

**TYPE IV LEGISLATIVE DECISIONS**

**PROCEDURES FOR AMENDMENTS TO THE  
COMPREHENSIVE PLAN  
AND DEVELOPMENT REGULATIONS UNDER THE  
GROWTH MANAGEMENT ACT**

1  
2 **40.510.040 Type IV Process – Legislative Decisions**  
3

4 A. Decision.  
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- 6 1. The provisions of this section apply to all Type IV legislative decisions, which include and are  
7 limited to adoption or amendment, pursuant to the Growth Management Act (GMA), Chapter  
8 36.70A RCW and Chapter 40.560, of the following:  
9 a. comprehensive plan map and text, and zoning change consistent with the map change;  
10 b. development regulations;  
11 c. Arterial Atlas;and  
12 d. Shoreline Master Program (SMP) pursuant to the Shoreline Management Act, Chapter  
13 90.58 RCW, and Chapter 40.460.  
14  
15 2. This section is intended to supplement, and not to limit, county authority and procedures for  
16 adopting legislation.  
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18 3. When revisions to the comprehensive plan are made through the periodic update pursuant to  
19 RCW 36.70A.130(5), the procedures in this chapter are to be used as a guide, with the exception  
20 that public noticing per 40.510.040(E)(1)(b)(4) is not required.  
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22

23 B. Process.  
24

- 25 1. Adoption or amendment of the comprehensive plan and development regulations is a legislative  
26 decision, rather than a project specific decision. The legislative process includes a public hearing  
27 before the Clark County Council and may include a public hearing before the planning  
28 commission. It is designed to solicit a broad range of public input at all levels pursuant to RCW  
29 36.70A.035.  
30  
31 2. A Type IV decision shall be final and conclusive unless an appeal is timely filed to the growth  
32 management hearings board in accordance with RCW 36.70A.280 and RCW 36.70A.290, except  
33 as otherwise provided by law.  
34  
35 3. Council legislative action on other matters is governed by the Clark County Home Rule Charter  
36 and other applicable law, and is not subject to this section.  
37

38 C. Procedure.  
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- 40 1. A Type IV procedure may include one or more public hearings before the planning commission  
41 and includes one or more public hearings before Council.  
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43 2. Planning commission review is not required for interim actions, moratoria, and emergency  
44 legislation authorized by RCW 35.63.200, RCW 36.70A.130(2)(b), or RCW 36.70A.390 as  
45 described in Section 40.510.040(H).  
46

47 D. Staff Report to the Planning Commission.  
48

- 49 1. At least fifteen (15) calendar days before the date of the first planning commission hearing, the  
50 responsible official shall:  
51 a. issue a written staff report and State Environmental Policy Act (SEPA) official determination  
52 regarding the application(s) pursuant to Chapter 40.570;  
53 b. post the staff report and SEPA official determination to the Clark County website; and  
54 c. provide a copy of the staff report at reasonable charge to any member of the public who  
requests it.

1 E. Public Notice.

2 1. For a site-specific application or a county initiated site-specific request under Section 40.560, at  
3 least fifteen (15) calendar days before the date of the first planning commission hearing, the  
4 responsible official shall:

5  
6 a. Prepare a notice of application that includes the following information:

7 (1) The case file number(s);

8 (2) A description and map(s) of the area that will be affected by the application, if  
9 approved, which is reasonably sufficient to inform the reader of its location;

10 (3) A summary of the proposed application(s);

11 (4) The date, time, and place, where information about the application may be examined  
12 and the name and contact information for the county representative to contact about  
13 the application;

14 (5) A statement that the notice is intended to inform potentially interested parties about  
15 the hearing and to invite interested parties to appear orally or by written statement at  
16 the hearing;

17 (6) The date, time, and place of the Planning Commission hearing, and a statement that  
18 the hearing will be conducted in accordance with the rules of procedure adopted by  
19 the Planning Commission;

20 (7) A statement that a staff report and, whenever possible, a SEPA review document, will  
21 be available for inspection at no cost at least fifteen (15) calendar days before the  
22 hearing and will be provided at reasonable cost; and

23 (8) A general explanation of the process for submitting testimony and the conduct of the  
24 hearing.

25  
26 b. Send written notice prepared under Section 40.510.040(E)(1)(a) to:

27 (1) The applicant and the applicant's representative;

28 (2) Any person who has submitted a written request for notice of such matters;

29 (3) The neighborhood association in whose area the subject property is situated, based  
30 on the list of county recognized neighborhood associations kept by the responsible  
31 official; and

32 (4) Owners of record of property and residents within three hundred (300) feet of the  
33 subject property if the subject property is inside the urban growth boundary, or to  
34 owners of property and residents within five hundred (500) feet of the subject  
35 property if the subject property is outside the urban growth boundary;

36 (i) The records of the County Assessor shall be used for determining property  
37 owners of record. The failure of a property owner to receive notice shall not affect  
38 the validity of the decision if the notice was sent. A Clark County Ship Request  
39 Form and a copy of the mailing labels executed by the person who did the  
40 mailing shall be evidence that notice was mailed to parties listed or referenced in  
41 the certificate; and

42 (ii) If the applicant owns property adjoining the property that is the subject of the  
43 application, then notice shall be mailed to owners of property within five hundred  
44 (500) feet of the boundary of the property owned by the applicant adjoining or  
45 contiguous to the subject property; and

46 (5) Agencies with jurisdiction.

47  
48 c. Publish in a newspaper of general circulation a summary of the notice, including the date,  
49 time, and place of the hearing, staff contact information, and a summary of the subject of the  
50 Type IV process.

51  
52 d. Provide other notice deemed appropriate and necessary by the responsible official based on  
53 the subject of the Type IV process.

54

1        2. For comprehensive plan amendments or development regulations implementing the  
2        comprehensive plan under Chapter 40.560, at least fifteen (15) calendar days before the date of  
3        the first planning commission hearing, the responsible official shall:

- 4
- 5            a. Publish in a newspaper of general circulation a summary of the notice, including the date,  
6            time, and place of the hearing, staff contact information, and a summary of the subject of  
7            the Type IV process pursuant to Section 40.510.040(E)(1)(a).  
8            b. Provide other notice deemed appropriate and necessary by the responsible official based  
9            on the subject of the Type IV process pursuant to RCW 36.70A.035 and RCW  
10           36.70A.140.  
11

12 F. Planning Commission Hearings.

13        1. Planning Commission hearings shall be conducted in accordance with the rules of procedure  
14        adopted by the Planning Commission; provided, that the Planning Commission Chair shall  
15        preside over the meeting and may modify the procedural rules as necessary and reasonable. A  
16        public hearing shall be recorded electronically.

17        2. At the conclusion of a planning commission hearing, the planning commission shall announce  
18        one (1) of the following actions:

- 19            a. That the planning commission recommends against or in favor of approval of the proposal,  
20            with or without amendment, or that the planning commission will recommend neither against  
21            nor for approval of the application(s), together with a brief summary of the basis for the  
22            recommendation and posted to the website within three (3) business days following the  
23            hearing.  
24            b. The planning commission recommendation shall be by the affirmative vote of the majority of  
25            the quorum present.  
26            c. A hearing may be continued if it extends past 10p.m. on any evening. If the hearing is  
27            continued to a place, date, and time certain, then additional notice of the continued hearing  
28            need not be mailed, published or posted. If the hearing is not continued to a place, date, and  
29            time certain, the county shall provide notice of the continued hearing as though it was the  
30            initial hearing before the planning commission.  
31

32 G. Council Hearings

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34

35        1. Council hearings shall be conducted in accordance with the rules of procedure adopted by the  
36        Council; provided, that the Council Chair shall preside over the meeting and may modify the  
37        procedural rules as necessary and reasonable. A public hearing shall be recorded electronically.

38

39        2. At least 60 days before the council hearing, the responsible official shall issue a notification to the  
40        Department of Commerce pursuant to WAC 365-196-630 of its intent to propose adoption or  
41        amendment of a comprehensive plan or development regulation.

42

43        3. At least fifteen (15) calendar days before the date of the first Council hearing, the responsible  
44        official shall:

- 45            a. Provide a written copy of the Planning Commission's recommendation to the Council;  
46            b. Prepare a notice that includes the information listed in Section 40.510.040(E) except the notice  
47            shall be modified as needed:  
48            (1) To reflect any changes made in the application(s) during the planning commission review;  
49            (2) To reflect that Council will conduct the hearing, and date, time, and place of the Council  
50            hearing; and

- 1                   (3) To state that the planning commission recommendation and SEPA determination are  
2                   available for inspection at no cost and copies will be provided at reasonable cost;  
3                   c. Provide a written copy of that notice to the parties identified in Section 40.510.040(E);  
4                   d. Publish in a newspaper of general circulation a summary of the notice, including the date,  
5                   time, and place of the hearing and a summary of the subject of the Type IV process; and  
6                   e. Provide other notice deemed appropriate and necessary by the responsible official based on  
7                   the subject of the Type IV process.

- 8                   4. At the conclusion of its initial hearing, Council may continue the hearing or may adopt, modify or  
9                   give no further consideration to the application or recommendations. If the hearing is continued to  
10                   a place, date, and time certain, then additional notice of the continued hearing is not required to  
11                   be provided. If the hearing is not continued to a place, date and time certain, then notice of the  
12                   continued hearing shall be given as though it was the initial hearing before the council.

13 H. Interim Actions, Moratoria, and Emergencies.

- 14                   1. The Council may adopt a Type IV action as an interim action, a moratorium, or an emergency  
15                   under RCW 35.63.200 or RCW 36.70A.390.  
16                   2. Except as provided in Section 40.510.040(E)(2), the Council may adopt a Type IV action by  
17                   emergency action only after holding at least one public hearing following public notice as  
18                   described in Section 40.510.040(E)(2).  
19                   3. Pursuant to RCW 35.63.200 and RCW 36.70A.390, the Council may adopt a Type IV action that  
20                   is a moratorium, interim zoning map, interim zoning ordinance, or interim official control without  
21                   holding a public hearing, if within at least sixty (60) days of its adoption the Council holds a public  
22                   hearing following public notice as described in Section 40.510.040(E)(2) and adopts findings in  
23                   support of the action.

24 ~~A. Procedure.~~

25                   ~~A Type IV procedure may require one (1) or more hearings before the planning commission and does~~  
26                   ~~require one (1) or more hearings before the board.~~

27 ~~B. Public Notice.~~

28                   ~~At least fifteen (15) calendar days before the date of the first planning commission hearing for an~~  
29                   ~~application subject to Type IV review, the responsible official shall:~~

- 30                   ~~1. Prepare a notice of application that includes the following information:~~  
31                   ~~a. The case file number(s);~~  
32                   ~~b. A description and map of the area that will be affected by the application, if approved, which is~~  
33                   ~~reasonably sufficient to inform the reader of its location;~~  
34                   ~~c. A summary of the proposed application(s);~~  
35                   ~~d. The place, days and times where information about the application may be examined and the~~  
36                   ~~name and telephone number of the county representative to contact about the application;~~  
37                   ~~e. A statement that the notice is intended to inform potentially interested parties about the~~  
38                   ~~hearing and to invite interested parties to appear orally or by written statement at the hearing;~~  
39                   ~~f. The designation of the review authority, the date, time and place of the hearing, and a~~  
40                   ~~statement that the hearing will be conducted in accordance with the rules of procedure~~  
41                   ~~adopted by the review authority;~~  
42                   ~~g. A statement that a staff report and, whenever possible, a consolidated SEPA review or~~  
43                   ~~integrated growth management document, will be available for inspection at no cost at least~~  
44                   ~~fifteen (15) calendar days before the hearing and will be provided at reasonable cost; and~~  
45                   ~~h. A general explanation of the requirements for submission of testimony and the procedure for~~  
46                   ~~the conduct of hearings.~~

- 47                   ~~2. Mail a copy of a notice prepared under Section 40.510.040(B)(1) to:~~

- 1 ~~a. Parties who request notice of such matters;~~  
2 ~~b. The neighborhood association in whose area the property in question is situated, based on~~  
3 ~~the list of county recognized neighborhood associations kept by the responsible official; and~~  
4 ~~c. To other people the responsible official believes may be affected by the proposed action;~~

5 ~~3. Publish in a newspaper of general circulation a summary of the notice, including the date, time~~  
6 ~~and place of the hearing and a summary of the subject of the Type IV process; and~~

7 ~~4. Provide other notice deemed appropriate and necessary by the responsible official based on the~~  
8 ~~subject of the Type IV process.~~

9 ~~C. Staff Report.~~

10 ~~At least fifteen (15) calendar days before the date of the first hearing, the responsible official shall~~  
11 ~~issue a written staff report, SEPA evaluation and recommendation regarding the application(s), shall~~  
12 ~~make available to the public a copy of the staff report and consolidated SEPA evaluation for review~~  
13 ~~and inspection, and shall mail a copy of the consolidated recommendation to the review authority.~~  
14 ~~The responsible official shall mail or provide a copy of the staff report at reasonable charge to other~~  
15 ~~parties who request it.~~

16 ~~D. Public Hearings.~~

17 ~~1. Public hearings shall be conducted in accordance with the rules of procedure adopted by the~~  
18 ~~review authority, except to the extent waived by the review authority. A public hearing shall be~~  
19 ~~recorded electronically.~~

20 ~~2. At the conclusion of a planning commission hearing, the planning commission shall announce one~~  
21 ~~(1) of the following actions:~~

22 ~~a. That the hearing is continued. If the hearing is continued to a place, date and time certain,~~  
23 ~~then additional notice of the continued hearing is not required to be mailed, published or~~  
24 ~~posted. If the hearing is not continued to a place, date and time certain, then notice of the~~  
25 ~~continued hearing shall be given as though it was the initial hearing before the planning~~  
26 ~~commission; or~~

27 ~~b. That the planning commission recommends against or in favor of approval of the~~  
28 ~~application(s) with or without certain changes, or that the planning commission will~~  
29 ~~recommend neither against nor for approval of the application(s), together with a brief~~  
30 ~~summary of the basis for the recommendation.~~

31 ~~3. At least fifteen (15) calendar days before the date of the first board hearing, the responsible~~  
32 ~~official shall:~~

33 ~~a. Prepare a notice that includes the information listed in Section 40.510.040(B)(1) except the~~  
34 ~~notice shall be modified as needed:~~

35 ~~(1) To reflect any changes made in the application(s) during the planning commission~~  
36 ~~review;~~

37 ~~(2) To reflect that the board will conduct the hearing and the place, date and time of the~~  
38 ~~board hearing; and~~

39 ~~(3) To state that the planning commission recommendation, staff report, and SEPA~~  
40 ~~evaluation are available for inspection at no cost and copies will be provided at~~  
41 ~~reasonable cost;~~

42 ~~b. Mail a copy of that notice to the parties identified in Section 40.510.040(B)(2) and to parties~~  
43 ~~who request it in writing;~~

44 ~~c. Publish in a newspaper of general circulation a summary of the notice, including the date,~~  
45 ~~time and place of the hearing and a summary of the subject of the Type IV process; and~~

46 ~~d. Provide other notice deemed appropriate and necessary by the responsible official based on~~  
47 ~~the subject of the Type IV process.~~

1 ~~4. At the conclusion of its initial hearing, the board may continue the hearing or may adopt, modify or~~  
2 ~~give no further consideration to the application or recommendations. If the hearing is continued to~~  
3 ~~a place, date and time certain, then additional notice of the continued hearing is not required to~~  
4 ~~be provided. If the hearing is not continued to a place, date and time certain, then notice of the~~  
5 ~~continued hearing shall be given as though it was the initial hearing before the board.~~

6 ~~(Amended: Ord. 2007 11 13)~~

7 ~~E. Appeal of Board's Decision.~~

8 ~~The action of the board in approving or rejecting a recommendation of the planning commission shall~~  
9 ~~be final and conclusive unless a land use petition is timely filed in superior court pursuant to~~  
10 ~~RCW 36.70C.040 (Section 705 of Chapter 347, Laws of 1995); provided, that no person having actual~~  
11 ~~prior notice of the proceedings of the planning commission or the board's hearings shall have~~  
12 ~~standing to challenge the board's action unless such person was a party of record at the planning~~  
13 ~~commission hearing.~~

14

40.560 PLAN AND CODE AMENDMENTS

40.560.010 Plan Amendment Procedures

A. Purpose.

1. The purpose of this section is to set forth procedures for adoption or amendment of the comprehensive plan and development regulations pursuant to applicable provisions of the Growth Management Act, Chapter 36.70A RCW (GMA), the Shoreline Master Program (SMP) pursuant to the Shoreline Management Act, Chapter 90.58 RCW (SMA), the State Environmental Policy Act, Chapter 43.21C RCW (SEPA), and the Washington Administrative Code (WAC).
2. ~~The purpose of this section is to provide guidance as to how the comprehensive plan will be updated and amended over time. Amendments to the comprehensive plan may involve changes in the written text or policies of the plan, or in the map designations adopted as part of the plan, Arterial Atlas, or to supporting documents, including capital facilities plans. This section states the specific procedures and review criteria necessary to process comprehensive plan amendments. Plan amendments will be reviewed in accordance with applicable provisions of the state Growth Management Act (GMA), SEPA, the WAC, the countywide planning policies, the community framework plan, the goals and policies of the comprehensive plan, Clark County Code, local city comprehensive plans, applicable the capital facilities plans, and official population growth forecasts and key growth indicators.~~
3. The SMP will be reviewed in accordance with the goals, policies and regulations of the SMP, consistently with the SMA and the state shoreline guidelines in Chapter 173-26 WAC, and with SEPA.

(Amended: Ord. 2007-09-13; Ord. 2017-07-04; Ord. 2018-01-01)

B. Applicability.

All amendments to the comprehensive plan are legislative actions subject to Type IV process Section 40.510.040 . The criteria and requirements of this section shall apply to all applications or proposals for changes to the comprehensive plan including: text, policies, map designations, zoning map, or supporting documents. For the purposes of establishing review procedures, criteria, and timelines, and amendments are shall be considered legislative actions, distinguished as follows:

1. Countywide comprehensive plan map changes involving urban growth area (UGA) boundary changes and rural map changes; lands uses on a rotational basis;
2. Comprehensive plan map changes not involving a change to UGA boundaries;
3. Comprehensive plan policy or text changes;
4. Arterial Atlas amendments;
5. Changes to other plan documents (such as capital facilities and the shoreline master program); and
6. ~~Out of cycle amendments or a~~ Amendments that may be reviewed and acted upon outside of the annual amendment cycle are shall be considered subject to the review criteria established in this chapter, and are limited to the following:
  - a. ~~Emergency~~ Resolution of an emergency condition or situation that involves public health, safety or welfare, when adherence to the amendment process set forth in this section would be detrimental to the public health, safety or welfare;



- b. The initial adoption of a subarea plan that does not modify the comprehensive plan policies and designations applicable to the subarea, if the cumulative impacts of the proposed plan are addressed by appropriate environmental review under SEPA;
- c. The adoption or amendment of a shoreline master program pursuant to Ch. 90.58 RCW;
- d. To resolve an appeal of a comprehensive plan adoption or amendment filed with the Growth Management Hearings Board or ~~from~~ a court of competent jurisdiction pursuant to RCW 36.70A.300;
- e. Siting of major industrial developments and/or master planned locations outside UGA boundaries consistent with the requirements of state statute RCW 36.70A.365; and
- f. The amendment of the capital facilities element of ~~a~~ the comprehensive plan that occurs concurrently with the adoption of the county budget pursuant to RCW 36.70A.130(2)(a)(iv); and-or
- g. Technical, non-substantive corrections to obvious land use mapping errors which do not involve interpretation or application of the criteria for the various land use designations contained in the Comprehensive Plan.

Item (1) above may only occur consistent with RCW 36.70A.130. ~~Items (3), (4), (5) and (6) above may only be initiated by the county.~~ Item (2) above may be initiated by either the county or a property owner. Items (3), (4), (5) and (6) above may only be initiated by the county.

(Amended: Ord. 2004-09-02; Ord. 2007-09-13; Ord. 2016-09-04; Ord. 2017-07-04; Ord. 2018-01-01)

~~B.C. Annual Review Cycle~~ Overall Method of Review.

- 1. Proposed annual site-specific comprehensive plan amendments pursuant to RCW 36.70A.130(2) that are submitted for review shall be are subject to the applicable criteria of this section. The review shall be processed by a Type IV procedures in process pursuant to Section 40.510.040.
- 2. Applications for plan map amendments are generally processed in conjunction with concurrent rezone requests. Zoning map amendments must be to a zone corresponding to the requested comprehensive plan map designation. Rezone applications considered with a plan map amendment request are reviewed consistent with the plan designation to zone consistency tables in Chapter 1 Land Use of the comprehensive plan, and according to the procedures and timing specifications for plan map amendment specified in this section. Rezone applications considered with a plan map amendment request must comply with Section 40.560.020 and Section 40.510.040.
- ~~3. Concurrent zoning map amendments must meet all the approval criteria of this chapter and zone changes consistent with the comprehensive plan map shall be considered subject to the approval criteria of Section 40.560.020.~~

(Amended: Ord. 2007-09-13; Ord. 2017-07-04; Ord. 2018-01-01)

~~D. Plan Map Changes Procedure.~~

- ~~1. Applications for all plan amendments shall be considered legislative actions, subject to Type IV procedures of Section 40.510.040.~~
- ~~2.1. Site specific plan map amendments (annual reviews) requested by private parties shall be considered legislative actions, subject to Type IV procedures of Section 40.510.040.~~
- ~~3.2. Submittal Requirements and Timelines of the Annual Review. All applications for site specific plan map amendments not involving a change to UGA boundaries requested by parties other than the county shall be submitted as follows:~~

- ~~a. Between October 1st and November 30th, applicants must shall submit a pro application form containing all of the following information:
    - ~~(1) The pre application fee, as specified in county fee ordinance;~~
    - ~~(2) Application form signed by the owner(s) of record;~~
    - ~~(3) Description of request;~~
    - ~~(4) GIS packet;~~
    - ~~(5) Related or previous permit activity; and~~
    - ~~(6) A statement on how the plan/zone change request is consistent with all of the applicable policies and criteria in the comprehensive plan and this chapter.~~~~
  - ~~b. Between October 15th and By December 31st, county staff and applicants shall complete pre-application meetings.~~
  - ~~c. Between January 1st and January 31st, applicants shall submit an application form containing all of the following, including the information required by Section 40.510.030(C)(3):
    - ~~(1) The applicable comprehensive plan and rezone application fees;~~
    - ~~(2) SEPA checklist and applicable fee;~~
    - ~~(3) Copy of deed, real estate contract or earnest money agreement;~~
    - ~~(4) A full analysis of how the plan/zone change request is consistent with the applicable policies and criteria in the comprehensive plan and this chapter;~~
    - ~~(5) A market analysis and a transportation analysis;~~
    - ~~(6) Any additional information the applicant believes is necessary to justify the amendment.~~~~
  - ~~d. Between February 1st and April 1st, initial county staff review shall include the following:
    - ~~(1) Distribution of applications requesting an amendment to an urban growth area boundary or seeking to amend a designation within an urban boundary to the affected city;~~
    - ~~(2) Completion of county SEPA official determination;~~
    - ~~(3) Circulation and publication of SEPA determinations to applicant, affected jurisdiction(s), neighborhood associations and agencies; and~~
    - ~~(4) Preparation of a single staff report and recommendation based on an assessment of cumulative impacts of plan change requests, and any other plan changes initiated by the county.~~~~
  - ~~e. The above process and timeline is intended as a guideline. Actual processing time may depend upon the number of applications and activity level at the time of formal applications.~~
  - ~~f. If the applicant has not supplied the required information by March 15th, the responsible official shall inform the applicant in writing that no further consideration will be given to the request for this annual review cycle.~~
  - ~~g. Following completion of Sections 40.560.010(D)(3)(a) through (D)(3)(e), county staff shall schedule public hearings before the planning commission. Following the completion of the planning commission public hearings, county staff shall schedule public hearings before the board and forward to the board the planning commission recommendations.~~
  - ~~h. After the public hearing by the board, the board will adopt a single resolution disposing of all cases.~~
  - ~~i. Burden of Proof. The burden of proving consistency with the criteria for plan amendments shall be upon the proponent.~~
- ~~4. Annual review applications will not be accepted for properties within an urban growth boundary which are in the process of being annexed.~~

~~(Amended: Ord. 2007-09-13; Ord. 2007-11-13; Ord. 2017-07-04; Ord. 2018-01-01)~~

~~ED. Governmental Coordination.~~

- ~~1. The county will shall coordinate the annual review process with each city and town. ~~the annual review processes. Annual reviews shall be established to occur within each jurisdiction at least once a year.~~~~
- ~~2. These coordinated annual reviews shall be subject to the criteria of this chapter and that of the applicable jurisdiction, and include the following:~~

- 1           ~~a. Each urban area annual review, including applications initiated by a city, shall must assess~~  
2           ~~the cumulative impacts of all potential or requested changes to the comprehensive plan map~~  
3           ~~and policies throughout the specific urban areas, as well as, to the countywide plan;~~  
4           ~~b. Proposals that would result in urban development outside of an adopted urban boundary~~  
5           ~~shall are not be permitted unless the boundary is amended; and~~  
6           ~~c. Cities, special districts, and the county shall cooperate to preserve and protect natural~~  
7           ~~resources, agricultural lands, open space, and recreational lands within and near the urban~~  
8           ~~areas.~~  
9           ~~3. Individual annual review applications may be submitted once a year to the applicable jurisdiction~~  
10           ~~based on a schedule adopted by that jurisdiction. To the extent possible, the same schedule~~  
11           ~~should be adopted by the county and each city/town for each urban area to facilitate mutual~~  
12           ~~review and assessment of the applicable criteria. The following procedure is recommended for~~  
13           ~~consideration of plan amendments or updates:~~  
14           ~~a. After November 30<sup>th</sup>, distribute copies of pre-application forms submitted by applicant to~~  
15           ~~affected city and agencies;~~  
16           ~~b. Between October 15<sup>th</sup> and December 31<sup>st</sup>, complete pre-application meetings with county~~  
17           ~~staff, applicants, and affected city and agencies in attendance;~~  
18           ~~c. Between January 1<sup>st</sup> and February 28<sup>th</sup>, distribute fully complete applications with any~~  
19           ~~additional information to affected jurisdictions to facilitate their review process;~~  
20           ~~d. In coordinating with the county, the cities shall submit written recommendations or additional~~  
21           ~~information to the county;~~  
22           ~~e. The county shall circulate initial review including SEPA determination and other pertinent~~  
23           ~~information to the affected city and agencies; and~~  
24           ~~f. The county shall schedule public hearings before planning commission followed by public~~  
25           ~~hearings before the board.~~

26  
27 (Amended: Ord. 2007-09-13; Ord. 2017-07-04; Ord. 2018-01-01)

28  
29 **FE.** Comprehensive Plan Map Changes – General.

30  
31 All plan map changes ~~shall~~ must be accomplished through the following:

- 32  
33 1. Changes approved by the county as a result of a comprehensive periodic review of the plan to be  
34 initiated by Clark County ~~at minimum seven (7) year intervals~~ pursuant to RCW 36.70A.130(5)(b);  
35  
36 2. Changes approved by the county in response to county initiated amendments, or property owner  
37 site-specific requests, not more than once per ~~calendar~~ year pursuant to RCW 36.70A.130(2)(a);  
38  
39 3. Out of cycle amendments, as authorized by RCW 36.70A.130(2), initiated and approved by the  
40 county at any time;  
41  
42 4. Applications for map changes and urban growth area boundary amendments ~~shall~~ must be  
43 consistent with the ~~comprehensive plan matrix table or~~ plan designation to zone consistency  
44 tables in Chapter 1 Land Use of the comprehensive plan and accompanied by concurrent rezone  
45 applications;  
46  
47 5. A county initiated proposal for siting major industrial facilities ~~and/or master-planned locations~~  
48 consistent with RCW 36.70A.365 ~~and RCW 36.70A.367~~, and processed if accompanied by a  
49 current property owner submitted rezone application;  
50  
51 6. The county shall assess the cumulative impacts of all proposed plan map changes prior to council  
52 taking action, ~~against the comprehensive plan, plan text, map, and relevant implementing~~  
53 ~~measures~~. Monitoring benchmarks may be used to assess impacts.

54  
55 (Amended: Ord. 2004-09-02; Ord. 2007-09-13; Ord. 2017-07-04; Ord. 2018-01-01)

1  
2 ~~E~~F. Criteria for All Map Changes.

3  
4 Map changes may only be approved if all of the following are met:

- 5  
6 1. The proponent shall demonstrate that the proposed amendment is consistent with the ~~Growth~~  
7 ~~Management Act and GMA~~ applicable requirements of the GMA and the WAC, the countywide  
8 planning policies, the community framework plan, the county comprehensive plan, the county  
9 code, city comprehensive plans, applicable capital facilities plans, and official population growth  
10 forecasts; and  
11  
12 2. The proponent shall demonstrate that the designation is in conformance with the appropriate  
13 locational criteria identified in the plan; and  
14  
15 3. The map amendment or site is suitable for the proposed designation, and there is a lack of  
16 appropriately designated alternative sites within the vicinity; and  
17  
18 4. The plan map amendment either: (a) responds to a substantial change in conditions applicable to  
19 the area within which the subject property lies; (b) better implements applicable comprehensive  
20 plan policies than the current map designation; or (c) corrects an obvious mapping error; and  
21  
22 5. Where applicable, the proponent shall demonstrate that the full range of urban public facilities and  
23 services can be adequately provided in an efficient and timely manner to serve the proposed  
24 designation. Such services may include water, sewage, storm drainage, transportation, fire  
25 protection, and schools. Adequacy of services applies only to the specific change site.  
26

27 (Amended: Ord. 2007-09-13; Ord. 2017-07-04; Ord. 2018-01-01)

28  
29 ~~H. Additional Criteria for Commercial Map Changes.~~

30  
31 ~~Amendments to the plan map for designation of additional commercial land or for changing the zoning~~  
32 ~~from one commercial district to another shall meet the following additional requirements:~~

- 33  
34 ~~1. A market analysis using the weighted block group centroid retrieval method shall be submitted~~  
35 ~~which verifies the need for the new commercial area or center; and~~  
36  
37 ~~2. A land use analysis of available commercially designated and zoned land in the market area of~~  
38 ~~the proposed site shall be submitted which demonstrates that the existing commercial land is~~  
39 ~~inadequate. The most recent vacant lands model must be used for the land use analysis.~~  
40

41 ~~(Amended: Ord. 2008-12-15; Ord. 2017-07-04; Ord. 2018-01-01)~~

42  
43  
44 ~~I~~G. Additional Criteria for Rural Map Changes.

- 45  
46 1. Natural Resource Land Designation  
47 ~~The proponent of an A~~ amendments to the plan map for ~~(a) changing a natural resource land~~  
48 ~~designation to either a smaller lot size natural resource land designation or to a rural designation,~~  
49 ~~or (b) creating or expanding a rural center,~~ shall demonstrate that all of the following criteria have  
50 been met:  
51 a. The amendment complies with applicable provisions of GMA and the WAC;  
52 ba. The requested change shall does not impact the character of the area to the extent that  
53 further plan map amendments will be warranted in future annual reviews; and  
54 b. The site does not meet the criteria for the existing resource plan designation; and  
55 c. The amendment shall meets the locational criteria for the requested designation.

2. Rural Centers.

- a. ~~The county shall consider and evaluate the expansion of, or change of land use within, a rural center shall be considered and evaluated by the county~~ through the annual review process under this chapter.
- b. ~~The county shall consider and evaluate the creation of a rural center shall be considered and evaluated by the county~~ through the docket process under this chapter.
- c. Before the county considers establishing a new rural center, the proponent(s) shall submit to the county a petition signed by at least sixty percent (60%) of the property owners of the land within the boundaries of the proposed new rural center.
- d. The proponent of an amendment to create or expand a rural center shall demonstrate that all of the following criteria have been met:
  - (1) The proposed rural center complies with the provisions of RCW 36.70A.070(5)(d); and
  - (2) The requested change does not impact the character of the area to the extent that further plan map amendments will be warranted in future annual reviews; and
  - (3) The site does not meet the criteria for the existing resource plan designation; and
  - (4) The amendment meets the locational criteria for the requested designation.

3. ~~Changes to the urban reserve overlay will only be considered~~ The county may consider changes to the urban reserve overlay only during a comprehensive plan periodic review and not on an annual basis.

(Amended: Ord. 2007-09-13; Ord. 2008-12-15; Ord. 2017-07-04; Ord. 2018-01-01)

JH. Additional Criteria for Rural Major Industrial Map Changes.

This section governs designations outside of UGAs for major industrial developments under RCW 36.70A.365 ~~and major industrial land banks under RCW 36.70A.367.~~

1. Application. ~~The county shall process an application for a rural industrial development sites designation pursuant to RCW 36.70A.365 as a Type IV legislative action pursuant to RCW 36.70A.365 or RCW 36.70A.367 require a comprehensive plan and zone change, and shall be processed as a Type IV process pursuant to Section 40.510.040 and this chapter.~~
2. Rural industrial designations ~~shall~~ require a minimum of one hundred (100) acres and a maximum of seven hundred (700) acres in size, and ~~shall be~~ are designated as follows:
  - a. Comprehensive Plan.
    - (1) Major industrial developments (light industrial).
    - (2) Major industrial land banks (light industrial).
  - b. Zoning.
    - (1) Major industrial developments (IL).
    - (2) Major industrial land banks (IL).
3. Process. Prior to formally proposing a designation under this section, the county shall:
  - a. Undertake an inventory of available urban industrial land;
  - b. Consult with affected city(ies) regarding a proposed designation;
  - c. Make a preliminary assessment that the applicable statutory criteria are met and that the proposed location is superior to other potential rural sites;
  - d. Negotiate an appropriate or statutorily required interlocal agreement with affected city(ies); and
  - e. Complete a master plan for the development site as required pursuant to Section 40.520.075.
4. Approval Criteria.

- 1 a. In addition to the other applicable designation criteria under this chapter, major industrial  
2 developments or major industrial land banks may only be approved upon a finding that the  
3 requirement and criteria of RCW 36.70A.365 ~~or RCW 36.70A.367~~, respectively, are met.  
4 b. ~~Concomitant Rezone-Development Agreement. No designation under this section may shall~~  
5 ~~be approved unless accompanied by a concomitant rezone agreement (or development~~  
6 ~~agreement) pursuant to RCW 36.70B.170 and Section 40.350.020 which at a minimum~~  
7 ~~assures compliance with statutory requirements and criteria, including the limitations on~~  
8 ~~nonindustrial uses in RCW 36.70A.367(2)(k) for a major industrial land bank.~~  
9
- 10 5. Adjacent Non-Urban Areas. A designation under this section ~~shall~~ does not permit urban growth  
11 in adjacent non-urban areas.

12  
13 (Amended: Ord. 2004-09-02; Ord. 2007-09-13; Ord. 2008-12-15; Ord. 2012-12-14; Ord. 2014-12-16; Ord.  
14 2017-07-04; Ord. 2018-01-01)

15 ~~K~~. Additional Required Criteria Specific to Urban Holding Map Changes.

- 16  
17  
18 1. Plan map and rezone amendments proposing to remove the urban holding designation must be  
19 processed through a Type IV process initiated by the county and be consistent with the  
20 procedures and criteria identified in Chapter 14 of the comprehensive plan, Procedural  
21 Guidelines.  
22  
23 2. All development agreements are subject to Chapter 40.350.

24  
25 ~~Rezones/Zone Changes.~~

26  
27 ~~Rezone applications considered with a plan map amendment request shall be reviewed consistent~~  
28 ~~with the plan matrix table and according to the procedures and timing specifications for plan map~~  
29 ~~amendment specified in this section and shall comply with Section 40.560.020 and Chapter 40.510.~~  
30 ~~Rezone applications proposing a change from urban holding to an urban zoning district that is~~  
31 ~~consistent with the comprehensive plan map designation shall be processed through a Type IV~~  
32 ~~process initiated by the county and consistent with the procedures and criteria identified in the special~~  
33 ~~implementation procedures section in Chapter 13 of the comprehensive plan. See also Section~~  
34 ~~40.560.020(G).~~

35  
36 ~~(Amended: Ord. 2007-09-13; Ord. 2008-06-02; Ord. 2008-12-15; Ord. 2018-01-01)~~

37  
38 ~~L. Mixed Use Designation Zone Change Requests.~~

39  
40 ~~The purpose of this section is to establish the requirements and procedures for the review and~~  
41 ~~approval of rezone application(s) under the comprehensive plan mixed use designation. It is also~~  
42 ~~intended that this section be utilized to implement pertinent county policies relating to mixed use~~  
43 ~~development in a manner compatible with the comprehensive plan policies.~~

44  
45 ~~1. Action Required.~~

- 46 ~~a. Applications for zone changes shall be reviewed through a Type III procedure in the same~~  
47 ~~manner and with the same public notice procedure as is required for any other change of~~  
48 ~~zoning.~~  
49 ~~b. If a contiguous land area is proposed to be added to an existing mixed use designation, the~~  
50 ~~application shall be subject to the plan change procedural ordinance and applicable criteria.~~

51  
52 ~~2. Criteria. Before an area designated mixed use (MX) on the comprehensive plan is rezoned, the~~  
53 ~~applicant shall demonstrate that:~~

- 54 ~~a. The request is consistent with the plan policies and locational criteria and the purpose~~  
55 ~~statement of the requested zoning district;~~

- ~~b. Requested zone change is consistent with the plan designation to zoning matrix table;~~
- ~~c. The uses to be permitted and the development standard to be applied in the proposed district will promote the goals of the comprehensive plan and other applicable policies adopted by the county, particularly the mixed use policies in Chapters 1, 2, 5, 9 and 10 of the comprehensive plan;~~
- ~~d. The proposed rezone and development would be integrated in a manner that provides opportunities to combine residential, commercial or other uses within individual structures, or within adjacent structures or adjacent properties;~~
- ~~e. The proposed zone is the most appropriate, taking into consideration the purposes of each zone, the zoning pattern of surrounding land and the policies and intent of the mixed use plan designation;~~
- ~~f. The requested zone change shall meet the standards for the MX zoning district; and~~
- ~~g. Public services are demonstrated to be capable of supporting the uses allowed by the zone, or will be capable by the time development is complete.~~

~~(Amended: Ord. 2004-09-02; Ord. 2007-09-13; Ord. 2008-12-15; Ord. 2018-01-01)~~

**MJ.** Additional Required Criteria Specific to Urban Growth Area (UGA) Boundary Map Changes.

1. The county shall adopt countywide growth targets, and regional sub-allocations, and shall map corresponding UGA boundaries and designations as follows:
  - a. Adopt countywide twenty (20) year target population and employment levels consistent with official State of Washington Office of Financial Management (OFM) population growth forecasts ranges; and
  - b. Officially sub-allocate the adopted countywide population and employment targets to urban growth areas associated with each incorporated municipality in the county, and to the remaining rural area; and
  - c. Adopt urban growth area boundaries and comprehensive plan land use designations, which are consistent in their sizes and designations, with the official sub-allocation for each UGA and the rural area.
2. To allow for a comprehensive review and assessment of cumulative impacts, the county shall initiate all UGA boundary review proposals shall be initiated by the county as part of a periodic review and update of the plan.
3. ~~To expand the UGA, the county shall~~ Any expansion to the UGA shall be accompanied by a demonstration demonstrate that necessary urban services can and will be provided within ten (10) years' time. ~~Such a~~ This demonstration shall must include a need analysis estimating what urban services will be required, both in the expansion area and elsewhere in the county, and estimates as to when such services will be needed. ~~Service providers shall submit~~ written documentation shall be provided from service providers indicating when, how, at what cost, and from which funding sources, service will be provided.
4. ~~The extent of a~~ An UGA boundary expansion shall must that necessary to provide a minimum ten (10) and a maximum twenty (20) year supply of vacant and buildable lands within the UGA. The calculation of supply shall must be based on population growth projections within the UGA, where such projections are consistent with adopted countywide growth targets and regional sub-allocations. If necessary, the county may adjust countywide growth targets and regional sub-allocations; provided, that they are consistent with official OFM forecasts.
5. In evaluating potential changes to a particular UGA boundary, the county shall consider countywide implications for other UGAs and their sub-allocations.

~~6. The amendment shall address the assumptions, trends, key indicators, and performance measures established in the land use element, Chapter 1, of the comprehensive plan.~~

~~7-6. The amendment does not include lands that are designated as natural resource (agricultural, forest, mineral resource) unless such lands are also designated with an urban reserve or industrial urban reserve overlay. are de-designated pursuant to Chapter 36.70A RCW and Chapter 365-190 WAC.~~

~~8. The amendment only indicates lands within the urban reserve area.~~

~~9-7. The county shall exercise its best efforts to coordinate UGA boundary change proposals with the affected city(ies), including the preparation of joint staff recommendations, where possible. Unless waived by the affected city(ies), the county shall give those such city(ies) shall be given at least sixty (60) days' notice of the proposal prior to a county hearing thereon.~~

~~10-8. Except as provided for in RCW 36.70A.110(8), the county may not expansion of an urban growth area expand a UGA) is prohibited into the one hundred (100) year floodplain of a river segment when the river has a mean annual flow of one thousand (1,000) or more cubic feet per second.~~

~~11-9. The following shall not apply to Sections 40.560.010(M)(1) through (10) 40.560.010(J)(1) through 40.560.010(J)(8) do not apply to:~~

- ~~a. Correction of technical obvious mapping errors involving a small area or few properties;~~
- ~~b. An order from a court of competent jurisdiction or as a result of a Growth Management Hearings Board remand.~~

(Amended: Ord. 2006-09-13; Ord. 2007-09-13; Ord. 2008-12-15; Ord. 2016-06-12; Ord. 2018-01-01)

~~NK.~~ Comprehensive Plan Policy or Text Changes.

1. Action and Required Timing. Plan policy or text changes ~~shall must~~ be accomplished ~~through the changes as actions~~ initiated and approved by the county. These changes may occur as part of the periodic review update to occur consistent with RCW 36.70A.130, or as part of annual changes to the plan once per calendar year, or, subject to applicable provisions of this chapter, as part of interim or emergency amendments, which may be brought forward at any time, ~~subject to applicable provisions of this chapter.~~

2. Required Criteria. ~~The county may approve a P~~ plan text or policy changes ~~may be approved~~ only when ~~all of the following are met:~~ a. The amendment ~~shall meet~~ complies and is consistent with all the applicable requirements of and be consistent with the Growth Management Act GMA and WAC, and other requirements the countywide planning policies, the community framework plan, the comprehensive plan including without limitation countywide planning policies, the community framework plan, local comprehensive plans, applicable and the capital facilities plans, and official population growth forecasts.

~~b. The amendment, when applicable, shall address the assumptions, trends, key indicators, and performance measures established in the land use element, Chapter 1 Land Use of the comprehensive plan.~~

~~c. The county shall assess the cumulative impacts of all plan policy or text changes against the comprehensive plan, plan text, map, and relevant implementing measures.~~

(Amended: Ord. 2007-09-13; Ord. 2008-12-15; Ord. 2018-01-01)

~~OL.~~ Arterial Atlas Amendments.



- 1 1. Action Required. ~~The county shall initiate and may approve all~~ Arterial Atlas amendments ~~shall be~~  
2 ~~accomplished through the changes initiated and approved by the county.~~ These changes may  
3 occur as part of the periodic review update to occur consistent with RCW 36.70A.130, or as part  
4 of annual changes to the plan once per calendar year, or as part of emergency amendments  
5 which may be brought forward at any time, subject to applicable provisions of this chapter.  
6
- 7 2. Required Criteria. Arterial Atlas amendments may be approved only when all of the following are  
8 met:  
9 a. There is a need for the proposed change;  
10 b. The proposed change ~~is compliant~~ complies with the ~~Growth Management Act GMA~~;  
11 c. The proposed change is consistent with the adopted comprehensive plan, including the land  
12 use plan and the rest of the Arterial Atlas;  
13 d. The proposed change is consistent with applicable interlocal agreements; and  
14 e. The proposed change does not conflict with the adopted Metropolitan Transportation Plan.  
15

16 (Amended: Ord. 2007-09-13; Ord. 2008-12-15; Ord. 2018-01-01)

17 **PM.** Other Plan Amendment Categories.

18 The county shall review:

- 19  
20  
21  
22 1. Capital facilities plan and updates ~~shall be reviewed~~ at a minimum every four (4) years in Type IV  
23 public hearings for those facilities subject to county jurisdiction. In updating capital facilities plans,  
24 policies, and procedures, the county must determine that these updates are consistent with  
25 applicable provisions of the GMA and WAC, and policies and implementation measures of the  
26 comprehensive plan, and in conformance with the purposes and intent of the applicable  
27 interjurisdictional agreements.  
28
- 29 2. School capital facility plans and updates ~~shall be reviewed~~ at least every four (4) years in Type IV  
30 public hearings for those facilities subject to county jurisdiction.  
31
- 32 3. The Clark County ~~pParks, rRecreation, and eOpen sSpace pPlan shall be reviewed~~ at least every  
33 four (4) years. ~~the Clark County Parks Advisory Board and the board Council. Any~~  
34 ~~amendments thereto which necessitate changes to the comprehensive plan shall be reviewed in~~  
35 ~~public hearings by the planning commission and the board Council.~~  
36
- 37 ~~4. In updating capital facilities plans, policies, and procedures, the county must determine that these~~  
38 ~~updates are consistent with applicable policies and implomentation measures of the~~  
39 ~~comprehensive plan, and in conformance with the purposes and intent of the applicable~~  
40 ~~interjurisdictional agreements.~~  
41
- 42
- 43 4. Changes to the shoreline master program (SMP) shall be limited to may occur only once a year,  
44 following the plan map procedures schedule in Section 40.560.010.D. 40.560.040. Any  
45 amendments thereto shall be viewed as a are limited amendments consistent with WAC 173-26-  
46 201(1)(c), and shall must be processed as a Type IV applications pursuant to Section  
47 40.510.040.  
48
- 49 5. The six (6) year Transportation Improvement Plan shall be reviewed and adopted annually per  
50 RCW 36.81.121 and WAC 136-15-050.  
51

52 (Amended: Ord. 2007-09-13; Ord. 2008-12-15; Ord. 2010-12-12; Ord. 2016-06-12; Ord. 2016-09-04; Ord.  
53 2018-01-01)

54 **Q.** ~~Out of Cycle Amendments.~~  
55

- ~~1. Revisions to the comprehensive plan may be considered more frequently than once per year under the following circumstances:
  - ~~a. Emergency in which a delay in action would result in a significant public harm;~~
  - ~~b. The initial adoption of a subarea plan that does not modify the comprehensive plan policies and designations applicable to the subarea;~~
  - ~~c. The adoption or amendment of a shoreline master program;~~
  - ~~d. To resolve an appeal of a comprehensive plan filed with a Growth Management Hearings Board or from a court of competent jurisdiction; and~~
  - ~~e. Siting of major industrial developments and/or master planned locations outside UCAs consistent with the requirements of RCW 36.70A.365 and 36.70A.367.~~~~
- ~~2. Plan amendments reviewed under these conditions shall be considered legislative actions, subject to Type IV procedures of Section 40.510.040.~~
- ~~3. All amendments shall be considered subject to the review criteria established in this chapter.~~

(Amended: Ord. 2004-09-02; Ord. 2007-09-13; Ord. 2008-12-15; Ord. 2018-01-01)

~~R-N.~~ Siting of State and Regional Public Facilities of a Countywide or Statewide Nature.

The county shall consider ~~P~~plan amendments to implement the policies of the comprehensive plan regarding proposals for siting essential public facilities such as airports, state educational facilities, and other institutions necessary to support community development. ~~may be considered~~ as follows:

1. Government facilities may be established as provided in other land use districts through the procedures specified in the applicable district without plan amendment.
2. Application for siting of public facilities may be approved if criteria, as noted herein, are met. In cooperation with other jurisdictions, the county shall ensure the following:
  - ~~a. The county shall in In cooperation with other jurisdictions ensure that siting~~ Siting of regional facilities is consistent with all elements of the adopted county comprehensive plan, local city plan and other supporting documents;
  - b. The proposed project complies with all applicable provisions of the comprehensive plan, including countywide planning policies;
  - c. The proposal for siting of a public facility contains interjurisdictional analysis and financial analysis to determine financial impact, and applicable intergovernmental agreement;
  - d. Needed infrastructure is provided ~~for~~;
  - e. Provision is made to mitigate adverse impacts on adjacent land uses;
  - f. The plan for the public facilities development is consistent with the county's development regulations established for protection of critical areas; and
  - g. Development agreements or regulations are established to ensure that urban growth will not occur if located adjacent to non-urban areas.

(Amended: Ord. 2007-09-13; Ord. 2008-12-15; Ord. 2018-01-01)

~~S-O.~~ Additional Criteria for Surface Mining Overlay Changes.

- ~~1. Designation of~~ The county may ~~shall~~ designate additional areas with the surface mining overlay only ~~occur~~ if:
  - a. The designation criteria in the comprehensive plan have been met;
  - b. The quantity and characteristics of the resource, including the size of the deposit, the depth of overburden, the distance to market, ~~and~~ the cost of transport, and resource availability in the region, suggest that mining is economically viable; and

1 c. At least sixty percent (60%) of the area within one thousand (1,000) feet of the proposed  
2 mineral resource land is characterized by parcels of five (5) acres or larger.

- 3  
4 2. ~~The county may remove~~ ~~Removal of~~ the surface mining overlay ~~shall only occur~~ if at least one (1)  
5 of the following conditions is met:  
6 a. The mineral resources have been depleted;  
7 b. There is evidence that the mining of the mineral resource is not economically feasible based  
8 on the factors listed in Section ~~40.560.010(S)(1)(b)~~ 40.560.010(O)(1)(b);  
9 c. Environmental or access constraints make it impractical to mine the resource; or  
10 d. The area has been brought into an urban growth boundary or adjacent land uses or  
11 developments are incompatible with mineral extraction.

12  
13 (Added: Ord. 2014-12-06; Ord. 2018-01-01)

14  
15 ~~P.~~ P. Cumulative Impact.

16  
17 In reviewing all prospective comprehensive plan changes, the county shall analyze and assess the  
18 following to the extent possible:

- 19  
20 1. The cumulative impacts of all plan map changes on the overall adopted plan, plan map, and  
21 relevant implementing measures, and adopted environmental policies;  
22  
23 2. The cumulative land use environmental impacts of all applications on the applicable local  
24 geographic area and adopted capital facilities plans; and  
25  
26 3. Where adverse impacts are identified, the county may require mitigation. Conditions which assure  
27 that identified impacts are adequately mitigated may be proposed ~~by the applicant~~ and, if  
28 determined to be adequate, imposed by the county as a part of the approval action.

29  
30 (Amended: Ord. 2007-09-13; Ord. 2008-12-15; Ord. 2014-12-06; Ord. 2018-01-01)

31  
32 ~~Q.~~ Q. Fees.

33  
34 ~~Application fees for all comprehensive plan and zone changes shall be considered as follows:~~

- 35  
36 1. ~~Filing fees for all plan amendments and zone changes shall be considered~~ are subject to the  
37 provisions of Chapter 6.110A.010 and Chapter 6.110A.015  
38  
39 ~~2. If multiple similar applications are received in a year, fees set in Section 40.570.100(B) may be~~  
40 ~~adjusted downward by the responsible official to reflect actual cost.~~

41  
42 (Amended: Ord. 2004-09-02; Ord. 2007-09-13; Ord. 2008-12-15; Ord. 2014-12-06; Ord. 2018-01-01)

43  
44 **40.560.020 Changes to Zoning Districts, and Code Amendments, ~~Alterations~~**

45  
46 A. Procedure, General. ~~The UDC~~ The county may amend zoning districts and the Clark County Unified  
47 Development Code (Title 40 CCC) ~~may be amended in any of the~~ as follows following ways:

- 48  
49 1. ~~By changing the boundaries of zoning districts~~ A zone change must occur through a the Type III  
50 ~~map amendment~~ process (rezone) where the proposed zoning is consistent with the current  
51 comprehensive plan map designation;  
52  
53 2. A comprehensive plan map and zone change must occur through a Type IV process ~~By~~  
54 ~~changing the boundaries of districts through a Type IV comprehensive plan map and zoning map~~  
55 ~~amendment~~ pursuant to Section 40.560.010; ~~or~~

- 1  
2 3. ~~By changing code~~ A code amendment must occur ~~text~~ through a Type IV ~~text amendment,~~  
3 ~~process that includes Planning Commission review. whenever the public health, safety and~~  
4 ~~general welfare requires such an amendment. Such a change may be proposed by the board on~~  
5 ~~its own motion or by motion of the planning commission, or by petition as hereinafter set forth.~~  
6 ~~Any such proposed amendment or change shall first be submitted to the planning commission~~  
7 ~~and it shall, within ninety (90) days after a hearing, recommend to the board approval,~~  
8 ~~disapproval or modification of the proposed amendment.~~

9  
10 (Amended: Ord. 2007-09-13)

11  
12 B. Application. Type III Map Amendments. Type III map amendments ~~shall~~ must follow the Type III  
13 application procedures described in Section 40.510.030.

- 14  
15 ~~2. An application for amendment by a property owner or his authorized agent shall be filed with the~~  
16 ~~responsible official. The application shall be made on forms provided by the county, accompanied~~  
17 ~~by a site plan drawn to scale showing the property involved and adjacent land. A fee shall be paid~~  
18 ~~to the county at the time of filing the application in accordance with the provisions of the county~~  
19 ~~fee schedule.~~

20  
21 (Amended: Ord. 2007-09-13)

22  
23 C. Public Hearings.

- 24  
25 1. Type III Map Amendments. Type III map amendments ~~shall~~ must follow the Type III public hearing  
26 procedures described in Section 40.510.030.

27  
28 2. Type IV Text Amendments.

- 29 a. Before taking final action on a proposed amendment, the planning commission shall hold a  
30 public hearing thereon. After receipt of the report on the amendment from the planning  
31 commission, ~~the board~~ Council shall hold a public hearing on the amendment. The planning  
32 commission shall hold ~~Public hearings by the planning commission shall be held~~ in  
33 accordance with the provisions of Section 40.510.040.
- 34 b. Resubmittal. In a case where a ~~petition request~~ request for an amendment is denied by ~~the board~~  
35 Council, ~~said petition~~ the request shall not be eligible for resubmittal for one (1) year from the  
36 effective date of ~~said denial, unless such denial was specifically stated to be without~~  
37 ~~prejudice. A new petition affecting the same property must be, in the opinion of the planning~~  
38 ~~commission and the board, substantially different from the petition denied to be eligible for~~  
39 ~~consideration within one (1) year from the date of said denial, unless the first denial was~~  
40 ~~denied without prejudice, or the planning commission finds that conditions have changed to~~  
41 ~~an extent that further consideration is warranted.~~

42 (Amended: Ord. 2007-09-13)

43  
44 D. Record of Amendments.

45  
46 ~~The signed copy of each amendment to the text and map of this title shall be maintained on file in the~~  
47 ~~office of the responsible official. The responsible official shall maintain on file a signed copy of each~~  
48 amendment to the text of the comprehensive plan and code and to the comprehensive plan and  
49 zoning maps.

50  
51 (Amended: Ord. 2007-09-13)

52  
53 ~~E. Rezone Agreements.~~

54

1 ~~1. The purpose of this subsection is to allow for the implementation of the comprehensive plan~~  
2 ~~policies relating to future commercial centers and industrial developments, as appropriate. If, from~~  
3 ~~the facts presented, and the findings, report and recommendations of the planning commission as~~  
4 ~~required by this section thereof, the board determines that the public health, safety and general~~  
5 ~~welfare will be best served by a proposed change of zone, the board may indicate its general~~  
6 ~~approval, in principle, of the proposed rezoning by the adoption of a "resolution of intent to~~  
7 ~~rezone" the area involved. This resolution shall include any conditions, stipulations or limitations~~  
8 ~~which the board may feel necessary to require in the public interest as a prerequisite to final~~  
9 ~~action. The fulfillment of all conditions, stipulations and limitations contained in said resolution, on~~  
10 ~~the part of the applicant, shall make such a resolution a binding commitment on the board. Such~~  
11 ~~a resolution shall not be used to justify spot zoning, to create unauthorized zoning categories by~~  
12 ~~excluding uses otherwise permitted in the proposed zoning, or by imposing setback, area or lot~~  
13 ~~coverage restrictions not specified in the code for the zoning classification, or as a substitute for a~~  
14 ~~variance. Upon completion of compliance action by the applicant, the board shall, by ordinance,~~  
15 ~~effect such rezoning. The failure of the applicant to meet any or all conditions, stipulations or~~  
16 ~~limitations contained in the resolution, including the time limit placed in the resolution, shall render~~  
17 ~~the resolution of intent to rezone null and void, unless an extension is granted by the board upon~~  
18 ~~recommendation of the planning commission. Generally, the time limitation shall be one (1) year.~~  
19 ~~the board may grant up to five (5) one (1) year extensions, after which the resolution shall be null~~  
20 ~~and void if all conditions, stipulations and limitations have not been met by the applicant.~~

21  
22 ~~2. Concomitant Rezone Agreements.~~

23 ~~a. Purpose. The purpose of this subsection is to explicitly provide for the use of agreements~~  
24 ~~concomitant to rezone approvals. The agreement may call for performance by the applicant~~  
25 ~~which is directly related to public needs which may be expected to result from the proposed~~  
26 ~~usage of the property. The performance called for will mitigate the public burden in meeting~~  
27 ~~those resulting needs by placing it more directly on the party whose property use will give rise~~  
28 ~~to such needs. The agreement shall generally be in the form of a covenant running with the~~  
29 ~~land. The provisions of the agreement shall be in addition to all other pertinent Clark County~~  
30 ~~Code requirements.~~

31 ~~b. Applicability. This agreement process will not generally be used for rezones to R1-6, R1-7.5,~~  
32 ~~R1-10 or R1-20. It may, however, be used for any situation where extraordinary potential~~  
33 ~~adverse impacts from a proposed rezone may be neutralized by the agreement. The~~  
34 ~~agreement process may be employed for rezones in sensitive geographic areas such as~~  
35 ~~critical transportation corridors. The agreement process will generally be used for rezones to~~  
36 ~~commercial, industrial, and non-single family residential not specifically identified by the~~  
37 ~~comprehensive plan map. Airport zoning shall also generally be by concomitant rezone~~  
38 ~~agreement. The intent is that concomitant rezone agreements shall only be used when~~  
39 ~~normal review and approval procedures are not adequate to resolve the specific issues~~  
40 ~~involved in the rezone proposal.~~

41 ~~c. Mitigating Measures. The agreement may include mitigating measures such as:~~

42 ~~(1) Access control;~~

43 ~~(2) Landscaping, screening, buffering;~~

44 ~~(3) Improvements to public services including drainage, sewer, water and roads;~~

45 ~~(4) Lot coverage, dimension;~~

46 ~~(5) Phasing of development.~~

47 ~~d. Concept Plan. A concept plan may be required. When required, the concept plan shall be~~  
48 ~~drawn to a one (1) inch to one hundred (100) foot scale and include:~~

49 ~~(1) General location of structures;~~

50 ~~(2) Location and number of access points;~~

51 ~~(3) Approximate gross floor area of structures;~~

52 ~~(4) Name of the proposal;~~

53 ~~(5) Identification of areas requiring special treatment due to their sensitive nature;~~

54 ~~(6) North directional arrow; and~~

55 ~~(7) Names and location of all public streets or roads bordering the site.~~

- ~~e. Application Procedure. The applicant may propose an agreement concomitant to rezone approval at the time of or after a pre-application conference with the responsible official. The proposed agreement shall include any proposed mitigating measures and concept plan as provided for by Sections 40.560.020(E)(2)(c) and (d). In cases where a specific project is to be considered in conjunction with a rezone request, the responsible official shall review the site plan.~~
- ~~f. Modifications. Modifications which are minor and without major impact may be approved by the board or its duly authorized representative, administratively and without public hearing. Any other modifications shall only be approved after the same procedure applicable to all rezones has been followed, including a public hearing.~~
- ~~g. Enforcement. The agreement shall provide for appropriate enforcement mechanisms and performance guarantees.~~

(Amended: Ord. 2007-09-13)

~~EE.~~ Release of Concomitant Rezone Agreements.

1. Upon petition by the property owner, a concomitant rezone covenant may be fully or partially released, or modified, by the hearing examiner County Council following a public hearing with notice as prescribed by Section ~~40.510.030~~ 40.510.040.E and in accordance with the criteria set forth in this section; provided, that if no development has occurred pursuant to a covenant entered into prior to ~~July 1, 1980~~ January 1, 1995, such covenant may be fully released and the property subjected to all applicable standards and provisions of the current zoning ordinance by the ~~board~~ County Council at a public meeting if it appears that no substantive issues are raised under the following criteria.
2. In considering requests for release or modification of concomitant rezone covenants, the review authority shall consider the following:
  - a. In the case of full covenant release, whether development of the site would be consistent with current zoning regulations and comprehensive plan recommendations; and
  - b. In the case of either full or partial covenant release or covenant modification, whether adequate public/private services are available to support development of the site; and
  - c. In the case of either full or partial covenant release or covenant modification, whether the requested action would unreasonably impact development undertaken on nearby properties in reliance upon the covenant commitments; and
  - d. In the case of partial covenant release or covenant modifications, whether future development under current zoning will be consistent with existing and planned development.

(Amended: Ord. 2007-09-13)

~~EF.~~ Approval Criteria.

Zone changes may be approved only when all of the following are met:

1. Requested zone change is consistent with the comprehensive plan map designation.
2. The requested zone change is consistent with the plan policies and locational criteria and the purpose statement of the zoning district.
3. The zone change either:
  - a. Responds to a substantial change in conditions applicable to the area within which the subject property lies;
  - b. Better implements applicable comprehensive plan policies than the current map designation; or
  - c. Corrects an obvious mapping error.

- 1  
2 4. There are adequate public facilities and services to serve the requested zone change.  
3

4 (Amended: Ord. 2008-06-02)  
5  
6

7 **40.560.030 Amendments Docket**  
8

9 A. ~~Statutory Authority~~ Purpose.  
10

- 11 1. This section is enacted pursuant to RCW 36.70A.470.  
12  
13 2. It is the purpose of this section to:  
14 a. Provide a means by which the county will docket identified deficiencies in plans or regulations  
15 and ensure their considerations for possible future plan or development regulation  
16 amendments; and  
17 b. Promote orderly growth and development by providing for suggested improvements in  
18 comprehensive plans and development regulations submitted by interested persons, hearing  
19 examiners and staff of other agencies.  
20

21 B. Definitions.  
22

23 For the purposes of this section, the following definitions apply:  
24

Deficiency	"Deficiency" means the absence of required or potentially desirable contents of a comprehensive plan or development regulation.
Development regulations	"Development regulations" means the control placed on development or land use activities by county legislation.
Docket	"Docket" means a list of suggested changes to the comprehensive plan or development regulations that the responsible official compiles and maintains for consideration by Council.

25  
26 C. Method of Review.  
27

28 The responsible official shall maintain a docket that ~~shall be~~ is kept in a manner to ensure that  
29 suggested changes will be considered by the county and will be available for review by the public.  
30 The following ~~shall be~~ are the procedures for considering all suggested changes:  
31

- 32 1. Suggested plan or development regulation amendments may be submitted in writing to the  
33 responsible official.  
34  
35 2. Any plan map changes initiated through this section ~~shall~~ must be processed in accordance with  
36 Section 40.560.010 and relevant county code and plan provisions.  
37  
38 3. Requests for map or text amendments to the comprehensive plan or implementing development  
39 regulations received by the county prior to September 1st will be considered in conjunction with  
40 the adoption of following year's work program.  
41  
42 4. The compiled list of suggested changes ~~shall~~ must be:  
43 a. Available for public review and comment; and  
44 b. Forwarded to affected city and other agencies for comment.  
45

- 1 5. Based on the comments and staff evaluation, the responsible official shall at least on an annual  
2 basis review the docket, and any comments thereon, and shall recommend in the annual work  
3 program items to be included for future plan or development regulation amendments.  
4
- 5 6. Placement of an item on the docket does not establish the right to have that matter considered  
6 beyond what is provided in this section.  
7

8 **D. ~~Board~~ Council Determination.**

9  
10 ~~The board~~ Council shall review the recommendation of the responsible official at a work session for  
11 the following year's work program and determine which of the proposed amendments and revisions  
12 should be:  
13

- 14 1. Rejected;
- 15 2. Included in the following year's work program; or
- 16 3. Placed on a future work program.  
17  
18  
19  
20

21 **40.560.040 Annual Review Process.**

22  
23 **A. Annual Review Timeline and Submittal Requirements.**

- 24  
25 1. Site-specific plan map amendments (annual reviews) requested by property owners pursuant to  
26 RCW 36.70A.130(2) are legislative actions, subject to Type IV process Section 40.510.040.  
27
- 28 2. An applicant proposing a site-specific plan map amendment shall submit the following:
  - 29 a. Between October 1st and November 30th, a pre-application form containing all of the  
30 following information:
    - 31 (1) The pre-application fee pursuant to Chapter 6.110A.015;
    - 32 (2) Application form signed by the owner(s) of record;
    - 33 (3) Description of request;
    - 34 (4) GIS packet;
    - 35 (5) Related or previous permit applications and approvals; and
    - 36 (6) A statement on how the plan/zone change request is consistent with all of the applicable  
37 policies and criteria in the comprehensive plan and this chapter.
  - 38 b. Between October 15th and December 31<sup>st</sup>, county staff and the applicant shall complete pre-  
39 application meetings.
  - 40 c. Between January 1st and January 31st, the applicant shall submit an application form  
41 containing all of the following, including the information required by Section 40.560.040(D):
    - 42 (1) The applicable comprehensive plan and rezone application fees;
    - 43 (2) SEPA checklist and applicable fee;
    - 44 (3) Copy of deed, real estate contract or earnest money agreement;
    - 45 (4) A full analysis of how the plan/zone change request is consistent with the applicable  
46 policies and criteria in the comprehensive plan and this chapter;
    - 47 (5) A market analysis is required for amendments to add or remove land with a commercial  
48 designation;
    - 49 (6) A transportation analysis. A transportation analysis may be waived by the Public Works  
50 Director as provided by Section 40.350.020(D)(8); and
    - 51 (7) Any additional information the applicant believes is necessary to justify the amendment.
  - 52 d. The responsible official shall determine if the application is fully complete as required by  
53 Section 40.560.040(D). Once the application has been determined to be fully complete, the  
54 responsible official shall complete the actions in Section 40.560.040(E).



- e. The above process and timeline is intended as a guideline. Actual processing time may depend upon the number of applications and activity level at the time of formal applications.
  - f. If the applicant has not supplied the required information by March 15th, the responsible official shall inform the property owner and their representative in writing that no further consideration will be given to the request for this annual review cycle.
  - g. The responsible official shall schedule a public hearing before the planning commission subsequent to a fully complete determination.
  - h. The responsible official shall schedule a public hearing before Council and forward to Council the planning commission recommendation.
  - i. At the conclusion of Council hearings on the annual review cycle, Council will adopt a single ordinance disposing of all annual reviews.
3. Burden of Proof. The proponent bears the burden of proving compliance with the criteria for plan amendments.
  4. The County may not accept annual review applications for properties within an urban growth boundary which are in the process of being annexed.

(Amended: Ord. 2007-09-13; Ord. 2007-11-13; Ord. 2017-07-04; Ord. 2018-01-01)

#### B. Pre-Application Review.

1. The purposes of pre-application review are:
  - a. To acquaint county staff with a sufficient level of detail about the proposed development to enable staff to advise the applicant accordingly;
  - b. To acquaint the applicant with the applicable requirements of this code and other law. However, the pre-application conference is not intended to provide an exhaustive review of all the potential issues that a given application could raise. The pre-application review does not prevent the county from applying all relevant laws to the application; and
  - c. To provide an opportunity for other agency staff and the public to be acquainted with the proposed application and applicable law. Although members of the public may attend a pre-application conference, it is not a public hearing, and there is no obligation to receive public testimony or evidence.
2. Pre-application review is required for all applications for annual review.
3. To initiate pre-application review, an applicant shall submit a completed development application form provided by the responsible official for that purpose, the required fee, and all information required by the relevant section(s) of this code. The applicant must provide the required number of copies of all information as determined by the responsible official.
4. Information not provided on the development application form must be provided on attachments to the form. The responsible official may modify requirements for pre-application materials and may conduct a pre-application review with less than all of the required information. However, the applicant's failure to provide all of the required information may prevent the responsible official from identifying all concerns and issues or providing the most effective pre-application review. Review for completeness will not be conducted by staff at the time of submittal; completeness is the responsibility of the applicant.
5. Within fifteen (15) calendar days after receipt of an application for pre-application review, the responsible official shall provide written notice to the applicant, the applicant's representative, and to other interested agencies and parties, including the school district and neighborhood association in whose area the property in question is situated. The responsible official shall post notice of the pre-application conference to the Clark County planning department webpages. The notice shall state the date, time and location of the pre-application conference, the purposes of pre-application review, and the nature of the conference.

- 1       6. The responsible official shall coordinate the involvement of agency staff responsible for planning,  
2       roads, drainage, parks, schools, and other subjects, as appropriate, in the pre-application review  
3       process. Relevant staff shall attend the pre-application conference or shall take other steps to  
4       fulfill the purposes of pre-application review.  
5
- 6       7. The responsible official shall schedule a pre-application conference at least five (5) calendar days  
7       after the notice is sent out but not more than twenty-eight (28) calendar days after the responsible  
8       official accepts the application for pre-application review. The responsible official shall reschedule  
9       the conference and give new notice if the applicant or applicant's representative cannot attend  
10       the conference when scheduled.  
11
- 12       8. Within seven (7) calendar days after the date of the pre-application conference, the responsible  
13       official shall provide a written summary of the pre-application review to the applicant, and other  
14       parties who sign a register provided for such purpose at the pre-application conference or who  
15       otherwise request it in writing. The summary will be e-mailed to the applicant and other parties,  
16       unless they request that it be mailed. The written summary must do the following to the extent  
17       possible given the information provided by the applicant:
  - 18       a. Summarize the proposed application(s);
  - 19       b. Identify the relevant approval criteria and development standards in this code or other  
20       applicable law and exceptions, adjustments or other variations from applicable criteria or  
21       standards that may be necessary;
  - 22       c. Evaluate information the applicant offered to comply with the relevant criteria and standards,  
23       and identify specific additional information that is needed to respond to the relevant criteria  
24       and standards or is recommended to respond to other issues;
  - 25       d. Identify applicable application fees in effect at the time, with a disclaimer that fees may  
26       change;
  - 27       e. Identify information relevant to the application that may be in the possession of the county or  
28       other agencies of which the county is aware, such as:
    - 29       (1) Comprehensive plan map designation and zoning on and in the vicinity of the property  
30       subject to the application;
    - 31       (2) Physical development limitations, such as steep or unstable slopes, wetlands, well head  
32       protection areas, water bodies, or special flood hazard areas, that exist on and in the  
33       vicinity of the property subject to the application;
    - 34       (3) Other applications that have been approved or are being considered for land in the  
35       vicinity of the property subject to the proposed application that may affect or be affected  
36       by the proposed application.

37  
38 C. Review for Counter Complete Status.  
39

- 40       1. Before accepting an application for review for fully complete status, and unless otherwise  
41       expressly provided by code, the responsible official shall determine the application is counter  
42       complete.  
43
- 44       2. The responsible official shall decide whether an application is counter complete when the  
45       application is accepted, typically "over the counter."  
46
- 47       3. An application is counter complete if the responsible official finds that the application purports and  
48       appears to include the information required by Section 40.560.040(D)(1). Staff shall make no  
49       effort to evaluate the substantive adequacy of the information in the application in the counter  
50       complete review process. The responsible official may waive a requirement to provide certain  
51       information upon determining that the information is not necessary.  
52
- 53       4. If the responsible official decides the application is counter complete, then the application is  
54       accepted for review for fully complete status.  
55

1       5. If the responsible official decides the application is not counter complete, then the responsible  
2       official shall immediately reject and return the application and identify what is needed to make the  
3       application counter complete.

4  
5 D. Review for Fully Complete Status.

6  
7       1. An application is fully complete if it includes all the required materials specified in the submittal  
8       requirements and in the pre-application conference report. In addition to the submittal  
9       requirements in the applicable code sections, to be considered fully complete, the application  
10       must also include the following:

11       a. If the property owner is not filing the application, the property owner shall sign a statement  
12       authorizing the applicant to file the application on their behalf;

13       b. A signed statement from the applicant certifying that the application has been made with the  
14       consent of the lawful property owner(s) and that all information submitted with the application  
15       is complete and correct. False statements, errors, and/or omissions may be sufficient cause  
16       for denial of the request. Submittal of the application gives consent to the county to enter the  
17       property(ies) subject to the application;

18       c. The signature of the property owner or the property owner's authorized representative;

19       d. A written narrative that addresses the following:

20           (1) How the application meets or exceeds each of the applicable approval criteria and  
21           standards; and

22           (2) How the issues identified in the pre-application conference have been addressed, and  
23           generally, how services will be provided to the site;

24       e. A copy of the Developer's GIS Packet obtained for the pre-application submittal;

25       f. A legal description supplied by the Clark County Survey Records Division, a title company,  
26       surveyor licensed in the state of Washington, or other party approved by the responsible  
27       official, and a current County Assessor map(s) showing the property(ies) subject to the  
28       application;

29       g. A copy of the pre-application conference summary, and information required by the pre-  
30       application conference summary;

31       h. The applicable fee(s) adopted by the County Council for the application(s) in question;

32       i. An applicable SEPA document, typewritten or in ink and signed.

33  
34       2. An application must include all of the information listed as application requirements in the relevant  
35       sections of this code. The responsible official shall determine the fully complete status of an  
36       application, including any required engineering, traffic or other studies, based on the criteria for  
37       completeness and methodology set forth in this code. Staff shall evaluate the substantive  
38       adequacy of the information in the application.

39  
40       3. If the responsible official decides an application is fully complete, then the responsible official  
41       shall, within fourteen (14) calendar days of making this determination:

42       a. Send to the applicant a written notice of receipt of a complete application which  
43       acknowledges acceptance, lists the name and telephone number of a contact person on  
44       county staff, and describes the expected review schedule; and

45       b. Forward the application to the relevant staff for processing;

46  
47       4. A fully complete determination does not preclude the county from requesting additional  
48       information, studies or changes to submitted information or plans.

49  
50       5. If the responsible official decides an application is not fully complete, then the responsible official  
51       shall, within fourteen (14) calendars days of making this determination:

52       a. send the applicant a written statement indicating that the application is incomplete based on a  
53       lack of information and listing what is required to make the application fully complete. The  
54       statement must specify that the required missing information must be provided within fourteen  
55       (14) calendar days of the date of the letter.

- 1        b. If the applicant resubmits the application for a second review for fully complete, the responsible  
2        official shall notify the applicant within seven (7) calendar days from the date it was resubmitted,  
3        whether it is deemed Fully Complete or whether it is incomplete. If complete, the responsible  
4        official shall forward the application to the relevant staff for processing;
- 5        c. If the responsible official decides the application is still incomplete, the responsible official shall  
6        send the applicant a written statement indicating that the application is incomplete based on a  
7        lack of information and listing what is required to make the application fully complete. The  
8        required missing information must be provided within seven (7) calendar days of that written  
9        statement.
- 10       d. If the applicant resubmits the application for a third review for fully complete, the responsible  
11       official will notify the applicant within seven (7) calendar days from the date it was resubmitted,  
12       whether it is deemed Fully Complete or whether it is incomplete.
- 13       e. If the responsible official decides the application is fully complete, the responsible official shall  
14       forward the application to the relevant staff for processing. If the responsible official decides the  
15       application is not fully complete, the responsible official shall reject and return the application and  
16       submitted fees.

17  
18 E. Once an application has been determined to be fully complete, staff shall include the following in its  
19 review:

- 20        1. Completion of county SEPA official determination;
- 21        2. Circulation and publication of SEPA determinations to the applicant, affected jurisdiction(s),  
22        neighborhood associations, and agencies; and
- 23        3. Preparation of a single staff report and recommendation based on an assessment of impacts of  
24        plan change requests, and any other plan changes initiated by the county.
- 25        4. Schedule a public hearing before the planning commission.

26  
27  
28  
29  
30  
31 F. After the planning commission hearing, the responsible official shall schedule a public hearing before  
32 Council and forward to Council the planning commission recommendation.

33  
34 G. After the public hearing by Council, Council shall adopt a single ordinance disposing of all annual  
35 reviews and dockets.

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1

HOME RULE CHARTER AMENDMENTS

SKRIVNER EDIT

Subtitle 40.1  
 INTRODUCTION AND ADMINISTRATION  
 40.100 GENERAL PROVISIONS

**40.100.070 Definitions**

Unless the context clearly requires otherwise, the definitions in this section shall apply to terms in this title. In addition to definitions provided below, there are chapter-specific or section-specific definitions in the following sections:

- Section 40.240.040, Columbia River Gorge National Scenic Area Districts;
- Section 40.250.010, Airport Environs Overlay Districts (AE-1, AE-2);
- Section 40.250.030, Historic Preservation;
- Section 40.260.050, Bed and Breakfast Establishments;
- Section 40.260.100, Home Businesses;
- Section 40.260.250, Wireless Communications Facilities;
- Section 40.310.010, Sign Standards;
- Section 40.386.010, Stormwater and Erosion Control;
- Section 40.410.010, Critical Aquifer Recharge Areas (CARAs);
- Section 40.420.010, Flood Hazard Areas;
- Section 40.430.010, Geologic Hazard Areas;
- Chapter 40.460, Shoreline Master Program;
- Section 40.560.030, Amendments Docket;
- Chapter 40.570, State Environmental Policy Act (SEPA); and
- Section 40.610.020, Development Impact Fees.

(Amended: Ord. 2009-06-01; Ord. 2012-07-16; Ord. 2015-11-24; Ord. 2017-07-04; Ord. 2018-01-09; Ord. 2018-01-17)

Aboveground storage tanks	"Aboveground storage tank" means any one (1) or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which is which is ninety percent (90%) or more above the surface of the ground.
Abutting	"Abutting" means sharing a common boundary line; except that where two (2) or more lots share a common boundary line only at a corner or corners, they shall not be considered as abutting unless the common boundary line between the two (2) parcels measures not less than eight (8) feet in a single direction.
Access	"Access" means the place, means, or way by which pedestrians or vehicles shall have safe, adequate and usable ingress and egress to a property or use, as required by this title. Residential lots shall be provided a minimum of twenty (20) feet of access to a public or private street. Nonresidential uses shall be provided access according to Chapters 40.340 and 40.350. (Amended: Ord. 2018-01-09)
Accessway	"Accessway" means a public facility shared by pedestrians and bicyclists.
Access roads	"Access roads" means any of the urban or rural access roads as defined in Tables 40.350.030-2 and 40.350.030-3. This term is used to differentiate access roads from arterials, collectors, and commercial/industrial roads. (Amended: Ord. 2012-05-14)
Accessory use or structure	"Accessory use" or "accessory structure" means one which is subordinate to the principal use of a building on the lot serving a purpose customarily incidental to the use of the principal building.
Adjacent	"Adjacent" means near, close; for example, an industrial district across the street or highway from a commercial district shall be considered as "adjacent."
Adjoining	"Adjoining" means sharing a common boundary line, including across a public or private right-of-way or easement from the property in question.
Administrative manual	"Administrative manual," when referring to transportation concurrency, means the written

	documentation adopted by the Public Works director pursuant to Section 40.350.020.
ADT	“ADT” stands for average daily trips.
Adult family home*	<p>“Adult family home” means a single-family dwelling or duplex licensed as such by the state of Washington, housing a maximum of six (6) adult residents where staff assumes the responsibility for the safety and well-being of the residents due to their age or condition. Care is provided by staff and may include provision of meals, laundry, and assistance with activities of daily living, and may include nursing care. Staff may or may not reside in the same dwelling.</p> <p>(Amended: Ord. 2010-08-06; Ord. 2012-02-08)</p> <p>* Code reviser’s note: Ordinance 2012-02-08, Section 7, states: “The definition of “Adult Family Home” in Section one of this Ordinance is intended to clarify the pre-existing code and shall be given retroactive effect to all pending applications and existing uses commenced after the above definitions were first adopted.”</p>
Affected transportation corridor	“Affected transportation corridor” means any transportation corridor which is reasonably projected to be affected by the transportation related impacts of a proposed development.
Agricultural market	<p>“Agricultural market” means a permanent building or accessory structure used for the year-round sale of agricultural products grown on site or on other farms in the local agricultural area, and may include incidental retail sale of items or fee based activities, both as accessory to the primary on-site products, to promote the sale of farm crops. An agricultural market is distinguished from a roadside farm stand by a larger scale of activity and a greater range of products offered. This definition does not include a winery.</p> <p>(Added: Ord. 2012-06-02)</p>
Agriculture, agriculture uses or agricultural activities	<p>“Agriculture,” “agriculture uses” or “agricultural activities” means the use of the land for agricultural purposes, including, but not limited to, farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture and wineries, apiaries, and animal and poultry husbandry, and the necessary accessory uses and structures; provided, however, that the construction and operation of any such accessory use or structure shall be incidental to that of normal agricultural activities; and provided further, that the above uses shall not include slaughterhouses and meat packing or commercial feeding of animals.</p> <p>Marijuana production and processing do not, for the purposes of this zoning title, meet the definition of agriculture, agricultural uses or agricultural activities, and may only occur in accordance with Chapter 314-55 WAC and Section 40.260.115.</p> <p>(Amended: Ord. 2006-07-09; Ord. 2006-08-03; Ord. 2014-05-07)</p>
Alley	“Alley” means a right-of-way not over thirty (30) feet wide which affords, generally, a secondary means of vehicular access to abutting lots, and is not intended for general use.
All-weather driving surface	“All-weather driving surface” means any road or driveway surface that when reasonably maintained will provide all-weather driving capabilities for fire and other emergency vehicle apparatus.
Alteration, structural	“Structural alteration” means any change or repair which would tend to prolong the life of the supporting members of a building or structure. Any change in the external dimensions of the building is a structural alteration.
Altered	“Altered,” when referring to wetlands, means a wetland of which at least fifty percent (50%) has been graded, drained, devegetated, or replanted with non-wetland plants.
Ambulance dispatch facility	“Ambulance dispatch facility” means a public or private structure used to house a crew and ambulance to be dispatched from a central ambulance service facility located elsewhere. The structure is selected based on its location to serve a specific area of the county with a quick response time.
Ambulance service facility	“Ambulance service facility” means a public or private structure used to house ambulance service administrative personnel, equipment and supply storage, and repair and radio dispatch equipment. This facility may also include an ambulance dispatch facility.
Amusement center	“Amusement center” means a permanent development containing a single or multiple indoor or outdoor amusements such as batting cages, video arcades, go-cart tracks, bumper cars or amusement rides. Traveling carnivals and circuses shall not be considered amusement centers.
Anadromous	“Anadromous” means fish that migrate up rivers and streams from the ocean to breed in fresh water.
Animal boarding	“Animal boarding facility” means any premises used to conduct a business that involves

facility	overnight boarding of domestic animals for any purpose, but not to include animal hospitals, veterinary clinics, or kennels. (Amended: Ord. 2011-03-09; Ord. 2012-02-03)
Animal day use facility	“Animal day use facility” means any premises used to conduct a daytime-only business with hours of operation from 6:00 a.m. to 10:00 p.m. that involves domestic animals as defined in Section 8.01.020, including but not limited to breeding, training, grooming, and day care. (Amended: Ord. 2010-12-12; Ord. 2011-03-09; Ord. 2012-02-03)
Animal hospital or veterinary clinic	“Animal hospital” or “veterinary clinic” means a place where animals or pets are given medical or surgical treatment, and are cared for during the time of such treatment.
Animal husbandry	“Animal husbandry” means the care and raising of domesticated animals, such as cattle, horses, sheep, llamas, and poultry, but not including household pets, such as dogs and cats. (Amended: Ord. 2006-07-09; Ord. 2006-08-03)
Applicant	“Applicant” means the person, party, firm, corporation, legal entity, or agent thereof who submits an application for an activity regulated by this title.
Aquifer	“Aquifer” means a groundwater-bearing geologic formation or formations that contain enough saturated permeable material to yield significant quantities of water to wells or springs (source: Chapter 173-100 WAC).
Archaeological site	“Archaeological site” means a site containing significant physical evidence or ruins of human occupation or activity that are located on or below the surface of the ground and are at least one hundred (100) years old. Archaeological resources on these sites include, but are not limited to, the remains of houses, villages, camp and fishing sites, and cave shelters; rock art such as petroglyphs and pictographs; artifacts such as arrowheads, utensils, tools, fragments of tools and utensils, obsidian flakes or other material byproducts from tool and utensil-making activities; and graves, human remains, and associated artifacts.
Area of special flood hazard, or flood hazard area	“Area of special flood hazard” or “flood hazard area” means the land in the floodplain subject to the base flood.
Arterial	“Arterial” means any urban parkway arterial, urban principal arterial, or urban minor arterial, as defined in Tables 40.350.030-2 and 40.350.030-3. This term is used to differentiate arterials from collectors, commercial/industrial, and access roads. (Amended: Ord. 2012-05-14)
Arterial atlas	<b>“Arterial atlas” means the current Clark County Arterial Atlas as adopted by the board Council, or hereafter amended.</b>
Assisted living facility	“Assisted living facility” means a residential use, licensed by the state of Washington as a boarding home, where staff assumes responsibility for the safety and well-being of the adult residents. Housing, meals, laundry, supervision and varying levels of assistance with daily activities are provided by staff and may include nursing care. An assisted living facility contains seven (7) or more assisted living units. (Added: Ord. 2010-08-06)
Athletic, health and racket clubs	“Athletic, health and racket clubs” means a place of business where clients are charged to engage in physical activities including aerobics, racket sports, weightlifting, swimming, etc. (Amended: Ord. 2007-11-13)
Base zone	“Base zone” means the primary district applicable to a parcel of property irrespective of any overlay district.
Basin	“Basin” means a watershed.
Bed and breakfast establishment	“Bed and breakfast establishment” means a residence where an individual or family resides and rents up to six (6) bedrooms to guests and provides breakfast to those guests. (Added: Ord. 2010-08-06)
Best management practices (BMPs)	“Best management practices” or “BMPs” means those physical, structural and managerial practices, and prohibitions of practices, that, when used singly or in combination: <ul style="list-style-type: none"> <li>• Prevent or reduce erosion, or</li> <li>• Control stormwater runoff peak flow rates and volumes, and</li> <li>• Prevent or reduce pollution of surface water or groundwater.</li> </ul>
Bike lane	“Bike lane” means the bicycle-only portion of a public street or road.
Binding site plan	“Binding site plan” means a site plan which provides an alternative means of dividing land for the sale or lease of commercially or industrially zoned property; and placement of



	manufactured homes or mobile homes on leased sites.
Bioretention facility	“Bioretention facilities” are shallow landscaped depressions, with a designed soil mix and plants adapted to the local climate and soil moisture conditions, that receive stormwater from a contributing area. (Per Department of Ecology 2012 Stormwater Management Manual for Western Washington, as Amended in December 2014 (The 2014 SWMMWW).) (Added: Ord. 2015-11-24)
Block	“Block” means an area of land whose boundaries are defined by public or private streets, excluding alleys.
Block length	“Block length” means the distance between intersections with other public or private roads as measured along the nearside right-of-way line.
Block perimeter	“Block perimeter” means the perimeter of a block as measured along the nearside right-of-way lines of public streets or accessway easements, but exclusive of driveways.
<del>Board</del>	<del>“Board” means Board of County Councilors of Clark County, Washington. (Amended: Ord. 2015-11-24)</del>
Boarding house	“Boarding house” means a building other than a hotel with furnished rooms with no cooking facilities, where for compensation, meals or lodging and meals are provided for four (4) or more persons.
Branch bank	“Branch bank” means a service outlet providing primarily personal banking and related financial services to the general public.
Bridge	“Bridge” means a structure including supports erected over a depression or an obstruction, such as water, highway, or railway, and characterized by the following: <ul style="list-style-type: none"> <li>• a track or passageway for carrying traffic or other moving loads; and</li> <li>• an opening measured along the center of the roadway of: <ul style="list-style-type: none"> <li>o single span steel or concrete with spans of six (6) feet or greater;</li> <li>o steel corrugated pipes with spans of eight (8) feet or greater;</li> <li>o timber with spans of four (4) feet or greater;</li> <li>o multiple pipes with spans of ten (10) feet or greater with multiple spans of eight (8) feet or greater between undercopings of abutments or spring lines of arches, or extreme ends of openings for multiple boxes; or</li> <li>o multiple pipes, where the clear distance between openings is less than half of the smaller contiguous opening.</li> </ul> </li> </ul> Bridges do not include structures with the depth of fill more than D/2, where D is the maximum span. (Added: Ord. 2012-05-30)
Buffer	“Buffer,” when referring to wetlands, means an area that surrounds and protects a wetland from adverse impacts to the functions of a wetland.
Buffer	“Buffer,” when referring to geologic hazard areas, means an area surrounding a geologic hazard consisting of naturally occurring or reestablished vegetation and having a width adequate to protect the geologic hazard area.
Building	“Building” means a combination of materials to form a structure that is adapted to a permanent or continued occupancy. It is a structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, or chattel.
Building front	“Building front” means the street-facing elevation(s) of a building.
Building permit	“Building permit” means the permit issued by the county to an applicant for building a structure.
Building, main	“Main building” means a building within which is conducted the principal use permitted on the lot, as provided in the UDC.
Capacity	“Capacity,” when referring to vehicular traffic, means a measurement expressed as the maximum number of peak hour vehicle trips that an individual development may generate as defined in Section 40.350.020.
Carport	“Carport” means a roof projecting from one (1) side of a building designed to cover, but not enclose, automobile parking spaces.
Church	“Church” means a permanently located building primarily used for religious worship.
Circulation drive	“Circulation drive” means a place, means or way by which pedestrians and vehicles shall have safe, adequate and usable access to and throughout nonresidential development sites. Circulation drives may have the look, feel and function of a street and may also connect to

	either public or private streets.
<b>Clark County Council</b>	<b>"Clark County Council" means "Clark County Council of Clark County, Washington", "County Council", "county council", "Council", or "council".</b>
Classes of forest practices	"Classes of forest practices" means the four (4) classifications of forest practice activities described in WAC 222-16-050. The class of forest practice is determined by considering several factors including but not limited to the type of activity proposed (e.g., harvesting, thinning), its scale, the affected environment, and future use of the site.
Clearing	"Clearing" means the act of removing or destroying trees, brush, groundcover or other vegetation, snags or downed logs, or talus features by manual, mechanical, chemical or any other means.
Clearing permit	"Clearing permit" means a permit required for nonexempt clearing of vegetation when no other land use permit specifically authorizes the proposed clearing activity.
Clinic, outpatient	"Clinic, outpatient" means a building or portion of a building containing offices for providing medical, dental, immediate care clinics or psychiatric services not involving overnight housing of patients.
Club	"Club" means an association of persons (whether or not incorporated), religious or otherwise, for a common purpose, but not including groups which are organized primarily to render a service carried on as a business for profit.
Collective garden	"Collective garden" means a facility established by qualifying marijuana patients sharing responsibility for acquiring and supplying the resources required to produce, process, transport, or deliver cannabis for medical use, in accordance with RCW 69.51A.085. (Amended: Ord. 2013-07-08; Ord. 2014-11-02)
Collector	"Collector" means any urban or rural collector as defined in Tables 40.350.030-2 and 40.350.030-3. This term is used to differentiate collectors from arterials, commercial/industrial, and access roads. (Amended: Ord. 2012-05-14)
Commercial access	"Commercial access" means an on-site road providing access to properties zoned for business, commercial, manufacturing or industrial uses.
Commercial/industrial road	"Commercial/Industrial road" as defined in Tables 40.350.030-2 and 40.350.030-3 means a road that serves to distribute traffic from arterials and provide direct access to abutting commercial or industrial properties. (Added: Ord. 2012-05-14)
Commercial off-street parking facilities	"Commercial off-street parking facilities" means a parking area for autos and light trucks not associated or dedicated to any specific use other than parking. Does not include long-term storage of vehicles.
Community Development Director	"Community Development Director" means the director of the Clark County Community Development Department or the director's authorized designee. (Amended: Ord. 2006-05-01)
Comprehensive plan	"Comprehensive plan" means the current comprehensive plan for Clark County.
Congregate care facility	"Congregate care facility" means any home or private facility maintained and operated for the care, boarding, housing, and training of six (6) or more handicapped persons who require assistance in taking responsibility for themselves and guidance as necessary in activities of daily living, social and recreational activities and opportunities. A congregate care facility does not provide medical, nursing or social casework services.
Conservation covenant	"Conservation covenant" means a signed and recorded agreement between a property owner and Clark County running with the land and stipulating that certain areas of the property be maintained in a natural state without disturbance to vegetation or other features unless otherwise approved by the county.
Construction	"Construction" means any site-altering activity, including but not limited to grading, utility construction and building construction.
Contiguous lots	"Contiguous lots" means an area of land comprised of two (2) or more abutting lots or parcels.
Contributing drainage area	"Contributing drainage area" means the subject property together with the watershed contributing water runoff to the subject property.
Conversion option harvest plan (COHP)	"Conversion option harvest plan (COHP)" means a voluntary plan approved by Clark County indicating the limits of harvest areas, road locations, and open space.

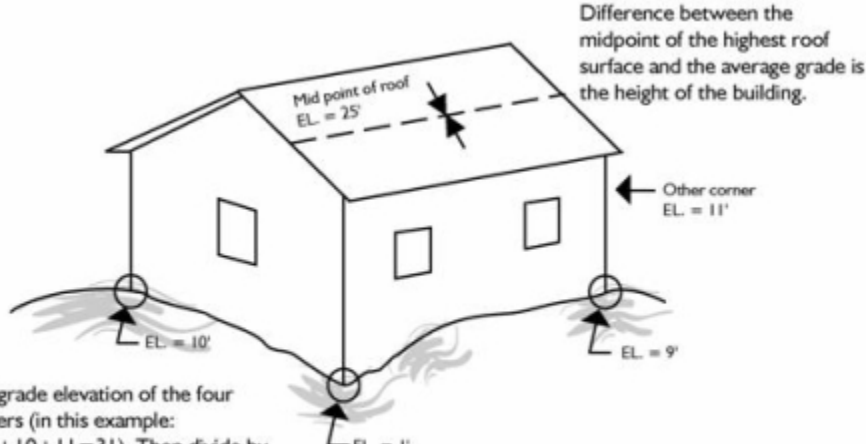
	(Amended: Ord. 2012-02-03)
Cottage housing	“Cottage housing” means a grouping of small single-family detached dwellings clustered around a common area and developed with a coherent plan for the entire site. (Added: Ord. 2012-02-03)
Country inn of historical significance	“Country inn of historical significance” means a structure under ten thousand (10,000) square feet in size, located in a rural center or rural district with facilities for weddings, meetings, banquets, small conferences, educational seminars, retreats and other similar events, and where short-term lodging rooms are provided for compensation, and which is listed on the Clark County Heritage Register under Section 40.250.030(F). (Amended: Ord. 2003-12-15)
County	“County” means Clark County, Washington.
County Engineer	“County Engineer” means the person designated as the County Engineer as prescribed in Chapter 36.80 RCW.
County road	“County road” means a road opened to and maintained for public travel by Clark County.
Critical aquifer recharge areas (CARAs)	“Critical aquifer recharge areas” or “CARAs” means: Category I is the highest priority critical aquifer recharge area. Category I is the one (1) year time of travel for Group A water wells shown on the map adopted by reference. Category II is the primary critical aquifer recharge area. This area consists of the unconsolidated sedimentary aquifer and the Troutdale gravel aquifer. (Amended: Ord. 2007-11-13)
Critical areas	“Critical areas” means flood hazard areas, wetlands, habitat conservation areas, critical aquifer recharge areas, and geologic hazard areas as regulated under this title.
Crown cover	“Crown cover” means the area within the drip line or perimeter of the foliage of a tree.
Dangerous waste	“Dangerous waste” means solid waste designated in WAC 173-303-070 through 173-303-130 as dangerous or extremely hazardous waste. The words “dangerous waste” will refer to the full universe of wastes regulated by Chapter 173-303 WAC (including dangerous and extremely hazardous waste).
Day care center, commercial	“Commercial day care center” means a building and premises in and on which more than twelve (12) individuals are cared for during some portion of a twenty-four (24) hour period. In no case shall these individuals be housed in the building or on the premises.
Day care center, family	“Family day care center” means a dwelling and premises in and on which not more than twelve (12) individuals, not residing in the dwelling nor related to the care provider, are cared for during some portion of a twenty-four (24) hour period in the residence of the person or persons under whose direct care the individuals are placed.
Dedication	“Dedication” means the deliberate appropriation of land by the owner for any general and public uses, reserving to himself no other rights than such as one compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.
Demolition waste	“Demolition waste” means largely inert waste, resulting from the demolition or razing of buildings, roads, and other manmade structures. Demolition waste consists of, but is not limited to, concrete, brick, bituminous concrete, wood, masonry, composition roofing and roofing paper, steel, and minor amounts of other metals like copper. Plaster (sheet rock or plaster board) or any other material, other than wood, that is likely to produce gases or a leachate during the decomposition process, and asbestos wastes are not considered to be demolition waste to this regulation (source: Chapter 173-304 WAC).
Density	“Density,” when referring to residential development, means a ratio comparing the number of dwelling units with land area, and is expressed as the number of residential dwelling units per acre of land in a residential development, including, but not limited to, one (1) house on one (1) lot.
Department	“Department” means any division, subdivision or organizational unit of the county established by ordinance, rule, or order. For the purposes of the UDC, department refers to the Clark County Community Development Department unless otherwise noted. (Amended: Ord. 2006-05-01)
Design storm	“Design storm” means the rainfall from a storm of twenty-four (24) hour duration. For example, two (2) year storm means the two (2) year, twenty-four (24) hour storm.
Developer	“Developer” means the person, party, firm, corporation, legal entity, or agent thereof who undertakes an activity regulated by this title.

Developer Covenants to Clark County	“Developer Covenants to Clark County” is a recorded legal document limiting or prohibiting certain uses of property. The Developer Covenants to Clark County may also impose affirmative obligation such as payment of a fee or be used to disseminate information to which the county deems is in the public interest. (Amended: Ord. 2005-04-12)
Development	“Development” means any manmade change to improved or unimproved real estate, including but not limited to: <ul style="list-style-type: none"> <li>• Construction, reconstruction, installation or modification of a structure;</li> <li>• Site altering activities including mining, dredging, filling, grading, construction of earthen berms, vegetative clearing, paving, excavation, or drilling operations and improvements for use such as parking;</li> <li>• Commencement of a new use, or the change in existing use of real estate or a structure thereon; or</li> <li>• Land divisions, subdivisions, short plats, site plans, conditional use permits, access to public roads, the establishment or termination of rights of access, and any related activities.</li> </ul>
Development application	“Development application” means any application for approval of a development to which the provisions of this title apply.
Development site	“Development site” means the property or portion thereof on which a development activity or redevelopment is proposed.
Diseased tree	“Diseased tree” means a tree that in the opinion of the responsible official or an assigned expert approved by Clark County (such as but not limited to, a professional forester or landscape architect), has a strong likelihood of infecting other trees or brush in the area or becoming a hazard as a result of the disease.
Distribution facilities	“Distribution facilities” means facilities where goods are warehoused, sorted and shipped to other locations.
Domestic animal	“Domestic animal” means any animal other than livestock that lives and breeds in a tame condition. This generally refers to dogs, cats and some birds. (Added: Ord. 2011-03-09)
Drive-in restaurant	“Drive-in restaurant” means a restaurant with facilities allowing take-out foods and beverages without leaving a vehicle. It generally also has the characteristics of a high turnover restaurant.
Driveway	“Driveway” means a privately maintained access to residential, commercial or industrial properties.
Dwelling	“Dwelling” means any building or portion thereof, designed or used as the residence or sleeping place of one (1) or more persons. (Amended: Ord. 2018-01-17)
Dwelling, duplex	“Duplex dwelling” means a building, on a single lot, designed or used for residence purposes by not more than two (2) families, and containing two (2) dwelling units. (Amended: Ord. 2018-01-17)
Dwelling, multiple-family, or multifamily	“Multiple-family dwelling” means a building or portion thereof designed or used as a residence by three (3) or more families, and containing three (3) or more dwelling units. (Amended: Ord. 2018-01-17)
Dwelling, single-family	“Single-family dwelling” means a building designed or used for residence purposes by not more than one (1) family, and containing one (1) dwelling unit only. <ul style="list-style-type: none"> <li>• “Attached” means sharing a common wall or walls that separate interior occupant space or attached garage space on separate lots. At least fifty percent (50%) of the overall dimension of the attached side or end, as applicable, of each unit shall share a common wall.</li> <li>• “Detached” means physically separated.</li> <li>• “Tiny house” means a detached single-family dwelling unit of not less than one hundred fifty (150) square feet that is constructed or mounted on a foundation and is connected to utilities. A small dwelling unit built on a chassis is considered a recreational vehicle.</li> </ul> (Amended: Ord. 2009-07-01; Amended: Ord. 2018-01-17)
Dwelling, townhouse	“Townhouse dwelling” means a form of attached single-family housing where two (2) or more dwelling units share one (1) or more common walls with other dwelling units, and with each dwelling occupying an individually owned parcel of land. (Amended: Ord. 2018-01-17)
Dwelling unit	“Dwelling unit” means one (1) room or a suite of two (2) or more rooms, designed for or used

	by one (1) family or housekeeping unit for living and sleeping purposes, and having only one (1) kitchen or kitchenette. (Amended: Ord. 2018-01-17)
Dwelling unit, accessory (ADU)	“Accessory dwelling unit” (ADU) is an additional, smaller, subordinate dwelling unit on a lot with, or in, an existing or new house. A house with an ADU is different from a duplex because the intensity of use is less due to the limitations of size, and it has the appearance of a single-family structure. <ul style="list-style-type: none"> <li>• “Urban ADU” means an attached or detached dwelling unit that provides for a greater range of housing types in single-family and multifamily residential districts while protecting the character of the residential neighborhood.</li> <li>• “Rural ADU” (RADU) means an attached dwelling unit that provides for a greater range of housing types in rural and resource lands while maintaining rural community character and ensuring the conservation, enhancement and protection of resource lands.</li> </ul> (Amended: Ord. 2010-08-06; Amended: Ord. 2018-01-17)
Early notice	“Early notice,” when referring to SEPA, means the county’s response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant’s proposal (determination of nonsignificance (DNS) procedures).
Easement	“Easement” means an interest in land owned by another that entitles its holder to a specific limited use or enjoyment.
Electric vehicle infrastructure	“Electric vehicle infrastructure” or “EVI” means structures, machinery, and equipment necessary and integral to support an electric vehicle, including electric vehicle charging stations, rapid charging stations, and battery exchange stations. (Added: Ord. 2011-06-14)
Emergent wetland	“Emergent wetland” means a wetland with at least thirty percent (30%) of the surface area covered by erect, rooted, herbaceous vegetation as the uppermost vegetative strata.
Employees	“Employees” means all persons, including proprietors, working on the premises during the largest shift at peak season.
Engineer	“Engineer” means an individual licensed by the state of Washington to practice professional engineering who has been retained by the county or others to design roadway, utility or similar improvements.
Enhancement	“Enhancement” means actions performed to improve the condition of an existing degraded wetland or buffer so that the functions provided are of a higher quality.
Equestrian events center	“Equestrian events center” means an equestrian facility that is intended to host local, regional, and national equestrian events and that has public seating for at least one hundred (100) spectators. (Added: Ord. 2011-03-09)
Equestrian facility	“Equestrian facility” means a facility or facilities used by the general public, and for which a fee is charged, for the boarding, feeding, and/or pasturing of at least six (6) horses, including training arenas, corrals, and exercise tracks, and any activities associated with the use of such facilities. (Amended: Ord. 2009-10-04; Ord. 2011-03-09)
Erosion hazard area	“Erosion hazard area” means those areas where slopes are greater than fifteen percent (15%).
Event facilities	“Event facilities” means a use that provides facilities for rent for individual events such as weddings, meetings and other similar events.
Exotic	“Exotic,” when referring to plants and animals, means any species of plants or animals that are not native to the watershed.
Extremely hazardous waste	“Extremely hazardous waste” means dangerous wastes designated in WAC 173-303-070 through 173-303-103 as extremely hazardous.
Eyebrow	“Eyebrow,” when referring to streets and roads, means a partial bulb located adjacent to the serving road that provides access to parcels and can serve as a vehicle turnaround.
Facultative plants	“Facultative plants” means plants that are equally likely (thirty-four percent (34%) – sixty-six percent (66%) probability) to occur in wetlands or non-wetlands. Such groupings are more fully defined in the Wetlands Delineation Manual.
Facultative wet plants	“Facultative wet plants” means plants that usually (sixty-seven percent (67%) – ninety-nine percent (99%) probability) occur in wetlands. Such groupings are more fully defined in the

	Wetlands Delineation Manual.
Family	“Family” means individuals customarily living together as a single housekeeping unit and using common cooking facilities related by genetics, adoption, or marriage, or a group of not more than six (6) unrelated individuals.
Filling station	“Filling station” means a building or lot having pumps and storage tanks where fuel, oils or accessories for motor vehicles are dispensed, sold or offered for sale at retail only.
Finished product retailer	“Finished product retailer” means a retail outlet primarily for the sale to the general public of products that involve limited fabrication or assembly on-site within an entirely enclosed building.
Floor area ratio	“Floor area ratio (FAR)” means the gross floor area of all buildings on a lot divided by the lot area. For example, a FAR of two to one (2:1) means two (2) square feet of floor area for every one (1) square foot of site area.
Floor area, gross	“Gross floor area” means the total enclosed area of all floors of a building measured to the outside face of the structural members in exterior walls and including halls, stairways, and elevator shafts at each floor level.
Forest land	“Forest land” as defined in the Washington State Forest Practice Act means all land which is capable of supporting a merchantable stand of timber and is not actively used for a use which is incompatible with timber growing.
Forest practices	“Forest practices” means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting or processing timber, as defined in Chapter 222-16 WAC.
Forest practices application or notification	“Forest practices application or notification” means the application or notification required to be submitted to the Washington Department of Natural Resources for the conduct of forest practices or to Clark County for forest conversions, generally, and, within urban growth areas, the harvesting of timber and road building.
Forested wetland	“Forested wetland” means a wetland with at least thirty percent (30%) of the surface area covered by a canopy of woody obligate, facultative wet, or facultative plants greater than twenty (20) feet in height.
Frontage	“Frontage” means that portion of a parcel of property which abuts a dedicated public street or highway, or private road or driveway approved by the county. Frontage can include courtyards, plazas and other pedestrian areas which accommodate pedestrian activity and limit motorized vehicles.
Frontage road	“Frontage road” means a public or private road providing vehicular access to the boundary of a parcel of real property proposed for development.
Fully complete	“Fully complete” means that a development review application meets the submittal requirements of Subtitle 40.5 of the UDC.
Functional classification system	“Functional classification system” means the adopted hierarchy of roadway use as it relates to volume, speed, regional, area-wide and local characteristics.
Functions	“Functions,” when referring to wetlands, means the beneficial roles served by wetlands including the control of flood waters, maintenance of summer stream flows, filtration of pollutants, recharge of groundwater, and provision of significant habitat areas for fish and wildlife.
Garage, detached	“Detached garage” means an accessory building intended and primarily used for the storage of motor vehicles, which is separate from and secondary to the main structure of the occupants.
Garden shed	A “garden shed” is a structure no more than two hundred (200) square feet in floor area, designed to house garden tools or other horticultural products. A garden shed shall not be a place of human habitation, nor shall it be supplied with utilities such as plumbing or electrical service. (Amended: Ord. 2006-09-13)
General retailer	“General retailer” means a retail outlet selling a variety of merchandise, including durable, household, variety and perishable and nonperishable foodstuffs to the general public.
Geologic hazard areas	“Geologic hazard areas” means areas having steep slopes; potential, active or previous landslides; or extreme seismic hazard that are defined and regulated by this title.
Geologist	“Geologist” means a professional geologist licensed in the state of Washington under Chapter 18.22 RCW.

Geotechnical engineer	“Geotechnical engineer” means a professional engineer licensed in the state of Washington, experienced and knowledgeable in the application of the principles of soils mechanics in the investigation, evaluation and design of civil works involving the use of earth materials and the inspection or testing of the construction thereof.
Grade	“Grade” means the finished ground level adjoining the building at all exterior walls. (Amended: Ord. 2007-06-05)
Grade plane	“Grade plane” means a reference plane representing the average of the finished ground level adjoining the building at all exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six (6) feet from the building between the structure and a point six (6) feet from the building. (Amended: Ord. 2007-06-05)
Grading permit	“Grading permit” means the permit required under Chapter 14.07 of the Clark County Code. (Amended: Ord. 2006-09-13; Ord. 2007-06-05)
Groundwater	“Groundwater” means water in a saturated zone or stratum beneath the surface of land or below a surface water body (WAC 173-200-020).
Guesthouse	“Guesthouse” means an accessory building designed, constructed and used for the purpose of providing temporary living accommodations for guests, or for members of the same family as that occupying the main structure, and containing no kitchen facilities.
Habitable floor	“Habitable floor” means any floor usable for living purposes including working, sleeping, eating, cooking or recreating uses, or any combination of these uses. A floor used only for storage purposes is not a “habitable floor.”
Habitat areas	“Habitat areas” shall include the priority habitats and species (PHS) sites, and locally important habitat (LIH) sites as defined by the UDC.
Half road/partial road	“Half road” or “partial road” means any public or private road right-of-way or easement which is less than the full required width specified in this title, and which is established so as to permit additional right-of-way or easement to be provided at a later date to complete the full-width roadway.
Hard surface	“Hard surface” means an impervious surface, a permeable pavement, or a vegetated roof. (Added: Ord. 2015-11-24)
Hardscape	“Hardscape” means an approved, decorative hard or impervious surface, such as textured concrete, brick, or pavers for use by pedestrians, which may be used to widen sidewalks. Asphalt or plain finished concrete is not an approved hardscape finish.
Hazard tree	“Hazard tree” means any tree which, in the opinion of the responsible official, an expert approved by Clark County (such as, but not limited to, a professional forester or landscape architect), or a similar expert employed by another public agency or utility, has a strong likelihood of causing a hazard to life or property. (Amended: Ord. 2006-06-09)
Hazardous substances	“Hazardous materials” or “hazardous substances” means such material as flammable solids; corrosive liquids; radioactive material; oxidizing material, highly toxic material; poisonous gases; reactive material; unstable material; hyperbolic material; pyrophoric material as defined in Chapter 2 of the International Fire Code; and substances, or mixture of substances, that are an irritant or strong sensitizer or which generate pressure through exposure to heat, decomposition, or other means. Hazardous substances shall also mean hazardous waste as designated in Chapter 173-303 WAC as dangerous or extremely hazardous waste. Hazardous substances also means any dangerous waste or extremely hazardous waste as defined in RCW 70.105.010(5) and (6), or any dangerous or extremely dangerous waste as designated by rule under Chapter 70.105 RCW; any hazardous substance as defined in RCW 70.105.010(14) or any hazardous substance as defined by rule under Chapter 70.105 RCW; and any substance that, on the effective date of the ordinance codified in this section, is a hazardous substance under Section 101(14) of the Federal Cleanup Law, 42 U.S.C., Section 9601(14); petroleum products; and any substance or category of substances including solid waste decomposition products, determined by the Washington Department of Ecology’s director to present a threat to human health or the environment if released into the environment. The term “hazardous substances” does not include any of the following when contained in an underground storage tank from which there is not a release of crude oil or any fraction thereof or petroleum, if the tank is in compliance

	with all applicable federal, state, and local laws. (Amended: Ord. 2006-09-13)
Hazardous waste	“Hazardous waste” means all dangerous and extremely hazardous waste as defined in RCW 70.105.010.
Hazardous waste storage	“Hazardous waste storage” means the holding of dangerous waste for a temporary period as regulated by the State Dangerous Waste Regulations, Chapter 173-303 WAC.
Hazardous waste treatment	“Hazardous waste treatment” means the physical, chemical or biological processing of dangerous waste to make such wastes non-dangerous or less dangerous, safer for transport, amenable for energy or material recovery, amenable for storage, or reduced in volume.
Hazardous waste treatment and storage facility, off-site	“Hazardous waste treatment and storage facility, off-site” means facilities that treat and store waste from generators on properties other than those on which the off-site facilities are located.
Hazardous waste treatment and storage facility, on-site	“Hazardous waste treatment and storage facility, on-site” means facilities that treat and store waste generated on the same geographically contiguous or bordering property.
Headwaters	“Headwaters” means springs, lakes, ponds, or wetlands providing significant sources of water to a stream.
Health officer	“Health officer” means the Clark County Health Department officer or the officer’s authorized designee.
Hearing examiner or examiner	“Hearing examiner” or “examiner” means the Clark County hearing examiner as established by Chapter 2.51.
Height, building	<p>“Building height” means the vertical distance from grade plane to the average height of the highest roof surface, excluding overhanging eaves.            (See also definition of “grade plane.”)            Figure 40.100.070-1 – Building height</p>  <p>Difference between the midpoint of the highest roof surface and the average grade is the height of the building.</p> <p>Mid point of roof EL = 25'</p> <p>Other corner EL = 11'</p> <p>EL = 10'</p> <p>EL = 9'</p> <p>EL = 1'</p> <p>Add grade elevation of the four corners (in this example: 1 + 9 + 10 + 11 = 31). Then divide by four (in this example: 31/4 = 7.75) to get the average grade.</p> <p>(Amended: Ord. 2007-06-05; Ord. 2007-11-13)</p>
High intensity land use	“High intensity land use,” when referring to the regulation of wetlands, means the following uses of land: roadways, commercial, industrial, and multifamily exceeding four (4) units per parcel.
High-impact use	<p>“High-impact use,” when referring to critical aquifer recharge areas, means a business establishment that is regulated due to the probability and/or magnitude of its effects on the environment. For purposes of this chapter, these uses possess certain characteristics posing a substantial potential threat or risk to the quality of groundwater and surface waters within Category I CARAs. High-impact uses shall include, but are not limited to, the following:</p> <ul style="list-style-type: none"> <li>• Landfills;</li> <li>• Class V injection wells:               <ul style="list-style-type: none"> <li>o Agricultural drainage wells,</li> <li>o Untreated sewage waste disposal wells,</li> <li>o Cesspools,</li> </ul> </li> </ul>



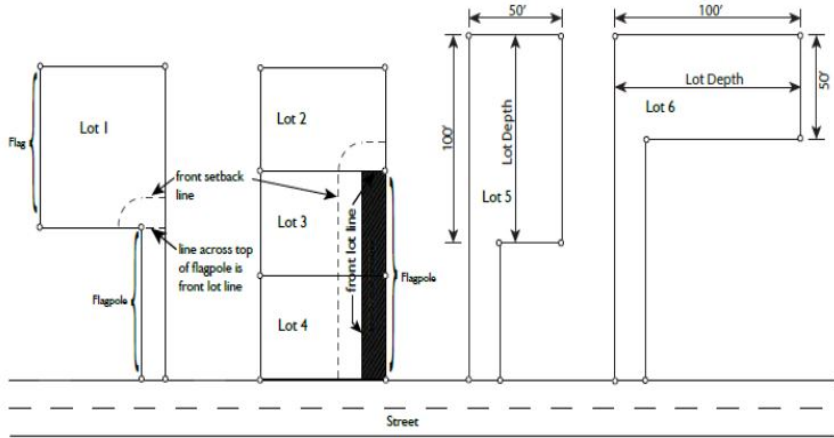
	<ul style="list-style-type: none"> <li>o Industrial process water and disposal wells, and</li> <li>o Radioactive waste disposal;</li> <li>• Radioactive disposal sites; and</li> <li>• Activities in Section 40.410.020(C) that are not connected to public sewer.</li> </ul>
Home business	<p>“Home business” means a business in conjunction with a residential use which results in financial remuneration from a product or service and is conducted by at least one (1) resident occupying the dwelling on the subject property.          (Amended: Ord. 2005-04-12)</p>
Home occupation	<p>In the Columbia River Gorge National Scenic Area Districts only a “home occupation” shall mean the same as a “home business.”          (Amended: Ord. 2005-04-12)</p>
Homeowners association	<p>“Homeowners association” means a nonprofit organization operating under recorded land agreements through which the following take place:</p> <ul style="list-style-type: none"> <li>• Each person owning or purchasing a lot in a planned unit or other described land area is automatically a member by such ownership or purchase.</li> <li>• Each lot is automatically subject to a charge for a proportionate share of the expenses for the organization’s activities, such as maintaining a common property.</li> <li>• Construction and maintenance responsibilities for any undivided property are identified and assigned.</li> </ul>
Hospital	<p>“Hospital” means any institution, place, building or agency which maintains and operates organized facilities for twenty (20) or more persons for the diagnosis, care and treatment of human illness, including convalescence and also including care during and after pregnancy; or which maintains and operates organized facilities for any such purpose, and to which persons may be admitted for overnight stay or for a longer period.</p>
Hotel	<p>“Hotel” means a place of lodging that provide sleeping accommodations, restaurants, cocktail lounges, meeting and banquet rooms or convention facilities, and other retail and service shops.</p>
Hydric soil	<p>“Hydric soil” means a soil that is saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods described in the Wetlands Delineation Manual.</p>
Hydroperiod	<p>“Hydroperiod” means a seasonal occurrence of flooding and/or soil saturation; it encompasses depth, frequency, duration, and seasonal pattern of inundation.</p>
Hydrophytic vegetation	<p>“Hydrophytic vegetation” means macrophytic plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content. The presence of hydrophytic vegetation shall be determined following the methods described in the Wetlands Delineation Manual.</p>
Intermittent stream	<p>“Intermittent stream” means surface streams with no measurable flow during thirty (30) consecutive days in a normal water year.</p>
International Building Code	<p>“International Building Code” means the published International Building Code as adopted by Clark County.</p>
Intersection of regional significance	<p>“Intersection of regional significance” means an intersection at which at least three (3) approaches have a comprehensive plan functional classification of collector or higher.</p>
Isolated wetlands	<p>“Isolated wetlands” means those wetlands which are outside of and not contiguous to any one hundred (100) year floodplain of a lake, river (other than the Columbia River), or stream, and are separated from other wetlands by a distance greater than the largest wetland buffers required under Section 40.450.030(E) for all adjacent wetlands.          (Amended: Ord. 2006-05-27)</p>
Kennel, commercial	<p>“Kennel, commercial” means any of the following:</p> <ul style="list-style-type: none"> <li>• Any premises used to conduct a commercial business involving the buying, selling, breeding for sale, letting for hire, boarding or training of dogs;</li> <li>• Any premises at which ten (10) or more adult dogs are kept for any purpose, including animal shelters, but excluding animal hospitals or clinics where animals are kept only for treatment by licensed veterinarians;</li> <li>• Any premises where offspring puppies or adult dogs are sold to commercial outlets or are sold for research or experimental purposes;</li> <li>• Any premises where offspring from three (3) or more litters per twelve (12) month period are sold or traded, exchanged or bartered for a valuable consideration or joint ownership</li> </ul>

	<p>purpose; or</p> <ul style="list-style-type: none"> <li>Any premises used as the location for the training of dogs for obedience, hunting, protection, etc. (if the address is different from the office address), or the premises are used as a combination office/training location, except if the training site is property belonging to a recognized school district, municipal body or not-for-profit organization.</li> </ul> <p>(Amended: Ord. 2010-12-12; Ord. 2011-03-09; Ord. 2012-02-03)</p>
Kennel, private	<p>“Kennel, private” means any premises where:</p> <ul style="list-style-type: none"> <li>Between five (5) and nine (9) dogs over six (6) months of age are kept; and</li> <li>Where boarding, training and shows are not allowed; and</li> <li>There are two (2) or fewer litters in any twelve (12) month period.</li> </ul> <p>(Amended: Ord. 2011-03-09; Ord. 2012-02-03)</p>

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Land-disturbing activity	<p>“Land-disturbing activity” means any activity that results in a change in the existing soil cover (both vegetative and nonvegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to, clearing, grading, filling, and excavation. Compaction that is associated with stabilization of structures and road construction is also 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.</p> <p>(Amended: Ord. 2012-05-14; Ord. 2015-11-24)</p>
Landfill	<p>“Landfill” means a disposal facility or part of a facility at which solid and demolition waste is permanently placed in or on the land that is not a land-spreading disposal facility (Chapter 173-304 WAC). In addition, “landfill” means all continuous land and structures and other improvements on the land used for the disposal of solid waste, pursuant to Chapter 173-351 WAC.</p>
Landscaping	<p>“Landscaping” means not only trees, grass, bushes, shrubs, flowers and garden areas, but also the arrangement of fountains, patios, decks, street furniture, and ornamental concrete or stonework areas and artificial turf or carpeting, if those areas are permeable and allow stormwater infiltration in accordance with Section 40.386.010. Artificial plants, shrubs, bushes, flowers, and materials in movable containers are not considered landscaping.</p> <p>(Amended: Ord. 2015-11-24)</p>
Landslide	<p>“Landslide” means down-slope movement of a mass of soil, or rock, including, but not limited to, rock falls, slumps, mud flows, debris flows, torrents, and earth flows.</p>
Landslide protection areas	<p>“Landslide protection areas” means those areas which are to be left permanently undisturbed in a substantially natural state and in which no clearing, grading, filling, building construction or placement or road construction of any kind is allowed except for activities exempted in Section 40.430.030(B).</p>
Large quantity generators	<p>“Large quantity generators,” when referring to critical aquifer recharge areas, means those businesses that generate more than two thousand two hundred (2,200) pounds of dangerous waste per month. They accumulate more than two thousand two hundred (2,200) pounds of dangerous waste at any time. They generate and accumulate more than 2.2 pounds of acutely hazardous waste or toxic extremely hazardous waste.</p>
Level of service (LOS) standard	<p>“Level of service standard” or “LOS standard,” when referring to transportation facilities, means a quantitative standard for the performance of a transportation corridor or intersection of regional significance.</p>
Local agricultural area	<p>“Local agricultural area” includes Washington and Oregon.</p> <p>(Added: Ord. 2012-06-02)</p>
Locally important habitat	<p>“Locally important habitat” means those areas so designated by Clark County by virtue of containing unusual or unique habitat warranting protection because of qualitative species diversity or habitat system health indicators.</p>
Lot	<p>“Lot” means a designated parcel, tract or area of land established by short plat, subdivision, or as otherwise permitted by this title, to be separately owned, leased, used, developed, or built upon.</p>
Lot area, rural	<p>“Lot area, rural” means the computed area contained within the lot lines to include:</p> <ul style="list-style-type: none"> <li>Private driveway easements,</li> <li>On-site road easements,</li> </ul>

	<ul style="list-style-type: none"> <li>One-half (1/2) width or thirty (30) feet, whichever is less, of abutting public rights-of-way for perimeter streets, excluding limited access state or interstate highways.</li> </ul> <p>For the purposes of this definition, "rural lot area" applies to urban reserve (UR-10 and UR-20) and rural (R-5, R-10 and R-20), agricultural (AG-20 and AG-WL) and forest resource (FR-40 and FR-80) districts.          (Amended: Ord. 2007-06-05; Ord. 2009-07-01; Ord. 2016-06-12; Ord. 2017-07-04; Ord. 2018-01-09)</p>
Lot area, urban	<p>"Lot area, urban" means the computed area contained within the lot lines in urban districts, to include private driveway easements, and excluding street and alley rights-of-way, street easements, and street tracts.          (Amended: Ord. 2007-06-05; Ord. 2009-07-01; Ord. 2016-06-12; Ord. 2018-01-09)</p>
Lot area, urban holding	<p>"Lot area, urban holding" means the computed area contained within the lot lines to include:</p> <ul style="list-style-type: none"> <li>Private driveway easements,</li> <li>On-site road easements,</li> <li>One-half (1/2) width or thirty (30) feet, whichever is less, of abutting public rights-of-way for perimeter streets, excluding limited access state or interstate highways.</li> </ul> <p>(Added: Ord. 2018-01-09)</p>
Lot coverage	<p>"Lot coverage" means that percentage of the total lot area covered by structures, including all projections except eaves.</p>
Lot depth	<p>"Lot depth" means the horizontal distance between the midpoint of the front and opposite, usually the rear lot line. Average lot depth shall be the average of the side lot lines. In the case of a corner lot, the depth shall be the average length of the longer dimension of the lot. In the case of flaglots, lot depth shall be the average length of the longer dimension of the main body of the lot. See Figure 40.100.070-2.          (Amended: Ord. 2007-06-05; Ord. 2018-01-09)</p>
Lot line	<p>"Lot line" means any line bounding a lot as herein defined. Lot lines for unusual lot configurations may be determined by the responsible official.</p>
Lot line, front	<p>"Front lot line" means that portion of the property line abutting a street right-of-way, street easement, street tract, or private driveway easement.</p> <ul style="list-style-type: none"> <li>For corner lots, the front lot line is that which provides vehicular access. In the case where vehicular access is provided on more than one street, one (1) front lot line and one (1) street side lot line shall be designated. Within a street side setback, entrances to garages, carports, or similar vehicular shelters shall maintain a minimum eighteen (18) foot setback from the property line, street easement, street tract or inside edge of any pedestrian easement, when the street side setback for the applicable zoning district is less than eighteen (18) feet. If access is provided to a corner lot by an alley, the front lot line is that which is most opposite the alley.</li> <li>For a flag lot, the front lot line is the juncture between the pole and the flag. (See Figure 40.100.070-2.)</li> <li>For through lots, all lot lines abutting a street or approved private road or easement, except for alleys, shall be front lot lines unless vehicular access is prohibited, in which case they shall be considered rear lot lines.</li> </ul> <p>(Amended: Ord. 2007-06-05; Ord. 2007-11-13; Ord. 2008-06-02; Ord. 2016-09-04)</p>
Lot line, rear	<p>"Rear lot line" means a lot line not abutting a street which is opposite and most distant from the front lot line.</p>
Lot line, side	<p>"Side lot line" means any lot line which is not a front lot line or a rear lot line. In the case of flaglots, all lot lines other than the front lot line are considered side lot lines.          (Amended: Ord. 2007-06-05)</p>
Lot line, street side	<p>"Street side lot line" means a side property line abutting a public right-of-way or private street easement or tract, exclusive of driveway easements.          (Amended: Ord. 2007-06-05)</p>
Lot of record	<p>"Lot of record" means a parcel which was in compliance with both the platting, if applicable, and zoning laws in existence when the parcel was originally created or segregated, or which is otherwise determined to be consistent with the criteria of the UDC. Owners of such lots shall be eligible to apply for building permit or other county development review, pursuant to the county code.          Parcels segregated for tax purposes are not lots of record unless they comply with both platting and zoning laws in existence at the time that an application for segregation is</p>

	received by the county assessor, or are otherwise determined to be consistent with the criteria of the UDC.
Lot width	“Lot width” means the horizontal distance measured at the building setback line between the two (2) opposite side lot lines. Average lot width shall be the average of the front and rear lot lines. For a corner lot, the lot width shall be the average distance of the narrower dimension of the lot. (Amended: Ord. 2007-06-05)
Lot, corner	“Lot, corner” means a lot abutting upon two (2) or more streets at their intersection, or upon two (2) parts of the same street; such street or parts of the same street forming an interior angle of less than one hundred thirty (130) degrees within the lot lines. For the purposes of this definition, driveway easements or driveway tracts do not qualify as streets in urban areas. (Amended: Ord. 2007-06-05)
Lot, flag	<p>“Flag lot” means a lot or parcel that has access to a road, street or easement, by means of a narrow strip of lot or easement.            Figure 40.100.070-2 – Flaglots</p>  <p>The diagram illustrates six lot configurations. Lot 1 is a flag lot with a flagpole on its lot. Lot 2, 3, and 4 are flag lots sharing a narrow strip of easement (the flagpole) from Lot 3 and 4. Lot 5 and 6 show flags that are parallel or perpendicular to the easement. Dimensions include 50' setbacks, 100' lot depths, and 100' flagpole widths. A street is shown at the bottom.</p> <p><b>Flaglots</b></p> <p>Lot 1 is a flaglot whose flagpole is part of the lot.</p> <p>Lots 2, 3 and 4 are also flaglots because they obtain access via a narrow strip of easement that is part of Lots 3 and 4.</p> <p>The area within the driveway easement is included in the lot area calculations for Lots 3 and 4.</p> <p>Lots 5 and 6 illustrate that the flag can be parallel, or perpendicular, to the easement or flagpole.</p>
Lot, interior	“Lot, interior” means a lot or parcel of land other than a corner lot.
Lot, through	“Through lot” means an interior lot having a frontage on two (2) streets and/or highways, excluding alleys. (Amended: Ord. 2007-06-05)
Low impact development	“Low impact development” means a stormwater management and land development strategy applied at the parcel and subdivision scale that emphasizes conservation and use of on-site natural features integrated into engineered, small-scale hydrologic controls to more closely mimic predevelopment hydrologic functions. (Amended: Ord. 2006-06-09)
Maintain	“Maintain” means to cause or allow to continue in existence. When the context indicates, the word shall mean to preserve and care for a structure; improve or condition an area to such an extent that it remains attractive, safe, presentable, and carries out the purpose for which it was installed, constructed or required.
Manufactured or mobile home	“Manufactured or mobile home” means a single-family dwelling fabricated on a permanent chassis that is transportable in one (1) or more sections; is designed to be used with or without a permanent foundation when connected to the required facilities; has sleeping,

	<p>cooking, and plumbing facilities, or any combination thereof; and is intended for permanent human occupancy or is being used for residential purposes. Although Washington Administrative Code (WAC) separately defines and distinguishes between “manufactured home” and “mobile home” according to federal or state construction codes for such dwellings, the term “mobile home” shall include “manufactured home” for regulatory purposes under this title. The term shall not include “recreation vehicle,” “commercial coach,” “camping vehicle,” “travel trailer,” “park trailer,” “tip-out,” and any other similar vehicle which is not designed and constructed for residential purposes for use as a single-family dwelling and is not otherwise labeled as a manufactured or mobile home under any federal or state law.</p> <p>For floodplain management purposes, the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. For insurance purposes the term “manufactured home” does not include park trailers, travel trailers, and other similar vehicles.</p>
Market analysis	<p>“Market analysis” means a study that assesses the commercial market conditions within a primary trade area as designated in the twenty (20) year plan designations and location criteria over a five (5) year horizon, and within the context of the twenty (20) year plan. The analysis shall contain location and income characteristics, and sales figures of competitive centers/areas in the trade area; space availability, absorption, and sales trends by category in trade area; review of vacant land; overall economic trends, employment trends, projections of economic activity, and growth patterns; population, household, and employment growth trends and projections for each trade area, as well as household characteristics such as household type (families, singles, etc.), age, including trends and projections.</p> <p>(Amended: Ord. 2007-09-13; Ord. 2008-12-15)</p>
Master plan	<p>“Master plan” means a comprehensive, long-range site and/or building plan for a development project. The project may be located on a single parcel or on abutting parcels which are owned by one (1) or more parties and may be implemented in phases.</p> <p>(Amended: Ord. 2006-04-18)</p>
May	<p>“May,” as used in the UDC, is permissive.</p>
Median	<p>“Median,” when referring to streets and roads, means that portion of a divided roadway separating the traveled way of traffic moving in opposing directions.</p>
Medium quantity generators	<p>“Medium quantity generators,” when referring to critical aquifer recharge areas, means those businesses that generate more than two hundred twenty (220) pounds, but less than two thousand two hundred (2,200) pounds of dangerous waste per month. They are limited to the accumulation of less than two thousand two hundred (2,200) pounds of dangerous waste at any time. They are limited to the generation of, and accumulation of, less than 2.2 pounds of acutely hazardous waste or toxic extremely hazardous waste.</p>
Minimally necessary	<p>“Minimally necessary” means the amount or extent needed to carry out a particular task, and no more.</p>
Mini-storage warehouse	<p>“Mini-storage warehouse,” “mini-storage” and “mini-warehouse” mean individual storage units located within a totally enclosed structure used for the storage of non-flammable or non-explosive materials.</p>
Mitigation	<p>“Mitigation,” when referring to transportation facilities, means the avoidance or minimization of a proposed development’s impact upon an affected transportation corridor or intersection of regional significance through such means as limiting or altering the proposed uses, intensities, or design of the development, or by compensating for the impact by replacing, enhancing, or providing transportation system improvements which provide additional capacity.</p>
Mitigation	<p>“Mitigation,” when referring to wetlands, means compensating for wetland impacts such that no overall net loss in wetland acreage and functions occurs.</p>
Mobile home	<p>See “Manufactured home.”</p>
Mobile home park	<p>“Mobile home park” means an area designed, equipped, and maintained for the parking of two (2) or more mobile homes being used as living quarters for humans.</p>
Mobile home space	<p>“Mobile home space” means an area of land for placement of a single mobile home, and accessory structures, within a mobile home park.</p>
Modeling	<p>“Modeling,” when referring to transportation facilities, means a computerized projection of</p>

	future traffic volumes and other traffic characteristics, based on land use designations.
Motel	“Motel” means a place of lodging that provides sleeping accommodations and often a restaurant. Motels generally offer free on-site parking and provide little or no meeting space.
Motor vehicle dealer	“Motor vehicle dealer” means a retail outlet selling autos, trucks, boats, trailers, recreational vehicles and other equipment used for transportation, except motorcycles, to the general public.
MS4	“MS4” means municipal separated stormwater sewer system. (Added: Ord. 2015-11-24)
Native	“Native,” when referring to plants or plant communities, means those species or communities which are indigenous to the watershed, including extirpated species.
Natural location	“Natural location,” when referring to surface water, means the location and elevation of those channels, swales, and other non-manmade conveyance systems as defined by the first documented topographic contours existing for the development site, either from maps or photographs.
Neighborhood association	“Neighborhood association” means an organized group of citizens from a geographical area of the county forming an association recognized by the county as meeting the administrative guidelines established by <del>the board</del> <b>Council</b> .
Nonconforming use	“Nonconforming use” means a use of land, building, or structure which use does not conform with the use regulations imposed by this title or such amendment thereto.
Non-conversion	“Non-conversion,” when referring to forest practices, means any Class II, Class III, or Class IV special forest practice as defined by WAC 222-16-050 where land is not being converted to a non-forestry use. Examples include but are not limited to the cutting and removal of trees and the replanting for commercial forest production.
Non-development clearing	“Non-development clearing” means, for the purposes of the habitat protection standards, proposed activities which do not require county land division, building, grading or other review but involve the clearing or alteration of vegetation within designated habitat areas.
Nonexempt tree or vegetation	“Nonexempt tree or vegetation” means vegetation that does not meet the definition of exempt tree or vegetation.
Non-forestry use	“Non-forestry use” means an active use of land which is incompatible with timber growing.
Normal water year	“Normal water year” means a twelve (12) month period (October 1st – September 30th) with average precipitation based upon data from the past fifty (50) years.
NPDES	“NPDES” means the National Pollutant Discharge Elimination System.
Nuisance	“Nuisance” shall include those definitions contained in Chapters 7.48 and 9.66 RCW. Any violation of this title shall constitute a nuisance, per se.
Nuisance vegetation	“Nuisance vegetation” means noxious weeds such as tansy ragwort, purple loosestrife, poison hemlock, Eurasian milfoil, non-native blackberries, or other plants listed as noxious by the county pursuant to Section 7.14.070 or any plant which when established is highly destructive, competitive or difficult to control by manual, mechanical or chemical practices. (Amended: Ord. 2006-05-01)
Nursing home or convalescent home	“Nursing home” or “convalescent home” means a facility licensed by the state of Washington providing twenty-four (24) hour supervised nursing care, personal care, therapy, nutrition management, organized activities, social services, room, board, and laundry for persons requiring regular medical attention by reason of chronic illness or infirmity, but excluding surgical or emergency medical services. This definition excludes hospitals and sanitariums. (Amended: Ord. 2010-08-06)
Obligate plants	“Obligate plants” mean plants that almost always (ninety-nine percent (99%) probability) occur in wetlands under natural conditions. Such groupings are more fully defined in the Wetlands Delineation Manual.
Official controls	“Official controls” means legislatively defined and enacted policies, standards, precise detailed maps, and other criteria, all of which control the physical development of the county, and are the means of translating into regulations and ordinances, all or any part of the general objectives of the comprehensive plan. Such official controls may include, but are not limited to, ordinances establishing zoning, subdivision control, platting, and adoption of detailed maps.
Open space/commons	“Open space/commons,” when referring to density transfer, means an area left open and

	undeveloped, for use by the public but is not a formal park or recreation area managed or owned by the county. The land shall be identified as a separate tract and shall be managed and maintained in perpetuity for the intended use of the homeowners of the relevant development.
Open space, usable	“Usable open space” means an open area that is not covered in impervious surface and that exceeds four hundred (400) square feet with all dimensions a minimum of twenty (20) feet.
Open water	“Open water,” when referring to wetlands and when not specifically defined by the wetland rating criteria, means a proportion of open water to vegetative cover equal to twenty-five percent (25%) to seventy-five percent (75%) of the total wetland area during a majority of a normal water year.
Operating level	“Operating level,” when referring to transportation facilities, means the performance of a transportation corridor or intersection of regional significance, pursuant to Section 40.350.020(F).
Ordinance	“Ordinance” means the ordinance, resolution, or other procedure used by the county to adopt regulatory requirements.
Ordinary high water mark	“Ordinary high water mark” means the point on the sides of streams or lakes which is historically or normally at water’s edge, as identified by a visible change in vegetation and/or soil.
Owner	“Owner” means any person having property rights as a fee owner or contract purchaser, or one duly authorized by the power of attorney to represent the owner. For the purposes of this title, in terms of violations and binding agreements between the county and the owner, “owner” shall also mean a leaseholder, tenant, or person in possession or control of the premises or property at the time of agreement, violations of agreement, or the provisions of this title. For the purpose of processing an application for a land use approval or permit under this title, where such application or permit must be filed by an owner, the term “owner” also includes a governmental entity contemplating acquisition of a parcel for a use which would require such permit or approval. Where property is proposed to be developed pursuant to an easement right, “owner” means the person who is the holder of the easement.
Park, community	“Community park” means a public park that provides a focal point and gathering place for broad groups of users. Community parks are used by all segments of the population and generally serve residents from a one (1) to three (3) mile service area. Community parks often include recreation facilities for organized activities such as sports fields, skate parks, and play courts. (Added: Ord. 2016-06-12)
Park, neighborhood	“Neighborhood park” means a public park designed to provide nonorganized recreational opportunities for residents living within a one-half (1/2) mile radius, and are located such that they are within walking and bicycling distance of most users. These parks generally contain three (3) to five (5) acres but may vary in size depending upon unique site characteristics, opportunities and land availability. (Added: Ord. 2016-06-12)
Park, regional	“Regional park” means a public recreational area that serves residents throughout Clark County, as well as outside the county. Facilities may include sports fields, extensive trail systems, or large picnic areas. Because of their large size and broad service area, regional parks typically require more support facilities, such as parking and restrooms. These parks are designed to accommodate large numbers of people. (Added: Ord. 2016-06-12)
Parking area, public	“Public parking area” means an open area other than a street or other public way, used for the parking of automobiles and available to the public whether for a fee, free of charge, or as an accommodation for clients or customers.
Parking space	“Parking space” shall be a permanently surfaced and marked area for the parking of a motor vehicle, excluding paved area necessary for access.
Party of record	“Party of record” means all persons, agencies or organizations who have submitted written comments in response to a notice of application, made oral comments in a formal public hearing conducted on the application, or requested in writing to be a “party of record.” In the case of Type I decisions, the party of record shall include the applicant and any person who

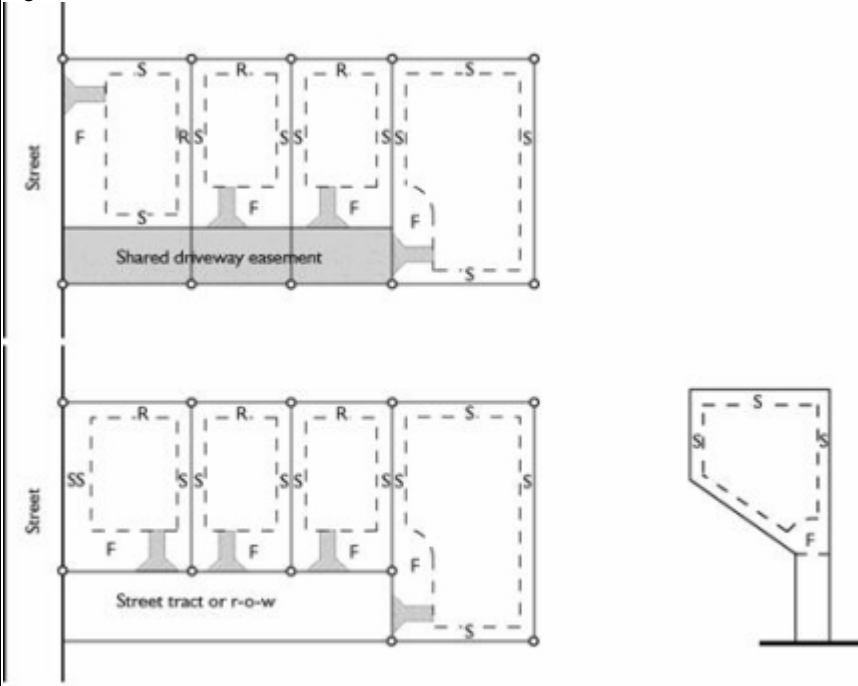
	files a written request prior to the issuance of the decision. In the case of Type II decisions, the party of record shall include the applicant, and any person submitting to the responsible official written testimony, or a written request to be a "party of record," that is specific to a particular application prior to the issuance of the decision. In the case of Type III decisions, the party of record shall include the applicant and persons submitting written testimony before, during, or prior to the close of a public hearing; providing oral testimony at a public hearing; signing the sign-in sheet noting the person's name, address and the subject matter in which they are interested; or by submitting a written request to the responsible official to be a "party of record," that is specific to a particular application prior to the close of the subject public hearing. Notwithstanding any of the foregoing, no person shall be a party of record who has not furnished an accurate post office mailing address.
Pavement or paved surface	"Pavement or paved surface" means an uncovered, hard-surfaced area or an area covered with a perforated hard surface (such as "Grasscrete") that is able to withstand vehicular traffic or other heavy impact uses. Paved areas include both permeable and impermeable hard surfaces. Graveled areas are not paved areas. (Added: Ord. 2015-11-24)
Peak hour	"Peak hour," when referring to transportation facilities, means the consecutive sixty (60) minute period during a twenty-four (24) hour period which experiences the highest sum of traffic volumes, as determined by the Public Works director.
Pedestrian area	"Pedestrian area" means any sidewalk, walking trail, courtyard, plaza or other area intended primarily for use by pedestrians.
Pedestrian plaza	"Pedestrian plaza" means an area devoted solely to pedestrians that is a minimum of ten (10) feet in depth and width with a minimum size of six hundred fifty (650) square feet that is at least fifty percent (50%) paved with colored, textured concrete, brick pavers or other suitable surface and includes sitting areas and other pedestrian amenities.
Permeable pavement	"Permeable pavement" means pervious concrete, porous asphalt, permeable pavers or other forms of pervious or porous paving material intended to allow passage of water through the pavement section. It often includes an aggregate base that provides structural support and acts as a stormwater reservoir. (Added: Ord. 2015-11-24)
Permittee	"Permittee" shall be the person who is proposing to use or who is using the land pursuant to any permit required herein.
Planning commission	"Planning commission" means the Planning Commission of Clark County, Washington.
Plans, construction or improvement	"Construction plans" or "improvement plans" means the technical drawings of the design and proposed construction of such items as streets, water and sewer systems, and drainage detention systems.
Plat	"Plat" means a map or representation of a subdivision, showing thereon the division of a tract or parcel of land into lots, blocks, streets, and alleys, or other divisions and dedications.
Plat, final	"Final plat" means the final drawing of the subdivision or short subdivision and dedication, prepared for filing for record with the county auditor and containing all elements and requirements set forth in the UDC and in state law.
Plat, preliminary	"Preliminary plat" means a neat and approximate drawing of either a proposed subdivision or short subdivision showing the general layout of streets and alleys, lots, blocks, and restrictive covenants to be applicable to the subdivision or short subdivision, and other elements of a plat, subdivision, short plat, or short subdivision which shall furnish a basis for the approval or disapproval of the general layout of a subdivision.
Plat, short	"Short plat" means a division or redivision of land within an urban growth boundary into nine (9) or fewer lots, tracts, parcels, sites or divisions for the purpose of sale, lease or transfer of ownership. The maximum number of lots allowed under a short plat in the rural areas of the county is limited to four (4). (Amended: Ord. 2006-05-01; Ord. 2007-06-05)
Platting	"Platting" means the review process conducted by Clark County on applications for short plat or subdivision approval. All lots created through the platting process are lots of record as specified in this title.
Potential number of lots	"Potential number of lots," when referring to a transportation facility, means the maximum number of lots allowed by current or proposed zoning which may be served by a road or



	driveway or extension thereof.
Premises	“Premises” means a tract or parcel of land with or without habitable buildings.
Priority habitat and species (PHS)	“Priority habitat and species” (PHS) means the official definitions and all area classifications by that name used by the Washington Department of Fish and Wildlife (WDFW). Known local categories of priority habitat as defined by WDFW include riparian habitat, oak woodlands, old growth/mature forest, urban natural open space, talus rock, and caves.
Priority species sites	“Priority species sites” include all areas within one thousand (1,000) feet of state listed endangered, threatened, sensitive or candidate species.
Professional forester	“Professional forester” means a person with academic and field experience in forestry or urban forestry. This may include arborists certified by the International Society of Arboriculture, foresters with a degree in forestry from a Society of American Foresters (SAF) accredited forestry school, member of the Washington Association of Consulting Foresters, or urban foresters with a degree in urban forestry.
Professional offices	“Professional offices” means businesses normally conducted in an office environment such as accounting, architecture, law, and other such uses with no retail sales to the public.
Project	“Project” means the proposed action of a permit application or an approval which requires a drainage review.
Public facilities	“Public facilities” means facilities which are owned, operated, and maintained by a public agency. This does not refer to the Public Facilities district, which has its own definitions per Section 40.230.090. (Amended: Ord. 2016-06-12)
Public road	“Public road” means a road maintained by Clark County, the Washington Department of Transportation, or other governmental jurisdiction.
Public sewer	“Public sewer” means extension of a public sewer system operated by a public entity or, where such extension is impractical, connection to an alternative public sewer system operated by the designated public sewer purveyor.
Public Works director	“Public Works director” means the director of the Clark County Department of Public Works or the director’s authorized designee.
Qualified groundwater professional	“Qualified groundwater professional” means a hydrogeologist, geologist, engineer, or other scientist who meets all the following criteria: <ul style="list-style-type: none"> <li>• Has received a baccalaureate or post-graduate degree in the natural sciences or engineering; and</li> <li>• Has sufficient training and experience in groundwater hydrology and related fields as may be demonstrated by state registration, profession certifications, or completion of accredited university programs that enable that individual to make sound professional judgments regarding groundwater vulnerability.</li> </ul>
Quick vehicle servicing	“Quick vehicle servicing” means a service outlet selling and installing minor motor vehicle requirements such as lube-oil-filter changes, tire changes, quick tune-ups and other services that require less than one (1) hour to complete, are generally performed with owner remaining in vehicle and involving no overnight storage of vehicles.
Recreational Facilities	“Recreational facilities” means a facility that provides indoor and/or outdoor activities for physical, non-physical, and/or cultural activities. Examples of recreational facilities include parks, trails, golf courses, camps, sport fields, public open space, gardens, and natural areas. (Added: Ord. 2019-02-04)
Reasonably funded	“Reasonably funded,” when referring to transportation facilities, means a mitigation measure or other transportation system improvement that is designated as reasonably funded in the most recent recently adopted version of the county’s transportation improvement program, or is designated by <del>the board</del> <b>Council</b> as being reasonably funded.
Recreation space	“Recreation space” means an area that shall be improved and maintained for its intended use. Exterior as well as interior areas can constitute recreation space. Examples of usable recreation space include swimming pools, community buildings, interior gyms, picnic areas, tennis courts, community gardens, improved playgrounds, paths and passive seating areas.
Recreational vehicle	“Recreational vehicle” means a vehicle that is: <ul style="list-style-type: none"> <li>• Built on a single chassis;</li> <li>• Four hundred (400) square feet or less when measured at the largest horizontal projection;</li> </ul>

	<ul style="list-style-type: none"> <li>• Designed to be self-propelled or permanently towable by a light duty vehicle; and</li> <li>• Designed primarily not for use as a permanent dwelling but as temporary living quarter for recreation, camping, travel or seasonal use.</li> </ul>
Recyclable materials facility	<p>“Recyclable materials facility” means a place where waste, discarded or salvaged materials are bought, sold, exchanged, baled, packed, disassembled or handled, including house wrecking yards, used lumber yards, and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including such places where such uses are conducted entirely within a completely enclosed building; but not including pawn shops and establishments for the sale, purchase, or storage of used furniture and household equipment, used cars in operative conditions, or salvaged materials incidental to manufacturing operations.</p>
Recyclable materials facility – automotive	<p>“Recyclable materials facility – automotive” means the dismantling or disassembling of motor vehicles or mobile homes, or the storage, sale, or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts. Three (3) or more dismantled, obsolete, or inoperable motor vehicles on one (1) lot shall constitute an automotive recyclable materials facility.</p>
Registered soil scientist	<p>“Registered soil scientist” means a professional soil scientist registered with the American Registry of Certified Professionals in Agronomy, Crops and Soils, experienced and knowledgeable in the practice of pedology related to soil survey, who is responsible for design and preparation of soils maps, related soil groups, and identifying soil factors for construction engineering.</p>
Renewable energy resource	<p>“Renewable energy resource” means:</p> <ul style="list-style-type: none"> <li>• Water;</li> <li>• Wind;</li> <li>• Solar energy;</li> <li>• Landfill gas;</li> <li>• Gas from sewage treatment facilities;</li> <li>• Biodiesel fuel as defined in RCW 82.29A.135 that is not derived from crops raised on land cleared from old growth or first-growth forests where the clearing occurred after December 7, 2006; and</li> <li>• Biomass energy.</li> </ul> <p>(Added: Ord. 2011-03-09)</p>
Reserved capacity	<p>“Reserved capacity,” when referring to transportation facilities, means the capacity of a transportation corridor or intersection of regional significance used to accommodate approved but unbuilt developments.</p>
Residential care facility	<p>“Residential care facility” means an establishment operated with twenty-four (24) hour supervision for the purpose of serving eleven (11) or more persons of any age who, by reason of their circumstances or conditions, require care; for example, work release programs, alcoholic treatment programs, drug rehabilitation centers, mental health programs, etc. This definition does not include assisted living facilities, prisons or conventional correctional institutions involving twenty-four (24) hour locked incarceration with little or no freedom of movement. “Care” is defined as room and board and the provision of a planned treatment program; “planned treatment” means a previously determined program of counseling, therapy or other rehabilitative social service.          (Amended: Ord. 2010-08-06)</p>
Residential care home	<p>“Residential care home” means an establishment operated with twenty-four (24) hour supervision for the purpose of serving not more than ten (10) persons of any age who, by reason of their circumstances or conditions, require care while living as a single housekeeping unit in a dwelling unit; for example, work release programs, alcoholic treatment programs, drug rehabilitation centers, mental health programs, etc. This definition does not include prisons or conventional correctional institutions involving twenty-four (24) hour locked incarceration with little or no freedom of movement. This definition and corresponding requirements under county code shall not apply to adult family homes as defined in Chapter 70.128 RCW.          “Care” is defined as room and board and the provision of a planned treatment program; “planned treatment” means a previously determined program of counseling, therapy or other rehabilitative social service.          (Amended: Ord. 2005-04-12)</p>
Responsible official	<p>“Responsible official” means the employee of Clark County responsible for the</p>

	implementation and enforcement of this title pursuant to Section 40.100.050.
Restoration	“Restoration,” when referring to habitat areas, means the activities undertaken to re-establish the natural structure or function of habitat area or portion thereof, such as replanting of adequate and appropriate vegetation, soil amendment, or reconstruction of stream banks.
Retirement community	“Retirement community” means independent living housing exclusively for adults (typically fifty-five (55) and over). A retirement community may take the form of a residential subdivision, cottage development, an apartment building or complex, a mobile home park, or a planned unit development. The retirement community is approved through the applicable process for whichever form it takes. (Added: Ord. 2010-08-06)
Review authority	“Review authority” means the County Engineer, the Public Works director, the responsible official, the county’s hearing examiner, the planning commission, or <del>the board</del> <b>Council</b> , whoever is authorized to approve an application.
Right-of-way	“Right-of-way” means a general term denoting public land, property or interest therein, usually in a strip, acquired for or devoted to transportation purposes.
Riparian zone	“Riparian zone” means areas encompassing riparian priority habitat, a subset of priority habitat and as defined by the Washington Department of Fish and Wildlife (WDFW), extending outward from the ordinary high water mark of waters to the one hundred (100) year floodplain or the following distances if greater: Definitions of the Types S, F, Np and Ns waters are found in WAC 222-16-030 (Forest Practices Rules). Type S water, two hundred fifty (250) feet; Type F water, two hundred (200) feet; Type Np water, one hundred (100) feet; Type Ns water, seventy-five (75) feet. Not included are erosion gullies or rills, and irrigation ditches, canals, stormwater run-off devices, or other entirely artificial watercourses, except where they exist in a natural watercourse which has been altered by humans. (Amended: Ord. 2006-06-09)
Road maintenance	“Road maintenance” means repair and maintenance activities that are conducted on currently serviceable structures, facilities, and equipment; involve no expansion of or change in use of such structures, facilities and equipment beyond those that previously existed; and do not result in a significant negative habitat or wetlands impact. (Amended: Ord. 2005-04-15)
Road or street	“Road” or “street” means all roads, streets, highways, freeways, private street easements, private street tracts, and public rights-of-way used for or designed for vehicular access or use. (Amended: Ord. 2007-06-05)
Road, private	“Private road” means a road not maintained for public use by Clark County, the Washington Department of Transportation, or other governmental jurisdiction.
Road, rural	“Rural road” means a road located within the rural area of Clark County.
Road, urban	“Urban road” means a road located within an urban area of Clark County.
Roadside farm stand	“Roadside farm stand” means an accessory structure or area located within fifty (50) feet of a public right-of-way which is used to display and sell agricultural products, including value-added products, from the local agricultural area. (Added: Ord. 2012-06-02)
Roadway	“Roadway” means the improved portion of an easement or right-of-way, excluding curbs, sidewalks, ditches, multi-use pathways and walkways.
Rural or rural area	“Rural” or “rural area” means land not located within an urban area as designated in the Clark County comprehensive plan.
Rural center	“Rural center” means an area identified as such on the rural and natural resources lands map, as amended, such as Amboy, Brush Prairie, Chelatchie Prairie, Dollars Corner, Fargher Lake, Hockinson, and Meadow Glade.
School modular or portable	“School modular or portable” means a factory-built structure that is used for educational purposes or to support educational activities.

Scrub-shrub wetland	"Scrub-shrub wetland" means a wetland with at least thirty percent (30%) of its surface area covered by woody vegetation less than twenty (20) feet in height as the uppermost strata.
Segregation	"Segregation," when referring to the division of land, means any division of land undertaken by the County Assessor for taxation purposes.
SEPA Rules	"SEPA Rules" means Chapter 197-11 WAC adopted by the Washington Department of Ecology.
Servants' quarters	"Servants' quarters" means a secondary dwelling or apartment without kitchen facilities designed for and used only by persons or the families of persons regularly employed on the property.
Setback	"Setback" means the minimum allowable horizontal distance from a given point or line of reference, such as a street right-of-way or property line, to the nearest point of a foundation or supporting post or pillar of any applicable structure. (See Section 40.200.070 for exceptions to setback requirements.) (Amended: Ord. 2007-06-05)
Setback, front	"Front setback" means any required open space between a building and the front lot line, unoccupied and unobstructed from the ground upward, except as specified elsewhere in this title. (See Figures 40.100.070-2 and 40.100.070-3.) (Amended: Ord. 2007-06-05)
Setback, rear	"Rear setback" means any required open space extending the full width of the lot between a building and the rear lot line, unoccupied and unobstructed from the ground upward, except as specified elsewhere in this title.
Setback, side	<p>"Side setback" means any required open space extending from the front setback to the rear setback between a building and the nearest side lot line, unoccupied and unobstructed from the ground upward, except as specified elsewhere in this title.</p> <p>Figure 40.100.070-3 – Setbacks</p>  <p>(Amended: Ord. 2007-06-05)</p>
Shall	"Shall" is mandatory.
Shorelands	"Shorelands" means those lands extending landward for two hundred (200) feet in all directions as measured on a horizontal plane from the OHWM; floodways and contiguous floodplain areas landward two hundred (200) feet from such floodways; the full extent of floodplains; and all wetlands and river deltas associated with the streams and lakes and tidal waters that are subject to the provisions of the Shoreline Master Program; the same to

	be designated as to location by Ecology. (Amended: Ord. 2012-07-16)
Sidewalk	"Sidewalk" means a pedestrian-only facility within a public right-of-way, public easement containing a street or abutting a private road.
Sight-obscuring, fence or hedge	"Sight-obscuring, fence or hedge" means a fence or evergreen planting, or combination of fence and planting arranged in such a way as to obstruct vision.
Silviculture	"Silviculture" means the use of land for producing and caring for a forest, including the harvesting of timber.
Single purpose/specialty retailer	"Single purpose/specialty retailer" means a retail outlet selling a single category of goods, such as sporting, clothing, shoes, etc., to the general public.
Site	"Site" means that portion of property which is directly subject to development. For the purposes of determining public notice, site means the lot proposed for development and all contiguous lots that are owned by the same person, partnership, association or corporation as the lot, including lots that are in common ownership, but are separated by a public or private right-of-way or easement.
Site plan	"Site plan" means a plan prepared to scale, showing accurately and with complete dimensions, all proposed and existing buildings, landscaping, open space, structures and features on abutting properties, and parking proposed for a specific parcel of land.
Slope	"Slope" means an inclined ground surface, the inclination of which is expressed as a percent ratio of vertical distance to horizontal distance (v/h).
Snags	"Snags" means dead, dying or defective trees serving as an important structural element of wildlife habitat.
Solid waste	"Solid waste" means all putrescible and non-putrescible solid and semi-solid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, demolition and construction waste, abandoned vehicles or parts thereof, and discarded commodities. This includes all liquid, solid and semi-solid materials that are not the primary products of public, private, industrial, commercial, mining, and agricultural operations. Solid waste includes, but is not limited to, sludge from wastewater treatment plants and seepage, septic tanks, wood waste, dangerous waste, and problem wastes (WAC 173-304-100).
Special provisions	"Special provisions," when referring to transportation facilities, means road construction requirements peculiar to a specific project and which are not otherwise thoroughly or satisfactorily detailed and set forth in the standard specifications. (Amended: Ord. 2012-02-08)
Staffed residential home	"Staffed residential home" means a residence licensed as such by the state of Washington providing twenty-four (24) hour care for six (6) or fewer children or expectant mothers. The home may employ staff to care for children or expectant mothers. It may or may not be a family residence. (Added: Ord. 2012-02-08)
Standard Details Manual	"Standard Details Manual" or "Clark County Standard Details Manual" means the manual that provides standard details to be used in the design of all projects within Clark County. The manual contains Clark County's transportation drawings of typical roadway sections for urban, industrial, and rural development, roadway landscape planting materials tables and planting details. The manual also includes typical engineering standard details for erosion control measures and storm drainage design. (Amended: Ord. 2012-02-08)
Standard plans	"Standard plans," when referring to transportation facilities, means those typical sections and details adopted for road construction in Section 40.350.030(C)(3).
Standard specifications	"Standard specifications," when referring to transportation facilities, means those specifications adopted for road construction in Section 40.350.030(C)(4).
Start of construction	"Start of construction" includes substantial improvement, and means the date the building permit was issued; provided, the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land

	preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or other erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
State Environmental Policy Act (SEPA)	“SEPA” means the State Environmental Policy Act (Chapter 43.21C RCW), its implementing rules (Chapter 197-11 WAC), and Chapter 40.570 of the UDC.
State highway of regional significance	“State highway of regional significance” means a state of Washington owned and maintained roadway or intersection not designated by the state as a highway of statewide significance.
Stormwater facility	“Stormwater facility” means the natural or constructed components of a stormwater drainage system, designed and constructed to perform a particular function, or multiple functions. Stormwater facilities include, but are not limited to, pipes, swales, ditches, culverts, street gutters, detention ponds, retention ponds, constructed wetlands, infiltration devices, catch-basins, oil/water separators, and biofiltration swales. (Amended: Ord. 2015-11-24)
Story	“Story,” when referring to structures, means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or unused under-floor space is more than six (6) feet above grade for more than fifty percent (50%) of the total perimeter or is more than twelve (12) feet above grade at any point, such basement or unused under-floor space shall be considered as a story.
Stream or streams	“Stream” or “streams” means those areas where surface waters flow sufficiently to produce a defined channel or bed. A defined channel or bed is indicated by hydraulically sorted sediments or the removal of vegetative litter or loosely rooted vegetation by the action of moving water. The channel or bed need not contain water year-round. This definition is not meant to include irrigation ditches, canals, stormwater runoff devices or other entirely artificial watercourses unless they are used to convey streams naturally occurring prior to construction. Those topographic features that resemble streams but have no defined channels (i.e., swales) shall be considered streams when hydrologic and hydraulic analyses done pursuant to a development proposal predict formation of a defined channel after development.
Stream bank stabilization	“Stream bank stabilization” means those approved bioengineered projects. The projects can include both passive and active types of methods for stabilizing the stream bank.
Street	See “Road.”
Street tree	“Street tree” shall be defined as a single-stem deciduous tree with a central leader that can be used as a landscape element for buffering/screening along front, side, and rear setbacks. Unique site features shall determine the most appropriate street tree to use. A street tree shall be broad-branched and characteristically have lower branches that are able to be removed to meet clearance standards.
Structure	“Structure” means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.
Structure, principal	“Principal structure” means the main building on a lot to which all other buildings are accessory.
Structure, residential	“Residential structure” means a structure designed, built or inhabited under circumstances meeting the classification of Group R or similar residential occupancy under the International Building Code as adopted under Title 14 of the Clark County Code.
Subdivision	“Subdivision” means the division or redivision of land within an urban growth boundary into ten (10) or more lots, tracts, parcels, sites or divisions for the purpose of sale, lease or transfer of ownership. In the rural area, five (5) or more lots define a subdivision. (Amended: Ord. 2007-06-05)
Subject property	“Subject property” means the entire lot or parcel, or contiguous combination thereof, on which a development activity is proposed.
Subregional facility	“Subregional facility,” when referring to stormwater, means a facility designed to treat and

	control stormwater runoff from more than one (1) development in a contributing drainage area of less than forty (40) acres.
Substantial completion	“Substantial completion,” when referring to transportation facilities, means that all public or private facilities are constructed, functional and operational, even though they may not be fully completed nor provisionally accepted, including sewer and water systems, storm drainage facilities and street improvements (including construction of the initial lift of asphalt or other approved surfacing), but not necessarily including sidewalks, or electrical, gas, telephone or cable services; and that the project is in full compliance with the erosion control ordinance.
Surface mining operations	“Surface mining operations” means mining of rock, stone, gravel, sand, earth and minerals.
Temporary worker	“Temporary worker” means a person intermittently employed in agriculture and not residing year-round at the same site. (Added: Ord. 2011-12-09)
Traffic calming devices	“Traffic calming devices” means physical devices within the roadway designed to manage traffic speeds or which disperse traffic such as speed bumps/humps and traffic circles.
Traffic calming measures	“Traffic calming measures” means street design features intended to manage traffic speeds or which disperse traffic such as “T” intersection, street trees, curvilinear streets, or entry treatments.
Trail	“Trail” means any path, route, way, right-of-way, or corridor posted, signed, or designated as open for nonmotorized travel or passage by the general public. Five (5) trail types are identified in the Regional Trails and Bikeways System Plan (2006) and include regional, multi-use trails, local trails, rustic trails, semi-primitive trails, and bike lanes and pedestrian walkways. Trails are defined as recreational facilities. (Added: Ord. 2016-06-12) (Amended: Ord. 2019-02-04)
Transportation analysis	“Transportation analysis” means a study done by a licensed engineer that compares a build-out scenario under the existing and proposed designations <b>analyzing trip generation, modal split and distribution</b> for a <b>current Comprehensive Planning</b> twenty (20) year horizon. (Amended: Ord. 2007-09-13)
Transportation corridor	“Transportation corridor” or “corridor” means an identified system of road(s) and street(s), which are consistently utilized by vehicular traffic for travel along an identified circulation pattern.
Transportation impact study	“Transportation impact study” means a study done by a licensed engineer in accordance with Section 40.350.020.
Transportation improvement program	“Transportation improvement program” means the current six (6) year financing plan for roads adopted by the county pursuant to RCW 36.81.121, or similar plan adopted by the Washington Department of Transportation or cities for their highway and street facilities.
Transportation terminal	“Transportation terminal” means a facility for the transfer, pickup or discharge of people or goods without the long-term storage of such items.
Travel trailer	“Travel trailer” means any transportable trailer available for recreational use, forty (40) feet or less in length or eight (8) feet or less in width, built on a chassis and equipped with wheels.
Underground storage tank (UST)	“Underground storage tank” or “UST” means: <ul style="list-style-type: none"> <li>• An underground storage tank and connected underground piping as defined in the rules adopted under Chapter 90.76 RCW; or means any one (1) or combination of tanks (including underground pipes connected thereto) that are used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is ten percent (10%) or more beneath the surface of the ground. This term does not include any of the exempt UST systems specified in WAC 173-360-110(2), or any piping connected thereto.</li> <li>• Exemptions. The following UST systems, including any piping connected thereto, are exempt from the requirement of this chapter: <ul style="list-style-type: none"> <li>o Any UST system holding hazardous wastes subject to Subtitle C of the Federal Solid Waste Disposal Act, or a mixture of such hazardous waste and other regulated substances;</li> <li>o Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act;</li> <li>o Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks;</li> <li>o Any UST system whose capacity is one hundred ten (110) gallons or less;</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>o Any UST system that contains a de minimis concentration of regulated substances;</li> <li>o Any emergency spill or overflow containment UST system that is expeditiously emptied after use;</li> <li>o Farm or residential UST systems of one thousand one hundred (1,100) gallons or less capacity used for storing motor fuel for noncommercial purposes (i.e., not for resale);</li> <li>o UST systems used for storing heating oil for consumptive use on the premises where stored; except that such systems which store in excess of one thousand one hundred (1,100) gallons are subject to the release reporting requirements of WAC 173-360-372;</li> </ul>
	<ul style="list-style-type: none"> <li>o Septic tanks;</li> <li>o Any pipeline facility (including gathering lines) regulated under: <ul style="list-style-type: none"> <li>• The Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671, et seq.), or</li> <li>• The Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001, et seq.), or</li> <li>• Which is an intrastate pipeline facility regulated under state laws comparable to the provisions of the law referred to in this definition;</li> </ul> </li> <li>o Surface impoundments, pits, ponds, or lagoons;</li> <li>o Stormwater or wastewater collection systems;</li> <li>o Flow-through process tanks;</li> <li>o Liquid traps or associated gathering lines directly related to oil or gas production and gathering operations; or</li> <li>o Storage tanks situated in an underground area (such as a basement, cellar, vault, mineworking drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor.</li> </ul>
Urban or urban area	“Urban” or “urban area” means land located within an urban area or growth boundary as designated in the comprehensive plan.
Urban growth area (UGA)	“UGA” means an urban growth area designated in the comprehensive plan.
Use	“Use” means an activity or purpose for which land or premises, or a building thereon is designed, arranged, or intended, or for which it is occupied or maintained, let or leased.
Use, conditional	“Conditional use” means a use specified by this title, which is permitted when authorized by the review authority and subject to certain conditions.
Use, permitted	“Permitted use” means a use allowed as a matter of right within certain land use districts; provided, that such use is in accordance with the requirements of the particular district and general conditions stated elsewhere in this title, and other applicable provisions of the county code.
Use, prohibited	“Prohibited use” means any use which is not specifically enumerated or interpreted as allowable in that zoning district or which is specifically listed as prohibited.
Utilities	“Utilities” means facilities operated by public or private entities to supply water, electricity, gas, sewer, transportation, or other similar services to the public. (Amended: Ord. 2006-06-09)
Utility substation facilities	“Utility substation facilities” means a subsidiary or branch facility utilizing aboveground structures which is necessary to provide or facilitate distribution, transmission or metering of water, gas, sewage, radio signals and/or electric energy. Such facilities have a local impact on surrounding properties and may consist of, but are not limited to the following: <ul style="list-style-type: none"> <li>• Water, gas and electrical distribution or metering sites;</li> <li>• Water or sewage pumping stations;</li> <li>• Water towers and reservoirs;</li> <li>• Public wells and any accessory treatment facilities;</li> <li>• Transmission towers and accessory equipment to provide radio and television service; and</li> <li>• Telephone switching facilities.</li> </ul>
Vegetation	“Vegetation” means any and all plant life.
Vehicle repair	“Vehicle repair” means upholstering of; replacement of parts for; motor service; rebuilding or reconditioning of engines, motor vehicles, or trailers; and overall painting or paint shop.
Vehicle towing and storage services	“Vehicle towing and storage services” means a service outlet providing vehicle towing and/or storage.
Visual obstruction	“Visual obstruction” means any fence, hedge, tree, shrub, device, wall, or structure exceeding three and one-half (3 1/2) feet in height above the elevation of the top of the curb, as determined by the responsible official; and so located at a street or alley intersection as to



	dangerously limit the visibility of persons in motor vehicles on said streets or alleys. This does not include trees kept trimmed or branches to a minimum height of at least six (6) feet.
Walkway	“Walkway” means a facility dedicated to the county for pedestrian use to or through a parcel for the use of the general public which is not generally adjacent to the roadway.
Water-dependent	“Water-dependent” means a use or a portion of a use which requires direct contact with the water and cannot exist at a non-water location due to the intrinsic nature of its operations.
Watershed	“Watershed” means an area draining to a single surface water system as shown on the Clark County wetland watershed map adopted hereby.
Wetland classes and subclasses	“Wetland classes and subclasses” means descriptive classes of the wetlands taxonomic classification system of the United States Fish and Wildlife Service (Cowardin, et al. 1978).
Wetlands	“Wetland” or “wetlands” means areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas created to mitigate conversion of wetlands. (Amended: Ord. 2006-05-27)
Wetlands Delineation Manual	“Wetlands Delineation Manual” means the wetland delineation procedure described in WAC 173-22-035 (as amended). (Amended: Ord. 2006-05-27; Ord. 2011-01-01)
Wildland urban interface/intermix (WUI)	“Wildland urban interface/intermix (WUI)” means those geographic areas of the county shown as “wildland urban interface/intermix” areas on a map adopted by Section 15.13.030 and as hereafter amended.
Window	“Window,” when referring to utility installation, means a rectangular opening cut in the pavement to allow potholing.
Winery	“Winery” means a licensed facility designed for the crushing, fermentation, and/or barrel aging of wine, and which may include barrel rooms, bottling rooms, tank rooms, laboratories, case goods storage, and offices. In rural zoning and urban holding districts a winery may include a tasting room and/or events. “Licensed” for the purposes of this title means a facility that has met the requirements of RCW 66.24.170 and 27 CFR Chapter 1, Subchapter A, Part 1. (Amended: Ord. 2010-10-02; Ord. 2011-08-08; Ord. 2013-08-11)
Wireless communications facility	“Wireless communications facility” means any unstaffed facility for the transmission and/or reception of radio frequency (RF) signals for the provision of wireless communications as defined in Section 40.260.250.
Zone, zone district or zoning district	“Zone,” “zone district” or “zoning district” means a section or sections of Clark County within which the standards governing the use of land, buildings, and premises are uniform, as provided in this title. (Amended: Ord. 2009-01-01; Ord. 2012-07-15)

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SUBTITLE 40.2  
 LAND USE DISTRICTS  
 40.200 LAND USE DISTRICTS – GENERAL PROVISIONS

**40.200.020 Zoning Classifications**

A. Classification of Zoning Districts.

For the purposes of this title, the county is divided into zoning districts designated as shown in Table 40.200.020-1.

Table 40.200.020-1. Zoning Districts				
Zoning District	Map Symbol	Urban	Rural	Code Section
<b>RESOURCE AND RURAL DISTRICTS (40.210)</b>				
Forest and Agriculture	FR-80, FR-40, AG-20		X	40.210.010
Agricultural-Wildlife	AG-WL		X	
Rural	R-20, R-10, R-5		X	40.210.020
Rural center residential	RC-1, RC-2.5		X	40.210.030
<b>URBAN AREA RESIDENTIAL DISTRICTS (40.220)</b>				
Single-family residential	R1-20, R1-10, R1-7.5, R1-6, R1-5	X		40.220.010
Residential	R-12, R-18, R-22, R-30, R-43	X		40.220.020
Office residential	OR-15, OR-18, OR-22, OR-30, OR-43	X		
<b>COMMERCIAL, BUSINESS, MIXED USE AND INDUSTRIAL DISTRICTS (40.230)</b>				
Rural commercial	CR-1, CR-2		X	40.210.050
Neighborhood commercial	NC	X		40.230.010
Community commercial	CC	X		
General commercial	GC	X		
Mixed use	MX	X		40.230.020
Business park	BP	X		40.230.030
University	U	X		40.230.050
Airport	A	X	X	40.230.060
Light industrial	IL	X		40.230.085
Heavy industrial	IH	X	X	
Public facilities	PF	X	X	40.230.090
<b>COLUMBIA RIVER GORGE NATIONAL SCENIC AREA DISTRICTS (40.240)</b>				
Gorge Large-Scale Agriculture	GLSA-80, GLSA-40		X	40.240
Gorge Small-Scale Agriculture	GSSA-20		X	
Gorge Small Woodland	GSW-40, GSW-20		X	
Gorge Open Space	GOS		X	
Gorge Residential	GR-5		X	
Gorge Public Recreation	GPR		X	
Gorge SMA Agriculture	GSAG		X	
Gorge SMA Federal Forest	GSFF		X	
Gorge SMA Non-Federal Forest	GSNFF		X	
Gorge SMA Open Space	GSOS		X	

Table 40.200.020-1. Zoning Districts				
Zoning District	Map Symbol	Urban	Rural	Code Section
<b>OVERLAY DISTRICTS (40.250 and 40.460)</b>				
Airport Environs	AE-1, AE-2	X	X	40.250.010
Surface mining	S	X	X	40.250.022
Historic Preservation		X	X	40.250.030
Shoreline	SL	X	X	40.460
Highway 99	TC-1	X		40.250.050
Mill Creek	MC	X		40.250.060
Equestrian	EQ	X	X	40.250.090
Urban reserve	UR-20, UR-10		X	40.250.100
Urban holding	UH-20, UH-10	X		40.250.110

(Amended: Ord. 2008-12-15; Ord. 2009-06-16; Ord. 2009-12-01; Ord. 2010-12-12; Ord. 2012-12-14; Ord. 2016-06-12; Ord. 2017-07-04)

**B. Zoning Maps.**

1. Original Maps. The designations, locations and boundaries of the districts set forth in Chapter 40.200 shall be shown on the zoning maps of Clark County, Washington. Said maps and all notations, references, data and other information shown thereon shall be and are hereby adopted and made a part of this title. The signed copies of the zoning maps containing the zoning districts designated at the time of adoption of ordinance codified in this title shall be maintained without change on file in the office of the County Auditor. Any land or property not specifically identified with a zone designation shall be considered to be zoned as is the most restrictive zone classification designated on adjoining and/or abutting properties, until such time as it is determined otherwise by a rezone action.
2. Revised Maps. ~~the board~~ **Council** may, from time to time, direct the County Auditor to replace the official zoning maps, or portions thereof, with a map or maps, or portions thereof, which include all lawful changes of zone to date. Such maps, or portions thereof, filed as replacements, shall bear dated, authenticating signatures of ~~the board~~ **Council** and County Auditor. Any maps or portions thereof thereby replaced shall be retained in a separate file by the County Auditor. Any revisions or replacements of said maps, when duly entered, signed, and filed with the County Auditor as authorized by this chapter, are part of this title.
3. Copies of Maps. The responsible official shall maintain up-to-date copies of the zoning maps. The responsible official shall cause the copies of the zoning maps to be revised so that they accurately portray changes of zone boundaries.

**40.200.080 Special Setback Lines**

**A. Purpose.**

Because of heavy or arterial traffic volume and congestion, existing or probable intensive or commercial development of abutting properties, substandard paving widths, the probability of inadequate sight distances, and other like conditions affecting traffic safety and light, air, and vision along streets, ~~the board~~ **Council** finds that public health, safety and welfare require that building setback lines, as hereinafter specified, be and are hereby established on all properties abutting the streets and sections of streets referred to in Section 40.200.080(B). Where applicable, requirements set forth in this provision shall be in addition to the setback requirements specified for the zoning

1 districts. Unless otherwise specified, the distances set forth shall be measured from the centerline  
2 and at right angles to the centerline of the right-of-way.  
3

4 **B. Designation of Streets.**  
5

6 Development abutting a street for which a standard has been established by the Clark County Arterial  
7 Atlas, shall use as the line of reference for establishing the setback distance, the distance from the  
8 centerline necessary to accommodate one-half (1/2) of the right-of-way standard established by the  
9 arterial plans for the street. The building setback shall be in addition to the special setback and shall  
10 be the appropriate setback for that particular district.  
11

12 **C. Compliance.**  
13

14 The special setback area shall be treated as additional required setback area. The area shall be  
15 reserved for future street widening purposes.  
16

17 **D. Variance Procedures.**  
18

19 Where practical difficulties, unnecessary hardships, and results inconsistent with the general  
20 purposes of this section may result from the strict application of the provisions of this section, a  
21 variance may be granted pursuant to the provisions and procedures set forth in Chapter 40.550.  
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40.210 RESOURCE AND RURAL DISTRICTS  
**NONE**

40.220 URBAN RESIDENTIAL DISTRICTS  
**NONE**

40.230 COMMERCIAL, BUSINESS, MIXED USE AND INDUSTRIAL DISTRICTS  
**NONE**

40.240 COLUMBIA RIVER GORGE NATIONAL SCENIC AREA DISTRICTS  
**NONE**

40.250 OVERLAY DISTRICTS  
**NONE - Updated 8/27/2018**

40.260 SPECIAL USES AND STANDARDS

**40.260.200 Solid Waste Handling and Disposal Sites**

A. Purpose.

The purpose of this section is:

1. To provide methods of solid waste disposal which are calculated to make the most economical and efficient use of land where solid waste disposal either occurs or has occurred;
2. To provide for the protection and preservation of land uses which might be adversely impacted by solid waste handling and/or disposal;
3. To ensure that solid waste handling and/or disposal sites and/or facilities will not constitute nuisances to other land uses, especially residential neighborhoods;
4. To ensure that premises utilized for solid waste handling and/or disposal are appropriately and timely reclaimed.

B. Conditional Use Permit.

1. Solid waste handling and disposal sites, including but not limited to transfer stations, solid waste disposal sites, sanitary landfills, and construction and demolition debris disposal sites, shall be permitted land uses anywhere within the unincorporated areas of the county, and in all zones having been created, or to be created, by ~~the board~~ **Council** pursuant to Chapter 36.70 or Chapter 35.63 RCW, except that no solid waste disposal site or solid waste handling facility shall be maintained, established, substantially altered, expanded, or improved until the person operating such site has obtained a conditional use permit as provided in this section and Section 40.520.030.
2. The following solid waste activities shall be exempt from any permit requirements of this section:
  - a. Any person may dump or deposit solid waste resulting from that person's own residential or agricultural activities onto or under the surface of premises owned or leased by that person when such residential or agricultural activity is accessory to a residential or agricultural use of the premises permitted under zoning laws.
  - b. Any person may fertilize grass, flower beds, flowers, gardens, landscaping, and any other vegetation of any kind, for commercial or residential purposes, if done accessory to, or in furtherance of a use permitted on the premises under zoning laws. This exemption shall include the disposal of sewage sludge only if a permit therefor has been obtained from the health officer.
  - c. Any composting activity accessory to another permitted use on the premises shall be a permitted use for which a permit is not required.
  - d. Solid waste activities for which a short-term permit has been issued by the health officer pursuant to Section 24.12.330 of the Clark County Code; provided, that such activities are not located within residential zoning districts.
  - e. Solid waste recycling and reclamation activities not conducted on the same site as and accessory to a solid waste disposal operation; provided, that such recycling and reclamation activities shall be subject to the use regulation of this section.

C. Public Notice.

1. Notice of hearing mailed pursuant to Section 40.510.030(E) shall be sent to owners of property within one thousand (1,000) feet of the proposed use.

- 1           2. The Solid Waste Advisory Commission shall be deemed a party of record for the purposes of  
2 Chapter 2.51 and Subtitle 40.5 of this code in proceedings to obtain the conditional use permit  
3 required by this section.  
4

5 **D. Nonconforming Uses.**  
6

- 7           1. Activities for which a conditional use permit would be required by this section and for which a  
8 solid waste permit was issued by the health officer prior to March 10, 1976, pursuant to Chapter  
9 70.95 RCW, or any ordinance adopted thereunder, shall not be altered or enlarged in any manner  
10 except in accordance with the scope of approval given under such health district permit unless a  
11 conditional use permit is obtained for the alteration or enlargement.  
12  
13           2. Other activities for which a conditional use permit would be required by this section which were  
14 either permitted uses or legally recognized nonconforming uses prior to March 10, 1976, shall not  
15 be altered or enlarged in any manner unless a conditional use permit is obtained for the alteration  
16 or enlargement; provided, structural changes may be permitted to make structures safe for  
17 occupancy or use.  
18  
19           3. Activities for which a special use permit was obtained pursuant to the provisions of the former  
20 Chapter 18.70 of the Clark County Code shall be deemed to be operating under a conditional use  
21 permit and shall be subject to the transfer and enforcement provisions applicable thereto.  
22  
23           4. Upon application to the responsible official by the owner or occupier of a building or structure, lot,  
24 or land devoted to a nonconforming use, or by the owner or occupier of a nonconforming  
25 structure, the said owner or occupier shall be entitled to receive from said responsible official a  
26 certificate of occupancy or use permit evidencing the date of establishment or construction and  
27 the legality of such nonconforming use or structure, and describing the elements of its  
28 nonconformity.  
29

30 **E. Information Requirements.**  
31

32 In addition to the requirements of Section 40.510.050 of this title, application for a conditional use  
33 permit hereunder shall include the following information:  
34

- 35           1. A statement and plan detailing the proposed reclamation of the site, particularly as reclamation  
36 will relate to the compatibility of the site as reclaimed with existing and anticipated land uses and  
37 zoning; and  
38  
39           2. Any geological or other studies which are deemed necessary to determine the appropriateness of  
40 the land for the use proposed.  
41

42 **F. Permit Criteria.**  
43

44 Whenever a use, or the location thereof, is permitted only if a conditional use permit is granted as  
45 provided by this section, the use and its location may be allowed subject to the following:  
46

- 47           1. Before such approval shall be given, the review authority shall find:  
48           a. That the use will not prevent the orderly and reasonable use and development of surrounding  
49 properties or of properties in adjacent zones.  
50           b. That all public or private utilities necessary for the use are available, and that the roads  
51 serving the use are adequate to accommodate the type and extent of vehicular traffic.  
52           c. That the reclamation plan submitted by the applicant for the proposed use and any expansion  
53 clearly demonstrates that the site as reclaimed may be utilized for uses permitted within the  
54 zoning district in which it is located.

1 d. That the proposed use and any expansion does not impair or impede the realization of the  
2 objective of the comprehensive plan, and it would not be detrimental to the public interest to  
3 grant such proposed use.  
4

5 2. In making such findings, the review authority shall consider, among other things, the following  
6 criteria:

- 7 a. The character of the existing and probable development of uses in the district and the peculiar  
8 suitability of such district for the location of any such conditional uses;
- 9 b. The conservation of property values and the encouragement of the most appropriate uses of  
10 land;
- 11 c. The effect that the location of the proposed use may have upon the creation of undue  
12 increase of vehicular traffic congestion on public streets or highways;
- 13 d. The availability of adequate and proper public or private facilities for the treatment, removal,  
14 or discharge of sewage, refuse, or other effluent (whether liquid, solid, gaseous, or otherwise)  
15 that may be caused or created by or as a result of the use;
- 16 e. Whether the use, or materials incidental thereto or produced thereby, may give off obnoxious  
17 gases, odors, smoke, or soot;
- 18 f. Whether the use will cause disturbing emission of electrical discharges, dust, light, vibration,  
19 or noise;
- 20 g. Whether the operations in pursuance of the use will cause undue interference with the orderly  
21 enjoyment by the public of parking or of recreational facilities, if existing, or if proposed by the  
22 county or by other competent governmental agency;
- 23 h. To the necessity for suitably surfaced space for purposes of off-street parking of vehicles  
24 incidental to the use, and whether such space is reasonably adequate and appropriate and  
25 can be furnished by the owner of the plot sought to be used within or abutting the plot  
26 wherein the use shall be had;
- 27 i. Whether the plot area is sufficient, appropriate, and adequate for the use and the reasonably  
28 anticipated operation and expansion thereof;
- 29 j. Whether the use to be operated is unreasonably near to a church, school, theater,  
30 recreational area, or other place of public assembly;
- 31 k. Whether a hazard to life, limb, or property because of conditions created or which may be  
32 created by reason or as a result of the use, and what measures could be effectuated to  
33 eliminate or mitigate any such hazards;
- 34 l. What restrictions should or should not be imposed in order to secure the purposes of this  
35 section and to protect the public and surrounding property owners; and
- 36 m. The extent to which any of the criteria contained herein does not apply.  
37

38 **G. Ownership.**

39  
40 No permit shall be issued for a premises except with written consent of the owner or owners.  
41 Permission to engage in the use is granted to the permit applicant only or the permit applicant's  
42 transferee. Permits shall be transferable unless the approval specifies otherwise: provided, that the  
43 transferee submits proof that the performance bond or other security required pursuant to Section  
44 40.260.200(K) remains in effect. Transferees shall engage in the use authorized by the permit only to  
45 the extent authorized by this section and the permit itself.  
46

47 **H. Restrictions upon Operations.**

48  
49 Pursuant to Section 40.520.030(E), reasonable restrictions upon operations may be imposed which  
50 are calculated to secure the purposes of this section and the purposes of the comprehensive plan  
51 and this title. Such restrictions may relate to any activity anticipated from the use proposed. Examples  
52 would be: hours of operation, traffic volume, types of materials processed, volumes of materials  
53 handled, setbacks, etc.  
54  
55



1 I. Future Use of Premises.  
2

- 3 1. The future use of the premises may be limited as a condition of the granting of the permit in order  
4 to ensure that those uses of the property to be effectuated at the conclusion of the conditional use  
5 will be consistent with the character of the land and surrounding existing and permitted land uses  
6 and zoning. After the conclusion of the conditional use, the property owner or occupier will be  
7 entitled to engage in any appropriate uses allowable in the zoning district in which the use was  
8 located.  
9
- 10 2. A binding plan of future reclamation of the land shall be required.  
11
- 12 3. A binding plan of future development of land may be required.  
13
- 14 4. If because of the nature of the conditional use, the uses generally allowed in the zone or use  
15 district in which the property is located would no longer be suitable land uses at the conclusion of  
16 the conditional use, the consent of the owner and/or occupier to a change in zone to a zone or  
17 use district designation which would more nearly reflect the appropriate land uses which should  
18 be allowed at the conclusion of the conditional use, may be required as a condition of permit  
19 approval as a prerequisite which must be accomplished before the permit may be issued.  
20

21 J. Permit Period – Renewals – Reviews.  
22

23 Permit periods may vary. However, the review authority shall specify either a date upon which a  
24 permit expires, or the occurrence of an event upon which the permit expires. The permit period shall  
25 be of sufficient duration to ensure the completion of the use for which the permit is required. No  
26 permit shall be granted for a period of time in excess of twenty (20) years. Permit renewals shall be  
27 processed in the same manner as new applications.  
28

29 K. Performance Bonds.  
30

31 Performance bonds or other security acceptable to the review authority in an amount deemed  
32 satisfactory to cover the costs of ensuring compliance with the provisions of this title and the terms  
33 and conditions of any permit issued hereunder, including required reclamation shall be required as a  
34 condition of permit approval.  
35

36 L. Conditions.  
37

38 Any conditions may be imposed upon the granting of a special use permit which are calculated to  
39 further the purposes of this section, and/or the purposes for which the permit is issued, and/or the  
40 purposes for which the permit is required.  
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40.310 SIGNS

**NONE**

40.320 LANDSCAPING AND SCREENING

**NONE**

40.330 CRIME PREVENTION AND SAFETY

**NONE**

SUBTITLE 40.3  
DESIGN STANDARDS  
40.340 PARKING, LOADING AND CIRCULATION

**40.340.030 Neighborhood Parking Plan**

A. Purpose.

~~the board~~ Council may adopt an on-street neighborhood parking plan which changes the use of public rights-of-way to increase the parking supply, changes the way parking is regulated, or incorporates a business/parking improvements district established under Chapter 35.87 RCW. Such neighborhood parking plan may be developed in a collaborative process between the affected neighborhood(s) and the county to respond to instances where neighborhoods desire to change the on-street parking layout within that neighborhood, including provisions for commercial vehicles within that neighborhood, to respond to certain situations respective to parking supply, commercial vehicle parking, or safety.

B. Credits Toward Off-Street Parking Requirements.

In adopting a neighborhood parking plan, ~~the board~~ Council may allocate credits toward the off-street parking requirements of Section 40.340.010(B) for additional on-street parking supply created as part of the neighborhood parking plan. Credits will not be given for the following:

1. Parallel parking created by a development to comply with Section 40.350.030;
2. Off-street parking required under Section 40.340.010 unless approved by the responsible official pursuant to Section 40.340.010(A)(5);
3. Instances where an increase in on-street parking supply in one (1) portion of the neighborhood is offset by decreases in parking supply in other area(s) of a neighborhood;
4. Where the increase in parking supply is temporary;
5. For parking spaces established further than three hundred (300) feet from the subject parcel receiving the credit.

C. Process.

Development of a neighborhood parking plan shall be undertaken under the direction of the County Engineer and be adopted by ~~the board~~ Council following a public hearing which has been advertised in accordance with Section 40.510.030(E). Proposed credits toward off-street parking shall be accompanied by the recommendation of the responsible official. Final design and construction plans shall be approved by the County Engineer.

40.350 TRANSPORTATION AND CIRCULATION

**40.350.020 Transportation Concurrency Management System**

A. Purpose.

This section implements the requirements in RCW 36.70A.070 that counties:

1. Establish level of service standards for arterial and transit routes; and
2. Ensure that such standards are met or reasonably funded before new development is approved.

B. Applicability.

This section applies to applications for subdivision, short subdivision, conditional use permit approvals, and site plan review, except for those site plan reviews for unoccupied utility and wireless communication facilities which have a potential vehicular impact on the level of service of a segment or intersection of either:

1. Any county roadway with a comprehensive plan functional classification of arterial or collector; or
2. Any state highway of regional significance.

(Amended: Ord. 2007-11-13)

C. Review Authority.

The review authority shall approve, approve with conditions, or deny proposed developments in accordance with the provisions of this section.

D. Transportation Impact Study.

1. A transportation impact study shall be required for all development applications in which the proposed development is projected to have an impact upon any affected transportation corridor or intersection of regional significance, unless the development application is exempt from the provisions of this section as provided for in Section 40.350.020(D)(7), or the requirement for a study has been waived by the Public Works Director.
2. A transportation impact study shall include, at a minimum, an analysis of the following elements:
  - a. Trip generation, modal split, distribution, and assignment for the proposed development; and
  - b. An analysis of the projected impact of the proposed development upon the current operating level and safety of affected transportation corridors and intersections of regional significance. The analysis shall also include an accounting of trips assigned to all collector and arterial roadways.
3. A transportation impact study shall be prepared by and/or under the supervision of a registered professional engineer in the state of Washington.
4. A transportation impact study shall be based on traffic counts obtained within twelve (12) months of the fully complete date of the development application as determined under Sections 40.510.010(B), 40.510.020(C), and 40.510.030(C). The traffic counts shall reflect representative traffic conditions on collector and arterial roadways, and at intersections of regional significance.

1 Intersections of regional significance are those intersections where at least three (3) legs are  
2 collector or arterial classification roadways.  
3

- 4 5. A transportation impact study shall not be required to analyze impacts on affected transportation  
5 corridors or intersections of regional significance located at least the following distances from  
6 the proposed development (as measured by straight-line distance):  
7 a. Fifty (50) or less new peak period trips at development site: one (1) mile;  
8 b. Fifty-one (51) to two hundred fifty (250) new peak period trips at development site: two (2)  
9 miles;  
10 c. Two hundred fifty-one (251) or more new peak period trips at development site: three  
11 (3) miles.  
12
- 13 6. The Public Works Director reserves the right to require an applicant to provide additional data  
14 and/or analysis as part of a particular transportation impact study, where the Public Works  
15 Director determines that additional information or analysis is required to implement the standards  
16 and requirements contained in this section.  
17
- 18 7. No traffic impact study shall be required, pursuant to the provisions of this section, where the  
19 proposed development will generate less than ten (10) peak period vehicle trips. However, these  
20 proposed developments are still subject to concurrency reviews and require concurrency  
21 approvals.  
22
- 23 8. Upon the written request of an applicant, the Public Works Director may waive the requirement  
24 for a transportation impact study, or limit the scope of analysis and required elements of a traffic  
25 impact study where the Public Works Director determines that the potential transportation  
26 impacts upon the affected transportation corridor(s) and/or intersection(s) of regional significance  
27 have been adequately analyzed in prior research or reports and/or are not projected to cause a  
28 reduction in the operating level of affected transportation corridors and/or intersections.  
29

30 E. Requirements for Concurrency Approval.  
31

- 32 1. Each development application subject to the provisions of this section shall require a concurrency  
33 review. No development application may be approved by the review authority until such time as a  
34 concurrency approval or conditional concurrency approval has been issued by the Public Works  
35 Director.  
36
- 37 2. The concurrency determination for multiple development applications impacting the same  
38 transportation corridors or intersections shall be tested chronologically in accordance with the  
39 respective applications' fully complete dates as determined under Sections 40.510.010(B),  
40 40.510.020(C), and 40.510.030(C) (but not the contingent vesting provisions of Sections  
41 40.510.010(D), 40.510.020(G), and 40.510.030 (G)). For the purpose of this subsection only, the  
42 fully complete date for an application delayed in processing for sixty (60) days or longer due to  
43 actions or inaction of the applicant (as determined by the responsible official) shall be adjusted  
44 according to the length of such delay. Preapplication concurrency reviews shall be tested in the  
45 order they are received.  
46
- 47 3. The Public Works Director shall issue a concurrency approval where the Public Works Director  
48 determines that the proposed development's impacts upon all affected transportation corridors  
49 and intersections of regional significance do not result in the operating levels for the  
50 transportation corridors, signalized intersections, and unsignalized intersections falling below the  
51 adopted level of service standards established in Section 40.350.020(G).  
52

- 1 4. A concurrency review and approval shall not be required for those affected transportation  
2 corridors and intersections of regional significance further away than the distances identified in  
3 Section 40.350.020(D)(5).  
4
- 5 5. The Public Works Director may approve and condition mitigation (if volunteered by the applicant)  
6 where the Public Works Director determines that the proposed development's projected impacts  
7 upon an affected transportation corridor or intersection of regional significance can be offset by  
8 the mitigation such that the operating levels will not further deteriorate because of the additional  
9 traffic generated by the proposed development. The review authority may approve a development  
10 when the Public Works Director determines that achieving the level of service standards would  
11 cause significant negative environmental impacts as identified in a SEPA review.  
12
- 13 6. Appeals to the determination of the Public Works Director with respect to concurrency shall be  
14 made in accordance with Sections 40.510.010 (E), 40.510.020(H), and 40.510.030(H).  
15 Applications reviewed as Type I and Type II procedures shall be appealed as Type II procedures.  
16 For applications reviewed as Type III procedures, the Public Works Director's determination shall  
17 be treated as a recommendation to the review authority.  
18

19 (Amended: Ord. 2012-05-25)  
20

21 **F. Determination of Operating Levels.**  
22

23 The operating level for a transportation corridor, signalized intersection, and/or unsignalized  
24 intersection shall be defined as the traffic characteristics of those roadways and intersections with  
25 consideration of the following factors:  
26

- 27 1. The existing traffic levels on the roadways and intersections;  
28
- 29 2. Any mitigation measures proposed by the applicant.
  - 30 a. For site plans, mitigation measures shall be completed and/or implemented prior to  
31 occupancy or commencement of the use.
  - 32 b. For land divisions, mitigation measures shall be completed and/or implemented prior to:
    - 33 (1) Final plat approval; or
    - 34 (2) Issuance of the first building permit for any newly recorded lot, provided:
      - 35 (a) The improvements are secured by a performance bond or financial guarantees  
36 acceptable to the county prior to final plat.
      - 37 (b) Construction plans shall be approved, and any needed right-of-way for the  
38 mitigation improvements have been obtained prior to final plat approval.
      - 39 (c) "Model home" building permits issued subject to the requirements of Section  
40 40.260.175 do not require bonding or right-of-way acquisition necessary for  
41 transportation concurrency mitigation measures.  
42
- 43 3. Any mitigation measures conditioned on other approved developments which will be completed  
44 and/or implemented prior to occupancy of the proposed development;  
45
- 46 4. The traffic impacts of the proposed development on the affected transportation corridors and  
47 intersections;  
48
- 49 5. The traffic impacts of other approved developments not yet fully built-out on the affected  
50 transportation corridors and intersections;  
51
- 52 6. Any improvements being implemented as part of the county's transportation improvement  
53 program that are reasonably funded and scheduled for completion of construction within six (6)  
54 years of the final date for a decision upon the development application;

7. Any capacity which has been assigned or reserved to other and/or future developments pursuant to the terms of a development agreement or capacity reservation authorized and executed under the provisions of this chapter;
8. Any background traffic growth or traffic from developments exempt from the requirements of this chapter that the Public Works Director determines could have an impact on the operating level of the transportation corridors or intersections;
9. Any other factors that the Public Works Director has determined could have an impact on the operating level of the transportation corridors or intersections.

(Amended: Ord. 2007-04-13; Ord. 2007-09-12; Ord. 2007-11-09; Ord. 2009-12-01; Ord. 2011-08-08)

**G. Level of Service Standards.**

1. Level of service or LOS standards shall be as follows:
  - a. The maximum volume to capacity ratio for each roadway segment shall not exceed nine-tenths (0.9), when measured independently for each direction of travel. Measurements shall be made for all collector and arterial roadway segments located within the Vancouver Urban Growth Area, but outside of the City of Vancouver. Measurements shall also be made for state highways of regional significance. In calculating the volume to capacity ratio, the volume shall be determined based on the factors described in Section 40.350.020(F). In determining the capacity for roadways built-out to county standards, the capacity shall be based on the factors described in Table 40.350.020-1, Roadway Capacities. For roadways not fully built-out to county standards, the capacity shall be determined based on the current roadway condition. For roadways with lane widths twelve (12) feet and greater, and with paved shoulder widths two (2) feet and greater, the lane capacity shall be eight hundred (800) vehicles per hour. For roadways with lane widths between eleven (11) and twelve (12) feet and with paved shoulder widths two (2) feet and greater, the lane capacity shall be seven hundred (700) vehicles per hour. For roadways with lane widths less than eleven (11) feet, the lane capacity shall be six hundred (600) vehicles per hour.

Roadway Type			County Designation	Single Direction Capacity/Hour
Urban	Arterials	Parkway	Pa-4b	2000
		Principal	Pr-4cb	1800
		Minor, 4-lane	M-4cb	1800
		Minor, 2-lane	M-2cb	900
	Collector	Urban	C-2cb	900
		Urban	C-2	800
Urban		C-2b	800	
Rural	Arterial		RA	800
	Collector	Major	R-2	800
		Minor	Rm-2	800

- b. Individual movements at each signalized intersection of regional significance in the unincorporated county shall not exceed an average of two (2) cycle lengths or two hundred forty (240) seconds of delay (whichever is less).

- 1 c. All unsignalized intersections of regional significance in the unincorporated county shall  
2 achieve LOS E standards or better (if warrants are not met). If warrants are met, unsignalized  
3 intersections of regional significance shall achieve LOS D standards or better. Intersection  
4 control or mitigation of unsignalized intersections shall be at the discretion of the Public  
5 Works Director and shall not obligate the county to meet this LOS standard. However,  
6 proposed developments shall not be required to mitigate their impacts in order to obtain a  
7 concurrency approval unless:  
8 (1) The proposed development adds at least five (5) peak period trips to a failing intersection  
9 approach; and  
10 (2) The worst movement on the failing approach is worsened by the proposed development.  
11 In determining whether the movement is worsened, the Public Works Director shall  
12 consider trip volume, delay, and any other relevant factors.  
13 d. The LOS standards identified in this subsection shall be applied during peak period traffic  
14 conditions, as defined by the responsible official and published in the administrative manual.  
15

- 16 2. The LOS standards established in this subsection shall be applied and interpreted as stated in  
17 the administrative manual prepared pursuant to Section 40.350.020(N).  
18  
19 3. The LOS standards and the operating levels for each transportation corridor and intersection of  
20 regional significance shall be evaluated and reviewed on an annual basis by ~~the board~~ Council.  
21  
22 4. Notwithstanding the provisions for the annual review of LOS standards pursuant to this section,  
23 ~~the board~~ Council reserves the authority to enact and renew emergency moratoria and interim  
24 zoning or other official controls upon development approvals affecting designated transportation  
25 corridors and intersections of regional significance pursuant to RCW 36.70A.390, and may  
26 specify qualifications or conditions for the application of such moratoria and interim zoning or  
27 other official controls.  
28

29 (Amended: Ord. 2010-08-06)

30  
31 H. Exemptions from Concurrency Requirements.

32  
33 The following types of development applications shall not be subject to a concurrency denial:  
34

- 35 1. K – 12 public schools incorporating commitments to commute trip reduction consistent with  
36 Chapter 5.50;  
37  
38 2. Fire/police stations;  
39  
40 3. Public transit facilities;  
41  
42 4. Neighborhood parks.  
43

44 (Amended: Ord. 2006-05-01)

45  
46 I. Concurrency Survey.

- 47  
48 1. For purposes of monitoring the cumulative transportation-related impacts of developments which  
49 are exempt from the requirements of this section, such development applications shall be  
50 required to submit a concurrency survey for review by the Public Works Director.  
51  
52 2. Submittals of concurrency surveys shall be made upon written forms provided by the Director and  
53 shall be filed with the Public Works Director. The concurrency survey shall indicate, at a  
54 minimum:  
a. The type and location of the development;



- 1           b. An identification of all affected transportation corridors and intersections of regional  
2           significance;
- 3           c. The specific reason the development is exempt from the provisions of this section;
- 4           d. An estimate of the projected total peak period trips that will be generated by the development;
- 5           and
- 6           e. An estimate of the date of occupancy of the development.
- 7
- 8           3. The Public Works Director shall review and approve the concurrency survey, and may require the  
9           submission of additional information prior to approving the survey.
- 10
- 11           4. No development application may be approved by the review authority until such time as the  
12           applicant has complied with the requirements of this subsection, and the Public Works Director  
13           has approved the concurrency survey.
- 14

15 J. Reservation of Capacity.

- 16
- 17           1. Upon issuance of a concurrency approval by the Public Works Director, the transportation  
18           capacity allocated by the Public Works Director to the development application shall become  
19           encumbered capacity. This encumbered capacity shall not be considered for use by another  
20           development application until such time as the concurrency approval expires pursuant to Section  
21           40.350.020(J)(4).
- 22
- 23           2. Upon issuance of a development approval by the review authority, this encumbered capacity shall  
24           become reserved capacity and shall not be considered for use by another development  
25           application.
- 26
- 27           3. Reserved capacity shall not be transferable to another development upon another site. Reserved  
28           capacity from a previous development approval shall not be transferable to a different land use  
29           development upon the same site.
- 30
- 31           4. Concurrency approvals shall be valid for the same period of time as the development approval,  
32           and shall expire upon the date the development approval expires. Notwithstanding the provisions  
33           of this subsection, a concurrency approval shall expire upon the date the development application  
34           for which the concurrency approval was required is:
  - 35           a. Withdrawn by the applicant;
  - 36           b. Denied approval by the review authority; provided, that for purposes of this section, an  
37           application shall not be deemed to be denied by the review authority until a final decision has  
38           been issued pursuant to any administrative appeal under Sections 40.510.010(E),  
39           40.510.020(H), and 40.510.030(H); or until a final decision has been rendered by a superior  
40           court with competent jurisdiction, where such judicial appeal has been filed in a timely way; or
  - 41           c. Not found to be fully complete within one hundred eighty (180) days of a pre-application  
42           concurrency approval.
- 43

44 (Amended: Ord. 2012-05-25)

45

46 K. Capacity Reservation for Development Agreements.

47

48 ~~The board Council~~ may reserve capacity, prior to approval of a development application by the review  
49 authority, through the approval of a development agreement authorized and executed under the  
50 provisions of RCW 36.70B.170. This reserved capacity shall be accounted for in establishing and  
51 reviewing LOS standards and in the determination of operating levels for transportation corridors and  
52 intersections.

53

54 L. Capacity Reservation for a Preferred Land Use.

- 1
- 2 1. Where ~~the board-Council~~ finds that there is a significant public interest or need to provide for the
- 3 approval of a preferred land use that would affect the transportation corridors and/or
- 4 intersections of regional significance, ~~the board-Council~~ following a public hearing may provide for
- 5 the reservation of capacity for such land use. ~~The board-Council~~ may direct, by ordinance, that
- 6 the transportation capacity necessary to accommodate such land use be reserved for the future
- 7 approval of such land uses.
- 8
- 9 2. Such reservation shall be for an identified period of time and shall be subject to annual review by
- 10 ~~the board-Council~~. This reserved capacity shall be accounted for in establishing and reviewing
- 11 LOS standards and in the determination of operating levels for the transportation corridors and
- 12 intersections.
- 13

14 M. Deferral of Reserved Capacity.

15  
16 If reserved trips from a development agreement (Section 40.350.020(K)) are not scheduled to be  
17 utilized for at least five (5) years, ~~the board-Council~~ by administrative resolution may direct that all or  
18 a portion of such out-year trips be excluded in concurrency testing of other project applications where  
19 anticipated transportation improvement projects, whether or not deemed reasonably funded, are  
20 expected to increase capacity on the impacted corridor(s)/intersection(s) by at least the volume of the  
21 out-year trips so deferred. When deferring use of reserved trips, the reserved trips will remain vested  
22 with the original party to the developer agreement and will be available for use by that party  
23 consistent with any conditions in the development agreement.

24  
25 N. Establishment of Administrative Manual.

- 26
- 27 1. The Public Works Director shall establish and adopt the methodology and criteria to be used to
- 28 identify transportation corridors and evaluate the operating level for each transportation corridor
- 29 and intersection of regional significance.
- 30
- 31 2. The Public Works Director shall establish and adopt the methodology and criteria to be used to
- 32 identify and evaluate the transportation impacts of developments which are required to be
- 33 addressed in the transportation impact studies required by Section 40.350.020(D).
- 34
- 35 3. The Public Works Director shall publish and regularly update an administrative manual setting
- 36 forth the methodology and criteria adopted for the purposes described in Sections
- 37 40.350.020(N)(1) and (N)(2).
- 38
- 39 4. A copy of the most recent version of the administrative manual shall be made available for public
- 40 inspection and review.
- 41
- 42 5. The provisions of the administrative manual shall be consistent with and implement the provisions
- 43 of this section. To the extent the provisions of the manual are inconsistent with the provisions of
- 44 this section, the provisions of this section shall control.
- 45

46 O. Mitigated Level of Service for Master Planned Developments.

47  
48 Mitigated level of service standards may be established, for master planned industrial, university or  
49 office uses, which the review authority finds:

- 50
- 51 1. Are approved for master plan development under Section 40.520.070 for properties zoned light
- 52 industrial (IL) or are approved as a master development plan under Section 40.230.050 for
- 53 properties zoned university (U), or if previously approved, are found to substantially comply with
- 54 Section 40.230.050 or 40.520.070;

- 1
- 2       2. Are served by a transportation corridor which incorporates measures to mitigate traffic
- 3       congestion, such as high occupancy vehicle lanes, fifteen (15) minute or better peak hour transit
- 4       service, freeway ramp metering, or traffic signal coordination; and
- 5
- 6       3. Incorporates a commitment to commute trip reduction for all industrial, university and office
- 7       on-site employers, consistent with Chapter 5.50.
- 8

9 (Amended: Ord. 2007-11-09; Ord. 2012-12-14)

10

11 P. Application of SEPA to the Director's Determinations.

12

13 Any determination made by the Public Works Director pursuant to this section shall be an

14 administrative action that is categorically exempt from the State Environmental Policy Act.

15

16 (Amended: Ord. 2006-09-05; Ord. 2014-08-09; Ord. 2017-04-13)

17

18 **40.350.030 Street and Road Standards**

19 A. Overview.

- 20
- 21 1. Purpose. It is the purpose of this section to establish minimum standards for public and private
  - 22 transportation facilities for vehicles, public transit, pedestrians, and bicycles, hereinafter
  - 23 constructed or improved as a condition of county approval of a development, or a transportation
  - 24 project constructed by the county. These standards are intended to preserve the community's
  - 25 quality of life and to minimize total costs over the life of the transportation facility.
  - 26
  - 27 2. Applicability. This section applies to any subdivision, short plat, site plan application, or
  - 28 conditional use permit; provided, that for the purposes of Sections 40.350.030(B)(4) and (B)(8), it
  - 29 shall also apply to applications for building permit or other applications for access to a public
  - 30 road, or to projects within the public right-of-way. Unoccupied utility and wireless communication
  - 31 facilities shall only be subject to the provisions of Section 40.350.030(B)(4)(c), (d) and (e); and
  - 32 Section 40.350.030(B)(8). Private bridges are addressed in Section 40.350.040.
  - 33
  - 34 3. Relationship to Comprehensive Plan.
  - 35 a. Clark County is required by RCW 36.70A.040(3) to ensure that any development regulations
  - 36 adopted subsequent to the comprehensive plan "...are consistent with and implement the
  - 37 comprehensive plan..."
  - 38 b. This section is consistent with and implements the goals and policies listed in the
  - 39 comprehensive plan. Particular attention has been paid to Chapter 5, Transportation
  - 40 Element.
  - 41 c. Interpretations of this section shall be consistent with the effective Arterial Atlas. The Arterial
  - 42 Atlas identifies all arterials and collectors and specifies the design of these facilities in general
  - 43 terms.
  - 44 d. This section implements the pedestrian and bikeways system plan and the Arterial Atlas. The
  - 45 atlas requires pedestrian and/or bicycle facilities to be included as part of certain arterial and
  - 46 collector road cross-sections where the pedestrian and bikeways system plan indicates such
  - 47 facilities are to be located. This section requires the inclusion of pedestrian and bikeway
  - 48 facilities in frontage improvements based on the functional classification adopted in the
  - 49 Arterial Atlas.
  - 50
  - 51 4. Functional Classifications – Purpose. The purpose of a functional classification system for county
  - 52 roads is to define varying levels and types of transportation facilities that provide for the safe and
  - 53 efficient movement of people and goods, while preserving residential areas and maintaining the
  - 54 economic vitality of commercial and industrial areas. The system classifies transportation facilities

1 as either urban or rural roads. Both urban and rural roads are further divided into arterials,  
2 collectors, and access roads. There is also an urban commercial/industrial category of roads.  
3

4 Existing and proposed arterials and collectors are shown on the current Arterial Atlas. The  
5 county's functional classification system for arterials is intended to be in compliance with the  
6 federal classification system.  
7

8 5. Functional Classifications – Urban Roads. Urban roads are classified as outlined below:

9 a. Arterials.

10 (1) Parkway Arterial. "Parkway arterial" is the highest classification within the county's  
11 functional classification system. The purpose of this county road is to carry high volumes  
12 of traffic through the urban area and between major regional activity centers. This class  
13 of roadway is of primary importance in the regional transportation system as it carries a  
14 high proportion of the total urban-area travel. Access is normally limited to intersections  
15 with other arterials. Direct land access is prohibited.

16 (2) Principal Arterial. "Principal arterial" is the basic element of the county's road system. All  
17 other functional classifications supplement the principal arterial network. It carries large  
18 volumes of traffic over long distances. Access is generally limited to intersections with  
19 other arterials and collectors. Signalized intersection spacing is regulated. Direct land  
20 access is minimal and managed, but is less restrictive than access from parkway  
21 arterials. Spacing is typically two (2) to five (5) miles.

22 (3) Minor Arterial. "Minor arterial" collects and distributes traffic from principal arterials to  
23 streets of lower classifications and may allow for traffic to directly access destinations.  
24 Minor arterials provide for movement within subareas of the county, whose boundaries  
25 are largely defined by principal arterial roadways. They serve through traffic and provide  
26 direct access to large commercial, industrial, office and multifamily development but,  
27 generally, not to single-family residential properties. Spacing is typically less than two (2)  
28 miles.

29 b. Collectors – Urban Collector. "Urban collector" provides for land access and traffic circulation  
30 within and between residential neighborhoods, and commercial and industrial areas. The  
31 collector street also collects traffic from local streets and channels it into the arterial system.  
32 Direct access to adjacent land uses, however, is still subordinate to traffic movement. Access  
33 to abutting properties is controlled through driveway spacing and pavement markings.  
34 Typically, collectors are not continuous for any great length, nor do they form a connected  
35 network by themselves. Spacing is typically less than two (2) miles.

36 c. Access Roads.

37 (1) Neighborhood Circulator. "Neighborhood circulator" serves to distribute traffic from  
38 collectors and provides direct access for abutting properties. Through trips are  
39 discouraged and parking is allowed. In general, these streets connect local access  
40 streets to collectors.

41 (2) Local Access. "Local access" streets provide direct access to adjoining properties within  
42 a neighborhood. Through trips are discouraged and parking is usually allowed. In  
43 general, these streets do not directly connect to arterials or collectors.

44 (3) Short Cul-de-Sac. "Short cul-de-sac" streets are a maximum one hundred fifty (150) feet  
45 in length and serve no more than eighteen (18) dwelling units. Parking is allowed. The  
46 use of shared driveways off of short cul-de-sacs requires Fire Marshal approval.

47 (4) Alley. "Alley" streets are secondary accesses to the back side of lots. This allows streets  
48 at the front of properties not to be encumbered with driveways. Alleys are an alternative  
49 to frontage access. Parking is not allowed.

50 d. Urban Commercial/Industrial. "Urban commercial/industrial" streets serve to distribute traffic  
51 from arterials and provide direct access to abutting commercial or industrial properties.  
52 Through trips are discouraged and parking is optional. Bike lanes may be required when the  
53 projected average daily trips exceed three thousand (3,000).

1 A “storefront street” is a pedestrian-oriented street type that can be used in Mixed Use and  
2 Highway 99 commercial districts where building setbacks are zero (0) to five (5) feet.  
3 Driveway access is not permitted; wide sidewalks, curb bulb-outs and parking are required.  
4

5 6. Functional Classifications – Rural Roads. Rural roads are classified as follows:

6 a. Rural Arterial. “Rural arterial” roads are rural extensions of urban principal arterials and some  
7 urban minor arterials. They provide adequate right-of-way for future urban arterial routes. The  
8 provision of land access remains subordinate to providing for traffic movement. Parking is not  
9 allowed.

10 b. Collectors.

11 (1) Rural Major Collector. “Rural major collector” roads are rural extensions of urban minor  
12 arterials and some urban collectors. Their primary purpose is to link rural centers with  
13 nearby towns and cities and with state arterial routes. The provision of land access  
14 remains subordinate to providing for traffic movement. Parking is not allowed.

15 (2) Rural Minor Collector. “Rural minor collector” roads connect local traffic to rural major  
16 collectors and state arterial routes and may be rural extensions of urban minor arterials or  
17 urban collectors. They are spaced so as to be accessible to all developed areas within  
18 the county. The provision of land access is given the same priority as the provision of  
19 traffic movement. Parking is not allowed.

20 c. Access Roads.

21 (1) Local Access. “Local access” roads provide access from parcels to the rural collector  
22 system. Parking is not allowed.  
23

24 7. Scenic Routes.

25 a. Scenic routes are roadways with unique scenic or historical features, officially designated by  
26 ~~the Board of County Commissioners~~ Council. Scenic routes seek to enhance, preserve and  
27 facilitate the enjoyment of those scenic or historical features unique to each route.

28 b. Scenic route design may allow reduced design speed and modified roadway and right-of-way  
29 widths to preserve naturally occurring scenic beauty unique to the location of the route. When  
30 possible, existing alignment and roadway sections shall be used. Special features, such as  
31 vehicle turnouts for vista areas or bicycle/pedestrian facilities, may be provided. Urban or  
32 rural collector standards shall be used for right-of-way and roadway sections. The Public  
33 Works Director may modify the standards to accommodate unique scenic or historic design  
34 considerations.

35 c. A traffic analysis to determine the impacts on arterials, collectors, and access roads shall be  
36 completed prior to designating a facility a scenic route.  
37

38 8. Urban Reserve, Urban Holding Areas and Rural Centers. The following are special applications of  
39 the functional classifications. Chapter 5 of the comprehensive plan lists additional transportation  
40 improvements required in specific geographic areas.

41 a. New developments permitted outright within the urban holding and urban reserve areas of the  
42 county shall meet rural road standards, except that the right-of-way for rural local access  
43 roads shall be a minimum of fifty-four (54) feet to allow for a future neighborhood circulator  
44 street.

45 b. Compliance with the urban road standards for right-of-way dedication and frontage  
46 improvements shall be required for:

47 (1) Conditional uses in urban holding areas; and

48 (2) Conditional uses that are urban in character, within urban reserve areas.

49 c. Where urban frontage improvements are required and the road to be improved has a rural  
50 classification, Table 40.350.030-1 shall be used to convert rural classifications to urban.

51 d. New developments within rural centers shall meet rural road standards. All public and private  
52 roads shall be paved and constructed with sidewalks.  
53

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2

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40.360 SOLID WASTE AND RECYCLING  
**NONE**

40.370 SEWER AND WATER  
**NONE**

40.386 STORMWATER AND EROSION CONTROL  
**NONE**

40.410 CRITICAL AQUIFER RECHARGE AREAS  
**NONE**

SUBTITLE 40.4  
CRITICAL AREAS AND SHORELINES  
40.420 FLOOD HAZARD AREAS

**40.420.010 Introduction**

A. Purpose.

The purpose of this chapter is to safeguard public health, safety and welfare by placing limitations on development in areas susceptible to flood waters consistent with the requirements of the Growth Management Act and WAC 365-190-080.

(Amended: Ord. 2005-04-15; Ord. 2012-07-15)

B. Applicability.

1. This chapter applies to all development in identified special flood hazard areas within the jurisdiction of Clark County. After the adoption of this chapter, no structure shall hereafter be constructed, substantially improved, located, extended, converted, or replaced, nor any land altered without full compliance with the terms of this chapter and other applicable regulations.
2. This chapter is not intended to repeal or impair any existing easements, covenants or deed restrictions.
3. Where this chapter and another code or ordinance conflict or overlap, that which imposes the more stringent restrictions shall prevail.
4. In the interpretation and application of this chapter, all provisions shall be:
  - a. Considered as minimum requirements;
  - b. Liberally construed to achieve the purposes of this chapter; and
  - c. Deemed neither to limit nor repeal any other powers granted under state statutes.
5. Federal Flood Insurance Program. ~~The Board Council~~ assures the Federal Insurance Administration that it will take legislative action needed to meet the requirements of the National Flood Insurance Regulations and will take such other appropriate official actions as may be reasonably necessary to carry out the requirements of the program.

(Amended: Ord. 2005-04-15; Ord. 2009-03-02; Ord. 2012-07-15)

C. Definitions.

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

Base flood	“Base flood” means the flood having a one percent (1%) chance of being equaled or exceeded in any given year and is also referred to as the one-hundred-year (100-year) flood.
Base flood elevation	“Base flood elevation” means the height in relation to the North American Vertical Datum (NAVD) 1988 expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.
Basement	“Basement” means any area of the building having its floor subgrade below ground level on all sides.
Critical facility	“Critical facility” means the following: <ul style="list-style-type: none"><li>• Structures or facilities that produce, use or store highly volatile, flammable, explosive, toxic and/or water-reactive materials;</li></ul>



	<ul style="list-style-type: none"> <li>• Hospitals, nursing homes, and housing likely to contain occupants who may not be sufficiently mobile to avoid death or injury during a flood;</li> <li>• Police stations, fire stations, vehicle and equipment storage facilities, and emergency operations centers that are needed for flood response activities before, during and after a flood; and</li> <li>• Public and private utility facilities that are vital to maintaining or restoring normal services to flooded areas before, during, and after a flood.</li> </ul>
Development	<p>“Development” means, in addition to the definition in Section 40.100.070:</p> <ul style="list-style-type: none"> <li>• Storage of equipment and materials.</li> </ul>
Elevation certificate	<p>“Elevation certificate” means the official form (FEMA 81-31) used to record the elevation of a structure on a given property relative to the NAVD 1988.</p>
Encroachment	<p>“Encroachment” means the intrusion of any building, structure, vegetation, fill, excavation, or other development or use into a special flood hazard area which may impede or alter the flow through or storage capacity of a special flood hazard area.</p>
FEMA	<p>“FEMA” means the Federal Emergency Management Agency.</p>
Flood or flooding	<p>“Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:</p> <ul style="list-style-type: none"> <li>• The overflow of inland waters, and/or</li> <li>• The unusual and rapid accumulation of runoff of surface waters from any source.</li> </ul>
Flood Insurance Rate Maps	<p>“Flood Insurance Rate Maps” (FIRMs) mean the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the county.</p>
Flood Insurance Study	<p>“Flood Insurance Study” means an official report published by FEMA in conjunction with the community’s Flood Insurance Rate Maps (FIRMs). The study contains such background data as the base flood discharges and water surface elevations that were used to prepare the FIRMs.</p>
Floodproofing	<p>“Floodproofing” means any combination of structural and nonstructural additions, changes or adjustments to properties and structures which reduce or eliminate flood damages to lands, water and sanitary facilities, and structures and their contents.</p>
Floodway	<p>“Floodway” means the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.</p>
Lowest floor	<p>“Lowest floor” means the lowest floor of the lowest enclosed area (including the basement). An unfinished or flood-resistant enclosure usable solely for parking of vehicles or for building access or storage in an area other than a basement area is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of Section 40.420.020(E)(1)(b).</p>
Special flood hazard area, or floodplain	<p>“Special flood hazard area” or “floodplain” means any land area subject to a one percent (1%) or greater chance of flooding in any given year.</p>
Start of construction	<p>“Start of construction” means, in addition to the definition in Section 40.100.070, for a substantial improvement, the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.</p>
Structure	<p>“Structure” means, in addition to the definition in Section 40.100.070:</p> <ul style="list-style-type: none"> <li>• A gas or liquid storage tank that is principally above ground;</li> <li>• A manufactured home.</li> </ul>

Substantial damage	“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.
Substantial improvement	“Substantial improvement” means any repair, reconstruction, or improvement of a structure, the cost of which is equal to or greater than fifty percent (50%) of the market value of the structure either: <ul style="list-style-type: none"><li>• Before the improvement or repair is started; or</li><li>• If the structure has been damaged and is being restored, before the damage occurred.</li></ul> Substantial improvement can exclude: <ul style="list-style-type: none"><li>• Any project for improvement of a structure to correct pre-cited existing violations of state or local health, sanitary, or safety code specifications which have been identified by a code enforcement official and which are the minimum necessary to assure safe living conditions; or</li><li>• Any alteration of a structure listed on the National Register of Historic Places or the Clark County Heritage Register.</li></ul>

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(Amended: Ord. 2005-04-15; Ord. 2012-07-15)

D. Flood Insurance Study and Maps.

1. The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in a report entitled “Flood Insurance Study, Clark County, Washington and Incorporated Areas” (FIS), effective September 5, 2012, and accompanying Flood Insurance Rate Maps (FIRMs) and any revisions thereto are hereby adopted by reference. The FIS and the FIRMs are on file with the Public Works Department.
2. For the FIS and the FIRMs, the vertical datum was converted from the National Geodetic Vertical Datum of 1929 (NGVD29) to the North American Vertical Datum of 1988 (NAVD88). In addition, the Transverse Mercator, State Plane coordinates, previously referenced to the North American Datum of 1927 (NAD27), are now referenced to the North American Datum of 1983 (NAD83).
3. The best available information for flood hazard area identification as outlined in Section 40.420.030(D)(6)(c) shall be the basis for regulation until new information is incorporated into the FIRMs.

(Added: Ord. 2012-07-15)

E. Warning and Disclaimer of Liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes, and is based upon scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside special flood hazard areas, or uses permitted within such areas, will be free from flooding or flood damages. This chapter shall not create liability on the part of Clark County, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on this chapter or any administrative decision made thereunder.

(Amended: Ord. 2005-04-15; Ord. 2012-07-15)

40.430 GEOLOGIC HAZARD AREAS

**40.430.010 Introduction**

A. Purpose.

The purpose of this chapter is to safeguard public health, safety and welfare by placing limitations on development in geologically hazardous areas consistent with the requirements of the Growth Management Act and WAC 365-190-080.

(Amended: Ord. 2005-04-15; Ord. 2012-02-03; Ord. 2018-01-09)

B. Applicability and Exemptions.

1. Applicability. This chapter applies to all construction, development, earth movement, clearing, or other site disturbance which requires a permit, approval or authorization from the county in or within one hundred (100) feet of a geologic hazard area except for exempt activities listed in Section 40.430.010(B)(3). Regulated geologic hazards include steep slope hazard areas, landslide hazard areas, seismic hazard areas, and volcanic hazard areas.
2. Shoreline Master Program. Within shoreline jurisdiction, development may be allowed for those uses in the Shoreline Master Program (Chapter 40.460) either through a statement of exemption or through an application with a geohazard review as part of the shoreline permit process.
3. Exempt Activities and Uses. The following activities and uses are exempt from the provisions of this chapter:
  - a. Emergency activities which require immediate action to prevent an imminent threat to health, safety or property. As soon as practical, the responsible party shall provide written notification to the responsible official and obtain all applicable permits;
  - b. Residential remodels that do not alter the footprint or increase the gross floor area of the structure;
  - c. Any replacement, operation, repair, modification, installation or construction by a state or locally franchised utility company in an improved right-of-way or utility corridor;
  - d. Normal and routine maintenance and repair of existing utility facilities, equipment and appurtenances;
  - e. Any development activity on or within one hundred (100) feet of steep slopes that have been created through previous, legal grading activities is exempt from steep slope hazard regulations; and
  - f. Applications for short plats in the rural area that are certified by a registered geologist or professional engineer licensed in the state of Washington to be exempt from the requirements of this chapter even though a mapped geohazard exists on the plat or within one hundred (100) feet of the boundaries of the plat. Certification shall be provided with the preliminary plat application by means of one of the following:
    - (1) A development envelope is designated on the plat which is certified to be over one hundred (100) feet from any regulated geologic hazard area. A stamped letter which documents how the designated envelope is exempt from the requirements of this chapter shall accompany the development envelope diagram; or
    - (2) A stamped letter which documents there are no areas within the boundaries of the plat that are within one hundred (100) feet of any regulated geologic hazard area.
  - g. All forest practices other than Class IV G (conversions).

4. This chapter applies to Class IV G forest practices (conversions).

(Amended: Ord. 2005-04-15; Ord. 2012-02-03; Ord. 2012-07-16; Ord. 2018-01-09)

C. Definitions.

1  
2 For purposes of this chapter, the following definitions shall apply:  
3

- 4 1. "Steep slope hazard area" means an area where there is not a mapped or designated landslide  
5 hazard, but where there are steep slopes equal to or greater than forty percent (40%) slope.  
6 Steep slopes which are less than ten (10) feet in vertical height and not part of a larger steep  
7 slope system, and steep slopes created through previous legal grading activity are not regulated  
8 steep slope hazard areas. The presence of steep slope suggests that slope stability problems are  
9 possible.  
10
- 11 2. "Landslide hazard area" means an area that, due to a combination of slope inclination, soil type  
12 and presence of water is susceptible to landsliding in accordance with the following criteria:  
13 a. Areas of previous slope failures including areas of unstable old or recent landslides;  
14 b. Areas with all three (3) of the following characteristics:  
15 (1) Slopes steeper than fifteen percent (15%),  
16 (2) Hillside intersecting geologic contacts with permeable sediment overlying a low  
17 permeability sediment or bedrock, and  
18 (3) Any springs or groundwater seepage;  
19 c. Slopes that are parallel or sub-parallel to planes of weakness, such as bedding planes, joint  
20 systems and fault planes in subsurface materials;  
21 d. Areas mapped by:  
22 (1) Washington Department of Natural Resources Open File Report: Slope Stability of Clark  
23 County, 1975, as having potential instability, historical or active landslides, or as older  
24 landslide debris, and  
25 (2) The Washington Department of Natural Resources Open File Report Geologic Map of the  
26 Vancouver Quadrangle, Washington and Oregon, 1987, as landslides;  
27 e. Slopes greater than eighty percent (80%), subject to rock fall during earthquake shaking;  
28 f. Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and  
29 stream undercutting the toe of a slope;  
30 g. Areas located in a canyon or on an active alluvial fan, presently or potentially subject to  
31 inundation by debris flows, debris torrents or catastrophic flooding;  
32 h. Areas within one hundred (100) feet of an open-pit mine sites subject to steep slope hazard or  
33 landslide hazard.  
34
- 35 3. "Seismic hazard area" means an area subject to severe risk of damage as a result of earthquake-  
36 induced soil liquefaction, ground shaking amplification, slope failure, settlement, or surface  
37 faulting. Relative seismic hazard is mapped on the NEHRP Site Class Map of Clark County,  
38 published by the Washington Department of Natural Resources.  
39
- 40 4. "Volcanic hazard area" means an area subject to possible low and high density pyroclastic flows  
41 as shown on the Volcanic Hazard Map of Clark County.  
42

43 (Amended: Ord. 2005-04-15)  
44

45 D. Maps.  
46

- 47 1. Adopted Maps. The following geologic hazard maps signed by ~~the board~~ Council are adopted by  
48 reference and are on file with the County Auditor:  
49 a. Clark County, Washington Severe Erosion Hazard Areas;  
50 b. Clark County, Washington NEHRP Site Classes;  
51 c. Clark County, Washington Steep Slopes and Landslide Hazards;  
52 d. Clark County, Washington Liquefaction ~~Susceptability~~ Susceptibility; and  
53 e. Clark County, Washington Volcanic Hazard.  
54 2. Identification. Geologic hazards are usually localized individual occurrences that may affect only  
55 small, separate areas. In addition, activities such as grading and clearing can create or increase

1 slope instability where none was previously identified. Because of this, geologic hazard areas  
2 have not been identified on a site-specific basis. Where the geologic hazard area maps and  
3 definitions conflict, the definitions shall prevail.  
4

- 5 3. Source Data. The approximate location and extent of geologic hazard areas are shown on the  
6 geologic hazard area maps adopted herein. The maps are intended to meet the designation  
7 criteria listed in WAC 365-190-080 and are based on the best available information, including:  
8 a. Slope Areas Mapping for Clark County, Clark County Department of Assessment and GIS;  
9 b. Slope Stability of Clark County, Washington Department of Natural Resources, 1975 and  
10 landslides mapped in Geologic Map of the Vancouver Quadrangle, Washington and Oregon,  
11 Washington Department of Natural Resources, 1987;  
12 c. Construction of Liquefaction ~~Susceptibility~~ **Susceptibility** and NEHRP Soil-type Maps for  
13 Clark County, Washington, Washington Department of Natural Resources, 2004;  
14 d. Volcanic hazard zonation for Mount St. Helens, Washington, U.S. Geological Survey, 1995;  
15 and  
16 e. Natural Resources Conservation Service, Soil Survey Geographic Database (SSURGO),  
17 2004.  
18
- 19 4. Map Updates. Results of binding pre-determinations and other site investigations required under  
20 this chapter and the building code will be compiled by the department and incorporated into future  
21 geologic hazard area map revisions. The county will adopt updated maps as more detailed  
22 information becomes available. The review of such new information shall include local geologists  
23 and engineers familiar with the requirements of this chapter and how it is applied to new  
24 development.  
25

26 (Amended: Ord. 2005-04-15)  
27

28 E. Relationship to Chapter 40.570 Environmental Impacts.  
29

30 Geologic hazard area protective measures required by this section shall constitute adequate  
31 mitigation of significant adverse environmental impacts related to geologic hazards for purposes of  
32 Chapter 40.570.  
33

34 (Amended: Ord. 2005-04-15)  
35

36 F. Reasonable Use Assurance.  
37

38 Nothing in this section shall preclude the issuance of a single-family building permit on a lawfully  
39 created lot.  
40

41 (Amended: Ord. 2005-04-15)  
42

43 G. Density Transfer.  
44

45 Land divisions regulated by this section may be eligible for density transfers under Section  
46 40.220.010(C)(5).  
47

48 (Amended: Ord. 2005-04-15)  
49

50 H. Open Space Tax Incentives.  
51

52 Tax incentives may be available for owners of land set aside in landslide protection hazard areas  
53 through the open space taxation program.  
54

55 (Amended: Ord. 2005-04-15)

40.440 HABITAT CONSERVATION

**40.440.010 Introduction**

A. Purpose.

The purpose of this chapter is to further the goal of no net loss of habitat functions and values within designated habitat areas by protecting environmentally distinct, fragile and valuable fish and wildlife habitat areas, as defined in Section 40.440.010(C), for present and future generations, while also allowing for reasonable use of private property. This chapter intends to conserve the functional integrity of the habitats needed to perpetually support fish and wildlife populations.

1. These purposes are to be carried out by reviewing impacts of proposed activities within designated habitat areas, and through the development of education, outreach and incentive programs. Review under this chapter shall be based on best available science and the mandates of the Washington Growth Management Act, and shall include consultation with the Washington Department of Fish and Wildlife (WDFW). The county shall emphasize education and voluntary conservation options prior to regulatory enforcement.
2. Within areas designated by this chapter, development or clearing activities which degrade habitat should generally be avoided where possible. However, activities listed as exempt in this chapter can be undertaken in habitat areas without additional review. Activities not listed as exempt can be undertaken following county review if they do not substantially diminish the habitat functions and values present.
3. It is the intent of ~~the board~~ **Council** that this chapter be administered with flexibility and attention to site-specific characteristics.
4. The provisions of this chapter dealing with existing agricultural activities are designed to balance conflicting Growth Management Act goals to preserve both agricultural uses and habitat areas, and recognize:
  - a. That the maintenance and enhancement of natural resource-based industries, including agriculture, is a goal of the state Growth Management Act;
  - b. That any regulation should be consistent with the “right to farm” provisions in Chapter 9.26 of this code;
  - c. That agricultural lands can provide habitat;
  - d. That habitat protection must relate to the baseline of existing functions and values given historic agricultural practices, rather than seeking to restore pre-agricultural conditions;
  - e. That since agricultural activities are dynamic, habitat functions and values can be expected to fluctuate during the course of an agricultural cycle, which fluctuation must be considered in identifying existing functions and values; and
  - f. That it is expected that continuation of existing agriculture will not degrade existing functions and values unless sediment, nutrients, or chemicals are allowed to enter streams, or existing beneficial canopy in close proximity to streams is significantly degraded.

B. Applicability.

1. General. Review under the standards of this chapter shall apply to any proposed development or non-development clearing activities within designated habitat areas, defined in Section 40.440.010(C), which are not listed as exempt, pursuant to Table 40.440.010-1.
  - a. Development activities are those proposals already subject to existing county land division, building, grading or other review processes.
  - b. Non-development clearing activities are proposals which are not otherwise subject to county review, but involve the alteration or removal of vegetation in designated habitat areas.

- 1       2. Shoreline Master Program. Within shoreline jurisdiction, development may be allowed for those  
2       uses in the Shoreline Master Program (Chapter 40.460) either through a statement of exemption  
3       or through an application with a habitat review as part of the shoreline permit process.  
4
- 5       3. Activities Adjacent to Certain Designated Habitat Areas. Proposed new single-family residential  
6       development occurring immediately outside but within three hundred (300) feet of designated  
7       priority species polygons or within one hundred (100) feet of designated non-riparian priority  
8       habitat polygons shall require consultation with WDFW prior to issuance of a development permit.  
9       In such cases, further review under this chapter is not required unless WDFW finds that there are  
10      potential adverse impacts. Agricultural activities adjacent to designated agricultural riparian areas  
11      are subject to Section 40.440.040(B). Other proposed land divisions and nonresidential  
12      development adjacent to designated wildlife sites shall be subject to SEPA as normally required  
13      by Chapter 40.570 (State Environmental Policy Act), and mitigative measures established if there  
14      are adverse impacts to the adjacent designated habitat areas.  
15
- 16      4. Exempt Activities.
  - 17      a. All proposed activities outside designated habitat areas are exempt from review under this  
18      chapter, except where noted in Sections 40.440.010(B)(3) and 40.440.040(B).
  - 19      b. Within designated habitat areas exempt activities are listed in Section 40.440.010(D). These  
20      do not require review.
  - 21      c. All other proposed activities within habitat areas which are not consistent with an approved  
22      stewardship plan or subject to Section 40.440.040 shall be subject to the provisions of  
23      Section 40.440.020(D).  
24

25 (Amended: Ord. 2012-07-16)

26  
27 **C. Habitat Areas Covered by This Chapter.**  
28

- 29      1. Categories. This chapter shall apply to nonexempt activities as defined in Table 40.440.010-1 that  
30      are proposed within the following habitat areas:
  - 31      a. Riparian Priority Habitat. Areas extending outward on each side of the stream (as defined in  
32      Section 40.100.070, Definitions) from the ordinary high water mark to the edge of the one  
33      hundred (100) year floodplain, or the following distances, if greater:
    - 34      (1) DNR Type S waters, two hundred fifty (250) feet;
    - 35      (2) DNR Type F waters, two hundred (200) feet;
    - 36      (3) DNR Type Np waters, one hundred (100) feet;
    - 37      (4) DNR Type Ns waters, seventy-five (75) feet.

38  
39      Water types are defined and mapped based on WAC 222-16-030, (Forest Practices Rules).  
40      Type S streams include shorelines of the state and have flows averaging twenty (20) or more  
41      cubic feet per second; Type F streams are those that are not Type S but still provide fish  
42      habitat; and Type N streams do not have fish habitat and are either perennial (Np) or  
43      seasonal (Ns). All streams are those areas where surface waters flow sufficiently to produce  
44      a defined channel or bed as indicated by hydraulically sorted sediments or the removal of  
45      vegetative litter or loosely rooted vegetation by the action of moving water. Ns streams must  
46      connect to another stream above ground. Seasonal or intermittent streams are surface  
47      streams with no measurable flow during thirty (30) consecutive days in a normal water year.

- 48      b. Other Priority Habitats and Species (PHS). Areas identified by and consistent with WDFW  
49      priority habitats and species criteria, including areas within one thousand (1,000) feet of  
50      individual species point sites. The county shall defer to WDFW in regards to classification,  
51      mapping and interpretation of priority habitat species.
- 52      c. Locally Important Habitats and Species. Areas legislatively designated and mapped by the  
53      county because of unusual or unique habitat warranting protection because of qualitative  
54      species diversity or habitat system health indicators. This subsection shall not apply to areas  
55      which have not been designated on official mapping. The criteria for mapping of these areas

are that they possess unusual or unique habitat warranting protection because of qualitative species diversity or habitat system health indicators. Recommendations for mapping areas meeting these criteria may be submitted by any person or group, and shall be reviewed annually by the county in conjunction with the plan amendments docket process as specified by Section 40.560.030 (Amendments Docket). Notice of any such recommendations deemed to merit formal consideration shall be provided to impacted property owners pursuant to Section 40.510.030(E)(3) (Type III Process). Such recommendations will not be reviewed as part of individual development requests.

2. Best Available Science. Definitions and maps of habitat areas are based on best available science, as defined in WAC 365-195-905 (Criteria for determining which information is the “best available science”) and described in the following documents:
  - a. 1999 Washington Department of Fish and Wildlife Priority Habitats and Species List;
  - b. 1997 Management Recommendations for Washington’s Priority Habitats;
  - c. The list of best available science references as maintained by the responsible official; and
  - d. Associated GIS data files maintained by Clark County Department of Assessment and GIS.

Best available scientific data supporting this chapter may be updated and/or re-evaluated as part of future Title 40 (Unified Development Code) amendments.

3. Determining Site-Specific Applicability. In the event of inconsistencies, official habitat area definitions shall prevail over countywide maps in determining applicability of this chapter. The county shall follow the recommendations of WDFW in the interpretation of site-specific conditions as they relate to the definition of priority habitat and species.

**D. Activities Reviewed Under This Chapter.**

This chapter applies to activities within designated priority and locally important habitat areas as described in Table 40.440.010-1.

<b>Table 40.440.010-1. Exempt and Reviewed Activities</b>		
<b>Proposal</b>	<b>Is a clearing review required?</b>	<b>Are any additional fees or review timelines required?</b>
Land division or lot reconfiguration entirely outside habitat areas, except as subject to Section 40.440.010(B)(3)	No. Exempt	Fees pursuant to Chapter 6.110A
Land division or lot reconfiguration containing habitat areas, except as subject to Section 40.440.010(B)(3)	Exempt if impacted lots establish building and clearing envelopes outside of habitat	Fees pursuant to Chapter 6.110A. Adjustment to allow smaller lots necessary for critical lands protection can be provided without additional fees if consistent with overall zoning density as per Section 40.440.020(C)(1)
Any activities on lots not in habitat areas, except as subject to Section 40.440.010(B)(3)	Exempt	None
Any activities on portions of lots not containing habitat areas, except as subject to Section 40.440.010(B)(3)	Exempt	None
Remodeling, replacement of, or additions to existing homes and associated appurtenances that expand the original footprint by no more than 900 square feet within the outer 50 percent of the riparian habitat area and do not require clearing of native trees or shrubs.	Exempt	None
Maintenance of existing yards and	Exempt	None



landscaping in habitat areas		
Forest practices in habitat areas that are regulated by the Washington Department of Natural Resources under the Forest Practices Rules or regulated under Clark County Code Section 40.260.080, Forest Practices, except conversions or conversion option harvest plans (COHPs)	Exempt	None
Emergency clearing to abate immediate danger to persons or property. For emergency clearing of hazard trees, remove only that portion of a hazard tree as is minimally necessary to remediate the hazard. Cut wood should be left in the habitat area	Exempt	None
Clearing necessary for the emergency repair of utility or public facilities; provided, that notification of emergency work that causes substantial degradation to functions and values is reported in a timely manner	Exempt	None
Clearing for operation, maintenance or repair of existing utilities or public facilities that does not further increase the impact to, or encroach further within the habitat area	Exempt	None
Clearing of defined nuisance vegetation in habitat areas which utilizes methods that minimize disturbance of soils and non-nuisance vegetation. Replanting with native vegetation should be pursued to prevent re-infestation	Exempt	None
Clearing as minimally necessary for placement of fencing, private wells, septic systems or individual lot sewer, water, electrical or utility connections in habitat areas, where practical alternatives do not exist	Exempt	None
Clearing as minimally necessary for stream bank restoration, for native replanting or enhancements in habitat areas	Exempt	None
Clearing as minimally necessary for routine road maintenance activities in habitat areas consistent with Regional Road Maintenance ESA Program Guidelines	Exempt	None
Clearing as minimally necessary for soil, water, vegetation or resource conservation projects having received an environmental permit from a public agency in habitat areas	Exempt	None
Clearing as minimally necessary for creating a 4-foot or narrower path using natural, wood-based, or vegetated pervious surfacing in habitat areas	Exempt	None
Clearing as minimally necessary for surveying or testing in habitat areas	Exempt	None
Clearing or development in riparian habitat areas which is at least one hundred (100) feet from the waterline and separated by a	Exempt	None

continuous public or private roadway serving three (3) or more lots		
Non-development clearing activities in habitat areas consistent with a recorded stewardship plan for which any mitigation specified in the plan is timely completed	Exempt	None
Existing agricultural uses within non-riparian habitat areas	Exempt	None
Existing agricultural uses within riparian habitat areas	Reviewed under Section 40.440.040(B)(1)(b)	None
New home or other construction in habitat areas	Review required	No additional timelines. Applicable review (building permit, etc.) must comply with ordinance standards. Fees pursuant to Title 6
All other vegetation clearing in habitat areas	Review required	Fees pursuant to Title 6. Applicable review, if any, must comply with ordinance standards. If no other review involved, clearing request will be reviewed administratively

(Amended: Ord. 2005-04-15; Ord. 2006-06-09; Ord. 2006-07-09; Ord. 2006-08-03; Ord. 2014-12-05)

**40.440.020 Standards and Nonregulatory Measures**

A. Approval Criteria.

Approval shall be granted for all proposals demonstrating compliance with the following criteria. Approval shall be required prior to clearing or development.

1. Intent. Designated habitats are to be protected through avoidance or reduction of the impacts of activities. This section provides standards for the review of proposed nonexempt activities within designated habitat areas.
2. Basic Criteria. Applicants proposing activities subject to this chapter shall demonstrate that the activity:
  - a. Substantially maintains the level of habitat functions and values as characterized and documented using best available science; and
  - b. Minimizes habitat disruption or alteration beyond the extent required to undertake the proposal.
3. Mitigation Measures.
  - a. Mitigation measures may be established pursuant to the above basic criteria.
  - b. Disrupted functions and values shall be mitigated on site as a first priority, and off site thereafter.
  - c. An up-to-date science-based guide such as the "Clark County Guide to Best Management Practices for Permitted Development in Habitat Areas" should be used to guide on-site mitigation. Off-site mitigation should be guided by applicable watershed, fish recovery, sub-basin or other science-based plans. Any science used to guide mitigation actions, whether on site or off site, must meet the criteria and characteristics of best available science listed in WAC 365-195-905 (Criteria for determining which information is the "best available science"), or the state standards in effect at the time of application.
  - d. Subject to individual circumstances, potential mitigation measures may include, but are not limited to, the following:
    - (1) Avoiding the impact altogether by not taking a certain action or parts of an action;
    - (2) Exploring alternative on-site locations to avoid or reduce impacts of activities;

- 1 (3) Preserving important vegetation and natural habitat features by establishing buffers or by  
2 limiting clearing or alteration;
- 3 (4) Replacing invasive exotic plants with native species (refer to the Clark County Native  
4 Plant Communities Guide or other relevant publication for guidance);
- 5 (5) Prohibiting introduction of invasive plant species in habitat areas;
- 6 (6) Enhancing, restoring or replacing vegetation or other habitat features and functions. In  
7 riparian areas, this may include riparian zone averaging as specified in Section  
8 40.440.020(C)(3);
- 9 (7) Using native plants where appropriate when planting within habitat areas (refer to the  
10 Clark County Native Plant Communities Guide or other relevant publication for guidance);
- 11 (8) Managing access to habitat areas, including exclusionary fencing for livestock if needed;
- 12 (9) Stream crossings:
  - 13 (a) Using existing stream crossings whenever a review of suitability, capacity, access  
14 and location, habitat impacts of alternatives, maintenance, liability and economics  
15 indicate the existing crossing is feasible;
  - 16 (b) Constructing new stream crossings, when necessary, in conformance to the water  
17 crossing structure standards in WAC 220-110-070 (Hydraulic Code Rules), which are  
18 incorporated by reference;
- 19 (10) Seasonally restricting construction activities;
- 20 (11) Implementing best management practices and integrated management practices;
- 21 (12) Monitoring or review of impacts and assurance of stabilization of the area;
- 22 (13) Establishing performance measures or bonding;
- 23 (14) Establishing conservation covenants and other mechanisms to ensure long-term  
24 preservation or maintenance of mitigation actions;
- 25 (15) Utilizing low impact development techniques;
- 26 (16) Promoting water quality by limiting the use of lawn and garden chemicals in habitat  
27 areas; and/or
- 28 (17) Avoiding topsoil removal and minimizing topsoil compaction;
- 29 (18) Providing off-site mitigation, subject to the following conditions:
  - 30 (a) When the combination of on-site and off-site mitigation fails to substantially maintain  
31 functions and values within the stream system, the application shall be denied;
  - 32 (b) All reasonable on-site mitigation alternatives have been exhausted;
  - 33 (c) Off-site mitigation is functionally equivalent to the impacts;
  - 34 (d) Off-site mitigation is appropriate in size and scale to the impacts that are not fully  
35 mitigated on the original site;
  - 36 (e) Proposed off-site mitigation is reviewed by the county on a case-by-case basis with  
37 input from WDFW;
  - 38 (f) Off-site mitigation may be in the form of:
    - 39 (i) The purchase of credits from a permitted habitat bank, or
    - 40 (ii) A voluntary contribution to the established Cumulative Effects Fund for the  
41 watershed within which the project is located, or
    - 42 (iii) A specific mitigation project:
      - 43 [a] Specific off-site mitigation projects for riparian habitat areas must be  
44 located within the same watershed as the original site,
      - 45
      - 46 [b] Specific off-site mitigation projects for all other habitat areas must be in an  
47 unincorporated area as close as possible to the original site,
      - 48
      - 49 [c] Public regional development activities that are reviewed and approved by  
50 federal and state agencies are exempt from these geographic restrictions;
      - 51 (g) Adequate enforcement authority must be delegated to the county, as approved by the  
52 Prosecuting Attorney;
      - 53

- 1 4. The responsible official shall approve, approve with conditions or deny proposals based on  
2 compliance with the criteria and the adequacy of proposed mitigation measures to ensure  
3 compliance, and applicable reasonable use assurances of Section 40.440.020(B).  
4
- 5 5. The responsible official shall retain final authority for such determinations, which shall be issued  
6 consistent with the review timelines of Chapter 40.510 (Type I, II, III and IV Processes), and shall  
7 be based on best scientific information and analysis available within those timelines.  
8
- 9 6. Modifications to conservation covenants established under Section 40.440.020(A)(3)(d)(14) shall  
10 be consistent with the standards of this chapter and will be processed subject to the following:  
11 a. Modification to a covenant approved by a Type I decision shall be subject to a Type I review  
12 process.  
13 b. Modification to a covenant approved by a Type II decision shall be subject to a Type I review  
14 process if the responsible official finds the requested change:  
15 (1) Does not increase the potential adverse impact to habitat; and  
16 (2) Does not involve an issue of broad public interest, based on the record of the decision;  
17 and  
18 (3) Does not require further SEPA review.  
19 c. Modification to a covenant approved by a Type II decision shall be subject to a Type II review  
20 process if it is not subject to Type I review.  
21 d. Modification to a covenant approved by a Type III decision shall be subject to a Type I review  
22 process if the responsible official finds the modification:  
23 (1) Provides an increased benefit to habitat; and  
24 (2) Does not involve an issue of broad public interest, based on the record of the decision;  
25 and  
26 (3) Does not require further SEPA review.  
27 e. Modification to a covenant approved by a Type III decision shall be subject to a Type II  
28 review process if the responsible official finds the requested change in the decision:  
29 (1) Does not increase the potential adverse impact to habitat allowed by the covenant or  
30 SEPA determination; and  
31 (2) Does not involve an issue of broad public interest, based on the record of the decision.  
32 f. Modification to a covenant approved by a Type III decision shall be subject to a Type III  
33 review process if it is not subject to Type I or II review.  
34 g. Modification requests submitted with other applications will be processed as specified in  
35 Section 40.500.010(D)(2).  
36
- 37 7. Removal of conservation covenants shall be approved by ~~the Board of County Commissioners~~  
38 Clark County Council.  
39
- 40 8. The responsible official shall consult with and substantially follow the resulting recommendations  
41 of WDFW, unless alternative determinations are supported by scientific analysis.  
42

43 (Amended: Ord. 2008-06-02; Ord. 2009-12-01; Ord. 2018-10-02)

44  
45 B. Reasonable Use Assurances.

46  
47 The county assures property owners of the following, as long as impacts are mitigated to the  
48 maximum extent practicable, permit conditions limiting locations and requiring mitigations may be  
49 imposed, and erosion control measures required:

- 50
- 51 1. This chapter shall not be used to prohibit:
  - 52 a. Placement of a single-family residence and residential accessory structures on an otherwise  
53 legally buildable lot of record;
  - 54 b. Expansion of a home existing prior to 1997, not to exceed twenty-five percent (25%) of the  
55 1997 footprint;

- 1 c. Replacement of a single-wide mobile or manufactured home with another dwelling; or
- 2 d. Fire hazard clearing recommended by the fire marshal, or consistent with written fire marshal
- 3 or fire chief guidelines.
- 4
- 5 2. This chapter shall not be used to deny all reasonable economic use of private property. These
- 6 criteria must be met in order to verify denial of all reasonable economic use:
- 7 a. The application of this chapter would deny all reasonable economic use of the property;
- 8 b. No other reasonable economic use of the property has less impact on the habitat area;
- 9 c. Any habitat alteration is the minimum necessary to allow for reasonable economic use of the
- 10 property; and
- 11 d. The inability of the applicant to derive reasonable economic use of the property is not the
- 12 result of actions by the applicant after May 30, 1997.
- 13
- 14 3. This chapter shall not be used to deny or reduce the number of lots of a proposed rural land
- 15 division allowed under applicable zoning density.
- 16
- 17 4. This chapter shall not be used to deny a development proposal from a public agency or public
- 18 utility, if:
- 19 a. There is no practical alternative to the proposed project with less impact on the habitat area;
- 20 b. The ability of the public agency or utility to provide services to the public would be
- 21 unreasonably restricted; and
- 22 c. The application is approved through a Type III process pursuant to Section 40.510.030,
- 23 (Type III Processes). Fees are subject to the Type III Variance fee schedule in Section
- 24 6.110A.010 (Development Fees).
- 25
- 26 5. The reasonable use assurances in this chapter do not apply to habitat conservation areas within
- 27 shoreline jurisdiction. In such cases, reasonable use requests shall be subject to the shoreline
- 28 variance process pursuant to Section 40.460.260.
- 29

30 (Amended: Ord. 2012-07-16; Ord. 2018-10-02)

- 31
- 32 C. The following regulatory alternatives or incentives shall apply in implementing the standards of this
- 33 chapter:
- 34
- 35 1. Proposed land divisions involving critical areas may transfer density as follows:
- 36 a. Rural area land divisions may utilize the cluster provisions of Section 40.210.020(D) (Rural
- 37 Cluster Development).
- 38 b. Urban area land divisions may utilize density transfer provisions of Section 40.220.010(C)(5)
- 39 (Density Transfer).
- 40
- 41 2. Existing abutting nonconforming lots under common ownership may be reconfigured under the
- 42 standards of Section 40.210.010(D) (Nonconforming Lots – Lot Reconfiguration Standards).
- 43
- 44 3. Required riparian zone widths on clearing proposals on existing lots may be varied through the
- 45 use of internal riparian zone averaging. Subject to review under this chapter, for clearing
- 46 proposals on existing lots, portions of the riparian zone can be reduced up to fifty percent (50%)
- 47 from the normal standards of this chapter if riparian zone widths are correspondingly increased
- 48 elsewhere within the applicant parcel, such that the overall size and function and values of the
- 49 riparian zone are maintained in the parcel. Riparian zone averaging proposals must clearly
- 50 identify the existing riparian functions and values on the parcel and any impacts that the proposed
- 51 averaging may have upon them.
- 52
- 53 4. In evaluating forest practice conversion applications under this chapter, the county may allow for
- 54 modest levels of short-term degradation of habitat function if it is offset by long-term benefits

1 provided by a conservation covenant or other permanent protective measure. Such allowances  
2 shall only be made following the recommendation of WDFW.  
3

4 (Amended: Ord. 2018-10-02)  
5

6 **D. Individual Stewardship Plans.**  
7

- 8 1. To encourage educational and voluntary conservation measures, the county shall notify property  
9 owners potentially impacted by wildlife habitat area regulations, and shall assist any owners  
10 interested in developing individual stewardship plans which will establish parameters and  
11 guidelines for future on-site activities in designated habitat areas. In addition, property owners  
12 may consult with WDFW and other agencies or private groups or individuals to develop the  
13 scientific information for their stewardship plans.  
14
- 15 2. The county shall provide information on best management practices and other educational and  
16 explanatory materials to property owners. The county shall coordinate with WDFW and other  
17 agencies or private groups with expertise in wildlife or land management in the development and  
18 distribution of these materials.  
19
- 20 3. The county shall work cooperatively with interested property owners to establish and record a  
21 notice of stewardship plan. Stewardship plans should at a minimum include the following:  
22 a. Mapping of existing structures, roads, driveways and known utilities, and property lines;  
23 b. Mapping of existing designated habitat areas, water bodies, known wetlands, vegetation and  
24 wildlife types, and yards or cultivated areas;  
25 c. Identification of functions and values associated with the habitat areas, water bodies,  
26 wetlands and vegetation and wildlife;  
27 d. Mapping and written description of future activities on the site including time frame; and  
28 e. Mapping and description of the protective and mitigative measures for the identified functions  
29 and values to be undertaken as part of plan.  
30
- 31 4. Notice of stewardship plans shall be recorded and shall run with the land unless and until a  
32 request for revocation or modification has been submitted by the property owner and approved by  
33 the county. The county shall approve all such requests unless there are any uncompleted  
34 mitigation measures which were agreed to in the stewardship plan as necessary to compensate  
35 for clearing of habitat areas undertaken pursuant to the plan. Revocation may trigger the tax  
36 penalties associated with withdrawal from an open space taxation program, if applicable.  
37
- 38 5. Property owners with approved stewardship plans are exempt from regulation under this chapter  
39 for non-development proposals which are consistent with the stewardship plan and do not  
40 otherwise require county building, grading, or other review.  
41
- 42 6. Stewardship plans shall be approved under criteria in Section 40.440.020(A).  
43
- 44 7. Appeals may be filed under the provisions of Chapter 40.510 (Type I, II, III and IV Processes).  
45

46 (Amended: Ord. 2018-10-02)  
47

48 **E. Nonregulatory Implementation Measures.**  
49

50 As part of the implementation of this chapter and related efforts towards wildlife conservation, the  
51 county will undertake the following additional nonregulatory measures:  
52

- 53 1. Education and Outreach Measures.  
54 a. Notify property owners within critical areas;

- b. Develop clear and understandable manuals explaining recommended best management practices for typical rural and urban land owner activities;
- c. Provide seminars and presentations for interested owners and groups;
- d. Coordinate efforts with existing conservation, stewardship or small resource user groups with expertise in wildlife or habitat area land management issues;
- e. Expand local wildlife inventory information through baseline survey of local habitats and species;
- f. Provide cooperative outreach to individual property owners in critical areas who wish to develop stewardship plans to establish parameters for future activities involving clearing on their property.

2. Incentive Measures.

- a. Create and/or expand incentives through the current use taxation program;
- b. Develop and/or expand land acquisition programs;
- c. Develop nonmonetary incentives for project proponents to exceed mitigation requirements.

(Amended: Ord. 2018-10-02)

F. Specific Activities.

Special procedures and standards apply to certain specific activities as provided for in Section 40.440.040.

(Amended: Ord. 2018-10-02)

G. Habitat Banking. (Reserved).

(Amended: Ord. 2005-04-15; Ord. 2005-05-20; Ord. 2006-06-09; Ord. 2006-07-09; Ord. 2006-08-03; Ord. 2018-10-02)

**40.440.040 Specific Activities**

The following specific activities are subject to special procedures and standards as set forth below.

A. Routine Utility and Public Facility Maintenance and Operations.

The responsible official may issue programmatic permits for routine maintenance and operations of utilities and public facilities. The programmatic permit process shall not deny or unreasonably restrict a utility's or public agency's ability to provide services to the public. Programmatic permits only authorize activities specifically identified in the permit approval.

- 1. Application Submittal Requirements. Unless waived by the responsible official with specific findings in the approval document, applications for programmatic habitat permits shall include a programmatic permit plan that includes the following:
  - a. A discussion of the purpose and need for the permit;
  - b. A description of the scope of activities in habitat areas;
  - c. Identification of the geographical area to be covered by the permit;
  - d. The range of functions and values within designated habitat areas covered by the permit;
  - e. Specific measures and performance standards to be taken to avoid, minimize and mitigate impacts on the functions and values:
    - (1) Procedures for identification of designated habitat areas;
    - (2) Maintenance practices proposed to be used;
    - (3) Restoration measures;
    - (4) Mitigation measures and assurances;

- 1 (5) Annual reporting to the responsible official that documents compliance with permit  
2 conditions and proposes any additional measures or adjustments to the approved  
3 programmatic permit plan;
- 4 (6) Reporting to the responsible official any specific habitat degradations resulting from  
5 maintenance activities when the degradation occurs or within a timely manner;
- 6 (7) Responding to any department requests for information about specific work or projects;
- 7 (8) Procedures for reporting and/or addressing activities outside the scope of the approved  
8 permit.
- 9 (9) Training all employees, contractors and individuals under the supervision of the applicant  
10 who are involved in permitted work.
- 11
- 12 2. Permit Review.
  - 13 a. Programmatic permit applications that are exempt from SEPA are subject to Type I review.
  - 14 b. Programmatic permit applications that are not exempt from SEPA are subject to Type II  
15 review.
  - 16 c. Programmatic permit applications under Type II review shall not be subject to the distribution  
17 requirements of Section 40.510.020(E)(2)(a)(3), (Public Notice). Within fourteen (14) calendar  
18 days after the date an application is accepted as fully complete, the county shall publish in a  
19 newspaper of general circulation a summary of the notice, including the date, time and  
20 manner of making comments, the nature and location of the proposal and instructions for  
21 obtaining further information.
- 22
- 23 3. Findings and Approval.
  - 24 a. A decision approving, denying or re-authorizing a programmatic permit shall be supported by  
25 findings of fact relating to the standards and requirements of this chapter.
  - 26 b. An approved programmatic permit must, at a minimum, include:
    - 27 (1) A programmatic permit plan; and
    - 28 (2) A provision stating the duration of the permit.
- 29
- 30 4. Duration and Re-authorization.
  - 31 a. The duration of a programmatic permit is for five (5) years unless:
    - 32 (1) An annual performance-based re-authorization program is approved within the permit; or
    - 33 (2) A shorter duration is supported by findings.
  - 34 b. Requests for re-authorization of a programmatic permit must be received prior to the  
35 expiration of the original permit.
    - 36 (1) Re-authorization is reviewed and approved through the process described in subsections  
37 (A)(1) through (3) of this section.
    - 38 (2) Permit conditions and performance standards may be modified through the re-  
39 authorization process.
    - 40 (3) The responsible official may temporarily extend the original permit if the review of the re-  
41 authorization request extends beyond the expiration date.
- 42
- 43 B. Agricultural Uses, Including Animal Husbandry.
  - 44
  - 45 1. Applicability.
    - 46 a. Non-Riparian Habitat.
      - 47 (1) Agricultural activities in existence on July 11, 2006, within designated non-riparian habitat  
48 areas are presumed not to cause substantial degradation of existing habitat functions and  
49 values and are, therefore, exempt from regulation under this chapter. Determining what  
50 agricultural activities are in existence on July 11, 2006, shall take into account agricultural  
51 cycles that involve varying intensity of agricultural use.
      - 52 (2) The conversion of designated non-riparian habitat areas to agricultural use subsequent to  
53 July 11, 2006, shall be subject to the non-development clearing rules of this chapter.  
54 Conversion does not include changes from one agricultural use to another agricultural  
55 use or changes in crops.



1           b. Riparian Habitat.

- 2           (1) Agricultural activities in existence on July 11, 2006, within designated riparian habitat  
3           areas, and the expansion thereof onto adjacent lands not to exceed twenty-five percent  
4           (25%) of the footprint of the existing agricultural use (agricultural/habitat protection plan  
5           only), shall be subject to the agricultural module provided below. Determining what  
6           agricultural activities are in existence on July 11, 2006, shall take into account agricultural  
7           cycles that involve varying intensity of agricultural use.  
8           (2) The conversion of designated riparian habitat areas to agricultural use, other than an  
9           expansion allowed for in subsection (B)(1)(b)(1) of this section, subsequent to July 11,  
10          2006, shall be subject to:  
11          (a) The agricultural/habitat protection plan option (Section 40.440.040(B)(2)(a)), if  
12          undertaken on lands zoned agriculture, forest, or ag-wildlife;  
13          (b) The non-development clearing rules of this chapter if undertaken on lands not zoned  
14          agriculture, forest, of ag-wildlife;  
15          (c) Conversion does not include changes from one agricultural use to another  
16          agricultural use or changes in crops.

17  
18          2. Agricultural Module. Where applicable, the following options are available to be used for  
19          compliance with this section.

20          a. Agricultural/Habitat Protection Plan Option.

- 21          (1) Regulated Area. For the purposes of an agricultural/habitat protection plan, the regulated  
22          riparian area shall be one hundred (100) feet from the ordinary high water mark of Type S  
23          streams, one hundred (100) feet from the ordinary high water mark of Type F streams,  
24          seventy-five (75) feet from the ordinary high water mark of Type Np streams, and  
25          seventy-five (75) feet from the ordinary high water mark of Type Ns streams. The plan  
26          may include practices and other mitigation measures on land outside the regulated  
27          riparian area to achieve the standard set forth in subsection (B)(2)(a)(2) of this section.  
28          (2) Standard. An agricultural/habitat protection plan shall be approved if its implementation  
29          will not substantially degrade habitat functions and values that existed within the area  
30          designated in subsection (B)(2)(a)(1) of this section on July 11, 2006, considering normal  
31          fluctuations due to the agricultural cycle. A plan may be submitted by a group of  
32          neighborhood owners whose properties are in close proximity in which case the foregoing  
33          standard shall be applied to the common plan.  
34          (3) Plan Contents. Agricultural/habitat protection plans shall, at a minimum, include the  
35          following:  
36          (a) An approximate mapping of existing and proposed structures, roads, driveways,  
37          utilities, property lines, and agricultural uses.  
38          (b) A map of regulated riparian habitat areas.  
39          (c) Identification of existing habitat functions and values within the regulated habitat area  
40          on July 11, 2006, taking into account agricultural cycles that involve varying intensity  
41          of agricultural use.  
42          (d) A description of best management practices and other mitigation measures to be  
43          undertaken in order to achieve the standard in subsection (B)(2)(a)(2) of this section.  
44          (e) The owner's signature attesting that the information in the plan is accurate to the best  
45          of the owner's knowledge, and the mitigation measures specified in the plan will be  
46          implemented.  
47          (f) The signature of an ag-habitat technician certified by the county attesting that he/she  
48          has inspected the area covered by the plan and that the plan satisfies the standard in  
49          subsection (B)(2)(a)(2) of this section.  
50          (4) Guidelines. The responsible official shall work with a committee appointed by ~~the board~~  
51          **Council** to include interest group representatives (at least one of whom shall be a  
52          designee of the Clark-Cowlitz Farm Bureau, whose view(s) shall be given appropriate  
53          weight to ensure that the guidelines will be both practical and cost effective) and habitat  
54          professionals to develop for ~~board-Council~~ adoption following a duly advertised public  
55          hearing a set of guidelines which:

- 1 (a) Includes a checklist to identify riparian habitat functions and values; and
- 2 (b) Identifies potential positive and negative habitat effects of various agricultural
- 3 activities; and
- 4 (c) Describes best management practices and other measures to enhance the positive
- 5 effects and mitigate or minimize any potential negative effects; and
- 6 (d) Includes “off-the-shelf” agricultural/habitat protection plans which may be applied to
- 7 typical agricultural properties and activities.

8 The guidelines shall provide that pesticide use within riparian areas must be described in  
9 the management plan and conform to label instructions.

- 10 (5) Approval. Agricultural/habitat protection plans shall be prepared or reviewed and
- 11 approved by an ag-habitat technician certified by the responsible official to have
- 12 completed a training program on application of the guidelines. Ag-habitat technicians
- 13 shall have received training in application of this chapter, which training program shall be
- 14 made available to any interested party. Training classes may be facilitated by interest
- 15 groups such as the Clark-Cowlitz Farm Bureau using trainers from the Clark
- 16 Conservation District, WSU Extension, Natural Resource Conservation Service, or other
- 17 groups as may be certified as qualified trainers by the responsible official. An ag-habitat
- 18 technician shall approve the plan as meeting the standard and content requirements of
- 19 Section 40.440.040(B)(2)(a)(2) and (3). An owner dissatisfied with the review by an ag-
- 20 habitat technician may seek approval of the proposed management plan by the
- 21 responsible official whose Type I decision may be appealed under the provisions of
- 22 Chapter 40.510 (Type I, II, III and IV Processes).

- 23 (6) Filing. The ag-habitat technician shall notify the county responsible official of the adoption
- 24 of an approved agricultural/habitat protection plan by a property owner indicating the
- 25 property covered by the plan and, at the choice of the property owner, either providing a
- 26 copy of the plan or summarizing the contents of the plan. Notice of such approval shall
- 27 also be recorded with the Clark County Auditor and run with the land unless the plan is
- 28 modified or rescinded.

- 29 (7) Modification/Rescission. Agricultural/habitat protection plans may be modified by the
- 30 owner at any time utilizing the same process as applicable to initial approval. Plans may
- 31 be rescinded by the owner with approval of the responsible official if the owner certifies
- 32 either that future agricultural activities will be undertaken utilizing the default option or
- 33 agricultural activities have ceased. Notice of modification/rescission shall be recorded
- 34 with the Clark County Auditor.

35 b. Default Option.

- 36 (1) Regulated Area. For the purposes of the default option, the regulated riparian area is
- 37 divided into two zones. Except as provided below, the inner zone, closest to the stream,
- 38 extends from the ordinary high water mark outward fifty (50) feet on Types S and F
- 39 streams and thirty (30) feet on Type N streams. The outer zone extends an additional fifty
- 40 (50) feet on Types S and F streams and forty-five (45) feet on Type N streams. Where
- 41 slopes exceed twenty-five percent (25%), the inner zone is the greater of the prescribed
- 42 zone or the top of the slope break. Where wetlands are present within the inner zone, the
- 43 zone is extended to the greater of the prescribed width of the inner zone or the wetland
- 44 buffer as designated in Chapter 40.450 (Wetland Protection). However, in no case is the
- 45 inner zone greater than the combined widths prescribed for in the inner and outer zones
- 46 for that stream type. Where there is an existing road within the inner zone, the zone stops
- 47 at the edge of the road improvement that is closest to the stream and the outer zone
- 48 extends outward from that edge.

- 49 (2) Standard. Clearing within the inner zone is allowed only to enhance habitat functions and
- 50 values. Animal husbandry within the inner zone is prohibited. Clearing and animal
- 51 husbandry within the outer zone shall not substantially degrade habitat functions and
- 52 values as they existed on July 11, 2006, after considering normal fluctuations due to the
- 53 agricultural cycle. Although it is presumed that continuation of agricultural activities within
- 54 the outer zone that existed on July 11, 2006, will not substantially degrade existing
- 55 habitat functions and values, evidence of substantial degradation, such as excess

1 sediment, nutrients or chemicals moving from the outer zone into the stream resulting  
2 from agricultural activities, constitute grounds for enforcement action which may require  
3 restoration of lost functions and values. Pesticide application within the outer zone must  
4 conform to label specifications and application within the inner zone must be by a  
5 licensed applicator.

6 (3) Reasonable Use. If the inner zone impacts more than fifty percent (50%) of a parcel that  
7 is ten (10) acres or less in area, or more than twenty-five percent (25%) of a parcel that is  
8 five (5) acres or less in area, the responsible official may approve a reasonable use  
9 reduction to the width of the inner zone. In such case, clearing and animal husbandry  
10 may be allowed up to ten (10) feet from the ordinary high water mark; provided, that  
11 reasonable practices and other appropriate mitigation measures are employed to limit  
12 sediment, nutrients and chemicals from entering the stream.

13  
14 3. Administration.

- 15 a. No application fees apply to the approval of agriculture/habitat protection plans.  
16 b. No county review is associated with the default option unless the owner seeks approval of a  
17 reasonable use reduction of the inner zone, which application shall be processed without  
18 application fees.  
19 c. Evidence of violation of the standards in Section 40.440.040(B)(2)(a)(2) or (B)(2)(b)(2) shall  
20 be grounds for enforcement action under the provisions of Title 32 (Enforcement) and Section  
21 40.440.030(F).

22  
23 (Amended: Ord. 2006-06-09; Ord. 2006-07-09; Ord. 2006-08-03)  
24  
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26

40.450 WETLAND PROTECTION

**40.450.040 Wetland Permits**

A. General.

1. A wetland permit is required for any development activity that is not exempt pursuant to Section 40.450.010(C) within wetlands and wetland buffers.
2. Shoreline Master Program. Within shoreline jurisdiction, development may be allowed for those uses in the Shoreline Master Program either through a statement of exemption pursuant to Section 40.460.230(C) or through an application for a shoreline permit (substantial development, conditional use, or variance) to include a wetlands review pursuant to Section 40.460.530(G) and Sections 40.450.020, 40.450.030, and 40.450.040.
3. Standards for wetland permits are provided in Sections 40.450.040(B), (C) and (D).
4. All wetland permits require approval of a preliminary and final enhancement/mitigation plan in accordance with the provisions of Section 40.450.040(E) unless the preliminary enhancement/mitigation plan requirement is waived under the provisions of Section 40.450.040(E)(2).
5. Wetland permit application, processing, preliminary approval, and final approval procedures are set out in Sections 40.450.040(F) through (I).
6. Provisions for programmatic permits are provided by Section 40.450.040(K).
7. Provisions for emergency wetland permits are provided by Section 40.450.040(L).

(Amended: Ord. 2012-07-16)

B. Standards – General. Wetland permit applications shall be based upon a mitigation plan and shall satisfy the following general requirements:

1. The proposed activity shall not cause significant degradation of wetland functions;
2. The proposed activity shall comply with all state, local and federal laws, including those related to sediment control, pollution control, floodplain restrictions, Chapter 40.386, Stormwater and Erosion Control, and on-site wastewater disposal.

(Amended: Ord. 2015-11-24)

C. Buffer Standards and Authorized Activities. The following additional standards apply for regulated activities in a wetland buffer:

1. Reduced Width Based on Modification of Land Use Intensity. The required buffer width shall be decreased if design techniques are used that reduce the land use intensity category delineated in Table 40.450.030-5. Eligible design measures include the following:
  - a. General Site Design Measures. High intensity buffers may be reduced to moderate intensity buffers if all of the following mitigation measures are applied to the greatest extent practicable:
    - (1) Buffer Enhancement. Improve the function of the buffer such that buffer areas with reduced function can function properly. This could include the removal and management of noxious weeds and/or invasive vegetation or specific measures to improve hydrologic or habitat function.
    - (2) Shielding of High Intensity Uses.
      - (a) Lights. Direct all lights away from wetlands;
      - (b) Noise. Locate activity that generates noise away from wetlands;
      - (c) Pets and Human Disturbance. Use privacy fencing; plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the eco-region; place wetland and its buffer in a separate tract.
    - (3) Surface Water Management.

- 1 (a) Existing Runoff. Retrofit stormwater detention and treatment for roads and existing  
2 development to the extent determined proportional by the responsible official, and  
3 disperse direct discharge of channelized flows from lawns and landscaping;
- 4 (b) Change in Water Regime. Infiltrate and/or disperse stormwater runoff from  
5 impervious surfaces and drainage from lawns and landscaping treated in accordance  
6 with Chapter 40.386 into the buffer at multiple locations.
- 7 b. Low Impact Development Design. High intensity buffers may be reduced to moderate or low  
8 intensity buffers under the following circumstances:
  - 9 (1) Limiting stormwater runoff volumes to avoid impacts to receiving waters and wetlands  
10 adjacent to the site.
    - 11 (a) Reduction to moderate intensity buffers, by:
      - 12 (i) Meeting the standards for full dispersion in Chapter 40.386 over seventy-five  
13 percent (75%) of the site; or
      - 14 (ii) Infiltration of fifty percent (50%) of the stormwater runoff from the site; or
      - 15 (iii) Using low impact development BMPs pursuant to Chapter 40.386 to reduce  
16 stormwater runoff volume generated from the site to no more than fifty percent  
17 (50%) the runoff volume generated by using standard collection and treatment  
18 BMPs.
    - 19 (b) Reduction to low intensity buffers, by:
      - 20 (i) Meeting the standards for full dispersion in Chapter 40.386 for the entire site; or
      - 21 (ii) Infiltration of all stormwater runoff from the site; or
      - 22 (iii) Using low impact development BMPs pursuant to Chapter 40.386 to match the  
23 pre-development stormwater runoff volume from the site.
    - 24 (2) Enhanced Stormwater Management. Reduction of high land use intensity buffer to  
25 moderate land use intensity buffer for implementation of stormwater treatment measures  
26 that exceed the standards of Chapter 40.386. This could include measures such as pre-  
27 treatment or tertiary treatment of runoff and limiting discharge from the site to pre-  
28 development runoff flow and volume.
  - 29 c. Habitat Corridors. Establishment of a minimum one hundred (100) foot wide functioning or  
30 enhanced vegetated corridor between the wetland and any other priority habitat areas as  
31 defined by the Washington State Department of Fish and Wildlife reduces a high land use  
32 intensity buffer to a moderate land use intensity buffer provided both of the following  
33 conditions are met:
    - 34 (1) Applies only to wetlands with habitat function scores higher than four (4) on the rating  
35 system form;
    - 36 (2) The habitat corridor must be protected for the entire distance between the wetland and  
37 the priority habitat area by some type of permanent legal protection such as a covenant  
38 or easement.
  - 39 d. The responsible official may determine that proposed measures, other than those specifically  
40 listed in Section 40.450.040(C)(1)(a) through (c), will effectively reduce land use intensity and  
41 protect or enhance and values of wetlands and, therefore, allow buffer modifications where  
42 appropriate.
  - 43
  - 44 2. Minimum Buffer. In the case of buffer averaging and buffer reduction via Section  
45 40.450.040(C)(1), the minimum buffer width at its narrowest point shall not be less than the low  
46 intensity land use water quality buffer widths contained in Table 40.450.030-2.
  - 47
  - 48 3. Buffer Averaging. The boundary of the buffer zone may be modified by averaging buffer widths. If  
49 buffer averaging is used, the following conditions must be met:
    - 50 a. A maximum of twenty-five percent (25%) of the total required buffer area on the site (after all  
51 reductions are applied) may be averaged; and
    - 52 b. The total area contained in the buffer, after averaging, shall be at least functionally equivalent  
53 and equal in size to the area contained within the buffer prior to averaging.
  - 54
  - 55 4. Stormwater Facilities.

- 1 a. Dispersion Facilities. Stormwater dispersion facilities that comply with the standards of  
2 Chapter 40.386 shall be allowed in all wetland buffers. Stormwater outfalls for dispersion  
3 facilities shall comply with the standards in subsection (C)(4)(b) of this section. Enhancement  
4 of wetland buffer vegetation to meet dispersion requirements may also be considered as  
5 buffer enhancement for the purpose of meeting the buffer averaging or buffer reduction  
6 standards in this section.
- 7 b. Other stormwater facilities are only allowed in buffers of wetlands with low habitat function  
8 (less than five (5) points on the habitat section of the rating system form); provided, the  
9 facilities shall be built on the outer edge of the buffer and not degrade the existing buffer  
10 function and are designed to blend with the natural landscape. Unless determined otherwise  
11 by the responsible official, the following activities shall be considered to degrade a wetland  
12 buffer when they are associated with the construction of a stormwater facility:  
13 (1) Removal of trees greater than four (4) inches diameter at four and one-half (4-1/2) feet  
14 above the ground or greater than twenty (20) feet in height;  
15 (2) Disturbance of plant species that are listed as rare, threatened or endangered by the  
16 county or any state or federal management agency;  
17 (3) The construction of concrete structures other than manholes, inlets, and outlets that are  
18 exposed above the normal water surface elevation of the facility;  
19 (4) The construction of maintenance and access roads;  
20 (5) Slope grading steeper than four to one (4:1) horizontal to vertical above the normal water  
21 surface elevation of the stormwater facility;  
22 (6) The construction of pre-treatment facilities such as fore bays, sediment traps, and  
23 pollution control manholes;  
24 (7) The construction of trench drain collection and conveyance facilities;  
25 (8) The placement of fencing; and  
26 (9) The placement of rock and/or riprap, except for the construction of flow spreaders, or the  
27 protection of pipe outfalls and overflow spillways; provided, that buffer functions for areas  
28 covered in rock and/or riprap are replaced.
- 29 5. Road and Utility Crossings. Crossing buffers with new roads and utilities is allowed provided all  
30 the following conditions are met:  
31 a. Buffer functions, as they pertain to protection of the adjacent wetland and its functions, are  
32 replaced; and  
33 b. Impacts to the buffer and wetland are minimized.
- 34
- 35 6. Other Activities in a Buffer. Regulated activities not involving stormwater management, road and  
36 utility crossings, or a buffer reduction via enhancement are allowed in the buffer if all the following  
37 conditions are met:  
38 a. The activity is temporary and will cease or be completed within three (3) months of the date  
39 the activity begins;  
40 b. The activity will not result in a permanent structure in or under the buffer;  
41 c. The activity will not result in a reduction of buffer acreage or function;  
42 d. The activity will not result in a reduction of wetland acreage or function.

43  
44 (Amended: Ord. 2009-01-01; Ord. 2014-12-05; Ord. 2015-11-24)

- 45
- 46 D. Standards – Wetland Activities. The following additional standards apply to the approval of all  
47 activities permitted within wetlands under this section:  
48
- 49 1. Sequencing. Applicants shall demonstrate that a range of project alternatives have been given  
50 substantive consideration with the intent to avoid or minimize impacts to wetlands.  
51 Documentation must demonstrate that the following hierarchy of avoidance and minimization has  
52 been pursued:  
53 a. Avoid impacts to wetlands unless the responsible official finds that:  
54 (1) For Category I and II wetlands, avoiding all impact is not in the public interest or will deny  
55 all reasonable economic use of the site;

- 1 (2) For Category III and IV wetlands, avoiding all impact will result in a project that is either:
  - 2 (a) Inconsistent with the Clark County Comprehensive Growth Management Plan;
  - 3 (b) Inconsistent with county-wide critical area conservation goals; or
  - 4 (c) Not feasible to construct.
- 5 b. Minimize impacts to wetlands if complete avoidance is infeasible. The responsible official  
6 must find that the applicant has limited the degree or magnitude of impact to wetlands by  
7 using appropriate technology and by taking affirmative steps to reduce impact through efforts  
8 such as:
  - 9 (1) Seeking easements or agreements with adjacent land owners or project proponents  
10 where appropriate;
  - 11 (2) Seeking reasonable relief that may be provided through application of other county  
12 zoning and design standards;
  - 13 (3) Site design; and
  - 14 (4) Construction techniques and timing.
- 15 c. Compensate for wetland impacts that will occur, after efforts to minimize have been  
16 exhausted. The responsible official must find that:
  - 17 (1) The affected wetlands are restored to the conditions existing at the time of the initiation of  
18 the project;
  - 19 (2) Unavoidable impacts are mitigated in accordance with this subsection; and
  - 20 (3) The required mitigation is monitored and remedial action is taken when necessary to  
21 ensure the success of mitigation activities.
- 22
- 23 2. Location of Wetland Mitigation. Wetland mitigation for unavoidable impacts shall be located using  
24 the following prioritization:
  - 25 a. On-site. Locate mitigation according to the following priority:
    - 26 (1) Within or adjacent to the same wetland as the impact;
    - 27 (2) Within or adjacent to a different wetland on the same site;
  - 28 b. Off-site. Locate mitigation within the same watershed, as shown on Figure 40.450.040-1, or  
29 use an established wetland mitigation bank; the service area determined by the mitigation  
30 bank review team and identified in the executed mitigation bank instrument;
  - 31 c. In-kind. Locate or create wetlands with similar landscape position and the same hydro-  
32 geomorphic (HGM) classification based on a reference to a naturally occurring wetland  
33 system; and
  - 34 d. Out-of-kind. Mitigate in a different landscape position and/or HGM classification based on a  
35 reference to a naturally occurring wetland system.
- 36
- 37 3. Types of Wetland Mitigation. The various types of wetland mitigation allowed are listed below in  
38 the general order of preference.
  - 39 a. Restoration. The manipulation of the physical, chemical, or biological characteristics of a site  
40 with the goal of returning natural or historic functions to a former or degraded wetland. For  
41 the purpose of tracking net gains in wetland acres, restoration is divided into:
    - 42 (1) Re-establishment. The manipulation of the physical, chemical, or biological  
43 characteristics of a site with the goal of returning natural or historic functions to a former  
44 wetland. Re-establishment results in a gain in wetland acres (and functions). Activities  
45 could include removing fill material, plugging ditches, or breaking drain tiles.
    - 46 (2) Rehabilitation. The manipulation of the physical, chemical, or biological characteristics of  
47 a site with the goal of returning natural or historic functions to a degraded wetland. Re-  
48 establishment results in a gain in wetland function, but does not result in a gain in  
49 wetland acres. Activities could involve breaching a dike to reconnect wetlands to a  
50 floodplain or return tidal influence to a wetland.
  - 51 b. Creation (Establishment). The manipulation of the physical, chemical, or biological  
52 characteristics of a site with the goal of developing a wetland on an upland or deepwater site  
53 where a wetland did not previously exist. Establishment results in a gain in wetland acres.  
54 Activities typically involve excavation of upland soils to elevations that will produce a wetland  
55 hydro-period, create hydric soils, and support the growth of hydrophytic plant species.

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- c. Enhancement. The manipulation of the physical, chemical, or biological characteristics of a wetland site to heighten, intensify, or improve the specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in a change in some wetland functions and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. Activities typically consist of planting vegetation, controlling nonnative or invasive species, modifying site elevations or the proportion of open water to influence hydro-periods, or some combination of these activities.

Figure 40.450.040-1 Clark County Watershed Map



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(Amended: Ord. 2007-06-05; Ord. 2014-12-05)



d. Protection/Maintenance (Preservation). Removing a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This includes the purchase of land or easements repairing water control structures or fences, or structural protection such as repairing a barrier island. This term also includes activities commonly associated with the term preservation. Preservation does not result in a gain of wetland acres, but may result in improved wetland functions.

4. Wetland Mitigation Ratios.

a. Standard Wetland Mitigation Ratios. The following mitigation ratios for each of the mitigation types described in Section 40.450.040(D)(3)(a) through (c) apply:

Table 40.450.040-1. Standard Wetland Mitigation Ratios (In Area)					
Wetland to Be Replaced	Reestablishment or Creation	Rehabilitation	Reestablishment or Creation and Rehabilitation	Reestablishment or Creation and Enhancement	Enhancement
Category IV	1.5:1	3:1	1:1 R/C and 1:1 RH	1:1 R/C and 2:1 E	6:1
Category III	2:1	4:1	1:1 R/C and 2:1 RH	1:1 R/C and 4:1 E	8:1
Category II	3:1	6:1	1:1 R/C and 4:1 RH	1:1 R/C and 8:1 E	12:1
Category I, Forested	6:1	12:1	1:1 R/C and 10:1 RH	1:1 R/C and 20:1 E	24:1
Category I, Based on Score for Functions	4:1	8:1	1:1 R/C and 6:1 RH	1:1 R/C and 12:1 E	16:1
Category I, Natural Heritage Site	Not Considered Possible	6:1 Rehabilitate a Natural Heritage Site	N/A	N/A	Case-by-Case

b. Preservation. The responsible official has the authority to approve preservation of existing wetlands as wetland mitigation under the following conditions:

- (1) The wetland area being preserved is a Category I or II wetland or is within a WDFW priority habitat or species area;
- (2) The preservation area is at least one (1) acre in size;
- (3) The preservation area is protected in perpetuity by a covenant or easement that gives the county clear regulatory and enforcement authority to protect existing wetland and wetland buffer functions with standards that exceed the protection standards of this chapter;
- (4) The preservation area is not an existing or proposed wetland mitigation site; and
- (5) The following preservation/mitigation ratios apply:

Table 40.450.040-2. Wetland Preservation Ratios for Category I and II Wetlands (In Area)				
Habitat Function of Wetland to Be Replaced	In Addition to Standard Mitigation		As the Only Means of Mitigation	
	Full and Functioning Buffer	Reduced and/or Degraded Buffer	Full and Functioning Buffer	Reduced and/or Degraded Buffer
Low (<5 points)	10:1	14:1	20:1	30:1
Moderate (5 – 7 points)	13:1	17:1	30:1	40:1
High (>7 points)	16:1	20:1	40:1	50:1

c. The responsible official has the authority to reduce wetland mitigation ratios under the following circumstances:

- 1 (1) Documentation by a qualified wetland specialist demonstrates that the proposed  
2 mitigation actions have a very high likelihood of success based on prior experience;
- 3 (2) Documentation by a qualified wetland specialist demonstrates that the proposed actions  
4 for compensation will provide functions and values that are significantly greater than the  
5 wetland being affected;
- 6 (3) The proposed actions for compensation are conducted in advance of the impact and are  
7 shown to be successful;
- 8 (4) In wetlands where several HGM classifications are found within one (1) delineated  
9 wetland boundary, the areas of the wetlands within each HGM classification can be  
10 scored and rated separately and the mitigation ratios adjusted accordingly, if all the  
11 following apply:
  - 12 (a) The wetland does not meet any of the criteria for wetlands with “Special  
13 Characteristics,” as defined in the rating system;
  - 14 (b) The rating and score for the entire wetland is provided as well as the scores and  
15 ratings for each area with a different HGM classification;
  - 16 (c) Impacts to the wetland are all within an area that has a different HGM classification  
17 from the one used to establish the initial category; and
  - 18 (d) The proponents provide adequate hydrologic and geomorphic data to establish that  
19 the boundary between HGM classifications lies at least fifty (50) feet outside of the  
20 footprint of the impacts.
- 21
- 22 5. Indirect Wetland Impacts Due to Loss of Buffer Function or Stormwater Discharges. Wetland  
23 mitigation shall be required in accordance with the wetland mitigation standards in this subsection  
24 for the following indirect wetland impacts:
  - 25 a. Buffer loss resulting from wetland fills permitted under this section;
  - 26 b. Reduction of wetland buffers beyond the maximum reduction allowed under Section  
27 40.450.040(C)(2); provided, that such reductions are limited as follows:
    - 28 (1) Road and utility crossings in the wetland buffer approved in accordance with Section  
29 40.450.040(C)(5); and
    - 30 (2) The total indirect wetland impact from buffer reductions is less than one-quarter (1/4)  
31 acre.
  - 32 c. Unavoidable loss of wetland function due to stormwater discharges that do not meet the  
33 wetland protections standards in Chapter 40.386.
- 34
- 35 6. Wetland Buffers Required for Mitigation. Wetland mitigation shall be protected by the water  
36 quality function wetland buffers required in Table 40.450.030-2:
  - 37 a. Reductions to the required buffers may be applied in accordance with Sections 40.450.040(C)  
38 and (D)(5);
  - 39 b. All wetland buffers shall be included within the mitigation site and subject to the conservation  
40 covenant required under Section 40.450.030(F)(3).
- 41
- 42 7. Alternate Wetland Mitigation.
  - 43 a. Wetland Mitigation Banking.
    - 44 (1) Construction, enhancement or restoration of wetlands to use as mitigation for future  
45 wetland development impacts is permitted subject to the following:
      - 46 (a) A wetland permit shall be obtained prior to any mitigation banking. If a wetland permit  
47 is not obtained prior to mitigation bank construction, mitigation credit shall not be  
48 awarded. On projects proposing off-site wetland banking in addition to required  
49 wetland mitigation, a separate wetland permit shall be required for each activity. The  
50 performance and maintenance bond requirements of Section 40.450.040(H)(3)(c)  
51 and (d) shall not be applicable, provided there are no requests for mitigation credit  
52 prior to the county determining the mitigation banking is successful. If mitigation  
53 banking is not fully functioning, as defined in the wetland permit, at the time mitigation  
54 credit is requested, Section 40.450.040(H)(3)(c) and (d) shall apply;

- 1 (b) Federal and state wetland regulations, if applicable, may supersede county  
2 requirements;
- 3 (2) The mitigation credit allowed will be determined by the county, based on the wetland  
4 category, condition and mitigation ratios as specified in Section 40.450.040(D)(4). Prior to  
5 granting mitigation banking credit, all wetland mitigation banking areas must comply with  
6 Section 40.450.030(E)(4)(b) and (c), and, if applicable, Section 40.450.040(H)(3);
- 7 (3) On projects proposing off-site wetland banking in addition to required wetland mitigation,  
8 a separate permit fee will be required for each activity;
- 9 (4) Purchase of banked wetland credits is permitted to mitigate for wetland impacts in the  
10 same watershed provided the applicant has minimized wetland impacts, where  
11 reasonably possible, and the following requirements are met:
  - 12 (a) Documentation, in a form approved by the Prosecuting Attorney, adequate to verify  
13 the transfer of wetland credit shall be submitted, and
  - 14 (b) A plat note along with information on the title shall be recorded in a form approved by  
15 the Prosecuting Attorney as adequate to give notice of the requirements of this  
16 section being met by the purchase of banked wetland credits;
- 17 b. Cumulative Effects Fund. The county may accept payment of a voluntary contribution to an  
18 established cumulative effects fund for off-site watershed scale habitat and wetland  
19 conservation in lieu of wetland mitigation of unavoidable impacts in the following cases:
  - 20 (1) Residential building and home business permits where on-site enhancement and/or  
21 preservation is not adequate to meet the requirements of Section 40.450.040(D)(4);
  - 22 (2) Approved reasonable use exceptions where sufficient on-site wetland and wetland buffer  
23 mitigation is not practical;
  - 24 (3) Small impacts affecting less than 0.10 acre of wetland where on-site enhancement and/or  
25 preservation is not adequate to meet the requirements of Section 40.450.040(D)(4); or
  - 26 (4) As an additional mitigation measure when all other mitigation options have been applied  
27 to the greatest extent practicable.
- 28
- 29 8. Stormwater Facilities. Stormwater facilities are allowed in wetlands with habitat scores less than  
30 five (5) on the rating form, in compliance with the following requirements:
  - 31 a. Stormwater detention and retention necessary to maintain wetland hydrology is authorized;  
32 provided, that the responsible official determines that wetland functions will not be degraded;  
33 and
  - 34 b. Stormwater runoff is treated for water quality in accordance with the requirements of Chapter  
35 40.386 prior to discharge into the wetland.
- 36
- 37 9. Utility Crossings. Crossing wetlands by utilities is allowed, provided the activity is not prohibited  
38 by Section 40.450.040(D)(1), and provided all the following conditions are met:
  - 39 a. The activity does not result in a decrease in wetland acreage or classification;
  - 40 b. The activity results in no more than a short-term six (6) month decrease in wetland functions;  
41 and
  - 42 c. Impacts to the wetland are minimized.
- 43
- 44 10. Other Activities in a Wetland. Activities not involving stormwater management, utility crossings, or  
45 wetland mitigation are allowed in a wetland, provided the activity is not prohibited by Section  
46 40.450.040(D)(1), and provided all the following conditions are met:
  - 47 a. The activity shall not result in a reduction of wetland acreage or function; and
  - 48 b. The activity is temporary and shall cease or be completed within three (3) months of the date  
49 the activity begins.

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51 (Amended: Ord. 2009-01-01; Ord. 2014-12-05; Ord. 2015-11-24)

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53  
54 E. Mitigation Plans.  
55

- 1       1. General. Mitigation plans are required for activities in a buffer or wetland. Content requirements  
2       which are inappropriate and inapplicable to a project may be waived by the responsible official  
3       upon request of the applicant at or subsequent to the pre-application consultation provided for in  
4       Section 40.450.040(F)(1).
- 5       2. Preliminary Mitigation Plan. The purpose of the preliminary plan is to determine the feasibility of  
6       the project before extensive resources are devoted to the project. The responsible official may  
7       waive the requirement for a preliminary mitigation plan when a wetland permit is not associated  
8       with a development permit application (listed in Section 40.450.010(B)). The preliminary  
9       mitigation plan consists of two (2) parts: baseline information for the site and a conceptual plan. If  
10      off-site wetland mitigation is proposed, baseline information for both the project site and mitigation  
11      site is required.
- 12      a. Baseline information shall include:
  - 13       (1) Wetland delineation report as described in Section 40.450.030(D)(2);
  - 14       (2) Copies of relevant wetland jurisdiction determination letters, if available, such as  
15       determinations of prior converted crop lands, correspondence from state and federal  
16       agencies regarding prior wetland delineations, etc.;
  - 17       (3) Description and maps of vegetative conditions at the site;
  - 18       (4) Description and maps of hydrological conditions at the site;
  - 19       (5) Description of soil conditions at the site based on a preliminary on-site analysis;
  - 20       (6) A topographic map of the site; and
  - 21       (7) A functional assessment of the existing wetland and buffer.
    - 22          (a) Application of the rating system in Section 40.450.020(B) will generally be considered  
23          sufficient for functional assessment;
    - 24          (b) The responsible official may accept or request an alternate functional assessment  
25          methodology when the applicant's proposal requires detailed consideration of  
26          specific wetland functions;
    - 27          (c) Alternate functional assessment methodologies used shall be scientifically valid and  
28          reliable.
- 29      b. The contents of the conceptual mitigation plan shall include:
  - 30       (1) Goals and objectives of the proposed project;
  - 31       (2) A wetland buffer width reduction plan, if width reductions are proposed, that includes:
    - 32          (a) The land use intensity, per Table 40.450.030-5, of the various elements of the  
33          development adjacent to the wetlands;
    - 34          (b) The wetland buffer width(s) required by Tables 40.450.030-2, 40.450.030-3 and  
35          40.450.030-4;
    - 36          (c) The proposed buffer width reductions, including documentation that proposed buffer  
37          width reductions fully protect the functions of the wetland in compliance with Section  
38          40.450.040(C);
  - 39       (3) A wetland mitigation plan that includes:
    - 40          (a) A sequencing analysis for all wetland impacts;
    - 41          (b) A description of all wetland impacts that require mitigation under this chapter; and
    - 42          (c) Proposed mitigation measures and mitigation ratios;
  - 43       (4) Map showing proposed wetland and buffer. This map should include the existing and  
44       proposed buffers and all proposed wetland impacts regulated under this chapter;
  - 45       (5) Site plan;
  - 46       (6) Discussion and map of plant material to be planted and planting densities;
  - 47       (7) Preliminary drainage plan identifying location of proposed drainage facilities including  
48       detention structures and water quality features (e.g., swales);
  - 49       (8) Discussion of water sources for all wetlands on the site;
  - 50       (9) Project schedule;
  - 51       (10) Discussion of how the completed project will be managed and monitored; and
  - 52       (11) A discussion of contingency plans in case the project does not meet the goals initially set  
53       for the project.
- 54      3. Final Mitigation Plan. The contents of the final mitigation plan shall include:

- 1 a. The approved preliminary mitigation plan and all conditions imposed on that plan. If the  
2 preliminary mitigation plan requirement is waived, the final plan shall include the content  
3 normally required for the preliminary plan listed in Sections 40.450.040(E)(2)(a), (E)(2)(b)(1),  
4 and (E)(2)(b)(2).
- 5 b. Performance Standards. Specific criteria shall be provided for evaluating whether or not the  
6 goals and objectives of the mitigation project are being met. Such criteria may include water  
7 quality standards, survival rates of planted vegetation, species abundance and diversity  
8 targets, habitat diversity indices, or other ecological, geological or hydrological criteria.
- 9 c. Detailed Construction Plans. Written specifications for the mitigation project shall be  
10 provided. The specifications shall include: the proposed construction sequence, grading and  
11 excavation details, water and nutrient requirements for planting, specification of substrate  
12 stockpiling techniques, and planting instructions, as appropriate. These written specifications  
13 shall be accompanied by detailed site diagrams, scaled cross-sectional drawings,  
14 topographic maps showing slope percentage and final grade elevations, and any other  
15 drawings appropriate to show construction techniques or anticipated final outcome.
- 16 d. Monitoring Program. The mitigation plan shall include a description of a detailed program for  
17 monitoring the success of the mitigation project.
  - 18 (1) The mitigation project shall be monitored for a period necessary to establish that the  
19 mitigation is successful, but not for a period of less than five (5) years. Creation and  
20 forested wetland mitigation projects shall be monitored for a period of at least ten (10)  
21 years;
  - 22 (2) Monitoring shall be designed to measure the performance standards outlined in the  
23 mitigation plan and may include but not be limited to:
    - 24 (a) Establishing vegetation plots to track changes in plant species composition and  
25 density over time;
    - 26 (b) Using photo stations to evaluate vegetation community response;
    - 27 (c) Sampling surface and subsurface waters to determine pollutant loading, and changes  
28 from the natural variability of background conditions (pH, nutrients, heavy metals);
    - 29 (d) Measuring base flow rates and stormwater runoff to model and evaluate water quality  
30 predictions, if appropriate;
    - 31 (e) Measuring sedimentation rates, if applicable; and
    - 32 (f) Sampling fish and wildlife populations to determine habitat utilization, species  
33 abundance and diversity;
  - 34 (3) A monitoring protocol shall be included outlining how the monitoring data will be  
35 evaluated by agencies that are tracking the progress of the project;
  - 36 (4) Monitoring reports shall be submitted annually, or on a pre-arranged alternate schedule,  
37 for the duration of monitoring period;
  - 38 (5) Monitoring reports shall analyze the results of monitoring, documenting milestones,  
39 successes, problems, and recommendations for corrective and/or contingency actions to  
40 ensure success of the mitigation project.
- 41 e. Associated Plans and Other Permits. To ensure consistency with the final mitigation plan,  
42 associated plans and permits shall be submitted, including, but not limited to:
  - 43 (1) Engineering construction plans;
  - 44 (2) Final site plan or proposed plat;
  - 45 (3) Final landscaping plan;
  - 46 (4) Habitat permit;
  - 47 (5) WDFW HPA;
  - 48 (6) USACE Section 404 permit; and
  - 49 (7) WDOE Administrative Order or Section 401 certification.
- 50 f. Evidence of Financial and Scientific Proficiency. A description of how the mitigation project  
51 will be managed during construction and the scientific capability of the designer to  
52 successfully implement the proposed project. In addition, a demonstration of the financial  
53 capability of the applicant to successfully complete the project and ensure it functions  
54 properly at the end of the specific monitoring period.

- 1 g. Contingency Plan. Identification of potential courses of action, and any corrective measures to  
2 be taken when monitoring or evaluation indicates project performance standards are not  
3 being met.  
4

5 F. Wetland Permit – Application.  
6

- 7 1. Pre-Permit Consultation. Any person intending to apply for a wetland permit is encouraged, but  
8 not required, to meet with the department during the earliest possible stages of project planning in  
9 order to discuss wetland impact avoidance, minimization, compensatory mitigation, and the  
10 required contents of a mitigation plan before significant commitments have been made to a  
11 particular project design. Effort put into pre-permit consultations and planning will help applicants  
12 create projects which will be more quickly and easily processed.  
13  
14 2. Applications. Applications for wetland permits shall be made to the department on forms  
15 furnished by the department. Unless the responsible official waives one (1) or more of the  
16 following information requirements, applications shall include:  
17 a. Wetland delineations and buffer width designations pursuant to Sections 40.450.020 and  
18 40.450.030;  
19 b. A site plan for the proposed activity overlaid on an aerial photograph at a scale no smaller  
20 than one (1) inch equals one hundred (100) feet (1" = 100', a scaling ratio of 1:1,200)  
21 showing the location, width, depth and length of all existing and proposed structures, roads,  
22 stormwater facilities, sewage treatment, and installations within the wetland and its buffer;  
23 c. The exact sites and specifications for all development activities proposed within wetlands and  
24 wetland buffers, including the amounts and methods;  
25 d. A proposed preliminary mitigation plan meeting the requirements of Section 40.450.040(E). If  
26 the preliminary plan requirement has been waived, a final mitigation plan shall be required in  
27 its place.  
28  
29 3. Fees. At the time of application, the applicant shall pay a filing fee pursuant to Chapter 6.110A.  
30

31 (Amended: Ord. 2004-06-11)  
32

33 G. Wetland Permit – Processing.  
34

- 35 1. Procedures. Wetland permit applications shall be processed using the application procedures in  
36 Chapter 40.510 unless specifically modified herein:  
37 a. Type I Wetland Permit. The following wetland permits shall be reviewed under the Type I  
38 review process described in Section 40.510.010:  
39 (1) Buffer modification only;  
40 (2) Wetland impacts resulting in less than 0.10 acre of direct wetland impact;  
41 (3) Wetland permits associated with residential building permits, regardless of impact;  
42 (4) Wetland permits associated with home business permits, regardless of impact;  
43 (5) Re-authorization of approved wetland permits;  
44 (6) Programmatic wetland permits that are SEPA exempt.  
45 b. Type II Wetland Permit. The following wetland permits shall be reviewed under the Type II  
46 review process described in Section 40.510.020:  
47 (1) Wetland impacts resulting in 0.10 acre, or more, of direct wetland impact, other than  
48 residential building and home business permits;  
49 (2) Programmatic wetland permits that require SEPA review;  
50 (3) Programmatic permit applications subject to Type II review shall not be subject to the  
51 distribution requirements of Section 40.510.020(E)(2)(a)(3). Within fourteen (14) calendar  
52 days after the date an application is accepted as fully complete, the county shall publish  
53 in a newspaper of general circulation a summary of the notice, including the date, time  
54 and manner of making comments, the nature and location of the proposal and  
55 instructions for obtaining further information.

- 1 c. Type III Wetland Permit. Reasonable use exceptions, other than residential and home  
2 business permits, made under Section 40.450.010(B)(4), shall be reviewed under the Type III  
3 review process described in Section 40.510.030.
- 4 d. Modifications to conservation covenants required under Section 40.450.030(F)(3) shall be  
5 consistent with the standards of this chapter and will be processed subject to the following:  
6 (1) Modification to a covenant approved by a Type I decision shall be subject to a Type I  
7 review process.  
8 (2) Modification to a covenant approved by a Type II decision shall be subject to a Type I  
9 review process if the responsible official finds the requested change:  
10 (a) Does not increase the potential adverse impact to wetlands or buffers; and  
11 (b) Does not involve an issue of broad public interest, based on the record of the  
12 decision; and  
13 (c) Does not require further SEPA review.  
14 (3) Modification to a covenant approved by a Type II decision shall be subject to a Type II  
15 review process if it is not subject to Type I review.  
16 (4) Modification to a covenant approved by a Type III decision shall be subject to a Type I  
17 review process if the responsible official finds the modification:  
18 (a) Provides an increased benefit to wetlands or wetland buffers; and  
19 (b) Does not involve an issue of broad public interest, based on the record of the  
20 decision; and  
21 (c) Does not require further SEPA review.  
22 (5) Modification to a covenant approved by a Type III decision shall be subject to a Type II  
23 review process if the responsible official finds the requested change in the decision:  
24 (a) Does not increase the potential adverse impact to wetlands or wetland buffers  
25 allowed by the covenant or SEPA determination; and  
26 (b) Does not involve an issue of broad public interest, based on the record of the  
27 decision.  
28 (6) Modification to a covenant approved by a Type III decision shall be subject to a Type III  
29 review process if it is not subject to Type I or II review.  
30 (7) Modification requests submitted with other applications will be processed as specified in  
31 Section 40.500.010(D)(2).
- 32 e. Removal of wetland covenants shall be approved by ~~the Board of County Commissioners~~  
33 Clark County Council.
- 34
- 35 2. Consolidation. The department shall, to the extent practicable and feasible, consolidate the  
36 processing of wetland permits with other county regulatory programs which affect activities in  
37 wetlands, such as SEPA review, subdivision, grading, and site plan approval, so as to provide a  
38 timely and coordinated permit process. Where no other county permit or approval is required for  
39 the wetland activity, the wetland permit shall be processed in accordance with Section  
40 40.450.040(G)(1).  
41
- 42 3. Notification. In addition to notices otherwise required pursuant to Section 40.450.040(G)(1),  
43 notice of Type II and Type III wetland permit applications shall be given to federal and state  
44 agencies that have jurisdiction over, or an interest in, the affected wetlands.  
45

46 (Amended: Ord. 2008-06-02; Ord. 2009-12-01)

47  
48 H. Wetland Permit – Preliminary Approval.

- 49
- 50 1. Decision Maker. A wetland permit application which has been consolidated with another permit or  
51 approval request which requires a public hearing (e.g., preliminary plat) shall be heard and  
52 decided in accordance with the procedures applicable to such other request. Any other wetland  
53 permit application shall be acted on by the responsible official within the timeline specified in  
54 Chapter 40.510 for the required permit type.

- 1           2. Findings. A decision preliminarily approving or denying a wetland permit shall be supported by  
2           findings of fact relating to the standards and requirements of this chapter.  
3
- 4           3. Conditions. A decision preliminarily approving a wetland permit shall incorporate at least the  
5           following as conditions:  
6           a. The approved preliminary mitigation plan;  
7           b. Applicable conditions provided for in Section 40.450.030(E)(4);  
8           c. Posting of a performance assurance pursuant to Section 40.450.040(J); and  
9           d. Posting of a maintenance assurance pursuant to Section 40.450.040(J).  
10
- 11          4. Administrative Appeal. A consolidated wetland permit decision may be administratively appealed  
12          in conjunction with, and within the same limitation period, applicable to the other county permit or  
13          approval; provided, that wetland permits preliminarily issued or denied by the responsible official  
14          may be appealed in the same manner, and within the same limitation period, applicable to a Type  
15          II process under Section 40.510.020.  
16
- 17          5. Duration. Wetland permit preliminary approval shall be valid for a period of three (3) years from  
18          the date of issuance or termination of administrative appeals or court challenges, whichever  
19          occurs later, unless:  
20          a. A longer period is specified in the permit; or  
21          b. The applicant demonstrates good cause to the responsible official's satisfaction for an  
22          extension not to exceed an additional one (1) year.  
23

24 I. Wetland Permit – Final Approval.  
25

- 26          1. Issuance. The responsible official shall issue final approval of the wetland permit authorizing  
27          commencement of the activity permitted thereby upon:  
28          a. Submittal and approval of a final mitigation plan pursuant to Section 40.450.040(E)(3);  
29          b. Installation and approval of field markings as required by Section 40.450.030(F)(2);  
30          c. The recording of a conservation covenant as required by Section 40.450.030(F)(3);  
31          d. The posting of a performance assurance as required by Section 40.450.040(H)(3);  
32
- 33          2. Duration.  
34          a. Wetland or Wetland Buffer Impacts. Final approval shall be valid for the period specified in  
35          the final wetland permit, or the associated development approval. Extension of the permit  
36          shall only be granted in conjunction with extension of an associated permit;  
37          b. Compensatory Mitigation. The compensatory mitigation requirements of the permit shall  
38          remain in effect for the duration of the monitoring and maintenance period specified in the  
39          approval.  
40

41 (Amended: Ord. 2007-11-13)  
42

43 J. Wetland Permit Financial Assurances.  
44

- 45          1. Types of Financial Assurances. The responsible official shall accept the following forms of  
46          financial assurances:  
47          a. An escrow account secured with an agreement approved by the responsible official;  
48          b. A bond provided by a surety for estimates that exceed five thousand dollars (\$5,000);  
49          c. A deposit account with a financial institution secured with an agreement approved by the  
50          responsible official;  
51          d. A letter of commitment from a public agency; and  
52          e. Other forms of financial assurance determined to be acceptable by the responsible official.  
53
- 54          2. Financial Assurance Estimates. The applicant shall submit itemized cost estimates for the  
55          required financial assurances. The responsible official may adjust the estimates to ensure that



1 adequate funds will be available to complete the specified compensatory mitigation upon  
2 forfeiture. In addition the cost estimates must include a contingency as follows:

- 3 a. Estimates for bonds shall be multiplied by one hundred fifty percent (150%);
- 4 b. All other estimates shall be multiplied by one hundred ten percent (110%).

5  
6 3. Waiver of Financial Assurances. For Type I wetland permits, the responsible official may waive  
7 the requirement for one or both financial assurances if the applicant can demonstrate to the  
8 responsible official's satisfaction that posting the required financial assurances will constitute a  
9 significant hardship.

10  
11 4. Acceptance of Work and Release of Financial Assurances.

12 a. Release of Performance Assurance. Upon request, the responsible official shall release the  
13 performance assurance when the following conditions are met:

- 14 (1) Completion of construction and planting specified in the approved compensatory  
15 mitigation plan;
- 16 (2) Submittal of an as-built report documenting changes to the compensatory mitigation plan  
17 that occurred during construction;
- 18 (3) Field inspection of the completed site(s); and
- 19 (4) Provision of the required maintenance assurance.

20 b. Release of Maintenance Assurance. Upon request, the responsible official shall release the  
21 maintenance assurance when the following conditions are met:

- 22 (1) Completion of the specified monitoring and maintenance program;
- 23 (2) Submittal of a final monitoring report demonstrating that the goals and objectives of the  
24 compensatory mitigation plan have been met as demonstrated through:
  - 25 (a) Compliance with the specific performance standards established in the wetland  
26 permit; or
  - 27 (b) Functional assessment of the mitigation site(s); and
  - 28 (c) Field inspection of the mitigations site(s).

29 c. Incremental Release of Financial Assurances. The responsible official may release financial  
30 assurances incrementally only if specific milestones and associated costs are specified in the  
31 compensatory mitigation plan and the document legally establishing the financial assurance.

32  
33 5. Transfer of Financial Assurances. The responsible official may release financial assurances at  
34 any time if equivalent assurances are provided by the original or a new permit holder.

35  
36 6. Forfeiture. If the permit holder fails to perform or maintain compensatory mitigation in accordance  
37 with the approved wetland permit, the responsible official may declare the corresponding financial  
38 assurance forfeit pursuant to the following process:

- 39 a. The responsible official shall, by registered mail, notify the wetland permit holder/agent that is  
40 signatory to the financial assurance and the financial assurance holder of nonperformance  
41 with the terms of the approved wetlands permit;
- 42 b. The written notification shall cite a reasonable time for the permit holder, or legal successor,  
43 to comply with provisions of the permit and state the county's intent to forfeit the financial  
44 assurance should the required work not be completed in a timely manner;
- 45 c. Should the required work not be completed timely, the county shall declare the assurance  
46 forfeit;
- 47 d. Upon forfeiture of a financial assurance, the proceeds thereof shall be utilized either to  
48 correct the deficiencies which resulted in forfeiture or, if such correction is deemed by the  
49 responsible official to be impractical or ineffective, to enhance other wetlands in the same  
50 watershed or contribute to an established cumulative effects fund for watershed scale habitat  
51 and wetland conservation.

52  
53 K. Programmatic Permits for Routine Maintenance and Operations of Utilities and Public Facilities. The  
54 responsible official may issue programmatic wetland permits for routine maintenance and operations  
55 of utilities and public facilities within wetlands and wetland buffers, and for wetland enhancement

1 programs. It is not the intent of the programmatic permit process to deny or unreasonably restrict a  
2 public agency or utility's ability to provide services to the public. Programmatic permits only authorize  
3 activities specifically identified in and limited to the permit approval and conditions.  
4

- 5 1. Application Submittal Requirements. Unless waived by the responsible official with specific  
6 findings in the approval document in accordance with Section 40.450.040(K)(2), applications for  
7 programmatic wetland permits shall include a programmatic permit plan that includes the  
8 following:  
9 a. A discussion of the purpose and need for the permit;  
10 b. A description of the scope of activities in wetlands and wetland buffers;  
11 c. Identification of the geographical area to be covered by the permit;  
12 d. The range of functions and values of wetlands potentially affected by the permit;  
13 e. Specific measures and performance standards to be taken to avoid, minimize and mitigate  
14 impacts on wetland functions and values including:  
15 (1) Procedures for identification of wetlands and wetland buffers;  
16 (2) Maintenance practices proposed to be used;  
17 (3) Restoration measures;  
18 (4) Mitigation measures and assurances;  
19 (5) Annual reporting to the responsible official that documents compliance with permit  
20 conditions and proposes any additional measures or adjustments to the approved  
21 programmatic permit plan;  
22 (6) Reporting to the responsible official any specific wetland or wetland buffer degradations  
23 resulting from maintenance activities when the degradation occurs or within a timely  
24 manner;  
25 (7) Responding to any department requests for information about specific work or projects;  
26 (8) Procedures for reporting and/or addressing activities outside the scope of the approved  
27 permit; and  
28 (9) Training all employees, contractors and individuals under the supervision of the applicant  
29 who are involved in permitted work.  
30
- 31 2. Findings. A decision preliminarily approving or denying a programmatic wetland permit shall be  
32 supported by findings of fact relating to the standards and requirements of this chapter.  
33
- 34 3. Approval Conditions. Approval of a programmatic wetland permit shall incorporate at least the  
35 following as conditions:  
36 a. The approved programmatic permit plan;  
37 b. Annual reporting requirements; and  
38 c. A provision stating that duration of the permit.  
39
- 40 4. Duration and Re-authorization.  
41 a. The duration of a programmatic permit is for five (5) years, unless:  
42 (1) An annual performance based re-authorization program is approved within the permit; or  
43 (2) A shorter duration is supported by findings.  
44 b. Requests for re-authorization of a programmatic permit must be received prior to the  
45 expiration of the original permit.  
46 (1) Re-authorization is reviewed and approved through the process described in Section  
47 40.450.040(K)(1).  
48 (2) Permit conditions and performance standards may be modified through the re-  
49 authorization process.  
50 (3) The responsible official may temporarily extend the original permit if the review of the re-  
51 authorization request extends beyond the expiration date.  
52  
53  
54  
55

1 L. Wetland Permit – Emergency.  
2

- 3 1. Authorization. Notwithstanding the provisions of this chapter or any other laws to the contrary, the  
4 responsible official may issue prospectively or, in the case of imminent threats, retroactively a  
5 temporary emergency wetlands permit if:  
6 a. The responsible official determines that an unacceptable threat to life or loss of property will  
7 occur if an emergency permit is not granted; and  
8 b. The anticipated threat or loss may occur before a permit can be issued or modified under the  
9 procedures otherwise required by this act and other applicable laws.  
10  
11 2. Conditions. Any emergency permit granted shall incorporate, to the greatest extent practicable  
12 and feasible but not inconsistent with the emergency situation, the standards and criteria required  
13 for nonemergency activities under this act and shall:  
14 a. Be limited in duration to the time required to complete the authorized emergency activity, not  
15 to exceed ninety (90) days; and  
16 b. Require, within this ninety (90) day period, the restoration of any wetland altered as a result  
17 of the emergency activity, except that if more than the ninety (90) days from the issuance of  
18 the emergency permit is required to complete restoration, the emergency permit may be  
19 extended to complete this restoration.  
20  
21 3. Notice. Notice of issuance of an emergency permit shall be published in a newspaper having  
22 general circulation in Clark County not later than ten (10) days after issuance of such permit.  
23  
24 4. Termination. The emergency permit may be terminated at any time without process upon a  
25 determination by the responsible official that the action was not or is no longer necessary to  
26 protect human health or the environment.  
27

28 M. Revocation. In addition to other remedies provided for elsewhere in this chapter, the responsible  
29 official may suspend or revoke wetland permit(s) issued in accordance with this chapter and  
30 associated development permits, pursuant to the provisions of Title 32 of the Clark County Code, if  
31 the applicant or permittee has not complied with any or all of the conditions or limitations set forth in  
32 the permit, has exceeded the scope of work set forth in the permit, or has failed to undertake the  
33 project in the manner set forth in the permit.  
34

35 N. Enforcement. At such time as a violation of this chapter has been determined, enforcement action  
36 shall be commenced in accordance with the enforcement provisions of Title 32 of this code, and may  
37 also include the following:  
38

- 39 1. Applications for county land use permits on sites that have been cited or issued an administrative  
40 notice and order under Title 32 of this code, or have been otherwise documented by the  
41 responsible official for activities in violation of this chapter, shall not be processed for a period of  
42 six (6) years provided:  
43 a. The county has the authority to apply the permit moratorium to the property; and  
44 b. The county records the permit moratorium;  
45 c. The responsible official may reduce or wave the permit moratorium duration upon approval of  
46 a wetland permit under Section 40.450.040.  
47  
48 2. Compensatory mitigation requirements under Sections 40.450.040(C) and (D) may be increased  
49 by the responsible official as follows:  
50 a. All or some portion of the wetland or wetland buffer impact cannot be permitted or restored in  
51 place; and  
52 b. Compensatory mitigation for the impact is delayed more than one year from the time of the  
53 original citation or documentation of the violation.  
54

55 (Amended: Ord. 2006-05-27)

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7

40.460 SHORELINE MASTER PROGRAM  
Amended ORD 2018-11-06

SUBTITLE 40.5  
PROCEDURES  
40.500 OVERVIEW OF PROCEDURES

**40.500.010 Summary of Procedures and Processes**

A. Purpose and Applicability.

1. This chapter describes how the county will process applications for development subject to review under the UDC and Title 14 of this code, and is intended to identify the procedure for determining whether development proposals are, or can be conditioned or mitigated to be, consistent with applicable policies and standards. Consistency is determined by consideration of substantial evidence in the record that is relevant to these policies and standards.
2. Interpretations and Authority. Upon request, the responsible official shall issue a formal written interpretation of a development regulation. A formal written interpretation shall be a Type I action and shall be subject to the appeal provisions of Section 40.510.010(E). If an application for an interpretation is associated with another application(s) subject to this title, then the application for the interpretation shall be combined with the associated application(s) and is subject to the same procedure type as the applications with which it is combined.
3. Authorization for Similar Uses. The responsible official may determine that a use, not specifically named in the allowed uses of a district, may be included among the allowed uses; provided, however, that a use already allowed in any other zoning district, except the industrial zoning districts, may not be permitted. The responsible official must find that the proposed use is similar in nature and has impacts on adjacent land uses and property similar to uses already allowed in the district. When this determination is made in conjunction with another application it shall be considered as the same type and subject to the same appeals process, pursuant to Chapter 40.500, as the associated application. When this determination is made without any associated application, but for a specific lot, it shall be considered a Type II process. If this determination is made without any associated application, and without a specific lot identified, it shall be considered as a Type I process. This determination may be appealed at this stage or when the determination is used in a subsequent application for development.

(Amended: Ord. 2005-04-12; Ord. 2006-04-18; Ord. 2018-01-09)

B. Development Approvals Timeline – General.

1. Basic Rule. Preliminary approval of land divisions (Chapter 40.540), site plan approval (Section 40.520.040), uses subject to review and approval (R/A) (Section 40.520.020), approval of conditional use permits (Section 40.520.030), approval of planned unit developments (Section 40.520.080), approval of mixed use developments (Section 40.230.020), approval of master plans (Section 40.520.070), and approval of variances (Section 40.550.020) shall be valid for a period of seven (7) years after approval. The right to develop an approved land division, site plan, use permitted subject to review and approval (R/A), conditional use permit, planned unit development or variance or part thereof expires seven (7) years after the effective date of the decision approving such development, unless:
  - a. For land divisions – A fully complete application for a final plat has been submitted.
  - b. For use approvals that do not require a building permit – The permitted use has legally commenced on the premises.
  - c. For all other approvals – A building permit for the approved development has been issued and remains in effect, or a final occupancy permit has been issued.
2. Extensions – Phased Developments.
  - a. Those applications specifically approved for phased development may receive an unlimited number of subsequent two (2) year extensions in accordance with the following:

- 1 (1) At least one (1) phase has met the general development approvals timeline basic rule
- 2 described in Section 40.500.010(B)(1);
- 3 (2) The request for the extension has been submitted in writing to the responsible official at
- 4 least thirty (30) days prior to the seven (7) year deadline, or, in the case of a subsequent
- 5 extension request, at least thirty (30) days prior to the expiration of the approval period;
- 6 (3) The applicant has demonstrated an active effort in pursuing the next phase of the
- 7 application; and
- 8 (4) The applicant has demonstrated that there are no significant changes in conditions which
- 9 would render approval of the application contrary to the public health, safety or general
- 10 welfare.
- 11 b. The responsible official shall take one (1) of the following actions upon receipt of a timely
- 12 extension request:
- 13 (1) Approve the extension request if no significant issues are presented under the criteria set
- 14 forth in this section;
- 15 (2) Conditionally approve the application if any significant issues presented are substantially
- 16 mitigated by minor revisions to the original approval;
- 17 (3) Deny the extension request if any significant issues presented cannot be substantially
- 18 mitigated by minor revisions to the approved plan.
- 19 c. A request for extension approval shall be processed as a Type I action. Appeal and post-
- 20 decision review of a Type I action is permitted as provided in this subtitle.
- 21
- 22 3. Developer Agreements. Notwithstanding the foregoing, ~~the Board Council~~ may approve a
- 23 developer agreement under RCW 36.70B.170 through 36.70B.240 providing for a longer approval
- 24 duration. The hearing examiner is delegated authority to conduct hearings and make
- 25 recommendations for developer agreements, but final approval thereof is reserved to ~~the Board~~
- 26 Council.
- 27
- 28 4. Special Stormwater Rules. All permits issued pursuant to the regulations contained in Chapter
- 29 40.385 or earlier stormwater code and the 2009 or earlier version of the Clark County Stormwater
- 30 Manual will expire on January 8, 2021, unless approved construction has begun on site before
- 31 January 8, 2021. "Construction has begun" means, at a minimum, that site work associated with
- 32 and directly related to the approved project has begun, for example, grading the project site to
- 33 final grade, or the installation of utilities. Simply clearing the project site does not constitute the
- 34 beginning of construction.
- 35

36 (Amended: Ord. 2005-04-12; Ord. 2006-04-18; Ord. 2011-08-08; Ord. 2012-12-23; Ord. 2015-11-24; Ord.

37 2016-09-04; Ord. 2018-01-09)

38

39 C. Reapplication.

40

41 No person, including the original applicant, shall reapply for a similar use on the same land, building,

42 or structure within a period of one (1) year from the date of the final decision on such previous

43 application, unless such decision is a denial without prejudice, or unless, in the opinion of the review

44 authority, conditions have substantially changed.

45

46 D. Application Types and Classification.

47

- 48 1. Applications for review pursuant to Section 40.500.010(A) shall be subject to a Type I, Type II,
- 49 Type III or Type IV process as summarized in Table 40.500.010-1.
- 50
- 51 2. Unless otherwise required, where the county must approve more than one (1) application for a
- 52 given development, all applications required for the development may be submitted for review at
- 53 one (1) time. Where more than one (1) application is submitted for a given development, and
- 54 those applications are subject to different types of procedure, then all the applications are subject
- 55 to the highest-number procedure that applies to any of the applications.

- 1 3. If this code expressly provides that an application is subject to one (1) of the four (4) types of
- 2 procedures or another procedure, then the application shall be processed accordingly. If this code
- 3 does not expressly provide for review using one (1) of the four (4) types of procedures, and
- 4 another specific procedure is not required by law, the responsible official for the application in
- 5 question shall classify the application as one (1) of the four (4) types of procedures.
- 6 a. The act of classifying an application shall be a Type I action. Classification of an application
- 7 shall be subject to reconsideration and appeal at the same time and in the same way as the
- 8 merits of the application in question.
- 9 b. Questions about what procedure is appropriate shall be resolved in favor of the type
- 10 providing the greatest notice and opportunity to participate.
- 11 c. The responsible official shall consider the following guidelines when classifying the procedure
- 12 type for an application:
- 13 (1) A Type I process involves an application that is subject to clear, objective and
- 14 nondiscretionary standards or standards that require the exercise of professional
- 15 judgment about technical issues, and that is exempt from SEPA review. The responsible
- 16 official is the review authority for Type I decisions.
- 17 (2) A Type II process involves an application that is subject to objective and subjective
- 18 standards that require the exercise of limited discretion about non-technical issues and
- 19 about which there may be a limited public interest. The responsible official is the review
- 20 authority for Type II decisions.
- 21 (3) A Type III process involves an application for relatively few parcels and ownerships. It is
- 22 subject to standards that require the exercise of substantial discretion and about which
- 23 there may be a broad public interest. The hearing examiner is the review authority for
- 24 Type III decisions.
- 25 (4) A Type IV process involves the creation, implementation or amendment of policy or law
- 26 by ordinance. In contrast to the other three (3) procedure types, the subject of a Type IV
- 27 process generally applies to a relatively large geographic area containing many property
- 28 owners, and except for annual reviews, an application subject to a Type IV process can
- 29 be filed only by the county. **the Board Council** is the review authority for Type IV
- 30 decisions.
- 31

<b>Table 40.500.010-1. Summary of Development Approvals by Review Type</b>						
	Type I	Type II	Type II-A	Type III	Type IV	Code Reference
<b>Interpretations</b>						
Code Interpretation – Written	X					40.500.010(A)(2)
Classification of an Application	X					40.500.010(D)(3)(a)
Similar Use Determination	X	X				40.500.010(A)(3)
Pre-Application Waiver	X					40.510.020(A)(2) 40.510.030(A)(2)
Counter Complete	X					40.510.010(A) 40.510.020(B) 40.510.030(B)
Fully Complete	X					40.510.010(B) 40.510.020(C) 40.510.030(C)
Submittal Requirements Waiver	X					40.510.010(B) 40.510.020(C) 40.510.030(C)
<b>Permits and Reviews</b>						
Accessory Dwelling Units	X					40.260.020
Legal Lot Determination	X					40.520.010
Review and Approval (R/A)	X	X				40.520.020
Conditional Use Permit (CUP)			X			40.520.030

<b>Table 40.500.010-1. Summary of Development Approvals by Review Type</b>						
	Type I	Type II	Type II-A	Type III	Type IV	Code Reference
Site Plan Review	X	X		X		40.520.040
Final Site Plan Review	X					40.520.040(F)
Sign Permit	X					40.520.050
Post-Decision Review	X	X		X		40.520.060
Master Plan			X	X		40.520.070
Planned Unit Development (PUD)			X			40.520.080
<b>Nonconforming Uses</b>						
Nonconforming Use Determination	X					40.530
Expansion of a Nonconforming Use		X		X		40.530
<b>Boundary Line Adjustments and Land Divisions</b>						
Boundary Line Adjustment	X					40.540.010
Short Plat		X				40.540.030
Subdivision				X		40.540.040
Final Plat	X					40.540.070
Lot Reconfiguration		X				40.540.120
Plat Alteration		X		X		40.540.120
Plat Vacation				X		40.540.120
<b>Modifications and Variances</b>						
Road Modification	X	X		X		40.550.010
Variance	X	X		X		40.550.020
Sewer Waiver	X					40.370.010
<b>Plan and Code Amendments</b>						
Annual Reviews					X	40.560.010
Zone Change within CP designation				X		40.560.020
Zone Change Text Amendments					X	
<b>Special Area-Related Reviews</b>						
Columbia River Gorge Permit		X		X		40.240.050
Shoreline (special review process)				X		40.460
Historic Preservation (special review process)		X				40.250.030
Open Space					X	Chapter 3.08 40.560.010(P)(2)
<b>Critical Areas</b>						
Critical Aquifer Recharge Areas (CARAs) Permit	X	X		X		40.410
Floodplain Review	X	X		X		40.420
Geo-Hazard	X	X		X		40.430
Habitat Permit		X				40.440
Preliminary Wetland Permit		X		X		40.450.040(H)
Wetland Variance				X		40.450.040
Final Wetland Permit	X					40.450.040(I)
Emergency Wetland Permit	X					40.450.040(L)

(Amended: Ord. 2004-12-12; Ord. 2005-04-12; Ord. 2007-06-05; Ord. 2009-03-02; Ord. 2009-06-15; Ord. 2010-08-06)

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1  
2 **40.510.010 Type I Process – Ministerial Decisions**  
3

4 A. Review for Counter Complete Status.  
5

- 6 1. Before accepting an application for review for fully complete status, and unless otherwise  
7 expressly provided by code, the responsible official shall determine the application is counter  
8 complete.  
9
- 10 2. The responsible official shall decide whether an application is counter complete when the  
11 application is submitted, typically “over the counter.”  
12
- 13 3. In order to review the applicable requirements with the applicant and to expedite the review  
14 process, a preliminary review meeting is strongly encouraged prior to submittal of an application  
15 for final site plan/final construction plan.  
16 a. To request a preliminary review meeting, an applicant shall submit a completed form provided  
17 by the responsible official for that purpose. The applicant is encouraged to provide in  
18 advance or bring to the meeting all available draft application submittal requirements.  
19 b. The responsible official shall coordinate the involvement of agency staff. Relevant staff shall  
20 attend the preliminary review meeting or shall take other steps to fulfill the purposes of the  
21 meeting.  
22 c. If feasible, the preliminary review meeting shall be scheduled not more than fourteen (14)  
23 calendar days after the responsible official accepts the request for a preliminary review  
24 meeting.
- 25 4. An application is counter complete if the responsible official finds that the application purports and  
26 appears to include the information required by Section 40.510.010(B); provided, no effort shall be  
27 made to evaluate the substantive adequacy of the information in the application in the counter  
28 complete review process. Required information which has been waived by the responsible official  
29 shall be replaced by a determination from the responsible official granting the waiver.  
30
- 31 5. If the responsible official decides the application is counter complete, then the application shall be  
32 accepted for review for fully complete status; provided, that for final plat applications, submittal  
33 requirements may be requested and reviewed in increments established by the responsible  
34 official.  
35
- 36 6. If the responsible official decides the application is not counter complete, then the responsible  
37 official shall immediately reject and return the application and identify what is needed to make the  
38 application counter complete.  
39

40 (Amended: Ord. 2017-07-04)  
41

42 B. Review for Fully Complete Status.  
43

- 44 1. Except as noted below, before accepting an application for processing, the responsible official  
45 shall determine that the application is fully complete.  
46 a. Final plat applications shall not be deemed fully complete until all of the required materials  
47 specified in Section 40.540.070 have been submitted; however, the responsible official may  
48 establish application procedures to allow final plat applications to be processed in increments  
49 in advance of a fully complete application.  
50 b. Pursuant to Section 40.510.010(C)(2), applications for approval of final site plan/final  
51 construction plan shall be reviewed for completeness and correctness concurrently.  
52
- 53 2. The responsible official shall decide whether an application is fully complete subject to the  
54 following:

- 1 a. Within twenty-one (21) calendar days after the responsible official determines the application  
2 is counter complete; or
- 3 b. Within fourteen (14) calendar days after an application has been resubmitted to the county  
4 after the application has been returned to the applicant as being incomplete.
- 5
- 6 3. An application is fully complete if it includes all the required materials specified in the submittal  
7 requirements for the specific development review application being applied for and additional  
8 materials specified in the pre-application conference. If submittal requirements are not specified  
9 in the applicable code sections the application is fully complete if it includes the following:
  - 10 a. A signed statement from the applicant certifying that the application has been made with the  
11 consent of the lawful property owner(s) and that all information submitted with the application  
12 is complete and correct. False statements, errors, and/or omissions may be sufficient cause  
13 for denial of the request. Submittal of the application gives consent to the county to enter the  
14 property(ies) subject to the application;
  - 15 b. The signature of the property owner or the property owner's authorized representative;
  - 16 c. A legal description supplied by the Clark County Survey Records Division, a title company,  
17 surveyor licensed in the state of Washington, or other party approved by responsible official,  
18 and current County Assessor map(s) showing the property(ies) subject to the application;
  - 19 d. The applicable fee(s) adopted by **the board Council** for the application(s) in question;
  - 20 e. An application shall include all of the information listed as application requirements in the  
21 relevant sections of this code.
    - 22 (1) The responsible official may waive application requirements that are clearly not  
23 necessary to show an application complies with relevant criteria and standards and may  
24 modify application requirements based on the nature of the proposed application,  
25 development, site or other factors. Requests for waivers shall be reviewed as a Type I  
26 process before applications are submitted for counter complete review or the application  
27 must contain all the required information;
    - 28 (2) The decision about the fully complete status of an application, including any required  
29 engineering, traffic or other studies, shall be based on submittal requirements listed in  
30 Section 40.510.050 and other applicable submittal requirements and shall not be based  
31 on the quality or technical accuracy of the submittal;
  - 32 f. Any applicable SEPA document, typewritten or in ink and signed.
- 33
- 34 4. If the responsible official decides an application is not fully complete, then, within the time  
35 provided in Section 40.510.010(B)(2), the responsible official shall send the applicant a written  
36 statement indicating that the application is incomplete based on a lack of information and listing  
37 what is required to make the application fully complete.
  - 38 a. The statement shall specify a date by which the required missing information must be  
39 provided to restart the fully complete review process pursuant to Section 40.510.010(B)(2)(b).  
40 The statement shall state that an applicant can apply to extend the deadline for filing the  
41 required information, and explain how to do so.
  - 42 b. The statement also may include recommendations for additional information that, although  
43 not necessary to make the application fully complete, is recommended to address other  
44 issues that are or may be relevant to the review.
- 45
- 46 5. If the required information is not submitted by the date specified and the responsible official has  
47 not extended that date, within seven (7) calendar days after that date the responsible official shall  
48 take the action in Sections 40.510.010(B)(5)(a), (B)(5)(b) or (B)(5)(c). If the required information is  
49 submitted by the date specified, then within fourteen (14) calendar days the responsible official  
50 shall decide whether the application is fully complete and, if not, the responsible official shall:
  - 51 a. Reject and return the application and scheduled fees and mail to the applicant a written  
52 statement which lists the remaining additional information needed to make the application  
53 fully complete; or
  - 54 b. Issue a decision denying the application, based on a lack of information; or

- 1           c. The responsible official may allow the applicant to restart the fully complete review process a  
2           second time by providing the required missing information by a date specified by the  
3           responsible official, in which case the responsible official shall retain the application and fee  
4           pending expiration of that date or a fully complete review of the application as amended by  
5           that date.  
6

7           If the responsible official decides an application is fully complete, then the responsible official  
8           shall begin processing the application pursuant to Section 40.510.010(C).  
9

- 10          6. A fully complete determination shall not preclude the county from requesting additional  
11          information, studies or changes to submitted information or plans if new information is required or  
12          substantial changes to the proposed action occur.  
13

14 (Amended: Ord. 2006-05-01; Ord. 2012-07-03; Ord. 2017-07-04)  
15

16 C. Procedure.  
17

- 18          1. Except for applications for approval of final site plan/final construction plan, the responsible official  
19          shall approve, approve with conditions, or deny the application within twenty-one (21) calendar  
20          days after the date the application was accepted as fully complete. An applicant may request in  
21          writing to extend the time in which the responsible official shall issue a decision, provided the  
22          county receives the request within the twenty-one (21) day period. If the responsible official  
23          grants such a request, the responsible official may consider new evidence the applicant  
24          introduces with or subsequent to the request.  
25

26          2. Applications for Approval of Final Site Plan/Final Construction Plan.  
27

- 28          a. Initial Review. Initial review shall be completed within twenty-one (21) calendar days of a  
29          counter-complete submittal. During the initial review, the plans shall be reviewed for  
30          completeness and correctness and the responsible official shall identify errors, omissions or  
31          inaccuracies in the application. The submittal shall also be reviewed by county staff for  
32          compliance with additional requirements including, but not limited to, wetland review, required  
33          dedications, and approval letters from other agencies. County staff shall notify the applicant  
34          or the applicant's representative when the reviewed submittal materials are available to be  
35          picked up and, unless waived by the responsible official, shall schedule a meeting with the  
36          applicant or the applicant's representative to review county staff's comments.

37               (1) If, after the initial review, the responsible official concludes that the application complies  
38               with the requirements of the code the responsible official shall issue a decision pursuant  
39               to Section 40.510.010(C)(2)(d).

40               (2) If, after the initial review, the responsible official concludes that the application does not  
41               comply, the applicant shall amend the application and submit the amended application to  
42               the county for a second review.

- 43          b. Second Review. The second review shall be completed within fourteen (14) calendar days of  
44          the submittal of corrected plans. County staff shall notify the applicant or the applicant's  
45          representative when the reviewed submittal materials are available.

46               (1) If, after the second review, the responsible official concludes that the application complies  
47               with the requirements of the code, the responsible official shall issue a decision pursuant  
48               to Section 40.510.010(C)(2)(d).

49               (2) If, after the second review, the responsible official concludes that the application does not  
50               comply, the applicant shall amend the application and submit the amended application to  
51               the county for a third review.

- 52          c. Third Review. The third review shall be completed within seven (7) calendar days of the  
53          submittal of corrected plans. Upon completion of the third review, the responsible official shall  
54          issue a decision pursuant to Section 40.510.010(C)(2)(d).

- 55          d. Within five (5) calendar days of the completion of the county's review, the responsible official  
        shall approve or deny the application; provided:

- 1 (1) An applicant may request additional reviews (fourth review, etc.). Such a request shall be  
2 made in writing and shall be accompanied by the fees required for such additional  
3 reviews.  
4 (2) An applicant may request in writing to extend the time in which the responsible official  
5 shall issue a decision. The responsible official may consider new evidence the applicant  
6 introduces with or after such a written request.  
7

- 8 3. Notice of a decision regarding a Type I process shall be mailed to the applicant and applicant's  
9 representative within seven (7) days of the issuance of the decision. The applicant may appeal  
10 the decision pursuant to Section 40.510.010(E) or may apply for post-decision changes pursuant  
11 to Section 40.520.060.  
12

13 4. Notice of Agricultural, Forest or Mineral Resource Activities.

- 14 a. All plats, building permits or development approvals under this title issued for residential  
15 development activities on, or within a radius of five hundred (500) feet for lands zoned  
16 agriculture-wildlife (AG-WL), agriculture (AG-20), forest (FR-40 and FR-80), or surface mining  
17 (S), or in current use pursuant to Chapter 84.34 RCW, shall contain or be accompanied by a  
18 notice provided by the responsible official. Such notice shall include the following disclosure:  
19

20 *The subject property is within or near designated agricultural land, forest land or mineral*  
21 *resource land (as applicable) on which a variety of commercial activities may occur that are*  
22 *not compatible with residential development for certain periods of limited duration. Potential*  
23 *discomforts or inconveniences may include, but are not limited to: noise, odors, fumes, dust,*  
24 *smoke, insects, operation of machinery (including aircraft) during any twenty-four (24) hour*  
25 *period, storage and disposal of manure, and the application by spraying or otherwise of*  
26 *chemical fertilizers, soil amendments, herbicides and pesticides.*  
27

- 28 b. In the case of subdivisions or short plats, such notice shall be provided in the Developer  
29 Covenants to Clark County; in the case of recorded binding site plans, such notice shall be  
30 recorded separately with the County Auditor.  
31

32 (Amended: Ord. 2005-04-12; Ord. 2016-06-12; Ord. 2017-07-04)  
33

34 D. Vesting.

- 35  
36 1. Type I applications shall be considered under the land development regulations in effect at the  
37 time a fully complete application for preliminary approval is filed; provided, an application which is  
38 subject to pre-application review shall earlier contingently vest on the date a complete pre-  
39 application is filed, which contingent vesting shall become final if a fully complete application for  
40 substantially the same proposal is filed within one hundred eighty (180) calendar days of the date  
41 the review authority issues its written summary of pre-application review.  
42  
43 2. Special rules apply to certain nonconforming uses under Section 40.530.050.  
44  
45 3. For concurrency approval requirements, see Section 40.350.020.  
46

47 E. Appeals.

- 48  
49 1. Applicability. A final decision regarding an application subject to a Type I procedure may be  
50 appealed by any interested party. Final decisions may be appealed only if, within fourteen (14)  
51 calendar days after written notice of the decision is mailed, a written appeal is filed with the  
52 responsible official. Final site plan and final construction plan decisions are not subject to  
53 administrative appeals under this section.  
54  
55 2. Submittal Requirements. The appeal shall contain the following information:

- 1 a. The case number designated by the county and the name of the applicant;
- 2 b. The name and signature of each petitioner and a statement showing that each petitioner is
- 3 entitled to file the appeal under Section 40.510.020(E)(1). If multiple parties file a single
- 4 petition for review, the petition shall designate one (1) party as the contact representative for
- 5 all contact with the responsible official. All contact with the responsible official regarding the
- 6 petition, including notice, shall be with this contact representative;
- 7 c. The specific aspect(s) of the decision being appealed, the reasons why each aspect is in error
- 8 as a matter of fact or law, and the evidence relied on to prove the error; and
- 9 d. The appeal fee adopted by ~~the board~~ Council; provided, the fee shall be refunded if the
- 10 appellant files with the responsible official at least fifteen (15) calendar days before the
- 11 appeal hearing a written statement withdrawing the appeal.

12  
13 3. Appeal Decision.

- 14 a. The hearing examiner shall hear appeals, other than appeals of final site plan/final
- 15 construction plan decisions, in a de novo hearing. Notice of an appeal hearing shall be mailed
- 16 to parties of record, but shall not be posted or published. A staff report shall be prepared, a
- 17 hearing shall be conducted, and a decision shall be made and noticed and can be appealed
- 18 as for a Type III process.
- 19 b. Except for SEPA appeals which are governed by RCW 43.21C.075, the applicant shall have
- 20 the burden of proving by substantial evidence compliance with applicable approval standards.
- 21 Where evidence is conflicting, the examiner shall decide an issue based upon the
- 22 preponderance of the evidence.
- 23
- 24

25 (Amended: Ord. 2007-11-13)

26  
27 **40.510.020 Type II Process – Administrative Decisions**

28  
29 A. Pre-Application Review.

- 30  
31 1. The purposes of pre-application review are:
  - 32 a. To acquaint county staff with a sufficient level of detail about the proposed development to
  - 33 enable staff to advise the applicant accordingly;
  - 34 b. To acquaint the applicant with the applicable requirements of this code and other law.
  - 35 However, the conference is not intended to provide an exhaustive review of all the potential
  - 36 issues that a given application could raise. The pre-application review does not prevent the
  - 37 county from applying all relevant laws to the application; and
  - 38 c. To provide an opportunity for other agency staff and the public to be acquainted with the
  - 39 proposed application and applicable law. Although members of the public can attend a pre-
  - 40 application conference, it is not a public hearing, and there is no obligation to receive public
  - 41 testimony or evidence.
- 42 2. Pre-application review is required for applications, with the following exceptions:
  - 43 a. The application is for one (1) of the following use classifications:
    - 44 (1) Section 40.210.010, Forest and Agriculture districts;
    - 45 (2) Section 40.520.020, Planning Director reviews and similar use determinations;
    - 46 (3) Chapter 40.260, special uses (unless specified as a Type III review);
    - 47 (4) Section 40.260.220, temporary permits;
    - 48 (5) Section 40.530.010(F)(6), change in nonconforming use;
    - 49 (6) Section 40.260.210, temporary dwelling permit;
    - 50 (7) Section 40.520.060, post-decision reviews;
    - 51 (8) Section 40.450.040, preliminary (stand-alone) wetland permit;
    - 52 (9) SEPA review for projects that are not otherwise Type II reviews (e.g., grading);
    - 53 (10) Section 40.500.010, interpretations;
    - 54 (11) Section 40.550.020, administrative variances; or

1           b. The applicant applies for and is granted a pre-application waiver from the responsible official.  
2           The form shall state that waiver of pre-application review increases the risk the application  
3           will be rejected or processing will be delayed. Pre-application review generally should be  
4           waived by the responsible official only if the application is relatively simple. The decision  
5           regarding a pre-application waiver can be appealed as a Type I decision.  
6

7           3. To initiate pre-application review, an applicant shall submit a completed form provided by the  
8           responsible official for that purpose, the required fee, and all information required by the relevant  
9           section(s) of this code. The applicant shall provide the required number of copies of all  
10          information as determined by the responsible official.  
11

12          4. Information not provided on the form shall be provided on the face of the preliminary plat, in an  
13          environmental checklist or on other attachments. The responsible official may modify  
14          requirements for pre-application materials and may conduct a pre-application review with less  
15          than all of the required information. However, failure to provide all of the required information may  
16          prevent the responsible official from identifying all applicable issues or providing the most  
17          effective pre-application review and will preclude contingent vesting under  
18          Section 40.510.020(G). Review for completeness will not be conducted by staff at the time of  
19          submittal and it is the responsibility of the applicant.  
20

21          5. Within fifteen (15) calendar days after receipt of an application for pre-application review, the  
22          responsible official shall mail written notice to the applicant and to other interested agencies and  
23          parties, including the neighborhood association in whose area the property in question is situated.  
24          The notice shall state the date, time and location of the pre-application conference, the purposes  
25          of pre-application review, and the nature of the proposal.  
26

27          6. The responsible official shall coordinate the involvement of agency staff responsible for planning,  
28          development review, roads, drainage, parks and other subjects, as appropriate, in the pre-  
29          application review process. Relevant staff shall attend the pre-application conference or shall take  
30          other steps to fulfill the purposes of pre-application review.  
31

32          7. The pre-application conference shall be scheduled at least five (5) calendar days after the notice  
33          is mailed but not more than twenty-eight (28) calendar days after the responsible official accepts  
34          the application for pre-application review. The responsible official shall reschedule the conference  
35          and give new notice if the applicant or applicant's representative cannot or does not attend the  
36          conference when scheduled.  
37

38          8. Within seven (7) calendar days after the date of the pre-application conference, the responsible  
39          official shall mail to the applicant and to other parties who sign a register provided for such  
40          purpose at the pre-application conference or who otherwise request it in writing, a written  
41          summary of the pre-application review. The summary may be e-mailed instead of mailed to the  
42          applicant and other parties should they consent to this method. The written summary generally  
43          shall do the following to the extent possible given the information provided by the applicant:

- 44          a. Summarize the proposed application(s);  
45          b. Identify the relevant approval criteria and development standards in this code or other  
46          applicable law and exceptions, adjustments or other variations from applicable criteria or  
47          standards that may be necessary;  
48          c. Evaluate information the applicant offered to comply with the relevant criteria and standards,  
49          and identify specific additional information that is needed to respond to the relevant criteria  
50          and standards or is recommended to respond to other issues;  
51          d. Identify applicable application fees in effect at the time, with a disclaimer that fees may  
52          change;  
53          e. Identify information relevant to the application that may be in the possession of the county or  
54          other agencies of which the county is aware, such as:

- 1 (1) Comprehensive plan map designation and zoning on and in the vicinity of the property
- 2 subject to the application;
- 3 (2) Physical development limitations, such as steep or unstable slopes, wetlands, well head
- 4 protection areas, water bodies, or special flood hazard areas, that exist on and in the
- 5 vicinity of the property subject to the application;
- 6 (3) Those public facilities that will serve the property subject to the application, including fire
- 7 services, roads, storm drainage, and, if residential, parks and schools, and relevant
- 8 service considerations, such as minimum access and fire flow requirements or other
- 9 minimum service levels and impact fees; and
- 10 (4) Other applications that have been approved or are being considered for land in the
- 11 vicinity of the property subject to the proposed application that may affect or be affected
- 12 by the proposed application.
- 13 f. Where applicable, indicate whether the pre-application submittal was complete so as to
- 14 trigger contingent vesting under Section 40.510.020(G).
- 15

16 9. An applicant may submit a written request for a second pre-application conference within one (1)

17 calendar year after an initial pre-application conference. There is no additional fee for a second

18 conference if the proposed development is substantially similar to the one reviewed in the first

19 pre-application conference or if it reflects changes based on information received at the first pre-

20 application conference. A request for a second pre-application conference shall be subject to the

21 same procedure as the request for the initial pre-application conference.

22

23 10. A new request for or waiver of a pre-application review for a given development shall be filed

24 unless the applicant submits a fully complete application that the responsible official finds is

25 substantially similar to the subject of a pre-application review within one (1) calendar year after

26 the last pre-application conference or after approval of waiver of pre-application review.

27

28 (Amended: Ord. 2005-04-12; Ord. 2006-05-01; Ord. 2007-06-05; Ord. 2007-11-13; Ord. 2009-03-02; Ord.

29 2009-07-01; Ord. 2010-08-06; Ord. 2017-07-04)

30

31 **B. Review for Counter Complete Status.**

32

- 33 1. Before accepting an application for review for fully complete status, and unless otherwise
- 34 expressly provided by code, the responsible official shall determine the application is counter
- 35 complete.
- 36
- 37 2. The responsible official shall decide whether an application is counter complete when the
- 38 application is accepted, typically “over the counter.”
- 39
- 40 3. An application is counter complete if the responsible official finds that the application purports and
- 41 appears to include the information required by Section 40.510.020(C); provided, no effort shall be
- 42 made to evaluate the substantive adequacy of the information in the application in the counter
- 43 complete review process. Required information which has been waived by the responsible official
- 44 shall be replaced by a determination from the responsible official granting the waiver.
- 45
- 46 4. If the responsible official decides the application is counter complete, then the application shall be
- 47 accepted for review for fully complete status.
- 48
- 49 5. If the responsible official decides the application is not counter complete, then the responsible
- 50 official shall immediately reject and return the application and identify what is needed to make the
- 51 application counter complete.
- 52

53 (Amended: Ord. 2017-07-04)

54

55 **C. Review for Fully Complete Status.**

- 1 1. Before accepting an application for processing, the responsible official shall determine that the  
2 application is fully complete.  
3
- 4 2. The responsible official shall decide whether an application is fully complete subject to the  
5 following:  
6 a. Within twenty-one (21) calendar days after the responsible official determines the application  
7 is counter complete; or  
8 b. Within fourteen (14) calendar days after an application has been resubmitted to the county  
9 after the application has been returned to the applicant as being incomplete.  
10
- 11 3. An application is fully complete if it includes all the required materials specified in the submittal  
12 requirements for the specific development review application being applied for and additional  
13 materials specified in the pre-application conference. If submittal requirements are not specified  
14 in the applicable code sections the application is fully complete if it includes the following:  
15 a. A signed statement from the applicant certifying that the application has been made with the  
16 consent of the lawful property owner(s) and that all information submitted with the application  
17 is complete and correct. False statements, errors, and/or omissions may be sufficient cause  
18 for denial of the request. Submittal of the application gives consent to the county to enter the  
19 property(ies) subject to the application;  
20 b. The signature of the property owner or the property owner's authorized representative;  
21 c. A legal description supplied by the Clark County Survey Records Division, a title company,  
22 surveyor licensed in the state of Washington, or other party approved by the responsible  
23 official, and current County Assessor map(s) showing the property(ies) subject to the  
24 application;  
25 d. A current County Assessor map(s) showing the property(ies) within a radius of the subject  
26 site as required in Section 40.510.020(E);  
27 e. Unless the responsible official has waived the pre-application conference or a pre-application  
28 conference was not required pursuant to Section 40.510.020(A)(2), a copy of the pre-  
29 application conference summary, and information required by the pre-application conference  
30 summary, unless not timely prepared as required by Section 40.510.020(A)(8);  
31 f. The applicable fee(s) adopted by ~~the board Council~~ for the application(s) in question;  
32 g. An application shall include all of the information listed as application requirements in the  
33 relevant sections of this code.  
34 (1) The responsible official may waive application requirements that are clearly not  
35 necessary to show an application complies with relevant criteria and standards and may  
36 modify application requirements based on the nature of the proposed application,  
37 development, site or other factors. Requests for waivers shall be reviewed as a Type I  
38 process before applications are submitted for counter complete review or the application  
39 must contain all the required information;  
40 (2) The decision about the fully complete status of an application, including any required  
41 engineering, traffic or other studies, shall be based on the criteria for completeness as  
42 established by the responsible official and shall not be based on differences of opinion as  
43 to quality or accuracy;  
44 h. Any applicable SEPA document, typewritten or in ink and signed.  
45
- 46 4. If the responsible official decides an application is not fully complete, then, within the time  
47 provided in Section 40.510.020(C)(2), the responsible official shall send the applicant a written  
48 statement indicating that the application is incomplete based on a lack of information and listing  
49 what is required to make the application fully complete.  
50 a. The statement shall specify a date by which the required missing information must be  
51 provided to restart the fully complete review process pursuant to Section 40.510.020(C)(2)(b).  
52 The statement shall state that an applicant can apply to extend the deadline for filing the  
53 required information, and explain how to do so.



- 1           b. The statement also may include recommendations for additional information that, although  
2           not necessary to make the application fully complete, is recommended to address other  
3           issues that are or may be relevant to the review.  
4
- 5           5. If the required information is not submitted by the date specified and the responsible official has  
6           not extended that date, within seven (7) calendar days after that date the responsible official shall  
7           take the action in Section 40.510.020(C)(5)(a), (C)(5)(b) or (C)(5)(c). If the required information is  
8           submitted by the date specified, then within fourteen (14) calendar days the responsible official  
9           shall decide whether the application is fully complete and, if not, the responsible official shall:  
10          a. Reject and return the application and scheduled fees and mail to the applicant a written  
11          statement which lists the remaining additional information needed to make the application  
12          fully complete; or  
13          b. Issue a decision denying the application, based on a lack of information; provided, the  
14          responsible official may allow the applicant to restart the fully complete review process a  
15          second time by providing the required missing information by a date specified by the  
16          responsible official, in which case the responsible official shall retain the application and fee  
17          pending expiration of that date or a fully complete review of the application as amended by  
18          that date.  
19
- 20          6. If the responsible official decides an application is fully complete, then the responsible official  
21          shall, within fourteen (14) calendar days of making this determination:  
22          a. Forward the application to the county staff responsible for processing it;  
23          b. Send a written notice of receipt of a complete application to the applicant acknowledging  
24          acceptance, listing the name and telephone number of a contact person for the responsible  
25          official, and describing the expected review schedule;  
26          c. Prepare a public notice in accordance with Section 40.510.020(E).  
27
- 28          7. An application shall be determined fully complete if a written determination has not been mailed  
29          to the applicant within twenty-eight (28) calendar days of the date the application is submitted. An  
30          application shall be determined fully complete if a written determination has not been mailed to  
31          the applicant within fourteen (14) calendar days of the date that the necessary additional  
32          information is submitted.  
33
- 34          8. A fully complete determination shall not preclude the county from requesting additional  
35          information, studies or changes to submitted information or plans if new information is required or  
36          substantial changes to the proposed action occur.  
37

38 (Amended: Ord. 2006-05-01; Ord. 2012-07-03; Ord. 2017-07-04)

39  
40 D. Procedure.

- 41           1. Within fourteen (14) calendar days after the date an application is accepted as fully complete, the  
42           responsible official for the application shall issue a public notice of the application pending review  
43           consistent with the requirements of Section 40.510.020(E).  
44
- 45           2. The responsible official shall mail to the applicant a copy of comments timely received in  
46           response to the notice together with a statement that the applicant may respond to the comments  
47           within fourteen (14) calendar days from the date the comments are mailed. The responsible  
48           official shall consider the comments timely received in response to the notice and timely  
49           responses by the applicant to those comments. The responsible official may consider comments  
50           and responses received after the deadline for filing.  
51
- 52           3. A decision shall be made within the timelines specified by Section 40.510.020(F), and shall  
53           include:  
54           a. A statement of the applicable criteria and standards in this code and other applicable law;  
55

- 1           b. A statement of the facts that the responsible official found showed the application does or  
2           does not comply with each applicable approval criterion and assurance of compliance with  
3           applicable standards;
- 4           c. The reasons for a conclusion to approve or deny; and
- 5           d. The decision to deny or approve the application and, if approved, conditions of approval  
6           necessary to ensure the proposed development will comply with applicable law.
- 7
- 8           4. Within seven (7) calendar days of the decision, the responsible official shall mail a notice of  
9           decision to the applicant and applicant's representative, the neighborhood association in whose  
10          area the property in question is situated, and all parties of record regarding the application. The  
11          mailing shall include a notice which includes the following information:
  - 12          a. A statement that the decision and SEPA determination are final, but may be appealed as  
13          provided in Section 40.510.020(H) to the hearing examiner within fourteen (14) calendar days  
14          after the notice of decision. The appeal closing date shall be listed in boldface type. The  
15          statement shall describe how a party may appeal the decision or SEPA determination or  
16          both, including applicable fees and the elements of an appeal statement; and
  - 17          b. A statement that the complete case file, including findings, conclusions and conditions of  
18          approval, if any, is available for review. The notice shall list the place, days and times where  
19          the case file is available and the name and telephone number of the county representative to  
20          contact about reviewing the case file.
- 21
- 22          5. Notice of Agricultural, Forest or Mineral Resource Activities.
  - 23          a. All plats, building permits or development approvals under this title issued for residential  
24          development activities on, or within a radius of five hundred (500) feet for lands zoned  
25          agriculture-wildlife (AG-WL), agriculture (AG-20), forest (FR-40 and FR-80), or surface mining  
26          (S), or in current use pursuant to Chapter 84.34 RCW, shall contain or be accompanied by a  
27          notice provided by the responsible official. Such notice shall include the following disclosure:  
28  
29          *The subject property is within or near designated agricultural land, forest land or mineral*  
30          *resource land (as applicable) on which a variety of commercial activities may occur that are*  
31          *not compatible with residential development for certain periods of limited duration. Potential*  
32          *discomforts or inconveniences may include, but are not limited to: noise, odors, fumes, dust,*  
33          *smoke, insects, operation of machinery (including aircraft) during any twenty-four (24) hour*  
34          *period, storage and disposal of manure, and the application by spraying or otherwise of*  
35          *chemical fertilizers, soil amendments, herbicides and pesticides.*
  - 36          b. In the case of subdivisions or short plats, such notice shall be provided in the Developer  
37          Covenants to Clark County; in the case of recorded binding site plans, such notice shall be  
38          recorded separately with the County Auditor.

39  
40 (Amended: Ord. 2005-04-12; Ord. 2016-06-12; Ord. 2017-07-04)

41  
42 E. Public Notice.

- 43
- 44          1. The notice of the application shall include the following information, to the extent known:
  - 45          a. The project name, the case file number(s), date of application, the date the application was  
46          determined fully complete, and the date the notice is sent;
  - 47          b. A description of the proposed project and a list of project permits included with the  
48          application;
  - 49          c. A statement of the public comment period, that the public has the right to comment on the  
50          application, receive notice of and participate in any hearings, request a copy of the decision  
51          once made, and any appeal rights. A statement shall indicate that written comments received  
52          by the county within fifteen (15) calendar days from the date of the notice will be considered;
  - 53          d. The deadline for submitting a SEPA appeal pursuant to Section 40.570.080(D);
  - 54          e. A statement of the preliminary SEPA determination, if one has been made;
  - 55          f. A list of applicable code sections;

- 1 g. The name of the applicant or applicant’s representative and the name, address and telephone
- 2 number of a contact person for the applicant, if any;
- 3 h. A description of the site, including current zoning and nearest road intersections, reasonably
- 4 sufficient to inform the reader of its location and zoning;
- 5 i. A map showing the subject property in relation to other properties or a reduced copy of the
- 6 site plan;
- 7 j. The date, place and times where information about the application may be examined and the
- 8 name and telephone number of the county representative to contact about the application;
- 9 and
- 10 k. Any additional information determined appropriate by the county.

11  
12 2. Distribution.

- 13 a. The responsible official shall mail a copy of the notice to:
  - 14 (1) The applicant and the applicant’s representative;
  - 15 (2) The neighborhood association in whose area the property in question is situated,
  - 16 based on the list of neighborhood associations kept by the responsible official and
  - 17 known interest groups;
  - 18 (3) Owners of property within a radius of three hundred (300) feet of the property that is
  - 19 the subject of the application if the subject property is inside the urban growth boundary
  - 20 or to owners or property within a radius of five hundred (500) feet of the property if the
  - 21 subject property is outside the urban growth boundary;
    - 22 (a) The records of the County Assessor shall be used for determining the property
    - 23 owner of record. The failure of a property owner to receive notice shall not affect
    - 24 the decision if the notice was sent. A sworn certificate of mailing executed by the
    - 25 person who did the mailing shall be evidence that notice was mailed to parties
    - 26 listed or referenced in the certificate, and
    - 27 (b) If the applicant owns property adjoining the property that is the subject of the
    - 28 application, then notice shall be mailed to owners of property within a three
    - 29 hundred (300) or five hundred (500) foot radius, as provided in this subdivision, of
    - 30 the edge of the property owned by the applicant adjoining the property that is the
    - 31 subject of the application;
    - 32 (4) Agencies with jurisdiction; and
    - 33 (5) To other people the responsible official believes may be affected by the proposed
    - 34 action or who request such notice in writing.

35  
36 (Amended: Ord. 2007-06-05)

37  
38 F. Decision Timelines.

39  
40 Not more than seventy-eight (78) calendar days after the date an application is determined fully

41 complete, the responsible official shall issue a written decision regarding the application(s); provided:

42

- 43 1. If a determination of significance (DS) is issued, then the responsible official shall issue a
- 44 decision not sooner than seven (7) calendar days after a final environmental impact statement is
- 45 issued.
- 46
- 47 2. An applicant may request in writing to extend the time in which the responsible official shall issue
- 48 a decision. If the responsible official grants such a request, the responsible official may consider
- 49 new evidence the applicant introduces with or subsequent to the request.
- 50
- 51 3. In determining the number of days that have elapsed after the county has notified the applicant
- 52 that the application is fully complete, the following periods shall be excluded:
  - 53 a. Any period during which the applicant has been requested by the county to correct plans,
  - 54 perform required studies, or provide additional required information. The responsible official
  - 55 shall specify a time period based on the complexity of the required information in which the

1 required information must be submitted. The period shall be calculated from the date the  
2 county notifies the applicant of the need for additional information until the earlier of the date  
3 the county determines whether the additional information satisfies the request for information  
4 or fourteen (14) calendar days after the date the information has been provided to the county.

- 5 b. If the county determines that the information submitted by the applicant under  
6 Section 40.510.020(F)(3)(a) is insufficient, it shall notify the applicant of the deficiencies and  
7 the procedures under Section 40.510.020(F)(3)(a) shall apply as if a new request for studies  
8 had been made.  
9 c. Any period of time during which an environmental impact statement is being prepared;  
10 provided, that the maximum time allowed to prepare an environmental impact statement shall  
11 be one (1) year from the issuance of the determination of significance unless the responsible  
12 official and applicant have otherwise agreed in writing to a longer period of time. If no mutual  
13 written agreement is completed, then the application shall become null and void after the one  
14 (1) year period unless the responsible official determines that delay in completion is due to  
15 factors beyond the control of the applicant.

16  
17 G. Vesting.

- 18  
19 1. Type II applications shall be considered under the development regulations in effect at the time a  
20 fully complete application for preliminary approval is filed.  
21  
22 2. Contingent Vesting. An application which is subject to pre-application review shall earlier  
23 contingently vest on the date a fully complete pre-application is submitted. This vesting shall  
24 become final if a fully complete application for substantially the same proposal is submitted within  
25 one hundred eighty (180) calendar days of the date the responsible official issues its written  
26 summary of pre-application review subject to the limitations of Section 40.510.020(A)(4).  
27 Requests to waive contingent vesting rights by the applicant shall be approved, subject to the  
28 request being submitted in writing and submitted as part of the full application package.  
29  
30 3. Special rules apply to certain nonconforming uses under Section 40.530.050.  
31  
32 4. For concurrency approval requirements, see Section 40.350.020.

33  
34 (Amended: Ord. 2007-06-05)

35  
36 H. Appeals.

- 37  
38 1. Applicability. A final decision may be appealed only by a party of record. Final decisions may be  
39 appealed if, within fourteen (14) calendar days after written notice of the decision is mailed, a  
40 written appeal is filed with the responsible official.  
41  
42 2. Submittal Requirements. The appeal shall contain the following information:  
43 a. The case number designated by the county and the name of the applicant;  
44 b. The name of each petitioner, the signature of each petitioner or his or her duly authorized  
45 representative, and a statement showing that each petitioner is entitled to file the appeal  
46 under Section 40.510.020(H)(1). If multiple parties file a single petition for review, the petition  
47 shall designate one (1) party as the contact representative for all contact with the responsible  
48 official. All contact with the responsible official regarding the petition, including notice, shall be  
49 with this contact representative;  
50 c. The specific aspect(s) of the decision and/or SEPA issue being appealed, the reasons why  
51 each aspect is in error as a matter of fact or law, and the evidence relied on to prove the  
52 error; and  
53 d. The appeal fee adopted by ~~the board~~ Council; provided, the scheduled fee shall be refunded  
54 if the applicant files with the responsible official at least fifteen (15) calendar days before the  
55 appeal hearing a written statement withdrawing the appeal.

- 1
- 2
- 3 3. Appeal Procedures.
- 4 a. The hearing examiner shall hear appeals in a de novo hearing. Notice of an appeal hearing
- 5 shall be mailed to parties of record, but shall not be posted or published. A staff report shall
- 6 be prepared, a hearing shall be conducted, and a decision shall be made and noticed. The
- 7 decision can be appealed under a Type III process.
- 8 b. Except for SEPA appeals which are governed by RCW 43.21C.075, the applicant shall have
- 9 the burden of proving by substantial evidence compliance with applicable approval standards.
- 10 Where evidence is conflicting, the examiner shall decide an issue based upon the
- 11 preponderance of the evidence.

12 (Amended: Ord. 2005-10-04; Ord. 2007-11-13)

13  
14 **40.510.030 Type III Process – Quasi-Judicial Decisions**

15  
16 A. Pre-Application Review.

- 17
- 18 1. The purposes of pre-application review are:
- 19 a. To acquaint county staff with a sufficient level of detail about the proposed development to
- 20 enable staff to advise the applicant accordingly;
- 21 b. To acquaint the applicant with the applicable requirements of this code and other law.
- 22 However, the conference is not intended to provide an exhaustive review of all the
- 23 potential issues that a given application could raise. The pre-application review does not
- 24 prevent the county from applying all relevant laws to the application; and
- 25 c. To provide an opportunity for other agency staff and the public to be acquainted with the
- 26 proposed application and applicable law. Although members of the public can attend a pre-
- 27 application conference, it is not a public hearing, and there is no obligation to receive public
- 28 testimony or evidence.
- 29
- 30 2. Pre-application review is required for applications, with the following exceptions:
- 31 a. The application is for a post-decision review, as described in Section 40.520.060; or
- 32 b. The applicant applies for and is granted a pre-application waiver from the responsible official.
- 33 The form shall state that waiver of pre-application review increases the risk the application
- 34 will be rejected or processing will be delayed. Pre-application review generally should be
- 35 waived by the responsible official only if the application is relatively simple. The decision to
- 36 waive a pre-application can be appealed as a Type I decision.
- 37
- 38 3. To initiate pre-application review, an applicant shall submit a completed form provided by the
- 39 responsible official for that purpose, the required fee, and all information required by the relevant
- 40 section(s) of this code. The applicant shall provide the required number of copies of all
- 41 information as determined by the responsible official.
- 42
- 43 4. Information not provided on the form shall be provided on the face of the preliminary plat, in an
- 44 environmental checklist or on other attachments. The responsible official may modify
- 45 requirements for pre-application materials and may conduct a pre-application review with less
- 46 than all of the required information. However, failure to provide all of the required information may
- 47 prevent the responsible official from identifying all applicable issues or providing the most
- 48 effective pre-application review and will preclude contingent vesting under
- 49 Section 40.510.030(G). Review for completeness will not be conducted by staff at the time of
- 50 submittal and it is the responsibility of the applicant.
- 51
- 52 5. Within fifteen (15) calendar days after receipt of an application for pre-application review, the
- 53 responsible official shall mail written notice to the applicant and to other interested agencies and
- 54 parties, including the neighborhood association in whose area the property in question is situated.

1 The notice shall state the date, time and location of the pre-application conference, the purposes  
2 of pre-application review, and the nature of the conference.  
3

4 6. The responsible official shall coordinate the involvement of agency staff responsible for planning,  
5 development review, roads, drainage, parks and other subjects, as appropriate, in the pre-  
6 application review process. Relevant staff shall attend the pre-application conference or shall take  
7 other steps to fulfill the purposes of pre-application review.  
8

9 7. The pre-application conference shall be scheduled at least five (5) calendar days after the notice  
10 is mailed but not more than twenty-eight (28) calendar days after the responsible official accepts  
11 the application for pre-application review. The responsible official shall reschedule the conference  
12 and give new notice if the applicant or applicant's representative cannot or does not attend the  
13 conference when scheduled.  
14

15 8. Within seven (7) calendar days after the date of the pre-application conference, the responsible  
16 official shall mail to the applicant and to other parties who sign a register provided for such  
17 purpose at the pre-application conference or who otherwise request it in writing, a written  
18 summary of the pre-application review. The summary may be e-mailed instead of mailed to the  
19 applicant and other parties should they consent to this method. The written summary generally  
20 shall do the following to the extent possible given the information provided by the applicant:

- 21 a. Summarize the proposed application(s);
- 22 b. Identify the relevant approval criteria and development standards in this code or other  
23 applicable law and exceptions, adjustments or other variations from applicable criteria or  
24 standards that may be necessary;
- 25 c. Evaluate information the applicant offered to comply with the relevant criteria and standards,  
26 and identify specific additional information that is needed to respond to the relevant criteria  
27 and standards or is recommended to respond to other issues;
- 28 d. Identify applicable application fees in effect at the time, with a disclaimer that fees may  
29 change;
- 30 e. Identify information relevant to the application that may be in the possession of the county or  
31 other agencies of which the county is aware, such as:
  - 32 (1) Comprehensive plan map designation and zoning on and in the vicinity of the property  
33 subject to the application;
  - 34 (2) Physical development limitations, such as steep or unstable slopes, wetlands, well head  
35 protection areas, water bodies, or special flood hazard areas, that exist on and in the  
36 vicinity of the property subject to the application;
  - 37 (3) Those public facilities that will serve the property subject to the application, including fire  
38 services, roads, storm drainage, and, if residential, parks and schools, and relevant  
39 service considerations, such as minimum access and fire flow requirements or other  
40 minimum service levels and impact fees; and
  - 41 (4) Other applications that have been approved or are being considered for land in the  
42 vicinity of the property subject to the proposed application that may affect or be affected  
43 by the proposed application.
- 44 f. Where applicable, indicate whether the pre-application submittal was complete so as to  
45 trigger contingent vesting under Section 40.510.030(G).  
46

47 9. An applicant may submit a written request for a second pre-application conference within one (1)  
48 calendar year after an initial pre-application conference. There is no additional fee for a second  
49 conference if the proposed development is substantially similar to the one reviewed in the first  
50 pre-application conference or if it reflects changes based on information received at the first pre-  
51 application conference. A request for a second pre-application conference shall be subject to the  
52 same procedure as the request for the initial pre-application conference.  
53

54 10. A request for or waiver of a pre-application review for a given development shall be filed unless  
55 the applicant submits a fully complete application that the responsible official finds is substantially

1 similar to the subject of a pre-application review within one (1) calendar year after the last pre-  
2 application conference or after approval of waiver of pre-application review.  
3

4 (Amended: Ord. 2007-11-13; Ord. 2009-03-02; Ord. 2017-07-04)  
5

6 **B. Review for Counter Complete Status.**  
7

- 8 1. Before accepting an application for review for fully complete status, and unless otherwise  
9 expressly provided by code, the responsible official shall determine the application is counter  
10 complete.  
11
- 12 2. The responsible official shall decide whether an application is counter complete when the  
13 application is accepted, typically “over the counter.”  
14
- 15 3. An application is counter complete if the responsible official finds that the application purports and  
16 appears to include the information required by Section 40.510.030(C)(3); provided, no effort shall  
17 be made to evaluate the substantive adequacy of the information in the application in the counter  
18 complete review process. Required information which has been waived by the responsible official  
19 shall be replaced by a determination from the responsible official granting the waiver.  
20
- 21 4. If the responsible official decides the application is counter complete, then the application shall be  
22 accepted for review for fully complete status.  
23
- 24 5. If the responsible official decides the application is not counter complete, then the responsible  
25 official shall immediately reject and return the application and identify what is needed to make the  
26 application counter complete.  
27

28 (Amended: Ord. 2017-07-04)  
29

30 **C. Review for Fully Complete Status.**  
31

- 32 1. Before accepting an application for processing, the responsible official shall determine that the  
33 application is fully complete.  
34
- 35 2. The responsible official shall decide whether an application is fully complete subject to the  
36 following:  
37 a. Within twenty-one (21) calendar days after the responsible official determines the application  
38 is counter complete; or  
39 b. Within fourteen (14) calendar days after an application has been resubmitted to the county  
40 after the application has been returned to the applicant as being incomplete.  
41
- 42 3. An application is fully complete if it includes all the required materials specified in the submittal  
43 requirements for the specific development review application being applied for and additional  
44 materials specified in the pre-application conference. If submittal requirements are not specified  
45 in the applicable code sections the application is fully complete if it includes the following:  
46 a. A signed statement from the applicant certifying that the application has been made with the  
47 consent of the lawful property owner(s) and that all information submitted with the application  
48 is complete and correct. False statements, errors, and/or omissions may be sufficient cause  
49 for denial of the request. Submittal of the application gives consent to the county to enter the  
50 property(ies) subject to the application;  
51 b. The signature of the property owner or the property owner’s authorized representative;  
52 c. A written narrative that addresses the following:  
53 (1) How the application meets or exceeds each of the applicable approval criteria and  
54 standards; and

- 1 (2) How the issues identified in the pre-application conference have been addressed, and  
2 generally, how services will be provided to the site;
- 3 d. A current County Assessor map(s) showing the property(ies) within a radius of the subject site  
4 as required in Sections 40.510.030(E);
- 5 e. A legal description supplied by the Clark County Survey Records Division, a title company,  
6 surveyor licensed in the state of Washington, or other party approved by the responsible  
7 official, and current County Assessor map(s) showing the property(ies) subject to the  
8 application;
- 9 f. Unless the responsible official has waived the pre-application conference, a copy of the pre-  
10 application conference summary, and information required by the pre-application conference  
11 summary, unless not timely prepared as required by Section 40.510.030(A)(7);
- 12 g. A preliminary site plan or plat that shows existing conditions and proposed improvements;
- 13 h. The applicable fee(s) adopted by ~~the board~~ Council for the application(s) in question;
- 14 i. Any applicable SEPA document, typewritten or in ink and signed.
- 15
- 16 4. An application shall include all of the information listed as application requirements in the relevant  
17 sections of this code.
  - 18 a. The responsible official may waive application requirements that are clearly not necessary to  
19 show an application complies with relevant criteria and standards and may modify application  
20 requirements based on the nature of the proposed application, development, site or other  
21 factors. Requests for waivers shall be reviewed as a Type I process before applications are  
22 submitted for counter complete review or the application must contain all the required  
23 information;
  - 24 b. The decision about the fully complete status of an application, including any required  
25 engineering, traffic or other studies, shall be based on the criteria for completeness and  
26 methodology set forth in this code or in implementing measures timely adopted by the  
27 responsible official and shall not be based on differences of opinion as to quality or accuracy.
- 28
- 29 5. If the responsible official decides an application is not fully complete, then, within the time  
30 provided in Section 40.510.030(C)(2), the responsible official shall send the applicant a written  
31 statement indicating that the application is incomplete based on a lack of information and listing  
32 what is required to make the application fully complete.
  - 33 a. The statement shall specify a date by which the required missing information must be  
34 provided to restart the fully complete review process pursuant to Section 40.510.030(C)(2)(b).  
35 The statement shall state that an applicant can apply to extend the deadline for filing the  
36 required information, and explain how to do so.
  - 37 b. The statement also may include recommendations for additional information that, although  
38 not necessary to make the application fully complete, is recommended to address other  
39 issues that are or may be relevant to the review.
- 40
- 41 6. If the required information is not submitted by the date specified and the responsible official has  
42 not extended that date, within seven (7) calendar days after that date the responsible official shall  
43 take the action in Section 40.510.030(C)(6)(a) or (C)(6)(b). If the required information is submitted  
44 by the date specified, then within fourteen (14) calendar days the responsible official shall decide  
45 whether the application is fully complete and, if not, the responsible official shall:
  - 46 a. Reject and return the application and scheduled fees and mail to the applicant a written  
47 statement which lists the remaining additional information needed to make the application  
48 fully complete; or
  - 49 b. Issue a decision denying the application, based on a lack of information; provided, the  
50 responsible official may allow the applicant to restart the fully complete review process a  
51 second time by providing the required missing information by a date specified by the  
52 responsible official, in which case the responsible official shall retain the application and fee  
53 pending expiration of that date or a fully complete review of the application as amended by  
54 that date.



- 1       7. If the responsible official decides an application is fully complete, then the responsible official  
2       shall, within fourteen (14) calendar days of making this determination:
  - 3       a. Forward the application to the county staff responsible for processing it, and schedule public  
4       hearing;
  - 5       b. Send a written notice of receipt of a complete application to the applicant acknowledging  
6       acceptance, listing the name and telephone number of a contact person at the review  
7       authority, and describing the expected review schedule, including the date of a hearing for a  
8       Type III process;
  - 9       c. Prepare a public notice in accordance with Section 40.510.030(E).
- 10       8. An application shall be determined fully complete if a written determination has not been mailed to  
11       the applicant within twenty-eight (28) calendar days of the date the application is submitted. An  
12       application shall be determined fully complete if a written determination has not been mailed to  
13       the applicant within fourteen (14) calendar days of the date that the necessary additional  
14       information is submitted.
- 15       9. A fully complete determination shall not preclude the county from requesting additional  
16       information, studies or changes to submitted information or plans if new information is required or  
17       substantial changes to the proposed action occur.

18  
19  
20  
21 (Amended: Ord. 2006-05-01; Ord. 2012-07-03; Ord. 2017-07-04)

22  
23 **D. Procedure.**

- 24       1. At least one (1) public hearing before the hearing examiner is required. The public hearing should  
25       be held within seventy-eight (78) calendar days after the date the responsible official issues the  
26       determination that the application is fully complete.
- 27       2. At least fifteen (15) calendar days before the date of a hearing, the responsible official shall issue  
28       a public notice of the hearing consistent with the requirements in Section 40.510.030(E).
- 29       3. At least fifteen (15) calendar days before the date of the hearing for an application(s), the  
30       responsible official shall issue a written staff report and recommendation regarding the  
31       application(s), shall make available to the public a copy of the staff report for review and  
32       inspection, and shall mail a copy of the staff report and recommendation without charge to the  
33       hearing examiner and to the applicant and applicant's representative. The responsible official  
34       shall mail or provide a copy of the staff report at reasonable charge to other parties who request  
35       it.
- 36       4. Public hearings shall be conducted in accordance with the rules of procedure adopted by the  
37       hearing examiner, except to the extent waived by the hearing examiner. A public hearing shall be  
38       recorded electronically.
  - 39       a. At the beginning of a hearing or agenda of hearings, the hearing examiner shall:
    - 40       (1) State that testimony will be received only if it is relevant to the applicable approval criteria  
41       and development standards and is not unduly repetitious;
    - 42       (2) Identify the applicable approval criteria and development standards;
    - 43       (3) State that the hearing examiner will consider any party's request that the hearing be  
44       continued or that the record be kept open for a period of time and may grant or deny that  
45       request;
    - 46       (4) State that the hearing examiner must be impartial and whether the hearing examiner has  
47       had any ex parte contact or has any personal or business interest in the application. The  
48       hearing examiner shall afford parties an opportunity to challenge the impartiality of the  
49       authority;
    - 50       (5) State whether the hearing examiner has visited the site;

- 1 (6) State that persons who want to receive notice of the decision may sign a list for that  
2 purpose at the hearing and where that list is kept; and
- 3 (7) Summarize the conduct of the hearing.
- 4 b. At the conclusion of the hearing on each application, the hearing examiner shall announce  
5 one (1) of the following actions:
  - 6 (1) That the hearing is continued. If the hearing is continued to a place, date and time  
7 certain, then additional notice of the continued hearing is not required to be mailed,  
8 published or posted. If the hearing is not continued to a place, date and time certain, then  
9 notice of the continued hearing shall be given as though it was the initial hearing. The  
10 hearing examiner shall adopt guidelines for reviewing requests for continuances;
  - 11 (2) That the public record is held open to a date and time certain. The hearing examiner shall  
12 state where additional written evidence and testimony can be sent, and shall announce  
13 any limits on the nature of the evidence that will be received after the hearing. The  
14 hearing examiner may adopt guidelines for reviewing requests to hold open the record;
  - 15 (3) That the application(s) is/are taken under advisement, and a final order will be issued as  
16 provided in Section 40.510.030(D)(6); or
  - 17 (4) That the application(s) is/are denied, approved or approved with conditions, together with  
18 a brief summary of the basis for the decision, and that a final order will be issued as  
19 provided in Section 40.510.030(D)(5).
- 20
- 21 5. Unless the applicant agrees to allow more time, within fourteen (14) calendar days after the date  
22 the record closes, the hearing examiner shall issue a written decision regarding the application(s);  
23 provided, the hearing examiner shall not issue a written decision regarding the application(s) until  
24 at least fifteen (15) calendar days after the threshold determination under Chapter 40.570 is  
25 made. The decision shall include:
  - 26 a. A statement of the applicable criteria and standards in this code and other applicable law;
  - 27 b. A statement of the facts that the hearing examiner found showed the application does or  
28 does not comply with each applicable approval criterion and standards;
  - 29 c. The reasons for a conclusion to approve or deny; and
  - 30 d. The decision to deny or approve the application and, if approved, any conditions of approval  
31 necessary to ensure the proposed development will comply with applicable criteria and  
32 standards.
- 33
- 34 6. Within seven (7) calendar days from the date of the decision, the responsible official shall mail via  
35 regular mail, or by e-mail if the receiving party agrees to this method, the notice of decision to the  
36 applicant and applicant's representative, the neighborhood association in whose area the  
37 property in question is situated, and all parties of record. The mailing shall include a notice which  
38 includes the following information:
  - 39 a. A statement that the decision and SEPA determination, if applicable, are final, but may be  
40 appealed as provided in Section 40.510.030(H) to ~~the board~~ **Council** within fourteen (14)  
41 calendar days after the date the notice is mailed. The appeal closing date shall be listed in  
42 boldface type. The statement shall describe how a party may appeal the decision or SEPA  
43 determination, or both, including applicable fees and the elements of a petition for review;
  - 44 b. A statement that the complete case file is available for review. The statement shall list the  
45 place, days and times where the case file is available and the name and telephone number of  
46 the county representative to contact for information about the case.
- 47
- 48 7. Notice of Agricultural, Forest or Mineral Resource Activities.
  - 49 a. All plats, building permits or development approvals under this title issued for residential  
50 development activities on, or within a radius of five hundred (500) feet for lands zoned  
51 agriculture-wildlife (AG-WL), agriculture (AG-20), forest (FR-40 and FR-80), or surface mining  
52 (S), or in current use pursuant to Chapter 84.34 RCW, shall contain or be accompanied by a  
53 notice provided by the responsible official. Such notice shall include the following disclosure:  
54

1           *The subject property is within or near designated agricultural land, forest land or mineral resource*  
2           *land (as applicable) on which a variety of commercial activities may occur that are not compatible*  
3           *with residential development for certain periods of limited duration. Potential discomforts or*  
4           *inconveniences may include, but are not limited to: noise, odors, fumes, dust, smoke, insects,*  
5           *operation of machinery (including aircraft) during any twenty-four (24) hour period, storage and*  
6           *disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil*  
7           *amendments, herbicides and pesticides.*

8           b. In the case of subdivisions or short plats, such notice shall be provided in the Developer  
9           Covenants to Clark County; in the case of recorded binding site plans, such notice shall be  
10           recorded separately with the County Auditor.

11  
12 (Amended: Ord. 2005-04-12; Ord. 2008-06-02; Ord. 2016-06-12; Ord. 2017-07-04)

13  
14 E. Public Notice.

- 15  
16 1. The notice of the application shall include the following information, to the extent known:  
17       a. The project name, the case file number(s), date of application, the date the application was  
18       determined fully complete, and the date the notice is sent;  
19       b. A description of the proposed project and a list of project permits included with the  
20       application;  
21       c. A description of the site, including current zoning and nearest road intersections, reasonably  
22       sufficient to inform the reader of its location and zoning;  
23       d. A map showing the subject property in relation to other properties or a reduced copy of the  
24       site plan;  
25       e. The name of the applicant or applicant's representative and the name, address and telephone  
26       number of a contact person for the applicant, if any;  
27       f. A list of applicable code sections;  
28       g. A statement of the public comment period, that the public has the right to comment on the  
29       application, receive notice of and participate in any hearings, request a copy of the decision  
30       once made, and any appeal rights. A statement shall indicate that written comments received  
31       by the county within fifteen (15) calendar days from the date of the notice will be considered  
32       by staff in their recommendations;  
33       h. The date, time, place and type of hearing;  
34       i. A statement of the preliminary SEPA determination, if one has been made;  
35       j. A statement that a consolidated staff report and SEPA review will be available for inspection  
36       at least fifteen (15) calendar days before the public hearing, and the deadline for submitting  
37       written comments;  
38       k. The deadline for submitting a SEPA appeal pursuant to Section 40.570.080(D);  
39       l. The date, place and times where information about the application may be examined and the  
40       name and telephone number of the county representative to contact about the application;  
41       m. The designation of the hearing examiner as the review authority, and a statement that the  
42       hearing will be conducted in accordance with the rules of procedure adopted by the hearing  
43       examiner; and  
44       n. Any additional information determined appropriate by the county.  
45  
46 2. Where the notice of application under Section 40.510.030(E)(1) is incomplete, a separate notice  
47       of public hearing shall be provided which is consistent with Section 40.510.030(E)(3).  
48  
49 3. Distribution.  
50       a. The responsible official shall mail a copy of the notice to:  
51           (1) The applicant and the applicant's representative;  
52           (2) The neighborhood association in whose area the property in question is situated, based  
53           on the list of neighborhood associations kept by the responsible official;  
54           (3) Owners of property within a radius of three hundred (300) feet of the property that is the  
55           subject of the application if the subject property is inside the urban growth boundary or to

1 owners or property within a radius of five hundred (500) feet of the property if the subject  
2 property is outside the urban growth boundary;

3 (a) The records of the County Assessor shall be used for determining the property owner  
4 of record. The failure of a property owner to receive notice shall not affect the  
5 decision if the notice was sent. A sworn certificate of mailing executed by the person  
6 who did the mailing shall be evidence that notice was mailed to parties listed or  
7 referenced in the certificate, and

8 (b) If the applicant owns property adjoining the property that is the subject of the  
9 application, then notice shall be mailed to owners of property within a three hundred  
10 (300) or five hundred (500) foot radius, as provided in this subdivision, of the edge of  
11 the property owned by the applicant adjoining or contiguous to the property that is the  
12 subject of the application;

13 (4) Agencies with jurisdiction; and

14 (5) To known interest groups and other people the responsible official believes may be  
15 affected by the proposed action or who request such notice in writing.

16 b. The county shall publish in a newspaper of general circulation a summary of the notice,  
17 including the date, time and place of the hearing, the nature and location of the proposal and  
18 instructions for obtaining further information.

19 c. Except for plat alteration applications that have been elevated to Type III applications, and  
20 shorelines permits, the applicant shall post one (1) four (4) foot by eight (8) foot sign board on  
21 the property subject to the development application as follows:

22 (1) Location. The board shall be installed at the midpoint along the site street frontage at a  
23 location five (5) feet inside the property line, or as otherwise directed by the responsible  
24 official to maximize visibility.

25 (2) Required Information. The sign shall include the following information:

26 (a) The project name, a brief description (i.e., one hundred (100) single-family lots; fifty  
27 thousand (50,000) square feet of retail commercial space; etc.) case number, public  
28 hearing date, time and location.

29 (b) The telephone number and Internet address through which interested parties may  
30 contact the county for additional information.

31 (c) The preliminary land subdivision, site plan or other plot plan view depicting the  
32 applicable development permit request.

33 (d) The name of the applicant's contact and his or her telephone number, should  
34 interested parties wish to contact the applicant directly.

35 (e) The sign shall be made of materials that will endure inclement weather conditions  
36 typical of Clark County.

37 (f) The responsible county official shall provide the applicant a template for the sign.

38 (3) Construction Specifications. The sign board shall be constructed with four (4) foot by  
39 eight (8) foot material and secured with at least two four (4) inch by four (4) inch posts.  
40 The board shall be affixed to the posts with at least two five (5) inch long three-eighths-  
41 inch diameter bolts, washers and nuts per post. Bracing shall be provided in order for the  
42 sign board to withstand high wind conditions that may occur. Posts shall be dug twenty-  
43 four (24) to thirty-six (36) inches into the ground for stability. The top of the sign board  
44 shall be designed to be between seven (7) and eight (8) feet above grade.

45 (4) Installation and Removal Requirements. The sign board, including all required  
46 information per Section 40.510.030(E)(3)(d)(2), shall be installed on the site at least thirty  
47 (30) calendar days in advance of the public hearing. The applicant shall maintain the sign  
48 board in good condition throughout the application review period, which shall extend  
49 through the time of the final county decision on the proposal including the expiration of  
50 the applicable appeal period of the hearings examiner's decision if submitted. If the sign  
51 board is removed, county review of the land use application may be discontinued until the  
52 board is replaced and has remained in place for the required period of time. The  
53 applicant shall remove the sign board within fourteen (14) calendar days after final county  
54 decision on the application, including expiration of applicable appeal periods.

1 (5) Affidavit of Installation. The applicant shall execute an affidavit certifying where and when the  
2 sign board was posted and submit to the responsible official for inclusion in the project file.  
3

4 (Amended: Ord. 2006-11-07; Ord. 2007-06-05; Ord. 2007-11-13; Ord. 2009-03-02; Ord. 2011-08-08; Ord.  
5 2014-01-08)  
6

7 F. Decision Timelines.  
8

9 Not more than ninety-two (92) days after the date an application is determined fully complete, the  
10 hearing examiner shall issue a written decision regarding the application(s); provided:  
11

- 12 1. If a determination of significance (DS) pursuant to Chapter 40.570 is issued, then the hearing  
13 examiner shall issue a decision not sooner than seven (7) calendar days after a final  
14 environmental impact statement is issued.  
15
- 16 2. An applicant may agree in writing to extend the time in which the hearing examiner shall issue a  
17 decision. If the hearing examiner grants such a request, the hearing examiner may consider new  
18 evidence the applicant introduces with or subsequent to the request. New evidence may not be  
19 considered unless the time extension would allow for public review and response to the new  
20 evidence.  
21
- 22 3. In determining the number of days that have elapsed after the county has notified the applicant  
23 that the application is fully complete, the following periods shall be excluded:
  - 24 a. Any period during which the applicant has been requested by the county to correct plans,  
25 perform required studies, or provide additional required information. The responsible official  
26 shall specify a time period based on the complexity of the required information in which the  
27 required information must be submitted. The period shall be calculated from the date the  
28 county notifies the applicant of the need for additional information until the earlier of the date  
29 the county determines whether the additional information satisfies the request for information  
30 or fourteen (14) calendar days after the date the information has been provided to the county.
  - 31 b. If the county determines that the information submitted by the applicant under  
32 Section 40.510.030(F)(3)(A) is insufficient, it shall notify the applicant of the deficiencies and  
33 the procedures under Section 40.510.030(F)(3)(A) shall apply as if a new request for studies  
34 had been made.
  - 35 c. Any period of time during which an environmental impact statement (EIS) is being prepared;  
36 provided, that the maximum time allowed to prepare an EIS shall not exceed one (1) year  
37 from the issuance of the determination of significance unless the responsible official and  
38 applicant have otherwise agreed in writing to a longer period of time. If no mutual written  
39 agreement is completed, then the application shall become null and void after the one (1)  
40 year period unless the responsible official determines that delay in completion is due to  
41 factors beyond the control of the applicant.  
42

43 G. Vesting.  
44

- 45 1. Type III applications (other than zone change proposals) shall be considered under the land  
46 development regulations in effect at the time a fully complete application for preliminary approval  
47 is filed.  
48
- 49 2. Contingent Vesting. An application which is subject to pre-application review shall earlier  
50 contingently vest on the date a complete pre-application is submitted. Contingent vesting shall  
51 become final if a fully complete application for substantially the same proposal is submitted within  
52 one hundred eighty (180) calendar days of the date the responsible official issues its written  
53 summary of pre-application review subject to the limitations of Section 40.510.030(A)(4).  
54 Requests to waive contingent vesting rights by the applicant shall be approved, subject to the  
55 request being submitted in writing and submitted as part of the full application package.

1           3. Special rules apply to approved planned unit developments under Section 40.520.080 and  
2           certain nonconforming uses under Section 40.530.050.

3  
4           4. For concurrency approval requirements, see Section 40.350.020.

5  
6 (Amended: Ord. 2007-06-05)

7  
8 H. Burden of Proof. Except for SEPA appeals which are governed by RCW 43.21C.075, the applicant  
9 shall have the burden of proving by substantial evidence compliance with applicable approval  
10 standards. Where evidence is conflicting, the examiner shall decide an issue based upon the  
11 preponderance of the evidence.

12  
13 (Amended: Ord. 2007-11-13)

14  
15 I. Appeals.

16  
17           1. Applicability. A final decision may be appealed only by a party of record. Final decisions may be  
18 appealed only if, within twenty-one (21) calendar days after written notice of the decision is  
19 mailed, a written appeal is filed in the superior court of Clark County, pursuant to  
20 Chapter 36.70C RCW or applicable state law.

21  
22 (Amended: Ord. 2005-04-12; Ord. 2005-10-04; Ord. 2006-09-13; Ord. 2007-11-13; Ord. 2009-10-19; Ord.  
23 2011-08-08)

24  
25 J. Special appeal procedure applicable to uses licensed or certified by the Department of Social and  
26 Health Services or the Department of Corrections.

27  
28           1. In accordance with RCW 35.63.260 (Section 1, Chapter 119, Laws of 1998), prior to the filing of  
29 an appeal of a final decision by a hearing examiner involving a conditional use permit application  
30 requested by a party that is licensed or certified by the Department of Social and Health Services  
31 or the Department of Corrections, the aggrieved party must, within five (5) days after the final  
32 decision, initiate formal mediation procedures in an attempt to resolve the parties' differences. If,  
33 after initial evaluation of the dispute, the parties agree to proceed with mediation, the mediation  
34 shall be conducted by a trained mediator selected by agreement of the parties. The agreement to  
35 mediate shall be in writing and subject to RCW 5.60.707. If the parties are unable to agree on a  
36 mediator, each party shall nominate a mediator and the mediator shall be selected by lot from  
37 among the nominees. The mediator must be selected within five (5) days after formal mediation  
38 procedures are initiated. The mediation process must be completed within fourteen (14) days  
39 from the time the mediator is selected except that the mediation process may extend beyond  
40 fourteen (14) days by agreement of the parties. The mediator shall, within the fourteen (14) day  
41 period or within the extension if an extension is agreed to provide the parties with a written  
42 summary of the issues and any agreements reached. If the parties agree, the mediation report  
43 shall be made available to the county. The cost of the mediation shall be shared by the parties.

44  
45           2. Any time limits for filing of appeals are tolled during the pendency of the mediation process.

46  
47           3. As used in this section, "party" does not include county, city or town.

48  
49 (Amended: Ord. 2007-11-13)

50  
51

40.520 PERMITS AND REVIEWS

**40.520.070 Master Planned Development**

A. Purpose.

The master planning standards in this section are intended to:

1. Promote coordinated and cohesive site planning and design of large, primarily light industrial and mixed use sites that will occur over an extended period of time;
2. Promote coordinated and cohesive site planning and design of large, heavy industrial sites that will occur over an extended period of time;
3. Provide a means of streamlining and consolidating development review processes. For large sites, intensive and integrated master planning review may occur earlier within the development process, lessening the scope of piecemeal review later as individual developments occur;
4. Through consolidation of review processes, provide a level of predictability to project applicants, the county and the community at large regarding the nature and type of development which will occur in the future; and
5. Through flexibility of standards and consolidation of reviews, promote and facilitate quality development of larger sites in an integrated, cohesive manner providing for functional, design and other linkages between, and consistency among, a mix of individual uses and structures.

(Amended: Ord. 2012-12-14)

B. Applicability.

1. Light Industrial (IL) Zones.  
Any development equal to or greater than fifty (50) contiguous acres in size shall be eligible to apply for approval of a master plan by the reviewing authority. A minimum of seventy-five percent (75%) of the area proposed for master planning shall be held under common ownership at the time of application. A minimum of eighty-five percent (85%) of the area proposed for master planning shall be zoned light industrial (IL), or a change in zoning requested to this effect, at the time of application. The master plan shall consist of both a concept plan which shows the location, distribution and phasing of land uses and related facilities and a development plan as each phase of the plan is developed.
2. Mixed Use (MX) Zone.  
Any development with proposed phasing of uses shall submit a master plan. A minimum of seventy-five percent (75%) of the area proposed for master planning shall be held under common ownership at the time of application. The master plan shall consist of both a concept plan which shows the location, distribution and phasing of land uses and related facilities and a development plan as each phase of the plan is developed.
3. Heavy Industrial (IH) Zone.  
Any development equal to or greater than fifty (50) contiguous acres in size shall be eligible to apply for approval of a master plan by the reviewing authority. A minimum of seventy-five percent (75%) of the area proposed for master planning shall be held under common ownership at the time of application.

1           4. Rural Industrial Land Banks.

2           Rural industrial land banks established pursuant to RCW 36.70A.365 or 36.70A.367 are required  
3           to have a master plan that meets the requirements of Sections 40.560.010(J) and 40.520.075.

4  
5 (Amended: Ord. 2012-12-14; Ord. 2014-12-16)

6  
7 C. Approval Process.

8  
9           1. Applications for a master plan shall be reviewed using a Type II-A process as described in  
10           Section 40.510.025, unless:

- 11           a. Submitted with a subdivision, when it shall be reviewed using a Type III process; or  
12           b. Submitted as part of a rural industrial land bank, when it shall be reviewed as a Type IV  
13           process.

14  
15           2. The master planning review is intended to provide a means of consolidating various reviews into a  
16           single master plan application and review, such that development subsequent to an approved  
17           master plan can be processed through site plan review. The master plan ordinance is not  
18           intended to integrate proposed large-scale zone or comprehensive plan changes to commercial  
19           designations, or to facilitate development to that effect.

20  
21           3. Master plan review and subsequent site plan review shall serve to integrate the following review  
22           processes:

- 23           a. Conditional use review;  
24           b. Mixed use review;  
25           c. Zone changes, consistent with the procedural ordinance, necessary to meet the applicability  
26           requirement of this section;  
27           d. Responsible official review;  
28           e. Variance.

29  
30           4. Proposed comprehensive plan map changes increasing areas of commercial designations shall  
31           be processed separately under Section 40.560.010.

32  
33           5. Upon approval by the reviewing authority and timely implementation as described in Section  
34           40.520.070(H), the master plan shall remain in force unless amended through Section  
35           40.520.060, Post-Decision Review. All development in the master plan area shall thereafter  
36           comply with the master plan requirements and standards included or referenced therein.  
37           Provisions of this subsection may be implemented through this section, incorporating Sections  
38           501 through 506 of Chapter 347, Laws of 1995.

39  
40           6. All post-decision reviews of master plans in MH zones are Type I reviews. Development sites  
41           within the master planned area may be reconfigured under post-decision review as necessary to  
42           attract uses as defined in Section 40.520.070(B)(3).

43  
44 (Amended: Ord. 2010-08-06; Ord. 2014-12-16)

45  
46 D. Approval Criteria.

47  
48           In approving the master plan, site plans subsequent to master plan approval, or amendments to the  
49           master plan, the review authority shall make a finding that the following approval criteria are met:

- 50  
51           1. All of the following general goals are met:  
52           a. Achievement of the goals and objectives of the community framework plan and the  
53           comprehensive plan;  
54           b. Enhancement of economic vitality, particularly opportunities for high wage employment;  
55           c. Efficient provisions and use of public facilities and services;



- 1 d. Measures to reduce the number of automobile trips generated and to encourage alternative
- 2 modes of transportation; and
- 3 e. Goals provided in the purpose statements of the applicable zoning district.

4  
5 2. All of the following conditions exist:

- 6 a. The master plan contains adequate provisions for ensuring that the original visions and goals
- 7 as stated in the master plan will be implemented;
- 8 b. The site of the proposed master plan is adequate in size and shape to accommodate the
- 9 proposed uses and all yards, spaces, walls and fences, parking, loading, landscaping, and
- 10 other features as required by this title, and to ensure that said use will have no significant
- 11 detrimental impacts on neighboring land uses and the surrounding area;
- 12 c. The site for the proposed uses relates to streets and highways that are or will be adequate in
- 13 width and pavement type to carry the quantity and kind of traffic generated by the proposed
- 14 uses;
- 15 d. Adequate public utilities are or will be available to serve the proposed project;
- 16 e. The establishment, maintenance, and/or conduct of the use for which the development plan
- 17 review is sought will not, under the circumstances of the particular case, be detrimental to the
- 18 health, safety, morals, or welfare of persons residing or working in the neighborhood of such
- 19 use and will not, under the circumstances of the particular case, be detrimental to the public
- 20 welfare, injurious to property or improvements in said neighborhood; nor shall the use be
- 21 inconsistent with the character of the neighborhood or contrary to its orderly development;
- 22 f. The proposed master plan facilitates quality development in an integrated manner which
- 23 provides for a functional and design interrelation of uses and/or structures;
- 24 g. The master plan meets all submittal requirements of this section, and material submitted
- 25 provides sufficient detail to enable review for compliance;
- 26 h. All areas of the master plan site to be developed with commercial uses shall be so delineated
- 27 on the master plan.
  - 28 (1) Light industrial (IL) zone: Commercially delineated areas proposed within industrially
  - 29 zoned areas of the master plan site shall account for no more than ten percent (10%) of
  - 30 the total area.
  - 31 (2) Mixed use (MX) zone: Uses shall conform to the requirements of Section 40.230.020.
  - 32 (3) Heavy industrial (IH) zone: Commercially delineated areas proposed within industrially
  - 33 zoned areas of the master plan site shall account for no more than ten percent (10%) of
  - 34 the total building square footage.

35  
36 3. The review authority may impose conditions as necessary to satisfy the requirements of this

37 section.

38  
39 4. The applicant may choose one (1) of two (2) options for environmental review:

- 40 a. Environmental review for buildout of the master plan. Projects included in the environmental
- 41 review of the master plan shall not require additional environmental review; or
- 42 b. Environmental review of the conceptual master plan followed by project-specific
- 43 environmental review to be completed at the time of individual project development. This
- 44 option includes situations where the conceptual SEPA review for the master plan is
- 45 completed concurrently with project-specific SEPA review on a first phase. The scope of a
- 46 narrower review of project proposals may be based on relevant similarities, such as common
- 47 timing, impacts, implementation or subject matter (per WAC 197-11-060(3)).

48  
49 (Amended: Ord. 2012-12-14)

50  
51 E. Site Plan Review Process Under an Approved Master Plan.

52  
53 Development proposals submitted pursuant to an approved master plan shall be reviewed under

54 Section 40.520.040, subject to a demonstration of consistency with the approved master plan and

55 applicable conditions of master plan approval. Such development proposals do not require a public

1 hearing on a project-specific basis so long as the original master plan is followed. The review  
2 authority may impose conditions of approval for such site plan proposal as necessary to ensure  
3 compliance with master plan approval criteria or conditions.

4  
5 F. Development Standards, Covenants and Guidelines.

- 6  
7 1. Mixed use (MX) zoned lands shall comply with Section 40.230.020.  
8 2. Light industrial (IL) and heavy industrial (IH) zoned lands: The applicant has two (2) options in  
9 establishing development standards to control development in the master plan area:  
10 a. Incorporate the development standards as adopted by the ordinance codified in this section;  
11 or  
12 b. Propose new development standards (which may incorporate some of the standards in this  
13 section). Development standards that differ from the existing land use code requirements will  
14 be reviewed as part of master plan review.  
15 c. Development standards shall address:  
16 (1) Permitted, accessory and conditional uses and uses permitted with administrative review;  
17 (2) Floor area ratios for office, commercial and industrial development, where permitted;  
18 (3) Maximum building heights;  
19 (4) Maximum lot coverage (building and impermeable surface);  
20 (5) Setbacks;  
21 (6) Minimum spacing between buildings;  
22 (7) Circulation/access to and within each lot and/or area;  
23 (8) Landscaping requirements (minimum landscaped area);  
24 (9) Open space;  
25 (10) Parking requirements (location, design, amount);  
26 (11) Street standards;  
27 (12) Signage; and  
28 (13) Handicapped accessibility.

29  
30 (Amended: Ord. 2012-12-14)

- 31  
32 3. Covenants, Conditions and Restrictions. Notwithstanding any other provision in this section, the  
33 review authority may enter into developer agreements pursuant to RCW 36.70B.170 through  
34 36.70B.210. ~~The board~~ **Council** may also declare the master plan a planned action pursuant to  
35 RCW 43.21C.031.  
36 a. Other site development restrictions, such as easements and covenants, not covered by the  
37 development standards or applicable ordinances may be incorporated into the master plan, in  
38 a section stipulating covenants, conditions and restrictions that run with the land;  
39 b. Where separate ownership of lots within the master plan area may occur, to ensure  
40 consistency in development and protect the character of the development, the owners may  
41 be required, or may desire, to confer responsibility for maintaining common open space,  
42 communal recreational areas and facilities, private roads and landscaping to one (1) of the  
43 following:  
44 (1) An association of owners that shall be created as an association of owners under the  
45 laws of the state and shall adopt and propose articles of incorporation or association and  
46 bylaws, and adopt and improve a declaration of covenants and restrictions on the  
47 common open space that is acceptable to the Prosecuting Attorney. Automatic  
48 membership in the association upon purchase of property and association fees shall be  
49 contained in covenants that run with the land. The association must have the power to  
50 levy assessments. Nonpayment of association fees can become a lien on the property; or  
51 (2) Dedication to a public agency that agrees to maintain the common open space and any  
52 buildings, structures or other improvements which have been placed on it.  
53  
54 4. Other conditions which may be addressed in this section of the master plan document are  
55 agreements and assurances on the part of the applicant and on the part of the county with

1 respect to future development. Other general provisions may be included in the final master plan:  
2 effective date, duration, cooperation and implementation, intent and remedies, periodic review,  
3 dispute resolution, assignment, relationship of parties, hold harmless, notices, severability and  
4 termination, time of essence, waiver, successors and assigns, governing state law, constructive  
5 notice and acceptance, processing fees.

6  
7 5. The owner may choose to establish architectural design guidelines to promote consistency  
8 throughout the development. Administering the guidelines shall be the responsibility of the owner  
9 of the site or the association of owners. The guidelines may consist of, for example, roof pitches,  
10 building materials, window treatments, paving materials, and building articulation, etc.

11  
12 6. The comprehensive plan map shall be amended to add the suffix “-mp” to the site at the time of  
13 annual review for all approved master plans approved in the previous calendar year.

14  
15 G. Final Master Plan Review.

16  
17 The final master plan shall be submitted in conjunction with the final construction/site plan application,  
18 as required under Section 40.520.040(F).

19  
20 H. Master Plan Approval Timelines.

21  
22 The master plan approval timelines shall be those established under Section 40.500.010(B).  
23 (Note: Section 40.520.060, Post-Decision Procedures, addresses the process for subsequent  
24 changes to a master plan; and Section 40.510.020(H) addresses appeals.)

25  
26 (Amended: Ord. 2006-04-18; Ord. 2011-03-09)

27  
28 **40.520.075 Rural Industrial Development Master Plan**

29 A. Purpose.

30  
31 The master planning standards in this section are intended to:

- 32  
33 1. Promote coordinated and cohesive site planning and design of rural industrial development sites  
34 that will develop over an extended period of time;  
35  
36 2. Provide a means of streamlining and consolidating development review processes, lessening the  
37 scope of piecemeal review as individual developments occur;  
38  
39 3. Provide a level of predictability to project applicants, the county and the community at large  
40 regarding the nature and type of development which will occur in the future; and  
41  
42 4. Through flexibility of standards and consolidation of reviews, promote and facilitate quality  
43 development in an integrated, cohesive manner providing for functional, design and other  
44 linkages between, and consistency among, a mix of individual uses and structures.

45  
46 B. Applicability.

47  
48 This chapter applies to rural industrial sites and land banks established pursuant to RCW 36.70A.365  
49 or 36.70A.367 and Section 40.560.010(J). Such sites are to be a minimum of one hundred (100)  
50 acres in size and zoned light industrial (IL) with an IL-RILB overlay.

51 C. Approval Process.

- 52  
53 1. A master plan prepared for a rural industrial site or land bank will be processed as part of the  
54 application for the land bank pursuant to Section 40.560.010(J).  
55

- 1           2. The master planning review is intended to provide a means of consolidating various reviews into a
- 2           single master plan application and review, such that specific major industrial developments
- 3           subsequent to an approved master plan can be processed through site plan review.
- 4
- 5           3. Master plan review and subsequent site plan review for specific major industrial developments
- 6           shall serve to integrate the following review processes:
- 7           a. Conditional use review;
- 8           b. Responsible official review; and
- 9           c. Variance.
- 10
- 11          4. Upon approval by the reviewing authority, the master plan shall remain in force unless amended
- 12          through Section 40.520.060, Post-Decision Review. All development in the master plan area shall
- 13          thereafter comply with the master plan requirements and standards included or referenced
- 14          therein. Provisions of this subsection may be implemented through this section, incorporating
- 15          Sections 501 through 506 of Chapter 347, Laws of 1995.
- 16
- 17          5. All post-decision reviews of master plans are Type I reviews.

18  
19 **D. Approval Criteria.**

- 20
- 21          1. In approving the master plan, site plans subsequent to master plan approval, or amendments to
- 22          the master plan, the review authority shall make a finding that the following approval criteria are
- 23          met:
- 24          a. General goals:
- 25               (1) Achievement of the goals and objectives of the community framework plan and the
- 26               comprehensive plan;
- 27               (2) Enhancement of economic vitality, particularly opportunities for high wage employment;
- 28               (3) Efficient provisions and use of public facilities and services;
- 29               (4) Plan sufficient infrastructure to meet concurrency needs; and
- 30               (5) Goals provided in the purpose statements of the applicable zoning district.
- 31          b. Specific conditions:
- 32               (1) The master plan contains adequate provisions for ensuring that the original visions and
- 33               goals as stated in the master plan will be implemented;
- 34               (2) The site of the proposed master plan is adequate in size and shape to accommodate the
- 35               proposed uses and all yards, spaces, walls and fences, parking, loading, landscaping,
- 36               and other features as required by this title, and to ensure that said use will have no
- 37               significant detrimental impacts on neighboring land uses and the surrounding area;
- 38               (3) The site for the proposed uses relates to streets and highways that are or will be
- 39               adequate in width and pavement type to carry the quantity and kind of traffic generated
- 40               by the proposed uses;
- 41               (4) Adequate public utilities are or will be available to serve the proposed project;
- 42               (5) The establishment, maintenance, and/or conduct of the use for which the development
- 43               plan review is sought will not, under the circumstances of the particular case, be
- 44               detrimental to the health, safety, or welfare of persons residing or working in the
- 45               neighborhood of such use and will not, under the circumstances of the particular case, be
- 46               detrimental to the public welfare, injurious to property or improvements in said
- 47               neighborhood; nor shall the use be inconsistent with the character of the neighborhood or
- 48               contrary to its orderly development;
- 49               (6) The proposed master plan facilitates quality development in an integrated manner which
- 50               provides for a functional and design interrelation of uses and/or structures;
- 51               (7) The master plan meets all submittal requirements of this section, and material submitted
- 52               provides sufficient detail to enable review for compliance;
- 53               (8) All areas of the master plan site to be developed with commercial uses shall be so
- 54               delineated on the master plan. Commercially delineated areas proposed within

1 industrially zoned areas of the master plan site shall account for no more than ten  
2 percent (10%) of the total area.

- 3  
4 2. The review authority may impose conditions as necessary to satisfy the requirements of this  
5 section.  
6  
7 3. The applicant may choose one (1) of two (2) options for environmental review:  
8 a. Environmental review for build-out of the master plan. Projects included in the environmental  
9 review of the master plan shall not require additional environmental review; or  
10 b. Environmental review of the conceptual master plan followed by project-specific  
11 environmental review to be completed at the time of individual project development. This  
12 option includes situations where the conceptual SEPA review for the master plan is  
13 completed concurrently with project-specific SEPA review on a first phase. The scope of a  
14 narrower review of project proposals may be based on relevant similarities, such as common  
15 timing, impacts, implementation or subject matter (per WAC 197-11-060(3)).  
16

17 E. Site Plan Review Process Under an Approved Master Plan.

18  
19 Major industrial development proposals submitted pursuant to an approved master plan shall be  
20 reviewed under Section 40.520.040, subject to a demonstration of consistency with the approved  
21 master plan and applicable conditions of master plan approval. Such specific major industrial  
22 developments are subject to a Type III review process according to Section 40.510.030, with the  
23 following specific hearing notice requirements that supersede those of Section 40.510.030: An open  
24 record public hearing shall be held before the hearing examiner with notice published at least thirty  
25 (30) days before the hearing date and mailed to all property owners within one (1) mile of the site.  
26 The review authority may impose conditions of approval for such site plan proposal as necessary to  
27 ensure compliance with master plan approval criteria or conditions.  
28

29 F. Development Standards, Covenants, and Guidelines.

- 30  
31 1. The applicant has two (2) options in establishing development standards to control development  
32 in the master plan area:  
33 a. Incorporate the development standards as adopted by the ordinance codified in this section;  
34 or  
35 b. Propose new development standards (which may incorporate some of the standards in this  
36 section). Development standards that differ from the existing land use code requirements will  
37 be reviewed as part of master plan review.  
38  
39 2. Development Standards. See Section 40.230.085(D).  
40  
41 3. Covenants, Conditions and Restrictions. Notwithstanding any other provision in this section, the  
42 review authority may enter into developer agreements pursuant to RCW 36.70B.170 through  
43 36.70B.210. **The board Council** may also declare the master plan a planned action pursuant to  
44 RCW 43.21C.031.  
45 a. Other site development restrictions, such as easements and covenants, not covered by the  
46 development standards or applicable ordinances may be incorporated into the master plan, in  
47 a section stipulating covenants, conditions and restrictions that run with the land;  
48 b. Where separate ownership of lots within the master plan area may occur, to ensure  
49 consistency in development and protect the character of the development, the owners may  
50 be required, or may desire, to confer responsibility for maintaining common open space,  
51 communal recreational areas and facilities, private roads and landscaping to one (1) of the  
52 following:  
53 (1) An association of owners that shall be created as an association of owners under the  
54 laws of the state and shall adopt and propose articles of incorporation or association and  
55 bylaws, and adopt and improve a declaration of covenants and restrictions on the

1 common open space that is acceptable to the Prosecuting Attorney. Automatic  
2 membership in the association upon purchase of property and association fees shall be  
3 contained in covenants that run with the land. The association must have the power to  
4 levy assessments. Nonpayment of association fees can become a lien on the property; or  
5 (2) Dedication to a public agency that agrees to maintain the common open space and any  
6 buildings, structures or other improvements which have been placed on it.  
7

- 8 4. Other conditions which may be addressed in this section of the master plan document are  
9 agreements and assurances on the part of the applicant and on the part of the county with  
10 respect to future development. Other general provisions may be included in the final master plan:  
11 effective date, duration, cooperation and implementation, intent and remedies, periodic review,  
12 dispute resolution, assignment, relationship of parties, hold harmless, notices, severability and  
13 termination, time of essence, waiver, successors and assigns, governing state law, constructive  
14 notice and acceptance, processing fees.  
15  
16 5. The owner may choose to establish architectural design guidelines to promote consistency  
17 throughout the development. Administering the guidelines shall be the responsibility of the owner  
18 of the site or the association of owners. The guidelines may consist of, for example, roof pitches,  
19 building materials, window treatments, paving materials, and building articulation, etc.  
20  
21 6. The comprehensive plan map shall be amended to add the suffix “-mp” to the site at the time of  
22 approval of master plans approved under this chapter.  
23

24 (Added: Ord. 2014-12-16; Amended: Ord. 2016-04-03)

25  
26 **40.520.080 Planned Unit Development**

27 A. Purpose.

28  
29 The intent of planned unit developments (PUD) is to allow flexibility in design and creative site  
30 planning, and in some cases density, while providing for the orderly development of the county that  
31 meets the comprehensive plan. Planned unit developments should allow for a mix of housing types,  
32 lot sizes, and uses.  
33

34 The legislature through the Growth Management Act (RCW 36.70A.090 and RCW 36.70A.020(4))  
35 and the county in its comprehensive plan (Chapter 2.7.1) encourages a creative approach to  
36 affordable and diversified housing. ~~The board Council~~ finds and concludes that planned unit  
37 developments are an important development alternative to meet the needs of home buyers by  
38 providing a variety of lot sizes and housing styles. Furthermore, the PUD code reduces the restrictive  
39 impact of critical area ordinances. Therefore, ~~The board Council~~ concludes that a PUD implements  
40 GMA and the comprehensive plan and that applicants need not demonstrate a change of  
41 circumstances.  
42

43 B. Applicability.

- 44  
45 1. Planned unit developments are permitted pursuant to the provisions of this section within the  
46 following districts: R1-5, R1-6, R1-7.5, R1-10, R1-20, R-12, R-18, R-22, R-30, R-43, OR-15, OR-  
47 18, OR-22, OR-30, OR-43, CR-1, CR-2, NC, CC, CL, GC and MX districts.  
48

49 2. Uses Permitted.

50 Any use consistent with the zone districts designated for the parcel(s) within the proposed  
51 planned unit development boundary may be permitted in planned unit developments. The location  
52 of the uses in planned unit developments may vary from underlying zoning; provided, that the  
53 total allowed uses (e.g., number of residential uses or area assigned to commercial use) was  
54 limited by the maximum allowed on each respectively zoned parcel. Applications for PUDs shall

1 be reviewed using a Type II-A process unless submitted with a subdivision, then it shall be  
2 reviewed using a Type III process.

3  
4 C. Design Flexibility.

- 5  
6 1. Design Flexibility. Zoning standards that may be varied without the need of a variance include, but  
7 are not limited to, lot standards, setbacks, landscaping, and parking. Design flexibility for  
8 transportation, stormwater, critical area, and other nonland-use-related standards may be  
9 reviewed separately through other review processes such as a road modification or stormwater  
10 variance.  
11  
12 2. Site Size. A PUD shall be located on a minimum site size of six (6) acres unless the responsible  
13 official finds that the site of the proposed use is adequate in size and shape to accommodate the  
14 proposed use and all setbacks, parking, loading, landscape/screening, and other features as  
15 required by this title.  
16  
17 3. Building Height. Maximum building height shall be that of the underlying zone; provided, that the  
18 maximum height may be exceeded if the minimum setback of the higher portion of the building is  
19 increased at a one-to-one (1:1) ratio (excess height in feet: extra setback in feet).  
20  
21 4. Open Space. All PUDs shall provide a minimum of twelve percent (12%) open space based on  
22 the net site area for active or passive recreational purposes:  
23 a. Active recreational areas include features such as jogging trails, child play equipment, open  
24 fields for pick-up games, game courts, swimming pools, club houses, picnic areas and  
25 pavilions.  
26 b. Passive recreational areas include features such as natural protected areas and open space  
27 with features like access trails, benches, interpretive signs and view corridors.  
28 c. Stormwater facilities may be counted as open space only if they are not fenced, and include  
29 features such as natural areas, water gardens and habitat, and are incorporated into the  
30 overall open space design.  
31 d. The open space shall be consistent with the character of the PUD, considering its size,  
32 density, expected population, topography, and the number and type of dwellings.  
33  
34 5. All open space shall be conveyed to and permanently maintained by a home owners association  
35 unless a public agency agrees to maintain the open space and any structures or improvements  
36 located on it. Prior to final plat/site plan approval, the association of owners will be created under  
37 the laws of the state and shall adopt and propose articles of incorporation or association and  
38 bylaws, and covenants, conditions and restrictions limiting the uses of the open space shall be  
39 adopted and approved by the Prosecuting Attorney.  
40  
41 6. All PUDs shall provide street trees on public and private roads as well as street lighting, except  
42 street lighting will not be required on functional classifications of arterial, collector, and scenic  
43 route roadways. One (1) street tree shall be provided on an average of twenty-four (24) linear  
44 feet, species chosen from the Clark County Standard Details Manual or specified by a certified  
45 landscape architect. Street trees on private roads shall be conveyed and permanently maintained  
46 by the home owners association.  
47

48 D. Approval Criteria.

49  
50 Prior to preliminary approval of the proposed PUD, the Hearing Examiner or the responsible official  
51 must find that the following three (3) conditions exist:  
52

- 53 1. Alternate designs proposed will provide a plan equal or superior to the standard being varied.  
54

- 1           2. Through lot size, setbacks, building orientation, and screening, the proposed PUD shall provide a  
2           gradual transition adjacent to lower density neighborhoods or nonresidential uses.  
3
- 4           3. The applicant proposes design features that may include, but are not limited to, designs centered  
5           on protected natural areas, front porches/recessed garages, pedestrian-friendly orientation,  
6           benches/gazebos, water features, recreational areas, stormwater systems designed as features,  
7           and affordable housing.

8  
9   E. Residential Density Bonus.

10           A density bonus may be granted for those PUDs that provide design concepts that will enhance the  
11           livability of the proposed development and surrounding area. Each of the following design concepts  
12           may result in a three percent (3%) density increase, with a maximum density increase of ten percent  
13           (10%):  
14

- 15           1. Variety of housing types and densities.  
16
- 17           2. A mix of uses.  
18
- 19           3. Design that reduces automobile trips and encourages alternative modes of transportation.  
20
- 21           4. Alley vehicle access only for at least fifty percent (50%) of the units.  
22
- 23           5. PUDs that contain more than fifteen percent (15%) open space based on the net site area.  
24
- 25           6. Low impact developments (LID).  
26

27  
28   (Amended: Ord. 2006-05-01)

29  
30   F. Open Space for LIDs.

31           LIDs that provide lot sizes equal to or greater than that required by the zoning district shall be exempt  
32           from the open space requirements in subsection (C)(4) of this section.  
33

34  
35   (Amended: Ord. 2010-08-06)

36  
37



1  
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3  
4  
5  
6  
7  
8  
9  
10

40.530 NONCONFORMING USES, STRUCTURES AND LOTS  
**NONE**

40.540 BOUNDARY LINE ADJUSTMENTS AND LAND DIVISIONS  
**NONE**

40.550 MODIFICATIONS AND VARIANCES  
**NONE**

40.570 STATE ENVIRONMENTAL POLICY ACT (SEPA)

**40.570.020 General Requirements**

A. Purpose of This Chapter and Adoption by Reference.

This section contains the basic requirements that apply to the SEPA process. The county adopts the following sections of the SEPA Rules by reference, as supplemented by this section:

WAC

- 197-11-030 Policy
- 197-11-040 Definitions
- 197-11-050 Lead agency
- 197-11-055 Timing of the SEPA process
- 197-11-060 Content of environmental review
- 197-11-070 Limitations on actions during SEPA process
- 197-11-080 Incomplete or unavailable information
- 197-11-090 Supporting documents
- 197-11-100 Information required of applicants
- 197-11-158 GMA project review – Reliance on existing plans and regulations
- 197-11-164 Planned actions – Definitions and criteria
- 197-11-168 Ordinances or resolutions designating planned actions – Procedures for adoption
- 197-11-172 Planned actions – Project review
- 197-11-910 Designation of responsible official
- 197-11-912 Procedures on consulted agencies
- 197-11-210 SEPA/GMA integration
- 197-11-220 SEPA/GMA definitions
- 197-11-228 Overall SEPA/GMA integration procedures
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- 197-11-232 SEPA/GMA integration procedures for preliminary planning, environmental analysis, and expanded scoping
- 197-11-235 Documents
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- 197-11-250 SEPA/Model Toxics Control Act integration
- 197-11-253 SEPA lead agency for MTCA actions
- 197-11-256 Preliminary evaluation
- 197-11-259 Determination of nonsignificance for MTCA remedial actions
- 197-11-262 Determination of significance and EIS for MTCA remedial actions
- 197-11-265 Early scoping for MTCA remedial actions
- 197-11-268 MTCA interim actions

B. Designation of Responsible Official for the Purposes of SEPA.

1. For public proposals, the head (administrative official) of the lead department or division making the proposal shall be the responsible official. Whenever possible, agency people carrying out SEPA procedures should be different from agency people making the proposal (WAC 197-11-926(2)).
2. For private proposals, the head (administrative official) of the department or division with primary responsibility for approving or processing the permits and licenses for the proposal shall be the responsible official. When multiple officials have permitting authority, the assignment of responsibility shall be reached by agreement.
3. For all proposals for which the county is the lead agency, the responsible official shall evaluate the environmental impacts of the proposal, make the threshold determination, supervise scoping and preparation of any required environmental impact statement (EIS), and perform any other functions assigned to the “lead agency” or “responsible official” by those sections of the SEPA

1 Rules adopted by reference in Section 40.570.020(A), including consulted agency responsibilities  
2 under WAC 197-11-912 when the county is not the lead agency.  
3

- 4 4. Departments of the county are authorized to make agreements as to lead agency status or  
5 shared lead agency duties for a proposal under WAC 197-11-942 and 197-11-944; provided, that  
6 the responsible official and any department that will incur responsibilities as the result of such  
7 agreement approve the agreement.  
8
- 9 5. The county shall retain all documents required by the SEPA Rules (Chapter 197-11 WAC) and  
10 make them available in accordance with Chapter 42.17 RCW.  
11

12 C. Additional SEPA Timing Considerations.  
13

- 14 1. The following time limits (expressed in calendar days) shall apply when the county processes  
15 licenses for all private projects and those governmental proposals submitted to the county by  
16 other agencies requesting the county to perform lead agency functions:  
17 a. The county should complete threshold determinations that can be based solely upon review  
18 of the environmental checklist for the proposal within fifteen (15) calendar days of  
19 determining that an application is fully complete pursuant to Section 40.510.020(C) for Type II  
20 decisions or Section 40.510.030(C) for Type III decisions, but no sooner than the end of the  
21 comment period on any notice of application required pursuant to Section 40.510.020(E) for  
22 Type II decisions or Section 40.510.030(E) for Type III decisions.  
23 b. When the responsible official requires further information from the applicant or consultation  
24 with other agencies with jurisdiction:  
25 (1) The county should request such further information within fifteen (15) calendar days of  
26 determining that an application is fully complete;  
27 (2) The county shall wait no longer than thirty (30) days for a consulted agency to respond;  
28 (3) The responsible official should complete the threshold determination within fifteen (15)  
29 calendar days of receiving the requested information from the applicant or the consulted  
30 agency; provided, that a threshold determination shall not be issued until the expiration of  
31 the comment period on the notice of application, and shall be issued at least fifteen (15)  
32 calendar days prior to any open record pre-decision hearing required pursuant to  
33 Section 40.510.030(C).  
34 c. When the county must initiate further studies, including field investigations, to obtain the  
35 information to make the threshold determination, the county should complete the studies  
36 within thirty (30) days of determining that the application is fully complete.  
37
- 38 2. For nonexempt proposals, the determination of nonsignificance (DNS) or final EIS for the  
39 proposal shall be combined with the county's staff recommendation to any appropriate advisory  
40 or decision-making body, such as the planning commission, hearing examiner, or ~~board~~ **council**.  
41
- 42 3. If the county's only action on a proposal is a decision on a building permit or other license that  
43 requires detailed project plans and specifications, the applicant may request in writing that the  
44 county conduct environmental review prior to submission of the detailed plans and specifications.  
45 The point at which environmental review may be initiated for specific permits or other licenses  
46 requiring detailed project plans and specifications is upon filing of a fully complete application,  
47 including an environmental checklist, and preliminary or conceptual site development plans.  
48

49 D. SEPA/GMA Integration.  
50

51 The county endorses the amended procedures of WAC 197-11-210 through 197-11-235 regarding  
52 the optional integration of SEPA review with actions being considered for adoption under the Growth  
53 Management Act and, when used, shall supersede the SEPA process requirements that would  
54 otherwise apply.  
55

1 E. GMA Project Review – Reliance on Existing Plans and Regulations.  
2

3 The county endorses the amended procedures of WAC 197-11-158 regarding reliance on existing  
4 plans, laws, and regulations for environmental review and any supplement provisions adopted  
5 pursuant to this part, and shall apply such procedures to the review of project proposal where  
6 appropriate.  
7

8 F. Planned Actions.  
9

- 10 1. Procedure and Criteria for Evaluating and Determining Projects as Planned Actions. The  
11 responsible official shall determine that the probable significant adverse environmental impacts  
12 for the proposed developments have been adequately addressed in the Highway 99 SEIS and  
13 that it is consistent with the Highway 99 Sub-Area Plan.  
14
- 15 2. Planned Action Designated. Land uses and activities described in the Highway 99 Final SEIS  
16 dated December 2, 2008, and the Highway 99 Sub-Area Plan adopted by Ordinance 2008-12-16  
17 may be designated as planned actions.  
18
- 19 3. Planned Action Review Criteria. The responsible official may designate as a planned action,  
20 pursuant to RCW 43.21C.031(2), a proposed project which meets all of the following conditions,  
21 as demonstrated by the application for the project:  
22 a. The application proposes that the project be located within the geographical area of the  
23 Highway 99 Overlay district;  
24 b. The application proposes uses and activities that are consistent with those described in the  
25 Highway 99 Final SEIS;  
26 c. The significant adverse environmental impacts of the proposed project have been identified  
27 in the Highway 99 Final SEIS;  
28 d. The significant adverse impacts of the proposed project have been mitigated by application  
29 of the measures identified in this title;  
30 e. The application demonstrates compliance with all applicable local, state and/or federal laws  
31 and regulations, and the responsible official determines that these constitute adequate  
32 mitigation; and  
33 f. The proposal is not for an essential public facility as defined in RCW 36.70.200.  
34
- 35 4. Pre-Application Review. Pre-application review under the provisions of Chapter 40.510 shall be  
36 required for all proposed projects that may qualify as planned action projects.  
37
- 38 5. Submittal Requirements. A development application for a project that may qualify as a planned  
39 action shall be subject to the submittal requirements for counter-complete status as governed by  
40 Chapter 40.510 and shall include:  
41 a. A SEPA checklist or other project review form as specified in WAC 197-11-315 and  
42 Section 40.570.040(B) is required and exempt from Table 6.110A.010(X)(I);  
43 b. If an archaeological predetermination is required under Section 40.570.080(C)(3)(k), a letter  
44 from the Department of Archeology and Historic Preservation shall be submitted stating that  
45 DAHP has reviewed the predetermination and concurs that no further archaeological work is  
46 required; and  
47 c. A signed Planned Action Application Form.  
48
- 49 6. Threshold Determination for Planned Actions. No threshold determination need be issued for  
50 planned action projects; provided, that a planned action project may be conditioned to mitigate  
51 any adverse environmental impacts which are reasonably likely to result from the project action.  
52
- 53 7. When a Project Is Not a Planned Action. Where the responsible official determines that the  
54 application proposed does not qualify as a planned action under Section 40.570.020(F), a  
55 threshold determination is required. The application shall be reviewed, processed, and subject to

1 appeal under the decision-making procedures otherwise applicable under this chapter, and the  
2 application shall be reviewed under the county's SEPA regulations as governed by this chapter.  
3 When reviewed under this chapter, the applicant may use or incorporate relevant elements of the  
4 Highway 99 Final SEIS and Highway 99 Sub-Area Plan adopted for the planned action area.  
5

- 6 8. Notice of Decision. Any notice of decision issued under Section 40.570.020(F) shall contain:  
7 a. A statement of findings supporting the conclusions that the application proposal meets the  
8 criteria for designation as a planned action, that the project will implement the Highway 99  
9 Sub-Area Plan, and that the application is consistent with the Comprehensive Plan;  
10 b. A statement of the requirements, standards, and mitigation measures conditioned or required  
11 pursuant to all applicable local, state, and/or federal laws and regulations;  
12 c. A statement that the probable significant adverse environmental impacts of the application  
13 proposal have been adequately addressed and mitigated.  
14  
15 9. Public Notice Requirements. No public notice is required for a planned action.  
16

17 (Amended: Ord. 2010-07-16; Ord. 2012-07-03)  
18

19 **40.570.080 SEPA and County Decisions**

20 A. Purpose of This Section and Adoption by Reference.  
21

22 This section contains the rules and policies for exercising SEPA's substantive authority, which means  
23 to condition or deny proposals based on SEPA. This section also contains procedures for appealing  
24 SEPA determinations. The county adopts the following sections of the SEPA Rules by reference, as  
25 supplemented in this section:  
26

27 WAC

- 28 197-11-650 Purpose of this part  
29 197-11-655 Implementation  
30 197-11-660 Substantive authority and mitigation  
31 197-11-680 Appeals  
32

33 B. Substantive Authority.  
34

- 35 1. The policies and goals set forth in this chapter are supplementary to those in the existing  
36 authorizations of Clark County.  
37  
38 2. Subject to RCW 43.21C.060 and 43.21C.240, the county may attach conditions to a permit or  
39 approval for a proposal so long as:  
40 a. Such conditions are necessary to mitigate specific probable adverse environmental impacts  
41 identified in environmental documents prepared pursuant to this chapter;  
42 b. Such conditions are in writing;  
43 c. The mitigation measures included in such conditions are reasonable and capable of being  
44 accomplished;  
45 d. The county has considered whether other local, state or federal mitigation measures applied  
46 to the proposal are sufficient to mitigate the identified impacts; and  
47 e. Such conditions are based on one (1) or more policies in Section 40.570.080(C) and cited in  
48 the license or other decision document.  
49  
50 3. Subject to RCW 43.21C.060 and 43.21C.240, the county may deny a permit or approval for a  
51 proposal on the basis of SEPA so long as:  
52 a. A finding is made that approving the proposal would result in probable significant adverse  
53 environmental impacts that are identified in an FEIS or final SEIS prepared pursuant to this  
54 chapter;

- 1           b. A finding is made that there are no reasonable mitigation measures capable of being
- 2           accomplished that are sufficient to mitigate the identified impact; and
- 3           c. The denial is based on one (1) or more policies identified in Section 40.570.080(C) and
- 4           identified in writing in the decision document.

5  
6 **C. SEPA Policies.**

7  
8           The county designates the following general policies as the basis for county's exercise of authority  
9           pursuant to this chapter:

- 10  
11           1. The county shall use all practicable means, consistent with other essential considerations of state  
12           policy, to improve and coordinate plans, functions, programs and resources to the end that the  
13           county and its citizens may:
- 14           a. Fulfill the responsibilities of each generation as trustee of the environment for succeeding  
15           generations;
  - 16           b. Assure for all people of Clark County healthful, productive and aesthetically and culturally  
17           pleasing surroundings;
  - 18           c. Attain the widest range of beneficial uses of the environment without degradation, risk to  
19           health or safety, or other undesirable and unintended consequences;
  - 20           d. Preserve important historic, cultural and natural aspects of our national heritage;
  - 21           e. Maintain, wherever possible, an environment which supports diversity and variety of  
22           individual choice;
  - 23           f. Achieve a balance between population and resource use which will permit high standards of  
24           living and a wide sharing of life's amenities; and
  - 25           g. Enhance the quality of renewable resources and approach the maximum attainable recycling  
26           of depletable resources.
- 27  
28           2. The county recognizes that each person has a fundamental and inalienable right to a healthy  
29           environment, and that each person has a responsibility to contribute to the preservation and  
30           enhancement of the environment.
- 31  
32           3. The county designates the following policies applicable to the major elements and selected  
33           subelements of the environment as defined by WAC 197-11-444, and incorporates by reference  
34           the policies in the cited county codes, ordinances, resolutions and plans, and all amendments to  
35           them in effect prior to the date of application of any building permit or preliminary plat, or prior to  
36           issuance of a DNS or DEIS for any other action:
- 37           a. Earth. It is the county's policy to avoid or minimize adverse impacts from ground-disturbing  
38           activities and land use changes within areas of steep or unstable slopes, areas with severe  
39           soil limitations, areas most susceptible to earthquake damage, and areas of erosion potential.  
40           The following code provisions offer more specific policies:
    - 41           (1) Chapter 40.386, Stormwater and Erosion Control;
    - 42           (2) Chapter 40.430, Geologic Hazard Areas Regulations;
    - 43           (3) Chapter 14.07, Grading, Excavation, Fill, and Stockpile; and
    - 44           (4) Section 40.250.022, Surface Mining Overlay District.
  - 45           b. Air. It is the county's policy to maintain and enhance air quality in the community. The county  
46           generally defers to the Southwest Clean Air Agency (SWCAA) on matters of stationary  
47           sources of air pollution, while supporting the Regional Transportation Council (RTC) in the  
48           reduction of mobile sources of air pollution. It is the county's policy to require air quality  
49           analyses for proposed developments when recommended by SWCAA or RTC. In addition to  
50           compliance with the standards and requirements of the following code provisions, it is also  
51           the county's policy to further mitigate the generation of dust and odors from land use activities  
52           through the local permitting process:
    - 53           (1) Section 40.200.010, Purpose;
    - 54           (2) Section 40.230.085(E)(2) and (3), Employment districts;
    - 55           (3) Section 40.230.050(D)(5), University district;

- 1 (4) Section 40.250.022, Surface Mining Overlay District;
- 2 (5) Sections 40.260.040 (Animal Feed Yards, Animal Sales Yards, Animal Boarding
- 3 Facilities, Animal Day Use Facilities, and Equestrian Facilities) and 40.260.170 (Private
- 4 Use Landing Strips for Aircraft and Heliports);
- 5 (6) Section 40.340.010, Parking, Loading and Circulation;
- 6 (7) Section 40.260.200(F)(2)(e) and (f), Solid Waste Handling and Disposal Sites.

7  
8 (Amended: Ord. 2012-12-14)

- 9
- 10 c. Water. It is the county's policy to conserve and protect the quality, quantity and functional
  - 11 value of surface waters, wetlands, floodplains, and groundwater by enforcing the following
  - 12 code provisions and resolutions and through the imposition of other reasonable measures,
  - 13 including monitoring and hydrologic studies of surface and groundwaters, to mitigate water-
  - 14 related impacts; provided, that minor new construction including the construction,
  - 15 reconstruction or expansion of single-family residences or accessory residential structures on
  - 16 pre-existing lots containing wetlands shall only be subject to State Environmental Policy Act
  - 17 mitigation measures where clearly necessary to prevent or lessen identified and significant
  - 18 environmental degradation:
    - 19 (1) Chapter 40.386, Stormwater and Erosion Control;
    - 20 (2) Chapter 40.450, Wetland Protection;
    - 21 (3) Chapter 40.410, Critical Aquifer Recharge Areas;
    - 22 (4) Chapter 40.420, Flood Hazard Areas;
    - 23 (5) Section 40.250.022, Surface Mining Overlay District;
    - 24 (6) Chapter 40.460, Shoreline Overlay District;
    - 25 (7) Chapter 40.370, Sewer and Water;
    - 26 (8) Chapter 24.17, On-Site Sewage Systems Rules and Regulations;
    - 27 (9) Chapter 24.12, Solid Waste Management;
    - 28 (10) Resolution No. 1991-07-35, coordinated water system plan;
    - 29 (11) Resolution No. 1994-03-16, groundwater management plan.
  - 30 d. Plants and Animals. It is the county's policy to recognize the valuable functions provided by
  - 31 vegetation, and to mitigate impacts resulting from removal or replacement of vegetation. It is
  - 32 also the county's policy to preserve sensitive wildlife habitat areas and to conserve priority
  - 33 habitat areas, while also providing generally for wildlife habitat and corridors in the
  - 34 development review process where practicable. The county recognizes that some disruption
  - 35 of animal habitat and plant species is unavoidable and inevitable. In addition to implementing
  - 36 the following code provisions, it is further the county's policy to provide special protection for
  - 37 rare, threatened and endangered plant species, and for habitat of rare, threatened or
  - 38 endangered species of fish and wildlife:
    - 39 (1) Title 7, Weed Control Code;
    - 40 (2) Title 8, Animals;
    - 41 (3) Chapter 40.386, Stormwater and Erosion Control;
    - 42 (4) Chapter 40.450, Wetland Protection;
    - 43 (5) Chapter 40.440, Habitat Conservation;
    - 44 (6) Chapter 15.13, Wildland Urban Interface/Intermix Ordinance;
    - 45 (7) Section 40.210.010, Forest, Agriculture and Agriculture/Wildlife District,
    - 46 Section 40.210.010(A);
    - 47 (8) Chapter 40.460, Shoreline Overlay District;
    - 48 (9) Chapter 40.320, Landscaping and Screening.
  - 49 e. Energy and Natural Resources. It is the county's policy to promote energy conservation
  - 50 measures, including the use of solar energy. The county recognizes the importance of
  - 51 electric, natural gas, oil and wood/pellet stoves in meeting energy needs, and supports the
  - 52 efforts of Clark Public Utilities in finding new sources of electric energy, including co-
  - 53 generation facilities and small hydroelectric projects; provided, that impacts associated with
  - 54 the development of these energy sources can be adequately mitigated. The following code
  - 55 provisions offer more specific policies regarding energy conservation:

- 1 (1) Chapter 14.05, International Building Code;
- 2 (2) Chapter 51-11 WAC, Washington State Energy Code;
- 3 (3) Section 40.200.010, Purpose;
- 4 (4) Section 40.220.010, Single-Family Residential Districts, Section 40.220.010(C);
- 5 (5) Section 40.520.080, Planned Unit Developments, Section 40.520.080(E)(1)(a)(2).
- 6 f. Environmental Health. It is the county's policy to avoid or minimize environmental health
- 7 hazards, including exposure to toxic chemicals, risk of fire and explosion, and release of
- 8 hazardous material spills and wastes. Specific policies relating to the control of these hazards
- 9 are contained throughout the following code provisions:
  - 10 (1) Title 7, Weed Control Code;
  - 11 (2) Title 8, Animals;
  - 12 (3) Title 9, Public Peace, Safety and Morals;
  - 13 (4) Title 10, Vehicles and Traffic;
  - 14 (5) Title 12, Streets and Roads;
  - 15 (6) Title 13, Public Works;
  - 16 (7) Title 14, Buildings and Structures;
  - 17 (8) Title 15, Fire Prevention;
  - 18 (9) Title 24, Public Health;
  - 19 (10) Title 40, Unified Development Code.
- 20 g. Noise. It is the county's policy to minimize noise impacts associated with land use changes,
- 21 including those related to existing sources of noise. To this end, it is the policy of the county
- 22 to require that new sources of noise be limited to the maximum environmental noise levels of
- 23 Chapter 173-60 WAC; even within these regulatory standards, an increase of more than five
- 24 (5) decibels (dBA) over ambient noise levels at the receiving properties may be considered
- 25 significant. It is further the county's policy to encourage that sources of noise otherwise
- 26 exempt from Chapter 173-60 WAC that may affect existing or proposed residential uses (e.g.,
- 27 traffic, discharge of firearms, utility installations, etc.) be mitigated to the standards thereof as
- 28 a Class B source of noise (i.e., fifty-seven (57) dBA), and to require noise studies where
- 29 necessary to assure that proposals address these policies. Additional noise policies are
- 30 contained within the following code provisions:
  - 31 (1) Section 8.11.060, Animal nuisances;
  - 32 (2) Chapter 9.14, Public Disturbance Noises;
  - 33 (3) Section 40.220.020, Residential Districts and Office Residential Districts,
  - 34 Sections 40.220.020(A)(1)(b) and (A)(2);
  - 35 (4) Section 40.230.030, Office Campus District, Section 40.230.030(D)(7);
  - 36 (5) Section 40.230.030, Business Park District, Section 40.230.030(D)(7);
  - 37 (6) Section 40.230.080, Industrial Districts, Section 40.230.080(D);
  - 38 (7) Section 40.230.050, University District, Section 40.230.050(C)(5)(a);
  - 39 (8) Section 40.250.022, Surface Mining Overlay District;
  - 40 (9) Section 40.520.040, Site Plan Review, Section 40.520.040(E)(2);
  - 41 (10) Section 40.520.030, Conditional Use Permits, Section 40.520.030(E);
  - 42 (11) Chapter 40.260, Special Uses and Standards, Sections 40.260.040 and 40.260.170;
  - 43 (12) Section 40.260.200, Solid Waste Handling and Disposal Sites,
  - 44 Section 40.260.200(F)(2)(f);
  - 45 (13) Chapter 40.510, Type I, II, III and IV Processes,
  - 46 Sections 40.510.010(C)(3), 40.510.020(D)(5) and 40.510.030(D)(7); and
  - 47 (14) Chapter 24.12, Solid Waste Management, Section 24.12.270.
- 48 h. Land and Shoreline Use. It is the county's policy to assure that an adequate supply of land
- 49 exists for residential, commercial, industrial, recreational, natural resource use and open
- 50 space needs. In addition to requiring compliance with the following code provisions and plan,
- 51 it is further the policy of the county to assure that all reasonable measures are taken to
- 52 maintain or promote compatibility among land and shoreline uses:
  - 53 (1) Title 9, Public Peace, Safety and Morals;
  - 54 (2) Title 10, Vehicles and Traffic;
  - 55 (3) Chapter 13.20, Informational Signs;



- 1 (4) Chapter 40.440, Habitat Conservation;  
 2 (5) Chapter 14.05, International Building Code;  
 3 (6) Chapter 14.14A, Dangerous Building Code;  
 4 (7) Chapter 14.32A, Mobile Home Permits;  
 5 (8) Chapter 40.540, Boundary Line Adjustments and Land Division;  
 6 (9) Title 40, Unified Development Code;  
 7 (10) Comprehensive plan.
- 8 i. Aesthetics. It is the county's policy to maintain and enhance the aesthetic quality of the  
 9 community, including preservation of scenic views and vistas, and to avoid or minimize  
 10 adverse impacts of light and glare or other visual impacts associated with land use changes.  
 11 Additional policies related to aesthetics and community appearance are contained within the  
 12 following code provisions and plan:  
 13 (1) Chapter 10.10, Truck and Trailer Parking on Residential Streets;  
 14 (2) Chapter 13.20, Informational Signs;  
 15 (3) Chapter 40.430, Geologic Hazard Areas Regulations;  
 16 (4) Title 40, Unified Development Code;  
 17 (5) Chapter 24.12, Solid Waste Management;  
 18 (6) Comprehensive plan.
- 19 j. Recreation. It is the county's policy that recreational needs be met through acquisition of park  
 20 sites, open space, trail corridors and impact fees in the development review process,  
 21 including shoreline public access. It is also the policy of the county to maintain and enhance  
 22 recreational opportunities in the community, and to encourage private recreational facilities;  
 23 provided, that impacts associated with these facilities can be adequately mitigated. The  
 24 following code provisions, resolutions and plan provide additional policies in this regard:  
 25 (1) Chapter 9.05, Park Rules;  
 26 (2) Chapter 9.12, Restricted Firearms Discharge;  
 27 (3) Chapter 9.17, Off-Road Vehicles;  
 28 (4) Chapter 14.20, Swimming Pools;  
 29 (5) Title 16, Boating;  
 30 (6) Section 40.540.050, Reservations – Park Sites;  
 31 (7) Title 40, Unified Development Code;  
 32 (8) Comprehensive plan;  
 33 (9) Resolution 1993-10-07, trails and bikeway system plan;  
 34 (10) Resolution 1994-06-18, comprehensive park, recreation, and open space plan.
- 35 k. Historic and Cultural Preservation.  
 36 (1) Purpose. It is the county's policy to recognize and protect important historic and cultural  
 37 resources, including those listed on the national, state and local registers of historic  
 38 places; cultural resources inventoried by the State Archaeologist and Clark County; and  
 39 as yet unrecorded sites, objects or structures.  
 40 (2) Definitions. For the purposes of this chapter, the following definitions shall apply:  
 41

Archaeological predetermination	"Archaeological predetermination" means a preliminary archaeological investigation of a project area which includes, but is not limited to, a review of archaeological databases, walking the site in a series of transects, and the use of shovel test probes of the subsurface as necessary. When archaeological deposits are identified, sufficient shovel test probe examination shall be conducted to determine whether the discovery meets the definition of an archaeological site in RCW 27.53.030. A Washington State Archaeological Site Inventory form shall be completed and submitted for the identified site.
Archaeological survey	"Archaeological survey" means a formal archaeological study that includes background research and adheres to the State Department of Archaeology and Historic Preservation (DAHP) survey and reporting standards. Additional testing and/or data recovery, if recommended, will require an Archaeological Excavation Permit from the Department of Archaeology and Historic Preservation.
Shovel test probe	"Shovel test probe" is defined as a cylindrical hand-dug vertical hole

measuring fifty (50) centimeters in diameter and excavated to a depth of at least fifty (50) centimeters below ground surface.
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- (3) Applicability. The county adopts by this reference the statewide Archaeological Predictive Model and associated probability maps. The predictive model and probability maps may be periodically updated to reflect the best available information. Table 40.570.080-1 is based on the predictive model and maps, and shall be used to determine when an archaeological predetermination shall be required. The determinations within the table are further subject to the additional provisions in Section 40.570.080(C)(3)(k)(3)(a).

<b>Table 40.570.080-1. Need for Predetermination</b>				
<b>Predictive Model Map Designation</b>		<b>Potential for Impacts</b>		
Class	Probability Index	Low <sup>1</sup>	Moderate <sup>2</sup>	High <sup>3</sup>
1	1% – 20% } Low	No	No	No
2	21% – 40% } Low-Moderate	No	No	Yes
3	41% – 60% } Moderate	No	Yes	Yes
4	61% – 80% } Moderate-High	No	Yes	Yes
5	81% – 100% } High	No	Yes	Yes

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<sup>1</sup> *Low potential impacts: Those activities involving no ground disturbance, normal maintenance and repair of existing structures and facilities, lands that have been substantially disturbed to a depth of more than eight (8) inches, and areas that have been adequately surveyed in the past with no discovery of resources.*

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<sup>2</sup> *Moderate potential impacts: Activities involving slight ground disturbance not otherwise characterized as having low or high impact potential.*

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<sup>3</sup> *High potential impacts: Activities involving disturbance of more than twelve (12) inches below the ground surface and more than ten thousand (10,000) square feet of area.*

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- (a) Regardless of the probability map designation in Table 40.570.080-1, predeterminations shall be required as specified below:
- (i) A predetermination shall be required for any high potential impact project located within one-quarter (1/4) mile of a recorded site.
  - (ii) A predetermination shall be required for any moderate through high potential impact project located within five hundred (500) feet of a known, but unregistered, site.
- (4) Predeterminations. When required, a predetermination completed by a professional archaeologist shall be submitted to the DAHP for their review and approval. As part of a counter complete development application, the applicant shall submit proof via an e-mail confirmation or other conclusive method that the DAHP has received the site-specific document for review. If the DAHP required additional archaeological studies as a result of a prior predetermination, any such studies shall be completed, and proof shall be submitted that the DAHP has received the study prior to the submittal of a development application.
- (5) Survey. An archaeological survey shall be required if the predetermination report calls for a survey, or is required by the DAHP, or upon discovery of an archaeological site during development of any permitted project.
- (6) Mitigation Measures. An archaeological survey shall result in a report addressing the significance of cultural resources present on the site. The study shall include recommendations to mitigate impacts to the archaeological site consistent with WAC 25-48-020.
- (7) If human remains are discovered, all work shall stop, and local law enforcement officials shall be notified immediately.

- 1 (8) It is further the county's policy to consult with affected Native American interests in  
2 matters of cultural resource preservation. The following code provisions and plan policies  
3 also apply to historic and cultural resources:  
4 (a) Chapter 14.07, Grading, and IBC Sections 106 and 3407;  
5 (b) Section 40.250.030, Historic Preservation, and Rules and Procedures of the Clark  
6 County Heritage Commission;  
7 (c) Chapter 40.240, Columbia River Gorge National Scenic Area Districts; and  
8 (d) Chapter 8 of the Clark County Comprehensive Plan.
- 9 l. Transportation. It is the county's policy to promote multimodal, safe and efficient  
10 transportation systems, including roads and highways, mass transit systems, trails and  
11 bikeways, and facilities for air, rail and water transport. In addition to complying with the  
12 following code provisions and plan, proposals that are likely to place significant demands on  
13 transportation facilities may be subject to transportation analyses in order to identify  
14 appropriate mitigation measures:  
15 (1) Chapter 9.05, Park Rules;  
16 (2) Chapter 9.17, Off-Road Vehicles;  
17 (3) Title 10, Vehicles and Traffic;  
18 (4) Title 12, Streets and Roads;  
19 (5) Chapter 13.20, Informational Signs;  
20 (6) Chapter 14.16, House and Street Numbering;  
21 (7) Title 15, Fire Prevention;  
22 (8) Title 16, Boating;  
23 (9) Chapter 40.540, Boundary Line Adjustments and Land Division;  
24 (10) Title 40, Unified Development Code; and  
25 (11) Comprehensive plan, Chapter 5.
- 26 m. Public Services and Utilities. It is the county's policy to require documentation of adequate  
27 levels of utility and public services necessary to support development proposals prior to their  
28 approval, including fire and police protection, water supply and sewage disposal, schools and  
29 parks, storm drainage, transportation facilities, solid waste disposal, and energy and  
30 telecommunication services. In addition to compliance with the following code provisions,  
31 resolutions and plan, it is also the county's policy to require urban density developments to be  
32 served by sanitary sewer systems, and to require public water supplies for new developments  
33 with two (2) or more water service connections:  
34 (1) Title 12, Streets and Roads;  
35 (2) Title 13, Public Works;  
36 (3) Title 15, Fire Prevention;  
37 (4) Chapter 40.540, Boundary Line Adjustments and Land Division;  
38 (5) Title 40, Unified Development Code;  
39 (6) Title 24, Public Health;  
40 (7) Title 36, Cable Television;  
41 (8) Resolution 1991-07-35, coordinated water system plan;  
42 (9) Resolution 1994-03-16, groundwater management plan;  
43 (10) Resolution 1994-06-18, comprehensive park, recreation, and open space plan;  
44 (11) Comprehensive plan, Chapter 6.
- 45 4. Through the project review process:  
46 a. If the applicable regulations require studies that adequately analyze all of the project's  
47 specific probable adverse environmental impacts, additional studies under this chapter will  
48 not be necessary on those impacts;  
49 b. If the applicable regulations require measures that adequately address such environmental  
50 impacts, additional measures would likewise not be required under this chapter; and  
51 c. If the applicable regulations do not adequately analyze or address a proposal's specific  
52 probable adverse environmental impacts, this chapter provides the authority and procedures  
53 for additional review.
- 54 (Amended: Ord. 2006-05-01; Ord. 2006-09-13; Ord. 2007-11-13; Ord. 2009-01-01; Ord. 2009-03-02; Ord.  
55 2012-07-03; Ord. 2013-06-15; Ord. 2015-11-24; Ord. 2016-09-04)

1  
2 D. Appeals.  
3

4 1. The appellate procedures provided for by RCW 43.21C.060, which provides for an appeal to a  
5 local legislative body of any decision by a non-elected official conditioning or denying a proposal  
6 under authority of SEPA, are formally eliminated. Clark County establishes the following  
7 administrative appeal procedures which are to be construed consistently with  
8 RCW 43.21C.075 and WAC 197-11-680:

- 9 a. All appeals under this title shall be in writing, filed with the responsible official and  
10 accompanied by an appellate fee pursuant to Chapter 6.110A; provided, no additional  
11 appellate fee shall be charged for appeals under this section filed in conjunction with an  
12 available administrative hearing on the underlying permit or approval.  
13 b. Appeals under this section are limited to the following:  
14 (1) The responsible official's procedural compliance with SEPA and Chapter 197-11 WAC in  
15 issuing the following determinations or documents:  
16 (a) Determination of nonsignificance (DNS),  
17 (b) Determination of significance (DS),  
18 (c) Environmental impact statement (EIS);  
19 (2) The conditioning or denial of a proposal under the authority of SEPA by a non-elected  
20 county official.  
21

22 2. Appeals under this section shall be processed as follows:

- 23 a. Determination of Significance (DS). An appeal may only be made by the proposal applicant or  
24 sponsor, and shall be filed within fourteen (14) calendar days of the issuance of the  
25 DS/scoping notice. The appeal shall be heard and decided by a hearing examiner appointed  
26 pursuant to Chapter 2.51 of this code, whose decision shall be final and not subject to further  
27 administrative appeal.  
28 b. Determination of Nonsignificance (DNS)/Environmental Impact Statement (EIS). An appeal  
29 may be filed by any agency or person in conjunction with the first nonexempt action on the  
30 proposal by a non-elected administrative official, as follows:  
31 (1) For proposals which may be approved by an administrative official without public hearing,  
32 including but not limited to building permits, site plan approvals, floodplain permits,  
33 shoreline permits, grading permits, wetland permits, habitat conservation permits, short  
34 plats, mobile home parks and residential planned unit developments, SEPA appeals must  
35 be filed in conjunction with, and within the limitation period applicable to, an available  
36 administrative appeal of the applicable permit or approval; provided, that if no  
37 administrative appeal of the underlying administrative permit or approval is otherwise  
38 provided for, an appeal under this section shall be filed within fourteen (14) calendar days  
39 of the issuance of the permit or approval, and shall be heard and decided by a hearing  
40 examiner appointed pursuant to Chapter 2.51 of this code. The decision of the hearing  
41 examiner or other initial appeal body on the SEPA appeal shall be final and not subject to  
42 further administrative appeal.  
43 (2) For proposals which may only be recommended for approval following a public hearing  
44 by the planning commission, including but not limited to comprehensive plan  
45 amendments and rezones, SEPA appeals shall be filed in writing with **the board-Council**  
46 within fourteen (14) calendar days of issuance of said recommendation, which appeal  
47 shall be decided by **the board-Council** in conjunction with its decision on the underlying  
48 recommendation.  
49 (3) For proposals which may only be approved following a public hearing by the hearing  
50 examiner, including but not limited to rezones, conditional use permits, subdivisions, and  
51 mixed use planned unit developments, SEPA appeals of a procedural determination  
52 under SEPA shall be filed within fourteen (14) calendar days after a notice of SEPA  
53 determination. Such procedural and substantive SEPA appeal shall be decided by the  
54 examiner in conjunction with the examiner's final order on the proposal. The examiner's  
55 procedural SEPA decision is final and not subject to further administrative appeal.

- 1 c. Substantive SEPA Determination.
- 2 (1) For proposals subject to final administrative action by a non-elected administrative official
- 3 or tribunal for which no administrative appeal is otherwise provided, any agency or
- 4 person may appeal conditions or denials, or the failure to condition or deny, based upon
- 5 substantive SEPA authority within fourteen (14) calendar days of the issuance of the
- 6 administrative decision. Such appeal shall be heard and decided by a hearing examiner
- 7 appointed pursuant to Chapter 2.51 of this code, whose decision shall be final and not
- 8 subject to further administrative appeal. The examiner's open record appeal hearing shall
- 9 be held within ninety (90) days, unless parties to the appeal agree to extend this time
- 10 period.
- 11 (2) For proposals subject to final administrative action by a non-elected administrative official
- 12 or tribunal for which an administrative appeal is otherwise provided, any agency or
- 13 person may appeal conditions or denials, or the failure to condition or deny, based upon
- 14 substantive SEPA authority by utilizing such otherwise available administrative appeal
- 15 process.
- 16
- 17 3. For any appeal under this subsection, the county shall provide for a record that shall consist of the
- 18 following:
- 19 a. Findings and conclusions;
- 20 b. Testimony under oath; and
- 21 c. A taped or written transcript.
- 22
- 23 4. The procedural determination by the county's responsible official shall carry substantial weight in
- 24 any appeal proceeding.
- 25 5. The county shall give official notice under WAC 197-11-680(5) whenever it issues a permit or
- 26 approval for which a statute or ordinance establishes a time limit for commencing judicial appeal.
- 27
- 28

1 Subtitle 40.6  
2 DEVELOPMENT IMPACT FEES  
3 40.610 DEVELOPMENT IMPACT FEES – GENERAL PROVISIONS

4  
5 **40.610.050 Establishment of Development Service Areas**

6 Service areas, which may vary by type of public facility, are established as shown on the Clark County  
7 facilities plan.

- 8  
9 A. Such areas will provide a nexus between those paying the fees and receiving the benefits to ensure  
10 that those developments paying impact fees receive substantial benefits.  
11  
12 B. Overlay service areas may be established for identified system improvements designed to serve  
13 geographic areas whose boundaries are not generally coterminous with established service areas.  
14  
15 C. Additional or revised service areas may be designated by ~~the board~~ Council through amendment to  
16 the facilities plan upon consideration of the following factors:  
17  
18 1. The comprehensive plan;  
19  
20 2. Standards for adequate public facilities incorporated in the capital facilities plan;  
21  
22 3. The projections for full development as permitted by land use ordinances and timing of  
23 development;  
24  
25 4. The need for and cost of unprogrammed capital improvements necessary to support projected  
26 development; and  
27  
28 5. Such other factors as ~~the board~~ Council may deem relevant.  
29  
30 D. Service areas abutting an urban growth boundary shall automatically be adjusted to conform with  
31 any change in such boundary.  
32

33 40.620 CALCULATION OF DEVELOPMENT IMPACT FEES

34  
35 **40.620.020 Park Impact Fee Component**

36 The impact fee component for parks, open space and recreational facilities shall be calculated using the  
37 following formula as further defined in the Park Impact Fee Technical Document adopted by ~~the board~~  
38 Council in the impact fee revision process pursuant to Section 40.630.010:  
39

40 
$$PIF = (Acquisition Cost + Development Cost) - Cost Adjustment Factor$$

$$PIF = \left( \left( \frac{(Ca \times Ia \times Sa)}{P} + \frac{(Cd \times Id \times Sd)}{P} \right) \times U \right) - A$$

- 41  
42 A. "PIF" means the park, open space and recreational facility component of the total development  
43 impact fee.  
44  
45 B.  
46 1. "Ca" means the average cost per acre for land appraisal, acquisition, associated due diligence  
47 fees and expenses, closing and Level 1 Development for each service area or overlay area as  
48 described in the Vancouver-Clark Parks and Recreation Comprehensive Parks, Recreation and  
49 Open Space Plan for neighborhood parks, community parks and urban open space, and adopted  
50 by ~~the board~~ Council in the impact fee revision process pursuant to Section 40.630.010.  
51  
52 2. "Cd" means the average cost per acre for site development. Development costs shall be  
53 calculated assuming development standards described in the Vancouver-Clark Parks and  
54 Recreation Comprehensive Parks, Recreation and Open Space Plan for neighborhood and

community parks, and adopted by ~~the board~~ **Council** in the impact fee revision process pursuant to Section 40.630.010.

C.

1. "Ia" means the percentage annual inflation/deflation adjustment index applicable to the acquisition component, as outlined in the Park Impact Fee Program Technical Document and annually determined by ~~the board~~ **Council** in the impact fee revision process pursuant to Section 40.630.010.
2. "Id" means the percentage annual inflation/deflation adjustment index applicable to the development component as outlined in the Park Impact Fee Program Technical Document and annually determined by ~~the board~~ **Council** in the impact fee revision process pursuant to Section 40.630.010.

D.

1. "Sa" means the parks acquisition standard in acres per thousand residents for neighborhood parks, community parks and urban open space as established in the Vancouver-Clark Parks and Recreation Comprehensive Parks, Recreation and Open Space Plan.
2. "Sd" means the parks development standard in acres per thousand residents for neighborhood and community parks as established in the Vancouver-Clark Parks and Recreation Comprehensive Parks, Recreation and Open Space Plan.

E. "P" means one thousand (1,000).

F. "U" means the average number of occupants per single-family/duplex dwelling unit or per other multifamily dwelling unit based on the most current applicable statistical census data (U.S. Census Bureau or Washington State Office of Financial Management census data for persons per dwelling unit) and as adopted by ~~the board~~ **Council** in the impact fee revision process pursuant to Section 40.630.010.

G. "A" means an adjustment to the cost of park facilities for past or future payments made or reasonably anticipated to be made by new development to pay for park system improvements in the form of user fees, debt service payments, or other payments earmarked for or pro-ratable to park system improvements. Such adjustment for park impacts is determined to be as set forth below:

Unit Type	Adjustment
Single-Family	\$228.50
Multifamily	\$166.98

H. The Director of the Department of Community Development shall maintain a schedule of current park impact fee rates.

I. At least one copy of the Park Impact Fee Program Technical Document adopted by ~~the board~~ **Council**, and the current park impact fee schedule as calculated thereunder, shall be filed in the Office of the Director of the Department of Community Development for use and examination by the public.

J. After the effective date of the ordinance codified in this section, park impact fees collected for the costs of acquisition and costs of development required by the ordinance codified in this section shall be deposited into a single fund for expenditure on acquisition and/or development of park infrastructure consistent and in compliance with RCW 82.02.050. Funds collected prior to the date of the ordinance codified in this section shall continue to be expended on acquisition or construction consistent with the fund in which the money was placed at the time of collection.

(Amended: Ord. 2009-11-06; Ord. 2014-01-14)

**40.620.030 School Impact Fee – Capital Facilities Plan**

1 Clark County will collect school impact fees on behalf of any school district whose capital facilities plan  
2 has been adopted as a portion of the Clark County comprehensive plan in accordance with the provisions  
3 of this section.

4  
5 A. Plan Submittal.

6  
7 A school district requesting impact fees shall submit to the county, and update at least every four (4)  
8 years, a capital facilities plan adopted by the school board and consisting of the following elements:

- 9  
10 1. A “standard of service” which identifies the program year, class size by grade span, number of  
11 classrooms, types of facilities, and other factors identified by the school district;  
12 2. The district’s “capacity” over the next six (6) years based upon an inventory of the district’s  
13 facilities either existing or under construction and the district’s standard of service;  
14 3. A forecast of future needs for school facilities based upon the district’s enrollment projections;  
15 4. At least a six (6) year financing plan component, updated as necessary to maintain at least a six  
16 (6) year forecast period, for financing needed school facilities within projected funding levels;  
17 5. Application of the formula set out in Section 40.620.040 based upon information contained in the  
18 capital facilities plan. Separate fees shall be calculated for single-family and multifamily types of  
19 dwelling units, based upon the student generation rates determined by the district for each type of  
20 dwelling unit. If insufficient information is available for a district to calculate a multifamily student  
21 generation rate, a county-wide average shall be utilized. For purposes of this section, duplexes  
22 shall be treated as single-family dwellings.

23  
24 (Amended: Ord. 2010-12-12; Ord. 2018-10-02)

25  
26 B. Planning Commission Review.

27  
28 The planning commission shall review a school district’s capital facilities plan or plan update in  
29 accordance with the provisions of this subsection.

- 30  
31 1. Factors. The planning commission shall consider:  
32 a. Whether the district’s forecasting system for enrollment projections appears reasonable and  
33 reliable; and  
34 b. Whether the anticipated level of state and voter-approved funding appears reasonable and  
35 historically reliable; and  
36 c. Whether the standard of service set by the district is reasonably consistent with standards set  
37 by other school districts in communities of similar socioeconomic profile; and  
38 d. Whether the district appropriately applied the formula set out in Section 40.620.040.  
39  
40 2. Public Hearing. In the event the district or the planning commission on its own motion proposes to  
41 modify the school impact fee, the planning commission shall not make its recommendation until  
42 holding a duly advertised public hearing on the proposal.  
43  
44 3. Recommendation. The planning commission may request a school district to review and to  
45 resubmit its capital facilities plan or update consistent with the provisions of this section. The  
46 planning commission shall submit an annual report to ~~the board~~ **Council** for each school district  
47 for which school impact fees are collected.

48  
49 (Amended: Ord. 2018-10-02)

50  
51 C. ~~Board~~ **Council** Action.

52  
53 No new or revised school impact fees shall be effective until adopted by ~~the board~~ **Council** following a  
54 duly advertised public hearing to consider the school district’s capital facilities plan or plan update.



1 School impact fees shall not become effective until the school district has entered into interlocal  
2 agreement provided for in Section 40.630.090.

3  
4 (Amended: Ord. 2018-10-02)

5  
6 40.630 PROCEDURES

7  
8 **40.630.010 Impact Fee Revision**

9 Impact fee rates shall be adjusted periodically to reflect changes in costs of land acquisition and  
10 construction, facility plan projects and anticipated growth. Such adjustments shall only become effective  
11 upon adoption by ~~the board~~ **Council** of a modification to the capital facilities plan; provided, that the capital  
12 facilities plan may contain provision for automatic revision of an impact fee rate no more often than  
13 annually to reflect the change in a generally recognized and applicable inflation/deflation index.

14  
15 (Amended: Ord. 2009-11-06; Ord. 2016-06-12)

16  
17 **40.630.100 Expenditures**

18 Impact fees for system improvements shall be expended only in conformance with the capital facilities  
19 plan. Impact fees shall be expended or encumbered for a permissible use within six (6) years of receipt,  
20 unless there exists an extraordinary and compelling reason for fees to be held longer than six (6) years.  
21 Such extraordinary or compelling reasons shall be identified in written findings by ~~the board~~ **Council**.

22  
23 **40.630.110 Refunds**

- 24 A. The current owner of property on which an impact fee has been paid may receive a refund of such  
25 fee if the county fails to expend or encumber the impact fees within six (6) years of when the fees  
26 were paid or such other period of time established pursuant to Section 40.630.100 on public facilities  
27 intended to benefit the development activity for which the impact fees were paid. In determining  
28 whether impact fees have been encumbered, impact fees shall be considered encumbered on a first-  
29 in, first-out basis. The current owner likewise may receive a proportionate refund where the public  
30 funding of applicable service area projects by the end of such six (6) year period has been insufficient  
31 to satisfy the ratio of public-to-private funding for such service area as established in the capital  
32 facilities plan. The county shall notify potential claimants by first class mail deposited with the United  
33 States Postal Service at the last known address of claimants.
- 34  
35 B. The request for refund money must be submitted to ~~the County Board of Commissioners~~ **Clark**  
36 **County Council** in writing within one (1) year of the date the right to claim the refund arises or the date  
37 the notice is given, whichever is later. Any impact fees that are not expended within these time  
38 limitations, and for which no application for refund has been made within this one (1) year period,  
39 shall be retained and expended on the indicated capital facilities. Refunds of impact fees under this  
40 subsection shall include interest earned on the impact fees.
- 41  
42 C. A developer may request and shall receive a refund, including interest earned on the impact fees,  
43 when the building permit for which the impact fee has been paid has lapsed for noncommencement of  
44 construction. A partial refund shall be provided where the project for which a building permit has been  
45 issued has been altered resulting in a decrease in the amount of the impact fee due.
- 46