

AGENDA

DES MOINES CITY COUNCIL
REGULAR MEETING
City Council Chambers
21630 11th Avenue South, Des Moines

October 24, 2013 – 7:00 p.m.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

CORRESPONDENCE

COMMENTS FROM THE PUBLIC

BOARD AND COMMITTEE REPORTS/COUNCILMEMBER COMMENTS

PRESIDING OFFICER'S REPORT

ADMINISTRATION REPORT

CONSENT CALENDAR

- Page 1 Item 1: APPROVAL OF VOUCHERS
Motion is to approve for payment vouchers and payroll transfers included in the attached list and further described as follows:
Claim Checks: \$595,574.14
Payroll Fund Transfers: \$411,377.00
Total Certified Wire Transfers, Voids, A/P and Payroll Vouchers: \$1,006,951.14
- Page 3 Item 2: BUDGET AMENDMENTS
Motion is to enact Draft Ordinance No. 13-205, relating to municipal finance, amending the 2013 budget adopted in Ordinance No. 1558.
- Page 21 Item 3: INTERLOCAL AGREEMENT BETWEEN THE CITIES OF SEATAC, DES MOINES, COVINGTON, AND TUKWILA FOR PLANNING, FUNDING, AND IMPLEMENTATION OF A JOINT MINOR HOME REPAIR PROGRAM
Motion is to authorize the City Manager to sign the Interlocal Agreement between the Cities of SeaTac, Des Moines, Covington, and Tukwila for the Minor Home Repair Program substantially in the form as submitted.
- Page 41 Item 4: DRAFT RESOLUTION 13-216 SETTING A PUBLIC HEARING TO CONSIDER ZONING AND LAND USE REGULATIONS FOR PRODUCERS, PROCESSORS, AND RETAILERS OF RECREATIONAL MARIJUANA LICENSED BY THE STATE OF WASHINGTON
Motion is to adopt Draft Resolution 13-216 setting a public hearing on November 14, 2013 to consider Draft Ordinance 13-216 which provides zoning and land use regulations for producers, processors, and retailers of recreational marijuana licensed by the State of Washington.

OLD BUSINESS

- Page 45 Item 1: FEDERAL WAY LINK EXTENSION (FWLE) DEIS ALTERNATIVES
Staff Presentation: Management Consultant Grant Fredricks
- Page 91 Item 2: 2014 BUDGET – GENERAL AND STREET FUNDS BUDGET BALANCING
STRATEGIES
Staff Presentation: Finance Director Paula Henderson

NEW BUSINESS

- Page 97 Item 1: AMENDMENTS TO TITLE 16 DMMC, DRAFT ORDINANCE NO. 13-168
Staff Presentation: City Attorney Pat Bosmans
- Page 257 Item 2: COMMUTE TRIP REDUCTION PLAN, DRAFT ORDINANCE NO. 13-215
Staff Presentation: City Attorney Pat Bosmans
- Page 315 Item 3: AMENDMENTS TO TITLE 17 DMMC, DRAFT ORDINANCE NO. 13-169
Staff Presentation: City Attorney Pat Bosmans
- Page 401 Item 4: MARINA 2014-2019 CAPITAL IMPROVEMENT PLANS
Staff Presentation: Harbormaster Joe Dusenbury
- Page 425 Item 5: SWM 2014-2019 CAPITAL IMPROVEMENT PLANS
Staff Presentation: SWM Utility Manager Loren Reinhold

NEXT MEETING DATE

November 7, 2013 City Council Study Session

ADJOURNMENT

CITY OF DES MOINES
Voucher Certification Approval
24-Oct-13

Auditing Officer Certification

Vouchers and Payroll transfers audited and certified by the auditing officer as required by RCW 42.24.080, and those expense reimbursement claims certified as required by RCW 42.24.090, have been recorded on a listing, which has been made available to the City Council.

As of October 24, 2013 the Des Moines City Council, by unanimous vote, does approve for payment those vouchers and payroll transfers included in the attached list and further described as follows:

The vouchers below have been reviewed and certified by individual departments and the City of Des Moines Auditing Officer.

Claims Vouchers:	Numbers				Amounts
Total A/P Checks/Vouchers	137475	-	137624	150	597,988.11
Electronic Wire Transfers					0.00
Subtotal for this Council Packet					597,988.11
Voided Claim Checks this check run:	137567			1	(117.47)
Voided Claim Checks from previous check runs	134912/135228/135628/137070			4	(2,296.50)
Total Claims/Wire Transfers/Voids				155	595,574.14

Payroll Vouchers:	DISBURSED 10/21/13				Amounts
Payroll Checks	18348	-	18356	= 9	13,006.46
Direct Deposit	42001	-	420139	= 378139	261,152.58
Payroll Taxes					57,168.51
Wage/Garnishments					744.07
Voids				0	0.00
Electronic Wire Transfers					79,305.38
ICMA 401 Forfeitures					0.00
Total Claims					411,377.00
Total certified Wire Transfers, Voids, A/P & Payroll vouchers for Oct 24, 2013					1,006,951.14

A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: 2013 Budget Amendments

FOR AGENDA OF: October 24, 2013

ATTACHMENTS:

Attachment 1 - Draft Ordinance No. 13-205

Attachment 2 – Appendix A

Attachment 3 – 2013 Budget Amendments

DEPT. OF ORIGIN: Finance

DATE SUBMITTED: October 11, 2013

CLEARANCES:

☒ Finance DS

☒ Legal DS

☐ Marina N/A

☐ Parks, Recreation & Senior Services N/A

☐ Planning, Building & Public Works N/A

☐ Police N/A

☐ Courts N/A

APPROVED BY CITY MANAGER
FOR SUBMITTAL: AK

Purpose and Recommendation

The purpose of this agenda item is to seek City Council approval to amend the 2013 adopted budget to authorize appropriations as described in Attachment 3. At the October 10, 2013 City Council meeting, Draft Ordinance No. 13-205 was passed to a second reading for enactment on October 24, 2013.

Suggested Motion:

1. "I move to enact Draft Ordinance No. 13-205, relating to municipal finance, amending the 2013 budget adopted in Ordinance No. 1558."

Background

The 2013 budget was adopted by Ordinance No. 1558. Budget amendments are required only when the appropriation level in a fund is being changed. Staff recommends a budget amendment when the source for a proposed expenditure is from a fund's ending fund balance.

Discussion

The budget amendments as listed in Attachment 3 reflect decisions that require additional revenues and appropriations. The table below summarizes the final 2013 amended budget.

All Funds:	Adopted Budget	Amendments	Amended Budget
Beginning Fund Balance	\$ 8,299,047	\$ 814,976	\$ 9,114,023
Revenues	47,413,716	546,785	47,960,501
Expenditures	48,289,665	1,240,263	49,529,928
Ending Fund Balance	\$ 7,423,098	\$ 121,498	\$ 7,544,596

Recommendation

Staff recommends that the City Council approve Draft Ordinance No. 13-205. Budget amendments are required only when the appropriation level in a fund is being changed. Per RCW 35A.33.120, adoption of a budget amendment ordinance requires an affirmative vote of one more than the majority of all members of the City Council (5 votes): 1) if an emergency is declared and the City Council approved expenditures incident to the emergency event, and 2) if appropriations are being decreased in any fund.

FINANCE DIRECTOR'S FIRST DRAFT 10/01/13
DRAFT ORDINANCE NO. 13-205

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to municipal finance, amending Ordinance No. 1558 (uncodified) (Budget 2013), and authorizing certain expenditures in the amounts specified in this ordinance.

WHEREAS, the City Council finds that current revenue and expenditure reports for the City differ from forecasts used to create the 2013 budget, enacted by Ordinance No. 1558, and further finds that such differences justify certain adjustments regarding obligations incurred and expenditures of proceeds for fiscal year 2013, all as described as follows:

Fund	Description	Expenditure Adjustments	Revenue Adjustments
001-General Fund	Decrease Beginning Fund Balance - Adjust to Actual	\$ -	\$ (16,477)
001-General Fund	Transfer remaining ending fund balance from Police Svcs Restoration Fund		14,362
001-General Fund	Remove facility rentals-security revenue (no activity since 2009)		(5,000)
001-General Fund	Add NRPA Grant for Sonju Garden Project		6,264
001-General Fund	Carry forward Bureau Justice Edward Byrne 2010 Equipment Grant		9,288
001-General Fund	Carry forward Bureau Justice Edward Byrne 2011 Equip Grant		14,600
001-General Fund	Add Pass-thru from Seattle Bureau Justice Edward Byrne 2012 Equip Grant		10,436
001-General Fund	Add Community Transformation Grant (Fitness Activity Standards)		47,720
001-General Fund	Add 4Culture Arts & Heritage Equipment Grant		5,000
001-General Fund	Add appropriations from WA Administrative Office of the Courts Assistance-Interpreting	4,836	
001-General Fund	Add appropriations for Edward Byrne 2011 Grant Court Equip	14,600	
001-General Fund	Add appropriations for Voter Registration Services	9,045	
001-General Fund	Carry forward appropriations for replacing City Council Video Room HVAC	7,563	
001-General Fund	Carry forward appropriations for Associated Students HCC Art Program	3,000	
001-General Fund	Add appropriations for 4Culture Grant funded ADA Portable Stage Ramp	5,000	
001-General Fund	Tsf appropriations for unfreezing Police Admin Sergeant Position-Salary	61,220	
001-General Fund	Tsf appropriations for unfreezing Police Admin Sergeant Position-Benefits	20,105	
001-General Fund	Tsf appropriations for unfreezing Police Admin Sergeant Position-Dep Med EE Contr	(648)	
001-General Fund	Add appropriations for Police records system data interface with Valley Com	13,140	
001-General Fund	Add appropriations for LEOFF I retiree benefits due to increase in reimbursements	8,000	
001-General Fund	Add appropriations for Police gate repair	7,500	
001-General Fund	Reduce appropriations for vacant Police Patrol Officer Position-Salary	(61,220)	
001-General Fund	Reduce appropriations for vacant Police Patrol Officer Position-Benefits	(20,105)	
001-General Fund	Reduce appropriations for vacant Police Patrol Officer Position-Dep Med EE Contr	648	
001-General Fund	Add appropriations for Edward Byrne 2010 Grant Court/Police Equip	3,288	
001-General Fund	Add appropriations for Edward Byrne 2012 Grant Police Equip	10,436	
001-General Fund	Add appropriations for Edward Byrne 2010 Grant Court/Police Equip	6,000	
001-General Fund	Carry forward appropriations for Midway Nov & Dec 2012 Photo Enforcement	19,000	
001-General Fund	Add appropriations for increase in King County Fire Investigations	3,403	
001-General Fund	Add appropriations to Grant Fredricks consulting contract supplement	13,478	
001-General Fund	Add appropriations for Plan Dev acting director status-salary	13,024	
001-General Fund	Add appropriations for Plan Dev acting director status-benefits	2,718	
001-General Fund	Add appropriations for Development Services consulting services	18,000	
001-General Fund	Add appropriations for Sonju Garden Project	6,264	
001-General Fund	Add appropriations for Community Transformation Grant (Fitness Activity Standards)	47,720	
001-General Fund	Add appropriations for Auditorium fire alarm system installation	2,379	
001-General Fund	Add appropriations for facilities surface water management utility fee	5,702	
001-General Fund	Decrease Ending Fund Balance	(137,903)	
101-Street Fund	Increase Beginning Fund Balance - Adjust to Actual		54,996
101-Street Fund	Add appropriations for Street light conversion of 345 (HPS) to LED	43,984	
101-Street Fund	Increase Ending Fund Balance	11,012	
107-Drug Seizure Fund	Adjust Beginning and Ending Fund Balances to Actual	1,219	1,219
109-Transportation Impact Fee Fund	Increase Beginning Fund Balance - Adjust to Actual		169,440
109-Transportation Impact Fee Fund	Add additional revenues due to construction activity		135,446
109-Transportation Impact Fee Fund	Add appropriations for transfer to Transportation CIP Fund	135,446	
109-Transportation Impact Fee Fund	Carry forward appropriations for transfer of Pac Ridge Impact Fees	326,163	
109-Transportation Impact Fee Fund	Decrease Ending Fund Balance	(156,723)	

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Fund	Description	Expenditure Adjustments	Revenue Adjustments
111-Hotel-Motel Tax Fund	Adjust Beginning and Ending Fund Balances to Actual	2,322	2,322
112-Police Services Restoration Fund	Increase Beginning Fund Balance - Adjust to Actual		14,362
112-Police Services Restoration Fund	Add Appropriations for transfer to General Fund	14,362	
211-1995 GO Bond Fund	Adjust Beginning and Ending Fund Balances to Actual	228	228
219-2008 GO & Refunding Bond Fund	Adjust Beginning and Ending Fund Balances to Actual	(1)	(1)
310-Municipal Capital Improvements Fund	Increase Beginning Fund Balance - Adjust to Actual		121,099
310-Municipal Capital Improvements Fund	Carry forward FEMA grant funds for Beach Park Mudslide Project		1,973
310-Municipal Capital Improvements Fund	Carry forward State Emergency Mgt grant funds for Beach Park Mudslide		329
310-Municipal Capital Improvements Fund	Carry forward WA Heritage-DMBP Rehab grant for Dining Hall		128,063
310-Municipal Capital Improvements Fund	Carry forward Utility Rebates for Citywide Energy Imprv Project		7,735
310-Municipal Capital Improvements Fund	Correct coding for DM Urban Trail Improvements	(156,843)	
310-Municipal Capital Improvements Fund	Carry forward appropriations for Beach Park Mudslide Project	543	
310-Municipal Capital Improvements Fund	Carry forward appropriations for City-Wide Energy Savings Impr Project	2,268	
310-Municipal Capital Improvements Fund	Correct coding for transfer to Transportation CIP Fund	156,843	
310-Municipal Capital Improvements Fund	Increase Ending Fund Balance	256,388	
319-Transportation Capital Improvement Fund	Increase Beginning Fund Balance - Adjust to Actual		260,907
319-Transportation Capital Improvement Fund	Reduce FHWA/HBP/BRAC funds for Saltwater Park Bridge Seismic Retrofit		(50,668)
319-Transportation Capital Improvement Fund	Carry forward revenue from Highway Safety Program for City Wide Arterial improvements		115,500
319-Transportation Capital Improvement Fund	Add Revenues from WSTSC for North Hill Elem & Aviation School Flashing Beacons		15,000
319-Transportation Capital Improvement Fund	Reduce Revenue from TIB funds for S. 216th St. Segment 2 (18th Ave. S. to 24th Ave. S.)		(219,498)
319-Transportation Capital Improvement Fund	Remove Revenue from TIB funds for Marine View Drive and S 240th Roundabout		(168,245)
319-Transportation Capital Improvement Fund	Carry forward 2012 adj from the King County Conservation Grant for Barnes Creek Trail		(1,025)
319-Transportation Capital Improvement Fund	Reduce Funds from Highline Wtr Dist for S. 216th St. Segment 2 (18th Ave. S. to 24th Ave. S.)		(12,270)
319-Transportation Capital Improvement Fund	Remove revenues from Midway Sewer District for 24th Ave. S. Improvement Project		(207,753)
319-Transportation Capital Improvement Fund	Reduce Funds from Century Link for S. 216th St. Segment 2 (18th Ave. S. to 24th Ave. S.)		(22,219)
319-Transportation Capital Improvement Fund	Reduce Funds from Comcast for S. 216th St. Segment 2 (18th Ave. S. to 24th Ave. S.)		(66,810)
319-Transportation Capital Improvement Fund	Increase transfer from Impact Fee Fund for additional construction activity		135,446
319-Transportation Capital Improvement Fund	Carry forward Pac Ridge Impact Fees		326,163
319-Transportation Capital Improvement Fund	Correct amount for transfer-in from MCI Fund		(43,157)
319-Transportation Capital Improvement Fund	Reduce appropriations for 24th Ave. S. Improvement Project-Roadway	(889,471)	
319-Transportation Capital Improvement Fund	Increase appropriations for 24th Ave. S. Improvement Project-Utility Install	448,972	
319-Transportation Capital Improvement Fund	Carry forward appropriations for 16th Ave. S. - Segment 5A-Engrng	10,000	
319-Transportation Capital Improvement Fund	Carry forward appropriations for 16th Ave. S. - Segment 5A-Admin/OH	17,500	
319-Transportation Capital Improvement Fund	Add appropriations for Saltwater Park Bridge Seismic Retrofit-Engrng	32,617	
319-Transportation Capital Improvement Fund	Add appropriations for Saltwater Park Bridge Seismic Retrofit-Admin/OH	45,433	
319-Transportation Capital Improvement Fund	Add appropriations for S. 216th St. Segment 1(24th Ave. S. to 29th Ave. S.)-Land/ROW	171,630	
319-Transportation Capital Improvement Fund	Reduce appropriations for S. 216th St Segment 2 (18th Ave. S. to 24th Ave. S.)-Inspection	(20,000)	
319-Transportation Capital Improvement Fund	Reduce appropriations for S. 216th St Segment 2 (18th Ave. S. to 24th Ave. S.)-Roadway	(215,029)	
319-Transportation Capital Improvement Fund	Reduce appropriations for S. 216th St Segment 2 (18th Ave. S. to 24th Ave. S.)-Utility Install	(93,398)	
319-Transportation Capital Improvement Fund	Carry forward appropriations for S. 224th St. Improv Project-Engrng	300,000	
319-Transportation Capital Improvement Fund	Carry forward appropriations for S. 224th St. Improv Project-Admin/OH	26,163	
319-Transportation Capital Improvement Fund	Carry forward appropriations from the Barnes Creek Trail/SR 509 ROW Project	22,821	
319-Transportation Capital Improvement Fund	Carry forward appropriations for City Wide Arterial Improvements-Engrng	10,000	
319-Transportation Capital Improvement Fund	Carry forward appropriations for City Wide Arterial Improvements-Land/ROW	37,000	
319-Transportation Capital Improvement Fund	Carry forward appropriations for City Wide Arterial Improvements-Roadway	58,500	
319-Transportation Capital Improvement Fund	Carry forward appropriations for City Wide Arterial Improvements-Admin/OH	10,000	
319-Transportation Capital Improvement Fund	Revise appropriations for North Hill Elem School - SRTS Proj to Flashing Lts-Engrng	(55,000)	
319-Transportation Capital Improvement Fund	Remove appropriations from North Hill Elem School - SRTS Proj-Land	(15,000)	
319-Transportation Capital Improvement Fund	Revise appropriations for North Hill Elem School - SRTS Proj to Flashing Lts-Admin/OH	(14,800)	
319-Transportation Capital Improvement Fund	Add appropriations for North Hill Elem School Zone Flashing Lights	45,000	
319-Transportation Capital Improvement Fund	Revise appropriations for Midway Elem School - Safe Routes to School-Engrng	(20,000)	
319-Transportation Capital Improvement Fund	Revise appropriations for Midway Elem School - Safe Routes to School-Land	15,000	
319-Transportation Capital Improvement Fund	Revise appropriations for Midway Elem School - Safe Routes to School-Admin/OH	(9,000)	
319-Transportation Capital Improvement Fund	Carry forward appropriations from Marine View Drive Crosswalk Enhancement Project	14,334	
319-Transportation Capital Improvement Fund	Remove appropriations for Marine View Drive and S 240th Roundabout	(152,398)	
319-Transportation Capital Improvement Fund	Remove appropriations for Marine View Drive and S 240th Roundabout	(106,440)	
319-Transportation Capital Improvement Fund	Increase Ending Fund Balance	386,937	
401-Marina Revenue Fund	Decrease Beginning Fund Balance - Adjust to Actual		(29,266)
401-Marina Revenue Fund	Increase unleaded fuel revenues		12,470
401-Marina Revenue Fund	Increase diesel fuel revenues		74,920
401-Marina Revenue Fund	Add appropriations for replacement of failed DVR/Server	14,210	
401-Marina Revenue Fund	Add appropriations for Fiscal Agent Fees for 2012 Adv Refunding Bonds	500	
401-Marina Revenue Fund	Add appropriations for diesel fuel purchases	69,192	
401-Marina Revenue Fund	Decrease appropriations for unleaded fuel purchases	(15,036)	
401-Marina Revenue Fund	Decrease Ending Fund Balance	(10,742)	

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Fund	Description	Expenditure Adjustments	Revenue Adjustments
403-Marina Repair & Replacement Fund	Increase Beginning Fund Balance - Adjust to Actual		18,649
403-Marina Repair & Replacement Fund	Add revenues for Marina Fire Insurance Recoveries		260,000
403-Marina Repair & Replacement Fund	Add appropriations for Marina Fire repairs and improvements	260,000	
403-Marina Repair & Replacement Fund	Increase Ending Fund Balance	18,649	
406-Marina Depr & Improv Fund - 2008	Increase Beginning Fund Balance - Adjust to Actual		40,416
406-Marina Depr & Improv Fund - 2008	Carry forward appropriations for security camera project	18,782	
406-Marina Depr & Improv Fund - 2008	Remove appropriations for offsite storage yard	(30,000)	
406-Marina Depr & Improv Fund - 2008	Remove appropriations for Marina site management project	(20,000)	
406-Marina Depr & Improv Fund - 2008	Add appropriations for canopy structure for activity float	2,100	
406-Marina Depr & Improv Fund - 2008	Add appropriations for 6th Avenue Stairway gates	18,000	
406-Marina Depr & Improv Fund - 2008	Increase Ending Fund Balance	51,534	
450-Surface Water Mgt Operations Fund	Decrease Beginning Fund Balance - Adjust to Actual		(17,931)
450-Surface Water Mgt Operations Fund	Add appropriations for Cityworks timekeeper implementation	7,650	
450-Surface Water Mgt Operations Fund	Decrease Ending Fund Balance	(25,581)	
451-Surface Water Mgt Capital Fund	Increase Beginning Fund Balance - Adjust to Actual		70,569
451-Surface Water Mgt Capital Fund	Correct revenue estimates for transfer-in from Fund 450		7,415
451-Surface Water Mgt Capital Fund	Carry forward King County Conservation Funds for Barnes Crk 223rd Culvert Repl		15,300
451-Surface Water Mgt Capital Fund	Carry forward appropriations for DMMD S. 212th to S. 213th	29,000	
451-Surface Water Mgt Capital Fund	Carry forward appropriations for Redondo Hts culvert replacement	60,192	
451-Surface Water Mgt Capital Fund	Carry forward appropriations for 216th Place culvert replacement	35,100	
451-Surface Water Mgt Capital Fund	Carry forward appropriations for Barnes Creek 223rd Culvert Replacement	50,000	
451-Surface Water Mgt Capital Fund	Add appropriations for 216th St (15th Ave to 18th Ave) drainage repair	297,500	
451-Surface Water Mgt Capital Fund	Decrease Ending Fund Balance	(378,508)	
500-Equipment Rental Operations Fund	Adjust Beginning and Ending Fund Balances to Actual	(4,404)	(4,404)
501-Equipment Rental Replacement Fund	Decrease Beginning Fund Balance - Adjust to Actual		(19,105)
501-Equipment Rental Replacement Fund	Add appropriations for Parks rake & sport ramp	5,276	
501-Equipment Rental Replacement Fund	Decrease Ending Fund Balance	(24,381)	
Fund	Description	Expenditure Adjustments	Revenue Adjustments
508-Facility Repair & Replacement Fund	Adjust Beginning and Ending Fund Balances to Actual	2,973	2,973
510-Computer Equipment Operations Fund	Decrease Beginning Fund Balance - Adjust to Actual		(6,761)
510-Computer Equipment Operations Fund	Add appropriations for compass public records tracking system maintenance	6,500	
510-Computer Equipment Operations Fund	Decrease Ending Fund Balance	(13,261)	
511-Computer Equipment Replacement Fund	Adjust Beginning and Ending Fund Balances to Actual	57,245	57,245
520-Self-Insurance Fund	Increase Beginning Fund Balance - Adjust to Actual		81,486
520-Self-Insurance Fund	Add appropriations for employee settlement	10,000	
520-Self-Insurance Fund	Increase Ending Fund Balance	71,486	
530-Unemployment Insurance Fund	Adjust Beginning and Ending Fund Balances to Actual	13,010	13,010
TOTAL ADJUSTMENTS		\$ 1,361,761	\$ 1,361,761

WHEREAS, the City Council finds that the 2013 budget amendments to the City's budget are in the public interest; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:

Sec. 1. Findings. Each and every of the findings expressed in the recitals to this ordinance are hereby adopted and incorporated by reference.

Sec. 2. Amendment to 2013 Budget. Exhibit "A" of Ordinance No. 1558 (uncodified) (2013 Budget) is amended by Appendix "A" attached to this Ordinance and incorporated herein by this reference as though fully set out.

Sec. 3. Ratification and Confirmation. All acts taken by City officers and staff prior to the enactment of this ordinance

DRAFT Ordinance No. 13-205
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that are consistent with and in furtherance of the purpose or intent of this ordinance are hereby ratified and confirmed by the City Council.

Sec. 4. Severability - Construction.

(1) If a section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court or competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

(2) If the provisions of this ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this ordinance deems control.

Sec 5. Effective date. This ordinance shall take effect and be in full force five (5) days after its passage, approval and publication according to law.

PASSED BY the City Council of the City of Des Moines this ____ day of ____, 2013 and signed in authentication thereof this ____ day of ____, 2013.

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

Published: ____, 2013

Draft Ordinance No. 13-205.1
October 1, 2013.ph

CITY OF DES MOINES
DRAFT ORDINANCE NO. 13-205
APPENDIX A 2013 BUDGET

FINAL ANNUAL APPROPRIATION FUNDS:		Expenditure	Ending Fund		Total	Revenue	Beginning		Total
			Balance	Balance			Fund Balance	Fund Balance	
001	General Fund	17,257,589	1,088,899	18,346,488	17,385,913	960,575	18,346,488		
101	Street Fund	1,112,086	280,773	1,392,859	1,116,837	276,022	1,392,859		
107	Police Drug Seizure Fund	15,000	9,684	24,684	15,006	9,678	24,684		
111	Hotel/Motel Tax Fund	17,247	8,013	25,260	17,308	7,952	25,260		
112	Police Services Restoration Fund	14,362	-	14,362	0	14,362	14,362		
211	1995 GO Bond - Police Facility	-	283	283	55	228	283		
212	LID Fund	3,719	-	3,719	3,719	-	3,719		
219	2008 GO & Ref Bond - Trans Capital Imprv	314,663	20,803	335,466	314,244	21,222	335,466		
220	Debt Service Fund	87,858	2	87,860	87,858	2	87,860		
401	Marina Revenue Fund	4,268,863	1,202,592	5,471,455	4,199,915	1,271,540	5,471,455		
403	Marina Repair and Replacement	280,000	324,629	604,629	260,200	344,429	604,629		
450	Surface Water Operations Fund	2,950,043	910,622	3,860,665	2,604,178	1,256,487	3,860,665		
500	Equip Rental Operations	532,104	166,322	698,426	569,202	129,224	698,426		
501	Equip Rental Replacement	98,276	1,347,451	1,445,727	96,585	1,349,142	1,445,727		
506	Facility Repair and Replacement Fund	64,500	64,891	129,391	75,912	53,479	129,391		
510	Computer Equipment Operations Fund	531,302	66,487	597,789	479,951	117,838	597,789		
511	Computer Equipment Capital Fund	188,939	274,622	463,561	115,593	347,968	463,561		
520	Self-Insurance Fund	611,900	82,502	694,402	582,895	111,507	694,402		
530	Unemployment Insurance Fund	70,000	191,020	261,020	54,907	206,113	261,020		
	SUB-TOTAL	28,418,451	6,039,595	34,458,046	27,980,278	6,477,768	34,458,046		

CONTINUING APPROPRIATION FUNDS (MEMO ONLY):

109	Transportation Impact Fee Fund	634,250	9,778	644,028	309,087	334,941	644,028		
310	Municipal Capital Improvements	1,623,211	325,003	1,948,214	1,694,382	253,832	1,948,214		
319	Transportation Capital Imprv Fund, 2008B	16,980,753	588,661	17,569,414	16,688,034	881,380	17,569,414		
406	Marina Depreciation & Improvement, 2008A	695,271	56,775	752,046	484,336	267,710	752,046		
451	Surface Water Capital Fund	1,177,992	524,784	1,702,776	804,384	898,392	1,702,776		
	SUB-TOTAL	21,111,477	1,505,001	22,616,478	19,980,223	2,636,255	22,616,478		
	TOTAL	49,529,928	7,544,596	57,074,524	47,960,501	9,114,023	57,074,524		

**2013 BUDGET AMENDMENTS
DRAFT ORDINANCE 13-205**

	Account No.	2013 Adopted Budget	Draft Ord 13-205 Budget Amendments	2013 Amended Budget
Fund 001 General Fund:				
Beginning Fund Balance-Nonspendable	001.000.000.308.20.00.00	\$ 4,500	\$ -	\$ 4,500
Beginning Fund Balance-Committed	001.000.000.308.40.00.00	805,175		805,175
Beginning Fund Balance-Assigned	001.000.000.308.50.00.00	167,377	(16,477)	150,900
Total Beginning Fund Balance		977,052	(16,477)	960,575
Revenues		17,270,743	-	17,270,743
<u>Revenue Budget Amendments:</u>				
Transfer remaining ending fund balance from Police Svcs Restoration Fund	001.000.000.397.00.13.00	-	14,362	14,362
Remove facility rentals-security revenue (no activity since 2009)	001.640.000.362.40.01.01	5,000	(5,000)	-
Add NRPA Grant for Sonju Garden Project	001.000.000.367.00.00.03	-	6,264	6,264
Carry forward Bureau Justice Edward Byrne 2010 Equipment Grant	001.000.000.331.16.73.80	-	9,288	9,288
Carry forward Bureau Justice Edward Byrne 2011 Eqp Grant	001.000.000.331.16.73.81	-	14,600	14,600
Add Pass-thru fm Seattle Bureau Justice Edward Byrne 2012 Eqp Grant	001.000.000.333.16.73.80	-	10,436	10,436
Add Community Transformation Grant (Fitness Activity Standards)	001.640.000.333.93.73.70	-	47,720	47,720
Add 4culture Arts & Heritage Equipment Grant	001.310.000.337.07.00.00	7,500	5,000	12,500
Total Revenues		17,283,243	102,670	17,385,913
Total Revenues & Beginning Fund Balance		\$ 18,260,295	\$ 86,193	\$ 18,346,488
Expenditures				
		\$ 12,301,163	\$ -	\$ 12,301,163
<u>Expenditure Budget Amendments:</u>				
Add appropriations from WA Administrative Office of the Courts Assistance-Interpreting	001.120.022.512.50.41.04	8,500	4,836	13,336
Add appropriations for Edward Byrne 2011 Grant Court Eqp	001.124.022.512.51.35.90	-	14,600	14,600
Add appropriations for Voter Registration Services	001.165.024.514.90.51.46	38,997	9,045	48,042
Carry forward appropriations for replacing City Council Video Room HVAC	001.300.040.518.30.48.00	46,900	7,563	54,463
Carry forward appropriations for Associated Students HCC Art Program	001.310.045.573.20.49.16	3,000	3,000	6,000
Add appropriations for 4Culture Grant funded ADA Portable Stage Ramp	001.310.045.594.73.64.04	-	5,000	5,000
Tsf appropriations for unfreezing Police Admin Sergeant Position-Salary	001.340.030.521.10.10.00	813,838	61,220	875,058
Tsf appropriations for unfreezing Police Admin Sergeant Position-Benefits	001.340.030.521.10.20.00	289,762	20,105	309,867
Tsf appropriations for unfreezing Police Admin Sergeant Position-Dep Med EE Contr	001.340.030.521.10.20.90	(5,497)	(648)	(6,145)
Add appropriations for Police records system data interface with Valley Com	001.340.030.594.21.64.00	-	13,140	13,140
Add appropriations for LEOFF I retiree benefits due to increase in reimbursements	001.341.030.517.20.29.00	78,735	8,000	86,735
Add appropriations for Police gate repair	001.342.030.521.50.48.00	10,000	7,500	17,500
Reduce appropriations for vacant Police Patrol Officer Position-Salary	001.360.030.521.22.10.00	2,145,419	(61,220)	2,084,199
Reduce appropriations for vacant Police Patrol Officer Position-Benefits	001.360.030.521.22.20.00	894,953	(20,105)	874,848
Reduce appropriations for vacant Police Patrol Officer Position-Dep Med EE Contr	001.360.030.521.22.20.90	(25,551)	648	(24,903)
Add appropriations for Edward Byrne 2010 Grant Court/Police Eqp	001.380.030.521.26.35.90	-	3,288	3,288
Add appropriations for Edward Byrne 2012 Grant Police Eqp	001.380.030.521.27.35.90	-	10,436	10,436
Add appropriations for Edward Byrne 2010 Grant Court/Police Eqp	001.380.030.594.26.64.00	-	6,000	6,000
Carry forward appropriations for Midway Nov & Dec 2012 Photo Enforcement	001.385.030.521.70.41.00	228,000	19,000	247,000
Add appropriations for increase in King County Fire Investigations	001.440.050.522.30.51.51	16,500	3,403	19,903
Add appropriations to Grant Fredricks consulting contract supplement	001.490.040.558.60.41.00	62,152	13,478	75,630
Add appropriations for Plan Dev acting director status-salary	001.580.040.558.60.10.00	93,788	13,024	106,812
Add appropriations for Plan Dev acting director status-benefits	001.580.040.558.60.20.00	30,334	2,718	33,052
Add appropriations for Development Services consulting services	001.600.040.558.60.41.00	2,500	18,000	20,500
Add appropriations for Sonju Garden Project	001.636.040.594.76.63.00	-	6,264	6,264
Add appropriations for Community Transformation Grant (Fitness Activity Standards)	001.641.045.571.21.41.00	-	47,720	47,720
Add appropriations for Auditorium fire alarm system installation	001.642.045.575.50.35.90	-	2,379	2,379
Add appropriations for facilities surface water management utility fee	001.642.045.575.50.47.04	-	5,702	5,702
Total Expenditures		17,033,493	224,096	17,257,589
Ending Fund Balance-Nonspendable	001.000.000.508.20.00.00	4,500		4,500
Ending Fund Balance-Committed	001.000.000.508.40.00.00	805,175		805,175
Ending Fund Balance-Assigned	001.000.000.508.50.00.00	417,127	(137,903)	279,224
Total Ending Fund Balance		1,226,802	(137,903)	1,088,899
Total Expenditures & Ending Fund Balance		\$ 18,260,295	\$ 86,193	\$ 18,346,488

**2013 BUDGET AMENDMENTS
DRAFT ORDINANCE 13-205**

	Account No.	2013 Adopted Budget	Draft Ord 13-205 Budget Amendments	2013 Amended Budget
Fund 101 Street Fund:				
Beginning Fund Balance-Restricted	101.000.000.308.30.00.00	\$ 221,026	\$ 54,996	\$ 276,022
Revenues		1,116,837	-	1,116,837
Total Revenues		1,116,837	-	1,116,837
Total Revenues & Beginning Fund Balance		\$ 1,337,863	\$ 54,996	\$ 1,392,859
Expenditures		\$ 772,059	\$ -	\$ 772,059
Expenditure Budget Amendments:				
Add appropriations for Street light conversion of 345 (HPS) to LED	101.200.040.542.63.47.13	296,043	43,984	340,027
Total Expenditures		1,068,102	43,984	1,112,086
Ending Fund Balance-Restricted	101.000.000.508.30.00.00	269,761	11,012	280,773
Total Expenditures & Ending Fund Balance		\$ 1,337,863	\$ 54,996	\$ 1,392,859

	Account No.	2013 Adopted Budget	Draft Ord 13-205 Budget Amendments	2013 Amended Budget
Fund 107 Drug Seizure Fund:				
Beginning Fund Balance-Restricted	107.000.000.308.30.00.00	\$ 8,459	\$ 1,219	\$ 9,678
Revenues		15,006	-	15,006
Total Revenues		15,006	-	15,006
Total Revenues & Beginning Fund Balance		\$ 23,465	\$ 1,219	\$ 24,684
Expenditures		\$ 15,000	\$ -	\$ 15,000
Total Expenditures		\$ 15,000	\$ -	\$ 15,000
Ending Fund Balance-Restricted	107.000.000.508.30.00.00	8,465	1,219	9,684
Total Expenditures & Ending Fund Balance		\$ 23,465	\$ 1,219	\$ 24,684

	Account No.	2013 Adopted Budget	Draft Ord 13-205 Budget Amendments	2013 Amended Budget
Fund 111 Hotel/Motel Tax Fund:				
Beginning Fund Balance-Restricted	111.000.000.308.30.00.00	\$ 5,630	\$ 2,322	\$ 7,952
Revenues		17,308	-	17,308
Total Revenues		17,308	-	17,308
Total Revenues & Beginning Fund Balance		\$ 22,938	\$ 2,322	\$ 25,260
Expenditures		\$ 17,247	\$ -	\$ 17,247
Total Expenditures		17,247	-	17,247
Ending Fund Balance-Restricted	111.000.000.508.30.00.00	5,691	2,322	8,013
Total Expenditures & Ending Fund Balance		\$ 22,938	\$ 2,322	\$ 25,260

	Account No.	2013 Adopted Budget	Draft Ord 13-205 Budget Amendments	2013 Amended Budget
Fund 112 Police Services Restoration Fund:				
Beginning Fund Balance-Restricted	112.000.000.308.30.00.00	\$ -	\$ 14,362	\$ 14,362
Revenues		-	-	-
Total Revenues		-	-	-
Total Revenues & Beginning Fund Balance		\$ -	\$ 14,362	\$ 14,362
Expenditures		\$ -	\$ -	\$ -
Expenditure Budget Amendments:				
Add appropriations for transfer to General Fund	112.360.030.597.21.00.00	-	14,362	14,362
Total Expenditures		-	14,362	14,362
Ending Fund Balance-Restricted	112.000.000.508.80.00.00	-	-	-
Total Expenditures & Ending Fund Balance		\$ -	\$ 14,362	\$ 14,362

**2013 BUDGET AMENDMENTS
DRAFT ORDINANCE 13-205**

	Account No.	2013 Adopted Budget	Draft Ord 13-205 Budget Amendments	2013 Amended Budget
Fund 211 1995 GO Fund:				
Beginning Fund Balance-Assigned	211.000.000.308.50.00.00	\$ -	\$ 228	\$ 228
Revenues		55		55
Total Revenues		55	-	55
Total Revenues & Beginning Fund Balance		\$ 55	\$ 228	\$ 283
Expenditures		\$ -	\$ -	\$ -
Total Expenditures		-	-	-
Ending Fund Balance-Assigned	211.000.000.508.50.00.00	55	228	283
Total Expenditures & Ending Fund Balance		\$ 55	\$ 228	\$ 283

	Account No.	2013 Adopted Budget	Draft Ord 13-205 Budget Amendments	2013 Amended Budget
Fund 212 LID Fund:				
Beginning Fund Balance-Assigned	212.000.000.308.50.00.00	\$ -	\$ -	\$ -
Revenues		3,719	-	3,719
Total Revenues		3,719	-	3,719
Total Revenues & Beginning Fund Balance		\$ 3,719	\$ -	\$ 3,719
Expenditures		\$ 3,719	\$ -	\$ 3,719
Total Expenditures		3,719	-	3,719
Ending Fund Balance-Assigned	212.000.000.508.50.00.00	-	-	-
Total Expenditures & Ending Fund Balance		\$ 3,719	\$ -	\$ 3,719

	Account No.	2013 Adopted Budget	Draft Ord 13-205 Budget Amendments	2013 Amended Budget
Fund 219 2008 GO & REF BOND-TRANS CAPITAL IMPRV:				
Beginning Fund Balance-Restricted	219.000.000.308.30.00.00	\$ 21,223	\$ (1)	\$ 21,222
Revenues		314,244	-	314,244
Total Revenues		314,244	-	314,244
Total Revenues & Beginning Fund Balance		\$ 335,467	\$ (1)	\$ 335,466
Expenditures		\$ 314,663	\$ -	\$ 314,663
Total Expenditures		314,663	-	314,663
Ending Fund Balance-Restricted	219.000.000.508.30.00.00	20,804	(1)	20,803
Total Expenditures & Ending Fund Balance		\$ 335,467	\$ (1)	\$ 335,466

	Account No.	2013 Adopted Budget	Draft Ord 13-205 Budget Amendments	2013 Amended Budget
Fund 220 Misc Debt Fund:				
Beginning Fund Balance-Assigned	220.000.000.308.50.00.00	\$ 2	\$ -	\$ 2
Revenues		87,858	-	87,858
Total Revenues		87,858	-	87,858
Total Revenues & Beginning Fund Balance		\$ 87,860	\$ -	\$ 87,860
Expenditures		\$ 87,858	\$ -	\$ 87,858
Total Expenditures		87,858	-	87,858
Ending Fund Balance-Assigned	220.000.000.508.50.00.00	2	-	2
Total Expenditures & Ending Fund Balance		\$ 87,860	\$ -	\$ 87,860

**2013 BUDGET AMENDMENTS
DRAFT ORDINANCE 13-205**

	Account No.	2013 Adopted Budget	Draft Ord 13-205 Budget Amendments	2013 Amended Budget
Fund 401 Marina Revenue Fund:				
Beginning Fund Balance-Reserved	401.000.000.308.10.00.00	\$ 768,816		\$ 768,816
Beginning Fund Balance-Unreserved	401.000.000.308.80.00.00	531,990	(29,266)	502,724
Total Beginning Fund Balance		1,300,806	(29,266)	1,271,540
Revenues		2,925,175	-	2,925,175
<u>Revenue Budget Amendments:</u>				
Increase unleaded fuel revenues	401.000.000.344.50.00.05	522,450	12,470	534,920
Increase diesel fuel revenues	401.000.000.344.50.00.06	664,900	74,920	739,820
Total Revenues		4,112,525	87,390	4,199,915
Total Revenues & Beginning Fund Balance		\$ 5,413,331	\$ 58,124	\$ 5,471,455
Expenditures		\$ 3,072,766	\$ -	\$ 3,072,766
<u>Expenditure Budget Amendments:</u>				
Add appropriations for replacement of failed DVR/Server	401.100.070.594.75.64.00	-	14,210	14,210
Add appropriations for Fiscal Agent Fees for 2012 Adv Refunding Bonds	401.100.070.592.75.85.02	-	500	500
Add appropriations for diesel fuel purchases	401.200.070.575.72.34.01	609,168	69,192	678,360
Add appropriations for unleaded fuel purchases	401.200.070.575.72.34.02	518,063	(15,036)	503,027
Total Expenditures		4,199,997	68,866	4,268,863
Ending Fund Balance-Reserved	401.000.000.508.10.00.00	768,816		768,816
Ending Fund Balance-Unreserved	401.000.000.508.80.00.00	444,518	(10,742)	433,776
Total Ending Fund Balance		1,213,334	(10,742)	1,202,592
Total Expenditures & Ending Fund Balance		\$ 5,413,331	\$ 58,124	\$ 5,471,455

	Account No.	2013 Adopted Budget	Draft Ord 13-205 Budget Amendments	2013 Amended Budget
Fund 403 Marina Repair & Replacement Fund:				
Beginning Fund Balance-Reserved	403.000.000.308.10.00.00	\$ 325,780	\$ 18,649	\$ 344,429
Revenues		200	-	200
<u>Revenue Budget Amendments:</u>				
Add revenues for Marina Fire Insurance Recoveries	403.000.000.395.20.00.00	-	260,000	260,000
Total Revenues		200	260,000	260,200
Total Revenues & Beginning Fund Balance		\$ 325,980	\$ 278,649	\$ 604,629
Expenditures		\$ 20,000	\$ -	\$ 20,000
<u>Expenditure Budget Amendments:</u>				
Add appropriations for Marina Fire repairs and improvements	403.200.070.594.75.63.00	-	260,000	260,000
Total Expenditures		20,000	260,000	280,000
Ending Fund Balance-Reserved	403.000.000.508.10.00.00	305,980	18,649	324,629
Total Expenditures & Ending Fund Balance		\$ 325,980	\$ 278,649	\$ 604,629

	Account No.	2013 Adopted Budget	Draft Ord 13-205 Budget Amendments	2013 Amended Budget
Fund 450 Surface Water Management Operations Fund:				
Beginning Fund Balance-Unreserved	450.000.000.308.80.00.00	\$ 1,274,418	\$ (17,931)	\$ 1,256,487
Revenues		2,604,178	-	2,604,178
Total Revenues		2,604,178	-	2,604,178
Total Revenues & Beginning Fund Balance		\$ 3,878,596	\$ (17,931)	\$ 3,860,665
Expenditures		\$ 2,942,393	\$ -	\$ 2,942,393
<u>Expenditure Budget Amendments:</u>				
Add appropriations for Cityworks timekeeper implementation	450.400.040.594.31.64.00	-	7,650	7,650
Total Expenditures		2,942,393	7,650	2,950,043
Ending Fund Balance-Unreserved	450.000.000.508.80.00.00	936,203	(25,581)	910,622
Total Expenditures & Ending Fund Balance		\$ 3,878,596	\$ (17,931)	\$ 3,860,665

**2013 BUDGET AMENDMENTS
DRAFT ORDINANCE 13-205**

	Account No.	2013 Adopted Budget	Draft Ord 13-205 Budget Amendments	2013 Amended Budget
Fund 500 Equipment Rental Operations Fund:				
Beginning Fund Balance-Unreserved	500.000.000.308.80.00.00	\$ 133,628	\$ (4,404)	\$ 129,224
Revenues		569,202	-	569,202
Total Revenues		569,202	-	569,202
Total Revenues & Beginning Fund Balance		\$ 702,830	\$ (4,404)	\$ 698,426
Expenditures		\$ 532,104	\$ -	\$ 532,104
Total Expenditures		532,104	-	532,104
Ending Fund Balance-Unreserved	500.000.000.508.80.00.00	170,726	(4,404)	166,322
Total Expenditures & Ending Fund Balance		\$ 702,830	\$ (4,404)	\$ 698,426

	Account No.	2013 Adopted Budget	Draft Ord 13-205 Budget Amendments	2013 Amended Budget
Fund 501 Equipment Rental Replacement Fund:				
Beginning Fund Balance-Unreserved	501.000.000.308.80.00.00	\$ 1,368,247	\$ (19,105)	\$ 1,349,142
Revenues		96,585	-	96,585
Total Revenues		96,585	-	96,585
Total Revenues & Beginning Fund Balance		\$ 1,464,832	\$ (19,105)	\$ 1,445,727
Expenditures		\$ 81,000	\$ -	\$ 81,000
Expenditure Budget Amendments:				
Add appropriations for Parks rake & sport ramp	501.100.040.594.76.64.00	12,000	5,276	17,276
Total Expenditures		93,000	5,276	98,276
Ending Fund Balance-Unreserved	501.000.000.508.80.00.00	1,371,832	(24,381)	1,347,451
Total Expenditures & Ending Fund Balance		\$ 1,464,832	\$ (19,105)	\$ 1,445,727

	Account No.	2013 Adopted Budget	Draft Ord 13-205 Budget Amendments	2013 Amended Budget
Fund 506 Facility Repair & Replacement Fund:				
Beginning Fund Balance-Unreserved	506.000.000.308.80.00.00	\$ 50,506	\$ 2,973	\$ 53,479
Revenues		75,912	-	75,912
Total Revenues		75,912	-	75,912
Total Revenues & Beginning Fund Balance		\$ 126,418	\$ 2,973	\$ 129,391
Expenditures		\$ 64,500	\$ -	\$ 64,500
Total Expenditures		64,500	-	64,500
Ending Fund Balance-Reserved	506.000.000.508.10.00.00	11,294		11,294
Ending Fund Balance-Unreserved	506.000.000.508.80.00.00	50,624	2,973	53,597
Total Ending Fund Balance		61,918	2,973	64,891
Total Expenditures & Ending Fund Balance		\$ 126,418	\$ 2,973	\$ 129,391

**2013 BUDGET AMENDMENTS
DRAFT ORDINANCE 13-205**

	Account No.	2013 Adopted Budget	Draft Ord 13-205 Budget Amendments	2013 Amended Budget
Fund 510 Computer Equipment Operations Fund:				
Beginning Fund Balance-Unreserved	510.000.000.308.80.00.00	\$ 124,599	\$ (6,761)	\$ 117,838
Revenues		479,951	-	479,951
Total Revenues		479,951	-	479,951
Total Revenues & Beginning Fund Balance		\$ 604,550	\$ (6,761)	\$ 597,789
Expenditures		\$ 424,616	\$ -	\$ 424,616
Expenditure Budget Amendments:				
Add appropriations for Icompass public records tracking system maintenance	510.100.024.518.80.48.15	100,186	6,500	106,686
Total Expenditures		524,802	6,500	531,302
Ending Fund Balance-Unreserved	510.000.000.508.80.00.00	79,748	(13,261)	66,487
Total Expenditures & Ending Fund Balance		\$ 604,550	\$ (6,761)	\$ 597,789

	Account No.	2013 Adopted Budget	Draft Ord 13-205 Budget Amendments	2013 Amended Budget
Fund 511 Computer Equipment Replacement Fund:				
Beginning Fund Balance-Unreserved	511.000.000.308.80.00.00	\$ 290,723	\$ 57,245	\$ 347,968
Revenues		115,593	-	115,593
Total Revenues		115,593	-	115,593
Total Revenues & Beginning Fund Balance		\$ 406,316	\$ 57,245	\$ 463,561
Expenditures		\$ 188,939	\$ -	\$ 188,939
Total Expenditures		188,939	-	188,939
Ending Fund Balance-Unreserved	511.000.000.508.80.00.00	217,377	57,245	274,622
Total Expenditures & Ending Fund Balance		\$ 406,316	\$ 57,245	\$ 463,561

	Account No.	2013 Adopted Budget	Draft Ord 13-205 Budget Amendments	2013 Amended Budget
Fund 520 Self-Insurance Fund:				
Beginning Fund Balance-Unreserved	520.000.000.308.80.00.00	\$ 30,021	\$ 81,486	\$ 111,507
Revenues		582,895	-	582,895
Total Revenues		582,895	-	582,895
Total Revenues & Beginning Fund Balance		\$ 612,916	\$ 81,486	\$ 694,402
Expenditures		\$ 601,900	\$ -	\$ 601,900
Expenditure Budget Amendments:				
Add appropriations for employee settlement	520.100.050.518.60.49.21	-	10,000	10,000
Total Expenditures		601,900	10,000	611,900
Ending Fund Balance-Unreserved	520.000.000.508.80.00.00	11,016	71,486	82,502
Total Expenditures & Ending Fund Balance		\$ 612,916	\$ 81,486	\$ 694,402

	Account No.	2013 Adopted Budget	Draft Ord 13-205 Budget Amendments	2013 Amended Budget
Fund 530 Unemployment Insurance Fund:				
Beginning Fund Balance-Unreserved	530.000.000.308.80.00.00	\$ 193,103	\$ 13,010	\$ 206,113
Revenues		54,907	-	54,907
Total Revenues		54,907	-	54,907
Total Revenues & Beginning Fund Balance		\$ 248,010	\$ 13,010	\$ 261,020
Expenditures		\$ 70,000	\$ -	\$ 70,000
Total Expenditures		70,000	-	70,000
Ending Fund Balance	530.000.000.508.80.00.00	178,010	13,010	191,020
Total Expenditures & Ending Fund Balance		\$ 248,010	\$ 13,010	\$ 261,020

**2013 BUDGET AMENDMENTS
DRAFT ORDINANCE 13-205**

CAPITAL IMPROVEMENT FUNDS:

	Account No.	2013 Adopted Budget	Draft Ord 13-205 Budget Amendments	2013 Amended Budget
Fund 109 Transportation Impact Fee Fund:				
Beginning Fund Balance-Committed	109.000.000.308.40.00.00	\$ 165,501	\$ 169,440	\$ 334,941
Revenues		1,000	-	1,000
Revenue Budget Amendments:				
Add additional revenues due to construction activity	109.000.000.345.85.00.00	172,641	135,446	308,087
Total Revenues		173,641	135,446	309,087
Total Revenues & Beginning Fund Balance		\$ 339,142	\$ 304,886	\$ 644,028
Expenditures		\$ -	\$ -	\$ -
Expenditure Budget Amendments:				
Add appropriations for transfer to Transportation CIP Fund	109.100.040.597.95.00.00	172,641	135,446	308,087
Carry forward appropriations for transfer of Pac Ridge Impact Fees	109.100.040.597.95.00.00	-	326,163	326,163
Total Expenditures		172,641	461,609	634,250
Ending Fund Balance-Committed	109.000.000.508.40.00.00	166,501	(156,723)	9,778
Total Expenditures & Ending Fund Balance		\$ 339,142	\$ 304,886	\$ 644,028

	Account No.	2013 Adopted Budget	Draft Ord 13-205 Budget Amendments	2013 Amended Budget
Fund 310 Municipal Capital Improvement Fund:				
Beginning Fund Balance-Assigned	310.000.000.308.50.00.00	\$ 132,733	\$ 121,099	\$ 253,832
Revenues		1,556,282	-	1,556,282
Revenue Budget Amendments:				
Carry forward FEMA grant funds for Beach Park Mudslide Project	310.000.000.333.97.03.66	-	1,973	1,973
Carry forward State Emergency Mgt grant funds for Beach Park Mudslide	310.000.000.334.01.80.06	-	329	329
Carry forward WA Heritage-DMBP Rehab grant for Dining Hall	310.000.000.334.06.90.05	-	128,063	128,063
Carry forward Utility Rebates for Citywide Energy Imprv Project	310.000.000.369.90.00.06	-	7,735	7,735
Total Revenues		1,556,282	138,100	1,694,382
Total Revenues & Beginning Fund Balance		\$ 1,689,015	\$ 259,199	\$ 1,948,214
Expenditures		\$ 1,243,557	\$ -	\$ 1,243,557
Expenditure Budget Amendments:				
Correct coding for DM Urban Trail Improvements	310.055.045.594.76.63.00	156,843	(156,843)	-
Carry forward appropriations for Beach Park Mudslide Project	310.057.045.594.76.63.00	-	543	543
Carry forward appropriations for City-Wide Energy Savings Impr Project	310.700.040.594.19.63.01	-	2,268	2,268
Correct coding for transfer to Transportation CIP Fund	310.799.040.597.95.00.00	220,000	156,843	376,843
Total Expenditures		1,620,400	2,811	1,623,211
Ending Fund Balance-Assigned	310.000.000.508.50.00.00	68,615	256,388	325,003
Total Expenditures & Ending Fund Balance		\$ 1,689,015	\$ 259,199	\$ 1,948,214

**2013 BUDGET AMENDMENTS
DRAFT ORDINANCE 13-205**

		2013	Draft Ord 13-205	2013
		Adopted	Budget	Amended
		Budget	Amendments	Budget
Fund 319 Transportation Capital Improvement Fund				
Beginning Fund Balance-Assigned	Account No.	\$ 620,473	\$ 260,907	\$ 881,380
Revenues		10,399,666	-	10,399,666
<u>Revenue Budget Amendments:</u>				
Reduce FHWA/HBP/BRAC funds for Saltwater Park Bridge Seismic Retrofit	319.000.000.333.20.20.09	510,933	(50,668)	460,265
Carry forward revenue from Highway Safety Program for City Wide Arterial Improvemer	319.000.000.333.20.20.11	-	115,500	115,500
Add Revenues from WSTSC for North Hill Elem & Aviation School Flashing Beacons	319.000.000.334.03.50.02	-	15,000	15,000
Reduce Revenue from TIB funds for S. 216th St. Segment 2 (18th Ave. S. to 24th Ave.	319.000.000.334.03.80.10	4,000,000	(219,498)	3,780,502
Remove Revenue from TIB funds for Marine View Drive and S 240th Roundabout	319.000.000.334.03.80.12	168,245	(168,245)	-
Carry forward 2012 adj from the King County Conservation Grant for Barnes Creek Tra	319.000.000.337.09.01.00	478,877	(1,025)	477,852
Reduce Funds from Highline Wtr Dist for S. 216th St. Segment 2 (18th Ave. S. to 24th	319.000.000.337.10.00.02	267,789	(12,270)	255,519
Remove revenues from Midway Sewer District for 24th Ave. S. Improvement Project	319.000.000.337.11.00.00	207,753	(207,753)	-
Reduce Funds from Century Link for S. 216th St. Segment 2 (18th Ave. S. to 24th Ave.	319.000.000.367.00.19.15	62,689	(22,219)	40,470
Reduce Funds from Comcast for S. 216th St. Segment 2 (18th Ave. S. to 24th Ave. S.)	319.000.000.367.00.19.16	198,977	(66,810)	132,167
Increase transfer from Impact Fee Fund for additional construction activity	319.000.040.397.95.00.00	172,641	135,446	308,087
Carry forward Pac Ridge Impact Fees	319.000.040.397.95.00.00	-	326,163	326,163
Correct amount for transfer-in from MCI Fund	319.000.040.397.95.00.01	420,000	(43,157)	376,843
Total Revenues		16,887,570	(199,536)	16,688,034
Total Revenues & Beginning Fund Balance		\$ 17,508,043	\$ 61,371	\$ 17,569,414
Expenditures		\$ 2,145,378	\$ -	\$ 2,145,378
<u>Expenditure Budget Amendments:</u>				
Reduce appropriations for 24th Ave. S. Improvement Project-Roadway	319.300.040.595.30.63.00	6,293,614	(889,471)	5,404,143
Increase appropriations for 24th Ave. S. Improvement Project-Utility Install	319.300.040.595.80.61.00	678,283	448,972	1,127,255
Carry forward appropriations for 16th Ave. S. - Segment 5A-Engrng	319.301.040.595.10.63.00	95,000	10,000	105,000
Carry forward appropriations for 16th Ave. S. - Segment 5A-Admin/OH	319.301.040.595.90.63.00	6,339	17,500	23,839
Add appropriations for Saltwater Park Bridge Seismic Retrofit-Engrng	319.326.040.595.10.63.00	510,933	32,617	543,550
Add appropriations for Saltwater Park Bridge Seismic Retrofit-Admin/OH	319.326.040.595.90.63.00	-	45,433	45,433
Add appropriations for S. 216th St. Segment 1 (24th Ave. S. to 29th Ave. S.)-Land/ROV	319.332.040.595.20.61.00	-	171,630	171,630
Reduce appropriations for S. 216th St Segment 2 (18th Ave. S. to 24th Ave. S.)-Inspe	319.333.040.595.11.63.00	650,000	(20,000)	630,000
Reduce appropriations for S. 216th St Segment 2 (18th Ave. S. to 24th Ave. S.)-Roadw	319.333.040.595.30.63.00	5,455,367	(215,029)	5,240,338
Reduce appropriations for S. 216th St Segment 2 (18th Ave. S. to 24th Ave. S.)-Utility I	319.333.040.595.80.61.00	734,567	(93,398)	641,169
Carry forward appropriations for S. 224th St. Improv Project-Engrng	319.336.040.595.10.63.00	-	300,000	300,000
Carry forward appropriations for S. 224th St. Improv Project-Admin/OH	319.336.040.595.90.63.00	-	26,163	26,163
Carry forward appropriations from the Barnes Creek Trail/SR 509 ROW Project	319.345.040.595.90.63.00	180,000	22,821	202,821
Carry forward appropriations for City Wide Arterial Improvements-Engrng	319.604.040.595.10.63.00	-	10,000	10,000
Carry forward appropriations for City Wide Arterial Improvements-Land/ROW	319.604.040.595.20.61.00	-	37,000	37,000
Carry forward appropriations for City Wide Arterial Improvements-Roadway	319.604.040.595.30.63.00	-	58,500	58,500
Carry forward appropriations for City Wide Arterial Improvements-Admin/OH	319.604.040.595.90.63.00	-	10,000	10,000
Revise appropriations for North Hill Elem School - SRTS Proj to Flashing Lts-Engrng	319.605.040.595.10.63.00	60,000	(55,000)	5,000
Remove appropriations from North Hill Elem School - SRTS Proj-Land	319.605.040.595.20.61.00	15,000	(15,000)	-
Revise appropriations for North Hill Elem School - SRTS Proj to Flashing Lts-Admin/OH	319.605.040.595.90.63.00	19,000	(14,800)	4,200
Add appropriations for North Hill Elem School Zone Flashing Lights	319.605.040.595.64.63.00	-	45,000	45,000
Revise appropriations for Midway Elem School - Safe Routes to School-Engrng	319.606.040.595.10.63.00	60,000	(20,000)	40,000
Revise appropriations for Midway Elem School - Safe Routes to School-Land	319.606.040.595.20.61.00	15,000	15,000	30,000
Revise appropriations for Midway Elem School - Safe Routes to School-Admin/OH	319.606.040.595.90.63.00	19,000	(9,000)	10,000
Carry forward appropriations from Marine View Drive Crosswalk Enhancement Project	319.607.040.595.69.63.00	110,000	14,334	124,334
Remove appropriations for Marine View Drive and S 240th Roundabout	319.608.040.595.10.63.00	152,398	(152,398)	-
Remove appropriations for Marine View Drive and S 240th Roundabout	319.608.040.595.20.61.00	106,440	(106,440)	-
Total Expenditures		17,306,319	(325,566)	16,980,753
Ending Fund Balance-Assigned	319.899.000.508.80.00.00	201,724	386,937	588,661
Total Expenditures & Ending Fund Balance		\$ 17,508,043	\$ 61,371	\$ 17,569,414

**2013 BUDGET AMENDMENTS
DRAFT ORDINANCE 13-205**

	Account No.	2013 Adopted Budget	Draft Ord 13-205 Budget Amendments	2013 Amended Budget
Fund 406 Marina Depreciation & Improvement-2008:				
Beginning Fund Balance-Reserved	406.000.000.308.10.00.00	\$ 227,294	\$ 40,416	\$ 267,710
Revenues		484,336	-	484,336
Total Revenues		484,336	-	484,336
Total Revenues & Beginning Fund Balance		\$ 711,630	\$ 40,416	\$ 752,046
Expenditures		\$ 514,671	\$ -	\$ 514,671
<u>Expenditure Budget Amendments:</u>				
Carry forward appropriations for security camera project	406.400.070.594.75.63.00	29,218	18,782	48,000
Remove appropriations for offsite storage yard	406.401.070.594.75.63.00	30,000	(30,000)	-
Remove appropriations for Marina site management project	406.402.070.594.75.63.00	100,000	(20,000)	80,000
Add appropriations for canopy structure for activity float	406.445.070.594.75.63.00	32,500	2,100	34,600
Add appropriations for 6th Avenue Stairway gates	406.451.070.594.75.63.00	-	18,000	18,000
Total Expenditures		706,389	(11,118)	695,271
Ending Fund Balance-Reserved	406.000.000.508.10.00.00	5,241	51,534	56,775
Total Expenditures & Ending Fund Balance		\$ 711,630	\$ 40,416	\$ 752,046

	Account No.	2013 Adopted Budget	Draft Ord 13-205 Budget Amendments	2013 Amended Budget
Fund 451 Surface Water Management Capital Fund:				
Beginning Fund Balance-Reserved	451.000.000.308.10.00.00	\$ 827,823	\$ 70,569	\$ 898,392
Revenues		79,600	-	79,600
<u>Revenue Budget Amendments:</u>				
Carry forward King County Conservation Funds for Barnes Crk 223rd Culvert Repl	451.000.000.337.09.01.00	-	15,300	15,300
Correct revenue estimates for transfer-in from Fund 450	451.000.040.397.31.00.00	702,069	7,415	709,484
Total Revenues		781,669	22,715	804,384
Total Revenues & Beginning Fund Balance		\$ 1,609,492	\$ 93,284	\$ 1,702,776
Expenditures		\$ 422,500	\$ -	\$ 422,500
<u>Expenditure Budget Amendments:</u>				
Carry forward appropriations for DMMD S. 212th to S. 213th	451.812.040.595.40.63.00	144,500	29,000	173,500
Carry forward appropriations for Redondo Hts culvert replacement	451.818.040.595.40.63.00	-	60,192	60,192
Carry forward appropriations for 216th Place culvert replacement	451.819.040.595.40.63.00	139,200	35,100	174,300
Carry forward appropriations for Barnes Creek 223rd Culvert Replacement	451.820.040.595.40.63.00	-	50,000	50,000
Add appropriations for 216th St (15th Ave to 18th Ave) drainage repair	451.825.040.595.40.63.00	-	297,500	297,500
Total Expenditures		706,200	471,792	1,177,992
Ending Fund Balance-Reserved	451.000.000.508.10.00.00	903,292	(378,508)	524,784
Total Expenditures & Ending Fund Balance		\$ 1,609,492	\$ 93,284	\$ 1,702,776

A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Interlocal Agreement Between the Cities of SeaTac, Des Moines, Covington, and Tukwila for Planning, Funding, and Implementation of a Joint Minor Home Repair Program.

ATTACHMENTS:

1. Interlocal Agreement between the Cities of SeaTac, Des Moines, Covington, and Tukwila for Planning, Funding, and Implementation of a Joint Minor Home Repair Program from October 2013 through November 2014.
2. 2013 Budget Worksheet

FOR AGENDA OF: October 24, 2013

DEPT. OF ORIGIN: Planning, Building and Public Works

DATE SUBMITTED: October 17, 2013

CLEARANCES:

[X] Legal PB
 [X] Finance ph
 [NA] Marina _____
 [NA] Parks, Recreation & Senior Services _____
 [X] Planning, Building & Public Works DJB
 [NA] Police _____
 [NA] Courts _____

APPROVED BY CITY MANAGER
 FOR SUBMITTAL: 

Purpose and Recommendation

The purpose of this item is to seek Council authorization to enter into an Interlocal Agreement (refer to Attachment 1) between the Cities of SeaTac, Des Moines, Covington, and Tukwila for planning, funding and implementation of a Joint Minor Home Repair (MHR) Program. The Agreement shall remain in effect in an ongoing basis so long as funds are available. Des Moines' share of the Community Development Block Grant funds provided by King County for the program is \$28,000 which covers repairs plus City personnel costs to administer the program. No City funds are used for the Program. The following motion will appear on the consent calendar:

Suggested Motion

Motion: I move to authorize the City Manager to sign the Interlocal Agreement between the Cities of SeaTac, Des Moines, Covington, and Tukwila for the Minor Home Repair Program substantially in the form as submitted

Background

The King County Department of Community and Human Services Community Services Division requested project proposals for consideration by the King County Community Development Block Grant

(CDBG) Consortium. Request for Proposal (RFP) applications were available for non-profit organizations and public agencies to request funds for the following types of projects:

- community facilities: acquisition, construction or rehabilitation
- public improvements: acquisition, construction or rehabilitation
- other: minor housing repair, economic development, employment services through a Community Based Development Organization (CBDO) and other activities consistent with the objectives of the King County Consortium Housing and Community Development Plan and federal CDBG regulations at 24 CFR Part 570.

King County annually receives Community Development Block Grant (CDBG) Funds from the United States Department of Housing and Urban Development. The primary objective of the CDBG Program as set forth by Congress is “the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income.” Federal regulations define persons who are considered low and moderate income as households earning under 80% of the area median income, as determined by HUD, adjusted by household size.

King County administers CDBG funds on behalf of the King County CDBG Consortium. The Consortium is established under Interlocal Cooperation Agreements between the County and 34 cities and towns. A Joint Recommendations Committee (JRC) comprised of officials representing local government members of the Consortium is appointed annually by the Suburban Cities Association to advise the County Executive on CDBG funding and policy decisions.

Discussion

The Minor Home Repair program targets minor home repairs for low and moderate income homeowners in the City of Des Moines. The program is intended to assist homeowners who are having a difficult time maintaining their house. The program is a tool that the cities can use to both serve a human service need of maintaining a safe house, as well as address some safety-related code enforcement issues. The service also contributes to a more positive image of Des Moines single family neighborhoods. This program is being coordinated by the Permit Specialist/Business License Clerk.

The City of Des Moines has been a recipient of these funds since 2006. Throughout that time, staff has met all requirements of King County for the proper expenditure of grant funds. In 2012, the City’s share allowed 29 projects to be completed for 16 low to moderate income families. These projects provided repair or replacement of broken or non-functioning furnaces, gutters, window glass, toilets, and one hot water tank, as well as multiple household repairs including the solution to one very stubborn septic system problem.

For 2013, the Cities again partnered up and submitted a competitive joint application and were awarded \$125,000. The Des Moines’ share is \$28,000. The program will continue to be administered by the City of Tukwila, who will serve as the fiscal agent for the four cities, as well as handle the administration with King County. Each city will need to hire their own contractors, screen their clients, and make referrals. Tukwila will front the money to Des Moines, administer the paperwork, and request reimbursement from King County. The majority of the federal requirements are met by Tukwila as they administer the program and are responsible for the distribution of the funds. The main difference in the

proposed Interlocal Agreement from the 2012 Agreement is that the City of Pacific did not participate in the application as in the prior year, and is no longer included in the Agreement.

Alternatives

The Council could choose not to approve the Interlocal Agreement, and withdraw from the partnership. This would eliminate the funding for the minor home repair program and eligible low to moderate income homeowners in the community would not receive funds for repair of their homes.

Financial Impact

Des Moines share of the Community Development Block Grant funds provided by King County for the program is \$28,000 which covers repairs plus City personnel costs to administer the program. If the Interlocal Agreement is accepted, the City will incur administrative staff costs for administering the program, paying invoices, submitting reimbursement requests and receipting reimbursements from Tukwila. Tukwila will front the money to Des Moines, and then collect from King County. The adopted 2013 budget for the Minor Home Repair Program is provided as Attachment 2.

Recommendation

Planning, Building, and Public Works, Finance and Legal Departments concur, and recommend approval of the Interlocal Agreement.

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF SEATAC, DES
MOINES, COVINGTON, AND THE CITY OF TUKWILA FOR
PLANNING, FUNDING, AND IMPLEMENTATION OF A JOINT MINOR
HOME REPAIR PROGRAM**

THIS INTERLOCAL AGREEMENT (“Interlocal”) is entered into pursuant to Chapter 39.34 RCW, the Interlocal Cooperation Act, by the City of SeaTac (“SeaTac”), the City of Des Moines (“Des Moines”), the City of Covington (“Covington”), and the City of Tukwila (“Tukwila”), hereinafter referred to as “City” or “Cities,” to provide for planning, funding, and implementation of a minor home repair program.

WHEREAS, the Cities engage in activities which support human service providers in King County; and

WHEREAS, the Cities wish to make the most efficient use of their resources by cooperating to provide funding to support human service providers in south King County; and

WHEREAS, through the Interlocal Cooperation Act, Chapter 39.34 RCW, the Cities have the authority to engage in cooperative efforts that will result in more efficient use of government resources;

WHEREAS, the Cities are signatories to a preceding interlocal agreement for the planning, funding, and implementation of a joint minor home repair program dated February 29, 2012 (the “Former Agreement”); and

WHEREAS, one of the participants to the Former Agreement has recently terminated its participation in the Former Agreement and the Cities wish to enter into a new interlocal agreement for the planning, funding, and implementation of a joint minor home repair program from this point forward;

NOW, THEREFORE, and in consideration of the terms, conditions, and performances made herein, it is agreed as follows:

1. Purpose. The purpose of this Interlocal is to set up a cooperative arrangement between the Cities to consolidate the funding process and implementation of a minor home repair program. This Interlocal will increase the efficiency of administering the program while decreasing administrative costs.

2. Responsibilities.

A. Tukwila’s Duties.

1) Contract and act as the fiscal and administrative agent with King County for the implementation of a Block Grant for a minor home repair program for Des Moines, Tukwila Covington, and SeaTac.

- 2) Maintain required documentation and prepare required reports for King County consistent with the County's requirements regarding the use of Community Development Block Grant funds.
- 3) Maintain accounts and records that properly reflect transactions related to this Interlocal.
- 4) Responsible for reimbursing participating cities and submitting required paperwork to King County.
- 5) Responsible for the implementation of the minor home repair program within Tukwila in accordance with terms specified in the Block Grant contract between Tukwila and King County.
- 6) Review and pay invoices for any services performed in Tukwila pursuant to this Interlocal.
- 7) Reimburse SeaTac, Covington, and Des Moines on an as received basis for any invoices received pursuant to this Interlocal.

B. SeaTac's Duties

- 1) Responsible for the implementation of the minor home repair program within SeaTac in accordance with terms specified in the Block Grant contract between Tukwila and King County.
- 2) Review and pay invoices for any services performed in SeaTac pursuant to this Interlocal.
- 3) Remit invoices to Tukwila for reimbursement.

C. Des Moines' Duties

- 1) Responsible for the implementation of the minor home repair program within Des Moines in accordance with terms specified in the Block Grant contract between Tukwila and King County.
- 2) Review and pay invoices for any services performed in Des Moines pursuant to this Interlocal.
- 3) Remit invoices to Tukwila for reimbursement.

D. Covington's Duties

- 1) Responsible for the implementation of the minor home repair program within Covington in accordance with terms specified in the Block Grant contract between Tukwila and King County.

- 2) Review and pay invoices for any services performed in Covington pursuant to this Interlocal.
- 3) Remit invoices to Tukwila for reimbursement.

E. Cities' Joint Duties

- 1) Subcontract with an agency/contractors that will perform qualified home repairs in Tukwila, SeaTac, Covington, and Des Moines in accordance with King County's Block Grant program and applicable city policies.
- 2) No City shall use more funds than have been annually allocated to it by King County for a minor home repair program. However, if a City is unable to spend its portion of the funds by the 3rd quarter of the year for which the funds were allocated, the Cities may mutually agree to shift those funds to another City that has an on-going demand for minor home repair. Fund allocation shall be as set forth in Exhibit A, which is attached hereto and incorporated herein by this reference. Exhibit A shall be amended annually and all subsequent amended Exhibit As shall automatically supersede the prior Exhibit A and be fully incorporated herein upon distribution of each amended Exhibit A to all of the Cities by the administrative agent.
- 3) Abide by additional requirements outlined in the agreement between Tukwila and King County for a minor home repair program, which is attached hereto as Exhibit B and incorporated herein by this reference. Exhibit B shall be amended annually and all subsequent amended Exhibit Bs shall automatically supersede the prior Exhibit B and be fully incorporated herein upon distribution of each amended Exhibit B to all of the Cities by the administrative agent.
- 4) The Cities agree to include the following language verbatim in every subcontract, provider agreement, or purchase agreement for services which relate to the subject matter of this Contract: "Subcontractor shall protect, defend, indemnify, and hold harmless King County, its officers, employees and agents from any and all costs, claims, judgments, and/or awards of damages arising out of, or in any way resulting from the negligent act or omissions of subcontractor, its officers, employees, and/or agents in connection with or in support of this Contract. Subcontractor expressly agrees and understands that King County is a third party beneficiary to this Contract and shall have the right to bring an action against subcontractor to enforce the provisions of this paragraph."
- 5) Duration. This Interlocal shall become effective when it is approved by the Cities and shall remain in effect on an ongoing basis so long as funds are available for the minor home repair program.
- 6) Termination. Any City may terminate this Interlocal without cause by giving the other Cities a thirty-day written notice. The terminating City shall remain fully responsible for meeting its funding responsibilities to date up to the point of termination and other obligations established by this Interlocal through the end of the calendar year in which such notice is given. The administrative agent is authorized to terminate the participation of any City that does not fulfill

its obligations as set forth in this Agreement. Written notice of such termination shall be mailed to each City and shall become effective upon said mailing.

7) Notices. Notices to the Cities shall be sent to the following persons:

City	Contact
SeaTac	Human Services Manager, currently Colleen Brandt-Schluter 4800 S. 188 th Street, SeaTac, WA 98188 206-973-4815; cbschluter@ci.seatac.wa.us
Des Moines	Tina Hickey 21630 11 th Ave S, Suite D Des Moines, WA 98198-6398 206-870-6535; Thickey@desmoineswa.gov
Covington	Personnel Division/Human Services, currently Victoria Throm 16720 SE 271 st Street, Ste. 100 Covington, WA 98042 253-480-2411 Ext. 2237; vthrom@covingtonwa.gov
Tukwila	Human Services Manager, currently Evelyn Boykan 6200 Southcenter Blvd, Tukwila, WA 98188 206-433-7180; evie.boykan@tukwilaWA.gov

8) Indemnification. Each City agrees to indemnify the other City from any claims, damages, losses, and costs, including, but not limited to, attorney's fees and litigation costs arising out of claims by third parties for breach of contract, property damage, and bodily injury, including death, caused solely by the negligence or willful misconduct of such City, the City's employees, affiliated corporations, officers, and lower tier subcontractors in connection with this Interlocal.

Each City hereby waives its immunity under Title 51 of the Revised Code of Washington for claims of any type brought by any City agent or employee against the other City. This waiver is specifically negotiated by the parties and a portion of the City's payment hereunder is expressly made the consideration for this waiver.

9) Insurance. Each City shall procure and maintain in full force throughout the duration of the Interlocal comprehensive general liability insurance with a minimum coverage of \$1,000,000.00 per occurrence/aggregate for personal injury and property damage. In the event that a City is a member of a pool of self-insured cities, the City shall provide proof of such membership in lieu of the insurance requirement above. Such self-insurance shall provide coverage equal to or greater than that required of non-self insurance pool member Cities.

10) Applicable Law; Venue; Attorney's Fees. This Interlocal shall be governed by and construed in accordance with the laws of the State of Washington. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Interlocal, the parties specifically understand and agree that venue shall be exclusively in King County, Washington. The prevailing party in any such action shall be entitled to its attorney's fees and costs of suit.

11) Counterparts. This document may be executed in any number of counterparts, each of which shall be considered an original.

12) Amendment or Modification. This Interlocal may be amended or modified in writing with the mutual consent of the Cities. Amendments or modifications to this Interlocal shall not require the approval of the Cities' legislative bodies.

13) Former Agreement Terminated and Superseded. The Former Agreement between the Cities is hereby terminated and superseded by this Interlocal.

IN WITNESS WHEREOF, the undersigned have entered into this Interlocal as of this _____ day of _____, 2013.

CITY OF SEATAC

By: _____
Todd Cutts, City Manager

Date: _____

Attest: _____
[Printed Name]
Title: _____

Approved As To Form:

Mark S. Johnsen, Sr. Assistant City Attorney

CITY OF DES MOINES

By: _____
Anthony A. Piasecki, City Manager

Date: _____

Attest: _____
[Printed Name]
Title: _____

Approved As To Form:

Tim George, Assistant City Attorney

CITY OF TUKWILA

By: _____
Jim Haggerton, Mayor

Date: _____

Attest: _____
[Printed Name]
Title: _____

Approved As To Form:

Shelley M. Kerslake, City Attorney

CITY OF COVINGTON

By: _____
Derek Matheson, City Manager

Date: _____

Attest: _____
[Printed Name]
Title: _____

Approved As To Form:

Sara Springer, City Attorney

EXHIBIT A

Interlocal Between the Cities For Planning, Funding, and Implementation of a Joint Minor Home Repair Program

Contract Year 2013/2014

Name of Agencies	Participating Cities & Tentative Funding	
Qualified contractors	Tukwila - Lead City	\$28,000
	Des Moines	\$28,000
	SeaTac	\$28,000
	Covington	\$28,000
	Environmental Review	\$2,000
	Lead Based Paint	4,000
	Project Management	6,000
	Miscellaneous	1,000
	TOTAL	\$125,000

EXHIBIT B
CITY OF TUKWILA
TUKWILA CONSORTIUM MINOR HOME REPAIR PROGRAM

Contract No.: 5617472	Project No.: C13342 -1120796
King County Project Manager: Randy Poplock	Agency Contact Person: Evelyn Boykan
Start Date: October 1, 2013	Telephone: (206) 433-7180; Fax: (206) 433-7183
End Date: September 30, 2014	Email: evie.boykan@tukwilawa.gov

I. WORK STATEMENT

The City of Tukwila (hereinafter referred to as "the Contractor") agrees to provide funds to repair the existing stock of homes owned by low- to moderate-income households in the South King County communities of Covington, Des Moines, SeaTac, and Tukwila, as described in this Exhibit beginning on October 1, 2013, and completing these services by September 30, 2014. All such activities shall be provided in a manner which fully complies with all applicable federal, state and local laws, statutes, rules and regulations, as are now in effect or hereafter may be amended. The total amount of reimbursement pursuant to this Exhibit shall not exceed \$125,000 in King County Community Development Block Grant (CDBG) funds.

II. PROGRAM DESCRIPTION

The preservation of the housing of low- to moderate-income home owners through the provision of funds to repair the existing stock of homes owned by low- to moderate-income households.

A. Indicators

The number of unduplicated households who receive minor housing repair assistance in the communities of Covington, Des Moines, SeaTac, and Tukwila.

B. Eligibility

1. Eligible clients shall have an annual gross family income that does not exceed the Moderate Income limits based on the applicable Family Size in the following 2013 United States Housing and Urban Development (HUD) Income Guidelines Table. Clients may self-certify in writing that their family income does not exceed the applicable limit.

2013 HUD INCOME GUIDELINES Median Family Income = \$86,700 Effective January 1, 2013			
FAMILY SIZE	30% MEDIAN EXTREMELY LOW-INCOME	50% MEDIAN LOW- INCOME	80% MEDIAN MODERATE- INCOME
1	\$18,200	\$30,350	\$45,100
2	\$20,800	\$34,700	\$51,550
3	\$23,400	\$39,050	\$58,000
4	\$26,000	\$43,350	\$64,400
5	\$28,100	\$46,850	\$69,600
6	\$30,200	\$50,300	\$74,750
7	\$32,250	\$53,800	\$79,900
8	\$34,350	\$57,250	\$85,050

2. The definition of family shall include all persons living in the same household who are related by birth, marriage or adoption and includes dependent children living away from home. The definition of income includes all sources of income required to be reported on Internal Revenue Service Form 1040.
3. Income guidelines may be adjusted periodically by HUD. The Contractor agrees to use updated income guidelines that shall be provided by the County. The County shall provide the updated guidelines to the Contractor electronically or by hard copy.
4. Services provided with funding under this Exhibit may be limited to residents of Covington, Des Moines, SeaTac, and Tukwila.
5. Services shall be provided on a first come, first served basis with safety and health issues prioritized.
6. Eligible clients must have lived in their home for at least one year.

C. Definitions

1. Disabled person is an adult who has severe disabilities based on the Bureau of the Census definition.
2. Elderly person is an individual who is 62 years or older.
3. Emergency repair includes activities that protect, repair or arrest the effects of disasters, imminent threats or physical deterioration that pose an imminent danger to life, health or safety.
4. Routine maintenance includes activities that merely keep a structure in good operating condition; such activities do not add to the value of the structure, appreciably prolong its useful life, or adapt it to new uses.
5. Unit of service is a minor home repair, measured by unique job or repair hours that is undertaken in a client's home.

D. Program Requirements

The Contractor shall use CDBG funds to provide minor home repair services for low- and moderate-income homeowners in the cities of Covington, Des Moines, SeaTac, and Tukwila. Funds shall be focused on maintaining the safety and health of the occupants, preserving the dwelling and/or conserving energy. These activities may include, but are not limited to: earthquake preparedness, replacing broken switches, sockets, light fixtures, repairing heat sources, repairing gutters and downspouts, replacing or repairing faucets, toilets, sinks, drains, broken or leaky pipes and repairing minor roof leaks.

1. The Contractor agrees to serve, at minimum, the following unduplicated number of units repaired with funds provided under this Exhibit:

	2013 4 th Qtr (Oct-Dec)	2014 1 st Qtr (Jan-Mar)	2014 2 nd Qtr (Apr-Jun)	2014 3rd Qtr (Jul-Sep)	Total 2013/ 2014
Number of unduplicated households in Tukwila	5	5	4	4	18
Number of unduplicated households in SeaTac	5	4	4	5	18
Number of unduplicated households in Des Moines	5	5	5	5	20
Number of unduplicated households in Covington	4	4	4	4	16
Cumulative Total for all Cities	19	18	17	18	72

2. The Contractor agrees to provide, at minimum, the following cumulative hours of service:

	2013 4 th Qtr (Oct-Dec)	2014 1 st Qtr (Jan-Mar)	2014 2 nd Qtr (Apr-Jun)	2014 3rd Qtr (Jul-Sep)	Total 2013/ 2014
Minor Home Repair hours in Tukwila	15	15	10	10	50
Minor Home Repair hours in SeaTac	15	12	12	15	54
Minor Home Repair hours in Des Moines	15	15	15	15	60
Minor Home Repair hours in Covington	19	19	19	19	76
Cumulative Total for all Cities	64	61	56	59	240

The funds provided under this Exhibit shall be used to pay for the costs associated with the provision of these units of service.

3. Environmental Review Records

- a. The Contractor shall complete and sign a Site Specific Environmental Review (ER) Checklist, known as a Tier 3 review, for every individual job, before any work begins. This checklist allows Minor Home Repair (MHR) staff to proceed with certain types of projects without obtaining

King County approval first, including projects involving maintenance, emergency repairs, grab bars or in pre-approved mobile home parks.

- b. The Contractor shall submit all Site Specific ER Checklists to the Housing and Community Development (HCD) Environmental Review Specialist quarterly with invoice submittal. The Contractor shall keep photocopies on file.
- c. If the MHR staff checks "no" to all questions numbers 1-4 on a Site Specific ER Checklist, then MHR staff shall submit information listed on the Site Specific ER Checklist to the King County ER Specialist, and work shall not begin until the ER Specialist notifies Contractor staff that an ER for that site (Tier 3) is complete. These reviews shall be submitted along with at least one picture of the project house.
- d. The MHR staff shall provide the HCD ER Specialist information concerning the following regulations for Tier 3 reviews, as determined in the Tier 1, Five-Year Programmatic ER (published Dec. 2010):
 - i. Section 106: Historic Preservation and Archaeology;
 - ii. Toxic Chemicals; and
 - iii. Flood disaster Protection Act (flood insurance).

4. Lead-Based Paint (LBP) Requirements

- a. The Contractor shall complete the HCD Supplementary Lead Based Paint Checklist for all repairs on houses built prior to 1978 and submit copies to HCD Project Manager with Quarterly Billing Invoice Package as outlined in Section III.B. of this Exhibit.
- b. The Contractor shall procure a neutral third party lead based paint certified contractor hired specifically to assess LBP threshold determinations (with the exception of those re-occurring activities that have been pre-determined to not disturb paint).

The sub-contractor(s) shall not complete the LBP work on homes they have assessed and shall refer his/her determinations back to the Contractor to coordinate all LBP housing repairs and clearance through King County HCD Staff.
- c. The Contractor shall monitor job completion and LBP clearance of housing units per Housing Repair LBP standards as set forth in the Minor Home Repair Program Lead Based Paint Requirements and Process.
- d. If a project repair area is over de minimus and has children under the age of six residing in the house, and is over \$5,000 in repair value, the project shall be referred to King County Housing Repair Program by MHR Staff for assessment and completion.

- i. In these instances, if the City makes the referral and desires to continue funding the repair as a grant, it will be responsible for all additional costs associated with addressing the repairs and the LBP. The Housing Repair Program will bill the MHR Program for the project in an amount adequate to cover all costs associated with the repair and LBP activity. If the MHR Program runs out of funds available for grant transfer referrals, the referrals will be assessed for the traditional non-amortizing loan program through the Consortium's Housing Repair Program, if desired by the client through normal channels of intake, and general HRP process.
- ii. The estimated HCD cost associated with LBP review, testing, determination and clearance has been determined to be no less than \$500 to cover associated travel and HRP staff time, but will be itemized per project. Multiple tests might be necessary to complete clearance of a project

e. Lead Based Paint Records

The Contractor shall maintain records documenting compliance with Regulations for Lead-Based Paint Poisoning Prevention in Certain Residential Structures at 24 Code of Federal Regulations (CFR) Part 35. Such records shall include, for each housing unit assisted under this Contract:

- i. Records evidencing that the housing repair was exempt pursuant to 24 CFR Part 35.115; or
- ii. Records evidencing that the scope of the housing repair work did not exceed the de minimus criteria at 24 CFR Part 35.1350(d) and that the Contractor provided the required pamphlet to the occupants of the housing unit pursuant to 24 CFR Part 35.910(b); or
- iii. Records evidencing that the housing repair work was completed in accordance with the procedures specified in 24 CFR Part 35, Subpart J including provision of required notices, and performance of evaluation and clearances.

5. Subcontracted Services

- a. In addition to the requirements of Section XVI. of the Contract, the Contractor shall execute written agreements with each Contractor with which it subcontracts to provide services (hereinafter "Implementing Agency") and shall incorporate into such subcontracts the provisions in Section II.D., Program Requirements, of this Exhibit.
- b. The Contractor shall invoice the County for due and payable invoices of the Implementing Agency or for costs paid by the Contractor for goods, materials or services already provided. The Contractor shall invoice the County after the Implementing Agency has invoiced the Contractor. The Contractor shall include a copy of the Implementing Agency's invoice with its invoice submitted to the County. The Contractor shall ensure that all costs for which the Implementing Agency requests reimbursement are allowable in accordance with Office of Management

and Budget 2 Code of Federal Regulations (CFR) 230 (formerly OMB Circular A-122) or 2 CFR 225 (formerly OMB Circular A-87), as applicable.

- c. The Contractor shall monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

6. Copyright

If this Contract results in any copyrightable material, King County reserves the right to royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work for governmental purposes.

7. Public Information

All marketing materials, news releases and other public notices related to projects funded under this Agreement shall include information identifying the source of funds as the King County Community Development Block Grant Program.

III. COMPENSATION AND METHOD OF PAYMENT

- A. The Contractor shall apply the following CDBG funds in accordance with the Line Item Budget below. The total amount of reimbursement pursuant to this Exhibit shall not exceed \$125,000.

1. CDBG Funds

King County CDBG Funds -South Sub-Region	\$ 125,000
Total CDBG Funds:	\$ 125,000

2. Line Item Budget

Environmental Review	\$ 2,000
Project Management	\$ 6,500
Office/Operating Supplies	\$ 0
Construction Contracts	\$ 110,500
Communications	\$ 0
Travel and Training	\$ 0
Lead Based Paint Activities	\$ 5,000
Other Miscellaneous CDBG eligible cost:	\$ 1,000
Total CDBG Funds:	\$ 125,000

B. Billing Invoice Package

- 1. The Contractor shall submit a Billing Invoice Package quarterly that consists of an invoice statement and other reporting requirements as stated in Section IV., REPORTING REQUIREMENTS, of this Exhibit in a format approved by the County. All required reports shall accompany the invoice statement in order to receive payment.

2. All required reports must accompany the invoice statement in order to receive payment. The Contractor shall submit invoices to the County in the form of a CDBG Program Voucher Reimbursement Request form. Such forms shall be signed by an authorized representative of the Contractor and shall be accompanied by copies of supporting documents.
3. The Billing Invoice Package is due within 20 working days after the end of each quarter.
4. The final 2014 voucher shall be submitted no later than October 10, 2014.

C. Method of Payment

1. The County shall reimburse the Contractor on a quarterly basis for actual expenditures in accordance with the Line Item Budget in Section III.A.
2. Payment to the Contractor may be withheld for any quarter in which the Contractor has not submitted the reports specified in Section IV., REPORTING REQUIREMENTS, of this Exhibit, or in which said reports are incomplete.
3. The Contractor shall advise the County quarterly of any changes in revenues from sources other than the County that are used to provide the services funded under this Exhibit. The Contractor agrees to re-negotiate performance requirements if the County determines that such changes are substantial.

IV. REPORTING REQUIREMENTS

The Contractor shall submit electronically the following data reports in a format and to an address provided by the County.

- A. The Contractor shall submit a completed Environmental Review Form to the King County Environmental Review Specialist quarterly, and place a photocopy with client's applications for repairs in the Contractor's Minor Home Repair Program file.
- B. The Contractor shall submit with each invoice a completed Project Activity Report Form, in a format provided by the County. Each Project Activity Report shall include a narrative with an explanation if actual services are less than 90 percent of the cumulative minimum service requirements as stated in Section II. D.1. of this Exhibit.
- C. The Contractor shall use the following methods to measure the indicator specified in Section II.D.1. of this Exhibit: Number of units completed.
- D. The Contractor shall submit with the final invoice a completed Project Funding Report form itemizing all funding used for the project, in a format provided by the County.

BUDGET NARRATIVE

2013

FUND: GENERAL FUND
DEPARTMENT: PLANNING, BUILDING AND PUBLIC WORKS
DIVISION: JOINT MINOR HOME REPAIR PROGRAM

Account No.	Title	Narrative	Departmental Request	Executive Amendment	Adopted
001.495.040.559.30.00.00		PBPW JOINT MINOR HOME REPAIR PROGRAM			
		SALARIES AND WAGES			
559.30.10	Salaries & Wages	Provides for part-time staff to support City's Minor Home Repair Program 0.10 FTE	\$ 4,008	\$ 4,008	\$ 3,960
		TOTAL SALARIES AND WAGES	\$ 4,008	\$ 4,008	\$ 3,960
		PERSONNEL BENEFITS			
559.30.20	Personnel Benefits	Provides for benefits for part-time staff.	\$ 544	\$ 529	\$ 525
		TOTAL PERSONNEL BENEFITS	\$ 544	\$ 529	\$ 525
		OTHER SERVICES AND CHARGES			
559.30.48	Repairs & Maintenance	The Joint Minor Home Repair Program targets minor home repairs for low and moderate income homeowners in the City of Des Moines. The program is intended to assist homeowners unable to maintain their homes. Funding is provided by Community Development Block Grant Funds.	\$ 35,000	\$ 35,000	\$ 35,000
		TOTAL OTHER SERVICES AND CHARGES	\$ 35,000	\$ 35,000	\$ 35,000
		TOTAL PBPW JOINT MINOR HOME REPAIR PROGRAM	\$ 39,552	\$ 39,537	\$ 39,485

A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Draft Resolution 13-216
Setting a Public Hearing to consider zoning and land use regulations for producers, processors, and retailers of recreational marijuana licensed by the State of Washington

ATTACHMENT:

1. Draft Resolution No. 13-216

FOR AGENDA OF: October 24, 2013

DEPT. OF ORIGIN: Planning, Building and Public Works

DATE SUBMITTED: October 17, 2013

CLEARANCES:

- ☒ Legal EB
- ☐ Finance N/A
- ☐ Marina N/A
- ☐ Parks, Recreation & Senior Services N/A
- ☒ Planning, Building & Public Works DJB
- ☐ Police N/A
- ☐ Courts N/A

APPROVED BY CITY MANAGER
FOR SUBMITTAL: 

Purpose and Recommendation

The purpose of this agenda item is to schedule a public hearing date for the City Council to consider Draft Ordinance No. 13-216 which provides zoning and land use regulations for producers, processors, and retailers of recreational marijuana licensed by the State of Washington pursuant to WAC 314-55. Administration requests that the City Council approve the Draft Resolution No. 13-216 setting a public hearing in order to consider Draft Ordinance No. 13-216 by passing the following motion:

MOTION:

"I move to adopt Draft Resolution No. 13-216 setting a public hearing on November 14, 2013 to consider Draft Ordinance 13-216 which provides zoning and land use regulations for producers, processors, and retailers of recreational marijuana licensed by the State of Washington."

Background

On November 6, 2012, Initiative 502 was passed by the voters of the State of Washington, providing a framework under which marijuana producers, processors, and retailers can become licensors by the State of Washington. Initiative 502 calls for the establishment of a regulatory system licensing producers, processors, and retailers of recreational marijuana for adults twenty-one (21) years of age and older, legalizes the possession and private recreational use of marijuana, and requires the Washington State

Liquor Control Board (LCB) to adopt procedures and criteria by December 1, 2013 for issuing licenses to produce, process, and sell marijuana.

The Washington State Liquor Control Board adopted its rules pertaining to the licensing of marijuana producers, processors, and retailers on October 16, 2013, which has an effective date of November 16, 2013. They will begin accepting applications for license types on November 18, 2013 and begin issuing licenses to qualified applicants on December 1, 2013.

The City of Des Moines currently does not have specific zoning regulations pertaining to state-licensed producers, processors, and retailers of state-licensed recreational marijuana. Draft Ordinance 13-216 would identify the zones where such uses would be permitted pursuant to WAC 314-55. Security, signage/advertising, waste disposal, accessibility, hours of operation, noise, odor, and violations/penalties and related concerns are regulated by WAC 314-55.

The State Environmental Policy Act (SEPA) Responsible Official issued a Determination of Non-Significance on October 16, 2013, with the public comment period ending on October 31, 2013 and appeal period ending November 12, 2013.

Alternatives

The City Council may:

1. Adopt the Draft Resolution No. 13-216 as written.
2. Adopt the Draft Resolution establishing a different hearing date.
3. Decline to adopt the Draft Resolution.

Financial Impact

None regarding setting a public hearing date.

Recommendation

Staff recommends the suggested motion.

Concurrence

The Legal, and Planning, Building, and Public Works Departments concur.

LEGAL DEPARTMENT'S FIRST DRAFT 10/16/2013**DRAFT RESOLUTION NO. 13-216**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON, fixing a time for a public hearing to consider Draft Ordinance No. 13-216 which provides zoning and land use regulations for producers, processors, and retailers of recreational marijuana licensed by the State of Washington.

WHEREAS, the City Council is considering adding a new chapter to Title 18 DMMC related to the zoning standards for producers, processors, and retailers of recreational marijuana licensed by the state of Washington pursuant to WAC_314-55, and

WHEREAS, a public hearing is required for enacting an ordinance which amends Title 18 DMMC commonly referred to as the Zoning Code; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES RESOLVES AS FOLLOWS:

The matter of adding a new chapter to Title 18 DMMC entitled "State-Licensed Marijuana Producers, Processors, and Retailers Code" is set for a public hearing before the City Council on Thursday, November 14, 2013, at 7:00 p.m., or as soon thereafter as the matter may be heard, in the City Council Chambers, 21630 11th Avenue South, Suite B, Des Moines, Washington.

ADOPTED BY the City Council of the City of Des Moines, Washington this ____ day of _____, 2013 and signed in authentication thereof this ____ day of _____, 2013.

M A Y O R

APPROVED AS TO FORM:

City Attorney

Draft Resolution No. 13-216.1
10/16/2013

ATTEST:

City Clerk

Draft Resolution No. 13-216.1
10/16/2013

AGENDA ITEM

SUBJECT: Federal Way Link Extension
(FWLE) DEIS Alternatives

AGENDA OF: October 24, 2013

DEPT. OF ORIGIN: Planning, Building &
Public Works

ATTACHMENTS:

DATE SUBMITTED: October 15, 2013

1. Extract of September 2013 Presentation to Sound Transit Board
2. Extract of City Council Meeting Minutes, June 27, 2013
3. Des Moines' July 3, 2013 EIS Scoping Letter
4. EIS Scoping Letters from the cities of Kent, SeaTac, Federal Way and Highline Community College

CLEARANCES:

- ☐ Legal N/A
- ☐ Finance N/A
- ☐ Marina N/A
- ☐ Parks, Recreation & Senior Services N/A
- ☒ Planning, Building & Public Works DSB
- ☐ Police N/A

APPROVED BY CITY MANAGER
FOR SUBMITTAL: 

Purpose and Recommendation:

The purpose of this item is for Sound Transit staff to update the City Council on decisions made by the Sound Transit Board on alignment and station location alternatives identified for evaluation during the Federal Way Link Extension (FWLE) Draft Environmental Impact Statement (DEIS) development process over the next year.

Suggested Motion

None

Background:

In June 2012, Sound Transit began an "Alternatives Analysis" on the 7.6 mile corridor from South 200th Street to the Federal Way Transit Center including stations in the vicinity of Highline Community College by 2023 and South 272nd Street when funds become available.

The Alternatives Analysis is now complete and tonight Sound Transit staff will brief Council on the results of that analysis and the recent action by the Sound Transit Board identifying the alternatives to be further evaluated over the next year as the DEIS is developed. More detail on those alternatives is included in Attachment 1.

The next planning phases are DEIS/Conceptual Engineering, public comment on the DEIS, and the publication of a Final EIS and Preliminary Engineering. Completion of the environmental approval process and Sound Transit Board selection of the alternative to be built is expected in late 2016, based on available funds, followed by a Record of Decision from the Federal Transit Administration. The public

will be asked to comment on the DEIS before the Sound Transit Board identifies the preferred alternative alignment and station locations to be evaluated in the Final EIS.

Anticipating the arrival of Link Light Rail by 2023, the cities of Kent and Des Moines, supported by a \$125,000 State grant, completed a collaborative planning project called “Envision Midway”. A series of open houses, workshops and stakeholder group meetings were held in 2008 and 2009. Des Moines City Council subsequently approved an ordinance amending the Des Moines Comprehensive Plan incorporating the Envision Midway planning work in November 2009. In December 2011, the City of Kent, after further planning and analysis, adopted a subarea plan, zoning and design guidelines for Midway that sets the table for the extension of Link Light Rail and associated transit-oriented development in Midway.

The Des Moines Comprehensive Plan includes the following strategies related to the extension of Link Light Rail to and through Des Moines. The State-required 2014 Des Moines Comprehensive Plan update will be an opportunity to refine or change these policies and strategies.

Transportation Element

Strategy 3-05-04 Public Transit

(7) Support Sound Transit light rail (LRT) station(s) in Pacific Ridge, Midway, and Woodmont areas on Pacific Highway South. (CTP TR 4.8)

(9) Work with Sound Transit to establish a light rail transit stop at South 216th Street. (CTP TR 4.10)

(10) Work with Sound Transit on station area planning for Midway and South 272nd Street stations. (CTP TR 4.11)

(11) Coordinate with the City of Kent for the Midway subarea. (CTP TR 4.12)

Pacific Ridge Element

Policy 11-03-11 *Coordinate with Sound Transit and the Cities of Kent, SeaTac and Federal Way on the extension of light rail through Des Moines.*

Strategy 11-04-07 *Support a light rail alignment on or east of the SR 99 center median, or along 30th Avenue South, provided a light rail stop is added in the vicinity of South 216th Street; or designate the west margin of Interstate 5 as the light rail corridor through Pacific Ridge. Work with Sound Transit to establish a light rail stop in the vicinity of S 216th Street.*

On February 7, 2013, the City Council adopted the following 2013 Intergovernmental Policy:

B.4.i. *The City supports a light rail alignment on the State Route 509 alignment and the west margin of Interstate 5 as the light rail corridor through Pacific Ridge.*

On June 27, 2013, following Sound Transit staff’s FWLE presentation, the City Council further clarified its policy position on the light rail alignment through Pacific Ridge and further south to South 272nd Street in approving the EIS Scoping Letter to Sound Transit dated July 3, 2013 (Attachments 2 and 3).

Over the past year, Sound Transit staff and their consultants evaluated a range of alternative alignments on SR 99, I-5, 30th Avenue South and 24th Avenue South including elevated, at grade and mixed alignment

profiles, and a number of possible station locations at South 216th Street, Kent-Des Moines Road in the vicinity of Highline Community College, and two Redondo options (Star Lake and Redondo park-and-rides). Stakeholders in the Woodmont area also asked that a 260th Street Station alternative be evaluated. The stakeholders were provided the opportunity to comment on the accuracy and completeness of the analysis during an EIS Scoping public comment period that was held from June 14 to July 17, 2013.

Discussion

Sound Transit's Board reviewed EIS scoping comments and results of the alignment and station alternatives analysis and approved Draft EIS alternatives on September 26, 2013. The Board also re-named the project to Federal Way Link Extension inasmuch as link light rail is the only transit option now being considered. Other highlights included the following:

1. Four baseline alignment alternatives will be evaluated: I-5, SR99, I-5/SR 99 and SR 99/I-5. Each segment will have one or more design options (e.g., where to cross Kent-Des Moines Road, how to avoid the Midway landfill, how to transition to the HCC Station, etc). Almost all alignment options on SR 99 will be elevated. The alignment along I-5 may be a mix of elevated and at-grade depending on topography and engineering constraints. Both Kent and Des Moines have requested a very robust economic impact analysis of alternatives.
2. SR 99 through Pacific Ridge will be evaluated. A shortened 30th Avenue design option to allow a Kent-Des Moines (KDM) Road crossing east of the existing intersection will be included. A KDM crossing west of the existing intersection will also be evaluated.
3. A South 216th Street station alternative on I-5 (as requested by Des Moines) will not be evaluated, but a South 216th Street station alternative on SR 99 will. A South 260th Street station alternative on SR 99 will also be evaluated. Neither a South 216th Street nor a South 260th Street station is funded in the voter approved ST2 plan. Each station, if added, could cost about \$40 million from other than voter-approved sources (such as Federal Transit Administration grants) and add 40 seconds to the travel time.
4. The cities of SeaTac and Des Moines have opposing policy positions regarding alignment from South 200th Street (Angle Lake) to South 216th Street. SeaTac wants a west side SR 99 alignment while Des Moines wants an SR 509/I-5 alignment. The SR 99 alignment alternative identified for analysis, however, is elevated in the center median, not on the west side of SR 99. The SR 509/I-5 alignment alternative identified for analysis is that favored by the City of Des Moines. This alignment, however, may need to be located outside of the WSDOT right-of-way through Pacific Ridge along I-5 potentially impacting undeveloped property along this corridor.
5. Kent, Highline Community College (HCC), and Des Moines staff will need to work closely together with Sound Transit engineers and planners to ensure the preferred HCC station from the three alternative station location alternatives is as convenient as possible for users while minimizing impacts to Kent's Midway transit oriented development area and not adversely impacting Pacific Ridge or Midway properties in the City of Des Moines.
6. Schedule:
 - a. Next 12 months – Complete Draft EIS followed by public comment
 - b. Early 2015 – Sound Transit Board identifies preferred alternative
 - c. Mid 2016 – Final EIS is published

- d. Late 2016 – Sound Transit Board selects project to build and Federal Transit Administration issues Record of Decision
- e. 2017-2018 – Final Design
- f. 2019-2022 Construction
- g. 2023 – Start of Service

At tonight's meeting, Sound Transit staff will present an abbreviated version (Attachment 1) of September briefings to the Sound Transit Board Capital Committee and full Sound Transit Board on the results of the Alternatives Analysis, the input received during the EIS Scoping period, and the alternatives for consideration in the DEIS.

The Public Safety and Transportation Committee received a preview of these findings and Sound Transit Board decisions at its October 3rd meeting.

Recommendation/Conclusion:

None

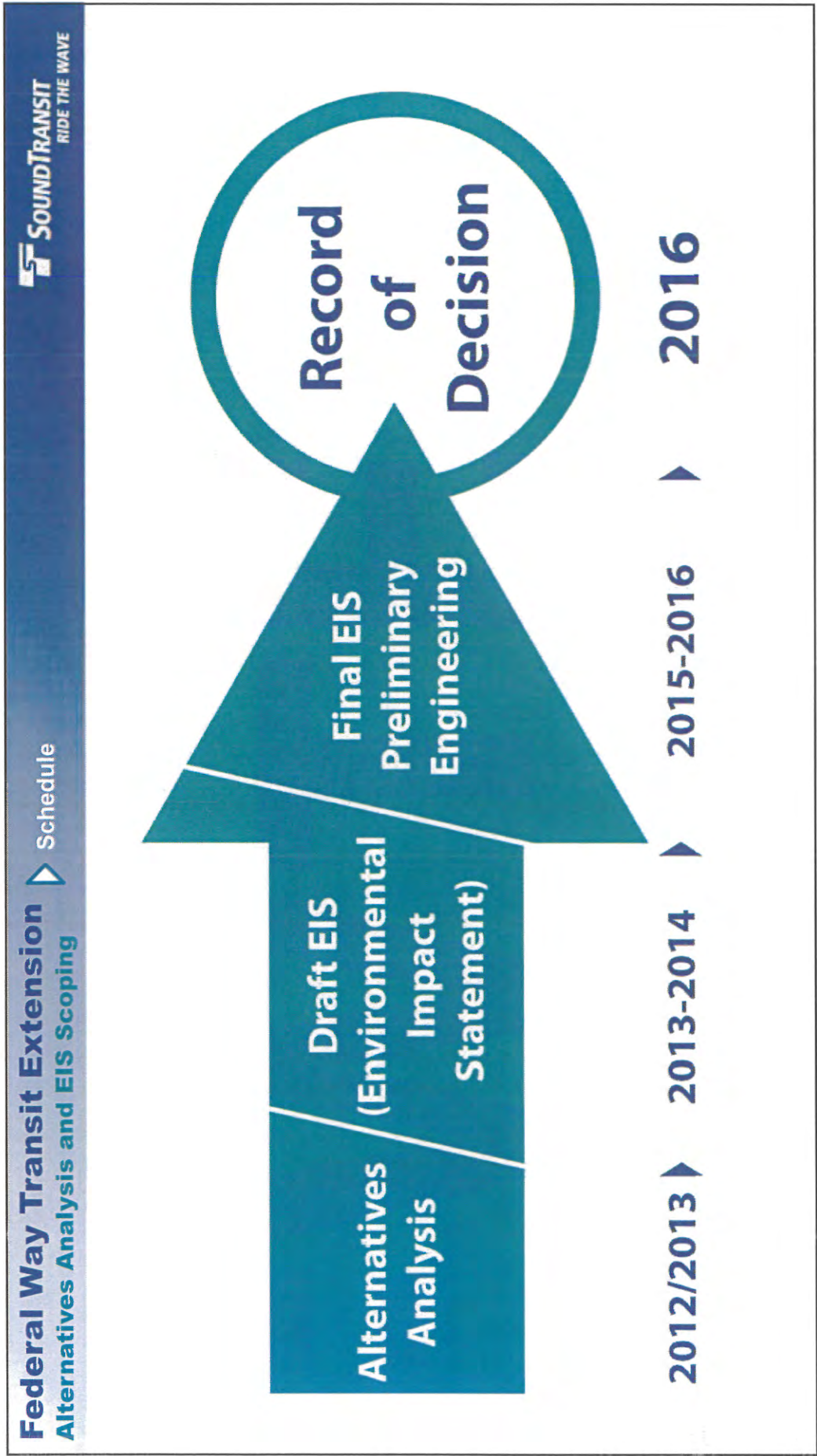
Federal Way Transit Extension

Alternatives Analysis and EIS Scoping Briefing Booklet

September 2013

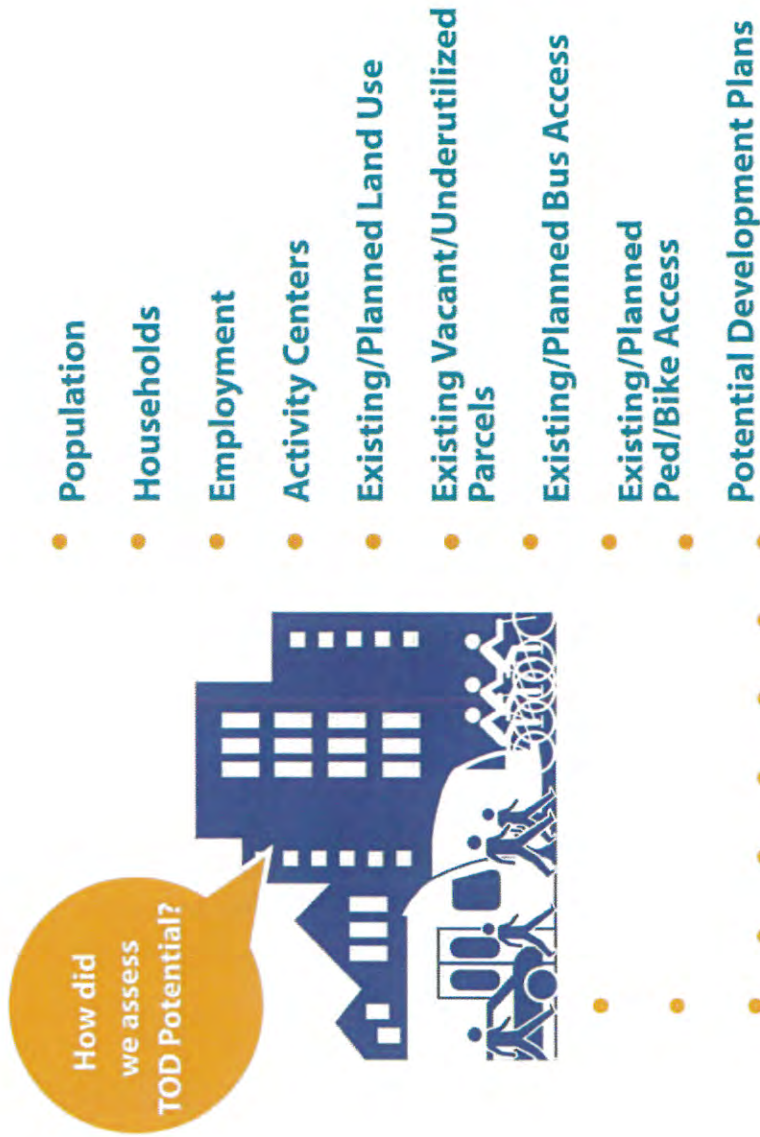


Sound Transit is evaluating alternatives to extend high capacity transit from the future Angle Lake light rail station on South 200th Street in SeaTac to the Federal Way Transit Center.



 The Alternatives Analysis (AA) phase and EIS Scoping period are now complete. They will be followed by a Draft Environmental Impact Statement (EIS) phase through 2014, and a Final EIS phase through mid-2016. The environmental review process will conclude with a Record of Decision from the Federal Transit Administration in late 2016.

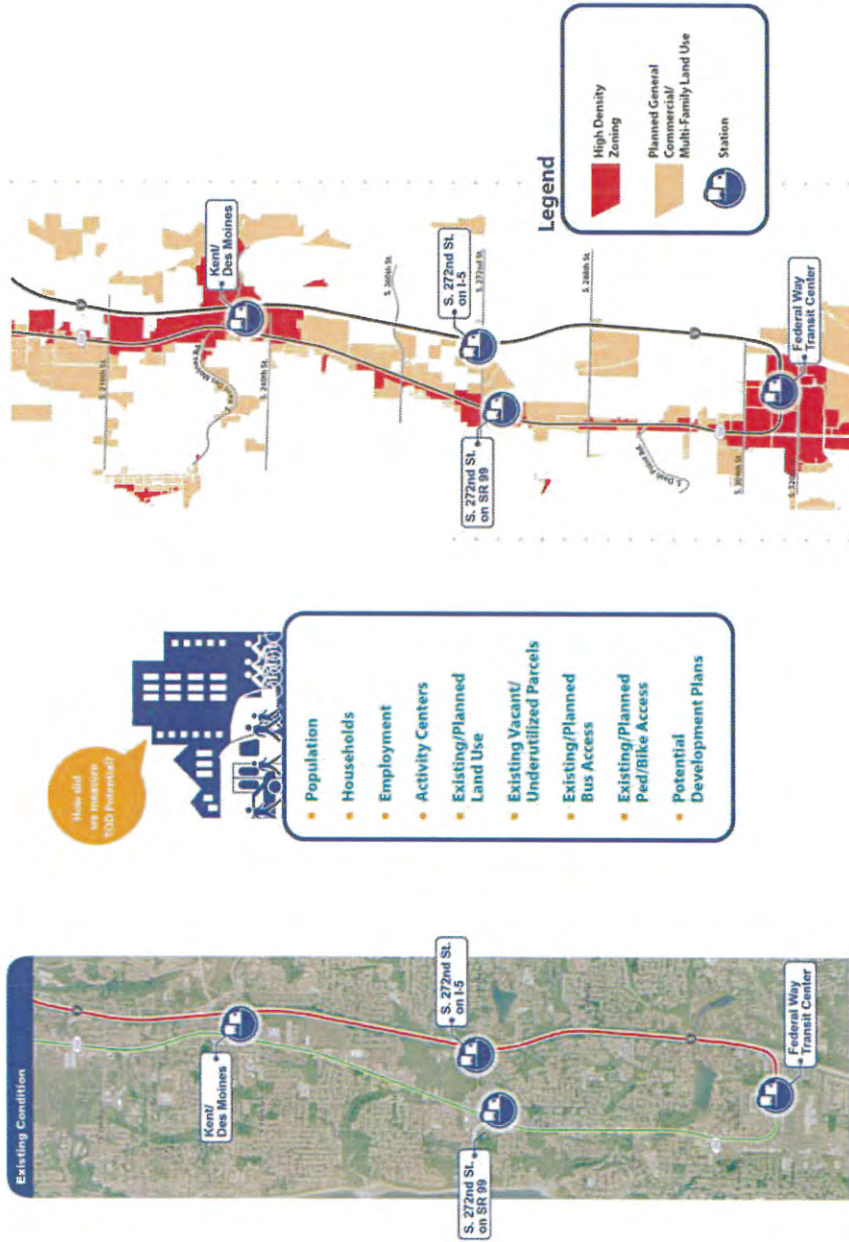
Federal Way Transit Extension Alternatives Analysis and EIS Scoping



As part of the alternatives analysis, Sound Transit analyzed the transit oriented development (TOD) potential of the various alternatives. This analysis was conducted in accordance with Sound Transit's TOD policy. The assessment of TOD potential considered a range of issues. Both alignment alternatives and station location alternatives were assessed.

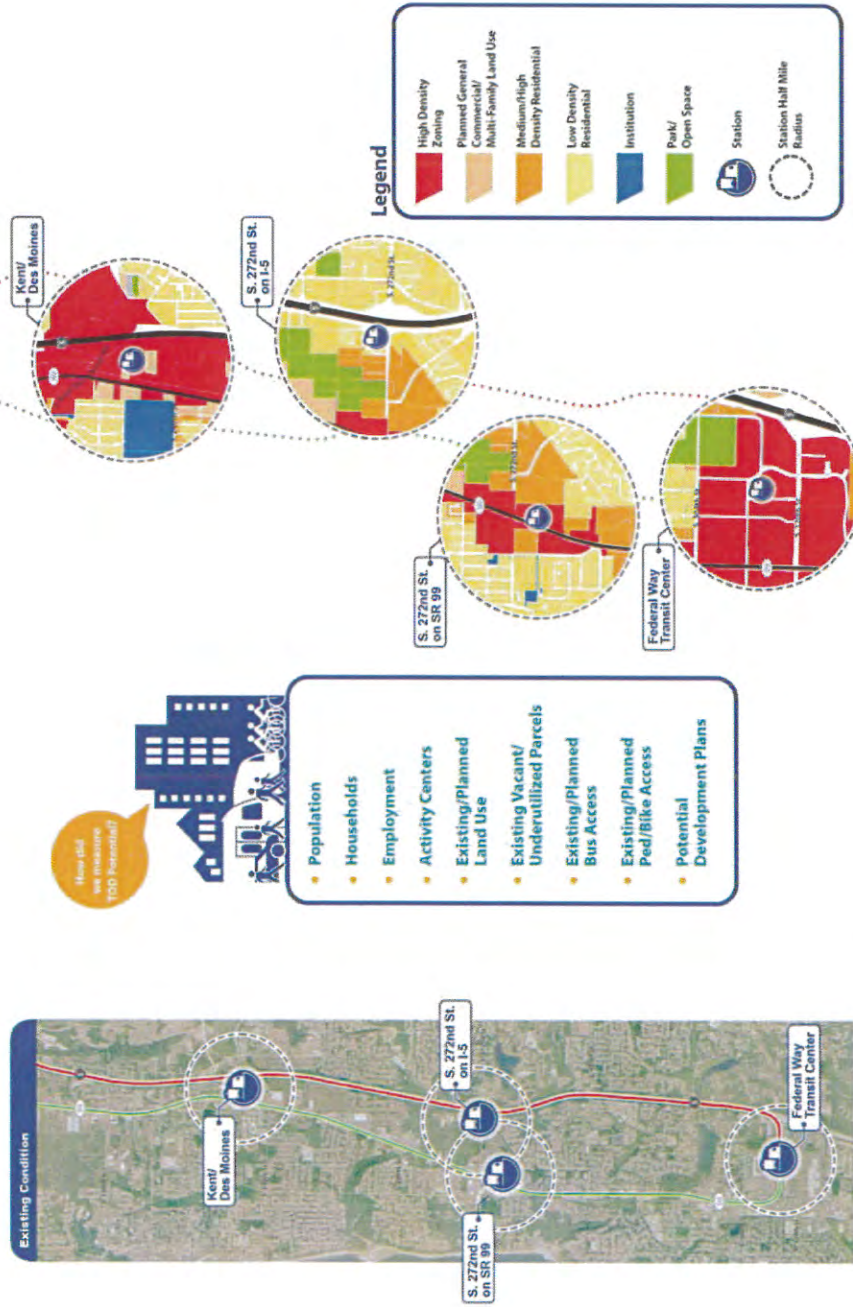
Federal Way Transit Extension Alternatives Analysis and EIS Scoping

TOD Potential - Alignments



The graphic on the right illustrates the high density zoning and the planned commercial and multi-family land uses within 1/4 mile of the alignment alternatives. TOD potential is generally higher along the SR 99 alignment alternatives.

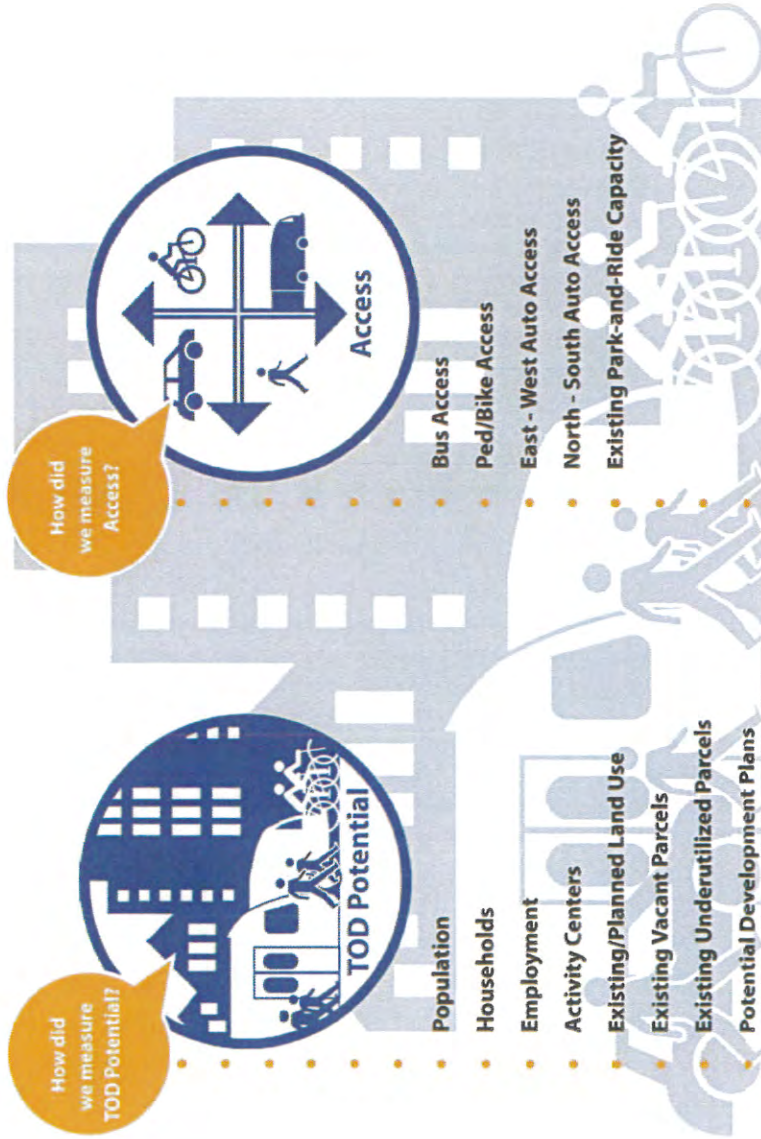
Federal Way Transit Extension **TOD Potential - Stations** **Alternatives Analysis and EIS Scoping**



The analysis of TOD potential for stations generally looked at the area within ½ mile of the station locations. The stations at Kent/Des Moines and the Federal Way Transit Center would generally be in the same location for all alternatives, but the South 272nd Street station would be in different locations for the SR 99 and I-5 alternatives. The South 272nd Street station on SR 99 would have higher TOD potential.

Federal Way Transit Extension Alternatives Analysis and EIS Scoping

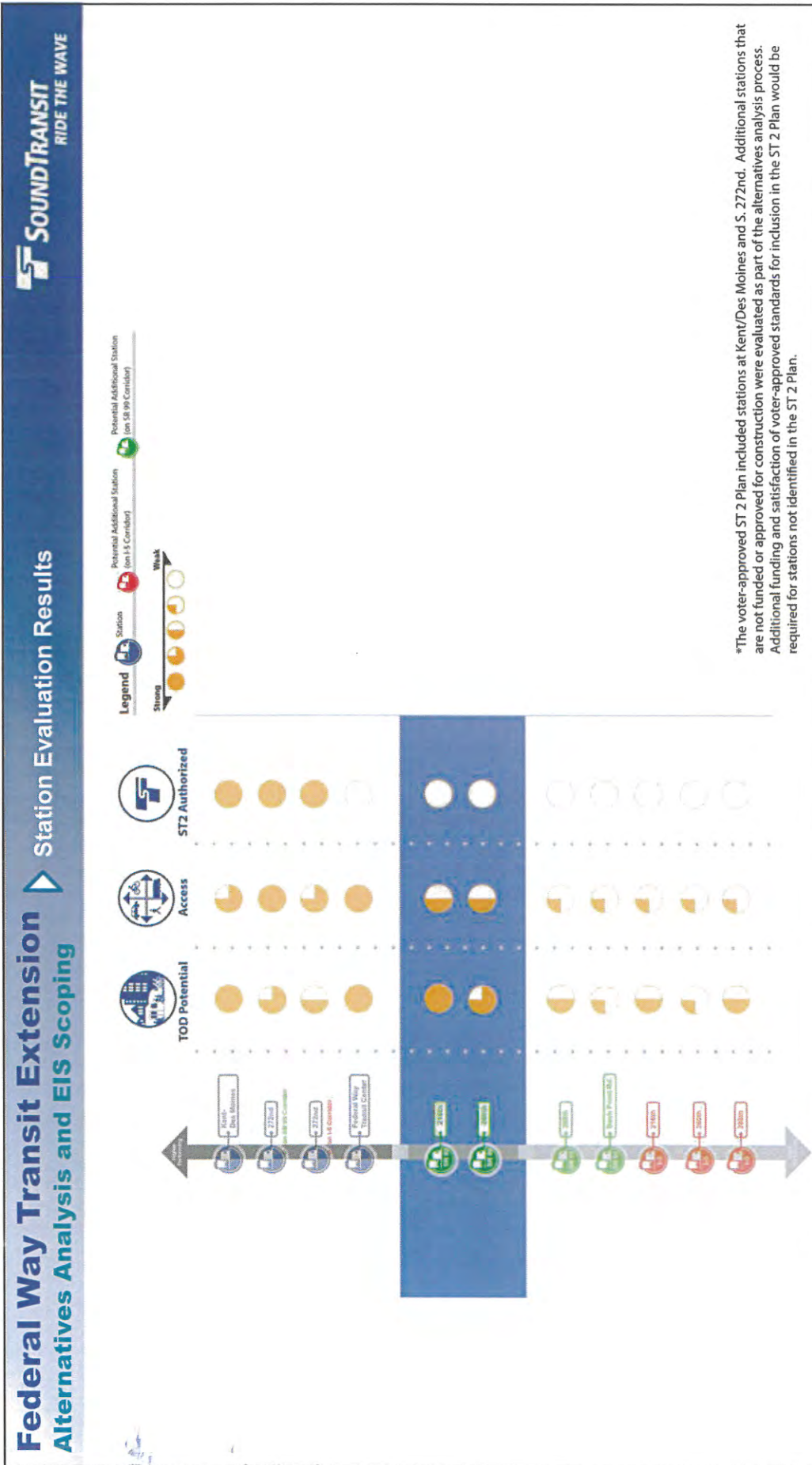
Station Evaluation



*The voter-approved ST 2 Plan included stations at Kent/Des Moines and S. 272nd. Additional stations that are not funded or approved for construction were evaluated as part of the alternatives analysis process. Additional funding and satisfaction of voter-approved standards for inclusion in the ST 2 Plan would be required for stations not identified in the ST 2 Plan.

The station evaluation examined both TOD potential and multimodal access.

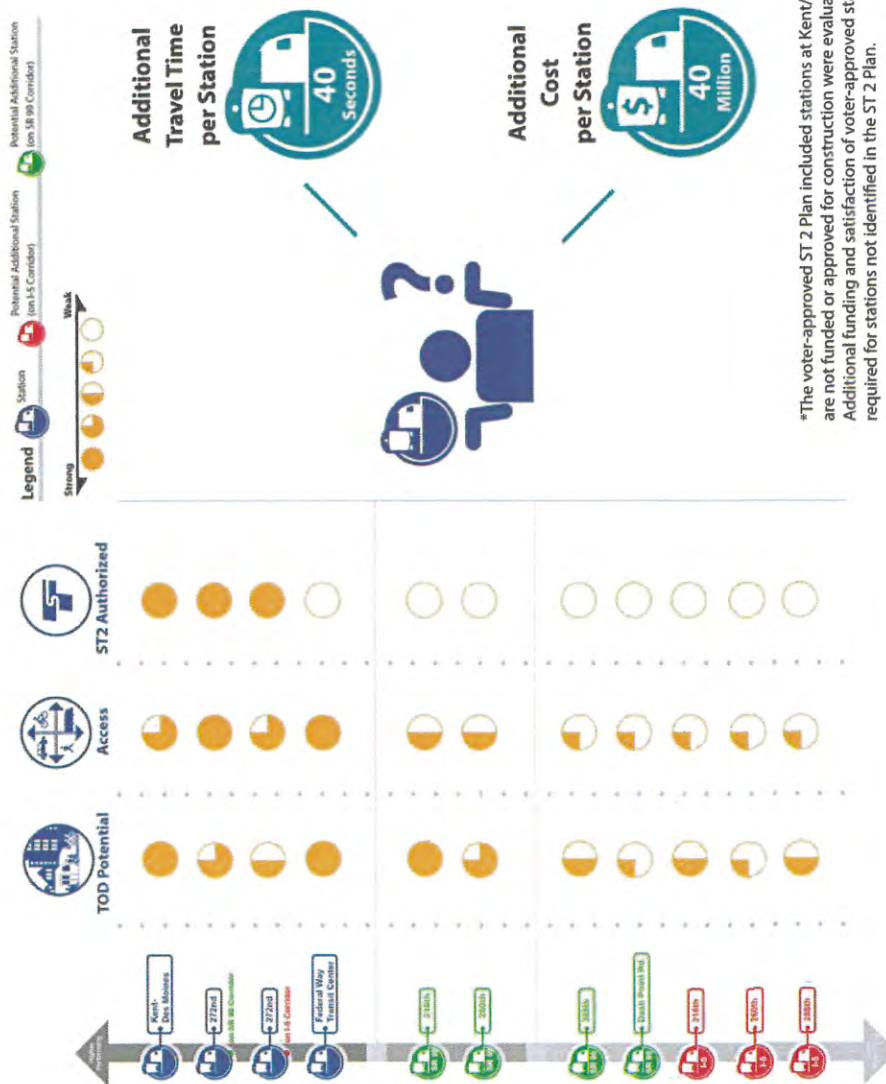




*The voter-approved ST 2 Plan included stations at Kent/Des Moines and S. 272nd. Additional stations that are not funded or approved for construction were evaluated as part of the alternatives analysis process. Additional funding and satisfaction of voter-approved standards for inclusion in the ST 2 Plan would be required for stations not identified in the ST 2 Plan.



Two of the suggested additional locations do perform well in terms of TOD potential (along SR 99 at South 216th Street and South 260th Street). They do not have as good access as the baseline locations.

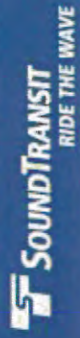


The voter-approved ST 2 Plan included stations at Kent/Des Moines and S. 272nd. Additional stations that are not funded or approved for construction were evaluated as part of the alternatives analysis process. Additional funding and satisfaction of voter-approved standards for inclusion in the ST 2 Plan would be required for stations not identified in the ST 2 Plan.

Each additional station would increase the end-to-end travel time by about 40 seconds. The cost of constructing an additional station is about \$40 million.

Federal Way Transit Extension Alternatives Analysis and EIS Scoping

EIS Scoping Agency Comments



City of Des Moines



Supports I-5 to Kent/Des Moines Rd



Supports 216th station on I-5



I-5/SR 509, Redevelopment, Residential



Legend



Comment relates
to Corridor Alignment



Comment relates
to Station



Comment relates
to Environmental Effect



The City of Des Moines supports an I-5 alignment to Kent-Des Moines Road and an additional station at S. 216th Street on I-5. The city also supports stations near HCC on SR 99, and stations at South 260th Street and South 272nd Street on SR 99. Key concerns include potential conflict with future I-5/SR 509 expansion, and potential effects to underdeveloped commercial properties.

Federal Way Transit Extension **Alternatives Analysis and EIS Scoping**

EIS Scoping Agency Comments



City of SeaTac



Supports SR 99 west side to 216th



Traffic concerns if station at 216th



I-5/SR 509, Residential, Visual, Noise

Legend



Comment relates to Corridor Alignment



Comment relates to Station



Comment relates to Environmental Effect



The City of SeaTac supports an alignment along the west side of SR 99 to S. 216th Street. Key concerns include potential effects to residential uses, land use effects of an additional station at 216th on I-5, and traffic effects of an additional station at 216th on SR 99 or I-5.

Federal Way Transit Extension Alternatives Analysis and EIS Scoping

EIS Scoping Agency Comments



Highline Community College

- Supports SR 99 at HCC
- Access to activity centers
- Redevelopment, Interim terminus



Legend

Comment relates to Corridor Alignment

Comment relates to Station

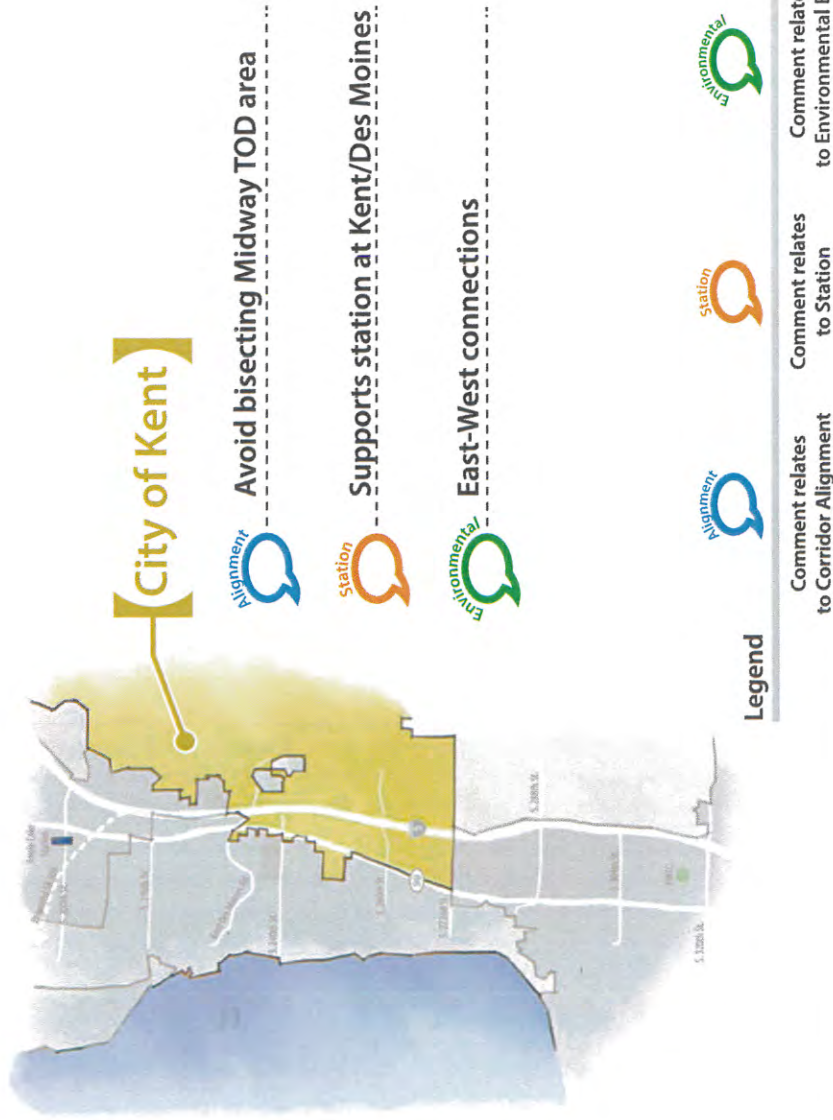
Comment relates to Environmental Effect



Highline Community College supports an alignment in close proximity to major activity centers along SR 99. Key concerns include economic development potential, parking, traffic congestion, pedestrian safety, and the implications of an interim terminus.

Federal Way Transit Extension **Alternatives Analysis and EIS Scoping**

EIS Scoping Agency Comments



The City of Kent noted that potential alignments should not bifurcate the transit-oriented community envisioned in the Midway Subarea Plan (which extends from Kent-Des Moines Road to S. 240th Street between SR 99 and I-5). Key concerns include providing strong pedestrian connections to HCC and east/west connections from the light rail line to the Kent Valley.



City of Federal Way

Speed/Reliability

Travel time of extra stations

ROW effects, Redevelopment, Environmental



Legend

Comment relates to Corridor Alignment

Comment relates to Station

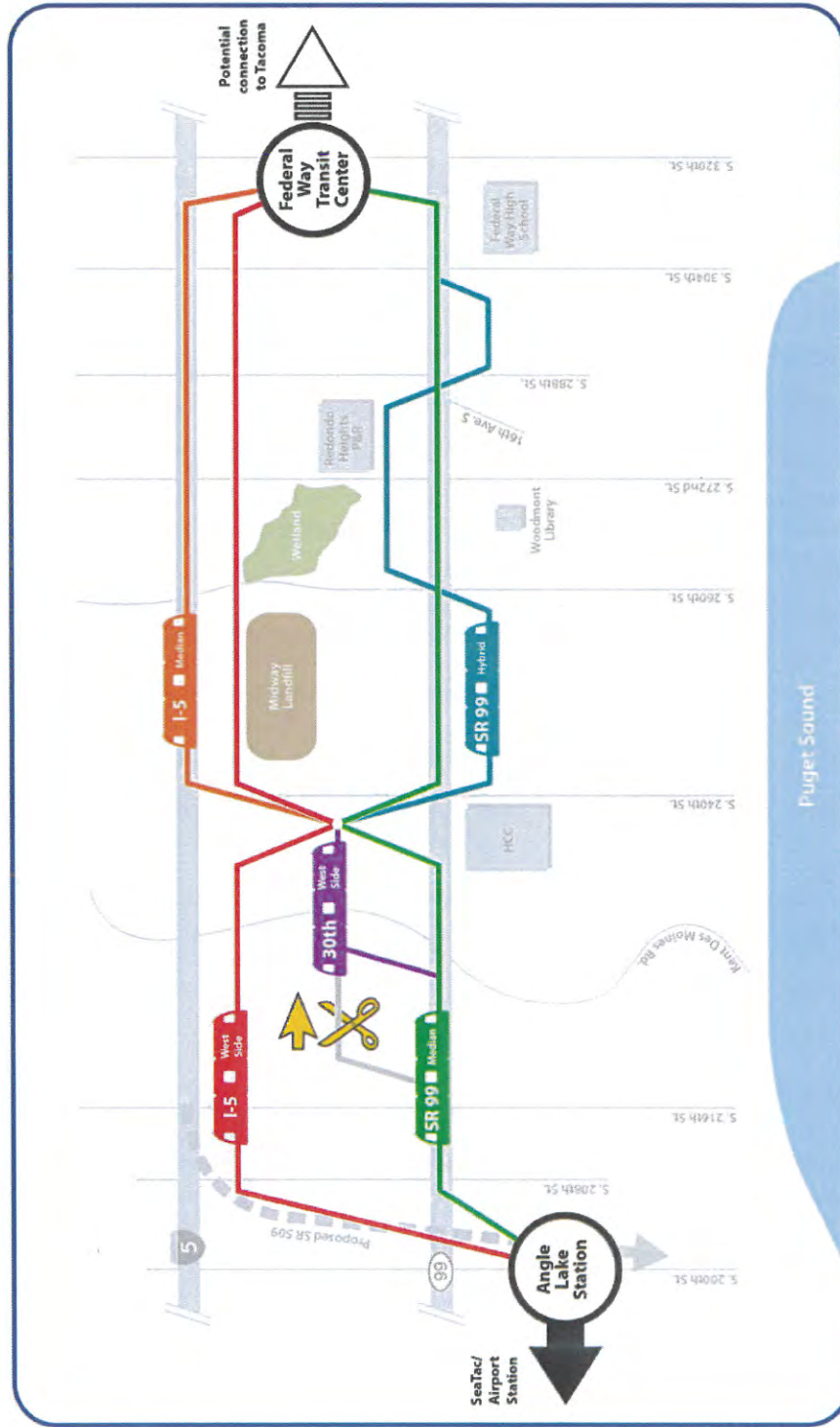
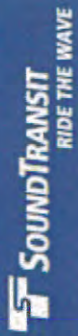
Comment relates to Environmental Effect



The City of Federal Way noted travel speed and reliability as important considerations when considering alignments and additional stations. Key concerns include station design considerations, potential property takings, and effects to the natural environment.

Federal Way Transit Extension Alternatives Analysis and EIS Scoping

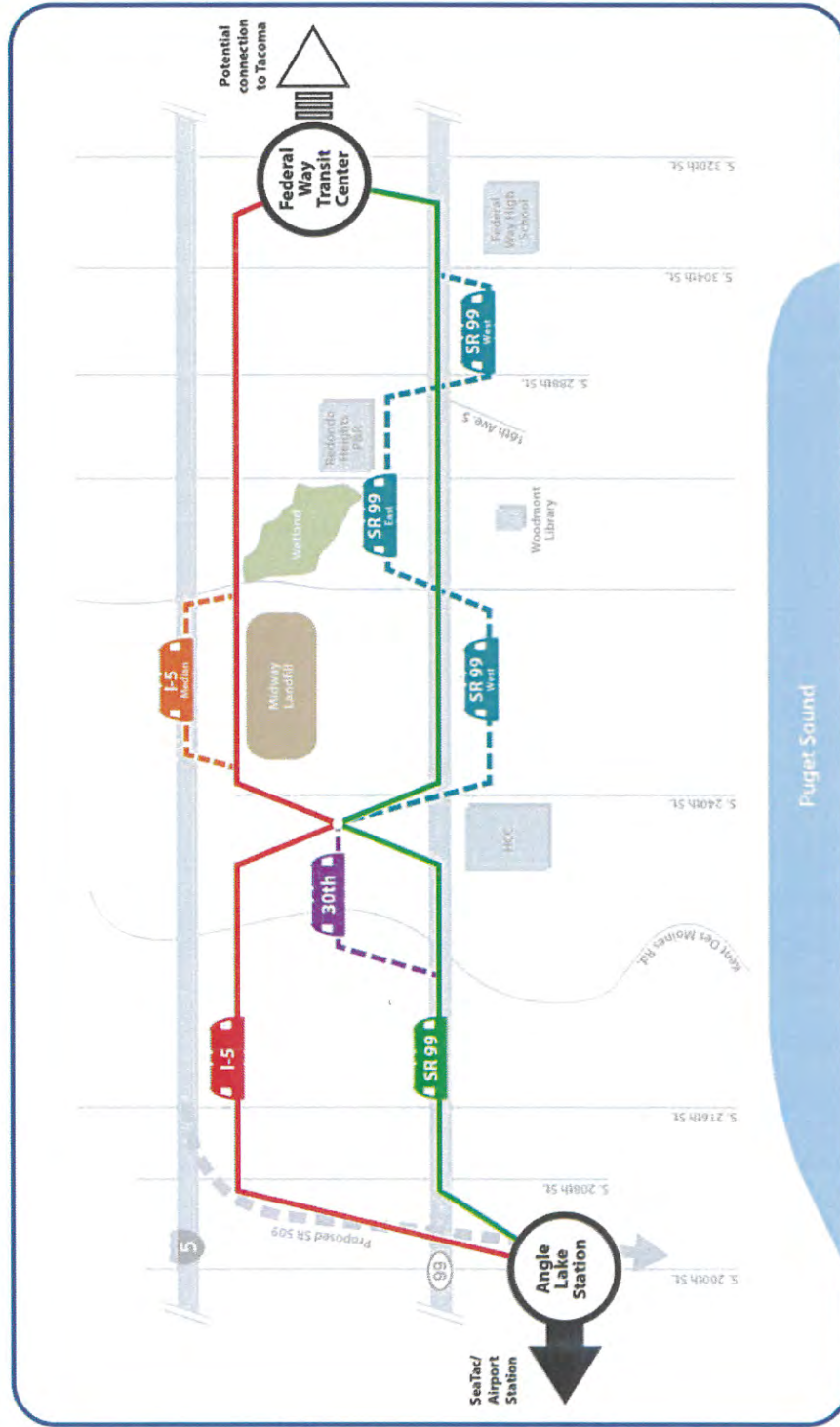
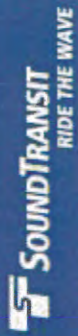
EIS Scoping Alignment Input



Based on the AA results, and input received during the EIS Scoping period, **the 30th Avenue alternative was shortened** to transition away from SR 99 near Kent-Des Moines Road (instead of near South 220th). This would limit potential effects to residential uses along 30th Avenue north of Kent-Des Moines Road.

Federal Way Transit Extension Alternatives Analysis and EIS Scoping

EIS Scoping Alignment Input



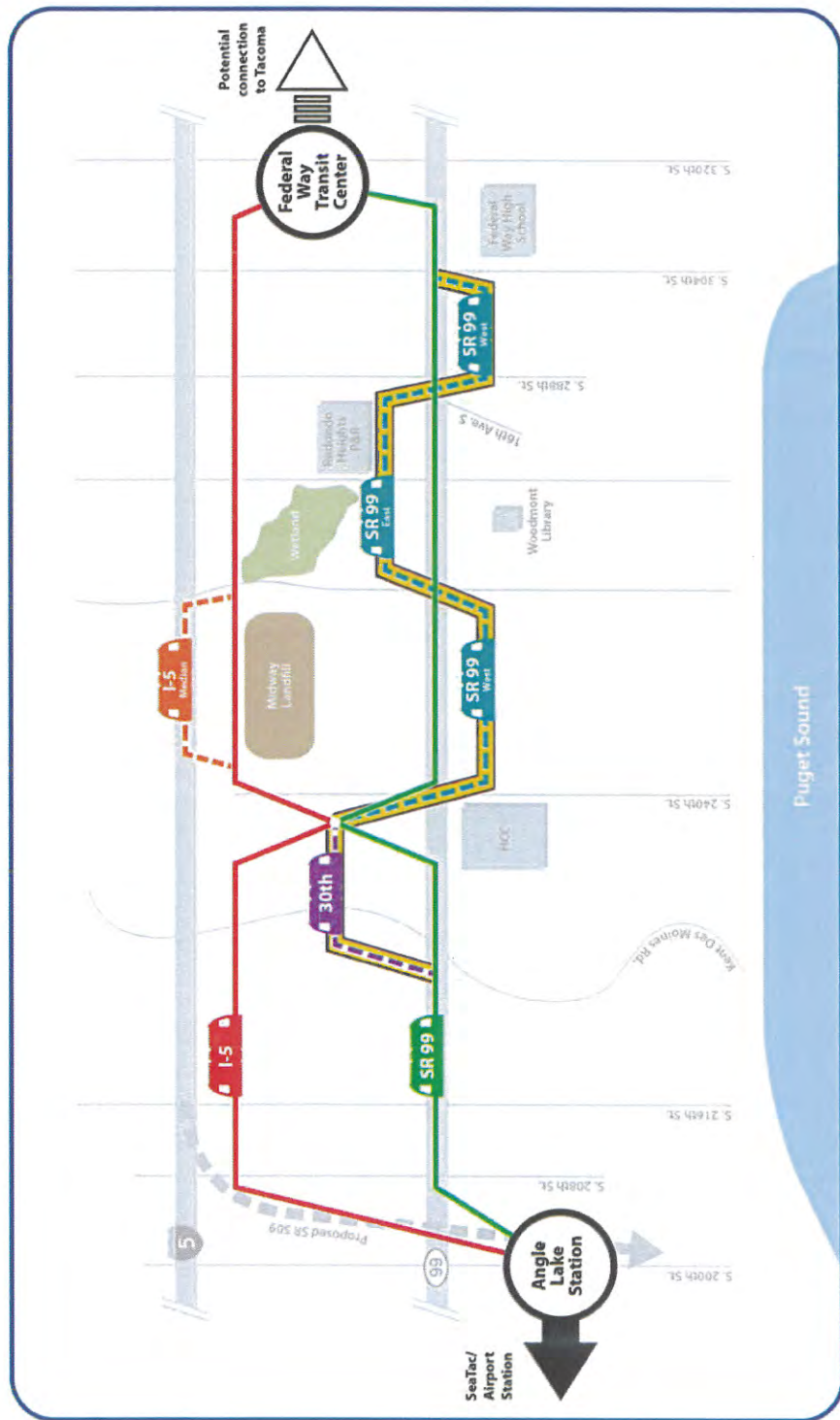
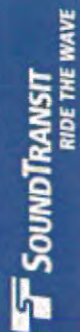
Given the AA results, and input received during the EIS Scoping period, the potential alternatives for consideration in the Draft EIS can now be defined as **four baseline alternatives** (I-5, SR 99, I-5/SR 99, and SR 99/I-5) with various design options. Each alternative is described on the following pages.



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Federal Way Transit Extension **Alternatives Analysis and EIS Scoping**

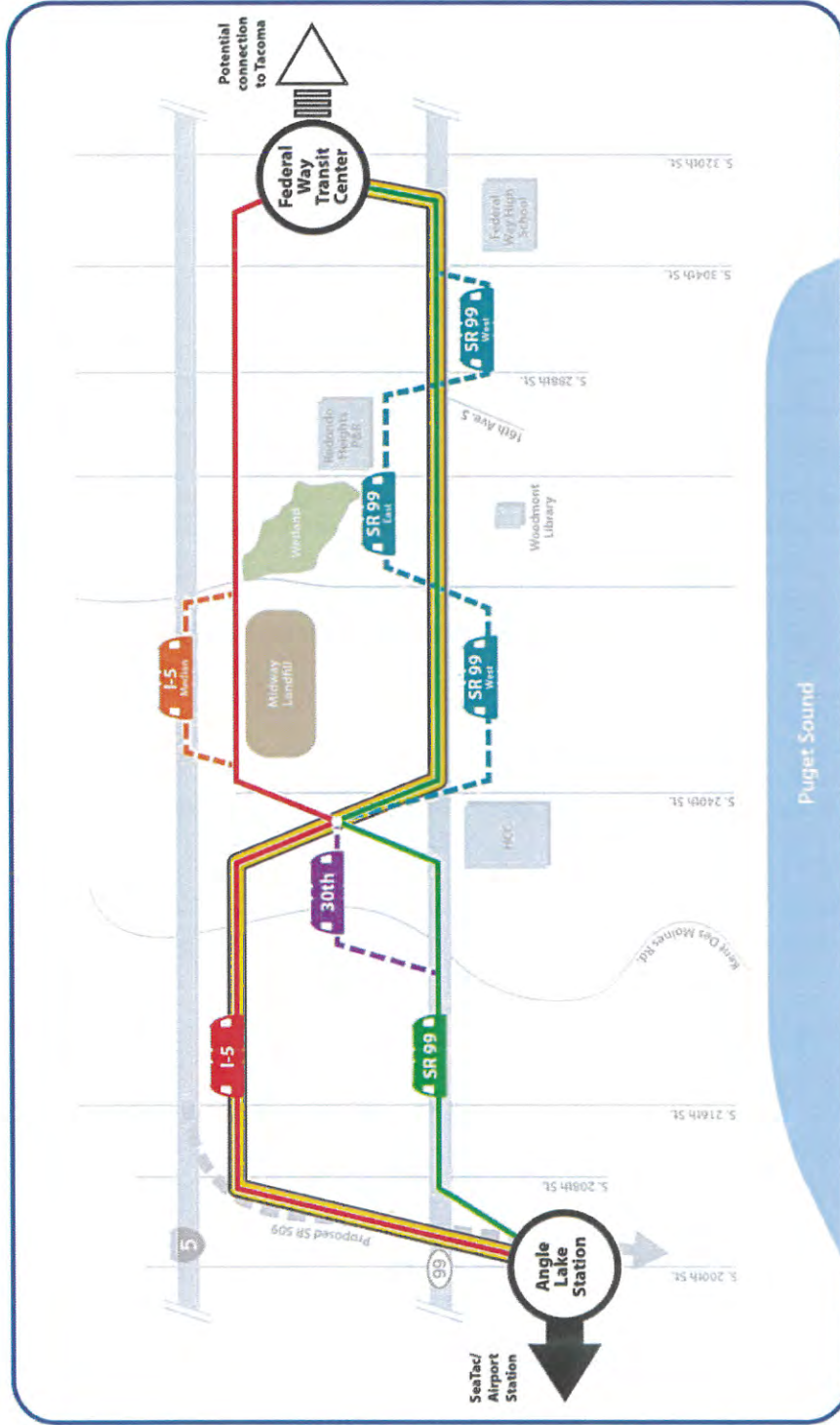
EIS Scoping Alignment Input



Potential **SR 99 “design options”** include a **30th Avenue** design option (from approximately Kent-Des Moines Road to S. 240th Street along 30th Avenue S.); an **SR 99 West Side** design option (from approximately S. 240th Street to S. 260th Street on the west side of SR 99); an **SR 99 East Side** design option (from approximately S. 260th Street to 16th Avenue S. on the east side of SR 99); and a **second SR 99 West Side** design option (from approximately 16th Avenue S. to S. 308th Street along the west side of SR 99).

Federal Way Transit Extension Alternatives Analysis and EIS Scoping

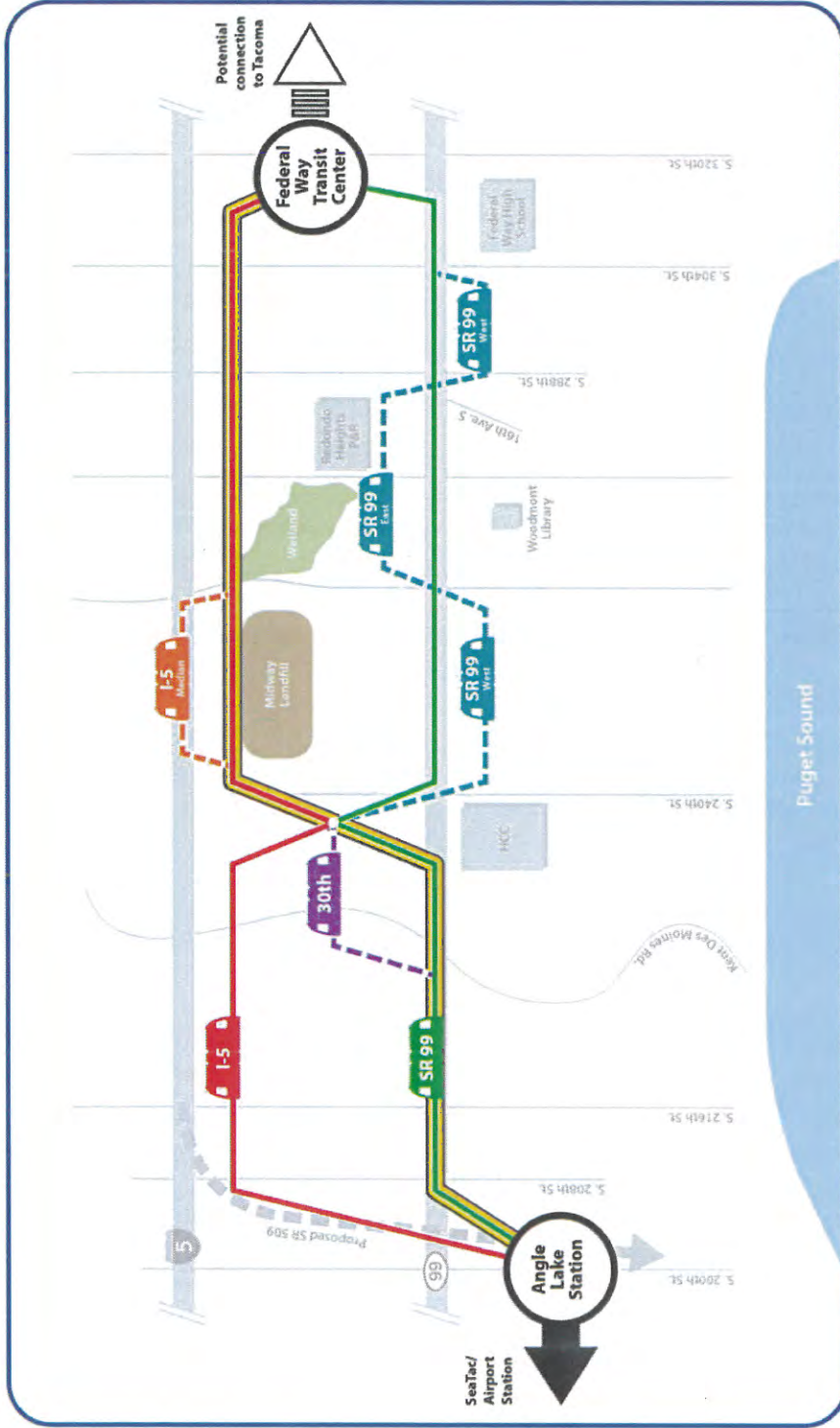
EIS Scoping Alignment Input



The **I-5/SR 99 alternative** would be identical to the I-5 alternative from the north end of the project area to approximately Kent-Des Moines Road, where the alignment would turn west to transition to SR 99. The alignment would then continue south along SR 99, following the same alignment as described above for the SR 99 alternative.

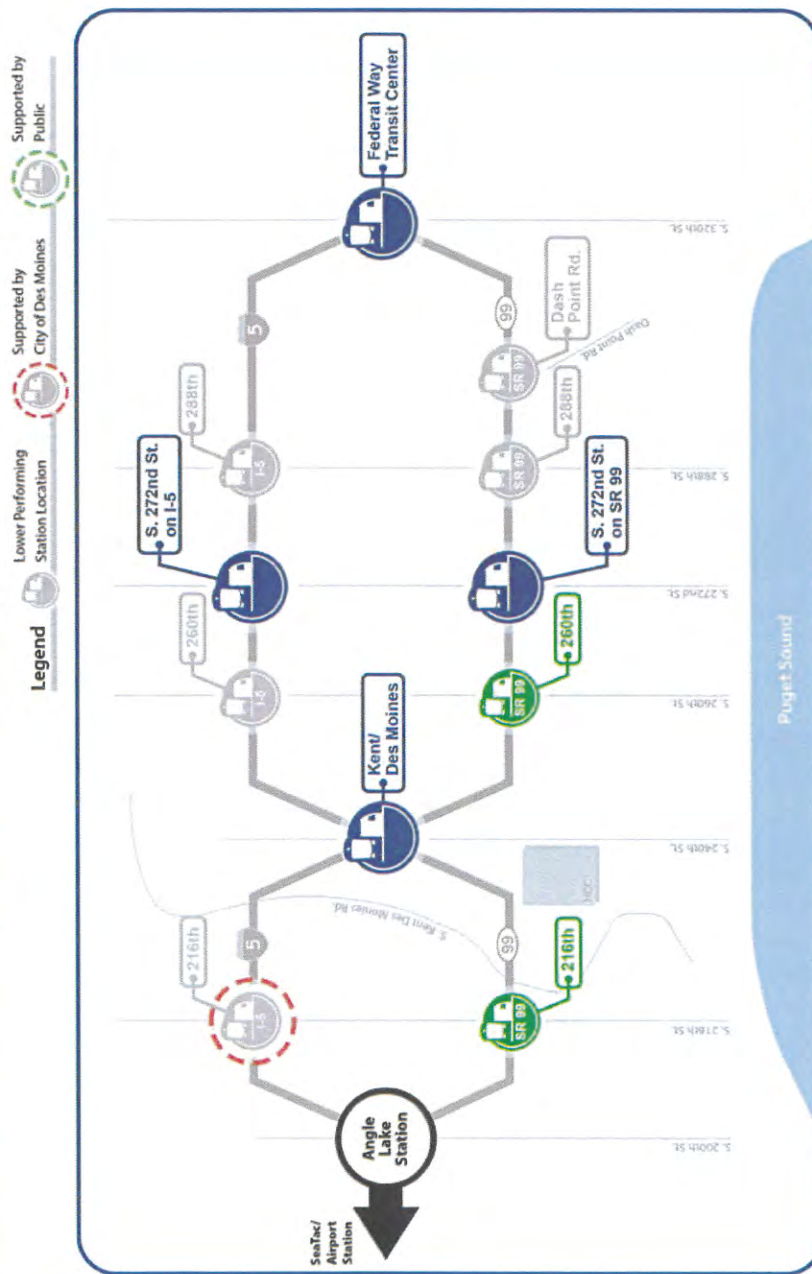
Federal Way Transit Extension Alternatives Analysis and EIS Scoping

EIS Scoping Alignment Input



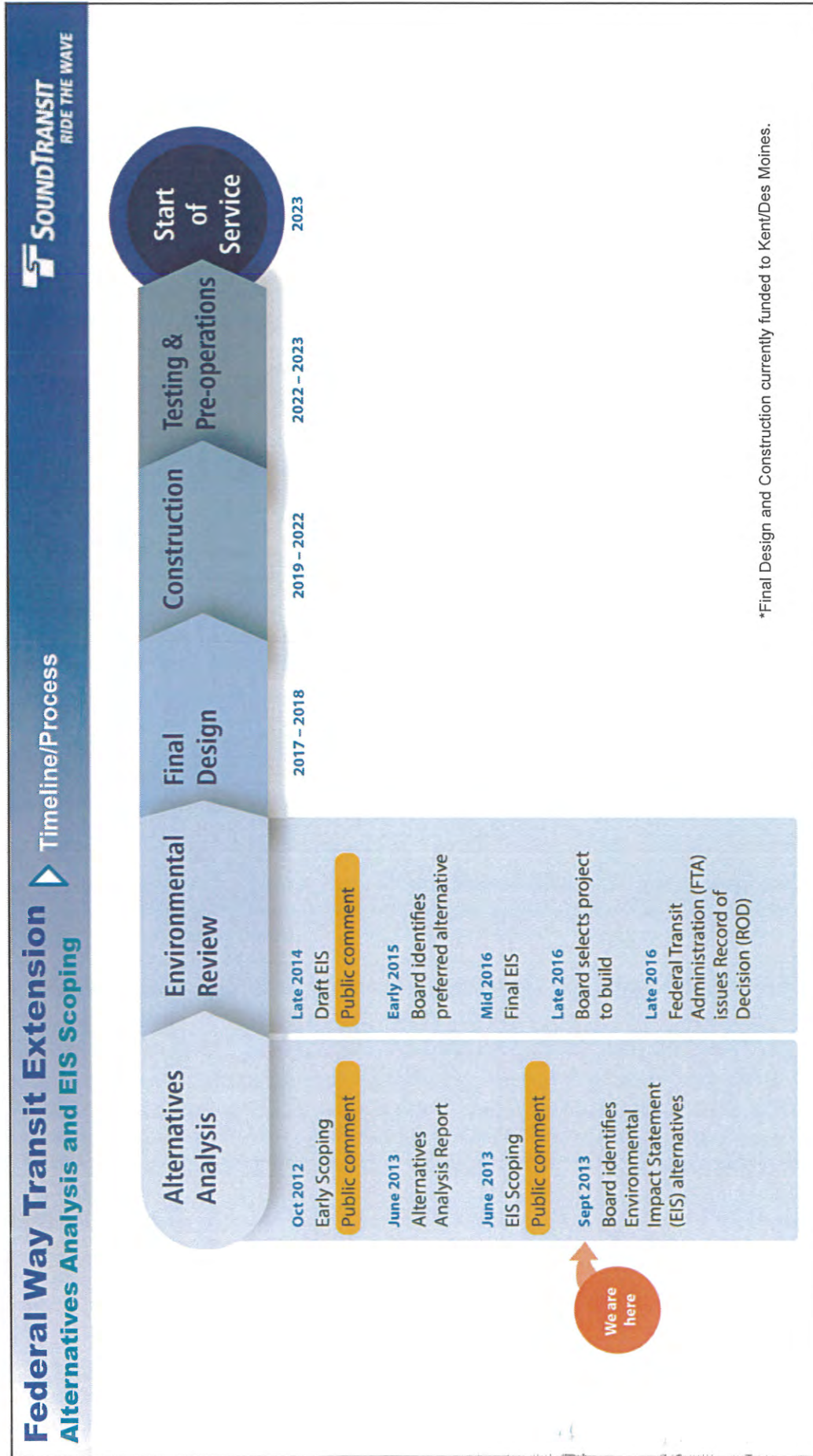
The **SR 99/I-5 alternative** would be identical to the SR 99 alternative from the north end of the project area to approximately Kent-Des Moines Road, where the alignment would turn east to transition to the west side of I-5. The alignment would then continue south along I-5, following the same alignment as described above for the I-5 alternative.

Federal Way Transit Extension
Alternatives Analysis and EIS Scoping



*The voter-approved ST 2 Plan included stations at Kent/Des Moines and S. 272nd. Additional stations that are not funded or approved for construction were evaluated as part of the alternatives analysis process. Additional funding and satisfaction of voter-approved standards for inclusion in the ST 2 Plan would be required for stations not identified in the ST 2 Plan.

During the EIS Scoping period, the City of Des Moines expressed support for a potential additional station location at South 216th on I-5. This location had not performed well in the AA analysis.



Based on the results of the AA, and input received during the EIS Scoping period, the Sound Transit Board will identify which alternatives should be studied in more detail in the Draft EIS. The Draft EIS will be available for public comment in late 2014. A final decision on which alternative should be built will be made after publication of a Final EIS in 2016.

Direction/Action

Motion made by Mayor Pro Tem Pina to approve the consent agenda; seconded by Councilmember Musser.
The motion passed 7-0

OLD BUSINESS

Item 1:

LINK LIGHT RAIL ALTERNATIVES ANALYSIS CONCLUSIONS

Staff Presentation

Management Consultant Grant Fredricks

Direction/Action

Motion made by Councilmember Sheckler to approve the Draft EIS Scoping letter for the Federal Way Transit Extension, and authorize the Mayor to sign the letter on behalf of the City; seconded by Councilmember Musser.

Councilmember Burrage offered an amendment to the main motion to remove the second bullet on the letter regarding consideration of an alternative alignment if a stop or station is eventually provided in the vicinity of 216th; seconded by Mayor Kaplan.
The motion passed 7-0

Councilmember Musser proposed an amendment to move the last bullet point up in replacement of the bullet point that was removed in the previous amendment; agreeable to the maker of the original motion.

Councilmember Burrage offered a friendly amendment to add the words "South of 240th" to the end of the last sentence in bullet point #4; agreeable to the maker of the original motion and the maker of the amended motion.

Councilmember Burrage offered a friendly amendment to add positive comments to the Alignment Impacts attachment under SR99 alignment such as "View for riders" and adding two additional impacts under the SR509/I-5 alignment:

- If a stop at South 216th Street-the potential transit oriented development density and economic benefits that might be realized.
- If no stop at South 216th Street – evaluate the lost opportunity benefits if no transit oriented development at this node which serves a major population and employment center and low income residents.

Agreeable to the maker of the original motion and the maker of the amended motion.

The motion passed 7-0

At 8:26 p.m. Council took a break and resumed the meeting at 8:35 p.m.



City of Des Moines

ADMINISTRATION
21630 11TH AVENUE SOUTH, SUITE A
DES MOINES, WASHINGTON 98198-6398
(206) 878-4595 T.D.D.; (206) 824-6024 FAX: (206) 870-6540

July 1, 2014



Sound Transit
401 S. Jackson Street
Attn: Kent Hale
Seattle, WA 98104

Subject: EIS Scoping for the Federal Way Transit Extension

Dear Mr. Hale:

The City of Des Moines is pleased to provide our Environmental Impact Statement (EIS) scoping comments for the *Federal Way Transit Extension* (FWTE) for Link Light Rail.

Extending Link Light Rail initially to Highline Community College and then on to Federal Way will have a profound effect on our community and neighboring cities. As such, the Des Moines City Council and City staff are committed to working with Sound Transit and our neighbor cities (SeaTac, Kent and Federal Way) to ensure the *Federal Way Transit Extension* meets local and regional interests, fully supports Highline Community College, promotes economic and community development, minimizes impacts on businesses and residents, and maintains the economic vitality and livability of our respective communities.

We have prepared detailed comments organized by topic area (alignments, station locations and system needs/operations) that are provided as Attachment 1 to this letter. Key considerations for Sound Transit to keep in mind as potential alignments and station locations are analyzed include:

- The City's long standing and adopted Comprehensive Plan and Council policy, which calls for light rail alignment along the I-5 corridor through Pacific Ridge. An I-5 alignment should not, however, compromise or conflict with a future SR509 extension and associated I-5 collector distributor project.
- The City's commitment to ensure the light rail alignment does not diminish the economic value of prime under-developed commercial properties in Des Moines and Kent that are expected to begin redeveloping over the next decade.
- Immediate proximity to the Highline Community College campus, preferably in the vicinity of SR99 and South 240th Street as the College has requested.
- Support for an eventual stop in the vicinity of South 260th and a full station in the Redondo area on SR99 to serve the Woodmont and Redondo neighborhoods and facilitate more dense transit oriented development at those locations and along the SR99 corridor south of Kent-Des Moines Road.

We look forward to our continued collaboration with Sound Transit. Please feel free to contact me or City Manager Tony Piasecki if you have questions about our comments.

City of Des Moines

Sincerely,



Dave Kaplan, Mayor

C: Matt Pina, Mayor Pro-tem
Jeanette Burrage, Councilmember
Carmen Scott, Councilmember
Jeremy Nutting, Councilmember
Melissa Musser, Councilmember
Bob Sheckler, Councilmember
Tony Piasecki, City Manager

Attachment 1:

The City of Des Moines has identified the following EIS scoping comments for Sound Transit to consider as it analyzes identified alternative alignments and station locations during the environmental review of the Federal Way Transit Extension:

Alignment Impacts

- Need to understand the neighborhood and economic development benefits, potential, costs and preferences for the Cities of Des Moines, SeaTac, Kent, Federal Way and Highline Community College (HCC):
 - transition from South 200th Street Station to SR 99 or I-5
 - transition to and from Kent-Des Moines Road/HCC Station
 - transition to and from Redondo Station
 - possibility of additional stops at South 216th at I-5 and South 260th Streets
- Practicality of routes based on engineering feasibility, cost, economic impacts and system operations (speed, ridership, travel times)
- Physical constraints/opportunities of topography – what can be done with the elevation changes and tightness of curves
- Evaluate economic benefits and disadvantages of alignments:
 - impacts to commercial properties
 - Des Moines' largest commercial properties are located between South 216th and South 208th on both SR99 and 24th Avenue S.
 - Numerous un- or under-developed parcels along SR 99 south from South 216th Street to South 272nd Street, but especially in Pacific Ridge
 - community, economic development and transportation impacts of elevated alignment
 - impacts of interim end-of-line station at Kent-Des Moines Road/HCC Station
- SR 509/I-5 alignment to Highline Community College
 - offers opportunities to follow existing alignment and park and ride lots without impacting prime commercial development along SR99 in Pacific Ridge
 - rider views of Mount Rainier, the Kent Valley, Vashon Island and the Olympic Mountains
 - if a stop at South 216th Street on I-5 – the potential transit oriented development density and economic benefits that might be realized
 - if no stop at South 216th Street on I-5 – evaluate the lost opportunity benefits of the transit oriented development at this node which serves a major population and employment center and low income residents
 - fails to realize any of the one-time opportunities of transit oriented development and place making along the SR99 corridor if additional well-spaced stops are added in the future
 - can be flexible if Metro Transit system can integrate and enhance its connecting east-west services to stations and stops

- SR 99 alignment
 - impacts on the viability and desirability of existing and future commercial properties
 - premium view blockage of Puget Sound and the Olympics
 - noise
 - need to consider on-going and expected investments in right of way improvements along S. 216th north to 29th Ave. S and S. 24th/28th corridors from S. 216th to S. 200th by Des Moines and SeaTac expected before 2023 including reconstruction of intersection at SR 99 and S. 216th
- 30th Avenue South alignment
 - bisects the Pacific Ridge Neighborhood, already the most disadvantaged and crime-prone in Des Moines
 - net financial/economic/property value/social impact of an elevated structure as weighed against the financial/economic/property value/social benefit to neighborhood
- Kent-Des Moines Road Crossing and SR99 intersections
 - do not reduce level of service

Station Locations

- Light Rail stop seems warranted at South 216th on I-5
 - a major hub with Artemis Hotel, Des Moines Creek Business Park and other potential development within ½ miles of this location
 - significant employment and population growth projected for this area
 - serves economically distressed and ethnically diverse neighborhoods where transit is the primary means to access jobs and services
 - anything that can help move people to job centers to the north in SeaTac and Seattle and eventually south to Federal Way and Tacoma would be helpful
 - I-5 station at 216th would complement A-Line service on SR99
 - impact of METRO service cuts
 - spacing between stations seems consistent with those in Rainier Valley
- Highline Community College is also a major hub – the biggest between Sea-Tac Airport and the Federal Way Transit Center. The station location MUST be pedestrian and disabled friendly and have adequate parking similar to Angle Lake, not 154th
- Station areas around Highline Community College and S 272nd also serve diverse populations that rely on transit and access to jobs. I-5 station locations south of Kent-Des Moines Road would not be as convenient for these populations than stations on SR99
- Options for stations near Star Lake and Redondo Park and Rides need to be evaluated

System Needs/Operations

- Evaluate the impact of no parking at South 216th on I-5 versus a full station/hub (e.g., HCC and South 272nd Street)
- Don't compound parking problems at Highline Community College

- how much ST-provided parking would be needed, both long term and as interim end of the line
 - where would it be located (land supply) – Kent, Des Moines and/or on College campus
- Evaluate impacts associated with the interim terminus location at Highline Community College such as rail spur, storage, maintenance and parking demand
- Evaluate transit-only connecting road between SR 99/KDM – cut corner and facilitate east-west connection with the Kent Valley and East Hill
- Evaluate the Park and Ride Lot (Military Road/I-5) as a potential supplement to HCC station parking with improved transit connections or shuttle
- Evaluate existing and improved east-west transit connections w/ King County METRO at S 272nd (Star Lake) to help meet parking demands for SR99 Station in the vicinity of Redondo Park & Ride.

**ECONOMIC & COMMUNITY DEVELOPMENT**

Ben Wolters
Director

220 4th Avenue South

Kent, WA 98032

Fax: 253-856-6454

PHONE: 253-856-5454

July 16, 2013

Federal Way Transit Extension
c/o Kent Hale, Senior Environmental Planner
Sound Transit
401 S. Jackson Street
Seattle, WA 98104-2826

RE: Federal Way Transit Extension EIS Scoping

Dear Mr. Hale:

The City of Kent is pleased to participate in scoping for the Federal Way Transit Extension (FWTE). Extension of light rail through the Kent-Des Moines-Federal Way area is a key implementation strategy for the Midway Subarea Plan that was adopted by the Kent City Council in December, 2011. Along with the Midway Design Guidelines and development regulations, this plan provides for the development of a walkable community with a mix of mid- and high-rise residential, retail and commercial uses, all supported by Sound Transit light rail.

The City would like the following analyses incorporated into the EIS for the project:

- The City's priority for the FWTE is to support the transit-oriented community envisioned in the Midway Subarea Plan. This would include not bifurcating the community, for example if the alignment traverses from one roadway to another, e.g., SR-99 to I-5; orienting the alignment and station for ease of multimodal access; avoiding visual and noise impacts; incorporating security measures; and developing the station as an attractive public gathering space with amenities such as electric charging stations, restrooms, snack bars, and areas which can transform into public markets or other public events.
- Strong pedestrian gateway connections should be made to Highline Community College and the population and job centers envisioned in the Midway Subarea Plan. A station near Highline Community College should provide equitable service to Kent and to Des Moines. Station locations should facilitate student choices of transportation modes in a realistic and practical manner, especially for today's youth.

- The Kent Valley includes a regional growth center in its downtown area, a regionally-designated manufacturing/industrial center, and a wholesale and distribution center that is the second largest on the west coast and the 4th largest in the nation. Providing connections from light rail to the valley's job centers should be a major consideration.
- The Kent-Des Moines area is a significant transportation hub, with I-5, SR-99, Rapid Ride A Line, Military Road Park and Ride Lot, and future SR-509 extension. For the FWTE, it is critical to avoid disruption of east-west auto/pedestrian/bike travel, to demonstrate ease of multi-directional access and parking at the stations, increased mobility and reliability of service, and offer alternative travel should the area be affected by catastrophic disruption of other travel modes. The FWTE should enhance frequency of service, extended hours of service, and connections between regional growth and activity centers.
- Alignment and station location alternatives should include:
 1. Elevated, mixed at-grade/elevated, or hybrid median, east or west side alignments along SR-99, with the following options:
 - A station location along the median of SR-99 at Highline Community College with a shared parking structure on both the east and west sides of SR-99; an attractive, protected pedestrian overpass to the garages; and a new signalized right of way at Highline Community College.
 - A station location on the west side of SR-99 on or near the Highline CC campus or spanning the campus and property to the north or south of the campus; an attractive covered pedestrian overpass serving development on the east side of SR-99; a shared parking structure on both the east and west sides of SR-99; and a new signalized right of way at Highline Community College.
 - A station location on the east side of SR-99 across from Highline CC; with an attractive, covered pedestrian overpass serving development on the west side of SR-99; a shared parking structure on both the east and west sides of SR-99; and a new signalized right of way at Highline Community College.
 - Having garages on both sides of SR-99 supports multi-directional access to the stations with less interruptions to the transportation system and would serve TOD development on the east side, Highline CC, and Sound Transit.
 - Elevated rail would maintain the auto orientation of SR-99 and allow 30th Avenue to be the pedestrian-oriented TOD activity hub.

2. Elevated, mixed at-grade/elevated, or hybrid alignments along I-5 or crossing between SR-99 and I-5 (without bifurcating the Midway TOD area) with a station location at or near Highline Community College; a parking garage; a new signalized right of way at Highline Community College; and an attractive, covered, and moving pedestrian walkway from the station to the college. Improvements to the pedestrian and bicycle network would be required. Roadway access improvements also would be required. Easy transit access and mitigating impacts from increased traffic to the station location are critical.
3. The analysis should address access for emergency vehicles to the rail cars both along the alignment and at the station locations.

The environmental analysis for the project should consider the Tacoma Smelter Plume

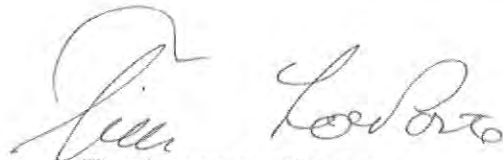
(http://www.ecy.wa.gov/programs/tcp/sites_brochure/tacoma_smelter/2011/ts-hp.htm) as well as other brownfield sites that may be in the vicinity of the alignment and station alternatives. The analysis also should include in the utility section the high tension power lines located along SR-99 and 30th in the vicinity of Kent and Des Moines.

The City appreciates the opportunity to participate in the FWTE project and looks forward to having it serve our community.

Sincerely,



Ben Wolters, Director
Economic & Community Development



Tim Laporte, Director
Public Works



4800 South 188th Street
SeaTac, WA 98188-8605

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Fax: 206.973.4809
TDD: 206.973.4808

July 12, 2013

Federal Way Transit Extension
c/o Kent Hale, Sr. Environmental Planner
Sound Transit
401 S. Jackson
Seattle, WA 98104

Re: Federal Way Transit Extension EIS Scoping

Mr. Hale:

Thank you for the opportunity to comment on the proposed scope of the Environmental Impact Statement that will be prepared for the Federal Way Transit Extension. The City of SeaTac previously submitted early scoping comments on November 12, 2012 (copy attached). The purpose of this letter is to provide additional comments now that the range of alternatives has been narrowed.

It is our understanding that both the SR 99 and I-5 corridor options are under consideration, with the potential of a future rail station being located at S. 216th St., along either corridor. Though currently unfunded, the location of this potential station needs to be considered in our comments. The remainder of the extension project will occur south of the SeaTac city limits.

Specific areas the EIS should focus upon:

Mayor
Tony Anderson

Deputy Mayor
Mia Gregerson

Councilmembers
Barry Ladenburg
Rick Forschler
Terry Anderson
Dave Bush
Pam Fernald

City Manager
Todd Cutts

Assistant City Manager
Gwen Voelpe

City Attorney
Mary Mirante Bartolo

City Clerk
Kristina Gregg

Land use

The City's Comprehensive Plan identifies the west side of 28th Ave. S. and the west side of International Blvd. (SR 99) as the preferred route south of the Angle Lake Station to S. 216th St. This route minimizes impacts to residential uses located on the east side of this corridor. Should a different alignment be chosen, impacts to residential uses would be significant. The EIS needs to thoroughly evaluate the land use impacts of the various routes under consideration, particularly the impacts on residential areas.

A potential additional station at I-5 and S. 216th St. could have significant land use impacts, as this area currently offers little vacant land to accommodate a station and the amount of parking that would be needed to serve patrons. Station development in this area would likely require the removal of many existing land uses. This impact should be thoroughly studied in the EIS.

Housing

The Firs Mobile Home Park is located on the east side of International Blvd., south of S. 204th St. A route on the east side of SR 99 could impact this affordable housing resource.

Other multifamily housing exists along the SR 99 corridor, such as the Viewpoint Apartments at 21428 International Boulevard. An assisted living facility is also located along the east side of International Boulevard in the 21200 block. An alignment along the east side of SR 99 would have impacts to both of these properties.

Impacts to affordable housing and vulnerable populations therefore need to be thoroughly studied for each of the proposed alignments.

Noise

Potential routes either adjacent to, or passing through residential areas could have significant noise impacts that would need to be mitigated. The EIS should evaluate these impacts and explore potential mitigation measures.

Transportation

Traffic impacts could be significant with a S. 216th St. station located along an I-5 route, as its presence would create a destination point in an area that currently experiences only moderate amounts of traffic. Construction of a station in the vicinity of S. 216th St. and SR 99 also would most likely necessitate substantial traffic system modifications at this intersection. The EIS should fully evaluate these impacts and identify potential mitigation measures.

The I-5 route would also involve extending the light rail line along the undeveloped SR 509 corridor, potentially resulting in negative impacts to freeway design options. This impact should be thoroughly studied to ensure maximum capacity is maintained for the future highway.

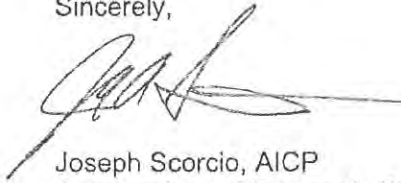
Aesthetics

An elevated guideway will be a significant visual impact in whatever route is selected, but will be particularly significant when passing by or through residential areas. Along the SR 99 route, there could also be impacts to views of Puget Sound from properties such as the Viewpoint Apartments at 21428 International Boulevard. This aesthetic impact should be thoroughly studied and mitigations explored in the EIS.

An elevated route down the landscaped International Boulevard median would have a significant aesthetic impact, as it is unlikely vegetation could thrive under a guideway. This is another impact that requires evaluation.

Again, thank you for the opportunity to comment. The City looks forward to working with Sound Transit to ensure a successful project that meets area transit needs with minimal negative environmental impacts to our community.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Scorcio', with a long horizontal flourish extending to the right.

Joseph Scorcio, AICP
Community and Economic Development Director
SEPA Responsible Official

cc: Todd Cutts
Gwen Voelpel
Soraya Lowry



CITY HALL
33325 8th Avenue South
Federal Way, WA 98003-6325
(253) 835-7000
www.cityoffederalway.com

July 16, 2013

Mr. Kent Hale
Senior Environmental Planner
Sound Transit
401 South Jackson
Seattle, WA 98104

Re: Federal Way Transit Extension EIS Scoping Comments

Dear Mr. Hale:

Thank you for the opportunity to provide scoping comments on the above referenced project. We hope that our comments are useful in helping you develop a comprehensive and thorough scope for the project EIS. We have organized our comments by potentially affected areas of the environment.

EARTH

Evaluate the impact of potential pier locations on unstable slopes, particularly on SR 99 alignments.

AIR

Include disclosure of any impacts on people or property from overhead guide ways, from which particles, drippings, and other ejecta could be released.

WATER

Include disclosure of any impacts on surface water quality of pollutants potentially released by trains or guide ways, such as oils, brake material particles, mechanical/hydraulic fluids, etc.

PLANTS

Include disclosure of impacts to landscaped areas and plant material contained therein within the alignment alternatives; be that formal street trees and plantings or more "native" vegetation such as present in parts of the I-5 right-of-way.

ANIMALS

Include disclosure of any impacts to small animals, birds, and raptors of diminution of landscaped areas within the I-5 corridor.

ENVIRONMENTAL HEALTH

Include disclosure of health effects of noise and vibration impacts, as well as emissions into the air of particles from the trains or guide ways.

LAND AND SHORELINE USE

The SR 99 alignments would necessitate property and business takings, potentially leaving foreshortened, shallower commercially zoned parcels. Discuss the impacts of both the elimination of businesses and/or

Mr. Kent Hale
Page 2
July 16, 2013

residences, as well as the potentially diminished likelihood of redevelopment on smaller, less developable parcels. What are the effects on real estate values and redevelopment potential near station areas and long alignments from noise and visual impacts? Weigh the impact of property takings and related issues noted above versus the potential economic development benefits around station areas.

It will be important to conduct a thorough analysis of the impacts of the terminus location on its surroundings. If a terminus alternative is intended to be located anywhere near the existing Transit Station in the City Center, how does the approach alignment affect nearby properties and their redevelopmentability? If a tail track would be required, how/where would that be accommodated and, again, affect nearby properties, redevelopment potential, etc.?

HOUSING

Disclose any potential loss of housing from property takings. Discuss the effect on real estate values and redevelopment potential near station areas and along alignments from noise and visual impacts; analyze whether any of these negative effects could diminish the market's ability to meet the City's housing targets in the City Center.

AESTHETICS

Discuss visual impacts to both residential and commercial properties of structures along alignments, particularly on high value view-sheds of the Olympic Mountains, Puget Sound, and Mount Rainier. Do these impacts reduce property values, rental rates? Do they encourage higher vacancy rates of affected properties, units? Do these impacts compound diminished redevelopmentability from land takings, as discussed above under "Land Use"?

LIGHT AND GLARE

Disclose impacts from headlights, or other glare, into residential properties/units— most likely associated with any veers of the guide way off the grid pattern.

RECREATION

Discuss potential 4(f) and 6(f) issues associated with Steel Lake Park, Truman High School, and Mark Twain Elementary School.

HISTORY AND CULTURAL PRESERVATION

As per federal and state requirements, disclose any impacts to historical or cultural resources within any of the alignments.

TRANSPORTATION

Note that the largest commuter markets being served by ST2 are SeaTac, Downtown Seattle, University of Washington, Downtown Bellevue, and Overlake. Due to distances involved, travel speed and reliability are important to South King County. Additional stations and slower alignments may cause ridership to be reduced for longer trips where the greatest VMT reductions could be achieved; whereas, shorter trips may be adequately served by existing transit routes. Please analyze these contrasting issues.

Analyze impacts on vehicle circulation within the local street system, especially with an SR 99 alignment. Will turning movements be restricted? Will access to businesses and properties flanking SR 99 be more limited than at present? Does the alignment structure create any impacts to pedestrian or bicycle circulation?

Mr. Kent Hale
 Page 3
 July 16, 2013

Provide a thorough analysis of the competing and contrasting variables and impacts associated with different locations for the interim terminus, or City Center, station. While the existing Transit Center may suggest itself as a logical terminus locale, there may be numerous variables that reduce its adaptability as a terminus. For example, especially with an I-5 alignment, would an I-5 terminus make sense accompanied potentially by a continuous shuttle or other connection to the Transit Station? These issues must be thoroughly analyzed and evaluated. How do the different options affect design speeds?

Lower design speeds in the immediate vicinity of stations should be considered to reduce impacts on right-of-way and minimize areas of noise impacts on horizontal curves, especially in City Center area.

Evaluate impacts of tail track design, assuming Federal Way Transit Center is an interim terminus.

Discuss provision of adequate parking supply at stations; conversely, provision of adequate local transit service to potentially reduce parking demand.

Evaluate surface transportation impacts to ensure the City's adopted transportation LOS is maintained. Note that the City does not exempt any land uses from concurrency or traffic impact fees.

Discuss integration of light rail with existing and planned King County Metro and Pierce Transit services.

Evaluate adequacy of site circulation and transportation safety for all modes in and around station areas.

PUBLIC SERVICES

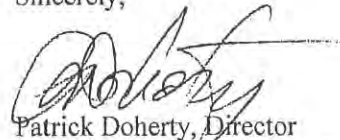
Evaluate emergency response impacts generated by access restrictions on SR 99 alignments, or any potential street closures and potential right-of-way impacts to City Maintenance Yard of I-5 alignment.

ENVIRONMENTAL JUSTICE

Evaluate the relative environmental justice implications of the two general alignments (I-5 and SR-99).

Again, thank you for this opportunity to provide comments. If you have any questions, please do not hesitate to contact me. I can be reached at (253) 835-2612, or patrick.doherty@cityoffederalway.com.

Sincerely,



Patrick Doherty, Director
 Community and Economic Development

c: Mayor Skip Priest
 Cary Roe, Director, Public Works and Parks, Recreation, & Cultural Services
 Rick Perez, City Traffic Engineer
 Isaac Conlen, Planning Manager



Office of the President

MS 1-1
P.O. Box 98000
Des Moines, WA 98198-9800

July 16, 2013

Kent Hale, AICP
Senior Environmental Planner
Planning, Environment & Project Development
Sound Transit
401 S. Jackson Street
Seattle, WA 98104

Re: EIS Scoping for the Federal Way Transit Extension

Dear Mr. Hale:

Highline Community College submits the following comments on the scope of the Environmental Impact Statement for the Federal Way Transit Extension project as they relate to the alignment and station location near us.

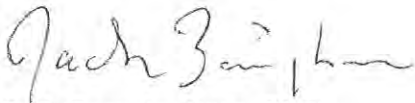
Potential Alternatives

- We believe Sound Transit has identified all of the likely alignment alternatives for the project. As we stated in our letter dated November 19, 2012, we believe the economic development potential of each alignment should be a major criterion when ranking the alignments.
- Pedestrian safety should be a consideration for the Highway 99 alignment station criteria because pedestrians will be crossing a four lane highway to access the stations.
- Station evaluation criteria should include proximity to the principal activity center when considering whether the alignment should be on the east or west side of Highway 99, e.g., if the principal activity center is on the west side of Highway 99, then the alignment should be on the west side of Highway 99. Additionally, the walking distance from the station to the principal activity center should not exceed a quarter mile.
- The impact of increased east-west transit travel demand to Kent generated by the station near the college should be investigated.

- Potential for additional parking should be a station evaluation criterion. The existing criteria only mention existing park-and-ride capacity. However, in the case of the "end of track" or interim terminus station, parking demand will likely be very high by commuters from areas beyond the immediate vicinity.
- Other issues related to the interim terminus location that should be reviewed include traffic congestion near the station due to intermodal connections with local bus, RapidRide, carpools, bicycles, and drop offs; criminal activity related to passengers waiting during layovers, and light rail equipment maintenance and storage.
- Our work with the South King County Economic Development Initiative (SKCEDI) revealed significant interest by the member agencies in creating infrastructure that encourages the creation of new businesses along the SR99 corridor between South 240th Street and the city of Federal Way. A Sound Transit Link Light Rail alignment on SR99 is certainly one of the infrastructure improvements that would fulfill that objective.

We are pleased that we are included in the development of Sound Transit service planning in our area and we look forward to continued collaboration on the Link Light Rail Federal Way Transit Extension project. Please contact me or Larry Yok, Vice President for Administration, if you require clarification of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Jack Bermingham".

Jack Bermingham, PhD
President

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT:

2014 Budget – General and Street Funds Budget
Balancing Strategies

FOR AGENDA OF: October 24, 2013

DEPT. OF ORIGIN: Finance

DATE SUBMITTED: October 17, 2013

ATTACHMENTS:

- A: 2014 Budget Balancing Strategies
- B: 2014 Preliminary Budget Recap - General and Street Funds

CLEARANCES:

[] Finance C

APPROVED BY CITY MANAGER
FOR SUBMITTAL: [Signature]

Purpose and Recommendation

This agenda item provides the preliminary 2014 budget balancing strategies for the General and Street Funds.

Background

The General and Street Funds 2014 preliminary base budgets have a combined deficit of \$1,198,167 excluding one-time revenues of \$776,310. The City Manager has provided a listing of budget balancing strategies, new revenues, and expenditure cuts that will close the budget gap and provide sufficient ending fund balances. The City Council may utilize all of these items to balance the budget, or selectively consider those items that result in less impact to service levels.

Alternatives

The City Council may provide alternative budget balancing strategies not considered by the City Manager.

Recommendation

The outcome of these budget discussions by the City Council is to provide direction on finalizing the 2014 budget for the General and Street Funds.

City of Des Moines
Potential 2014 Budget Balancing Strategies

Budget Balancing Strategies:	Amount	Budget Gap
Budget Gap		\$ (1,198,167)
75% One-time Sales and B & O Taxes	\$ 582,232	
Defer 100% Equipment Replacement Assessments	836,054	
Defer 20% Equipment Maintenance Assessments	57,934	
Defer 100% Computer Eqp Replacement Assessments	120,523	
Reduce COLA & Benefits Impacts	188,695	
Reduce 31% Medical Premium Rate Increase to Zero	365,102	
Freeze 2 Vacant Policer Officer Positions	236,564	
Freeze 2 Vacant Policer Officer Positions	240,172	
Freeze Vacant Bldg Inspector/Plans Examiner	100,760	
Eliminate Assistant City Manager Position	183,661	
Eliminate Economic Development Manager	146,018	

Total	\$ 3,057,715	\$ 1,859,548
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New Revenues/Adjustments:

Decrease Marina Administrative transfer to the General Fund to \$550,000	(94,100)
Increase Court Revenues	3,200
Decrease Woodmont & Midway ASE Revenues	(135,200)

Total	(226,100)	1,633,448
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New Expenditure Requests/Adjustments:

Decrease funding for Human Services	1,550
Increase Automated Speed Enforcement Equipment Charges for CPI	6,000
Decrease transfer-out of ASE Net Revenues to Trans CIP Fund	(58,340)
Add Community Transformation Grant Expenditures	35,760
Decrease Equipment Replace Assess	(41,637)
Decrease Equipment Mtc Assess	(5,650)
Planning, Building, Public Works	
GIS Administrator (Fund 70% Gen Fd, 30% SWM)	79,036
Professional consulting services (Grant F.)	50,000
Police-Admin	
Patrol in-car camera system	39,000
Outside consultant to conduct promotional testing process for rank of sgt	15,000
Purchase additional 3 patrol vehicles	165,000
Parks & Rec	
Increase Rec Specialist FTE from 0.76 to 1.0	34,628
Personnel	
HR Manager	115,635

Total	435,982	1,197,466
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Expenditure Cuts:

Total	-	1,197,466
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Reconcile to Recap:

		1,197,466
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GENERAL & STREET FUNDS RECAP

2014 Preliminary Budget

95

	GENERAL FUND				2014 City Mgr Recommendations Gen Fund	STREET FD		2014 City Mgr Recommendations Street Fund	GRAND TOTAL	City Council Decisions	IMPACTS
	2014 BASE	2014 One-Time	2014 TOTAL	2014 BASE		2014 One-Time					
Revenues	\$ 18,023,784	\$ 776,310	\$ 18,800,094			\$ 1,011,892			\$ 19,811,986		
Expenditures	18,941,872	194,078	19,135,950			1,291,971			20,427,921		
Excess (Deficit)	\$ (918,088)	\$ 582,232	\$ (335,856)			\$ (280,079)	\$ -	\$ (280,079)	\$ (615,935)	\$ -	
Budget Balancing Strategies:											
Defer Equipment Rental Replacement Assessments:											
- @ 100%: \$836,054	705,604		705,604			130,450			836,054		
- @ 50%: \$418,027	-		-			-			-		
Reduce Equipment Rental Maintenance Assessments by 20%	57,934		57,934						57,934		
Reduce Computer Equipment Replacement Assessments by 50%											
- @ 100%: \$120,523	117,420		117,420			3,103			120,523		
- @ 50%: \$ 60,262	-		-			-			-		
Reduce COLA & Benefits Impacts	181,202		181,202			7,493			188,695		
Reduce 31% Medical Premium Rate Increase	348,412		348,412			16,690			365,102		
Freeze 2 Vacant Policier Officer Positions	236,564		236,564			-			236,564		
Freeze 2 Vacant Policier Officer Positions	240,172		240,172			-			240,172		
Freeze Vacant Bldg Inspector/Plans Examiner	100,760		100,760			-			100,760		
Potential Freeze Vacant Transportation/Traffic Engr: \$143,017			-			-			-		
Eliminate Assistant City Manager Position	183,661		183,661			-			183,661		
Eliminate Economic Development Manager	146,018		146,018			-			146,018		
			-			-			-		
	\$ 2,317,747	\$ -	\$ 2,317,747			\$ 157,736	\$ -	\$ 157,736	\$ 2,475,483	\$ -	
Total Budget Balancing Strategies	\$ 2,317,747	\$ -	\$ 2,317,747			\$ 157,736	\$ -	\$ 157,736	\$ 2,475,483	\$ -	
New Revenues/Adjustments:											
Decrease Marina Administrative transfer to the General Fund to \$550,000	(94,100)		(94,100)						(94,100)		
Increase Court Revenues	3,200		3,200						3,200		
Decrease Woodmont & Midway ASE Revenues	(135,200)		(135,200)						(135,200)		
			-						-		
			-						-		
			-						-		
			-						-		
			-						-		
Total New Revenues	\$ (226,100)	\$ -	\$ (226,100)			\$ -	\$ -	\$ -	\$ (226,100)	\$ -	
Expenditure Adjustments											
Decrease funding for Human Services	1,550		1,550						1,550		
Increase Automated Speed Enforcement Charges for CPI	6,000		6,000						6,000		
Decrease transfer-out of ASE Net Revenues to Trans CIP Fund	(58,340)		(58,340)						(58,340)		
Add Community Transformation Grant Expenditures	35,760		35,760						35,760		
Decrease Equipment Replace Assess	(26,333)		(26,333)			(15,304)			(41,637)		
Decrease Equipment Mtc Assess	(5,650)		(5,650)						(5,650)		
			-						-		
			-						-		
			-						-		
			-						-		
Total Expenditure Adjustments	\$ (47,013)	\$ -	\$ (47,013)			\$ (15,304)	\$ -	\$ (15,304)	\$ (62,317)	\$ -	
Potential Expenditure Cuts:											
			-						-		
			-						-		
			-						-		
			-						-		
			-						-		
Total Expenditure Cuts	\$ -	\$ -	\$ -			\$ -	\$ -	\$ -	\$ -	\$ -	

Attachment #2

	GENERAL FUND			2014 City Mgr Recommendations Gen Fund	STREET FD		2014 City Mgr Recommendations Street Fund	GRAND TOTAL	City Council Decisions	IMPAIRCTS
	2014 BASE	2014 One-Time	2014 TOTAL		2014 BASE	2014 One-Time				
New Expenditure Requests:										
Court			-				-	-		
Legal			-				-	-		
Personnel			-				-	-		
HR Manager	115,635		115,635				-	115,635		
Planning, Building, Public Works			-				-	-		
GIS Administrator (Fund 70% Gen Fd, 30% SWM)	45,164		45,164		33,873		33,873	79,036		
Professional consulting services (Grant F.)	50,000		50,000				-	50,000		
All-City Bldg			-				-	-		
			-				-	-		
Police-Admin			-				-	-		
Patrol in-car camera system		39,000	39,000				-	39,000		
Outside consultant to conduct promotional testing process for rank of sgt		15,000	15,000				-	15,000		
Purchase additional 3 patrol vehicles		165,000	165,000				-	165,000		
Police-Patrol			-				-	-		
			-				-	-		
Arts Commission			-				-	-		
			-				-	-		
Parks & Rec			-				-	-		
Increase Rec Specialist FTE from 0.76 to 1.0	34,628		34,628				-	34,628		
Total New Expenditure Requests	\$ 245,427	\$ 219,000	\$ 464,427	\$ -	\$ 33,873	\$ -	\$ 33,873	\$ -	\$ 498,299	\$ -
Revised Excess (Deficit)	\$ 975,146	\$ 363,232	\$ 1,338,378	\$ -	\$ (140,912)	\$ -	\$ (140,912)	\$ -	\$ 1,197,466	\$ -
Estimated Beginning Fund Balance:	\$ 650,964	\$ 805,175	\$ 1,456,139	\$ 1,456,139	\$ 355,523		\$ 355,523	\$ 1,811,662		
Estimated Ending Fund Balance:	\$ 1,626,110	\$ 1,168,407	\$ 2,794,517	\$ 1,456,139	\$ 214,611	\$ -	\$ 214,611	\$ 3,009,128	\$ -	Required ending fund balance =
Stabilization Reserve Funds	\$ -	\$ (805,175)	\$ (805,175)	\$ (805,175)				\$ (805,175)		
Revised Ending Fund Balance	\$ 1,626,110	\$ 363,232	\$ 1,989,342	\$ 650,964	\$ 214,611	\$ -	\$ 355,523	\$ 2,203,953	\$ -	

Expenditures \$ 17,645,563 \$ 413,078 \$ 18,058,641 \$ - \$ 1,286,357 \$ - \$ 1,286,357 \$ - \$ 19,344,997 Verify Formulas

Revenues \$ 17,797,684 \$ 776,310 \$ 18,573,994 \$ - \$ 1,011,892 \$ - \$ 1,011,892 \$ - \$ 19,585,886 Verify Formulas

7% Reserves \$ 1,235,189 \$ 28,915 \$ 1,264,104 \$ - \$ 90,045 \$ 90,045 \$ - \$ - \$ 1,354,149

Required ending fund balance \$ 805,175 \$ 805,175 \$ - \$ - \$ 805,175

A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Amendments to Title 16 DMMC.

FOR AGENDA OF: October 24, 2013

ATTACHMENTS:

1. Draft Ordinance No. 13-168
2. Koegen Edwards October 1, 2013
Memorandum Re: Proposed Title 16
Amendments

DEPT. OF ORIGIN: Legal

DATE SUBMITTED: October 18, 2013

CLEARANCES:

- [X] Legal RB
 [] Finance NA
 [] Marina NA
 [] Parks, Recreation & Senior Services NA
 [X] Planning, Building & Public Works DJB
 [] Police NA
 [] Courts NA

APPROVED BY CITY MANAGER
FOR SUBMITTAL: [Signature]

Purpose and Recommendation

The purpose of this agenda item is to revise Title 16 DMMC to bring uniformity to the Title, to organize the Title in a manner that is easier to search, and to ensure compliance with current state law and case law.

Suggested Motions

FIRST MOTION: "To suspend Rule 26(a) in order to enact Draft Ordinance No. 13-168 on first reading."

SECOND MOTION: "To enact Draft Ordinance No. 13-168, repealing and replacing Title 16 DMMC, entitled *Buildings and Construction*."

Background

The City Attorney seeks to make certain amendments to the City Code, specifically Titles 12, 13, 14, 16, 17, and 18 DMMC, to bring uniformity to the Titles, to organize the Titles in a manner that is easier to search and to ensure compliance with current state law and case law. The purpose of these amendments is to provide uniformity and consistency within our DMMC and not to make substantive or policy

changes. The DMMC will also include any textual code amendments the Council has passed up to this point. We have asked that these amendments to the various titles and chapters be effective on January 1, 2014 so that delays between changes to the individual titles and chapters will be referenced correctly in January; i.e., a change to a term or definition in Title 18 that effects a section in Title 16 will be accurate once all effected titles are enacted.

Discussion

Over the last six months, the staff of the Legal Department and the Planning, Building and Public Works Department, along with Mike Connelly of Koegen Edwards, LLP, have met to discuss how to better organize the DMMC so that it is user friendly and consistent with current statutes and case law. This effort has required input from the Departments that read and enforce the DMMC routinely. While the amendments to Title 16 DMMC are minimal, we have also checked for any authorities cited (state law, WAC references and references to adopted codes, Building, Fire, etc.) to ensure their accuracy. Some definitions have been eliminated because the terms are defined in other chapters or because the words have a plain meaning; or they are defined in statue law.

Chapter 16.05 the SEPA chapter is largely an adoption by reference of the WACs for the State Environmental Policy Act. We have made some changes to eliminate redundancy. i.e., adopting by reference the WAC and then listing the WAC titles but we did not change the chapter substantively. However, we plan to propose a rewrite of this specific chapter as a priority for 2014. Instead of summarizing WAC provisions we are hoping to add hyperlinks to those WACs so that we are relying on the WAC instead of our summaries of the WACs.

With regards to chapter 16.15 Flood Hazard Areas we will also need to revisit this chapter in 2014 when the final FEMA flood maps are published and conform to the federal requirements that go along with the redrawing of those maps.

The staff has not proposed nor did we intend to make any changes to the Shoreline Master Program ("SMP") adopted on January 27, 2011. The SMP is adopted by reference in chapter 16.20 DMMC and copies are available on the website.

We intend to bring Title 18 DMMC to Council on November 14, and 21 (if needed). Chapter 18 will undergo the most changes with the City adopting commercial and residential use charts and the project review/appeal charts. Title 18 is the land use Title that will require review by the Department of Commerce before it will be set for consideration.

We are hoping that final action on chapter 18 will give staff Thanksgiving week to go back through the entire DMMC to make sure new chapters, sections, RCW and other references are correct. Any amendments will be brought in December so that we can maintain our effective date for these ordinances as January 1, 2014.

We also hope that in making the DMMC more user friendly that citizens hoping to develop property in the city or to simply remodeling a residence can get to the information they need in a more comprehensive manner.

Alternatives To not enact Draft Ordinance No. 13-168.

Recommendation or Conclusion

Staff recommends passage on first reading of Draft Ordinance Nos. 13-168.

CITY ATTORNEY'S FIRST DRAFT 10/17/2013

DRAFT ORDINANCE NO. 13-168

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to the environment; replacing Title 16 DMMC; and repealing the previously codified provisions of Title 16 DMMC and underlying ordinances.

WHEREAS, Title 16 DMMC, entitled "Environment," contains many Ordinances that implement the State Environmental Policy Act (SEPA), the critical area requirements of chapter 36.70A RCW, the flood plain management provisions of chapter 86.16 RCW, and the State Shoreline Act as set forth in chapter 90.58 RCW; and that promote the public health, safety, and general welfare, and

WHEREAS, numerous amendments to Title 16 DMMC since enactment have adversely affected the Title's organization, and

WHEREAS, the City Council finds that it is in the best interest of the public health, safety, and general welfare to establish comprehensive, uniform, and current provisions for the City's Environmental Code; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:

Title 16 DMMC and all underlying Ordinances are hereby repealed and replaced with the following:

TITLE 16
ENVIRONMENT

Chapter 16.01
General Provisions

Sections:

16.01.010 Title.
16.01.020 Application.
16.01.030 Purpose.
16.01.040 Authority.

Draft Ordinance No. 13-168.4
October 17, 2013

Ordinance No. ____
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1 16.01.050 Definitions.
2 16.01.060 Rules of construction.
3 16.01.070 Liability.
4 16.01.080 Violation and penalty.
5 16.01.090 Severability.
6 16.01.100 Variance procedure.
7 16.01.110 Appeal.

8
9 **Sec. 1. 16.01.010. Title.** This Title shall be
10 entitled "Environment." This chapter shall be entitled "General
11 Provisions."

12
13 **Sec. 2. 16.01.020. Application.** This chapter and
14 the procedures adopted under this chapter shall be applicable to
15 all chapters within this Title.

16
17 **Sec. 3. 16.01.030. Purpose.** The purpose of this
18 Title is to implement the State Environmental Policy Act, the
19 critical area requirements of chapter 36.70A RCW, the floodplain
20 management provisions of chapter 86.16 RCW, and the State
21 Shoreline Act as set forth in chapter 90.58 RCW.

22
23 **Sec. 4. 16.01.040. Authority.** This Title is adopted
24 pursuant to chapters 43.21C, 36.70A, 86.16 and 90.58 RCW and
25 other applicable laws.

26
27 **Sec. 5. 16.01.050. Definitions.** As used in this
28 Title, unless the context or subject matter clearly requires
29 otherwise, the words or phrases defined in this section shall
30 have the indicated meanings.

31
32 "Aquifer" means a consolidated or unconsolidated ground
33 water-bearing geologic formation or formations that contain
34 enough saturated permeable material to yield significant
35 quantities of water to wells.

36
37 "Area of shallow flooding" means an area designated as
38 AO, or AH Zone on the Flood Insurance Rate Map (FIRM). AO zones
39 have base flood depths that range from one to three feet above
40 the natural ground; a clearly defined channel does not exist;

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1 the path of flooding is unpredictable and indeterminate; and,
2 velocity flow may be evident. AO is characterized as sheet flow;
3 AH indicates ponding, and is shown with standard base flood
4 elevations.

5
6 "Area of special flood hazard" means the land in the
7 flood plain within a community subject to a one percent or
8 greater chance of flooding in any given year. Designation on
9 maps always includes the letters A or V.

10
11 "Base flood" means the flood having a 1 percent chance of
12 being equaled or exceeded in any given year (also referred to as
13 the "100-year flood"). Designated on Flood Insurance Rate Maps
14 by the letters A or V.

15
16 "Basement" means any area of the building having its
17 floor sub-grade (below ground level) on all sides.

18
19 "Bluff" means a steep slope which abuts and rises from
20 Puget Sound. Bluffs contain slopes predominantly in excess of 40
21 percent, although portions may be less than 40 percent. Bluffs
22 occur in the area north of South 222nd Street and south of South
23 232nd Street. The toe of the bluff is the beach of Puget Sound.
24 The top of a bluff is typically a distinct line where the slope
25 abruptly levels out. Where there is no distinct break in slope,
26 the slope is either the line of vegetation separating the
27 unvegetated slope from the vegetated uplands plateau or, when
28 the bluff is vegetated, the point where the bluff slope
29 diminishes to less than 15 percent.

30
31 "Breakaway walls" means a wall that is not part of the
32 structural support of the building and is intended through its
33 design and construction to collapse under specific lateral
34 loading forces, without causing damage to the elevated portion
35 of the building or supporting foundation system.

36
37 "Buffer" means either: an area adjacent to hillsides
38 which provides the margin of safety through protection of slope
39 stability, attenuation of surface water flows and landslide,
40 seismic, and erosion hazards reasonably necessary to minimize

Draft Ordinance No. 13-168.4
October 17, 2013

Ordinance No. ____
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1 risk to the public from loss of life, well-being, or property
2 damage resulting from natural disasters; or an area adjacent to
3 a stream or wetland which is an integral part of the stream or
4 wetland ecosystem, providing shade; input of organic debris and
5 coarse sediments; room for variation in stream or wetland
6 boundaries; habitat for wildlife; impeding the volume and rate
7 of runoff; reducing the amount of sediment, nutrients, and toxic
8 materials entering the stream or wetland; and protection from
9 harmful intrusion to protect the public from losses suffered
10 when the functions and values of stream and wetland resources
11 are degraded.

12
13 "Building" means any structure used or intended for
14 supporting or sheltering any use or occupancy, as well as any
15 structure having a roof, but excluding all forms of vehicles
16 even though immobilized. When a use is required to be within a
17 building, or where special authority granted pursuant to this
18 Title requires that a use shall be within an entirely enclosed
19 building, then the term "building" means one so designed and
20 constructed that all exterior walls of the structure shall be
21 solid from the ground to the roof line, and shall contain no
22 openings except for windows and doors which are designed so that
23 they may be closed.

24
25 "Building setback line" means a line beyond which the
26 footprint or foundation of a building shall not extend.

27
28 "Clearing" means the destruction and removal of
29 vegetation by burning, mechanical, or chemical methods.

30
31 "Closed record appeal" means an administrative appeal on
32 the record to a local government body or officer, including the
33 legislative body, following an open record hearing on a project
34 permit application when the appeal is on the record with no or
35 limited new evidence or information allowed to be submitted and
36 only appeal argument allowed.

37
38
39 "Coastal high hazard area" means an area of special flood
40 hazard extending from offshore to the inland limit of a primary

Draft Ordinance No. 13-168.4
October 17, 2013

Ordinance No. ____
Page 5 of 151

1 frontal dune along an open coast and any other area subject to
2 high velocity wave action from storms or seismic sources. The
3 area is designated on the FIRM as Zone V1-30, VE or V.

4
5 "Commercial and recreational shellfish areas" means areas
6 that include all public and private tidelands or bedlands
7 suitable for shellfish harvest, including shellfish protection
8 districts established pursuant to chapter 90.72 RCW.

9
10 "Compensation" means the replacement, enhancement, or
11 creation of an undevelopable environmentally critical area
12 equivalent in functions, values, and size to those being altered
13 or lost from development.

14
15 "Creation (establishment)" means the manipulation of the
16 physical, chemical, or biological characteristics present to
17 develop a wetland on an upland or deepwater site where a wetland
18 did not previously exist. "Establishment" results in a gain in
19 wetland acres. Activities typically involve excavation of upland
20 soils to elevations that will produce a wetland hydroperiod,
21 create hydric soils, and support the growth of hydrophytic plant
22 species.

23
24 "Critical aquifer recharge areas (CARAs)" mean those
25 areas with a critical recharging effect on aquifers used for
26 potable water, as defined by WAC 365-190-030(2). CARAs have
27 prevailing geologic conditions associated with infiltration
28 rates that create a high potential for contamination of ground
29 water resources or contribute significantly to the replenishment
30 of ground water. Aquifer recharge areas shall be rated as having
31 high, moderate, or low susceptibility based on soil
32 permeability, geologic matrix, infiltration, and depth to water
33 as determined by the criteria established by the state
34 Department of Ecology.

35
36 These areas include but are not limited to the following:

37
38 (1) Wellhead protection areas. Wellhead protection
39 areas may be defined by the boundaries of the 10-year time of
40 ground water travel or boundaries established using alternate

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1 criteria approved by the Washington State Department of Health
2 in those settings where ground water time of travel is not a
3 reasonable delineation criterion, in accordance with WAC 246-
4 290-135.

5
6 (2) Sole source aquifers. Sole source aquifers are
7 areas that have been designated by the U.S. Environmental
8 Protection Agency pursuant to the Federal Safe Water Drinking
9 Act.

10
11 (3) Susceptible ground water management areas.
12 Susceptible ground water management areas are areas that have
13 been designated as moderately or highly vulnerable or
14 susceptible in an adopted ground water management program
15 developed pursuant to chapter 173-100 WAC.

16
17 (4) Special protection areas. Special protection areas
18 are those areas defined by WAC 173-200-090.

19
20 (5) Moderately or highly vulnerable aquifer recharge
21 areas. Aquifer recharge areas that are moderately or highly
22 vulnerable to degradation or depletion because of hydrogeologic
23 characteristics are those areas delineated by a hydrogeologic
24 study prepared in accordance with the state Department of
25 Ecology guidelines.

26
27 (6) Moderately or highly susceptible aquifer recharge
28 areas. Aquifer recharge areas moderately or highly susceptible
29 to degradation or depletion because of hydrogeologic
30 characteristics are those areas meeting the criteria established
31 by the state Department of Ecology.

32
33 "Critical areas" includes the following areas and
34 ecosystems: (a) wetlands; (b) areas with a critical recharging
35 effect on aquifers used for potable water; (c) fish and wildlife
36 habitat conservation areas; (d) frequently flooded areas; and
37 (e) geologically hazardous areas. "Fish and wildlife habitat
38 conservation areas" does not include such artificial features or
39 constructs as irrigation delivery systems, irrigation
40 infrastructure, irrigation canals, or drainage ditches that lie

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1 within the boundaries of and are maintained by a port district
2 or an irrigation district or company. RCW 36.70A.030(5).
3

4 "Development activity". means any work, condition, or
5 activity which requires a permit or approval under chapter 2.22
6 DMMC or Titles 11, 14, 16, or 18 DMMC.
7

8 "Developable area" means the "site area" less the
9 following areas:
10

11 (1) Areas within a project site that are required to be
12 dedicated for public rights-of-way;
13

14 (2) Environmentally critical areas and their buffers to
15 the extent they are required by the City to remain undeveloped;
16

17 (3) Areas required for storm water control facilities,
18 including but not limited to retention/detention ponds/vaults,
19 biofiltration swales and setbacks from such ponds and swales;
20

21 (4) Areas required by the City to be dedicated or
22 reserved as on-site recreation areas;
23

24 (5) Other areas, excluding setbacks, required by the
25 City to remain undeveloped.
26

27 "Development" means any manmade change to improved or
28 unimproved real estate, including but not limited to buildings
29 or other structures, mining, dredging, filling, grading, paving,
30 excavation, drilling operations or storage of equipment or
31 materials located within the area of special flood hazard.
32

33 "Development site" means the entire lot, series of lots,
34 or parcels on which a development is located or is proposed to
35 be located, including all contiguous undeveloped lots or parcels
36 which are under common ownership with the developed lots on or
37 subsequent to June 30, 1990. This definition only applies to
38 chapter 16.10 DMMC.
39

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1 "Drainage facility" means the system of collecting,
2 conveying, and storing surface and storm water runoff. Drainage
3 facilities shall include but not be limited to all surface and
4 storm water runoff conveyance and containment facilities
5 including streams, pipelines, channels, ditches, wetlands,
6 closed depressions, infiltration facilities, retention/detention
7 facilities, erosion/sedimentation control facilities, and other
8 drainage structures and appurtenances, both natural and manmade.
9

10 "Enhancement" means the manipulation of the physical,
11 chemical, or biological characteristics of a wetland site to
12 heighten, intensify, or improve specific function(s) or to
13 change the growth stage or composition of the vegetation
14 present. Enhancement is undertaken for specified purposes such
15 as water quality improvement, floodwater retention, or wildlife
16 habitat. Enhancement results in a change in some wetland
17 functions and can lead to a decline in other wetland functions,
18 but does not result in a gain in wetland acres. Activities
19 typically consist of planting vegetation, controlling nonnative
20 or invasive species, modifying site elevations or the proportion
21 of open water to influence hydroperiods, or some combination of
22 these activities.
23

24 "Environmentally critical areas." See "Critical areas"
25 defined above.
26

27 "Erosion hazard areas" means at least those areas
28 identified by the U.S. Department of Agriculture's Natural
29 Resources Conservation Service as having a "moderate to severe,"
30 "severe," or "very severe" rill and inter-rill erosion hazard.
31 Erosion hazard areas are also those areas impacted by shore land
32 and/or stream bank erosion and those areas within a river's
33 channel migration zone.
34

35 "Exemption" means a grant of relief from the requirements
36 of this chapter which permits construction in a manner that
37 would otherwise be prohibited by this chapter.
38

39 "Existing manufactured home park or subdivision" means a
40 manufactured home park or subdivision for which the construction

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1 of facilities for servicing the lots on which the manufactured
2 homes are to be affixed (including, at a minimum, the
3 installation of utilities, the construction of streets, and
4 either final site grading or the pouring of concrete pads) is
5 completed before the effective date of the adopted floodplain
6 management regulations.

7
8 "Expansion to an existing manufactured home park or
9 subdivision" means the preparation of additional sites by the
10 construction of facilities for servicing the lots on which the
11 manufactured homes are to be affixed (including the installation
12 of utilities, the construction of streets, and either final site
13 grading or the pouring of concrete pads).

14
15 "Fish and wildlife habitat conservation" means land
16 management for maintaining species in suitable habitats within
17 their natural geographic distribution so that isolated
18 subpopulations are not created. Fish and wildlife habitat
19 conservation areas include:

20
21 (1) Areas with which state or federally designated
22 endangered, threatened, and sensitive species have a primary
23 association;

24
25 (2) State priority habitats and areas associated with
26 state priority species;

27
28 (3) Habitats and species of local importance;

29
30 (4) Commercial and recreational shellfish areas;

31
32 (5) Kelp and eelgrass beds identified by the Washington
33 Department of Natural Resources;

34
35 (6) Herring and smelt spawning areas as outlined in
36 chapter 220-110 WAC and the Puget Sound Environmental Atlas as
37 presently constituted or as may be subsequently amended;

38
39 (7) Naturally occurring ponds under 20 acres and their
40 submerged aquatic beds that provide fish or wildlife habitat;

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1
2 (8) Waters of the state as defined in Title 222 WAC;

3
4 (9) Lakes, ponds, streams, and rivers planted with game
5 fish by a governmental or tribal entity; and
6

7 (10) State natural area preserves and natural resource
8 conservation areas as defined, established, and managed by the
9 Washington State Department of Natural Resources; and
10

11 (11) Areas of rare plant species and high quality
12 ecosystems as identified by the Washington State Department of
13 Natural Resources through the Natural Heritage Program; and
14

15 (12) Land useful or essential for preserving connections
16 between habitat blocks and open spaces as determined by the City
17 Manager or the City Manager's designee.
18

19 "Flood" or "flooding" means a general and temporary
20 condition of partial or complete inundation of normally dry land
21 areas from:
22

23 (1) The overflow of inland or tidal waters; and/or
24

25 (2) The unusual and rapid accumulation of runoff of
26 surface waters from any source.
27

28 "Flood insurance rate map (FIRM)" means the official map
29 on which the Federal Insurance Administration has delineated
30 both the areas of special flood hazards and the risk premium
31 zones applicable to the community.
32

33 "Flood insurance study (FIS)" means the official report
34 provided by the Federal Insurance Administration that includes
35 flood profiles, the Flood Insurance Rate Maps, and the water
36 surface elevation of the base flood.
37

38 "Floodway" means the channel of a river or other
39 watercourse and the adjacent land areas that must be reserved in

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1 order to discharge the base flood without cumulatively
 2 increasing the water surface elevation more than one foot.

3
 4 "Geologically hazardous areas" means areas that because
 5 of their susceptibility to erosion, sliding, earthquake, or
 6 other geological events, are not suited to the siting of
 7 commercial, residential, or industrial development consistent
 8 with the public health or safety concerns.

9
 10 (1) Erosion hazard;

11
 12 (2) Landslide hazard;

13
 14 (3) Seismic hazard; and

15
 16 (4) Other geological events including tsunamis, mass
 17 wasting, debris flows, rock falls, and differential settlement.

18
 19 "Hazardous substance" means any solid, liquid, gas, or
 20 sludge, including any material, substance, product, commodity,
 21 or waste, regardless of quantity, that exhibits any
 22 characteristics or criteria of hazardous waste as described in
 23 WAC 173-303-090, 173-303-101, 173-303-102, or 173-303-103.

24
 25 "Hazardous waste" means those solid wastes designated by
 26 40 C.F.R. Part 261, and regulated as hazardous and/or mixed
 27 waste by the United States EPA, as described in WAC 173-303-040.

28
 29 "Hillsides" means geological features of the landscape
 30 having slopes of 15 percent and greater. To differentiate
 31 between levels of hillside protection and the application of
 32 development standards, the City categorizes hillsides into four
 33 groups: hillsides of at least 15 percent but less than 25
 34 percent; hillsides of at least 25 percent but less than 40
 35 percent; hillsides of 40 percent slope and greater; and
 36 hillsides which are ravine sidewalls or bluffs.

37
 38 "Landslide" means an episodic downslope movement of a
 39 mass of soil or rock that includes but is not limited to
 40 rockfalls, slumps, mudflows, and earthflows.

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1
2 "Landslide hazard areas" are those areas of the City
3 potentially subject to landslides based on a combination of
4 geologic, topographic, and hydrologic factors. They include
5 areas susceptible because of any combination of bedrock, soil,
6 slope (gradient), slope aspect, structure, hydrology, or other
7 factors. Examples of these may include, but are not limited to,
8 the following:
9

10 (1) Areas of historic failures, such as:
11

12 (a) Those areas delineated by the U.S. Department
13 of Agriculture's Natural Resources Conservation Service as
14 having a "severe" limitation for building site development;
15

16 (b) Those areas mapped by the Washington State
17 Department of Ecology (Coastal Zone Atlas) or the Washington
18 State Department of Natural Resources (slope stability mapping)
19 as unstable (U or class 3), unstable old slides (UOS or class
20 4), or unstable recent slides (URS or class 5); or
21

22 (c) Areas designated as quaternary slumps,
23 earthflows, mudflows, lahars, or landslides on maps published by
24 the U.S. Geological Survey or Washington State Department of
25 Natural Resources;
26

27 (2) Any area with a combination of:
28

29 (a) Slopes greater than 15 percent;
30

31 (b) Impermeable soils (usually silt and clay)
32 frequently interbedded with granular permeable soils (usually
33 sand and gravel); and
34

35 (c) Springs or ground water seepage;
36

37 (3) Any area which has shown movement during the
38 Holocene epoch (from 10,000 years ago to present) or which is
39 underlain by mass wastage debris of that age;
40

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1 (4) Any area potentially unstable as a result of rapid
2 stream incision, stream bank erosion, or undercutting by wave
3 action;
4

5 (5) Any area designated as Class III landslide hazard
6 area by the "Map Showing Relative Slope Stability in Part of
7 West-Central King County, Washington, Map I-852-A, U.S.,
8 Geological Survey Miscellaneous Geologic Investigations" as
9 presently constituted or as may be subsequently amended;
10

11 (6) Slopes that are parallel or subparallel to planes
12 of weakness (such as bedding planes, joint systems, and fault
13 planes) in subsurface materials;
14

15 (7) Slopes having gradients steeper than 80 percent
16 subject to rock fall during seismic shaking;
17

18 (8) Areas located in a canyon or on an active alluvial
19 fan, presently or potentially subject to inundation by debris
20 flows or catastrophic flooding; and
21

22 (9) Any area with a slope of 40 percent or steeper and
23 with a vertical relief of 10 or more feet except areas composed
24 of consolidated rock. A slope is delineated by establishing its
25 toe and top and is measured by averaging the inclination over at
26 least 10 feet of vertical relief.
27

28 "Local administrator" means the City Manager or the City
29 Manager's designee.
30

31 "Lowest floor" means the lowest floor of the lowest
32 enclosed area (including basement). An unfinished or flood
33 resistant enclosure, usable solely for parking of vehicles,
34 building access, or storage in an area other than a basement
35 area, is not considered a building's lowest floor, provided that
36 such enclosure is not built so as to render the structure in
37 violation of the applicable non-elevation design requirements of
38 this Ordinance found at Section 5.2-1(2), (i.e. provided there
39 are adequate flood ventilation openings).
40

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1 "Manufactured home" means a structure, transportable in
2 one or more sections, which is built on a permanent chassis and
3 is designed for use with or without a permanent foundation when
4 attached to the required utilities. The term "manufactured home"
5 does not include a "recreational vehicle."
6

7 "Manufactured home park or subdivision" means a parcel
8 (or contiguous parcels) of land divided into two or more
9 manufactured home lots for rent or sale.
10

11 "Mean sea level" means the average height of the Puget
12 Sound for all stages of the tide.
13

14 "Mitigation" means the use of any combination or all of
15 the following actions:
16

17 (1) Avoiding impacts to environmentally critical areas
18 by not taking a certain action or parts of an action;
19

20 (2) Minimizing impacts by limiting the degree or
21 magnitude of the action and its implementation, by using
22 appropriate technology, or by taking affirmative steps to avoid
23 or reduce impacts;
24

25 (3) Rectifying the impact by repairing, rehabilitating,
26 or restoring the affected environmentally critical area;
27

28 (4) Reducing or eliminating the impact over time by
29 preservation and maintenance operations during the life of the
30 development proposal;
31

32 (5) Compensating for the impact by replacing or
33 enhancing environmentally critical areas, or providing
34 substitute resources; and
35

36 (6) Monitoring the impact and taking appropriate
37 corrective measures.
38

39 "Monitoring" means the collection and analysis of data by
40 various methods for the purposes of understanding and

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1 documenting changes in natural ecosystems and features, and
2 includes gathering baseline data, evaluating the impacts of
3 development proposals on the biological, hydrologic, and
4 geologic elements of such systems, and assessing the performance
5 of mitigation measures.

6
7 "Native vegetation" means plant species which are
8 indigenous to the area in question.

9
10 "New construction" means structures for which the "start
11 of construction" commenced on or after July 1, 1992.

12
13 "New manufactured home park or subdivision" means a
14 manufactured home park or subdivision for which the construction
15 of facilities for servicing the lots on which the manufactured
16 homes are to be affixed (including at a minimum, the
17 installation of utilities, the construction of streets, and
18 either final site grading or the pouring of concrete pads) is
19 completed on or after the effective date of adopted floodplain
20 management regulations.

21 "Nonconforming use" means a use which was lawfully
22 established and maintained but which, because of the application
23 of this Title to it, no longer conforms to the use regulations
24 of the zone in which it is located as defined by this Title.

25
26 "Open record hearing" means a hearing, conducted by a
27 single hearing body or officer authorized by the local
28 government to conduct such hearings, that creates the local
29 government's record through testimony and submission of evidence
30 and information, under procedures prescribed by the local
31 government by ordinance or resolution. An open record hearing
32 may be held prior to a local government's decision on a project
33 permit to be known as an "open record predecision hearing." An
34 open record hearing may be held on an appeal, to be known as an
35 "open record appeal hearing," if no open record predecision
36 hearing has been held on the project permit.

37
38 "Ordinary high water mark" means the mark that will be
39 found by examining the bed and banks of a stream or shoreline

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1 and ascertaining where the presence and action of waters are so
2 common and usual, and so long maintained in all ordinary years,
3 as to mark upon the soil a character distinct from that of the
4 abutting upland, in respect to topography and vegetation.

5
6 "Protection/maintenance (preservation)" means removing a
7 threat to, or preventing the decline of, wetland conditions by
8 an action in or near a wetland. This includes the purchase of
9 land or easements, repairing water control structures or fences,
10 or structural protection such as repairing a barrier island.
11 This term also includes activities commonly associated with the
12 term "preservation." Preservation does not result in a gain of
13 wetland acres, may result in a gain in functions, and will be
14 used only in exceptional circumstances.

15
16 "Public meeting" means an informal meeting, hearing,
17 workshop, or other public gathering of people to obtain comments
18 from the public or other agencies on a proposed project permit
19 prior to the local government's decision. A public meeting may
20 include, but is not limited to, a design review or architectural
21 control board meeting, a special review district or community
22 council meeting, or a scoping meeting on a draft environmental
23 impact statement. A public meeting does not include an open
24 record hearing. The proceedings at a public meeting may be
25 recorded and a report or recommendation may be included in the
26 local government's project permit application file.

27
28 "Qualified professional" means a person with experience
29 and training in the pertinent scientific discipline, and who is
30 a qualified scientific expert with expertise appropriate for the
31 relevant environmentally critical area subject in accordance
32 with WAC 365-195-905(4). A qualified professional must have
33 obtained a B.S. or B.A. or equivalent degree in biology,
34 engineering, environmental studies, fisheries, geomorphology, or
35 related field, and two years of related work experience.

36
37 (1) A qualified professional for habitats must have a
38 degree in biology and professional experience related to the
39 subject species.
40

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1 (2) A qualified professional for wetlands must have a
2 degree in biology, must have taken a wetlands delineation course
3 approved by the Army Corps of Engineers, and must have
4 professional experience.
5

6 (3) A qualified professional for a geological hazard
7 must be a professional engineer or geologist, licensed in the
8 state of Washington.
9

10 (4) A "qualified professional for critical aquifer
11 recharge areas" means a hydrogeologist, geologist, engineer, or
12 other scientist with experience in preparing hydrogeologic
13 assessments.
14

15 "Ravine sidewall" means a steep slope which abuts and
16 rises from the valley floor of a stream and which was created by
17 the wearing action of the stream. Ravine sidewalls contain
18 slopes predominantly in excess of 40 percent, although portions
19 may be less than 40 percent. The toe of a ravine sidewall is the
20 stream valley floor. The top of a ravine sidewall is typically a
21 distinct line where the slope abruptly levels out. Where there
22 is no distinct break in slope, the top is where the slope
23 diminishes to less than 15 percent. Minor natural or manmade
24 breaks in the slope of ravine sidewalls shall not be considered
25 as the top. Benches with slopes less than 15 percent and
26 containing developed or developable areas pursuant to chapter
27 16.10 DMMC shall be considered as the top.
28

29 "Recreational vehicle" means a vehicle:
30

31 (1) Built on a single chassis;
32

33 (2) 400 square feet or less when measured at the
34 largest horizontal projection;
35

36 (3) Designed to be self-propelled or permanently
37 towable by a light duty truck; and
38

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1 (4) Designed primarily not for use as a permanent
2 dwelling but as temporary living quarters for recreational,
3 camping, travel, or seasonal use.
4

5 "Restoration" means the return of an environmentally
6 critical area to a state in which its functions, values, and
7 size approach or exceed its unaltered state as closely as
8 possible.
9

10 "Restoration, wetlands" means the manipulation of the
11 physical, chemical, or biological characteristics of a site with
12 the goal of returning natural or historic functions to a former
13 or degraded wetland. For the purpose of tracking net gains in
14 wetland acres, restoration is divided into:
15

16 (1) "Re-establishment" means the manipulation of the
17 physical, chemical, or biological characteristics of a site with
18 the goal of returning natural or historic functions to a former
19 wetland. Re-establishment results in a gain in wetland acres
20 (and functions). Activities could include removing fill
21 material, plugging ditches, or breaking drain tiles.
22

23 (2) "Rehabilitation" means the manipulation of the
24 physical, chemical, or biological characteristics of a site with
25 the goal of repairing natural or historic functions of a
26 degraded wetland. Rehabilitation results in a gain in wetland
27 function but does not result in a gain in wetland acres.
28 Activities could involve breaching a dike to reconnect wetlands
29 to a floodplain or return tidal influence to a wetland.
30

31 "Retaining wall" means any wall used to resist the
32 lateral displacement of any material.
33

34 "Seismic hazard areas" means those areas subject to
35 severe risk of earthquake damage as a result of seismically
36 induced ground shaking, slope failure, settlement, soil
37 liquefaction, lateral spreading, or surface faulting. One
38 indicator of potential for future earthquake damage is a record
39 of earthquake damage in the past. Ground shaking is the primary

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cause of earthquake damage in Washington. The strength of ground shaking is affected primarily by:

- (1) The magnitude of an earthquake;
- (2) The distance from the source of an earthquake;
- (3) The type of thickness of geologic materials at the surface; and
- (4) The type of subsurface geologic structure.

Settlement and soil liquefaction conditions occur in areas underlain by cohesionless, loose, or soft-saturated soils of low density usually in association with a shallow ground water table. Known seismic hazard areas are mapped in the "Washington State Department of Natural Resources, Geologic Map GM-41, Liquefaction Susceptibility for the Des Moines and Renton 7.5-minute Quadrangles, Washington," and "Washington State Department of Natural Resources, Geologic Map GM-43, Liquefaction Susceptibility for the Auburn and Poverty Bay 7.5-minute Quadrangles, Washington."

"Shorelines of the state" means lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington, as classified in chapter 90.58 RCW.

"Slope" means an inclined ground surface, the inclination of which is expressed as a ratio (percentage) of vertical distance to horizontal distance by the following formula:

$$\frac{\text{vertical distance}}{\text{horizontal distance}} \times 100 = \% \text{ slope}$$

Another method of measuring the inclination of the land surface is by measuring the angle, expressed in degrees, of the surface above a horizontal plane. The following chart shows the equivalents between these two methods of measurement for several slopes:

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Percent Slope	Angle of Inclination
8.7	5.0°
15.0	8.5°
25.0	14.0°
30.0	16.7°
40.0	21.8°
50.0	26.6°
100.0	45.0°

1
2 "Special environmental study" means a technical report
3 prepared by a qualified professional. Special environmental
4 studies are intended to evaluate past and present environmental
5 conditions of certain properties, potential environmental
6 impacts associated with certain development proposals, and as
7 appropriate, recommend mitigation measures that can be expected
8 to lessen the severity of identified adverse environmental
9 impacts. The content and scope of required special environmental
10 studies shall be as specified by the Planning, Building and
11 Public Works Director.
12
13

14 "Start of construction" includes substantial improvement,
15 and means the date the building permit was issued, provided the
16 actual start of construction, repair, reconstruction, placement
17 or other improvement was within 180 days of the permit date. The
18 actual start means either the first placement of permanent
19 construction of a structure on a site, such as the pouring of
20 slab or footings, the installation of piles, the construction of
21 columns, or any work beyond the stage of excavation; or the
22 placement of a manufactured home on a foundation. Permanent
23 construction does not include land preparation, such as
24 clearing, grading and filling; nor does it include the
25 installation of streets and/or walkways; nor does it include
26 excavation for a basement, footings, piers, or foundations or
27 the erection of temporary forms; nor does it include the
28 installation on the property of accessory buildings, such as
29 garages or sheds not occupied as dwelling units or not part of
30 the main structure. For a substantial improvement, the actual
31 start of construction means the first alteration of any wall,
32 ceiling, floor, or other structural part of a building, whether

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1 or not that alteration affects the external dimensions of the
2 building.

3
4 "State designated endangered, threatened, and sensitive
5 species" means those fish and wildlife species native to the
6 state of Washington identified by the Washington Department of
7 Fish and Wildlife, that are in danger of extinction, threatened
8 to become endangered, vulnerable, or declining and are likely to
9 become endangered or threatened in a significant portion of
10 their range within the state without cooperative management or
11 removal of threats. State designated endangered, threatened, and
12 sensitive species are periodically recorded in WAC 232-12-014
13 (state endangered species) and WAC 232-12-011 (state threatened
14 and sensitive species). The state Department of Fish and
15 Wildlife maintains the most current listing and should be
16 consulted for current listing status. This section shall not
17 apply to hair seals and sea lions that are threatening to damage
18 or are damaging commercial fishing gear being utilized in a
19 lawful manner or when said mammals are damaging or threatening
20 to damage commercial fish being lawfully taken with commercial
21 gear.

22
23 "State priority habitats and areas associated with state
24 priority species" means those areas considered priorities for
25 conservation and management. Priority species require protective
26 measures for their perpetuation due to their population status,
27 sensitivity to habitat alteration, and/or recreational,
28 commercial, or tribal importance. Priority habitats are those
29 habitat types or elements with unique or significant value to a
30 diverse assemblage of species. A priority habitat may consist of
31 a unique vegetation type or dominant plant species, a described
32 successional stage, or a specific structural element. Priority
33 habitats and species are identified by the state Department of
34 Fish and Wildlife.

35
36 "Stream" means an area where surface waters flow
37 sufficiently to produce a defined channel or bed. A defined
38 channel or bed is indicated by hydraulically sorted sediments or
39 the removal of vegetative litter or loosely rooted vegetation by
40 the action of moving water. Stream channels or beds show clear

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1 evidence of the passage of water and include, but are not
2 limited to, bedrock channels, gravel beds, sand and silt beds,
3 and defined channel swales. The channel or bed need not contain
4 water year-round. This definition is not meant to include
5 irrigation ditches, canals, storm or surface water runoff
6 devices, or other entirely artificial watercourses unless they
7 are used by salmonids or used to convey streams naturally
8 occurring prior to construction. Swales, which are shallow
9 drainage conveyances with relatively gentle side slopes and
10 generally with flow depths less than one foot, shall be
11 considered streams when hydrologic and hydraulic analyses done
12 pursuant to a development proposal predict formation of a
13 defined channel after development. To differentiate between
14 levels of stream and marine shoreline protection and the
15 application of development standards, streams are classified
16 according to the Washington State Department of Natural
17 Resources Forest Practices Board water typing system specified
18 in WAC 222-16-030 as follows:

19
20 (1) "Type S water" means all waters inventoried as
21 "shorelines of the state," including periodically inundated
22 areas of their associated wetlands, under chapter 90.58 RCW and
23 the rules promulgated pursuant to chapter 90.58 RCW;

24
25 (2) "Type F water" means segments of natural waters
26 other than Type S waters, which contain fish or fish habitat,
27 including waters diverted for use by a federal, state or tribal
28 fish hatchery from the point of diversion for 1,500 feet or the
29 entire tributary if the tributary is highly significant for
30 protection of downstream water quality;

31
32 (3) "Type Np water" means all segments of natural
33 waters that are not Type S or F waters. These are perennial
34 nonfish habitat streams that are physically connected to Type S
35 or F waters by an aboveground channel system, stream or wetland.
36 Perennial streams are waters that do not go dry any time of a
37 year of normal rainfall. However, for the purpose of water
38 typing, Type Np waters include the intermittent dry portions of
39 the perennial channel below the uppermost point of perennial
40 flow;

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1
2 (4) "Type Ns water" means all segments of natural
3 waters that are not Type S, F, or Np waters. These are seasonal,
4 nonfish habitat streams in which surface flow is not present for
5 at least some portion of a year of normal rainfall and are not
6 located downstream from any stream reach that is a Type Np
7 water. Ns waters must be physically connected by an aboveground
8 channel system to Type S, F, or Np waters.
9

10 "Storage tank" means a container for the storage of a gas
11 or liquid.
12

13 "Stream corridor" means a perennial, intermittent, or
14 ephemeral stream including its channel bottom, lower and upper
15 banks, area beyond the top of the upper bank which influences
16 the stream and is influenced by the presence of water, and the
17 vegetation inhabiting this area. This area is known as the
18 "riparian zone" which is an area transitional between aquatic
19 and terrestrial (upland) ecosystems having distinct vegetation
20 and soil characteristics. Riparian zones are most commonly
21 recognized by bottomland, flood plain, and streambank
22 vegetation. In developed watersheds, portions of the stream
23 corridor may currently be in a partially culverted or
24 channelized condition by artificial conveyance systems.
25

26 "Structure" means a walled and roofed building.
27

28 "Substantial improvement" means a repair, reconstruction,
29 or improvement of a structure made during a three-year period,
30 the cumulative cost of which equals or exceeds 50 percent of the
31 market value of the structure either:

32 (1) Before the improvement or repair is started; or

33 (2) If the structure has been damaged and is being
34 restored, before the damage occurred. For the purposes of this
35 definition, "substantial improvement" is considered to occur
36 when the first alteration of a wall, ceiling, floor, or other

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1 structural part of the building commences, whether or not that
2 alteration affects the external dimensions of the structure.

3 (3) The term does not, however, include either:

4 (a) A project for improvement of a structure to
5 comply with existing state or local health, sanitary, or safety
6 code specifications that are solely necessary to assure safe
7 living conditions; or

8 (b) An alteration of a structure listed on the
9 National Register of Historic Places or a State Inventory of
10 Historic Places.

11 "Surface Water Design Manual for the City of Des Moines"
12 means the King County, Washington "Surface Water Design Manual,"
13 including all subsequent revisions, adopted by reference as the
14 "Surface Water Design Manual for the City of Des Moines," and is
15 referred to in this Title as "Surface Water Design Manual."
16

17 "Upper bank" is that portion of the topographic cross-
18 section of a stream which extends from the break in the general
19 slope of the surrounding land to the normal high water line.
20

21 "Use" means the nature of the occupancy, the type of
22 activity, or the character and form of improvements to which
23 land is devoted or may be devoted.
24

25
26 "Water dependent" means a structure for commerce or
27 industry that cannot exist in any other location and is
28 dependent on the water by reason of the intrinsic nature of its
29 operations.
30

31 "Wetland" or "wetlands" means areas that are inundated or
32 saturated by surface water or groundwater at a frequency and
33 duration sufficient to support, and that under normal
34 circumstances do support, a prevalence of vegetation typically
35 adapted for life in saturated soil conditions. Wetlands

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1 generally include swamps, marshes, bogs, and similar areas.
2 Wetlands to not include those artificial wetlands intentionally
3 created from nonwetland sites, including, but not limited to,
4 irrigation and drainage ditches, grass-lined swales, canals,
5 detention facilities, wastewater treatment facilities, farm
6 ponds, and landscape amenities, or those wetlands created after
7 July 1, 1990, that were unintentionally created as a result of
8 the construction of a road, street, or highway. Wetlands may
9 include those artificial wetlands intentionally created for
10 nonwetland areas created to mitigate conversion of wetlands.

11
12 To differentiate between levels of wetland protection and the
13 application of development standards, wetlands shall be rated
14 according to the "Washington State Wetland Rating System for
15 Western Washington," (Ecology Publication No. 04-06-025, August
16 2004) or as revised by the Department of Ecology. Wetland
17 rating categories shall be applied as the wetland exists at the
18 time of the adoption of this chapter or as it exists at the time
19 of an associated permit application. Wetland rating categories
20 shall not change due to illegal modifications.

21
22 (1) Category I. Category I wetlands represent a unique
23 or rare wetland type, are more sensitive to disturbance than
24 most wetlands, are relatively undisturbed and contain some
25 ecological attributes that are impossible to replace within a
26 human lifetime, or provide a very high level of functions.
27 Category I wetlands are:

28
29 (a) Mature forested wetlands larger than one
30 acre; or

31
32 (b) Wetlands that perform many functions well.
33

34 (2) Category II. Category II wetlands are difficult,
35 though not impossible, to replace, and provide high levels of
36 some functions. These wetlands occur more commonly than Category
37 I wetlands, but they still need a relatively high level of
38 protection. Category II wetlands are:
39

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1 (a) Wetlands identified by the Washington State
2 Department of Natural Resources as containing "sensitive" plant
3 species;
4

5 (b) Wetlands with a moderately high level of
6 functions.
7

8 (3) Category III. Generally, wetlands in this category
9 may have been disturbed in some way and are often less diverse
10 or more isolated from other natural resources in the landscape
11 than Category II wetlands. Category III wetlands are wetlands
12 with a moderate level of functions.
13

14 (4) Category IV. Category IV wetlands have the lowest
15 levels of functions and are often heavily disturbed. These are
16 wetlands that should be replaceable, and in some cases may be
17 improved. However, experience has shown that replacement cannot
18 be guaranteed in any specific case. These wetlands may provide
19 some important functions, and should be protected to some
20 degree.
21

22 **Sec. 6. 16.01.060. Rules of construction.** The
23 following rules of construction shall apply unless inconsistent
24 with the obvious meaning in the context of the provision.
25

26 (1) Tense. Words used in the present tense shall
27 include the future tense.
28

29 (2) Number. Words used in the singular shall include
30 the plural, and words used in the plural shall include the
31 singular.
32

33 (3) Headings. In the event that there is any conflict
34 or inconsistency between the heading of a chapter, section, or
35 paragraph of this code, and the content thereof, the said
36 heading shall not affect the scope, meaning, or intent of the
37 content.
38

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1 (4) Citations. Citations to state or federal laws
2 shall mean that law as presently constituted or as it may be
3 subsequently amended in the future.
4

5 **Sec. 7. 16.01.070. Liability.** It is the specific
6 intent of this Title and procedures adopted under this Title to
7 place the obligation of complying with the requirements of this
8 chapter upon the permittee, and no provision is intended to
9 impose any duty upon the City, or any of its officers,
10 employees, or agents. Nothing contained in this Title is
11 intended to be or shall be construed to create or form the basis
12 for liability on the part of the City, or its officers,
13 employees, or agents, for any injury or damage resulting from
14 the failure of the permittee to comply with the provisions of
15 this Title, or by reason or in consequence of any act or
16 omission in connection with the implementation or enforcement of
17 this Title or any procedures adopted under this Title by the
18 City, its officers, employees, or agents.
19

20 **Sec. 8. 16.01.080. Violation and penalty.**
21

22 (1) Violation. No person shall violate or fail to
23 comply with the provisions of this Title.
24

25 (2) Civil infraction. A violation or a failure to
26 comply with the provisions of this Title is a civil infraction
27 and a violator may be penalized as is more specifically set
28 forth in chapter 1.24 DMMC Civil Infractions.
29

30 (3) Civil violation and penalty. A violation or a
31 failure to comply with the provisions of this Title is further a
32 civil violation and may be penalized and or abated as is set
33 forth in chapter 1.28 DMMC Civil Violations and Penalties.
34

35 (4) Criminal penalty. In addition to or as an
36 alternative to any other penalty provided in this Title or by
37 law, a person convicted of a violation of this Title is guilty
38 of a gross misdemeanor. Upon conviction a person may also be
39 ordered to abate, discontinue or correct a violation of this
40 Title.

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(5) Superior Court - Civil action. In addition to or an alternative to any other penalty provided in this Title or by law, a violation or a failure to comply with the provisions of this Title may be enforced by a civil action filed in King County Superior Court in any manner allowed by law.

Sec. 9. 16.01.090. Severability. The provisions of this Title are severable. If any section, sentence, clause or phrase of this code is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of the code.

Sec. 10. 16.01.100. Variance procedure.

(1) All applications for variances from requirements set forth in this Title shall first be filed with the Hearing Examiner pursuant to chapter 18.20 DMMC and chapter 18.24 DMMC.

(2) A variance shall not be granted by the Hearing Examiner unless the Hearing Examiner finds that the applicant can demonstrate that compliance would create an undue hardship. For purposes of this Title, undue hardship is intended to mean a technological or environmental difficulty associated with the particular facility or with the particular real property involved.

(3) When granting a variance, the Hearing Examiner may attach conditions to the granting of said variance including placing a time limit on the duration of such variance.

Sec. 11. 16.01.110. Appeal. Appeals of decisions made pursuant to this Title shall be as set forth in the applicable chapter and pursuant to chapter 18.20 DMMC.

Chapter 16.02
Interpretation of Title 16 DMMC

Sections:

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1 16.02.010 Title.
 2 16.02.020 Application.
 3 16.02.030 Purpose.
 4 16.02.040 Authority.
 5 16.02.050 Interpretation.
 6 16.02.060 Provisions not affected by headings.
 7 16.02.070 Appeal
 8

9 **Sec. 112. 16.02.010. Title.** This chapter shall be
 10 entitled "Interpretation of Title 16 DMMC."
 11

12 **Sec. 113. 16.02.020. Application.** This chapter shall
 13 apply to the interpretation of Titles 16 DMMC.
 14

15 **Sec. 114. 16.02.030. Purpose.** The purpose of this
 16 chapter is to provide for the interpretation of development code
 17 provisions in Title 16 DMMC.
 18

19 **Sec. 115. 16.02.040. Authority.** This chapter is
 20 adopted pursuant to the provisions of chapters 35A.13, 35A.63
 21 and 36.70A RCW and other applicable laws.
 22

23 **Sec. 116. 16.02.050. Interpretation.**
 24

25 (1) Interpretation of Title 16 shall be responsibility
 26 of the Planning, Building and Public Works Director.
 27

28 (2) Interpretations of Title 16 may be initiated by the
 29 submittal of a written request to the City Manager or the City
 30 Manager's designee.
 31

32 (3) Requests for interpretations of the DMMC shall be
 33 processed as a Type I land use action.
 34

35 (4) The City Manager or the City Manager's designee
 36 shall periodically submit to the City Council a summary of the
 37 interpretations requested and the corresponding interpretations
 38 made by the Planning, Building and Public Works Director. As
 39 needed, the summary shall include recommendations regarding the

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1 need for textual code amendments that would clarify DMMC
 2 provisions.

3
 4 **Sec. 117. 16.02.060. Provisions not affected by**
 5 **headings.** Chapter and section headings contained in this Title
 6 shall not be deemed to govern, limit, modify, or in any manner
 7 affect the scope, meaning, or intent of any section hereof.

8
 9 **Sec. 118. 16.02.070. Appeal.** A decision of the
 10 Planning, Building and Public Works Director made in accordance
 11 with this chapter shall be considered a final administrative
 12 decision. A person aggrieved by such decision of the Planning,
 13 Building and Public Works Director may appeal such decision to
 14 the Hearing Examiner in accordance with DMMC 18.20.150 and
 15 18.20.160 and chapter 18.240 DMMC.

16
 17
 18 **Chapter 16.05**
 19 **SEPA**
 20

21 **Sections:**

22 16.05.010 Title.
 23 16.05.020 Application.
 24 16.05.030 Purpose.
 25 16.05.040 Authority.
 26 16.05.050 General - Requirements.
 27 16.05.060 Definitions - Additional.
 28 16.05.070 Designation of responsible official.
 29 16.05.080 Lead agency - Determination and responsibilities.
 30 16.05.090 Lead agency - Transfer to state agency.
 31 16.05.100 Document schedule.
 32 16.05.110 Categorical exemptions
 33 16.05.120 Use of exemptions.
 34 16.05.130 Environmental checklist.
 35 16.05.140 Mitigated DNS.
 36 16.05.150 Environmental impact statements.
 37 16.05.160 Preparation of EIS - Additional provisions.
 38 16.05.170 Additional elements to be covered.
 39 16.05.180 Commenting Rules.

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- 1 16.05.190 Public notice procedure - Notice of DNS, mitigated
- 2 DNS, or DS.
- 3 16.05.200 Public notice procedure - Notice of DS scoping
- 4 procedure.
- 5 16.05.210 Public notice procedure - Notice of DEIS and draft
- 6 SEIS.
- 7 16.05.220 Public notice procedure - Content of notice.
- 8 16.05.230 Public notice procedure - Timing of notices.
- 9 16.05.240 Public notice procedure - Comment period.
- 10 16.05.250 Public notice procedure - Coordination of required
- 11 notices.
- 12 16.05.260 Public notice procedure - Public notice costs.
- 13 16.05.270 Consulted agency - Official designated.
- 14 16.05.275 Public Notice (WAC 173-806-132 and DMMC 16.05.190).
- 15 16.05.280 Use of existing and supplementing environmental
- 16 documents and planned actions.
- 17 16.05.290 Planned actions.
- 18 16.05.300 SEPA and Agency decisions - Appeal.
- 19 16.05.310 Substantive authority - Conditions - Denial -
- 20 Policies.
- 21 16.05.320 Agency SEPA Appeal.
- 22 16.05.330 Categorical Exemptions - Adoption by reference.
- 23 16.05.340 Agency Compliance - Rules.
- 24 16.05.350 Environmentally Critical Areas and areas of special
- 25 flood hazard.
- 26 16.05.360 Fees.
- 27 16.05.370 Forms - Adoption by reference.

28
29 **Sec. 12. 16.05.010. Title.** This chapter shall be
30 entitled "SEPA."
31

32 **Sec. 13. 16.05.020. Application.** This chapter shall
33 apply to legislative and other actions affecting the quality of
34 the environment as set forth in chapter 43.21C RCW and chapter
35 197-11 WAC.
36

37 **Sec. 14. 16.05.030. Purpose.** The purpose of this
38 chapter is to implement chapter 43.21C RCW and the applicable
39 Washington Administrative Code provisions.
40

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1 **Sec. 15. 16.05.040. Authority.** The City adopts this
2 chapter under the State Environmental Policy Act (SEPA), RCW
3 43.21C.120 and the SEPA rules, WAC 197-11-904. This chapter
4 contains this City's SEPA procedures and policies. The SEPA
5 rules, chapter 197-11 WAC, must be used in conjunction with this
6 chapter.

7
8 **Sec. 16. 16.05.050. General - Requirements.**
9 The City adopts by reference the definitions contained in WAC
10 197-11-040 through 197-11-268.
11

12 **Sec. 17. 16.05.060. Definitions - Additional.** The
13 City adopts by reference the definitions contained in
14 WAC 197-11-700 through 197-11-799. In addition, the
15 following definitions are adopted for this chapter:
16

17 "Advisory body" means a body established by ordinance of
18 the City Council whose responsibilities include making
19 recommendation to the City Council on actions subject to SEPA.
20

21 "Early notice" means the City's response to an applicant stating
22 whether it considers issuance of a determination of significance
23 likely for the applicant's proposal (mitigated determination of
24 nonsignificance (DNS) procedures).
25

26 "Proponent" means an agency or private applicant
27 proposing an action subject to SEPA. For purposes of agency
28 contact the proponent means the contact person on the
29 environmental checklist, or agency designated for that purpose
30 by the agency or private applicant.
31

32 "SEPA rules" means chapter 197-11 WAC adopted by the
33 State Department of Ecology.
34

35 **Sec. 18. 16.05.070. Designation of responsible**
36 **official.**
37

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1 (1) For those proposals for which the City is the lead
 2 agency, the responsible official shall be the Planning, Building
 3 and Public Works Director.

4
 5 (2) For all proposals for which the City is the lead
 6 agency, the responsible official shall make the threshold
 7 determination, supervise scoping and preparation of any required
 8 environmental impact statement (EIS), and perform any other
 9 functions assigned to the "lead agency" or "responsible
 10 official" by those sections of the SEPA rules that were adopted
 11 by reference in WAC 173-806-020.

12
 13 (3) The City shall retain all documents required by the
 14 SEPA rules and make them available in accordance with chapter
 15 42.17 RCW.

16
 17 **Sec. 19. 16.05.080. Lead agency - Determination and**
 18 **responsibilities.**

19
 20 (1) The department within the City receiving an
 21 application for or initiating a proposal that involves a
 22 nonexempt action shall determine the lead agency for that
 23 proposal under WAC 197-11-050, 197-11-253, and 197-11-922
 24 through 197-11-940; unless the lead agency has been previously
 25 determined or the department is aware that another agency is in
 26 the process of determining the lead agency.

27
 28 (2) When the City is not the lead agency for a
 29 proposal, all departments of the City shall use and consider, as
 30 appropriate, either the DNS or the final EIS of the lead agency
 31 in making decisions on the proposal. The responsible official
 32 shall not prepare or require preparation of a DNS or EIS in
 33 addition to that prepared by the lead agency, unless required
 34 under WAC 197-11-600. In some cases, the City may conduct
 35 supplemental environmental review under WAC 197-11-600.

36
 37 (3) If the City or any of its departments receives a
 38 lead agency determination made by another agency that appears
 39 inconsistent with the criteria of WAC 197-11-253 or 197-11-922
 40 through 197-11-940, it may object to the determination. Any

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1 objection must be made to the agency originally making the
2 determination and resolved within 15 days of receipt of the
3 determination, or the City must petition the Department of
4 Ecology for a lead agency determination under WAC 197-11-946
5 within the 15-day time period. Any such petition on behalf of
6 the City shall be initiated by the responsible official.
7

8 (4) The responsible official is authorized to make
9 agreements as to lead agency status or shared lead agency duties
10 for a proposal under WAC 197-11-942 and 197-11-944; provided,
11 that the responsible official and any department that will incur
12 responsibilities as the result of such agreement approve the
13 agreement.
14

15 (5) The responsible official making a lead agency
16 determination for a private project shall require sufficient
17 information from the applicant to identify which other agencies
18 have jurisdiction over the proposal.
19

20 (6) When the City is the lead agency for a MTCA
21 remedial action, the Department of Ecology shall be provided an
22 opportunity under WAC 197-11-253(5) to review the environmental
23 documents prior to the public notice being provided. If the SEPA
24 and MTCA documents are issued together with one public comment
25 period under WAC 197-11-253(6), the City shall decide jointly
26 with Ecology which agency receives the comment letters and how
27 copies of the comment letters will be distributed to the other
28 agency.
29

30 **Sec. 20. 16.05.090. Lead agency - Transfer to state**
31 **agency.** For any proposal for a private project where the City
32 would be the lead agency and for which one or more state
33 agencies have jurisdiction, the City's responsible official may
34 elect to transfer the lead agency to a state agency. The state
35 agency with jurisdiction appearing first on the priority listing
36 in WAC 197-11-936 shall be the lead agency and the City shall be
37 an agency with jurisdiction. To transfer lead agency duties, the
38 City's responsible official must transmit a notice of the
39 transfer together with any relevant information available on the
40 proposal to the appropriate state agency with jurisdiction. The

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1 responsible official of the City shall also give notice of the
 2 transfer to the private applicant and any other agencies with
 3 jurisdiction over the proposal.

4
 5 **Sec. 21. 16.05.100. Document schedule.** For nonexempt
 6 proposals, the DNS or final EIS for the proposal shall accompany
 7 the City's staff recommendation.

8
 9 **Sec. 21. 16.05.110. Categorical exemptions -**
 10 **Threshold determinations.** The City adopts WAC 197-11-300
 11 through WAC 197-11-390 by reference as supplemented in this
 12 section.

13
 14 **Sec. 22. 16.05.120. Use of exemptions.**

15
 16 (1) Each department within the City that receives an
 17 application for a license or, in the case of governmental
 18 proposals, the department initiating the proposal, shall
 19 determine whether the license and/or the proposal is exempt. The
 20 department's determination that a proposal is exempt shall be
 21 final and not subject to administrative review. If a proposal is
 22 exempt, none of the procedural requirements of this chapter
 23 apply to the proposal. The City shall not require completion of
 24 an environmental checklist for an exempt proposal.

25
 26 (2) In determining whether or not a proposal is exempt,
 27 the department shall make certain the proposal is properly
 28 defined and shall identify the governmental license required
 29 (WAC 197-11-060). If a proposal includes exempt and nonexempt
 30 actions, the department shall determine the lead agency, even if
 31 the license application that triggers the department's
 32 consideration is exempt.

33
 34 (3) If a proposal includes both exempt and nonexempt
 35 actions, the City may authorize exempt actions prior to
 36 compliance with the procedural requirements of this chapter,
 37 except that:

38
 39 (a) The City shall not give authorization for:
 40

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(i) Any nonexempt action;
(ii) Any action that would have an adverse environmental impact; or

(iii) Any action that would limit the choice of alternatives.

(b) The responsible official may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt action(s) were not approved; and

(c) The responsible official may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt action(s) were not approved.

Sec. 23. 16.05.130. Environmental checklist.

(1) Except as provided in subsection (5) of this section, a completed environmental checklist in the form provided in WAC 197-11-960 shall be filed at the same time as an application for a permit, license, certificate, or other approval not exempted in this chapter; except, a checklist is not needed if the City and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The City shall use the environmental checklist to determine the lead agency and for making the threshold determination.

(2) For private proposals, the City will require the applicant to complete the environmental checklist, providing assistance as necessary. For City proposals, the department initiating the proposal shall complete the environmental checklist for that proposal.

(3) The City may require that it, and not the private applicant, will complete all or part of the environmental

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1 checklist for a private proposal, if either of the following
 2 occurs:

3
 4 (a) The City has technical information on a
 5 question or questions that is unavailable to the private
 6 applicant; or

7
 8 (b) The applicant has provided inaccurate
 9 information on previous proposals or on proposals currently
 10 under consideration.

11
 12 (4) The City may request that the applicant include
 13 supplemental studies with the environmental checklist if the
 14 responsible official determines that such studies are necessary
 15 to adequately assess the environmental impacts of a proposal. If
 16 mutually agreed to by the City and the applicant, supplemental
 17 studies may be contracted for directly by the City and funded by
 18 the applicant using the procedures set forth in DMMC 16.10.070,
 19 "Special Studies."

20
 21 (5) For projects submitted as planned actions under WAC
 22 197-11-164, the City shall use its existing environmental
 23 checklist form or may modify the environmental checklist form as
 24 provided in WAC 197-11-315. The modified environmental checklist
 25 form may be prepared and adopted along with or as part of a
 26 planned action ordinance; or developed after the ordinance is
 27 adopted. In either case, a proposed modified environmental
 28 checklist form must be sent to the department of ecology to
 29 allow at least a thirty-day review prior to use.

30
 31 **Sec. 24. 16.05.140. Mitigated DNS.**

32
 33 (1) As provided in this chapter and in WAC 197-11-350,
 34 the responsible official may issue a DNS based on conditions
 35 attached to the proposal by the responsible official or on
 36 changes to, or clarifications of, the proposal made by the
 37 applicant.

38
 39 (2) An applicant may request in writing early notice of
 40 whether a DS is likely under WAC 197-11-350. The request must:

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1
2 (a) Follow submission of a permit application and
3 environmental checklist for a nonexempt proposal for which the
4 department is lead agency; and
5

6 (b) Precede the City's actual threshold
7 determination for the proposal.
8

9 (3) The responsible official should respond to the
10 request for early notice within 15 working days. The response
11 shall:
12

13 (a) Be written;
14

15 (b) State whether the City currently considers
16 issuance of a DS likely and, if so, indicate the general or
17 specific area(s) of concern that is/are leading the City to
18 consider a DS; and
19

20 (c) State that the applicant may change or
21 clarify the proposal to mitigate the indicated impacts revising
22 the environmental checklist and/or permit application as
23 necessary to reflect the changes or clarifications.
24

25 (4) As much as possible, the City should assist the
26 applicant with identification of impacts to the extent necessary
27 to formulate mitigation measures.
28

29 (5) When an applicant submits a changed or clarified
30 proposal, along with a revised or amended environmental
31 checklist, the City shall base its threshold determination on
32 the changed or clarified proposal and should make the
33 determination within 15 days of receiving the changed or
34 clarified proposal:
35

36 (a) If the City indicated specific mitigation
37 measures in its response to the request for early notice, and
38 the applicant changed or clarified the proposal to include those
39 specific mitigation measures, the City shall issue and circulate
40 a DNS under WAC 197-11-340(2).

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1
2 (b) If the City indicated areas of concern, but
3 did not indicate specific mitigation measures that would allow
4 it to issue a DNS, the City shall make the threshold
5 determination, issuing a DNS or DS as appropriate.
6

7 (c) The applicant's proposed mitigation measures
8 (clarifications, changes, or conditions) must be in writing and
9 must be specific.
10

11 (d) Mitigation measures which justify issuance of
12 a mitigated DNS may be incorporated in the DNS by reference to
13 agency staff reports, studies or other documents.
14

15 (6) A mitigated DNS is issued under WAC 197-11-340(2),
16 requiring a 14-day comment period and public notice, or WAC 197-
17 11-355, which may require no additional comment period beyond
18 the comment period on the notice of application.
19

20 (7) Mitigation measures incorporated in the mitigated
21 DNS shall be deemed conditions of approval of the permit
22 decision and may be enforced in the same manner as any term or
23 condition of the permit, or enforced in any manner specifically
24 prescribed by the City.
25

26 (8) If the City's tentative decision on a permit or
27 approval does not include mitigation measures that were
28 incorporated in a mitigated DNS for the proposal, the City
29 should evaluate the threshold determination to assure
30 consistency with WAC 197-11-340(3)(a) (withdrawal of DNS).
31

32 (9) The City's written response under subsection (2) of
33 this section shall not be construed as a determination of
34 significance. In addition, preliminary discussion of
35 clarifications or changes to a proposal, as opposed to a written
36 request for early notice, shall not bind the City to consider
37 the clarifications or changes in its threshold determination.
38

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1 **Sec. 25. 16.05.150. Environmental impact statements.**
2 The City adopts WAC 197-11-400 through WAC 197-11-460 by
3 reference, as supplemented by this part.

4
5 **Sec. 26. 17.05.160. Preparation of EIS - Additional**
6 **provisions.**

7
8 (1) Preparation and content of draft and final EISs
9 (DEIS and FEIS), and draft and final supplemental EISs (SEIS) is
10 the responsibility of the Planning, Building and Public Works
11 Department under the direction of the responsible official.
12 Before the City issues an EIS, the responsible official shall be
13 satisfied that it complies with this chapter and chapter 197-11
14 WAC.

15
16 (2) The DEIS and FEIS or draft and final SEIS shall be
17 the responsibility of City staff. The Planning, Building and
18 Public Works Department shall contract with consultants as
19 necessary for the preparation of an EIS. The cost of preparing
20 an EIS shall be borne entirely by the applicant. If the
21 responsible official requires an EIS for a proposal and
22 determines that someone other than the City will prepare the
23 EIS, the responsible official shall notify the applicant
24 immediately after completion of the threshold determination. The
25 responsible official shall notify the applicant of the City's
26 procedure for EIS preparation, including approval of the DEIS
27 and FEIS prior to distribution.

28
29 (3) Consultants or subconsultants selected by the City
30 to prepare environmental documents for a private development
31 proposal shall not:

32
33 (a) Act as agents for the applicant in
34 preparation or acquisition of associated underlying permits; or

35
36 (b) Have a financial interest in the proposal for
37 which the environmental document is being prepared; or

38
39 (c) Perform any work or provide any services for
40 the applicant in connection with or related to the proposal; or

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1
2 (d) Perform, contract for, or agree to perform
3 any other work or provide any other services for the applicant
4 while working on the environmental documents for the proposal.
5

6 (4) The Planning, Building and Public Works Department
7 shall establish and maintain one or more lists of qualified
8 consultants who are eligible to receive contracts for
9 preparation of environmental documents. Separate lists may be
10 maintained to reflect specialized qualifications or expertise.
11 When the Planning, Building and Public Works Department requires
12 consultant services to prepare an EIS, the applicant shall
13 select two or three candidates from the appropriate consultant
14 list(s) and submit the names of those candidates to the
15 Planning, Building and Public Works Department for consideration
16 to prepare the EIS. The Planning, Building and Public Works
17 Department shall interview the candidate consultants, select the
18 most qualified consultant and negotiate a contract for services.
19 In the event that two or more of the candidate consultants are
20 qualified to prepare the EIS, the Planning, Building and Public
21 Works Department will negotiate with each consultant and select
22 the consultant who can prepare the EIS at the lowest cost to the
23 applicant. The Planning, Building and Public Works Director
24 shall promulgate administrative rules that establish processes
25 to:
26

27 (a) Create and maintain a qualified consultant
28 list;
29

30 (b) Add consultants to the list; and
31

32 (c) Remove consultants from the list.
33
34

35 **Sec. 27. 16.05.170. Additional elements to be**
36 **covered.** The following additional elements are part of the
37 environment for the purpose of EIS content, but do not add to
38 the criteria for threshold determinations or perform any other
39 function or purpose under this chapter:
40

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- (1) Economy;
- (2) Social policy analysis;
- (3) Cost-benefit analysis.

Sec. 28. 16.05.180. Commenting Rules. The City adopts WAC 197-11-500 through 197-11-570 by reference, as supplemented in this part.

Sec. 29. 16.05.190 Public notice procedure - Notice of DNS, mitigated DNS, or DS. Whenever the City issues a DNS under WAC 197-11-340(2), a mitigated DNS under WAC 197-11-350(3), or a DS under WAC 197-11-360(3), the public notice of these actions shall be given as follows:

(1) Signs required for site-specific proposals. Applicants shall post one or more large signs on the subject property giving public notice of a proposed action as set forth in this subsection.

(a) Size. All signs shall be four feet by eight feet in size.

(i) Single-Family Residential Zone. All signs shall be two feet by four feet in size.

(ii) All other zones. All signs shall be four feet by eight feet in size.

(b) Number of signs. One public notice sign shall be required per street frontage. In case of large parcels or street frontages exceeding 500 feet, the SEPA Official may require the posting of additional signs.

(c) Location. Signs shall be located on the site of the proposed action, set back at least 10 feet from a public right-of-way or private road or easement as applicable, and shall be situated to maximize readability by the public from public rights-of-way. A sign may be located within the 10-foot

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1 setback, if determined necessary by the SEPA Official to provide
2 adequate visibility.

3
4 (d) Duration of installation. Public notification
5 signs shall be installed at the time the DNS, mitigated DNS, or
6 DS is issued. Signage shall remain in place until the final
7 decision on the underlying governmental action. Any required
8 signage installed shall not be removed until the City has taken
9 action on the application and the time for filing an appeal of
10 that action has expired. If an application is denied, any
11 required signage shall remain in place unless the applicant has
12 informed the SEPA Official, in writing, of their intent not to
13 appeal.

14
15 (e) Alternative signage.

16
17 (i) Finding of necessity. Upon a finding of
18 necessity by the SEPA Official, the applicant may employ an
19 alternative to the large sign requirement. Ten signs of a
20 dimension of 11 inches by 17 inches may be posted within 300
21 feet of the site and at the closest street intersections,
22 subject to the consent of any affected property owner, when one
23 or more of the following conditions exist and the intent of this
24 section is met:

25
26 (A) The applicant is not the property
27 owner, and the property owner does not consent to the proposal.

28
29 (B) The site is subject to physical
30 characteristics such as steep slopes, wetlands, submerged lands,
31 or thick vegetation, or is located such that the large sign
32 would not be highly visible to neighboring residents and
33 property owners or interested citizens.

34
35 (ii) Small sign discretion. The SEPA
36 Official is further granted discretion to permit one or more
37 signs of a dimension of 11 inches by 17 inches as an alternative
38 to the large sign requirement when the following conditions
39 exist and the intent of this section is met:
40

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1 (A) Where, in the opinion of the SEPA
2 Official, the project is of a substantially minor nature; and
3

4 (B) In the opinion of the SEPA
5 Official, adequate public notice would be rendered by employment
6 of one or more signs of a dimension of 11 inches by 17 inches as
7 an alternative to the large sign requirement.
8

9 (f) Additional signage may be required. The SEPA
10 Official may require both large signs and the alternative
11 posting measures described in subsection (1)(e) of this section,
12 or may require that more than one large sign be posted, when
13 necessary to assure that notice is clearly visible to the
14 public.

15 (g) Affidavit of certification - Signage. The
16 applicant shall file an affidavit of certification-signage with
17 the SEPA Official stating that the signs as required by this
18 subsection were installed on the subject property. The affidavit
19 shall be in a form prescribed by the SEPA Official. The
20 affidavit of certification-signage shall be filed not less than
21 14 days prior to either the date of any scheduled hearing or the
22 date by which the public may submit comments on the application,
23 whichever is sooner. If the affidavit is not filed as required
24 in this subsection, any scheduled hearing, or date by which the
25 public may comment on the application, shall be postponed or
26 extended in order to comply with this section.
27

28 (h) Removal of signs. In any event, any required
29 signage must be removed by the applicant within seven days
30 following the last day that an appeal of the action could be
31 filed. If not so removed by the applicant, any required signage
32 shall be removed by the City at the applicant's expense. By
33 filing an application subject to the provisions of this section,
34 the applicant consents to City personnel going upon the
35 applicant's property for the purpose of removing any signage
36 required by this section.
37

38 (i) Cash deposit. The amount of \$100.00 shall be
39 deposited by the applicant upon filing of any of the
40 applications specified in this section to assure removal of any

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1 required signage in accordance with this subsection. This
2 deposit shall be refunded if signs are timely removed in
3 accordance with this subsection. If signs are not so removed,
4 such deposit shall be forfeited to the City and shall be used to
5 cover the expenses of removal by the City.

6
7 (j) Sign Code exemption. Any required signage is
8 exempt from the requirements of the sign code, chapter 18.20
9 DMMC.

10
11 (k) Design requirements. The SEPA Official shall
12 specify detailed design requirements for any required signage,
13 including materials, stroke width, lettering, color, format, and
14 other design characteristics.

15
16 (2) Bulletin boards. Notice shall be posted by the City
17 at the official City posting places and on the indoor bulletin
18 boards at the City planning, engineering, and public works
19 building.

20
21 (3) Interested groups. The City shall notify in writing
22 public agencies, private groups, or individuals who have
23 expressed interest in a certain project.

24
25 (4) Newspaper. Notice shall be published in the
26 official City newspaper.

27
28 (5) Property owners and occupants/tenants. For site-
29 specific proposals, the City shall notify in writing all
30 property owners and occupants/tenants within a 300-foot radius
31 of the exterior boundaries of the subject property of the
32 project proposal. If any portion of an apartment or condominium
33 complex lies within the 300-foot radius, all occupants/tenants
34 and property owners shall be given public notice. The applicant
35 shall provide the SEPA Official with a complete list of the
36 names, parcel numbers, and taxpayer's mailing addresses as shown
37 in the records of the King County assessor to within 45 days of
38 initial application submittal of all such properties and mailing
39 addresses for all occupants/tenants, certifying the same as a
40 full and complete list under penalty of perjury.

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1 Occupants/tenants shall be addressed as "Occupant/Tenant" and by
 2 unit in a multiple-unit building but need not be identified by
 3 name. Property owners shall be identified by name. The form and
 4 wording of the written notice shall be prescribed by the SEPA
 5 Official. The mailing labels submitted to the City shall only be
 6 valid for 180 days from the date of notification of complete
 7 application issued by the City as required by chapter 18.20
 8 DMMC. Once the 180 days have passed, the applicant shall be
 9 required to submit new mailing labels based on the records of
 10 the King County assessor at that time. The SEPA Official shall
 11 provide the applicant with City envelopes. Thereafter, it shall
 12 be the responsibility of the applicant to insert the written
 13 notices, and address envelopes with the correct mailing address,
 14 stamp, and seal the envelopes and return them to the SEPA
 15 Official. The applicant shall be responsible for payment of all
 16 costs connected with such notice, including but not limited to
 17 postage, envelopes, letterhead, and notice reproduction.

18
 19 **Sec. 30. 16.05.200 Public notice procedure - Notice of**
 20 **DS scoping procedure.** Whenever the City issues a DS under WAC
 21 197-11-360(3), notice of the scoping procedure for the proposal
 22 as required in WAC 197-11-408 shall be given in the manner of
 23 public notice required by DMMC 16.05.190.

24
 25 **Sec. 31. 16.05.210 Public notice procedure - Notice of**
 26 **DEIS and draft SEIS.** Whenever the City issues a DEIS under WAC
 27 197-11-455(5) or a draft SEIS under WAC 197-11-620, notice of
 28 these documents and their availability shall be given as
 29 follows:

30
 31 (1) Public hearings. Any required public hearing notice
 32 shall indicate the availability of the DEIS or the SEIS.

33
 34 (2) No public hearing. For applications not requiring a
 35 public hearing, the following public notice requirements shall
 36 apply:

37
 38 (a) Posting notice in accordance with DMMC
 39 16.05.190(2);

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(b) Notifying interested groups and agency mailing lists in accordance with DMMC 16.05.190(3);

(c) Publishing notice in the official City newspaper in accordance with DMMC 16.05.190(4); and

(d) Notifying property owners and occupants/tenants in accordance with DMMC 16.05.190(5).

Sec. 32. 16.05.220. Public notice procedure - Content of notice. The public notice required under this section shall contain such of the following information as the SEPA Official determines is applicable:

(1) Name of the applicant and the project;

(2) Address of the project;

(3) Legal description of subject property (not required on signage);

(4) Brief description of proposed use;

(5) Date, time, and place of public hearing on the proposal if a hearing is required. The notice shall display the date by which and place at which the public may submit comments to the City on the proposal. The notice shall display whether a DNS, mitigated DNS, or DS has been issued, their availability, and when comments are due, and the scoping procedure for the DS. The notice shall state that any person may appear or be heard and that written comments will be accepted and made part of the record, and state that the hearing will be held in accordance with the rules of procedure of the hearing body;

(6) The name, address, and office telephone number of the person within the Planning, Building and Public Works Department or other City department from whom additional information may be obtained;

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(7) Drawings showing the property affected by the proposed action;

(8) Other information as required by the SEPA Official.

Sec. 33. 16.05.230. Public notice procedure - Timing of notices.

(1) Signs, bulletin boards and newspaper publication for site-specific proposals. In the case of site-specific proposals the notification required under DMMC 16.05.190(2), (3), and (4) shall be made after the affidavit certifying compliance with the notification requirements of DMMC 16.05.190(1) and (5) and the list of names, addresses, and mail-ready envelopes required by DMMC 16.05.190(1) have been received by the SEPA Official.

(2) When an open record hearing is required and chapter 16.05 DMMC requires public notice of a threshold determination, the Planning, Building and Public Works Director shall issue the threshold determination at least 25 days prior to the open record hearing. The purpose of this requirement is to allow for expiration of the 15-day comment period and the 10-day appeal period related to the SEPA determination prior to the public hearing. In the event an appeal of the SEPA determination is filed, the public hearing shall also constitute an open record appeal hearing. The Planning, Building and Public Works Director may request that the combined public hearing and appeal hearing be continued in order to allow parties to the appeal to prepare appeal arguments.

(3) For applications or proposals subject to the shoreline master program, notice shall be published in the official City newspaper once each week for two consecutive weeks, with the last publication date no less than 30 days prior to the public hearing.

Sec. 34. 16.05.240. Public notice procedure - Comment period.

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(1) DNS or Mitigated DNS. Once a DNS or mitigated DNS is issued, the SEPA Official shall provide a 15-day public comment period prior to taking any action on the application.

(2) DS. When a DS is issued, the SEPA Official shall invite comments on the scope of an EIS for a minimum period of 21 days.

(3) DEIS or SEIS. Once a DEIS or a draft SEIS is issued, the SEPA Official shall provide a 30-day public comment period prior to taking any action on the application or proposal.

(4) Shoreline Permits. For applications or proposals subject to the shoreline master program, the SEPA Official shall provide a 30-day public comment period prior to public hearing or taking any action on the application or proposal.

**Sec. 35. 16.05.250. Public notice procedure -
 Coordination of required notices.**

(1) Whenever possible, the City shall integrate the public notice required under this section with existing notice procedures. In the case of a conflict, the notice requirements provided in this section shall prevail.

(2) If an environmental document as defined by WAC 197-11-744 is issued concurrently with the notice of application, the public notice requirements for the notice of application in RCW 36.70B.110(4) will suffice to meet the SEPA public notice requirements in WAC 197-11-510(1).

(3) If a DNS is issued using the optional DNS process, the public notice requirements for a notice of application in RCW 36.70B.110(4) as supplemented by the requirements in WAC 197-11-355 will suffice to meet the SEPA public notice requirements in WAC 197-11-510(b).

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(4) Public notice for projects that qualify as planned actions shall be tied to the underlying permit as specified in WAC 197-11-172(3).

Sec. 36. 16.05.260. Public notice procedure - Public notice costs. The applicant shall be responsible for all public notice costs incurred by the City for public notice requirements stated in this chapter.

Sec. 37. 16.05.270. Consulted agency - Official designated.

(1) The Planning, Building and Public Works Department shall be responsible for preparation of written comments for the City in response to a consultation request prior to a threshold determination, participation in scoping and reviewing a DEIS.

(2) This Department shall be responsible for the City's compliance with WAC 197-11-550 whenever the City is a consulted agency and is authorized to develop operating procedures that will ensure that response to consultation requests are prepared in a timely fashion and include data from all appropriate departments of the City.

Sec. 38. 16.05.275. Public Notice (WAC 173-806-132).

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

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

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

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1 (b) If an environmental document is issued
2 concurrently with the notice of application, the public notice
3 requirements for the notice of application in RCW 36.70B.110(4)
4 will suffice to meet the SEPA public notice requirements in WAC
5 197-11-510(1).
6

7 (c) If no public notice is otherwise required for
8 the permit or approval, the City shall give notice of the DNS or
9 DS by:

10
11 (i) Posting the property, for site-specific
12 proposals;
13

14 (ii) Publishing notice in a newspaper of
15 general circulation in the county, City, or general area where
16 the proposal is located;
17

18 (iii) Notifying public or private groups
19 which have expressed interest in a certain proposal or in the
20 type of proposal being considered;
21

22 (iv) Notifying the news media;
23

24 (v) Placing notices in appropriate
25 regional, neighborhood, ethnic, or trade journals; and/or
26

27 (vi) Publishing notice in agency newsletters
28 and/or sending notice to agency mailing lists (either general
29 lists or lists for specific proposals for subject areas);
30

31 (d) Whenever the City issues a DS under WAC 197-
32 11-360(3), the City shall state the scoping procedure for the
33 proposal in the DS as required in WAC 197-11-408 and in the
34 public notice.
35

36 (3) If a DNS is issued using the optional DNS process,
37 the public notice requirements for a notice of application in
38 RCW 36.70B.110(4) as supplemented by the requirements in WAC
39 197-11-355 will suffice to meet the SEPA public notice
40 requirements in WAC 197-11-510 (1)(b).

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1
2 (4) Whenever the City issues a DEIS under WAC 197-11-
3 455(5) or a SEIS under WAC 197-11-620, notice of the
4 availability of those documents shall be given by:

5
6 (a) Indicating the availability of the DEIS in
7 any public notice required for a nonexempt license; and (Note:
8 In addition select at least one of the following or insert all
9 of the list and require that at least one method be used.)

10
11 (b) Posting the property, for site-specific
12 proposals;

13
14 (c) Publishing notice in a newspaper of general
15 circulation in the county, City, or general area where the
16 proposal is located;

17
18 (d) Notifying public or private groups which have
19 expressed interest in a certain proposal or in the type of
20 proposal being considered;

21
22 (e) Notifying the news media;

23
24 (f) Placing notices in appropriate regional,
25 neighborhood, ethnic, or trade journals; and/or

26
27 (g) Publishing notice in agency newsletters
28 and/or sending notice to agency mailing lists (general lists or
29 specific lists for proposals or subject areas).

30
31 (5) Public notice for projects that qualify as planned
32 actions shall be tied to the underlying permit as specified in
33 WAC 197-11-172(3).

34
35 (6) The City may require an applicant to complete the
36 public notice requirements for the applicant's proposal at his
37 or her expense.
38

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1 **Sec. 39. 16.05.280. Use of existing and supplementing**
2 **environmental documents and planned actions.** The City adopts by
3 reference the sections contained in WAC 197-11-164 through WAC
4 197-11-172 and 197-11-600 through 197-11-640.

5
6
7 **Sec. 40. 16.05.290. Planned actions.**

8
9 (1) The City endorses the procedures in the SEPA rules
10 adopted in this article for project proposal review as a
11 "planned action" and will apply the provisions of WAC 197-11-164
12 through 197-11-172 to projects which meet the criteria for
13 planned action environmental review under RCW 43.21C.031.

14
15 (2) Where a project proposal meets the requirements and
16 criteria for a planned action set forth in WAC 197-11-164
17 through 197-11-172, and any planned action ordinance adopted by
18 the City, the responsible official shall not be required to
19 issue a threshold determination or EIS under the provisions of
20 this chapter.

21
22 (3) Nothing in this section limits the City from using
23 this chapter or other applicable law to place conditions on the
24 project in order to mitigate nonsignificant impacts through the
25 normal project review and permitting process.

26
27 (4) Public notice for projects that qualify as planned
28 actions shall be tied to the underlying permit. If notice is
29 otherwise required for the underlying permit, the notice shall
30 state that the project has qualified as a planned action. If
31 notice is not otherwise required for the underlying permit, no
32 special notice is required.

33
34 **Sec. 41. 16.05.300 SEPA and Agency decisions - Appeal.**
35 The City adopts by reference WAC 197-11-650 through WAC 197-11-
36 680.

37
38 **Sec. 42. 16.05.310 Substantive authority - Conditions**
39 **- Denial - Policies.**

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1 (1) The policies and goals set forth in this chapter
2 are supplementary to those in the existing authorization of the
3 City.
4

5 (2) The City may attach conditions to a permit for
6 approval for a proposal so long as:
7

8 (a) Such conditions are necessary to mitigate
9 specific probable adverse environmental impacts identified in
10 environmental documents prepared pursuant to this chapter; and
11

12 (b) Such conditions are in writing; and
13

14 (c) The mitigation measures included in such
15 conditions are reasonable and capable of being accomplished; and
16

17 (d) The City has considered whether other local,
18 state, or federal mitigation measures applied to the proposal
19 are sufficient to mitigate the identified impacts; and
20

21 (e) Such conditions are based on one or more of
22 the policies or policy sources identified in subsection (4) of
23 this section and cited in the license or other decision
24 document.
25

26 (3) The City may deny a permit or approval for a
27 proposal on the basis of SEPA so long as:
28

29 (a) A finding is made that approving the proposal
30 would result in probable significant adverse environmental
31 impacts that are identified in a FEIS or final SEIS prepared
32 pursuant to this chapter; and
33

34 (b) A finding is made that there are no
35 reasonable mitigation measures capable of being accomplished
36 that are sufficient to mitigate the identified impact; and
37

38 (c) The denial is based on one or more policies
39 or policy sources identified in subsection (4) of this section
40 and identified in writing in the decision document.

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1
2 (4) The City designates and adopts by reference the
3 following policies as the basis for the City's exercise of
4 authority pursuant to this section:
5

6 (a) The City shall use all practicable means,
7 consistent with other essential considerations of state policy,
8 to improve and coordinate plans, functions, programs, and
9 resources to the end that the state and its citizens may:
10

11 (i) Fulfill the responsibilities of each
12 generation as trustee of the environment for succeeding
13 generations; and
14

15 (ii) Assure for all people of the state
16 safe, healthful, productive, and aesthetically and culturally
17 pleasing surroundings; and
18

19 (iii) Attain the widest range of beneficial
20 uses of the environment without degradation, risk to health or
21 safety, or other undesirable and unintended consequences; and
22

23 (iv) Preserve important historic, cultural,
24 and natural aspects of our national and local heritage; and
25

26 (v) Maintain, wherever possible, an
27 environment that supports diversity and variety of individual
28 choice; and
29

30 (vi) Achieve a balance between population
31 and resource use that will permit high standards of living and a
32 wide sharing of life's amenities; and
33

34 (vii) Enhance the quality of renewable
35 resources and approach the maximum attainable recycling of
36 nonrenewable resources.
37

38 (b) The City recognizes that each person has a
39 fundamental and inalienable right to a healthful environment and

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1 that each person has a responsibility to contribute to the
2 preservation and enhancement of the environment.

3
4 (c) The City's substantive SEPA authority to
5 condition or deny projects, proposals or connected actions shall
6 be exercised on the basis of the regulations, plans, studies,
7 reports or codes identified in the following subsection (4)(d),
8 each of such items being adopted and/or reaffirmed by this
9 reference.

10
11 (d) The City formally designates the following
12 regulations, plans, studies, reports or codes as possible bases
13 for the exercise of authority pursuant to the State
14 Environmental Policy Act of 1971 as amended:

15
16 (i) City of Des Moines Comprehensive Plan;

17
18 (ii) 2010 Parks, Recreation and Senior
19 Services Master Plan, November, 2009;

20
21 (iii) City of Des Moines Shoreline Master
22 Program;

23
24 (iv) The Des Moines Municipal Code;

25
26 (v) Sea-Tac International Airport Impact
27 Mitigation Study, February 1997, prepared by Hellmuth, Obata and
28 Kassabaum, Inc., and Raytheon Infrastructure Services, Inc.,
29 under a grant from the state of Washington;

30
31 (vi) City of Des Moines Comprehensive
32 Transportation Plan;

33
34 (vii) Washington State Department of
35 Transportation Pavement Guide;

36
37 (viii) Highway Capacity Manual, Special
38 Report 209, Transportation Research Board;

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1 (ix) City of Des Moines Street Development
2 Standards;

3
4 (x) Institute of Transportation Engineers,
5 Trip Generation Manual;

6
7 (xi) City of Des Moines Comprehensive Storm
8 Water Management Plan;

9
10 (xii) Lower Massey Creek Alternative
11 Analysis, August 1994;

12
13 (xiii) Des Moines Creek Basin Plan,
14 November 1997, prepared by the Des Moines Creek Basin Committee
15 (City of Des Moines, City of SeaTac, King County and Port of
16 Seattle);

17
18 (xiv) City of Normandy Park Stormwater Plan -
19 2013;

20
21 (xv) King County Surface Water Design
22 Manual;

23
24 (xvi) Stormwater Management Manual for the
25 Western Washington, Washington State Department of Ecology;

26
27 (xvii) King County Stormwater Pollution
28 Control Manual, Best Management Practices for Businesses, July
29 1995;

30
31 (xviii) Massey Creek Comprehensive Flood
32 Control Management Plan for the City of Des Moines, June 1990;

33
34 (xix) North Fork of Smith Creek Drainage
35 Basin Study for the City of Des Moines, June 1987;

36
37 (xx) Executive Proposed Basin Plan Hylebos
38 Creek and Lower Puget Sound, King County Surface Water
39 Management, July 1991;

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(xxi) Shoreline Management Guide Book;
 (xxii) Code of the King County Board of Health;
 (xxiii) Washington State Flood Reduction Plan (1993 DCD);
 (xxiv) Guide to Conducting Wetland Inventories (DOE);
 (xxv) Washington State Shoreline Management Act of 1971;
 (xxvi) Standard Specification for Construction of Trails (Forest Service 1984);
 (xxvii) Puget Sound Water Quality Management Plan;
 (xxviii) Planning documents not specifically listed above but referenced in the environmental analysis of the City's comprehensive plan, Chapter 15.1;
 (xxix) Washington State Wetlands Identification and Delineation Manual (Ecology Publication No. 96-94).

(e) It is the City's policy to protect its residents and businesses from the long-term consequences of successive incremental negative environmental impacts associated with a specific proposal or its connected action(s). Accordingly, the City may condition or deny proposals in order to mitigate or prevent such long-term impacts.

(f) Unusual circumstances related to a site, a proposal, or a connected action, as well as probable significant adverse environmental impacts not capable of adequate mitigation using the foregoing provisions, may be cause for denial of a

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1 proposal or development of site-specific or project-specific
2 SEPA mitigation.

3
4 **Sec. 43. 16.05.320 Agency SEPA Appeal.**

5
6 **(1) Definitions. Use of words and phrases.** As used
7 in this section, unless the context or subject matter clearly
8 requires otherwise, the words and phrases defined in this
9 section shall have the indicated meanings.

10
11 "Agency" means the City of Des Moines.

12
13 "Appeal" means the process by which a SEPA determination
14 is contested.

15
16 "SEPA determination" means a SEPA procedural
17 determination or a SEPA substantive determination.

18
19 "SEPA procedural determination" includes the adequacy of
20 a determination of significance/nonsignificance or of a final
21 environmental impact statement.

22
23 "SEPA substantive determination" includes a decision to
24 require particular mitigation measures or to deny a proposal.

25
26 "Underlying governmental action" means the final decision
27 of the agency on a proposal.

28
29 (2) The appeal described in this section is mandatory.
30 This appeal process is supplemented by chapter 18.20 DMMC.
31 Failure to comply strictly with the requirements of this section
32 is considered a failure to exhaust administrative remedies and
33 shall foreclose any further agency or judicial appeal.

34
35 (3) The appeal is initiated by filing a written appeal
36 with the City Clerk within 10 days of the date the SEPA
37 determination is final. In the case of an appeal to the Hearing
38 Examiner, the appeal will not be considered filed unless
39 accompanied by the appropriate fee.

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1 (4) The written appeal shall contain the following:

2
3 (a) A description of the determination being
4 appealed, including the file number;

5
6 (b) The name and address of the appellant; and

7
8 (c) A detailed statement identifying specifically
9 the reasons why the appellant considers the SEPA determination
10 to be inadequate.

11
12 (5) There shall be a single agency appeal of a SEPA
13 determination:

14
15 (a) If the underlying governmental action is
16 taken by the City Council, the appeal is heard by the City
17 Council and is consolidated with the consideration of the
18 underlying governmental action.

19
20 (b) If the underlying governmental action is
21 taken by the Hearing Examiner, the appeal is heard by the
22 Hearing Examiner and is consolidated with the consideration of
23 the underlying governmental action.

24
25 (c) If the underlying governmental action is
26 administrative, the appeal is heard by the Hearing Examiner.

27
28 (d) If the appeal is from a determination of
29 significance, the appeal is heard under all circumstances by the
30 Superior Court of Washington for King County as specified by
31 chapter 36.70C RCW.

32
33 (6) An appeal taken to the Hearing Examiner is
34 considered an appeal from an administrative decision and is
35 processed accordingly under the provisions of the Hearing
36 Examiner Code, except the decision of the Hearing Examiner is
37 final and is not appealable to the City Council.

38
39 (7) Procedural determinations made by the responsible
40 SEPA Official shall be entitled to substantial weight.

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(8) An adequate record shall be made of all appeals taken under this section. An adequate record consists of findings and conclusions, testimony under oath, and taped or written transcripts.

(9) The City shall give official notice under WAC 197-11-680(5) when it issues a permit or a decision for which a statute or ordinance establishes a time limit for commencing judicial appeal.

Sec. 44. 16.05.330. Categorical exemptions - Adoption by reference.

(1) The City adopts by reference the following rules for categorical exemptions, as supplemented in this chapter, including WAC 173-806-070 (Flexible thresholds), 173-806-080 (Use of exemptions), and 173-806-190 (Critical areas):

(a) WAC 197-11-800, Categorical exemptions; except that the following flexible thresholds specified in WAC 197-11-800(b) shall be adopted by the City as provided for under WAC 197-11-800(1)(c) when a development action does not occur within any environmentally critical area described and regulated in chapter 16.10 DMMC:

(i) The construction or location of multifamily development containing up to 15 dwelling units;

(ii) The construction of an office, school, commercial, recreational, service or storage building with 10,000 square feet of gross floor area or less, and with associated parking facilities designed for up to 35 automobiles;

(iii) The construction of a parking lot designed for up to 35 automobiles; and

(iv) Any landfill or excavation of up to 300 cubic yards throughout the total lifetime of the fill or excavation; and any fill or excavation classified as a Class I,

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II, or III forest practice under RCW 76.09.050 or regulations thereunder.

(b) WAC 197-11-880, Emergencies.

(c) WAC 197-11-890, Petitioning DOE to change exemptions.

(2) The City adopts by reference the categorical exemption for electrical vehicle charging and battery exchange stations established by RCW 43.21C.410.

Sec. 45. 16.05.340. Agency compliance - Rules. DMMC 16.05.350-370 contains rules for agency compliance with SEPA, including rules for charging fees under the SEPA process, designating categorical exemptions that do not apply within critical areas, listing agencies with environmental expertise, selecting the lead agency, and applying these rules to current agency activities. The City adopts by reference the sections contained in WAC 197-11-900 through WAC 197-11-928.

Sec. 46. 16.05.350. Environmentally critical areas and areas of special flood hazard.

(1) The City has selected certain categorical exemptions that will not apply in one or more critical areas identified in the critical areas ordinances required under RCW 36.70A.060. The City's environmentally critical areas regulations (chapter 16.10 DMMC) were prepared pursuant to RCW 36.70A.060. Within environmentally critical areas as defined in chapter 16.10 DMMC and areas of special flood hazard as defined in chapter 16.15 DMMC, the following exemptions within WAC 197-11-800 that are inapplicable are: WAC 197-11-800(1); (2)(a) through (h); (5); (6)(a); (24)(a) through (g); and (25)(h), (i).

(2) The scope of environmental review of actions within environmentally critical areas shall be limited to:

(a) Documenting whether the proposal is consistent with the requirements of chapter 16.10 DMMC, and

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1
2 (b) Evaluating potentially significant impacts on
3 the environmentally critical area not adequately addressed by
4 Growth Management Act (GMA) planning documents and development
5 regulations, if any, including any additional mitigation
6 measures needed to protect the critical areas in order to
7 achieve consistency with SEPA and with other applicable
8 environmental review laws.
9

10 (3) All categorical exemptions not listed in subsection
11 (1) apply whether or not the proposal will be located in an
12 environmentally critical area.
13

14 **Sec. 47. 16.05.360. Fees.** The City shall require
15 fees for its activities as established by the City Manager or
16 the City Manager's designee.
17

18 (1) Environmental Impact Statement.
19

20 (a) When the City is the lead agency for a
21 proposal requiring an EIS and the responsible official
22 determines that the EIS shall be prepared by employees of the
23 City, the City may charge and collect a reasonable fee from any
24 applicant to cover costs incurred by the City in preparing the
25 EIS. The responsible official shall advise the applicant(s) of
26 the projected costs for the EIS prior to actual preparation; the
27 applicant shall post a bond or otherwise ensure payment of such
28 costs.
29

30 (b) The responsible official may determine that
31 the City will contract directly with a consultant for
32 preparation of the EIS, or portion of the EIS, for activities
33 initiated by some persons or entity other than the City and may
34 bill such costs and expenses directly to the applicant. The City
35 may require the applicant to post bond or otherwise ensure
36 payment of such costs. Such consultants shall be selected by the
37 City after a call for proposals and consultation with the
38 applicant.
39

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(c) If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under subdivision (a) or (b) of this subsection which remain after incurred costs are paid.

(2) The City may collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this chapter relating to the applicant's proposal.

(3) The City may charge any person for copies of any documents prepared under this chapter, and for mailing the document, in a manner provided by chapter 42.17 RCW.

Sec. 48. 16.05.370 Forms - Adoption by reference. The City adopts by reference the sections contained WAC 197-11-960 through WAC 197-11-990.

Chapter 16.10 Environmentally Critical Areas

Sections:

16.10.010	Title.
16.10.020	Application.
16.10.030	Purpose.
16.10.040	Authority.
16.10.050	Adoption by reference.
16.10.060	City Council findings.
16.10.070	Special studies required.
16.10.080	Maps and inventories.
16.10.090	Best management practices required.
16.10.100	Development restrictions.
16.10.110	Development standards - Compliance - Requirements.
16.10.120	Wetlands - Development standards.
16.10.130	Wetlands - Reasonable use exceptions.
16.10.140	Wetlands - Limited exemptions.
16.10.150	Wetlands - Mitigation requirements.
16.10.160	Streams - Development standards.
16.10.170	Streams - Reasonable use exceptions.

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- 1 16.10.180 Streams - Limited exemptions.
- 2 16.10.190 Streams - Mitigation requirements.
- 3 16.10.200 Geologically hazardous areas - Development
- 4 standards.
- 5 16.10.210 Ravine sidewalls and bluffs - Development
- 6 standards.
- 7 16.10.220 Hillsides of 15 percent slope and greater -
- 8 Development standards - Disturbance limitations.
- 9 16.10.230 Ravine sidewalls, bluffs, and hillsides of 15
- 10 percent slope and greater - Reasonable use
- 11 exceptions.
- 12 16.10.240 Seismic hazard areas - Development standards.
- 13 16.10.250 Erosion and landslide hazard areas - Development
- 14 standards.
- 15 16.10.260 Critical aquifer recharge areas - Development
- 16 standards - Buffers and disturbance limitations.
- 17 16.10.270 Fish and wildlife habitat conservation areas -
- 18 Development standards - Buffers and disturbance
- 19 limitations.
- 20 16.10.280 Area of special flood hazard - Development
- 21 standards - Buffers and disturbance limitations.
- 22 16.10.290 Limited density transfer.
- 23 16.10.300 Development exceptions.
- 24 16.10.310 Unauthorized critical area alterations and
- 25 enforcement.
- 26 16.10.320 Tracts and easements.
- 27 16.10.330 Securities and enforcement.
- 28 16.10.340 Environmentally critical area mitigation fund.
- 29 16.10.350 Surface Water Design Manual.
- 30 16.10.360 Surface water contamination - Determination.
- 31 16.10.370 Surface water contamination - Compliance required -
- 32 Penalty.
- 33 16.10.380 Surface water contamination - Penalty not exclusive
- 34 remedy.
- 35 16.10.390 Interpretation.
- 36 16.10.400 Appeal.
- 37

38 **Sec. 49. 16.10.010. Title.** This chapter shall be
 39 entitled "Environmentally Critical Areas."
 40

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Sec. 50. 16.10.020. Application.

(1) All development proposals in critical areas, whether public or private, except City activities related to routine maintenance of public ways, shall comply with the requirements and purposes of this chapter. The City Manager or the City Manager's designee is authorized to adopt written procedures for the purpose of carrying out the provisions of this chapter. Responsibility for enforcement of the provisions of this chapter shall rest with the City Manager or the City Manager's designee.

(2) For the purposes of this chapter, development proposals include proposals that require any of the following: right-of-way permit; building permit; land clearing, grading, or filling permit; shoreline substantial development permit; shoreline variance; shoreline conditional use permit; shoreline environmental redesignation; conditional use permit; variance; zone reclassification; planned unit development; subdivision; short subdivision; any other land use approvals required by this code or the RCW.

(3) Prior to construction activity that would occur in, be adjacent to, or would likely affect critical areas, a review outlined by this chapter shall occur prior to the issuance of the necessary permit.

Sec. 51. 16.10.030. Purpose. Geologically hazardous areas, hillsides, wetlands, areas of special flood hazard, fish and wildlife habitat conservation areas, aquifer recharge areas and streams, and the buffers of these areas as defined in chapter 16.01 DMMC, together constitute critical areas that are of special concern to the City. The purposes of this chapter are to protect the public health, safety, and welfare by preventing the adverse environmental impacts of development listed in DMMC 16.10.060, and by:

(1) Preserving, protecting, and restoring the functions and values of critical areas by regulating development within them and their buffers;

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1
2 (2) Protecting the public from damage due to flooding,
3 landslides, subsidence, and erosion;
4

5 (3) Preventing adverse impacts to ground and surface
6 water quality, wetlands, tidelands, streams, stream corridors,
7 and fish and wildlife habitat;
8

9 (4) Protecting the public against loss from:
10

11 (a) Unnecessary maintenance and replacement of
12 public facilities;
13

14 (b) Publicly funded mitigation of avoidable
15 impacts;
16

17 (c) Cost for public emergency rescue and relief
18 operations; and
19

20 (d) Potential litigation from improper
21 construction practices authorized for critical areas;
22

23 (5) Upon notice to the City, alerting appraisers,
24 assessors, owners, and potential buyers or lessees to the
25 development limitations of critical areas;
26

27 (6) Providing City officials with information to
28 approve, condition, or deny public or private development
29 proposals;
30

31 (7) Providing predictability and consistency to City
32 environmental review procedures;
33

34 (8) Protecting sensitive, unique, fragile, and valuable
35 features of the City's environment;
36

37 (9) Adopting a goal of no overall net loss of wetland
38 and stream functions and values; and the long-term goal to
39 increase the quantity and quality of Washington's wetlands and
40 streams;

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1
2 (10) Implementing the policies of the State
3 Environmental Policy Act (chapter 43.21C RCW), Puget Sound Water
4 Quality Management Plan, Washington State Executive Order 90-04,
5 chapter 16.10 DMMC, the Des Moines Comprehensive Plan, Shoreline
6 Master Program, and all other present and future City functional
7 and community plans and programs as presently constituted or as
8 may be subsequently amended; [and]
9

10 (11) Provide for mitigation of potential impacts to
11 critical areas using the following descending order of
12 preference:
13

14 (a) Avoid the impact altogether by not taking a
15 certain action or parts of an action;
16

17 (b) Minimize impact by limiting the degree or
18 magnitude of the action and its implementation by using
19 appropriate technology, or by taking affirmative steps to avoid
20 or reduce impact;
21

22 (c) Rectify the impact by repairing,
23 rehabilitating, or restoring the affected environmentally
24 critical areas;
25

26 (d) Reduce or eliminate the impact over time by
27 prevention and maintenance operations during the life of the
28 actions;
29

30 (e) Compensate for the impact by replacing,
31 enhancing, or providing substitute environmentally critical
32 areas and environments; and
33

34 (f) Monitor the impact and take appropriate
35 corrective measures.
36

37 (12) Sources for attaining maps to determine where
38 critical fish and wildlife habitats occur and the species that
39 are present include:
40

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1 (a) Washington Department of Fish and Wildlife
2 Priority Habitat and Species maps;

3
4 (b) Washington State Department of Natural
5 Resources official water type reference maps, as amended;

6
7 (c) Washington State Department of Natural
8 Resources Puget Sound Intertidal Habitat Inventory maps;

9
10 (d) Washington State Department of Natural
11 Resources Shorezone Inventory maps;

12
13 (e) Anadromous and resident salmonid distribution
14 maps contained in the Habitat Limiting Factors reports published
15 by the Washington Conservation Commission;

16
17 (f) Washington State Department of Health Annual
18 Inventory of Shellfish Harvest Areas;

19
20 (g) Washington State Department of Natural
21 Resources State Natural Area Preserves and Natural Resource
22 Conservation Area maps;

23
24 (h) Washington State Department of Natural
25 Resources Natural Heritage Program mapping data;

26
27 (i) Any local City of Des Moines or King County
28 maps available.

29
30 **Sec. 52. 16.10.040. Authority.** This chapter is
31 adopted pursuant to RCW 36.70A.060, .170, .172 and .480 and
32 other applicable Washington laws.
33

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1 **Sec. 53. 16.10.050. Adoption by reference.** The
2 codes, standards, rules, regulations, and manuals adopted by
3 this chapter are adopted by reference as though fully set forth
4 in this Title. Not less than one copy of each such codes,
5 standards, rules, and regulations, in the form in which it was
6 adopted, and suitably marked to indicate amendments, additions,
7 deletions and exceptions as provided in this chapter, shall be
8 filed with the planning, building and public works department
9 and be available for use and examination by the public.

10
11 **Sec. 54. 16.10.060. City Council findings.** The City
12 Council finds that:

13
14 (1) Development in wetlands results in:

15
16 (a) Increased soil erosion and sedimentation of
17 downstream water bodies;

18
19 (b) Degraded water quality from increased
20 sedimentation;

21
22 (c) Degraded water quality from loss of pollutant
23 removal process of wetlands - sediment trapping, nutrient
24 removal, and chemical detoxification;

25
26 (d) Elimination of wildlife and fisheries
27 habitat. Wetland ecosystems support a diverse, unique, and rich
28 group of flora and fauna. Habitat is especially productive at
29 the interface between water and land ecosystems. Several
30 wildlife species specifically require wetland habitats for
31 breeding, nesting, rearing of young, and feeding;

32
33 (e) Loss of ground water discharge and recharge
34 areas;

35
36 (f) Loss of storm water retention and detention
37 capacity resulting in increased flooding, degraded water
38 quality, and changes in the streamflow regimen of watersheds;
39

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1 (g) Loss of slow-release detention resulting in
2 loss of recharge to base flow of stream systems during low flow
3 periods and increased peak flows and flooding during storm
4 events; and
5

6 (h) Loss of fishery resources from water quality
7 degradation, increased peak flow rates, decreased summer low
8 flows, and changes in the streamflow regimen.
9

10 (2) Development in stream corridors results in:
11

12 (a) Siltation of streams, which destroys spawning
13 beds, kills fish eggs and alevins, irritates fish gills, reduces
14 aquatic insect populations, fills stream channels, and causes
15 flooding;
16

17 (b) Loss of stream corridor vegetation, which
18 raises stream temperatures, destabilizes stream banks, causes
19 erosion, removes nutrients by removing source of fallen leaves
20 and streamside insects, increases sedimentation, and reduces
21 recruitment of large wood debris necessary for stream structure;
22

23 (c) Elimination of wildlife and fish habitat. The
24 stream corridor is especially sensitive and is recognized as
25 being among the most productive terrestrial and aquatic
26 ecosystems. It usually provides all four of the basic habitat
27 components: water, food, cover, and space. The stream corridor
28 is usually richer in habitat diversity and, consequently,
29 wildlife diversity and numbers of individuals are higher than in
30 adjoining upland plant communities. Certain fish and wildlife
31 species are totally dependent on the stream corridor and as
32 uplands are developed, stream corridors become a place of refuge
33 for many wildlife species;
34

35 (d) Increased peak flow rates and decreased
36 summer low flow rates of streams, resulting in negative impacts
37 to the physical and chemical requirements critical for sustained
38 fish populations;
39

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1 (e) Stream channelization, which increases
2 current velocity and bank erosion, removes critical fish rearing
3 and spawning habitat, and reduces habitat diversity and
4 simplifies the biotic community;
5

6 (f) Piping of streamflow and crossing of streams
7 by culverts, which increases potential for downstream flooding,
8 reduces migratory fishery range and, therefore, fish
9 populations, removes habitat, and eliminates the biotic
10 community; and
11

12 (g) Construction near or within streams, which
13 adversely impacts fish and wildlife by destroying habitat and
14 degrading water quality and increases potential for flooding,
15 property damage, and risk to public health, safety, and welfare.
16

17 (3) Development on hillsides results in:
18

19 (a) The loss of slope and soil stability as well
20 as increased erosion. The removal of vegetation from hillsides
21 deprives the soil of the stabilizing function of roots, and the
22 moderating effects on wind and water erosion of leaves and
23 branches. Loss of soil stability increases erosion and thus
24 lowers downstream water quality as a result of siltation.
25 Downstream wetlands can be injured in this way. Strong rains on
26 unstable slopes can produce mass movements, such as landslides,
27 slumps, and flaws, particularly in steeply sloping areas;
28

29 (b) Increased runoff. Development may alter the
30 natural drainage pattern of a hillside, producing increased
31 runoff and erosion. Removal of vegetative cover decreases
32 percolation of precipitation into the soil, thereby reducing the
33 amount of ground water recharge and adding water to runoff that
34 would ordinarily be transpired by trees, shrubs, and ground
35 covers. Construction of impervious surfaces, such as roads,
36 parking lots, and buildings, decreases the amount of ground
37 water percolation and thus increases the amount of runoff.
38 Increased runoff, in addition to producing intensified erosion,
39 also creates downstream flood hazards;
40

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1 (c) Destruction of the community's aesthetic
2 resources. The hillsides of Des Moines mark the boundaries of
3 several neighborhoods, lend natural character and distinctive
4 features to the City, and provide open space and viewing points
5 of remarkable vistas. They are also often associated with stream
6 corridors and wetlands of the City. Degradation of hillsides
7 resulting from erosion, mass movement, loss of vegetation, and
8 damage to downstream areas deprives Des Moines of its attractive
9 and distinctive setting, and decreases real estate values; and

10
11 (d) Major public expenditures to repair facility
12 damages and protect against future damages due to instability
13 created or exacerbated by development.

14
15 **Sec. 55. 16.10.070. Special studies required.** When
16 an applicant submits an application for any development proposal
17 the application shall indicate whether any critical area is
18 located on the site. The City Manager or the City Manager's
19 designee shall visit the subject property and review the
20 information submitted by the applicant along with any other
21 available information. If the City Manager or the City Manager's
22 designee determines that sufficient environmental information to
23 evaluate a proposal is not available, the City Manager or the
24 City Manager's designee shall notify the applicant that special
25 environmental studies are required. Special environmental
26 studies shall include a comprehensive site inventory and
27 analysis, a discussion of potential impacts from the proposed
28 development, and specific measures designed to mitigate any
29 potential adverse environmental impacts of the applicant's
30 proposal, on- and off-site. All special studies shall be funded
31 by the applicant and conducted under the direct supervision of
32 the Planning, Building and Public Works Department.

33
34 **Sec. 56. 16.10.080. Maps and inventories.**

35
36 (1) The general distribution of critical areas in the
37 City and its planning area is displayed by a series of maps
38 within the conservation element of the Des Moines Comprehensive
39 Plan. These maps shall be used to alert the public and City

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officials of the potential presence of critical areas on-site or off-site of a development proposal.

(2) Information provided by the maps of critical areas shall be used for general informational and illustrative purposes only. In cases of mapping error and recognizing that critical areas are dynamic environmental processes, the actual presence and location of critical areas, as determined by qualified professional and technical scientists, shall govern the treatment of a proposed development site.

Sec. 57. 16.10.090. Best management practices required. All allowed activities under this chapter shall be conducted using the best management practices, adopted pursuant to the King County Surface Water Design Manual which is adopted by this provision and implemented herein as set forth in DMMC 16.10.050, that result in the least amount of impact to the critical areas. Best management practices shall be used for tree and vegetation protection, construction management, erosion and sedimentation control, water quality protection, and regulation of chemical applications. The City shall observe the use of best management practices to ensure that the activity does not result in degradation to the critical area. Any incidental damage to, or alteration of, a critical area shall be restored, rehabilitated, or replaced at the responsible party's expense.

Sec. 58. 16.10.100. Development restrictions.

(1) Undevelopable environmentally critical areas. The following environmentally critical areas shall remain undeveloped except as otherwise provided in DMMC 16.10.120-.140, DMMC 16.10.170- .190, and DMMC 16.10.230 and .300.

(a) Wetlands and their buffers. The edge of the wetland and the outside edge of its buffer shall be determined and field marked by a professional wetland biologist or similarly qualified professional;

(b) Streams and their buffers. The top of the upper bank of the streams and the outside edge of its buffer

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shall be determined and field marked by a professional biologist, ecologist, or similarly qualified professional; and

(c) Ravine sidewalls and bluffs and their buffers. The top, toe, and edges of ravine sidewalls and bluffs, and the outside edge of their buffers, shall be determined and field marked by a qualified geotechnical engineer or similarly qualified professional.

(2) Developable critical areas. Critical aquifer recharge areas, areas of special flood hazard, fish and wildlife habitat conservation areas, and hillsides other than ravine sidewalls and bluffs are developable pursuant to the provisions of this chapter. The applicant shall clearly and convincingly demonstrate to the satisfaction of the City Manager or the City Manager's designee that the proposal incorporates measures protecting the public health, safety, and welfare.

Sec. 59. 16.10.110. Development standards - Compliance - Requirements. If a proposed project is within, adjacent to, or is likely to impact a critical area, all activities on the site shall be in compliance with the requirements and restrictions set forth in DMMC 16.10.120 through 16.10.280.

Sec. 60. 16.10.120. Wetlands - Development standards. If a wetland is located on or contiguous to the site of a development proposal, all activities on the site shall be in compliance with the following requirements and restrictions:

(1) General performance requirements.

(a) Activities may only be permitted in a wetland or wetland buffer if the applicant can show that the proposed activity will not degrade the functions and functional performance of the wetland.

(b) Activities and uses shall be prohibited in wetlands and wetland buffers, except as provided for in this chapter.

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1
2 (c) Category I wetlands. Activities and uses
3 shall be prohibited from Category I, except as provided for in
4 the public agency and utility exception, reasonable use
5 exception, and variance sections of this chapter.
6

7 (d) Category II and III wetlands. With respect to
8 activities proposed in Category II and III wetlands, the
9 following standards shall apply:
10

11 (i) Where wetland fill is proposed,
12 activities and uses shall be prohibited unless the applicant can
13 demonstrate that:
14

15 (A) The basic project purpose cannot
16 reasonably be accomplished on another site or sites in the
17 general region while still successfully avoiding or resulting in
18 less adverse impact on a wetland; and
19

20 (B) All on-site alternative designs
21 that would avoid or result in less adverse impact on a wetland
22 or its buffer, such as a reduction in the size, scope,
23 configuration or density of the project, are not feasible.
24 Compensation for the loss of acreage and functions of wetland
25 and buffers shall be provided under the terms established under
26 DMMC 16.10.150.
27

28 (e) Category IV wetlands. Activities and uses
29 that result in unavoidable and necessary impacts may be
30 permitted in Category IV wetlands and associated buffers in
31 accordance with an approved special environmental study and
32 mitigation plan, and only if the proposed activity is the only
33 reasonable alternative that will accomplish the applicant's
34 objectives. Compensation for the acreage and loss functions will
35 be provided under the terms established under DMMC 16.10.150.
36

37 (2) Wetland buffers. The following standard buffers
38 shall be established from the wetland edge as delineated and
39 marked in the field:
40

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	<u>Width of Buffer (feet)</u>
<u>Category I Wetlands</u>	
High habitat function (habitat score 29-36)	300
Moderate habitat function (habitat score 20-28)	150
High water quality function and low habitat function or none of the above characteristics (habitat score less than 20)	100
<u>Category II Wetlands</u>	
High habitat function (habitat score 29-36 points)	300
Moderate habitat function (habitat score 20-28)	150
High water quality function and low habitat function or none of the above characteristics (habitat score less than 20)	100
<u>Category III Wetlands</u>	
Moderate habitat function (habitat score 20-28)	150
Low habitat or not meeting above criteria (habitat score less than 20)	80
<u>Category IV Wetlands</u>	
Low functions	50

1
 2 (a) Where a legally established and constructed
 3 street transects a wetland buffer, the City Manager or the City
 4 Manager's designee may approve a modification of the standard
 5 buffer width to the edge of the right-of-way if the isolated
 6 part of the buffer does not provide additional protection of the
 7 wetland and provides insignificant biological, geological or
 8 hydrological buffer functions relating to the wetland. If the
 9 resulting buffer distance is less than 50 percent of the
 10 standard buffer for the applicable wetland category, no further
 11 reduction shall be allowed through wetland buffer reduction or
 12 averaging.
 13

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1 (b) Where a buffer has been previously
2 established through City or county development review, and is
3 permanently recorded on Title or placed within a separate tract,
4 the buffer shall be as previously established.
5

6 (3) Building setback lines. A building setback line of
7 10 feet is required from the edge of any wetland buffer. Minor
8 structural intrusions into the area of the building setback line
9 may be allowed if the City Manager or the City Manager's
10 designee determines that such intrusions will not negatively
11 impact the critical area.
12

13 (4) Increased wetland buffers. The City Manager or the
14 City Manager's designee may require either additional native
15 vegetation to achieve purposes of this chapter or increased
16 buffer sizes when environmental information indicates the
17 necessity for greater buffers to protect critical area
18 functions, values, or hazards based on site-specific conditions.
19 This determination shall be supported by appropriate
20 documentation showing that additional buffer width is reasonably
21 related to protection of critical area functions and values, or
22 protection of public health, safety and welfare. Such
23 determination shall be attached as permit conditions. The
24 determination shall demonstrate that at least one of the
25 following criteria are met:
26

27 (a) There is habitat for species listed as
28 threatened or endangered by state or federal agencies present
29 within the environmentally critical area and/or its buffer, and
30 additional buffer is necessary to maintain a viable functional
31 habitat; or
32

33 (b) There are conditions or features adjacent to
34 the buffer, such as steep slopes or erosion hazard areas, which
35 over time may pose an additional threat to the viability of the
36 buffer or buffers, if any, associated with the conditions or
37 feature posing the threat in addition to, or to a maximum,
38 beyond the buffer required for the subject critical area.
39

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1 (c) In cases where additional buffers are not
2 feasible, the City Manager or the City Manager's designee may
3 require the applicant to undertake alternative on-site or off-
4 site mitigation measures, including but not limited to a
5 financial contribution to projects or programs which seek to
6 improve environmental quality within the same watershed.
7

8 (5) Wetland buffer averaging. The City Manager or the
9 City Manager's designee may allow modification of the standard
10 wetland buffer width in accordance with an approved special
11 environmental study and the best available science on a case-by-
12 case basis by averaging buffer widths. Averaging of buffer
13 widths may only be allowed where a qualified professional
14 wetland scientist demonstrates that:
15

16 (a) It will not reduce wetland functions or
17 functional performance;
18

19 (b) The wetland contains variations in
20 sensitivity due to existing physical characteristics or the
21 character of the buffer varies in slope, soils, or vegetation,
22 and the wetland would benefit from a wider buffer in places and
23 would not be adversely impacted by a narrower buffer in other
24 places;
25

26 (c) The total area contained within the buffer
27 after averaging is no less than that which would be contained
28 within the standard buffer; and
29

30 (d) The buffer width is not reduced to less than
31 75 percent of the standard width.
32

33 (6) Wetland buffer reduction. The City Manager or the
34 City Manager's designee may allow reduction of the required
35 wetland buffer widths when accompanied by a special study that
36 identifies appropriate mitigation strategies. Reduction of
37 wetland buffer widths may be allowed where a qualified
38 professional wetland scientist demonstrates that:
39

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1 (a) The reduction in buffer width based on
2 reducing the intensity of impacts from proposed land uses.
3 Buffer widths required for proposed land uses with high-
4 intensity impacts to wetlands may be reduced to those
5 recommended for moderate-intensity impacts under the following
6 conditions:

7
8 (i) For wetlands that score moderate or
9 high for habitat (20 points or more for the habitat functions),
10 the width of the buffer can be reduced if both of the following
11 criteria are met:

12
13 (A) A relatively undisturbed,
14 vegetated corridor at least 100 feet wide is protected between
15 the wetland and any other priority habitats as defined by the
16 Washington State Department of Fish and Wildlife. The corridor
17 must be protected for the entire distance between the wetland
18 and the priority habitat by some type of legal protection such
19 as a conservation easement.

20
21 (B) Measures to minimize the impacts
22 of different land uses on wetlands, such as the examples
23 summarized in Table 8C-8 from "Wetlands in Washington State:
24 Volume 2 - Protecting and Managing Wetlands" (Ecology, 2005),
25 are applied.

26
27 (ii) For wetlands that score less than 20
28 points for habitat, the buffer width can be reduced to that
29 required for moderate land-use impacts by applying measures to
30 minimize the impacts of the proposed land uses. Measures include
31 but are not limited to the following: direct light and noise
32 away from wetlands, route untreated runoff away from wetlands,
33 apply an integrated pest management program, use privacy fencing
34 or vegetative buffer to delineate the wetland buffer edge and
35 discourage disturbance, and use best management practices to
36 control dust (see examples in Table 8C-8).

37
38 (b) Reductions in buffer widths where existing
39 roads or structures lie within the buffer. Where a legally
40 established, nonconforming use of the buffer exists (e.g., a

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road or structure that lies within the width of buffer recommended for that wetland), proposed actions in the buffer may be permitted as long as they do not increase the degree of nonconformity, or if no reasonable alternative exists. This means no increase in the impacts to the wetland from activities in the buffer.

Sec. 61. 16.10.130. Wetlands - Reasonable use exceptions.

(1) Adjustments to dimensional requirements - Yard reductions for building one single-family dwelling. The City Manager or the City Manager's designee may allow modification to the required front, rear, or side yard on the opposite of the wetland. The reductions must meet the following standards:

(a) The wetland, wetland buffer and required yard area opposite the wetland equals more than 50 percent of the property dimension of the development site.

(b) A required side yard is reduced to five feet.

(c) A required front or rear yard is reduced to 10 feet.

(2) Single-family dwelling. Development of one single-family dwelling within the buffer of a wetland on a development site shall be approved by the City Manager or the City Manager's designee if the applicant demonstrates that:

(a) The extent of development within the buffer is limited to that which is necessary to create a developable area which is no larger than 4,000 square feet;

(b) The proposal utilizes to the maximum extent possible the best available construction, design, and development techniques which result in the least adverse impact on the critical area;

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(c) The proposal incorporates the development standards of DMMC 16.10.130 through 16.10.150 and the Surface Water Design Manual adopted pursuant to DMMC 16.10.350 to the maximum extent possible; and

(d) The proposal is consistent with the purpose and intent of this chapter.

Sec. 62. 16.10.140. Wetlands - Limited exemptions.
 The City Manager or the City Manager's designee may allow exemptions from the provisions of this chapter based on the following criteria:

(1) Wetlands larger than 4,000 square feet will be evaluated using standard procedures for wetland review.

(2) Wetlands between 1,000 and 4,000 square feet shall be evaluated using the Washington State Wetland Rating System for Western Washington (Hruby, 2004, or as revised) to establish category and evaluate functions. The following criteria and local knowledge of natural resources shall be used to determine whether to exempt wetlands between 1,000 and 4,000 square feet from the requirement to avoid impacts.

(a) The requirement to avoid impacts may be dropped for Category III and IV wetlands between 1,000 and 4,000 square feet that meet all of the following criteria:

(i) Wetland is not associated with a riparian corridor; and

(ii) Wetland is not part of a wetland mosaic; and

(iii) Wetland does not score 20 points or more for habitat in the wetland rating system; and

(iv) Wetland does not contain habitat identified as essential for local populations of priority

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species identified by [the] Washington Department of Fish and Wildlife.

(b) Impacts allowed under this provision to these wetlands will be fully mitigated as set forth in DMMC 16.10.150.

(c) All Category I and II wetlands between 1,000 and 4,000 square feet should be evaluated with full mitigation sequencing and buffer establishment. Any approved impacts should be adequately compensated by mitigation as set forth in DMMC 16.10.150.

(3) Wetlands less than 1,000 square feet shall be exempt from regulation where the applicant has shown that they:

(a) Are not associated with a riparian corridor;

(b) Are not part of a wetland mosaic; and

(c) Do not contain habitat identified as essential for local populations of priority species identified by the Washington Department of Fish and Wildlife.

Sec. 63. 16.10.150. Wetlands - Mitigation requirements.

(1) Compensatory mitigation for alterations to wetlands shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with the Guidance on Wetland Mitigation in Washington State - Part 2: Guidelines for Developing Wetland Mitigation Plans and Proposals, April 2004 (Washington State Department of Ecology, U.S. Army Corps of Engineers Seattle District, and U.S. Environmental Protection Agency Region 10; Ecology Publication No. 04-06-013b), or as revised.

(2) Mitigation shall be required in the following order of preference:

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1 (a) Avoiding the impact altogether by not taking
2 a certain action or parts of an action.

3
4 (b) Minimizing impacts by limiting the degree or
5 magnitude of the action and its implementation, by using
6 appropriate technology, or by taking affirmative steps such as
7 project redesign, relocation, or timing, to avoid or reduce
8 impacts.

9
10 (c) Rectifying the impact by repairing,
11 rehabilitating, or restoring the affected environment.

12
13 (d) Reducing or eliminating the impact over time
14 by preservation and maintenance operations.

15
16 (e) Compensating for the impact by replacing,
17 enhancing, or providing substitute resources or environments.

18
19 (f) Monitoring the required compensation and
20 taking remedial or corrective measures when necessary.

21
22 (3) Compensating for lost or affected functions.
23 Compensatory mitigation shall address the functions affected by
24 the proposed project, with an intention to achieve functional
25 equivalency or improvement of functions. The goal shall be for
26 the compensatory mitigation to provide similar wetland functions
27 as those lost, except when either:

28
29 (a) The lost wetland provides minimal functions
30 as determined by a site-specific function assessment, and the
31 proposed compensatory mitigation action(s) will provide equal or
32 greater functions or will provide functions shown to be limiting
33 within a watershed through a formal Washington State watershed
34 assessment plan or protocol; or

35
36 (b) Out-of-kind replacement of wetland type or
37 functions will best meet watershed goals formally identified by
38 the City, such as replacement of historically diminished wetland
39 types.

40
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1 (4) Preference of mitigation actions. Methods to
2 achieve compensation for wetland functions shall be approached
3 in the following order of preference:
4

5 (a) Restoration (re-establishment and
6 rehabilitation) of wetlands.
7

8 (b) Creation (establishment) of wetlands on
9 disturbed upland sites such as those with vegetative cover
10 consisting primarily of nonnative introduced species. This
11 should only be attempted when there is an adequate source of
12 water and it can be shown that the surface and subsurface
13 hydrologic regime is conducive for the wetland community that is
14 anticipated in the design.
15

16 (c) Enhancement of significantly degraded
17 wetlands in combination with restoration or creation. Such
18 enhancement should be part of a mitigation package that includes
19 replacing the impacted area and meeting appropriate ratio
20 requirements.
21

22 (5) Type and location of compensatory mitigation.
23 Unless it is demonstrated that a higher level of ecological
24 functioning would result from an alternate approach,
25 compensatory mitigation for ecological functions shall be either
26 in-kind and on-site, or in-kind and within the same stream
27 reach, sub-basin, or drift cell (if estuarine wetlands are
28 impacted). Compensatory mitigation actions shall be conducted
29 within the same sub-drainage basin and on the site of the
30 alteration except when all of the following apply:
31

32 (a) There are no reasonable on-site or in sub-
33 drainage basin opportunities (e.g., on-site options would
34 require elimination of high-functioning upland habitat), or on-
35 site and in sub-drainage basin opportunities do not have a high
36 likelihood of success based on a determination of the capacity
37 of the site to compensate for the impacts. Considerations should
38 include: anticipated replacement ratios for wetland mitigation,
39 buffer conditions and proposed widths, available water to
40 maintain anticipated hydrogeomorphic classes of wetlands when

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1 restored, proposed flood storage capacity, and potential to
2 mitigate riparian fish and wildlife impacts (such as
3 connectivity);
4

5 (b) Off-site mitigation has a greater likelihood
6 of providing equal or improved wetland functions than the
7 impacted wetland; and
8

9 (c) Off-site locations shall be in the same sub-
10 drainage basin unless:
11

12 (i) Established watershed goals for water
13 quality, flood storage or conveyance, habitat, or other wetland
14 functions have been established by the City and strongly justify
15 location of mitigation at another site; or
16

17 (ii) Credits from a state-certified wetland
18 mitigation bank are used as compensation and the use of credits
19 is consistent with the terms of the bank's certification.
20

21 (d) The design for the compensatory mitigation
22 project needs to be appropriate for its location (i.e., position
23 in the landscape). Therefore, compensatory mitigation should not
24 result in the creation, restoration, or enhancement of an
25 atypical wetland. An atypical wetland refers to a compensation
26 wetland (e.g., created or enhanced) that does not match the type
27 of existing wetland that would be found in the geomorphic
28 setting of the site (i.e., the water source(s) and hydroperiod
29 proposed for the mitigation site are not typical for the
30 geomorphic setting). Likewise, it should not provide exaggerated
31 morphology or require a berm or other engineered structures to
32 hold back water. For example, excavating a permanently inundated
33 pond in an existing seasonally saturated or inundated wetland is
34 one example of an enhancement project that could result in an
35 atypical wetland. Another example would be excavating
36 depressions in an existing wetland on a slope, which required
37 the construction of berms to hold the water.
38

39 (6) Timing of compensatory mitigation. It is preferred
40 that compensatory mitigation projects be completed prior to

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activities that will disturb the on-site wetlands. At the least, compensatory mitigation shall be completed immediately following disturbance and prior to use or occupancy of the action or development. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and flora. The City Manager or the City Manager's designee may authorize a one-time temporary delay in completing construction or installation of the compensatory mitigation when the applicant provides a written explanation from a qualified wetland professional as to the rationale for the delay. An appropriate rationale would include identification of the environmental conditions that could produce a high probability of failure or significant construction difficulties (e.g., project delay lapses past a fisheries window; or installing plants should be delayed until the dormant season to ensure greater survival of installed materials). The delay shall not create or perpetuate hazardous conditions or environmental damage or degradation, and the delay shall not be injurious to the health, safety, and general welfare of the public. The request for the temporary delay must include a written justification that documents the environmental constraints that preclude implementation of the compensatory mitigation plan. The justification must be verified and approved by the City.

(7) Mitigation ratios. The following ratios shall apply to creation or restoration that is in-kind, is on-site, is the same category, is timed prior to or concurrent with alteration, and has a high probability of success. The first number specifies the acreage of replacement wetlands and the second specifies the acreage of wetlands altered.

	Wetland Mitigation Ratios		
	Enhancement	Rehabilitati on	Creation
Category I	6:1	4.5:1	3:1
Category II	3:1	2:1	1.5:1
Category III	2:1	1.5:1	1:1
Category IV	1.5:1	1:1	1:1

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1 (a) The mitigation ratio is the acreage required
2 for compensatory mitigation divided by the acreage of impact.
3

4 (b) The ratios are for a concurrent compensatory
5 mitigation project. If the impacts to a wetland are to be
6 mitigated by using an approved and established mitigation bank,
7 the rules and ratios applicable to the bank should be used.
8

9 (c) The ratios are based on the assumption that
10 the category, based on wetland ratings established in DMMC
11 16.01.050 (definition of wetland), and hydrogeomorphic (HGM)
12 class/subclass of the wetland proposed as compensation are the
13 same as the category and HGM class/subclass of the wetland
14 impacts.
15

16 (d) Ratios for projects in which the category and
17 HGM class/subclass of wetlands proposed as compensation is not
18 the same as that of the wetland impacts will be determined on a
19 case-by-case basis using the recommended ratios as a starting
20 point. The ratios could be higher in such cases.
21

22 (e) Creation can be used in combination with
23 rehabilitation or enhancement. For example, two acres of impact
24 to a Category II wetland would require two acres of creation
25 (i.e., replacing the lost acreage at a 1:1 ratio); the remaining
26 one acre of creation necessary to compensate for impact could be
27 substituted with one and one-half acres of rehabilitation or
28 three acres of enhancement.
29

30 (f) Generally the use of enhancement alone as
31 compensation is discouraged. Using enhancement in combination
32 with some amount of creation is preferred.
33

34 (8) Preservation. Impacts to wetlands may be mitigated
35 by preservation of wetland areas when used in combination with
36 other forms of mitigation such as creation, restoration, or
37 enhancement. Preservation may also be used by itself, but more
38 restrictions apply as outlined below.
39

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1 (a) Acceptable uses of preservation. The
2 preservation of at-risk, high quality wetlands and habitat may
3 be considered as part of an acceptable mitigation plan when the
4 following criteria are met:

5
6 (i) Preservation is used as a form of
7 compensation only after the standard sequencing of mitigation
8 (avoid, minimize, and then compensate). See subsection (2) of
9 this section;

10
11 (ii) Restoration (re-establishment and
12 rehabilitation), creation, and enhancement opportunities have
13 also been considered, and preservation is proposed by the
14 applicant and approved by the permitting agencies as the best
15 compensation option;

16
17 (iii) The preservation site is determined to
18 be under imminent threat; that is, the site has the potential to
19 experience a high rate of undesirable ecological change due to
20 on-site or off-site activities that are not regulated (e.g.,
21 logging of forested wetlands). This potential includes
22 permitted, planned, or likely actions;

23
24 (iv) The area proposed for preservation is
25 of high quality or critical for the health of the watershed or
26 basin due to its location. Some of the following features may be
27 indicative of high quality sites:

28
29 (A) Category I or II wetland rating;

30
31 (B) Rare or irreplaceable wetland
32 type (e.g., bogs, mature forested wetlands, estuaries) or
33 aquatic habitat that is rare or a limited resource in the area;

34
35 (C) Habitat for threatened or
36 endangered species;

37
38 (D) Provides biological and/or
39 hydrological connectivity;

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1 (E) High regional or watershed
2 importance (e.g., listed as priority site in a watershed or
3 basin plan);
4

5 (F) Large size with high species
6 diversity (plants and/or animals) and/or high abundance of
7 native species;
8

9 (G) A site that is continuous with
10 the head of a watershed, or with a lake or pond in an upper
11 watershed that significantly improves outflow hydrology and
12 water quality.
13

14 (b) Preservation in combination with other forms
15 of compensation. Using preservation as compensation is
16 acceptable when done in combination with restoration, creation,
17 or enhancement; provided, that a minimum of 1:1 acreage
18 replacement is provided by reestablishment or creation and the
19 criteria below are met:
20

21 (i) All criteria listed in subsection
22 (8)(a) of this section are met;
23

24 (ii) The impact area is small and/or impacts
25 are occurring to a low functioning system (Category III or IV
26 wetland);
27

28 (iii) Preservation of a high-quality system
29 occurs in the same watershed or basin as the wetland impact;
30

31 (iv) Preservation sites include buffer areas
32 adequate to protect the habitat and its functions from
33 encroachment and degradation; and
34

35 (v) Mitigation ratios for preservation in
36 combination with other forms of mitigation shall range from 10:1
37 to 20:1, as determined on a case-by-case basis, depending on the
38 quality of the wetlands being impacted and the quality of the
39 wetlands being preserved.
40

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1 (c) Preservation as the sole means of
2 compensation for wetland impacts. Preservation alone shall only
3 be used as compensatory mitigation in exceptional circumstances.
4 Preservation alone shall not apply if impacts are occurring to
5 functions that must be replaced on-site, such as flood storage
6 or water quality treatment that need to be replicated by water
7 quality measures implemented within the project limits.
8 Preservation of at-risk, high-quality wetlands and habitat (as
9 defined above) may be considered as the sole means of
10 compensation for wetland impacts when the following criteria are
11 met:

12
13 (i) All criteria listed in subsections
14 (8)(a) and (8)(b) of this section are met;

15
16 (ii) There are no adverse impacts to habitat
17 for fish and species listed as endangered and threatened;

18
19 (iii) There is no net loss of habitat
20 functions within the watershed or basin;

21
22 (iv) Higher mitigation ratios are applied.
23 Mitigation ratios for preservation as the sole means of
24 mitigation shall generally start at 20:1. Specific ratios should
25 depend upon the significance of the preservation project and the
26 quality of the wetland resources lost.

27
28 (9) Wetland mitigation banks.

29
30 (a) Credits from a wetland mitigation bank may be
31 approved for use as compensation for unavoidable impacts to
32 wetlands when:

33
34 (i) The bank is certified under Chapter
35 173-700 WAC;

36
37 (ii) The City Manager or the City Manager's
38 designee determines that the wetland mitigation bank provides
39 appropriate compensation for the authorized impacts; and
40

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1 (iii) The proposed use of credits is
2 consistent with the terms and conditions of the bank's
3 certification.
4

5 (b) Replacement ratios for projects using bank
6 credits shall be consistent with replacement ratios specified in
7 the bank's certification.
8

9 (c) Credits from a certified wetland mitigation
10 bank may be used to compensate for impacts located within the
11 service area specified in the bank's certification. In some
12 cases, the service area of the bank may include portions of more
13 than one adjacent drainage basin for specific wetland functions.
14

15 (10) Substitute fees. In cases where the applicant
16 demonstrates to the satisfaction of the City Manager or the City
17 Manager's designee that a suitable compensation site does not
18 exist, the City Manager or the City Manager's designee may allow
19 the applicant to make a financial contribution to a water
20 quality project or program performing critical areas
21 enhancement, restoration, or mitigation. The project or program
22 must improve environmental quality within the same watershed as
23 the altered wetland. The amount of the fee shall be determined
24 by the City Manager or the City Manager's designee and shall be
25 equal to the cost of mitigating the impact of the wetland
26 alteration.
27

28 (11) Mitigation plan requirements. When mitigation is
29 required, the applicant shall submit for approval a mitigation
30 plan prepared by a qualified scientist(s) following procedures
31 set forth in the state Department of Ecology Guidelines for
32 Developing Freshwater Wetlands Mitigation Plans and Proposals,
33 2004, or as revised.
34

35 (12) Final approval. The City Manager or the City
36 Manager's designee shall grant final approval of a completed
37 compensation project if the final report of the project
38 mitigation plan satisfactorily documents that the area has
39 achieved all requirements of this section and DMMC 16.10.310.
40

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Sec. 64. 16.10.160. Streams - Development standards.

If a stream is located on or contiguous to the site of a development proposal, all activities on the site shall be in compliance with the following requirements and restrictions:

(1) Stream buffers. The following standard buffers shall be measured from the ordinary high water mark or from the top of the bank if the ordinary high water mark cannot be identified:

Water Type	Buffer Width (feet)
Types S or F	115
Types Np or Ns	65

Type S: streams inventoried as "shorelines of the state" under the City's shoreline master program.

Type F: streams that are salmonid-bearing or have the potential to support salmonids.

Type Np: streams that are perennial during a year of normal rainfall and do not have the potential to support salmonids use.

Type Ns: streams that are seasonal or ephemeral during a year of normal rainfall and do not have the potential to support salmonids use.

(a) Where a legally established and constructed street transects a stream buffer, the City Manager or the City Manager's designee may approve a modification of the standard buffer width to the edge of the street if the isolated part of the buffer does not provide additional protection of the stream and provides insignificant biological, geological or hydrological buffer functions relating to the stream. If the resulting buffer distance is less than 50 percent of the standard buffer, no further reduction shall be allowed.

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1 (b) Where a buffer has been previously
2 established through City or county development review, and is
3 permanently recorded on Title or placed within a separate tract,
4 the buffer shall be as previously established, provided it is at
5 least 50 percent of the required standard buffer distance.
6

7 (c) Any stream relocated or altered as part of
8 approved mitigation measures shall have at least the minimum
9 buffer required for the type of stream involved.
10

11 (d) If the stream buffer includes a steep slope
12 hazard area or landslide hazard area, the stream buffer width is
13 the greater of either the stream buffer in this section or 25
14 feet beyond the top of the hazard area.
15

16 (e) Any stream adjoined by a riparian wetland or
17 other contiguous critical area shall have the buffer required
18 for the stream type involved or the buffer that applies to the
19 wetland or other critical area, whichever is greater.
20

21 (2) Increased stream buffer. The City Manager or the
22 City Manager's designee shall require increased buffer widths in
23 accordance with the recommendations of a qualified biologist and
24 the best available science on a case-by-case basis when a larger
25 buffer is necessary to protect stream functions and values based
26 on site-specific characteristics.
27

28 This determination shall be based on one or more of the
29 following criteria:
30

31 (a) A larger buffer is needed to protect other
32 critical areas;
33

34 (b) The buffer or adjacent upland has a slope
35 greater than 30 percent or is susceptible to erosion and
36 standard erosion-control measures will not prevent adverse
37 impacts to the wetland.
38

39 (c) In cases where additional buffers are not
40 feasible, the City Manager or the City Manager's designee may

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1 require the applicant to undertake alternative on-site or off-
 2 site mitigation measures, including but not limited to a
 3 financial contribution to projects or programs which seek to
 4 improve environmental quality within the same watershed.

5
 6 (3) Pursuant to RCW 35.21.180, the King County,
 7 Washington "Surface Water Design Manual," including all
 8 subsequent revisions, is adopted by reference as the "Surface
 9 Water Design Manual for the City of Des Moines" in DMMC
 10 16.10.350.

11
 12 (4) Building setback lines. A building setback line of
 13 10 feet is required from the edge of any stream buffer. Minor
 14 structural intrusions into the area of the building setback line
 15 may be allowed if the City Manager or the City Manager's
 16 designee determines that such intrusions will not negatively
 17 impact the critical area.

18
 19 **Sec. 65. 16.10.170. Streams - Reasonable use**
 20 **exceptions.**

21
 22 (1) Adjustments to dimensional requirements.

23
 24 (a) Yard reductions for building one single-
 25 family dwelling. The City Manager or the City Manager's designee
 26 may allow modification to the required front, rear, or side yard
 27 on the opposite of the stream. The reductions must meet the
 28 following standards:

29
 30 (i) The stream, stream buffer and required
 31 yard area opposite the stream equals more than 50 percent of the
 32 property dimension of the development site.

33
 34 (ii) A required side yard is reduced to five
 35 feet.

36
 37 (iii) A required front or rear yard is
 38 reduced to 10 feet.

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(2) Single-family dwelling. Development of one single-family dwelling within the buffer of a stream on a development site shall be approved by the City Manager or the City Manager's designee if the applicant demonstrates that:

(a) The extent of development within the buffer is limited to that which is necessary to create a developable area which is no larger than 4,000 square feet;

(b) The proposal utilizes to the maximum extent possible the best available construction, design, and development techniques which result in the least adverse impact on the environmentally critical area;

(c) The proposal incorporates the development standards of DMMC 16.10.160 and the Surface Water Design Manual to the maximum extent possible; and

(d) The proposal is consistent with the purpose and intent of this chapter.

Sec. 66. 16.10.180. Streams - Limited exemptions.
 The City Manager or the City Manager's designee may allow exemptions from the provisions of this chapter based on the following provisions:

(1) Stream crossings. Stream crossings, whether for access or utility purposes, shall be avoided to the extent possible. The City Manager or the City Manager's designee may approve stream crossings only when he/she determines that there are no practicable or reasonable alternatives, and when the proposal complies with all of the following criteria:

(a) Bridges are required for streams which support salmonids; and

(b) All crossings using culverts shall use superspan or oversize culverts; and

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1 (c) All construction and installation crossings
2 shall comply with timing restrictions set by federal and state
3 permit processes, generally during summer low flow; and
4

5 (d) Crossings shall not occur in salmonid
6 spawning areas unless no other feasible crossing site exists;
7 and
8

9 (e) Bridge piers or abutments shall not be placed
10 in either the floodway or between the ordinary high water marks
11 unless no other feasible alternative placement exists; and
12

13 (f) Crossings shall not diminish flood-carrying
14 capacity; and
15

16 (g) Crossings shall provide for maintenance of
17 culverts, bridges, and utilities; and
18

19 (h) Crossings shall serve multiple properties
20 whenever possible; and
21

22 (i) Crossings shall comply with all applicable
23 local, state, and federal laws.
24

25 (2) Stream relocation and dredging. Stream relocation
26 and dredging are strongly discouraged and shall only occur to
27 improve hydrologic, hydraulic, and fish and wildlife habitat
28 functions. The City Manager or the City Manager's designee may
29 approve stream relocation and dredging only when he/she
30 determines that there are no practicable or reasonable
31 alternatives, and when the proposal complies with all of the
32 following criteria:
33

34 (a) Relocation and dredging shall follow all
35 applicable local, state, and federal laws and receive approvals
36 from the agencies administering such laws;
37

38 (b) Dredging of any stream shall follow the
39 standards for dredging set forth in the shoreline master
40 program;

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1
2 (c) A mitigation plan with a contingency plan
3 shall be prepared by a licensed professional pursuant to DMMC
4 16.10.190 and shall include the following provisions:
5

6 (i) Identification of long-term goals (25
7 years) and objectives for restoration of the stream channel and
8 riparian areas;
9

10 (ii) A three-year to five-year monitoring
11 program to measure success of the restoration;
12

13 (iii) Mitigation shall be designed to
14 accommodate a 100-year storm event.
15

16 (3) Stream channel, stream bank, bluff, or shore
17 stabilization. The City Manager or the City Manager's designee
18 may approve stabilization of stream channels, stream banks,
19 bluffs, or shorelines when he/she determines that the proposed
20 stabilization complies with the Washington Department of Fish
21 and Wildlife Integrated Streambank Protection Guidelines (2003)
22 and the following criteria as applicable:
23

24 (a) Naturally occurring movement threatens
25 existing structures, public improvements, unique natural
26 resources, or the only feasible access to property.
27

28 (b) In the case of streams, stabilization results
29 in improved fish and wildlife habitat, flood control, and
30 improved water quality.
31

32 (c) The preferred methodology for stream channel
33 and bank stabilization is bioengineering or some combination of
34 bioengineering and more traditional structural solutions.
35 Bioengineering involves use of plant materials to stabilize
36 eroding stream channels and banks.
37

38 (d) The preferred methodology for bluff and shore
39 stabilization is naturalistic shoreline protection measures such
40 as creation of beaches that absorb and dissipate wave energy.

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1 Bluff and shore stabilization shall follow the standards of the
2 shoreline master program for the construction of any
3 stabilization device.

4
5 (e) Relocation and dredging shall follow all
6 applicable local, state, and federal laws and receive approvals
7 from the agencies administering such laws.

8
9 **Sec. 67. 16.10.190. Streams - Mitigation**
10 **requirements.**

11
12 (1) Compensatory mitigation for alterations to streams
13 shall achieve equivalent or greater biologic functions.

14
15 (a) On-site and in-kind for streams. For streams,
16 the applicant shall maintain or improve stream channel
17 dimensions, including depth, length, and gradient; restore or
18 improve native vegetation and fish and wildlife habitat; and
19 create an equivalent or improved channel bed, biofiltration, and
20 meandering. Unless otherwise specified by the City Manager or
21 the City Manager's designee, such mitigation to replace and
22 enhance stream elements such as pools, riffles, and spawning
23 gravel shall be provided on a relative 2:1 basis.

24
25 (b) Off-site and in-kind for streams. When
26 environmental information demonstrates that greater functions
27 and values will be achieved, off-site compensation of greater
28 size, functions, and values may be approved if the compensation
29 project is within the same subwatershed as the wetland or stream
30 to be altered. Unless otherwise specified by the City Manager or
31 the City Manager's designee, such mitigation shall be provided
32 pursuant to the ratios specified in this section.

33
34 (c) Conditions preceding stream alteration. In
35 the case of the exceptions of DMMC 16.10.160, the following
36 conditions shall precede any stream alteration approved pursuant
37 to this section:
38

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1 (i) A mitigation plan for the compensation
2 project shall be submitted by the applicant and approved by the
3 City Manager or the City Manager's designee;
4

5 (ii) The compensation project shall be fully
6 implemented following the requirements of the approved
7 mitigation plan; and
8

9 (iii) A final report shall be submitted
10 following the specified growing seasons documenting that all
11 requirements of a mitigation plan have been fully achieved. The
12 City may postpone or limit development, require bonds pursuant
13 to DMMC 16.10.330, or use other appropriate techniques to ensure
14 the success of the mitigation plan.
15

16 (d) The City Manager or the City Manager's
17 designee may postpone the issuance of development permits for
18 one or more growing seasons until the success or viability of
19 the approved mitigation measures can be demonstrated by the
20 applicant.
21

22 (e) Substitute fees. In cases where the applicant
23 demonstrates to the satisfaction of the City Manager or the City
24 Manager's designee that a suitable compensation site does not
25 exist, the City Manager or the City Manager's designee may allow
26 the applicant to make a financial contribution to a water
27 quality project or program performing critical areas
28 enhancement, restoration, or mitigation. The project or program
29 must improve environmental quality within the same watershed as
30 the altered stream. The amount of the fee shall be determined by
31 the City Manager or the City Manager's designee and shall be
32 equal to the cost of mitigating the impact of the stream
33 alteration.
34

35 (2) Mitigation plans. All restoration and compensation
36 projects shall follow a mitigation plan prepared by qualified
37 scientists containing the following components:
38

39 (a) Baseline information. Quantitative data shall
40 be collected and synthesized for both the impacted critical area

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1 and the proposed mitigation site, if different from the impacted
2 critical area, following procedures set forth by the City
3 Manager or the City Manager's designee.

4
5 (b) Environmental goals and objectives. Goals and
6 objectives describing the purposes of the mitigation measures
7 shall be provided, including a description of site selection
8 criteria, identification of target evaluation species and
9 resource functions.

10
11 (c) Performance standards. Specific criteria for
12 fulfilling environmental goals and objectives, and for beginning
13 remedial action or contingency measures shall be provided,
14 including water quality standards, species richness and
15 diversity targets, habitat diversity indices, or other
16 ecological, geological, or hydrological criteria.

17
18 (d) Detailed construction plan. Written
19 specifications and descriptions of mitigation techniques shall
20 be provided, including the proposed construction sequence,
21 accompanied by detailed site diagrams and blueprints that are an
22 integral requirement of any development proposal.

23
24 (e) Monitoring program. A program outlining the
25 approach for assessing a completed project shall be provided,
26 including descriptions of proposed experimental and control site
27 survey or sampling techniques. A protocol shall be included
28 outlining how the monitoring data will be evaluated by agencies
29 that are tracking the progress of the mitigation project. A
30 report shall be submitted at least twice yearly documenting
31 milestones, successes, problems, and contingency actions of the
32 restoration or compensation project. The City Manager or the
33 City Manager's designee shall require that the applicant monitor
34 the compensation or restoration project for a minimum of five
35 years.

36
37 (f) Contingency plan. A plan shall be provided
38 fully identifying potential courses of action, and any
39 corrective measures to be taken when monitoring or evaluation
40 indicates project performance standards are not being met.

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1
2 (g) Performance and maintenance securities.
3 Securities ensuring fulfillment of the mitigation project,
4 monitoring program, and any contingency measures shall be posted
5 pursuant to DMMC 16.10.330.
6

7 (3) Final approval. The City Manager or the City
8 Manager's designee shall grant final approval of a completed
9 restoration or compensation project if the final report of the
10 project mitigation plan satisfactorily documents that the area
11 has achieved all requirements of DMMC 16.10.300.
12

13 **Sec. 68. 16.10.200. Geologically hazardous areas -**
14 **Development standards.** Development within all geologically
15 hazardous areas shall comply with the following general
16 performance requirements:
17

18 (1) Alterations of geologically hazardous areas or
19 associated buffers may only occur for activities that:
20

21 (a) Will not increase the threat of the
22 geological hazard to adjacent properties beyond pre-development
23 conditions;
24

25 (b) Will not adversely impact other critical
26 areas;
27

28 (c) Are designed so that the hazard to the
29 project is eliminated or mitigated to a level equal to or less
30 than pre-development conditions;
31

32 (d) Are designed and constructed in accordance
33 with the Surface Water Design Manual; and
34

35 (e) Are certified as safe as designed and under
36 anticipated conditions by a qualified engineer or geologist,
37 licensed in the state of Washington.
38

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1 (2) Critical facilities prohibited. Critical facilities
2 shall not be sited within geologically hazardous areas unless
3 there is no other practical alternative.
4

5 **Sec. 69. 16.10.210. Ravine sidewalls and bluffs -**
6 **Development standards.** Activities on ravine sidewalls and
7 bluffs shall meet the general performance requirements of DMMC
8 16.10.200 and the specific following requirements:
9

10 (1) Buffers. A 50-foot undisturbed buffer of native
11 vegetation shall be established from the top, toe, and sides of
12 all ravine sidewalls and bluffs.
13

14 (2) Buffer reduction. The City Manager or the City
15 Manager's designee may approve a reduction in the width of the
16 required buffer, to a minimum width of 10 feet, when special
17 environmental studies are provided that demonstrate all of the
18 following:
19

20 (a) A licensed engineer specializing in
21 geotechnical analysis or a licensed engineering geologist, after
22 review of the geologic conditions of the site, the proposed
23 development plans, and all mitigation measures proposed or
24 required, concludes in a written statement that the development
25 proposal will result in minimal risk of soil instability; and
26

27 (b) Special mitigation measures regarding design,
28 construction, and maintenance can reasonably be employed to
29 minimize adverse environmental impacts associated with the
30 proposal; and
31

32 (c) The proposal represents minimal disruption of
33 existing native vegetation.
34

35 (3) Additional buffers. The City Manager or the City
36 Manager's designee may require increased buffers if
37 environmental studies indicate such increases are necessary to
38 mitigate landslide, seismic and erosion hazards, or as otherwise
39 necessary to protect the public health, safety, and welfare.
40

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(4) Building setback lines. A building setback line of 10 feet is required from the edge of any buffer of a ravine sidewall or bluff. Minor structural intrusions into the area of the building setback line may be allowed if the City Manager or the City Manager's designee determines that such intrusions will not negatively impact the critical area.

(5) All buffers shall be measured from the top, toe, and sides of all ravine sidewalls or bluffs.

Sec. 70. 16.10.220. Hillsides of 15 percent slope and greater - Development standards - Disturbance limitations. Development on hillsides shall comply with the general performance requirements of DMMC 16.10.200 and the following requirements regarding disturbance limitations, development location, development design, construction techniques, and landscaping.

(1) Amount of disturbance allowed. The following chart sets forth the maximum slope disturbance allowed on a development site:

Amount of Slope Which Can Be Disturbed		
Slope	Disturbed	Factor
0 - 15%	100%	1.00
15 - 25%	60%	.60
25 - 40%	45%	.45
40%+	30%	.30

The overall amount of disturbance allowed on development sites which have any combination of the above slope categories shall be determined by the following formula:

(Square Footage of Site having 0 - 15% slopes) X 1.00 + (Square Footage of Site having 15 - 25% slopes) X 0.60 + (Square Footage of Site having 25 - 40% slopes) X 0.45 + (Square Footage of Site having 40%+ slopes) X 0.30 = Total Amount of Allowable Site Disturbance.

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1
2 (2) Development location.

3
4 (a) Structures and improvements shall be
5 clustered to retain as much open space as possible and the
6 natural topographic character of the slope; and
7

8 (b) Structures and improvements shall conform to
9 the natural contour of the slope, foundations must be tiered to
10 generally conform to the existing topography of the site; and
11

12 (c) Structures and improvements shall be located
13 to preserve the most sensitive portion of the site and its
14 natural landforms and vegetation.
15

16 (3) Development design.

17
18 (a) The footprint of buildings and other
19 disturbed areas shall be minimized. The least number of
20 buildings is desirable in order to consolidate the development;
21 and
22

23 (b) Standard prepared building pads (slab on
24 grade) resulting in grading more than 10 feet outside the
25 building footprint area are prohibited; and
26

27 (c) Use of common access drives and utility
28 corridors is required where feasible; and
29

30 (d) Impervious lot coverage shall be minimized.
31 With the exception of detached single-family structures,
32 understructure parking and multilevel structures shall be
33 incorporated where feasible; and
34

35 (e) Roads, walkways, and parking areas shall be
36 designed to parallel the natural contours of the steep slope
37 hazard areas while maintaining consolidated areas of natural
38 topography and vegetation. Access shall be located in the least
39 environmentally critical area feasible; and
40

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1 (f) Use of retaining walls which allow the
2 maintenance of existing natural slope areas is preferred over
3 graded artificial slopes.
4

5 (4) Construction techniques.
6

7 (a) Use of foundation walls as retaining walls is
8 preferable to rock or concrete walls built separately and away
9 from the building. Freestanding retaining devices are only
10 permitted when they cannot be designed as structural elements of
11 the building foundation; and
12

13 (b) Use of pole-type construction which conforms
14 to the existing topography is desirable where feasible; and
15

16 (c) Structures shall be tiered to conform to
17 existing topography and to minimize topographic modification.
18 Piled deck support structures are preferred for parking or
19 garages over fill-based construction types.
20

21 (5) Landscaping. The disturbed area of a development
22 site not used for buildings and other improvements shall be
23 landscaped according to a landscape design which will achieve a
24 minimum 40 percent coverage by the canopy of trees and shrubs
25 within 10 years to provide habitat desirable to native western
26 Washington birds. The trees and shrubs shall be a mix of shade,
27 flowering, and coniferous and broad-leaf evergreens that are
28 either native to the Puget Sound region or are valuable to
29 western Washington birds. The Department of Wildlife "Plants for
30 Wildlife in Western Washington" shall be used as a general
31 guide.
32

33 (a) Trees shall be the following size at time of
34 planting and shall conform to the "American Standard for Nursery
35 Stock":
36

37 (i) Single-stem shade and flowering trees
38 shall be a minimum one-inch caliper trunk as measured six inches
39 above the ground.
40

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1 (ii) Multistem shade and flowering trees
2 shall be a minimum height of eight feet as measured from the
3 ground level to the average uppermost point of growth of the
4 plant.

5
6 (iii) Coniferous evergreen trees (Types 4, 5,
7 and 6) shall be a minimum height of six feet as measured from
8 the ground to the midpoint between the uppermost whorl and the
9 tip of the leader. For species of trees without whorls, minimum
10 height shall be measured to the uppermost side growth. The ratio
11 of height to spread shall not be less than 5:3.

12
13 (iv) Broad-leaf evergreen trees (Types 4 and
14 5) shall be a minimum height of four feet as measured from the
15 ground level to where the main part of the plant ends, not to
16 the tip of a thin shoot.

17
18 (b) Shrubs shall be of the following size at time
19 of planting and shall conform to the "American Standard for
20 Nursery Stock":

21
22 (i) Dwarf and semi-dwarf deciduous shrubs
23 shall be a minimum height of two to two and one-half feet above
24 grade, and either a No. 3 container size for container-grown
25 plants, 10-inch diameter root ball for balled and burlapped
26 plants, or 11-inch root spread for bare-root plants.

27
28 (ii) Strong-growing deciduous shrubs shall
29 be a minimum height of two to three feet above grade, and either
30 a No. 3 container size for container-grown plants, 10-inch
31 diameter root ball for balled and burlapped plants, or 11-inch
32 root spread for bare-root plants.

33
34 (iii) Coniferous and broad-leaf evergreen
35 shrubs (Types 1, 2, and 3) shall be a minimum height of two
36 to two and one-half feet spread or height, and either a minimum
37 No. 3 container size for container-grown plants or 12-inch
38 diameter root ball for balled and burlapped plants.

39

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1 **Sec. 71. 16.10.230. Ravine sidewalls, bluffs, and**
2 **hillsides of 15 percent slope and greater - Reasonable use**
3 **exceptions.**

4
5 (1) Limited waiver of hillside disturbance limitations.
6 Any one or all of the disturbance limitation requirements of
7 DMMC 16.10.220 may be waived if the City Manager or the City
8 Manager's designee determines that the application of such
9 requirements is not feasible for developing one single-family
10 dwelling on a development site and the proposal is consistent
11 with the purpose and intent of this chapter.

12
13 **Sec. 72. 16.10.240. Seismic hazard areas -**
14 **Development standards.** Development in seismic hazard areas
15 shall be in accordance with the standards for earthquake design
16 and seismic motion as established in the Des Moines Building and
17 Construction Code (Title 14 DMMC). Seismic hazard areas shall be
18 altered only when the City Manager or the City Manager's
19 designee concludes, based on environmental information, the
20 following:

21
22 (1) There is no actual hazard based on a lack of
23 seismic activity in the past in the area of the development
24 proposal, and a quantitative analysis of potential for seismic
25 activity indicates no significant risk to the development
26 proposal; or

27
28 (2) The development proposal can be designed so that it
29 will be as safe from any earthquake damage as a similar
30 development not located in a seismic hazard area.

31
32 **Sec. 73. 16.10.250. Erosion and landslide hazard**
33 **areas - Development standards.** Development on hillsides
34 containing or adjacent to erosion or landslide hazard areas
35 shall meet the general performance requirements of DMMC
36 16.10.200 and the following:

37
38 (1) Buffer requirement. A buffer shall be established
39 from all edges of landslide hazard areas. The size of the buffer
40 shall be determined by the City Manager or the City Manager's

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1 designee to eliminate or minimize the risk of property damage,
2 death, or injury resulting from landslides caused in whole or
3 part by the development, based upon review of and concurrence
4 with a special environmental study prepared by a qualified
5 professional.

6
7 (a) Minimum buffer. The minimum buffer shall be
8 equal to the height of the slope or 50 feet, whichever is
9 greater;

10
11 (b) Increased buffer. The buffer may be increased
12 where the City Manager or the City Manager's designee determines
13 a larger buffer is necessary to prevent risk of damage to
14 proposed and existing development;

15
16 (c) Buffer reduction. The buffer may be reduced
17 to a minimum of 10 feet when a qualified professional
18 demonstrates to the City Manager or the City Manager's
19 designee's satisfaction that the reduction will adequately
20 protect the proposed development, adjacent developments, and
21 uses and the subject critical area;

22
23 (2) Alterations. Alterations of an erosion or landslide
24 hazard area and/or buffer may only occur for activities for
25 which a hazards analysis is submitted and certifies that:

26
27 (a) The development will not increase surface
28 water discharge or sedimentation to adjacent properties beyond
29 pre-development conditions;

30
31 (b) The development will not decrease slope
32 stability on adjacent properties; and

33
34 (c) Such alterations will not adversely impact
35 other critical areas;

36
37 (3) Design standards. Development within an erosion or
38 landslide hazard area and/or buffer shall be designed to meet
39 the following basic requirements unless it can be demonstrated
40 that an alternative design that deviates from one or more of

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1 these standards provides greater long-term slope stability while
2 meeting all other provisions of this chapter. The requirement
3 for long-term slope stability shall exclude designs that require
4 regular and periodic maintenance to maintain their level of
5 function. The basic development design standards are:

6
7 (a) The proposed development shall not decrease
8 the factor of safety for landslide occurrences below the limits
9 of 1.5 for static conditions and 1.2 for dynamic conditions.
10 Analysis of dynamic conditions shall be based on a minimum
11 horizontal acceleration as established by the current version of
12 the Uniform Building Code;

13
14 (b) Structures and improvements shall be
15 clustered to avoid geologically hazardous areas and other
16 critical areas;

17
18 (c) Structures and improvements shall minimize
19 alterations to the natural contour of the slope, and foundations
20 shall be tiered where possible to conform to existing
21 topography;

22
23 (d) Structures and improvements shall be located
24 to preserve the most critical portion of the site and its
25 natural landforms and vegetation;

26
27 (e) The proposed development shall not result in
28 greater risk or a need for increased buffers on neighboring
29 properties;

30
31 (f) The use of retaining walls that allow the
32 maintenance of existing natural slope area is preferred over
33 graded artificial slopes; and

34
35 (g) Development shall be designed to minimize
36 impervious lot coverage;

37
38 (4) Vegetation retention. Unless otherwise provided or
39 as part of an approved alteration, removal of vegetation from an

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1 erosion or landslide hazard area or related buffer shall be
2 prohibited;

3
4 (5) Seasonal restriction. Land clearing, grading, or
5 filling shall be limited to the period between April 1st and
6 October 1st; provided, that the City may extend or shorten the
7 dry season on a case-by-case basis depending on actual weather
8 conditions;

9
10 (6) Utility lines and pipes. Utility lines and pipes
11 shall be permitted in erosion and landslide hazard areas only
12 when the applicant demonstrates that no other practical
13 alternative is available. The line or pipe shall be located
14 aboveground and properly anchored and/or designed so that it
15 will continue to function in the event of an underlying slide.
16 Storm water conveyance shall be allowed only through a high-
17 density polyethylene pipe with fuse-welded joints, or similar
18 product that is technically equal or superior;

19
20 (7) Point discharges. Point discharges from surface
21 water facilities and roof drains onto or upstream from an
22 erosion or landslide hazard area shall be prohibited except as
23 follows:

24
25 (a) Conveyed via continuous storm pipe downslope
26 to a point where there are no erosion hazard areas downstream
27 from the discharge;

28
29 (b) Discharged at flow durations matching
30 predeveloped conditions, with adequate energy dissipation, into
31 existing channels that previously conveyed storm water runoff in
32 the predeveloped state; or

33
34 (c) Dispersed discharge upslope of the steep
35 slope onto a low-gradient undisturbed buffer demonstrated to be
36 adequate to infiltrate all surface and storm water runoff, and
37 where it can be demonstrated that such discharge will not
38 increase the saturation of the slope;

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1 (8) Subdivisions. The division of land in landslide
2 hazard areas and associated buffers is subject to the following:
3

4 (a) Land that is located wholly within a
5 landslide hazard area or its buffer may not be subdivided. Land
6 that is located partially within a landslide hazard area or its
7 buffer may be divided; provided, that each resulting lot has
8 sufficient buildable area outside of, and will not affect, the
9 landslide hazard [area] or its buffer.

10
11 (b) Access roads and utilities may be permitted
12 within the landslide hazard area and associated buffers if the
13 City determines that no other feasible alternative exists; and
14

15 (9) Prohibited development. On-site sewage disposal
16 systems, including drain fields, shall be prohibited within
17 erosion and landslide hazard areas and related buffers.
18

19 **Sec. 74. 16.10.260. Critical aquifer recharge areas -**
20 **Development standards - Buffers and disturbance limitations.** If
21 an aquifer recharge area is located on or adjacent to a
22 development site, all activities on the site shall be in
23 compliance with the following requirements:
24

25 (1) Development standards - General performance
26 requirements.
27

28 (a) Activities may only be permitted in a
29 critical aquifer recharge area if the applicant can show that
30 the proposed activity will not cause contaminants to enter the
31 aquifer and that the proposed activity will not adversely affect
32 the recharging of the aquifer.
33

34 (b) The proposed activity must comply with the
35 water source protection requirements and recommendations of the
36 U.S. Environmental Protection Agency, Washington State
37 Department of Health, and the Seattle-King County Health
38 Department.
39

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1 (c) The proposed activity must be designed and
2 constructed in accordance with the Surface Water Design Manual.

3
4 (2) Development standards - Specific uses.

5
6 (a) Storage tanks. All storage tanks proposed to
7 be located in a critical aquifer recharge area must comply with
8 local building code requirements and must conform to the
9 following requirements:

10
11 (i) Underground tanks. All new underground
12 storage facilities proposed for use in the storage of hazardous
13 substances or hazardous wastes shall be designed and constructed
14 so as to:

15
16 (A) Prevent releases due to corrosion
17 or structural failure for the operational life of the tank;

18
19 (B) Be protected against corrosion,
20 constructed of noncorrosive material, steel clad with a
21 noncorrosive material, or designed to include a secondary
22 containment system to prevent the release or threatened release
23 of any stored substances; and

24
25 (C) Use material in the construction
26 or lining of the tank that is compatible with the substance to
27 be stored.

28 (ii) Aboveground tanks. All new aboveground
29 storage facilities proposed for use in the storage of hazardous
30 substances or hazardous wastes shall be designed and constructed
31 so as to:

32
33 (A) Not allow the release of a
34 hazardous substance to the ground, ground waters, or surface
35 waters;

36
37 (B) Have a primary containment area
38 enclosing or underlying the tank or part thereof; and
39

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1 (C) Provide either a secondary
2 containment system built into the tank structure or a secondary
3 containment dike system built outside the tank for all tanks.
4

5 (b) Vehicle repair and servicing.
6

7 (i) Vehicle repair and servicing must be
8 conducted over impermeable pads and within a covered structure
9 capable of withstanding normally expected weather conditions.
10 Chemicals used in the process of vehicle repair and servicing
11 must be stored in a manner that protects them from weather and
12 provides containment should leaks occur.
13

14 (ii) No dry wells shall be allowed in
15 critical aquifer recharge areas on sites used for vehicle repair
16 and servicing. Dry wells existing on the site prior to facility
17 establishment must be abandoned using techniques approved by the
18 state Department of Ecology prior to commencement of the
19 proposed activity.
20

21 (c) Residential use of pesticides and nutrients.
22 Application of household pesticides, herbicides, and fertilizers
23 shall not exceed times and rates specified on the packaging.
24

25 (d) Use of reclaimed water for surface
26 percolation or direct recharge. Water reuse projects for
27 reclaimed water must be in accordance with the adopted water or
28 sewer comprehensive plans that have been approved by the state
29 Departments of Ecology and Health.
30

31 (i) Use of reclaimed water for surface
32 percolation must meet the ground water recharge criteria given
33 in RCW 90.46.010(10) and 90.46.080(1). The state Department of
34 Ecology may establish additional discharge limits in accordance
35 with RCW 90.46.080(2).
36

37 (ii) Direct injection must be in accordance
38 with the standards developed by authority of RCW 90.46.042.
39

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(e) State and Federal Regulations. The uses listed below shall be conditioned as necessary to protect critical aquifer recharge areas in accordance with the applicable state and federal regulations.

Activity	Statute - Regulation - Guidance
Aboveground Storage Tanks	WAC 173-303-640
Automobile Washers	Chapter 173-216 WAC, Best Management Practices for Vehicle and Equipment Discharges (Washington Department of Ecology WQ-R-95-56)
Below Ground Storage Tanks	Chapter 173-360 WAC
Chemical Treatment Storage and Disposal Facilities	WAC 173-303-182
Hazardous Waste Generator (Boat Repair Shops, Biological Research Facility, Dry Cleaners, Furniture Stripping, Motor Vehicle Service Garages, Photographic Processing, Printing and Publishing Shops, Etc.)	Chapter 173-303 WAC
Injection Wells	Federal 40 CFR Parts 144 and 146, Chapter 173-218 WAC
On-Site Sewage Systems (Large Scale)	Chapter 173-240 WAC

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On-Site Sewage Systems (Less Than 14,500 Gal./Day)	Chapter 246-272 WAC, Local Health Ordinances
Pesticide Storage and Use	Chapter 15.54 RCW, Chapter 17.21 RCW
Solid Waste Handling and Recycling Facilities	Chapter 173-304 WAC
Wastewater Application to Land Surface	Chapter 173-216 WAC, Chapter 173-200 WAC, Washington State Department of Ecology Land Application Guidelines, Best Management Practices for Irrigated Agriculture

(3) Prohibited uses and activities - Critical aquifer recharge areas. The following activities and uses are prohibited in critical aquifer recharge areas:

(a) Landfills. Landfills, including hazardous waste, municipal solid waste, special waste, wood waste, and inert and demolition waste landfills;

(b) Underground injection wells. Class I, III, and IV wells and subclasses 5F01, 5D03, 5F04, 5W09, 5W10, 5W11, 5W31, 5X13, 5X14, 5X15, 5W20, 5X28, and 5N24 of Class V wells;

(c) Mining.

(i) Metals and hard rock mining; and

(ii) Sand and gravel mining, prohibited from critical aquifer recharge areas determined to be highly susceptible or vulnerable;

(d) Wood treatment facilities. Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces (both natural and manmade);

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(e) Storage, processing, or disposal of radioactive substances. Facilities that store, process, or dispose of radioactive substances; and

(f) Other prohibited uses or activities.

(i) Activities that would significantly reduce the recharge to aquifers currently or potentially used as a potable water source;

(ii) Activities that would significantly reduce the recharge to aquifers that are a source of significant base flow to a regulated stream; and

(iii) Activities that are not connected to an available sanitary sewer system, are prohibited from critical aquifer recharge areas associated with sole source aquifers.

Sec. 75. 16.10.270. Fish and wildlife habitat conservation areas - Development standards - Buffers and disturbance limitations.

(1) Buffers and disturbance limitations. If a fish and/or wildlife habitat conservation area is located on or adjacent to a development site, the following provisions shall apply:

(a) A habitat conservation area may be altered only if the proposed alteration of the habitat or the mitigation proposed does not degrade the quantitative and qualitative functions and values of the habitat.

(b) The City Manager or the City Manager's designee may require native vegetation buffer areas when special environmental studies indicate the necessity for such buffers in order to achieve the purposes identified in DMMC 16.10.030.

(c) In cases where the City Manager or the City Manager's designee determines that adequate buffers are not feasible, and that the impact upon the habitat conservation area

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1 may be severe, the City Manager or the City Manager's designee
2 may prohibit development of the subject habitat conservation and
3 buffer area.

4
5 (d) In cases where the City Manager or the City
6 Manager's designee determines that adequate buffers are not
7 feasible, but that the environmental impacts associated with the
8 proposal would not be so severe as to warrant a prohibition of
9 all development, the applicant shall undertake alternative on-
10 site or off-site mitigation measures specified by the City
11 Manager or the City Manager's designee. Alternative mitigation
12 measures include, but are not limited to, a financial
13 contribution to projects or programs which seek to improve
14 environmental quality within the same fish and wildlife habitat
15 conservation area. Such financial contribution shall be of an
16 amount sufficient to fund mitigation measures commensurate with
17 the adverse impact being mitigated.

18
19 (e) Any approval of alterations or impacts to a
20 habitat conservation area shall be supported by the best
21 available science such as the Washington Department of Fish and
22 Wildlife management recommendations for priority habitats and
23 species.

24
25 (f) When appropriate due to the type of habitat
26 or species present or the project area conditions, the City
27 Manager or the City Manager's designee may require a critical
28 areas study. If the habitat conservation area is also classified
29 as a stream, lake, pond or a wetland, then the stream, lake,
30 pond or wetland protection standards shall apply and habitat
31 management shall be addressed as part of the stream, lake, pond
32 or wetland review; provided, that the City may impose additional
33 requirements when necessary to provide for protection of the
34 habitat conservation areas consistent with this chapter. The
35 City Manager or the City Manager's designee may require the
36 following site and proposal related information with the
37 critical areas study:

38
39 (i) Identification of any federal or state
40 listed endangered, threatened, sensitive or candidate species

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1 that have a primary association with habitat on or adjacent to
2 the project area, and an assessment of potential project impacts
3 to the species;

4
5 (ii) A discussion of any federal or state
6 management recommendations, including Washington Department of
7 Fish and Wildlife habitat management recommendations, that have
8 been developed for species or habitats located on or adjacent to
9 the project area;

10
11 (iii) A discussion of any ongoing management
12 practices that will protect habitat after the project site has
13 been developed, including any proposed monitoring, maintenance,
14 and adaptive management programs; and

15
16 (iv) When appropriate due to the type of
17 habitat or species present or the project area conditions, the
18 City Manager or the City Manager's designee may also require the
19 habitat management plan to include an evaluation by the state
20 Department of Fish and Wildlife, local Native American Indian
21 tribe, or other qualified professional regarding the applicant's
22 analysis and the effectiveness of any proposed mitigating
23 measures or programs, to include any recommendations as
24 appropriate.

25
26 (2) Specific habitats. If a use, activity or
27 development is within, adjacent to, or likely to affect one or
28 more specific fish and/or wildlife habitat conservation areas,
29 the following provisions shall apply:

30
31 (a) Endangered, threatened, and sensitive
32 species.

33
34 (i) No development shall be allowed within
35 a habitat conservation area or buffer with which state or
36 federally endangered, threatened, or sensitive species have a
37 primary association, except that which is provided for by a
38 management plan established by the Washington Department of Fish
39 and Wildlife or applicable state or federal agency.

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1 (ii) Whenever activities are proposed
2 adjacent to a habitat conservation area with which state or
3 federally endangered, threatened, or sensitive species have a
4 primary association, such area shall be protected through the
5 application of protection measures in accordance with a special
6 environmental study prepared by a qualified professional and
7 approved by the City. Approval for alteration of land adjacent
8 to the habitat conservation area or its buffer shall not occur
9 prior to consultation with the Washington Department of Fish and
10 Wildlife for animal species, the Washington State Department of
11 Natural Resources for plant species, and other appropriate
12 federal or state agencies.

13
14 (iii) Bald eagle habitat shall be protected
15 pursuant to the Washington State Bald Eagle Protection Rules
16 (WAC 232-12-292).

17
18 (b) Anadromous fish.

19
20 (i) All activities, uses, and alterations
21 proposed to be located in water bodies used by anadromous fish
22 or in areas that affect such water bodies shall give special
23 consideration to the preservation and enhancement of anadromous
24 fish habitat, including, but not limited to, adhering to the
25 following standards:

26
27 (A) Activities shall be timed to
28 occur only during the allowable work window as designated by the
29 Washington Department of Fish and Wildlife for the applicable
30 species;

31
32 (B) An alternative alignment or
33 location for the activity is not feasible;

34
35 (C) The activity is designed so that
36 it will not degrade the functions or values of the fish habitat
37 or other critical areas;

38
39 (D) Shoreline erosion control
40 measures shall be designed to use bioengineering methods or soft

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1 armoring techniques, according to an approved special
 2 environmental study; and

3
 4 (E) Any impacts to the functions or
 5 values of the habitat conservation area are mitigated in
 6 accordance with an approved special environmental study.

7
 8 (ii) Structures that prevent the migration
 9 of salmonids shall not be allowed in the portion of water bodies
 10 currently or historically used by anadromous fish. Fish bypass
 11 facilities shall be provided to prevent fish migrating
 12 downstream from being trapped or harmed.

13
 14 (iii) Filling of aquatic habitats, when
 15 authorized by the City of Des Moines Shoreline Master Program
 16 shall not adversely impact anadromous fish or habitat or shall
 17 mitigate any unavoidable impacts and shall only be allowed for a
 18 water-dependent use.

19
 20 **Sec. 76. 16.10.280. Area of special flood hazard -**
 21 **Development standards - Buffers and disturbance limitations.** If
 22 an area of special flood hazard is located on or adjacent to a
 23 development site, all activities on the site shall be in
 24 compliance with the following requirements and restrictions:

25
 26 (1) The provisions of chapters 11.08 and 16.15 DMMC.

27
 28 (2) Prior to approval of any development proposal
 29 within an area of special flood hazard, special environmental
 30 studies must demonstrate that the proposed development and
 31 related construction activities will not result in an increase
 32 in the frequency, severity, or magnitude of flooding on the
 33 development site or on properties within the same hydrologic
 34 system.

35
 36 **Sec. 77. 16.10.290. Limited density transfer.**

37
 38 (1) Density and floor area calculation. The calculation
 39 of potential dwelling units in residential development proposals
 40 and allowable floor area in commercial development proposals

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shall be determined by the ratio of developable area to undevelopable critical area of the development site. The following formula for density and floor area calculations is designed to provide compensation for the preservation of critical areas, flexibility in design, and consistent treatment of different types of development proposals. The formula shall apply to all residential zones (including PUD) and all commercial zones.

(2) Formulas. The maximum number of dwelling units (DU) for a site which contains undevelopable critical areas is equal to:

$$\begin{aligned} &[(\text{Developable Area}) \div (\text{Minimum Lot Area/DU})] + [(\text{Undevelopable Area}) \div (\text{Minimum Lot Area/DU}) (\text{Development Factor})] = \\ &\text{Maximum Number of Dwelling Units.} \end{aligned}$$

The maximum amount of commercial floor area for a site which contains undevelopable critical areas is equal to:

$$\begin{aligned} &[(\text{Maximum Permitted Floor Area/Lot Area}) (\text{Developable Area})] + [(\text{Maximum Permitted Floor Area/Lot Area}) (\text{Undevelopable Area}) (\text{Development Factor})] = \\ &\text{Maximum Amount of Floor Area.} \end{aligned}$$

Developable critical areas shall receive full credit towards calculating the number of dwelling units or floor area.

(3) Development factor. The development factor is a number to be used in calculating the number of dwelling units or the maximum allowable floor area for a site which contains undevelopable critical areas. The development factor is derived from the following table:

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Undevelopable Environmentally Critical Area as Percentage of Site (Percent)	Development Factor
1 - 10	.30
11 - 20	.27
21 - 30	.24
31 - 40	.21
41 - 50	.18
51 - 60	.15
61 - 70	.12
71 - 80	.09
81 - 90	.06
91 - 99	.03

Sec. 78. 16.10.300. Development exceptions.
 Exceptions to the development restrictions and standards set forth in DMMC 16.10.100 through 16.10.280 shall be permitted pursuant to the following provisions:

(1) Emergencies. The City Manager or the City Manager's designee may approve improvements that are necessary to respond to emergencies that threaten the public health and safety, or public development proposals when he/she determines that no reasonable alternative exists and the benefit outweighs the loss. Emergencies shall be verified by a licensed engineer.

(2) Drainage facilities.

(a) Wetlands, streams and their buffers shall not be altered for use as any private drainage facility. Drainage facilities near these areas shall satisfy all requirements of the Surface Water Design Manual.

(b) Wetlands, streams and their buffers may be altered for use as a public drainage facility; provided, that all requirements of the Surface Water Design Manual and all other local, state, and federal laws are satisfied, and so long as increased and multiple natural resource functions are

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1 achievable and the benefits outweigh the lost resource. The City
2 Manager or the City Manager's designee may approve drainage
3 facilities in a wetland or stream only where he/she determines
4 that long-term impacts are minimal or where there are no
5 practicable or reasonable alternatives and mitigation is
6 provided.

7
8 (c) Ravine sidewalls and bluffs and their buffers
9 shall not be altered for use as any private facility, but may be
10 altered for a public facility if all requirements of the Surface
11 Water Design Manual are satisfied. Drainage facilities on
12 hillsides shall satisfy all requirements of the Surface Water
13 Design Manual.

14
15 (3) Trails and trail-related facilities. Public and
16 private trails and trail-related facilities, such as picnic
17 tables, benches, interpretive centers and signs, viewing
18 platforms, and campsites, shall be allowed, but use of
19 impervious surface shall be minimized. Trails and trail-related
20 facilities shall be avoided within wetlands and streams. The
21 City Manager or the City Manager's designee may approve such
22 trails and facilities only when he/she determines that there are
23 no practicable or reasonable upland alternatives. Trail
24 planning, construction, and maintenance shall adhere to the
25 following additional criteria:

26
27 (a) Trails and related facilities shall, to the
28 extent feasible, be placed on existing levees, road grades,
29 utility corridors, or any other previously disturbed areas; and

30
31 (b) Trails and related facilities shall be
32 planned to minimize removal of trees, shrubs, snags, and
33 important wildlife habitat; and

34
35 (c) Trail construction and maintenance shall
36 follow the U.S. Forest Service "Trails Management Handbook" (FSH
37 2309.18, June 1987) and "Standard Specifications for
38 Construction of Trails" (EM-7720-102, June 1984) or as amended;
39 and

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1 (d) Viewing platforms, interpretive centers,
2 campsites, picnic areas, benches, and access to them shall be
3 designed and located to minimize disturbance; and
4

5 (e) Trails and related facilities shall provide
6 water quality protection measures to assure that runoff from
7 them does not directly discharge to wetlands or streams; and
8

9 (f) Within the buffer, trails and trail-related
10 facilities shall be aligned and constructed to minimize
11 disturbance to wetland and stream functions and values.
12

13 (4) Utility and roadway construction. Construction of
14 utilities and roadways shall be avoided within critical areas.
15 The City Manager or the City Manager's designee may approve
16 utilities and/or roadways in critical areas and their buffers
17 only when he/she determines that there are not practicable or
18 reasonable alternatives. Utility and roadway corridor alignment,
19 construction, restoration, and maintenance shall adhere to the
20 following additional criteria:
21

22 (a) Corridor alignment shall follow a path of
23 least impact to the functions of critical areas;
24

25 (b) Corridor construction and maintenance shall
26 maintain and protect the hydrologic and hydraulic functions of
27 wetlands and streams and the stability of ravine sidewalls and
28 bluffs;
29

30 (c) Corridors shall be fully revegetated with
31 native vegetation upon completion of construction pursuant to
32 the development standards set forth in DMMC 16.10.100 through
33 16.10.280 pursuant to the development standards set forth in
34 DMMC 16.10.100 through 16.10.280;
35

36 (d) Any pipeline crossing of a stream channel
37 shall employ one or more of the following measures:
38

39 (i) Jacked or bored under active stream
40 channel starting outside the ordinary high water mark;

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(ii) Suspension over the active channel; or

(iii) Restoration of functions and values of natural stream channel features where channel disturbance is unavoidable;

(e) Any required construction or maintenance roads shall be the minimum width necessary to gain access. Roads shall be maintained without use of herbicides and, when specified by the City Manager or the City Manager's designee, shall be available for use as a trail. Roads necessary for construction or maintenance purposes shall closely approximate the location of the utility and/or primary roadway to minimize disturbance; and

(f) Within a required buffer area, utilities and roadways shall be aligned and constructed to minimize disturbance to critical area functions and values.

(5) Time limitation. A development exception automatically expires and is void if the applicant fails to file for a building permit or other necessary development permit within one year of the effective date of the development exception, unless either:

(a) The applicant has received an extension for the development exception pursuant to this section; or

(b) The development exception approval provides for a greater time period.

(6) Time extension. The City Manager or the City Manager's designee may extend a development extension, not to exceed one year, if:

(a) Unforeseen circumstances or conditions necessitate the extension of the development exception; and

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1 (b) Termination of the development exception
2 would result in unreasonable hardship to the applicant, and the
3 applicant is not responsible for the delay; and
4

5 (c) The extension of the development exception
6 will not cause adverse impacts to critical areas.
7

8 **Sec. 79. 16.10.310 Unauthorized critical area**
9 **alterations and enforcement.**
10

11 (1) When a critical area or its buffer has been altered
12 in violation of this chapter, all ongoing development work shall
13 stop and the critical area shall be restored. The City Manager
14 or the City Manager's designee shall have the authority to issue
15 a stop work order to cease all ongoing development work, and
16 order restoration, rehabilitation, or replacement measures at
17 the owner's or other responsible party's expense to compensate
18 for violation of provisions of this chapter. All restoration
19 shall follow an approved restoration plan pursuant to the
20 provisions of this chapter and meet the following minimum
21 performance standards:
22

23 (2) Minimum performance standards for restoration.
24

25 (a) For alterations to critical aquifer recharge
26 areas, frequently flooded areas, wetlands, and habitat
27 conservation areas, the following minimum performance standards
28 shall be met for the restoration of a critical area; provided,
29 that if the violator can demonstrate that greater functional and
30 habitat values can be obtained, these standards may be modified:
31

32 (i) The historic structural and functional
33 values shall be restored, including water quality and habitat
34 functions;
35

36 (ii) The historic soil types and
37 configuration shall be replicated;
38

39 (iii) The critical area and buffers shall be
40 replanted with native vegetation that replicates the vegetation

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historically found on the site in species types, sizes, and densities. The historic functions and values should be replicated at the location of the alteration; and

(iv) Information demonstrating compliance with the requirements of this chapter shall be submitted to the City Manager or the City Manager's designee.

(b) For alterations to flood and geological hazards, the following minimum performance standards shall be met for the restoration of a critical area; provided, that if the violator can demonstrate that greater safety can be obtained, these standards may be modified:

(i) The hazard shall be reduced to a level equal to, or less than, the predevelopment hazard;

(ii) Any risk of personal injury resulting from the alteration shall be eliminated or minimized; and

(iii) The hazard area and buffers shall be replanted with native vegetation sufficient to minimize the hazard.

(3) Site investigations. The City Manager or the City Manager's designee is authorized to make site inspections and take such actions as are necessary to enforce this chapter. The City Manager or the City Manager's designee shall present proper credentials and make a reasonable effort to contact any property owner before entering onto private property.

Sec. 80. 16.10.320. Tracts and easements.

(1) Environmentally Critical Area tracts or easements. Separate environmentally critical area tracts or easements shall be used to protect critical areas that are to remain undeveloped pursuant to this chapter. The tracts or easements shall impose upon all present and future owners and occupiers of land subject to the tracts or easements the obligation, enforceable on behalf of the public by the City, to leave the areas of the tracts or

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1 easements permanently undisturbed. In a single-family
2 residential zone, any lots containing a critical area easement
3 shall be of a dimension of not less than 5,000 square feet,
4 exclusive of such easement.
5

6 (2) Permanent marking. Where determined by the City
7 Manager or the City Manager's designee to reduce the likelihood
8 of future intrusion into a critical area, the common boundary
9 between a separate environmentally critical area tract or
10 easement and the adjacent land shall be permanently identified
11 and marked with permanent wood or metal signs on wood or metal
12 posts. Sign location and wording shall be approved by the City
13 Manager or the City Manager's designee during review of the
14 development proposal and are exempt from the sign code, chapter
15 18.200 DMMC. The size, coloring, lettering, spacing, placement,
16 and height above the ground surface shall be as established by
17 the City Manager or the City Manager's designee.
18

19 **Sec. 81. 16.10.330. Securities and enforcement.**
20

21 (1) Performance securities. The City Manager or the
22 City Manager's designee shall require the applicant of a
23 development proposal to post a cash performance bond or other
24 acceptable security to guarantee that the applicant will
25 properly construct all structures and improvements required by
26 this chapter. The security shall guarantee that the work and
27 materials used in construction are free from defects. All
28 securities shall be on a form approved by the director. Until
29 written release of the security, the principal or surety may not
30 be terminated or canceled. The director shall release the
31 security upon determining that all structures and improvements
32 have been satisfactorily constructed and upon the posting by the
33 applicant of a maintenance security if one is required.
34

35 (2) Maintenance securities. The director shall require
36 the applicant to post a cash maintenance bond or other
37 acceptable security guaranteeing that structures and
38 improvements required by this chapter satisfactorily perform for
39 a minimum of two years, or, in the case of required mitigation
40 improvements, up to five years after they have been constructed

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1 and approved. All securities shall be on a form approved by the
 2 City Manager or the City Manager's designee. Until written
 3 release of the security, the principal or surety may not be
 4 terminated or canceled. The director shall release the security
 5 upon determining that performance standards established for
 6 evaluating the effectiveness and success of the structures and
 7 improvements have been satisfactorily met. The performance
 8 standards shall be agreed upon by the City Manager or the City
 9 Manager's designee and the applicant and contained in the
 10 mitigation plan developed and approved during the review
 11 process.

12
 13 (3) Renewable bonds. Any bonds required by this section
 14 may be in the form of one-year bonds to be renewed as
 15 appropriate.

16
 17 **Sec. 82. 16.10.340. Environmentally critical area**
 18 **mitigation fund.** The City Manager shall be authorized to
 19 establish an environmentally critical area mitigation fund
 20 solely for use in enforcing and implementing environmentally
 21 critical area codes. Upon establishment of the fund, all moneys
 22 obtained from enforcement of the provisions of this chapter
 23 shall be deposited in this fund.

24
 25 **Sec. 83. 16.10.350. Surface Water Design Manual.**
 26 Pursuant to RCW 35.21.180 the King County, Washington "Surface
 27 Water Design Manual," including all subsequent revisions, is
 28 adopted by reference as the "Surface Water Design Manual for the
 29 City of Des Moines." A current copy of the King County,
 30 Washington "Surface Water Design Manual" adopted by reference in
 31 this section shall be maintained on file in the office of the
 32 City Clerk and shall be available for public inspection.

33
 34 **Sec. 84. 16.10.360 Surface water contamination -**
 35 **Determination.**

36
 37 (1) The City shall determine if surface water pollution
 38 has occurred or is occurring by:
 39

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(a) Utilizing the federal Environmental Protection Agency quality criteria for freshwater bodies and the state Department of Ecology water quality standards for surface waters of the state listed in chapter 173-201A WAC; or

(b) Requesting investigations by other agencies having regulatory authority regarding surface water pollution.

(2) When the City or the investigating agency determines surface water quality pollution has occurred, notice shall be provided to the alleged source of pollutants identifying the specific surface water quality problem and requesting that the problem be remedied.

(3) The City shall pursue City, state and/or federal enforcement actions when any surface water pollution is verified.

Sec. 85. 16.10.370. Surface water contamination - Compliance required - Penalty.

(1) No person shall defile, pollute, or contaminate:

(a) The surface waters of the City;

(b) A stream running through or into the corporate limits of the City; or

(c) A stream running through or into the corporate limits of the City, and for a distance of five miles beyond the corporate limits of the City.

(2) A violation of or failure to comply with this section is a class 1 civil infraction.

(3) Each day upon which a violation occurs constitutes a separate violation.

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Sec. 86. 16.10.380. Surface water contamination - Penalty not exclusive remedy. The City reserves the right to pursue other appropriate civil actions under state and federal law, including a citizen suit under the federal Clean Water Act.

Sec. 87. 16.10.390. Interpretation. This chapter shall be liberally construed to give full effect to its objectives and purposes.

Sec. 88. 16.10.400. Appeal. Discretionary decisions of the City Manager made in accordance with this chapter are subject to appeal as either an appeal from administrative decisions and may be appealed to the Hearing Examiner pursuant to DMMC 18.20.150 and 18.20.160 and chapter 18.240 DMMC, or as part of the underlying application process, as set forth in chapter 18.20 DMMC.

Chapter 16.15 Flood Hazard Areas

Sections:

16.15.010	Title.
16.15.020	Application.
16.15.030	Purpose.
16.15.040	Authority.
16.15.050	Basis for establishing the areas of special flood hazard.
16.15.060	Abrogation and greater restrictions.
16.15.070	Interpretation.
16.15.080	Warning and disclaimer of liability.
16.15.090	Establishment of development permit.
16.15.100	Designation and Duties and responsibilities of the local administrator.
16.15.110	Use of other base flood data (In A and V Zones).
16.15.120	Information to be obtained and maintained.
16.15.130	Alteration of watercourses.
16.15.140	Interpretation of FIRM boundaries.
16.15.150	Appeal and exemptions.
16.15.160	Exemptions.

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1 16.15.170 Provisions for flood hazard protection - General
 2 standards.
 3 16.15.180 Specific standards.
 4 16.15.190 AE and AI-30 zones with base flood elevations but
 5 no floodways.
 6 16.15.200 Floodways.
 7 16.15.210 Wetlands management.
 8 16.15.220 Compliance with federal and state permits required.
 9 16.15.230 Coastal high hazard area.
 10 16.15.240 Encroachments.

11
 12 **Sec. 89. 16.15.010. Title.** This chapter shall be
 13 entitled "Flood Hazard Areas Code."

14
 15 **Sec. 90. 16.15.020. Application.** This chapter
 16 applies to all development on all properties within areas of
 17 flood hazard, as further defined by this chapter.

18
 19 **Sec. 91. 16.15.030. Purpose.** The purpose of this
 20 chapter is to implement the provisions of chapter 86.16 RCW in
 21 coordinating the flood plain management regulation aspects of
 22 the National Flood Insurance Program.

23
 24 **Sec. 92. 16.15.040. Authority.** This chapter is
 25 adopted pursuant to chapter 18.86 RCW, chapter 173-158 WAC and
 26 WAC 173-220-030.

27
 28 **Sec. 93. 16.15.050. Basis for establishing the areas**
 29 **of special flood hazard.** The areas of special flood hazard
 30 identified by the Federal Insurance Administration in a
 31 scientific and engineering report entitled "The Flood Insurance
 32 Study for King County, Washington and Incorporated Areas,"
 33 Volumes 1 through 3, dated November 8, 1999, with accompanying
 34 flood insurance maps is adopted by reference and declared to be
 35 a part of this chapter. Not less than one copy of the flood
 36 insurance study shall be filed in the Building Official's office
 37 and be available for use and examination by the public.
 38

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1 **Sec. 94. 16.15.060. Abrogation and greater**
 2 **restrictions.** This chapter is not intended to repeal, abrogate,
 3 or impair any existing easements, covenants, or deed
 4 restrictions. However, where this chapter and another ordinance,
 5 easement, covenant, or deed restriction conflict or overlap,
 6 whichever imposes the more stringent restrictions shall prevail.
 7 The best available information for Flood Hazard Area
 8 identification as outlined in Section 4.3-2 shall be the basis
 9 for regulation until a new FIRM is issued that incorporates data
 10 utilized under Section 4.3-2.

11
 12 **Sec. 95. 16.15.070. Interpretation.** In the
 13 interpretation and application of this chapter, all provisions
 14 shall be:

- 15 (1) Considered as minimum requirements; and
 16
 17 (2) Liberally construed in favor of the governing body;
 18 and
 19
 20 (3) Deemed neither to limit nor repeal any other powers
 21 granted to the City under state statutes.
 22
 23

24 **Sec. 96. 16.15.080. Warning and disclaimer of**
 25 **liability.** The degree of flood protection required by this
 26 chapter is considered reasonable for regulatory purposes and is
 27 based on scientific and engineering considerations. Larger
 28 floods can and will occur on rare occasions. Flood heights may
 29 be increased by manmade or natural causes. This chapter does not
 30 imply that land outside the areas of special flood hazard or
 31 uses permitted within such areas will be free from flooding or
 32 flood damages. This chapter shall not create any legal liability
 33 on the part of the City, any officer or employee thereof, or the
 34 Federal Insurance Administration, for any flood damages that
 35 result from reliance on this chapter or any lawfully-made
 36 administrative decision.
 37

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1 **Sec. 97. 16.15.090. Establishment of development**
2 **permit.** A development permit shall be obtained before
3 construction or development begins within any area of flood
4 hazard established in DMMC 16.15.060. The permit shall be for
5 all structures including manufactured homes and for all other
6 development including fill and other activities. Application for
7 a development permit shall be made on forms furnished by the
8 local administrator and shall include, but not be limited to:
9 plans in duplicate drawn to scale showing the nature, location,
10 dimensions, and elevations of the area in question; existing or
11 proposed structures, fill, on-site storage of materials,
12 drainage facilities; and the location of the foregoing.
13 Specifically, the following information shall be furnished by
14 the applicant:

15
16 (1) Elevation, in relation to mean sea level of the
17 lowest floor (including basement) of all structures; and

18
19 (2) Elevation in relation to mean sea level to which
20 any structure has been floodproofed; and

21
22 (3) Certification by a registered professional engineer
23 or architect that the flood-proofing methods for any
24 nonresidential structure meet the floodproofing criteria in DMMC
25 16.15.180(2); and

26
27 (4) Description of the extent to which any watercourse
28 will be altered or relocated as a result of proposed
29 development; and

30
31 (5) A report reviewed and approved by an appropriate
32 state or federal agency(ies) which identifies and assesses
33 habitat impacts, if any, and proposes conservation methods
34 consistent with federal permitting requirements. Preparation of
35 the report shall be the responsibility of the applicant and
36 shall utilize the expertise of a biologist specializing in
37 wetland, riverine, or coastal zone ecology.
38

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1 **Sec. 98. 16.15.100. Designation and duties and**
2 **responsibilities of the local administrator.** The Local
3 Administrator is hereby appointed to administer and implement
4 this Ordinance by granting or denying development permit
5 applications in accordance with its provisions.
6

7 Duties of the local administrator shall include, but not be
8 limited to:
9

10 (1) Reviewing all development permits to determine that
11 the permit requirements of this chapter have been satisfied; and
12

13 (2) Reviewing all development permits to determine that
14 all necessary permits have been obtained from those federal,
15 state, or local governmental agencies from which prior approval
16 is required; and
17

18 (3) Reviewing all development permits to determine if
19 the proposed development is located in the floodway. If located
20 in the floodway, assure that the encroachment provisions of DMMC
21 16.15.200(1) are met.
22

23 **Sec. 99. 16.15.110. Use of other base flood data (in**
24 **A and V Zones).** When base flood elevation data has not been
25 provided (in A or V Zones) in accordance with DMMC 16.15.050,
26 the local administrator shall obtain, review, and reasonably
27 utilize any base flood elevation and floodway data available
28 from a federal, state, or other source, in order to administer
29 DMMC 16.15. 180(1), (2), (3), and (4) and 16.15.200.
30

31 **Sec. 100. 16.15.120. Information to be obtained and**
32 **maintained.**
33

34 (1) Where base flood elevation data is provided through
35 flood insurance studies or as in DMMC 16.15.110, obtain and
36 record the actual elevation (in relation to mean sea level) of
37 the lowest floor (including basement) of all new or
38 substantially improved structures, and whether or not the
39 structure contains a basement.
40

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(2) For all new or substantially improved floodproofed structures where base flood elevation data is provided through the FIS, FIRM, or as required in 16.15.130:

(a) Obtain and record the actual elevation (in relation to mean sea level) to which the structure was floodproofed; and

(b) Maintain the floodproofing certifications required in DMMC 16.15.090(3).

(3) Maintain for public inspection all records pertaining to the provisions of this chapter.

(4) In coastal high hazard areas, certification shall be obtained from a registered professional engineer or architect that the structure is securely anchored to adequately anchored pilings or columns in order to withstand high velocity waters, storm surges, and tsunamis.

Sec. 101. 16.15.130. Alteration of watercourses.

(1) Notify adjacent communities and the state Department of Ecology (DOE) prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

(2) Require that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished.

Sec. 102. 16.15.140. Interpretation of FIRM boundaries. Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in DMMC 16.15.170. Such appeals shall be granted consistent

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1 with the standards of Section 60.6 of Appeals and Regulations of
2 the National Flood Insurance Program (44 C.F.R. 59-76).

3
4 **Sec. 103. 16.15.150. Appeal and exemptions.** Appeals
5 of administrative orders, decisions or determinations under this
6 chapter shall be processed pursuant to chapter 18.20 DMMC.

7
8 **Sec. 104. 16.15.160. Exemptions.**
9

10 (1) When considering an application for an exemption to
11 any provisions of this chapter, the Hearing Examiner shall
12 consider all technical evaluations, all relevant factors and
13 standards specified in other sections of this chapter, and:
14

15 (a) The danger that materials may be swept onto
16 other lands to the injury of others; and
17

18 (b) The danger to life and property due to
19 flooding or erosion damage; and
20

21 (c) The susceptibility of the proposed facility
22 and its contents to flood damage and the effect of such damage
23 on the individual owner; and
24

25 (d) The importance of the services provided by
26 the proposed facility to the community; and
27

28 (e) The necessity to the facility of a waterfront
29 location, where applicable; and
30

31 (f) The availability of alternate locations for
32 the proposed use which are not subject to flooding or erosion
33 damage; and
34

35 (g) The compatibility of the proposed use with
36 existing and anticipated development; and
37

38 (h) The relationship of the proposed use to the
39 comprehensive plan and floodplain management program for that
40 area; and

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1
2 (i) The safety of access to the property in times
3 of flood for ordinary and emergency vehicles; and
4

5 (j) The expected height, velocity, duration, rate
6 of rise, and sediment transport of the flood waters and the
7 effects of wave action, if applicable, expected at the site; and

8 (k) The costs of providing governmental services during and
9 after flood conditions, including maintenance and repair of
10 public utilities and facilities such as sewer, gas, electrical,
11 and water systems, and streets and bridges.
12

13 (2) Conditions/criteria for exemptions.
14

15 (a) Generally, the only condition under which an
16 exemption from the elevation standard may be granted shall be
17 for new construction and substantial improvements to be erected
18 on a lot of one-half acre or less in size contiguous to and
19 surrounded by lots with existing structures constructed below
20 base flood level; provided, that the exemption criteria listed
21 above have been fully considered.
22

23 (b) Exemptions may be granted for the
24 reconstruction, rehabilitation, or restoration of structures
25 listed on the National Register of Historic Places or the State
26 Inventory of Historic Places, without regard to the procedure
27 set forth in this section.
28

29 (c) Exemptions shall not be granted within a
30 designated floodway if any increase in flood levels during the
31 base flood discharge would result.
32

33 (d) Exemptions shall only be granted upon a
34 determination that the exemption is the minimum necessary,
35 considering the flood hazard, to afford relief.
36

37 (e) Exemptions shall only be granted upon:
38

39 (i) A showing of good and sufficient cause;
40 and

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1
2 (ii) A determination that failure to grant
3 the exemption would result in exceptional hardship to the
4 applicant; and
5

6 (iii) A determination that the granting of an
7 exemption will not result in increased flood heights, additional
8 threats to public safety, extraordinary public expense, create
9 nuisances, cause fraud on or victimization of the public or
10 conflict with existing local laws or ordinances.
11

12 (f) Exemptions as interpreted in the National
13 Flood Insurance Program are based on the general zoning law
14 principle that such exemptions pertain to a physical piece of
15 property; such exemptions are not personal in nature and do not
16 pertain to a structure, inhabitants thereof, or economic or
17 financial circumstances.
18

19 (g) Exemptions may be granted for nonresidential
20 buildings in very limited circumstances to allow a lesser degree
21 of floodproofing than watertight or dry-floodproofing where it
22 can be determined that such action has a low damage potential,
23 complies with all other exemption criteria except DMMC
24 16.15.180(1)(b), and otherwise complies with the general
25 standards of this chapter.
26

27 (h) Any applicant to whom an exemption is granted
28 shall be given written notice that the structure will be
29 permitted to be built with a lowest floor elevation below the
30 base flood elevation and that the cost of flood insurance will
31 be commensurate with the increased risk resulting from the
32 reduced lowest floor elevation.
33

34 **Sec. 105. 16.15.170. Provisions for flood hazard**
35 **protection - General standards.** In all areas of special flood
36 hazards, the following standards are required:
37

38 (1) Anchoring.
39

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1 (a) All new construction and substantial
2 improvements shall be anchored to prevent flotation, collapse,
3 or lateral movement of the structure.
4

5 (b) All manufactured homes must likewise be
6 anchored to prevent flotation, collapse, or lateral movement,
7 and shall be installed using methods and practices that minimize
8 flood damage. Anchoring methods may include, but are not limited
9 to, use of over-the-top or frame ties to ground anchors
10 (reference FEMA's "Manufactured Home Installation in Flood
11 Hazard Areas" guidebook for additional techniques FEMA 85).
12

13 (2) Construction materials and methods.
14

15 (a) All new construction and substantial
16 improvements shall be constructed with materials and utility
17 equipment resistant to flood damage.
18

19 (b) All new construction and substantial
20 improvements shall be constructed using methods and practices
21 that minimize flood damage.
22

23 (c) Electrical, heating, ventilation, plumbing,
24 and air-conditioning equipment and other service facilities
25 shall be designed and/or otherwise elevated or located so as to
26 prevent water from entering or accumulating within the
27 components during conditions of flooding.
28

29 (3) Utilities.
30

31 (a) All new and replacement water supply systems
32 shall be designed to minimize or eliminate infiltration of flood
33 waters into the system.
34

35 (b) New and replacement sanitary sewage systems
36 shall be designed to minimize or eliminate infiltration of flood
37 waters into the systems and discharge from the systems into
38 flood waters.
39

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1 (c) On-site waste disposal systems shall be
2 located to avoid impairment to such systems or contamination
3 from such systems during flooding. Locating such equipment below
4 the base flood elevation may cause annual flood insurance
5 premiums to be increased.

6
7 (4) Subdivision proposals.

8
9 (a) All subdivision proposals shall be consistent
10 with the need to minimize flood damage.

11
12 (b) All subdivision proposals shall have public
13 utilities and facilities such as sewer, gas, electrical, and
14 water systems located and constructed to minimize flooding.

15
16 (c) All subdivision proposals shall have adequate
17 drainage provided to reduce exposure to flood damage.

18
19 (d) Base flood elevation data shall be provided
20 for subdivision proposals and other proposed developments which
21 contain at least 10 lots or one acre, whichever is less. Where
22 base flood elevation data has not been provided or is not
23 available from another authoritative source, it shall be
24 generated for subdivision proposals and other proposed
25 developments which contain at least 50 lots or 5 acres
26 (whichever is less).

27
28 (5) Review of building permits. Where elevation data is
29 not available either through the flood insurance study or from
30 another authoritative source, applications for building permits
31 shall be reviewed by the Building Official to assure that
32 proposed construction will be reasonably safe from flooding. The
33 test of reasonableness is a local judgment and includes use of
34 historical data, high water marks, photographs of past flooding,
35 etc., where available. Failure to elevate at least two feet
36 above grade in these zones may result in higher insurance rates.
37

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1 **Sec. 106. 16.15.180. Specific standards.** In all areas
2 of special flood hazards where base flood elevation data has
3 been provided as set forth in DMMC 16.15.060 or 16.15.130, the
4 following provisions are required:

5
6 (1) Residential construction.

7
8 (a) New construction and substantial improvement
9 of any residential structure shall have the lowest floor,
10 including basement, elevated to or above base flood elevation.

11
12 (b) Fully enclosed areas below the lowest floor
13 that are subject to flooding are prohibited, or shall be
14 designed to automatically equalize hydrostatic flood forces on
15 exterior walls by allowing for the entry and exit of flood
16 waters. Designs for meeting this requirement must either be
17 certified by a registered professional engineer or architect or
18 must meet or exceed the following minimum criteria:

19
20 (i) A minimum of two openings having a
21 total net area of not less than one square inch for every one
22 square foot of enclosed area subject to flooding shall be
23 provided.

24
25 (ii) The bottom of all openings shall be no
26 higher than one foot above grade.

27
28 (iii) Openings may be equipped with screens,
29 louvers, or other coverings or devices; provided, that they
30 permit the automatic entry and exit of flood waters.

31
32 (2) Nonresidential construction. New construction and
33 substantial improvement of any commercial, industrial, or other
34 nonresidential structure shall either have the lowest floor,
35 including basement, elevated to or above the level of the base
36 flood elevation; or, together with attendant utility and
37 sanitary facilities, shall:

38

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1 (a) Be floodproofed so that below one foot above
2 the base flood level the structure is watertight with walls
3 substantially impermeable to the passage of water; and
4

5 (b) Have structural components capable of
6 resisting hydrostatic and hydrodynamic loads and effects of
7 buoyancy; and
8

9 (c) Be certified by a registered professional
10 engineer or architect that the design and methods of
11 construction are in accordance with accepted standards of
12 practice for meeting provisions of this subsection based on
13 their development and/or review of the structural design,
14 specifications, and plans. Such certifications shall be provided
15 to the local administrator as required by Section 106.3.4.1 IBC
16 and Section 106.1 IRC.
17

18 (d) Nonresidential structures that are elevated,
19 but not floodproofed, must meet the same standards for space
20 below the lowest floor as described in subsection (1)(b) of this
21 section.
22

23 (e) Applicants floodproofing nonresidential
24 buildings shall be notified that flood insurance premiums will
25 be based on rates that are one foot below the floodproofed level
26 (e.g., a building floodproofed to one foot above the base flood
27 level will be rated as at the base flood level).
28

29 (3) Manufactured homes. All manufactured homes in the
30 floodplain to be placed or substantially improved on sites shall
31 be elevated on a permanent foundation such that the lowest floor
32 of the manufactured home is elevated one foot or more above the
33 base flood elevation and be securely anchored to an adequately
34 anchored foundation system to resist flotation, collapse, and
35 lateral movement. This subsection applies to new manufactured
36 homes placed on any site, manufactured homes in a new or
37 expanded manufactured home park or subdivision, and new
38 manufactured homes in an existing manufactured home park and
39 subdivision.
40

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(4) Recreational vehicles. (44 CFR 60.3(c)(14))
Recreational vehicles placed on sites are required to either:

(a) Be on the site for fewer than 180 consecutive days, (or)

(b) Be fully licensed and ready for highway use, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

(c) Meet the requirements of DMMC 16.15.170 and 16.15.180 above and the elevation and anchoring requirements for manufactured homes.

16.15.190. AE and AI-30 zones with base flood elevations but no floodways. In areas with base flood elevations (but a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones AI-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

Sec. 108. 16.15.200. Floodways. Located within areas of special flood hazard established in DMMC 16.15.060 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

(1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not

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1 result in any increase in flood levels during the occurrence of
2 the base flood discharge.

3
4 (2) Construction or reconstruction of residential
5 structures is prohibited within designated floodways, except
6 for:

7
8 (a) repairs, reconstruction, or improvements to a
9 structure which do not increase the ground floor area; and

10
11 (b) repairs, reconstruction or improvements to a
12 structure, the cost of which does not exceed 50 percent of the
13 market value of the structure either,

14
15 (i) before the repair, or reconstruction is
16 started, or

17
18 (ii) if the structure has been damaged, and
19 is being restored, before the damage occurred. Any project for
20 improvement of a structure to correct existing violations of
21 state or local health, sanitary, or safety code specifications
22 which have been identified by the local code enforcement
23 official and which are the minimum necessary to assure safe
24 living conditions, or to structures identified as historic
25 places, may be excluded in the 50 percent.

26
27 (3) If subsection (1) of this section is satisfied, all
28 new construction and substantial improvements shall comply with
29 all applicable flood hazard reduction provisions of DMMC
30 16.15.190 and 16.15.200.

31
32 **Sec. 109. 16.15.220. Wetlands management.** To the
33 maximum extent possible, each development subject to this
34 chapter shall avoid the short-term and long-term adverse impacts
35 associated with the destruction or modification of wetlands,
36 especially those activities which limit or disrupt the ability
37 of the wetland to alleviate flooding impacts. The following
38 process shall be implemented for such development:
39

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(1) Review proposals for development within base floodplains for their possible impacts on wetlands located within the floodplain.

(2) Ensure that development activities in or around wetlands do not negatively affect public safety, health, and welfare by disrupting the ability of the wetland to reduce flood and storm drainage.

(3) Request technical assistance from the Department of Ecology in identifying wetland areas. Existing wetland map information from the National Wetlands Inventory (NWI) may be used in conjunction with the area's FIRM to prepare an overlay zone indicating critical wetland areas deserving special attention.

Sec. 110. 16.15.230. Compliance with federal and state permits required. No approval of an application for a development permit within an area of special flood hazard shall be issued without first demonstrating compliance with all necessary federal and state environmental permit requirements, including, but not limited to, Clean Water Act, 33 U.S.C. 1344, Section 404 permits and Endangered Species Act, 16 U.S.C. 1531, Section 10 permits.

Sec. 111. 16.15.240. Coastal high hazard area. Located within areas of special flood hazard established in DMMC 16.15.050 are coastal high hazard areas, which are designated as zones V1-V30, VE, and/or V. These areas have special flood hazards associated with high velocity waters from surges and, therefore, in addition to meeting all provisions in this chapter, the following provisions shall also apply:

(1) All new allowable construction and substantial improvement in zones V1-V30 and VE (V if base flood elevation data is available) shall be elevated on pilings and columns so that:

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1 (a) The bottom of the lowest horizontal
2 structural member of the lowest floor (excluding the pilings or
3 columns) is elevated to or above the base flood level; and
4

5 (b) The pile or column foundation and structure
6 attached thereto is anchored to resist flotation, collapse, and
7 loads acting simultaneously on all building components. Wind and
8 water loading values shall each have a one percent chance of
9 being equaled or exceeded in any given year (100-year mean
10 recurrence interval).
11

12 (c) A registered professional engineer or
13 architect shall develop or review the structural design,
14 specifications, and plans for the construction and shall certify
15 that the design and methods of construction to be used are in
16 accordance with accepted standards of practice for meeting the
17 provisions of subsections (1)(a) and (b) of this section.
18

19 (2) Obtain the elevation (in relation to mean sea
20 level) of the bottom of the lowest structural member of the
21 lowest floor (excluding pilings and columns) of all new and
22 substantially improved structures in zones V1-V30 and VE, and
23 whether or not such structures contain a basement. The local
24 administrator shall maintain a record of all such information.
25

26 (3) All new construction shall be located landward of
27 the reach of mean high tide.
28

29 (4) Provide that all new construction and substantial
30 improvements have the space below the lowest floor either free
31 of obstruction or constructed with nonsupporting breakaway
32 walls, open wood lattice-work, or insect screening intended to
33 collapse under wind and water loads without causing collapse,
34 displacement or other structural damage to the elevated portion
35 of the building or supporting foundation system. For the purpose
36 of this section, a breakaway wall shall have a design safe
37 loading resistance of not less than 10 and no more than 20
38 pounds per square foot. Use of breakaway walls which exceed a
39 design safe loading resistance of 20 pounds per square foot
40 (either by design or when so required by local or state codes)

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1 may be permitted only if a registered professional engineer or
2 architect certifies that the designs proposed meet the following
3 conditions:

4
5 (a) Breakaway wall collapse shall result from a
6 water load less than that which would occur during the base
7 flood; and

8
9 (b) The elevated portion of the building and
10 supporting foundation system shall not be subject to collapse,
11 displacement, or other structural damage due to the effects of
12 wind and water loads acting simultaneously on all building
13 components (structural and nonstructural). Maximum wind and
14 water loading values to be used in this determination shall each
15 have a one percent chance of being equaled or exceeded in any
16 given year (100-year mean recurrence interval).

17
18 (5) If breakaway walls are utilized, such enclosed
19 space shall be usable solely for parking of vehicles, building
20 access, or storage. Such space shall not be used for human
21 habitation.

22
23 (6) Prohibit the use of fill for structural support of
24 buildings.

25
26 (7) Prohibit manmade alteration of sand dunes which
27 would increase potential flood damage.

28
29 (8) Manufactured homes proposed in coastal high hazard
30 areas must meet all V zone standards.

31
32 **Sec. 112. 16.15.250. Encroachments.** The cumulative
33 effect of any proposed development, when combined with all other
34 existing and anticipated development, shall not increase the
35 water surface elevation of the base flood more than one foot at
36 any point.

37
38
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October 17, 2013

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Chapter 16.20
Shoreline Master Program

Sec. 113. 16.20.010. Shoreline Master Program - Adopted. The "City of Des Moines Shoreline Master Program" attached as Exhibit "A" to the Ordinance codified in this chapter, dated January 27, 2011, and consisting of 133 pages, and Appendix "A" entitled "Shoreline Inventory and Characterization Report," dated March 2005, are adopted as the official Shoreline Master Program for the City and are available at the City Clerk's office and on the City's website, www.desmoineswa.gov.

Sec. 114. Savings clause. Title 16 DMMC, which is repealed and replaced by this Ordinance, shall remain in force and effect until the effective date of this Ordinance.

Sec. 115. Repealer. Title 16 DMMC as presently constituted and codified is hereby repealed in its entirety along with all underlying ordinances.

Sec. 116. Severability - Construction.

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

(2) If the provisions of this Ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this Ordinance is deemed to control.

Sec. 117. Effective date. This Ordinance shall take effect and be in full force on January 1, 2014.

PASSED BY the City Council of the City of Des Moines this ____ day of _____, 2013 and signed in authentication thereof this ____ day of _____, 2013.

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 October 17, 2013

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Page 151 of 151

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

Published: _____

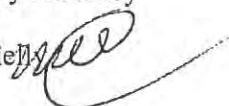
Effective Date: January 1, 2014

Draft Ordinance No. 13-168.4
October 17, 2013

KOEGEN EDWARDS LLP
ATTORNEYS AT LAW

MEMORANDUM

Attorney-Client Privileged Communication

TO: Pat Bosmans, City Attorney
FROM: Michael F. Connelley 
DATE: October 1, 2013
RE: **Proposed Title 16 Amendments**

GENERAL AMENDMENTS

Title 16 now contains the SEPA rules, previously codified in chapter 16.04, and now codified as chapter 16.05; the critical area ordinance entitled "Environmentally Critical Areas," previously codified in chapter 18.86, and now codified as chapter 16.10; the Flood Hazard Area Zone, previously codified as chapter 14.40, and now codified as chapter 16.15; the specific adoption of the Shoreline Master Program is now codified in chapter 16.20; and finally, a chapter to provide for administrative interpretations of the provisions of Title 16, is now codified as chapter 16.25. Chapter 16.16 Commute Trip Reduction has been removed and will have to be recodified in the appropriate chapter of the DMMC.

SPECIFIC CHAPTER AND SECTION AMENDMENTS

1. Chapter 16.01 contains general provisions applicable to all chapters contained within Title 16. Specifically it identifies the application, purpose, and authority of Title 16; contains the definitions necessary for each chapter within Title 16 and other general provisions setting forth the rules of construction, liability, consequences of a violation of provisions of the chapter, a severability clause, the variance procedure and appeals. These general provisions are similar to the initial chapter in each Title of the DMMC. All appeal provisions reference chapter 18.20, which sets forth the review process for land use actions and the path of appeal available. The defined term "environmentally sensitive areas" has been renamed and defined as "environmentally critical areas." Definitions contained in the above three chapters have been removed from the chapters and placed in this section.

2. Former chapter 16.04, now chapter 16.05, reflects amendments in the model SEPA code set forth in chapter 173-806 WAC. Many of the changes are format and organizational changes incorporated into the model rules since the last time the SEPA ordinance was updated in 1984. The words "as presently constituted or as may be subsequently amended" have been removed throughout the chapter. The same verbiage is found in section 16.01.060(5) for all citations to state or federal law within Title 16.

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3. Section 16.05.130 was modified slightly to include the option for planned actions pursuant to WAC 197-11-164.

4. The Community Development Department was changed to the Planning, Building and Public Works Department throughout.

5. Section 16.05.160 contains an additional paragraph (5) relating to the submission of additional information currently contained in the model ordinance.

6. The public notice procedures set forth in sections 16.05.210 – 260 were left intact as set forth in chapter 16.04. I have included the language contained in the Model Ordinance for your review following section 16.05.270.

7. I also removed language which was duplicative of the title of several sections. For example, see existing section 16.04.100 and new section 16.05.300.

8. Existing section 16.04.220 Definitions, was moved to the beginning of chapter 16.05 (see section 16.05.050).

9. Chapter 16.10 reformats existing chapter 18.86. Most of the definitions have been moved to chapter 16.01. The standard headings, Title, Application, Purpose and Authority have been added using existing language. Citations to Title 18 have been changed to reflect the new structure of that Title.

10. The appeal language contained in section 16.10.400 is new and reflects the integration with the provisions of chapter 18.20 Review Procedures and chapter 18.240 Hearing Examiner.

11. The Flood Hazard Area chapter moved from Title 14 contains changes to reflect consistency with the model flood hazard code last promulgated in 2004 and 2005. Cities may increase any protections provided by this code at their discretion.

12. Definitions were moved to chapter 16.01. I also modified the definitions if they were different from those contained within the model code.

13. Section 14.40.040 Compliance/penalties was removed and replaced by section 16.01.080, which controls all chapters within Title 16.

14. Section 16.15.150 Appeals and Exemptions was modified to reference chapter 18.20.

15. A number of provisions were contained in the model code and omitted from the existing chapter 14.40. All of these proposed changes should be reviewed by the City's flood hazard administrator and may or may not be applicable to Des Moines. Finally, the model code contains a section concerning AO Zones. I am assuming that the City does not have any such



zones identified on their FEMA maps. If there are such zones identified you should consider the additional language. Specifically additional language was added to:

- a. Section 16.15.060 Abrogation and greater restrictions;
- b. Section 16.15.100 Designation and duties and responsibilities of the local administrator;
- c. Section 16.15.110 Use of other base flood data (in A and V Zones);
- d. Section 16.15.120 Information to be obtained and maintained;
- e. Section 16.15.140 Interpretation of FIRM boundaries;
- f. Section 16.15.170 Provisions for flood hazard protection – General standards (4)(d);
- g. Section 16.15.180(4) Recreational vehicles;
- h. Section 16.15.190 AE and A1-30 zones with base flood elevations but no floodways; and
- i. Section 16.15.200 Floodways.

A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Commute Trip Reduction Plan

FOR AGENDA OF: October 24, 2013

ATTACHMENTS:

1. Draft Ordinance No. 13-215.

DEPT. OF ORIGIN: Legal

DATE SUBMITTED: October 11, 2013

CLEARANCES:

☒ Legal PB

☐ Finance N/A

☐ Marina N/A

☐ Parks, Recreation & Senior Services N/A

☒ Planning, Building & Public Works DJB

☐ Police N/A

☐ Courts N/A

APPROVED BY CITY MANAGER
FOR SUBMITTAL 

Purpose and Recommendation

The purpose of this agenda item is to adopt the Commute Trip Reduction ("CTR") Plan in Title 12 DMMC.

Suggested Motions

FIRST MOTION: "To suspend Rule 26(a) in order to enact Draft Ordinance No. 13-215 on first reading."

SECOND MOTION: "To enact Draft Ordinance No. 13-215, adopting the CTR as chapter 12.70 DMMC."

Background

While reorganizing Title 16 DMMC, it became apparent that the Commute Trip Reduction Plan would be more properly placed in Title 12 DMMC - *Streets, Sidewalks, and Public Places*.

Discussion

The purpose and intent of this Agenda Item is to place the CTR chapter, originally found in chapter 16 DMMC (the *Environmental Code*), into Title 12, *Streets, Sidewalks, and Public Places*. The adoption of Draft Ordinance No. 13-213 does not make any policy change.

Recommendation The adoption of Draft Ordinance No. 13-213 has been recommended and approved by the Planning Building and Public Works Department.

Alternatives To not pass Draft Ordinance No. 13-215.

Financial Impact None.

Recommendation It is recommended that Draft Ordinance No. 13-215 be enacted as chapter 12.70 DMMC, entitled "*Commute Trip Reduction*."

Concurrence The Planning, Building and Public Works Director, City Building Official, and the City Attorney concur with the enactment Draft Ordinance No. 13-215.

CITY ATTORNEY'S FIRST DRAFT 10/04/2013

DRAFT ORDINANCE NO. 13-215

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON adopting the City of Des Moines Commute Trip Reduction (CTR) Plan as a new chapter 12.70 DMMC, implementing measures as required by RCW 70.94.527; and codifying a new chapter 12.70 DMMC entitled "*Commute Trip Reduction*" (CTR).

WHEREAS, in 1993 the City Council adopted a Commute Trip Reduction Plan and added chapter 16.16 DMMC, *Commute Trip Reduction Plan*, to the DMMC by enactment of Ordinance No. 1006, and

WHEREAS, during the 2013 reorganization of Title 16 DMMC, the City repealed chapter 16.16 DMMC, *Commute Trip Reduction Plan*, in order to incorporate it into Title 12 DMMC, *Streets, Sidewalks, and Public Places*, and

WHEREAS, the City Council finds that the enactment of this Ordinance is appropriate and necessary for the preservation of the public health, safety and welfare within the City of Des Moines; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:

A new chapter 12.70 DMMC is added to Title 12 to read as follows:

Sec. 1. Title. This chapter shall be entitled "Commute Trip Reduction."

Sec. 2. Purpose. The purpose of this chapter is to implement the provisions of chapter 70.94 RCW, "Commute Trip Reduction" and its program elements.

Sec. 3. Authority. This chapter is adopted pursuant to chapter 70.94 RCW.

Sec. 4. Adoption by reference. The City Council hereby adopts by reference the Commute Trip Reduction Plan as set forth

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in Attachment "A" attached hereto, consisting of 31 pages, and enacts chapter 12.70 DMMC.

Sec. 5. Definitions. Use of words and phrases. As used in this Ordinance, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.

"Affected employee" means a full-time employee who begins his or her regular work day at a single worksite covered by the Commute Trip Reduction Plan between 6:00 a.m. and 9:00 a.m. (inclusive) on two (2) or more weekdays for at least twelve continuous months who is not an independent contractor. Seasonal agricultural employees, including seasonal employees of processors of agricultural products, are excluded from the count of affected employees.

"Affected employer" means an employer that employs one hundred (100) or more full-time employees at a single worksite covered by the Commute Trip Reduction Plan who are scheduled to begin their regular work day between 6:00 a.m. and 9:00 a.m. (inclusive) on two (2) or more weekdays for at least twelve (12) continuous months. Construction worksites, when the expected duration of the construction is less than two years, are excluded from this definition. (Also see definition of employer.

"Alternative mode" means any means of commute transportation other than that in which the single-occupant motor vehicle is the dominant mode, including telecommuting and compressed work week schedules if they result in reducing commute trips.

"Alternative work schedules" mean programs such as compressed work week schedules that eliminate work trips for affected employees.

"Base year" means the twelve-month period which commences when a major employer is determined by the jurisdiction to be participating within the CTR program. The City uses this

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twelve-month period as the basis upon which it develops commute trip reduction goals.

"Base year survey" or "baseline measurement" means the survey, during the base year, of employees at a major employer worksite to determine the drive-alone rate and vehicle miles traveled per employee at the worksite. The jurisdiction uses this measurement to develop commute trip reduction goals for the major employer. The baseline measurement must be implemented in a manner that meets the requirements specified by the City.

"Carpool" means a motor vehicle, including a motorcycle, occupied by two to six people of at least 16 years of age traveling together for their commute trip, resulting in the reduction of a minimum of one motor vehicle commute trip.

"Commute trips" mean trips made from a worker's home to a worksite (inclusive) on weekdays.

"CTR" is the abbreviation of Commute Trip Reduction.

"CTR program" means an employer's strategies to reduce employees' drive alone commutes and average VMT per employee.

"Commute trip vehicle miles traveled per employee" means the sum of the individual vehicle commute trip lengths in miles over a set period divided by the number of full-time employees during that period.

"Compressed work week" means an alternative work schedule, in accordance with employer policy, that regularly allows a full-time employee to eliminate at least one work day every two weeks by working longer hours during the remaining days, resulting in fewer commute trips by the employee. This definition is primarily intended to include weekly and bi-weekly arrangements, the most typical being four 10-hour days or eighty (80) hours in nine (9) days, but may also include other arrangements.

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"Custom bus/buspool" means a commuter bus service arranged specifically to transport employees to work.

"Dominant mode" means the mode of travel used for the greatest distance of a commute trip.

"Drive alone" means a motor vehicle occupied by one (1) employee for commute purposes, including a motorcycle.

"Drive alone trips" means commute trips made by employees in single occupant vehicles.

"Employee transportation coordinator (ETC)" means a person who is designated as responsible for the development, implementation and monitoring of an employer's CTR program.

"Employer" means a sole proprietorship, partnership, corporation, unincorporated association, cooperative, joint venture, agency, department, district, or other individual or entity, whether public, non-profit, or private, that employs workers.

"Exemption" means a waiver from any or all CTR program requirements granted to an employer by the City based on unique conditions that apply to the employer or employment site.

"Flex-time" is an employer policy that provides work schedules allowing individual employees flexibility in choosing the start and end time but not the number of their working hours.

"Full-time employee" means a person, other than an independent contractor, whose position is scheduled on a continuous basis for 52 weeks for an average of at least 35 hours per week.

"Good faith effort" means that an employer has met the minimum requirements identified in RCW 70.94.531 and this Ordinance, and is working collaboratively with the City to continue its existing CTR program or is developing and

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implementing program modifications likely to result in improvements to its CTR program over an agreed-upon length of time.

"Implementation" means active pursuit by an employer of the CTR goals of RCW 70.94.521-555 and this Ordinance as evidenced by appointment of an employee transportation coordinator (ETC), distribution of information to employees regarding alternatives to drive alone commuting, and commencement of other measures according to its approved CTR program and schedule.

"A major employer" means a private or public employer, including state agencies, that employs one hundred or more full-time employees at a single worksite who are scheduled to begin their regular work day between 6:00 a.m. and 9:00 a.m. on weekdays for at least twelve (12) continuous months.

"Major employer worksite" or "affected employer worksite" or "worksite" means the physical location occupied by a major employer, as determined by the local jurisdiction.

"Major employment installation" means a military base or federal reservation, excluding tribal reservations, or other locations as designated by the City, at which there are one hundred or more affected employees.

"Mode" means the means of transportation used by employees, such as single-occupant motor vehicle, rideshare vehicle (carpool or vanpool), transit, ferry, bicycle, walking, compressed work week schedule and telecommuting.

"Notice" means written communication delivered via the United States Postal Service with receipt deemed accepted three (3) days following the day on which the notice was deposited with the Postal Service unless the third day falls on a weekend or legal holiday in which case the notice is deemed accepted the day after the weekend or legal holiday.

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"Peak period" means the hours from 6:00 a.m. to 9:00 a.m. (inclusive), Monday through Friday, except legal holidays.

"Peak period trip" means any commute trip that delivers the employee to begin his or her regular workday between 6:00 a.m. and 9:00 a.m. (inclusive), Monday through Friday, except legal holidays.

"Proportion of drive alone trips" or "Drive alone rate" means the number of commute trips over a set period made by employees in single occupancy vehicles divided by the number of potential trips taken by employees working during that period.

"Ride matching service" means a system which assists in matching commuters for the purpose of commuting together.

"Teleworking" or "telecommuting" means the use of telephones, computers, or other similar technology to permit an employee to work from home, eliminating a commute trip, or to work from a work place closer to home, reducing the distance traveled in a commute trip by at least half.

"Transit" means a multiple-occupant vehicle operated on a for-hire, shared-ride basis, including bus, passenger ferry, rail, shared-ride taxi, shuttle bus, or vanpool.

"Transportation demand management (TDM)" means a broad range of strategies that are primarily intended to reduce and reshape demand on the transportation system.

"Transportation Management Association (TMA)" means a group of employers or an association representing a group of employers in a defined geographic area. A TMA may represent employers within specific city limits or may have a sphere of influence that extends beyond city limits.

"Vanpool" means a vehicle occupied by from five (5) to fifteen (15) people traveling together for their commute trip, resulting in the reduction of a minimum of one motor vehicle trip.

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"Vehicle Miles Traveled (VMT) Per Employee" means the sum of the individual vehicle commute trip lengths in miles made by employees over a set period divided by the number of employees during that period.

"Week" means a seven-day calendar period starting on Monday and continuing through Sunday.

"Weekday" means any day of the week except Saturday or Sunday.

"Writing," "written," or "in writing" means original signed and dated documents. Facsimile (fax) transmissions are a temporary notice of action that must be followed by the original signed and dated document via mail or delivery.

Sec. 6. Applicability. The provisions of this Ordinance shall apply to any affected employer within the geographic limits of the Commute Trip Reduction (CTR) Plan adopted in section 8 below.

(1) Notification of applicability.

(a) In addition to City's established public notification for adoption of an Ordinance, a notice of availability of a summary of this Ordinance, a notice of the requirements and criteria for affected employers to comply with the Ordinance, and subsequent revisions shall be published at least once in official newspaper not more than 30 (thirty) days after passage of this Ordinance or revisions.

(b) Affected employers located in the City are to receive written notification that they are subject to this Ordinance. Such notice shall be addressed to the company's chief executive officer, senior official, CTR program manager, or registered agent at the worksite. Such notification shall provide ninety (90) days for the affected employer to perform a baseline measurement consistent with the measurement requirements specified by the City.

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(c) Affected employers that, for whatever reason, do not receive notice within thirty (30) days of passage of the Ordinance and are either notified or identify themselves to the City within ninety (90) days of the passage of the Ordinance will be granted an extension to assure up to ninety (90) days within which to perform a baseline measurement consistent with the measurement requirements specified by the City.

(d) Affected employers that have not been identified or do not identify themselves within 90 (ninety) of the passage of the Ordinance and do not perform a baseline measurement consistent with the measurement requirements specified by the City within ninety (90) days from the passage of the Ordinance are in violation of this Ordinance.

(e) If an affected employer has already performed a baseline measurement, or an alternative acceptable to the City, under previous iterations of this Ordinance, the employer is not required to perform another baseline measurement.

(2) Newly affected employers.

(a) Employers meeting the definition of "affected employer" in this Ordinance must identify themselves to the City within ninety (90) days of either moving into the boundaries outlined in the CTR Plan adopted in (section 4 above) or growing in employment at a worksite to one hundred (100) or more affected employees. Employers who do not identify themselves within ninety (90) days are in violation of this Ordinance.

(b) Newly affected employers identified as such shall be given ninety (90) days to perform a baseline measurement consistent with the measurement requirements specified by the City. Employers who do not perform a baseline measurement within ninety (90) days of receiving written notification that they are subject to this Ordinance are in violation of this Ordinance.

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(c) Not more than ninety (90) days after receiving written notification of the results of the baseline measurement, the newly affected employer shall develop and submit a CTR Program to the City. The program will be developed in consultation with the planning, building and public works director to be consistent with the goals of the CTR Plan adopted in section 4 above. The program shall be implemented not more than ninety (90) days after approval by the City. Employers who do not implement an approved CTR Program according to this schedule are in violation of this Ordinance and subject to the penalties outlined in section 13(4) below.

(3) **Change in status as an affected employer.** Any of the following changes in an employer's status will change the employer's CTR program requirements:

(a) If an employer initially designated as an affected employer no longer employs one hundred (100) or more affected employees and expects not to employ one hundred (100) or more affected employees for the next twelve (12) months, that employer is placed on a 12-month watch and are subject to the same program requirements as other affected employers. At the end of the 12-month watch, if they no longer employee one-hundred (100) affected employees, they are no longer an affected employer. It is the responsibility of the employer to provide documentation to the City that they are no longer an affected employer. It is the responsibility of the employer to notify the City that it is no longer an affected employer. The burden of proof lies with the employer.

(b) If the same employer returns to the level of one hundred (100) or more affected employees within the same twelve (12) months, that employer will be considered an affected employer for the entire 12 months and will be subject to the same program requirements as other affected employers.

(c) If the same employer returns to the level of one hundred (100) or more affected employees twelve (12) or more months after its change in status to an "unaffected" employer, that employer shall be treated as a newly affected employer and

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will be subject to the same program requirements as other newly affected employers.

Sec. 7. Des Moines CTR Plan. The goals established for Des Moines and affected employers in the City's Commute Trip Reduction Plan set forth in Attachment "A", dated October, 2008, and consisting of 31 pages, are incorporated herein by reference. The City staff is directed to make any corrections for typographical errors, include any graphical materials for information, and complete the Commute Trip Reduction Plan.

Sec. 8. CTR goals.

(1) **Commute Trip reduction goals.** The City's goals for reductions in the proportions of drive-alone commute trips and vehicle miles traveled per employee by affected employers in City's jurisdiction, major employment installations, and other areas designated by the City are hereby established by City's CTR Plan incorporated by section 8 of this Ordinance. These goals establish the desired level of performance for the CTR program in its entirety in the City.

The City will set the individual worksite goals for affected employers based on how the worksite can contribute to City's overall goal established in the CTR plan. The goals will appear as a component of the affected employer's approved implementation plan outlined in section 8 of this Ordinance.

(2) **Commute Trip Reduction goals for affected employers.** The drive-alone and VMT goals for affected employers in the City are hereby established as set forth in the CTR Plan incorporated by section 8 above.

If the goals for an affected employer or newly affected employer are not listed in the CTR Plan, they shall be established by the City at a level designed to achieve City's overall goals for the jurisdiction and other areas as designated by the City. The City shall provide written notification of the goals for each affected employer worksite by providing the

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information when the City reviews the employer's proposed program and incorporating the goals into the program approval issued by the City.

Sec. 9. Responsible agency. The planning, building and public works department is responsible for implementing this chapter, the CTR plan, and the City's CTR program for its own employees. The planning, building and public works director may issue such rules and administrative procedures as are necessary to implement this chapter.

Sec. 10. Requirements for employers - RCW 70.94.531. An affected employer is required to make a good faith effort, as defined in RCW 70.94.534(2) and this Ordinance, to develop and implement a CTR program that will encourage its employees to reduce VMT per employee and drive alone commute trips. The CTR program must include the mandatory elements as described below.

(1) **Mandatory Program elements.** Each employer's CTR Program shall include the following mandatory elements:

(a) **Employee Transportation Coordinator (ETC).** The employer shall designate an Employee Transportation Coordinator (ETC) to administer the CTR program. The ETC and/or designee's name, location, and telephone number must be prominently displayed physically or electronically at each affected worksite. The ETC shall oversee all elements of the employer's CTR program and act as liaison between the employer and the City. The objective is to have an effective transportation coordinator presence at each worksite; an affected employer with multiple sites may have one ETC for all sites.

(b) **Information distribution.** Information about alternatives to drive alone commuting as well as a summary of the employer's CTR Program shall be provided to employees at least once a year and to new employees at the time of hire. The summary of the employer's CTR Program shall also be submitted to the City with the employer's program description and regular report.

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(2) **Additional Program elements.** In addition to the specific program elements described above, the employer's CTR program shall include additional elements as needed to meet CTR goals. Elements may include, but are not limited to, one or more of the following:

(a) Provision of preferential parking for high-occupancy vehicles;

(b) Reduced parking charges for high-occupancy vehicles;

(c) Instituting or increasing parking charges for drive alone commuters;

(d) Provision of commuter ride matching services to facilitate employee ridesharing for commute trips;

(e) Provision of subsidies for rail, transit, or vanpool fares and/or transit passes;

(f) Provision of vans or buses for employee ridesharing;

(g) Provision of subsidies for carpools, walking, bicycling, teleworking, or compressed schedules;

(h) Provision of incentives for employees that do not drive alone to work;

(i) Permitting the use of the employer's vehicles for carpooling or vanpooling;

(j) Permitting flexible work schedules to facilitate employees' use of transit, carpools, or vanpools;

(k) Cooperation with transportation providers to provide additional regular or express service to the worksite;

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(l) Construction of special loading and unloading facilities for transit, carpool, and vanpool users;

(m) Provision of bicycle parking facilities, lockers, changing areas, and showers for employees who bicycle or walk to work;

(n) Provision of a program of parking incentives such as a rebate for employees who do not use the parking facilities;

(o) Establishment of a program to permit employees to work part- or full-time at home or at an alternative worksite closer to their homes which reduces commute trips;

(p) Establishment of a program of alternative work schedules, such as a compressed work week, which reduces commute trips;

(q) Implementation of other measures designed to facilitate the use of high-occupancy vehicles, such as on-site day care facilities, emergency taxi services, or guaranteed ride home programs;

(r) Charging employees for parking, and/or the elimination of free parking; and

(s) Other measures that the employer believes will reduce the number and length of commute trips made to the site.

(3) **CTR Program report and description.** Affected employers shall review their program and file a regular progress report with the City in accordance with the format provided by the City.

The CTR Program Report and Description outlines the strategies to be undertaken by an employer to achieve the commute trip reduction goals for the reporting period. Employers are encouraged to consider innovative strategies and combine program elements in a manner that will best suit their

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location, site characteristics, business type, and employees' commuting needs. Employers are further encouraged to cooperate with each other to implement program elements.

At a minimum, the employer's CTR Program Report and Description must include:

(a) A general description of the employment site location, transportation characteristics, employee parking availability, on-site amenities, and surrounding services;

(b) The number of employees affected by the CTR program and the total number of employees at the site;

(c) Documentation on compliance with the mandatory CTR program elements as described in section 8(1);

(d) Description of any additional elements included in the employer's CTR program as described in section 8(2); and

(e) A statement of organizational commitment to provide appropriate resources to the program to meet the employer's established goals.

(4) **Biennial measure of employee commute behavior.** In addition to the mandatory baseline measurement, employers shall conduct a program evaluation as a means of determining worksite progress toward meeting CTR goals. As part of the program evaluation, the employer shall distribute and collect Commute Trip Reduction Program Employee Questionnaires (surveys) at least once every two years, and strive to achieve at least a 70% response rate from employees at the worksite.

Sec. 11. Record keeping. Affected employers shall maintain a copy of their approved CTR Program Description and Report, their CTR Program Employee Questionnaire results, and all supporting documentation for the descriptions and assertions made in any CTR report to the City for a minimum of 48 months. The City and the employer shall agree on the record keeping requirements as part of the accepted CTR program.

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Sec. 12. Schedule and process for CTR Program description and report.

(1) **Document review.** The City shall provide the employer with written notification if a CTR program is deemed unacceptable. The notification must give cause for any rejection. If the employer receives no written notification of extension of the review period of its CTR program or comment on the CTR program or biennial report within ninety (90) days of submission, the employer's program or annual report is deemed accepted. The City may extend the review period up to ninety (90) days. The implementation date for the employer's CTR program will be extended an equivalent number of days.

(2) **Schedule.** Upon review of an employer's initial CTR program, the City shall establish the employer's regular reporting date. This report will be provided in a form provided by the City consistent with section 8(3) above.

(3) **Modification of CTR Program elements.** Any affected employer may submit a request to the City for modification of CTR requirements. Such request may be granted if one of the following conditions exist:

(a) The employer can demonstrate it would be unable to comply with the CTR program elements for reasons beyond the control of the employer; or

(b) The employer can demonstrate that compliance with the program elements would constitute an undue hardship.

(4) **Extensions.** An employer may request additional time to submit a CTR Program Description and Report, or to implement or modify a program. Such requests shall be via written notice at least thirty (30) days before the due date for which the extension is being requested. Extensions not to exceed ninety (90) days shall be considered for reasonable causes. The City shall grant or deny the employer's extension request by written notice within ten (10) working days of its receipt of the

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extension request. If there is no response issued to the employer, an extension is automatically granted for thirty (30) days. Extensions shall not exempt an employer from any responsibility in meeting program goals. Extensions granted due to delays or difficulties with any program element(s) shall not be cause for discontinuing or failing to implement other program elements. An employer's regular reporting date shall not be adjusted permanently as a result of these extensions. An employer's biennial reporting date may be extended at the discretion of the City.

(5) **Implementation of employer's CTR Program.** Unless extensions are granted, the employer shall implement its approved CTR program, including approved program modifications, not more than ninety (90) days after receiving written notice from the City that the program has been approved or with the expiration of the program review period without receiving notice from the City.

Sec. 13. Enforcement.

(1) **Compliance.** For purposes of this section, compliance shall mean:

(a) Fully implementing in good faith all mandatory program elements as well as provisions in the approved CTR Program Description and Report;

(b) Providing a complete CTR Program Description and Report on the regular reporting date; and

(c) Distributing and collecting the CTR Program Employee Questionnaire during the scheduled survey time period.

(2) **Program modification criteria.** The following criteria for achieving goals for VMT per employee and proportion of drive alone trips shall be applied in determining requirements for employer CTR program modifications:

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(a) If an employer meets either or both goals, the employer has satisfied the objectives of the CTR plan and will not be required to improve its CTR program;

(b) If an employer makes a good faith effort, as defined in RCW 70.94.534(2) and this Ordinance, but has not met the applicable drive alone or VMT goal, no additional modifications are required.

(c) If an employer fails to make a good faith effort as defined in RCW 70.94.534(2) and this Ordinance, and fails to meet the applicable drive alone or VMT reduction goal, the City shall direct the employer to revise its program within thirty (30) days to come into compliance with the measures defined by RCW 70.94.534(2), including specific recommended program modifications. In response to the recommended modifications, the employer shall submit a revised CTR Program Description and Report, including the requested modifications or equivalent measures, within thirty (30) days of receiving written notice to revise its program. The City shall review the revisions and notify the employer of acceptance or rejection of the revised program. If a revised program is not accepted, the City will send written notice to that effect to the employer within thirty (30) days and, if necessary, require the employer to attend a conference with program review staff for the purpose of reaching a consensus on the required program. A final decision on the required program will be issued in writing by the City within ten (10) working days of the conference.

(3) **Violations.** The following constitute violations if the deadlines established in this Ordinance are not met:

(a) Failure to self identify as an affected employer;

(b) Failure to perform a baseline measurement, including:

(i) Employers notified or that have identified themselves to the City within ninety (90) days of the Ordinance

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being adopted and that do not perform a baseline measurement consistent with the requirements specified by the City within ninety (90) days from the notification or self-identification;

(ii) Employers not identified or self-identified within ninety (90) days of the Ordinance being adopted and that do not perform a baseline measurement consistent with the requirements specified by the City within ninety (90) days from the adoption of the Ordinance;

(c) Failure to develop and/or submit on time a complete CTR program;

(d) Failure to implement an approved CTR program, unless the program elements that are carried out can be shown through quantifiable evidence to meet or exceed VMT and drive alone goals as specified in Ordinance;

(e) Submission of false or fraudulent data in response to survey requirements;

(f) Failure to make a good faith effort, as defined in RCW 70.94.534 and this Ordinance; or

(g) Failure to revise a CTR program as defined in RCW 70.94.534(4) and this Ordinance.

(4) Penalties.

(a) No affected employer with an approved CTR program which has made a good faith effort may be held liable for failure to reach the applicable drive alone or VMT goal;

(b) Each day of failure to implement the program shall constitute a separate violation, subject to penalties as described in DMMC 1.24.190(2).

(c) An affected employer shall not be liable for civil penalties if failure to implement an element of a CTR program was the result of an inability to reach agreement with a

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certified collective bargaining agent under applicable laws where the issue was raised by the employer and pursued in good faith. Unionized employers shall be presumed to act in good faith compliance if they:

(i) Propose to a recognized union any provision of the employer's CTR program that is subject to bargaining as defined by the National Labor Relations Act; and

(ii) Advise the union of the existence of the statute and the mandates of the CTR program approved by the City and advise the union that the proposal being made is necessary for compliance with state law (RCW 70.94.531).

Sec. 14. Exemptions and goal modifications.

(1) **Worksite exemptions.** An affected employer may request the City to grant an exemption from all CTR program requirements or penalties for a particular worksite. The employer must demonstrate that it would experience undue hardship in complying with the requirements of the Ordinance as a result of the characteristics of its business, its work force, or its location(s). An exemption may be granted if and only if the affected employer demonstrates that it faces extraordinary circumstances, such as bankruptcy, and is unable to implement any measures that could reduce the proportion of drive alone trips and VMT per employee. Exemptions may be granted by the City at any time based on written notice provided by the affected employer. The notice should clearly explain the conditions for which the affected employer is seeking an exemption from the requirements of the CTR program. the City shall grant or deny the request within thirty (30) days of receipt of the request. The City shall review annually all employers receiving exemptions, and shall determine whether the exemption will be in effect during the following program year.

(2) **Employee exemptions.** Specific employees or groups of employees who are required to drive alone to work as a condition of employment may be exempted from a worksite's CTR program. Exemptions may also be granted for employees who work

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variable shifts throughout the year and who do not rotate as a group to identical shifts. The City will use the criteria identified in the CTR Board Administrative Guidelines to assess the validity of employee exemption requests. The City shall grant or deny the request within thirty (30) days of receipt of the request. The City shall review annually all employee exemption requests, and shall determine whether the exemption will be in effect during the following program year.

(3) Modification of CTR Program goals.

(a) An affected employer may request that the City modify its CTR program goals. Such requests shall be filed in writing at least sixty (60) days prior to the date the worksite is required to submit its program description or biennial report. The goal modification request must clearly explain why the worksite is unable to achieve the applicable goal. The worksite must also demonstrate that it has implemented all of the elements contained in its approved CTR program.

(b) The City will review and grant or deny requests for goal modifications in accordance with procedures and criteria identified in the CTR Board Guidelines.

(c) An employer may not request a modification of the applicable goals until one year after City approval of its initial program description or biennial report.

Sec. 15. Appeals.

(1) Employers may file a written appeal of final administrative decisions regarding the following actions:

(a) Rejection of an employer's proposed program;

(b) Denial of an employer's request for a waiver or modification of any of the requirements under this chapter or a modification of the employer's program;

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(2) An appeal must be filed with the City within twenty (20) days of such final decision.

(3) Appeals are heard by the hearing examiner as appeals of administrative decisions in accordance with the Hearing Examiner Code.

Sec. 16. Codification. Sections 1 through 15 of this Ordinance shall be codified as chapter 12.70 DMMC entitled "Commute Trip Reduction."

Sec. 17. Severability - Construction.

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

(2) If the provisions of this Ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this Ordinance is deemed to control.

Sec. 18. Effective date. This Ordinance shall take effect and be in full force on January 1, 2014.

PASSED BY the City Council of the City of Des Moines this _____ day of _____, 2013 and signed in authentication thereof this _____ day of _____, 2013.

M A Y O R

APPROVED AS TO FORM:

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City Attorney

ATTEST:

City Clerk

Effective Date: _____

Published: _____

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CITY OF DES MOINES COMMUTE TRIP REDUCTION PLAN



Agency: City of Des Moines
Date: October 2008

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INTRODUCTION

COMMUTE TRIP REDUCTION PLAN

In 2006, the Washington State Legislature passed the Commute Trip Reduction Efficiency Act which requires local governments in those counties experiencing the greatest automobile-related air pollution and traffic congestion to develop and implement plans to reduce single-occupant vehicle trips. This plan has been prepared in accordance with RCW 70.94.521.

The Commute Trip Reduction Plan is a collection of adopted goals and policies, facility and service improvements and marketing strategies about how Des Moines will help make progress for reducing drive along trip and vehicle miles traveled over the next four years. Building upon the success of the existing commute trip reduction program, Des Moines strives to meet the goals of the plan for the future by working in partnership and coordination with other agencies.

The proposed Plan has been developed through involvement by employers, transit agencies, organizations and individuals who helped identify strategies and ways for successful achievement of the goals. This plan helps to support the achievement of the vision and the goals of the Des Moines Comprehensive Plan.

Agency: City of Des Moines

Department: Planning, Building, and Public Works

Contact Person Denise Lathrop, AICP
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I. ASSESSMENT OF THE LAND USE AND TRANSPORTATION CONTEXT

The purpose of this section is to describe the existing and planned land use and transportation context that affects Des Moines' ability to meet its goals for reducing drive alone trips and vehicle miles traveled. The information in this section has been prepared by using the Des Moines' existing comprehensive plan and other planning documents. Information on transit services and facilities has been prepared by Des Moines' respective transit agency.

REQUIRED INFORMATION

A. Location of CTR Work Sites.

See attached map of the jurisdiction and the locations of the CTR work sites. The location of CTR affected sites can be described in two locations:

- City Hall Site- at 11th Avenue S and S 216th Street located near downtown. Multifamily residential, senior housing and single-family residential development characterize the existing and designated land use adjacent to the City Hall Site. A portion of Des Moines downtown neighborhood is also located within one quarter mile of the City Hall Site. Land use in the Downtown neighborhood includes commercial, business and multifamily residential uses.
- Highline Community College -- located off Pacific Highway S at 2400 S 240th Street. Single family residential, multi family residential, townhouse, and highway commercial uses are designated adjacent to the Highline Community College Site.

B. Identify Major Issues Regarding Land Use and Transportation Conditions Around CTR Work Sites or Work Site Cluster.

- The City of Des Moines has a limited amount of transit service for both its CTR affected sites, making it difficult for employees to utilize transit due to schedule conflicts (long waiting periods to transfer to different routes). A majority number of employees live within 4-5 miles of their CTR affected worksite. Lengthy waiting periods for bus transfers, make the transit mode undesirable for employees to consider. Additionally, the wide distribution of where employees reside, makes it difficult for employees to enroll in vanpool groups or to form carpools. As the college is the only large employer in the city with a significant employee population, it is difficult for employees to find a match of other commuters in the regional rideshare database.
- Existing and planned transportation facilities: Currently there are no transportation facilities at either CTR site.

Transit Facilities

The closest transit facility to the City of Des Moines is the Kent-Des Moines Park and Ride (P&R). This facility is located 1.2 miles from the Highline Community College CTR site and 2.5 miles from the City Hall site.

The Burien Transit Center is located 5.5 miles from the City Hall CTR site and 9.9 miles from the Highline Community College site. The Burien Transit Center provides transit connections to other

I. ASSESSMENT OF THE LAND USE AND TRANSPORTATION CONTEXT

employment centers throughout the Puget Sound region; however there are limited connections to either of Des Moines CTR sites.

Existing and Planned Transit Services and Facilities

Attached are three maps that reflect transit routes that are in proximity to the two CTR affected sites. These maps show peak/mid-day route services, frequency of service, bus stops located within a quarter mile radius, and transit facilities. The following routes are considered to service either of the CTR affected sites:

Route 121
Route 122
Route 131
Route 132
Route 166
Route 175
Route 191

Route 121-Provides all day service from downtown Seattle/ Burien/Normandy Park to Highline Community College/ downtown Des Moines. Service is 30 minutes from the mid-day to early evening.

Route 122 – Provides direct service from downtown Seattle/Burien Transit Center to Highline Community College/downtown Des Moines. Service is 30 minutes from 2:00pm to early evening.

Route 131 -- Service from downtown Seattle/Burien to Highline Community College/downtown Des Moines. Service is hourly and serves only morning and evening peak hours

Route 132 -- Service from downtown Seattle/Burien to Highline Community College/downtown Des Moines. Service is hourly and serves only morning and evening peak hours

Route 166 -- Service from Kent to Downtown Des Moines. This route stops at the City Hall site. This route provides all day, 30-minute service.

Route 177 – Two way directional service between Seattle/ SeaTac /Des Moines/Federal Way. Route 177 only serves Highline Community College via Pacific Highway S. Service is limited to late afternoon to early evening schedule. This route is not viable to address those employees that are affected by the CTR law.

Route 191 -- Two way directional service between Seattle/ SeaTac /Des Moines/Federal Way. Route 191 only serves Highline Community College via Pacific Highway S. Service is limited to late afternoon (4:30pm) to early evening schedule (6:30pm). This route is not viable service to address those employees that are affected by the CTR law.

The Kent/Des Moines Park and Ride is located outside the city boundary. It is served by 11 routes.

I. ASSESSMENT OF THE LAND USE AND TRANSPORTATION CONTEXT

Planned Service to CTR Affected Companies

Highline Community College-King County Metro's Transit Now Plan (Transit Now) describes improvements to take place in 2009-2010. The most significant improvement is the Bus Rapid Ride (BRT) along Pacific Highway S. BRT along this corridor will be designed to operate between Federal Way and SeaTac. Frequencies of trips will be every ten minutes.

City Hall-Transit Now service improvements may involve improvements of east/west service from Kent to the Burien Transit Center. Those improvements would positively impact the Route 166. Timelines for this corridor improvement is not clear, potentially in 2010.

Service to CTR Affected Companies

City Hall CTR site is located three blocks from the downtown area. Routes 121,122,131, 132 primarily serve this area. Route 166 provides direct service to the City Hall Site and to existing and proposed business park uses located one-half mile east of this site along S 216th Street. It should be noted that despite the proximity to transit service, the schedules of connecting routes is problematic. Employees describe long waits to transfer from one route to another. Given the current level of service, this experience is common and therefore makes transit as the least likely mode choice for further drive alone trip reduction.

Highline Community College is located less than a quarter mile from Pacific Highway S. It is served by three Metro routes (Routes 122, 131 and 132). The following is a description of those routes:

Route 122 – This route is direct service from downtown Seattle/Burien Transit Center to Highline Community College/downtown Des Moines. Service is 30 minutes from 2:00pm to early evening. This route does not address those employees that start in the early morning

Route 131-Service from downtown Seattle/Burien to Highline Community College/downtown Des Moines. Service is hourly and serves only morning and evening peak hours

Route 132- Service from downtown Seattle/Burien to Highline Community College/downtown Des Moines. Service is hourly and serves only morning and evening peak hours

B. Transportation Context

Existing Transportation Network

The City of Des Moines is highly developed and has a well-established traditional (vehicular) transportation system. Most of major transportation corridors are oriented in a North-South and East-West grid pattern that serves the area well during most hours of the day. There are few opportunities to develop new corridors.

I. ASSESSMENT OF THE LAND USE AND TRANSPORTATION CONTEXT

Existing Parking Conditions

Employee parking is provided free of charge at the City Hall Site. Parking is shared with City Hall and library patrons. There are no dedicated HOV spaces.

Highline Community College experiences a shortage of parking spaces in the morning and early afternoon hours. The college charges staff and faculty \$32 per quarter parking fees. Students are charged \$32 or \$20 per quarter depending on the number of credit hours taken. For those employees that arrive by carpool or vanpool, there are HOV spaces assigned.

C. Potential Actions for the Jurisdiction to Eliminate Barriers

Land Use

During 2008-09, the City will be updating the Downtown Element of the Comprehensive Plan. As part of this effort, the City will be evaluating opportunities for improving pedestrian circulation and connections throughout downtown and to other neighborhoods to the east via Kent-Des Moines Road, S 216th Street and Des Moines Creek Trail. Des Moines Creek Trail is a pedestrian and bicycle trail that will eventually connect to the City of SeaTac's trail system.

The City is also working with the Port of Seattle on the proposed Des Moines Creek Business Park (DMCBP) located one-half mile east of the City Hall CTR Site. DMCBP is estimated to create between 1,200 and 2,100 direct jobs thereby making CTR programs a priority for this area. Frontage improvements along S 216th Street and 24th Avenue S and the main spine road through the business park will include sidewalks and bike lanes, further enhancing connections to transit. It is anticipated that a connection from the business park to the Des Moines Creek Trail will also be provided as part of this project. Construction of DMCBP could begin as early as 2010.

Des Moines is currently working with the City of Kent to coordinate planning efforts for the Midway and Pacific Ridge areas along Pacific Highway South (SR-99) where our jurisdictional boundaries meet. The project includes a visioning process with stakeholders and community members that will help to guide future land use and regulatory planning in anticipation of the expansion of Pacific Highway South as a regional transit corridor by both King County METRO and Sound Transit. This joint planning effort is intended to result in work programs for both the Cities of Des Moines and Kent that may include a Subarea Plan, transit oriented development (TOD) overlay, transit center location/s, economic development strategies, Planned Action Ordinance and the possible designation of an Activity Center, depending on the needs of our individual jurisdictions. This work is being coordinated with key stakeholders such as WSDOT, Puget Sound Regional Council, Sound Transit, King County Metro, Highline Community College and other public agencies. In 2007, the cities were successful in securing grant funds from the Washington State Department of Community Trade and Economic Development to help cover the cost of community outreach, a new web site, and virtual reality software designed to help users view different development scenarios in 3-D.

I. ASSESSMENT OF THE LAND USE AND TRANSPORTATION CONTEXT

Transportation Facilities and Services

Pedestrian and bicycle improvements to Pacific Highway S from Kent-Des Moines Road to the vicinity of Highline Community College Site are nearing completion. Improvements will enhance pedestrian and HOV connections to and from this CTR site.

Des Moines Transportation Improvement Plan's proposed South 216th Improvement Project would add sidewalks to both sides of the street, install a bike lane and provide other improvements between Pacific Highway S and Marine View Drive. Although not fully funded, these phased improvements would result in enhance pedestrian and bicycle connections to and from the City Hall CTR site, the downtown neighborhood and the business park to the east. Construction is estimated for the 2010-2014 period.

Transit

Barrier: Most sites have limited number of transit routes that serve their location. See route description and employers served in Section - I. Assessment of Land Use and Transportation Context. The level of bus service improvements will not increase remarkably to those CTR affected employment sites in the near future.

Elimination of Barrier: In 2009 and 2010 there will be significant service improvements along Pacific Highway S with the implementation of BRT. This will assist Highline Community College to obtain their CTR drive alone reduction goals.

Barrier: It is difficult for employees to utilize transit due to schedule conflicts (long waiting periods to transfer to different routes). A majority number of CTR affected employees live within 4-5 miles of their employer. Lengthy waiting periods for bus transfers and lack of adequate shelters, make the transit mode undesirable for employees to consider.

Barrier: The wide distribution of where employees reside makes it difficult for employees to enroll in vanpool groups or to form carpools. As the college is the only large employer in the city, with a significant employee population, it is difficult for employees to find a match of other commuters in the regional rideshare database that have the City of Des Moines as a point of destination.

Elimination of Barrier: Continue to promote RideShare week and other Vanpool turnkey promotions. Aggressively promote RideShare Online (regional rideshare database) to employees. Seek to increase the number of registrants to increase the change for successful rideshares.

The City will also be exploring the FlexPass program as an option for improving commute trip reduction by employees.

Barrier: Use of the Sounder train from Seattle and Pierce County is restricted due to the lack of northbound/southbound trips. Also, there is extremely limited bus service from the Kent station to the City of Des Moines to get employees to their work sites.

I. ASSESSMENT OF THE LAND USE AND TRANSPORTATION CONTEXT

Elimination of Barrier: With the advent of two new train trips in September 2007 and potentially four new northbound/southbound trips in 2008, it is possible that the train can become an effective HOV mode choice. Promoting VanShare as a viable option to provide connectivity between the Kent train station and CTR affected sites will be one of the primary strategies to obtain the ten percent reduction of drive alone trips by 2011.

Parking

New developments should provide adequate off-street parking to meet their needs. Develop and maintain regulations that foster balance between meeting the need for public parking and ensuring developers provide adequate parking to meet the demand generated by new development.

D. Review of Comprehensive Plan Policies

Des Moines Comprehensive Plan was updated in March 2006. Comprehensive Plan goals and policies that support CTR include:

- Promote a land use pattern, scale, and density that supports public transportation services and encourages people to walk and bicycle, as well as provide convenient and safe automobile usage.
- Encourage the use of high occupancy vehicles (bus, vanpool, train, and carpool) through both private programs and under the direction of Metro Transit.
- Promote reduced employee travel during the daily peak travel periods through flexible work schedules and programs that allow employees to work part-time or compress work schedules.
- Encourage employers to maintain and enhance their CTR programs that provide HOV incentives.
- In making funding decisions, consider transportation investments that support TDM approaches by providing alternatives to SOV, such as transit, bikeways and pedestrian paths.

I. ASSESSMENT OF THE LAND USE AND TRANSPORTATION CONTEXT

E. Planning Coordination

Des Moines' plan has been coordinated with the following agencies:

Agency	Date	Issues
King County Metro	April-June 2007	CTR Plan Development
Des Moines Planning Agency	July 2007 & September 2008	CTR Plan Briefing
Des Moines City Council	October 2008	CTR Plan Briefing

I. ASSESSMENT OF THE LAND USE AND TRANSPORTATION CONTEXT

OPTIONAL INFORMATION

F. Broad Assessment of Jurisdiction's Existing and Planned Land use, Transportation and Transit Conditions

Land Use

Growth and development within Des Moines are influenced by activities outside the city, including: Seattle-Tacoma International Airport (STIA), regional economic trends, regional transportation systems and commuting patterns, regional development plans, development within bordering jurisdictions and state regulations. Des Moines is predominantly developed as a single family residential community, with multifamily and commercial development located in the Downtown/ Marina District, and along Pacific Highway, Interstate-5, and arterial streets, such as Kent-Des Moines Road.

Multifamily residential, senior housing and single-family residential development characterize the existing and designated land use adjacent to the City Hall Site. A portion of Des Moines downtown neighborhood is also located within one quarter mile of the City Hall Site and business park uses are located within one-half mile of the Site. Land use in the Downtown neighborhood includes commercial, business and multifamily residential uses.

Single family residential, multi family residential, townhouse, and highway commercial uses are designated adjacent to the Highline Community College Site. Commercial, mixed use development and high density residential uses are designated for the Pacific Ridge Neighborhood located about one-half mile to the north of this CTR site. The proximity of the higher density uses to the Highline Community College CTR Site and high capacity transit routes are supportive of the City's Comprehensive Plan goals aimed at reducing single-occupancy trips and promoting CTR programs.

Development of the Des Moines Creek Business Park is estimated to generate between 1,200 and 2,100 jobs making the business park eligible for designation as a CTR site.

Transportation

As discussed in Section I.D., the Des Moines Comprehensive Transportation Plan (CTP) identifies transit, carpooling, bicycles, pedestrians, rail systems, and intermodal systems as important components that to have been underutilized and underdeveloped in the past. CTP and Comprehensive Plan goals and policies support transportation demand management (TDM) measures such as car pooling, van pooling and flextime that reduce reliance upon single occupancy vehicles and minimize traffic congestion.

I. ASSESSMENT OF THE LAND USE AND TRANSPORTATION CONTEXT

Transit

As described in Section I of this CTR Plan, transit service to and from Des Moines is provided by the following King County Metro Transit routes:

Route 121
Route 122
Route 131
Route 132
Route 166
Route 175
Route 191

Parking

Public parking in residential neighborhoods and business districts in Des Moines is provided free of charge. Des Moines development standards are intended to ensure that adequate parking is provided for new residential and business development.

II. and III. BASELINE, GOALS AND TARGETS

City of Des Moines

The City of Des Moines goals are an aggregate, weighted average, of all the trips reduced city-wide by all CTR affected employees.

Area of Jurisdiction	2005 SOV Rate	2011 SOV Target Rate	2005 VMT	2011 Target VMT
City of Des Moines	84.2%	75.8%	11.48	9.99

Major Employers

Employer	2005 SOV Rate	2011 SOV Target Rate	2005 VMT	2011 Target VMT
City of Des Moines	76.9%	69.2%	12.49	10.87
Highland Community College	85.2%	76.7%	11.34	9.87

Note: The City of Des Moines targets for drive alone trips and VMT reduction will be the same as the State of Washington minimum reduction goals- a ten percent reduction in drive alone rates and 13% reduction of VMT from a 2005 baseline survey.

IV. DESCRIPTION OF PLANNED LOCAL SERVICES AND STRATEGIES FOR ACHIEVING THE GOALS AND TARGETS

The Jurisdiction proposes to implement the following elements as part of its Commute Trip Reduction plan. Implementation of the elements will be done in partnership and coordination with other agencies. Listed below are the following planned local services and strategies for achieving the established goals and targets for 2011:

A. Policies and Regulations (☐ N/A)

The Jurisdiction has identified the following policies and regulations that will be updated and will help reduce drive alone trips and vehicles miles traveled. The proposed changes and their scheduled adoption date are listed below.

1. Comprehensive plan policies (☐ N/A)

In addition to the existing Comprehensive Plan policies, the jurisdiction is considering revising and/or adding the following policies that will strengthen Des Moines' policies for supporting Commute Trip Reduction:

- In 2008, Transportation Element policies will be updated to reflect the addition of concurrency management strategies and updates to parking, commute trip reduction, and transportation demand management policies. Policy changes identified as part of the Comprehensive Transportation Plan update (see Section IV.A.5 of this CTR Plan) will be incorporated into the Transportation Element as appropriate.

2. Land use regulations (☐ N/A) (Identify proposed land use changes)

- During 2008-09, Des Moines will be evaluating the land use development regulations for the Downtown Neighborhood to determine whether opportunities exist for making modifications that will help foster economic development and increase job and housing capacity and facilitate jobs to housing balance.

3. Zoning code regulations (☐ N/A) (Identify proposed changes to the Jurisdiction's zoning code such as parking codes, design standards, etc.)

- Des Moines is in the process of reviewing and updating its zoning code. This work effort will incorporate changes to parking standards, street design standards and design guidelines as part of the work activities identified in Sections IV.A.1-5 of this CTR Plan.

IV. DESCRIPTION OF PLANNED LOCAL SERVICES AND STRATEGIES FOR ACHIEVING THE GOALS AND TARGETS

4. Street design standards (☐ N/A)

(Identify proposed changes to the Jurisdiction's street standards, including pedestrian and bicycle design guidelines)

During the summer and fall of 2008, the City will be updating its street design and construction standards. Elements of the plan will address bicycle facilities (classification, signing and striping), HOV lanes, sidewalks, trails, lighting and streetscape.

During the 2008-09 time periods, the City will be evaluating land use and economic conditions in the Downtown/Marina District. As part of this effort, the City will develop concepts for way finding, streetscape improvements and related products, for the Des Moines' Downtown/Marina District. A primary goal for this project will be to integrate and connect the downtown and waterfront areas of the City.

Key planning activities that will implement the City's CTR program include:

- Design development drawings and preliminary cost estimates to create a walkable Downtown/Marina District showing the application of design guidelines to general streetscape improvements, and complete an overall streetscape to include: entryways, landmarks, tourism kiosks, open space, plazas, landscaping, locations of car, tour bus and RV parking, bus shelters and pedestrian amenities (benches, sidewalk lighting, bike racks, trash receptacles, shelters).
- Develop signage design to define and show vehicle, transit and pedestrian connections from major transportation corridors: I-5, Pacific Highway, SR 518, SR 509, Des Moines Memorial Drive, South 216th Street, Kent-Des Moines Road, to the Downtown/ Marina District located between Marine View Drive South and the Des Moines Marina and Des Moines Beach Park and from Kent-Des Moines Road and South 227th Street to South 216th Street at Des Moines Memorial Park.

5. Concurrency regulations (☐ N/A)

(Identify proposed changes to the Jurisdiction's concurrency requirements)

- Des Moines is in the process of updating its Comprehensive Transportation Plan at which time the City is reevaluating and updating concurrency regulations.

IV. DESCRIPTION OF PLANNED LOCAL SERVICES AND STRATEGIES FOR ACHIEVING THE GOALS AND TARGETS

B. Services and Facilities

As part of its capital improvement program, Des Moines is planning the following improvements that will help reduce drive alone trips and vehicle miles traveled. In addition to the City's investments, Des Moines is working with its transit agency partners to improve transit services and facilities.

Note: If the transit agency will be implementing services and/or facilities, the jurisdiction should attach a letter of commitment from the transit agency stating that it will follow through within the planned time frame.

Elements that are being planned and/or being implemented include:

1. High occupancy vehicle lanes (☒ N/A)
2. Transit services (☐ N/A)
 - Transit Now includes proposed improvements to core service connections and high ridership corridors. This may include improvements of east/west service from Kent to the Burien Transit Center. Additionally, in 2010 Bus Rapid Transit will run along Pacific Highway S. This service will operate between Federal Way and SeaTac
3. Vanpool services and vehicles (☐ N/A)
 - Continue to market vanpool services and coordinate with employers and employees to expand both vanpool and VanShare services. Given the additional train trips planned for Kent Station in September 2007 and additional trips in 2008-2009, VanShare will be a large component of determining how the City of Des Moines will strive to obtain the 10% reduction in drive alone trips to CTR affected work sites.
4. Ride matching services (☐ N/A)
 - Continue to promote Rideshare Online to CTR affected companies and their employees.
5. Car sharing services (☐ N/A)
 - Aggressively work with CTR affected employers to encourage increases to existing carpool subsidies. Also, encourage adoption of new carpool incentives that encourage SOV employees to try carpooling for the first time (Carpool Joining Incentive). Encourage KC/Metro to continue to use 50/50 grant matching programs that provide seed dollars to employers willing to expand car sharing programs.

IV. DESCRIPTION OF PLANNED LOCAL SERVICES AND STRATEGIES FOR ACHIEVING THE GOALS AND TARGETS

6. Transit facilities (☐ N/A)
- Develop design guidelines for general streetscape improvements, including bus shelters, as part of the Downtown planning process. Evaluate opportunities to locate a transit center in the downtown neighborhood.
 - Des Moines is evaluating potential locations to site a future transit center along Pacific Highway S to support proposed redevelopment in the area. It is anticipated that this transit center would be coordinated with Sound Transit, Metro and other public agencies.
7. Bicycle and sidewalk facilities (☐ N/A)
- The Storefront Studio Project developed a Marina District Enhancement plan that included ideas and recommendations to create a walkable Downtown/Marina District. This work, coupled with the updated street standards will provide the City with a road map of where to prioritize future improvements related to the development and improvement of sidewalk and bicycle facilities.
8. Other (☒ N/A)

C. Marketing and Incentives

The Jurisdiction plans to implement the following marketing and incentive programs that will help reduce drive alone trips and vehicle miles traveled.

- ☒ Employer outreach (☐ N/A)
- Continue outreach via the established CTR/TDM programs
- ☒ Area wide promotions (☐ N/A)
- Continue to encourage employers to participate in Rideshare week. "Fill It Up" (a promotion to encourage vanpool ridership), and/or turnkey campaigns. Offer additional incentives to those Employer Transportation Coordinators (ETC) that participate and offer the promotion
- ☒ Transit pass discounts (☐ N/A)
- Promote King County Metro transit pass (FlexPass) when appropriate. In the future, assist employers with the transition for traditional pass products to the new regional ORCA card for employers.
- ☐ Parking cash-out programs (☒ N/A)
- ☐ Carpool subsidies (☒ N/A)

IV. DESCRIPTION OF PLANNED LOCAL SERVICES AND STRATEGIES FOR ACHIEVING THE GOALS AND TARGETS

- ☐ Parking charges and discounts (☒ N/A)
- ☐ Preferential parking (☒ N/A)
- ☒ Flexible work schedules (☐ N/A)
 - Encourage continued use or expand use of Alternate work weeks with CTR affected employers.
- ☐ Program to allow employees to work at home or a closer worksite (☒ N/A)
- ☐ Individualized marketing programs (☒ N/A)
- ☐ Neighborhood social marketing programs (☒ N/A)
 -
- ☐ Other (☒ N/A)

D. Special Programs for Mitigation of Construction Activities (☒ N/A)

The Des Moines Creek Business Park and several downtown development projects present opportunities to use the CTR program to help mitigate the impacts of the construction activities.

Strategies for mitigating the impacts include the following elements: (☒ N/A)

- Work collaboratively with developers and the Port to review opportunities for establishing additional CTR sites.

E. Schedule for Implementing Program Strategies and Services

The jurisdiction has identified the following schedule for implementing the CTR program strategies and services. The agency responsible for implementing the strategy or service is also listed.

IV. DESCRIPTION OF PLANNED LOCAL SERVICES AND STRATEGIES FOR ACHIEVING THE GOALS AND TARGETS

Program Strategy or Service	Agency Responsible	Scheduled Date for Implementation
Policies and Regulations		
Downtown Design Guidelines	Des Moines	2008-09
Update Street Standards	Des Moines	2008-09
Comprehensive Plan City Code/Zoning	Des Moines	2007-09; as needed
Comprehensive Transportation Plan Update	Des Moines	2008-09
Pacific Highway S Land Use and Transportation Planning	Des Moines	2008-09
Services and Facilities		
Transit Now	Des Moines, KC Metro	Transit Now, 2010
Marketing and Incentive Programs		
Commuter Bonus vouchers, Rideshare Week, Bike to Work Day	KC Metro	2008; On-going
Construction Mitigation Programs		

V. REQUIREMENTS FOR MAJOR EMPLOYERS

The purpose of this section is to describe the jurisdiction's required contributions from major employers. Jurisdictions should identify what expectations that they have of major employers. The CTR Law specifies that major employers are required to provide four elements as part of their CTR programs. However, the local jurisdiction can opt to require additional elements in their CTR ordinances.

Required Element	Description
Designate Employee Transportation Coordinator	The Employee Transportation Coordinator is the point of contact between the employer and its workforce to implement, promote and administer the organization's CTR program. He/she is also the point of contact between the employer and the local jurisdiction to track the employer's progress in meeting CTR requirements
Regular Distribution of Information to Employees	Information about commute alternatives will be distributed regularly to employees. Examples of information that will be distributed will include: • Description of the employer's commute options program • Transit system maps and schedules • Vanpool rider alerts • Weekly traffic alerts • Wheel Options campaign promotional materials
Regular Review of Employee of Commuting and Reporting of Progress	The employer is required to complete the Employer Annual Report and Program Description Form and submit to the local jurisdiction. Every two years, the employer shall conduct a program evaluation to determine worksite progress toward meeting the CTR goals. As part of the program evaluation, the employer shall distribute and collect Commute Trip Reduction Program Employee Questionnaires (surveys) to achieve at least a 70 percent response rate.
Implementation of a Set of Measures	The employer is required to implement a set of measures that are designed to increase the percentage of employees using the following modes: • Transit • Vanpool • Carpool • Bicycle or walking • Telework • Other non-single occupant vehicle modes Measures to reduce drive alone trips and vehicle miles traveled include, but are not limited to:

V. REQUIREMENTS FOR MAJOR EMPLOYERS

	• Provision of preferential parking or reduced parking charges for high occupancy vehicles • Instituting or increasing parking charges for single-occupant vehicles • Provision of commuter ride matching services • Provision of subsidies for transit fares • Provisions of vans for vanpools • Provisions of subsidies for carpooling or vanpooling • Permitting the use of the employer's vehicles for carpooling or vanpooling • Permitting flexible work schedules • Cooperation with transportation providers to provide additional regular or express service to the worksite • Construction of special loading and unloading facilities for transit, carpool, and vanpool users • Provision of bicycle parking facilities, lockers, changing areas, and showers • Provision of a program for parking incentives such as a rebate for employees who do not use the parking facility • Establishment of a program to permit employees to work part or full time at home or at an alternative worksite closer to their homes • Establishment of a program of alternative work schedules such as compressed work week schedules • Implementation of other measures designed to facilitate the use of high-occupancy vehicles such as on-site day care facilities and emergency taxi services • Employers or owners of worksites may form or utilize an existing transportation management association or other transportation-related associations by RCS 35.87A.010 to assist members in developing and implementing commute trip reduction programs
Optional Elements	Description

VI. DOCUMENTATION OF CONSULTATION

This section describes the consultation process that was used to develop the local jurisdiction's Commute Trip Reduction plan. The plan was developed in consultation with the following organizations and individuals:

A. Local or County Jurisdiction (☐ N/A)

1. Department of Planning, Building and Public Works (☐ N/A)
Contact: Denise E. Lathrop, AICP in coordination with Grant Fredricks (Director), Dan Brewer, P.E., Len Madsen, Rohini Nair and Ken Thomas
Issues: Comprehensive Plan, Comprehensive Transportation Plan, 2007-2012 Transportation Improvement Plan, street standards, parking and concurrency management development activities
2. Department of Public Works (☒ N/A)
Contact: Combined department with Planning, Building and Public Works
Issues: _____
3. Department of Finance (☒ N/A)
Contact: _____
Issues: _____
4. Planning Commission (☐ N/A)
Contact: Robert Ruth, Development Services Director
Issues: Briefing to Planning Agency on CTR Plan on July 2, 2007 and September 8, 2008.
5. City or County Council (☐ N/A)
Contact: Tony Piasecki, City Manager
Issues: Briefing to City Council and Council Transportation Committee on CTR Plan and Ordinance in October 2008.

B. WSDOT (☐ N/A)

Contact: _____
Issues: _____

C. Regional Planning Organization (☐ N/A)

Contact: Kirste Johnson, Senior Planner, Puget Sound Regional Council (PSRC)
Issues: RTPOs are responsible for ensuring that local CTR plans are consistent with the CTR rules (Washington Administrative Code 468-63) and the regional CTR plan. PSRC reviewed Des Moines CTR Plan and recommended approval.

D. Neighboring Local Jurisdictions (☐ N/A)

Contact: _____
Issues: _____

E. Major Employers (☐ N/A)

VI. DOCUMENTATION OF CONSULTATION

Contact: _____

Issues: _____

F. Business Groups (☐ N/A)

Contact: _____

Issues: _____

G. Transit Agencies (☐ N/A)

Contact: Tim Apicella and Debbie Jaksich, King County

Issues: CTR plan development

H. Transportation Management Associations (☐ N/A)

Contact: _____

Issues: _____

I. Community Groups (☐ N/A)

Contact: _____

Issues: _____

J. Special Interest Groups (☐ N/A)

Contact: _____

Issues: _____

I. Individuals (☐ N/A)

Contact: _____

Issues: _____

Organization/Party	Meeting Date	Contact Person

VII. A SUSTAINABLE FINANCIAL PLAN

The Jurisdiction has prepared a financial analysis to identify revenues and expenses that are associated with Des Moines' Commute Trip Reduction Plan. The following is a description of the available funding sources that the Jurisdiction may use to implement its CTR Plan. After identifying the available funding sources, the Jurisdiction has identified the expenses which include program administration, training, employer assistance, policy and regulation development, promotional activities, transit and ridesharing services, and implementation of supporting facilities.

A. Funding Sources

1. WSDOT CTR grant (☒ N/A)

The WSDOT CTR Grant is the annual allocation that is given to jurisdictions to help them administer their CTR programs.

Describe: City of Des Moines will receive \$4,032.28 for July 2007-June 2008 to implement the CTR law.

2. Local jurisdiction operating funds and capital investment program funds
(☒ N/A)

Local jurisdictions resources include funds from their operating budgets and capital investment programs. Capital investment programs funds are usually earmarked for certain projects such as bicycle and sidewalk facilities, ITS equipment and road improvements.

Describe:

3. Federal funds (☒ N/A)

Federal funds include the grants from the Congestion Mitigation and Air Quality Improvement program, Surface Transportation Program, and the Federal Transit Administration.

Describe:

4. Employer contributions (☒ N/A)

These funding sources include contributions both financial and in-kind from employers.

Describe:

5. Other state funding sources (☒ N/A)

The funding sources include other state programs that provide assistance to programs that can contribute to helping make progress toward CTR goals. Funding sources may include the Safe Route to Schools Program, Competitive Public Transportation grants, etc.

Describe:

King County Metro provides a twelve month grant matching program for all CTR affected employers. Employers receive 50/50 dollar match that implement a new subsidy that pertain to either transit, vanpool, or carpool modes. Additionally, they will match dollar for dollar for any increase to existing subsidy that a company may already have in place.

VII. A SUSTAINABLE FINANCIAL PLAN

6. Construction TDM funds (☐ N/A)

Funds may be available through construction mitigation programs. These programs can be used to enhance Des Moines' CTR program and provide program assistance to CTR work sites.

Source of Funding	Responsible Agency	Estimated Revenue FY 2008	Estimated Revenue FY 2009	Estimated Revenue FY 2010	Estimated Revenue FY 2011	Total Estimated Revenue
CTR State Funds	King County Metro CTR Services	\$ 4,032.28	\$ 4,032.28	\$ 4,032.28	\$ 4,032.28	\$ 16,129.12
Other State Funds	WSDOT, CTED	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$0.00
CMAQ Funds	RTPO	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$0.00
Local Funds from Operating Budgets	Local Jurisdiction	\$ 0.00	\$ 0.00	\$ 0.00	\$0.00	\$0.00
Capital Investment Program	Local Jurisdiction	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$0.00
Transit Revenue	Transit Agency	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$0.00
Employer Contributions	TMA or Local Jurisdiction	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$0.00
Developer Contributions	Local Jurisdiction	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$0.00
Mitigation Funds for Construction Projects	Local Jurisdiction	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$0.00
TOTAL		\$ 4,032.28	\$ 4,032.28	\$ 4,032.28	\$ 4,032.28	\$ 16,129.12

VII. A SUSTAINABLE FINANCIAL PLAN

B. Program Expenses

1. Administration (☐ N/A)

Program administration includes activities such as identifying and notifying affected employers, reviewing employer progress reports, evaluating employer programs, coordination with neighboring jurisdictions and transit agencies, and preparing annual reports on the CTR program.

Agency:

Responsibility:

2. Facilities (☐ N/A)

Facilities include capital elements that help to reduce the number of drive alone trips. Elements include high occupancy vehicle lanes, bicycle lanes, sidewalks, transit signal priority improvements, and bus shelters.

Agency:

Responsibility:

3. Services (☐ N/A)

Services include elements that support transit and ridesharing. Elements include transit services, assistance with the formation of vanpools, car sharing and ride matching services.

Agency:

Responsibility:

4. Marketing (☐ N/A)

Marketing includes activities that help to promote and increase awareness of commute options among commuters and residents. Activities include the development and distribution of transit and ridesharing information, promotional campaigns, web sites to promote commute options programs, and outreach to employers.

Agency:

Responsibility:

5. Incentives (☐ N/A)

Incentives include transit pass discount programs, subsidies for vanpool programs, and other contributions to encourage employers to participate in commute options programs.

Agency:

Responsibility:

6. Training (☐ N/A)

Training includes activities for both employer and local jurisdiction staff. Training may include workshops on various topics to address CTR, attendance at conferences and other training opportunities that will help improve program performance.

Agency:

Responsibility:

VII. A SUSTAINABLE FINANCIAL PLAN

Expense	Responsible Party	Estimated Cost FY 2008	Estimated Cost FY 2009	Estimated Cost FY 2010	Estimated Cost FY 2011	Total Estimated Cost
Prepare local CTR plan and ordinance	Des Moines and KC Metro	\$.00	\$.00	\$.00	\$.00	\$.00
Administer CTR program (contract management, annual reporting, survey process, coordination meetings)	Des Moines and KC Metro CTR Services	\$ 4,032	\$ 4,032	\$ 4,032	\$ 4,032	\$ 16,129.12
Training	KC Metro Services	NA	NA	NA	NA	NA
Conduct employer outreach	KC Metro Services	NA	NA	NA	NA	NA
Implement supporting transit services		\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Implement supporting transit facilities		\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Implement supporting vanpool services	KC Metro Services	NA	NA	NA	NA	NA
Implement bicycle and pedestrian facilities		\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Offer program incentives	KC/Metro partnership programs	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Car sharing services		\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Conduct special area wide promotions	Contact via KC/Metro	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Prepare updates to Comprehensive Plans		\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Total		\$ 4,032	\$ 4,032	\$ 4,032	\$ 4,032	\$ 16,129.12

VII. A SUSTAINABLE FINANCIAL PLAN

C. Financial Gaps

Service or Strategy	Target Market	What Strategy Will Accomplish	Financial Gap	Potential Funding Source
			\$.00	
			\$.00	
			\$.00	
			\$.00	

VIII. IMPLEMENTATION STRUCTURE

As part of its strategic plan for implementing the Commute Trip Reduction program, Des Moines plans to work in partnership with the transit agencies, neighboring jurisdictions, and if available, transportation management associations.

Listed below are the organizations that will be involved with the implementation of Des Moines' CTR Plan. Their roles and responsibilities are described as follows:

A. Local Jurisdiction (☐ N/A)

Local jurisdictions will be responsible for developing and implementing their local CTR plans. They are responsible for ensuring that CTR plans are consistent with their local comprehensive plans. As part of their CTR plans, local jurisdictions will set the goals and targets for the affected employers. For CTR program administration, local jurisdictions are responsible for ensuring that affected employers are in compliance with the CTR law. Local jurisdictions may contract with another agency for employer outreach, program review and annual reporting of employer progress.

Des Moines currently contracts with King County for assistance and consultation in meeting the requirements of the CTR law, employer outreach, program review and annual reporting of employer progress.

Roles

- Local jurisdictions will be responsible for developing and implementing their own local CTR plans.

Responsibilities

- They are responsible for ensuring that CTR plans are consistent with their local comprehensive plans. The City of Des Moines will set the goals for the CTR affected employers. For CTR program administration, The City will require that employers are in compliance with the CTR law. Local jurisdictions may contract with local agencies to implement CTR ordinance requirements.

Des Moines currently contracts with King County for assistance in implementing the CTR ordinance requirements. King County provides assistance and consultation for employer outreach, program review and annual reporting of employer progress.

B. Contractor (☒ N/A)

Local jurisdictions may opt to hire a contractor to perform various services as part of the GTEC program. The jurisdiction should identify the contractor and their assigned responsibilities.

Roles

-

Responsibilities

VIII. IMPLEMENTATION STRUCTURE

•

C. Transit Agency (☐ N/A)

The transit agency will be responsible for providing transit and ridesharing services to the major employers. In some cases, transit agencies will also conduct employer outreach and be responsible for tracking employer progress.

Transit Agency is responsible for providing transit and ridesharing services within the City of Des Moines. This includes to employment sites (both CTR and non-CTR affected). Additionally, the transit agency is contracted to implement Des Moines CTR law to provide employer outreach, track survey results, and report SOV reduction progress.

Roles

- Transit service provider
- Capital facility provider
- Maintain transit capital facilities

Responsibilities

- Provide transit services to transit centers and employment sites as supported by local land use and growth targets established by GMA
- Provide rideshare services.
- Provide CTR affected employer outreach
- Responsible for tracking and reporting employee SOV progress
- Provide Park and Ride facilities, and other capital investments
- Develop and implement rideshare and transit promotions to encourage employee HOV usage.

D. Transportation Management Association (☒ N/A)

Transportation Management Associations will be responsible for conducting employer outreach activities, promoting and educating employees about drive alone options and administering special programs, i.e., transit discount programs, guaranteed ride home, etc. that will help affected employers make progress toward meeting their goals.

Roles

•

Responsibilities

•

E. Employer (☐ N/A)

The employer will be responsible for complying with the requirements of the State CTR Law. These requirements include designating an employee transportation coordinator, regular

VIII. IMPLEMENTATION STRUCTURE

distribution of information to employees, regular review of employee commuting and reporting of progress to the local jurisdiction, and implementing a set of measures that will help achieve progress toward meeting goals.

Roles

- Communicate with the City of Des Moines as how the local and State CTR Law should be administered, progress measured and reported.

Responsibilities

- Implement all CTR program elements as described in employers CTR program
- Promote CTR program to employees
- Measure and report employee survey data every two years.

VIII. IMPLEMENTATION STRUCTURE

Based on the strategies and services that were identified in Section IV, the jurisdiction should identify the different tasks that are part of the CTR program and assign responsibility to the respective agency that will be performing the tasks. The following table has been provided to help jurisdictions identify the tasks, assign responsibility for completing the various tasks and indicate when the task will be completed.

Note: if the jurisdiction is planning on using a contractor to administer the CTR program on the behalf of the jurisdiction, the jurisdiction should identify name of the contractor

CTR Implementation Plan

Program Strategy or Service	Agency Responsible	Scheduled Date for Implementation
Policies and Regulations		
Downtown Design Guidelines	Des Moines	2008-09
Update Street Standards	Des Moines	2008-09
Comprehensive Plan City Code/Zoning	Des Moines	2007-09; as needed
Comprehensive Transportation Plan Update	Des Moines	2008-09
Pacific Highway S Land Use and Transportation Planning	Des Moines	2008-09
Services and Facilities		
Transit Now (10 year plan) Six Year Plan	King County Metro	Transit Now-2007 and in the future.
Marketing and Incentive Programs		
Rideshare Week, Bike to Work,	King County Metro/WSDOT	On-going promotions are twice yearly.
Construction Mitigation Programs		

King County is Des Moines' contractor for administering the City's CTR Plan and helping the City and CTR affected worksites develop and implement our CTR plans and meet the requirements of the CTR law.

IX. Growth and Transportation Efficiency Centers

NOTE: This section is only applicable to jurisdictions that are applying for a GTEC designation.

N/A

(INSERT MAP OF GTEC AREA)-NA

A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Amendments to Title 17 DMMC.

ATTACHMENTS:

1. Draft Ordinance No. 13-169
2. Koegen Edwards October 10, 2013
Memorandum Re: Proposed Title 17
Amendments

FOR AGENDA OF: October 24, 2013

DEPT. OF ORIGIN: Legal

DATE SUBMITTED: October 17, 2013

CLEARANCES:

- [X] Legal PB
 [] Finance NA
 [] Marina NA
 [] Parks, Recreation & Senior Services NA
 [X] Planning, Building & Public Works DJB
 [] Police NA
 [] Courts NA

APPROVED BY CITY MANAGER
FOR SUBMITTAL: AT

Purpose and Recommendation

The purpose of this agenda item is to revise Title 17 DMMC to bring uniformity to the Title, to organize the Title in a manner that is easier to search, and to ensure compliance with current state law and case law.

Suggested Motions

FIRST MOTION: "To suspend Rule 26(a) in order to enact Draft Ordinance No. 13-169 on first reading."

SECOND MOTION: "To enact Draft Ordinance No. 13-169, repealing and replacing Title 17 DMMC, entitled *Subdivisions*."

Background

The City Attorney seeks to make certain amendments to the City Code, specifically Titles 12, 13, 14, 16, 17, and 18 DMMC, to bring uniformity to the Titles, to organize the Titles in a manner that is easier to search and to ensure compliance with current state law and case law. The purpose of these amendments is to provide uniformity and consistency within our DMMC and not to make substantive or policy

changes. The DMMC will also include any textual code amendments the Council has passed up to this point. We have asked that these amendments to the various Titles and chapters be effective on January 1, 2014 so that delays between changes to the individual Titles and chapters will be referenced correctly in January; i.e., a change to a term or definition in Title 18 that effects a section in Title 17 will be accurate once all effected titles are enacted.

Discussion

Over the last six months, the staff of the Legal Department and the Planning, Building and Public Works Department, along with Mike Connelly of Koegen Edwards, LLP, have met to discuss how to better organize the DMMC so that it is user friendly and consistent with current statutes and case law. This effort has required input from the Departments that read and enforce the DMMC routinely. While the amendments to Title 17 DMMC are minimal, we have also checked for any authorities cited (state law, WAC references and references to adopted codes, etc.) to ensure their accuracy. As an example the legislature amended RCCW 58.17.140 to extend the time limitations for final plats and those changes have been incorporated. The definition were reviewed for accuracy and relevance, if we no longer reference the word we defined we have eliminated the definition. Some portions have been eliminated as those sections are now included in other codes that we adopt by reference.

We also hope that in making the DMMC more user friendly that citizens hoping to develop property in the city or to simply remodeling their current home can get to the information they need in a more comprehensive manner.

Alternatives To not enact Draft Ordinance No. 13-169.

Recommendation or Conclusion

Staff recommends passage on first reading of Draft Ordinance Nos. 13-169.

CITY ATTORNEY'S FIRST DRAFT 10/17/13

DRAFT ORDINANCE NO. 13-169

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating subdivisions; replacing Title 17 DMMC; and repealing the previously codified provisions of Title 17 DMMC and underlying Ordinances.

WHEREAS, Title 17 DMMC, entitled "Subdivisions," contains many Ordinances that regulate the division of land and promote the public health, safety, and general welfare, and

WHEREAS, numerous amendments to Title 17 DMMC since enactment have adversely affected the Title's organization, and

WHEREAS, the City Council finds that it is in the best interest of the public health, safety, and general welfare to establish comprehensive, uniform, and current provisions for the City's Subdivision Code; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:

Title 17 DMMC and all underlying Ordinances are hereby repealed and replaced with the following:

TITLE 17
SUBDIVISIONS

Chapter 17.01
Subdivision Code

Sections:

17.01.010	Title.
17.01.020	Application.
17.01.030	Purpose.
17.01.040	Authority.
17.01.050	Definitions.
17.01.060	Rules of construction.
17.01.070	Liability
17.01.080	Violation and penalty.

Draft Ordinance No. 13-169.2
October 17, 2013

Ordinance No. ____
Page 2 of 82

1 17.01.090 Severability.

2 17.01.100 Appeal.

3

4 **Sec. 1. 17.01.010. Title.** This Title shall be
5 referred to as the "Subdivision Code." This chapter shall be
6 entitled "General Provisions."

7

8 **Sec. 2. 17.01.020. Application.** The provisions of
9 this chapter shall apply to all chapters contained within Title
10 17 DMMC.

11

12 (1) The provisions of this Title shall apply to each
13 division of land applied for after the effective date of this
14 Title except as listed below and as set forth in RCW 58.17.040:

15

16 (a) Cemeteries and other burial plots while used
17 for that purpose;

18

19 (b) Divisions of land into lots or tracts each of
20 which is 1/128 of a section of land or larger, or five acres or
21 larger if the land is not capable of description as a fraction
22 of a section of land. For purposes of computing the size of any
23 lot under this subsection which borders on a street or road, the
24 lot size shall be expanded to include that area which would be
25 bordered by the centerline of a road or street and the side lot
26 lines of the lot running perpendicular to such centerline;

27

28 (c) Divisions made by testamentary provisions or
29 by the laws of descent and distribution.

30

31 (d) Divisions of land into lots or tracts
32 classified for industrial or commercial use when the city, town,
33 or county has approved a binding site plan for the use of the
34 land in accordance with local regulations;

35

36 (e) A division for the purpose of lease when no
37 residential structure other than mobile homes or travel trailers
38 are permitted to be placed upon the land when the City has

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1 approved a binding site plan for the use of the land in
2 accordance with local regulations;

3
4 (f) A division made for the purpose of alteration
5 by adjusting boundary lines, between platted or unplatted lots
6 or both, which does not create any additional lot, tract,
7 parcel, site, or division nor create any lot, tract, parcel,
8 site, or division which contains insufficient area and dimension
9 to meet minimum requirements for width and area for a building
10 site;

11
12 (g) Divisions of land into lots or tracts if: (a)
13 such division is the result of subjecting a portion of a parcel
14 or tract of land to either chapter 64.32 or 64.34 RCW subsequent
15 to the recording of a binding site plan for all such land;

16
17 (h) A division for the purpose of leasing land
18 for facilities providing personal wireless services while used
19 for that purpose. "Personal wireless services" means any
20 federally licensed personal wireless service; and

21
22 (i) A division of land into lots or tracts of
23 less than three acres that is recorded in accordance with
24 chapter 58.09 RCW and is used or to be used for the purpose of
25 establishing a site for construction and operation of consumer-
26 owned or investor-owned electric utility facilities. For
27 purposes of this subsection, "electric utility facilities" means
28 unstaffed facilities, except for the presence of security
29 personnel, that are used for or in connection with or to
30 facilitate the transmission, distribution, sale, or furnishing
31 of electricity including, but not limited to, electric power
32 substations.

33
34 (2) Land use review procedures provided in chapter
35 18.20 DMMC (Land use review procedures) shall apply in addition
36 to applicable provisions within this Title.

37
38 **Sec. 3. 17.01.030. Purpose.** The purpose of this
39 Title is to regulate the division of land and to promote the

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1 public health, safety, and general welfare in accordance with
 2 the standards established in this Title and set forth in chapter
 3 36.70A RCW and RCW 58.17.010.
 4

5 **Sec. 4. 17.01.040. Authority.** This chapter is
 6 adopted pursuant to the provisions of chapter 58.17 RCW and the
 7 general police powers granted to the City pursuant to 35A.13 and
 8 35A.63 RCW and other applicable laws.
 9

10 **Sec. 5. 17.01.050. Definitions.** As used in this
 11 Title, unless the context or subject matter clearly requires
 12 otherwise, the words or phrases defined in this chapter shall
 13 have the indicated meanings. All other words or phrases
 14 appropriate to the context of their uses shall be interpreted as
 15 defined in the zoning code.
 16

17 "Alteration" means a change to any recorded plat, short
 18 plat or binding site plan, except as defined in "lot line
 19 adjustment" below.
 20

21 "Applicant" means a person who applies for any approval
 22 under this Title and who is an owner of the subject property or
 23 the authorized agent of the owner. "Applicant" includes any
 24 current owner who purchased property from a previous owner who
 25 submitted an application.
 26

27 "Binding site plan" means a scale drawing or map which
 28 identifies and shows the areas and locations of all streets,
 29 roads, utilities, improvements, open spaces, easements, and any
 30 other significant development features and which binds future
 31 development to be in accordance with the drawing.
 32

33 "Block" means a group of lots, tracts, or parcels of
 34 common origin or relationship within a boundary which is
 35 distinct and separated from other lots, tracts, or parcels by
 36 physical features such as public or private streets or
 37 topography.
 38

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1 "Comprehensive plan" means the document as adopted in
2 DMMC 18.05.060.
3

4 "County auditor" means the office or person as defined in
5 chapter 36.22 RCW, as presently constituted or as may be
6 subsequently amended, or the office or person assigned such
7 duties under a county charter.
8

9 "County treasurer" means the office or person as defined
10 in chapter 36.29 RCW, as presently constituted or as may be
11 subsequently amended, or the office or person assigned such
12 duties under a county charter.
13

14 "Dedication" means the deliberate appropriation of land
15 by its owner for any general and public uses, reserving to
16 himself/herself no other rights except those which are
17 compatible with the full exercise and enjoyment of the public
18 uses to which the property has been devoted. The intention to
19 dedicate shall be evidenced by its owner by the presentment of a
20 document of conveyance, or a final plat, short plat, binding
21 site plan, or lot line adjustment, for filing or recording with
22 the county auditor, showing the dedication thereon; and, the
23 acceptance by the public shall be evidenced by the approval of
24 such plat or conveyance for filing by the appropriate
25 governmental unit.
26

27 "Easement" means a specific air, surface, submerged, or
28 subsurface right, of perpetual duration for a legally described
29 parcel of land, which is conveyed for use by someone other than
30 the owner of the subject property, or to benefit some property
31 other than the subject property.
32

33 "Final plat" means the final drawing or map of a
34 subdivision, together with all dedications, covenants,
35 certifications, and signatures prepared for filing for record
36 with the county auditor and containing all elements and
37 requirements set forth in chapter 58.17 RCW, as presently
38 constituted or as may be subsequently amended, and in this
39 Title.

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1 "Improvements" means streets, with or without curb or
2 gutter, sidewalks, pedestrian ways, water mains, sanitary and
3 storm sewers, street trees, lighting, and other appropriate
4 items.

5
6 "Lot" means a fractional part of divided lands having
7 fixed boundaries, means of access, and sufficient area and
8 dimension to meet minimum yard, area, and open space
9 requirements of the zoning code for the zone in which the lot is
10 located at the time such lot was created.

11
12 "Lot line adjustment" means:

13
14 (1) A division made for the purpose of alteration by
15 adjusting boundary lines between platted or unplatted lots or
16 both; or

17
18 (2) A consolidation of multiple lots into one single
19 lot; provided, that the division or consolidation does not
20 create any additional lot, tract, or parcel; and does not create
21 any lot, tract, or parcel which contains insufficient area and
22 dimension to meet minimum requirements for width and area of a
23 building site as required by Title 18 DMMC.

24
25 "Material error" means an error in fact or an omission of
26 substantive information in an application, or supplementary
27 study, supplied to the City, which would constitute the basis
28 for a decision.

29
30 "Parcel" means an existing lot, tract, or division of
31 land.

32
33 "Pedestrian way" means a tract or right-of-way, dedicated
34 to public use, for the purpose of facilitating pedestrian access
35 to nearby streets and properties.

36
37 "Planning official" means the Director of the Planning,
38 Building and Public Works Department or his/her designee.

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1 "Preliminary plat" means a scale drawing or map of a
2 proposed subdivision showing the general layout of streets,
3 lots, blocks, restrictive covenants to be applicable to the
4 subdivision, and other related information required by the City
5 of a subdivision. The preliminary plat shall be the basis for
6 the approval or disapproval of the general layout of a
7 subdivision.

8
9 "Registered land surveyor" means an individual licensed
10 as a land surveyor pursuant to chapter 18.43 RCW (Professional
11 Engineers Registration Act), as presently constituted or as may
12 be subsequently amended.

13
14 "Right-of-way" means land dedicated to the public
15 primarily for the movement of vehicles and pedestrians and
16 providing for primary access to adjacent parcels. Secondly,
17 it means that land which provides space for utility lines and
18 appurtenances and similar components.

19
20 "Security" means a commitment of funds guaranteeing the
21 payment of a previously specified amount of money if in the
22 opinion of the administrator in charge, certain work is not
23 performed satisfactorily or work results in damage to property
24 or the environment. Security may be in the form of a cash, line
25 of credit, bond, or a set-aside account previously approved by
26 the City.

27
28 "Shoreline master program" means the document as adopted
29 in chapter 16.20 DMMC.

30
31 "Short plat" means the final drawing or map of a short
32 subdivision, together with all dedications and covenants,
33 prepared for filing for record with the county auditor and
34 containing all elements and requirements set forth in chapter
35 58.17 RCW.

36
37 "Short subdivision" means the division or redivision of
38 land into nine or fewer lots for the purpose of sale, lease, or
39 transfer of ownership.

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1
2 "Significant trees" means healthy ever-green trees six
3 inches DBH (diameter at breast height) or greater and healthy
4 deciduous trees (excluding alders, European ashes, cottonwoods
5 and willows) eight inches DBH or greater.
6

7 "Street Development Standards" means the document adopted
8 by chapter 12.15 DMMC.
9

10 "Subdivision" means the division or redivision of land
11 into 10 or more lots or the redivision of a short subdivision
12 into 10 or more lots within a period of five years from the
13 filing of such short plat for the purpose of sale, lease, or
14 transfer of ownership.
15

16 "Tract" means land reserved for special uses including
17 but not limited to open space, surface water retention,
18 utilities, or access. Tracts are neither counted as lots nor
19 considered as building sites.
20

21 "Vacation" means the elimination of a recorded lot line,
22 right-of-way, or easement.
23

24 "Vehicular access tract" means a privately owned tract
25 providing vehicular and pedestrian access to parcels.
26

27 **Sec. 6. 17.01.060. Rules of construction.** The
28 following rules of construction shall apply unless inconsistent
29 with the obvious meaning in the context of the provision.
30

31 (1) Tense. Words used in the present tense shall
32 include the future tense.
33

34 (2) Number. Words used in the singular shall include
35 the plural, and words used in the plural shall include the
36 singular.
37

38 (3) Headings. In the event that there is any conflict
39 or inconsistency between the heading of a chapter, section, or

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1 paragraph of this Code, and the content thereof, the said
 2 heading shall not affect the scope, meaning, or intent of the
 3 content.

4
 5 (5) Citations. Citations to state or federal laws
 6 shall mean that law as presently constituted or as it may be
 7 subsequently amended in the future.

8
 9 **Sec. 7. 17.01.070. Liability.** It is the specific
 10 intent of this Title and procedures adopted under this Title to
 11 place the obligation of complying with the requirements of this
 12 chapter upon the permittee, and no provision is intended to
 13 impose any duty upon the City, or any of its officers,
 14 employees, or agents. Nothing contained in this Title is
 15 intended to be or shall be construed to create or form the basis
 16 for liability on the part of the City, or its officers,
 17 employees, or agents, for any injury or damage resulting from
 18 the failure of the permittee to comply with the provisions of
 19 this Title, or by reason or in consequence of any act or
 20 omission in connection with the implementation or enforcement of
 21 this Title or any procedures adopted under this Title by the
 22 City, its officers, employees, or agents.

23
 24 **Sec. 8. 17.01.080. Violation and penalty.**

25
 26 (1) General. It is a violation of this Title for a
 27 person to divide, segregate, sell, or transfer, or offer to sell
 28 or transfer, real property in violation of this Title. It is a
 29 violation of this Title to do any other thing with respect to a
 30 lot, tract, parcel, or property in the City that violates this
 31 Title or violates a plat or short plat restriction imposed by
 32 the City.

33
 34 (2) Enforcement. The City shall use the applicable
 35 provisions of the Zoning Code (Title 18) in the investigation,
 36 enforcement, and prosecution of the violations of this Title.

37
 38 (3) Civil infraction. Except as otherwise provided in
 39 this Title, no person shall violate or fail to comply with this

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1 Title. A violation of or failure to comply with this subsection
2 is a class 1 civil infraction.

3
4 (4) Criminal penalty. Except as otherwise provided in
5 this Title, in addition to or as an alternative to any other
6 penalty provided in this Title or by law, a person convicted of
7 a violation of this Title is guilty of a gross misdemeanor. Upon
8 conviction a person may also be ordered to abate, discontinue,
9 or correct a violation of this Title.

10
11 (5) Other lawful remedies. Nothing in this section
12 shall limit the right of the City to pursue other lawful
13 criminal, civil, or equitable remedies to abate, discontinue, or
14 correct violations of this Title.

15
16 **Sec. 9. 17.01.090. Severability.** The provisions of
17 this Title are severable. If any section, sentence, clause or
18 phrase of this code is adjudged by a court of competent
19 jurisdiction to be invalid, the decision shall not affect the
20 validity of the remaining portions of the DMMC.

21
22 **Sec. 10. 17.01.100. Appeal.** Appeals of decisions
23 made pursuant to this Title shall be as set forth in the
24 applicable chapter and pursuant to chapter 18.20 DMMC.

25
26
27 **Chapter 17.02**
28 **Interpretation of Title 17 DMMC**
29

30 **Sections:**

31 17.02.010 Title.
32 17.02.020 Application.
33 17.02.030 Purpose.
34 17.02.040 Authority.
35 17.02.050 Interpretation.
36 17.02.060 Provisions not affected by headings.
37 17.02.070 Appeal.
38

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Sec. 11. 17.02.010. Title. This chapter shall be entitled "Interpretation of Title 17 DMMC."

Sec. 12. 17.02.020. Application. This chapter shall apply to the interpretation of Title 17 DMMC.

Sec. 13. 17.02.030. Purpose. The purpose of this chapter is to provide for the interpretation of development code provisions in Title 17 DMMC.

Sec. 14. 17.02.040. Authority. This chapter is adopted pursuant to the provisions of chapters 35.63, 35A.63 and 36.70A RCW and other applicable laws.

Sec. 15. 17.02.050. Interpretation.

(1) Interpretation of Title 17 shall be responsibility of the Planning, Building and Public Works Director.

(2) Interpretations of Title 17 may be initiated by the submittal of a written request to the City Manager or the City Manager's designee.

(3) Requests for interpretations of code shall be processed as a Type I land use action.

(4) The City Manager or the City Manager's designee shall periodically submit to the City Council a summary of the interpretations requested and the corresponding interpretations made by the Planning, Building and Public Works Director. As needed, the summary shall include recommendations regarding the need for textual code amendments that would clarify DMMC provisions.

Sec. 16. 17.02.060. Provisions not affected by headings. Chapter and section headings contained in this Title shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of any section hereof.

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Sec. 17. 17.02.070. Appeal. A decision of the Planning, Building and Public Works Director made in accordance with this chapter shall be considered a final administrative decision. A person aggrieved by such decision of the Planning, Building and Public Works Director may appeal such decision to the Hearing Examiner in accordance with DMMC 18.20.150 and 18.20.160 and chapter 18.240 DMMC.

Chapter 17.05 Short Subdivisions¹

Sections:

17.05.010	Title.
17.05.020	Application.
17.05.030	Purpose.
17.05.040	Authority.
17.05.050	General provisions.
17.05.060	Short subdivisions processed simultaneously.
17.05.070	Burden of providing documentation.
17.05.080	Application.
17.05.090	Acceptance for filing/vesting.
17.05.100	Comments - Requests.
17.05.110	Public notice.
17.05.120	Deadline for comments.
17.05.130	Changes required.
17.05.140	Planning, Building and Public Works Director's decision - General.
17.05.150	Planning, Building and Public Works Director's decision - Decisional criteria.
17.05.160	Planning, Building and Public Works Director's decision - Conditions, restrictions, and modifications.
17.05.170	Planning, Building and Public Works Director's decision - Dedication.

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1 17.05.180 Planning, Building and Public Works Director's
2 decision - Contents of decision.
3 17.05.190 Planning, Building and Public Works Director's
4 decision - Distribution of written decision.
5 17.05.200 Processing short subdivisions - Time limits.
6 17.05.210 Appeal.
7 17.05.220 Filing final short subdivision documents.
8

9 **Sec. 18. 17.05.010. Title.** This chapter shall be
10 entitled "Short Subdivisions."
11

12 **Sec. 19. 17.05.020. Application.** This chapter
13 shall apply to all divisions of land, not exempt, into nine or
14 fewer lots for the purpose of sale, lease or transfer of
15 ownership.
16

17 **Sec. 20. 17.05.030. Purpose.** The purpose of this
18 chapter is to adopt the process and procedures for the
19 administrative approval of short subdivisions in a manner
20 consistent with chapter 58.17 RCW.
21

22 **Sec. 21. 17.05.040. Authority.** The chapter is
23 adopted pursuant to the provisions of RCW 58.17.020(1), (6) and
24 (8), and RCW 58.17.030 and .060 and other applicable laws.
25

26 **Sec. 22. 17.05.050. General provisions.**
27

28 (1) The provisions of this chapter describe the
29 procedure that the City shall use to review and approve,
30 conditionally approve, or deny a proposed short subdivision.
31 Chapter 17.35 DMMC contains the substantive requirements
32 applicable to short subdivisions.
33

34 (2) A lot that is created by a short subdivision shall
35 not be further divided by short subdivision in any manner within
36 a period of five years, except that when the original short
37 subdivision contains fewer than nine lots, nothing in this
38 section shall prevent the filing of an alteration within the
39 five-year period to create up to a total of nine lots within the

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original short subdivision boundaries. Any further division within such five-year period shall be processed under the provisions of this Title regarding subdivisions (chapter 17.10 DMMC).

Sec. 23. 17.05.060. Short subdivisions processed simultaneously. Unless the applicant requests in writing otherwise, a short subdivision application shall be processed simultaneously with applications for variances, planned unit developments, site plan reviews, street vacations, and similar quasi-judicial or administrative actions to the extent that procedural requirements applicable to these actions permit simultaneous processing as determined by the Planning, Building and Public Works Director.

Sec. 24. 17.05.070. Burden of providing documentation. The burden of providing all information necessary to satisfy the requirements of this Title shall be upon the applicant requesting the short subdivision. The decision of the Planning, Building and Public Works Director as to the sufficiency of information provided by an applicant shall be considered a final decision for the purposes of this chapter.

Sec. 25. 17.05.080. Application. The owner of the subject property or the authorized agent(s) of the owner may apply for a short subdivision by submitting to the Planning, Building and Public Works Department the information specified in DMMC 17.40.050 and .060.

Sec. 26. 17.05.090. Acceptance for filing/vesting.

(1) An application for a short subdivision shall not be considered as accepted for filing for the purpose of vesting of development rights until:

(a) The planning official verifies that the applicant has fully complied with DMMC 17.05.080; and

(b) The Planning, Building and Public Works Director issues a notice of complete application and the Draft Ordinance No. 13-169.2

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1 deadline for written comments established in DMMC 17.05.120 has
2 expired.

3
4 (2) Applications found to contain and be based on
5 material errors shall be deemed withdrawn and subsequent
6 resubmittals shall be treated as a new application and shall
7 require a new application fee.

8
9 (3) Applicant-generated requests for revision(s), i.e.,
10 those requests which are not made in response to staff review or
11 public appeal, which result in substantial changes to the
12 proposed land use action, as determined by the Planning,
13 Building and Public Works Director, including but not limited to
14 the creation of additional lots, the elimination of open space,
15 or the alteration of conditions of approval on an approved short
16 plat, shall be treated as a new application as of the date of
17 receipt of the revision by the Planning, Building and Public
18 Works Department and shall require a new application fee.

19
20 **Sec. 26. 17.05.100. Comments - Requests.** Within 14
21 days of issuing a notice of complete application in response to
22 a short subdivision application, the planning official shall
23 distribute a request for comments in addition to the public
24 notice specified by DMMC 17.40.120. The request for comments
25 shall contain a copy of the proposed subdivision plan, a legal
26 description of the short subdivision, and a vicinity map. The
27 request for comments shall be distributed to interested City
28 departments, affected agencies including, but not limited to,
29 those agencies providing water, sanitary sewer, power,
30 telecommunication, public health, public education, and fire
31 protection service to the proposed short subdivision, and to the
32 Department of Transportation if the proposed short subdivision
33 is adjacent to any state-owned right-of-way.

34
35 **Sec. 27. 17.05.110. Public notice.** The planning
36 official shall give public notice of the hearing as set forth in
37 DMMC 17.40.120.

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Sec. 28. 17.05.120. Deadline for comments. The planning official shall consider all written comments and information regarding the proposed short subdivision that are delivered to the Planning, Building and Public Works Department within 15 days of the date of distribution. The planning official may extend the deadline for comments upon request by a department, agency, authority, or owner of property, if he/she determines that an extension is necessary to obtain information relevant to the short subdivision application. When a short subdivision involves review under the State Environmental Policy Act and comments are requested from all affected agencies, departments, and authorities during such review, the planning official shall not be required to request additional comments.

Sec. 29. 17.05.130. Changes required. The planning official shall make available all received comments to the applicant within five days of the comment deadline. Within 15 days from the end of the comment period, the applicant may make changes to the proposed short subdivision application in response to received comments. An applicant may submit a written request for time extension, not to exceed 15 days, which may be approved by the planning official if it is determined that additional time is warranted, giving consideration to the nature and extent of the changes. Time spent by the applicant to make changes to the original short subdivision application shall not be counted toward the application processing time limit specified in DMMC 17.05.200 (Processing short subdivisions - Time limits).

Sec. 30. 17.05.140. Planning, Building and Public Works Director's decision - General. Following the comment deadline and, if applicable, receipt of any proposed changes to the short subdivision submitted by the applicant, the Planning, Building and Public Works Director shall issue a written decision to either:

- (1) Approve the short subdivision; or

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1 (2) Approve the short subdivision subject to certain
2 conditions; or

3
4 (3) Return the short subdivision to the applicant for
5 modification; or

6
7 (4) Disapprove the short subdivision.
8

9 **Sec. 31. 17.05.150. Planning, Building and Public**
10 **Works Director's decision - Decisional criteria.** The Planning,
11 Building and Public Works Director may approve the short
12 subdivision only if he/she finds that:

13
14 (1) It is consistent with the applicable provisions of
15 the comprehensive plan, zoning code, shoreline master program,
16 and other City policies and regulations; and
17

18 (2) It is consistent with the applicable provisions of
19 chapter 17.35 DMMC; and
20

21 (3) There are adequate provisions for open spaces,
22 drainage ways, rights-of-way, sidewalks, and other planning
23 features that assure safe walking conditions for pedestrians,
24 including students who walk to and from school, easements, water
25 supplies, sanitary waste, fire protection, power service, parks,
26 playgrounds, and schools; and
27

28 (4) It will serve the public use and interest and is
29 consistent with the public health, safety, and welfare. The
30 Planning, Building and Public Works Director shall be guided by
31 the policy and standards and may exercise the powers and
32 authority set forth in chapter 58.17 RCW, as presently
33 constituted or as may be subsequently amended; and
34

35 (5) The Planning, Building and Public Works Director
36 has reviewed the proposed short plat documents to be filed and
37 certifies that they comply with the applicable provisions of
38 this Title; and
39

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1 (6) The proposed short subdivision provides for
2 coordinated development with adjoining properties or future
3 development of adjoining properties including but not limited to
4 shared access where appropriate.
5

6 **Sec. 32. 17.05.160. Planning, Building and Public**
7 **Works Director's decision - Conditions, restrictions, and**
8 **modifications.** The Planning, Building and Public Works Director
9 shall include in the written decision any conditions,
10 restrictions, and modifications that are determined to be
11 necessary to eliminate or minimize any undesirable effects or
12 impacts that would result from approving the proposed short
13 subdivision. Such conditions, restrictions, and modifications
14 shall be related to, and commensurate with, specified potential
15 adverse impacts that may otherwise occur. Any conditions,
16 restrictions, and modifications that are imposed shall become
17 part of the decision.
18

19 **Sec. 33. 17.05.170. Planning, Building and Public**
20 **Works Director's decision - Dedication.** The Planning, Building
21 and Public Works Director may require dedication of tracts,
22 easements, or rights-of-way for access, utility, or other public
23 purposes. Such dedications shall be clearly shown and described
24 on all documents required by this chapter.
25

26 **Sec. 34. 17.05.180. Planning, Building and Public**
27 **Works Director's decision - Contents of decision.** The written
28 decision shall include:
29

30 (1) A statement approving, approving with conditions,
31 returning to the applicant for modifications, or disapproving
32 the short subdivision; and
33

34 (2) Any conditions, restrictions, and modifications
35 that are imposed; and
36

37 (3) Findings of fact that support the decision,
38 including any conditions, restrictions, and modifications that
39 are imposed; and

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(4) A statement of the criteria used in making the decision; and

(5) A summary of the rights, as established in this chapter, of the applicant and others to appeal the decision.

Sec. 35. 17.05.190. Planning, Building and Public Works Director's decision - Distribution of written decision. Within seven days after the written decision is issued, the planning official shall distribute the decision as follows:

(1) To the applicant; and

(2) Post at the posting places designated in DMMC 1.08.010; and

(3) To each person who submitted timely written comments.

Sec. 36. 17.05.200. Processing short subdivisions - Time limits. Applications for any proposed short subdivision and dedication shall be approved, disapproved, approved with conditions, or returned to the applicant for modifications within 30 days following the date of filing of a complete application thereof unless the applicant consents in writing to an extension of such time period.

Sec. 37. 17.05.210. Appeal. Short subdivisions as governed by this chapter are Type II decisions. Appeals are outlined in DMMC 18.20.170.

(1) Who may appeal. Any person who is aggrieved by the decision of the Planning, Building and Public Works Director concerning a short subdivision may appeal the decision in accordance with subsection (3) of this section.

(2) No construction or permits pending appeals. The City shall not issue any permits and the applicant shall not

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engage in any activity based on the decision approving the short subdivision until the time to appeal has expired. If the decision is appealed, the City shall not issue any permits and the applicant shall not engage in any activity based on the decision until the City administrative appeals process has been exhausted.

(3) Filing deadline and procedures.

(a) The appeal, in the form of a letter of appeal, shall be delivered to the Planning, Building and Public Works Department together with the filing fee as established by the City Manager or the City Manager's designee no later than 10 days following the date of distribution of the Planning, Building and Public Works Director's decision. The appeal shall be in accordance with the applicable provisions of chapter 18.20 DMMC.

(b) Any appeal shall contain:

(i) A clear reference to the short subdivision being appealed; and

(ii) A statement of the specific factual findings or conclusions of the Planning, Building and Public Works Director disputed by the person filing the appeal.

(c) Failure to comply with the provisions of this section shall be grounds for denial of the appeal.

Sec. 38. 17.05.220. Filing final short subdivision documents.

(1) General. The applicant shall submit to the Planning, Building and Public Works Department the final short subdivision documents specified in DMMC 17.40.090 (Required materials - Final short plats, plat alterations, plat vacations, and binding site plans) following:

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1
2 (a) Issuance of the written decision to approve a
3 short subdivision; and
4

5 (b) Expiration of time to appeal or exhaustion of
6 City administrative appeals process; and
7

8 (c) Installation of all required improvements or
9 submittal of securities to cover the cost of installation in
10 accordance with DMMC 17.40.140 (Securities).
11

12 (2) Signing of Subdivision Documents. The Planning,
13 Building and Public Works Director and public works director
14 shall sign the final short subdivision documents if:
15

16 (a) All necessary final short subdivision
17 documents have been signed and acknowledged by all persons
18 holding an ownership interest in the land being subdivided; and
19

20 (b) The applicant has complied with all
21 requirements of this section and the Planning, Building and
22 Public Works Director's decision specified in DMMC 17.05.140
23 (Planning, Building and Public Works Director's decision -
24 General), 17.05.150 (Planning, Building and Public Works
25 Director's decision - Decisional criteria), 17.05.160 (Planning,
26 Building and Public Works Director's decision - Conditions,
27 restrictions, and modifications), 17.05.170 (Planning, Building
28 and Public Works Director's decision - Dedication), 17.05.180
29 (Planning, Building and Public Works Director's decision -
30 Contents of decision), and 17.05.190 (Planning, Building and
31 Public Works Director's decision - Distribution of written
32 decision); and
33

34 (c) All existing structures or improvements that
35 would be made nonconforming with current City standards or codes
36 by the proposed short subdivision have been demolished or
37 modified to conform.
38

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(3) Filing - Time limits. The applicant shall submit all signed short plat documents, together with required recording fees, to the Planning, Building and Public Works Department for recording with the county auditor. Any short plat not submitted to the Planning, Building and Public Works Department for recording with the county auditor within six months from the date of approval specified in DMMC 17.05.200 (Processing short subdivisions - Time limits) shall be deemed void and any development rights that have vested in the applicant shall be considered abandoned. The Planning, Building and Public Works Department shall transmit all short plat documents to the county auditor and other appropriate county offices within 15 days from the date the applicant submits the short plat for recording.

Chapter 17.10 Subdivisions

Sections:

17.10.010	Title.
17.10.020	Application.
17.10.030	Purpose.
17.10.040	Authority.
17.10.050	General provisions.
17.10.060	Burden of providing documentation.
17.10.070	Subdivision application.
17.10.080	Preliminary subdivisions processed simultaneously.
17.10.090	Acceptance for filing/vesting.
17.10.100	Comments.
17.10.110	Staff report.
17.10.130	City Council review.
17.10.140	Public testimony and participation at public hearings.
17.10.150	Continuation of hearing.
17.10.160	City Council's decision.
17.10.170	Reconsideration period - Final decision unless reconsidered.
17.10.180	Reconsideration.

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- 1 17.10.190 Processing preliminary subdivisions - Time limits.
- 2 17.10.200 Effect of preliminary subdivision approval.
- 3 17.10.210 Final subdivision filing - Time limits.
- 4 17.10.220 Contents of final plat.
- 5 17.10.230 Administrative review of final plats.
- 6 17.10.240 City Council action.
- 7 17.10.250 Processing final subdivisions - Time limits.
- 8 17.10.270 Filing of plat documents.
- 9 17.10.280 Appeal.

10
 11 **Sec. 39. 17.10.010. Title.** This chapter shall be
 12 entitled "Subdivisions."

13
 14 **Sec. 40. 17.10.020. Application.** This chapter shall
 15 apply to all division or redivision of land into ten or more
 16 lots for the purpose of sale, lease or transfer of ownership and
 17 as more specifically defined herein.

18
 19 **Sec. 41. 17.10.030. Purpose.** The purpose of this
 20 chapter is to adopt the process and procedures for the
 21 administrative approval of short subdivisions in a manner
 22 consistent with chapter 58.17 RCW.

23
 24 **Sec. 42. 17.10.040. Authority.** This chapter is
 25 adopted pursuant to the provisions of chapter 58.17 RCW.

26
 27 **Sec. 43. 17.10.050. General provisions.** The
 28 provisions of this chapter describe the procedure that the City
 29 shall use to review and approve, conditionally approve or deny
 30 proposed subdivisions. Chapter 17.35 DMMC contains the
 31 substantive requirements applicable to subdivisions.

32
 33 **Sec. 44. 17.10.060. Burden of providing**
 34 **documentation.** The burden of providing all information
 35 necessary to satisfy the requirements of this Title shall be
 36 upon the applicant requesting the subdivision. The decision of
 37 the Planning, Building and Public Works Director as to the
 38 sufficiency of information provided by an applicant shall be
 39 considered a final decision for the purposes of this chapter.

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1
2 **Sec. 45. 17.10.070. Subdivision application.** The
3 owner of the subject property or the authorized agent(s) of the
4 owner may apply for a subdivision by submitting to the Planning,
5 Building and Public Works Department a preliminary subdivision
6 application containing the information specified in DMMC
7 17.40.050 and 17.40.060.

8
9 **Sec. 46. 17.10.080. Preliminary subdivisions**
10 **processed simultaneously.** Unless the applicant requests in
11 writing otherwise, a preliminary subdivision application shall
12 be processed simultaneously with applications for variances,
13 planned unit developments, site plan reviews, street vacations,
14 and similar quasi-judicial or administrative actions to the
15 extent that procedural requirements applicable to these actions
16 permit simultaneous processing as determined by the Planning,
17 Building and Public Works Director.

18
19 **Sec. 47. 17.10.090. Acceptance for filing/vesting.**

20
21 (1) An application for a preliminary subdivision shall
22 not be considered as accepted for filing for the purpose of
23 vesting of development rights until:

24
25 (a) The planning official verifies that the
26 applicant has fully complied with DMMC 17.10.070; and

27
28 (b) The Planning, Building and Public Works
29 Director issues a notice of complete application and the
30 deadline for written comments established in DMMC 17.10.100(2)
31 has expired.

32
33 (2) Applications found to contain and be based on
34 material errors shall be deemed withdrawn and subsequent
35 resubmittals shall be treated as a new application and shall
36 require a new application fee.

37
38 (3) Applicant-generated requests for revision(s), i.e.,
39 those requests which are not made in response to staff review or

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1 public appeal, which result in substantial changes to the
2 proposed subdivision, as determined by the Planning, Building
3 and Public Works Director, including but not limited to the
4 creation of additional lots, the elimination of open space, or
5 the alteration of conditions of approval on an approved
6 preliminary plat, shall be treated as a new application as of
7 the date of receipt of the revision by the Planning, Building
8 and Public Works Department and shall require a new application
9 fee.

10
11 **Sec. 48. 17.10.100. Comments.**
12

13 (1) Requests for comments. Within 14 days of issuing a
14 notice of complete application in response to a subdivision
15 application, the planning official shall distribute a request
16 for comments in addition to the public notice specified by DMMC
17 17.40.120. The request for comments shall contain a copy of the
18 proposed subdivision plan, a legal description of the
19 subdivision, and a vicinity map. The request for comments shall
20 be distributed to interested City departments and affected
21 agencies including but not limited to those agencies providing
22 water, sanitary sewer, power, telecommunication, public health,
23 public education, and fire protection service to the proposed
24 subdivision and to the Secretary of the State Department of
25 Transportation if the proposed subdivision is adjacent to any
26 state-owned right-of-way.
27

28 (2) Deadline for comments. The planning official shall
29 consider all written comments and information from interested or
30 affected agencies, departments, authorities regarding the
31 proposed preliminary subdivision that are delivered to the
32 Planning, Building and Public Works Department within 15 days of
33 the date of distribution. The planning official may extend the
34 deadline for comments upon request by a department, agency, or
35 authority, if he/she determines that an extension is necessary
36 to obtain information relevant to the preliminary subdivision
37 application. When a preliminary subdivision involves review
38 under the State Environmental Policy Act and comments are
39 requested from all affected agencies, departments, and

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1 authorities during such review, the planning official shall not
2 be required to request additional comments.

3
4 (3) Changes required. The planning official shall make
5 available all received comments to the applicant within five
6 days of the comment deadline. Within 15 days of receiving the
7 comments, the applicant may make changes to the proposed
8 preliminary subdivision application in response to received
9 comments. An applicant may submit a written request for time
10 extension, not to exceed 15 days which may be approved by the
11 planning official if it is determined that additional time is
12 warranted, giving consideration to the nature and extent of the
13 required changes. Time spent by the applicant to make changes to
14 the original preliminary subdivision application shall not be
15 counted toward the application processing time limit specified
16 in DMMC 17.10.190.

17
18 **Sec. 49. 17.10.110. Staff report.**

19
20 (1) Contents. The planning official shall prepare a
21 staff report containing the following information:

22
23 (a) All pertinent application materials;

24
25 (b) All comments regarding the matter received by
26 the Planning, Building and Public Works Department prior to
27 distribution of the staff report;

28
29 (c) An analysis of the proposed preliminary
30 subdivision in relation to the applicable provisions of this
31 Title, the zoning code, the comprehensive plan, and the City
32 street development standards;

33
34 (d) Information demonstrating compliance with the
35 State Environmental Policy Act;

36
37 (e) A statement of the facts found by the
38 Planning, Building and Public Works Director and the conclusions
39 drawn from those facts;

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(f) A recommendation on the action to be taken on the proposed subdivision;

(g) The minutes of any previous public meeting concerning the proposed preliminary subdivision.

(2) Distribution in general. Not less than three days before the scheduled meeting or hearing, the planning official shall distribute or cause to be distributed the staff report as follows:

(a) To the applicant; and

(b) To each member of the body required to review the proposed preliminary subdivision at a public hearing or meeting.

Sec. 50. 17.10.130. City Council review.

(1) General. Pursuant to chapters 17.10 and 18.20 DMMC, the City Council shall hold a public hearing on each proposed Type IV land use action. No later than the first regular public meeting after receiving the recommendation of the Planning, Building and Public Works Director on the preliminary subdivision, the City Council shall set by motion the date of the hearing.

(2) Notice. The Planning, Building and Public Works Director shall prepare and distribute public notice of the hearing as set forth in DMMC 17.40.120.

(3) Electronic sound recording. The City Council shall make a complete electronic sound recording of each public meeting involving the review of a Type IV land use action.

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1 **Sec. 51. 17.10.140. Public testimony and**
2 **participation at public hearings.** Any person may participate in
3 the public hearing in either or both of the following ways:
4

5 (1) By submitting written testimony either by
6 delivering this testimony to the Planning, Building and Public
7 Works Department prior to the hearing or by giving it directly
8 to the City Council at the hearing.
9

10 (2) By appearing in person, or through a
11 representative, at the hearing and making oral testimony
12 directly to the City Council. The presiding officer may
13 reasonably limit the extent of oral testimony to facilitate the
14 orderly and timely conduct of the hearing.
15

16 **Sec. 52. 17.10.150. Continuation of hearing.** The
17 City Council may continue the hearing if, for any reason:
18

19 (1) It is unable to hear all of the public testimony on
20 the matter;
21

22 (2) It determines that it needs more information on the
23 matter; or
24

25 (3) It directs that the proposed preliminary
26 subdivision be modified.
27

28 If, during the hearing, the City Council announces the time and
29 place of the next hearing on the matter, no further notice of
30 that hearing need be given.
31

32 **Sec. 53. 17.10.160. City Council's decision.**
33

34 (1) General. Following its consideration of the matter,
35 the City Council shall by motion direct administration to return
36 the proposed preliminary subdivision to the applicant for
37 modification or draft a resolution to either:
38

39 (a) Approve the preliminary subdivision; or

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1
2 (b) Approve the preliminary subdivision subject
3 to certain conditions; or
4

5 (c) Disapprove the preliminary subdivision.
6

7 (2) Decisional criteria. The City Council may approve
8 the proposed preliminary subdivision only if it finds that:
9

10 (a) It is consistent with the applicable
11 provisions of the Comprehensive Plan, Zoning Code, Shoreline
12 Master Program, and other City policies and regulations; and
13

14 (b) It is consistent with the applicable
15 provisions of chapter 17.35 DMMC (layout and design of
16 subdivisions); and
17

18 (c) There are adequate provisions for open
19 spaces, drainage ways, rights-of-way, sidewalks, and other
20 planning features that assure safe walking conditions for
21 pedestrians, including students who walk to and from school,
22 easements, water supplies, sanitary waste, fire protection,
23 power service, parks, playgrounds, and schools; and
24

25 (d) It will serve the public use and interest and
26 is consistent with the public health, safety, and welfare. The
27 City Council shall be guided by the policy and standards and may
28 exercise the powers and authority set forth in chapter 58.17
29 RCW, as presently constituted or as may be subsequently amended;
30

31 (e) The proposed preliminary subdivision provides
32 for coordinated development with adjoining properties or future
33 development of adjoining properties including but not limited to
34 provisions for improved or shared access where appropriate.
35

36 (3) Conditions, restrictions, and modifications. The
37 City Council shall include in its decision any conditions,
38 restrictions, and modifications that are determined as necessary
39 to eliminate or minimize any undesirable effects or impacts that

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1 would result from approving the proposed subdivision. Any
2 conditions, restrictions, and modifications that are imposed
3 shall become part of the decision.
4

5 (4) Dedication. The City Council may require dedication
6 of tracts, easements, or rights-of-way for utility or other
7 public purposes. Such dedications shall be clearly shown and
8 described on all documents required by this chapter.
9

10 (5) Contents of decision. The City Council shall adopt
11 by resolution:
12

13 (a) A statement approving, approving with
14 conditions, or denying the preliminary subdivision; and
15

16 (b) Any conditions, restrictions, and
17 modifications that are imposed; and
18

19 (c) Findings of fact that support the decision,
20 including any conditions, restrictions, and modifications that
21 are imposed; and
22

23 (d) A statement of the criteria used in making
24 the decision; and
25

26 (e) A summary of the rights, as established in
27 this chapter, of the applicant and others to request
28 reconsideration of the decision of the City Council.
29

30 (6) Distribution of decision. Within five days
31 following the City Council decision, the planning official shall
32 distribute the resolution as follows:
33

34 (a) To the applicant; and
35

36 (b) To each person who submitted timely written
37 or oral testimony to the City Council for inclusion in the
38 record.
39

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(7) Failure to resubmit. Preliminary subdivision applications returned to the applicant for modification that are not resubmitted to the planning official within 45 days of the date of the City Council public hearing will be, for the purposes of this chapter, considered withdrawn; except that the Planning, Building and Public Works Director may extend the period to resubmit the application for an additional 45 days upon written request by the applicant submitted within the initial 45-day resubmittal period. Time spent by the applicant to make modifications as directed by the City Council shall not be counted toward application time limits specified in DMMC 17.10.190 (Processing preliminary subdivisions - Time limits).

Sec. 54. 17.10.170. Reconsideration period - Final decision unless reconsidered. The applicant shall not engage in any activity based on the decision approving the preliminary subdivision until the time to request reconsideration has expired. If the request for reconsideration is granted, the applicant shall not engage in any activity based on the decision approving the application until the City issues a final decision on the matter. If the decision of the City Council is not timely reconsidered, that decision shall be the final decision of the City. Distribution of the decision in resolution form under DMMC 17.10.160(6) (City Council decision) and as required by chapter 18.20 DMMC (Development Review Procedures) shall constitute notice of final decision.

Sec. 55. 17.10.180. Reconsideration.

(1) Who may request reconsideration. A request to reconsider the decision or action of the City Council connected with the subdivision application, other than a motion to reconsider brought under City Council rules of procedure, may be made by:

(a) The applicant; or

(b) Any person who submitted timely written or oral testimony to the City Council for inclusion in the record.

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1
2 (2) How to request reconsideration. The request for
3 reconsideration, in the form of a letter, shall be delivered to
4 the Planning, Building and Public Works Department within 10
5 days following the day of the City Council's decision. The
6 request shall contain:

7
8 (a) A clear reference to the preliminary
9 subdivision to be reconsidered; and

10
11 (b) A statement of the specific factual findings
12 or conclusions of the City Council disputed by the person filing
13 the request for reconsideration.

14
15 (3) Criteria. The City Council shall reconsider a
16 decision if it is determined that:

17
18 (a) An error of fact, law, or procedure that is
19 more likely than not to affect the outcome of the decision has
20 been made; or

21
22 (b) The person requesting reconsideration is
23 seeking to enter previously unavailable information that is more
24 likely than not to affect the outcome of the decision.

25
26 (4) Rules. Except as provided in this chapter,
27 requests for reconsideration shall otherwise be processed in
28 conformance with chapter 4.12 DMMC (City Council - Rules of
29 Procedure).

30
31 (5) Notice of decision. If the City Council, under the
32 rules of reconsideration specified in this section, reconsiders
33 an application for a preliminary subdivision and adopts a
34 resolution which results in a change in the original City
35 Council decision specified in DMMC 17.10.160 (City Council's
36 decision), the planning official shall within five days of the
37 decision prepare a notice of decision and distribute it to:

38
39 (a) The applicant;

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(b) Each person who submitted timely written or oral testimony for inclusion in the record.

Sec. 55. 17.10.190 Processing preliminary subdivisions - Time limits. Applications for any proposed subdivision and dedication shall be approved, approved with conditions, disapproved, or returned to the applicant for modification within 90 days from the date the application satisfies all of the requirements specified by DMMC 17.10.090 (Acceptance for filing/vesting), unless the applicant consents in writing to an extension of such time period.

Sec. 56. 17.10.200. Effect of preliminary subdivision approval.

(1) General. The approval of a preliminary subdivision by the City constitutes approval of the general concept and layout of the plat as approved. Preliminary subdivision approval does not signify acceptance of all engineering details of the plat. These engineering details remain subject to approval by the public works director.

(2) Construction of certain improvements. The applicant shall submit detailed design documents for all required right-of-way, easement, utility, or other improvements to the Planning, Building and Public Works Department. These documents shall be reviewed and approved by the public works director and planning official. Following such approval, the City may issue the necessary permits to construct the improvements.

(3) Deviations from the preliminary plat. The City shall not authorize improvements to be constructed, unless the improvements are consistent with the plat concept and layout of the preliminary subdivision approved by the City Council. In making such a determination, the public works director and planning official shall utilize the criteria for minor deviations set forth in DMMC 17.10.240(2). If consistency with

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1 the criteria is not clear, the public works director or planning
2 official shall request a determination from the City Council.

3
4 **Sec. 57. 17.10.210 Final subdivision filing - Time**
5 **limits.**
6

7 (1) General. The applicant shall submit a final plat to
8 the Planning, Building and Public Works Department, meeting the
9 requirements of this Title and the preliminary subdivision
10 approval, together with required recording fees, within the time
11 period set forth in RCW 58.17.140 following the date the
12 preliminary subdivision was approved or the preliminary
13 subdivision approval shall be deemed void and any development
14 rights that have vested in the applicant shall be considered
15 abandoned.
16

17 (2) Extension. The applicant may file a request to
18 extend the preliminary subdivision approval for up to one year.
19 The request must be delivered in writing to the Planning,
20 Building and Public Works Department at least 30 days prior to
21 expiration of the five-year period. The Planning, Building and
22 Public Works Department shall forward the request to the City
23 Council within 30 days of receipt. The City Council shall grant
24 approval of the extension if it is shown that the applicant has
25 attempted in good faith to submit the final plat within the
26 five-year period. If the final plat has not been submitted to
27 the City Council within any extended period the preliminary
28 subdivision approval shall terminate in accordance with
29 subsection (1) of this section.
30

31 **Sec. 58. 17.10.220. Contents of final plat.** Final
32 plats submitted to the City for consideration shall contain the
33 information specified in DMMC 17.40.090.
34

35 **Sec. 59. 17.10.230. Administrative review of final**
36 **plats.** Upon receipt of a final plat and all required
37 information, it shall be reviewed by the public works director
38 and the Planning, Building and Public Works Director. The
39 Planning, Building and Public Works Director shall prepare a

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1 report, including an appropriate recommendation and motion to
 2 the City Council. This report and the final plat shall be
 3 transmitted to the City Council.
 4

5 **Sec. 60. 17.10.240. City Council action.**
 6

7 (1) General. The City Council shall, at a public
 8 meeting, consider the final plat and by majority vote of a
 9 quorum of its entire membership, pass a resolution approving the
 10 final plat, and finding that:
 11

12 (a) The plat is consistent with the approved
 13 preliminary subdivision, except for minor deviations under
 14 subsection (2) of this section.
 15

16 (b) The plat is consistent with the provisions of
 17 this Title and chapter 58.17 RCW, as presently constituted or as
 18 may be subsequently amended.
 19

20 (c) All required improvements are installed or
 21 securities to cover the cost of installation are submitted in
 22 accordance with DMMC 17.40.140.
 23

24 (2) Minor deviations. The City Council may approve a
 25 final plat that is different from the preliminary subdivision if
 26 any change:
 27

28 (a) Is necessary because information provided in
 29 the survey for final plat was not available and reasonably could
 30 not have been provided during consideration of the preliminary
 31 subdivision; and
 32

33 (b) Does not increase the number of lots; and
 34

35 (c) Complies with the provisions of chapter 17.35
 36 DMMC; and
 37

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(d) Does not substantially change the location or nature of any improvements or any other element of the subdivision; and

(e) In no way significantly alters the subdivision.

Final plats with changes that do not meet the criteria for minor deviations shall be processed as new preliminary subdivisions and shall require a new application fee.

Sec. 61. 17.10.250. Processing final subdivisions - Time limits. Applications for any proposed final subdivision shall be approved, approved with conditions, disapproved, or returned to the applicant for modification or correction within 30 days following the date of filing the final plat documents specified in DMMC 17.40.090, unless the applicant consents in writing to an extension of such time period.

Sec. 62. 17.10.270. Filing of plat documents.

(1) General. Following approval of a final plat by City Council the Mayor shall sign the plat signifying approval by the City.

(2) Recording - Time limits. Within 15 days from the date the plat documents are signed by the Mayor, the planning official shall transmit the documents to the county auditor and any other appropriate county offices for recording.

(3) Dedication. The signature of the Mayor on the plat documents shall constitute acceptance of all dedications shown on the plat by the City.

Sec. 63. 17.10.280. Appeal.

(1) Preliminary determinations regarding subdivisions as governed by this chapter are Type IV decisions. The process for appeals is outlined in DMMC 18.20.190.

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(2) Final determinations regarding subdivisions as governed by this chapter are Type V decisions. The process for appeals is outlined in DMMC 18.20.200.

Chapter 17.15 Modified Subdivisions and Short Subdivisions

Sections:

17.15.010 Title.
 17.15.020 Application.
 17.15.030 Purpose.
 17.15.040 Authority.
 17.15.050 Requirements - Generally.
 17.15.060 Procedure.
 17.15.070 Approval criteria.
 17.15.080 Contents of decision.
 17.15.090 Limitations shown on subdivision or short subdivision.

Sec. 64. 17.15.010. Title. This chapter shall be entitled "Modified Subdivisions and Short Subdivisions."

Sec. 65. 17.15.020. Application. This chapter shall apply to subdivision applications not in compliance with one or more of the requirements identified in chapter 17.10 DMMC.

Sec. 66. 17.15.030. Purpose. The purpose of this chapter is to provide an alternative process for approval of plats where minor modifications are justified and the provisions of chapter 58.17 RCW are met.

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1
2 **Sec. 67. 17.15.040. Authority.** This chapter is
3 adopted pursuant to the provisions of chapter 58.17 RCW.
4

5 **Sec. 68. 17.15.050. Requirements - Generally.** The
6 provisions of this chapter establish a mechanism whereby an
7 applicant may propose and the City may consider and approve an
8 innovative or unusual subdivision or short subdivision that does
9 not comply with one or more of the requirements specified in
10 chapter 17.35 DMMC.
11

12 **Sec. 69. 17.15.060. Procedure.** Requests for modified
13 subdivisions and short subdivisions shall be processed and
14 decided upon as specified in chapters 17.16 and 17.12 DMMC,
15 (Subdivisions and Short Subdivisions), respectively; except that
16 the following additional requirements shall apply:
17

18 (1) Public notice shall be expanded to include a
19 description of which aspects of the proposed modified
20 subdivision/short subdivision are requested to deviate from City
21 standards.
22

23 (2) The applicant shall submit as part of the required
24 application materials a written narrative entitled "Modified
25 Subdivision/Short Subdivision Design Justification" which states
26 why proposed deviations from City standards are necessary and
27 what unique design features, not ordinarily provided in
28 traditional subdivisions/short subdivisions, are incorporated
29 into the proposal to offset the need for such standards.
30

31 (3) Within 21 days of the date of the decision to
32 approve, approve with conditions, or disapprove a short
33 subdivision, the planning official shall provide notice of the
34 decision, written findings, and other relevant materials to the
35 City Council at a regularly scheduled public meeting. The City
36 Council shall by motion decide whether to concur with the
37 Planning, Building and Public Works Director's decision or
38 review the matter further at a future meeting. The decision to
39 approve, approve with conditions, or disapprove an application

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1 for modified short subdivision shall not be considered final
2 until City Council action on the matter is complete.

3
4 **Sec. 70. 17.15.070. Approval criteria.** The City may
5 approve a proposed modified subdivision or short subdivision
6 under this chapter only if it finds that all of the following
7 criteria are met:

8
9 (1) It is consistent with the intent of the
10 comprehensive plan, zoning code, and shoreline master program;
11 and

12
13 (2) All lots within a subdivision meet the lot area and
14 lot width requirements for the zone classification assigned to
15 the property proposed to be subdivided; and

16
17 (3) Except for those requirements specifically
18 requested by the applicant to be modified, it is consistent with
19 the applicable provisions of chapter 17.35 DMMC; and

20
21 (4) There are adequate provisions for open spaces,
22 drainage ways, rights-of-way, sidewalks, and other planning
23 features that assure safe walking conditions for pedestrians,
24 including students who walk to and from school, easements, water
25 supplies, sanitary waste, fire protection, power service, parks,
26 playgrounds, and schools; and

27
28 (5) It serves the public use and interest and is
29 consistent with the public health, safety, and welfare. The City
30 Council shall be guided by the policy and standards and may
31 exercise the powers and authority set forth in chapter 58.17
32 RCW, as presently constituted or as may be subsequently amended;
33 and

34
35 (6) The proposed modified subdivision/short subdivision
36 provides for coordinated development with adjoining properties
37 or future development of adjoining properties including but not
38 limited to provisions for improved or shared access where
39 appropriate; and

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1
2 (7) The applicant has demonstrated that the proposal
3 includes design features or improvements which are beneficial to
4 the public, typically not found in traditional subdivision
5 proposals, and equivalent in scale or value to the improvements
6 or requirements from which the proposal deviates; and
7

8 (8) In subdivisions containing tracts for wetlands,
9 streams, or required buffers, as required by DMMC 17.35.190, the
10 minimum lot size established by Title 18 DMMC for the zone
11 classification assigned to the property proposed to be
12 subdivided may be reduced, provided:
13

14 (a) The number of lots within the subdivision
15 shall be no more than allowed by Title 18 DMMC under the
16 provisions for limited density transfer for environmentally
17 critical areas; and
18

19 (b) Adequate recreation area shall be provided on
20 each lot or by establishing a separate recreation tract in
21 addition to that required by DMMC 17.35.180.
22

23 **Sec. 71. 17.15.080. Contents of decision.** The
24 written decision shall include:
25

26 (1) A statement approving, approving with conditions,
27 or disapproving the short subdivision; and
28

29 (2) Any conditions, restrictions, and modifications
30 that are imposed; and
31

32 (3) Findings of fact that support the decision,
33 including any conditions, restrictions, and modifications that
34 are imposed; and
35

36 (4) A statement of the criteria used in making the
37 decision; and
38

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(5) A summary of the rights, as established in this chapter, of the applicant and others to appeal the decision.

Sec. 72. 17.15.090. Limitations shown on subdivision or short subdivision. If a modification is granted under this chapter, the recorded subdivision or short subdivision must clearly reflect that each lot and tract in the subdivision or short subdivision must be used, developed, or maintained consistent with the entire approved subdivision or short subdivision. Any proposed change to the use, development, or existence of any of the lots or tracts in the subdivision or short subdivision shall not be approved unless the entire subdivision or short subdivision is subject to City review and modification.

Chapter 17.20 Alteration and Vacation of Plats

Sections:

17.20.010	Title.
17.20.020	Application.
17.20.030	Purpose.
17.20.040	Authority.
17.20.050	Alteration and vacation of subdivisions, short subdivisions, and binding site plan applications.
17.20.060	Filing final alterations and vacations.

Sec. 73. 17.20.010 Title. This chapter shall be entitled "Alteration and Vacation of Plats."

Sec. 74. 17.20.020. Application. This chapter shall apply to all requests to alter or vacate subdivisions, short subdivisions or binding site plans.

Sec. 75. 17.20.030. Purpose. The purpose of this chapter is to provide for the process and procedure to be followed when subdivisions and short subdivisions of building site plans are altered or vacated.

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Sec. 76. 17.20.040. Authority. This chapter is adopted pursuant to the provisions of RCW 58.17.212-.218.

Sec. 77. 17.20.050. Alteration and vacation of subdivisions, short subdivisions, and binding site plan applications.

(1) The following actions shall be applied for, reviewed and acted upon in the same manner as an application for a subdivision as set forth in chapter 17.10 DMMC except as specifically set forth below:

(a) Alteration or vacation of subdivisions; and

(b) Alteration or vacation of short subdivisions and binding site plans involving a public dedication; and

(c) Alteration or vacation of binding site plans involving more than four lots and not involving a public dedication.

(2) The following actions shall be applied for, reviewed and acted upon in the same manner as is applicable for a short subdivision as set forth in chapter 17.05 DMMC except as specifically set forth below:

(a) Alteration or vacation of short subdivisions which do not involve a public dedication; and

(b) Binding site plans involving four or fewer lots and not involving a public dedication.

(3) Except as provided in RCW 58.17.040(6), the owner of the subject property or the authorized agent(s) of the owner may apply for alteration or vacation of a subdivision, short subdivision, or binding site plan by submitting to the Planning, Building and Public Works Department the information specified in DMMC 17.05.050, 17.40.060, and 17.40.080.

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1
2 (4) When a vacation application is specifically for a
3 City street, the procedures for street vacation found in chapter
4 35.79 RCW, as presently constituted or as may be subsequently
5 amended, and chapter 12.10 DMMC shall be utilized for the street
6 vacation. When the application is for the vacation of the
7 subdivision, together with the streets, the procedure for
8 vacation described in this chapter shall be used; provided, that
9 street vacations that are prohibited under RCW 35.79.035 shall
10 not be made.

11
12 (5) The Planning, Building and Public Works Director
13 may limit the scope or portion of the subdivision, short
14 subdivision, or binding site plan for which an alteration or
15 vacation document is required to be recorded. This may be
16 limited to that portion that is to be altered or vacated and any
17 related matters.

18
19 **Sec. 78. 17.20.060 Filing final alterations and**
20 **vacations.**

21
22 (1) Final alteration or vacation documents. Final
23 alterations or vacations of subdivisions, short subdivisions, or
24 binding site plans submitted to the City for consideration shall
25 contain the information specified in DMMC 17.40.090.

26
27 (2) Time limits to file final alteration and vacations.

28
29 (a) General. The applicant shall submit to the
30 Planning, Building and Public Works Department the final
31 alteration or vacation, meeting the requirements of this Title
32 and any conditions of approval, within six months following the
33 date the alteration or vacation was approved or the alteration
34 or vacation approval shall be considered void, and any
35 development rights which have vested in the applicant shall be
36 considered abandoned.

37
38 (b) Extension. The applicant may file a request
39 to extend the alteration or vacation approval for up to six

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1 months. The request shall be delivered in writing to the
 2 Planning, Building and Public Works Department not less than 30
 3 calendar days prior to expiration of the initial six-month
 4 period. The Planning, Building and Public Works Director shall
 5 grant the extension only upon a showing that the applicant has
 6 attempted in good faith to submit the alteration or vacation
 7 within the six-month period. If the alteration or vacation is
 8 not submitted to the Planning, Building and Public Works
 9 Department before the expiration of any granted extension it
 10 shall be considered void, and any development rights which have
 11 vested in the applicant shall be considered abandoned.
 12
 13

Chapter 17.25 Lot Line Adjustment

Sections:

17.25.010 Title.
 17.25.020 Application.
 17.25.030 Purpose.
 17.25.040 Authority.
 17.25.050 Scope.
 17.25.060 Administrative review.
 17.25.070 Filing for recording.
 17.25.080 Appeal.

Sec. 79. 17.25.010. Title. This chapter shall be
 entitled "Lot Line Adjustment."

Sec. 80. 17.25.020. Application. This chapter shall
 apply to all adjustments of existing lot lines wherein an
 additional lot or lots are not created.

Sec. 81. 17.25.030. Purpose. The purpose of this
 chapter is to identify the criteria, process and procedures to
 adjust certain lot lines as contemplated by this chapter.

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1
2 **Sec. 82. 17.25.040. Authority.** This chapter is
3 adopted pursuant to the provisions of chapter 58.17 RCW and
4 other applicable laws.
5

6 **Sec. 83. 17.25.050. Scope.**
7

8 (1) The boundary lines separating two to four parcels
9 of record may be adjusted under the provisions of this chapter;
10 provided, that such adjustment:
11

12 (a) Will not result in the creation of any
13 additional lot, tract, or parcel; and
14

15 (b) Will not create any lot, tract, or parcel
16 which contains insufficient area and dimensions to meet the
17 requirements of the zoning code; and
18

19 (c) Will not adversely affect access, easements,
20 environmentally critical areas, or drain fields; and
21

22 (d) Will be consistent with any applicable
23 health, building, or similar regulations; and
24

25 (e) Will not increase the nonconforming aspects
26 of an existing nonconforming lot.
27

28 (2) The boundary lines of multiple lots that constitute
29 a single "building site," as defined in DMMC 18.01.050 may be
30 adjusted under the provisions of this chapter to consolidate the
31 multiple lots into one single lot when the "development
32 activity," as defined in DMMC 18.01.050, on the building site is
33 subject only to administrative review and approval; and
34 provided, that such adjustment:
35

36 (a) Will not result in the creation of any
37 additional lot, tract, or parcel; and
38

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(b) Will not create any lot, tract, or parcel which contains insufficient area and dimensions to meet the requirements of the zoning code; and

(c) Will not adversely affect access, easements, environmentally critical areas, or drain fields; and

(d) Will be consistent with any applicable health, building, or similar regulations; and

(e) Will not increase the nonconforming aspects of an existing nonconforming lot.

Sec. 84. 17.25.060. Administrative review.

(1) The owner of the subject property or the authorized agent(s) of the owner may apply for a lot line adjustment by submitting to the Planning, Building and Public Works Department all of the information specified in DMMC 17.40.110 (Application materials - Lot line adjustments).

(2) Within 14 days of issuing a notice of complete application in response to a lot line adjustment application, the planning official shall distribute a notice of application and request for comments. The request for comments shall contain a copy of the proposed lot line adjustment plan. The notice of application and request for comments shall be distributed to interested departments and affected agencies including, but not limited to, the public works director and fire department. The planning official shall consider all comments and information regarding the proposed lot line adjustment that are delivered to the Planning, Building and Public Works Department within 15 days of the date of distribution. The planning official may extend the deadline for comments if he/she determines that an extension is necessary to obtain information relevant to the application.

(3) Within 30 days of the date of the notice of complete application, the Planning, Building and Public Works

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1 Director shall approve, disapprove, or return to the applicant
 2 for modifications the requested lot line adjustment. In making a
 3 decision, the director shall make appropriate findings of fact
 4 in writing. Following a decision, the planning official shall
 5 issue a notice of decision.
 6

7 (4) If an application for a lot line adjustment is
 8 disapproved by the Planning, Building and Public Works Director,
 9 the applicant may appeal such disapproval to the hearing
 10 examiner. Any such appeal shall be brought within 10 days of
 11 such disapproval and in accordance with the Hearing Examiner
 12 Code.
 13

14 **Sec. 85. 17.25.070 Filing for recording.**
 15

16 (1) The applicant shall submit to the Planning,
 17 Building and Public Works Department, together with required
 18 recording fees, a final lot line adjustment plan meeting the
 19 requirements of this Title and the lot line adjustment approval.
 20 The submittal shall occur within 120 days following the date the
 21 lot line adjustment is approved or the lot line adjustment
 22 approval shall be deemed void and any development rights that
 23 have vested in the applicant shall be considered abandoned.
 24

25 (2) The final lot line adjustment plan shall be
 26 prepared by a registered land surveyor, and shall be drawn on a
 27 standard 18-by-24-inch mylar at a scale of one inch equals 50
 28 feet unless otherwise approved by the planning official. The
 29 final lot line adjustment plan shall contain language that
 30 property deeds consistent with the lot line adjustment shall be
 31 recorded with the county auditor within 270 days of the date the
 32 lot line adjustment is recorded or the lot line adjustment shall
 33 be null and void.
 34

35 (3) The lot corners shall be set on the applicant's
 36 property by a registered land surveyor using appropriate
 37 permanent materials.
 38

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(4) If the lot line adjustment plan complies with the approved lot line adjustment and all requirements of this Title, the Planning, Building and Public Works Director shall sign the approved lot line adjustment plan.

(5) Within 15 days of the date the applicant submits a final lot line adjustment plan, the planning official shall transmit the approved lot line adjustment for recording with the county auditor.

Sec. 86. 17.25.080. Appeal. A decision made pursuant to this chapter is a Type I decision. An appeal of such decision shall be as set forth in DMMC 18.20.150 - .160.

Chapter 17.30 Binding Site Plans

Sections:

17.30.010 Title.
 17.30.020 Application.
 17.30.030 Purpose.
 17.30.040 Authority.
 17.30.050 Review procedures.
 17.30.060 Approval criteria.
 17.30.070 Final binding site plan.
 17.30.080 Certificate of segregation.
 17.30.090 Appeal.

Sec. 87. 17.30.010. Title. This chapter shall be entitled "Binding Site Plans."

Sec. 88. 17.30.020. Application. The following may be processed as binding site plans under the provisions of this chapter:

(1) A division of land for the purpose of lease when no residential structure other than mobile homes or travel trailers are permitted to be placed upon the land; or

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(2) A division of land into lots or tracts located within nonresidential zones as defined on the zoning map and its accompanying code; or

(3) A division of land into lots or tracts if the improvements constructed or to be constructed thereon will be included in one or more condominiums or owned by an association or other legal entity in which the owners of units therein or their owners' associations have a membership or other legal or beneficial interest.

Sec. 89. 17.30.030. Purpose. The purpose of this chapter is to provide for the approval of such divisions as an alternative to the procedures established for subdivisions and short subdivisions.

Sec. 90. 17.30.040. Authority. This chapter is adopted pursuant to the provisions of RCW 58.17.035 and RCW 58.17.040(4), (5) and (7) and other applicable laws.

Sec. 91. 17.30.050. Review procedures.

(1) The owner of the subject property or the authorized agent(s) of the owner may apply for a binding site plan by submitting to the Planning, Building and Public Works Department the information specified in DMMC 17.40.050, 17.40.060, and 17.40.070.

(2) An application for a binding site plan creating four or fewer lots shall be reviewed and acted upon in accordance with the applicable provisions of chapter 17.05 DMMC. An application for a binding site plan creating more than four lots shall be reviewed and acted upon in accordance with the applicable provisions of chapter 17.10 DMMC.

Sec. 92. 17.30.060. Approval criteria. A binding site plan shall be approved only if:

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1
2 (1) It is consistent with the applicable provisions of
3 the comprehensive plan, zoning code, shoreline master program,
4 and other City policies and regulations.
5

6 (2) There are adequate provisions for open spaces,
7 drainage ways, rights-of-way, sidewalks, and other planning
8 features that assure safe walking conditions for pedestrians,
9 including students who walk to and from school, easements, water
10 supplies, sanitary waste, fire protection, power service, parks,
11 playgrounds, and schools; and
12

13 (3) It will serve the public use and interest and is
14 consistent with the public health, safety, and welfare; and
15

16 (4) It provides for coordinated future development of
17 lots within the subject property and with adjoining properties
18 or future development of adjoining properties including but not
19 limited to shared access where appropriate.
20

21 **Sec. 93. 17.30.070. Final binding site plan.** Prior
22 to approval of the final binding site plan, it shall be revised
23 to accurately reflect all required improvements and conditions
24 of preliminary approval, the final binding site plan shall
25 include all applicable inscriptions deemed necessary, setting
26 forth such appropriate limitations and conditions for the use of
27 the land and shall include a statement that requires future
28 development be in conformity with the plan.
29

30 **Sec. 94. 17.30.080. Certificate of segregation.**
31

32 (1) Prior to issuance of any building permit for
33 construction within an approved binding site plan, that portion
34 of the plan for which the building permit is requested shall be
35 legally described and receive a certificate of segregation from
36 the Planning, Building and Public Works Department. Such
37 certificate shall insure the segregation and construction
38 complements the approved binding site plan.

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(2) Prior to the issuance of any building permit for construction within a binding site plan, all improvements required to adequately service that portion of the plan for which the building permit will be issued shall be installed, inspected, and accepted by the City, or in the alternative, a performance security has been deposited with the City in accordance with DMMC 17.40.140.

Sec. 95. 17.30.090. Appeal. The appeal of decisions concerning binding site plans shall be in accordance with the applicable chapter identified in DMMC 17.30.050(2).

Chapter 17.35 **Layout and Design of Subdivisions and Similar Requirements**

Sections:

17.35.010	Title.
17.35.020	Application.
17.35.030	Purpose.
17.35.040	Authority.
17.35.050	Lot standards.
17.35.060	General layout.
17.35.070	Access - General.
17.35.080	Access - Rights-of-way.
17.35.090	Access - Private streets within vehicular access tracts.
17.35.100	Access - Pedestrian ways.
17.35.110	Utilities and related improvements - General.
17.35.120	Utilities and related improvements - Water system.
17.35.130	Utilities and related improvements - Surface water.
17.35.140	Utilities and related improvements - Sanitary sewer.
17.35.150	Utilities and related improvements - Undergrounding.
17.35.160	Utilities and related improvements - Easements.
17.35.170	Provision for public and semipublic lands.
17.35.180	Parks.

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- 1 17.35.190 Natural features - General.
- 2 17.35.200 Natural features - Land adjacent to Puget Sound.
- 3 17.35.210 Natural features - Significant vegetation.
- 4 17.35.230 Subdivision names.

5
 6 **Sec. 96. 17.35.010. Title.** This chapter shall be
 7 entitled "Layout and Design of Subdivisions and Similar
 8 Requirements."
 9

10 **Sec. 97. 17.35.020. Application.** The provisions of
 11 this chapter apply to each subdivision, short subdivision,
 12 subdivision alteration, subdivision vacation and, to the extent
 13 possible, each binding site plan, modified subdivision, and
 14 modified short subdivision within the City. For the purposes of
 15 this chapter, the term "subdivision" also includes "short
 16 subdivision," "subdivision alteration," "subdivision vacation,"
 17 "binding site plan," and "modified subdivision." The provisions
 18 of this chapter shall also apply to any subdivisions approved in
 19 conjunction with a planned unit development (PUD) pursuant to
 20 Title 18 DMMC, unless the provisions are specifically varied by
 21 the PUD.
 22

23 **Sec. 98. 17.35.030. Purpose.** The purpose of this
 24 chapter is to identify layout and design standards for the
 25 actions set forth in DMMC 17.35.020 above.
 26

27 **Sec. 99. 17.35.040. Authority.** This chapter is
 28 adopted pursuant to the provisions of chapter 5817 RCW and other
 29 applicable laws.
 30

31 **Sec. 100. 17.35.050. Lot standards.**
 32

33 (1) General. All lots within a subdivision shall meet
 34 the minimum size and dimension requirements of Title 18 DMMC for
 35 the zone classification assigned to the property proposed to be
 36 subdivided.
 37

38 (2) Configuration. Lots shall be shaped so that
 39 reasonable use and development is possible. Where topography,

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1 natural features, and the existing development pattern permit,
 2 the depth of lots less than 15,000 square feet in area shall be
 3 at least equal to, but not more than twice the width of the lot.
 4

5 (3) Orientation. Where topography, natural features,
 6 and the existing development pattern permit, side lot lines
 7 generally shall be at right angles to the street upon which the
 8 lot faces, except that on curved streets they shall be at a
 9 right angle to the tangent of the curve.
 10

11 (4) Frontage. Every lot shall have a minimum of 20 feet
 12 of frontage on a street that is fully improved and approved by
 13 the City.
 14

15 (5) Corner lots. All corner lots shall be five feet
 16 wider than the minimum lot width required by the underlying
 17 zone.
 18

19 (6) Odd lots. Subdivisions having lots with an
 20 irregular shape and unable to be classified under Title 18 DMMC
 21 shall show setback lines for such lots and provide covenants
 22 requiring such setbacks with recording of the final plat.
 23

24 **Sec. 101. 17.35.060 General layout.**
 25

26 (1) General. The subdivision shall be designed to allow
 27 for reasonable subdivision and use of adjoining properties,
 28 including, but not limited to considerations related to surface
 29 water management, all utilities, and pedestrian and vehicular
 30 access. While the subdivision should generally conform to the
 31 City's grid pattern and street plan, innovative layouts will be
 32 considered based on the general requirements of this chapter.
 33

34 (2) Maximum length. Where topography, natural features,
 35 and the existing development pattern permit, blocks shall not
 36 exceed 500 feet in length. Blocks that are more than 750 feet in
 37 length should allow for midblock pedestrian ways pursuant to
 38 DMMC 17.36.070.
 39

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1 (3) Project integration. All proposed subdivisions
2 shall be designed to provide pedestrian and vehicular
3 connections to adjoining developed or vacant properties when
4 such connections will result in improved access or planned
5 access and be in the public interest.
6

7 **Sec. 102. 17.35.070 Access - General.**
8

9 (1) All lots shall have direct legal access to either a
10 right-of-way or a private street within a vehicular access tract
11 meeting the requirements of this chapter. Access shall be to a
12 right-of-way unless extension of a right-of-way to a lot is
13 constrained by topography, or the existing development pattern.
14 The City shall determine whether access will be by right-of-way
15 or vehicular access tract on a case-by-case basis; provided,
16 that in no instance shall a vehicular access tract serve more
17 than four lots.
18

19 (2) An owned vehicular access having a minimum width of
20 20 feet shall be permitted to serve one lot only (e.g.,
21 panhandle or flag lot). The area of the vehicular access strip
22 shall not be included in the computation of lot area.
23

24 (3) No lot shall have an easement across another lot
25 for vehicular access.
26

27 (4) Access to lots which abut two or more rights-of-way
28 or vehicular access tracts shall be established on a case-by-
29 case basis. Generally, lots shall obtain access from the right-
30 of-way having the least amount of through traffic.
31
32

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1 **Sec. 103. 17.35.080. Access - Rights-of-way.**

2
3 (1) General. All rights-of-way within and abutting the
4 subdivision shall be improved in accordance with the standards
5 set forth in chapter 12.28 DMMC.
6

7 (2) Designation of rights-of-way. If a new right-of-
8 way is proposed within a subdivision, the Planning, Building and
9 Public Works Director shall classify the right-of-way based on
10 the projections for that right-of-way using the right-of-way
11 definitions established in "City of Des Moines Street
12 Development Standards" as adopted by chapter 12.28 DMMC.

13 (3) Dedication. The City may require the dedication of
14 rights-of-way to serve adjacent properties in order to provide a
15 safe and efficient circulation system within the City.

16 (4) Construction of street system improvements on
17 rights-of-way abutting the subdivision and off-site from the
18 subdivision. Such street system improvements as are defined in
19 Title 12 DMMC shall be constructed on rights-of-way abutting the
20 subdivision and off-site from the subdivision as directed by the
21 City Council in the course of discretionary review of the
22 subdivision. The subdivision applicant required to construct
23 off-site street system improvements are entitled to
24 reimbursement as provided in Title 12 DMMC.

25 (5) Modifications. The applicant may request and the
26 Public Works Director may grant a modification of the right-of-
27 way improvements defined in the current Street Development
28 Standards for subdivisions that do not yield more than two lots
29 based upon the following criteria:
30

31 (a) The subdivision contains less than 100
32 lineal feet of street frontage and would not match existing
33 improvements; or
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1
2 (b) The subdivision does not front on a street
3 identified in the Priority Pedestrian Network in the current
4 Comprehensive Transportation Plan and would not match existing
5 improvements; or
6

7 (c) The subdivision does not front on a street
8 identified in the Priority Pedestrian Network in the current
9 Comprehensive Transportation Plan and unusual topographic or physical
10 conditions preclude the construction of the improvements as required.
11

12 **Sec. 104. 17.35.090. Access - Private streets within**
13 **vehicular access tracts.**
14

15 (1) General. If vehicular access within the subdivision
16 will be provided by means other than rights-of-way, the
17 subdivision shall establish tracts which provide the legal right
18 of access to each of the lots served and establish joint
19 maintenance responsibilities. The City may require that the
20 legal right of access be granted to other adjoining properties
21 in order to provide a safe and efficient circulation system
22 within the City. The ownership of vehicular access tracts is
23 shared by owners of all lots having the right to access through
24 the tracts.
25

26 (2) Private streets. All private streets within the
27 subdivision shall be improved in accordance with the standards
28 set forth in chapter 12.15 DMMC.
29

30 (3) Other improvements. The City may require additional
31 or other requirements for private streets within vehicular
32 access tracts, if necessary to address unusual circumstances.
33

34 (4) Lot area. The area of vehicular access tracts shall
35 not be included in the computation of lot area for any lot.
36

37 **Sec. 105. 17.35.100. Access - Pedestrian ways.** The
38 City may require the installation of pedestrian ways within
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dedicated rights-of-way or tracts in any of the following circumstances:

(1) If a pedestrian way is indicated as appropriate in the comprehensive plan.

(2) If the pedestrian way is reasonably necessary to provide efficient pedestrian access to a school, park, business district, or transit stop or to integrate pedestrian travel throughout the neighborhood.

(3) To provide a midblock connection between parallel streets where the total length of a block is 750 feet or more.

Sec. 106. 17.35.110. Utilities and related improvements - General. All utility system improvements shall be designed and installed in accordance with all standards of the applicable serving utility.

Sec. 107. 17.35.120. Utilities and related improvements - Water system. The subdivision shall be served by a system which provides potable water service to each lot created. The system shall provide adequate fire flow, as specified by the fire marshal, and all firefighting infrastructure and appurtenances required by City codes.

Sec. 108. 17.35.130. Utilities and related improvements - Surface water.

(1) General. The subdivision shall be served by a permanent surface water control system designed to accommodate runoff from all land within the subdivision and convey any runoff which passes through the subdivision in accordance with the surface water management program requirements of Titles 11 and 18 DMMC.

(2) Tracts required. All surface water detention and above-ground conveyance improvements shall be located in separate tracts which provide for surface water functions. The

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1 area dedicated under this section shall become the property of
 2 the City, which shall thereafter assume all maintenance and
 3 other ownership responsibilities.
 4

5 (3) Lot area. The area of surface water tracts shall
 6 not be included in the compilation of lot area for any lot.
 7

8 **Sec. 109. 17.35.140. Utilities and related**
 9 **improvements - Sanitary sewer.** The subdivision shall have a
 10 sanitary sewer system to serve each lot.
 11

12 **Sec. 110. 17.35.150. Utilities and related**
 13 **improvements - Undergrounding.**
 14

15 (1) Underground installation required. All electrical
 16 and communication systems shall be installed underground in all
 17 subdivisions. Existing above-ground electrical and communication
 18 systems located in all rights-of-way adjoining the proposed
 19 subdivision and extending from the subdivision to the nearest
 20 utility pole also shall be undergrounded unless:
 21

22 (a) The systems are located within the one-half
 23 of the right-of-way which does not abut the subdivision; or
 24

25 (b) The existing above-ground system cannot be
 26 undergrounded without either adding a new utility pole or
 27 undergrounding systems on private property not within the
 28 subdivision. When existing above-ground utility systems are not
 29 required to be undergrounded, conduit shall be installed within
 30 the abutting right-of-way in accordance with utility standards,
 31 as necessary to preclude excavation within the right-of-way at
 32 such time as undergrounding is feasible.
 33

34 (2) Exceptions. The following electrical and
 35 communication systems shall not be required to be installed
 36 underground:
 37

38 (a) Electrical utility substations, pad-mounted
 39 transformers and switching facilities not located on the public

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1 right-of-way and where site screening is or will be provided in
 2 accordance with design review standards;

3
 4 (b) Electrical transmission systems of a voltage
 5 of 110 kilovolts or more;

6
 7 (c) Street lighting standards;

8
 9 (d) Telephone pedestals, cross-connect terminals,
 10 repeaters, and cable warning signs;

11
 12 (e) Municipal equipment, including but not
 13 limited to, traffic control equipment and police and fire
 14 sirens;

15
 16 (f) Temporary services for construction.

17
 18 (3) Costs. The cost of undergrounding all electrical
 19 and communication systems in excess of any costs paid by the
 20 serving utility shall be the sole responsibility of the
 21 applicant.

22
 23 **Sec. 111. 17.35.160. Utilities and related**
 24 **improvements - Easements.** Utility lines not located within
 25 rights-of-way or vehicular access tracts shall be within
 26 easements. All easements shall meet the standards of the serving
 27 utilities; provided, that easements for sewer, surface water,
 28 and water lines shall have a width of at least 20 feet.

29
 30 **Sec. 112. 17.35.170. Provision for public and**
 31 **semipublic lands.** The City may require dedication of land, for
 32 school sites, parks and open space, utilities infrastructure, or
 33 other similar public or semipublic uses of land if such
 34 dedication is reasonably necessary as a result of the
 35 subdivision.

36
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1 **Sec. 113. 17.35.180. Parks.**

2
3 (1) General obligation. Proposed residential
4 subdivisions shall either provide a minimum of 778 square feet
5 of park area per lot consistent with the requirements of
6 subsections (2) through (4) of this section or make an in-lieu
7 fee payment consistent with the requirements of subsection (5)
8 of this section in order to comply with the level of service
9 standard of six and one-half acres of park land per 1,000
10 population established in the City of Des Moines 2010 Parks,
11 Recreation and Senior Services Master Plan, Section 2.3.

12
13 (2) Criteria for city acceptance of a mini-park.
14 Applicants proposing to develop a mini-park in order to fulfill
15 the general obligation to provide appropriate provisions for
16 parks and playgrounds as established in subsection (1) of this
17 section shall comply with the following criteria:

18
19 (a) Use/Description. The proposed mini-park shall
20 be designed and improved as play space for toddlers and young
21 children to serve the basic needs of the neighborhood.

22
23 (b) The amenities within the mini-park shall
24 include sand play areas, play apparatus, play equipment, picnic
25 area, sports courts, and sanitation accommodations.

26 (c) Size. The proposed mini-park shall be a minimum of one-
27 half acre.

28
29 (3) Tracts required. Recreational areas shall be
30 located in a separate tract which shall be deeded to the City.

31
32 (4) Lot area. The area of the mini-park tract shall not
33 be included in the compilation of lot area for any lot.

34
35 (5) Payment in lieu of mini-park development. If the
36 land proposed to be developed as a mini-park does not meet the
37 criteria established in subsection (2) of this section, then the
38 applicant shall make an in-lieu cash payment to the City which

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shall be deposited into the City's MCI fund. The in-lieu amount shall be based on the following formula:

Total number of existing residential units equals
 (=) W

Total number of lots within the subdivision equals
 (=) X

Total site area of the proposed subdivision equals
 (=) Y

Total appraised value of all property within the proposed subdivision as determined by the King County assessor's website at the time of approval of the final plat documents equals (=) Z

In-lieu fee equals (=) Z multiplied by (((X-W) multiplied by 778 square feet)) divided by Y).

Sec. 114. 17.35.190. Natural features - General.

(1) General. The proposed subdivision shall demonstrate sensitivity to the natural features of the property including, but not limited to, topography, streams, lakes, wetlands, habitat, geologic features, and vegetation. Any division of land shall be designed to preserve and enhance as many of these valuable features as possible. In addition to the specific provisions of this chapter, the subdivision shall comply with all applicable provisions of Title 18 DMMC and other specific requirements regarding development restrictions due to natural features.

(2) Tracts required. All wetlands, streams, and required buffers, pursuant to Title 18 DMMC, shall be located in separate tracts which limit development activity. The area dedicated under this section shall become the property of the City, which shall thereafter assume all maintenance and other ownership responsibilities.

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1
2 (3) Lot area. The area of the open space tracts shall
3 not be included in the computation of lot area for any lot area.
4

5 **Sec. 115. 17.35.200. Natural features - Land adjacent**
6 **to Puget Sound.** Subdivisions adjacent to Puget Sound shall
7 comply with the provisions of the Des Moines shoreline master
8 program (chapter 16.20 DMMC) regarding open space and public
9 access.
10

11 **Sec. 116. 17.35.210. Natural features - Significant**
12 **vegetation.**
13

14 (1) Buffers. Significant trees or other natural
15 vegetation located along the boundary of a subdivision shall be
16 retained if the City determines that retention will provide
17 beneficial buffering for or from abutting properties or rights-
18 of-way. Vegetation which is retained shall be protected by
19 establishing open space easements or tracts.
20

21 (2) Rights-of-way and tracts. Following preliminary
22 subdivision approval, the applicant shall be allowed, pursuant
23 to the provisions of Title 14 DMMC, to clear all vegetation
24 which the Planning, Building and Public Works Director
25 determines is necessary to install required improvements within
26 rights-of-way and access or utility tracts shown on the approved
27 preliminary subdivision.
28

29 (3) Lots. Removal of vegetation in the remainder of the
30 subdivision shall occur on a lot-by-lot basis. No vegetation
31 removal shall occur on any lot until and unless a complete
32 building permit application has been submitted and a land
33 grading, clearing, and filling permit has been issued for that
34 lot in compliance with chapter 14.20 DMMC. On each lot, all
35 significant trees as defined in DMMC 17.01.050, shall be
36 retained except:
37

38 (a) Those trees which are located in areas where
39 structures or improvements are proposed or areas which, in the

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1 judgment of the planning official, must be cleared to allow
 2 construction of proposed structures or improvements; and
 3

4 (b) Those trees which, in the judgment of the
 5 planning official would constitute a danger to public safety;
 6 and
 7

8 (c) No more than one tree for each 2,400 square
 9 feet of lot area shall be required to be preserved on any lot.
 10 On lots which contain more than three significant trees, the
 11 planning official shall indicate which of the trees shall be
 12 retained. In making this decision, the planning official shall
 13 give preference to retaining large healthy trees or trees which
 14 are of an unusual species.
 15

16 (4) Replacement. Any tree identified to be retained
 17 that is destroyed or damaged during construction shall be
 18 replaced by the applicant with five trees on the subject
 19 property or within a street planting strip near the subject
 20 property. Replacement trees shall be a minimum size of eight
 21 feet in height for evergreen trees and two inches in caliper for
 22 deciduous and shall be approved by the planning official. These
 23 street trees shall be provided in addition to any street trees
 24 required under chapter 12.28 DMMC. The exact location for and
 25 type of street trees shall be determined by the planning
 26 official.
 27

28 **Sec. 117. 17.35.220. Subdivision names.**
 29

30 (1) No subdivision shall be approved which bears a name
 31 which is the same as, similar to, or pronounced the same as a
 32 name of any other subdivision in the county unless the land so
 33 divided is contiguous to the subdivision bearing the same or
 34 similar name. All such subdivisions shall continue the block or
 35 lot numbers of the subdivision of the same name last filed. This
 36 section shall not be construed to limit the use of such
 37 descriptive words such as "town," "city," "place," "court,"
 38 "addition," "acres," "heights," "villa," or words of a similar
 39 nature.

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(2) No subdivision shall be approved which bears the name of a geographic feature or place unless the spelling of such name conforms to that adopted by either the United States or Washington State Board on Geographic Names.

(3) No subdivision shall be approved which bears a name that either attempts to change a name in local usage or name an unnamed geographic feature.

(4) The name of a subdivision shown on a final plat shall be the same name under which approval was granted; provided, that the Planning, Building and Public Works Director shall be authorized to change the plat name appearing on the final plat documents to meet the requirements of this section.

Chapter 17.40 Miscellaneous Provisions

Sections:

- 17.40.010 Title.
- 17.40.020 Application.
- 17.40.030 Purpose.
- 17.40.040 Authority.
- 17.40.050 Application materials - Short subdivisions, preliminary subdivisions, binding site plans, plat alterations, and plat vacations.
- 17.40.060 Application materials - Public notice.
- 17.40.070 Application materials - Additional information for binding site plans.
- 17.40.080 Application materials - Additional information for subdivision vacations and alterations.
- 17.40.090 Required materials - Final short plats, plats, plat alterations, plat vacations, and binding site plans.
- 17.40.100 Additional submittals required.
- 17.40.110 Application materials - Lot line adjustments.
- 17.40.120 Notice of application.

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1 17.40.130 Official file.
 2 17.40.140 Securities.
 3 17.40.150 Illegal division of land.
 4

5 **Sec. 118. 17.40.010. Title.** This chapter shall be
 6 entitled "Miscellaneous Provisions."
 7

8 **Sec. 119. 17.40.020. Application.** This chapter shall
 9 apply to all applications set forth in this Title and specified
 10 herein.
 11

12 **Sec. 120. 17.40.030. Purpose.** The purpose of this
 13 chapter is to identify all additional miscellaneous provisions
 14 applicable to applications set forth in this chapter.
 15

16 **Sec. 121. 17.40.040. Authority.** This chapter is
 17 adopted pursuant to the provisions of chapter 58.17 RCW and
 18 other applicable laws.
 19

20 **Sec. 122. 17.40.050. Application materials - Short**
 21 **subdivisions, preliminary subdivisions, binding site plans, plat**
 22 **alterations, and plat vacations.** The following application
 23 materials and other materials as may be required by DMMC
 24 17.40.060, 17.40.070, and 17.40.080 (Application materials -
 25 Public notice, Application materials - Additional information
 26 for binding site plans, Application materials - Additional
 27 information for subdivision vacations and alterations) shall be
 28 submitted for any proposed short subdivision, preliminary
 29 subdivision, binding site plan, plat alteration, or plat
 30 vacation. For the purposes of this section, the term
 31 "subdivision" also includes "short subdivision," "preliminary
 32 subdivision," "binding site plan," "plat alteration," and "plat
 33 vacation."
 34

35 (1) Three blue line paper drawings of the subdivision
 36 drawn on one or more standard 18-inch-by-24-inch sheets at a
 37 scale between one inch equals 20 feet and one inch equals 50
 38 feet in 10-foot increments, and one paper copy of each sheet

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1 reduced to 8 1/2 inches by 11 inches containing the following
2 information:

3
4 (a) Proposed name of the subdivision, if
5 applicable;

6
7 (b) Legal description;

8
9 (c) Name, address, and phone number of the owner
10 and agent, if any;

11
12 (d) Scale, date, and north arrow;

13
14 (e) Existing topography of the subdivision
15 indicated by contours at two-foot intervals. If the proposed
16 subdivision has slopes that exceed 15 percent, five-foot contour
17 intervals may be used in those areas;

18
19 (f) Location and extent of significant natural
20 features, such as streams, wetlands, the size and species of all
21 significant trees, and any bodies of water on and adjacent to
22 the property;

23
24 (g) An indication of which trees are proposed to
25 be retained;

26
27 (h) Present zoning classification of the subject
28 property and adjacent properties;

29
30 (i) The lot lines and owners of adjacent
31 properties for a distance of not less than 100 feet from the
32 external boundaries of the subject property;

33
34 (j) Exact location, dimension, and number or name
35 of all rights-of-way, tracts, easements, driveways, parks or
36 other public spaces, structures, lots, blocks, etc., shown in
37 reference to and in scale with the proposed subdivision;

38

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1 (k) Existing and proposed water, sewer, power,
2 communication, and drainage systems on, under, or over the
3 property showing size, grades, and location;
4

5 (l) Layout, name, and dimensions of proposed
6 rights-of-way, tracts, and easements;
7

8 (m) Layout, number, dimensions, and square
9 footage of proposed lots and tracts;
10

11 (n) Tracts of land intended to be dedicated for
12 public use, or reserved for use of owners of the property in the
13 subdivision, including the dimensions and square footage of such
14 tracts;
15

16 (o) A notation which shows the dimensioned
17 setback of all existing structures, including those on adjoining
18 properties, relative to existing property lines and to proposed
19 lot lines, if such structures are proposed to remain and are
20 within 30 feet of existing or any proposed lot lines;
21

22 (p) Tax lot numbers as assigned by the county
23 auditor;
24

25 (q) Additional copies of the subdivision drawings
26 shall be provided as required by the planning official to
27 distribute to other agencies and the City Council.
28

29 (2) Copies of existing and proposed easements, deed
30 restrictions, or other encumbrances restricting the use of the
31 subject property.
32

33 (3) A vicinity map at a scale of one inch equals 400
34 feet or larger showing the proposed subdivision's relation to
35 the area for a distance of at least 300 feet on which the
36 subject property is outlined with a bold or colored line.
37

38 (4) A current Title company certificate for the subject
39 property that has been issued no more than 30 calendar days

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1 prior to submitting the subdivision application. The certificate
 2 shall include the name of all persons holding any ownership
 3 interest in the property.
 4

5 (5) Any additional information required by the planning
 6 official, including, but not limited to, dedications or
 7 conditions of development required by this Title.
 8

9 (6) A boundary survey certified by a registered land
 10 surveyor that references either the Washington coordinate system
 11 (north zone), the King County coordinate system, or a properly
 12 determined subdivision corner. Exterior boundary corners shall
 13 be set using appropriate permanent materials in the ground.
 14

15 (7) Documentation of the date and method of segregation
 16 for the subject property verifying that the lot or lots were not
 17 created in violation of the short subdivision or subdivision
 18 laws in effect at the time of creation.
 19

20 (8) The application fee as established by the City
 21 Manager or the City Manager's designee.
 22

23 (9) All information required under the State
 24 Environmental Policy Act (chapter 43.21C RCW, as presently
 25 constituted or as may be subsequently amended), the SEPA
 26 administrative guidelines (chapter 197-11 WAC, as presently
 27 constituted or as may be subsequently amended), and local
 28 Ordinances adopted to implement such Act and guidelines.
 29

30 **Sec. 123. 17.40.060. Application materials - Public**
 31 **notice.** Applications for short subdivisions, preliminary
 32 subdivisions, binding site plans, plat alterations, and plat
 33 vacations shall include the following public notice information:
 34

35 (1) Address labels obtained from the county containing
 36 the names and addresses of property owners as specified in
 37 chapter 16.05 DMMC. Such address labels shall be no more than
 38 six months old.
 39

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(2) Address labels marked "resident" or "tenant" for all property adjacent to and across the street from the property within the proposed subdivision. These labels may be prepared by the applicant.

(3) A copy of the county assessor's map identifying the properties specified in subsections (1) and (2) of this section.

Sec. 124. 17.40.070. Application materials -
Additional information for binding site plans. A general development plan for the proposal indicating:

(1) The types of buildings and site locations; and

(2) The locations of off-street parking areas with dimensions; and

(3) The locations of pedestrian walks and malls, both public and private; and

(4) A circulation plan indicating the proposed movement of vehicles and pedestrians within the development, and to and from adjacent public thoroughfares; and

(5) The stages to be built in progression, if any.

Sec. 125. 17.40.080. Application materials -
Additional information for subdivision vacations and alterations.

(1) The area to be altered or vacated using words and illustrations which are depicted on a plat map.

(2) For a subdivision alteration, the applicant shall submit the signatures of the majority of those persons having an ownership interest of lots, tracts, parcels in the subject subdivision or portion to be altered. If the subdivision is subject to restrictive covenants which were filed at the time of the approval of the subdivision, and the application for

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1 alteration would result in the violation of a covenant, the
 2 application shall contain an agreement signed by all parties
 3 subject to the covenants, providing that the parties agree to
 4 terminate or alter the relevant covenants to accomplish the
 5 purpose of the alteration of the subdivision or portion thereof.
 6

7 (3) For a subdivision vacation, the applicant shall
 8 submit the reasons for vacation and the signatures of all
 9 parties having an ownership interest in that portion of the
 10 subdivision subject to vacation. If the subdivision is subject
 11 to restrictive covenants which were filed at the time of the
 12 approval of the subdivision, and the application for vacation
 13 would result in the violation of a covenant, the application
 14 shall contain an agreement signed by all parties subject to the
 15 covenants, providing that the parties agree to terminate or
 16 alter the relevant covenants to accomplish the purpose of the
 17 vacation of the subdivision or portion thereof.
 18

19 **Sec. 126. 17.40.090. Required materials - Final short**
 20 **plats, plats, plat alterations, plat vacations, and binding site**
 21 **plans.** When filing a final short plat, final plat, final plat
 22 alteration or final plat vacation, the application shall include
 23 the items required by this section. For purposes of this section
 24 and DMMC 17.40.100, the term "plat" includes "short plat,"
 25 "final plat," "final plat alteration," and "final plat
 26 vacation."
 27

28 A plat drawn on a standard 18-inch-by-24 inch mylar in a format
 29 specified by the City. The scale of the plat shall be at one
 30 inch equals 50 feet unless otherwise approved by the public
 31 works director so that all distances, bearings, and other data
 32 are clearly shown. The plat shall show the following
 33 information:
 34

35 (1) Name of the plat;

36 (2) Legal description;

37 (3) Scale, date, and north arrow;
 38
 39

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1
2 (4) The boundary lines of the plat, based on an
3 accurate traverse, with angular and linear dimensions;
4

5 (5) Exact location, dimensions, number, or name of all
6 new or existing rights-of-way, tracts, and easements within and
7 adjoining the plat and an indication of the purpose of each, and
8 a clear statement as to whether each is to be dedicated or held
9 in private ownership;
10

11 (6) True courses and distances to the nearest
12 established right-of-way lines or official monuments which will
13 accurately locate the plat;
14

15 (7) Radii, internal angles, points of curvature,
16 tangent bearings, and lengths of all arcs;
17

18 (8) All lot and block numbers assigned in accordance
19 with chapter 12.50 DMMC and lines, with accurate dimensions in
20 feet and hundredths of feet;
21

22 (9) Accurate locations of all monuments at such
23 locations as required by the public works director;
24

25 (10) All plat meander lines or reference lines along
26 bodies of water. Such lines shall be established above, but not
27 farther than 20 feet from the high water lines of the water or
28 within a reasonable distance, to ensure reestablishment;
29

30 (11) All restrictions and conditions pertaining to the
31 lots or tracts or other areas in the plat required by the City
32 Council;
33

34 (12) Appropriate signature blocks and certifications as
35 follows;
36

37 (a) The signature of all persons having an
38 ownership interest in the property and a statement certifying
39 that the subdivision is made with the free consent and according

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1 to the desires of the owner or owners. If the plat includes a
2 dedication, the certifications shall contain the dedication of
3 all rights-of-way and other areas to the public, and person or
4 persons, as shown on the plat, and an undertaking to save,
5 defend, indemnify, and hold harmless, any governmental
6 authority, including the City, in respect of all claims for
7 damages against any governmental authority including the City
8 that may be occasioned to the adjacent land by the established
9 construction, drainage, or maintenance of the right-of-way or
10 other areas so dedicated. The certificate shall be signed and
11 acknowledged before a notary public by all parties having an
12 ownership interest in the land being subdivided.
13

14 (b) The signature and seal of the registered land
15 surveyor responsible for preparation of the final plat, and a
16 certification by the surveyor to the effect that it is a true
17 and correct representation of the land actually surveyed by the
18 registered land surveyor.
19

20 (c) The signature of the proper officer in charge
21 of tax collections certifying that all taxes and delinquent
22 assessments as shown on the Title certification under DMMC
23 17.40.100(4) have been paid, satisfied, or discharged.
24

25 (d) The signature of the public works director
26 and the Planning, Building and Public Works Director certifying
27 that all of the required sewage disposal, water supply, and
28 other public improvements have been installed, inspected, and
29 accepted, and accepted by such department or agency, or in the
30 alternative, performance security has been deposited in
31 accordance with DMMC 17.40.140;
32

33 (13) For short subdivisions and subdivisions only, each
34 building address conforming with chapter 12.50 DMMC shall be
35 clearly shown on the short plat or final plat;
36

37 (14) The submittals required by DMMC 17.40.100; and
38

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1 (15) Additional pertinent information required at the
2 discretion of the public works director or Planning, Building
3 and Public Works Director.
4

5 **Sec. 127. 17.40.100. Additional submittals required.**
6 When filing a final short plat, final plat, final plat
7 alteration or final plat vacation, the application shall also
8 include the following items:
9

10 (1) A boundary survey prepared by a registered land
11 surveyor shown on the proposed final plat and referencing the
12 plat to either the Washington State coordinate system (North
13 Zone) or the King County coordinate system, or properly
14 determined subdivision corner referenced to either of the above
15 with a physical description of such corners. Exterior boundary
16 corners shall be staked in the ground;
17

18 (2) A complete survey of the section or sections in
19 which the plat is located, or as much thereof as may be
20 necessary to properly orient the plat within the section or
21 sections;
22

23 (3) A computer printout showing closures of boundaries,
24 road centerlines, lots, and tracts with a maximum allowable
25 error of closure of one foot in 15,000 feet. Mathematical lot
26 closure shall be submitted showing an error of closure not to
27 exceed $0.005/n$ feet, where n = number of sides and/or curves on
28 a lot;
29

30 (4) A Title company certification which is not more
31 than 30 calendar days old containing:
32

33 (a) A legal description of the total parcel
34 sought to be subdivided;
35

36 (b) A list of those persons holding an ownership
37 interest in the parcel;
38

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(c) Any easements or restrictions affecting the property with a description, purpose, and reference by auditor's file number and/or recording number;

(d) Any encumbrance on the property; and

(e) Any delinquent taxes or assessments on the property;

(5) If lands are to be dedicated or conveyed to the City as part of the subdivision, an American Land Title Association Title policy may be required; and

(6) The filing fee as established by administrative order of the City Manager or the City Manager's designee.

Sec. 128. 17.40.110. Application materials - Lot line adjustments. The following application materials shall be submitted for any proposed lot line adjustment:

(1) Three copies of a plan, drawn to scale and accurately dimensioned, clearly showing the following information:

(a) The proposed lot lines for all affected lots, indicated by heavy solid lines, and

(b) The existing lot lines proposed to be changed, indicated by heavy broken lines, and

(c) The location of all structures existing upon the affected lots, and

(d) The location and dimensions of any drain field, easement, tract, or right-of-way existing within or adjacent to any affected lot, and

(e) The area and dimensions of each affected lot if the proposed adjustment were approved;

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(2) A legal description of affected lots before and after the lot line adjustment;

(3) The application fee as established by the City Manager or the City Manager's designee.

Sec. 129. 17.40.120. Notice of application.

(1) Contents. The planning official shall prepare a notice of each application for a short subdivision, preliminary subdivision, subdivision alteration, subdivision vacation, and binding site plan containing the following information:

(a) The name of the applicant and, if applicable, the project name;

(b) A brief description of the application, including the number of proposed lots or any proposed modifications under chapter 17.35 DMMC (Layout and design of subdivisions);

(c) The street address of the subject property, or, if this is not available, a locational description in nonlegal language along with a vicinity map that identifies the subject property;

(d) The citation of the provision of this Title describing the applied-for decision;

(e) The time and place of the public hearing, if applicable;

(f) A statement of the availability for review of the official file;

(g) For short subdivisions, a statement of the right of any person to submit written comments and a deadline for such comments;

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(h) For applications requiring a public hearing, a statement of the right of any person to submit written comments prior to the public hearing and to appear at the public hearing to give comments orally.

(2) Distribution - Public hearing. Not less than 15 calendar days prior to the public hearing required by DMMC 17.10.130 (City Council review), the planning official shall distribute or cause to be published this notice as follows:

(a) In accordance with the requirements of chapter 18.20 DMMC; and

(b) To the appropriate county officials if the subdivision adjoins unincorporated area; and

(c) To the appropriate City officials if the proposed subdivision is either: adjacent to or within one mile of the municipal boundaries of that City; or if the proposed subdivision contemplates the use of the City's utilities.

(3) Distribution - Administrative review. Within 14 days of the date of the notice of complete application, the planning official shall cause this notice to be distributed in accordance with the requirements of DMMC 16.04.160 (Public notice procedure - Notice of DNS, mitigated DNS, or DS).

Sec. 130. 17.40.130. Official file.

(1) Contents. The planning official shall compile an official file for each application containing the following:

(a) All application materials submitted by the applicant;

(b) Any staff report(s) prepared for the proposal;

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1 (c) All written comments received about the
2 proposal;

3
4 (d) All documents prepared or submitted pursuant
5 to State Environmental Policy Act compliance;

6
7 (e) If available, the electronic recording of any
8 public meeting on the matter;

9
10 (f) The decision or recommendation of the
11 Planning, Building and Public Works Director and City Council,
12 as applicable;

13
14 (g) If the decision of the Planning, Building and
15 Public Works Director on a short subdivision is appealed, or the
16 decision of the City Council on a preliminary subdivision plat
17 alteration or plat vacation is reconsidered, the following shall
18 be added to the file:

19
20 (i) The letter of reconsideration or
21 appeal;

22
23 (ii) All written comments submitted
24 regarding the reconsideration or appeal;

25
26 (iii) The staff report on the appeal;

27
28 (iv) The electronic sound recording and
29 minutes of the hearing on the appeal;

30
31 (v) The decision of the City Council on the
32 reconsideration;

33
34 (vi) The decision of the hearing examiner on
35 the appeal;

36
37 (h) Any other relevant information.
38

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1 (2) Availability. The official file shall be available
2 for inspection and copying during regular City business hours.
3

4 **Sec. 131. 17.40.140. Securities.**
5

6 (1) Maintenance. A maintenance security shall be
7 submitted regarding any of the improvements or landscaping
8 installed or maintained under this Title. The Planning, Building
9 and Public Works Director shall establish the provisions
10 regarding maintenance securities with respect to the acceptance,
11 amount, administration, utilization, and all other components of
12 such securities; provided, that a maintenance security shall not
13 be held in excess of three years following the installation of
14 required improvements.
15

16 (2) Performance security. In lieu of installing all
17 required improvements and components required under this Title,
18 the applicant may propose security to ensure completion of these
19 requirements within one year of the recording of the division of
20 the land. The Planning, Building and Public Works Director shall
21 establish provisions regarding performance securities with
22 respect to the acceptance, amount, administration, utilization,
23 and all other aspects of such securities. A one-time extension
24 of the one-year period may be approved by the City Manager or
25 the City Manager's designee, if the applicant demonstrates that
26 he/she will be able to complete the required improvements within
27 an additional one-year period. Any extension granted shall be
28 for a period not to exceed one year, and additional security
29 shall be submitted for the period of the extension. The amount
30 of the security shall be increased by the City Manager or the
31 City Manager's designee to cover any increased construction
32 costs.
33

34 **Sec. 132. 17.40.150. Illegal division of land.** The
35 City shall not issue any permit for construction on,
36 modification to, or use of any property divided or segregated in
37 violation of this Title or state law unless officials of the
38 City specifically approve a permit based on all of the following
39 criteria:

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(1) That the owner purchased the property as an innocent purchaser for value without reasonable notice that the property was divided or segregated in violation of law.

(2) That the public interests shall not be adversely affected by approving the permit. In determining the public interest, the City shall use substantially the same criteria as would be used by the City in reviewing a preliminary or short subdivision application under this Title.

Nothing in this section in any way limits the rights granted by RCW 58.17.210.

Chapter 17.45 Amendments

Sections:

17.45.010 Title.
 17.45.020 Application.
 17.45.030 Purpose.
 17.45.040 Authority.
 17.45.050 Subdivision code may be amended.
 17.45.060 Initiation of amendment.
 17.45.070 Notice.

Sec. 133. 17.45.010. Title. This chapter shall be entitled "Amendments."

Sec. 134. 17.45.020. Application. This chapter shall apply to all amendments to this Title.

Sec. 135. 17.45.030. Purpose. The purpose of this chapter is to provide for the process and procedures to amend this Title.

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1 **Sec. 136. 17.45.040. Authority.** The chapter is
2 adopted pursuant to the provisions of chapters 35.63, 35A.63 and
3 58.17 RCW,
4

5 **Sec. 137. 17.45.050. Subdivision code may be amended.**
6 Whenever public necessity, public convenience, and general
7 welfare require, the provisions of this Title may be amended.
8

9 **Sec. 138. 17.45.060. Initiation of amendment.**
10 Amendments to this Title may be initiated either:
11

12 (1) By adoption of a motion by the City Council
13 directing the City Manager or the City Manager's designee to
14 initiate an amendment through the Planning, Building and Public
15 Works Department; or
16

17 (2) By the Planning, Building and Public Works
18 Department with the approval of the City Manager or the City
19 Manager's designee.
20

21 **Sec. 139. 17.45.070. Notice.**
22

23 (1) Content. The planning official shall prepare a
24 notice of each proposed amendment to this Title containing the
25 following information:
26

27 (a) The section(s) of this Title that would be
28 affected by the proposed amendment;
29

30 (b) A summary of the effect of the proposed
31 amendment;
32

33 (c) The date, time, and location of the City
34 Council meeting where the proposed amendment will have its first
35 reading.
36

37 (2) Distribution. No less than 15 calendar days prior
38 to the date of the City Council meeting where the amendment will

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1 have its first reading, the planning official shall distribute
 2 or cause to be published this notice as follows:

3
 4 (a) Posted at the posting places designated in
 5 DMMC 1.08.010 (Posting places);

6
 7 (b) Printed at least once in the official
 8 newspaper of the City;

9
 10 (c) Displayed in character form on the City's
 11 cable television access channel for not less than three days;

12
 13 (d) Mailed to individuals or organizations that
 14 have submitted a written request to the Planning, Building and
 15 Public Works Director for notice and have paid a fee, set by the
 16 City Manager or the City Manager's designee, to defray the costs
 17 of providing notice.

18
 19 **Sec. 140. Repealer.** Title 17 DMMC as presently
 20 constituted and codified is hereby repealed in its entirety
 21 along with all underlying Ordinances.

22
 23 **Sec. 141. Severability - Construction.**

24
 25 (1) If a section, subsection, paragraph, sentence,
 26 clause, or phrase of this Ordinance is declared unconstitutional
 27 or invalid for any reason by any court of competent
 28 jurisdiction, such decision shall not affect the validity of the
 29 remaining portions of this Ordinance.

30
 31 (2) If the provisions of this Ordinance are found to be
 32 inconsistent with other provisions of the Des Moines Municipal
 33 Code, this Ordinance is deemed to control.

34
 35 **Sec. 142. Effective date.** This Ordinance shall take
 36 effect and be in full force on January 1, 2014.
 37

Draft Ordinance No. 13-169.2
 October 17, 2013

KOEGEN EDWARDS LLP
ATTORNEYS AT LAW

MEMORANDUM

Attorney-Client Privileged Communication

TO: Pat Bosmans, City Attorney
FROM: Michael F. Connolly 
DATE: October 10, 2013
RE: Proposed Title 17 Amendments

GENERAL AMENDMENTS

Title 17 contains provisions relating to subdivisions, short subdivisions, binding site plans, lot line adjustments and all provisions relating to these divisions of land. All chapters have been retained from the existing title. Two additional chapters have been added. All chapters have been modified to begin with the sections "Title," "Application," "Purpose" and "Authority." Minor changes have been made to sections concerning land use review procedures and appeals of decisions made pursuant to this chapter referring to proposed chapter 18.20 DMMC which consolidates the process and appeal provisions. "Planning, Building and Public Works Department" or "Planning, Building and Public Works Director" has replaced other similar references.

SPECIFIC CHAPTER AND SECTION AMENDMENTS

1. Proposed chapter 17.01 contains general provisions applicable to all chapters of this title. Specifically chapter 17.01 contains the definitions, rules of construction, sections concerning liability, enforcement severability and appeals. The enforcement language is the same standardized language contained in other titles and refers to applicable enforcement chapters.
2. Proposed chapter 17.50 provides for the interpretation of terms contained within this title.
3. Section 17.01.020 Application has been amended adding all divisions of land not subject to chapter 58.17 RCW.
4. Section 17.01.030 Purpose has been shortened and simply refers to the provisions of RCW 58.17.110 and chapter 36.70A RCW.
5. I did not change section 17.10.120 dealing with subdivision review by the planning agency. It is my understanding that recent ordinances have changed this.
6. Section 17.20.050 Alterations and vacation of subdivisions, short subdivisions and binding site plan applications, was modified for clarity.

A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Marina 2014-2019 Capital
Improvement Plan

ATTACHMENTS:

1. CIP Summary Sheet & Detail Sheets

FOR AGENDA OF: October 24, 2013

DEPT. OF ORIGIN: Marina

DATE SUBMITTED: October 17, 2013

CLEARANCES:

- ☐ Legal N/A
- ☐ Finance N/A
- ☒ Marina *[Signature]*
- ☐ Parks, Recreation & Senior Services N/A
- ☐ Planning, Building & Public Works N/A
- ☐ Police N/A
- ☐ Courts N/A

APPROVED BY CITY MANAGER
FOR SUBMITTAL: *[Signature]*

Purpose and Recommendation

The purpose of this agenda item is to brief the Council on the current progress and future plans for capital improvement projects in the Marina.

Background

In 2013 the following small capital improvement projects were completed in the Marina.

- Security Cameras for the Redondo Boat Launch Facility – Five CCTV cameras were installed at Redondo.
- Activity Float Canopy – A 17 ft by 28 ft all-weather canopy with detachable side panels was installed on the activity float.
- 6th Ave. Stairway Gates – Lockable gates were installed on the 6th Ave. Stairway.

The following small capital improvement projects were not completed or started in 2013

- Off-Site Storage at the Public Works Yard- this project was not started because of zoning issues.
- Improvements to the South Tenant Restroom Project – A new roof will be installed on the restroom in 2013 and the balance of the funds approved for this project will be carried over to 2014 and allocated to the Pay Parking Project.

No progress was made in 2013 on the four large capital projects needed in the Marina;

- Reconfiguration of Docks D, E & F
- Public Fishing Pier Renovations
- New Marina Entrance Breakwater
- Removal of the Existing Timber Breakwater

Progress on these projects was limited because of the time constraints imposed by the J Dock Fire. All of the work planned for these projects in 2013 was to be done in-house.

Discussion

Almost all of the remaining funds in the Marina Capital account at the beginning of 2014 will be allocated to the Marina and Beach Park Site Management Project – Phase 1 – Parking Pay Stations. At this time the funds remaining is estimated to be about \$20,000 short of the amount needed to complete the project.

\$5,000 has been allocated to starting the SEPA/Shoreline permitting process for the large capital projects, (Dock Reconfiguration, Install new/Remove Old Entrance Breakwaters, Upgrade Public Fishing Pier.)

Financial Impact

When the Pay Parking Stations Project is complete the Marina Capital fund will be depleted. The money in the fund came mostly from the sale of bonds. There are no small or large projects scheduled for the next five years other than the work that can be done in-house on the SEPA/Shoreline permits for the large projects mentioned above.

Recommendation or Conclusion

N/A

Concurrence

N/A



2014 - 2019 CAPITAL IMPROVEMENT PLAN

MARINA

2014 - 2019 PROPOSED CIP

	2012 Actual	2013 Year-End Estimate	2013 Budget Amended	2014	2015	2016	2017	2018	2019	2014-2019 6 - YEAR TOTAL
BEGINNING FUND BALANCE	\$ 291,278	\$ 267,710	\$ 267,710	\$ 143,206	\$ (15,795)	\$ 14,805	\$ 34,805	\$ 55,205	\$ 76,005	\$ 143,206
LOCAL REVENUES										
Interest Earnings	\$ 349	\$ 1,000	\$ 1,300	\$ 1,000	\$ 600	\$ -	\$ 400	\$ 800	\$ 1,300	\$ 4,100
Transfer from Imprv Fund - 2002 Bonds	4,064	-	-	-	-	-	-	-	-	-
Transfer from Marina Revenue Fund (Capital Contributions)	-	-	-	-	30,000	20,000	20,000	20,000	20,000	110,000
Transfer From Marina Revenue Fund (Debt Service)	440,321	483,017	483,036	514,036	513,436	511,749	514,636	511,886	514,486	3,080,229
TOTAL LOCAL REVENUES	\$ 444,733	\$ 484,017	\$ 484,336	\$ 515,036	\$ 544,036	\$ 531,749	\$ 535,036	\$ 532,686	\$ 535,786	\$ 3,194,329
TOTAL REVENUES & FUND BALANCE	\$ 736,011	\$ 751,727	\$ 752,046	\$ 658,242	\$ 528,241	\$ 546,554	\$ 569,841	\$ 587,891	\$ 611,791	\$ 3,337,535

Proj No.

PROJECT EXPENDITURES

Small Improvements										
Security Camera Project	-	47,867	48,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Gate Opening System for M & N Docks	3,622	-	-	-	-	-	-	-	-	-
Miscellaneous Marina										
Small Moorage Docks Reconfiguration	(2,908)	-	2,500	-	-	-	-	-	-	-
South Lot Restroom Project	406,444	5,000	-	-	-	-	-	-	-	-
Redondo Ramp Boarding Floats	406,447	21,635	21,635	-	-	-	-	-	-	-
Fishing Pier Renovations	406,448	17,621	2,500	-	-	-	-	-	-	-
New Breakwater	406,449	-	2,500	-	-	-	-	-	-	-
Timber Breakwater Removal	406,450	-	2,500	-	-	-	-	-	-	-
Port Security Grant Program Project	440,63,09	34,950	34,600	-	-	-	-	-	-	-
Activity Float Shelter	440,63,11	16,052	18,000	-	-	-	-	-	-	-
6th Avenue Stairway Gates	-	-	80,000	160,000	-	-	-	-	-	160,000
Site Management Project	-	-	-	-	-	-	-	-	-	-
Transfer to Imprv Fund - 2008 Bonds	4,064	-	-	-	-	-	-	-	-	-

TOTAL PROJECT EXPENDITURES

\$ 27,980	\$ 125,504	\$ 212,235	\$ 160,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 160,000
DEBT SERVICE EXPENSES										
Debt Service #1: 2002 Bond Issue (2012 Paid out of Fund 401)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Debt Service #2: 2008 Bond Issue	440,321	483,017	483,036	514,036	513,436	511,749	514,636	511,886	514,486	3,080,229
Bond Issuance Costs	-	-	-	-	-	-	-	-	-	-

TOTAL DEBT EXPENSES

\$ 440,321	\$ 483,017	\$ 483,036	\$ 514,036	\$ 513,436	\$ 511,749	\$ 514,636	\$ 511,886	\$ 514,486	\$ 514,486	\$ 3,080,229
TOTAL EXPENDITURES	\$ 468,300	\$ 608,521	\$ 695,271	\$ 674,036	\$ 513,436	\$ 511,749	\$ 514,636	\$ 511,886	\$ 514,486	\$ 3,240,229
ENDING FUND BALANCE	\$ 267,710	\$ 143,206	\$ 56,776	\$ (15,795)	\$ 14,805	\$ 34,805	\$ 55,205	\$ 76,005	\$ 97,305	\$ 97,305

Reserved for Bond Proceeds

\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
------	------	------	------	------	------	------	------	------	------	------

UNRESERVED FUND BALANCE

\$ 267,710	\$ 143,206	\$ 56,776	\$ (15,795)	\$ 14,805	\$ 34,805	\$ 55,205	\$ 76,005	\$ 97,305	\$ 97,305	\$ 97,305
------------	------------	-----------	-------------	-----------	-----------	-----------	-----------	-----------	-----------	-----------



2014 - 2019 CAPITAL IMPROVEMENT PLAN

MARINA

2014 - 2019 PROPOSED CIP									
2012 Actual	2013 Year-End Estimate	2013 Budget Amended	2014	2015	2016	2017	2018	2019	2014-2019 6-YEAR TOTAL
\$ -	\$ 47,867	\$ 48,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
3,622	10,000	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-
17,621	-	2,500	-	-	-	-	-	-	-
(2,908)	-	2,500	-	-	-	-	-	-	-
-	5,000	2,500	-	-	-	-	-	-	-
20,380	21,635	21,635	-	-	-	-	-	-	-
(14,799)	-	-	-	-	-	-	-	-	-
-	34,950	34,600	-	-	-	-	-	-	-
-	16,052	18,000	-	-	-	-	-	-	-
-	-	80,000	160,000	-	-	-	-	-	160,000
-	-	2,500	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-
440,321	483,017	483,036	514,036	513,436	511,749	514,636	511,886	514,486	3,080,229
4,064	-	-	-	-	-	-	-	-	-
\$ 468,300	\$ 618,521	\$ 695,271	\$ 674,036	\$ 513,436	\$ 511,749	\$ 514,636	\$ 511,886	\$ 514,486	\$ 3,240,229

PORTION OF PROJECTS FUNDED BY FUND BALANCE

Small Improvements

Security Camera Project
Gate Opening System for M & N Docks

Miscellaneous Marina

Water Main Relocation
Fishing Pier Renovations
New Breakwater
Small Moorage Docks Reconfiguration
South Lot Restroom Project
Redondo Ramp Boarding Floats
Dock Electric Upgrades (Open Moorage)
Port Security Grant Program Project
Activity Float Shelter
6th Avenue Stairway Gates
Site Management Project
Timber Breakwater Removal

Debt Service Payments

Debt Service #1: 2002 Bond Issue
Debt Service #2: 2008 Bond Issue
Transfer to Depr & Imprv Fund - 2008 Bonds

TOTAL USE OF FUND BALANCE



2014 - 2019 CAPITAL IMPROVEMENT PLAN

Marina

CAPITAL IMPROVEMENT PLAN REQUEST FORM

CATEGORY	Marina	PROJECT NO.	440.402
PROGRAM		PROJECT STATUS:	
PROJECT	Site Management Project	Preliminary Estimate	
		Plans in Preparation	
		P.S.E. Complete	

LOCATION Marina Parking Lots

DESCRIPTION:

EXPENDITURE SCHEDULE										
COST ELEMENTS	TOTAL*	FY 13 Est	FY 13 Amd	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19	
ADMINISTRATION	\$ -		\$ -							
DESIGN/ENG	-									
BUILDINGS	-									
IMPROVEMENTS	160,000		80,000	160,000						
CONST MGMT	-									
CONTINGENCY	-									
SALES TAX	-									
OTHER	-									
PERMITS	-									
TOTAL	\$ 160,000		\$ 80,000	\$ 160,000						

FUNDING SOURCE	TOTAL*	FY 13 Est	FY 13 Amd	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
Bond Proceeds	\$ -		\$ -	-					
Marina Contributions	160,000		80,000	160,000					
	-								
TOTAL	\$ 160,000		\$ 80,000	\$ 160,000					

*Excludes FY 13 Amd



2014 - 2019 CAPITAL IMPROVEMENT PLAN

Marina

CAPITAL IMPROVEMENT PLAN REQUEST FORM	
CATEGORY PROGRAM PROJECT	Marina Site Management Project
LOCATION	Marina Parking Lots
	PROJECT NO. 440.402
	PROJECT STATUS: Preliminary Estimate Plans in Preparation P.S.E. Complete

JUSTIFICATION: At a regular Council Meeting in October 2012, the City Council directed the staff to develop a program to address the issues of inappropriate behavior and low-level criminal activity in the Marina parking lots and the Des Moines Beach Park. This Project is Phase 1 of that effort and it will provide eight parking pay stations for the Marina and Beach Park along with a "pay-by-space" parking system with a parking enforcement and management plan.



2014 - 2019 CAPITAL IMPROVEMENT PLAN

Marina

CAPITAL IMPROVEMENT PLAN REQUEST FORM

CATEGORY	Marina	PROJECT NO.	440.63.01
PROGRAM	Small Improvements	PROJECT STATUS:	
PROJECT	Security Camera Project	Preliminary Estimate	X
		Plans in Preparation	
		P.S.E. Complete	
LOCATION	Docks & Parking Lots		
DESCRIPTION:	This project would provide for the installation of four more security cameras in the Marina.		

EXPENDITURE SCHEDULE												
COST ELEMENTS	TOTAL*	Prior Years	FY 11 Act	FY 12 Act	FY 13 Est	FY 13 Amd	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
ADMINISTRATION	\$ 13,661	\$ 13,661			\$ -	\$ -	\$ -					
CIP PROJ MANAGEMENT	-	-										
DESIGN / ENGINEERING	18,145	18,145										
LAND	-	-										
BUILDINGS	-	-										
IMPROVEMENTS	180,933	137,218			43,714	45,282						
INSPECTION	-	-										
CONTINGENCY	-	-										
SALES TAX	7,253	3,100			4,153	2,518						
PERMIT	1,709	1,709				200						
OTHER	3,443	3,443										
TOTAL	\$ 225,143	\$ 177,276			\$ 47,867	\$ 48,000	\$ -					

FUNDING SOURCES	TOTAL*	Prior Years	FY 11 Act	FY 12 Act	FY 13 Est	FY 13 Amd	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
Bond Proceeds	\$ -	\$ -			\$ -	\$ -	\$ -					
Marina Contributions	225,143	177,276			47,867	48,000	-					
TOTAL	\$ 225,143	\$ 177,276			\$ 47,867	\$ 48,000	\$ -					

*Excludes FY 13 Amd



2014 - 2019 CAPITAL IMPROVEMENT PLAN

Marina

CAPITAL IMPROVEMENT PLAN REQUEST FORM

CATEGORY	Marina	PROJECT NO.	440.63.01
PROGRAM	Small Improvements	PROJECT STATUS:	
PROJECT	Security Camera Project	Preliminary Estimate	X
		Plans in Preparation	
		P.S.E. Complete	
LOCATION	Docks & Parking Lots		

JUSTIFICATION:

In 2006 and 2007 the Marina installed a CCTV security camera system in the Marina. Presently there is a camera installed near the gate to each of the floating docks, one on the fuel dock and one on the west end of the Marina Office Building. This project would add four additional cameras. Two wireless camera units would be installed in the north parking lot to monitor activity in that area, and two regular cameras would be installed on the ends of A and J Docks to monitor traffic in the main waterway.



2014 - 2019 CAPITAL IMPROVEMENT PLAN

Marina

CAPITAL IMPROVEMENT PLAN REQUEST FORM

CATEGORY	Marina	PROJECT NO.	440.442
PROGRAM		PROJECT STATUS:	
PROJECT	Small Moorage Docks Reconfiguration Project	Preliminary Estimate	X
		Plans in Preparation	
		P.S.E. Complete	
LOCATION	D, E, F, G & H Docks		
DESCRIPTION:			

EXPENDITURE SCHEDULE												
COST ELEMENTS	TOTAL*	FY 10 Act	FY 11 Act	FY 12 Act	FY 13 Est	FY 13 Amend	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
ADMINISTRATION	\$ 33		\$ 33			\$ -						
DESIGN/ENG	2,820		2,820									
BUILDINGS	-											
IMPROVEMENTS	-											
CONST MGMT	-											
CONTINGENCY	-											
SALES TAX	-											
OTHER	-											
PERMITS	-					2,500						
TOTAL	\$ 2,853		\$ 2,853			\$ 2,500						

FUNDING SOURCE	TOTAL*	FY 10 Act	FY 11 Act	FY 12 Act	FY 13 Est	FY 13 Amend	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
Bond Proceeds	\$ -		\$ -			\$ -						
Marina Contributions	2,853		2,853			2,500						
	-											
TOTAL	\$ 2,853		\$ 2,853			\$ 2,500						

*Excludes FY 13 Amd



2014 - 2019 CAPITAL IMPROVEMENT PLAN

Marina

CAPITAL IMPROVEMENT PLAN

REQUEST FORM

CATEGORY	Marina	PROJECT NO.	440.442
PROGRAM		PROJECT STATUS:	
PROJECT	Small Moorage Docks Reconfiguration Project	Preliminary Estimate	X
		Plans in Preparation	
		P.S.E. Complete	
LOCATION	D, E, F, G & H Docks		

JUSTIFICATION:

This project would eliminate E Dock and reconfigure D, F, G & H Docks with the goal of reducing the amount of 20 and 24 foot slips and creating more 32 and 36 foot slips. This project will be accomplished in two phases. The first phase will take place in 2011/2012 as part of a multi-project design and permitting effort and will consist of a feasibility study, design and permitting of the project. The actual reconfiguration would be a second phase, which would take place in 2012.



2014 - 2019 CAPITAL IMPROVEMENT PLAN

Marina

CAPITAL IMPROVEMENT PLAN REQUEST FORM

CATEGORY	Marina	PROJECT NO.	406.447
PROGRAM		PROJECT STATUS:	
PROJECT	Redondo Ramp Boarding Floats	Preliminary Estimate	X
		Plans in Preparation	
		P.S.E. Complete	
LOCATION	Redondo Boat Ramp		
DESCRIPTION:	Replace two of the original boarding floats at the Redondo Boat Ramp		

EXPENDITURE SCHEDULE											
COST ELEMENTS	TOTAL *	FY 2011 Act	FY 12 Act	FY 13 Est	FY 13 Amd	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
ADMINISTRATION	\$ -		\$ 392	\$ -	\$ -						
DESIGN/ENG	-										
BUILDINGS	-										
IMPROVEMENTS	19,758		19,987	19,758	19,758						
CONST MGMT	-										
CONTINGENCY	-										
SALES TAX	1,877			1,877	1,877						
OTHER	-		-								
PERMITS	-										
TOTAL	\$ 21,635		\$ 20,380	\$ 21,635	\$ 21,635						

FUNDING SOURCE	TOTAL*	FY 13 Est	FY 13 Amd	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
Bond Proceeds	\$ -	\$ -	\$ -						
Marina Contributions	21,635	21,635	21,635						
TOTAL	\$ 21,635	\$ 21,635	\$ 21,635						

*Excludes FY 13 Amd



2014 - 2019 CAPITAL IMPROVEMENT PLAN

Marina

CAPITAL IMPROVEMENT PLAN REQUEST FORM			
CATEGORY	Marina	PROJECT NO.	406.447
PROGRAM		PROJECT STATUS:	
PROJECT	Redondo Ramp Boarding Floats	Preliminary Estimate	X
		Plans in Preparation	
		P.S.E. Complete	
LOCATION	Redondo Boat Ramp		

JUSTIFICATION: There are three of the original boarding floats left at the Redondo Boat Ramp. These floats were installed when the ramp was built over 30 years ago and are in need of replacement. The Marina staff plans to replace tow of the floats in 2012, two more in 2013 and the last float in 2014 along with recasting the concrete anchor brow.



2014 - 2019 CAPITAL IMPROVEMENT PLAN

Marina

CAPITAL IMPROVEMENT PLAN REQUEST FORM

CATEGORY	Marina	PROJECT NO.	406.448
PROGRAM		PROJECT STATUS:	
PROJECT	Public Fishing Pier Renovations and Improvements	Preliminary Estimate	X
		Plans in Preparation	
		P.S.E. Complete	
LOCATION	Public Fishing Pier - NW Corner of the North Parking Lot in the Marina.		
DESCRIPTION:	Renovate and enlarge the Public Fishing Pier, replace the public restrooms, enlarge the plaza area, replace the timber bulkhead in that area with a steel sheet pile wall with a concrete cap, install a breakwater wall to protect the Marina entrance and basin.		

EXPENDITURE SCHEDULE

COST ELEMENTS	TOTAL*	FY 11 Act	FY 12 Act	FY 13 Est	FY 13 Amd	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
ADMINISTRATION	\$ 339		\$ 339		\$ -						
CIP PROJ MANAGEMENT	11,735		11,735								
DESIGN/ENG	-										
BUILDINGS	-										
IMPROVEMENTS	5,547		5,547								413
CONST MGMT	-										
CONTINGENCY	-										
SALES TAX	-										
OTHER	-										
PERMITS	-				2,500						
TOTAL	\$ 17,621		\$ 17,621		\$ 2,500						

FUNDING SOURCE	TOTAL*	FY 11 Act	FY 12 Act	FY 13 Est	FY 13 Amd	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
Bond Proceeds	\$ -		\$ -		\$ -						
Marina Contributions	17,621		17,621	-	2,500						
	-										
TOTAL	\$ 17,621		\$ 17,621		\$ 2,500						

*Excludes FY 13 Amd



2014 - 2019 CAPITAL IMPROVEMENT PLAN

Marina

CAPITAL IMPROVEMENT PLAN REQUEST FORM

CATEGORY	Marina	PROJECT NO.	406.448
PROGRAM		PROJECT STATUS:	
PROJECT	Public Fishing Pier Renovations and Improvements	Preliminary Estimate	X
		Plans in Preparation	
		P.S.E. Complete	
LOCATION	Public Fishing Pier - NW Corner of the North Parking Lot in the Marina.		

JUSTIFICATION:

The Public Fishing Pier in the Marina is a Des Moines Landmark that gets lots of use at all times of the year. It was built in 1980, with construction funding coming from the National Park Service Land and Trails account and from King County. The Pier is a concrete structure and it sustained significant damage during the Nisqually earthquake. The pier can become very crowded during good weather and peak fishing seasons. The restroom is nearly 35 years old and needs to be replaced with a modern facility that will be less costly to operate and maintain. The plaza area is also well used by the public and it is also showing signs of wear and tear. This project would increase the width of the pier walkway area from 8 feet to 14 feet and would more than double the area at the end of the pier, (from 2193 sq. ft. to 4794 sq. ft.), and add seismic reinforcing if needed. This project would also replace the restroom with a new facility and enlarge the plaza area at the foot of the pier.,



2014 - 2019 CAPITAL IMPROVEMENT PLAN

Marina

CAPITAL IMPROVEMENT PLAN REQUEST FORM

CATEGORY	Marina	PROJECT NO.	406.449
PROGRAM		PROJECT STATUS:	
PROJECT	New Breakwater at the Marina Entrance.	Preliminary Estimate	X
		Plans in Preparation	
		P.S.E. Complete	
LOCATION	Marina Entrance Channel near the Public Fishing Pier		
DESCRIPTION:	This project would replace the existing Timber Breakwater with a new structure similar in design but located close to the Public Fishing Pier where it can protect the entire Marina Entrance Channel area.		

EXPENDITURE SCHEDULE											
COST ELEMENTS	TOTAL*	FY 11 Act	FY 12 Act	FY 13 Est	FY 13 Amd	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
ADMINISTRATION	\$ -				\$ -						
DESIGN/ENG	-										
BUILDINGS	-										
IMPROVEMENTS	-										
CONST MGMT	-										
CONTINGENCY	-										
SALES TAX	-										
OTHER	-										
PERMITS	-				2,500						
TOTAL	\$ -				\$ 2,500						

FUNDING SOURCE	TOTAL*	FY 11 Act	FY 12 Act	FY 13 Est	FY 13 Amd	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
Bond Proceeds	\$ -				\$ -						
Marina Contributions	-				2,500						
	-										
	-										
TOTAL	\$ -				\$ 2,500						

*Excludes FY 13 Amd



2014 - 2019 CAPITAL IMPROVEMENT PLAN

Marina

CAPITAL IMPROVEMENT PLAN REQUEST FORM			
CATEGORY	Marina	PROJECT NO.	406.449
PROGRAM		PROJECT STATUS:	
PROJECT	New Breakwater at the Marina Entrance.	Preliminary Estimate	X
		Plans in Preparation	
		P.S.E. Complete	
LOCATION	Marina Entrance Channel near the Public Fishing Pier		

JUSTIFICATION:

The existing Timber Breakwater was built as in 1969 as part of the original Marina construction project. The original breakwater was built by driving heavily creosote-treated timber pile side-by-side and then fastening a layer of heavily creosote-treated timbers to the north side. A sloping rock revetment was built on both sides of the structure to add strength. Both the creosote-treated piling and the treated timbers are starting to fail, mostly from damage cause by rot and marine borers. Wave studies done in 2011 show that moving the breakwater structure north to a location close to the base of the fishing pier will continue protecting the Marina basin with only modest increases in peak wave heights while significantly reducing wave heights in the entrance area, which was not protected at all before. Moving the new breakwater further north will allow the installation of additional floats in the area where the old breakwater is now, significantly increasing the amount of moorage available in the guest moorage basin. The additional moorage could be used for a permanent location for emergency response vessels, additional guest moorage, short term moorage for tour boats and a space to launch car-top boat like kayaks, etc.



2014 - 2019 CAPITAL IMPROVEMENT PLAN **Marina**

CAPITAL IMPROVEMENT PLAN REQUEST FORM

CATEGORY	Marina	PROJECT NO.	406,450
PROGRAM		PROJECT STATUS:	
PROJECT	Demolition of Existing Timber Breakwater, Removing Rubble Mound and Installing New Floats	Preliminary Estimate	X
		Plans in Preparation	
		P.S.E. Complete	
LOCATION	West end of North Parking lot - Marina Entrance Channel		
DESCRIPTION:	This project would remove the existing Timber Breakwater and the rock rubble mound that is on both sides of it. A float system and ramp would be installed in the same area and portions of the timber bulkhead would be replaced with a steel sheet pile/concrete cap wall.		

EXPENDITURE SCHEDULE									
COST ELEMENTS	TOTAL*	FY 13 Est	FY 13 Amend	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
ADMINISTRATION	\$ -		\$ -						
DESIGN/ENG	-								
BUILDINGS	-								
IMPROVEMENTS	-								
CONST MGMT	-								
CONTINGENCY	-								
SALES TAX	-								
OTHER	-								
PERMITS	-		2,500						
TOTAL	\$ -		\$ 2,500						

FUNDING SOURCE	TOTAL*	FY 13 Est	FY 13 Amend	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
Marina Contributions	\$ -		\$ 2,500						
Port Security Grant	-								
TOTAL	\$ -		\$ 2,500						

*Excludes FY 13 Amd



2014 - 2019 CAPITAL IMPROVEMENT PLAN

Marina

CAPITAL IMPROVEMENT PLAN			
REQUEST FORM			
CATEGORY	Marina	PROJECT NO.	406.450
PROGRAM		PROJECT STATUS:	
PROJECT	Demolition of Existing Timber Breakwater, Removing Rubble Mound and Installing New Floats	Preliminary Estimate	X
		Plans in Preparation	
		P.S.E. Complete	
LOCATION	West end of North Parking lot - Marina Entrance Channel		

JUSTIFICATION:

The existing Timber Breakwater and the rock rubble mound that anchors was installed in 1969 when the Marina was built. The Timber Breakwater is failing and needs to be replaced. Wave studies done in 2011 show that a breakwater structure that was located near the public fishing pier would be effective at protecting the Marina entrance while maintaining the same wave heights in the mooring basin. Relocating the breakwater would create space for additional moorage in an area that was always underutilized. The moorage could be used for a permanent place for emergency response vessels, guest moorage and a more convenient place for short term uses like tour boats and car-top launching.



2014 - 2019 CAPITAL IMPROVEMENT PLAN

Marina

CAPITAL IMPROVEMENT PLAN REQUEST FORM

CATEGORY	Marina	PROJECT NO.	440.XX
PROGRAM		PROJECT STATUS:	
PROJECT	Custom canopy for the new activity float.	Preliminary Estimate	X
		Plans in Preparation	
		P.S.E. Complete	
LOCATION	Guest Moorage		
DESCRIPTION:			

EXPENDITURE SCHEDULE

COST ELEMENTS	TOTAL*	FY 11 Act	FY 12 Act	FY 13 Est	FY 13 Amend	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
ADMINISTRATION	\$ -			\$ -	\$ -						
DESIGN/ENG	2,860			2,860	2,500						
BUILDINGS	27,597			27,597	27,100						
IMPROVEMENTS	-										
CONST MGMT	-										
CONTINGENCY	-				2,500						
SALES TAX	2,622			2,622	2,500						
OTHER	1,871			1,871							
PERMITS	-										
TOTAL	\$ 34,950			\$ 34,950	\$ 34,600						

FUNDING SOURCE	TOTAL*	FY 11 Act	FY 12 Act	FY 13 Est	FY 13 Amend	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
Bond Proceeds	\$ -			\$ -	\$ -						
Marina Contributions	34,950			34,950	34,600						
	-										
TOTAL	\$ 34,950			\$ 34,950	\$ 34,600	\$ -					

*Excludes FY 13 Amd



2014 - 2019 CAPITAL IMPROVEMENT PLAN

Marina

CAPITAL IMPROVEMENT PLAN REQUEST FORM

CATEGORY	Marina	PROJECT NO.	440.XX
PROGRAM		PROJECT STATUS:	
PROJECT	Custom canopy for the new activity float.	Preliminary Estimate	X
		Plans in Preparation	
		P.S.E. Complete	
LOCATION	Guest Moorage		

JUSTIFICATION:

This project would replace the existing 10 X 20 canopies that are in the guest moorage area with a larger, 15 X 40 canopy. The new canopy will be custom made to fit a space on the new activity float and will be substantially stronger than the existing canopies. The new canopy will be used by groups and clubs that visit the guest moorage area.



2012 - 2017 CAPITAL IMPROVEMENT PLAN **Marina**

CAPITAL IMPROVEMENT PLAN REQUEST FORM

CATEGORY	Marina	PROJECT NO.	440.XX
PROGRAM		PROJECT STATUS:	
PROJECT	6th Avenue Stairway Gates	Preliminary Estimate	X
		Plans in Preparation	
		P.S.E. Complete	
LOCATION	6th Avenue Stairway		
DESCRIPTION:	This project will provide lockable gates for the 6th Ave. Stairway		

EXPENDITURE SCHEDULE

COST ELEMENTS	TOTAL*	FY 13 Est	FY 13 Amend	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
ADMINISTRATION									
DESIGN/ENG									
BUILDINGS	-								
IMPROVEMENTS	14,100	14,100	17,925						
CONST MGMT	-								
CONTINGENCY	-								
SALES TAX	1,340	1,340							
OTHER	538	538							
PERMITS	75	75	75						
TOTAL	\$ 16,052	\$ 16,052	\$ 18,000						

FUNDING SOURCE	TOTAL*	FY 13 Est	FY 13 Amend	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
Marina Contributions	\$ 16,052	\$ 16,052	\$ 18,000						
Port Security Grant	-								
	-								
TOTAL	\$ 16,052	\$ 16,052	\$ 18,000						

*Excludes FY 13 Amd



2012 - 2017 CAPITAL IMPROVEMENT PLAN

Marina

CAPITAL IMPROVEMENT PLAN REQUEST FORM

CATEGORY	Marina	PROJECT NO.	440.XX
PROGRAM		PROJECT STATUS:	
PROJECT	6th Avenue Stairway Gates	Preliminary Estimate	X
		Plans in Preparation	
		P.S.E. Complete	
LOCATION	6th Avenue Stairway		
DESCRIPTION:	This project will provide lockable gates for the 6th Ave. Stairway		

JUSTIFICATION:

When the Waterford condo was built in 2002 the City required that the developers install an exterior stairway from 6th Ave. to the Marina floor on the north end of the building. As part of the development agreement the City agreed to install gates on the stairway and to close and lock them daily from 10 PM to 5 AM. This project, plus the ongoing expense of locking the gates every night will fulfill the City's obligation. All of the funds for building and installing the gates plus the ongoing expenses come from Marina revenues.



2014 - 2019 CAPITAL IMPROVEMENT PLAN

Marina

CAPITAL IMPROVEMENT PLAN REQUEST FORM

CATEGORY	Marina	PROJECT NO.	406.444
PROGRAM	Miscellaneous Marina	PROJECT STATUS:	
PROJECT	South Lot Restroom Project	Preliminary Estimate	X
LOCATION	Marina - South Lot	Plans in Preparation	
		P.S.E. Complete	

DESCRIPTION: Replace aging tenant restroom and shower facility and also provide public toilet facility.

EXPENDITURE SCHEDULE

COST ELEMENTS	TOTAL	Prior Yrs	FY 11 Act	FY 12 Act	FY 13 Est	FY 13 Amend	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
ADMINISTRATION	\$ 68	\$ 68			\$ -							
CIP PROJ MANAGEMENT	-											
DESIGN / ENGINEERING	-											
LAND	-											
BUILDINGS	-											
IMPROVEMENTS	5,000				5,000							
INSPECTION	-											
CONTINGENCY	-											
OTHER	-											
TOTAL	\$ 5,068	\$ 68			\$ 5,000							

FUNDING SOURCES	TOTAL	Prior Yrs	FY 11 Act	FY 12 Act	FY 13 Est	FY 13 Amend	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
Bond Proceeds	\$ 68	\$ 68			\$ -							
Marina Contributions	5,000	-			5,000							
City Contrib. for Public Amenities	-											
TOTAL	\$ 5,068	\$ 68			\$ 5,000							

*Excludes FY 13 Amd



2014 - 2019 CAPITAL IMPROVEMENT PLAN

Marina

CAPITAL IMPROVEMENT PLAN REQUEST FORM

CATEGORY	Marina	PROJECT NO.	406.444
PROGRAM	Miscellaneous Marina	PROJECT STATUS:	
PROJECT	South Lot Restroom Project	Preliminary Estimate	X
LOCATION	Marina - South Lot	Plans in Preparation	
		P.S.E. Complete	

JUSTIFICATION:

The tenant restroom and shower facility that is located in the south parking lot is 40 years old and is at the end of its design life expectancy. Replacing this facility was identified as a high-priority project by the City Council during the Marina Master Plan update process. The new facility also will have public toilet facilities.

A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: SWM 2014-2019 Capital
Improvement Plan

ATTACHMENTS:

1. CIP Summary Sheet & Detail Sheets

FOR AGENDA OF: October 24, 2013

DEPT. OF ORIGIN: Planning, Building, and
Public Works

DATE SUBMITTED: October 17, 2013

CLEARANCES:

☐ Legal N/A

☐ Finance N/A

☐ Marina N/A

☐ Parks, Recreation & Senior Services N/A

☒ Planning, Building & Public Works DJB

☐ Police N/A

☐ Courts N/A

APPROVED BY CITY MANAGER
FOR SUBMITTAL: 

Purpose and Recommendation

The purpose of this agenda item is to present to the City Council the 2014 – 2019 Draft Capital Improvement Plan for the Surface Water Management (SWM) Utility Capital Fund.

Background

The Capital Improvement Plan provides a multi-year list of proposed capital expenditures and associated operating costs for the City. The Growth Management Act of 1990 requires communities to adopt comprehensive plans to guide the orderly development of growth. Also, the Plan focuses the community and Council's attention on prioritizing projects, given the competing needs for projects.

Tonight's briefing will present the 2014 – 2019 Capital Improvement Plan for the Surface Water Management Capital Fund.

Discussion

Following is a summary of the status of SWM CIP projects underway in 2013, and proposed for the 2014-2019 CIP:

- The Lower Des Moines Creek, Barnes Creek/223rd Culvert Project, and Redondo Heights Culvert projects have all been completed.
- Detention Pond Safety Improvements have been designed, and staff is currently soliciting quotes. It is anticipated that vinyl coated chain link fencing will be installed by the end of the year.
- Lower Massey Creek Channel Project: Initial hydraulic modeling is complete and the consultant is in the process of beginning preliminary engineering. The recommended approach is now to install a sheet pile wall on the south side of the creek rather than on the north side to achieve a higher channel capacity. Design and permitting to be complete for the Lower Massey Creek Channel project in preparation for construction in 2015.
- South 216th Street Pipe Repair Project (15th Ave. S. to 18th Ave. S.). Staff solicited contractors for quotes, and received three quotes. The contract was awarded on October 10, 2013. Duration of the construction project is one month. A budget amendment is being processed to add this urgent project to the 2013 CIP.
- The 2014 transfer from SWM operations to the SWM CIP is reduced by \$250,000 in order to provide funding for the SWM Comprehensive Plan effort.
- Three construction projects scheduled for 2014: South 216th Place Pipe Replacement, DMMD Pipeline from S. 212th St. to S. 213th St., and 24th Ave. S. from S. 224th St. to S. 230th St. (in conjunction with the 24th Sidewalk Safety Improvement Project).
- Pipe Replacement Program funds for 2015 have been moved forward to 2013 to cover the cost for the S. 216th Street Pipe Repair Project (15th Ave. S. to 18th Ave. S.).
- Barnes Creek/KDM Culvert Replacement: Preliminary estimate to replace culvert is in excess of \$1 million. Alternative analysis needed (scheduled for 2014). This could be a very costly project and with high traffic impacts on Kent Des Moines Road.

Recommendation

None



2014-2019 CAPITAL IMPROVEMENT PLAN
Surface Water Management

2014 - 2019 PROPOSED CIP										2014 - 2019 6-Year TOTAL
	2012 Act	2013 Est	2013 Amend	2014	2015	2016	2017	2018	2019	
BEGINNING FUND BALANCE	\$ 1,028,575	\$ 898,392	\$ 898,392	\$ 1,111,567	\$ 578,322	\$ 622,924	\$ 787,094	\$ 247,025	\$ 271,018	\$ 1,111,567
LOCAL REVENUES										
Interest Income	\$ 4,271	\$ 2,730	\$ 4,600	\$ 3,000	\$ 2,500	\$ 3,000	\$ 5,300	\$ 5,200	\$ 3,900	\$ 22,900
Hook-up Fees	19,367	75,000	75,000	75,000	75,000	75,000	75,000	75,000	75,000	450,000
Transfer from SWM operations	682,871	709,484	709,484	486,455	742,102	759,170	776,631	794,493	812,766	4,371,617
TOTAL LOCAL REVENUES	\$ 706,509	\$ 787,214	\$ 789,084	\$ 564,455	\$ 819,602	\$ 837,170	\$ 856,931	\$ 874,693	\$ 891,666	\$ 4,844,517
PROJECT REVENUES										
Barnes Creek 223rd Culvert Replace - King Cons. Funds	\$ -	\$ 15,300	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Lower DM Creek - King County Flood Control Funds	-	-	-	-	-	-	-	-	-	-
Lower Massey Creek - King County Flood Control Funds*	-	-	-	-	180,000	-	-	-	-	180,000
1st Avenue Pond Expansion - Normandy Park ILA*	-	-	-	-	-	-	-	29,800	204,750	234,550
Barnes Creek 223rd Culvert Replace - Hiline Water District	15,104	-	-	-	-	-	-	-	-	-
Barnes Creek KDR Culvert Repl - King Cons Funds	-	-	-	-	-	-	-	-	-	-
Redondo Hts Culvert Repl - Redondo Hts Assn.	155,597	-	-	-	-	-	-	-	-	-
Redondo Hts Culvert Repl - Lakehaven Utility Dist.	26,518	-	-	-	-	-	-	-	-	-
TOTAL PROJECT REVENUES	\$ 197,219	\$ 15,300	\$ -	\$ -	\$ 180,000	\$ -	\$ -	\$ 29,800	\$ 204,750	\$ 414,550
TOTAL REVENUES & FUND BALANCE	\$ 1,932,303	\$ 1,700,906	\$ 1,687,476	\$ 1,676,022	\$ 1,577,924	\$ 1,460,094	\$ 1,644,025	\$ 1,151,518	\$ 1,367,434	\$ 6,370,634

*These grants and/or loans need to be applied for.

	City Proj No.									
PROJECT EXPENDITURES										
Des Moines Creek Basin Projects	451.806	-	-	-	-	-	-	-	-	-
Lower Des Moines Creek Channel Modifications	451.806-01	40,463	346	-	-	-	-	-	-	-
Barnes Creek 223rd Culvert Replacement	451.820	301,246	17,750	-	-	-	-	-	-	-
Redondo Heights Culvert Replacement	451.818	688,008	6,815	60,192	-	-	-	-	-	-
216th Street (15th Ave to 18th Ave) Storm Drainage Repair	451.825	-	297,500	297,500	-	-	-	-	-	-
Detention Pond Safety Improvements	451.810	-	60,000	60,000	-	-	-	-	-	-
DMMD Pipeline S. 212th to S. 213th	451.812	-	18,314	173,500	-	-	-	-	-	-
216th Pl. Culvert Replacement	451.819	-	9,528	174,300	-	-	-	-	-	-
24th Avenue Pipeline Replacement/Upgrade	451.815	-	-	-	-	-	-	-	-	-
Lower Massey Creek Channel Modifications	451.821	-	179,000	212,500	955,000	-	-	-	-	356,000
Barnes Creek/KDM Rd. Culvert Repl.	451.804.00	93	86	150,000	-	345,000	990,000	-	-	196,500
Pipe Replacement Program										242,700
North Hill NE 197th St Trunkline Upgrade	451.824	-	-	-	-	328,000	328,000	328,000	328,000	1,165,000
199th N Hill Trunk Line Upgrade	451.822	-	-	-	-	79,000	79,000	455,800	-	1,427,500
1st Avenue Pond Expansion	451.823	-	-	-	-	-	-	37,100	228,620	1,312,000
TOTAL PROJECT EXPENDITURES		\$ 1,033,911	\$ 589,339	\$ 1,127,992	\$ 955,000	\$ 673,000	\$ 1,397,000	\$ 880,500	\$ 881,120	\$ 5,884,320



2014-2019 CAPITAL IMPROVEMENT PLAN
Surface Water Management

		2014 - 2019 PROPOSED CIP									2014 - 2019 6-Year TOTAL
		2012 Act	2013 Est	2013 Amend	2014	2015	2016	2017	2018	2019	



2014-2019 CAPITAL IMPROVEMENT PLAN
Surface Water Management

2014 - 2019 PROPOSED CIP										
	2012 Act	2013 Est	2013 Amend	2014	2015	2016	2017	2018	2019	2014 - 2019 6-Year TOTAL
PORTION OF PROJECT FUNDED BY SWM										
Des Moines Creek Basin Projects	451.806	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Redondo Creek Culvert Replacement	451.817	-	-	-	-	-	-	-	-	-
Lower Des Moines Creek Channel Modifications	451.806-01	346	-	-	-	-	-	-	-	-
Redondo Heights Culvert Replacement	451.818	6,815	60,192	-	-	-	-	-	-	-
Barnes Creek 223rd Culvert Replacement	451.820	2,450	-	-	-	-	-	-	-	-
DMMD Pipeline S. 212th to S. 213th	451.812	18,314	173,500	356,000	-	-	-	-	-	356,000
216th Pl. Culvert Replacement	451.819	9,528	174,300	196,500	-	-	-	-	-	196,500
Detention Pond Safety Improvements	451.899	-	-	-	-	-	-	-	-	-
Lower Massey Creek Channel Modifications	451.821	179,000	212,500	210,000	775,000	-	-	-	-	985,000
Barnes Creek/KDM Rd. Culvert Repl.	451.804.00	86	150,000	92,500	-	345,000	990,000	-	-	1,427,500
24th Avenue Pipeline Replacement/Upgrade	451.815	-	-	242,700	-	328,000	328,000	328,000	328,000	1,312,000
Pipe Replacement Program										
199th N Hill Trunk Line Upgrade	451.822	-	-	-	-	-	-	37,100	228,620	265,720
1st Avenue Pond Expansion	451.823	-	-	-	-	-	-	29,800	119,750	149,550
North Hill NE 197th St Trunkline Upgrade	451.824	-	-	-	-	-	79,000	455,800	-	534,800
216th Street (15th Ave to 18th Ave) Storm Drainage Repair		297,500	297,500	-	-	-	-	-	-	-
Detention Pond Safety Improvements		60,000	60,000	-	-	-	-	-	-	-
TOTAL FUNDED BY SWM	\$ 836,692	\$ 574,039	\$ 1,127,992	\$ 1,097,700	\$ 775,000	\$ 673,000	\$ 1,397,000	\$ 850,700	\$ 676,370	\$ 5,469,770



2014-2019 CAPITAL IMPROVEMENT PLAN **Surface Water Management**

CAPITAL IMPROVEMENT PLAN REQUEST FORM

CATEGORY	Surface Water Management	City Project #	451.825
PROJECT	216th Street (15th Avenue to 18th Avenue) Storm Drainage Repair	Dept Project #	
LOCATION	North Shoulder Area of 216th Street	Project Type:	Improvement
DESCRIPTION:	Replace approximately 350 feet of corroded metal storm pipe with new 24-inch diameter pipe plus road restoration.	Council Goals met:	1, 2, 4
		Council Objectives met:	
		Project Status	

EXPENDITURE SCHEDULE											
COST ELEMENTS	TOTAL*	FY 12 Act	FY 13 Est	FY 13 Amd	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19	
ADMINISTRATION	\$ 3,000		\$ 3,000	\$ 3,000							
CIP PROJ MANAGEMENT	10,000		10,000	10,000							
DESIGN / PERMITTING	18,500		18,500	18,500							
LAND	-										
BUILDINGS	-										
IMPROVEMENTS	190,000		190,000	190,000							
INSPECTION	38,000		38,000	38,000							
CONTINGENCY	38,000		38,000	38,000							
SALES TAX	-										
TOTAL	\$ 297,500	\$ -	\$ 297,500	\$ 297,500	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	

FUNDING SOURCES	TOTAL*	FY 12 Act	FY 13 Est	FY 13 Amd	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
SWM CIP	\$ 297,500	\$ -	\$ 297,500	\$ 297,500						
TOTAL	\$ 297,500	\$ -	\$ 297,500	\$ 297,500	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

*Excludes FY 13 Amd



2014-2019 CAPITAL IMPROVEMENT PLAN

Surface Water Management

CAPITAL IMPROVEMENT PLAN REQUEST FORM

CATEGORY	Surface Water Management	PROJECT NO:	451.812
PROJECT	Des Moines Memorial Drive - S. 212th to S. 213th Pipeline Replacement	Project Type:	Improvement
LOCATION	North side of Des Moines Memorial Drive from S. 212th Street to S. 213th Street	Council Goals met:	2
		Council Objectives met:	
		Project Status	

DESCRIPTION: Replacement of 350 feet of existing storm drainage and ditches with 18-inch pipe.

EXPENDITURE SCHEDULE													
COST ELEMENTS	TOTAL*	FY 09 Act	FY 10 Act	FY 11 Act	FY 12 Act	FY 13 Est	FY 13 Amend	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
ADMINISTRATION	\$ 7,189	\$ 2,117	\$ 165			\$ 907	\$ 8,000	4,000					
CIP PROJ MANAGEMENT	5,929		929					5,000					
Design	22,407					17,407	20,000	5,000					
Improvements	259,000						90,500	259,000					
Construction Management	31,000						20,000	31,000					
CONTINGENCY	52,000						35,000	52,000					
OTHER	-												
TOTAL	\$ 377,525	\$ 2,117	\$ 1,094	\$ -	\$ -	\$ 18,314	\$ 173,500	\$ 356,000					

FUNDING SOURCES	TOTAL*	FY 09 Act	FY 10 Act	FY 11 Act	FY 12 Act	FY 13 Est	FY 13 Amend	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
SWM CIP	\$ 377,525	\$ 2,117	\$ 1,094			\$ 18,314	\$ 173,500	356,000					
TOTAL	\$ 377,525	\$ 2,117	\$ 1,094	\$ -	\$ -	\$ 18,314	\$ 173,500	\$ 356,000					

*Excludes FY 13 Amnd



2014-2019 CAPITAL IMPROVEMENT PLAN **Surface Water Management**

CAPITAL IMPROVEMENT PLAN REQUEST FORM

CATEGORY	Surface Water Management	City Project #	451.819
PROJECT	216th Place Culvert Replacement	SWM Project #	
		Project Type:	
		Council Goals met:	
		Council Objectives met:	
		Project Status	
LOCATION	216th Place (4th Place S. to Des Moines Memorial Drive)		
DESCRIPTION:	Replacement of existing 18-inch corrugated metal pipe with 400 feet of 24-inch pipe.		

EXPENDITURE SCHEDULE										
COST ELEMENTS	TOTAL*	FY 12 Act	FY 13 Est	FY 13 Amd	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
ADMINISTRATION	\$ 4,276		\$ 1,276	\$ 4,000	\$ 3,000					
CIP PROJ MANAGEMENT	10,000			10,000	10,000					
Design	13,252		8,252	20,000	5,000					
Improvements	120,000			85,100	120,000					
Inspection	19,500			15,000	19,500					
CONTINGENCY	39,000			40,200	39,000					
OTHER	-									
TOTAL	\$ 206,028		\$ 9,528	\$ 174,300	\$ 196,500					

FUNDING SOURCES	TOTAL*	FY 12 Act	FY 13 Est	FY 13 Amd	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
SWM CIP	\$ 206,028		\$ 9,528	\$ 174,300	\$ 196,500					
	-									
	-									
TOTAL	\$ 206,028		\$ 9,528	\$ 174,300	\$ 196,500					

*Excludes FY 13 Amd



2014-2019 CAPITAL IMPROVEMENT PLAN **Surface Water Management**

CAPITAL IMPROVEMENT PLAN REQUEST FORM

CATEGORY	Surface Water Management	PROJECT NO.	451.815
PROJECT	24th Avenue Pipeline Replacement/Upgrade	Project Type:	Upgrade
LOCATION	The east side of 24th Avenue S. between S. 224th and S. 230th	Council Goals met:	1, 3, 4
		Council Objectives met:	
		Project Status	

DESCRIPTION: Replacement of existing 12-inch storm drainage pipe with 36-inch trunkline.

EXPENDITURE SCHEDULE										
COST ELEMENTS	TOTAL*	FY 12 Act	FY 13 Est	FY 13 Amd	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
ADMINISTRATION	\$ 9,000				\$ 9,000					
CIP PROJ MANAGEMENT	15,000				15,000					
Design	20,000				20,000					
Improvements	148,900				148,900					
Construction Management	20,000				20,000					
CONTINGENCY	29,800				29,800					
OTHER	-									
TOTAL	\$ 242,700				\$ 242,700	\$ -	\$ -			

FUNDING SOURCES	TOTAL*	FY 12 Act	FY 13 Est	FY 13 Amd	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
SWM CIP	\$ 242,700				\$ 242,700	\$ -	\$ -			
TOTAL	\$ 242,700				\$ 242,700	\$ -	\$ -			

*Excludes FY 13 Amd



2014-2019 CAPITAL IMPROVEMENT PLAN

Surface Water Management

CAPITAL IMPROVEMENT PLAN REQUEST FORM

CATEGORY	Surface Water Management	City Project #	451.821
PROJECT	Lower Massey Creek Channel Modifications	Dept Project #	SWM-01
LOCATION	Massey Creek from 10th Avenue S to Marine View Drive	Project Type:	Enhancement
DESCRIPTION:	Stream channel widening, berms and fish habitat features.	Council Goals met:	4
		Council Objectives met:	
		Project Status	Approved

EXPENDITURE SCHEDULE										
COST ELEMENTS	TOTAL*	FY 12 Act	FY 13 Est	FY 13 Amd	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
ADMINISTRATION	\$ 34,000		\$ 4,000	\$ 10,000	\$ 10,000	\$ 20,000				
CIP PROJ MANAGEMENT	5,000			2,500		5,000				
DESIGN / ENGINEERING	230,000		175,000	90,000	55,000					
PERMITTING	100,000			75,000	100,000					
BUILDINGS	-									
IMPROVEMENTS	600,000					600,000				
INSPECTION	90,000					90,000				
CONTINGENCY	285,000			35,000	45,000	240,000				
OTHER	-									
TOTAL	\$ 1,344,000		\$ 179,000	\$ 212,500	\$ 210,000	\$ 955,000	\$ -			

FUNDING SOURCES	TOTAL*	FY 12 Act	FY 13 Est	FY 13 Amd	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
SWM CIP	\$ 1,164,000		\$ 179,000	\$ 212,500	\$ 210,000	\$ 775,000				
King County Flood Control Fund	180,000					180,000				
TOTAL	\$ 1,344,000		\$ 179,000	\$ 212,500	\$ 210,000	\$ 955,000	\$ -			

*Excludes FY 13 Amd



2014-2019 CAPITAL IMPROVEMENT PLAN

Surface Water Management

CAPITAL IMPROVEMENT PLAN REQUEST FORM

CATEGORY	Surface Water Management	City Project #	451.804.00
PROJECT	Barnes Creek/Kent-Des Moines Road Culvert Replacement	Dept Project #	SWM-12
LOCATION	Barnes Creek at Kent Des Moines Road	Project Type:	Improvement
DESCRIPTION:	Replacement of the existing culvert with a new 42-inch diameter concrete culvert and installation of an energy dissipater structure at the downstream end of the culvert.	Council Goals met:	1, 2, 4
		Council Objectives met:	
		Project Status	

EXPENDITURE SCHEDULE												
COST ELEMENTS	TOTAL*	FY 10 Act	FY 11 Act	FY 12 Act	FY 13 Est	FY 13 Amd	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
ADMINISTRATION	\$ 25,807	\$ 172	\$ 455	\$ 93	\$ 86	\$ 8,000	\$ 10,000		\$ 15,000			
CIP PROJ MANAGEMENT	25,000								25,000			
DESIGN / PERMITTING	196,128		16,128			90,000			180,000			
Permitting	25,000					25,000			25,000			
BUILDINGS	-											
IMPROVEMENTS	700,000									700,000		
INSPECTION	90,000									90,000		
CONTINGENCY	307,500					27,000	7,500		100,000	200,000		
ALTERNATIVE ANALYSIS	75,000						75,000					
TOTAL	\$ 1,444,435	\$ 172	\$ 16,583	\$ 93	\$ 86	\$ 150,000	\$ 92,500		\$ 345,000	\$ 990,000		

FUNDING SOURCES	TOTAL*	FY 10 Act	FY 11 Act	FY 12 Act	FY 13 Est	FY 13 Amd	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
SWM CIP	\$ 1,444,435	\$ 172	\$ 16,583	\$ 93	\$ 86	\$ 150,000	\$ 92,500		\$ 345,000	\$ 990,000		
TOTAL	\$ 1,444,435	\$ 172	\$ 16,583	\$ 93	\$ 86	\$ 150,000	\$ 92,500		\$ 345,000	\$ 990,000		

*Excludes FY 13 Amd



2014-2019 CAPITAL IMPROVEMENT PLAN

Surface Water Management

CAPITAL IMPROVEMENT PLAN REQUEST FORM

CATEGORY	Surface Water Management	City Project #	451.804.00
PROJECT	Barnes Creek/Kent-Des Moines Road Culvert Replacement	Dept Project #	SWM-12
LOCATION	Barnes Creek at Kent Des Moines Road	Project Type:	Improvement
		Council Goals met:	1, 2, 4
		Council Objectives met:	
		Project Status	

JUSTIFICATION:

This culvert replacement is needed to convey peak predicted flows without flooding Kent-Des Moines Road. At this point a new 42- to 48-inch reinforced concrete pipe culvert is planned to replace the existing undersized culvert. However, the new pipe size will need to be designed to meet current Hydraulic Code to allow both high- and low-flow fish passage. An energy dissipater will be included at the downstream end of the culvert (with a fish ladder). This project was identified in the Lower Massey Creek Basin Plan and Alternative Analysis. The timing of this project will be based on the outcome of a culvert survey made in 2004 to determine the condition of the culvert.

SCOPE OF WORK:

Project improvements will include the installation of 80 to 100 feet of 48-inch or 60-inch diameter culvert or possibly the construction of a box culvert, depending on the method of construction and current fisheries requirements. Due to the depth of culvert and the high traffic of Kent-Des Moines Road, use of boring or other trench-less technology will be explored. The dramatic elevation change from upstream to downstream and the need to moderate velocity for fish passage may require that a special energy dissipater and/or fish ladder be installed at the culvert outlet.



2014-2019 CAPITAL IMPROVEMENT PLAN

Surface Water Management

CAPITAL IMPROVEMENT PLAN REQUEST FORM

CATEGORY	Surface Water Management	City Project #	451.824
PROJECT	North Hill Northeast and 197th Street Trunkline Upgrade	Dept Project #	SWM-32
		Project Type:	Improvement
		Council Goals met:	2
		Council Objectives met:	
		Project Status	Adopted
LOCATION	North Hill		
DESCRIPTION:	Replacement of the approximately 1,200 feet of existing trunkline along 3rd Avenue S. between S. 193rd St. and S. 196th Street.		

EXPENDITURE SCHEDULE											
COST ELEMENTS	TOTAL	FY 12 Act	FY 13 Est	FY 13 Amd	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19	
ADMINISTRATION	\$ 26,500							\$ 5,500	\$ 21,000		
CIP PROJ MANAGEMENT	7,700							2,200	5,500		
DESIGN / ENGINEERING	53,300							53,300			
LAND	-										
IMPROVEMENTS	275,000								275,000		
INSPECTION	52,300								52,300		
CONTINGENCY	120,000							18,000	102,000		
SALES TAX	-										
TOTAL	\$ 534,800							\$ 79,000	\$ 455,800		
FUNDING SOURCES	TOTAL	FY 12 Act	FY 13 Est	FY 13 Amd	FY 11	FY 15	FY 16	FY 17	FY 18	FY 19	
SWM CIP	\$ 534,800							\$ 79,000	\$ 455,800		
TOTAL	\$ 534,800							\$ 79,000	\$ 455,800		

*Excludes FY 13 Amd



2014-2019 CAPITAL IMPROVEMENT PLAN

Surface Water Management

CAPITAL IMPROVEMENT PLAN REQUEST FORM

CATEGORY	Surface Water Management	City Project #	451.824
PROJECT	North Hill Northeast and 197th Street Trunkline Upgrade	Dept Project #	SWM-32
LOCATION	North Hill	Project Type:	Improvement
		Council Goals met:	2
		Council Objectives met:	
		Project Status	Adopted

JUSTIFICATION:

About 1,600 feet of concrete pipe in the North Hill area needs to be replaced or upgraded due to pipes being undersized, pipe slopes being reversed (not allowing gravity flow), and in some cases the pipes are at their expected design life. A section of pipe known as the Northeast Trunkline is located between 193rd Street and 197th Street and between 4th Avenue and 3rd Avenue. This trunkline collects runoff from the drainage basin that includes the Westwood and Forest Meadows developments and connects to the proposed 199th Trunkline Project. The 197th Trunkline Project includes a 350-foot section of pipe along 199th Street that will connect to the recently completed 204th Avenue Trunkline. Studies of the North Hill Trunklines show that these sections are inadequate to carry the two through ten year design flows (under both gravity and pressure flow conditions) - the standard is to carry a 25-year frequency storm without overtopping.

SCOPE OF WORK:

Northeast Trunkline:

- 625 feet of 18-inch pipe
- 625 feet of 24-inch pipe
- 5 type I catch basins
- 9 type II manholes
- 2700 cubic yards of backfill
- shoring
- traffic control
- 1,250 feet of half street overlay
- 6300 sf of road patch



2014-2019 CAPITAL IMPROVEMENT PLAN Surface Water Management

CAPITAL IMPROVEMENT PLAN REQUEST FORM

CATEGORY	Surface Water Management	City Project #	451.822
PROJECT	199th North Hill Trunkline Upgrade	Dept Project #	SWM-20
		Project Type:	Improvement
		Council Goals met:	2
		Council Objectives met:	
LOCATION	Between 1st Avenue and 4th Avenue S., North Hill Area	Project Status	Adopted
DESCRIPTION:	Upgrading 420 feet of 12, 15 and 18-inch pipe with a 24-inch trunk line.		

EXPENDITURE SCHEDULE										
COST ELEMENTS	TOTAL*	FY 12 Act	FY 13 Est	FY 13 Amd	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
ADMINISTRATION	\$ 4,000								\$ 2,000	\$ 2,000
CIP PROJ MANAGEMENT	5,000									5,000
DESIGN / ENGINEERING	27,000								27,000	
LAND	-									
BUILDINGS	-									
IMPROVEMENTS	147,400									147,400
INSPECTION	30,000									30,000
CONTINGENCY	52,320								8,100	44,220
SALES TAX	-									
OTHER	-									
TOTAL	\$ 265,720								\$ 37,100	\$ 228,620

FUNDING SOURCES	TOTAL*	FY 12 Act	FY 13 Est	FY 13 Amd	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
SWM CIP	\$ 265,720								\$ 37,100	\$ 228,620
	-									
TOTAL	\$ 265,720								\$ 37,100	\$ 228,620

*Excludes FY 13 Amd



2014-2019 CAPITAL IMPROVEMENT PLAN

Surface Water Management

CAPITAL IMPROVEMENT PLAN REQUEST FORM

CATEGORY	Surface Water Management	City Project #	451.822
PROJECT	199th North Hill Trunkline Upgrade	Dept Project #	SWM-20
LOCATION	Between 1st Avenue and 4th Avenue S., North Hill Area	Project Type:	Improvement
		Council Goals met:	2
		Council Objectives met:	
		Project Status	Adopted

JUSTIFICATION:

The existing 199th trunk line was reviewed for capacity in the Normandy Park Comprehensive Plan - Normandy Creek/Upper Basin. The trunk line was found to be undersized (for most storms) for 200 feet of the length and aged for the remaining sections and does not meet current design standards. The increased size will alleviate local flooding that occurs in the upper basin of Normandy Creek. In order to provide mitigation for downstream impacts, the 1st Avenue Pond that is currently owned by Normandy Park will need to be expanded. An interlocal agreement will need to be made with Normandy Park for the expansion project as well as for the long term maintenance of the facility.

SCOPE OF WORK:

The project includes the placement of 450 feet of 24-inch diameter storm piping and 4 manhole structures along with required trench shoring for trenches more than 4 feet deep and pavement restoration work and traffic control. The pond will be expanded to the south within a parcel owned by Des Moines. Added pond capacity is estimated at 1.9 acre-foot.

<u>Pipe Upgrade</u>			
Mobilization		\$	38,400
Type 2 Catch basins	4		28,100
24-inch Pipe	450 feet		30,000
Road restoration	5000 sq ft		20,000
Traffic Control/Misc		\$	116,500
			2012 dollars
<u>1st Avenue Pond Expansion</u>			
Clearing/Grubbing		\$5,000	
Grading		\$45,000	
Landscaping		\$10,000	
Fencing		\$15,000	
Drainage		\$30,000	
Traffic Control		\$20,000	
Miscellaneous		\$50,000	
		\$175,000	2012 dollars
Total Improvements		\$291,500	2012 dollars



2014-2019 CAPITAL IMPROVEMENT PLAN

Surface Water Management

CAPITAL IMPROVEMENT PLAN REQUEST FORM

CATEGORY	Surface Water Management	City Project #	451.823
PROJECT	1st Avenue Pond Expansion	Dept Project #	SWM-20
		Project Type:	Improvement
		Council Goals met:	2
		Council Objectives met:	
		Project Status	Adopted
LOCATION	Between 1st Avenue and 4th Avenue S., North Hill Area		
DESCRIPTION:	Expanding existing pond by 1.9 acre-feet.		

EXPENDITURE SCHEDULE										
COST ELEMENTS	TOTAL*	FY 12 Act	FY 13 Est	FY 13 Amd	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
ADMINISTRATION	\$ 3,000								\$ 1,000	\$ 2,000
CIP PROJ MANAGEMENT	8,000								3,000	5,000
DESIGN / ENGINEERING	42,600								42,600	
LAND	-									
BUILDINGS	-									
IMPROVEMENTS	225,000									225,000
INSPECTION	26,500									26,500
CONTINGENCY	79,000								13,000	66,000
OTHER	-									
TOTAL	\$ 384,100								\$ 59,600	\$ 324,500
FUNDING SOURCES	TOTAL*	FY 12 Act	FY 13 Est	FY 13 Amd	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
SWM CIP	\$ 149,550								\$ 29,800	\$ 119,750
Normandy Park ILA	234,550								29,800	204,750
TOTAL	\$ 384,100								\$ 59,600	\$ 324,500

*Excludes FY 13 Amd



2014-2019 CAPITAL IMPROVEMENT PLAN

Surface Water Management

CAPITAL IMPROVEMENT PLAN REQUEST FORM

CATEGORY	Surface Water Management	City Project #	451,823
PROJECT	1st Avenue Pond Expansion	Dept Project #	SWM-20
LOCATION	Between 1st Avenue and 4th Avenue S., North Hill Area	Project Type:	Improvement
		Council Goals met:	2
		Council Objectives met:	
		Project Status	Adopted

JUSTIFICATION:

The existing 199th trunk line was reviewed for capacity in the Normandy Park Comprehensive Plan - Normandy Creek/Upper Basin. The trunk line was found to be undersized (for most storms) for 200 feet of the length and aged for the remaining sections and does not meet current design standards. The increased size will alleviate local flooding that occurs in the upper basin of Normandy Creek. In order to provide mitigation for downstream impacts, the 1st Avenue Pond that is currently owned by Normandy Park will need to be expanded. An interlocal agreement will need to be made with Normandy Park for the expansion project as well as for the long-term maintenance of the facility. Roughly 50% of the basin area is within Des Moines city limits. The cost for the land (\$42,500 purchased in 2000) has been deducted from Des Moines' share of the cost.

SCOPE OF WORK:

The project includes the placement of 450 feet of 24-inch diameter storm piping and 4 manhole structures along with required trench shoring for trenches more than 4 feet deep and pavement restoration work and traffic control. The pond will be expanded to the south within a parcel owned by Des Moines. Added pond capacity is estimated at 1.9 acre-foot.

1st Avenue Pond Expansion

Clearing/Grubbing	\$5,000
Grading	\$45,000
Landscaping	\$10,000
Fencing	\$15,000
Drainage	\$30,000
Traffic Control	\$20,000
Miscellaneous	\$50,000
	<u>\$175,000</u>
	2012 dollars
Total Improvements	\$225,000
	2017 dollars

This \$1,000 grant award is presented by

The Boeing Company

in association with the

Seafair Sanctioned Community Events Program

Is awarded to

Des Moines Waterland Parade

Pet Knox

October 22, 2013

Jill Farley

Beth Knox

Seafair

President & CEO

Jill Farley

Seafair

Foundation Manager



Seafair Foundation