PLANNING COMMISSION AGENDA

October 14, 2024– 6:30 PM

Stanwood Fire Station (8117 267th Pl NW)

1. Call to Order

2. Roll Call

3. Public Requests and Comments

4. Approval of Minutes
    - Approval of the September 9, 2024, Planning Commission Minutes

5. Old Business
    - Public Hearing: Title 18 – Unified Development Code Part 2

6. New Business
    - Public Meeting: 24-0104 Josephine Preliminary Plat
    - Critical Areas Code

7. Miscellaneous Business
    - November Meeting Date: November 12 (Tuesday) or November 25 (Monday)
    - December Meeting Cancelled

8. Recent Council Action on Commission Items
    - City Council approval of 2024-2044 Comprehensive Plan

9. Upcoming Items
    - Subdivisions

10. Adjourn

Zoom Meeting Information

Please click the link below to join the webinar:

https://us02web.zoom.us/j/83099113579?pwd=ZXVib2MxYWUxRm9Bd1lCTWREZGU2QT09

Passcode: 502157

Telephone: 253-215-8782

Webinar ID: 830 9911 3579

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September 9, 2024

Planning Commission Meeting Minutes

	Planning Commission Meeting Minutes Monday, September 9, 2024 – 6:30 pm

Call to Order: 6:30 pm

Roll Call

Commissioners Present:
Kathy Moe, Commissioner
Patrick Hosterman, Commission Chair
Cody Davis, Commission Vice-Chair
Gabrielle Braley, Commissioner
Jeff Wheatley, Commissioner

Staff Present:
Patricia Love, Community Development Director
Tansy Schroeder, City Planner

Absent: Eric Warnat, Commissioner; Melissa Toner, Commissioner

Also known to be present: Mariah Berejikian (online)

Public Requests and Comments: None

Approval of Minutes:
The minutes from the July 8, 2024 Planning Commission meeting were unanimously approved.

New Business:

<u>Title 18 – Unified Development Code</u>

The City initiated the Municipal Code Update project in 2022 to modernize the code reflecting best practices with respect to content and administration of the code. The update is intended to be user friendly for staff, property owners and developers by 1) removing legalese and jargon unfamiliar to the lay person, 2) improving clarity and overall functionality, and 3) reflect regulatory best practices. The amendments will also be consistent with current case, state and federal laws.

The next round of code amendments includes merging Title 16, Subdivisions, and Title 17, Zoning, into a single title referred to as a Unified Development Code (UDC). A UDC is a comprehensive set of regulations or standards that govern land use, zoning, and development within a single Municipal Code Title.

<u>Questions & Comments</u>

<u>Conditional Use Permits Discussion</u>

Community Compatibility for CUP:
Would a home business run out of a garage be considered a CUP? Would it depend on the proposed use?

- It depends on whether the use is defined as an allowed/permitted use or not.

How does the community compatibility relate back to which uses are allowed or not?

- Ex. Houses of Worship are allowed outright in commercial and industrial zones, but they are allowed as a conditional use in residential zones.
- A conditional use is a use that could be appropriate for a certain area if conditioned appropriately to mitigate potential impacts.
- Allows staff to analyze site-specific conditions.

The existing community need language is very broad, and someone could make an argument for either side. The proposed community compatibility language is much more specific and provides direct guidance for staff to consider.

- “Community Need” is subjective and puts the City in liability.
- “Community Compatibility” is less risky for City.
- Definitive reasoning is a solid ground to defend the City’s decision.
- If there are impacts, then the applicant can demonstrate how they will mitigate those impacts.

Do the proposed CUP code changes affect existing uses?

- No, those properties are vested under the existing code at the time of use establishment.

<u>Permit Matrix Discussion</u>

Commissioners like both and the checklist, but also likes the more detailed checklist for specific permits.

How does an applicant know if they have to submit the optional checklist items or not? How can they find out without talking to a Planner?

- Talk to a planner, i.e. general information meeting.
- Patricia will try to take Ryan’s Option 3 Matrix to combine the information into a hybrid format.

Commissioners lean towards option 2, which is cleaner.

<u>Other Discussion</u>

Public Facilities zone is meant for schools, why do other zones also allow schools? Is this appropriate?

- Schools are allowed in all single-family zones.
- Better clarify the intent of the public facility zone and schools versus new schools being allowed in other zones.

What happens if you don’t follow the rules? What’s the penalty?

- Patricia will look into Chelan County v Nykreim and what would happen if we deleted SMC 18.100.070.(5).

Old Business: None

Miscellaneous Business:
Comprehensive Plan Update

Recent Council Action on Commission Items: None

Upcoming Items: Critical Areas Code

Next Meeting: October 14, 2024

Adjourn: 7:57 pm

October 14, 2024

Planning Commission Agenda Staff Report

CITY OF STANWOOD
PLANNING COMMISSION

AGENDA STAFF REPORT

MEETING DATES:	October 14, 2024
SUBJECT:	October Agenda Items
CONTACT PERSON:	Patricia Love, Community Development Director

Public Hearing: Title 18, Unified Development Code: General Provisions and Permit Procedures

At the September 9, 2024 Planning Commission meeting, Staff presented the first draft of the new Unified Development Code outline and permit procedures code to the Commission for their review. This code amendment merges Title 17, Zoning with Title 16, Subdivisions into a new Title 18 to be referred as the Unified Development Code. A UDC combines traditional zoning codes with subdivision, design standards, utility and engineering regulations into a single document to provide a comprehensive set of development standards and to avoid overlapping regulations.

The attached ordinance provides the outline for the new Title 18, which divides the Title into the following eight (8) logical groupings:

- Part 1: General Provisions
- Part 2: Applications
- Part 3: Permits
- Part 4: Land Divisions
- Part 5: Zoning and Uses
- Part 6: Specific Use Standards
- Part 7: Development & Design Standards
- Part 8: Environmental

UDC Project Goals:

As a reminder, the City Council adopted the following goals and action items to guide the adoption of Title 18 Unified Development Code Update. A checklist, so to speak, for the factors that will be used to evaluate whether the completed project is successful, on track, and consistent with the original objectives. These goals will be revisited over the life of the project and used to maintain focus over the coming months of revisions, drafts, review, and ultimately approval of the update code. The following is a summary of the seven goals and what they entail.

Unified Development Code
Goals and Action Items

Project Goal	Action Summary
Goal 1: Comprehensively update and modernize the Zoning Code with respect to content and administration of the code.	▪ Making the Code user-friendly by simplifying language, and improving format, and organization. ▪ Making the Code consistent with current laws and best practices.
Goal 2: Improve the development review process for applicants and staff.	▪ Revising permit procedures to address changes in state law for housing permits, including updating submittal checklists to set clear expectations for the applicant. ▪ Updating definitions to establish a clear common language, removing unneeded or confusing terms.
Goal 3: Promote development patterns consistent with the Comprehensive Plan and the 20-year growth projections.	▪ Combining similar zones and adding more flexibility in uses, where necessary and ▪ Ensuring consistency between zoning and comprehensive plan land use designations. ▪ Updating subdivision rules to be clearer, easier to use, and reflect best practices.
Goal 4: Evaluate and amend the Code to eliminate contradictions and remove barriers to development.	▪ Encouraging flexibility in design and use locations, such as by allowing variations in development standards and adopting standards for “live-work” units. ▪ Updating or add standards to address specific challenges or issues noted by staff.
Goal 5: Adopt design guidelines and site planning standards to achieve the desired community vision as described in the Comprehensive Plan.	▪ Updating design standards to foster active public realms and cohesive urban design, and compatibility with historic buildings, but maintaining flexibility in hardship situations. ▪ Streamlining development and design standards to encourage infill development.
Goal 6: Update Shoreline Management Plan (SMP) policies and regulations.	▪ Updating and moving Shoreline regulations out of the Critical Areas Code and into separate chapter.
Goal 7: Consider the best approach to integrate the 2023 state law requirements into the Municipal Code while ensuring consistency with the Comprehensive Plan.	▪ Using the Comprehensive Plan vision and goals to guide integrating of new state laws.

__UDC Organization__

This first UDC ordinance being processed includes both the organization structure of Title 18, UDC, as well as the application and permit chapters. Setting up Title 18 is necessary so that as amendments are processed and adopted, they can be dropped into the appropriate chapters. New Title 18 will include 8 parts as follows:

Title 18
Unified Development Code
Organizational Structure

UDC Organization Structure	Content
Part 1 – General Provisions	General Provisions, Establishment of Zones, Adoption of Zoning Map, Definitions
Part 2 - Applications	Application Types and Permit Review Processes
Part 3 - Permits	Issued Permits, Conditional Uses, Variances
Part 4 – Land Divisions	Long and Short Subdivisions, Binding Site Plans, Boundary Line Adjustments
Part 5 – Zoning and Uses	Permitted Uses and Bulk Standards
Part 6 – Specific Uses Standards	Development Standards for Specified Uses
Part 7 – Development and Design Standards	Design Standards, Parking, Signage, Landscaping, stormwater, grading
Part 8 - Environment	Shoreline and Critical Areas (wetlands, streams, slopes, floodplains)

Staff anticipates that drafting Title 18 will take about 2 years to complete and during this time portions of Title 17, Zoning will remain be in effect as there will be overlaps between Title 17 and 18 until the entire Title 18 is complete. It is anticipated there will be multiple code amendments to complete the full UDC, so portions of Title 17 will remain in effect while Title 18 is being developed and adopted. Once Title 18 is finished, Title 17 will be repealed in its entirety.

As such, staff and the public will be referencing both Title 17, Zoning and Title 18, UDC for development code issues. To help with this transition, the regulatory substance contained in the Title 17 chapters being amended will be deleted, and a note will be added referencing the reader to the appropriate chapter / section in Title 18. An example, of how this will look to the reader is shown to the right.


EXHIBIT·B↵
AMENDMENTS·TO·SMC·TITLE·17¶

Exhibit·B·will·include·amendments·to·Title·17·that·are·necessary·to·accommodate·the·new·procedures·described·in·Exhibit·A.¶

Chapter·17.80·Permit·Review·Procedures,·is·repealed·and·replaced·with·a·chapter·to·read·as·follows:¶

Chapter 17.80·Permit·Review·Procedures¶

17.80.010·Replaced·by·Unified·Development·Code¶

For·regulations·governing·the·processing·of·permit·applications·and·post-issuance·requirements,·see·SMC·Title·18·Part·2.¶

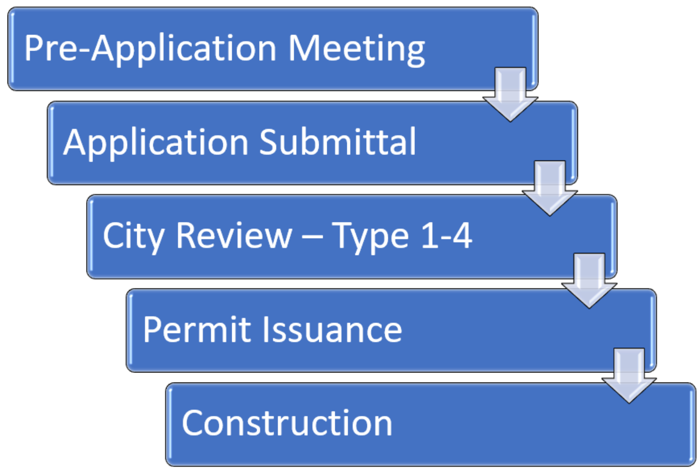
UDC Part 1 – General Provisions:

The General Provisions part establishes the foundation for the entire UDC. It adopts the City's zoning districts and map consistent with the Comprehensive Plan; rulemaking authority, administrative interpretations, violation references and definitions are also included in the General Provisions Chapter. Most of these sections are copied over from the existing Title 17, except that the zoning districts and map have been updated to be consistent with the 2024-2044 Comprehensive Plan.

Definitions will be migrated from Title 17 to Title 18 as chapters are adopted. Keep in mind that the existing definitions in SMC Chapter 17.20 will remain in effect until repealed and apply to both Title 17 and Title 18. Where definitions in SMC Title 17 conflict with SMC Title 18, the new definitions in SMC Title 18 control for regulations in SMC Title 18.

UDC Part 2 – Applications

The applications chapter of the UDC contains the permit types, permit submittal requirements and the permitting process. Permits are processed according to the city's procedures which are codified in the Municipal Code. The purpose of codifying the permit review procedures is to ensure consistency of review, reducing the chances of arbitrary decisions and open transparency of the city's processes. All permits follow a similar workflow, but the variation in time and process occurs in the City review step.



Permit types are categorized as Type 1-4 according to the level of review: administrative Hearing Examiner and City Council decisions. The following table and charts outline the city's permit types and their review process.

The only significant difference between this amendment and the existing Title 17 procedures code is that the old Type 5 permits have been deleted. Type 5 permits were those that were not subject to the "Regulatory Reform Act" of the State of Washington which establishes permit review timelines and procedures. These included street vacations, final plats and annexations; review process for these actions are established in other code sections or by state law.

Permit Application Category Types

Type 1 Administrative Decisions without Notice	Type 2 Administrative Decisions With Public Notice	Type 3 Decisions After Public Hearing by Hearing Examiner	Type 4 City Council Decisions
▪ Single Family (Bldg, Mech, Plumb) ▪ Fire ▪ Multi-Family ≤ 40 Units ▪ Com/Ind ≤ 12K SF ▪ Mixed-Use ≤ 20 Units ▪ ADU ▪ Zoning Code Interpretation ▪ BLA ▪ Code Enforcement ▪ Concurrency Eval ▪ Encroachment (ROW) ▪ Floodplain ▪ Grading ▪ Home Occupation ▪ Manufactured Home Infill ▪ Parcel Combination ▪ ROW ▪ Sign ▪ TN – Public Facilities ▪ Small Cell WCF ▪ Co-Located WCF ▪ Minor Modification to WCF	▪ Multi-Family > 40 Units ▪ Com/Ind > 12K SF ▪ Mixed-Use > 20 Units ▪ Admin Variance ▪ Binding Site Plans ▪ Reasonable Use Permit ▪ Right to Farm ▪ SEPA Determinations ▪ Shoreline Substantial Development Permit ▪ Short Plats ▪ Waiver of 6-Year Forest Practice Moratorium	▪ Appeal – Code Enforcement ▪ Appeal – Building Code ▪ Appeal - Administrative ▪ Conditional Use Permit ▪ Preliminary Plat; Including PRD's, Cottage , & Offspring Subdivision ▪ Essential Public Facilities ▪ Non-Admin Variance ▪ Shoreline CUP ▪ Shoreline Variance ▪ TN-Residential Subdivisions ▪ TN – Mixed Use ▪ Forest Practice Waiver – Nonresidential ▪ WCF – Mono Pole ▪ WCF – Deviation	▪ Development Agreements ▪ Site Specific Rezones

Part 2 also outlines the permit process for each permit type. Permit types are listed on a graduated scale by review authority:

- Type 1: Administrative decision by staff with no public comment
- Type 2: Administrative decision by staff with public notice
- Type 3: Administrative review with decision by the Hearing Examiner after holding a public hearing.
- Type 4: Administrative review, Hearing Examiner public hearing and recommendation to the City Council and final decision by the City Council after holding a public hearing.

Prior to review of an application, it needs to be determined if an application contains all of the information needed for review – this process is commonly referred to as a "completeness review". Each permit type is reviewed against the submittal checklist. If all of the required information is submitted, a complete application notice can be issued. At the September meeting, the Planning Commission recommended that the submittal table be updated to reflect the permits by type and level of effort. Below is the proposed approach: Grouping permits into categories based on the level of review and type of materials needed for that review. Each permit type (Type 1-4) is sorted into "Categories" and the submittal requirements is then listed by "Permit Category". Below is an example. Full copies are attached for review.

Permit Procedures Code Amendment

Option C: Hybrid of Current Submittal Chart and Simplified Chart

Permits Sorted into Categories by Level of Effort Across Top: Simple to More Complex

Permit Submittal Requirements in the Left Column

Submittals: Required / May be Required within Matrix

Note: Graphic Shows Only the First Page for Illustrative Purposes

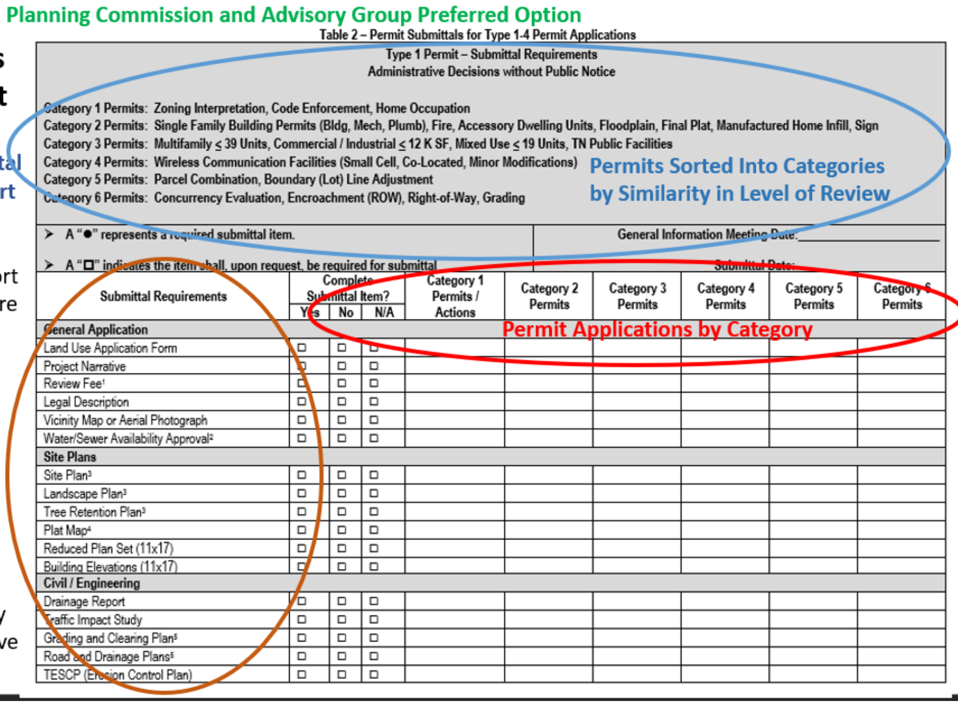


Table 2 – Permit Submittals for Type 1-4 Permit Applications

Type 1 Permit – Submittal Requirements
Administrative Decisions without Public Notice

Category 1 Permits: Zoning Interpretation, Code Enforcement, Home Occupation
Category 2 Permits: Single Family Building Permits (Bldg, Mech, Plumb), Fire, Accessory Dwelling Units, Floodplain, Final Plat, Manufactured Home Infill, Sign
Category 3 Permits: Multifamily ≤ 39 Units, Commercial / Industrial ≤ 12 K SF, Mixed Use ≤ 19 Units, TN Public Facilities
Category 4 Permits: Wireless Communication Facilities (Small Cell, Co-Located, Minor Modifications)
Category 5 Permits: Parcel Combination, Boundary (Lot) Line Adjustment
Category 6 Permits: Concurrency Evaluation, Encroachment (ROW), Right-of-Way, Grading

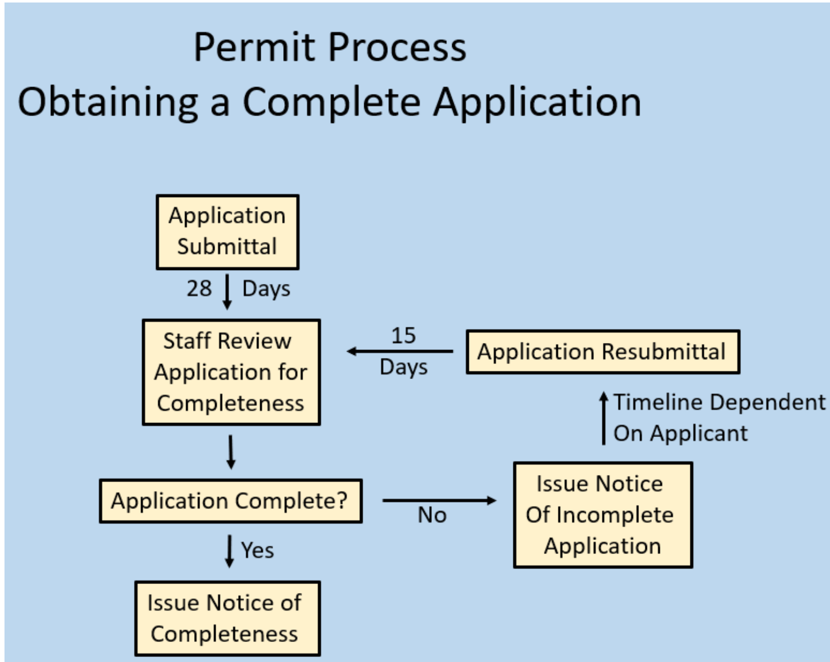
- A "●" represents a required submittal item.
- A "☐" indicates the item shall, upon request, be required for submittal

General Information Meeting Date:__________

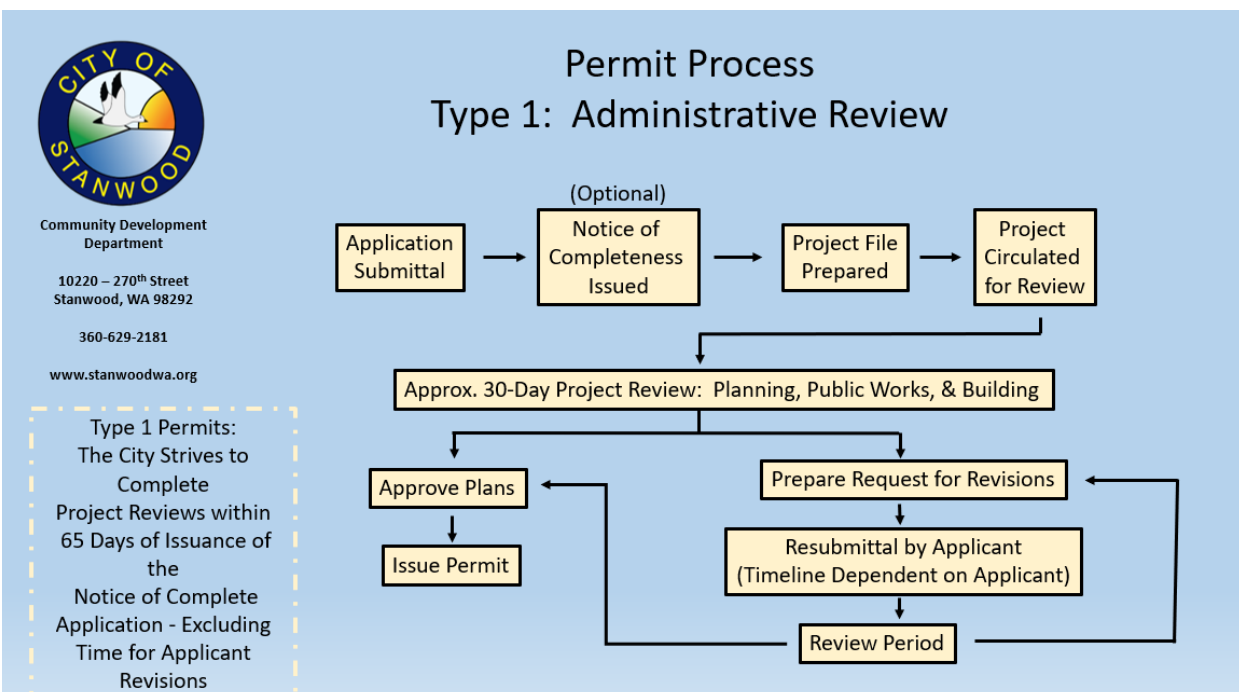
Submittal Date:

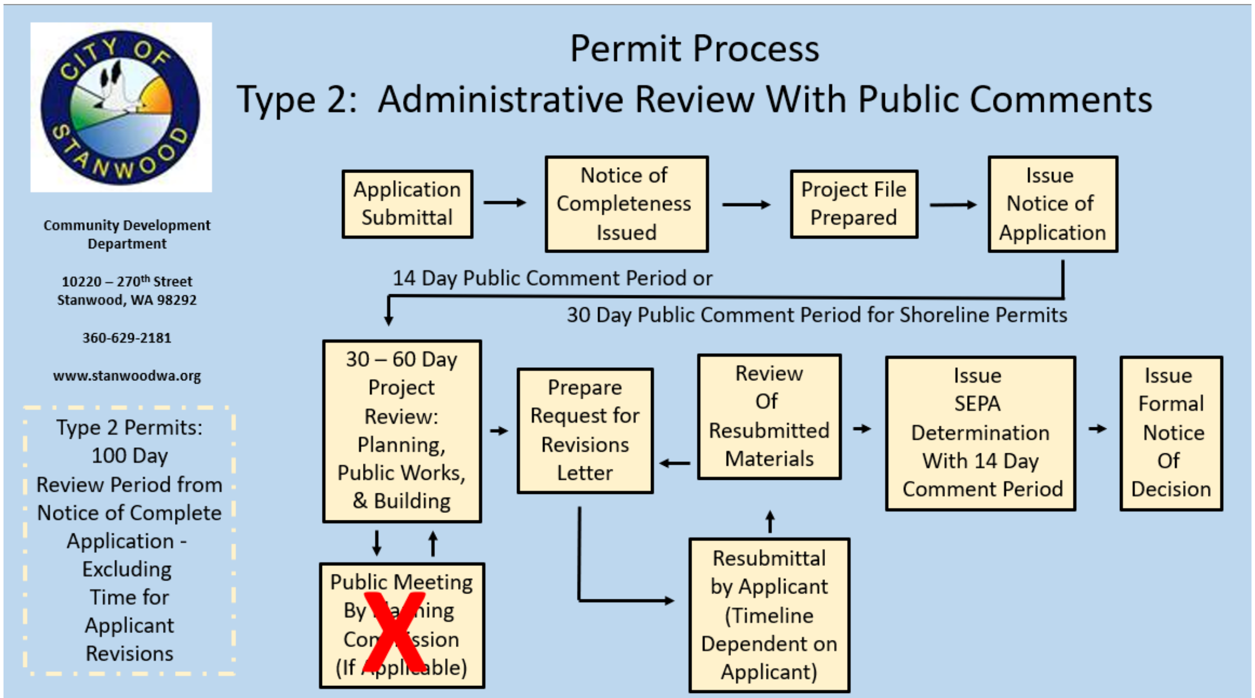
Submittal Requirements	Complete Submittal Item? Yes	No	N/A	Category 1 Permits / Actions	Category 2 Permits	Category 3 Permits	Category 4 Permits	Category 5 Permits	Category 6 Permits
General Application									
Land Use Application Form	☐	☐	☐						
Project Narrative	☐	☐	☐						
Review Fee[1]	☐	☐	☐						
Legal Description	☐	☐	☐						
Vicinity Map or Aerial Photograph	☐	☐	☐						
Water/Sewer Availability Approval[2]	☐	☐	☐						
Site Plans									
Site Plan[3]	☐	☐	☐						
Landscape Plan[3]	☐	☐	☐						
Tree Retention Plan[3]	☐	☐	☐						
Plat Map[4]	☐	☐	☐						
Reduced Plan Set (11x17)	☐	☐	☐						
Building Elevations (11x17)	☐	☐	☐						
Civil / Engineering									
Drainage Report	☐	☐	☐						
Traffic Impact Study	☐	☐	☐						
Grading and Clearing Plan[5]	☐	☐	☐						
Road and Drainage Plans[5]	☐	☐	☐						
TESCP (Erosion Control Plan)	☐	☐	☐						

Submittal Category	Typical Submittal Requirements
General Application Materials:	Forms, Fees, Project Narratives, Vicinity Maps
Site Plans:	Plat Maps; Site, Landscape, Tree Retention Plans; Building Elevations
Civil Engineering Plans:	Drainage, Traffic, Clearing, Grading, Road / Right-of-Way, Erosion Control, and Utility Plans
Environmental Documents:	SEPA Checklist, Critical Area Reports (Wetlands and Streams), Floodplain, Geotechnical, and Cultural Resource Reports
Other:	Public Notice Lists, Safe Walking to School Plans, Covenants, Title Certificates, Lot Closure Reports
Before Final Plat or Occupancy:	Deeds, Easements, Bonds, Asbuilts

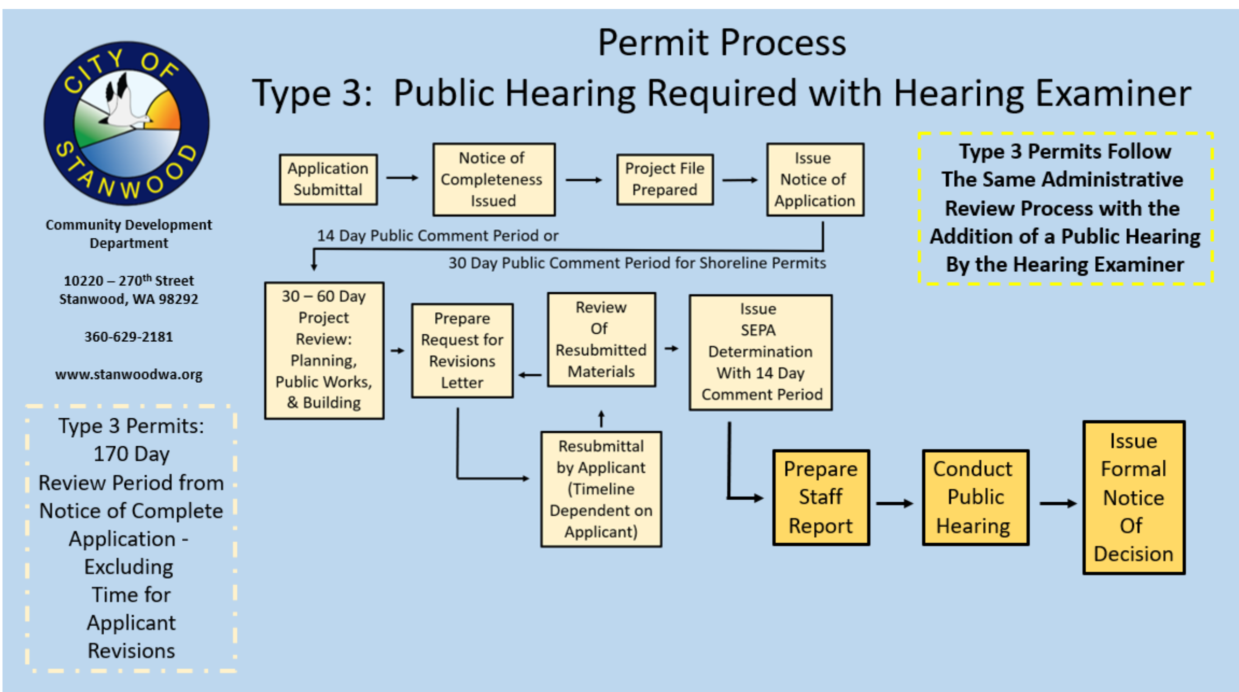


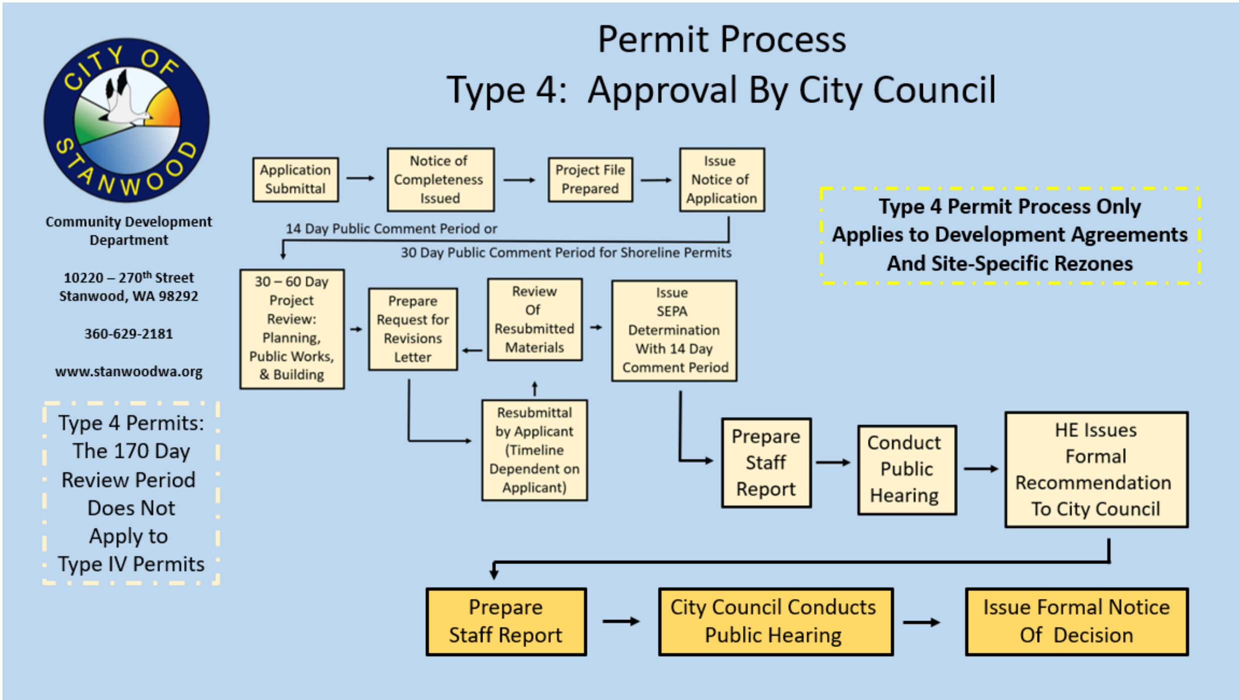
Once a project receives a complete application, the permit review process begins. The diagrams below show the review process for each permit type.





Note the draft amendment eliminates the "public meetings" with PC in favor of only having "public hearings" before Hearing Examiner, consistent with State law limiting the number of allowed hearings on a project.





In addition to changing the code into "plain talk", amendments include:

- Procedures are reorganized to fit the new table of contents for the new Title 18;
- Consolidates various tables into a single table in proposed 18.230.020, Types of Review;
- Adds permit review time periods consistent with the defaults in 2SSB 5290:
  - Type 1 Permits: 65 days
  - Type 2 Permits: 100 days
  - Type 3 Permits: 170 days
  - Type 4 Permits: 170 days;
- Final plat approval, as a ministerial action, is moved to Type 1 per recent amendment of RCW 58.17.100.
- Street vacations and annexations are not project permits, are not subject to the other requirements of the chapter and statute, so are not included.
- Creates an optional meeting procedure in proposed 18.230.080(3) to implement RCW 36.70B.160(1)(j), which is one of the options to avoid permit fee refunds.

UDC Part 3 – Permits

Part 3, Permits, covers the post permit application process and details the review criteria for variances and conditional use permits.

Chapter 18.310 Permits Generally

This code section covers the post permitting processes and requirements. There are no significant changes from existing Chapter 17.80 Article IV with the exception of using plain language text and reorganization.

- Permit Terms, Extensions, and Expiration
- Permit Revisions
- Requirements for Civil Construction Plans

- Inspections
- Effect of Decisions
- Certificate of Occupancy
- Vacation of Permits

Chapter 18.320 Conditional Use Permits
A Conditional Use Permit (CUP) is a zoning tool to allow a property to be used in a way that is not typically permitted under the current zoning regulations but might be appropriate under certain situations or conditions. Conditional Use Permits provide:

- Flexibility in Land Use: CUPs provide flexibility within zoning laws by allowing certain uses that could be beneficial or compatible with the surrounding area if specific conditions are met.
- Community Input: The city's CUP process requires a public hearing, giving the community an opportunity to voice their concerns or comment of potential mitigation strategies.
- Case-by-Case Review: Each CUP application is reviewed individually, allowing for a thorough examination of the specific circumstances, including the proposed use, location, and potential effects on the surrounding area.

To obtain a conditional use permit, the applicant must show how their application meets the compatibility criteria: Zoning Compatibility, Community Need, and Effect on Adjacent Properties. It is being suggested that the "Community Need" criteria should be eliminated as it has not been supported by recent court cases and could put the City at risk. Staff suggests revising the "Community Need" criteria for CUP's with "Community Compatibility" as shown below:

Existing City Code Criteria	Proposed Amendment
Community Need. There must be a community need for the proposed use at the proposed location. In the determination of community need the reviewing official must consider the following factors, among all other relevant information: (a) The proposed location must not result in either the detrimental overconcentration of a particular use within the city or within the immediate area of the proposed use; (b) That the proposed location is suited for the proposed use.	Community Compatibility: The use will not have a substantively greater adverse effect on the health, safety or comfort of persons living or working in the area than those generally permitted in the district. In the determination of community compatibility, the reviewing official must consider the following factors: Hours and manner of operation, such as dust, odor, fumes and vibration do not impact adjacent properties; Existing infrastructure, such as roads, utilities, and parks, can accommodate the proposed use without degrading the adopted level of service standards; and The proposal's impacts can be appropriately mitigated through the application of conditions of approval, as applicable.

Chapter 18.330 Variances
A variance is a form of regulatory relief granted that allows a property owner to deviate from the strict requirements of the zoning code. A variance typically allows a property owner to use their land in a way that is generally allowed, but in a manner that does not fully comply with the zoning regulations due to unique circumstances.

The primary purpose of a variance is to provide flexibility in situations where the strict application of zoning laws would cause undue hardship due to the unique physical characteristics of the property. For example, if a property has an irregular shape, steep topography, or other unusual features that make it difficult or impossible to comply with the standard zoning requirements, a variance might be granted to accommodate these challenges.

Stanwood has two types of variances: administrative and through the public hearing process with the Hearing Examiner. This amendment is proposing to change the terms for these variances as follows:

Existing Term	Proposed Term
Administrative Variance	Minor Variance
Non-Administrative Variance	Major Variance

Planning Commission September 9, 2024, Review Comments:
The Planning Commission reviewed the first draft of the proposed amendments on September 9, 2024, and provided the following comments:

1. Update the submittal checklist to group like type permits with the same submittal requirements; the intent is to simplify the matrix while still showing all of the permit applications.
    - Staff Response: See updated charts with permit types sorted by category.

2. Expand on the explanation on when the optional submittal requirements are needed.
    - Staff Response: Submittal requirements vary from project to project based on the characteristics of the underlying land. As such is impossible to predict every permit submittal scenario. To address the Planning Commissions concern, the following draft language is proposed to provide some clarity.

18.220.030 Application Contents

(6) Tables 18.220.030 -1 through 4 reflect the permit submittal requirements for the City of Stanwood.
  (a) City of Stanwood requires electronic project submittal through the portal on the City's website;
  (b) Submittal materials are marked as "required", "required upon request" and "not required"; and
  (c) Additional information may be required on a case-by-case basis depending on the complexity of the application.

(7) Due to variations in land conditions, similar permits may require different submittal requirements. To determine if a permit submittal is required beyond those noted as "required" in the tables, contact the Planning Department to schedule a genal information meeting.

(8) The submittal requirements listed in the tables are for the City of Stanwood permits only. Additional permits may be required by other federal, state, regional or local agencies. It is the responsibility of the applicant to ascertain whether other permits are required.

3. Provide better clarity of the district definitions; it is confusing with regard to school and the new public facilities zones.
   - Staff Response: Staff recommends maintaining the existing definitions until the permitted use and bulk matrix amendments are developed. At that time the zoning definitions can be updated for consistency. This approach keeps from needing to update the zoning definitions twice.

4. Clarify the process and penalties for permit violations.
   - Staff Response: In the event of non-compliance with a permit, the primary tool the City has when a person is non-compliant, either with the municipal code directly or the conditions of a permit, is the administrative order process in SMC 13.30. This is potentially a powerful tool to correct problems because the City can impose $100 per day, *per violation* and the City can also go to court to seek an injunction or other relief.

     The emergency/stop work order provision in SMC 13.30.010(2) (Code Enforcement Title) applies when "the health and safety of the occupants" or the public is at risk, so that won't always be an available tool, but when it is, under SMC 13.30.060 a violation of an emergency/stop work order is a *gross misdemeanor*, which potentially carries a pretty serious criminal penalty.

     It is not recommended to include language which allows for revoking an issued permit as it would deprive the permit-holder of a property right, potentially without due process, and potentially in violation of the Land Use Petition Act. It is recommended to use the code enforcement processes noted above when needed to enforce permit conditions.

Advisory Group Review:
The Municipal Code Update Advisory Group reviewed the proposed amendments on September 18, 2024. They had the following comments:
- They agree with the Planning Commission and support the hybrid approach to the submittal checklist: grouping like type permits with the same submittal requirements with the intent to simplify the matrix while still showing all of the permit applications;
- Like the changes to the CUP criteria as they are more specific to an impact analysis and reduces the chances of arbitrary decisions;
- Support appeals going to the Hearing Examiner; and
- Consider making all affordable housing projects, whether a subdivision or multifamily project, a Type 1 permit to reduce costs and review time; also consider adopting reduced fees for affordable or low-income projects.

Public Hearing Procedure:
Below is the recommended procedure for managing the Unified Development Code / Permit Procedures public hearing:
1. Open the Public Hearing;

2. Receive the staff presentation and ask questions;
3. Take public testimony and ask questions (if any);
4. Ask any additional questions of staff;
5. Deliberate on the draft ordinance and suggest edits to the code based on public testimony received; and
6. Continue the Public Hearing to the November 12/18, 2024, meeting date.

Draft Motion:

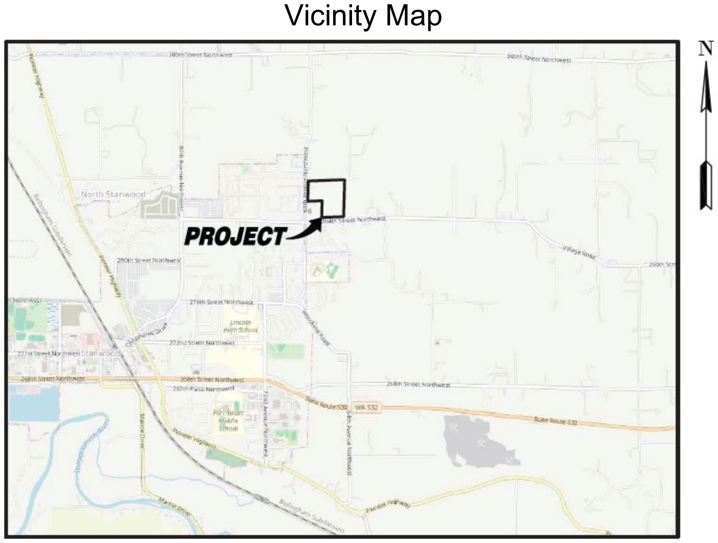
I move to continue the public hearing on the Unified Development Code / Permit Procedures code amendment to the November 12/18, 2024, and direct staff to prepare the findings of fact and conclusions for the ordinance adoption.

Public Meeting: 24-0104 Josephine Preliminary Plat

Pursuant to Stanwood Municipal Code (SMC) 17.80.310, Type III permits are required to hold a public meeting with the City of Stanwood Planning Commission. The purpose of a public meeting is to provide the public with the opportunity to learn about a project and to ask questions in order to gain a better understanding of a project. Meetings are not as formal as a hearing, do not require public testimony, and are not required to be recorded.

Sage Homes NW LLC, the applicant, is proposing to construct an 89-lot subdivision consisting of 73 single-family residences, 8 duplex lots, and 8 townhome lots for a total of 97 units. The project is located northeast of 68th Avenue NW and 284th Street NW intersection on one Traditional Neighborhood zoned parcel approximately 16.87 acres (735,061 square feet) in size. Vehicular access to the site will be from 68th Avenue NW and 284th Street NW. The proposed community will include open space tracts, storm water management, and street and landscaping improvements.

Vicinity Map



Proposed Plat Map

Critical Areas Code Amendment

Overview

The City initiated the Municipal Code Update project in 2022 to modernize the code reflecting best practices with respect to content and administration of the code. The update is intended to be user friendly for staff, property owners and developers by 1) removing legalese and jargon unfamiliar to the lay person, 2) improving clarity and overall functionality, and 3) reflect regulatory best practices. The amendments will also be consistent with current case, state and federal laws.

As part of the Municipal Code Update, the City has elected to create a Unified Development Code (UDC) that merges Title 16, Subdivisions, and Title 17, Zoning, into a single Title. A UDC is a comprehensive set of regulations or standards that govern land use, zoning, and development within a single Municipal Code Title. The Critical Area Regulations will be updated and integrated in the new UDC.

Updates to the Critical Area Regulations include:

- Reorganizing and renumbering the existing critical areas regulations to new chapters and aligning them with state guidance based on Best Available Science.
- Duplicative sections were streamlined, definitions updated, and provisions made more consistent with Best Available Science and state regulations.
- Wetland regulations (SMC 18.802) and stream buffers (SMC 18.804) have been revised to align with Washington State Department of Ecology guidance, including buffer updates based on site-potential tree height (SPTH).
- The geologically hazardous areas chapter (SMC 18.806) incorporates definitions consistent with RCW and WAC.
- Floodplain management is renamed “Frequently Flooded Areas” (SMC 18.810) with added protections for HVAC systems.
- New cultural resources provisions were added based on state recommendations.

Organization

Part 8 of the new UDC contains the City’s environmental regulations and will be notated as Stanwood Municipal Code, Chapter 18.800-18.812.

Chapter	Provisions
SMC 18.800	General Provisions - Applies to All Critical Areas
SMC 18.802	Wetlands
SMC 18.804	Fish and Wildlife Habitat Conservation Areas
SMC 18.06	Geologically Hazardous Areas
SMC 18.808	Critical Aquifer Recharge Areas
SMC 18.810	Frequently Flooded Areas
SMC 18.812	Cultural Resources

General Provisions Summary

The General Provisions Chapter serves as the foundational set of baseline regulations addressing critical areas. By including common requirements in one chapter, the aim is to streamline the overall code, ensuring that these provisions apply uniformly across each of the critical area sections without needing to be repeated. This reduces redundancy and improves the readability of the regulations. The General Provisions section includes:

- An explanation of how critical area codes are applied in Stanwood and how to use the chapter.
- Integrates with the procedures chapter in Part 2 of the UDC.
- Requires the application of Best Available Science (BAS) and No Net Loss of ecological functions and values.
- Identifies limitations around exempt activities:
    - Operations, maintenance or repairs of existing facilities and structures
    - Passive outdoor activities such as trails
    - Forest practices per RCW 79.09
    - Minor site investigation work
    - Infill single family residential structures in the floodplain with no impact to wetlands, streams or buffers
- Identifies limitation around allowed activities:
    - Modifications to existing structures
    - Activities within improved right-of-way
    - Minor utility projects
    - Public and private trails within the outer 25% of buffers
    - Invasive vegetation removal and vegetation management
    - Minor site investigation work
    - Navigational aids and boundary markers
- Details the requirements for critical area reports, mitigation reports, and mitigation plans including application of a sequencing analysis to show avoidance and minimization to avoid impacts to critical areas.
- To avoid a “takings” of private property a reasonable use provision is included as well as a public agency / utility exemption.
- Details variance criteria, bonding requirements, and preservation easement/tract requirements.
- Establishes enforcement processes and references to Chapter 13, Enforcement.

Wetlands Summary

It is US policy to protect the integrity of the nation's waters, which include lakes, rivers, streams, and wetlands. Protection of wetlands falls under the Clean Water Act and is administered through local governmental critical area regulations, the State Department of Ecology (via authorization from the Environmental Protection Agency) and the Federal Corp of Engineers.

Wetlands are defined as (WAC 173-22-035) those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. Wetlands must have three characteristics: hydrology, hydric soils and plants adapted to wet conditions.

Critical area regulations provide for the protection of not just the wetland themselves, but what is referred to as wetland "functions and values". Functions refers to what wetlands do, such as water filtration, flood control, water storage, groundwater recharge, erosion control, shoreline stabilization, and wildlife habitat areas. Whereas values refers to the benefits wetlands provide to humans, wildlife and the environment such as ecosystem biodiversity and recreational opportunities.

Wetlands are classified into four categories using the 2014 Washington State Wetland Rating System for Western Washington: Type 1 being the rarest and most difficult to replace to Type 4 having the lowest level of functions and values. Buffer widths are applied to a wetland based on a habitat score associated with site specific characteristics. A 15-foot building setback is then applied to the ouert edge of the wetland buffer.

The buffers shown below are the same buffers which are currently being applied to projects via a 2018 administrative zoning interpretation consistent with the Department of Ecology's 2018 modified habitat score ranges.

	Buffer Width (in feet) based on habitat score		
Wetland Category I Habitat Score	**3-5**	**6-7**	**8-9**
Category I: Based on Total Score	75'	110'	225'
Category I: Bogs and Wetlands of High Conservation Value	190'	190'	225'
Category I: Interdunal	225'	225'	225'
Category I: Forested	75'	110'	225'
Category I: Estuarine and Coastal Lagoons	150'	150'	150'
Wetland Category II Habitat Score	**3-5**	**6-7**	**8-9**
Category II: Based on Total Score	75'	110'	225'
Category II: Interdunal	110'	110'	110'
Wetland Category III Habitat Score	**3-5**	**6-7**	**8-9**
Category III: All	60'	110'	225'
Category III: Interdunal	60'	60'	60'
Wetland Category IV Habitat Score	**3-5**	**6-7**	**8-9**
Category IV: All	40'	40'	40'

Buffer averaging and reduction options are provided in the code to provide some flexibility in site design.

Buffer Averaging: The width of a buffer may be averaged, thereby reducing the width of a portion of the buffer, and increasing the width of another portion. However, no part of the buffer width can be less than 65% of the required buffer.

Buffer Reduction: Buffer widths for all categories of wetlands may be reduced by 25 feet if the mitigation measures are applied such as: limiting lights around wetlands, applying noise buffering techniques, routing untreated water away from the wetland, planting dense vegetation around the wetland, and removal of non-native vegetation.

If wetlands are impacted, mitigation must be provided in an amount necessary to successfully replace the existing wetland functions and values. The code encourages the use of mitigation banks, but if a bank is not available, the following mitigation ratios are applied.

Wetland Category	Creation or Replacement Ratio	Enhancement Ratio	Other Combinations
Category I	6:1	16:1	As Determined by Ecology or Corp of Engineers
Category II	3:1	12:1	
Category III	2:1	8:1	
Category IV	1.5:1	6:1	

Fish and Wildlife Habitat Conservation Areas Summary

As noted above, protection of streams is a US public policy regulated under the Clean Water Act. Wildlife habitat is generally protected under the Endangered Species Act and the US Fish and Wildlife Services Ecological Services Program. The Washington State Department of Fish and Wildlife (WDFW) is part of the federal Ecological Services Program. Local governments are required to adopt critical area regulations consistent with the WDFW to protect fish, wildlife, plants and their habitats throughout Washington for future generations.

The draft code designates fish and wildlife habitat as follows:

Wildlife	Streams
Federally designated endangered and threatened species	Type S Streams – Shorelines of the State
State designated endangered, threatened, and sensitive species	Type F Streams – Rivers and associated systems that have fish or the potential to support fish habitat

<table>
<tr><td>State Priority Habitats and the Habitats of State Priority Species</td><td>Type Np Streams - Perennial non-fish habitat streams (Streams that do not dry up any time during the year)</td></tr>
<tr><td>Habitats and Species of Local Importance</td><td>Type Ns Streams – Seasonal, nonfish habitat streams (streams in which surface flow is not present for at least some portion of a year)</td></tr>
<tr><td>Commercial and Recreational Shellfish Areas</td><td rowspan="5">* The stream classification methodology shown above is different from the current Municipal Code which classifies streams on a numerical scale of Type 1 – Type 5, but have similar definitions. However, the buffer widths are based on the above referenced methodology which causes confusion.

Existing Buffer Widths:
For Type S streams – 150 feet;
For Type F streams – 100 feet;
For Type Np streams – 75 feet; and
For Type Ns streams – 50 feet.</td></tr>
<tr><td>Naturally Occurring Ponds under 20 Acres</td></tr>
<tr><td>Waters of the State (lakes, ponds, streams, inland waters, underground waters, and all other surface waters and watercourses)</td></tr>
<tr><td>State Natural Area Preserves and Natural Resource Conservation Areas</td></tr>
<tr><td>Land essential for preserving connections between habitat blocks and open spaces</td></tr>
</table>

Buffer requirements for wildlife habitat varies based on species and is determined by applying best available science specified in a critical areas and mitigation report.

River and stream buffers are based on site-potential tree height (SPTH) and range in width from 100 feet to 235 feet based on existing vegetation. The maps below show the typical buffer widths, but the actual buffer will be determined by applying the WDFW site potential tree height mapping tool.

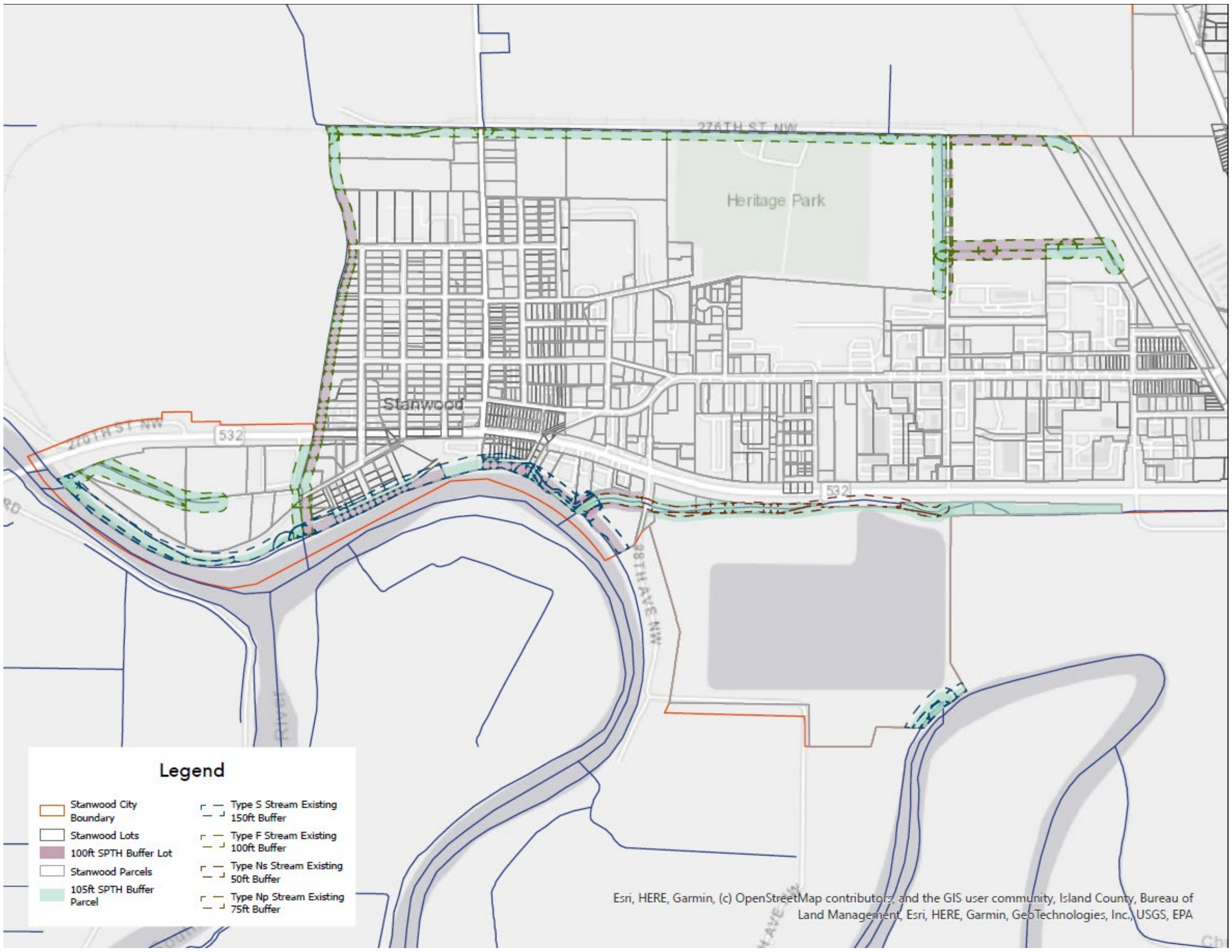
Site potential tree height (SPTH) refers to the maximum height that trees can reach at a specific site, given the local environmental conditions such as soil, water availability, climate, and other ecological factors. It is used in forestry and ecological studies to assess the growth potential of a forest or a stand of trees. The SPTH is typically determined by the dominant tree species in an area, as different species have different height potentials. The SPTH for the northwest has been calculated by the Washington Department of Fish and Wildlife.

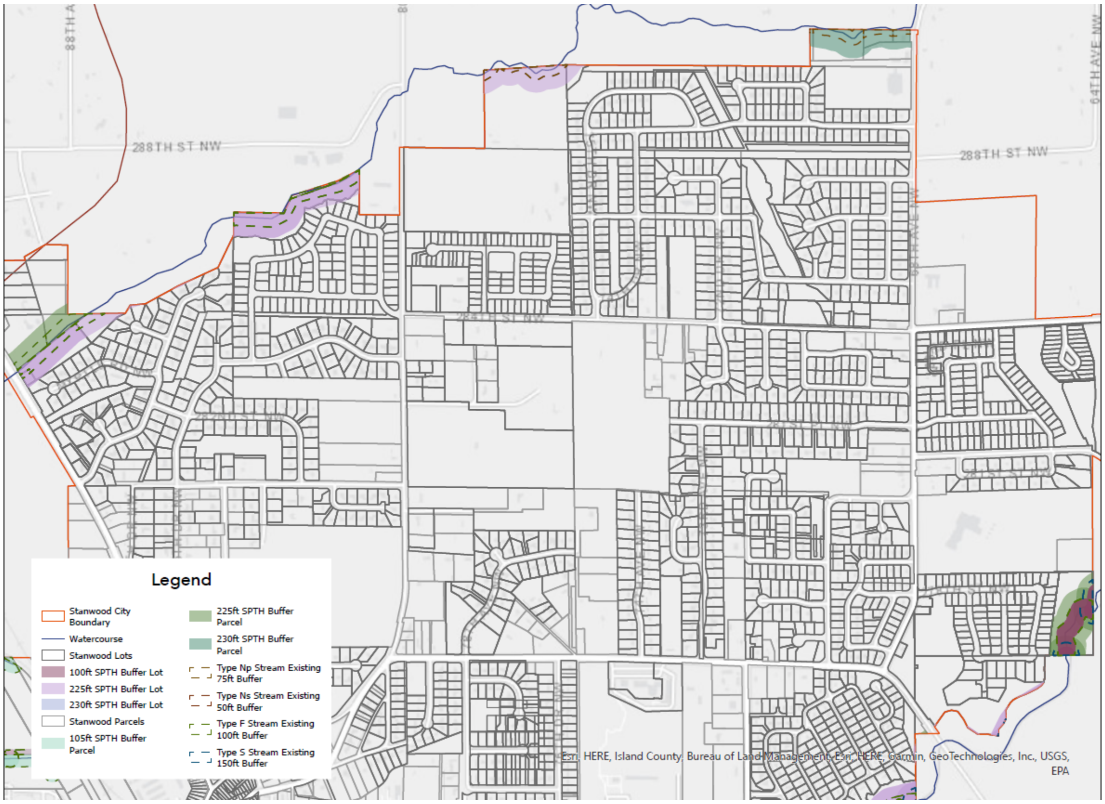
Similar to wetlands, FWHCA buffer averaging and reduction options are provided in the code to provide some flexibility in site design. A 15-foot building setback is also applied to the outer edge of the buffer.

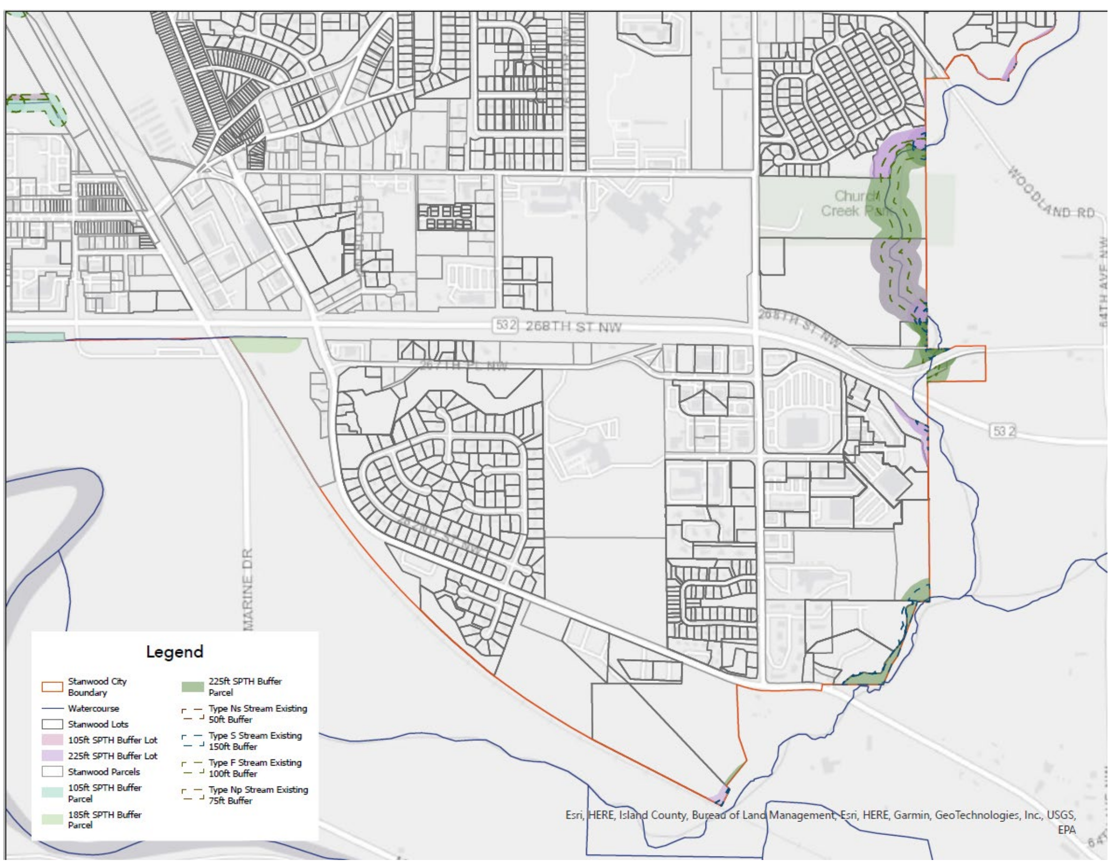
As the buffers overlay many developed lots, the code includes some provisions for existing properties and nonconforming uses.

> Nonconforming Uses in Buffers: Existing nonconforming development is not required to utilize SPTH buffers if routine maintenance, modifications, renovations, or redevelopment of existing structures do not intensify the nonconformity of the existing structure or use or increase impacts on a stream.

Existing Properties in Buffers: If existing properties have a previously approved buffer, the approved buffer will remain in effect.




288TH ST NW
288TH ST NW
Legend
Stanwood City Boundary
Watercourse
Stanwood Lots
100ft SPTH Buffer Lot
225ft SPTH Buffer Lot
230ft SPTH Buffer Lot
Stanwood Parcels
105ft SPTH Buffer Parcel
225ft SPTH Buffer Parcel
230ft SPTH Buffer Parcel
Type Np Stream Existing 75ft Buffer
Type Ns Stream Existing 50ft Buffer
Type F Stream Existing 100ft Buffer
Type S Stream Existing 150ft Buffer
Esri, HERE, Island County, Bureau of Land Management, Esri, HERE, Garmin, GeoTechnologies, Inc., USGS, EPA

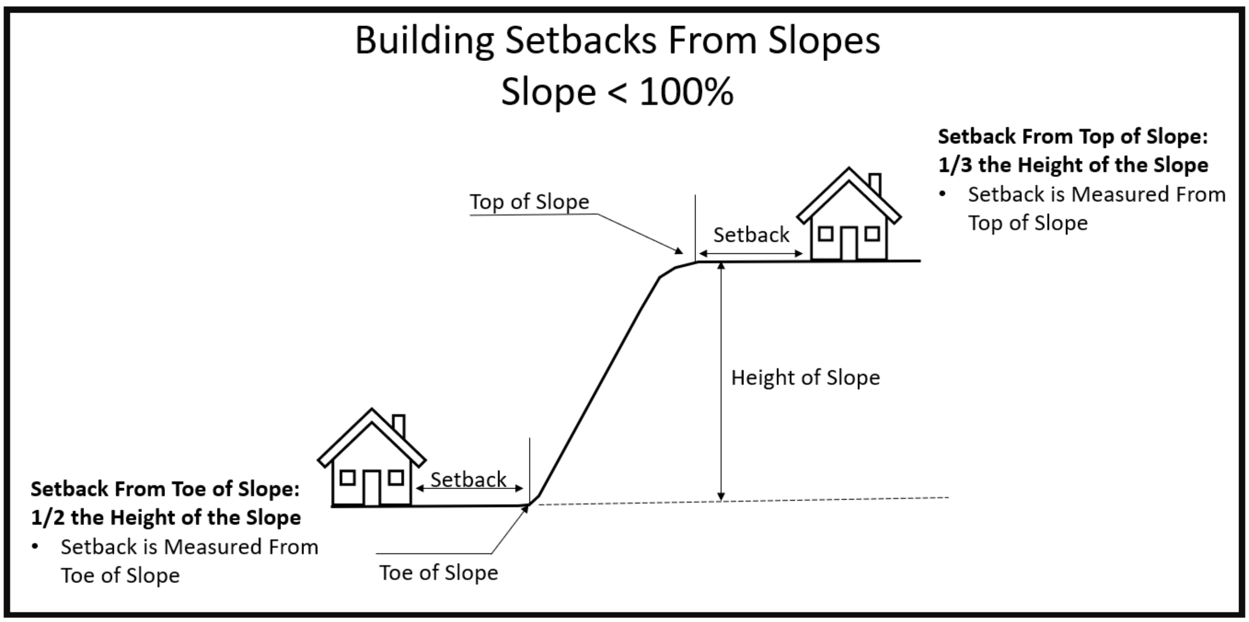

Church Creek Park
WOODLAND RD
64TH AVE NW
268TH ST NW
MARINE DR
Legend
Stanwood City Boundary
Watercourse
Stanwood Lots
105ft SPTH Buffer Lot
225ft SPTH Buffer Lot
Stanwood Parcels
105ft SPTH Buffer Parcel
185ft SPTH Buffer Parcel
225ft SPTH Buffer Parcel
Type Ns Stream Existing 50ft Buffer
Type S Stream Existing 150ft Buffer
Type F Stream Existing 100ft Buffer
Type Np Stream Existing 75ft Buffer
Esri, HERE, Island County, Bureau of Land Management, Esri, HERE, Garmin, GeoTechnologies, Inc., USGS, EPA

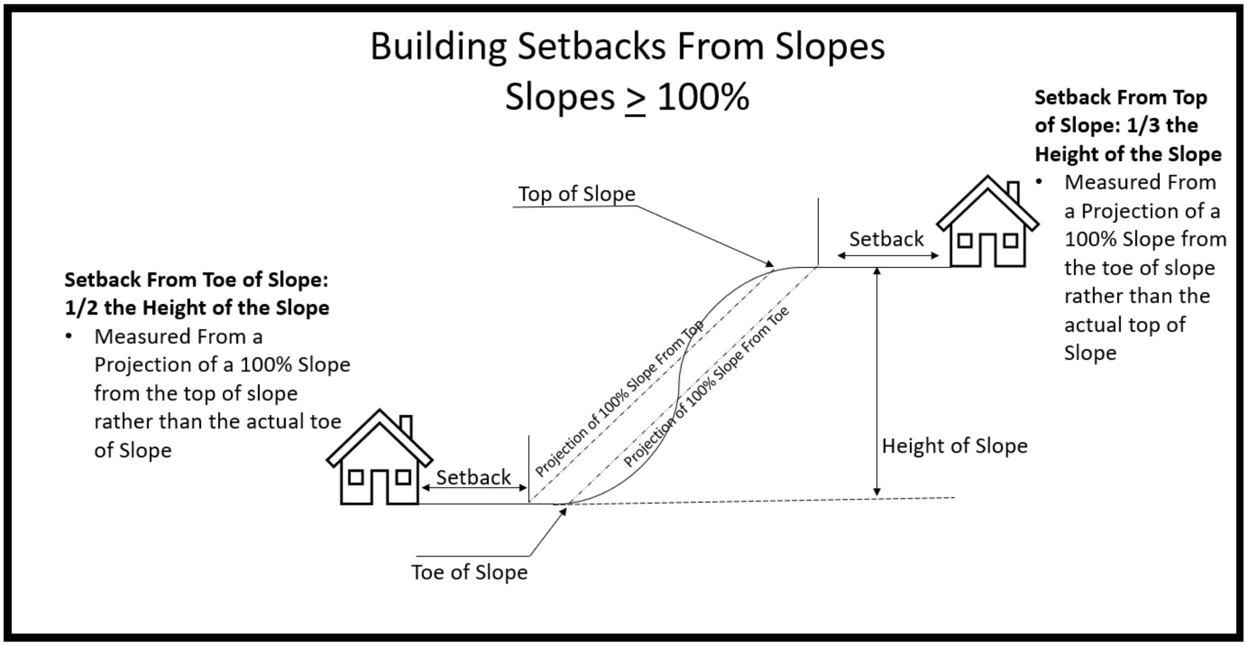
Geologically Hazardous Areas Summary

Geologically hazardous areas include areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, pose a risk or threat to public health and safety. In Stanwood, the following types of hazards are designated as a geologically hazardous area:

- Erosion hazard;
- Landslide hazard;
- Seismic hazard; and
- Other geological events including tsunamis, volcanic hazards, and differential settlement.

Development in these areas requires the submittal of a geotechnical report and structures must be setback from the top and toe of a steep slope as follows unless otherwise specified in the geotech report.





Other standards for developing in a Geologic Hazardous Area include:

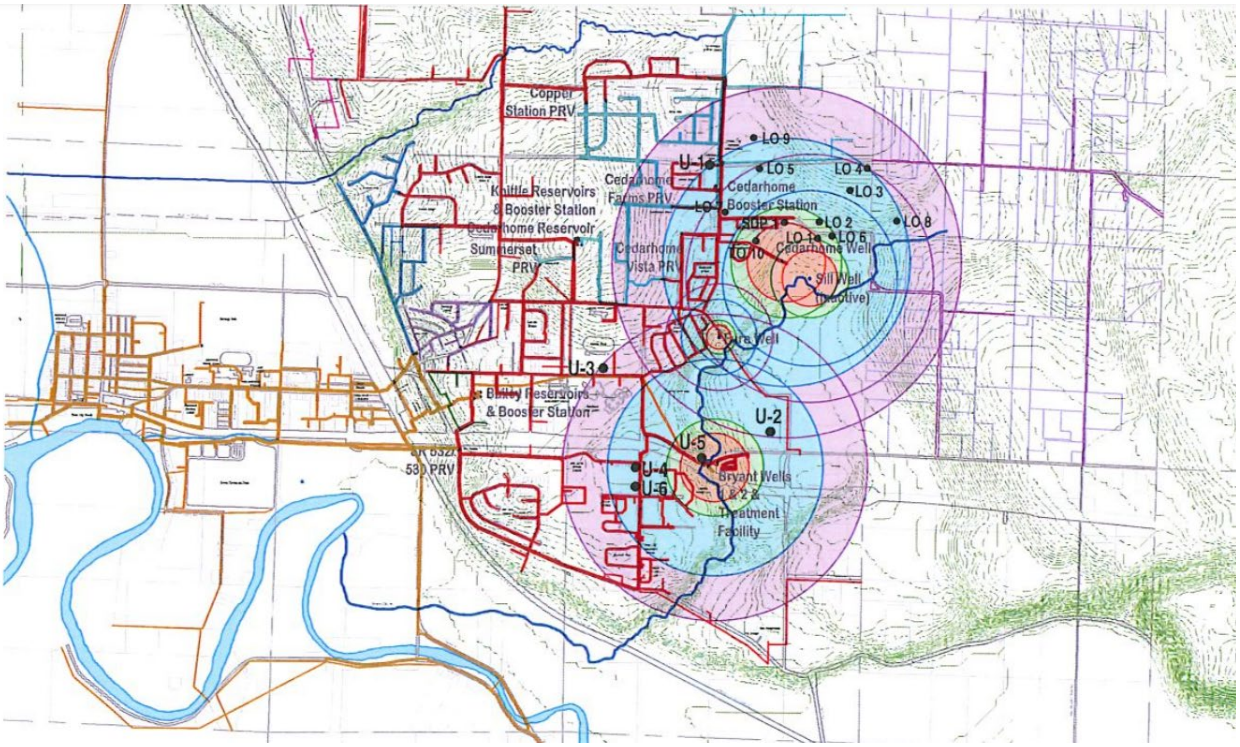
- Maintain vegetation on steep slopes
- Utilities are allowed on steep slopes if above ground and anchored in
- Point discharges are only allowed with energy dissipaters and not directly on a slope
- For subdivisions, landslide hazard and erosion areas must be located in separate tracts
- Tsunami hazard areas require an evacuation plan (none in Stanwood)

Aquifer Recharge Area Summary

An aquifer recharge **area** is a region where water from rain, streams, rivers, or other surface sources infiltrates the ground and replenishes an underground aquifer. Under the Growth Management Act, Cities are required to protect these areas as part of their critical area regulations. In Stanwood, Aquifer Recharge Areas include:

- Wellhead Protection Areas
- Sole Source Aquifers
- Susceptible Groundwater Management Areas per WAC 173-100
- Special Protection Areas per WAC 173-200-090
- Moderately or Highly Vulnerable Aquifer Recharge Areas per the Department of Ecology
- Moderately or Highly Susceptible Aquifer Recharge Areas per the Department of Ecology

Stanwood Wellhead Protection Areas



The following uses are generally prohibited in Aquifer Recharge Areas: landfills, underground injection wells, mining, wood treatment facilities, hard chrome plating operations, chemical lagoons and pits, hazardous material disposal sites, storage/processing/disposal of radioactive substances, new septic systems and other activities that negatively impact ground water sources.

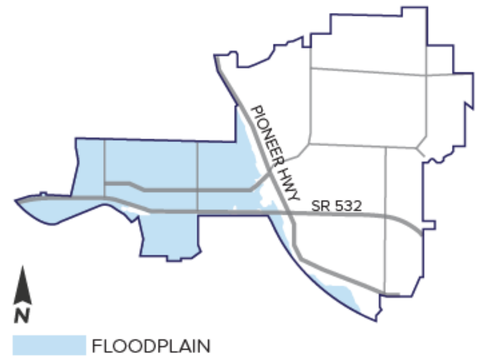
Uses that are allowed in an aquifer resource area may be subject to special regulations referred to as Class I or Class II operations. These include nonresidential uses and operations that present a risk to water resources because of the volume and type of hazardous materials that are used. Restrictions include:

- Potential location restrictions
- Application of current best management practices
- Inclusion of spill and emergency response plan
- An employee training program
- A site closure plan for decommissioning of hazardous materials
- An engineering and operations report detailing how to prevent the release of hazardous materials
- Ongoing maintenance of records and inspection reports

Also included in the code is a halogenated solvent list. This is a list of chemicals that are commonly used in various industrial applications due to their effectiveness in dissolving oils, fats, waxes, and resins, but are hazardous to health and the environment.

Frequently Flooded Areas Summary

The City of Stanwood is impacted by periodic flooding resulting from large storm events combined with high tides. Due to the topographic nature of the City, all of west Stanwood lies in the 100-year floodplain. This area generally includes land to the west of the railroad tracks and a small area west of Pioneer Highway just east of the railroad tracks. A 100-year flood area is defined as those lands that are subject to a one percent or greater chance of flooding in any one year.



The city's floodplain regulations are included as part of its critical area regulations. The draft includes all of the 2020 FEMA (Federal Emergency Management Agency) model ordinance requirements with two small changes: 1) allowing building modifications up to 50% of the buildings valuation every 12 months versus every 24 months and 2) includes increased protections for HVAC systems by requiring new and replacement HVAC systems to be located above the base flood elevation and elevated off the floor to minimize damage from flooding.

In summary, the proposed ordinance includes the following floodplain requirements:

- Readopts the 2020 FIRM maps
- Defines substantial development as work and costs incurred within a 12-month period
- Requires a floodplain permit that raises a building 1-foot above floodplain elevations or floodproofs the building

General building and construction provisions includes:

- Buildings must be anchored to the ground to avoid the potential to float
- Construction materials need to be resistant to flood damage
- Water supply systems and other utilities need to be designed to minimize or eliminate infiltration of flood waters
- Building design standards for residential, non-residential and manufactured homes
- Limitations on storage of recreational vehicles
- Detached structures used solely for parking or storage don't need to be raised above flood elevation with conditions
- Includes variance and appeal provisions

Cultural Resources Summary

Protection of cultural resources is a new section added to the critical areas code. Typically, cultural resource protection is implemented through SEPA (State Environmental Policy Act), which results in permit delays if local tribes or the State Department of Archaeology and Historic Preservation asks for an analysis during the comment period or after the SEPA determination has been issued. The Growth Management Act gives local governments the flexibility to expand their critical areas ordinances to include protections for cultural resources. By adding cultural resource protection to critical area codes, it requires an evaluation early in the permit review process and helps avoid costly redesigns or project delays if cultural resources are discovered later in a project.

The draft code is based on Ecology's model language, Pierce County Code, and La Center, WA Municipal Code and includes the following provisions:

- Establishes clear procedures and specific standards for preservation of cultural resources
- Requires submittal of a cultural resource report when a project is within 500 feet of a known historic site
- A Cultural Resource Management Plan must be prepared when a Cultural Resource Site Assessment identifies the presence of significant cultural resources
- Requires an Inadvertent Discovery Plan if requested by DAHP or local Tribes or if discoveries are found during project construction

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Exhibit A

Stanwood Municipal Code

Title 18

Unified Development Code

Part 2

CITY OF STANWOOD
WASHINGTON

ORDINANCE NO. ___

AN ORDINANCE OF THE CITY OF STANWOOD, WASHINGTON, ADOPTING A NEW SMC TITLE 18, UNIFIED DEVELOPMENT CODE, IN THE STANWOOD MUNICIPAL CODE (SMC), ESTABLISHING SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City of Stanwood has begun a process to comprehensively update its municipal code to conform to current law and practice; and

WHEREAS, the purpose of this code amendment is to eliminate conflicts, improve clarity and overall function of the municipal code, and reflect current city and best practices; and

WHEREAS, the City Council has opted to comprehensively revise and consolidate zoning, subdivision and development regulations in a new Unified Development Code in Title 18; and

WHEREAS, the amendments in this ordinance adopt the general provisions and permit procedures provisions for the new Unified Development Code; and

WHEREAS, the amendments were reviewed for consistency with the permitting requirements of RCW 36.70B Local Project Review; and

WHEREAS, the amendments integrate permit review timing and process changes mandated by 2SSB 5290 (2023) into the city's application procedures; and

WHEREAS, as required by RCW 36.70A.106, the City submitted the proposed Unified Development Code amendment for the 60-day review to the Washington State Department of Commerce on ________, and'

WHEREAS, the Department of Commerce's 60-day review period was completed on __________, 2024; and

WHEREAS, the City issued a SEPA threshold determination of non-significance for the Comprehensive Plan and associated zoning changes on _______, 2024, and the comment / appeal period ended on ______, 2024; and

WHEREAS, the Stanwood Advisory Group reviewed the draft ordinance at their ____ meeting, and has recommended that the City Council adopt the ordinance as presented; and

WHEREAS, the Stanwood Community Development Committee reviewed the draft ordinance at their ____ meeting, and has recommended that the City Council adopt the ordinance as presented; and

WHEREAS, the Stanwood Planning Commission held a public hearing on the draft ordinance at their ____ meeting and has recommended that the City Council adopt the ordinance; and

WHEREAS, the City Council held a public meeting and first reading of the draft code amendment on ____, a second reading on ____, and accepted public comment; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF STANWOOD, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Stanwood Municipal Code Title 18, Unified Developed Code, is adopted as provided in Exhibit “A” attached to this ordinance and incorporated herein by reference as if set forth in full.

Section 2. Stanwood Municipal Code Title 17 is amended as shown in Exhibit B.

Section 3. Severability. The various parts, sections and clauses of this ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Section 4. Authority to Make Necessary Corrections. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener’s clerical errors, references, ordinance numbers, section/subsection numbers and any references thereto.

Section 5. Effective Date. This Ordinance shall take effect five days after its passage and publication as required by law.

PASSED and APPROVED this ____ day of ______________, 2024.

CITY OF STANWOOD:

____
Sid Roberts, Mayor

Attest:

____
Lisa Sokolik, City Clerk

Approved as to Form:

____
Nikki Thompson, City Attorney

Date of Publication: ________________

Effective Date: ____________________

EXHIBIT A

Title 18 Unified Development Code

The new Unified Development Code is proposed for division into multiple parts, each including logical grouping of chapters. This ordinance would adopt the outline for the entire title, but only adopt content for selected chapters.

Part 1 General Provisions

These chapters reflect the general provisions chapters of the zoning code, chapters 17.05-17.25.

The final version of this exhibit may also include some additional provisions, in addition to Part 2, as may be necessary to support the new Unified Development Code while it is in development.

Chapter 18.100 General Provisions.

18.100.010 Purpose

This section is based on existing SMC 17.05.010 Purpose.

The purpose of this code is to establish standards, procedures, and minimum requirements to achieve the following general intentions and purposes for the city of Stanwood:

(1) To establish regulatory procedures and standards for review and approval of all proposed development in the city;

(2) To foster and preserve public health, safety, comfort, and welfare, and to aid in the harmonious, orderly, aesthetically pleasing, and socially beneficial development of the city, in accordance with the Comprehensive Plan;

(3) To adopt a development review process that is:

(a) Efficient, in terms of time and expense,

(b) Effective, in terms of addressing the natural, historic, and aesthetic resources and public facility implications of any proposed development, while also protecting and improving the quality of life in the city, and

(c) Equitable, in terms of consistency with established regulations and procedures, respect for the rights of all property owners, and consideration of the interests of the citizens and residents of the city;

(4) To implement the Comprehensive Plan of the city by:

(a) Establishing regulations and conditions governing the erection and use of future buildings, structures and land as specified in the Comprehensive Plan;

(b) Securing safety from fire, panic, and other dangers;

(c) Lessening automobile congestion of the streets;

(d) Providing for adequate light and air;

(e) Preventing the overcrowding of land;

(f) Planning for population growth and facilitating the adequate provision of transportation, potable water, wastewater disposal, schools, parks, and other public requirements of the city;

(g) Establishing zoning districts, defining certain terms, designating the uses and intensities thereof that are permitted in the different districts, and providing lot size and other dimensional and density requirements;

(h) Establishing performance standards that apply to all new development as well as the redevelopment of all lands in the city.

(5) To regulate the subdivision of land to ensure that adequate public facilities are provided in developing portions of the city; to promote coordinated land development; and to require uniform monumenting of land subdivisions and conveyance by accurate legal description;

(6) To ensure that all development in the city will be served by adequate public facilities;

(7) To require that all new land development activity contribute its proportionate share of the funds, land, and public facilities necessary to accommodate the impacts that such new development has on public facilities and services;

Next line edited from “rational nexus” to “nexus and proportionality.”

(8) To ensure nexus and proportionality exists between the proposed development and project conditions for which the need is reasonably attributable to the proposed development;

(9) To provide for enforcement of this code;

(10) To minimize and avoid public nuisances by preventing incompatible uses from locating adjacent or within close proximity to one another, and by conditioning certain uses in particular circumstances, thereby restricting those aspects of the uses that may be incompatible.

I generally prefer the term “zone” over “zoning district,” for brevity. We should add one or the other to the style guide, based on city preference.

18.100.020 Establishing of Zoning Districts

The city of Stanwood is hereby divided into the following zoning districts:

(1) SR (single-family residential) 12.4 zoning district;

(2) SR (single-family residential) 9.6 zoning district;

(3) SR (single-family residential) 7.0 zoning district;

(4) SR (single-family residential) 5.0 zoning district;

(5) MR (multiple-family residential) zoning district;

(6) TN (traditional neighborhood) zoning district;

(7) NB (neighborhood business) zoning district;

(8) DMU (downtown mixed-use) zoning district;

(9) GC (general commercial) zoning district;

(10) PI (planned industrial) zoning district;

(11) GI (general industrial) zoning district;

(12) POS (parks and open space) zoning district;

(13) PF (public facilities) zoning district.

18.100.030 Purpose and Intent of Zoning Districts

(1) Single Family Residential 12.4 Zone. This designation shall provide for primarily for single-family residential and accessory dwelling units at a density of 3.5 units per acre.

(2) Single Family Residential 9.6 Zone. This zoning district is intended to provide opportunities for moderate density residential development with larger lot sizes, and provide standards that encourage reasonable integration of new and existing residential areas, active and passive recreational facilities and activities that support these residential communities. The zone also supports public/quasi-public facilities such as secondary schools, community centers and parks that draw from and support the regional community. This zone implements the residential medium density land use designation in the Comprehensive Plan. This designation shall provide for primarily for single-family residential, townhouses, duplexes, triplexes and accessory dwelling units at a density of 4.5 units per acre.

(3) Single Family Residential 7.0 Zone. This zoning district is intended to accommodate medium density residential development as infill on smaller lots than in moderate density designations but platted at a standard that is consistent with the density of the existing residential area, and to provide standards and uses to encourage reinvestment in and maintenance of existing properties, and provide supportive active and passive recreational facilities. The zone also allows public/quasi-public uses such as elementary schools, community centers, parks and community-based recreation facilities that support those uses and serve more than one residential area. This zone implements the residential medium density land use designation in the Comprehensive Plan and provides for primarily for single-family residential, townhouses, duplexes, triplexes, quadplexes and accessory dwelling units at a density of 6-7 units per acre.

(4) Single Family Residential 5.0 Zone. This zoning district is intended to provide standards to maintain the smaller lot plat pattern of the pre-1940 subdivisions that predominate the areas in this designation; promote infill, redevelopment and maintenance of property consistent with the historic smaller lot pattern and older housing stock; provide infill housing at higher density on larger parcels, encourage active and passive recreational facilities such as community centers, parks and community-based recreation that support the neighborhood; and allow for public and quasi-public uses that are part of these areas due to this historic settlement pattern, such as elementary schools that may serve more than one neighborhood. This zone implements the residential medium density land use designation in the Comprehensive Plan and provides for primarily for single-family residential, townhouses, duplexes, triplexes, quadplexes and accessory dwelling units at a density of 9-10 units per acre.

(5) MR (Multi-Family Residential) Zone. This designation shall provide for small lot single family and multi-family residential development at a range of densities between 10 and 20 dwelling units per acre. Small amounts of commercial uses such as schools, churches, daycare centers, live-work units, or small office where a full range of public facilities and services to support urban development exists should be allowed. Generally, this designation is appropriate for land which is located convenient to principal arterials and to business and commercial activity centers.

(6) NB (Neighborhood Business) zone. This designation shall comprise retail and service businesses which serve the limited convenience shopping and personal service needs of the immediate surrounding neighborhood.

(7) TN (Traditional Neighborhood) Zone. The purpose of the Traditional Neighborhood land use designation is to provide an alternative to typical residential developments. Developments in the Traditional Neighborhood designation are intended to develop in a higher density, mixed-use fashion more typical of older neighborhoods. It features requirements for common open space, through streets and a mix of housing types. This designation shall provide for residential development at densities of 10-20 dwelling units per acre. An allowance for commercial development shall also be allowed.

(8) DMU (Downtown Mixed-Use) Zone. The intent of the Downtown Mixed-Use land use designation is to create a dense, mixed use, pedestrian-friendly shopping environment reminiscent in design and uses to a turn-of-the-century downtown. This designation generally applies to downtown Stanwood. The purpose of the Downtown Mixed-Use zoning is to permit a complementary mix of residential and commercial uses in a single district creating a walkable community. This district allows a combination vertical mixed-use and horizontal mixed-use, thus creating an area containing mixed-use buildings as well as distinct single-use buildings in close proximity to each other. Mixed-use buildings, with residential above or behind commercial/retail space, shall be allowed along the City's primary streets in downtown (270th Street, 271st Street, 92nd Avenue, and 88th Avenue). Whereas standalone residential buildings may be permitted on the secondary streets with no direct access to the primary streets. Developments should be designed so that shoppers are less dependent on the automobile. In general, zero lot line development shall be maintained with store fronts and common walls. Parking shall be located on the street or to the rear of buildings. On-street parking will be on both sides of the street, and diagonal in the east end. Public parking areas may be necessary to assist people in leaving their cars and traveling on foot. Within the historic downtown commercial areas, the City will allow flexible interpretations of standards to encourage re-investment in, re-use and maintenance of structures that display historic period architectural character and scale. The architectural styles representative of commercial and residential buildings that existed from 1890 through the 1920s should be maintained.

(9) GC (General Commercial) Zone. This designation comprises more intensive retail and service uses than described in the Downtown Mixed-Use zone. General commercial uses typically require outdoor display and/or storage of merchandise that tend to generate noise as part of the operation. Such uses include, but are not limited to grocery stores, pet stores, drug stores, medical clinics, recreational facilities vehicle sale lots, tire and muffler shops, and equipment rental. Many of the businesses allowed in the DMU district are also allowed in this district. This designation is also meant to include the development of high-density multi-family housing including both: 1) vertical mixed use with commercial / retail space on the bottom floor and residential above; or 2) horizontal mixed-use buildings where commercial building(s) face the street frontage and standalone multifamily buildings are located behind and setback from the commercial / retail buildings.

(10) PI (Planned Industrial) Zone. The intent of the Planned Industrial land use designation is to create a district that permits activities involved in the manufacture, repair, or service of goods, or products that are conducted with minimal adverse impact on the environment and the general community, as well as retail and office uses. The PI zone is intended to accommodate a variety of commercial and industrial uses that complement typical light industrial complexes. Industrial, commercial, commercial or retail business uses desiring to locate in the PI zone must meet the architectural and performance standards for this district. The PI uses shall not adversely affect the health and safety of adjacent non-industrial and residential neighborhoods.

(11) GI (General Industrial) Zone. This designation comprises more intensive industrial type uses than those permitted in the Planned Industrial zone. Uses in the GI zone require equipment, devices or technology for the control of odors, dust, fumes, smoke, noise, or other wastes and/or by-products from affecting adjacent properties. The GI uses shall not adversely affect the health and safety of adjacent non-industrial and residential neighborhoods. Examples of General Industrial uses include large indoor manufacturing facilities, automotive repair, construction yards or material storage and the water and wastewater treatment plant.

(12) POS (Parks and Open Space) Zone. The parks and open space zoning designation is applied to lands which are to be maintained as park space or natural open spaces in perpetuity by the city. Many of these lands have underlying contractual agreements with either the Washington State Recreation and Conservation Office, conservation futures easements, or critical area easements. The POS designation should be applied to public park properties identified in the city's parks, recreation and open space plan.

(13) PF (Public Facilities) Zone. This designation is applied to lands that are used as public lands and facilities, including utilities, schools, railroad, and the wastewater treatment plant.

18.100.040 Establishment and Interpretation of Zoning Maps

> This section is based on existing SMC Chapter 17.15. Retitled to add “interpretation.”

(1) The boundaries and identification of the zoning districts established by this code are shown on the zoning map which is filed in the office of the city clerk (with copies in the planning department). Said map is hereby declared to be part of this code as fully as if set out herein.

(2) No building or land may be used and no building may be erected or altered except in conformity with the regulations herein prescribed for the district designated and identified on the zoning map in which such building, land, or water is located.

(3) Zoning district boundaries are shown as heavy solid lines on the zoning map and may be superimposed on lighter lines designating platted lot lines, streets, and other physically identifiable ground features, unless specific distances in feet or angles, bearings, radii, or other references to a boundary line located are specified.

(4) Zoning district boundary lines, when located in streets or other public rights-of-way, must be interpreted as being located in the centerline of such rights-of-way. When distances expressed as linear footage are shown between a zoning district and a street, the distance must be interpreted as being between said boundary line and the centerline of said street, unless otherwise specified.

(5) Boundary lines between zoning districts which are interrupted on the zoning map to show street names or other identification numbers must be interpreted as extending through such identification, unless otherwise specified.

(6) When the exact location of a zoning district boundary line is not clear, it must be determined by the Director, with due consideration given to the location as indicated by the scale of the zoning map. When, for any reason, the streets or alleys as they actually exist on the ground differ from the depiction of said streets and alleys as they are shown on the zoning map, the planning director may apply the district designations on the map to the streets on the ground in such manner as to conform to the intent and purpose of this code.

(7) Where a zoning district boundary line shown on the zoning map divides a lot of record, the property owner has the option of choosing either of the two districts to apply to the entire lot area, or may subdivide the lot to retain both districts as mapped so long as all of the standards and requirements of the relevant performance standards can be met.

18.100.050 Rulemaking Authority

> This section is based on existing SMC 17.80.150 Rule making authority. The objective is to provide rulemaking authority for the entire UDC.

(1) Consistent with the intent of the Comprehensive Plan and this title, the Director may issue written rules as the Director deems necessary to carry out the provisions of this title. Such rules may include but are not limited to the following:

   (a) Information to be required in the application, including, without limitation, proof of legal interest in the property, authority to sign the application, drawings, maps, data, and charts concerning land and uses and areas in the vicinity of the proposed development, and appropriate supplementary data reasonably required to describe and evaluate the proposed development and to determine whether the proposed development complies with statutory criteria under which it might be approved; and

(b) Requirements for the conduct and continuance of public hearings and the methods of providing public notice on projects and permits.

(2) The Director may administratively determine the format and contents of permits, application forms, application checklists, additional information needs, and notices above and beyond the minimums set forth in this code.

18.100.060 Administrative Interpretations

This section is based on existing SMC 17.80.160 Administrative interpretations, broadened to describe entire UDC (rather than previously the "zoning code").

Deleted section about appeals, etc., because that is handled by procedures chapters.

Note the term of art used is "administrative interpretation"; an alternative possibility is "director interpretation."

This section establishes the procedure and criteria that the city will use in deciding upon a written request to interpret the provisions of this title. The interpretation of the provisions of a development agreement or concomitant agreement will be treated as an interpretation of the unified development code.

(1) Applicability. This section applies to each written request to interpret the provisions of the unified development code, with the exception of unclassified uses.

(2) Purpose. An interpretation of the provisions of the unified development code clarifies conflicting or ambiguous wording or the scope or intent of the provisions of the unified development code. A request for a code interpretation must relate to a specific site, zoning district, classified use, or application within the city of Stanwood. An interpretation of the provisions of the unified development code may not be used as, or considered to be, an amendment to the unified development code.

(3) Application Requirements. Any person requesting an administrative interpretation must submit a written request on a form provided by the city specifying each provision of the code for which an interpretation is requested, why an interpretation of each provision is necessary, and any reasons or material in support of a proposed interpretation.

(4) Procedure. An application for an administrative intepretation follows the procedure described in Title 18 Part 2. The Director must interpret the provisions of the unified development code in conformance with this section.

Deleted existing paragraph (c) referring to unclassified uses because such uses are not within the applicability statement of this section.

(5) Timing. An administrative interpretation requested by a person other than the project proponent or property owner must be requested prior to the date of expiration of any applicable administrative appeal period for a land use decision on the application to which the request relates. An administrative interpretation requested after the applicable appeal period may not affect an issued permit or decision.

(6) Factors for Consideration. In making an administrative interpretation, the Director must consider the following factors:

(a) The applicable provisions of the unified development code, including their purpose, intent, and context;

(b) The impact of the interpretation on other provisions of the municipal code;

(c) The implications of the interpretation for development within the city as a whole;

(d) The applicable provisions of the Comprehensive Plan and other relevant codes and policies; and

(e) Any applicable state statutes and court decisions.

(7) Effect of Interpretation. An interpretation of the code issued under this section has the same effect as any provision of the unified development code.

(8) Time Limitation. An administrative interpretation of the code remains in effect until rescinded in writing by the director or this title is amended to implement or override the interpretation.

A best practice is to require the Director maintain an archive of interpretations that are in effect, e.g., on the website.

18.100.070 Violations

This section is based on existing SMC 17.80.490 Violations. Deleted paragraphs purporting to give unlimited inspection authorization to city staff, and authorizing withholding permits.

(1) Any person violating any provisions of this title is subject to enforcement per SMC Title 13.

(2) Any building, structure, development, activity, land use, or division of land, not in conformance with this title and not a legal nonconformance or exempted by a policy governing existing nonconforming structures or uses, is declared to be unlawful, substandard, and a public nuisance, and is subject to the enforcement and abatement provisions in SMC Title 13.

(3) The Director must withhold issuance of any occupancy permit until the provisions of this code, including the conditions on any permit issued thereunder, have been met.

(4) The Director must regularly monitor a permittee's compliance with the terms and conditions of its project permit.

Recommend deleting next paragraph, as potentially violative of Chelan County v. Nykreim, 52 P.3d 1, 146 Wash.2d 904 (2002).

(5) Violation of any term or condition of any development permit issued or approved pursuant to this code is grounds for revocation or suspension thereof. Violation of any term or condition of any occupancy or development permit or lease issued prior to the effective date of this code shall, to the maximum extent permitted by law, be grounds for revocation or suspension thereof. In addition, violation of any development, concomitant, annexation, pre-annexation, or latecomer's agreement shall also provide grounds for revocation or suspension of development permits.

Chapter 18.102 Definitions and Rules of Interpretation.

The definitions that appear below are new material that is necessary to the adoption of new Title 18. Definitions in existing Chapter 17.20 will be migrated here when Title 18 is completed.

18.102.010 Applicability

(1) The definitions in this chapter apply to terms used throughout Title 18.

(2) Definitions in SMC Chapter 17.20 are being migrated to SMC Chapter 18.102 in the City's new Unified Development Code. Definitions in SMC Chapter 17.20 remain in effect until repealed and apply to both Title 17 and Title 18. Where definitions in SMC Title 17 conflict with SMC Title 18, the new definitions in SMC Title 18 control for regulations in SMC Title 18.

18.102.015 Rules of Interpretation

The rules in existing SMC 17.20.005 are now found in SMC Chapter 1.02.

We should add this rule to SMC 1.02:
The word “should” indicates that which is recommended but not required.

(1) The rules of interpretation in SMC Chapter 1.02 apply to this title.

(2) The word “used” includes designed, intended, or arranged to be used.

(3) Distances must be measured horizontally unless otherwise specified.

18.102.020 "A" Definitions

18.102.030 "B" Definitions

18.102.040 "C" Definitions

This definition of cultural resources is based on WAC 365-196-450.

“Cultural resources” means lands, sites, and structures that have cultural, historical, archaeological, or tribal significance, or other traditional cultural properties.

18.102.050 "D" Definitions

"Department" means the Community Development Department.

"Director" means the Director of Community Development appointed per SMC Chapter 2.08, or the Director's designee.

"Development permit" means a project permit as defined in this chapter.

18.102.060 "E" Definitions

18.102.070 "F" Definitions

18.102.080 "G" Definitions

18.102.090 "H" Definitions

18.102.100 "I" Definitions

18.102.110 "J" Definitions

18.102.120 "K" Definitions

18.102.130 "L" Definitions

18.102.140 "M" Definitions

18.102.150 "N" Definitions

18.102.160 "O" Definitions

18.102.170 "P" Definitions

"Project permit" includes the meaning established in RCW 36.70B.020, or any other permit or authorization required by the Department for construction or exterior alteration of structures (including building permits and other permits issued pursuant to SMC Title 18), dredging, drilling, dumping, filling, earth movement, clearing or removal of vegetation, Class IV general forest practices, Class III forest practices with Conversion Option Harvest Plans as defined in Chapter 222-16 WAC, or other site disturbance; but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations.

18.102.180 "Q" Definitions

“Qualified professional” means a person with experience and training in a field that is applicable to the work to be performed by this person. For critical areas, see also the requirements of SMC 18.800.160.

18.102.190 "R" Definitions

Review time period: the allowed time for review of a project permit application specified for each type of review in Table 18.210.__-1 and calculated by SMC 18.22.__.

18.102.200 "S" Definitions

18.102.210 "T" Definitions

18.102.220 "U" Definitions

18.102.230 "V" Definitions

18.102.240 "W" Definitions

18.102.250 "X" Definitions

18.102.260 "Y" Definitions

18.102.270 "Z" Definitions

Part 2 Applications

> ℹ Part 2 is the collection of procedural provisions that is the primary focus of this ordinance.

Chapter 18.210 General Provisions

> ℹ This is a new chapter based on existing SMC Chapter 17.80 Article I, General Provisions.

18.210.010 Purpose.

> ℹ This is existing SMC 17. 80.100.

In enacting regulations to conform with Chapter 36.70B RCW, the city intends to establish a mechanism for implementing the provisions of the Growth Management Act regarding compliance, conformity and consistency of land use development permit review with the city's adopted Comprehensive Plan and existing development regulations. In order to achieve this purpose, the city finds that:

(1) Considerable time and effort went into the adoption of the city's Comprehensive Plan under the mandates of the Growth Management Act. The Comprehensive Plan and the city's supporting development regulations identify land use types, densities, minimum development standards, and mitigation for critical areas and public impacts. These documents are the foundation for project and environmental review in the city. The city may not reanalyze these basic land use planning decisions when making a permit decision.

(2) The land use development permit review process must determine consistency between the proposed project and applicable regulations or plans through an integrated project and environmental impact analysis that run concurrently with each other, not separately.

(3) This chapter provides a coordinated review of zoning and other development regulations to ensure that proposed site development complies with the city's Comprehensive Plan, zoning regulations, public works standards, and other applicable development regulations.

18.210.020 Applicability.

This is existing SMC 17.80.110 Applicability. Deleted section about rulemaking, which is now in 18.100.050.

The provisions of this part apply to all development permits identified in this code and to any related regulation implementing these provisions or any other ordinance or law.

18.210.030 Permit Required

This is existing SMC 17.80.120 Permit required, renumbered.

Deleted “permit” from the list below, because the sentence is structured as “a permit is required for ____.”

(1) A permit is required for any of the following including but not limited to:

- (a) buildings and work not exempt under the adopted building codes;
- (b) boundary line adjustments;
- (c) subdivisions;
- (d) binding site plans;
- (e) planned unit developments;
- (f) conditional uses or variances;
- (g) shoreline substantial development;
- (h) site plan review;
- (i) signs;
- (j) permits or approvals required by critical area ordinances;
- (k) permits subject to review under the State Environmental Policy Act (SEPA);
- (l) right-of-way encroachment activities per Title 11;
- (m) engineering permits (e.g., right-of-way, clearing, grading, filling), and
- (n) site-specific rezones authorized by the comprehensive plan or a subarea plan.

(2) No permit or approval may be issued for any parcel of land developed or divided in violation of this title.

18.210.040 Permit Exemptions

This is existing SMC 17.80.130 Exemptions.

(1) Notwithstanding any provision in this title to the contrary, no permit is required pursuant to this chapter for the following types of development:

- (a) Accessory structures in a residential zone that do not require a building permit according to the most recently adopted International Building Codes;
- (b) Fences;
- (c) Adoption or amendment of a comprehensive plan, subarea plan, ~~development agreements,~~ or development regulations, which are legislative actions that must be adopted by the City Council by ordinance; and

(d) Annexations, which are processed per Chapter 17.158 SMC.

(2) Where immediate action by a person is required to protect life and public property from imminent danger, or to restore, repair, or maintain public works, utilities, or services destroyed, damaged, or interrupted by natural disaster or serious accident, or in other cases of emergency, the requirement of obtaining a permit prior to initiating such action under this section may be waived by the Director. The applicant must notify the Director, in writing, of the type and location of the work, the length of time necessary to complete the work, and the name of the person or public agency conducting the work. Work must be commenced within 30 days following the disaster, accident, or other emergency. However, this does not preclude the requirement for building permits for such activity. One 30-day extension may be permitted by the Director if progress towards project completion is demonstrated.

18.210.050 Fees

This a new general section.

(1) The City may establish requirements for fees for various types and classes of permits through its adoption of a fee schedule per SMC 3.20.040.

(2) Fee refunds are allowed per SMC 3.20.100.

18.210.080 Vesting

This is existing SMC 17.80.210 Vesting.

(1) An application for a project permit, except those which seek variance from land use regulations, must be considered under the development regulations in effect on the date of a complete application. For purposes of this section the “date of a complete application” means the date on which the application is deemed or determined complete.

Deleted paragraph about determination of completeness, which is handled elsewhere.

(2) Supplemental information required after vesting of a complete application does not affect the validity of the vesting for such application unless the information is requested because incorrect information was submitted by the applicant and if the incorrect information would materially affect the final decision on the application.

(3) An applicant-requested modification occurring either before or after issuance of the permit eliminates vesting when such modification would result in a substantial change in a project’s review requirements, as determined by the Director. Under such a condition, the application will be deemed a new application. See SMC 18.220.040, Application Revision.

(4) Applications for subdivisions that propose to create offspring lots within a parent site comprising existing detached condominiums or attached townhouses for which a grading or building permit has been issued vest to the site development requirements and standards in effect at the time such grading or building permit application was determined to be complete by the city.

(5) Building permits that may be subsequently required to construct or complete a vested site development permit are subject to the edition of the building code in place at the time of application.

(6) Nothing herein restrict the Director’s authority to impose permit conditions pursuant to the State Environmental Policy Act (SEPA), Chapter 43.21C RCW and WAC 197-11-600.

(7) Filing an application does not vest the payment of fees. Fees due, including impact mitigation fees, application fees, or other charges, are those fees in effect on the date the fee is paid in accordance with the most current city council fee resolution.

18.210.090 Decision Criteria

> This section is based on existing SMC 17.80.140 Permit approval criteria.

(1) A permit must be granted if the city finds, based on substantial evidence in the record, that the development is consistent with the goals, policies, requirements and performance standards of the Stanwood Municipal Code, the street and utility standards, and other applicable laws and regulations. Consistency must be established by determining if the following four factors have been met:

  (a) The type of land use permitted at the site, including uses that may be allowed under certain circumstances, such as planned unit developments and conditional and special uses, if the criteria for their approval have been satisfied.

  (b) The level of development, such as units per acre or other measures of density, meets the zone for which it is located, including any density bonus provisions.

  (c) Availability and adequacy of infrastructure, public facilities and services needed to serve the development as identified in the Comprehensive Plan, including but not limited to: transportation, utilities, parks, and capital facilities.

  (d) The character of the development is consistent with all applicable development and design standards.

(2) The project as proposed must incorporate, to the maximum extent feasible, mitigation measures to substantially lessen or eliminate all adverse environmental impacts of the development.

(3) The project must be connected to the city water, sewer, and stormwater systems.

Chapter 18.220 Applications

> This is a new chapter based on existing SMC Chapter 17.80 Article II, Application Provisions and Procedures.

18.220.010 Pre-application requirements

> This is a new section as a placeholder to generally describe any pre-application requirements.

> Note this section is for any requirements prior to application, not the pre-app meeting.

18.220.020 Pre-application meeting

> This is based on existing SMC 17.80.200 Pre-application meeting.
>
> Deleted section about pre-app meetings being free; that should be set by fee schedule.

(1) The purpose of a pre-application meeting is for the applicant to provide preliminary information and specific questions regarding the development proposal, and for the City to provide the applicant with preliminary information about development requirements, procedural and submittal requirements (e.g. applications

and fees required), known community concerns (if any), and answers to specific questions asked by the applicant.

(2) For the city to accurately evaluate the proposed project at the pre-application meeting, the applicant must provide at a minimum a draft site plan, preliminary grading and critical area plans, and locations of drainage and utility connections.

(3) At the applicant's request, a pre-application conference may be scheduled with representatives of the city planning, engineering, fire and building departments. The purpose of the pre-application process is for the applicant to provide city staff with the necessary information about the proposed project and site conditions so that the city can provide the applicant with the requirements that must be met in order to have the proposed project proceed through the formal permit review process.

(4) It is impossible for the meeting to be an exhaustive review of all potential issues. The discussions at the meeting do not bind or prohibit the city's future application or enforcement of all applicable laws.

(5) Information provided at the pre-application meeting, including but not limited to conceptual site and civil construction plans, building concepts, environmental documents or interpretation requests, does not vest a development.

(6) While pre-application meetings are informational in nature, it is the responsibility of the applicant to ensure their project meets the minimum requirements of the Stanwood Municipal Code and city street and utility standards.

18.220.030 Application Contents

> i This is based on existing SMC 17.80.220 Submittal requirements.
>
> i New directive to submit applications via online system.

(1) An application for a project permit must provide the information required on the relevant application checklist provided in this section and be submitted on the forms and using the electronic system provided or as directed by the Department.

(2) Applications must include:

(a) Scaled Drawings. Site and construction plans drawn to an engineering scale of appropriate size to read and verify drawing elements.

(b) Plans. Unless waived by the Director, plans must be prepared by a registered engineer, architect, landscape architect, or land surveyor illustrating the proposed development of the property.

(c) Evidence of Ownership or Legal Interest. All applications must be signed by the property owner or an authorized representative as follows:

(i) The applicant must be required to show evidence in writing of his or her legal interest in and the right to perform development upon all property on which work would be performed.

(ii) A developer may operate under the property owner's authority.

(iii) The developer and/or property owner is either an individual or a duly formed and qualified corporation, partnership or other legal entity.

(iv) The person signing all applications or other legal documents is authorized by the legal entity and/or property owner to do so.

(d) An accurate address, assessor's parcel number(s), and legal description of the property subject to the requested permit.

(e) A statement signed by the applicant stating that the information as shown on the plans, maps, and application is true and correct. Any failure to comply with the provisions of this section is good cause to deny the application and/or to revoke any permit which may have been issued for any building or use of land.

(3) Application and inspection fees must be paid at the time of application as set forth in the fee resolution adopted by the city council.

The following is based on existing SMC 17.80.260 Complete application requirements.

(4) An applicant may request a waiver of any of the submittal requirements where they can prove to the satisfaction of the community development director's office that a waiver is appropriate.

(5) The Director may waive in writing specific submittal requirements determined to be unnecessary for review of an application. Alternatively, the Director may require additional material, such as maps, studies, or models, when the Director determines such material is needed to adequately assess the proposed project and submits the request in writing to the applicant.

To minimize work and expense with the code reviser, we've inserted a code reviser instruction here rather than replicate the tables.

If you also need to modify the tables, we should add them as an attachment, with an appropriate instruction to the code reviser, rather than try to insert them here.

The tables in existing SMC 17.80.260 are recodified to this section and numbered as follows:

Table 18.220.030-1 Type 1 Application Requirements, Director decision without notice
Table 18.220.030-2 Type 2 Application Requirements, Director decision with notice
Table 18.220.030-3 Type 3 Application Requirements, Hearing Examiner decision
Table 18.220.030-4 Type 4 Application Requirements, City Council decision

18.220.040 Application Revision

This section is new material.

(1) Applicability.

(a) This section applies to applications that have been submitted for review but not for issued permits.

(b) For rules regarding revisions of issued permits, see SMC 18.310.020.

(c) For rules regarding alterations of subdivisions, see SMC Title 16.

The following line attempts to eliminate any distinction between a "revision" and some other response to requests for more information. This clarity is important for compliance with the new review time period requirements.

(d) Any response to the Department's request for more information on an application is considered a revision to the initial application.

Staff to carefully consider whether this captures everything you want to consider a minor revision.

(2) Minor revisions authorized.

(a) An applicant may make minor revisions to the application after the determination of completeness. A "minor revision" to an application includes changes to:

(i) floor plans that do not substantially alter the site plan;

(ii) exterior building configurations that do not create a substantially greater bulk or scale;

(iii) building placement that does not change the general location and layout of the site;

(iv) grading alterations that do not change the basic concept, significantly increase slopes, or building elevations, or change course of drainage which could adversely affect adjacent or surrounding properties.

(b) A minor revision does not include:

(i) change in the type of construction (e.g., site-built to manufactured home, wood-frame to steel);

(ii) change in occupancy that requires substantial change to the structure (e.g., garage to ADU).

(3) Any revision other than a minor revision requires a new application, which restarts the applicable Review Time Period. The Director may authorize fees paid to be refunded per SMC 3.20.100.

18.220.050 Application Withdrawal

This section is new material.

(1) Applicability. This section applies to any application submitted for review under this Chapter.

(2) An applicant may withdraw an application at any time via notice in writing to the Department. Withdrawal of an application stops all review. Review of a withdrawn application may not be restarted.

(3) Application fees may be refunded only as allowed by SMC 3.20.100, refunds.

18.220.060 Application Expiration

This section is new material.

(1) Applicability. This section applies to any application submitted for review under this Chapter.

(2) Application expiration.

(a) Unless review is suspended under SMC 18.230.040(3)(b), if the Department requests more information from the applicant about the application, the applicant has 120 days to respond with the requested information.

(b) If the applicant does not respond within the required period, the Director may expire the application for failure to timely submit requested information by providing the applicant with written notice of expiration.

(c) If the Director expires an application, the applicant must submit a new application, including any applicable fees, to restart the review process.

(d) The Director may grant one or more 3-month extensions (not to exceed three extensions) if:

(i) a written request for extension is submitted prior to expiration of the application;

(ii) based on information in the request, the Director concludes that the applicant is making reasonable progress toward submitting the required information;

(iii) in the opinion of the Director, extraordinary circumstances excuse a delayed response.

18.220.070 Applications for Phased Projects

This is existing SMC 17.80.240 Phased permit applications.

(1) Projects may be completed in phases, provided the phasing meets the requirements of this section and conforms to the approved phasing plan. The regulations in effect at the time of the original approval continue to apply.

(2) An applicant must describe and submit site plans that clearly show the various phases or stages of the proposed development and how the requirements of this title will be satisfied with respect to each phase or stage.

(3) Each phase must stand on its own in terms of meeting the requirements of the permit and this title. For example, improvements necessary to support Phase 1 cannot be deferred to be constructed in Phase 2.

(4) The vehicle and pedestrian circulation pattern at the end of each phase must result in a configuration that does not create traffic hazards and that adequately supports the level of traffic anticipated to be generated during each phase.

(5) Phased development authorized in one permit may be commenced with separate building permits; however, each phase must be initiated prior to the overall permit expiration period as provided in Table 18.310.010-1, Permit Terms and Extensions. All construction must conform to the International Building Code and International Fire Code regulations in force at the time of building permit application.

18.220.080 Reapplication

This section is based on existing SMC 17.80.480 Reapplications.

(1) Reapplication Following Denial of Permit. Whenever an application for a land use permit or a variance is denied, the same or similar permit application may not be resubmitted for a period of one year from the date of denial unless the applicant clearly demonstrates that:

(a) The zoning classification or relevant development standards have changed;

(b) New information is available that could not with reasonable diligence have been presented at a previous hearing; or

(c) The project is modified in such a manner so as to correct the defects on which the original denial was based.

Chapter 18.230 Review Process

> This is a new chapter based on existing SMC Chapter 17.80 Article III, Permit Review Procedures.

18.230.010 Foundation of Review

> This is existing SMC 17.80.300 Purpose.

It is the intent of this chapter to provide the review procedures for applications and land use actions classified as Types 1 through 4 permits. These procedures are intended to outline the permitting process once an application has been submitted.

18.230.020 Types of Review

> This section is based on existing SMC 17.80.230 Permit types and existing SMC 17.80.310 Permit review process. The narrative descriptions of review types contained within those sections has been removed in favor of describing the processes in only one place, i.e., the table.

(1) Decisions on permit applications are governed by several types of review processes, described and distinguished in this section. The types of review are generally organized in ascending order of significance, amount of public process, and level of discretion exercised by the decisionmaker.

(2) Table 18.230.020-1 identifies the type of review applicable to each type of application or decision and describes the process for each type of review.

  (a) The types of applications and decisions that are subject to each type of review are listed in the first row beneath the header for each type.

  (b) The processes required for each type of review are further described by the remainder of the column beneath the heading for each type.

(3) The Director must determine the proper review type for all applications consistent with Tables 18.230.020-1 and 18.230.020-2 and this subsection.

  (a) Consistent with the integration of environmental review required by SMC 18.230.020, if a project that would otherwise be characterized as Type 1 requires SEPA review (is not SEPA-exempt), it must be processed as a Type 2 (or higher) review.

  (b) See SMC 18.230.030 for the process for consolidation of multiple applications for a single project.

  (c) If there is a question as to the appropriate type of process, the Director must resolve it in favor of the higher-numbered type.

> Next line is based on 17.80.230(1) and (4).

  (d) If a permit or land use action is not listed, the Director is authorized to determine the appropriate review type based on the amount of discretion exercised by the decisionmaker, the level of impact associated with the decision, the amount and type of public input, and the type of appeal opportunity.

- The table below consolidates existing SMC 17.80.230, Table 1, and existing SMC 17.80.310, Tables 3A and 3B.
- Existing code created a fifth type of review for City Council decisions on street vacations, final plat approvals, and annexations. Final plat approval, as a ministerial action, is moved to Type 1 per recent amendment of RCW 58.17.100. Street vacations and annexations are not project permits, are not subject to the requirements for project permits, and not included in this table.
- Existing code differentiated between the forest practices waiver for the six-year moratorium on development for single-family residential versus other development. That distinction is no longer supported by state law, so all forest practice waivers are now Type 2.
- Existing code included a public meeting before the Planning Commission prior to a decision by the Hearing Examiner for some types of permits. This is contrary to best practice and may be violative of the limitation in RCW 36.70B for only a single public hearing to be held on a given application. This meeting has been removed.
- Moved Concurrency Evaluation to Type 1.
- Review time periods under existing SMC 17.80.360 are 120 days for all permits. RCW 36.70B.080, amended by 2SSB 5290 in 2023, requires local governments to adopt new review time periods specific to various types of permits. The proposed time periods below are the defaults from the statute, but may be modified, but “should” not exceed the default time periods.
- Existing code did not clearly distinguish multifamily or commercial/industrial developments at the threshold levels between review types.
- Existing code elevated “developments with 5+ substantive comments” to Type 3 Hearing Examiner review. This provision is not a best practice, would make it more difficult to achieve the new statutorily required review periods, and has been removed.

Table 18.230.020-1 Types of Review

	Type 1 **Director decision without notice**	**Type 2** **Director decision with notice**	**Type 3** **Hearing Examiner decision**	**Type 4** **City Council decision**
Applications Subject to this Type of Review	• Single-Family Residential Building Permits • Fire Permits • Multifamily Residential Projects ≤ 40 Units • Commercial and industrial development ≤ 12,000 square feet • Mixed-Use Developments ≤ 20 Units • Accessory Dwelling Unit • Administrative Zoning Code Interpretation • Boundary Line Adjustment • Code Enforcement • Concurrency Evaluation • Encroachment (ROW) Permit • Floodplain Development • Grading • Home Occupation • Manufactured Home Infill • Parcel Combination • Public Works Deviation Requests • Right-of-Way Permits • Sign • TN – Public Facilities • WCF Small Cell • WCF Co-Located • WCF Minor Modification	• Multifamily Residential Projects > 40 Units • Commercial and Industrial Developments > 12,000 Square Feet • Mixed-Use Developments > 20 Units • Administrative Variance • Binding Site Plans • Reasonable Use Permit • Right to Farm • SEPA Determinations • Shoreline Substantial Development Permit • Short Plats • Waiver of 6-year forest practices moratorium	• Conditional Use Permit • Preliminary Plat; Including PRDs, Cottage, and Offspring Subdivision • Essential Public Facilities • Shoreline CUP • Shoreline Variance • TN – Residential Subdivisions • Non-administrative Variance • TN – Commercial/Mixed-Use Projects • WCF Monopole • WCF Deviation • Code Enforcement Appeals • Building Code Appeals • Administrative Appeals	• Development Agreement • Site-Specific Rezone
Pre-App Conference	Optional	Optional	Optional	Optional
Notice of Application	No	Yes	Yes	Yes
Standard Comment Period	None	15 days	15 days	15 days

	Type 1 Director decision without notice	Type 2 Director decision with notice	Type 3 Hearing Examiner decision	Type 4 City Council decision
Shoreline Permit Comment Period	None	30 days / 2 notices	30 days / 2 notices	30 days / 2 notices
Recommendation By	None	None	Director	Hearing Examiner
Standard Public Hearing Notice	None	None	10 days	10 days
Shoreline Public Hearing Notice	None	None	15 days	15 days
Pre-Decision Open-Record Public Hearing	No	No	Yes, held by Hearing Examiner	Yes, held by Hearing Examiner
Decisionmaker	Director	Director	Hearing Examiner	City Council
Notice of Decision	No	Yes	Yes	Yes
Review Time Period	65 days	100 days	170 days	170 days
Local Appeal To	Hearing Examiner	Hearing Examiner	None	None
Local Appeal Hearing	Open-Record	Open-Record	N/A	N/A

(4) Exceptions to Table 18.230.020-1:

(a) Default and shoreline comment periods are shown in the table; for land divisions, see subsection (5).

(b) Review time periods are measured from the date of the Department's determination the application is complete; see SMC 18.230.050. Default review time periods are shown in the table, with the following exceptions:

(i) long subdivisions are governed by RCW 58.17.140;

(ii) SEPA threshold determinations are governed by WAC 197-11-310 and SMC 18.230.070;

(iii) eligible collocation and modification requests for wireless facility services is governed by SMC 17.200.

(5) Table 18.230.020-2 identifies the types of review for a land division based on the proposed number of lots, tracts, or parcels.

Table 18.230.020-2 Types of Review for Land Divisions

		Type of Review			
Type	**Number of lots/tracts/parcels**	**Preliminary**	**Final**	**Alteration**	**Vacation**
Short subdivision	1-9	2	1	2	2
Subdivision	10 or more	3	1	3	2
Binding site plan	1-8 (or in an existing development)	2	n/a	1	2
Binding site plan	9 or more	3	n/a	1 (minor)	2

18.230.030 Consolidation of Review

> ℹ This is existing SMC 17.80.250 Consolidated permit review.

(1) If a project action requires more than one project permit, the applicant may elect in writing to have the applications reviewed under a consolidated permit review process. This includes a combined application review and approval process covering all project permits requested by an applicant for all or part of a project action and a designated permit coordinator. If an applicant elects the consolidated process, the determination of completeness, the notice of application, and notice of final decision must include all project permits being reviewed through the consolidated permit review process.

(2) When applying concurrently for a development that involves two or more related applications, individual permit numbers must be assigned and separate permit fees must be paid, but the applications must be reviewed and processed collectively at the applicant's request. Consolidated reports setting forth the recommendation and decision must be issued.

(3) If the applicant elects to have a project reviewed under a consolidated permit process, it must be reviewed collectively under the highest numbered procedure required for any part of the application.

(4) No hearing or deliberation upon an application that is inconsistent with the existing zoning map may be scheduled for the same meeting at which the required zoning map amendment will be considered by the appropriate hearing body. This section is intended to be a procedural requirement applicable to such actions as noted in RCW 58.17.070.

> ℹ The following is new material:

(5) Integration of State Environmental Policy Act ("SEPA") review.

   (a) SEPA review of a project permit application must be combined with review of the underlying application unless the project is categorically exempt from SEPA. If studies that adequately analyzed a project's specific probable adverse impacts have already been performed under another SEPA review process, then additional or redundant studies may not be required under SEPA.

   (b) A project permit application subject to review under SEPA must be reviewed in accordance with the policies and procedures contained in this title and WAC Chapter 197-11.

   (c) Per WAC 197-11-055(4), SEPA review may be performed on a project prior to submittal of a project permit application, but may need to be performed again as part of review of the permit application dependent on the level of detail evaluated in the initial review.

18.230.040 Timing of Review

> ℹ This section is based on existing SMC 17.80.360 Application review time frames, with updates to comply with 2SSB 5290 (2023), now codified in RCW 36.70.080. The statute uses the term "time period."

(1) Purpose. RCW 36.70B.070 and 36.70B.080 require time periods be established for review of applications to ensure applications are reviewed in a timely and predictable manner. This section establishes the time frames and procedures for issuance of a final decision.

(2) Applicability.

   (a) The Review Time Periods identified in Table 18.230.020-1 apply to applications processed under the corresponding type of review. The Department must complete review of an application within the corresponding Review Time Period.

(b) The Review Time Periods do not apply if a permit application requires:

(i) An amendment to the Comprehensive Plan or development regulations; or

(ii) Approval of a new fully contained community, master planned resort, or the siting of an essential public facility; or

(iii) Substantial revisions by the applicant, in which case the time period must start from the date at which the revised project application is determined to be complete.

> ℹ The review time periods shown in the table are the default time periods in the statute. Per RCW 36.70B.080: A jurisdiction may modify the deadlines to add permit types not identified, change the permit names or types in each category, address how consolidated review time periods may be different than permits submitted individually, and provide for how projects of a certain size or type may be differentiated, including by differentiating between residential and nonresidential permits.
>
> ℹ The following text is nearly verbatim from revised RCW 36.70B.080(1)(g), which goes into effect January 1, 2025. Until that date, the statute in effect suggests 120 days for all types of review.

(3) The Review Time Period is measured by counting every calendar day and excluding the following:

(a) Any period between the day that the Department has notified the applicant, in writing, that additional information is required to further process the application and the day when responsive information is resubmitted by the applicant;

> ℹ Inserted a 12-mo limit on suspension of an application as authorized by RCW 36.70B.080(1)(g).

(b) Any period after an applicant informs the Department in writing that they would like to temporarily suspend review of the project permit application until the time that the applicant notifies the Department in writing that they would like to resume the application, up to 12 months;

(c) Any period after an administrative appeal is filed until the administrative appeal is resolved and any additional time period provided by the administrative appeal has expired;

(d) Any period that review of the application is suspended by the Department pursuant to authorization elsewhere in this chapter;

(e) Any extension of time mutually agreed upon by the applicant and the city.

> ℹ Next line based on RCW 36.70B.080(1)(h).

(4) The Review Time Period starts over if an applicant proposes a change in use that adds or removes commercial or residential elements from the original application that would make the application fail to meet the determination of procedural completeness under SMC 18.230.050 for the new use.

> ℹ The following subsection is adapted from RCW 36.70B.080(1)(i), broken into subparagraphs. Note that this subsection allows for an extension of the maximum review period (a benefit to the Department) but not a constraint on the applicant's time to file new information.

(5) The Review Time Period is extended by 30 days any time that an applicant informs the Department in writing that the applicant would like to temporarily suspend the review of the project for more than 60 days; or if an applicant is not responsive for more than 60 consecutive days after the Department has notified the applicant in writing that additional information is required to further process the application.

(a) Any written notice from the Department to the applicant that additional information is required to further process the application must include a notice that non-responsiveness for 60 consecutive days may result in 30 days being added to the Review Time Period.

(b) For the purposes of this subsection, “non-responsiveness” means that an applicant is not making demonstrable progress on providing additional requested information to the local government, or that there is no ongoing communication from the applicant to the local government on the applicant's ability or willingness to provide the additional information.

(6) Possible Extension of Time for Final Decision. If the city is unable to issue a final decision within the time limits provided herein, the applicant must be provided written notice of this fact. The notice must include a statement of reasons why the time limits have not been met and an estimated date for issuance of the notice of final decision.

18.230.050 Review for Completeness

> This is existing SMC 17.80.320 Notice of completeness, except subsection (1), which is integrated into proposed SMC 18.102.040, Timing of Review. Note that state law does not allow the department to hold off issuing determination of completeness based on a desire to request more information than required by the minimum application contents.

(1) Determination of Completeness. Within 28 calendar days after receiving an application, the city must issue a written determination of completeness to the applicant which states either: (a) that the application is complete and the date that it was determined complete; or (b) that the application is incomplete and state what additional information is necessary to make the application complete.

(2) Additional Information. A permit application is complete for purposes of this section when it meets the application requirements in SMC 18.220.030.

(3) A determination of completeness must be made when the required submittals are determined to be in a comprehensible format and contain at least the minimum amount of information to allow review of the project to progress even though additional information may be required or project modifications may be undertaken subsequent to initial project review.

(4) The city’s determination of completeness does not preclude the city from requesting additional information or studies either at the time of the determination of completeness or at some later time.

(5) Incomplete Application Procedure. If the applicant received a determination of incompleteness from the city, the applicant has 120 days from the date of the determination of incompleteness to submit the necessary information to the city. Within 14 calendar days after an applicant has submitted the requested additional information, the city must prepare a written determination of completeness as described in the section above, and notify the applicant in the same manner.

(6) If the applicant does not submit the required information within the 120-day period, the Director must expire the application for failure to submit the necessary information in a timely manner.

(7) City’s Failure to Provide a Determination of Completeness. If, within 28 calendar days of the date of the submitted application, the city has not provided a written determination of completeness, the application is deemed complete.

18.230.060 Notice of Application

> This section is based on existing SMC 17.80.330 Notice of application.

(1) When required by SMC 18.230.020, the city must issue a notice of application within 14 calendar days after the city has made a determination of completeness.

(2) The NOA must include:

(a) The date of application and the date of the notice of application;

(b) A description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested under RCW 36.70B.070;

(c) The identification of other permits not included in the application, to the extent known by the city;

(d) The identification of existing environmental documents that evaluate the proposed project, and, if not otherwise stated on the document providing notice of application, the location where the application and any studies can be reviewed;

(e) A statement of the limits of the public comment period;

(f) A statement of the right of any person to comment on the application, receive notice of and participate in any hearings, request a hearing, if applicable, request a copy of the decision once made, and any appeal rights;

(g) The date, time, place and type of meeting or hearing, if applicable and if it has been scheduled as of the date of notice of the application;

(h) A statement of the preliminary determination of consistency, if one has been made at the time of notice, and of those development regulations that will be used for project mitigation;

(i) A map depicting the boundaries of the project site and, when applicable, a site map showing the proposal or website address where maps can be viewed;

(j) A statement announcing the city's goal of complying with the intent of the Americans with Disabilities Act, announcing accessibility, offer of assistance to persons with special needs, and availability of TDD services;

(k) Any other information determined appropriate by the city, such as the city's threshold determination, if complete at the time of issuance of the notice of application.

> Existing SMC 17.80.330 Table 5 has been removed because all permits except those that do not require a notice of application had the same distribution requirements.

(3) Distribution. The Department must distribute the notice by:

(a) Posting at City Hall, the library, and the post office;

(b) Publication in Designated Newspaper;

(c) Electronic mail or first-class mail to:

(i) Adjacent Jurisdictions Within 1/4 Mile

(ii) WSDOT if Adjacent to Highway

(iii) Property Owners Within 300 Feet

(iv) Other Agencies with Jurisdiction

(v) Parties of Record.

(4) All public comments on a notice of application must be received by the community development department by 4:30 p.m. on the last day of the comment period. Comments may be mailed, emailed, personally delivered, sent by facsimile or by any online digital method established by the city. Comments should be as specific as possible.

ℹ Existing table at 17.80.330(5) has been integrated into the Review Type matrix.

(5) No proceeding of any procedure established in this chapter may be found to be invalid for failure to provide mailed notice as required in this section as long as the other methods of notice have met their respective requirements and there was a good faith attempt to comply with the mailed notice requirements.

(6) The records of the Snohomish County assessor's office or title company must be used for determining the property owner of record. Addresses for a mailed notice required by this code must be obtained from the Snohomish County real property tax records.

(7) All public notices must be deemed to have been provided or received on the date the notice is deposited in the mail or personally delivered, whichever occurs first.

(8) As an alternative to mailing the full notice of application, the city may issue a post card notice of application to adjacent property owners as long as the post card includes the website address where detailed information on the project is available for viewing.

18.230.070 SEPA Review

ℹ This is existing SMC 17.80.340.

(1) A SEPA threshold determination or a scoping notice may be issued with a Notice of Development Application. A final threshold determination of nonsignificance may not be issued until after the expiration of the public comment period on the notice of application unless the requirements of the optional DNS process (WAC 197-11-355) are followed. A final determination of significance and a SEPA scoping notice may be issued with the Notice of Development Application and prior to the expiration of the public comment period on the Notice of Development Application. Per RCW 36.70B.110(6)(b), for Type 3 and 4 reviews, the threshold determination must be issued at least 15 days prior to the open-record pre-decision hearing.

(2) If the optional DNS process, as authorized under SEPA and set forth in this section, is used, the responsible official must:

(a) State on the first page of the notice of application that it expects to issue a DNS for the proposal, and that:

(i) The optional DNS process is being used;

(ii) This may be the only opportunity to comment on the environmental impacts of the proposal;

(iii) The proposal may include mitigation measures under applicable codes, and the project review process may incorporate or require mitigation measures regardless of whether an EIS is prepared; and

(iv) A copy of the subsequent threshold determination for the specific proposal may be obtained upon request;

(b) List in the notice of application the conditions being considered to mitigate environmental impacts, if a MDNS is expected;

(c) Comply with the requirements for a notice of application and public notice in RCW 36.70B.110;

(d) Send the notice of application and environmental checklist to:

(i) Agencies with jurisdiction, the Department of Ecology, affected tribes, and each local agency or political subdivision whose public services would be changed as a result of implementation of the proposal; and

(ii) Anyone requesting a copy of the environmental checklist for the specific proposal;

(e) If the responsible official indicates on the notice of application that a DNS is likely, an agency with jurisdiction may assume lead agency status during the comment period on the notice of application in accordance with WAC 197-11-940 and 197-11-948;

(f) The responsible official must consider timely comments on the notice of application and either:

(i) Issue a DNS or MDNS with no comment period;

(ii) Issue a DNS or MDNS with a comment period;

(iii) Issue a DS; or

(iv) Require additional information or studies prior to making a threshold determination;

(g) If a DNS or MDNS is issued under this section, the responsible official must send a copy of the DNS or MDNS to the Department of Ecology, agencies with jurisdiction, those who commented, and anyone requesting a copy. A copy of the environmental checklist need not be recirculated.

(3) Any appeal of a determination of significance may proceed in advance of any hearings or appeals of the underlying project permit. Any appeals of a determination of nonsignificance must be combined with and processed at the same time as the hearings or appeals of the underlying project permit.

18.230.080 Staff Review

> ℹ This is existing SMC 17.80.350 Project review with the exception of existing subsection (3), which moved elsewhere.

(1) Project Analysis. Upon determination that the proposed project is consistent with the adopted development regulations and standards a single staff report must be prepared that consolidates all land use development permit recommendations or decisions. The report must state any mitigation required or proposed under the development regulations or through SEPA. If a threshold determination, other than a determination of significance, has not been previously issued by the city, the report must include or append the SEPA threshold determination for the project. The SEPA threshold determination must be issued at least 15 calendar days prior to the opening of a public hearing.

(2) Insufficient Information. If, upon review of a complete application, the city finds that additional information is necessary or corrections are required to be made to the plans to be consistent with city codes and regulations, the city must write a letter to the applicant detailing the necessary corrections. The applicant has 120 calendar days from the date of the letter requesting additional information to submit the necessary information to the city. If the applicant does not submit the required information within 120 calendar days, the application lapses for failure to submit the necessary information in a timely manner, and the Director must document that the application has lapsed for failure to submit the necessary information in a timely manner and expire the application. The director may allow for an extension to submit the required information per SMC 18.220.060.

> This following subsection is based on a provision in SB 5290 (2023), now codified at RCW 36.70B.160(1)(j), which creates the process described below. The statute is ambiguous as to whether the meeting need only be "scheduled" or held within 14 days.

(3) Requests for additional information or corrections.

(a) If the Department twice requests additional information or corrections during application review, the Department must offer the applicant a meeting with Department staff to resolve outstanding issues. The meeting must be scheduled within 14 days of the second request for corrections.

(b) If the meeting cannot resolve the issues and the Department requests additional information or corrections a third time, upon receiving the additional information or corrections the Department must forward the application to the decisionmaker for decision on the application.

(c) Nothing in this section affects the timelines for application expiration in SMC 18.220.060.

18.230.090 Public Hearings

> This is existing SMC 17.80.370 Public meetings and public hearings. State law limits a local government permit process to a single open-record public hearing, regardless of what it is called, so the "public meetings" are proposed for deletion in this rewrite.

(1) Public Hearings. The purpose of having hearings is to provide decision makers with an opportunity to obtain additional information and to provide the public with an opportunity to introduce that information and to make their views known. Public hearings are required when this chapter or state law requires a hearing; when a hearing is required, the following applies:

(a) A verbatim record must be kept;

(b) Those present must be given the opportunity to testify under oath;

(c) The hearing authority must be allowed to ask questions of those testifying;

(d) The hearing must be conducted to ensure fairness to all parties;

(e) The hearing authority may subpoena witnesses; and

(f) A hearing may be kept open to take additional information up to the point a final decision is made. No further notice of a continued hearing need be published unless a period of six months or more elapses between meeting dates.

(2) Notices of public hearings must include the following information:

(a) The date, time, and place and/or manner of the meeting or hearing.

(b) Location of the site.

(c) A brief description of the request, and any proposed modifications or variances.

(d) Applicant's name.

(e) Project name and file number and a statement of its availability for inspection by the public.

(f) A statement of the right of any person to submit written testimony to the appropriate permit-issuing authority and to appear at the public hearing to give testimony orally.

(g) A statement that only persons who submit written or oral testimony to the permit-issuing authority may appeal the decision.

(h) A statement announcing the city's goal of complying with the intent of the Americans with Disabilities Act, announcing accessibility, offer of assistance to persons with special needs, and availability of TDD services.

(3) Burden of Proof/Testimony.

(a) The burden of presenting evidence to the permit-issuing entity sufficient to lead it to conclude that the application should be approved, conditioned, or denied is on the applicant. Unless otherwise specified in statute or ordinance, the standard of proof is the preponderance of the evidence.

(b) All persons in attendance that wish to testify must be sworn in.

(c) All findings and conclusions necessary to the issuance of a decision must be based upon reliable evidence.

(4) Joint Public Hearings.

(a) Approval Authority's Decision to Combine Joint Hearing. At the applicant's request, the approval authority may combine any public hearing on a permit application with any hearing that may be held by another local, state, regional, federal, or other agency, on the proposed action, as long as:

(i) The hearing is held within the city limits; and

(ii) The requirements of RCW 36.70B.110(7) are met.

(b) Applicant's Request for a Joint Hearing. The applicant may request that the public hearing on a permit application be combined as long as the joint hearing can be held within the time periods set forth in this chapter. In the alternative, the applicant may agree to a particular schedule if that additional time is needed in order to complete the hearings (RCW 36.70B.110(7)).

(c) Prerequisites to Joint Public Hearing. A joint public hearing may be held with another local, state, regional, federal or other agency and the city, as long as:

(i) The other agency is not expressly prohibited by statute from doing so (RCW 36.70B.110(8));

(ii) Sufficient notice of the meeting or hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance, or rule;

(iii) The agency has received the necessary information about the proposed project from the applicant in enough time to hold its meeting or hearing at the same time as the local government hearing; and

(iv) The meeting or hearing is held within the geographic boundary of the local government.

(5) Record.

(a) Electronic recordings must be made of all hearings required by this chapter, and such recordings must be kept for at least two years. Accurate minutes must also be kept of all such proceedings, but a transcript need not be made. The written decision of a hearing examiner meets the requirement for minutes of the hearing examiner public hearing.

(b) Whenever practicable, all documentary evidence presented at a hearing, as well as all other types of physical evidence, must be provided to the city in digital form, made a part of the record of the proceedings, and kept by the city for at least two years.

18.230.100 Hearing Examiner procedures

ℹ This section is existing SMC 17.80.380 Hearing examiner procedures with the exception of (3) which is inserted here.

(1) Any person may participate in a hearing examiner public hearing by submitting written comments to staff prior to the hearing or by submitting written comments or making oral comments at the hearing. Any party may be represented by an agent or attorney.

(2) The department must transmit to the hearing examiner a copy of the department file on the application including all written comments received prior to the hearing and information reviewed by or relied upon by staff. The file must also include information to verify that the requirements for notice to the public (notice of application and notice of SEPA threshold determination) have been met.

ℹ The following subsection is existing SMC 17.80.380 and 381 Report of department.

(3) Department report.

   (a) The Director is responsible for the preparation of a report to the hearing examiner that summarizes the factors involved and the department's findings and recommendations. Comments, reports, and recommendations from other departments, advisory boards and commissions, and agencies must be coordinated and assembled among departments and agencies in preparation of the report.

   (b) At least seven calendar days prior to the scheduled hearing, the report must be filed with the hearing examiner and made available for public inspection at City Hall. A copy must be mailed to the applicant.

(4) The department must create a complete record of the public hearing including all exhibits introduced at the hearing and an electronic sound recording of each hearing.

(5) The hearing examiner must approve a project or approve with modifications if the applicant has demonstrated that the proposal complies with the applicable decision criteria of this code. The applicant carries the burden of proof and must demonstrate that a preponderance of the evidence supports the conclusion that the application merits approval or approval with modifications. The hearing examiner may remand an application to staff for revision. In all other cases, the hearing examiner must deny the application.

(6) If the hearing examiner requires a modification which results in a different proposal not reasonably foreseeable from the description of the proposal contained in the public notice provided, the hearing examiner must conduct a new hearing on the modified proposal.

(7) The hearing examiner may include conditions to ensure a proposal conforms to the relevant decision criteria.

(8) The hearing examiner must within 10 business days following the close of the record, unless a longer time period is agreed to on the record by the applicant/appellant, issue a written report supporting the decision. The hearing examiner's written report must be distributed to parties of record electronically or in paper form by the community development department. The report must contain the following:

   (a) The decision of the hearing examiner;

   (b) Any conditions included as part of the decision;

   (c) Findings of fact upon which the decision, including any conditions, was based and the conclusions derived from those facts; and

   (d) A statement explaining the process to appeal the decision of the hearing examiner to superior court.

(9) Reconsideration Period. Any person who presented or commented at the hearing may file a written request with the hearing examiner for reconsideration within 10 business days of the date of the hearing examiner's decision. The request must explicitly set forth alleged errors of procedure or fact. The examiner must request comments from affected parties of record and reviewing city departments on the request for reconsideration. Comments must be received within 14 business days. The hearing examiner must act within 10 business days after the close of the comment period by denying the request, issuing a revised decision, or calling for an additional public hearing. A reconsideration request for which one of the actions specified above has not been taken within the required time period must be deemed to have been denied.

(a) The grounds for reconsideration are limited to the following:

(i) The hearing examiner exceeded their jurisdiction;

(ii) The hearing examiner failed to follow the applicable procedure in reaching their decision;

(iii) The hearing examiner committed an error of law or misinterpreted the applicable city regulation, ordinance or other state law or regulation;

(iv) The hearing examiner's findings, conclusions and/or conditions are not supported by the record; and/or

(v) Newly discovered evidence alleged to be material to the hearing examiner's decision which could not reasonably have been produced prior to the hearing examiner's decision.

(b) The examiner's action following reconsideration is not subject to further requests for reconsideration.

(10) Proceedings before the hearing examiner must conform with the hearing examiner's rules of procedure.

18.230.110 Decision

> i The following subsection is from existing SMC 17.80.350(3).

(1) Applications may be approved, approved with conditions, or denied. For those permits subject to review by the hearing examiner, the examiner may remand an application to staff for further review. If an application for a permit is denied, the applicant may not submit another application for development of the same property sooner than one year after the date of such denial.

(2) Following the completion of any hearing, procedure, or administrative decision, the permit application must be:

(a) approved;

(b) approved with conditions;

(c) remanded; or

(d) denied.

18.230.120 Notice of Decision

> i This is existing SMC 17.80.385 Notice of final decision, with the exception of existing subsection (1), which moved above.

(1) Where required by SMC 18.230.020, the Department must prepare a Notice of Decision within five calendar days of a decision.

(2) Contents. The notice of decision must include:

(a) the final determination of approval or denial of the project,

(b) a statement of any threshold determination made under SEPA, and

(c) the procedure to appeal the notice of decision.

(3) When a notice of decision is not required by SMC 18.230.020, a memorandum or completed project checklist must be placed in the permit file containing findings describing how the application was consistent/inconsistent with applicable zoning regulations and development standards.

(4) When a notice of decision is required by SMC 18.230.020, the notice must mailed or emailed to all parties of record, including the applicant and each person who participated in the public hearing or who submitted comments during the public comment period at any time prior to issuance of the decision.

(5) For shoreline permits, the director must notify the following persons in writing of its final approval or disapproval of a shoreline conditional use permit or shoreline variance:

(a) The applicant.

(b) The Department of Ecology.

(c) Any person who has submitted written comments on the application.

(d) Any person who has written to the hearing examiner requesting notification.

(6) If the city is unable to issue its notice of decision within the allotted time frame, it must provide written notice to the project applicant including the reasons the time limits have not been met and an estimated date for issuance of the notice of decision.

ℹ Exclusions for time limits has been moved to 18.230.040.

Chapter 18.240 Appeals and Reconsideration

ℹ This is a new chapter based on existing SMC Chapter 17.80.390.

18.240.010 Local Appeal

ℹ This is new material.

(1) Applicability. This section applies to local appeals of decisions on permit applications when allowed by SMC 18.230.020.

(2) Standing. Only the following parties have standing to file an appeal:

(a) the City;

(b) the applicant; and

(c) a party of record.

ℹ The appeal period length is set at 14 days by RCW 36.70B.110(6)(d) and (9).

(3) Time to file. An appeal is timely only if it is:

(a) Filed within 14 days (5 working days for shoreline permits) after the written notice of decision is mailed or the building permit is issued; and

(b) Accompanied by the required appeal fee.

(4) Method of service. An appeal must be delivered to the Department before 4:30 p.m. on the last business day of the time to file by mail, personal delivery, or in an electronic method prescribed by the Department. An appeal received by mail after that deadline will not be accepted, regardless of when the appeal was mailed or postmarked.

The following is existing SMC 17.80.390 Appeals with the exception of the subsection on standing, which is addressed above, and the appeal procedures table 7.

(5) Processing of Appeals. Appeals of decisions on permits must be processed according to the procedures outlined in this section. The decisionmaker on the appeal may reverse or affirm or modify the decision, if it is found the original decision was based on faulty facts or incorrect application of the law. Any modifications to the decision must be limited to those necessary to ensure the decision criteria of this title are met.

(6) Effect of Appeal. Application decisions are assumed valid unless overturned by an appeal decision. An appeal stays all actions by the Director seeking enforcement of or compliance with the order or decision appealed from, unless the Director finds that a stay would, in their opinion, cause imminent peril to life or property, in which case proceedings must not be stayed except by order of the hearing examiner, Shorelines Hearings Board or a court with jurisdiction.

(7) Consolidated Appeals. All appeals of permit application decisions, other than an appeal of determination of significance (DS), must be considered together in a consolidated appeal (RCW 36.70B.060(6), 43.21C.075).

(8) SEPA Appeals. Appeals may only be of the determination of nonsignificance or mitigated determination of nonsignificance, or final determination if issued. See SMC 18.230.070 for SEPA and agency decisions.

(9) Content of Appeal. Appeals must be in writing, be accompanied by an appeal fee as outlined in the city's most current fee resolution, and contain the following information:

(a) Appeals must be submitted with a completed appeal form;

(b) Facts demonstrating that the person is adversely affected by the decision;

(c) A concise statement identifying each alleged error and the manner in which the decision fails to satisfy the applicable decision criteria;

(d) The specific relief requested; and

(e) Any other information reasonably necessary to make a decision on the appeal.

(10) Notice of Appeal. A hearing before the Hearing Examiner, must be set and the hearing notice must be mailed or emailed to the appellant, the applicant, and all parties of record no less than 10 days prior to the appeal hearing.

(11) Public Hearing. The hearing examiner must conduct an open record hearing. The appellant, the applicant, and the city are indispensable parties to the appeal. Each party may participate in the appeal hearing by presenting testimony or calling witnesses to present testimony. Interested persons, groups, associations, or other entities who have not appealed may participate only if called by one of the parties to present information or to present testimony. The examiner may allow nonparties to present relevant testimony if allowed under the examiner rules of procedure.

(12) Decision on Appeal. The hearing examiner must issue a written decision to grant, grant with modifications, or deny the appeal. The hearing examiner may grant the appeal or grant the appeal with modification if:

(a) The appellant has carried the burden of proof; and

(b) The examiner finds that the decision is not supported by a preponderance of the evidence.

(c) The hearing examiner must accord substantial weight to the decision of the applicable department director.

(13) Decision of Appeal. The city must issue a written decision of appeal within 10 business days of the Hearing Examiner’s decision to the parties of record disclosing whether the appeal is upheld or denied.

18.240.020 Exhaustion of Administrative Remedies

> i This is a new section replacing SMC 17.80.390(12) and (13).

(1) To exhaust administrative remedies, an appellant must file and complete the local appeal process identified in SMC 18.230.020 for the relevant type of review.

(2) No further local appeal is available when the appeal allowed in SMC 18.230.020, if any, has been heard and a decision on the appeal (other than a remand) has been issued.

(3) A request for reconsideration is not required to exhaust administrative remedies. If a request for reconsideration is timely filed, the time for filing a petition for further (non-local) review does not commence until the decisionmaker or appellate body disposes of the petition for reconsideration.

> i The following is the second half of existing 17.80.390(13).

(4) The cost of transcription of all records ordered certified by the court for such review must be borne by the appellant. A copy of each transcript prepared by an appellant must be submitted to the city for confirmation of its accuracy.

Part 3 Permits

> i This proposed title emphasizes the distinction between "applications" and "permits," which are different in a number of important ways. For example, applications and permits have different timelines. The Department is obligated to process "applications" within specified time periods, but once the application is approved and the permit is issued, the burden switches to the permitholder to consider its timelines.
>
> i Additional chapters in this Part will describe conditional use permits and variances.

Chapter 18.310 Permits Generally

> i This is a new chapter based on existing SMC Chapter 17.80 Article IV, Post Permit Requirements.

18.310.010 Permit Terms, Extension, and Expiration

(1) Applicability. This section applies to issued project permits, which is an authorization to perform the work or establish the use identified in the permit. After the expiration of the permit, legally established uses that become non-conforming are governed by the non-conforming uses provisions of Unified Development Code.

(2) Initial term.

  (a) A permit is valid for the initial term shown in Table 18.310.010-1 unless extended by the Director.

  (b) A permit's initial term is measured from the date of project or permit approval (as specified in the Notice of Decision, if one is required), except that if the decision is appealed, the effective date is the date of decision on appeal. The initial term for a shoreline permit commences on the effective date of the permit as defined in WAC 173-27-090.

The following subsection (3) is based on existing SMC 17.80.395 Expiration of approvals and approved permits.

(3) Extension. The Director may extend a permit the number of times shown in Table 18.310.010-1, for the length of extension indicated, only if all of the following criteria are met:

(a) The applicant submits a written request on forms provided by the Department at least 30 days prior to expiration of the permit;

(b) Any applicable fee has been paid;

(c) The permittee has proceeded with due diligence and in good faith;

Note, prior language was "The zoning designation of the property has not changed;"

(d) The use remains a permitted use in the zone;

Next line is added to address limitations of Snohomish County v. Pollution Control Hearings Board (2016).

(e) The extension is not prohibited by requirements of state or federal law;

(f) Proper justification consists of one or more of the following conditions:

(i) Economic hardship;

(ii) Change of ownership;

(iii) Unanticipated construction, or site design problems, or both;

(iv) Other circumstances beyond the control of the applicant and determined acceptable by the appropriate department director.

The following subsection (4) is new material.

(4) Expiration.

(a) A permit issued under this title will expire if, on the date the permit expires, the permitholder has not performed the work indicated in Table 18.310.010-1 or fulfilled the requirements of the applicable permit.

(b) Exception. The initial permit term does not include the time during which a permit was not actually pursued by construction because of pending litigation related to the permit or because the applicant was diligently pursuing permits from other agencies necessary for construction.

The following table is based on Table 8 in existing SMC 17.80.395.

Table 18.310.010-1 Permit Terms and Extensions

Type of Permit	Initial Term	Number of Allowed Extensions	Length of Allowed Extension
Subdivision	5 years	1	1 year
Short Subdivision	5 years	1	1 year
Shoreline Permit	2 years	1	1 year
Conditional Use Permit	2 years to establish the use	0	N/A

Type of Permit	Initial Term	Number of Allowed Extensions	Length of Allowed Extension
Variance	2 years to establish the use	0	N/A
All other Type 1 Permits	1 year	1	1 year
All other Type 2-4 Permits	2 years	1	1 year

18.310.020 Permit Revision.

This is existing SMC 17.80.420 Permit modifications.

(1) Minor Modifications to an Approved Permit. Minor modifications to a permit may be permitted by administrative decision. To be considered a minor modification, the amendment must not:

(a) Involve more than a 10 percent increase in area or scale of the development in the approved site development plan; or

(b) Have a significantly greater impact on the environment and facilities than the approved plan; or

(c) Change the boundaries of the originally approved plan.

(2) Major Adjustments to an Approved Permit. Major adjustments to an approved permit will require a new application. The review and approval rest with the approval body which approved the original permit. Major adjustments involve a substantial change in the basic site design plan, intensity, density, use, and other zoning code issues and generally involve more than a 10 percent change in area or scale.

18.310.030 Civil Construction Plans

This section is based on existing SMC 17.80.400 Construction plan approvals.

(1) Final civil construction plan applications may be submitted with the land use entitlement permit or after the land use entitlement permit process has been completed. At a minimum the 30 percent design plans must be submitted with the land use entitlement application. To obtain civil construction plan approval, the plans must be consistent with the Stanwood Municipal Code and the street and utility standards.

(2) Approval of final civil construction plans is exempt from the application review processes described in SMC Title 18 Part 2.

(3) Construction must begin on a building permit issued prior to the expiration times outlined in Table 18.310.010-1, Permit Terms and Extensions. If work has not begun prior to expiration of the land use entitlement permit, all plans must be resubmitted and comply with the current code requirements.

18.310.040 Inspections

This is existing SMC 17.80.410 Inspections.

(1) Once a permit is issued, inspections are required to verify that the construction or work is being done in accordance with the approved plans. Site inspections include, but are not limited to: erosion control, critical area protection, grading, pavement, roadway and sidewalk improvements, drainage, utility installation, parking and landscaping. The project applicant is responsible for ensuring all inspections have been conducted pursuant to city requirements.

(2) Final project approval may not be given, whether a final plat approval or certificate of occupancy, until all of the required site improvements have been inspected, bonded and approved by the city inspector.

18.310.050 Effect of Decisions

This is existing SMC 17.80.430 Effect of decisions.

(1) No Occupancy or Use of Property Until Requirements Fulfilled. Issuance of a land use permit authorizes the recipient to commence construction activity, subject to obtaining appropriate building or construction permits, designed to support the approved land use. Actual occupancy or use of the approved land use may not occur until all requirements of the permit have been satisfied.

(2) Transfer of Permit and Permit Applications on Successors and Assigns. Active land use permits and pending land use permit applications, including subdivisions, run with the land and therefore are transferable to new owners.

18.310.060 Certificate of Occupancy

This is existing SMC 17.80.440 Certificate of occupancy.

(1) No land area must be occupied or used and no building hereafter erected or altered may be occupied or used in whole or in part for any purpose whatsoever until an occupancy permit has been issued by the building official, stating that the premises, building, or other development complies with all provisions of this code. Minor exceptions include:

 (a) Cases of alteration that does not require vacating the premises;

 (b) Cases where parts of the premises are finished and ready for occupancy before the completion of the alteration; or

 (c) In the case of a new structure, before its completion, a conditional occupancy permit may be issued.

(2) No change, extension of use, or alteration may be made to a nonconforming use without a building permit having first been issued by the building official that such change, extension or alteration is in conformity with the provisions of this code.

(3) Within 10 days from the date that an applicant requests that an occupancy permit be issued on his/her development project, the building official must render a decision as to whether or not said occupancy permit is to be issued. If the decision is not to issue the occupancy permit, the building official must so notify the applicant including the reasons for denial of the permit. If no occupancy permit has been issued within 10 working days of the written request thereof, and the building official has not informed the applicant of approval or denial, in writing, it must be deemed that the building official approves the request and the applicant may legally occupy the premises.

18.310.070 Vacation of Permit

This is existing SMC 17.80.460 Vacation of approved permits.

(1) A request to vacate a permit or variance must be made in writing to the Department.

(2) The Director may vacate the permit or variance if the following conditions are present:

 (a) The use authorized by the permit or variance does not exist and is not actively being pursued; or

 (b) The use has been terminated and no violation of the terms and the conditions of the variance or permit exists.

Chapter 18.320 Conditional Use Permits

This chapter is based on existing SMC Chapter 17.40.

Deleted section on fees, which is now covered by a general fee section.

18.320.010 Purpose.

The purpose of conditional use permits is to allow certain uses in districts where they are normally prohibited by this title, when the proposed uses are deemed consistent with other existing and potential uses within the general area of the proposed use. Except as provided in this section, a conditional use permit may not reduce the requirements of the zone in which the use is to be located.

18.320.030 Review process.

An application for a conditional use permit is reviewed subject to the procedures in SMC Title 18 Part 2.

18.320.040 Applicant's responsibility.

The application must set forth fully the grounds and the facts justifying the granting of the conditional use permit consistent with the decision criteria in this chapter.

18.320.060 Decision criteria.

Revised "community need" to "community compatibility" and changed criteria. Denying an application on community need may give rise to liability.

(1) To approve an application for a conditional use permit, an applicant must demonstrate compliance with all of the following criteria:

(a) Zoning Compatibility. The proposed use must be compatible with the general purpose and intent of the zoning district as described in Chapter 17.10 SMC, Establishment of Zoning Districts.

(b) Community Compatibility: The use will not have a substantively greater adverse effect on the health, safety or comfort of persons living or working in the area than those generally permitted in the district. In the determination of community compatibility, the reviewing official must consider the following factors:

(i) Hours and manner of operation, such as dust, odor, fumes and vibration do not impact adjacent properties;

(ii) Existing infrastructure, such as roads, utilities, and parks, can accommodate the proposed use without degrading the adopted level of service standards; and

(iii) The proposal's impacts can be appropriately mitigated through the application of conditions of approval, as applicable.

(c) Effect on Adjacent Properties. The proposed use at the proposed location may not result in substantial or undue adverse effects on adjacent property. The following factors must be considered:

(i) Compatibility. The proposed use must be compatible with the scale and character of the neighborhood.

(ii) Traffic. Traffic and circulation patterns of vehicles and pedestrians relating to the proposed use and surrounding area must be reviewed for potential effects on, and to ensure safe movement in, the surrounding area.

(iii) Noise and Glare. Potential noise, light and glare impacts must be evaluated based on the location of the proposed use on the lot and the location of on-site parking areas, outdoor recreational areas and refuse storage areas.

(iv) Landscaping. The decisionmaker may require additional landscaping to buffer adjacent properties from potentially adverse effects of the proposed use.

(v) Public Improvements. The proposed use and location must be adequately served by and not impose an undue burden on any public improvements, facilities, utilities and services. Approval of a conditional use permit may be conditioned upon the provision or guarantee by the applicant of necessary public improvements, facilities, utilities, and services.

18.320.070 Additional conditions.

> These cross-references will be updated by the code reviser when we update Title 17.

(1) Additional conditions for bed and breakfast uses in single-family residential zones are set forth in SMC 17.100.060.

(2) Additional conditions for school uses in single-family residential zones are set forth in SMC 17.100.070.

(3) Additional conditions for wireless communications facilities are set forth in Chapter 17.220 SMC.

(4) Additional conditions for ball parks, athletic fields, parks, playgrounds, community centers, houses of worship and meeting halls in residential zones are set forth in SMC 17.100.050.

(5) Additional conditions for marijuana retailers are set forth in SMC 17.100.045.

Chapter 18.330 Variances

> This chapter is based on existing SMC Chapter 17.35.
>
> Deleted section on fees, which is now covered by a general fee section.

18.330.010 Purpose

> Based on a portion of existing SMC 17.35.010 Purpose and applicability.

> Modified to “unnecessary AND UNUSUAL hardship.”

A variance is a mechanism by which relief may be granted from selected provisions of this title where compliance with those provisions renders an unnecessary and unusual hardship.

18.330.020 Applicability

> Based on a portion of existing SMC 17.35.010 Purpose and applicability.

Variances may be granted from the strict application of any land dimension, density, or height requirements of this title due to exceptional narrowness, shallowness, shape, or substandard size of specific parcels of property, or by reason of exceptional topographic conditions or other extraordinary situations or conditions of specific parcels of property.

18.330.040 Review process.

An application for a variance is reviewed subject to the procedures in SMC Title 18 Part 2.

18.330.050 Applicant's responsibility.

The application must set forth fully the grounds and the facts justifying the granting of the variance or administrative variance permit consistent with the decision criteria in this chapter.

18.330.060 Types of variances

> i This section is based on existing SMC 17.35.070 Administrative variances.

(1) Variances are either minor or major and are subject to the type of review shown in SMC 18.230.020.

(2) A major variance is any variance other than a minor variance.

(3) A minor variance is a variance that allows:

  (a) A decrease of not more than 25% of the required width of front, side, or rear setback.

  (b) A reduction in the minimum lot size for existing lots to eliminate the property from being declared nonconforming.

  (c) A decrease of not more than 20% in the number of required parking spaces if the reduction would allow the preservation of trees, critical areas, buffers, or other unique topographical features.

  (d) Allow compact parking stalls to account for up to 20% of the total number of parking stalls required on a site.

(4) Unless other specified all variances must comply with the decision criteria in 18.330.070.

18.330.070 Decision criteria.

> i This section is based on existing SMC 17.35.060 Decision criteria.

(1) To approve an application for a variance, the decisionmaker must find that strict application of this code would result in a practical difficulty or unnecessary hardship upon the owner of said property and all of the following:

  (a) That such variance can be granted without substantial impairment of the intent, purpose, and integrity of this title and of the Comprehensive Plan of Stanwood;

  (b) That the variance would not permit a use of land not authorized within the zoning district, increase in the volume of a building or structure, or increase the density of development beyond that permitted, as established by this code;

  (c) That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zoning district in which subject property is situated;

  (d) That the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land; and

  (e) All of the following conditions exist:

    (i) That, if the owner or lessor complied with the provisions of this code, he or she would not be able to make reasonable use of his or her property;

(ii) That the difficulties or hardships are peculiar to the property in question in contrast with those of other properties in the same district;

(iii) That the hardship was not the result of the applicant's own action (applicant's own action must not include the purchase of the property); and

(iv) That the hardship is not merely financial or pecuniary.

(2) The fact that property may be utilized more profitably may not be considered.

Part 4 Land Divisions

Reserved.

Part 5 Zoning & Uses

Reserved.

Part 6 Specific Use Standards

Reserved.

Part 7 Development & Design Standards

Reserved.

Part 8 Environment

Reserved.

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Exhibit B

Permit Submittal Tables

EXHIBIT B
AMENDMENTS TO SMC TITLE 17

Exhibit B will include amendments to Title 17 that are necessary to accommodate the new procedures described in Exhibit A.

New Chapter 17.01 Applicability is adopted to read as follows:

Chapter 17.01 Applicability

17.01.010 Migration to Unified Development Code

Regulations in SMC Title 17 are being updated and migrated to the City's new Unified Development Code in SMC Title 18. Regulations in SMC Title 17 remain in effect until repealed. Where regulations in SMC Title 17 conflict with SMC Title 18, the new regulations in SMC Title 18 control.

Chapter 17.05, Purpose and Scope, is repealed.

Chapter 17.10, Establishment of Zoning Districts, is repealed.

Chapter 17.15, Establishment of Zoning Maps, is repealed.

New section 17.20.001 is added to Chapter 17.20 to read as follows:

17.20.001 Migration to Unified Development Code

Definitions in SMC Chapter 17.20 are being migrated to SMC Chapter 18.102 in the City's new Unified Development Code. Definitions in SMC Chapter 17.20 remain in effect until repealed and apply to both Title 17 and Title 18. Where definitions in SMC Title 17 conflict with SMC Title 18, the new definitions in SMC Title 18 control for regulations in SMC Title 18.

Chapter 17.35, Variances, is repealed.

Chapter 17.40, Conditional Use Permits, is repealed.

Chapter 17.80, Permit Review Procedures, is repealed and replaced with a chapter to read as follows:

Chapter 17.80 Permit Review Procedures

17.80.010 Replaced by Unified Development Code

For regulations governing the procedures and processing of permit applications and post-issuance requirements, see SMC Title 18 Part 2.

Chapter 17.160, Enforcement and Penalties, is repealed.

City of Stanwood Application Submittal Tables

18.220.030 Application Contents

(6) Tables 18.220.030 -1 through 4 reflect the permit submittal requirements for the City of Stanwood.
  (a) City of Stanwood requires electronic project submittal through the portal on the City's website;
  (b) Submittal materials are marked as "required", "required upon request" and "not required"; and
  (c) Additional information may be required on a case-by-case basis depending on the complexity of the application.

(7) Due to variations in land conditions, similar permits may require different submittal requirements. To determine if a permit submittal is required beyond those noted as "required" in the tables, contact the Planning Department to schedule a genal information meeting.

(8) The submittal requirements listed in the tables are for the City of Stanwood permits only. Additional permits may be required by other federal, state, regional or local agencies. It is the responsibility of the applicant to ascertain whether other permits are required.

Table 2 – Permit Submittals for Type 1-4 Permit Applications

Type 1 Permit – Submittal Requirements
Administrative Decisions without Public Notice

Category 1 Permits: Zoning Interpretation, Code Enforcement, Home Occupation
Category 2 Permits: Single Family Building Permits (Bldg, Mech, Plumb), Fire, Accessory Dwelling Units, Floodplain, Manufactured Home Infill, Sign
Category 3 Permits: Multifamily $\leq$ 39 Units, Commercial / Industrial $\leq$ 12 K SF, Mixed Use $\leq$ 19 Units, TN Public Facilities
Category 4 Permits: Wireless Communication Facilities (Small Cell, Co-Located, Minor Modifications)
Category 5 Permits: Parcel Combination, Boundary (Lot) Line Adjustment, Final Plat
Category 6 Permits: Traffic Concurrency Evaluation, Water/Sewer Concurrency Evaluation, Encroachment (ROW), Right-of-Way, Grading

- **A "●" represents a required submittal item.**
- **A "□" indicates the item shall, upon request, be required for submittal**

Permit Number: ______________________
General Information Meeting Date: ______________________
Submittal Date: ______________________

Submittal Requirements	Complete Submittal Item?			Category 1 Permits / Actions	Category 2 Permits	Category 3 Permits	Category 4 Permits	Category 5 Permits	Category 6 Permits
	Yes	No	N/A						
General Application									
Permit Application	☐	☐	☐		●	●	●	●	●
Written Request from Applicant	☐	☐	☐	●					
Project Narrative	☐	☐	☐	●	□	●	●	●	●
Review Fee [1]	☐	☐	☐	□	●	●	●	●	●
Legal Description	☐	☐	☐			●	●	●	□
Vicinity Map or Aerial Photograph	☐	☐	☐			●	●	●	□
Water/Sewer Availability Letter [2]	☐	☐	☐			●			
Site Plans									
Site Plan [3]	☐	☐	☐		●	●	●		●
Landscape Plan [3]	☐	☐	☐			●	□		□
Tree Retention Plan [3]	☐	☐	☐			□	□		□
Plat Map [4]	☐	☐	☐					●	□
Building Plan Set	☐	☐	☐		●				
Building Elevations	☐	☐	☐		●	●			
Civil / Engineering [5]									
Drainage Report	☐	☐	☐		□	●	□		□
Traffic Control Plan	☐	☐	☐						□
Traffic Impact Study [6]	☐	☐	☐			●			□
Grading and Clearing Plan	☐	☐	☐		□	●			□
Road and Drainage Plans	☐	☐	☐		□	●		●	□

TESCP (Erosion Control Plan)	☐	☐	☐		□	●			□
Topography (Existing Conditions)	☐	☐	☐		□	●	□	□	□
Water / Sewer / Utility Plans	☐	☐	☐		□	●		□	□
Boundary Line Survey / Map	☐	☐	☐		□	□	□	●	□
Environmental									
SEPA Checklist [7]	☐	☐	☐	If a Type 1 Permit Requires a SEPA Checklist, Follow the Type 2 Permit Submittal Requirement Table					
Critical Areas Report / Memo	☐	☐	☐		□	●	□		□
Wildlife Habitat Report (floodplain)	☐	☐	☐		□	□	□		□
Archaeology / Cultural Report	☐	☐	☐		□	□	□		□
Inadvertent Archaeological Discovery Plan	☐	☐	☐		□	●	□		●
Geotechnical Report	☐	☐	☐		□	□	□		□
Other									
Public Notice Materials [8]	☐	☐	☐						
School Safe Walking Conditions Assessment	☐	☐	☐			●			
Title Certificate (< 30 days old)	☐	☐	☐					●	
Boundary Line Affidavit Form	☐	☐	☐					□	
Photo Simulations (WCF)	☐	☐	☐				●		
Before Final Plat or Final Certificate of Occupancy									
Deeds/Easements/ Conveyances	☐	☐	☐		□	□	□	□	□
Maintenance Agreements for Shared Facilities	☐	☐	☐		□	□	□	□	□
Lot Closures	☐	☐	☐					●	
Sureties / Bonds [9]	☐	☐	☐		□	□		□	□
Electronic CAD As-Built Plans	☐	☐	☐		□	●	□	●	□

NOTES:

1. See the City of Stanwood Adopted Fee Schedule
2. Water / Sewer Availability shall be determined prior to submittal and letters submitted.
3. See Site Plan Submittal Requirements for required specifications.
4. See Preliminary Short Plat, Preliminary Plat, Final Short Plat or Final Plat Submittal Requirements for required specifications.
5. See Engineering Plan Submittal Requirements for required specifications.
6. See the City of Stanwood Transportation Study Guidelines to determine the level of traffic study needed.
7. See the SEPA Checklist Requirements for Categorical Exemption Thresholds.
8. See Public Notice Materials for requirements.
9. See Sureties/Bond Submittal Requirements for required specifications.

FOR CITY USE ONLY

☐	This application is complete.
☐	This application is incomplete. See items noted above.
•	The City of Stanwood may require additional information. The applicant will be notified in writing if additional information is necessary.
•	These submittal requirements are for the City of Stanwood permits only. Additional permits may be required by other federal, state, regional or local agencies. It is the responsibility of the applicant to ascertain whether other permits are required.
	Community Development Representative Date

Type 2 Permit – Submittal Requirements
Administrative Decision with Public Notice

Category 1 Permits: SEPA Determinations Not Associated with Another Permit

Category 2 Permits: Minor Variances, Right to Farm, Waiver of 6-Year Forest Practice Moratorium

Category 3 Permits: Multifamily ≥ 40 Units [11], Commercial / Industrial ≥ 12 K SF [11], Mixed Use ≤ 20 Units [11], Reasonable Use, Shoreline Substantial Development

Category 4 Permits: Binding Site Plans, Short Plats

- A "●" represents a required submittal item.
- A "□" indicates the item shall, upon request, be required for submittal

Permit Number: ____________________
General Information Meeting Date: ____________________
Submittal Date: ____________________

Submittal Requirements	Complete Submittal Item?			Category 1 Permits	Category 2 Permits	Category 3 Permits	Category 4 Permits
	Yes	No	N/A				
General Application							
Permit Application	☐	☐	☐		●	●	●
Written Request from Applicant	☐	☐	☐	●			
Project Narrative	☐	☐	☐	●	●	●	●
Review Fee [1]	☐	☐	☐	●	●	●	●
Legal Description	☐	☐	☐			●	●
Vicinity Map or Aerial Photograph	☐	☐	☐	□	□	●	●
Water/Sewer Availability Letter [2]	☐	☐	☐			●	●
Site Plans							
Site Plan [3]	☐	☐	☐	□	□	●	□
Landscape Plan [3]	☐	☐	☐		□	●	●
Tree Retention Plan [3]	☐	☐	☐			□	□
Plat Map [4]	☐	☐	☐				□
Building Plan Set	☐	☐	☐				
Building Elevations	☐	☐	☐			●	
Civil / Engineering							
Drainage Report	☐	☐	☐	□		●	●
Traffic Control Plan	☐	☐	☐	□			
Traffic Impact Study [5]	☐	☐	☐	□	□	●	●
Grading and Clearing Plan [6]	☐	☐	☐	□		●	●
Road and Drainage Plans [6]	☐	☐	☐	□		●	●
TESCP (Erosion Control Plan)	☐	☐	☐	□		●	●
Topography (Existing Conditions) [6]	☐	☐	☐	□		●	●

Water / Sewer / Utility Plans [6]	☐	☐	☐	□		●	●
Boundary Line Survey / Map	☐	☐	☐		□	□	●
Environmental							
SEPA Checklist [7]	☐	☐	☐	●		□	□
Critical Areas Report / Memo	☐	☐	☐	□		●	●
Wildlife Habitat Report (floodplain)	☐	☐	☐	□		□	□
Archaeology / Cultural Report	☐	☐	☐	□		□	□
Inadvertent Discovery Plan	☐	☐	☐	□		●	●
Geotechnical Report	☐	☐	☐	□		□	□
Other:							
Public Notice Materials [8]	☐	☐	☐	●	●	●	●
School Safe Walking Conditions Assessment	☐	☐	☐			●	●
Title Certificate (< 30 days old)	☐	☐	☐				●
Boundary Line Affidavit Form	☐	☐	☐				
Photo Simulations (WCF)	☐	☐	☐				
Before Final Plat or Final Certificate of Occupancy							
Deeds/Easements/ Conveyances	☐	☐	☐		□	□	□
Maintenance Agreements for Shared Facilities	☐	☐	☐		□	□	□
Lot Closures	☐	☐	☐				●
Sureties / Bonds [9]	☐	☐	☐			□	□
Electronic CAD As-Built Plans [10]	☐	☐	☐			●	●

NOTES:

1. See the City of Stanwood Adopted Fee Schedule.
2. Water / Sewer Availability shall be determined prior to submittal and letters submitted.
3. See Site Plan Submittal Requirements for required specifications.
4. See Preliminary Short Plat, Preliminary Plat, Final Short Plat or Final Plat Submittal Requirements for required specifications.
5. See Engineering Plan Submittal Requirements for required specifications.
6. See the City of Stanwood Transportation Study Guidelines to determine the level of traffic study needed.
7. See the SEPA Checklist Requirements for Categorical Exemption Thresholds.
8. See Public Notice Materials for requirements.
9. See Sureties/Bond Submittal Requirements for required specifications.
10. See As-Built Plan Submittal Requirements for required specifications.
11. If five or more substantive public comments are received, the permit is elevated to a Type 3 permit application.

FOR CITY USE ONLY	
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•	The City of Stanwood may require additional information. The applicant will be notified in writing if additional information is necessary.
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	______________________________ Community Development Representative Date

Type 3 Permit – Submittal Requirements
Hearing Examiner Decision – Public Hearing Required

Category 1 Permits: Appeals – Code Enforcement, Building Code, Administrative Decisions
Category 2 Permits: Conditional Use, Preliminary Plats, Cottage Plat, Offspring Subdivision, Essential Public Facilities, Major Variance, Shoreline Conditional Use Permit, Shoreline Variance, TN Residential Subdivisions, TN Mixed-Use Development
Category 3 Permits: Forest Practice Waiver - Nonresidential
Category 4 Permits: Wireless Communications Facilities – Mono Pole, Deviation

- **A "●" represents a required submittal item.**
- **A "☐" indicates the item shall, upon request, be required for submittal**

Permit Number: ____________________
General Information Meeting Date: ____________________
Submittal Date: ____________________

Submittal Requirements	Complete Submittal Item?			Category 1 Permits	Category 2 Permits	Category 3 Permits	Category 4 Permits
	Yes	No	N/A				
General Application							
Permit Application	☐	☐	☐		●	●	●
Written Request from Applicant	☐	☐	☐	●			
Project Narrative	☐	☐	☐	●	●	●	●
Review Fee [1]	☐	☐	☐	●	●	●	●
Legal Description	☐	☐	☐		●		●
Vicinity Map or Aerial Photograph	☐	☐	☐		●		●
Water/Sewer Availability Letter [2]	☐	☐	☐		●		
Site Plans							
Site Plan [3]	☐	☐	☐		☐		●
Landscape Plan [3]	☐	☐	☐		☐		☐
Tree Retention Plan [3]	☐	☐	☐		☐		
Plat Map [4]	☐	☐	☐		☐		
Building Plan Set	☐	☐	☐				
Building Elevations	☐	☐	☐		☐		☐
Civil / Engineering							
Drainage Report	☐	☐	☐		●		☐
Traffic Control Plan	☐	☐	☐				
Traffic Impact Study [5]	☐	☐	☐		●		
Grading and Clearing Plan [6]	☐	☐	☐		●		●
Road and Drainage Plans [6]	☐	☐	☐		●		●
TESCP (Erosion Control Plan)	☐	☐	☐		●		☐

Topography (Existing Conditions) [6]	☐	☐	☐		●		●
Water / Sewer / Utility Plans [6]	☐	☐	☐		●		●
Boundary Line Survey / Map	☐	☐	☐		☐		☐
Environmental							
SEPA Checklist [7]	☐	☐	☐		☐		☐
Critical Areas Report / Memo	☐	☐	☐		●		●
Wildlife Habitat Report (floodplain)	☐	☐	☐		☐		☐
Archaeology / Cultural Report	☐	☐	☐		☐		☐
Inadvertent Discovery Plan	☐	☐	☐		●		●
Geotechnical Report	☐	☐	☐		☐		☐
Other:							
Public Notice Materials [8]	☐	☐	☐	☐	●		●
School Safe Walking Conditions Assessment	☐	☐	☐		●		
Title Certificate (< 30 days old)	☐	☐	☐		☐		
Boundary Line Affidavit Form	☐	☐	☐		☐		
Photo Simulations (WCF)	☐	☐	☐				●
Before Final Plat or Final Certificate of Occupancy							
Deeds/Easements/ Conveyances	☐	☐	☐		☐		☐
Maintenance Agreements for Shared Facilities	☐	☐	☐		☐		☐
Lot Closures	☐	☐	☐		☐		
Sureties / Bonds [9]	☐	☐	☐		☐		
Electronic CAD As-Built Plans [10]	☐	☐	☐		●		☐

NOTES:

1. See the City of Stanwood Adopted Fee Schedule.
2. Water / Sewer Availability shall be determined prior to submittal and letters submitted.
3. See Site Plan Submittal Requirements for required specifications.
4. See Preliminary Short Plat, Preliminary Plat, Final Short Plat or Final Plat Submittal Requirements for required specifications.
5. See Engineering Plan Submittal Requirements for required specifications.
6. See the City of Stanwood Transportation Study Guidelines to determine the level of traffic study needed.
7. See the SEPA Checklist Requirements for Categorical Exemption Thresholds.
8. See Public Notice Materials for requirements.
9. See Sureties/Bond Submittal Requirements for required specifications.
10. See As-Built Plan Submittal Requirements for required specifications.

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	____________________ Community Development Representative Date

Type 4 Permit – Submittal Requirements
City Council Decision

Category 1 Permits: **Development Agreement, Site Specific Rezone**

- **A "●" represents a required submittal item.**
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Permit Number: ____________
General Information Meeting Date: ____________
Submittal Date: ____________

Submittal Requirements	Complete Submittal Item? Yes	No	N/A	Category 1 Permits
General Application				
Permit Application	☐	☐	☐	●
Written Request from Applicant	☐	☐	☐	
Project Narrative	☐	☐	☐	●
Review Fee [1]	☐	☐	☐	●
Legal Description	☐	☐	☐	●
Vicinity Map or Aerial Photograph	☐	☐	☐	●
Water/Sewer Availability Letter [2]	☐	☐	☐	●
Site Plans				
Site Plan [3]	☐	☐	☐	●
Landscape Plan [3]	☐	☐	☐	☐
Tree Retention Plan [3]	☐	☐	☐	☐
Plat Map [4]	☐	☐	☐	
Building Plan Set	☐	☐	☐	
Building Elevations	☐	☐	☐	☐
Civil / Engineering				
Drainage Report	☐	☐	☐	☐
Traffic Control Plan	☐	☐	☐	☐
Traffic Impact Study [5]	☐	☐	☐	☐
Grading and Clearing Plan [6]	☐	☐	☐	☐
Road and Drainage Plans [6]	☐	☐	☐	☐
TESCP (Erosion Control Plan)	☐	☐	☐	☐
Topography (Existing Conditions) [6]	☐	☐	☐	☐
Water / Sewer / Utility Plans [6]	☐	☐	☐	☐

Boundary Line Survey / Map	☐	☐	☐	☐
Environmental				
SEPA Checklist [7]	☐	☐	☐	●
Critical Areas Report / Memo	☐	☐	☐	●
Wildlife Habitat Report (floodplain)	☐	☐	☐	☐
Archaeology / Cultural Report	☐	☐	☐	☐
Inadvertent Discovery Plan	☐	☐	☐	☐
Geotechnical Report	☐	☐	☐	☐
Other				
Public Notice Materials [8]	☐	☐	☐	●
School Safe Walking Conditions Assessment	☐	☐	☐	☐
Title Certificate (< 30 days old)	☐	☐	☐	
Boundary Line Affidavit Form	☐	☐	☐	
Photo Simulations (WCF)	☐	☐	☐	
Before Final Plat or Final Certificate of Occupancy				
Deeds/Easements/ Conveyances	☐	☐	☐	☐
Maintenance Agreements for Shared Facilities	☐	☐	☐	☐
Lot Closures	☐	☐	☐	
Sureties / Bonds [9]	☐	☐	☐	☐
Electronic CAD As-Built Plans [10]	☐	☐	☐	

NOTES:

1. See the City of Stanwood Adopted Fee Schedule.
2. Water / Sewer Availability shall be determined prior to submittal and letters submitted.
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4. See Preliminary Short Plat, Preliminary Plat, Final Short Plat or Final Plat Submittal Requirements for required specifications.
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Stanwood Municipal Code

Title 18 Part 8

CITY OF STANWOOD
WASHINGTON

ORDINANCE NO. _______

AN ORDINANCE OF THE CITY OF STANWOOD, WASHINGTON, ADOPTING REVISIONS TO SMC TITLE 18 FOR CRITICAL AREAS AND ENVIRONMENTAL REGULATIONS, ESTABLISHING SEVERABILITY, AND AN AFFECTIVE DATE

WHEREAS, the City of Stanwood has begun a process to comprehensively update its municipal code to conform to current law and practice; and

WHEREAS, the purpose of this code amendment is to eliminate conflicts, improve clarity and overall function of the municipal code, and reflect current city and best practices; and

WHEREAS, the City Council has opted to comprehensively revise and consolidate development regulations in a new Unified Development Code in Title 18; and

WHEREAS, the City of Stanwood SEPA Responsible Official has reviewed the proposed amendments to the Stanwood Municipal Code, determined that the amendments are categorically exempt from SEPA, and memorialized those conclusions under file number ___; and

WHEREAS, the Stanwood Advisory Group reviewed the draft ordinance at their ____ meeting, and has recommended that the City Council adopt the ordinance as presented; and

WHEREAS, the Stanwood Planning Commission reviewed the draft ordinance at their ____ meeting and has recommended that the City Council adopt the ordinance as presented; and

WHEREAS, the City Council held a public meeting and first reading of the draft code amendment on ____, a second reading on ____, and accepted public comment; and

WHEREAS, the City Council of Stanwood has authority under RCW 36.70A to adopt plans and regulations related to development and operations within the City of Stanwood; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF STANWOOD, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Stanwood Municipal Code Title 18, Part 8 – Environment, is adopted as shown in Exhibit “A” attached to this ordinance and incorporated herein by reference as if set forth in full.

Section 2. Severability. The various parts, sections and clauses of this ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Section 3. Authority to Make Necessary Corrections. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's clerical errors, references, ordinance numbers, section/subsection numbers and any references thereto.

Section 4. Effective Date. This Ordinance shall take effect five days after its passage and publication as required by law.

PASSED and APPROVED this ____ day of _______________, 2024.

CITY OF STANWOOD:

____
Sid Roberts, Mayor

Attest:

____
Lisa Sokolik, City Clerk

Approved as to Form:

____
Nikki Thompson, City Attorney

Date of Publication: _________________

Effective Date: _____________________

Exhibit A

Title 18 Unified Development Code

Part 8 Environment

Contents of this Part

Chapter 18.800 Critical Areas – General Provisions

> The existing SMC section 17.114 has been moved to this new section, SMC 18.800. Many of the subsections remain the same but have been renumbered. All of the SMP sections have been taken out and moved under Title 18 Part 9 SMP.

18.800.010 Purpose.

(1) The purpose of SMC chapters 18.800-18.810 is to:

(a) designate and classify ecologically sensitive and hazardous areas and to protect these areas and their functions and values, while also allowing for reasonable use of private property;

(b) implement the goals, policies, guidelines, and requirements of the Stanwood Comprehensive Plan and the Growth Management Act.

(2) By limiting development and alteration of critical areas, this chapter seeks to:

(a) Protect the public and public resources and facilities from injury, loss of life, or property damage due to landslides and steep slope failures, erosion, seismic events, volcanic hazards, or flooding;

(b) Maintain healthy, functioning ecosystems through the protection of unique, fragile, and valuable elements of the environment, including ground and surface waters, wetlands, and fish and wildlife and their habitats, and to conserve the biodiversity of plant and animal species;

(c) Direct activities not dependent on critical areas resources to less ecologically sensitive sites and mitigate unavoidable impacts to critical areas by regulating alterations in and adjacent to critical areas; and

(d) Prevent cumulative adverse environmental impacts to water quality, wetlands, and fish and wildlife habitat, and the overall net loss of wetlands, frequently flooded areas, and habitat conservation areas.

(3) The City finds that critical areas provide a variety of valuable and beneficial biological and physical functions that benefit Stanwood and its residents, or that may pose a threat to human safety or to public and private property. The beneficial functions and values provided by critical areas include, but are not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation of flood waters, groundwater recharge and discharge, erosion control, wave

attenuation, protection from hazards, historical, archaeological, and aesthetic value protection, and recreation. These beneficial functions are not listed in order of priority.

(4) This chapter is intended to protect critical areas in accordance with the Growth Management Act and through the application of Best Available Science, as determined according to WAC 365-195-900 through 365-195-925, and in consultation with state and federal agencies and other qualified professionals.

(5) This chapter is to be administered with flexibility and attention to site-specific characteristics. It is not the intent of this chapter to make a parcel of property unusable by denying its owner reasonable economic use of the property or to prevent the provision of public facilities and services necessary to support existing development and planned for by the community without decreasing current service levels below minimum standards.

18.800.020 Applicability.

> This is a new section that incorporates the content of existing SMC 17.114.070 and 17.114.100(1).

(1) This Chapter applies:

(a) to the regulations in SMC Chapters 18.802-18.810; and

(b) to all uses, activities, and developments within, adjacent to, or likely to affect any critical area.

(2) For the purpose of this section, "adjacent to" means located:

(a) on a site immediately adjoining a critical area; and

(b) a distance equal to or less than the required critical area buffer width and building setback.

(3) Exception. Where a use, activity, or development is regulated by the Shoreline Master Plan, SMC Part 9, those regulations apply instead.

(4) All areas within the City meeting the definition of one or more critical areas, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter.

18.800.030 How to use the Critical Areas Code.

> This is a new section to explain how the various components and chapters of the critical areas code is applied.
>
> This section incorporates the content of existing SMC 17.114.030, Relationship to Other Regulations.

> City staff, please carefully review to see if I've captured the mechanism of the CA code correctly.

(1) Critical areas exist throughout the City. An activity, land use, or development must comply with the City's critical areas code to protect those critical areas, and in some cases, to protect the proposed activity from the critical area.

(2) The City's critical areas code is found in SMC Chapters 18.800-18.810. This chapter contains general provisions for all critical areas, while additional standards specific to each of the five types of critical area may be found in the following chapters:

(a) Chapter 18.802 Wetlands

(b) Chapter 18.804 Fish and Wildlife Habitat Conservation Areas

(c) Chapter 18.806 Geologically Hazardous Areas

(d) Chapter 18.808 Critical Aquifer Recharge Areas

(e) Chapter 18.810 Frequently Flooded Areas

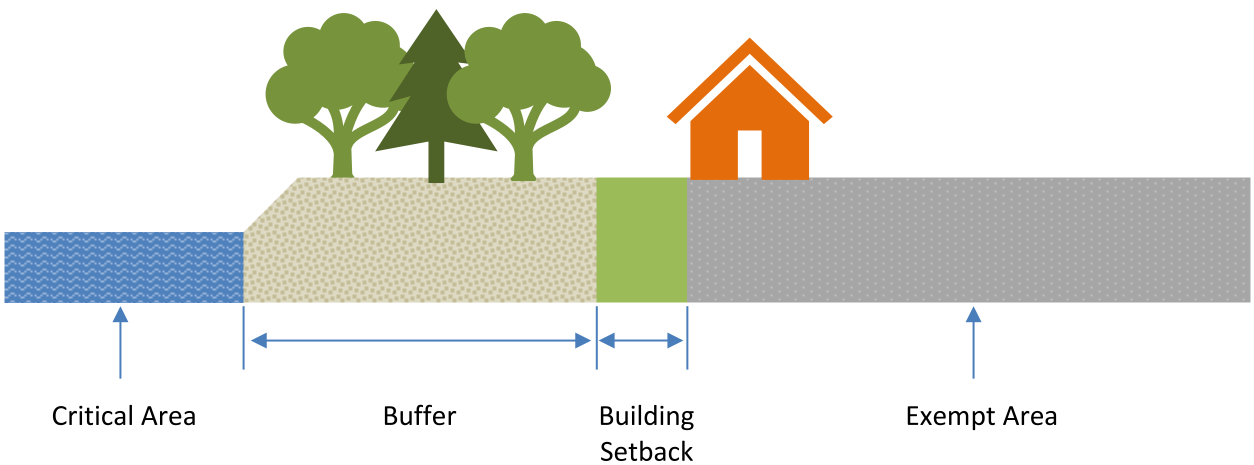
(3) The City's critical areas code regulates activities (including land uses and development) in and near critical areas. To determine the regulations that must be applied to an activity, land use, or development:

(a) Determine if the activity is within shoreline jurisdiction, as defined in the City's Shoreline Master Plan (SMC Title 18 Part 9). If it is, the SMP regulations apply instead of the City's critical areas code.

(b) Determine if the activity is exempt from critical areas regulation (SMC 18.800.110).

(c) If the activity is not exempt, determine whether the activity is proposed within the buffer or building setback for the relevant type(s) of critical area.

Figure 18.800.040-1 Buffer and Setback Areas



(d) If the activity is proposed within the buffer or building setback, determine whether the activity is allowed (SMC 18.800.120) and if so, comply with the standards applicable to that activity in that section and in the chapter applicable to the relevant type(s) of critical area.

(e) If the activity is neither exempt nor allowed, obtain a Critical Areas Report (SMC 18.800.140) to determine whether and how the activity can mitigate for its impacts on the critical area or its buffer. The first step in the required sequence of mitigation is to avoid impacts; see SMC 18.800.160 for the remainder of the sequence.

(f) If the activity's effects cannot be mitigated, you might be eligible to seek an exception from the City's critical areas code:

(i) For situations where no reasonable economic use of the property would otherwise be allowed, per SMC 18.800.180;

(ii) For public agencies or utilities, per SMC 18.800.190.

(g) If special conditions peculiar to your property exist, you may be eligible for a variance from the City's critical areas code per SMC 18.800.200.

(4) Where regulations for multiple types of critical areas overlap, each set of regulations applies to provide the most protection to the critical areas.

(5) Compliance with the City's critical areas code does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required (e.g., other permits required by SMC Title 18, shoreline permits, Hydraulic Permit Act (HPA) permits, U.S. Army Corps of Engineers Section 404

permits, National Pollution Discharge Elimination System permits). The applicant is responsible for separately complying with those requirements.

18.800.040 Administration.

Based on existing SMC 17.114.020 Authority.

(1) The Director has the authority to interpret and apply, and the responsibility to enforce, this chapter.

(2) The City may withhold, condition, or deny development permits or activity approvals to ensure that the proposed action is consistent with this chapter.

Next sentence based on existing SMC 17.114.050.

(3) The Director is authorized to adopt such administrative rules and regulations as necessary and appropriate to implement this chapter and to prepare and require the use of such forms as necessary for its administration.

18.800.050 Interpretation.

In the interpretation and application of this title, the provisions of this chapter are the minimum requirements necessary, must be liberally construed to serve the purpose of this title, and must be deemed to neither limit nor repeal any other provisions under state statute.

18.800.060 Fees.

This section is both understood and addressed elsewhere and should be deleted.

(1) The city by ordinance or resolution may establish fees for filing of a critical area identification form, critical area review processing, and other services provided by the city as required by this chapter. These fees must be based on the anticipated sum of direct costs incurred by the city for any individual development or action and may be established as a sliding scale to recover all of the city costs including the enforcement of these code provisions. The basis for these fees may include, but is not limited to, the cost of engineering and planning review time, cost of inspection time, costs for administration, and any other special costs attributable to the critical area review process.

(2) Unless otherwise indicated in this chapter, the applicant is responsible for the initiation, preparation, submission, and expense of all required reports, assessment(s), studies, plans, reconnaissance(s), peer review(s) by qualified consultants, and other work prepared in support of or necessary to review the application.

18.800.100 Protection requirements.

This section is based on existing SMC 17.114.080, Protection of critical areas, but has been retitled. It also integrates existing SMC 17.114.100(2) et seq, formerly named Applicability, but deleting the list of example permits; and existing SMC 17.114.090, Best available science. The definition of Best Available Science in 17.114.090 has been deleted, because it duplicated the definition in the definitions chapter.

(1) The Director may not approve any permit or otherwise issue any authorization to alter the condition of any land, water, or vegetation, or to construct or alter any structure or improvement in, over, or on a critical area or associated buffer, without first ensuring compliance with the requirements of SMC Chapters 18.800-18.810.

(2) No activity or use is allowed if it results in a net loss of critical area functions and values. Any action taken pursuant to this chapter and Chapters 18.802 through 18.810 SMC must result in equivalent or greater functions and values of the critical areas associated with the proposed action, as determined by Best Available Science.

(3) Per SMC 18.800.180, all actions and developments must be designed and constructed to avoid, minimize, and restore all adverse impacts and an applicant must first demonstrate an inability to avoid or reduce impacts before restoration and compensation of impacts may be allowed.

(4) Critical area reports and decisions to alter critical areas must:

(a) rely on Best Available Science to protect the functions and values of critical areas; and

(b) give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish, such as salmon and bull trout, and their habitat.

18.800.110 Exempt activities.

This section is based on existing SMC 17.114.110.

(1) Exempt activities are exempt from the substantive requirements of this chapter and Chapters 18.802 through 18.810 SMC.

(a) Exempt activities do not require submittal of a critical area identification form or a critical areas report.

(b) Exempt activities must use reasonable methods to avoid potential impacts to critical areas.

(c) Exempt activities do not have permission to degrade a critical area or ignore risk from natural hazards.

(d) Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempt activity must be restored, rehabilitated, or replaced at the responsible party's expense.

(e) Exempt activities must still comply with other local, state, and federal laws and requirements.

Do we want a requirement to submit an exemption request, or optional? Existing code is not clear.

(2) The proponent of an activity may submit an application for exemption, consistent with SMC Title 18 Part 2, that describes the activity and identifies the applicable exemption from the list in this section. The Director must review the exemption request to verify that it complies with this chapter and approve or deny the exemption. If the exemption is approved, it must be placed on file with the department. If the exemption is denied, the proponent may apply for critical areas review of a non-exempt activity, subject to the requirements of this chapter.

(3) Exempt activities defined:

(a) Emergencies.

(i) Emergencies are defined as those activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of damage to private property and that require remedial or preventative action in a time frame too short to allow for compliance with the requirements of this chapter and Chapters 18.802 through 18.810 SMC.

(ii) Emergency actions that create an impact to a critical area or its buffer must:

(A) use reasonable methods to address the emergency; and

(B) have the least possible impact to the critical area or its buffer.

(iii) The person or agency undertaking such action must notify the city within one working day following commencement of the emergency activity. Within 30 days, the Director must determine if the action taken was within the scope of the emergency actions allowed in this subsection. If the Director determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, then enforcement provisions of SMC 18.800.210, Unauthorized critical area alterations and enforcement, apply.

(iv) After the emergency, the person or agency undertaking the action must fully fund and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved critical area report and mitigation plan. The person or agency undertaking the action must apply for review, and the alteration, critical area report, and mitigation plan must be reviewed by the city in accordance with the review procedures contained herein. Restoration and/or mitigation activities must be initiated within one year of the date of the emergency, and completed in a timely manner;

(b) Operation, Maintenance, or Repair. Operation, maintenance, or repair of existing structures, infrastructure improvements, utilities, public or private roads, dikes, levees, or drainage systems, that do not require construction permits, if the activity does not further alter or increase the impact to, or encroach further within, the critical area or buffer and there is no increased risk to life or property as a result of the proposed operation, maintenance, or repair. Operation and maintenance includes vegetation management performed in accordance with best management practices that is part of ongoing maintenance of structures, infrastructure, or utilities; provided, that such management actions are part of regular and ongoing maintenance, do not expand further into the critical area, are not the result of an expansion of the structure or utility, and do not directly impact an endangered or threatened species;

(c) Passive Outdoor Activities. Recreation, education, and scientific research activities that do not degrade the critical area, including fishing, hiking, and bird watching. Trails must be constructed pursuant to SMC 18.800.140(4)(e);

(d) Forest Practices. Forest practices regulated and conducted in accordance with the provisions of Chapter 76.09 RCW and forest practices regulations, WAC Title 222, and those that are exempt from the city's jurisdiction, except that forest practice conversions are not exempt;

(e) Minor Site Investigative Work. Work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads or significant amounts of excavation. In every case, impacts to critical areas and buffers must be minimized and disturbed areas must be immediately restored;

(f) Existing Structures. Existing structures may be maintained, repaired, and remodeled provided there is no further intrusion into a critical area or its buffer. New construction or reconstruction must conform to the requirements of this chapter and Chapters 18.802 through 18.810 SMC; and

Recommend deletion of the (existing) exemption below. If we want to require compliance with the frequently flooded portion of this code, does it make sense to say the activity is exempt? What effect does that this provision have? How many SFRs does this allow?

(g) Single-Family Infill Development in Floodplain. Construction of single-family units, additions, and accessory structures that meet the city's floodplain regulations in Chapters 18.810 SMC, but do not impact streams, wetlands, or their buffers, are exempt. The city must require recording of a covenant on the title of the property, stating as follows: "This property is potentially subject to flooding, geologic (seismic), and volcanic lahars (mudflow) hazards."

18.800.120 Allowed activities.

> ℹ This section is based on existing SMC 17.114.140.
>
> ℹ The first paragraph attempts to parallel the first paragraph of .110 Exempt Activities.

(1) Allowed activities are subject to the substantive requirements of this chapter and Chapters 18.802 through 18.810 SMC.

(a) Allowed activities must be reviewed and approved by the City, but do not require submittal of a critical area identification form or a critical areas report.

(b) The Director may apply conditions to the underlying or associated project permit, such as a building permit, to ensure protection of critical areas and compliance with the City's critical areas code.

(c) Allowed activities must be conducted, and the Director must require, using the best management practices that result in the least amount of impact to the critical areas. Best management practices are required for tree and vegetation protection, construction management, erosion and sedimentation control, water quality protection, and regulation of chemical applications.

(d) Any incidental damage to, or alteration of, a critical area as the result of an allowed activity must be restored, rehabilitated, or replaced at the responsible party's expense.

(2) Allowed activities defined:

(a) Permit Requests Subsequent to Previous Critical Area Review. Development permits and approvals that involve both discretionary land use approvals (e.g., subdivisions, rezones, or conditional use permits), and construction approvals (e.g., building permits) if all the following conditions have been met:

(i) The provisions of this chapter have been previously addressed as part of another approval;

(ii) There have been no material changes in the potential impact to the critical area or buffer since the prior review;

(iii) There is no new information available that is applicable to any critical area review of the site or particular critical area;

(iv) The permit or approval has not expired or, if no expiration date, no more than five years has elapsed since the issuance of that permit or approval; and

(v) Compliance with any standards or conditions placed upon the prior permit or approval has been achieved or secured;

(b) Modification to Existing Structures. Structural modification of, addition to, or replacement of an existing legally constructed structure that does not further alter or increase the impact to the critical area or buffer and there is no increased risk to life or property as a result of the proposed modification or replacement; provided, that restoration of structures substantially damaged by fire, flood, or act of nature must be initiated within one year of the date of such damage, as evidenced by the issuance of a valid building permit, and diligently pursued to completion;

(c) Activities Within the Improved Right-of-Way. Replacement, modification, installation, or construction of utility facilities, lines, pipes, mains, equipment, or appurtenances, not including substations, when such facilities are located within the improved portion of the public right-of-way or a city-authorized private roadway except those activities that alter a wetland or watercourse, such as culverts or bridges, or result in the transport of sediment or increased stormwater;

(d) Minor Utility Projects. Utility projects that have minor or short duration impacts to critical areas, as determined by the Director in accordance with the criteria below, and which do not significantly impact the function or values of a critical area(s); provided, that such projects are constructed with best management practices and additional restoration measures are provided. Minor activities may not result in the transport of sediment or increased stormwater. Such allowed minor utility projects must meet the following criteria:

(i) There is no practical alternative to the proposed activity with less impact on critical areas;

(ii) The activity involves the placement of a utility pole, street sign, anchor, or vault or other small component of a utility facility; and

(iii) The activity involves disturbance of an area less than 75 square feet;

(e) Public and Private Pedestrian Trails. Public and private pedestrian trails subject to the following:

(i) The trail surface must meet all other requirements including water quality standards set forth in the city's adopted stormwater manual; and

(ii) Buffer widths, if applicable, must be increased, where possible, equal to the width of the trail corridor, including disturbed areas;

(iii) In wetlands and fish and wildlife habitat conservation areas, public and private pedestrian trails must be constructed of pervious materials and are restricted to the outer 25% of the buffer area except where necessary.

(f) Select Vegetation Removal Activities. The following vegetation removal activities are allowed, with approval from the Director:

(i) The removal of the following vegetation with hand labor and light equipment:

(A) Invasive and noxious weeds;

(B) Ivy (Hedera sp.);

(C) Himalayan blackberry (Rubus discolor, R. procerus); and

(D) Evergreen blackberry (Rubus laciniatus);

(ii) The removal of trees from critical areas and buffers that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property; provided, that:

(A) The applicant submits a report from a certified arborist, registered landscape architect, or professional forester that documents the hazard and provides a replanting schedule for the replacement trees;

(B) Tree cutting is limited to limbing and crown thinning, unless otherwise justified by a qualified professional. Where pruning or crown thinning is not sufficient to address the hazard, trees may be cut to remove the hazard (first choice) or removed or converted to wildlife snags (second choice);

(C) All vegetation cut (tree stems, branches, etc.) must be left within the critical area or buffer unless removal is warranted due to the potential for disease or pest transmittal to other healthy vegetation;

(D) The landowner must replace any trees that are removed with new trees at a ratio of two replacement trees for each tree removed (2:1) within one year in accordance with an approved restoration plan. Replacement trees may be planted at a different, nearby location if it can be determined that planting in the same location would create a new hazard or potentially damage the critical area. Replacement trees must be species that are native and indigenous to the site and a minimum caliper of two inches in diameter at breast height (dbh) must be used;

(E) If a tree to be removed provides critical habitat, such as an eagle perch, a qualified wildlife biologist must be consulted to determine timing and methods or removal that minimize impacts; and

(F) Hazard trees determined to pose an imminent threat or danger to public health or safety, to public or private property, or of serious environmental degradation may be removed or pruned by the landowner prior to receiving written approval from the city; provided, that within 14 days following such action, the landowner must submit a restoration plan that demonstrates compliance with the provisions of this chapter;

(iii) Measures to control a fire or halt the spread of disease or damaging insects consistent with the State Forest Practices Act, Chapter 76.09 RCW, and local forest practices regulations if adopted; provided, that the removed vegetation is replaced in kind or with similar native species within one year in accordance with an approved restoration plan;

(g) Chemical Applications. The application of herbicides, pesticides, organic or mineral-derived fertilizers, or other hazardous substances, if necessary, as approved by the city; provided, that their use is restricted in accordance with State Department of Fish and Wildlife Management Recommendations and the regulations of the State Department of Agriculture and the U.S. Environmental Protection Agency;

(h) Minor Site Investigative Work. Work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads or significant amounts of excavation. In every case, impacts to the critical area must be minimized and disturbed areas immediately restored; and

(i) Navigational Aids and Boundary Markers. Construction or modification of navigational aids and boundary markers.

18.800.130 Critical area review process.

This section is based on existing SMC 17.114.150 Critical area report – Review process.

(1) Requirement. For any proposed activity not (a) exempt under SMC 18.800.110, or (b) allowed pursuant to SMC 18.800.120, the proponent must submit the activity to critical area review as described in this section.

Note Tansy says you don't have the critical area identification form mentioned in current code, so I changed it to a form to request/kickoff critical area review. We could change the name…

(2) To initiate critical areas review, an applicant must submit to the Director a complete critical area request form.

(3) Site Inspection. Upon receipt of a critical area request form, the Director must conduct a site inspection to identify critical area conditions on-site. The Director must notify the property owner of the inspection prior to the site visit. Reasonable access to the site must be provided by the property owner for the purpose of inspections during proposal review, restoration, emergency action, or monitoring.

(4) Determination. The Director must determine whether any critical areas may be affected by the proposal and if a more detailed critical area report is required.

(a) Determination Criteria. The Director must use the following indicators to assist in determining the need for a critical area report:

(i) Indication of a critical area on the city critical areas maps that may be impacted by the proposed activity;

(ii) Information and scientific opinions from appropriate agencies, including but not limited to the Departments of Fish and Wildlife, Natural Resources, and Ecology;

(iii) Documentation, from a scientific or other reasonable source, of the possible presence of a critical area; or

(iv) A finding by a qualified professional or a reasonable belief by the Director that a critical area may exist on or adjacent to the site of the proposed activity.

(b) Decision on Identification Form.

(i) No critical areas present. If, after a site visit, the Director's analysis indicates that the project area is not within or adjacent to a critical area or buffer and that the proposed activity is unlikely to degrade the functions or values of a critical area, then the Director must rule that the critical area review is complete and note on the identification form the reasons that no further review is required.

(ii) Critical areas present, but no impact. If the Director determines that there are critical areas within or adjacent to the project area, but that Best Available Science shows that the proposed activity is unlikely to degrade the functions or values of the critical area, the Director may waive the requirement for a critical area report. A waiver may be granted if there is substantial evidence that all the following requirements are met:

(A) There must be no alteration of the critical area or buffer;

(B) The development proposal will not impact the critical area in a manner contrary to the purpose, intent, and requirements of this chapter and Chapters 18.802 through 18.810 SMC; and

(C) The proposal is consistent with other applicable regulations and standards.

(iii) Critical areas may be affected by proposal. If the Director determines that a critical area or areas may be affected by the proposal, then the Director must notify the applicant that a critical area report must be submitted prior to further review of the project and indicate each of the critical area types that must be addressed in the report.

(5) Determination Subject to Reconsideration. A determination regarding the apparent absence of one or more critical areas by the Director is not an expert certification regarding the presence of critical areas and the determination is subject to possible reconsideration and reopening if new information is received.

(6) If the applicant wants greater assurance of the accuracy of the critical area review determination, the applicant may choose to hire a qualified professional to provide such assurances.

18.800.140 Critical area report.

> ℹ The subsection below is now where the requirements for a "qualifying professional" are identified.

(1) Preparation by Qualified Professional. A critical area report must be prepared by one or more qualified professionals for the types of critical areas subject to the report, as follows:

(a) For wetlands or fish and wildlife habitat conservation areas: a person with a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology or related field, and two years of relevant work experience.

(b) For geologically hazardous areas: a geotechnical engineer or geologist, licensed in the state of Washington, with experience analyzing geologic, hydrologic, and groundwater flow systems; or by a geologist who earns his or her livelihood from the field of geology and/or geotechnical analysis, with experience analyzing geologic, hydrologic and groundwater flow systems, who has experience preparing reports for the relevant type of hazard.

(c) For critical aquifer recharge areas: a hydrogeologist, geologist, or engineer, who is licensed in the state of Washington and has experience in preparing hydrogeologic assessments.

(d) For frequently flooded areas: a hydrologist or engineer and who is licensed in the state of Washington with experience in preparing flood hazard assessments.

(2) Incorporate Best Available Science. The critical area report must use scientifically valid methods and studies in the analysis of critical area data and field reconnaissance and reference the source of science used. The critical area report must evaluate the proposal and all probable impacts to critical areas in accordance with the provisions of this chapter.

(3) Minimum Report Contents. At a minimum, the report must contain the following:

(a) The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;

(b) A copy of the site plan for the development proposal including:

(i) A map to scale depicting critical areas, buffers, the development proposal, and any areas to be cleared; and

(ii) A description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations;

(c) The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;

(d) Identification and characterization of all critical areas, wetlands, water bodies, and buffers adjacent to the proposed project area;

(e) A statement specifying the accuracy of the report, and all assumptions made and relied upon;

(f) An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development;

(g) An analysis of site development alternatives including a no development alternative;

(h) A description of reasonable efforts made to apply mitigation sequencing pursuant to SMC 18.800.180(4), Mitigation Sequencing, to avoid, minimize, and mitigate impacts to critical areas;

(i) Plans for adequate mitigation, as needed, to offset any impacts, in accordance with SMC 18.800.190, Mitigation plan requirements, including, but not limited to:

(i) The impacts of any proposed development within or adjacent to a critical area or buffer on the critical area; and

(ii) The impacts of any proposed alteration of a critical area or buffer on the development proposal, other properties and the environment;

(j) A discussion of the performance standards applicable to the critical area and proposed activity;

(k) Any additional information required for the critical area as specified in Chapters 18.802 through 18.810 SMC.

(4) Unless otherwise provided, a critical area report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the Director.

18.800.150 Critical area report – Modifications to requirements.

(1) Limitations to Study Area. The Director may limit the required geographic area of the critical area report if:

(a) The applicant, with assistance from the city, cannot obtain permission to access properties adjacent to the project area; or

(b) The proposed activity affects only a limited part of the subject site.

(2) Modifications to Required Contents. The applicant may consult with the Director prior to or during preparation of the critical area report to obtain city approval of modifications to the required contents of the report where, in the judgment of a qualified professional, either more or less information is required to adequately address the potential critical area impacts and required mitigation.

(3) Additional Information. The Director may require additional information to be included in the critical area report when determined to be necessary to the review of the proposed activity in accordance with this chapter. Additional information that may be required includes, but is not limited to:

(a) Historical data, including original and subsequent mapping, aerial photographs, data compilations and summaries, and available reports and records relating to the site or past operations at the site;

(b) Grading and drainage plans; and

(c) Information specific to the type, location, and nature of the critical area.

18.800.160 Mitigation requirements.

(1) The applicant must avoid all impacts that degrade the functions and values of a critical area or areas. Unless otherwise stated in this chapter, if alteration to the critical area is unavoidable, all adverse impacts to critical areas and buffers resulting from a development proposal or alteration are required to be mitigated using Best Available Science in accordance with an approved critical area report and SEPA documents, so as to result in no net loss of critical area functions and values.

(2) Mitigation must be in-kind and on-site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area.

(3) Mitigation may not be implemented until after city approval of a critical area report that includes a mitigation plan, and mitigation must be in accordance with the provisions of the approved critical area report.

(4) Mitigation Sequencing. An applicant must demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas. When an alteration to a critical area is proposed, such alteration must be avoided, minimized, or compensated for in the following sequential order of preference:

(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, frequently flooded areas, and habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to the historical conditions or the conditions existing at the time of the initiation of the project;

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

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

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

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

(h) Mitigation for individual actions may include a combination of the above measures.

(5) The city may encourage, facilitate, and approve innovative mitigation projects that are based on Best Available Science. Conducting mitigation as part of a cooperative process does not reduce or eliminate the required replacement ratios. Advance mitigation or mitigation banking are examples of alternative mitigation projects allowed under the provisions of this section wherein one or more applicants, or an organization with demonstrated capability, may undertake a mitigation project together if it is demonstrated that all the following circumstances exist:

(a) Creation or enhancement of a larger system of critical areas and open space is preferable to the preservation of many individual habitat areas;

(b) The group demonstrates the organizational and fiscal capability to act cooperatively;

(c) The group demonstrates that long-term management of the habitat area will be provided; and

(d) There is a clear potential for success of the proposed mitigation at the identified mitigation site.

(6) Timing. Any approved mitigation must be completed concurrently with project impacts. The Director may choose to accept a performance bond when seasonal restrictions occur, when availability of the mitigation site is limited, or when on-site construction may impact the critical area.

(7) Mitigation is required for all unauthorized impacts.

18.800.170 Mitigation plan requirements.

When mitigation is required, the applicant must submit a mitigation plan as part of the critical area report for approval by the city. The mitigation plan must include:

(1) Environmental Goals and Objectives. The mitigation plan must include a written report identifying environmental goals and objectives of the compensation proposed and including:

(a) A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the compensation measures, including the site selection criteria; identification of compensation goals; identification of resource functions; and dates for beginning and completion of site compensation construction activities. The goals and objectives must be related to the functions and values of the impacted critical area;

(b) A review of Best Available Science supporting the proposed mitigation and a description of the report author’s experience to date in restoring or creating the type of critical area proposed; and

(c) An analysis of the likelihood of success of the compensation project.

(2) Performance Standards. The mitigation plan must include measurable specific criteria for evaluating whether the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this chapter have been met.

(3) Detailed Construction Plans. The mitigation plan must include written specifications and descriptions of the mitigation proposed, such as:

(a) The proposed construction sequence, timing, and duration;

(b) Grading and excavation details;

(c) Erosion and sediment control features;

(d) A planting plan specifying native plant species, quantities, locations, size, spacing, and density; and

(e) Measures to protect and maintain plants until established;

(f) These written specifications must be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated outcome.

(4) Monitoring Program. The mitigation plan must include a program for monitoring construction of the compensation project and for assessing a completed project. A protocol must be included outlining the schedule for site monitoring (for example, monitoring occurring in years one, three, five, and seven after site construction), and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report must be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project must be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five years.

(5) Contingency Plan. The mitigation plan must include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

(6) Financial Guarantees. The mitigation plan must include financial guarantees, if necessary, to ensure that the mitigation plan is fully implemented. Financial guarantees ensuring fulfillment of the compensation project, monitoring program, and any contingency measures are required to be posted in accordance with SMC 18.800.250.

18.800.180 Exception – Reasonable use.

(1) If the application of this chapter or SMC Chapters 18.802 through 18.810 would deny all reasonable economic use of the subject property, the city is responsible for determining if compensation is an appropriate action, or the property owner may apply for an exception pursuant to this section.

(2) Exception Request and Review Process. An application for a reasonable use exception must be made to the Director and must include:

(a) a critical area review request form;

(b) a critical area report, including mitigation plan, if necessary; and

(c) any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (Chapter 43.21C RCW) (SEPA documents).

(3) The application is reviewed per SMC Title 18 Part 2. The Director must prepare a recommendation based on review of the submitted information, a site inspection, and the proposal's ability to comply with the reasonable use exception criteria in subsection (4) of this section.

(4) Review Criteria. An application for a reasonable use exception may be granted if at least one of the following criteria apply:

(a) The application of this chapter or Chapters 18.802 through 18.810 SMC would deny all reasonable economic use of the property;

(b) No other reasonable economic use of the property has less impact on the critical area;

(c) The proposed impact to the critical area is the minimum necessary to allow for reasonable economic use of the property;

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

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

(f) The proposal will result in no net loss of critical area functions and values consistent with Best Available Science; or

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

(5) Burden of Proof. The burden of proof is on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.

18.800.190 Exception – Public agency and utility.

(1) If the application of this chapter or Chapters 18.802 through 18.810 SMC would prohibit a development proposal by a public agency or public utility, the agency or utility may apply for an exception pursuant to this section.

(2) Exception Request and Review Process. An application for a reasonable use exception must be made to the Director and must include:

(a) critical area review request form;

(b) critical area report, including mitigation plan, if necessary; and

(c) any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (Chapter 43.21C RCW).

(3) The Director must prepare a recommendation based on review of the submitted information, a site inspection, and the proposal's ability to comply with the public agency and utility exception review criteria in subsection (4) of this section.

(4) Review Criteria. An application for a public agency and utility exception may be granted if all of the following criteria apply:

(a) There is no other practical alternative to the proposed development with less impact on the critical areas;

(b) The application of this chapter or Chapters 18.802 through 18.810 SMC would unreasonably restrict the ability to provide utility services to the public;

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

(d) The proposal attempts to protect and mitigate impacts to the critical area functions and values consistent with Best Available Science; and

(e) The proposal is consistent with other applicable regulations and standards.

(5) Burden of Proof. The burden of proof is on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.

18.800.200 Variances.

(1) Variances from the standards of this chapter or Chapters 18.802 through 18.808 SMC may be authorized by the city in accordance with the criteria in this section and the procedures in SMC Chapter 18.330. For variances from SMC Chapter 18.810, see the variance procedures and criteria in that chapter.

(2) Variance Criteria. For deviations from critical areas regulations, a variance may be granted only if the applicant demonstrates that the requested action conforms to all of the criteria in this section. The

decisionmaker must review the request and make a written finding that the request meets or fails to meet the variance criteria.

(a) Special conditions and circumstances exist that are peculiar to the land, the lot, or something inherent in the land, and that are not applicable to other lands in the same district;

(b) The special conditions and circumstances do not result from the actions of the applicant;

(c) A literal interpretation of the provisions of this chapter or Chapters 18.802 through 18.810 SMC would deprive the applicant of privileges permitted to other properties in the vicinity and zone of the subject property under the terms of this chapter, and the variance requested is the minimum necessary to provide the applicant with such rights;

(d) Granting the variance requested does not confer on the applicant any special privilege that is denied by this chapter or Chapters 18.802 through 18.810 SMC to other lands, structures, or buildings under similar circumstances;

(e) The granting of the variance is consistent with the general purpose and intent of this chapter and Chapters 18.802 through 18.810 SMC, and does not further degrade the functions or values of the associated critical areas or otherwise be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the subject property;

(f) The decision to grant the variance includes Best Available Science and gives special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish-habitat; and

(g) The granting of the variance is consistent with the general purpose and intent of the Stanwood Comprehensive Plan and adopted development regulations.

(3) Conditions May Be Required. In granting any variance, the decisionmaker may prescribe such conditions and safeguards as are necessary to secure adequate protection of critical areas from adverse impacts, and to ensure conformity with this chapter.

We added standard time limits to Part 2. If you want to use those, delete the next line.

(4) Time Limit. The decisionmaker must prescribe a time limit within which the action for which the variance is required must be begun, completed, or both. Failure to begin or complete such action within the established time limit voids the variance.

(5) Burden of Proof. The burden of proof is on the applicant to bring forth evidence in support of the application and upon which any decision must be made on the application.

18.800.210 Unauthorized critical area alterations and enforcement.

(1) When a critical area or its buffer has been altered in violation of this chapter or Chapters 18.802 through 18.810 SMC, all ongoing development work must stop and the critical area must be restored. The city has the authority to issue a stop work order to cease all ongoing development work, and order restoration, rehabilitation, or replacement measures at the owner’s or other responsible party’s expense to compensate for violation of the provisions of this chapter.

(2) Requirement for Restoration Plan. All development work must remain stopped until a restoration plan is approved by the city. Such a plan is required to be prepared by a qualified professional using Best Available Science and must describe how the actions proposed meet the minimum requirements described in subsection (3) of this section. The Director, at the violator’s expense, is required to seek expert advice in determining the adequacy of the plan. Inadequate plans must be returned to the applicant or violator for revision and resubmittal.

(3) Minimum Performance Standards for Restoration.

(a) For alterations to critical aquifer recharge areas, frequently flooded areas, wetlands, and habitat conservation areas, the following minimum performance standards must be met for the restoration of a critical area; if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified.

(i) The historic structural and functions and values must be restored, including water quality and habitat functions;

(ii) The historic soil types and configuration must be replicated;

(iii) The critical area and buffers must be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities. The historic functions and values must be replicated at the location of the alteration; and

(iv) Information demonstrating compliance with the mitigation requirements in SMC 18.800.160 must be submitted to the Director.

(b) For alterations to flood and geological hazards, the following minimum performance standards must be met for the restoration of a critical area; if the violator can demonstrate that greater safety can be obtained, these standards may be modified.

(i) The hazard must be reduced to a level equal to, or less than, the pre-development hazard;

(ii) Any risk of personal injury resulting from the alteration must be eliminated or minimized; and

(iii) The hazard area and buffers must be replanted with native vegetation sufficient to minimize the hazard.

(4) Site Investigations. The Director is authorized to make site inspections and take such actions as are necessary to enforce this chapter. The Director is required to present proper credentials and make a reasonable effort to contact any property owner before entering onto private property.

(5) Penalties. This chapter may be enforced pursuant to SMC Title 13 Civil Enforcement.

18.800.220 Critical area markers and signs.

(1) The boundary at the outer edge of critical area tracts and easements must be delineated with permanent survey stakes, using iron or concrete markers as established by local survey standards.

(2) The boundary at the outer edge of the critical area or buffer must be identified with temporary signs prior to any site alteration. Such temporary signs must be replaced with permanent signs prior to occupancy or use of the site.

(3) These provisions may be modified by the Director as necessary to ensure protection of sensitive features or wildlife needs.

18.800.230 Notice on title.

Tansy reports she is not sure you've been following this section.

(1) In order to inform subsequent purchasers of real property of the existence of critical areas, the owner of any property containing a critical area or buffer on which a development proposal is submitted is required to file a title notice with the county records and elections division against the subject property, per the direction of the city.

(2) The notice must state the presence of the critical area or buffer on the property, the application of this chapter to the property, and the fact that limitations on actions in or affecting the critical area or buffer may exist.

(3) This notice on title is not required for a development proposal by a public agency or public or private utility.

(4) The applicant is required to submit proof that the notice has been filed for public record before the city approves any site project permit for the property or, in the case of land divisions, at or before recording.

18.800.240 Native growth protection areas or tracts.

(1) Unless otherwise required in this chapter, native growth protection areas must be used in development proposals for subdivisions, short subdivisions, planned unit developments, and binding site plans to delineate and protect those contiguous critical areas and buffers listed below:

  (a) All landslide hazard areas and buffers;

  (b) All wetlands and buffers;

  (c) All habitat conservation areas; and

  (d) All other lands to be protected from alterations as conditioned by project approval.

(2) Native growth protection areas must be recorded on all documents of title of record for all affected lots.

(3) Native growth protection areas must be designated on the face of the plat or recorded drawing in a format approved by the city attorney. The designation must include the following restrictions:

  (a) An assurance that native vegetation is to be 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, fish, and animal habitat; and

  (b) The right of the city to enforce the terms of the restriction.

(4) Larger areas that are accepted by the city for dedication may be placed in a critical area tract.

18.800.250 Bonds to ensure mitigation construction, maintenance, and monitoring.

Except for subsection (2), this material is not specific to critical areas. Can we deal with this material exclusively in Title 18 Part 2 Procedures? Also note x-ref in (9).

(1) When mitigation required pursuant to a development proposal is not completed prior to the city final permit approval, such as final plat approval or final building inspection, the city must require the applicant to post a performance bond or other security in a form and amount deemed acceptable by the city. If the development proposal is subject to mitigation, the applicant is required to post a mitigation bond or other security in a form and amount deemed acceptable by the city to ensure mitigation is fully functional.

(2) The bond must be in the amount of 150% of the estimated cost of the uncompleted actions or the estimated cost of restoring the functions and values of the critical area that are at risk, whichever is greater. The bond must be based on a detailed, itemized cost estimate of the mitigation activity including clearing and grading, plant materials, plant installation, irrigation, weed management, and all other costs.

(3) The bond must be in the form of a surety bond, performance bond, assignment of savings account, or an irrevocable letter of credit guaranteed by an acceptable financial institution with terms and conditions acceptable to the city attorney.

(4) Bonds or other security authorized by this section must remain in effect until the city determines, in writing, that the permit conditions, code requirements and/or standards bonded for have been met. Once the mitigation installation has been accepted by the Director, the bond may be reduced to 20% of the original mitigation installation cost estimate and become a maintenance surety. Bonds or other security must be held by the city for a minimum of five years to ensure that the required mitigation has been fully implemented and demonstrated to function and may be held for longer periods when necessary.

(5) Depletion, failure, or collection of bond funds does not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.

(6) Public development proposals must be relieved from having to comply with the bonding requirements of this section if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.

(7) Any failure to satisfy critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within 30 days after it is due or comply with other provisions of an approved mitigation plan constitutes a default, and the city may demand payment of any financial guarantees or require other action authorized by the city code or any other law.

(8) Any funds recovered pursuant to this section must be used to complete the required mitigation.

(9) The provisions of SMC 16.30.030, Security Mechanisms, also apply if necessary to ensure adequate protection of the public interest.

18.800.260 Inspections.

> This content is also in 18.800.130 Critical area review process, subsection (3). Can we delete this section?

Reasonable access to the site must be provided to the city, state, and federal agency review staff for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period.

Chapter 18.802 Critical Areas – Wetlands

> The existing SMC Chapter 17.125 has been moved to this new chapter SMC 18.802. Major edits to this chapter include revising wetland regulations to align with Ecology guidance.

18.802.010 Applicability.

> This draft replaces the purpose, objectives, and "relationship to general standards" sections in each critical area chapter, which were largely duplicative of each other, with this new applicability section that makes reference to the general critical areas chapter.

This chapter provides standards for the "wetland" type of critical area and is applied pursuant to the general critical area regulations and processes in SMC Chapter 18.800.

18.802.020 Designation.

(1) Per WAC 173-22-035, wetlands are those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions.

(2) All areas within the City of Stanwood that meet the wetland designation criteria are hereby designated critical areas and are subject to the provisions of this chapter, whether or not they have been previously formally identified.

18.802.030 Classification.

(1) Wetlands are classified using the Washington State Wetland Rating System for Western Washington 2014, or as hereafter amended:

(a) Category I wetlands are wetlands that (a) represent a unique or rare wetland type; or (b) are more sensitive to disturbance than most wetlands; or (c) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (d) provide a high level of functions. Category I wetlands include the following:

(i) Estuarine wetlands greater than one acre;

(ii) Natural heritage wetlands that are identified by the Natural Heritage Program as supporting state-listed threatened or endangered plants;

(iii) Bogs;

(iv) Mature and old-growth forested wetlands;

(v) Wetlands in coastal lagoons; and

(vi) Wetlands scoring 23 to 27 based on functions in the Wetland Rating System.

(b) Category II wetlands are those that are difficult, though not impossible, to replace and provide high levels of some functions, including:

(i) Estuarine wetlands smaller than an acre or disturbed estuarine wetlands larger than an acre;

(ii) Interdunal wetlands larger than one acre; and

(iii) Wetlands scoring 20 to 22 based on functions in the Wetland Rating System.

(c) Category III wetlands include:

(i) Interdunal wetlands between one-tenth acre and one acre in size; and

(ii) Wetlands scoring 16 to 19 based on functions in the Wetland Rating System.

(d) Category IV wetlands are those that have the lowest level of functions in the Wetland Rating System, scoring 9 to 15 based on functions in the Wetland Rating System.

(2) All determinations of wetlands ratings and a wetlands delineation must be made based on the entire extent of the wetlands, unrelated to property lines or ownership patterns.

> The existing SMC section 17.125.060 Standard buffer width requirements has been moved to this section. Wetland buffer tables and the mitigation table were updated based on current Ecology guidance and the Administrative Interpretation 2018-0520. Additional allowances for existing development and acceptable activities in buffers have been added.

18.802.040 Mapping.

> This is a new section, added to maintain parallel organization with the other CA chapters.

Reserved.

18.802.050 Allowed activities.

In addition to the activities allowed in SMC 18.800.120, the following activities are allowed in wetlands and their buffers:

(1) Conservation, Preservation, Restoration and/or Enhancement. Restoration and/or enhancement of wetlands or their buffers; if actions do not alter the location, dimensions or size of the wetland and/or buffer; that actions do not alter or disturb existing native vegetation or wildlife habitat attributes; that actions improve

and do not reduce the existing functions of the wetland or buffer; and that actions are implemented according to a restoration and/or enhancement plan that has been approved by the city of Stanwood.

(2) Disturbance of Soils. When disturbance of soils is allowed in streams, wetlands, or their buffers as part of an authorized, permitted activity or as otherwise allowed in these standards, the following rules apply:

(a) Disturbance of soils is allowed only during the dry season, which is typically regarded as beginning on May 1 and ending on October 1 of each year; the Director may extend or shorten the dry season on a case-by-case basis, based on actual weather conditions.

(b) The soil duff layer in ungraded areas must remain undisturbed to the maximum extent possible. Where feasible, any soil disturbed must be redistributed to other non-wetland and stream areas of the project site.

(c) The moisture-holding capacity of the topsoil layer must be maintained by minimizing soil compaction or reestablishing natural soil structure and infiltrative capacity on all areas of the project area not covered by impervious surfaces.

(d) Erosion and sediment control that meets or exceeds the standards set forth in the city of Stanwood's stormwater regulations (Chapter 17.140 SMC) must be provided.

(3) Public and Private Roadway Crossings, Bridges, and Culverts. Construction of public and private roadway crossings and bridges less than or equal to 30 feet wide and culverts less than or equal to 30 feet long, subject to the following standards:

(a) There is no other feasible alternative route with less impact on the wetland or buffer;

(b) Wetland crossings do not result in fill of greater than one-tenth of an acre of wetland; and

(c) Mitigation for impacts is according to an approved mitigation plan.

(4) Utility Lines. New utility lines may be permitted to cross wetlands and their buffers if they comply with the following standards:

(a) Critical areas and their buffers must be avoided to the maximum extent feasible;

(b) Installation under a wetland must be accomplished when feasible by boring beneath the wetland at a depth sufficient to prevent adverse hydrology impacts;

(c) Mitigation for impacts is according to an approved mitigation plan;

(d) Wetland crossings do not result in fill of greater than one-tenth of an acre of wetland; and

(e) Crossings must be contained within the footprint of an existing street, driveway, or utility crossing where possible.

(5) Modification of Existing Structures. No existing structure may be modified to increase impervious surface in a wetland or buffer.

(6) Nonconforming Uses in Buffers. Existing nonconforming development is not required to utilize the buffers in SMC 18.802.060(1) if routine maintenance, modification, renovations, or redevelopment of existing structures do not intensify the nonconformity of the existing structure or use or increase impacts on the stream from activities in the buffer. If activities in the buffer intensify the nonconformity of the existing structure or use or increase impacts on the buffer, the buffer would need to be increased to the appropriate buffers in SMC 18.802.060(1).

~~(6)~~(7) Existing Properties. If existing properties have a previous wetland buffer that was approved by the city, the approved wetland buffer will remain in effect. Redevelopment or other modifications to the existing footprint are subject to the previously approved wetland buffer. If the existing buffer has become degraded or is not functioning or the buffer may be negatively impacted by the proposed modification or activities, the buffer must be enhanced.

~~(7)~~(8) In the event of a conflict between this section and SMC 18.800.120, this section controls.

18.802.060 Buffers.

(1) Buffers are required for all wetlands regulated by this chapter. The required buffer widths in this section are appropriate for buffers that are well-vegetated and have applied mitigation measures from Table 18.802.060(E); where vegetation is lacking, buffers may need to be widened or re-vegetated to create the appropriate plant community.

(2) Required widths for wetland buffers are as follows:

(a) For Category I wetlands:

Table 18.802.060-1 Category I Wetland Buffers

	Buffer Width (in feet) based on habitat score		
Wetland Category	**3-5**	**6-7**	**8-9**
Category I: Based on Total Score	75	110	225
Category I: Bogs and Wetlands of High Conservation Value	190	190	225
Category I: Interdunal	225	225	225
Category I: Forested	75	110	225
Category I: Estuarine and Coastal Lagoons	150	150	150

(b) For Category II wetlands:

Table 18.802.060-2 Category II Wetland Buffers

	Buffer Width (in feet) based on habitat score		
Wetland Category	**3-5**	**6-7**	**8-9**
Category II: Based on Total Score	75	110	225
Category II: Interdunal	110	110	110

(c) For Category III wetlands:

Table 18.802.060-3 Category III Wetland Buffers

	Buffer Width (in feet) based on habitat score		
Wetland Category	**3-5**	**6-7**	**8-9**
Category III: All	60	110	225
Category III: Interdunal	60	60	60

Note Tansy says to delete Cat III interdunal wetlands.

(d) For Category IV wetlands:

Table 18.802.060-4 Category IV Wetland Buffers

	Buffer Width (in feet) based on habitat score		
Wetland Category	**3-5**	**6-7**	**8-9**
Category IV: All	40	40	40

(3) Measurement. The buffer must be measured horizontally in a landward direction from the wetland edge. Where lands adjacent to a stream or wetland display a continuous slope of 25% or greater, the buffer must include all such sloping areas. Where the horizontal distance of the sloping area is greater than the required standard buffer, the buffer must be extended to a point 25 feet beyond the top of the bank of the sloping area.

(4) Increased Buffers.

(a) Priority Habitat Areas. If a Category I or II wetland with habitat score greater than five points is located within 300 feet of a priority habitat area as defined by the Washington State Department of Fish and Wildlife, the buffer established by subsection (1) of this section must be increased by 50 feet unless:

(i) The applicant provides a relatively undisturbed vegetated corridor at least 100 feet wide between the wetland and all priority habitat areas located within 300 feet of the wetland. The corridor must be protected for the entire distance between the wetland and the priority habitat through a conservation easement, native growth protection easement or the equivalent; and

(ii) The applicable mitigation measures in subsection (4) of this section are provided.

(b) Habitat for Endangered or Threatened Species, or Species of Local Importance. If the wetland contains documented habitat for endangered or threatened species, or species of local importance, the Director must establish the appropriate buffer based on a habitat assessment to ensure that the buffer provides adequate protection for the species.

(5) Reduced Buffer Widths.

(a) Averaging Buffer Widths. The width of a buffer may be averaged, thereby reducing the width of a portion of the buffer, and increasing the width of another portion, if the Director determines that all the following requirements are met:

(i) The ecological structure and function of the buffer after averaging is equivalent to or greater than the structure and function before averaging;

(ii) The total area of the buffer after averaging is equivalent to or greater than the area of the buffer before averaging;

(iii) The additional buffer is contiguous with the standard buffer;

(iv) If the buffer averaging allows a structure or landscaped area to intrude into the original buffer, the resulting intrusion may extend no more than 15 feet into the original buffer area; and

(v) No part of the width of the resulting buffer is less than 65% of the required buffer.

(b) Buffer Width Reduction. Buffer widths for all categories of wetlands may be reduced by 25 feet if the following mitigation measures are applied:

Table 18.802.060-5 Wetland Impact Mitigation Measures

Disturbance	Activities and Uses That May Cause Disturbance	Examples of Measures to Minimize Impacts
Lights	Parking lots, warehouses, manufacturing, high density residential	Direct lights away from wetland; use motion-activated lights; only use lighting where necessary for public safety and keep

		lights off when not needed; use lower-intensity LED lighting; dim light to the lowest acceptable intensity.
Noise	Manufacturing, high density residential	Place activity that generates noise away from wetland; construct a fence to reduce noise impacts on adjacent wetland and buffer; plant a strip of dense shrub vegetation adjacent to wetland buffer.
Toxic runoff	Parking lots, roads, manufacturing, residential areas, application of agricultural pesticides, landscaping	Route all new untreated runoff away from wetland while ensuring wetland is not dewatered~~; or~~; establish covenants limiting use of pesticides within 150 feet of wetland; ~~or~~ apply integrated pest management program.
Stormwater runoff/Change in water regime	Any impermeable surface, lawns, tilling	Infiltrate or treat, detain, and disperse runoff from impervious surfaces; retrofit stormwater detention and treatment for roads and existing adjacent development; prevent channelized or sheet flow from lawns that directly enters the buffer.
Pests and humans	Residential areas	Privacy fencing or landscaping with dense vegetation to delineate buffer edge and to discourage disturbance of wildlife by humans and pets; educational signage.
Dust	Tilled fields, roads	Best management practices for dust control.
Degraded buffer	Existing degraded buffer condition	Non-native plants to be removed and replaced with native vegetation per an approved planting plan; and restoration to be bonded and monitored per SMC 18.800.250.
~~Other as further defined by DOE wetlands guidance documents~~	~~Other as furthered by DOE wetlands guidance documents~~	Other as further defined by DOE wetlands guidance documents.

18.802.070 Building setbacks.

Unless otherwise provided, buildings and other structures must be set back 15 feet from the edges of all wetland buffer boundaries. The following may be allowed in the building setback area:

(1) Landscaping;

(2) Uncovered decks;

(3) Building overhangs if such overhangs do not extend more than 18 inches into the setback area; and

(4) Impervious ground surfaces, such as driveways and patios; such improvements may be subject to water quality regulations as adopted in Chapter 17.140 SMC.

18.802.080 Critical area report requirements.

Note the amended threshold here.

A critical area report is required for any development activity allowed under this chapter and SMC 18.802.100 within the critical area or its buffer. In addition to the general requirements of SMC 18.800.140, the following must be included in the critical area report:

(1) A map drawn to scale or survey showing the following information:

(a) the edge of the wetland based on the standards listed in WAC 173-22-035;

(b) the wetland characteristics and plant communities based on the U.S. Fish and Wildlife Service Classification of Wetlands and Deep Water Habitats in the U.S.;

(c) stream corridors including name (if named) and stream type based on the State Department of Natural Resources' Official Water Type Maps; and

(d) observed or reported wildlife that make use of the area including, but not limited to, nesting, breeding, and feeding areas;

(2) A description of the streams and wetlands within 150 feet of the subject property, including:

(a) buffers;

(b) drainage systems entering and leaving the site;

(c) a list of observed and documented plant and wildlife species;

(d) a description of the relative abundance of documented plant and wildlife species; and

(e) a description of the method used for flagging the wetland edge, stream corridor, and buffers;

(3) A description and illustration of proposed development activities allowed under this section and SMC 18.802.100 within the wetlands or buffers;

(4) A description of any previous disturbances to the wetlands or buffers;

(5) A summary of the methodology used to conduct the study;

(6) A proposed classification of the wetlands based on SMC 18.802.050 and an explanation or rationale for the proposed rating;

(7) A mitigation plan that meets the requirements of SMC 18.802.090;

(8) A discussion of existing functions and values of the wetland(s) and buffers;

(9) A discussion of the changes to wetland and buffer functions and values resulting from the proposed development activity.

18.802.090 Mitigation plan requirements.

(1) If alteration to a wetland or buffer is unavoidable, all adverse impacts to the wetland or buffer must be mitigated in accordance with an approved critical area report. When mitigation is required by this chapter, it must address restoration, rehabilitation, and compensation in accordance with SMC 18.800.180 and 18.800.190 and the following requirements:

(a) Wetland acreage must be replaced at the following ratios when proposed on site or off site within the same subdrainage basin ("Stillaguamish floodplain"):

Table 18.802.090-1 Replacement Ratios

Wetland Category	Replacement Ratio
Category I	6:1
Category II	3:1
Category III	2:1
Category IV	1.5:1

Tansy says the next paragraph has been causing issues. Delete? Or add a new column to the table above for mitigation outside the sub-basin?

(b) The ratios in subsection (1)(a) of this section must be doubled for off-site mitigation located outside the sub-basin ("Stillaguamish floodplain"), but within the larger mainstem Stillaguamish Basin. The ratios in subsection (1)(a) of this section must also be doubled when mitigation proposes enhancement of an existing wetland. At a minimum a 1:1 replacement ratio must be met first and enhancement may be utilized to meet ratio requirements beyond that.

(c) In kind, on-site mitigation that is sufficient to achieve equivalent or greater critical area and/or buffer biologic functions and values is preferred to ensure, to the greatest extent feasible, that the plan results in mitigation for direct impacts resulting from the alteration.

(d) Off-site mitigation may be used only in those situations where appropriate, adequate on-site mitigation is not feasible to achieve.

(2) The mitigation plan must:

(a) Include a baseline study that analyzes the existing functions and values of the wetlands and buffer, functions and values that may be lost, and the system's functions and values after mitigation;

(b) Specify how lost functions and values will be replaced;

(c) Specify when mitigation will occur relative to project construction and to the requirements of permits required by other jurisdictions;

(d) Address the need for and, when appropriate, determine the width of the buffer adjacent to any altered wetland edge; and

(e) In commercial or other public projects, provide interpretative signage at the rate of one per every five acres or portion thereof. The contents and design of the signage must be approved by the Director prior to installation.

Additional allowances for existing development and acceptable activities in buffers have been added to the section below.

Note to staff: We have added the language Patricia discussed for nonconforming uses in buffers to the streams section below, but do you also want this to apply to wetland buffers? It is included here, but can be removed, if desired.

18.802.110 Wetland mitigation bank credit.

(1) Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:

(a) The bank is certified under Chapter 173-700 WAC;

(b) The Director determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and

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

(2) Replacement ratios for projects using bank credits must be consistent with replacement ratios specified in the bank's certification.

(3) Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, bank service areas may include portions of more than one adjacent drainage basin for specific wetland functions.

Chapter 18.804 Critical Areas – Fish and Wildlife Habitat Conservation Areas

> The existing SMC Chapter 17.130 has been moved to this new Chapter SMC 18.804. The definition for FWHCA's will be updated in the definitions section, consistent with RCW 36.70A.030(6). The following sections were updated based on Ecology guidance, including changing the stream typing to be consistent throughout the chapter. The stream buffers were also updated by adding a requirement for using SPTH for new development.

18.804.010 Applicability.

> This draft replaces the purpose, objectives, and "relationship to general standards" sections in each critical area chapter, which were largely duplicative of each other, with this new applicability section that makes reference to the general critical areas chapter.

This chapter provides standards for the "Fish and Wildlife Habitat Conservation Area" type of critical area and is applied pursuant to the general critical area regulations and processes in SMC Chapter 18.800.

18.804.020 Designation.

(1) All areas within the City meeting one or more of the criteria in (2) are hereby designated Fish and Wildlife Habitat Conservation Areas and are subject to the provisions of this chapter.

(2) Fish and Wildlife Habitat Conservation Areas include:

  (a) Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association.

    (i) Federally designated endangered and threatened species are those fish and wildlife species identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service that are in danger of extinction or are threatened to become endangered. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service may be consulted as necessary for current listing status.

    (ii) State designated endangered, threatened, and sensitive species are those fish and wildlife species native to the state of Washington identified by the Washington Department of Fish and Wildlife that are in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. State designated endangered, threatened, and sensitive species are periodically recorded in WAC 232-12-014 (state endangered species), and WAC 232-12-011 (state threatened and sensitive species). The Washington Department of Fish and Wildlife maintains the most current listing and may be consulted as necessary for current listing status.

  (b) State Priority Habitats and the Habitats of State Priority Species. Priority habitats and species are priorities for conservation and management. Priority species require protective measures for their perpetuation due to their population status; sensitivity to habitat alteration; and/or recreational, commercial, or tribal importance. Priority habitats are those habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element. Priority habitats and species are identified by the Washington Department of Fish and Wildlife; maps and reports can be obtained by contacting the Washington Department of Fish and Wildlife's Priority Habitats and Species Program.

(c) Habitats and Species of Local Importance. Habitats and species of local importance are those identified by the City Council, including those that possess unusual or unique habitat warranting protection. Any species identified by the City Council must be listed.

(d) Commercial and Recreational Shellfish Areas. These areas include all public and private tidelands or bedlands suitable for shellfish harvest, including shellfish protection districts established pursuant to Chapter 90.72 RCW.

(e) Naturally Occurring Ponds under 20 Acres. Naturally occurring ponds are those ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas to mitigate impacts to ponds. Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, farm ponds, temporary construction ponds, and landscape amenities, unless such artificial ponds were intentionally created for mitigation.

(f) Waters of the State. In the city of Stanwood, waters of the state include lakes, ponds, streams, inland waters, underground waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington, as classified in WAC 222-16-031.

(g) State Natural Area Preserves and Natural Resource Conservation Areas. Natural area preserves and natural resource conservation areas are defined, established, and managed by the Washington Department of Natural Resources.

(h) Land essential for preserving connections between habitat blocks and open spaces.

18.804.030 Classification.

> This section is based on existing SMC 17.130.050.
>
> The classification of streams was updated based on the new water typing system in WAC 222-16-030. Language closely mirrors the WAC and was not updated for grammar or plain language. Some inconsistencies between code and WAC were inherited from existing code. Updated "department" in the definition to "Ecology."

(1) Streams are classified as described below, consistent with WAC 222-16-030:

(a) Type S Streams. All waters, within their bankfull width, as inventoried as "shorelines of the state" under Chapter 90.58 RCW and the rules promulgated pursuant to Chapter 90.58 RCW, including periodically inundated areas of their associated wetlands.

(b) Type F Streams. Segments of natural waters that are not classified as Type S Streams, which are the bankfull widths of defined channels and periodically inundated areas of their associated wetlands, or within lakes, ponds, or impoundments having a surface area of 0.5 acre or greater at seasonal low water, and have fish or the potential to support fish habitat or are described by one of the following four categories:

(i) Waters, which are diverted for domestic use by more than 10 residential or camping units or by a public accommodation facility licensed to serve more than 10 persons, where such diversion is determined by Ecology to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type F Water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by 50%, whichever is less;

(ii) Waters, which are diverted for use by federal, state, tribal, or private fish hatcheries. Such waters shall be considered Type F Water upstream from the point of diversion for 1,500 feet, including tributaries if highly significant for protection of downstream water quality. Ecology may allow additional harvest beyond the requirements of Type F Water designation provided Ecology determines after a landowner-requested on-site assessment by the department of fish and wildlife, department of ecology, the affected tribes and interested parties that:

(A) The management practices proposed by the landowner will adequately protect water quality for the fish hatchery; and

(B) Such additional harvest meets the requirements of the water type designation that would apply in the absence of the hatchery;

(iii) Waters, which are within a federal, state, local, or private campground having more than 10 camping units: If the water is not considered to enter a campground until it reaches the boundary of the park lands available for public use and comes within 100 feet of a camping unit, trail, or other park improvement;

(iv) Riverine ponds, wall-based channels, and other channel features that are used by fish for off-channel habitat. These areas are critical to the maintenance of optimum survival of fish. This habitat must be identified based on the following criteria:

(A) The site must be connected to a fish habitat stream and be accessible during some period of the year; and

(B) The off-channel water must be accessible to fish through a drainage with less than a 5% gradient.

(c) Type Np Streams. All segments of natural waters within the average bankfull width of defined channels that are perennial non-fish habitat streams. Perennial streams are streams that do not dry any time during a year of normal rainfall. Type Np streams are not used by fish and do not have the potential to provide fish habitat. If the uppermost point of perennial flow cannot be identified with simple, nontechnical observations (see State Forest Practices Board Manual, Section 23), then Type Np Streams begin at a point along the channel where the contributing basin area is at least 52 acres.

(d) Type Ns Streams. All segments of natural waters within the average bankfull width of the defined channels that are not Type S, F, or Np Streams. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np streams. Ns Waters must be physically connected by an above-ground channel system to Type S, F, or Np streams.

18.804.040 Mapping

> ℹ This is a new section, added to maintain parallel organization with the other CA chapters.

Reserved.

18.804.050 Allowed activities.

In addition to the activities allowed in SMC 18.800.120, the following activities are allowed in wetlands and their buffers:

(1) Conservation, Preservation, Restoration and/or Enhancement. Restoration and/or enhancement of wetlands or their buffers; so long as actions do not alter the location, dimensions or size of the buffer; that actions do not alter or disturb existing native vegetation or wildlife habitat attributes; that actions improve and do not

reduce the existing functions of the stream or buffer; and that actions are implemented according to a restoration and/or enhancement plan that has been approved by the city of Stanwood.

(2) Disturbance of Soils. If disturbance of soils is necessary in stream buffers as part of an authorized, permitted activity or as otherwise allowed in these standards, the following apply:

(a) Grading is allowed only during the dry season, which is typically regarded as beginning on May 1 and ending on October 1 of each year; the Director may extend or shorten the dry season on a case-by-case basis, based on actual weather conditions.

(b) The soil duff layer in ungraded areas must remain undisturbed to the maximum extent possible. Where feasible, any soil disturbed must be redistributed to other non-wetland and stream areas of the project site.

(c) The moisture-holding capacity of the topsoil layer must be maintained by minimizing soil compaction or reestablishing natural soil structure and infiltrative capacity on all areas of the project area not covered by impervious surfaces.

(d) Erosion and sediment control that meets or exceeds the standards set forth in the city of Stanwood's stormwater regulations must be provided.

(3) Public and Private Roadway Crossings, Bridges, and Culverts. Construction of public and private roadway crossings and bridges less than or equal to 30 feet wide and culverts less than or equal to 30 feet long, subject to the following standards:

(a) There is no other feasible alternative route with less impact on the stream or buffer;

(b) Stream crossings must minimize interruption of downstream movement of wood and gravel;

(c) Mitigation for impacts must be provided pursuant to an approved mitigation plan; and

(d) Stream bridges and culverts must be designed according to the Washington Department of Fish and Wildlife "Fish Passage Design at Road Culverts," March 1999, or the National Marine Fisheries Service "Guidelines for Salmonid Passage at Stream Crossings," 2000.

(4) Utility Lines. New utility lines may be permitted to cross FWHCA and their buffers if they comply with the following standards:

(a) Critical areas and their buffers must be avoided to the maximum extent feasible;

(b) Installation across a stream must be accomplished by boring beneath the scour depth and hyporheic zone of the water body and channel migration zone, unless it is not feasible due to engineering constraints;

(c) Installation under a wetland must be accomplished if feasible by boring beneath the wetland at a depth sufficient to prevent adverse hydrology impacts;

i Deleted "by the City of Stanwood" in the next line. Utility lines are not necessarily city utilities.

(d) Mitigation for impacts is provided;

(e) The utilities must cross at an angle between 60 and 90 degrees to the centerline of the channel in streams or perpendicular to the channel centerline whenever boring under the channel is not feasible due to engineering constraints;

(f) Crossings must be contained within the footprint of an existing street, driveway, or utility crossing where possible;

(g) The utility route must avoid paralleling the stream or following a down-valley course near the channel; and

(h) The utility installation may not increase or decrease the natural rate of shore migration or channel migration.

(5) Streambank Stabilization.

(a) Streambank stabilization to protect new structures from future channel migration is not permitted except when such stabilization is achieved through bioengineering or soft armoring techniques in accordance with an approved critical area report. All actions must comply with the appropriate state and federal guidelines and obtain any required state and federal permits.

(b) Streambank stabilization to protect existing structures from channel migration is permitted in accordance with an approved critical area report. All actions must comply with the appropriate state and federal guidelines and obtain any required state and federal permits.

(c) Maintenance of existing streambank stabilization features is allowed subject to the following:

(i) Only hand equipment (no power tools) may be used within the stream and stream buffer;

(ii) No clearing of vegetation within the stream or stream buffer;

(iii) Maintenance actions must be restricted to May 1st through October 1st or as modified by appropriate state and federal timing restrictions; and

(iv) All actions must comply with the appropriate state and federal guidelines and obtain any required state and federal permits.

(6) Modification of Existing Structures. No existing structure may be modified to increase impervious surface in the stream or stream buffer.

(7) Nonconforming Uses in Buffers. Existing nonconforming development is not required to utilize SPTH buffers if routine maintenance, modification, renovations, or redevelopment of existing structures do not intensify the nonconformity of the existing structure or use or increase impacts on the stream from activities in the buffer. If activities in the buffer intensify the nonconformity of the existing structure or use or increase impacts on the stream, the buffer would need to be increased to the appropriate SPTH buffer.

~~(7)~~(8) Existing Properties. If existing properties have a previous buffer that was approved by the city, the approved buffer will remain in effect. Redevelopment or other modifications to the existing footprint are subject to the previously approved buffer. If the existing buffer has become degraded or is not functioning or the buffer may be negatively impacted by the proposed modification or activities, the buffer must be enhanced.

18.804.060 Buffers.

i This section is based on existing SMC 17.130.060.

i Consistent with Department of Fish and Wildlife guidance and Best Available Science, this section proposes to abandon the table of buffer widths based on stream type and instead set buffer width based on site-potential tree height (SPTH) using the associated mapping tool to determine stream buffers for new development.

Buffers are required for all streams regulated by this chapter. Required minimum stream buffer widths are as stated in this section.

(1) New development must utilize the Washington Department of Fish and Wildlife (WDFW) site potential tree height (SPTH) mapping tool to determine appropriate stream buffers. The buffer must be equal to the height of the tallest 200-year-old site-potential tree ($SPTH_{200}$) or 100 feet, whichever is greater.

(2) Measurement. The buffer must be measured horizontally in a landward direction from the ordinary high-water mark. Where lands adjacent to a stream display a continuous slope of 25% or greater, the buffer must include all such sloping areas. Where the horizontal distance of the sloping area is greater than the required standard buffer, the buffer must be extended to a point 25 feet beyond the top of the bank of the sloping area.

(3) Averaging Buffer Widths. The width of a buffer may be averaged, thereby reducing the width of a portion of the buffer, and increasing the width of another portion, if all the following requirements are met:

(a) Averaging does not impair or reduce the habitat, water quality purification and enhancement, stormwater detention, groundwater recharge, shoreline protection and erosion protection, and other functions of the stream or buffer;

(b) The total area of the buffer on the subject property is not less than the buffer which would be required if averaging were not allowed; and

(c) No part of the width of the buffer is less than 65% of the required width or 25 feet, whichever is greater.

(4) Buffer Width Reduction. Buffer widths may be reduced if the buffer is enhanced in accordance with the following requirements:

(a) Buffer width reduction and enhancement is targeted for buffer areas that have minimal functions and values due to existing physical characteristics;

(b) The applicant demonstrates that proposed buffer enhancement, together with proposed buffer width reduction, will result in an increase in the functional value of the buffer when compared with the functional value of the standard buffer;

(c) The applicant includes a comparative analysis of buffer values prior to and after enhancement, and demonstrates compliance with this section, as part of the critical area report required by SMC 18.804.090;

(d) The buffer width is not reduced below 75% of the standard buffer width, or 25 feet, whichever is greater, and the total buffer area reduction is not less than 75% of the total buffer area before reduction; and

(e) The functions and values of the stream protected by the buffer are not decreased.

18.804.070 Building setbacks.

(1) Buildings and other structures must be set back 15 feet from the outer edges of stream buffers, except as provided in subsection (2).

(2) The following may be allowed in the building setback area:

(a) Landscaping;

(b) Uncovered decks;

(c) Building overhangs if such overhangs do not extend more than 18 inches into the setback area; and

(d) Impervious surfaces such as driveways and patios (subject to City stormwater regulations).

i New provisions addressing existing development and activities in buffers have been added.

18.804.080 Critical area report requirements.

If a critical area report is required, the Director may require any or all of the following as part of the critical area report, in addition to the general requirements of SMC 18.800.140:

(1) Stream corridors, name (if named), and stream type based on the State Department of Natural Resources' Official Water Type Maps and SMC 18.804.050;

(2) Observed or reported wildlife that make use of the area including, but not limited to, nesting, breeding, and feeding areas;

(3) A description of the streams and wetlands within 150 feet of the subject property, including buffers, drainage systems entering and leaving the site, a list of observed and documented plant and wildlife species, a description of the relative abundance of documented plant and wildlife species, and a description of the method used for flagging the wetlands edge, stream corridor, and buffers;

(4) A description and illustration of proposed development activities within the stream or buffer;

(5) A description of any previous disturbances to the stream or buffer;

(6) A summary of the methodology used to conduct the study;

(7) A mitigation plan which meets the requirements of SMC 18.800.180 and 18.800.190;

(8) A stream relocation plan, if applicable;

(9) A discussion of existing functions and values of the stream and buffers; and

(10) A discussion of the changes to stream and buffer functions and values resulting from the proposed development activity.

Mitigation ratios for FWHCAs could be added to a new .090 Mitigation plan requirements.

Chapter 18.806 Critical Areas – Geologically Hazardous Areas

The existing SMC Chapter 17.115 Critical Areas – Geologically Hazardous Areas – Specific Standards has been moved to this new Chapter SMC 18.806. A definition for geologically hazardous areas will be added to the definitions section, consistent with RCW 36.70A.030(14) and WAC 365-190-120(1).

18.806.010 Applicability.

This draft replaces the purpose, objectives, and "relationship to general standards" sections in each critical area chapter, which were largely duplicative of each other, with this new applicability section that makes reference to the general critical areas chapter.

This chapter provides standards for the "Geologically Hazardous Area" type of critical area and is applied pursuant to the general critical area regulations and processes in SMC Chapter 18.800.

18.806.020 Designation.

The following definition is taken from the critical areas checklist and RCW 36.70A.030(14) and WAC 365-190-120(1).

(1) Geologically hazardous areas include 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 and safety concerns. They pose a threat to the health and safety if incompatible development is sited in areas of significant hazard. Such incompatible development may not only place itself at risk, but also may increase the hazard to surrounding development and use. Areas

susceptible to one or more of the following types of hazards must be designated as a geologically hazardous area:

(a) Erosion hazard;

(b) Landslide hazard;

(c) Seismic hazard; and

(d) Other geological events including tsunamis, volcanic hazards, and differential settlement.

(2) Erosion Hazard Areas. Erosion hazard areas include, but are not limited to, those areas identified by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a "moderate to severe," "severe," or "very severe" rill and inter-rill erosion hazard. On the city's critical areas maps, these are shown as areas of moderate or steep slopes. Erosion hazard areas are also those areas impacted by shore land or stream bank erosion, or both.

(3) Landslide Hazard Areas. Landslide hazard areas are areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. Examples include:

(a) Areas of historic failures, such as those areas delineated by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a "severe" limitation for building site development;

(b) Areas with all three of the following characteristics:

(i) Slopes steeper than 15%; and

(ii) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and

(iii) Springs or groundwater seepage;

(c) Areas that have shown movement during the Holocene epoch (from 10,000 years ago to the present) or that are underlain or covered by mass wastage debris of that epoch;

(d) Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;

(e) Areas potentially unstable because of rapid stream incision, stream bank erosion, and undercutting by wave action;

(f) Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding; and

(g) Any area with a slope of 40% or steeper and with a vertical relief of 10 or more feet except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least 10 feet of vertical relief.

(4) Seismic Hazard Areas. Seismic hazard areas are areas subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, lateral spreading, or surface faulting. Settlement and soil liquefaction conditions occur in areas underlain by cohesionless, loose, or soft-saturated soils of low density, typically in association with a shallow groundwater table. One indicator of potential for future earthquake damage is a record of earthquake damage in the past. Ground shaking is the primary cause of earthquake damage in Washington. The strength of ground shaking is primarily affected by:

(a) The magnitude of an earthquake;

(b) The distance from the source of an earthquake;

(c) The type of thickness of geologic materials at the surface; and

(d) The type of subsurface geologic structure.

(5) Tsunami Hazard Areas. Tsunami hazard areas are coastal areas and large lake shoreline areas susceptible to flooding and inundation as the result of excessive wave action derived from seismic or other geologic events.

i The following sections were reworked based on the Critical Areas Checklist.

(6) Volcanic Hazard Areas. Areas susceptible to mud or debris flows from volcanic eruptions (Glacier Peak).

(7) Other Hazard Areas. Geologically hazardous areas also include areas determined by the city to be susceptible to other geological events including mass wasting, debris flows, rock falls, and differential settlement, and hazards from mine workings (such as adits, gangways, tunnels, drifts, or air shafts).

18.806.030 Classification.

Geologic hazard areas are classified according to the following categories for each geologic hazard type.

Table 18.806.040-1 Geologic hazard types

Classification	Documentation and Data Sources
Known or suspected risk	Documentation or projection of the hazard by a qualified professional exists.
Risk unknown	Documentation or projection of the lack of hazard by a qualified professional exists, or data are not available to determine the presence or absence of a geologic hazard.

18.806.040 Mapping.

i This section is based on existing SMC 19.70.420 Mapping.

(1) The approximate location and extent of geologically hazardous areas are shown on the adopted critical area maps (see the Natural Features Element of the Stanwood Comprehensive Plan). The adopted critical area maps include:

(a) U.S. Geological Survey landslide, seismic, and volcanic hazard maps;

(b) Department of Natural Resources seismic hazard maps for Western Washington, as applicable;

(c) Department of Natural Resources slope stability maps, as applicable;

(d) National Oceanic and Atmospheric Administration tsunami hazard maps (pending); and

(e) Locally adopted maps.

(2) These maps are to be used as a guide for city staff, project applicants and/or property owners, and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

18.806.050 Allowed activities.

(1) In addition to the activities allowed in SMC 18.800.120, the following activities are allowed in geologically hazardous areas and their buffers:

(2) In addition to the standards in SMC 18.800.120, trails proposed to be located in landslide or erosion hazard areas must be constructed in a manner that does not increase the risk of landslide or erosion and in accordance with an approved geotechnical report.

(3) Moderate and Severe Erosion Hazards and Landslide Hazards on Moderate and Steep Slopes. Except as otherwise provided for in this chapter and Chapter 18.800 SMC, only those activities approved and permitted consistent with an approved critical area report in accordance with this chapter are allowed in moderate or severe erosion hazard areas or in landslide hazard areas with moderate or steep (severe) slopes.

(4) The following activities are allowed within slight erosion, low landslide, all volcanic, and all seismic hazard areas without a critical areas report:

   (a) Construction of new buildings with less than 2,500 square feet of floor area or roof area, whichever is greater, and which are not residential structures or used as places of employment or public assembly;

   (b) Single-Family Infill Development. Construction of a single-family unit, additions, and accessory structures that do not impact streams, wetlands, or their buffers; and

   (c) Installation of fences.

(5) For single-family permits meeting the criteria of subsection (4) of this section, the city must require, prior to occupancy, recording of a covenant on the title of the property for which a building permit is issued, stating as follows:

Persons with interest in this property are advised that this property is potentially subject to flooding, geologic (seismic), erosion, and volcanic lahars (mudflow) hazards.

(6) Critical facilities are not permitted on seismic faults or tsunami inundation areas. If such a prohibition is unreasonable, an allowance for critical facilities in tsunami areas can be made with the following specific conditions:

   (a) Construction of new critical facilities is permissible if no feasible alternative site is available.

   (b) Critical facilities must have the lowest floor elevated three feet or more above the level of the base flood elevation (100-year flood).

   (c) Floodproofing and sealing measures must be taken to ensure that toxic substances are not displaced by or released into flood waters.

   (d) Access routes elevated to or above the level of the base flood elevation are provided to all critical facilities to the extent possible.

18.806.060 Buffers and Other Performance Standards.

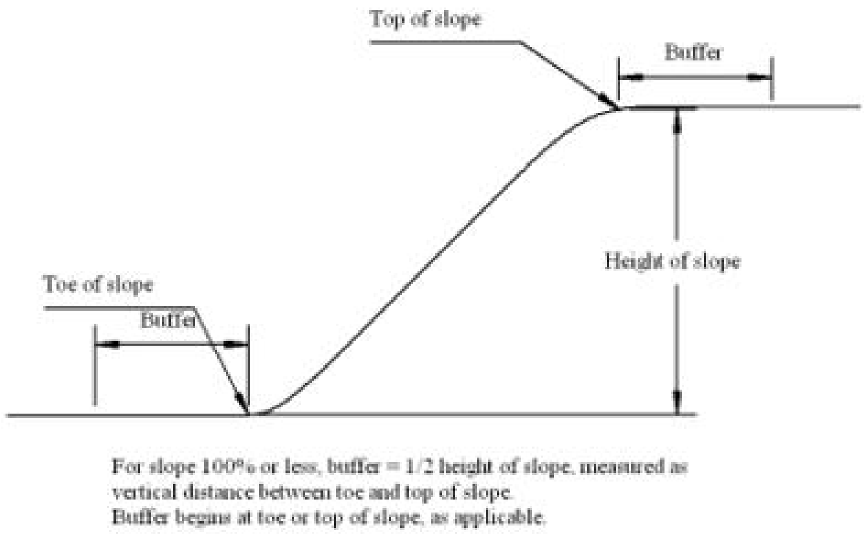
(1) Erosion and Landslide Hazard Areas. Activities on sites containing moderate or high erosion or landslide hazards must meet the following requirements:

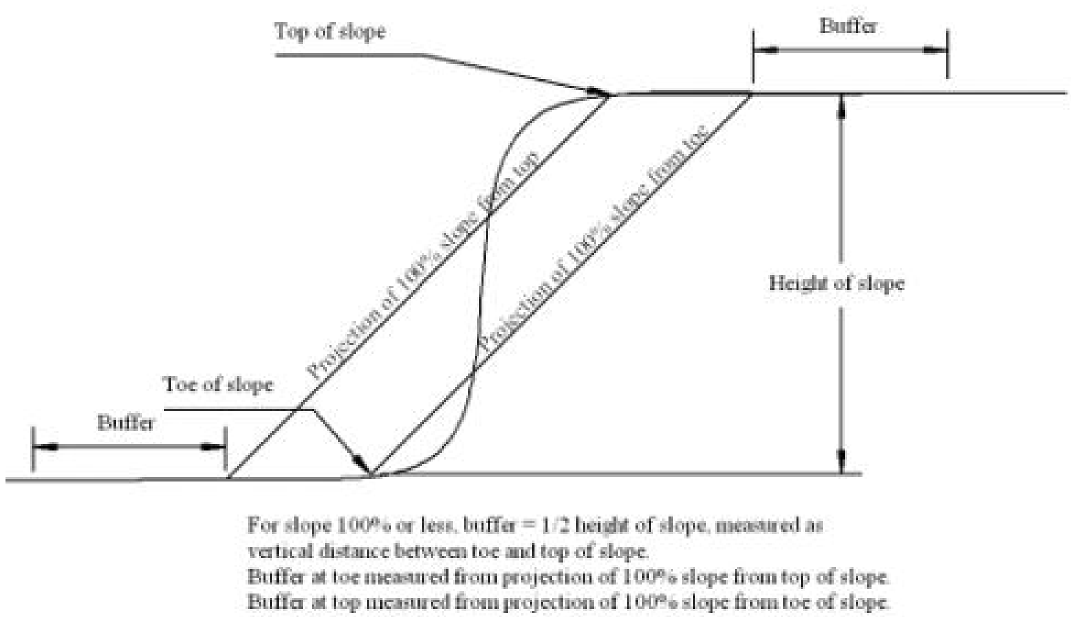
   (a) Buffer Required. A buffer must be established from all edges of moderate or high erosion or landslide hazard areas. The size of the buffer must be determined by the city to eliminate or minimize the risk of property damage, death or injury resulting from erosion and landslides caused in whole or part by the development, based upon review of and concurrence with a critical area report prepared by a qualified professional.

      (i) Minimum Buffer. At the base of a slope, the buffer must be equal to one-half the height of the slope (as measured vertically from the toe to the top of the slope). For slopes less than 100%, the setback must be measured from the toe of the slope. For slopes greater than 100%, the buffer must be measured from a projection of a 100% slope from the top of the slope rather than the actual toe of the slope. See Figure 18.806.080-1.

(ii) At the top of a slope, the setback must be equal to one-third the height of the slope. For slopes less than 100%, this buffer must be measured from the top of the slope. For slopes greater than 100%, this buffer must be measured from the projection of a 100% slope originating at the toe.

Figure 18.806.080-1 Buffer widths for slopes





(iii) Buffer Reduction. The buffer may be reduced to a minimum of 25 feet if a qualified professional demonstrates to the city's satisfaction that the reduction adequately protects the proposed development, adjacent developments and uses and the subject critical area.

(iv) Increased Buffer. The buffer may be increased where the city determines a larger buffer is necessary to prevent risk of damage to proposed and existing development.

(b) Alterations. Alterations of an erosion or landslide hazard area and/or buffer may only occur for activities for which a geotechnical analysis is submitted and certifies that:

(i) The development will not increase surface water discharge or sedimentation to adjacent properties beyond pre-development conditions;

(ii) The development will not decrease slope stability on adjacent properties; and

(iii) Such alterations will not adversely impact other critical areas.

(c) Design Standards. Development within an erosion or landslide hazard area and/or buffer must be designed to meet the following basic requirements unless it can be demonstrated that an alternative design that deviates from one or more of these standards provides greater long-term slope stability while meeting all other provisions of this chapter. The requirement for long-term slope stability excludes designs that require regular and periodic maintenance to maintain their level of function. The basic development design standards are:

(i) The proposed development may not decrease the factor of safety for landslide occurrences below the limits of 1.5 for static conditions and 1.2 for dynamic conditions. Analysis of dynamic conditions must be based on a minimum horizontal acceleration as established by the current version of the Uniform Building Code;

(ii) Structures and improvements must be clustered to avoid geologically hazardous areas and other critical areas;

(iii) Structures and improvements must minimize alterations to the natural contour of the slope and foundations shall be tiered where possible to conform to existing topography;

(iv) Structures and improvements must be located to preserve the most critical portion of the site and its natural landforms and vegetation;

(v) The proposed development may not result in greater risk or a need for increased buffers on neighboring properties;

(vi) The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes;

(vii) Development must be designed to minimize impervious lot coverage.

(d) Vegetation Must Be Retained. Unless otherwise provided or as part of an approved alteration, removal of vegetation from an erosion or landslide hazard area or related buffer is prohibited.

(e) Seasonal Restriction. Clearing is allowed only from May 1st to October 1st of each year; the city may extend or shorten the dry season on a case-by-case basis depending on actual weather conditions, except that timber harvest, not including brush clearing or stump removal, may be allowed pursuant to an approved forest practice permit issued by the Department of Natural Resources.

(f) Utility Lines and Pipes. Utility lines and pipes are permitted in erosion and landslide hazard areas only if the applicant demonstrates that no other practical alternative is available. The line or pipe must be located above ground and properly anchored and/or designed so that it will continue to function in the event of an underlying slide. Stormwater conveyance are allowed only through a high-density polyethylene pipe with fuse-welded joints, or similar product that is technically equal or superior.

(g) Point Discharges. Point discharges from surface water facilities and roof drains onto or upstream from an erosion or landslide hazard area are prohibited except as follows:

(i) Conveyed via continuous storm pipe downslope to a point where there are no erosion hazard areas;

(ii) Discharged at flow durations matching predeveloped conditions, with adequate energy dissipation, into existing channels that previously conveyed stormwater runoff in the predeveloped state; or

(iii) Dispersed discharge upslope of the steep slope onto a low-gradient undisturbed buffer demonstrated to be adequate to infiltrate all surface and stormwater runoff, and where it can be demonstrated that such discharge will not increase the saturation of the slope.

(h) Subdivisions. The division of land in erosion and landslide hazard areas and associated buffers is subject to the following:

(i) Land that is located wholly within an erosion or landslide hazard area or its buffer may not be subdivided. Land that is located partially within an erosion or landslide hazard area or its buffer may be divided; if each resulting lot has sufficient buildable area outside of, and will not affect, the erosion or landslide hazard or its buffer.

(ii) Access roads and utilities may be permitted within the erosion or landslide hazard area and associated buffers if the city determines that no other feasible alternative exists.

(i) Prohibited Development. On-site sewage disposal systems, including drain fields, are prohibited within erosion and landslide hazard areas and related buffers.

(2) Tsunami Hazard Areas (Unknown Hazard). Activities on sites containing areas susceptible to inundation due to tsunami hazards require an evacuation and emergency management plan. Uses in all tsunami hazard areas must adhere to the following standards, in addition to the other requirements of this chapter:

(a) All new construction must be located landward of the reach of mean high tide.

(b) All new construction and substantial improvements must be elevated on pilings and columns so that:

(i) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated one foot or more above the base flood level; and

(ii) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values must each have a 1% chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

(c) Design Must Be Certified. The structural design, specifications and plans for a proposed activity within a tsunami hazard area must be developed, reviewed, and certified by a registered professional engineer or architect that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the standards of this section.

(d) Space Below Lowest Floor Must Be Free of Obstruction. The space below the lowest floor of all new construction and substantial improvements must be either free of obstruction or constructed with nonsupporting breakaway walls, open wood latticework, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purposes of this section, a breakaway wall is required to have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or if required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

(i) Breakaway wall collapse must result from water load less than that which would occur during the base flood; and

(ii) The elevated portion of the building and supporting foundation system is not subject to collapse, displacement, or other structural damage because of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination must each have a 1% chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

(e) Use of Breakaway Walls Must Be Limited. If breakaway walls are utilized, such enclosed space must be used solely for parking of vehicles, building access, or storage, and may not be used for human habitation.

(f) Manufactured Homes. Manufactured homes to be placed or substantially improved in tsunami hazard areas must meet the requirements of this chapter.

(g) Recreational Vehicles. Recreational vehicles placed on sites within tsunami hazard areas must meet the requirements of this chapter.

(3) Seismic and Other Hazard Areas. Alterations of these geologically hazardous areas or associated buffers may only occur for activities that:

(a) Do not increase the threat of the geological hazard to adjacent properties beyond pre-development conditions;

(b) Do not adversely impact other critical areas;

(c) Are designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than pre-development conditions; and

(d) Are certified as safe as designed and under anticipated conditions by a qualified engineer or geologist, licensed in the state of Washington.

18.806.070 Critical area report requirements.

In addition to the general requirements of SMC 18.800.140, critical area reports for geologically hazardous areas must meet the requirements of this section.

(1) Erosion and Landslide Hazard Areas. In addition to the basic critical area report requirements, a critical area report for an erosion hazard or landslide hazard area must include the following information at a minimum:

(a) Site Plan. The report must include a copy of the site plan for the proposal showing:

(i) The height of slope, slope gradient, and cross section of the project area;

(ii) The location of springs, seeps, or other surface expressions of groundwater on or within 200 feet of the project area or that have the potential to be affected by the proposal; and

(iii) The location and description of surface water runoff.

(b) Hazards Analysis. The hazards analysis must specifically include:

(i) A description of subsurface conditions based on data from site-specific explorations;

(ii) Descriptions of surface and groundwater conditions, public and private sewage disposal systems, fills and excavations, and all structural improvements;

(iii) An estimate of slope stability and the effect construction and placement of structures may have on the slope over the estimated life of the structure;

(iv) An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a 100-year storm event;

(v) Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on down slope properties;

(vi) A study of slope stability including an analysis of proposed cuts, fills, and other site grading;

(vii) Recommendations for building siting limitations;

(viii) An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion.

(c) Geotechnical Engineering Report. The technical information for a project within a landslide hazard area must include a geotechnical engineering report prepared by a licensed engineer that presents engineering recommendations for the following:

(i) Parameters for design of site improvements including appropriate foundations and retaining structures. These must include allowable load and resistance capacities for bearing and lateral loads, installation considerations, and estimates of settlement performance;

(ii) Recommendations for drainage and subdrainage improvements;

(iii) Earthwork recommendations including clearing and site preparation criteria, fill placement and compaction criteria, temporary and permanent slope inclinations and protection, and temporary excavation support, if necessary; and

(iv) Mitigation of adverse site conditions including slope stabilization measures and seismically unstable soils, if appropriate.

(d) Erosion and Sediment Control Plan. For any development proposal on a site containing an erosion hazard area, an erosion and sediment control plan is required. The erosion and sediment control plan must be prepared in compliance with requirements set forth in the city's stormwater management regulations.

(e) Drainage Plan. The report must include a drainage plan for the collection, transport, treatment, discharge and/or recycling of water prepared in accordance with the city's surface water management plan. The drainage plan must consider on-site septic system disposal volumes where the additional volume will affect the erosion or landslide hazard area.

(f) Mitigation Plans. Hazard and environmental mitigation plans for erosion and landslide hazard areas must include the location and methods of drainage, surface water management, locations and methods of erosion control, a vegetation management and/or replanting plan and/or other means for maintaining long-term soil stability.

(g) Monitoring Surface Waters. If the city determines that there is a significant risk of damage to downstream receiving waters due to potential erosion from the site, based on the size of the project, the proximity to the receiving waters, or the sensitivity of the receiving waters, the critical area report must include a plan to monitor the surface water discharge from the site. The monitoring plan must include a recommended schedule for submitting monitoring reports to the city.

(2) Seismic Hazard Areas. In addition to the basic report requirements, a critical area report for a seismic hazard area must also meet the following requirements:

(a) The site map must show all known and mapped faults that are within 200 feet of the project area or that have potential to be affected by the proposal.

(b) The hazards analysis must include a complete discussion of the potential impacts of seismic activity on the site (for example, forces generated and fault displacement).

(c) A geotechnical engineering report must evaluate the physical properties of the subsurface soils, especially the thickness of unconsolidated deposits and their liquefaction potential. If it is determined that the site is subject to liquefaction, mitigation measures appropriate to the scale of the development must be recommended and implemented.

(3) Tsunami Hazard Areas. In addition to the basic report requirements, a critical area report for a tsunami hazard area must meet the following requirements:

(a) Site Plan. The site plan must show all areas within 200 feet of the project area that have the potential to be inundated by wave action derived from a seismic event;

(b) Hazards Analysis. The hazards analysis must include a complete discussion of the potential impacts of the tsunami hazard on the site; and

(c) Emergency Management Plan. The emergency management plan must include plans for emergency building exit routes, site evacuation routes, emergency training, notification of local emergency management officials, and an emergency warning system.

(4) Volcanic and Other Geologically Hazardous Areas. In addition to the basic report requirements, the Director may require additional information to be included in the critical area report if determined to be necessary to review the proposed activity and the subject hazard. Additional information that may be required includes, but is not limited to:

(a) Site Plan. The site plan must show all hazard areas located within 200 feet of the project area or that have the potential to be affected by the proposal; and

(b) Hazards Analysis. The hazards analysis must include a complete discussion of the potential impacts of the hazard on the project area and of the proposal on the hazard.

Chapter 18.808 Critical Areas – Critical Aquifer Recharge Areas

ℹ The existing SMC Chapter 17.135 Critical Areas – Critical Aquifer Recharge Areas – Specific Standards has been moved to this new Chapter SMC 18.808.

18.808.010 Applicability.

ℹ This draft replaces the purpose, objectives, and "relationship to general standards" sections in each critical area chapter, which were largely duplicative of each other, with this new applicability section that makes reference to the general critical areas chapter.

This chapter provides standards for the "Critical Aquifer Recharge Area" type of critical area and is applied pursuant to the general critical area regulations and processes in SMC Chapter 18.800.

18.808.020 Designation.

Critical aquifer recharge areas (CARAs) are those areas with a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(3). CARAs have prevailing geologic conditions associated with infiltration rates that create a high potential for contamination of groundwater resources or contribute significantly to the replenishment of groundwater. These areas include the following:

(1) Wellhead Protection Areas. Wellhead protection areas may be defined by the boundaries of the 10-year time of groundwater travel or boundaries established using alternate criteria approved by the Washington State Department of Health in those settings where groundwater time of travel is not a reasonable delineation criterion, in accordance with WAC 246-290-135.

(2) Sole Source Aquifers. Sole source aquifers are areas that have been designated by the U.S. Environmental Protection Agency pursuant to the Federal Safe Water Drinking Act.

(3) Susceptible Groundwater Management Areas. Susceptible groundwater management areas are areas that have been designated as moderately or highly vulnerable or susceptible in an adopted groundwater management program developed pursuant to Chapter 173-100 WAC.

(4) Special Protection Areas. Special protection areas are those areas defined by WAC 173-200-090.

(5) Moderately or Highly Vulnerable Aquifer Recharge Areas. Aquifer recharge areas that are moderately or highly vulnerable to degradation or depletion because of hydrogeologic characteristics are those areas delineated by a hydrogeologic study prepared in accordance with the State Department of Ecology guidelines.

(6) Moderately or Highly Susceptible Aquifer Recharge Areas. Aquifer recharge areas moderately or highly susceptible to degradation or depletion because of hydrogeologic characteristics are those areas meeting the criteria established by the State Department of Ecology.

18.808.040 Mapping.

(1) The approximate location and extent of critical aquifer recharge areas are shown on the adopted critical areas maps (see the Natural Features Element of the Stanwood Comprehensive Plan).

(2) These maps are to be used as a guide for the city, project applicants, and/or property owners and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

18.808.050 Allowed activities.

The following activities are permitted in a CARA without a critical areas report:

(1) Activities permitted under SMC 18.800.120.

(2) Residential uses connected to the city sewer.

(3) Commercial/industrial/institutional uses connected to the city sewer that do not utilize, produce, store, or otherwise discharge hazardous materials, as defined in WAC 173-303-090(8) or SMC 18.808.110.

(4) Utility lines.

18.808.060 Prohibited activities.

The following activities or uses are prohibited within all critical areas identified as CARAs:

(1) Landfills. Landfills, including hazardous or dangerous waste, municipal solid waste, special waste, wood waste, and inert and demolition waste landfills;

(2) Underground Injection Wells. Class I, III, and IV wells and subclasses 5F01, 5D03, 5F04, 5W09, 5W10, 5W11, 5W31, 5X13, 5X14, 5X15, 5W20, 5X28, and 5N24 of Class V wells;

(3) Mining.

  (a) Metals and hard rock mining; and

  (b) Sand and gravel mining, prohibited from critical aquifer recharge areas determined to be highly susceptible or vulnerable;

(4) Wood Treatment Facilities. Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces (both natural and manmade);

(5) Hard chrome plating operations;

(6) Chemical lagoons and pits;

(7) Hazardous material disposal sites;

(8) Storage, Processing, or Disposal of Radioactive Substances. Facilities that store, process, or dispose of radioactive substances;

(9) New septic systems; and

(10)Other Prohibited Uses or Activities:

(a) Activities that would significantly reduce the recharge to aquifers currently or potentially used as a potable water source;

(b) Activities that would significantly reduce the recharge to aquifers that are a source of significant baseflow to a regulated stream; and

(c) Activities that are not connected to an available sanitary sewer system, prohibited from critical aquifer recharge areas associated with sole source aquifers.

18.808.070 Critical area report requirements.

(1) A critical area report is required for:

(a) any proposed use that is not allowed under SMC 18.808.050;

(b) any activity that is located within the one-year time of travel zone for any wellhead.

(2) In addition to the requirements of SMC 18.800.140, a hydrogeological assessment must be provided in a critical area report, and contain the following information:

(a) Available information regarding geologic and hydrogeologic characteristics of the site including the surface location of all critical aquifer recharge areas located on-site or immediately adjacent to the site, and permeability of the unsaturated zone;

(b) Groundwater depth, flow direction, and gradient based on available information;

(c) Currently available data on wells and springs within 1,300 feet of the project area;

(d) Location of other critical areas, including surface waters, within 1,300 feet of the project area;

(e) Available historic water quality data for the area to be affected by the proposed activity;

(f) Best management practices proposed to be utilized, including any low impact development techniques;

(g) Historic water quality data for the area to be affected by the proposed activity compiled for at least the previous five-year period;

(h) Groundwater monitoring plan provisions;

(i) Discussion of the effects of the proposed project on the groundwater quality and quantity, including:

(i) Predictive evaluation of groundwater withdrawal effects on nearby wells and surface water features; and

(ii) Predictive evaluation of contaminant transport based on potential releases to groundwater; and

(j) A spill plan that identifies equipment and/or structures that could fail, resulting in an impact. Spill plans must include provisions for regular inspection, repair, and replacement of structures and equipment that could fail.

18.808.080 Class I and Class I operations.

Certain nonresidential operations present a greater potential risk to water resources because of the volume and type of hazardous materials that are managed. These nonresidential operations are classified below and are subject to the stipulated actions defined in this section.

Table 18.808.090-1 Classifications

Class I Operations	
Definition	Operations that at any time within a one-year period will or do manage over 220 pounds in total of the following: A. Hazardous materials, including any mixtures thereof, that contain constituents referenced in the Code of Federal Regulations, 40 CFR 302.4 (referenced in Section 103(a) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)); or B. Hazardous materials, including any mixtures thereof, that contain constituents from the lists specified for Class II operations below.
Concentration Declassification	A Class I operation is no longer a classified operation if the Class I constituents (40 CFR 302.4) contained in a product or waste are individually present at less than 1% by weight for noncarcinogenic hazardous materials, and less than 0.1% by weight for known or suspected carcinogenic hazardous materials. (Operators should review the Safety Data Sheet for the hazardous materials to make this determination).
Consumer Quantity Declassification	A Class I operation is no longer a classified operation if both of the following conditions are met: A. The operation is focused on research, education, distribution or consumer-oriented activities, including but not limited to laboratories, hospitals, schools, cargo handlers, distributors, warehouses, or retailers; and B. Products containing Class I or Class II hazardous materials are managed in closed containers or sealed bags with individual capacities of no more than 10 gallons for a liquid material and no more than 80 pounds for a dry or solid material.
Metal and Metal Alloy Declassification	Solid metals and solid metal alloys, including but not limited to roll stock, bar stock, sheet stock, and manufactured articles such as equipment, parts, building materials, and piping, that contain one or more metals listed in 40 CFR 302.4 or WAC 173-303-090(8) must be declassified; except, that where machining, forming, grinding, cutting, melting, or other activities produce residues such as shavings, grindings, swarf, fume, or other finely divided particulate forms of a listed metal or metal alloy that may present a threat to water resources, such residues shall not be declassified.
Class II Operations	
Definition	Operations that at any time within a one-year period will or do manage over 2,200 pounds in total of the following: A. Hazardous materials, including any mixtures thereof, that exhibit the characteristic of toxicity because they contain leachable constituents as defined in WAC 173-303-090(8) as amended; or B. Hazardous materials, including any mixtures thereof, that contain constituents that are referenced on the Halogenated Solvent List in SMC 18.808.110.
Site Cleanup Reclassification	A Class II operation must be reclassified as a Class I operation if the primary activity is site remediation or cleanup pursuant to an approved settlement agreement or a remedial action under Chapter 70.105B RCW.
Concentration Reclassification	A Class II operation must be reclassified as a Class I operation if the Class II constituents (from WAC 173-303-090(8)) are present in the hazardous materials being managed at concentrations of less than 5% by weight.
Transfer Warehouse Reclassification	A Class II operation must be reclassified as a Class I operation if the following conditions are met: A. The operation is a transfer warehouse where shipments of products, which may be hazardous materials but not dangerous wastes, are held in portable containers for transfer; and B. Containers of hazardous materials are not opened at the site under any circumstance; and Products containing Class II hazardous materials are managed in containers with individual capacities of no more than 400 gallons.
Consumer Quantity Declassification	A Class II operation is no longer a classified operation if both of the following conditions are met: A. The operation is focused on research, education, distribution, or consumer-oriented activities, including but not limited to laboratories, hospitals, schools, cargo handlers, distributors, warehouses, or retailers; and B. Products containing Class I or Class II hazardous materials are managed in closed containers or sealed bags with individual capacities of no more than 10 gallons for a liquid material and no more than 80 pounds for a dry or solid material.

18.808.090 Required BMPs for Class I and Class II operations.

(1) Development Restrictions.

(a) No Class I or Class II operations are permitted within the one-year time of travel zone in a wellhead protection area.

(b) No Class II operations are permitted within the five-year time of travel zone in a wellhead protection area.

(2) Structural Best Management Practices. All new Class I and II operations must implement the provisions of this section prior to the date of issuance of the certificate of occupancy.

(a) Design and Construction. Operations must be designed, constructed, maintained, and operated to minimize the possibility of an unplanned release of hazardous materials to soil or water resources.

(b) Container/Tank Management. A container or tank holding a hazardous material must always be closed, except to add or remove materials. Hazardous materials must also be managed so that they do not damage the structural integrity of the operation or devices containing the material.

(c) Container/Tank Condition. All containers and tanks must be maintained in such a manner as to ensure effective operation and prevent the release of hazardous materials.

(d) Container/Tank Identification. The owner/operator is required to label all containers and tanks containing hazardous materials to identify the major risk(s) associated with the contents. This labeling must conform to applicable sections of the Uniform Fire Code, Occupational Safety and Health Standards, and/or the State of Washington's Dangerous Waste Regulations.

(e) Releases and Ancillary Equipment. Any leaking pipe, pump, or other ancillary equipment must be repaired or replaced promptly. All hazardous materials that have been released are to be contained and abated immediately. The City is to be notified of any release of hazardous materials in quantities greater than or equal to the reportable quantities referenced in 40 CFR 302.4 (also referenced in Section 103a of CERCLA), or releases of other hazardous materials that clearly impact water resources, as soon as possible but no later than 24 hours after the release. Ancillary equipment associated with hazardous materials must be supported and protected against physical damage and excessive stress.

(f) Compatibility. The owner/operator must use a container or tank made of or lined with materials which are compatible with the hazardous materials to be stored.

(g) Containment. Container and tank storage areas must have a containment system that can collect and holding spills and leaks. This containment must:

(i) Be constructed of an impervious surface with sealed joints;

(ii) Eliminate or minimize joints between concrete slabs and slab/foundation interfaces in the operation;

(iii) Provide pollution control measures to protect water resources, including run-off collection and discharge from active areas;

(iv) Be designed to provide secondary containment of 110% of the container's or tank's capacity; or in areas with multiple tanks, 110%of the largest tank or 10% of the aggregate tank volumes, whichever is larger. Secondary containment must be provided in all areas where hazardous materials are loaded/unloaded, transferred, accumulated, or stored; and

(v) Be compatible with the materials that are being handled.

(h) Loading Areas. Loading and unloading areas must be designed, constructed, operated, and maintained to:

(i) Contain spills and leaks that might occur during loading/unloading;

(ii) Prevent releases of hazardous materials to water resources;

(iii) Contain wash waters (if any) resulting from the cleaning of contaminated transport vehicles and load/unload equipment; and

(iv) Allow for removal as soon as possible any collected hazardous materials resulting from spills, leaks, and equipment cleaning.

(i) Closure. At closure of an operation, all remaining structures, containers, tanks, liners, and soil containing or contaminated with hazardous materials at concentrations above state and federal regulatory thresholds must be decontaminated and properly disposed of or managed.

(3) Spill and Emergency Response Plan (SERP).

(a) All new Class I and II operations must develop and implement a Spill and Emergency Response Plan (SERP) within 90 days of the date of issuance of the certificate of occupancy. Other operations may also be required to develop and implement a SERP if the city determines this action will help prevent releases of hazardous materials to water resources.

(b) The SERP must be maintained on-site and be made available to the city upon request.

(c) The SERP must be updated at least every five years or as needed to reflect significant changes in operation or practices.

(d) At a minimum, the SERP must include the following information:

(i) Spill Prevention.

(A) Drawings including the layout of the operation, a floor plan, direction of drainage, entrance and exit routes, and areas where hazardous materials are received, stored, transported, handled or used in operations.

(B) Listings of all hazardous materials on-site including types, volumes, locations and container types and sizes.

(C) Spill prevention related equipment including equipment which serves to detect releases of potential water resources contaminants.

(ii) Emergency Response.

(A) Chain of command and procedures for spill response.

(B) Phone list of response agencies including federal, state and city emergency contact numbers and environmental cleanup companies.

(C) Procedures for treating and disposing of spilled hazardous materials.

(iii) Certification. The SERP must include a certification signed by an authorized representative of the operation stating: “I certify that the information provided in this document is to the best of my knowledge true and complete, and the spill prevention equipment and emergency response measures described herein are as stated.” The signed certificate must include the authorized representative’s name (printed), title, and contact information.

(4) Operational Inspections.

(a) All new Class I and II operations must implement the provisions of this section upon issuance of certificate of occupancy. Other operations may also be required to implement these provisions if the city determines this action will help prevent releases of hazardous materials to water resources.

(b) Schedule. The owner/operator must develop a written schedule for inspecting all monitoring equipment, safety or emergency equipment, security devices, and any other equipment that helps prevent, detect, or respond to water resource-related hazards.

(c) Regular Inspections. The owner/operator must perform site inspections to identify malfunctions and deterioration of equipment or containers, operator errors, discharges, or any other condition that may cause or lead to the release of hazardous materials to water resources. The owner/operator must conduct these inspections often enough to identify problems in time to correct them before they impact water resources. Inspections must be completed in all areas where hazardous materials are managed, and a written record of those inspections made at least annually.

(d) Water Resource-Related Hazard Mitigation. The owner/operator must remedy any problems revealed by the inspection. Where a water resource-related hazard is imminent or has already occurred, remedial action must be taken immediately.

(5) Training Program.

(a) All new Class I and II operations must implement the provisions of this section upon issuance of certificate of occupancy. Other facilities also may be required to implement these provisions if the city determines this action will help prevent releases of hazardous materials to water resources.

(b) Operations must develop a training program or amend an existing program that informs employees at least once each year of any possible risks to water resources associated with on-site operations. The owner/operator must ensure that employees know or understand:

(i) The location of hazardous materials managed at the operation and the associated potential risks to water resources;

(ii) The location of safety data sheets (SDS) at the operation;

(iii) How employees can detect the presence or release of hazardous materials;

(iv) How employees can protect themselves through work practices, emergency procedures, and with personal protective equipment;

(v) How to locate and use the operation's spill and emergency response plan; and

(vi) How to prevent the pollution or contamination of water resources.

(6) Closure Plan.

(a) Each new Class II operation must prepare and submit to the city a closure plan within six months of the date of issuance of the certificate of occupancy. Class II operations must ensure that their facilities are closed in a manner that prevents the release of hazardous materials during closure, protects water resources, and prevents post-closure escape of hazardous materials to water.

(b) Plan Requirements. The closure plan must detail how the operation will, upon any closure anticipated to be longer than two years, remove and properly dispose of hazardous materials, and perform an investigation to confirm the presence or absence of hazardous materials in the soil and groundwater, if potential contamination is indicated. Specifically, the closure plan must include the following:

(i) A listing of the types and quantities of hazardous materials reasonably expected to be present on-site during the operating life of the operation.

(ii) A description of the plan for removal and disposal of hazardous materials.

(iii) A description of the plan to decontaminate containment systems and ancillary equipment.

(iv) An estimate of the cost to implement the closure plan, using the assumption that a third party will conduct removal and disposal activities.

(v) A certification signed by an authorized representative of the business/industry submitting the closure plan stating, "I certify that the information provided in this document is to the best of my knowledge accurate and the closure measures described herein will be implemented as stated." The signed certificate must include the authorized representative's name (printed), title, and contact information.

(c) Report Update. The owner/operator of an operation must update the closure plan every five years or recertify the current information and estimates. The closure plan must also be updated if operating procedures change in such a way that the volume/mass of hazardous material is increased by 25% or more.

(7) Engineering and Operating Report. If the city recognizes and demonstrates a need for additional information on an operation's practices, the city may require the operation to submit an engineering and operating report to accommodate the city's review of operations and to prevent releases of hazardous materials to water resources. If required, the report must provide the following:

(a) The type of industry or business including the kind and quantity of finished products.

(b) A process flow diagram illustrating the process flow of water and materials in a normal operating day. This must include details on the operation's plumbing and piping and where specific chemicals are added to processes.

(c) A discussion of any discharges to the municipal sewer system.

(d) A discussion of any discharges through land applications, including seepage lagoons, irrigation, and subsurface disposal. As applicable, this discussion may also include the depth to groundwater and anticipated overall effects of the operations on the quality of water resources.

(e) Provisions for any plans for future expansion or intensification.

(f) A certification signed and dated by an authorized representative of the operation stating: "I certify that the information provided in this document is to the best of my knowledge true and complete." The signed certificate must include the authorized representative's name (printed), title, and contact information.

(8) Records and Reports.

(a) Operations must maintain records of required inspection, training, cleaning, and maintenance events. Where operations are otherwise required by the city or another agency to maintain such records, those records must satisfy this requirement. All operations are required to maintain these records on-site for at least three years and must make them available to the city upon request.

(b) Plans, reports, or other documentation concerning the management of hazardous materials must also be made available to the city upon request.

(c) Information provided to the city must be available to the public. Information not claimed as confidential at the time of submission must be made available to the public if requested.

18.808.100 Halogenated solvent list.

i This section is existing SMC 17.135.110, and is referenced in the Class I/Class II Operations section above.

Table 18.808.110-1 Halogenated Solvent List

Solvent	Synonym(s)	CAS No.	Specific Density (g/cc)
Benzyl chloride	Chloromethylbenzene	100-44-7	1.100

Solvent	Synonym(s)	CAS No.	Specific Density (g/cc)
Bis(2-chloroethyl)ether	Bis(-chloroethyl)ether	111-44-4	1.220
Bis(2-chloroisopropyl)ether	Bis(-chloroisopropyl)ether	108-60-1	1.103
Bromobenzene	Phenyl bromide	108-86-1	1.495
Bromochloromethane	Chlorobromomethane	74-97-5	1.934
Bromodichloromethane	Dichlorobromomethane	75-27-4	1.980
Bromoethane	Ethyl bromide	74-96-4	1.460
Bromoform	Tribromomethane	75-25-2	2.890
Carbon tetrachloride	Tetrachloromethane	56-23-5	1.594
Chlorobenzene	Benzene chloride	108-90-7	1.106
2-Chloroethyl vinyl ether	(2-Chlorethoxy)ethane	110-75-8	1.048
Chloroform	Trichloromethane	67-66-3	1.483
1-Chloro-1-nitropropane	Chloronitropropane	600-25-9	1.209
2-Chlorophenol	o-Chlorophenol	95-57-8	1.263
4-Chlorophenyl phenyl ether	p-Chlorodiphenyl ether	7005-72-3	1.203
Chloropicrin	Trichloronitromethane	76-06-2	1.656
m-Chlorotoluene		108-41-8	1.072
o-Chlorotoluene	2-Chloro-1-methylbenzene	95-45-8	1.082
p-Chlorotoluene		106-43-4	1.066
Dibromochloromethane	Chlorodibromomethane	124-48-1	2.451
1,2-Dibromo-3-chloropropane	DPCP	96-12-8	2.050
Dibromodifluoromethane	Freon 12-B2	75-61-6	2.297
1,2-Dichlorobenzene	o-Dichlorobenzene	95-50-1	1.305
1,3-Dichlorobenzene	m-Dichlorobenzene	541-73-1	1.288
1,1-Dichloroethane	1,1-DCA	75-34-3	1.176
1,2-Dichloroethane	Ethylene dichloride, 1,2-DCA	107-06-2	1.235
1,1-Dichloroethene	Vinylidene chloride 1,1-DCE	75-35-4	1.218
trans-1,2-Dichloroethylene	trans-1.2-DCE	156-60-5	1.257
1,2-Dichloropropane	Propylene dichloride	78-87-5	1.560
cis-1,3-Dichloropropene	cis-1,3-Dichloropropylene	10061-01-5	1.224
trans-1,3-Dichloropropene	trans-1,3-Dichloropropylene	10061-02-0	1.182
Ethylene dibromide	1,2-Dibromoethane, EDB	106-93-4	2.179
Hexachlorobutadiene	HCBD	87-68-3	1.554
Hexachlorocyclopentadiene	HCCPD	77-47-4	1.702
Methylene chloride	Dichloromethane	75-09-2	1.327
Pentachloroethane	Ethane pentachloride	76-01-7	1.680
1,1,2,2-Tetrabromoethane	Acetylene tetrabromide	79-27-6	2.875
1,1,2,2-Tetrachloroethane	Acetylene tetrachloride	79-34-5	1.595
Tetrachloroethylene	Perchlororethylene, PCE	127-18-4	1.623
1,2,4-Tetrachlorobenzene	1,2,4-TCB	120-82-1	1.454
1,1,1-Trichloroethane	Methyl chloroform, 1,1,1-TCA	71-55-6	1.339
1,1,2-Trichloroethane	1,1,2-TCA	79-00-5	1.440

Solvent	Synonym(s)	CAS No.	Specific Density (g/cc)
Trichloroethylene	TCE	79-01-6	1.464
1,1,2-Trichlorofluoromethane	Freon 11	75-69-4	1.487
1,2,3-Trichloropropane	Allyl trichloride	96-18-4	1.389
1,1,2-Trichlorotrifluoroethane	Freon 113	76-13-1	1.564

Chapter 18.810 Critical Areas – Frequently Flooded Areas

> The existing SMC Chapter 17.120 is moved to this new Chapter SMC 18.810. This section was renamed from "Floodplain Management" to "Critical Areas – Frequently Flooded Areas"

18.810.010 Applicability.

> This draft replaces the purpose, objectives, and "relationship to general standards" sections in each critical area chapter, which were largely duplicative of each other, with this new applicability section that makes reference to the general critical areas chapter.

(1) This chapter provides standards for the Frequently Flooded Area type of critical area and is applied pursuant to the general critical area regulations and processes in SMC Chapter 18.800.

(2) Because this chapter implements requirements for the City's participation in the National Flood Insurance Program, in the event of a conflict between this chapter and Chapter 18.800 SMC, this chapter controls.

18.810.020 Methods of reducing flood losses.

To accomplish its purpose, this chapter includes methods and provisions for:

(1) Restricting or prohibiting development that is dangerous to health, safety, and property due to water or erosion hazards, or which results in damaging increases in erosion or in the flood heights or velocities;

(2) Requiring that development vulnerable to floods be protected against flood damage at the time of initial construction;

(3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

(4) Controlling filling, grading, dredging and other development which may increase flood damage; and

(5) Preventing or regulating the construction of flood barriers that unnaturally divert flood water or may increase flood hazards in other areas.

18.810.030 General provisions.

(1) Lands to Which These Standards Apply. These standards apply to all areas of special flood hazards within the jurisdiction of the city of Stanwood. All development within special flood hazard areas is subject to the regulations contained within this chapter and all other state or federal regulations. Special flood hazards may result from high river flow, alteration of river channels, tsunami, high tides combined with high winds, sea level rise associated with global warming, and increased runoff due to increased impervious surface area.

(2) Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Insurance Administrator in a scientific and engineering report entitled "The Flood Insurance Study for Snohomish County, Washington and Incorporated Areas," dated June 19, 2020, and any revisions

thereto, with accompanying Flood Insurance Rate Map (FIRM), and any revisions thereto, is adopted by reference and declared to be a part of this code. The flood insurance study is on file at City Hall.

(3) Penalties for Noncompliance. No structure or land may hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of these standards and other applicable regulations. Violation of the provisions of these standards by failure to comply with any of their requirements (including violations of conditions and safeguards established in connection with conditions) constitutes a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements must upon conviction thereof be fined not more than $1,000 or imprisoned for not more than 90 days or both for each violation and in addition must pay all costs and expenses involved in the case. Nothing herein contained may prevent the city of Stanwood from taking such other lawful action as is necessary to prevent or remedy any violation.

(4) Abrogation and Greater Restrictions. These standards are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where these standards and any other code, easement, covenant, or deed restriction conflict or overlay, whichever imposes the more stringent restrictions must prevail.

(5) Interpretation. In the interpretation and application of these standards, all provisions must be:

(a) Considered as minimum requirements;

(b) Liberally construed in favor of the governing body; and

(c) Deemed neither to limit nor repeal any other powers granted under state statutes.

(6) Warning and Disclaimer of Liability. The degree of flood protection required by these standards is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by humanmade or natural causes. These standards do not imply that land outside the areas of special flood hazards, or uses permitted within such areas, will be free from flooding or flood damages. These standards may not create liability on the part of the city of Stanwood, any officer or employee thereof, or the Federal Insurance and Mitigation Administration for any flood damages that result from reliance on them, or any administrative decision lawfully made hereunder.

The definition for “substantial improvement” has been moved to this section and updated to allow for upgrades up to 50% of the building’s value every year, rather than every two years.

(7) For the purpose of this chapter, “substantial improvement” means any reconstruction, rehabilitation, addition, or other improvement of a structure taking place during the last 12-month period, the cost of which equals or exceeds 50% of the market value of the structure before “the start of construction” of the improvement must comply with the requirements of SMC 18.810. This includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. Substantial improvement does not include either:

(a) Any project for improvement of a structure to correct previously identified existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions; or

(b) Any alteration of a “historic structure”; provided, that the alteration will not preclude the structure’s continued designation as a “historic structure.”

18.810.040 Administration.

> This section is based on SMC 17.120.030 Administration.

(1) Designation. The Director serves as the city's floodplain administrator and is hereby appointed to administer, implement, and enforce these standards by granting or denying development permit applications in accordance with their provisions.

> Several of the duties below were restructured and renumbered to make clear that they are responsibilities of the floodplain administrator/director.

(2) Duties. The duties of the Director include, but are not limited to:

(a) Review all development permits to determine that:

(i) The permit requirements of these standards have been satisfied;

(ii) All necessary permits have been obtained from those federal, state, or local government agencies from which prior approval is required.

(iii) The site is reasonably safe from flooding;

(iv) Notify Federal Insurance Administrator if annexations occur in the special flood hazard area.

(b) Use of Other Base Flood Data. If base flood elevation data has not been provided in accordance with SMC 18.810.020(2), Basis for Establishing the Areas of Special Flood Hazard, the Director is required to obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source to administer SMC 18.810.080, Specific Standards.

(c) Obtain and maintain flood information.

(i) Where base flood elevation data is provided through the flood insurance study or otherwise required, these data must be obtained and a record made of the actual (as-built) elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures, and whether the structure contains a basement.

(ii) For all new or substantially improved floodproofed nonresidential structures where base flood elevation data is provided through the FIS or FIRM, or as otherwise required:

(A) Obtain and maintain the actual elevation (in relation to mean sea level) to which the structure was floodproofed.

(B) Maintain the floodproofing certifications required in subsection (7)(c) of this section.

(iii) Maintain for public inspection all records pertaining to the provisions of these standards.

(iv) Records of all variance actions; include justification for their issuance.

(v) Improvement and damage calculations.

(d) Whenever a watercourse is to be altered or relocated:

(i) Notify adjacent communities and the Washington State Department of Ecology prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Insurance Administrator through appropriate notification means.

(ii) Ensure that the flood-carrying capacity of the altered or relocated portion of said watercourse is maintained.

(e) Interpretation of FIRM Boundaries. Make interpretations, where needed, as to exact location of the boundaries of the areas of special flood hazards. (For example, where there appears to be a conflict between a mapped boundary and actual field conditions.) The person contesting the location of the boundary must be given a reasonable opportunity to appeal the interpretation. Such appeals must be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the NFIP.

(3) Changes to Special Flood Hazard Area.

(a) A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community, or project proponent, must notify FEMA of the changes by submitting technical or scientific data in accordance with this chapter. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements must be based upon current data.

(b) If a CLOMR application is made, then the project proponent must also supply the full CLOMR documentation package to the floodplain administrator to be attached to the floodplain development permit, including all required property owner notifications. Once a CLOMR has been approved, the project proponent must follow up with the LOMR application once the project is complete.

18.810.050 Permits and review required.

> i This is a new section that includes some content from the Administration section that didn't belong there.

(1) A project permit must be obtained before construction or development begins within any area of special flood hazard area. A permit is required for all structures, including manufactured homes, and for all development activities, including fill and other activities.

(2) Application for a project permit must be made consistent with SMC Title 18 Part 2 and must include all of the application requirements of the underlying permit and the following:

(a) plans drawn to scale showing:

(i) the nature, location, dimensions, and elevations of the area in question;

(ii) existing or proposed structures;

(iii) fill;

(iv) storage of materials;

(v) drainage facilities;

(b) elevation, in relation to mean sea level, of the lowest floor (including basement) of all structures recorded on a current elevation certificate with Section B completed by the floodplain administrator;

(c) elevation in relation to mean sea level to which any nonresidential structure has been floodproofed;

(d) certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in SMC 18.810.050(2);

(e) description of the extent to which a watercourse may be altered or relocated because of the proposed development; and

(f) any other such information that may be reasonably required by the floodplain administrator to review the application.

18.810.060 Critical area report requirements.

In addition to the general requirements of SMC 18.800.140, critical area reports for frequently flooded areas must meet the requirements of this section.

(1) Area addressed in critical area report:

(a) The site area of the proposed activity;

(b) All areas of special flood hazard, as indicated on the flood insurance map(s) within 200 feet of the project area; and

(c) All other flood areas indicated on the flood insurance map(s) within 200 feet of the project area.

(2) Flood Hazard Assessment Required. A critical area report for a proposed activity within a frequently flooded area must contain a flood hazard assessment including the following site- and proposal-related information at a minimum:

(a) Site and Construction Plans. A copy of the site and construction plans for the development proposal showing:

(i) Floodplain (100-year flood elevation), 10- and 50-year flood elevations, floodway, other critical areas, buffers, and shoreline areas;

(ii) Proposed development, including the location of existing and proposed structures, fill, storage of materials, and drainage facilities, with dimensions indicating distances to the floodplain;

(iii) Clearing limits; and

(iv) Elevation of the lowest floor (including basement) of all structures, and the level to which any nonresidential structure has been floodproofed.

18.810.070 Provisions for flood hazard reduction.

In all areas of special flood hazard, the following standards are required to be met:

(1) Anchoring.

(a) All new construction and substantial improvements must be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy.

(b) All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, and be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

(2) Construction Materials and Methods.

(a) All new construction and substantial improvements must be constructed with materials and utility equipment resistant to flood damage.

(b) All new construction and substantial improvements must be constructed using methods and practices that minimize flood damage.

(c) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities must be designed and/or otherwise elevated or located to prevent water from entering or accumulating within the components during conditions of flooding.

(d) All structures, utilities and other improvements must be located on the buildable portion of the site outside of the floodplain unless there is no buildable site area out of the floodplain. For sites with no buildable area out of the floodplain, structures must be placed on the highest land on the site, oriented parallel to flow rather than perpendicular, and sited as far from the watercourse and other critical areas as possible. If the city detects any evidence of active hyporheic exchange on a site, the development must be located to minimize disruption of such exchange.

(e) Fill and grading within the floodplain must only occur upon a determination from a qualified professional that the fill or grading will not block side channels, inhibit channel migration, increase flood hazards to others, or be placed within a channel migration zone, whether or not the city has delineated such zones as of the time of the application.

(3) Utilities.

(a) All new and replacement water supply systems must be designed to minimize or eliminate infiltration of flood waters into the system.

(b) New and replacement sanitary sewage systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems in flood waters.

(c) On-site waste disposal systems must be located to avoid impairment to them or contamination from them during flooding.

ℹ The following line was added to increase protections of HVAC systems in the event of a flood.

(d) New and replacement HVAC systems must be located above the base flood elevation and elevated off the floor to minimize damage from flooding.

(4) Subdivision and Development Proposals.

(a) All development proposals, including subdivisions and manufactured home parks, must be consistent with the need to minimize flood damage.

(b) All development proposals, including subdivisions and manufactured home parks, must have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(c) All development proposals, including subdivisions and manufactured home parks, must have adequate drainage provided to reduce exposure to flood damage.

(d) Where base flood elevation data has not been provided or is not available from another authoritative source, it must be generated for development proposals, including subdivisions and manufactured home parks, greater than 50 lots or five acres (whichever is the lesser).

(5) Review of Building Permits. Where elevation data is not available either through the flood insurance study, or from another authoritative source, applications for building permits must be reviewed to ensure that proposed construction is reasonably safe from flooding. The test of reasonableness includes use of historic data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these areas may result in higher insurance rates.

(6) Storage of Materials and Equipment.

(a) The storage or processing of materials that could be injurious to human, animal, or plant life if released due to damage from flooding is prohibited in special flood hazard areas.

(b) Storage of other materials or equipment may be allowed if not subject to damage by floods and if firmly anchored to prevent flotation, or if readily removable from the area within the time available after flood warning.

18.810.080 Specific standards.

In all areas of special flood hazard where base flood elevation data has been provided as set forth in SMC 18.810.020(2), Basis for Establishing the Areas of Special Flood Hazard, or SMC 18.810.030(2), Use of Other Base Flood Data, the following provisions are required:

(1) Residential Construction.

(a) New construction and substantial improvement of any residential structure must have the lowest floor elevated to the base flood elevation plus one foot. Mechanical equipment and utilities, including HVAC systems, must be waterproofed or elevated at least one foot above base flood elevation.

(b) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or if usable solely for parking, access or storage must be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Other uses that are subject to flooding are prohibited. Designs must meet or exceed the following minimum criteria. Alternatively, a registered engineer or architect may design and certify engineering openings.

(i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding ;

(ii) The bottom of all openings shall be no higher than one-foot above grade;

(iii) Openings may be equipped with screens, louvers, valves or other coverings or devices so long as they permit the automatic entry and exit of flood waters; and

(iv) A garage attached to a residential structure, constructed with the garage floor slab below the base flood elevation, must be designed to allow for the automatic entry and exit of flood waters.

(2) Nonresidential Construction.

(a) New construction and substantial improvement to any commercial, industrial, or other nonresidential structure must either have the lowest floor elevated to the level of the base flood elevation plus one foot, or, together with attendant utility and sanitary facilities, must:

(i) Be dry floodproofed so that below one foot above the base flood level, the structure is watertight, with walls substantially impermeable to the passage of water, or dry floodproofed to the elevation required by ASCE 24, whichever is greater;

(ii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(iii) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection based on their development and/or review of the structural design, specifications, and plans. Such certification must be provided to the Director as set forth in SMC 18.810.030(3)(b);

(iv) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (1)(b) of this section; and

(v) An applicant floodproofing nonresidential buildings must be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building floodproofed to one foot above the base flood level will be rated as at the base flood level).

(3) Manufactured Homes.

(a) All manufactured homes to be placed or substantially improved on the following sites must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to the foundation system to resist flotation, collapse, and lateral movement:

(i) Outside of a manufactured home park or subdivision;

(ii) In a new manufactured home park or subdivision;

(iii) In an expansion to an existing manufactured home park or subdivision; or

(iv) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood.

(b) Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the above manufactured home provisions must be elevated so that either:

(i) The lowest floor of the manufactured home is elevated one foot or more above the base flood elevation; or

(ii) The manufactured home chassis is supported by reinforced piers or other foundation elements, of at least equivalent strength that are no less than 36 inches in height above grade and is securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(4) Recreational Vehicles. Recreational vehicles to be placed on sites within zones A1 – A30 and AE on the community's FIRM are required to either:

(a) Be on site for fewer than 180 consecutive days;

(b) Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

(c) Must obtain a development permit and meet the requirements, including elevation and anchoring, for manufactured homes.

(5) Appurtenant Structures (Detached Garages and Small Storage Structures). Appurtenant structures used solely for parking of vehicles or limited storage may be constructed such that the floor is below the base flood elevation, provided the structure is designed and constructed in accordance with the following requirements:

(a) Use of the appurtenant structure must be limited to parking of vehicles or limited storage;

(b) The portions of the appurtenant structure located below the base flood elevation must be built using flood resistant materials;

(c) The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement;

(d) Any machinery or equipment servicing the appurtenant structure must be elevated or floodproofed to or above the BFE;

(e) The appurtenant structure must be designed to allow for the automatic entry and exit of flood waters in accordance with subsection (1)(b) of this section;

(f) The structure must have low damage potential;

(g) If the structure is converted to another use, it must be brought into full compliance with the standards governing such use;

(h) The structure may not be used for human habitation;

(i) Detached garages, storage structures, and other appurtenant structures not meeting the above standards must be constructed in accordance with all applicable standards in subsection (1) of this section; and

(j) Upon completion of the structure, certification that the requirements of this section have been satisfied must be provided to the floodplain administrator for verification.

(6) Requirements for All Crawlspace Construction. All crawlspaces that have enclosed areas or floors below the base flood elevation must be:

(a) Designed and adequately anchored to resist flotation, collapse and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(b) Have openings that allow for the automatic entry and exit of flood waters. The bottom of the flood opening can be no more than one foot above the lowest adjacent exterior grade and meet the requirements in subsection (1)(b) of this section;

(c) Constructed with materials resistant to flood damage, including foundation walls, joists, insulation or other materials that will be below BFE;

(d) Located in areas where flood velocities do not exceed five feet per second;

(e) Any building utility systems, including HVAC systems, within the crawlspace must be elevated above the BFE or designed so that flood waters cannot enter or accumulate within the system components during flood conditions; and

(f) In addition to the above requirements, below-grade crawlspaces must be constructed so that:

(i) The interior grade of the crawlspace below the BFE is not more than two feet below the lowest adjacent exterior grade;

(ii) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall, does not exceed four feet at any point;

(iii) An adequate drainage system to remove flood waters from the interior area of the crawlspace is installed.

18.810.090 Encroachments.

The cumulative effect of any proposed development, if combined with all other existing and anticipated development, may not increase the water surface elevation of the base flood more than one foot at any point.

18.810.100 Prohibited uses.

Since the term “critical facility” exists nowhere else in the municipal code, we’ve extracted it from the definitions chapter and placed it here.

(1) The following uses and activities are prohibited in frequently flooded areas:

(a) Critical facilities. Critical facilities are prohibited within frequently flooded areas to prevent damage to such facilities, to avoid costs that may be incurred by the public, and to maintain functionality of such facilities during flood events. If such a prohibition is unreasonable, an allowance for critical facilities in frequently flooded areas can be made with the following specific conditions:

(i) Construction of new critical facilities may be permissible within frequently flooded areas if no feasible alternative site is available.

(ii) Critical facilities constructed within frequently flooded areas must have the lowest floor elevated three feet or more above the level of the base flood elevation (100-year flood).

(iii) Floodproofing and sealing measures must be taken to ensure that toxic substances are not displaced by or released into flood waters.

(iv) Access routes elevated to or above the level of the base flood elevation must be provided to all critical facilities to the extent possible.

(2) For the purpose of this section, "critical facility" means a facility for which even a slight chance of flooding, inundation, or impact from a hazard event might be too great. Critical facilities include, but are not limited to, essential public facilities, schools, nursing homes, hospitals, fire and emergency response installations, and installations that produce, use or store hazardous materials or hazardous waste.

18.810.110 Variance procedure and appeal process.

(1) Variances from these regulations and appeals are heard as provided by Chapter 18.330 SMC, Variances.

(2) In reviewing such applications for variances, the city must consider all technical evaluations, all relevant factors, and criteria specified in other sections of these standards, including criteria in SMC 18.800.200, and:

(a) The danger that materials may be swept onto other lands to the injury of others;

(b) The danger to life and property due to flooding or erosion damage;

(c) The susceptibility of the proposed facility and its contents to flood damage on the owner;

(d) The importance of the services provided by the proposed facility to the community;

(e) The necessity that the facility has a waterfront location, where applicable;

(f) The availability of alternative locations for the proposed use that are not subject to the flooding or erosion damage;

(g) The compatibility of the proposed use with existing and anticipated development;

(h) The relationship of the proposed use to the city's Comprehensive Plan and floodplain management program for that area;

(i) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(j) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.

18.810.120 Conditions for variances.

(1) Variances may only be issued upon a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing laws or ordinances. Unavoidable impacts to floodplain functions and values must be mitigated in accordance with SMC 18.800.180(4), Mitigation Sequencing.

(2) Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of historic structures upon a determination that the proposed repair or rehabilitation does not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(3) Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) Variances must be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(c) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the BFE, provided the procedures of SMC 18.810.030, Administration, and SMC 18.810.040, Provisions for flood hazard reduction, have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

(5) Variances, as interpreted in the National Flood Insurance Program, are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure or its inhabitants' economical or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevation should be quite rare.

(6) Variances may be issued for nonresidential buildings in very limited circumstances to allow less floodproofing than watertight or dry floodproofing, where it can be determined that such action has low damage potential, complies with all other variance criteria, except subsection (1) of this section, and otherwise complies with SMC 18.810.040(1) through (3).

(7) Any applicant to whom a variance is granted must be given written notice that the structure may be permitted to be built with a lowest floor elevation below the base flood elevation and that:

(a) The issuance of a variance to construct a structure below the BFE may result in increased premium rates for flood insurance up to amounts as high as $25.00 for $100.00 of insurance coverage; and

(b) Such construction below the BFE increases risks to life and property.

(8) The floodplain administrator must maintain a record of all variance actions, including justification for their issuance.

Chapter 18.812 Cultural Resources

i This is all new code, except for some parts from SMC 18.906.040 Preservation of Cultural Resources in the SMP. The new language was adapted from Ecology's model language from Appendix B to the Shoreline Master Program Handbook, Pierce County 18S.30.020, and La Center Municipal Code 18.360.

i A definition of "cultural resources" is included in the proposed UDC procedures ordinance and encompasses cultural, historical, and archaeological resources.

18.812.010 Purpose.

The purposes of this chapter are to:

(1) Establish clear procedures and specific standards for preservation of cultural resources.

(2) Recognize that cultural resources may be found throughout the city and are valuable resources because they are limited and irreplaceable.

(3) Ensure coordination and consistency with the State Environmental Policy Act, the Shoreline Management Act, the Growth Management Act, and RCW Chapters 27.34, 27.44, 27.48, and 27.53.

18.812.020 Applicability.

This chapter applies to all areas within the City of Stanwood and all applications for a project permit.

18.812.030 Preservation of Cultural Resources.

This section is based on SMC 18.906.040, Preservation of Cultural Resources, in the SMP. References specific to the SMP were removed. Some text was moved to 18.812.030(2)(a) and 18.812.040(1) of this chapter.

(1) An owner of property containing identified or probable cultural resource sites is encouraged to coordinate well in advance of application for development to ensure that appropriate agencies such as the Washington State Department of Archaeology and Historic Preservation, affected tribes, and historic preservation groups have ample time to assess the site and identify the potential for cultural resources.

And some portion of this section is reorganized recommended language from DAHP and Ecology.

(2) When the Department receives an application for a project permit in an area of known cultural resources, the Director must send a copy of the Notice of Application (or equivalent notice) to appropriate agencies, such as the Washington Department of Archaeology and Historic Preservation and any affected tribal governments.

(3) The Director may condition approval of a project permit to comply with this chapter when:

(a) The project site contains known cultural resources, as identified by any of the following:

(i) Department of Archaeology and Historic Preservation (DAHP);

(ii) a tribal government;

(iii) National Register of Historic Places;

(iv) Washington Heritage Register;

(b) The property is listed by DAHP as eligible for listing in either the National Register of Historic Places or the Washington Heritage Register;

If Stanwood does not have a local register of historic places, you could delete the next line.

(c) The property is listed in a local register of historic places;

(d) When the city determines that reliable and credible information indicates the probable existence of an archaeological resource or site;

(e) When a permit or approval is required for any ground-disturbing activities.

(4) The Director may condition approval of an application to:

(a) require consultation with the Washington Department of Archaeology and Historic Preservation and any affected tribal governments;

(b) require preservation or conservation of cultural resources as required by applicable federal, state, and local statutes;

(5) An application for development in an area known to be significant must provide for monitoring of any development activity for previously unidentified cultural resources.

The following language is recommended by agencies, but seems overly broad to me.

(6) All developments proposed for location adjacent to historical sites, which are registered on the local, state, or national historic register, must be located and designed to be complimentary to the historic site. Development which is detrimental to the historic character of such sites is not permitted.

18.812.040 Cultural Resource Site Assessment

Capitalized Cultural Resource Site Assessment to make it a term of art like CRMP.

(1) A Cultural Resource Site Assessment is required:

(a) Prior to approval of development on a property within 500 feet of a site known to contain or in an area identified as having the potential for the presence of cultural resources, when requested by an agency identified in 18.812.020(1)(a); and

Shouldn't the following line trigger a CRMP, not just a CRSA?

(b) When any cultural resources item of potential significance is discovered during a permitted development activity.

Added the following line, but I may be misunderstanding the purpose of the CRSA.

(2) Exception. A Cultural Resource Site Assessment is not required when a Cultural Resource Management Plan is prepared pursuant to SMC 18.812.040.

(3) A Cultural Resource Site Assessment must:

(a) Be performed by a professional archaeologist or historic preservation professional whose documentation and methodology should be replicable by another archeologist to reach a similar conclusion;

(b) Use best available technology and archaeological techniques;

(c) Be based on a thorough review of records, documentation, and other relevant literature;

(d) Describe any cultural resources that are discovered on the site, using any relevant maps, written descriptions, and photographs;

(e) Assess whether the proposed use would affect any cultural resources discovered;

(f) Be submitted to the city, DAHP, and to any interested or affected tribal governments.

18.812.050 Cultural Resource Management Plan

(1) A Cultural Resource Management Plan ("CRMP") must be prepared when a Cultural Resource Site Assessment identifies the presence of significant cultural resources.

The remainder of this section is recommended language from DAHP and Ecology.

(2) A CRMP must be prepared by a professional archaeologist or historic preservation professional.

(3) To prepare recommendations for a CRMP, the author must solicit comments from the Washington Department of Archaeology and Historic Preservation and any affected Tribal government. Any comments received must be incorporated into the conclusions and recommendations of the CRMP to the maximum extent practicable.

(4) A CRMP must contain at least the following elements:

(a) Purpose of the project; a site plan; the depth and location of all ground disturbing activities including, but not limited to, utilities, driveways, clearing and grading; an examination of project on-site design alternatives; an explanation of why the proposed activity requires location on or access through an historic or significant archaeological resource.

(b) A description of the cultural resources affected by the proposal;

(c) An evaluation of the cultural resource and an analysis of the potential adverse impacts as a result of the activity;

(d) An analysis of how these impacts have been avoided, or where avoidance is not possible, how these impacts have been or will be mitigated/minimized; and

(e) A recommendation of appropriate mitigation measures for the impacts to cultural resources, which may include but are not limited to the following:

  (i) Recording the site with the Washington Department of Archaeology and Historic Preservation; listing the site in the National Register of Historic Places, Washington Heritage Register, or any locally developed historic registry;

  (ii) Preservation in place;

  (iii) Reinternment in the case of grave sites;

  (iv) Covering an archaeological site with a nonstructural surface to discourage pilferage (i.e., maintained grass or pavement);

  (v) Excavation and recovery of archaeological resources;

  (vi) Inventorying prior to covering of archaeological resources with structures or development; and

  (vii) Monitoring of construction excavation.

(f) The Director must use the recommendations and conclusions of the CRMP in determining the presence and extent of cultural resources and appropriate mitigation measures.

(g) The Director may reject or request revision of the conclusions reached in a CRMP when the Director can demonstrate that the assessment is inaccurate or does not fully address the cultural resource management concerns.

18.812.060 Inadvertent discovery.

(1) If archaeological, cultural, or historical sites or artifacts of potential significance, or human skeletal remains are discovered in the process of development:

  (a) work on that portion of the site must be stopped immediately;

  (b) the site must be secured;

  (c) the discovery must be reported as soon as possible to the Director;

  (d) the Director must notify the Washington State Department of Archaeology and Historic Preservation, affected tribes, and other appropriate agencies;

  (e) the Director must require the applicant to immediately prepare a Cultural Resources Site Assessment to determine the significance of the discovery and the extent of damage to the resource.

(2) If a Cultural Resources Site Assessment is required per subsection (1):

  (a) The Director must distribute the assessment to the Washington Department of Archaeology and Historic Preservation and affected tribes to determine the significance of the discovery.

  (b) The Director must allow 15 days for review, or 30 days in the case of inadvertent discovery of human remains.

  (c) At the conclusion of the review period:

(i) if the site has been determined not to be significant by the above listed agencies or governments, or if the above listed agencies or governments have failed to respond, such stopped work may resume;

(ii) if the site is determined to be significant, a Cultural Resources Management Plan must be prepared per SMC 18.812.050.

(3) Treatment of cultural artifacts or human skeletal remains must comply with RCW 27.44.055, 68.50.645, and 68.60.055.

24-0104

Josephine Preliminary Plat

Josephine Site, Stanwood, WA

Public Information Meeting

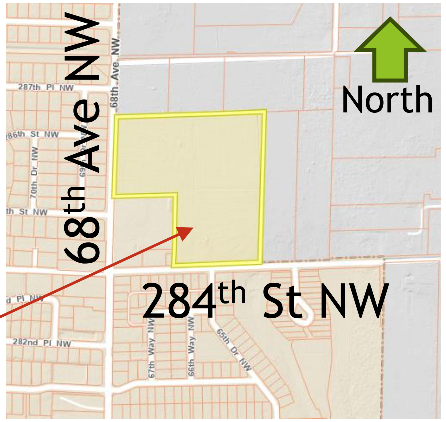
October 14, 2024

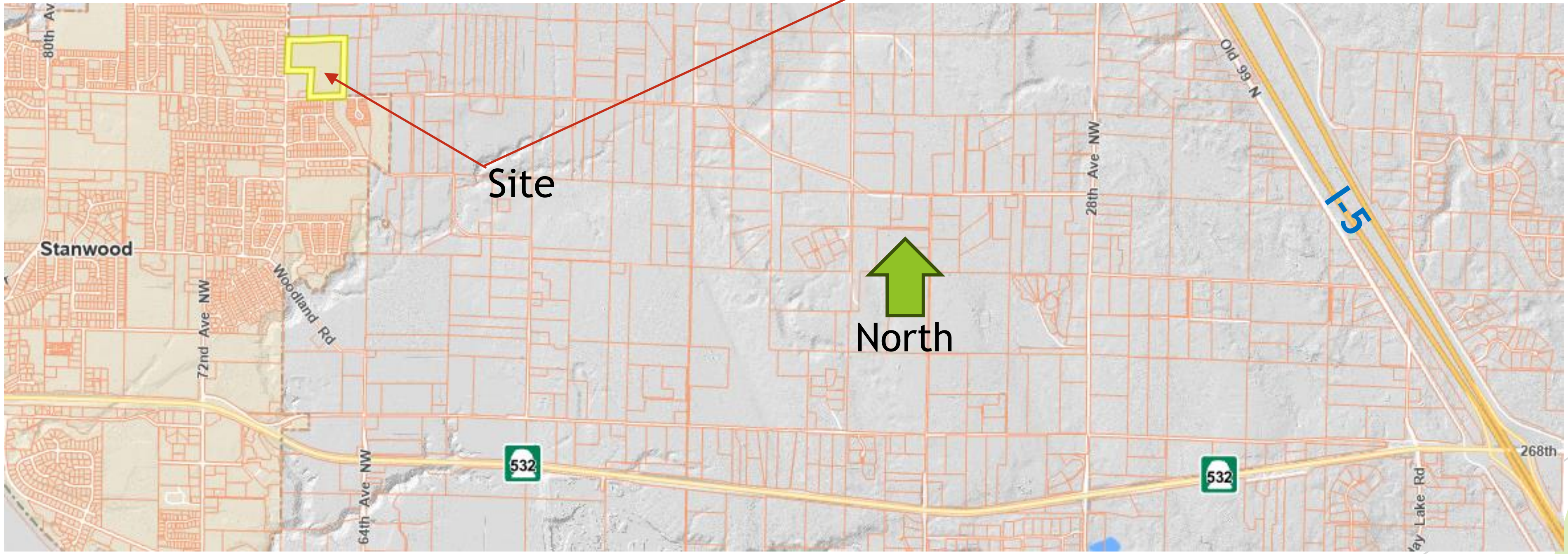
Josephine Site

Vicinity Map

28603 68th Ave NW, Stanwood, WA

Parcel #32041700401100





Josephine Site

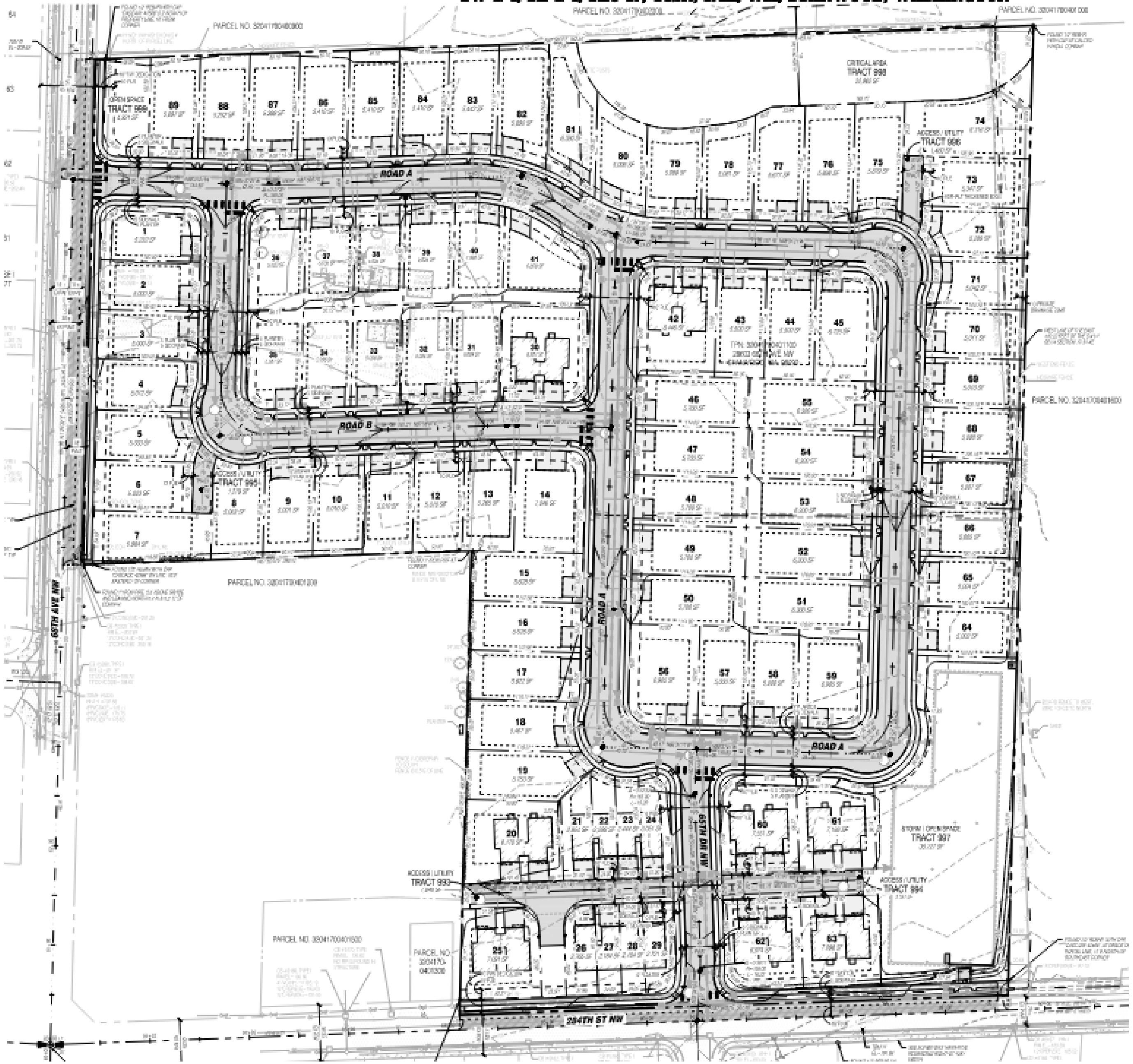
Aerial (2022)

North

- ❑ Site Area: 16.87 AC/Gross
- ❑ Net Developable: 16.11 AC
- ❑ Zoning: Traditional Neighborhood (TN)
- ❑ Allowed Uses: Mix of residential uses; SFR, Duplex, TH's, MF and Commercial
- ❑ Minimum 2 residential uses permitted with 10% commercial; Minimum 75%/25% split between residential uses

SAGE HOMES

Preliminary Plat Map



SETBACKS

BUILDING SETBACKS:

SINGLE FAMILY:	20' FRONT 5' SIDE, 10' ADJACENT TO R/W 15' REAR
DUPLEX:	20' FRONT 10' SIDE 15' REAR
TOWNHOME:	20' FRONT 10' SIDE 15' REAR, 5' WHEN ACCESSED FROM ACCESS ALLEY

UNIT MIX CALCULATIONS (PER SMC 17.47.040)

SINGLE FAMILY:	73 (75%)
DUPLEX:	16 (17%)
TOWNHOME:	8 (8%)
TOTAL UNITS:	97
TOTAL LOTS:	89

DENSITY CALCULATIONS

ZONE:	TN
GROSS AREA:	735,061 SF (16.87 AC)
DEVELOPABLE AREA REDUCTION:	TRACT 998 CRITICAL AREA BUFFER = 0.76 AC
NET DEVELOPABLE AREA:	16.87 AC - 0.76 AC = 16.11 AC
MAX DENSITY:	16.87 AC x 20 DU/AC = 337.40
LOTS PROPOSED:	89 LOTS
UNITS PROPOSED:	97 LOTS

OPEN SPACE CALCULATIONS

REQUIRED OPEN SPACE:	16.11 AC / 10 AC x 0.5 AC = 0.8055 AC = 35,087
PROVIDED OPEN SPACE (TRACT 999 & 997):	39,448 SF

Landscape Plan

RENDERED LANDSCAPE PLAN
NTS

Traffic Impact Analysis

- Detached SFR Housing: 13 IN/38 OUT – AM Peak-Hour Trips
- Detached SFR Housing: 43 IN/26 OUT – PM Peak-Hour Trips
- Attached Townhomes/Duplexes: 3 IN/9 OUT – AM Peak Trips
- Attached Townhomes/Duplexes: 8 IN/6 OUT – PM Peak Trips

Trip Distribution

- 50% to and from the north along 68th Avenue NW
  - 30% east along 300th Street NW
  - 15% continuing north along 68th Avenue NW
  - 5% west along 300th Street NW
- 30% to and from the south along 68th Avenue NW
  - 15% along 72nd Avenue NW
  - 10% along Woodland Road
  - 5% along 276th Street NW
- 10% to and from the east along 284th Street NW
- 10% to and from the west along 284th Street NW

Analyzed Intersections

1. SR-532 at 72nd Avenue NW – Signal
2. SR-532 at 64th Avenue NW – Minor Leg Stop Control
3. 276th Street NW at 72nd Avenue NW – Minor Leg Stop Control
4. 276th Street NW at 68th Avenue NW – Minor Leg Stop Control
5. 284th Street NW/Village Road at 68th Avenue NW – All Way Stop Control
6. 285th Street NW at 68th Avenue NW – Minor Leg Stop Control
7. 284th Street NW at 65th Drive NW/Site Access – Minor Leg Stop Control
8. Site Access at 68th Drive NW – Minor Leg Stop Control

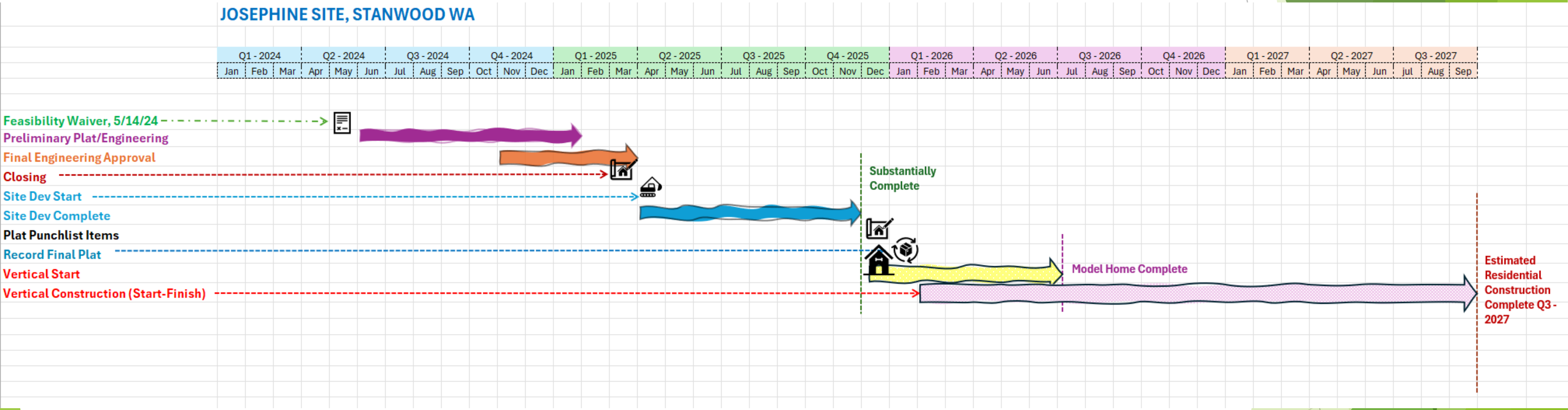
The intersections have been analyzed for the weekday PM peak-hour.

SAGE HOMES

Traffic Analysis Conclusions

- The traffic impact analysis shows that the study intersections currently operate at level of service (LOS) C or better during the PM peak-hour.
- Construction of the roundabout at SR-532 at 64th Ave NW will also help keep LOS at C or better.
- The proposed access locations will be designed and constructed to ensure safe stopping sight distances.
- The development will contribute approximately $422,232.00 in traffic mitigation fees to the city that can be used to fund future traffic improvement projects.

Entitlement Schedule



SAGE HOMES

QUESTIONS