



BUCKLEY CITY COUNCIL MEETING AGENDA
December 13, 2016
Multi-Purpose Center, 811 Main Street
City Council Meeting
Opening 7:00 P.M.

Call to Order
Pledge of Allegiance
Roll Call of Council Members

Next Ordinance #26-16
Next Resolution #16-13
Next Agenda Bill #AB16-147

A. Citizen Participation

Time Limit of Three Minutes (Must sign up at City Hall by Wednesday prior to the Council Meeting)

B. Staff Reports

C. Main Agenda

1. ORD No. ___-16: Amending Title 14 – Incorporating LID Requirements Pg. 8
2. ORD No. ___-16: Anomaly Ordinance – Amending BMC Titles 18, 19 & 20 Pg. 57
3. ORD No. ___-16: Adopting 2017 City Employee Salary Scale Pg. 92
4. ORD No. ___-16: 2016 Budget Amendment Pg. 97
5. ORD No. ___-16: Amending Chapter 13.35.300 - ROW Use Appeals Pg. 102
6. Prosecuting Attorney Contract Pg. 105
7. Utility Easement Termination – Wytko Property Pg. 110
8. Contract Amendment – DSHS – Fire Protection & EMS for Rainier School Pg. 126
9. Cancellation of December 27, 2016 Council Meeting Pg. 127

D. Consent Agenda

Pg. 128

10. A. Approve Minutes of November 22, 2016 City Council Meeting
- B. Claims
- C. Payroll

E. Committee Reports

11. Mayor's Report Johnson
12. Administration, Finance & Public Safety Boyle Barrett
13. Transportation & Utilities Tremblay
14. Community Services Rose
15. Council Member Comments & Good of the Order



CITY OF BUCKLEY ♦ PO BOX 1960 ♦ BUCKLEY, WA 98321
360-829-1921 ♦ Fax 360-829-2659 ♦ <http://www.cityofbuckley.com>

CITY OF BUCKLEY MEETING LIST

Dec 12	10:30 AM	Buckley Hall Board (City Hall)
Dec 12	7:00 PM	Planning Commission
Dec 13	7:00 PM	City Council
Dec 15	4:00 PM	Community Services
Dec 20	9:30 AM	Admin, Finance & Public Safety (City Hall)
Dec 20	7:00 PM	Transportation & Utilities (City Hall)
Dec 27	7:00 PM	City Council
Jan 3	9:30 AM	Admin, Finance & Public Safety (City Hall)
Jan 3	7:00 PM	City Council Study Session
Jan 9	10:30 AM	Buckley Hall Board (City Hall)
Jan 9	7:00 PM	Planning Commission
Jan 10	7:00 PM	City Council
Jan 17	9:30 AM	Admin, Finance & Public Safety (City Hall)
Jan 17	7:00 PM	Transportation & Utilities (City Hall)
Jan 19	4:00 PM	Community Services
Jan 23	7:00 PM	Planning Commission
Jan 24	7:00 PM	City Council

The above meetings will be held in the Multi-Purpose Center located at 811 Main Street unless otherwise noted.

Last Revised December 6, 2016

December 2016



Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5		7	8	9	10
11	12 10:30 Buckley Hall Board 7 Planning Commission	13 7 City Council	14	15 4 Community Services	16	17
18	19	20 9:30 Admin, Fin & PS 7 Transportation & Utilities	21 	22	23	24
25 	26	27 7 City Council	28	29	30	31 

January 2017



Sun	Mon	Tue	Wed	Thu	Fri	Sat
1 	2	3 9:30 Admin, Fin & PS 7 City Council Study Session	4	5	6	7
8	9 10:30 Buckley Hall Board 7 Planning Commission	10 7 City Council	11	12	13	14
15	16 	17 9:30 Admin, Fin & PS 7 Transportation & Utilities	18	19 4 Community Services	20	21
22	23 7 Planning Commission	24 7 City Council	25	26	27	28
29	30	31				

A. CITIZEN PARTICIPATION

B. STAFF REPORTS

C. MAIN AGENDA



CITY COUNCIL AGENDA BILL

City of Buckley
PO Box 1960
Buckley, WA 98321

ITEM INFORMATION			
SUBJECT: ORD No. __-16: Amending Title 14 – Incorporating LID Requirements	Agenda Date: December 13, 2016		AB 16-147
	Department/Committee/Individual	Created	Reviewed
	Mayor Pat Johnson		X
	City Administrator – Dave Schmidt	X	X
	City Attorney – Phil Olbrechts		X
	City Engineer – Dominic Miller	X	X
	City Clerk – Joanne Starr	X	X
	Finance Dept – Sheila Bazzar		
	Building Official – Mike Deadmond		
	Fire Dept – Chief Predmore		
	Parks & Rec Dept – Ellen Boyd		
	Planning Dept – Kathy Thompson		
	Police Dept – Chief Arsanto		
	Municipal Court – Jessica Cash		
Attachments: Ordinance			
<p>SUMMARY STATEMENT: Pursuant to DOE Phase II NPDES Stormwater Permit requirements the City Council adopted a newly revised 2016 Stormwater Management Program in March of this year.</p> <p>The Stormwater Management Program Task CTRL 9 – 13 required that the City review, identify, adopt and implement codes, rules, standards, and revisions to existing standards which incorporate LID principles and LID BMPs. Per City Council direction staff and City engineers reviewed all of the City’s development codes, standards and regulations and identified changes that incorporate LID principles and LID BMPs to comply with the Phase II NPDES.</p> <p>Changes were identified within Titles 12, 13, 14 and 19 of the Buckley Municipal Code and Chapter 4 of the City’s Design Guidelines and Public Works Standards. Due to the extent of the changes needed and opportunity to incorporate additional changes to the various code sections, each Title will be presented for amendment separately.</p> <p>This ordinance being presented for consideration incorporates changes to BMC 14.30 and 14.40 to comply with the Phase II NPDES requirements.</p>			
COMMITTEE REVIEW AND RECOMMENDATION: None			
RECOMMENDED ACTION: MOTION to Approve Ordinance No. __-16 Amending Title 14 – Incorporating LID Requirements.			
RECORD OF COUNCIL ACTION			
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>	

CITY OF BUCKLEY, WASHINGTON

ORDINANCE NO. ___ - 16

AN ORDINANCE OF THE CITY OF BUCKLEY, PIERCE COUNTY, WASHINGTON, AMENDING TITLE 14 OF THE BUCKLEY MUNICIPAL CODE TO INCORPORATE LOW IMPACT DEVELOPMENT (LID) – REQUIREMENTS PURSUANT TO THE CITY’S PHASE II STORMWEATER NPDES PERMIT ISSUED BY WASHINGTON STATE DEPARTMENT OF ECOLOGY.

WHEREAS, the Federal Environmental Protection Agencies Phase II regulations went into effect in early 2003 and apply to all regulated small municipal separate storm sewer systems; and

WHEREAS, on January 17, 2007 Washington State Department of Ecology (DOE) issued two Phase II municipal stormwater permits, one for western Washington and one for eastern Washington. The Phase II permit for western Washington covers at least 80 cities and five counties; and

WHEREAS, DOE determined that the City of Buckley was to be included under this Stormwater Phase II NPDES Permit coverage; and

WHEREAS, DOE first issued the Western Washington Phase II Permit in 2007 and modified it in 2009. DOE reissued it unmodified on August 1, 2012 to be effective through July 31, 2013. At the same time, Ecology also reissued an updated 2013 to 2018 permit on August 1; and

WHEREAS, the newly reissued Phase II Permit require that each municipality meet the requirements of their NPDES permit. Each municipality's permit for discharging stormwater is designed to reduce the discharge of pollutants, protect water quality, and meet the requirements of the Clean Water Act; and

WHEREAS, the newly reissued Phase II Permits require stormwater managers to develop a new “revised” *Stormwater Management Plan (SWMP)* that is a “forward only” looking document that describes what the City will do (not what was done in the past) during the next permit phase; and

WHEREAS, the Phase II municipal permits require that permittees develop—and annually update—a Stormwater Management Program (SWMP) document to submit with the annual report; and

WHEREAS, in compliance with the DOE Phase II NPDES Stormwater Permit requirement the City Council adopted Ordinance No. 09-16, March 22, 2016, establishing the newly revised 2016 Stormwater Management Program; and

WHEREAS, Task CTRL 9 – 13 of the Stormwater Management Program requires that the City review, identify, adopt and implement codes, rules, standards, and revisions to our existing standards which incorporate LID principles and LID BMPs; and

WHEREAS, per City Council direction City staff and City engineers have reviewed all of the City’s development codes, standards and regulations and identified changes that incorporate LID principles and LID BMPs to comply with the Phase II NPDES; and

WHEREAS, code language needing revision was identified in BMC Titles 12, 13, 14 and 19 of the Buckley Municipal Code and Chapter 4 of the City’s Design Guidelines and Public Works Standards; and

WHEREAS, due to ongoing review and incorporating additional changes to the various Titles each section will be presented for amendment separately; and

WHEREAS, the City Council desires to amend BMC Title 14 to incorporate the LID principles and LID BMPs to comply with the Phase II NPDES requirements;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BUCKLEY, PIERCE COUNTY, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Chapter 14.30 of the Buckley Municipal Code is amended to read as follows:

14.30.011 Findings of fact.

The City Council adopts the findings of the model stormwater management ordinance provided by the Department of Ecology that:

- (1) Stormwater pollution is a problem associated with land utilization and development and the common occurrence of potential pollutants such as pesticides, fertilizers, petroleum products, pet wastes and numerous others. Land utilization and development is also known to increase both the volume and duration of peak flows. The resulting erosion, scouring and deposition of sediment affect the ecological balance in the stream. Sedimentation and stormwater pollution cause diversity of species to decrease and allow more tolerant (and usually less desirable) species

to remain. Stormwater pollution can cause or contribute to restrictions on public use of the waters within Buckley.

(2) An expanding population and increased development of land have led to: water quality degradation through discharge of nutrients, metals, oil and grease, toxic materials, and other detrimental substances including, without limitation, insect and weed control compounds; drainage and storm and surface water runoff problems within the city; and safety hazards to both lives and property posed by uncontrolled water runoff on streets and highways.

(3) Continuation of present stormwater management practices, to the extent that they exist, will lead to water quality degradation, erosion, and property damage, and endanger the health and safety of the inhabitants of the city.

(4) In the future such problems and dangers will be reduced or avoided if existing properties and future developers, both private and public, provide for stormwater quality and quantity controls.

(5) Stormwater quality and quantity controls can be achieved when land is developed or redeveloped by implementing appropriate best management practices (BMPs).

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

14.30.012 Need.

The City Council adopts the needs set forth in the model stormwater management ordinance provided by the Department of Ecology that this chapter is necessary in order to:

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

14.30.013 Purpose.

The City Council adopts the purpose set forth in the model stormwater management ordinance provided by the Department of Ecology that the provisions of this chapter are intended to guide

and advise all who conduct new development or redevelopment within city. The provisions of this chapter establish the minimum level of compliance which must be met to permit a property to be developed or redeveloped within the city. It is the purpose of this chapter to:

- (1) Minimize water quality degradation and sedimentation in streams, ponds, lakes, wetlands and other water bodies;
- (2) Minimize the impact of increased runoff, erosion and sedimentation caused by land development and maintenance practices;
- (3) Maintain and protect ground water resources;
- (4) Minimize adverse impacts of alterations on ground and surface water quantities, locations and flow patterns;
- (5) Decrease potential landslide, flood and erosion damage to public and private property;
- (6) Promote site planning and construction practices that are consistent with natural topographical, vegetational and hydrological conditions;
- (7) Maintain and protect the City stormwater management infrastructure and those downstream;
- (8) Provide a means of regulating clearing and grading of private and public land while minimizing water quality impacts in order to protect public health and safety; and
- (9) Provide minimum development regulations and construction procedures which will preserve, replace or enhance, to the extent practical, existing vegetation to preserve and enhance Buckley.
- (10) The provisions of this chapter are also intended to guide and advise all residential and commercial property owners within the City on regulations pertaining to the introduction of pollutants into the stormwater system to protect water quality within the city.

14.30.020 Definitions.

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

“AKART” means all known, available, and reasonable methods of prevention, control and treatment. See also the State Water Pollution Control Act, RCW 90.48.010 and 90.48.520.

“American Public Works Association” or “APWA” means the adopted edition of the Washington State Chapter of the American Public Works Association.

“Approval” means the proposed work or completed work conforms to this chapter in the opinion of the administrator.

“As-graded” means the extent of surface conditions on completion of grading.

“Basin plan” means a plan that assesses, evaluates, and proposes solutions to existing and potential future impacts to the beneficial uses of, and the physical, chemical, and biological properties of waters of the state within a basin. Basins typically range in size from 1 to 50 square miles. ~~adopting and implementing all regulations and procedures including, but not limited to, land use management practices adopted by ordinance for managing surface and stormwater~~

~~management facilities and features within individual sub-basins or drainage areas, including any basin or area identified in the City stormwater management plan.~~ A plan should include but not be limited to recommendations for:

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

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

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

“Best management practice” or “BMP” means the schedule of activities, prohibitions of practices, maintenance procedures, and structural and/or managerial practices that, when used singly or in combination, prevent or reduce the release of pollutants and other adverse impacts of stormwater. BMPs are listed and described in the Stormwater Management Manual.

“Certified Erosion and Spill Control Lead (CESCL)” means an individual who has current certification through an approved erosion and sediment control training program that meets the minimum training standards established by the Department of Ecology. A CESCL is knowledgeable in the principles and practices of erosion and sediment control. The CESCL must have the skills to assess site conditions and construction activities that could impact the quality of stormwater and the effectiveness of erosion and sediment control measures used to control the quality of stormwater discharges. Certification is obtained through an Ecology approved erosion and sediment control course.

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

“Civil engineering” means the application of the knowledge of the forces of nature, principles of mechanics and the properties of materials to the evaluation, design and construction of civil works for the beneficial uses of mankind.

“Clean Water Act” means the federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.), and any subsequent amendments thereto.

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

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

“Compaction” means densification of a fill by mechanical means.

“Construction Stormwater Pollution Prevention Plan” or “construction SWPPP” means a plan that includes a narrative, drawings, and details for describing construction practices, stabilization techniques, and structural BMPs that are to be implemented to prevent erosion and sedimentation, and control other pollutants at a construction site.

“Conveyance system” means the drainage facilities, both natural and manmade, which collect, contain, and provide for the flow of surface and stormwater from the highest points on the land down to receiving water. The natural elements of the conveyance system include swales and small drainage courses, streams, rivers, lakes, and wetlands. The human-made elements of the conveyance system include gutters, ditches, pipes, channels, and most retention/detention facilities.

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

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

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

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

“Director” means the City administrator or designated appointee.

“Drainage basin” means a geographic and hydrologic subunit of a watershed.

~~“Drainage system” means the system of collecting, conveying, and storing surface and stormwater runoff. Drainage facilities shall include but not be limited to all surface and stormwater runoff conveyance and containment facilities including: streams, pipelines, channels, ditches, swamps, lakes, wetlands, closed depressions, infiltration facilities, retention/detention facilities, erosion/sedimentation control facilities, and other drainage structures and appurtenances, both natural and manmade.~~

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

“Ecology” means the Washington State Department of Ecology.

“Effective impervious area” means those impervious surfaces that are connected via sheet flow or discrete conveyance to a drainage system. Impervious surfaces ~~on residential development sites~~ are considered ineffective if: 1) the runoff is dispersed through at least 100 feet of native vegetation in accordance with BMP T5.30 – “Full Dispersion” as described in Chapter 5 of Volume V of the Stormwater Management Manual for Western Washington (~~2005~~2012, amended in 2014); 2) residential roof runoff is infiltrated in accordance with Downspout Full Infiltration System in BMP 5.10A Volume III; or 3) approved continuous runoff modeling methods indicate that the entire runoff file is infiltrated.

“Engineering geologist” means a geologist experienced and knowledgeable in engineering geology.

“Engineering geology” means the application of geologic knowledge and principles in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works.

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

~~“Erosion and sedimentation control” means any temporary or permanent measures taken to reduce erosion; control siltation and sedimentation; and ensure that sediment-laden water does not leave the site~~

“Excavation” means the mechanical removal of earth material.

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

“Fill” means a deposit of manmade and natural material placed by artificial means.

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

(a) Road and trail construction;

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

“Frequently flooded areas” means the 100-year floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program or as defined by the City.

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

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

~~(a) Existing Grade. The grade prior to grading.~~

~~(b) Rough Grade. The stage at which the grade approximately conforms to the approved plan.~~

~~(c) Finish Grade. The final grade of the site which conforms to the approved plan.~~

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

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

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

“Hazardous materials” means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical or infectious characteristics may cause, or significantly contribute to a substantial present or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

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

“Hyperchlorinated” means water that contains more than 10 mg/liter chlorine.

“Illicit connection” means any manmade conveyance that is connected to a municipal separate storm sewer without a permit, excluding roof drains and other similar type connections. Examples include sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets, or outlets that are connected directly to the municipal separate storm sewer system.

“Illicit discharge” means a ~~non-stormwater~~ discharge to stormwater drainage systems that ~~is not composed entirely of stormwater, except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal storm sewer) and discharges resulting from fire fighting activities~~ cause or contribute to a violation of state water quality, sediment quality or ground water quality standards, including but not limited to sanitary sewer connections, industrial process water, interior floor drains, car washing, and greywater systems.

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

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

“Land clearing” or “clearing” means the destruction or removal of vegetation from a site by physical, mechanical, chemical or other means. This does not mean mowing, landscape maintenance or pruning consistent with accepted horticultural and arboricultural practices, which does not impair the health or survival of the trees and associated vegetation.

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

“Low impact development” means ~~use of innovative or creative approaches to site design, using methods such as retention of natural vegetation, significant reduction of effective impervious surface, enhanced infiltration, and changes in traditional site features such as roads and~~

structures, to achieve dramatically reduced or zero drainage discharge from the site after development; 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.

“Manual” or “Stormwater Management Manual” means the latest edition of the [Washington State Department of Ecology](#) “Stormwater Management Manual for Western Washington” ([April 2005, 2012 as amended in 2014](#)) prepared by Ecology, which manual is adopted by reference as though set forth herein in full with modifications provided herein.

“Mitigation” means, in the following order of preference:

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

“Municipal separate storm sewer system” or “MS4” means a conveyance, or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

- (a) Owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of the CWA that discharges to water of the United States;
- (b) Designed or used for collecting and conveying stormwater;
- (c) Which is not a combined sewer; and
- (d) Which is not part of a publicly owned treatment works (POTW) as defined at 40 CFR 122.2.

“National Pollutant Discharge Elimination System Stormwater Discharge Permit” or “NPDES permit” means a permit issued by EPA (or by a state under authority delegated pursuant to 33 U.S.C. Section 1342(b)) that authorizes the discharge of pollutants to the waters of the state, whether the permit is applicable on an individual, group, or general area-wide basis.

“Native vegetation” means vegetation comprised of plant species, other than noxious weeds, that are indigenous to the coastal region of the Pacific Northwest and which reasonably could have

been expected to naturally occur on the site. Examples include trees such as Douglas fir, western hemlock, western red cedar, alder, big-leaf maple, and vine maple; shrubs such as willow, elderberry, salmonberry, and salal; and herbaceous plants such as sword fern, foam flower, and fireweed.

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

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

“Nonstormwater discharge” means any discharge to the storm drain system that is not composed entirely of stormwater.

“On-site stormwater management BMPs” means **site development techniques that serve to infiltrate, disperse, and retain stormwater runoff on site**, a synonym for low impact development BMPs.

“Permanent Erosion and Sediment Control” means the continuous on-site and off-site control measures that are needed to prevent accelerated erosion, sedimentation or related pollution from occurring after completion of the grading activity or the construction project.

“Permanent stormwater quality control (PSQC) plan” means a plan which includes permanent BMPs for the control of pollution from stormwater runoff after construction and/or land disturbing activity has been completed.

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

“Pollutant” means any substance which, when added to water, would contaminate or alter the chemical, physical, or biological properties of any waters of the city’s drainage system or of the state. This includes a change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the city’s drainage system or of the state and will or is likely to create a nuisance. It also includes any substance which renders such waters harmful, detrimental, or injurious to the public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial use, or to livestock, wild animals, birds, fish, or other aquatic life.

“Pollution” means contamination or other alteration of the physical, chemical or biological properties of waters of the state, including change in temperature, taste, color, turbidity or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into

any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

“Pollution-Generating Hard Surface (PGHS) means those hard surfaces considered to be a significant source of pollutants in stormwater runoff. See the listing of surfaces under “pollution-generating impervious surface”.

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

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

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

“Pollution-Generating Pervious Surface (PGPS)” means any nonimpervious surface subject to vehicular use, industrial activities (as further defined in the Manual); or storage of erodible or leachable materials, wastes or chemicals, and that receive direct rainfall or run-on or blow-in of rainfall, use of pesticides, fertilizers, or loss of soil. Typical PGPS include permeable pavement subject to vehicular use, lawns and landscaped areas including: golf courses, parks, cemeteries, and sports fields (natural and artificial turf).

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

“Premises” means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

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

“Properly Functioning Soil System (PFSS)” means an equivalent to engineered soil/landscape system . This can also be a natural system that has not been disturbed or modified.

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

“Regional retention/detention system” means a stormwater quantity control structure designed to correct existing excess surface water runoff problems of a basin or sub-basin. ~~The area downstream has been previously identified as having existing or predicted significant and regional flooding and/or erosion problems.~~ This term is also used when a detention facility is used to detain stormwater runoff from a number of ~~different businesses, new~~ developments or areas within a catchment.

“Replaced impervious surface” means ~~for structures,~~ the removal and replacement of any ~~exterior~~ impervious surfaces ~~or down to the~~ foundation of a structure. ~~For Other~~ other impervious surfaces, ~~the removal are considered replaced if first removed~~ down to bare soil or base course and replacement.

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

“Sediment” means ~~solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its original site of origin~~ fragmented material that originates from weathering and erosion of rocks or unconsolidated deposits, and is transported by, suspended in, or deposited by water.

“Sedimentation” means the process by ~~which sediment has been transported off the site of the grading activity and settled onto land or the bed of a creek, stream, river, wetland, pond, or other water body~~ the depositing or formation of sediment.

“Site” means the area ~~within defined by~~ the legal boundaries of a parcel or parcels of land subject to new development or redevelopment. For road projects, the length of the project site and the right-of-way boundaries define the site.

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

“Soil” means the unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of land plants. ~~See also topsoil, engineered soil/landscape system, and properly functioning soil system.~~

“Source control BMP” means a structure or operation that is intended to prevent pollutants from coming into contact with stormwater through physical separation of areas or careful management of activities that are sources of pollutants. ~~The Manual separates source control BMPs into two types. Structural source control BMPs are physical, structural, or mechanical devices or facilities that are intended to prevent pollutants from entering stormwater. Operational BMPs are non-structural practices that prevent or reduce pollutants from entering stormwater. A few examples of source control BMPs are erosion control practices, maintenance of stormwater facilities, constructing roofs over storage and working areas, and directing wash water and similar discharges to the sanitary sewer or a dead-end sump.~~

“Stormwater” means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, channels or pipes or other features of a stormwater system into a defined surface water ~~channel body~~, or a constructed infiltration facility.

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

“Stormwater site plan” means the comprehensive report containing all of the technical information and analysis necessary to evaluate a proposed new development or redevelopment project for compliance with stormwater requirements. Contents of the stormwater site plan will vary with the type and size of the project, and individual site characteristics. It includes a construction stormwater pollution prevention plan (construction SWPPP) and a permanent stormwater control plan (PSC plan).

“Surface ~~and stormwater~~” means ~~water originating from rainfall and other precipitation that is found in drainage facilities, rivers, streams, springs, seeps, ponds, lakes and wetlands as well as shallow ground water the naturally occurring water that flows over or is stored on the earth’s surface.~~

~~“Temporary erosion control” means the on-site and off-site control measures that are needed during construction activities to prevent accelerated erosion, sedimentation or related pollution from occurring, but may not be needed when the project is completed or when ground conditions have been stabilized by permanent erosion control measures.~~

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

~~“Toe of slope” means a point or line of slope in an excavation or cut where the lower surface changes to horizontal or meets the exiting ground slope.~~

~~“Top of slope” means a point or line on the upper surface of a slope where it changes to horizontal or meets the original surface.~~

“Topsoil” means the upper portion of a soil, usually dark colored and rich in organic material. It is more or less equivalent to the upper portion of an A horizon in an ABC soil.

“Treatment BMP or facility” means a BMP that is intended to remove pollutants from stormwater. A few examples of treatment BMPs are ~~detention wet~~ponds, oil/water separators, biofiltration swales and constructed wetlands.

“Unstable slopes” mean those sloping areas of land which have in the past exhibited, are currently exhibiting, or will likely in the future exhibit mass movement of earth.

“Vegetation” means all organic plant life growing on the surface of the earth.

“Water body” means surface waters including rivers, streams, lakes, marine waters, estuaries and wetlands.

~~“Water quality design flow rate” means:~~

~~(a) Preceding detention facilities or when detention facilities are not required: that rate at or below which 91 percent of the runoff volume, as estimated by an approved continuous runoff model, will be treated.~~

~~(b) Downstream of detention facilities: the full two-year release rate from the detention facility.~~

“Water quality design storm” means the 24-hour rainfall amount with a six-month return frequency. It is commonly referred to as the six-month, 24-hour design storm.

~~“Water quality design storm volume” means the volume of runoff predicted from a 24-hour storm with a six-month return frequency.~~

“Watershed” means a geographic region within which water drains into a particular river, stream, or body of water as identified and numbered by the State of Washington Water Resource Inventory Areas (WRIAs) as defined in Chapter 173-500 WAC.

“Wetlands” means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. ~~Wetlands do not~~ ~~This includes wetlands created, restored or enhanced as part of a mitigation procedure. This does not include those artificial wetlands intentionally created from non-wetland sites, including but not limited to constructed wetlands or the following surface waters of the state intentionally constructed from sites that are not wetlands:~~ irrigation and drainage ditches, grass-lined swales, canals, ~~agricultural~~ detention facilities, wastewater treatment facilities, farm ponds and landscape amenities ~~or those wetlands created after July 1, 1990 that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.~~

“Wetpool” means a pond or constructed wetland that stores runoff temporarily and whose normal discharge location is elevated so as to maintain a permanent pool of water between storm events.

14.30.030 Abrogation and greater restrictions.

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

14.30.032 Interpretation.

The provisions of this chapter shall be held to be minimum requirements in their interpretation and application and shall be liberally construed to serve the purposes of this chapter.

14.30.040 Applicability.

When any provision of any other chapter of the Buckley Municipal Code conflicts with this chapter, that which provides more environmental protection shall apply unless specifically provided otherwise in this chapter.

The City is authorized to adopt written procedures for the purpose of carrying out the provisions of this chapter.

(1) Actions. All persons taking any of the following actions or applying for any of the following permits and/or approvals may be required to submit for approval a stormwater site plan with their application and/or request:

- (a) Creation or alteration of new or additional impervious surfaces;
- (b) New development;
- (c) Redevelopment;
- (d) Building permit;
- (e) Subdivision approval;
- (f) Short subdivision approval;
- (g) Binding site plan approval;
- (h) Commercial, industrial, or multifamily site plan approval;
- (i) Planned unit development;
- (j) Development within or adjacent to critical areas;
- (k) Franchise utility right-of-way use or other right-of-way use;
- (l) Conditional and special use permits;
- (m) Substantial development permit; and
- (n) Logging, clearing, grading and other land disturbing activities.

(2) Exemptions. The following are exempt from the provisions of the Minimum Requirements described in BMC 14.30.051:

- (a) Forest practices regulated under WAC Title 222, except for Class IV – general forest practices that are conversions from timber land to other uses;
 - (b) Commercial agricultural practices involving working the land for production are generally exempt. However, the conversion from timberland to agriculture, and the construction of impervious surfaces are not exempt; and
 - (c) The following road maintenance practices are exempt: pothole and square cut patching, overlaying existing asphalt or concrete pavement with asphalt or concrete without expanding the area of coverage, shoulder grading, reshaping/regrading drainage systems, crack sealing, resurfacing with in-kind material without expanding the road prism, and vegetation maintenance. See the Manual for road activities not exempt.
- (3) Beginning Construction. Commencement of construction work under any of the actions, permits, or applications set forth in this section shall not begin until the stormwater site plan is approved.
- (4) Preparation of Plan. Guidance on preparing a stormwater site plan is contained in BMC 14.30.052.
- (5) Conflicting Requirements. When any provision of any other chapter of the City code and state or federal requirements conflicts with this chapter, that which provides more environmental protection shall apply unless specifically provided otherwise in this chapter.
- (6) Minimum Requirements. The provisions of this chapter shall be held to be minimum requirements in their interpretation and application and shall be liberally construed to serve the purposes of this chapter.

14.30.050 Minimum requirement thresholds.

(1) New Development. The Minimum Requirements discussed in this section are described in BMC 14.30.051. All new development shall be required to comply with Minimum Requirement No. 2. In addition, new development that exceeds certain thresholds shall be required to comply with additional Minimum Requirements described in BMC 14.30.051 as follows:

(a) The following new development shall comply with Minimum Requirement Nos. 1 through 5 for the new and replaced ~~impervious hard~~ surfaces and the land disturbed:

- (i) Development that ~~includes the creation or addition of results in~~ 2,000 square feet or greater, of new, replaced, or new plus replaced ~~impervious hard~~ surface area; or
- (ii) Development that includes land disturbing activity of 7,000 square feet or greater.

(b) The following new development shall comply with Minimum Requirement Nos. 1 through ~~109~~:

- (i) ~~Creates or adds Results in~~ 5,000 square feet or greater, of new ~~plus replaced hard impervious~~ surface area; or
- (ii) Converts three-fourths acres or more of native vegetation to lawn or landscaped areas; or

(iii) Converts two and one-half acres or more of native vegetation to pasture.

(2) Redevelopment. All redevelopment shall be required to comply with Minimum Requirement No. 2. In addition, redevelopment that exceeds certain thresholds shall be required to comply with additional Minimum Requirements described in BMC 14.30.051 as follows:

(a) The following redevelopment shall comply with Minimum Requirement Nos. 1 through 5 for the new and replaced **impervious-hard** surfaces and the land disturbed:

(i) The new, replaced, or total of new plus replaced **impervious hard** surfaces is 2,000 square feet or more; or

(ii) Redevelopment that includes land disturbing activity of 7,000 square feet or more.

(b) The following redevelopment shall comply with Minimum Requirement Nos. 1 through **10-9** for the new impervious surfaces and converted pervious surfaces:

(i) Redevelopment that adds 5,000 square feet or more of new **impervious-hard** surfaces; or

(ii) Redevelopment that converts three-fourths acres or more of native vegetation to lawn or landscaped areas; or

(iii) Redevelopment that converts two and one-half acres or more of native vegetation to pasture.

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

(d) Equivalent Area. The director may allow the Minimum Requirements to be met for an equivalent (flow and pollution characteristics) area within the same site. For public road projects, the equivalent area does not have to be within the project limits, but must drain to the same receiving water.

(e) Road Related Projects. Runoff from the replaced and new impervious surfaces (including pavement, shoulders, curbs, and sidewalks) shall meet all the Minimum Requirements if the new **impervious hard** surfaces total 5,000 square feet or more and total 50 percent or more of the existing **hard impervious** surfaces within the project limits. The project limits shall be defined by the length of the project and the width of the right-of-way.

(f) Regional Facilities. The director may exempt or institute a stop-loss provision for redevelopment projects from compliance with Minimum Requirements for **on-site stormwater management**, treatment, flow control, and wetlands protection as applied to the replaced **hard impervious** surfaces if the City has adopted a plan and schedule that fulfills those requirements in regional facilities.

14.30.051 Minimum Requirements.

This section identifies the **10-9** Minimum Requirements for stormwater management applicable to new development and redevelopment sites. See the Manual for additional details related to each of the Minimum Requirements.

(1) Minimum Requirement No. 1 – Preparation of Stormwater Site Plans. All projects meeting the thresholds in BMC 14.30.050 shall prepare a Stormwater Site Plan in accordance with Chapter 3 of Volume 1 of the [Stormwater Management Manual for Western Washington \(2005\) Manual](#).

(2) Minimum Requirement No. 2 – Construction Stormwater Pollution Prevention (SWPP). All new development and redevelopment shall comply with construction SWPP Element Nos. 1 through [12-13](#) below.

Projects in which the new, replaced, or new plus replaced [impervious-hard](#) surfaces total 2,000 square feet or more or disturb 7,000 square feet or more of land must prepare a construction SWPPP plan (SWPPP) as part of the stormwater site plan. Each of the [12-13](#) elements must be considered and included in the construction SWPPP unless the director decides that site conditions render the element unnecessary and the exemption from that element is clearly justified in the narrative of the SWPPP.

Projects that add or replace less than 2,000 square feet of [impervious-hard](#) surface or disturb less than 7,000 square feet of land are not required to prepare a construction SWPPP, but must consider all of the [12-13](#) elements of construction stormwater pollution prevention and develop controls for all elements that pertain to the project site.

(a) Element 1 – Preserve Vegetation/Mark Clearing Limits.

(i) Prior to beginning land disturbing activities, including clearing and grading, all clearing limits, sensitive areas and their buffers, and trees that are to be preserved within the construction area should be clearly marked, both in the field and on the plans, to prevent damage and off-site impacts.

(ii) The duff layer, native top soil, and natural vegetation shall be retained in an undisturbed state to the maximum degree practicable. [Clearing, grading, and other soil disturbances should be limited to the building footprint when possible. Disturbed soils shall be amended with compost to restore or improve upon their original infiltration potential.](#)

(iii) Plastic, metal, or stake wire fence may be used to mark the clearing limits.

(b) Element 2 – Establish Construction Access.

(i) Access Limited. Construction vehicle access and exit shall be limited to one route if possible.

(ii) Tracking Sediment. Access points shall be stabilized with quarry spall or crushed rock [or other equivalent BMPs](#) to minimize the tracking of sediment onto public roads.

(iii) Wheel Wash. Wheel wash or tire baths should be located on site, [if the stabilized construction entrance is not effective in preventing tracking sediment onto roads if applicable.](#)

(iv) Clean Public Roads. Public roads shall be cleaned thoroughly at the end of each day. Sediment shall be removed from roads by shoveling, [or pickup, or sweeping](#) and shall be transported to a controlled sediment disposal area. Street washing will be allowed only after sediment is removed in this manner.

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

(c) Element 3 – Control Flow Rates.

(i) General. Properties and waterways downstream from development sites shall be protected from erosion **and the associated discharge of turbid waters** due to increases in the volume, velocity, and peak flow rate of stormwater runoff from the project site.

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

(iii) BMPs Functional. Stormwater retention/detention facilities shall be constructed as one of the first steps in grading. Detention facilities shall be functional prior to construction of site improvements (e.g., **impervious-hard** surfaces).

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

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

(d) Element 4 – Install Sediment Controls.

(i) Natural Vegetation. The duff layer, native top soil, and natural vegetation shall be retained in an undisturbed state to the maximum extent practicable.

(ii) **Sediment Control Design. Design, install and maintain effective erosion controls and sediment controls to minimize the discharge of pollutants.**

~~(iii) Sediment Removal BMP. Prior to leaving a construction site, or prior to discharge to an infiltration facility, stormwater runoff from disturbed areas shall pass through a sediment pond or other appropriate sediment removal BMP. Runoff from fully stabilized areas may be discharged without a sediment removal BMP, but must meet the flow control performance standard of Element No. 3. Full stabilization means concrete or asphalt paving; quarry spalls used as ditch lining; or the use of rolled erosion products, a bonded fiber matrix product, or vegetative cover in a manner that will fully prevent soil erosion. The director shall inspect and approve areas stabilized by means other than pavement or quarry spalls. Minimize Sediment Discharges. Minimize sediment discharges from the site. The design, installation and maintenance of erosion and sediment controls must address factors such as the amount, frequency, intensity and duration of precipitation, the nature of resulting stormwater runoff, and soil characteristics, including the range of soil particle size expected to be present on the site.~~

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

(iv) ~~Seeding. Earthen structures such as dams, dikes, and diversions shall be seeded and mulched according to the timing indicated in Element No. 5.~~ Sediment Removal. Direct stormwater runoff from disturbed areas through a sediment pond or other appropriate sediment removal BMP, before the runoff leaves a construction site or before discharge to an infiltration facility. Runoff from fully stabilized areas may be discharged without a sediment removal BMP, but must meet the flow control performance standard in Element No. 3.

(vi) Location. Locate BMPs intended to trap sediment on-site in a manner to avoid interference with the movement of juvenile salmonids attempting to enter off-channel areas or drainages.

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

(e) Element 5 – Stabilize Soils.

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

(ii) Volume and Velocity. Control stormwater volume and velocity within the site to minimize soil erosion.

(iii) Stormwater Discharges. Control stormwater discharges, including both peak flow rates and total stormwater volume, to minimize erosion at outlet and to minimize downstream channel and streambank erosion.

(iv) Seasonal Work Limitations. From October 1st through April 30th, no soils shall remain exposed and unworked for more than two days. From May 1st to September 30th, no soils shall remain exposed and unworked for more than seven days.¹ This condition applies to all soils on site, whether at final grade or not.

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

(vi) Soil Stockpiles. Soil stockpiles must be stabilized and protected with sediment trapping measures, and where possible, be located away from storm drain inlets, waterways and drainage channels.

(vii) ~~Linear Facilities. Work on linear construction sites and activities, including right-of-way and easement clearing, roadway development, pipelines, and trenching for utilities, shall not exceed the capability of the individual contractor for his portion of the project to install the bedding materials, roadbeds, structures, pipelines, and/or utilities, and to restabilize the disturbed soils, meeting the timing conditions listed above in subsection (2)(e)(ii) of this section.~~ Soil

Exposure. Minimize the amount of soil exposed during construction activity, minimize disturbance to steep slopes and minimize soil compaction and, unless infeasible, preserve topsoil.

(f) Element 6 – Protect Slopes.

(i) Cut and Fill Slopes. ~~Cut and fill slopes shall be designed and constructed in a manner that will minimize erosion.~~ Design and construct cut-and-fill slopes in a manner to minimize erosion. Applicable practices include, but are not limited to, reducing continuous length of slope with terracing and diversions, reducing slope steepness, and roughening slope surfaces (for example, track walking).

~~(ii) Soil Types. Consider soil type and its potential for erosion.~~

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

~~(ivii) Diverted Flows. Divert upslope drainage and run-on waters from off site with interceptors at top of slope. Off-site stormwater should be handled separately from stormwater generated on the site. Diversion of off-site stormwater around the site may be a viable option. Diverted flows shall be redirected to the natural drainage location at or before the property boundary. Off-site stormwater (run-on) or ground water away from slopes and disturbed areas with interceptor dikes, pipes and/or swales. Off-site stormwater should be managed separately from stormwater generated on the site.~~

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

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

(vii) Excavation. Excavated material shall be placed on the uphill side of trenches, consistent with safety and space considerations.

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

~~(ix) Stabilize Soils. Stabilize soils on slopes, as specified in Element No. 5.~~

(g) Element 7 – Protect Drain Inlets.

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

~~(ii) Roads Storm Drain Inlets. All approach roads shall be kept clean, and all sediment and street wash water shall not be allowed to enter storm drains without prior and adequate treatment unless treatment is provided before the storm drain discharges to waters of the state. Clean or remove and replace inlet protection devices when sediment has filled one-third of the available storage (unless a different standard is specified by the product manufacturer).~~

(h) Element 8 – Stabilize Channels and Outlets.

(i) General. All temporary on-site conveyance channels shall be designed, constructed and stabilized to prevent erosion from the following expected peak flows. Channels shall handle the expected peak ~~10-minute~~ flow ~~as calculated from a 10-minute time step velo~~ from a Type 1A, 10-year, 24-hour frequency storm for the developed condition. Alternatively, the 10-year, one-hour flow rate predicted by an approved continuous runoff model, increased by a factor of 1.6, may be used. The hydrologic analysis shall use the existing land cover condition for predicting flow rates from tributary areas outside the project limits. For tributary areas on the project site, the analysis shall use the temporary or permanent project land cover condition, whichever will produce the highest flow rates. If using the Western Washington Hydrology Model to predict flows, bare soil areas should be modeled as “landscaped area.”

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

(i) Element 9 – Control Pollutants.

(i) General. All pollutants, including waste materials and demolition debris, that occur on site during construction shall be handled and disposed of in a manner that does not cause contamination of stormwater.

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

~~(iii) Vandalism. Cover, containment, and protection from vandalism shall be provided for all chemicals, liquid products, petroleum products, and ~~noninert wastes present on the site~~ other materials that have the potential to pose a threat to human health or the environment. On-site fueling tanks must include secondary containment. Secondary containment means placing tanks or containers within an impervious structure capable of containing 110% of the volume contained in the largest tank within the containment structure. Double-walled tanks do not require additional secondary containment.~~

~~(iv) Equipment Maintenance. Maintenance and repair of heavy equipment and vehicles involving oil changes, hydraulic system drain down, solvent and degreasing cleaning operations, fuel tank drain down and removal, and other activities which may result in discharge or spillage of pollutants to the ground or into stormwater runoff must be conducted using spill prevention measures, such as drip pans. Contaminated surfaces shall be cleaned immediately following any~~

~~discharge or spill incident. Emergency repairs may be performed on site using temporary plastic placed beneath and, if raining, over the vehicle.~~ Conduct maintenance, fueling, and repair of heavy equipment and vehicles using spill prevention and control measures. Clean contaminated surfaces immediately following any spill incident.

(iv) Wheel Wash. Wheel wash, or tire bath wastewater, shall be discharged to a separate on-site treatment system that prevents discharge to surface water, such as closed-loop recirculation or upland application, or to the sanitary sewer. ~~It may be discharged to the sanitary sewer system~~ only if expressly allowed by the local sewer district authority.

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

(vi) pH Management. Management of pH-modifying sources shall prevent contamination of runoff and stormwater collected on the site. These sources include, but are not limited to, bulk cement, cement kiln dust, fly ash, new concrete washing and curing waters, waste streams generated from concrete grinding and sawing, exposed aggregate processes, ~~dewatering concrete vaults,~~ and concrete pumping and mixer washout waters. ~~Adjust the pH of stormwater if necessary to prevent violations of water quality standards. Obtain written approval from Ecology before using chemical treatment other than CO2 or dry ice to adjust pH.~~

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

(j) Element 10 – Control Dewatering.

(i) General. All foundation, vault, and trench dewatering water, which have similar characteristics to stormwater runoff at the site, shall be discharged into a controlled conveyance system, prior to discharge to a sediment trap or sediment pond. Channels must be stabilized, as specified in Element No. 8.

(ii) Clean Water. Clean, nonturbid dewatering water, such as well-point ground water, can be discharged to systems tributary ~~or directly into state~~ surface waters ~~of the State~~, as specified in Element No. 8, provided the dewatering flow does not cause erosion or flooding of the receiving waters. These clean waters should not be routed through sediment ponds with stormwater. ~~Note that "surface waters of the State" may exist on a construction site as well as off site; for example, a creek running through a site.~~

(iii) Contaminated Water. Highly turbid or otherwise contaminated dewatering water ~~such as from construction equipment operation, clamshell digging, concrete tremie pour, or work inside a cofferdam,~~ shall be handled separately from stormwater at the site.

(iv) Other Disposal Options. Depending on site constraints, dewatering may include: infiltration; transport off site in vehicle, such as a vacuum flush truck, for legal disposal in a manner that

does not pollute state waters; on-site treatment using chemical treatment or other suitable treatment technologies; ~~or sanitary sewer discharge with [local sewer district approval] approval if there is no other option, or a sedimentation bag that discharges to a ditch or swale for small volumes of localized dewatering.~~

(k) Element 11 – Maintain BMPs.

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

~~(ii) Inspection. Sediment control BMPs shall be inspected weekly or after a runoff-producing storm event during the dry season and daily during the wet season.~~

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

(l) Element 12 – Manage the Project.

(i) Phasing of Construction. Development projects shall be phased where feasible in order to prevent, to the maximum extent practicable, the transport of sediment from the project site during construction. Revegetation of exposed areas and maintenance of that vegetation shall be an integral part of the activities for any phase. Clearing and grading activities for developments shall be permitted only if conducted pursuant to an approved site development plan (e.g., subdivision approval) that establishes permitted areas of clearing, grading, cutting, and filling. When establishing these permitted clearing and grading areas, consideration should be given to minimizing removal of existing trees, especially conifers, and minimizing disturbance/compaction of native soils except as needed for building purposes. These permitted clearing and grading areas and any other areas required to preserve critical or sensitive areas, buffers, native growth protection easements, or tree retention areas as may be required by the director, shall be delineated on the site plans and the development site.

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

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

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

~~(v)C~~ Proposed erosion and sediment control measures.

~~(vi)iii~~ Modify Seasonal Limits. Based on the information provided, and/or local weather conditions, the director may expand or restrict the seasonal limitation on site disturbance. If, during the course of any construction activity or soil disturbance during the seasonal limitation

period, silt-laden runoff leaving the construction site causes a violation of the surface water quality standard or if clearing and grading limits or erosion and sediment control measures shown in the approved plan are not maintained, the director shall take enforcement action according to BMC 14.30.803.

(vii) Exemptions. The following activities are exempt from the seasonal clearing and grading limitations:

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

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

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

(viii) Coordination with Other Contractors. The primary project applicant shall evaluate, with input from utilities and other contractors, the stormwater management requirements for the entire project, including the utilities, when preparing the construction SWPPP.

(ix) Inspection. All BMPs shall be inspected, maintained, and repaired as needed to assure continued performance of their intended function.

(x) Certified Professional. A certified erosion and sediment control **specialist lead (CESCL)** shall be identified in the construction SWPPP and shall be on site or on call at all times. **The CESCL shall have the skills to assess the site conditions that could impact the quality of stormwater and the effectiveness of erosion and sediment control measures. They shall examine stormwater visually for the presence of suspended sediment, turbidity, discoloration, and oil sheen. They shall evaluate the effectiveness of BMPs and determine if it is necessary to install, maintain, or repair BMPs to improve the quality of stormwater discharges. Problems shall be corrected by reviewing the SWPPP for compliance with the 13 construction SWPPP elements and making appropriate revisions within 7 days of the inspection. The CESCL shall also immediately begin the process of fully implementing and maintaining appropriate source control and/or treatment BMPs as soon as possible, addressing the problems no later than within 10 days of the inspection. If installation of necessary treatment BMPs is not feasible within 10 days, the construction site operator may request an extension within the initial 10-day response period. BMP implementation and maintenance shall be documented in a site log. The CESCL shall inspect all areas disturbed by construction activities, all BMPs, and all stormwater discharge points at least once every calendar week and within 24 hours of any discharge from the site. The CESCL may reduce the inspection frequency for temporary stabilized, inactive sites to once every calendar month.**

(xi) Sampling. Sampling and analysis of the stormwater discharges from a construction site may be necessary on a case-by-case basis to ensure compliance with standards. Monitoring and reporting requirements may be established by the director when necessary.

(xii) Modify SWPPP. Whenever inspection and/or monitoring reveals that the BMPs identified in the construction SWPPP are inadequate, due to the actual discharge of or potential to

discharge a significant amount of any pollutant, the SWPPP shall be modified, as appropriate, in a timely manner.

(xiii) Construction SWPPP. The construction SWPPP shall be retained on site or within reasonable access to the site. The construction SWPPP shall be modified whenever there is a significant change in the design, construction, operation, or maintenance of any BMP.

(m) Element 13 – Protect Low Impact Development BMPs.

(i) General. Protect all bioretention and rain garden BMPs from sedimentation through installation and maintenance of erosion and sediment control BMPs on portions of the site that drain into the bioretention and/or rain garden BMPs. Restore the BMPs to their fully functioning condition if they accumulate sediment during construction. Restoring the BMP must include removal of sediment and any sediment-laden bioretention/raingarden soils, and replacing the removed soils with soils meeting the design specification.

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

(iii) Erosion Control. Control erosion and avoid introducing sediment from surrounding land uses onto permeable pavements. Muddy construction equipment shall not be allowed on the base material or pavement. Sediment-laden runoff shall not be allowed onto permeable pavements or base materials.

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

(v) Heavy Equipment. All heavy equipment shall be kept off existing soils under LID facilities that have been excavated to final grade to retain the infiltration rate of the soils.

(3) Minimum Requirement No. 3 – Source Control of Pollution. All known, available and reasonable source control BMPs shall be applied to all projects. Source control BMPs shall be selected, designed, and maintained according to the Manual.

(4) Minimum Requirement No. 4 – Preservation of Natural Drainage Systems and Outfalls. Natural drainage patterns shall be maintained, and discharges from the project site shall occur at the natural location, to the maximum extent practicable. The manner by which all runoff is discharged from the project site must not cause a significant adverse impact to downstream receiving waters and downgradient properties. All outfalls require energy dissipation.

The manner by which runoff is discharged from the project site must not cause a significant adverse impact to downstream receiving waters and downgradient properties. Downstream properties shall not be unreasonably burdened with increased flow rates, negative impacts or unreasonable changes in manner of flow from upstream properties. Drainage problems shall not be transferred from one location to another. However, downstream properties cannot block natural or existing runoff through their site and shall accept runoff from upstream properties.

Planning and design of drainage systems shall not be based on the premise that stormwater can be transferred from one basin to another unless part of an adopted City regional drainage system plan.

The flow of storm runoff shall be maintained within its natural drainage course unless reasonable use is demonstrated otherwise. When stormwater is discharged into an existing drainage course, the peak discharge into the water course shall not adversely affect or cause damage to property along the drainage course now or in the future based on existing zoning. Erosional impacts due to concentration of flows and increased flow durations shall be evaluated and mitigated.

(5) Minimum Requirement No. 5 – On-Site Stormwater Management. Projects shall employ On-site Stormwater Management BMPs in accordance with the following projects thresholds, standards, and lists to infiltrate, disperse, and retain stormwater runoff on-site to the extent feasible without causing flooding or erosion impacts.

(a) Exemptions. Projects qualifying as flow control exempt in accordance with Minimum Requirement No. 7 (Flow Control) do not have to achieve the LID performance standard, nor consider bioretention, rain gardens, permeable pavement, and full dispersion if using List No. 1 or List No. 2. However, those projects must implement BMP T5.13: Post-Construction Soil Quality and Depth; BMP T5.10A: Downspout Full Infiltration or BMP T5.10B: Downspout Dispersion Systems or BMP T5.10C: Perforated Stub-out Connections; and BMP T5.11: Concentrated Flow Dispersion or BMP T5.12: Sheet Flow Dispersion, if feasible.

(b) Thresholds.

(i) Projects triggering only Minimum Requirements No. 1 through No. 5 shall either:

(A) Use On-site Stormwater Management BMPs from List #1 for all surfaces within each type of surface in List No. 1; or

(B) Demonstrate compliance with the LID Performance Standard. Projects selecting this option cannot use Rain Gardens. They may choose to use Bioretention BMPs as described in Chapter V-7 - Infiltration and Bioretention Treatment Facilities to achieve the LID Performance Standard (Manual).

(ii) Projects triggering Minimum Requirements No. 1 through No. 9, shall meet the requirements in Minimum Requirement No. 5: On-site Stormwater Management. New development and redevelopment shall meet the Low Impact Development Performance Standard and BMP T5.13: Post-Construction Soil Quality and Depth; or List No. 2 (applicant option).

(c) Low Impact Development Performance Standard. Stormwater discharges shall match developed discharge durations to pre-developed durations for the range of pre-developed discharge rates from 8% of the 2-year peak flow to 50% of the 2-year peak flow. Refer to the Standard Flow Control Requirement section in Minimum Requirement No. 7 for information about the assignment of the pre-developed condition. Project sites that must also meet minimum

requirement No. 7 – flow control - must match flow durations between 8% of the 2-year flow through the full 50-year flow.

(i) List No. 1: On-site Stormwater Management BMPs for Projects Triggering Minimum Requirements No. 1 through No. 5. For each surface, consider the BMPs in the order listed for that type of surface. Use the first BMP that is considered feasible. No other On-site Stormwater Management BMP is necessary for that surface. Feasibility shall be determined by evaluation against design criteria, limitations, and infeasibility criteria identified for each BMP in the Manual and Competing Needs Criteria listed in Chapter V-5 - On-Site Stormwater Management (Manual).

(A) Lawn and landscaped areas. Post-Construction Soil Quality and Depth in accordance with BMP T5.13: Post-Construction Soil Quality and Depth.

(B) Roofs:

(1) Full Dispersion in accordance with BMP T5.30: Full Dispersion, or Downspout Full Infiltration Systems in accordance with BMP T5.10A: Downspout Full Infiltration

(2) Rain Gardens in accordance with BMP T5.14A: Rain Gardens, or Bioretention in accordance with BMP T7.30: Bioretention Cells, Swales, and Planter Boxes. The rain garden or bioretention facility must have a minimum horizontal projected surface area below the overflow which is at least 5% of the area draining to it.

(3) Downspout Dispersion Systems in accordance with BMP T5.10B: Downspout Dispersion Systems

(4) Perforated Stub-out Connections in accordance with BMP T5.10C: Perforated Stub-out Connections

(C) Other Hard Surfaces:

(1) Full Dispersion in accordance with BMP T5.30: Full Dispersion

(2) Permeable pavement in accordance with BMP T5.15: Permeable Pavements, or Rain Gardens in accordance with BMP T5.14A: Rain Gardens, or Bioretention in accordance with BMP T7.30: Bioretention Cells, Swales, and Planter Boxes. The rain garden or bioretention facility must have a minimum horizontal projected surface area below the overflow which is at least 5% of the area draining to it.

(3) Sheet Flow Dispersion in accordance with BMP T5.12: Sheet Flow Dispersion, or Concentrated Flow Dispersion in accordance with BMP T5.11: Concentrated Flow Dispersion.

(ii) List No. 2: On-site Stormwater Management BMPs for Projects Triggering Minimum Requirements No. 1 through No. 9. For each surface, consider the BMPs in the order listed for that type of surface. Use the first BMP that is considered feasible. No other On-site Stormwater

Management BMP is necessary for that surface. Feasibility shall be determined by evaluation against: Design criteria, limitations, and infeasibility criteria identified for each BMP in this manual; and Competing Needs Criteria listed in Chapter V-5 - On-Site Stormwater Management.

(A) Lawn and landscaped areas. Post-Construction Soil Quality and Depth in accordance with BMP T5.13: Post-Construction Soil Quality and Depth.

(B) Roofs:

(1) Full Dispersion in accordance with BMP T5.30: Full Dispersion, or Downspout Full Infiltration Systems in accordance with BMP T5.10A: Downspout Full Infiltration.

(2) Bioretention (See BMP T7.30: Bioretention Cells, Swales, and Planter Boxes) facilities that have a minimum horizontally projected surface area below the overflow which is at least 5% of the total surface area draining to it.

(3) Downspout Dispersion Systems in accordance with BMP T5.10B: Downspout Dispersion Systems

(4) Perforated Stub-out Connections in accordance with BMP T5.10C: Perforated Stub-out Connections

(C) Other Hard Surfaces:

(1) Full Dispersion in accordance with BMP T5.30: Full Dispersion

(2) Permeable pavement² in accordance with BMP T5.15: Permeable Pavements

(3) Bioretention BMPs (BMP T7.30: Bioretention Cells, Swales, and Planter Boxes) that have a minimum horizontally projected surface area below the overflow which is at least 5% of the total surface area draining to it.

(4) Sheet Flow Dispersion in accordance with BMP T5.12: Sheet Flow Dispersion, or Concentrated Flow Dispersion in accordance with BMP T5.11: Concentrated Flow Dispersion

~~on-site stormwater management BMPs to infiltrate, disperse, and retain stormwater runoff on-site to the maximum extent feasible without causing flooding or erosion impacts. On-site stormwater management BMPs as identified in the Manual shall be used for roof downspout control, flow dispersion, and soil quality.~~

(6) Minimum Requirement No. 6 – Runoff Treatment.

(a) Thresholds. The following require construction of stormwater treatment facilities ~~(see Table 14.30.051(6)(a))~~:

(i) Projects in which the total of effective, pollution-generating **hard impervious** surface (PGIS) is 5,000 square feet or more in a threshold discharge area of the project; or

(ii) Projects in which the total of pollution-generating pervious surfaces (PGPS) – not including permeable pavements - is three-quarters of an acre or more in a threshold discharge area, and from which there is a surface discharge in a natural or manmade conveyance system from the site.

Table 14.30.051(6)(a) – Treatment Requirements by Threshold Discharge Area

	< 3/4 acres of PGPS	> 3/4 acres PGPS	< 5,000 sf PGIS	> 5,000 sf PGIS
Treatment Facilities				
On-Site Stormwater BMPs				

PGPS = pollution-generating pervious surfaces

PGIS = pollution-generating impervious surfaces

sf = square feet

(b) Treatment Facility Sizing. Treatment facilities shall be sized for the entire area that drains to them, even if some of those areas are not pollution-generating, or were not included in the project site threshold decisions of the treatment threshold decisions of this Minimum Requirement to provide effective treatment of the volume of runoff predicted from a 24-hour storm with a six-month return frequency (the six-month, 24-hour storm). Alternatively, the 91 percent of the 24-hour runoff volume indicated by an approved continuous runoff model may be used.

(i) The water quality design volume shall be used to size volume-based treatment facilities preceding detention facilities or when detention facilities are not required. The volume of runoff shall be estimated using methods approved in the Manual be predicted from a 24-hour storm with a 6-month return frequency. Wetpool facilities are sized based upon the volume of runoff predicted through use of the Natural Resource Conservation Service curve number equations in Chapter 2 Of Volume III of the Manual, for the 6-month, 24-hour storm. Alternatively, when using an approved continuous runoff model, the water quality design storm volume shall be equal to the simulated daily volume that represents the upper limit of the range of daily volumes that accounts for 91% of the entire runoff volume over a multi-decade period of record.

(ii) ~~The w~~ Water quality design flow rate:

(A) For preceding detention facilities or when detention facilities are not required. The flow rate shall be the flow rate at or below which 91% of the runoff volume, as estimated by an approved continuous runoff model, will be treated. Design criteria for treatment facilities are assigned to achieve the applicable performance goal (e.g., 80% TSS removal) at the water quality design

flow rate . At a minimum, 91% of the total runoff volume, as estimated by an approved continuous runoff model, must pass through the treatment facility(ies) at or below the approved hydraulic loading rate for the facility(ies) ~~for the full two-year release rate shall be used to size flow rate-based treatment facilities located downstream of detention facilities.~~

(B) Downstream of Detention Facilities. The water quality design flow rate must be the full 2-year release rate from the detention facility.

(iii) The director may allow alternative methods if they identify volumes and flow rates that are at least equivalent.

(c) Treatment Facility Selection, Design, and Maintenance. Stormwater treatment facilities shall be:

- (i) Selected in accordance with the process identified in Chapter 4 of Volume I of the Manual;
- (ii) Designed in accordance with the design criteria in Volume V of the Manual; and
- (iii) Maintained in accordance with the maintenance schedule in Volume V of the Manual.

(d) Untreated Stormwater. ~~Direct D~~ discharge of untreated stormwater from pollution-generating ~~impervious-hard~~ surfaces to ground water is prohibited, except for the discharge achieved by infiltration or dispersion of runoff ~~from residential sites through use of on-site stormwater management BMPs~~ through use of on-site stormwater management BMPs, in accordance with Chapter 5, Volume V and Chapter 7, Volume V (Manual); or by infiltration through soils meeting the soil suitability criteria in Chapter 3 of Volume III (Manual).

(7) Minimum Requirement No. 7 – Flow Control.

(a) Applicability.

(i) Flow Control. Projects must provide flow control to reduce the impacts of stormwater runoff from ~~impervious-hard~~ surfaces and land cover conversions. The requirement below applies to projects that discharge stormwater directly, or indirectly through a conveyance system, into a fresh waterbody, ~~except for discharges into a stream that leads to a wetland or to a wetland that has an outflow to a stream in which both this requirement and Minimum Requirement No. 8 must be met.~~

(ii) Exempt Areas. ~~Flow control is not required for projects that discharge directly to, or indirectly to a water listed in Appendix I-E of the Manual subject to the following restrictions: The director may petition the Department of Ecology to exempt projects in certain areas provided those areas also meet the following criteria:~~

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

(B) Any erodible elements of the manmade conveyance system for the area must be adequately stabilized to prevent erosion; and

(C) Surface water from the area must not be diverted from or increased to an existing wetland, stream, or near-shore habitat sufficient to cause a significant adverse impact.

(D) Direct discharge to the exempt receiving water does not result in the diversion of drainage from any perennial stream classified as Types 1, 2, 3, or 4 in the State of Washington Interim Water Typing System, or Types “S”, “F”, or “Np” in the Permanent Water Typing System, or from any category I, II, or III wetland.

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

(1) Design of flow splitting devices or drainage BMPs will be based on continuous hydrologic modeling analysis. The design will assure that flows delivered to Type 5 stream reaches will approximate, but in no case exceed, durations ranging from 50% of the 2-year to the 50-year peak flow.

(2) Flow splitting devices or drainage BMPs that deliver flow to category IV wetlands will also be designed using continuous hydrologic modeling to preserve pre-project wetland hydrologic conditions unless specifically waived or exempted by regulatory agencies with permitting jurisdiction.

(b) ~~Thresholds.~~ When assessing a project against the following thresholds, only those impervious, hard and pervious surfaces that are subject to this minimum requirement shall be considered. ~~The following require construction of flow control facilities and/or land use management BMPs:~~

Table 14.30.051(7)(a) — Flow Control Requirements by Threshold Discharge Area

	Flow Control Facilities	On-Site Stormwater Management BMPs
< 3/4 acres conversion to lawn/landscape, or < 2.5 acres to pasture		
≥ 3/4 acres conversion to lawn/landscape, or ≥ 2.5 acres to pasture	IV	IV
< 10,000 square feet of effective impervious area		
≥ 10,000 square feet of effective impervious area	IV	IV
≥ 0.1 cubic feet per second increase in the 100-year flood frequency	IV	IV

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

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

(iii) Projects that, through a combination of effective ~~impervious hard~~ surfaces and converted ~~pervious surfaces~~ ~~vegetation areas~~, cause a one-tenth cubic foot per second increase in the 100-year flow frequency from a threshold discharge area as estimated using the Western Washington Hydrology Model or other model ~~and one-hour time steps (or a 0.15 cfs increase using 15-minute time steps)~~ authorized by the director.

~~(iv) That portion of any development project in which the above thresholds are not exceeded in a threshold discharge area shall apply on-site stormwater management BMPs in accordance with Minimum Requirement No. 5.~~

(v) The director may require flow control for individual lots due to sensitive areas, historical flooding, or other relevant reasons as deemed necessary by the director.

(c) Standard Requirement.

(i) Peak Flows. Stormwater discharges shall match developed discharge durations to predeveloped durations for the range of predeveloped discharge rates from 50 percent of the two-year peak flow up to the full 50-year peak flow.

(ii) Predeveloped Condition. The predeveloped condition to be matched shall be a forested land cover unless:

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

(B) The drainage area of the immediate stream and all subsequent downstream basins have had at least 40 percent total impervious area ~~for the last 20 years since 1985~~. In this case, the predeveloped condition to be matched shall be the existing land cover condition. ~~Appendix I-F in the Manual provides a map which depicts those areas which meet this criterion.~~ ~~When~~ ~~never~~ basin-specific studies determine a stream channel to be unstable, even though the above criterion is met, the predeveloped condition assumption shall be the “historic” land cover condition, or a land cover condition commensurate with achieving a target flow regime identified by an approved basin study.

(iii) This standard requirement is waived for sites that will reliably infiltrate all the runoff from ~~impervious hard~~ surfaces and converted ~~pervious surfaces~~ ~~vegetation areas~~.

(iv) Flow Control Facility Selection, Design, and Maintenance. Flow control facilities shall be selected, designed, and maintained in accordance with Volume III of the Manual.

(8) Minimum Requirement No. 8 – Wetlands Protection.

(a) Applicability. The requirements below apply only to projects whose stormwater discharges into a wetland, either directly or indirectly through a conveyance system. ~~These requirements must be met in addition to meeting Minimum Requirement No. 6—Runoff Treatment.~~

(b) Thresholds. The thresholds identified in Minimum Requirement No. 6 – Runoff Treatment, and Minimum Requirement No. 7 – Flow Control, shall also be applied ~~to determine the applicability of this requirement~~ for discharges to wetlands.

(c) Standard Requirement. ~~Projects shall comply with Guide Sheets No. 1 through No. 3 in Appendix I-D of the Manual. Discharges to wetlands shall maintain the hydrologic conditions, hydrophytic vegetation, and substrate characteristics necessary to support existing and designated uses. A wetland can be considered for hydrologic modification and/or stormwater treatment in accordance with guidance within the Manual~~ The hydrologic analysis shall use the existing land cover condition to determine the existing hydrologic conditions unless directed otherwise by the Director.

(d) Additional Requirements. The standard requirement does not excuse any discharge from the obligation to apply whatever technology is necessary to comply with state water quality standards, Chapter 173-201A WAC, or state ground water standards, Chapter 173-200 WAC or successor regulations. Stormwater treatment and flow control facilities shall not be built within a natural vegetated buffer, except for: necessary conveyance systems as approved by the director; or as allowed in wetlands approved for hydrologic modification and/or treatment in accordance with the Manual. An adopted and implemented basin plan ~~(Minimum Requirement No. 9)~~, or a total maximum daily load (TMDL) may be used to develop requirements for wetlands that are tailored to a specific basin.

(9) Minimum Requirement No. 9 – Operation and Maintenance. An operation and maintenance manual that is consistent with the Manual shall be provided for all proposed stormwater facilities and BMPs, and the ~~person-party (or parties)~~ responsible for maintenance and operation shall be identified. At private facilities, a copy of the manual shall be retained on site or within reasonable access to the site, and shall be transferred with the property to the new owner. For public facilities, a copy of the manual shall be retained by the director or other appropriate location. A log of maintenance activity that indicates what actions were taken shall be kept and be available for inspection by the director.

~~(10) Minimum Requirement No. 10—Financial Liability. Projects that may require bonding include, but are not limited to, those occurring in environmentally sensitive areas and where problems are anticipated.~~

~~(a) Financial Instrument Required. The director shall require all persons proposing activities regulated by this chapter to provide an acceptable financial instrument to protect the city. Where such person has previously provided, or is required to provide, another financial instrument on the facility itself or on other construction related to the facility, such person may, with the permission of the director, and to the extent allowable by law, combine all such financial instruments into a single instrument; provided, that at no time shall the amount guaranteed be less than the total amount which would have been required by the separate instruments; and provided further, that such an instrument shall on its face clearly delineate those separate instruments which it is intended to replace.~~

~~(b) Construction. Prior to commencing construction, the person constructing the facility shall post a construction bond in an amount not less than 150 percent of the cost of drainage improvements and shall be sufficient to cover the cost of performing said construction per the approved drainage plans. Alternatively, an equivalent cash deposit to an escrow account administered by a local bank may be allowed by the director. An assignment of funds shall be administered for preconstruction activities such as for erosion control.~~

~~(c) Maintenance. After satisfactory completion of the facilities and release of the construction financial instrument by the city, the person constructing the facility shall satisfactorily maintain the facility for a two-year period. A financial instrument to be used at the discretion of the City to correct deficiencies in maintenance must be provided and continued throughout the two-year maintenance period. The amount of the financial instrument shall be 150 percent of the cost of drainage improvements. In addition, at the discretion of the director, a financial instrument to cover the cost of design defects or failures in workmanship shall also be posted and maintained through the two-year maintenance period. Alternatively, the director may allow an equivalent cash deposit to an escrow account administered by a local bank.~~

~~(d) Liability Policy. The person constructing the facility shall maintain a liability policy in an amount to be determined by the director which shall name the City as an additional insured and which shall protect the City from any liability for any accident, negligence, failure of the facility, or any other liability whatsoever, relating to the construction or maintenance of the facility. The owner of the facility shall maintain the liability policy for the duration of the facility. (Ord. 19-14 § 1 (Exh. A), 2014; Ord. 03-10 § 2 (Exh. B), 2010; Ord. 25-95 § 1, 1995-).~~

14.30.052 Contents of a stormwater site plan.

(1) Site Plan Required. All projects for new development or redevelopment, which exceed the thresholds of 2,000 square feet for impervious hard surfaces or 7,000 square feet for land disturbance, must prepare a stormwater site plan.

(2) Contents of Plan. Contents of a stormwater site plan will vary with the type and size of the project and individual site characteristics. Two major elements included in a stormwater site plan are a construction stormwater pollution prevention plan and a permanent stormwater control plan. The following documents are to be included in a stormwater site plan:

- (a) Project overview;
- (b) Existing conditions summary;
- (c) Off-site analysis report;
- (d) Construction stormwater pollution prevention plan;
- (e) Permanent stormwater control plan;
- (f) Special reports and studies;
- (g) Other permits;
- (h) Operation and maintenance manual; and

(i) Bond quantities worksheet.

(3) Detailed Information in Manual. Additional details on the content and the procedures for preparation of a stormwater site plan, a construction stormwater pollution prevention plan, and a permanent stormwater quality control plan are included in the Manual.

14.30.055 Exemptions.

Commercial agriculture, except for the conversion of timberland to agriculture or the construction of impervious surfaces, and forest practices regulated under WAC Title 222, except for Class IV – general forest practices that are conversions from timberland to other uses, are exempt from the provisions of this chapter. [Pavement maintenance and underground utility projects as defined in Section 2.2, Volume I of the Manual are also exempt.](#)

14.30.061 Adoption of manuals.

The following manuals are hereby adopted by reference as currently published and as hereinafter amended:

(1) Department of Ecology Stormwater Management Manual for Western Washington (2012);

(2) Low Impact Development Technical Guidance Manual for Puget Sound (LID Manual) by Washington State University and Puget Sound Partnership; and

(3) City of Buckley Development Guidelines and Public Works Standards (Engineering Design and Construction Standards).

14.30.062 Stormwater best management practices – BMPs.

(1) General. BMPs shall be used to control pollution from stormwater. BMPs shall be used to comply with the standards in this chapter. BMPs are in the Manual.

(2) Experimental BMPs. In those instances where appropriate BMPs are not in the Manual, experimental BMPs should be considered. Experimental BMPs are encouraged as a means of solving problems in a manner not addressed by the Manual in an effort to improve stormwater quality technology. Experimental BMPs must be approved in accordance with the approval process outlined in the Manual.

14.30.063 Illicit discharges.

Illicit discharges to stormwater drainage systems are prohibited. No person shall throw, drain, or otherwise discharge into the MS4 any pollutants or water containing pollutants, other than stormwater.

(1) The following categories of nonstormwater discharges are prohibited unless the stated conditions are met:

(a) Discharges from potable water sources, including water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges shall be dechlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments in the MS4.

(b) Discharges from lawn watering and other irrigation runoff. These shall be minimized through, at a minimum, public education activities and water conservation efforts.

(c) Dechlorinated swimming pool, **spa and hot tub** discharges. The discharges shall be dechlorinated to a concentration of 0.1 ppm or less, pH-adjusted and reoxygenized if necessary, volumetrically and velocity controlled to prevent resuspension of sediments in the MS4. **Discharges shall be thermally controlled to prevent an increase in temperature of the receiving water.** Swimming pool cleaning wastewater and filter backwash shall not be discharged to the MS4.

(d) Street and sidewalk wash water, water used to control dust, and routine external building wash down that does not use detergents. Discharges from these sources shall be minimized through public education activities in accordance with the permit. At active construction sites, street sweeping must be performed prior to washing the street.

(e) Other nonstormwater discharges. The discharges shall be in compliance with the requirements of the stormwater pollution prevention plan reviewed by the city, which addresses control of construction site dewatering discharges.

(f) Solid or liquid wastes thrown, drained or otherwise discharged directly or indirectly into the municipal storm drain system and/or surface and ground waters. Examples of prohibited contaminants include, but are not limited to, the following:

(i) Trash or debris.

(ii) Construction materials.

(iii) Petroleum products including but not limited to oil, gasoline, grease, fuel oil and heating oil.

(iv) Antifreeze and other automotive products.

(v) Metals in either particulate or dissolved form.

(vi) Flammable or explosive materials.

(vii) Radioactive material.

(viii) Batteries.

(ix) Acids, alkalis, or bases.

(x) Paints, stains, resins, lacquers, or varnishes.

(xi) Degreasers and/or solvents.

(xii) Pesticides, herbicides, or fertilizers.

(xiii) Steam cleaning wastes.

(xiv) Soaps, detergents, or ammonia.

- (xv) Domestic animal wastes.
- (xvi) Recreational vehicle waste.
- (xvii) Animal carcasses.
- (xviii) Food wastes.
- (xix) Bark and other fibrous materials.
- (xx) Lawn clippings, leaves, or branches.
- (xxi) Silt, sediment, concrete, cement or gravel.
- (xxii) Dyes (discharged without prior notification and approval of the city).
- (xxiii) Chemicals not normally found in uncontaminated water.
- (xxiv) Any other process-associated discharge except as otherwise allowed in this section.
- (xxv) Any hazardous material or waste not listed above.

(2) The following categories of nonstormwater discharges are exempt from the discharge prohibitions established by this section:

- (a) Diverted stream flows.
 - (b) Rising ground waters.
 - (c) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(b)(20)).
 - (d) Uncontaminated pumped ground water.
 - (e) Foundation drains.
 - (f) Air conditioning condensation.
 - (g) Irrigation water from agricultural sources that is commingled with urban stormwater.
 - (h) Springs.
 - (i) Water from crawl space pumps.
 - (j) Footing drains.
 - (k) Flows from riparian habitats and wetlands.
 - (l) Nonstormwater discharges covered by another NPDES or state waste discharge permit.
 - (m) Discharges from emergency firefighting activities.
- (3) Prohibition of Illicit Connections.

(a) The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited.

(b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(c) A person is considered to be in violation of this section if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

14.30.070 Operation and maintenance of stormwater facilities.

(1) Standards for maintenance of stormwater facilities existing on public or private property within the City are contained in the Stormwater Management Manual and Chapter 14.40 BMC. Any maintenance agreement submitted and approved by the City through the permit process shall supersede maintenance requirements contained in the Stormwater Management Manual and Chapter 14.40 BMC.

(2) No person shall cause or permit any drainage system/facility on any public or private property to be obstructed, filled, graded, or used for disposal of debris. Any such activity constitutes a violation of this chapter.

(3) Any modification of an existing drainage system/facility must be approved and permitted by the city. Failure to obtain permits and approvals, or to violate conditions thereof for any such alteration, constitutes a violation of this chapter.

(4) The City will maintain all elements of the storm drainage system beginning at the first catch-basin within the public right-of-way, and in easements or tracts dedicated to and accepted by the city.

(5) All private stormwater system/facilities, including, but not limited to, nonresidential stormwater facilities, roof downspout drains and driveway drains serving single-family residences, shall be maintained by the property owner.

(6) Maintenance of Nonresidential Stormwater Facilities by Owners.

(a) Any person or persons holding title to a nonresidential property for which stormwater facilities have been required by the City shall be responsible for the continual operation, maintenance, and repair of said stormwater facilities in accordance with the criteria set forth in the Stormwater Management Manual and Chapter 14.40 BMC.

(b) For nonresidential stormwater facilities, failure to meet the maintenance requirements specified in the Stormwater Management Manual and Chapter 14.40 BMC constitutes a violation of this chapter, and shall be enforced against the owner(s) of the subject property served by the stormwater facility.

(7) City Acceptance of Existing Residential Stormwater Facilities. The City may accept for maintenance those stormwater facilities serving residential developments existing prior to the effective date of the ordinance codified in this chapter that meet the following conditions:

- (a) The stormwater facilities serve more than one individual house or property;
 - (b) An inspection by the director has determined that the stormwater facilities are functioning as designed;
 - (c) The stormwater facilities have had at least two years of satisfactory operation and maintenance, unless otherwise waived by the director;
 - (d) An inspection by the director has determined that the stormwater facilities are accessible for maintenance using existing City equipment;
 - (e) The person or persons holding title to the properties served by the stormwater facilities have submitted a petition containing the signatures of the title holders of more than 50 percent of the lots served by the stormwater facilities requesting that the City maintain the stormwater facilities;
 - (f) An easement or dedication of the property is offered by the property owner at no cost;
 - (g) All easements entitling the City to properly access, operate and maintain the subject stormwater facilities have been conveyed to the City and have been recorded with the Pierce County office of records and elections;
 - (h) The person or persons holding title to the properties served by the stormwater facilities show proof of the correction of any defects in the drainage facilities, including provision of maintenance access, as required by the director; and
 - (i) The City Council formally accepts said infrastructure for operation and maintenance.
- (8) Disposal of waste from maintenance activities shall be conducted in accordance with the Minimum Functional Standards for Solid Waste Handling, Chapter 173-304 WAC; guidelines published by the Washington State Department of Ecology for disposal of waste materials from stormwater maintenance activities; and, where appropriate, the Dangerous Waste Regulations, Chapter 173-303 WAC.

14.30.734 Exceptions.

Exceptions to Minimum Requirements Nos. 1 through 10 may be granted by the City Council prior to permit approval and construction. An exception may be granted following a public hearing conducted by the City Council; provided, that a written finding of fact is prepared that addresses the following:

- (1) That there are special physical circumstances or conditions affecting the property such that the strict application of these provisions would deprive the applicant of all reasonable use of the site in question, and every effort to find creative ways to meet the intent of the minimum standards has been made;
- (2) That the granting of the exceptions will not be detrimental to the public health and welfare, nor injurious to other properties in the vicinity and/or downstream, and to the quality of waters of the state; and

(3) The exception is the least possible exception that could be granted to comply with the intent of the minimum requirements.

14.30.801 Administration.

The director shall administer this chapter and shall have the authority to develop and implement administrative procedures to administer and enforce this chapter.

14.30.802 Review and approval.

The director may approve, conditionally approve or deny an application for activities regulated by this chapter.

14.30.803 Enforcement authority.

The director shall enforce this chapter.

14.30.804 Inspection.

All activities regulated by this chapter, except those exempt in BMC 14.30.040(2), shall be inspected by the director. The director shall inspect projects at various stages of the work requiring approval to determine that adequate control is being exercised. Stages of work requiring inspection include, but are not limited to, preconstruction; installation of BMPs; land disturbing activities; installation of utilities, landscaping, retaining walls and completion of project. When required by the director, a special inspection and/or testing shall be performed.

14.30.901 General.

Enforcement action shall be in accordance with this chapter whenever a person has violated any provision of this chapter. The choice of enforcement action and the severity of any penalty shall be based on the nature of the violation, the damage or risk to the public or to public resources, and/or the degree of bad faith of the person subject to the enforcement action.

14.30.905 Orders.

The director shall have the authority to issue to an owner or person(s) representing an owner an order to maintain or repair a component of a stormwater facility or BMP to bring it in compliance with this chapter, the Stormwater Management Manual and/or other City regulations. The order shall include:

- (1) A description of the specific nature, extent and time of the violation and the damage or potential damage that reasonably might occur.
- (2) A notice that the violation or the potential violation cease and desist and, in appropriate cases, the specific corrective action to be taken.
- (3) A reasonable time to comply, depending on the circumstances.
- (4) Penalties that may be incurred by any owner of a stormwater system not in compliance with this chapter.
- (5) An order to the owner to provide to the director a detailed plan showing drawings and steps that will be taken to achieve compliance within a specified time. This plan is subject to approval by the director.

14.30.910 Enforcement, violations and penalties.

Any person violating or failing to comply with any of the provisions of this title shall be subject to the notice requirements, enforcement, violations and/or penalty provisions of Chapter 1.12 BMC.

14.30.920 Appeals.

Administrative interpretations and administrative Type A-1 and Type A-2 decisions may be appealed, by applicants or parties of record, to the board of adjustment subject to the provisions of BMC 20.01.260.

Section 2. Chapter 14.40 of the Buckley Municipal Code is amended to read as follows:

14.40.011 Findings of fact.

The City Council adopts the findings of the model stormwater maintenance ordinance provided by the Department of Ecology that:

- (1) Stormwater facilities are a common feature of urban development.
- (2) In order to function properly so that they will perform as designed to prevent or remove pollution and/or to reduce flooding, stormwater facilities must be regularly inspected and maintained.
- (3) If not adequately maintained, stormwater facilities can become sources of pollutants to surface water and ground water.
- (4) If not adequately maintained, stormwater facilities could fail and cause considerable damage to the public.

14.40.012 Need.

The City Council adopts the need provision of the model stormwater maintenance ordinance provided by the Department of Ecology that this chapter is necessary in order to ensure maintenance of all stormwater facilities within Buckley by setting minimum standards for the inspection and maintenance of stormwater facilities. In addition, the City is required to comply with the Western Washington Phase II Municipal Stormwater Permit. The permit requires the City to establish maintenance standards that are as protective, or more protective, of facility function than those specified in Chapter 4 of Volume V of the [2005 Stormwater Management Manual for Western Washington](#).

14.40.013 Purpose.

The City Council adopts the purposes set forth in the model stormwater maintenance ordinance provided by the Department of Ecology that the provisions of this chapter are intended to:

- (1) Provide for inspection and maintenance of stormwater facilities in Buckley to provide for an effective, functional stormwater drainage system;
- (2) Authorize the public works department to require that stormwater facilities be operated, maintained and repaired in conformance with this chapter;
- (3) Establish the minimum level of compliance which must be met;

(4) Guide and advise all who conduct inspection and maintenance of stormwater facilities.

14.40.020 Definitions.

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

“Best management practice” or “BMP” means physical, structural and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, and have been approved by Ecology. BMPs are listed and described in the manual.

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

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

“Stormwater drainage system” means constructed and natural features which function together as a system to collect, convey, channel, hold, inhibit, retain, detain, infiltrate, divert, treat or filter stormwater.

“Stormwater facility” means a constructed component of a stormwater drainage system, designed or constructed to perform a particular function or multiple functions. Stormwater facilities include, but are not limited to, pipes, swales, ditches, culverts, street gutters, detention basins, retention basins, constructed wetlands, infiltration devices, catchbasins, oil/water separators, sediment basins and modular pavement.

“Stormwater Management Manual” or “Manual” means the 2005-2012 Stormwater Management Manual for Western Washington prepared by Ecology that contains BMPs to prevent or reduce pollution.

14.40.031 Abrogation and greater restrictions.

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

14.40.032 Interpretation.

The provisions of this chapter shall be held to be minimum requirements in their interpretation and application and shall be liberally construed to serve the purposes of this chapter.

14.40.040 Applicability.

When any provision of any other chapter of the Buckley Municipal Code conflicts with this chapter, that which provides more environmental protection shall apply unless specifically provided otherwise in this chapter.

The City is authorized to adopt written procedures for the purpose of carrying out the provisions of this chapter.

14.40.051 Maintenance required.

All stormwater facilities shall be maintained in accordance with this chapter and the stormwater management manual. Systematic, routine preventive maintenance is preferred.

14.40.052 Minimum standards.

The following are the minimum performance measures for the maintenance of stormwater facilities:

(1) The maintenance standards specified in Chapter 4 of Volume V of the ~~2005~~ Stormwater Management Manual ~~for Western Washington~~ shall be followed. The purpose of the maintenance standard is to determine if maintenance is required. The maintenance standards are not a measure of the facility's required condition at all times between inspections. Exceeding the maintenance standards between inspections and/or maintenance is not a permit violation.

(2) Unless there are circumstances beyond the city's control, when an inspection identifies an exceedance of the maintenance standards, maintenance shall be performed:

(a) Within one year for typical maintenance of facilities, except catch basins.

(b) Within six months for catch basins.

(c) Within two years for maintenance that requires capital construction of less than \$25,000.

(3) All municipally owned or operated or privately owned permanent stormwater treatment and flow control facilities, other than catch basins, shall be inspected annually and cleared of debris, sediment and vegetation when they affect the functioning and/or design capacity of the facility.

(4) All catch basins and inlets owned or operated by the City or privately owned or operated shall be inspected ~~at least once during the five-year cycle of the~~ ~~per the conditions of the~~ Phase II NPDES permit.

(5) A reduction of the inspection frequency shall be based on maintenance records of double the length of time of the proposed inspection frequency. In the absence of maintenance records, the City may substitute written statements to document a specific less frequent inspection schedule. Written statements shall be based on actual inspection and maintenance experience.

14.40.053 Disposal of waste from maintenance activities.

Disposal of waste from maintenance activities shall be conducted in accordance with Appendix 6 of the Western Washington Phase II Municipal Stormwater Permit, the minimum functional standards for solid waste handling, Chapter 173-304 WAC, guidelines for disposal of waste materials from stormwater maintenance activities, and, where appropriate, the dangerous waste regulations, Chapter 173-303 WAC.

14.40.054 Compliance.

Property owners are responsible for the maintenance, operation or repair of stormwater drainage systems and BMPs. Property owners shall maintain, operate and repair these facilities in compliance with the requirements of this chapter and the stormwater management manual.

14.40.061 Director.

The City administrator shall administer this chapter and shall be referred to as the director. The director shall have the authority to develop and implement administrative procedures to administer and enforce this chapter.

14.40.062 Inspection authority.

The director is directed and authorized to develop an inspection program for stormwater facilities in Buckley.

14.40.063 Enforcement authority.

The director shall enforce this chapter.

14.40.071 Inspection.

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

14.40.072 Procedures.

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

(1) If the property or any building or structure on the property is unoccupied, the inspector shall first make a reasonable effort to locate the owner or other person(s) having charge or control of the property or portions of the property and request entry.

(2) If, after reasonable effort, the inspector is unable to locate the owner or other person(s) having charge or control of the property, and has reason to believe the condition of the stormwater drainage system creates an imminent hazard to persons or property, the inspector may enter.

(3) Unless entry is consented to by the owner or person(s) in control of the property or portion of the property or unless conditions are reasonably believed to exist which create imminent hazard, the inspector shall obtain a search warrant, prior to entry, as authorized by the laws of the state of Washington.

(4) The inspector may inspect the stormwater drainage system without obtaining a search warrant provided for in subsection (3) of this section, provided the inspection can be conducted while remaining on public property or other property on which permission to enter is obtained.

14.40.073 Inspection schedule.

The director shall establish a master inspection and maintenance schedule to inspect appropriate stormwater facilities that are not owned by the city. Inspections shall be annual. Critical stormwater facilities may require a more frequent inspection schedule.

14.40.074 Inspection and maintenance records.

As existing stormwater facilities are encountered, they shall be added to the master inspection and maintenance schedule. Records of new stormwater facilities shall include the following:

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

14.40.075 Reporting requirements.

The director shall report annually to the City Council about the status of the inspections. The annual report may include, but need not be limited to, the proportion of the components found in and out of compliance, the need to upgrade components, enforcement actions taken, compliance with the inspection schedule, the resources needed to comply with the schedule, and comparisons with previous years.

14.40.080 Enforcement, violations and penalties.

Any person violating or failing to comply with any of the provisions of this title shall be subject to the notice requirements, enforcement, violations and/or penalty provisions of Chapter 1.12 BMC.

14.40.090 Severability.

If any provision of this chapter or its application to any person, entity, or circumstance is held invalid, the remainder of this chapter or the application of the provision to other persons, entities, or circumstances shall not be affected.

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 4. Effective Date. A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

Passed by the City Council on the 13th day of December, 2016.

Mayor Pat Johnson

Attest:

Joanne Starr, City Clerk

APPROVED AS TO FORM:

Phil Olbrechts, City Attorney

PUBLISHED: _____, 2016

EFFECTIVE: _____, 2016



CITY COUNCIL AGENDA BILL

City of Buckley
PO Box 1960
Buckley, WA 98321

ITEM INFORMATION			
SUBJECT: Annual ordinance to provide code corrections and clarifications concerning various issues and various code sections Cost Impact: Fund Source: Timeline:	Agenda Date: December 13, 2016 AB16-148		
	Department/Committee/Individual	Created	Reviewed
	Mayor Pat Johnson		
	City Administrator – Dave Schmidt		
	City Attorney – Phil Olbrechts		
	City Engineer – Dominic Miller		
	City Clerk – Joanne Starr		
	Finance Dept – Sheila Bazzar		
	Building Official – Mike Deadmond		
	Fire Dept – Chief Predmore		
	Parks & Rec Dept – Ellen Boyd		
	Planning Dept – Kathy Thompson		
	Police Dept – Chief Arsanto		
Municipal Court – Jessica Cash			
<p>SUMMARY STATEMENT: The attached ordinance represents a year’s worth of discussions regarding many different topics identified through working with the code and sometimes failing to make sense of it. Several items examined will need to be seen separately in their ordinances because they could not be seen as corrections.</p> <p>The hearing was November 21, 2016, after which the commission recommended approval.</p> <p>Notices were sent to the Department of Commerce, SEPA was issued, and the ordinance, if acceptable to the council and city attorney, is ready to adopt.</p>			
COMMITTEE REVIEW AND RECOMMENDATION:			
RECOMMENDED ACTION: MOTION to approve			
RECORD OF COUNCIL ACTION			
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>	

CITY OF BUCKLEY, WASHINGTON

ORDINANCE NO. ____ - 16

AN ORDINANCE OF THE CITY OF BUCKLEY, WASHINGTON, AMENDING SUBSECTIONS 19.20.020(2.b), 19.29.050(1), AND 20.01.030 (PART OF TABLE 2); AMENDING SECTIONS 18.16.030, 19.12.295, 19.12.330, 19.20.050, 19.20.070, 19.20.080, 19.20.110, 19.22.160, 19.25.030, 19.33.020, AND 19.33.090, BMC FOR CODE CORRECTIONS AND CLARIFICATIONS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the city desires to have a code that is internally consistent and clear; and

WHEREAS, the planning commission considered various anomalies during its regularly scheduled meetings in 2016; and

WHEREAS, by prior action of the city council under Ordinance Number 06-16, the board of adjustment was decommissioned; and

WHEREAS, Title 19 allows the planning director to make administrative interpretations on the meaning of the land use code; and

WHEREAS, Title 20 does not refer to administrative interpretations; and

WHEREAS, the request for expedited review was received October 19, 2016, by the Washington State Department of Commerce of the proposed change in development regulations under Material Identification Number (MID#) 22982; and

WHEREAS, environmental review was issued October 26, 2016; and

WHEREAS, the planning commission conducted a public hearing on this proposal on November 21, 2016; and

WHEREAS, on November 26, 2016, the planning commission recommended approval of the considered amendments;

NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF BUCKLEY, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. BMC 18.16.030 is amended as follows:

18.16.030 Final approval.

(1) The final plat shall conform to the preliminary plat as approved by the hearing examiner. If desired by the applicant/developer, the final plat may constitute only that portion of the

preliminary plat which is proposed to be recorded and developed at the time. The developer shall submit a mylar tracing and eight prints of the final plat and other required exhibits to the planning department. A complete final plat application shall be submitted to the planning department within five years after approval of the preliminary plat. The director of planning may extend the time for submission of a final plat up to an additional ~~12~~ 24 months for good cause shown. If no final plat is filed within five years or no extension given, the preliminary plat approval shall lapse.

(2) The planning department shall review the final plat to determine if the plat conforms with the conditions of the preliminary plat, and within 30 days from the date of filing shall prepare a staff report and recommendation on the final plat, unless the applicant consents to an extension of such time period. The final plat staff report and recommendation shall be submitted to the city council for final action. Upon approval of the final plat by the city council, the developer shall obtain the required signatures on the final tracing, and record the plat in accordance with RCW 58.17.160.

(3) Any lots in a final plat filed for record shall be a valid land use notwithstanding any change in zoning laws for a period of five years from the date of filing. A subdivision shall be governed by the terms of approval of the final plat, and the statutes, ordinances, and regulations in effect at the time of approval under RCW 58.17.150(1) and (3) for a period of five years after final plat approval unless the city council finds that a change in conditions creates a serious threat to the public health or safety in the subdivision. Sales or agreements to sell, lease, or otherwise transfer a lot, tract, or parcel of land following preliminary plat approval shall be governed by the provisions of RCW 58.17.200 and 58.17.205.

Section 2. Section 19.12.295 BMC, lot depth, is amended as follows:

19.12.295 Lot depth.

“Lot depth” means:

- (1) If the front and rear lot lines are parallel, the shortest distance between such lines.
- (2) If the front and rear lot lines are not parallel, the distance between the midpoint of the front lot line and midpoint of the rear lot line.
- (3) For lots without rear lot lines, lot depth shall be determined by the director.

Section 3. Section 19.12.330, lot width, is amended as follows:

19.12.330 Lot width.

“Lot width” means the horizontal distance ~~between the side lines~~ of a lot, measured at right angles to its depth along a straight line ~~parallel to the front lot line~~ at the minimum required front setback line.

Section 4. Subsection 19.20.020(2.b) is amended as follows:

Lot Dimensions. The minimum dimensions for any new lot or parcel ~~not considered in a short or long plat~~ shall be:

- (i) Minimum lot width:
 - (A) Forty-five feet for a single-family residence, except as allowed in flag lots.
 - (B) Twenty-nine feet when attached units are provided.
- (ii) Minimum lot depth: 85 feet;
- (iii) Minimum lot width at street frontage on a cul-de-sac or hammerhead terminus: 30 feet.

(iv) Flag lots: flag lots are permitted subject to the bulk modification conditions set forth in the zoning code.

Section 5. Section 19.20.050 is amended as follows:

19.20.050 NMU neighborhood mixed-use zone.

(1) Intent and Purpose. The NMU zone is intended to implement the policies of the adopted Buckley comprehensive plan for areas designated for mixed residential and commercial development after the date of implementation.

(a) The primary purpose is to allow development of small commercial businesses in residential neighborhoods (such as neighborhood grocery stores or convenience stores), especially residential above ground floor commercial per the Buckley comprehensive plan.

(b) Structures in this zone shall meet the intent of the Buckley comprehensive plan with respect to the design and placement of commercial and residential structures to relate positively at the pedestrian scale and to contribute to the public realm.

(2) Performance Standards – Dimensional Requirements.

(a) Lot Area and Coverage.

(i) Lot Area.

(A) For single-family dwellings, the minimum lot area shall be 8,000 square feet.

(B) For townhomes, the minimum lot area per dwelling unit shall be 3,500 square feet.

(C) For multiple-family dwellings, the minimum lot area per dwelling unit shall be 3,000 square feet.

(D) For senior citizen low-income housing, the minimum lot area shall be 2,000 square feet per unit.

(E) For commercial and commercial mixed-use units, the minimum lot area shall be 3,500 square feet per unit.

(ii) Lot Coverage.

(A) For single-family, multiple-family and townhome dwellings, the maximum lot coverage of the primary dwelling unit shall be 30 percent, not including outbuildings or accessory units. The maximum lot coverage of all structures shall be 40 percent. The maximum of all impervious coverage, including driveways, sidewalks and related impervious surfaces, shall be 55 percent.

(B) For senior citizen low-income housing and commercial mixed-use units, the maximum lot coverage of the primary dwelling unit shall be 70 percent, not including outbuildings or accessory units. The maximum lot coverage of all structures shall be 75 percent. The maximum of all impervious coverage, including driveways, sidewalks and related impervious surfaces, shall be 85 percent.

(C) For commercial ~~uses, the units, the maximum lot coverage of the primary unit shall be 75 percent, not including outbuildings or accessory units~~ structures. The maximum lot coverage of all structures shall be 75 percent. The maximum of all impervious coverage, including parking, driveways, sidewalks and related impervious surfaces, shall be 90 percent, subject to applicable landscape provisions (Chapter [19.29](#) BMC) and permeable surfaces.

(iii) Floor Area Ratio. For all new subdivisions, the second story of single-family residences shall be smaller than the first story by 10 percent of the first floor area (square footage) footprint excluding attached garage, unless the bulk of the living space is located above the attached garage.

(b) Lot Dimensions. The minimum dimensions shall be:

- (i) Lot width:
 - (A) Forty feet for a ~~single-family residence~~, except as allowed for attached units and flag lots.
 - (B) Twenty-nine feet when attached units are provided.
- (ii) Lot depth: 75 feet.
- (c) Setback Requirements. The minimum setback requirements shall be:
 - (i) Commercial. ~~No setback requirements.~~ Unless the landscape code requires different setbacks, the following minimum setbacks shall be used:
 - A. Front: 10 feet.
 - B. Side: 5 feet.
 - C. Rear: 5 feet.
 - (ii) Residential. The minimum setback requirements shall be:
 - (A) Single-family, multifamily and townhome residential:
 - 1. Front yard: 20 feet, except where a front porch more than or equal to two-thirds of the total length of the living space of a house with a minimum six feet in depth exists, then the minimum front yard setback shall be 15 feet to the front of the porch.
 - 2. Twenty-two-foot yard-to-garage vehicle entrance, measured from the property line, sidewalk, or easement for public travel, whichever is closest, except when:
 - a. The garage is accessed from an alleyway, in which case the minimum setback shall be:
 - i. Twelve feet if the garage entrance is facing (parallel to) the access alleyway;
 - ii. Five feet when the garage entrance is perpendicular to the access alleyway.
 - b. An attached and/or detached garage already exists that prevents adherence to subsection (2)(c) of this section.
 - (B) Side: Minimum seven-foot side yard, except for attached dwellings, then the common wall separating the dwellings may have a zero side yard setback.
 - (C) Corner: 15-foot street side yard (corner lot).
 - 1. Where a structure on a corner lot qualifies for reduced front setback requirements by meeting porch standards (as identified in subsection (2)(c)(ii) of this section), they shall apply this credit only across one street-fronting property line. If one street-fronting property line is adjacent to a less-busy street than the other, then this is the property line that shall receive the less-stringent setback requirement.
 - (D) Rear: 15-foot rear yard.
 - (iii) Mixed-Use Commercial.
 - (A) Front: 10 feet front yard
 - (B) Side: 10 feet side yard
 - (C) Corner: 10 feet yard
 - (D) Rear: 10 feet yard
- (d) Off-street parking requirements shall be per Chapter [19.28](#) BMC.
- (e) Standards for street and utility construction shall be as specified under Chapter [17.08](#) BMC. Full street frontage improvements shall be required.

Section 6. Section 19.20.070 is amended as follows:

19.20.070 GC general commercial zone.

(1) Intent and Purpose. The GC zone is intended to implement the policies of the Buckley comprehensive plan for areas designated for commercial development along primary motorized

transportation routes. The primary purpose is to develop commercial parcels oriented along primary transportation routes.

(2) Performance Standards – Dimensional Requirements.

(a) Lot Area and Coverage.

(i) Lot Area. No minimum requirements.

(ii) Lot **Coverage**. The maximum lot coverage of the primary unit shall be ~~400~~ 90 percent.

(b) Lot Dimensions. No minimum requirements.

(c) **Setback Requirements**. ~~No minimum setback requirements.~~ *Unless the landscape code requires different setbacks, the following minimum setbacks shall be used:*

i. Front: 10 feet.

ii. Side: 5 feet.

iii. Rear: 5 feet.

(d) Off-Street Parking. Off-street parking requirements shall be per Chapter BMC.

(e) Standards for street and utility construction shall be as specified under Chapter 17.08 BMC.

Section 7. Section 19.20.080 is amended as follows:

19.20.080 CC central commercial zone.

(1) Intent and Purpose. The CC zone is intended to implement the policies of the Buckley comprehensive plan for areas designated for commercial development and privileging pedestrian traffic first, and motorized transportation second, after the date of implementation. The primary purpose is to develop commercial parcels for neighborhood-oriented businesses and pedestrian connectivity per the Buckley comprehensive plan (Urban Design Element Goals 4.3, 4.4, and 4.5, Policy 4.4.3). Lots approved under old zoning provisions shall be subject to the code in effect at the time of approval.

(2) Performance Standards – Dimensional Requirements.

(a) Lot Area and Coverage.

(i) Lot Area. The minimum lot area shall be 3,000 square feet per unit.

(ii) Lot Coverage.

(A) For commercial mixed-use units, the maximum lot coverage of the primary unit shall be 70 percent, not including outbuildings or accessory units. The maximum lot coverage of all structures shall be 75 percent. The maximum of all impervious coverage, including driveways and sidewalks, shall be 85 percent.

(B) For commercial units, the maximum lot coverage of the primary unit shall be ~~400~~ 90 percent.

(b) Lot Dimensions. The minimum dimensions shall be:

(i) Lot width: 40 feet.

(ii) Lot width at street on a radius: 30 feet.

(c) **Setback Requirements**.

(i) Commercial. ~~No minimum setback requirements.~~ *Unless the landscape code requires different setbacks, the following minimum setbacks shall be used:*

A. Front: 10 feet.

B. Side: 5 feet.

C. Rear: 5 feet.

(ii) Mixed-Use Commercial.

(A) Front: 10 feet.

(B) Side: 10 feet.

(C) Corner: 10 feet.

- (D) Rear: 10 feet.
- (d) Off-street parking requirements shall be per Chapter [19.28](#) BMC.
- (e) Standards for street and utility construction shall be as specified under Chapter [17.08](#) BMC.

Section 8. Section 19.20.110 is amended as follows:

19.20.110 P public zone.

- (1) Intent and Purpose. The purpose of the public zone is to provide public services for all public needs to create a strong and sustainable economy and provide public services efficiently.
- (2) Lot Area and Coverage. No minimum requirements for lot area or lot coverage.**
- (3) Lot Dimensions. No minimum requirements.
- (4) Setback Requirements.**
 - (a) Setbacks from adjacent residentially zoned property shall be the same as dictated for that residential zone (e.g., 25 feet if adjacent to an R-8,000 rear lot line or 12 feet if adjacent to an R-8,000 side lot line).
 - (b) Setbacks from commercially zoned property shall be 10 feet.
 - (c) Setbacks from publicly zoned property shall be in accordance with the ~~building code~~ landscape and building codes.
 - (d) Building setbacks from rights-of-way shall be 10 feet.
- (5) Parking Requirements. Off-street parking requirements shall be as specified under Chapter [19.28](#) BMC, except that facilities for public works, utilities, and cemetery shall be based on the number of employees working at the peak shift for the particular site, plus 10 percent.
- (6) Roads and Utilities. Standards for street and utility construction shall be as specified under Chapter [17.08](#) BMC.

Section 9. Section 19.22.160 BMC is amended as follows:

19.22.160 Flag lots.

Flag lots shall meet the following criteria:

- (1) No other lot shall be provided access via the flag lot;
- (2) Flag lots can only be utilized for single-family or duplex dwellings;
- (3) The lot, exclusive of its driveway, must meet lot dimension requirements for the zone in which it is to be located;
- ~~(4) For yard setback requirements, the front lot line on a flag lot shall be determined to be the closest lot line parallel to but not abutting the adjoining public street. The lot line that abuts both the front lot line and the access drive shall be determined to be the street side yard (corner) lot line;~~
- (4) Setback requirements.
 - a. For flag lots that are not further sub-dividable all property lines shall be side lot lines. The lot width and lot depth requirements shall be as determined by the director.*
 - b. For sub-dividable flag lots, the front lot line shall be parallel to the access drive; the rear lot line shall be opposite the front lot line; all other lot lines shall be sides.*
- (5) The access driveway width shall not be less than 30 feet and this access driveway length shall be no longer than two times the minimum required lot width within the zone in which the flag lot is to be located; provided, however, that there shall be no maximum access driveway length on any lot located within the R-20,000 zone serving a single-family dwelling;
- (6) The access driveway shall be owned by and maintained by the lot owner to the boundary to the public street right-of-way;

- (7) A sign with numbering not less than three inches in height shall be maintained at the public street right-of-way, said sign containing the address for the flag lot;
- (8) Improvements to the margin of the public street shall be in accordance with zoning code requirements for the zone in which the flag lot is located and shall be completed as a portion of the platting process in which the lot is created;
- (9) Improvements to the public street right-of-way that abuts the flag lot shall be the improvements required for any other subdivision within the zone;
- (10) Minimum driving surface on the driveway shall be 20 feet in width and constructed of two-inch asphalt concrete pavement in the R-6,000, R-8,000, NMU, and HDR zones. Crushed gravel surface will be allowed within the R-20,000 zone;
- (11) Storm drainage and retention/detention facilities shall be installed in accordance with the city design and construction standards;
- (12) Minimum clear, vertical clearance for one vehicle, eight feet in width, shall be 14.5 feet;
- (13) There shall be no parking on the access driveway; and
- (14) There shall be a vehicular turn-around area adjacent to the garage on each flag lot to permit adequate vehicular access to the public or private street or accessway.

Section 10. Telecommunication exemption. Section 19.25.030 is hereby amended as follows:

19.25.030 Exemptions from wireless facilities requirements.

The following are exempt from the provisions of the wireless facilities portion of this chapter:

- (1) Routine maintenance or repair of a personal wireless service facility and related equipment (excluding structural work or changes in height or dimensions of antennas, towers, or buildings); provided, that compliance with the standards of this chapter is maintained.
- (2) A COW or other temporary personal wireless telecommunications facility shall be permitted during an emergency declared by the city.
- (3) Emergency services' telecommunication devices.

Section 11. BMC 19.29.050(1) is hereby amended as follows:

19.29.050 Landscaping plan and submittal.

(1) Compliance. This chapter does not intend to stifle creative problem solving, but is rather a guideline for landscape requirements. Where strict interpretation of requirements is impractical, variances may be approved by ~~the board of adjustment or~~ designated official subject to the provisions of Chapter 20.01 BMC. ...

Section 12. Section 19.33.020 is amended as follows:

19.33.020 Applicability.

- (1) Site plan review and approval shall be required prior to a use being established on an undeveloped lot or the issuance of a building permit for:
 - (a) any ~~new~~ public building or activity;
 - (b) ~~new~~ any commercial, ~~new~~ or light industrial building that is a significant change of use (such as but not limited to a business changing use, adding staff, increasing traffic flow);
 - (c) ~~new~~ residential or multi-family buildings in which more than two dwelling units would be contained or an increased number of dwelling units is proposed on a single lot; or

(d) any development or redevelopment that doesn't qualify as a technical adjustment or amendment in BMC 19.33.090.

- (2) Accessory structures and/or improvements and/or modifications to an existing site or structure that does not exceed the thresholds of 19.33.090 may be reviewed ~~in~~ as an A-1 process, provided the structure or use is SEPA-exempt and the proposal is not a change of use. Such accessory structures, improvements, or modifications may include but not be limited to the following:
 - (a) Garages and parking lots;
 - (b) Outbuildings and storage buildings; or
 - (c) Greenhouses.
- (3) Normal or emergency repair and/or maintenance are exempt.
- (4) Interior remodeling and tenant improvements to buildings previously reviewed and approved are exempt from this chapter.

Section 13. BMC 19.33.090 is amended as follows:

19.33.090 Technical adjustments and amendments.

- (1) Technical and/or minor adjustments may be needed to an ~~the~~ approved-site plan to accommodate actual field conditions, minor adjustments in building placement, or construction level of detailed information that affects the proposed location of streets and other utilities. Technical adjustments may be permitted by the planning director, provided the proposed adjustment does not include any of the following:
 - (a) A change that, in the opinion of the planning director, significantly affects any of the findings of the decision maker in approving the site plan;
 - (b) A change that modifies the building location more than 20 feet, or the orientation of a building more than 45 degrees, or increases the amount of building floor area by more than 10 percent;
 - (c) A change that reduces the amount or dimensions for critical area;
 - (d) The amount of common open space by more than 10 percent;
 - (e) A change that increases off-site traffic or stormwater impacts more than 10 percent; or
 - (f) A change that would in the opinion of the SEPA official require additional environmental review under the State Environmental Policy Act.
- (2) All technical adjustments shall be processed and decided by the planning director. The planning director shall require full compliance with applicable city codes including mitigation in conformance with currently applicable city standards for any impacts associated with a technical adjustment.
- (3) All amendments to an approved site plan beyond the scope of technical adjustment shall be processed in the same manner as a site plan application. Technical adjustments shall not be considered amendments. (Ord. 10-13 § 4, 2013).

Section 14. Administrative interpretations. BMC 19.20.030, Table 2: Application Type, is hereby amended to add the following line under “zoning”:

BMC 20.01.030, Table 2

19.08.070 Administrative interpretation A-1

Section 15. Copy to the Department of Commerce. Pursuant to RCW 36.70A.106, the City Administrator is hereby authorized and directed to provide a copy of this ordinance to the State Department of Commerce within 10 days of adoption.

Section 16. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 17. Effective date. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the city, and shall take effect and be in full force five (5) days after publication.

APPROVED by the Buckley City Council this

day of

, 2016.

MAYOR, PAT JOHNSON

ATTEST/AUTHENTICATED:

CITY CLERK, JOANNE STARR

APPROVED AS TO FORM

OFFICE OF THE CITY ATTORNEY:
BY

PHIL OLBRECHTS

PUBLISHED:

EFFECTIVE:

2016 Anomaly Ordinance

Corrections & Clarifications to the City of Buckley
Municipal Code
City Council Presentation

History

- * Development regulations require
 - * Environmental review issued July , 2016
 - * Notice to Department of Commerce sent July , 2016
 - * Hearing with planning commission completed
November 21, 2016

Ordinance contents

- * Subdivision correction
- * Lots of lots
 - * Flag lots
 - * Lot lines
 - * Lot depth/width
- * Commercial lot coverage
- * Commercial setbacks
- * Additional Corrections
 - * Telecommunications
 - * Title 20

###

Subdivision extensions

Section 1

- * Economic downturn
- * Legislature added two years
- * Now back to “normal”
- * Add two years as extension

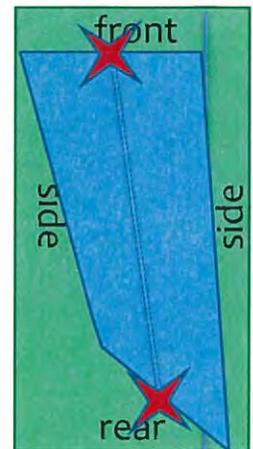
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Lot width & depth

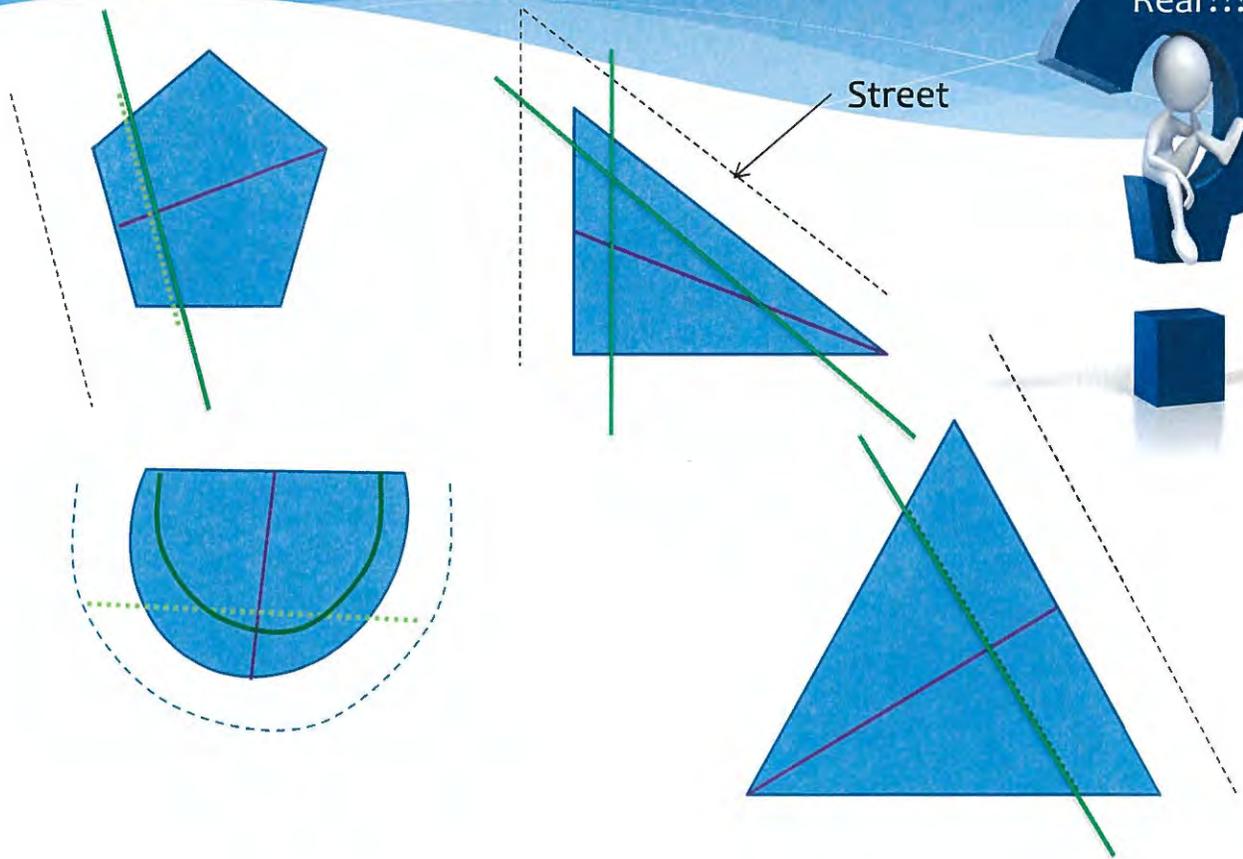
- * Sections 2 & 3
- * Add ability to determine lot depth on odd lots
- * Remove reference to side lot lines
- * Remove parallel line to front

Lot depth

- * **19.12.295 Lot depth.**
- * “Lot depth” means:
- * (1) If the front and rear lot lines are parallel, the shortest distance between such lines.
- * (2) If the front and rear lot lines are not parallel, the distance between the midpoint of the front lot line and midpoint of the rear lot line.



Not “normal” shapes

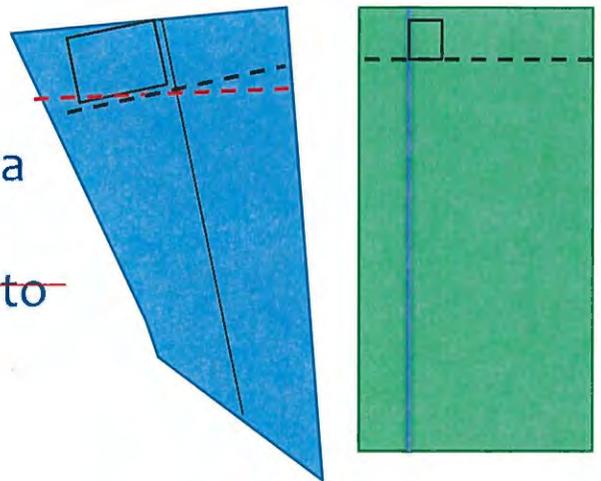


Solution?

- * (3) For lots without rear lot lines, lot depth shall be determined by the director.

Lot width

- * **19.12.330 Lot width.**
- * “Lot width” means the horizontal distance ~~between the side lines of a lot, measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required front setback line.~~



Miscellaneous corrections

Section 4

- * R-6,000 unclear language:

Lot Dimensions. The minimum dimensions for any new lot or parcel ~~not considered in a short or long plat~~ shall be:

###

Miscellaneous corrections

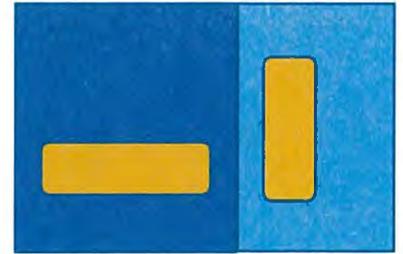
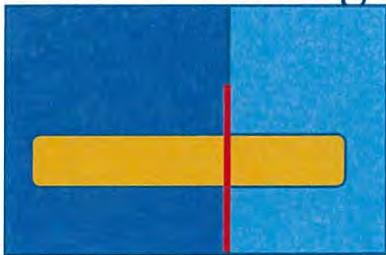
Section 5

- * NMU reorganized (1), clarified lot coverage and lot width language; added commercial setbacks

Commercial setbacks & lot coverage

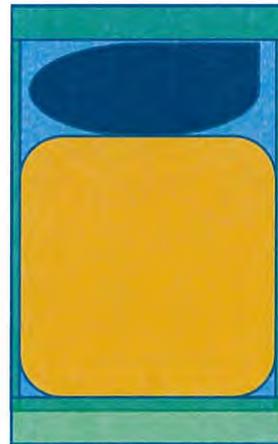
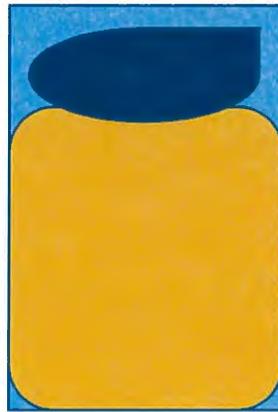
Sections 6, 7, & 8

- * Doesn't include landscaping
 - * Setbacks
 - * Lot coverage
- * "o" Setbacks: Allows different lot owners to own same building



Commercial lot coverage

- * Lot coverage
- * In some zones, 100 percent is allowed
- * Landscape reduces warming effects
- * 90 percent is recommended with caveat for landscaping



###

Flag lots

LOT

Section 9

- * Rectangular lot contains a “pole” for access
- * “Pole” is 30 feet wide
- * Remainder of lot must meet lot dimensional requirements
- * Current front/rear are a problem



Problems



Sub-dividable lot -- has no difficulty at this time

With a future short plat, however, the front yards will become side yards and the side yards rear yards

Non-sub-dividable lot – has difficulty meeting front and rear setbacks under current ordinance



Flag lot solution?



Lots & lots of lots



1. "Normal" lots
2. Flag lots
3. Triangular lots
4. Multiple frontage

19.25 telecommunication

Section 10

- * An oversight was an exemption for public communication devices
- * Proposal is to add (3) to BMC 19.25.030, exemptions:
 - * (3) Emergency services' telecommunication equipment

Board of Adjustment

Section 11

- * Missed correction:
- * **19.29.050 Landscaping plan and submittal.**
- * (1) Compliance. This chapter does not intend to stifle creative problem solving, but is rather a guideline for landscape requirements. Where strict interpretation of requirements is impractical, variances may be approved by the ~~board of adjustment or designated official~~ subject to the provisions of Chapter 20.01 BMC.

###

Site plan review applicability

Section 12

- * Intension was good...
- * ...effect was unintended

- * 2013 ordinance inadvertently removed the proposed definition for “new development”
- * We’re putting it back, but differently

SPR applicability

- * Clarified vacant *OR* project needing a building permit
- * Removed “new”
- * Clarified that a change of use may be subject to SPR
- * References technical adjustments/amendments
- * Retains items that don’t need SPR permits

SPR adjustments

Section 13

- * Clarifies what is an adjustment
- * Clarifies when an adjustment is applicable

Title 20

Section 14

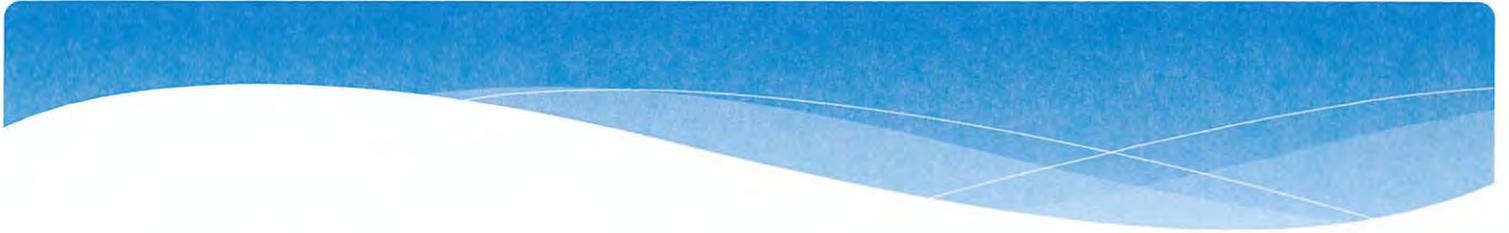
- * BMC 19.08.070: administrative interpretations
- * BMC 20.01.030: no provision on process

- * Recommendation:
 - * Add administrative interpretation to chart
 - * A-1 process

###

Next Steps

- * Council makes decision
- * Publish adoption in paper
 - * Effective date is five days later
- * Send notice of adoption to Commerce





CITY COUNCIL AGENDA BILL

City of Buckley
PO Box 1960
Buckley, WA 98321

ITEM INFORMATION			
SUBJECT: ORD No. __-16: Adopting 2017 City Employee Salary Scale Cost Impact: N/A Fund Source: N/A Timeline: N/A	Agenda Date: December 13, 2016		AB 16-149
	Department/Committee/Individual	Created	Reviewed
	Mayor Pat Johnson		X
	City Administrator – Dave Schmidt	X	X
	City Attorney – Phil Olbrechts		X
	City Engineer – Dominic Miller		
	City Clerk – Joanne Starr		X
	Finance Dept – Sheila Bazzar		X
	Building Official – Mike Deadmond		
	Fire Dept – Chief Predmore		
	Parks & Rec Dept – Ellen Boyd		
	Planning Dept – Kathy Thompson		
	Police Dept – Chief Arsanto		
	Municipal Court – Jessica Cash		
Attachments: Ordinance w/Exhibit			
<p>SUMMARY STATEMENT: The updated Exempt & Hourly Salary Scale for 2017 being presented for consideration proposes the following changes as outlined in the attached memorandum;</p> <ul style="list-style-type: none"> Proposes a 2.5% COLA for all exempt and hourly employees; Increases the hourly range for seasonal and part time parks and youth center positions to match new minimum wage which takes effect in January; Denotes wages for employees already set by bargaining unit contract(s) 			
COMMITTEE REVIEW AND RECOMMENDATION: None			
RECOMMENDED ACTION: MOTION to Approve Ordinance N0. __-16 Adopting 2017 City Employee Salary Scale.			
RECORD OF COUNCIL ACTION			
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>	

CITY OF BUCKLEY, WASHINGTON

ORDINANCE NO. ____ - 16

**AN ORDINANCE OF THE CITY OF BUCKLEY,
WASHINGTON, ADOPTING THE CITY'S 2017
CITY EMPLOYEE SALARY SCALE AND
ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, in December, 2003 the City Council adopted a salary scale for exempt employees by Resolution; and

WHEREAS, in July, 2012 the City Council modified the salary scale to add all City employees salaries to the scale to include exempt, those covered by bargaining unit contract, part-time and hourly and adopted the scale by Ordinance; and

WHEREAS, the City Council desires to compensate exempt and hourly employees with a fair and equitable wage comparative with other public agencies for the position and duties assigned and to reflect increases in cost of living; and

WHEREAS, the Consumer Price Index published by the Bureau of Labor indicates that the Seattle-Tacoma CPI Index from October, 2015 to October, 2016 reflected a change of 2.4% and for a ten-year comparison of October, 2007 to October, 2016 a change of 16.80%; and

WHEREAS, during this same period exempt and hourly employees received cumulative salary increases of 15.60%, which is (-1.2%) under CPI for that period; and

WHEREAS, the City Council has reviewed revenues and expenditures for 2017 and determined that due to the current economic climate and concern over limited resources that wage and salary increases must be fair but also reflect current conditions; and

WHEREAS, based on this analysis the City Council has determined that cost of living increases for exempt and hourly employees shall be 2.5% for 2017; and

WHEREAS, Washington State voters recently approved an increase in the state's minimum wage through passage of Initiative 1433. Pursuant to this Initiative, beginning January 1, 2017, the minimum wage will increase to \$11. The City's salary scale for exempt and hourly

employees has been adjusted to incorporate this new minimum wage;

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF BUCKLEY, PIERCE COUNTY, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. The City Council hereby adopts Exhibit A, entitled “2017 City Employee Salary Scale”, attached and incorporated by this reference as if set forth in full, representing the salary ranges for the designated position classification. Newly hired employees will be placed at the first step of the salary range assigned to a classification, unless the Mayor approves a salary step exception for reasons of recruiting difficulties, or because the first step creates an inequity for a potential appointee relative to his or her qualifications and current or expected compensation package.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. Effective Date. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.

APPROVED by the Buckley City Council this 13th day of December, 2016.

MAYOR, PAT JOHNSON

ATTEST/AUTHENTICATED:

JOANNE STARR, CITY CLERK

APPROVED AS TO FORM

OFFICE OF THE CITY ATTORNEY:

PUBLISHED:

EFFECTIVE:

BY _____
PHIL OLBRECHTS

Exhibit A: 2017 CITY EMPLOYEE SALARY SCALE

2017 CITY EMPLOYEE SALARY SCALE											
2017 EXEMPT SALARY SCALE (2.5%)											
	Initial step	A	B	C	D	E	F	G	H	I	J
R1	4,170	4,252	4,338	4,425	4,513	4,603	4,696	4,789	4,884	4,983	5,083
R2	4,471	4,559	4,651	4,744	4,839	4,934	5,034	5,134	5,237	5,342	5,449
R3	4,796	4,891	4,989	5,088	5,191	5,293	5,399	5,507	5,618	5,731	5,846
R4	5,141	5,245	5,349	5,456	5,566	5,677	5,791	5,907	6,025	6,146	6,269
R5	5,516	5,626	5,738	5,853	5,969	6,089	6,210	6,335	6,462	6,591	6,723
R6	5,916	6,034	6,155	6,278	6,404	6,532	6,663	6,796	6,932	7,070	7,212
R7	6,346	6,472	6,602	6,734	6,868	7,006	7,146	7,289	7,434	7,583	7,735
R8	6,805	6,940	7,079	7,221	7,366	7,513	7,663	7,818	7,973	8,133	8,295
R9	7,297	7,443	7,592	7,744	7,899	8,057	8,217	8,382	8,551	8,721	8,895
R10	7,845	8,002	8,162	8,325	8,492	8,661	8,834	9,011	9,192	9,375	9,563
R11	8,433	8,603	8,773	8,948	9,129	9,310	9,498	9,686	9,880	10,079	10,280
R12	9,065	9,248	9,431	9,620	9,812	10,008	10,208	10,413	10,621	10,834	11,051

(a) Salary steps are graduated approximately by a 2% separation. Step increases shall be performance based on the employee's anniversary hire date and shall be subject to Mayors approval.

(b) Employees shall be eligible for a Step increase subject to the provisions of (a) above and the following; for Initial Step through Step J employees shall be evaluated and eligible for an increase to the next Step on an annual basis. The Mayor may grant up to one additional Step increase over and above the eligible annual increase, for meritorious performance reasons.

Salary Range	Position	Classification(s)	1-Jan	Step Eligibility
R1	-	N/A	N/A	N/A
R2	-	Associate Planner	N/A	N/A
R3	-	Court Administrator (87.5%)	Step E	8/1/2016
	-	Recreation Services Director	Step C	5/12/2016
	-	I.T. Systems Support Specialist	Step B	1/1/2017
R4	-	City Clerk	Step G	1/1/2017
	-	Planner	Step F	1/1/2017
R5	-	Building Official	Step H	10/1/2016
R6	-	N/A		
R7	-	N/A	N/A	N/A
R8	-	Finance Director	Step G	12/1/2016
	-	Asst Police Chief	Step G	4/15/2016
	-	Asst Fire Chief (New)	Step E	1/1/2017
	-	Utility Superintendent (New)	TBD	TBD
R9	-	Fire Chief	Step J	1/1/2017
	-	Public Works Director	N/A	N/A
R10	-	Police Chief	Step I**	4/1/2016
R11	-	N/A	N/A	N/A
R12	-	City Administrator	Step I***	11/26/2016

**Note: In addition the Police Chief shall receive a monthly stipend of \$200 while managing the Wilkeson Police Contract for the City of Buckley.

***Note: In addition the City Administrator shall receive a monthly stipend of \$250 while acting as the City's Public Works Director.

2017 HOURLY SCALE (NON-BARGAINING UNIT 2.5%)				
Hourly or Contract Position	2016 hourly	2017 hourly	COLA Increase	Monthly
Municipal Judge	N/A	N/A	2.50%	\$1,927
Judge Pro-Tem	\$53.05	\$54.38	2.50%	N/A
Court Clerk I	\$21.32 to \$24.05	\$21.85 to \$24.65	2.50%	N/A
Court Security	\$21.01	\$21.54	2.50%	N/A
Regular Firefighter (P/T)	\$28.64	\$29.36	2.50%	N/A
Temp Firefighter (P/T)	\$15.30	\$15.68	2.50%	N/A
Fire Admin Asst (P/T)	\$15.34	\$15.72	2.50%	N/A
Youth Center Coordinator	\$14.00 to \$17.00	\$14.35 to \$17.43	2.50%	N/A
Youth Asst P/T (min)	\$9.47 to \$12.25	\$11.00 to \$12.56	State Min - 2.5%	N/A
Seasonal Parks P/T	\$9.47 to \$12.25	\$11.00 to \$12.56	State Min - 2.5%	N/A
Seasonal Senior Aide -Parks P/T	\$15.30 to \$18.36	\$15.68 to \$18.82	2.50%	N/A
Meter Reader	\$18.52	\$18.98	2.50%	N/A
Seasonal Utility P/T	\$12.50 to \$15.00	\$12.81 to \$15.38	2.50%	N/A

2017 Bargaining Unit Salaries/Contract

Police Department Employee Salaries (0.75%-3.3%)						
(January 1, 2017 to December 31, 2017)						
Classification	0-6 mos	7-12 mos	13-24 mos	25-36 mos	37-48 mos	49+ mos
Patrol	\$4,868	\$5,112	\$5,367	\$5,636	\$5,917	\$6,076
Detective Patrol/Officer	\$5,063	\$5,316	\$5,582	\$5,861	\$6,154	\$6,319
Sergeant	\$5,417	\$5,688	\$5,973	\$6,271	\$6,585	\$6,761

Public Works & Clerical Department Employee Salaries (2.4% CPI + 0.25% Contract)						
(January 1, 2017 to December 31, 2017)						
Classification	0-6 mos	7-12 mos	13-24 mos	25-36 mos	37-48 mos	49+ mos
Cemetery Caretaker	\$3,792	\$3,906	\$4,023	\$4,144	\$4,269	\$4,396
Maint Parks/Bldg Custodial	\$2,497	\$2,572	\$2,649	\$2,728	\$2,811	\$2,895
Admin Assistant	\$2,961	\$3,051	\$3,141	\$3,237	\$3,334	\$3,434
Police Records Clerk	\$3,451	\$3,555	\$3,662	\$3,771	\$3,884	\$4,000
Support Services Officer	\$3,593	\$3,735	\$3,885	\$4,041	\$4,202	\$4,372
Maint Parks/Bldg	\$3,792	\$3,906	\$4,023	\$4,144	\$4,269	\$4,396
Utility Billing/Deputy Clerk	\$3,964	\$4,083	\$4,206	\$4,331	\$4,462	\$4,596
Permit Tech/PW Clerk	\$4,034	\$4,323	\$4,496	\$4,675	\$4,863	\$5,058
Utility Worker	\$4,498	\$4,634	\$4,771	\$4,915	\$5,063	\$5,215
Utility Systems Technician	\$4,704	\$4,845	\$4,991	\$5,141	\$5,295	\$5,454
Utility Worker Lead	\$4,912	\$5,060	\$5,213	\$5,369	\$5,529	\$5,695
Asst PWD Supervisor	\$5,133	\$5,288	\$5,447	\$5,609	\$5,776	\$5,952
WWTP Supervisor	\$5,362	\$5,526	\$5,691	\$5,861	\$6,038	\$6,219
PWD Supervisor	\$5,647	\$5,815	\$5,990	\$6,170	\$6,355	\$6,545
	Step A	Step B	Step C	Step D		
Utility Maint Apprentice	\$3,757	\$3,870	\$3,985	\$4,105		



CITY COUNCIL AGENDA BILL

City of Buckley
PO Box 1960
Buckley, WA 98321

ITEM INFORMATION			
SUBJECT: ORD No. __-16: Amending the 2016 Budget Cost Impact: N/A Fund Source: N/A Timeline: N/A	Agenda Date: December 13, 2016		AB 16-150
	Department/Committee/Individual	Created	Reviewed
	Mayor Pat Johnson		X
	City Administrator – Dave Schmidt	X	X
	City Attorney – Phil Olbrechts		X
	City Engineer – Dominic Miller		
	City Clerk – Joanne Starr		
	Finance Dept – Sheila Bazzar	X	X
	Building Official – Mike Deadmond		
	Fire Dept – Chief Predmore		
	Parks & Rec Dept – Ellen Boyd		
	Planning Dept – Kathy Thompson		
	Police Dept – Chief Arsanto		
Municipal Court – Jessica Cash			
Attachments: Ordinance and Exhibit			
<p>SUMMARY STATEMENT: State statutes require that we adopt any amendments prior to the end of the year.</p> <p>Sheila recently finished closeout of the October, 2016 revenues and expenditures and we discovered that several funds needed to be amended for various reasons as outlined in the ordinance.</p>			
COMMITTEE REVIEW AND RECOMMENDATION: None			
RECOMMENDED ACTION: MOTION to Approve Ordinance N0. __-16 Amending the 2016 Budget.			
RECORD OF COUNCIL ACTION			
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>	

CITY OF BUCKLEY, WASHINGTON

ORDINANCE NO. __ - 16

AN ORDINANCE OF THE CITY COUNCIL, OF THE CITY OF BUCKLEY, PIERCE COUNTY, WASHINGTON, AMENDING ORDINANCE NO. 27-15, THE SAME BEING AN ORDINANCE ADOPTING THE ANNUAL BUDGET OF THE CITY OF BUCKLEY, WASHINGTON, FOR THE YEAR 2016, AND APPROPRIATING FUNDS FOR THE ESTIMATED EXPENDITURES.

WHEREAS, The City of Buckley adopted Ordinance number 27-15 adopting the 2016 final budget for the City of Buckley by reference;

WHEREAS, 2016 revenue projections for Current Expense (Fund 001) are projected to be significantly lower than anticipated due to a lower Beginning Fund Balance (BFB) and expenditures slightly over by \$8,729 due to costs associated with real estate appraisals, increased land use processing costs and an increase in the City's general liability policy cost; and

WHEREAS, 2016 revenue and expenditures for the Park Construction Fund (Fund 035) is higher due to funding and construction of the Skatepark Reconstruction Project and Wally's Playground Replacement Project; and

WHEREAS, 2016 revenue projections for the Street Operations Fund (Fund 101) are projected to be significantly lower than anticipated due to a lower Beginning Fund Balance (BFB) and expenditures over by \$19,490 due to higher costs associated with City street lights and professional services for processing right-of-way use permits; and

WHEREAS, 2016 revenue and expenditures for the Street Construction Fund (Fund 102) is higher due to funding and construction of the Phase II Realignment Project; and

WHEREAS, 2016 revenue and expenditure projections for EMS (Fund 105) are both higher than budgeted due to the revenue and costs associated with the new ALS Transport Agreement with AMR; and

WHEREAS, the 2016 revenue and expenditure projections for Natural Gas Operations (Fund 401) are higher than anticipated due to a higher collection of delinquent gas revenue and subsequent payment of local and state taxes on the collections; and

WHEREAS, 2016 revenue and expenditure projections for Solid Waste Collection (Fund 403) are both higher than anticipated due to the addition of new customers from residential development and subsequent higher contractual costs; and

WHEREAS, 2016 revenue and expenditures for the Sewer Construction Fund (Fund 405) are higher due to increased revenue from the payment of GFCs from new residential development and funding and construction of the North Parking Lot Sewer Replacement Project; and

WHEREAS, 2016 revenue and expenditures for the Water Construction Fund (Fund 406) are higher due to increased revenue from the payment of GFCs from new residential development and funding and construction of the Water Transmission Main Stream Crossing Project, which had previously been budgeted in 2015; and

WHEREAS, 2016 revenue and expenditure projections for Stormwater Utility Operations (Fund 407) are both higher than anticipated due to the addition of new customers from residential development and higher operational costs associated with supplies, public utilities, local and state taxes and DOE permit fees; and

WHEREAS, 2016 revenue and expenditure projections for the Municipal Court Trust (Fund 631) are higher than projected due to the difficulty in projecting court trust activity; and

WHEREAS, 2016 revenue and expenditure projections for Transportation Benefit District (Fund 632) are both higher than anticipated due a higher BFB and cost of professional services for preparing incorporation documents for the transfer of the TBD to the City; and

WHEREAS, 2016 revenue and expenditure projections for the Cemetery Improvement (Fund 701) are both higher than anticipated due to an increased sale of lots and charges for cemetery lot buy-back; and

WHEREAS, The City of Buckley, in order to be in compliance with state law and not have any funds go over budget, desires to correct Funds 001, 035, 101, 102, 105, 202, 401, 403, 405, 406, 407, 430, 631, 632, and 701 by adjusting revenues and/or expenditures; and

WHEREAS, the City Council did meet to consider the matter of the 2016 Budget Amendment in a public meeting on December 13, 2016;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BUCKLEY, PIERCE COUNTY, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Ordinance No. 27-15 and the 2016 Final Budget shall be amended as shown in the summary form attached as Exhibit A.

This ordinance shall be in full force and effect five days after its passage, approval, posting and publication as provided by law. A summary of this Ordinance may be published in lieu of publishing the Ordinance in its entirety.

Introduced, passed, and approved this 13th day of December, 2016.

Pat Johnson, Mayor

ATTEST:

Joanne Starr, City Clerk

APPROVED AS TO FORM:

Phil Olbrechts, City Attorney

PUBLISHED: _____
EFFECTIVE: _____

EXHIBIT A

2016 City Budget Amendment							
Fund	Fund Name	2016 Budgeted Revenue	2016 Amended Revenues	2016 Budgeted Expenditures	2016 Amended Expenditures	2016 Projected End Fund	2016 Amended End Fund
001	General Expense	\$5,207,452	\$5,153,345	\$4,391,272	\$4,400,000	\$816,180	\$753,345
002	GF Contingency	\$144,148	\$144,148	\$0	\$0	\$144,148	\$144,148
003	GF Cum Reserve	\$5,092,000	\$5,092,000	\$92,000	\$92,000	\$5,000,000	\$5,000,000
004	Cemetery Oper	\$55,621	\$55,621	\$42,627	\$42,627	\$12,993	\$12,993
007	Police Equip Res	\$338,512	\$338,512	\$193,000	\$193,000	\$145,512	\$145,512
008	RR ROW Devel	\$200,535	\$200,535	\$31,338	\$31,337	\$169,197	\$169,197
030	Fire Equip Res	\$860,027	\$854,027	\$847,940	\$847,940	\$12,087	\$12,087
035	Park Construction	\$106,608	\$281,995	\$52,700	\$250,000	\$53,908	\$31,995
101	Street Operations	\$229,080	\$220,472	\$195,511	\$215,000	\$33,569	\$5,472
102	Street Const	\$3,042,886	\$3,098,502	\$2,572,119	\$2,875,000	\$470,767	\$223,502
105	EMS	\$352,188	\$406,355	\$205,550	\$285,000	\$146,638	\$121,355
109	Crim Just & Drug	\$129,300	\$129,300	\$67,000	\$67,000	\$62,300	\$62,300
134	Fire Construction	\$213,498	\$213,498	\$0	\$2,000	\$213,498	\$211,498
136	Visitor Promotion	\$103,897	\$103,897	\$19,028	\$19,028	\$84,869	\$84,869
202	Fire Station Bond	\$335,440	\$335,440	\$298,450	\$298,450	\$36,990	\$36,990
307	Capital Imp	\$696,720	\$696,720	\$469,000	\$469,000	\$227,720	\$227,720
308	CP Cap Imp	\$273,373	\$273,373	\$124,107	\$124,106	\$149,267	\$149,267
401	Natural Gas Oper	\$6,896	\$10,244	\$6,000	\$6,500	\$896	\$3,744
402	Water/Sew O&M	\$3,348,892	\$3,348,892	\$2,714,230	\$2,688,906	\$634,662	\$634,662
403	Solid Waste Oper	\$898,792	\$917,517	\$895,453	\$910,000	\$3,339	\$7,517
404	Natural Gas Const	\$0	\$0	\$0	\$0	\$0	\$0
405	Sewer Const	\$1,973,818	\$2,203,663	\$835,981	\$920,000	\$1,137,837	\$1,283,663
406	Water Const	\$633,255	\$909,357	\$290,008	\$600,000	\$343,247	\$309,357
407	Stormwater Oper	\$507,524	\$533,104	\$482,199	\$510,000	\$25,325	\$23,104
408	Stormwater Const	\$777,086	\$777,086	\$735,572	\$735,572	\$41,514	\$41,514
430	Utility Equip Res	\$289,599	\$251,311	\$276,800	\$70,000	\$12,799	\$12,799
631	Muni Court Trust	\$261,533	\$417,660	\$102,500	\$416,000	\$159,033	\$1,660
632	TBD	\$109,306	\$109,933	\$108,219	\$109,000	\$1,087	\$933
701	Cemetery Imp	\$159,695	\$166,020	\$1,000	\$2,000	\$158,695	\$164,020
Total		\$26,347,681	\$27,242,525	\$16,049,603	\$16,634,023	\$10,298,078	\$9,875,222



CITY COUNCIL AGENDA BILL

City of Buckley
PO Box 1960
Buckley, WA 98321

ITEM INFORMATION			
SUBJECT: ORD No. ___-16: Amending Chapter 13.35.300 - ROW Use Appeals	Agenda Date: December 13, 2016		AB 16-151
	Department/Committee/Individual	Created	Reviewed
	Mayor Pat Johnson		X
	City Administrator – Dave Schmidt	X	X
	City Attorney – Phil Olbrechts		X
	City Engineer – Dominic Miller		
	City Clerk – Joanne Starr		
	Finance Dept – Sheila Bazzar		
	Building Official – Mike Deadmond		
	Fire Dept – Chief Predmore		
	Parks & Rec Dept – Ellen Boyd		
	Planning Dept – Kathy Thompson		
	Police Dept – Chief Arsanto		
Municipal Court – Jessica Cash			
Attachments: Ordinance			
<p>SUMMARY STATEMENT: An ordinance amending BMC 13.35.300 to replace the appeal body of the City Board of Adjustment with the City Hearing Examiner after the City Council dissolved the Board of Adjustment in February, 2016.</p>			
COMMITTEE REVIEW AND RECOMMENDATION: None			
RECOMMENDED ACTION: MOTION to Approve Ordinance No. ___-16 Amending Chapter 13.35.300 - ROW Use Appeals.			
RECORD OF COUNCIL ACTION			
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>	

CITY OF BUCKLEY

ORDINANCE NO. __-16

**AN ORDINANCE OF THE BUCKLEY MUNICIPAL CODE
AMENDING CHAPTER 13.35.300 REGARDING RIGHT-OF-WAY
USE PERMIT APPEALS.**

WHEREAS, Appeals of administrative interpretations and administrative decisions made regarding right-of-way use provisions of BMC 13.35 currently go to the City Board of Adjustment (BOA) pursuant to BMC 13.35.300; and

WHEREAS, in February, 2016 the City officially dissolved the City Board of Adjustment and transferred the duties and responsibilities of the BOA to the City Hearing Examiner; and

WHEREAS, in order to correct the reference to the Board of Adjustment in BMC 13.35.300 the City Council desires to replace the BOA reference with the City Hearing Examiner;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BUCKLEY, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Chapter 13.35.300 of the Buckley Municipal Code entitled “Appeals” is hereby amended to read as follows:

13.35.300 Appeals.

Administrative interpretations and administrative decisions made pursuant to this chapter may be appealed, by applicants or parties of record, to the City Hearing Examiner ~~board of adjustment~~ subject to the provisions of BMC 20.01.260.

Section 2. Severability. If any portion of this ordinance is found or rendered invalid or ineffective, all remaining provisions shall remain in full force and effect.

Section 3. This Ordinance shall be in full force and effect five days from and after its passage, approval and publication as provided by law.

Passed by the City Council on the 13th day of December, 2016.

Mayor Pat Johnson

Attest:

Joanne Starr, City Clerk

APPROVED AS TO FORM:

Phil Olbrechts, City Attorney

PUBLISHED: _____
EFFECTIVE: _____



CITY COUNCIL AGENDA BILL

City of Buckley
PO Box 1960
Buckley, WA 98321

ITEM INFORMATION			
SUBJECT: Agreement for Professional Services - Prosecutor Swain	Agenda Date: December 13, 2016		AB16-152
	Department/Committee/Individual	Created	Reviewed
	Mayor Pat Johnson		X
	City Administrator – Dave Schmidt	X	X
	City Attorney – Phil Olbrechts		X
	City Engineer – Dominic Miller		
	City Clerk – Joanne Starr		
	Finance Dept – Sheila Bazzar		
	Building Official – Mike Deadmond		
	Fire Dept – Chief Predmore		
	Parks & Rec Dept – Ellen Boyd		
	Planning Dept – Kathy Thompson		
	Police Dept – Chief Arsanto	X	X
	Municipal Court – Jessica Cash		
Attachments: Agreement			
<p>SUMMARY STATEMENT: On August 9, 2016 the City Council approved a short term interim contract for prosecution services with Ms. Krista White Swain. City staff has since worked with Ms. Swain to draft a longer term contract for these services. The interim contract set the monthly fee for services at \$4,800 with the understanding that based on the current caseload the fee was less than what was normally charged for the amount of work.</p> <p>Staff has since evaluated the increase in caseload over a 7 year period and determined that there has been an average increase over this period of 83.7%. The new contract for prosecution services being presented for consideration establishes a new monthly rate 61.7% higher than the 2008 rate at \$5,500.</p> <p>Ms. Swain is well qualified and is currently serving as the Prosecutor for Enumclaw, Milton and Puyallup. In addition to prosecution she has experience in public defense, and litigation and is also a judge pro-tem. In an interim capacity Ms. Swain has been doing an excellent job for the City. Therefore staff is requesting and recommending that the City Council approve the new contract.</p>			
COMMITTEE REVIEW AND RECOMMENDATION: AF&PS 12/6/16			
RECOMMENDED ACTION: MOTION to Approve the Professional Services Agreement Between the City and Krista White Swain for Prosecution Services.			
RECORD OF COUNCIL ACTION			
Meeting Date	Action	Vote	

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (“Agreement”) is made and entered into this ____ day of _____, 2016, by and between the City of Buckley, a municipal corporation, hereinafter referred to as the “City” and Krista White Swain, attorney at law, hereinafter referred to as the “Prosecutor”, for purposes of providing services as a Municipal Court prosecutor for the Buckley Municipal Court.

The City hereby agrees to retain and employ the Prosecutor to provide prosecutorial services for the Buckley Municipal Court, established by the Buckley Municipal Code and statutes of the State of Washington, including Chapter 3.50 of the Revised Code of Washington, the provisions of which are incorporated herein by this reference.

1. Scope of Services. The Prosecutor shall be available, as needed, to provide prosecutorial services for the City of Buckley. The Prosecutor shall prepare cases for criminal prosecution of all misdemeanors and gross misdemeanors under the Buckley Municipal Code and the laws of the State of Washington.

2. Compensation. The City shall compensate the Prosecutor for services rendered under this Agreement in the amount of \$5,500 per month. In addition, Prosecutor shall be paid at the rate of \$100 per hour for in-court time for any appearance outside of the regular court schedule (currently three days per month), for any appearance in Superior Court or the Court of Appeals (this includes jury trials and all other specially set hearings outside of the regular calendar), or for any work not covered by the scope of this contract. Any change in compensation shall be proposed by the Prosecutor for consideration by the City no later than August 1 of each year. Such changes, if any, to the compensation shall become a part of this agreement upon the approval of the City Council and the acceptance by the Prosecutor.

3. Costs. The City shall pay for witness expenses, expert witness fees and certified court interpreters, and conflict prosecutors as needed by the Court.

4. Assistant Prosecutors. The Prosecutor shall be responsible for providing back-up coverage in the event of her absence, at no additional cost to the City. Such back-up coverage shall only be provided by attorneys, licensed to do business in the State of Washington, and who have been previously approved by the City.

5. Term of Contract. The term of this Agreement shall be for two (2) years, commencing _____, 2016 through _____, 2018. This Contract will renew for each subsequent two year period without action by either party. Should either party desire not to renew for the upcoming fiscal year, such party must provide written notice to the other party of its intent not to renew, no later than January 1 of the current year.

6. Termination. This Agreement may be terminated by either party with 90-days written notice to the other party. The City reserves the right to immediately terminate the Agreement for cause.

7. Ownership. All files and other documents maintained by the Prosecutor shall be the files of the City of Buckley and accessible by the City through its City Attorney or other duty authorized representative at

their request. At the request of the City, any and all files maintained by the Prosecutor shall be tendered to the City.

8. Independent Contractor. The Prosecutor and assistant(s) are professionals acting without direct supervision and are independent contractors. The Prosecutor waives any claim in the nature of a tax, charge, cost or employee benefit which would attach if the Prosecutor or Prosecutors' assistant(s) were held to be employees of the City.

9. Non-exclusive Contract: This shall be a non-exclusive contract. The City reserves the right to contract for additional prosecutorial services in the future. Nothing herein shall be interpreted to prohibit such future contract or to guarantee renewal of this contact.

10. Legal Defense. So long as the Prosecutor is acting within the scope of this Agreement and in accord with their ethical responsibilities under the provisions of the Rules of Professional Conduct established by the Washington Supreme Court, the Prosecutor shall be entitled to legal defense and representation as an official of the City in accord with the provisions of the Buckley Municipal Code. Nothing herein shall be interpreted to require defense or indemnity for acts beyond the scope of this Agreement, including but not limited to tortuous or wrongful acts committed or alleged to have been committed by the Prosecutor.

11. Indemnity. The Prosecutor agrees to indemnify and hold harmless the City, its officers, agents and employees with loss, claim, or liability, including the cost of legal defense by counsel of the City's, officer's, agent's or employee's choosing, in the event of claim, loss or liability;

- Arising from acts beyond the scope of this Agreement, including but not limited to the wrongful or tortuous acts of the Prosecutor or their assistant(s); and/or
- Arising from malpractice or breach of the Rules of Professional Responsibility by the Prosecutor or their assistants;
- Arising from an alleged employment relationship between the City and the Prosecutor, and/or their assistant(s) and resulting claim, loss or liability for salary, wages overtime, or employee benefits of any kind or nature, whether through the Courts or an administrative agency of any kind.

Nothing herein shall be interpreted to require the Prosecutor to indemnify the City, its officers, agents or employees from loss, claim or liability arising from the negligent, wrongful, or tortuous conduct of said City, officer, agent or employee.

12. Entire Agreement. This Agreement represents the entire Agreement between the parties. No change, termination or attempted waiver of any of the provisions of the Agreement shall be binding on any party unless executed in writing by authorized representatives of each party. This Agreement shall not be modified, supplemented or otherwise affected by the course of dealing between the parties, other than as provided in the Buckley Municipal Code and/or RCW Chapter 3.50.

DATED this _____ day of January, 2016.

CITY OF Buckley

PROSECUTOR

By: _____

By: _____
Krista White Swain

ATTEST/AUTHENTICATED:

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By: _____

Notes: Caseload Variation

2008 Contract price with 3% annual adjustment to 2016:

Prosecution Analysis & Caseload Comparison			
	Fee w-3%	Caseload Combined	% > over 2008
2008	\$3,400	714	
2009	\$3,502	786	10.1%
2010	\$3,607	1634	128.9%
2011	\$3,715	1538	115.4%
2012	\$3,827	1357	90.1%
2013	\$3,942	1118	56.6%
2014	\$4,060	1139	59.5%
2015	\$4,182	1611	125.6%
2016	\$4,307		
		Avg	83.7%
2017	\$5,500		61.76%



CITY COUNCIL AGENDA BILL

City of Buckley
PO Box 1960
Buckley, WA 98321

ITEM INFORMATION			
SUBJECT: Utility Easement Termination – Wytko Property Cost Impact: N/A Fund Source: N/A Timeline: N/A	Agenda Date: December 13, 2016		AB16-153
	Department/Committee/Individual	Created	Reviewed
	Mayor Pat Johnson		X
	City Administrator – Dave Schmidt	X	X
	City Attorney – Phil Olbrechts		X
	City Engineer – Dominic Miller		
	City Clerk – Joanne Starr		
	Finance Dept – Sheila Bazzar		
	Building Official – Mike Deadmond		
	Fire Dept – Chief Predmore		
	Parks & Rec Dept – Ellen Boyd		
	Planning Dept – Kathy Thompson		
	Police Dept – Chief Arsanto	X	X
Municipal Court – Jessica Cash			
Attachments: Agreement			
<p>SUMMARY STATEMENT: Tarragon recently entered into a purchase and sale agreement for the Wytko property consisting of the following Parcel Numbers 7535000541, 7535000542, 7535000543.</p> <p>A title search identified two older easements granted to the Town of Buckley for a water main. The dates of these easements are 1911, and 1909.</p> <p>The City has no water facilities on these parcels and any future planned extensions would be placed in the right-of-way. Based on this the City no longer has a need for the easements.</p> <p>City staff is therefore requesting that City Council approve the release of the easements.</p>			
COMMITTEE REVIEW AND RECOMMENDATION: None			
RECOMMENDED ACTION: MOTION to Approve Release of the Water Main Easement Agreement recorded September 29, 1911 under Piece County Recorder’s No. 347250 and 347256.			
RECORD OF COUNCIL ACTION			
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>	

When Recorded, Return To:

**Investco
Legal Department
1302 Puyallup Street
Sumner, Washington 98390
Attn: Angela Humphreys**

Document title: **Release of Easement**

Reference number of related document(s) (if applicable): **347250 and 347256**

Grantor/Grantee: **WYTKO FAMILY LLC**, a Washington limited liability company

Grantee/Grantor: **CITY OF BUCKLEY**

Legal description (abbreviated): **Lots: 62-64 Sergeant's Subdivision**

Assessor's Tax Parcel Number(s)
Burdened Property: **753500-054-1, 753500-054-2, and 753500-054-3**

Exhibit B

RELEASE OF EASEMENT

THIS RELEASE OF EASEMENT (“**Agreement**”) is entered into this ___ day of _____, 2016 (the “**Effective Date**”), by and between the TOWN OF BUCKLEY (“**Buckley**”) and WYTKO FAMILY LLC, a Washington limited liability company (“**Wytko**”).

RECITALS

A. Buckley and Wytko entered into that certain Water Main Easement Agreement recorded September 29, 1911 under Piece County Recorder’s No. 347250 and 347256 (“**Easement**”).

B. Under the Easement, Wytko was entitled to a water connection and credit for water fees from Buckley (“**Buckley Obligations**”), however, Wytko never received the Buckley Obligations.

C. In consideration of Wytko releasing the Buckley Obligations, Buckley and Wytko desire to release the Easement.

AGREEMENT

Now therefore, for good and valuable consideration, and in consideration of the mutual covenants contained herein, Buckley and Wytko agree that the Easement and all obligations therein is hereby released and is of no further force and effect.

[Signatures on following page]

WHEREFORE, the parties has executed this Agreement as of the Effective Date.

BUCKLEY:

CITY OF BUCKELY

By: _____

Name: _____

Its: _____

WYTKO:

WYTKO FAMILY LLC

By: _____

Name: David R. Wytko

Its: Manager

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me and said person acknowledged that she/he signed this instrument, on oath stated that she/he was authorized to execute this instrument and acknowledged it as the _____ of CITY OF BUCKLEY, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____, 2016.

Print Name: _____
NOTARY PUBLIC in and for the State of
Washington, residing at _____
My commission expires: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that **David R. Wytko** is the person who appeared before me and said person acknowledged that she/he signed this instrument, on oath stated that she/he was authorized to execute this instrument and acknowledged it as the manager of WYTKO FAMILY LLC, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____, 2016.

Print Name: _____
NOTARY PUBLIC in and for the State of
Washington, residing at _____
My commission expires: _____



INTERLOCAL AGREEMENT

DSHS Agreement Number:
1764-80795

This Agreement is by and between the State of Washington Department of Social and Health Services (DSHS) and the Contractor identified below, and is issued pursuant to the Interlocal Cooperation Act, chapter 39.34 RCW.

Program Contract Number:

Contractor Contract Number:

CONTRACTOR NAME		CONTRACTOR doing business as (DBA)	
The City of Buckley			
CONTRACTOR ADDRESS		WASHINGTON UNIFORM BUSINESS IDENTIFIER (UBI)	DSHS INDEX NUMBER
PO Box 1960 Buckley, WA 98321-1960		271-100-033	1696
CONTRACTOR CONTACT	CONTRACTOR TELEPHONE	CONTRACTOR FAX	CONTRACTOR E-MAIL ADDRESS
Alan Predmore	(360) 829-1441	(360) 829-0133	apredmore@cityofbuckley.com
DSHS ADMINISTRATION	DSHS DIVISION	DSHS CONTRACT CODE	
Executive Administration	Operation Support and Services Division	1000LC-64	
DSHS CONTACT NAME AND TITLE		DSHS CONTACT ADDRESS	
Jeanne Rodriguez Contract Manager		1115 S Washington St MS45848 Olympia, WA 98504-5848	
DSHS CONTACT TELEPHONE	DSHS CONTACT FAX	DSHS CONTACT E-MAIL ADDRESS	
(360) 902-8330	(360) 902-7889	rodrijr@dshs.wa.gov	
IS THE CONTRACTOR A SUBRECIPIENT FOR PURPOSES OF THIS CONTRACT?		CFDA NUMBER(S)	
No			
AGREEMENT START DATE	AGREEMENT END DATE	MAXIMUM AGREEMENT AMOUNT	
01/01/2017	06/30/2017	\$44,797.55	
EXHIBITS. The following Exhibits are attached and are incorporated into this Agreement by reference:			
<input type="checkbox"/> Exhibits (specify): No Data Security Exhibit			
<input type="checkbox"/> No Exhibits.			
The terms and conditions of this Agreement are an integration and representation of the final, entire and exclusive understanding between the parties superseding and merging all previous agreements, writings, and communications, oral or otherwise regarding the subject matter of this Agreement, between the parties. The parties signing below represent they have read and understand this Agreement, and have the authority to execute this Agreement. This Agreement shall be binding on DSHS only upon signature by DSHS.			
CONTRACTOR SIGNATURE		PRINTED NAME AND TITLE	DATE SIGNED
DSHS SIGNATURE		PRINTED NAME AND TITLE	DATE SIGNED

DSHS General Terms and Conditions

1. **Definitions.** The words and phrases listed below, as used in this Contract, shall each have the following definitions:
- a. "Central Contract Services" means the DSHS central headquarters contracting office, or successor section or office.
 - b. "Confidential Information" or "Data" means information that is exempt from disclosure to the public or other unauthorized persons under RCW 42.56 or other federal or state laws. Confidential Information includes, but is not limited to, Personal Information.
 - c. "Contract" or "Agreement" means the entire written agreement between DSHS and the Contractor, including any Exhibits, documents, or materials incorporated by reference. The parties may execute this contract in multiple counterparts, each of which is deemed an original and all of which constitute only one agreement. E-mail or Facsimile transmission of a signed copy of this contract shall be the same as delivery of an original.
 - d. "Contracts Administrator" means the manager, or successor, of Central Contract Services or successor section or office.
 - e. "Contractor" means the individual or entity performing services pursuant to this Contract and includes the Contractor's owners, members, officers, directors, partners, employees, and/or agents, unless otherwise stated in this Contract. For purposes of any permitted Subcontract, "Contractor" includes any Subcontractor and its owners, members, officers, directors, partners, employees, and/or agents.
 - f. "Debarment" means an action taken by a Federal agency or official to exclude a person or business entity from participating in transactions involving certain federal funds.
 - g. "DSHS" or the "Department" means the state of Washington Department of Social and Health Services and its employees and authorized agents.
 - h. "Encrypt" means to encode Confidential Information into a format that can only be read by those possessing a "key"; a password, digital certificate or other mechanism available only to authorized users. Encryption must use a key length of at least 128 bits.
 - i. "Personal Information" means information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, Social Security Numbers, driver license numbers, other identifying numbers, and any financial identifiers.
 - j. "Physically Secure" means that access is restricted through physical means to authorized individuals only.
 - k. "Program Agreement" means an agreement between the Contractor and DSHS containing special terms and conditions, including a statement of work to be performed by the Contractor and payment to be made by DSHS.
 - l. "RCW" means the Revised Code of Washington. All references in this Contract to RCW chapters or sections shall include any successor, amended, or replacement statute. Pertinent RCW chapters can be accessed at <http://apps.leg.wa.gov/rcw/>.
 - m. "Regulation" means any federal, state, or local regulation, rule, or ordinance.

DSHS General Terms and Conditions

- n. "Secured Area" means an area to which only authorized representatives of the entity possessing the Confidential Information have access. Secured Areas may include buildings, rooms or locked storage containers (such as a filing cabinet) within a room, as long as access to the Confidential Information is not available to unauthorized personnel.
 - o. "Subcontract" means any separate agreement or contract between the Contractor and an individual or entity ("Subcontractor") to perform all or a portion of the duties and obligations that the Contractor is obligated to perform pursuant to this Contract.
 - p. "Tracking" means a record keeping system that identifies when the sender begins delivery of Confidential Information to the authorized and intended recipient, and when the sender receives confirmation of delivery from the authorized and intended recipient of Confidential Information.
 - q. "Trusted Systems" include only the following methods of physical delivery: (1) hand-delivery by a person authorized to have access to the Confidential Information with written acknowledgement of receipt; (2) United States Postal Service ("USPS") first class mail, or USPS delivery services that include Tracking, such as Certified Mail, Express Mail or Registered Mail; (3) commercial delivery services (e.g. FedEx, UPS, DHL) which offer tracking and receipt confirmation; and (4) the Washington State Campus mail system. For electronic transmission, the Washington State Governmental Network (SGN) is a Trusted System for communications within that Network.
 - r. "WAC" means the Washington Administrative Code. All references in this Contract to WAC chapters or sections shall include any successor, amended, or replacement regulation. Pertinent WAC chapters or sections can be accessed at <http://apps.leg.wa.gov/wac/>.
2. **Amendment.** This Contract may only be modified by a written amendment signed by both parties. Only personnel authorized to bind each of the parties may sign an amendment.
3. **Assignment.** The Contractor shall not assign this Contract or any Program Agreement to a third party without the prior written consent of DSHS.
4. **Billing Limitations.**
- a. DSHS shall pay the Contractor only for authorized services provided in accordance with this Contract.
 - b. DSHS shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were performed.
 - c. The Contractor shall not bill and DSHS shall not pay for services performed under this Contract, if the Contractor has charged or will charge another agency of the state of Washington or any other party for the same services.
5. **Compliance with Applicable Law.** At all times during the term of this Contract, the Contractor shall comply with all applicable federal, state, and local laws and regulations, including but not limited to, nondiscrimination laws and regulations.
6. **Confidentiality.**
- a. The Contractor shall not use, publish, transfer, sell or otherwise disclose any Confidential Information gained by reason of this Contract for any purpose that is not directly connected with Contractor's performance of the services contemplated hereunder, except:

DSHS General Terms and Conditions

- (1) as provided by law; or,
 - (2) in the case of Personal Information, with the prior written consent of the person or personal representative of the person who is the subject of the Personal Information.
- b. The Contractor shall protect and maintain all Confidential Information gained by reason of this Contract against unauthorized use, access, disclosure, modification or loss. This duty requires the Contractor to employ reasonable security measures, which include restricting access to the Confidential Information by:
- (1) Allowing access only to staff that have an authorized business requirement to view the Confidential Information.
 - (2) Physically Securing any computers, documents, or other media containing the Confidential Information.
 - (3) Ensure the security of Confidential Information transmitted via fax (facsimile) by:
 - (a) Verifying the recipient phone number to prevent accidental transmittal of Confidential Information to unauthorized persons.
 - (b) Communicating with the intended recipient before transmission to ensure that the fax will be received only by an authorized person.
 - (c) Verifying after transmittal that the fax was received by the intended recipient.
 - (4) When transporting six (6) or more records containing Confidential Information, outside a Secured Area, do one or more of the following as appropriate:
 - (a) Use a Trusted System.
 - (b) Encrypt the Confidential Information, including:
 - i. Encrypting email and/or email attachments which contain the Confidential Information.
 - ii. Encrypting Confidential Information when it is stored on portable devices or media, including but not limited to laptop computers and flash memory devices.
 - (5) Send paper documents containing Confidential Information via a Trusted System.
 - (6) Following the requirements of the DSHS Data Security Requirements Exhibit, if attached to this contract.
- c. Upon request by DSHS, at the end of the Contract term, or when no longer needed, Confidential Information shall be returned to DSHS or Contractor shall certify in writing that they employed a DSHS approved method to destroy the information. Contractor may obtain information regarding approved destruction methods from the DSHS contact identified on the cover page of this Contract.
- d. Paper documents with Confidential Information may be recycled through a contracted firm, provided the contract with the recycler specifies that the confidentiality of information will be protected, and

DSHS General Terms and Conditions

the information destroyed through the recycling process. Paper documents containing Confidential Information requiring special handling (e.g. protected health information) must be destroyed on-site through shredding, pulping, or incineration.

- e. **Notification of Compromise or Potential Compromise.** The compromise or potential compromise of Confidential Information must be reported to the DSHS Contact designated on the contract within one (1) business day of discovery. Contractor must also take actions to mitigate the risk of loss and comply with any notification or other requirements imposed by law or DSHS.
7. **Debarment Certification.** The Contractor, by signature to this Contract, certifies that the Contractor is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from participating in transactions (Debarred). The Contractor also agrees to include the above requirement in any and all Subcontracts into which it enters. The Contractor shall immediately notify DSHS if, during the term of this Contract, Contractor becomes Debarred. DSHS may immediately terminate this Contract by providing Contractor written notice if Contractor becomes Debarred during the term hereof.
8. **Governing Law and Venue.** This Contract shall be construed and interpreted in accordance with the laws of the state of Washington and the venue of any action brought hereunder shall be in Superior Court for Thurston County.
9. **Independent Contractor.** The parties intend that an independent contractor relationship will be created by this Contract. The Contractor and his or her employees or agents performing under this Contract are not employees or agents of the Department. The Contractor, his or her employees, or agents performing under this Contract will not hold himself/herself out as, nor claim to be, an officer or employee of the Department by reason hereof, nor will the Contractor, his or her employees, or agent make any claim of right, privilege or benefit that would accrue to such officer or employee.
10. **Inspection.** The Contractor shall, at no cost, provide DSHS and the Office of the State Auditor with reasonable access to Contractor's place of business, Contractor's records, and DSHS client records, wherever located. These inspection rights are intended to allow DSHS and the Office of the State Auditor to monitor, audit, and evaluate the Contractor's performance and compliance with applicable laws, regulations, and these Contract terms. These inspection rights shall survive for six (6) years following this Contract's termination or expiration.
11. **Maintenance of Records.** The Contractor shall maintain records relating to this Contract and the performance of the services described herein. The records include, but are not limited to, accounting procedures and practices, which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract. All records and other material relevant to this Contract shall be retained for six (6) years after expiration or termination of this Contract.

Without agreeing that litigation or claims are legally authorized, if any litigation, claim, or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.
12. **Order of Precedence.** In the event of any inconsistency or conflict between the General Terms and Conditions and the Special Terms and Conditions of this Contract or any Program Agreement, the inconsistency or conflict shall be resolved by giving precedence to these General Terms and Conditions. Terms or conditions that are more restrictive, specific, or particular than those contained in the General Terms and Conditions shall not be construed as being inconsistent or in conflict.
13. **Severability.** If any term or condition of this Contract is held invalid by any court, the remainder of the

DSHS General Terms and Conditions

Contract remains valid and in full force and effect.

- 14. Survivability.** The terms and conditions contained in this Contract or any Program Agreement which, by their sense and context, are intended to survive the expiration or termination of the particular agreement shall survive. Surviving terms include, but are not limited to: Billing Limitations; Confidentiality, Disputes; Indemnification and Hold Harmless, Inspection, Maintenance of Records, Notice of Overpayment, Ownership of Material, Termination for Default, Termination Procedure, and Treatment of Property.

15. Contract Renegotiation, Suspension, or Termination Due to Change in Funding.

If the funds DSHS relied upon to establish this Contract or Program Agreement are withdrawn, reduced or limited, or if additional or modified conditions are placed on such funding, after the effective date of this contract but prior to the normal completion of this Contract or Program Agreement:

- a. At DSHS's discretion, the Contract or Program Agreement may be renegotiated under the revised funding conditions.
 - b. DSHS's discretion, DSHS may give notice to Contractor to suspend performance when DSHS determines that there is reasonable likelihood that the funding insufficiency may be resolved in a timeframe that would allow Contractor's performance to be resumed prior to the normal completion date of this contract.
 - (1) During the period of suspension of performance, each party will inform the other of any conditions that may reasonably affect the potential for resumption of performance.
 - (2) When DSHS determines that the funding insufficiency is resolved, it will give Contractor written notice to resume performance. Upon the receipt of this notice, Contractor will provide written notice to DSHS informing DSHS whether it can resume performance and, if so, the date of resumption. For purposes of this subsection, "written notice" may include email.
 - (3) If the Contractor's proposed resumption date is not acceptable to DSHS and an acceptable date cannot be negotiated, DSHS may terminate the contract by giving written notice to Contractor. The parties agree that the Contract will be terminated retroactive to the date of the notice of suspension. DSHS shall be liable only for payment in accordance with the terms of this Contract for services rendered prior to the retroactive date of termination.
 - c. DSHS may immediately terminate this Contract by providing written notice to the Contractor. The termination shall be effective on the date specified in the termination notice. DSHS shall be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination. No penalty shall accrue to DSHS in the event the termination option in this section is exercised.
- 16. Waiver.** Waiver of any breach or default on any occasion shall not be deemed to be a waiver of any subsequent breach or default. Any waiver shall not be construed to be a modification of the terms and conditions of this Contract. Only the DSHS Contracts Administrator or designee has the authority to waive any term or condition of this Contract on behalf of DSHS.

Additional General Terms and Conditions – Interlocal Agreements:

- 17. Disputes.** Both DSHS and the Contractor ("Parties") agree to work in good faith to resolve all conflicts at the lowest level possible. However, if the Parties are not able to promptly and efficiently resolve,

DSHS General Terms and Conditions

through direct informal contact, any dispute concerning the interpretation, application, or implementation of any section of this Agreement, either Party may reduce its description of the dispute in writing, and deliver it to the other Party for consideration. Once received, the assigned managers or designees of each Party will work to informally and amicably resolve the issue within five (5) business days. If managers or designees are unable to come to a mutually acceptable decision within five (5) business days, they may agree to issue an extension to allow for more time.

If the dispute cannot be resolved by the managers or designees, the issue will be referred through each Agency's respective operational protocols, to the Secretary of DSHS ("Secretary") and the Contractor's Agency Head ("Agency Head") or their deputies or designated delegates. Both Parties will be responsible for submitting all relevant documentation, along with a short statement as to how they believe the dispute should be settled, to the Secretary and Agency Head.

Upon receipt of the referral and relevant documentation, the Secretary and Agency Head will confer to consider the potential options of resolution, and to arrive at a decision within fifteen (15) business days. The Secretary and Agency Head may appoint a review team, a facilitator, or both, to assist in the resolution of the dispute. If the Secretary and Agency Head are unable to come to a mutually acceptable decision within fifteen (15) business days, they may agree to issue an extension to allow for more time.

The final decision will be put in writing, and will be signed by both the Secretary and Agency Head. If the Agreement is active at the time of resolution, the Parties will execute an amendment or change order to incorporate the final decision into the Agreement. The decision will be final and binding as to the matter reviewed and the dispute shall be settled in accordance with the terms of the decision.

If the Secretary and Agency Head are unable to come to a mutually acceptable decision, the Parties will request intervention by the Governor, per RCW 43.17.330, in which case the governor shall employ whatever dispute resolution methods that the governor deems appropriate in resolving the dispute.

Both Parties agree that, the existence of a dispute notwithstanding, the Parties will continue without delay to carry out all respective responsibilities under this Agreement that are not affected by the dispute.

18. Hold Harmless.

- a. The Contractor shall be responsible for and shall hold DSHS harmless from all claims, loss, liability, damages, or fines arising out of or relating to the Contractor's, or any Subcontractor's, performance or failure to perform this Agreement, or the acts or omissions of the Contractor or any Subcontractor. DSHS shall be responsible for and shall hold the Contractor harmless from all claims, loss, liability, damages, or fines arising out of or relating to DSHS' performance or failure to perform this Agreement.
- b. The Contractor waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend, and hold harmless the State and its agencies, officials, agents, or employees.

- 19. Ownership of Material.** Material created by the Contractor and paid for by DSHS as a part of this Contract shall be owned by DSHS and shall be "work made for hire" as defined by Title 17 USCA, Section 101. This material includes, but is not limited to: books; computer programs; documents; films; pamphlets; reports; sound reproductions; studies; surveys; tapes; and/or training materials. Material which the Contractor uses to perform the Contract but is not created for or paid for by DSHS is owned by the Contractor and is not "work made for hire"; however, DSHS shall have a perpetual license to use this material for DSHS internal purposes at no charge to DSHS, provided that such license shall be

DSHS General Terms and Conditions

limited to the extent which the Contractor has a right to grant such a license.

20. Subrecipients.

- a. General. If the Contractor is a subrecipient of federal awards as defined by 2 CFR Part 200 and this Agreement, the Contractor shall:
 - (1) Maintain records that identify, in its accounts, all federal awards received and expended and the federal programs under which they were received, by Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, name of the federal agency, and name of the pass-through entity;
 - (2) Maintain internal controls that provide reasonable assurance that the Contractor is managing federal awards in compliance with laws, regulations, and provisions of contracts or grant agreements that could have a material effect on each of its federal programs;
 - (3) Prepare appropriate financial statements, including a schedule of expenditures of federal awards;
 - (4) Incorporate 2 CFR Part 200, Subpart F audit requirements into all agreements between the Contractor and its Subcontractors who are subrecipients;
 - (5) Comply with the applicable requirements of 2 CFR Part 200, including any future amendments to 2 CFR Part 200, and any successor or replacement Office of Management and Budget (OMB) Circular or regulation; and
 - (6) Comply with the Omnibus Crime Control and Safe streets Act of 1968, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, Title IX of the Education Amendments of 1972, The Age Discrimination Act of 1975, and The Department of Justice Non-Discrimination Regulations, 28 C.F.R. Part 42, Subparts C.D.E. and G, and 28 C.F.R. Part 35 and 39. (Go to www.ojp.usdoj.gov/ocr/ for additional information and access to the aforementioned Federal laws and regulations.)
- b. Single Audit Act Compliance. If the Contractor is a subrecipient and expends \$750,000 or more in federal awards from any and/or all sources in any fiscal year, the Contractor shall procure and pay for a single audit or a program-specific audit for that fiscal year. Upon completion of each audit, the Contractor shall:
 - (1) Submit to the DSHS contact person the data collection form and reporting package specified in 2 CFR Part 200, Subpart F, reports required by the program-specific audit guide (if applicable), and a copy of any management letters issued by the auditor;
 - (2) Follow-up and develop corrective action for all audit findings; in accordance with 2 CFR Part 200, Subpart F; prepare a "Summary Schedule of Prior Audit Findings" reporting the status of all audit findings included in the prior audit's schedule of findings and questioned costs.
- c. Overpayments. If it is determined by DSHS, or during the course of a required audit, that the Contractor has been paid unallowable costs under this or any Program Agreement, DSHS may require the Contractor to reimburse DSHS in accordance with 2 CFR Part 200.

21. Termination.

DSHS General Terms and Conditions

- a. Default. If for any cause, either party fails to fulfill its obligations under this Agreement in a timely and proper manner, or if either party violates any of the terms and conditions contained in this Agreement, then the aggrieved party will give the other party written notice of such failure or violation. The responsible party will be given 15 working days to correct the violation or failure. If the failure or violation is not corrected, this Agreement may be terminated immediately by written notice from the aggrieved party to the other party.
- b. Convenience. Either party may terminate this Interlocal Agreement for any other reason by providing 30 calendar days' written notice to the other party.
- c. Payment for Performance. If this Interlocal Agreement is terminated for any reason, DSHS shall only pay for performance rendered or costs incurred in accordance with the terms of this Agreement and prior to the effective date of termination.

22. Treatment of Client Property. Unless otherwise provided, the Contractor shall ensure that any adult client receiving services from the Contractor has unrestricted access to the client's personal property. The Contractor shall not interfere with any adult client's ownership, possession, or use of the client's property. The Contractor shall provide clients under age eighteen (18) with reasonable access to their personal property that is appropriate to the client's age, development, and needs. Upon termination of the Contract, the Contractor shall immediately release to the client and/or the client's guardian or custodian all of the client's personal property.

Special Terms and Conditions

1. **Definitions Specific to Special Terms.** The words and phrases listed below, as used in this Contract, shall each have the following definitions:
 - a. "Patient" means any or all of the clients, residents, or patients at Rainier School.
 - b. "Residential Care Services" or "RCS", means a DSHS Division that are responsible for the licensing and oversight of adult family homes, assisted living facilities, nursing facilities, intermediate care facilities for individuals with intellectual disabilities, and certified residential programs.
 - c. "Rainier School" or "RS" means a residential habilitation center owned and operated by the State of Washington, DSHS, Developmental Disabilities Administration (DDA), which is situated at 2120 Ryan Road, Buckley, WA 98321
2. **Purpose.** The purpose of this Contract is for the Contractor to provide emergency medical, fire suppression, fire protection, and inspection services for the Rainier School (RS) campus in accordance with RCW 35.21.775
3. **Statement of Work.** The Contractor shall provide the services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:
 - a. Provide fire protection and suppression services to all lands, equipment, buildings and their contents, related property improvements, and the personal property of Patients and employees located on or at the RS campus in Pierce County, Washington. Contractor shall provide quarterly written performance reports that identify the number of fire and suppression services call responded to at RS, the type of incidents, and the services provided by the Contractor.
 - b. Provide emergency medical services to all people residing, working or visiting the RS campus. Contractor shall provide quarterly written performance reports that identify the number of emergency medical services call responded to at RS, the type of incidents, and the services provided by the Contractor.
 - c. Provide inspections as often as necessary, but not less than annually, across the whole of the RS campus for the purpose of identifying fire code violations and any other law or standard including those set forth by Residential Care Services (RCS) affecting fire and life safety in order to ensure the safety of individuals in RS campus facilities. Upon completion of annual inspections, Contractor shall provide a written report to RS of its findings and recommendations.
 - d. For any significant fire/incident to which the Contractor responds, and the fire/incident results in a required debriefing by RS administration, a representative of the Contractor shall provide consultation during the incident debriefing. For significant fire/incidents to which the Contractor responds, Contractor shall provide a written summary report of the debriefing information Contractor provided to RS.
 - e. The Contractor shall send all required written reports within this Agreement to the DSHS Contract Contact provided on the cover page of this Agreement.
4. **Consideration.** Total consideration payable to Contractor for satisfactory performance of the work under this Contract is up to a maximum of \$44,797.55, including any and all expenses, and shall be based on the following:
 - a. In consideration of the goods and services provided by the Contractor under the terms and conditions of this Contract, each year DSHS shall pay the Contractor a fee based upon the sum of the RS total square footage of improvements multiplied by 10 cents per square foot per year.

Special Terms and Conditions

- b. RS total gross square footage as of January 1, 2017 equals 895,951.
 (1) 895,951 sf x \$0.10 equates to an annual amount not to exceed \$89,595.10, or \$7,466.26 monthly, for the period of January 1, 2017, through June 30, 2017.
- c. This contract may be extended by additional two year terms upon mutual agreement of the parties.
- d. All payments to Contractor under this Contract shall be contingent upon Contractor’s satisfactory completion of all goods and services, including all written reports.

5. Billing and Payment.

- a. Invoice System. The Contractor shall submit invoices using State Form A-19 Invoice Voucher, or such other form as designated by DSHS. Consideration for services rendered shall be payable upon receipt of properly completed invoices which shall be submitted to **CIBS, Attn: Fiscal, 9601 Steilacoom Blvd, Lakewood, Washington, 98498-7213**, by the Contractor not more often than monthly. The invoices shall describe and document to DSHS’ satisfaction a description of the work performed, activities accomplished, the progress of the project, and fees. The rates shall be in accordance with those set forth in Section 4, Consideration, of this Contract.
- b. Payment. Payment shall be considered timely if made by DSHS within thirty (30) days after receipt and acceptance by Western State Hospital of the properly completed invoices. Payment shall be sent to the address designated by the Contractor on page one (1) of this Contract. DSHS may, at its sole discretion, withhold payment claimed by the Contractor for services rendered if Contractor fails to satisfactorily comply with any term or condition of this Contract.

6. Insurance.

- a. DSHS certifies that it is self-insured under the State’s self-insurance liability program, as provided by RCW 4.92.130, and shall pay for losses for which it is found liable.
- b. The Contractor certifies, by checking the appropriate box below, initialing to the left of the box selected, and signing this Agreement, that:

_____ The Contractor is self-insured or insured through a risk pool and shall pay for losses for which it is found liable; or

_____ The Contractor maintains the types and amounts of insurance identified below and shall, prior to the execution of this Agreement by DSHS, provide certificates of insurance to that effect to the DSHS contact on page one of this Agreement.

Commercial General Liability Insurance (CGL) – to include coverage for bodily injury, property damage, and contractual liability, with the following minimum limits: Each Occurrence - \$1,000,000; General Aggregate - \$2,000,000. The policy shall include liability arising out of premises, operations, independent contractors, products-completed operations, personal injury, advertising injury, and liability assumed under an insured contract. The State of Washington, DSHS, its elected and appointed officials, agents, and employees shall be named as additional insureds.



CITY COUNCIL AGENDA BILL

City of Buckley
PO Box 1960
Buckley, WA 98321

ITEM INFORMATION			
SUBJECT: DSHS Fire Service Contract Amendment	Agenda Date: December 13, 2016		AB 16-154
	Department/Committee/Individual	Created	Reviewed
	Mayor Pat Johnson		
	City Administrator – Dave Schmidt	X	X
	City Attorney – Phil Olbrechts		
	City Engineer – Dominic Miller		
	Building Depart –		
	Finance Depart – Sheila Bazzar		
	Fire Depart – Chief Predmore	X	
	Parks & Rec Depart – Ellen Boyd		
	Planning Depart – Kathy Thompson		
Police Depart – Chief Arsanto			
	Other –		
Attachments: DSHS Contract Number 1764-80795 Fire Protection Services – Rainier School			
SUMMARY STATEMENT: DSHS (Rainier School) has proposed a new agreement for Fire Protection and Emergency Medical Services that will establish services through the end of DSHS fiscal year (6/2017). This agreement is only for six months and we are hoping to execute a long term agreement at the start of the 2018 Fiscal Year (7/1/2017).			
COMMITTEE REVIEW AND RECOMMENDATION: <ul style="list-style-type: none"> - The proposed Amendment presented by the State was received after the most recent FAPS Committee Meeting so committee has not had discussion or action. 			
RECOMMENDED ACTION: A MOTION authorizing the Mayor to execute the agreement between the City of Buckley and State of Washington Department of Social and Health Services for Fire Protection and Emergency Medical Services at Rainier School.			
RECORD OF COUNCIL ACTION			
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>	



CITY COUNCIL AGENDA BILL

City of Buckley
PO Box 1960
Buckley, WA 98321

ITEM INFORMATION			
SUBJECT: Meeting Cancellation	Agenda Date: December 13, 2016		AB16-155
	Department/Committee/Individual	Created	Reviewed
	Mayor Pat Johnson	X	X
	City Administrator – Dave Schmidt		X
	City Attorney – Phil Olbrechts		X
	City Engineer – Dominic Miller		
	City Clerk – Joanne Starr		X
	Finance Dept – Sheila Bazzar		
	Building Official – Mike Deadmond		
	Fire Dept – Chief Predmore		
	Parks & Rec Dept – Ellen Boyd		
	Planning Dept – Kathy Thompson		
	Police Dept – Chief Arsanto		
Timeline: N/A	Municipal Court – Jessica Cash		
Attachments: None			
SUMMARY STATEMENT: Cancellation of 2 nd City Council meeting of the month in December due to holiday scheduling and lack of business.			
COMMITTEE REVIEW AND RECOMMENDATION: None			
RECOMMENDED ACTION: MOTION to Cancel the December 27, 2016 City Council Meeting.			
RECORD OF COUNCIL ACTION			
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>	

D. CONSENT AGENDA

**City Council
November 22, 2016**

Mayor Johnson called the regularly scheduled meeting to order at 7:02 PM.

Upon roll call the following members were present: Sundstrom, Rose, B. Burkett, Tremblay, S. Burkett and Leggett. Council member Boyle Barrett arrived at 7:07 PM. Also in attendance were City Administrator Schmidt, Finance Director Bazzar, City Clerk Starr, Recreation Services Director Boyd, Fire Chief Predmore, Assistant Police Chief Northam, Police Detective Garrett and City Planner Thompson.

Mayor Johnson asked if there were any additions, deletions, or changes to the agenda.

Council member Leggett moved to approve the agenda as presented. Council member Rose seconded the motion. Motion carried.

CITIZEN PARTICIPATION

None.

STAFF REPORTS

Recreation Services Director Boyd stated to the Council that Youth Services Coordinator Kyllonen will be on maternity leave towards the end of December. The Youth Activities Assistant will be filling in for Kyllonen while she is gone, so don't be alarmed if you see a posting in the newspaper for a temporary part-time Youth Activities Assistant until Kyllonen returns back to work.

City Administrator Schmidt stated that the Realignment Project passed one inspection with WSDOT and should be getting the light installed within the next couple of weeks. Elk Heights paving is still delayed as they are waiting for two consecutive days with dry weather. Also, the City of Buckley was approved for a TIB Grant for the River Avenue Street Reconstruction Project.

MAIN AGENDA

Student Presentation: Student Stewardship Conservation Project:

Joe Frame – 192 S. D St. Buckley, WA 98321

Amy Birklid – 172 S. D St. Buckley, WA 98321

Jennine Riss – 5712 59th St. University Place, WA

Ail Alfano – 811 Garnero St. Buckley, WA 98321

Joslyn Hunt - 74122 200th St. Ct E. Buckley, WA 98321

Liberty Tucker – 14809 Tubbs Rd. Buckley, WA 98321

Ela Rore – 2219 73rd St E. Buckley, WA 98321

Natalie Gomez – 8316 209th Ave Ct E. Bonney Lake, WA 98381

Jennine Riss and students in the White River School District gave a presentation to the Council on a proposed Stewardship Conservation Project. **Council member Tremblay moved to authorize the City Manager to do the preliminary work, talk with the teachers and work with the School District. Council member B. Burkett seconded the motion. Motion carried.**

Public Hearing: Moratorium – Marijuana Production & Processing – GC Zone:
Mayor Johnson recessed the City Council meeting and entered into the Public Hearing at 7:28 PM.

Jean Thatcher – 136 Sergeant St. Buckley, WA 98321

Jean Thatcher addressed the Council with her concerns of having marijuana in the City of Buckley. She would like to keep marijuana out of this small city where she chose to live and raise her family.

David Thatcher – 136 Sergeant St. Buckley, WA 98321

David Thatcher voiced his concern regarding property values within the City going down drastically because of the marijuana stores and possibly this grow operation. He is concerned that the City of Buckley will be known as the marijuana city. He is also concerned about the smell that will be coming from the grow operation.

Mike Anderson – 1464 Dieringer Ave. Buckley, WA 98321

Mike Anderson stated that he shares the same concerns as Jean and Dave, and he shared his concern that this is a drug and it may be legal in the State of Washington, but it is still not legal at the Federal level. He also stated that he doesn't like the fact that Buckley will become the center of marijuana use.

Mayor Johnson closed the Public Hearing and reconvened the City Council meeting at 7:40 PM.

Public Hearing: Moratorium – Contractor & Outdoor Storage Yards – GC Zone:
Mayor Johnson recessed the City Council meeting and entered into the Public Hearing at 7:40 PM. There were no speakers. Mayor Johnson closed the Public Hearing and reconvened the City Council meeting at 7:10 PM.

ORD No. 24-16 Adopting Final 2017 Budget:

Council member Tremblay moved to Approve ORD No. 24-16 Adopting the 2017 City Budget. Council member Rose seconded the motion. Upon roll call vote motion carried 6/1.

ORD No. 25-16: Amending BMC 16.06 City building Code:

Council member S. Burkett moved to Approve ORD No. 25-16 Amending BMC 16.06 City Building Code. Council member Rose seconded the motion. Upon roll call vote motion carried 7/0.

Final Acceptance – Skate Park Reconstruction Project:

Council member Rose moved to Approve Final Acceptance of the Skate Park Reconstruction Project. Council member Boyle Barrett seconded the motion. Motion carried.

Final Acceptance – 2016 Sidewalk Replacement Project:

Council member Boyle Barrett moved to Approve Final Acceptance of the 2016 Sidewalk Replacement Project. Council member S. Burkett seconded the motion. Motion carried.

Change Order No. 4 – Realignment Project Phase 2:

Council member S. Burkett moved to Approve the Phase II SR410 Realignment Project – Change Order #4. Council member Rose seconded the motion. Motion carried.

CONSENT AGENDA

Council member Boyle Barrett moved to approve the Consent Agenda. Council member Leggett seconded the motion. Motion carried.

Approve Minutes of November 8, 2016 City Council Meeting

Claim check numbers 56103 to 56131, in the amount of \$209,176.84, for the period of November 9, 2016 to November 22, 2016 are hereby approved and ordered paid this 22nd day of November 2016.

COMMITTEE REPORTS

Mayor's Report:

Mayor Johnson stated that she was in Pittsburgh last week for an AWC conference where she attended some good classes. Also, she wanted to wish everyone a Happy Thanksgiving.

Administration, Finance & Public Safety:

Council member Boyle Barrett stated they discussed the budget and the old fire station. Their next meeting will be December 6th.

Transportation & Utilities:

Council member Tremblay stated they will be meeting December 20th.

Community Services:

Council member Rose stated they will be meeting December 15th.

Council Member Comments & Good of the Order:

Council member Sundstrom stated that he attended the hearing on the Cottage St. Development and thought that it was very interesting; however, he thinks it is a good idea but the City needs to explain the City's responsibilities on the storm drain better.

Council member Tremblay stated that at the Pierce County Regional meeting he got a report that they provided 4 options on rebalancing the county and discussed how the Growth Management Act needs to be reviewed every 25 years. Also, on February 16th the Urban Forum PCRC dinner will be held at Bates Technical College.

City Administrator Schmidt stated that Kendall Smith tried to donate his pond to the City a couple of years ago. Then the veterinary clinic was going to purchase the property from Mr. Smith but that fell through. Now he would like to donate the pond to the City again. Since the Council had no objections, the City Administrator will move forward with working with Mr. Smith.

City Council member Rose stated that the Museum will be opening on January 3rd.

Council member Boyle Barrett moved to adjourn. Council member Rose seconded the motion. Motion carried.

With nothing further the meeting was adjourned at 8:16 PM.

Mayor

City Administrator

E. COMMITTEE REPORTS