CITY OF BAINBRIDGE ISLAND

Planning Commission
Regularly Scheduled Meeting
Thursday, November 9, 2017
7:00 – 8:00 PM
Council Chamber
280 Madison Ave N
Bainbridge Island, WA 98110

AGENDA

7:00 PM CALL TO ORDER
Call to Order, Agenda Review, Conflict Disclosure

7:05 PM PUBLIC COMMENT
Accept public comment on off agenda items.

7:15 PM OVERVIEW OF EXISTING TREE & CLEARING REGULATIONS
Jennifer Sutton, AICP Senior City Planner

7:55 PM NEW/OLD BUSINESS

8:00 PM ADJOURN

*****TIMES ARE ESTIMATES*****

Public comment at meeting may be limited to allow time for Commissioners to deliberate. To provide additional comment to the City outside of this meeting, e-mail us at pcd@bainbridgewa.gov or write us at Planning and Community Development, 280 Madison Avenue, Bainbridge Island, WA 98110

For special accommodations, please contact Jane Rasely, Planning & Community Development 206-780-3758 or at jrasely@bainbridgewa.gov

CITY OF BAINBRIDGE ISLAND

Department of Planning and Community Development

Memorandum

Date: November 9 2017

To: Planning Commission

From: Jennifer Sutton, AICP
Senior Planner

Subject: Overview of Existing Tree and Vegetation Regulations

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In 2014, the City Council convened an Ad Hoc Committee to review and recommend changes to the City's tree and landscaping regulations. Three Councilmembers and two Planning Commissioners were appointed to the Ad Hoc Committee. The current membership of the Ad Hoc Committee is:

Councilmember Sarah Blossom
Councilmember Kol Medina
Councilmember Ron Peltier
Planning Commissioner Mack Pearl
Planning Commissioner Jon Quitslund

The Ad Hoc Committee decided to approach their review of the City's tree and landscaping regulations by starting with regulations for the Mixed Use Town Center & High School Road zoning districts, then moved on to regulations for other commercial districts, conditional uses in residential zones, and residential subdivisions. This work from 2014 through 2016 resulted in a series of ordinances that made changes to BIMC Chapter 16.18 *Land Clearing* and BIMC Section 18.15.010 *Landscaping, screening, and tree retention, protection and replacement.*

Review of tree regulations as they apply to single-family lots was the last item on the Committee's list. Currently, the regulations in BIMC Chapter 16.18 *Land Clearing* apply to developed single-family residences, as well as ongoing maintenance of tree and landscaping for non-residential projects.

At the November 9, 2017 Planning Commission meeting, staff will go over how the existing regulations work in BIMC Chapter 16.18 *Land Clearing* BIMC Chapter 16.22 *Vegetation Management.* This is in preparation for the December Commission review of substantial changes to BIMC Chapter 16.18 *Land Clearing* and repeal of BIMC Chapter 16.22 *Vegetation Management.*

The Ad Hoc Committee agreed with staff that BIMC Chapter 16.22 *Vegetation Management* should be repealed. The chapter is poorly written and organized, and relies on both State Forest Practice rules and the City's previous open space standards.

The Commission should know that the upcoming changes to BIMC Chapter 16.18 *Land Clearing* will support and be integrated both the new *Site Assessment Review* permit (BIMC 15.19) and the updated *Critical Areas Ordinance* (BIMC 16.20, still under City Council review) and future changes to the *Shoreline Master Program* (BIMC 16.12).

Commissioner Quitslund's thoughts on the Ad Hoc Committee's work is attached. The municipal code chapters that will be discussed and referenced during the meeting are also attached.

Attachments

BIMC Chapter 16.18 *Land Clearing*
BIMC Chapter 16.22 *Vegetation Management*
BIMC Chapter 15.19 *Site Assessment Review*
BIMC Chapter 15.20 *Surface water and Stormwater Management*

November 2, 2017

MEMO TO: Bainbridge Island Planning Commission

FROM: Jon Quitslund

When Jennifer Sutton asked me yesterday what I thought should be sent to the full Commission in connection with the agenda for our meeting on November 9th, at first I drew a blank. So much is in the works, and not yet ready for prime time. Also, so much has been done, or is close to completion by the City Council. Later in the day, I remembered what I had written back in July, in preparation for a meeting of the Council, to provide them with a 'progress report' on the work of the Ad Hoc Committee in which Mack Pearl and I represent the Planning Commission, along with Sarah Blossom, Ron Peltier, and Kol Medina from the Council.

That memo is in the packet; this memo provides my personal perspective on what has been accomplished since July, and what remains to be done.

The Ad Hoc Committee began its work in 2014, charged with bringing up to date those portions of the Municipal Code pertaining to the Island's valued trees and forested areas. Since the completion of the Comprehensive Plan update, the Committee has been instrumental in efforts to implement Comp Plan goals and policies in the Land Use and Environment elements, along with state-mandated policies regarding low impact development, stormwater management, and critical aquifer recharge areas.

Low impact development (LID) standards now require a site assessment review process for any development or redevelopment that involves soil disturbance (i. e., clearing) of more than 7000 sq. ft., and this is a significant change. Previously, there were next to no limits on the amount of clearing that could be done in conjunction with the building permit for a single family home.

The City Council is near the end of their work on the updated **Critical Areas** chapter (BIMC 16.20); a public hearing is scheduled for Nov. 14. The sections devoted to **Trees and vegetation** and **Aquifer recharge** (16.20.090 and .100) make significant changes in land use policy. It is proposed that the low-density residential zones (R-2, R-1, and R-0.4), which constitute 90% of our land area, should be recognized as the island's **Critical Aquifer Recharge Area.**

In keeping with Low Impact Development principles and procedures (defined now in BIMC 15.19 & 15.20), the forested portions of that 90% should be protected, and where a parcel is being developed, the impact of a residential or other use should be delineated in a Site Assessment Review and limited where possible to 35% of the parcel. (Small lots will be allowed at least 12,500 sq. ft. of cleared space.)

Pages 4 & 5 of my memo to the Council argues for making **conservation design** the 'new normal' for development in the low-density zones, and I think that we are moving decisively toward that goal.

If it's possible before the end of the year, Jennifer Sutton will bring to the Planning Commission a draft Ordinance that will present a new version of **BIMC 16.18**, making that chapter in the Environment title of the Code consistent with the emphasis on conservation and stewardship in the Critical Areas and Shoreline Master Program chapters. Whereas the policies in the Critical Areas chapter apply to development activities on hitherto undeveloped lots, chapter 16.18 applies to activities that may involve environmental impacts on lots that have already been developed.

As things stand now, BIMC 16.18 is labeled **Land Clearing**, and "clearing" is exactly what we want to discourage. Tree removal is sometimes necessary or desirable, but it should be done with minimal impact on soils and ground cover. The revised chapter will describe what's allowed with a permit, as well as maintenance and stewardship activities for which no permit is required. Finally, I think that both the Critical Areas chapter and 16.18 will encourage property owners to develop forest stewardship plans, to establish objectives and simplify the permitting process.

The Ad Hoc Committee, working with Jennifer Sutton and Christy Carr, is trying to connect and coordinate the policies in several portions of the Code so that all the bases are covered, regulations are consistent and coherent, and the portions that are relevant to any citizen's circumstances can be easily accessed and understood.

After we're done with BIMC 16.18, the big challenge remaining is BIMC 17.12, pertaining to subdivisions. That may go beyond the present Ad Hoc Committee's mandate but it still needs to be dealt with, as early as possible in 2018.

MEMO TO: Bainbridge Island City Council; City Manager, Directors of Planning and Public Works

FROM: Jon Quitslund, Planning Commissioner

These pages provide one person's perspective on the work of the Ad Hoc Tree Protection and Low Impact Development Committee. I have undertaken to provide a rationale for the direction we have taken; I hope that my argument is cogent. It was agreed at the Committee's meeting on July 5, 2017, that this report should be transmitted with other materials pertaining to the Committee's consultation with the Council at the study session on July 18th.

The Ad Hoc Tree Protection Committee began meeting early in 2014, with Kathy Cook involved in our first meetings and Jennifer Sutton answering questions and directing our attention to a range of issues. Kathy Cook expressed a hope that we would finish our work before the Planning Commission and the Council became absorbed in the Comprehensive Plan update: fat chance of that!

At the start, the Committee members were Sarah Blossom, David Ward, and Roger Townsend from the Council, with Mack Pearl and Jon Quitslund from the Planning Commission. And as you know, Ron Peltier and Kol Medina came to the Committee when they joined the Council, taking the places of Ward and Townsend.

While several other tasks came our way and we heard from many citizens with problems and criticism of COBI's lapses, Jennifer Sutton focused our wavering attention most of all on a section in the "Development Standards and Guidelines" chapter of the Zoning title in the Municipal Code: section 18.15.010, "Landscaping, screening, and tree retention, protection and replacement."

The regulations in that section determine in detail where trees and other vegetation need to be either left in place or planted to provide perimeter screens and vegetated buffers, and how many trees (determined on a 'tree unit' basis) need to be either retained or planted in connection with various types of new development.

Those regulations were introduced in 2012 after a contentious process, because earlier regulations had been partially invalidated by a Supreme Court decision. BIMC 18.15.010 is sometimes termed the "Interim Tree Protection Ordinance," although protection of trees is only one of its functions, and other Code chapters also bear some responsibility for that function.

Our task, I suppose, was to make the ITPO less 'interim' and more protective. We decided not to try to replace the 'tree unit' methodology for calculating minimum requirements for trees on property being developed; instead, we worked patiently through the nitty gritty of Code regulations, eventually producing Ordinances 2015-03, 2015-04, and 2016-01.

We had to return to BIMC 18.15.010 recently. It says, "All new development, *except single-family residential building permits* (emphasis added), shall be subject to the requirements of this section, . . ." Why should there be no provisions or protections for trees on single-family residential lots? That question had been raised in Committee discussions, but never adequately addressed. And now, with LID standards and site assessment reviews being applied to single family lots, the issue has become urgent. We are working on it, and almost finished with that job.

There are, of course, other chapters of the Code that pertain to trees, groves, and forested acreage under pressure from development. In the earliest record that I have of the Ad Hoc Committee's deliberations – a memo from February 14, 2014 – Jennifer Sutton answers the question, "When are Clearing Permits and Vegetation Management Permits Required?" Her answer refers to the Land Clearing chapter and the Vegetation Management chapter (BIMC 16.18 and 16.22).

We decided a long time ago that the purposes served by those two chapters would be better served by bringing together in one place regulations that could prevent reckless removal of significant individual trees and wasteful clear-cutting of forested lots, and could also promote more prudent land use, bringing conservation and development into balance. And now we are finally getting our arms around that critical challenge.

Another important challenge is revision of the Subdivision Design Standards (BIMC 17.12). We have all seen regrettable instances of subdivision development, and some of us have vowed, "Let it not happen again." The Committee has discussed inadequacies in the subdivision regulations: to put it bluntly, the so-called "Cluster" option doesn't result in attractive clusters of modest homes, and the "Open Space" option doesn't conserve much open space of any kind, unless the developer exceeds requirements and just does the right thing.

A thorough review and revision of the subdivision design standards may be more than the Ad Hoc Committee can manage in short order, but we can at least see to it that supportive basic policies are put in place: site assessment procedures, LID standards, and regulations that control land clearing and support conservation of forested areas.

The Committee has learned from experience that a tight focus on the specifics of regulatory language is sometimes necessary, but it's not sufficient when real changes in land use policies are called for. We have accomplished good things with tweaks to the regulations in BIMC 18.15.010, but our planning has needed a broader frame of reference. The updated Comprehensive Plan provides that frame and puts us under an obligation to implement real changes.

Two other important planning instruments ought to be more widely known and made more useful in the day-to-day life of COBI planning. These are the *Community*

Forest Management Plan completed in 2006 and the *Bainbridge Island Open Space Study* from October 2008.

The *Plan* and the *Study* both involved City staff and a number of engaged citizens, working with consultants who were paid with public money. In each case, a very informative and useful report was produced. Both are readily accessible on the City website. However, I am at a loss to see how the City's environmental and land use policies and the day-to-day administration of regulations have been changed in response to these reports. Revisions to the Municipal Code can make them more useful.

Here are a few things I've learned from the *Community Forest Management Plan.*

The Community Forest is defined in these terms: "Any individual trees, small stands of trees or forested areas, and associated understory plants, that are found growing in both natural and built environments, and which contribute important ecological, social and/or economic benefits to the community" (p. 4). And: "The community forest on Bainbridge Island is a mosaic of highly altered landscapes and fragments of remaining native ecosystems" (p. 19).

The first of four recommendations from the Community Forestry Commission is this: "Maintain long-term overall canopy coverage goals for the Island while retaining the native forest structure throughout the Island" (p. 4).

The *Management Plan* provides (pp. 4 & 11) detailed information on the Island's forest canopy cover, based on aerial photography from 2004. (If we have data from more recent aerial photography, there are lessons to be learned from any changes in the percentages.) Overall canopy coverage on the Island is estimated at 72%. The percentages for different zones are as follows: 75% in the OSR (R-0.4 to R-1), 47% in high density residential (R-2.9 through R-14), 27% in NSCs, 42% in the MUTC & High School Road, 29% in the Winslow Core.

In the 2016 Comp Plan (p. IN-5) the canopy cover estimate is 73%. In the accompanying graph of land use types, Residential use accounts for 75%; land devoted to Parks & Recreation is 7%, and land classified as Forest is only 2%. So it is clear that preservation of the community forest and all of its benefits (see pp. 8-10 of the *Management Plan*) is highly dependent on how land zoned Residential is used. Also, it appears that the areas of lowest percentage don't bring the overall total down very much.

Requiring street trees wherever they are appropriate would provide additional coverage and associated benefits in the more densely developed areas, and existing trees in those areas should be valued and preserved as long as they are healthy, but for preservation of the Island's canopy cover, we should be most concerned with what happens in continuing development of the Open Space Residential zones (91% of the Island's area, with most of the undeveloped and under-developed lots).

The *Management Plan* provides data from 2004 on the canopy cover for each of the Island's twelve watersheds, and recommends incorporating such information in the planning process (pp. 13-14). This would certainly be consistent with LID considerations, and should be taken into account in the Site Assessment Review process.

The *Bainbridge Island Open Space Study* is potentially even more valuable than the *Management Plan* as a foundation for long range planning and the reform of land use regulations. It describes and applies a methodology for evaluating open space areas across the Island, so that protective measures can be taken – not to prevent development but to ensure that its impacts are limited. Part 3 of the *Study,* "Strategies for Open Space Preservation," offers an insightful critique of shortcomings in COBI's zoning and land use regulations.

Comments on COBI's subdivision regulations include this: "Most cluster ordinances are options to underlying zoning and are much more rigorous than the City's ordinance. Most start with at least 50 percent of site being in open space; some have a sliding scale going up to 80 or 90 percent open space and provide modest density bonuses as inducements to landowners."

It is worth noting that the *Open Space Study* was undertaken during the brief tenure of Greg Byrne as COBI's Director of Planning, as a follow-up to the *Final Report* (2007) of the 2025 Growth Advisory Committee, recommendations of the Open Space Commission, and other studies. (The *Study*'s Executive Summary describes its rationale and makes a number of "key recommendations" that are no less valid today.)

In 2008 and for some years thereafter, the time was not right for acting on the *Open Space Study* recommendations, but with the Comprehensive Plan and the Critical Areas updates behind us, accomplished with no gnashing of teeth, and with LID objectives and metrics coming into play, this *Study* can be used to break up a policy log-jam, responding to citizen discontent and desires that have been features of the Island's civic culture for more than ten years.

The Council may be called upon to approve or endorse the *Community Forest Management Plan* and the *Open Space Study,* so that provisions in the Municipal Code can be presented as implementations of the policies recommended in the *Plan* and *Study.*

"**Conservation development**, also known as **conservation design**, is a controlled-growth land use development that adopts the principle for allowing limited sustainable development while protecting the area's natural environmental features in perpetuity, including preserving open space landscape and vista, protecting farmland or natural habitats for wildlife, and maintaining the character of rural communities. A conservation development is usually defined as a project that dedicates a minimum of 50 percent of the total development parcel as open space."

So begins a Wikipedia article that provides useful background for the *Bainbridge Island Open Space Study.* It explains that the principles and practices of conservation development were formulated in the early 1980s by Randall Arendt. He has advocated conservation development and "conservation subdivision design" with great success in his consulting practice and many publications. Arendt's ideas, in a pamphlet-length publication titled "Growing Greener: Conservation by Design," figured in the toolkit that Joe Tovar provided during the Comp Plan update, and they were introduced years before during the 2025 Growth Advisory Committee's work.

Why shouldn't **conservation design** become the "new normal" for development in the Open Space Residential zones? It is already being practiced: just ask people at the Bainbridge Island Land Trust what they think of the idea. The earliest and the most prominent examples of conservation subdivision design, in Pennsylvania and elsewhere in the Northeast, were on a much larger scale than is possible today on Bainbridge, but many opportunities for smaller-scale conservation design still exist, and they should not be lost.

Experience with the "no net loss" principle, applied in the Shoreline Master Program, referenced in the Water Resources element of the Comprehensive Plan, and applied again in the Critical Areas update, leads to a question: Why shouldn't the resources and benefits of the Community Forest also be protected by a "no net loss" standard? Not to do so would introduce a fundamental unsoundness into the Island's ecological systems – not to mention that it would, in the course of time, endanger our community's quality of life.

Since, unlike groundwater and the nearshore environment, the Island's canopy cover is conspicuous, stationary, and measurable, net loss (and gain) would be relatively easy to monitor. Also, since in general the forest is growing faster than it's dying, keeping clearing and development in balance with conservation should be manageable.

The Ad Hoc Committee is now near completion of some changes to BIMC 18.15.010. We also have in hand the two chapters regulating small-scale and large-scale clearing – BIMC 16.18 and 16.22. Our approach to them is a "repeal and replace" strategy, leading to a single chapter with a broader scope and a simpler structure, in which provisions that were confusing, ineffective, or outmoded have been eliminated. BIMC 16.18 (Land Clearing) dates from 2003, and BIMC 16.22 (Vegetation Management) from 1997. Although they appear in the Environment Title of the Code, they are all about regulating exploitation of the environment. It is time to change that emphasis.

The specific policy ideas below are presented for review and discussion. As in the rest of this memo, these ideas come from one person's perspective; some have not yet been thoroughly considered by the Committee.

Pertaining to Site Assessment Review:

1) For all parcels of one acre or more, an arborist or forester should contribute a written report to the site assessment process.

2) The Site Assessment Review needs to be context-sensitive, avoiding fragmentation of areas and corridors that provide canopy cover and wildlife habitat. The *Community Forest Management Plan* recommends "planning by watershed," and a project's location within its watershed should be a factor in the assessment. The *B. I. Open Space Study* also contributes to watershed-level mapping and planning.

3) In the Site Assessment Review for a lot that includes a forested area and/or other open space or critical area, the first priority should be identification of the area to be conserved, to protect canopy cover and other open space features.

Pertaining to the replacement for BIMC 16.18:

4) If "no net loss" is an appropriate standard in shoreline and critical area regulations, and also in measures to protect our groundwater resources, it is also legitimate to apply a no net loss standard to protection of the community forest resources.

5) On an undeveloped lot, removal of individual trees and 'selective harvest' would be allowed, but no land clearing prior to completion of a site assessment.

6) In regulations for single family lots and subdivisions, the percentage of open space to be reserved will vary with the zoning classification and the size of the parcel, and in response to site-specific factors. In most cases in Open Space Residential zones, the conserved area will be at least 50%. The larger a project's acreage, the higher the percentage that can and should remain undeveloped.

7) The new regulations will modify a current provision that, without a permit, a property owner may remove up to six significant trees in any 12-month period, and another that allows clearing up to 2,500 sq. ft. of land in any 12-month period.

8) BIMC 16.22 ("Vegetation Management") is best understood as a relic. Its provisions for a 'Conversion Option Harvest Plan' ought to be eliminated.

9) DNR Forest Practices permits, if still applicable to the clearing of undeveloped land, should be administered by COBI staff.

Pertaining to subdivision design:

10) We find that the "Design Standards and Guidelines" for subdivisions (BIMC 17.12) cannot be relied upon to produce good results. Currently, the Open Space option requires conserving very little open space; the Cluster option mis-appropriates a respectable planning concept and its guidelines are easy to abuse. Subdivision design standards should be the subject of a public workshop, and in preparation for that discussion, it would be worth knowing what opportunities for long and short plat subdivisions still exist on the Island.

In general:

11) Applicants for clearing and development permits should be expected, at the permit-granting stage, to meet the standards set in Purpose statements that pertain to their project. (Of course, the Purpose statements must be clear and convincing, and sometimes they are not: BIMC 17.12, pertaining to subdivisions, contains no Purpose statement at all.)

12) The Ad Hoc Committee will not complete its work without substantive discussions with the Bainbridge Island Land Trust, and with interested individuals from the real estate and development communities.

Chapter 16.18

LAND CLEARING

Sections:

16.18.010 Purpose.
This chapter is adopted for the following purposes:

A. To promote the public health, safety, and general welfare of the citizens of the city;

B. To preserve and enhance the city's physical and aesthetic character by preventing indiscriminate removal or destruction of trees and ground cover on undeveloped and partially developed property;

C. To promote land development practices that result in a minimal disturbance to the city's vegetation and native soil structure and protect infiltration capacity;

D. To minimize surface water and ground water runoff and diversion and to prevent erosion and reduce the risk of slides;

E. To minimize the need for additional storm drainage facilities;

F. To retain clusters of trees for the abatement of noise and for wind protection;

G. To promote building and site planning practices that are consistent with the city's natural topographical and vegetational features while at the same time recognizing that certain factors such as condition (e.g., disease, danger of falling, etc.), proximity to existing and proposed structures and improvements, interference with utility services, protection of scenic views, and the realization of a reasonable enjoyment of property may require the removal of certain trees and ground cover;

H. To reduce siltation and water pollution in island waters;

I. To implement the goals and objectives of the Washington State Environmental Policy Act; and

J. To implement and further the city's comprehensive plan. (Ord. 2015-03 § 2, 2015: Ord. 2003-16 § 1, 2003. Formerly 15.18.010)

16.18.020 Definitions.
"Clearing" means the destruction or removal of vegetation by manual, mechanical, or chemical methods.

"Significant tree" means: (1) an evergreen tree 10 inches in diameter or greater, measured four and one-half feet above existing grade; or (2) a deciduous tree 12 inches in diameter or greater, measured four and one-half feet above existing grade; (3) in the Mixed Use Town Center and High School Road zoning districts, any tree eight inches in diameter or greater, measured four and one-half feet above existing grade; or (4) all trees located within a required critical area buffer as defined in Chapter 16.20 BIMC.

"Vegetation" means plant matter, including trees, shrubs and ground cover. (Ord. 2015-03 § 2, 2015: Ord. 2003-16 § 1, 2003. Formerly 15.18.020)

16.18.030 Applicability.
A. No person, corporation, or other legal entity shall engage in or cause clearing in the city without having obtained a land clearing permit from the planning director or designee. No person, corporation, or other legal entity shall cut, trim, remove, clear or damage any vegetation or trees within the following areas without obtaining a clearing permit from the planning director or designee: any critical areas, shoreline areas or their buffers as defined in and regulated by Chapter 16.12 or 16.20 BIMC. This standard also applies to landscape buffers, open space areas, or trees retained through a land use permit under BIMC Titles 17 or 18, including adjacent properties.

B. For properties located outside of the Mixed Use Town Center and High School Road zoning districts, a clearing permit is required for removing more than six significant trees, but no more than 5,000 board feet of timber (including live and dead standing timber) for personal use in any 12-month period. To cut/remove more than 5,000 board feet of timber, a vegetation management permit may be required pursuant to Chapter 16.22 BIMC, in addition to a permit from the Department of Natural Resources. See tree removal permit process flow chart, Figure 16.18.

C. For properties located within the Mixed Use Town Center and High School Road zoning districts, a clearing permit is required for removing any significant tree, as defined by BIMC 16.18.020. For existing development subject to tree requirements or conditions applied through an approved land use or development permit, see exemption in BIMC 16.18.040.C. For other properties in these districts, clearing permits will only be approved if the applicant demonstrates that at least one of the following criteria is met, as determined by the director or their designee:

1. The tree is diseased, dead or otherwise determined to be a hazardous tree as determined by a qualified professional pursuant to BIMC 18.15.010.C.1.c; or

2. The removal is necessary to enable construction or reasonable use of the property, and no other alternative is feasible; or

3. The removal is necessary to maintain utilities, access, or fulfill the terms of an easement or covenant recorded prior to the adoption of the ordinance codified in this chapter.

D. In the event of a conflict between the requirements of this chapter and any other requirement of the Bainbridge Island Municipal Code, the more restrictive requirement shall apply.

Additional permits may be required if the activities are regulated by other chapters such as, but not limited to, Chapter 15.20 BIMC, Surface and Storm Water Management, Chapter 16.12 BIMC, Shoreline Master Program, Chapter 16.20 BIMC, Critical Areas, and Chapter 16.22 BIMC, Vegetation Management. Clearing of more than 7,000 square feet shall meet the stormwater management minimum standards outlined in Chapter 15.20 BIMC. See tree removal permit process flow chart, Figure 16.18. (Ord. 2015-03 § 2, 2015: Ord. 2003-16 § 1, 2003. Formerly 15.18.030)

16.18.040 Clearing activities not requiring a permit.

A. Clearing of up to six significant trees, as defined in BIMC 16.18.020, in any 12-month period. This exemption does not apply to: any critical areas, shoreline areas or their buffers as defined in and regulated by Chapter 16.12 or 16.20 BIMC, other protected vegetated areas, or in the Mixed Use Town Center and High School Road zoning districts, pursuant to BIMC 16.18.030;

B. Clearing of up to 2,500 square feet of land in any 12-month period; any amount of clearing is subject to the stormwater pollution prevention standards of Chapter 15.20 BIMC. This exemption does not apply to: any critical areas, shoreline areas or their buffers as defined in and regulated by Chapters 16.12 or 16.20 BIMC, or other protected areas, pursuant to BIMC 16.18.030;

C. Clearing as part of a development where clearing limits and/or tree retention and landscape requirements have been set and erosion control plans approved as part of the approval for the development; provided, that land clearing in connection with such projects shall take place only after a land use or development permit has been issued by the city and shall be in accordance with such permit;

D. The installation and maintenance of fire hydrants, water meters, and pumping stations, and street furniture by the city or utility companies or their contractors;

E. Removal of trees and ground cover in emergency situations involving immediate danger to life or structure or substantial fire hazards. If one is required, a clearing permit shall be obtained as soon as possible after the emergency situation is stabilized;

F. Routine gardening and landscape maintenance of existing landscaped areas on developed lots, including pruning, weeding, planting, mowing, and other activities associated with maintaining an already established landscape;

G. Agricultural management of existing farmed areas;

H. Routine maintenance activities, including tree removal, removal of invasive vegetation, and thinning required to control vegetation on road and utility rights-of-way;

I. Forest practices regulated by the Department of Natural Resources under Chapter 76.09 RCW. (Ord. 2015-03 § 2, 2015: Ord. 2003-16 § 1, 2003. Formerly 15.18.040)

16.18.050 General requirements.

A. Submittal Requirements. A complete application for a land clearing permit shall be submitted on the application form provided by the city, together with information required under Chapter 15.20 BIMC for a completed application, and including the following:

1. A plot plan on a base map provided by the applicant or by the city containing the following information:

a. Date of drawing or revision, north arrow, adjoining roadways and appropriate scales;

b. Prominent physical features of the property including, but not limited to, geological formations, critical areas and watercourses;

c. General location, type, range of size, and conditions of trees and ground cover;

d. Identification by areas, of trees and areas of ground cover that are to be removed, and information on how the trees or areas are delineated in the field;

e. Any existing improvement on the property including, but not limited to, existing cleared areas, structures, driveways, ponds, and utilities;

f. Information indicating the method of drainage and erosion control during and following the clearing operation; and

g. Information on how property lines are identified.

2. Payment of the land clearing application fee in the amount established by resolution of the city council.

B. After-the-Fact Clearing Permit. In the event of unauthorized clearing, an after-the-fact clearing permit may be issued if the applicant meets all of the conditions listed in this chapter and any other applicable regulations or remedies. The fee for an after-the-fact clearing permit shall be established by resolution of the city council.

1. If significant trees are removed in the Mixed Use Town Center/High School Road zoning districts, and the criteria of BIMC 16.18.030.C cannot be met, then such an after-the-fact must be denied, and replanting required at a 1:1 tree unit ratio, using the tree unit conversion method described in BIMC 18.15.010.G.5. The city shall also collect a fine equal to the value of the tree(s) determined by the current standards of the International Society of Arboriculture. See BIMC 16.18.080.

C. The planning director shall grant a clearing permit application if the application meets the requirements of this chapter and all other relevant city codes, including but not limited to Chapters 15.20, 16.12, 16.20, and 16.22 BIMC. If the clearing permit is denied, it may be appealed pursuant to BIMC 16.18.070.

D. Approved clearing plans shall not be amended without authorization of the planning director.

E. No work authorized by a clearing permit shall commence until a permit notice has been posted by the applicant on the subject property at a conspicuous location. The notice shall remain posted in said location until the authorized clearing has been completed.

F. Any clearing permit granted under this chapter shall expire one year from the date of issuance. Upon a showing of good cause, a clearing permit may be extended for six months by the planning director.

G. A clearing permit may be suspended or revoked by the planning director because of incorrect information supplied or any violation of the provisions of this chapter.

H. Failure to obtain forest practice application, where applicable, with the stated intent of land conversion as defined in RCW 76.09.020(4) shall be grounds for denial of any and all applications for permits or approvals, including building permits and subdivision approvals, relating to nonforestry uses of the land for a period of six years, in accordance with RCW 76.09.060(3)(b). (Ord. 2015-03 § 2, 2015: Ord. 2003-16 § 1, 2003. Formerly 15.18.050)

16.18.060 Performance assurance.

A. The planning director may require, as a condition to the granting of a permit, that the applicant furnish a performance assurance in a form approved by the planning director to the city to secure the applicant’s obligation, after the approved land clearing has been accomplished, to complete any required replanting and the erosion control on the property in accordance with the conditions of the permit. The surety device shall be in an amount equal to the estimated cost of replanting and erosion control and cleanup and with surety and conditions satisfactory to the planning director.

B. In order to stay enforcement, the director may choose to enter into a voluntary correction agreement (VCA). This is a civil contract entered into between the city and applicant. The VCA will outline several performance items that will be required within an agreed-upon time frame. (Ord. 2015-03 § 2, 2015: Ord. 2003-16 § 1, 2003. Formerly 15.18.060)

16.18.070 Appeals.

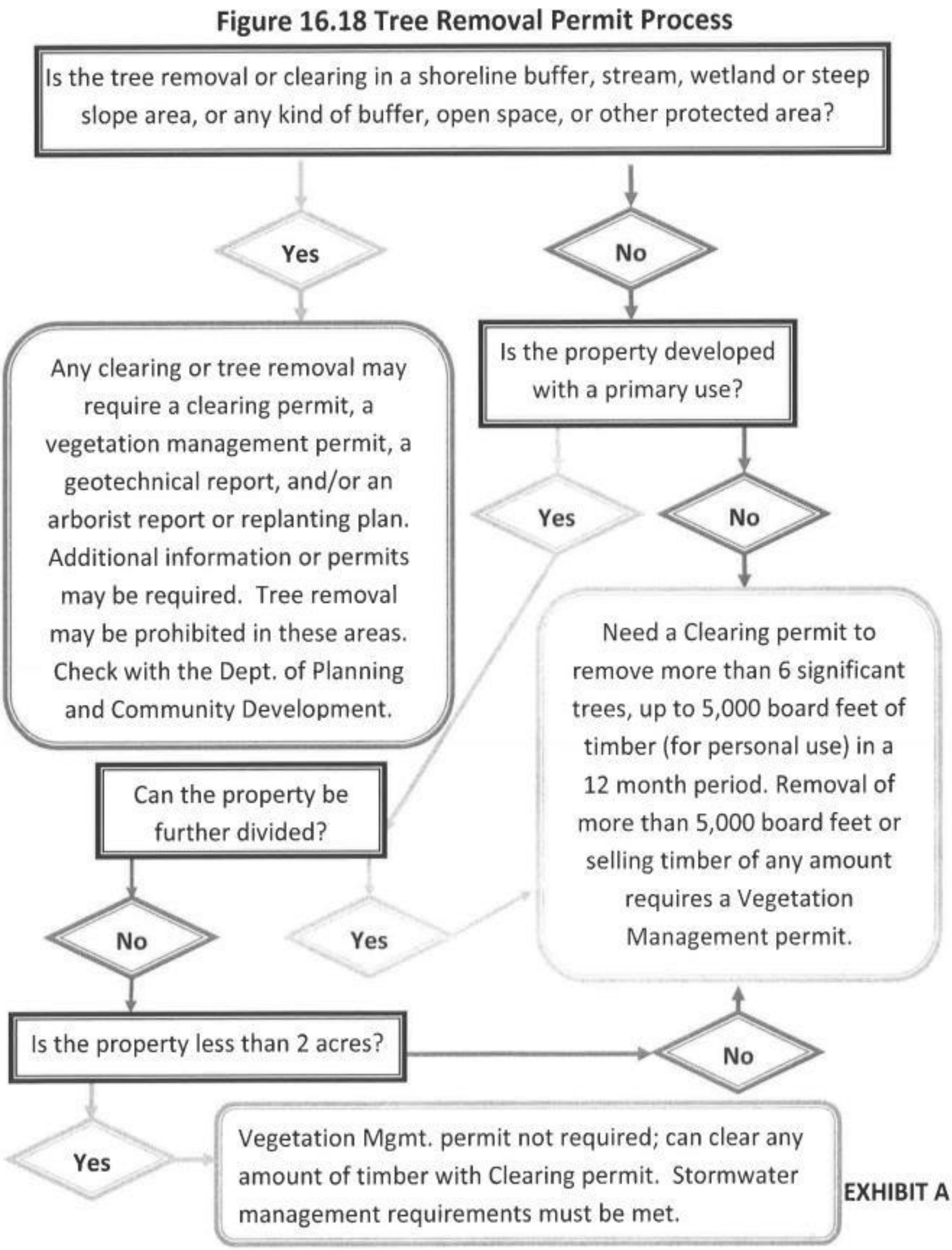
Appeals of the planning director’s decision on a land clearing permit application shall be in accordance with the administrative decision procedures established in Chapter 2.16 BIMC. (Ord. 2015-03 § 2, 2015: Ord. 2003-16 § 1, 2003. Formerly 15.18.070)

16.18.080 Violation – Enforcement and penalty.

A. In addition to any other sanction or remedy that may be available, a violation of or failure to comply with any provision of this chapter shall be a civil infraction and shall be subject to enforcement and civil penalties as provided in Chapter 1.26 BIMC.

B. A violation of or failure to comply with any provision of this chapter shall be a misdemeanor punishable, upon conviction, as provided in BIMC 1.24.010.A.

C. Any fines collected through enforcement of this chapter shall be directed to the city’s tree fund, Chapter 3.39 BIMC. (Ord. 2015-03 § 2, 2015: Ord. 2003-16 § 1, 2003. Formerly 15.18.080)



(Ord. 2015-03 § 3 (Exh. A), 2015)

Chapter 16.22

VEGETATION MANAGEMENT

Sections:

16.22.010 Findings and declaration of purpose.

A. Forest areas are an integral part of the Island character and enhance the city's appearance and livability, as well as providing significant environmental benefits and natural resource values as identified in the comprehensive plan.

B. Under the authority of planning and zoning granted to the city under RCW 76.09.240, the city of Bainbridge Island considers all forested areas within its jurisdiction as "lands with a likelihood of future conversion" from forest use as defined under WAC 222-16-060.

C. Indiscriminate removal of vegetation may cause loss of wildlife and fish habitat, increased soil erosion, water and air quality degradation as well loss of aesthetic value.

D. Vegetation management is necessary in order to implement the comprehensive plan, the landscape ordinance, the flexible lot design ordinance and to protect the health and safety of citizens.

E. Vegetative management planning is necessary prior to removal of vegetation in order to reduce harmful effects and promote incorporation of existing vegetation into future land development plans. (Ord. 97-07 § 2, 1997)

16.22.020 Definitions.

A. "Agricultural land" means farms and farmland as defined in BIMC 16.20.020.

B. "Basal area of timber" means the cross-sectional area of a tree outside bark, measured at four and one-half feet above the average grade.

C. "Codominant trees" means trees whose crowns form the general level of the crown cover and receive full light from above, but comparatively little light from the sides.

D. “Contiguous” means land adjoining and touching other property held by the same ownership. Land in common ownership which is divided by a public road, but otherwise an integral part of a farming or timber management operation shall be considered contiguous.

E. “Conversion option harvest plan” means a voluntary plan developed by the landowner and approved by the local government entity indicating the limits of harvest areas, road locations, and open space and filed with the Department of Natural Resources (DNR), WAC 222-20-050.

F. “DBH” means the average diameter of a tree, outside the bark, at a point four and one-half feet above average grade.

G. “Department” means the department of planning and community development.

H. “DNR” means the Washington State Department of Natural Resources.

I. “Dominant trees” means trees whose crowns are higher than the general level of the canopy and which receive light from the sides as well as from above.

J. “Harvest area” means that area on which timber harvesting is conducted including that area where soil and/or vegetation has been disturbed or damaged during harvesting, including road construction.

K. “Harvesting” means the cutting and/or removal of trees together with all the work incidental thereto such as road building, firebreak construction, and fire hazard abatement, but excluding preparatory work such as tree marking and road flagging.

L. “Haul route” means any public road within Bainbridge Island which is to be used to deliver forest products to a point of processing, disposal, or utilization.

M. “Landing” means that area where forest products are placed on trucks.

N. “Leave trees” means those trees remaining after thinning a stand of trees.

O. “Limbing” means removal of branches and leaving at least two-thirds of the existing tree branch structure. Limbing does not include topping of trees.

P. “Merchantable volume of timber” means the gross volume of trees either in board feet (using the log length and log rule in common usage for western Washington) or cubic volume depending on the measure commonly used in commerce.

Q. Open Space Management Plan. See Open space, BIMC 17.28.020.36 and Open Space Management Plan Required, BIMC 17.12.030.A.8.b.

R. “Owner” means the party or parties having the fee interest in land.

S. “Pasture” means land used for grazing by domestic animals.

T. “Removal” means the act of removing vegetation by digging up, cutting down or any act which is likely to cause vegetation to die within a period of five years including, but not limited to, damage inflicted to the root system by machinery, storage of materials, or soil compaction; changing the ground level in the area of the root system; damage inflicted on vegetation permitting infection or infestation; excessive pruning or any other action which is deemed harmful to vegetation.

U. “Residual forest land” means any property or portion of any property which is not harvested as part of an approved conversion harvest plan or selective harvest plan.

V. “Routine landscape maintenance” means lawn mowing, composting, gardening, tree limbing and ground cover management which does not include tree removal and is undertaken by person in connection with the normal maintenance and repair of property.

W. “Scenic corridor” means a band of land on either side of a scenic road or trail and wildlife/view corridors designated by the comprehensive plan of Bainbridge Island or Bainbridge Island Municipal Code.

X. “Silvicultural prescription” means a written plan that describes which trees will be removed and what methods will be used to determine the appropriate trees to be removed.

Y. “Slash” means nonmerchantable logs, branches, limbs or stems of any species left in the harvest area as a result of current timber harvesting.

Z. “Thinning” means the removal of trees less than 18 inches DBH where removal will improve the growth of remaining trees or utilize diseased trees that might otherwise die. Timber removed from a harvest area meeting all of the following conditions:

1. The total volume removed is less than 50 percent of the total merchantable volume of the harvest area prior to harvest;

2. Not more than 40 percent of the total volume removed is from the dominant and codominant trees;

3. The trees removed shall be distributed over the entire harvest area.

AA. “Timber” means trees of any species which are of sufficient size and quality to be capable of furnishing raw material used in the manufacture of forest products.

BB. “Timber cruise report” means a report of the timber volume that includes the method used to obtain the volumes and statistical analysis of the accuracy of the estimation.

CC. “Topping” means cutting the top main trunk of a tree.

DD. “Tree” means any woody plant characterized by one main stem or trunk.

EE. “Undeveloped property” means property which is not improved with a substantial building or substantial structure used for a principally permitted use or an approved conditional use.

FF. “Vegetation” means plant matter, including trees, shrubs and ground cover. (Ord. 97-07 § 2, 1997)

16.22.030 Applicability.

A. Permit Required. Unless exempted in BIMC 16.22.040, a vegetation management permit is required for harvesting of trees and/or removal of vegetation in the following areas:

1. Undeveloped properties or developed properties which can be further subdivided, including those properties under two acres in size which are exempt under a Class I forest practice permit;

2. Critical areas and required buffers as defined in Chapter 16.20 BIMC;

3. Designated open space areas;

4. Designated scenic or wildlife corridor areas; or

5. As part of a Class IV general forest practice permit, as regulated under RCW 76.09.050.

B. Optional Permit. A property owner intending to harvest under a Class I (not exempt in BIMC 16.22.040.E), II or III DNR forest practice permit may avoid the six-year development moratorium if the property owner submits to the city and DNR a conversion option harvest plan which meets the standards of BIMC 16.22.060 and is approved by the city prior to the application for a DNR forest practice permit.

C. Development Moratorium. A six-year development moratorium shall be placed on all properties harvested under Class I (not exempt in BIMC 16.22.040.E), II and III DNR forest practices permits in accordance with BIMC 16.20.190.D.2. To avoid the moratorium, a property owner can:

1. Apply for a Class IV general forest practices permit and meet the standard of BIMC 16.22.060; or

2. Obtain an approved DNR conversion option harvest plan. (Ord. 2001-41 § 8, 2001; Ord. 97-07 § 2, 1997)

16.22.040 Exemptions.
A vegetation management permit is not required for the following:

A. Class II and III forest practices regulated by the Department of Natural Resources under RCW 76.09.050; provided, that the city of Bainbridge Island shall not accept and/or issue any land use or building permit for six years from the date of application approval of a Class II or Class III forest practice permit;

B. Class I forest practices as defined under WAC 222-16-050(3), except that WAC 222-16-050(3)(r)(iii), "Any forest practices involving a single landowner where contiguous ownership is less than two acres in size" is not exempt;

C. Culture and harvest of Christmas trees and seedlings;

D. Construction of less than 600 feet of road on a sideslope of 40 percent or less if the limits of construction are not within the shoreline area or designated critical area;

E. Cutting and/or removal of less than 5,000 board feet of timber (including live, dead and down material) for personal use (i.e., firewood, fence post, etc.) in any 12-month period;

F. Removal of trees and vegetation for public safety, maintenance of public right-of-way and maintenance of recorded utility corridors or easements if approved by the public works director and not regulated by other city regulations;

G. Removal of trees and vegetation obstructing private access routes or easements as a result of storms or other major natural events;

H. Removal of dead trees and vegetation in the residual forest area for safety purposes if a report by a qualified arborist or consulting forester (approved by the city) indicates that such an action is necessary and no feasible alternative to removal exists. Whenever possible felled trees shall remain in order to provide downed material for plants and wildlife;

I. Routine landscape maintenance which does not include tree removal; or

J. Harvest trees, such as hybrid poplars, cultivated by agricultural methods in growing cycles of less than 10 years. (Ord. 98-20 § 13, 1998; Ord. 97-07 § 2, 1997)

16.22.050 Vegetation management permit.

A. Application Required. The owner of any property specified in BIMC 16.22.030 that is being converted to a nonforest use or property for which the owner intends to avoid a six-year development moratorium, shall submit a vegetation management permit application for review and approval by the department of planning and community development prior to removal of any vegetation. The application shall be prepared by a consulting forester approved by the city and may be filed jointly with the Washington State Department of Natural Resources (if required by state law) and the city.

B. Application Procedure. The city shall process vegetation management permit applications in accordance with Chapter 2.16 BIMC and the following procedures:

1. A preapplication conference is not required; however, the applicant may submit for a preapplication conference in accordance with the procedures set forth in BIMC 2.16.020.G.

2. The applicant shall submit a complete application as specified in BIMC 16.22.070, Submittal Requirements. A State Environmental Policy Act (SEPA) environmental checklist is required for all vegetation management permits, in accordance with Chapter 16.04 BIMC. Upon receipt of a complete application, the director shall provide notice to the applicant and public in accordance with BIMC 2.16.020.K and commence the application review process. A notice of application with public comment period and a notice of decision shall be required in accordance with BIMC 2.16.020.K for all vegetation management permit applications.

3. Administrative Review. All vegetative management permits shall follow the review procedures set forth in BIMC 2.16.030.

4. An application review, exempt from subsections B.1 through 3 of this section, shall be allowed for removal of diseased or dying trees and vegetation; provided, that a report by a qualified arborist or consulting forester (approved by the city) indicates that such an action is necessary and no feasible alternative to removal exists, and provided that the decision criteria of subsection C.2 through 5 of this section can be satisfied.

C. Decision Criteria. A vegetation management permit may be approved or approved with conditions by the director if the plan can meet the following:

1. Harvesting meets the vegetation management standards of BIMC 16.22.060;

2. Erosion control measures are included as part of the plan;

3. All applicable open space and corridor standards are met;

4. Mitigation measures are proposed which reduce adverse impacts on surrounding property; and

5. All other provisions of this code are met. (Ord. 97-07 § 2, 1997)

16.22.060 Vegetation management standards.

Any property which is converting or likely to convert to a nonforest use shall provide either a conversion harvest plan or a selective harvest plan as follows.

A. Conversion Harvest Plan. The owner of any property which is being converted to a nonforest use shall provide a conversion harvest plan which meets the standards below:

1. Land clearing is permitted at the following percentages of the area existing in order to prepare for future nonagricultural development. Percentage of area that may be cut.

Zoning District	Percent of area
R-.04	20%
R-1	40%
R-2,2.9,3.5 and 4.3	60%

2. If the property is being converted to agriculture or pasture use, the property owner shall submit a farm plan approved by the Kitsap Conservation District, or the USDA Natural Resource Conservation Service (NRCS) or which is developed by the owner or a consultant using USDA standards for water quality protection. If the land has not been used for agriculture or pasture within the last five years, then a nonfarmed buffer of 25 feet shall be left between the edge of the property and adjoining nonagricultural parcels. As a condition of the vegetation management permit, the approved farm plan shall be implemented within one year after the completion of the conversion harvest.

3. Residual forest areas shall be in windfirm condition, clustered to the extent feasible and contiguous to other existing stands. Buffering of adjacent, developed properties shall be given high priority.

4. Unless otherwise allowed thorough an approved open space management plan, no cutting is allowed within any of the following areas:

a. Critical areas or required buffers, as defined in Chapter 16.20 BIMC;

b. Previously established noncut buffer areas;

c. Greenways, scenic road corridors, view corridors or wildlife corridors designated by the comprehensive plan of Bainbridge Island or Bainbridge Municipal Code; and

d. Any required perimeter landscape buffer that will be required upon development of the site in accordance with BIMC 18.15.010.

5. Remaining forested areas which are not addressed in subsections A.1 through A.4 of this section, may be harvested under a harvest plan approved by the city that meets the standards for tree retention specified in subsection B of this section.

6. A Class IV general forest practice permit issued by DNR is required.

B. Selective Harvest Plan. A property owner intending to harvest under a Class I (not exempt in BIMC 16.22.040.E), II or III, on property that has a potential to convert to a nonforest use shall provide a selective harvest plan which meets the standards below:

1. Up to 50 percent of the existing merchantable volume or 50 percent of the basal area of timber may be cut. A timber cruise report and silvicultural prescription demonstrating how the required volume retention goals will be met may be required.

2. Thinning of stands less than 18 inches DBH is permissible as long as the leave trees number more than 40 percent of the dominant and codominant trees which are disease free and undamaged.

3. In no event shall the total timber stand removal of the property exceed 50 percent of the merchantable volume or basal area of timber.

4. The harvested trees should be well distributed over the entire harvest area. Residual forest areas shall be in windfirm condition, clustered to the extent feasible and contiguous to existing stands. Buffering of adjacent, developed properties shall be given high priority.

5. Unless otherwise allowed through an approved open space management plan, no cutting is allowed within any of the following areas:

a. Critical areas or required buffers, as defined in Chapter 16.20 BIMC;

b. Any previously established noncut buffer areas;

c. Designated greenways, scenic road corridors, view corridors or wildlife corridors unless the director determines that the proposed harvest will not affect the function of the corridor or greenway; and

d. Any perimeter buffer established in accordance with BIMC 18.15.010.

6. A DNR Class II or III forest practice permit is required if mandated by state law.

C. A property owner intending to harvest under a Class I (not exempt in BIMC 16.22.040.E), II or III, on property that has a potential to convert to a nonforest use, may avoid the six-year development moratorium if the harvest plan meets the standards of subsection A or B of this section, the property owner submits a DNR conversion option harvest plan to the city of Bainbridge Island, and the following standards are met:

1. A property owner providing a DNR conversion option harvest plan shall record the city approved plan with the Kitsap County auditor and provide the city with a copy of the recorded document and the auditor’s recording number prior to commencement of the timber harvest.

2. Another DNR conversion option harvest plan shall not be approved within six years from the approval date of a previous plan.

3. Failure to meet the requirements of the DNR conversion option harvest plan shall result in the placing of a six-year development moratorium on the property. (Ord. 2001-41 § 8, 2001; Ord. 97-07 § 2, 1997)

16.22.070 Submittal requirements.
A vegetation management permit application and fee, as established by city council resolution, shall be filed with the department of planning and community development on forms provided by the city, which shall contain the following:

A. Name, address and telephone number of the property owner and forestry consultant, if any;

B. Kitsap County tax account number and parcel number for the properties involved;

C. The proposed dates the vegetation removal will take place;

D. The approximate acreage of the harvest area, and the approximate acreage of existing forested areas with trees 20 feet or greater in height;

E. The desired haul route;

F. A copy of any DNR application, if required;

G. A statement as to how the trees will be designated for removal or retention;

H. A statement explaining how property lines will be marked;

I. A statement as to whether timber harvesting has occurred on any portion of the proposed harvest area in the past six years;

J. A site assessment plan/harvest plan drawn to engineering scale showing the entire property. The harvest plan shall meet the standards of BIMC 16.22.060 and must show the following:

1. All boundaries;

2. Existing stands of trees, specifying predominant species, species mix and age class;

3. Location of critical areas and buffers as designated under Chapter 16.20 BIMC, designated open space, and designated scenic and/or wildlife corridors;

4. Proposed areas to remain in forest;

5. Proposed areas to be cleared of vegetation;

6. Proposed areas to be thinned of trees;

7. All existing and proposed access roads;

8. Proposed log landing areas;

9. Any structures on the property;

10. Topography, at 20-foot intervals. A USGS map is acceptable;

11. All adjacent residences within one and one-half times the height of the trees to be felled; and

12. Name, address and phone number of the timber harvest operator.

K. An erosion control plan;

L. Open space management plan, if applicable;

M. Greenways, scenic road, view or wildlife corridor plans, if applicable;

N. SEPA environmental checklist, if applicable. (Ord. 2001-41 § 8, 2001; Ord. 97-07 § 2, 1997)

16.22.075 Moratorium relief.
Pursuant to the provisions of this chapter, the city may grant relief from development moratoria imposed pursuant to Chapter 76.09 RCW prior to the expiration of the moratoria. (Ord. 99-03 § 1, 1999)

16.22.080 Release of moratorium.
A. Pursuant to the provisions of this chapter, a forest practice moratorium may be lifted prior to its expiration. Any property owner requesting a release of a development moratorium shall submit to the city an application for release of the moratorium on the form provided by the city, together with the fees established by resolution.

B. The city shall refer all applications for the release of a development moratorium to the hearing examiner. The hearing examiner shall review all applications for the release of a development moratorium under this section pursuant to the decision procedures set forth in BIMC 2.16.100.

C. Prior to the public hearing, the director shall provide a minimum public comment period of at least 14 days. Pursuant to the notice requirements of BIMC 2.16.020.K, the city shall provide written notice of the application for release along with notice of the public hearing to:

1. Property owners of record within 300 feet of the subject property;

2. Appropriate state agencies, such as the Washington State Departments of Ecology, Natural Resources and Fish and Wildlife;

3. Appropriate tribal governments; and

4. Any other interested parties requesting notice of the application and public hearing.

D. In considering an application for the release of a development moratorium, the hearing examiner may remand the application to the planning commission for review and recommendation, pursuant to the procedures set forth in BIMC 2.16.030 or 2.16.100.C.

E. Based upon public comment received at the public hearing, the decision criteria of BIMC 16.22.090 and the comments and recommendations of the planning commission, if any, the hearing examiner may authorize, conditionally authorize, or deny a release of the development moratorium. (Ord. 99-03 § 2, 1999: Ord. 97-07 § 2, 1997)

16.22.090 Decision criteria for release of moratorium.
All applications for the release of forest practice development moratoria shall be subject to the following decision criteria:

A. An application shall not be granted unless critical areas and their buffers, as governed by Chapter 16.20 BIMC, and shoreline areas, as governed by the Bainbridge Island shoreline master program, were not disturbed in the forest practice operation, or damage to such areas is reparable through restoration. In any case in which the release of a development moratorium is conditioned upon the restoration of the subject property, a restoration plan for the property shall be reviewed and approved by the director prior to the release of the development moratorium. The restoration plan shall be prepared by a professional whose qualifications and experience are satisfactory to the director. The restoration plan shall include monitoring and correction standards. A substantial part of the restoration work, as determined by the director at the director’s discretion, must be completed prior to the issuance of any development permits.

B. Mitigation for the loss of significant trees shall be required prior to the release of any development moratorium. The appropriate mitigation for the loss of significant trees shall depend on the particular facts of each case and may include, but is not limited to:

1. Replacing the lost trees by replanting new trees of a similar species, nature and size. To the extent any lost trees are too large to be immediately replaced by replanting, such trees shall be replaced by the largest possible trees of the same species and nature which may be successfully replanted. The applicant and/or the applicant’s successor-in-interest shall have an obligation to monitor the survival of the replanted trees, and to replace any trees not successfully replanted, until the date the forest practice moratorium, had it not been released, would have automatically expired.

2. Developing a plan that replaces, to the greatest extent biologically practicable, the functions and values lost through the forest practice, such as providing wildlife habitat, visual screening from adjacent areas and storm water reduction.

C. An application shall not be granted unless the applicant places a conservation easement on the property that surrenders development rights to the city equal to the percent described in the table below. The percent of development right reduction below shall be calculated based upon the total number of development rights per acre of the subject property and shall be rounded to the nearest number; provided, that in all cases at lest one development right shall remain with the subject property.

Zoning District of Subject Property	Percent of Development Right Reduction
R-.04	80%
R-1	60%
R-2,2.9,3,5 and 4.3	40%

(Ord. 99-03 § 4, 1999: Ord. 97-07 § 2, 1997)

16.22.095 Rescission of moratorium.

Upon application by the property owner, a development moratorium may be rescinded by the director if an approved forest practices application for the property has been withdrawn or expired and no harvest has taken place. (Ord. 99-03 § 5, 1999: Ord. 97-07 § 2, 1997)

16.22.097 Permit revocation and penalties.

A. A vegetation management permit may be revoked by the director upon the finding of any one or more of the following:

1. That the approval was obtained by deception, fraud or other intentional or misleading representation; or

2. That the permit granted is being exercised contrary to the terms or conditions of such approval; or

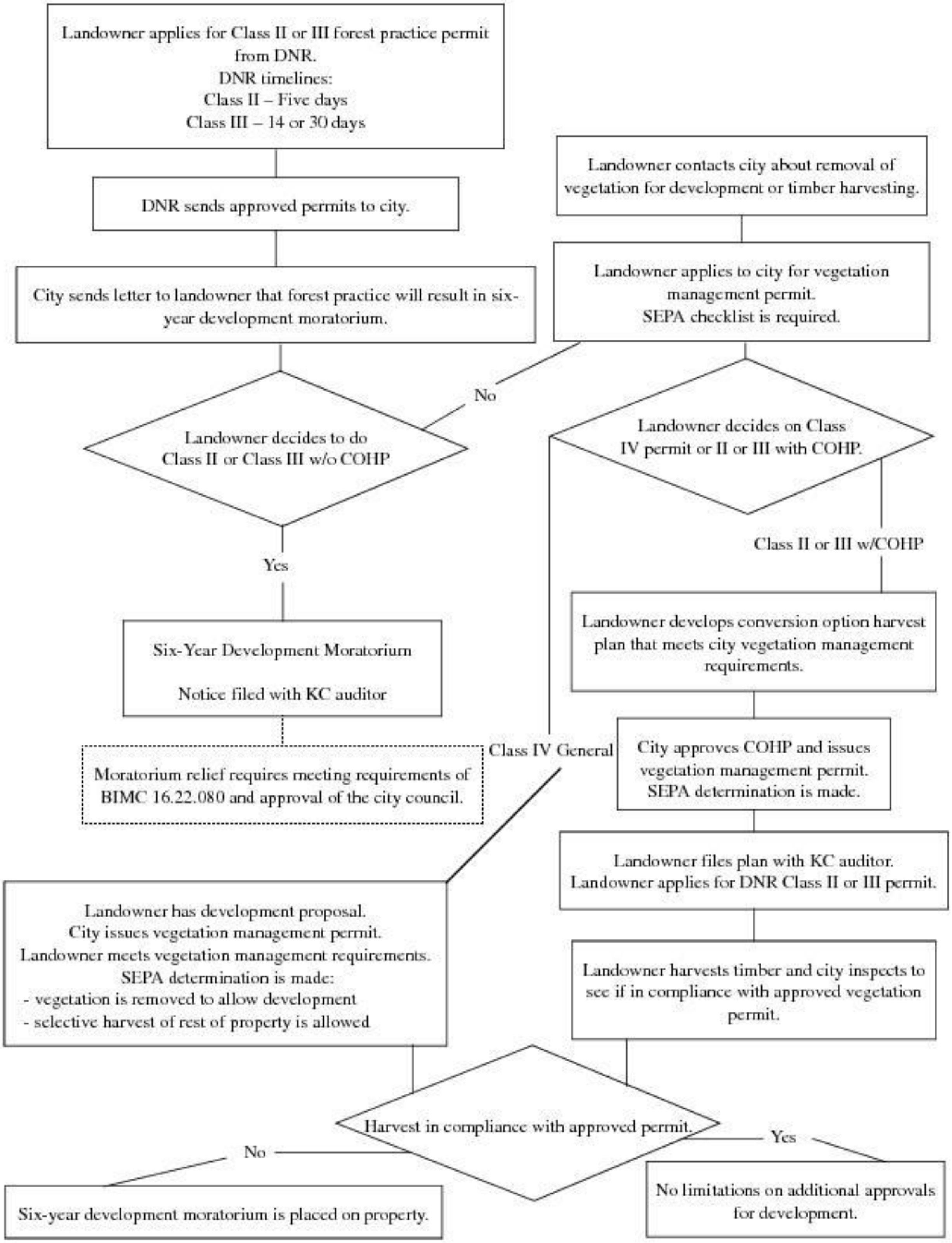
3. That the permit for which the approval was granted was so exercised as to be detrimental to the public health or safety.

B. If the owner violates the requirements of an approved harvest plan, the city shall place a six-year development moratorium on the subject property.

C. Any property owner or individual cutting vegetation or timber in violation of this chapter shall replant the property, and to the extent biologically practicable, shall return the property to the condition of the property prior to the violative cutting. The property on which the violation occurs shall be subject to a moratorium on the city’s acceptance of a development permit of any kind relating to the property for a period of six years from the last date of the violation.

D. In addition to the penalties set forth above, this chapter shall be enforced, and penalties for violations of this chapter shall be imposed, pursuant to Chapter 1.26 BIMC; provided, that under BIMC 1.26.090, an additional civil penalty shall be imposed on any property owner or individual cutting vegetation or timber in violation of this chapter in the amount of $20,000 for each acre of forest cut. (Ord. 99-03 § 6, 1999)

16.22.100 Flowchart for timber harvests.



(Ord. 97-07 § 3, 1997)

16.22.115 Appeals.

The decision of the hearing examiner shall be final unless, within 21 days of issuance, it is appealed in accordance with Chapter 36.70C RCW. (Ord. 2003-25 § 11, 2003: Ord. 99-03 § 7, 1999)

Chapter 15.19

SITE ASSESSMENT REVIEW

Sections:

15.19.010 Purpose.

The purpose of this chapter is to ensure that the provisions in Chapter 15.20 BIMC, including BIMC 15.20.010, are understood and effectively adhered to as part of the planning related to development or redevelopment of a site, and prior to the undertaking of clearing and grading that occurs in advance of construction activities on a site. All development and redevelopment within the thresholds established in Chapter 15.20 BIMC shall be subject to low impact development (LID) standards regarding surface water and stormwater in order to mimic natural hydrology and to limit pollution of the Puget Sound. (Ord. 2017-03 § 4 (Exh. A), 2017)

15.19.020 Authority of the director.

The director of public works ("director") shall have the authority to:

A. Administer the provisions of this chapter including, but not limited to, interpreting the chapter and issuing necessary rules and procedures.

B. Complete site assessment reviews in accordance with this chapter.

C. Administer and coordinate the enforcement of this chapter and all policies adopted hereunder.

D. Adjust the fees required by this chapter to be proportional to any increased scope of work for which a review is required. Fees shall be set forth in a fee schedule adopted by the city council by resolution.

E. Coordinate with other city departments to administer and enforce this chapter.

F. Assign responsibility for interpretation, application, and enforcement of specified procedures to department staff.

G. Correct any condition that is a violation of this chapter. (Ord. 2017-03 § 4 (Exh. A), 2017)

15.19.030 Applicability.

No development, including clearing, grading, or other construction activity as described in this title, shall occur until a site assessment review has been completed. Activities subject to this chapter are described below. For applicable activities, a site assessment review shall be completed before any building, clearing, or grading permit applications may be submitted to the city. A site assessment review is required for any of the following activities:

A. New development, as defined in Chapter 15.20 BIMC.

B. Redevelopment, as defined in Chapter 15.20 BIMC.

C. Grading, as defined in the International Building Code, Appendix J (see Chapter 15.04 BIMC).

D. Clearing, as defined in Chapter 16.18 BIMC.

E. Paving 800 square feet or more related to:

1. New pavement; or

2. Removing and replacement of surfacing to base course or lower; or

3. Resurfacing by upgrading from dirt to gravel, asphalt, or concrete; upgrading from gravel to asphalt or concrete; or upgrading from a bituminous surface treatment (“chip seal”) to asphalt or concrete. (Ord. 2017-03 § 4 (Exh. A), 2017)

15.19.040 Exemptions.
The following activities shall not require a site assessment review:

A. Creation of less than 800 square feet of new hard surfaces, as defined in Chapter 15.20 BIMC.

B. Grading or clearing activities on less than 7,000 square feet or 35 percent of the site, whichever is smaller, as defined in Chapter 15.20 BIMC.

C. Commercial Agriculture. Existing commercial agriculture practices involving working the land for production are generally exempt. However, the conversion from timber land to agriculture and the construction of new hard surfaces are not exempt.

D. Forest Practices. Forest practices regulated under WAC Title 222 are exempt, except for Class IV general forest practices that are conversions from timber land to other uses. Class IV general forest practices are required to obtain a site assessment review, in addition to any other required permits, prior to any clearing, grading, or tree removal.

E. Road Maintenance. The following road maintenance practices are exempt: pothole and square cut patching, overlaying existing asphalt or concrete pavement with asphalt or concrete without expanding the area of coverage, shoulder grading, reshaping/regrading drainage systems, crack sealing, resurfacing with in-kind material without expanding the road prism, and vegetation maintenance.

F. New Nonmotorized Shoulder Improvements. New nonmotorized shoulder improvements to existing roads are exempt unless the new hard surfaces total 5,000 square feet or more and total 50 percent or more of the existing hard surfaces within the project limits. The project limits shall be defined by the length of the project, along the right-of-way, and the width of the right-of-way.

G. Underground Utilities. Underground utility projects that replace the ground surface with in-kind material or materials with similar runoff characteristics are exempt. (Ord. 2017-03 § 4 (Exh. A), 2017)

15.19.050 Review process.

A. The site assessment review application, proposed project information, and other data and materials filed by an applicant for a site assessment review shall be analyzed by the director or his/her designee for a determination of completeness. The site assessment review application shall be considered complete upon the occurrence of all of the following:

1. The determination that the official site assessment review application form is complete.

2. The proposed project information, data, and other materials submitted are adequate to evaluate the proposed project.

3. The site assessment review fee has been paid by the applicant.

B. All projects that are required to meet Minimum Requirements Nos. 1 through 5, as indicated in BIMC 15.20.060 related to stormwater manual standards, shall submit an application and are required to receive a written endorsement from the director or his/her designee as provided in subsection D of this section prior to the city accepting any other development application. Projects required to meet Minimum Requirements 1 through 9 as indicated in BIMC 15.20.060 may submit an application concurrently with the request for a preapplication conference identified in BIMC 2.16.020. If the preapplication conference is waived in accordance with BIMC 2.16.020, the application and endorsement required by this chapter shall be completed prior to any other development application being accepted by the city.

C. Those projects required to only meet Minimum Requirement No. 2 as indicated in BIMC 15.20.060 are encouraged to make use of the site assessment review process prior to application for any required permits.

D. The complete site assessment review application, proposed project information, data, and other materials shall be reviewed by the director or his/her designee for compliance based on the decision criteria in BIMC 15.19.060, and any other applicable regulations adopted by this chapter and other applicable laws and regulations. If the director or his/her designee determines that an applicant has completed the required site assessment review, he/she shall endorse the review in writing with or without recommendations.

E. The department of public works or its designee may conduct a site visit(s) as part of the site assessment review process and a review meeting shall be scheduled with the applicant.

F. Validity. The completion of a site assessment review shall not prevent the director or his/her designee from thereafter requiring the correction of errors in an applicant's site assessment review proposed project information or other data. An endorsed site assessment review is not a permit and does not vest future development permits to any future updates to Chapter 15.20 BIMC. Any future building, clearing, or grading permit application that is utilizing a completed site assessment review must comply with any applicable laws and city regulations that are in effect at the time such a development permit application is submitted. (Ord. 2017-03 § 4 (Exh. A), 2017)

15.19.060 Decision criterion.

The director or his/her designee shall deem a site assessment review complete if the information provided in the application demonstrates that the proposed actions and the information submitted comply with LID practices, as described in Chapter 15.20 BIMC and the adopted LID manual, to the maximum extent practicable. Subsequent development permits (i.e., building, clearing, or grading) shall substantially conform with the completed site assessment review. A site assessment review may be endorsed with conditions or recommendations for future development permits. (Ord. 2017-03 § 4 (Exh. A), 2017)

Chapter 15.20

SURFACE WATER AND STORMWATER MANAGEMENT[1]

Sections:

15.20.010 Purpose.

The provisions of this chapter are intended to establish regulation for all new development, redevelopment or construction activities within the city that will or may impact surface water, groundwater or stormwater. The provisions of this chapter establish the minimum requirements that must be met to permit a property to be developed, redeveloped or proceed with construction activities within the city. The purpose of this chapter is to:

A. Preserve and enhance the suitability of waters for contact recreation, fishing, and other beneficial uses;

B. Minimize water quality degradation and sedimentation in streams, ponds, lakes, wetlands and other water bodies;

C. Minimize the impact of increased runoff, erosion and sedimentation caused by land development and poor maintenance practices;

D. Maintain and protect groundwater resources;

E. Minimize adverse impacts from projects on ground and surface water quantities, locations and flow patterns;

F. Decrease potential landslide, flood and erosion damage to public and private property;

G. Establish site planning and construction practices that are consistent with natural topographical, vegetational and hydrological conditions and that limit the extent of land disturbing activities;

H. Maintain and protect the city stormwater management infrastructure and downstream systems and properties. (Ord. 2016-28 § 8 (Exh. C), 2016: Ord. 2009-13 § 1, 2009: Ord. 98-31 § 1, 1999)

15.20.020 Definitions.

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

2. “Best management practice (BMP)” means physical, structural, and/or managerial practices that, when used singly or in combination, prevent and reduce the release of pollutants and other adverse impacts to waters of Washington State.

3. “City” means the city of Bainbridge Island.

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

5. “Compaction” means densification, settlement, or packing of soil in such a way that permeability of the soil is reduced.

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

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

8. “Development” means new development, redevelopment, or both.

9. “Earth material” means any rock, natural soil or fill and/or any combination thereof.

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

11. “Excavation” means the mechanical removal of earth material.

12. “Exotic species” means an introduced or nonindigenous species living outside its native distributional range which has arrived there by human activity, either deliberate or unintentional.

13. “Fill” means a deposit of earth material placed by artificial means.

14. “Forest practice” means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, as defined by RCW 76.09.050.

15. “Geologically hazardous areas” means areas susceptible to significant erosion, sliding, earthquake, or other geological events. They pose a threat to public health and safety when used as sites for incompatible commercial, residential or industrial development. Geologically hazardous areas include erosion hazard areas, landslide hazard areas, and seismic hazard areas. Refer to Chapter 16.20 BIMC.

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

17. “Hard surface” means an impervious surface, a permeable pavement, or a vegetated roof.

18. “Illegal discharge” and “illegal connections” are as defined in BIMC 15.22.020.

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

20. “Interflow” means that portion of rainfall that infiltrates into the soil and moves laterally through the upper soil horizons until intercepted by a stream channel or until it returns to the surface; for example, in a wetland, spring or seep.

21. “Invasive plant species” means opportunistic plant species (either native or nonnative) that colonize disturbed ecosystems and come to dominate the plant community in ways that are seen by us as reducing the values provided by the previous plant community.

22. “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 shall also be considered a land disturbing activity. Vegetation maintenance practices are not considered land disturbing activity. Stormwater facility maintenance is not considered land disturbing activity if conducted according to established standards and procedures.

23. "List No. 1" means on-site stormwater management BMPs for lawn and landscaped areas, roofs, and other hard surfaces included in the stormwater manual adopted in BIMC 15.20.050 for projects triggering Minimum Requirements No. 1 through 5.

24. "List No. 2" means on-site stormwater management BMPs for lawn and landscaped areas, roofs, and other hard surfaces included in the stormwater manual adopted in BIMC 15.20.050 for projects triggering Minimum Requirements No. 1 through 9.

25. "Low impact development (LID)" means a stormwater and land use management strategy that strives to mimic predisturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design.

26. "Low impact development best management practices (LID BMPs)" mean distributed stormwater management practices, integrated into a project design, that emphasize predisturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration. LID BMPs include, but are not limited to: bioretention, rain gardens, permeable pavements, roof downspout controls, dispersion, soil quality and depth, minimal excavation foundations, vegetated roofs, and water reuse.

27. "LID performance standard" means matching developed discharge durations to predeveloped durations for the range of predeveloped discharge rates from eight percent of the two-year peak flow to 50 percent of the two-year peak flow.

28. "LID principles" are land use management strategies that emphasize conservation, use of on-site natural features, and site planning to minimize impervious surfaces, native vegetation loss, and stormwater runoff.

29. "Minimum requirement" means one of nine minimum requirements for stormwater management that are applicable to new development and redevelopment projects as defined in the stormwater manual adopted in BIMC 15.20.050.

30. "Mitigation" means, in the following order of preference:

a. Avoiding the impact altogether by not taking a certain action or part of an action;

b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

c. Rectifying the impact by repairing, rehabilitating or restoring the affected environment;

d. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

31. "Native vegetation" means plant species that are indigenous to the coastal region of the Pacific Northwest and which reasonably could have been expected to naturally occur on the site. Invasive species and exotic species are not considered to be native species.

32. "New development" means land disturbing activities, including Class IV – general forest practices that are conversions from timber land to other uses; structural development, including construction or installation of a building or other structure; creation of hard surfaces; and subdivision, short subdivision and binding site plans, as defined and applied in Chapter 58.17 RCW. Projects meeting the definition of redevelopment shall not be considered new development.

33. "Pervious surface" means any surface material that allows stormwater to infiltrate into the ground. Examples include lawn, landscape, pasture, native vegetation areas, and permeable pavement.

34. "Pollution" means such contamination or other alteration of the physical, chemical, or biological properties of waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquids, gaseous, solid, radioactive or other substance into any waters of the state as will or is likely to create

a nuisance or render such waters harmful, detrimental or injurious to the public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life; as defined in RCW 90.48.020 as now existing or hereafter amended.

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

36. “Pollution-generating impervious surface (PGIS)” means impervious surfaces considered to be a significant source of pollutants in stormwater runoff. Such surfaces include those which are subject to vehicular use; industrial activities (as further defined in the glossary of the stormwater manual adopted in BIMC 15.20.050); storage of erodible or leachable materials, wastes, or chemicals, and which receive direct rainfall or the run-on or blow-in of rainfall; metal roofs unless they are coated with an inert, nonleachable material (e.g., baked-on enamel coating); or roofs that are subject to venting significant amounts of dusts, mists, or fumes from manufacturing, commercial, or other indoor activities.

37. “Pollution-generating pervious surfaces (PGPS)” means any pervious surface subject to vehicular use; industrial activities (as further defined in the glossary of the stormwater manual adopted in BIMC 15.20.050); storage of erodible or leachable materials, wastes, or chemicals, and that receive direct rainfall or run-on or blow-in of rainfall; use of pesticides and fertilizers; or loss of soil. Typical PGPS include permeable pavement subject to vehicular use, lawns, and landscaped areas including golf courses, parks, cemeteries, and sports fields (natural and artificial turf).

38. “Redevelopment” means, on a site that is already substantially developed (i.e., has 35 percent or more of existing impervious surface coverage) or which legally existed prior to February 10, 1999, the creation or addition of impervious surfaces; the expansion of a building footprint or addition or replacement of a structure; structural development including construction, installation or expansion of a building or other structure; replacement of impervious surface that is not part of a routine maintenance activity; and land disturbing activities.

39. “Replaced hard surface” means, for structures, the removal and replacement of hard surfaces down to the foundation. For other hard surfaces, the removal down to bare soil or base course and replacement.

40. “Replaced impervious surface” means, for structures, the removal and replacement of impervious surfaces down to the foundation. For other impervious surfaces, the removal down to bare soil or base course and replacement.

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

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

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

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

45. “Stormwater manual” means the Stormwater Management Manual for Western Washington adopted by reference in BIMC 15.20.050.

46. “Vegetation” means any plant life growing on the Island’s surfaces, including ponds, wetlands, and marshes.

47. “Waters of the state” includes those waters as defined as “waters of the United States” in 40 CFR Subpart 122.2 within the geographic boundaries of Washington State and “waters of the state” as defined in Chapter 90.48 RCW which includes lakes, rivers, ponds, streams, inland waters, groundwater, salt waters and all other surface waters and water courses within the jurisdiction of the state of Washington.

48. “Wetlands” means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support (and under normal circumstances do support) a prevalence of vegetation typically adapted for life in saturated soil conditions, such as swamps, marshes, bogs, and other similar areas. This definition includes wetlands created, restored or enhanced as part of a mitigation procedure; it does not include constructed wetlands or the following surface waters of the state intentionally constructed from sites that are not wetlands: irrigation and drainage ditches, grass-lined swales, canals, agricultural detention facilities, farm ponds, and landscape amenities. Refer to Chapter 16.20 BIMC. (Ord. 2017-03 § 2, 2017; Ord. 2016-28 § 8 (Exh. C), 2016: Ord. 2009-13 § 2, 2009: Ord. 2005-10 § 1, 2005; Ord. 2003-22 § 22, 2003; Ord. 2001-49 § 1, 2001; Ord. 98-31 § 1, 1999)

15.20.030 General provisions.

A. Procedures. The department of public works/engineering department is authorized to adopt written procedures for the purpose of carrying out the provisions of this chapter. Prior to fulfilling the requirements of this chapter, the administrator or assigns shall not grant any approval or permission to conduct a regulated activity, including but not limited to the following:

1. Building permits, commercial or residential;
2. Comprehensive plan amendments;
3. Conditional use permits;
4. Final plats (short/long/large lot);
5. Forest practices;
6. Grading or clearing permits;
7. Planned unit developments;
8. Plats;
    a. Subdivide, preliminary and final (short/long/large lot);
9. Preliminary plats (short, long, large lot);
10. Reasonable use exceptions;
11. Right-of-way permits;
12. Shoreline substantial development permits;
13. Shoreline variance/shoreline conditional use permits;
14. Site plan reviews;
15. Variances;
16. Zone reclassification (rezones); or
17. Any subsequently adopted permit or required approval not expressly exempted by this chapter.

B. The following agencies may also require a drainage review to assess the impact of development on a site. Any requirements imposed by these agencies are separate from the city mandates. It is the applicant’s sole responsibility to resolve any conflicting issues that may arise from submittal reviews.

1. U.S. Army Corps of Engineers;
2. Washington State Department of Natural Resources;

3. Bremerton-Kitsap County Health District;

4. Washington State Department of Ecology: general permit is required for development that disturbs one acre or more;

5. Washington State Department of Fish and Wildlife;

6. Washington State Department of Transportation. (Ord. 2016-28 § 8 (Exh. C), 2016: Ord. 2005-10 § 2, 2005: Ord. 98-31 § 1, 1999)

15.20.040 Regulated activities and allowed activities.

A. Regulated Activities. Consistent with the minimum requirements contained in the stormwater manual, the administrator shall approve or disapprove the following activities and may require the following permits:

1. New development may require a site assessment and development permit, building permit, land use permit, and/or zoning permit for the following:

a. Land disturbing activities;

b. Structural development, including construction, installation or expansion of an existing building or other structure;

c. Creation of 800 square feet or more of new hard surfaces;

d. Class IV general forest practices that are conversions from timber land to other uses; and

e. Subdivision, short subdivision and binding site plans, as defined in RCW 58.17.020.

2. Redevelopment may require a site assessment and development permit, building permit, land use permit, and/or zoning permit. On an already developed site, the creation or addition of 800 square feet or more of hard surfaces; structural development including construction, installation or expansion of a building or other structure; any land disturbing activity, and/or replacement of hard surface (that is not part of a routine maintenance activity); and land disturbing activities associated with structural or hard surface redevelopment. (Ord. 2016-28 § 8 (Exh. C), 2016: Ord. 2009-13 § 3, 2009: Ord. 2005-10 § 3, 2005: Ord. 98-31 § 1, 1999)

15.20.050 General requirements.

A. Stormwater Management Manual Adopted. The Washington State Department of Ecology's 2012 Stormwater Management Manual for Western Washington, as amended in 2014, is hereby adopted by reference and is hereinafter referred to as the stormwater manual; provided, that certain provisions of the stormwater manual are amended as stated in BIMC 15.20.060.

B. Illegal discharges and illegal connections to the stormwater drainage system are prohibited by Chapter 15.22 BIMC.

C. Low Impact Development Manual Adopted. The 2012 Low Impact Development (LID) Technical Guidance Manual for Puget Sound is hereby adopted by reference and is hereinafter referred to as the LID manual. (Ord. 2016-28 § 8 (Exh. C), 2016: Ord. 2009-13 § 4, 2009: Ord. 2005-10 § 4, 2005: Ord. 98-31 § 1, 1999)

15.20.060 Approval standards.

A. City-Specific Standards. The city amends the standards adopted as part of the stormwater manual (summarized in subsection B of this section) as follows:

1. Instead of following the Better Site Design BMP (BMP T5.41) in Volume V, Section 5.3.2 of the stormwater manual, conduct a site assessment following the guidance in the LID manual adopted in BIMC 15.20.050. Comply with the city of Bainbridge Island design and construction standards for streets and roadways unless an exception is granted in writing by the administrator.

2. The hard surface threshold for triggering Minimum Requirements No. 1 through 5 for new development and redevelopment is 800 square feet or greater of new plus replaced hard surface area.

3. Projects that discharge directly, or indirectly through a stormwater drainage system, to Puget Sound are required to implement the full list of on-site stormwater management BMPs on List No. 1 or List No. 2 (see subsection B.2 of this section).

4. Optional Guidance No. 1, Financial Liability, is not adopted.

5. Optional Guidance No. 2, Off Site Analysis and Mitigation, and Volume I, Section 3.1.3, Perform an Offsite Analysis, is required for new development and redevelopment projects creating 5,000 square feet or more of hard surface area.

6. In Volume I, Section 2.7 of the stormwater manual, Adjustments, is not adopted.

7. The use of threshold discharge areas, as defined by the stormwater manual, is not adopted.

8. In Volume III, Section 3.2 of the stormwater manual, Figure 3.2.4, Example of Permanent Surface Water Control Pond Sign, is amended to include the following language:

Signage for constructed ponds is required to be provided by the developer as a part of the project. Contact the City to determine the pond name, pond number, and telephone number to include on the sign.

9. In Volume V, Section 4.3.1, Setbacks, is amended to delete the current text and replace with the following language:

A Geotechnical Engineer is required to evaluate all stormwater facilities and infiltration systems proposed within 200 feet of a geologically hazardous area.

10. The 2013 Rain Garden Handbook for Western Washington supplements the Rain Garden (BMP T5.14A) design guidelines in the stormwater manual for projects triggering Minimum Requirements No. 1 through 5. Use the “Good (80%)” performance level for Rainfall Region 3 in the Rain Garden Sizing Chart in the Rain Garden Handbook for Western Washington at a minimum. “Better (95%)” performance level is preferred.

B. Stormwater Manual Standards. The stormwater manual adopted in BIMC 15.20.050 includes the following nine minimum requirements:

1. Minimum Requirement No. 1 – Preparation of Stormwater Site Plans.

2. Minimum Requirement No. 2 – Construction Stormwater Pollution Prevention.

3. Minimum Requirement No. 3 – Source Control of Pollution.

4. Minimum Requirement No. 4 – Preservation of Natural Drainage Systems and Outfalls.

5. Minimum Requirement No. 5 – On-Site Stormwater Management.

6. Minimum Requirement No. 6 – Runoff Treatment.

7. Minimum Requirement No. 7 – Flow Control.

8. Minimum Requirement No. 8 – Wetlands Protection.

9. Minimum Requirement No. 9 – Operations and Maintenance.

The following is a summary of the general thresholds included in the stormwater manual with modifications based on the city-specific standards provided in subsection A of this section. Specific thresholds are also summarized for

Minimum Requirements No. 5, 6, and 7. The stormwater manual includes additional comprehensive guidance regarding implementation of these thresholds.

1. Overall project thresholds include the following:

Applicable Requirements	**New Development**	**Redevelopment**
Minimum Requirement No. 2 (Construction Stormwater Pollution Prevention)	All projects	All projects
Minimum Requirements Nos. 1 – 5	≥ 1,300 sf new plus replaced hard surface area[1], or ≥ 7,000 sf land disturbing activity, or Land disturbing activity covering ≥ 35% of the site	≥ 800 sf new plus replaced hard surface area[1], or ≥ 7,000 sf land disturbing activity, or Land disturbing activity covering ≥ 35% of the site
Minimum Requirements Nos. 1 – 9	≥ 5,000 sf new plus replaced hard surface area, or ≥ 3/4 acre of vegetation converted to lawn or landscaped areas, or ≥ 2.5 acres of native vegetation converted to pasture	≥ 5,000 sf new hard surface area, or ≥ 3/4 acre of vegetation converted to lawn or landscaped areas, or ≥ 2.5 acres of native vegetation converted to pasture, or ≥ 5,000 sf of new plus replaced hard surface AND New hard surface is ≥ 50% of the existing hard surface within the project limits (road-related projects), or Proposed improvements are > 50% of the assessed value of the existing site improvements
Optional Guidance No. 2: Off-Site Analysis and Mitigation	≥ 5,000 sf of hard surface area[2]	≥ 5,000 sf of hard surface area[2]

1 – City-specific threshold for new development and redevelopment.

2 – City-specific threshold for off-site analysis and mitigation.

2. Thresholds related to Minimum Requirement No. 5 (Volume I, Section 2.5.5 of the stormwater manual) include the following:

Applicable Requirements	**New Development and Redevelopment**
List No. 1	Thresholds for Minimum Requirements No. 1 – 5 summarized in BIMC 15.20.060.B.1
List No. 2	Thresholds for Minimum Requirements No. 1 – 9 summarized in BIMC 15.20.060.B.1
LID Performance Standard	Optional, but can be used instead of List No. 1 or List No. 2 as specified above
BMP T5.13 (Post Construction Soil Quality and Depth)	Required for disturbed pervious areas
Direct Discharge to Puget Sound	Projects discharging directly to, or indirectly through a stormwater drainage system, to Puget Sound are required to evaluate the full list of on-site stormwater management BMPs on List No. 1 or List No. 2 [1]

1 – City-specific requirement for direct discharges.

3. Thresholds related to Minimum Requirement No. 6 (Volume I, Section 2.5.6 of the stormwater manual) include the following:

Applicable Requirements	**New Development and Redevelopment**
Stormwater Treatment Facility	≥ 5,000 sf pollution-generating hard surfaces (PGHS), or ≥ 3/4 acre of pollution-generating pervious surfaces (PGPS)
Oil Control	High-use sites

Applicable Requirements	New Development and Redevelopment
Phosphorus Treatment	Not applicable at this time
Enhanced Treatment	Industrial project sites, commercial project sites, multifamily project sites, and high AADT roads[1] that: 1) Discharge directly to fresh waters or conveyance systems tributary to fresh waters designated for aquatic life use or that have an existing aquatic life use; or 2) Use infiltration strictly for flow control – not treatment – and the discharge is within 1/4 mile of a fresh water designated for aquatic life use or that has an existing aquatic life use
Basic Treatment	All sites meeting the stormwater treatment facility thresholds listed above for PGHS or PGPS

1 – High AADT roads are designated as ≥ 15,000 (fully controlled and partially controlled limited access highways) and ≥ 7,500 (all other roads).

4. Thresholds related to Minimum Requirement No. 7 (Volume I, Section 2.5.7 of the stormwater manual) include the following:

Applicable Requirements	New Development and Redevelopment
Flow Control Facility	≥ 10,000 sf effective impervious surface, or ≥ 3/4 acre of vegetation converted to lawn or landscaped areas, or ≥ 2.5 acres of native vegetation converted to pasture, or ≥ 0.15 cfs increase in the 100-year flow frequency (using a 15-minute time step)
Direct Discharge Exemption	Flow control facilities are not required for direct discharges, or indirect discharges through a stormwater drainage system, to Puget Sound

(Ord. 2017-03 § 3, 2017; Ord. 2016-28 § 8 (Exh. C), 2016: Ord. 2009-13 § 5, 2009: Ord. 2005-10 § 5, 2005: Ord. 2001-49 § 2, 2001; Ord. 98-31 § 1, 1999)

15.20.070 Administration.

A. Administrator. The public works director or a designee shall administer this chapter and shall be referred to as the administrator. The administrator shall have the authority to develop and implement administrative procedures to administer and enforce this chapter.

B. Review and Approval. The administrator may approve, conditionally approve or deny an application for activities regulated by this chapter.

C. Enforcement Authority. The administrator shall enforce this chapter.

D. Inspection. All activities regulated by this chapter shall be inspected by the administrator. The administrator shall inspect projects at various stages of the work requiring approval to determine that adequate control is being exercised. Stages of work requiring inspection include, but are not limited to:

1. Prior to clearing and construction (preconstruction) to ensure that clearing limits, sensitive areas and their buffers, and trees that are to be preserved have been clearly marked;

2. During construction to verify proper installation and maintenance of erosion and sediment control BMPs, maintenance of clearing limits, and protection of trees that are to be preserved;

3. Every six months during construction for new residential development until 90 percent of the lots are constructed (or when construction has stopped and the site is fully stabilized) to identify maintenance needs for permanent stormwater facilities;

4. Upon completion of construction and prior to final approval or occupancy to ensure proper installation of permanent stormwater facilities; and

5. Ongoing annual inspections of permanent stormwater facilities designed to meet Minimum Requirement No. 6 (Runoff Treatment) and/or Minimum Requirement No. 7 (Flow Control) per Chapter 15.21 BIMC.

When required by the administrator, a special inspection and/or testing shall be performed. (Ord. 2016-28 § 8 (Exh. C), 2016: Ord. 2009-13 § 6, 2009: Ord. 2005-10 § 6, 2005: Ord. 98-31 § 1, 1999)

15.20.080 Enforcement.

A. Failure to Comply. It is unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter.

B. Emergency Access and Reparation. In the event the violation constitutes an immediate danger to public health or safety, the administrator is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. Any expense related to such remediation undertaken by the city shall be fully reimbursed by the property owner and/or responsible party. Any relief obtained under this section shall not prevent the city from seeking further relief or applying other penalties as provided in this chapter.

C. Civil Infraction. Except as provided in subsection D of this section, conduct made unlawful by this chapter shall constitute a civil infraction and is subject to enforcement and fines as provided in BIMC 1.26.035. A civil infraction under this section shall be processed in the manner set forth in Chapter 1.26 BIMC.

D. Misdemeanor. Any person who, having been found in violation of this chapter, fails once again to abide by its regulations, commits a misdemeanor and is subject to the penalties provided in BIMC 1.24.010.A.

E. Civil Penalty. In addition to any civil infraction fine, criminal penalty, and/or other available sanction or remedial procedure, any person engaging in conduct made unlawful by this chapter shall be subject to a cumulative civil penalty in the amount of $1,000 per day for each violation from the date set for compliance until the date of compliance. Any such civil penalty shall be collected in accordance with BIMC 1.26.090.

F. Additional Remedies.

1. In addition to any other remedy provided by this chapter or under the Bainbridge Island Municipal Code, the city may initiate injunction or abatement proceedings or any other appropriate action in courts against any person who violates or fails to comply with any provision of this chapter to prevent, enjoin, abate, and/or terminate violations of this chapter and/or to restore a condition which existed prior to the violation. In any such proceeding, the person violating and/or failing to comply with any provisions of this chapter shall be liable for the costs and reasonable attorneys' fees incurred by the city in bringing, maintaining and/or prosecuting such action.

2. Any person who violates any provision of this chapter may also be in violation of the Federal Clean Water Act, NPDES Phase II permit, and/or Chapter 90.48 RCW and may be subject to sanctions including civil and criminal penalties. Any enforcement action authorized under this chapter shall also include written notice to the violator of such potential liability. (Ord. 2016-28 § 8 (Exh. C), 2016: Ord. 2009-13 § 7, 2009: Ord. 2005-10 § 7, 2005: Ord. 98-31 § 1, 1999)

15.20.090 Exceptions and appeals.

Repealed by Ord. 2009-13. (Ord. 2005-10 § 8, 2005: Ord. 2003-25 § 6, 2003; Ord. 98-31 § 1, 1999)

15.20.100 Severability.

Repealed by Ord. 2003-24. (Ord. 98-31 § 1, 1999)

[1] Prior legislation: Ords. 85-13, 86-02, 88-16 and 94-29.