PLANNING COMMISSION
September 15, 2026
6:30 PM
Planning Commission

a. Call to Order

b. Pledge of Allegiance

c. Roll Call

d. Consent Agenda

1. Minutes from August 18, 2026 Planning Commission Meeting

e. General Public Comments

Please keep comments to three minutes or less. Because state law prohibits the use of city facilities for the purpose of supporting or opposing a campaign or ballot proposition, we respectfully request that public comment not make reference to such matters.

Written comments will be accepted by letter or via email at nmcgowan@sedro-woolley.gov Attn: 'Public Comment.' until 4:30pm the day before the meeting.

f. Public Hearing(s)

1. Updates to Title 15 & 17 SWMC and the Design Standards & Guidelines - *Action Requested*

g. Unfinished Business

1. Updates to Titles 2, 13, 15, 16, and 17 SWMC - Repeal & Replace *Consolidated Planning Procedures* - 4th Read
2. Updates to Chapter 17.65 SWMC *Regulations for Critical Areas* - 1st Read

h. New Business

i. Information/Discussion Items

1. Planning Commission Participation and Expectations

j. Adjournment

PLANNING COMMISSIONERS

Pat Huggins	Matthew Desvoigne	Madison Bowman
Joe Fattizzi	Jessica Jasper	Joe Franett

The City of Sedro-Woolley complies with applicable Federal civil rights laws and does not discriminate on the basis of race, color, national origin, limited English proficiency, age, disability, or sex. The City of Sedro-Woolley doesn't exclude people or treat them differently because of race, color, national origin, limited English proficiency, age, disability, or sex.

The City of Sedro-Woolley also complies with applicable state laws and doesn't discriminate on the basis of creed, gender, gender expression or identity, sexual orientation, marital status, religion, honorably discharged veteran or military status, or the use of a trained dog guide or service animal by a person with a disability.

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Regular Meeting of the Planning Commission
August 18, 2026 - 6:30 PM

a. Call to Order

Planning Commission Chair, Joe Franett, called the meeting to order at (6:31PM).

b. Pledge of Allegiance

c. Roll Call

Commissioners Present:

- Commissioner Joe Franett
- Commissioner Joe Fattizzi
- Commissioner Jessica Jasper
- Commissioner Pat Huggins
- Commissioner Matthew Desvoigne
- Commissioner Madison Bowman

Staff Present:

- Planner Nicole McGowan
- Associate Planner Ashton Sandoval Oaks
- Permit Technician Nicole Pfluger

d. Consent Agenda

1. Minutes from July 21, 2026 Planning Commission Meeting

Minutes from July 21, 2026, Planning Commission Meeting approved as written.

e. General Public Comments

Please keep comments to three minutes or less. Because state law prohibits the use of city facilities for the purpose of supporting or opposing a campaign or ballot proposition, we respectfully request that public comment not make reference to such matters.

Written comments will be accepted by letter or via email at nmcgowan@sedro-woolley.gov Attn: 'Public Comment.' until 4:30pm the day before the meeting.

General Public Comments opened at (6:35PM).

- No online participants
- No participants were in attendance
- Staff did not receive any written comments

General Public Comments closed at (6:36PM).

f. Public Hearing(s)

None.

g. Unfinished Business

1. Updates to Title 2, 13, 15, 16, and 17 SWMC - Repeal & Replace *Consolidated Planning Procedures* - 3rd Read

City Planner, Nicole McGowan, recapped previous feedback for the updates to Title 2, 13, 15, 16, and 17 SWMC — Repeal & Replace Consolidated Planning Procedures — 3rd Read. It was mentioned that the bulk of the revisions made for the 3rd read revolved around the definitions in Chapter 17.04.030 SWMC and the permit review process in section 15.15 SWMC. Staff proposed several changes in attempt to simplify definitions and remove obsolete definitions. It was noted that some research is still needed for some of the definitions, specifically the topic of vesting. She also mentioned that staff reviewed SWMC 15.15.014 (D) the general process for applications and decisions, and felt that it was largely unnecessary due to the proposed tables that already indicate general permitting processes for specific permit types. The content detailing specific administrative procedures from 15.15.014 (D) SWMC was proposed to move to be moved to Chapter 17.04 SWMC — Administrative Provisions.

Some Planning Commissioners commented that they were happy with the changes. There was discussion that it is unnecessary for application requirements to be listed in the code, and better suited to be listed on the applications themselves, both for ease of future amendments and ease for applicants.

h. New Business

1. Updates to Title 15 & 17 SWMC and the Design Standards & Guidelines - 1st Read

Associate Planner, Ashton Sandoval Oaks, introduced the proposed Updates to Title 15 & 17 SWMC and the Design Standards & Guidelines — 1st read. In his research, he found that the mural code hadn't been updated since 1989. The rules and requirements for murals and government regulations of them have changed a lot since then. He stated that the goal was to create objective standards that don't restrict the content of murals or signs. Ashton informed the Commissioners that there was an update to the Washington state legislation in the GMA. In 2023, the legislature included design standards and the limitations of the governments for those into the GMA. He explained that because we are a GMA planning city, there are certain local design review standards that we have to uphold. One of those is that we have to have objectivity in our standards, and the other main point is that we cannot limit bulk restrictions through our design standards, such as height reductions, step back or setback reductions, outside what is permitted in the underlying zone.

In 2025, there were some complaints about paint colors and quality used in the downtown area. Staff included an exterior paint code that is only applicable to the Central Business District (CBD), and changed the threshold for when a design review permit may be required within the CBD.

Ashton highlighted some of the big changes, such as the addition of requirements for Electric Vehicle (EV) charging in larger parking lots, as well as use of a common planning term, privately owned public open space, or "POPOS", in place of multiple other references, such as open space, common space, public open space.

Planning Commissioners asked several clarifying questions on some of the terminology and standards, such as graffiti, discussion about shade analysis reports, and garage doors in the downtown area. There was a lot of discussion about Chapter 6 — Additional Standards for Residential Recreation Areas in Subdivisions & Multifamily Development.

It was recommended by Planning Commissioner, Madison Bowman, to consider adding additional options to Group C of 2.3.1 and 9.4.1. She stated that stone masonry can be very expensive and to consider architectural style. Using Bucko Estates as an example of being a modern farmhouse-style development, and that stone masonry on the exterior of those homes is not preferred. Many new owners do not want permanent benches or planters. Further discussion about pots and planters and the enforcement of maintenance of flowers continued.

There was discussion and clarifying questions answered about Signs and Murals, as well as some suggested grammar corrections given by Planning Commissioners.

Commissioner Joe Fattizzi made a motion to hold a Public Hearing at the next Planning Commission Meeting for Updates to Title 15 & 17 SWMC and the Design Standards & Guidelines. Seconded by Commissioner Jessica Jasper.
Motion Carried (6-0).

i. Adjournment

Time (8:31PM).

ATTEST:	APPROVED:
______________________________	______________________________
Planning Commission Chair	Planning Commission Secretary

Planning Commission Agenda Item

Agenda Item No.:	f.1.
Date:	September 15, 2026
From:	Ashton Sandoval Oaks, Assistant Planner
Subject:	Updates to Title 15 & 17 SWMC and the Design Standards & Guidelines - *Action Requested*

RECOMMENDED ACTION:

Following public hearing, recommend approval to City Council of the proposed amendments to Titles 15 and 17 of the Sedro-Woolley Municipal Code and the City of Sedro-Woolley Design Standards and Guidelines.

BACKGROUND/SUMMARY INFORMATION:

Staff received **zero** written comments from the Planning Commission regarding the proposed amendments by the August 24, 2026, deadline.

Revisions since the previous Planning Commission meeting have been highlighted in both the draft municipal code and design standards amendments. Major changes since the previous meeting include:

- Adding language recommended from the City's legal team (Proposed SWMC 17.42.190, .191, and .192).
- Removal of insurance requirements in the voluntary façade easement code.
- Visual prominence requirements (DS&G 2.3.1).
- The intent statement of the CBD within the DS&G
- Small technical changes to facilitate commercial and "missing middle housing" development (Clarifying when certain projects are exempt from certain requirements).

In 2023, the Washington State Legislature amended the GMA to include design review and limitations at the local level. State law now requires local governments that use a design review process to develop clear and objective design standards. These standards are not permitted to lower density, height, bulk, or scale below the standard requirements of the underlying zone. The Sedro-Woolley Design Standards and Guidelines have been amended to reflect the changes in state law. No changes to the design standards of the Urban Village Mixed-Use (UVMU) Overlay Zone are proposed at this time, excluding formatting changes.

Major changes to the Design Standards and Guidelines include:

- Increasing the threshold that triggers design review so that smaller projects (such as a change in exterior siding) are exempt from design review.
- Creating objective standards in the Design Standards and Guidelines.
- Consolidating requirements in the Design Standards that achieve the same intent as another requirement found elsewhere in the Design Standards; reducing conflicting standards.

Staff are also introducing an exterior paint code for the CBD Core. This will allow property owners to paint their building without obtaining a design review approval (i.e. "paint permit") from the City. Specific requirements are proposed in the code to uphold quality and color standards within the CBD Core.

Furthermore, extensive research of nearby jurisdictions' signs and murals regulations, U.S. Supreme Court Decisions, and best practices as published in the Municipal Research and Services Center was conducted in preparation for the following proposed draft amendments. Additionally, several meetings with the City Attorney were held to provide legal guidance to these changes. Currently, Chapters 17.51 and 17.40 SWMC regulate murals and signs in Sedro-Woolley, respectively. Ordinance no. 1072, which underwent public hearings in Winter 1989, contains outdated content-based regulations which overly restrict property owners' rights to freedom of speech and freedom of expression. The following draft amendments work to rectify these issues.

A new voluntary facade easement program is proposed. This program is intended to facilitate mural creation, maintenance, and revival in the city. As an alternative to the required design standards, a property owner may voluntarily pursue a facade easement with the City. The property owner is responsible for mural permits, mural installation, and recording fees, while the City will maintain the mural and remove graffiti and other vandalism from the display. Staff welcome your suggestions to this program as we begin formulating the program's requirements.

FISCAL IMPACT, IF APPROPRIATE:

Cost of maintenance and graffiti removal from facades subject to a voluntary facade easement (Public Works - Operations).
Cost of a mural permit ($25) for facades subject to a voluntary facade easement (Community Development - Planning).

ATTACHMENTS:

1. Draft Amendments 2 (9-15-26)
2. Draft Design Standards & Guidelines 2 (9-15-26)
3. Notice of Public Hearing for 9-15-26

Title 15
BUILDINGS AND CONSTRUCTION

Chapters:

[…]

Chapter 15.44

~~DESIGN REVIEW~~*Repealed*

~~Sections:~~

~~15.44.010 Intent.~~

~~The intent of design review is to encourage better design and site planning throughout the city of developments which are significant in impact; encourage developments which feature amenities designed to strengthen a sense of community; to minimize potential incompatible uses; and to increase community property values. (Ord. 1642-09 § 1 (Exh. A)(part), 2009: Ord. 1486-04 § 5 (part), 2004)~~

~~15.44.020 Review authority.~~

~~A. Central Business District. All new construction, alterations, demolition, or remodeling of existing buildings, and all exterior changes, including but not limited to change in paint color or materials, windows, awnings, permanent window signs, and all other signs, except for residential dwellings not used for commercial purposes within the central business district as delineated on the city zoning map, shall comply with this chapter.~~

~~B. All Other Zones. In all other land use zones throughout the city, the following land use actions and permits shall comply with this chapter:~~

~~1. All planned residential developments;~~

~~2. All permits and land use actions which require environmental review under Chapter 2.88. (Ord. 1642-09 § 1 (Exh. A)(part), 2009: Ord. 1486-04 § 5 (part), 2004)~~

~~15.44.025 General requirements.~~

~~A. All applications for building permits or approvals required by this chapter shall be accompanied by three complete sets of plans and blueprints clearly defining the construction, changes, alterations or remodeling and stating the proposed location, dimensions, and all colors accurately portrayed and type of construction and design. Such plans and blueprints shall be drawn to scale and shall clearly define the roofing materials and siding materials to be used together with the finish, paint or other procedure to be used or applied on all exterior walls and trims. In the central business district, the applicant shall include plans showing the partial building elevations of the adjacent buildings showing modulations and materials of the building facades.~~

~~B. The application and plans shall state a contemplated date of commencement and completion of such construction, change, alteration or remodeling. Such plans shall become the property of the city upon submission of the application.~~

~~C. Additional information may be required such as a vicinity map, legal description, topographic survey showing contours, existing structures and environmental conditions, photographs identifying existing characteristics of the site, grading plan, building plans, landscaping plans, parking and access plans, special studies, or SEPA checklist as required by the director.~~

~~D. Fees. Fees for design review shall be established by resolution of the Sedro-Woolley city council. (Ord. 1642-09 § 1 (Exh. A)(part), 2009: Ord. 1518-05 § 1, 2005: Ord. 1486-04 § 5 (part), 2004)~~

~~15.44.030 Standards for review.~~

~~A. All applications subject to design review shall comply with the city of Sedro-Woolley design standards and guidelines as adopted by the city.~~

~~B. The city of Sedro-Woolley design standards and guidelines shall be adopted by the city council following a recommendation by the planning commission. The city of Sedro-Woolley design standards and guidelines shall be adopted by ordinance in the same manner as a development regulation. (Ord. 1642-09 § 1 (Exh. A)(part), 2009: Ord. 1486-04 § 5 (part), 2004)~~

~~15.44.040 Design review established.~~

~~A. The planning department shall perform design review under this chapter.~~

~~B. Any party who wishes to move the decision of the director to the hearing examiner as a de novo hearing may do so per Chapter 2.90. (Ord. 2032-22 § 5, 2023; Ord. 1642-09 § 1 (Exh. A)(part), 2009: Ord. 1486-04 § 5 (part), 2004)~~

~~15.44.050 Duties and procedures.~~

~~Applications submitting any activity regulated by this chapter shall be made to the planning department. (Ord. 1642-09 § 1 (Exh. A)(part), 2009: Ord. 1486-04 § 5 (part), 2004)~~

~~15.44.060 Authority of committee.~~

~~The planning department shall have authority to approve, approve with conditions, or deny an application made pursuant to the provisions of this chapter. The planning department may consider modified plans, or attach conditions to an approval of an application. The action of the planning department shall be supported with specific findings of fact, and shall reference the Sedro-Woolley design standards and guidelines and other relevant documents. A copy of the approved plans shall be placed in the permit file. (Ord. 1642-09 § 1 (Exh. A)(part), 2009: Ord. 1486-04 § 5 (part), 2004)~~

~~15.44.065 Effect of decision.~~

~~The decision of the planning department shall be documented and incorporated into the accompanying approvals, if any, for the permit, land use action, or other approval, and shall be binding on the applicant and his successors in interest. The city may reduce the approval to a document or plan which shall be incorporated into the approved plans for the project. For example, specific conditions for the location of open space pursuant to a requirement of the design manual may be incorporated into a subdivision approval. (Ord. 1642-09 § 1 (Exh. A)(part), 2009: Ord. 1486-04 § 5 (part), 2004)~~

~~15.44.070 Waivers.~~

~~Waivers to the required elements of the design standards manual may be allowed by the planning department if the applicant demonstrates that the overall project meets the intent of the design manual and other adopted standards, through the incorporation of "encouraged" design elements from the city of Sedro-Woolley design standards and guidelines or other significant design elements which accomplish the same purpose. In evaluating alternative design elements, the planning department may consider the testimony of an architect or other design professional in making its decision. (Ord. 1642-09 § 1 (Exh. A)(part), 2009: Ord. 1486-04 § 5 (part), 2004)~~

~~15.44.075 Appeal.~~

~~Any applicant who is not satisfied with the decision of the planning department may appeal the decision as part of an appeal of the underlying permit, following the procedures set forth in Chapter 2.90 to the extent applicable. Such request for an appeal must be made in writing to the planning department within fourteen days of the decision. (Ord. 1642-09 § 1 (Exh. A)(part), 2009: Ord. 1486-04 § 5 (part), 2004)~~

~~15.44.080 Additional duties.~~

~~The planning department shall review mural applications. The department may also facilitate business community input into downtown revitalization plans or programs designed to enhance the appearance of, and promote, the central business district. It is not intended that the department replace existing organizations whose purpose is to promote such plans or programs, but rather to ensure that such programs or plans incorporate or complement, as appropriate, the adopted standards and intent of this chapter. (Ord. 1642-09 § 1 (Exh. A)(part), 2009: Ord. 1486-04 § 5 (part), 2004)~~

~~15.44.090 Compliance with building code.~~

~~The terms, provisions and requirements of this chapter shall be in addition to and not in lieu of the requirements as set forth in the most recently adopted building code, or any other ordinance, state statute or regulation applicable to the city. (Ord. 1642-09 § 1 (Exh. A)(part), 2009: Ord. 1486-04 § 5 (part), 2004)~~

~~15.44.100 Violations—Penalties.~~

~~Any person violating or failing to comply with any of the provisions contained in this chapter shall be subject to the enforcement provisions contained in Title 18, Code Enforcement. (Ord. 1670-10 § 26, 2010)~~

[...]

Title 17
ZONING

Chapters:

[...]

Chapter 17.16
RESIDENTIAL 15 (R-15) ZONE

Sections:

[...]

17.16.035 Zero side setbacks permitted.

[...]

E. All proposed developments permitted using this section shall comply with the design review standards of Chapter ~~15.44~~17.42.

[...]

17.16.060 *Repealed*~~Design review.~~

~~All developments in this zone which are subject to environmental review shall comply with the Design Review standards of SWMC Chapter 15.44 for conformance with this and other provisions of the city code.~~

[...]

Chapter 17.20
MIXED COMMERCIAL (MC) ZONE

Sections:

[...]

17.20.020 Bulk restrictions.

A. Minimum setbacks to adjacent zones:

1. Setbacks to residential (R-5, R-7 and R-15) zones: front setbacks on an arterial street shall be a minimum of twenty feet. On a nonarterial street, front setbacks shall be a minimum of ten feet. Side setbacks shall be a minimum of thirty-five feet, which may be reduced to twenty feet if building step-backs as required by the design standards and guidelines are incorporated into the site design pursuant to Chapter ~~15.44~~17.42. Rear setbacks shall be a minimum of twenty feet.

2. Setbacks to all other zones: front setbacks on an arterial street shall be a minimum of twenty feet. On a nonarterial street, front setbacks shall be a minimum of ten feet. Side setbacks shall be a minimum of twenty feet. Rear setbacks shall be a minimum of twenty feet.

3. Setbacks to the MC zone: buildings shall maintain a minimum ten-foot setback to all lot lines when adjacent to other properties zoned MC.

[...]

17.20.050 ~~Design review~~*Repealed*.

~~All developments in this zone which are subject to environmental review shall comply with the design review standards of SWMC Chapter 15.44 for conformance with this and other provisions of the city code.~~

[...]

Chapter 17.22

TRANSITIONAL MIXED COMMERCIAL OVERLAY

Sections:

[...]

17.22.050 ~~Design review~~*Repealed*.

~~All developments in this zone which are subject to environmental review shall comply with the design review standards of Chapter 15.44 for conformance with this and other provisions of the city code.~~

[...]

Chapter 17.28
INDUSTRIAL (I) ZONE

Sections:

[...]

17.28.060 ~~Design review~~*Repealed*.

~~All developments in this zone which are subject to environmental review shall comply with the design review standards of Chapter 15.44 for conformance with this and other provisions of the city code.~~

[...]

Chapter 17.40

~~SIGNS*~~*Repealed*

~~Sections:~~

~~* Prior ordinance history: Ords. 1013, 1312-98, 1451-03, 1484-04 and 1522-05.~~

~~17.40.010 General provisions.~~

~~The intent of the sign regulations is to provide businesses and organizations an opportunity to advertise while minimizing sign clutter along the city's roadways. Signs along the two state highways shall be designed in a manner that is consistent with the guidelines for state scenic highways, either existing or as subsequently developed.~~

~~A. No sign shall be erected or employed that:~~

~~1. Impairs scenic views or the appearance of the surrounding area;~~

~~2. Creates traffic hazards by blocking vision or causing excessive diversion of attention;~~

~~3. Is structurally incapable of withstanding stresses to which it is likely to be subjected;~~

~~4. Contains flashing or uncomfortably intense light;~~

~~5. Is designed to attract attention through mechanical or wind-generated movement;~~

~~6. Is employed without consent of the property owner;~~

~~7. Is a festoon, banner, or pennant type sign; or~~

~~8. Digital signs, except as provided in Section 17.40.045.~~

~~B. Obsolete signs must be removed within ninety days of the change in business or offering. An "obsolete sign" is defined as any sign that advertises a business, product, or service that is no longer available or, for on-premises signs, no longer located on the same site on which the sign is posted.~~

~~C. Size of signs includes the surface area, spaces and voids within a perimeter that connects the outermost points of the signs' lettering or devices, measured on the plane(s) to which the sign is oriented. Both sides of double-faced signs, such as projecting, freestanding or sandwich board signs with information on both sides, shall be counted. Frames or supports containing information or constituting integral design elements shall also be included.~~

~~D. Except in residential areas, where only external illumination is allowed, signage may be either externally illuminated or have only letters internally illuminated. All lighting shall be directed so as not to shine onto adjacent residential properties or into the night sky.~~

~~E. Each sign shall be maintained in good visual and structural condition at all times including color integrity and all parts and supports associated with the sign in accordance with its original approval by the city. Any repair to a sign shall be done using materials and design that are of equal or greater quality than the original sign.~~

~~F. Exceptions. The following shall not be regulated by this chapter:~~

~~1. Signage at public athletic fields;~~

~~2. Any vehicle or trailer that is road-ready, currently licensed and complies with all other ordinances and laws. (Ord. 1982-21 § 1 (Exh. 1), 2021; Ord. 1577-07 § 1 (part), 2007)~~

~~17.40.020 Permanent on-premises signs.~~

~~A. In the residential zones, signs shall be limited to a total combined size of five square feet or one percent of the gross floor area of buildings, whichever is greater.~~

~~B. In all other zones, the following limitations apply:~~

~~1. All freestanding signs shall be ground-oriented. Each sign's area may not exceed two percent of the gross floor area of the buildings nor two hundred square feet total surface area, whichever is less, but in no case must signs be less than thirty-two square feet per side. Though uses or business may overlap spatially, gross floor area shall not be claimed more than once in computing allowable size of signs. See also SWMC Section 17.40.010(D).~~

~~2. Facade signs must meet the size requirements listed below.~~

~~Maximum Sign Area~~

~~Facade Area~~	~~Maximum Sign Area~~
~~0—499~~	~~50 sq. ft. maximum~~
~~500—999~~	~~10% or 75 sq. ft. maximum, whichever is less~~
~~1,000—1,499~~	~~9% or 100 sq. ft. maximum, whichever is less~~
~~1,500—2,999~~	~~8% or 150 sq. ft. maximum, whichever is less~~
~~3,000 or greater~~	~~6% or 200 sq. ft. maximum, whichever is less~~

~~Maximum Letter Size for Primary Signs~~

~~Distance from Primary Street~~	~~Maximum Letter Size~~
~~Up to 10 ft.~~	~~12 inches~~
~~10—25~~	~~18 inches~~
~~25—50~~	~~24 inches~~
~~50—100~~	~~36 inches~~
~~Over 100~~	~~48 inches~~

~~3. Freestanding signs may not exceed twenty feet in height as measured from the centerline of the adjoining road to the top of the sign structure.~~

~~C. Freestanding signs shall meet the clear vision triangle requirements in the city code.~~

~~D. Each building may have one freestanding sign per frontage on a public right-of-way. Each business may have one facade sign per frontage on a public right-of-way. (Ord. 1577-07 § 1 (part), 2007)~~

~~17.40.025 Permanent off-premises directional signs.~~

~~The intent of this provision is to provide directional and location information to the general public about places of general interest, such as tourist information services, school or public recreational facilities, central business district or other special districts, historic sites, and regional developments; or, to provide information of a general community nature, such as those found at city entrance locations identifying the city and historic dates, or listing local~~

~~service clubs and organizations or to provide business identification for sites located on a dead-end street. Such signs may be allowed, subject to the following:~~

~~A. Any such sign which is visible from a state highway shall be subject to approval by the Department of Transportation;~~

~~B. Approval of the owner of the property on which the sign is to be placed;~~

~~C. Location. Any such sign shall not be placed where it may cause a hazard, or obstruct the vision of any driver;~~

~~D. Size shall be no larger than necessary to clearly inform or direct the public. City identification/community service club type signs shall not exceed fifty square feet per side. Business identification directional signs on dead-end streets shall meet the following criteria: all units will have letters six inches in height, light color on a dark background, not longer than four feet per unit and meeting corner visibility requirements; details to be approved by the planning director for each installation. (Ord. 1577-07 § 1 (part), 2007)~~

~~17.40.030 Temporary signs.~~

~~A. "Temporary signs" are defined as exterior signs related to temporary sales or events. Interior and window signs are not regulated by this chapter.~~

~~B. Each business may have two temporary signs simultaneously, in addition to the allowed permanent signs.~~

~~C. No business may display any temporary signs more than thirty days a year.~~

~~D. All temporary signs must be permanently marked with the date the sign was erected. Signs without such marking shall be immediately removed as directed by the code enforcement officer. (Ord. 1577-07 § 1 (part), 2007)~~

~~17.40.035 Portable signs.~~

~~A. "Portable signs" include all a-frame, sandwich board, sidewalk signs and other signs that are mobile.~~

~~B. Each business may have up to one portable sign in addition to allowed temporary or permanent signs.~~

~~C. Portable sign area may not exceed thirty-six inches by forty-eight inches on each face. Exception: Portable signs placed adjacent to State Route 9 or State Route 20 may not exceed forty-eight inches by forty-eight inches on each face.~~

~~D. Portable signs must be securely weighted or anchored to prevent movement.~~

~~E. Portable signs must be brought indoors or out of sight from the general public during such hours that the business associated with the sign is not open for business.~~

~~F. Portable signs must not interfere with vehicle or pedestrian traffic.~~

~~G. Portable signs must not interfere with vision clearance triangles as described in SWMC Section 17.44.020. (Ord. 1577-07 § 1 (part), 2007)~~

~~17.40.040 Sign permit requirements.~~

~~A. All permanent signs require a sign permit.~~

~~B. A new or relocated business may use a single unpermitted interim on-premises sign to identify the business for ninety days while they permit and construct a permanent sign. Such an interim sign is not exempt from the other provisions of this chapter. (Ord. 2042-23 § 2, 2023; Ord. 1577-07 § 1 (part), 2007)~~

~~17.40.045 Digital signs.~~

~~The intent of this provision is to allow for a limited number of digital signage in a manner that is safe, does not produce excessive light and does not create a distraction. These regulations apply to digital signs, which include message boards, message displays, electronic reader boards, LED signs, video displays and similar programmable technologies.~~

~~A. Digital Sign Location Restrictions.~~

~~1. Digital signs are not permitted in any residential zones.~~

~~2. Digital signs are not permitted in the central business district except:~~

~~a. On Eastern Street between the railroad to the north and State Street to the south;~~

~~b. On Murdock Street between the railroad to the north and State Street to the south;~~

~~c. On Puget Street between Pacific Street to the north and State Street to the south;~~

~~d. On State Street; and~~

~~e. On Ferry Street between State Route 20 to the west and Eastern Street to the east.~~

~~B. Display Standards in Mixed Commercial and Industrial Zone.~~

~~1. All digital signs shall come equipped with an automatic dimming photocell device which will automatically adjust the display's brightness based on preset levels relative to ambient light conditions. All digital signs shall operate at brightness levels of no more than three-tenths of one foot-candle above ambient light levels with a maximum of five thousand nits during daylight hours and five hundred nits at night. Certification of these limits shall be provided by the developer prior to sign permit issuance;~~

~~2. Measurement of brightness (nits) shall be measured from the sign's face at its maximum brightness;~~

~~3. Audio speakers are prohibited in association with a digital sign;~~

~~4. Digital signs must be directed away from adjacent residentially zoned or open space zoned properties including properties across a public right-of-way. No digital sign may be located closer than one hundred feet from residentially zoned or open space zoned properties as measured from the sign location to the nearest property line of the residential or open space zoned property;~~

~~5. Static messages shall have a minimum of five seconds of dwell time for all static images. Displays which scroll onto the signboard must hold for a minimum of five seconds including scrolling. Flashing, strobing, video imaging and scrolling messages faster than described above are prohibited. Changes between static messages and images must be one second or less and fading or dissolving is not permitted;~~

~~6. No more than one digital sign is allowed per property. A digital sign may be double-sided; and~~

~~7. A digital sign shall be integrated into a standard sign surface area; digital signs are not permitted independent of a standard sign. Up to fifty percent of the sign surface area may be used for digital sign purposes. The digital sign shall count towards the allowed sign surface area as calculated in Section 17.40.020.~~

~~C. Display Standards in CBD and Public Zone.~~

~~1. All digital signs shall come equipped with an automatic dimming photocell device which will automatically adjust the display's brightness based on preset levels relative to ambient light conditions. All electronic digital signs shall operate at brightness levels of no more than three-tenths of one foot-candle above ambient light levels with a maximum of five thousand nits during daylight hours and five hundred nits at night. Certification of these limits shall be provided by the developer prior to building permit issuance;~~

~~2. Digital signs may be used after dusk only until eleven p.m. or, if the advertising is an on-premises message about an event at the site where the sign is located, for up to one hour after said event;~~

~~3. Measurement of brightness (nits) shall be measured from the sign's face at its maximum brightness;~~

~~4. Audio speakers are prohibited in association with a digital sign;~~

~~5. Digital signs must be directed away from adjacent residentially zoned or open space zoned properties including properties across a public right-of-way. No digital sign may be located closer than one hundred feet from residentially zoned or open space zoned properties as measured from the sign location to the nearest property line of the residential or open space zoned property;~~

~~6. Digital signs in the CBD and public zones may only contain message board capabilities – only text shall be permitted, not images or other nontext display. The display shall be limited to one color for the text displayed and a darkened (absence of light) background. Messages shall have a minimum of seven seconds of dwell time for all text. Flashing, animation, movement, video imaging and scrolling messages are prohibited. Changes in messages and images must be one second or less and scrolling, fading or dissolving is not permitted;~~

~~7. No more than one digital sign is allowed per property. The single digital sign may be double-sided;~~

~~8. A digital sign shall be integrated into a standard sign surface area; digital signs are not permitted independent of a standard sign. Up to fifty percent of the sign surface area may be used for digital sign purposes. The digital sign shall count towards the allowed sign surface area as calculated in Section 17.40.020; and~~

~~9. Digital signs may be used only to advertise activities or goods or services available on the property on which the sign is located, or to present public service information.~~
~~(Ord. 1982-21 § 1 (Exh. 1), 2021)~~

Chapter 17.42
AESTHETICS

Sections:

Article I. Design Review (Replaces 15.44)

Article II. Signs (Replaces 17.40 and 17.51)

Article III. Exterior Paint (New)

Article IV. Voluntary Façade Easement Program (New)

Article I. Design Review

17.42.010 Intent.

The intent of design review is to ensure that site and building design of impactful development proposals strengthen the sense of community; minimize potential incompatible uses and features; and increase community property values.

17.42.020 Applicability.

A. The requirements of this chapter shall apply to all new construction and demolition within the incorporated limits of the City of Sedro-Woolley.

B. The requirements of this chapter shall apply to all alterations, remodeling of existing buildings, and exterior changes, where the value of such work exceeds twenty-five (25%) of the most recently assessed value of the land and the structure combined, within the incorporated limits of the City of Sedro-Woolley. If more than one structure exists on a single parcel, only the structure(s) in which alterations, remodeling, or exterior changes are proposed shall be considered.

17.42.025 General requirements.

A. All applications subject to design review shall comply with the most recently adopted City of Sedro-Woolley Design Standards & Guidelines (DS&G).

B. All applications subject to design review shall pass a design review inspection with the Community Development Department as part of a condition for a development permit.

17.42.050 Duties and procedures.

A. The Community Development Department shall perform design review under this Chapter. Applications for any activity regulated by this Chapter shall be made to the Community Development Department on forms produced by the Department.

B. Any party who wishes to move the decision of the Community Development Director to the Hearing Examiner as a de novo hearing may do so per Chapter 17.04.

C. The Community Development Department shall have the authority to approve, approve with conditions, or deny an application made pursuant to the provisions of this Chapter. The Community Development Department may consider modified plans or apply conditions to an approval of an application. The decision of the Community Development Department shall be supported by and reference the Sedro-Woolley Design Standards and Guidelines and other relevant documents. A copy of the approved plans shall be placed in the permit file and used for design review inspection.

D. The Community Development Department shall review mural applications. The department may also facilitate business community input into downtown revitalization plans or programs designed to enhance the appearance of, and promote, the central business district. It is not intended that the Department replace existing organizations whose purpose is to promote such plans or programs, but rather to ensure that such programs or plans incorporate or complement, as appropriate, the adopted standards and intent of this Chapter.

17.42.065 Effect of decision.

The decision of the Community Development Department shall be documented and applied as conditions of approval for any associated permit applications within a single project, if any. Such conditions shall be binding on the applicant and his successors in interest. The city may transfer the approval to a document or plan which shall be incorporated into the approved plans for the project. For example, specific conditions for the location and design of open space pursuant to a requirement of the design manual may be incorporated into a subdivision approval.

17.42.075 Departures.

Departures from the required elements of the design standards manual may be allowed by the Community Development Department if the applicant demonstrates that the overall project meets the intent of the design manual and other adopted standards, through one of the following means:

A. Incorporation of “encouraged” design elements from the City of Sedro-Woolley Design Standards and Guidelines;

B. Incorporation of other significant design elements which accomplish the same purpose; or

C. Establishment of a building façade easement, granted to the City of Sedro-Woolley, through the voluntary façade easement program as described in Article IV of this Chapter.

In evaluating alternative design elements, the Community Development Department may consider the testimony of an architect or other design professional in making its decision.

17.42.085 Compliance with building code.

The terms, provisions, and requirements of this Chapter shall be supplemental to and not in lieu of the requirements as set forth in the most recently adopted building code, or any other ordinance, state statute, zoning control, or regulation applicable to the project.

17.42.095 Violations–Penalties.

Any person violating or failing to comply with any of the provisions contained in this Chapter shall be subject to the enforcement provisions contained in Title 18, Code Enforcement.

Article II. Signs

17.42.110 General provisions.

The intent of the sign regulations is to promote traffic safety and pedestrian access, protect vision clearance and aesthetics, verify structural integrity and maintenance, comply with applicable ADA regulations, and provide businesses and organizations an opportunity to advertise while maintaining ~~minimizing sign clutter along the City's~~ roadway~~s~~ safety standards. Signs along state highways shall be designed in a manner that is consistent with the Washington State Department of Transportation (WSDOT) requirements for state scenic highways, either existing or as subsequently developed.

A. ~~All~~ Digital signs of any size and non-digital permanent signs larger than 12 square feet require a sign permit.

B. A new or relocated business may use a single unpermitted interim on-premises façade, pole-mounted, or portable sign to identify the business for ninety days while they permit and construct a permanent sign. Such an interim sign is not exempt from the other provisions of this chapter, including dimensional requirements.

C. No sign shall be erected or employed that:

1. Impairs scenic views or the appearance of the surrounding area;

2. Creates traffic hazards by blocking vision or causing excessive diversion of attention;

3. Is structurally incapable of withstanding stresses to which it is likely to be subjected;

4. Contains flashing lights or lights that exceed 5,000 nits during daylight hours and 500 nits during nighttime hours;

5. Is designed to attract attention through mechanical or wind-generated movement;

6. Is employed without consent of the property owner;

7. Digital signs, except as provided in Section 17.40.045.

D. ~~Obsolete~~ Abandoned signs must be removed within ~~ninety~~ thirty calendar days of a Notice of Obsolete Sign issued by the Department ~~the change in business or organization~~. Notice of

Obsolete Sign shall be issued by mail to the property owner and current occupant and include specific code violations and corrective remedies. An "~~obsolete~~ abandoned sign" is defined as any sign that is structurally incapable of withstanding the stresses to which it is likely to be subjected or otherwise violates applicable building code requirements. ~~advertises a business, product, or service that is no longer available or, has changed locations from what is posted on the sign.~~

E. Size of signs includes the surface area, spaces and voids within a perimeter that connects the outermost points of the signs' lettering or devices, measured on the plane(s) to which the sign is oriented. Both sides of double-faced signs, such as projecting, freestanding or sandwich board signs with information on both sides, shall be counted. Frames or supports containing information or constituting integral design elements shall also be included.

F. Except in residential areas, where only external illumination is allowed, signage may be either externally illuminated or have only letters internally illuminated. All lighting shall be directed so as not to shine onto adjacent residential properties or into the night sky. Illumination shall not exceed 500 nits during nighttime hours.

G. Each sign shall be maintained in good visual and structural condition at all times, including color integrity and all parts and supports associated with the sign in accordance with its original approval by the city. Any repair to a sign shall be done using materials and design that are of equal or greater quality than the original sign.

H. Exceptions. The following shall not be regulated by this chapter:

1. Signage at public athletic fields;

2. Any vehicle or trailer that is road-ready, currently licensed and complies with all other ordinances and laws;

3. Signage within building interiors;

4. Signage displayed in windows;

5. Directional signs indicating traffic circulation.

I. All signs regulated by this Chapter shall comply with the most recent edition of the Sedro-Woolley Design Standards and Guidelines.

17.42.115 Definitions.

"Billboard" means an exterior sign that is freestanding, supported by an independent pole or support beam, has a significant opening between the base of the sign and the ground, and has a combined sign surface area of more than 100 square feet.

"Façade sign" means an exterior sign directly attached or affixed to a building.

"Monument sign" means an exterior sign that is freestanding, ground-mounted, and has little to no opening between the base of the sign and the ground.

"Mural" means a painting, mosaic, fresco, or other artwork applied directly or affixed to the exterior of a structure. Murals may include text or other informational elements, but primarily serve an artistic or expressive purpose.

"Pole-mounted sign" means an exterior sign that is freestanding, supported by an independent pole or support beam, has a significant opening between the base of the sign and the ground, and has a combined sign surface area of less than 100 square feet.

"Portable sign" means all a-frame, sandwich board, sidewalks signs, and other signs that are mobile.

"Sign" means a publicly displayed advertising, directional, or information device excluding:

1. Flags and similar primarily nonverbal symbols of governmental, religious or civic organizations;

2. Traffic-control devices, verbal or nonverbal, maintained by the public agency with jurisdiction over the thoroughfare;

3. Minor notices such as conventional no soliciting, open, closed, for rent and for sale signs; and

4. Signs located so as to be viewed only from the ownership on which they are located.

"Temporary sign" means an exterior sign intended to be displayed for no more than thirty (30) calendar days.

17.42.120 Façade signs.

A. In the residential zones, signs shall be limited to a total combined size of thirty (30) square feet or one percent (1%) of the gross floor area of buildings, whichever is greater.

B. In all other zones, the following limitations apply:

1. No more than two façade signs per building façade.

2. Maximum façade sign requirements listed below:

Maximum Façade Sign Area

Facade Area (Square Feet)	**Maximum Sign Area**
0—499	50 sq. ft. maximum
500—999	10% or 75 sq. ft. maximum, whichever is less
1,000—1,499	9% or 100 sq. ft. maximum, whichever is less
1,500—2,999	8% or 150 sq. ft. maximum, whichever is less
3,000 or greater	6% or 200 sq. ft. maximum, whichever is less

C. Façade signs may not exceed the height of the structure it is affixed to in excess of three feet.

D. Any such sign which is visible from a state highway shall be subject to approval by the Washington State Department of Transportation (WSDOT).

E. Written approval of the owner of the property on which the sign is to be placed.

17.42.125 Pole-mounted signs.

In all zones, the following limitations apply:

A. Any such sign shall not be placed where it may cause a hazard or obstruct the vision of any driver.

B. Signs shall be no larger than 50 square feet on dead-end streets. Signs shall be no larger than 100 square feet on all other streets.

C. Any such sign which is visible from a state highway shall be subject to approval by the Washington State Department of Transportation (WSDOT).

D. Written approval of the owner of the property on which the sign is to be placed.

17.42.130 Monument signs.

The following limitations apply:

A. Any such sign which is visible from a state highway shall be subject to approval by the Washington State Department of Transportation (WSDOT).

B. Written approval of the owner of the property on which the sign is to be placed.

C. Such sign shall not interfere with vision clearance triangle requirements for vehicular traffic, as described in SWMC 17.44.020.

D. In residential zones, monument signs shall be no larger than thirty-six (36) square feet.

17.42.135 Temporary signs.

A. Each business may have two temporary signs on-site adjacent to the business, in addition to the allowed permanent signs.

B. No business may display any temporary sign more than thirty (30) calendar days within one year, except for interim signs as allowed by SWMC 17.42.110 (B).

C. All temporary signs must be permanently marked with the date the sign was erected. Signs without such marking may be immediately removed as directed by the code enforcement officer.

D. Temporary signs must not interfere with vision clearance triangle requirements for vehicular traffic, as described in SWMC 17.44.020.

17.42.140 Portable signs.

A. Each business may have one portable sign on-site or adjacent to the business, in addition to the allowed permanent signs.

B. Portable signs shall not exceed sixteen (16) square feet where visible from state highways. Portable signs shall not exceed twelve (12) square feet where visible from any other street.

C. Portable signs must be securely weighted or anchored to prevent movement.

D. Portable signs must be out of sight from the public during such hours that the associated business or organization is not open.

E. Portable signs must not interfere with pedestrian or vehicle traffic, including sidewalks and private driveways. Portable signs must provide a minimum pedestrian clearance width of five (5) feet for ADA accessibility.

F. Portable signs must not interfere with vision clearance triangle requirements for vehicular traffic, as described in SWMC 17.44.020.

17.42.145 Billboards.

The following limitations apply:

A. Billboards are prohibited in the following locations:

1. The central business district zone;
2. Residential zones;
3. Within a 1,000-foot radius of any other billboard;
4. Within 2,640 feet (1/2 mile) of the Skagit River at its nearest extremity; or
5. Adjacent to a dead-end street.

B. Any such sign shall not be placed where it may cause a hazard or obstruct the vision of any driver.

C. Any such sign which is visible from a state highway shall be subject to approval by the Washington State Department of Transportation (WSDOT).

D. Written approval of the owner of the property on which the sign is to be placed.

E. Billboards shall comply with the bulk restrictions of the underlying zone.

17.42.150 Digital signs.

The intent of this provision is to allow for a limited number of digital signage in a manner that is safe, does not produce excessive light pollution, and does not create a distraction. These regulations apply to digital signs, which include message boards, message displays, electronic reader boards, video displays, and similar programmable technologies.

A. Digital Sign Location Restrictions.

1. Digital signs are not permitted in any residential zones.

2. Digital signs are not permitted within 100 feet of a property zoned residential or open space as measured from the sign location to the nearest property line of the residential or open space zoned property.

a. Exception: A digital sign may be permitted within 100 feet of a residential or open space zoned property, provided the Community Development Director finds that a permanent feature (such as an elevated railroad grade) sufficiently obstructs the view of the digital sign from the residential or open space zoned property.

3. Digital signs are not permitted in the central business district except:

a. On Eastern Street between Metcalf Street to the north and State Street to the south;

b. On Murdock Street between Northern Avenue to the north and State Street to the south;

c. On Puget Street between Pacific Street to the north and State Street to the south;

d. On State Street; and

e. On Ferry Street between State Route 20 to the west and Eastern Street to the east.

B. Digital Sign Brightness Restrictions.

1. Daylight hours maximum brightness: 5,000 nits

2. Nighttime hours maximum brightness: 500 nits.

3. Certification of these limits shall be provided by the developer prior to building permit issuance.

4. Measurement of brightness (nits) shall be measured from the sign's face at its maximum brightness.

C. Flashing, Animation, and Movement Restrictions.

1. Messages shall have a minimum of seven seconds of dwell time.

2. Flashing, animation, movement, video imaging, and scrolling messages are prohibited.

3. Changes in messages and images must be one second or less. Scrolling, fading, and dissolving are prohibited.

D. Other restrictions.

1. Audio speakers are prohibited in association with a digital sign. Exception: audio speakers associated with a drive-thru serving a restaurant, pharmacy, or similar use, may be allowed.

2. No more than one digital sign is allowed per property. A digital sign may be double-sided.

3. A digital sign shall be integrated into a standard sign surface area; digital signs are not permitted independent of a standard sign. The digital sign shall count towards the allowed sign surface area as calculated elsewhere in this Chapter.

17.42.155 Murals.

A. History. The guidelines adopted within this section were developed in cooperation with the city planning and business development committee, planning commission, city council, community development department, and interested citizens, and are intended to provide a framework to ensure an aesthetically pleasing and cohesive project that will be a source of community pride for years to come. The inspiration behind this code was to encourage lifelike and intriguing pictures that draw in viewers and motivate the creation of additional murals. Early murals consisted of photographs taken by Darius Kinsey between 1890 – 1930, but have now been expanded to other subject matters that held deep ties to the community, such as the natural environment and historical events before 1890 and after 1930. This requires that minimum standards addressing basic issues, such as size, colors, and advertising allowance be established. The intent of these regulations is to simultaneously preserve the historic atmosphere of Sedro-Woolley and encourage placemaking and community engagement.

B. Purpose.

1. Acknowledge and celebrate the history of the city and the surrounding area in a visually appealing manner;

2. Support local artists to express their understanding of history and relationship with Sedro-Woolley through their craft;

3. Provide information and enjoyment to visitors and residents of the community;

4. Provide a sense of community identity through recognition of the historically diverse elements of community life, culture, industry, and folk lore that contribute to the unique character of Sedro-Woolley and Skagit County;

5. Encourage the participation of various businesses, community members, and organizations in cohesive and tangible projects that will have lasting value to the city;

6. Promote and encourage commercial activity and out-of-town visitor interest in the city; and

7. This chapter and this section are not intended to regulate or dictate, in any manner, the content of speech or expression, or the viewpoint of the speaker, and are only intended to protect neighborhood character through the regulation of color, material, size, and location of murals.

C. Application Requirements. An application for a mural shall include the following information:

1. Name and address of the person or business paying for the mural, including a point of contact and contact information;

2. Name and address of the artist;

3. Name and mailing address of the owner of the building to be painted;

4. Location of the proposed mural, including address of building, the location and size of the wall of the building, and the material composition of the wall of the building on which the mural will be installed;

5. A description of the method of mural installation;

6. Rendering of the proposed mural;

a. A photo or color illustration of proposed mural.

b. Image shall be scaled.

c. Description of materials that will be used to install the mural, including but not limited to paint materials, brush materials, and any equipment directly used to aid in the design and installation of the mural.

7. Artist's portfolio of at least three similar works that accurately represent the skill, style, and technique of the mural artist. Works of art included in the artist's portfolio shall be no smaller than eight and one-half inches by eleven inches.

8. Written description of the proposal addressing the purpose and standards of this ordinance.

D. Standards. A mural proposal shall be reviewed and approved or denied based on the following standards:

1. Pictures or representations which violate any federal, state, or local law, depict obscenities, depict fighting words, or disturb the peace and quiet of the community shall be denied;

2. The use of colors will not detract from any historic structure, or group of structures, as defined by any historic landmark, site, or structure designation;

3. Within the Central Business District Core, as defined by Section 17.04.030 SWMC, neon, fluorescent, iridescent, and reflective colors shall not exceed ten percent (10%) of the total square footage of the mural.

4. Scale. The photo or rendering shall be reproduced at a scale large enough to cover the wall on which it is to be placed. As much as possible, larger than life-size scale should be attained.

5. Size.

a. No part of a mural shall exceed the height of the structure to which it is tiled, painted, or affixed.

b. No part of a mural shall extend past the pane of the wall upon which it is tiled, painted, or affixed.

c. Square footage of the mural shall not exceed ninety percent (90%) of the square footage of the building façade to which it is tiled, painted, or affixed.

6. Composition.

a. No mural shall consist of or contain electrical or mechanical components or changing images, including but not limited to moving structural elements, flashing or sequential lights, or other automated methods that result in movement, the appearance of movement, or changing of mural content;

b. No mural shall be installed on a wall or surface comprised of a material deemed by city staff to be damaged by or otherwise structurally inappropriate for installation;

i. Murals shall not be applied directly to masonry installed prior to 1950, unless sufficient breathability is provided or unless such masonry has been previously painted on, excluding graffiti.

ii. Breathability. Murals may be installed over masonry installed prior to 1950, provided sufficient breathability exists between the mural and the masonry to prevent deterioration or spalling of masonry (Example: removable tiles mounted through mortar joints with an air gap for ventilation or the use of a vapor-permeable mineral-based silicate paint).

c. The wall or surface in which the mural is affixed shall be washed and free of debris prior to mural installation.

d. No mural shall be installed using materials deemed by city staff to likely cause damage or deterioration on the underlying wall or surface.

e. No mural shall be installed in a manner that obscures or covers a structure's sills, lintels, decorative brickwork, or other significant architectural details.

f. It is strongly recommended that murals be protected with anti-graffiti coating to deter vandalism and wear from the elements.

7. If a specific business identification for the business occupying the building is incorporated into the mural, the portion of the mural dedicated to such identification shall be applied toward the maximum square footage allowance for signs for that business under this Chapter.

17.42.190 Severability.

If any section, subsection, clause, phrase or word in this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such section or portion shall be deemed a separate provision of this article and such holding shall not affect the validity of the remaining portion of this article.

17.42.191 Non-commercial substitution.

The regulations included within the article herein are not intended to restrict non-commercial speech to any greater extent than commercial speech. Any sign compliant with the provisions of this article may display a non-commercial message.

17.42.192 Viewpoint-neutrality.

The regulations included within the article herein are not intended to regulate or dictate, in any manner, the content of speech or expression, or the viewpoint of the speaker, and are only intended to promote traffic safety and pedestrian access, protect vision clearance and aesthetics, verify structural integrity and maintenance, comply with applicable ADA regulations, and provide businesses and organizations an opportunity to advertise while maintaining roadway safety through the regulation of color, material, size, and location of signs and murals.

Article III. Exterior Paint Code

17.42.210 Intent.

To ensure high-quality, professional, and aesthetically pleasing exterior paint applications that enhance the visual character of the Central Business District. Proper preparation, application, and cleanup are essential to preserving the integrity and appearance of buildings while supporting the overall design goals of the district. These standards aim to promote consistency in color schemes, ensure smooth and durable finishes, preserve existing buildings from potential damage, and uphold a clean and attractive streetscape and transitions in paint color that complements the historic and architectural significance of the area.

17.42.220 Applicability.

The standards of this Article shall apply to all property zoned Central Business District (CBD).

17.42.230 Mandatory requirements.

A. Historic, unpainted masonry installed prior to 1950 shall not be painted. Exception: the use of an approved vapor-permeable mineral-based silicate paint may be allowed to paint historic, unpainted masonry, in accordance with this Chapter.

B. All loose paint, chips, and flakes shall be removed prior to painting. Surfaces shall be smooth and free of debris before application of paint.

C. Paint shall be evenly applied without visible streaks, patches, spots, brush strokes, roller marks, bubbles, or bumps.

D. Trim, gutters, windows frames, door frames, baseboards, and other adjacent surfaces shall be free of overspray, drips, or smudges.

E. All surfaces shall be completely painted.

F. Primary neon hues, blended neon hues, fluorescent hues, luminous hues, iridescent hues, reflective colors, and their electric variants are prohibited paint colors within the Central Business District (CBD).

17.42.240 Recommended guidelines.

The following are recommended guidelines for all property owners:

A. Highlight architectural details, such as moldings, cornices, or window trim, with complementary accent colors.

B. Refresh or repair any visible signage, decorative features, or building elements alongside the paint job for a cohesive finished appearance.

C. Use high-quality, durable, and weather resistant paints formulated for exterior use in the Pacific Northwest climate.

D. Consider low-VOC or environmentally friendly paint options to reduce fumes and environmental impact.

E. Test paint samples in natural light on the building surface to ensure color compatibility with adjacent structures and the surrounding streetscape.

Article IV. Voluntary Façade Easement Program

17.42.310 Intent.

The intent of the voluntary façade easement program is to facilitate mural creation, maintenance, and revival, as well as offer an affordable alternative to the required design standards. The program assists in the long-term preservation of these pieces of art.

17.42.320 Applicability.

A. Development applications subject to the following requirements are eligible for the voluntary façade easement program:

1. The parcel is zoned Central Business District (CBD), Mixed Commercial (MC), Transitional Mixed Commercial Overlay (TMCO), or Urban Village Mixed-Use Overlay (UVMU).

2. The structure contains a blank building façade at least 100 square feet in size and visible from the public right-of-way.

B. Per SWMC 17.42.075, departures from the required design standards are permitted if the property owner elects to install and convey a mural to the City of Sedro-Woolley in accordance with this Chapter.

17.42.330 Easement standards.

A. All persons with interest in the property have agreed in writing to the provisions of the façade easement agreement.

B. No alteration to the façade underlying the easement agreement is permitted without approval of a Mural Permit from the City of Sedro-Woolley.

~~C. The property owner benefited by a façade easement agreement shall obtain a Certificate of General Liability Insurance in the amount of one million dollars ($1,000,000), naming the City of Sedro-Woolley as an additional insured. The Certificate of General Liability shall be in effect during the mural installation period and reinstated again when the mural is either being altered, refurbished, cleaned, or removed. The initial Certificate of General Liability must be in effect prior to the applicant receiving a mural permit.~~

C. A façade easement agreement shall endure for no less than five (5) years. A façade easement agreement shall endure for no more than ten (10) years. Renewals are permitted and shall be recorded as new façade easement agreement.

D. The property owner is responsible for mural installation, obtaining a mural permit, recordation of the façade easement agreement, and any associated fees (except mural permit fees shall be waived).

E. The City of Sedro-Woolley is responsible for the cost of maintenance and upkeep, including but not limited to the removal of graffiti and vandalism. This agreement is solely limited to an approved mural and does not extend to the maintenance and upkeep of the underlying structure or land.

17.42.340 Approval.

A. The Community Development Director or their designee shall have the authority to approve a voluntary façade easement on behalf of the City.

B. Murals subject to a voluntary façade easement shall be protected with acceptable anti-graffiti coating to deter vandalism and wear from the elements, subject to the approval of the Public Works Director or their designee.

C. Murals as part of a voluntary façade easement shall comply with the requirements of 17.42.155 SWMC.

Chapter 17.43
PLANNED RESIDENTIAL DEVELOPMENT (PRD)

Sections:

[...]

17.43.040 Commercial uses.

[...]

C. Design Standards.

1. Lot Size. Commercial lots shall not exceed twenty thousand square feet in area per twenty acres of land within the PRD. Any increase in commercial area shall be based upon twenty-acre increments of additional land, and proportionate increases shall not be permitted.

2. Landscaping requirement: Shall comply with the landscaping requirements for commercial uses in Chapter 17.50.

3. Signage. Total sign area is limited to one percent of gross floor area utilized by the activity. Monument signs are restricted to no more than six feet high. Internally illuminated signs, flashing signs, mechanically mobile signs, or neon signs are not allowed. All signs must be ground oriented or a facade sign.

4. Parking. Two parking spaces required per one thousand square feet of commercial area. On-street parking which fronts the parcel shall be counted in the overall parking requirement. Off-street parking shall be located at the side or at the rear of the building.

5. The site plan for the commercial area shall comply with the design standards and guidelines of Chapter ~~15.44~~17.42. The site plan and commercial designation must be

submitted and processed as part of the PRD application. (Ord. 1913-18 § 1 (App. A) (part), 2018: Ord. 1484-04 § 11 (part), 2004)

[...]

17.43.060 Property development standards.

[...]

B. Minimum Lot Requirements in the R-1, R-5 and R-7 Zones.

1. Single-family residential lots created through the PRD process in the R-5 zone may be a variety of sizes; provided, no lot shall be less than six thousand square feet in size—except fifty percent of the single-family lots in a PRD may be as small as four thousand eight hundred square feet in size.

2. Single-family residential lots created through the PRD process in the R-7 zone may be a variety of sizes; provided, that no lot shall be less than four thousand eight hundred square feet in size—except fifty percent of the single-family lots in a PRD may be as small as four thousand square feet in size.

3. In the R-5 and R-7 zones, the minimum lot size for all lots created through a PRD process with duplex homes shall be eight thousand square feet if both units comprising a single duplex are located on the same lot.

4. In the R-5 and R-7 zones, the minimum lot size for townhouse units on their own platted lot (including duplexes with each unit on a separate platted lot) is two thousand five hundred square feet for lots that have a unit on either side (center units) and three thousand five hundred square feet for lots at the end of a townhouse row.

5. The averaged lot size in the R-5 and R-7 zones shall be reduced by not less than twenty percent of the minimum lot size for that zone as specified in Chapters 17.08 and 17.12 respectively—this requirement means the minimum averaged lot size is six thousand seven hundred twenty square feet in the R-5 zone and four thousand eight hundred square feet in the R-7 zone. The averaged lot size requirements for the R-5 zone shall not incorporate individual townhome-unit lots or commercial lots into the calculations. The averaged lot size requirements for the R-7 zone shall not incorporate individual commercial lots into the calculations.

6. Single-family residential lots in the R-1 zone may be a variety of sizes; provided, that no lot shall be less than eight thousand four hundred square feet in size.

7. In the R-1 zone, the minimum lot size for all lots created through a PRD process with duplex homes shall be ten thousand five hundred square feet if both units comprising a single duplex are located on the same lot.

8. In the R-1 zone, the minimum lot size for townhouse units on their own platted lot is four thousand square feet for lots that have a unit on either side and five thousand five hundred square feet for lots at the end of a townhouse row.

9. For townhouse units on individual lots, the front and rear setback requirements will govern the lot coverage. End units on a row of townhomes shall have an eight-foot side setback, except three-story townhouse buildings require a twelve-foot side setback.

[...]

I. Of the open space required to be provided, fifty percent shall be “usable open space.” “Usable open space” includes only open space which is accessible for active or passive recreation purposes, is visually integrated into the design so that is an intentional aspect of the PRD, or is of direct benefit to the PRD residents. “Usable open space” may not include lots, dwellings, private yards, outdoor storage, streets and any associated rights-of-way, driveways, parking areas, fenced stormwater detention ponds, critical areas and their associated buffers, slopes in excess of fifteen percent, areas with any dimension less than ten feet, and required perimeter buffers that do not include screened trails and pathways (where applicable). At least fifty percent of the “usable open space” shall be for active purposes. Open space for active purposes includes areas which have appropriate topography (generally less than a ten percent slope), soils, drainage, and size to be considered for development as active areas for all residents, owners, or users of the PRD. The remaining open space that is not “usable open space” may include critical areas and utility easements.

1. That portion of multiuse stormwater facilities which provides significant recreational or aesthetic benefit per subsection J of this section may count as usable open space.

2. Only that portion of utility corridors/easements which contain improved walking trails in compliance with federal, state, or city regulations may be counted as usable open space. The applicant shall provide documentation that the walking trail meets this criteria.

3. Only open space which satisfies the requirements of the design standards and guidelines of Chapter ~~15.44~~17.42 and the current version of the Sedro-Woolley Design Standards and Guidelines manual may be counted as usable open space.

4. That portion of sensitive areas, such as fish and wildlife habitat areas, which are accessible to the residents or public and integrated into the design of the PRD in a manner which results in restoration or enhancement of the functional values of the sensitive area, may be included in the usable open space calculation.

[...]

17.43.070 Approval—Procedure.

[…]

B. A PRD application must contain sufficient detail to show compliance with the design standards and guidelines of Chapter ~~15.44~~17.42 for the layout, infrastructure, and buildings within the PRD, to allow the reviewing body to incorporate compliance with design standards into its recommendation and final decision. The applicant is expected to submit this information in a format that meets the standards of an architect or design professional. The integration of a comprehensive, well-planned design into all aspects of the PRD is a required element of the application. The application and approval shall require subsequent construction within the PRD to conform with the approved design elements, at a sufficiently detailed level to ensure subsequent compliance with the approval documents.

[…]

Chapter 17.50
LANDSCAPING

Sections:

[...]

17.50.120 Screening requirements.

E. Any material that enhances the visual appearance and screening may be utilized. All screening materials are subject to design review as per Chapter ~~15.44~~17.42.

[...]

Chapter 17.51

~~MURALS~~*Repealed*

~~Sections:~~

~~17.51.010 Project description—History.~~

~~A. The works of one of the city's most famous citizens—photographer Darius Kinsey—was the original inspiration for the Sedro-Woolley mural project. The first few murals painted on the exterior walls of buildings were replicas of actual photos taken by Darius Kinsey. The original photos are typically printed in sepia-tone colors or black and white. It was found that using the subtle sepia colors in the replicas resulted in very lifelike pictures that are eye-catching from a distance and intriguing to study at close range. Soon other merchants in the city became enthused about the murals and desired murals on their buildings. Thus a project was born.~~

~~B. The guidelines adopted within this chapter were developed in cooperation with the city design review committee, planning commission, and interested citizens, and are intended to provide a framework to insure an aesthetically pleasing and cohesive project that will be a source of community pride for years to come. This requires that minimum standards addressing basic issues, such as size, colors, content, advertising allowance, and professionalism be established. While these standards may exclude some proposed projects in favors of others, there is no intent to discriminate in favor or against any particular artist, or exclude authentic representations of historical events, people, or community life that are part of the history of Sedro Woolley.~~

~~C. A number of building walls have been identified as possible mural locations. It is anticipated that the content of these murals will be derived from either Kinsey photos, or photos taken during the same era (1890-1930). When several murals are completed, a brochure of the project will be developed to include a map showing where the murals are located, an explanation of each mural, and additional information about the history of the area, the historic buildings in the city, and other points of interest. This brochure will be updated periodically as the project matures. It is intended that this brochure will be used as a promotional tool for the city. (Ord. 1072 § 2 (Exh. A § 3.11.01), 1989)~~

~~17.51.020 Purpose.~~

~~The “Pictures from the Past” mural project is undertaken as a joint effort by the citizens of Sedro-Woolley, the chamber of commerce, and the city’s planning commission and council, and is intended to serve the following purposes:~~

~~A. Acknowledge and celebrate the history of the city and the surrounding area in a visually appealing manner;~~

~~B. Provide support for the historic theme adopted for the downtown business area;~~

~~C. Provide information and enjoyment to visitors and residents of the community;~~

~~D. Provide a sense of community identity through recognition of the diverse elements of community life, history, industry, and folk lore that contribute to the unique character of Sedro-Woolley and Skagit County;~~

~~E. Encourage participation of various businesses in a cohesive and tangible project that will have lasting value to the city; and~~

~~F. Promote and encourage out-of-town visitor interest in the city as a tourist destination. (Ord. 1072 § 2 (Exh. A § 3.11.02), 1989)~~

~~17.51.030 Application requirements.~~

~~An application for a wall mural shall include the following information:~~

~~A. Name and address of the person or business paying for the mural;~~

~~B. Name and address of the artist;~~

~~C. Location of the proposed mural, including address of building, and the location and size of the wall of the building to be painted;~~

~~D. Photo to be replicated, and date and location of photo, or rendering of the proposed mural adequate to accurately depict the content of the mural. If a rendering is provided, historical documentation of the authenticity of the scene shall be required.~~

~~E. Written description of the proposal addressing the standards of this ordinance. (Ord. 1072 § 2 (Exh. A § 3.11.03), 1989)~~

~~17.51.040 Procedures.~~

~~An application for a wall mural shall be reviewed per Chapter 15.44, Design Review, and incorporate the standards in this chapter. (Ord. 2032-22 § 15, 2023; Ord. 1072 § 2 (Exh. A § 3.11.04), 1989)~~

~~17.51.050 Standards.~~

~~A mural proposal shall be reviewed and approved or denied based on the following standards:~~

~~A. Subject Matter—Photo Replicas. Murals shall be replicas of photographs taken between 1890 and 1930. A suggested source is the Darius Kinsey collection. The subject of murals should relate to one or more of the following themes:~~

~~1. Logging industry in and around Sedro-Woolley;~~

~~2. Railroad shipping or passenger operations in Skagit County;~~

~~3. River shipping or passenger operations in Skagit County;~~

~~4. Early community life of the city;~~

~~5. Significant events which took place during the era;~~

~~6. Other subject matter related to the era and Skagit County area, as approved by the planning commission;~~

~~B. Subject Matter Alternative. As an alternative to replicating a photo, the following is also acceptable:~~

~~1. Recreation of an authentic historic event using available documents and written accounts as sources. Such events should be those which occurred between 1890 and 1930.~~

~~2. A collage of pictures following a theme, such as the evolution of logging methods, or illustrating the fashions of the era, or other similar themes associated with the history of the area.~~

~~3. Mural maps of the city, or of early railroad and/or logging operations, or similar geographical information.~~

~~C. Subject Matter—Unacceptable. To protect the integrity of the project, the general welfare of the city and citizens therein, the following may not be considered acceptable subject matter for a mural:~~

~~1. Pictures not related to the 1890-1930 era;~~

~~2. Pictures not related to the city or county area;~~

~~3. Pictures depicting completely fictional events with no documentation of authenticity;~~

~~4. Pictures depicting recognizable people from the past out of true context. (This does not exclude depicting people from the present in pictures of the era, if done with the consent of the person represented.)~~

~~5. Pictures or representations which violate any state law.~~

~~D. Colors. Murals shall be painted in sepia-toned colors. This coloration is consistent with the color of photos taken during the era, and gives a realistic touch to the work. Sepia also works well with the brick surfaces and color tones of the city, provides a strong cohesive design element to the project as a whole, and creates an historical mood. Use of sepia colors will be less likely to create a cluttered or "billboard" effect, and will insure that the mural project does not detract from the historical character and theme of the downtown business district. Use of sepia tones will reduce the overall cost of maintaining the murals. Limiting the project to sepia tones also eliminates the difficulty of determining authenticity of colors and eliminates a potential subjective decision that must be made by the review committee and planning commission.~~

~~E. Color. Exceptions. The planning commission may grant exceptions allowing the use of other colors under the following circumstances:~~

~~1. Paint samples of the true colors to be used are provided with the application, plus supporting evidence that the proposed colors are authentic and/or appropriate for the subject matter. Preference will be given to colors which are subtle in tone;~~

~~2. The use of colors will not detract from any historic structure, or group of structures; and~~

~~3. Either:~~

~~a. The mural is to be located outside of the central business district; or,~~

~~b. Only a portion of the mural is to be painted in other colors, as an accent against the sepia background, to highlight some element of the picture for advertising or other purposes, subject to the requirements of subsection G of this section below; or~~

~~c. The mural is to be placed on a nonhistoric building as a major design feature.~~

~~F. Scale. The photo or rendering shall be reproduced at a scale large enough to cover the wall on which it is to be placed. As much as possible, larger than life-size scale should be attained.~~

~~G. Acknowledgements—Advertising. All murals shall be signed by the artist. In addition, up to one percent of the mural area may be used to acknowledge the person, organization, or business commissioning the mural. If a specific business identification for the business occupying the building is incorporated into the mural, the portion of the mural dedicated to~~

~~such identification shall be applied toward the maximum square footage allowance for signs for that business under Chapter 17.40.~~

~~H. Credentials. The design review committee may request a portfolio and other credentials of the artist to insure that all murals will be of a professional quality. (Ord. 1072 § 2 (Exh. A § 2 (Exh. A § 3.11.05), 1989)~~

[...]

Chapter 17.84
ADULT ENTERTAINMENT ESTABLISHMENTS

Sections:

[...]

17.84.030 Signage.

A. Signage shall be governed by the dimension requirements of Chapter ~~17.40~~17.42 SWMC.

B. On-premises signs will be subject to design review and signage requirements per Chapter ~~15.44~~17.42 SWMC ~~and must conform to Chapter 17.40 SWMC~~.

C. Off-premises signs shall be governed by Chapter ~~17.40~~17.42 SWMC.

[...]

City of Sedro-Woolley Design Standards and Guidelines

Original Adoption Date: October 13, 2004

Current Version Adopted: [DRAFT ONLY - INSERT DATE]

Table of Contents

Chapter 1 – Introduction to the Design Standards & Guidelines

The Sedro-Woolley Design Standards & Guidelines envisions the characteristics of the built environment of all aspects of Sedro-Woolley. These standards and guidelines contain design criteria that direct structures to express unique, high-quality designs that simultaneously express neighborhood character and each property owner's personal vision. These standards intend to promote orderly growth which protects and enhances property values.

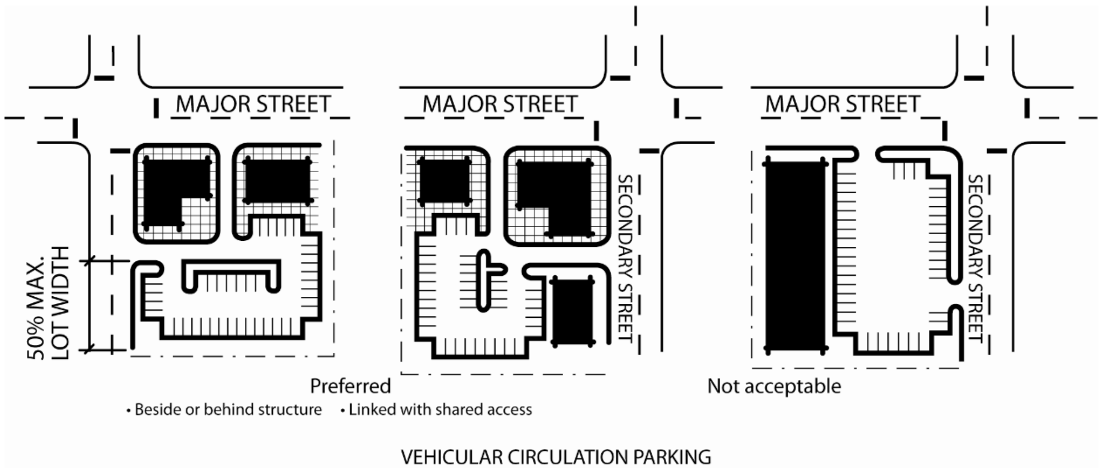
Many of these standards can be achieved through multiple creative ways. Departures from these standards are allowed under SWMC 17.42.075. The provisions of this document apply to all new construction and demolitions, as well as remodels and alterations that exceed 25% of the combined assessed value of the parcel and building.

Multiple chapters of these standards may apply to a single project. Review all chapters carefully to ensure you have incorporated all required design elements into your proposal.

Chapter 2 – Standards & Guidelines for All Development

2.1 Parking Lots

Intent: To maintain an active pedestrian realm along street fronts by placing parking lots behind, below, or above buildings.



REQUIRED STANDARDS:

1. Parking lots serving seven or more parking stalls shall be located behind, below, or above buildings. In no case shall more than 50% of the width of a parking lot be adjacent to the street right-of-way without screening between the parking lot and the street right-of-way that consists of:
    a. Ground cover and shrub material maintained at a maximum height of 3 feet for visibility;
    b. Walls with variation in height (example: walls with pillars spaced 10 feet on center) made of concrete, masonry, or other similar material at a maximum height of 3 feet for visibility;
    c. Raised planter walls of evergreen shrubs;
    d. Plantings of deciduous trees and ground cover, spaced adequately for visibility; or
    e. Landscaped berm with trees, shrub material, and geological features.
2. Walls and raised planters shall not exceed a maximum height of 3 feet, unless all of the following are provided:
    a. Screen treatment does not create a safety hazard;
    b. The portion of treatment that is above 3 feet in height is a minimum of 75% transparent (i.e. metal railings, trellis, adequately spaced vegetation); and
    c. The portion of treatment that is above 3 feet in height provides added visual interest and detail that is suitable to the character of the development.

3. The number of trees required in internal planting areas in parking lots shall be dependent upon the location of the parking lot in relation to the building and the street right-of-way. Trees located within the right-of-way but adjacent to a private parking lot may count towards both the required street trees and the required internal plantings below:
    a. Where the parking lot is located between the building and the street right-of-way, 1 tree for every 5 spaces shall be provided (1:5).
    b. Where the parking lot is located to the side of the building and no more than 50% of the width of the parking lot abuts the street right-of-way, 1 tree for every 6 spaces shall be provided (1:6).
    c. Where the parking lot is located behind the building and is not visible from the public right-of-way, 1 tree for every 7 spaces shall be provided (1:7).
4. Existing trees shall be retained unless they are unhealthy, create a public safety hazard, or cannot be reasonably retained due to site specific limits
5. Screen walls or fences located across a street or adjacent to a residential zone shall include architectural detailing or art.
6. All plant material used for parking lot screening shall be managed and/or selected to provide clear views between 3 and 8 feet above the ground surface, for visibility and public safety.
7. Parking lots serving twenty or more parking stalls shall provide pedestrian connections of no less than 5 feet in width and that contain at least 2 or more of the following:
    a. 6-inch vertical curb;
    b. Trellis and/or architectural features that accent the walkway;
    c. Special paving;
    d. Continuous landscape area (minimum 3-foot width) on at least one side of the walkway;
    e. Bollards; or
    f. Special railings.
8. Where pedestrian walkways cross vehicular travel lanes within a parking lot serving twenty parking stalls or more, two or more of the following are required:

a. Walkway is raised a minimum of 3 inches (see upper right);
b. Walkway is marked with contrasting colored paving (see upper right); or
c. The vehicular travel lane shall be narrowed to the minimum width at the pedestrian crossing and signage is provided (see lower right).

9. Regardless of the number of parking stalls, ADA accessible pedestrian connections shall be provided between the primary entrance of the building and the following:
   a. All on-site ADA parking stalls;
   b. The sidewalk (if one exists in the street right-of-way);
   c. Any major pedestrian routes, including but not limited to existing or proposed trails in the current version of the Sedro-Woolley Comprehensive Plan; and
   d. Any adjacent public transit stop.
10. Pedestrian-scale night lighting shall be provided where stairs, curbs, ramps, abrupt changes in walk direction, and vehicular lane crossings occur.
11. Trash collection areas shall be screened by a combination of masonry, wood, vinyl walls/fencing, and/or planting areas.
12. Loading and service areas shall not face any residential zone, unless no other location is possible.
13. All service, loading, storage, and trash collection areas must be designed to reduce attractiveness to pests and include method(s) to secure contents.

*(Below) Photo courtesy of **www.pedbikeimages.org** / Dan Burden*

ENCOURAGED GUIDELINES:

14. Recommended tree species in SWMC 12.40.110 should be used for all tree plantings.

15. Commercial parking lots are encouraged to meet stormwater drainage requirements by using Low Impact Development (LID) techniques wherever possible and practical.
16. Wall, fencing, and architectural details shall complement the materials used in adjacent architectural styles.

2.2 Sidewalks, Street Trees, & the Right-of-Way

Intent: To maintain consistent street frontage and character for street rights-of-way. Enhance pedestrian and non-motorized transportation safety from motorized vehicles by consolidating driveways, while maintaining adequate vehicular and service access. Reduce the impact of urban heat island effect and increased the water quality of stormwater within the right-of-way. Provide shade for passersby and habitat creation for small urban birds and animals.

REQUIRED STANDARDS:

1. Street trees are required and shall comply with the requirements of Chapter 12.40 SWMC.
2. Street trees within the right-of-way shall be located in tree grates or continuous planted area (minimum 5-foot width) between the walking route of the sidewalk and the curb edge.
    a. Exception: Street trees between the sidewalk and curb edge are not required if street trees are provided within a central vegetated median (see right).

3. Street trees shall match or complement adjacent existing street tree species.
4. Where tree grates are used, they shall be ADA accessible and of a similar size and material as tree grates found in adjacent developments.
5. Minimize obstructions to pedestrian movement and the number of vehicular turning movements; consolidate vehicle access points.
6. Closely spaced adjacent driveways shall be combined for joint access, unless the City Engineer finds consolidation is impractical or will create a hazard.

ENCOURAGED GUIDELINES:

7. The use of LID materials is encouraged, if appropriate to site conditions.

2.3 Building Design

Intent: To ensure that building entrances are welcoming and easily identifiable from streets and sidewalks. Create a welcoming streetscape through architecture, placemaking, and visual appeal that captures the attention and interest of passersby. Minimize the perceived mass of multistory buildings and single-story buildings exceeding 15 feet in height while maintaining a human-scaled town character through the visual articulation of a distinct base, middle, and top.

REQUIRED STANDARDS:

1. Visual Prominence - the principal entry to the building shall be marked by at least one element from each of the following groups:

Group A	Group B
Recess	Clerestory
Overhang	Glass Window(s)
Canopy	Ornamental Lighting Fixtures
Portico	Large Entry Doors
Porch	

2. Weather protection shall be provided at the primary entrance of all buildings. This can be combined with the methods used to achieve visual prominence (above). Weather protection shall project a minimum of 3 feet away from the primary entrance.
3. Entrances to non-residential structures and multifamily structures serving 7 or more dwelling units shall provide one of the following additional elements of visual prominence:
    a. Ornamental brackets for baskets;
    b. Building name on sign;
    c. Fencing/railings with Art Nouveau Styling; or
    d. Permanent seating.
4. Entrances to non-residential structures and multifamily structures serving 7 or more dwelling units shall have ADA signage for deaf, physical, and visually impaired individuals.
5. Ground-floor, street-facing facades of commercial and mixed-use buildings shall incorporate at least three of the following elements:
    a. Lighting or ornamental brackets;
    b. Medallions;
    c. Plinths for columns;
    d. Kickplate for storefront window;
    e. Projecting sills;
    f. Tilework;
    g. Pedestrian scale sign(s);
    h. Planter boxes;
    i. Organic, curvilinear, and sinuous designs in ornamental or accessory features (Examples: railings that mimic floral patterns; windows with unique curves; staircases that curve outward, etc.).
    j. Stained glass windows; or
    k. An element not listed here that meets the intent.
6. Walls 60 feet or more in length facing streets or visible from a residential zone where windows are not provided shall have architectural treatment that shall be conditioned upon approval by the Community Development Department.

7. Multistory buildings shall have a distinct "base" at the ground level, using articulation and materials such as stone, masonry, or decorative concrete. Distinction may also occur through the following:
    a. Windows;
    b. Architectural details;
    c. Canopies;
    d. Bays;
    e. Overhangs; and
    f. Masonry lintels and cornices
8. The "top" of multistory buildings shall emphasize a distinct profile or outline with elements such as:
    a. Projecting parapet;
    b. Cornices;
    c. Upper-level stepbacks; or
    d. Pitched rooflines, between 3:12 and 12:12.

ENCOURAGED GUIDELINES:

9. The "middle" of multistory buildings may be made distinct through the following:
    a. Change in building material or color;
    b. Windows;
    c. Balconies;
    d. Stepbacks; or
    e. Signage.
10. Building design shall complement adjacent buildings that meet these standards and guidelines.
11. When rehabilitating historic buildings, property owners are encouraged to follow the Secretary of the Interior's Standards for Rehabilitation (see www.nps.gov).
    a. If original details and ornamentation are intact, they should be retained and preserved.
    b. If original details are presently covered, they should be exposed and/or repaired.
    c. If original details are missing, missing parts should be replaced to match the original in appearance. Remaining pieces or old photos should be used as a guide.

2.4 Sign Design

Intent: To ensure that signage is part of the overall design approach to a project and not an additive element or afterthought.

REQUIRED STANDARDS:

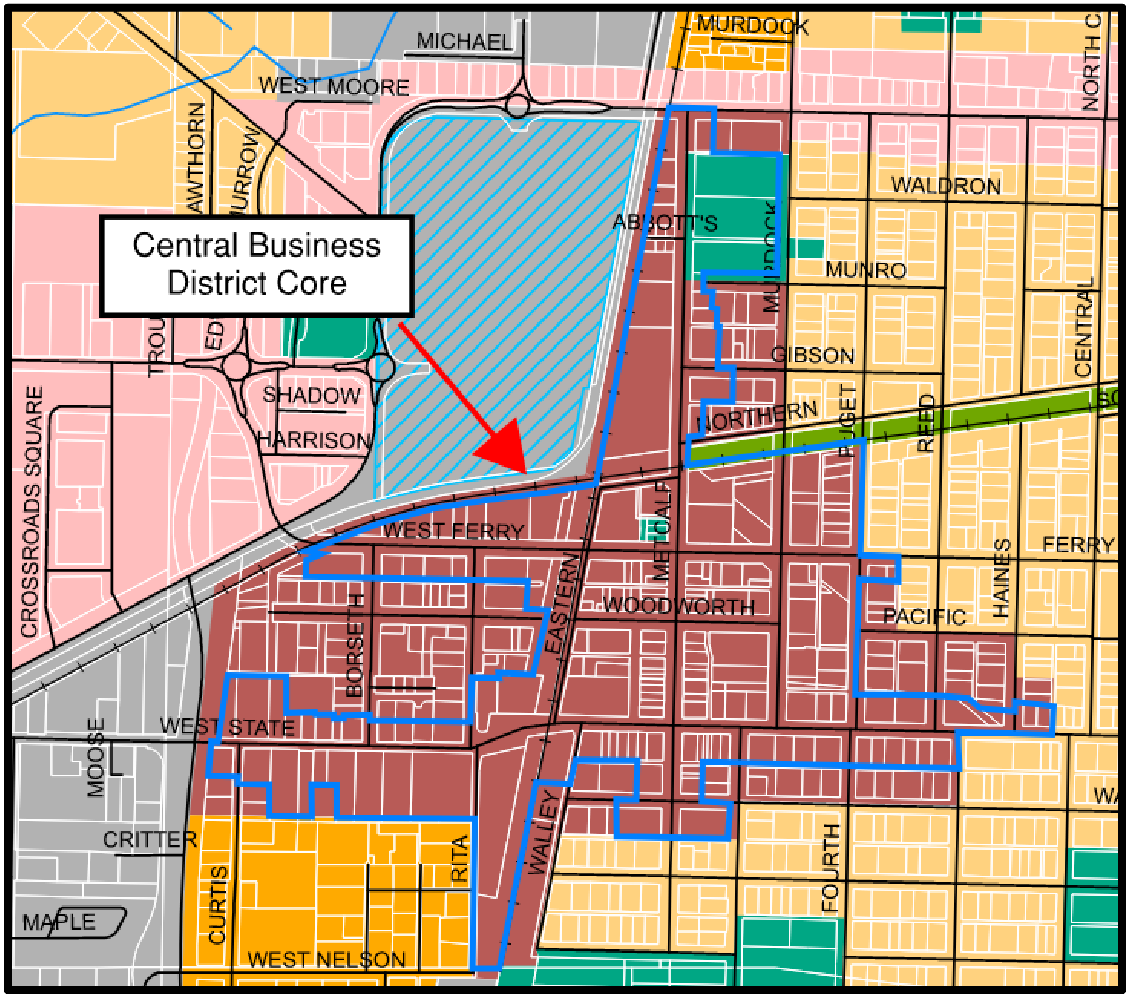
1. Internally illuminated signs with changeable letters and numbers (except for gas price signs at service stations) and portable trailer signs with changeable text panels shall not be allowed.

ENCOURAGED GUIDELINES:

2. Signs should be highly graphic in form, expressive and individualized.
3. Signs should convey the product or service offered by the business in a bold, graphic form.
4. Projecting signs, supported by ornamental brackets and oriented to pedestrians are strongly encouraged.

Chapter 3 – Additional Standards for the Central Business District (CBD)

Intent: A style known as "Art Nouveau" emerged in the last decade of the nineteenth and first decade of the twentieth centuries. Historically, storefront architecture in the Pacific Northwest (PNW) ranged from simple, wooden false fronts to sophisticated masonry facades. In most small PNW towns, there is a combination of styles and interpretations resulting in an interesting collection of stylistic variations.



Art Nouveau adds organic, curvilinear, sinuous, and colorful elements to structures. Intricate artistic details frame the facades of buildings where space may traditionally be untouched. It emphasizes visual appeal to the pedestrian, rather than the automobile. Focusing design elements on the pedestrian increases the likelihood that shoppers will extend their time in the CBD, bringing economic benefits to downtown businesses. The intent of this Chapter is to maintain and perpetuate design characteristics that exhibit "Art Nouveau" in a cost-effective and visually appealing manner.

Applicability: The CBD is stratified in two distinct categories: the CBD Core and the Outer CBD. These locations have been identified on the map to the left.

3.1 Building Design

3.1.1 Central Business District Core ONLY

REQUIRED STANDARDS:

1. All one-story commercial buildings with no residential component shall have traditional commercial flat roofs with parapets OR may have shed roofs with a minimum of a two-foot eave on the street-facing side.
2. New construction adjacent to a sidewalk or shared use path shall utilize brick as the dominant material of the street-facing or trail-facing wall of the structure (exclusive of glazing). At least fifty percent (50%) of the street-facing wall of the first and second floors of structures adjacent to a sidewalk or shared use path shall utilize brick or brick veneer (exclusive of glazing).
3. New construction shall have traditional commercial flat roofs with parapets OR use parapets to entirely block alternative roof forms. Flat roofs shall include a parapet on all sides of the building, visible from the adjacent street(s), with cornice or similar architectural feature. Shed roofs are appropriate for subordinate roof forms, such as porches, canopies, or upper floor projections.
    a. Buildings taller than 30 feet OR are three stories or more that are along Metcalf, Ferry, West Ferry, State, and West State Streets shall have traditional commercial flat roofs with parapets or may have shed roofs with a minimum of a three-foot eave on the street-facing side. Flat roofs shall include parapets on all sides of the building, visible from the adjacent street(s) and accompanied by a cornice or similar architectural feature. Shed roofs are appropriate for subordinate roof forms, such as porches, canopies, or upper floor projections.

3.1.2 Central Business District Core AND Outer Central Business District

REQUIRED STANDARDS:

1. Building façades shall be limited to one base color, one trim color, and one accent color.
    a. Trim color shall not exceed thirty percent (30%) of the total area of each façade.
    b. Accent color shall not exceed ten percent (10%) of the total area of each façade.
    c. Primary neon hues, blended neon hues, fluorescent hues, luminous hues, iridescent hues, reflective colors, and their electric variants are strictly prohibited within the CBD Core, unless approved through a mural permit.

2. Blank spaces on walls adjacent to a sidewalk, shared use path, or publicly accessible street or driveway shall not exceed 20 feet horizontally or 20 feet vertically.
3. Ground floor, street-facing facades of new construction shall incorporate at least five of the following elements listed in A-M, per façade:
    a. Lighting or hanging baskets supported by ornamental brackets;
    b. Medallions;
    c. Belt courses;
    d. Plinths for columns;
    e. Kickplates for storefront window or primary entrance;
    f. Projecting sills;
    g. Tilework;

h. Pedestrian scale sign(s), sign(s) painted on windows, or mural(s) that comply with the standards of this manual and Title 17 SWMC;
i. Planter box;
j. Awning, canopy, or marquee;
k. False front or tall front;
l. Streetscape lighting that complies with the standards of this manual and approved in writing by the Director of Public Works or their designee;
m. An element not listed here that meets the intent.

In addition, as part of requirements, applicants shall include one or more of the following elements listed in N-T:

n. Masonry skirting/base/wainscoting or similar, no less than 36” above grade at building; minimum height does not apply under fenestrations.
o. Large format doors and windows with transom windows above;
p. Large operable windows and/or doors that create dynamic, usable space/interface of public and private space for dining, seating, retail or similar;
q. Post and lintel detailing/articulation, corbeling, dentils or similar;
r. Decorative trim, moldings, bands, arches, balustrades, base moldings or similar architectural features;
s. Notable building articulation and/or modulation vertically or horizontally or similar architectural feature(s) that meet the intent of this section.
t. An element not listed here that meets the intent

ENCOURAGED GUIDELINES:

4. Developments on corner lots should create and/or maintain a unique and recognizable façade with two or more of the following methods:
   a. Placement of the primary entrance;
   b. Articulation;
   c. Towers;
   d. Plazas;
   e. Distinctive roof forms;
   f. Other architectural features; and
   g. Landscaping.
5. Intricate metalwork should be used to enhance frontages and match the historic style.
6. Dentil detailing of cast masonry, brick or a combination of masonry, metal, and wood.
7. Building facades should vary in height, shape, and ornamental detailing.
8. Signage colors, shapes, letter styles, and details should vary.
9. Non-traditional windows and fenestration types, such as circular and arched windows.

3.2 Awnings, Canopies, and Marquees

3.2.1 Central Business District Core AND Outer Central Business District

REQUIRED STANDARDS:

1. Awnings may be fixed or retractable. Retractable awnings shall not pose a safety hazard within the public right-of-way.
2. Awning projection from the building shall not be less than five (5) feet wide unless the underlying sidewalk is less than five (5) feet wide, in which case the awning shall not be located above parking or vehicular travel lanes.
3. Glossy vinyl or translucent back-lighted types are prohibited.
4. Exterior valances shall not exceed twenty (20) inches vertical length.
5. Wood shingles are prohibited on awnings, canopies, and marquees.

ENCOURAGED GUIDELINES:

6. Awnings should be angular as opposed to round in keeping with traditional styles.
7. Permanent marquees constructed of glass, wood or metal and that meet all other design review standards are encouraged.
8. Fabric covers should be solid color or striped acrylic and compatible with other colors used on the building front.
9. Size and scale of awnings, canopies, and marquees shall relate to that of the building architecture and features.

3.3 Doors and Windows

3.3.1 CENTRAL BUSINESS DISTRICT CORE ONLY

REQUIRED STANDARDS:

1. For new construction only, measured vertically between two (2) and eight (8) feet above the ground, all storefront facades that face the public right-of-way shall consist of no less than fifty percent (50%) glass display windows.
2. For new construction only, between the ground and the highest elevation of the building façade, all storefront facades, regardless of location (including facing an internal parking lot), shall consist of no less than fifty percent (50%) glazing. Windows may be opaque or transparent.
3. Windows twenty (20) square feet in size and larger shall have a multi-paned or gridded appearance. False muntins or simulated divided lites between window panes are acceptable.
4. Doors used as a primary entrance shall consist of no less than sixty-five percent (65%) glazing. Windows may be opaque or transparent.

Insert Decorative Treatment Picture

5. Garage doors are prohibited when adjacent to the following streets, unless pedestrian-scale decorative treatment has been applied:

a. On Metcalf Street, between Northern Avenue and Warner Street;
b. On Ferry Street, between Eastern Street and Puget Street;
c. On Woodworth Street;
d. On State Street, between Eastern Street and Puget Street;
e. On Third Street, between State Street and Warner Street; and
f. On the east side of the Post Office Alley.

3.3.2 Central Business District Core AND Outer Central Business District

REQUIRED STANDARDS:

1. Bright finish stainless steel or aluminum, fiberglass, and plastic exterior finishes shall not be used.

ENCOURAGED GUIDELINES:

2. Windows that complete the "tall front" feeling should be enhanced, not covered. If they cannot function as originally planned because of interior remodeling, then they can be opaque from the inside or covered with an awning similar to the old style.
3. Buildings with a commercial ground floor are encouraged to use larger plate glass between 2 and 8 feet off the ground at the storefront and smaller gridded or multi-pane windows for all additional stories.
4. Upper-story windows with vertical emphasis are encouraged. Typically, upper-story windows are twice as tall as they are wide. These proportions are within a limited range; therefore, upper-story windows in new construction should relate to the window proportions seen historically.
5. Transom windows are encouraged (see right).
6. Decorative molding, framing, glazing and other designs are encouraged.
7. Decorative wrought iron detailing is encouraged.
8. Wood is the preferred material for doors. Bronze, brass, and painted metal is acceptable.
9. Hardware shall mimic traditional and historic character, to the extent allowed under the applicable building code.
10. Window and door modulation and articulation shall be incorporated in a way that is compatible with existing modulation and articulation of adjacent buildings.

3.4 Sign Design

3.4.1 Central Business District Core AND Outer Central Business District

ENCOURAGED GUIDELINES:

1. Letter style should be complimentary to Art Nouveau; Classic Roman and derivatives or Calligraphic styles. Avoid Sans Serif, Contemporary and any decorative styles that fight with the theme (such as computer styles or Old English). In cases where a corporate logo and/or representative letter style is used, criteria 2 and 3 below should be followed so signage can be integrated with the total theme.
2. Signs should have an outside shape that is characteristically decorative, or if rectangular or square, include panels, borders and decorative detailing that are distinctly complimentary to the 1920's architectural style.
3. Signs should be made with materials and techniques that are similar in appearance to those used in signage during 1890-1930. All free standing and projecting signs should have a base support or post cover that is decorative as well as functional and made of materials that are as relative to the coloration and detailing of the exterior walls of the buildings they serve as possible.

3.5 Streetscape Design

3.5.1 Central Business District Core ONLY

REQUIRED STANDARDS:

1. For any development permit that requires street frontage improvements, decorative streetscape lighting shall be incorporated at approximately 75 feet on-center within the CBD Core. Fixtures shall be selected from the City's list of approved decorative street lighting fixtures and approved in writing by the Director of Public Works. Existing lighting may be used, subject to Community Development Department approval.

3.5.2 CENTRAL BUSINESS DISTRICT CORE AND OUTER CENTRAL BUSINESS DISTRICT

REQUIRED STANDARDS:

1. Chain link fencing is prohibited within twenty (20) feet of the right-of-way.
2. For new construction, buildings with street-frontage of at least 75 feet in width anywhere in the CBD Zone shall incorporate decorative streetscape lighting. Fixtures shall be selected from the City's list of approved decorative street lighting fixtures and approved in writing by the Director of Public Works. Existing lighting may be used, subject to Community Development Department approval.
3. New streetscape lighting shall be cohesive with existing adjacent fixtures.
4. White, clear, or amber bulbs are appropriate. Colored light is prohibited.
5. The height of free-standing light fixtures shall not exceed building height.
6. Wiring connections shall be carefully shielded from view. Free-standing light fixtures shall run connections underground.

Chapter 4 – Additional Standards for the Mixed Commercial (MC) and Transitional Mixed Commercial Overlay (TMCO) Zones

4.1 Site Design

Intent: To ensure that automobile-oriented commercial zoning is accessible to all residents and visitors. Highlight Sedro-Woolley's economic activity above pavement and parking.

Above Photos Courtesy of City of Sedro-Woolley Staff

REQUIRED STANDARDS:

1. Provide one bicycle parking space for every 10 vehicle parking stalls, at least half of which shall be sheltered from the weather. Bicycle parking shall be well lit and close to the building entrance.
2. For parking lots serving 25 or more parking stalls, provide electric vehicle (EV) charging infrastructure for at least ten percent (10%) of parking stalls. In the event the International Building Code (IBC) requires additional EV charging infrastructure, the requirements of the IBC shall prevail.
3. Buildings, trees, landscaping, and pedestrian spaces shall be the dominant feature from the street, rather than parking lots and free-standing signs (see right).
   a. The requirements for privately-owned public open space (POPOS) may be reduced up to twenty-five percent (25%) in the instance where development locates its parking area behind the building as close as is practical to the public sidewalk and street frontage.

4. When the drive-thru window and/or stacking space/lane is located between the right-of-way and the building, screening in accordance with Chapter 17.50 SWMC is required.

ENCOURAGED GUIDELINES:

5. Development should be well connected to help minimize the number of driveways on major thoroughfares and to enable ease of travel between adjacent businesses. Developments should provide shared parking areas and pedestrian pathways connecting adjacent commercial developments.
6. Travelers along arterial streets should be able to see storefronts, windows, merchandise, shoppers, and other aspects of business activity.
7. Vehicle parking should be on the opposite side of the building from main arterials. Buildings should abut the sidewalk as close as feasible.
8. Drive-thru lanes and windows should not be located between the right-of-way and the building.

4.2 Privately-Owned Public Open Spaces (POPOS)

Intent: The MC and TMCO zones are located primarily along the city's state highways. These standards aim to:

- Create an **attractive** physical environment to welcome customers and visitors.
- Provide a network of **safe and convenient** pathways for pedestrians, vehicles, and non-motorized transportation between retail and mixed-use developments.
- Encourage the creation of **safer neighborhoods** through an "Eyes on the Street" approach by allowing multifamily residences in association with commercial uses.
- Respect the existing **small-town character** of Sedro-Woolley with its street grid, buildings lining the street, street trees, and pedestrian scale.

REQUIRED STANDARDS:

1. Each development of over 7,500 square feet of building area shall provide at least one privately-owned public open space (POPOS), according to the following formula:

1% of the building area + 1% of the parcel area = minimum POPOS size.

2. POPOS shall be available for use by the public at no cost.
3. POPOS shall be visible and accessible from the public sidewalk and should be contiguous and concentrated in one or two locations, rather than scattered in small, unusable portions.
4. POPOS shall incorporate two or more of the following elements:
    a. Plaza;
    b. Courtyard or forecourt;
    c. Sitting area;
    d. Rain garden;
    e. Art of water feature;
    f. Atrium or terrace;
    g. Special interest planting with a wide range of plant materials including perennials and flowering shrubs. A minimum of 50% of plant material used shall provide seasonal flower and/or foliage color;
    h. Pedestrian scale bollards and accent lighting;
    i. Special paving, such as stamped or stained concrete, brick, or pavers;
    j. Public art with a valuation of at least 0.5% of the valuation for construction;
    k. Special interest information, such as historical information; or
    l. Another element not listed here that meets the intent.

    The amount of area devoted to satisfying this requirement may be deducted from the amount of space required for landscaping (does not apply to required landscape screening).
5. POPOS shall be visible, well-lit, and accessible to the public.
6. Site furnishings shall be made of consistent, durable, weather-resistant, and vandal-resistant materials.
7. Site furnishings shall not block pedestrian access, open space areas, and/or building entrances. Site furnishings may be used near these areas but shall not create a hazard or impediment.
8. POPOS shall provide pedestrian-scale lighting that is less than 16 feet in height.

ENCOURAGED GUIDELINES:

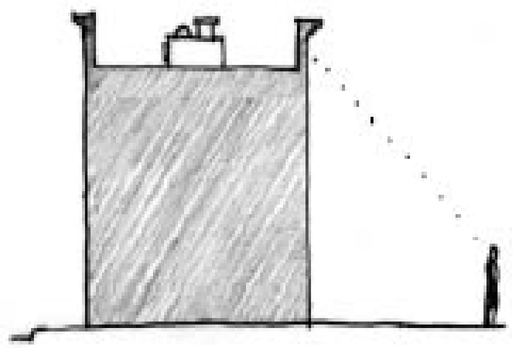
9. POPOS should be designed to allow the most sunlight possible to reach the area.

4.3 Building Design

Intent: To reduce the appearance of bulk in large commercial and mixed-use development. Preserve public safety for all modes of transportation.

REQUIRED STANDARDS:

1. Where buildings are adjacent to a public sidewalk, canopies or awnings shall be provided. The minimum depth of any canopy or awning shall be 5 ft unless limited by the building code. The vertical dimension between the underside of a canopy or awning and the sidewalk shall be at least 8 ft and no more than 12 ft.
2. Weather protection can be combined with the method used to achieve visual prominence at entrances, and to protect bicycle parking.
3. Internal illumination (under-lighting) of awnings shall be prohibited unless the awning material is opaque. However, pedestrian-scale lighting and other down-lighting is allowed beneath awnings.
4. Mechanical and communication equipment shall be screened by extended parapet walls or other roof forms that are integrated with the architecture of the building.
    a. Painting equipment or erecting fences are not acceptable methods of screening.



Raised parapet

5. Walls greater than 75 feet in length shall use two or more of the following techniques to minimize the apparent bulk of the building:
    a. Landscaping with columnar tree variety;
    b. Windows or fenestration;
    c. Material and/or texture change;
    d. Color variation;
    e. A mural, statue, or other form of visual art;
    f. Decorative trim, moldings, bands, arches, balustrades, base moldings or similar architectural features; or
    g. An element not listed here that meets the intent.

ENCOURAGED GUIDELINES:

6. Commercial buildings should include extended parapets and projecting cornices to create a prominent edge when viewed against the sky.
7. Developments on corner lots should create and/or maintain a unique and recognizable façade with two or more of the following methods:
    a. Placement of the primary entrance;
    b. Articulation;
    c. Towers;
    d. Plazas;
    e. Distinctive roof forms;
    f. Other architectural features; and
    g. Landscaping.

Chapter 5 – Additional Standards or Multifamily Development

5.1 Site Design

Intent: To orient multifamily development towards common areas to entice neighborly interactions and preserve community character.

REQUIRED STANDARDS:

1. When there are common entrances, they shall be clearly identifiable and visible from the street, with well-defined pedestrian route to common entrances from the right-of-way.
2. When a development has seven or more dwelling units, two or more of the following elements shall be used to highlight the main entrance to multifamily buildings:
    a. Open space, plaza, or courtyard
    b. Special paving
    c. Seating
    d. Water features
    e. Planter boxes or pots
    f. Functional, accent lighting
    g. Artwork near the entry
    h. Porches
    i. Another element that meets the intent.
3. Pedestrian scale lighting shall be provided to improve personal security. Lighting shall be shielded from the night-sky and adjacent dwelling units. Lighting shall not exceed sixteen (16) feet in height.
4. Buildings entrances shall be oriented towards the primary pedestrian street or toward a common open space with pedestrian connections.

ENCOURAGED GUIDELINES:

5. The use of LID materials, if appropriate to the site conditions, is encouraged (see right).
6. Front yards should include an entrance sequence between the sidewalk and the building including elements such as trellises, site furnishings, low hedges, landscaped borders, and special paving.

5.2 Building Design

Intent: To promote attractive and quality development while reducing the appearance of bulk and visual dominance. Strike a balance between preservation of neighborhood character and affordable housing creation.

REQUIRED STANDARDS:

1. Provide a minimum of 70 square feet of private outdoor space for each unit, such as yards, decks, terraces, patios, balconies, or other pedestrian-only areas. Private outdoor spaces shall also:
    a. Be visually shielded from adjacent outdoor private spaces.
    b. If on the ground-level, be visually shielded from the street.
    c. Not be located adjacent to a loading/service area, trash enclosure, or other incompatible use.
2. Residential-only structures shall use pitched roof forms with slopes between 3:12 and 14:12.
3. Roof mounted mechanical equipment located on the exterior of the roof may be located within wells or pockets to preserve the visible rooflines. The mechanical well floor would not be subject to the slope requirement. However, in no event shall such roof mounted equipment project above the building's roof line.
4. When building floor plans and/or footprints are repeated within a single development, a variety of architectural components on each building shall be provided to reduce repetitiveness. Examples: front façade treatments, porches and decks, bay windows, trim details, color variation.

5. Landscaped swales with bio-infiltration designed as part of a stormwater system are counted toward open space and landscaping minimums, up to 25% of the required landscaped area. Fenced detention ponds are not calculated as part of open space or landscaping minimums.
6. Provide at least 20% glazing on street-facing facades.
7. Building facades that face a street, public open space/common space, or alley, shall be given architectural treatment using two or more of the following:
    a. Visible rooflines;
    b. Windows;
    c. Secondary entrances;
    d. Balconies;
    e. Awnings; and
    f. Another element that meets the intent.
8. Horizontal façades longer than 50 ft shall be articulated into smaller units, reminiscent of the residential scale. Flat blank walls are prohibited. Methods of articulation include but are not limited to:
    a. Distinctive roof forms;
    b. Changes in materials;
    c. Window patterns;
    d. Color differentiation; or
    e. Recesses or offsets.

ENCOURAGED GUIDELINES:

9. Vehicle access and off-street parking should be obtained from the alley.
10. Walls and fences used to define outdoor spaces should be a minimum of 42 inches high and composed of 75% visually permeable elements (such as open rails, ironwork, or trellis treatment to encourage interaction between neighbors).
11. Where landscape areas are provided, plant materials should be a mixture of native deciduous and native evergreen varieties.
12. Gables facing the street.

13. Dormers to break up long lengths of roof.
14. Windows shall possess a trim of at least 3 inches in width.
15. Other decorative window features are encouraged, such as:
    a. Arched windows;
    b. Mullions;
    c. Awning(s); and
    d. Flower boxes.
16. A variety of window shapes and sizes.

Chapter 6 – Additional Standards for Residential Recreation Areas in Subdivisions & Multifamily Development

Intent: To provide recreational opportunities for users of all ages. The standards of this Chapter shall be applied to all residential recreation areas required under Chapter 17.38 SWMC.

REQUIRED STANDARDS:

1. At least four[1] different elements from the following list shall be incorporated into the recreation area:
    a. Sports court;
    b. Sports field;
    c. Covered shelter/picnic structure;
    d. Pergola;
    e. Site furnishings (tables, benches, trash receptacles);
    f. Public art;
    g. Drinking fountain or water bottle refill station;
    h. Children's play equipment;
    i. Community garden (including but not limited to raised garden beds);
    j. Water feature(s); and
    k. Another element that meets the intent.
2. Recreation areas shall be landscaped. No more than 75% of the site may be lawn or turf.
3. Shielded lighting shall be provided for the play area. Street lighting from the adjacent street may qualify as required lighting if the Community Development Department determines that the adjacent lighting provides sufficient illumination.

[1] Less than four elements may be used if the valuation of elements within the recreation area exceed 10% of the total valuation of improvements.

4. The design, materials, and equipment of the play area shall meet the requirements of the American Society for Testing and Materials (ASTM) for durability and safety. An approved soft surface is required in the fall-zone beneath and around the play equipment. Many types are available, including but not limited to pea gravel and mulch.
5. Sand and sandboxes shall not count towards the required recreation area.
6. Define the boundaries of the recreation area through one or more of the following:
    a. Non-sight-obscuring fencing;
    b. Berms; or
    c. Landscaping.
7. Provide a safety barrier between the residential recreation area and any street classified higher than local access road. This may be combined with the boundary requirements above.
8. The minimum dimension shall be 25 feet. Areas including paths that provide access to a recreation area shall be at least 20 feet in width and may not be counted towards required recreation area to improve visibility and safety.
9. A portion of the residential recreation area, not to exceed 50% of the required area under Chapter 17.38 SWMC, may be an indoor game or activity area (see right).

ENCOURAGED GUIDELINES:

10. Location of recreation areas should take advantage of available sunlight.
11. Provide outdoor seating.
12. Define entrances to residential recreation areas with garden elements, trellises, arbors, hanging baskets, site furnishings, and planter boxes.
13. Perennials and/or annuals are encouraged to provide special interest and highlight pedestrian areas such as building and/or site entrances, public open space, plazas and major pedestrian connections.

14. Recreation areas incorporated into stormwater management areas if the plan meets design review criteria.
15. Water features.
16. Interpretive signage associated with trails adjacent to critical areas.
17. Trellises, arbors, hanging baskets.
18. Community gardening plot.
19. Restrooms.

Chapter 7 – Additional Standards for the Industrial (I) Zone

Intent: To increase developer flexibility, enhance primary building entrances, visually reduce the height and bulk of large expanses of wall surface, and to screen storage and equipment areas. In addition, these standards are intended to create a connected roadway network which utilizes a block grid or modified grid layout. These standards are not intended to promote a particular architectural theme.

7.1 Site Design

REQUIRED STANDARDS:

1. Safe pedestrian crossings shall be provided across private and public streets every 1,000 feet of street length, in compliance with the City of Sedro-Woolley Public Works Department Standards.
2. Safe pedestrian access shall connect sidewalks and parking areas to the primary building entrance through striping, material changes, or other means.
3. All trash collection areas shall be screened by a combination of masonry, wood, or vinyl walls and planting areas.
4. Loading, service, and trash collection areas shall not face any residential district unless no other location is possible.
5. The primary entrance and any associated office or sales areas shall be located at the front elevation of the building. A minimum of two items from the list shall be utilized on the front elevation:
   a. Windows and awnings;
   b. Wall modulation;
   c. Significant landscape feature;
   d. Material and/or color change on building façade;
   e. Architectural detail;
   f. Pedestrian amenities such as benches and tables;
   g. Water feature(s);
   h. Plazas and open space areas; and
   i. An element not listed that meets the intent.

ENCOURAGED GUIDELINES:

6. Combine driveway access points to parking lots and reduce the number of curb cuts.
7. Off-street parking should be located on the side or rear of buildings.
8. LID techniques are encouraged for all water quality features.

7.2 Building Design

REQUIRED STANDARDS:

1. Clearly delineate the primary entrance and provide weather protection through one of the following:
    a. Recessed entrance;
    b. Overhang;
    c. Canopy; or
    d. Portico or porch.
2. Walls greater than 100 feet in length shall use one or more of the following techniques to minimize the apparent bulk:
    a. Landscaping with columnar tree varieties;
    b. Windows or other fenestration;
    c. Material and/or texture change;
    d. Color variation;
    e. Setbacks or wall modulation; or
    f. An element not listed here that meets the intent.
3. Rooftop equipment, air ducts, towers, storage tanks, processing equipment, vents and other improvements or equipment shall be compatible with the building architecture or screened from adjacent residential zones.
4. Screening is required when adjacent to residential zones in accordance with SWMC 17.50.120.
5. Existing trees shall be retained unless they are unhealthy, cause public safety hazards, or cannot be reasonably retained due to specific site locations.

ENCOURAGED GUIDELINES:

6. Bicycle parking spaces should be provided in convenient locations to the building entrances at a ratio of 1 per 10 vehicle parking stalls (1:10). Bicycle parking should be covered and located on paved surface.

Chapter 8 – Additional Standards for Planned Residential Developments (PRDs)

8.1 Site Design

Intent: To create open space in residential developments and to encourage imaginative site and building design by permitting greater flexibility in zoning requirements. This section also promotes retention of significant natural features of the natural environment, including waterways and views, encourages a variety of housing types and densities, maximizes efficiency in the layout of streets, stormwater facilities, utility networks, and other public improvements, and creates usable open space for the enjoyment of the occupants and the general public.

REQUIRED STANDARDS:

1. Primary building entrances shall face the street. If the entrance does not face the street, a clearly identifiable and visible walkway from pedestrian routes shall connect to building entrances.
2. Landscaping shall screen undesirable elements, including but not limited to adjacent commercial or industrial development, utility boxes, outdoor storage areas, and dumpsters.
3. Developments which utilize a clustered arrangement shall orient buildings around a common open space with a common vehicle entrance onto the primary street.
4. Private outdoor spaces such as yards, decks, terraces, and patios shall be delineated from common space using walls, fences, berms, hedges, or landscaping.
5. Outdoor spaces used to meet these standards shall not be located within required landscape screening areas.
6. Outdoor spaces shall not be located within 20 feet to dumpster enclosures, loading/service areas, or other incompatible uses, unless a barrier is provided as approved by the Community Development Department.
7. Driveway slope shall not exceed 12.5%.
8. Garage access shall be off the alley where feasible.

ENCOURAGED GUIDELINES:

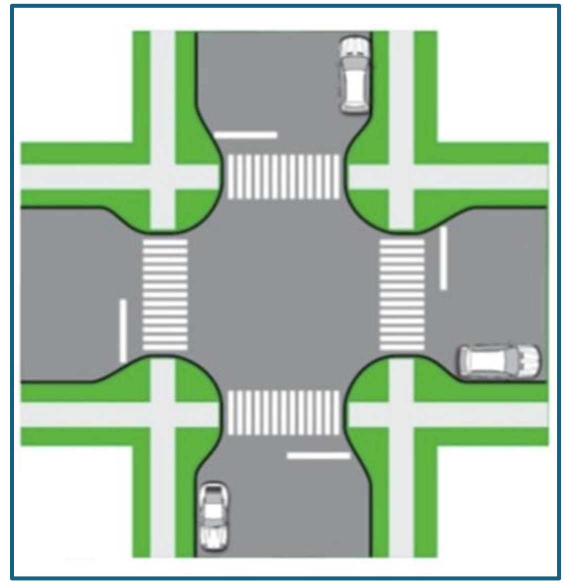
9. Front yards should include an entrance sequence between the sidewalk and the building including elements such as trellises, site furnishings, low hedges, landscaped borders, and special paving.
10. All landscape areas should include a wide range of plant materials including perennials and flowering shrubs. A minimum of 40% of plant material used should provide seasonal color or interest.
11. Accent lighting should be used to highlight special focal points, building and site entrances, public art, and special landscape features, open spaces, and walkways.
12. Walls, hedges, and fences used to define private outdoor spaces should be a minimum of 4 feet high with at least 75% visually permeable elements, such as open rails, ironwork, or trellis treatment to encourage interaction between neighbors.
13. Where landscape areas are provided, plant materials shall be a mixture of native deciduous and native evergreen varieties. A minimum of 20% of plant varieties shall provide year-round color, texture, or other special interest.

8.2 Sidewalks, Street Trees, & the Right-of-Way

Intent: To provide appropriate traffic calming and a safe, comfortable environment for pedestrians. To improve the quality of street runoff, preserve existing urban tree canopy, and mitigate the impacts of urban heat island effect.

REQUIRED STANDARDS:

1. Streets shall be designed to narrow to the width of two vehicle lanes at intersections (see right) and crossings. The area at the narrowed sections shall be landscaped per Chapter 17.50 SWMC and/or incorporate LID stormwater features. Bump-out features shall be designed to accommodate street sweeping machinery.
2. On all arterial streets and collector street more than 40 feet in width, provide pedestrian refuge areas in crosswalks.
3. Curb cuts on public streets shall be shared at a minimum of two dwelling units per access point to increase available on-street parking. This requirement shall not apply to alleys.
4. Rolled curbs are prohibited.
5. Identify street trees and driveway curb-cuts at the time of applciation for civil construction.



ENCOURAGED GUIDELINES:

6. Use of shared alley access for residences when the front of dwelling units face a green space, common open space, or trail.

8.3 Building Design

Intent: To ensure that residential development constructed on small lots is not overbuilt and maintains the character and scale of neighborhoods.

REQUIRED STANDARDS:

1. Structures shall incorporate pitched roof forms with slopes between 3:12 and 14:12 (not applicable to porches and dormers).

2. Windows shall be provided in facades facing street, comprising at least 20% of the façade area. Single-story, single-family and ADU buildings that include a garage door with windows shall only provide glazing on 10% of the façade area.
3. Street-facing facades, horizontal facades longer than 20 feet, and/or vertical facades longer than 20 feet shall be articulated using at least two of the following methods:
    a. Distinctive roof forms;
    b. Changes in materials;
    c. Window patterns;
    d. Color differentiation;
    e. Recesses or offsets; and
    f. An element not listed here that meets the intent.
4. Garage doors shall be at least 8 feet in height.
5. Structural sheathing shall not also serve as exterior siding.
6. Eaves shall be 16 inches or greater in length.

ENCOURAGED GUIDELINES:

7. Gables facing the street.
8. Dormers should be used to break up long roof lengths.
9. Windows shall have a visually prominent trim, at least 3” in width.
10. Other decorative window features, such as:
    a. Arched window(s);
    b. Mullions;
    c. Awning(s);
    d. Flower box(es);
11. A variety of window sizes and shapes.
12. A variety of siding materials should be used on the street-facing façade, including stone or brick.
13. Covered porches.
14. Soffits beneath eaves.

Chapter 9 – Additional Standards for the Urban Village Mixed-Use (UVMU) Overlay Zone

9.1 Site Design

Intent: The intent of the Urban Village Mixed Use Overlay (UVMU) is to create a compatible mix of commercial and residential development, and more diverse types of residential density. A higher standard of aesthetics is required within the overlay. The UVMU will provide for more efficient use of resources providing for an integrated mixed-use site plan to include open space, walkability, convenience, environmental protection, enhanced commercial options, reduction of dependence on motorized vehicles, and provide for an urban village experience and for an attractive and welcoming appearance to visitors at the western entrance of the City. To reinforce pedestrian activity, development in the UVMU shall be oriented to ground floor activities and enhance the liveliness of the street through building location, uses and design.

REQUIRED STANDARDS:

1. Commercial parking lots shall be located behind, below or above buildings. Where commercial parking lots are allowed beside buildings, parking lots shall provide a 10-foot-wide planting area between the parking lot and street right-of-way to include two or more of the following:
    a. A year-round sight barrier, such as an approved architectural feature such as a trellis, archway, architectural detailing, contrasting materials, fence or other special interest;
    b. Evergreen shrubs;
    c. Evergreen groundcover; and
    d. Shrub material maintained at a maximum height of 3 feet for visibility.
2. Locate the building at sidewalk edge. A larger setback may be considered in order to accommodate a wider sidewalk, street parking, public space, or outdoor cafe seating area or similar.
3. Locate the primary entrance at street level facing a public street. The primary entrance should be more articulated and highlighted (size, material, recessed, lighting) than secondary entrances.

4. Sidewalks along the main shopping section on Hodgin Street shall be 10 feet wide or greater. Other sidewalks on public streets shall be at least 8 feet wide or greater. Minor modifications to this standard may be approved by the community development director.
5. Parking lots shall not be allowed at intersections.
6. Drive-thru facilities are not allowed in the UVMU unless located behind or at side of buildings and designed so as not to interfere with traffic movement in a parking lot or drive lane.
7. Parking may be located below the first floor, above the first floor or on the non-street side of the first floor of a building. Such parking shall be designed so as not to look like a parking facility. Design criteria for the building as whole will apply to the parking incorporated into the structure of the building.
8. Only commercial/retail space shall be located at street level along the rights-of-way and driveways described SWMC 17.21.020. Other uses allowed in the UVMU shall be above or behind commercial/retail in this area per the standards in SWMC 17.21.040.
9. The number of trees required in the internal planting areas in parking lots shall be dependent upon the location of the parking lot in relation to the building and public right-of-way:
   a. Where the parking lot is located to the side of the building and partially abuts the public right-of-way, one tree for every six spaces shall be provided (1:6);
   b. Where the parking lot is located behind building and is not visible from the public right-of-way, one tree for every eight spaces shall be provided (1:8).
10. Landscape plantings consisting of trees of which at least 80% are deciduous and shrubs and groundcover materials of which at least 80% are evergreen;
11. Walls and raised planters shall not exceed a maximum height of 3 feet and screen treatment does not create a safety hazard;
12. All plant material used for parking lot screening shall be managed and/or selected to provide clear views between 3 and 8 feet above the ground surface, for surveillance purposes; and
13. Fencing, if necessary, shall be of architectural interest and must be approved by the Community Development Director. Fences may not exceed 6 feet in height. Chain link fencing, barbed, or razor wire is not allowed in the UVMU.

ENCOURAGED GUIDELINES:

14. Orient buildings to public streets and open spaces in a way that corresponds to the site's natural features and enhances the character of the street for pedestrians.
15. Building entrances could be oriented in one or more of the following ways:
    a. Building should be oriented so that entrances are visible from the street;
    b. Connect entries to public sidewalk by walkways that do not go through a parking lot;
    c. Front buildings on courtyards that have a visible connection to the public street.
16. Buildings may be oriented to natural areas and common open space while including design elements that provide a clear pedestrian entry from the public street. This may be done by using measures such as:
    d. Clustering buildings around a consolidated open space with some buildings and entries oriented to the street;
    e. Emphasizing the pedestrian entry to the site from the fronting street with landscaping, special paving, gateways, arbors and similar features;
    f. Optimizing solar access by avoiding shadow casting on adjacent properties, orienting buildings toward the south or west and using deciduous trees to help shade in summer without blocking solar access in winter.
17. Provide a main pedestrian walkway from the street to building entries, as well as from the parking lot to the building.
18. Landscaping along pedestrian walkways through parking lots.
19. Landscaped berm with trees and evergreen shrubs.
20. Utilize landscaping strips as bioretention facilities where possible.

9.2 Privately-Owned Public Open Spaces (POPOS)

Intent: To create exterior open space that encourages interaction with the environment, social interaction, recreation and physical activities. Public open spaces to accommodate seating, dining or other park-like activity are required to give visitors and residents a place to gather, relax, or otherwise enjoy the experience that the UVMU intends to provide.

REQUIRED STANDARDS:

1. See SWMC 17.21.050 Table 1 for open space percentage values. A percentage of gross lot area must be open space; of which a percentage must be landscaped and integrated into site plan as usable public open space and consist of any or one of the following; paths, parks, seating areas, plazas, greens, open malls, sport courts, landscaped areas tertiary to primary use or similar;
2. Seating, fountains, open usable green space and/or artistic embellishments or similar are required in all useable public open spaces;
3. Buildings adjacent to useable public open spaces such as public parks, plazas, and trails shall be oriented to promote activity and interaction, and provide visual interest to and from buildings to avoid the back-of-building effect;
4. Bike racks shall be provided for all buildings. Artistic creativity in the design of bike racks is encouraged. One bicycle space shall be provided for every 10 vehicle parking spaces, at least half of which must be sheltered from the weather. Bicycle parking shall be well lit and close to the building entrance;
5. Locate some ground level features such as entries, windows, decks, patios or similar features on buildings that interface with the usable public open space; and
6. Walkways should connect the usable open space and recreation facilities to the multifamily buildings.

ENCOURAGED GUIDELINES:

7. Paved/brick/stone or similar walking surfaces that promote pedestrian use and interaction through the landscape and greenspace.
8. Landscaping components that add visual interest and do not act as a visual barrier. This could include planting beds, potted plants, or both.
9. Features that make the space desirable for pedestrian use. Examples include adjacent storefronts, site furniture, artwork, kiosks, and/or weather protection elements.
10. Outdoor space should be oriented to receive sunlight whenever possible.
11. Site should provide adequate space for a diverse range of activities and uses.
12. Public open space should provide a sense of place. Features unique to that public space should be present for identification and wayfinding purposes.

9.3 Environmental Aspects

Intent: To encourage the implementation of environmentally friendly building and development features which reduce the overall environmental impact of the development.

REQUIRED STANDARDS:

1. Non-invasive plant species that do not pose an environmental or human risk to the area and community.
2. Parking lots are required to meet stormwater drainage requirements by first using Low Impact Development (LID) techniques wherever possible and practical.

ENCOURAGED GUIDELINES:

3. Design and construction of buildings that attain Leadership through Energy and Environmental Design (LEED) certification (or equivalent).
4. Design and construction of buildings that attain Built Green certification, specific4ally a three to five star rating.
5. Design and construction of site amenities that achieve Sustainable Sites Initiative (SITES) certification (or equivalent).
6. Pre-wiring of building roofs for solar panel installation.
7. Utilize environmentally focused incentive programs through Cascade Natural Gas and Puget Sound Energy.
8. Locally and regionally sourced building materials from responsible, lower impact manufactures when feasible.
9. High efficiency HVAC, HRVs, ERVs are encouraged; use of will grant reduced impact/permit fees.
10. Exceeding minimum envelope R-values; use of will grant reduced impact/permit fees.
11. Use of less toxic / nontoxic, environmentally sensitive building materials.
12. Pervious sidewalks and similar permeable approved hard surfaces are encouraged for public sidewalks, open malls, pedestrian paths or similar.
13. Green roofs, living walls or similar are encouraged and may count toward landscaping or open space.

9.4 Building Design

9.4.1 All Buildings

Intent: To encourage and implement architectural design that is varied, aesthetically pleasing, functional and fits within local and regional vernacular, encouraging regional materials and lower impact design; to avoid large blank homogenous spaces, overbearing and out of scale forms and materials. These standards work from and in addition to the existing Sedro-Woolley Design Standards and Guidelines. The community development director may make minor modifications and interpretations to design standards on a case-by-case basis.

Reduce the apparent mass of large buildings to provide visual interest and pedestrian scale; to avoid large overly repetitive facades.

This section builds on and is in addition to the "Building Design" section of Chapter 2 – Standards and Guidelines for All Development – of the Design Standards manual.

REQUIRED STANDARDS:

1. Visual Prominence - the principal entry to the building shall be marked by at least **two** elements from each of the following groups:

Group A	Group B	Group C
Recess	Clerestory	Ornamental brackets for baskets
Overhang	Glass Window(s)	Building Name with sign
Canopy	Ornamental Lighting Fixtures	Fencing/railings with Art Nouveau styling
Portico	Large Entry Doors	Permanent Seating
Porch		

2. Buildings shall convey a visually distinct base and top; base and top shall be in relative proportion to scale of building.

3. Roof parapets and eaves to vary in height to avoid long, straight lines at the maximum building heights.
4. Eaves or other projections such as a cornice of two feet or more shall be provided at the top of the wall.
5. Horizontal roofline sections shall articulate at a minimum of 30 feet.
6. Mixed use and commercial buildings with facades along street longer than 50’ should be divided into “modules” that are expressed three dimensionally throughout the building façade. Modules can vary in width and depth and may not be less than 24” in depth.
7. To provide further articulation and additional variety and character, a change of materials, colors, or textures on different elements is required.
8. Massing shall be varied with elements such as bays and dormers.
9. Trim, bellybands, fascia, bargeboards and related architectural elements shall fit in form and scale to overall building size/scale; for example, avoid undersized barge and fascia boards for larger buildings.
10. Any commercial or mixed-use building stories along a street above the third floor must step-back a minimum of 8 feet; or modulate no less than 1/2 of the building’s street face back no less than 10 feet. Final modulation at discretion of Community Development Director and may approve minor variations in modulation requirements.
11. Larger scale residential and commercial developments shall avoid overly blank, repetitive forms and finishes across multiple buildings; variety in color, material, scale and orientation is encouraged.
12. Projections such as eves and cornices are permitted to project into the right-of-way. Occupiable space may not project into the right-of-way.
13. Ground floor, street facing facades of commercial and mixed-use buildings shall incorporate at least seven of the elements listed a-j:
    a. Lighting or hanging baskets supported by ornamental brackets;
    b. Medallions;
    c. Belt courses;
    d. Plinths for columns;
    e. Kickplate for storefront window;
    f. Projecting sills;
    g. Tilework;
    h. Pedestrian scale sign(s) or sign(s) painted on windows;

i. Planter box; and
j. An element not listed here that meets the intent.

In addition to the seven elements in a-j above, ground floor, street facing facades of commercial and mixed-use buildings shall incorporate include two of the following as part of requirements:

k. Masonry skirting/base/wainscoting or similar, no less than 36" above grade at building; min height does not apply under fenestrations; finished concrete may be considered;
l. Large format doors and windows with transom windows above;
m. Large operable window and or doors that create dynamic usable space/interface of public and private space for dinning, seating, retail or similar;
n. Post and lintel detailing/articulation; corbeling, dentils or similar;
o. Decorative trim, moldings, bands, arches, balustrades, base moldings or similar architectural features;
p. Notable building articulation vertically or horizontally or similar architectural feature(s) that meet the intent of this section; and
q. An element not listed here that meets the intent.

14. Building façades not facing a street shall incorporate at least three of the above-mentioned items.
15. Walls fifty or more feet in length facing streets or visible from residential areas where windows are not provided shall have architectural treatment. At least five of the following elements shall be incorporated into any ground floor, street-facing façade:
    a. Masonry (but not flat concrete block)
    b. Concrete or masonry plinth at the base of the wall
    c. Belt courses of a different texture and color
    d. Projecting cornice
    e. Projecting metal canopy
    f. Decorative tilework
    g. Trellis containing planting
    h. Medallions
    i. Change of paint color
    j. Opaque or translucent glass

k. Artwork
l. Vertical articulation
m. Lighting fixtures
n. Recesses
o. An architectural element not listed above, as approved, that meets the intent

16. Building designs should be sensitive to and compliment adjacent buildings that meet these standards and guidelines.
17. Exterior cladding and finishes must be of higher quality, aesthetics and durability.
18. Exterior cladding of mixed used buildings shall be no less than 20% masonry, brick, stone or similar approved material; finished concrete may be considered.
19. T1-11, low grade plastic, vinyl siding and similar low grade exterior products are prohibited.
20. Exterior unpainted wood elements must be treated with approved penetrating finish and or covered and capped to prevent blackening or uneven weathering.
21. Exterior metal elements must be properly painted or sealed to prevent rusting and staining.
22. Interior floor finishes at commercial street levels should be highly durable and waterproof and provide a slip resistant texture or similar.
23. All other interior finishes at commercial spaces are to be commercial grade.
24. No less than 60% of street facing facades along public sidewalks shall have a canopy, awning, or similar weather protection.
25. Weather protection size, type, location, and orientation may be adjusted above and below minimum standards and dimensions at the discretion of the Community Development Director.
26. Internal illumination (under-lighting) of awnings shall not be allowed unless the awning material is opaque. However, pedestrian-scale lighting and other down-lighting are allowed beneath awnings.
27. Mechanical equipment shall be screened by extended parapet walls or other roof forms that are integrated with the architecture of the building.
28. Painting equipment, erecting fences, and using mansard-type roofs are not acceptable methods of screening
29. Communication equipment shall be blended in with the design of the roofs, rather than being merely attached to the roof deck.

ENCOURAGED GUIDELINES:

30. Scale buildings to provide appropriate transitions to adjacent development;
31. Design may be done in a contemporary way;
32. Fixed square picture windows are to be avoided as primary glazing in residential applications; and
33. Operable divided light windows are encouraged.
34. Exterior cladding and finishes may be done in a contemporary way;
35. Locally and regionally relevant and sourced materials and finishes are encouraged;
36. Post-modern design is discouraged; and
37. Historic or semi-historic forms and finishes that blend and enhance local and regional vernacular are encouraged.
38. Avoid drip edge onto middle of public sidewalk;
39. Gutters, scuppers and similar closed drain systems are encouraged; and
40. Overly large marketing, images, text are discouraged as part of canopy/awnings.

9.4.2 STANDALONE RESIDENTIAL BUILDINGS ONLY

Intent: This section specifies the design criteria that also applies to residential buildings that contain no commercial uses in the UVMU.

REQUIRED STANDARDS:

1. Townhomes, apartments or condominium buildings with units entered at and from street level must have covered front porch a minimum of 50 square feet with no dimension less than 5 feet.
2. Street level unit entrances are not to be shared.
3. Ground level units to have minimum 150 square feet of private green space, partially screened from public view with no dimension less than 5 feet; green space must have clear public / private barrier: fencing, landscaping, change in grade or similar; ground level decks may count towards green space requirement; communal private green space may count towards green space requirement if individual ground level green space is deemed infeasible.

4. Units at or above a second story to have private deck no less than 20 square feet with no dimension less than 3 feet; communal private rooftop deck space or ground level amenities may supplant this requirement; communal spaces must be sufficient size and directly accessible by tenants.
5. Low pitch "flat" roofs are permitted in conjunction with rooftop decks/patios, parapets or similar architectural features.
6. Horizontal roofline sections shall articulate at a minimum of 30 feet.
7. Eaves or other projections of two feet or more at the top of the wall shall be provided.
8. Units separated vertically and or horizontally are permitted.
9. Mechanical equipment must be screened from public view.
10. Multifamily units are not to exceed 2,000 square feet of finished floor space per unit.
11. Multifamily buildings must be modulated along the public street at least every 35 feet. Building modulations must step the building wall back or forward at least three feet.
12. Use lines and rhythms to create a human scale streetscape. These may include vertical and horizontal patterns as expressed by bays, belt lines, door and windows.
13. Garbage and recycling areas shall be consolidated and screened from public view.
14. Garages must be oriented to rear or side of units.
15. Garages facing internal streets must be setback a minimum of five feet from front facing wall of unit.
16. Two car garages facing a main street are prohibited.
17. A distinct base of brick, stone or similar is required no less than three feet above grade at building along public street; minimum height does not apply under fenestrations; or at least 20% of building façade along street must be brick, stone or similar; finished concrete may be considered.

Chapter 10 – Definitions

Art or Water Feature - An historical, symbolic or abstract sculpture or other form that may also incorporate water, adding dimension to a public space.

Artful - A one-of-a-kind design that reflects the skills and talent of an artist, graphic designer or other design professional.

Articulation - An architectural term for when formal elements of architectural design (such as windows, for example) are styled in a way that create emphasis on those particular elements. *See left*.

Awning - A light-weight, framed projection placed on a building façade – typically over entryways or windows – with an attached cover that is supported entirely by the building. Awnings may be fixed or retractable-type.

Balustrade - A railing supported by balusters, or small columns.

Belt course - A horizontal band of masonry across the exterior of a building that stands out visually. *See right*.

Bollard - A short post generally used in a series to define an area or block access by vehicles.

Canopy - A permanent structure of rigid construction placed on a building façade – typically over entryways or windows – with an attached cover. Canopies may be structurally independent with support columns anchored to the ground or supported by the building on one end.

Central Business District (CBD) Core - means that area bounded to the north by the Cascade Trail, to the east by Puget Avenue/Fourth Avenue, to the south by the alley between State and Warner Streets, and to the west by the railroad right-of-way. Also included in the central business district core are properties zoned central business district that front Metcalf, Ferry, West Ferry, State, and West State Streets.

Clerestory - A continuous band of windows located just below the ceiling of a generally tall and important space.

Corbelling - A type of structural support formed by overlapping pieces of stone, wood or metal that projects from the wall. *See right.*

Cornice - The molded and projecting horizontal piece at the crown of a building. *See upper right***.**

Courtyard - An open space enclosed partly or wholly by a building.

Dentil work - A series of closely spaced, rectangular blocks that form a molding typically projecting below the cornice along the roofline of a building.

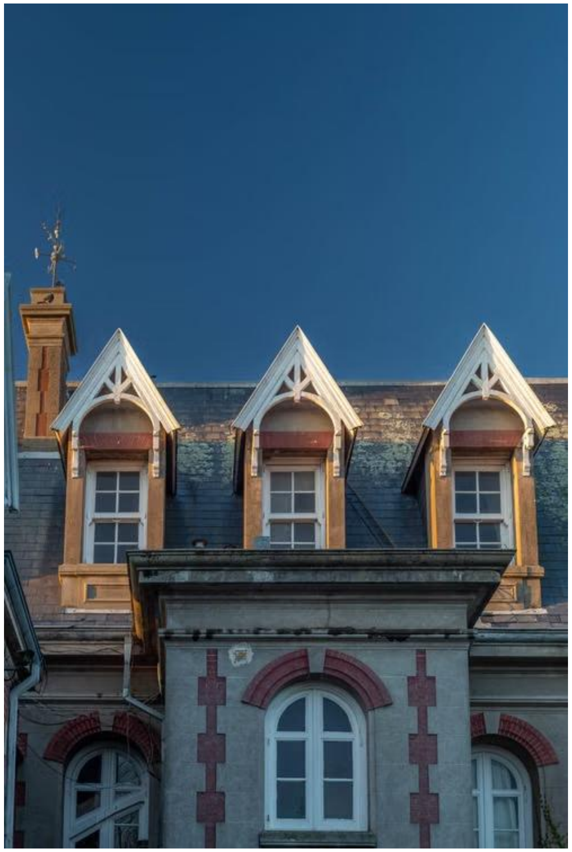
Façade - The front of a building, or any face that is given special architectural treatment.

Forecourt - An open court in front of a building.

Gable – The vertical triangular end of a building from cornice/eaves to ridge. *See lower right.*

Green - An open grassy space between buildings.

Historic Building - A building constructed prior to 1920.



Kickplate - A protective sheet of material typically at the base of a door to prevent damage to the door from blows or scratches.

Low Impact Development (LID) - LID techniques, such as:
1) Pervious paving, including but not limited to permeable concrete or unit pavers, porous asphalt, "grasscrete" and ecoblock;
2) Bio-retention swales, cells or rain gardens;
3) Amending disturbed or compacted soils with compost to an increased depth (min. 12" depth) and adding composted mulch as top dressing; and
4) Rainwater cisterns, with use of rainwater to irrigate landscaping.
Use of LID techniques shall be guided by engineering analyses that include an in-depth site analysis using hydrology models including infiltrative capacity of underlying soils, distance to groundwater, slope, natural drainage patterns and other drainage, environmental and public health considerations.

Marquee - A permanent roofed structure placed on a building façade – typically over an entryway – that is fully supported by the building and often incorporates lighting.

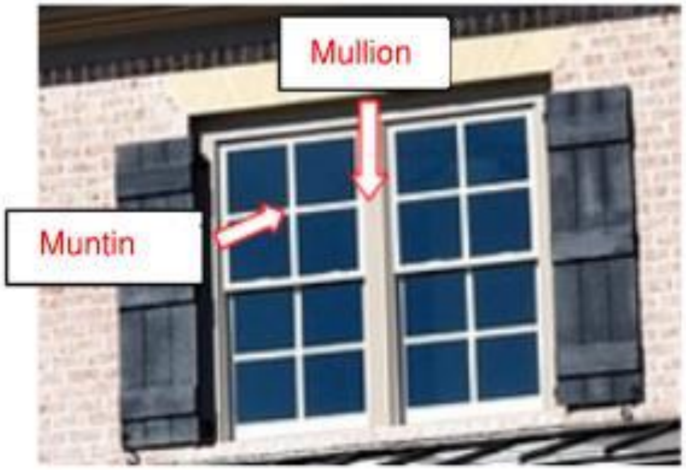
Medallion - A round or oval ornament placed on a façade of a building that contains a sculptural or pictorial decoration.

Mixed Use - Any development that contains at least two different land use categories (e.g. residential and retail).

Modulation - An architectural term for step-backs and forward projections of sections of a building front at specific intervals of structure width and depth. Modulation is used as a means of creating visual breaks on continuous exterior walls. *See left*.

Mullion - A slender, vertical supporting member that forms a division between units of a window, door or screen or is used decoratively. *See right.*

Muntin - A vertical or horizontal bar or rigid strip between adjacent panes of glass, often used to divide the individual panes into grid patterns. *See right.*



Outer Central Business District (CBD) - All areas within the CBD Zone extending beyond the CBD Core as defined in this Manual.

Parapet - A low wall along the edge of a roof.

Plaza - An open area usually located near urban buildings and often featuring walkways, trees and shrubs, places to sit and sometimes shops.

Plinth - A base wall piece, such as a square block or base course. *See right*.

Portico - A colonnaded porch entrance or covered walkway supported by evenly-spaced columns.

Public Space - Any of a variety of spaces that are accessible and usable by the general public, such as a plaza, green, courtyard, forecourt, sitting area, widened sidewalk, stormwater rain garden and art or water feature.

Rain Garden (Stormwater) - Landscaped areas that are designed as stormwater management facilities. These landscaped areas are made up of a specialized mix of plants that can tolerate seasonal wet and dry conditions and soils that can rapidly absorb and store runoff. These facilities utilize complex relationships between plants and soils to filter pollutants, reduce runoff volume and rate of discharge and promote groundwater recharge through infiltration. These areas are constructed with a specialized soil and plant mix that is attractive and has low maintenance requirements. Because of their flexibility in size, shape and appearance, they can be installed on almost any type of land use in a variety of conditions.

Shed Roof - A roof having only one sloping plane and no hips, ridges or valleys.

Site Furnishings, Permanent - Seating, benches, trash receptacles, bollards, planters, drinking fountains, low-scale lighting and other such non-movable, year-round elements oriented to pedestrians. Tables and chairs that are moved in and out of establishments at night are not considered permanent site furnishings.

Sitting Area - An open area filled with low walls, benches and/or tables and chairs.

Streetscape - The visual elements of a street, including the road, adjoining buildings, sidewalks, street furniture, trees, open space, etc. that work in combination to form the street's character.

Transom window - A window installed directly above a door or larger window to let in extra light and to serve a decorative purpose. Traditionally, transom windows are able to be opened for air flow.

"Vision" glass - An architectural term for clear glass.

Wainscoting - Paneling provided at the lower portion of a wall for the purposes of protection and/or architectural detailing. *See below.*

NOTICE OF PUBLIC HEARING

CITY OF SEDRO-WOOLLEY

Amendments to Development Regulations

Hybrid Meeting

City of Sedro-Woolley Council Chamber and Virtually via Zoom Webinar

The City of Sedro-Woolley Planning Commission will hold a public hearing on **Tuesday, September 15, 2026, at 6:30 PM** in the Sedro-Woolley Council Chamber and virtually via Zoom Webinar, to hear testimony regarding the following proposed amendments to the City Development Regulations:

1. Proposed Amendments to Title 15 & 17 SWMC and the Design Standards & Guidelines

Interested parties can comment on the proposed changes in writing or at the hearing. Written comments will be read into the public record and **must be received by 4:30PM September 15, 2026,** to be considered at this public hearing. Send written comments to: City of Sedro-Woolley Planning Division, ATTN: Public Comment, 325 Metcalf Street, Sedro-Woolley, Washington, 98284, or by email to asandovaloaks@sedro-woolley.gov.

Please go to the Meetings portal on the Sedro-Woolley website (https://sedrowoolleywa.portal.civicclerk.com) to find the meeting materials and a link to join the webinar.

Published in the Skagit Valley Herald: September 4, 2026

Planning Commission Agenda Item

Agenda Item No.: g.1.

Date: September 15, 2026

From: Nicole McGowan, Planner, Ashton Sandoval Oaks, Assistant Planner

Subject: Updates to Titles 2, 13, 15, 16, and 17 SWMC - Repeal & Replace *Consolidated Planning Procedures* - 4th Read

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RECOMMENDED ACTION:

Review and discuss draft 4 of the amendments. Set public hearing for October 20, 2026, Planning Commission meeting.

BACKGROUND/SUMMARY INFORMATION:

At the August 18, 2026, meeting, the Planning Commission provided feedback to staff on the third draft of proposed amendments to repeal and replace Chapter 2.90 SWMC - *Consolidated Planning Procedures*. Staff were tasked with revising definitions, ensuring application requirements are not listed in the code and instead included in application checklists where such requirements are better suited. Additionally, staff were encouraged to remove any unnecessary descriptive or "conversational" language from the proposed amendments. Staff have considered comments from the Planning Commission and have revised the draft accordingly (changes shown in yellow highlighting for ease of reference). Draft 4 of the amendments are included herein as **Attachment 1**.

Revisions made include the following:

- Removed all obsolete definitions and definitions not referenced elsewhere within the municipal code. Any removed definitions that are relevant to permit application submittals will be worked into application checklists and will be updated internally as necessary.
- Updated existing definitions for clarity and modernization purposes.
- Added missing land use definitions to aid staff in project classification for determining appropriate permitting procedures.

Staff reviewed the draft and only found one area where unnecessarily descriptive or "conversational" language existed. Proposed Section 15.15.010(E) SWMC has been revised to remove repetitive language about the purposes of pre-application meetings, as this is already described in proposed Section 15.15.012 (A) SWMC. All other descriptive language was found to be necessary to establish clear procedural requirements and provision intent. This is best practice for writing muncipal code, as it ensures staff can confidently apply regulations consistently for all applicants and have a clear understanding of the reason those regulations exist.

FISCAL IMPACT, IF APPROPRIATE:
None.

ATTACHMENTS:
1. Draft Amendments 4 (9-15-26)

2.34.080 Duties.

[...]

B. Hold and conduct public hearings in accordance with SWMC Chapter 17.04, SWMC Chapter 15.15~~2.90~~, RCW Chapter 42.32, and all other applicable law, and to prepare a record thereof;

C. Make recommendations and decisions on all applications, permits or approvals as described in SWMC Chapter 15.15~~2.90~~;

D. Hear and make final decisions on appeals made pursuant to SWMC Chapter 17.04~~2.90~~;

[...]

2.88.170 Appeals.

[...]

B. An appeal must be filed in writing with the responsible official within fourteen calendar days of the decision. The appeal shall identify the decision, contain a summary of the grounds for the appeal and be accompanied by an appeal fee in an amount established by resolution of the city council. Following the receipt of the appeal and fee, the responsible official shall transmit a copy of the appeal to the hearing examiner for an open record hearing pursuant to SWMC 17.04~~2.90~~. Any party with standing may file an appeal of the decision of the hearing examiner's decision with the superior court per the Land Use Petition Act RCW 36.70C.

[...]

13.36.170 Exceptions.

[...]

F. An exception/variance shall be subject to the same notice requirements and appeal process from the decision of the ~~director~~ Administrative Authority as a Type II decision subject to Chapter 15.15~~2.90~~, to the extent applicable and not inconsistent with this chapter. (Ord. 2068-24 § 1 (Att. A), 2024)

[...]

13.36.220 Appeals.

Any applicant may appeal the decision of the ~~director~~ Administrative Authority to issue, condition or deny a permit in the same manner as a Type II decision subject to Chapter ~~2.90~~15.15, to the extent applicable and not inconsistent with this chapter. For administrative interpretations see Section 13.36.180.

[...]

Title 15
BUILDINGS~~, AND~~ CONSTRUCTION, AND DEVELOPMENT

Chapters:

Chapter 15.15

CONSOLIDATED PERMIT ADMINISTRATION

Sections:

15.15.002 Purpose.

The purpose of consolidated permit administration is to clarify the permitting process and requirements to obtain approval for land use and development permits.

15.15.004 Applicability.

All applications for development and land use shall be subject to the provisions of this chapter, except where specifically exempted herein.

15.15.006 Effect of permit.

The issuance or granting of a permit or approval of plans and specifications shall not be deemed or construed to be a permit for, an approval of, or waiver from, any violation of any of the provisions of this code. No permit presuming to give authority to violate or cancel the provisions of this code shall be valid except insofar as the work or use which it authorized is lawful.

15.15.008 Definitions.

See SWMC 17.04.030.

15.15.010 Complete application required.

A. Permit applications shall be filed with the Community Development Department on forms provided by the Department.

B. An administratively complete application shall include information in all applicable form fields, all applicable supplemental materials listed in the accompanying application checklist, and payment of all applicable application fees as established by the City's currently adopted Master Fee Schedule.

C. All land use permit applications, including but not limited to any permit requiring SEPA review per SWMC 2.88, subdivisions, binding site plans, planned residential developments, conditional uses, shoreline substantial development permits, review of critical areas, rezones, or amendments to a comprehensive plan, subarea plan, or development regulations, shall receive a written determination of completeness from the Department within twenty-eight calendar days of initial submission of a land use permit application.

1. Development permit applications which do not require any land use permit approval do not require a determination of completeness from the Department.

2. If the application is not complete upon initial submission of application materials, the Department shall issue a letter describing the necessary changes to make the application complete. Once these changes have been made by the applicant, the Department shall issue a determination of completeness within fourteen calendar days of receipt of the revised application materials.

3. An application may not be determined incomplete if all application materials on the most current version of the application form are provided. The Department may request this information before approval but must determine the application as procedurally complete.

D. All permit applications shall be filed with the Department.

E. Submittal Waiver and Deferral Process. In order to have any of the normally required submittals waived or deferred, the applicant must request such waiver(s) and/or deferrals at or after a pre-application meeting with city staff. Staff will consider the merits of the waiver and/or deferral request(s) and will provide the applicant with a written list of any/all submittals waived and/or deferred. The applicant shall submit a copy of the list of city-approved waiver(s) and/or deferral(s) at the time of formal application. The City reserves the right to modify, add to, or otherwise revise the list of waived and/or deferred submittals if review of the formal application materials indicates that additional information or documentation is necessary to complete the review. ~~The applicant must submit a copy of the list of city-approved waiver(s) and/or deferral(s) at the time of formal application.~~

F. Letter of Completeness. Upon finding a Type II, III, IV, or V application complete, the Department will provide a letter of completeness to the applicant and property owner(s).

G. In the absence of a written determination, the application shall be deemed complete twenty-eight calendar days after the initial submittal date.

H. Additional Information May Be Requested. A written determination of completeness does not preclude the Department from requesting supplemental information or studies if new information is required to complete review of an application or if significant changes in the permit application are proposed. The Department may set deadlines for the submittal of supplemental information.

15.15.012 Pre-application meeting requests.

A. A pre-application meeting allows an applicant to get feedback and direction from city staff on a project concept prior to submitting a formal application for a land use or development permit. Pre-application meetings are intended to aid applicants in developing a complete application and project design that is consistent with applicable regulations. These meetings are not intended to provide an exhaustive review of the project. Pre-application review does not prevent or limit the city from applying all relevant codes and laws at the time of application submittal.

Anyone can apply for a pre-application meeting for any development or land use proposal, however a pre-application meeting is required for projects that require one or more of the following approvals, unless a written waiver is granted by the Community Development Director or their designee:

1. Binding site plan;
2. Boundary line adjustment;
3. Rezone or site-specific Comprehensive Plan Amendment;
4. Conditional Use Permit;
5. Subdivision;
6. Master plan;
7. Shoreline conditional use, exemption, substantial development, or variance;
8. Floodplain development or variance;
9. Building or excavation and grading permit applications for projects that include any of the following situations:
    i. Required land use permits have not been completed;
    ii. Required SEPA environmental review has not been completed;
    iii. Over 5,000 sq. ft. of new or replaced impervious surface;
    iv. Disturbance of more than one (1) acre of land;
    v. Public street or public utility construction;
    vi. Construction of any building that is four (4) stories or more; or
    vii. Any project the Community Development Director determines to be similar in nature to those listed above.

15.15.014 Permit types and processes.

A. Development subject to review by the city is classified and processed using one of the five types of permit procedures listed in Subsection 15.15.014 (C)(1). The review processes for the types of permit review procedures are described in Subsection 15.15.014 (C)(2). If the code does not expressly provide for review according to one of the five types of permit review procedures, and another specific procedure is not required by law, the Department shall classify the application.

B. Purpose. The purpose of this section is to outline the procedure and time requirements for the various development and land use applications reviewed by the city. All development and land use applications are classified and processed according to one of five types of permit procedures, as identified in subsection 15.15.014 (C)(1) of this section.

C. Permit Procedures.

1. Permit Classifications.

Permit/Action	**Staff Contact**	**Decision Authority**	**Permit Type**				
			I	**II**	**III**	**IV**	**V**
Administrative Determination & Minor Modifications	Planning Division	Administrative	X	-	-	-	-
Binding Site Plan, Preliminary	Planning Division	Administrative	-	X	-	-	-
Binding Site Plan, Final	Planning Division	Administrative	X				
Boundary Line Adjustment	Planning Division	Administrative	X	-	-	-	-
Building Permit, SEPA Exempt	Building Division	Administrative	X	-	-	-	-
Building Permit, SEPA Required	Building Division	Administrative		X			
Comprehensive Plan Map (and Rezone) or Text Amendments	Planning Division	City Council	-	-	-	-	X
Conditional Use Permit	Planning Division	Hearing Examiner	-	-	X	-	-

Permit/Action	**Staff Contact**	**Decision Authority**	**Permit Type**				
			I	**II**	**III**	**IV**	**V**
Demolition Permit	Building Division	Administrative	X				
Design Review Only	Planning Division	Administrative	X	-	-	-	-
Development Agreement	Planning Division	City Council	-	-	-	-	X
Development Regulation Text Amendment	Planning Division	City Council	-	-	-	-	X
Environmental Review (SEPA)	Planning Division	Administrative	-	X	-	-	-
Excavation & Grading Permit, SEPA Exempt	Engineering Division	Administrative	X	-	-	-	-
Excavation & Grading Permit, SEPA Required	Engineering Division	Administrative		X			
Fire Permit	Building Division	Administrative	X				
Floodplain Development Permit	Planning Division	Administrative	X	-		-	-

Permit/Action	**Staff Contact**	**Decision Authority**	**Permit Type**				
			I	**II**	**III**	**IV**	**V**
Floodplain Variance	Planning Division	Hearing Examiner			X		
Landmark Designation	Planning Division	Administrative		X			
Long Plat, Preliminary	Planning Division	Hearing Examiner			X		
Long Plat, Final	Planning Division	Administrative	X				
Marijuana Permit	Building Division	Administrative	X				
Master Plan Approval	Planning Division	Hearing Examiner	-	-	X	-	-
Model Home Permit	Planning Division	Administrative	X				
Mural Permit	Planning Division	Administrative	X				
On-Site Sewage (Septic) Decommission	Engineering Division	Administrative	X				
Oversize / Overweight Vehicle Permit	Engineering Division	Administrative	X				

Permit/Action	**Staff Contact**	**Decision Authority**	**Permit Type**				
			I	**II**	**III**	**IV**	**V**
Planned Action Determination	Planning Division	Administrative	-	X	-	-	-
Planned Action Ordinance	Planning Division	City Council	-	-	-	-	X
Planned Residential Development (PRD), Preliminary	Planning Division	Hearing Examiner			X		
Planned Residential Development (PRD), Final	Planning Division	Administrative	X				
Right-of-Way / Access Permit	Engineering Division	Administrative	X				
Sewer Permit	Engineering Division	Administrative	X				
Shoreline Conditional Use Permit	Planning Division	Hearing Examiner	-	-	X	-	-
Shoreline Exemption	Planning Division	Administrative	X	-	-	-	-
Shoreline Substantial Development Permit	Planning Division	Administrative	-	X	-	-	-

Permit/Action	**Staff Contact**	**Decision Authority**	**Permit Type**				
			I	**II**	**III**	**IV**	**V**
Shoreline Variance	Planning Division	Hearing Examiner	-	-	X	-	-
Short Plat, Preliminary	Planning Division	Administrative	-	X	-	-	-
Short Plat, Final	Planning Division	Administrative	X	-		-	-
Sidewalk Use Permit (Sidewalk Cafes)	Planning Division	Administrative	X				
Sign Permit	Building Division	Administrative	X				
Street Vacation	Engineering Division	City Council	-	-	-	X	-
Temporary Homeless Encampment	Planning Division	Administrative	-	X	-	-	-
Temporary Use Permit	Planning Division	Administrative	-	X	-	-	-
Title Elimination	Building Division	Administrative	X				
Variance	Planning Division	Administrative	-	X		-	-

Permit/Action	Staff Contact	Decision Authority	Permit Type				
			I	II	III	IV	V
Zoning Verification Request	Planning Division	Administrative	X				
Zoning Waiver	Planning Division	Administrative	X	-	-	-	-

2. Permit Processes. Refer to ~~Subsection 17.04.070 for public notice requirements~~Chapter 17.04 SWMC for procedural requirements for public notice, department reports, public hearings, examiner decisions, and council action.

	Type I	**Type II**	**Type III**	**Type IV**	**Type V**	**Annexations**
Pre-Application Meeting	See SWMC 15.15.012					Required, unless waived by Community Development Director
Letter of Completeness	Required for land use actions only	Required	Required	Required	Required	Not applicable
Notice of Application	Not applicable	Required	Required	Required	Required for site-specific projects	See Chapter 35A.14 RCW
Notice of Public Hearing	Not applicable	Not applicable	Required	Required	Required	See Chapter 35A.14 RCW
Open Record Public Hearing	Not applicable	Not applicable	Yes, before hearing examiner to render final decision	Yes, before hearing examiner to make recommendation to city council	Yes, before planning commission to make recommendation to city council	See Chapter 35A.14 RCW

	Type I	Type II	Type III	Type IV	Type V	Annexations
Recommendation Made By	Not applicable	Not applicable	Not applicable	Hearing examiner	Planning commission	See Chapter 35A.14 RCW
Final Decision Made By	Administrative Authority	Administrative Authority	Hearing examiner	City council	City council	See Chapter 35A.14 RCW
Notice of Decision	Required unless exempt per Section 2.90.040	Required	Required	Required	Required	See Chapter 35A.14 RCW
Judicial Appeal	See SWMC 17.04.080					See Chapter 35A.14 RCW

~~D. General process for applications and decisions.~~

~~1. Pre-application Meeting.~~

~~a. A pre-application meeting may be required prior to formal submittal of a permit application, pursuant to SWMC 15.15.012.~~

~~b. A pre-application meeting is recommended for all other permit applications.~~

~~2. Notices to Applicant. The applicant shall be advised of the date of acceptance of the application and of any environmental determination. The applicant shall be advised of the date of any public hearing at least ten calendar days prior to the public hearing.~~

~~3. Report by Department.~~

~~a. Report Content. When such application has been set for public hearing, if required, the Department shall coordinate and assemble the comments and recommendations of other city departments and government agencies having an interest in the subject application and shall prepare a report summarizing the factors involved and the Department findings and supportive recommendations.~~

~~b. Report Timing. At least fourteen calendar days prior to the scheduled hearing, the report shall be filed with the examiner and copies thereof shall be transmitted to the applicant and shall be made available for use by any interested party for the cost of reproduction.~~

~~4. Public Hearing.~~

~~a. Hearing by Examiner Required. Before rendering a decision or recommendation on any application for which a public hearing is required, the examiner shall hold at least one public hearing thereon.~~

~~b. Hearing by City Council Required. Before rendering a decision on any application for which a public hearing is required, the City Council shall hold at least one public hearing thereon.~~

~~c. Hearing Rules. The examiner shall have the power to prescribe rules and regulations for the conduct of hearings under this chapter, subject to confirmation by the city council, and to administer oaths and preserve order.~~

~~d. Closure/Continuation of Public Hearing. At the close of the testimony, the examiner may close the public hearing, continue the hearing to a certain time and date, or close the public hearing pending the submission of additional information on or before a certain date.~~

~~e. Application Dismissal. Until a final action on the application is taken, the examiner may dismiss the application for failure to diligently pursue the application after notice is given to all parties of record.~~

~~5. Examiner's Decision.~~

~~a. Standard Decision Time and Notification Procedure. Unless the time is extended pursuant to this section, within fourteen calendar days of the conclusion of a hearing, or the date set for submission of additional information pursuant to this chapter, the examiner shall render a written decision, including findings from the record and conclusions therefrom, and shall transmit a copy of such decision by regular mail, postage prepaid, to the planning department, to the applicant and to other parties of record in the case requesting notice of the decision. The person mailing the decision, together with the supporting documents, shall prepare an affidavit of mailing, in standard form, and the affidavit shall become a part of the record of the proceedings. In the case of applications requiring city council approval, the examiner shall file his decision with the city council at the expiration of the appeal period for the decision.~~

~~b. Decision Time Extension. In extraordinary cases, the time for filing of the recommendation or decision of the examiner may be extended for not more than thirty calendar days after the conclusion of the hearing if the examiner finds that the amount and nature of the evidence to be considered, or receipt of additional information which cannot be made available within the normal decision period, requires the extension. Notice of the extension, stating the reasons, shall be forwarded to all parties of record in the manner set forth in this section for notification of the examiner's decision.~~

~~c. Conditions. The examiner's recommendation or decision may be to grant or deny the application, or the examiner may require of the applicant such conditions, modifications and restrictions as the examiner finds necessary to make the application compatible with its environment and carry out the objectives and goals of the comprehensive plan, the zoning regulations, the subdivision regulations, the codes and ordinances of the city of Sedro-Woolley, and the approved preliminary plat, if applicable. Conditions, modifications, and restrictions which may be imposed are, but are not limited to, additional setbacks, screenings in the form of landscaping and fencing, covenants, easements, and dedications of additional road rights-of-way. Performance bonds may be required to ensure compliance with the conditions, modifications, and restrictions.~~

~~d. Reconsideration of Examiner's Decision. Any interested person who believes that the decision of the examiner is based on an erroneous procedure, errors of law or fact, error in judgment, or the discovery of new evidence which could not be reasonably available at the prior hearing may make a written application for review by the examiner within fourteen calendar days after the written decision of the examiner has been rendered or within fourteen calendar days of the publication of decision, if required. The application shall set forth the specific errors relied upon by such appellant, and the examiner may, after review of the record, take further action as the examiner deems proper. The examiner may request further information which shall be provided within ten calendar days of the request. The examiner's written decision on the request for consideration shall be transmitted to all parties of record within ten calendar days of receipt of the application for reconsideration or receipt of the additional information requested, whichever is later.~~

~~e. Expiration of Large-Scale or Phased Projects. For large-scale or phased development projects, the examiner may at the time of approval or recommendation set forth time limits for expiration which exceed those prescribed in this section for such extended time limits as are justified by the record of the action.~~

~~6. Council Action.~~

a. ~~Council Action Requires Minutes and Findings of Fact. Any application requiring action by the city council shall be evidenced by minute entry unless otherwise required by law. When taking any such final action, the council shall make and enter findings of fact from the record and conclusions therefrom which support its action.~~

b. ~~Adoption of Planning Commission or Examiner's Findings and Conclusions Presumed. Unless otherwise specified, the City Council shall be presumed to have adopted the Planning Commission's or Examiner's findings and conclusions.~~

c. ~~Applications to Be Placed on Council Agenda. Except for rezones and development regulation amendments, which are included in comprehensive plan update dockets, all applications requiring council action shall be placed on the council's agenda for consideration.~~

15.15.020 Permit Application Review and Expiration.

A. The time limitations set in Table 15.15.020 (D) dictate the maximum time allotted for staff review and approval, as well as applicant response and payment of fees for permit applications. The time limitation established for staff review is not concurrent with the time limitation established for applicant response.

B. The time limitations set in Table 15.15.020 (D) shall begin at the time of complete application for both staff and the applicant. The application shall be reviewed for completeness under the provisions of Section 15.15.010. The determination of a complete application does not preclude staff from requesting additional information as necessary to complete review.

C. The following permit applications have been identified as typically requiring a substantially longer processing time and are exempt from the staff review time limitations established in SWMC 15.15.020 (D):

1. Comprehensive plan amendments with or without any other associated land use application such as a rezone;

2. Sedro-Woolley Municipal Code amendments;

3. Annexations;

4. Planned residential developments;

5. Development agreements;

6. Environmental impact statements (EIS);

7. Temporary emergency wetland permits;

8. Declared emergencies under SEPA;

9. Street vacations;

10. Any project once it is appealed to the hearing examiner and/or city council;

11. Any project once it becomes the subject of a petition under the Land Use Petition Act;

D. Permit deadlines (in calendar days, months, or years). To determine whether an application is unresponsive, see SWMC 17.04.030 (U)(2).

Permit/Action	**Permit Deadlines**		
	Application Expiration	**Staff Review** Deadline	**Issued Permit** Expiration
Administrative Determination	Unresponsive for 3 Months	100 Days	N/A
Annexation	Unresponsive for 1 Year	N/A	N/A
Binding Site Plan, Preliminary	Unresponsive for 6 Months	100 Days	3 Years

Permit/Action	Permit Deadlines		
	Application Expiration	**Staff Review** Deadline	**Issued Permit** Expiration
Binding Site Plan, Final	Unresponsive for 6 Months	65 Days	N/A
Boundary Line Adjustment	Unresponsive for 3 Months	65 Days	N/A
Building Permit, SEPA Exempt	Unresponsive for 6 Months	100 Days	2 Years
Building Permit, SEPA Required	Unresponsive for 6 Months	100 Days	2 Years
Comprehensive Plan Map (and Rezone) or Text Amendments	Unresponsive for 1 Year	N/A	N/A
Conditional Use Permit	Unresponsive for 6 Months	170 Days	See SWMC 17.56.050
Demolition Permit	Unresponsive for 3 Months	100 Days	6 Months
Design Review Only	Unresponsive for 3 Months	65 Days	1 Year
Development Agreement	N/A	N/A	N/A
Development Regulation Text Amendment	Unresponsive for 1 Year	N/A	N/A
Environmental Review (SEPA)	Unresponsive for 6 Months	100 Days	1 Year

Permit/Action	Permit Deadlines		
	Application Expiration	**Staff Review** Deadline	**Issued Permit** Expiration
Excavation & Grading Permit, SEPA Exempt	Unresponsive for 6 Months	100 Days	1 Year
Excavation & Grading Permit, SEPA Required	Unresponsive for 6 Months	100 Days	1 Year
Fire Permit	Unresponsive for 6 Months	170 Days	1 Year
Floodplain Development Permit	Unresponsive for 6 Months	65 Days	2 Years
Floodplain Variance	Unresponsive for 6 Months	170 Days	3 Years
Landmark Designation	Unresponsive for 6 Months	N/A	N/A
Long Plat, Preliminary	Unresponsive for 6 Months	170 Days	5 Years
Long Plat, Final	Unresponsive for 6 Months	65 Days	N/A
Marijuana Permit	Unresponsive for 6 Months	170 Days	1 Year
Master Plan Approval	Unresponsive for 6 Months	170 Days	N/A
Model Home Permit	Unresponsive for 3 Months	65 Days	See SWMC 17.98.070

Permit/Action	Permit Deadlines		
	Application Expiration	**Staff Review** Deadline	**Issued Permit** Expiration
Mural Permit	Unresponsive for 3 Months	65 Days	1 Year
On-Site Sewage (Septic) Decommission	Unresponsive for 3 Months	65 Days	6 Months
Oversize / Overweight Vehicle Permit	Unresponsive for 3 Months	65 Days	3 Months
Planned Action Determination	Unresponsive for 6 Months	100 Days	6 Months
Planned Action Ordinance	Unresponsive for 1 Year	170 Days	N/A
Planned Residential Development (PRD), Preliminary	Unresponsive for 6 Months	N/A	5 Years
Planned Residential Development (PRD), Final	Unresponsive for 6 Months	65 Days	N/A
Right-of-Way / Access Permit	Unresponsive for 3 Months	65 Days	3 Months
Sewer Permit	Unresponsive for 3 Months	65 Days	6 Months
Shoreline Conditional Use Permit	Unresponsive for 6 Months	170 Days	5 Years
Shoreline Exemption	Unresponsive for 6 Months	65 Days	N/A

Permit/Action	Permit Deadlines		
	Application Expiration	**Staff Review** Deadline	**Issued Permit** Expiration
Shoreline Substantial Development Permit	Unresponsive for 6 Months	100 Days	5 Years
Shoreline Variance	Unresponsive for 6 Months	170 Days	5 Years
Short Plat, Preliminary	Unresponsive for 6 Months	100 Days	3 Years
Short Plat, Final	Unresponsive for 6 Months	65 Days	N/A
Sidewalk Use Permit (Sidewalk cafes)	Unresponsive for 3 Months	65 Days	1 Year
Sign Permit	Unresponsive for 6 Months	100 Days	2 Years
Street Vacation	Unresponsive for 1 Year	N/A	N/A
Temporary Homeless Encampment	Unresponsive for 6 Months	100 Days	6 Months
Temporary Use Permit	Unresponsive for 3 Months	65 Days	6 Months
Title Elimination	Unresponsive for 3 Months	65 Days	N/A
Variance	Unresponsive for 6 Months	100 Days	See SWMC 17.60.040

Permit/Action	Permit Deadlines		
	Application Expiration	**Staff Review** Deadline	**Issued Permit** Expiration
Zoning Verification Request	Unresponsive for 3 Months	65 Days	N/A
Zoning Waiver	Unresponsive for 6 Months	65 Days	See SWMC 17.60.040

15.15.032 Vested Rights Provisions.

A. Vesting of a permit application is a legal doctrine whereby a valid and fully complete permit application for a proposal that is permitted under the zoning or other land use control ordinance in effect on the date of the permit application shall be considered under the development, zoning, or other land use controls in effect on the date of such valid and fully complete permit application.

1. Supplemental information required after acceptance shall not affect the application's vested status.

2. Revisions requested by an applicant to a vested, but not yet approved, application shall be deemed a new permit application when such revisions result in a substantial change in the basic site design plan, intensity, density, and the like, involving a change of ten percent (10%) or more in area or scale. Vesting for the new permit application or project shall occur upon the date of submission of valid and fully complete revisions for the changed proposal.

B. Permit applications, as defined by SWMC 17.04.030, not considered part of a project are vested on the date of complete application.

C. Permit applications, as defined by SWMC 17.04.030, considered a part of a project are vested on the following date:

1. Projects that include land use approval (short subdivision, long subdivision, planned residential development, binding site plan, conditional use permit, rezone, accessory dwelling unit permit, temporary use permit, planned action, zoning waiver, zoning variance, etc.) are vested on the date the initial land use permit application is determined complete.

2. Projects that do not include land use approval but do include an excavation and grading permit are vested on the date of complete excavation and grading permit application.

3. Projects that do not include land use approval or an excavation and grading permit but do include a building permit are vested on the date of complete building permit application.

4. Projects that do not include land use approval, an excavation and grading permit, or a building permit are vested on the date of complete application for the initial permit application.

D. The following provisions are not vested at the time of complete application:

1. Permitting, review, inspection, impact, and general facility connection fees ~~do not vest at the time of complete application~~. Such fees shall be assessed at the time of permit issuance.

2. ~~Ordinances implementing a state~~State or federal mandates.

3. ~~Ordinances necessary to protect the public health and safety~~Adopted codes under Chapter 15.04 SWMC.

4. Procedural regulations.

15.15.042 Permit Applications and Permits – Expiration Date Extension.

A. Permit applications shall not be extended. An application determined by the Department to be unresponsive (as defined in SWMC 17.04.030 (U)(2)) shall be considered expired if the applicant does not demonstrate, within fourteen (14) calendar days following notification by the Department of the unresponsive status, regular and routine progress toward satisfying applicable permit requirements. A response or communication from the applicant, by itself, shall not be sufficient to demonstrate such progress. Applicants whose permit applications expire due to unresponsiveness shall be required to submit new application materials. Refer to SWMC 15.15.020(C) for expiration of permit applications.

B. Issued permits may be extended under the following provisions:

1. Building permit. Building permits may be extended by the Building Official, or their designee, by no more than six months, according the following provisions:

a. Building permits expired for six months or longer may not be extended. A new permit application shall be filed, and payment of all fees is required.

b. Building permits expired for less than six months for which work is not complete may be extended a single time. The permit applicant shall pay a building permit renewal fee.

c. Building permits expired for less than six months and only requiring a final inspection may be extended a single time. The permit applicant shall pay a final inspection fee.

d. Building permits not yet expired may have the expiration date extended by no more than six months if the Building Official finds that a written request from the permit applicant sufficiently demonstrates extenuating circumstances beyond the control of the permit applicant.

2. Administrative land use permits. Administrative land use permits (short subdivision, binding site plan, accessory dwelling unit permit, temporary use permit, zoning waiver, zoning variance, etc.) may be extended by the Administrative Authority, according to the following provisions:

a. Land use permits not yet expired may have its expiration date extended by no more than one year if the Administrative Authority finds that a written request from the permit applicant sufficiently demonstrates extenuating circumstances beyond the control of the permit applicant.

b. Land use permits that have expired shall not be renewed. A new land use permit application shall be filed, and payment of all fees is required.

3. Non-administrative land use permit. Non-administrative land use permits (long subdivisions, planned residential developments, conditional use permits, rezones, etc.) shall not be extended past the expiration date unless otherwise determined by the D~~d~~ecision A~~a~~uthority.

4. All other permits. All other permits not yet expired may have the expiration date extended by no more than six months if the responsible Decision Authority finds that a written request from the permit applicant sufficiently demonstrates extenuating circumstances beyond the control of the permit applicant.

15.15.100 Fees.

The fees for projects regulated by this Title shall be assessed as designated in the current city of Sedro-Woolley Master Fee Schedule, as adopted by resolution of the city council and on file with the city clerk.

Chapter 15.56
CONCURRENCY MANAGEMENT SYSTEM

Sections:

15.56.030 Facility and services concurrency required.

[...]

B. All development approvals shall include a finding as to the application of this chapter, and those approvals for which concurrency improvements or strategies are required under this chapter shall be expressly conditioned thereon. If a proposed development would cause the level of service to decline below adopted level of service standards of an affected facility or service, the proposed development may nonetheless be approved if the administrative official finds that an improvement will be completed or a strategy will be implemented that will result in meeting adopted level of service standards of all affected concurrency facilities or services at the time of development, or that a financial commitment is in place to complete the improvement or implement the strategy within six years. The finding required under this subsection shall be valid for a period equal to the duration of the approval for which it was made, but in no case longer than five years, except pursuant to Section 15.56.070(C). Such finding may be appealed as established in this chapter and Chapter ~~2.90~~17.04 of the SWMC.

[...]

15.56.070 Concurrency test.

[...]

C. Test. Development applications that would result in a reduction of a level of service below the established minimum level of service standard cannot be approved. For potable water, electric utilities, sanitary sewer, solid waste and stormwater management only available capacity, or that capacity that can be provided prior to the actual use of the facility will be used in conducting the concurrency test.

1. If the capacity of concurrency facilities or services is equal to or greater than the capacity required to maintain the level of service standard for the impact from the development application, the concurrency test is passed. A certificate of capacity will be issued according to the provisions of this chapter.

2. If the capacity of concurrency facilities is less than the capacity required to maintain the level of service standard for the impact from the development application, the concurrency test is not passed. The applicant may:

a. Accept ninety-day reservation of concurrency facilities that exist and modify the application to reduce the need of concurrency facilities that do not exist;

b. Accept ninety-day reservation of concurrency facilities that exist and demonstrate to the service provider's satisfaction that the development will have a lower need for capacity than usual and, therefore, capacity is adequate;

c. Accept ninety-day reservation of concurrency facilities that exist and arrange with the service provider for the provision of the additional capacity of concurrency facilities required;

d. Accept ninety-day reservation of concurrency and demonstrate to the service provider's satisfaction, that improvements and infrastructure required to provide the necessary level of service in conformance with the requirements of this chapter in place or identified in the capital facilities plan are fully funded;

e. Appeal the results of the concurrency test to the planning commission in accordance with the provisions of Section 15.56.110 of this chapter and Chapter 17.04~~2.90~~ of the Sedro-Woolley Municipal Code.

[...]

15.56.110 Concurrency test a~~A~~ppeals.

The applicant, city, service provider, or a citizen may appeal the results of the concurrency test based on three grounds: ~~(A)~~

A. ~~a~~ A technical error; ~~(B)~~

B. ~~the~~ The applicant provided alternative data or a mitigation plan that was rejected by the city; or ~~(C)~~

C. ~~unwarranted~~ Unwarranted delay in review that allowed capacity to be given to another applicant.

The applicant must file a notice of appeal with the ~~planning department~~Community Development Department within fifteen calendar days of the notification of the test results pursuant to Chapter ~~2.90~~.17.04 of the Sedro-Woolley Municipal Code. Upon filing of such appeal, the ~~planning d~~Community Development Department shall notify the appropriate facility and service provider(s).

[...]

Chapter 15.64
IMPACT FEES FOR SCHOOL FACILITIES

Sections:

[...]

15.64.080 School impact fee ~~A~~appeals.

A. Any fee payer may pay the impact fees imposed by this chapter under protest in order to obtain the development approval and/or a building permit. Appeals regarding the impact fees imposed on any development activity may only be taken by the fee payer of the property where such development activity will occur. No appeals shall be permitted unless and until the impact fees at issue have been paid. SWMC Chapter ~~2.90~~17.04 shall govern the appeal process, to the extent applicable.

[...]

L. Upon such written notice of appeal being filed within the time period allotted, a hearing shall be held by the city council. Such hearing shall be held in accordance with SWMC Chapter ~~2.90~~15.15 and the following appeal procedures:

1. The responsible official or other designee (the "respondent(s)") shall present a summary of the findings, conclusions and decision, as well as the alleged errors forming the basis of the appeal.

2. The appellant(s) and the respondent(s) to the appeal shall have the opportunity to present oral arguments before the council; provided that, the appellants may reserve a portion of their time for rebuttal. Such oral argument shall be confined to the record and to any alleged errors therein or to any allegation of irregularities in procedure before the hearing examiner. The council may request additional information from any staff member or party, or any factual information from members of the audience at its discretion. Such additional information shall be part of the record.

3. If the council finds that:

   a. The hearing examiner's findings or decision contains substantial error;

   b. The hearing examiner's proceedings were materially affected by irregularities in procedure;

   c. The hearing examiner's decision was unsupported by substantial evidence in view of the entire record as submitted; or

   d. The hearing examiner's decision is in conflict with the city's adopted plans, policies and ordinances, it may remand for further hearing before the hearing examiner or may reserve the hearing examiner's decision. In addition, the council may choose to modify the hearing examiner's decision based on the above criteria. Furthermore, any matter may be continued to a time certain for additional city staff analysis desired by the council, before a final determination by the council. If the council requests additional staff analysis the appellant shall be provided a copy and afforded reasonable time to review the analysis and respond to the council before final determination by the council.

4. If the council determines that there is no basis for the alleged errors set forth in the appeal, it may adopt the findings of the hearing examiner and accept the decision of the hearing examiner.

[...]

Title 16
SUBDIVISIONS

Chapters:

Chapter 16.04
GENERAL PROVISIONS

Sections:

16.04.030 Definitions.

[...]

F. “Short subdivision” is the division or redivision of land into ~~four~~ nine or fewer lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership.

[...]

N. “Hearing body” is the decision making body specified in Chapter ~~2.90~~15.15, unless otherwise specified herein.

[...]

Chapter 16.08
SUBDIVISIONS

Sections:

Subchapter I. Preliminary Plat Process

Subchapter II. Preliminary Plat Consideration

Subchapter III. Review of Final Plat

Subchapter IV. Reserved Land

Subchapter V. Survey Requirements

Subchapter VI. Design and Construction Standards

[16.08.108 Conditions—Burden of proof.](#)

Subchapter I. Preliminary Plat Process

16.08.016 Application.

[...]

C. Applications shall be processed according to the procedures set forth in Chapter ~~2.90~~15.15, and the additional procedures established in this subchapter and state law.

D. Applications for the division of land shall be processed within the time limitations of Chapter ~~2.90~~15.15, and Chapters 43.21C and 36.70B RCW.

[...]

16.08.024 Review and approval.

A. Pursuant to Chapter ~~2.90~~15.15, the hearing body shall conduct the public hearing; review the preliminary plat for conformance with the minimum standards of this chapter and Chapter 58.17 RCW; approve on condition, disapprove, or cause the public hearing to be continued.

[...]

16.08.066 Technical standards for final plat.

[...]

B. In the case of a replat, the lots, blocks, streets, alleys, easements and parks appearing on the original plat shall be shown by dotted lines in their proper position in relation to the new arrangement of the plat, and the new plat shall be shown clearly in solid lines to avoid ambiguity.

C. The description, dedication, acknowledgment, certificates of city and county treasurers, certificates of approval by the city engineer, the mayor (excluding short plats), and the director, and recording certificate, shall be lettered with India ink and shall be substantially in the form set forth in the city engineer subdivision standards.

D. The information required in Sections 16.08.066 through 16.08.068 shall be provided in both paper and digital format, as specified by the city engineer.

Chapter 16.12
SHORT PLATS*

Sections:

* Prior ordinance history: Ord. 1450.

16.12.010 Filing of application.

A. Official filing of an application with the ~~director~~ Administrative Authority for a short plat, to divide or redivide land situated within the city into ~~four~~ nine or fewer lots for the purpose of sale or lease, transfer of ownership, development or financing, shall be preceded by a preliminary review of the proposed division by the ~~director~~ Administrative Authority and the city engineer at a meeting attended by the applicant.

[...]

C. Applications shall be processed according to the procedures set forth in Chapter ~~2.90~~15.15 SWMC, and the additional procedures established in this subchapter, city ordinances and state law.

D. Applications for short plats of land shall be processed within the time limitations of SWMC ~~2.90~~15.15, RCW Ch. 43.21C, and RCW Chapter 36.70B.

[...]

16.12.050 ~~Planning director's~~Administrative authority's decision.

If the ~~planning director~~Administrative Authority determines that the requirements of this chapter are met, or may be met upon compliance with specified conditions, the ~~planning director~~Administrative Authority shall inform the applicant in written findings of the decision to approve the application and the conditions of the approval, if any, and may return the proposed short plat to the applicant for modification or correction. When the ~~planning director~~Administrative Authority has determined that: (A) the short plat contains the certificates, dedication instruments and statements of approval required by state law and this chapter, (B) the short plat and all legal descriptions are technically correct, and (C) the ~~planning director~~Administrative Authority determines that the short plat qualifies for approval or approval with conditions, the ~~director~~ Administrative Authority shall notify the applicant and provide for all notices required by Chapter ~~2.90~~17.04 for administrative short plat approvals. If no person or party requests an open record hearing before the hearing body within the time allowed by Chapter ~~2.90~~15.15, the short plat shall be formally approved without further hearing. Preliminary short plat approval is valid for three years unless extended by the following procedure. As allowed by RCW 58.17.140, an applicant who files a written request at least thirty calendar days before the expiration of the three-year period shall be granted one one-year extension upon showing that the applicant has attempted in good faith to submit the short plat for final approval within the three-year period. Approval of the extension may contain additional conditions and requirements for the preliminary short plat.

Exception: Land use and development approvals shall be granted a one-time, three-year economic hardship extension from the original date of expiration if the approval was set to expire between January 1, 2008, and December 31, 2011.

[...]

16.12.055 Hearing body decision.

Any party that wishes to appeal the ~~planning director's~~Administrative Authority's decision regarding standards and improvement requirements of Section 16.12.030(C) may petition for an open record hearing before the hearing examiner. Notice of the petition for hearing shall be provided to all parties entitled to notice under Chapter ~~2.90~~17.04. The hearing examiner shall have the powers and duties of the ~~director~~Administrative Authority, and may approve the short plat and/or variance, approve with conditions, or deny the short plat application.

[...]

Chapter 16.28
BINDING SITE PLAN

Sections:

16.28.020 Review procedures—Preliminary binding site plan.

The general binding site plan (preliminary binding site plan) shall be processed as a Type II land use permit under Chapter ~~2.90~~15.15. The approval for improvements and finalization of specific individual lots (final binding site plan) shall be done by administrative approval as a Type I land use permit under Chapter ~~2.90~~15.15.

[...]

16.28.040 Final review—Recording—Revisions.

A. Final Binding Site Plan Review. After approval of the preliminary binding site plan, and within the time limits set forth in Chapter ~~2.90~~15.15, the applicant shall submit a final binding site plan and supplementary materials as required under Section 16.28.060(B). The ~~planning~~ community development director, building official and city engineer, in consultation with appropriate city staff, shall:

1. Inspect the detail and computation of the final binding site plan for compliance with the specifications and standards of this chapter;

2. Inspect the final binding site for compliance with the preliminary binding site plan approved by the city and the conditions made a part of that approval;

3. Determine either that all required improvements have been installed in accordance with these regulations or that certain improvements may properly be deferred as per Section 16.28.030;

4. The mayor, ~~planning~~ community development director, building official, and city engineer shall signify approval by signing the original ~~mylar~~ copy of the final plan.

[...]

Title 17
ZONING

Chapters:

Chapter 17.04
ADMINISTRATIVE PROVISIONS

Sections:

17.04.010 Purpose.

The purpose of this title is to implement the city's comprehensive plan, thus to encourage the most appropriate use of land throughout the municipality; 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 encourage and protect access to direct sunlight for solar energy systems; and to facilitate the adequate provision of transportation, water, sewerage, and other public uses and requirements. (Ord. 1013 § 1.01, 1985)

17.04.020 Jurisdiction.

The zones depicted on the zoning map attached to and forming a part of this title, on file in the office of the city clerk-treasurer and the regulations pertaining thereto, and the regulations pertaining to all zones are established as minimum standards for meeting the purpose of this title. No structure shall be erected, moved, reconstructed, altered or used, and no land shall be used or built upon, except as provided herein. (Ord. 1013 § 1.02, 1985)

17.04.030 Definitions.

The following terms used in Title 15, 16, and 17 SWMC are defined below:

A. Definitions A.

1. "Accessory" means subordinate and incidental to, typically associated with, and located on the same ownership. ~~Private garages attached to or within the residence shall adhere to the setback requirement of the residence. In all cases, there shall be a minimum off-street parking apron of twenty feet in length directly in front of all garage door entrances when accessing a street either to the front or side of a residence. Where garage doors access an alley, the off-street parking apron shall be at least ten feet; a~~Accessory structures shall not contain any habitable space or room as defined in the current International Residential Code (IRC) and shall meet all setback requirements of the underlying zone.

2. "Accessory dwelling unit" (ADU) means a ~~smaller,~~ secondary residential unit on the same parent lot as a primary dwelling. ADUs are independently habitable~~, clearly subordinate to the primary dwelling,~~ and provide the basic requirements of ~~shelter, heating, cooking, and sanitation~~living, sleeping, eating, cooking, and sanitation. An ADU is separated from the existing house by detachment, or if attached, by solid wall construction. ADUs shall be constructed in compliance with the provisions of Chapter 17.100 SWMC.~~There are two types of ADUs:~~

~~a. Garden cottages are detached structures. Examples include converted garages or new construction.~~

~~b. Accessory suites are attached to or part of the primary dwelling. Examples include converted living space, attached garages, basements or attics, additions, or a combination thereof.~~

3. "Action: Environmental review procedures~~, use~~ only" means the following:

a. "Actions" include, as further specified below:

i. New and continuing activities (including projects and programs) entirely or partly financed, assisted, conducted, regulated, licensed, or approved by agencies;

ii. New or revised agency rules, regulations, plans policies, or procedures; and

iii. Legislative proposals.

b. "Actions" fall within one of two categories:

i. Project Actions. A project action involves a decision on a specific project, such as a construction or management activity located in a defined geographic area. Projects include and are limited to agency decisions to:

(A) License, fund, or undertake any activity that will directly modify the environment, Whether the activity will be conducted by the agency, an applicant, or under contract.

(B) Purchase, sell, lease, transfer, or exchange natural resources, including publicly owned land whether or not the environment is directly modified.

ii. Non-Project Actions. Non-project actions involve decisions on policies, plans, or programs such as:

(A) The adoption of amendment on legislation, ordinances, rules, or regulations that contain standards controlling use or modification of the environment;

(B) The adoption or amendment of comprehensive land use plans or zoning ordinances;

(C) The adoption of any policy, plan or program that will govern the development of a series of connected actions (WAC 197-11-060), but not including any policy, plan, or program for which approval must be obtained from any federal agency prior to implementations;

(D) Creation of a district or annexations to any city, town or district;

(E) Capital budgets; and

(F) Road, street, and highway plans.

c. "Actions" do not include the activities listed above when an agency is not involved. Actions do not include bringing judicial or administrative civil or criminal enforcement actions (certain categorical exemptions in Chapter 2.88 identify in more detail governmental activities that would not have any environmental impacts and for which SEPA review is not required).

4. "Administrative authority" means the Community Development Director and/or the Public Works Director of the City of Sedro-Woolley, or his/her duly authorized representative or agent.

5. "Adult entertainment" means any enterprise from which minors are excluded and which sells, rents or displays sexually explicit matter, including but not limited to adult bookstores, adult magazine stores, stores selling sexually oriented adult games or devices, adult motion picture theaters, adult peep shows, establishments where nude or topless dancing or specified sexual activities or displays regularly occur or other business.

6. "Adult or family day care facilities" means a daytime facility for an adult who needs some level of care but does not need the level of care provided by an RN or rehabilitative therapist. Facilities may provide services such as personal care, social services and activities, education, routine health monitoring, general therapeutic activities, meals, coordination of transportation, first aid and emergency care.

7. "Affidavit of ~~installation of public information sign~~ posting" means a notarized statement signed by the applicant or~~f~~ applicant's representative attesting that the required public information sign(s) has been installed in accordance with city code requirements.

8. "Alcohol production establishment" means a business involved with the manufacturing, bottling, warehousing, and distribution of alcoholic beverages, excluding alcohol serving establishments and specifically including breweries, distilleries and wineries. Food and/or alcoholic beverage service may be allowed accessory to such establishments.

9. "Alcohol serving establishment" means a business licensed to allow on-premises consumption of liquor, wine or beer where the sale and on-premises consumption of said product is the prime source (more than fifty percent) of revenue for the

premises. It is not meant to include restaurants where food is prepared and served on the premises and where the sale of liquor, wine or beer is incidental to and not the prime source of revenue for the premises.

10. “Annexation, ten percent notice of intent” means a petition form, supplied by the city, containing the signatures of property owners as identified in Skagit County assessor’s records as taxpayers of record for properties representing at least ten percent of the assessed valuation for the areas proposed for annexation. Information requested on the form includes the signatures of all identified taxpayers of record, the date of signing, a mailing address, and property identification number of each parcel. Petitions must conform to RCW 35A.01.040.

11. “Annexation, sixty percent petition” means a petition form, supplied by the city, containing the signatures of property owners as identified in Skagit County assessor’s records as taxpayers of record for properties representing at least sixty percent of the assessed valuation for the areas proposed for annexation. Information requested on the form includes the signatures of all identified taxpayers of record, the date of signing, a mailing address, and property identification number of each parcel. Petitions must conform with RCW 35A.01.040.

12. “Applicant” means a property owner, a contractor hired to complete work associated with a permit application (or a portion thereof), an agent or firm representing the property owner, or a permit expeditor – a person or firm hired to usher the permit through the process. When the applicant is not the sole owner of the relevant real property, written consent from the property owner(s) must accompany a permit application.

~~13. “Applicant agreement statement” means a signed notarized statement indicating that:~~

~~a. The applicant agrees to allow for the potential collocation of additional wireless communication facility equipment by other providers on the applicant’s structure or within the same site location; and~~

~~b. That the applicant agrees to remove the facility within six months after that site’s use is discontinued or if the facility falls into disrepair, and restore the site to its pre-existing condition. If there are two or more users of a single wireless communication facility (WCF), then this provision shall not become effective until all users cease using the WCF.~~

134. “Application fee” means the appropriate processing fee as required by the Sedro-Woolley ~~Municipal Code~~ Master Fee Schedule.

14~~5~~. “Application form” means the ~~Community Development Department~~ form furnished by the respective department required to be submitted~~ed~~ for the type of work to be performed (e.g., ~~grading permit application for grading work~~sewer permit for sewer work, sign permit application for installation of a sign, etc.). Application forms often include checklists identifying additional submittals required for a complete review of the proposed work. ~~Information requested includes the following:~~

~~a. Skagit tax assessor’s number for the property;~~

~~b. Legal description of property;~~

~~c. Street address, if applicable;~~

~~d. Property owner’s name, address and phone number;~~

~~e. Prime contractor’s business name, address, phone number, current state contractor registration number;~~

~~f. Either the name, address and phone number of the lender administering the interim construction financing, if any, or the name and address of the firm that has issued a payment bond, if any, on behalf of the prime contractor for the protection of the owner, if the bond is for an amount fifty percent or more than the total construction project;~~

~~g. Site area;~~

~~h. Area of impervious surface;~~

~~i. Description of work;~~

~~j. Preliminary cost estimate;~~

~~k. If applicable, water meter size; and~~

~~l. other site information.~~

~~16. "Approved testing agency" means an agency, as determined by the Washington Association of Building Officials, whose purpose is to provide special building inspection(s).~~

~~17. "Architectural plans, commercial, industrial, attached dwellings with three or more units" means a twenty-four-inch by thirty-six-inch plan prepared by an architect licensed in the state of Washington (unless project exempted by WAC 18-04-410) drawn at a scale of one-eighth inch equals one foot or one-fourth inch equals one foot, or other size or scale approved by the building official, clearly indicating the information required by the permits section of the currently adopted International Building Code and Chapter 19.27 RCW (State Building Code Act, Statewide amendments), or electronic equivalent, including, but not limited to, the following:~~

~~a. General building layout, both existing and proposed—indicate square footage of rooms, use of each room or area, window and door size and ventilation, opening headers, plumbing, ducting, and electrical layout, including penetration protection, IBC occupancy group, and IBC type of construction;~~

~~b. Cross section details, as needed, to show typical foundation, floor, wall, ceiling and roof construction; structural members labeled as to size and spacing; bracing, blocking, bridging, special connectors, anchor bolts; insulation of walls, floors and roof/ceiling;~~

~~c. Details of stairs, fireplaces and special construction, if any;~~

~~d. Skagit County health department approval on plans submitted to the city for dining/food-handling establishments;~~

~~e. Skagit County health department approval on plans submitted to the city for public pools/spas;~~

~~f. Independent plan review by the State of Washington Labor and Industries Electrical Division for I and E occupancies;~~

~~g. Asbestos assessment by the for interior demolition; and~~

~~h. Independent review by State Department of Health for hospitals.~~

~~18. "Architectural plans, detached dwellings, semi-attached dwellings, and two attached dwellings" means an eighteen-inch by twenty-four-inch, minimum, plan drawn at a scale of one-fourth inch equals one foot, or other size or scale approved by the building official, clearly indicating the information required by the permits section of the currently adopted International Building Code and Chapter 19.27 RCW (State Building Code Act, Statewide amendments), or electronic equivalent, including, but not limited to, the following:~~

~~a. General building layout and room use;~~

~~b. Window and door size and window ventilation area;~~

~~c. Plumbing, duct, and electrical layout;~~

~~d. Opening headers, size and material;~~

~~e. Cross section details, as needed, to show typical foundation, floor, wall, ceiling and roof construction, including connection details;~~

~~f. Structural members labeled as to size and spacing as well as bracing, blocking, bridging, special connectors, and anchor bolts;~~

~~g. Special details as needed, (i.e., stairs, fireplaces, special construction); and~~

~~h. Insulation of walls, slab, floors, and roof/ceiling.~~

15~~9~~. "Area" means total horizontal area. "Lot area" for purposes of calculating ~~buildable area~~minimum lot size shall not include:

a. The area encompassed in flag driveways to a property set back from a private or public drive, street or road;

b. Easements for ingress and/or egress; or

c. Easements for gas or power transmission lines.

16. “Assisted living facility” means a residential facility licensed by the State of Washington that provides housing, basic services, and assistance with activities of daily living to residents who require support but do not require the level of skilled nursing care provided by a residential health care facility. Also excluded from this definition are hospitals, retirement facilities, and conventional dwelling units.

B. Definitions “B”

1. “Bed and breakfast” means a residential dwelling in which transient lodging accommodations are provided to guests in individual guest rooms, with breakfast served to overnight guests as an incidental service. The dwelling is occupied by the owner or operator and is not operated as a hotel, motel, or other commercial lodging facility.

2. “Boardinghouse” means a residential building or portion thereof where lodging and, optionally, meals are provided for compensation to three or more persons not related to the owner or operator, who reside on the premises long-term (more than 30 consecutive days) and share common living areas or facilities.

3. “Building” means an enclosed structure capable of being heated. This word shall always be considered as being followed by the phrase “or portion thereof.”

C. Definitions “C”

1. “Calculations, survey” means a compilation prepared by a S~~s~~tate of Washington licensed land surveyor clearly indicating the dimensions of the boundaries and the closures for each lot, parcel, tract, and block in the plat, short plat, lot line, binding site plan, or lot line adjustment—an approved printed computer plot closure or demonstrated mathematical plot closure on all lots, streets, alleys and boundaries.

2. “Central business district core” means that area bounded to the north by the Cascade Trail, to the east by Puget Avenue/Fourth Avenue, to the south by the alley between State and Warner Streets, and to the west by the railroad right-of-way. Also included in the central business district core are properties zoned central business district that front Metcalf, Ferry, West Ferry, State, and West State Streets.

3. “Child day care centers” provide temporary care of children as defined by the State Department of Social and Health Services, preschool or nursery school.

4. “City” means the City of Sedro-Woolley, Washington.

5. “Clustered unit development” means a residential development in which multiple dwelling units are grouped on a portion or portions of a development site in a manner that allows the remaining land to be preserved for other purposes while maintaining the overall permitted residential density of the site.

6~~5~~. “Collective garden” means the growing, production, processing, transportation, and delivery of cannabis, by qualifying patients, for medical use, as set forth in Chapter 69.51A RCW, and subject to the ~~following conditions:~~provisions of Chapter 17.90 SWMC.

~~a. No more than ten qualifying patients may participate in a single collective garden at any time;~~

~~b. A collective garden may contain no more than fifteen plants per patient up to a total of forty-five plants;~~

~~c. A collective garden may contain no more than twenty-four ounces of usable cannabis per patient up to a total of seventy-two ounces of usable cannabis;~~

~~d. A copy of each qualifying patient’s valid documentation, including a copy of the patient’s proof of identity, must be available at all times on the premises of the collective garden;~~

~~e. No usable cannabis from the collective garden is delivered to anyone other than one of the qualifying patients participating in the collective garden;~~

~~f. A collective garden may contain separate areas for growing, processing, and delivering to its qualified patients; provided, that these separate areas must be physically part of the same premises, and located on the same parcel or lot. A location utilized solely for the purpose of distributing cannabis shall not be considered a collective garden;~~

~~g. No more than one collective garden may be established on a single tax parcel; and~~

~~h. A collective garden may not be located within five hundred feet of the perimeter of the grounds of any elementary or secondary school.~~

~~i. With the exception of one address sign, signage is prohibited.~~

~~6. "Colored display maps" means full-size plan sheets of each of the following maps colored with a wide tip marker in order to clearly define the site's outer property boundary, the area of new construction and/or proposed new lot lines (dashed), existing buildings, landscaping areas, and adjacent street names for use in presenting the project at public hearing and/or to the environmental review committee.~~

~~a. Neighborhood detail map;~~

~~b. Site plan;~~

~~c. Landscaping plan; and~~

~~d. Elevations.~~

7. "Commerce" means trade in goods and/or services excluding industry.

8. "Composting facility" means a facility where organic materials, including yard debris, food waste, agricultural materials, or similar materials are collected and intentionally biologically decomposed to produce compost or other soil amendments. Facilities meeting the criteria for an essential public facility shall be processed in accordance with Chapter 17.88 SWMC.

9~~8~~. "Conditional use" means a use allowed only by conditional use permit in a particular zone, including uses accessory to the conditional use.

~~9. "Conditional use permit justification" means a written description/justification setting forth the reasons in favor of the application and addressing the criteria listed in Section 17.56.060, Conditional use permits.~~

~~10. "Construction mitigation description" means a written narrative addressing each of the following:~~

~~a. Proposed construction dates (begin and end dates);~~

~~b. Hours of operation;~~

~~c. Proposed hauling/transportation routes;~~

~~d. Measures to be implemented to minimize dust, traffic and transportation impacts, erosion, mud, noise, and other noxious characteristics;~~

~~e. Any specialty hours proposed for construction or hauling (i.e., weekends, late nights); and~~

~~f. Preliminary traffic control plan.~~

~~11. "Coordinated local zoning" is zoning which permits off-site treatment and storage facilities in one jurisdiction to serve the off-site facility needs of other jurisdictions; provided, the coordinated zoning is documented by signed agreements between all affected jurisdictions.~~

10~~2~~. "Corner lot" means a lot with frontage on more than one public right-of-way, excluding alleys.

11~~3~~. "Covenants, draft" means a proposed, unrecorded written agreement promising performance or nonperformance of certain acts or stipulating certain uses or non-uses of property to be binding upon current and future property owners, including the legal description of that area of property to be encumbered.

12~~4~~. "Covenants, existing" means the recorded limitation on property which may be set forth in the property deed and/or identified in a title report.

13. "Cultural" means uses primarily engaged in the preservation, exhibition, interpretation, study, or promotion of art, history, culture, science, or similar educational or cultural interests, including museums, galleries, libraries, cultural centers, and similar facilities.

D. Definitions "D".

1. "Decision authority" means the responsible review authority associated with approving, approving with conditions, or denying a development or land use permit application.

2. “Deeds (draft) to city for any land to be dedicated” means a legal document proposing to convey ownership of real property and including a legal description of the area to be dedicated.

3. “Department” means the City of Sedro-Woolley Community Development Department, unless otherwise stated.

4. “Dependent relative cottage” means a single-family residence which:

a. Is located on the same lot as another single-family residence;

b. Is inhabited only by the relative of the other single-family residence which relative is only able to safely maintain a separate household due to the support or supervisory care of family members in close proximity;

c. Is designed for ease of removal, dismantling, or conversion to an accessory use after termination of use as a dependent relative cottage; and

d. Meets the setback requirements for an accessory building.

5. “Development” means the division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any mining, excavation, landfill or land disturbance and any use or extension of the use of land.

6. “Director” means the director of the Community Development Department or their designee, unless otherwise explicitly stated~~ in this Chapter~~.

7. “Drainage plan” means the plan for receiving, handling, and transporting surface water within the subject property.

~~8. “Drainage plan/map” means plans drawn to scale and stamped by a state of Washington licensed engineer and complying with the requirements of the 2005 Department of Ecology’s Storm Water Management Manual for Western Washington.~~

~~9. “Drainage report” means a report stamped by a state of Washington licensed engineer complying with the requirements of the 2005 Department of Ecology’s Storm Water Management Manual for Western Washington.~~

8~~10~~. “Duplex” means a building containing no more than two dwelling units. ~~A duplex must be built on site and consists of one structure with two residential units.~~ The units must be connected by a common wall or a carport. ~~Duplex units should be constructed with a compatible design and materials to the surrounding neighborhood. In addition, in the instance where a duplex unit is created by the addition of another unit to an existing unit, the new unit must be compatible with the design and materials of the existing unit.~~

9~~11~~. “Dwelling unit” means a residential living unit that provides complete independent living facilities for one or more persons and that includes permanent provisions for living, sleeping, eating, cooking, and sanitation, excluding recreational vehicles, trailers, boats, prisons, and medical care facilities.

E. Definitions “E”

1. “Easements, existing” means a recorded document by the property owner granting one or more privileges to use the owner’s land to and/or for the use by the public, a corporation or another person or entity. Easements may be referenced by property deed and are identified in the property title report.

2. “Easements, proposed” means a draft document, including proposed legal description, listing to whom and for what specific purpose or purposes the easement is to be granted.

~~3. “Elevations, architectural” means a twenty-four-inch by thirty-six-inch fully dimensioned architectural elevation plan drawn at a scale of one-fourth inch equals one foot or one-eighth inch equals one foot (or other size or scale approved by the building official) clearly indicating the information required by the permits section of the currently adopted International Building Code and Chapter 19.27 RCW (State Building Code Act, Statewide Amendments), or electronic equivalent, including, but not limited to, the following:~~

~~a. Existing and proposed ground elevations;~~

~~b. Existing average grade level underneath proposed structure;~~

~~c. Height of existing and proposed structures showing finished roof-top elevations based upon site elevations for proposed structures and any existing/abutting structures;~~

~~d. Building materials and colors including roof, walls, any wireless communication facilities, and enclosures;~~

~~e. Fence or retaining wall materials, colors, and architectural design;~~

~~f. Architectural design of on-site lighting fixtures; and~~

~~g. Cross-section of roof showing location and height of roof-top equipment (include air conditioners, compressors, etc.,) and proposed screening.~~

34. “Encampment management responsibility plan” means a written plan addressing the criteria listed in Section 17.110.020, Application for temporary homeless encampment permit.

~~5. “Energy Code checklist, nonresidential” means the standard Washington State Energy Office form requesting the information required under Chapter 51-11 WAC detailing building components to be used to comply with the State Nonresidential Energy Code.~~

~~6. “Energy Code checklist, residential” means the standard Washington State Energy Office form requesting the information required under Chapter 51-11 WAC or city-provided form detailing building components to be used to comply with the State Residential Energy Code.~~

4~~7~~. “~~Engineering geologist~~Geotechnical engineer” means a ~~licensed geologist who is experienced and knowledgeable in engineering geology~~professional engineer licensed in the State of Washington who is qualified by education, training, and experience to evaluate soil, rock, groundwater, and other subsurface conditions and provide geotechnical recommendations for development.

5~~8~~. “~~Engineering geology~~Geotechnical engineering” means the application of ~~geologic knowledge and principles in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works~~engineering principles to the investigation, evaluation, and design of development based on soil, rock, groundwater, and other subsurface conditions.

6~~9~~. “~~Engineering geology~~Geotechnical report” means a report ~~that includes an adequate description of the geology of the site, conclusions, and recommendations regarding the effect of geologic conditions on the proposed development~~prepared by a geotechnical engineer that describes the subsurface conditions of a site and provides conclusions and recommendations regarding the suitability of the site and the effect of those conditions on the proposed development.

7~~10~~. "Environmental checklist" means the standard S~~s~~tate of Washington form required under WAC 197-11-742 and 197-11-960.

8~~11~~. "Erosion control plan, temporary" means drawings of the entire site showing the proposed erosion control measures for the project ~~in conformance with the city of Sedro-Woolley drafting standards (or~~ as approved by the ~~p~~Public W~~w~~orks D~~d~~epartment~~)~~ and in accordance with the current ~~2005~~ Department of Ecology's Storm Water Management Manual for Western Washington ~~as adopted by the city of Sedro-Woolley~~.

9~~12~~. "Essential public facility (EPF)" means any public facility or facilities owned or operated by a unit of local or state government, public or private utility, transportation company or an other entity that provides a public service as its primary mission, and is difficult to site. EPFs include those facilities listed in RCW 36.70A.200. EPFs include, but are not limited to, those facilities which are difficult to site, such as airports, state educational facilities, state and regional transportation facilities, state and local correctional facilities, solid waste handling facilities power generation or communications facilities, in-patient facilities (including substance abuse facilities, mental health facilities and group home facilities not classified as single-family residences) and secure community transition facilities as defined in this section. For the purposes of Chapter 17.88, animal shelters housing more than fifty animals at any one time and hazardous waste storage/disposal/processing/handling facilities shall be reviewed as EPFs. A use that meets the definition of an EPF shall be processed in accordance with Chapter 17.88 SWMC, regardless of the land use category under which the facility is otherwise classified.

F. Definitions "F"

1. "Fence" means a linear structure or controlled plant growth more than three feet high, the primary purpose of which is to enclose, divide or screen.

2. "Final plat plan" means the final plat or final short subdivision map which shall be drawn to a scale of not less than one inch representing one hundred feet unless otherwise approved by the D~~d~~epartment, and on sheets eighteen inches by twenty-four inches. The original reproducible drawing shall be in black ink ~~on stabilized drafting film~~, and shall meet all applicable technical standards of Title 16 SWMC.~~:~~

~~a. Include the date, title, name and location of subdivision, graphic scale, and north arrow.~~

~~b. Include names, locations, widths and other dimensions of existing and proposed streets, alleys, easements, parks, open spaces and reservations.~~

~~c. Include lot lines with all property lines dimensioned and square footage of each lot.~~

~~d. Include location, dimensions, and square footage of any existing structures to remain within or abutting the plat.~~

~~e. Include location of existing conditions (such as wetlands, steep slopes, watercourses, floodplains) on or adjacent to the site which could hinder development.~~

~~f. Include reservations, restrictive covenants, easements (including easement language), and any areas to be dedicated to public use, with notes stating their purpose and any limitations. If a new easement is created on the plat, it must show the grantee of the easement rights. If the grantee is the city, a statement of easement provisions reserving, granting and conveying the easement, with a description of the rights and purposes, needs to be made on the plat.~~

~~g. Include the lot and block numbering scheme and lot addresses on the plat map. Street names and addresses shall be determined by the department.~~

~~h. Contain data sufficient to determine readily and reproduce on the ground the location, bearing, and length of every street, easement line, lot line, boundary line and block line on site. Shall include dimensions to the nearest one-hundredth of a foot and angles and bearings in degrees, minutes, and seconds.~~

~~i. Include coordinates per city surveying standards for permanent control monuments.~~

~~j. Display all interior permanent control monuments located per city surveying standards.~~

~~k. Be mathematically correct.~~

~~l. Contain a legal description of the land to be subdivided on the final mylar.~~

~~m. Include certifications:~~

~~i. Certification showing that streets, rights-of-way and all sites for public use have been dedicated.~~

~~ii. Certification by a licensed land surveyor that a survey has been made and that monuments and stakes will be set.~~

~~iii. Certification by the responsible health agencies that the methods of sewage disposal and water service are acceptable.~~

~~iv. Certification by the Skagit County finance department that taxes have been paid in accordance with Section 1, Chapter No. 188, Laws of 1927 (RCW 58.08.030 and 58.08.040) and that a deposit has been made with the Skagit County finance department in sufficient amount to pay the taxes for the following year.~~

~~v. Certification by the city finance department that there are no delinquent special assessments and that all special assessments certified to the city treasurer for collection on any property herein contained dedicated for streets, alleys or other public uses are paid in full.~~

~~vi. Certification of approval to be signed by the community development director.~~

~~vii. Certification of approval to be signed by the mayor and attested by the city clerk.~~

~~3. Flood Hazard Data. "Flood hazard data" includes:~~

~~a. Plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing, or electronic equivalent;~~

~~b. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;~~

~~c. Elevation in relation to mean sea level to which any structure has been floodproofed;~~

~~d. Certification by a registered professional engineer or architect that the floodproofing methods criteria in Chapter 17.66 are met.~~

~~e. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.~~

3~~4~~. "Floor area" means combined area of all floors of a building measuring from the ~~exterior~~ interior faces of the exterior walls, excluding spaces lacking standing headroom. Common open areas in shopping malls are excluded for the purpose of computing required off-street parking.

4. "Food processing" (industrial) means a facility where food or agricultural products are processed, prepared, preserved, packaged, or otherwise manufactured for wholesale or commercial distribution, excluding restaurants, retail food establishments, and other food preparation uses primarily serving customers on site.

~~5. "Floor plans, general" means a basic line drawing plan of the general building layout showing walls, exits, windows, and designated uses indicating the proposed locations of kitchens, baths and floor drains, bedrooms and living areas, with sufficient detail for city staff to determine if an oil/water separator or grease interceptor is required and to determine sizing of side sewer.~~

G. Definitions "G"

1. "Garbage / recycling facility" means a facility used for the collection, storage, sorting, processing, transfer, or consolidation of solid waste, recyclable materials, or recovered materials, including transfer stations and material recovery facilities, but excluding composting facilities. Facilities meeting the criteria for an essential public facility shall be processed in accordance with Chapter 17.88 SWMC.

2. "General services" means establishments primarily engaged in providing services directly to the general public, businesses, or other organizations, including personal, business, repair, financial, and similar services, excluding health services and other uses specifically classified elsewhere in this title.

3. "Grading plan" means engineered civil plans showing how the land will be reshaped, sloped, and drained before construction begins. ~~a twenty-two-inch by thirty-four-inch plan drawn by a state of Washington licensed landscape architect~~

~~at a scale of one inch to forty feet (horizontal feet) and one inch to ten feet (vertical feet) or other size plan sheet or scale approved by the Community Development Department, or electronic equivalent, clearly indicating the following:~~

~~a. Graphic scale and north arrow;~~

~~b. Dimensions of all property lines, easements, and abutting streets;~~

~~c. Location and dimension of all on-site structures and the location of any structures within fifteen feet of the subject property or which may be affected by the proposed work;~~

~~d. Accurate existing and proposed contour lines drawn at five-foot, or less, intervals showing existing ground and details of terrain and area drainage to include surrounding off-site contours within one hundred feet of the site;~~

~~e. Location of natural drainage systems, including perennial and intermittent streams, the presence of bordering vegetation, and flood plains;~~

~~f. Setback areas and any areas not to be disturbed;~~

~~g. Finished contours drawn at five-foot intervals as a result of grading;~~

~~h. Proposed drainage channels and related construction with associated underground storm lines sized and connections shown; and~~

~~i. General notes addressing the following (may be listed on cover sheet):~~

~~i. Area in square feet of the entire property.~~

~~ii. Area of work in square feet.~~

~~iii. Both the number of tons and cubic yards of soil to be added, removed, or relocated.~~

~~iv. Type and location of fill origin, and destination of any soil to be removed from site.~~

~~v. Finished floor elevation(s) of all structures, existing and proposed.~~

4~~2~~. "Gross density" means the total number of dwelling units located on a parcel of land divided by the total area of the parcel.

5~~3~~. "Group home" means a building providing lodging to four or more persons unrelated to the principal residing family, excluding multifamily residence buildings, ~~"~~hotels~~" (defined as commercial buildings providing lodging for ten or more persons on a transient basis)~~, ~~"~~hospitals~~" (defined as medical care facilities whose patients are partly or entirely nonresidents thereof)~~, adult or family day care facilities, child day care facilities, and institutions of involuntary detention. This definition includes, among other things, boardinghouses and bed and breakfast establishments. Group homes that meet the criteria for an essential public facility (EPF) shall be processed in accordance with Chapter 17.88 SWMC. ~~"Adult or family day care" and "child day care" facilities are not included under the group home definition. "Adult or family day care facilities" means a daytime facility for an adult who needs some level of care but does not need the level of care provided by an RN or rehabilitative therapist. Facilities may provide services such as personal care, social services and activities, education, routine health monitoring, general therapeutic activities, meals, coordination of transportation, first aid and emergency care~~. ~~"Child day care centers" provide temporary care of children as defined by the State Department of Social and Health Services, preschool or nursery school.~~

H. Definitions "H"

1. "Hazardous waste" means all dangerous waste (DW) and extremely hazardous waste (EHW) as defined in RCW 70.105.010.

2. "Hazardous waste storage" means the holding of dangerous waste for a temporary period as regulated by the S~~s~~tate of Washington dangerous waste regulations, Chapter 173-303 WAC. (Hazardous waste treatment and storage facilities are facilities that require an interim or final status permit from the Department of Ecology under dangerous waste regulations, Chapter 173-303 WAC.)

3. "Hazardous waste treatment" means the physical, chemical, or biological processing of dangerous waste to make wastes nondangerous or less dangerous, safer for transport, amenable for energy or material resource recovery, amenable for storage, or reduced in volume.

4. “Health facility” means a building or facility where medical, dental, behavioral health, diagnostic, therapeutic, or related health care services are provided primarily to patients or clients on an outpatient basis, excluding hospitals, residential health care facilities, groups homes, or other facilities where lodging or residential care is a primary function.

54. “Hearing Examiner”~~. The hearing examiner~~ means a person(s)~~is~~ appointed by ~~the mayor of~~ the city to conduct public hearings on certain applications~~ outlined in the city ordinance that creates the hearing examiner~~, and prepares a record, findings of fact, and conclusions on such applications.

6. “Health services” means services provided by qualified health care professionals or providers for the examination, diagnosis, treatment, prevention, rehabilitation, or management of physical or behavioral health conditions, primarily on an outpatient basis, excluding inpatient medical care, residential health care, and services for which a hospital, residential health care facility, group home, or other residential facility is the primary use of the property.

~~5. “Heat loss calculation” means a State of Washington Energy Code mandated analysis performed to determine the heat loss of a structure in order to determine the size of the required heating equipment.~~

7~~6~~. “Height” (of a structure) means ~~the vertical distance between the average elevation of the finished ground surface along the entire perimeter of a structure and the average height of the highest roof structure.~~the greatest vertical distance from the established grade plan to the height of the highest roof surface.

8~~7~~. “Home occupation” means a gainful occupation carried on in a residence in which:

a. No outside help is employed on the premises;

b. The business utilizes no more than twenty-five percent of the gross floor area of the structure in which it is located;

c. There are no more than two additional vehicles parked on or in the vicinity of the property due to the business at any one time;

d. There are no more than twelve clients or customers visiting per week and there are not more than two clients on the premises at any one time;

e. No work areas or storage of materials are visible from off the premises, nor other exterior indication given of anything other than a residence;

f. No nuisance is created beyond what would normally be expected in a residential area.

9~~8~~. "Hospital" means a medical care facility whose patients are partly or entirely nonresidents thereof, and institutions of involuntary detention (not including prisons).

10~~9~~. "Hotel" means a commercial building (or buildings) providing transient lodging for ten or more persons ~~on a transient basis~~.

I. Definitions "I"

1. "Incinerator" means equipment or a facility designed for the controlled combustion of solid, liquid, or gaseous waste or other materials for the purpose of volume reduction, disposal, or energy recovery, excluding cremation. Incinerators meeting the criteria for essential public facilities shall be processed in accordance with Chapter 17.88 SWMC.

2. "Industry" means any and all steps in the gainful making of goods where substantial retail contact is unnecessary (excluding low-intensity agriculture) and the gainful provision of services which create nuisances beyond the customary traffic, runoff, signs, and other such impacts normally associated with commercial uses. This definition includes, among other things, factories, mills, nonretail bakeries, high-intensity agriculture, wrecking yards, fuel distributors, cement processing, storage yards for heavy equipment and massive construction materials, and heavy equipment repair. This definition may or may not include, depending on individual characteristics, automotive repair, warehousing, transportation facilities, lumberyards, public utilities, feed/seed/grain stores and research facilities.

3. "Institutional residential" means residential accommodations operated by a public, nonprofit, educational, religious, or other institutional organization in which residents live as part of an organized institutional program or affiliation, including dormitories, convents, monasteries, residential schools, and similar facilities. Institutional residential uses do not include conventional dwelling units, group homes, hotels, motels, bed and breakfast establishments, retirement facilities, assisted living facilities, residential health care facilities, or hospitals. A use that meets the criteria for an essential public facility (EPF) shall be processed in accordance with Chapter 17.88 SWMC.

~~2. “In-home rental” means a one-bedroom rental unit contained within a single-family residential structure, which shares an entrance to the residence in common with the primary portion of the residence, does not occupy more than twenty-five percent of the residential space of the residence, and which shares a kitchen or bathroom in common with the primary portion of the residence.~~

~~3. “Installer certification” means Washington State Department of Community, Trade and Economic Development (CTED) approval given to those contractors authorized to install manufactured homes and designated by a state-registration number.~~

J. Definitions “J”

K. Definitions “K”

~~1. “Kennel” is defined in Section 6.04.030.~~

L. Definitions “L”

1. “Land use permit conditions” means environmental or land use permit requirements which may have been placed upon the project in addition to any code-mandated requirements in conjunction with a required environmental determination and/or a land use permit. ~~Examples of land use permits include site plan review, conditional use permits and variances.~~

2. “Light manufacturing” means any manufacturing activity that does not create noise, smoke, odors or any other nuisance that can be detected from outside the building.

~~3. “List of current property owners and residents” means a listing of all current property owners and residents and their mailing addresses and Skagit County assessor’s account numbers within five hundred feet of the boundaries of the subject site as obtained from a title company or the Skagit County assessor’s office. The list shall include a notarized statement from the applicant attesting that the ownership information provided is current and accurate. “Current” shall mean obtained within the past thirty days unless otherwise approved by the Community Development Department.~~

3~~4~~. "Loading dock" means a portion of a structure where vehicles carrying goods may load and/or unload shipments directly into the structure. A loading dock may be flush with the building envelope or completely enclosed. In residential and mixed-use developments, loading docks shall be designed to be accessible by mail carriers and couriers.

4~~5~~. "Loading facility" means an on-site designated location designed for the loading and unloading of passengers and/or goods. This may include, but is not limited to, loading docks for shipments via truck or parking stalls designated as loading zones within a parking lot.

5~~6~~. "Loading zone" means an off-street parking stall designated for the use of loading or unloading passengers and/or goods. Loading zones appear as a traditional parking stall but are regulated by signage that establishes a time limit and indicates the use of the parking stall for loading or unloading passengers and/or goods.

6~~7~~. "Lot" means a legally created parcel of land with fixed boundaries recognized for purposes of ownership, conveyance, development, or land use regulation. Unless expressly authorized elsewhere in the municipal code, the term "lot" is distinct from a unit lot created as part of a unit lot subdivision when interpreting and applying development standards.~~contiguous quantity of land under one ownership, with fixed boundaries, which can legally be bought and sold separately from other lands.~~

7~~8~~. "Lot width at building line" means the distance between side lot lines, defined as the two lot lines most nearly perpendicular to the street on which the lot fronts; provided, that:

a. On corner lots measurement shall be along the shorter of the two front setback lines;

b. Where the front setback line is not straight, measurement shall be in a straight line connecting the ends of the line;

c. Easements for ingress and/or egress shall not count towards lot width at building line; and

d. Easements for gas or power transmission lines shall not count towards lot width at building line.

8~~9~~. "Low-intensity agriculture" means the production, raising or keeping of any form of crops, ornamental plants or animals; provided, that any animal, excluding household pets such as dogs and cats, such as horses, cattle, hogs, pigs, goats, sheep, bovine animals, chickens, fowl or any other animals, poultry or fowl, shall not be raised, kept or maintained on a lot or ownership of less than forty thousand square feet, except as permitted under Chapter 6.20.

M. Definitions "M"

~~1. "Mailing envelopes" means postage-paid, addressed envelopes including the name, mailing address, and Skagit County assessor's account numbers (optional) for all property owners and residents within five hundred feet of the boundaries of the subject site.~~

~~2. "Map of existing site conditions" means a plan drawn at the same scale as, or combined with, the grading plan or topography map showing existing topographical or five-foot contours or less, and structural and natural features, or electronic equivalent. The plan shall include major trees, shrubs, large rocks, creeks and watersheds, floodplains, buildings, roadways and trails.~~

~~3. "Mechanical plans" means plans as required per the International Mechanical Code (IMC) and section 1141 of the currently adopted Washington State Energy Code (WSEC) along with Washington State amendments.~~

1~~4~~. "Mobile home" means a prefabricated dwelling unit transportable in one or more sections, which in the traveling mode is eight feet or more in width and forty body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling with a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein. Mobile homes must meet the requirements of HUD or the State Department of Labor and Industries.

2~~5~~. "Mobile home park" means an ownership on which more than one mobile home is located and intended for occupancy.

~~6. "Monument card" means a form provided by the city and filled out by a surveyor providing information regarding a single monument, including the section, township and range, method of location, type of mark found or set, manner of re-establishment of the single monument (if applicable), description, and a drawing showing the location of a single monument and indicating a reference point to that monument.~~

3~~7~~. "Multifamily residence building" means a building containing ~~more than one~~two or more dwelling units, also including apartments in the sense of dwelling units contained within a building primarily used for nonresidential purposes, ~~though~~

~~there may only be one dwelling unit in such building.~~regardless of the number of dwelling units contained within the building.

4~~8~~. "Multiuse stormwater facility" means a facility that incorporates underground infiltration or otherwise contains no standing water for a period of at least nine months per year, has side slopes of no steeper than 4:1, and is used as common open space or as play areas defined in Chapter 17.38, as approved by the city engineer.

N. Definitions "N"

~~1. "Neighborhood detail map" means a map, drawn at a scale of one inch equals one hundred feet or one inch equals two hundred feet (or other scale approved by the Community Development Department), or electronic equivalent. The map shall show the location of the subject site relative to the property boundaries of the surrounding parcels within approximately one thousand feet or approximately two thousand five hundred feet for properties over five acres and identifying the subject site with a darker perimeter line than that of surrounding properties. The map shall also show the property's lot lines, existing land uses, building outlines, city boundaries of the city of Sedro-Woolley (if applicable), north arrow (oriented to the top of the plan sheet), graphic scale used for the map, and street names for all streets shown.~~

1~~2~~. "Net density" means the number of dwelling units located on buildable land; which excludes public rights-of-way, private access easements, driveways, or tracts, utility corridors, stormwater facilities, critical areas and their buffers, and other areas which are unbuildable. Seventy-five percent of multiuse stormwater facilities may be counted towards total buildable area.

2~~3~~. "Nuisance" means any use or neglect in maintenance of land or structures which has unreasonably annoying, unpleasant, unsafe or unsanitary effects on neighbors or the public in general, including noise, air pollution, water pollution, runoff, odors, glare, unsightliness, vibration, electrical disturbance, vermin infestation, attractive nuisances, fire or explosion hazard, and obstruction or endangering of public ways as defined in Chapter 8.16.

O. Definitions "O"

1. "Office" means a building where work of a professional, consulting, clerical, administrative or information-processing nature is the primary use, excluding banking and lending institutions and health facilities, including among other things:

a. Doctors, lawyers, engineers, etc.;

b. Advertising consultants, counselors, designers, secretarial services, etc.;

c. Brokerages where the brokered good is not tangibly present, such as real estate, insurance, travel, etc.; and

d. The administrative branch of a larger organization.

2. "Off-site treatment and storage facilities"* means off-site facilities which treat and store hazardous wastes from generators on properties other than those on which the off-site facilities are located.

3. "On-site treatment and storage facilities"* means on-site facilities which treat and store hazardous wastes generated on the same parcel of property where the on-site facility or facilities are located.

* Hazardous waste treatment and storage facilities are facilities that require an interim or final status permit from the Department of Ecology under dangerous waste regulations, Chapter 173-303 WAC.

4. "Open-air vending" means any commercial activity in which goods or services are advertised and which is conducted without the complete or partial shelter of a building on the same ownership, including such activities which, though conducted on the same ownership as an indoor commercial activity, are dissimilar to said indoor commercial activity.

5. "Outdoor recreation facility" means a facility designed primarily for outdoor recreational activities, including but not limited to sports fields, courts, playgrounds, swimming pools, golf courses, skate parks, and similar uses.

6~~5~~. "Ownership" means a lot or group of contiguous lots under the ownership.

P. Definitions "P"

1. "Parent lot" means the original lot or parcel upon which a unit lot subdivision is established. The parent lot is the subject of land use, utility, and development regulations.

~~"Parking, lot coverage, landscaping analysis" means a listing of the following information (may also be included on the first sheet of the site plan):~~

~~a. Total square footage of the site;~~

~~b. Total square footage of existing area(s) of impervious surfacing;~~

~~c. Total square footage of existing natural/undeveloped area;~~

~~d. Square footage (by floor and overall total) of each individual building and/or use;~~

~~e. Total square footage of the footprints of all buildings;~~

~~f. Percentage of lot covered by buildings or structures;~~

~~g. Total pavement square footage, both existing pavement to remain plus new pavement proposed to be installed;~~

~~h. Square footage of any on-site wetlands;~~

~~i. Parking analysis to include the total number of parking spaces required and provided, number of compact and ADA accessible spaces provided, and parking space dimensions;~~

~~j. Square footage of landscaping for each area, for interior parking lot landscaping, and total;~~

~~k. Allowable and proposed building height;~~

~~l. Building setbacks required by code; and~~

~~m. Proposed building setbacks.~~

2. "Permanent affordable housing" means housing, regardless of ownership, for which there is a legally binding, recorded document in effect that limits the price at which the owner may sell or restricts the occupancy of the unit to a ~~qualified,~~ low-

income household, making 80% of the Skagit County Area Median Income (AMI) or less, for a period of at least forty years for a property used for shelter or rental housing, or for a period of at least twenty-five years for a property to be owned by a low-income household. These documents include, but are not limited to, affordability covenants, deed restrictions, and community land trust leases. Resale restrictions exercised by providers of permanently affordable housing can include, but are not limited to:

a. Continuous ownership of land by a public entity or nonprofit housing provider with a lease allowing ownership of the structure by an income-eligible household;

b. A nonpossessory interest or right in real property, such as a deed restriction, restrictive covenant, resale restriction, or other contractual agreement, that ensures affordability.

3. "Permit" means a legally binding document expressing the approval and satisfaction of code requirements for a land use or development approval. A permit has no outstanding fees and has received approval from the decision authority.

4. "Permit application" means an application form and supporting documentation requesting approval from the City of Sedro-Woolley for a development or land use proposal. A permit application is pending payment of all permit fees (unless a deferral has been approved by the Community Development Director or their designee) and/or approval from the decision authority.

5. "Permitted use" means a land use that is allowed within a zoning district without requiring a conditional use permit or other discretionary land use approval, provided that the use complies with all applicable requirements of this title and other applicable laws and regulations. Permitted uses include uses that are customarily incidental and accessory to the principal permitted use when allowed by this title.~~a use permitted within a zone, including uses accessory to the permitted use.~~

6. "Personal services" means a business providing services to clients such as beauty salons, which generally have not more than two clients on the premises at any given time.

7. "Planned action" is defined in WAC 197-11-164 as one or more types of project action that has had significant environmental impacts adequately addressed in an environmental impact statement (EIS) prepared in conjunction with the comprehensive plan, subarea plan, fully contained community, a master planned resort, a master planned development, or a phased project.

a. A project action addressed in a planned action does not require an environmental checklist or threshold determination, but may require the checklist for review to mitigate environmental impacts through the site plan review process.

b. To qualify, a project action shall:

i. Be subsequent to or implementing projects in a comprehensive plan, subarea plan, fully contained community, a master planned resort, a master planned development, or a phased project;

ii. Be located within the city's adopted urban growth areas;

iii. Be consistent with the comprehensive plan;

iv. Not be an essential public facility, as defined in RCW 36.70A.200.

c. The city council shall designate and approve by ordinance a planned action. The ordinance:

i. Shall describe the type(s) of project action being designated as a planned action;

ii. Shall describe how the planned action meets the criteria in subsection (2) of this definition, including specific references to the EIS;

iii. Shall include findings that the environmental impacts have been identified and adequately addressed in the EIS, subject to project review under WAC 197-11-172;

iv. Should identify any specific mitigation measures other than applicable development regulations that must be applied to a project for it to qualify as a planned action.

d. The planned action may be limited to certain types of development, to specific geographical areas of the city, and/or a time period identified in the EIS, plan, ordinance or resolution.

e. Review of a project proposed as a planned action is intended to be simpler and more focused than for other projects. See Chapter 17.58 SWMC for more information on the planned action review process. ~~Review of the project shall include:~~

~~i. Verification that it meets the description and implements any applicable conditions or mitigation measures identified in the designating ordinance or resolution;~~

~~ii. Verification that the proposed significant adverse environmental impacts of the project have been adequately addressed in the EIS.~~

~~8. "Plat certificate" means a document prepared by a title insurance company documenting the ownership and title of all interested parties in the plat, subdivision, or dedication and listing all encumbrances. In the case of a final plat, the certificate shall be dated within forty-five days prior to the granting of the final plat by the city council.~~

~~9. "Plumbing plan" means plans as required by the currently adopted Uniform Plumbing Code (UPC) and state amendments.~~

8~~10~~. "Preliminary plat or binding site plan" means a plan~~, with a two-inch border on the left edge and one-half-inch on all other sides,~~ prepared by a S~~s~~tate of Washington registered land surveyor in accordance with RCW 18.43~~.020~~ and~~/or~~ Chapter 58.17 RCW. The plan shall be prepared ~~, fully dimensioned, drawn~~ at a scale of one inch equals forty feet on an eighteen-inch by twenty-four-inch plan sheet (or other size or scale approved by the ~~planning d~~Department) and shall meet all applicable requirements of Title 16 SWMC. ~~and shall include the following:~~

~~a. Name of the proposed preliminary plat or binding site plan (and space for the future city file numbers).~~

~~b. Names and addresses of the engineer, licensed land surveyor, and all property owners.~~

~~c. Legal description of the property to be subdivided.~~

~~d. Date, graphic scale, and north arrow oriented to the top of the paper/plan sheet.~~

~~e. Vicinity map (a reduced version of the neighborhood detail map as defined above).~~

~~f. Drawing of the subject property with all existing and proposed property lines dimensioned. Lots designated by number within the area of the lot. Tracts shall be similarly designated and each tract shall be clearly identified with the ownership and purpose. Indicate the required yards (setbacks) with dashed lines.~~

~~g. Location of the subject site with respect to the nearest street intersections (including intersections opposite the subject property), alleys and other rights-of-way.~~

~~h. Names, locations, types, widths and other dimensions of existing and proposed streets, alleys, easements, parks, open spaces and reservations.~~

~~i. Location, distances from existing and new lot lines, and dimensions of any existing and proposed structures, existing on-site trees, existing or proposed fencing or retaining walls, freestanding signs, and easements.~~

~~j. Location of existing conditions on or adjacent to the site which could hinder development.~~

~~k. Flood hazard information and boundary on the subdivision drawing including the nature, location, dimensions, and elevations of the subdivided area.~~

~~l. A legend listing the following included on the first sheet of the preliminary plat plan:~~

~~i. Total area in acres;~~

~~ii. Proposed number of lots;~~

~~iii. Zoning of the subject site;~~

~~iv. Proposed square footage in each lot; and~~

~~v. Percentage of land in streets and open space.~~

~~m. Access and Utilities. Indicate how the proposed subdivision will be served by streets and utilities, show how access will be provided to all lots, and the location of sewer and water lines.~~

~~n. Contours and Elevations. Shall include contour and/or elevations (at five-foot vertical intervals minimum) to the extent necessary to accurately predict drainage characteristics of the property. Approximate, estimated contour lines shall be extended at least one hundred feet beyond the boundaries of the proposed plat.~~

~~o. Zoning. Shall indicate the zoning applicable to the land to be platted, subdivided or dedicated and of the land adjacent and contiguous.~~

9~~11~~. "Principal unit" means the primary single-family housing unit or structure (duplex, triplex, townhome, or other housing unit authorized on a lot), excluding accessory dwelling units. Only one structure may be designated as the principal unit on a lot for the purposes of accessory dwelling unit construction.

10. "Processing" means the operations of making or treating a product. Processing of hazardous materials or processing activities that result in the production of hazardous materials are not included under this definition.

11~~2~~. "Project" means one permit application or a series of more than one permit applications submitted for a single development proposal on a single parcel, or on more than one adjacent parcel, that are owned by the same owner or are otherwise reasonably related as determined by the Community Development Director or their designee. Permits issued more than five years prior to submittal of a subsequent permit application are considered a separate "project."

~~13. "Project information sheet" means an eight and one-half-inch by eleven-inch sheet of paper, or electronic equivalent, listing the following information:~~

~~a. Job address;~~

~~b. Property owner's name;~~

~~c. Skagit County tax assessor's number;~~

~~d. Legal description of property.~~

12~~4~~. "Project narrative" means a clear and concise description and summary of the proposed project.~~, including the following:~~

~~a. Project name, size and location of site;~~

~~b. Zoning designation of the site and adjacent properties;~~

~~c. Current use of the site and any existing improvements;~~

~~d. Special site features (i.e., wetlands, water bodies, steep slopes);~~

~~e. Statement addressing soil type and drainage conditions;~~

~~f. Proposed use of the property and scope of the proposed development (i.e., height, square footage, lot coverage, parking, access, etc.);~~

~~g. Proposed off-site improvements (i.e., installation of sidewalks, fire hydrants, sewer main, etc.);~~

~~h. Total estimated construction cost and estimated fair market value of the proposed project;~~

~~i. Estimated quantities and type of materials involved if any fill or excavation is proposed;~~

~~j. Number, type and size of trees to be removed;~~

~~k. Explanation of any land to be dedicated to the city; and~~

~~l. For shoreline applications only:~~

- ~~i. Name of adjacent water area or wetlands;~~
- ~~ii. Nature of existing shoreline—describe:~~
  - ~~(A) Type of shoreline (i.e., lake, stream, lagoon, marsh, bog, floodplain, floodway);~~

~~(B) Type of beach (i.e., accretion, erosion, high bank-low bank);~~

~~(C) Type of material (i.e., sand, gravel, mud, clay, rock, riprap); and~~

~~(D) The extent and type of any bulkheading; and~~

~~iii. The number and location of structures and/or residential units (existing and potential) which might have views obstructed as a result of the proposed project; and~~

~~m. The proposed number, size, and density of the new lots, for subdivision applications only.~~

13~~5~~. "Professional office" means an office primarily offering services or licensed business guaranteed by a licensing agency or board.

~~16. "Proposal description" means a complete, unabridged copy of the proposal (i.e., draft ordinance, resolution, plan or policy) and all attachments.~~

~~17. "Proposal summary" means a concise description of the scope, intent and timing of the proposal.~~

14~~18~~. "Public use" means a use carried on by a government agency or its authorized representative.

15. "Public utility" means a facility or infrastructure operated by a public agency, public utility district, municipal utility, or other authorized utility provider for the production, transmission, distribution, storage, treatment or provision of water, wastewater, electricity, natural gas, telecommunications, or similar utility services.

~~19. "Public works approval letter" means written confirmation from the public works department that all required improvements have been substantially installed or deferred and authorizing the submittal of the final plat, final short plat, final binding site plan, or final PRD application.~~

Q. Definitions "Q"

1. "Quasi-public use" means a use which serves nonprofit, social or religious ends, such as churches, clubhouses, private schools and nonpublic social service organizations.

R. Definitions "R"

1. "Recreation" means uses providing opportunities for leisure, amusement, entertainment (excluding adult entertainment establishments), exercise, sport, or similar uses.

2. "Recreational vehicle" means a motor vehicle designed to also serve as a temporary living quarter.

3. "Residential health care" means a residential facility in which individuals reside and receive ongoing personal, medical, therapeutic, or supportive care or services due to age, illness, disability, or other condition. Such facilities may include 24-hour care or supervision for residents and may include nursing facilities or other similar facilities. This definition excludes hospitals, health facilities providing primarily outpatient services, group homes, assisted living facilities, or conventional dwelling units. Facilities that qualify as an essential public facility shall be processed in accordance with Chapter 17.88 SWMC.

4. "Retail" means an establishment engaged primarily in the sale, lease, or rental of goods, merchandise, or other tangible products directly to the general public for personal, household, business, or similar use.

5. "Retirement facility" means a residential facility designed primarily for older adults that provides independent or semi-independent living accommodations and may provide common dining, recreational, housekeeping, transportation, social, or other supportive services. A retirement facility does not provide ongoing skilled nursing or medical care as a primary function. Excluded from this definition are assisted living facilities, residential health care, hospitals, and group homes.

6. "Right-of-way" means land or an interest in land dedicated, acquired, or reserved for passage, access, transportation, utilities, or related public or private purposes.

7. "Right-of-way, public" means a right-of-way established for public use, including streets, roads, alleys, sidewalks, and ther public transportation or access facilities.

8. "Right-of-way, private" means a right-of-way established for the passage or access of a limited number of property owners, occupants, or other authorized users, and not dedicated for general public use.

9. “Right-of-way, railroad” means a right-of-way owned, controlled, and/or used by a railroad for railroad transportation purposes, including associated tracks and facilities.

10. “Right-of-way, unopened” means a public right-of-way that has been legally established but has not yet been constructed or opened for public travel or use.

11. “Right-of-way, abandoned” means a right-of-way for which the legal right to use the land for the purpose for which the right-of-way was established has been formally relinquished, vacated, or otherwise terminated.

~~2. “Rezone justification” means a written statement and other information provided by the applicant to support the rezone which may include, but is not limited to: letters, photographs, site development plans, market research reports, and land use maps indicating in a clear and concise manner why the rezone application should be granted and that the rezone request is timely.~~

~~3. “Roadway construction plans” means plans prepared by a state of Washington licensed civil engineer as detailed by the document City of Sedro-Woolley Public Works Department Standards.~~

S. Definitions “S”

~~1. “Screening detail, refuse/recycling” means a detailed plan drawing, prepared to scale, showing location within property boundaries, heights, elevations, and building materials of proposed screening or of proposed plantings, or electronic equivalent.~~

1~~2~~. “Secure community transition facility (SCTF)” means, under RCW 71.09.020, a residential facility for persons civilly committed and conditionally released to a less restrictive alternative under Chapter 71.09 RCW. A secure community transition facility has supervision and security, and either provides or ensures the provision of sex offender treatment services. Secure community transition facilities include but are not limited to the facility established pursuant to RCW 71.09.250 and any community-based facilities established under this chapter and operated by the Washington State Secretary of Social and Health Services or under contract with the Secretary. For the purposes of Chapter 17.88, SCTFs also include supervised or unsupervised, private or publicly owned re-entry housing, work-release housing, half-way housing or any such housing with the primary purpose or use being the lodging of occupants who have been convicted of a felony.

2~~3~~. “Setback” means the shortest horizontal distance between a lot line and the exterior surface of any building, fence or other significant sight-obscuring structure located on such lot; provided, that:

a. If the lot line lies within a proposed public right-of-way or proposed widening thereof as designated in the comprehensive plan, as determined by reference to the functional categorization of streets and right-of-way width standards for each, then the setback shall be measured from the revised lot line that would result from such new right-of way or widening thereof.

b. The following protrusions shall be considered exempt from setback requirements to a maximum of three feet:

i. Eaves;

ii. Bay windows;

iii. Chimneys and fireplaces;

iv. Unenclosed, uncovered porches, terraces, landings or steps;

v. Other incidental components in conformance with the intent of this definition.

3~~4~~. “Setback, front” means the setback from any lot line adjoining a public street right-of-way. Corner lots have two front lot lines.

4~~5~~. “Setback, side” means the setback from the two lot lines most nearly perpendicular to the streets on which the lot fronts. Corner lots have two side lot lines. In the case of irregularly shaped lots with more than four sides, all lot lines other than the front and rear shall be considered side lot lines.

5~~6~~. “Setback, rear” means the setback from the lot line most distant from and parallel to the street on which the lot fronts. Corner lots have no rear lot line. In the case of irregularly shaped lots with more than four sides, the zoning administrator shall designate a rear lot line which conforms to the intent of these definitions.

6~~7~~. “Shipping container” means any and all land/sea shipping containers or similar structures.

~~8. “Short plat or binding site plan map, final” means a plan, with a two-inch border on the left edge and one-half inch on all other sides, prepared by a state of Washington registered land surveyor in accordance with RCW 18.43.010 and/or Chapter 58.17 RCW, fully dimensioned, drawn at a scale of one inch equals forty feet on eighteen-inch by twenty-four-inch plan sheet(s) (or other scale approved by the Community Development Director). The reproducible original shall be in black ink on stabilized drafting film and shall include the following:~~

~~a. Name and location of the short plat or binding site plan;~~

~~b. Space reserved for “city of Sedro-Woolley file number” (large type) at top of first sheet;~~

~~c. Legal description of the property;~~

~~d. Date, graphic scale, and north arrow;~~

~~e. Vicinity map (a reduced version of the “neighborhood detail map” as defined above);~~

~~f. Names, locations, widths and other dimensions of existing and proposed streets, alleys, easements, parks, open spaces and reservations. Shall show all utilities, streets, existing and new easements and associated covenants within or abutting the short plat. If a new easement is created on the plat, it must show grantee of easement rights. If the grantee is the city, a statement of easement provisions reserving and conveying the easement, with a description of the rights and purposes, needs to be made on the short plat;~~

~~g. Lots designated by number within the area of the lot. Tracts shall be similarly designated and each tract shall be clearly identified with the ownership and purpose. Lot lines with all property lines dimensioned and square footage of each lot;~~

~~h. Lot numbers;~~

~~i. Addresses for each lot and new street names determined by the department;~~

~~j. Reservations, restrictive covenants, easements and any areas to be dedicated to public use with notes stating their purpose, and any limitations, and identifying the grantee. If the grantee is the city, a statement of provisions reserving, granting and/or conveying the area with a description of the rights and purposes must be shown;~~

~~k. Coordinates per city surveying standards for permanent control monuments;~~

~~l. All interior permanent control monuments located per city surveying standards;~~

~~m. Statement of equipment and procedure used per WAC 332-130-100;~~

~~n. Basis for bearing per WAC 332-130-150(1)(b)(iii);~~

~~o. Date the existing monuments were visited per WAC 332-103-050(1)(f)(iv);~~

~~p. Verification that permanent markers are set at corners of the proposed lots;~~

~~q. Statement of discrepancies, if any, between bearing and distances of record and those measured or calculated;~~

~~r. Location, dimensions and square footage of any existing structures to remain within or abutting the plat;~~

~~s. Location of existing conditions (such as wetlands, steep slopes, watercourses) on or adjacent to the site which could hinder development;~~

~~t. Reference to all agreements or covenants required as a condition of approval;~~

~~u. For binding site plans only: provisions requiring site development to be in conformity with the approved binding site plan;~~

~~v. Certifications by:~~

~~i. A state of Washington licensed land surveyor that a survey has been made and that monuments and stakes have been set;~~

~~ii. The Skagit County department of health that the proposed septic system(s) is acceptable to serve the plat if not served by sewer;~~

~~w. Signature and date line for:~~

~~i. All property owners (signatures must be notarized with an ink stamp);~~

~~ii. The Skagit County assessor;~~

~~iii. The city of Sedro-Woolley city clerk-treasurer with the following text preceding: “There are no delinquent special assessments and any special assessments for any dedicated property herein contained have been paid in full”; and~~

~~iv. The city engineer.~~

~~9. “Short plat map, preliminary” means a fully dimensioned plan, drawn at a scale of one inch equals forty feet on an eighteen-inch by twenty-four-inch plan sheet (or other size or scale approved by the Community Development Director), or electronic equivalent, and including the following information:~~

~~a. Name of the proposed short plat (and space for the future city file number);~~

~~b. Names and addresses of the engineer, licensed land surveyor, and all property owners;~~

~~c. Legal description of the property;~~

~~d. Date, graphic scale, and north arrow oriented to the top of the paper/plan sheet;~~

~~e. Vicinity map (a reduced version of the “neighborhood detail map” as defined above);~~

~~f. A drawing of the subject property with all existing and proposed property lines dimensioned, indicating the required yards (setbacks) with dashed lines;~~

~~g. Location of the subject site with respect to the nearest street intersections (including intersections opposite the subject property), alleys and other rights-of-way, showing how access will be provided to all lots;~~

~~h. Names, locations, widths and other dimensions of existing and proposed streets, alleys, easements, parks, open spaces and reservations;~~

~~i. Contours and elevations at minimum five-foot vertical intervals to the extent necessary to predict drainage characteristics of the property. Approximate, estimated contour lines shall be extended at least one hundred feet beyond the boundaries of the proposed short plat;~~

~~j. Location and dimensions of any existing and proposed structures, existing on-site trees, existing or proposed fencing or retaining walls, freestanding signs, and easements;~~

~~k. Location of existing conditions on or adjacent to the site which could hinder development;~~

~~l. Flood hazard information and boundary on the subdivision drawing including the nature, location, dimensions, and elevations of the subdivided area; and~~

~~m. A legend listing the following included on the first sheet of the short plat plan:~~

~~i. Short plat;~~

~~ii. Proposed number of lots;~~

~~iii. Zoning of the subject site;~~

~~iv. Proposed square footage in each lot; and~~

~~v. Proposed square footage of land in streets and open space.~~

7~~10~~. “Short-term rental” means a lodging use, other than a hotel or motel, in which a dwelling unit or portion thereof is provided to guests by a short-term rental operator for a fee for fewer than thirty consecutive nights. A dwelling unit or portion thereof that is used by the same individual or individuals for thirty or more consecutive nights is not a short-term rental.

8~~11~~. "Sidewalk cafe" means a private dining area or gathering space that is located on the sidewalk in front of a business. A sidewalk cafe serves as an outdoor extension of the business into the public right-of-way and ~~may include fencing no more than four feet in height to delineate the dining area and meet Liquor Control Board regulations.~~must meet the provision of SWMC 10.44.155.

~~12. "Sign" means a publicly displayed advertising, directional, or information device excluding:~~

~~a. Flags and similar primarily nonverbal symbols of governmental, religious or civic organizations;~~

~~b. Traffic-control devices, verbal or nonverbal, maintained by the public agency with jurisdiction over the thoroughfare;~~

~~c. Minor notices such as conventional no soliciting, open, closed, for rent and for sale signs; and~~

~~d. Signs located so as to be viewed only from the ownership on which they are located.~~

~~13. "Sign plans" means a plan drawn at a scale approved by the building official, or electronic equivalent, clearly indicating the following:~~

~~a. Footing connections to building, size of supports and materials used in supports and sign itself;~~

~~b. Elevation showing size and height of any proposed freestanding or projecting signs clearly indicating ground clearance and clearance to overhead power lines; and~~

~~c. Elevation of building facade for any proposed wall signs showing dimensions of the building as well as existing and proposed wall signs.~~

9~~14~~. "Single-family residence" means a dwelling unit which is unattached to any other dwelling unit.

10~~15~~. “Site plan, ~~commercial, industrial, multifamily~~development” means a plan showing the existing and proposed development of a site, including property lines, buildings, setbacks, access, parking, utilities, drainage, landscaping, lighting, and other site improvements, prepared in a format, scale, and size approved by the Community Development Department. The site plan shall include all information necessary to demonstrate compliance with applicable development, zoning, building, fire, and engineering requirements. ~~a twenty-four-inch by thirty-six-inch plan drawn by a state of Washington licensed architect at a scale of one inch equals twenty feet or one inch equals forty feet (or other size plan sheet or scale approved by the Community Development Department), or electronic equivalent, clearly indicating the following:~~

~~a. Scale and north arrow;~~

~~b. Legal description;~~

~~c. Location, identification, and dimensions of all buildings, property lines, setbacks, streets, alleys and easements;~~

~~d. Condition of all public rights-of-way and verification of right to use easements;~~

~~e. Off-street parking layout and driveways;~~

~~f. Curbs, gutters, sidewalks, paving, storm drainage, meters (domestic and fire), and grease interceptors;~~

~~g. Grading plan showing proposed and existing contours and site elevations;~~

~~h. Landscaped areas, irrigation meters;~~

~~i. Lighting and sign structures (new and existing);~~

~~j. Location of garbage containers and recycling storage;~~

~~k. Fire hydrant locations (new and existing) within three hundred feet of building;~~

~~l. For wireless communication facilities, indicate type and locations of existing and new plant materials used to screen facility components and the proposed color(s) for the facility;~~

~~m. General notes addressing the following (may be listed on cover sheet):~~

~~i. Full name of the project;~~

~~ii. Name, address, and telephone number of owner and agent(s);~~

~~iii. Existing zoning of the project site;~~

~~iv. Area, in square feet, of the project site;~~

~~v. Reference to the current International Building Code (i.e., IBC and date of current adopted version);~~

~~vi. Proposed use of each building (if multifamily, the number of dwelling units);~~

~~vii. IBC occupancy group designation;~~

~~viii. IBC type of construction of all buildings;~~

~~ix. Allowable and proposed building height and number of stories of new buildings;~~

~~x. Square footage (by floor and overall total) of each individual building and/or use;~~

~~xi. Total square footage of all buildings (footprint of each building);~~

~~xii. Allowable area calculation;~~

~~xiii. Occupancy load (maximum capacity) of each building;~~

~~xiv. Percentage of lot coverage;~~

~~xv. Square footage of all landscaping (total, parking lot, and wildlife habitat);~~

~~xvi. Seismic zone of the project site;~~

~~xvii. Floor, roof, and wind design loads;~~

~~xviii. Identity of special inspection agency selected by the owner to perform special inspections;~~

~~xix. Building setbacks required by code;~~

~~xx. Proposed building setbacks;~~

~~xxi. Parking analysis, including:~~

~~(A) Number of stalls required, by use; number of stalls provided, by use;~~

~~(B) Sizes of stalls and angles;~~

~~(C) Location and number of handicap stalls, compact, employee and/or guest parking stalls;~~

~~(D) Location and size of curb cuts;~~

~~(E) Traffic flow within the parking, loading, and maneuvering areas and ingress and egress;~~

~~(F) Location of wheel stops;~~

~~(G) Loading space;~~

~~(H) Stacking space; and~~

~~(I) Square footage of interior parking lot landscaping.~~

~~16. “Site plan, sign” means a twenty-four-inch by thirty-six-inch plan drawn at a scale of one inch equals twenty feet or one inch equals forty feet (or other size plan sheet or scale approved by the Community Development Director), or electronic equivalent, clearly indicating the following:~~

~~a. Scale and north arrow;~~

~~b. Location, identification and dimensions of all buildings, property lines, existing and proposed signs, streets, alleys and easements, and the setbacks from property lines and easements;~~

~~c. Location and dimensions of off-street parking layouts and driveways;~~

~~d. Location and dimensions of the landscaped areas;~~

~~e. General notes addressing the following (may be listed on cover sheet):~~

~~i. Note if any proposed signage will flash or be animated;~~

~~ii. Name, address and telephone number of owner and agent(s);~~

~~iii. Zoning of the project site;~~

~~iv. Street frontage(s) (in feet) for the site or, for multiple tenants building, indicate frontage of individual tenant space;~~

~~v. Type (e.g., freestanding, wall, etc.), size and number of all existing signs;~~

~~vi. Type, size and number of all proposed signs;~~

~~vii. Reference to the current sign code; and~~

~~viii. Wind design loads.~~

~~17. "Site plan, single-family/duplex" means an eight-and-one-half-inch by eleven-inch plan drawn at a scale of one inch to twenty feet or one inch to forty feet (or other size plan sheet or scale approved by the Community Development Director), or electronic equivalent, clearly indicating the following:~~

~~a. Legal description;~~

~~b. Explanation of scope of work;~~

~~c. Existing and proposed construction labeled and differentiated by pattern or line type;~~

~~d. Dimensions of all property lines and all building setbacks to property lines;~~

~~e. Dimensions and labels for all streets, alleys, and/or easements;~~

~~f. Lot size in square feet;~~

~~g. Location and footprint size in square feet of all existing and proposed structures on property including decks, carports, storage sheds, and garages;~~

~~h. Location and dimensions of approaches, driveways and public sidewalks;~~

~~i. Elevation at property corners and contour lines at two-foot height intervals, showing proximity to steep slopes;~~

~~j. Finished floor elevation for properties located within a flood zone;~~

~~k. The location, height and length of retaining walls, rockeries, etc.;~~

~~l. Location and distance in feet of nearest fire hydrant to structure; and~~

~~m. Location of any pool/spa and setback dimensions to property lines and the location of the required six-foot fence.~~

~~18. "Stream and lake data" include the following information, or electronic equivalents, prepared as specified:~~

~~a. Field Location. The ordinary high water mark shall be flagged in the field by a qualified consultant. The field flagging must be accompanied by a stream or lake reconnaissance report.~~

~~b. Reconnaissance Report. The report shall include the following information:~~

~~i. In addition to any submittal requirements in this chapter, the site map(s) shall indicate:~~

~~(A) The entire parcel of land owned by the applicant and the ordinary high water mark determined in the field;~~

~~(B) Top view and typical cross-section views of the stream or lake bed, banks, and buffers to scale;~~

~~(C) The vegetative cover of the stream or lake, banks, and the site identification of the dominant plant and animal species;~~

~~ii. Stream or Lake Assessment. A narrative report shall be prepared to accompany the site plan which describes:~~

~~(A) The vegetative cover of the stream or lake, banks, and the site, identifying the dominant plant, fish, and animal species;~~

~~(B) If mitigation is proposed, a mitigation plan which includes baseline information, environmental goals and objectives, performance standards, construction plans, a monitoring program and a contingency plan;~~

~~(C) If stream or lake or associated buffer changes are proposed, the applicant shall evaluate alternative methods of developing the property using the following criteria in this order:~~

~~(1) Avoid any disturbances to the stream, lake or buffer;~~

~~(2) Minimize any stream, lake or buffer impacts;~~

~~(3) Compensate for any stream, lake or buffer impacts;~~

~~(4) Restore any stream, lake or buffer area impacted or lost temporarily; and~~

~~(5) Enhance degraded stream or lake habitat to compensate for lost functions and values;~~

~~(D) Any proposed alteration of lakes or streams shall be evaluated by the Community Development Director using the above hierarchy.~~

~~19. "Street lighting plan" means a drawing showing the proposed lighting system, including luminaries, junction boxes, electric wiring, and wiring diagrams using the same scale as the utility plans of the public works department and conforming to the city of Sedro-Woolley street light standards.~~

~~20. "Structural calculations" means an analysis of loads, materials, etc., prepared and stamped by a state of Washington licensed professional engineer.~~

~~21. "Structural plans" means twenty-four-inch by thirty-six-inch plans prepared and stamped by a state of Washington licensed professional engineer drawn at a scale of one-eighth inch equals one foot (or other size or scale approved by the Community Development Director), or electronic equivalent, clearly indicating the information required by the permits section of the currently adopted International Building Code and Chapter 19.27 RCW (State Building Code Act, Statewide amendments), or electronic equivalent, including, but not limited to, the following:~~

~~a. Structural members labeled as to size and spacing as well as bracing, blocking, bridging, special connectors, and anchor bolts;~~

~~b. Cross-section details, as needed, to show typical foundation, floor, wall, ceiling and roof construction; insulation of walls, floors and roof/ceiling; and~~

~~c. Details of stairs, fireplaces and special construction, if any.~~

11~~22~~. "Structure" means a stationary manmade object or part thereof erected on or in the ground with an intention of some permanence, excluding objects less than three feet in height.

12~~23~~. "Survey" means an official map ~~sketch~~ prepared in conformance with the Survey Recording Act and Chapter 58.09 RCW by, or under the direct supervision of, a state of Washington licensed land surveyor showing all boundaries, corners, distances, angles, and other information necessary to accurately locate and/or establish property.~~ all distances, angles and calculations required to determine corners and distances of the plat shall accompany this data. The allowable error of closure shall not exceed one foot in ten thousand feet per city surveying standards. Shall be accompanied by a complete survey of the section or sections in which the plat or replat is located, or as much thereof as may be necessary to properly orient the plat within such section or sections. The plat and section survey shall be submitted with complete field and computation notes showing the original or re-established corners with descriptions of the same and the actual traverse showing error of closure and method of balancing.~~

T. Definitions "T"

~~1. "Topography map" means a map showing the existing land contours using vertical intervals of not more than five feet. For any existing buildings the map shall show the finished floor elevations of each floor of the building.~~

1. "Tavern" means an establishment where alcoholic beverages are served for on-site consumption as a primary or substantial component of the business with or without the provision of food, entertainment, or other services.

2. "Theater" means a facility designed primarily for the presentation of live or recorded performances, motion pictures, or other entertainment to an audience, including associated stages, auditoriums, seating areas, and related accessory facilities, excluding adult entertainment.

3~~2~~. "Townhouse" means a dwelling in a row of units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common walls.

~~3. "Traffic study" means a report prepared by a state of Washington licensed engineer containing the elements and information in sufficient detail to define potential problems related to the proposed development and identify the improvements necessary to accommodate the development in a safe and efficient manner.~~

3. “Trade school” means an educational institution providing instruction or training primarily in a skilled trade, technical occupation, or vocational field, including but not limited to construction, automotive, welding, electrical, plumbing, cosmetology, or similar occupations.

4. “Trailer” means a device designed to be drawn by a motor vehicle and provide temporary living quarters.

5. “Transient lodging” means lodging provided to guests for compensation on a temporary basis for a period of 30 consecutive days or less.

6~~5~~. “Transmission lines” as related to gas or power lines means an interconnected group of lines and associated equipment for the movement or transfer of electric energy or gas between points of supply and points at which it is transformed for delivery to customers or is delivered to other systems. Transmission lines do not include ~~distribution~~service lines that provide utility connections to individual properties~~from which services to individual properties are provided~~. ~~There are two gas transmission lines and several electric transmission lines in Sedro-Woolley.~~

~~6. “Tree cutting/land clearing (tree inventory) plan” means a plan, based on finished grade, drawn to scale with the northern property line at the top of the paper, or electronic equivalent, clearly showing the following:~~

~~a. All property boundaries and adjacent streets;~~

~~b. Location of all areas proposed to be cleared;~~

~~c. Types and sizes of vegetation to be removed, altered or retained. This requirement applies only to trees eight inches in diameter for evergreens and ten inches in diameter for deciduous trees at a point five feet from the ground, and larger;~~

~~d. Future building sites and drip lines of any trees which will overhang/overlap a construction site; and~~

~~e. Location and dimensions of rights-of-way, utility lines, and easements.~~

U. Definitions “U”

1. “Unit lot” means a lot created through a unit lot subdivision that is intended to contain one designated principal dwelling unit and associated improvements within an approved common development. A unit lot exists as part of a larger parent lot and remains subject to all development standards, conditions, and limitations applicable to the parent lot. A unit lot shall not be considered an independent lot for purposes of land use and development standards. Each unit lot is subject to the land use, utility, and development standards applicable to the parent lot.

2. “Unresponsive” means a lack of written communication indicating regular and routine progress has been made towards applicable permit requirements, including but not limited to, the lack of postal mail, electronic mail, voicemail, electronic permit submission/revision, hand-delivered letter, or hand-delivered permit submission/revision in receipt by the City. An unresponsive permit application shall not be considered expired until fourteen calendar days after the Department has notified the applicant of the unresponsive status of the permit application via certified mail.

~~. “Utilities construction plans” means plans prepared by a state of Washington licensed civil engineer as stipulated by the city of Sedro-Woolley standards.~~

~~. “Utilities plan, generalized” means a plan drawn on twenty-two-inch by thirty-four-inch plan sheets using a graphic scale of one inch equals twenty feet (or other scale or size approved by the public works department), or electronic equivalent, clearly showing all existing (to remain) and proposed public or private improvements to be dedicated or sold to the public including, but not limited to: curbs, gutters, sidewalks, median islands, street trees, fire hydrants, utility poles, refuse areas, freestanding lighting fixtures, utility junction boxes, public utility transformers, etc., along the full property frontage. The finished floor elevations for each floor of proposed and existing (to remain) structures shall be shown.~~

V. Definitions “V”

~~1. “Variance justification” means a written statement setting forth the reasons in favor of the application and addressing the criteria listed in Chapter 17.60 which are used by the hearing examiner/administrative staff when reviewing the variance request.~~

1~~2~~. “Vision clearance triangle” means the area that provides the visibility required for safe access to streets from cross streets, driveways and alleys. See SWMC 17.44.020 for vision clearance triangle standards.

W. Definitions “W”

1. “Wholesaling” means the warehousing of materials or goods for sale abroad and generally is related to shipping of materials and goods and not retail sales.

2. “Wireless communication facility” means equipment, structures, and associated infrastructure used to transmit or receive wireless communication signals, including but not limited to antennas, towers, monopoles, equipment shelters, and related accessory equipment.

3~~2~~. “Work/live unit” means a unit in which a residential use is located above a business use within the same building and is reserved for and regularly used by the business owner. The primary intent of a work/live unit is to provide a working business space for the business owner with a residence as a secondary use. These units are subject to the ~~following conditions:~~provisions of Chapter 17.120 SWMC.

~~1. The business area function shall be limited to the first floor only of the work/live unit;~~

~~2. The residential portion of the unit shall not exceed fifty percent of the area of the entire work/live unit;~~

~~3. All residential features must be designed and arranged to be separated from the business portion of the unit by a physical divider such as walls and a lockable door. The intent of this condition is to clearly distinguish the separation of the residential portion of the unit from the business portion;~~

~~4. The main entrance to the business shall have commercial windows and doors, shall be easily identifiable as a business space from the exterior and shall be visible and accessible from a public right-of-way or private, publicly accessible parking lot;~~

~~5. Access shall be provided to the residential portion of the work/live unit through the business portion. This condition does not preclude additional means of ingress/egress;~~

~~6. The residential portion of the unit must be inhabited by the owner of the associated business;~~

~~7. The business and residential spaces cannot be leased separately from each other;~~

~~8. The minimum size of the business portion of the unit shall not be less than three hundred square feet;~~

~~9. The use of the business portion of the unit is limited to the permitted uses of the underlying zone in which the unit is located, with the exception that office use is a specifically permitted use in the business portion of the work/live unit. Hazardous uses, storage (except accessory storage up to ten percent of the space dedicated to a permitted business use) and marijuana growing, processing and/or retail are specifically prohibited uses in the business portion of the unit;~~

~~10. Work/live units are exempt from the industrial zone use restriction "limited retail and service uses up to five percent of the total site" (Section 17.28.010(A)(6));~~

~~11. The business portion of the unit shall be open to the public during business hours;~~

~~12. The business portion of the unit shall not be occupied by residential use;~~

~~13. The business portion of the unit must not contain any of the primary features of the residential portion of the work/live unit. Sleeping facilities are strictly prohibited. Kitchens, laundry facilities or bathrooms containing a shower or bathtub associated with the commercial/industrial use are allowed; however, the use of such facilities shall be limited to staff and/or clientele;~~

~~14. Work/live units shall include an exterior sign with the name of the associated business. The sign shall be clearly associated with the unit and visible to pedestrians from the public right-of-way or private, publicly accessible parking lot;~~

~~15. Both residential and commercial rates will apply for permitting and monthly city utility billing purposes;~~

~~16. Work/live units shall have two water meters installed—one for the residential portion of the unit and one for the business portion;~~

~~17. The owner of a work/live business shall sign and submit a work/live agreement to the planning department attesting that they will comply with all applicable work/live requirements and regulations and that the business portion will not be used for any residential, storage or other noncompliant uses. The agreement shall first be approved by the director, then recorded with the Skagit County auditor's office. The owner shall submit proof that the agreement has been recorded with the Skagit County auditor's office prior to issuance of the building permit;~~

~~18. Upon sale of the property, the new owner shall be required to sign and submit a new work/live agreement to the planning department. Once approved by the director, the new agreement shall be recorded with the Skagit County auditor's office. Proof that the agreement has been recorded with the Skagit County auditor's office shall be submitted to the planning department;~~

~~19. To change or expand the amount of interior business or residential space, the owner must obtain all necessary permits/approvals from the city and meet all requirements prior to changing or expanding; and~~

~~20. Work/live units are permitted in the industrial zone only along the edge(s) of an industrial zoned property where adjacent to residential zoned property. The intent of this condition is to allow work/live units as a means of creating a practical buffer between industrial and residential uses.~~

X. Definitions "X"

Y. Definitions "Y"

Z. Definitions "Z"

17.04.040 Administration and interpretation.

Responsibility for administration and interpretation of this title shall rest with the ~~planning d~~Community Development Director or their designee. Any interpretation or action of the ~~planning~~ Community Development ~~d~~Director may be appealed to the hearing examiner by submittal in writing to the ~~planning~~ Community Development ~~d~~Director. Also, the ~~planning~~Community Development ~~d~~Director may at any time defer to the hearing examiner or the city council where uncertainty exists as to interpretations.
(Ord. 2032-22 § 11, 2023; Ord. 1607-08 § 7(A), 2008: Ord. 1013 § 1.04, 1985)

17.04.050 Nonconforming uses, structures, and lots.

Uses, structures and lots not conforming to the provisions of this title may continue if legally existing at time of adoption of the ordinance codified in this title or at time of annexation to the city if annexed subsequent to adoption, provided that:

A. Legal nonconforming uses and structures shall not be enlarged, altered or expanded unless such modification is approved through the conditional use permit process;

B. Legal nonconforming uses shall lose such status if abandoned for a period of six months or more;

C. Legal nonconforming structures may be maintained and repaired unless destroyed or damaged so as to have their fair market value reduced by seventy-five percent or more, in which case they shall lose legal nonconforming status;

D. Use and development of legal nonconforming lots shall be in accordance with all current regulations, including setback requirements; and

E. If question arises as to whether a use, structure or lot enjoys legal nonconforming status, the burden of proof shall be on the property owner to provide the necessary documentation. (Ord. 1013 § 1.05, 1985)

17.04.060 Fees.

The fees for projects regulated by this chapter shall be assessed as designated in the current city of Sedro-Woolley building, planning and engineering fee schedule, as adopted by resolution of the city council and on file with the city clerk.

17.04.070 Public notice requirements.

A. Purpose. The purpose of this section is to outline the distribution, methods, timing, and content requirements for public notices associated with land use and development permit applications.

B. Applicability. The public notice requirements applicable to a land use or development permit application shall be determined by the permit type and review procedure identified in SWMC 15.15.014. Table 17.04.070 (C) below establishes the requirements for providing each notice type when required.

C. Public Notice Procedures

Notice Type	Recipients	Methods	Timing	Contents
Notice of Development Application	Property owners and residents within 500 feet of subject property; general public via site posting.	Mailing; posting on subject property.	Issued within 14 calendar days of Letter of Completeness. A 14-day public comment period applies.	Project proponent; project name and file number; date accepted; project location; project description; permits/approvals requested; comment deadline; *how to become a party-of-record for further information; hearing date, time, and place if scheduled.
Notice of Development Application with SEPA	See SWMC 2.88.132	See SWMC 2.88.132	See SWMC 2.88.132	See SWMC 2.88.132
Notice of Administrative Decision	Parties of record; project proponent; affected government agencies	Mailing.	Upon issuance of decision.	Description of decision including any conditions; where to obtain further information; environmental determination and appeal process if applicable; appeal deadline (see SWMC 17.04.080).

Notice of Public Hearing	Parties of record; project proponent; affected government agencies; property owners and residents within 500 feet of subject property; general public via publication and site posting.	Publication; mailing; posting on subject property	At least 10 calendar days before hearing.	Project description; action to be taken; project location; hearing date, time and place; where to obtain further information; *public hearing continuation statement.
Notice of Hearing Examiner Decision	Parties of record; project proponent; affected government agencies.	Mailing	Upon issuance of decision.	Description of decision, including any conditions; where to obtain further information; environmental determination and appeal process if applicable; appeal deadline (see SWMC 17.04.080).
Notice of City Council Decision	Parties of record; project proponent; affected government agencies.	Mailing	Upon issuance of decision.	Description of decision, including any conditions; where to obtain further information; environmental determination and appeal process if applicable; appeal deadline (see SWMC 17.04.080).

*Becoming a party of record: In order to receive additional information regarding a particular project, interested parties must contact the Community Development Department and request to be made a party of record. Contact information for such requests shall be provided in the notice.

*Public hearing continuation statement: If the hearing on a pending action cannot be completed on the date set in the public notice, the hearing may be continued at a future date(s). No further notice is required.

D. Mailing Procedure

1. If an application requires mailing public notice, the project applicant shall include the following materials in their application submittal:

a. A list of names and addresses of property owners and residents within 500 feet of the edge of subject property from the Skagit County Assessor's records;

b. A map showing the subject property and all properties on the mailing list;

c. Two (2) sets of postage-paid envelopes addressed to property owners and residents (three (3) sets if SEPA review applies)

d. An affidavit certifying the mailing list and map contain true and correct information.

2. City staff shall be responsible for mailing required notices. The staff member designated to mail the notices shall file an affidavit in the permit file certifying a true and correct copy of the notice was mailed to the required recipients sufficiently in advance to satisfy the applicable notice period requirements.

E. Site Posting Procedure

1. If an application requires posting public notice on site, the applicant shall be required to comply with the following requirements:

a. The applicant shall obtain from the Community Development Department one notice board per street frontage of the subject property. Payment of associated fees per the current Master Fee Schedule shall be required.

b. One notice board, with a water-proofed copy of the public notice attached, shall be placed by the applicant at each street frontage of the property, as directed by the Community Development Director, or their designee, for maximum visibility. Additional notice boards may be required if the site does not abut a public street, abuts more than one public road, or public visibility is otherwise obstructed.

c. The applicant shall file an affidavit with the Community Development Department at least 10 calendar days prior to the end of the notice period certifying the notice was posted in accordance with required posting procedures. The applicant shall attach a photo to the affidavit showing the notice was posted properly. Failure to file an affidavit shall be cause for discontinuance of application review until the affidavit is filed.

d. Notice boards shall be maintained in good condition by the applicant during the notice period and shall be removed by the applicant within 15 calendar days after the end of the notice period. Removal of the notice board prior to the end of the notice period shall be cause for discontinuance of application review until the notice board is replaced and remains in place for the specified time period.

F. Publication Procedure. City staff shall coordinate with the Skagit Valley Herald (or its successor local newspaper) to publish required notices in the legal notices section sufficiently in advance to satisfy the applicable notice period requirements.

17.04.080 Report by Department.

A. Purpose and applicability. The purpose of this section is to outline the content, timing, and distribution requirements for Department reports associated with land use and development permit applications requiring public hearings. The permit type and review procedures identified in SWMC 15.15.014 indicate when a project proposal requires a public hearing.

B. Report content. When an application has been set for public hearing, the Community Development Department shall coordinate and assemble the comments and recommendations of other city departments and government agencies having an interest in the subject application and shall prepare a report summarizing the factors involved and the Department findings and supportive recommendations.

C. Report timing and distribution. At least fourteen calendar days prior to the scheduled hearing, the report shall be filed with the examiner and copies thereof shall be transmitted to the applicant and shall be made available for use by any interested party for the cost of reproduction.

17.04.090 Public hearings.

A. Purpose and applicability. The purpose of this section is to outline the public hearing procedures associated with land use and development permit applications requiring public hearings. The permit type and review procedures identified in SWMC 15.15.014 indicate when a project proposal requires a public hearing.

B. Hearing by examiner required. Before rendering a decision or recommendation on any application for which a public hearing is required, the examiner shall hold at least one public hearing thereon.

C. Hearing by City Council required. Before rendering a decision on any application for which a public hearing is required, the City Council shall hold at least one public hearing thereon.

D. Hearing rules. The examiner shall have the power to prescribe rules and regulations for the conduct of hearings under this chapter, subject to confirmation by the Ccity Ccouncil, and to administer oaths and preserve order.

E. Closure/Continuation of public hearing. At the close of the testimony, the examiner may close the public hearing, continue the hearing to a certain time and date, or close the public hearing pending the submission of additional information on or before a certain date.

F. Application dismissal. Until a final action on the application is taken, the examiner may dismiss the application for failure to diligently pursue the application after notice is given to all parties of record.

17.04.100 Examiner decisions.

A. Scope and Purpose. This section provides the basic timing, notification requirements, content, and finality of examiner decisions associated with land use and development permit applications requiring public hearings. The permit type and review procedures identified in SWMC 15.15.014 indicate when a project proposal requires a public hearing.

B. Standard Decision Time and Notification Procedure. Unless the time is extended pursuant to Section 17.04.090 SWMC, within fourteen calendar days of the conclusion of a hearing, or the date set for submission of additional information, the examiner shall render a written decision, including findings from the record and conclusions therefrom, and shall transmit a copy of such decision to the Department. Upon receipt, the Department shall transmit said copy to the applicant and to other parties of record in the case requesting notice of the decision. If the Department is mailing the decision, the person conducting the mailing shall prepare an affidavit of mailing, in standard form, and the affidavit shall become a part of the record of the proceedings. In the case of applications requiring City Council approval, the examiner shall file the decision with the City Council at the expiration of the appeal period for the decision.

C. Decision time extension. In extraordinary cases, the time for filing of the recommendation or decision of the examiner may be extended for not more than thirty calendar days after the conclusion of the hearing if the examiner finds that the amount and nature of the evidence to be considered, or receipt of additional information which cannot be made available within the normal decision period, requires the extension. Notice of the extension, stating the reasons, shall be forwarded to all parties of record in the manner set forth in Section 17.04.070 SWMC for notification of the examiner's decision.

D. Reconsideration of examiner's decision. Any interested person who believes that the decision of the examiner is based on an erroneous procedure, errors of law or fact, error in judgment, or the discovery of new evidence which could not be reasonably available at the prior hearing may make a written application for review by the examiner within fourteen calendar days after the written decision of the examiner has been rendered or within fourteen calendar days of the publication of decision, if required. The application shall set forth the specific errors relied upon by such appellant, and the examiner may, after review of the record, take further action as the examiner deems proper. The examiner may request further information which shall be provided within ten calendar days of the request. The examiner's written decision on the request for reconsideration shall be transmitted to all parties of record within ten calendar days of receipt of the application for reconsideration or receipt of the additional information requested, whichever is later.

E. Expiration of large-scale or phased projects. For large-scale or phased development projects, the examiner may, at the time of approval or recommendation, set forth time limits for expiration which exceed those prescribed in Section 15.15.020 SWMC for such extended time limits as are justified by the record of the action.

17.04.110 Council action.

A. Scope and Purpose. This section provides the basic procedural requirements for City Council actions associated with land use and development permit applications requiring decision by the City Council. The permit type and review procedures identified in SWMC 15.15.014 indicate when a project proposal requires a decision by the City Council.

B. Council action requires minutes and findings of fact. Any application requiring action by the city council shall be evidenced by minute entry unless otherwise required by law. When taking any such final action, the council shall make and enter findings of fact from the record and conclusions therefrom which support its action.

C. Adoption of Planning Commission or examiner's findings and conclusions presumed. Unless otherwise specified, the City Council shall be presumed to have adopted the Planning Commission's or Examiner's findings and conclusions.

D. Applications to be placed on Council agenda. Except for rezones and development regulation amendments, which are included in comprehensive plan update dockets, all applications requiring council action shall be placed on the council's agenda for consideration.

17.04.120 Appeals.

A. Scope and Purpose. This section provides the basic procedures for processing all types of land use and development-related appeals. Specific requirements are based upon the type/level of appeal and the appeal authority. Procedures for the following types of appeals are included in this section:

1. Appeals to hearing examiner of administrative decisions and environmental determinations;

2. Appeals to superior court; and

3. Appeals to the State Shorelines Hearings Board.

B. Appeal Authority. Table 17.04.080(B) below specifies the authority responsible for processing appeals. Refer to permit classifications and review procedures in SWMC 15.15.014. Where multiple permits are processed concurrently and appeal authorities and procedures differ, the highest level of appeal authority and procedure applies.

Appeal Type	**Decision Being Appealed**	**Appeal Authority**

Administrative Decision	Administrative decision made under this title	Hearing Examiner
Environmental Determination (SEPA)	DNS, DS, FEIS, or other appealable SEPA determination	Hearing Examiner
Hearing Examiner Decision	Final Hearing Examiner decision	Superior Court
Shoreline Permit Decision	Shoreline substantial development permit, variance, conditional use permit, or permit rescission	Shorelines Hearings Board

C. General Appeal Requirements.

Requirement	**Standard**
Written Appeal Required	Appeals shall be submitted to the Community Development Department in writing.
Content of Appeal	The appeal shall clearly identify alleged errors of fact or law.
Appeal Fee	Appeals shall be accompanied by the fee established by the current fee schedule.
Number of Appeals	Only one open-record appeal is allowed for decisions associated with a single land use or development application.

Subsequent Interpretations	Requests to interpret, explain, modify, or retract a decision do not create a new appeal period for third parties.
Environmental Appeals	Appeals of environmental determinations shall be joined with appeals of the related substantive decision when required by law.

D. Appeals to the Hearing Examiner

1. Who May Appeal. The following persons may appeal an administrative decision or environmental determination:

a. Any person aggrieved by the decision;

b. Any affected city officer, department, board, or bureau; and

c. Any person or agency authorize by state law to appeal the city's compliance with SEPA.

2. Deadline to Appeal.

Appeal Type	**Filing Deadline**
Administrative Decision	14 calendar days from the date of the decision or publication of notice, if applicable
Final DNS	14 calendar days from the date the DNS becomes final
DS	14 calendar days from publication of the DS

Final EIS	20 calendar days from issuance of the permit or approval
Permit Modification or Retraction (applicant only)	14 calendar days from the date of the action

Complaints filed after the appeal deadline shall not create an appeal right but will be treated as a complaint of noncompliance with the decision.

3. Appeal Procedure. Upon receipt of an appeal:

a. The Community Development Department shall notify the official whose decision is being appealed;

b. The official shall transmit the decision record and relevant materials to the Hearing Examiner and shall schedule a public hearing;

c. A notice of public hearing shall be mailed at least 10 calendar days before the hearing date to the applicant, parties of record, and the official whose decision is being appealed;

d. The city shall provide for a record that consists of findings and conclusions, testimony under oath, and a recorded transcript.

e. The Hearing Examiner may affirm the decision, reverse the decision, or remand the matter for further proceedings. A decision may only be reversed when substantial rights have been prejudiced because the decision was contrary to constitutional provisions, beyond the authority of the decision-maker, made using unlawful procedures, affected by an error of law, clearly erroneous based on the record, or arbitrary or capricious.

E. Appeals to Superior Court.

1. Who May Appeal. The following persons may appeal a land use decision:

a. The applicant;

b. The property owner;

c. Any person aggrieved or adversely affected by the decision; or

d. Any person who would be aggrieved or adversely affected by reversal or modification of the decision.

2. Deadline to Appeal.

Appeal Type	**Filing Deadline**
Land Use Decision	21 calendar days after issuance of the decision
Environmental Determination and Related Substantive Decision	20 calendar days after the substantive decision
Other Decisions	Time established by applicable ordinance or statute; if none, 21 calendar days

3. Appeal Procedure. Refer to Chapter 36.70C RCW (Land Use Petition Act).

F. Appeals to Shorelines Hearing Board.

1. Who May Appeal. The following persons may appeal a shoreline permit decision:

a. Any person aggrieved by the granting or denying of a substantial development permit, conditional use permit, and/or variance on shorelines of the city;

b. Any person aggrieved by the rescinding of a permit pursuant to the provisions of the shoreline master program.

2. Deadline to Appeal.

Appeal Type	Filing Deadline
Substantial development permit	21 calendar days from receipt of the final order
Conditional use permit	21 calendar days from receipt of the final order
Variance	21 calendar days from receipt of the final order
Permit rescissions	21 calendar days from receipt of the final order

3. Appeal Procedure.

   a. Appeals shall be filed directly with the Shorelines Hearings Board;

   b. A copy of the appeal shall concurrently be filed with the Community Development Department, Washington State Department of Ecology, and Washington State Attorney General;

   c. Appeals shall be processed in accordance with the Shoreline Management Act, Chapter 90.58 RCW, and applicable state regulations.

   d. Appeals of substantial development permits for limited utility extensions authorized under RCW 90.58.140(11), or for the construction of a bulkhead or other measures intended to protect a single-family residence and its appurtenant structures from shoreline erosion, shall be finally determined by the legislative authority within thirty (30) calendar days.

17.06.010 Use restrictions.

Use restrictions in the residential R-1 zone shall be as follows:

A. Permitted Uses.

1. One single-family residence per lot;

2. Low-intensity agriculture;

3. Home occupations ~~in compliance with Chapter 17.68~~;

4. Child day care centers meeting state requirements;

[...]

17.08.010 Use restrictions.

Use restrictions in the residential R-5 zone shall be as follows:

A. Permitted Uses.

1. One single-family residence per lot;

2. Low-intensity agriculture;

3. Home occupations ~~in compliance with Chapter 17.68~~;

4. Child day care centers meeting state requirements;

[...]

17.12.010 Use restrictions.

Use restrictions in the residential R-7 zone shall be as follows:

A. Permitted Uses.

1. One single-family residence per lot;

2. Low-intensity agriculture;

3. Home occupations ~~in compliance with Chapter 17.68~~;

4. One duplex per lot with nine thousand square foot minimum lot size, in compliance with the requirements set forth in this chapter, which meet the following requirements, in addition to any other requirements imposed by ordinance:

a. Be situated on a lot of not less than nine thousand square foot minimum size, with a minimum width of eighty feet at the building line, a minimum depth of one hundred feet, and a minimum lot frontage on a public street of twenty feet;

b. Provide off-street parking for four vehicles;

c. Be designed to resemble a single-family residence so as to blend in with the design and appearance of the surrounding residences in the neighborhood;

d. No more than one duplex shall be allowed per any three successive lots adjoined by side property lines as defined in Section 17.04.030.

Exception: Lots which have twenty feet or less frontage on the public street shall not be required to be counted on a successive lot. This exception is intended to allow successive duplexes if located behind single-family lots.

[...]

17.16.010 Use restrictions.

Use restrictions in the R-15 zone shall be as follows:

A. Permitted Uses.

1. Multifamily residential uses up to eight units per building or up to twelve units per building if the building is three stories and the units are evenly distributed between the three floors;

2. One single-family residence per lot;

3. Low intensity agriculture;

4. Home occupations~~ in compliance with Chapter 17.68~~;

5. Group homes;

[...]

17.43.070 Approval—Procedure.

[...]

D. Public Hearing. A PRD is a Type III land use application under Chapter ~~2.90.~~15.15 The hearing examiner shall hold a public hearing on the proposed PRD.

E. Hearing Examiner Decision. Following the public hearing, the hearing examiner shall make a report of findings and decision with respect to the proposed PRD, and shall give approval, approval with modifications, or disapproval to the proposed PRD. The decision may be appealed as allowed in Chapter 17.04~~2.90~~. The hearing examiner report of findings and decision shall include, but need not be limited to, the following items:

1. Suitability of the site area for the proposed development;

2. Requirements of the subdivision code for the proposed development;

3. Time limitations for the entire development and specified stages;

4. Development in accordance with the Sedro-Woolley comprehensive plan;

5. Public purposes have been served by the proposed development;

6. Compliance with the design standards and guidelines.

F. City Council Decision. After receipt of the hearing examiner's findings and recommendations, the city council shall give approval, approval with modifications or disapproval to the proposed PRD. The city council's decision may be appealed to Skagit County superior court as allowed in Chapter 17.04~~2.90~~.

[...]

17.56.030 Procedure.

The procedure for a conditional use permit shall be as set forth in Chapter 15.15~~2.90~~ for consolidated permit processing, and also includes the following:

[...]

F. The hearing examiner decision may be appealed per Chapter 17.04~~2.90~~.

[...]

17.60.030 Procedure.

Variance applications shall be processed as a Type II land use permit as set forth in Chapter 15.15 ~~2.90~~ for consolidated permit processing. Zoning waivers (administrative) shall be processed as a Type I~~A~~ land use permit as set forth in Chapter 15.15~~2.90~~ for consolidated permit processing.

[...]

17.64.030 Procedure.

The procedure for a temporary permit application shall be as follows:

[...]

C. The decision of the ~~planning director~~Administrative Authority may be appealed to the hearing examiner pursuant to the procedures set forth in Chapter 17.04~~2.90~~.

[...]

17.65.065 Public notice and records.

A. Public notice for projects subject to the provisions of this chapter shall be provided pursuant to the requirements of Chapter 17.04~~2.90~~, Consolidated Planning Procedures.

[...]

17.65.070 Application submittal requirements.

[...]

B. Technical Reports. Technical reports shall be prepared as required by the ~~director~~ Administrative Authority detailing geological, hydrological, drainage, and other site conditions, to comply with the development standards in Section 17.65.060 and pursuant to Chapter 13.36, Stormwater Management. The reports shall be used to condition development to prevent potential harm and to protect the critical nature of the site, adjacent properties, and the drainage basin. Technical reports prepared by consultants not contracted with the city of Sedro-Woolley for the work shall be subject to third party review by the city of Sedro-Woolley's independent consultant/expert at the applicant's expense. Appeals of the decision by the ~~director~~ Administrative Authority in consultation with the city's independent consultant/expert shall be subject to the administrative appeals procedures in Chapter 17.042~~.90~~. The city may also rely on opinions from agencies listed in Section 17.65.040(B) in making the decision.

[...]

17.65.080 Administration.

A. The planning director in consultation with the city engineer and the building official shall be responsible for the administration of this chapter, including:

[...]

5. When base flood elevation data has not been provided, obtaining, reviewing, and reasonably utilizing any base flood elevation and floodway data that should become available from a federal, state or other source in order to administer standards and floodways;

6. Issuance of development permits pursuant to ~~Chapter 17.68, Home Occupation Permits, and~~ Chapter 15.04, Building Code, before construction or development begins within the city limits;

7. Maintain for public inspection all records pertaining to the provisions of this code.

[...]

17.65.150 Reasonable use exception.

[...]

F. Decisions of the hearing examiner may be appealed to the city council pursuant to Chapter 17.042~~.90~~.

[...]

17.66.130 Variance procedure.

The hearing examiner shall hear and decide appeals de novo when it is alleged there is an error in any requirement, decision, or determination made by the building official in the enforcement or administration of the ordinance codified in this chapter. Procedure for such appeals is per SWMC Chapter 17.04~~2.90~~.

[...]

Chapter 17.68
Repealed~~HOME OCCUPATION PERMITS~~

Sections:

17.68.010 General requirements.

~~This permit process shall apply in zones where home occupations are a permitted use subject to obtaining a permit in accordance herewith. In zones where the gainful activity itself is a permitted use, this permit is not required.~~

17.68.020 Fee.

Repealed by Ord. 1651-09. (Ord. 1013 § 4.05.02, 1985)

17.68.030 Procedure.

~~The procedure for a home occupation permit application shall be as follows:~~

~~A. The applicant completes and submits to the city planning department a home occupation permit application form together with fee. The application form will establish the necessary information.~~

~~B. The planning director judges whether the application will conform to the definition of home occupation and grants or denies accordingly, with conditions as necessary.~~

~~C. The decision of the planning director may be appealed to the hearing examiner pursuant to the procedures set forth in Chapter 2.90.~~

17.88.040 Procedure.

Applications that seek approval for an EPF as defined by Section 17.04.030 and/or are listed under Section 17.88.020 shall follow the procedures established in Chapter ~~2.90~~15.15 for a Type III permit process. In addition to the decision criteria described in Section 17.88.060, secure community transition facilities as defined in Section 17.04.030 shall also be consistent with the decision criteria described in Section 17.88.080.

[...]

17.88.060 CUP-EPF review criteria.

A. Essential public facilities shall be subject to classification and identification as follows:

1. Type One—Regional EPFs. These are major essential public facilities that provide public services to more than one county and where the provider has statutory authority to site and construct the facility and where a regional, inter-governmental siting process has been followed. These facilities may include, but are not limited to, regional transportation facilities, such as regional airports, state correction facilities, and state educational facilities.

2. Type Two—Local EPFs. These are local or interlocal facilities serving residents or property serving Skagit County. A “local EPF” means an essential public facility that is not a regional EPF.

3. In order to enable the city to determine the project's classification, any public or private entity proposing to site an EPF in the city shall provide to the ~~director~~ Administrative Authority its intent to site the EPF, once it is known that the EPF is likely or required to be built, the application materials set forth in Section 17.88.050.

4. The ~~director~~ Administrative Authority shall review the application upon receipt and determine whether the proposed project shall be identified as an EPF and if so whether the EPF shall be classified as a regional EPF or local EPF. A determination shall be made within forty-five days following the ~~director's~~ Administrative Authority's written notice to applicant of receipt of sufficient material and information set forth in Section 17.88.050. The ~~director~~ Administrative Authority shall provide notice of determination to the applicant and publish notice of the determination in a newspaper of general circulation within Skagit County.

5. The ~~director's~~ Administrative Authority's determination shall be an administrative determination subject to appeal and procedures established in Chapter 17.042~~.90~~ for a Type I administrative appeal process.

B. Notification and involvement of community and jurisdictions for EPFs shall be as follows:

1. Type One Facilities. In addition to such other notice as may be required by law before the siting decision, and at least ninety days before submitting an application for a type one essential public facility, the prospective applicant shall notify the affected public and jurisdictions of the general type and nature of the proposal, identify sites under consideration for accommodating the proposed facility, and identify opportunities to comment on the proposal. Applications for specific projects shall not be considered complete in the absence of proof of a published notice and notice to the city regarding the proposed project. Published notice shall be in a newspaper of general circulation in the affected area. This notice shall include the information described above and shall be published at least ninety days prior to the submission of the application. It is expected that an environmental impact statement may be required for most type one facilities in accordance with the SEPA environmental review process. Nothing from this section will preclude the city from consulting with the Skagit Council of Governments and may provide the project sponsor and affected jurisdictions with their comments or recommendations regarding alternative project locations during this process. The purpose of this provision is to enable potentially affected jurisdictions and the public to collectively review and comment on alternative sites for major facilities before the project sponsor has made their siting decision.

2. Type Two Facilities. Type two essential public facilities shall be required to provide a notice of application as required by Chapter 17.042~~.90~~.

C. Conditional Use Permit Required.

1. An EPF shall be a conditional use in all zones. In the event of a conflict with any other provision within the Sedro-Woolley Municipal Code, the provisions of this section shall govern.

2. An EPF application and approval process shall satisfy the requirements of this chapter and Chapter 17.56 and shall be subject to ~~appeal and the~~ review procedures established in Chapter 15.15 ~~2.90~~ and appeal procedures established in Chapter 17.04 for a Type III conditional use permit.

[...]

17.88.080 Special provisions for secure community transition facilities (SCTFs).

A. The purpose and intent of this section is to establish standards for secure community transition facilities (SCTFs) in compliance with Chapter 71.09 RCW, and to maintain compatibility with other land uses and services permitted within the city. The standards in this section apply to all SCTFs in addition to the process set forth under Chapter 15.15~~2.90~~ and criteria set forth Chapter 17.56; the standards of this section are not subject to a variance.

[...]

D. Application Materials. An application for an SCTF shall include all materials and information required by the Community Development Department's application checklist, together with the following~~In addition to the regular application materials required for a land use review pursuant to Chapters 2.90 and 17.56, an application for an SCTF shall also include~~:

1. The siting process used for the SCTF, including alternative locations considered.

2. An analysis showing that consideration was given to potential sites such that siting of the facility will not result in a concentration of similar facilities in a particular neighborhood, community, jurisdiction, or region.

3. Proposed mitigation measures, including the use of buffering from adjoining uses.

4. A general overview of planned security for the facility.

5. A schedule and analysis of all public input solicited or to be solicited during the siting process.

6. Notice of the application to all property owners and occupants of record within two thousand five hundred feet of the proposed site.

Chapter 17.90
COLLECTIVE GARDENS

Sections:

17.90.010 Intent.

The purpose of this chapter is to specify prohibited zones for collective gardens as defined in Chapter 17.04. (Ord. 1760-12 § 2 (part), 2012)

17.90.020 Locations.

Collective gardens, as defined in Section 17.04.030, are prohibited in the following zoning districts:

A. All residential districts, including R-5, R-7, and R-15.

B. Public zone.

C. Open space zone.

D. All commercial districts, including: mixed commercial, central business district and the transitional mixed commercial overlay and the urban village mixed use overlay.

17.90.030 Standards and criteria.

Where collective gardens are permitted to be sited, such development shall comply with the following provisions:

A. No more than ten qualifying patients may participate in a single collective garden at any time;

B. A collective garden may contain no more than fifteen plants per patient up to a total of forty-five plants;

C. A collective garden may contain no more than twenty-four ounces of usable cannabis per patient up to a total of seventy-two ounces of usable cannabis;

D. A copy of each qualifying patient’s valid documentation, including a copy of the patient’s proof of identity, must be available at all times on the premises of the collective garden;

E. No usable cannabis from the collective garden is delivered to anyone other than one of the qualifying patients participating in the collective garden;

F. A collective garden may contain separate areas for growing, processing, and delivering to its qualified patients; provided, that these separate areas must be physically part of the same premises, and located on the same parcel or lot. A location utilized solely for the purpose of distributing cannabis shall not be considered a collective garden;

G. No more than one collective garden may be established on a single tax parcel; and

H. A collective garden may not be located within five hundred feet of the perimeter of the grounds of any elementary or secondary school.

I. With the exception of one address sign, signage is prohibited.

Chapter 17.98
MODEL HOMES

Sections:

[...]

17.98.090 Model home permit decision a~~A~~ppeals.

Administrative approvals may be appealed in accordance with the requirements set forth in Chapter ~~2.90~~17.04.

[...]

Chapter 17.100
ACCESSORY DWELLING UNITS (ADUS)

Sections:

[...]

~~17.100.020 Permit required.~~

~~A development authorization application is required for all accessory dwelling units. Application for an ADU shall be made in accordance with the permit procedures established in Chapter 2.90. The director shall have the authority to approve accessory dwelling units (ADUs) which are consistent with the regulations and provisions herein.~~

17.100.02~~3~~0 Standards and criteria.

Accessory dwelling units shall meet the following criteria:

[...]

~~O. A permit for an accessory dwelling unit shall not be transferable to any lot other than the lot described in the application.~~

[...]

17.110.020 Application for temporary homeless encampment permit.

[...]

E. A complete application for a temporary homeless encampment permit must be filed at least thirty days before the date on which the temporary homeless encampment is proposed to move onto the proposed location; provided, that the director may agree to a shorter period in the case of an emergency beyond the control of the encampment host and encampment sponsor. Temporary homeless encampment permit reviews and final decisions shall occur pursuant to the time frames in Chapter 15.15~~2.90~~.

F. An application for a temporary homeless encampment permit shall be processed as a Type II temporary homeless encampment permit under Chapter 15.15~~2.90~~ subject to administrative appeal and final administrative decision by the city hearing examiner.

G. In addition to the requirements for a Type II permit under Chapter 15.15~~2.90~~, the following additional and amended procedures apply:

1. Public Meeting Required. The encampment host, manager and sponsor shall hold an informational public meeting that will be attended by the director. The public meeting shall be held as early in the review process as possible for the application. Notice of the public meeting shall be mailed to those property owners identified within subsection (G)(2) of this section. The public meeting notice will be combined with the notice of application whenever possible. Prior to the public meeting, the encampment host shall meet and confer with the Sedro-Woolley police department regarding the proposed security measures. At the public meeting, a representative of the encampment host shall present in writing and describe the proposed encampment management responsibility plan, and any input or comment received on the plan, including any comment or input from the Sedro-Woolley police department, or comment or input from schools and/or childcare services under subsection (G)(2) of this section. The public meeting shall be attended by all applicants of the proposed temporary homeless encampment permit.

2. Additional Mailed Notice. The requirements for mailed notice of the application set forth for Type II permits under Chapter 17.04~~2.90~~ shall be expanded to include owners of real property within one thousand feet of the project site. Prior to the decision of the director on a temporary homeless encampment permit, the encampment host, encampment sponsor, or encampment manager shall meet and confer with the administration of any public or private elementary, middle, junior high or high school within one thousand feet of the boundaries of the proposed temporary homeless encampment site, and shall meet and confer with the operators of any known child care service within one thousand feet of the boundaries of the proposed temporary homeless encampment site. The encampment host and the school administration and/or childcare service operator shall make a good faith effort to agree upon any additional conditions that may be appropriate or necessary to address school and/or child care concerns regarding the location of a temporary homeless encampment within one thousand feet of such a facility. Any such conditions agreed upon between the parties shall be submitted to the director for

consideration for inclusion within the temporary homeless encampment permit. In the event the parties fail to agree on any conditions, either party may provide the director with a written summary of the parties' discussions, which the director may consider in evaluating whether the criteria for the temporary homeless encampment permit are met, or the need for additional conditions upon the temporary homeless encampment permit based on the applicable decision criteria.

3. The applicant shall provide notice of the application by posting two land use change signs on the site or in a location immediately adjacent to the site that provides visibility to motorists using adjacent streets. The director shall establish standards for timing of installation and removal of the signs and the public meeting notice.

[...]

I. Decisions of the director granting, granting with conditions, or denying a temporary homeless encampment permit shall be subject to one open record administrative appeal to the hearing examiner who shall render a final administrative determination. The hearing examiner's decision shall be subject to appeal to the Skagit County superior court as provided in Chapter 36.70 RCW. In the event of any conflict with any other provisions of the Sedro-Woolley Municipal Code, this provision shall control over the provisions in Chapter 17.04~~2.90~~.

[...]

17.110.060 Revocation of permit.

The director may revoke a temporary homeless encampment permit for violation of any of the requirements of this chapter. If the encampment host, encampment sponsor, or encampment manager fails to take action against a resident who violates the terms and conditions of the temporary homeless encampment permit, the director may revoke the permit. If the city learns of uncontrolled violence or acts of violence by residents of the encampment and the encampment host, encampment sponsor, or encampment manager has not adequately addressed the situation, the director may revoke the permit.

A decision of the director to revoke a temporary homeless encampment permit is an administrative decision processed in the same manner as a Type II temporary homeless encampment permit decision that may be appealed to the hearing examiner for final determination provided in Chapter 17.04~~2.90~~. The decision of the director to revoke a temporary homeless encampment permit shall be stayed during any appeal to the hearing examiner, but the stay will be lifted if the hearing examiner upholds the revocation.

Decisions of the hearing examiner on a temporary homeless encampment permit revocation may be appealed to the Skagit County superior court as provided in Chapter 36.70 RCW.

[...]

Chapter 17.120
WORK/LIVE UNITS

Sections:

17.120.010 Purpose and intent.

The requirements herein shall apply in zones where work/live units are a permitted use subject to the provisions of this Title.

17.120.020 General requirements.

A. The business area function shall be limited to the first floor only of the work/live unit;

B. The residential portion of the unit shall not exceed fifty percent of the area of the entire work/live unit;

C. All residential features must be designed and arranged to be separated from the business portion of the unit by a physical divider such as walls and a lockable door. The intent of this condition is to clearly distinguish the separation of the residential portion of the unit from the business portion;

D. The main entrance to the business shall have ~~commercial~~ windows and doors that provide a commercial appearance, shall be easily identifiable as a business space from the exterior, and shall be visible and accessible from a public right-of-way or private, publicly accessible parking lot;

E. Access shall be provided to the residential portion of the work/live unit through the business portion. This condition does not preclude additional means of ingress/egress;

F. The residential portion of the unit must be inhabited by the owner of the associated business;

G. The business and residential spaces cannot be leased separately from each other;

H. The minimum size of the business portion of the unit shall not be less than three hundred square feet;

I. The use of the business portion of the unit is limited to the permitted uses of the underlying zone in which the unit is located, with the exception that office use is a specifically permitted use in the business portion of the work/live unit. Hazardous uses, storage (except accessory storage up to ten percent of the space dedicated to a permitted business use) and marijuana growing, processing and/or retail are specifically prohibited uses in the business portion of the unit;

J. Work/live units are exempt from the industrial zone use restriction "limited retail and service uses up to five percent of the total site" (Section 17.28.010(A)(6));

K. The business portion of the unit shall be open to the public during business hours;

L. The business portion of the unit shall not be occupied by residential use;

M. The business portion of the unit must not contain any of the primary features of the residential portion of the work/live unit. Sleeping facilities are strictly prohibited. Kitchens, laundry facilities or bathrooms containing a shower or bathtub associated with the commercial/industrial use are allowed; however, the use of such facilities shall be limited to staff and/or clientele;

N. Work/live units shall include an exterior sign with the name of the associated business. The sign shall be clearly associated with the unit and visible to pedestrians from the public right-of-way or private, publicly accessible parking lot;

O. Both residential and commercial rates will apply for permitting and monthly city utility billing purposes;

P. Work/live units shall have two water meters installed—one for the residential portion of the unit and one for the business portion;

Q. The owner of a work/live business shall sign and submit a work/live agreement to the Community Development Department attesting that they will comply with all applicable work/live requirements and regulations and that the business portion will not be used for any residential, storage or other noncompliant uses. The agreement shall first be approved by the director, then recorded with the Skagit County auditor's office. The owner shall submit proof that the agreement has been recorded with the Skagit County auditor's office prior to issuance of the building permit;

R. Upon sale of the property, the new owner shall be required to sign and submit a new work/live agreement to the Community Development Department. Once approved by the director, the new agreement shall be recorded with the Skagit County auditor's office. Proof that the agreement has been recorded with the Skagit County auditor's office shall be submitted to the planning department;

S. To change or expand the amount of interior business or residential space, the owner must obtain all necessary permits/approvals from the city and meet all requirements prior to changing or expanding; and

T. Work/live units are permitted in the industrial zone only along the edge(s) of an industrial zoned property where adjacent to residential zoned property. The intent of this condition is to allow work/live units as a means of creating a practical buffer between industrial and residential uses.

Title 18
CODE ENFORCEMENT

Chapters:

Chapter 18.15
NOTICE OF VIOLATION AND ORDER/ADMINISTRATIVE PROCEEDING

Sections:

[...]

18.15.040 Notice of violation and order a~~A~~ppeal procedure.

[...]

G. The appeal procedures set forth in this chapter shall not apply to project permit applications, land use applications, or specific land use actions identified in Chapter 17.04~~2.90~~. In the event of a conflict between this chapter and any Chapter 17.04~~2.90~~ provisions involving appeal procedures, Chapter 17.04~~2.90~~ shall control.

Planning Commission Agenda Item

Agenda Item No.:	g.2.
Date:	September 15, 2026
From:	Thomas Glover, Community Development Director
Subject:	Updates to Chapter 17.65 SWMC *Regulations for Critical Areas* - 1st Read

RECOMMENDED ACTION:

Review and provide feedback on 1st draft of proposed amendments to Chapter 17.65 SWMC *Regulations for Critical Areas*.

BACKGROUND/SUMMARY INFORMATION:

As part of the periodic update requirements for the Comprehensive Plan, the City of Sedro-Woolley must update its critical areas regulations to ensure compliance with Best Available Science (BAS). As described in WAC 365-195-900, counties and cities are required to incorporate BAS when developing policies and development regulations that enhance climate resilience, reduce greenhouse gas emissions, and protect the functions and values of critical areas. The regulations must also give special consideration to conservation and protection measures necessary to preserve or enhance anadromous fisheries.

The provisions contained in WAC 365-195-900 through WAC 365-195-925 are intended to assist local jurisdictions in identifying and incorporating BAS into newly adopted policies and regulations, while demonstrating compliance with statutory requirements under RCW 36.70A.172(1) and RCW 36.70A.070(9)(e) during the periodic review process.

Facet NW previously presented the preliminary recommendations contained in the Critical Areas Regulations Gap Analysis Report at the June Planning Commission meeting. Following that presentation, and in response to feedback received from the Planning Commission and City staff, Facet NW prepared a first draft of proposed amendments to Chapter 17.65 SWMC, Regulations for Critical Areas, included herein as **Attachment 1.**

After the Planning Commission reviews the draft amendments, the City intends to release the document for public review and comment. Following the public comment period, Facet NW will prepare a comment-response matrix and a revised draft of the regulations. The revised draft will then be submitted for the required 60-day notice review by the Washington State Department of Commerce prior to adoption.

The purpose of this meeting is to provide the Planning Commission with an opportunity to review the proposed amendments and provide feedback before the draft is released for public comment.

FISCAL IMPACT, IF APPROPRIATE:

Facet NW is currently under contract to perform the critical areas ordinance gap analysis and support the update process. Costs associated with this are reimburseable by the WA State Department of Commerce Grant.

ATTACHMENTS:

1. Draft_CityofSedro-Woolley_CAOUpdate_9.9.26

Chapter 17.65
REGULATIONS FOR CRITICAL AREAS

Sections:

Article I. General Provisions

Article II. Wetlands

Article III. Critical Aquifer Recharge Areas

Article IV. Geologically Hazardous Areas

Article V. Fish and Wildlife Habitat Conservation Areas

Article VI. Frequently Flooded ~~Flood Hazard~~ Areas

Article VII. Compliance and Enforcement

Article I. General Provisions

17.65.010 Introduction.

This chapter shall be known as the critical area ordinance and it is adopted to assist in orderly development, conserve the value of property, safeguard the public welfare, and provide protection for defined critical areas.

The ordinance codified in this chapter was developed under the directives of the Growth Management Act to conserve, protect, and provide no ~~-~~net ~~-~~loss of the functions and values of critical areas ~~functions and values~~, and incorporates a review of the best available science pursuant to RCW 36.70A.172 and WAC 365-195-900 through 365-195-925. Critical areas are defined as wetlands, critical aquifer recharge areas, ~~flood hazard~~ frequently flooded areas, geologically hazardous areas, and fish and wildlife habitat conservation areas. Some of these areas, such as geologically hazardous areas or frequently flooded ~~geologic hazards and flood hazard~~ areas, are critical because of the hazard they represent to public health. Others, such as fish and wildlife habitat conservation areas and wetlands, are critical because of their public value and ecological functions and values.

Commented [RH1]: Gap Analysis, Section 2.1; Commerce CAO Checklist

Commented [RH2]: Gap Analysis, Section 2.1; Consistency with state terminology

Commented [RH3]: Addition per City comment

Critical areas ~~will be~~are designated by definition, ~~and then~~ classified, and assigned protections ~~through site assessments so that they can be identified~~ using scientifically based criteria~~, protected, or their functions and values mitigated resulting in no-net-loss~~. The use of critical areas reports ~~site assessments~~ to confirm the actual presence and classification of critical areas is central to the management approach developed under this chapter.

Commented [RH4]: Revision for clarity

Commented [RH5]: Gap Analysis, Section 2.1

The ordinance codified in this chapter was drafted to provide regulatory structure for identification, designation, protection, and mitigation of critical areas. This chapter allows staff to provide site visits, preliminary reviews, and preapplication meetings to assist in the identification of critical areas.

~~Critical Area Maps. Maps are useful primarily as an indicator of the distribution and extent of critical areas. Maps will be used wherever possible as part of the screening process for evaluating individual applications. Critical areas maps may be updated as critical areas are delineated through the application process. Although a number of map resources are utilized in this chapter, regulatory measures such as buffer requirements are based upon the identification of critical areas during the permit, development authorization, or other approval processes. These maps include the location of known or potential critical areas and are based on the best available science information, and include natural resource information, gathered through field inventory, as well as information prepared by applicable state and federal agencies. These maps shall be referred to as the "Critical Areas Maps" of the city of Sedro-Woolley.~~

Commented [RH6]: Gap Analysis, Section 2.1

17.65.020 Application and~~,~~ purpose.

A. This chapter shall apply to ~~land use,~~all development~~, structures, facilities, and platting~~ located in the city limits of Sedro-Woolley, within the geographical areas that meet the definitions and criteria for critical areas regulation as set forth in this chapter. No development activity or alteration of land, water, or vegetation within a critical area or its standard buffer, except as specifically allowed by this chapter, shall be allowed without prior authorization by the director.

B. The purpose of these regulations is to:

1. Protect human life, property, and the public health and safety of the citizens of Sedro-Woolley;

2. Minimize the expenditure of public money;

3. Maintain the city's flood insurance eligibility while avoiding regulations which are unnecessarily restrictive or difficult to administer; and

4. Ensure that wetland, fish and wildlife habitat, and other ~~critical area~~ecological functions and values are protected or mitigated for no-net-loss, ~~to provide public benefits.~~and restore and protect riparian habitats to the extent practicable to maximize functions and values over time.

C. The following shall constitute critical areas:

1. Wetlands~~ and Riparian Corridors, Including Brickyard Creek, Willard Creek, Hanson Creek and Tributaries~~. Wetlands ~~and riparian corridors~~ serve many important ecological and environmental functions and help to protect public health, safety and welfare by providing flood storage and conveyance, erosion control, ~~fish and shellfish production,~~ fish and wildlife habitat, recreation, water quality protection, water storage, education, scientific research and other public benefits. It is the purpose of this chapter to protect these functions to prevent the continual loss of wetlands ~~and riparian corridors,~~ and where practical to enhance or restore wetlands~~ and riparian corridors~~ functions and values.

2. ~~Areas with a~~ Critical ~~Recharging Effect on~~ Aquifer~~s Used for Potable Water~~ Recharge Areas. ~~Potable water is an essential life-sustaining element. Sedro-Woolley's drinking water comes from Public Utility District No. 1, rather than groundwater supplies.~~ Once groundwater is contaminated, it is difficult, costly, and sometimes impossible to clean up. It is the purpose of this chapter to prevent contamination and depletion, avoid exorbitant clean-up costs, hardships and potential physical harm to people. ~~There are some existing wells used for irrigation in the city limits that are not mapped.~~

3. Fish and Wildlife Habitat Conservation Areas. In addition to their intrinsic value, certain species of fish and wildlife represent important historic, cultural, recreational and

Commented [RH7]: Gap Analysis, Section 2.2

Commented [RH8]: Update term per WDFW guidance

Commented [RH9]: Gap Analysis, Section 2.2, Commerce CAO Checklist

Commented [RH10]: Gap Analysis, Section 2.2; WDFW guidance

Commented [RH11]: Gap Analysis, Section 2.2

Commented [RH12]: Gap Analysis, Section 2.2

Commented [RH13]: Deletion per City comment economic resources. Many species serve as indicators of the condition of the environment and the quality of life that local residents have invested in, enjoy and respect. It is the purpose of this chapter to protect, restore where practical, and enhance fish and wildlife populations and their associated habitats. Riparian buffer areas are contiguous or adjacent to a stream and are required for the continued maintenance, function, and structural stability of the riparian habitat. Functions of the riparian buffer area include shading, input of organic debris and coarse sediments, uptake of nutrients, stabilization of banks, protection from intrusion, or maintenance of wildlife habitat.

4. Frequently Flooded Areas. It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in the floodplain and the floodway according to the provisions established under Chapter 17.66, Flood Damage Prevention.~~this code; and~~

5. Geologically Hazardous Areas. Geologically hazardous areas include areas that because of their susceptibility~~le~~ to ~~the effects of~~ erosion, sliding, earthquake, or other geologic events, are not suited to siting commercial, residential, or industrial development consistent with public health and safety. ~~They pose a threat to the health and safety of citizens when incompatible residential, commercial, industrial, or infrastructure development is sited in areas of a hazard. Geologic hazards pose a risk to life, property, and resources when~~ S~~s~~teep slopes are destabilized by incompatible~~inappropriate~~ activities and development or when structures or facilities are sited in areas susceptible to natural or human caused geologic events. Some geologic hazards can be reduced or mitigated by engineering, design, or modified construction practices so that risks to health and safety are minimized~~acceptable~~. When technology cannot reduce risks to acceptable levels, building and other construction within identified geologically hazardous areas shall be prohibited.

D. Relationship to other regulations. Any individual critical area adjoined by another type of critical area shall have a buffer or protection area and meet the requirements that provide the most protection to the critical areas involved. When any provision of any other chapter of the Sedro-Woolley Municipal Code (SWMC) conflicts with this chapter or when the provisions of this chapter are in conflict, the provision that provides more protection to critical areas shall apply unless specifically provided otherwise in this chapter or unless such provision conflicts with federal or state laws or regulations.

~~D. Exemptions from Critical Areas Review Requirements. Subject to the limitations established in this chapter the following developments, associated uses and activities shall be exempt from the critical areas review procedures:~~

~~1. Emergency activities necessary to reduce or prevent an immediate threat to public health, safety, and welfare. Such emergency is an unanticipated, imminent threat to the public health or safety or to the environment that requires immediate action within a period of time too short to allow full compliance with this chapter. The exemption for emergencies should not eliminate the need for later mitigation to offset the impacts of~~

Commented [RH14]: WDFW guidance

Commented [RH15]: Gap Analysis, Section 2.2

Commented [RH16]: Revised to align with WAC 365-190-030(9)

Commented [RH17]: Revised to align with WAC 365-190-120(2)

Commented [RH18]: Gap Analysis, Section 2.2; WDFW guidance

Commented [RH19]: Gap Analysis, Section 2.2; Relocated to SWMC 17.65.100, Exemptions

~~emergency activity. Once the immediate threat has been addressed, any adverse impacts on critical areas should be minimized and mitigated;~~

~~2. Ongoing agriculture activities, including related development and activities that do not result in an expansion or further expansion into a critical area or its standard buffer;~~

~~3. Normal and routine maintenance or repair of existing structures, utilities, sewage disposal systems, potable water systems, drainage facilities, ponds or public and private roads and driveways associated with existing residential or commercial development; normal maintenance, repair, or operation of existing structures, facilities, and improved areas accessory to a single-family residential use; and such maintenance activities are limited to existing landscaping improvements and do not expand into critical areas or associated buffers, do not expose soils, do not alter topography, do not destroy or clear native vegetation, and do not diminish water quality or quantity;~~

~~4. Modification of any existing residence that does not add to or alter the existing use and does not expand the building footprint or increase septic effluent;~~

~~5. Activities involving artificially created wetlands or artificial watercourses intentionally created from nonwetland sites, including, but not limited to, grass-lined swales, irrigation and drainage ditches, roadside ditches, stormwater detention facilities, and landscape features, except those features that provide critical habitat for anadromous fish and those features that were created as mitigation pursuant to the provisions of this chapter;~~

~~6. Passive outdoor recreation activities that do not adversely impact critical areas or their buffers;~~

~~7. Education and scientific research activities that do not adversely impact critical areas or their buffers.~~

17.65.025 Definitions.

As used in this chapter:

“Anadromous fish” refers to a fish species that ascends rivers from the sea to spawn.

~~“Aquifer recharge areas, critical” refers to areas where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of water.~~

Commented [RH20]: Gap Analysis, Section 2.3; Relocated as Critical Aquifer Recharge Areas

“Artificial watercourse” refers to ditches and other water conveyance systems, not constructed from natural watercourses, which are artificially constructed and actively maintained for irrigation and drainage. Artificial watercourses include lateral field ditches used to drain farmland where the ditch did not replace a natural watercourse, roadside ditches, stormwater systems, or any other constructed drainage ditch.

"Best available science" refers to information gathered, analyzed and presented based on professional experience, expertise, and judgment, and established scientific principles and practices. Such principles and practices include peer review, use of scientific methodology, logical analysis and reasonable inference, statistical analysis, rigorous referencing within the scientific literature, and conclusions drawn from within an accepted scientific framework and placed in an appropriate scientific context.

"Best management practices (BMPs)" refers to physical, structural, and/or managerial practices, that when used singly or in combination, prevent or reduce water pollution. Source control BMPs include those which keep the pollutant from ever coming in contact with stormwater, and stormwater treatment BMPs include those which consist of various methods of treating stormwater. See also Chapters 13.36 and 13.40 (Stormwater Management).

~~"Biological assessment" refers to a study prepared by a qualified biologist that describes the biotic and abiotic aspects of the site and surrounding area. This includes, but is not limited to, the flora, fauna, plant communities, habitat(s), streams, wetlands, soils, and topography of and on the site and adjacent area.~~

Commented [RH21]: Not referenced in this chapter

"Buffer, critical area" is an area that provides a reasonable margin of safety through protection of slope stability, attenuation of surface water flows and landslide hazards reasonably necessary to minimize risk to the public from loss of life or well-being or property damage resulting from natural disasters; or a vegetated~~n~~ area which is an integral part of a stream or wetland ecosystem or wildlife habitat and that provides shading, input of organic debris and coarse sediments, room for variation in stream or wetland boundaries, habitat for wildlife, and protection from harmful intrusion necessary to protect the public from losses suffered when the functions and values of aquatic resources are degraded.

Commented [RH22]: Addition per Ecology Publication No. 22-06-014

"Channel migration zone (CMZ)" means the area within which a river channel is likely to migrate and occupy over a specified time period (e.g., 100 years).

Commented [RH23]: Gap Analysis, Section 2.3; WDFW guidance

"Compensatory mitigation" is the restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of critical areas for the purposes of offsetting unavoidable adverse impacts that remain after all appropriate and practicable avoidance and minimization has been achieved. Specific compensatory actions may include:~~is replacing project-induced critical area losses or impacts, and includes, but is not limited to, restoration, creation, or enhancement.~~

Commented [RH24]: Gap Analysis, Section 2.3; Ecology Publication No. 22-06-014

1. Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions and environmental processes to a former wetland. Re-establishment results in rebuilding a former wetland and results in a gain in wetland area and functions.

2. Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions and environmental processes

to a degraded wetland. Rehabilitation results in a gain in wetland function, but does not result in a gain in wetland acres.

3. Creation: The manipulation of the physical, chemical, or biological characteristics present to develop a wetland that did not previously exist at an upland site. Creation results in a gain in wetland area and functions. A typical action is the excavation of upland soils to elevations that will produce a wetland hydroperiod and hydric soils, and support the growth of hydrophytic plant species.

4. Preservation: The removal of a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This term includes activities commonly associated with the protection and maintenance of wetlands through the implementation of appropriate legal and physical mechanisms (such as recording conservation easements and providing structural protection like fences and signs). Preservation does not result in a gain of wetland area and functions (but may result in a gain in functions over the long term).

5. Enhancement: The manipulation of the physical, chemical, or biological characteristics of a wetland to heighten, intensify, or improve specific function(s). Enhancement results in the gain of selected function(s), but may also lead to a decline in other function(s). Enhancement does not result in a gain in wetland area.

"Critical aquifer recharge areas" refers to areas where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of water, or is susceptible to reduced recharge. Critical aquifer recharge area means an area with a critical recharging effect on aquifers used for potable water.

Commented [RH25]: Gap Analysis, Section 2.3; WAC 365-190-030(3)

"Critical areas" means and includes the following areas and ecosystems:

1. Wetlands;

2. ~~Areas with a c~~Critical aquifer recharge areas~~ing effect on aquifers used for potable water~~;

Commented [RH26]: Gap Analysis, Section 2.3

3. Fish and wildlife habitat conservation areas;

4. Frequently flooded areas; and

5. Geologically hazardous areas.

"Delineation, wetland" is the precise determination of wetland boundaries in the field according to the application of specific methodology as described in the 1987 U.S. Army Corps of Engineers Wetlands Delineation Manual and the Western Mountains, Valleys, and Coast Regional Supplement (May 2010), or as subsequently amended.

"Development" means any manmade change to the land or improvements ~~occurring after the effective date of the ordinance codified in this chapter~~ including, but not limited to, construction or exterior alteration of structures, mining, dredging, drilling, filling, grading, paving or excavation, removal of sand, gravel, or minerals, storage of equipment and materials, and ~~excluding the~~ removal of vegetation. ~~Where a project is dividable into parts, the entire scope of such changes or improvements constituting an integral, functional project should be considered the development for purposes of determining whether such development is allowed or requires a permit.~~

"Director" means the ~~city~~ City of Sedro-Woolley ~~planning~~ Community Development director or his/her designee.

"Ecosystem functions" means the products, physical and biological conditions, and environmental qualities of an ecosystem that result from interactions among ecosystem processes and ecosystem structures. Ecosystem functions include, but are not limited to, sequestered carbon, attenuated peak streamflows, aquifer water level, reduced pollutant concentrations in surface and groundwaters, cool summer in-stream water temperatures, and fish and wildlife habitats.

"Ecosystem values" means the cultural, social, economic, and ecological benefits attributed to ecosystem functions.

"Fish and wildlife habitat conservation areas (FWHCA)" refers to areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors; areas with high relative population density or species richness; and areas with which endangered, threatened, sensitive, priority species, their habitat, streams, stream corridors, or mature forested areas, as indicated by local, state, or federal governmental agencies, have a primary association. Fish and wildlife habitat conservation areas do not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

"Functionally disconnected buffer" means existing, legally established development blocks the protective measures that a buffer provides and increasing the buffer on the far side of the development would add no protective benefit. This includes where the road or other significant development blocks the protective measures provided by a buffer.

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

Commented [RH27]: Gap Analysis, Section 2.3

Commented [AP28]: Revised to align with Ecology Publication No. 22-06-014:

Development: A land use consisting of the construction or exterior alteration of structures; grading, dredging, drilling, or dumping; filling; removal of sand, gravel, or minerals; bulkheading; driving of pilings; or any project of a temporary or permanent nature that modifies structures, land, wetlands, buffers, or shorelines and that does not fall within the allowable exemptions or exceptions contained in the [City/County] Code.

Commented [RH29]: Revised from "planning" to "Community Development" throughout

Commented [RH30]: Additions per WDFW guidance; WAC 365-196-210(21) and (22)

Commented [RH31]: Gap Analysis, Section 2.3; WAC 365-190-030(6)(a)

Commented [RH32]: Gap Analysis, Section 2.3; Ecology Publication No. 22-06-014

Commented [RH33]: City staff: revision, Ecology Publication No. 22-06-014

"Habitats of local importance" means those areas found to be locally important by the City of Sedro-Woolley pursuant to Section 17.65.500(D) and includes a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. These might include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These might also include habitats that are of limited availability or high vulnerability to alteration, such as cliffs, talus, mature forests, corridors, and wetlands.

"Hazard tree" means a tree that has: (1) a high probability of falling due to a debilitating disease or a structural defect; and (2) potential for significant property damage or personal injury if it falls.

"In-lieu of fee" refers to a fee paid as compensation for impacting a critical area in place of completing compensatory mitigation. Any in-lieu fee paid shall go towards protection of habitat commensurate to compensate the lost functions and values of the critical area affected by a development.

"In-lieu of fee program" means an agreement between a regulatory agency (state, federal, or local) and a single sponsor, a governmental or non-profit natural resource management entity. Under an in-lieu-fee agreement, the sponsor collects funds from individuals and/or entities required to conduct compensatory mitigation. The sponsor uses the funds pooled from multiple permittees to create one or more mitigation sites under the authority of the agreement to satisfy the permittees' required mitigation.

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

~~"Mean sea level" means the average height of the sea for all stages of tide, also equals National Geodetic Vertical Datum.~~

~~"Mobile home or manufactured home" means any structure designed or used as a permanent residence, built on a permanent chassis, and transportable to site of placement in one or more sections.~~

~~"Mobile home park or manufactured home park" means a parcel of land in one ownership containing two or more mobile homes or manufactured homes, sited for habitation.~~

"Native vegetation" refers to plant species that are indigenous to the Sedro-Woolley area.

"Natural watercourse" refers to any stream in existence prior to settlement that originated from a natural source. An example of a natural watercourse is a stream that originates in a wetland or upland area, flows through agricultural, rural, and/or urban areas, and ultimately empties

Commented [RH34]: WAC 365-190-030(6)(b)

Commented [RH35]: Addition for clarity

Commented [RH36]: Gap Analysis, Section 2.3; Ecology Publication No. 22-06-014

Commented [RH37]: Gap Analysis, Section 2.3; Ecology Publication No. 22-06-014

Commented [RH38]: Not referenced in this chapter

Commented [RH39]: Deletion per City comment into a saltwater bay or another watercourse. A natural watercourse may have been ditched or piped.

"Primary association" means the use of a habitat area by a species for breeding, nesting, rearing young, roosting, feeding, or foraging on a regular basis.

"Priority habitat" means a habitat type with unique or significant value to many species. An area identified and mapped as priority habitat has one or more of the following attributes: comparatively high fish and wildlife density, comparatively high fish and wildlife species diversity, important fish and wildlife breeding habitat, important fish and wildlife seasonal ranges, important fish and wildlife movement corridors, limited availability, high vulnerability to habitat alteration, and unique or dependent species.

"Priority species" means fish and wildlife species requiring protective measures and/or management actions to ensure their survival. A species identified and mapped as priority species fit one or more of the following criteria: State-listed candidate species, vulnerable aggregations, and species of recreational, commercial, and/or Tribal importance.

Commented [RH40]: Addition per WDFW guidance; designated by SWMC 17.65.500(C)

"Public facilities" means and includes streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreation facilities, and schools.

"Public services" means and includes fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

"Qualified professional~~expert~~" means a person having substantially demonstrated experience as a practicing specialist with a minimum of four~~five~~ years' experience working full time in the profession and who has a degree in a related field from an accredited college or university or who has equivalent training, except as specified below:~~.~~

Commented [RH41]: Gap Analysis, Section 2.3 Consistently use the term "qualified professional" rather than "qualified expert" throughout the code

1. Wetlands. A qualified wetland professional means a person with professional wetland experience that meets the following criteria:

   a. A Bachelor of Science or Bachelor of Arts or equivalent degree in hydrology, soil science, botany, ecology, resource management, or related field, or four years of full-time work experience as a wetland professional may substitute for a degree, and

   b. At least two additional years of full-time work experience as a wetland professional; including delineating wetlands, preparing wetland reports, conducting function assessments, and developing and implementing mitigation plans, and

Commented [RH42]: Ecology Publication No. 22-06-014

c. Completion of additional wetland-specific training programs. This could include a more comprehensive program such as the University of Washington Wetland Science and Management Certificate Program or individual workshops on topics such as wetland delineation, function assessment, mitigation design, hydrophytic plant or hydric soil identification.

d. A person certified as a Professional Wetland Scientist through the Society of Wetland Scientists professional certification program meets the above criteria.

2. Critical Aquifer Recharge Areas. A qualified professional for critical aquifer recharge areas means a person who is qualified to engage in the practice of hydrogeology, has met the qualifications in hydrogeology established under Chapter 18.220 RCW, and has been issued a license in hydrogeology by the Washington State Geologist Licensing Board.

3. Fish and Wildlife Habitat Conservation Areas. A qualified professional for fish and wildlife habitat conservation areas means a person with a degree in biology or a related degree and having substantially demonstrated experience related to the subject species.

4. Geologically Hazardous Areas. A qualified professional for geologically hazardous areas means an engineer, licensed in the state of Washington, with training and experience analyzing geologic, hydrologic, and groundwater flow systems in Washington State; or a geologist who earns their livelihood from the field of geology and/or geotechnical analysis, with training and experience analyzing geologic, hydrologic and groundwater flow systems in Washington State, who has received a relevant degree from an accredited four-year institution of higher education.

Commented [RH43]: Relocated from SWMC 17.65.420(B)

~~"Residential health care facilities" means facilities caring for elderly or infirm persons wherein clients are partly or entirely residents or detainees thereof. Includes hospitals, convalescent homes and homes for the elderly where some supervision or health care is provided.~~

Commented [RH44]: Deletion per City comment

"Restoration" includes the measures taken to restore an altered or damaged natural feature, including:

1. Active steps taken to restore damaged critical areas or their buffers to the functioning condition that existed prior to an unauthorized alteration; and

2. Actions performed to re-establish structural and functional characteristics of a critical area that have been lost by alteration, past management activities, or catastrophic events.

Commented [RH45]: Gap Analysis, Section 2.3; Ecology Publication No. 22-06-014

"Riparian buffer Area" means the designated area contiguous or adjacent to a stream that is required for the continued maintenance, function, and structural stability of the riparian habitat. Functions of the riparian buffer area include shading, input of organic debris and coarse sediments, uptake of nutrients, stabilization of banks, protection from intrusion, or maintenance of wildlife habitat.

Commented [RH46]: Gap Analysis, Section 2.3; WDFW guidance

"Seismic hazard areas" are areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, or soil liquefaction. ~~The city of Sedro-Woolley is located in Seismic Zone 3 and construction is required to comply with the International Building Code seismic standards.~~

"Significant development" means a development that blocks the protective measures provided by a buffer including, but not limited to, built public infrastructure such as paved roads and railroads, and private developments such as houses or commercial structures. See "functionally disconnected buffer."

"Site-potential tree height (SPTH)" means the average maximum height of the tallest dominant trees for a given age and site class. $SPTH_{200}$ refers to the SPTH at tree age equal to 200 years.

"Species of local importance" are those species that are of local concern due to their population status or their sensitivity to habitat manipulation.

"Steep slope areas" are areas with slopes greater than fifteen percent.

"Structure" shall be defined by Section 17.04.030, or as subsequently amended~~means a walled and roofed building or mobile home, or gas or liquid storage tank that is principally above ground by at least three feet~~.

~~"Substantial improvement" means any repair, reconstruction, or improvement to a structure, the cost of which equals or exceeds fifty percent of the market value of the structure either:~~

~~1. Before the improvement is started; or~~

~~2. If the structure has been damaged and is being restored, before the damage occurred.~~

~~This term does not, however, include either:~~

~~1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are necessary to assure safe living conditions; or~~

~~2. Any alteration of a structure listed in the National or State Register of Historic Places.~~

"Unavoidable impacts" refers to affecting critical areas where site conditions preclude avoidance because of density requirements, critical areas that bisect parcels such as streams or linear wetlands, or parcels that contain many small wetlands.

"Upland site" means any area that does not qualify as a wetland because the associated hydrologic regime is not sufficiently wet to elicit development of vegetation, soils, and/or

Commented [RH47]: Deletion per City comment

Commented [RH48]: Addition per City comment; Ecology Publication No. 22-06-014

Commented [RH49]: WDFW guidance

Commented [RH50]: Gap Analysis, Section 2.3; WAC 173-27-030

Commented [RH51]: Revised per City comment

Commented [RH52]: Not referenced in this chapter

Commented [RH53]: Addition per City comment; Ecology Publication No. 23-06-009 hydrologic characteristics associated with wetlands. Also used to indicate areas upslope of slope wetlands and landward of lake fringe wetlands.

"Urban growth" refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of such land for the production of food, other agricultural produce, or fiber, or the extraction of mineral resources. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

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

"Wetland mitigation bank" means a wetland area that has been restored, created, enhanced, or (in exceptional circumstances) preserved, which is then set aside to compensate for future conversions of wetlands for development activities. A wetland bank may be created when a government agency, a corporation, or a nonprofit organization undertakes such activities under a formal agreement with a regulatory agency. The value of a bank is determined by quantifying the wetland values restored or created in terms of "credits."

17.65.030 Authority.

The ordinance codified in this chapter is adopted under the authority of Chapters 36.70 and 36.70A RCW, and Article 11 of the Washington State Constitution.

17.65.040 Applicability, jurisdiction and coordination.

A. Relationship to Other Federal, State and County Jurisdictional Agencies' Regulations. Many state, federal and regional regulations apply to projects conducted within critical areas. 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. The applicant is responsible for complying with these requirements, apart from the process established in this chapter~~Uses otherwise allowed by local codes do not eliminate other agency regulatory requirements~~.

Commented [RH54]: Gap Analysis, Section 2.4

1. Federal regulations include:
    a. Clean Water Act, Sections 404, 401;
    b. Coastal Zone Management Act;
    c. Endangered Species Act;
    d. Federal Water Pollution Control Act;
    e. Food Security Act—Swampbuster;
    f. National Environmental Policy Act;
    g. National Floodplain Insurance Program;
    h. River and Harbor Act, Section 10.
2. State regulations include:
    a. Chapter 43.21C RCW, State Environmental Policy Act;
    b. Chapter 75.20 RCW, Hydraulic Project Approval;
    c. Chapter 76.09 RCW, Forest Practices Regulations;
    d. Chapter 77.12 RCW, Bald Eagle Protection Rules;
    e. Chapter 78.44 RCW, Surface Mining Act;
    f. Chapter 86.16 RCW, Floodplains;
    g. Chapter 90.03 RCW, State Water Code;
    h. Chapter 90.48 RCW, State Water Pollution Control Act;
    i. Chapter 90.58 RCW, Shoreline Management Act.
3. Local regulations include:
    a. Chapter 2.88, Environmental Policy;
    b. Chapter 13.36, Stormwater Management Standards;

c. Chapter 17.66, Flood Damage Prevention;

d. Chapter 17.96, Shoreline Master Program.

~~e. Skagit County Shoreline Management Program.~~

B. Jurisdictional Substitution. In cases where other agencies possess jurisdictional control over critical areas and it is determined by the director that the permit conditions in permits issued by those other agencies satisfy the requirements of this chapter, those requirements may substitute for the requirements of this chapter. Such requirements shall be a condition of ~~critical area~~permit approval and are~~be~~ enforceable under this chapter. Such agencies may include, but are not limited to, the United States Army Corps of Engineers, Environmental Protection Agency, U.S. Fish and Wildlife Service; local tribes, the Washington State Department of Ecology, Washington State Department of Natural Resources, ~~and~~ Washington State Department of Fish and Wildlife, and Skagit County. The applicant shall be notified in writing when any such substitution is made.

17.65.050 Resource information and maps.

A. ~~Critical areas defined and identified in this chapter shall be mapped whenever possible. These maps shall be advisory and used by the director to provide guidance in determining applicability of the standards to a property.~~ Sites which include critical areas, whether mapped or not mapped, shall be subject to the provisions of this chapter. ~~These~~Advisory maps are ~~shall be advisory and~~ used by the director to provide guidance in determining applicability of the standards to a property. These documents are on file at Sedro-Woolley City Hall, 325 Metcalf Street, including, but not limited to:~~,~~

1. The aerial topographic map of the City of Sedro-Woolley, October 2003 and subsequent updates;

2. ~~, along with wetland delineation maps~~Critical area reports and maps in the City of Sedro-Woolley land use files;~~, are the advisory maps, along with the~~

3. The approximate location and extent of wetlands are shown on the following maps:

a. National Wetland Inventory by the U.S. Department of the Interior; Fish and Wildlife Service;

b. Areas mapped as hydric soils under the Soil Survey of Skagit County Area, Washington, by the United States Department of Agriculture; Soil Conservation Service.

Commented [RH55]: Addition per City comment

Commented [RH56]: Gap Analysis, Section 2.4

Commented [RH57]: Revised per City comment

Commented [RH58]: Addition per City commnent

Commented [RH59]: Deletion, not current practice

Commented [RH60]: Revision to list map resources by critical area

Commented [RH61]: Relocated from SWMC 17.65.210.B

4. The approximate location and extent of fish and wildlife habitat conservation areas are shown on the following map: Washington Department of Fish and Wildlife Priority Habitat and Species maps, or as subsequently revised; and

5. Applicable ~~"~~FEMA Flood Insurance ~~Study, City of Sedro-Woolley," dated December 1, 1989, and any revisions thereto, with accompanying~~Study or studies and associated flood insurance rate maps (FIRMs)~~, dated December 1, 1989~~.

~~That document is on file at Sedro-Woolley City Hall, 720 Murdock Street. These maps are hereby adopted by reference and declared to be part of this chapter, and any subsequent revisions.~~

B. ~~Recognizing the necessity for accurate geographic information, a comprehensive inventory identifying the location, size, and other characteristics of critical areas shall be compiled as new data is available.C. The results of the inventory shall be transferred to maps and published. These maps shall be available at the planning department for public inspection.~~

~~D. When completed, critical area maps shall serve as guides to the location and extent of such critical areas.~~

~~E.~~ Critical area maps, with the exception of a~~the flood insurance rate map~~FIRM used to designate certain flood hazard areas, are ~~provided only as~~ a general guide to alert the user to the possible distribution, location and extent of critical areas. Map identification of critical areas provides only approximate boundaries and locations. The actual locations and boundaries of critical areas, as well as their quality and quantity, shall be based upon the presence of the features applicable to each critical area element in this chapter. Maps shall not be considered a regulatory standard or substitute for site specific assessments. The application of definitions, methodologies and performance standards pursuant to the site specific assessment requirements provided in this chapter is the controlling factor in determining the actual presence and extent of critical areas.

~~F. The critical area maps utilize the best information currently available and will be updated on a continual basis by the director.~~

~~G~~C. On a regular basis, formal requests shall be made for updated information to the resource agencies responsible for updating their respective map information. Incorporation of such updated information into the critical areas maps shall be made.

~~H~~D. Critical areas mapped under the ~~site assessment~~critical area report requirements of this chapter shall be retained by the city for a minimum of five (5) years and made available at the Community Development Department for public review and inspection.~~compiled in a database and incorporated into critical area maps.~~ This map information shall be utilized to facilitate tracking of compliance with the requirements of this chapter to ensure long-term protection of critical areas.

Commented [RH62]: Gap Analysis, Section 2.5; Commerce CAO Checklist

Commented [RH63]: Relocated above

Commented [RH64]: Deletion- not advised

Commented [RH65]: Not current practice

Commented [RH66]: Not current practice

Commented [RH67]: Gap Analysis, Section 2.1

Commented [RH68]: Addition per City comment

E. The validity of site-specific critical areas and maps are discussed in individual critical area sections below. Unless noted otherwise, the director will determine whether a revision or additional assessment is necessary for critical areas reports and maps dated five (5) years or older.

Commented [RH69]: Addition per City comment

17.65.060 General requirements and authorizations required.

A. All development, including, but not limited to, public and private proposals for new structures, proposed additions to structures, short subdivisions and subdivisions, and grading and drainage activity, that is located on either public or private property ~~All proposals specified in Section 17.65.100~~ and located in critical areas shall meet the following general requirements.~~:~~

Commented [RH70]: Revised per City comment

Commented [RH71]: Gap Analysis, Section 2.6; Relocated from SWMC 17.65.100

1. Site. Complete stabilization of all portions of a site which are disturbed or impacted by the proposed development, including all development coverage and construction activity areas, shall be required. Complete stabilization of all portions of a site refers to the process and actions necessary to ensure that existing and proposed site improvements are stabilized, and that all on-site areas and adjacent properties which are disturbed or impacted are stabilized. The proposed development shall be limited and controlled to avoid adverse impacts and potential harm and ensure safe, stable and compatible development appropriate to site conditions. Other reasonable and appropriate solutions to solve site stability problems may be required by the director.

2. Adjacent Site, Surrounding Area, and Drainage Basin. The proposed development shall ensure safe, stable and compatible development which avoids adverse environmental impacts and potential harm to adjacent sites, the surrounding neighborhood, and the drainage basin. Detailed analysis of impacts of the development upon wetlands, riparian buffer areas~~corridors~~, native vegetation and wildlife habitats, water quality, natural water temperature, slope and soil conditions, and surface water drainage may be required at the request of the director when site and area conditions indicate the need for this analysis. Supplemental technical reports may be required by the director to specify measures to preserve, protect, and maintain adjacent sites and the drainage basin and ensure safe, stable and compatible development.

Commented [RH72]: Gap Analysis, Section 2.2

B. With the exception of activities identified as exempt under Section ~~s 17.65.020(D) and~~ 17.65.100, any ~~land use activity that can impair the functions and values of critical areas or their buffers through a development activity or by disturbance of the soil or water, and/or by removal of, or damage to, existing vegetation~~development within or near critical areas shall require critical areas review and written authorization pursuant to this chapter.

Commented [RH73]: Revised per City comment

1. Vegetation destruction or removal, other than the normal maintenance of existing landscaping identified as exempt under Section 17.65.100(J~~L~~), shall be prohibited within a critical area or its required buffer, unless there is an approved mitigation plan pursuant to the requirements of the particular critical area that demonstrates there will be no adverse impact to the critical area with the proposed vegetation removal and disturbance of the

soil or water and includes any mitigation or buffer enhancement necessary to address critical areas impacts.

2. Authorizations required under this chapter overlay other permit and approval requirements of the ~~Sedro-Woolley Municipal Code~~SWMC. Regardless of~~r~~ whether a development permit or approval is required, any proposed alteration that can adversely affect a critical area or its standard buffer's~~'~~ functions must comply with the substantive and procedural requirements of this chapter, including demonstration of consistency with mitigation sequencing as outlined in Section 17.65.160(C). Critical areas review pursuant to this chapter shall be conducted as part of the underlying permit or approval, where applicable. It is the responsibility of the landowner, or designee, who conducts or proposes to undertake land use activities that can adversely impact critical areas or their buffers to obtain authorization prior to commencing such activities. In some cases, the typical thresholds that trigger review and permits have been reduced to zero for any development activity located within a critical area or its required buffer.

Commented [RH74]: Gap Analysis, Section 2.6

C. Procedures. No land use development permit, land division, development approval, or other authorization required shall be granted until the applicant has demonstrated compliance with the applicable provisions of this chapter.

1. The applicant shall demonstrate that the proposal submitted conforms to the purposes and standards of this chapter, assesses impacts on the critical area from activities and uses proposed, and identifies protective mechanisms adequate to meet the requirements of this chapter.

2. The director ~~or designee~~ shall review each proposal and determine if the proposal is consistent with applicable regulations of this chapter and if the protective mechanisms proposed are sufficient to protect the critical area, public health, safety and welfare, and if so, shall condition approval accordingly.

Commented [RH75]: The definition of director under SWMC 17.65.025 already includes the designee.

3. If the proposal is inconsistent with the applicable regulations of this chapter~~not~~, the director shall request additional information or require revisions to demonstrate compliance. After the proposal has been revised to demonstrate compliance with the applicable provisions of this chapter, the director shall specify conditions of approval. If the director determines that there are no conditions under which the proposal could be approved, then the director shall deny the proposal.

Commented [RH76]: Revision per City comment

4. Any proposed development or land division shall be conditioned as necessary to mitigate impacts to critical areas as required by this chapter and any project that cannot adequately mitigate its impacts to critical areas shall be denied.

~~Conflicts with Other Provisions. If any provision of this chapter conflicts with any other applicable code provision, the more restrictive shall apply unless specifically excepted in this chapter.~~

Commented [RH77]: Gap Analysis, Section 2.6; Relocated to SWMC 17.65.020 and revised.

~~3. Satisfaction of the requirements of this chapter shall also be sufficient to satisfy the requirement for critical areas analysis and mitigation pursuant to Chapter 43.21C RCW, the State Environmental Policy Act, and Chapter 2.88, Environmental Policy.~~

~~4. SEPA Compliance. The goals, policies and purposes set forth in this chapter shall be considered policies of the State Environmental Policy Act. When applicable the applicant must meet SEPA requirements.~~

~~5. Other Permits Required. It is recognized that many local, state, and/or federal permit conditions may apply to the proposed action, and that compliance with the provisions of the chapter may not necessarily constitute compliance with other such requirements.~~

Commented [RH78]: Gap Analysis, Section 2.6; Relocated to SWMC 17.65.740

Commented [RH79]: Deleted, since this is duplicative with SWMC 17.65.040(A)

17.65.065 Public notice and records.

A. Public notice for projects subject to the provisions of this chapter shall be provided pursuant to the requirements of Chapter XX~~2.90, Consolidated Planning Procedures~~, or as subsequently amended.

B. Records of all critical area assessments and related land use approvals and conditioning shall be maintained and be made available to the public upon request for a period of five (5) years or pursuant to the Washington Secretary of State Records Retention Schedule, whichever is greater.

Commented [RH80]: Addition per City comment

17.65.070 Application submittal requirements.

In addition to the application submittal requirements specified in other codes and application checklists, all development proposals subject to this chapter may be required to include, at the director's request, the following additional information:

Commented [RH81]: Revised per City comment

A. ~~Surveyed~~ Site Plan. An accurate, to-scale ~~surveyed~~ site plan shall be prepared by the applicant or applicable qualified professional~~a state of Washington licensed surveyor~~ and shall include the following, all or in part when required by the director:

Commented [AP82]: Gap Analysis 2.7

1. Existing topography at two-foot contour intervals on site within 25~~twenty-five~~ feet of the site's abutting boundaries, and within the full width of abutting public and private rights-of-way and easements.

2. Terrain and drainage flow characteristics within the site, within 25~~twenty-five~~ feet of the site's abutting boundaries, and within the full width of abutting public and private rights-of-way and easements.

3. Proposed location and boundaries of all required undisturbed fenced areas and buffers on site and on adjacent lands.

4. Location of all vegetation, including location and description of all trees over six (6) inches in diameter measured five (5) feet above the base of the trunk, shrubs over eight (8) feet tall or six (6) feet wide, and noting their species.

5. Location and boundaries of all existing and proposed site improvements on the site and within 25~~twenty-five~~ feet of the site's property boundaries, and the full width of abutting public and private rights-of-way and easements. This shall include the limits of development coverage, impervious surfaces and construction activity areas (noting total square footage and percentage of site occupied).

6. Location of all grading activities in progress or proposed, and all drainage control facilities or systems in existence in progress or proposed within 25~~twenty-five~~ feet of the site's property boundaries, and the full width of abutting public and private rights-of-way and easements.

7. Location of all existing and proposed utilities (water, sewer, gas, electric, phone, cable, etc.), both above and below ground, on-~~-~~site, on adjacent lands within 25~~twenty-five~~ feet of the site's property lines, and in the full width of abutting public rights-of-way, and proposed methods and locations for the proposed development to hook up to these services.

8. Such other additional site plan information as necessary to complete review of a project or waive specific submittal requirements when not necessary for project review.

B. Technical Reports. Technical reports shall be prepared as required by the director detailing geological, hydrological, drainage, and other site conditions, to comply with the development standards in Section 17.65.060 and pursuant to Chapter 13.36, Stormwater Management. The reports shall be used to condition development to prevent potential harm and to protect the critical nature of the site, adjacent properties, and the drainage basin. At the discretion of the director, t~~T~~echnical reports prepared by consultants not contracted with the ~~city~~ City of Sedro-Woolley for the work may~~shall~~ be subject to third party review by the ~~city~~ City of Sedro-Woolley's independent consultant~~/expert~~ at the applicant's expense. Appeals of the decision by the director in consultation with the city's independent consultant~~/expert~~ shall be subject to the administrative appeals procedures in Chapter XX~~2.90~~. The city may also rely on opinions from agencies listed in Section 17.65.040(B) in making the decision.

Commented [RH83]: Revised per City comment

17.65.080 Administration.

A. The ~~planning~~ director in consultation with the city engineer and the building official shall be responsible for the administration of this chapter, including:

1. Reviewing applications for development in the city limits to verify compliance with this chapter;

2. Reviewing applications for development in the city limits to ~~assure~~ensure that all necessary permits have been obtained from those federal, state or local government agencies from which approval is required prior to construction~~prior approval is required~~;

Commented [RH84]: Revised per City comment

3. ~~Recording and m~~Maintaining records of~~:~~

~~a. As-built elevation above mean sea level of the lowest floor including basement of all new and substantially improved structures requiring a floodplain approval and whether same structure contains a basement,~~

~~b. C~~ certification by a registered professional engineer or architect as required by this chapter~~,~~

~~c. Floodplain approvals and other actions pursuant to the administration of this chapter~~;

Commented [RH85]: Delete (a) and (c), rely on Chapter 17.66

4. Notification to adjacent communities and the Department of Ecology and the Washington Department of Fish and Wildlife prior to any alteration or relocation of a watercourse with copy to FEMA, and maintenance within the altered or relocated portion of such watercourse so that flood-carrying capacity is not diminished;

5. When base flood elevation data has not been provided, obtaining, reviewing, and reasonably utilizing any base flood elevation and floodway data that should become available from a federal, state or other source in order to administer standards and regulate floodways. Such data shall be used to establish flood protection elevations, evaluate development impacts, and issue development permits pursuant to Chapter 17.66, Flood Damage Prevention, before construction or development begins within any area of special flood hazard within the city limits;

Commented [AP86]: Gap Analysis 2.8

6. Issuance of development permits pursuant to ~~Chapter 17.68, Home Occupation Permits, and~~ Chapter 15.04, Building Code, and city endorsement of business pursuant to Chapter 5.04, before construction or development begins within the city limits;

Commented [RH87]: Revised per City comment

7. Maintaining for public review and inspection all records pertaining to the provisions of this code for a period of five (5) years or pursuant to the Washington Secretary of State Records Retention Schedule, whichever is greater.

Commented [RH88]: Addition per City comment

Commented [RH89]: Addition per City comment

B. This chapter shall be administered in accordance with Chapter 86.16 RCW and Chapter 173-158 ~~508-60~~ WAC. Chapter 17.66~~This chapter~~ shall be revised as necessary to conform with any changes in state rules pertaining to flood control zones which may be adopted by the ~~State~~ Department of Ecology~~ subsequent to the effective date of delegation of the state's permit program to the city~~.

Commented [RH90]: Revised for clarity

C. The administrative procedure for critical areas review shall be as follows:

1. Determination that an Activity Requires Standard Review. All applications for approval of activities requiring written authorization pursuant to Section 17.65.060 shall require the submission of a critical areas checklist completed and filed by the applicant on the forms provided by the ~~planning~~Community Development department. If not otherwise required, all applications for critical areas review shall include a description of the proposed activity and a site plan showing the location of the proposed activity and associated area of disturbance in relation to all known critical areas or critical area indicators. Upon receipt of the application, the director shall determine whether the proposed activity fits within any of the exempt activities found in Section 17.65.100. If the proposed activity is ~~so~~ allowed and meets the associated conditions for such an allowance, no other critical areas review shall be required, except as necessary for the director to ensure that any conditions for such an allowance are met in practice. The director shall note this determination in the application file and provide written authorization for the project or activity to proceed as proposed in the application when undertaken in accordance with any conditions for such an allowance. Proposed activities identified under Section 17.65.100 that do not meet the conditions for such an allowance or that the director determines may result in significant adverse impacts to a critical area or its buffer shall be subject to standard critical areas review.

2. Method for Initial Determination of Critical Areas. Upon determination that the proposed activity requires a detailed critical areas review, and upon receipt of a completed critical areas checklist, the director shall use the following method to determine whether critical areas or their required buffers will possibly be affected by the proposed activity:

a. Review the critical areas checklist together with ~~the~~ maps and other critical areas resources ~~identified in the relevant sections of this chapter~~; and

~~b. Complete the critical areas staff checklist;~~

~~c~~b. Inspect the site~~; and~~.

~~d. Complete the critical areas field indicator form.~~

3. Determination that Critical Areas Are Not Affected. If the director determines that critical area indicators are not present within 300 ~~two hundred~~ feet of the proposed activity or within a distance otherwise specified in this chapter, then the review required pursuant to this chapter is complete, except as necessary for the director to ensure that the proposed activity is undertaken as described in the application and as shown on the site plan. The director shall note this determination in the application file and provide written authorization for the project or activity to proceed as proposed in the application or, where applicable, with any specific conditions of approval. This determination shall not constitute approval of any use or activity or its compliance with the requirements of this chapter, outside the scope of that stated in the application. Any proposed change in use

Commented [AP91]: Gap Analysis, Section 2.8 Revise review threshold to align with proposed buffer width increases.

or scope of activity from that contained in the application shall be subject to further review under this chapter.

a. The applicant shall acknowledge in writing that this determination by the director regarding the apparent absence of critical area indicators and the likelihood that critical areas will not be affected is not intended as a~~n expert~~ professional certification regarding the presence or absence of critical areas and that the critical areas review process is subject to possible reopening if new information is received as described in subsection (C)(4) of this section. If the applicant wants greater assurance of the accuracy of any such critical area indicators determination, the applicant shall hire a qualified critical areas professional~~expert~~ to provide such assurances.

4. Reopening of Review Process.

a. If at any time prior to completion of the public input process on the associated permit or approval, the director receives new evidence that a critical area may be present within 300 ~~two hundred~~ feet of the project area or within a distance otherwise specified in this chapter or the project scope is revised to include potential impacts to critical areas, then the director shall reopen the critical areas review process pursuant to this chapter and shall require ~~whatever~~ the appropriate level of critical areas review and mitigation as is required by this chapter.

b. Once the public input process on the associated permit or approval is completed and the record is closed, then the director's determination regarding critical areas pursuant to this chapter shall be final; provided, however, that the director shall not be prevented from reopening the critical areas review process, if staff relied on misinformation provided by the applicant in the application or checklist. For the purposes of this subsection, "misinformation" means information regarding the nature and/or location of the proposed activity as presented in the application or regarding the presence of a critical area or critical area indicators on the subject property which the applicant knew or should have known was relevant at the time of the submittal of the checklist. Prior to reopening a critical areas review under this subsection, the director shall make a site visit. No critical areas review shall be reopened under this section unless the director determines, after the site visit, that the applicant provided misinformation.

c. If a critical areas review is reopened under this subsection after a permit or approval is granted, the burden of proof on whether the applicant submitted "misinformation" at the time of the submittal of the checklist shall be on the director. The applicant or landowner who submitted the critical areas checklist upon which the misinformation was discovered shall be the responsible party for compliance with this chapter, including any necessary mitigation.

Commented [RH92]: Addition per City

5. Determination that Critical Areas Are Affected. If the director determines that critical area indicators are present within 300~~two hundred~~ feet of the proposed activity or within a distance otherwise specified in this chapter, then the director shall note this determination in the application file and the applicant shall be required to provide the critical areas ~~site assessment~~report and mitigation plan, where applicable, as specified in this chapter. Development of a critical areas report~~site assessment~~ may precede a site visit; provided, that no disturbance of vegetation or land surface occurs prior to authorization.

6. Critical Areas Determination and Conditions of Approval. Based on the critical areas ~~site assessment~~ report and other available critical areas information, the director shall make a determination on the proposed activity. A determination to approve a proposed activity shall include designation of protected critical areas (PCAs) pursuant to Section 17.65.170 and stipulation of binding conditions and required mitigation, monitoring, maintenance or other conditions of approval pursuant to this chapter. If the director determines that there are no conditions under which the proposed activity could be approved, then the director shall deny the proposal.

17.65.090 Critical areas checklist, ~~site assessment~~critical areas report, and conditions of approval.

A. Critical Areas Checklist. Pursuant to Sections 17.65.060 and 17.65.080, every application for an activity that might alter or adversely affect a critical area or associated buffer shall include a critical area checklist on a form provided by the director. The checklist shall identify all critical area indicators and/or all known critical areas within 300~~two hundred~~ feet of the proposed activity or within a distance otherwise specified in this chapter. The checklist shall be signed by the applicant and shall inform the applicant that if the information on the checklist is later determined incorrect, then any permit or approval issued based on misinformation (as described in Section 17.65.080(C)(4)) could be rescinded and the site required to be restored to its original condition prior to disturbance.

B. Critical Areas Report~~Site Assessment~~ Required. If, after the site visit, the director determines that the proposed activity area is within 300~~two hundred~~ feet, or within a distance otherwise specified in this chapter, of an area that may contain critical area indicators, or if the director determines that the proposed activity will adversely impact a critical area or its associated buffer, then a complete critical areas ~~site assessment~~report shall be required. Additionally, ~~C~~critical areas ~~site assessments~~reports, as described in more detail in the various sections for each type of critical area, shall be submitted as part of a complete application for a development permit or other approval of land use activities having the potential to impact critical areas or their buffers, by a qualified professional~~expert~~.

C. Critical Areas Report ~~Site Assessment~~ Preparation. The critical areas report ~~site assessment~~ shall be prepared by a qualified professional~~expert~~ for the type of critical area or areas involved and shall contain the information specified for each type of critical area. In general, the ~~site~~

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Commented [AP94]: Gap Analysis 2.9

~~assessment~~ critical areas report shall include a critical area inventory, an assessment of direct and indirect impacts and, where applicable, a proposed mitigation plan demonstrating consistency with mitigation sequencing outlined in Section 17.65.160(C), land use restrictions and landowner management, and maintenance and monitoring responsibilities. The qualified professional~~expert~~ may consult with the director prior to or during preparation of the ~~site assessment~~ critical areas report to obtain approval of modifications to the contents of the critical areas report ~~site assessment~~ where, in the judgment of the qualified professional~~expert~~, more or less information is required to adequately address the critical area impacts and required mitigation. The director shall allow for peer review and receipt of recommendations from qualified resource agency personnel as part of the process for approval of qualified professionals~~experts~~.

D. Any site plans required by this chapter may be combined into a single site plan wherever possible.

E. Critical Areas Determination and Conditions of Approval. Upon receipt of a properly completed ~~site assessment~~critical areas report, the director shall make a formal determination on the proposed activity as to whether it meets the requirements of this chapter and under what conditions. In making this determination, the director shall utilize the information provided in the critical areas ~~site assessment~~ report and all other resource information available. If the director determines that additional technical information or input is necessary or warranted, the director shall contact appropriate federal, state or tribal agencies to provide review and comment on the proposed activity. Formal determinations made by the director shall include the basis and rationale for the determination, as well as detailed specification of related conditions of approval, land use prohibitions, and required landowner mitigation, management, monitoring and/or maintenance. All such requirements shall be clearly shown on plans in the application file~~filed with the director~~.

F. Complete Record. A complete record of all formal determinations by the director, along with related critical areas checklists, critical areas reports~~site assessments~~, binding agreements, conditions of approval, land use prohibitions, required mitigation and a full record of comments received from federal, state or tribal agencies, shall be maintained and made available to the public upon request.

17.65.100 Exemptions~~Application of standards~~.

Exemptions from Critical Areas Review Requirements. Subject to the limitations established in this chapter, the following project types may be exempted from the detailed critical area review requirements of this chapter when there will be no net loss to critical area ecological values and functions, and the following situations and/or conditions apply. All such activities shall be carried out in ways that cause no net loss of ecological values and functions to critical areas and their buffers. If any damage is caused to a critical area or buffer in connection with such activity, the critical area and its buffer must be restored to achieve no net loss. To be exempt does not give permission to destroy a critical area or ignore risk. Proponents of such activities shall be

Commented [AP95]: Gap Analysis 2.9

Commented [AP96]: Gap Analysis 2.9

Commented [RH97]: Requirement for mitigation plan and cross-reference to requirements in section below

Commented [AP98]: Gap Analysis, Section 2.10; Revise section title and strengthen introduction for ease of implementation.

Commented [AP99]: Gap Analysis, Section 2.2 and 2.10, Relocated from SWMC 17.65.020(D)

Commented [RH100]: Addition from WDFW

Commented [RH101]: Addition from WDFW

Commented [RH102]: Addition from WDFW responsible for notifying the director if any damage occurs and shall provide all necessary restoration or mitigation. For information on identifying, protecting, or mitigating adverse impacts to critical areas, refer to sections in this chapter on wetlands, critical aquifer recharge areas, geologically hazardous areas, fish and wildlife habitat conservation areas, and frequently flooded areas.

~~The standards of this chapter shall apply to all public and private proposals for new structures, proposed additions to structures, short subdivisions and subdivisions, and grading and drainage activity located on either public or private property. Projects may be exempted from the detailed critical area review requirements of this chapter when the following situations and/or conditions apply:~~

A. Emergencies that Threaten the Public Health, Safety and Welfare. An emergency is an unanticipated and imminent threat to the public health or safety or to the environment which requires immediate action within a period of time too short to allow full compliance with this chapter. Emergency actions that create an impact to a critical area or its buffer shall use reasonable methods that can address the emergency but also that have the least possible impact to the critical area or its buffer. The responsible party shall restore the critical area and buffer after the emergency to the extent feasible, as determined by the ~~city planner~~director. The person or agency undertaking such action shall notify the director within one (1) working day or as soon as practical following commencement of the emergency activity. Following such notification, the director shall determine if the action taken was within the scope of the emergency actions allowed in this subsection. If the director determines that the action taken or any part of the action taken was beyond the scope of allowed emergency actions, then the enforcement provision shall apply. Restoration must be initiated during the subsequent planting season and completed in a timely manner. Any mitigation and/or restoration necessary to bring the action into compliance with these critical area requirements shall be undertaken pursuant to an approved mitigation plan or other plan that is consistent with the critical area requirements of this chapter.

B. Normal and routine maintenance, operation, or repair of lawfully established~~existing structures,~~ structures, facilities, utilities, sewage disposal systems, potable water systems, drainage facilities, stormwater ponds, or public and private roads and driveways associated with preexisting residential or commercial development; provided, the normal maintenance, repair and operation activities do not expand into critical areas or associated buffers, do not expose soils, do not alter topography, do not destroy or clear native vegetation, and do not diminish water quality or quantity. ~~provided~~ A~~a~~ny maintenance or repair activities shall use reasonable methods with the least amount of potential impact to the critical areas and any impact to a critical area or its buffer shall be restored after the maintenance to the extent feasible.

~~C. Normal maintenance, repair, or operation of existing structures, facilities, and improved areas accessory to a single-family residential use, provided any maintenance or repair activities shall use reasonable methods with the least amount of potential impact to the critical area and~~

Commented [RH103]: Relocated from below and revised.

Commented [RH104]: Gap Analysis, Section 2.6; Relocated to SWMC 17.65.060(A)

Commented [RH105]: Addition for clarity

Commented [RH106]: Gap Analysis, Section 2.2; WDFW guidance

Commented [RH107]: This exemption combines provisions from SWMC 17.65.020.D.3 and 17.65.100.C

Commented [RH108]: Addressed under subsection J of this section

~~any impact to a critical area or its buffer shall be restored after the maintenance to the extent feasible.~~

~~D~~C. Modification of a legally established development or use~~n existing single-family residence~~ that does not change the use~~ from residential~~, that does not expand the building footprint or improved area, that does not increase impervious surfaces~~,~~ or ~~increase~~ sewer effluent, and that does not adversely impact critical areas or their buffers.

Commented [RH109]: Combined SWMC 17.65.020.D.4, 17.65.100.D, and 17.65.100.E

~~E. Modification of other than a single-family use which does not expand the building footprint, alter the use or increase septic effluent, pursuant to the requirements of the nonconforming use and structure provisions, and does not adversely impact critical areas or their buffers.~~

Commented [RH110]: Gap Analysis, Section 2.2

D~~F~~. Passive ~~O~~outdoor recreational activities which do not adversely impact critical areas or their buffers.

E~~G~~. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling soil, planting crops, or changing existing topography, water conditions or water sources and provided further that the activity does not adversely impact critical areas or their buffers.

F~~H~~. The operation and maintenance of diking and drainage systems that do not alter their historic condition.

G~~I~~. Education and scientific research activities that do not adversely impact critical areas or their buffers.

H~~J~~. Construction or modification of navigational aids and channel markers.

I~~K~~. Site investigation work necessary for land use applications such as surveys, soil logs, percolation tests and other related activities which do not adversely impact critical areas or their buffers. In every case, critical area impacts shall be minimized and disturbed areas shall be immediately restored.

J. Maintenance activities such as mowing and normal pruning or removal of nonnative plant species such as Himalayan blackberries, Japanese knotweed, reed canary grass; provided, that such maintenance activities are limited to existing landscaping improvements and do not expand into critical areas or associated buffers, do not expose soils, do not alter topography, do not destroy or clear native vegetation, and do not diminish water quality or quantity. Removal shall be restricted to hand removal unless permits from the appropriate regulatory agencies have been obtained for approved biological or chemical treatments or mechanical methods.

Commented [RH111]: Gap Analysis, Section 2.2; WDFW guidance

K~~M~~. Fish, wildlife, wetland and/or riparian enhancement activities not required as mitigation; provided, that the project is approved by the U.S. Department of Fish and Wildlife, the Washington State Department of Fish and Wildlife, the Washington State Department of

Commented [RH112]: Gap Analysis, Section 2.2

Commented [RH113]: Revised for clarity; Ecology Publication No. 22-06-014

Ecology, ~~or~~ the U.S. Army Corps of Engineers, or another public agency approved by the director, and the activities are consistent with the most recent editions of the City's Comprehensive Plan, Shoreline Master Plan, floodplain management plans, water quality plans, and other plans adopted by the City Council.

L. Existing and ongoing agriculture activities, including related development and activities that do not result in an expansion or further expansion into a critical area or its standard buffer.

M. Removal of hazard trees after issuance of a letter of exemption. Upon issuance of a letter of exemption, removal of a hazard tree as defined in Section 17.65.025 that has been determined to have a high probability of falling due to a debilitating disease or a structural defect and potential for significant property damage or personal injury if it falls, provided that it is demonstrated to the satisfaction of the director that an imminent threat or risk exists or the criteria in Section 12.40.080 has been met. Where the existence of a safety hazard cannot be readily determined by the director, the landowner shall submit a written report from a certified arborist documenting the hazard.

1. Hazard tree removal shall be conducted in a manner that avoids or minimizes adverse impacts on ecosystem functions, to the extent practicable, including avoiding or limiting damage to remaining trees and vegetation within the critical area and its associated buffer. Where feasible, creating wildlife snags is encouraged as an alternative to complete tree removal.

2. If a tree is determined to be a hazard based on the criteria above, the subject tree removed from critical areas must be mitigated. Any removed tree or vegetation shall be replaced with appropriate species. Replacement shall be performed within one calendar year. The director may approve alternative tree species to promote critical area functions and values.

~~N. Developments in the floodplain other than the following shall require a floodplain approval:~~

~~1. Minor structures and additions for which a building permit is not required and which create no new residence such as a slab on grade, or a storage building less than one hundred twenty square feet in area, or other structures exempt from permits in the International Building Code;~~

~~2. Fills of less than twelve cubic yards or which will not raise the level of the land above that of the surrounding area;~~

~~3. Normal maintenance, resurfacing and rebuilding, at comparable grade of streets, and accessways;~~

~~4. Underground improvements and excavations;~~

Commented [RH114]: Addition to require consistency with the "most recent editions" of these plans

Commented [RH115]: Addition per City comment

Commented [RH116]: Gap Analysis, Section 2.2 and 2.9; Relocated from SWMC 17.65.020(D)(2)

Commented [RH117]: Gap Analysis, Section 2.2; WDFW guidance

Commented [RH118]: Incorporation of standards to align with SWMC 17.65.530(C)(4)

Commented [AP119]: Gap Analysis, Section 2.10; Delete and rely on SWMC 17.66

~~5. Maintenance and minor repair of existing improvements;~~

~~6. Improvements to structures listed on the National or State Register of Historic Places, subject to Section 17.65.120;~~

~~7. Other minor developments that cause no significant impoundment or displacement of floodwaters, such as open fences, signs and small unenclosed structures.~~

~~All such activities shall be carried out in ways that cause the least impact to critical areas and their buffers. If any damage is caused to a critical area or buffer in connection with such activity, the critical area and its buffer must be restored to the extent feasible. To be exempt does not give permission to destroy a critical area or ignore risk. Proponents of such activities shall be responsible for notifying the director if any damage occurs and shall provide all necessary restoration or mitigation. For information on identifying, protecting or mitigating adverse impacts to critical areas, refer to sections in this chapter on wetlands, aquifer recharge areas, geologically hazardous areas, fish and wildlife habitat conservation areas, and flood hazard areas.~~

Commented [RH120]: Relocated to beginning of section and revised.

17.65.120 General construction and maintenance standards.

All proposals specified in Section 17.65.060~~17.65.050~~ and located in or near critical areas shall meet the following general construction and maintenance standards:

A. All buffer areas and other designated protected areas shall be fenced with a highly visible and durable protective barrier during construction to prevent access and protect critical areas.

B. All disturbed areas located in or near critical areas on the site, including development coverage and construction activity areas, shall be controlled in a manner sufficient to control drainage and prevent erosion during construction, and revegetated to promote drainage control and prevent erosion after construction. In cases where erosion potential is severe or directly adjacent to streams or riparian buffer areas, the director may require a vegetation and revegetation report to be prepared by a qualified professional with landscaping, plant ecology and botany education and experience. All revegetation shall consist of trees, shrubs, and ground cover that is suitable for the location and does not require permanent irrigation systems for long-term survival.

Commented [RH121]: Addition per City comment

Commented [AP122]: Gap Analysis, Section 2.11; WDFW addition

C. When development is proposed in critical areas, low impact development (LID) techniques will be the priority method before grading the site. Pursuant to Chapter 13.26, or as subsequently amended, low impact development best management practices (LID BMPs) are described in the stormwater manual and the Low Impact Development Technical Guidance Manual for Puget Sound, published by the Puget Sound Partnership and Washington State University Extension. ~~g~~Grading activities shall be strictly limited to areas located on the most environmentally suitable portion of the site, as determined by the director in consultation with qualified professional~~expert~~s.

Commented [AP123]: Gap Analysis, Section 2.11; WDFW addition

D. All drainage associated with the development shall be connected to approved drainage control systems with approved discharge points in compliance with standards set by the city engineer, as specified in Titles 13, Water and Sewer, and 15, Buildings and Construction, or as subsequently amended.

Commented [RH124]: Addition per City

E. When calculating detention requirements, all disturbed area on the site shall be calculated as development coverage, including revegetated areas.

F. A development proposal's design shall account for a one-in-one-hundred-year seismic and flood event, unless a design for a greater event is required by other applicable codes. The International Building Code's construction standards for seismic design as adopted by Section 15.04.020(A), or as subsequently amended, shall constitute compliance with this section.

G. All grading in critical areas shall not occur prior to April ~~March 3~~1st and shall be stabilized by October 31st unless demonstrated to the satisfaction of the director based on approved technical analysis that no environmental harm or safety issues would result from grading between November 1st and March 31st.

Commented [RH125]: Revision per City

H. Construction activity shall adhere to a prepared schedule to be approved by the director prior to issuance of a building permit. This schedule shall include, but not be limited to, a schedule for compliance with project conditions, limits of construction and work activities, equipment to be used, start and duration of each phase, and work sequencing.

I. The director may require additional construction practices and methods and requirements, including, but not limited to, best management practices and limitations on construction equipment permitted on the site, to protect critical areas on site, on adjacent sites, and within the drainage basin.

J. Dumping or filling is prohibited in wetlands and special flood risk areas. Dumping includes deposit of yard waste, trash, litter, refuse, dirt, concrete, asphalt, rocks or similar materials, but shall not include work authorized by approved plans and permits.

17.65.150 Reasonable use exception.

If the application of this chapter would result in denial of all reasonable and economically viable use of a property, then a landowner may seek a reasonable use exception from the standards of this chapter, except for the frequently flooded ~~hazard~~ critical area where no exceptions are allowed under this chapter. The property owner and/or applicant for a reasonable use exception has the burden of proving that the property is deprived of all reasonable uses. Reasonable use exceptions shall only apply to legal lots of record established prior to the effective date of this chapter. Reasonable use exceptions are intended as a "last resort" when no plan for mitigation can meet the requirements of this chapter and allow the applicant a reasonable economically viable use of ~~his or her~~their property. This section applies to

Commented [RH126]: Addition per City

residential development only. The reasonable use exception shall only be granted under the following conditions:

Commented [AP127]: Gap Analysis, Section 2.12

A. The application of this chapter would deny all reasonable and economically viable use of the property so that there is no reasonable and economically viable use with a lesser impact on the critical area than that proposed;

B. The proposed development does not pose a threat to the public health and safety; and any proposed modification to a critical area will be evaluated by the hearing examiner through consideration of a critical areas report ~~site assessment~~ and a mitigation plan which demonstrates proper use of the mitigation sequence outlined in Section 17.65.160(C), prepared by the applicant's qualified consultant pursuant to the requirements of this chapter, and will be the minimum necessary to allow reasonable and economically viable use of the property;

Commented [AP128]: Gap Analysis, Section 2.12; Commerce CAO Checklist

C. The inability to derive reasonable economic use is not the result of the applicant's actions or that of a previous property owner, such as by segregating or dividing the property and creating an undevelopable condition;

D. The hearing examiner may issue, as part of the findings in any decision made under this subsection, conditions of approval, including modifications to the size and placement of structures and facilities to minimize impacts to critical areas and associated buffers. As part of the findings, the hearing examiner may also specify mitigation requirements that ensure that all impacts are mitigated to the maximum extent feasible;

E. The hearing examiner shall provide opportunity for public comment before a decision on a request for a reasonable use exception is made, including comments from appropriate federal, state and tribal natural resource agencies if applicable. The director shall maintain a record of all information, including public comments, which were used in making a decision on a request for a reasonable use exception. This record shall be made available to the public upon request; and

F. Decisions of the hearing examiner may be appealed to the Superior Court ~~city council~~ pursuant to Chapter XX~~2.90~~.

Commented [AP129]: Gap Analysis, Section 2.12

G. Public Agency and Utility Exception. A request for a critical area public agency and utility exception may be made if the application of this chapter would prohibit a development proposal by a public agency or public utility.

Commented [AP130]: Gap Analysis, Section 2.12 Consider adding a provision for public agency and utility exceptions.

1. The public agency and utility exception shall only be granted under the following conditions:

a. There is no other practical alternative to the proposed development with less impact on the critical areas;

b. The application of this chapter would unreasonably restrict the ability to provide services to the public;

c. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;

d. The proposal will result in no net loss of critical area functions and values consistent with the best available science; and

e. The proposal is consistent with other applicable regulations and standards.

2. Any authorized alteration of a critical area under this section may be subject to conditions established by the city and shall require mitigation under an approved critical areas report.

3. The standards above in Section 17.65.150(D) through (F) apply.

17.65.160 Critical area and buffer mitigation requirements—General provisions.

A. Buffers.

1. As described in more detail in each relevant section, buffers have in some cases been determined necessary and appropriate to protect critical areas and their functions or to prevent risk from a critical area hazard. In those sections of this chapter where specific buffers are identified, those buffers are deemed "required" or "standard" buffers.

If a project or activity does not propose any alteration of those buffers or of the associated critical area and the director determines that these buffers are adequate to protect the critical area or to prevent risk of a hazard from the critical area, then subject to the provisions of Section 17.65.170, no additional mitigation will be required. Once the critical area and its buffer have properly been delineated through a critical areas assessment and any conditions of approval have been established to ensure protection of the critical area function, no further critical areas mitigation assessment is required, except as necessary to ensure that long-term protection of critical areas and buffers is met in practice through compliance with Section 17.65.170(A)(1). The applicant shall ensure the protection of critical areas by performing a critical areas report.~~site assessment on the entire parcel.~~

a. If a critical area or buffer is under different ownership and is not accessible by the applicant, the critical area and buffer boundaries and information for the report will be obtained from available maps and information, including a visual assessment if possible.

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2. If, however, based on a critical areas report ~~site assessment~~ by a qualified professional~~expert~~, unique features of the particular critical area or its buffer or of the proposed development, the qualified professional~~expert~~ determines that additional buffers and/or mitigation measures beyond these buffers are necessary to adequately protect the function of the critical area or to prevent risk of a hazard from the critical area, the director may impose such additional mitigation requirements, provided the qualified professional~~expert~~ can demonstrate, based on best available science, why that additional mitigation or buffering is required to adequately protect the critical area function or to prevent hazard from a critical area.

3. Further, if the applicant proposes to reduce these buffers or to alter the critical area or its required buffer, then the applicant shall demonstrate consistency with mitigation sequencing pursuant to Section 17.65.160(C) ~~pursuant to Section 17.65.170, based on~~using the best available science, to demonstrate why such buffer and/or critical area modification, together with such alternative mitigation proposed in the critical areas ~~assessment~~report, is sufficient to provide equal or better protection of the critical area function or provide no increased risk of a hazard from the critical area.

4. The critical areas ~~assessment~~ report and the conditions of approval shall make adequate provision for long-term protection related to critical areas and buffers, and shall include the requirements established in Section 17.65.170. However, critical areas and/or buffers identified as protected critical areas (PCAs) as defined in this chapter do not require any provisions for public access, and appropriate restrictions may be included in the easement or title documents. Critical areas and/or buffers identified as PCAs are however subject to periodic inspection by the director, upon prior notification to the landowner, to ensure long-term protection.

5. Protected Critical Areas (PCAs).

a. For proposed land divisions, critical areas and their associated buffers identified through the critical areas report ~~site assessment~~ and city review process shall be designated as PCAs and placed in separate tracts or easements and protected through protective covenants shown on the face of the recorded plat. (See Protected critical area (PCA) requirements, Section 17.65.170.) Protected critical areas shall be placed in separate tracts under a single owner, unless an easement or alternative method is shown to provide superior protection over time. An example of an easement that is preferable to a separate tract would be an easement conveyed to a third-party conservation advocacy group.

b. For development projects or land use activities not involving a new land division, the critical area and its associated buffer identified through the critical areas report and city review ~~site assessment~~ process shall be designated as a PCA and ~~instead be~~ identified as a PCA by either easement, open space designation, or permit conditions, all including restrictive covenants ~~and recorded with the auditor on a site plan to insure long-term protection~~. A site plan depicting the boundaries of the

Commented [RH132]: Revised for clarity critical area and buffer shall be included as an exhibit to the recorded document. All recorded instruments shall include restrictive covenants that ensure the long-term protection of the PCA. The recorded PCA shall run with the land and be binding upon current and future property owners. Critical areas and/or buffers identified as PCAs are subject to periodic inspection, upon prior notification to the landowner, to ensure long-term protection.

6. Open Space—Protected Area. If a portion of a parcel contains a proposed development project that triggers a development permit, and has not had its critical areas and associated buffers delineated because it was outside the project or area affected by the project, then further critical areas assessment may be required in the future prior to any change of use, or new development permit for that portion of the site. See Section 17.65.080.

B. Mitigation. All proposed alterations to critical areas or associated buffers shall require mitigation sufficient to provide for and maintain the functional values of the critical area or to prevent risk from a critical area hazard and shall give adequate consideration to the reasonable economically viable use of the property. Mitigation of one critical area impact should not result in unmitigated impacts to another critical area. ~~Mitigation may include, but is not limited to: buffers, setbacks, limits on clearing and grading, best management practices for erosion control and maintenance of water quality, compensatory mitigation or other conditions appropriate to avoid or mitigate identified adverse impacts.~~

C. ~~Preferred~~ Mitigation Sequenc~~e~~ing. Mitigation includes avoiding, minimizing or compensating for adverse impacts to regulated critical areas or their buffers. The ~~preferred~~ sequence of mitigation is defined below:

1. Avoid the impact altogether by not taking a certain action or parts of an action;

2. Minimize the impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

3. Rectify the impact by repairing, rehabilitating or restoring the affected environment to the conditions existing at the time of the initiation of the project or activity;

4. Reduce or eliminate the impact over time by preservation and maintenance operations during the life of the action;

5. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments; and

6. Monitor the impact and take appropriate corrective measures.

Commented [RH133]: Revision for clarity

Commented [AP134]: Gap Analysis, Section 2.13

Commented [AP135]: Gap Analysis, Section 2.13; WAC 197-11-768

~~6~~D. All proposed mitigation shall be included in the critical areas ~~assessment~~report. The critical areas mitigation plan shall include the following, in addition to the requirements provided in each individual critical area section:

Commented [RH136]: Addition to clarify specific mitigation requirements located in each critical area section

~~a~~1. Description of existing conditions, functions, and values,

2. Discussion of the application of mitigation sequencing to ensure no net loss of ecological functions and values,

Commented [RH137]: Addition per City

~~b~~3. ~~D~~Justification, description, and quantification of impacts,

Commented [RH138]: WDFW addition

~~c~~4. Description of proposed mitigations (critical areas lost/critical areas gained),

5~~d~~. Functional analysis of mitigation/analysis of prevention of risk hazard,

6~~e~~. Proposed applicant or landowner monitoring or inspection measures and schedule, including specification of method and frequency of submittal of reports on results, and

7~~f~~. Contingency plan. A contingency plan shall be established for compensation in the event the mitigation project is inadequate or fails. The contingency plan is to provide specific corrective measures for such common mitigation plan failings as plant mortality, vandalism, damage due to wildlife grazing, grading errors, and hydro-regime problems.

Commented [RH139]: Addition per City

Such assessments must follow the Washington State Department of Ecology's standards.

~~D~~E. The director shall make the final determination regarding required mitigation. Required mitigation shall be included in an approved mitigation plan.

F~~E~~. Financial Assurance. The director ~~or his/her designee~~ shall require the complete mitigation proposed in the critical areas report ~~site assessment~~ to be completed prior to final approval of the development permit. For all projects with an estimated mitigation cost of four thousand dollars ($4,000) or over, the director shall require financial assurance that will assure compliance with the mitigation plan if the complete mitigation proposed in the critical areas report ~~site assessment~~ cannot be completed prior to final approval of the development permit.

1. Financial assurance shall be in the form of either 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, shall be in the amount of one hundred twenty-five percent (125%) of the estimated cost of the uncompleted actions or construction as approved by the director, and shall be assigned in favor of the C~~c~~ity of Sedro-Woolley. The term of the financial assurance shall remain in place until the required mitigation is complete.

Commented [RH140]: Addition per City

~~F. Monitoring of Critical Areas Mitigation. On a regular basis, but no longer than once every two years, the director shall make a significant sampling of projects and activities for which critical area site assessments were required, including mitigation plans, potentially impacting fish-bearing streams and/or Category I, II or III wetlands. The sample shall be taken from permits or approvals issued more than ten months prior to the sampling date. The selected sites shall be inspected for critical area and buffer size and condition and for compliance with any required mitigation or other conditions of approval. Results of such sampling shall be included in the permanent record for the project or activity, shall be reported to the city council, and shall also be utilized for enforcement purposes.~~

Commented [RH141]: Deletion per City

17.65.170 Protected critical area (PCA) requirements.

A. PCA Identification and Recording.

1. PCA Identification. Approval of development projects which trigger a development permit and other land use activities that can cause adverse impacts to critical areas and/or their buffers shall require the identification and designation of PCAs by the director. This section is intended to apply to unique critical area elements such as buffers or wellhead protection areas that can cause adverse impacts; location in the floodplain unless adjacent to a wetland or riparian buffer area~~corridor~~ does not require recording of a PCA. PCAs shall include all critical areas and associated buffers on the proposed project site which have been identified through the critical areas~~site assessment~~ review process.

2. PCA Recording. All PCAs shall be recorded with the Skagit C~~c~~ounty auditor in accordance with the procedures established under this section. The applicant shall be responsible for all fees and other costs associated with recording of PCAs.

3. Binding Agreements. For each project or activity that requires recording of PCAs, the following information shall be recorded with the Skagit County auditor as part of a binding agreement between the landowner and the city which shall run with the land and be readily available to the public upon request:

a. Binding agreement signed by the landowner and the director~~ or designee~~ which stipulates any special conditions of approval, protective covenants, binding conditions, or other requirements such as use restrictions, required mitigation, and/or landowner maintenance or monitoring requirements established at the time of approval;

b. Required final plat map or site plan clearly showing the locations of PCAs, existing vegetation and permanent buffer edge markers;

c. Additional information necessary to document the critical areas inventory at the time of approval, including descriptions of identified critical areas, their locations, functions and values, and existing critical areas or buffer vegetation;

d. Identification of any local responsibilities beyond those required by this chapter;

e. Reference to the file containing the complete record of information pertaining to approval of the project or activity.

~~4. Permanent Buffer Edge Markers. Except as provided under subsection (A)(4)(a) of this section, the outer edges of all PCAs, with the exception of aquifer recharge areas, shall be clearly marked on-site by the applicant or landowner with permanent rebar stakes and critical area markers. Critical area markers may be either approved critical area signs or inexpensive steel posts painted a standard color approved by the director that is clearly identifiable as a critical area marker. Installation of permanent markers shall be the responsibility of the landowner.~~

~~a. The director may waive or modify the requirement for permanent buffer edge markers; provided, that any such decision shall be based on a site-specific determination that future verification of PCA locations will not be substantially more difficult without the placement of permanent markers and that such waiver or modification will not result in reduced long-term protection of critical areas. The determination shall be included in the permanent record and made available to the public upon request.~~

~~b. Where such permanent markers are required, the director shall specify their frequency of placement and general location. Permanent markers shall be placed to locate the edge of the PCA to an approximate accuracy of within five percent of the specified buffer width or within five feet, whichever is larger. The spacing intervals of the markers shall be such as to provide comparable accuracy of line-of-sight determination of buffer edges. The locations of all required stakes/markers shall be shown on the plat map or site map recorded with the auditor.~~

B. Protected Critical Area (PCA) Designations for New Land Divisions.

1. For land divisions where critical areas review ~~site assessments~~ has~~ve~~ occurred pursuant to subsection (A)(1) of this section, all PCAs shall be placed into separate tracts or easements, whose uses shall be regulated by the provisions of this chapter and any conditions of approval, including protective covenants and binding agreements as provided for under subsection A of this section. ~~Areas within a PCA can be included in total acreage for development purposes and may be used in lot area or density calculations.~~ PCAs may be owned and maintained by the owner of the lot of which they are a part or transferred to the homeowners association or land trust. Protected critical areas shall be placed in separate tracts under a single owner, unless an easement or alternative method is shown to provide superior protection over time. An example of an easement that is preferable to a separate tract would be an easement conveyed to a third-party conservation advocacy group.

Commented [RH142]: Relocated and revised below

Commented [AP143]: Gap Analysis, Section 2.14

Commented [RH144]: Deletion per City comment - addressed in SWMC 17.04.030

2. Recording. PCA designations shall be recorded with the Skagit County auditor as part of the plat approval process. The auditor file number referencing the agreement shall be on the face of the plat and its provisions shall run with the land.

3. PCA Descriptions. The location of PCAs shall be clearly identified on site plans and on preliminary and final plat maps. PCAs shall be labeled using the letters A through Z, or another labeling system approved by the director. Where more than one lot is involved, each lot shall carry independent labeling as described in subsection (D)(1) of this section.

4. Ingress, Egress and Use. Owners of PCAs shall grant ingress and egress by the director ~~or his or her agent~~ for monitoring and evaluation of compliance with established conditions of approval, binding conditions or any required mitigation. As part of an approved land division, the use limitations required of a designated and regulated critical area according to the provisions of this chapter, including the conclusions of the critical areas ~~site assessment~~ report and any conditions of approval, protective covenants and other binding conditions, shall be clearly stated on the face of the recorded plat.

C. PCAs on Preexisting Lots.

1. For development proposals and other land use activities that can adversely impact critical areas on preexisting lots, not part of a proposed land division or other form of multiple lot development, PCAs shall be identified on a scaled site plan showing the location of the PCA, structures (existing and proposed) and their distances from the PCA and lot lines to show relative location within the subject parcel(s). The project or activity shall be conditioned for critical area protection and the resulting information recorded with the Skagit County auditor as defined under subsection A of this section. ~~The site plan may be prepared by the applicant and all distances and locations of structures may be measured from the established PCA boundary to within plus or minus five feet.~~

Commented [AP145]: Gap Analysis, Section 2.14

2. Ingress and Egress. Owners of PCAs shall grant ingress and egress to the director ~~or designee~~ for monitoring and evaluation of compliance with established conditions of approval, binding conditions or any required mitigation.

D. PCA Mapping, Labeling, and Area Calculations.

1. All PCAs Shall Be Mapped. The area shall be delineated on the final plat map or on a site plan to an accuracy of plus or minus five (5) feet horizontal and monumented in the field by a qualified professional ~~expert~~ pursuant to subsection (~~A~~E)(~~4~~2) of this section. If a survey was not used to map the critical area, a note on the final plat map shall be recorded stating that a legal survey was not performed to delineate the critical area and that the surveyor is not incurring liability for the exact boundaries of the critical area on the plat map.

~~3~~2. All PCAs shall include the necessary labeling to show calculated area (in square feet or acreage), and type and/or class of critical area within each lot. This information shall be noted on the face of the approved plat or site plan.

E. PCA Field Identification and Buffer Edge Markers.

~~2~~1. During construction phases of development, ~~clear~~high visibility temporary marking ~~using~~, such as flagging and staking, shall be maintained along the outer limits of the delineated PCA or the limits of the proposed site disturbance outside of the PCA. Prior to the start of construction activity, and as necessary during construction, temporary markings shall be inspected and approved by the director ~~or designee~~. The person responsible for inspecting the temporary flagging shall provide written confirmation to be included in the record as to whether or not the flagging has been installed consistent with the permit requirements prior to commencement of the permitted activity. This temporary marking shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.

2. Permanent Buffer Edge Markers. Except as provided under subsection (E)(2)(a) of this section, the outer edges of all PCAs, with the exception of critical aquifer recharge areas, shall be clearly marked on-site by the applicant or landowner with clearly identifiable critical area markers and fencing approved by the director. Installation of permanent markers shall be the responsibility of the landowner.

a. The director may waive or modify the requirement for permanent buffer edge markers; provided, that any such decision shall be based on a site-specific determination that future verification of PCA locations will not be substantially more difficult without the placement of permanent markers and that such waiver or modification will not result in reduced long-term protection of critical areas. The determination shall be included in the permanent record and made available to the public upon request.

b. Permanent buffer edge markers shall include a permanent fence, such as a white or unpainted split rail fencing, with the critical area markers. Fencing shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes impacts to the critical area and associated habitat.

c. Where such permanent critical area markers are required, the director shall specify their frequency of placement and general location. Permanent markers shall be placed to locate the edge of the PCA. The spacing intervals of the markers shall be every 50 to 100 feet or, one per lot, whichever is greater, such as to provide comparable accuracy of line-of-sight determination of buffer edges. The locations of all required stakes/markers shall be shown on the plat map or site map recorded with the Skagit County auditor.

Commented [RH146]: Ecology Publication No. 22-06-014

Commented [RH147]: Relocated and revised

Commented [RH148]: Addition per City; Ecology Publication No. 22-06-014

Commented [RH149]: Relocate from above and revised

Commented [RH150]: Addition to clarify frequency

Commented [AP151]: Gap Analysis, Section 2.14

~~3. All PCAs shall include the necessary labeling to show calculated area (in square feet or acreage), and type and/or class of critical area within each lot. This information shall be noted on the face of the approved plat or site plan.~~

Commented [RH152]: Relocated to above

~~4~~3. Signs or Fencing Required as Part of Critical Area Mitigation. The director shall require permanent ~~signs or fencing~~buffer edge marking per subsection (E)(2) above where the director determines that it is a necessary component of a mitigation plan. Examples include situations where modifications ~~variances~~ to the dimensional requirements of this chapter have been granted and the development will occur within a PCA; or where the sensitivity of the PCA will be impacted unless access to the PCA is limited (such as changes of use to farming where livestock is involved). The intent is to provide clear and sufficient notice, identification and protection of critical areas on site where damage to a critical area or buffer by humans or livestock is probable due to the proximity of the adjacent activity.

~~5~~4. Sign, Marker and Fence Maintenance. It is the responsibility of the landowner, or any subsequent landowner, to maintain the required PCA markers, signs or fences in working order throughout the duration of the development project or land use activity. Maintenance includes any necessary replacement. Removal of required signs, markers or fences without prior written approval of the director shall be considered a violation of this chapter and subject to the code enforcement procedures under Title 18, Code Enforcement, or as subsequently amended.

Commented [RH153]: Addition per City

17.65.180 Incentives.

The following incentives are intended to minimize the burden ~~to~~on individual property owners from application of the provisions of this chapter and assist the city in achieving the goals of this chapter:

A. Open Space. Any property owner on whose property a critical area or its associated buffer is located and who proposes to put the critical area and buffer in a separate open space tract may apply for current use property tax assessment through the Skagit County Assessor's Office on that separate tract pursuant to Chapter 84.34 RCW.

B. Conservation Easement. Any person who owns an identified critical area or its associated buffer may place a conservation easement over that portion of the property by naming a qualified designee under RCW 64.04.130 as beneficiary of the conservation easement. This conservation easement can be used in lieu of the creation of a separate critical areas tract to qualify for open space tax assessment described in subsection A of this section.

The purpose of the easement shall be to preserve, protect, maintain, restore and limit future use of the property affected. The terms of the conservation easement may include prohibitions or restrictions on access and shall be approved by the property owner and the director~~qualified designee~~.

17.65.190 General natural resource preservation requirements.

A. For purposes of this section, natural resource lands shall be those lands designated by Skagit County as agricultural, forest or mineral resource lands of long-term commercial significance, and those lands within the city's urban growth area which are currently managed as natural resource lands but which may be designated as an urban reserve area or transitional area, and those lands designated as mineral resource sites within the city limits.

B. All short plats, subdivisions, development permits and building permits issued for development activities on, or within 500~~five hundred~~ feet of, lands designated as agricultural lands, forest lands or mineral resource lands, shall contain a notice that: "The subject property is within or near designated agricultural, forest or mineral resource lands on which a variety of commercial activities and management practices may occur that are not compatible with residential development for certain periods of limited duration."

C. To protect natural resource lands from conflicting uses, such as residential subdivisions, mobile home parks, multifamily residential or other such uses, and to provide a buffer for such uses from the incompatible activities associated with natural resource uses, subdivisions, mobile home parks, planned developments, and multifamily or cluster residential developments shall provide an open space buffer on the perimeter of the development next to the natural resource site(s). This buffer shall be at least 50 ~~fifty~~ feet in width, planted with appropriate vegetation based upon the existing site conditions and adjacent uses, and shall include a fence as required by the director. This buffer area shall be designated as a separate tract within the plat or development, to be maintained through a homeowner's association, or may be preserved through a conservation easement through private individual lots, as provided under Section 17.65.170. In either case, setbacks for structures, as required under the zoning ordinance, shall be from the property line or easement delineating the edge of the buffer area.

17.65.195 Natural resource area covenants, tracts, notices and dedications.

A. Covenants. All natural resource buffers established in compliance with this chapter shall be placed in a protective covenant.

B. Tracts. The city may require that any area classified as a natural resource area be placed in a permanent separate tract, rather than included in a protective covenant. A tract shall be required when the proposal includes a short subdivision or binding site plan. Such a tract shall be:

Commented [RH154]: Addition per City comment

1. Placed in the same ownership as the parcel it was segregated from;

2. Placed into an undivided common ownership of all lots within a proposed subdivision, short plat, planned development or binding site plan; or

3. Dedicated to a public agency who is willing to accept the tract for long-term management of the protected resource.

C. Notice on Title. The owner of property adjacent to a natural resource site, on which a development proposal is submitted shall file with the Skagit County auditor a notice in the public record of the presence of a natural resource area, or buffer area easement or tract, the limitations on actions in or affecting such areas, and the applicability of this chapter to the property. The applicant shall submit proof that the notice has been filed for recording before the city may approve any development proposal on the site. The notice shall run with the land and failure to provide such notice to any purchaser prior to transferring any interest in the property shall be a violation of this chapter.

D. The covenant requirements of this section shall not apply to activities permitted, under the provisions of this chapter, within utility easements or street rights-of-way.

Article II. Wetlands

17.65.200 Wetland~~s~~ designations and ratings.

Wetlands shall be identified and designated through a site visit and~~/or~~ a critical areas report ~~site assessment~~ utilizing the definitions, methods and standards set forth in the U.S. Army Corps of Engineers Wetlands Delineation Manual (January 1987 ~~Manual~~or as revised) and the Western~~,~~ Mountains, Valleys, and Coast Regional Supplement (May 2010 or as revised).

Wetlands shall be rated according to the Washington State Wetland Rating System for Western Washington: 2014 Update (Version 2) (Ecology Publication 23-06-009 or as revised). Wetland ratings are valid for five years; after such date the City shall determine whether a revision or additional rating is necessary.

17.65.210 Wetland~~s~~ initial project review.

A. A site visit shall be conducted to confirm the presence of wetland indicators listed in the critical areas checklist or identified on critical areas map references as being within ~~two hundred~~ 300 feet of a proposed project or activity. A positive confirmation by the director that site indicators are present or that the proposed project may impact the wetland area will then require a professional wetland report~~site assessment~~.

~~B. The director shall use the following map references to assist in making a determination:~~

~~1. Wetlands mapped under the National Wetland Inventory by the U.S. Department of the Interior; Fish and Wildlife Service;~~

Commented [RH155]: Gap Analysis, Section 3.1

Commented [RH156]: Deletion per City comment

Commented [RH157]: Gap Analysis, Section 3.1, Ecology Publication No. 22-06-014

Commented [RH158]: Gap Analysis, Section 3.2, Ecology Publication No. 22-06-014

Commented [RH159]: Gap Analysis, Section 3.2

Commented [RH160]: Relocated to SWMC 17.65.050 (Resource information and maps)

~~2. Areas mapped as hydric soils under the Soil Survey of Skagit County Area, Washington, by the United States Department of Agriculture; Soil Conservation Service;~~

~~3. A water of the state as defined under WAC 222-16-030 and maintained in the Washington State Department of Natural Resources Stream Type Maps;~~

~~4. Wetlands previously identified through the methodology specified under Section 17.65.200 for another project; and~~

~~5. City of Sedro-Woolley critical areas map as updated periodically by the planning department.~~

17.65.220 Wetlands ~~site assessment~~report requirements.

~~If a wetlands site assessment is required, it shall meet the following requirements:~~

A. Wetland reconnaissance. ~~A~~Prior to requiring a wetland report, a wetland reconnaissance may~~shall~~ be performed by a qualified wetlands professional. The reconnaissance shall identify the presence of wetlands within 300 ~~two hundred~~ feet of the project or activity area, if practicable. If th~~is~~e wetland reconnaissance demonstrates no wetlands are present within 300 ~~two hundred~~ feet of the activity area, then no further study is required;

B. If the wetland reconnaissance confirms the presence of a wetland, a~~A~~ wetland delineation and wetland report shall be ~~performed as part of a site assessment where a wetland reconnaissance confirms the presence of a wetland~~prepared. ~~or the applicant chooses to perform a delineation instead of a wetland reconnaissance.~~ The delineation shall be performed by a qualified wetland professional trained in conducting delineations in accordance with the methodology specified under Section 17.65.200 and the wetland report prepared in accordance with subsection C of this section;

C. Wetland Reports ~~Site Assessment~~. The ~~site assessment~~wetland report shall be prepared by a qualified ~~expert~~ wetland professional consistent with this section and Section 17.65.200. The ~~site assessment~~wetland report shall include the following:

1. The name and contact information of the applicant; the name, qualifications, and contact information of the primary author(s) of the report; a description of the proposal; identification of all the local, state, and/or federal wetland-related permit(s) required for the project; and a vicinity map for the project.

2. A statement specifying the accuracy of the report and all assumptions made and relied upon.

3. Documentation of any fieldwork performed on the site, including field data sheets for delineations, rating system forms, baseline hydrologic data, etc.

Commented [RH161]: Deletion per City comment

Commented [RH162]: Gap Analysis, Section 3.3

Commented [RH163]: Deletion, addressed in subsection A of this section

Commented [RH164]: Addition for clarity

Commented [RH165]: Addition per City comment

Commented [RH166]: Revised for clarity

Commented [RH167]: Gap Analysis, Section 3.3 Reporting requirements updated consistent with Ecology Publication No. 22-06-014

4. A description of the methodologies used to conduct the wetland delineations, wetland ratings, and impact analyses, including references.

5. Identification and characterization of all critical areas, water bodies, shorelines, floodplains, and buffers on or adjacent to the proposed project area. For areas off the project site, estimate conditions within 300 feet of the project boundaries using all reliable available information.

~~Site plan prepared in accordance with the requirements of this chapter indicating the presence of wetlands within two hundred feet of the project or activity area. This site plan information may be prepared by the applicant with review by the qualified wetlands professional. If the applicant together with assistance from the director cannot obtain permission for access to properties within two hundred feet of the activity area then an approximation of the extent of off-site wetlands within two hundred feet of the area may be completed based on aerial interpretation and/or visual observation from nearby vantage points,~~

6. ~~2.~~ For each wetland identified on site and within 300 feet of the project boundary, provide the completed wetland rating, per Section 17.65.200; required buffers; hydrogeomorphic classification; wetland area based on the field delineation (area for on-site portion and estimate entire wetland area including off-site portions); Cowardin classifications; habitat elements; soil conditions based on site assessment and/or soil survey information; and to the extent possible, hydrologic information such as location and condition of inlets/outlets, estimated water depths within the wetland, and estimated hydroperiod patterns based on visual cues (e.g., algal mats, drift lines, flood debris, etc.). Provide area estimates, classifications, and ratings based on entire wetland units, not only the portion present on the proposed project site. ~~Wetland community description including Cowardin classification and wetland rating based upon Washington State Department of Ecology's Washington State Wetland Rating System for Western Washington—2014 Update or subsequent revisions,~~

~~3. Delineation report including a site map indicating wetland boundaries and the locations of all data points,~~

7. ~~4.~~ Values and functions assessments shall include but not be limited to discussion of water quality, fish and wildlife habitat, flood and stream flow attenuation, recreation and aesthetics~~,~~ and an evaluation of the functions of the wetland and its buffer, including references for the method used and data sheets.

~~5~~8. Project description and impact assessment shall include a detailed narrative describing the project, its relationship to the wetland and ~~its potential impact to the wetland,~~an estimation of area of impacts to wetlands and buffers based on the field delineation, and an analysis of site development alternatives, including a no-development alternative.

9. An assessment of the probable cumulative impacts to the wetlands and buffers resulting from the proposed development, considering past development and potential future development.

10~~6~~. A description of how mitigation sequencing has been followed, pursuant to Section 17.65.160(C), Mitigation Sequenc~~e,~~ing, of this chapter. Any proposed mitigation plan shall include a discussion on how the project has been designed to avoid and minimize adverse impacts to wetlands. Compensatory mitigation for alterations to wetlands or their buffers shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater functions.~~, compensate for the loss of existing functions and values of wetlands and should follow the general mitigation plan requirements described in~~ Mitigation plans shall be consistent with Section 17.65.250~~17.65.240~~ and ~~Guidance on~~ Wetland~~s~~ Mitigation in Washington State—Parts 1 and 2 (Ecology Publications 21-06-003 and 06-06-011b)~~, March 2006~~, or subsequent revisions, and shall be consistent with the C~~c~~ity of Sedro-Woolley comprehensive plan.~~, and~~

Commented [RH168]: Addition for clarity

11. A discussion of the potential impacts to the wetland(s) associated with any anticipated hydroperiod alterations from the project.

12. Site plan sheets that include, at a minimum:

a. Site plan prepared in accordance with the requirements of this chapter indicating the presence of wetlands within 300 ~~threewo hundred~~ feet of the project or activity area. This site plan information may be prepared by the applicant with review by the qualified wetlands professional. If the applicant together with assistance from the director cannot obtain permission for access to properties within 300 ~~twohree hundred~~ feet of the activity area then an approximation of the extent of off-site wetlands within 300~~twohree hundred~~ feet of the area may be completed based on aerial interpretation and/or visual observation from nearby vantage points~~,~~.

b. Delineation report including a site map indicating wetland boundaries and the locations of all data points.~~,~~ Maps (to scale) shall depict delineated and mapped wetlands and required buffers on site, including buffers for off-site wetlands that extend onto the project site; the development proposal; other critical areas and their buffers; grading and clearing limits; and areas of proposed impacts to wetlands and/or buffers (include square footage or acreage).

c. A depiction of the proposed stormwater management facilities and outlets (to scale) for the development, including estimated areas of intrusion into wetland buffers.

D~~7~~. Approval of any activity that can adversely affect regulated wetlands shall conform to the requirements set forth in Section 17.65.170(A).

17.65.230 Alteration of wetlands.

A. A regulated wetland or its required buffer can only be altered if the wetland~~s site assessment~~ report shows that the proposed alteration does not degrade the quantitative and qualitative functioning of the wetland, or any degradation can be adequately mitigated to protect or compensate for the wetland functions that are lost. Any alteration approved pursuant to this section shall include mitigation necessary to mitigate the impacts of the proposed alteration on the wetland as described in Section ~~17.65.240~~17.65.250.

B. Stormwater discharges to wetlands shall be controlled and treated to provide all known and reasonable methods of prevention, control, and treatment as mandated in the State Water Quality Standards, Chapter 173-201A WAC, as required by state law and implemented in Titles 13, Water and Sewer, and 15, Buildings and Construction, or as subsequently amended.

C. Wetlands that meet the following criteria are not subject to the avoidance and minimization requirements of the mitigation sequence (Sections 17.65.160(C)(1) and (2)) in accordance with the following provisions, and they may be filled if the impacts are fully mitigated based on the remaining actions in Sections 17.65.160(C)(3) through (6). Impacts should be mitigated through the purchase of credits from a mitigation bank or in-lieu fee program, if available, consistent with the terms and conditions of the bank or program. In order to verify whether the following criteria are met, a critical area report for wetlands meeting the requirements in Section 17.65.220(C) must be submitted.

1. All Category IV wetlands less than 4,000 square feet that:

   a. Are not associated with riparian areas or their buffers;

   b. Are not associated with shorelines of the state or their associated buffers;

   c. Are not part of a wetland mosaic;

   d. Do not score 6 or more points for habitat function based on the Washington State Wetland Rating System for Western Washington: 2014 Update, Version 2.0 (Ecology Publication 23-06-009 or as revised by Ecology); and

   e. Do not contain a Priority Habitat or a Priority Area for a Priority Species identified by the Washington Department of Fish and Wildlife and do not contain state or federally listed species or their critical habitat or species of local importance identified in Section 17.65.500(D).

2. Wetlands less than 1,000 square feet that meet the above criteria are exempt from the buffer provisions contained in this chapter.

17.65.240 Wetland ~~mitigation~~buffer standards.

Commented [RH169]: Addition per City

Commented [RH170]: Ecology Publication No. 22-06-014

Commented [RH171]: Not an option currently

Commented [RH172]: Gap Analysis, Section 3.4.1

~~A. Mitigation Plan Requirements. Along with the other provisions of the other subsections below, the following items are required as part of a mitigation plan:~~

~~1. Description of project or activity and impact assessment shall include a detailed narrative describing the project or activity, its relationship to the wetland and its potential impact to the wetland.~~

~~2. Any proposed mitigation plan shall include a discussion on how the project or activity has been designed to avoid and minimize adverse impacts to wetlands and should follow the general mitigation plan requirements described in this section and in Guidance on Wetlands Mitigation in Washington—Parts 1 and 2, March 2006, and subsequent revisions.~~

Commented [RH173]: Gap Analysis, Section 3.4.1 Relocated to new SWMC 17.65.250, Wetland mitigation standards, and revised for consistency with Ecology Publication No. 22-06-014.

~~B.~~ A. Standard Wetland Buffers Requirements. Buffers satisfy the first step in the mitigation sequence set forth in this section. They are necessary in order to avoid potential project generated impacts. Buffers help maintain water quality and habitat diversity while stabilizing hydrology and minimizing direct human disturbance to wetlands. Buffer widths are based on wetland rating, the functions that the buffer is expected to perform, and the intensity of the proposed land use.

B. In determining wetland buffer widths, the land use intensity shall be determined, as provided in Table 17.65.240-1, in the wetland report prepared by a qualified professional. If the level of impact from the adjacent land use is not referenced, the director will assume the impact of the land use is high.

Commented [RH174]: Gap Analysis, Section 3.4.2; Ecology Publication No. 22-06-014

Table 17.65.240-1 Levels of impacts from proposed land use types

Level of impact from proposed land use	Type of land use
High	• Commercial • Urban • Industrial • Institutional • Mixed-use developments • Residential (more than 1 unit/acre) • Roads: federal and state highways, including on-ramps and exits, state routes, and other roads associated with high-impact land uses • Railroads • Agriculture with high-intensity activities (dairies, nurseries, greenhouses, growing and harvesting crops requiring annual tilling, raising and maintaining animals, etc.) • Open/recreational space with high-intensity uses (golf courses, ball fields, etc.) • Solar farms (utility scale)

Moderate	• Residential (1 unit/acre or less) • Roads: Forest Service roads and roads associated with moderate impact land uses • Open/recreational space with moderate-intensity uses (parks with paved trails or playgrounds, biking, jogging, etc.) • Agriculture with moderate-intensity uses (orchards, hay fields, light or rotational grazing, etc.) • Utility corridor or right-of-way used by one or more utilities and including access/maintenance road • Wind farm
Low	• Natural resource lands (forestry/silviculture–cutting of trees only, not land clearing and removing stumps) • Open/recreational space with low-intensity uses (unpaved trails, hiking, birdwatching, etc.) • Utility corridor without a maintenance road and little or no vegetation management • Cell tower

C. The following standard buffers in Table 17.65.240-2 shall be required for regulated wetlands unless otherwise provided for in this section:

Table 17.65.240-2 Wetland Buffer Widths

Commented [RH175]: Ecology's Alternative 3 in the July 2018 Appendix 8-C of Ecology Publication No. 05-06-008

Wetland Category	**Habitat Score**	**Impact of Proposed Land Use**		
		Low	**Moderate**	**High**
Category I: Bogs	NA	125 ft	190 ft	250 ft
Category I: Wetlands with a high conservation value[1]	NA	125 ft	190 ft	250 ft
Category I (other than above)	8-9	150 ft	225 ft	300 ft
	6-7	75 ft	110 ft	150 ft
	<6	50 ft	75 ft	100 ft
Category II	8-9	150 ft	225 ft	300 ft
	6-7	75 ft	110 ft	150 ft
	<6	50 ft	75 ft	100 ft
Category III	8-9	150 ft	225 ft	300 ft
	6-7	75 ft	110 ft	150 ft
	<6	40 ft	60 ft	80 ft
Category IV	NA	25 ft	40 ft	50 ft

[1] No septic systems permitted within 300' of the wetland boundary

~~Category I~~	~~150~~
~~Category II~~	~~110~~

~~Category III~~	~~50~~
~~Category IV~~	~~25~~

1. Measurement of wetland buffers. Wetland buffers shall be measured horizontally in a landward direction from the wetland edge, as delineated in the field, pursuant to the requirements of Section 17.65.220. Where lands adjacent to a wetland display a continuous slope of ~~twenty-five~~30 percent or greater, the buffer shall include such sloping areas. Where the horizontal distance of the sloping area is greater than the required standard buffer, the buffer shall be extended to a point 25 ~~twenty-five~~ feet beyond the top of the bank of the sloping area;

2. Except as otherwise specified, wetland buffers shall be retained in their natural condition. The buffer widths in Table 17.65.240-2 of this section assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer must either be planted to create the appropriate native plant community or be widened to ensure that the buffer provides adequate functions to protect the wetland. To be considered fully functioning, a wetland buffer must contain:

   a. An average of 80% native vegetation cover, with no more than 10% noxious weed cover; and

   b. A native plant community that includes tree, shrub, and groundcover strata in proportions that mimic native forest for the region.

3. Where buffer disturbance or alteration has or will occur in conjunction with regulated activities, revegetation with native vegetation shall be required and completed as per a mitigation plan approved by the director.

~~C~~D. ~~As described generally in subsection A of this section, i~~If an applicant does not propose to alter the required buffer, then no additional wetland impact mitigation shall be required.

~~D~~E. If an applicant proposes to decrease or alter a required buffer or alter a wetland pursuant to reasonable use exception under Section 17.65.150, the applicant shall demonstrate why such buffer and/or wetland modification, together with such alternative mitigation proposed in the wetland area assessment, is sufficient to adequately protect the wetland functions and values or compensate for disturbance to the functions and values of the wetland.

~~E~~F. Performance Based Buffer Alternatives. Buffer widths may be increased, decreased or averaged in accordance with the following provisions. In implementing alternative buffer widths, the director may require fourteen (14) calendar days for review and comment from appropriate federal, state or tribal natural resource agencies to ensure the use of best available science and relevant comments will be conditions of project approval. All comments shall be

Commented [RH176]: Update consistent with Ecology Publication No. 22-06-014

Commented [RH177]: Gap Analysis, Section 3.4.3; Ecology Publication No. 22-06-014

Commented [RH178]: Addition to specify standards for a fully vegetated buffer included in the public record along with the basis and rationale for requirement or approval of any such alternative buffer widths.

1. Buffer Width Increasing. Standard buffers may be increased upon a determination by the qualified wetland professional~~expert~~ with confirmation from the Washington State Departments of Ecology and/or Fish and Wildlife that buffer width averaging is not adequate to protect the functions and values of the wetland and increased buffer widths are necessary to:

a. Maintain viable populations of existing species listed by the federal or state government as endangered, threatened or sensitive. These species would be those listed under WAC 220-610-010, 50 CFR 17-11, 50 CFR 17-12, or other state or federal regulations;

b. Maintain critical habitat for those species referenced in subsection (~~E~~D)(1)(a) of this section or a priority area for a priority species as defined by WDFW; or Wetlands of High Conservation Value as defined by the Washington Department of Natural Resources' Natural Heritage Program;

c. Protect wetlands against severe erosion that standard erosion control measures will not effectively address;

d. Provide adequate vegetative cover; or

e. Manage stormwater on slopes greater than 30 percent.

~~d.~~ If the wetland contains variations in sensitivity, increasing the buffer widths will only be done where necessary to preserve the structure, function and value of the wetland.

2. Buffer Width Decreasing. Decreasing of standard buffer widths will only be allowed pursuant to Section 17.65.150 or pursuant to the criteria in subsection a of this section; provided, that in decreasing a standard buffer width, the functions and values of the wetland are not decreased as demonstrated by a qualified wetland professional, and the applicant proposes an adequate mitigation plan using mitigation sequencing as required under Section 17.65.150(B).

a. For wetlands that score five or less points for habitat, the buffer width can be reduced to that required for moderate land-use impacts by applying the measures to minimize the impacts of the proposed land uses in Table 17.65.240-3.

Table 17.65.240-3 Impact Minimization Table

Commented [RH179]: Gap Analysis, Section 3.4.3; Update buffer increase provisions consistent with Ecology Publication No. 22-06-014

Commented [RH180]: Gap Analysis, Section 3.4.3; Consistent with SWMC 17.65.150, specify the requirement for a mitigation plan and demonstration of mitigation sequencing.

Commented [RH181]: Ecology's Alternative 3 in the July 2018 Appendix 8-C of Ecology Publication No. 05-06-008

Example of disturbance	Activities and uses that cause disturbances	Examples of measures to minimize impacts
Lights	• Parking lots • Commercial/Industrial • Recreation (e.g., athletic fields) • Residential • Agricultural buildings	• Direct lights away from wetland • Only use lighting where necessary for public safety and keep lights off when not needed • Use motion-activated lights • Use full cut-off filters to cover light bulbs and direct light only where needed • Limit use of blue-white colored lights in favor of red-amber hues • Use lower-intensity LED lighting • Dim light to the lowest acceptable intensity
Noise	• Commercial/Industrial • Recreation (e.g., athletic fields, bleachers, etc.) • Residential • Agriculture	• Locate activity that generates noise away from wetland • Construct a fence to reduce noise impacts on adjacent wetland and buffer • Plant a strip of dense shrub vegetation adjacent to wetland buffer
Toxic runoff	• Parking lots • Roads • Commercial/Industrial • Residential areas • Landscaping • Agriculture	• Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered • Establish covenants limiting use of pesticides within 150 feet of wetland • Apply integrated pest management
Stormwater runoff	• Parking lots • Roads • Commercial/Industrial • Residential areas • Recreation • Landscaping/lawns • Other impermeable surfaces, compacted soil, etc.	• Retrofit stormwater detention and treatment for roads and existing adjacent development • Prevent channelized flow or sheet flow from lawns that directly enter the buffer • Infiltrate or treat, detain, and disperse new runoff from impervious surfaces and lawns
Pets and human disturbance	• Residential areas • Recreation	• Use privacy fencing • Plant dense native vegetation to delineate buffer edge and to discourage disturbance • Place wetland and its buffer in a separate tract • Place signs around the wetland buffer every 50 to 200 feet, and for subdivisions

Example of disturbance	Activities and uses that cause disturbances	Examples of measures to minimize impacts
		place signs at the back of each residential lot • When platting new subdivisions, locate greenbelts, stormwater facilities, and other lower intensity uses adjacent to wetland buffers
Dust	• Tilled fields • Roads	• Use best management practices to control dust

3. Buffer Width Averaging. Wetland buffer~~s may be averaged~~averaging may be proposed by an applicant ~~; provided, that the total buffer area on the lot is not less than that required within the standard buffer, and that averaging will not reduce the wetland functional values.~~ and/or ~~T~~the city may require buffer width averaging in order to protect a particular portion of the wetland or buffer which is especially sensitive, or to incorporate existing significant vegetation or habitat areas into the buffer. All of the following conditions must be met:

a. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a dual-rated wetland with a Category I area adjacent to a lower-rated area.

b. The buffer is increased adjacent to the higher-functioning area of habitat or more-sensitive portion of the wetland and decreased adjacent to the lower-functioning or less-sensitive portion as demonstrated by a critical area report from a qualified wetland professional.

c. The total area of the buffer after averaging is equal to the area required without averaging.

d. The buffer at its narrowest point is never less than either 75 percent of the required width or 75 feet for Category I and II, 50 feet for Category III, and 25 feet for Category IV, whichever is greater.

4. Averaging to allow reasonable use of a parcel may be permitted when all of the following are met:

a. No feasible alternatives to the site design could be accomplished without buffer averaging.

Commented [RH182]: Gap Analysis, Section 3.4.3; Update buffer averaging provisions consistent with Ecology Publication No. 22-06-014

b. The averaged buffer will not result in degradation of the wetland's functions and values as demonstrated by a critical area report from a qualified wetland professional.

c. The total buffer area after averaging is equal to the area required without averaging.

d. The buffer at its narrowest point is never less than either 75 percent of the required width or 75 feet for Category I and II, 50 feet for Category III, and 25 feet for Category IV, whichever is greater.~~Any reduction in buffer width as part of buffer width averaging shall not exceed twenty-five percent of the standard buffer width.~~

G. Functionally Disconnected Buffer Areas. Buffers may exclude areas that are functionally and effectively disconnected from the wetland by an existing public or private road or legally established development, as determined by the director. Functionally and effectively disconnected means that the road or other significant development blocks the functions and values provided by a buffer.

Significant developments shall include built public infrastructure such as roads and railroads, and private developments such as homes or commercial structures. The director shall evaluate whether the interruption will affect the entirety of the buffer. Individual structures may not fully interrupt buffer function. In such cases, the allowable buffer exclusion shall be limited in scope to just the portion of the buffer that is affected. Where questions exist regarding whether a development functionally disconnects the buffer, or the extent of that impact, the director may require a wetland report to analyze and document the buffer functionality.

~~F~~H. Allowed Uses in Buffers. Low impact uses and activities which are consistent with the purpose and function of the habitat buffer and do not detract from its integrity may be permitted within the buffer depending on the sensitivity of the habitat involved; provided, that such activity shall not result in a decrease in wetland functional values and shall not prevent or inhibit the buffer's recovery to ~~at least prealtered condition or function~~the standards provided under Section 17.65.240(C)(2). Examples of uses and activities which may be permitted in appropriate cases, as long as the activity does not ~~retard~~ prevent or inhibit the overall recovery of the buffer, include removal of noxious vegetation, pedestrian trails, revegetation of stormwater facilities, and viewing platforms. Pedestrian trails should consist of permeable surfaces, be not more than five (5) feet in width, minimize wetlands crossings, be located in the outer twenty-five percent of a wetlands buffer, and be designed to minimize impact on a wetland unless otherwise approved through a Public Agency and Utility Exception under Section 17.65.150(G). Buffer widths should be increased to compensate for the loss due to the width of the trail if the buffer is less than 50~~fifty~~ feet in width.

~~G~~I. Establishment of Limits of Clearing. The location of the outer extent of the wetland buffer and the limits of the areas to be disturbed shall be marked in the field with high-visibility fencing and be included as a condition of a development permit or approval pursuant to Section 17.65.170(E)(1). Such field markings may be field-approved by the director prior to the

Commented [RH183]: Gap Analysis, Section 3.4.3; Ecology Publication No. 22-06-014

Commented [RH184]: Revision per City

Commented [RH185]: Added crosswalk to Public Utility and Agency Exception

Commented [RH186]: Cross-reference for clarity commencement of permitted activities. Markings shall be maintained throughout the duration of any construction activities.

17.65.250 Wetland mitigation standards.

A. Mitigation Plan Requirements. When a project involves wetland and/or buffer impacts, a mitigation plan prepared by a qualified wetland professional shall be required, meeting the following minimum standards:

1. Wetland report prepared as described in Section 17.65.220(C).

2. Description of how the development project is consistent with mitigation sequencing pursuant to Section 17.65.160(C).

3. Description of the existing wetland and buffer areas proposed to be altered. Include acreage or square footage, water regime, vegetation, soils, functions, landscape position, and surrounding land uses. Also describe impacts in terms of acreage by Cowardin classification, hydrogeomorphic classification, and wetland rating, based on Section 17.65.200.

4. Description of the compensatory mitigation site, including location and rationale for selection. Include an assessment of existing conditions, including acreage or square footage of wetlands and uplands, water regime, sources of water, vegetation, soils, functions, landscape position, and surrounding land uses. Estimate future conditions in this location if the compensation actions are not undertaken.

5. Surface and subsurface hydrologic conditions, including an analysis of existing and proposed hydrologic regimes for enhanced, established, or restored compensatory mitigation areas. Include illustrations of how data for existing hydrologic conditions were used to determine the estimates of future hydrologic conditions.

6. A description of the proposed actions for compensation of wetland and buffer areas affected by the project. Include overall goals of the proposed mitigation, including a description of the targeted functions, hydrogeomorphic classification, and expected categories of wetlands.

7. A description of the proposed mitigation construction activities and timing of activities.

8. Performance standards (measurable standards for years post-installation) for wetland and buffer areas, a monitoring schedule, a maintenance schedule, and actions proposed by year.

Commented [RH187]: Gap Analysis, Section 3.4.1 and 3.4.4; Update Mitigation Plan reporting requirements consistent with Ecology Publication No. 22-06-014.

9. A discussion of ongoing management practices that will protect wetlands after the development project has been implemented, including proposed monitoring and maintenance programs (for remaining wetlands and compensatory mitigation wetlands).

~~H~~B. Buffer Mitigation Ratios. Impacts to buffers shall be mitigated at a minimum 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.

C. Exceptions to Mitigation Requirements. Requirements for mitigation do not apply under the following circumstances:

1. When a wetland alteration is intended exclusively for the enhancement or restoration of an existing regulated wetland and the proposal will not result in a loss of wetland function and value, subject to the following conditions:

a. The enhancement or restoration project shall not be associated with a development activity;

b. An enhancement or restoration plan shall be submitted for site plan review. The restoration or enhancement plan must include the information required under Section 17.65.220.

2. When a wetland is a part of a development activity that is permitted by the Corps of Engineers Nationwide Permit (NWP) 14 permitting crossing of wetlands as part of road construction; provided, that the applicant shall comply with any compensatory mitigation required by the NWP 14.

~~I~~D. Compensatory Mitigation. Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater functions. Compensatory mitigation plans shall be consistent with Wetland Mitigation in Washington State–Part 2: Developing Mitigation Plans— Version 1 (Ecology Publication #06-06-011b, or as revised), and Selecting Wetland Mitigation Sites Using a Watershed Approach Western Washington (Ecology Publication #09-06-32, or as revised).

1. General Provisions.

a. Mitigation for wetland and buffer impacts shall rely on a method listed below in order of preference. A lower-preference form of mitigation shall be used only if the applicant's qualified wetland professional demonstrates to the director's satisfaction that all higher ranked types of mitigation are not viable, consistent with the criteria in this Section.~~In selection of compensation actions, applicants should consider the following order of preference:~~

Commented [RH188]: Ecology Publication No. 22-06-014

Commented [RH189]: Gap Analysis, Section 3.4.4; Ecology Publication No. 22-06-014

Commented [RH190]: Revised for clarity; Ecology Publication No. 22-06-014

i. Restoring wetlands on upland sites which were formerly or degraded wetlands. This action includes re-establishment and rehabilitation as defined in Section 17.65.025 under "compensatory mitigation".~~,~~;

Commented [RH191]: Added for clarity

ii. Creating/establishing wetlands on disturbed upland sites ~~such as those with vegetative cover consisting primarily of exotic introduced species,~~. If a site is not available for wetland restoration to compensate for expected wetland and/or buffer impacts, the director may authorize establishment of a wetland and buffer upon demonstration by the applicant's qualified wetland professional that:

Commented [RH192]: Deleted specificity

(A) The hydrology and soil conditions at the proposed mitigation site are conducive for sustaining the proposed wetland and that establishment of a wetland at the site will not likely cause hydrologic problems elsewhere;

(B) Adjacent land uses and site conditions do not jeopardize the viability of the proposed wetland and buffer (e.g., due to the presence of invasive plants or noxious weeds, stormwater runoff, noise, light, or other impacts); and

(C) The proposed wetland and buffer will eventually be self-sustaining with little or no long-term maintenance.

(D) The proposed wetland would not be established at the cost of another high-functioning habitat (i.e., ecologically important uplands);

iii. Preserving high-quality wetlands which are under imminent threat. Preservation is the removal of a threat to, or preventing the decline of, wetlands by an action in or near those wetlands. This term includes activities commonly associated with the protection and maintenance of wetlands through the implementation of appropriate legal and physical mechanisms such as recording conservation easements and providing structural protection like fences and signs. Preservation does not result in a gain of aquatic resource area but may result in a gain in functions over the long term. When restoration and/or establishment are not viable, preservation of a wetland and associated buffer can be used only if:

Commented [RH193]: Gap Analysis, Section 3.4.4; New section for criteria and standards for "wetland preservation."

(A) The director determines that the proposed preservation is the best mitigation option;

(B) The proposed preservation site is under threat of undesirable ecological change due to permitted, planned, or likely actions that will not be adequately mitigated under existing regulations;

(C) The area proposed for preservation is of high quality or critical for the health and ecological sustainability of the watershed or sub-basin. Some of the following features may be indicative of high-quality sites:

(a) Category I or II wetland rating.

(b) Rare or irreplaceable wetland type (e.g., mature forested wetland, estuaries, etc.) or aquatic habitat that is rare or a limited resource in the area.

(c) The presence of habitat for threatened or endangered species (state, federal, or both).

(d) Provides biological and/or hydrological connectivity to other habitats.

(e) Priority sites identified in an adopted watershed plan.

(D) Permanent preservation of the wetland and buffer shall be provided through a legal mechanism such as a conservation easement or tract.

(E) The director may approve another legal and administrative mechanism in lieu of a conservation easement if it is determined to be adequate to protect the site in perpetuity;,

iv. Enhancing significantly degraded wetlands. ~~,~~Applicants proposing to enhance wetlands must produce a report that demonstrate how the proposed enhancement will increase the wetland and/or buffer functions, how this increase in function will adequately compensate for the impacts, and how existing wetland functions at the mitigation site will be protected.

~~iv. Preserving high-quality wetlands which are under imminent threat,~~

~~v. In-lieu fees,~~

~~vi. Preservation of other habitat;~~

b. Compensatory mitigation shall be conducted on property which shall be protected and managed to avoid further loss or degradation. The applicant shall provide for long-term preservation of the compensation area;

c. Compensatory mitigation shall follow an approved compensatory mitigation plan pursuant to this section and reflect the ~~restoration/~~creation, rehabilitation,

Commented [RH194]: Gap Analysis, Section 3.4.4

Commented [RH195]: Gap Analysis, Section 3.4.4; Ecology Publication Nos. 22-06-014 and 21-06-003 preservation, and enhancement ratios specified in ~~subsection (I)(2) of this section~~ Table 17.65.250-1;

~~d. Enhancement of existing wetlands may be considered for compensation as further described in subsection (I)(2) of this section;~~

~~e~~d. Compensation shall be completed prior to, concurrently with, or bonded to enable mitigation to occur after wetland loss, or, in the case of an enforcement action, prior to further development of the site.

2. On-Site Compensation. As a condition of any development permit or approval which results in on-site loss or degradation of regulated wetlands and/or wetland buffers, the director shall require of the applicant compensatory mitigation to offset impacts resulting from the actions of the applicant. On-site compensation is generally preferred over off-site compensation if practicable unless the applicant can demonstrate that off-site mitigation is ecologically preferable. When considering off-site mitigation, preference should be given to using programmatic ~~alternative~~ mitigation, such as a mitigation bank, an in-lieu-fee program, or advance mitigation.

Except under subsection C~~H~~ of this section, any person who alters or proposes to alter regulated wetlands shall ~~restore or~~ create, rehabilitate, preserve, or enhance areas of wetland in order to compensate for wetland losses. The following ratios in the table below apply to ~~creation or restoration~~compensatory mitigation which is in kind (i.e., the same type of wetland), on site, and is accomplished prior to or concurrently with loss. The first number specifies the acreage of wetlands to be ~~restored or created~~mitigated and the second specifies the acreage of wetlands lost:

Table 17.65.250-1 ~~Wetland On-Site Restoration/Creation~~Compensation Ratios for Permanent Impacts:

~~Wetland Created: Wetland Area Lost~~

Category of Impacted Wetland[1]	Creation	Rehabilitation	Preservation	Enhancement
Category I	6:1	8:1	16:1	24:1
Category II	3:1	6:1	12:1	12:1
Category III	2:1	4:1	8:1	8:1
Category IV	1.5:1	3:1	6:1	6:1

Commented [RH196]: Revision for clarity

Commented [RH197]: Reference no longer relevant, description of enhancement above

Commented [RH198]: Gap Analysis, Section 3.4.4

[1] Mitigation ratios for Wetlands of High Conservation Value should be determined through consultation with the Washington Department of Natural Resources, except preservation activities shall apply a mitigation ratio of 24:1.

a. ~~These ratios apply to creation or restoration of a nonwetland area, which is the same category as the impacted wetland, timed prior to or concurrent with the alteration, and has a high probability of success.~~ These ratios may be increased under the following circumstances:

i~~a~~. Uncertainty as to the probable success of the proposed restoration or creation;

ii~~b~~. Significant period of time between impact and replication of wetland functions;

iii~~c~~. Proposed mitigation will result in lower category wetland or reduced functions than the wetland being impacted; or

iv~~d~~. The impact was an unauthorized impact.

b. These ratios may be decreased under the following circumstances:

i~~a~~. Documentation by a qualified wetland professional~~specialist~~ demonstrates that the proposed mitigation actions have a very high likelihood of success;

ii~~b~~. Documentation by a qualified wetland~~s specialist~~ professional demonstrates that the proposed mitigation actions will provide significantly greater functions and values than the wetland being impacted; or

iii~~c~~. The proposed mitigation actions are conducted in advance of the impact and are shown to be successful.

~~Wetlands Enhancement. Any applicant proposing to impact wetlands may propose to enhance existing significantly degraded wetlands in order to compensate for wetland losses. Applicants proposing to enhance wetlands must produce a report that identifies how enhancement will increase the functions of the degraded wetland and how this increase will adequately compensate for the loss of wetland area and function at the impact site. An enhancement proposal must also show whether existing wetland functions will be reduced by the enhancement actions.~~

~~At a minimum, enhancement acreage shall be four times the acreage required for creation or restoration unless it is demonstrated that the enhancement proposal would result in no loss of wetlands area or wetlands functions, in which case it may be reduced, but not below the acreage required for creation or restoration.~~

Commented [RH199]: Renumbering for clarity

Commented [RH200]: Deleted, since addditional detail has been added to criteria for creation above.

Commented [RH201]: Relocated and revised above

~~**Wetland On-Site Enhancement Ratios:**~~

~~**Wetland Enhanced: Wetland Area Lost**~~

~~Category I~~	~~24:1~~
~~Category II~~	~~12:1~~
~~Category III~~	~~8:1~~
~~Category IV~~	~~6:1~~

3. Off-Site Compensation. Off-site compensation allows replacement of wetlands away from the site on which the wetland has been impacted by a regulated activity. Off-site compensation ~~will~~must be conducted in accordance with the ~~restoration/creation~~ mitigation ratios described in subsection (D~~I~~)(2) of this section and selecting compensation sites in subsection (D~~I~~)(5) of this section. Off-site compensation should occur within the same drainage basin of the same watershed where the wetland loss occurs. In such instances, the stormwater storage function provided by a wetlands must be provided for within the design of the development project. Off-site compensation can be allowed only under one or more of the following circumstances:

a. On-site compensation is not feasible due to hydrology, soils, or other factors;

b. On-site compensation is not practical due to probable adverse impacts from surrounding land uses or would conflict with a federal, state or county public safety directive;

c. Potential functional values at the site of the proposed restoration are greater than the lost wetland functional values;

d. When the wetland to be altered is of a limited functional value and is degraded, compensation shall be of the wetland community types needed most in the location of compensation and those most likely to succeed with the highest functional value possible.

4. Out-of-kind compensation can be allowed when out-of-kind replacement will best meet the provisions of subsection (D~~I~~)(1) of this section and the mitigation sequence outlined in this section.

5. Selecting Compensation Sites. General provisions.

a. Except in the case of cooperative compensation projects in selecting compensation sites, applicants shall pursue locations in the following order of preference:

i. Filled, drained, or cleared sites which were formerly wetlands and where appropriate hydrology exists,

ii. Upland sites, adjacent to wetlands, if the upland is significantly disturbed and does not contain a mature forested or shrub community of native species, and where the appropriate natural hydrology exists,

iii. Within wildlife corridors;

b. Where out-of-kind replacement is accepted, greater restoration/creation ratios may be required.

E~~J~~. Monitoring. Mitigation monitoring shall be required for a period necessary to establish that performance standards have been met, but not for a period less than five years. If a scrub-shrub or forested vegetation community is proposed, monitoring may be required for ten years or more. The project mitigation plan shall include monitoring elements that ensure certainty of success for the project's natural resource values and functions. If the mitigation goals are not obtained within the initial five-year period, the applicant remains responsible for restoration of the natural resource values and functions until the mitigation goals agreed to in the mitigation plan are achieved.

~~K~~F. Timing. Construction of compensation projects shall be timed to reduce impacts to existing wildlife and plants. Construction shall be timed to assure that grading and soil movement occur during the dry season and planting of vegetation shall be specifically timed to needs of the target species.

~~L~~G. Alternative Compensation Projects. The director may encourage, facilitate and approve innovative wetland mitigation projects. Advance compensatory mitigation~~ion~~ or mitigation banking are examples of alternative compensation projects allowed under the provisions of this section wherein one or more applicant(s), or an organization with demonstrated capability, may undertake a compensation project together if it is demonstrated that all of the following circumstances exist:

1. Creation of one or several larger wetlands may be preferable to many small wetlands;

2. The group demonstrates the organizational and fiscal capability to act cooperatively;

3. The group demonstrates that long-term management of the compensation area will be provided;

4. There is a clear potential for success of the proposed compensation at the identified compensation site;

5. Conducting compensation as part of a cooperative process does not reduce or eliminate the required replacement ratios outlined in subsection (D~~I~~)(2) of this section~~.~~ ~~Exception: (a) where a compensatory mitigation plan including a five-year monitoring agreement is included as a condition of approval where woody vegetation is not a part of the replacement plan, such plan shall allow for one is to one resulting replacement ratios upon successful completion of the monitoring agreement; and (b) where a compensatory mitigation plan including a ten-year monitoring agreement is included as a condition of approval where woody vegetation is part of the replacement plan, such plan shall allow for one is to one resulting replacement ratios upon successful completion of the monitoring agreement. Provided further, no reduction of the required replacement ratios outlined in subsection (I)(2) of this section shall be allowed unless the applicant can demonstrate that there will be no loss of resulting wetlands function or area over time. The applicant may be required to provide additional replacement area to allow for probable loss of area during the period of establishment~~;

6. Wetland mitigation banking programs consistent with the provisions outlined in the Department of Ecology's 2009 publication Selecting Wetland Mitigation Sites Using a Watershed Approach and publication ~~Guidance on~~ Wetland~~s~~ Mitigation in Washington State—Parts 1 and 2~~,~~ (Ecology Publications 21-06-003 and 06-06-011b)~~March 2006~~, or subsequent revisions will be considered.

a. Wetland Mitigation Banks. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the mitigation bank instrument. Use of credits from a wetland mitigation bank certified under Chapter 173-700 WAC is allowed if:

~~a~~i. The approval authority determines that it would provide appropriate compensation for the proposed impacts;

~~b~~ii. The impact site is located in the service area of the bank;

~~c~~iii. The proposed use of credits is consistent with the terms and conditions of the certified mitigation bank instrument; and

~~d~~iv. Replacement ratios for projects using bank credits are consistent with replacement ratios specified in the certified mitigation bank instrument.

Article III. Aquifer Recharge Areas

17.65.300 Critical ~~A~~aquifer recharge areas.

A. Intent. Critical aquifer recharge areas (CARAs), ~~A~~areas with a critical recharging effect on aquifers used for potable water, as defined by WAC 365-190-030(3) are hereby designated critical areas and shall be subject to the provisions of this chapter. ~~This section establishes~~

~~areas determined to be critical in maintaining both groundwater quantity and quality. This section specifies regulatory requirements to be enacted when development within these areas is proposed to occur and provides a methodology by which the level of review and any mitigation required is determined.~~ The intent of this section is to:

Commented [RH202]: Gap Analysis, Section 4.1; Add clearer intent language to establish purpose of CARA regulations.

1. Define minimum regulatory requirements to protect groundwater quality and quantity for existing and future use;

2. Identify groundwater resources at risk and activities and uses that impact groundwater quality;

~~2~~3. Identify the practices, alternatives, or ~~mitigations~~ protection measures that can ~~minimize~~ prevent the adverse impacts of proposed projects; and

~~3~~4. E~~I~~nsure adequate design, construction, management, and operations to protect groundwater quality and quantity.

B. Existing and future beneficial uses of groundwater shall be maintained and protected and degradation of groundwater quality that would interfere with or become injurious to beneficial uses shall be avoided or minimized.

C. Wherever groundwaters are determined to be of a higher quality than the criteria established for such waters under this section, the existing water quality shall be protected, and contaminants that will reduce the existing quality thereof shall not be allowed to enter such waters, except in those instances where it can be demonstrated that:

1. An overriding consideration of the public interest will be served; and

2. All contaminants proposed for entry into such groundwater(s) shall be provided with all known, available, and reasonable methods of prevention, control, and treatment prior to entry.

D. It is the intent of this ~~regulation~~ Chapter to be consistent with and implement the requirements of Chapters 90.48 and 90.54 RCW and Chapters 173-200, 173-201A, 173-160, 246-290, and 246-291 WAC, as the same may hereafter be amended.

17.65.310 Critical ~~A~~aquifer recharge area designations.

A. It is the responsibility of project proponents to determine whether a site contains a regulated CARA and is regulated pursuant to this chapter. The director will verify on a case-by-case basis the presence of CARAs identified by project proponents.~~Two categories are designated for aquifer recharge areas. These categories are designated to assist the director in determining the level of assessment necessary to evaluate specific land use proposals. The categories are based on the determination that certain areas require~~

~~additional scrutiny of the potential impacts of a proposed land use with consideration given to hydrogeologic vulnerability. All designated areas are subject to change as data and information are updated or become available.~~

B~~A~~. Designation Categories.

1. Category I areas are those so designated because of the need to provide them special protection due to a specific preexisting land use, or because they are identified by the local, state or federal government as areas in need of special aquifer protection where a proposed land use may pose a potential risk which increases aquifer vulnerability.

a. Sole source aquifers designated by the U.S. Environmental Protection Agency in accordance with the Safe Drinking Water Act of 1974;

b. Areas identified within a "closed" or "low-flow" stream watershed designated by the Department of Ecology pursuant to Chapter 90.22 RCW;

c. Areas within the 10-year travel zone of Group A wellhead protection areas, determined in accordance with delineation methodologies specified by the Washington Department of Health under authority of chapter 246-290 WAC;

d. Areas with susceptible soils based on the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) data, specifically:

i. Areas with highly permeable soils;

ii. Areas with shallow aquifers/depths to the seasonal high water table; or

~~i.~~iii. Areas with high drainage class.

~~Category I includes areas served by groundwater which have been designated as a "Sole Source Aquifer Area" under the Federal Safe Drinking Water Act; areas identified within a "closed" or "low-flow" stream watershed designated by the Department of Ecology pursuant to Chapter 90.22 RCW; areas identified by the Department of Ecology as seawater intrusion areas; and areas designated as "Wellhead Protection Areas" pursuant to WAC 246-290-135(4) and the groundwater contribution area in WAC 246-291-100(2)(e). Wellhead protection areas shall, for the purpose of this regulation, include the identified recharge areas associated with either Group A public water supply wells, those Group B wells with a wellhead protection plan filed with the Skagit County Health Department, or plats served by five or more individual wells where the average lot size is equal to or less than two acres for which a wellhead protection plan has been completed and filed with the Skagit County Health Department. Category I areas are shown on the aquifer recharge area map.~~

2. Category II is designated as areas not identified as Category I areas.

Commented [RH203]: Gap Analysis, Section 4.2; Provide updated language on determining the location of CARAs.

Commented [RH204]: Gap Analysis, Section 4.2; Update CARA designation criteria to align with WAC 365-190-100(4)(b).

Commented [DY205]: Gap Analysis, Section 4.2 This subsection was deleted since the designations pertaining to Sedro-Woolley have been listed out above for clarity.

3. When any portion of the proposed project area lies partly within a Category I area, the proposed project shall be subject to the level of scrutiny provided for Category I areas.

17.65.320 Critical aAquifer recharge area performance standards—General requirements~~applicability and prohibited activities~~.

Commented [RH206]: Gap Analysis, Section 4.3

A. Applicability. All development projects listed in Section 17.65.330 shall be ~~are~~ subject to special conditions to ensure protection of groundwater resources. ~~the provisions of this section except for the following:~~

~~1. Existing activities that currently and legally exist at the time this chapter became effective. However, expansions or changes in use are subject to this section and the review process contained in this chapter.~~

~~2. Single-family residential building permits, including accessory building permits, which are outside Category I areas.~~

~~3. Residential short plats outside Category I areas where each lot is two and one-half acres or greater.~~

~~4. Single-family residential building permits where a site assessment report was required to be completed for the land division, in which case, to meet the conditions of this exemption, the applicant must comply with the recorded plat notes and the applicable mitigations contained in the site assessment report.~~

Commented [RH207]: Gap Analysis, Section 4.3; Relocate to SWMC 17.65.330 and update list.

~~B. Prohibited Activities. The following activities are prohibited in Category I areas due to the probability and/or potential magnitude of their adverse effects on groundwater:~~

Commented [RH208]: Gap Analysis, Section 4.3; Relocate to SWMC 17.65.330 and update.

~~1. Landfill activities as defined in Chapters 173-304 and 173-351 WAC;~~

~~2. Class V injection wells, including:~~

~~a. Agricultural drainage wells,~~

~~b. Untreated sewage waste disposal wells,~~

~~c. Cesspools,~~

~~d. Industrial process water and disposal wells, and~~

~~e. Radioactive waste disposal;~~

~~4. 3. Radioactive disposal sites.~~

B. Impact Avoidance and Minimization: Development projects shall make all reasonable efforts to avoid and minimize impacts to CARAs in the following sequential order of preference:

1. Avoiding impacts altogether by refraining from specific actions or portions of actions that would affect CARAs;

2. Minimizing impacts by reducing the scale or intensity of the action, utilizing appropriate technology, or implementing design modifications, relocation, or timing adjustments to reduce potential harm;

3. Where avoidance is not feasible, mitigating impacts to CARAs through approved mitigation measures consistent with this chapter.

C. Any activity or use listed in Section 17.65.330 that occurs within a Group A wellhead protection area and results in unavoidable impacts to CARAs shall not be approved. Mitigation is not permitted for such activities due to the necessity of protecting public drinking water sources.

D. All listed activities listed in Section 17.65.330 shall implement Best Management Practices (BMP) appropriate to the scale, type, and potential risk of the proposed use. BMPs may include, but are not limited to:

1. Spill prevention and containment systems for hazardous materials.

2. Secondary containment for above ground and underground storage tanks.

3. Stormwater management systems shall be designed to prevent infiltration of contaminants.

4. Use of non-toxic or low-toxicity substances in industrial or commercial processes.

5. Proper handling, storage, and disposal of chemicals, fertilizers, and waste.

6. Employee training programs for pollution prevention and emergency response.

E. Where a hydrogeologic report is required under Section 17.65.340, the applicant shall:

1. Identify potential pathways for contaminant migration to the aquifer.

2. Quantify the risk to groundwater quality and quantity.

3. Propose mitigation measures that reduce or eliminate identified risks.

Commented [RH209]: Gap Analysis, Section 4.3; Incorporate these standards to clarify that potential groundwater impacts should first be avoided, then minimized, before mitigation is considered.

Commented [RH210]: Gap Analysis, Section 4.3; Incorporate BMPs for enforceable standards.

4. Demonstrate that mitigation measures are feasible, effective, and enforceable.

5. Include monitoring protocols and contingency plans for system failure or unexpected impacts.

F. In addition to implementation of BMPs, proponents of development projects shall comply with:

1. Any site-specific conditions imposed by the City based on proximity to public water supply wells.

2. Applicants shall comply with applicable provisions of the Washington Administrative Code (WAC) and Revised Code of Washington (RCW), including WAC 173-200 (Groundwater Quality Standards) and RCW 90.48 (Water Pollution Control Act).

3. Any additional conditions or performance standards adopted by the City through administrative rules or technical guidance documents.

17.65.330 Critical aAquifer recharge performance standards—Specific uses~~initial project review~~.

A. Applicability. The following uses and development activities, proposed within designated CARAs, shall be subject to special conditions to ensure protection of groundwater resources. These conditions shall be based on:

1. Applicable state and federal regulations;

2. Recommendations from a hydrogeologic report prepared in accordance with Section 17.65.340; or

3. Input from affected Group A public water systems, where applicable.

B. The following uses are subject to review and conditioning when proposed within CARAs:

Table 17.65.330-1 Activities and Applicable Regulations

Activity/Uses	Applicable Regulations and Guidance
Animal feedlots	Chapter 173-216 WAC; Chapter 173-220 WAC
Animal feeding operations / Concentrated animal feeding operations	40 CFR Parts 122, 123, 412

Commented [DY211]: Gap Analysis, Section 4.4: Revise the section title to "Critical Aquifer Recharge Areas Performance Standards – Specific Uses" to clearly distinguish this section from the general performance standards in Section 17.65.320.

Commented [RH212]: Gap Analysis, Section 4.4; Clarify applicability of regulations to align with current RCW, WAC, and federal regulatory frameworks.

Commented [DY213]: Per Gap Analysis Section 4.4: Update the list of activities regulated in CARAs to reflect:
- A broader set of activities with potential groundwater impacts,
- Updated state and federal regulatory citations (WACs, RCWs, and CFRs),
- Expanded applicability

Activity/Uses	Applicable Regulations and Guidance
Automobile washing facilities	Chapter 173-216 WAC; Ecology BMPs (WQ-R-95-56)
Chemical treatment, storage, disposal	WAC 173-303
Dangerous waste handling	RCW 70.105; Chapter 173-303 WAC; Skagit County Board of Health Ordinances
Junk yards and salvage yards	WAC 173-304, 173-350, 173-351; BMPs for Vehicle and Metal Recyclers (Washington State Department of Ecology Publication No. 94-146, or latest edition)
Pesticide, herbicide, fertilizer use/storage	Chapter 15.54 RCW; Chapter 17.21 RCW; Chapters 16-200 through 173-232 WAC
Reclaimed water for recharge	RCW 90.46; WAC 173-218
Petroleum processing/recycling	40 CFR 443, 419; RCW 70A.224, 90.56
Sawmills	Chapter 173-303 WAC; Chapter 173-304 WAC; Industrial Stormwater General Permit Implementation Manual for Log Yards (Washington Department of Ecology Publication No. 04-10-031, or latest edition)
Solid waste handling/recycling	Chapter 173-304 WAC; Chapter 173-350 WAC; Chapter 173-351 WAC
Storage tanks, above ground	WAC 173-303-640
Storage tanks, below ground	Chapter 173-360A WAC; Chapter 90.76 RCW; RCW 43.131.394
Surface mining	Chapter 332-18 WAC
Wastewater application to land surface	Chapter 173-216 WAC; Chapter 173-200 WAC

C. Prohibited Activities. The following activities are prohibited in Category I areas due to the probability and/or potential magnitude of their adverse effects on groundwater:

1. Landfills, outdoor storage facilities, or outdoor recycling centers for: hazardous or dangerous waste, electronic waste, contaminated soil or dredged materials, municipal solid waste, special waste, wood waste, or inert and demolition waste;

Commented [DY214]: Per Gap Analysis Sections 4.3 and 4.4:
Specify prohibited uses in all CARAs based on their potential to contaminate potable water aquifers

2. Underground injection control (UIC) wells prohibited in Washington State under WAC 173-218-040;

3. Mining of metals and hard rock;

4. Wood treatment facilities located over permeable surfaces (natural or manmade); and

5. Facilities that store, process, or dispose of radioactive substances.

~~A. General Procedures. Applicants for all development projects not allowed under Section 17.65.100 or 17.65.320 shall be required, through a site assessment report prepared pursuant to Section 17.65.340, to evaluate potential impacts to aquifer recharge areas, and appropriate mitigation measures to reduce or eliminate the potential for adversely impacting aquifer recharge areas shall be identified. The level of study and report detail required will be determined by the director based on the type of land use being proposed, the designated aquifer recharge area category, and the vulnerability of the underlying aquifer(s) to contamination. The goal of this section is to require applicants to identify and characterize vulnerability only to the level necessary to determine appropriate mitigation measures necessary, to either reduce potential adverse impacts to established parameters or eliminate potential adverse impacts to underlying aquifer(s).~~

Commented [DY215]: Per Gap Analysis Section 4.4: Deleted site assessment scoping section. More detailed assessment information is found in .340.

~~B. Scoping. The level of study which will be required of the applicant by the director for a given development will be based on an initial project review that may include staff from the planning and health departments, and a hydrogeologist.~~

~~Elements for the report that are required at a minimum and other elements that may be required as part of the scope for the study are listed in Section 17.65.340. Subsequent findings from the study or other information made available after the initial project review may obligate the applicant to additional evaluation, development of a mitigation plan, and/or development of a groundwater monitoring plan. The following outlines the review process:~~

~~1. The director and health officer shall review the project and determine the required scope of the site assessment report. The scope of site assessment required shall be conveyed to the applicant and/or his or her representative in writing. The applicant may present evidence to the director and health officer to justify reduction in the scope for the site assessment report.~~

~~2. The site assessment report shall be submitted for review. The director and/or health officer shall either approve the site assessment report as submitted, require additional evaluation, or require development of a mitigation plan. If additional information is required beyond the initial site assessment report, the applicant and/or his or her representative shall be notified in writing of the specifics of the information required. The applicant may present evidence in writing to the reviewing official to justify modification~~

~~of the requirement for additional information or present alternative or additional mitigation measures in lieu of further study.~~

~~3. When, to the satisfaction of the director, all information is provided and mitigation(s) established as being in compliance with this section, the director shall make appropriate recommendations for project permit approval.~~

17.65.340 Critical a~~A~~quifer recharge area hydrogeologic~~site~~ assessment requirements ~~report~~.

A. A hydrogeologic assessment prepared by a qualified professional is required for any development proposal within a designated CARA when: ~~The scope of the site assessment report shall be determined based on the initial project review specified in Section 17.65.330. The scope of the report may be reduced by utilizing appropriate mitigation measures, or if the water quality or quantity issue(s) are already known.~~

1. The proposed activity is listed in Section 17.65.330 and occurs within a CARA except for residential development that:

    a. Does not involve on-site sewage disposal systems;

    b. Does not include private wells or groundwater withdrawals;

    c. Does not store or use hazardous materials in quantities regulated under WAC 173-303;

    d. Does not exceed 10,000 square feet of impervious surface per parcel; or

    e. Is not located within a Group A wellhead protection area or sole source aquifer boundary, unless the director determines that site-specific conditions indicate elevated risk to groundwater quality or quantity, in which case a hydrogeologic assessment may still be required.

2. The proposed activity does not meet the non-endangerment standards outlined in WAC 173-218-080 through 173-218-100.

~~1.~~3. The director determines that the proposed activity, although not specifically listed, has the potential to impair groundwater quality or quantity.

~~B. The site assessment report shall be prepared by, or under the direction of, and signed by a professional engineer, licensed in the state of Washington, trained and qualified to analyze geologic, hydrologic, and groundwater flow systems; or by a geologist or hydrogeologist who earns his or her livelihood from the field of geology and/or hydrogeology and has received a degree in geological sciences from an accredited four-year institution of higher education and~~

Commented [DY216]: Per Gap Analysis Section 4.5: Revised section title to "Critical Aquifer Recharge Area Hydrogeologic Assessment" to accurately reflect the purpose and content of the section.

Commented [DY217]: Per Gap Analysis Section 4.5: Added assessment must be prepared by a qualified professional with appropriate expertise.

Commented [DY218]: Per Gap Analysis Section 4.5: Clarified applicability and exemption for certain development types.

~~who has relevant training and experience analyzing geologic, hydrologic, and groundwater flow systems.~~

C. Hydrogeologic ~~Site~~ Assessment ~~Report~~ Requirements. A ~~site plan shall be prepared in accordance with the requirements of this code. In addition, a~~ hydrogeologic ~~site~~ assessment ~~report~~ shall include:

Commented [DY219]: Per Gap Analysis Section 4.5: Revised the required assessment contents to ensure alignment with report standards.

1. A description of the project including those activities, practices, materials, or chemicals that have a potential to adversely affect the quantity or quality of underlying aquifer(s);

2. Site Characteristics

   a. Location and extent of CARAs on the site;

   b. Soil permeability and unsaturated zone characteristics; and

   c. Depth to groundwater, flow direction, and gradient.

3. Nearby Water Resources

   a. Currently available data on wells and springs within one fourth mile of the site; and

   b. Currently available information on the location of surface waters within one fourth mile of the site.

4. Historic water quality data for the area to be affected by the proposed activity or use compiled for at least the previous five-year period, if available;

5. Impact Analysis

   a. Predictive evaluation of groundwater withdrawal effects;

   b. Predictive evaluation of contaminant transport modeling for potential releases;

   c. Recharge potential including transmissivity and permeability; and

   d. Water source description or confirmation from a purveyor.

6. Best management practices relevant to the proposed activity or use.

7. Monitoring and Spill Response, including:

a. Groundwater monitoring protocols; and

b. Spill prevention and response plan that identifies equipment and structures that could fail, resulting in an impact to the CARA. Spill plans shall include provisions for regular inspection, repair, and replacement of structures and equipment with the potential to fail, and a remediation plan should clean-up become necessary. The plan shall include provisions for regular inspection, repair, and replacement of equipment.

8. Evaluation of consistency with mitigation sequencing in Section 17.65.160(C) and applicable state regulations.

~~2. Identification of appropriate mitigation measures and description of how they will prevent degradation of underlying aquifer(s);~~

~~3. A site plan or another appropriately scaled map showing the approximate location of , known or geologically representative well(s) (abandoned and active), spring(s), and surface watercourses within one thousand feet of the subject project property. All well logs available through the health department for identified wells within one thousand feet of the project property shall be included;~~

~~4. A description of the site-specific hydrogeologic characteristics regarding impact to the quantity or quality of underlying aquifer(s). At a minimum this will include a description of the lithology, depth to and static water level of known underlying aquifer(s), and depiction of groundwater flow direction and patterns on the appropriate map;~~

~~5. Identification of the initial receptors of potential adverse impacts located hydraulically downgradient from the project within one thousand feet or as otherwise directed by the director and/or health officer.~~

~~D. Additional Site Assessment Elements. After the initial project review, one or more of the site assessment elements listed below may be required based upon the proposed project activity, aquifer recharge area classification, complexity of underlying hydrogeologic conditions, and/or the perceived potential to adversely impact hydraulically downgradient receptors. One or more of these additional elements may also be required if the applicant chooses to demonstrate that certain mitigation measures are not necessary to protect the quantity or quality of the underlying aquifer(s), or that the project does not pose a detrimental risk to hydraulically downgradient receptors:~~

~~1. Lithologic characteristics and stratigraphic relationships of the affected aquifer(s) and overlying geologic units (includes soil types) including thickness, horizontal and vertical extent, permeability, and infiltration rates of surface soils;~~

~~2. Delineation of identified structural features such as faults, fractures, and fissures;~~

~~3. Aquifer characteristics including determination of recharge and discharge areas, transmissivity, storage, hydraulic conductivity, porosity, and estimate of groundwater flow direction, velocity and patterns for the affected aquifer(s);~~

~~4. Estimate of precipitation, evaporation, and evapotranspiration rates for the project area;~~

~~5. Preparation of appropriate hydrogeologic cross sections depicting at a minimum underlying lithology and stratigraphy, aquifer(s), and potential or probable contaminant pathways from a chemical release;~~

~~6. Contaminant fate and transport including probable migration pathways and travel time of potential contaminant release(s) from the site through the unsaturated zone to the aquifer(s) and through the aquifer(s), and how the contaminant(s) may be attenuated within the unsaturated zone and the aquifer(s). Includes consideration of advection, dispersion, and diffusion of contaminants in the groundwater;~~

~~7. Delineation of areas potentially affected by contaminant migration on the ground surface and/or through the affected aquifer(s);~~

~~8. Determination of background or existing groundwater quality underlying the project area;~~

~~9. Development of a groundwater monitoring program to measure potential impacts of the development to underlying aquifer(s);~~

~~10. Development of a spill plan and/or contingency plan describing the specific actions, which will be taken if a release of a contaminant(s) occurs, or if groundwater monitoring results indicate a contaminant(s) from the site has entered the underlying aquifer(s);~~

~~11. The degree of continuity between groundwater and nearby surface water including potential impact to "closed" or "low-flow" streams (as described in Section 17.65.350) from proposed groundwater withdrawals, and potential impacts to surface water quality from site runoff or contaminated groundwater discharge;~~

~~12. In conjunction with the Department of Ecology Seawater Intrusion Policy and subsequent policies or ordinances, applicable projects shall be required to determine appropriate pumping rates and schedules that maintain dynamic drawdown levels above mean sea level;~~

~~13. Applicable projects such as special use permits, short plats, or long plats shall test existing and/or test wells for nitrate levels and where appropriate calculate the nitrate loading rate at full build-out of the project. If the calculated nitrate loading in the intended water supply equals or exceeds five mg/L nitrate as nitrogen, the proposal will need to~~

~~develop a mitigation plan. The point of compliance shall be determined based on project specifics.~~

17.65.350 Critical aAquifer recharge area best management practices~~mitigation~~.

The health department shall review development proposals to assess aquifer(s) vulnerability and establish needed mitigation. Where determined to be necessary through the hydrogeologic ~~site~~ assessment process, development approvals shall include conditions designed to prevent significant degradation of water quality or reduction in water quantity in aquifer recharge areas. The project shall not cause degradation of the groundwater quality below the standards described in Chapter 173-200 WAC ~~or Department of Ecology's seawater intrusion policy~~.

Wellhead Protection Mitigation. Where a wellhead protection plan that addresses the project area exists, the director and/or health officer shall use the recommendations contained in the wellhead protection plan as a basis for formulating mitigations. In the absence of such a mitigation plan, the health department and Public Utility District No. 1 shall jointly develop mitigations, a summary of which shall be signed by the applicant and recorded with the applicant's property title. All new development shall be required to connect to the Public Utility District No. 1 Water System.

17.65.360 Critical aAquifer recharge area public notice and review.

Commented [RH220]: Gap Analysis, Section 4.6; Revise section for clarity and implementation.

In addition to the provisions for public notice provided under Section 17.65.065 and Chapter XX, or as subsequently amended, the director shall make the hydrogeologic ~~site~~ assessment ~~report~~ available for public review upon approval of the ~~following~~ projects identified under Section 17.65.330, which have undergone critical areas review pursuant to this chapter.~~:~~

~~A. All projects occurring in Category I areas, except single-family residence or accessory building permits, and short subdivisions;~~

~~B. All activities identified under Section 17.65.320(B), regardless of location; and~~

~~C. Commercial or industrial projects or subdivisions that have the potential to adversely affect the quality or availability of potable water.~~

Article IV. Geologically Hazardous Areas

17.65.400 Geologically hazardous area designations.

Geologically hazardous areas include erosion hazards, landslide hazards, mine hazards, volcanic hazard, and seismic hazards, and shall be designated consistent with the definitions provided in WAC 365-190-030~~365-190-080(4)~~.

Commented [RH221]: Gap Analysis, Section 5.1

Geologically hazardous areas shall be classified as "known or suspected risk," or "unknown risk."

17.65.410 Geologically hazardous area initial project review.

A site visit shall be conducted by the director to determine whether: (1) "areas of known or suspected risk" identified below are or may be present within 200~~two hundred~~ feet of the project or activity; (2) the proposed project or activity is or may be within a distance from the base of an adjacent landslide hazard area equal to the vertical relief of such hazard area; (3) the proposed activity may result in or contribute to an increase in hazard; and (4) whether the project or hazard areas pose a risk to life, property, or other critical areas on or off the project area sufficient to require a site assessment. Areas of known or suspected risk:

Commented [RH222]: Gap Analysis, Section 5.2; Update each geologically hazardous area designation criteria to comply with WAC 365-190-120.

A. Erosion Hazard Indicators.

1. ~~Those project areas located within two hundred feet of~~Areas associated with the following map unit delineations: No. 51 Dystic Xerorthents, No. 99 Mundt and No. 117 Saxon or mapped as moderate to severe, severe or very severe erosion hazard or as having severe rill and inter-rill erosion hazard as identified in the U.S. Department of Agriculture Natural Resources Conservation Service Soil Survey of Skagit County Area, Washington (1989), or as revised.

2. ~~Those project areas that fall within any soil sloping~~Slopes greater than or equal to thirty percent.

~~3. The project area falls within areas designated in the Department of Ecology, Coastal Zone Atlas, Washington, Volume Two Skagit County (1978) as U (Unstable), UB (Unstable Bluff), URS (Unstable Recent Slide), or UOS (Unstable Old Slide).~~

~~4~~3. ~~Those project areas that may be considered to have an erosion hazard as a result of~~Areas susceptible to rapid stream incision or stream bank erosion.

B. Landslide Hazards Indicators.

1. ~~The project area falls within or two hundred feet from areas designated in the Department of Ecology, Coastal Zone Atlas, Washington, Volume Two, Skagit County (1978) as U (Unstable), UB (Unstable Bluff), URS (Unstable Recent Slide), or UOS (Unstable Old Slide).~~Areas subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include any areas susceptible to landslide because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors, and include, at a minimum, the following:

2. ~~The project area falls within or two hundred feet from s~~Slopes having the following characteristics: Gradients of fifteen percent or greater intersecting geologic contacts with permeable sediments overlying low permeability sediment or bedrock and springs or groundwater seepage are present.

3. ~~The project area falls within or two hundred feet from any a~~Areas having a forty percent slope or steeper and with a vertical relief of 10~~ten~~ feet or more except areas composed of bedrock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least 10 feet of vertical relief.

4. ~~The project area falls within or two hundred feet from any a~~Areas of historic failure, such as areas designated as quaternary earth slumps, earthflows, mudflows, lahars, debris flows, rock slides, landslides or other slope failures on maps or technical reports published by the U.S. Geological Survey such as topographic or geologic maps, or the Geology and Earth Resources Division of the Washington Department of Natural Resources, or other documents authorized by government agencies, or those areas delineated by the United States Department of Agriculture Natural Resources Conservation Service as having a significant limitation for building site development.

5. ~~The project area falls within or two hundred feet from any a~~Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action shall be addressed as a flood hazard consistent with this chapter.

6. Areas that have shown movement during the Holocene epoch or which are underlain or covered by wastage debris of that epoch.

7. ~~The project area falls within or two hundred feet from any s~~Slopes that are parallel or sub-parallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials.

8. ~~The project area falls within or two hundred feet from any s~~Slopes with a gradient greater than eighty percent and subject to rock fall during seismic shaking.

9. ~~The project area falls within or two hundred feet from any a~~Areas that show evidence of or are at risk from snow avalanches.

10. Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding.

C. Seismic Hazards. Seismic hazard areas ~~shall~~ include areas that are subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction or surface faulting.

1. ~~The project includes structures (as defined in the International Building Code) proposed to be located in any of the a~~Areas described in subsection A or B of this section. ~~or located in a~~

2. Areas known to have a potential for soil liquefaction and soil strength loss during ground shaking as identified on the Washington Department of Natural Resources' Washington Geologic Information Portal~~U.S. Geologic Survey Relative Slope Stability Map of the Port Townsend Quadrangle, Puget Sound Region, Washington (1985)~~, or as identified in the field. A geologic hazard site assessment is not required for soil liquefaction and soil strength loss resulting from seismic activity unless other criteria provided in this section apply. The building official shall require evaluation using the provisions set forth in the adopted building code.

3~~2~~. ~~The structures or critical facilities are proposed to be located on a~~Areas located on a Holocene fault line. (No critical facilities shall be located on a Holocene fault line as indicated on investigative maps or described in studies by the U.S. Geologic Survey, Geology and Earth Resources Division of the Washington Department of Natural Resources, or other documents authorized by government agencies, or as identified in the field.) All developments on a Holocene fault line shall require a disclosure statement indicating the property is located on an active fault and may be geologically hazardous.

D. Volcanic Hazards. The project area is located in a volcanic hazard zone for Glacier Peak, Washington (Open-File Report 95-499); or in a volcanic hazard area of Mount Baker, Washington (Open-File Report 95-498). A site assessment is not required for volcanic hazard areas unless other criteria provided in this section apply.

E. Other Geologic Hazard Indicators.

1. ~~The project area falls within or two hundred feet from an a~~Alluvial fan ~~as~~ designated on the Skagit County Alluvial Fan Study Orthophoto Maps;

2. ~~The project area falls within or two hundred feet from a m~~Mine hazard area ~~as~~ designated on the Department of Natural Resources Map: Coal Measures of Skagit County (1924), or ~~within two hundred feet of~~ any other current or historic mine operations determined to be geologic hazards as described by the title and purpose of ~~the critical areas ordinance~~ Section 17.65.020(C)(5)~~, Geologically Hazardous Areas~~;

3. Areas of Unknown Geologic Hazards. As part of any development application where no current information is available to confirm that the items identified in this section are present on the project area, the critical areas review required by Section 17.65.060 will provide a description of the known and visible site features and be used by the director in evaluating whether a geologically hazardous area site assessment is required pursuant to this section.

17.65.420 Geologically hazardous area site assessment requirements.

A. If the director determines that the proposed development activity is located within 200 feet of an area of known or suspected risk as indicated in Section 17.65.410, or within a distance from the base of a landslide hazard area equal to the vertical relief, and that the geologic condition may pose a risk to life and property, or other critical areas on and off the project area, a geologically hazardous area site assessment as indicated in this section shall be required. ~~Site Visit Determination. The director shall make a determination using the following progressive order:~~

~~1. No Site Assessment. Where the director determines that the project or activity area has no potential for impacting adjacent ownership and property, other types of critical areas, public property (such as roads and other facilities) or living quarters of any kind, including any existing or proposed off-site, the director shall not require additional site assessments prior to approval under the provisions of this chapter.~~

~~2. Site Assessment Required. If the director determines during the site visit described in Section 17.65.410 that the proposed development activity falls within two hundred feet of an "area of known or suspected risk" and the geologic condition may pose a risk to life and property on or off the project area, then a geologically hazardous area site assessment of the project area by a qualified professional as described in subsection (B)(2) of this section shall be required as part of the complete development permit application.~~

B. Geologically Hazardous Area Site Assessment. When required by the director, a site assessment report shall be prepared by a qualified professional. Portions of the report relating to recommended design or mitigation shall be prepared under supervision of a licensed professional engineer. ~~A qualified professional shall mean an engineer, licensed in the state of Washington, with training and experience analyzing geologic, hydrologic, and groundwater flow systems in Washington State; or by a geologist who earns his or her livelihood from the field of geology and/or geotechnical analysis, with training and experience analyzing geologic, hydrologic and groundwater flow systems in Washington State, who has received a relevant degree from an accredited four-year institution of higher education.~~

The geologically hazardous area site assessment report shall classify the type of hazard in accordance with Sections 17.65.400 and 17.65.410. The site assessment report shall include the following as appropriate:

1. A site plan must be prepared in accordance with the development permit requirements. The site plan shall depict the height of slope, slope gradient and cross section of the site. The site plan shall indicate the location of all existing structures, proposed structures and any significant known geologic features on the subject site. The site plan shall also include the location of springs, seeps, or other surface expressions of groundwater. The site plan shall also depict any evidence of surface or stormwater runoff;

Commented [RH223]: Gap Analysis, Section 5.3

Commented [RH224]: Relocated to definition of "qualified professional" under SWMC 17.65.025

2. A detailed description of the project, its relationship to potential geologic hazard(s), and its potential impact upon the hazard area(s), the subject property and adjacent properties. The description shall make a determination if a geologically hazardous area(s), as described in Section 17.65.020(C)(5), is present on the subject site. The narrative shall include a full discussion of the geologic factors and conditions on the subject site resulting in the qualified professional's conclusions;

3. An assessment of the geologic characteristics and engineering properties of the soils, sediments, and/or rock of the subject property and potentially affected adjacent properties. Soils analysis shall be accomplished in accordance with the Unified Soil Classification System;

4. A description of load intensity including surface and groundwater conditions, public and private sewage disposal systems, fills and excavations and all structural development;

5. An assessment describing the extent and type of vegetative cover to include tree attitude;

6. For Potential Landslide Hazards. Estimate slope stability and the effect construction and placement of structures will have on the slope over the estimated life of the structure. Quantitative analysis of slope stability or slope stability modeling may be required by the director;

7. Additional site assessment standards may be required by the director.

C. Site Assessment Conclusions.

1. Where the qualified professional determines that a geologically hazardous condition is not present on the subject site and/or will not occur as a result of the proposed project, will have no potential for impacting adjacent ownership and property, other types of critical areas, public property (such as roads and other facilities) or living quarters of any kind, including any existing or proposed off site, the director shall not require additional site assessments prior to approval under the provisions of this chapter. The qualified professional shall be required to certify that a geologic hazard is not present on the subject parcel as described in Section 17.65.020(C)(5).

2. Properties identified by the director and the qualified professional containing geologically hazardous conditions shall require a geologically hazardous area mitigation plan. Critical facilities as defined under Chapter 17.66 shall not be sited within designated geologically hazardous areas except for ~~(exception:~~ volcanic hazard areas designated in Section 17.65.410(D). No residential structures shall be located in geologically hazardous areas or their buffers that cannot be fully mitigated.

17.65.430 Geologically hazardous area mitigation standards.

The mitigation plan shall be prepared by a professional engineer or geologist under supervision of a professional engineer and include a discussion on how the project has been designed to avoid and minimize the impacts discussed under Section 17.65.420(B)(2). The plan shall also make a recommendation for the minimum building setback from any bluff or slope edge and/or other geologic hazard shall be based upon the geotechnical analysis under Sections 17.65.420(B)(2) and (B)(3) required. Mitigation plans shall include the location and methods of drainage, locations and methods of erosion control, a vegetation management and/or restoration plan and/or other means for maintaining long-term stability of geologic hazards. The plan shall also address the potential impact of mitigation on the hazard area, the subject property and affected adjacent properties. The mitigation plan must be approved by the director and be implemented as a condition of project approval.

Within designated geologic hazards, mitigation plans shall address the appropriate items listed below as required by the site assessment. One or more of the following mitigation standards, as required by the director, shall be included as components of a mitigation plan pursuant to the requirements of Section 17.65.420 (site assessment report). Other mitigation standards, other than those listed below, may be required by the director depending on the geologic hazard and the site conditions.

A. Mitigation Standards.

1. A temporary erosion and sedimentation control plan prepared in accordance with the requirements of Title 15, Buildings and Construction, or as subsequently amended.

2. A drainage plan for the collection, transport, treatment, discharge and/or recycle of water in accordance with the requirements of Title 15, Buildings and Construction, or as subsequently amended.

3. All proposals involving excavations and placement of fills shall be subject to structural review under the appropriate provisions as found in the International Building Code.

4. Critical facilities shall not be sited within designated geologically hazardous areas, except for volcanic hazard areas designated in Section 17.65.410(D). ~~(Exception: volcanic hazard areas.)~~

5. Surface drainage shall not be directed across the face of a landslide hazard (including ravines). If drainage must be discharged from the hazard area into adjacent waters, it shall be collected above the hazard and directed to the water by tight line drain and provided with an energy dissipating device at the point of discharge.

6. All infiltration systems such as stormwater detention and retention facilities, and curtain drains utilizing buried pipe or French drain are prohibited in geologically hazardous areas and their buffers unless a site assessment report indicates such facilities or systems will not affect slope stability and the systems are designed by a licensed civil

engineer. The engineer shall also certify that the system and/or facilities are installed as designed.

7. Vegetation Removal and Replanting. Removal of vegetation in landslide hazard, erosion hazard and coastal bluff hazard areas shall be minimized. Any replanting that occurs shall consist of trees, shrubs, and ground cover that is compatible with the existing surrounding vegetation, meets the objectives of erosion prevention and site stabilization, and does not require permanent irrigation for long-term survival.

8. A minimum buffer with a width of 30~~thirty~~ feet shall be established from the top, toe and all edges of all landslide hazardous areas. For landslide and erosion hazard areas with a vertical relief greater than 50 feet, the minimum buffer shall be 50 feet. Existing native vegetation shall be maintained in accordance with mitigation recommendations within the buffer area. Any modifications to the buffer requirement shall be based on the report and recommendations of the professional geologist under supervision of a licensed professional engineer. Pursuant to the requirements of Section 17.65.430(B), ~~T~~the buffer may be reduced to a minimum of 10~~ten~~ feet when, supported by a geotechnical report, and the applicant demonstrates to the director that the reduction will adequately protect the proposed development, adjacent developments and uses and the subject critical area including the criteria in Section 17.65.430(B). The buffer may be increased by the director ~~for development adjacent to a ravine which is designated as unstable on the Coastal Zone Atlas, Washington, Volume Two Skagit County (1978) or~~ where the director determines a larger buffer is necessary to prevent risk of damage to proposed and existing development ~~(as in the case where the area potentially impacted by a landslide exceeds thirty feet)~~. Normal nondestructive pruning and trimming of vegetation for maintenance purposes; or thinning of limbs of individual trees to provide a view corridor, shall not be subject to these buffer requirements.

Commented [RH225]: Gap Analysis, Section 5.4

9. Seismic Hazard Areas. Structural development proposals shall meet all applicable provisions of the International Building Code.

The director shall evaluate documentation submitted pursuant to Section 17.65.420(B)(2) (site assessment report) and condition permit approvals to minimize the risk on both the subject property and affected adjacent properties. All conditions on approvals shall be based on known, available, and reasonable methods of prevention, control and treatment. Evaluation of geotechnical reports may also constitute grounds for denial of the proposal.

B. Alterations of the Buffer and/or Geologically Hazardous Area. Alterations of the buffer and/or geologically hazardous area may occur for development meeting the following criteria:

1. No reasonable alternative exists; and

2. A site assessment report is submitted and certifies that:

a. There is a minimal hazard as proven by evidence of no landslide activity in the past in the vicinity of the proposed development; and

b. A~~a~~ quant~~l~~itative analysis of slope stability indicates no significant risk to the development proposal and adjacent properties; or the geologically hazardous area can be modified; or the development proposal can be designed so that the hazard is eliminated or mitigated so that the site is as safe as a site without a geologically hazardous area. The quantitative analysis shall include the minimum setback allowed for development as indicated by a slope stability model with respect to a minimum factor of safety of 1.5 for static conditions, 1.25 for seismic conditions, or 10 feet, whichever results in the greater setback. The elements of the quantitative site assessment shall be determined by the director and may include one (1) or more of the following:

i. Subsurface exploration, to include at least 1 boring with sample collection for laboratory analysis.

ii. Laboratory analysis shall assess the soil characteristics and include sieve analysis, moisture, angle of internal friction, and cohesion.

iii. Utilizing the information from the subsurface exploration and laboratory analysis, the quantitative site assessment shall include slope stability modeling with factor of safety analysis. The analysis shall indicate the factor of safety within 50 feet of the top and toe of geologic hazards.~~,~~

Commented [RH226]: Gap Analysis, Section 5.4

c~~b~~. The development will not significantly increase surface water discharge or sedimentation to adjacent properties beyond predevelopment conditions;~~,~~ and

d~~c~~. The development will not decrease slope stability on adjacent properties;~~,~~ and

e~~d~~. Such alterations will not adversely impact other critical areas.

C. Noncompliance and Failed Mitigation Plans.

1. Projects found to be in noncompliance with the mitigation conditions issued as part of the development approval are subject to enforcement actions necessary to bring the development into compliance with this chapter.

2. Mitigation plans which do not fulfill the performance required based on the site assessment/geotechnical report findings or otherwise fail to meet the intent of this chapter shall be revised and the subject development brought into compliance with the revised mitigation plan.

D. ~~3.~~ Mitigation Plan Certification. Upon completion of the project, a qualified professional shall certify that the mitigation plan has been properly implemented. The certification shall be required prior to final approval of the project by the director.

17.65.440 Geologically hazardous area public review and record.

In addition to the provisions for public notice provided under Section 17.65.065 and Chapter XX, or as subsequently amended, the director shall provide official notice of decision and make the site assessment report available for public review upon approval of any project requiring a geologically hazardous area site assessment pursuant to Section 17.65.420(B)(2) and shall maintain a public record of all materials pertinent to approval decisions.

Article V. Fish and Wildlife Habitat Conservation Areas

17.65.500 Fish and wildlife habitat conservation area designations.

A. Fish and wildlife habitat conservation areas (FWHCAs) shall be designated and classified as provided for in ~~the definition section~~Section 17.65.025 of this chapter. The map and species references indicated are intended to serve only as a guide during development review. A site assessment completed by a qualified professional shall be completed to confirm actual conditions.

B. The review of actions impacting FWHCA functions and values will consider the cumulative impacts of the proposed action that includes past, present, and reasonably foreseeable future actions to facilitate the goal of no net loss of critical areas. Such impacts shall include those to wildlife, habitat, and migration corridors; water quality and quantity; and other geologic or watershed processes that relate to critical area condition, process, or service.

Commented [RH227]: Gap Analysis, Section 6.1

~~B.~~C. Designated FWHCAs. FWHCAs are listed in WAC 365-190-130 and are designated as follows: ~~Habitat conservation areas are designated by definition in Section 17.65.020(C)(3) and are referenced as follows:~~

Commented [RH228]: Gap Analysis, Section 6.1; List of designated FWHCAs relocated from SWMC 17.65.510(B) and updated for consistency with WAC 365-190-130

1. An area with which anadromous fish, endangered, threatened or sensitive species have a primary association and/or their habitat; ~~such as those designated and mapped by the Washington State Department of Fish and Wildlife, Priority Habitats and Species Program;~~

2. State priority habitats and areas associated with State priority species as defined in WAC 365-190-080 or documented in the Washington State Department of Fish and Wildlife Priority Habitats and Species List;

~~2~~3. A water of the state as defined by RCW 90.48.020 and Typed Waters as defined under WAC 222-16-030;

4. Habitats and species of local importance that have been designated by the City (Subsection (D) of this Section);

~~3. A critical biological area as designated and mapped by the Department of Ecology Coastal Zone Atlas dated June 1978 and/or the maps;~~

~~45. Designated species and habitats of local importance pursuant to Section 17.65.500;~~

~~56~~5. Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat;

~~67~~6. Lakes, ponds, streams, and rivers planted with game fish by a government or tribal entity; and

~~7. Areas with which anadromous fish species have a primary association; and~~

7~~8~~. State natural area preserves and natural resource conservation areas.

8~~9~~. Other aquatic resource areas.

9~~10~~. Areas of rare plant species and high quality ecosystems as identified by the Washington State Department of Natural Resources through the Natural Heritage Program in Chapter 79.70 RCW.

D~~B~~. Species and Habitats of Local Importance. In addition to the FWHCAs identified in Section 17.65.500(C)~~17.65.020(C)(l)~~, additional species and habitats of local importance may be designated by the director based on declining populations, sensitivity to habitat manipulation or special value including, but not limited to, commercial, game or public appeal.

1~~C~~. In order to nominate an area or a species to the category of habitats and species of local importance, an individual or organization must:

~~1~~a. Demonstrate a need for special consideration based on:

~~a~~i. Declining population,

~~b~~ii. Sensitivity to habitat manipulation, or

~~c~~iii. Commercial or game value or other special value, such as public appeal;

~~2~~b. Propose relevant management strategies considered effective and within the scope of this chapter;

~~3~~c. Provide species habitat location(s) on a map (scale 1:24,000). Submitted proposals will be reviewed by the director and may be forwarded to the Departments of Fish and Wildlife, Natural Resources, and/or other county and state agencies or ~~experts~~ qualified professionals for comments and recommendations regarding accuracy of data and effectiveness of proposed management strategies. A public hearing may be held for proposals found to be complete, accurate, potentially effective and within the scope of this chapter. Approved nominations will become designated "habitats/species of local importance" and will be subject to the provisions of this chapter.

~~D~~2. The following species and habitats of local significance have been designated on a site-specific basis: ~~according to the official species and habitats of local significance map~~:

Commented [RH229]: Deletion, not current practice

~~1~~a. Great blue heron nest sites;

~~2~~b. Vaux's swifts communal roosts;

~~3~~c. Pileated woodpecker nest sites;

~~4~~d. Osprey nest sites;

~~5~~e. Townsend big-eared bat communal roosts;

~~6~~f. Cavity nesting ducks breeding areas;

~~7~~g. Trumpeter swan concentrations;

~~8~~h. Harlequin duck breeding areas;

~~9~~i. Waterfowl concentrations.

E. In addition to the FWHCAs identified in Section 17.65.500(D), additional species and habitats of local importance include areas in which state-listed priority species are found, have a primary association with, or contain suitable habitat for said listed species, as listed on the Washington Department of Fish and Wildlife's Priority Habitats and Species list.

Commented [RH230]: Gap Analysis, Section 6.1; WDFW comment

17.65.510 Fish and wildlife habitat conservation areas initial project review.

A. A site visit shall be conducted by the director to determine whether FWHCAs identified on a critical area checklist or on available map resources or whether FWHCAs not previously identified are present within 200 ~~two hundred~~ feet of the project or activity site.

~~B. Habitat conservation areas are designated by definition in Section 17.65.020(C)(3) and are referenced as follows:~~

~~1. An area with which anadromous fish, endangered, threatened or sensitive species have a primary association and/or their habitat such as those designated and mapped by the Washington State Department of Fish and Wildlife, Priority Habitats and Species Program;~~

~~2. A water of the state as defined under WAC 222-16-030;~~

~~3. A critical biological area as designated and mapped by the Department of Ecology Coastal Zone Atlas dated June 1978 and/or the maps;~~

~~4. Designated species and habitats of local importance pursuant to Section 17.65.500;~~

~~5. Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat;~~

~~6. Lakes, ponds, streams, and rivers planted with game fish by a government or tribal entity;~~

~~7. Areas with which anadromous fish species have a primary association; and~~

~~8. State natural area preserves and natural resource conservation areas.~~

Commented [RH231]: Gap Analysis, Section 6.1; Relocated and revised as SWMC 17.65.500(C).

~~C~~B. If the director determines through the site visit ~~described in subsection (A)(1) of this section~~ that a ~~fish and wildlife habitat conservation area (~~FWHCA~~)~~ may be present within 200 ~~two hundred~~ feet of the proposed project or activity area, then a site assessment and, if applicable, a ~~/~~habitat management plan as described in Section 17.65.520 shall be required as part of the complete application.

Commented [RH232]: Gap Analysis, Section 6.2

17.65.520 Fish and wildlife habitat conservation area site assessment requirements.

Site assessments for FWHCAs are valid for five years; after such date the City shall determine whether a revision or additional assessment is necessary. Site assessment~~/habitat management plan~~s shall be prepared by a qualified fish and wildlife biologist with experience assessing the relevant species and habitats and include at a minimum, the following requirements:

Commented [RH233]: Addition for clarity of application

Commented [RH234]: Gap Analysis, Section 6.3; Update reporting requirements for a FWHCA site assessment.

A. Site plan prepared in accordance with the permit requirements indicating all ~~fish and wildlife habitat conservation area~~FWHCAs falling within 200~~two hundred~~ feet of the subject property and the following:~~. This site plan may be prepared by the applicant subject to review by the qualified fish and wildlife biologist;~~

1. The location of the proposed development site;

2. The relationship of the site to surrounding topographic, water, and cultural features;

3. Proposed building locations and appurtenances;

4. All FWHCAs, inclusive of any standard or proposed buffer widths and building setbacks. A WDFW PHS database search that is no older than one year from the project submittal shall be included; and

5. A legend that includes a complete legal description, acreage of the parcel, scale, north arrow, and date of map revision.

B. Project narrative describing the proposal including, but not limited to, associated grading and filling, structures, utilities, adjacent land uses, description of vegetation both within and adjacent to the ~~habitat conservation area~~FWHCA, and when deemed necessary by the director~~administrative officer~~, a surface and subsurface hydrologic analysis;

C. ~~Impact analysis identifying and document~~An analysis~~ing~~ of the ~~presence of all~~existing ~~habitat conservation area~~FWHCAs and species, ecological quality, and functions and values on or adjacent to the project area. This includes but is not limited to a detailed description of vegetation on and adjacent to the project area and its associated buffer;~~ and~~

~~discussing the project's effects on the fish and wildlife habitat conservation areas;~~

D. Regulatory analysis including a discussion of any federal, state, tribal, and/or local requirements or special management recommendations which have been developed for species and/or habitats located on the site;

E. Impact analysis discussing the project's effects on the FWHCAs and ecological functions and values; and

~~E~~F. Mitigation report including a discussion of proposed measures of mitigating adverse impacts of the project and an evaluation of their potential effectiveness. Measures may include, but are not limited to, establishment of buffer zones, preservation of critically important plants, and trees, limitation of access to habitat areas, seasonal restrictions of construction activities, establishment of a timetable for periodic review of the plan and/or establishment of performance or maintenance bonds.~~;~~

G. When required pursuant to Section 17.65.530, a habitat management plan (HMP) to demonstrate effective protection measures. The critical area review will not be complete without submission of the HMP, and approval of development and project permits will be contingent on compliance with these plans. The HMP must be prepared by a qualified professional, as defined in Section 17.65.025. An HMP is a site investigation report evaluating the potential presence or absence of a regulated fish or wildlife species or habitat on a subject property that the proposed development may adversely impact. This report shall identify how proposed project impacts on fish and wildlife habitat will be avoided, reduced, or mitigated, where applicable. The current WDFW Priority Habitats and Species (PHS) Management Recommendations, and any applicable species and/or habitat-specific management regulations approved by WDFW, may serve as guidance for this report.

Commented [RH235]: Gap Analysis, Section 6.3; Specify standards and criteria for a habitat management plan.

H. The HMP shall contain a report which describes:

1. A discussion on how the applicant proposes to avoid, minimize and mitigate any adverse impacts to fish and wildlife habitats created by the proposed development. When a project involves FWHCA and/or buffer impacts, a mitigation plan prepared by a qualified professional shall be required, meeting the minimum requirements contained within Section 17.65.160. In all cases, mitigation sequencing shall be demonstrated per Section 17.65.160(C). When compensatory mitigation is necessary, a mitigation plan shall be provided that ensures no net loss of ecological functions and must meet the following requirements:

a. Mitigation sites must be located to preserve or achieve contiguous wildlife habitat corridors to minimize the isolating effects of development on habitat areas;

b. The mitigation of FWHCA habitat shall be located within the same ecosystem as the area disturbed; and

c. The mitigation plan shall include standards for ongoing

~~F. M~~management and maintenance practices including a discussion of ongoing maintenance practices that will assure protection of all ~~fish and wildlife habitat conservation area~~FWHCAs on site after the project has been completed. This section should include a discussion of proposed monitoring criteria, methods and schedule.~~;~~

2. When necessary per this title, the HMP shall also include:

a. An analysis of how the remaining buffer will be enhanced to meet full buffer function. Any functions that are diminished or lost will be required to be mitigated with in-kind enhancements to the greatest extent feasible. Out-of-kind mitigation will be considered on a case-by-case basis.

b. An analysis based on site specific conditions and project features that greater protection than standard buffers are necessary to preserve riparian functions and protected species.

~~G~~I. Site protection. Approval of any activity that can adversely affect ~~fish and wildlife habitat conservation area~~FWHCAs shall conform to the requirements set forth in Section 17.65.170(A).

17.65.530 Fish and wildlife habitat conservation area mitigation standards.

~~Fish and wildlife habitat conservation area~~FWHCAs shall be protected in accordance with local determination of appropriate conditions considering the site-specific recommendations from agencies with jurisdictions over the specific area, which may include, but not be limited to, the Washington State Department of Fish and Wildlife, Department of Ecology, federally recognized Indian Tribes located within Skagit County, WDFW Management Recommendations for Washington Priority Habitats and Species, and site-specific information supplied by the applicant.

Development proposals shall be reviewed for potential impacts to ~~fish and wildlife habitat conservation area~~FWHCAs. The determination of potential impacts shall be dictated by site conditions and made by the director. The director may consult with the Washington State Departments of Ecology, Fish and Wildlife and Natural Resources and federally recognized Indian Tribes located in Skagit County to determine potential impacts a proposed project may have on a fish and wildlife habitat. If it is determined that a proposed project may have an adverse effect on a FWHCA~~fish and wildlife habitat conservation area~~, the applicant shall implement an HMP ~~habitat management plan~~ as described in Sections 17.65.520(G) and (H) including mitigation measures in conformity with the performance standards outlined below:

A. Riparian Performance Standards. Riparian buffer areas shall be established from the ordinary high water mark or from the edge of the channel migration zone if present. In the case where associated wetlands are present, the larger of the wetland buffer or riparian buffer area shall apply The intent of the riparian buffer areas is to protect ~~five basic~~ riparian forest functions that influence in-stream and near-stream habitat quality. These are:

1. Recruitment of Large Woody Debris (LWD) to the Stream. LWD recruitment creates habitat structures necessary to maintain salmon/trout productive capacity and species diversity.

2. Shade. Shading by the forest canopy maintains cooler water temperatures and influences the availability of oxygen for salmon/trout.

3. Bank Integrity (Root Reinforcement). Bank integrity helps maintain habitat quality and water quality by reducing bank erosion and creating habitat structure and instream hiding cover for salmon and trout.

4. Pollution Control. Pollution removal reduces the quantity of pollutants entering surface waters.

Commented [AP236]: Gap Analysis, Section 6.4, WDFW guidance

Commented [RH237]: Gap Analysis, Section 6.4, WDFW guidance

Commented [RH238]: Gap Analysis, Section 6.4; Update riparian forest functions to be protected.

5. Detrital Nutrient Input. Detrital nutrients, such as litter fall, contribute to productivity, composition, and structure of ecosystems.

6~~4~~. Runoff Filtration. Filtration of nutrients and sediments in runoff (surface and shallow subsurface flows) helps maintain water quality.

7~~5~~. Wildlife Habitat. Functional wildlife habitat for riparian-dependent species is based on sufficient amounts of riparian vegetation to provide protection for nesting, ~~and~~ feeding, and habitat corridor linkage needs.

~~B. Standard Riparian Buffers. Riparian areas have the following standard buffer requirements (Note: riparian areas do not extend beyond the toe of the slope on the landward side of existing dikes or levees unless specifically exempt from federal vegetation management requirements. See also Section 17.65.100 for list of activities allowed within critical areas, including riparian areas.):~~

~~Water Type Riparian Buffer~~

~~Type 1 and 2~~	~~200 feet~~
~~Type 3~~	~~110 feet~~
~~Type 4 and 5~~	~~50 feet~~

Commented [K(239]: at minimum, the RMZ width should be at least 100 feet in order for pollution removal.

B. Standard Riparian Buffer Area. The buffer widths in the table below assume the buffer is vegetated with a native plant community appropriate for the ecoregion. To be considered fully functioning, a stream buffer must contain:

Commented [RH240]: Gap Analysis, Section 6.4

1. An average of 80% native vegetation cover, with no more than 10% noxious weed cover; and

2. A native plant community that includes tree, shrub, and groundcover strata in proportions that mimic native forest for the region.

Table 17.65.530-1 Standard Riparian Buffer Area Widths

Stream Type	**Standard Riparian Buffer Area Widths**
Type S streams	See Chapter 17.96, Shoreline Master Program

Type F streams	150 feet
Np and Ns streams	100 feet

C. Once buffers are established, they shall not be altered except as allowed below. Riparian buffers not currently meeting the minimum standards pursuant to 17.65.530(B) shall be restored to create the appropriate native plant community and to establish all riparian performance standards listed in Section 17.65.530(A); provided, that such restoration does not conflict with other provisions of this chapter. In implementing buffer widths other than the standard riparian buffers identified above, the director may provide opportunity for review and comment from appropriate federal, state or tribal natural resource agencies to ensure the use of best available science. These comments shall be included in the public record along with the basis and rationale for requirement or approval of any such nonstandard buffers.

Commented [RH241]: Addition to clarify minimum standards

Commented [RH242]: Addition per City comment

1. Increasing Buffer Widths. The director has the authority to increase the standard buffer widths when a larger riparian buffer area is necessary, based on specific site conditions and project features, to protect habitat area functions and values ~~on a case-by-case basis~~, or to establish nonriparian buffer widths, when such buffers are necessary to protect priority fish or wildlife (e.g., great blue heron nesting colonies, osprey or cavity nesting ducks) using the FWHCA. This determination shall be reasonably related to protection of the functions and values of the regulated habitat area. This determination shall be supported by appropriate documentation from the Departments of Ecology and Fish and Wildlife, showing that the increased buffer width is reasonably related to the protection of the fish and/or wildlife using the FWHCA. A determination that a larger riparian buffer area is needed shall be based on the following factors:

a. A larger riparian buffer area is necessary to maintain viable populations of existing species or protect the existing functions of habitat areas identified in Section 17.65.500(B);

b. The adjacent land has minimal vegetative cover. A larger riparian buffer area may not be needed when vegetation issues can be addressed through the submittal of an enhancement plan;

c. The adjacent land has slopes greater than 30 percent;

d. The adjacent land contains poorly drained soil as defined by Natural Resource Conservation Service (NRCS) Soil Survey Drainage Class; and

e. The adjacent land contains a high intensity land use or a use that may contribute excess nitrogen.

Commented [RH243]: Gap Analysis, Section 6.4; WDFW guidance

2. Decreasing Buffer Widths. Decreasing standard buffers will only be allowed under a reasonable use exception pursuant to Section 17.65.150. ~~only if the applicant demonstrates that all of the following criteria are met:~~

~~a. A decrease is necessary to accomplish the purposes of the proposal and no reasonable alternative is available;~~

~~b. Decreasing width will not adversely affect the fish and wildlife habitat functions and values;~~

~~c. If a portion of a buffer is to be reduced, the remaining buffer area will be enhanced, using native vegetation, artificial habitat features, vegetative screening and/or barrier fencing as appropriate to improve the functional attributes of the buffer and to provide equivalent or better protection for fish and wildlife habitat functions and values;~~

~~d. The buffer width shall not be reduced below fifty percent of the standard buffer width unless the director determines that no other reasonable alternative exists and that no net loss of HCA riparian functional values will result, based on a functional assessment provided by the applicant utilizing a methodology approved by the director~~

3. Alternative Stream Buffer. An applicant may propose an Alternative Stream Buffer in lieu of the default widths in Table 17.65.530-1 when a critical area report is prepared by a qualified professional and demonstrates the alternative buffer width will protect riparian ecosystem functions at least as well as the default table. The alternative stream buffer width shall be delineated as follows:

Commented [AP244]: Gap Analysis 6.5.3

a. Alternative stream buffer width determination. The buffer width shall be measured pursuant to Section 17.65.530(A) above. The outer edge shall be established by using WDFW's online mapping tool to measure site potential tree height at 200 years (SPTH200) of the dominant tree species.

b. SPTH data sources. SPTH200 may be obtained from the WDFW SPTH mapping datasets and tools for the City of Sedro-Woolley or may be calculated in the field using WDFW's Guidelines for Determining SPTH from Field Measurements (2025), or as subsequently amended, with documentation included in the critical area report.

c. Minimum pollution-removal width. In all cases, the buffer shall not be less than one hundred (100) feet to ensure high pollutant removal efficacy.

d. The critical area report shall map riparian vegetation limits, document SPTH200 methods and values, and include a functions-based analysis comparing the proposed buffer to the default widths.

4. Functionally Disconnected Buffer Areas. Buffers may exclude areas that are functionally and effectively disconnected from the FWHCA by an existing public or private

road or legally established development, as determined by the director. Functionally and effectively disconnected means that the road or other significant development blocks the protective measures provided by a buffer.

Significant developments shall include built public infrastructure such as roads and railroads, and private developments such as homes or commercial structures. The director may require an HMP if, after considering the hydrologic, geologic, and/or biological habitat connection potential and the extent and permanence of the buffer interruption, such a plan is deemed necessary to confirm the lack of detrimental impact on the habitat area. Individual structures may not fully interrupt buffer function. In such cases, the allowable buffer exclusion shall be limited in scope to just the portion of the buffer that is affected.

~~C~~D. Allowed Uses in FWHCAs or Buffers. Allowed uses and methods must be informed by management recommendations and data, including, but not limited to, WDFW, USFWS, and NOAA resources.

~~1. Docks. Docks designed to facilitate low-impact uses, such as education and/or private, noncommercial recreation may be permitted within fish and wildlife HCAs under the following conditions:~~

~~a. The activity will have minimum adverse impact to the fish and wildlife habitat conservation area;~~

~~b. The activity will not significantly degrade surface or groundwater;~~

~~c. The intrusion into the fish and wildlife habitat conservation area and its buffers is mitigated; and~~

~~d. The director may provide opportunity for review and comment by federal, state and tribal natural resource agencies.~~

1~~2~~. Public and private nonmotorized trails. Public and private pedestrian trails, provided:

a. An alternatives analysis demonstrates there is no practicable alternative that would avoid the FWHCA or its riparian buffer area, or that would place the trail farther from the FWHCA while still meeting the essential purpose of the trail;

b. The trail surface shall be pervious or elevated (e.g., boardwalk) where feasible, meet applicable water quality standards, and be designed to minimize grading, vegetation removal, and soil compaction;

Commented [RH245]: Gap Analysis, Section 6.4

Commented [RH246]: Gap Analysis, Section 6.4

Commented [RH247]: Gap Analysis, Section 6.4

c. Trails proposed in riparian buffer areas shall be located in the outer 25 percent of the protection area, except when bridges or access points are proposed and no practicable alternative exists;

d. Riparian buffer area widths shall be increased, where possible, equal to the width of the trail corridor, including disturbed areas, or an equivalent area of degraded buffer within the same protection area segment shall be enhanced to maintain no net loss of buffer function;

e. Trail corridors in FWHCAs and riparian buffer areas shall not exceed five (5) feet in width, except that up to eight (8) feet may be approved to meet ADA accessibility or multi-use safety needs, as demonstrated in the alternatives analysis;

f. Trail location, design, and construction shall minimize impacts and disturbances to the extent practicable, be informed by the most current WDFW Priority Habitats and Species data, and incorporate applicable management recommendations;

g. Lighting, fencing, and signage shall be wildlife-friendly, minimize disturbance, and be located only where necessary for safety or resource protection; and

h. Areas of temporary disturbance shall be restored promptly following the completion of the disturbance. Restoration shall include replanting with native vegetation appropriate to the site.

~~Limited park or recreational access to a fish and wildlife habitat area or its required buffer; provided, that all of the following are satisfied:~~

~~a. The access is part of a public park or a recreational resort development that is dependent on the access for its location and recreational function;~~

~~b. The access is limited to the minimum necessary to accomplish the recreational function;~~

~~c. The access and the balance of the development is consistent with other requirements of the Sedro-Woolley Municipal Code and the Skagit County Shoreline Management Master Program; and~~

~~d. The proponent obtains a written approval from the city council for the limited access and associated mitigation.~~

2~~3~~. Low impact uses and activities which are consistent with the purpose and function of the habitat buffer and do not detract from its integrity may be permitted within the buffer depending on the sensitivity of the habitat involved; provided, that such activity shall not result in a decrease in riparian functional values and shall not prevent or inhibit the buffer's recovery to provide riparian performance standards listed in Section 17.65.530(A) and Section 17.65.530(B)~~at least prealtered condition or function~~. Examples of uses and activities which may be permitted in appropriate cases, as long as the activity does not prevent or inhibit~~retard~~ the overall recovery of the buffer, include removal of noxious vegetation,~~ pedestrian trails~~, and siting of viewing platforms, and low impact development best management practices (LID BMPs) ~~stormwater management facilities~~that comply with the requirements of Chapter 13.26, ~~such as grass-lined swales and wet ponds or stormwater wetlands.~~or as subsequently amended. LID BMPs are described in the stormwater manual and the Low Impact Development Technical Guidance Manual for Puget Sound, published by the Puget Sound Partnership and Washington State University Extension.

3~~4~~. In the riparian buffer, removal of hazardous, diseased or dead trees and vegetation when necessary to control fire, or to halt the spread of disease or damaging insects consistent with the State Forest Practices Act, Chapter 76.09 RCW, or when the removal is necessary to avoid a hazard such as landslides or pose a threat to existing structures, may be permitted with prior written approval. Any removed tree or vegetation shall be replaced with appropriate species. Replacement shall be performed consistent with accepted restoration standards for riparian areas within one calendar year. The director may approve alternative tree species to promote fish and wildlife habitat.

Prior to commencement of tree or vegetation removal and/or replacement, the landowner must obtain written approval from the director.

~~5. To allow for greater flexibility in a development proposal, an applicant has the opportunity to remove timber within the standard buffer widths shown above if the applicant's mitigation measures incorporate all of the performance standards based upon water type listed in the table below. In conformance with professional standards used by the Washington Department of Natural Resources for forest practices in sensitive areas, all removal of timber within HCA buffers shall be subject to conditioning specified by the director and may be made in conjunction with an on-site review in which participation by representatives of the proponent, Ecology, WDFW, WDNR and natural resource representatives of affected Indian Tribes is solicited.~~

~~The intent of this section is to provide an additional opportunity for an applicant to propose some level of timber removal within the riparian habitat zone as long as it can be demonstrated that the function of the buffer can be maintained at the levels described below. If the buffer, in its current state, cannot meet these standards, then the director will not be able to give its approval for any activity which would inhibit recovery of or degrade the current buffer.~~

~~The current performance of a given buffer area is compared to its potential performance as rated by the Soil Conservation Service, Soil Survey of Skagit County, 1989. In consultation with a representative from the Natural Resource Conservation Service, Soil Conservation District or professional forester, the applicant will determine the capability~~

~~of the site for woodland management using the most suitable tree species according to the soil survey and establish the stand characteristics that would be expected from a mature stand of those species established on site. If the current stand can exceed the riparian protection that could be expected based on site potential, then additional activity may be allowed provided the following performance standards can be met. For Type 1 and 2 streams, an alternative method may be utilized to allow limited timber harvest within the outer one hundred feet of a buffer:~~

~~Performance-Based Riparian Standards*~~

~~(These Standards Must Be Exceeded Before Additional Activity Can Be Permitted Within the Riparian Zone)~~

~~Watertype Performance Standards.~~

~~Type 1 and 2 (Fish Bearing).~~

~~a. Maintain ninety-five percent of total LWD recruitment expected to enter the stream from a mature stand;~~

~~b. Maintain eighty-five percent of the trees which are greater than twenty-four inches DBH within one hundred feet of stream;~~

~~c. Maintain an average of seventy-five percent canopy cover (based on canopy densitometer readings at stream edge); and~~

~~d. The applicant may further request some limited timber harvest of up to thirty percent of the merchantable timber within the outer one hundred feet of any two hundred-foot required buffer provided the harvest:~~

~~i. Does not reduce the LWD and canopy requirements,~~

~~ii. The applicant will increase the total buffer size by fifty feet to mitigate for the limited timber harvest in the required buffer to provide additional wildlife habitat. The additional fifty-foot buffer shall retain a minimum of fifty percent of the total number of trees with twenty-five percent of the total trees left having a diameter at breast height (DBH—four and one-half feet) greater than twelve inches, and~~

~~iii. No more than fifty percent of the dominant trees in the outer one hundred feet may be harvested.~~

~~Type 3 (Fish Bearing).~~

~~a. Maintain eighty-five percent of total LWD recruitment expected to enter the stream from a mature stand;~~

~~b. Maintain eighty-five percent of the trees which are greater than eighteen inches DBH within one hundred feet of stream; and~~

~~c. Maintain an average of seventy-five percent canopy cover (based on canopy densitometer readings at stream edge).~~

~~Type 4 and 5 (Nonfish Bearing).~~

~~a. Maintain fifty percent of total LWD recruitment expected to enter the stream from a mature stand;~~

~~b. Maintain eighty-five percent of the trees which are greater than twenty-four inches DBH within fifty feet of stream; and~~

~~c. Maintain an average of seventy-five percent canopy cover (based on canopy densitometer readings at stream edge).~~

~~* Note: Applicants electing to employ performance based mitigation in accordance with the above matrix shall include appropriate analysis and justification in their site assessment/habitat management plan.~~

~~D~~E. Bald eagle habitats shall be protected pursuant to the ~~Washington State~~federal Bald and Golden Eagle Protection Act and the Migratory Bird Treaty Act~~Rules (WAC 232-12-292)~~. A cooperative ~~habitat management plan~~HMP shall be developed in coordination with the U.S. Fish and Wildlife Service with support from the Washington Department of Fish and Wildlife whenever activities that alter habitat are proposed near a verified nest territory or communal roost.

~~E. Wetlands that are identified as a fish and wildlife habitat conservation area shall be protected according to the provisions in subsection (B)(1) of this section. If the wetland buffer widths called for under subsection B of this section conflict with this section, the buffer widths providing the greatest protection shall apply.~~

~~F~~F. All other ~~fish and wildlife habitat conservation area~~FWHCAs, including habitats/species of local importance, shall be protected on a case by case basis by means of an HMP ~~habitat management plan~~ based on the PHS program, as set forth in Sections 17.65.510 and 17.65.520, initial project review and site assessment~~/habitat management plan~~.

~~G~~G. Site protection. Approval of any activity that can adversely affect FWHCA~~fish and wildlife habitat conservation area~~s shall conform to the requirements set forth in Section 17.65.170(A).

Commented [RH248]: Gap Analysis, Section 6.4

Commented [RH249]: Gap Analysis, Section 6.4

Commented [RH250]: Addressed in SWMC 17.65.530(A)

Article VI. ~~Flood Hazard~~Frequently Flooded Areas

17.65.600 Standards for ~~flood hazard~~frequently flooded areas.

The purpose of this section is to protect the public health, safety and welfare from harm caused by flooding. It is also the intent to prevent damage and/or loss to both public and private property. In addition, this section will give special consideration to anadromous fish habitat in combination with Section 17.65.500 through 17.65.530, Fish and Wildlife Habitat Conservation Areas, and Chapter 17.96, Shoreline Master Program. To fulfill this purpose, the City of Sedro-Woolley uses Chapter 17.66 (Flood Damage Prevention), adopted by reference, which designates special flood hazard areas and establishes permit requirements for these areas. ~~Development proposed in flood hazard areas, in addition to the provisions of Chapter 17.66 (Flood Damage Prevention), shall be limited to the extent that:~~

~~A. Clearing, stripping of vegetation and coverage of the site by roads and structures shall be no more than necessary in order to maintain water quality.~~

~~B. Buildings are sited to minimize alteration of terrain and other natural features, and minimize the need for fill.~~

Commented [RH251]: Gap Analysis, Section 7.1; Revise section title and revise introduction to crosswalk to Chapter 17.66, Flood Damage Prevention.

Article VII. Compliance and Enforcement

17.65.710 Compliance with critical area regulations.

No permit for a development proposal described in Section 17.65.060 shall be issued unless it also complies with the regulations of this chapter.

17.65.720 Construction.

In any case where the provisions of this chapter conflict with the provisions of the underlying zoning, the provisions of this chapter shall apply.

17.65.730 Severability.

The provisions of this chapter are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this chapter, or the invalidity of the application thereof to any person, owner, or circumstance shall not affect the validity of the remainder of this chapter, or the validity of its application to other persons, owners or circumstances.

17.65.740 State Environmental Policy Act.

This chapter establishes minimum standards which are to be applied to specific land use and platting actions in order to prevent further degradation of critical areas in the city, and is not intended to limit the application of the State Environmental Policy Act (SEPA). Projects subject to SEPA shall be reviewed and may also be conditioned or denied under Chapter 2.88.

Satisfaction of the requirements of this chapter shall also be sufficient to satisfy the requirement for critical areas analysis and mitigation pursuant to Chapter 43.21C RCW, the State Environmental Policy Act (SEPA), and Chapter 2.88, Environmental Policy.

The goals, policies and purposes set forth in this chapter shall be considered policies of the State Environmental Policy Act. When applicable the applicant must meet SEPA requirements.

Commented [RH252]: Gap Analysis, Section 2.6 and 8.1; Relocated from SWMC 17.65.060(C)

17.65.750 Liability disclaimer—Frequently flooded ~~hazard~~ areas.

Commented [RH253]: Gap Analysis, Section 8.2

Since floods more severe than the one-hundred-year flood occur on rare occasions, reliance on this chapter and the provisions of Chapter 17.66 will not altogether guarantee freedom from flood damage, nor shall this chapter create liability on the part of the city for such damage. It is further noted that other data regarding one-hundred-year floodplain elevations may exist which indicate a more severe threat than the data established by FEMA. Information on these other data sources shall be kept and made available at Sedro-Woolley City Hall.

17.65.760 Enforcement of the critical areas regulations.

A. Violations.

1. It is a violation of this chapter for any person to initiate or maintain or cause to be initiated or maintained the use of any structure, land or property within the city without first obtaining the permits or authorization required for the use by this chapter.

2. It is a violation of this chapter for any person to use, construct, locate, demolish or cause to be used, constructed, located, or demolished any structure, land or property within the city in any manner that is not permitted by the terms of any permit or authorization issued pursuant to this chapter; provided, that the terms or conditions are explicitly stated on the permit or the approved plans.

3. It is a violation of this chapter to remove or deface any sign, notice, complaint or order required by or posted in accordance with this chapter.

4. It is a violation of this chapter to misrepresent any material fact in any application, plans or other information submitted to obtain any critical areas authorization.

5. It is a violation of this chapter for anyone to fail to comply with the requirements of this chapter.

B. Duty to Enforce.

1. It shall be the duty of the director to enforce this chapter. The director may call upon the police, fire, health or other appropriate ~~city departments~~authorities to assist in enforcement.

Commented [RH254]: Revised per City

2. Upon presentation of proper credentials, the director ~~or duly authorized representative of the director~~ may, with the consent of the owner or occupier of a building or premises, or pursuant to a lawfully issued inspection warrant, enter at reasonable times any building or premises subject to the consent or warrant to perform the duties imposed by the critical areas code.

3. The critical areas code shall be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.

4. It is the intent of this critical areas code to place the obligation of complying with its requirements upon the owner, occupier or other person responsible for the condition of the land, wetlands, shorelines, and buildings within the scope of this code.

5. No provision of or term used in this code is intended to impose any duty upon the city or any of its officers or employees which would subject them to damages in a civil action.

C. Investigation and Notice of Violation.

1. The director shall investigate any structure or use which the director reasonably believes does not comply with the standards and requirements of the critical areas code.

2. If after investigation the director determines that the standards or requirements have been violated, the director shall serve a notice of violation upon the owner, tenant or other person responsible for the condition following the procedure in Section 18.15.020. The notice of violation shall state separately each standard or requirement violated; shall state what corrective action, if any, is necessary to comply with the standards or requirements; and shall set a reasonable time for compliance. The notice shall state that any subsequent violation may result in criminal prosecution ~~as provided in Section 17.65.170~~. In the event of violation of the standards or requirements of this chapter, required corrective action shall include, if appropriate, but shall not be limited to, mitigating measures such as restoration of the area and replacement of damaged or destroyed trees.

3. The notice shall be served upon the owner, tenant or other person responsible for the condition by personal service, registered mail, or certified mail with return receipt requested, addressed to the last known address of such person. If, after a reasonable search and reasonable efforts are made to obtain service, the whereabouts of the person

or persons is unknown or service cannot be accomplished and the director makes an affidavit to that effect, then service of the notice upon such person or persons may be made by:

a. Publishing the notice once each week for two consecutive weeks in the city official newspaper; and

b. Mailing a copy of the notice to each person named on the notice of violation by first class mail to the last known address if known, or if unknown, to the address of the property involved in the proceedings.

4. A copy of the notice shall be posted at a conspicuous place on the property, unless posting the notice is not physically possible.

5. Nothing in this section shall be deemed to limit or preclude any action or proceeding pursuant to Title 18, Code Enforcement, or as subsequently amended ~~Section 17.65.170~~.

6. The director may mail, or cause to be delivered to all residential and/or nonresidential rental units in the structure or post at a conspicuous place on the property, a notice which informs each recipient or resident about the notice of violation, stop work order or emergency order and the applicable requirements and procedures.

7. A notice or order may be amended at any time in order to:

a. Correct clerical errors; or

b. Cite additional authority for a stated violation.

D. Time to Comply.

1. When calculating a reasonable time for compliance, the director shall consider the following criteria:

a. The type and degree of violation cited in the notice;

b. The stated intent, if any, of a responsible party to take steps to comply;

c. The procedural requirements for obtaining a permit to carry out corrective action;

d. The complexity of the corrective action, including seasonal considerations, construction requirements and the legal prerogatives of landlords and tenants; and

e. Any other circumstances beyond the control of the responsible party.

2. Unless a request for review before the director is made in accordance with Section 18.15.030~~17.65.170~~, the notice of violation shall become the final order of the director. ~~A copy of the notice shall be filed with the Skagit County auditor. The director may choose not to file a copy of the notice or order if the notice or order is directed only to a responsible person other than the owner of the property.~~

E. Stop Work Order. Whenever a continuing violation of this code will materially impair the director's ability to secure compliance with this code, or when the continuing violation threatens the health or safety of the public, the director may issue a stop work order specifying the violation and prohibiting any work or other activity at the site. A failure to comply with a stop work order shall constitute a violation of this land use code.

F. Emergency Order.

1. Whenever any use or activity in violation of this code threatens the health and safety of the occupants of the premises or any member of the public, the director may issue an emergency order directing that the use or activity be discontinued and the condition causing the threat to the public health and safety be corrected. The emergency order shall specify the time for compliance and shall be posted in a conspicuous place on the property, if posting is physically possible. A failure to comply with an emergency order shall constitute a violation of this land use code.

2. Any condition described in the emergency order which is not corrected within the time specified is declared to be a public nuisance and the director is authorized to abate such nuisance summarily by such means as may be available. The cost of such abatement shall be recovered from the owner or person responsible or both in the manner provided by law.

G. Review by the Director.

1. Any person significantly affected by or interested in a notice of violation issued by the director pursuant to Section 18.15.030~~17.65.170~~ may obtain a review of the notice by requesting such review within fifteen calendar days after service of the notice. When the last day of the period so computed is a Saturday, Sunday or day when the Community Development Department is closed ~~federal or city holiday~~, the period shall run until five p.m. on the next business day. The request shall be in writing, and upon receipt of the request, the director shall notify any persons served the notice of violation and the complainant, if any, of the date, time and place set for the review, which shall be not less than ten nor more than twenty calendar days after the request is received, unless otherwise agreed by all persons served with the notice of violation. Before the date set for the review, any person significantly affected by or interested in the notice of violation may submit any written material to the director for consideration at the review.

2. The review will consist of an informal review meeting held at the department. A representative of the director who is familiar with the case and the applicable ordinances will attend. The director's representative will explain the reasons for the director's issuance of the notice and will listen to any additional information presented by the persons attending. At or after the review, the director may:

a. Sustain the notice of violation;

b. Withdraw the notice of violation;

c. Continue the review to a date certain for receipt of additional information; or

d. Modify the notice of violation, which may include an extension of the compliance date.

3. The director shall issue an order of the director containing the decision within seven calendar days of the date of completion of the review and shall cause the same to be mailed by regular first class mail to the person or persons named on the notice of violation, mailed to the complainant, if possible, and filed with the Skagit County auditor.

H. Extension of Compliance Date.

1. The director may grant an extension of time for compliance with any notice or order, whether pending or final, upon the director's finding that substantial progress toward compliance has been made and that the public will not be adversely affected by the extension.

2. An extension of time may be revoked by the director if it is shown that the conditions at the time the extension was granted have changed, the director determines that the conditions at the time the extension was granted have changed, the director determines that a party is not performing corrective actions as agreed, or if the extension creates an adverse effect on the public. The date of revocation shall then be considered as the compliance date. The procedures for revocation, notification of parties, and appeal of the revocation shall be established by rule.

I. Civil Penalty.

1. ~~In addition to any other sanction or remedial procedure which may be available, a~~Any person violating or failing to comply with any of the provisions of this chapter shall be subject to a cumulative penalty pursuant to Chapter 18.35~~in the amount listed in the master fee schedule adopted by resolution of the city council per day for each violation from the date set for compliance until the order is complied with~~.

Commented [AP255]: Addition of crosswalk to Chapter 18.35 (Civil Fines and Civil Penalties) for consistency.

2. The penalty imposed by this section shall be collected by civil action brought in the name of the city. The director shall notify the city attorney in writing of the name of any person subject to the penalty, and the city attorney shall, with the assistance of the director, take appropriate action to collect the penalty.

3. The violator may show as full or partial mitigation of liability:

a. That the violation giving rise to the action was caused by the willful act, or neglect, or abuse of another; or

b. That correction of the violation was commenced promptly upon receipt of the notice thereof, but that full compliance within the time specified was prevented by inability to gain access to the subject structure, or other condition or circumstance beyond the control of the defendant.

J. Criminal Penalties. Any person violating or failing to comply with any of the provisions of this critical areas code, this chapter, shall be subject to criminal prosecution for a gross misdemeanor, and upon conviction of a subsequent violation shall be fined in a sum not exceeding five thousand dollars or be imprisoned in the city jail for a term not exceeding one year or be both fined and imprisoned. Each day of noncompliance with any of the provisions of this critical areas code shall constitute a separate offense.

K. Additional Relief. The director may seek legal or equitable relief to enjoin any acts or practices and abate any condition which constitutes or will constitute a violation of this critical areas code when civil or criminal penalties are inadequate to effect compliance.