placed in a tract owned and maintained by an association of homeowners. This area shall be delineated on the face of the plat and associated landscape plan. The perimeter landscape area shall include:

(a) Evergreen ground cover, shrubs and bushes, to provide 100 percent cover of the perimeter area within two years. Native species and low-maintenance varieties are preferred.

(b) A mix of evergreen and deciduous trees to provide visual interest with a planting density of at least one tree for every 250 square feet of landscape perimeter.

(c) Existing vegetation may be used to fulfill the landscaping requirements. However, all trees which pose a safety hazard and are subject to windthrow must be removed.

(d) Trails or pedestrian paths are allowed near the pond; provided, that the side slopes of the pond are three to one or flatter or safety fencing is provided around the pond. If a trail or pedestrian path is included around the stormwater facility, the area outside the trail or pedestrian path but within the 10-foot landscape area must have 100 percent groundcover within two years.

(3) All landscaping for stormwater ponds shall be placed in a tract and maintained according to industry standards by a homeowners' association. If stormwater ponds are not maintained by the homeowners' association to provide for the necessary minimum treatment/detention functions and the pond tract, including landscaping, is not being maintained, the city may choose to perform necessary maintenance of the facility and bill the homeowners' association for the cost.

(4) Any landscaping provided shall be above the freeboard water level. (Ord. 1617 § 4, 2011; Ord. 1568 § 8, 2010).

# Chapter 21.70
# SHORT SUBDIVISIONS

Sections:

21.70.010 Purpose and applicability.
21.70.020 Administration.
21.70.030 Exemptions.
21.70.040 Procedure.
21.70.050 Application requirements.
21.70.060 Design standards and required improvements.
21.70.070 Resubdivision.
21.70.080 Boundary line adjustment.
21.70.090 Filing of short plat and/or boundary line adjustment.

## 21.70.010 Purpose and applicability.

The purpose of the provisions in this chapter is to regulate the subdivision of land into nine or less lots for residential, commercial or industrial use. General provisions of this title, including Chapters 21.10, 21.50 and 21.60 OHMC, shall apply to land division hereunder. (Ord. 1568 § 9, 2010).

## 21.70.020 Administration.

The director or designee is authorized and directed to administer the provisions of this chapter and shall be granted the authority to approve or disapprove proposed short subdivisions in accordance with this chapter. (Ord. 1568 § 9, 2010).

## 21.70.030 Exemptions.

The provisions of this chapter shall not apply to categories of land exempted under RCW 58.17.040, as now or hereafter amended. (Ord. 1568 § 9, 2010).

## 21.70.040 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.

(4) A proposed short subdivision shall be approved if the director makes written findings that each of the items in subsection (3) of this section have been met. (Ord. 1568 § 9, 2010).

## 21.70.050 Application requirements.

The application for short subdivisions shall include the following:

(1) Five copies of an application for short subdivision shall be filed with the director. The application shall contain the following information:

(a) Date, address and telephone number of the subdivider;

(b) Legal description of the property to be subdivided;

(c) The location of the nearest public street and utilities;

(d) A statement, under oath, that the tract has not been subdivided within the last five years except by an approved subdivision; and

(e) A title certificate for the property issued by a title insurance company.

(2) A registered land surveyor shall stake the corners of each lot on the ground and prepare a map of the property drawn in ink upon one or more sheets of mylar.

(a) The map shall be to scale not less than 100 feet to the inch, and north shall be indicated;

(b) The boundary lines of the tract to be short platted and the interior lot lines, and relationship to adjacent properties;

(c) Length and bearing of the boundary lines and lot lines. The map shall be referenced to the state plane coordinate system;

(d) Location of monuments or evidence used as ties to establish the boundaries;

(e) Location and dimensions of all easements and/or streets within or adjoining the short plat, and applicable city or county file numbers;

(f) A certification by the land surveyor stating that all requirements of this title have been complied with; and

(g) Certificates as required by city and county.

(3) In addition to the items listed in subsections (1) and (2) of this section, the short subdivision map shall include all of the requirements listed in OHMC 21.40.040 for final plats, as to prescribed form. (Ord. 1568 § 9, 2010).

## 21.70.060 Design standards and required improvements.

(1) The short subdivision shall meet the following design standards and have the required improvements:

(a) Short subdivisions shall be consistent with the general design standards and the residential design standards contained in Chapters 21.50 and 21.60 OHMC.

(b) Short subdivisions shall be in accordance with the Oak Harbor development regulations and comprehensive plan in effect at the time of application.

(2) As a condition to approving the plat, the director may require the subdivider to install, or bond to install, the following improvements. Such condition must appear on the face of the approved short plat document. The

director may allow the improvements to be installed at a later date, but they must be installed before any building can be issued a certificate of occupancy:

(a) City water, storm sewer;

(b) Roadway, curb, gutter and sidewalk; and

(c) All required improvements shall conform to the applicable provisions of this title. (Ord. 1568 § 9, 2010).

## 21.70.070 Resubdivision.

Land contained within a short subdivision may not be further divided in any manner within a period of five years from date of approval without filing a final plat, except that when the short plat contains fewer than four parcels, nothing in this section shall prevent the owner who filed the short plat from filing an alteration within the five-year period to create up to a total of nine lots within the original short plat boundaries. (Ord. 1568 § 9, 2010).

## 21.70.080 Boundary line adjustment.

The adjustment of boundary lines may be approved by the director if an application is filed along with the information required by OHMC 21.70.060(1) and (2), and where no new lot is created thereby or where no lot is reduced in size below the minimum square footage and street frontage required by the applicable zoning control and this title. (Ord. 1568 § 9, 2010).

## 21.70.090 Filing of short plat and/or boundary line adjustment.

The subdivider shall file the approved short plat and/or boundary line adjustment and shall furnish the city with one permanent reproducible copy, mylar or better quality, of the short plat or boundary line adjustment including all recording data within 30 days after approval by the director or the approval shall be deemed null and void. (Ord. 1568 § 9, 2010).

# Chapter 21.80
# BINDING SITE PLANS

Sections:


21.80.005 Title.
21.80.010 Binding site plans allowed.
21.80.020 Division of property.
21.80.025 Condominium binding site plan.
21.80.030 Effect.
21.80.035 Site plan review required.
21.80.040 Application.
21.80.050 Requirements for a binding site plan map.
21.80.060 Certifications required.
21.80.070 Title report.
21.80.080 Approval procedure.
21.80.090 Recording requirements.
21.80.100 Development requirements.
21.80.110 Standards for review of commercial and industrial binding site plans.
21.80.120 Standards for binding site plans for condominium developments regulated by Chapter 64.32 and 64.34 RCW.
21.80.130 Performance guarantee requirements.
21.80.140 Warranty requirements for acceptance of final improvements.
21.80.150 Survey required.
21.80.160 Dedication – Warranty deed.
21.80.170 Requirements for modification of binding site plan standards.
21.80.180 Alteration or vacation of an approved binding site plan.
21.80.190 Appeals to the hearing examiner.
21.80.200 Enforcement.


## 21.80.005 Title.

This chapter shall be entitled “Binding Site Plans.” (Ord. 1657 § 1, 2014; Ord. 1568 § 10, 2010).

## 21.80.010 Binding site plans allowed.

It is provided that, as an alternative to subdivision or short subdivision requirements under this title, and as allowed by Chapter58.17 RCW, divisions of land may be completed by binding site plans for classes of property specified in OHMC 21.80.020(1) through (3). (Ord. 1657 § 1, 2014; Ord. 1568 § 10, 2010).

## 21.80.020 Division of property.

Division of property by binding site plans may only be used for the following:

(1) Divisions of land into lots classified for industrial or commercial use;

(2) A division for the purpose of lease when no residential structure other than mobile homes or travel trailers are permitted to be placed upon the land so long as the site plan complies with all applicable mobile home park regulations and the zoning code;

(3) A division of land subject to Chapters 64.32 and 64.34 RCW as now in effect or hereafter amended so long as the site plan complies with the standards for condominium division under OHMC 21.80.120. (Ord. 1657 § 1, 2014; Ord. 1568 § 10, 2010).

## 21.80.025 Condominium binding site plan.

Divisions of land into lots or tracts are allowed if:

(1) A binding site plan may be used to divide property without proceeding through division by subdivision or short subdivision when the land or a portion of it is subject to either Chapter 64.32 or 64.34 RCW when the following conditions are met:

(a) The improvements constructed or to be constructed thereon are required by the provisions of the binding site plan to be included in one or more condominiums or owned by an association or other legal entity in which the owners of units therein or their owners' associations have a membership or other legal or beneficial interest;

(b) The city has approved a binding site plan for all such land;

(c) Such approved binding site plan is recorded in the county or counties in which such land is located; and

(d) The binding site plan contains thereon the following statement:

All development and use of the land described herein shall be in accordance with this binding site plan, as it may be amended with the approval of the city, town, or county having jurisdiction over the development of such land, and in accordance with such other governmental permits, approvals, regulations, requirements, and restrictions that may be imposed upon such land and the development and use thereof. Upon completion, the improvements on the land shall be included in one or more condominiums or owned by an association or other legal entity in which the owners of units therein or their owners' associations have a membership or other legal or beneficial interest. This binding site plan shall be binding upon all now or hereafter having any interest in the land described herein.

(2) The binding site plan may, but need not, depict or describe the boundaries of the lots or tracts resulting from subjecting a portion of the land to either Chapter 64.32 or 64.34 RCW.

(3) The binding site plan for condominiums shall be deemed approved if:

(a) Done in connection with the final approval of a subdivision plan or planned unit development with respect to all of such lands;

(b) Done in connection with the issuance of a building permit or final certificate of occupancy. (Ord. 1657 § 1, 2014; Ord. 1568 § 10, 2010).

## 21.80.030 Effect.

Upon approval and recording of a binding site plan, any and all sale or leases of lots within the property covered by the site plan shall be in accordance with the binding site plan. Lots, parcels, or tracts created through the binding site plan procedure shall be legal lots of record. Such lot lines as are shown on the binding site plan shall be lot lines for setback purposes under the zoning code in effect at the time the issue of setbacks is to be determined. A binding site plan does not authorize construction. Construction is permitted upon approval of construction and building permits that implement the binding site plan. (Ord. 1657 § 1, 2014; Ord. 1568 § 10, 2010).

## 21.80.035 Site plan review required.

A site plan pursuant to Chapter 19.48 OHMC is required for every lot created under this chapter. (Ord. 1657 § 1, 2014).

## 21.80.040 Application.

An application for a binding site plan shall be submitted on a form prescribed by the director and shall include all other requirements as specified in this chapter. A binding site plan application may be processed concurrent with, or separate from, a site plan review application processed under Chapter 19.48 OHMC. (Ord. 1657 § 1, 2014; Ord. 1568 § 10, 2010).

## 21.80.050 Requirements for a binding site plan map.

The applicant shall submit two exact duplicate binding site plan maps meeting the following requirements. The recorded binding site plan shall be drawn on mylar drafting film having dimensions of 24 inches by 36 inches and must include the following:

(1) The name of the binding site plan;

(2) Legal description of the entire parcel;

(3) The date, scale and north arrow;

(4) Boundary lines, right-of-way for streets, easements and property lines of lots and other sites with accurate bearings, dimensions or angles and arcs, and of all curve data;

(5) Names and right-of-way widths of all streets within the parcel and immediately adjacent to the parcel. Street names shall be consistent with the names of existing adjacent streets;

(6) Number of each lot and each block;

(7) Reference to covenants, joint use, access easements, or other agreements to be filed separately must be referenced on the binding site plan;

(8) Location, dimensions and purpose of any easements, noting if the easements are private or public;

(9) Location and description of monuments and all lot corners set and found;

(10) Datum elevations and primary control points approved by the engineering department. Descriptions and ties to all control points shall be shown with dimensions, angles, and bearings;

(11) A dedicatory statement acknowledging public and private dedications and grants;

(12) Utilities; and

(13) Other restrictions and requirements as deemed necessary by the city.

The binding site plan map shall be on a separate sheet(s) from the site plan processed under Chapter 19.48 OHMC. (Ord. 1657§ 1, 2014; Ord. 1568 § 10, 2010. Formerly 21.80.060).

## 21.80.060 Certifications required.

(1) A certificate is required giving a full and correct description of all lands divided as they appear on the binding site plan, including a statement that the division has been made with the free consent and in accordance with the desires of the owners. If the binding site plan is subject to a dedication, the certificate or a separate written instrument shall also contain the dedication of all streets and other areas to the public, to an individual or individuals, religious society or societies or to any corporation, public or private as shown on the binding site plan and a waiver of all claims for damages against any governmental authority which may be occasioned to the adjacent land by the established construction, drainage and maintenance of the road. The certificate or instrument of dedication shall be signed and acknowledged before a notary public by all parties having any ownership interest in the land divided and recorded as part of the final binding site plan.

(2) A certification by a licensed surveyor is required, licensed in the state, that the binding site plan survey is accurate and conforms to the provisions of these regulations and state law. (Ord. 1657 § 1, 2014; Ord. 1568 § 10, 2010. Formerly 21.80.070).

## 21.80.070 Title report.

All binding site plans shall be accompanied by a title company certification (current within 30 days from filing of the binding site plan) confirming that the title of the lands as described and shown on the binding site plan is in the name of the owner(s) signing the binding site plan. (Ord. 1657 § 1, 2014; Ord. 1568 § 10, 2010. Formerly 21.80.080).

## 21.80.080 Approval procedure.

(1) Binding site plan approval shall be a Type II review process.

(2) The director shall review the application and circulate it to other city departments to determine whether the requirements of this chapter have been met.

(3) If the director and city engineer determine that the requirements are met, they shall approve and sign the binding site plan.

(4) If either the director or the city engineer determine that the requirements have not been met, the binding site plan shall be returned to the applicant for modification, correction, or other action as may be required for approval.

(5) If the conditions have been met, the director and city engineer shall inscribe and execute their written approval on the face of the binding site plan. (Ord. 1657 § 1, 2014; Ord. 1568 § 10, 2010. Formerly 21.80.100).

## 21.80.090 Recording requirements.

(1) When the city finds that the binding site plan proposed for final approval meets all the conditions of final approval, then the applicant shall take both original mylar binding site plan maps to the Island County auditor. One of the originals of said binding site plan shall be recorded with the Island County auditor. The other will be stamped by the auditor and forthwith returned to Oak Harbor. In addition, the applicant will furnish the city with one paper copy of the mylar recorded by the auditor. In addition, one paper copy shall be furnished by the applicant to the Island County assessor.

(2) The applicant must provide the city with proof of proper filing and recording before the binding site plan becomes valid. This proof shall include a certification by the applicant and the surveyor certifying that the binding site plan has not been altered between the time it was approved for recordation and the time of actual recordation by the Island County auditor. (Ord. 1657 § 1, 2014; Ord. 1568 § 10, 2010. Formerly 21.80.110).

## 21.80.100 Development requirements.

All development must be in conformance with the recorded binding site plan. (Ord. 1657 § 1, 2014; Ord. 1568 § 10, 2010. Formerly 21.80.120).

## 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).

## 21.80.120 Standards for binding site plans for condominium developments regulated by Chapter 64.32 and64.34 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).

## 21.80.130 Performance guarantee requirements.

(1) In lieu of completing the required public improvements prior to approval of the binding site plan, the applicant may request approval, subject to the approval of a suitable guarantee. The guarantee must be in a form acceptable to the city and in an amount commensurate with improvements to be completed. The amount of the guarantee is established at 100 percent of the cost of the city having to construct the improvements plus 20 percent for contingency. The guarantee amount will require yearly review by the city and the applicant will be required to revise the guarantee amount to reflect current inflation rate. Based on the revised amount, the applicant will resubmit suitable guarantee to the city. Also, the guarantee will be restricted as far as the amount of permissible time in which the improvements must be completed. If not a regular surety bond from an acceptable state approved surety, the guarantee must be in a form acceptable to the city attorney.

(2) Guarantee funds will not be released by the city unless approval has been received from all applicable departments that are responsible for acceptance and/or maintenance of such improvements. Partial releases will not be allowed.

(3) All improvements begun by the applicant must be completed. Once the applicant has begun making improvements, the applicant shall not be eligible for submitting a guarantee to the city to cover the incomplete improvements.

(4) Public improvements must be in place at time of certificate of occupancy or acceptable assurances for completion with a temporary certificate of occupancy. (Ord. 1657 § 1, 2014; Ord. 1568 § 10, 2010. Formerly 21.80.150).

## 21.80.140 Warranty requirements for acceptance of final improvements.

At the time of final acceptance of the improvements, the applicant shall provide to the city a one-year warranty guarantee at 10 percent of the established final cost of the public and/or off-site improvements which must be acceptable to the city. (Ord. 1657 § 1, 2014; Ord. 1568 § 10, 2010. Formerly 21.80.160).

## 21.80.150 Survey required.

(1) A survey must be performed for every binding site plan. The survey required must be conducted by or under the supervision of a Washington State registered land surveyor. The surveyor shall certify on the binding site plan that it is a true and correct representation of the lands actually surveyed and the survey was done in accordance with city and state law.

(2) In all binding site plans, lot corner survey pins must be set before final approval can be granted.

(3) In all binding site plans, perimeter monuments must be set before final approval can be granted.

(4) In all binding site plans, control monuments must be set before final acceptance of public improvements. Performance guarantees must include the installation of all control monuments. Control monuments must be installed per city design and construction standards.

(5) In all binding site plans, where final approval is to be granted by the acceptance of a performance guarantee, lot corner and perimeter monuments must be set. The performance guarantee must include the resetting of any monument that has been lost during construction of public improvements. (Ord. 1657 § 1, 2014; Ord. 1568 § 10, 2010. Formerly 21.80.090 and 21.80.170).

## 21.80.160 Dedication – Warranty deed.

Any dedication, donation or grant to the city as shown on a binding site plan shall be considered a statutory warranty deed to the grantee for the use intended. The binding site plan processes of this chapter shall not be used to create, alter, or eliminate any rights in property arising solely between private owners of property within the binding site plan. All such private dedications, donations or grants shall be separately recorded with the county auditor and reference thereto made on the binding site plan. (Ord.1657 § 1, 2014; Ord. 1568 § 10, 2010. Formerly 21.80.180).

## 21.80.170 Requirements for modification of binding site plan standards.

(1) As part of the approval of an original binding site plan an applicant may request a modification of up to five percent from a lot dimensional requirement (setbacks, lot size, length, width, or lot coverage) of the applicable zoning standards found in OHMC Title19 so long as the maximum density allowed in the zone is not exceeded.

(2) Such request for modification shall be submitted by the applicant concurrently with the binding site plan application and considered by the director as a Type I decision.

(3) The modification shall not be granted by the director until the following facts have been established:

(a) There are exceptional circumstances or conditions such as: locations of existing structures, lot configuration, topographic or unique physical features that apply to the subject property which prohibit the applicant from meeting the standards of this chapter;

(b) The authorization of the modification or variation will not be detrimental to the public welfare or injurious to property in the vicinity or zone in which the property is located;

(c) A hardship would be incurred by the applicant if he/she complied with the strict application of the regulations;

(d) Landscaping requirements are not thereby reduced. (Ord. 1657 § 1, 2014; Ord. 1568 § 10, 2010. Formerly 21.80.200).

## 21.80.180 Alteration or vacation of an approved binding site plan.

The purpose of this section is to provide a process by which changes (alterations or vacations) to a recorded binding site plan may be considered. Changes processed under this section must be related to the land division purposes of a binding site plan. Alteration or vacation of all or a portion of an approved binding site plan may be considered subject to the provisions of this section.

(1) Definitions.

(a) Alteration. For the purposes of this section, an “alteration” is a change to the recorded binding site plan map that is related to or consistent with the land division purposes of this chapter and that generally relates to the items described in OHMC21.80.050(4), (8), (12) or (13). For binding site plans approved prior to January 7, 2014, alterations may also be considered to the following elements of a binding site plan: zoning setback lines, building envelopes, parking areas, general circulation, landscaping areas, proposed use and location of buildings and loading areas.

(b) Vacation. For the purposes of this section, a “vacation” is the removal of a property(s) from a binding site plan so that the obligations created under the binding site plan no longer apply to that property(s). Vacation may apply to a portion or the entirety of a binding site plan.

(2) Submittal Requirements for Alterations and Vacations.

(a) Application Form. An application shall be submitted on a form provided by the director.

(b) Title Report. All applications to alter or vacate a binding site plan shall be accompanied by a title company certification (current within 30 days from filing of the application) confirming that the title of the lands as described and shown on the application are in the name of the owner(s) signing the application.

(c) Authority to Submit Alteration or Vacation Application. The alteration or vacation application shall contain the signatures of all those owners of lots who are directly affected by the proposed alteration or vacation.

(d) The alteration or vacation application for a binding site plan shall contain all materials required of binding site plan applications as specified in this chapter unless otherwise waived by the director.

(3) Criteria for Review.

(a) The proposed alteration shall meet the requirements of this chapter applicable to the underlying binding site plan.

(b) Any alteration of an approved binding site plan affecting an unexpired development agreement may, in the discretion of the director, invalidate the existing development agreement and require negotiation of a new development agreement pursuant to Chapter 18.30 OHMC. The new development agreement shall vest to the city development regulations in effect at the time the director has determined the application for alteration to be technically complete in accordance with the requirements of Chapter 18.20 OHMC.

(c) The proposed vacation shall not cause the remaining portions of an approved binding site plan to fail to meet the requirements of this chapter. Any nonconformities created by such a vacation must be remedied prior to final approval of the vacation. Property within a binding site plan subject to an approved vacation shall constitute one lot, and the balance of the approved binding site plan shall remain as approved.

(4) Review Process. Applications for alteration or vacation of a binding site plan shall be processed under a review process II according to Chapter 18.20 OHMC. (Ord. 1657 § 1, 2014).

## 21.80.190 Appeals to the hearing examiner.

(1) An appeal of the decision relating to the binding site plan shall be made to the hearing examiner in accordance with the procedures set out in Chapter 18.40 OHMC.

(2) The written appeal shall include a detailed explanation stating the reason for the appeal. The decision of the hearing examiner shall be the final action. (Ord. 1657 § 1, 2014; Ord. 1568 § 10, 2010. Formerly 21.80.300).

## 21.80.200 Enforcement.

The auditor shall refuse to accept for recording any binding site plan which does not bear the verification of approval as defined by this chapter. The city attorney is authorized to prosecute violation of this chapter and to commence actions to restrain and enjoin a violation of this chapter and compel compliance with the provisions of this chapter. The costs of such action shall be taxed against the violator. (Ord. 1657 § 1, 2014; Ord. 1568 § 10, 2010. Formerly 21.80.400).