

ORDINANCE NO. 2509

AN ORDINANCE annexing real property to  
the City of Camas.

THE COUNCIL OF THE CITY OF CAMAS DO ORDAIN AS FOLLOWS:

Section I

The Council of the City of Camas finds that the following steps have been taken with respect to annexation of the hereinafter described unincorporated area to the City of Camas:

A. On August 9, 2007, a Notice of Intention to petition for annexation of the subject real property by the direct petition method provided for in Chapter 35A.14, Revised Code of Washington, was filed with the City of Camas.

B. The City Council of the City of Camas set September 4, 2007 as the time for a meeting with the annexation proponents to determine whether the City would accept, reject, or geographically modify the proposed annexation, and whether it would require the simultaneous adoption of a proposed zoning regulation, and whether it would require the assumption of existing indebtedness.

C. On September 4, 2007, the City Council conducted a meeting at which it modified the geographical boundaries of the proposed annexation, required the assumption of all existing indebtedness, and required the adoption of a proposed zoning regulation.

D. On December 7, 2007, the City received a petition for annexation signed by the owners of not less than sixty percent (60%) in value, according to the assessed valuation for general taxation of the property proposed to be annexed.

E. On January 1, 2008, the City Council conducted a public hearing to consider the annexation proposal and the adoption of a proposed zoning regulation.

F. The City and the Developers of the real property agreement have also entered into a Pre-Annexation Development Agreement that adopts standards for development of the property, provides for vesting of standards, and provides for the zoning of the property. A hearing is scheduled to be held on the approval of the Development Agreement for January 7, 2008.

G. The City has also considered the zoning of the property at prior hearings before the Planning Commission and before the City Council.

Section II

Pursuant to the direct petition method provided for in Chapter 35A.14 Revised Code of Washington, the real property described in Exhibit "A", attached hereto and by this reference incorporated herein, being a portion of Clark County not heretofore incorporated as a city or town,

and further being within the urban growth area for the City of Camas, is hereby annexed to the City of Camas and made a part thereof.

Section III

All property within the area hereby annexed shall be assessed and taxed to pay for the outstanding general obligation indebtedness of the City of Camas existing as of the effective date of said annexation.

Section IV

The real property hereby annexed to the City of Camas is zoned in accordance with Exhibit "B", attached hereto and by this reference incorporated herein. The City Community Development Director is hereby authorized and instructed to alter the district boundary lines of "The Map(s) of the Zoning Ordinance of the City of Camas," established pursuant to Chapter 18.16 of the Camas Municipal Code, to include the property described in Section I hereof with the zoning classification as set forth in Exhibit "B".

Section V

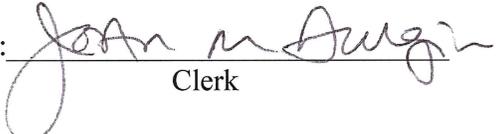
The City Clerk is hereby directed to file with the Board of Clark County Commissioners of Clark County, Washington, a certified copy of this ordinance. The City Clerk is further directed to file with the Office of Financial Management a certificate as required by RCW 35A.14.700 within thirty (30) days of the effective date of this annexation. The City Clerk is further directed to take all other steps and to inform all other agencies of said annexation as may be necessary and proper.

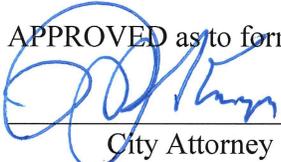
Section VI

This ordinance shall take force and be in effect five (5) days from and after its publication according to law. The annexation of the aforescribed real property shall be effective as of the effective date of this ordinance.

PASSED by the Council and APPROVED by the Mayor this 7<sup>th</sup> day of January, 2008.

SIGNED:   
Mayor

ATTEST:   
Clerk

APPROVED as to form:  
  
City Attorney

Clark County, Washington  
Auditor's Office

Receipt: 87972

Product	Name	Quantity	Unit Price	Extended
AGR	AGREEMENT	1	\$233.00	\$233.00
Document # 4411832, Phone Number 360-607-4035				

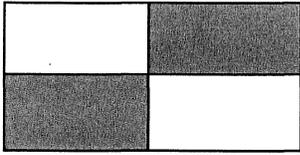
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<b>Total</b>	\$233.00
Tender (Cash)	\$240.00
Change (Cash)	(\$7.00)

Thank You

Fri Jan 11 15:57:17 PST 2008 by LGG

**EXHIBIT A TO PRE-ANNEXATION DEVELOPMENT AGREEMENT**



# HAGEDORN, INC.

*SURVEYORS AND ENGINEERS*

1924 Broadway, Suite B • Vancouver, WA 98663 • (360) 696-4428 • (866) 696-4428 • Fax: (360) 694-8934 • www.hagedornse.com

January 7, 2008

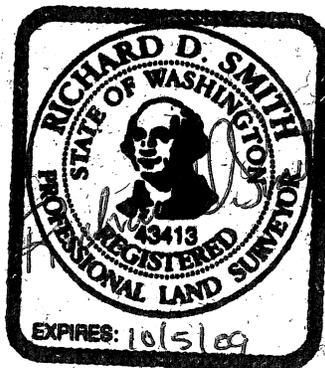
## **PARCEL NO 177489 AND 126043:**

That portion of the following described parcel of land located in the Southwest quarter of Section 32, Township 2 North, Range 3 East, Willamette Meridian, and the Northwest quarter of Section 5, Township 1 North, Range 3 East, Willamette Meridian, Clark County, Washington, lying Easterly of the centerline of a creek running in a Southwesterly direction:

BEGINNING at a point in the center of County Road, that is 17.65 chains North and 4.66 chains East of the Southwest corner of said Section 32; thence South along the West line of that certain tract of land conveyed to Lloyd V. Eiford et ux, by deed, recorded under Auditor's File No. G 137919, records of Clark County, Washington, parallel with the West line of said Section 32 and Section 5, for a distance of 37.60 chains to the Southwest corner thereof said point being the South line of the Northwest quarter of the Northwest quarter of said Section 5; thence East along said South line, for a distance of 15.29 chains to the Southeast corner of said "Eiford tract", said point being the Southeast corner of the Northwest quarter of the Northwest quarter of said Section 5; thence North along the East line of said "Eiford tract", for a distance of 35.10 chains to the center of said County Road; thence North  $72^{\circ} 56'$  West, along the center of said County Road and the North line of said "Eiford tract", for a distance of 7.61 chains; thence continuing along said North line, North  $82^{\circ} 05'$  West, for a distance of 2.86 chains; thence continuing along said North line, North  $89^{\circ} 08'$  West, for a distance of 5.19 chains to the POINT OF BEGINNING.

EXCEPT County Roads.

LD-2008\Eiford-Parcel I.rds  
07-247



Ex. A 1 of 19

ENGINEERING PLANNING  
FORESTRY

13910 S.W. Galbreath Dr., Suite 100  
Sherwood, Oregon 97140  
Phone: (503) 925-8799  
Fax: (503) 925-8969



LANDSCAPE ARCHITECTURE  
SURVEYING

Offices Located In:  
SHERWOOD, OREGON  
REDMOND, OREGON  
VANCOUVER, WASHINGTON  
[www.aks-eng.com](http://www.aks-eng.com)

Legal Description

A portion of the Eiford Tract described in Auditor's File No. 3181188 Exhibit D located in Section 5, Township 1 North, Range 3 East, Willamette Meridian, Clark County, Washington and being more particularly described as follows:

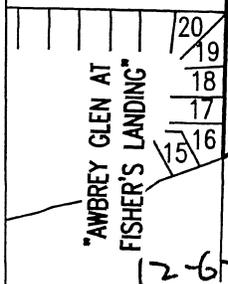
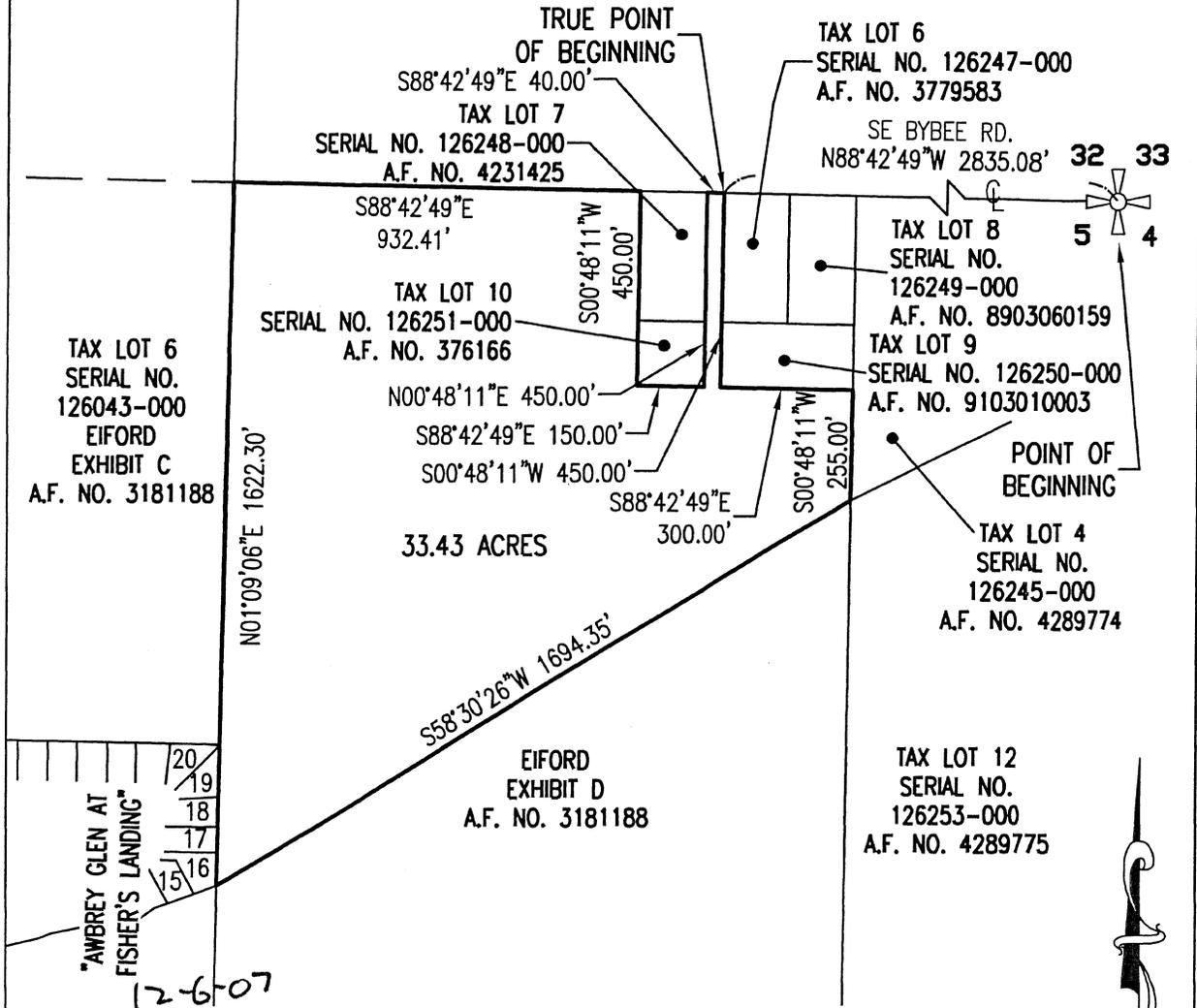
Beginning at the Northeast Section corner of Section 5, thence along the north line of said Section 5 North 88°42'49" West 2835.08 feet to the True Point of Beginning; thence along the west line of Auditor's File No. 3779583 and 9103010003 South 00°48'11" West 450.00 feet to the southwest corner of Auditor's File No. 9103010003; thence along the south line of Auditor's File No. 9103010003 South 88°42'49" East 300.00 feet to the southeast corner thereof; thence along the west line of said Auditor's File No. South 00°48'11" West 255.00 feet to the southwest corner thereof; thence South 58°30'26" West 1694.35 feet to the southeast corner of Lot 16 of "Awbrey Glen At Fisher's Landing"; thence along the east line of said plat and the east line of Exhibit C of the Eiford Tract described in Auditor's File No. 3181188 North 01°09'06" East 1622.30 feet to the north line of said Section 5; thence along said north line South 88°42'49" East 932.41 feet to a point on the west line of Auditor's File No. 4231425; thence along the west line of said Auditor's File No. and Auditor's File No. 376166 South 00°48'11" West 450.00 feet to the southwest corner of Auditor's File No. 376166; thence along the south line of said Auditor's File No. South 88°42'49" East 150.00 feet to the southeast corner of said Auditor's File No.; thence along the east line of said Auditor's File No. and Auditor's File No. 4231425 North 00°48'11" East 450.00 feet to the north line of said Section 5; thence along said north line South 88°42'49" East 40.00 feet to the True Point of Beginning.

The above described tract of land contains 33.43 acres, more or less.



Ex A. 2 of 19

**MAP OF LEGAL DESCRIPTION**  
 A PORTION OF EXHIBIT D OF THE EIFORD TRACT  
 DESCRIBED IN AUDITORS FILE NO. 3181188 OF SECTION  
 5, T1N, R3E, W.M. CLARK COUNTY, WASHINGTON



SCALE 1" = 400 FEET



JOB NAME:	EIFORD SEG.	ENGINEERING · PLANNING · SURVEYING · FORESTRY <b>AKS</b> ENGINEERING & FORESTRY 12011 NE 99TH STREET, SUITE 1530 VANCOUVER, WA 98682 PHONE: (360) 882-0419 FAX: (360) 882-0426
JOB #:	1958	
DRW BY:	MSK	
CKD BY:	NSW	
DWG #:	1958BLA-1	

EX A 3419

ENGINEERING PLANNING  
FORESTRY

13910 S.W. Galbreath Dr., Suite 100  
Sherwood, Oregon 97140  
Phone: (503) 925-8799  
Fax: (503) 925-8969



LANDSCAPE ARCHITECTURE  
SURVEYING

Offices Located In:  
SHERWOOD, OREGON  
REDMOND, OREGON  
VANCOUVER, WASHINGTON  
[www.aks-eng.com](http://www.aks-eng.com)

Legal Description

A portion of the Eiford Tract described in Auditor's File No. 3181188 Exhibit D located in Section 5, Township 1 North, Range 3 East, Willamette Meridian, Clark County, Washington and being more particularly described as follows:

Beginning at the Northeast Section corner of Section 5, thence along the north line of said Section 5 North 88°42'49" West 2535.08 feet to a point; thence along the west line of Auditor's File No. 4289774 South 00°48'11" West 705.00 feet to the True Point of Beginning; thence along the west line of Auditor's File No. 4289775 South 00°48'11" West 1744.74 feet to a point; thence along a line parallel to and 610 feet northerly of the John Knight Donation Land Claim (when measured at right angles) North 88°42'49" West 1437.32 feet to a point on the east line of Tract 'A' of "Awbrey Glen At Fisher's Landing"; thence along the east line of said Tract 'A' North 01°09'06" East 827.36 feet to the southeast corner of Lot 16 of said plat; thence North 58°30'26" East 1694.35 feet to the True Point of Beginning.

The above described tract of land contains 42.33 acres, more or less.



Ex A 419

MAP OF LEGAL DESCRIPTION  
 A PORTION OF EXHIBIT D OF THE EIFORD  
 TRACT DESCRIBED IN AUDITORS FILE NO.  
 3181188 OF SECTION 5, T1N, R3E, W.M.  
 CLARK COUNTY, WASHINGTON

POINT OF BEGINNING  
 SE BYBEE RD.

S00°48'11"W  
 705.00'

N88°42'49"W  
 2535.08'

TAX LOT 4  
 SERIAL NO.  
 126245-000  
 SKOLA, LLC.  
 A.F. NO. 4289774

TRUE POINT  
 OF BEGINNING

EIFORD  
 EXHIBIT D  
 A.F. NO. 3181188

N58°30'26"E 1694.35'

TAX LOT 12  
 SERIAL NO.  
 126253-000  
 A.F. NO. 4289775

S00°48'11"W 1744.74'

"AWBREY GLEN AT  
 FISHER'S LANDING"  
 TRACT 'A'

N01°09'06"E 827.36'

20.00' ACCESS EASEMENT

42.33  
 ACRES±

N88°42'49"W 1437.32'  
 EIFORD  
 EXHIBIT D  
 A.F. NO. 3181188

12-6-07



SCALE 1" = 400 FEET



JOB NAME:	EIFORD SEG.
JOB #:	1958
DRW BY:	MSK
CKD BY:	NSW
DWG #:	1958BLA-3

ENGINEERING • PLANNING • SURVEYING • FORESTRY  
 LICENSED IN OR & WA



12011 NE 99TH STREET,  
 SUITE 1530  
 VANCOUVER, WA 98682  
 PHONE: (360) 882-0419  
 FAX: (360) 882-0426

E & A 5/19

ENGINEERING PLANNING  
FORESTRY

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LANDSCAPE ARCHITECTURE  
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Legal Description

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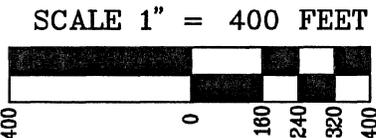
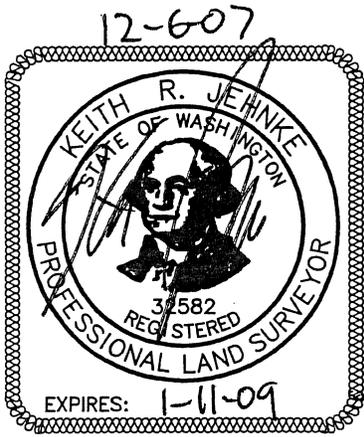
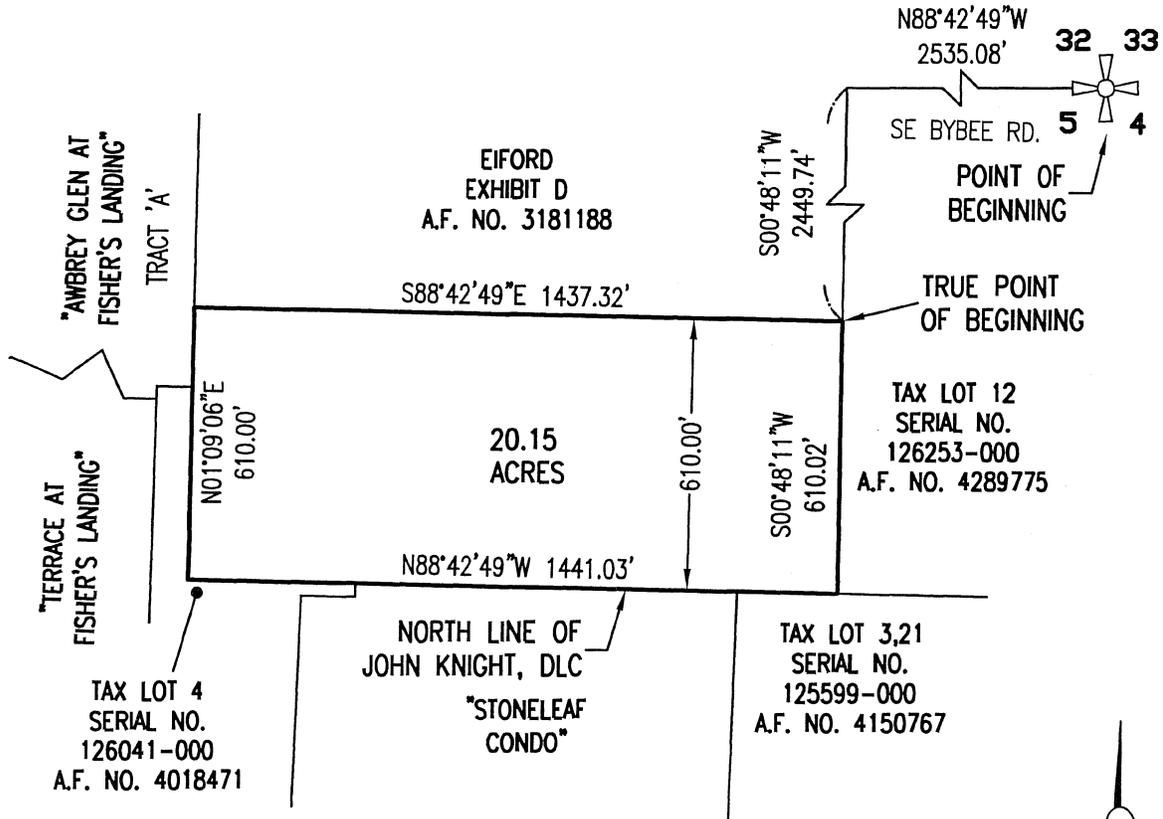
Beginning at the Northeast Section corner of Section 5, thence along the north line of said Section 5 North 88°42'49" West 2535.08 feet to a point; thence along the west line of Auditor's File No. 4289775 and the northerly projection thereof South 00°48'11" West 2449.74 feet to the True Point of Beginning; thence continuing along said west line South 00°48'11" West 610.02 feet to a point on the north line of the John Knight Donation Land Claim; thence along said north line North 88°42'49" West 1441.03 feet to a point on the northerly east line of Auditor's File No. 4018471; thence along said northerly east line and the east line of Tract 'A' of "Awbrey Glen at Fisher's Landing" North 01°09'06" East 610.00 feet to a point; thence along a line parallel to and 610 feet northerly of the John Knight DLC line (when measured at right angles) South 88°42'49" East 1437.32 feet to the True Point of Beginning.

The above described tract of land contains 20.15 acres, more or less.



Ex A. 6 of 19

MAP OF LEGAL DESCRIPTION  
 A PORTION OF EXHIBIT D OF THE EIFORD TRACT  
 DESCRIBED IN AUDITORS FILE NO. 3181188 OF SECTION  
 5, T1N, R3E, W.M. CLARK COUNTY, WASHINGTON

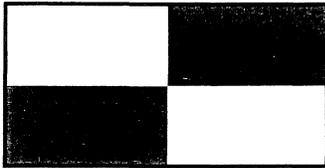


JOB NAME:	EIFORD SEG.
JOB #:	1958
DRW BY:	MSK
CKD BY:	NSW
DWG #:	1958BLA-2

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 LICENSED IN OR & WA

12011 NE 99TH STREET,  
 SUITE 1530  
 VANCOUVER, WA 98682  
 PHONE: (360) 882-0419  
 FAX: (360) 882-0426

Ex. A 7 of 19



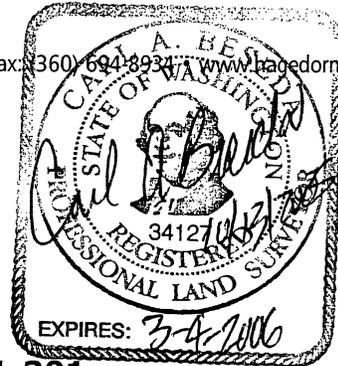
# HAGEDORN, INC.

**SURVEYORS AND ENGINEERS**

1924 Broadway, Suite B • Vancouver, WA 98663 • (360) 696-4428 • (503) 283-6778 • Fax: (360) 694-8934 • www.hagedornse.com

October 13, 2005

**LEGAL DESCRIPTION  
FOR  
GRASS VALLEY, LLC**



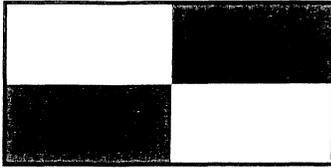
**GRASS VALLEY LLC TRACT, AKA LOT 1 SHORT PLAT 1-301:**

That portion of Government Lot 3, lying in the Southeast quarter of the Southwest quarter of Section 32, Township 2 North, Range 3 East, Willamette Meridian, Clark County, Washington, described as follows:

BEGINNING at a brass disc marking the Southwest corner of Section 32, Township 2 North, Range 3 East; thence South 88° 42' 55" East, along the South line of Section 32 as shown in Book 9 of Surveys, page 116, records of Clark County, for a distance of 1319.76 feet to the Southwest corner of Government Lot 3; thence continuing South 88° 42' 55" East, along said South line, for a distance of 164.73 feet to the Southwest corner of Book 1 of Short Plats, page 301, Clark County Auditor's Records; thence North 20° 02' 22" East, along said West line, 587.74 feet to the Southwest corner of Lot 1 and the TRUE POINT OF BEGINNING; thence continuing North 20° 02' 22" East, along said West line of Short Plat 1-301 for a distance of 280.70 feet to the centerline of S.E. Bybee Road; thence along the centerline of S.E. Bybee Road the following courses; thence South 57° 14' 06" East, 93.09 feet; thence along the arc of a 201.00 foot radius curve to the right, through a central angle of 51° 08' 20", for an arc distance of 179.40 feet to the West line of "County Ridge" (H-263); thence South 01° 23' 09" West, along said West line, 161.13 feet to the Southeast corner of Lot 1 of Short Plat 1-301; thence North 69° 57' 38" West, 278.51 feet to the TRUE POINT OF BEGINNING.

TOGETHER WITH and SUBJECT TO easements and restrictions of record.

Ex A. 8-1-19



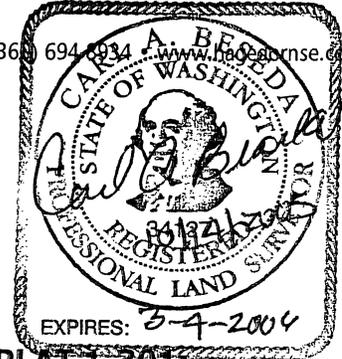
# HAGEDORN, INC.

**SURVEYORS AND ENGINEERS**

1924 Broadway, Suite B • Vancouver, WA 98663 • (360) 696-4428 • (503) 283-6778 • Fax: (360) 694-4934 • www.hagedornse.com

October 14, 2005

**LEGAL DESCRIPTION  
FOR  
APC SUNRISE SUMMIT, LLC**



**APC SUNRISE SUMMIT, LLC TRACT, AKA LOT 2 SHORT PLAT 1-301:**

That portion of Government Lot 3, lying in the Southeast quarter of the Southwest quarter of Section 32, Township 2 North, Range 3 East, Willamette Meridian, Clark County, Washington, described as follows:

BEGINNING at a brass disc marking the Southwest corner of Section 32, Township 2 North, Range 3 East; thence South 88° 42' 55" East, along the South line of Section 32 as shown in Book 9 of Surveys, page 116, records of Clark County, for a distance of 1319.76 feet to the Southwest corner of Government Lot 3; thence continuing South 88° 42' 55" East, along said South line, for a distance of 164.73 feet to the Southwest corner of Lot 4 of that Short Plat recorded in Book 1, page 301, Clark County Auditor's Records; thence North 20° 02' 22" East, along said West line, 392.74 feet to the Northwest corner of Lot 4 and the TRUE POINT OF BEGINNING of the following described tract; thence continuing North 20° 02' 22" East, along said West line of Short Plat 1-301 for a distance of 195.00 feet to the Southwest corner of Lot 1 of Short Plat 1-301; thence South 69° 57' 38" East, 278.51 feet to the Southeast corner of Lot 1 of Short Plat 1-301; thence South 01° 23' 09" West, 205.82 feet to the Northeast corner of Lot 3 of Short Plat 1-301; thence North 69° 57' 38" West, 344.34 feet to the TRUE POINT OF BEGINNING.

EXCEPT County Roads (SE Bybee Road).

TOGETHER WITH and SUBJECT TO easements and restrictions of record.

ALSO TOGETHER WITH and SUBJECT TO a 60.00 foot private road easement as described Auditor's File No. 780424005.

Ex. A 9/19

10

2

4255232 D

RecFee - \$33.00 Pages: 2 - FIRST AMERICAN TITLE  
Clark County, WA 12/01/2006 04:00



AFTER RECORDING MAIL TO:

APC Sunrise Summit LLC  
16420 SE McGillivray Boulevard, Ste, #103-197  
Vancouver, WA 98683

Ins. Title Service Tax  
Ch. 11 Rev. Laws 1951  
\$10,680.00 has been paid  
Recp. # 60237 Date 12-7-06  
Sec. 61, see Affd. No. \_\_\_\_\_  
BY: Doug Lasher  
Clark County Treasurer  
Deputy

Filed for Record at Request of:  
First American Title Insurance Company

Space above this line for Recorders use only

### STATUTORY WARRANTY DEED

File No: 4283-938377 (DJB)

Date: November 16, 2006

Grantor(s): **Jerrold D. Campbell and Debra J.B. Campbell**  
Grantee(s): **APC Sunrise Summit LLC**  
Abbreviated Legal: **Lot 3, SHORT PLAT No. 432, Book 1, Page 432**  
Additional Legal on page:  
Assessor's Tax Parcel No(s): **177451-010**

**THE GRANTOR(S) Jerrold D. Campbell and Debra J.B. Campbell, husband and wife** for and in consideration of **Ten Dollars and other Good and Valuable Consideration**, in hand paid, conveys, and warrants to **APC Sunrise Summit LLC**, the following described real estate, situated in the County of **Clark**, State of **Washington**.

**Lot 3 of SHORT PLAT No. 432, recorded in Book 1 of Short Plats, Page 432, lying within the Southwest quarter of Section 32, Township 2 North, Range 3 East of the Willamette Meridian, recorded November 17, 1978, under Auditor's File No. 7811170176, record of Clark County, Washington.**

Subject To: This conveyance is subject to covenants, conditions, restrictions and easements, if any, affecting title, which may appear in the public record, including those shown on any recorded plat or survey.

\_\_\_\_\_  
Jerrold D. Campbell

\_\_\_\_\_  
Debra J.B. Campbell

Ex. A 10 of 19

APN: 177451-010

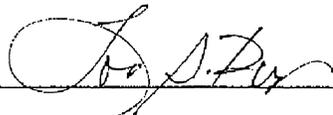
Statutory Warranty Deed  
- continued

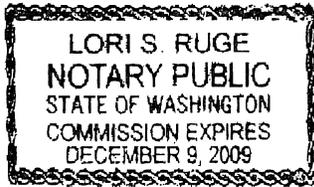
File No.: 4283-938377 (DJB)  
Date: 11/16/2006

STATE OF Washington )  
 )-ss  
COUNTY OF Clark )

I certify that I know or have satisfactory evidence that **Jerrold D. Campbell and Debra J.B. Campbell**, is/are the person(s) who appeared before me, and said person(s) acknowledged that he/she/they signed this instrument and acknowledged it to be his/her/their free and voluntary act for the uses and purposes mentioned in this instrument.

Dated: 12/1/06

  
\_\_\_\_\_



Notary Public in and for the State of Washington  
Residing at: Ridgefield  
My appointment expires: 12/19/09

Ex. A 11 of 19



AFTER RECORDING MAIL TO:

Name APC Sunrise Summit LLC

Address 16420 SE McGillivray Blvd

City, State, Zip Vancouver, WA 98683

Real Estate Excise Tax  
Ch. 11 Rev. Laws 1951  
\$ 1083.00 has been paid  
Recp.# 573310 Date 8/15/05  
Sec. 61, see Affd. No. \_\_\_\_\_  
Doug Lasher  
Clark County Treasurer  
By \_\_\_\_\_  
Deputy

103250 CE

Statutory Warranty Deed

THE GRANTOR Jerome T. Jarrett and Stephanie M. Jarrett, husband and wife for and in consideration of Ten Dollars and other valuable consideration in hand paid, conveys and warrants to APC Sunrise Summit LLC the following described real estate, situated in the County of CLARK, State of Washington:

Lot 1, COUNTRY RIDGE 1, according to the plat thereof, recorded in Book "H" of plats, page 263, records of Clark County, Washington.

SUBJECT TO covenants, conditions, restrictions, reservations, easements and agreements of record, if any.

Assessor's Property Tax Parcel Account Number(s): 177480-002, 114007  
Abbreviated Legal Description: Lot 1 of COUNTRY RIDGE 1

Dated this 5th day of ~~July~~ <sup>August</sup>, 2005.

\_\_\_\_\_  
Jerome T. Jarrett  
\_\_\_\_\_  
Stephanie M. Jarrett

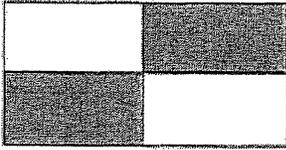
STATE OF WASHINGTON }  
COUNTY OF clark } ss

I certify that I know or have satisfactory evidence that Jerome T. Jarrett and Stephanie M. Jarrett are the persons who appeared before me, and said persons acknowledged that they signed this instrument and acknowledged it to be their free and voluntary act for the uses and purposes mentioned in this instrument.

Dated: 8-15-05  
\_\_\_\_\_  
Notary Public in and for the State of Washington  
Residing at Vancouver  
My appointment expires: 7/2007



Ex. A 12 of 19



# HAGEDORN, INC.

*SURVEYORS AND ENGINEERS*

1024 Broadway, Suite 6 • Vancouver, WA 98663 • (360) 696-4426 • (888) 686-4428 • Fax: (360) 694-8934 • www.hagedornse.com

November 30, 2006

**LEGAL DESCRIPTION  
FOR  
GRASS VALLEY HOLDINGS LLC**

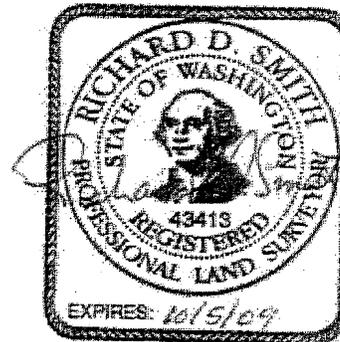
**TAX LOT #13, SERIAL NO. 126254-000:**

That portion of the Northeast quarter and the Southeast quarter of Section 5, Township 1 North, Range 3 East, Willamette Meridian, Clark County, Washington, described as follows:

BEGINNING at the Northeast corner of that tract conveyed to Fred Watson by deed recorded in Book 296, page 123, Deed Records, said point being 27.50 chains West of the Northeast corner of said Section 5; thence South 0° 29' East, along the East line of said "Watson tract", 46.36 chains to a point on the North line of the Joel Knight Donation Land Claim and the TRUE POINT OF BEGINNING hereof; thence North 0° 29' West, along the East line of said "Watson tract", 1661.07 feet; thence West, parallel with the North line of said Joel Knight Donation Land Claim, 5.96 chains to the West line of said "Watson tract"; thence South 0° 29' East, along said West line 1661.07 feet to the North line of said Joel Knight Donation Land Claim; thence East, along said North line, 5.96 chains to the TRUE POINT OF BEGINNING.

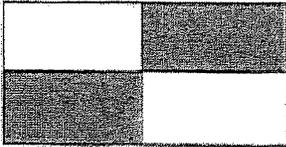
SUBJECT TO easements and restrictions of record.

LD-2007\ Grass Valley TL 13.rds  
04-083-1



11/30/07

Ex A 13 1/19



# HAGEDORN, INC.

*SURVEYORS AND ENGINEERS*

1924 Broadway, Suite B • Vancouver, WA 98663 • (360) 696-4428 • (866) 696-4428 • Fax: (360) 694-8934 • www.hagedorn.com

November 30, 2007

**LEGAL DESCRIPTION  
FOR  
GRASS VALLEY HOLDINGS LLC**

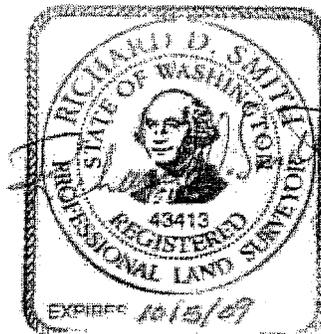
**TAX LOT #81, SERIAL NO. 125668-000:**

That portion of the Southeast quarter Section 5, Township 1 North, Range 3 East, Willamette Meridian, City of Camas, Clark County, Washington, described as follows:

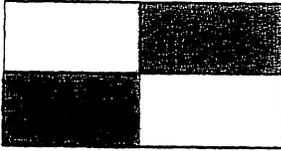
BEGINNING at the Northeast corner of that tract conveyed to Fred Watson, described in Deed Book 296, page 123 records of the Clark County Auditor, said point being 1815.00 feet West of the Northeast corner of said Section 5; thence South 0° 48' 05" West, along the East line of said "Watson tract", 3,085.92 feet to a point on the North line of the "Joel Knight Donation Land Claim" and the TRUE POINT OF BEGINNING of the following described parcel; thence continuing South 0° 48' 05" West, 118.41 feet to the North right-of-way line of N.W. Pacific Rim Blvd as described under Clark County Auditor's File No. 8509040209; thence South 58° 22' 49" West, along said North right-of-way line, 465.99 feet; thence North 0° 48' 05" East, 366.60 feet to the North line of the Joel Knight Donation Land Claim; thence South 89° 26' 19" East, along said North line, 393.36 feet to the TRUE POINT OF BEGINNING.

SUBJECT TO easements and restrictions of record.

LD-2007\Grass Valley TL 81.rds



Ex A. 14 of 19



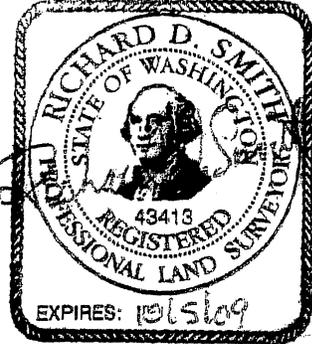
# HAGEDORN, INC.

*SURVEYORS AND ENGINEERS*

1924 Broadway, Suite B • Vancouver, WA 98663 • (360) 696-4428 • (866) 696-4428 • Fax: (360) 694-8934 • www.hagedornse.com

December 3, 2007

**LEGAL DESCRIPTION  
FOR  
GRASS VALLEY HOLDINGS, LLC**



**PARCEL NO 126253-000:**

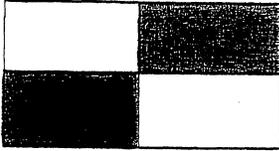
That portion of the West half of the Northeast quarter and the Northwest quarter of the Southeast quarter of Section 5, Township 1 North, Range 3 East, Willamette Meridian, Clark County, Washington, described as follows:

BEGINNING at a brass cap at the Northeast corner of Section 5, as shown in Book 9 of Surveys, page 116, Clark County Auditor's Records; thence North 88° 42' 55" West, along the North line of the Northeast quarter of said Section 5, for a distance of 1815.00 feet to the Northwest corner of Parcel #6 of the "MacDonald tract", as described under Clark County Auditor's File No. 8803180033; thence South 0° 48' 05" West, along the West line of said "MacDonald tract", for a distance of 325.00 feet to the TRUE POINT OF BEGINNING of Parcel 2; thence South 63° 21' 30" West, 811.36 feet to the East line of the "Elford tract", as described under Clark County Auditor's File No. 3182988; thence South 0° 48' 05" West, along the East line of said "Elford tract", for a distance of 2390.01 feet to the North line of the Joel Knight DLC; thence South 88° 26' 19" East, along the North line of said Joel Knight DLC, for a distance of 326.70 feet to the West line of the "Grass Valley Holdings LLC tract", as described under Auditor's File No. 3812272; thence North 0° 48' 05" East, along said West line, for a distance of 1661.07 feet to the Northwest corner thereof; thence South 89° 26' 19" East, 393.36 feet to the Northeast corner thereof and the West line of said "MacDonald tract"; thence North 0° 48' 05" East, along said West line, for a distance of 1099.85 feet to the TRUE POINT OF BEGINNING.

SUBJECT TO easements and restrictions of record.

LD-2007\Skola-Parcel 126253-000.rds  
04-083-1

Ex. A. 15 of 19



# HAGEDORN, INC.

*SURVEYORS AND ENGINEERS*

1924 Broadway, Suite B • Vancouver, WA 98663 • (360) 696-4428 • (866) 696-4428 • Fax: (360) 694-8934 • www.hagedornse.com

December 3, 2007

**LEGAL DESCRIPTION  
FOR  
SKOLA, LLC**



**PARCEL NO. 126245-000:**

That portion of the Northwest quarter of the Northeast quarter of Section 5, Township 1 North, Range 3 East, Willamette Meridian, Clark County, Washington, described as follows:

BEGINNING at a brass cap at the Northeast corner of Section 5, as shown in Book 9 of Surveys, page 116, Clark County Auditor's Records; thence North  $88^{\circ} 42' 55''$  West, along the North line of the Northeast quarter of said Section 5, for a distance of 1815.00 feet to the Northwest corner of Parcel #6 of the "MacDonald tract", as described under Clark County Auditor's File No. 8803180033 and the TRUE POINT OF BEGINNING of Parcel 1; thence South  $0^{\circ} 48' 05''$  West, along the West line of said "MacDonald tract", for a distance of 325.00 feet; thence South  $63^{\circ} 21' 30''$  West, 811.36 feet to the East line of the "Elford tract", as described under Clark County Auditor's File No. 3182988; thence North  $0^{\circ} 48' 05''$  East, along the East line of said "Elford tract" and the East line of the "Doner and Scharpf tracts", as described under Clark County Auditor's File No. 9407220157 and No. 8903060159, for a distance of 705.00 feet to the North line of Section 5; thence South  $88^{\circ} 42' 55''$  East, along the North line of said Section 5, for a distance of 720.08 feet to the TRUE POINT OF BEGINNING.

SUBJECT TO easements and restrictions of record.

SUBJECT TO County Road (S.E. 20<sup>th</sup> Street).

LD-2007\ Skola-Parcel 1-Exh F.rds  
04-083-1

Ex. A 16 1 19

**177451-005**

Lot 2 of SHORT PLAT No. 432, recorded in Book 1 of Short Plats, Page 432, lying within the Southwest quarter of Section 32, Township 2 North, Range 3 East of Willamette Meridian, recorded November 17, 1978, under Auditor's File No. 7811170176, Records of Clark County, Washington.

**177451-000**

Lot 1 of SHORT PLATS, as recorded in Book 1 of Short Plats, at page 432, as described under Auditor's File No. 7811170176 being a subdivision of a portion of Section 32, Township 2 North, Range 3 East of the Willamette Meridian, Clark County, Washington.

**126248-000**

THAT PORTION OF THE WEST HALF OF THE NORTHEAST QUARTER AND THE EAST HALF OF THE NORTHWEST QUARTER OF THE GOVERNMENT LOTS 3 AND 6 OF SECTIN 5, TOWHSHIP 1 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING ON THE NORTH LINE OF SAID SECTION, 43.588 CHAINS WEST OF THE NORTHEAST CORNER OF SAID SECTION 5; THENCE SOUTH 0°29' EAST 300 FEET; THENCE WEST 150 FEET ALONG A LINE PARALLEL TO SAID SECTIN LINE; THENCE NORTH 0°29' WEST 300 FEET TO THE POINT ON SAID SECTION LINE; THENCE EAST ALONG SAID SECTION LINE TO THE POINT OF BEGINNING, EXCEPT PUBLIC ROADS.

SITUATED IN THE COUNTY OF CLARK, STATE OF WASHINGTON.

**177437-010**

Lot 3 of SHORT PLAT NO. 182, in Book 2 of Short Plats, Page 182, in Section 32, Township 2 North, Range 3 East of the Willamette Meridian, recorded June 24, 1987, under Auditor's File No. 8706240162, Records of Clark County, Washington.

**177437-015**

LOT 4 OF SHORT PLATS, RECORDED IN BOOK "2" OF SHORT PLATS, PAGE 182, RECORDS OF CLARK COUNTY, WASHINGTON.

**177439-000**

A parcel of land in the Southwest quarter of Section 32, Township 2 North, Range 3 East of the Willamette Meridian, Clark County, Washington, described as follows:

Ex. A. 17 of 19

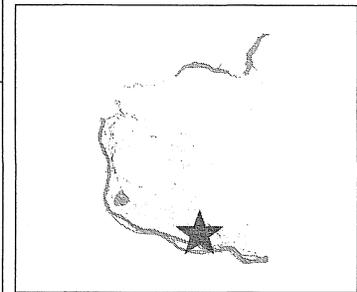
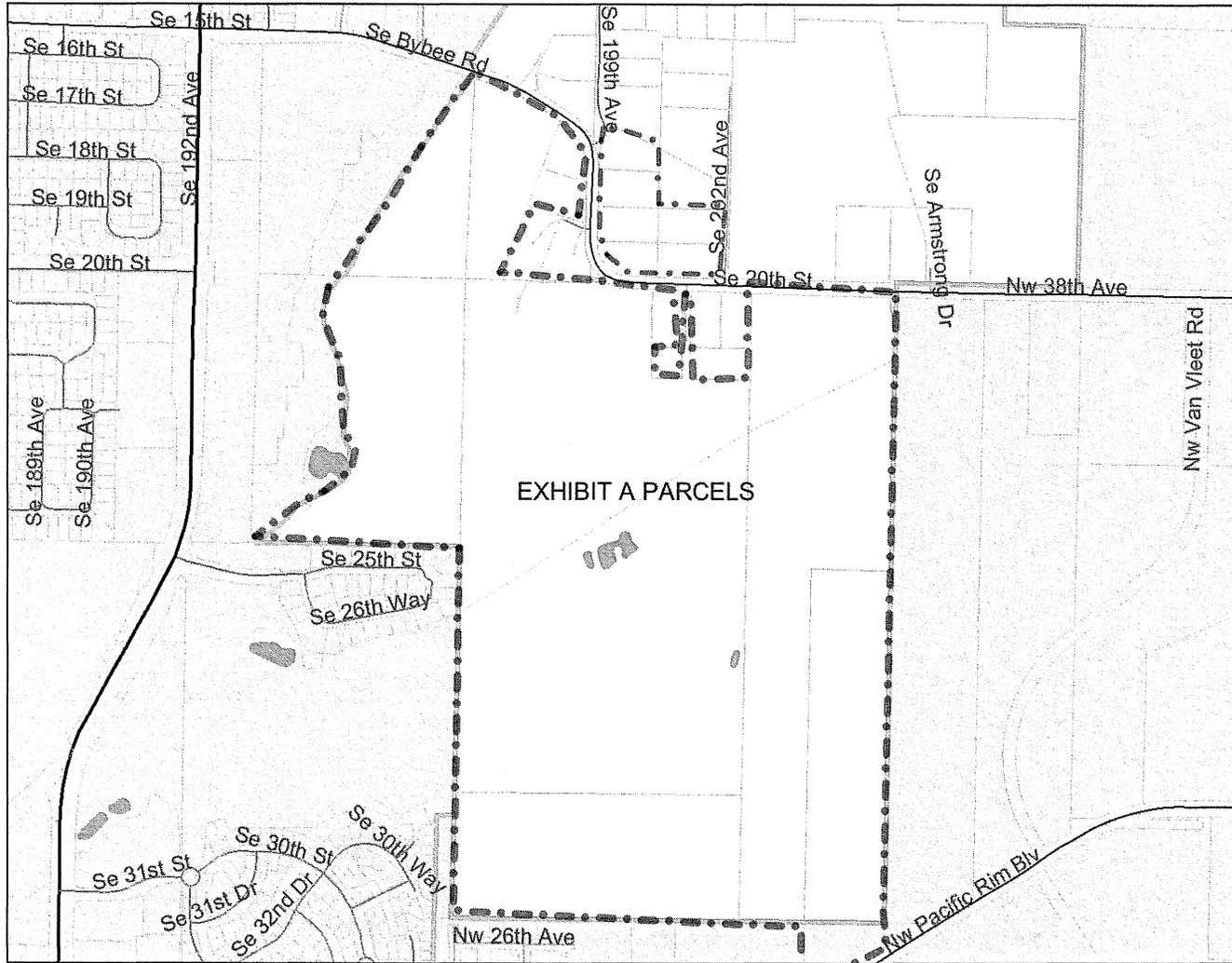
A portion of that certain tract of land described in the deed recorded under Auditor's File No. G 262307 on May 14, 1959, more particularly described below as follows:

BEGINNING at the Southwest corner of said G 262307, said point being the TRUE POINT OF BEGINNING; thence North  $88^{\circ}55'44''$  East 163.08 feet along the South line of said G 262307; thence North  $18^{\circ}55'36''$  East 865.24 feet, more or less, to the center line of the county road know as Bybee Road; thence Northwest along said center line to the West line of said G 262307; thence South  $0^{\circ}15'07''$  West 1022.46 feet, more or less, along said West line TO THE POINT OF BEGINNING.

EXCEPT that portion lying within Bybee Road.

Ex. A 18 & 19

# MAP TO EXHIBIT A



- ### Legend
- Parcels
  - Roads
  - Alley
  - Arterial
  - DNR
  - DNR (Private Land)
  - Driveway
  - Interstate
  - Interstate Ramp
  - Primary Arterial
  - Private Roads
  - Private Roads w/o Names
  - Public Roads
  - SR Ramp
  - State Route
  - Waterbodies
  - City Boundaries
  - Urban Growth Boundaries
  - County Boundary
  - County Boundary

Ex. A 19d19



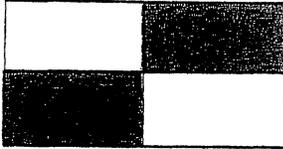
Map center: 45° 36' 15" N, 122° 28' 3" W



Scale: 1:10,000

Information shown on this map was collected from several sources. Neither Clark County, Washington, nor the producer of this document accept responsibility for any inaccuracies that may be present.

**EXHIBIT B TO PRE-ANNEXATION DEVELOPMENT AGREEMENT**



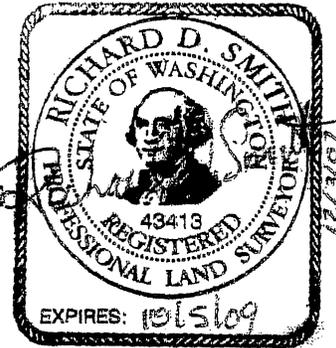
# HAGEDORN, INC.

*SURVEYORS AND ENGINEERS*

1924 Broadway, Suite B • Vancouver, WA 98663 • (360) 696-4428 • (866) 696-4428 • Fax: (360) 694-8934 • www.hagedornse.com

December 3, 2007

**LEGAL DESCRIPTION  
FOR  
GRASS VALLEY HOLDINGS, LLC**



**PARCEL NO 126253-000:**

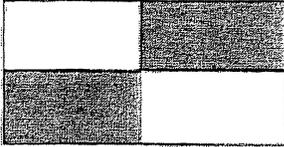
That portion of the West half of the Northeast quarter and the Northwest quarter of the Southeast quarter of Section 5, Township 1 North, Range 3 East, Willamette Meridian, Clark County, Washington, described as follows:

BEGINNING at a brass cap at the Northeast corner of Section 5, as shown in Book 9 of Surveys, page 116, Clark County Auditor's Records; thence North 88° 42' 55" West, along the North line of the Northeast quarter of said Section 5, for a distance of 1815.00 feet to the Northwest corner of Parcel #6 of the "MacDonald tract", as described under Clark County Auditor's File No. 8803180033; thence South 0° 48' 05" West, along the West line of said "MacDonald tract", for a distance of 325.00 feet to the TRUE POINT OF BEGINNING of Parcel 2; thence South 63° 21' 30" West, 811.36 feet to the East line of the "Elford tract", as described under Clark County Auditor's File No. 3182988; thence South 0° 48' 05" West, along the East line of said "Elford tract", for a distance of 2390.01 feet to the North line of the Joel Knight DLC; thence South 88° 26' 19" East, along the North line of said Joel Knight DLC, for a distance of 326.70 feet to the West line of the "Grass Valley Holdings LLC tract", as described under Auditor's File No. 3812272; thence North 0° 48' 05" East, along said West line, for a distance of 1661.07 feet to the Northwest corner thereof; thence South 89° 26' 19" East, 393.36 feet to the Northeast corner thereof and the West line of said "MacDonald tract"; thence North 0° 48' 05" East, along said West line, for a distance of 1099.85 feet to the TRUE POINT OF BEGINNING.

SUBJECT TO easements and restrictions of record.

LD-2007\ Skola-Parcel 126253-000.rds  
04-083-1

Ex. B 1 of 6



# HAGEDORN, INC.

*SURVEYORS AND ENGINEERS*

1924 Broadway, Suite B • Vancouver, WA 98663 • (360) 696-4426 • (800) 696-4426 • Fax: (360) 694-2934 • www.hagedornse.com

November 30, 2006

**LEGAL DESCRIPTION  
FOR  
GRASS VALLEY HOLDINGS LLC**

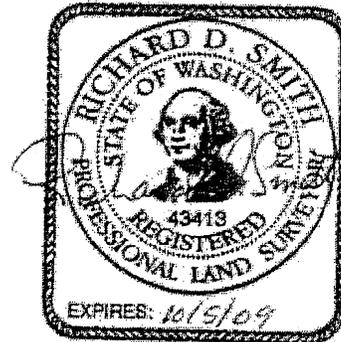
**TAX LOT #13, SERIAL NO. 126254-000:**

That portion of the Northeast quarter and the Southeast quarter of Section 5, Township 1 North, Range 3 East, Willamette Meridian, Clark County, Washington, described as follows:

BEGINNING at the Northeast corner of that tract conveyed to Fred Watson by deed recorded in Book 296, page 123, Deed Records, said point being 27.50 chains West of the Northeast corner of said Section 5; thence South 0° 29' East, along the East line of said "Watson tract", 46.36 chains to a point on the North line of the Joel Knight Donation Land Claim and the TRUE POINT OF BEGINNING hereof; thence North 0° 29' West, along the East line of said "Watson tract", 1661.07 feet; thence West, parallel with the North line of said Joel Knight Donation Land Claim, 5.96 chains to the West line of said "Watson tract"; thence South 0° 29' East, along said West line 1661.07 feet to the North line of said Joel Knight Donation Land Claim; thence East, along said North line, 5.96 chains to the TRUE POINT OF BEGINNING.

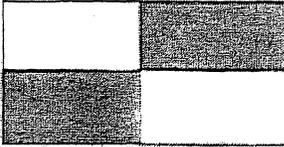
SUBJECT TO easements and restrictions of record.

LD-20071 Grass Valley TL 13.rds  
04-083-1



11/30/07

Ex. B Z & O



# HAGEDORN, INC.

*SURVEYORS AND ENGINEERS*

1924 Broadway, Suite B • Vancouver, WA 98663 • (360) 696-4428 • (866) 696-4428 • Fax: (360) 694-8934 • www.hagedornse.com

November 30, 2007

**LEGAL DESCRIPTION  
FOR  
GRASS VALLEY HOLDINGS LLC**

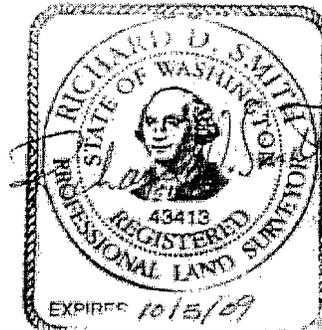
**TAX LOT #81, SERIAL NO. 125668-000:**

That portion of the Southeast quarter Section 5, Township 1 North, Range 3 East, Willamette Meridian, City of Camas, Clark County, Washington, described as follows:

BEGINNING at the Northeast corner of that tract conveyed to Fred Watson, described in Deed Book 296, page 123 records of the Clark County Auditor, said point being 1815.00 feet West of the Northeast corner of said Section 5; thence South  $0^{\circ} 48' 05''$  West, along the East line of said "Watson tract", 3,085.92 feet to a point on the North line of the "Joel Knight Donation Land Claim" and the TRUE POINT OF BEGINNING of the following described parcel; thence continuing South  $0^{\circ} 48' 05''$  West, 118.41 feet to the North right-of-way line of N.W. Pacific Rim Blvd as described under Clark County Auditor's File No. 8509040209; thence South  $58^{\circ} 22' 49''$  West, along said North right-of-way line, 465.99 feet; thence North  $0^{\circ} 48' 05''$  East, 366.60 feet to the North line of the Joel Knight Donation Land Claim; thence South  $89^{\circ} 26' 19''$  East, along said North line, 393.36 feet to the TRUE POINT OF BEGINNING.

SUBJECT TO easements and restrictions of record.

LD-2007: Grass Valley TL 81.nds



Ex. B 3 of 5

ENGINEERING PLANNING  
FORESTRY

13910 S.W. Galbreath Dr., Suite 100  
Sherwood, Oregon 97140  
Phone: (503) 925-8799  
Fax: (503) 925-8969



LANDSCAPE ARCHITECTURE  
SURVEYING

Offices Located In:  
SHERWOOD, OREGON  
REDMOND, OREGON  
VANCOUVER, WASHINGTON  
[www.aks-eng.com](http://www.aks-eng.com)

Legal Description

A portion of the Eiford Tract described in Auditor's File No. 3181188 Exhibit D located in Section 5, Township 1 North, Range 3 East, Willamette Meridian, Clark County, Washington and being more particularly described as follows:

Beginning at the Northeast Section corner of Section 5, thence along the north line of said Section 5 North 88°42'49" West 2535.08 feet to a point; thence along the west line of Auditor's File No. 4289774 South 00°48'11" West 705.00 feet to the True Point of Beginning; thence along the west line of Auditor's File No. 4289775 South 00°48'11" West 1744.74 feet to a point; thence along a line parallel to and 610 feet northerly of the John Knight Donation Land Claim (when measured at right angles) North 88°42'49" West 1437.32 feet to a point on the east line of Tract 'A' of "Awbrey Glen At Fisher's Landing"; thence along the east line of said Tract 'A' North 01°09'06" East 827.36 feet to the southeast corner of Lot 16 of said plat; thence North 58°30'26" East 1694.35 feet to the True Point of Beginning.

The above described tract of land contains 42.33 acres, more or less.



Ex. B 4 of 5

MAP OF LEGAL DESCRIPTION  
 A PORTION OF EXHIBIT D OF THE EIFORD  
 TRACT DESCRIBED IN AUDITORS FILE NO.  
 3181188 OF SECTION 5, T1N, R3E, W.M.  
 CLARK COUNTY, WASHINGTON

POINT OF BEGINNING  
 SE BYBEE RD.

S00°48'11"W 705.00'  
 N88°42'49"W 2535.08'

TAX LOT 4  
 SERIAL NO.  
 126245-000  
 SKOLA, LLC.  
 A.F. NO. 4289774

TRUE POINT  
 OF BEGINNING

EIFORD  
 EXHIBIT D  
 A.F. NO. 3181188

N58°30'26"E 1694.35'

TAX LOT 12  
 SERIAL NO.  
 126253-000  
 A.F. NO. 4289775

S00°48'11"W 1744.74'

"AWBREY GLEN AT  
 FISHER'S LANDING"  
 TRACT 'A'

N01°09'06"E 827.36'

20.00' ACCESS EASEMENT

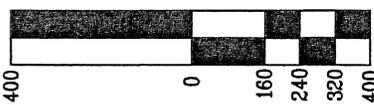
42.33  
 ACRES±

N88°42'49"W 1437.32'  
 EIFORD  
 EXHIBIT D  
 A.F. NO. 3181188

12-6-07



SCALE 1" = 400 FEET

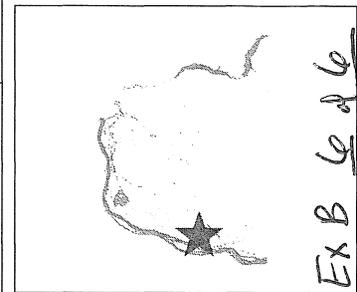
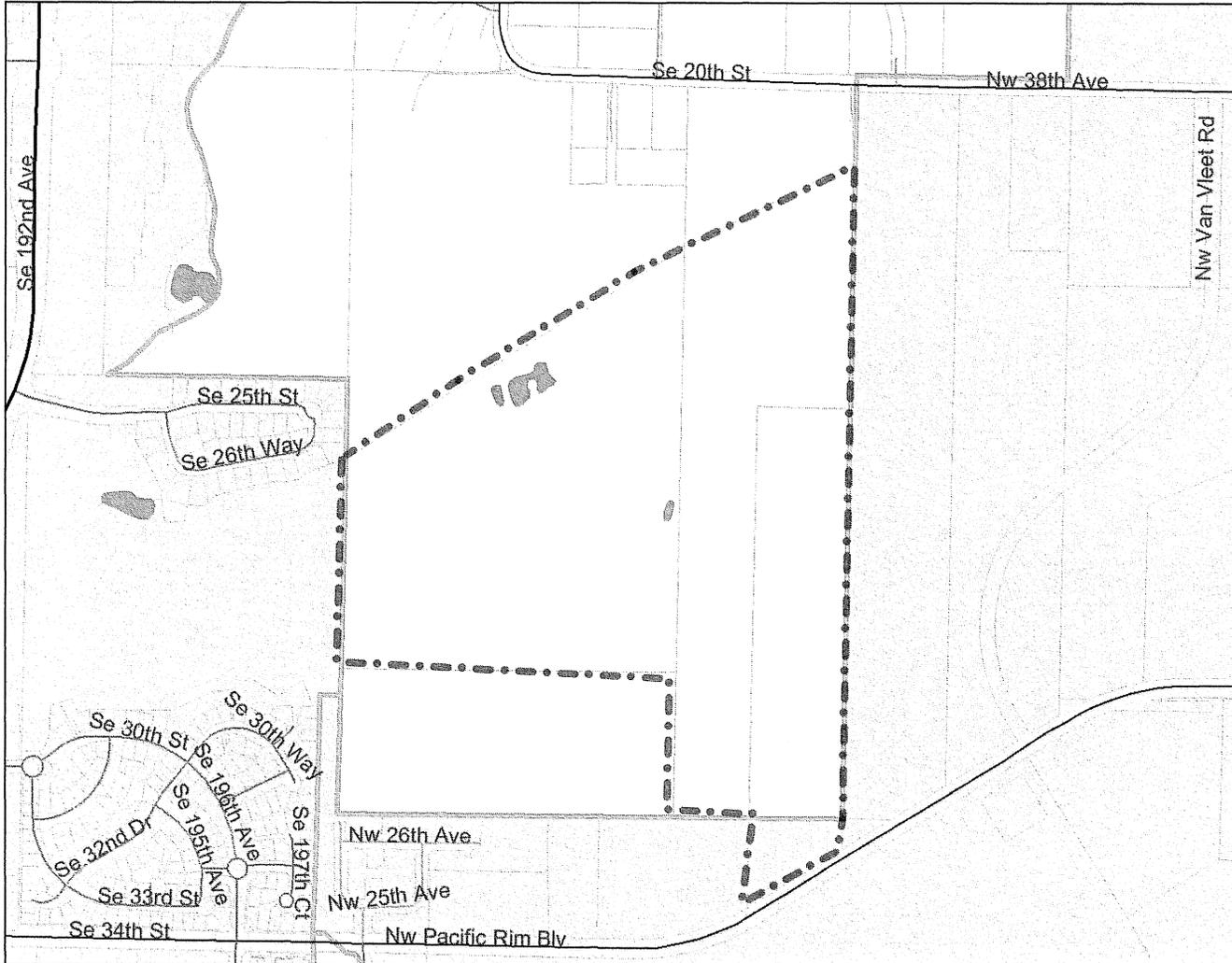


Ex. B 5 of 6

JOB NAME:	EIFORD SEG.	ENGINEERING • PLANNING • SURVEYING • FORESTRY
JOB #:	1958	LICENSED IN OR & WA
DRW BY:	MSK	12011 NE 99TH STREET, SUITE 1530
CKD BY:	NSW	VANCOUVER, WA 98682
DWG #:	1958BLA-3	PHONE: (360) 882-0419
		FAX: (360) 882-0426

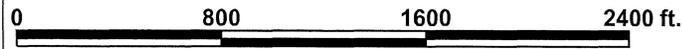


# MAP TO EXHIBIT B



## Legend

- Parcels
- Roads
- Alley
- Arterial
- DNR
- DNR (Private Land)
- Driveway
- Interstate
- Interstate Ramp
- Primary Arterial
- Private Roads
- Private Roads w/o Names
- Public Roads
- SR Ramp
- State Route
- Waterbodies
- City Boundaries
- Urban Growth Boundaries
- County Boundary
- County Boundary



Map center: 45° 36' 7" N, 122° 27' 58" W



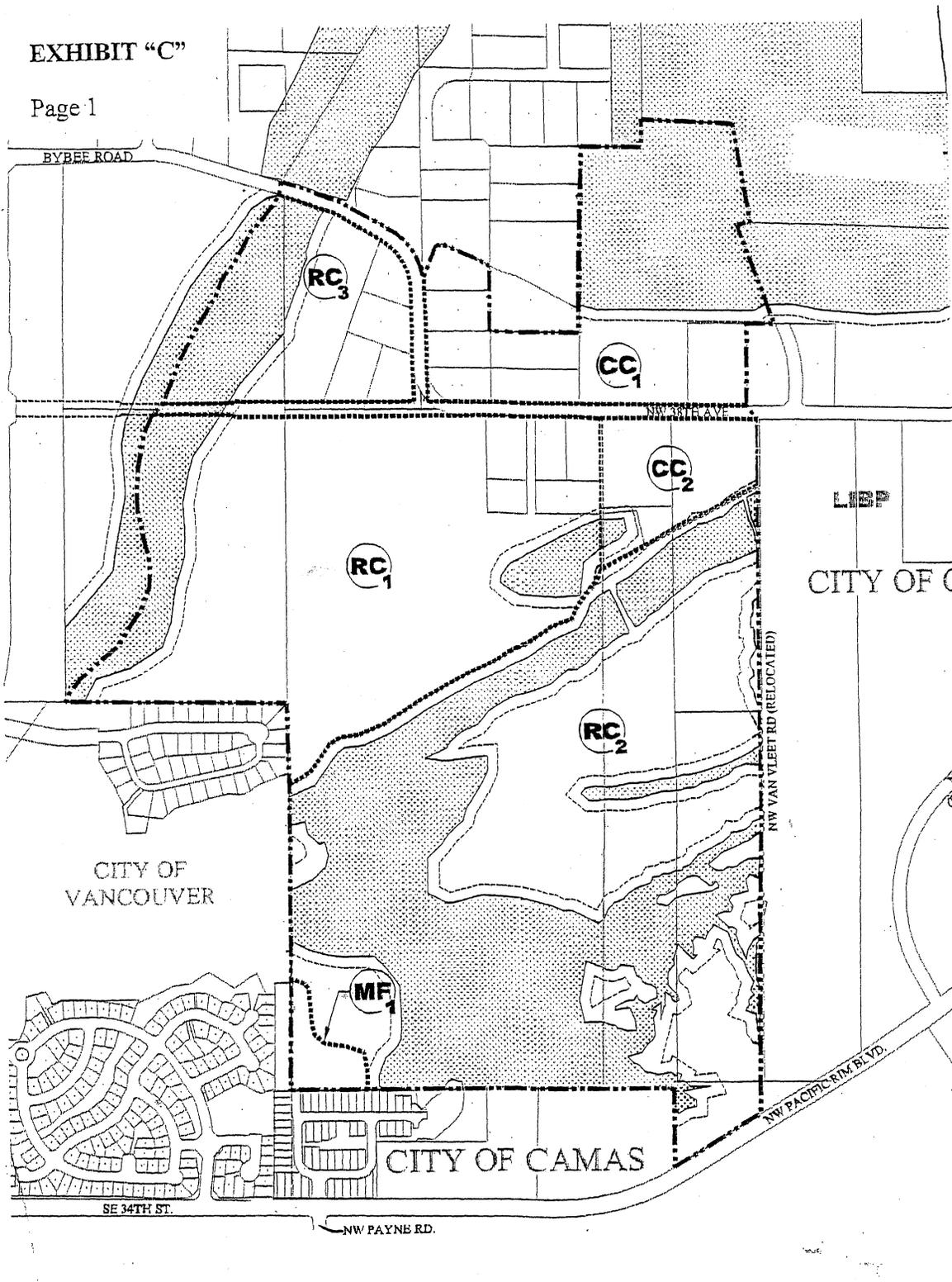
Scale: 1:8,615

Information shown on this map was collected from several sources. Neither Clark County, Washington, nor the producer of this document accept responsibility for any inaccuracies that may be present.

**EXHIBIT C TO PRE-ANNEXATION DEVELOPMENT AGREEMENT**

EXHIBIT "C"

Page 1



ANNEXATION ZONING

EXHIBIT "C"

Page 2

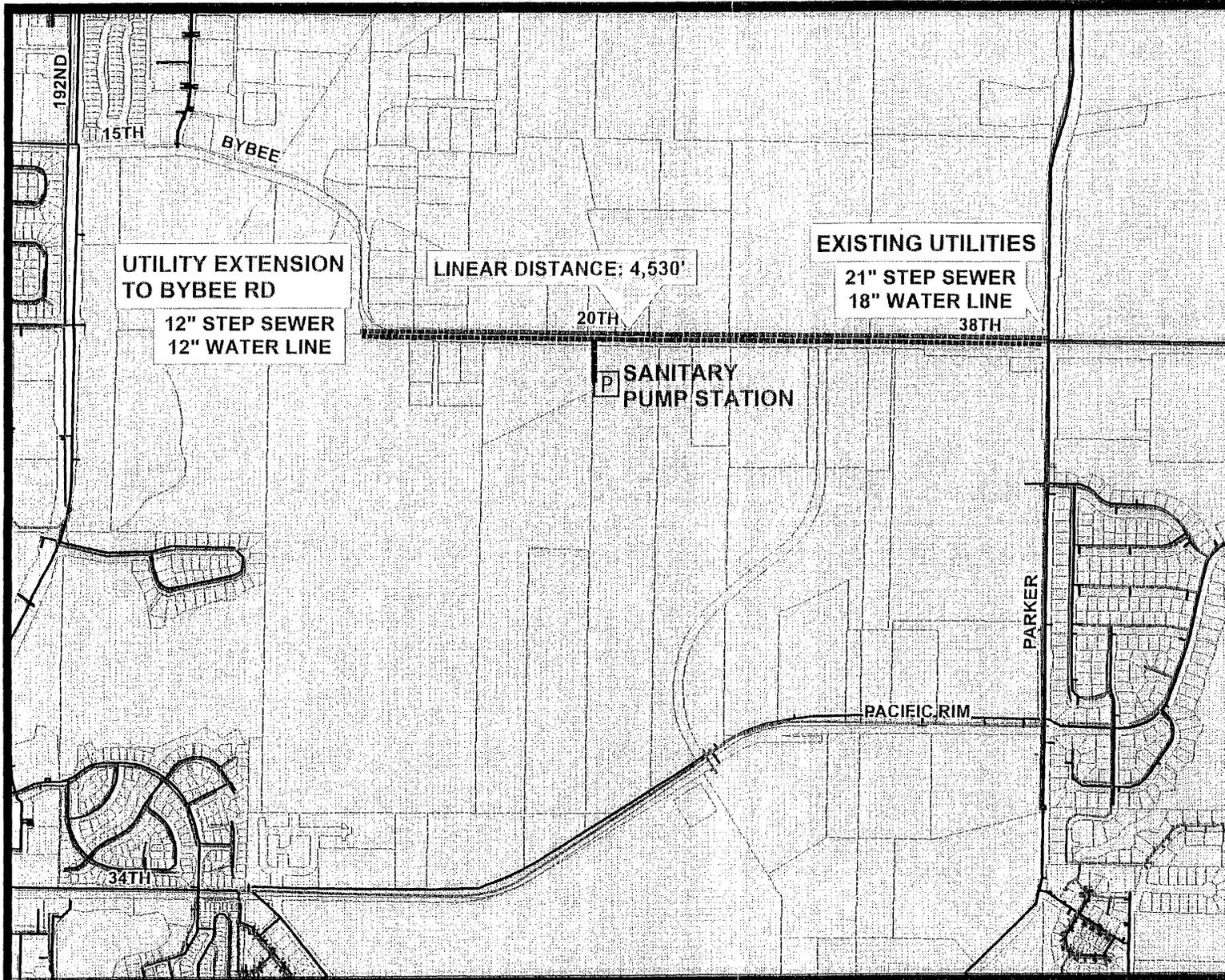
PRELIMINARY V1

WEST CAMAS STUDY AREA LAND USE TABLE		
08/30/07	GROSS AREA	APPROX. NET AREA
RC 1 REGIONAL COMMERCIAL	64.0 AC	52.4 AC
RC 2 REGIONAL COMMERCIAL	101.3 AC	37.5 AC
RC 3 REGIONAL COMMERCIAL	17.9 AC	9.1 AC
CC 1 COMMUNITY COMMERCIAL	29.5 AC	14.3 AC
CC 2 COMMUNITY COMMERCIAL	8.2 AC	7.1 AC
MF 1 LOW DENSITY MULTIFAMILY (10/AC)	2.3 AC	2.3 AC
TOTAL NET AREA		122.7 AC
ROW - BYBEE AND 20TH / 38TH	5.8 AC	
TOTAL STUDY AREA	229.0 AC	

APPROXIMATE EXISTING CLARK COUNTY ZONING AREAS (BASED ON 50' WETLAND BUFFERS)		
08/30/07	GROSS AREA	APPROX. NET AREA
BP	205.7 AC	105.2 AC
R1-6	17.5 AC	17.5 AC
TOTAL NET AREA		122.7 AC
ROW - BYBEE AND 20TH / 38TH	5.8 AC	
TOTAL STUDY AREA	229.0 AC	

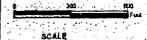
I:\projects\upland\grass\_valley\DRAWINGS\CURRENT\WestCamas\WP\_083007\_V1.dwg, BASL, 08/17/07, 9:45:39 AM

**EXHIBIT D TO PRE-ANNEXATION DEVELOPMENT AGREEMENT**



**EXHIBIT D**

-  WATER EXTENSION
-  SEWER EXTENSION
-  WATER LINE
-  SEWER LINE

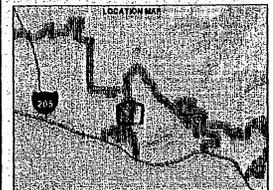


**SOURCE DATA**

Clark County GIS, Base Data, June 2009  
 Metro, Base Data, August 2009

**GEOGRAPHIC PROJECTION INFORMATION**

NAD 83 HARN, Washington South  
 Lambert Conformal Conic



**MACKENZIE**  
 801 Washington St, Suite B | Vancouver, Washington 98660  
 P.O. Box 51648 | Vancouver, Washington 98606-1249  
 T: 360 695 7878 | F: 360 695 0037 | www.group.mackenzie.com  
 PORTLAND, OR | SEATTLE, WA | VANCOUVER, WA

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 All Rights Reserved  
 Date: 6/27/09 | Map Quicker: 0116  
 File: 090001\_1116.dwg | Project: 090001

Exhibit E

Camas Municipal Code  
Titles 16, 17, and 18  
October 2007

Wetland Delineation

## **Title 16**

### **ENVIRONMENT**

Chapter 16.04	GENERAL PROVISIONS
Chapter 16.05	ARCHAEOLOGICAL RESOURCE PRESERVATION
Chapter 16.06	PUBLIC VIEW, OPEN SPACE PROTECTION AND HISTORIC SITES AND STRUCTURES
Chapter 16.07	HISTORIC PRESERVATION
Chapter 16.08	DEFINITIONS
Chapter 16.12	ADMINISTRATIVE PROVISIONS
Chapter 16.16	CATEGORICAL EXEMPTION AND THRESHOLD DETERMINATIONS
Chapter 16.20	ENVIRONMENT IMPACT STATEMENTS
Chapter 16.24	ENVIRONMENT DOCUMENTS AND HEARINGS
Chapter 16.28	SEPA AND AGENCY DECISIONS AND APPEALS
Chapter 16.32	CATEGORICAL EXEMPTIONS
Chapter 16.36	AGENCY COMPLIANCE
Chapter 16.40	FEES
Chapter 16.44	FORMS
Chapter 16.50	GENERAL PROVISIONS
Chapter 16.60	WETLANDS
Chapter 16.70	CRITICAL AQUIFER RECHARGE AREAS
Chapter 16.80	FREQUENTLY FLOODED AREAS
Chapter 16.90	GEOLOGICALLY HAZARDOUS AREAS
Chapter 16.95	FISH AND WILDLIFE HABITAT CONSERVATION AREAS

## **Chapter 16.04**

### **GENERAL PROVISIONS**

#### **Sections:**

**16.04.010 Statutory authority.**

**16.04.020 Severability.**

**16.04.010 Statutory authority.**

The city adopts this chapter under the State Environmental Policy Act (SEPA), RCW 43.21C.120, and the SEPA Rules, WAC 197-11-904. (Prior code § 10.32.010)

**16.04.020 Severability.**

If any provision of this title or its application to any person or circumstances is held invalid, the remainder of this title, or the application of the provision to other persons or circumstances, shall not be affected. (Prior code § 10.32.270)

## Chapter 16.05

### ARCHAEOLOGICAL RESOURCE PRESERVATION

#### Sections:

- 16.05.010 Purpose.**
- 16.05.020 Definitions.**
- 16.05.030 Coordination.**
- 16.05.040 Recording.**
- 16.05.050 Permit required.**
- 16.05.060 Applicability.**
- 16.05.070 Predetermination required.**
- 16.05.080 Predetermination standards.**
- 16.05.090 Predetermination reports.**
- 16.05.100 Review of predetermination reports and further action.**
- 16.05.110 Archaeological resource survey required.**
- 16.05.120 Survey standards.**
- 16.05.130 Survey reports.**
- 16.05.140 Review of survey reports and further action.**
- 16.05.150 Discovery principle.**
- 16.05.160 Notification to tribes.**
- 16.05.170 Enforcement.**

#### **16.05.010 Purpose.**

The purposes of this chapter are to:

- A. Encourage the identification and preservation of cultural, archaeological and historic resources consistent with the Growth Management Act of 1990, as amended, and Camas' comprehensive plan;
- B. Establish clear procedures and specific standards for identifying, documenting and preserving Camas' cultural, archaeological and historic resources;
- C. Ensure use of the best available technology and techniques commonly accepted as standards in the profession of archaeology;
- D. Establish a fair and equitable process for balancing the identification and preservation of cultural, archaeological and historic resources with economic development;
- E. Ensure coordination and consistency in the implementation of the State Environmental Policy Act, the Shoreline Management Act and the Growth Management Act. (Ord. 2443 § 1

(Exh. A (part)), 2006: Ord. 2137 § 1 (part), 1997)

#### **16.05.020 Definitions.**

In carrying out the provisions of this chapter, the following definitions shall apply:

“Adequately surveyed and documented” means that (1) the survey method, level of analysis, and area covered are sufficient to meet the requirements of this chapter; and (2) the documentation is sufficient to allow another archaeologist to repeat the survey and reach the same conclusion. Adequacy shall be determined by the director.

“Archaeological object” means an object that comprises the physical evidence of an indigenous and subsequent culture including material remains of past human life including monuments, symbols, tools, facilities and technological by-products (WAC 25-48-020(8)).

“Archaeological resource survey” means procedure by which an archaeologist makes an assessment of the presence or absence of an archaeological site on a parcel, a preliminary assessment of a site's significance, and a recommendation for further evaluation, avoidance, mitigation, or recovery of resources.

“Archaeological resources” means any material remains of human life or activities which are of archaeological interest. This shall include all sites, objects, structures, artifacts, implements and locations of prehistoric or archaeological interest, whether previously recorded or still unrecognized, including, but not limited to, those pertaining to prehistoric and historic American Indian or aboriginal burials, campsites, dwellings, and their habitation sites, including rock shelters and caves, their artifacts and implements of culture such as projectile points, arrowheads, skeletal remains, grave goods, basketry, pestles, mauls, and grinding stones, knives, scrapers, rock carvings and paintings, and other implements and artifacts of any material (WAC 25-48-020(10)). This shall also include any material remains of human life or activities from historic periods which are located at least partially below the ground surface necessitating the use of archaeological methods for study or

recovery.

“Archaeological site” means a geographic locality in Washington, including but not limited to, submerged and submersible lands and the bed of the sea within the state’s jurisdiction, that contains archaeological objects (WAC 25-48-020(9)).

“Archaeologist” means either a qualified archaeologist (RCW 27.53.030(9)) or a professional archaeologist (RCW 27.53.030(8) and WAC 25-48-020(4)) who has been approved by the city. Both qualified archaeologists and professional archaeologists may perform predeterminations and surveys. Only professional archaeologists may perform services such as evaluation and data recovery for which a state permit is needed.

“Department” means the community development department.

“Director” means the director of the community development department or designee.

“Feature” means an artifact or set of artifacts which loses its integrity when moved due to its size and complexity (e.g., a hearth or a house floor).

“Known, recorded archaeological site” means an archaeological site which has been recorded with OAHP.

“OAHP” means the Washington State Office of Archaeology and Historic Preservation.

“Of archaeological interest” means capable of providing scientific or humanistic understandings of past human behavior, cultural adaptation, and related topics through the application of scientific or scholarly techniques such as controlled observation, contextual measurement, controlled collection, analysis, interpretation and explanation (WAC 25-48-020(12)).

“Predetermination” means a procedure similar to, but of less intensity than an archaeological resource survey. Its purpose is to determine whether an archaeological site is likely to be present or absent on a parcel, and based on that determination recommend whether or not to proceed with an archaeological resource survey.

“Probability level” means account classification of property according to the probability of its having archaeological

resources. The probability levels are low (zero to twenty percent), low-moderate (twenty to forty percent), moderate (forty to sixty percent), moderate-high (sixty to eighty percent), and high (eighty to one hundred percent). The probability levels assigned to property within the urban growth boundary of the city are identified in that map entitled “City of Camas Archaeological Site Study, June 3, 1997.”

“Significant archaeological site” means an archaeological site which has been determined by a professional archaeologist to contain: (1) archaeological objects at a density of at least one hundred per cubic meter per stratigraphic or cultural unit; or (2) at least one feature; or (3) at least one relatively uncommon archaeological object; or (4) skeletal remains.

“Survey” means archaeological resource survey.

“Tribes” means any federally recognized or other local Native American Government organization which may consider the site to be of historic or cultural significance. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2137 § 1 (part), 1997)

#### **16.05.030 Coordination.**

A. General. Where the provisions of this chapter conflict with each other or with other laws, ordinances or programs, the more restrictive provisions shall apply.

B. SMA. The provisions of this chapter shall apply throughout Camas, including areas regulated by Camas’ shoreline management master program.

C. SEPA. The regulations of the State Environmental Policy Act shall supplement the provisions of this chapter.

D. Development Review. For projects subject to Title 18, Chapter 18.55 of the Camas Municipal Code, a determination that an application is complete shall not be made until any required predetermination has been completed and a predetermination report has been submitted. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2137 § 1 (part), 1997)

#### **16.05.040 Recording.**

Any archaeological site identified pursuant to the provisions of this chapter shall be recorded

with OAHP. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2137 § 1 (part), 1997)

**16.05.050 Permit required.**

A permit from OAHP shall be secured prior to digging, altering, excavating, and/or removing archaeological objects and sites or historic archaeological resources, or proposing to remove glyptic or painted records of tribes or peoples, or archaeological resources from native Indian cairns or graves (WAC 25-48-050). (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2137 § 1 (part), 1997)

**16.05.060 Applicability.**

A. The provisions of this chapter shall apply:

1. When any item of archaeological interest is discovered during the course of a permitted ground-disturbing action or activity (Section 16.05.150);

2. When the director determines that reliable information indicates the possible existence of an archaeological site on a parcel for which an application for a permit or approval for a ground-disturbing action or activity has been submitted.

B. The provisions of this chapter shall apply, except as provided in this section and in subsection C of this section, to all ground-disturbing actions or activities for which a permit or approval is required:

1. On all parcels in probability level high;
2. On parcels of at least five acres in probability levels moderate-high and moderate;
3. Regardless of parcel size or probability level, when proposed within one-fourth mile of a known, recorded archaeological site as measured on a horizontal plane extending in all directions. Such an action or activity may be exempted by the director, when appropriate, during the predetermination process due to the effects of a geographic barrier (Section 16.05.070(F)).

C. The following shall not trigger or shall be exempted from the provisions of this chapter:

1. Accessory dwelling units;
2. Land use permits issued under clear and objective standards, such as those for fences, sheds, decks, patios or driveways;
3. Sign permits;
4. Conditional use permits for a change in use

only, not involving ground disturbance for structural modification;

5. Zoning variance approvals;

6. Ground-disturbing actions or activities which constitute normal maintenance and repair of existing structures and facilities; or

7. Ground-disturbing actions or activities proposed in areas which the director determines to have been adequately surveyed and documented (as defined in Section 16.05.020) in the past and within which no archaeological resources have been discovered.

D. When more than one probability level traverses a parcel, the entire parcel shall be considered to be within the level with the greatest probability rating. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2137 § 1 (part), 1997)

**16.05.070 Predetermination required.**

A. A predetermination shall be required for any nonexempt ground-disturbing action or activity for which a permit or approval is required within probability level high.

B. A predetermination shall be required for any nonexempt ground-disturbing action or activity for which a permit or approval is required and which is located on a parcel of at least five acres within probability levels moderate-high and moderate.

C. A predetermination shall be required for all nonexempt ground-disturbing actions or activities for which a permit or approval is required which are proposed within one-fourth mile of a known, recorded archaeological site.

D. A predetermination shall be required when the director determines that reliable information indicates the possible existence of an archaeological site on a parcel for which an application for a permit or approval for a ground-disturbing action or activity has been submitted.

E. A predetermination shall be required when any item of archaeological interest is discovered during the course of a permitted ground-disturbing action or activity.

F. During the predetermination process, the director will determine whether a ground-disturbing action or activity is exempt under Section 16.05.060(B)(3) or 16.05.060(C)(7) of this chapter. In the event that the director is able to make such a determination of

exemption based solely upon background research (Section 16.05.080(C)), the city shall reduce the applicant's total fee obligation for the project by one-half of the predetermination fee.

G. A predetermination shall not be performed when a survey is required under Section 16.05.110 of this chapter.

H. The director may waive the requirement for a predetermination if the applicant chooses to provide a survey in accordance with Sections 16.05.110 and 16.05.130 of this chapter. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2137 § 1 (part), 1997)

#### **16.05.080 Predetermination standards.**

Predeterminations shall include at a minimum the following elements and be carried out according to the following standards:

A. Predeterminations shall be performed by a qualified or professional archaeologist.

B. Predeterminations shall be performed to the high standard of quality which fulfills the purposes of this chapter.

C. Background Research. A thorough review of records, documentation, maps, and other pertinent literature shall be performed.

D. Surface Inspection. A visual inspection of the ground surface shall be completed when conditions yield at least fifty percent visibility.

E. Subsurface Investigation. Subsurface investigation shall be performed when considered necessary by the archaeologist. When necessary, the following standards shall apply:

1. Subsurface probes shall be no less than eight inches/twenty centimeters in diameter (twelve inches/thirty centimeters or more preferred) at the ground surface, and shall delve no less than twenty inches/fifty centimeters deep into natural soil deposits whenever possible.

2. The most appropriate number of and locations for subsurface probes shall be determined by the archaeologist.

3. All material excavated by subsurface probes shall be screened using both one-fourth inch and one-eighth inch hardware mesh cloths. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2137 § 1 (part), 1997)

#### **16.05.090 Predetermination reports.**

A report shall be completed for each predetermination to the high standard of quality which fulfills the purposes of this chapter and standardized guidelines furnished by the department. A completed report shall be submitted to OAHP as well as the city. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2137 § 1 (part), 1997)

#### **16.05.100 Review of predetermination reports and further action.**

A. Predetermination reports shall be reviewed by the director.

B. When the director determines that a predetermination report is complete and adequate, the director shall, based upon the information contained in the report, determine whether an archaeological site is likely to exist.

C. Where the director determines that an archaeological site is not likely to exist, the application may proceed through the remainder of the development review process.

D. Where the director determines that an archaeological site is likely to exist, an archaeological resource survey shall be required and carried out in accordance with the provisions of this chapter. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2137 § 1 (part), 1997)

#### **16.05.110 Archaeological resource survey required.**

A survey shall be required when the results of a predetermination indicate further investigation is necessary and either:

A. No previous survey has been done; or

B. A previous survey or documentation is determined by the director to be inadequate. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2137 § 1 (part), 1997)

#### **16.05.120 Survey standards.**

Surveys shall include at a minimum the following elements and be carried out according to the following standards:

A. Surveys shall be performed by a professional archaeologist.

B. Surveys shall be performed to the high standard of quality which fulfills the purposes of this chapter.

C. Background Research. A thorough review of records, documentation, and other pertinent literature shall be performed.

D. Surface Inspection. A systematic, one hundred percent visual inspection of the ground surface shall be completed when conditions yield at least fifty percent visibility.

E. Subsurface Investigation. Subsurface investigation shall be performed when considered necessary by the archaeologist, utilizing the same standards set forth within CMC Section 16.05.080(E). (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2137 § 1 (part), 1997)

#### **16.05.130 Survey reports.**

A report shall be completed for each survey in accordance with state guidelines and to the high standard of quality which fulfills the purposes of this chapter. A completed report shall be submitted to OAHP as well as the city. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2137 § 1 (part), 1997)

#### **16.05.140 Review of survey reports and further action.**

A. Survey reports shall be reviewed by the director.

B. When the director determines that a survey report is complete and adequate, the director shall, based upon the information contained in the report, determine whether an archaeological site has been identified.

C. Where the director determines that no archaeological site has been identified, the application may proceed through the remainder of the development review process.

D. Where the director determines that an archaeological site has been identified and is not likely to be significant, the application may proceed through the remainder of the development review process.

E. Where the director determines that an archaeological site has been identified and is likely to be significant, archaeological resources shall be further evaluated, avoided, properly mitigated or properly recovered in accordance with the director's recommendation and subject to state regulations. Priority for protection in-place and thorough evaluation and data recovery shall be given to significant

archaeological sites. Bonding may be required to ensure that the site is treated in accordance with the director's recommendation and provisions of the state permit. Monitoring and future corrective measures may be required to ensure that an archaeological site is not degraded by a permitted development. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2137 § 1 (part), 1997)

#### **16.05.150 Discovery principle.**

In the event that any item of archaeological interest is uncovered during the course of a permitted ground-disturbing action or activity:

A. All ground-disturbing activity shall immediately cease.

B. The applicant shall notify the department and OAHP.

C. The applicant shall provide for a predetermination and a predetermination report prepared in accordance with the provisions of this chapter. The director shall review the report and issue a determination in accordance with Section 16.05.100 of this chapter in a reasonably diligent manner, taking into account all pertinent factors and conditions (within seven calendar days whenever feasible). Where such determination is that an archaeological site is not likely to exist, construction may continue. Where such determination is that an archaeological site is likely to exist, the applicant shall provide a survey and survey report. The director shall produce a map of the parcel indicating clearly the portion(s) of the parcel, if any, within which construction may continue under the supervision of an archaeologist and monitoring by the director while the required survey is being completed. The provisions of Section 16.05.140 of this chapter shall apply. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2137 § 1 (part), 1997)

#### **16.05.160 Notification to tribes.**

Whenever a predetermination or survey is required, the applicant shall provide the tribes with a copy of the application and all supporting materials, and shall provide proof of compliance with this requirement to the director. Upon city receipt of a predetermination or survey, the director shall notify the tribes, in writing, that such

predetermination or survey will be submitted to the tribes by the applicant. When the director determines that the existence of an archaeological site is probable and an archaeological resource survey is required, the director shall notify the tribes of such determination by certified mail, return receipt requested. Comments from the tribes shall be accepted by the director until five p.m. on the fourteenth day from the date notification was mailed to the tribes. Should the fourteenth day

fall on a nonbusiness day, the comment period shall be extended until five p.m. on the next business day. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2137 § 1 (part), 1997)

**16.05.170 Enforcement.**

The provisions of this chapter shall be enforced in accordance with the provisions of CMC Chapter 14.13 of this code. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2137 § 1 (part), 1997)

## Chapter 16.06

### PUBLIC VIEW, OPEN SPACE PROTECTION AND HISTORIC SITES AND STRUCTURES

#### Sections:

**16.06.010 Public view, open space protection and historic sites and structures.**

**16.06.015 Archeological resources.**

**16.06.020 Traffic and transportation.**

**16.06.030 Ground and surface water quality.**

**16.06.040 Public facilities.**

#### **16.06.010 Public view, open space protection and historic sites and structures.**

##### A. Policy Background.

1. Camas has a magnificent natural setting of greenery, mountains, and water; visual amenities and opportunities are an integral part of the city's environmental quality.

2. The city has developed particular sites for the public's enjoyment of views of mountains, water, open space networks and skyline and has many scenic routes and other public places where such views enhance one's experience.

3. Obstruction of public views or open space networks may occur when a proposed structure is located in close proximity to the street property line, when development occurs on lots situated at the foot of a street that terminates or changes direction because of a shift in the street grid pattern, when buildings are built on a ridge line, or when development along a street creates a continuous wall separating the street from the view.

4. As part of the city's character, it is important to preserve sites and structures which reflect significant elements of the city's historic heritage and to designate and regulate such sites and structures as historic landmarks.

5. Adopted land use regulations attempt to protect private views through height and bulk controls and other zoning regulations but it is impractical to protect private views through project-specific review.

##### B. Policies.

1. It is the city's policy to protect public

views of significant natural and human-made features: Mount Hood and major bodies of water including the Columbia River, Lacamas Lake and the Washougal River. These include public places consisting of viewpoints, parks, scenic routes, and view corridors identified in the comprehensive Plan and the comprehensive park and recreation plan.

2. The responsible official may condition or deny a proposal to eliminate or reduce its adverse impacts on designated public views or open space networks.

3. It is the city's policy to protect public views of historic sites or landmarks designated by the city or identified in the review process which, because of their prominence of location or contrasts or siting, age, or scale, are easily identifiable visual features of their neighborhood or the city and contribute to the distinctive quality or identity of their neighborhood or the city.

4. A proposed project may be conditioned or denied to mitigate view impacts.

5. Mitigating measures may include, but are not limited to:

a. Requiring a change in the height of development;

b. Requiring a change in the bulk of the development;

c. Requiring a redesign of the profile of the development;

d. Requiring on-site view corridors or requiring enhancements to off-site view corridors;

e. Relocating the project on the site;

f. Requiring a reduction or re-arrangement of walls, fences, or plant material; and

g. Requiring a reduction or rearrangement of accessory structures including, but not limited to, tower railings and antennae. (Ord. 1821 § 1, 1991)

#### **16.06.015 Archeological resources.**

##### A. Policy Background.

1. The city has sites containing objects of archeological and historical significance.

2. The discovery, identification, excavation, preservation and study of archeological resources, the inventorying of archeological sites and collections, and the providing of

information to state, federal and private construction agencies regarding the impact of construction activities on archeological resources are public functions, and the city is an appropriate agency to assist in the carrying out of these functions.

3. The conversion of undeveloped lands into residential, commercial and industrial uses may result in the destruction of archeological resources.

4. Development of land should be regulated to mitigate adverse impacts to archeological resources.

**B. Policies.**

1. It is the city's policy to identify, inventory and preserve archeological resources and archeological sites located within the city.

2. Whenever a development proposal contains a known or suspected archeological site, the responsible officials shall assess the probable effect of the impact and the need for mitigating measures.

3. Whenever the responsible official determines that a development project may contain an archeological site or may adversely impact a known archeological site, the proponent may be required to retain the services of a qualified professional archeologist to assess the impact of the development, and to propose such mitigating measures as may be necessary.

4. The responsible official shall notify the Washington State Office of Archeology and Historic Preservation, Department of Community Development, of any development activity that may adversely impact a recognized or suspected archeological site.

5. If the responsible official makes a written finding that a development project will adversely impact an archeological site, then the responsible official may condition or deny the development project to minimize such adverse impact.

6. Mitigation measures may include:

- a. Reduction in size or scope of the project;
- b. Requiring the implementation of mitigation measures as recommended by a professional archeologist;
- c. Requiring compliance with any permits or conditions as may be imposed or recommended by the Washington State Office of Archeology

and Historic Preservation.

7. If archeological resources are discovered on a development site after approval of the development by the city without the imposition of appropriate mitigation measures, then the responsible official may issue an order to cease and desist all development activity in the affected area until such time as an appropriate archeological resources assessment can be undertaken and mitigating measures, if necessary, implemented. (Ord. 2072 § 1, 1996)

**16.06.020 Traffic and transportation.**

**A. Policy Background.**

1. Excessive traffic can adversely affect the stability, safety and character of Camas' neighborhoods and downtown.

2. Substantial traffic volumes associated with major projects may adversely impact surrounding areas.

3. Individual projects may create adverse impacts on transportation facilities which service such projects. Such impacts may result in a need for turn channelization, right-of-way dedication, street widening, or other improvements including traffic signalization.

**B. Policies.**

1. Minimize or prevent adverse traffic impacts that would undermine the stability, safety and/or character of downtown, a neighborhood, or surrounding areas.

2. In determining the necessary traffic and transportation impact mitigation, the responsible official shall examine the expected peak traffic and circulation pattern of the proposed project weighed against such factors as the availability of public transit; existing vehicular and pedestrian traffic conditions; accident history; the trend in local area development; parking characteristics of the immediate area; the use of the street as determined by the city and the availability of goods, services and recreation with reasonable walking or biking distance.

3. Mitigating measures which may be applied to projects may include, but are not limited to:

- a. Changes in access;
- b. Changes in the location, number and size of curb cuts and driveways;
- c. Provision of transit incentives including transit pass subsidies;

- d. Bicycle parking;
  - e. Signage;
  - f. Improvements to pedestrian and vehicular traffic operations including signalization, turn channelization, right-of-way dedication, street widening, or other improvements proportionate to the impacts of the project; and
  - g. Transportation management plans.
4. For projects which result in adverse impacts, the responsible official may reduce the size and/or scale of the project if the responsible official determines that the traffic improvements outlined under the above paragraph would not be adequate to effectively mitigate the adverse impacts of the project. (Ord. 1821 § 2, 1991)

**16.06.030 Ground and surface water quality.**

- A. Policy Background.
  - 1. Camas' water quality is adversely affected primarily dumping of pollutants and drainage-related sewage overflows into its lakes, streams, creeks, and other systems draining into the Washougal and Columbia Rivers.
  - 2. Camas' water quality is also adversely affected by storm drainage runoff; non-point source discharges from streets, parking lots and other impervious surfaces; and construction site runoff.
  - 3. Federal, state and regional water quality regulations and programs cannot always anticipate or eliminate adverse impacts to water quality.
- B. Policies.
  - 1. It is the city's policy to minimize or prevent adverse water quality impacts.
  - 2. For any project proposal which poses a potential threat to water quality in Camas, the responsible official shall assess the probable effect of the impact and the need for mitigating measures. The assessment shall be completed in consultation with appropriate agencies with water quality expertise.
  - 3. If the responsible official makes a written

finding that the applicable federal, state and regional regulations did not anticipate or are inadequate to address the particular impact(s) of the project, the responsible official may condition or deny the project to mitigate its adverse impacts.

- 4. Mitigating measures may include, but are not limited to:
  - a. Use of an alternative technology;
  - b. Reduction in the size or scope of the project or operation;
  - c. Landscaping; and
  - d. Limits on the time and duration of the project or operation. (Ord. 1821 § 3, 1991)

**16.06.040 Public facilities.**

- A. Policy Background.
  - 1. A single development though otherwise consistent with zoning regulations, may create excessive demands upon existing public services and facilities. "Public services and facilities" in this context includes facilities such as sewers, storm drains, solid waste disposal facilities, parks, schools, police and fire facilities, and streets and services such as transit, solid waste collection, public health services, and police and fire protection, provided by either a public or private entity.
- B. Policies.
  - 1. It is the city's policy to minimize or prevent adverse impacts to existing public services and facilities.
  - 2. The responsible official may require as part of the environmental review of a project, a reasonable assessment present and planned condition and capacity of public services and facilities to serve the area affected by the proposal.
  - 3. Based upon such analyses, a project which would result adverse impacts on existing public services and facilities may be conditioned or denied to lessen its demand for services and facilities, or required to improve or add services and/or facilities to meet demand caused by the project. (Ord. 1821 § 4, 1991)

## Chapter 16.07

### HISTORIC PRESERVATION

#### Sections:

**16.07.010 Purpose.**

**16.07.020 Applicability.**

**16.07.030 Definitions.**

**16.07.040 Clark County historic preservation commission.**

**16.07.050 National Register of Historic Places.**

**16.07.060 Clark County heritage register.**

**16.07.070 Review of changes to Clark County heritage register property(ies)-- Design review.**

**16.07.080 Relationship to zoning.**

**16.07.090 Review and monitoring of property(ies) for special property tax valuation.**

**16.07.100 Clark County cultural resources inventory.**

**16.07.110 Violations and enforcement.**

#### **16.07.010 Purpose.**

The purpose of this chapter is to provide for the identification, evaluation and protection of cultural and historic resources in the city and to encourage the preservation, restoration and rehabilitation of these resources for future generations in order to:

A. Safeguard the heritage of Camas as represented by those buildings, districts, objects, sites and structures which reflect significant elements of the city's history;

B. Increase recognition of Camas' cultural and historic resources;

C. Foster a sense of identity based upon the city's history;

D. Assist, encourage and provide incentives to property owners for preservation, restoration and reuse of significant buildings, districts, objects, sites and structures; and

E. Promote and facilitate the early identification and resolution of conflicts between preservation of cultural and historic resources and alternative land uses. (Ord. 2073 § 1 (part), 1996)

#### **16.07.020 Applicability.**

This chapter applies to:

A. Property(ies) within the city listed or eligible to be listed on any historic or cultural resource inventory for Clark County;

B. Property(ies) within the city listed or eligible to be listed on the National Register of Historic Places, Washington State Heritage Register, Clark County Heritage Register or other local register for Clark County. (Ord. 2073 § 1 (part), 1996)

#### **16.07.030 Definitions.**

The following words and terms when used in this chapter shall mean as follows, unless a different meaning clearly appears from the context:

"Board" shall refer to the Clark County board of commissioners, except where reference is made to the "local review board" for purposes of the special valuation tax incentive program.

"Cultural resources" consist of historic or prehistoric or archaeological sites and standing structures, cemeteries, burial grounds and funerary objects and distributions of cultural remains and artifacts.

"Clark County cultural resources inventory" or "inventory" means a comprehensive inventory of historic resources within the boundaries of Clark County including resources identified in the Clark County cultural resources inventory and other inventories by local jurisdictions within Clark County.

"Commission" means the "Clark County historic preservation commission."

"Contributing" means a property which dates to the historic period and retains sufficient physical integrity so as to convey its historic character.

"Historic district" is a geographically definable area possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development.

"Emergency repair" means work necessary to prevent destruction or dilapidation to real property or structural appurtenances thereto immediately threatened or damaged by fire, flood, earthquake or other disaster.

"National Register of Historic Places" means

the national listing of properties significant to our cultural history because of their documented importance to our history, architectural history, engineering or cultural heritage.

“Noncontributing” means a property which either does not date to the historic period or has not retained sufficient physical integrity so as to convey its historic character.

“Ordinary repair and maintenance” means work for which a permit issued by the city is not required by law, and where the purpose and effect of such work is to correct any deterioration or decay of or damage to the real property or structure appurtenance therein and to restore the same, as nearly as may be practicable, to the condition prior to the occurrence of such deterioration, decay or damage.

“Qualified archaeologist” means a person who has had formal training and/or experience in archaeology over a period of at least three years, and has been certified in writing to be a qualified archaeologist by two professional archaeologists, as defined in RCW 27.53.030.

“Significance” shall refer to a quality of a property which helps one understand the history of the local area, state, or nation by illuminating the local, statewide or nationwide impact of the events or persons associated with the property, or its architectural type or style in information potential. The local area may be as large as Clark County or Southwest Washington, or as small as a neighborhood. Local significance may apply to a property that illustrates a theme that is important to one or more localities; state significance to a theme important to the history of the state; and national significance to property of exceptional value in representing or illustrating an important theme in the history of the nation.

“Special valuation tax incentive program” or “special valuation” means the local option program makes available to property owners a special tax valuation for rehabilitation of historic property(ies) under which the assessed value of an eligible historic property is determined at a rate that excludes, for up to ten years, the actual cost of the rehabilitation.

“Washington Heritage Register” means the state listing of properties significant to the

community, state or nation but which do not meet the criteria of the National Register of Historic Places. (Ord. 2073 § 1 (part), 1996)

#### **16.07.040 Clark County historic preservation commission.**

A. Authority. The Clark County historic preservation commission shall serve as the review authority on matters of historic preservation as outlined in subsection C of this section for properties within the City of Camas.

B. Composition of the Commission. Appointments to the commission shall be made by the Clark County board of commissioners. All members shall be selected based on the professional or demonstrated expertise criteria (CCC 18.328.040(B)), rather than by geographic distribution.

C. Powers and Duties. The major responsibilities of the commission are to identify and actively encourage the conservation of the county’s historic and cultural resources by initiating and maintaining a register of historic places and reviewing proposed changes to register property(ies); to raise community awareness of the county’s historic and cultural resources; and to serve as the county’s primary resource in matters of historic preservation. In carrying out these responsibilities, the commission shall engage in the following activities:

1. Maintain a comprehensive inventory of historic and cultural resources within the boundaries of the city of Camas to be included in the Clark County Cultural Resources Inventory; publicize and periodically update inventory results;

2. Maintain the Clark County heritage register. This official register shall be comprised of buildings, structures, sites, objects and districts identified by the commission as having historic significance worthy of recognition by the county and encouragement of efforts by owners to maintain, rehabilitate and preserve properties;

3. Review nominations to the Clark County heritage register and National Register of Historic Places according to criteria in Sections 16.05.050 and 16.05.060 of this chapter. Make designations to the Clark County Heritage Register;

4. Review proposals as required in Sections 16.07.060(B) and (C) for historic districts on the Clark County Heritage or National Registers;

5. Submit nominations to the Washington State Heritage Register and National Register of Historic Places;

6. Provide for comment by the commission on all applications for approvals, permits, environmental assessments or impact statements, and other similar documents pertaining to identified historic or cultural resources or adjacent property(ies) upon staff request;

7. Provide information, comment and support to the public and agencies on matters related to historic preservation;

8. Encourage recognition of noteworthy efforts in the rehabilitation or maintenance of historic buildings, structures, sites and districts, and new construction in historic areas;

9. Serve as the local review board for special valuation pursuant to RCW 84.26.

**D. Rules and Officers.**

1. The commission shall establish and adopt its rules and procedures not inconsistent with this chapter.

2. The commission shall select from among its membership a chairperson and vice chair to conduct the commission's business.

**E. Commission Staff.** Staff for the commission shall be provided by the Clark County department of community development with additional assistance and information to be provided by other county or city departments as may be necessary to aid the commission in carrying out its duties and responsibilities under this chapter.

**H. Interlocal Agreement Required.** An interlocal agreement shall be established between the city and Clark County implementing the provisions of this chapter. (Ord. 2073 § 1 (part), 1996)

**16.07.050 National Register of Historic Places.**

A. Nominations to the National Register of Historic Places shall be reviewed as established in the Code of Federal Regulations (36CFR60).

B. The commission shall hold a duly advertised public hearing at a regularly

scheduled meeting at which the applicable criteria are reviewed and a recommendation forwarded to the State Office of Archaeology and Historic Preservation (OAHP) within sixty days of the date of application. The OAHP shall complete the designation process and notify the applicant of the designation decision. (Ord. 2073 § 1 (part), 1996)

**16.07.060 Clark County heritage register.**

A. Criteria for Determining Eligibility for Designation in the Register. Any building, structure, site, object or district may be designated for inclusion in the Clark County heritage register if it:

1. Has integrity of location, design, setting, materials, workmanship, feeling and association; and

2. Is at least fifty years old, or is of lesser age and has exceptional importance; and

3. Is significantly associated with the history, architecture, archaeology, engineering or cultural heritage of the community; and

4. Meets at least one of the following criteria:

a. Is associated with events that have made a significant contribution to the broad patterns of national, state or local history; or

b. Embodies the distinctive architectural characteristics of a type, period, style or method of design or construction, or represents a significant and distinguishable entity whose components may lack individual distinction; or

c. Is an outstanding work of a designer, builder or architect who has made a substantial contribution to their field; or

d. Exemplifies or reflects special elements of the county's history; or

e. Is associated with the lives of persons significant in national, state or local history; or

f. Has yielded or may be likely to yield important archaeological information related to history or prehistory; or

g. Is an historic building or cultural resource removed from its original location but which is significant for architectural value, or association with an historic person or event, or prehistory; or

h. Is a birthplace or grave of a prehistoric or historical figure of outstanding importance and is the only surviving structure or site associated

with that person; or

i. Is a cemetery or burial site which derives its primary significance from age, from distinctive design features, or from association with historic events, or cultural patterns; or

j. Is a reconstructed building that has been executed in an historically accurate manner on the original site; or

k. Is a creative and unique example of folk architecture and design created by persons not formally trained in the architectural or design professions, and which does not fit into formal architectural or historical categories.

#### B. Nominating, Designating and Listing Property(ies) or Districts to the Clark County Heritage Register.

1. Any person may nominate a building, structure, site, object, or district for inclusion in the Clark County heritage register. The owner must consent to placement of the nominated resource prior to consideration for designation by the commission. In its designation decision, the commission shall consider the Clark County cultural resources inventory and the Camas urban area comprehensive plan.

2. The commission shall consider the merits of the nomination, according to the criteria in subsection A of this section and according to the nomination review standards established in its rules and procedures, at a public hearing. Adequate notice will be given to the public, the owner(s) and the author(s) of the nomination, if different, and lessees, if any, of the subject property prior to the public meeting according to standards for public meetings established in rules and in compliance with RCW 42.30, Open Public Meetings Act. Such notice shall include publication in a newspaper of general circulation in Clark County and posting of the property per CCC 18.600.080. If the commission finds that the nominated property is eligible for the Clark County heritage register, the commission shall list the property in the register with the owner's consent.

3. In the case of individual property(ies), the designation shall include all exterior features, interior features, and outbuildings which directly contribute to the significance of the historic or architectural character.

4. In the case of districts, the designation shall include description of the boundaries of

the district; the characteristics of the district which justifies its designation; and a list of all property(ies) including features, structures, sites and objects which contribute to the designation of the district.

5. The public, property owner(s) and author(s) of the nomination, if different, and lessees, if any, shall be notified of the listing by mailed notice.

#### C. Designating Historic Districts.

1. Historic districts may be identified and nominations made in conformance with the criteria in this chapter. A simple majority of property owners within the proposed historic district must consent, in writing, to nomination of properties prior to designation. Design guidelines shall be adopted as an integral part of each historic district designation.

2. Commission staff together with city staff shall:

a. Review the proposal for land use impacts, consistent with the comprehensive plan, neighborhood action plan, and other related plans and codes. The designation of a historic district should not have the effect of significantly hampering redevelopment in commercial areas. Staff shall submit its analysis of these issues to the commission;

b. Draft design guidelines for the proposed historic district and submit them to the commission.

3. The commission shall hold a duly advertised public hearing to review the proposal. It shall make findings concerning the proposed district's historic significance; the appropriate boundaries of such a district; land use impacts, consistency and compatibility issues; and appropriate design guidelines. Contributing structures and features as well as noncontributing structures shall be identified. The commission shall issue a final determination designating the historic district or denying the proposal following the public hearing.

4. Designated historic districts shall be recorded on the official zoning maps of the city and the county.

5. A decision of the commission designating a building, structure, site, object or district or denying such a proposal may be appealed to the city council.

D. Removal of Property(ies) or Historic Districts from the Clark County Heritage Register.

1. A property owner may request a review of a property for possible removal from the Clark County heritage register. A written request may be submitted to the commission and considered at a public meeting. However, there is no automatic right to have a property removed from the register.

2. In the event that any property or historic district no longer meets the criteria for designation to the Clark County heritage register, the commission may initiate removal from such designation by the same procedure as provided for in establishing the designation, except that a property or historic district may be removed from the Clark County heritage register without owner consent. The decision to remove a property or district from the Clark County heritage register may be appealed to the city council.

E. Effects of Designation and Listing on the Register.

1. Designation and listing on the Clark County heritage register is an honorary designation denoting significant association with the historic, architectural, archaeological, engineering or cultural heritage of the community. Property(ies) is (are) listed individually or as contributing property(ies) to an historic district.

2. Prior to the commencement of any work associated with the significant features as defined in the designation of the register property or historic district, excluding ordinary repair, maintenance and emergency measures defined in Section 16.07.070, the owner must request and receive a certificate of appropriateness from the commission for the proposed work.

3. Prior to whole or partial demolition of a register property or historic district, the owner must request and receive a waiver of a certificate of appropriateness.

4. After demolition of a structure the commission may initiate removal of the property from the Clark County heritage register.

5. While Clark County is certified as certified local government (CLG), all properties and

historic districts designated on the Clark County heritage register and the National Register of Historic Places may be eligible for a special tax valuation on their rehabilitation pursuant to CMC 16.07.090.

F. Recording Designations and Listings. All properties which are designated and listed on the Clark County heritage register shall have a copy of the listing recorded with the county auditor's office. A copy of the designation and listing letter for recording shall be forwarded to the auditor's office by commission staff. (Ord. 2073 § 1 (part), 1996)

#### **16.07.070 Review of changes to Clark County heritage register property(ies)--Design review.**

A. Review Required. No person shall construct any new building or structure, or reconstruct, alter, restore, remodel, repair, move, demolish or make any material change affecting significant historic features as listed in the designation application to any existing property on the Clark County heritage register or within an historic district on the Clark County heritage register, whether the property is contributing or noncontributing, without review by the commission and without receipt of a certificate of appropriateness, or in the case of demolition, a waiver of certificate of appropriateness, as a result of the review.

1. For individual or contributing properties, the review shall apply to all features of the property, interior and exterior, that contribute to its designation and are listed on the designation.

2. For noncontributing properties, the review shall apply to exterior changes. The purpose of the review in this case is to ensure that the proposed changes do not further detract from the property's compatibility with the historic district, and to encourage changes which would enhance its compatibility with the historic district.

3. For new construction or redevelopment, the review shall apply to the exterior of the structure(s). The purpose of the review is to ensure that the exterior design of the proposed structure enhances the historic district through conformance with the adopted design guidelines.

This requirement shall apply whether or not the proposed alteration also requires a building or other permit, except as noted under subsection B of this section. Information required by the commission to review the proposed changes are established in its rules and procedures. A pre-application conference is recommended but must be requested by the applicant.

B. Exemptions. The following activities do not require a certificate of appropriateness or review by the commission:

1. Ordinary repair and maintenance activities, including painting and emergency measures as defined in Section 16.07.030, which do not affect significant historic features;

2. Ordinary repairs and maintenance which do not alter the appearance of a significant feature and do not utilize substitute materials do not require a certificate of appropriateness;

3. If there are no interior features of significance, repairs to or replacement of utility systems do not require a certificate of appropriateness if such work does not alter a significant feature.

C. Review Process.

1. Requests for Review and Issuance of a Certificate of Appropriateness or Waiver. The building or zoning official shall report any application for a permit to work on a designated Clark County heritage register property or in a Clark County heritage historic district to the commission. If the activity is not exempt from review, the commission or staff shall notify the applicant of the review requirements. The building or zoning official shall not issue any such permit until a certificate of appropriateness or a waiver is received from the commission but shall work with the commission in considering building and fire code requirements.

2. There shall be two types of reviews for issuance of a certificate of appropriateness:

a. An administrative review by commission staff for repairs and replacements-in-kind as listed below, but not limited to, the following:

i. Repairs (other than ordinary repair and maintenance) using the same materials and design as the original,

ii. Re-roofing using the same type and color of material,

iii. Replacement of sidewalks and driveways using the same type and color of materials,

iv. Replacement of foundations or major portions thereof, using the same type and color of materials,

v. Replacement of utility systems if contributing interior features of significance are present,

vi. Structural or seismic upgrades which do not alter or affect significant features;

b. A public hearing review by the commission for alterations in appearance, replacement of historic materials, new construction or additions, or demolition or removal of a Clark County Heritage Register building or cultural resource. Demolition of structures or facilities with recognized historical significance is also subject to the State Environmental Policy Act.

3. When a certificate of appropriateness is required, the following procedures shall govern according to the type of review required.

a. Applications requiring administrative review for certificates of appropriateness shall be reviewed by the commission staff.

b. Applications for the certificate shall be submitted to the commission staff on forms provided by the commission and must include a clear photograph or photographs of the building, object, site or structure, a brief description of the intended work, and samples of replacement material for comparison with the existing or the original building or structure.

c. Decision of the commission staff on the application shall be made within fifteen days from the date on which the commission staff receives a technically complete application.

d. The commission staff may, on his or her own motion, refer the application to the commission for a decision in accordance with the procedures set forth for a public hearing review. The time for a decision of the commission on the application shall run from the date that the application is referred to the commission by the staff.

e. Appeals from the decision of the commission staff regarding the issuance of a certificate of appropriateness under administrative review may be appealed to the commission (not the hearing examiner).

4. Public Hearing Review. Alterations in appearance, replacement of historic material (other than in-kind), new construction or additions. Alteration in the appearance of a significant contributing feature, the replacement of historic material (other than in-kind) in a significant feature, additions to a Clark County heritage register (CCHR) or new construction on a CCHR property or in an historic district, or any excavation on an archaeological site requires a public hearing review for a certificate of appropriateness. The owner or his/her agent (architect, contractor, lessee, etc.) shall apply to the commission for a review of proposed changes on a Clark County heritage register property or within a Clark County heritage register historic district and request a certificate of appropriateness or, in the case of demolition, a waiver. Each application for review of proposed changes shall be accompanied by information as required by the commission in its rules and procedures for the review of the proposed project. The commission staff shall meet with the applicant and review the proposed work according to the design review criteria established in rules. Notice of the design review shall be published in a newspaper of general circulation with the agenda for a public hearing and the property posted. The commission shall complete its review and make its recommendations decision within the timelines established in CCC 17.600.080, unless an extension of time is necessary. The commission's decision shall be in writing and shall state the findings of fact and reasons relied upon in reaching its decision. If the owner agrees to the commission's decision, a certificate of appropriateness shall be awarded by the commission according to standards established in its rules and procedures. The commission's recommendations and decision, and, if awarded, the certificate of appropriateness shall be transmitted to the building or zoning official. If a certificate of appropriateness is awarded, the building or zoning official may then issue the permit.

5. Demolition. A waiver of certificate of appropriateness is required before a permit may be issued to allow whole or partial demolition of a designated Clark County heritage register

property or in a Clark County heritage register historic district. Demolition is subject to review under the State Environmental Policy Act.

a. The owner or his/her agent shall attend a pre-application conference with staff to review demolition or alternative plans.

b. After the pre-application conference, the owner or agent may apply to the commission for review of the proposed demolition and request a waiver of certificate of appropriateness through a public hearing. With the application, the applicant shall provide a bona fide list of alternatives to demolition (which includes, but is not limited to, economic analysis; offers to lease, sell or dedicate site to a private, public or nonprofit entity, and outcome of the offer; relocation of building, etc.)

c. Such review shall last no longer than forty-five days from the date of application, unless the commission finds that an extension of time is necessary. In no case shall the commission extend the review period beyond an additional forty-five days.

d. If no alternative to demolition is agreed upon, the commission shall issue a waiver of certificate of appropriateness. The commission may attach to the waiver, pursuant to the public hearing, conditions mitigating the loss of the Clark County heritage register property. Mitigation measures may include, but are not limited to, an identification plaque, use of an architectural element in new construction, moving the building, and/or buffering of the historic or cultural resource. The waiver and any attached mitigation conditions shall be transmitted to the official in charge of issuing demolition permits. Any attached mitigation conditions shall become conditions of approval should a demolition permit be granted.

e. After demolition of a property, the commission may initiate its removal from the Clark County heritage register.

6. Appeal of Approval or Denial of a Waiver of a Certificate of Appropriateness. The commission's decision regarding a waiver of a certificate of appropriateness may be appealed to the city council. Appeal of the city council's decision regarding a waiver of a certificate of appropriateness may be appealed to superior

court. (Ord. 2073 § 1 (part), 1996)

**16.07.080 Relationship to zoning.**

A. Property(ies) designated to the Clark County heritage register shall be subject to the provisions set forth herein, as well as the bulk, use, setback and other controls of the zoning district in which they are located. Nothing contained herein shall be construed to be repealing, modifying, or waiving any zoning provisions.

1. Property(ies) on any historic register or the Clark County cultural resources inventory shall be so noted in the city's manual or electronic permit tracking system or other database to alert staff and public as to the presence of an historic site, structure, object or building. Archaeological sites are exempt from this requirement.

2. An official county map shall indicate an "HR-C" for "Historic or Heritage Register - Camas" for any property listed on the national, state or local registers, with the exception of specific archaeological sites.

3. Property(ies) within the city listed on the Clark County cultural resource inventory shall be indicated on an official map(s) with an "HI-C" for "Historic Inventory - Camas" with the exception of specific archaeological sites.

4. Historic district boundaries approved by the commission shall be indicated on the city's official zoning maps.

5. Any application for development of building permit review on a property designated HR-C or HI-C shall be routed to commission and city staff for review or action pursuant to this ordinance and the commission's rules and procedures prior to permit approval.

B. The Clark County planning division with assistance from city staff is responsible for review of impacts to potential or existing historic resources. All applications for approval, permits, environmental assessments or impact statements, and other similar documents pertaining to property(ies) on the Clark County cultural resource inventory or adjacent property(ies) shall be reviewed by appropriate staff or a qualified consultant.

Comments shall be forwarded to the responsible staff for the application under

consideration. If a property or historic district is on the National Register of Historic Places or the Clark County heritage register, the commission staff shall contact the property owner(s) or agent(s) in writing and advise them of the register status and applicable requirements. (Ord. 2073 § 1 (part), 1996)

**16.07.090 Review and monitoring of property(ies) for special property tax valuation.**

This section implements the local option special valuation tax incentive program as established in RCW 84.26.

A. Time Lines.

1. Applications must be filed by the first day of October with the county assessor's office and shall be forwarded to the commission by the assessor within ten days of filing.

2. For applications filed at least thirty days prior to the next regularly scheduled meeting of the commission, the case may be put on the agenda for that meeting. If there are not thirty days, the case will be scheduled for the next regularly scheduled meeting of the commission.

3. Applications shall be reviewed by the commission before December 31st of the calendar year in which the application is made.

4. Commission decisions regarding the applications shall be certified in writing and filed with the assessor within ten days of the decision.

B. Procedure.

1. The applicant files an application for special valuation with the county assessor's office no later than October 1st preceding the tax assessment year for which they wish to apply. A fee is required as established in CCC 17.60 and is payable to the Clark County department of community development.

2. The assessor forwards the application(s) to the commission within ten days of receipt of the completed application.

3. The commission reviews the application(s), consistent with its rules and procedures, and determines if the application(s) are complete and if the property(ies) meet the criteria set forth in WAC 254-17-070(1) and listed in subsection (C)(3) of this section.

a. If the commission finds the property(ies)

meet all the criteria, then it shall approve the application(s).

b. If the commission determines the property(ies) do not meet all the criteria, then it shall deny the application(s).

4. The commission certifies its decisions in writing and states the facts upon which the approvals or denials are based and files copies of the certifications with the assessor.

5. For approved applications:

a. The commission staff forwards copies of the agreements, applications, and supporting documentation (as required by WAC 254-17-090(4) and identified in subsection C of this section) to the assessor;

b. The commission staff forwards the signed agreement and application documents to the county auditor for recording. The applicant shall be assessed fees for recording as provided for in CCC 17.60 and other applicable county codes;

c. Notifies the Washington State Advisory Council that the property(ies) have been approved for special valuation; and

d. Monitors the property(ies) for continued compliance with the agreements throughout the ten-year special valuation period. Monitoring may include an annual site visit by staff or commission members.

6. The commission determines in a manner consistent with its rules of procedure, whether or not property(ies) are disqualified from special valuation either because of:

a. The owner's failure to comply with the terms of the agreement; or

b. A loss of historic value resulting from physical changes to the building or site.

7. For disqualified property(ies) pursuant to RCW 84.26.080, the commission shall notify the owner, assessor, and Washington State Advisory Council in writing and state the facts supporting its findings.

C. Criteria.

1. Historic Property Criteria. The class of property eligible to apply for special valuation in Clark County shall mean all property(ies) listed on the National Register of Historic Places, Clark County heritage register or property(ies) certified as contributing to local and/or National Register Historic Districts which have been substantially rehabilitated at a

cost and within a time period which meets the requirements set forth in RCW Chapter 84.26.

2. Application Criteria. Complete applications shall consist of the following documentation:

a. A legal description of the historic property;

b. A copy of the nomination form to the National Register of Historic Places or Clark County heritage register for the subject property(ies);

c. Comprehensive exterior and interior photographs of the historic property before and after rehabilitation. Photographs should be four inches by six inches or five inches by seven inches minimum format either black and white or color, with negatives and must be clearly labeled to identify case, location, subjects and the direction the photograph was taken:

i. Photos taken prior to construction,

ii. Historic photos or other source materials of replicated features,

iii. If in an historic district, a current streetscape;

d. Architectural plans or other legible drawings depicting the completed rehabilitation work signed by the architect or drafts-person; and

e. Notarized affidavit(s):

i. Attesting to the actual itemized cost of the rehabilitation work completed prior to the date of application, and

ii. Indicating rehabilitation work was completed within the twenty-four month period of time prior to application for special valuation.

Documentation of both must be made available to the commission;

f. Samples of utilized materials may be required by the commission;

g. Other information as required by staff or the commission at a pre-application meeting.

3. Property Review Criteria. In its review the commission shall determine if the property(ies) meet all the following criteria:

a. The property is historic property which is designated to the local and/or national registers;

b. The property has been rehabilitated at a cost which meets the definition set forth in RCW 84.26.017(2) within twenty-four months prior to the date of application; and

c. The property has not been altered in any

way which adversely affects those elements which qualify it as historically significant as determined by applying the Washington State Advisory Council's Standards for the Rehabilitation and Maintenance of Historic Properties (WAC 254-17-100(1) and listed in subsection (C)(4) of this section).

4. Rehabilitation and Maintenance Criteria. The Washington State Advisory Council's Standards for the Rehabilitation and Maintenance of Historic Properties in WAC 254-17-100 shall be used by the commission as minimum requirements for determining whether or not an historic property is eligible for special valuation and whether or not the property continues to be eligible for special valuation and whether or not the property continues to be eligible for special valuation once it has been so classified.

D. Agreement. The historic preservation special valuation agreement in WAC 254-17-117 shall be used by the commission as the minimum agreement necessary to comply with the requirements of RCW 84.26.050(2).

E. Appeals. Any decision of the commission acting on any application for classification as historic property, eligible for special valuation, may be appealed to superior court under RCW 34.04.130 in addition to any other remedy of law. Any decision on the disqualification of historic property eligible for special valuation, or any other dispute, may be appealed to the county board of equalization. (Ord. 2073 § 1 (part), 1996)

#### **16.07.100 Clark County cultural resources inventory.**

A. Purpose of the Inventory. The Clark County cultural resources inventory is a tool for planning and research, and includes those resources believed to have cultural or historic significance for Clark County, the region, or the nation, regardless of current ownership.

B. Effect of Listing on the Inventory. Listing on the Clark County cultural resources inventory does not result in any regulatory requirements pursuant to this chapter.

C. Application for Listing on the Inventory.

1. A property owner may make application for listing on the inventory by completing an inventory form available from the Clark

County department of community development and submitting it to the commission staff, if the building, structure, site, object, or district is at least fifty years old, or is of lesser age and has exceptional architectural, historical or cultural importance.

2. The city of Camas or Clark County may conduct an historic and cultural resource inventory and make application for listing on the inventory.

D. Listing on the Inventory.

1. New listings of buildings, structures, sites, objects or districts to the inventory is subject to review by the department of community development together with staff from the city. Consideration of listing shall be based upon development of a comprehensive inventory methodology which determines a rank order.

2. Property(ies) which are demolished shall be maintained in the inventory records for historical research purposes. (Ord. 2073 § 1 (part), 1996)

#### **16.07.110 Violations and enforcement.**

Violations of this chapter shall be grounds for the commission to review the property for removal from the register. The property owner may also be subject to special valuation disqualifications as stated in WAC 458-15-070 and all applicable laws. (Ord. 2073 § 1 (part), 1996)

## Chapter 16.08

### DEFINITIONS

#### 16.08.010 Adoption by reference.

This chapter contains uniform usage and definitions of terms under SEPA. The city adopts the following sections of WAC Chapter 197-11 by reference, as supplemented by WAC 173-805-040 above:

197-11-702 Act.  
197-11-704 Action.  
197-11-706 Addendum.  
197-11-708 Adoption.  
197-11-710 Affected tribe.  
197-11-712 Affecting.  
197-11-714 Agency.  
197-11-716 Applicant.  
197-11-718 Built environment.  
197-11-720 Categorical exemption.  
197-11-722 Consolidated appeal.  
197-11-724 Consulted agency.  
197-11-726 Cost-benefit analysis.  
197-11-728 County/City.  
197-11-730 Decisionmaker.  
197-11-732 Department.  
197-11-734 Determination of nonsignificance (DNS).  
197-11-736 Determination of significance (DS).  
197-11-738 EIS.  
197-11-740 Environment.  
197-11-742 Environmental checklist.  
197-11-744 Environmental document.  
197-11-746 Environmental review.  
197-11-748 Environmentally sensitive area.  
197-11-750 Expanded scoping.  
197-11-752 Impacts.  
197-11-754 Incorporation by reference.  
197-11-756 Lands covered by water.  
197-11-758 Lead Agency.  
197-11-760 License.  
197-11-762 Local Agency.  
197-11-764 Major action.  
197-11-765 Mitigated DNS.  
197-11-768 Mitigation.  
197-11-770 Natural environment.  
197-11-772 NEPA.  
197-11-774 Nonproject.  
197-11-776 Phased review.

197-11-778 Preparation.  
197-11-780 Private Project.  
197-11-782 Probable.  
197-11-784 Proposal.  
197-11-786 Reasonable alternative.  
197-11-788 Responsible official.  
197-11-790 SEPA.  
197-11-792 Scope.  
197-11-793 Scoping.  
197-11-794 Significant.  
197-11-796 State Agency.  
197-11-797 Threshold determination.  
197-11-799 Underlying governmental action.  
(Prior code § 10.32.220)

## Chapter 16.12

### ADMINISTRATIVE PROVISIONS

#### Sections:

- 16.12.010 Adoption by reference.
- 16.12.020 Additional definitions.
- 16.12.030 Responsible official designated.
- 16.12.040 Lead agency—Determination.
- 16.12.050 Lead agency—Transfer to state.
- 16.12.060 Time limit consideration.
- 16.12.070 Additional timing considerations.

#### 16.12.010 Adoption by reference.

The city adopts the following sections of WAC Chapter 197-11 by reference:

- 197-11-040 Definitions.
- 197-11-050 Lead agency.
- 197-11-055 Timing of the SEPA process.
- 197-11-060 Content of Environmental review.
- 197-11-070 Limitations on action during SEPA process.
- 197-11-080 Incomplete or unavailable information.
- 197-11-090 Supporting documents.
- 197-11-100 Information required of applicants.

(Ord. 2443 § 1 (Exh. A (part)), 2006; prior code § 10.32.020)

#### 16.12.020 Additional definitions.

In addition to those definitions contained within WAC 197-11-700 through 197-11-799, when used in this chapter, the following terms shall have the following meanings, unless the context indicates otherwise:

“Department” means any division, subdivision or organizational unit of the city established by ordinance, rule or order.

“Early notice” means the city’s response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant’s proposal (mitigated DNS procedures).

“Ordinance” means the ordinance, resolution, or other procedure used by the city to adopt regulatory requirements.

“SEPA rules” means WAC Chapter 197-11 adopted by the department of ecology. (Ord. 2443 § 1 (Exh. A (part)), 2006; prior code § 10.32.030)

#### 16.12.030 Responsible official designated.

A. For those proposals for which the city is the lead agency, the responsible official shall be the community development director or designee.

B. For all proposals for which the city is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required EIS, and perform any other functions assigned to the “lead agency” or “responsible official” by those sections of the SEPA rules that were adopted by reference in WAC 173-806-020.

C. The city shall retain all documents required by the SEPA rules (WAC Chapter 197-11) and make them available in accordance with RCW Chapter 42.17. (Ord. 2443 § 1 (Exh. A (part)), 2006; prior code § 10.32.040)

#### 16.12.040 Lead agency—Determination.

A. The department within the city receiving an application for or initiating a proposal that involves a nonexempt action shall determine the lead agency for that proposal under WAC 197-11-050 and WAC 197-11-922 through WAC 197-11-940; unless the lead agency has been previously determined or the department is aware that another department or agency is in the process of determining the lead agency.

B. When the city is the lead agency for a proposal, the department receiving the application shall determine the responsible official who shall supervise compliance with the threshold determination requirements, and if an EIS is necessary, shall supervise preparation of the EIS.

C. When the city is not the lead agency for a proposal, all departments of the city shall use and consider, as appropriate, either the DNS or the final EIS of the lead agency in making decisions on the proposal. No city department

shall prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless required under WAC 197-11-600. In some cases, the city may conduct supplemental environmental review under WAC 197-11-600.

D. If the city or any of its departments receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-922 through 197-11-940, it may object to the determination. Any objection must be made to the agency originally making the determination and resolved within fifteen days of receipt of the determination, or the city must petition the department of ecology for a lead agency determination under WAC 197-11-946 within the fifteen-day time period. Any such petition on behalf of the city may be initiated by public works director.

E. Departments of the city are authorized to make agreements as to lead agency status or shared lead agency duties for a proposal under WAC 197-11-942 and 197-11-944; provided, that the responsible official and any department that will incur responsibilities as the result of such agreement must approve the agreement.

F. Any department making a lead agency determination for a private project shall require sufficient information from the applicant to identify which other agencies have jurisdiction over the proposal (that is: which agencies require nonexempt licenses). (Ord. 2443 § 1 (Exh. A (part)), 2006: prior code § 10.32.050) 16.12.040

#### **16.12.050 Lead agency—Transfer to state.**

For any proposal for a private project where the city would be the lead agency and for which one or more state agencies have jurisdiction, the city's responsible official may elect to transfer the lead agency duties to a state agency. The state agency with jurisdiction appearing first on the priority listing in WAC 197-11-936 shall be the lead agency and the city shall be an agency with jurisdiction. To transfer lead agency duties, the city's responsible official must transmit a notice of the transfer together with any relevant information available on the proposal to the

appropriate state agency with jurisdiction. The responsible official of the city shall also give notice of the transfer to the private applicant and any other agencies with jurisdiction over the proposal. (Ord. 2443 § 1 (Exh. A (part)), 2006: prior code § 10.32.060)

#### **16.12.060 Time limit consideration.**

The following time limits (expressed in calendar days) shall apply when the city processes licenses for all private projects and those governmental proposals submitted to the city by other agencies:

A. Categorical Exemptions. The city shall identify whether an action is categorically exempt within seven days of receiving a completed application.

B. Threshold Determinations.

1. The city should complete threshold determinations that can be based solely upon review of the environmental checklist for the proposal within fifteen days of the date an applicant's adequate application and completed checklist are submitted.

2. When the responsible official requires further information from the applicant or consultation with other agencies with jurisdiction:

a. The city should request such further information within fifteen days of receiving an adequate application and completed environmental checklist;

b. The city shall wait no longer than thirty days for a consulted agency to respond;

c. The responsible official should complete the threshold determination within fifteen days of receiving the requested information from the applicant or the consulted agency.

3. When the city must initiate further studies, including field investigations, to obtain the information to make the threshold determination, the city should complete the studies within thirty days of receiving an adequate application and a completed checklist.

4. The city shall complete threshold determinations on actions where the applicant recommends in writing that an EIS be prepared, because of the probable significant adverse environmental impact(s) described in the application, within fifteen days of receiving an adequate application and completed checklist.

(Ord. 2443 § 1 (Exh. A (part)), 2006: prior code § 10.32.070)  
16.12.060

**16.12.070 Additional timing considerations.**

A. For nonexempt proposals, the DNS or draft EIS for the proposal shall accompany the city's staff recommendation to any appropriate advisory body, such as the planning commission.

B. If the city's only action on a proposal is a decision on a building permit or other license that requires detailed project plans and specifications, the applicant may request in writing that the city conduct environmental review prior to submission of the detailed plans and specifications. (Ord. 2443 § 1 (Exh. A (part)), 2006: prior code § 10.32.080)

## Chapter 16.16

### CATEGORICAL EXEMPTION AND THRESHOLD DETERMINATIONS

#### Sections:

**16.16.010 Purpose--Adoption provisions.**

**16.16.020 Flexible.**

**16.16.025 Environmentally sensitive areas.**

**16.16.030 Use.**

**16.16.040 Environmental checklist.**

**16.16.050 Mitigated determination.**

#### **16.16.010 Purpose--Adoption provisions.**

This chapter contains the rules for deciding whether a proposal has a "probable significant, adverse environmental impact" requiring an environmental impact statement (EIS) to be prepared. This part also contains rules for evaluating the impacts of proposals not requiring an EIS. The city adopts the following sections of WAC Chapter 197-11 by reference, as supplemented in this chapter:

197-11-300 Purpose of this part.

197-11-305 Categorical exemptions.

197-11-310 Threshold determination required.

197-11-315 Environmental checklist.

197-11-330 Threshold determination process.

197-11-335 Additional information.

197-11-340 Determination of nonsignificance (DNS).

197-11-350 Mitigated DNS.

197-11-360 Determination of significance (DS) initiation of scoping.

197-11-390 Effect of threshold determination. (Prior code § 10.32.090)

#### **16.16.020 Flexible.**

A. The city establishes the following exempt levels for minor new construction under WAC 197-11-800(1)(b) based on local conditions:

1. For residential dwelling units in WAC 197-11-800(1)(b)(i) (Note: Range 4 -- 20 units): up to ten dwelling units;

2. For agricultural structures in WAC 197-11-800(1)(b)(ii) (Note: Range 10,000 -- 30,000 square feet): up to thirty thousand square feet;

3. For office, school, commercial, recreational, service or storage buildings in WAC 197-11-800(1)(b)(iii) (Note: Range 4,000 -- 12,000

square feet and 20 -- 40 parking spaces): up to twelve thousand square feet and up to forty parking spaces;

4. For parking lots in WAC 197-11-800(1)(b)(iv) (Note: Range 20 -- 40 parking spaces): up to forty parking spaces;

5. For landfills and excavations in WAC 197-11-800(1)(b)(v) (Note: Range 100 -- 500 cubic yards): up to five hundred cubic yards.

B. Whenever the city establishes new exempt levels under this section, it shall send them to the Department of Ecology, headquarters office, Olympia, Washington, under WAC 197-11-800(1)(c). (Prior code § 10.32.100)

#### **16.16.025 Environmentally sensitive areas.**

The city has adopted maps of certain areas within the city characterized as environmentally sensitive. These maps, which are incorporated by reference shall be used to generally indicate the location of lands within the city characterized by steep slopes (fifteen percent or greater), potentially unstable soils, wetlands and streams/watercourses. Lands containing such environmentally sensitive features, as determined by site investigation or studies, whether or not mapped, shall be subject to the provisions of this section. To the extent permitted by state law, the exemptions listed in 16.16.020 and WAC 197-11-800 shall not apply within environmentally sensitive areas. (Ord. 1785 § 1, 1991)

#### **16.16.030 Use.**

A. Each department within the city that receives an application for a license or, in the case of governmental proposals, the department initiating the proposal, shall determine whether the license and/or the proposal is exempt. The department's determination that a proposal is exempt shall be final and not subject to administrative review. If a proposal is exempt, none of the procedural requirements of this title apply to the proposal. The city shall not require completion of an environmental checklist for an exempt proposal.

B. In determining whether or not a proposal is exempt, the department shall make certain the proposal is properly defined and shall identify the governmental licenses required (WAC 197-

11-060). If a proposal includes exempt and nonexempt actions, the department shall determine the lead agency, even if the license application that triggers the department's consideration is exempt.

C. If a proposal includes both exempt and nonexempt actions, the city may authorize exempt actions prior to compliance with the procedural requirements of this chapter, except that:

1. The city shall not give authorization for:
  - a. Any nonexempt action;
  - b. Any action that would have an adverse environmental impact; or
  - c. Any action that would limit the choice of alternatives.
2. A department may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt action(s) were not approved; and
3. A department may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt action(s) were not approved. (Prior code § 10.32.110)

#### **16.16.040 Environmental checklist.**

A. A completed environmental checklist (or a copy) in the form provided in WAC 197-11-960, shall be filed at the same time as an application for a permit, license, certificate, or other approval not specifically exempted in this title; except, a checklist is not needed if the city and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The city shall use the environmental checklist to determine the lead agency and, if the city is the lead agency, for determining the responsible official and for making the threshold determination.

B. For private proposals, the city will require the applicant to complete the environmental checklist, providing assistance as necessary. For city proposals, the department initiating the proposal shall complete the environmental checklist for that proposal.

C. The city may require that it, and not the private applicant, will complete

all or part of the environmental checklist for a private proposal, if either of the following occurs:

1. The city has technical information on a question or questions that is unavailable to the private applicant; or
2. The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration. (Prior code § 10.32.120)

#### **16.16.050 Mitigated determination.**

A. As provided in this section and in WAC 197-11-350, the responsible official may issue a determination of nonsignificance (DNS) based on conditions attached to the proposal by the responsible official or on changes to, or clarifications of, the proposal made by the applicant.

B. An applicant may request in writing early notice of whether a determination of significance (DS) is likely under WAC 197-11-350. The request must:

1. Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the department is lead agency; and
2. Precede the city's actual threshold determination for the proposal.

C. The responsible official should respond to the request for early notice within fifteen working days. The response shall:

1. Be written;
2. State whether the city currently considers issuance of a DS likely and, if so, indicate the general or specific area(s) of concern that are leading the city to consider a DS; and
3. State that the applicant may change or clarify the proposal to mitigate the indicated impacts, revising the environmental checklist and/or permit application as necessary to reflect the changes or clarifications.

D. As much as possible, the city should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.

E. When an applicant submits a changed or clarified proposal, along with a revised environmental checklist, the city shall base its threshold determination on the changed or

clarified proposal and should make the determination within fifteen days of receiving the changed or clarified proposal:

1. If the city indicated specific mitigation measures in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the city shall issue and circulate a determination of nonsignificance under WAC 197-11-340(2).

2. If the city indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the city shall make the threshold determination, issuing a DNS or DS as appropriate.

3. The applicant's proposed mitigation measures (clarifications, changes or conditions) must be in writing and must be specific. For example, proposals to "control noise" or "prevent stormwater runoff" are inadequate, whereas proposals to "muffle machinery to X decibel" or "construct 200 feet stormwater retention pond at Y location" are adequate.

4. Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies or other documents.

F. A mitigated DNS is issued under WAC 197-11-340(2), requiring a fifteen-day consent period and public notice.

G. Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner specifically prescribed by the city.

H. If the city's tentative decision on a permit or approval does not include mitigation measures that were incorporated in a mitigated DNS for the proposal, the city should evaluate the threshold determination to assure consistency with WAC 197-11-340(3)(a) (withdrawal of DNS).

I. The city's written response under subsection B of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the city to consider the clarifications or changes in its threshold determination. (Prior code §

**Chapter 16.20 ENVIRONMENT IMPACT STATEMENTS**

16.20.010 Purpose--Adoption by reference.

16.20.020 Preparation.

**16.20.010 Purpose--Adoption by reference.**

This article contains the rules for preparing environmental impact statements. The city adopts the following sections of WAC Chapter 197-11 by reference, as supplemented by this article:

- 197-11-400 Purpose of EIS.
- 197-11-402 General requirements.
- 197-11-405 EIS types.
- 197-11-406 EIS timing.
- 197-11-408 Scoping.
- 197-11-410 Expanded scoping.
- 197-11-420 EIS preparation.
- 197-11-425 Style and size.
- 197-11-430 Format.
- 197-11-435 Cover letter or memo.
- 197-11-440 EIS contents.
- 197-11-442 Contents of EIS on nonproject proposals.
- 197-11-443 EIS contents when prior nonproject EIS.
- 197-11-444 Elements of the environment.
- 197-11-448 Relationship of EIS to other considerations.
- 197-11-450 Cost-benefit analysis.
- 197-11-460 Issuance of DEIS.

197-11-460 Issuance of FEIS.  
(Prior code § 10.32.140)

**16.20.020 Preparation.**

A. Preparation of draft and final EIS's and SEIS's is the responsibility of public works department under the direction of the responsible official. Before the city issues an EIS, the responsible official shall be satisfied that it complies with this title and WAC Chapter 197-11.

B. The draft and final EIS or SEIS shall be prepared by city staff, the applicant, or by a consultant selected by the city or the applicant. If the responsible official requires an EIS for a proposal and determines that someone other than the city will prepare the EIS, the responsible official shall notify the applicant immediately after completion of the threshold determination. The responsible official shall also notify the applicant of the city's procedure for EIS preparation, including approval of the draft and final EIS prior to distribution.

C. The city may require an applicant to provide information the city does not possess, including specific investigations. However, the applicant is not required to supply information that is not required under this title or that is being requested from another agency. (This does not apply to information the city may request under another ordinance or statute.) (Prior code § 10.32.150)

## **Chapter 16.24 ENVIRONMENT DOCUMENTS AND HEARINGS**

16.24.010 Purpose--Adoption by reference.

16.24.020 Notice.

16.24.030 Consulted agency determination.

16.24.040 Existing document use.

### **16.24.010 Purpose--Adoption by reference.**

This chapter contains rules for consulting, commenting and responding on all environmental documents under SEPA, including rules for public notice and hearings. The city adopts the following sections of WAC Chapter 197-11 by reference, as supplemented in this chapter:

197-11-500 Purpose of this part.

197-11-502 Inviting comment.

197-11-504 Availability and cost of environmental documents.

197-11-508 SEPA Register.

197-11-535 Public hearings and meetings. 197-11-545 Effect of no comment.

197-11-550 Specificity of comments.

197-11-560 FEIS response to comments.

197-11-570 Consulted agency costs to assist lead agency.

(Prior code § 10.32.160)

### **16.24.020 Notice.**

A. Whenever the city issues a DNS under WAC 197-11-340(2) or a DS under WAC 197-11-360(3), the city shall give public notice as follows:

1. If public notice is required for a nonexempt license, the notice shall state whether a DS or DNS has been issued and when comments are due.

2. If no public notice is required for the permit or approval, the city shall give notice of the DNS or DS by publishing notice in a newspaper of general circulation in the county, city or general area where the proposal is located.

3. Whenever the city issues a DS under WAC 197-11-360(3), the city shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408.

B. Whenever the city issues a draft EIS under WAC 197-11-455(5) or a supplemental EIS under WAC 197-11-620, notice of the availability of those documents shall be given by:

1. Indicating the availability of the DEIS in any public notice required for a nonexempt license; and

2. Publishing notice in a newspaper of general circulation in the county, city or general area where the proposal is located.

C. Whenever possible, the city shall integrate the public notice required under this section with existing notice procedures for the city's nonexempt permit(s) or approval(s) required for the proposal.

D. The city may require an applicant to complete the public notice requirements for the applicant's proposal at his or her expense. (Prior code § 10.32.170)

### **16.24.030 Consulted agency determination.**

A. The public works department shall be responsible for preparation of written comments for the city in response to a consultation request prior to a threshold determination, participation in scoping and reviewing a draft EIS.

B. This department shall be responsible for the city's compliance with WAC 197-11-550 whenever the city is a consulted agency and is authorized to develop operating procedures that will ensure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate departments of the city. (Prior code § 10.32.180)

**16.24.040 Existing document use.**

This chapter contains rules for using and supplementing existing environmental documents prepared under SEPA or NEPA for the city's own environmental compliance. The city adopts the following sections of WAC Chapter 197-11 by reference:

197-11-600 When to use existing environmental documents.

197-11-610 Use of NEPA documents.

197-11-620 Supplemental environmental impact statement--Procedures.

197-11-625 Addenda--Procedures.

197-11-630 Adoption--Procedures.

197-11-635 Incorporation by reference--Procedures.

197-11-640 Combining documents.

(Prior code § 10.32.190)

## **Chapter 16.28 SEPA AND AGENCY DECISIONS AND APPEALS**

16.28.010 Purpose--Adoption by reference.

16.28.020 Policies.

16.28.030 Conditions.

16.28.040 Denial.

16.28.050 Adopted policies.

16.28.060 Appeal.

### **16.28.010 Purpose--Adoption by reference.**

This chapter contains rules (and policies) for SEPA's substantive authority, such as decisions to mitigate or reject proposals as a result of SEPA. This chapter also contains procedures for appealing SEPA determinations to agencies or the courts. The city adopts the following sections of WAC Chapter 197-11 by reference:

197-11-650 Purpose of this part.

197-11-655 Implementation.

197-11-660 Substantive authority and mitigation.

197-11-680 Appeals.

197-11-700 Definitions.

(Prior code § 10.32.200)

### **16.28.020 Policies.**

The policies and goals set forth in this title are supplementary to those in the existing authorization of the city. (Prior code § 10.32.210(a))

### **16.28.030 Conditions.**

The city may attach conditions to a permit or approval for a proposal so long as:

A. Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this title; and

B. Such conditions are in writing; and

C. The mitigation measures included in such conditions are reasonable and capable of being accomplished; and

D. The city has considered whether other local, state or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and

E. Such conditions are based on one or more policies in Section 16.28.050 of this chapter and cited in the license or other decision document. (Prior code § 10.32.210(b))

### **16.28.040 Denial.**

The city may deny a permit or approval for a proposal on the basis of SEPA so long as:

A. A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a final EIS or final supplemental EIS prepared pursuant to this title; and

B. A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and

C. The denial is based on one or more policies identified in Section 16.28.050 of this chapter and identified in writing in the decision document. (Prior code § 10.32.210(c))

### **16.28.050 Adopted policies.**

The city designates and adopts by reference the following policies as the basis for the city's exercise of authority pursuant to Sections 16.28.020 through 16.28.060:

A. The city shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs and resources to the end that the state and its citizens may:

1. Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
2. Assure for all people of Washington safe, healthful, productive and aesthetically and culturally pleasing surroundings;
3. Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
4. Preserve important historic, cultural and natural aspects of our national heritage;
5. Maintain, wherever possible, an environment which supports diversity and variety of individual choice;
6. Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and
7. Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

B. The city recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment. (Prior code § 10.32.210(d))

**16.28.060 Appeal.**

Except for permits and variances issued pursuant to Chapter 18.88 of the city code (chapter relating to shoreline management), when any proposal or action not requiring a decision of the city council is conditioned or denied on the basis of SEPA by a nonelected official, the decision shall be appealable to the city council. Such appeal may be perfected by the proponent or any aggrieved party by giving notice to the responsible official within ten days of the decision being appealed. Review by the city council shall be on a de novo basis. (Prior code § 10.32.210(e))

## **Chapter 16.32 CATEGORICAL EXEMPTIONS**

16.32.010 Purpose--Adoption by reference.

### **16.32.010 Purpose--Adoption by reference.**

The city adopts by reference the following sections of WAC Chapter 197-11 for categorical exemptions, as supplemented in this title, including WAC 173-806-070 (flexible thresholds), WAC 173-806-080 (use of exemptions), and WAC 173-806-190 (environmental sensitive areas):

197-11-800 Categorical exemptions.

197-11-880 Emergencies.

197-11-890 Petitioning DOE to change exemptions.

(Prior code § 10.32.230)

## Chapter 16.36

### AGENCY COMPLIANCE

#### Sections:

#### 16.36.010 Purpose--Adoption by reference.

#### 16.36.010 Purpose--Adoption by reference.

This chapter contains rules for agency compliance with SEPA, including rules for charging fees under the SEPA process, designating environmental sensitive areas, listing agencies with environmental expertise, selecting the lead agency and applying these rules to current agency activities. The city adopts the following sections of WAC Chapter 197-11 by reference, as supplemented by the WAC 173-806-045 through 043 and this chapter:

- 197-11-900 Purpose of this part.
- 197-11-902 Agency SEPA policies.
- 197-11-916 Application to ongoing actions.
- 197-11-920 Agencies with environmental expertise.
- 197-11-922 Lead agency rules.
- 197-11-924 Determining the lead agency.
- 197-11-926 Lead agency for governmental proposals.
- 197-11-928 Lead agency for public and private proposals.
- 197-11-930 Lead agency for private projects with one agency with jurisdiction.
- 197-11-932 Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city.
- 197-11-934 Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies.
- 197-11-936 Lead agency for private projects requiring licenses from more than one state agency.
- 197-11-938 Lead agencies for specific proposals.
- 197-11-940 Transfer of lead agency status to a state agency.
- 197-11-942 Agreements on lead agency status.
- 197-11-944 Agreements on division of lead agency duties.

197-11-946 DOE resolution of lead agency disputes.

197-11-948 Assumption of lead agency status.

(Prior code § 10.32.240)

## Chapter 16.40

### FEES

#### Sections:

#### **16.40.010 Required.**

#### **16.40.020 Threshold determination.**

#### **16.40.030 Environmental impact statement.**

#### **16.40.040 Notice—Publication.**

#### **16.40.050 Copy preparation.**

#### **16.40.010 Required.**

The city shall require the following fees for its activities in accordance with the provisions of this title. (Ord. 2443 § 1 (Exh. A (part)), 2006: prior code § 10.32.250 (part))

#### **16.40.020 Threshold determination.**

For every environmental checklist the city reviews when it is lead agency, the city shall collect a fee in accordance with the most current fee schedule adopted by the city. The time periods provided for by this title for making a threshold determination shall not begin to run until payment of the fee. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2053 § 1, 1996: prior code § 10.32.250(1))

#### **16.40.030 Environmental impact statement.**

A. When the city is the lead agency for a proposal requiring an EIS and the responsible official determines that the EIS shall be prepared by employees of the city, the city may charge and collect a reasonable fee from any applicant to cover costs incurred by the city in preparing the EIS. The responsible official shall advise the applicant(s) of the projected costs for the EIS prior to actual preparation; the applicant shall post bond or otherwise ensure payment of such costs.

B. The responsible official may determine that the city will contract directly with a consultant for preparation of an EIS, or a portion of the EIS, for activities initiated by some persons or entity other than the city and may bill such costs and expenses directly to the applicant. Such consultants shall be selected by mutual agreement of the city and applicant after a call for proposals. The city may require the

applicant to post bond or otherwise ensure payment of such costs.

C. If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under subsection A or B of this section which remain after incurred costs are paid. (Ord. 2443 § 1 (Exh. A (part)), 2006: prior code § 10.32.250(2))

#### **16.40.040 Notice—Publication.**

The city may collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this title relating to the applicant's proposal. (Ord. 2443 § 1 (Exh. A (part)), 2006: prior code § 10.32.250(3))

#### **16.40.050 Copy preparation.**

The city may charge any person for copies of any document prepared under this title, and for mailing the document, in a manner provided by RCW Chapter 42.17. (Ord. 2443 § 1 (Exh. A (part)), 2006: prior code § 10.32.250(4))

## **Chapter 16.44**

### **FORMS**

#### **Sections**

#### **16.44.010 Adoption by reference.**

#### **16.44.010 Adoption by reference.**

The city adopts the following forms and sections of WAC Chapter 197-11 by reference:

197-11-960 Environmental checklist.

197-11-965 Adoption notice.

197-11-970 Determination of nonsignificance (DNS).

197-11-980 Determination of significance and scoping notice (DS).

197-11-985 Notice of assumption of lead agency status.

197-11-990 Notice of action.

(Prior code § 10.32.260)

## Chapter 16.50

### GENERAL PROVISIONS

#### Sections:

- 16.50.010 Purpose.**
- 16.50.020 Authority.**
- 16.50.030 Relationship to other regulations.**
- 16.50.040 Severability.**
- 16.50.050 Administrative rules.**
- 16.50.060 Interpretation.**
- 16.50.070 Critical areas—Regulated.**
- 16.50.080 Best available science.**
- 16.50.090 Applicability.**
- 16.50.100 Exemptions.**
- 16.50.110 Exception—Reasonable use.**
- 16.50.120 Allowed activities.**
- 16.50.130 Review required.**
- 16.50.140 Critical area reporting evaluation—Requirements.**
- 16.50.150 Critical area report—Modifications to requirements.**
- 16.50.160 Mitigation requirements.**
- 16.50.170 Mitigation sequencing.**
- 16.50.180 Mitigation plan requirements.**
- 16.50.190 Innovative mitigation.**
- 16.50.200 Unauthorized critical area alterations and enforcement.**
- 16.50.210 Critical area markers, signs and fencing.**
- 16.50.220 Notice on title.**
- 16.50.230 Native growth protection areas—Reserved.**
- 16.50.240 Critical area protective mechanism.**
- 16.50.250 Bonds to ensure mitigation, maintenance and monitoring.**

#### **16.50.010 Purpose.**

A. The purpose of this chapter is to designate and classify ecologically sensitive and hazardous areas and to protect these areas and their functions and values, while allowing for some reasonable use of property.

B. The city finds that critical areas provide a variety of valuable and beneficial biological and physical functions that benefit the city of Camas and its residents, and/or may pose a threat to human safety or to public and private property.

C. Goals. By managing development and

alteration of critical areas, this chapter seeks to:

1. Protect members of 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 or flooding;

2. Protect unique, fragile and valuable elements of the environment, including ground and surface waters;

3. Direct activities not dependent on critical area resources to less ecologically sensitive sites and mitigate necessary impacts to critical areas by regulating alterations in and adjacent to critical areas; and

4. Prevent cumulative adverse environmental impacts to critical aquifer recharge and frequently flooded areas.

D. The regulations of this chapter are 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.

E. 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.

F. The city's enactment or enforcement of this chapter shall not be construed for the benefit of any individual person or group of persons other than the general public. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2367 § 2 (part), 2004)

#### **16.50.010**

#### **16.50.020 Authority.**

As provided herein, the director shall mean the community development director or designee. The director is given the authority to interpret and apply, and the responsibility to enforce this chapter to accomplish the stated purpose. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2367 § 2 (part), 2004)

#### **16.50.030 Relationship to other regulations.**

A. These critical area regulations shall apply as an overlay and in addition to zoning and other

regulations, including the city of Camas Design Standards Manual, adopted by the city.

B. These critical area regulations may be applied concurrently with review conducted under the State Environmental Policy Act (SEPA) or other development review as adopted.

C. In the event of a conflict with any other provisions of this chapter, that which provides more protection to the critical areas shall apply.

D. Compliance with the provisions of this chapter does not constitute compliance with other federal, state and local regulations and permit requirements that may be required (for example, Shoreline Substantial Development Permits, HPA permits, Army Corps of Engineers Section 404 permits, NPDES permits). The applicant is responsible for complying with all requirements, apart from the process established in this chapter. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2367 § 2 (part), 2004)

#### **16.50.040 Severability.**

If any clause, sentence, paragraph, section or part of this chapter or the application thereof to any person or circumstances shall be judged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered. The decision shall not affect or invalidate the remainder of any part thereof and to this end the provisions of each clause, sentence, paragraph, section or part of this law are declared to be severable. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2367 § 2 (part), 2004)

#### **16.50.050 Administrative rules.**

Applicable departments within the city of Camas are authorized to adopt such administrative rules and regulations as necessary and appropriate to implement these chapters and to prepare and require the use of such forms as necessary for its administration. The applicant shall be responsible for the initiation, preparation, submission and expense of all required reports, assessment(s), studies, plans, reconnaissance(s), peer review(s) by qualified consultants, and other work prepared in support of or necessary to review the

application. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2367 § 2 (part), 2004)

#### **16.50.060 Interpretation.**

In the interpretation and application of this ordinance, the provisions of this chapter shall be considered to be the minimum requirements necessary, shall be liberally construed to serve the purpose of the ordinance codified in this chapter, and shall be deemed to neither limit nor repeal any other provisions under state statute. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2367 § 2 (part), 2004)

#### **16.50.070 Critical areas—Regulated.**

A. Critical areas regulated by this chapter include wetlands (CMC 16.60), critical aquifer recharge areas (CMC Chapter 16.70), frequently flooded areas (CMC Chapter 16.80), geologically hazardous areas (CMC Chapter 16.90), and fish and wildlife habitat conservation areas (CMC Chapter 16.95).

B. All areas within the city meeting the definition of one or more critical area, regardless of any formal identification, are designated critical areas and are subject to these provisions. (Ord. 2477 § 3, 2007: Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2367 § 2 (part), 2004)

#### **16.50.080 Best available science.**

A. Best Available Science to be Used Must be Consistent with Criteria. The best available science is that scientific information applicable to the critical area prepared by local, state or federal natural resource agencies, a qualified scientific professional or team of qualified scientific professionals, that is consistent with criteria established in WAC 365-195-900 through WAC 365-195-925.

B. Absence of Valid Scientific Information. Where there is an absence of valid scientific information or incomplete scientific information relating to a critical area, leading to uncertainty about the risk to critical area function of permitting an alteration of or impact to the critical area, the director shall:

1. Limit development and land use activities until the uncertainty is sufficiently resolved; and
2. Require an effective adaptive management

program that relies on scientific methods to evaluate how well regulatory and nonregulatory actions protect the critical area. An adaptive management program is a formal and deliberate scientific approach to taking action and obtaining information in the face of uncertainty. An adaptive management program shall:

- a. Address funding for the research component of the adaptive management program;
- b. Change course based on the results and interpretation of new information that resolves uncertainties; and
- c. Commit to the appropriate timeframe and scale necessary to reliably evaluate regulatory and nonregulatory actions affecting protection of critical areas and anadromous fisheries. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2367 § 2 (part), 2004)

#### **16.50.090 Applicability.**

Land proposals below are subject to the criteria, guidelines, report requirements, conditions and performance standards in CMC Chapters 16.50 through 16.95:

- A. Binding site plan;
- B. Blasting permits;
- C. Commercial development;
- D. Conditional use permit;
- E. Light industrial or industrial development;
- F. Planned residential development;
- G. Short plat;
- H. Subdivision;
- I. Shoreline substantial development permit;
- J. Unclassified use;
- K. Any grading, filling or clearing of land or logging or removal of timber on land characterized in a critical area described in CMC Section 16.50.070(A); and
- L. Other activities as specified within CMC Chapters 16.50 through 16.95. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2367 § 2 (part), 2004)

#### **16.50.100 Exemptions.**

A. Exempt Activities. The following developments, activities and associated uses shall be exempt from the provisions of this title; provided, that they are otherwise consistent with the provisions of other local, state and federal laws and requirements:

1. Emergencies. Emergency activities are 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 timeframe too short to allow for compliance with the requirements of these provisions.

An emergency response shall utilize reasonable methods to address the emergency considering the applicable critical area(s); in addition, they must have the least possible impact to the critical area or its management zone. The person or agency undertaking such action shall notify the city within four days following commencement of the emergency activity. 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 will commence.

2. After the emergency, the person or agency undertaking the action shall fully restore and/or mitigate any impacts to the critical area and management zones resulting from the emergency action in accordance with an approved critical area report and mitigation plan. Restoration and/or mitigation activities must be initiated within one year of the date of the emergency, and completed in a timely manner;

3. 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 further alter or increase the impact to, or encroach further within, the critical area or management;

4. 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 CMC Section 16.50.120(C)(4); and

5. Forest Practices. Forest practices regulated and conducted in accordance with the provisions of Chapter 76.09 RCW and forest practices regulations, Title 222 WAC, and those that are exempt from city of Camas' jurisdiction, provided that forest practice conversions are not exempt.

B. Exempt Activities Shall Avoid Impacts to

Critical Areas. All exempted activities shall use reasonable methods to avoid potential impacts to critical areas. To be exempt from these provisions does not give permission to degrade a critical area or ignore risk from natural hazards. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity shall be restored, rehabilitated, or replaced at the responsible party's expense. (Ord. 2443 § 1 (Exh. A (part)), 2006; Ord. 2367 § 2 (part), 2004)

**16.50.110 Exception—Reasonable use.**

A. If the application of this title would deny all reasonable use of the subject property, the property owner may apply for an exception pursuant to this section.

B. Exception Request and Review Process. An application for a reasonable use exception shall be made to the city and shall include a critical area application and fee; critical area report, including mitigation plan, if necessary; and 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). A staff report shall be prepared to include a recommendation to the approval authority based on review of the submitted information, a site inspection, and the proposal's ability to comply with reasonable use exception criteria in subsection D of this section.

C. Public Hearing Required. A request for an exception under this section shall be considered through a Type III hearing process in accordance with CMC Chapter 18.55.

D. Reasonable Use Review Criteria. The criteria for review and approval of reasonable use exceptions is:

1. The application of these provisions would deny all reasonable use of the property;
2. No other reasonable use of the property has less impact on the critical area;
3. Any alteration is the minimum necessary to allow for reasonable use of the property; and
4. The inability of the applicant to derive reasonable use of the property is not the result of actions by the applicant after the effective date of these provisions or its predecessor.

E. Burden of Proof. The burden of proof shall be 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. (Ord. 2443 § 1 (Exh. A (part)), 2006; Ord. 2367 § 2 (part), 2004)

**16.50.120 Allowed activities.**

A. Critical Area Report not Required.

Activities which have been reviewed and permitted or approved by the city or other agency with jurisdiction for impacts to critical or sensitive areas, do not require submittal of a new critical area report or application under this chapter, unless such submittal was required previously for the underlying permit.

B. Required Use of Best Management Practices. All allowed activities shall be conducted using the best management practices, adopted pursuant to other provisions contained in this code, that result in the least amount of impact to the critical areas. Best management practices shall be used for tree and vegetation protection, construction management, erosion and sedimentation control, water quality protection, and regulation of chemical applications. The city shall monitor the use of best management practices to ensure that the activity does not result in degradation to the critical area. Any incidental damage to, or alteration of, a critical area shall be restored, rehabilitated or replaced at the responsible party's expense.

C. Allowed Activities. The following activities are allowed:

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

- a. There have been no material changes in the potential impact to the critical area or management zone since the prior review;
- b. There is no new information available that is applicable to any critical area review of the site or particular critical area;
- c. 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

d. Compliance with any standards or conditions placed upon the prior permit or approval has been achieved or secured;

#### 2. Modification to Existing Structures.

Structural modifications, addition to, or replacement of an existing legally constructed structure that does not further alter or increase the impact to the critical area or management zone 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;

3. Activities Within the Improved Right-of-Way. Replacement, 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 results in the transport of sediment or increased stormwater;

#### 4. Public and Private Pedestrian Trails.

a. Existing public and private trails established consistent with the city of Camas Parks and Open Space Plan may be maintained, replaced or extended provided there is no increase in the impact to the critical area or management zone.

b. Other public and private pedestrian trails, except in wetlands, fish and wildlife habitat conservation areas, or their management zones, subject to the following:

i. The trail surface shall meet all other requirements including water quality standards set forth in the city of Camas Design Standards Manual;

ii. Critical area and/or management zone widths shall be increased, where possible, equal to the width of the trail corridor, including disturbed areas; and

iii. Trails proposed to be located in landslide or erosion hazard areas shall be constructed in a manner that does not increase the risk of

landslide or erosion and in accordance with an approved geotechnical report;

#### 5. Selective Vegetation Removal Activities.

The following vegetation removal activities, provided that no vegetation shall be removed from a critical area or its management zone without approval from the director, are allowed:

a. The removal of invasive plant species including Himalayan blackberry (*Rubus discolor*, *R. procerus*), Evergreen blackberry (*Rubus laciniatus*), English Ivy as well as any other noxious weed or invasive plant species acknowledged by the city, with hand labor and light equipment (e.g., push mowers, powered trimmers, etc.);

b. The removal of trees that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property, from critical areas and management zones, provided that:

i. 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;

ii. Tree cutting shall be limited to limbing and crown thinning, unless otherwise justified by a qualified professional. Where limbing or crown thinning is not sufficient to address the hazard, trees should be topped to remove the hazard rather than cut at or near the base of the tree;

iii. The landowner shall replace any trees that are felled or topped with new trees at a ratio of two replacement trees for each tree felled or topped within one year in accordance with an approved restoration plan. Tree species that are native and indigenous to the site and a minimum caliper of two inches shall be used;

iv. If a tree to be removed provides critical habitat, such as an eagle perch, a qualified wildlife biologist shall be consulted to determine timing and methods of removal that will minimize impacts; and

v. Hazard trees determined to pose an imminent threat or danger to public health or safety, or to public or private property, or serious environmental degradation may be removed or topped by the landowner prior to receiving written approval from city; provided, that within fourteen days following such action, the

landowner shall submit a restoration plan that demonstrates compliance with these provisions;

c. 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 Camas Fire Department requirements; provided, that the removed vegetation shall be replaced in-kind or with similar native species within one year in accordance with an approved restoration plan.

6. Chemical Applications. The application of herbicides, pesticides, organic or mineral-derived fertilizers, or other hazardous substances, provided that their use shall be restricted in accordance with Department of Fish and Wildlife Management Recommendations, and the regulations of the Department of Agriculture and the U.S. Environmental Protection Agency;<sup>1</sup>

7. 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 shall be minimized and disturbed areas shall be immediately restored; and

8. Navigational Aids and Boundary Markers. Construction or modification of navigational aids and boundary markers. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2367 § 2 (part), 2004)

#### **16.50.130 Review required.**

Mapping. The approximate location and extent of critical areas are shown on the adopted critical area maps. These maps are to be used as a guide for the city, project applicants and/or property owners, and may be continually

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<sup>1</sup> More information on commercial and residential use of chemicals can be found in Department of Ecology “Guidance Document for Establishment of Critical Aquifer Recharge Areas Ordinances” Version 3.0, Publication #97-30; and from the state Department of Agriculture, <http://www.wa.gov/agr/>.  
16.50.120

updated as new critical areas are identified. They are a reference and do not provide a final critical area designation or delineation.

If the proposed activity is within, adjacent to, or is likely to impact a critical area, the city shall require a critical area report from the applicant that has been prepared by a qualified professional. If the report concludes that there is a critical area present then the city of Camas shall:

- A. Review and evaluate the critical area report;
- B. Determine whether the development proposal conforms to the purposes and performance standards of these provisions;
- C. Assess potential impacts to the critical area and determine if they are necessary and unavoidable; and
- D. Determine if any mitigation proposed by the applicant is sufficient to protect the functions and values of the critical area and public health, safety, and welfare concerns consistent with the goals, purposes, objectives and requirements of these provisions. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2367 § 2 (part), 2004)  
16.50.130

#### **16.50.140 Critical area reporting evaluation—Requirements.**

A. Incorporating Best Available Science. The critical area report shall 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 shall evaluate the proposal and the likelihood of all probable adverse impacts to critical areas in accordance with these provisions.

B. Minimum Report Contents. At a minimum, the report shall contain the following:

- 1. The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;
- 2. A copy of the site plan for the development proposal showing, identified critical areas, management zones, property lines, limits of any areas to be cleared, and a description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations;
- 3. The dates, names and qualifications of the persons preparing the report and documentation

- of any fieldwork performed on the site;
  - 4. Identification and characterization of critical areas, wetlands, water bodies and management zones within the proposed project area;
  - 5. A description of reasonable efforts made to avoid, minimize and mitigate impacts to critical areas;
  - 6. A proposal for financial guarantees to ensure compliance; and
  - 7. Any additional information required for the critical area as specified in the corresponding chapter.
- C. 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. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2367 § 2 (part), 2004)

**16.50.150 Critical area report—  
Modifications to requirements.**

- A. Limitations to Study Area. The director may limit or extend the required geographic area of the critical area report as deemed appropriate, so long as it is within the proposed site.
- B. Modifications to Required Contents. The applicant may consult with the director prior to or during preparation of the critical area report to obtain city written approval for modifications to the required contents of the report where, in the judgment of a qualified professional, more or less information is required to adequately address the probable critical area impacts and required mitigation.
- C. Additional Information May be Required. 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 these provisions. Additional information that may be required, includes, but is not limited to:
  - 1. 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;
  - 2. Grading and drainage plans; and
  - 3. Information specific to the type, location and

nature of the critical area. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2367 § 2 (part), 2004) 16.50.150

**16.50.160 Mitigation requirements.**

- A. The applicant shall avoid all impacts that degrade the functions and values of a critical area or areas. Unless otherwise provided in these provisions, if alteration to the critical area is necessary, all adverse impacts to or from critical areas and management zones resulting from a development proposal or alteration shall be mitigated in accordance with an approved critical area report and SEPA documents.
- B. Mitigation should 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.
- C. Mitigation shall only be implemented after city approval of a critical area report that includes a mitigation plan; and mitigation shall be in accordance with the provisions of the approved critical area report. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2367 § 2 (part), 2004)

**16.50.170 Mitigation sequencing.**

- Applicants shall demonstrate that reasonable efforts have been examined with the intent to mitigate impacts to critical areas. When an alteration to a critical area is proposed, mitigation can be accomplished through a variety of methods. Generally, avoiding the impact altogether is the preferred option. Methods to reduce impacts and mitigate for them should follow a series of steps taken in sequential order:
- A. Avoiding the impact altogether by not taking a certain action or parts of an action (usually by either finding another site or changing the location on the site);
  - 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 design, developable area configuration, relocation, or timing, to avoid or reduce impacts;
  - C. Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through

engineered or other methods;  
D. Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;  
E. Compensating for the impact to critical areas by replacing, enhancing or providing substitute resources or environments;  
F. Monitoring the hazard or other required mitigation and taking remedial action when necessary; and  
G. Rectifying the impact to critical 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.  
Following this process is referred to as mitigation sequencing and mitigation for individual actions may include a combination of the measures provided in this section. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2367 § 2 (part), 2004)  
16.50.170

**16.50.180 Mitigation plan requirements.**

When mitigation is required, the applicant shall submit to the city a mitigation plan as part of the critical area report. The mitigation plan shall include:

A. Environmental Goals and Objectives. The mitigation plan shall include a written report identifying environmental goals and objectives of the compensation proposed and including:  
1. 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 shall be related to the functions and values of the impacted critical area; and  
2. An analysis of the likelihood of success of the mitigation project.  
B. Performance Standards. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the

requirements of these provisions have been met.

C. Detailed Construction Plans. The mitigation plan shall include written specifications and descriptions of the mitigation proposed including but not limited to: the proposed construction sequence, timing and duration; grading and excavation details; erosion and sediment control features; a planting plan specifying plant species, quantities, locations, size, spacing and density; and, measures to protect and maintain plants until established. These written specifications shall 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 final outcome.

D. Monitoring Program. The mitigation plan shall include a program for monitoring construction of the compensation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring (for example, monitoring shall occur in years one, three and five after site construction), and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five years.

E. Contingency Plan. The mitigation plan shall 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.

F. Financial Guarantees. The mitigation plan shall include financial guarantees, as determined by the approval authority, to ensure that the mitigation plan is fully implemented. Financial guarantees ensuring fulfillment of the compensation project, monitoring program, and any contingency measures shall be posted consistent with these provisions. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2367 § 2 (part), 2004)

**16.50.190 Innovative mitigation.**

The city may encourage, facilitate and approve innovative mitigation projects. 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 of 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;
- D. There is a clear potential for success of the proposed mitigation at the identified mitigation site; and
- E. Conducting mitigation as part of a cooperative process does not reduce or eliminate the required replacement ratios. (Ord. 2443 § 1 (Exh. A (part)), 2006; Ord. 2367 § 2 (part), 2004)

**16.50.200 Unauthorized critical area alterations and enforcement.**

A. When a critical area or its management zone has been altered in violation of these provisions, all ongoing development work shall stop and the critical area shall be restored. The city shall have 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 these provisions.

B. Restoration Plan Required. Where a violation has occurred, all development work shall remain stopped until a restoration plan is submitted by the property owner and/or violator (applicant) and approved by the city. Such a plan shall be prepared by a qualified professional and shall describe how the actions proposed meet the intent of requirements described in subsection C of this section. The director may, at the applicant's expense, seek

expert advice in determining the adequacy of the plan and may impose additional requirements to mitigate critical areas issues. C. Minimum Performance Standards for Restoration.

1. For alterations to critical aquifer recharge areas and frequently flooded areas, the following minimum performance standards shall be met for the restoration of a critical area, provided that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:

- a. The historic structural and functional values shall be restored, including water quality and habitat functions;
- b. The historic soil types and configuration shall be replicated;
- c. The critical area and management zones shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes and densities; and
- d. The historic functions and values should be replicated at the location of the alteration.

2. For alterations to frequently flooded and geological hazardous areas, the following minimum performance standards shall be met for the restoration of a critical area, provided that, if the violator can demonstrate that greater safety can be obtained, these standards may be modified:

- a. The hazard shall be reduced to a level equal to, or less than, the predevelopment hazard;
- b. Any risk of personal injury resulting from the alteration shall be eliminated or minimized; and
- c. The hazard area and management zones shall be replanted with native vegetation sufficient to minimize the hazard.

D. Enforcement. Violations and compliance issues under these provisions are subject to enforcement under CMC Chapter 18.55. (Ord. 2443 § 1 (Exh. A (part)), 2006; Ord. 2367 § 2 (part), 2004)

**16.50.210 Critical area markers, signs and fencing.**

A. Temporary Markers. The outer perimeter of the management zones and/or critical areas may be required to be marked in the field in

such a way as to ensure that no unauthorized intrusion will occur, and verified by the director prior to the commencement of permitted activities. This temporary marking, if required, shall be maintained throughout construction, and shall not be removed until permanent signs, if required, are in place.

B. Permanent Signs. The city may require as a condition of any permit or authorization issued pursuant to this chapter, that the applicant install permanent signs along the boundary of a critical area or management zone to city standards.

C. Fencing.

1. The director may condition any permit or authorization issued pursuant to this chapter to require the applicant to install a permanent fence to city specifications at the edge of the habitat conservation area or management zone, when in the opinion of the city, fencing will reasonably minimize or prevent future impacts to the habitat conservation area.

2. Fencing installed as part of a proposed activity or as required in this subsection shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes habitat impacts. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2367 § 2 (part), 2004)

#### **16.50.220 Notice on title.**

A. The proponent of any new development proposal which involves a critical area or management zone may be required to file a notice with the Clark County records and elections division. The notice, if required, shall state the presence of the critical area or management zone on the property, of the application of these provisions to the property, and the fact that limitations on actions in or affecting the critical area or management zone may exist. The notice shall run with the land.

B. This notice on title shall not be required for a development proposal by a public agency or public or private utility:

1. Within a recorded easement or right-of-way;
2. Where the agency or utility has been adjudicated the right to an easement or right-of-way; or
3. On the site of a permanent public facility.

C. The applicant shall submit proof that the

notice has been filed for public record before the city approves any development proposal for the property or, in the case of subdivisions, short subdivisions, planned unit developments, and binding site plans, at or before recording. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2367 § 2 (part), 2004)

#### **16.50.230 Native growth protection areas—Reserved.**

#### **16.50.240 Critical area protective mechanism.**

A. Identified critical areas and their associated buffer or management zones shall be protected and preserved through a permanent protective mechanism acceptable to the city. This may include placing the critical area and its associated buffer or management zone in a separate tract; executing a protective easement; or dedicating the critical area and its associated buffer or management zone to a public agency or public or private land trust. The mechanism shall provide for maintenance of the critical area and its associated buffer or management zone.

B. If the protective mechanism includes placing the critical area and its associated buffer or management zone in a separate tract, then the critical area tract(s) shall:

1. Be recorded on all documents of title of record for all affected lots;
2. Be designated on the face of the plat or recorded drawing in a format approved by the city. The designation shall include the following restriction:

a. An assurance that native vegetation will 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, management zoning, and protecting plants and animal habitat; and

b. The right of the city to enforce the terms of the restriction.

C. The city may require that any required critical area tract be dedicated to the city, or held by an incorporated homeowner's association or other legal entity. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2367 § 2 (part), 2004)

**16.50.250 Bonds to ensure mitigation, maintenance and monitoring.**

A. When mitigation required pursuant to a development proposal is not completed prior to the city final permit approval, such as final plat approval, the city shall 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 shall post a mitigation bond or other security in a form and amount deemed acceptable by the city to ensure mitigation is fully functional.

B. The bond shall be in the amount of one hundred twenty-five percent 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.

C. The bond may 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.

D. Bonds or other security authorized by this section shall remain in effect until the city determines, in writing, that the standards bonded for have been met.

E. Depletion, failure, or collection of bond funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring or restoration.

F. Public development proposals may 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.

G. 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 thirty days after it is due or comply with other provisions of an approved mitigation plan shall constitute 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.

H. Any funds recovered pursuant to this section

shall be used to complete the required mitigation. (Ord. 2443 § 1 (Exh. A (part)), 2006: Ord. 2367 § 2 (part), 2004)

## Chapter 16.60

### WETLANDS

#### Sections:

**16.60.010 Purpose, applicability and exemptions.**

**16.60.020 Rating system.**

**16.60.030 Critical area report—Additional requirements for wetlands.**

**16.60.040 Standards.**

**16.60.050 Wetland permits.**

**16.60.010 Purpose, applicability and exemptions.**

#### A. Purpose.

1. Wetlands constitute important natural resources which provide significant environmental functions including: the control of floodwaters, maintenance of summer stream flows, filtration of pollutants, recharge of groundwater, and provision of significant habitat areas for fish and wildlife. Uncontrolled urban-density development in and adjacent to wetlands and designated buffer can eliminate or significantly reduce the ability of wetlands to provide these important functions, thereby detrimentally affecting public health, safety, and general welfare.

2. It is the purpose of this chapter to provide balanced wetland protection measures which:

- a. Further the goal of no net loss of wetland acreage and functions;
- b. Encourage restoration and enhancement of degraded and low quality wetlands;
- c. Provide a greater level of protection for higher-quality wetlands;
- d. Maintain consistency with federal wetland protective measures; and
- e. Respect the rights of property owners by allowing reasonable use of property.

#### B. Applicability.

1. The provisions of this chapter apply to all lands, all land uses and development activity, and all structures and facilities in the city, whether or not a permit or permit authorization is required, and shall apply to every person, firm, partnership, corporation, group, governmental agency, or other entity that owns, leases, or administers land within the city. No person, company, agency, or applicant shall

alter a wetland or wetland buffer except as consistent with this chapter.

2. The city will 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 wetland or wetland buffer, without first ensuring compliance with the requirements of this chapter, including, but not limited to, the following development permits:

- a. Building permit;
- b. Grading permit;
- c. Forest practices conversion permit;
- d. Conditional use permit;
- e. Shoreline conditional use permit;
- f. Shoreline substantial development permit;
- g. Shoreline variance;
- h. Short subdivision;
- i. Subdivision;
- j. Planned residential development;
- k. Master plan;
- l. Binding site plan; or
- m. Site plan or site plan review.

3. Reasonable Use Exceptions. The following exceptions shall apply in implementing the standards of this chapter, although the standards shall be applied to the maximum extent practicable to avoid and minimize impacts on wetland functions and values. Mitigation for unavoidable adverse impacts shall be required. The standards of this chapter shall not be used to preclude the following activities in wetland areas:

- a. The placement of a single-family residence and normal accessory structures on an otherwise legally buildable lot of record. Standards may be applied on established properties to limit the proposed location and size of structures, and proposed removal of vegetation.
  - i. The expansion of a home on a lot that does not show building or development envelopes, wetlands or wetland buffers on the recorded plat, not to exceed twenty-five percent of the existing building footprint;
  - ii. The replacement of single-wide mobile home with another dwelling and normal accessory structures; and
  - iii. Fire hazard clearing recommended by the fire marshal, or consistent with written fire

marshal or fire chief guidelines.

b. The standards of this chapter shall not be used to deny all reasonable economic use of private property. The following criteria must be met in order to verify that all reasonable economic use of the property has been denied:

- i. The application of this chapter would deny all reasonable economic use of the property;
- ii. No other reasonable economic use of the property has less impact on the wetland and buffer area;
- iii. Any wetland or buffer alteration is the minimum necessary to allow for reasonable economic use of the property; and
- iv. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant after the date of adoption of the ordinance codified in this chapter.

c. The application of this chapter shall not be used to deny a development proposal for a linear facility from a public agency or public utility, provided the agency or utility meets the following criteria:

- i. There is no practical alternative to the proposed project with less impact on the wetland and buffer area; and
- ii. The application of this chapter would unreasonably restrict the ability to provide public utility services to the public.

4. Approval of a development permit application pursuant to the provisions of this chapter does not discharge the obligation of the applicant to comply with the provisions of this chapter.

#### C. Exemptions.

1. Exempt Activities and Impacts to Wetlands. All exempted activities shall use reasonable methods to avoid potential impacts to wetlands and buffers. Exemptions from permits are not exemptions from wetland stewardship responsibilities. The following developments, activities, and associated uses shall be exempt from the provisions of this chapter; provided, that they are otherwise consistent with the provisions of other local, state, and federal laws and requirements:

a. Reconstruction of damaged or destroyed structures within the same building footprint. Expansion or reconstruction within a new or expanded footprint that affects a nonexempt

wetland or wetland buffer is subject to the provisions of this title.

b. The harvesting or normal maintenance of vegetation in a manner that is not injurious to the natural reproduction of such vegetation.

c. Existing agricultural activities and structures:

- i. Agricultural activities and structures in operation at the time of adoption of the ordinance codified in this chapter that are affecting wetlands not associated with a riparian corridor are exempt from regulation under this chapter;
- ii. Changes in agricultural practices within the same "footprint" as the existing agricultural activities in subsection (C)(1)(c)(i) of this section, including reconstruction of existing agricultural structures, or construction of new agricultural structures, are exempt from regulation under this chapter;
- iii. Agricultural activities and structures in operation at the time of adoption of the ordinance codified in this chapter that are affecting wetlands associated with riparian corridors shall be regulated through CMC Chapter 16.95.

d. The removal or eradication of noxious weeds so designated in Title 7 of this code or other exotic nuisance plants including non-native blackberries; provided, that ground disturbing heavy machinery (scraping, ripping, etc.,) is not used. Cutting, mowing, and ground disturbance with hand tools is allowed.

e. Site investigative work necessary for land use application submittals such as surveys, soil logs, and percolation tests.

f. Emergency clearing to abate immediate danger to persons or property. For emergency clearing of hazard trees, remove only that portion of the hazard tree as necessary to remediate the hazard.

g. Clearing necessary for the emergency repair of utility or public facilities. Notification of emergency work that causes substantial degradation to functions and values must be reported in a timely manner.

h. Clearing for operation, maintenance, or repair of existing utilities or public facilities that does not further increase the impact to, or encroach further within, the wetland or wetland buffer.

i. Clearing, as minimally necessary, for

placement of fencing, private wells, septic systems or individual lot sewer, water, electrical, or utility connections in wetland buffers, where practical alternatives do not exist.

j. Clearing, as minimally necessary, for stream bank restoration, for native replanting or enhancements in wetlands and wetland buffers.

k. Clearing, as minimally necessary, for soil, water, vegetation and resource conservation projects having received an environmental permit from a public agency in wetlands and wetland buffers.

l. Clearing, as minimally necessary, for creating a four-foot or narrower path using natural, wood-based or vegetated pervious surfacing in wetlands and wetland buffers.

m. Land disturbance in wetlands and wetland buffers cumulatively less than five cubic yards in volume and three hundred square feet in area; provided, that the wetland hydroperiod is not significantly affected.

2. Exempted Wetlands. This chapter shall not apply to the following wetlands:

a. Small. Isolated Category III wetlands less than two thousand five hundred square feet in area and isolated Category IV wetlands less than four thousand three hundred fifty square feet in area;

b. Artificial. Wetlands created from nonwetland sites including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, stormwater facilities, farm ponds, and landscape amenities; provided, that wetlands created as mitigation shall not be exempted;

c. Riparian. Wetlands fully within five feet, measured horizontally, of bank-full width for streams and the ordinary high water mark for lakes which are regulated under the State Shorelines Management Act (Chapter 90.58 RCW) or under CMC Chapter 16.95, are exempt.

D. Interpretation.

1. This chapter shall apply in addition to zoning and other regulations adopted by the city.

2. When there is a conflict between any provisions of this chapter or any other regulations adopted by the city of Camas, that providing the most protection to affected

critical areas shall apply.

3. Compliance with this chapter does not constitute compliance with other federal, state and local regulations and permit requirements (for example, shoreline substantial development permits, hydraulic project approval (HPA) permits, Section 106 of the National Historic Preservation Act, U.S. Army Corps of Engineers Section 404 permits, National Pollutant Discharge Elimination System (NPDES) permits, or DOE Section 401 Water Quality Certification). The applicant is responsible for complying with all requirements, apart from the provisions of this chapter. (Ord. 2477 § 1 (Exh. A (part)), 2007)

#### **16.60.020 Rating system.**

A. Designating Wetlands. Wetlands are those areas, designated in accordance with the Washington State Wetland Identification and Delineation Manual or Corps of Engineers Delineation Manual, Environmental Laboratories, 1987, or most current editions, that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. All areas within the city of Camas meeting the wetland designation criteria in the State Identification and Delineation Manual, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this title.

B. Wetland Rating System. Wetlands shall be rated according to the Washington State Department of Ecology (Ecology) wetland rating system found in Washington State Wetlands Rating System for Western Washington, (Ecology publication #04-06-025, August 2004). The rating system document contains the definitions and methods for determining if the criteria below are met:

1. Wetland Rating Categories.

a. Category I. Category I wetlands are those that meet one or more of the following criteria:

i. Wetlands that are identified by scientists of the Washington Natural Heritage Program/DNR as high quality wetlands;

ii. Bogs larger than one-half acre;

iii. Mature and old growth forested wetlands

larger than one acre;

iv. Wetlands that perform many functions well, as indicated by scoring seventy points (out of one hundred) in the rating system.

Category I wetlands represent a unique or rare wetland type, are more sensitive to disturbance than most wetlands, are relatively undisturbed and contain some ecological attributes that are impossible to replace within a human lifetime, or provide a very high level of functions.

b. Category II. Category II wetlands are those that meet one or more of the following criteria:

i. Wetlands identified by the Washington Natural Heritage Program as containing sensitive plant species;

ii. Bogs between one-fourth and one-half acre in size;

iii. Wetlands with a moderately high level of functions, as indicated by scoring fifty-one to sixty-nine in the Ecology rating system.

Category II wetlands are difficult, though not impossible, to replace, and provide high levels of some functions. These wetlands occur more commonly than Category I wetlands, but they still need a relatively high level of protection.

c. Category III. Category III wetlands are those with a moderate level of functions, as indicated by scoring thirty to fifty in the Ecology rating system. Generally, wetlands in this category have been disturbed in some way and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.

d. Category IV. Category IV wetlands have the lowest levels of functions and are often heavily disturbed. They are characterized by a score of less than thirty on the rating system. These are wetlands that should be replaceable, and in some cases may be improved. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and should be protected to some degree.

2. Date of Wetland Rating. Wetland rating categories shall be applied as the wetland exists on the date of adoption of the rating system by the local government, as the wetland naturally changes thereafter, or as the wetland changes in accordance with permitted activities. Wetland rating categories shall not change due to illegal

modifications. (Ord. 2477 § 1 (Exh. A (part)), 2007)

#### **16.60.030 Critical area report—**

##### **Additional requirements for wetlands.**

A. Prepared by a Qualified Professional. A critical areas report for wetlands shall be prepared by a qualified professional who is a wetland biologist with experience preparing wetland reports.

B. Area Addressed in Critical Area Report. In addition to the requirements of CMC Chapter 16.50, the following areas shall be addressed in a critical area report for wetlands:

1. Within a subject parcel or parcels, the project area of the proposed activity;

2. All wetlands and recommended buffer zones within three hundred feet of the project area within the subject parcel or parcels;

3. All shoreline areas, water features, floodplains, and other critical areas, and related buffers within three hundred feet of the project area within the subject parcel or parcels;

4. The project design and the applicability of the buffers based on the proposed layout and the level of land use intensity; and

5. Written documentation from the qualified professional demonstrating compliance with the requirements of this chapter.

C. Wetland Determination. In conjunction with the submittal of a development permit application, the responsible official shall determine the probable existence of a wetland on the subject parcel. If wetland or wetland buffers are found to likely exist on the parcel, wetland delineation is required.

D. Wetland Delineation.

1. Methodology. The location of a wetland and its boundary shall be determined through the performance of a field investigation utilizing the methodology contained in the Wetlands Delineation Manual. If a wetland is located off-site and is inaccessible, the best available information shall be used to determine the wetland boundary and category.

2. Information Requirements. Wetland boundaries shall be staked and flagged in the field and a delineation report shall be submitted to the department. The report shall include the following information:

a. USGS quadrangle map with site clearly

- defined;
  - b. Topographic map of area;
  - c. National wetland inventory map showing site;
  - d. Soil conservation service soils map showing site;
  - e. Site map, at a scale no smaller than one inch equals one hundred feet (a scaling ratio of one is to one thousand two hundred), if practical, showing the following information:
    - i. Wetland boundaries,
    - ii. Sample sites and sample transects,
    - iii. Boundaries of forested areas,
    - iv. Boundaries of wetland classes if multiple classes exist;
  - f. Discussion of methods and results with special emphasis on technique used from the Wetlands Delineation Manual;
  - g. Acreage of each wetland on the site based on the survey if the acreage will impact the buffer size determination or the project design;
  - h. All completed field data sheets per the Wetlands Delineation Manual, numbered to correspond to each sample site.
- E. Wetland Analysis. In addition to the minimum required contents of subsection D of this section, and in addition to CMC 16.50.170, a critical area report for wetlands shall contain an analysis of the wetlands including the following site- and proposal-related information at a minimum:
1. A discussion of measures, including avoidance, minimization and mitigation, proposed to preserve existing wetlands and restore any wetlands that were degraded prior to the current proposed land use activity.
  2. Proposed mitigation, if needed, including a written assessment and accompanying maps of the mitigation area, including the following information at a minimum:
    - a. Existing and proposed wetland acreage;
    - b. Vegetative, faunal, and hydrologic conditions;
    - c. Relationship within watershed and to

- existing water bodies;
- d. Soil and substrate conditions, topographic elevations;
- e. Existing and proposed adjacent site conditions;
- f. Required wetland buffers; and
- g. Property ownership.

3. A discussion of ongoing management practices that will protect wetlands after the project site has been developed; including proposed monitoring and maintenance programs.

When deemed appropriate, the director may also require the critical area report to include an evaluation by the Department of Ecology or an independent qualified expert regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, and to include any recommendations as appropriate. (Ord. 2477 § 1 (Exh. A (part)), 2007)

**16.60.040 Standards.**

A. Activities and uses shall be prohibited from wetlands and wetland buffers, except as provided for in this chapter.

B. Wetland Buffers.

Buffers. Wetland buffer widths shall be determined by the responsible official in accordance with the standards below:

1. All buffers shall be measured horizontally outward from the delineated wetland boundary or, in the case of a stream with no adjacent wetlands, the ordinary high water mark as surveyed in the field.
2. Buffer widths are established by comparing the wetland rating category and the intensity of land uses proposed on development sites per Table 16.60.040-1, 16.60.040-2, 16.60.040-3 and 16.60.040-4. For Category IV wetlands, the required water quality buffers, per Table 16.60.040-1, are adequate to protect habitat functions.

**Table 16.60.040-1. Buffers Required to Protect Water Quality Functions**

<b>Wetland Rating</b>	<b>Low Intensity Use</b>	<b>Moderate Intensity Use</b>	<b>High Intensity Use</b>
Category I	50 ft.	75 ft.	100 ft.
Category II	50 ft.	75 ft.	100 ft.
Category III	40 ft.	60 ft.	80 ft.
Category IV	25 ft.	40 ft.	50 ft.

**Table 16.60.040-2. Buffers Required to Protect Habitat Functions in Category I and II Wetlands**

<b>Habitat Score in the Rating Form</b>	<b>Low Intensity Use</b>	<b>Moderate Intensity Use</b>	<b>High Intensity Use</b>
19 points or less	See Table 16.60.040-1	See Table 16.60.040-1	See Table 16.60.040-1
20	60 ft.	75 ft.	100 ft.
21	70	85	100
22	80	95	120
23	90	105	140
24	100	115	160
25	110	125	180
26	120	135	200
27	130	145	220
28	140	165	240
29	150	185	260
30	150	205	280
31 points or greater	150	225	300

**Table 16.60.040-3. Buffers Required to Protect Habitat Functions in Category III Wetlands**

<b>Habitat Score in the Rating Form</b>	<b>Low Intensity Use</b>	<b>Moderate Intensity Use</b>	<b>High Intensity Use</b>
20 points or less	See Table 16.60.040-1	See Table 16.60.040-1	See Table 16.60.040-1
21	45 ft.	65 ft.	90 ft.
22	50	70	100
23	55	80	110
24	60	90	120
25	65 ft.	100 ft.	130 ft.
26	70	105	140
27 points or greater	75 ft.	110 ft.	150 ft.

**Table 16.60.040-4. Land Use Intensity Matrix<sup>1</sup>**

	<b>Parks and Recreation</b>	<b>Streets and Roads</b>	<b>Stormwater Facilities</b>	<b>Utilities</b>	<b>Commercial/Industrial</b>	<b>Residential<sup>2</sup></b>
Low	Natural fields and grass areas, viewing areas, split rail fencing	NA	Outfalls, spreaders, constructed wetlands, bioswales, vegetated detention basins, overflows	Underground and overhead utility lines, manholes, power poles (without footings)	NA	Density at or lower than 1 unit per 5 acres
Moderate	Impervious trails, engineered fields, fairways	Residential driveways and access roads	Wet ponds	Maintenance access roads	NA	Density between 1 unit per acre and higher than 1 unit per 5 acres
High	Greens, tees, structures, parking, lighting, concrete or gravel pads, security fencing	Public and private streets, security fencing, retaining walls	Maintenance access roads, retaining walls, vaults, infiltration basins, sedimentation fore bays and structures, security fencing	Paved or concrete surfaces, structures, facilities, pump stations, towers, vaults, security fencing, etc.	All site development	Density higher than 1 unit per acre

<sup>1</sup> The responsible official shall determine the intensity categories applicable to proposals should characteristics not be specifically listed in Table 16.06.060-4.

<sup>2</sup> Measured as density averaged over a site, not individual lot sizes.

3. In residential plats and subdivisions, wetlands and wetland buffers shall be placed within a nonbuildable tract with the following exceptions:

- a. Creation of a nonbuildable tract would result in violation of minimum lot depth standards; or
- b. The responsible official determines a tract is impractical;
- c. Where the responsible official determines the exceptions in subsection (B)(3)(a) or (B)(3)(b) of this section are applicable, residential lots

may extend into wetlands and wetland buffers; provided, that all the requirements of subsection C of this section are met.

4. Adjusted Buffer Width.

- a. Adjustments Authorized by Wetland Permits. Adjustments to the required buffer width are authorized by Section 16.60.050(D) of this section upon issuance of a wetland permit.

- b. Functionally Isolated Buffer Areas. Areas which are functionally separated from a

wetland and do not protect the wetland from adverse impacts shall be treated as follows:

i. Preexisting roads, structures, or vertical separation shall be excluded from buffers otherwise required by this chapter;

ii. Distinct portions of wetlands with reduced habitat functions that are components of wetlands with an overall habitat rating score greater than twenty points shall not be subject to the habitat function buffers designated in Table 16.60.040-2 and Table 16.60.040-3 if all of the following criteria are met:

(A) The area of reduced habitat function is at least one acre in size,

(B) The area supports less than five native plant species and does not contain special habitat features,

(C) The area of reduced habitat function has low or no interspersion of habitats as defined in Section H1.4 of the rating form,

(D) The area does not meet any WDFW priority habitat or species criteria, and

(E) The required habitat function buffer is provided for all portions of the wetland that do not have reduced habitat function.

C. Standard Requirements. Any action granting or approving a development permit application shall be conditioned on all the following:

1. Marking Buffer During Construction. The location of the outer extent of the wetland buffer shall be marked in the field and such markings shall be maintained throughout the duration of the permit.

2. Permanent Marking of Buffer Area. A permanent physical demarcation along the upland boundary of the wetland buffer area shall be installed and thereafter maintained. Such demarcation may consist of logs, a tree or hedge row, fencing, or other prominent physical marking approved by the responsible official. In addition, small signs shall be posted at an interval of one per lot or every one hundred feet, whichever is less, and perpetually maintained at locations along the outer perimeter of the wetland buffer approved by the responsible official worded substantially as follows:

Wetland and Buffer—Please retain in a natural state.

3. A conservation covenant shall be recorded in a form approved by the prosecuting attorney as

adequate to incorporate the other restrictions of this section and to give notice of the requirement to obtain a wetland permit prior to engaging in regulated activities within a wetland or its buffer.

4. In the cases of plats, short plats, and recorded site plans, include on the face of such instrument the boundary of the wetland and its buffer and a reference to the separately recorded conservation covenant provided for in subsection (C)(3) of this section.

D. Standard Requirements—Waivers. The responsible official shall waive the requirements of Section 16.60.030(D) and subsection B of this section in certain cases described below if the applicant designates development envelopes which are clearly outside of any wetland or buffer. The responsible official may require partial wetland delineation to the extent necessary to ensure eligibility for this waiver:

1. Residential building permits and home businesses;

2. Site plan reviews where the responsible official determines that all development is clearly separated from the wetlands and wetland buffers:

a. Development envelopes shall be required for a fully complete preliminary application,

b. Development envelopes shall be shown on the final site plan, and

c. A note referencing the development envelopes shall be placed on the final site plan. (Ord. 2477 § 1 (Exh. A (part)), 2007)

#### **16.60.050 Wetland permits.**

A. General.

1. A wetland permit is required for any development activity that is not exempt pursuant to Section 16.60.010(C) within wetlands and wetland buffers.

2. Standards for wetland permits are provided in subsections B, C and D of this section.

3. All wetland permits require approval of a preliminary and final enhancement/mitigation plan in accordance with the provisions of subsection E of this section unless the preliminary enhancement/mitigation plan requirement is waived under the provisions of subsection (E)(2) of this section.

4. Wetland permit application, processing,

preliminary approval, and final approval procedures are set out in subsections F through I of this section.

5. Provisions for programmatic permits are provided by subsection K of this section.

6. Provisions for emergency wetland permits are provided by subsection L of this section.

B. Standards—General. Wetland permit applications shall be based upon a mitigation plan and shall satisfy the following general requirements:

1. The proposed activity shall not cause significant degradation of wetland functions;

2. The proposed activity shall comply with all state, local and federal laws, including those related to sediment control, pollution control, floodplain restrictions, stormwater management, and on-site wastewater disposal.

C. Buffer Standards and Authorized Activities. The following additional standards apply for regulated activities in a wetland buffer:

1. Buffer Reduction Incentives. Standard buffer widths may be reduced under the following conditions, provided that functions of the post-project wetland are equal to or greater after use of these incentives.

a. Lower Impact Land Uses. The buffer widths recommended for proposed land uses with high-intensity impacts to wetlands can be reduced to those recommended for moderate-intensity impacts if both of the following criteria are met:

i. A relatively undisturbed, vegetated corridor at least one hundred feet wide is protected between the wetland and any other priority habitats that are present as defined by the Washington State Department of Fish and Wildlife\*<sup>2</sup>; and

ii. Measures to minimize the impacts of the land use adjacent to the wetlands are applied, such as infiltration of stormwater, retention of as much native vegetation and soils as possible, direction of noise and light away from the wetland, and other measures that may be suggested by a qualified wetlands professional.

\* If priority habitats are not present in the vicinity of the proposed land use, criterion (ii) is sufficient for buffer width reductions. The development of these measures and their review by the city, which may include referral to independent qualified professionals, shall be

at the applicant's expense. If proposed future land uses are more intense, they are not eligible to maintain this reduction.

b. Restoration. Buffer widths may be reduced up to twenty-five percent if the buffer is restored or enhanced from a pre-project condition that is disturbed (e.g., dominated by invasive species), so that functions of the post-project wetland and buffer are equal or greater. To the extent possible, restoration should provide a vegetated corridor of a minimum one hundred feet wide between the wetland and any other priority habitat areas as defined by the Washington State Department of Fish and Wildlife. The habitat corridor must be protected for the entire distance between the wetland and the priority habitat area by some type of permanent legal protection such as a covenant or easement. The restoration plan must meet requirements in subsection D of this section for a mitigation plan and this section for a critical area report.

c. Combined Reductions. Buffer width reductions allowed under subsections (C)(1)(a) and (C)(1)(b) of this section may be added provided that minimum buffer widths shall never be less than fifty feet for all Category I, Category II and Category III wetlands, and twenty-five feet for all Category IV wetlands.

2. Buffer Averaging. Averaging buffers is allowed in conjunction with any of the other provisions for reductions in buffer width (listed in subsection (C)(1) of this section) provided that minimum buffer widths listed in subsection (C)(1)(c) of this section are adhered to. The community development department shall have the authority to average buffer widths on a case-by-case basis, where a qualified wetlands professional demonstrates, as part of a critical area report, that all of the following criteria are met:

a. The total area contained in the buffer after averaging is no less than that contained within the buffer prior to averaging;

b. Decreases in width are generally located where wetland functions may be less sensitive to adjacent land uses and increases are generally located where wetland functions may be more sensitive to adjacent land uses, to achieve no net loss or a net gain in functions;

c. The averaged buffer, at its narrowest point,

shall not result in a width less than seventy-five percent of the required width, provided that minimum buffer widths shall never be less than fifty feet for all Category I, Category II and Category III wetlands and twenty-five feet for all Category IV wetlands; and

d. Effect of Mitigation. If wetland mitigation occurs such that the rating of the wetland changes, the requirements for the category of the wetland after mitigation shall apply.

3. Stormwater Facilities. Stormwater facilities are only allowed in buffers of wetlands with low habitat function (less than twenty points on the habitat section of the rating system form); provided, the facilities shall be built on the outer edge of the buffer and not degrade the existing buffer function and are designed to blend with the natural landscape. Unless determined otherwise by the responsible official, the following activities shall be considered to degrade a wetland buffer when they are associated with the construction of a stormwater facility:

- a. Removal of trees greater than four inches diameter at four and one-half feet above the ground or greater than twenty feet in height;
- b. Disturbance of plant species that are listed as rare, threatened or endangered by the city, county or any state or federal management agency;
- c. The construction of concrete structures other than manholes, inlets, and outlets that are exposed above the normal water surface elevation of the facility;
- d. The construction of maintenance and access roads;
- e. Slope grading steeper than four to one horizontal to vertical above the normal water surface elevation of the stormwater facility;
- f. The construction of pre-treatment facilities such as fore bays, sediment traps, and pollution control manholes;
- g. The construction of trench drain collection and conveyance facilities;
- h. The placement of fencing; and
- i. The placement of rock and/or riprap, except for the construction of flow spreaders, or the protection of pipe outfalls and overflow spillways; provided, that buffer functions for areas covered in rock and/or riprap are replaced.

4. Road and Utility Crossings. Crossing buffers with new roads and utilities is allowed provided all the following conditions are met:

- a. Buffer functions, as they pertain to protection of the adjacent wetland and its functions, are replaced; and
- b. Impacts to the buffer and wetland are minimized.

5. Other Activities in a Buffer. Regulated activities not involving stormwater management, road and utility crossings, or a buffer reduction via enhancement are allowed in the buffer if all the following conditions are met:

- a. The activity is temporary and will cease or be completed within three months of the date the activity begins;
- b. The activity will not result in a permanent structure in or under the buffer;
- c. The activity will not result in a reduction of buffer acreage or function;
- d. The activity will not result in a reduction of wetland acreage or function.

D. Standards—Wetland Activities. The following additional standards apply to the approval of all activities permitted within wetlands under this section:

1. Sequencing. Applicants shall demonstrate that a range of project alternatives have been given substantive consideration with the intent to avoid or minimize impacts to wetlands. Documentation must demonstrate that the following hierarchy of avoidance and minimization has been pursued:

- a. Avoid impacts to wetlands unless the responsible official finds that:
  - i. For Category I and II wetlands, avoiding all impact is not in the public interest or will deny all reasonable economic use of the site;
  - ii. For Category III and IV wetlands, avoiding all impact will result in a project that is either:
    - (A) Inconsistent with the city of Camas comprehensive plan,
    - (B) Inconsistent with critical area conservation goals, or
    - (C) Not feasible to construct.
- b. Minimize impacts to wetlands if complete avoidance is infeasible. The responsible official must find that the applicant has limited the degree or magnitude of impact to wetlands by using appropriate technology and by taking

affirmative steps to reduce impact through efforts such as:

- i. Seeking easements or agreements with adjacent land owners or project proponents where appropriate;
  - ii. Seeking reasonable relief that may be provided through application of other city zoning and design standards;
  - iii. Site design; and
  - iv. Construction techniques and timing.
- c. Compensate for wetland impacts that will occur, after efforts to minimize have been exhausted. The responsible official must find that:
- i. The affected wetlands are restored to the conditions existing at the time of the initiation of the project;
  - ii. Unavoidable impacts are mitigated in accordance with this subsection; and
  - iii. The required mitigation is monitored and remedial action is taken when necessary to ensure the success of mitigation activities.
2. Location of Wetland Mitigation. Wetland mitigation for unavoidable impacts shall be located using the following prioritization:
- a. On-Site. Locate mitigation according to the following priority:
    - i. Within or adjacent to the same wetland as the impact,
    - ii. Within or adjacent to a different wetland on the same site;
  - b. Off-Site. Locate mitigation within the same watershed or use an established wetland mitigation bank; the service area determined by the mitigation bank review team and identified in the executed mitigation bank instrument;
  - c. In-Kind. Locate or create wetlands with similar landscape position and the same hydrogeomorphic (HGM) classification based on a reference to a naturally occurring wetland system; and
  - d. Out-of-Kind. Mitigate in a different landscape position and/or HGM classification based on a reference to a naturally occurring wetland system.
3. Types of Wetland Mitigation. The various types of wetland mitigation allowed are listed below in the general order of preference.
- a. Restoration. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or

- historic functions to a former or degraded wetland. For the purpose of tracking net gains in wetland acres, restoration is divided into:
- i. Re-Establishment. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Re-establishment results in a gain in wetland acres (and functions). Activities could include removing fill material, plugging ditches, or breaking drain tiles.
  - ii. Rehabilitation. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a degraded wetland. Re-establishment results in a gain in wetland function, but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or return tidal influence to a wetland.
- b. Creation (Establishment). The manipulation of the physical, chemical, or biological characteristics of a site with the goal of developing a wetland on an upland or deepwater site where a wetland did not previously exist. Establishment results in a gain in wetland acres. Activities typically involve excavation of upland soils to elevations that will produce a wetland hydroperiod, create hydric soils, and support the growth of hydrophytic plant species.
- c. Enhancement. The manipulation of the physical, chemical, or biological characteristics of a wetland site to heighten, intensify, or improve the specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, floodwater retention, or wildlife habitat. Enhancement results in a change in some wetland functions and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. Activities typically consist of planting vegetation, controlling non-native or invasive species, modifying site elevations or the proportion of open water to influence hydroperiods, or some combination of these activities.
- d. Protection/Maintenance (Preservation). Removing a threat to, or preventing the decline

of, wetland conditions by an action in or near a wetland. This includes the purchase of land or easements repairing water control structures or fences, or structural protection such as repairing a barrier island. This term also includes activities commonly associated with the term preservation. Preservation does not result in a gain of

wetland acres, but may result in improved wetland functions.

4. Wetland Mitigation Ratios.

a. Standard Wetland Mitigation Ratios. The following mitigation ratios for each of the mitigation types described in subsections (D)(3)(a) through (D)(3)(c) of this section apply:

**Table 16.60.050-1. Standard Wetland Mitigation Ratios (In Area)**

Wetland to Be Replaced	Reestablishment or Creation	Rehabilitation	Reestablishment or Creation and Rehabilitation	Reestablishment or Creation and Enhancement	Enhancement
Category IV	1.5:1	3:1	1:1 R/C and 1:1 RH	1:1 R/C and 2:1 E	6:1
Category III	2:1	4:1	1:1 R/C and 2:1 RH	1:1 R/C and 4:1 E	8:1
Category II	3:1	6:1	1:1 R/C and 4:1 RH	1:1 R/C and 8:1 E	12:1
Category I, Forested	6:1	12:1	1:1 R/C and 10:1 RH	1:1 R/C and 20:1 E	24:1
Category I, Based on Score for Functions	4:1	8:1	1:1 R/C and 6:1 RH	1:1 R/C and 12:1 E	16:1
Category I, Natural Heritage Site	Not Considered Possible	6:1 Rehabilitate a Natural Heritage Site	N/A	N/A	Case-by-Case

b. Preservation. The responsible official has the authority to approve preservation of existing wetlands as wetland mitigation under the following conditions:

- i. The wetland area being preserved is a Category I or II wetland or is within a WDFW priority habitat or species area;
- ii. The preservation area is at least one acre in size;
- iii. The preservation area is protected in

- perpetuity by a covenant or easement that gives the city clear regulatory and enforcement authority to protect existing wetland and wetland buffer functions with standards that exceed the protection standards of this chapter;
- iv. The preservation area is not an existing or proposed wetland mitigation site; and
- v. The following preservation/mitigation ratios apply:

**Table 16.60.050-2. Wetland Preservation Ratios for Category I and II Wetlands (In Area)**

Habitat Function of Wetland to Be Replaced	In Addition to Standard Mitigation		As the Only Means of Mitigation	
	Full and Functioning Buffer	Reduced and/or Degraded	Full and Functioning Buffer	Reduced and/or Degraded Buffer

		<b>Buffer</b>		
Low (<20 points)	10:1	14:1	20:1	30:1
Moderate (20 — 30 points)	13:1	17:1	30:1	40:1
High (>30 points)	16:1	20:1	40:1	50:1

c. The responsible official has the authority to reduce wetland mitigation ratios under any of the following circumstances:

- i. Documentation by a qualified wetland specialist demonstrates that the proposed mitigation actions have a very high likelihood of success based on prior experience;
- ii. Documentation by a qualified wetland specialist demonstrates that the proposed actions for compensation will provide functions and values that are significantly greater than the wetland being affected;
- iii. The proposed actions for compensation are conducted in advance of the impact and are shown to be successful;
- iv. In wetlands where several HGM classifications are found within one delineated wetland boundary, the areas of the wetlands within each HGM classification can be scored and rated separately and the mitigation ratios adjusted accordingly, if all the following apply:
  - (A) The wetland does not meet any of the criteria for wetlands with “Special Characteristics,” as defined in the rating system,
  - (B) The rating and score for the entire wetland is provided as well as the scores and ratings for each area with a different HGM classification,
  - (C) Impacts to the wetland are all within an area that has a different HGM classification from the one used to establish the initial category, and
  - (D) The proponents provide adequate hydrologic and geomorphic data to establish that the boundary between HGM classifications lies at least fifty feet outside of the footprint of the impacts.

5. Alternate Wetland Mitigation.

a. Wetland Mitigation Banking.

- i. Construction, enhancement or restoration of wetlands to use as mitigation for future wetland development impacts is permitted subject to the following:
  - (A) A wetland permit shall be obtained prior to

any mitigation banking. If a wetland permit is not obtained prior to mitigation bank construction, mitigation credit shall not be awarded. On projects proposing off-site wetland banking in addition to required wetland mitigation, a separate wetland permit shall be required for each activity. The performance and maintenance bond requirements of subsections (H)(3)(c) and (H)(3)(d) of this section shall not be applicable, provided there are no requests for mitigation credit prior to the city determining the mitigation banking is successful. If mitigation banking is not fully functioning, as defined in the wetland permit, at the time mitigation credit is requested, subsections (H)(3)(c) and (H)(3)(d) of this section shall apply,

(B) Federal and state wetland regulations, if applicable, may supersede city requirements;

- ii. The mitigation credit allowed will be determined by the city, based on the wetland category, condition and mitigation ratios as specified in subsection (D)(4) of this section. Prior to granting mitigation banking credit, all wetland mitigation banking areas must comply with Sections 16.60.040(E)(4)(b) and (c), and, if applicable, subsection (H)(3) of this section;
- iii. On projects proposing off-site wetland banking in addition to required wetland mitigation, a separate permit fee will be required for each activity;
- iv. Purchase of banked wetland credits is permitted to mitigate for wetland impacts in the same watershed provided the applicant has minimized wetland impacts, where reasonably possible, and the following requirements are met:
  - (A) Documentation, in a form approved by the prosecuting attorney, adequate to verify the transfer of wetland credit shall be submitted, and
  - (B) A plat note along with information on the title shall be recorded in a form approved by the prosecuting attorney as adequate to give

notice of the requirements of this section being met by the purchase of banked wetland credits.

b. Cumulative Effects Fund. The city may accept payment of a voluntary contribution to an established cumulative effects fund for off-site watershed scale habitat and wetland conservation in lieu of wetland mitigation of unavoidable impacts in the following cases:

i. Residential building and home business permits where on-site enhancement and/or preservation is not adequate to meet the requirements of subsection (D)(4) of this section;

ii. Approved reasonable use exceptions where sufficient on-site wetland and wetland buffer mitigation is not practical;

iii. Small impacts affecting less than 0.10 acre of wetland where on-site enhancement and/or preservation is not adequate to meet the requirements of subsection (D)(4) of this section; or

iv. As an additional mitigation measure when all other mitigation options have been applied to the greatest extent practicable.

6. Stormwater Facilities. Stormwater facilities are allowed in wetlands with habitat scores less than twenty on the rating form, in compliance with the following requirements:

a. Stormwater detention and retention necessary to maintain wetland hydrology is authorized; provided, that the responsible official finds that wetland functions will not be degraded; and

b. Stormwater runoff is treated for water quality in accordance with the requirements of Section 17.19.040(C)(3)(d) prior to discharge into the wetland.

7. Utility Crossings. Crossing wetlands by utilities is allowed, provided the activity is not prohibited by subsection (D)(1) of this section, and provided all the following conditions are met:

a. The activity does not result in a decrease in wetland acreage or classification;

b. The activity results in no more than a short-term six month decrease in wetland functions; and

c. Impacts to the wetland are minimized.

8. Other Activities in a Wetland. Activities not involving stormwater management, utility crossings, or wetland mitigation are allowed in

a wetland, provided the activity is not prohibited by subsection (D)(1) of this section, and provided all the following conditions are met:

a. The activity shall not result in a reduction of wetland acreage or function; and

b. The activity is temporary and shall cease or be completed within three months of the date the activity begins.

E. Mitigation Plans.

1. General. Mitigation plans are required for activities in a buffer or wetland. Content requirements which are inappropriate and inapplicable to a project may be waived by the responsible official upon request of the applicant at or subsequent to the pre-application consultation provided for in subsection (F)(1) of this section.

2. Preliminary Mitigation Plan. The purpose of the preliminary plan is to determine the feasibility of the project before extensive resources are devoted to the project. The responsible official may waive the requirement for a preliminary mitigation plan when a wetland permit is not associated with a development permit application (listed in Section 16.60.010(B)). The preliminary mitigation plan consists of two parts: baseline information for the site and a conceptual plan. If off-site wetland mitigation is proposed, baseline information for both the project site and mitigation site is required.

a. Baseline information shall include:

i. Wetland delineation report as described in Section 16.60.030(D)(2);

ii. Copies of relevant wetland jurisdiction determination letters, if available, such as determinations of prior converted crop lands, correspondence from state and federal agencies regarding prior wetland delineations, etc.;

iii. Description and maps of vegetative conditions at the site;

iv. Description and maps of hydrological conditions at the site;

v. Description of soil conditions at the site based on a preliminary on-site analysis;

vi. A topographic map of the site; and

vii. A functional assessment of the existing wetland and buffer.

(A) Application of the rating system in Section 16.60.020(B) will generally be considered

sufficient for functional assessment,

(B) The responsible official may accept or request an alternate functional assessment methodology when the applicant's proposal requires detailed consideration of specific wetland functions,

(C) Alternate functional assessment methodologies used shall be scientifically valid and reliable.

b. The contents of the conceptual mitigation plan shall include:

i. Goals and objectives of the proposed project;

ii. A wetland buffer width reduction plan, if width reductions are proposed, that includes:

(A) The land use intensity, per Table 16.60.040-4, of the various elements of the development adjacent to the wetlands,

(B) The wetland buffer width(s) required by Table 16.60.040-1, 16.60.040-2 and 16.60.040-3,

(C) The proposed buffer width reductions, including documentation that proposed buffer width reductions fully protect the functions of the wetland in compliance with subsection C of this section;

iii. A wetland mitigation plan that includes:

(A) A sequencing analysis for all wetland impacts,

(B) A description of all wetland impacts that require mitigation under this chapter, and

(C) Proposed mitigation measures and mitigation ratios;

iv. Map showing proposed wetland and buffer. This map should include the existing and proposed buffers and all proposed wetland impacts regulated under this chapter;

v. Site plan;

vi. Discussion and map of plant material to be planted and planting densities;

vii. Preliminary drainage plan identifying location of proposed drainage facilities including detention structures and water quality features (e.g., swales);

viii. Discussion of water sources for all wetlands on the site;

ix. Project schedule;

x. Discussion of how the completed project will be managed and monitored; and

xi. A discussion of contingency plans in case the project does not meet the goals initially set for the project.

3. Final Mitigation Plan. The contents of the final mitigation plan shall include:

a. The approved preliminary mitigation plan and all conditions imposed on that plan. If the preliminary mitigation plan requirement is waived, the final plan shall include the content normally required for the preliminary plan listed in this section.

b. Performance Standards. Specific criteria shall be provided for evaluating whether or not the goals and objectives of the mitigation project are being met. Such criteria may include water quality standards, survival rates of planted vegetation, species abundance and diversity targets, habitat diversity indices, or other ecological, geological or hydrological criteria.

c. Detailed Construction Plans. Written specifications for the mitigation project shall be provided. The specifications shall include: the proposed construction sequence, grading and excavation details, water and nutrient requirements for planting, specification of substrate stockpiling techniques, and planting instructions, as appropriate. These written specifications shall 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 final outcome.

d. Monitoring Program. The mitigation plan shall include a description of a detailed program for monitoring the success of the mitigation project.

i. The mitigation project shall be monitored for a period necessary to establish that the mitigation is successful, but not for a period of less than five years. Creation and forested wetland mitigation projects shall be monitored for a period of at least ten years;

ii. Monitoring shall be designed to measure the performance standards outlined in the mitigation plan and may include but not be limited to:

(A) Establishing vegetation plots to track changes in plant species composition and density over time,

(B) Using photo stations to evaluate vegetation community response,

(C) Sampling surface and subsurface waters to

determine pollutant loading, and changes from the natural variability of background conditions (pH, nutrients, heavy metals),

(D) Measuring base flow rates and stormwater runoff to model and evaluate water quality predictions, if appropriate,

(E) Measuring sedimentation rates, if applicable, and

(F) Sampling fish and wildlife populations to determine habitat utilization, species abundance and diversity;

iii. A monitoring protocol shall be included outlining how the monitoring data will be evaluated by agencies that are tracking the progress of the project;

iv. Monitoring reports shall be submitted annually, or on a pre-arranged alternate schedule, for the duration of monitoring period;

v. Monitoring reports shall analyze the results of monitoring, documenting milestones, successes, problems, and recommendations for corrective and/or contingency actions to ensure success of the mitigation project.

e. Associated Plans and Other Permits. To ensure consistency with the final mitigation plan, associated plans and permits shall be submitted, including, but not limited to:

i. Engineering construction plans;

ii. Final site plan or proposed plat;

iii. Final landscaping plan;

iv. Habitat permit;

v. WDFW HPA;

vi. USACE Section 404 permit; and

vii. WDOE Administrative Order or Section 401 certification.

f. Evidence of Financial and Scientific Proficiency. A description of how the mitigation project will be managed during construction and the scientific capability of the designer to successfully implement the proposed project. In addition, a demonstration of the financial capability of the applicant to successfully complete the project and ensure it functions properly at the end of the specific monitoring period.

g. Contingency Plan. Identification of potential courses of action, and any corrective measures to be taken when monitoring or evaluation indicates project performance standards are not being met.

F. Wetland Permit—Application.

1. Pre-Permit Consultation. Any person intending to apply for a wetland permit is encouraged, but not required, to meet with the department during the earliest possible stages of project planning in order to discuss wetland impact avoidance, minimization, compensatory mitigation, and the required contents of a mitigation plan before significant commitments have been made to a particular project design. Effort put into pre-permit consultations and planning will help applicants create projects which will be more quickly and easily processed.

2. Applications. Applications for wetland permits shall be made to the department on forms furnished by the department and in conformance with Section 16.60.030.

3. Fees. At the time of application, the applicant shall pay a filing fee in accordance with the most current fee schedule adopted by the city.

G. Wetland Permit—Processing.

1. Procedures. Wetland permit applications shall be processed using the application procedures in Chapter 18.55 unless specifically modified herein:

a. Type I Wetland Permit. The following wetland permits shall be reviewed under the Type I review process in accordance with CMC Chapter 18.55:

i. Buffer modification only;

ii. Wetland impacts resulting in less than 0.10 acre of direct wetland impact;

iii. Wetland permits associated with residential building permits, regardless of impact;

iv. Wetland permits associated with home business permits, regardless of impact;

v. Re-authorization of approved wetland permits;

vi. Programmatic wetland permits that are SEPA exempt.

b. Type II Wetland Permit. The following wetland permits shall be reviewed under the Type II review process in accordance with CMC Chapter 18.55:

i. Wetland impacts resulting in 0.10 acre, or more, of direct wetland impact, other than residential building and home business permits;

ii. Programmatic wetland permits that require SEPA review;

iii. Programmatic permit applications subject to

Type II review shall not be subject to the notice requirements of Chapter 18.55. Within fourteen calendar days after the date an application is accepted as fully complete, the city shall publish in a newspaper of general circulation a summary of the notice, including the date, time and manner of making comments, the nature and location of the proposal and instructions for obtaining further information.

c. Type III Wetland Permit. Reasonable use exceptions, other than residential and home occupation permits, made under Section 16.60.010(B)(3), shall be reviewed under the Type III review process described in Chapter 18.55.

2. Consolidation. The department shall, to the extent practicable and feasible, consolidate the processing of wetland permits with other city regulatory programs which affect activities in wetlands, such as SEPA review, subdivision, grading, and site plan approval, so as to provide a timely and coordinated permit process.

Where no other city permit or approval is required for the wetland activity, the wetland permit shall be processed in accordance with a Type II process under Chapter 18.55.

3. Notification. In addition to notices otherwise required, notice of application shall be given to federal and state agencies that have jurisdiction over, or an interest in, the affected wetlands. This notice may be incorporated into a SEPA comment period.

H. Wetland Permit—Preliminary Approval.

1. Decision Maker. A wetland permit application which has been consolidated with another permit or approval request which requires a public hearing (e.g., preliminary plat) shall be heard and decided in accordance with the procedures applicable to such other request. Any other wetland permit application shall be acted on by the responsible official within the timeline specified in Chapter 18.55 for the required permit type.

2. Findings. A decision preliminarily approving or denying a wetland permit shall be supported by findings of fact relating to the standards and requirements of this chapter.

3. Conditions. A decision preliminarily approving a wetland permit shall incorporate at least the following as conditions:

a. The approved preliminary mitigation plan;

b. Applicable conditions provided for in subsection (E)(3) of this section;

c. Posting of a performance assurance pursuant to subsection J of this section; and

d. Posting of a maintenance assurance pursuant to subsection J of this section.

4. Duration. Wetland permit preliminary approval shall be valid for a period of three years from the date of issuance or termination of administrative appeals or court challenges, whichever occurs later, unless:

a. A longer period is specified in the permit; or

b. The applicant demonstrates good cause to the responsible official's satisfaction for an extension not to exceed an additional one year.

I. Wetland Permit—Final Approval.

1. Issuance. The responsible official shall issue final approval of the wetland permit authorizing commencement of the activity permitted thereby upon:

a. Submittal and approval of a final mitigation plan pursuant to subsection (E)(3) of this section;

b. Installation and approval of field markings as required by Section 16.60.040(C)(2);

c. The recording of a conservation covenant as required by Section 16.60.040(C)(3) and included on the plat, short plat or site plan as required by Section 16.60.040(C)(4);

d. The posting of a performance assurance as required by subsection (H)(3) of this section.

2. Duration.

a. Wetland or Wetland Buffer Impacts. Final approval shall be valid for the period specified in the final wetland permit, or the associated development approval. Extension of the permit shall only be granted in conjunction with extension of an associated permit.

b. Compensatory Mitigation. The compensatory mitigation requirements of the permit shall remain in effect for the duration of the monitoring and maintenance period specified in the approval.

J. Wetland Permit Financial Assurances.

1. Types of Financial Assurances. The responsible official shall accept the following forms of financial assurances:

a. An escrow account secured with an agreement approved by the responsible official;

b. A bond provided by a surety for estimates that exceed five thousand dollars;

- c. A deposit account with a financial institution secured with an agreement approved by the responsible official;
- d. A letter of commitment from a public agency; and
- e. Other forms of financial assurance determined to be acceptable by the responsible official.

2. Financial Assurance Estimates. The applicant shall submit itemized cost estimates for the required financial assurances. The responsible official may adjust the estimates to ensure that adequate funds will be available to complete the specified compensatory mitigation upon forfeiture. In addition the cost estimates must include a contingency as follows:

- a. Estimates for bonds shall be multiplied by one hundred fifty percent;
- b. All other estimates shall be multiplied by one hundred ten percent.

3. Waiver of Financial Assurances. For Type I wetland permits, the responsible official may waive the requirement for one or both financial assurances if the applicant can demonstrate to the responsible official's satisfaction that posting the required financial assurances will constitute a significant hardship.

4. Acceptance of Work and Release of Financial Assurances.

a. Release of Performance Assurance. Upon request, the responsible official shall release the performance assurance when the following conditions are met:

- i. Completion of construction and planting specified in the approved compensatory mitigation plan;
- ii. Submittal of an as-built report documenting changes to the compensatory mitigation plan that occurred during construction;
- iii. Field inspection of the completed site(s); and
- iv. Provision of the required maintenance assurance.

b. Release of Maintenance Assurance. Upon request, the responsible official shall release the maintenance assurance when the following conditions are met:

- i. Completion of the specified monitoring and maintenance program;
- ii. Submittal of a final monitoring report

demonstrating that the goals and objectives of the compensatory mitigation plan have been met as demonstrated through:

- (A) Compliance with the specific performance standards established in the wetland permit, or
- (B) Functional assessment of the mitigation site(s), and
- (C) Field inspection of the mitigation site(s).

c. Incremental Release of Financial Assurances. The responsible official may release financial assurances incrementally only if specific milestones and associated costs are specified in the compensatory mitigation plan and the document legally establishing the financial assurance.

5. Transfer of Financial Assurances. The responsible official may release financial assurances at any time if equivalent assurances are provided by the original or a new permit holder.

6. Forfeiture. If the permit holder fails to perform or maintain compensatory mitigation in accordance with the approved wetland permit, the responsible official may declare the corresponding financial assurance forfeit pursuant to the following process:

- a. The responsible official shall, by registered mail, notify the wetland permit holder/agent that is signatory to the financial assurance and the financial assurance holder of nonperformance with the terms of the approved wetlands permit;
- b. The written notification shall cite a reasonable time for the permit holder, or legal successor, to comply with provisions of the permit and state the city's intent to forfeit the financial assurance should the required work not be completed in a timely manner;
- c. Should the required work not be completed timely, the city shall declare the assurance forfeit;
- d. Upon forfeiture of a financial assurance, the proceeds thereof shall be utilized either to correct the deficiencies which resulted in forfeiture or, if such correction is deemed by the responsible official to be impractical or ineffective, to enhance other wetlands in the same watershed or contribute to an established cumulative effects fund for watershed scale habitat and wetland conservation.

K. Programmatic Permits for Routine

Maintenance and Operations of Utilities and Public Facilities. The responsible official may issue programmatic wetland permits for routine maintenance and operations of utilities and public facilities within wetlands and wetland buffers, and for wetland enhancement programs. It is not the intent of the programmatic permit process to deny or unreasonably restrict a public agency or utility's ability to provide services to the public. Programmatic permits only authorize activities specifically identified in and limited to the permit approval and conditions.

1. Application Submittal Requirements. Unless waived by the responsible official with specific findings in the approval document in accordance with subsection (K)(2) of this section, applications for programmatic wetland permits shall include a programmatic permit plan that includes the following:

- a. A discussion of the purpose and need for the permit;
- b. A description of the scope of activities in wetlands and wetland buffers;
- c. Identification of the geographical area to be covered by the permit;
- d. The range of functions and values of wetlands potentially affected by the permit;
- e. Specific measures and performance standards to be taken to avoid, minimize and mitigate impacts on wetland functions and values including:
  - i. Procedures for identification of wetlands and wetland buffers,
  - ii. Maintenance practices proposed to be used,
  - iii. Restoration measures,
  - iv. Mitigation measures and assurances,
  - v. Annual reporting to the responsible official that documents compliance with permit conditions and proposes any additional measures or adjustments to the approved programmatic permit plan,
  - vi. Reporting to the responsible official any specific wetland or wetland buffer degradations resulting from maintenance activities when the degradation occurs or within a timely manner,
  - vii. Responding to any department requests for information about specific work or projects,
  - viii. Procedures for reporting and/or addressing activities outside the scope of the approved permit, and

ix. Training all employees, contractors and individuals under the supervision of the applicant who are involved in permitted work.

2. Findings. A decision preliminarily approving or denying a programmatic wetland permit shall be supported by findings of fact relating to the standards and requirements of this chapter.

3. Approval Conditions. Approval of a programmatic wetland permit shall incorporate at least the following as conditions:

- a. The approved programmatic permit plan;
- b. Annual reporting requirements; and
- c. A provision stating that duration of the permit.

4. Duration and Re-authorization.

a. The duration of a programmatic permit is for five years, unless:

- i. An annual performance based re-authorization program is approved within the permit; or
  - ii. A shorter duration is supported by findings.
- b. Requests for re-authorization of a programmatic permit must be received prior to the expiration of the original permit.
- i. Re-authorization is reviewed and approved through the process described in subsection (K)(1) of this section.
  - ii. Permit conditions and performance standards may be modified through the re-authorization process.

iii. The responsible official may temporarily extend the original permit if the review of the re-authorization request extends beyond the expiration date.

L. Wetland Permit—Emergency.

1. Authorization. Notwithstanding the provisions of this chapter or any other laws to the contrary, the responsible official may issue prospectively or, in the case of imminent threats, retroactively a temporary emergency wetlands permit if:

- a. The responsible official determines that an unacceptable threat to life or loss of property will occur if an emergency permit is not granted; and
- b. The anticipated threat or loss may occur before a permit can be issued or modified under the procedures otherwise required by this act and other applicable laws.

2. Conditions. Any emergency permit granted

shall incorporate, to the greatest extent practicable and feasible but not inconsistent with the emergency situation, the standards and criteria required for nonemergency activities under this act and shall:

a. Be limited in duration to the time required to complete the authorized emergency activity, not to exceed ninety days; and

b. Require, within this ninety-day period, the restoration of any wetland altered as a result of the emergency activity, except that if more than the ninety days from the issuance of the emergency permit is required to complete restoration, the emergency permit may be extended to complete this restoration.

3. Notice. Notice of issuance of an emergency permit shall be published in a newspaper having general circulation in the city of Camas not later than ten days after issuance of such permit.

4. Termination. The emergency permit may be terminated at any time without process upon a determination by the responsible official that the action was not or is no longer necessary to protect human health or the environment.

M. Revocation. In addition to other remedies provided for elsewhere in this chapter, the responsible official may suspend or revoke wetland permit(s) issued in accordance with this chapter and associated development permits, pursuant to the provisions of Title 18 of the Camas Municipal Code, if the applicant or permittee has not complied with any or all of the conditions or limitations set forth in the permit, has exceeded the scope of work set forth in the permit, or has failed to undertake the project in the manner set forth in the permit.

N. Enforcement. At such time as a violation of this chapter has been determined, enforcement action shall be commenced in accordance with the enforcement provisions of CMC Chapter 18.55, and may also include the following:

1. Applications for city land use permits on sites that have been cited or issued an administrative notice of correction or order under Title 18, or have been otherwise documented by the city for activities in violation of this chapter, shall not be processed for a period of six years provided:

a. The city has the authority to apply the permit moratorium to the property;

b. The city records the permit moratorium; and  
c. The responsible official may reduce or wave the permit moratorium duration upon approval of a wetland permit under this section.

2. Compensatory mitigation requirements under subsections C and D of this section may be increased by the responsible official as follows:

a. All or some portion of the wetland or wetland buffer impact cannot be permitted or restored in place; and

b. Compensatory mitigation for the impact is delayed more than one year from the time of the original citation or documentation of the violation. (Ord. 2477 § 1 (Exh. A (part)), 2007)

## Chapter 16.70

### CRITICAL AQUIFER RECHARGE AREAS

#### Sections:

**16.70.010 Critical aquifer recharge areas designation.**

**16.70.020 Aquifer recharge area susceptibility ratings.**

**16.70.030 Mapping of critical aquifer recharge areas.**

**16.70.040 Activities allowed in critical aquifer recharge areas.**

**16.70.050 Critical area report-- Requirements for critical aquifer recharge areas.**

**16.70.060 Performance standards--General requirements.**

**16.70.070 Performance standards--Specific uses.**

**16.70.080 Uses prohibited from critical aquifer recharge areas.**

**16.70.010 Critical aquifer recharge areas designation.**

Critical aquifer recharge areas (CARA) are those areas with a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2). CARA have prevailing geologic conditions associated with infiltration rates that create a high potential for contamination of ground water resources or contribute significantly to the replenishment of ground water. These areas include the following:

A. Wellhead Protection Areas. Wellhead protection areas shall be defined by the boundaries of the ten year time of ground water travel, or boundaries established using alternate criteria approved by the Department of Health in those settings where ground water time of travel is not a reasonable delineation criterion, in accordance with WAC 246-290-135.

B. 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.

C. Susceptible Ground Water Management Areas. Susceptible ground water management areas are areas that have been designated as

moderately or highly vulnerable or susceptible in an adopted ground water management program developed pursuant to Chapters 173-100 WAC.

D. Special Protection Areas. Special protection areas are those areas defined by WAC 173-200-090.

E. 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.

F. 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. (Ord. 2367 § 3 (part), 2004)

**16.70.020 Aquifer recharge area susceptibility ratings.**

Aquifer recharge areas shall be rated as having high, moderate or low susceptibility based on soil permeability, geologic matrix, infiltration, and depth to water as determined by the criteria established by the state Department of Ecology. (Ord. 2367 § 3 (part), 2004)

**16.70.030 Mapping of critical aquifer recharge areas.**

A. The approximate location and extent of critical aquifer recharge areas are shown on the adopted critical area maps.

B. 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. (Ord. 2367 § 3 (part), 2004)

**16.70.040 Activities allowed in critical aquifer recharge areas.**

The following activities are allowed in critical aquifer recharge areas in addition to those pursuant to allowed activities (Section 16.50.120), and do not require submission of a critical area report:

A. Construction of structures and improvements, including additions, resulting in less than five percent or two thousand five hundred square feet (whichever is greater) total site impervious surface area that do not result in a change of use or increase the use of a hazardous substance.

B. Development and improvement of parks, recreation facilities, open space or conservation areas resulting in less than five percent total site impervious surface area and that does not increase the use of a hazardous substance.

C. Development within CARA's shall not result in the loss of more than forty percent of the total pervious surface of the site. (Ord. 2367 § 3 (part), 2004)

**16.70.050 Critical area report--  
Requirements for critical aquifer  
recharge areas.**

A. Prepared by a Qualified Professional. An aquifer recharge area critical area report shall be prepared by a qualified professional who is a hydrogeologist, geologist or engineer, who is licensed in the state of Washington and has experience in preparing hydrogeologic assessments.

B. Hydrogeologic Assessment Required. For all proposed activities to be located in a critical aquifer recharge area, a critical area report shall contain a level one hydrogeological assessment. A level one hydrogeologic assessment shall be required for any of the following proposed activities:

1. Activities that result in five percent or more, or two thousand five hundred square feet of impervious site area;
2. Activities that divert, alter or reduce the flow of surface or ground waters, or otherwise reduce the recharging of the aquifer;
3. The use of hazardous substances, other than household chemicals used according to the directions specified on the packaging for domestic applications;
4. The use of injection wells; or
5. Any other activity determined by the director likely to have an adverse impact on ground water quality or quantity, or on the recharge of the aquifer.

C. Level One Hydrogeologic Assessment. A level one hydrogeologic assessment shall

include the following site- and proposal-related information at a minimum:

1. 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;
2. Ground water depth, flow direction and gradient based on available information;
3. Currently available data on wells and springs within one thousand three hundred feet of the project area;
4. Location of other critical areas, including surface waters, within one thousand three hundred feet of the project area;
5. Available historic water quality data for the area to be affected by the proposed activity; and
6. Best management practices proposed to be utilized.

D. Level Two Hydrogeologic Assessment. A level two hydrogeologic assessment shall include the following site- and proposal-related information at a minimum, in addition to the requirements for a level one hydrogeological assessment:

1. Historic water quality data for the area to be affected by the proposed activity compiled for at least the previous five year period;
2. Ground water monitoring plan provisions;
3. Discussion of the effects of the proposed project on the ground water quality and quantity, including:
  - a. Predictive evaluation of ground water withdrawal effects; and
  - b. Predictive evaluation of contaminant transport based on potential releases to ground water; and
4. A spill plan that identifies equipment and/or structures that could fail, resulting in an impact. Spill plans shall include provisions for regular inspection, repair and replacement of structures and equipment that could fail. (Ord. 2367 § 3 (part), 2004)

**16.70.060 Performance standards--  
General requirements.**

A. Activities may only be permitted in a critical aquifer recharge area if the applicant can show that the proposed activity will not cause

contaminants to enter the aquifer and that the proposed activity will not adversely effect the recharging of the aquifer.

B. The critical areas report shall identify and demonstrate that measures will be taken to prevent aquifer contamination from vehicular repair, residential use of pesticides and nutrients, spreading or injection of reclaimed water and storage tanks.

C. The proposed activity must comply with the water source protection requirements and recommendations of the federal Environmental Protection Agency, state Department of Health, and the local health district.

D. The proposed activity must be designed and constructed in accordance with the city of Camas Design Standards Manual. (Ord. 2367 § 3 (part), 2004)

**16.70.070 Performance standards--  
Specific uses.**

A. Storage Tanks. All storage tanks proposed to be located in a critical aquifer recharge area must comply with local building code requirements and must conform to the following requirements:

1. Underground Tanks. All new underground storage facilities proposed for use shall be designed and constructed so as to:
  - a. Prevent releases due to corrosion or structural failure for the operational life of the tank;
  - b. Be protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substances; and
  - c. Use material in the construction or lining of the tank that is compatible with the substance to be stored.

2. Aboveground Tanks. All new aboveground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:

- a. Not allow the release of a hazardous substance to the ground, ground waters or surface waters;
- b. Have a primary containment area enclosing or underlying the tank or part thereof; and
- c. A secondary containment system either built into the tank structure or a dike system built outside the tank for all tanks.

B. No Dry Wells Shall be Allowed in Critical Aquifer Recharge Areas. Dry wells existing on the site prior to facility establishment must be abandoned using techniques approved by the state Department of Ecology prior to commencement of the proposed activity.

C. Residential Use of Pesticides and Nutrients. Application of household pesticides, herbicides, and fertilizers shall not exceed times and rates specified on the packaging.

D. Spreading or Injection of Reclaimed Water. Water reuse projects for reclaimed water must be in accordance with the adopted water or sewer comprehensive plans that have been approved by the departments of Ecology and Health.

1. Surface spreading must meet the ground water recharge criteria given in Chapter 90.46.080 RCW and Chapter 90.46.010(10); and
2. Direct injection must be in accordance with the standards developed by authority

of Chapter 90.46.042 RCW.

E. State and Federal Regulations. The uses listed below shall be conditioned as necessary to protect critical aquifer recharge areas in accordance with the applicable state and federal regulations. (Ord. 2367 § 3 (part), 2004)

**Statutes, Regulations and Guidance Pertaining to Ground Water Impacting Activities**

Activity	Statute--Regulation--Guidance
Above Ground Storage Tanks	Chapter 173-303-640 WAC
Animal Feedlots	Chapter 173-216 WAC, Chapter 173-220 WAC
Automobile Washers	Chapter 173-216 WAC, Best Management Practices for Vehicle and Equipment Discharges (WDOE WQ-R-95-56)

Below Ground Storage Tanks	Chapter 173-360 WAC
Chemical Treatment Storage and Disposal Facilities	Chapter 173-303-182 WAC
Hazardous Waste Generator (Boat Repair Shops, Biological Research Facility, Dry Cleaners, Furniture Stripping, Motor Vehicle Service Garages, Photographic Processing, Printing and Publishing Shops, etc.)	Chapter 173-303 WAC
Injection Wells	Federal 40 CFR Parts 144 and 146, Chapter 173-218 WAC
Junk Yards and Salvage Yards	Chapter 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Vehicles Recycler Facilities (WDOE 94-146)
Oil and Gas Drilling	Chapter 332-12-450 WAC, WAC, Chapter 173-218 WAC
On-Site Sewage Systems (Large Scale)	Chapter 173-240 WAC
On-Site Sewage Systems (<14,500 gal/day)	Chapter 246-272 WAC, Local Health Ordinances
Pesticide Storage and Use	Chapter 15.54 RCW, Chapter 17.21 RCW
Sawmills	Chapter 173-303 WAC, 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Log Yards (WDOE 95-53)
Solid Waste Handling and Recycling Facilities	Chapter 173-304 WAC
Surface Mining	Chapter 332-18-015 WAC
Waste Water Application to Land Surface	Chapter 173-216 WAC, Chapter 173-200 WAC, WDOE Land Application Guidelines, Best Management Practices for Irrigated Agriculture

**16.70.080 Uses prohibited from critical aquifer recharge areas.**

The following activities and uses are prohibited in critical aquifer recharge areas:

A. Landfills. Landfills, including hazardous or dangerous waste, municipal solid waste, special waste, wood waste, and inert and demolition waste landfills;

B. 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;

C. Mining.

1. Metals and hard rock mining; and

2. Sand and gravel mining;

D. Wood Treatment Facilities. Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces (both natural and manmade);

E. Storage, Processing, or Disposal of Radioactive Substances. Facilities that store, process, or dispose of radioactive substances;

F. Fuel and/or Gas Stations;

G. Vehicle Repair and Servicing;

H. Oil and Lubricant Centers; and

I. Other.

1. Activities that would significantly reduce the recharge to aquifers currently or potentially used as a potable water source;

2. Activities that would significantly reduce the recharge to aquifers that are a source of significant baseflow to a regulated stream;

3. Activities that are not connected to an available sanitary sewer system are prohibited from critical aquifer recharge areas associated with sole source aquifers; and

4. Underground storage tanks for the use and storage of hazardous substances or hazardous materials. (Ord. 2367 § 3 (part), 2004)

2 Prohibited uses are based on "Guidance Document for the Establishment of Critical Aquifer Recharge Area Ordinances," by Ecology, July 2000, publication #97-30 and local concerns.

## Chapter 16.80

### FREQUENTLY FLOODED AREAS

#### Sections:

**16.80.010 Designation of frequently flooded areas.**

**16.80.020 Critical area report--  
Additional requirements.**

**16.80.030 Warning and disclaimer of liability.**

**16.80.040 Performance standards--  
General requirements.**

**16.80.050 Performance standards--  
Specific uses.**

**16.80.060 Performance standards--  
Areas of shallow flooding.**

**16.80.070 Uses and activities prohibited  
from frequently flooded areas.**

**16.80.080 Variations--Additional  
considerations for frequently flooded  
areas.**

**16.80.010 Designation of  
frequently flooded areas.**

A. Frequently Flooded Areas. Frequently flooded areas include:

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for City of Camas" dated February 18, 1981, with accompanying flood insurance maps. The Flood Insurance Study and accompanying maps are hereby adopted by reference, declared part of this chapter. These are minimum designations; the director may identify additional areas.

B. Use of Additional Information. The director may use additional flood information that is more restrictive or detailed than that provided in the Flood Insurance Study conducted by the Federal Emergency Management Agency (FEMA) to designate frequently flooded areas, including data on channel migration, historical data, high water marks, photographs of past flooding, location of restrictive floodways, maps showing future build-out conditions, maps that show riparian habitat areas, or similar

information.

C. Flood Elevation Data. When base flood elevation data is not available (A and V zones), the director shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer this chapter.

D. Designation Made by Director. The flood insurance maps are to be used as a guide for the city, project applicants and/or property owners, and the public, and should be considered a minimum designation of frequently flooded areas. As flood insurance maps may be continuously updated as areas are reexamined or new areas are identified, the best available information for flood hazard area identification shall be the basis for regulation. (Ord. 2367 § 4 (part), 2004)

**16.80.020 Critical area report--  
Additional requirements.**

A. Prepared by a Qualified Professional. A frequently flooded areas report shall be prepared by a qualified professional who is a hydrologist, or engineer, who is licensed in the state of Washington with experience in preparing flood hazard assessments.

B. Area Addressed in Critical Area Report. The following areas shall be addressed in a critical area report for frequently flooded areas:

1. The site area of the proposed activity;
2. All areas of a special flood hazard area, as indicated on the flood insurance map(s) within three hundred feet of the project area; and
3. All other flood areas indicated on the flood insurance map(s) within three hundred feet of the project area.

C. Flood Hazard Assessment Required. A critical area report for a proposed activity within a frequently flooded area shall contain a flood hazard assessment including the following site- and proposal-related information at a minimum:

1. Site and Construction Plans. A copy of the site and construction plans for the development proposal showing:
  - a. Flood plain (one hundred-year flood

elevation), ten- and fifty-year flood elevations, floodway, other critical areas, management zones and shoreline areas;

b. Proposed development, including the location of existing and proposed structures, fill, storage of materials, and drainage facilities, with dimensions indicating distances to the flood plain;

c. Clearing limits; and

d. Elevation of the lowest floor (including basement) of all structures, and the level to which any structure has been floodproofed;

2. Floodproofing Certificate. When floodproofing is proposed, a certification by a registered professional engineer or architect that the floodproofing methods meet the requirements section CMC 16.80.040(G); and

3. Watercourse Alteration. When watercourse alteration is proposed, the critical area report shall include:

a. Extent of Watercourse Alteration. A description of and plan showing the extent to which a watercourse will be altered or relocated as a result of proposal; and

b. Maintenance Program Required for Watercourse Alterations. A maintenance program that provides maintenance practices for the altered or relocated portion of the watercourse to ensure that the flood carrying capacity is not diminished.

D. Information Regarding Other Critical Areas. Potential impacts to wetlands, fish and wildlife habitat, and other critical areas shall be addressed in accordance with the applicable sections of these provisions. (Ord. 2367 § 4 (part), 2004)

**16.80.030 Warning and disclaimer of liability.**

The degree of flood protection required by this chapter 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 man-made or natural causes. This chapter does not imply that land outside frequently flooded areas or uses permitted within such areas will be free from

flooding or flood damages. This chapter shall not create liability on the part of city of Camas, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. (Ord. 2367 § 4 (part), 2004)

**16.80.040 Performance standards-  
-General requirements.**

A. Development Permit Required. A development permit shall be obtained before land is altered or a new use is commenced within a frequently flooded area. For application of this chapter, development shall include any man-made alteration to land, including but not limited to buildings, structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of equipment or materials within the area of special flood hazard.

B. All Necessary Permits Shall be Obtained. The applicant shall provide verification to the city that all necessary permits have been obtained from those governmental agencies from which prior approval is required by federal, state or local law including Section 404 of the Federal Water Pollution Control Act Amendment of 1972 and the Endangered Species Act of 1973.

C. New construction shall not increase the base flood elevation more than one inch. When the base flood elevation is provided, new construction, substantial improvements, or other development, including fill, shall not be permitted within frequently flooded areas, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one inch at any point.

D. Areas Without Base Flood Elevation Data. Where base flood elevation data is not available (A and V zones), and there is insufficient data available from federal, state or other sources, the director shall

determine the base flood elevation using historical data, high water marks, photographs of past flooding, and other available information. If there is insufficient data available for the director to make a determination of the base flood elevation, and standards requiring a base flood elevation cannot be implemented, the director shall require measures that assure the proposed structures will be reasonably safe from flooding.

E. Construction Materials and Methods.

1. Methods that Minimize Flood Damage.

All new construction and substantial improvements shall be constructed using flood resistant materials and utility equipment, and with methods and practices that minimize flood damage.

2. Structures shall be located outside the flood plain. All structures, utilities and other improvements shall be located outside of the flood plain except as provided by this chapter. For sites with no buildable area out of the flood plain, structures may be allowed provided they are 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 director detects any evidence of active hyporheic exchange on a site, the development shall be located to minimize disruption of such exchange.

3. Utilities Shall be Protected. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

F. Elevation Certificate Required Following Construction. Following construction of a structure within the flood plain where the base flood elevation is provided, the applicant shall obtain an elevation certificate from a registered professional engineer or architect that records the elevation of the lowest floor.

G. Floodproofing.

1. When a structure is to be floodproofed, it shall be designed and constructed using

methods that meet the following requirements:

a. Watertight Structure. The structure shall be watertight with walls substantially impermeable to the passage of water below one foot above the base flood level;

b. Hydrostatic Resistance. Structural components shall be capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

c. Certified by a Registered Professional Engineer or Architect. The structure shall 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 provisions of this subsection based on their development and/or review of the structural design, specifications and plans.

2. Floodproofing Certificate Required Following Construction. Following construction of the structure, the applicant shall obtain a floodproofing certificate from a registered professional engineer or architect that records the actual (as-built) elevation to which the structure was floodproofed.

H. Anchoring.

All new construction and substantial improvements within the flood plain shall be anchored to prevent flotation, collapse or lateral movement of the structure.

I. Fill and Grading.

Fill and grading within the flood plain shall 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. (Ord. 2367 § 4 (part), 2004)

**16.80.050 Performance standards-Specific uses.**

In all frequently flooded areas the following standards are required:

A. Residential Units.

1. Must be Above Base Flood Elevation. New construction or placement of

residential units and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot<sup>3</sup> or more above the base flood elevation.

2. Areas Below the Lowest Floor. Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or must meet or exceed the following minimum criteria:

- a. 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 shall be provided;
- b. The bottom of all openings shall be no higher than one foot above grade; and
- c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

B. Nonresidential Construction.

1. Must be Above Base Flood Elevation. Construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated one foot or more above the base flood elevation, or, together with attendant utility and sanitary facilities, shall be flood proofed in accordance with Floodproofing (subsection 16.80.040(G)). Unavoidable impacts to flooded areas (from fill) need to be mitigated.

2. Areas Below the Lowest Floor. Fully enclosed areas below the lowest floor that are not floodproofed shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or must meet or exceed the following minimum criteria:

- a. A minimum of three openings having a total net area of not less than one square inch for every square foot of enclosed area

subject to flooding shall be provided;

- b. The bottom of all openings shall be no higher than one foot above grade; and
- c. Openings may be equipped with screens, louvers or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

C. Utilities.

1. Shall be Designed to Minimize Infiltration of Floodwaters. All new and replacement water supply systems shall be designed to preclude infiltration of floodwaters into the systems.

2. Sanitary Sewage Systems. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

3. On-site Waste Disposal Systems. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. New on-site sewage disposal systems are prohibited pursuant to uses and activities prohibited from frequently flooded areas (subsection 16.80.070(C)).

D. Subdivision/land Division Proposals.

1. All land division proposals shall:

- a. Minimize Flood Damage. Subdivisions, short subdivisions, planned developments and binding site plans shall be designed to minimize or eliminate flood damage to proposed structures; and public utilities and facilities that are installed as part of such subdivisions, such as sewer, gas, electrical, and water systems, shall be located and constructed to minimize flood damage; subdivisions should be designed using natural features of the landscape, and should not incorporate "flood protection" changes.

- b. Have Adequate Drainage. Subdivisions, short subdivisions, planned developments and binding site plans shall have adequate natural surface water drainage in accordance with city requirements to reduce exposure to flood hazards; and

- c. Show Flood Areas on Plat Maps. Subdivisions, short subdivisions, planned developments and binding site plans shall

show the one hundred-year flood plain, floodway, and channel migration zone on the preliminary and final plat and short plat maps.

2. Lots. No lot or portion of lot after the effective date of the ordinance codified in this chapter, shall be established within the boundaries of a frequently flooded area.

E. Alteration of Watercourses.

1. Shall be in Accordance with Habitat Regulations. Watercourse alterations shall only be allowed in accordance with the fish and wildlife habitat conservation areas (Chapter 16.95).

2. Shall Not Result in Blockage.

Watercourse alteration projects shall not result in blockage of side channels.

3. Notification Required. The city shall notify adjacent communities, the state Department of Ecology, and the Federal Insurance Administration of a proposed watercourse alteration at least fifteen days prior to permit issuance.

4. Maintenance of Alterations. The applicant shall maintain the altered or relocated portion of the watercourse to ensure that the flood carrying capacity is not diminished. Maintenance shall be bonded for a period of five years, and be in accordance with an approved maintenance program. (Ord. 2367 § 4 (part), 2004)  
3 NFIP requirement is to be elevated to the base flood elevation. To reduce insurance rates and to account for uncertainties inherent in flood hazard modeling and mapping, many jurisdictions use a standard of one foot or more above the BSE, as suggested here.

#### **16.80.060 Performance standards- -Areas of shallow flooding.**

A. Residential Structures. New construction and substantial improvements of residential structures and manufactured homes within AO zones shall have the lowest floor (including basement) elevated above the highest grade adjacent to the building, one foot or more above the depth number specified in feet on the flood insurance map or at least two feet above, if no depth number is specified.

B. Nonresidential Structures. New construction and substantial improvements of nonresidential structures within AO zones shall either:

1. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot or more above the depth number specified on the flood insurance map or at least two feet if no depth number is specified; or

2. Together with attendant utility and sanitary facilities, be completely flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in floodproofing (subsection 16.80.040(G)).

C. Drainage Paths. All development shall include adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures. (Ord. 2367 § 4 (part), 2004)

#### **16.80.070 Uses and activities prohibited from frequently flooded areas.**

A. Critical Facilities.

Construction of new critical facilities shall be permissible within frequently flooded areas if no feasible alternative site is available. Critical facilities constructed within frequently flooded areas shall have the lowest floor elevated three feet or more above the level of the base flood elevation (one hundred-year flood). Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into flood waters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible. Certification by a registered professional engineer is required.

B. Wells.

C. On-site Sewage or Waste Disposal

Systems.

D. There shall be no increase in residential lots within frequently flooded areas. No additional lots shall be created within a frequently flooded area. Divisions of land after the effective date of this code shall have the frequently flooded areas designated as separate tract(s) and not included within any additional lot.

E. Construction in Floodways.

1. New Construction Requires Certification by an Engineer. Encroachments, including new construction, substantial improvements, fill, and other development, are prohibited within designated floodways unless certified by a registered professional engineer. Such certification shall demonstrate through hydrologic and hydraulic analyses, performed in accordance with standard engineering practice, that the proposed encroachment will not result in any increase in flood levels during the occurrence of the base flood discharge. Small projects that are solely to protect or create fish habitat and designed by a qualified professional may be allowed without certification if the director determines that the project will not obstruct flood flows. Fish protection projects shall be reviewed on behalf of the city by a qualified professional in the field of hydraulics.

2. Residential Construction and Reconstruction Prohibited. Construction and reconstruction of residential structures is prohibited within floodways, except for:

- a. Maintenance or repairs to a structure that do not increase the ground floor area; and
- b. Repairs, reconstruction or improvements to a structure, for which the cost does not exceed fifty percent of the market value of the structure either:

- i. Before the repair or reconstruction is started; or
- ii. If the structure has been damaged and is being restored, before the damage occurred.

Improvement to a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the city and that are

the minimum necessary to assure safe living conditions or to structures identified as historic places shall not be included in the fifty percent. (Ord. 2367 § 4 (part), 2004)

#### **16.80.080 Variations--Additional considerations for frequently flooded areas.**

A. Additional Variation Considerations. In review of variation requests for activities within frequently flooded areas, the board of adjustment shall consider all technical evaluations, relevant factors, standards specified in this chapter, and:

1. The danger to life and property due to flooding, erosion damage or materials swept onto other lands during flood events;
2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the proposed use;
3. The importance of the services provided by the proposed use to the community;
4. The necessity of a waterfront location and the availability of alternative locations for the proposed use that are not subject to flooding or erosion damage;
5. The safety of access to the property for ordinary and emergency vehicles;
6. 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
7. 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 and water systems, and streets and bridges.

B. Variations shall only be issued upon a determination that the granting of a variation will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.

C. Variations shall not be issued within a designated floodway if any increase in

flood levels during the base flood discharge  
would result. (Ord. 2367 § 4 (part), 2004)

## Chapter 16.90

### GEOLOGICALLY HAZARDOUS AREAS

#### Sections:

**16.90.010 Designation of geologically hazardous areas.**

**16.90.020 Designation of specific hazard areas.**

**16.90.030 Classification of geologically hazardous areas.**

**16.90.040 Mapping of geologically hazardous areas.**

**16.90.050 Activities allowed in geologically hazardous areas.**

**16.90.060 Critical area report requirements for geologically hazardous areas.**

**16.90.070 Critical area report requirements for specific hazards.**

**16.90.080 Performance standards--General requirements.**

**16.90.090 Performance standards--Specific hazards.**

**16.90.010 Designation of geologically hazardous areas.**

Geologically hazardous areas include areas susceptible to erosion hazard, landslide hazard, seismic hazard, mine hazard and other geologic events. These areas pose a threat to the health and safety of citizens when incompatible development is sited in areas of significant hazard. Areas susceptible to one or more of the following types of hazards shall be designated as a geologically hazardous area:

A. Erosion hazard;

B. Landslide hazard;

C. Seismic hazard; or

D. Other geological events including, mass wasting, debris flows, rock falls and differential settlement. (Ord. 2367 § 5 (part), 2004)

**16.90.020 Designation of specific hazard areas.**

A. Erosion Hazard Areas. Erosion hazard areas are at least 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.

B. 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 of these may include, but are not limited to the following:

1. Areas of historic failures, such as:

a. 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. Those areas mapped by the Department of Natural Resources (slope stability mapping) as unstable ("U" or class 3), unstable old slides ("UOS" or class 4), or unstable recent slides ("URS" or class 5); or

c. Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the U.S. Geological Survey or Department of Natural Resources;

2. Areas with all of the following characteristics:

a. Slopes steeper than fifteen percent;

b. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and

c. Springs or ground water seepage;

Where a site includes fifteen percent slopes, the director will require written verification of the presence or absence of subsections b and c of this section by a qualified geotechnical engineer or geologist licensed in the state of Washington;

3. Areas that have shown movement during the Holocene epoch (from ten thousand years ago to the present) or that are underlain or covered by mass wastage debris of that epoch;

4. Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;
5. Slopes having gradients steeper than eighty percent subject to rock fall during seismic shaking;
6. Areas potentially unstable because of rapid stream incision, stream bank erosion, and undercutting by wave action;
7. Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding; and
8. Any area with a slope of forty percent or steeper and with a vertical relief of ten 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 ten feet of vertical relief.

C. 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.

D. Other Hazard Areas. Geologically hazardous areas shall also include areas determined by the director to be susceptible to other geological events including mass wasting, debris flows, rock falls, and differential settlement. (Ord. 2367 § 5 (part), 2004)

**16.90.030 Classification of geologically hazardous areas.**

All geologic hazard areas should be classified according to the following categories for each geologic hazard type.

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.
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(Ord. 2367 § 5 (part), 2004)

**16.90.040 Mapping of geologically hazardous areas.**

A. The approximate location and extent of geologically hazardous areas are shown on the adopted critical area maps. The adopted critical area maps may include:

1. U.S. Geological Survey landslide hazard and seismic hazard maps;
2. Department of Natural Resources seismic hazard maps for western Washington;
3. Department of Natural Resources slope stability maps;
4. Federal Emergency Management Administration flood insurance maps; and
5. Locally adopted maps.

B. 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. (Ord. 2367 § 5 (part), 2004)

**16.90.050 Activities allowed in geologically hazardous areas.**

The following activities are allowed in geologically hazardous areas, provided that the activity will not increase the risk of the hazard, pursuant to allowed activities under general provisions (CMC Section 16.50.120), and do not require submission of a critical area report:

- A. Construction of new buildings with less than two thousand five hundred 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. Additions to the ground floor of existing single-family residences that are two hundred fifty square feet or less; and  
C. Installation of fences.  
(Ord. 2367 § 5 (part), 2004)

**16.90.060 Critical area report requirements for geologically hazardous areas.**

A. Prepared by a Qualified Professional. A critical areas report for a geologically hazardous area shall be prepared by a geotechnical engineer or geologist, licensed in the state of Washington, with experience analyzing geologic, hydrologic and ground water flow systems.

B. Area Addressed in Critical Area Report. The project area of the proposed activity shall be addressed in a critical area report for geologically hazardous areas.

C. Geotechnical Evaluation and Assessment. Except as provided for in subsection D and E of this section, a critical area report for geologically hazardous areas shall first contain an evaluation and, if required, an assessment of geological hazards including site- and proposal-related information at a minimum.

1. Site Evaluation. A site evaluation shall include:

- a. Identification of the geologically hazardous area including the type and extent of the geological hazard, and the reason the area is or is not likely to be impacted by the proposed development plan.
- b. A description of the project including, where applicable:
  - i. Proposed structures;
  - ii. Proposed grading;
  - iii. Areas proposed for storage of materials;
  - iv. Proposed storm drainage areas;
  - v. Related project impacts which have a potential to adversely affect the geological hazard; and
  - vi. If available for the proposed activity, a site development plan may be included to illustrate proposed project impacts. The development plan when provided will show

the geological hazard area, proposed site improvements, two-foot contours, proposed storm water treatment facilities, proposed or known existing septic drain fields, proposed stockpile areas, or proposed areas of mass grading.

c. Identification of proportionate and appropriate mitigation measures and a description of how they will adequately protect the proposed development, adjacent developments and the subject geologically hazardous area.

d. A recommendation based on the proposed site activities of the level of study, construction monitoring, or site design changes which may be needed during the final design process.

2. Geotechnical Assessment. If recommended by the site evaluation or as required by a condition of approval, a geotechnical assessment for geologically hazardous areas shall contain include the following site- and proposal-related information at a minimum:

a. Site Plans. The report shall include a copy of the site plans for the proposal showing:

- i. The type and extent of geologic hazard areas, and any other critical areas, and management zones on, adjacent to, within three hundred feet of, or that are likely to impact the proposal as identified in the site evaluation report or as a condition of approval;
- ii. Proposed development, including the location of existing and proposed structures, fill, storage of materials, and storm drainage facilities, with dimensions indicating distances to hazard areas; and
- iii. The topography, in two-foot contours, of the project area and all hazard areas addressed in the report.

3. Assessment of Geological Characteristics. The report shall include an assessment of the geologic characteristics and engineering properties of the soils, sediments, and/or rock of the project area and potentially affected adjacent properties, and a review of the site history regarding landslides, erosion and prior grading. Soils analysis shall be accomplished in

accordance with accepted taxonomic classification systems in use in the region. The assessment shall include, but not be limited to:

a. A description of the surface and subsurface geology, hydrology, soils and vegetation found in the project area and in generally all hazard areas addressed in the report;

b. A detailed overview of the field investigations, published data and references; data and conclusions from past assessments of the site; and site specific measurements, test, investigations or studies that support the identification of geologically hazardous areas; and

c. A description of the vulnerability of the site to seismic and other geologic events.

4. Analysis of Proposal. The report shall contain a geotechnical analysis including a detailed description of the project, its relationship to the geologic hazard(s), and its potential impact upon the hazard area, the subject property and affected adjacent properties.

5. Summary and Recommendation. The report shall make a recommendation for the minimum no-disturbance management zone or minimum building setback from any geologic hazard, or other appropriate mitigation measures based upon the geotechnical analysis.

D. Incorporation or Acceptance of Previous Study. Where a valid geotechnical report has been prepared within the last five years for a specific site, and where the proposed land use activity and surrounding site conditions are unchanged, such report may be incorporated into or accepted as the required critical area report. The applicant shall submit a geotechnical assessment detailing any changed environmental conditions associated with the site.

E. Where the applicant can demonstrate that the proposed project or activity has no direct impact on the identified geologically hazardous area or that the site evaluation requirements above are not applicable to the proposed project or activity, the director may not require additional site assessment work or may limit the scoping

of the site evaluation based on identified site specific geologic hazards.

F. Mitigation of Long-term Impacts. When hazard mitigation is required, the mitigation plan shall specifically address how the activity maintains or reduces the pre-existing level of risk to the site and adjacent properties on a long-term basis (equal to or exceeding the projected lifespan of the activity or occupation). Proposed mitigation techniques shall be considered to provide long-term hazard reduction only if they do not require regular maintenance or other actions to maintain their function. Mitigation may also be required to avoid any increase in risk above the pre-existing conditions following abandonment of the activity. (Ord. 2367 § 5 (part), 2004)

#### **16.90.070 Critical area report requirements for specific hazards.**

A. Erosion and Landslide Hazard Areas. In addition to the basic geological hazard area report requirements, a report for an erosion hazard or landslide hazard area shall include the following information at a minimum:

1. Site Plan. The report shall include a copy of the site plan for the proposal showing:

a. The height of slope, slope gradient, and cross section of the project area;

b. The location of springs, seeps, or other surface expressions of ground water on or within three hundred feet of the project area or that have potential to be affected by the proposal; and

c. The location and description of surface water runoff;

2. Geotechnical Analysis. The geotechnical analysis shall specifically include:

a. A description of the extent and type of vegetative cover;

b. An estimate of load capacity including surface and ground water conditions, public and private sewage disposal systems, fills and excavations and all structural development;

c. An estimate of slope stability and the effect construction and placement of structures will have on the slope over the

estimated life of the structure;

d. An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a one hundred-year storm event;

e. Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on down slope properties;

f. A study of slope stability including an analysis of proposed angles of cut and fill and site grading;

g. Recommendations for building limitations, structural foundations, and an estimate of foundation settlement; and

h. An analysis of proposed surface and subsurface drainage and the vulnerability of the site to erosion;

3. Erosion and Sediment Control Plan. For any development proposal on a site containing an erosion hazard area, an erosion and sediment control plan shall be required. The erosion and sediment control plan shall be prepared in compliance with requirements set forth in CMC 15.32, CMC 17.36 and the City of Camas Design Standard Manual;

4. Drainage Plan. The report shall include a drainage plan for the collection, transport, treatment, discharge and/or recycle of water prepared in accordance with CMC 17.36 and the City of Camas Design Standard Manual;

5. Mitigation Plans. Hazard and environmental mitigation plans for erosion and landslide hazard areas shall 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;

6. Monitoring Surface Waters. If the director determines that there is a significant risk of damage to downstream 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 shall include a plan to monitor the surface water discharge from the site. The monitoring plan shall include

a recommended schedule for submitting monitoring reports to the city.

B. Seismic Hazard Areas. In addition to the basic report requirements, a critical area report for a seismic hazard area shall also meet the following requirements:

1. The site map shall show all known and mapped faults within three hundred feet of the project area or that have potential to be affected by the proposal.

2. The geotechnical analysis shall include a complete discussion of the potential impacts of seismic activity on the site (for example, forces generated and fault displacement).

C. 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 when 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:

1. Site Plan. The site plan shall show all known hazard areas located within three hundred feet of the project area or that have potential to be affected by the proposal; and

2. Geotechnical Analysis. The geotechnical analysis shall include a complete discussion of the potential impacts of the hazard on the project area and of the proposal on the hazard. (Ord. 2367 § 5 (part), 2004)

#### **16.90.080 Performance standards- -General requirements.**

Alterations of geologically hazardous areas or associated management zones may only occur for activities that will not adversely impact or pose a threat to adjacent properties or critical areas and are designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than pre-development conditions. (Ord. 2367 § 5 (part), 2004)

**16.90.090 Performance standards-  
-Specific hazards.**

A. Erosion and landslide hazard areas. Activities on sites containing erosion or landslide hazards shall meet the following requirements:

1. Management Zone Required. A management zone shall be established from all edges of erosion or landslide hazard areas. The size of the management zone shall be determined by the director 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.

a. Management Zone Established. A management zone shall be established from the edges of areas characterized by steep slopes, potentially unstable soils, erosion potential, or seismic activity. The management zone will be established by a qualified professional and shall adequately protect the proposed development, adjacent developments and subject critical area. The management zone shall generally be equal to the height of the slope or fifty feet whichever is greater. A management zone less than fifty feet may be established if a qualified professional determines that such reduction will adequately protect the proposed development, adjacent developments and subject critical area.

b. Increased Management Zone. The management zone may be increased where the director determines a larger management zone is necessary to prevent risk of damage to proposed and existing development(s);

2. Design Standards. Development under this section shall be designed to meet the following basic requirements. The requirement for long-term slope stability shall exclude designs that require periodic maintenance or other actions to maintain their level of function. The basic development design standards are:

a. The proposed development shall 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 shall be based on a minimum horizontal acceleration as established by the current version of the uniform building code;

b. Structures and improvements shall be clustered to avoid geologically hazardous areas and other critical areas;

c. Structures and improvements should minimize alterations to the natural contour of the slope and foundations shall be tiered where possible to conform to existing topography;

d. Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation;

e. The proposed development shall not result in greater risk or a need for increased management zones on neighboring properties;

f. The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes; and

g. Development shall be designed to minimize impervious lot coverage;

3. Vegetation Removal. Within a geologically hazardous area and related management zone, removal of vegetation shall be limited to the following:

a. Selective vegetation removal as provided under CMC Section 16.50.130; or

b. The city may authorize as part of a critical area review, vegetation removal that has been determined to have no greater adverse impact on the geologically hazardous area and is not necessary for mitigating any other impact under this code. The determination of no greater adverse impact will take into consideration a vegetation removal plan prepared by a certified landscape architect or arborist and reviewed by a geotechnical engineer.

4. Seasonal Restriction. Clearing and grading under a city permit shall be allowed only from May 1st to October 1st of each year provided that the city may extend or shorten the dry season on a case-by-case basis depending on actual weather

conditions;

5. Utility Lines and Pipes. Utility lines and pipes shall be permitted in erosion and landslide hazard areas only when the applicant demonstrates that no other practical alternative is likely. The line or pipe shall be appropriately located and designed so that it will continue to function in the event of an underlying failure;

6. Point Discharges. Point discharges from surface water facilities and roof drains onto or upstream from an erosion or landslide hazard area shall be prohibited except as follows:

a. Conveyed via continuous storm pipe downslope to a point where there are no erosion hazards areas downstream from the discharge;

b. Discharged at flow durations matching predeveloped conditions, with adequate energy dissipation, into existing channels that previously conveyed stormwater runoff in the predeveloped state; or

c. Dispersed discharge upslope of the steep slope onto a low-gradient undisturbed management zone demonstrated to be adequate to infiltrate all surface and stormwater runoff;

7. Roads and utilities (see subsection (A)(5) of this section) may be permitted within geologic hazard area or management zone if the city determines that no other reasonable alternative exists, which could avoid or minimize impacts to a greater extent.

B. Seismic Hazard Areas. Activities proposed to be located in seismic hazard areas shall meet the standards of CMC Section 16.90.080.

C. Other Hazard Areas. Activities on sites containing or adjacent to geologically hazardous areas, shall meet the standards of CMC Section 16.90.080. (Ord. 2367 § 5 (part), 2004)

## Chapter 16.95

### FISH AND WILDLIFE HABITAT CONSERVATION AREAS

#### Sections:

**16.95.010 Designation of fish and wildlife habitat conservation areas.**

**16.95.020 Critical area report— Requirements for habitat conservation areas.**

**16.95.030 Performance standards— General requirements.**

**16.95.040 Performance standards— Specific habitats.**

#### **16.95.010 Designation of fish and wildlife habitat conservation areas.**

A. Fish and wildlife habitat conservation areas include:

1. Areas with Which State or Federally Designated Endangered, Threatened, and Sensitive Species Have a Primary Association. The presence or absence of such species shall be determined by the field studies required by this section. Lists, categories and definitions of species promulgated by NMFS and WDFW are provided to the city to be used for guidance only.

2. State Priority Habitats and Areas Associated with State Priority Species. Priority habitats and species are considered to be 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 state Department of Fish and Wildlife.

3. Habitats of Local Importance as Identified by the City's Parks and Open

Space Plan as Natural Open Space, or as Listed Below:

a. Oregon White Oaks.

i. Individual Oregon White Oak trees with a twenty-inch diameter at breast height (twenty dbh).

ii. Stands of Oregon White Oak trees greater than one acre, when they are found to be valuable to fish and wildlife (i.e., may include trees with cavities, large diameter breast height (twelve dbh), are used by priority species, or have a large canopy.

iii. All Oregon White Oak snags unless determined by an arborist to be a hazard.

b. Camas Lilly. To the extent practicable, Camas lily field of a significant concentration (one-fourth acre) shall be preserved. If impacts or removal of significant concentrations of Camas lily are proposed, the proposal must include an evidence that the exploration of development options has included: (i) maintaining Camas lily concentrations as they currently exist on site; and (ii) the option of transplanting Camas lily concentrations to other portions of the property. The proposal may be approved as proposed provided a finding is made based upon evidence that subsections (A)(3)(b)(i) and (A)(3)(b)(ii) of this section have been explored, that it is not possible to maintain significant concentrations of Camas lily onsite.

4. Naturally Occurring Ponds Under Twenty Acres. Naturally occurring ponds are those ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds. Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds, and landscape amenities, unless such artificial ponds were intentionally created for mitigation.

5. Waters of the State. Waters of the state includes lakes, rivers, ponds, streams, inland waters, underground waters, salt

waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington, as classified in WAC 222-16-031, or its successor. This does not include man-made ditches or bio-swales that have been created from areas not meeting the definition of waters of the state. Furthermore, wetlands designation and protection are regulated under CMC Chapter 16.60.

6. Bodies of Water Planted with Game Fish by a Governmental or Tribal Entity.

7. State Natural Area Preserves and Natural Resource Conservation Areas. Natural area preserves and natural resource conservation areas are defined, established, and managed by the State Department of Natural Resources.

All areas within the city of Camas meeting one or more of these criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this title.

B. Mapping. The approximate location and extent of habitat conservation areas are shown on the critical area maps adopted by the city of Camas, as most recently updated. Existing and updated Washington Department of Fish and Wildlife (WDFW) and Department of Natural Resources (DNR) mapping of priority habitat, water types, shore zones, salmonoid distribution, and State Natural Resources Preserves is hereby adopted by reference. WDFW and DNR mapping is to be used for guidance purposes only. In addition, the mapping included within the Camas parks and open space plan identifies areas of potential natural open spaces.

These maps are to be used as a guide for the city of Camas, project applicants and/or property owners, and should be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation. (Ord. 2477 § 2 (Exh. B (part)), 2007)

**16.95.020 Critical area report—  
Requirements for habitat  
conservation areas.**

A. Prepared by a Qualified Professional. A critical areas report for a habitat conservation area shall be prepared by a qualified professional who is a biologist with experience preparing reports for the relevant type of habitat.

B. Areas Addressed in Critical Area Report. The following areas shall be addressed in a critical area report for habitat conservation areas:

1. Within a subject parcel or parcels, the project area of the proposed activity;
2. All wetlands and recommended buffer zones within three hundred feet of the project area within the subject parcel or parcels;
3. All shoreline areas, water features, flood plains, and other critical areas, and related buffers within three hundred feet of the project area within the subject parcel or parcels; and
4. The project design and the applicability of the buffers based on the proposed layout and the level of land use intensity.

C. Habitat Assessment. A habitat assessment is an investigation of the project area to evaluate the presence or absence of a potential critical fish or wildlife species or habitat. A critical area report for a habitat conservation area shall contain an assessment of habitats including the following site- and proposal-related information at a minimum:

1. Detailed description of vegetation on and adjacent to the project area;
2. Identification of any species of local importance, priority species, or endangered, threatened, sensitive or candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species;
3. A discussion of any federal, state, or local special management recommendations, including Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area;
4. A discussion of measures, including

avoidance, minimization and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the current proposed land use activity and to be conducted in accordance with Mitigation sequencing (Section 16.50.170); and

5. A discussion of ongoing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.

D. Additional Information May be Required. When appropriate due to the type of habitat or species present or the project area conditions, the director may also require the habitat management plan to include:

1. An evaluation by the Department of Fish and Wildlife or qualified expert regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, to include any recommendations as appropriate;
2. An evaluation by the local Native American Indian Tribe; and
3. Detailed surface and subsurface hydrologic features both on and adjacent to the site. (Ord. 2477 § 2 (Exh. B (part)), 2007)

**16.95.030 Performance standards—General requirements.**

A. Mitigation Standards.

1. Applicants proposing activities subject to this chapter shall demonstrate that the activity:

- a. Substantially maintains the level of habitat functions and values as characterized and documented using best available science; and
- b. Minimizes habitat disruption or alteration beyond the extent required to undertake the proposal.

2. If it is determined that habitat designated under this chapter will incur a net loss in functions and values, all losses shall be mitigated on-site as a first priority, and off-site thereafter.

a. Where on-site mitigation that could

adequately address the loss is infeasible, the applicant shall consult with a qualified habitat restoration specialist, the city, and the Washington State Department of Fish and Wildlife regarding off-site mitigation. Mitigation shall prioritize the preservation and restoration of Lower Washougal River instream and riparian habitat and should be guided by the Washougal River Subbasin chapter of the Lower Columbia Salmon Recovery Plan.

b. If on-site mitigation is infeasible, payment may be accepted in lieu of an off-site mitigation project. At a minimum, such payment shall be equivalent to the cost of implementing an acceptable off-site project, as estimated by a qualified professional approved by the city, in consultation with the Washington State Department of Fish and Wildlife. The city shall use these funds for habitat improvements it believes are in the best interest of the city and provide a greater ecological benefit than the alternative off-site project. Habitat improvements under this section are subject to the following criteria:

- i. Fees will be used to fund a clearly defined mitigation project;
- ii. The project being funded will result in an increase in function that adequately compensates for the permitted impacts;
- iii. Preference is given to projects within the same drainage basin as the impact, if they can provide similar functional improvements;
- iv. There is a clear timeline for completing the mitigation project; and
- v. There are provisions for long-term protection and management, including mechanisms such as conservation easements, and funding for long-term monitoring and maintenance of the site.

3. Alternate Mitigation.

a. Habitat Mitigation Banking.

i. Construction, enhancement or restoration of habitat to use as mitigation for future habitat development impacts is permitted subject to the following:

(A) A critical area permit shall be obtained prior to any mitigation banking. If a habitat

permit is not obtained prior to mitigation bank construction, mitigation credit shall not be awarded. On projects proposing off-site habitat banking in addition to required habitat mitigation, a separate habitat permit shall be required for each activity;

(B) Federal and state habitat regulations, if applicable, may supersede city requirements.

ii. The mitigation credit allowed will be determined by the city, based on the habitat category, condition and mitigation ratios as specified in this chapter. Prior to granting mitigation banking credit, all habitat mitigation banking areas must comply with the applicable sections of this chapter and Chapter 16.50.

iii. On projects proposing off-site habitat banking in addition to required habitat mitigation, a separate permit fee will be required for each activity.

iv. Purchase of banked habitat credits is permitted to mitigate for habitat impacts in the same watershed provided the applicant has minimized habitat impacts, where reasonably possible, and the following requirements are met:

(A) Documentation, in a form approved by the prosecuting attorney, adequate to verify the transfer of habitat credit shall be submitted; and

(B) A plat note along with information on the title shall be recorded in a form approved by the prosecuting attorney as adequate to give notice of the requirements of this section being met by the purchase of banked habitat credits.

4. Subject to individual circumstances, potential mitigation measures may include, but are not limited to, the following:

- a. Establishment of buffers;
- b. Requirement of a performance bond, when necessary, to ensure completion and success of proposed mitigation;
- c. Avoiding the impact all together by not taking a certain action or parts of an action;
- d. Exploring alternative on-site locations to avoid or reduce impacts of activities;
- e. Preserving important vegetation and natural habitat features by establishing buffers or by limiting clearing or alteration;

f. Replacing invasive exotic plants with native species (refer to the Clark County Native Plant Communities Guide or other relevant publication for guidance);

g. Prohibiting introduction of invasive plant species in habitat areas;

h. Enhancing, restoring or replacing vegetation or other habitat features and functions;

i. Using native plants where appropriate when planting within habitat areas (refer to the Clark County Native Plant Communities Guide or other relevant publication for guidance);

j. Managing access to habitat areas, including exclusionary fencing for livestock if needed;

k. Using existing stream crossings whenever a review of suitability, capacity, access and location, habitat impacts of alternatives, maintenance, liability and economics indicate the existing crossing is feasible;

l. Constructing new stream crossings, when necessary, in conformance to the water crossing structure standards in WAC 220-110-070 (Hydraulic Code Rules), which are incorporated by reference;

m. Seasonally restricting construction activities;

n. Implementing best management practices and integrated management practices;

o. Monitoring or review of impacts and assurance of stabilization of the area;

p. Establishing performance measures or bonding;

q. Establishing conservation covenants and other mechanisms to ensure long-term preservation or maintenance of mitigation actions;

r. Utilizing low impact development techniques;

s. Promoting water quality by limiting the use of lawn and garden chemicals in habitat areas; and/or

t. Avoiding topsoil removal and minimizing topsoil compaction.

B. Nonindigenous Species Shall Not Be Introduced Via Mitigation. No plant, wildlife, or fish species not indigenous to

the region shall be introduced, via mitigation, into a habitat conservation area.

C. Mitigation Should Result in Contiguous Corridors. In accordance with a mitigation plan, mitigation sites should preferably be located by the following and in priority order:

1. On-site and contiguous to wildlife habitat corridors; or
2. Off-site that is adjacent to the subject site and contiguous to wildlife habitat corridors; or
3. Mitigation within the natural open space network, as identified in the comprehensive parks and open space plan, may be allowed for off-site mitigation or in place of on-site mitigation, where development and mitigation will result in an isolating effect on the habitat.

D. Approvals of Activities May Be Conditioned. The director shall condition approvals of activities allowed within or adjacent to a habitat conservation area or its buffers, as necessary to minimize or mitigate any potential adverse impacts. Conditions may include, but are not limited to: (1) establishment of buffers; (2) preservation of critically important vegetation; (3) limitation of access to the habitat area, including fencing to deter unauthorized access; (4) seasonal restriction of construction activities; (5) establishment of a duration and timetable for periodic review of mitigation activities; and (6) requirement of a performance bond, when necessary, to ensure completion and success of proposed mitigation.

E. Buffers.

1. Establishment of Buffers. The director shall require the establishment of buffer areas for activities in, or adjacent to, habitat conservation areas when needed to protect habitat conservation areas. Buffers shall consist of an undisturbed area of native vegetation, or areas identified for restoration, established to protect the integrity, functions and values of the affected habitat. Required buffer widths shall reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby,

and should be consistent with the management recommendations issued by the State Department of Fish and Wildlife.

2. Seasonal Restrictions. When a species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions may apply. Larger buffers may be required and activities may be further restricted during the specified season.

3. Habitat Buffer Averaging. The director may allow the recommended habitat area buffer width to be averaged in accordance with a critical area report, only if:

- a. It will not reduce stream or habitat functions;
- b. It will not adversely affect salmonid habitat;
- c. It will provide additional natural resource protection, such as buffer enhancement;
- d. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer;
- e. The buffer area width is not reduced by more than fifty percent in any location; and
- f. The buffer area width is not less than twenty-five feet.

F. Mitigation Plan Requirements. When mitigation is required, the applicant shall submit a mitigation plan as part of the critical areas report. The mitigation plan shall include:

1. Detailed Construction Plans. The mitigation plan shall include 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 plant species, quantities, locations, size, spacing, and density; and
  - e. Measures to protect and maintain plants until established.

These written descriptions shall 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 final outcome.

2. Monitoring Program. The mitigation plan shall include a program for monitoring construction of the mitigation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring, and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the mitigation project. The mitigation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five years.

The city shall notify the responsible party in writing once the conditions of the monitoring plan are met.

3. Adaptive Management. The mitigation plan shall 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. (Ord. 2477 § 2 (Exh. B (part)), 2007)

#### **16.95.040 Performance standards—Specific habitats.**

A. Endangered, Threatened, and Sensitive Species.

1. No development shall be allowed within a habitat conservation area or buffer with which state or federally endangered, threatened, or sensitive species have a documented presence.

2. Activities proposed adjacent to a habitat conservation area with which state or federally endangered, threatened, or sensitive species have a documented presence shall be protected through the application of protection measures in accordance with a critical area report prepared by a qualified professional and approved by the city of Camas. Approval for alteration of land adjacent to the habitat conservation area or its buffer shall include consultation with the Department of Fish

and Wildlife and the appropriate federal agency.

B. Anadromous Fish.

1. All activities, uses, and alterations proposed to be located in water bodies used by anadromous fish or in areas that affect such water bodies shall give special consideration to the preservation and enhancement of anadromous fish habitat, including, but not limited to, adhering to the following standards:

a. Activities shall be timed to occur only during the allowable work window as designated by the Department of Fish and Wildlife for the applicable species;

b. An alternative alignment or location for the activity is not feasible;

c. The activity is designed so that it will not degrade the functions or values of the fish habitat or other critical areas; and

d. Any impacts to the functions or values of the habitat conservation area are mitigated in accordance with an approved critical area report.

2. Structures that prevent the migration of salmonids shall not be allowed in the portion of water bodies used by anadromous fish. Fish bypass facilities shall be provided that allow the upstream migration of adult fish and shall prevent fry and juveniles migrating downstream from being trapped or harmed.

3. Fills may only intrude into water bodies used by anadromous fish when consistent with the Camas shoreline master program and the applicant demonstrates that the fill is for a water-dependent use that is in the public interest.

C. Wetland Habitats. All proposed activities within or adjacent to habitat conservation areas containing wetlands shall, at a minimum, conform to the wetland development performance standards set forth in Wetlands (Chapter 16.60).

D. Stream Buffer Widths. Stream buffers are established for habitats that include aquatic systems. Unless otherwise allowed in this title, all structures and activities shall be located outside of the stream buffer area.

The following base stream buffer widths are based upon the Washington Department of Natural Resources (DNR) Water Typing System and further classification based upon fish presence (Fish bearing v. Non-fish Bearing) for Type F streams existing in the city of Camas. Widths shall be measured outward, on the horizontal plane, from the ordinary high water mark or from the top of bank if the ordinary high water mark cannot be identified. Buffer areas should be sufficiently wide to achieve the full range of riparian and aquatic ecosystem functions, which include but are not limited to protection of instream fish habitat through control of temperature and sedimentation in streams; preservation of fish and wildlife habitat; and connection of riparian wildlife habitat to other habitats. Please see Appendix A Water Typing System located at the end of this chapter.

<b>Stream Buffer Widths</b>	
<b>Stream Type</b>	<b>Base Buffer Width</b>
Type S	150 feet
Type F, anadromous fish bearing stream flowing to reaches with anadromous fish bearing access	100 feet
Type F, anadromous fish bearing stream flowing to reaches without anadromous fish bearing access	75 feet
Type F, non-anadromous fish bearing stream	75 feet
Type Np	50 feet
Type Ns	25 feet

1. Increased Stream Buffer Area Widths.

The base stream buffer width may be increased, as follows:

- a. When the director determines that the base width is insufficient to prevent habitat degradation and to protect the structure and

functions of the habitat area; and

- b. When the habitat area is within an erosion or landslide hazard area, or buffer, the stream buffer area shall be the base width, or the erosion or landslide hazard area or buffer, whichever is greater.

2. Stream Buffer Area Reduction and Averaging. The director may allow the base stream buffer area width to be reduced in accordance with a critical area report only if:

- a. The width reduction will not reduce or degrade stream or habitat functions, including anadromous fish habitat and those of nonfish habitat;
- b. The stream buffer area width is not reduced by more than fifty percent in any one location;
- c. The stream buffer area width is not reduced to less than fifteen feet;
- d. The width reduction will not be located within another critical area or associated buffer and the reduced stream buffer area width is supported by best available science;
- e. All undeveloped lands within total area will be left undeveloped in perpetuity by covenant, deed restriction, easement or other legally binding mechanism;
- f. The buffer averaging plan shall be conducted in consultation with a qualified biologist and the plan shall be submitted to the Washington Department of Fish and Wildlife for comment; and
- g. The director will use the recommendations of the qualified experts in making his/her decision on a plan that uses buffer averaging.

3. Stream Buffer Mitigation. Mitigation of adverse impacts to stream buffer areas shall result in equivalent functions and values, on a per function basis, and be located in the same drainage basin as the habitat impacted.

4. Alternative Mitigation for Stream Buffer Areas. The requirements set forth in this section may be modified at the city of Camas's discretion if the applicant demonstrates that greater habitat functions, on a per function basis, can be obtained in the affected drainage basin as a result of

alternative mitigation measures.

E. Stream Buffer Areas, Ponds, Lakes, and Waters of the State. The following specific activities may be permitted within a stream buffer area, pond, lake, and water of the state, or associated buffer when the activity complies with the provisions set forth in the city of Camas shoreline master program and subject to the following standards:

1. Clearing and Grading. When clearing and grading is permitted as part of an authorized activity or as otherwise allowed in these standards, the following shall apply:

a. Grading is allowed only during the dry season, which is typically regarded as beginning on May 1st and ending on October 1st of each year, provided that the city of Camas may extend or shorten the dry season on a case-by-case basis.

b. Filling or modification of a wetland or wetland buffer is permitted only if it is conducted as part of an approved wetland alteration.

c. Erosion and sediment control that meets or exceeds the standards set forth in the city of Camas Design Standards Manual shall be provided.

2. Streambank Stabilization. Streambank stabilization to protect new structures from future channel migration is not permitted except when such stabilization is achieved through bio-engineering or soft armoring techniques in accordance with an approved critical area report.

3. Launching Ramps—Public or Private. Launching ramps may be permitted in accordance with an approved critical area report that has demonstrated the following:

a. The project will not result in increased beach erosion or alterations to, or loss of, shoreline substrate within one-quarter mile of the site; and

b. The ramp will not adversely impact critical fish or wildlife habitat areas or associated wetlands.

4. Docks. Repair and maintenance of an existing dock or pier may be permitted subject to the following:

a. There is no increase in the use of materials creating shade for predator

species;

b. There is no expansion in overwater coverage;

c. There is no increase in the size and number of pilings; and

d. There is no use of toxic materials (such as creosote) that come in contact with the water.

5. Roads, Trails, Bridges, and Rights-of-Way. Construction of trails, roadways, and minor road bridging, less than or equal to the city's street standards, may be permitted in accordance with an approved critical area report subject to the following standards:

a. The crossing minimizes interruption of downstream movement of wood and gravel;

b. Mitigation for impacts is provided pursuant to a mitigation plan of an approved critical area report;

c. If applicable, road bridges are designed according to the Department of Fish and Wildlife Fish Passage Design at Road Culverts, March 1999, and the National Marine Fisheries Service Guidelines for Salmonid Passage at Stream Crossings, 2000; and

d. Trails and associated viewing platforms shall not be made of continuous impervious materials.

6. Utility Facilities. New underground utility lines and facilities may be permitted to cross watercourses in accordance with an approved critical area report if they comply with the following standards:

a. Installation shall be accomplished by boring beneath the scour depth and hyporheic zone (sediments underlying the surface stream) of the water body;

b. The utilities shall cross at an angle greater than sixty degrees to the centerline of the channel in streams or perpendicular to the channel centerline whenever boring under the channel is not feasible and shall be contained within the footprint of an existing road or utility crossing where possible; and

c. The utility route should avoid paralleling the stream or following a down-valley course near the channel; and installation

shall not increase or decrease the natural rate of shore migration or channel migration.

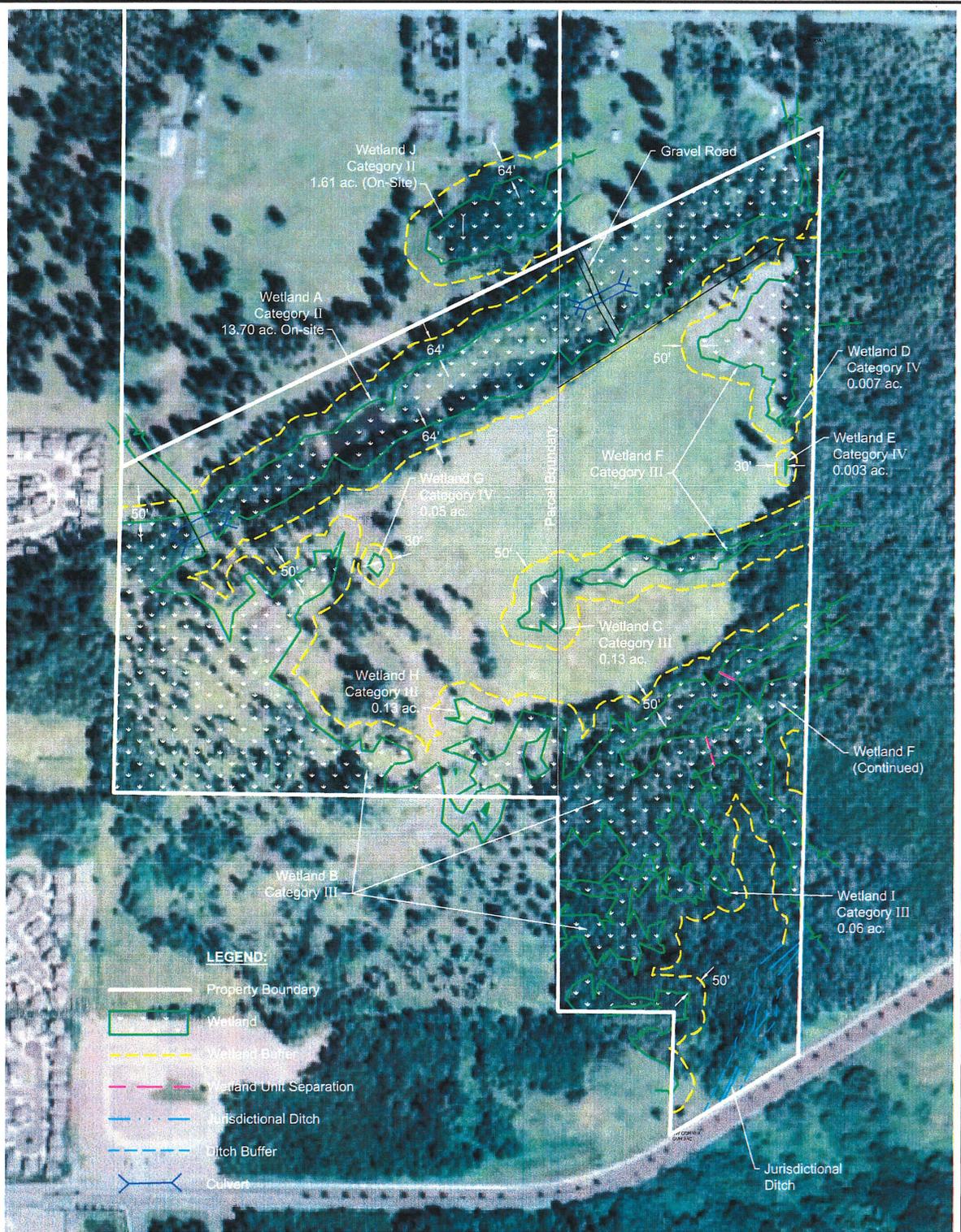
7. Public Flood Protection Measures. New public flood protection measures and expansion of existing ones may be permitted, subject to the city of Camas's review and approval of a critical area report and the approval of a federal biological assessment by the federal agency responsible for reviewing actions related to a federally listed species.

8. Instream Structures. Instream structures, such as high flow bypasses, sediment ponds, instream ponds, retention and detention facilities, tide gates, dams, and weirs, shall be allowed only as part of an approved watershed basin restoration project approved by the city of Camas and upon acquisition of any required state or federal permits. The structure shall be designed to avoid modifying flows and water quality in ways that may adversely affect habitat conservation areas.

9. Stormwater Conveyance Facilities. Conveyance structures may be permitted in accordance with an approved critical area report subject to the following standards:

- a. Mitigation for impacts is provided;
- b. Instream stormwater conveyance facilities shall incorporate fish habitat features; and
- c. Vegetation shall be maintained and, if necessary, added adjacent to all open channels and ponds in order to retard erosion, filter out sediments, and shade the water.

10. On-Site Sewage Systems and Wells. All developments subject to review under this section shall be connected to city water and sanitary facilities. Existing private water and sanitary facilities shall be abandoned in a manner consistent with state law. (Ord. 2477 § 2 (Exh. B (part)), 2007)



**LEGEND:**

- Property Boundary
- Wetland
- Wetland Buffer
- Wetland Unit Separation
- Jurisdictional Ditch
- Ditch Buffer
- Culvert

- NOTE:**
1. Wetland boundaries were surveyed using hand-held GPS units with a ± 20 ft. accuracy.
  2. Aerial photograph provided by Google Earth™, 2006

**ECOLOGICAL LAND SERVICES, INC.**  
 1157 3rd Ave., Suite 220 Longview, WA 98632  
 (360) 578-1371 Fax: (360) 414-9305

DATE: 12/19/07  
 DWN: CB  
 REQ. BY: LW  
 PRJ. MGR: LW  
 CHK: MMM  
 APPR:  
 PROJ.#: 1696.01

Figure 2  
 SITE MAP  
 Eiford/GVH Commercial Property  
 Grass Valley Holdings and Dwayne Eiford  
 City of Camas, Clark County, Washington  
 Section 5, Township 1N, Range 3E, W.M.

4411832 AGR

S RecFee - \$233.00 Pages: 142 - AMERICAN PACIFIC COMMUNIT  
Clark County, WA 01/11/2008 03:57

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16420 SE McCallum Way BLD #103-197  
Vancouver WA 98683

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Legibility poor in a portion of  
this document when received

Please print neatly or type information

Document Title(s)

PRE - Annexation Development Agreement

Reference Numbers(s) of related documents:

Additional Reference #'s on page \_\_\_\_\_

Grantor(s) (Last, First and Middle Initial)

CITY OF CAMAS, Grass Valley Holding, Skola, APC SUNRISE SUMMIT, EIFORD PROP.

Additional grantors on page \_\_\_\_\_

Grantee(s) (Last, First and Middle Initial)

CITY OF CAMAS, Grass Valley Holding, Skola, APC SUNRISE SUMMIT, EIFORD PROPERTIES

Additional grantees on page \_\_\_\_\_

Legal Description (abbreviated form: i.e. lot, block plat or section, township, range, quarter/quarter)

LOT 3, short plat no 432, BOOK 1, PAGE 432, SEE EXHIBIT A

Additional legal is on page A

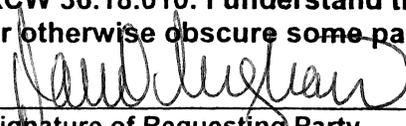
Assessor's Property Tax Parcel/Account Number

177489, 126043, 12653, 177451-010, 177480-002/SEE

Additional parcel #'s on page ex A

The Auditor/Recorder will rely on the information provided on this form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

I am requesting an emergency nonstandard recording for an additional fee as provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document.

  
Signature of Requesting Party

1  
2  
3  
4  
5  
6  
7 **PRE-ANNEXATION DEVELOPMENT AGREEMENT**  
8  
9  
10

11 THIS DEVELOPMENT AGREEMENT is made and entered into by and between the  
12 City of Camas, a Washington Municipal Corporation, hereinafter the "City," and Grass  
13 Valley Holdings, LLC, a Nevada Limited Liability Company, APC Sunrise Summit LLC,  
14 a Washington Limited Liability Company, and Skola, LLC, a Washington Limited  
15 Liability Company, collectively GRASS VALLEY AFFILIATED ENTITIES (GRASS  
16 VALLEY), and Eiford Properties, LLC, a Washington Limited Liability Company  
17 (EIFORD). GRASS VALLEY and EIFORD are hereinafter collectively referred to as  
18 the "Developer".  
19

20 **RECITALS:**  
21

22 **WHEREAS**, Developer owns or controls certain real property which is located  
23 outside the City's present municipal boundary, but is located within the City's Urban  
24 Growth Boundary; the real property is more fully described in the attached **Exhibit "A"**  
25 and is incorporated by reference herein (hereafter the "Property"); and,  
26

27 **WHEREAS**, Developer and Fisher Asset Management, LLC, a Delaware Limited  
28 Liability Company (including any affiliate thereof, "Fisher"), have executed option  
29 agreements (hereafter the "Option Agreements") under which Fisher has been granted the  
30 option to purchase that portion of the Property more fully described in the attached  
31 **Exhibit "B"** which is incorporated by reference herein (hereafter the "Option Property");  
32 and,  
33

34 **WHEREAS**, the City seeks, through execution of this Agreement, to increase  
35 employment opportunities within the City, to generate property taxes and to increase  
36 opportunities for sales taxes for the City; and  
37

38 **WHEREAS**, dedication of land for public rights of way and utilities to serve the  
39 citizens of Camas are consistent with adopted plans and in the interest of the City; and  
40

41 **WHEREAS**, the City acknowledges the benefits associated with Fisher's  
42 ownership and development of the Option Property; and,  
43

44 **WHEREAS**, the City is a Washington Municipal Corporation with annexation  
45 powers, and land use planning and permitting authority over all land within its corporate  
46 limits; and,

1  
2       **WHEREAS**, the Washington State Legislature has authorized the execution of a  
3 Development Agreement between a local government and a person having ownership or  
4 control of real property within its jurisdiction pursuant to RCW 36.70B.170(1); and  
5

6       **WHEREAS**, local governments may also enter into a Development Agreement  
7 for real property outside its boundaries as part of a proposed annexation or service  
8 agreement pursuant to RCW 36.70B.170(1); and  
9

10       **WHEREAS**, pursuant to RCW 36.70B.170, a Development Agreement may set  
11 forth the development standards and other provisions that shall apply to, govern and vest  
12 the development, use and mitigation of the development of real property for the duration  
13 specified in the agreement; which statute provides:  
14

15       (1) A local government may enter into a Development Agreement with a  
16 person having ownership or control of real property within its jurisdiction.  
17 A city may enter into a development agreement for real property outside  
18 its boundaries as part of a proposed annexation or a service agreement. A  
19 development agreement must set forth the development standards and  
20 other provisions that shall apply to and govern and vest the development,  
21 use, and mitigation of the development of the real property for the  
22 duration specified in the agreement. A development agreement shall be  
23 consistent with applicable development regulations adopted by a local  
24 government planning under chapter 36.70A RCW; and  
25

26       **WHEREAS**, the legislative findings supporting the enactment of this  
27 section provides:  
28

29       The legislature finds that the lack of certainty in the approval of  
30 development projects can result in a waste of public and private resources,  
31 escalate housing costs for consumers and discourage the commitment to  
32 comprehensive planning which would make maximum efficient use of  
33 resources at the least economic cost to the public. Assurance to a  
34 development project applicant that upon government approval the project  
35 may proceed in accordance with existing policies and regulations, and  
36 subject to conditions of approval, all as set forth in a development  
37 agreement, will strengthen the public planning process, encourage private  
38 participation and comprehensive planning, and reduce the economic costs  
39 of development. Further, the lack of public facilities and services is a  
40 serious impediment to development of new housing and commercial uses.  
41 Project applicants and local governments may include provisions and  
42 agreements whereby applicants are reimbursed over time for financing  
43 public facilities. It is the intent of the legislature by RCW 36.70B.170  
44 through 36.70B.210 to allow local governments and owners and  
45 developers of real property to enter into development agreements;  
46

1 and,

2       **WHEREAS**, for the purposes of this Development Agreement, “development  
3 standards” includes, but is not limited to, all of the standards listed in RCW  
4 36.70B.170(3); and

5  
6       **WHEREAS**, this Development Agreement by and between the City of Camas  
7 and DEVELOPER (hereinafter the “Agreement”), relates to the annexation, zoning and  
8 future development of the Property; and,

9  
10  
11 **NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:**

12  
13 **Section 1. Development Agreement.** This Agreement is a Development Agreement  
14 to be implemented under the authority of and in accordance with RCW 36.70B.170  
15 through RCW 36.70B.210. It shall become a contract between Developer and the City  
16 upon the City’s approval by ordinance or resolution following a public hearing as  
17 provided for in RCW 36.70B.170.

18  
19 **Section 2. Definitions.** As used in this Development Agreement, the following terms,  
20 phrases and words shall have the meanings and be interpreted as set forth in this Section.

21  
22       “Adopting Resolution” means the Resolution which approves this Development  
23 Agreement, as required by RCW 36.70B.200.

24       “Effective Date” means the effective date established by the Adopting Resolution.

25  
26 **Section 3. Term of Agreement.** This Agreement shall commence upon the Effective  
27 Date, and shall continue in force for a period of ten (10) years; unless extended or  
28 terminated as provided herein.

29  
30 **Section 4. Zoning and Comprehensive Plan Designations**

31 Upon the annexation of the Property into the City’s municipal boundary the City shall  
32 establish zoning for the Property, consistent with **Exhibit “C”** which is attached hereto  
33 and incorporated by reference herein.

34  
35 **Section 4.1 Vesting**

36 Based upon the substantial investment that will be necessary for this area to develop and  
37 the desire by the City and the Developer for predictable development standards  
38 throughout the build-out of the Property (which could be as long as ten years) ; unless  
39 otherwise specified herein or through an amendment of this Agreement by mutual  
40 agreement of the Parties, the permitted and conditional uses provided under the City’s  
41 Zoning Ordinance and all other applicable development regulations applicable to the  
42 Property, e.g. storm water, sensitive areas, subdivision, site plan regulations, rules, plans  
43 or policies, shall be those that are attached hereto as **Exhibit “E”** and incorporated by  
44 reference herein. Provided, however, that upon expiration or lawful termination of this  
45 Agreement, all land use applications affecting the Property shall be governed by the land  
46 use regulations in effect at the time such application is filed with the City. The City shall  
47 have no liability for any damages or losses suffered by the Developer or the Developer’s

1 successors if a Federal or State agency takes action that voids, nullifies or preempts the  
2 City's agreement to permit vesting as provided herein.

3  
4  
5 **Section 4.2 Effect on Fees or Charges**

6 As provided for in RCW 36.70B.180, during the term of this Agreement, the  
7 development standards provided for in this Agreement shall not be subject to unilateral  
8 amendment, or amendment to zoning ordinances, development standards, or regulations,  
9 or a new zoning ordinance or development standard or regulations adopted after the  
10 effective date of this Agreement. Provided, however, that the vesting granted by this  
11 Agreement shall not apply to impact fees, taxes, permit application fees or utility  
12 connection charges, which shall be determined or calculated consistent with Camas  
13 provisions applicable on the date such fee, charge or tax is triggered. Within thirty days  
14 of Site Plan Review application(s) approval on some portion of the Property for 150,000  
15 square feet of building structure(s) containing uses consistent with the property's zoning  
16 as identified in **Exhibit "C"** and the zoning regulations identified in **Exhibit "E"**, but  
17 specifically requiring that at least one third of the square footage shall be retail or office  
18 uses and specifically excluding any of The Property zoned for residential use , the City  
19 shall update its **Capital Facilities Plan** to include the sewer and water improvements  
20 identified in **Exhibit "D"**. The City shall also as part of that process adjust its System  
21 Development Charges for sewer and water to reflect the addition of the sewer and water  
22 facilities identified in **Exhibit "D"**. In no event shall the City's obligation to amend its  
23 Capital Facilities Plan or adjust its System Development Charges occur prior to  
24 September 15<sup>th</sup>, 2008. In the event that Developer wishes to have a building permit  
25 issued prior to September 15<sup>th</sup>, 2008, the Developer agrees that it will pay the difference  
26 between the SDC rate in effect on the date of the issuance of the building permit and  
27 whatever higher rate, if any, that is in effect on Sept 15, 2008. Such payment, if any,  
28 shall be made on or before October 15<sup>th</sup>, 2008.

29  
30  
31  
32 **Section 4.3 Threat to Public Health**

33 Pursuant to RCW 36.70B.170, the City reserves the right to impose new or different  
34 regulations to the extent required by a serious threat to public health and safety.

35  
36 **Section 5. 38<sup>th</sup> Avenue**

37 The City's Capital Facilities Plan includes 38<sup>th</sup> Avenue between Parker Road and the  
38 Vancouver municipal boundary as a three lane roadway. It also provides for the  
39 extension of 38<sup>th</sup> Avenue from Bybee Road west to the Vancouver municipal boundary.  
40 The City agrees, subject to Fisher exercising its option pursuant to the Option  
41 Agreements and acquiring the Option Property from Developer: (i) to exercise its best  
42 efforts to obtain funding from grants and other sources to construct or cause to be  
43 constructed the extension of 38<sup>th</sup> Street from Parker Ave. to the Vancouver municipal  
44 boundary , as identified in the Capital Facilities Plan , as soon as reasonably possible  
45 based upon the City's acquired funding; and (ii) to not withdraw or cause 38<sup>th</sup> Street  
46 between Parker Ave. and the Vancouver municipal boundary to be removed from the

1 City's Capital Facilities Plan. The Developer agrees to dedicate a thirty foot half width  
2 right-of-way on either side of the centerline (approximate centerline location being the  
3 westerly extension of the currently constructed 38<sup>th</sup> Avenue) to the extent such area is  
4 located upon property owned by the Developer. If developer owns property on both  
5 sides of the centerline, Developer shall dedicate thirty feet on each side of the centerline.  
6 The dedication shall be made within six months of the effective date of this Agreement.  
7

## 8 **Section 6. Sewer and Water**

9 The City agrees, to design and construct the extension of water and sewer facilities from  
10 Parker Road to Bybee Road substantially in accordance with the water and sewer  
11 improvement plan and map attached hereto as **Exhibit "D"** and incorporated by  
12 reference herein. Design of the sewer and water facilities by the City shall begin upon  
13 execution of this Agreement and shall be completed by June 2, 2008. Upon completion  
14 of design, the City will promptly prepare and submit any necessary application or  
15 information to the Washington Department of Ecology (DOE) or the Washington  
16 Department of Health (DOH) necessary in order for the City to construct and utilize the  
17 sewer and water facilities identified in **Exhibit "D"**; and, the City shall thereafter  
18 diligently pursue any approvals necessary from DOH or DOE to provide sewer or water  
19 services to the Property.  
20

### 21 **Section 6.1 Sewer and water Construction**

22 The City shall go to bid on the construction of the sewer and water facilities identified in  
23 **Exhibit "D"** within thirty days of the submittal of fully complete application(s) to the  
24 City for development review including Site Plan Review, and the submission of a SEPA  
25 checklist and any applicable critical area or archeological application materials, (Site Plan  
26 Review) on some portion of the Property that contains a minimum of 150,000 square feet  
27 of building structure(s) containing uses consistent with the uses provided for by the  
28 Property's zoning as identified in **Exhibit "C"** and the zoning regulations identified in  
29 **Exhibit "E"**, but specifically requiring that one third of the square footage be retail or  
30 office uses and specifically excluding any of the Property zoned for residential use. If,  
31 due to the ultimate design of the sewer and water facilities identified in **Exhibit "D"**, a  
32 sewer pump station needs to be located upon the Developer's property(excluding the  
33 Option Property), the Developer shall, prior to the latter of: (1) the completion of the  
34 sewer and water design by the City and the City's acquisition of any necessary State  
35 approvals; or, (2) the submittal of a fully complete application for Site Plan Review on  
36 some portion of the Property that contains 150,000 square feet of building structure(s)  
37 containing uses consistent with The Property's zoning as identified in **Exhibit "C"** and  
38 the zoning regulations identified in **Exhibit "E"**, but specifically requiring that at least  
39 one third of the square footage be retail or office uses and specifically not including any  
40 of the Property zoned for residential use, dedicate adequate land area to accommodate  
41 the sewer pump station. The fair market value of the dedicated property shall be System  
42 Development Charge creditable. If during the course of development of that portion of  
43 the Property south of NW 38<sup>th</sup> Avenue, the City determines that an easement for the  
44 purpose of looping a water line between NW Pac Rim Boulevard and NW 38<sup>th</sup> Avenue is  
45 desirable across that portion of the Property, then the Parties agree that the City may as a  
46 condition of development review require such an easement; provided that, the location

1 shall be agreed upon by the City and owner and will, to the greatest extent possible, have  
2 the least potential impact on the owner's development plans.

3  
4 **Section 6.2 Timing of construction**

5 The City's obligation to complete construction of the sewer and water facilities identified  
6 in **Exhibit "D"**, except for the sewer pump station, shall be one year from the date of  
7 approval of the application(s) for Site Plan Review for 150,000 square feet of building  
8 structure(s), containing uses consistent with the property's zoning as identified in  
9 **Exhibit "C"** and which is consistent with the zoning regulations identified in **Exhibit**  
10 **"E"**, but specifically requiring that at least one third of the uses be retail or office uses  
11 and specifically excluding any of The Property zoned for residential use. Provided,  
12 further that the City's obligation to go to bid on the pump station shall occur within ten  
13 days of the Developer applying for a building permit for a building approved under the  
14 Site Plan Review approval provided for in this Agreement and the City's obligation to  
15 begin construction of the sewer pump station shall be triggered by the commencement of  
16 construction of a building approved under the Site Plan Review approval provided for in  
17 this Agreement. The City shall complete construction of the sewer pump station within  
18 90 days from the commencement of construction. In no event shall the City's obligation  
19 to complete construction of any of the sewer and water facilities be earlier than June 1,  
20 2009. Provided further, the City may subsequently agree to complete the construction  
21 sooner. Approval of the extension of the sewer and water lines is subject to approvals by  
22 DOE and DOH. The commencement of the construction time frames are contingent upon  
23 those approvals being secured by the City. The City shall not be held responsible for  
24 delays caused by outside agency review and approval processes, provided the City timely  
25 applies and/or provides information to DOE and DOH in accordance with Section 6.

26  
27 **Section 6.3 Required Sewer and Water Service**

28 Notwithstanding the provisions of Section 6.2, unless some portion of the approved site  
29 plan review provided for in section 6.2 requires sewer and water service to be provided  
30 from 38<sup>th</sup> Avenue, the City's obligation to construct under Section 6.2 shall not be  
31 triggered.

32  
33 **Section 7. Further Discretionary Actions.**

34 Nothing in this Agreement shall be construed to limit the authority or the obligation of  
35 the City to process any land use approvals, including preliminary plat, CUP, Site Plan  
36 Review or building permit under the processes established by the City; provided however  
37 that such process shall not impose conditions inconsistent with the provisions of this  
38 Agreement.

39  
40 **Section 8. Remedies.**

41 Should a disagreement arise between the City and Developer regarding the interpretation  
42 and application of this Agreement, the parties agree to attempt to resolve the  
43 disagreement by first meeting and conferring. If such meeting proves unsuccessful to  
44 resolve the dispute, the disagreement may be resolved by judicial action filed in the Clark  
45 County Superior Court.

1 **Section 9. Performance.**

2 Failure by either party at any time to require performance by the other party of any of the  
3 provisions hereof shall in no way affect the parties' rights hereunder to enforce the same,  
4 nor shall any waiver by a party of the breach hereof be held to be a waiver of any  
5 succeeding breach or a waiver of this non-waiver clause.

6  
7 **Section 10. Venue.**

8 This Agreement shall be construed in accordance with and, governed by, the laws of the  
9 State of Washington. The parties agree to venue in the Superior Court for Clark County,  
10 State of Washington, to resolve any disputes that may arise under this Agreement.

11  
12 **Section 11. Severability.**

13 If any portion of this Agreement shall be invalid or unenforceable to any extent, the  
14 validity of the remaining provisions shall not be affected thereby.

15  
16 **Section 12. Inconsistencies**

17 If any provisions of the Camas Municipal Code are deemed inconsistent with the  
18 provisions of this Agreement, the provisions of this Agreement shall prevail.

19  
20 **Section 13. Binding on Successors and Recording.**

21 This Agreement shall run with the land and be binding upon and inure to the benefit of  
22 Developer, the parties, and their respective heirs, successors and assigns. This  
23 Agreement shall be recorded against the real property indicated on **Exhibit "A"** with the  
24 Clark County Auditor.

25  
26 Developer may sell or otherwise lawfully dispose of any portion of the Property to  
27 another person who, unless otherwise released by all parties, shall be subject to the  
28 applicable provisions of this Agreement related to such portion of the Property.

29  
30 **Section 14. Recitals.**

31 Each of the recitals contained herein are intended to be, and are incorporated as,  
32 covenants between the parties and shall be so construed.

33  
34 **Section 15. Amendments.**

35 This Agreement may only be amended by mutual agreement of the parties.

36  
37 IN WITNESS WHEREOF, the parties hereto have caused this Development  
38 Agreement to be executed as of the dates set forth below:

39  
40  
41 CITY OF CAMAS, WASHINGTON

42  
43   
44 \_\_\_\_\_  
45 By (person signing) PAUL DENNIS  
46 Title MAYOR

1  
2  
3 GRASS VALLEY HOLDINGS, LLC

4 David Lughiani pres.  
5  
6 By (person signing) DAVID LUGLIANI  
7  
8 Title APC INC. mgr.  
9

10  
11 APC SUNRISE SUMMIT, LLC

12 David Lughiani pres.  
13  
14 By (person signing) DAVID LUGLIANI  
15  
16 Title APC INC. mgr.  
17

18  
19 SKOLA, LLC

20  
21 David Lughiani pres.  
22  
23 By (person signing) DAVID LUGLIANI  
24  
25 Title APC INC. mgr.  
26

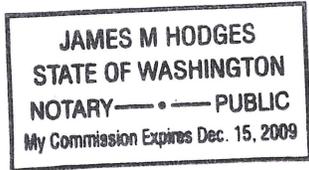
27 EIFORD PROPERTIES, LLC

28 Dwayne L. Eiford  
29  
30 By (person signing) Dwayne L. Eiford  
31  
32 Title President  
33

34 STATE OF WASHINGTON )  
35 ) ss.  
36 County of Clark )  
37

38 I certify that I know or have satisfactory evidence that  
39 PAUL DENNIS is the person who appeared before me, and said person  
40 acknowledged that he signed this instrument, on oath stated that he was authorized to  
41 execute the instrument and acknowledged it as the MAYOR of the  
42 City of CAMAS, Washington, to be the free and voluntary act of such party for the uses  
43 and purposes mentioned in the instrument.  
44

45 Dated: 1/08/08  
46

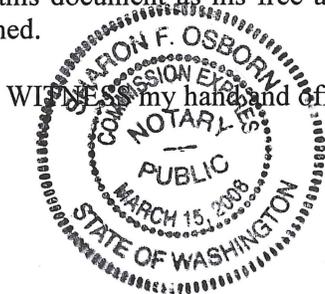


James M. Hodges  
Notary Public in and for the State of Washington, residing at Vancouver.  
My appointment expires: 12/15/09

1  
2  
3  
4  
5  
6 STATE OF WASHINGTON )  
7 ) :ss  
8 COUNTY OF CLARK )  
9

10 On this day personally appeared before me DAVID LUGLIANI, to me known as the  
11 PRESIDENT of GRASS VALLEY HOLDINGS, LLC and acknowledged that he  
12 signed this document as his free and voluntary act and deed for the uses and purposes therein  
13 mentioned.

14 WITNESS my hand and official seal hereto affixed the day and year first above written.

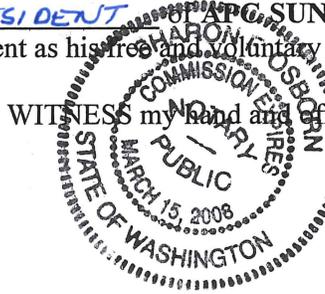


Sharon F. Osborn  
NOTARY PUBLIC and for the State of:  
residing at Vancouver  
My appointment expires: 3/15/2008

22  
23 STATE OF WASHINGTON )  
24 ) :ss  
25 COUNTY OF CLARK )  
26

27 On this day personally appeared before me DAVID LUGLIANI, to me known as the  
28 PRESIDENT of APC SUNRISE SUMMIT, LLC and acknowledged that he signed this  
29 document as his free and voluntary act and deed for the uses and purposes therein mentioned.

30 WITNESS my hand and official seal hereto affixed the day and year first above written.

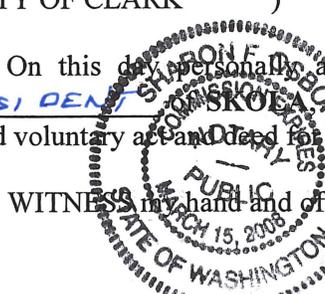


Sharon F. Osborn  
NOTARY PUBLIC and for the State of:  
residing at Vancouver  
My appointment expires: 3/15/2008

37  
38 STATE OF WASHINGTON )  
39 ) :ss  
40 COUNTY OF CLARK )  
41

42 On this day personally appeared before me DAVID LUGLIANI, to me known as the  
43 PRESIDENT of SKOE, LLC and acknowledged that he signed this document as his  
44 free and voluntary act and deed for the uses and purposes therein mentioned.

45 WITNESS my hand and official seal hereto affixed the day and year first above written.



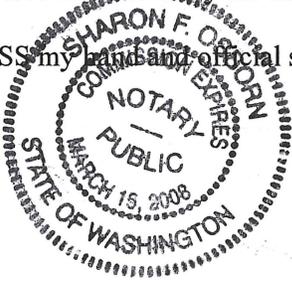
Sharon F. Osborn  
NOTARY PUBLIC and for the State of:  
residing at Vancouver

My appointment expires: 3/15/2008

STATE OF WASHINGTON )  
 ):ss  
COUNTY OF CLARK )

On this day personally appeared before me Dwayne L. EIFORD, to me known as the PRESIDENT of EIFORD PROPERTIES, LLC and acknowledged that he signed this document as his free and voluntary act and deed for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year first above written.



Sharon F. Osborn  
NOTARY PUBLIC and for the State of:  
residing at Vancouver  
My appointment expires: 3/15/2008

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**35A.13.160 Oath and bond of officers.** All provisions of RCW 35A.12.080 relating to oaths and bonds of officers, shall be applicable to code cities organized under this council-manager plan. [1967 ex.s. c 119 § 35A.13.160.]

**35A.13.170 Council meetings—Quorum—Rules—Voting.** All provisions of RCW 35A.12.110, as now or hereafter amended, and 35A.12.120, relating to council meetings, a quorum for transaction of business, rules and voting at council meetings, shall be applicable to code cities organized under this council-manager plan. [1979 ex.s. c 18 § 26; 1967 ex.s. c 119 § 35A.13.170.]

**Severability—1979 ex.s. c 18:** See note following RCW 35A.01.070.

**35A.13.180 Adoption of codes by reference.** Ordinances of cities organized under this chapter may adopt codes by reference as provided in RCW 35A.12.140. [1967 ex.s. c 119 § 35A.13.180.]

**35A.13.190 Ordinances—Style—Requisites—Veto.** The enacting clause of all ordinances shall be as follows: "The city council of the city of . . . . do ordain as follows:" No ordinance shall contain more than one subject and that must be clearly expressed in its title.

No ordinance or any section or subsection thereof shall be revised or amended unless the new ordinance sets forth the revised ordinance or the amended section or subsection at full length.

No ordinance shall take effect until five days after the date of its publication unless otherwise provided by statute or charter, except that an ordinance passed by a majority plus one of the whole membership of the council, designated therein as a public emergency ordinance necessary for the protection of public health, public safety, public property or the public peace, may be made effective upon adoption, but such ordinance may not levy taxes, grant, renew, or extend a franchise, or authorize the borrowing of money. [1967 ex.s. c 119 § 35A.13.190.]

**35A.13.200 Authentication, recording and publication of ordinances.** Ordinances of code cities organized under this chapter shall be authenticated, recorded and published as provided in RCW 35A.12.150 and 35A.12.160. [1967 ex.s. c 119 § 35A.13.200.]

**35A.13.210 Audit and allowance of demands against city.** RCW 35A.12.170 shall apply to the audit and allowance of demands against the city. [1967 ex.s. c 119 § 35A.13.210.]

**35A.13.220 Optional division of city into wards.** A code city organized under this chapter may be divided into wards as provided in RCW 35A.12.180. [1967 ex.s. c 119 § 35A.13.220.]

**35A.13.230 Powers of council.** The council of any code city organized under the council-manager plan provided in this chapter shall have the powers and authority granted to legislative bodies of cities governed by this title as more particularly described in chapter 35A.11 RCW, except insofar as

such power and authority is vested in the city manager. [1967 ex.s. c 119 § 35A.13.230.]

## Chapter 35A.14 RCW

### ANNEXATION BY CODE CITIES

#### Sections

35A.14.001	Actions subject to review by boundary review board.
35A.14.005	Annexations beyond urban growth areas prohibited.
35A.14.010	Authority for annexation—Consent of county commissioners for certain property.
35A.14.015	Election method—Resolution for election—Contents of resolution.
35A.14.020	Election method—Contents of petition—Certification by auditor—Approval or rejection by legislative body—Costs.
35A.14.025	Election method—Creation of community municipal corporation.
35A.14.030	Filing of petition as approved by city.
35A.14.040	Election method—Hearing by review board—Notice.
35A.14.050	Decision of the county annexation review board—Filing—Date for election.
35A.14.070	Election method—Notice of election.
35A.14.080	Election method—Vote required for annexation—Proposition for assumption of indebtedness—Certification.
35A.14.085	Election method—Vote required for annexation with assumption of indebtedness—Without assumption of indebtedness.
35A.14.090	Election method—Ordinance providing for annexation, assumption of indebtedness.
35A.14.100	Election method—Effective date of annexation.
35A.14.110	Election method is alternative.
35A.14.120	Direct petition method—Notice to legislative body—Meeting—Assumption of indebtedness—Proposed zoning regulation—Contents of petition.
35A.14.130	Direct petition method—Notice of hearing.
35A.14.140	Direct petition method—Ordinance providing for annexation.
35A.14.150	Direct petition method—Effective date of annexation.
35A.14.160	Annexation review board—Composition.
35A.14.170	Time for filing nominations—Vacancies.
35A.14.180	Terms of members.
35A.14.190	Organization of annexation review board—Rules—Journal—Authority.
35A.14.200	Determination by county annexation review board—Factors considered—Filing of findings and decision.
35A.14.210	Court review of decisions of the county annexation review board.
35A.14.220	When review procedure may be dispensed with.
35A.14.231	Territory subject to annexation proposal—When annexation by another city or incorporation allowed.
35A.14.295	Annexation of unincorporated island of territory within code city—Resolution—Notice of hearing.
35A.14.297	Ordinance providing for annexation of unincorporated island of territory—Referendum.
35A.14.299	Annexation of unincorporated island of territory within code city—Referendum—Effective date if no referendum.
35A.14.300	Annexation for municipal purposes.
35A.14.310	Annexation of federal areas.
35A.14.320	Annexation of federal areas—Provisions of ordinance—Authority over annexed territory.
35A.14.330	Proposed zoning regulation—Purposes of regulations and restrictions.
35A.14.340	Notice and hearing—Filings and recordings.
35A.14.380	Ownership of assets of fire protection district—Assumption of responsibility of fire protection—When at least sixty percent of assessed valuation is annexed or incorporated in code city.
35A.14.400	Ownership of assets of fire protection district—When less than sixty percent of assessed valuation is annexed or incorporated in code city.
35A.14.410	When right of way may be included—Use of right of way line as corporate boundary.
35A.14.420	Alternative direct petition method—Notice to legislative body—Meeting—Assumption of indebtedness—Proposed zoning regulation—Contents of petition.
35A.14.430	Alternative direct petition method—Notice of hearing.
35A.14.440	Alternative direct petition method—Ordinance providing for annexation.
35A.14.450	Alternative direct petition method—Effective date of annexation.

- 35A.14.460 Annexation of territory within urban growth areas—Interlocal agreement—Public hearing—Ordinance providing for annexation.
- 35A.14.470 Annexation of territory within urban growth areas—County may initiate process with other cities or towns—Interlocal agreement—Public hearing—Ordinance—Referendum—Election, when necessary.
- 35A.14.500 Outstanding indebtedness not affected.
- 35A.14.550 Providing annexation information to public.
- 35A.14.700 Determining population of annexed territory—Certificate—As basis for allocation of state funds—Revised certificate.
- 35A.14.801 Road district taxes collected in annexed territory—Disposition—Notification of annexation.
- 35A.14.900 Cancellation, acquisition of franchise or permit for operation of public service business in territory annexed—Regulation of solid waste collection.
- 35A.14.901 Application of chapter to annexations involving water or sewer service.

*Annexation of fire protection district territory: RCW 35.02.190 through 35.02.205.*

*Resolution initiating election may provide for inclusion of annexed area into community municipal corporation: RCW 35.13.015.*

*Water, sewer, or fire districts, annexation of: Chapter 35.13A RCW.*

**35A.14.001 Actions subject to review by boundary review board.** Actions taken under chapter 35A.14 RCW may be subject to potential review by a boundary review board under chapter 36.93 RCW. [1989 c 84 § 38.]

**35A.14.005 Annexations beyond urban growth areas prohibited.** No code city located in a county in which urban growth areas have been designated under RCW 36.70A.110 may annex territory beyond an urban growth area. [1990 1st ex.s. c 17 § 31.]

**Severability—Part, section headings not law—1990 1st ex.s. c 17:** See RCW 36.70A.900 and 36.70A.901.

**35A.14.010 Authority for annexation—Consent of county commissioners for certain property.** Any portion of a county not incorporated as part of a city or town but lying contiguous to a code city may become a part of the charter code city or noncharter code city by annexation: PROVIDED, That property owned by a county, and used for the purpose of an agricultural fair as provided in chapter 15.76 RCW or chapter 36.37 RCW shall not be subject to annexation without the consent of the majority of the board of county commissioners. An area proposed to be annexed to a charter code city or noncharter code city shall be deemed contiguous thereto even though separated by water or tide or shore lands and, upon annexation of such area, any such intervening water and/or tide or shore lands shall become a part of such annexing city. [1967 ex.s. c 119 § 35A.14.010.]

**35A.14.015 Election method—Resolution for election—Contents of resolution.** When the legislative body of a charter code city or noncharter code city shall determine that the best interests and general welfare of such city would be served by the annexation of unincorporated territory contiguous to such city, such legislative body may, by resolution, call for an election to be held to submit to the voters of such territory the proposal for annexation. The resolution shall, subject to RCW 35.02.170, describe the boundaries of the area to be annexed, state the number of voters residing therein as nearly as may be, and shall provide that said city will pay the cost of the annexation election. The resolution may require that there also be submitted to the electorate of

the territory sought to be annexed a proposition that all property within the area annexed shall, upon annexation, be assessed and taxed at the same rate and on the same basis as the property of such annexing city is assessed and taxed to pay for all or any portion of the then-outstanding indebtedness of the city to which said area is annexed, which indebtedness has been approved by the voters, contracted for, or incurred prior to, or existing at, the date of annexation. Whenever such city has prepared and filed a proposed zoning regulation for the area to be annexed as provided for in RCW 35A.14.330 and 35A.14.340, the resolution initiating the election may also provide for the simultaneous adoption of the proposed zoning regulation upon approval of annexation by the electorate of the area to be annexed. A certified copy of the resolution shall be filed with the legislative authority of the county in which said territory is located. A certified copy of the resolution shall be filed with the boundary review board as provided for in chapter 36.93 RCW or the county annexation review board established by RCW 35A.14.200, unless such annexation proposal is within the provisions of RCW 35A.14.220. [1986 c 234 § 29; 1979 ex.s. c 124 § 1; 1975 1st ex.s. c 220 § 14; 1971 ex.s. c 251 § 10; 1967 ex.s. c 119 § 35A.14.015.]

**Severability—1979 ex.s. c 124:** "If any provision of this 1979 act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 124 § 11.]

**Legislative finding, intent—1975 1st ex.s. c 220:** See note following RCW 35.02.170.

**Severability—1971 ex.s. c 251:** See RCW 35A.90.050.

**35A.14.020 Election method—Contents of petition—Certification by auditor—Approval or rejection by legislative body—Costs.** When a petition is sufficient under the rules set forth in RCW 35A.01.040, calling for an election to vote upon the annexation of unincorporated territory contiguous to a code city, describing the boundaries of the area proposed to be annexed, stating the number of voters therein as nearly as may be, and signed by qualified electors resident in such territory equal in number to ten percent of the votes cast at the last state general election therein, it shall be filed with the auditor of the county in which all, or the greatest portion, of the territory is located, and a copy of the petition shall be filed with the legislative body of the code city. If the territory is located in more than a single county, the auditor of the county with whom the petition is filed shall act as the lead auditor and transmit a copy of the petition to the auditor of each other county within which a portion of the territory is located. The auditor or auditors shall examine the petition, and the auditor or lead auditor shall certify the sufficiency of the petition to the legislative authority of the code city.

If the signatures on the petition are certified as containing sufficient valid signatures, the city legislative authority shall, by resolution entered within sixty days thereafter, notify the petitioners, either by mail or by publication in the same manner notice of hearing is required by RCW 35A.14.040 to be published, of its approval or rejection of the proposed action. In approving the proposed action, the legislative body may require that there also be submitted to the electorate of the territory to be annexed, a proposition that all property within the area to be annexed shall, upon annex-

ation, be assessed and taxed at the same rate and on the same basis as the property of such annexing city is assessed and taxed to pay for all or any portion of the then-outstanding indebtedness of the city to which said area is annexed, which indebtedness has been approved by the voters, contracted for, or incurred prior to, or existing at, the date of annexation. Only after the legislative body has completed preparation and filing of a proposed zoning regulation for the area to be annexed as provided for in RCW 35A.14.330 and 35A.14.340, the legislative body in approving the proposed action, may require that the proposed zoning regulation be simultaneously adopted upon the approval of annexation by the electorate of the area to be annexed. The approval of the legislative body shall be a condition precedent to further proceedings upon the petition. The costs of conducting the election called for in the petition shall be a charge against the city concerned. The proposition or questions provided for in this section may be submitted to the voter either separately or as a single proposition. [1989 c 351 § 4; 1981 c 332 § 6; 1979 ex.s. c 124 § 2; 1967 ex.s. c 119 § 35A.14.020.]

**Severability—1981 c 332:** See note following RCW 35.13.165.

**Severability—1979 ex.s. c 124:** See note following RCW 35A.14.015.

**35A.14.025 Election method—Creation of community municipal corporation.** The resolution initiating the annexation of territory under RCW 35A.14.015, and the petition initiating the annexation of territory under RCW 35A.14.020, may provide for the simultaneous creation of a community municipal corporation and election of community council members as provided for in chapter 35.14 RCW, as separate ballot measures or as part of the same ballot measure authorizing the annexation, or for the simultaneous inclusion of the annexed area into a named existing community municipal corporation operating under chapter 35.14 RCW, as separate ballot measures or as part of the same ballot measure authorizing the annexation. If the petition so provides for the creation of a community municipal corporation and election of community council members, the petition shall describe the boundaries of the proposed service area, state the number of voters residing therein as nearly as may be, and pray for the election of community council members by the voters residing in the service area.

The ballots shall contain the words "For annexation and creation of community municipal corporation" and "Against annexation and creation of community municipal corporation," or "For creation of community municipal corporation" and "Against creation of community municipal corporation," as the case may be. Approval of either optional ballot proposition shall be by simple majority vote of the voters voting on the proposition, but the annexation must be authorized before a community municipal corporation is created. [1993 c 75 § 3.]

**35A.14.030 Filing of petition as approved by city.** Upon approval of the petition for election by the legislative body of the code city to which such territory is proposed to be annexed, the petition shall be filed with the legislative authority of the county in which such territory is located, along with a statement, in the form required by the city, of the provisions, if any there be, relating to assumption of the portion of

the debt that the city requires to be assumed by the owners of property of the area proposed to be annexed, and/or the simultaneous adoption of a proposed zoning regulation for the area. A copy of the petition and the statement, if any, shall also be filed with the boundary review board as provided for in chapter 36.93 RCW or the county annexation review board established by RCW 35A.14.160, unless such proposed annexation is within the provisions of RCW 35A.14.220. [1979 ex.s. c 124 § 3; 1971 ex.s. c 251 § 6; 1967 ex.s. c 119 § 35A.14.030.]

**Severability—1979 ex.s. c 124:** See note following RCW 35A.14.015.

**Severability—1971 ex.s. c 251:** See RCW 35A.90.050.

**35A.14.040 Election method—Hearing by review board—Notice.** Within ten days after receipt of a petition or resolution calling for an election on the question of annexation, the county annexation review board shall meet and, if the proposed annexation complies with the requirements of law, shall fix a date for a hearing thereon, to be held not less than fifteen days nor more than thirty days thereafter, of which hearing the city must give notice by publication at least once a week for two weeks prior thereto in one or more newspapers of general circulation within the city and in one or more newspapers of general circulation within the area proposed to be annexed. The hearing shall be held within the city to which the territory is proposed to be annexed, at a time and place to be designated by the board. Upon the day fixed, the board shall conduct a hearing upon the petition or resolution, at which hearing a representative of the city shall make a brief presentation to the board in explanation of the annexation and the benefits to be derived therefrom, and the petitioners and any resident of the city or the area proposed to be annexed shall be afforded a reasonable opportunity to be heard. The hearing may be adjourned from time to time in the board's discretion, not to exceed thirty days in all from the commencement of the hearing. [1967 ex.s. c 119 § 35A.14.040.]

**35A.14.050 Decision of the county annexation review board—Filing—Date for election.** After consideration of the proposed annexation as provided in RCW 35A.14.200, the county annexation review board, within thirty days after the final day of hearing, shall take one of the following actions:

- (1) Approval of the proposal as submitted.
- (2) Subject to RCW 35.02.170, modification of the proposal by adjusting boundaries to include or exclude territory; except that any such inclusion of territory shall not increase the total area of territory proposed for annexation by an amount exceeding the original proposal by more than five percent: PROVIDED, That the county annexation review board shall not adjust boundaries to include territory not included in the original proposal without first affording to residents and property owners of the area affected by such adjustment of boundaries an opportunity to be heard as to the proposal.
- (3) Disapproval of the proposal.

The written decision of the county annexation review board shall be filed with the board of county commissioners and with the legislative body of the city concerned. If the

annexation proposal is modified by the county annexation review board, such modification shall be fully set forth in the written decision. If the decision of the boundary review board or the county annexation review board is favorable to the annexation proposal, or the proposal as modified by the review board, the legislative body of the city at its next regular meeting if to be held within thirty days after receipt of the decision of the boundary review board or the county annexation review board, or at a special meeting to be held within that period, shall indicate to the county auditor its preference for a special election date for submission of such annexation proposal, with any modifications made by the review board, to the voters of the territory proposed to be annexed. The special election date that is so indicated shall be one of the dates for special elections provided under \*RCW 29.13.020 that is sixty or more days after the date the preference is indicated. The county legislative authority shall call the special election at the special election date so indicated by the city. If the boundary review board or the county annexation review board disapproves the annexation proposal, no further action shall be taken thereon, and no proposal for annexation of the same territory, or substantially the same as determined by the board, shall be initiated or considered for twelve months thereafter. [1989 c 351 § 5; 1986 c 234 § 30; 1975 1st ex.s. c 220 § 15; 1971 ex.s. c 251 § 7; 1967 ex.s. c 119 § 35A.14.050.]

**\*Reviser's note:** RCW 29.13.020 was recodified as RCW 29A.04.330 pursuant to 2003 c 111 § 2401, effective July 1, 2004.

**Legislative finding, intent—1975 1st ex.s. c 220:** See note following RCW 35.02.170.

**Severability—1971 ex.s. c 251:** See RCW 35A.90.050.

#### **35A.14.070 Election method—Notice of election.**

Notice of an annexation election shall particularly describe the boundaries of the area proposed to be annexed, as the same may have been modified by the boundary review board or the county annexation review board, state the objects of the election as prayed in the petition or as stated in the resolution, and require the voters to cast ballots which shall contain the words "For Annexation" or "Against Annexation" or words equivalent thereto, or contain the words "For Annexation and Adoption of Proposed Zoning Regulation", and "Against Annexation and Adoption of Proposed Zoning Regulation", or words equivalent thereto in case the simultaneous adoption of a proposed zoning regulation is proposed, and in case the assumption of all or a portion of indebtedness is proposed, shall contain an appropriate, separate proposition for or against the portion of indebtedness that the city requires to be assumed. The notice shall be posted for at least two weeks prior to the date of election in four public places within the area proposed to be annexed and published at least once a week for two weeks prior to the date of election in a newspaper of general circulation within the limits of the territory proposed to be annexed. Such notice shall be in addition to the notice required by general election law. [1994 c 223 § 38; 1979 ex.s. c 124 § 4; 1967 ex.s. c 119 § 35A.14.070.]

**Severability—1979 ex.s. c 124:** See note following RCW 35A.14.015.

**35A.14.080 Election method—Vote required for annexation—Proposition for assumption of indebtedness—Certification.** On the Monday next succeeding the

[Title 35A RCW—page 26]

annexation election, the county canvassing board shall proceed to canvass the returns thereof and shall submit the statement of canvass to the county legislative authority.

The proposition for or against annexation or for or against annexation and adoption of the proposed zoning regulation, as the case may be, shall be deemed approved if a majority of the votes cast on that proposition are cast in favor of annexation or in favor of annexation and adoption of the proposed zoning regulation, as the case may be. If a proposition for or against assumption of all or any portion of indebtedness was submitted to the electorate, it shall be deemed approved if a majority of at least three-fifths of the electors of the territory proposed to be annexed voting on such proposition vote in favor thereof, and the number of persons voting on such proposition constitutes not less than forty percent of the total number of votes cast in such territory at the last preceding general election. If either or both propositions were approved by the electors, the county legislative authority shall enter a finding to that effect on its minutes, a certified copy of which shall be forthwith transmitted to and filed with the clerk of the city to which annexation is proposed, together with a certified abstract of the vote showing the whole number who voted at the election, the number of votes cast for annexation and the number cast against annexation or for annexation and adoption of the proposed zoning regulation and the number cast against annexation and adoption of the proposed zoning regulation, as the case may be, and if a proposition for assumption of all or any portion of indebtedness was submitted to the electorate, the abstract shall include the number of votes cast for assumption of indebtedness and the number of votes cast against assumption of indebtedness, together with a statement of the total number of votes cast in such territory at the last preceding general election. [1979 ex.s. c 124 § 5; 1967 ex.s. c 119 § 35A.14.080.]

**Severability—1979 ex.s. c 124:** See note following RCW 35A.14.015.

**35A.14.085 Election method—Vote required for annexation with assumption of indebtedness—Without assumption of indebtedness.** A code city may cause a proposition authorizing an area to be annexed to the city to be submitted to the qualified voters of the area proposed to be annexed in the same ballot proposition as the question to authorize an assumption of indebtedness. If the measures are combined, the annexation and the assumption of indebtedness shall be authorized only if the proposition is approved by at least three-fifths of the voters of the area proposed to be annexed voting on the proposition, and the number of persons voting on the proposition constitutes not less than forty percent of the total number of votes cast in the area at the last preceding general election.

However, the code city council may adopt a resolution accepting the annexation, without the assumption of indebtedness, where the combined ballot proposition is approved by a simple majority vote of the voters voting on the proposition. [1989 c 84 § 23.]

**35A.14.090 Election method—Ordinance providing for annexation, assumption of indebtedness.** Upon filing of the certified copy of the finding of the county legislative authority, the clerk shall transmit it to the legislative body of

(2006 Ed.)

the city at the next regular meeting or as soon thereafter as practicable. If only a proposition relating to annexation or to annexation and adoption of a proposed zoning regulation was submitted to the voters and such proposition was approved, the legislative body shall adopt an ordinance providing for the annexation or adopt ordinances providing for the annexation and adoption of a proposed zoning regulation, as the case may be. If a proposition for annexation or for annexation and adoption of a proposed zoning regulation, and a proposition for assumption of all or any portion of indebtedness were both submitted, and both were approved, the legislative body shall adopt an ordinance providing for the annexation or for annexation and adoption of the proposed zoning regulation, including the assumption of the portion of indebtedness that was approved by the voters. If both propositions were submitted and only the annexation or the annexation and adoption of the proposed zoning regulation was approved, the legislative body may adopt an ordinance providing for the annexation or adopt ordinances providing for the annexation and adoption of the proposed zoning regulation, as the case may be, or the legislative body may refuse to annex when a proposal for assumption of the portion of indebtedness has been disapproved by the voters. [1979 ex.s. c 124 § 6; 1967 ex.s. c 119 § 35A.14.090.]

**Severability—1979 ex.s. c 124:** See note following RCW 35A.14.015.

**35A.14.100 Election method—Effective date of annexation.** Upon the date fixed in the ordinance of annexation, the area annexed shall become a part of the city. Upon the date fixed in the ordinances of annexation and adoption of the proposed zoning regulation, the area annexed shall become a part of the city, and property in the annexed area shall be subject to the proposed zoning regulation, as prepared and filed as provided for in RCW 35A.14.330 and 35A.14.340. All property within the territory hereafter annexed shall, if the proposition approved by the people so provides, be assessed and taxed at the same rate and on the same basis as the property of such annexing city is assessed and taxed to pay for the portion of indebtedness of the city that was approved by the voters. [1979 ex.s. c 124 § 7; 1967 ex.s. c 119 § 35A.14.100.]

**Severability—1979 ex.s. c 124:** See note following RCW 35A.14.015.

**35A.14.110 Election method is alternative.** The method of annexation provided for in RCW 35A.14.015 through 35A.14.100 is an alternative method and is additional to the other methods provided for in this chapter. [1967 ex.s. c 119 § 35A.14.110.]

**35A.14.120 Direct petition method—Notice to legislative body—Meeting—Assumption of indebtedness—Proposed zoning regulation—Contents of petition.** Proceedings for initiating annexation of unincorporated territory to a charter code city or noncharter code city may be commenced by the filing of a petition of property owners of the territory proposed to be annexed, in the following manner. This method of annexation shall be alternative to other methods provided in this chapter. Prior to the circulation of a petition for annexation, the initiating party or parties, who shall be the owners of not less than ten percent in value, according

to the assessed valuation for general taxation of the property for which annexation is sought, shall notify the legislative body of the code city in writing of their intention to commence annexation proceedings. The legislative body shall set a date, not later than sixty days after the filing of the request, for a meeting with the initiating parties to determine whether the code city will accept, reject, or geographically modify the proposed annexation, whether it shall require the simultaneous adoption of a proposed zoning regulation, if such a proposal has been prepared and filed for the area to be annexed as provided for in RCW 35A.14.330 and 35A.14.340, and whether it shall require the assumption of all or of any portion of existing city indebtedness by the area to be annexed. If the legislative body requires the assumption of all or of any portion of indebtedness and/or the adoption of a proposed zoning regulation, it shall record this action in its minutes and the petition for annexation shall be so drawn as to clearly indicate these facts. Approval by the legislative body shall be a condition precedent to circulation of the petition. There shall be no appeal from the decision of the legislative body. A petition for annexation of an area contiguous to a code city may be filed with the legislative body of the municipality to which annexation is desired. It must be signed by the owners, as defined by RCW 35A.01.040(9) (a) through (d), of not less than sixty percent in value, according to the assessed valuation for general taxation of the property for which annexation is petitioned: PROVIDED, That a petition for annexation of an area having at least eighty percent of the boundaries of such area contiguous with a portion of the boundaries of the code city, not including that portion of the boundary of the area proposed to be annexed that is coterminous with a portion of the boundary between two counties in this state, need be signed by only the owners of not less than fifty percent in value according to the assessed valuation for general taxation of the property for which the annexation is petitioned. Such petition shall set forth a description of the property according to government legal subdivisions or legal plats and shall be accompanied by a map which outlines the boundaries of the property sought to be annexed. If the legislative body has required the assumption of all or any portion of city indebtedness by the area annexed or the adoption of a proposed zoning regulation, these facts, together with a quotation of the minute entry of such requirement, or requirements, shall also be set forth in the petition. [1989 c 351 § 6; 1979 ex.s. c 124 § 8; 1967 ex.s. c 119 § 35A.14.120.]

**Severability—1979 ex.s. c 124:** See note following RCW 35A.14.015.

*Sufficiency of petition in code city: RCW 35A.01.040.*

**35A.14.130 Direct petition method—Notice of hearing.** Whenever such a petition for annexation is filed with the legislative body of a code city, which petition meets the requirements herein specified and is sufficient according to the rules set forth in RCW 35A.01.040, the legislative body may entertain the same, fix a date for a public hearing thereon and cause notice of the hearing to be published in one or more issues of a newspaper of general circulation in the city. The notice shall also be posted in three public places within the territory proposed for annexation, and shall specify the time and place of hearing and invite interested persons to appear

and voice approval or disapproval of the annexation. [1967 ex.s. c 119 § 35A.14.130.]

**35A.14.140 Direct petition method—Ordinance providing for annexation.** Following the hearing, if the legislative body determines to effect the annexation, they shall do so by ordinance. Subject to RCW 35.02.170, the ordinance may annex all or any portion of the proposed area but may not include in the annexation any property not described in the petition. Upon passage of the annexation ordinance a certified copy shall be filed with the board of county commissioners of the county in which the annexed property is located. [1986 c 234 § 31; 1975 1st ex.s. c 220 § 16; 1967 ex.s. c 119 § 35A.14.140.]

**Legislative finding, intent—1975 1st ex.s. c 220:** See note following RCW 35.02.170.

**35A.14.150 Direct petition method—Effective date of annexation.** Upon the date fixed in the ordinance of annexation the area annexed shall become part of the city. All property within the territory hereafter annexed shall, if the annexation petition so provided, be assessed and taxed at the same rate and on the same basis as the property of such annexing code city is assessed and taxed to pay for the portion of any then-outstanding indebtedness of the city to which said area is annexed, which indebtedness has been approved by the voters, contracted for, or incurred prior to, or existing at, the date of annexation and that the city has required to be assumed. If the annexation petition so provided, all property in the annexed area shall be subject to and a part of the proposed zoning regulation as prepared and filed as provided for in RCW 35A.14.330 and 35A.14.340. [1979 ex.s. c 124 § 9; 1967 ex.s. c 119 § 35A.14.150.]

**Severability—1979 ex.s. c 124:** See note following RCW 35A.14.015.

**35A.14.160 Annexation review board—Composition.** There is hereby established in each county of the state, other than counties having a boundary review board as provided for in chapter 189, Laws of 1967 [chapter 36.93 RCW], a board to be known as the "annexation review board for the county of . . . . (naming the county)", which shall be charged with the duty of reviewing proposals for annexation of unincorporated territory to charter code cities and noncharter code cities within its respective county; except that proposals within the provisions of RCW 35A.14.220 shall not be subject to the jurisdiction of such board.

In all counties in which a boundary review board is established pursuant to chapter 189, Laws of 1967 [chapter 36.93 RCW] review of proposals for annexation of unincorporated territory to charter code cities and noncharter code cities within such counties shall be subject to chapter 189, Laws of 1967 [chapter 36.93 RCW]. Whenever any county establishes a boundary review board pursuant to chapter 189, Laws of 1967 [chapter 36.93 RCW] the provisions of this act relating to annexation review boards shall not be applicable.

Except as provided above in this section, whenever one or more cities of a county shall have elected to be governed by this title by becoming a charter code city or noncharter code city, the governor shall, within forty-five days thereaf-

ter, appoint an annexation review board for such county consisting of five members appointed in the following manner:

Two members shall be selected independently by the governor. Three members shall be selected by the governor from the following sources: (1) One member shall be appointed from nominees of the individual members of the board of county commissioners; (2) one member shall be appointed from nominees of the individual mayors of charter code cities within such county; (3) one member shall be appointed from nominees of the individual mayors of noncharter code cities within such county.

Each source shall nominate at least two persons for an available position. In the event there are less than two nominees for any position, the governor may appoint the member for that position independently. If, at the time of appointment, there are within the county no cities of one of the classes named above as a nominating source, a position which would otherwise have been filled by nomination from such source shall be filled by independent appointment of the governor.

In making appointments independently and in making appointments from among nominees, the governor shall strive to appoint persons familiar with municipal government and administration by experience and/or training. [1971 ex.s. c 251 § 8; 1967 ex.s. c 119 § 35A.14.160.]

**Severability—1971 ex.s. c 251:** See RCW 35A.90.050.

**35A.14.170 Time for filing nominations—Vacancies.** Upon the initial formation of a county annexation review board the governor shall give written notice of such formation to all the nominating sources designated therein and nominations must be filed with the office of the governor within fifteen days after receipt of such notice. Nominations to fill vacancies caused by expiration of terms must be filed at least thirty days preceding the expiration of the terms. When vacancies occur in the membership of the board, the governor shall solicit nominations from the appropriate source and if none are filed within fifteen days thereafter, the governor shall fill the vacancy by an independent appointment. [1967 ex.s. c 119 § 35A.14.170.]

**35A.14.180 Terms of members.** The members of the annexation review board shall be appointed for five year terms. Upon the initial formation of a board, one member appointed by the governor independently shall be appointed for a four year term, the member appointed from among nominees of the board of county commissioners shall be appointed for a three year term, the member appointed from among nominees of the mayors of noncharter code cities shall be appointed for a three year term, and the remaining members shall be appointed for five year terms. Thereafter board members shall be appointed for five year terms as the terms of their predecessors expire. Members shall be eligible for reappointment to the board for successive terms. [1967 ex.s. c 119 § 35A.14.180.]

**35A.14.190 Organization of annexation review board—Rules—Journal—Authority.** The members of each annexation review board shall elect from among the members a chairman and a vice chairman, and may employ a nonmember as chief clerk, who shall be the secretary of the

board. The board shall determine its own rules and order of business, shall provide by resolution for the time and manner of holding regular or special meetings, and shall keep a journal of its proceedings which shall be a public record. A majority of all the members shall constitute a quorum for the transaction of business.

The chief clerk of the board, the chairman, or the vice chairman shall have the power to administer oaths and affirmations, certify to all official acts, issue subpoenas to any public officer or employee ordering him to testify before the board and produce public records, papers, books or documents. The chief clerk, the chairman or the vice chairman may invoke the aid of any court of competent jurisdiction to carry out such powers.

The planning departments of the county, other counties, and any city, and any state or regional planning agency shall furnish such information to the board at its request as may be reasonably necessary for the performance of its duties.

At the request of the board, the state attorney general shall provide counsel for the board. [1967 ex.s. c 119 § 35A.14.190.]

**35A.14.200 Determination by county annexation review board—Factors considered—Filing of findings and decision.** The jurisdiction of the county annexation review board shall be invoked upon the filing with the board of a resolution for an annexation election as provided in RCW 35A.14.015, or of a petition for an annexation election as provided in RCW 35A.14.030, and the board shall proceed to hold a hearing, upon notice, all as provided in RCW 35A.14.040. A verbatim record shall be made of all testimony presented at the hearing and upon request and payment of the reasonable costs thereof, a copy of the transcript of such testimony shall be provided to any person or governmental unit. The board shall make and file its decision, all as provided in RCW 35A.14.050, insofar as said section is applicable to the matter before the board. Dissenting members of the board shall have the right to have their written dissents included as part of the decision. In reaching a decision on an annexation proposal, the county annexation review board shall consider the factors affecting such proposal, which shall include but not be limited to the following:

(1) The immediate and prospective population of the area proposed to be annexed, the configuration of the area, land use and land uses, comprehensive use plans and zoning, per capita assessed valuation, topography, natural boundaries and drainage basins, the likelihood of significant growth in the area and in adjacent incorporated and unincorporated areas during the next ten years, location and coordination of community facilities and services; and

(2) The need for municipal services and the available municipal services, effect of ordinances and governmental codes, regulations and resolutions on existing uses, present cost and adequacy of governmental services and controls, the probable future needs for such services and controls, the probable effect of the annexation proposal or alternatives on cost and adequacy of services and controls in area and adjacent area, the effect on the finances, debt structure, and contractual obligations and rights of all affected governmental units; and

(3) The effect of the annexation proposal or alternatives on adjacent areas, on mutual economic and social interests, and on the local governmental structure of the county.

The county annexation review board shall determine whether the proposed annexation would be in the public interest and for the public welfare. The decision of the board shall be accompanied by the findings of the board. Such findings need not include specific data on all the factors listed in this section, but shall indicate that all such factors were considered. [1971 ex.s. c 251 § 11; 1967 ex.s. c 119 § 35A.14.200.]

**Severability—1971 ex.s. c 251:** See RCW 35A.90.050.

**35A.14.210 Court review of decisions of the county annexation review board.** Decisions of the county annexation review board shall be final unless within ten days from the date of said action a governmental unit affected by the decision or any person owning real property in or residing in the area proposed to be annexed files in the superior court a notice of appeal. The filing of such notice of appeal within such time limit shall stay the effective date of the decision of the board until such time as the appeal shall have been adjudicated or withdrawn. On appeal the superior court shall not take any evidence other than that contained in the record of the hearing before the board. The superior court may affirm the decision of the county annexation review board or remand the case for further proceedings; or the court may reverse the decision and remand if it finds that substantial rights have been prejudiced because the findings, conclusions, or decision of the board are:

- (1) In violation of constitutional provisions; or
- (2) In excess of the statutory authority or jurisdiction of the board; or
- (3) Made upon unlawful procedure; or
- (4) Affected by other error of law; or
- (5) Unsupported by material and substantial evidence in view of the entire record as submitted; or
- (6) Arbitrary or capricious. [1971 ex.s. c 251 § 12; 1967 ex.s. c 119 § 35A.14.210.]

**Severability—1971 ex.s. c 251:** See RCW 35A.90.050.

**35A.14.220 When review procedure may be dispensed with.** Annexations under the provisions of RCW 35A.14.295, 35A.14.297, 35A.14.300, and 35A.14.310 shall not be subject to review by the annexation review board: PROVIDED, That in any county in which a boundary review board is established under chapter 36.93 RCW all annexations shall be subject to review except as provided for in RCW 36.93.110. When the area proposed for annexation in a petition or resolution, initiated and filed under any of the methods of initiating annexation authorized by this chapter, is less than fifty acres or less than two million dollars in assessed valuation, review procedures shall not be required as to such annexation proposal, except as provided in chapter 36.93 RCW in those counties with a review board established pursuant to chapter 36.93 RCW: PROVIDED, That when an annexation proposal is initiated by the direct petition method authorized by RCW 35A.14.120, review procedures shall not be required without regard to acreage or assessed valuation, except as provided in chapter 36.93 RCW in those counties

with a boundary review board established pursuant to chapter 36.93 RCW. [1979 ex.s. c 18 § 27; 1973 1st ex.s. c 195 § 26; 1967 ex.s. c 119 § 35A.14.220.]

**Severability—1979 ex.s. c 18:** See note following RCW 35A.01.070.

**Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195:** See notes following RCW 84.52.043.

**35A.14.231 Territory subject to annexation proposal—When annexation by another city or incorporation allowed.** After a petition proposing an annexation by a code city has been filed with the city or the city legislative authority, or after a resolution proposing the annexation by a code city has been adopted by the city legislative authority, no territory included in the proposed annexation may be annexed by another city or town or incorporated into a city or town unless: (1) The boundary review board or county annexation review board created under RCW 35A.14.160 modifies the boundaries of the proposed annexation and removes the territory; (2) the boundary review board or county annexation review board created under RCW 35A.14.160 rejects the proposed annexation; or (3) the city legislative authority rejects the proposed annexation or voters defeat the ballot proposition authorizing the annexation. [1994 c 216 § 8.]

**Effective date—1994 c 216:** See note following RCW 35.02.015.

**35A.14.295 Annexation of unincorporated island of territory within code city—Resolution—Notice of hearing.** (1) The legislative body of a code city may resolve to annex territory containing residential property owners to the city if there is within the city, unincorporated territory:

(a) Containing less than one hundred acres and having at least eighty percent of the boundaries of such area contiguous to the code city; or

(b) Of any size and having at least eighty percent of the boundaries of such area contiguous to the city if such area existed before June 30, 1994, and is within the same county and within the same urban growth area designated under RCW 36.70A.110, and the city was planning under chapter 36.70A RCW as of June 30, 1994.

(2) The resolution shall describe the boundaries of the area to be annexed, state the number of voters residing therein as nearly as may be, and set a date for a public hearing on such resolution for annexation. Notice of the hearing shall be given by publication of the resolution at least once a week for two weeks prior to the date of the hearing, in one or more newspapers of general circulation within the code city and one or more newspapers of general circulation within the area to be annexed.

(3) For purposes of subsection (1)(b) of this section, territory bounded by a river, lake, or other body of water is considered contiguous to a city that is also bounded by the same river, lake, or other body of water. [1997 c 429 § 36; 1967 ex.s. c 119 § 35A.14.295.]

**Severability—1997 c 429:** See note following RCW 36.70A.3201.

**35A.14.297 Ordinance providing for annexation of unincorporated island of territory—Referendum.** On the date set for hearing as provided in RCW 35A.14.295, residents or property owners of the area included in the resolu-

tion for annexation shall be afforded an opportunity to be heard. The legislative body may provide by ordinance for annexation of the territory described in the resolution, but the effective date of the ordinance shall be not less than forty-five days after the passage thereof. The legislative body shall cause notice of the proposed effective date of the annexation, together with a description of the property to be annexed, to be published at least once each week for two weeks subsequent to passage of the ordinance, in one or more newspapers of general circulation within the city and in one or more newspapers of general circulation within the area to be annexed. If the annexation ordinance provides for assumption of indebtedness or adoption of a proposed zoning regulation, the notice shall include a statement of such requirements. Such annexation ordinance shall be subject to referendum for forty-five days after the passage thereof. Upon the filing of a timely and sufficient referendum petition as provided in RCW 35A.14.299 below, a referendum election shall be held as provided in RCW 35A.14.299, and the annexation shall be deemed approved by the voters unless a majority of the votes cast on the proposition are in opposition thereto. After the expiration of the forty-fifth day from, but excluding the date of passage of the annexation ordinance, if no timely and sufficient referendum petition has been filed, as provided by RCW 35A.14.299 below, the area annexed shall become a part of the code city upon the date fixed in the ordinance of annexation. [1967 ex.s. c 119 § 35A.14.297.]

**35A.14.299 Annexation of unincorporated island of territory within code city—Referendum—Effective date if no referendum.** (*Effective until January 1, 2007.*) Such annexation ordinance as provided for in RCW 35A.14.297 shall be subject to referendum for forty-five days after the passage thereof. Upon the filing of a timely and sufficient referendum petition with the legislative body, signed by qualified electors in number equal to not less than ten percent of the votes cast in the last general state election in the area to be annexed, the question of annexation shall be submitted to the voters of such area in a general election if one is to be held within ninety days or at a special election called for that purpose not less than forty-five days nor more than ninety days after the filing of the referendum petition. Notice of such election shall be given as provided in RCW 35A.14.070 and the election shall be conducted as provided in \*RCW 35A.14.060. The annexation shall be deemed approved by the voters unless a majority of the votes cast on the proposition are in opposition thereto.

After the expiration of the forty-fifth day from but excluding the date of passage of the annexation ordinance, if no timely and sufficient referendum petition has been filed, the area annexed shall become a part of the code city upon the date fixed in the ordinance of annexation. From and after such date, if the ordinance so provided, property in the annexed area shall be subject to the proposed zoning regulation prepared and filed for such area as provided in RCW 35A.14.330 and 35A.14.340. If the ordinance so provided, all property within the area annexed shall be assessed and taxed at the same rate and on the same basis as the property of such annexing code city is assessed and taxed to pay for any then outstanding indebtedness of such city contracted prior to, or

existing at, the date of annexation. [1967 ex.s. c 119 § 35A.14.299.]

\*Reviser's note: RCW 35A.14.060 was repealed by 1994 c 223 § 92. Cf. RCW 35A.29.151.

**35A.14.299 Annexation of unincorporated island of territory within code city—Referendum—Effective date if no referendum.** (*Effective January 1, 2007.*) Such annexation ordinance as provided for in RCW 35A.14.297 shall be subject to referendum for forty-five days after the passage thereof. Upon the filing of a timely and sufficient referendum petition with the legislative body, signed by qualified electors in number equal to not less than ten percent of the votes cast in the last general state election in the area to be annexed, the question of annexation shall be submitted to the voters of such area in a general election if one is to be held within ninety days or at a special election called for that purpose according to RCW 29A.04.330. Notice of such election shall be given as provided in RCW 35A.14.070 and the election shall be conducted as provided in RCW 35A.29.151. The annexation shall be deemed approved by the voters unless a majority of the votes cast on the proposition are in opposition thereto.

After the expiration of the forty-fifth day from but excluding the date of passage of the annexation ordinance, if no timely and sufficient referendum petition has been filed, the area annexed shall become a part of the code city upon the date fixed in the ordinance of annexation. From and after such date, if the ordinance so provided, property in the annexed area shall be subject to the proposed zoning regulation prepared and filed for such area as provided in RCW 35A.14.330 and 35A.14.340. If the ordinance so provided, all property within the area annexed shall be assessed and taxed at the same rate and on the same basis as the property of such annexing code city is assessed and taxed to pay for any then outstanding indebtedness of such city contracted prior to, or existing at, the date of annexation. [2006 c 344 § 25; 1967 ex.s. c 119 § 35A.14.299.]

**Effective date—2006 c 344 §§ 1-16 and 18-40:** See note following RCW 29A.04.311.

**35A.14.300 Annexation for municipal purposes.** Legislative bodies of code cities may by a majority vote annex territory outside the limits of such city whether contiguous or noncontiguous for any municipal purpose when such territory is owned by the city. [1981 c 332 § 7; 1967 ex.s. c 119 § 35A.14.300.]

**Severability—1981 c 332:** See note following RCW 35.13.165.

**35A.14.310 Annexation of federal areas.** A code city may annex an unincorporated area contiguous to the city that is owned by the federal government by adopting an ordinance providing for the annexation and which ordinance either acknowledges an agreement of the annexation by the government of the United States, or accepts a gift, grant, or lease from the government of the United States of the right to occupy, control, improve it or sublet it for commercial, manufacturing, or industrial purposes: PROVIDED, That this right of annexation shall not apply to any territory more than four miles from the corporate limits existing before such annexation. Whenever a code city proposes to annex territory

under this section, the city shall provide written notice of the proposed annexation to the legislative authority of the county within which such territory is located. The notice shall be provided at least thirty days before the city proposes to adopt the annexation ordinance. The city shall not adopt the annexation ordinance, and the annexation shall not occur under this section, if within twenty-five days of receipt of the notice, the county legislative authority adopts a resolution opposing the annexation, which resolution makes a finding that the proposed annexation will have an adverse fiscal impact on the county or road district. [1985 c 105 § 1; 1967 ex.s. c 119 § 35A.14.310.]

**35A.14.320 Annexation of federal areas—Provisions of ordinance—Authority over annexed territory.** In the ordinance annexing territory pursuant to a gift, grant, or lease from the government of the United States, a code city may include such tide and shorelands as may be necessary or convenient for the use thereof, and may include in the ordinance an acceptance of the terms and conditions attached to the gift, grant, or lease. A code city may cause territory annexed pursuant to a gift, grant, or lease of the government of the United States to be surveyed, subdivided and platted into lots, blocks, or tracts and lay out, reserve for public use, and improve streets, roads, alleys, slips, and other public places. It may grant or sublet any lot, block, or tract therein for commercial, manufacturing, or industrial purposes and reserve, receive and collect rents therefrom. It may expend the rents received therefrom in making and maintaining public improvements therein, and if any surplus remains at the end of any fiscal year, may transfer it to the city's current expense fund. [1967 ex.s. c 119 § 35A.14.320.]

**35A.14.330 Proposed zoning regulation—Purposes of regulations and restrictions.** The legislative body of any code city acting through a planning agency created pursuant to chapter 35A.63 RCW, or pursuant to its granted powers, may prepare a proposed zoning regulation to become effective upon the annexation of any area which might reasonably be expected to be annexed by the code city at any future time. Such proposed zoning regulation, to the extent deemed reasonably necessary by the legislative body to be in the interest of health, safety, morals and the general welfare may provide, among other things, for:

(1) The regulation and restriction within the area to be annexed of the location and the use of buildings, structures and land for residence, trade, industrial and other purposes; the height, number of stories, size, construction and design of buildings and other structures; the size of yards, courts and other open spaces on the lot or tract; the density of population; the set-back of buildings and structures along highways, parks or public water frontages; and the subdivision and development of land;

(2) The division of the area to be annexed into districts or zones of any size or shape, and within such districts or zones regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land;

(3) The appointment of a board of adjustment, to make, in appropriate cases and subject to appropriate conditions and safeguards established by ordinance, special exceptions in

harmony with the general purposes and intent of the proposed zoning regulation; and

(4) The time interval following an annexation during which the ordinance or resolution adopting any such proposed regulation, or any part thereof, must remain in effect before it may be amended, supplemented or modified by subsequent ordinance or resolution adopted by the annexing city or town.

All such regulations and restrictions shall be designed, among other things, to encourage the most appropriate use of land throughout the area to be annexed; to lessen traffic congestion and accidents; to secure safety from fire; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to promote a coordinated development of the unbuilt areas; to encourage the formation of neighborhood or community units; to secure an appropriate allotment of land area in new developments for all the requirements of community life; to conserve and restore natural beauty and other natural resources; to facilitate the adequate provision of transportation, water, sewerage and other public uses and requirements. [1967 ex.s. c 119 § 35A.14.330.]

**35A.14.340 Notice and hearing—Filings and recordings.** The legislative body of the code city shall hold two or more public hearings, to be held at least thirty days apart, upon the proposed zoning regulation, giving notice of the time and place thereof by publication in a newspaper of general circulation in the annexing city and the area to be annexed. A copy of the ordinance or resolution adopting or embodying such proposed zoning regulation or any part thereof or any amendment thereto, duly certified as a true copy by the clerk of the annexing city, shall be filed with the county auditor. A like certified copy of any map or plat referred to or adopted by the ordinance or resolution shall likewise be filed with the county auditor. The auditor shall record the ordinance or resolution and keep on file the map or plat. [1967 ex.s. c 119 § 35A.14.340.]

*Annexation of water, sewer, and fire districts: Chapter 35.13A RCW.*

**35A.14.380 Ownership of assets of fire protection district—Assumption of responsibility of fire protection—When at least sixty percent of assessed valuation is annexed or incorporated in code city.** If a portion of a fire protection district including at least sixty percent of the assessed valuation of the real property of the district is annexed to or incorporated into a code city, ownership of all of the assets of the district shall be vested in the code city, upon payment in cash, properties or contracts for fire protection services to the district within one year, of a percentage of the value of said assets equal to the percentage of the value of the real property in the entire district remaining outside the incorporated or annexed area.

The fire protection district may elect, by a vote of a majority of the persons residing outside the annexed area who vote on the proposition, to require the annexing code city to assume responsibility for the provision of fire protection, and for the operation and maintenance of the district's property, facilities, and equipment throughout the district and to pay the code city a reasonable fee for such fire protection,

[Title 35A RCW—page 32]

operation, and maintenance. [1981 c 332 § 8; 1967 ex.s. c 119 § 35A.14.380.]

**Severability—1981 c 332:** See note following RCW 35.13.165.

**35A.14.400 Ownership of assets of fire protection district—When less than sixty percent of assessed valuation is annexed or incorporated in code city.** If a portion of a fire protection district including less than sixty percent of the assessed value of the real property of the district is annexed to or incorporated into a code city, the ownership of all assets of the district shall remain in the district and the district shall pay to the code city within one year or within such period of time as the district continues to collect taxes in such incorporated or annexed areas, in cash, properties or contracts for fire protection services, a percentage of the value of said assets equal to the percentage of the value of the real property in the entire district lying within the area so incorporated or annexed: PROVIDED, That if less than five percent of the area of the district is affected, no payment shall be made to the code city except as provided in RCW 35.02.205. The fire protection district shall provide fire protection to the incorporated or annexed area for such period as the district continues to collect taxes levied in such annexed or incorporated area. [1989 c 267 § 2; 1967 ex.s. c 119 § 35A.14.400.]

**35A.14.410 When right of way may be included—Use of right of way line as corporate boundary.** The boundaries of a code city arising from an annexation of territory shall not include a portion of the right of way of any public street, road, or highway except where the boundary runs from one edge of the right of way to the other edge of the right of way. However, the right of way line of any public street, road, or highway, or any segment thereof, may be used to define a part of a corporate boundary in an annexation proceeding. [1989 c 84 § 9.]

**35A.14.420 Alternative direct petition method—Notice to legislative body—Meeting—Assumption of indebtedness—Proposed zoning regulation—Contents of petition.** (1) Proceedings for initiating annexation of unincorporated territory to a charter code city or noncharter code city may be commenced by the filing of a petition of property owners of the territory proposed to be annexed, in the following manner which is alternative to other methods provided in this chapter:

(a) Before the circulation of a petition for annexation, the initiating party or parties, who shall be the owners of not less than ten percent of the acreage for which annexation is sought, shall notify the legislative body of the code city in writing of their intention to commence annexation proceedings;

(b) The legislative body shall set a date, not later than sixty days after the filing of the request, for a meeting with the initiating parties to determine whether the code city will accept, reject, or geographically modify the proposed annexation, whether it shall require the simultaneous adoption of a proposed zoning regulation, if such a proposal has been prepared and filed for the area to be annexed as provided for in RCW 35A.14.330 and 35A.14.340, and whether it shall

(2006 Ed.)

require the assumption of all or any portion of existing city indebtedness by the area to be annexed;

(c) If the legislative body requires the assumption of all or any portion of indebtedness and/or the adoption of a proposed zoning regulation, it shall record this action in its minutes and the petition for annexation shall be so drawn as to clearly indicate these facts;

(d) Approval by the legislative body shall be a condition precedent to circulation of the petition; and

(e) There shall be no appeal from the decision of the legislative body.

(2) A petition for annexation of an area contiguous to a code city may be filed with the legislative body of the municipality to which annexation is desired. The petition for annexation must be signed by the owners of a majority of the acreage for which annexation is petitioned and a majority of the registered voters residing in the area for which annexation is petitioned.

(3) If no residents exist within the area proposed for annexation, the petition must be signed by the owners of a majority of the acreage for which annexation is petitioned.

(4) The petition shall set forth a legal description of the property proposed to be annexed that complies with RCW 35A.14.410, and shall be accompanied by a drawing that outlines the boundaries of the property sought to be annexed. If the legislative body has required the assumption of all or any portion of city indebtedness by the area annexed or the adoption of a proposed zoning regulation, these facts, together with a quotation of the minute entry of such requirement, or requirements, shall also be set forth in the petition. [2003 c 331 § 10.]

**Intent—Severability—Effective date—2003 c 331:** See notes following RCW 35.13.410.

#### **35A.14.430 Alternative direct petition method—**

**Notice of hearing.** When a petition for annexation is filed with the legislative body of a code city, that meets the requirements of RCW 35A.01.040 and 35A.14.420, the legislative body may entertain the same, fix a date for a public hearing thereon and cause notice of the hearing to be published in one or more issues of a newspaper of general circulation in the city. The notice shall also be posted in three public places within the territory proposed for annexation, and shall specify the time and place of hearing and invite interested persons to appear and voice approval or disapproval of the annexation. [2003 c 331 § 11.]

**Intent—Severability—Effective date—2003 c 331:** See notes following RCW 35.13.410.

#### **35A.14.440 Alternative direct petition method—**

**Ordinance providing for annexation.** Following the hearing, if the legislative body determines to effect the annexation, they shall do so by ordinance. Subject to RCW 35A.14.410, the ordinance may annex all or any portion of the proposed area but may not include in the annexation any property not described in the petition. Upon passage of the annexation ordinance, a certified copy shall be filed with the board of county commissioners of the county in which the annexed property is located. [2003 c 331 § 12.]

**Intent—Severability—Effective date—2003 c 331:** See notes following RCW 35.13.410.

(2006 Ed.)

#### **35A.14.450 Alternative direct petition method—**

**Effective date of annexation.** Upon the date fixed in the ordinance of annexation, the area annexed shall become part of the city. All property within the annexed territory shall, if the annexation petition so provided, be assessed and taxed at the same rate and on the same basis as the property of the annexing code city is assessed and taxed to pay for the portion of any then-outstanding indebtedness of the city to which the area is annexed, which indebtedness has been approved by the voters, contracted for, or incurred before, or existing at, the date of annexation and that the city has required to be assumed. If the annexation petition so provided, all property in the annexed area shall be subject to and a part of the proposed zoning regulation as prepared and filed as provided for in RCW 35A.14.330 and 35A.14.340. [2003 c 331 § 13.]

**Intent—Severability—Effective date—2003 c 331:** See notes following RCW 35.13.410.

#### **35A.14.460 Annexation of territory within urban growth areas—Interlocal agreement—Public hearing—Ordinance providing for annexation.**

(1) The legislative body of a county or code city planning under chapter 36.70A RCW and subject to the requirements of RCW 36.70A.215 may initiate an annexation process for unincorporated territory by adopting a resolution commencing negotiations for an interlocal agreement as provided in chapter 39.34 RCW between a county and any code city within the county. The territory proposed for annexation must meet the following criteria: (a) Be within the code city urban growth area designated under RCW 36.70A.110, and (b) at least sixty percent of the boundaries of the territory proposed for annexation must be contiguous to the annexing code city or one or more cities or towns.

(2) If the territory proposed for annexation has been designated in an adopted county comprehensive plan as part of an urban growth area, urban service area, or potential annexation area for a specific city, or if the urban growth area territory proposed for annexation has been designated in a written agreement between a city and a county for annexation to a specific city or town, the designation or designations shall receive full consideration before a city or county may initiate the annexation process provided for in RCW 35A.14.470.

(3) The agreement shall describe the boundaries of the territory to be annexed. A public hearing shall be held by each legislative body, separately or jointly, before the agreement is executed. Each legislative body holding a public hearing shall, separately or jointly, publish the agreement at least once a week for two weeks before the date of the hearing in one or more newspapers of general circulation within the territory proposed for annexation.

(4) Following adoption and execution of the agreement by both legislative bodies, the city legislative body shall adopt an ordinance providing for the annexation of the territory described in the agreement. The legislative body shall cause notice of the proposed effective date of the annexation, together with a description of the property to be annexed, to be published at least once each week for two weeks subsequent to passage of the ordinance, in one or more newspapers of general circulation within the city and in one or more newspapers of general circulation within the territory to be annexed. If the annexation ordinance provides for assumption

tion of indebtedness or adoption of a proposed zoning regulation, the notice shall include a statement of the requirements. Any territory to be annexed through an ordinance adopted under this section is annexed and becomes a part of the city upon the date fixed in the ordinance of annexation, which date may not be fewer than forty-five days after adoption of the ordinance. [2003 c 299 § 3.]

**35A.14.470 Annexation of territory within urban growth areas—County may initiate process with other cities or towns—Interlocal agreement—Public hearing—Ordinance—Referendum—Election, when necessary. (Effective until January 1, 2007.)** (1) The legislative body of any county planning under chapter 36.70A RCW and subject to the requirements of RCW 36.70A.215 may initiate an annexation process with the legislative body of any other cities or towns that are contiguous to the territory proposed for annexation in RCW 35A.14.460 if:

(a) The county legislative body initiated an annexation process as provided in RCW 35A.14.460; and

(b) The affected city legislative body adopted a responsive resolution rejecting the proposed annexation or declined to create the requested interlocal agreement with the county; or

(c) More than one hundred eighty days have passed since adoption of a county resolution as provided for in RCW 35A.14.460 and the parties have not adopted or executed an interlocal agreement providing for the annexation of unincorporated territory. The legislative body for either the county or an affected city may, however, pass a resolution extending the negotiation period for one or more six-month periods if a public hearing is held and findings of fact are made prior to each extension.

(2) Any county initiating the process provided for in subsection (1) of this section must do so by adopting a resolution commencing negotiations for an interlocal agreement as provided in chapter 39.34 RCW between the county and any city or town within the county. The annexation area must be within an urban growth area designated under RCW 36.70A.110 and at least sixty percent of the boundaries of the territory to be annexed must be contiguous to one or more cities or towns.

(3) The agreement shall describe the boundaries of the territory to be annexed. A public hearing shall be held by each legislative body, separately or jointly, before the agreement is executed. Each legislative body holding a public hearing shall, separately or jointly, publish the agreement at least once a week for two weeks before the date of the hearing in one or more newspapers of general circulation within the territory proposed for annexation.

(4) Following adoption and execution of the agreement by both legislative bodies, the city or town legislative body shall adopt an ordinance providing for the annexation. The legislative body shall cause notice of the proposed effective date of the annexation, together with a description of the property to be annexed, to be published at least once each week for two weeks subsequent to passage of the ordinance, in one or more newspapers of general circulation within the city and in one or more newspapers of general circulation within the territory to be annexed. If the annexation ordinance provides for assumption of indebtedness or adoption of

a proposed zoning regulation, the notice shall include a statement of the requirements. Any area to be annexed through an ordinance adopted under this section is annexed and becomes a part of the city or town upon the date fixed in the ordinance of annexation, which date may not be less than forty-five days after adoption of the ordinance.

(5) The annexation ordinances provided for in RCW 35A.14.460(4) and subsection (4) of this section are subject to referendum for forty-five days after passage. Upon the filing of a timely and sufficient referendum petition with the legislative body, signed by registered voters in number equal to not less than fifteen percent of the votes cast in the last general state election in the area to be annexed, the question of annexation shall be submitted to the voters of the area in a general election if one is to be held within ninety days or at a special election called for that purpose not less than forty-five days nor more than ninety days after the filing of the referendum petition. Notice of the election shall be given as provided in RCW 35A.14.070 and the election shall be conducted as provided in the general election law. The annexation shall be deemed approved by the voters unless a majority of the votes cast on the proposition are in opposition thereto.

After the expiration of the forty-fifth day from but excluding the date of passage of the annexation ordinance, if no timely and sufficient referendum petition has been filed, the area annexed shall become a part of the city or town upon the date fixed in the ordinance of annexation.

(6) If more than one city or town adopts interlocal agreements providing for annexation of the same unincorporated territory as provided by this section, an election shall be held in the area to be annexed pursuant to RCW 35A.14.070. In addition to the provisions of RCW 35A.14.070, the ballot shall also contain a separate proposition allowing voters to cast votes in favor of annexation to any one city or town participating in an interlocal agreement as provided by this section. If a majority of voters voting on the proposition vote against annexation, the proposition is defeated. If, however, a majority of voters voting in the election approve annexation, the area shall be annexed to the city or town receiving the highest number of votes among those cast in favor of annexation.

(7) Costs for an election required under subsection (6) of this section shall be borne by the county. [2003 c 299 § 4.]

**35A.14.470 Annexation of territory within urban growth areas—County may initiate process with other cities or towns—Interlocal agreement—Public hearing—Ordinance—Referendum—Election, when necessary. (Effective January 1, 2007.)** (1) The legislative body of any county planning under chapter 36.70A RCW and subject to the requirements of RCW 36.70A.215 may initiate an annexation process with the legislative body of any other cities or towns that are contiguous to the territory proposed for annexation in RCW 35A.14.460 if:

(a) The county legislative body initiated an annexation process as provided in RCW 35A.14.460; and

(b) The affected city legislative body adopted a responsive resolution rejecting the proposed annexation or declined to create the requested interlocal agreement with the county; or

(c) More than one hundred eighty days have passed since adoption of a county resolution as provided for in RCW 35A.14.460 and the parties have not adopted or executed an interlocal agreement providing for the annexation of unincorporated territory. The legislative body for either the county or an affected city may, however, pass a resolution extending the negotiation period for one or more six-month periods if a public hearing is held and findings of fact are made prior to each extension.

(2) Any county initiating the process provided for in subsection (1) of this section must do so by adopting a resolution commencing negotiations for an interlocal agreement as provided in chapter 39.34 RCW between the county and any city or town within the county. The annexation area must be within an urban growth area designated under RCW 36.70A.110 and at least sixty percent of the boundaries of the territory to be annexed must be contiguous to one or more cities or towns.

(3) The agreement shall describe the boundaries of the territory to be annexed. A public hearing shall be held by each legislative body, separately or jointly, before the agreement is executed. Each legislative body holding a public hearing shall, separately or jointly, publish the agreement at least once a week for two weeks before the date of the hearing in one or more newspapers of general circulation within the territory proposed for annexation.

(4) Following adoption and execution of the agreement by both legislative bodies, the city or town legislative body shall adopt an ordinance providing for the annexation. The legislative body shall cause notice of the proposed effective date of the annexation, together with a description of the property to be annexed, to be published at least once each week for two weeks subsequent to passage of the ordinance, in one or more newspapers of general circulation within the city and in one or more newspapers of general circulation within the territory to be annexed. If the annexation ordinance provides for assumption of indebtedness or adoption of a proposed zoning regulation, the notice shall include a statement of the requirements. Any area to be annexed through an ordinance adopted under this section is annexed and becomes a part of the city or town upon the date fixed in the ordinance of annexation, which date may not be less than forty-five days after adoption of the ordinance.

(5) The annexation ordinances provided for in RCW 35A.14.460(4) and subsection (4) of this section are subject to referendum for forty-five days after passage. Upon the filing of a timely and sufficient referendum petition with the legislative body, signed by registered voters in number equal to not less than fifteen percent of the votes cast in the last general state election in the area to be annexed, the question of annexation shall be submitted to the voters of the area in a general election if one is to be held within ninety days or at a special election called for that purpose according to RCW 29A.04.330. Notice of the election shall be given as provided in RCW 35A.14.070 and the election shall be conducted as provided in the general election law. The annexation shall be deemed approved by the voters unless a majority of the votes cast on the proposition are in opposition thereto.

After the expiration of the forty-fifth day from but excluding the date of passage of the annexation ordinance, if no timely and sufficient referendum petition has been filed,

the area annexed shall become a part of the city or town upon the date fixed in the ordinance of annexation.

(6) If more than one city or town adopts interlocal agreements providing for annexation of the same unincorporated territory as provided by this section, an election shall be held in the area to be annexed pursuant to RCW 35A.14.070. In addition to the provisions of RCW 35A.14.070, the ballot shall also contain a separate proposition allowing voters to cast votes in favor of annexation to any one city or town participating in an interlocal agreement as provided by this section. If a majority of voters voting on the proposition vote against annexation, the proposition is defeated. If, however, a majority of voters voting in the election approve annexation, the area shall be annexed to the city or town receiving the highest number of votes among those cast in favor of annexation.

(7) Costs for an election required under subsection (6) of this section shall be borne by the county. [2006 c 344 § 26; 2003 c 299 § 4.]

**Effective date—2006 c 344 §§ 1-16 and 18-40:** See note following RCW 29A.04.311.

#### **35A.14.500 Outstanding indebtedness not affected.**

When any portion of a fire protection district is annexed by or incorporated into a code city, any outstanding indebtedness, bonded or otherwise, shall remain an obligation of the taxable property annexed or incorporated as if the annexation or incorporation had not occurred. [1967 ex.s. c 119 § 35A.14.500.]

**35A.14.550 Providing annexation information to public.** A code city can provide factual public information on the effects of pending annexation proposed for the code city. [1989 c 351 § 9.]

**35A.14.700 Determining population of annexed territory—Certificate—As basis for allocation of state funds—Revised certificate.** Whenever any territory is annexed to a code city, a certificate as hereinafter provided shall be submitted in triplicate to the office of financial management within thirty days of the effective date of annexation specified in the relevant ordinance. After approval of the certificate, the office of financial management shall retain the original copy in its files, and transmit the second copy to the department of transportation and return the third copy to the code city. Such certificates shall be in such form and contain such information as shall be prescribed by the office of financial management. A copy of the complete ordinance containing a legal description and a map showing specifically the boundaries of the annexed territory shall be attached to each of the three copies of the certificate. The certificate shall be signed by the mayor and attested by the city clerk. Upon request, the office of financial management shall furnish certification forms to any code city.

Upon approval of the annexation certificate, the office of financial management shall forward to each state official or department responsible for making allocations or payments to cities or towns, a revised certificate reflecting the increase in population due to such annexation. Upon and after the date of the commencement of the next quarterly period, the popu-

lation determination indicated in such revised certificate shall be used as the basis for the allocation and payment of state funds to such city or town.

For the purposes of this section, each quarterly period shall commence on the first day of the months of January, April, July, and October. Whenever a revised certificate is forwarded by the office of financial management thirty days or less prior to the commencement of the next quarterly period, the population of the annexed territory shall not be considered until the commencement of the following quarterly period.

The resident population of the annexed territory shall be determined by, or under the direction of, the mayor of the code city. Such population determination shall consist of an actual enumeration of the population which shall be made in accordance with practices and policies, and subject to the approval of the office of financial management. The population shall be determined as of the effective date of annexation as specified in the relevant ordinance.

Until an annexation certificate is filed and approved as provided herein, such annexed territory shall not be considered by the office of financial management in determining the population of such code city. [1979 ex.s. c 18 § 28; 1979 c 151 § 35; 1975 1st ex.s. c 31 § 2; 1967 ex.s. c 119 § 35A.14.700.]

**Severability—1979 ex.s. c 18:** See note following RCW 35A.01.070.

*Population determinations, office of financial management: Chapter 43.62 RCW.*

**35A.14.801 Road district taxes collected in annexed territory—Disposition—Notification of annexation.** Whenever any territory is annexed to a code city which is part of a road district of the county and road district taxes have been levied but not collected on any property within the annexed territory, the same shall when collected by the county treasurer be paid to the code city and by the city placed in the city street fund; except that road district taxes that are delinquent before the date of annexation shall be paid to the county and placed in the county road fund. This section shall not apply to any special assessments due in behalf of such property. The code city is required to provide notification, by certified mail, that includes a list of annexed parcel numbers, to the county treasurer and assessor at least thirty days before the effective date of the annexation. The county treasurer is only required to remit to the code city those road taxes collected thirty or more days after receipt of the notification. [2001 c 299 § 3; 1998 c 106 § 2; 1971 ex.s. c 251 § 14.]

**Severability—1971 ex.s. c 251:** See RCW 35A.90.050.

**35A.14.900 Cancellation, acquisition of franchise or permit for operation of public service business in territory annexed—Regulation of solid waste collection.** The annexation by any code city of any territory pursuant to this chapter shall cancel, as of the effective date of such annexation, any franchise or permit theretofore granted to any person, firm or corporation by the state of Washington, or by the governing body of such annexed territory, authorizing or otherwise permitting the operation of any public utility, including but not limited to, public electric, water, transportation,

garbage disposal or other similar public service business or facility within the limits of the annexed territory, but the holder of any such franchise or permit canceled pursuant to this section shall be forthwith granted by the annexing code city a franchise to continue such business within the annexed territory for a term of not less than seven years from the date of issuance thereof, and the annexing code city, by franchise, permit or public operation, shall not extend similar or competing services to the annexed territory except upon a proper showing of the inability or refusal of such person, firm or corporation to adequately service said annexed territory at a reasonable price: **PROVIDED,** That the provisions of this section shall not preclude the purchase by the annexing code city of said franchise, business, or facilities at an agreed or negotiated price, or from acquiring the same by condemnation upon payment of damages, including a reasonable amount for the loss of the franchise or permit. In the event that any person, firm or corporation whose franchise or permit has been canceled by the terms of this section shall suffer any measurable damages as a result of any annexation pursuant to the provisions of the laws above-mentioned, such person, firm or corporation shall have a right of action against any code city causing such damages.

After an annexation by a code city, the utilities and transportation commission shall continue to regulate solid waste collection within the limits of the annexed territory until such time as the city notifies the commission, in writing, of its decision to contract for solid waste collection or provide solid waste collection itself pursuant to RCW 81.77.020. In the event the annexing city at any time decides to contract for solid waste collection or decides to undertake solid waste collection itself, the holder of any such franchise or permit that is so canceled in whole or in part shall be forthwith granted by the annexing city a franchise to continue such business within the annexed territory for a term of not less than the remaining term of the original franchise or permit, or not less than seven years, whichever is the shorter period, and the city, by franchise, permit, or public operation, shall not extend similar or competing services to the annexed territory except upon a proper showing of the inability or refusal of such person, firm, or corporation to adequately service the annexed territory at a reasonable price. Upon the effective date specified by the code city council's ordinance or resolution to have the code city contract for solid waste collection or undertake solid waste collection itself, the transition period specified in this section begins to run. This section does not preclude the purchase by the annexing city of the franchise, business, or facilities at an agreed or negotiated price, or from acquiring the same by condemnation upon payment of damages, including a reasonable amount for the loss of the franchise or permit. In the event that any person, firm, or corporation whose franchise or permit has been canceled by the terms of this section suffers any measurable damages as a result of any annexation pursuant to this chapter, such person, firm, or corporation has a right of action against any city causing such damages. [1997 c 171 § 3; 1967 ex.s. c 119 § 35A.14.900.]

**Severability—1997 c 171:** See note following RCW 35.02.160.