

AGENDA

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

May 22, 2014 – 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 AGENDA

- 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: \$716,955.73
Payroll Fund Transfers: \$433,767.69
Total Certified Wire Transfers, Voids, A/P and Payroll Vouchers: \$1,150,723.42
- Page 3 Item 2: APPROVAL OF MINUTES
Motion is to approve the minutes from the April 24, May 1 and May 8, 2014 Regular City Council meetings.
- Page 17 Item 3: NATIONAL RECOVERY MONTH PROCLAMATION
Motion is to approve the Proclamation supporting National Recovery Month.
- Page 21 Item 4: MT. RAINIER HIGH SCHOOL GIRLS BASKETBALL PROCLAMATION
Motion is to approve the Proclamation recognizing the achievements of the Mt. Rainier High School Girls Basketball team in the Washington State Championship game held March 7, 2014.

CITY OF DES MOINES
Voucher Certification Approval
22-May-14
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 May 22, 2014 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		139362	-	139517	156	716,955.73
Electronic Wire Transfers						0.00
Subtotal for this Council Packet						716,955.73
Voided Claim Checks this check run:						0.00
Voided Claim Checks from previous check runs						
Total Claims/Wire Transfers/Voids					156	716,955.73
Payroll Vouchers:		DISBURSED 05/5/14				Amounts
Payroll Checks		18464	-	18470	= 7	9,143.44
Direct Deposit		180001	-	180152	= 152	280,694.71
Payroll Taxes						61,125.76
Wage/Garnishments						1,066.91
Voids					0	0.00
Electronic Wire Transfers						87,538.61
ICMA 401 Forfeitures						(5,801.74)
Total Claims						433,767.69
Total certified Wire Transfers, Voids, A/P & Payroll vouchers for May 22, 2014						1,150,723.42

³
MINUTES

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

April 24, 2014 – 7:00 p.m.

CALL TO ORDER

Mayor Kaplan called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

The flag salute was led by Councilmember Burrage.

ROLL CALL

Council present: Mayor Dave Kaplan; Mayor Pro Tem Matt Pina; Councilmembers Jeremy Nutting, Melissa Musser, Jeanette Burrage, Bob Sheckler and Vic Pennington.

Staff present: City Manager Tony Piasecki; City Attorney Pat Bosmans; Economic Development Manager Marion Yoshino; City Clerk Bonnie Wilkins.

CORRESPONDENCE

There were no correspondences.

COMMENTS FROM THE PUBLIC

Beth Church, Resource Development Manager, HealthPoint; briefed Council on the new HealthPoint Facility in Des Moines.

BOARD AND COMMITTEE REPORTS/COUNCILMEMBER COMMENTS

Councilmember Pennington:

- No Report.

Councilmember Sheckler:

- No Report.

Councilmember Burrage:

- South County Transportation Board:
 - State Legislature has asked Department of Transportation to start studying to replace gas tax with tax based on number of miles driven.

Mayor Pro Tem Pina

- Finance & Economic Development Committee Meeting:
 - Pacific Highway South Sub Area Planning.

Councilmember Musser:

- Congratulated Mt. Rainier High School for being the recipient of the 2013 Washington Achievement Award (recognition for High Progress).
- Human Services Advisory Committee:
 - 2015 Grant Funding.
 - Received a total of 29 agency requests that need funding in 2015.
- Municipal Facilities Committee Meeting:
 - J Dock Fire:
 - Bid Process to replace dock.

- Lease Agreement transfer between the City of Des Moines & Stan Wilkes and Arlene Knight to Jim Quinn:

Councilmember Nutting:

- Senior Services Advisory Committee Meeting:
 - Take Back Meds Program.
 - Bartell Drugs on 216th & 272nd.
 - Good Nutrition for older adults.
 - Senior scam alert.
- Eggstravaganza held last Saturday, rain held off until the hunt was over.
- April Pool's Day:
 - Pool President Gene Achziger won the votes and walked the plank.
 - Mayor Kaplan, Councilmembers Musser, Burrage and Nutting; Judge Galvan; Chief Delgado; Harbormaster Dusenbury also took the plunge.
- First Annual Common Good Fundraiser Brunch, April 26th.
- Des Moines Elementary Annual Action at Landmark Event Center, April 26th.
- Des Moines Legacy Foundation Sports Night raised \$13,657 for youth program scholarships.

PRESIDING OFFICER'S REPORT

- Attended the Pancake Breakfast at the Activity Center sponsored by Destination Des Moines:
 - Proceeds to fund activities for summer.
- Open House for City's Comprehensive Plan:
 - Plan updated every 7 years.
- Environment Committee Meeting:
 - Department of Natural Resources.
 - Surface Water Management Comprehensive Plan.
 - Tree Trimming Ordinance.

Item 1: EAGLE SCOUT RECOGNITION, SOREN PEDERSEN
Mayor Kaplan presented Soren Pedersen a Certificate of Achievement for his Eagle Scout project that was held down in the Beach Park.

ADMINISTRATION REPORT

Item 1: 2015 HUMAN SERVICES FUNDING LEVEL
City Manager Piasecki spoke to Council on the level of Human Services Funding for 2015.

Direction/Action

Motion made by Councilmember Musser to allocate \$80,000 to the 2015 Human Services operating budget; seconded by Councilmember Nutting.
The motion passed 7-0.

Item 2: State Law Regulations were recently changed to allow the City's SEPA exemption limits to be raised and City Manager Piasecki handed out a chart to Council.

Item 3: Introduced a letter from Mendoza Law Center, PLLC, who will negotiate a letter of intent with Good Fit Development for the Marina Floor Development project.

Item 4: Monthly meetings with Councilmembers:

- What's happening in the Marina District.
- What are the issues:
 - Lots too small.

- Building regulations still too many restrictions.
 - Etc.
 - Use a third party development consultant to find someone who knows the development community to help find out what more the City of Des Moines can do to promote development.
- Item 5: Highline Community College is changing their name to Highline College in the near future.
 - Offering 4 year degrees directly out of Highline (Applied Baccalaureate Program).
- Item 6: Long time Public Works Surface Water Management Lead, Sonny Williams, is retiring after 31 years of service. His last day is April 30, 2014.
- Item 7: City Manager Piasecki turned the microphone over to Harbormaster Dusenbury who acknowledged the works of Stan Wilkes and Arlene Knight, Classic Yachts, and introduced the new owner of Classic Yachts, Jim Quinn.

CONSENT AGENDA

- Item 1: APPROVAL OF MINUTES
Motion is to approve the minutes from the March 27, April 3 and April 10, 2014 regular City Council meetings.
- Item 2: WASHINGTON WILDLIFE AND RECREATION PROGRAM AUTHORIZING RESOLUTION
Motion is to adopt Draft Resolution No. 14-070, authorizing the City Manager to submit a grant application for a Washington Wildlife and Recreation Program (WWRP) project to the Recreation and Conservation Office (RCO) as provided in chapter 79A.15 RCW, Acquisition of Habitat Conservation and Outdoor Recreation Lands, for grant funding in the amount of \$287,400 for the Des Moines Beach Park Restroom Project.
- Item 3: WASHINGTON STATE PARKS AND RECREATION COMMISSION CLEAN VESSEL SEWAGE DISPOSAL FACILITY GRANT
Motion is to adopt Draft Resolution No. 14-077 authorizing the acceptance of Washington State Parks and Recreation Commission's Grant No. CV 315-110 for a new pump-out station for the Des Moines Marina, and to authorize the City Manager to sign the Washington State Parks and Recreation Commission Clean Vessel Sewage Disposal Facility Grant Agreement substantially in the form as attached.
- Item 4: ASSIGNMENT OF THE LEASE AGREEMENT BETWEEN THE CITY OF DES MOINES AND STAN WILKES AND ARLENE KNIGHT, DBA CLASSIC YACHTS TO JIM QUINN AND AMENDMENTS TO THE LEASE
Motion is to approve the Assignment of Lease, Assumption of Lessee's Interest, and Lessor's Consent to Assignment by and between the City of Des Moines, Classic Yachts, and Jim Quinn and to authorize the City Manager to execute the Assignment, Assumption and Consent to Assignment substantially in the form as attached.

AND

Motion is to approve Amendment No. 1 for Lease for Marina Facilities (Classic Yachts) between the City of Des Moines and Classic Yachts, Inc., and to authorize the City Manager to execute the amendment No. 1 for Lease of Marina Facilities (Classic Yachts) substantially in the form as attached.

Item 5: SURPLUS PROPERTY – VEHICLES

Motion is to surplus the following fleet vehicle, which is over 100,000 miles; and further to authorize disposal of said equipment by auction or trade-in:

Vehicle No: P245 Year: 1993 License: 45138D VIN#: G2102D

Item 6: NATIONAL RECREATION & PARK ASSOCIATION MEMORANDUM OF UNDERSTANDING

Motion is to authorize entering into the Memorandum of Understanding (MOU) between the National Recreation and Park Association and the City of Des Moines for the Out-of-School Time Programs Grant and to authorize the City Manager to sign the MOU between the National Recreation and Park Association and the City of Des Moines substantially in the form as attached.

Item 7: DES MOINES FARMERS MARKET

Motion is to direct the City Manager to sign the attached agreement between the Des Moines Farmer's Market and the City of Des Moines, authorizing the operation of a seasonal Farmer's Market in the Marina, substantially in the form as attached.

Item 8: LABOR NEGOTIATIONS REPRESENTATION

Motion is to authorize the City Manager to sign the letter of engagement with the Summit Law Group to represent the City of Des Moines in upcoming negotiations with the Des Moines Police Guild and the Des Moines Police Management Association in an amount not to exceed \$45,000.

Direction/Action

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

NEW BUSINESS

Item 1: TOURISM PROMOTION AREA ILA

Staff Presentation: Economic Development Manager
Marion Yoshino

Economic Development Manager Yoshino gave a brief power point presentation to Council on Tourism Promotion Areas.

Katherine Kertzman also spoke about the Tourism Promotion program.

Jeff Robinson, City of SeaTac Economic Development Manager answered questions from Council.

Direction/Action

Motion made by Councilmember Sheckler to adopt Draft Resolution No. 14-085 authorizing the City Manager to execute an Interlocal Agreement for the

establishment of a Tourism Promotion Area within the boundaries of the Cities of SeaTac, Des Moines and Tukwila; seconded by Councilmember Musser.
The motion passed 7-0.

NEXT MEETING DATE

May 1, 2014, Regular City Council Meeting

ADJOURNMENT

Motion made by Councilmember Sheckler to adjourn; seconded by Councilmember Musser.
The motion passed 7-0.

The meeting was adjourned at 7:59 p.m.

Respectfully Submitted,
Bonnie Wilkins
City Clerk

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MINUTES

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

May 1, 2014 – 7:00 p.m.

CALL TO ORDER

Mayor Kaplan called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

The flag salute was led by Mayor Pro Tem Pina.

ROLL CALL

Council present: Mayor Dave Kaplan; Mayor Pro Tem Matt Pina; Councilmembers Jeremy Nutting, Melissa Musser, Jeanette Burrage, Bob Sheckler and Vic Pennington.

Staff present: City Manager Tony Piasecki; City Attorney Pat Bosmans; Planning, Building and Public Works Director Dan Brewer; City Clerk Bonnie Wilkins.

CORRESPONDENCE

There were no correspondences.

COMMENTS FROM THE PUBLIC

Amelia's Famous Gourmet Brittles & Confections, 21925 Marine View Drive S, came to introduce her new business to council and passed out samples to Council, staff and the audience. Grand opening will be on May 10th at 10:00 a.m.

BOARD AND COMMITTEE REPORTS/COUNCILMEMBER COMMENTS

Councilmember Pennington:

- Public Safety & Transportation Committee Meeting:
 - Briefing on proposed Animal Control DMMC updates, Title 8.
 - Reviewed Draft Transportation Improvement Plan.
 - Seismic upgrades at the Saltwater State Bridge:
 - Combine 2 phases to 1 phase for a savings of \$4 million.
- S 251st Street slide update.
- School Zone Flashing Beacon.

Councilmember Sheckler:

- No report.
- Wished Amelia's Famous Gourmet Brittles & Confections success.

Councilmember Burrage:

- South Area Transportation Board:
 - Information passed out to Council.
- Has been to Amelia's:
 - Pralines are delicious.

Mayor Pro Tem Pina

- Attended the Legacy Foundation Fundraiser Breakfast Fundraiser.
- Grand re-opening of Tracy DeLeen's Jewelry at new location.
- Grand opening of Deli & Market.

Councilmember Musser:

- Mt. Rainier High School Drama Performance, *Once Upon A Mattress*:
 - May 1, 2, 3, 8 & 9, 7:30 show,
 - Saturday, May 3rd has a 2:00 matinee.

Councilmember Nutting:

- Attended the Annual Common Good Fundraiser.
- Attended the Des Moines Elementary Annual Action at the Landmark Event Center.

PRESIDING OFFICER'S REPORT

- Celebration of new businesses and businesses that are wishing to expand:
 - Freedom Snacks, looking for larger space.
- Attended the Legacy Foundation Annual Common Good Fundraiser event.
- Waterland Festival, July 18-20:
 - Destination Des Moines needs volunteers.
- Attended the Workers Memorial:
 - Memorial held, 65 names were read from Washington State.
- Participated in Law Week at Highline College.

ADMINISTRATION REPORT

Item 1: EMERGING ISSUES

- Item #3, SCORE Update, will be on next week's agenda.
- Lawsuit filed by Ms. Richter was denied in the US Supreme Court.
- First Annual Back to School Fair to be held August 7, 2014:
 - Approximately \$20,000 has been raised to fill up to 1,000 backpacks.
 - Low income students will receive a special invitation to the event.
 - Midway Elementary students will have their own event.
 - Local activities.
 - Free haircuts.
 - Many more activities.
 - Event held during the day.

Item 2: DES MOINES ELEMENTARY SCHOOL PRINCIPAL, RICK WISEN
Rick Wisen, Principal at Des Moines Elementary, and Duggan Harman, Highline School District Finance Chief of Staff, came to talk about the challenges the school district faces with an increase in capacity and aging facilities.

Item 3: SCORE UPDATE, Penny Bartley
This item re-scheduled to May 8, 2014.

CONSENT AGENDA

Item 1: RESOLUTION NO. 14-043 SETTING PUBLIC HEARING FOR DRAFT
ORDINANCE NO. 14-043

Motion is to adopt Draft Resolution No. 14-043 setting a public hearing on May 22, 2014 to consider Draft Ordinance No. 14-043 relating to the cutting and removal of trees on private developed sites, private undeveloped sites, public properties, City-owned property and right-of-way, and environmentally critical areas; amending chapters 12.05, 14.20, 16.01, 17.01, 17.35, 18.01 and 18.95 of the Des Moines Municipal Code and repealing DMMC 18.95.130 and section 424 of Ordinance No. 1591.

- Item 2: RESOLUTION NO. 14-035 SETTING PUBLIC HEARING FOR NEW TRANSIT COMMUNITY ZONE
Motion is to adopt Draft Resolution No. 14-035 setting a public hearing on June 5, 2014 to consider Draft Ordinance No. 14-035 adding a new chapter, T-C Transit Community Zone and making other amendments to Title 18, Zoning Code.

Direction/Action

Motion made by Councilmember Musser to approve the consent agenda; seconded by Councilmember Pennington.
The motion passed 7-0.

NEW BUSINESS

- Item 1: DRAFT ORDINANCE NO. 14-088, AUTHORITY FOR EMINENT DOMAIN FOR TRANSPORTATION PROJECT ON 216TH AND PACIFIC HIGHWAY
Staff Presentation: City Attorney Pat Bosmans and Planning, Building and Public Works Director Dan Brewer

Planning, Building and Public Works Director Brewer gave a brief power point presentation to Council.

Direction/Action

Motion made by Councilmember Sheckler to pass Draft Ordinance No. 14-088, directing the City Attorney to prosecute the eminent domain action in King County Superior Court in a manner provided by law to condemn, take, damage, and appropriate the real property necessary to carry out the provisions of Draft Ordinance No. 14-088, to a second reading for enactment on May 22, 2014; seconded by Councilmember Nutting.
The motion passed 7-0.

Mayor Kaplan read Draft Ordinance No. 14-088 into the record.

NEXT MEETING DATE

May 8, 2014 Regular City Council Meeting

ADJOURNMENT

Motion made by Mayor Pro Tem Pina to adjourn; seconded by Councilmember Nutting.
The motion passed 7-0.

The meeting was adjourned at 7:56 p.m.

Respectfully Submitted,
Bonnie Wilkins
City Clerk

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MINUTES

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

May 8, 2014 – 7:00 p.m.

CALL TO ORDER

Mayor Kaplan called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

The flag salute was led by Councilmember Musser.

ROLL CALL

Council present: Mayor Dave Kaplan; Mayor Pro Tem Matt Pina; Councilmembers Jeremy Nutting, Melissa Musser, Jeanette Burrage, Bob Sheckler and Vic Pennington.

Staff present: City Manager Tony Piasecki; Assistant City Attorney Tim George; City Clerk Bonnie Wilkins.

CORRESPONDENCE

There were no correspondences.

COMMENTS FROM THE PUBLIC

Jack Kniskern-22602 15th Avenue S, came to speak before Council on aspirations for community betterment.

BOARD AND COMMITTEE REPORTS/COUNCILMEMBER COMMENTS

Councilmember Pennington:

- No report.

Councilmember Sheckler:

- No report.

Councilmember Burrage:

- Attended a conference on a Race to the Top Grant which benefits the many school districts in our area.

Mayor Pro Tem Pina

- Finance & Economic Development Committee Meeting:
 - Draft Land Use Concepts in proposed transit area on Pacific Highway.
 - Update from Community Development Manager.

Councilmember Musser:

- Sound Cities Association:
 - PIC Meeting, Sound Cities Association's policy position on Puget Sound Clean Air rate increase proposal:
 - Council consensus to support Sound Cities Associations policy position of opposition.

Councilmember Nutting:

- Highline School District community meetings on moving 6th graders to middle school:
 - Two community meetings:
 - May 15, 2014, 6-7:30 at Seahurst Elementary.
 - May 19, 2014, 6-7:30 at Madrona Elementary.
- June 22, 2014; Des Moines Day at the Sounder's Women's Soccer Game:
 - Starfire Sports Complex, 2:00 p.m.
 - Admission is \$15 for Des Moines residents, children with a paying parent free.
 - A portion of proceeds will go to the Des Moines Legacy Foundation for youth scholarships.
 - Contact yvonne.nutting@comcast.net for more information.

PRESIDING OFFICER'S REPORT

- Amelia's Confection's ribbon cutting on May 10th has been postponed.
- Des Moines Yacht Club South Sound Opening Day Ceremonies May 10th.
- Encourages the Community to thank those that have served our Country.

ADMINISTRATION REPORT

- Item 1: SCORE Presentation
SCORE Director Penny Bartley, gave Council a brief power point overview on the success of SCORE over the last 3 years.

CONSENT AGENDA

- 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: \$1,356,685.25
Payroll Fund Transfers: \$422,517.20
Total Certified Wire Transfers, Voids, A/P and Payroll Vouchers: \$1,779,202.45
- Item 2: DRAFT ORDINANCE NO. 13-242 (TITLE 7) REPEALING AND REPLACING CHAPTER 7.20 DMMC
First Motion is to suspend Rule 26(a) in order to enact Draft Ordinance No. 13-242 on first reading.

Second Motion is to enact Draft Ordinance No. 13-242, updating references in Title 7 and repealing and replacing chapter 7.20 DMMC entitled "Smoking" to be consistent with state law.
- Item 3: DRAFT ORDINANCE NO. 13-236 (TITLE 1) AMENDS PENALTY PROVISIONS, CODE REFERENCES AND FORMATTING
First Motion is to suspend Rule 26(a) in order to enact Draft Ordinance No. 13-236 on first reading.

Second Motion is to enact Draft Ordinance No. 13-236, updating references in Title 1 to correspond to recent code changes and amending DMMC 1.24.190, creating uniform classifications for civil infractions.

- Item 4: WASHINGTON STATE PUBLIC WORKS TRUST FUND LOAN APPLICATION: TRANSPORTATION GATEWAY PROJECT – S 216TH STREET SEGMENT 1-A
Motion is to adopt Draft Resolution 14-071 regarding maintenance of revenue stream for repayment of a potential loan from the Washington State Public Works Trust Fund for construction of the S 216th Street improvements between 24th Avenue South and Pacific Highway South, and authorize the City Manager to submit a loan application on behalf of the City of Des Moines.
- Item 5: ACCEPTANCE OF EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) AWARD #2011-DJ-BX-3261
Motion is to ratify the acceptance of the \$14,600 award from Edward Byrne Memorial Justice Grant award #2011-DJ-BX-3261 under the terms and conditions listed within the JAG grant.
- Item 6: MAYORAL APPOINTMENT TO THE SENIOR SERVICES ADVISORY COMMITTEE
Motion is to confirm the Mayoral appointment of Dr. Barbara Reid to a two-year term on the City of Des Moines Senior Services Advisory Committee effective May 9, 2014 and expiring on December 31, 2015.
- Item 7: MAYORAL APPOINTMENT TO THE ARTS COMMISSION
Motion is to confirm the Mayoral appointment of Ekkarath Sisavatdy to an unexpired three year term on the City of Des Moines Arts Commission effective immediately and expiring on December 31, 2016.

Direction/Action

Motion made by Councilmember Nutting to approve the Consent Agenda; seconded by Mayor Pro Tem Pina.
The motion passed 7-0.

At 7:43 p.m. Councilmember Sheckler left the meeting.

EXECUTIVE SESSION

At 7:44 p.m. Council went into Executive Session. The purpose of the Executive Session was to discuss labor negotiations under RCW 42.30.140(4)(a). The Executive Session was expected to last 45 minutes. In attendance were Mayor Kaplan; Mayor Pro Tem Pina; Councilmembers Nutting, Musser, Burrage and Pennington; City Manager Piasecki; Assistant City Manager Ericson. At 8:29 p.m. Mayor Kaplan announced the Executive Session would last another 15 minutes. The Executive Session concluded at 8:47 p.m.

No formal action was taken.

NEXT MEETING DATE

May 22, 2014 Regular City Council Meeting

ADJOURNMENT

Motion made by Councilmember Nutting to adjourn; seconded by Councilmember Musser.
The motion passed 6-0.

The meeting was adjourned at 8:50 p.m.

Respectfully Submitted,
Bonnie Wilkins
City Clerk

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: NATIONAL RECOVERY MONTH

AGENDA OF: May 22, 2014

ATTACHMENTS:

1. Proclamation

DEPT. OF ORIGIN: Legislative

DATE SUBMITTED: May 13, 2014

CLEARANCES:

- ☐ Legal _____
- ☐ Finance _____
- ☐ Marina _____
- ☐ Parks, Recreation & Senior Services _____
- ☐ Planning, Building & Public Works _____
- ☐ Police _____

APPROVED BY CITY MANAGER
FOR SUBMITTAL: 

Purpose and Recommendation:

The Mental Health, Chemical Abuse and Dependency Services Division of the King County Department of Community and Human Services has requested a proclamation from the Des Moines City Council declaring that September, 2014 is National Recovery Month. The purpose of Recovery Month is to promote recovery, celebrate those in treatment, and continue to educate our community about how to overcome the barriers of stigma and discrimination associated with mental health issues and/or substance use disorders.

Recovery Month spreads the message that behavioral health is essential to health and overall wellness, and that prevention works, treatment is effective and people with substance use and mental health issues can and do recover. People in recovery lead healthier lifestyles and contribute in positive ways to their communities.

Suggested Motion

MOTION: "I move to approve the Proclamation supporting National Recovery Month"

City of Des Moines



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



Proclamation

WHEREAS, behavioral health is an essential part of health and one's overall wellness;
and

WHEREAS, prevention of mental and/or substance use disorders works, treatment is effective, and people recover in our area and around the nation; and

WHEREAS, preventing and overcoming mental and/or substance use disorders is essential to achieving healthy lifestyles, both physically and emotionally; and

WHEREAS, we must encourage relatives and friends of people with mental and/or substance use disorders to implement preventive measures, recognize the signs of a problem, and guide those in need to appropriate treatment and recovery support services; and

WHEREAS, in 2012, 2.5 million people aged 12 or older received specialty treatment for a substance use disorder and 34.1 million adults aged 18 or older received mental health services, according to the *2012 National Survey on Drug Use and Health*. Given the serious nature of this public health problem, we must continue to reach the millions more who need help;
and

WHEREAS, to help more people achieve and sustain long-term recovery, the U.S. Department of Health and Human Services (HHS), the Substance Abuse and Mental Health Services Administration (SAMHSA), the White House Office of National Drug Control Policy (ONDCP), and the City of Des Moines invite all residents of Des Moines, Washington to participate in *National Recovery Month*; and

NOW THEREFORE, THE DES MOINES COUNCIL HEREBY PROCLAIMS the month of September as

NATIONAL RECOVERY MONTH

"Join the Voices for Recovery: Speak Up, Reach Out"

In Des Moines and call upon the people of Des Moines to observe this month with appropriate programs, activities, and ceremonies to support this year's *Recovery Month*.

SIGNED this 22nd day of May, 2014

Dave Kaplan, Mayor

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: MT. RAINIER HIGH SCHOOL
GIRLS BASKETBALL
PROCLAMATION

ATTACHMENT:
1. Proclamation

AGENDA OF: May 22, 2014

DEPT. OF ORIGIN: Legislative

DATE SUBMITTED: May 13, 2014

CLEARANCES:

- ☐ Legal _____
- ☐ Finance _____
- ☐ Marina _____
- ☐ Parks, Recreation & Senior Services _____
- ☐ Planning, Building & Public Works _____
- ☐ Police _____

APPROVED BY CITY MANAGER
FOR SUBMITTAL: 

Purpose and Recommendation:

The purpose of this agenda is to recognize and congratulate the Mt. Rainier High School Girls Basketball Team for demonstrating excellence and teamwork at the Washington State Championship Game.

Suggested Motion

MOTION: "I move to approve the Proclamation recognizing the achievements of the Mt. Rainier High School Girls Basketball team in the Washington State Championship game held March 7, 2014."

Background:

The Mt. Rainier Girls Basketball team has won the West Central Division Championship three years in a row with a record of 48-0. Over the last four years their record was an impressive 61-3. At the State Championship they placed 3rd three years in a row before losing to Gonzaga Prep 53-51 in the 2014 State Championship. The team was led by Brittany McPhee, 3-time Gatorade player of the year for Washington State who was also a Parade All-American, the only recipient from the State of Washington and one of just 20 in the nation.

City of Des Moines²³



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



Proclamation

WHEREAS, participation in a partnership combining academic and varsity athletic competition at the high school level is an opportunity available to a limited number of individuals, and

WHEREAS, the City of Des Moines is proud to have within its City limits, Mt. Rainier High School, which was recognized as one of the top ten high schools in the nation in 1985-86, and

WHEREAS, the Mt. Rainier High School's women's athletic team consistently compete at the top levels of their respective league, and

WHEREAS, the City of Des Moines is very proud of the academic and athletic accomplishments by Mt. Rainier High School students and staff, now therefore;

THE DES MOINES CITY COUNCIL HEREBY PROCLAIMS and congratulates the Mt. Rainier Girls Basketball team on their achievements at the Washington State Championship Game held March 7, 2014 and encourages all citizens to recognize the high level of achievement and individual effort demonstrated by the players and coaches of the Girls Basketball team.

<i>Team Roster:</i>	Jordan McPhee, CeCe Tafia, Kaiti Freeberg, Brittany McPhee, Jenna Shamseldin, Simone Johnson, Kenzie Gandy, Aqeelah Williams, Emily Fiso, Madeline Fletcher and Megan Houston
<i>Coaching Staff:</i>	Bob Bolam, Rod Wallis, Ginger Lotulelei and Kolleen Bourdage
<i>Team Manager:</i>	Ainsley Keane and Garrett Weaver
<i>Athletic Director:</i>	Darren Rawie
<i>Team Trainer/Physician:</i>	Wayne Duncan
<i>Principal:</i>	Julie Hunter
<i>Superintendent:</i>	Dr. Susan Enfield

SIGNED this 22nd day of May, 2014

Dave Kaplan, Mayor

A G E N D A I T E M

SUBJECT: Goods and Services Contract with Belfor Property Restoration for Groundwater Intrusion Remediation and Permanent Repair and Restoration Services for the Des Moines Field House

ATTACHMENTS:

1. Goods and Services Contract
2. Belfor Work Authorization
3. WCIA Scope of Work Approval and Near Final Costs

AGENDA OF: May 22, 2014

DEPT. OF ORIGIN: Planning, Building & Public Works

DATE SUBMITTED: May 14, 2014

CLEARANCES:

☒ Legal 

☒ Finance 

☐ Marina N/A

☒ Parks, Recreation & Senior Services 

☒ Planning, Building & Public Works DJB

☐ Police N/A

☐ Courts N/A

APPROVED BY CITY MANAGER
FOR SUBMITTAL: 

Purpose and Recommendation:

The purpose of this item is to request City Council approval of the Goods and Services Contract (refer to Attachment 1) with Belfor Property Restoration for groundwater intrusion remediation and permanent repair and restoration services for the Des Moines Field House. The following motion will appear on the consent calendar:

Suggested Motions:

MOTION 1: "I move to approve the Goods and Services Contract with Belfor Property Restoration for groundwater intrusion remediation and permanent repair and restoration services for the Des Moines Field House for a total amount not to exceed \$100,000.00, and additionally to authorize the City Manager to sign the Goods and Services Contract substantially in the form as submitted."

MOTION 2: "I move to direct staff to bring forward a budget amendment to include this project in the 2014 Budget."

Background:

March 2014 experienced historically high heavy rainfall amounts. Staff battled with groundwater intrusion during the first week and a half of March. On March 11, 2014, a significant amount of groundwater entered the Field House basement and caused the vinyl flooring to bubble up in many places. WCIA was contacted, and a claim for damages filed.

Discussion:

Staff contacted Belfor Property Restoration (a remediation company recommended by WCIA, that specializes in this type of work) to provide the necessary groundwater intrusion remediation and permanent repair and restoration services. Belfor responded within eight (8) hours of being notified.

Insurance claim scopes of work and costs are seldom known at the onset of remediation. Belfor has worked with WCIA every step of the way, and gotten verbal approvals before proceeding further into areas where uncertainty existed.

Financial Impact:

The WCIA insurance deductible for this event is \$25,000. The remediation and restoration costs are estimated at an amount not to exceed \$100,000. Staff time for this event is estimated at an amount not to exceed \$5,000. There will be a budget amendment prepared and brought forth at a later date to encompass all of the event costs; however WCIA will reimburse the City for all event costs, except for the \$25,000 insurance deductible.

Recommendation/Conclusion:

Staff recommends that Council approve the Goods and Services Contract with Belfor Property Restoration for groundwater intrusion remediation and permanent repair and restoration services for the Des Moines Field House.

Concurrence:

The Finance, Legal, Parks, and Planning, Building & Public Works Departments concur.



GOODS & SERVICES CONTRACT between the City of Des Moines and Belfor Property Restoration

THIS CONTRACT is made by and between the City of Des Moines, a Washington municipal corporation (hereinafter the "City"), and Belfor Property Restoration organized under the laws of the State of Washington, King County, located and doing business at 4320 South 131st Pl., Suite 100, Seattle, WA. 98168, (206) 632-0800, Kurt Davis court (hereinafter the "Vendor").

CONTRACT

I DESCRIPTION OF WORK.

Vendor shall provide the following goods and materials and/or perform the following services for the City:

Groundwater intrusion remediation services and associated permanent repairs and restoration services for the Des Moines Field House located at 1000 South 220th Street.

Vendor acknowledges and understands that it is not the City's exclusive provider of these goods, materials, or services and that the City maintains its unqualified right to obtain these goods, materials, and services through other sources.

II TIME OF COMPLETION. Upon the effective date of this Contract, Vendor shall complete the work and provide all goods, materials, and services by June 15, 2014.

III. COMPENSATION. The City shall pay the Vendor an amount not to exceed \$100,000.00, including applicable Washington State Sales Tax, for the goods, materials, and services contemplated in this Contract. The City shall pay the Vendor the following amounts according to the following schedule:

The Vendor shall invoice the City upon completion of the services rendered, and after the City has inspected and approved of all work performed.

If the City objects to all or any portion of an invoice, it shall notify Vendor and reserves the option to only pay that portion of the invoice not in dispute. In that event, the parties will immediately make every effort to settle the disputed portion.

- A. Defective or Unauthorized Work. The City reserves its right to withhold payment from Vendor for any defective or unauthorized goods, materials or services. If Vendor is unable, for any reason, to complete any part of this Contract, the City may obtain the goods, materials or services from other sources, and Vendor shall be liable to the City for any additional costs incurred by the City. "Additional costs" shall mean all reasonable costs, including legal costs and attorney fees, incurred by the City beyond the maximum Contract price specified above. The City further reserves its right to deduct these additional costs incurred to complete this Contract with other sources, from any and all amounts due or to become due the Vendor.
- B. Final Payment: Waiver of Claims. VENDOR'S ACCEPTANCE OF FINAL PAYMENT SHALL CONSTITUTE A WAIVER OF CLAIMS, EXCEPT THOSE PREVIOUSLY AND PROPERLY MADE AND IDENTIFIED BY VENDOR AS UNSETTLED AT THE TIME REQUEST FOR FINAL PAYMENT IS MADE.

IV. PREVAILING WAGES. Vendor shall file a "Statement of Intent to Pay Prevailing Wages," with the State of Washington Department of Labor & Industries prior to commencing the Contract work and an Affidavit of prevailing wages paid after completion of the work. The Statement of Intent to Pay Prevailing Wages," shall include Vendor's registration certificate number and the prevailing rate of wage for each classification of workers entitled to prevailing wages under RCW 39.12.020, and the estimated number of workers in each classification. Vendor shall pay prevailing wages in effect on the date the bid is accepted or executed by Vendor, and comply with Chapter 39.12 of the Revised Code of Washington, as well as any other applicable prevailing wage rate provisions. The latest prevailing wage rate revision issued by the Department of Labor and Industries must be submitted to the City by Vendor. It shall be the responsibility of Vendor to require all subcontractors to comply with Chapter 39.12 RCW and this section of the Contract.

V. INDEPENDENT CONTRACTOR. The parties intend that an Independent Contractor-Employer Relationship will be created by this Contract and that the Vendor has the ability to control and direct the performance and details of its work; however, the City shall have authority to ensure that the terms of the Contract are performed in the appropriate manner.

VI. TERMINATION. Either party may terminate this Contract, with or without cause, upon providing the other party thirty (30) days written notice at its address set forth on the signature block of this Contract.

VII. CHANGES. The City may issue a written amendment for any change in the goods, materials or services to be provided during the performance of this Contract. If the Vendor determines, for any reason, that an amendment is necessary, Vendor must submit a written amendment request to the person listed in the notice provision section of this Contract, section XVI(C), within fourteen (14) calendar days of the date Vendor knew or should have known of the facts and events giving rise to the requested change. If the City determines that the change increases or decreases the Vendor's costs or time for performance, the City will make an equitable adjustment. The City will attempt, in good faith, to reach agreement with the Vendor on all equitable adjustments. However, if the parties are unable to agree, the City will determine the equitable adjustment as it deems appropriate. The Vendor shall proceed with the amended work upon receiving either a written amendment from the City or an oral order from the City before actually receiving the written amendment. If the Vendor fails to require an amendment within the time allowed, the Vendor waives its right to make any claim or submit subsequent amendment requests for that portion of the contract work. If the Vendor disagrees with the equitable adjustment, the Vendor must complete the amended work; however, the Vendor may elect to protest the adjustment as provided in subsections A through E of Section VIII, Claims, below.

The Vendor accepts all requirements of an amendment by: (1) endorsing it, (2) writing a separate acceptance, or (3) not protesting in the way this section provides. An amendment that is accepted by Vendor as provided in this section shall constitute full payment and final settlement of all claims for contract time and for direct, indirect and consequential costs, including costs of delays related to any work, either covered or affected by the change.

VIII. CLAIMS. If the Vendor disagrees with anything required by an amendment, another written order, or an oral order from the City, including any direction, instruction, interpretation, or determination by the City, the Vendor may file a claim as provided in this section. The Vendor shall give written notice to the City of all claims within fourteen (14) calendar days of the occurrence of the events giving rise to the claims, or within fourteen (14) calendar days of the date the Vendor knew or should have known of the facts or events giving rise to the claim, whichever occurs first. Any claim for damages, additional payment for any reason, or extension of time, whether under this Contract or otherwise, shall be conclusively deemed to have been waived by the Vendor unless a timely written claim is made in strict accordance with the applicable provisions of this Contract.

At a minimum, a Vendor's written claim shall include the information set forth in subsections A, items 1 through 5 below.

FAILURE TO PROVIDE A COMPLETE, WRITTEN NOTIFICATION OF CLAIM WITHIN THE TIME ALLOWED SHALL BE AN ABSOLUTE WAIVER OF ANY CLAIMS ARISING IN ANY WAY FROM THE FACTS OR EVENTS SURROUNDING THAT CLAIM OR CAUSED BY THAT DELAY.

A. Notice of Claim. Provide a signed written notice of claim that provides the following information:

1. The date of the Vendor's claim;
2. The nature and circumstances that caused the claim;
3. The provisions in this Contract that support the claim;
4. The estimated dollar cost, if any, of the claimed work and how that estimate was determined; and
5. An analysis of the progress schedule showing the schedule change or disruption if the Vendor is asserting a schedule change or disruption.

B. Records. The Vendor shall keep complete records of extra costs and time incurred as a result of the asserted events giving rise to the claim. The City shall have access to any of the Vendor's records needed for evaluating the protest. The City will evaluate all claims, provided the procedures in this section are followed. If the City determines that a claim is valid, the City will adjust payment for work or time by an equitable adjustment. No adjustment will be made for an invalid protest.

C. Vendor's Duty to Complete Protested Work. In spite of any claim, the Vendor shall proceed promptly to provide the goods, materials and services required by the City under this Contract.

D. Failure to Protest Constitutes Waiver. By not protesting as this section provides, the Vendor also waives any additional entitlement and accepts from the City any written or oral order (including directions, instructions, interpretations, and determination).

E. Failure to Follow Procedures Constitutes Waiver. By failing to follow the procedures of this section, the Vendor completely waives any claims for protested work and accepts from the City any written or oral order (including directions, instructions, interpretations, and determination).

IX. LIMITATION OF ACTIONS. VENDOR MUST, IN ANY EVENT, FILE ANY LAWSUIT ARISING FROM OR CONNECTED WITH THIS CONTRACT WITHIN 120 CALENDAR DAYS FROM THE DATE THE CONTRACT WORK IS COMPLETE OR VENDOR'S ABILITY TO FILE THAT SUIT SHALL BE FOREVER BARRED. THIS SECTION FURTHER LIMITS ANY APPLICABLE STATUTORY LIMITATIONS PERIOD.

X WARRANTY. This Contract is subject to all warranty provisions established under the Uniform Commercial Code, Title 62A, Revised Code of Washington. Vendor warrants goods are merchantable, are fit for the particular purpose for which they were obtained, and will perform in accordance with their specifications and Vendor's representations to City. The Vendor shall correct all defects in workmanship and materials within one (1) year from the date of the City's acceptance of the Contract work. In the event any part of the goods are repaired, only original replacement parts shall be used—rebuilt or used parts will not be acceptable. When defects are corrected, the warranty for that portion of the work shall extend for one (1) year from the date such correction is completed and accepted by the City. The Vendor shall begin to

correct any defects within seven (7) calendar days of its receipt of notice from the City of the defect. If the Vendor does not accomplish the corrections within a reasonable time as determined by the City, the City may complete the corrections and the Vendor shall pay all costs incurred by the City in order to accomplish the correction.

XI. DISCRIMINATION. In the hiring of employees for the performance of work under this Contract or any sub-contract, the Vendor, its sub-contractors, or any person acting on behalf of the Vendor or sub-contractor shall not, by reason of race, religion, color, sex, age, sexual orientation, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

XII. INDEMNIFICATION. The Vendor shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

XIII. INSURANCE. The Vendor shall procure and maintain for the duration of the Contract, insurance against claims for injuries to persons or damage to property which may arise from or in connection with products and materials supplied to the City. Vendor shall obtain insurance of the type described below:

No Limitation. Vendor's maintenance of insurance as required by the agreement shall not be construed to limit the liability of the Vendor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

A. Minimum Scope of Insurance

Vendor shall obtain insurance of the type described below:

Commercial General Liability insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 and shall cover products liability. The City shall be named as an insured under the Vendor's Commercial General Liability insurance policy using ISO Additional Insured-Vendors Endorsement CG 20 15 or a substitute endorsement providing equivalent coverage.

B. Minimum Amounts of Insurance

Vendor shall maintain the following insurance limits:

Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$1,000,000 general aggregate and a \$2,000,000 products liability aggregate limit.

C. Other Insurance Provisions. The Vendor's Commercial General Liability insurance policy or policies are to contain, or be endorsed to contain that they shall be primary insurance as respect the City. Any Insurance, self-insurance, or

insurance pool coverage maintained by the City shall be excess of the Vendor's insurance and shall not contribute with it.

D. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

E. Verification of Coverage

Vendor shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Vendor before goods, materials or supplies will be accepted by the City.

F. Notice of Cancellation. The Vendor shall provide the city with written notice of any policy cancellation, within two business days of their receipt of such notice.

G. Failure to Maintain Insurance. Failure on the part of the Vendor to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days notice to the Vendor to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Vendor from the City.

XIV. WORK PERFORMED AT VENDOR'S RISK. Vendor shall take all necessary precautions and shall be responsible for the safety of its employees, agents, and subcontractors in the performance of the contract work and shall utilize all protection necessary for that purpose. All work shall be done at Vendor's own risk, and Vendor shall be responsible for any loss of or damage to materials, tools, or other articles used or held for use in connection with the work.

XV. CITY'S RIGHT OF INSPECTION. Even though Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Contract, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure satisfactory completion.

XVI. MISCELLANEOUS PROVISIONS.

A. Non-Waiver of Breach. The failure of the City to insist upon strict performance of any of the covenants and agreements contained in this Contract, or to exercise any option conferred by this Contract in one or more instances shall not be construed to be a waiver or relinquishment of those covenants, agreements or options, and the same shall be and remain in full force and effect.

B. Resolution of Disputes and Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Washington, If the parties are unable to settle any dispute, difference or claim arising from the parties' performance of this Contract, then the following shall be the means for resolving the dispute:

1. **Alternative Dispute Resolution.** If a dispute arises from or relates to this Contract or the breach thereof and if the dispute cannot be resolved through direct discussions, the parties agree to endeavor first to settle the dispute in an amicable manner by mediation administered by a mediator under JAMS Alternative Dispute Resolution service rules or policies before resorting to arbitration. The mediator may be selected by agreement of the parties or through JAMS. Following mediation, or upon written Contract of the parties to waive mediation, any unresolved controversy or claim arising from or relating to this Contract or breach thereof shall be settled through arbitration which shall be conducted under JAMS rules or policies. The arbitrator may be selected by agreement of the parties or through JAMS. All fees and expenses for mediation or arbitration shall be borne by the parties equally. However, each party shall bear the expense of its own counsel, experts, witnesses, and preparation and presentation of evidence.
2. **Applicable Law and Jurisdiction.** This Contract shall be governed by the laws of the State of Washington. Although the agreed to and designated primary dispute resolution method as set forth above, in the event any claim, dispute or action arising from or relating to this Contract cannot be submitted to arbitration, then it shall be commenced exclusively in the King County Superior Court or the United States District Court, Western District of Washington as appropriate. In any claim or lawsuit for damages arising from the parties' performance of this Agreement, each party shall pay all its legal costs and attorney's fees incurred in defending or bringing such claim or lawsuit, in addition to any other recovery or award provided by law; provided, however, nothing in this paragraph shall be construed to limit the City's right to indemnification under Section XII of this Contract.

C. Written Notice. All communications regarding this Contract shall be sent to the parties at the addresses listed on the signature page of the Contract, unless notified to the contrary. Any written notice hereunder shall become effective three (3) business days after the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated in this Contract or such other address as may be hereafter specified in writing.

D. Assignment. Any assignment of this Contract by either party without the written consent of the non-assigning party shall be void. If the non-assigning party gives its consent to any assignment, the terms of this Contract shall continue in full force and effect and no further assignment shall be made without additional written consent.

E. Modification. No waiver, alteration, or modification of any of the provisions of this Contract shall be binding unless in writing and signed by a duly authorized representative of the City and Vendor.

F. Entire Contract. The written provisions and terms of this Contract, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner this Contract. All of the above documents are hereby made a part of this Contract. However, should any language in any of the Exhibits to this Contract conflict with any language contained in this Contract, the terms of this Contract shall prevail.

G. Compliance with Laws. The Vendor agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or in the future become applicable to Vendor's business, equipment, and personnel engaged in operations covered by this Contract or accruing out of the performance of those operations.

H. Business License. Contractor shall comply with the provisions of Title 5 Chapter 5.04 of the Des Moines Municipal Code.

I. Counterparts. This Contract may be executed in any number of counterparts, each of which shall constitute an original, and all of which will together constitute this one Contract.

J. Records Retention and Audit. During the progress of the Work and for a period not less than three (3) years from the date of completion of the Work or for the retention period required by law, whichever is greater, records and accounts pertaining to the Work and accounting therefore are to be kept available by the Parties for inspection and audit by representatives of the Parties and copies of all records, accounts, documents, or other data pertaining to the Work shall be furnished upon request. Records and accounts shall be maintained in accordance with applicable state law and regulations.

IN WITNESS, the parties below execute this Contract, which shall become effective on the last date entered below.

VENDOR: By: _____ (signature) Print Name: _____ Its _____ (Title) DATE: _____	CITY OF DES MOINES: By: _____ (signature) Print Name: <u>Anthony A. Piasecki</u> Its <u>City Manager</u> (Title) DATE: _____ Approved as to form: _____ City Attorney DATE: _____
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NOTICES TO BE SENT TO: VENDOR: Kurt Davis court Belfor Property Restoration 4320 South 131st Pl., Suite 100 Seattle, WA. 98168 (206) 632-0800 (telephone) (206) 547-0800 (facsimile)	NOTICES TO BE SENT TO: CITY OF DES MOINES: Scott J. Romano City of Des Moines 21650 11th Ave. S. Des Moines, WA. 98198 (206) 870-6539 (telephone) (206) 870-6596 (facsimile)
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As directed by the Des Moines City Council
in open public meeting on _____



WORK AUTHORIZATION

Washington License # BELFOUG990BJ

The undersigned (insured), CITY OF DES MOINES

21630 11TH AVE S DES MOINES WA 98198
 Address City State Zip

represents that he/she/they are owners of/or agents for the hereinafter specified property (and/or its contents) and hereby authorize and direct Belfor USA Group, Inc. ("Contractor") to provide all labor, equipment and materials required to properly repair the specified real property or structure commonly known as: DES MOINES FIELD HOUSE

1000 S 220 TH ST DES MOINES WA 98198
 Address City State Zip

It is understood and agreed that Contractor will perform all repair work in a good and workmanlike manner in accordance with our General Conditions, will have a policy of insurance in full force, will comply with local safety standards and will perform all work according to local building codes. A one-year workmanship warranty will be presented upon full payment for the work performed. The undersigned hereby transfers, assigns and conveys to Contractor his/her/their right, title and interest in and to the insurance policy proceeds and all drafts for work performed or to be performed by Contractor. Accordingly, undersigned authorizes and directs their insurer (named below) to make Belfor USA a payee on all insurance drafts for all insurance work performed by Contractor on the above damaged property. The undersigned also agrees to immediately endorse and tender all drafts as produced to the Contractor.

All insurance work performed by the Contractor is subject to the terms of the Insured's policy of insurance which sets the scope and price of the work based upon industry standards. All uninsured code-upgrade work, remodeling, extra work and insurance deductibles are the responsibility of the undersigned or Owner. The undersigned has the right to cancel this Work Authorization prior to the midnight of the 3rd business day of signing this agreement by writing and delivering a written cancellation request to Contractor by such time. The undersigned also agrees to and understands the General Conditions that are attached to this document and incorporated by this reference.

Deductible/Deposit Due Upon Signing.

APPROVED AS TO FORM:

Des Moines City Attorney

\$ N/A
 AMOUNT (IF KNOWN)

DATE

INSURED-OWNER-AUTHORIZED REPRESENTATIVE

BRIAN JONES
 BELFOR REPRESENTATIVE

INSURED-OWNER-AUTHORIZED REPRESENTATIVE

WCIA
 INSURANCE COMPANY

DI4-2078
 POLICY NUMBER

Disclosure Statement & Notice to Owner

Please see page 3 of this contract to review the laws of Washington regarding your rights as a property owner. By signing above you also acknowledge you have received a copy of the Notice to Owner disclosure statement.

General Conditions

Owner agrees to allow timely inspections by municipal inspectors and/or mortgage company agents and to assist with obtaining any third party payee signatures on all insurance drafts so that Belfor can be timely paid. If for any reason your claim is denied by your insurance carrier or they refuse to pay the costs of any and/or all insurance work performed by Contractor, or you otherwise delay or prevent the payment of said insurance draft, or use it for other purposes, then the insured/owner(s) of the above mentioned property will be personally liable for all costs of services performed. The Contractor and undersigned acknowledge and agree that the Contractor shall have no liability for, and shall be indemnified and held harmless from and against, all claims, damages, liabilities and costs arising out of or relating to the presence, discovery, or failure to discover, remove address, remediate or cleanup environmental or biological hazards including, but not limited to, mold, fungus, hazardous waste, substances or materials, or asbestos unless covered by the insured's policy of insurance, remediation is part of the scope of work and such work is directed by an Industrial Hygienists protocol and clearance testing. If for any reason the amount due under this Work Authorization is not paid when due, the Contractor shall be entitled to its expenses and attorneys fees incurred in the collection of this agreement with interest on the unpaid balance at the rate of 1.5% per month or the rate prescribed by law. The undersigned permits Contractor to obtain a personal credit report to ensure that the insurance proceeds for this project are not in jeopardy. Any controversy or claim arising out of or relating to this agreement, or breach thereof, may be submitted to a court of competent jurisdiction. Contractor is in good standing with the Better Business Bureau. Contractor reserves their right to terminate this contract should the client breach any of its terms or the assurance of payment.

Rev. 9/12

BELFORUSA 4320 South 131st Place, Suite 100, Seattle, WA 98168 • 800.775.8006 • ph: 206.632.0800 • fx: 206.547.0800
 BELFORUSA 10020 East Knox, Suite 100, Spokane, WA 99206 • 800.707.3601 • ph: 509.893.0001 • fx: 509.893.0006
 HEADQUARTERS 185 Oakland Ave., Suite 150, Birmingham, MI 48009-3433 • 888.471.4111 • ph: 248.394.1144 • fx: 248.594.1123
 24/7 emergency hotline 800.656.3333 • www.belforusa.com

COPY

NOTICE TO CUSTOMER

The laws of the State of Washington require that all licensed contractors furnish you with the following Disclosure Statement and Notice to Owner. We certainly have no reason to anticipate the necessity of making a claim of lien and trust that you will not construe this notification as any reflection on you or our company. These notices must be provided automatically, and by doing so, we are merely complying with the laws of the State of Washington. If this information raises any questions in your mind, please feel free to call the General Manager of Belfor USA Group, Inc. at (206)632-0800. He will be more than happy to answer any of your questions.

Belfor USA Group, Inc. is registered with the State of Washington, Registration Number BELFOUG990BJ, and has posted with the state a bond or cash deposit of \$12,000.00. The purpose of this bond is to satisfy claims against the contractor for breach of contract including negligent or improper work in the conduct of the contractor's business. The contractor's registration is current as of the date of this contract. The expiration date for this contractor registration may be found by contacting the Washington State Department of Labor and Industries at 1-800-547-8367.

THIS BOND OR DEPOSIT MIGHT NOT BE SUFFICIENT TO COVER A CLAIM THAT MIGHT ARISE FROM THE WORK DONE UNDER YOUR CONTRACT.

This bond or deposit is not for your exclusive use because it covers all work performed by this contractor. The bond or deposit is intended to pay valid claims up to \$12,000.00 that you and other customers, suppliers, subcontractors, or taxing authorities may have.

FOR GREATER PROTECTION YOU MAY WITHHOLD A PERCENTAGE OF YOUR CONTRACT.

You may withhold a contractually defined percentage of your construction contract as retainage for a stated period of time to provide protection to you and help insure that your project will be completed as required by your contract.

YOUR PROPERTY MAY BE LIENED.

If a supplier of materials used in your construction project or an employee or subcontractor of your contractor or subcontractors is not paid, your property may be liened to force payment and you could pay twice for the same work.

FOR ADDITIONAL PROTECTION, YOU MAY REQUEST THE CONTRACTOR TO PROVIDE YOU WITH ORIGINAL "LIEN RELEASE" DOCUMENTS FROM EACH SUPPLIER OR SUBCONTRACTOR ON YOUR PROJECT.

The contractor is required to provide you with further information about lien release documents if you request it. General information is also available from the state Department of Labor and Industries.

 INITIALS
Rev. 9/12

Belfor USA Group, Inc.

4320 South 131st Place, Suite 100
 Seattle, Washington 98168
 Ph# 206-632-0800
 Fax# 206-547-0800

Client: City of Des Moines - Field House
 Property: 1000 South 220th
 Des Moines, WA
 Business: 21630 11th Ave. S
 Des Moines, WA 98198

Business: (206) 870-6539
 Cellular: (206) 450-6758

Operator Info:

Operator: BJ

Estimator: Brian Jones
 Position: Senior Project Manager
 Company: Belfor USA Group, Inc.
 Business: 4320 South 131st Place, Suite 100
 Seattle, WA 98168

Business: (206) 632-0800 x 204
 E-mail: brian.v.jones@us.belfor.com

Reference: Arlan Danner
 Position: General Adjuster
 Company: Evergreen Adjustment Service, Inc.
 Business: PO Box 30088
 Seattle, WA 98113-2088

Business: (425) 793-0322
 E-mail: adanner@evergreenadjustment.com

Type of Estimate: Water Damage

Date Entered: 3/13/2014

Date Assigned:

Price List: WASE7X_MAR14_PW

Labor Efficiency: Restoration/Service/Remodel

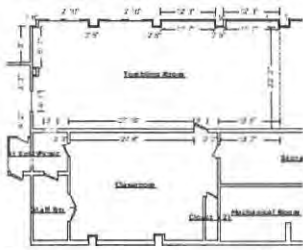
Estimate: FIELD_HOUSE_PW

The following estimate reflects the **(WATER DAMAGE MITIGATION AND REPAIRS TO THE FIELD HOUSE)** located at **(1000 S. 220th in Des Moines, WA)**. This scope of work is based upon "like kind and quality" of existing materials and construction to today's standards. Please note that any hidden damage or costs including, but not limited to rot, decay, electrical, plumbing, HVAC, code upgrades, permits, fees or other requirements are not included unless specifically mentioned in the text of the estimate. These costs, if any, will be identified and documented as soon as possible following discovery.

NOTE: PREVAILING WAGE RATES AND STANDARDS APPLY TO THIS PROJECT.

Belfor USA Group, Inc.

4320 South 131st Place, Suite 100
 Seattle, Washington 98168
 Ph# 206-632-0800
 Fax# 206-547-0800

FIELD_HOUSE_PW**Basement****Tumbling Room****Height: 7' 11"**

1,122.64 SF Walls
 2,391.35 SF Walls & Ceiling
 140.97 SY Flooring
 144.33 LF Ceil. Perimeter

1,268.72 SF Ceiling
 1,268.72 SF Floor
 141.33 LF Floor Perimeter

Missing Wall - Goes to Floor

3' X 6' 8"

Opens into FOYER

Missing Wall

22' 2" X 7' 11"

Opens into RECREATION_R

DESCRIPTION	QNTY	REMOVE	REPLACE	TOTAL
1. Content Manipulation charge - per hour	8.00 HR	0.00	75.75	606.00
2. Tear out baseboard	141.33 LF	0.51	0.00	72.08
3. Tear out non-salvageable vinyl, cut & bag for disposal	1,268.72 SF	1.44	0.00	1,826.96
4. Floor preparation for resilient flooring	1,268.72 SF	0.00	0.77	976.91
5. Vinyl floor covering (sheet goods) - High grade	1,459.02 SF	0.00	4.51	6,580.18
6. Cove base molding - rubber or vinyl, 4" high	141.33 LF	0.00	2.26	319.41
7. Mask and prep for paint - plastic, paper, tape (per LF)	111.08 LF	0.00	1.05	116.63
8. Seal/prime then paint part of the walls and ceiling twice (3 coats)	2,128.12 SF	0.00	0.96	2,043.00
9. Paint door slab only - 2 coats (per side)	2.00 EA	0.00	24.88	49.76
10. Paint door/window trim & jamb - 2 coats (per side)	2.00 EA	0.00	25.30	50.60
11. Paint door or window opening - 2 coats (per side)	2.00 EA	0.00	25.44	50.88
12. Final cleaning - construction - Commercial	1,268.72 SF	0.00	0.28	355.24

Totals: Tumbling Room

13,047.65

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**Recreation Room****Height: 7' 11"**

901.75 SF Walls
 1,895.99 SF Walls & Ceiling
 110.47 SY Flooring
 119.00 LF Ceil. Perimeter

994.24 SF Ceiling
 994.24 SF Floor
 113.17 LF Floor Perimeter

Missing Wall**Door****Door****22' 2" X 7' 11"****2' 10" X 7'****3' X 6' 10"****Opens into TUMBLING_ROO****Opens into Exterior****Opens into STORAGE_AREA**

DESCRIPTION	QNTY	REMOVE	REPLACE	TOTAL
13. Containment Barrier/Airlock/Decon. Chamber	1,895.99 SF	0.00	0.93	1,763.27
14. Peel & seal zipper - heavy duty	1.00 EA	0.00	13.56	13.56
15. Tear out baseboard	113.17 LF	0.51	0.00	57.72
16. Tear out wet drywall, cleanup, bag, per LF - up to 2' tall	91.17 LF	3.66	0.00	333.68
17. Tear out non-salvageable vinyl, cut & bag for disposal	994.24 SF	1.44	0.00	1,431.71
18. Tear out and bag wet insulation	49.50 SF	0.81	0.00	40.10
19. Apply anti-microbial agent	1,220.57 SF	0.00	0.29	353.97
20. Tear out wet paneling, bag for disposal	226.33 SF	0.62	0.00	140.32
21. Cleaning & Remediation - Supervisory - per hr	1.00 HR	0.00	72.72	72.72
22. Water Extraction & Remediation Technician - per hour	1.00 HR	0.00	72.88	72.88
23. Add for personal protective equipment - Heavy duty	4.00 EA	0.00	17.62	70.48
24. Dehumidifier (per 24 hour period) - Large - No monitoring	4.00 EA	0.00	71.87	287.48
25. Air mover (per 24 hour period) - No monitoring	16.00 EA	0.00	27.16	434.56
26. Neg. air fan/Air scrub.-Large (per 24 hr period)-No monit.	4.00 DA	0.00	124.45	497.80
27. Equipment setup, take down, and monitoring (hourly charge)	4.00 HR	0.00	72.88	291.52
28. Content Manipulation charge - per hour	2.00 HR	0.00	75.75	151.50
29. Batt insulation - 4" - R13 - unfaced batt	226.33 SF	0.00	0.66	149.38
30. Furring strip - 1" x 2"	226.33 SF	0.00	0.92	208.22
31. Drywall per LF - up to 2' tall	91.17 LF	0.00	9.57	872.50

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CONTINUED - Recreation Room

DESCRIPTION	QNTY	REMOVE	REPLACE	TOTAL
32. Seal more than the floor perimeter w/PVA primer - one coat	364.67 SF	0.00	0.49	178.69
33. Texture drywall - machine Note: Match and blend into existing texture	364.67 SF	0.00	0.48	175.04
34. Floor preparation for resilient flooring	994.24 SF	0.00	0.77	765.56
35. Vinyl floor covering (sheet goods) - High grade	1,143.37 SF	0.00	4.51	5,156.60
36. Cove base molding - rubber or vinyl, 4" high	113.17 LF	0.00	2.26	255.76
37. Vinyl - metal transition strip	6.00 LF	0.00	3.63	21.78
38. Mask and prep for paint - plastic, paper, tape (per LF)	119.00 LF	0.00	1.05	124.95
39. Seal/prime then paint the walls and ceiling twice (3 coats)	1,895.99 SF	0.00	0.96	1,820.15
40. Paint door slab only - 2 coats (per side)	4.00 EA	0.00	24.88	99.52
41. Paint door/window trim & jamb - 2 coats (per side)	4.00 EA	0.00	25.30	101.20
42. Final cleaning - construction - Commercial	994.24 SF	0.00	0.28	278.39
Totals: Recreation Room				16,221.01

**Kitchen****Height: 7' 11"**

596.66 SF Walls	335.40 SF Ceiling
932.06 SF Walls & Ceiling	335.40 SF Floor
37.27 SY Flooring	75.37 LF Floor Perimeter
75.37 LF Ceil. Perimeter	

DESCRIPTION	QNTY	REMOVE	REPLACE	TOTAL
43. Content Manipulation charge - per hour	8.00 HR	0.00	75.75	606.00
44. Tear out baseboard	37.68 LF	0.51	0.00	19.22
45. Tear out non-salvageable vinyl, cut & bag for disposal	335.40 SF	1.44	0.00	482.98
46. Floor preparation for resilient flooring	335.40 SF	0.00	0.77	258.26
47. Vinyl floor covering (sheet goods) - High grade	385.72 SF	0.00	4.51	1,739.60

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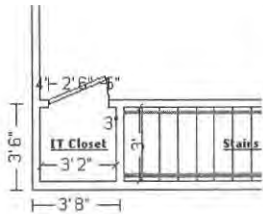
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CONTINUED - Kitchen

DESCRIPTION	QNTY	REMOVE	REPLACE	TOTAL
48. R&R Vinyl cove - 6" wrap	37.68 LF	2.68	12.13	558.04
49. Vinyl Floor Covering Installer - per hour	4.00 HR	0.00	97.06	388.24
Note: Additional labor for 5 inside flash corners and 4 outside corners.				
50. Cove base molding - rubber or vinyl, 4" high	37.68 LF	0.00	2.26	85.16
51. Mask and prep for paint - plastic, paper, tape (per LF)	75.37 LF	0.00	1.05	79.14
52. Seal/prime then paint the walls and ceiling twice (3 coats)	932.06 SF	0.00	0.96	894.78
53. Paint door slab only - 2 coats (per side)	2.00 EA	0.00	24.88	49.76
54. Paint door/window trim & jamb - 2 coats (per side)	2.00 EA	0.00	25.30	50.60
55. Paint door or window opening - 2 coats (per side)	1.00 EA	0.00	25.44	25.44
56. Final cleaning - construction - Commercial	335.40 SF	0.00	0.28	93.91
Totals: Kitchen				5,331.13

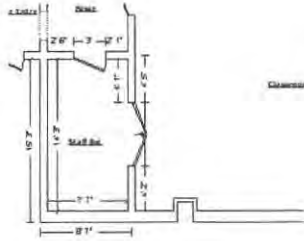
**IT Closet****Height: 7' 11"**

97.17 SF Walls	9.41 SF Ceiling
106.58 SF Walls & Ceiling	9.41 SF Floor
1.05 SY Flooring	12.27 LF Floor Perimeter
12.27 LF Ceil. Perimeter	

DESCRIPTION	QNTY	REMOVE	REPLACE	TOTAL
57. R&R Vinyl - metal transition strip	2.50 LF	1.04	3.63	11.68
58. Paint door slab only - 2 coats (per side)	2.00 EA	0.00	24.88	49.76
59. Paint door/window trim & jamb - 2 coats (per side)	2.00 EA	0.00	25.30	50.60
60. Final cleaning - construction - Commercial	9.41 SF	0.00	0.28	2.63
Totals: IT Closet				114.67

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**Staff Rm****Height: 7' 11"**

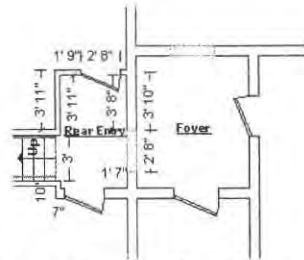
285.69 SF Walls	108.06 SF Ceiling
393.76 SF Walls & Ceiling	108.06 SF Floor
12.01 SY Flooring	34.67 LF Floor Perimeter
43.67 LF Ceil. Perimeter	

Door**6' X 6' 8"****Opens into CLASSROOM****Door****3' X 6' 8"****Opens into FOYER**

DESCRIPTION	QNTY	REMOVE	REPLACE	TOTAL
71. R&R Vinyl - metal transition strip	6.00 LF	1.04	3.63	28.02
72. Paint door slab only - 2 coats (per side)	2.00 EA	0.00	24.88	49.76
73. Paint door/window trim & jamb - 2 coats (per side)	2.00 EA	0.00	25.30	50.60
74. Final cleaning - construction - Commercial	108.06 SF	0.00	0.28	30.26

Totals: Staff Rm

158.64

**Rear Entry****Height: 7' 11"**

152.43 SF Walls	34.38 SF Ceiling
186.81 SF Walls & Ceiling	34.38 SF Floor
3.82 SY Flooring	18.83 LF Floor Perimeter
21.50 LF Ceil. Perimeter	

Missing Wall - Goes to Floor**2' 8" X 6' 8"****Opens into FOYER****Missing Wall****3' X 7' 11"****Opens into STAIRS**

DESCRIPTION	QNTY	REMOVE	REPLACE	TOTAL
75. Tear out baseboard	18.83 LF	0.51	0.00	9.60
76. Tear out non-salvageable vinyl, cut & bag for disposal	34.38 SF	1.44	0.00	49.51
77. Floor preparation for resilient flooring	34.38 SF	0.00	0.77	26.47
78. Vinyl floor covering (sheet goods) - High grade	39.53 SF	0.00	4.51	178.28
79. Cove base molding - rubber or vinyl, 4" high	18.83 LF	0.00	2.26	42.56
80. Vinyl - metal transition strip	3.00 LF	0.00	3.63	10.89

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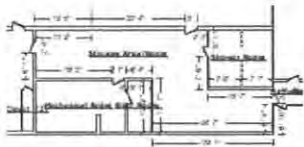
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CONTINUED - Classroom

DESCRIPTION	QNTY	REMOVE	REPLACE	TOTAL
91. Vinyl floor covering (sheet goods) - High grade	873.31 SF	0.00	4.51	3,938.63
92. Cove base molding - rubber or vinyl, 4" high	135.67 LF	0.00	2.26	306.61
93. Vinyl - metal transition strip	12.00 LF	0.00	3.63	43.56
94. Mask and prep for paint - plastic, paper, tape (per LF)	141.67 LF	0.00	1.05	148.75
95. Seal/prime then paint the walls and ceiling twice (3 coats)	1,840.93 SF	0.00	0.96	1,767.29
96. Paint door slab only - 2 coats (per side)	10.00 EA	0.00	24.88	248.80
97. Paint door/window trim & jamb - 2 coats (per side)	6.00 EA	0.00	25.30	151.80
98. Paint door/window trim & jamb - Large - 2 coats (per side)	2.00 EA	0.00	29.77	59.54
99. Final cleaning - construction - Commercial	759.40 SF	0.00	0.28	212.63
Totals: Classroom				9,231.08

**Storage Area/Room****Height: 7' 11"**

1,248.15 SF Walls	781.69 SF Ceiling
2,029.84 SF Walls & Ceiling	781.69 SF Floor
86.85 SY Flooring	157.25 LF Floor Perimeter
160.25 LF Ceil. Perimeter	

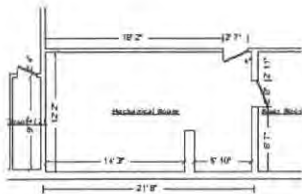
Door	3' X 6' 10"	Opens into RECREATION_R		
DESCRIPTION	QNTY	REMOVE	REPLACE	TOTAL
100. Content Manipulation charge - per hour	1.00 HR			SEE INITIAL
101. Containment Barrier/Airlock/Decon. Chamber	225.95 SF	0.00	0.93	210.13
102. Peel & seal zipper - heavy duty	1.00 EA	0.00	13.56	13.56
103. Tear out baseboard	50.00 LF	0.51	0.00	25.50
104. Tear out wet paneling, bag for disposal	400.00 SF	0.62	0.00	248.00
105. Apply anti-microbial agent	1,096.19 SF	0.00	0.29	317.90

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CONTINUED - Storage Area/Room

DESCRIPTION	QNTY	REMOVE	REPLACE	TOTAL
106. Cleaning & Remediation - Supervisory - per hr	1.00 HR	0.00	72.72	72.72
107. Water Extraction & Remediation Technician - per hour	1.00 HR	0.00	72.88	72.88
108. Add for personal protective equipment - Heavy duty	4.00 EA	0.00	17.62	70.48
109. Dehumidifier (per 24 hour period) - Large - No monitoring Note: 1 dehumidifier for 4 days	4.00 EA	0.00	71.87	287.48
110. Air mover (per 24 hour period) - No monitoring Note: 1 air mover for 4 days	4.00 EA	0.00	27.16	108.64
111. Equipment setup, take down, and monitoring (hourly charge)	2.00 HR	0.00	72.88	145.76
112. Clean concrete the floor	781.69 SF	0.00	0.41	320.49
113. T & G paneling - v-joint paneling (unfinished)	400.00 SF	0.00	5.10	2,040.00
114. Trim board - 1" x 4" - installed (pine)	100.00 LF	0.00	3.21	321.00
115. Mask and prep for paint - plastic, paper, tape (per LF)	160.25 LF	0.00	1.05	168.26
116. Seal & paint paneling	1,248.15 SF	0.00	0.98	1,223.19
117. Seal & paint trim - two coats	100.00 LF	0.00	1.16	116.00
118. Paint door slab only - 2 coats (per side)	2.00 EA	0.00	24.88	49.76
119. Paint door/window trim & jamb - 2 coats (per side)	2.00 EA	0.00	25.30	50.60
120. Final cleaning - construction - Commercial	781.69 SF	0.00	0.28	218.87
Totals: Storage Area/Room				6,081.22

**Mechanical Room****Height: 7' 11"**

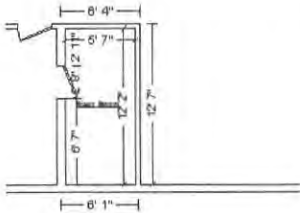
591.11 SF Walls	250.63 SF Ceiling
841.74 SF Walls & Ceiling	250.96 SF Floor
27.88 SY Flooring	74.67 LF Floor Perimeter
74.67 LF Ceil. Perimeter	

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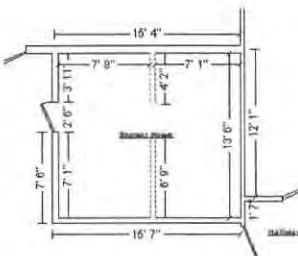
CONTINUED - Mechanical Room

DESCRIPTION	QNTY	REMOVE	REPLACE	TOTAL
121. Water Extraction & Remediation Technician - per hour	1.00 HR	0.00	72.88	72.88
122. Air mover (per 24 hour period) - No monitoring	8.00 EA	0.00	27.16	217.28
123. Paint door slab only - 2 coats (per side)	2.00 EA	0.00	24.88	49.76
124. Paint door/window trim & jamb - 2 coats (per side)	2.00 EA	0.00	25.30	50.60
125. Final cleaning - construction - Commercial	250.96 SF	0.00	0.28	70.27
Totals: Mechanical Room				460.79

**Riser Room****Height: 7' 11"**

279.72 SF Walls	67.19 SF Ceiling
346.91 SF Walls & Ceiling	67.19 SF Floor
7.47 SY Flooring	35.33 LF Floor Perimeter
35.33 LF Ceil. Perimeter	

DESCRIPTION	QNTY	REMOVE	REPLACE	TOTAL
Note: No work - air movers were placed in mechanical room for both areas				
Totals: Riser Room				0.00

**Shower Room****Height: 7' 11"**

507.64 SF Walls	203.56 SF Ceiling
711.20 SF Walls & Ceiling	199.02 SF Floor
22.11 SY Flooring	78.10 LF Floor Perimeter
56.33 LF Ceil. Perimeter	

Missing Wall - Goes to Ceiling
 Missing Wall - Goes to Ceiling

6' 8 1/2" X 5' 1"
 4' 2 1/16" X 5' 1"

Opens into SHOWER_ROOM
 Opens into SHOWER_ROOM

DESCRIPTION	QNTY	REMOVE	REPLACE	TOTAL
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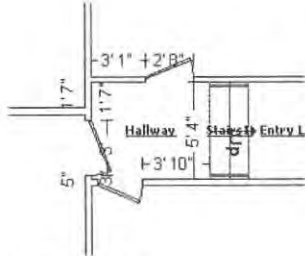
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CONTINUED - Shower Room

DESCRIPTION	QNTY	REMOVE	REPLACE	TOTAL
126. Content Manipulation charge - per hour	1.00 HR			SEE INITIAL
127. Tear out baseboard	11.00 LF	0.51	0.00	5.61
128. Tear out wet paneling, bag for disposal	33.00 SF	0.62	0.00	20.46
129. Apply anti-microbial agent	355.22 SF	0.00	0.29	103.01
130. Cleaning & Remediation - Supervisory - per hr	1.00 HR	0.00	72.72	72.72
131. Water Extraction & Remediation Technician - per hour	1.00 HR	0.00	72.88	72.88
132. Dehumidifier (per 24 hour period) - Large - No monitoring Note: 1 dehumidifier for 4 days	4.00 EA	0.00	71.87	287.48
133. Air mover (per 24 hour period) - No monitoring Note: 1 air mover for 4 days	4.00 EA	0.00	27.16	108.64
134. Equipment setup, take down, and monitoring (hourly charge)	2.00 HR	0.00	72.88	145.76
135. Clean concrete the floor	199.02 SF	0.00	0.41	81.60
136. T & G paneling - v-joint paneling (unfinished)	33.00 SF	0.00	5.10	168.30
137. Trim board - 1" x 4" - installed (pine)	11.00 LF	0.00	3.21	35.31
138. Trim board - 1" x 6" - installed (pine)	11.00 LF	0.00	4.43	48.73
139. Mask and prep for paint - plastic, paper, tape (per LF)	56.33 LF	0.00	1.05	59.15
140. Seal & paint paneling	253.82 SF	0.00	0.98	248.74
141. Seal & paint trim - two coats	22.00 LF	0.00	1.16	25.52
142. Paint door slab only - 2 coats (per side)	2.00 EA	0.00	24.88	49.76
143. Paint door/window trim & jamb - 2 coats (per side)	2.00 EA	0.00	25.30	50.60
144. Final cleaning - construction - Commercial	199.02 SF	0.00	0.28	55.73
Totals: Shower Room				1,640.00

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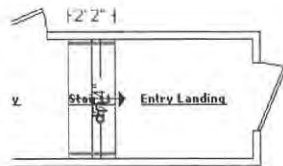
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**Hallway****Height: 7' 11"**

147.78 SF Walls	35.56 SF Ceiling
183.33 SF Walls & Ceiling	35.56 SF Floor
3.95 SY Flooring	18.67 LF Floor Perimeter
18.67 LF Ceil. Perimeter	

Missing Wall**5' 4" X 7' 11"****Opens into STAIRS1**

DESCRIPTION	QNTY	REMOVE	REPLACE	TOTAL
145. Clean more than the walls	183.33 SF	0.00	0.49	89.83
146. Final cleaning - construction - Commercial	35.56 SF	0.00	0.28	9.96
Totals: Hallway				99.79

**Stairs1****Height: Sloped**

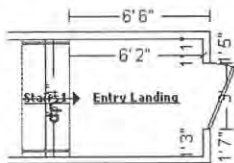
34.24 SF Walls	14.84 SF Ceiling
49.08 SF Walls & Ceiling	21.31 SF Floor
2.37 SY Flooring	4.91 LF Floor Perimeter
5.56 LF Ceil. Perimeter	

Missing Wall**5' 4" X 7' 11"****Opens into HALLWAY****Missing Wall****5' 4" X 7' 11"****Opens into ENTRY_LANDIN**

DESCRIPTION	QNTY	REMOVE	REPLACE	TOTAL
147. Clean more than the walls	55.55 SF	0.00	0.49	27.22
148. Final cleaning - construction - Commercial	21.31 SF	0.00	0.28	5.97
Totals: Stairs1				33.19

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**Entry Landing****Height: 7' 11"**

182.15 SF Walls	32.91 SF Ceiling
215.06 SF Walls & Ceiling	32.91 SF Floor
3.66 SY Flooring	23.01 LF Floor Perimeter
23.01 LF Ceil. Perimeter	

Missing Wall**5' 4" X 7' 11"****Opens into STAIRS1**

DESCRIPTION	QNTY	REMOVE	REPLACE	TOTAL
149. Clean more than the walls	215.06 SF	0.00	0.49	105.38
150. Final cleaning - construction - Commercial	32.91 SF	0.00	0.28	9.21
Totals: Entry Landing				114.59
Total: Basement				54,134.91

Initial Services

DESCRIPTION	QNTY	REMOVE	REPLACE	TOTAL
151. Content Manipulation charge - per hour	64.00 HR	0.00	75.75	4,848.00
152. Cleaning - Supervisory/Administrative - per hour	16.00 HR	0.00	72.72	1,163.52
153. Job-site cargo/storage container - 20' long - per month	2.00 MO	0.00	87.83	175.66
154. Job-site moving container - pick up/del. (ea. way) 16'-20'	2.00 EA	0.00	118.79	237.58
Totals: Initial Services				6,424.76

General Items

DESCRIPTION	QNTY	REMOVE	REPLACE	TOTAL
155. Asbestos test fee - full service asbestos survey	1.00 EA	0.00	475.00	475.00
156. Lead test fee - full service lead survey	1.00 EA	0.00	420.00	420.00
157. Notice of intent and affidavits	2.00 EA	0.00	50.00	100.00
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CONTINUED - General Items

DESCRIPTION	QNTY	REMOVE	REPLACE	TOTAL
158. Commercial Supervision / Project Management - per hour	40.00 HR	0.00	71.27	2,850.80
159. Single axle dump truck - per load - including dump fees	2.00 EA	303.09	0.00	606.18
Totals: General Items				4,451.98
Line Item Totals: FIELD_HOUSE_PW				65,011.65

Grand Total Areas:

7,695.01 SF Walls	4,990.84 SF Ceiling	12,685.85 SF Walls and Ceiling
5,021.74 SF Floor	557.97 SY Flooring	975.71 LF Floor Perimeter
0.00 SF Long Wall	0.00 SF Short Wall	986.56 LF Ceil. Perimeter
5,021.74 Floor Area	5,341.62 Total Area	7,385.30 Interior Wall Area
3,364.00 Exterior Wall Area	379.50 Exterior Perimeter of Walls	
0.00 Surface Area	0.00 Number of Squares	0.00 Total Perimeter Length
0.00 Total Ridge Length	0.00 Total Hip Length	

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Summary

Line Item Total			65,011.65
Overhead	@	10.0%	6,501.26
Profit	@	10.0%	6,501.26
Sales Tax	@	9.500%	7,411.37
Replacement Cost Value			\$85,425.54
Net Claim			\$85,425.54

Brian Jones
 Senior Project Manager

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Recap by Room

Estimate: FIELD_HOUSE_PW

Area: Basement

Tumbling Room	13,047.65	20.07%
Recreation Room	16,221.01	24.95%
Kitchen	5,331.13	8.20%
IT Closet	114.67	0.18%
Foyer	921.05	1.42%
Staff Rm	158.64	0.24%
Rear Entry	680.10	1.05%
Classroom	9,231.08	14.20%
Storage Area/Room	6,081.22	9.35%
Mechanical Room	460.79	0.71%
Shower Room	1,640.00	2.52%
Hallway	99.79	0.15%
Stairs1	33.19	0.05%
Entry Landing	114.59	0.18%

Area Subtotal: Basement	54,134.91	83.27%
Initial Services	6,424.76	9.88%
General Items	4,451.98	6.85%

Subtotal of Areas	65,011.65	100.00%
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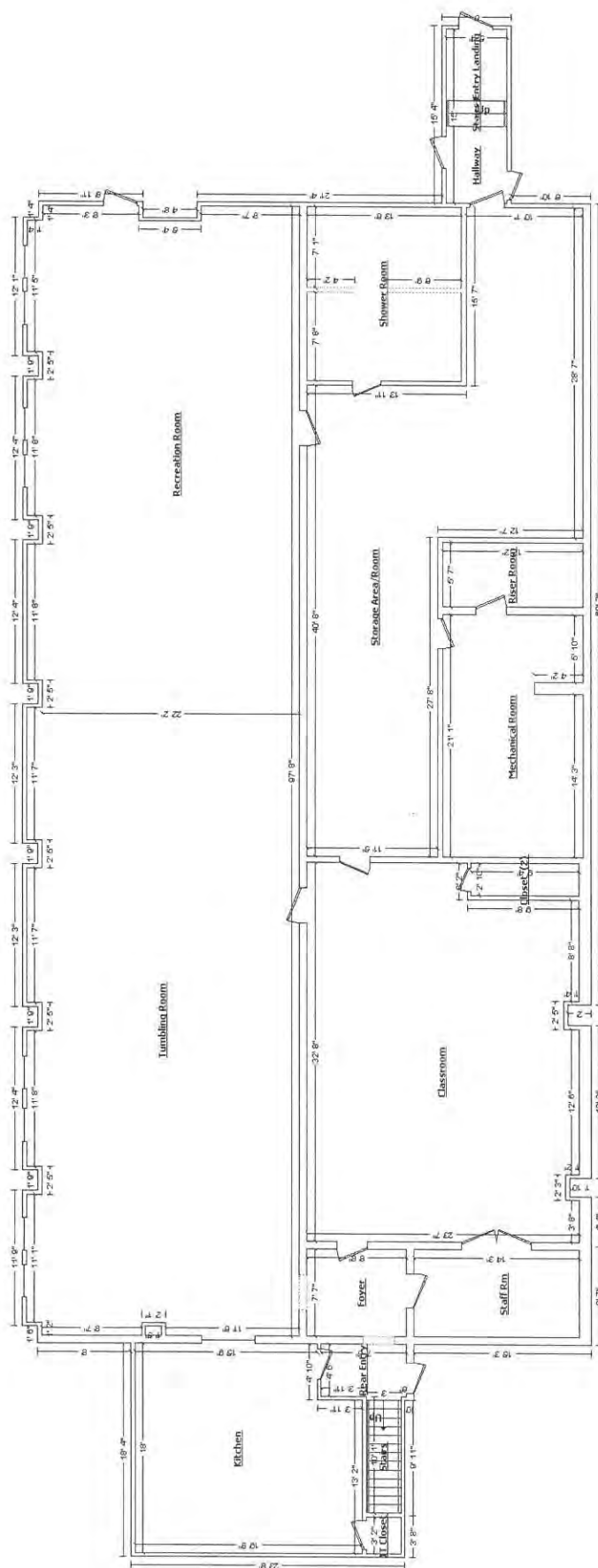
Total	65,011.65	100.00%
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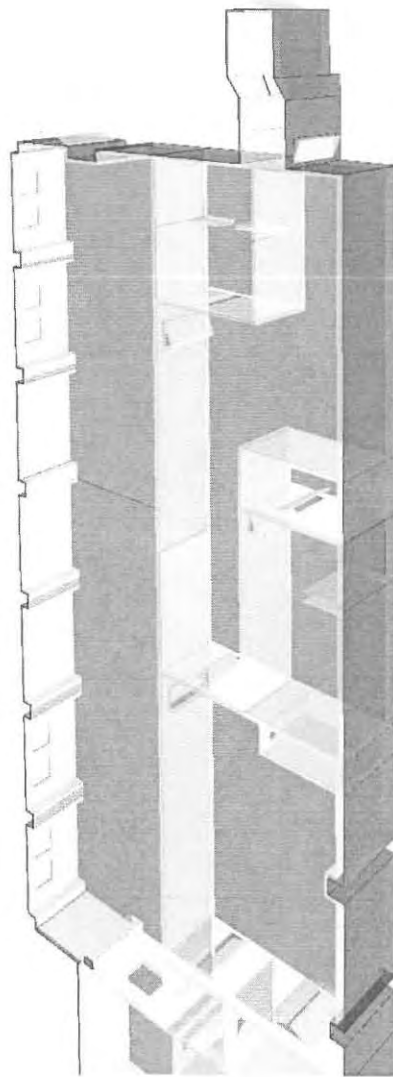
Belfor USA Group, Inc.

4320 South 131st Place, Suite 100
 Seattle, Washington 98168
 Ph# 206-632-0800
 Fax# 206-547-0800

Recap by Category

O&P Items			Total	%
CLEANING			3,159.14	3.70%
CONTENT MANIPULATION			7,230.74	8.46%
GENERAL DEMOLITION			6,748.97	7.90%
DRYWALL			1,047.54	1.23%
FLOOR COVERING - VINYL			22,623.34	26.48%
PERMITS AND FEES			995.00	1.16%
FINISH CARPENTRY / TRIMWORK			405.04	0.47%
FRAMING & ROUGH CARPENTRY			208.22	0.24%
INSULATION			149.38	0.17%
LABOR ONLY			2,850.80	3.34%
PANELING & WOOD WALL FINISHES			2,208.30	2.59%
PAINTING			11,146.74	13.05%
WATER EXTRACTION & REMEDIATION			6,238.44	7.30%
O&P Items Subtotal			65,011.65	76.10%
Overhead	@	10.0%	6,501.26	7.61%
Profit	@	10.0%	6,501.26	7.61%
Sales Tax	@	9.500%	7,411.37	8.68%
Total			85,425.54	100.00%





AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: HIGHLINE COMMUNITY
COLLEGE MEN'S BASKETBALL
PROCLAMATION

ATTACHMENT:
1. Proclamation

AGENDA OF: May 22, 2014

DEPT. OF ORIGIN: Legislative

DATE SUBMITTED: May 13, 2014

CLEARANCES:

- ☐ Legal _____
- ☐ Finance _____
- ☐ Marina _____
- ☐ Parks, Recreation & Senior Services _____
- ☐ Planning, Building & Public Works _____
- ☐ Police _____

APPROVED BY CITY MANAGER
FOR SUBMITTAL: 

Purpose and Recommendation:

The purpose of this agenda is to recognize and congratulate the Highline Community College Basketball Team for demonstrating excellence and teamwork at the Northwest Athletic Association of Community Colleges (NWAACC) 2014 Playoffs.

Suggested Motion

MOTION: "I move to approve the Proclamation recognizing the achievements of the Highline Community College Men's Basketball team at the NWAACC Playoffs March 1-3, 2014."

Background:

The Highline Men's Basketball team finished 3rd at the post season tournament for the NWAACC. It is the best finish for the Thunderbirds since 2006 when Highline won the NWAACC Championship. Posting a 23-8 record with only two sophomores on the roster, the team had the unusual challenge of becoming a cohesive, mature and focused group on and off the court. The team did that remarkably. Throughout the season the Thunderbirds dealt with inevitable adversity in the manner necessary for team and individual success. Because of that, the Thunderbirds came extremely close to achieving their potential as a group. The Thunderbirds also have the highest collective team grade point average of any team in Coach Dawson's 11 year tenure at well over a 3.0. Four Thunderbirds are maintaining above a 3.5 grade point average.

City of Des Moines



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



Proclamation

WHEREAS, participation in a partnership combining academic and varsity athletic competition at the college level is an opportunity available to a limited number of individuals, and

WHEREAS, there is an added responsibility for the participants to balance and maintain priorities while making the experience a meaningful one, and

WHEREAS, they represent themselves, their coaches, the athletic program, the student body and their community's college as athletes and college students while competing against teams throughout Washington, and

WHEREAS, what they accomplish in their athletic competition creates pride for their school and their community, now therefore;

THE DES MOINES CITY COUNCIL HEREBY PROCLAIMS and congratulates the Highline Community College Men's Basketball team for placing 3rd in the NWAACC 2014 Playoffs and encourages all citizens, business owners and public officials of Des Moines to offer their congratulations to Highline Community College's men's Basketball team members and coaches for their accomplishments.

Team Roster:

Harold Lee, Madison McCaffrey, Joseph Stroud, Daryon James, Jalen McGruder, Xavier Johnson, Ben Tucakovic, Isom Brown, Martel Taylor-Barone, Doug McDaniel, Jimmy Keum, Ryan Swanstrom

Coaching Staff:

Che Dawson, Dave Denny, Clarence Ryan and Jason Mgebroff

Athletic Director:

John Dunn

SIGNED this 22nd day of May, 2014

Dave Kaplan, Mayor

A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Bun Hwa, Inc Condemnation;
Transportation Gateway Project

FOR AGENDA OF: May 22, 2014

DEPT. OF ORIGIN: Legal

ATTACHMENTS:

1. Notice of Planned Final Action

DATE SUBMITTED: May14, 2014

CLEARANCES:

- ☒ Legal RG
☐ Finance N/A
☐ 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 SA

Purpose and Recommendation

The purpose of this item is to request that final action on Draft Ordinance No. 14-088 be set over to June 5, 2014 to allow time for notice by publication.

Suggested Motion

Motion: "To continue final action on Draft Ordinance No. 14-088 to a second reading for enactment on June 5, 2014."

Background

"Notice of Planned Final Action" was sent by regular and certified mail (return receipt requested) to the parties of record for the gas station at 21449 Pacific Highway S shown on the title insurance, the name and address of the agent for service on file with the Secretary of State (that same site now shows the Bun Hwa Corporation as active and "expired" as of 3/31/2014) and based on information on the City's business license. All but two of the letters sent by regular mail were returned; of the letters sent by certified mail two have been signed for, two were returned as "Not Deliverable as Addressed/Unable to Forward," and two have not yet been acknowledged as received or returned by the Post Office.

RCW 8.25.2902(b)(1) states:

(b)(i) Notice of a planned final action described in subsection (1) of this section shall also be given by publication in the legal newspaper with the largest circulation in the jurisdiction where such property is located once a week for two successive weeks before the final action. A second publication must also be given in the legal newspaper routinely used by the potential condemnor, where such newspaper does not also have the largest circulation in the jurisdiction. Proof of circulation shall be established by publisher's affidavit filed with the potential condemnor. Such publication shall be deemed sufficient notice in lieu of a certified letter for each property owner of record for the property whose address is unknown and cannot be ascertained after a diligent inquiry.

To ensure that no procedural issues are raised as we proceed to superior court in this matter we would ask for additional time to complete notice by publication.

NOTICE OF PLANNED FINAL ACTION
City of Des Moines Eminent Domain Proceedings
(RCW 8.25.290)

Subject Property:	21449 Pacific Highway S. Des Moines, WA 98198
King Co. Tax Parcel No.:	092204-9232
Record Property Owner on County Tax Roll:	Bun Hwa, Inc.

NOTICE IS HEREBY GIVEN that the Des Moines City Council, condemnor, will consider taking final action by approval and passage of a condemnation ordinance that will authorize the City Attorney to commence eminent domain (condemnation) proceedings against the above-described subject property.

The date, time, and location fixed for Council consideration of this proposed condemnation ordinance is Thursday, May 22, 2014 and Thursday June 5, 2014 (for final action) at 7:00 p.m. in the Des Moines City Council Chambers, located at 21630 11th Avenue So., Suite B, Des Moines, WA 98198.

/s/ Bonnie Wilkins
Des Moines City Clerk

A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Public Hearing for Draft Ordinance No. 14-043 related to the cutting and removal of trees.

ATTACHMENTS:

1. Draft Ordinance No. 14-043 related to the cutting and removal of trees.
2. Responses to Councilmember Burrage's Questions
3. GIS Maps
4. Department of Natural Resources Don't Top Trees Flyer

FOR AGENDA OF: May 22, 2014

DEPT. OF ORIGIN: Planning, Building and Public Works

DATE SUBMITTED: May 12, 2014

CLEARANCES:

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

APPROVED BY CITY MANAGER
FOR SUBMITTAL: 

Purpose and Recommendation

The purpose of this Agenda Item is for City Council to consider Draft Ordinance No. 14-043 (Attachment 1), relating to the cutting and removal of trees on private developed sites, private undeveloped sites, City-owned property and right-of-way, and environmentally critical areas; amending chapters 12.05, 14.20, 16.01, 17.01, 17.35, 18.01, and 18.95 of the Des Moines Municipal Code (DMMC) to add new definitions and development regulations; repealing DMMC 18.95.130 and section 424 of Ordinance No. 1591; and finding that the revised development regulations meet the statutory requirements of RCW 36.70A.106.

Suggested Motions

Motion 1: "I move to suspend City Council Rule 26(a) to consider Draft Ordinance 14-043 on first reading."

Motion 2: "I move to enact Draft Ordinance No. 14-043 relating to the cutting and removal of trees on private developed sites, private undeveloped sites, public properties, City-owned property and right-of-way, and environmentally critical areas; amending chapters 12.05, 14.20, 16.01, 17.01, 17.35, 18.01, and 18.95 of the Des Moines Municipal Code and repealing DMMC 18.95.130 and section 424 of Ordinance No. 1591."

Alternate Motion: “I move to pass Draft Ordinance No. 14-043 to a second reading on _____ or as soon thereafter as the matter may be heard.”

Background

At the November 14th, 2013 Environment Committee, Administration provided an overview of how the Community Development Division interprets the DMMC requirements related to requests by citizens and others to prune, top, or remove trees within the City of Des Moines. Below is a summary of the direction the Committee provided as it relates to the following categories of sites:

- **Trees on private developed sites** – No permit required, provided that the tree(s) are not located within a designated critical area, shoreline environment, or required landscaping area.
- **Trees on private undeveloped sites** – Limited to removal of dead, diseased, or hazard trees, subject to approval of a land clearing, grading, and filling permit. Limited tree pruning is allowed using methods approved by the International Society of Arboriculture (ISA) that do not destroy the integrity of the tree. The Committee’s position was that indiscriminant removal of trees would increase runoff potential and create an implied view protection.
- **Trees on city-owned property** – Limited to removal of dead, diseased or hazard trees, subject to approval of a land clearing, grading, and filling permit. Limited tree pruning is allowed using methods approved by the International Society of Arboriculture (ISA) that do not destroy the integrity of the tree.
- **Trees on city right-of-way** - Subject to approval of a right-of-way use permit, provided that the tree/s are not located within a designated critical area, shoreline environment, or required landscaping area . Limited tree pruning is allowed using methods approved by the International Society of Arboriculture (ISA) that do not destroy the integrity of the tree.
- **Trees within environmentally critical areas, shoreline environments, and required landscaping (private/public properties)** – Subject to approval of a land clearing, grading, and filling permit and threshold/disturbance limits per Environmentally Critical Areas Ordinance (Chapter 16.10 DMMC, formerly Chapter 18.86), Shoreline Master Program (Chapter 16.20 DMMC, formerly Chapter 18.90), and Landscaping and Screening (Chapter 18.195 DMMC, formerly Chapter 18.41).

Discussion

Draft Ordinance No. 14-043 amends sections of Titles 12, 14, 16, 17, and 18 DMMC to reflect the policy direction above, addresses areas of ambiguity, removes areas of contradiction, and provides greater overall clarity on how the City regulates the cutting and maintenance of trees in the City, including but not limited to the following:

- Adds specific terms and definitions related to tree cutting and tree pruning that are consistent throughout the Code.
- Further clarifies when a permit is **not required** per DMMC 14.20.180 Exemptions (formerly 14.24.170), and defines the criteria by which an activity would be exempt (see examples below):
 - Normal tree pruning and maintenance or removal of trees on **private developed or partially developed lots**, provided the tree is not located within an environmentally critical area, shoreline environment or required landscape buffer.
 - Normal tree pruning, maintenance or removal of trees on **private undeveloped lots** provided:

- The tree is not located within an environmentally critical area, shoreline environment or required landscape buffer;
 - Tree pruning is limited to not more than 25% of a tree's total leaf area and the tree pruning conforms to the International Society of Arboriculture standards ; and
 - Tree removal is limited to small evergreen trees six inches (6") or less diameter and small deciduous trees eight inches (8") or less in diameter as measured at 54 inches (4 ½ feet) above the ground.
- Further clarifies when a permit **is required** per Chapter 14.20 Land Filling, Clearing and Grading Code (formerly 14.24) DMMC and define criteria such as construction work and work in environmentally critical areas and shoreline environments:
 - Provides criteria that would trigger a permit such as when a property is located within an environmentally critical area or shoreline area.
 - Establishes a minor grading/tree review application and associated fee.
 - Establishes criteria for granting a tree permit such as hazardous, dead and diseased trees and tree removal to enable construction work to commence.
 - Identifies seasonal restrictions that may apply.
 - Establishes and modifies replacement ratios that may apply (currently defined per Title 17 Subdivision Code).
 - Repeals DMMC 18.195.130 Scenic view preservation (formerly 18.41.110), which currently contradicts State Law.

Based on the ordinance that is ultimately adopted, staff will prepare a Public Assistance Memo (PAM) to clarify how the City interprets the code as it relates to the cutting and maintenance of trees.

- The PAM will clarify the intent of language in the Des Moines Municipal Code (DMMC) Titles 12, 14, 16, 17, and 18 DMMC related to the tree pruning or removal of trees on private developed sites, private undeveloped sites, public properties, City-owned property and right-of-way, and environmentally critical areas. In addition, it will identify federal or state requirements that people should be aware of (i.e., Endangered Species Act, Bald Eagle Protection Act, Migratory Bird Treaty Act and DNR Forest Practices regulations) and provide links to Washington Department of Fish and Wildlife Priority Habitat and Species maps.
- The PAM is intended as a user-friendly hand-out that can be obtained at the front counter or on-line to help citizens, property owners, developers and others understand what is allowed, what is exempt and what is required.

Staff received some questions about the Draft Ordinance from Councilmember Burrage. Her questions along with staff response are included in Attachment 2.

A series of GIS maps depicting geologically hazardous areas, slopes and topography, conservations areas, and others are included as Attachment 3.

A Department of Natural Resources informational flyer on tree topping is included as Attachment 4.

Financial Impact

Code amendments intended by Draft Ordinance No. 14-043 will provide more clarity related to the cutting of trees on private and public property. It will also help control indiscriminate cutting of trees, particularly in environmentally critical areas (i.e., steep slopes, landslide hazard areas) and shoreline zones there is greater potential for impact to the environment, loss or damage to property, or creation of a public safety hazard that can have negative financial implications.

Alternatives

The City Council may:

1. Enact Draft Ordinance No. 14-043.
2. Enact Draft Ordinance No. 14-043 with amendments.
3. Decline to enact Draft Ordinance No. 14-043.

Recommendation or Conclusion

Staff recommends that City Council enact Draft Ordinance No. 14-043.

CITY ATTORNEY'S FIRST DRAFT 05/13/2014

DRAFT ORDINANCE NO. 14-043

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON revising and updating City of Des Moines development regulations relating to the cutting and removal of trees on private developed sites, private undeveloped sites, public properties, City-owned property and right-of-way, and environmentally critical areas; amending chapters 12.05, 14.20, 16.01, 17.01, 17.35, 18.01, and 18.95 of the Des Moines Municipal Code (DMMC) to add new definitions and development regulations; repealing DMMC 18.95.130 and section 424 of Ordinance No. 1591; adding and codifying a new section in chapter 12.05 DMMC, and finding that the revised development regulations meet the statutory requirements of RCW 36.70A.106.

WHEREAS, tree cutting, tree removal and tree retention are regulated pursuant to the Use and Maintenance of Public Rights-of-Way (chapter 12.05), Land Filling, Clearing and Grading Code (chapter 14.20 DMMC), Environmentally Critical Areas Code (chapter 16.10), Shoreline Master Program (chapter 16.20 DMMC), Layout and Design of Subdivisions and Similar Requirements (chapter 17.35), and Landscaping and Screening Requirements (chapter 18.195 DMMC), and

WHEREAS, there is no clear policy or development criteria in the DMMC regarding "best management practices" for the cutting of trees, and

WHEREAS, the City researched and assessed the experience of other jurisdictions in regard to standards and requirements for regulating the cutting of trees, and

WHEREAS, the City Council Environment Committee held three meetings to consider the matter and provided guidance on the development of Draft Ordinance No. 14-043, and

WHEREAS, the changes proposed by this ordinance have been processed in accordance with the requirements of the State Environmental Policy Act (SEPA), a final determination of non-significance was issued by the SEPA responsible official, and published on April 28, 2014, in the *Seattle Times*, and the appropriate comment period expired on May 12, 2014, and the appeal period concluded on May 22, 2014, and

Ordinance No. ____
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WHEREAS, notice of the public hearing was given to the public in accordance with the law and a public hearing was held on the 22nd day of May, 2014 and all persons wishing to be heard were heard, and

WHEREAS, a notice of intent to adopt the proposed code amendments was sent to the Washington State Department of Commerce for a 15-day expedited review and comment period in accordance with State law, and

WHEREAS, the City Council finds that the amendments contained in this ordinance are appropriate and necessary for the protection of sensitive, unique, fragile and valuable features of the City's environment and protecting the public health, safety and welfare against loss or damage from the indiscriminant cutting of trees in the City; now therefore,

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

Sec. 1. DMMC 12.01.050 and section 5 of Ordinance No. 1578 are each amended to read as follows.

As used in this chapter, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings. Words not defined shall have the meanings set forth in the most recent version of the Merriam-Webster Dictionary.

"Assessment reimbursement area" means all real properties that will benefit from a street system improvement.

"Campus" means a development site under a single public or private ownership, upon which a structure or structures exist. By way of illustration and not limitation, a campus includes a public or private school, a multifamily development, a retirement housing facility, a nursing home facility, a continuing care retirement community, a boarding home, a hospital, a recreational facility, a business park, and a shopping center.

Ordinance No. ____
Page 3 of 74

"Certified arborist" means an individual who has achieved a level of knowledge in the art and science of tree care through experience and by passing a comprehensive examination administered by the International Society of Arboriculture or urban forestry program.

"Citation and notice" means a written document initiating a criminal proceeding after an arrest and issued by an authorized peace officer, in accordance with the Criminal Rules for Courts of Limited Jurisdiction.

"Complaint" means a written document certified by the City Attorney initiating a criminal proceeding in accordance with the Criminal Rules for Courts of Limited Jurisdiction.

"Department" means the Planning, Building and Public Works Department.

"Developer" means the owner, developer, and/or building permit applicant who is required by any ordinance of the City, or as the result of review under state law, or in connection with any discretionary decision of the City Council to construct street system improvements which do not abut the development site ("off-site street system improvements").

"Development" means a private improvement to real property requiring electrical or communication services including, but not limited to, such services being distributed to subdivisions, short subdivisions, planned unit developments, or single-family or commercial building sites.

"Development activity" means any work, condition, or activity which requires a permit or approval under Titles 11, 12, 14, 16, 17 or 18 DMMC.

"Development site" means the lot or lots upon which real property improvements are proposed to be constructed.

"Directive memorandum" means a letter from the City to a right-of-way use permittee, notifying the recipient of specific nonconforming or unsafe conditions and specifying the date by which corrective action must be taken.

Ordinance No. ____
Page 4 of 74

"Electrical or communication systems" means facilities carrying electrical energy, including, but not limited to, electric power, telephone, and cable television services; provided, however, that the term shall not include the following facilities:

| (~~a~~1) Electrical utility substations, pad-mounted transformers, and switching facilities not located on the public right-of-way;

| —(2~~b~~) Electrical transmission systems of a voltage of 55 kV or more;

| —(~~e~~3) Street lighting standards;

| —(~~d~~4) Telephone pedestals, cross-connect terminals, repeaters, and cable warning signs;

| —(~~e~~5) Municipal equipment, including but not limited to traffic control equipment, and police and fire sirens;

| —(~~f~~6) Temporary services for construction or replacement of existing overhead facilities due to damage by natural or man-made causes.

"Franchised utilities" means utilities that have City approval to use City right-of-way for the purpose of providing their services within the City, whether by written franchise granted by the City or otherwise.

"Frontage" means that portion of the development site abutting public right-of-way; provided, however, in the case of development sites which are not substantially rectangular, such as "pipe-stem" lots, the frontage shall be equal to the greatest linear distance of the lot which is parallel to the public right-of-way. In the case of corner lots, "frontage" means any portion of the development site abutting any public right-of-way.

"Fronting" means abutting a public right-of-way or public rights-of-way.

Ordinance No. ____
Page 5 of 74

"Land clearing" means the act of removing, topping or destroying trees, topsoil, or ground cover from any undeveloped or partially developed lot, environmentally critical areas, shoreline environments, public lands, or public right-of-way.

"Minor addition, rebuild, replacement, or relocation" includes the installation of secondary conductors, changing wire size or type, pole replacement, relocation of poles at a distance of not more than 50 feet, replacing secondary wire with primary wire to serve not more than two new customers, hardware replacement on existing poles, and the like.

"New electrical or communication service" means installation of service lines to a building where none existed before, and shall not include restorations and repairs.

"Nonconforming paved street surface" means asphaltic concrete or cement concrete street surface that does not conform with the current "City of Des Moines Street Development Standards," but that the Planning, Building and Public Works Director finds to be adequate for projected vehicular traffic.

"Nonprofit" means not for a monetary gain unless for charitable purposes.

"Notice of violation" means a document mailed to a permittee or unauthorized user and posted at the site of a nonconforming or unsafe condition.

"Off-site street system improvements" means street system improvements required to be similarly constructed on public right-of-way between the development site and a paved street surface.

"On-site street system improvements" means street system improvements that are required to be constructed on public right-of-way adjacent to the frontage of the development site and extending to the centerline of the public right-of-way.

"Oral directive" means a directive given orally by City personnel to correct or discontinue a specific condition.

Ordinance No. ____
Page 6 of 74

"Paved street surface" means street surface that is either standard street surface or nonconforming paved street surface.

"Permit" means a document issued by the City granting permission to engage in an activity not allowed without a permit.

"Planning, Building and Public Works Director" means the Planning, Building and Public Works Director or his/her designated representative.

"Private use" means use of the public right-of-way for the benefit of a person other than as a thoroughfare for any type of vehicles, pedestrians, or equestrians.

"Procedure" means a procedure adopted by the Planning, Building and Public Works Director, to implement this chapter, or to carry out other responsibilities as may be required by state law, this chapter or by other codes, ordinances, or resolutions of the City or other agencies.

"Real property improvements" means:

——(a1) Construction of a structure on an unimproved lot, except for one single-family residence;

——(b2) Additions, alterations, or repairs to an existing structure other than one single-family residence, where square footage is added to the structure, or the construction of accessory buildings as defined in Title 18 DMMC, except for one single-family residence; or

——(c3) Construction of an additional structure or structures on a campus.

"Right-of-way" means all public streets, alleys, and property granted or reserved for, or dedicated to, public use for streets and alleys, together with public property granted or reserved for, or dedicated to, public use for walkways, sidewalks, trails, shoulders, drainage ditches, bike ways and horse trails, whether improved or unimproved, including the air rights, subsurface rights, and easements related thereto.

Ordinance No. ____
Page 7 of 74

"Sidewalk routes" means sidewalk routes shown on a map prepared by the Planning, Building and Public Works Director and adopted by the City Council by resolution or by ordinance pursuant to the Comprehensive Plan.

"Significant trees" means healthy evergreen trees six inches (6") in diameter or greater as measured at fifty-four inches (54") above the ground, and healthy deciduous trees (excluding alders, European ashes, cottonwoods and willows) eight inches (8") in diameter or greater as measured at fifty-four inches (54") above the ground.

"Standard street surface" means street surface that is paved in accordance with current "City of Des Moines Street Development Standards."

"Stop work notice" means a notice posted at the site of an activity that requires all work to be stopped until the City approves continuation of work.

"Street assessment reimbursement contract" means contracts authorized by chapter 35.72 RCW, for street system improvements.

"Street system improvements" include a half street section of street pavement (including appropriate subpaving preparation), surface water drainage facilities, sidewalks where required, curbs, gutters, street lighting, right-of-way landscaping (including street trees where required), and other similar improvements as required by the "City of Des Moines Street Development Standards."

"Street use official" means the designated employees of the Planning, Building and Public Works Department responsible for inspecting the installation of warning and safety devices in the public right-of-way and restoration of public rights-of-way disturbed by work.

"Surface water drainage facilities" means piped and covered surface water drainage, including catch basins, and such detention, retention, and biofiltration as the Planning, Building and Public Works Director shall require in accordance

Ordinance No. ____
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with sound engineering principles and the adopted ordinances and policies of the City.

"Tree pruning" means to cut branches from a tree using practices approved by the International Society of Arboriculture to maintain a tree in a healthy and safe condition.

"Tree topping" means the indiscriminate cutting of tree branches to stubs or lateral branches that are not large enough to assume the terminal role. Other names for topping include but are not limited to "heading," "tipping," "hat-racking," and "rounding over."

"Underground location service" means the underground utilities location center that will locate all underground utilities prior to an excavation.

"Unpaved street surface" means street surface that is neither standard nor nonconforming paved street surface.

"Unsafe condition" means any condition which the Planning, Building and Public Works Director determines is a hazard to health, or endangers the safe use of the right-of-way by the public, or does or may impair or impede the operation or functioning of any portion of the right-of-way, or which may cause damage thereto.

"Vegetation" means the general plant life and the groundcover provided by plants, including trees.

NEW SECTION. Sec. 2. A new section is added to chapter 12.05 DMMC to read as follows:

Trees on City property and right-of-way.

(1) Removal of dead, diseased or hazard trees on City right-of-way is subject to approval of a right-of-way use permit.

(2) Removal of trees or tree pruning on City right-of-way is subject to approval of a right-of-way use permit.

Ordinance No. ____
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(3) Removal or tree pruning within environmentally critical areas, shoreline environments, and required landscaping located on private or public properties are subject to approval of a land clearing, grading, and filling permit and threshold/disturbance limits established in the Environmentally Critical Area regulations (chapter 16.10 DMMC), Shoreline Master Program (chapter 16.20 DMMC), and Landscaping and Screening (chapter 18.195 DMMC).

Sec. 3. DMMC 14.20.050 and section 57 of Ordinance No. 1581 are each amended to read as follows.

As used in this chapter, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.

"Bench terrace" means an embankment or combination of an embankment and channel constructed across a slope which has a bench-like cross-section and whose purpose is to control erosion by diverting or storing surface water runoff instead of permitting it to flow uninterrupted down the slope.

"Certified arborist" means an individual who has achieved a level of knowledge in the art and science of tree care through experience and by passing a comprehensive examination administered by the International Society of Arboriculture or urban forestry program.

"Construction site" means a contiguous area owned and operated as one development unit upon which earth-disturbing activities are planned or underway.

"Developer" means a person engaged in constructing any street, utilities, commercial, industrial, or residential structures.

"Development activity" means any work, condition, or activity which requires a permit or approval under Titles 11, 12, 14, 16, 17 or 18 DMMC.

"Drainage" means the removal of excess water from land either by surface or subsurface means.

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

"Excavation" or "cut" means the physical manmade removal of earth material.

"Existing grade" means the vertical location of the existing ground surface before excavation or filling.

"Fill" means a deposit of earth or waste materials by artificial means.

"Grading" means any stripping, excavating, and filling, including hydraulic fill, stockpiling, or any combination thereof and includes the land in its excavated or filled condition.

"Ground cover" means land plants growing on the earth's surface and/or their remains and includes trees less than four inches in diameter measured at 24 inches above the ground level.

"Land clearing" means the act of removing, topping or destroying trees, topsoil, or ground cover from any undeveloped or partially developed lot, environmentally critical areas, shoreline environments, public lands, or public right-of-way.

"Partially developed lot" means a lot or parcel of land upon which a usable structure is located and which is of sufficient area so as to be capable of subdivision in accordance with the subdivision code.

"Plan" means a proposed method of achieving an end; including, but not limited to, specifications for design, implementation, and maintenance.

"Sediment" means solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.

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"Sedimentation" means the deposition of sediment.

"Significant trees" means healthy evergreen trees six inches (6") in diameter or greater as measured at fifty-four inches (54") above the ground, and healthy deciduous trees (excluding alders, European ashes, cottonwoods and willows) eight inches (8") in diameter or greater as measured at fifty-four inches (54") above the ground.

"Site alteration" means grading, excavating, filling, or other alterations of the earth's surface where material or manmade ground cover is destroyed and which may result in or contribute to erosion and sedimentation.

"Slope" means an inclined ground surface the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

"Soil" means unconsolidated mineral and organic material on the immediate surface of the earth, overlying bedrock that serves as a natural medium for the growth of land plants.

"Surface runoff" means water flowing over the ground surface.

"Tree" means a living woody plant characterized by one main stem or trunk and many branches, and having a diameter of four inches or more measured at 24 inches above ground level.

"Tree pruning" means to cut branches from a tree using practices approved by the International Society of Arboriculture, to maintain a tree in a healthy and safe condition.

"Tree topping" means the indiscriminate cutting of tree branches to stubs or lateral branches that are not large enough to assume the terminal role. Other names for topping include but are not limited to "heading," "tipping," "hat-racking," and "rounding over."

"Undeveloped lot" means a lot or parcel of land upon which no usable structure exists.

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"Vegetation" means the general plant life and the groundcover provided by plants, including trees.

Sec. 4. DMMC 14.20.060 and section 58 of Ordinance No. 1581 are each amended to read as follows.

Except as otherwise exempted by DMMC 14.20.180, no grading, filling, or land clearing within the City shall be performed by any person, corporation, or other legal entity without first having obtained a land clearing, grading and filling permit from the code official pursuant to DMMC 14.20.070 through 14.20.170 and the following requirements:-:

(1) A grading permit does not include the construction of retaining walls or other structures.

(2) Removal of dead, diseased or hazard trees on City-owned property is subject to approval of a land clearing, grading, and filling permit.

(3) Removal of dead, diseased or hazard trees on ~~city~~City right-of-way is subject to approval of a right-of-way use permit.

(4) Removal of trees or tree pruning on ~~city~~City right-of-way is subject to approval of a right-of-way use permit, provided that the tree/s are not located within a environmentally critical area, shoreline environment, or required landscaping area.

(5) Removal of trees or tree pruning within environmentally critical areas, shoreline environments, and required landscaping located on private or public properties are subject to approval of a land clearing, grading, and filling permit and threshold/disturbance limits established in the Environmentally Critical Area regulations (chapter 16.10 DMMC), Shoreline Master Program (chapter 16.20 DMMC), and Landscaping and Screening (chapter 18.195 DMMC).

Sec. 5. DMMC 14.20.150 and section 67 of Ordinance No. 1581 are each amended to read as follows.

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Permits authorized under this chapter shall conform to the following provisions unless otherwise recommended or as approved by the City Manager or the City Manager's designee:

(1) Excavations. The slope of cut surfaces shall be no steeper than is safe for the intended use, and shall be no steeper than two horizontal to one vertical (50 percent) unless the applicant furnishes a soils report justifying a steeper slope.

(2) Fills. Unless otherwise recommended in the soils report and approved by the City Manager or the City Manager's designee, fills shall conform to the following provisions:

(a) The ground surface shall be prepared to receive fill by removing vegetation, top soil, and any other unsuitable materials (oversized rock, concrete slabs, tree stumps, brush, and old car bodies, etc.) and scarifying the ground to provide a bond with the fill material.

(b) Fill material shall not include organic, frozen or other deleterious materials. No rock or similar irreducible material greater than 12 inches (305 mm) in any dimension shall be included in fills.

(c) All fill material shall be compacted to 90 percent of maximum density as determined by ASTM D1557, Modified Proctor, in lifts not exceeding 12 inches (305 mm) in depth.

(d) The slope of fill surfaces shall be no steeper than is safe for the intended use. Fill slopes steeper than two horizontal to one vertical (50 percent) shall be justified by soils reports or engineering data.

(3) Erosion/~~S~~sedimentation ~~C~~ontrol. All disturbed areas, including faces of cut and fill slopes, shall be prepared and maintained to control erosion/sedimentation in accordance with the specifications of the surface water design manual.

(4) Setbacks. The crests and toes of cut and fill slopes shall be set back from property boundaries by at least 25 feet to prevent damages resulting from surface runoff or erosion-sedimentation from the slopes. The top and the toes of cut and

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fill slopes shall be set back from structures by at least one-half the height of the slope plus 25 feet for adequacy of foundation support and to prevent damages resulting from surface runoff or erosion-sedimentation of the slopes.

(5) Excavations to ~~W~~water-~~P~~producing ~~D~~depth. All excavations must be made to a water-producing depth or grade to permit natural drainage. The excavations made to a water-producing depth shall be reclaimed in the following manner:

(a) Depth of the excavation must not be less than two feet measured below the low-water mark.

(b) All banks shall be sloped to the water line no steeper than 2:1.

(c) In no event shall the term "water-producing depth" be construed to allow stagnant or standing water to collect or remain in the excavations.

(6) Bench ~~T~~terrace. Benches at least 10 feet in width shall be back-sloped and shall be established at no more than 10-foot vertical intervals to control surface drainage and debris. Swales or ditches on benches shall have a maximum gradient of one percent.

(7) Hazardous ~~E~~conditions. Signs warning of hazardous conditions, if such exist, shall be affixed at clearly visible locations.

(8) Fencing. Where required by the City Manager or the City Manager's designee to protect life, limb, and property, fencing shall be installed with lockable gates which must be closed and locked when the site is not being attended. The fence must be no less than five feet in height and the fence material shall have no horizontal opening larger than two inches.

(9) Drainage. Provisions shall be made to prevent surface water or seepage from damaging the cut face of excavations or the sloping face of a fill and to carry surface waters that are or might be concentrated as a result of a fill or excavation to a natural watercourse or other means as approved by the City Manager or the City Manager's designee.

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(10) Drainage Rreview. All development activities shall make provisions for drainage pursuant to the requirements of the surface water design manual.

(11) All operations, conditions, and standards of performance shall be subject to the limitations as per required permits.

(12) Environmentally Critical Areas. Any land clearing, grading, or filling activity in an environmentally critical area as defined in Title 16 DMMC is prohibited except for activity conducted in connection with a development exception approved in accordance with the requirements of chapter 18.86 DMMC.

(13) Replacement. Any tree identified to be retained that is removed, destroyed or damaged during land clearing, grading, filling or construction shall be replaced by the applicant with three trees on the subject property:

(a) Replacement trees shall be a minimum size of eight feet in height for evergreen trees, and two inches in caliper for deciduous, and shall be approved by the Planning, Building and Public Works Department. The Planning, Building and Public Works Department may approve smaller trees if it determines they are of specimen quality.

(b) Trees shall be provided in addition to any street trees required under chapter 12.15 DMMC. The exact type and location of street trees shall be determined by the Planning, Building and Public Works Department.

(c) Tree pruning and removal of trees is subject to the requirements of chapter 14.20 DMMC.

Sec. 6. DMMC 14.20.180 and section 70 of Ordinance No. 1581 are each amended to read as follows.

Applicants must receive a written letter of exemption from the City Manager or the City Manager's designee before commencing with the exempted work. Exemption from the permit requirements of this chapter shall not be deemed to grant

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authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.

(1) A grading or land clearing permit shall not be required for any of the following activities; provided, that the clearing and grading activity shall be subject to the minimum requirements specified in this chapter:

(a) The installation and maintenance of fire hydrants, water meters, and pumping stations, and street furniture by the City or its contractors;

(b) Removal of trees and ground cover in emergency situations involving immediate danger to life or property or substantial fire hazards;

(c) Removal of trees or ground cover or dumping of fill on partially developed lots for the purpose of general property and utility maintenance, landscaping, or gardening; provided, that this exemption shall not apply to land clearing, grading, or filling for the purpose of developing the property with substantial permanent improvements such as roads, driveways, utilities, or buildings;

(d) Removal of dead or diseased ground cover or trees;

(e) A grading and filling activity less than a total of 50 cubic yards which does not obstruct a drainage course;

(f) Grading and filling activity to place a building foundation approved under a City building permit and involves less than 120 cubic yards of grading and filling;

(g) Clearing less than 200 square feet;

(h) Cemetery graves;

(i) Refuse disposal sites controlled by other regulations;

(j) Exploratory excavations performed under the direction of a registered design professional. Exploratory

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excavation is not to begin construction of a building prior to receiving a permit (the sole purpose for preparing a soils report).

(k) Removal of trees or routine tree pruning on private developed or partially developed lots in a residential zone, provided that:

(i) Removal of dead, diseased or hazard trees as determined by a certified arborist;

(ii) The tree is not part of a required landscaping area;

(iii) Tree pruning or removal of trees located within environmentally critical areas shall be reviewed in accordance with the environmentally critical areas regulations codified in chapter 16.10 DMMC; and

(iv) Tree pruning or removal of trees located within shoreline environments shall be reviewed in accordance with the shoreline master program codified in chapter 16.20 DMMC.

(l) Removal of trees or routine tree pruning on private undeveloped lots, limited to the following:

(i) Removal of dead, diseased or hazard trees as determined by a certified arborist;

(ii) Removal of small deciduous trees that are less than eight inches (8") in diameter as measured at fifty-four inches (54") above the ground;

(iii) Removal of small evergreen trees that are less than six inches (6") in diameter as measured at fifty-four inches (54") above the ground;

(iv) Tree pruning of not more than 25 percent of a tree's total leaf area;

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(v) Tree pruning conforms to the International Society of Arboriculture standards, to maintain a tree in a healthy and safe condition; and

(vi) Tree pruning or removal of trees located within environmentally critical areas shall be reviewed in accordance with the environmentally critical areas regulations codified in chapter 16.10 DMMC; and

(vii) Tree pruning or removal of trees located within shoreline environments shall be reviewed in accordance with the shoreline master program codified in chapter 16.20 DMMC.

(2) Exemption from the permit requirements of this chapter shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of the City.

Sec. 7. DMMC 16.01.050 and section 5 of Ordinance No. 1583 are each amended to read as follows.

As used in this Title, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.

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

"Area of shallow flooding" means an area designated as AO, or AH Zone on the flood insurance rate map (FIRM). AO Zones have base flood depths that range from one to three feet above the natural ground; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow; AH indicates ponding, and is shown with standard base flood elevations.

"Area of special flood hazard" means the land in the flood plain within a community subject to a one percent or

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greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year (also referred to as the "100-year flood"). Designated on flood insurance rate maps by the letters A or V.

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

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

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

"Buffer" means either: an area adjacent to hillsides which provides the margin of safety through protection of slope stability, attenuation of surface water flows and landslide, seismic, and erosion hazards reasonably necessary to minimize risk to the public from loss of life, well-being, or property damage resulting from natural disasters; or an area adjacent to a stream or wetland which is an integral part of the stream or wetland ecosystem, providing shade; input of organic debris and coarse sediments; room for variation in stream or wetland boundaries; habitat for wildlife; impeding the volume and rate of runoff; reducing the amount of sediment, nutrients, and toxic materials entering the stream or wetland; and protection from harmful intrusion to protect the public from losses suffered

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when the functions and values of stream and wetland resources are degraded.

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

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

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

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

"Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on the FIRM as Zone V1-30, VE or V.

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

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

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

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

These areas include but are not limited to the following:

(a1) Wellhead Protection Areas. Wellhead protection areas may be defined by the boundaries of the 10-year time of ground water travel or boundaries established using alternate criteria approved by the Washington State Department of Health in those settings where ground water time of travel is not a reasonable delineation criterion, in accordance with WAC 246-290-135.

(b2) Sole Source Aaquifers. Sole source aquifers are areas that have been designated by the U.S. Environmental Protection Agency pursuant to the Federal Safe Drinking Water Act.

(c3) Susceptible Ground Water Management Areas. Susceptible ground water management areas are areas that have been designated as moderately or highly vulnerable or susceptible in an adopted ground water management program developed pursuant to chapter 173-100 WAC.

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(~~d~~4) Special ~~P~~rotection ~~A~~reas. Special protection areas are those areas defined by WAC 173-200-090.

(~~e~~5) Moderately or ~~H~~ighly ~~V~~vulnerable ~~A~~aquifer ~~R~~ recharge ~~A~~areas. Aquifer recharge areas that are moderately or highly vulnerable to degradation or depletion because of hydrogeologic characteristics are those areas delineated by a hydrogeologic study prepared in accordance with the state Department of Ecology guidelines.

(~~f~~6) Moderately or ~~H~~ighly ~~S~~susceptible ~~A~~aquifer ~~R~~ recharge ~~A~~areas. Aquifer recharge areas moderately or highly susceptible to degradation or depletion because of hydrogeologic characteristics are those areas meeting the criteria established by the state Department of Ecology.

"Critical areas" includes the following areas and ecosystems:

(~~a~~1) ~~w~~Wetlands;

(~~b~~2) ~~a~~Areas with a critical recharging effect on aquifers used for potable water;

(~~e~~3) ~~f~~Fish and wildlife habitat conservation areas;

(~~d~~4) ~~f~~Frequently flooded areas; and

(~~e~~5) ~~g~~Geologically hazardous areas. "Fish and wildlife habitat conservation areas" does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company. RCW 36.70A.030(5).

"Developable area" means the "site area" less the following areas:

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

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(b2) Environmentally critical areas and their buffers to the extent they are required by the City to remain undeveloped;

(e3) Areas required for storm water control facilities, including but not limited to retention/detention ponds/vaults, biofiltration swales and setbacks from such ponds and swales;

(d4) Areas required by the City to be dedicated or reserved as on-site recreation areas;

(e5) Other areas, excluding setbacks, required by the City to remain undeveloped.

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

"Development activity" means any work, condition, or activity which requires a permit or approval under ~~chapter 2.22 DMMC or~~ Titles 11, 12, 14, 16, 17 or 18 DMMC.

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

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

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

| "Environmentally Critical Areas". See "Critical areas."

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

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

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.

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

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

(a1) Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association;

(b2) State priority habitats and areas associated with state priority species;

(c3) Habitats and species of local importance;

(d4) Commercial and recreational shellfish areas;

(e5) Kelp and eelgrass beds identified by the Washington Department of Natural Resources;

(f6) Herring and smelt spawning areas as outlined in chapter 220-110 WAC and the Puget Sound Environmental Atlas as presently constituted or as may be subsequently amended;

(g7) Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat;

(h8) Waters of the state as defined in Title 222 WAC;

(i9) Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity;

(j10) State natural area preserves and natural resource conservation areas as defined, established, and managed by the Washington State Department of Natural Resources;

(k11) Areas of rare plant species and high quality ecosystems as identified by the Washington State Department of Natural Resources through the Natural Heritage Program; and

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(~~1~~12) Land useful or essential for preserving connections between habitat blocks and open spaces as determined by the City Manager or the City Manager's designee.

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

(~~a~~1) The overflow of inland or tidal waters; and/or

(~~b~~2) The unusual and rapid accumulation of runoff of surface waters from any source.

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

"Flood insurance study (FIS)" means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood insurance rate maps, and the water surface elevation of the base flood.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

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

(~~a~~1) Erosion hazard;

(~~b~~2) Landslide hazard;

(~~e~~3) Seismic hazard; and

(~~d~~4) Other geological events including tsunamis, mass wasting, debris flows, rock falls, and differential settlement.

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

"Hazardous waste" means those solid wastes designated by 40 C.F.R. Part 261, and regulated as hazardous and/or mixed waste by the United States EPA, as described in WAC 173-303-040. "Hillsides" means geological features of the landscape having slopes of 15 percent and greater. To differentiate between levels of hillside protection and the application of development standards, the City categorizes hillsides into four groups: hillsides of at least 15 percent but less than 25 percent; hillsides of at least 25 percent but less than 40 percent; hillsides of 40 percent slope and greater; and hillsides which are ravine sidewalls or bluffs.

"Land clearing" means the act of removing, topping or destroying trees, topsoil, or ground cover from any undeveloped or partially developed lot, environmentally critical areas, shoreline environments, public lands, or public right-of-way.

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

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

(a1) Areas of historic failures, such as:

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

(iib) Those areas mapped by the Washington State Department of Ecology (Coastal Zone Atlas) or the Washington

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State Department of Natural Resources (slope stability mapping) as unstable (U or class 3), unstable old slides (UOS or class 4), or unstable recent slides (URS or class 5); or

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

(~~b~~2) Any area with a combination of:

____ (~~i~~a) Slopes greater than 15 percent;

____ (~~i~~b) Impermeable soils (usually silt and clay) frequently interbedded with granular permeable soils (usually sand and gravel); and

____ (~~iii~~c) Springs or ground water seepage;

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

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

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

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

(~~g~~7) Slopes having gradients steeper than 80 percent subject to rock fall during seismic shaking;

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

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

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

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

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

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

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

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

(a1) Avoiding impacts to environmentally critical areas by not taking a certain action or parts of an action;

(b2) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

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| (e3) Rectifying the impact by repairing, rehabilitating, or restoring the affected environmentally critical area;

| (e4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the development proposal;

| (e5) Compensating for the impact by replacing or enhancing environmentally critical areas, or providing substitute resources; and

| (f6) Monitoring the impact and taking appropriate corrective measures.

"Monitoring" means the collection and analysis of data by various methods for the purposes of understanding and documenting changes in natural ecosystems and features, and includes gathering baseline data, evaluating the impacts of development proposals on the biological, hydrologic, and geologic elements of such systems, and assessing the performance of mitigation measures.

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

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

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

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

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"Open record hearing" means a hearing, conducted by a single hearing body or officer authorized by the local government to conduct such hearings, that creates the local government's record through testimony and submission of evidence and information, under procedures prescribed by the local government by ordinance or resolution. An open record hearing may be held prior to a local government's decision on a project permit to be known as an "open record predecision hearing." An open record hearing may be held on an appeal, to be known as an

"Open record appeal hearing," if no open record predecision hearing has been held on the project permit.

"Ordinary high water mark" means the mark that will be found by examining the bed and banks of a stream or shoreline and ascertaining where the presence and action of waters are so common and usual, and so long maintained in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to topography and vegetation.

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

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

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

(a1) A qualified professional for habitats must have a degree in biology and professional experience related to the subject species.

(b2) A qualified professional for wetlands must have a degree in biology, must have taken a wetlands delineation course approved by the Army Corps of Engineers, and must have professional experience.

(c3) A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the state of Washington.

(d4) A "qualified professional for critical aquifer recharge areas" means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments.

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

"Recreational vehicle" means a vehicle:

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(~~a~~1) Built on a single chassis;

(~~b~~2) Four hundred square feet or less when measured at the largest horizontal projection;

(~~e~~3) Designed to be self-propelled or permanently towable by a light duty truck; and

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

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

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

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

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

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

"Seismic hazard areas" means those areas subject to severe risk of earthquake damage as a result of seismically

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induced ground shaking, slope failure, settlement, soil liquefaction, lateral spreading, or surface faulting. One indicator of potential for future earthquake damage is a record of earthquake damage in the past. Ground shaking is the primary cause of earthquake damage in Washington. The strength of ground shaking is affected primarily by:

- | (a1) The magnitude of an earthquake;
- | (b2) The distance from the source of an earthquake;
- | (e3) The type of thickness of geologic materials at the surface; and
- | (d4) 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.

"Significant trees" means healthy evergreen trees six inches (6") in diameter or greater as measured at fifty-four inches (54") above the ground, and healthy deciduous trees (excluding alders, European ashes, cottonwoods and willows) eight inches (8") in diameter or greater as measured at fifty-four inches (54") above the ground.

"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:

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vertical distance	x 100 =
horizontal distance	
	% 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:

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°

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

"Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the

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placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the "actual start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

"State priority habitats and areas associated with state priority species" means those areas considered priorities for conservation and management. Priority species require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance. Priority habitats are those habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element. Priority

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habitats and species are identified by the state Department of Fish and Wildlife.

"Stream" means an area where surface waters flow sufficiently to produce a defined channel or bed. A defined channel or bed is indicated by hydraulically sorted sediments or the removal of vegetative litter or loosely rooted vegetation by the action of moving water. Stream channels or beds show clear evidence of the passage of water and include, but are not limited to, bedrock channels, gravel beds, sand and silt beds, and defined channel swales. The channel or bed need not contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff devices, or other entirely artificial watercourses unless they are used by salmonids or used to convey streams naturally occurring prior to construction. Swales, which are shallow drainage conveyances with relatively gentle side slopes and generally with flow depths less than one foot, shall be considered streams when hydrologic and hydraulic analyses done pursuant to a development proposal predict formation of a defined channel after development. To differentiate between levels of stream and marine shoreline protection and the application of development standards, streams are classified according to the Washington State Department of Natural Resources Forest Practices Board water typing system specified in WAC 222-16-030 as follows:

(a1) "Type S water" means all waters inventoried as "shorelines of the state," including periodically inundated areas of their associated wetlands, under chapter 90.58 RCW and the rules promulgated pursuant to chapter 90.58 RCW;

(b2) "Type F water" means segments of natural waters other than Type S waters, which contain fish or fish habitat, including waters diverted for use by a federal, state or tribal fish hatchery from the point of diversion for 1,500 feet or the entire tributary if the tributary is highly significant for protection of downstream water quality;

(e3) "Type Np water" means all segments of natural waters that are not Type S or F waters. These are perennial nonfish habitat streams that are physically connected to Type S or F waters by an aboveground channel system, stream or wetland.

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Perennial streams are waters that do not go dry any time of a year of normal rainfall. However, for the purpose of water typing, Type Np waters include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow;

(d4) "Type Ns water" means all segments of natural waters that are not Type S, F, or Np waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np water. Ns waters must be physically connected by an aboveground channel system to Type S, F, or Np waters.

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

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

"Structure" means a walled and roofed building.

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

(a1) Before the improvement or repair is started; or

(b2) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of a wall, ceiling, floor, or other

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

(e3) The term does not, however, include either:

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

(iib) An alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"Surface Water Design Manual for the City of Des Moines" means the King County, Washington "Surface Water Design Manual," including all subsequent revisions, adopted by reference as the

"Surface Water Design Manual for the City of Des Moines," and is referred to in this Title as "Surface Water Design Manual."

"Tree" means a living woody plant characterized by one main stem or trunk and many branches, and having a diameter of four inches or more measured at 24 inches above ground level.

"Tree pruning" means to cut branches from a tree using practices approved by the International Society of Arboriculture, to maintain a tree in a healthy and safe condition.

"Tree topping" means the indiscriminate cutting of tree branches to stubs or lateral branches that are not large enough to assume the terminal role. Other names for topping include but are not limited to "heading," "tipping," "hat-racking," and "rounding over."

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

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

"Vegetation" means the general plant life and the groundcover provided by plants, including trees.

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

"Wetland" or "wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created for nonwetland areas created to mitigate conversion of wetlands.

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

(a1) Category I. Category I wetlands represent a unique or rare wetland type, are more sensitive to disturbance than most wetlands, are relatively undisturbed and contain some ecological attributes that are impossible to replace within a

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human lifetime, or provide a very high level of functions.
Category I wetlands are:

(~~i~~a) Mature forested wetlands larger than one acre; or

(~~i~~~~i~~b) Wetlands that perform many functions well.

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

(~~i~~a) Wetlands identified by the Washington State Department of Natural Resources as containing "sensitive" plant species;

(~~i~~~~i~~b) Wetlands with a moderately high level of functions.

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

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

Sec. 8. DMMC 17.01.050 and section 5 of Ordinance No. 1585 are each amended to read as follow.

As used in this Title, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this chapter shall have the indicated meanings. All other words or phrases appropriate to the context of their uses shall be interpreted as defined in the Zoning Code.

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"Alteration" means a change to any recorded plat, short plat or binding site plan, except as defined in "lot line adjustment" in this section.

"Applicant" means a person who applies for any approval under this Title and who is an owner of the subject property or the authorized agent of the owner. "Applicant" includes any current owner who purchased property from a previous owner who submitted an application.

"Binding site plan" means a scale drawing or map which identifies and shows the areas and locations of all streets, roads, utilities, improvements, open spaces, easements, and any other significant development features and which binds future development to be in accordance with the drawing.

"Block" means a group of lots, tracts, or parcels of common origin or relationship within a boundary which is distinct and separated from other lots, tracts, or parcels by physical features such as public or private streets or topography.

"Comprehensive Plan" means the document as adopted in DMMC 18.05.060.

"County auditor" means the office or person as defined in chapter 36.22 RCW, as presently constituted or as may be subsequently amended, or the office or person assigned such duties under a county charter.

"County treasurer" means the office or person as defined in chapter 36.29 RCW, as presently constituted or as may be subsequently amended, or the office or person assigned such duties under a county charter.

"Dedication" means the deliberate appropriation of land by its owner for any general and public uses, reserving to himself/herself no other rights except those which are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. The intention to dedicate shall be evidenced by its owner by the presentment of a document of conveyance, or a final plat, short plat, binding

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site plan, or lot line adjustment, for filing or recording with the county auditor, showing the dedication thereon; and the acceptance by the public shall be evidenced by the approval of such plat or conveyance for filing by the appropriate governmental unit.

"Development activity" means any work, condition, or activity which requires a permit or approval under Titles 11, 12, 14, 16, 17 or 18 DMMC.

"Easement" means a specific air, surface, submerged, or subsurface right, of perpetual duration for a legally described parcel of land, which is conveyed for use by someone other than the owner of the subject property, or to benefit some property other than the subject property.

"Final plat" means the final drawing or map of a subdivision, together with all dedications, covenants, certifications, and signatures prepared for filing for record with the county auditor and containing all elements and requirements set forth in chapter 58.17 RCW, as presently constituted or as may be subsequently amended, and in this Title.

"Improvements" means streets, with or without curb or gutter, sidewalks, pedestrian ways, water mains, sanitary and storm sewers, street trees, lighting, and other appropriate items.

"Lot" means a fractional part of divided lands having fixed boundaries, means of access, and sufficient area and dimension to meet minimum yard, area, and open space requirements of the Zoning Code for the zone in which the lot is located at the time such lot was created.

"Lot line adjustment" means:

(a1) A division made for the purpose of alteration by adjusting boundary lines between platted or unplatted lots or both; or

(b2) A consolidation of multiple lots into one single lot; provided, that the division or consolidation does not

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create any additional lot, tract, or parcel; and does not create any lot, tract, or parcel which contains insufficient area and dimension to meet minimum requirements for width and area of a building site as required by Title 18 DMMC.

"Material error" means an error in fact or an omission of substantive information in an application, or supplementary study, supplied to the City, which would constitute the basis for a decision.

"Parcel" means an existing lot, tract, or division of land.

"Pedestrian way" means a tract or right-of-way, dedicated to public use, for the purpose of facilitating pedestrian access to nearby streets and properties.

"Planning official" means the Director of the Planning, Building and Public Works Department or his/her designee.

"Preliminary plat" means a scale drawing or map of a proposed subdivision showing the general layout of streets, lots, blocks, restrictive covenants to be applicable to the subdivision, and other related information required by the City of a subdivision. The preliminary plat shall be the basis for the approval or disapproval of the general layout of a subdivision.

"Registered land surveyor" means an individual licensed as a land surveyor pursuant to chapter 18.43 RCW (Professional Engineers Registration Act), as presently constituted or as may be subsequently amended.

"Right-of-way" means land dedicated to the public primarily for the movement of vehicles and pedestrians and providing for primary access to adjacent parcels. Secondly, it means that land which provides space for utility lines and appurtenances and similar components.

"Security" means a commitment of funds guaranteeing the payment of a previously specified amount of money if in the opinion of the administrator in charge, certain work is not performed satisfactorily or work results in damage to property or the environment. Security may be in the form of a cash, line

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of credit, bond, or a set-aside account previously approved by the City.

"Shoreline Master Program" means the document as adopted in chapter 16.20 DMMC.

"Short plat" means the final drawing or map of a short subdivision, together with all dedications and covenants, prepared for filing for record with the county auditor and containing all elements and requirements set forth in chapter 58.17 RCW.

"Short subdivision" means the division or redivision of land into nine or fewer lots for the purpose of sale, lease, or transfer of ownership.

"Significant trees" means healthy evergreen trees six inches DBH (diameter at breast height) or greater and healthy deciduous trees (excluding alders, European ashes, cottonwoods and willows) eight inches DBH or greater.

"Significant trees" means healthy evergreen trees six inches (6") in diameter or greater as measured at fifty-four inches (54") above the ground, and healthy deciduous trees (excluding alders, European ashes, cottonwoods and willows) eight inches (8") in diameter or greater as measured at fifty-four inches (54") above the ground.

"Street Development Standards" means the document adopted by chapter 12.15 DMMC.

"Subdivision" means the division or redivision of land into 10 or more lots or the redivision of a short subdivision into 10 or more lots within a period of five years from the filing of such short plat for the purpose of sale, lease, or transfer of ownership.

"Tract" means land reserved for special uses including but not limited to open space, surface water retention, utilities, or access. Tracts are neither counted as lots nor considered as building sites.

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"Tree" means a living woody plant characterized by one main stem or trunk and many branches, and having a diameter of four inches or more measured at 24 inches above ground level.

"Vacation" means the elimination of a recorded lot line, right-of-way, or easement.

"Vehicular access tract" means a privately owned tract providing vehicular and pedestrian access to parcels.

Sec. 9. DMMC 17.35.190 and section 114 of Ordinance No. 1585 are each amended to read as follow.

(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~~ chapter 16.20 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.

(3) Lot Area. The area of the open space tracts shall not be included in the computation of lot area for any lot area.

Sec. 10. DMMC 17.35.210 and section 116 of Ordinance No. 1585 are each amended to read as follow.

(1) Buffers. Significant trees or other natural vegetation located along the boundary of a subdivision shall be retained if the City determines that retention will provide beneficial buffering for or from abutting properties or rights-of-way. Vegetation which is retained shall be protected by establishing open space easements or tracts. Removal of

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significant trees, is subject to approval of a land clearing, grading and filling permit pursuant to the provisions of chapter 14.20 DMMC.

(2) Rights-of-Way and Tracts. Following preliminary subdivision approval, the applicant shall be allowed, pursuant to the provisions of Title 14 DMMC, to clear all vegetation which the Planning, Building and Public Works Director determines is necessary to install required improvements within rights-of-way and access or utility tracts shown on the approved preliminary subdivision.

(3) Lots. Removal of vegetation in the remainder of the subdivision shall occur on a lot-by-lot basis. No vegetation removal shall occur on any lot until and unless a complete building permit application has been submitted and a land grading, clearing, and filling permit has been issued for that lot in compliance with chapter 14.20 DMMC. On each lot, all significant trees as defined in DMMC 17.01.050, shall be retained except:

(a) Those trees which are located in areas where structures or improvements are proposed or areas which, in the judgment of the planning official, must be cleared to allow construction of proposed structures or improvements; and

(b) Those trees which, in the judgment of the ~~planning official~~ Planning, Building and Public Works Director, would constitute a danger to public safety, pursuant to the provisions of chapter 14.20 DMMC; and

(c) No more than one tree for each 2,400 square feet of lot area shall be required to be preserved on any lot. On lots which contain more than three significant trees, the planning official shall indicate which of the trees shall be retained. In making this decision, the planning official shall give preference to retaining large healthy trees or trees which are of an unusual species.

(4) Replacement. Any tree identified to be retained that is destroyed or damaged during construction shall be replaced by the applicant with five trees on the subject property or within a street planting strip near the subject property. Replacement

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trees shall be a minimum size of eight feet in height for evergreen trees and two inches in caliper for deciduous and shall be approved by the planning official. These street trees shall be provided in addition to any street trees required under chapter 12.15 DMMC. The exact location for and type of street trees shall be determined by the planning official.

Sec. 11. DMMC 18.01.050 and section 5 of Ordinance No. 1591 are each amended to read as follow.

As used in this Title, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.

"Accessory" means a use, a building or structure, part of a building or other structure, which is subordinate to and the use of which is incidental to that of the main building, structure, or use on the same lot, including a private garage. If an accessory building is attached to the main building by a common wall or roof, such accessory building shall be considered a part of the main building.

"Accessory living quarters (ALQ)" means complete independent living facilities including provisions for living, sleeping, cooking, and sanitation within a detached structure or within part of the primary dwelling unit.

"Adult bathhouse" means a commercial bathhouse which excludes any person by virtue of minimum age from all or any portion of the premises.

"Adult cabaret" means a commercial establishment which presents go-go dancers, strippers, male or female impersonators, or similar entertainers, and which excludes any person by virtue of minimum age from all or any portion of the premises.

"Adult entertainment facilities" means adult cabarets, adult retail uses, adult massage parlors, adult sauna parlors, adult bathhouses, and adult motion picture theaters, which are further more specifically defined below.

"Adult family home" means a regular family abode of a person or persons who are providing personal care, room, and

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board to more than one but not more than four adults who are not related by blood or marriage to the person or persons providing the services; except that a maximum of six adults may be permitted if the Department of Social and Health Services determines that the home is of adequate size and that the home and the provider are capable of meeting standards and qualifications as provided for in chapter 70.128 RCW as presently constituted or as may be subsequently amended or recodified. For the purpose of this section, an "adult" is a person who has attained the age of 18 years.

"Adult massage parlor" means a commercial establishment in which massage or other touching of the human body is provided for a fee and which excludes any person by virtue of minimum age from all or any portion of the premises in which such service is provided.

"Adult motion picture theater" means an enclosed building used for presenting motion picture films or video tapes or any other visual media distinguished or characterized by an emphasis on, matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this zoning code, for observation by patrons therein.

"Adult oriented merchandise" means any goods, products, commodities, or other wares, including, but not limited to, videos, CDs, DVDs, magazines, books, pamphlets, posters, cards, periodicals or nonclothing novelties, which depict, describe or simulate specified anatomical areas or specified sexual activities.

"Adult retail use" means a retail establishment which, for money or any other form of consideration, either:

(1) Has as one of its principal purposes to sell, exchange, rent, loan, trade, transfer, and/or provide for viewing or use, off the premises, any adult oriented merchandise; or

(2) Provides, as its substantial stock in trade, for the sale, exchange, rental, loan, trade, transfer, and/or provide for viewing or use, off the premises, any adult oriented merchandise.

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"Adult sauna parlor" means a commercial sauna parlor which excludes any person by virtue of minimum age from all or any portion of the premises.

"Antenna system" means the mast and all attached antennas of only a commonly used and commercially available type, excluding parabolic antennas such as microwave dishes, which are used to transmit or receive any portion of the radio spectrum.

"Apartment" means a room, or a suite of two or more rooms, in a multiple dwelling or in any other building not a single-family dwelling or a duplex dwelling occupied or suitable for occupancy as a dwelling unit for one family.

"Apartment house" means a building, or a portion of a building, designed for occupancy by three or more families living separately from each other and containing three or more dwelling units.

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

"Artificial grade" means a manmade grade created by means of earthen terraces, berms, fills, or the like, specifically for the purpose of gaining a height advantage or disguising the true height of a structure.

"Automobile, boat, and trailer sales area" means an open area, other than a street, used for the display, sale, or rental of new or used automobiles, boats, or trailers, and where no repair work is done except minor incidental repair of automobiles, boats, or trailers to be displayed, sold, or rented on the premises.

"Automobile house trailer" means a vehicle without motor power designed to be drawn by a motor vehicle and to be used for human habitation, including a trailer coach, camper, mobile home, or any self-propelled vehicle having a body designed for or converted to the same use as a house trailer.

"Automobile service station" means an occupancy which provides for:

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(1) The servicing of motor vehicles and operations incidental thereto limited to the retail sale of petroleum products and automotive accessories; automobile washing by hand; waxing and polishing of automobiles; tire changing and repairing (excluding recapping); battery service, charging, and replacement, excluding repair and rebuilding; radiator cleaning and flushing, excluding steam cleaning and repair; and installation of accessories.

(2) The following operations if conducted within a building: lubrication of motor vehicles; brake servicing limited to servicing and replacement of brake cylinders, lines, and brake shoes; wheel balancing; the testing, adjustment, and replacement or servicing of carburetors, coils, condensers, distributor caps, fan belts, filters, generators, points, rotors, sparkplugs, voltage regulators, water and fuel pumps, water hoses, and wiring.

"Board" means the City Council.

"Buffer" means either: an area adjacent to hillsides which provides the margin of safety through protection of slope stability, attenuation of surface water flows and landslide, seismic, and erosion hazards reasonably necessary to minimize risk to the public from loss of life, well-being, or property damage resulting from natural disasters; or an area adjacent to a stream or wetland which is an integral part of the stream or wetland ecosystem, providing shade; input of organic debris and coarse sediments; room for variation in stream or wetland boundaries; habitat for wildlife; impeding the volume and rate of runoff; reducing the amount of sediment, nutrients, and toxic materials entering the stream or wetland; and protection from harmful intrusion to protect the public from losses suffered when the functions and values of stream and wetland resources are degraded.

"Building height" means the vertical distance from the grade to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the height of the highest gable of a pitch or hip roof.

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"Cemetery" means land used or intended to be used for the burial of the human dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundary of such cemetery.

"Certified arborist" means an individual who has achieved a level of knowledge in the art and science of tree care through experience and by passing a comprehensive examination administered by the International Society of Arboriculture or urban forestry program.

"Church" means an establishment, the principal purpose of which is religious worship and for which the principal building or other structure contains the sanctuary or principal place of worship, and including accessory uses in the main building or in separate buildings or structures, including Sunday school rooms and religious education classrooms, assembly rooms, kitchen, library room or reading room, recreation hall, a one-family dwelling unit and residences on site for nuns and clergy, but excluding facilities for training of religious orders.

"Closed record appeal" shall have the meaning given such term in DMMC 18.20.240.

"Commercial parking lot" means a building site, exclusive of public rights-of-way, or building dedicated to the parking of more than 10 passenger vehicles, serving patrons, occupants, and/or employees of a permitted use(s) not located on the site of the parking facility.

"Commercial recreational area" means an area operated for profit and devoted to facilities and equipment for recreational purposes, including swimming pools, tennis courts, playgrounds, and other similar uses whether the use of such area is limited to private membership or whether open to the public upon the payment of a fee.

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

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"Conditional use" means a use permitted in one or more zones as defined by this Title but which use because of characteristics peculiar to it, or because of size, technological processes, or type of equipment, or because of the exact location with reference to surroundings, streets, and existing improvements or demands upon public facilities, requires a special degree of control to make such uses consistent with and compatible to other existing or permissible uses in the same zone or zones, and to assure that such use shall not be inimical to the public interest.

"Conditional use permit" means the documented evidence of authority granted by the Board of Adjustment to locate a conditional use at a particular location.

"Conforming building" means:

(1) In the Residential Zones, a building which is considered to be a residential building by the building code, and other buildings designed to accommodate uses permitted in these zones and which buildings also conform to the requirements of this Title in the matter of use, height, yards, and area coverage, and which do not contain more than the number of dwelling units prescribed for the zone in which such buildings are located.

(2) In the Commercial Zones, a building which is considered under the building code as a building designed to accommodate uses permitted in the Commercial Zones.

"Conforming use" means an activity the nature and type of which is permitted in the zone in which the property on which it is established is located.

"Corner lot" means a lot situated at the intersection of two or more streets, the street frontages of which lot form an angle not greater than 128 degrees, and not less than 45 degrees.

"Court" means any portion of the interior of a lot or building site which is fully or partially surrounded by buildings or other structures and which is not a required yard or open space.

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"Dangerous waste" means those wastes designated in WAC 173-303-070 through 173-303-103 as dangerous wastes. "Dangerous waste" also is any discarded, useless, unwanted, or abandoned substances, including but not limited to certain pesticides, or any residues or containers of such substances which are disposed of in such a quantity or concentration as to pose a substantial hazard or potential hazard to human health, wildlife, or the environment because such wastes or constituents or combinations of such wastes have short-lived, toxic properties that may cause death, injury, or illness or have mutagenic, teratogenic, or carcinogenic properties or are corrosive, explosive, flammable, or may generate pressure through decomposition or other means. Moderate risk waste is not a dangerous waste.

"Date of decision" means the date the final decision or determination is rendered or issued, unless specified otherwise by law.

"Development activity" means any work, condition, or activity which requires a permit or approval under Titles 11, 12, 14, 16, 17, or 18 DMMC.

"Dwelling" means a building designed exclusively for residential purposes, including one-family, duplex, townhouse, and multiple dwellings, which is constructed in accordance with Title 14 DMMC, City Buildings and Construction Code, as presently constituted or as may be subsequently amended, but not including hotels or motel units having no kitchens.

"Dwelling unit" means one or more rooms designed for or occupied by one family for living or sleeping purposes and containing kitchen facilities for use solely by one family. All rooms comprising a dwelling unit shall have access through an interior door to other parts of the dwelling unit. A bachelor apartment constitutes a dwelling unit within the meaning of this Title.

"Duplex" means a building designed exclusively for occupancy by two families living independently of each other, and containing two dwelling units. Duplexes may contain units that are not at ground level.

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"Elementary school" means any institution of learning giving general academic instruction in the several branches of learning and study required by the education code of the state to be taught in the public and parochial schools.

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

"Essential public facilities" means public facilities that are typically difficult to site, such as airports, state education facilities, and state or regional transportation facilities as defined in RCW 47.06.140, state and local correctional facilities, solid waste handling facilities, and in-patient facilities including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities as defined in RCW 71.09.020.

"Extremely hazardous waste" means those wastes identified in WAC 173-303-070 through 173-303-103 as extremely hazardous wastes. Extremely hazardous waste is also disposal of hazardous waste at any facility in such quantities that would pose a significant danger to man or the environment or any waste that persists in a hazardous form for several years or more at a disposal site and which in its persistent form presents a significant environmental hazard and may be concentrated by living organisms through a food chain or may affect the genetic makeup of man or wildlife or is highly toxic to man or wildlife.

"Family day care provider" means a licensed day care provider who regularly provides day care for not more than 12 children in the provider's home in the family living quarters.

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"First permitted" means the most restricted zone in which a particular use is indicated as a permissible use.

"Floor area" means a total floor area within the walls of all buildings on a lot or building site, except for the spaces therein devoted to vents, shafts and light courts and except for the area devoted exclusively to loading and unloading facilities and to parking of motor vehicles.

"Front yard" means an area extending across the full width of the lot and lying between the lot front line and a line drawn parallel thereto, and at a distance therefrom equal to the required front yard depth as prescribed in each zone. Front yards shall be measured by a line at right angles to the lot front line, or by the radial line or radial line extended in the case of a curved lot front line.

"Grade, artificial grade" means a manmade grade created by means of earthen terraces, berms, fills, or the like, specifically for the purpose of gaining a height advantage or disguising the true height of a structure.

"Grade, highest sidewalk" means the highest elevation of the sidewalk parallel to the building frontage.

"Grade, mean average sidewalk" means the mathematical average of the highest and lowest elevations of the sidewalk parallel to the building frontage. Mean average sidewalk grade is a horizontal plane at a specific elevation.

"Grade, median sidewalk" means the average elevation of a sidewalk, abutting a commercial street, as designed by the City, along the public street line; except that for the west side of Marine View Drive South, median sidewalk grade shall be defined as the average elevation of the alley extending mid-block between 7th Avenue South and Marine View Drive South. For properties lying between Marine View Drive South and 8th Avenue South, sidewalk grade shall be established at Marine View Drive grade elevations.

"Group dwelling" means more than two separate buildings, each containing one or more dwelling units.

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

"Hazardous waste" means any dangerous waste or extremely hazardous waste. Moderate risk waste is not a hazardous waste.

"High school" means any institution of learning giving general academic instruction in the several branches of learning and study required by the education code of the state to be taught in the public and parochial schools.

"Highest sidewalk grade" means the highest elevation of the sidewalk parallel to the building frontage.

"Historic Properties Survey: City of Des Moines" means the Historic Properties Survey: City of Des Moines as prepared on October 14, 1994, for the City. A copy of this survey is maintained on file in the office of the City Clerk and in the office of the Planning, Building and Public Works Director and is available for public inspection.

"Hospital" means an institution specializing in giving clinical, temporary, and emergency services of a medical or surgical nature to human patients and licensed by state law to provide facilities and services in surgery, obstetrics, and general medical practice, as distinguished from treatment of mental and nervous disorders and alcoholics, but not excluding surgical and post-surgical treatment of mental cases.

"Hotel" means a building in which there are six or more guest rooms where lodging with or without meals is provided for compensation, and where no provision is made for cooking in any individual room or suite, and in which building may be included one apartment for use of the resident manager, but shall not include jails, hospitals, asylums, sanitariums, orphanages, prisons, detention homes, and similar buildings where human beings are housed or detained under legal restraint.

"Interior lot" means a lot other than a corner lot or a reverse corner lot.

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"Internal lot" means a lot within a planned unit development or townhouse development for the purpose of separate ownership of dwellings or for undivided ownership of common areas and facilities. An internal lot will also be a corner lot, interior lot, key lot, reverse corner lot, through lot, or transitional lot.

"Key lot" means the first lot to the rear of a reverse corner lot and whether or not separated by an alley.
 Land Use Intensity. The following definitions of "land use intensity" serve as the basis for establishing wetland buffers and development standards as codified in chapter 16.10 DMMC.

(1) "High intensity land use" means land uses which are associated with high levels of human disturbance or substantial habitat impacts including, but not limited to, medium- and high-density residential (more than one home per five acres), multifamily residential, and commercial and industrial land uses. The majority of land uses in Des Moines are considered "high intensity land use."

(2) "Moderate intensity land use" means land uses which are associated with moderate levels of human disturbance or substantial habitat impacts including, but not limited to, active recreation.

(3) "Low intensity land use" means land uses which are associated with low levels of human disturbance or low habitat impacts, including, but not limited to, passive recreation and open space land uses.

"Lighter uses" means uses involving performance standards having less detrimental effect upon surrounding properties and uses in the same or other zones than do uses first permitted in the next succeeding zone in terms of nuisance, hazard, generation of traffic and volume of traffic, both passenger and freight, and which uses make less demand upon public services such as electricity, gas, sewers, and streets. Where residential uses are involved, the term "lighter uses" means less permitted population density, possibly greater required yards, open spaces, and floor area within dwellings than is permitted or required in the next succeeding Residential Zone.

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"Lodging house" means a dwelling unit within which not more than five guest rooms are devoted to accommodating not more than 10 persons other than members of the family, but wherein meals for guests shall be neither provided nor permitted. A lodging house containing guest rooms numbering six or more shall be considered a hotel.

"Lot area" means the total horizontal area within the boundary lines of a lot; provided, that the following areas are not included within the lot area and are not used to compute lot area or the area available for the satisfaction of any required yard:

(1) The area of a vehicular surface access easement or private street; and

(2) The area seaward of the ordinary high water mark from Puget Sound; and

(3) The area of any lake or pond, natural or artificial.

"Lot depth" means the horizontal length of a straight line drawn from the midpoint of the lot front line and at right angles to such line to its intersection with a line parallel to the lot front line and passing through the midpoint of the lot rear line. In the case of a lot having a curved front line, the lot front line, for purposes of this section shall be deemed to be a line tangent to the curve and parallel to a straight line connecting the points of intersection of the lot side lines of the lot with the lot front line.

"Lot width" means the horizontal distance between the lot side lines measured at right angles to the line comprising the depth of the lot at a point midway between the lot front line and the lot rear line.

"Main building" means the principal building or other structure on a lot or building site designed or used to accommodate the primary use to which the premises are devoted. Where a permissible use involves more than one building or structure designed or used for the primary purpose, as in the case of group houses, each such permissible building or other

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structure on a lot or building site as defined by this Title shall be construed as comprising a main building or structure.

"Median sidewalk grade" means the average elevation of a sidewalk, abutting a commercial street, as designed by the City, along the public street line; except that for the west side of Marine View Drive South, median sidewalk grade shall be defined as the average elevation of the alley extending mid-block between 7th Avenue South and Marine View Drive South. For properties lying between Marine View Drive South and 8th Avenue South, sidewalk grade shall be established at Marine View Drive grade elevations.

"Mental hospital" means an institution licensed by state agencies under the provisions of law to offer facilities, care and treatment for cases of mental and nervous disorders, and alcoholics. Establishments limiting services to juveniles below the age of five years, and establishments housing and caring for cases of cerebral palsy are not considered mental hospitals.

"Middle schools" means any institution of learning giving general academic instruction in the several branches of learning and study required by the education code of the state to be taught in the public and parochial schools.

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

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

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

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

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

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

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

"Mixed use" means one or more dwelling units and one or more enclosed commercial, business, or retail uses in a building in a Commercial or Residential Zone.

"Mobile home park" means any area or tract of land used or designed to accommodate two or more automobile house trailers.

"Moderate risk waste" means those wastes defined in WAC 173-303-040(55).

"Motel" means a group of attached or detached buildings containing individual sleeping units where a majority of such units open individually and directly to the outside, and where a garage is attached to or a parking space is conveniently located to each unit, all for the temporary use by automobile tourists or transients, and the word shall include tourist courts, motor courts, automobile courts, automobile camps, and motor lodges. A unit in a motel having kitchen facilities shall constitute a dwelling unit and shall be subject to all of the provisions and requirements of this Title governing dwelling units for the zone in which the establishment is located, but never less than the requirements of the heaviest multiple-dwelling zone.

"Multiple dwelling" means a building designed exclusively for occupancy by three or more families living independently of each other, and containing three or more dwelling units.

"Nonconforming building" means a building, or portion thereof, which was lawfully erected or altered and maintained but which, because of the application of this Title to it, no longer conforms to the regulations of the zone in which it is located as defined by this Title.

"Nonconforming use" means a use which was lawfully established and maintained but which, because of the application

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of this Title to it, no longer conforms to the use regulations of the zone in which it is located as defined by this Title.

"Nursing home" means facilities for patients who are recovering from an illness, or receiving care for chronic conditions, mental or physical disabilities, terminal illness, alcohol or drug inpatient treatment. Care may include inpatient administration of medicine, preparation of special diets, bedside nursing care, and treatment by a physician or psychiatrist.

"One-family dwelling" means a detached building designed exclusively for occupancy by one family and containing one dwelling unit.

"Party of record" means any person, group, association, or corporation that files an appeal, a person granted party status through intervention, the City department making the decision or determination, and the person who files an application for a land use action that is subject to appeal.

"Pigs, potbellied and miniature" means a type of swine commonly known as the North American, Vietnamese, Chinese, or Asian potbellied pig (*Sus scrofa bittatus*) that is no more than 22 inches in height at the shoulder and no more than 150 pounds in weight.

"Principal use" means the primary or predominant use to which the property is or may be devoted, and to which all other uses on the premises are accessory.

"Private boathouse" means an accessory building, or portion of building, which provides shelter and enclosure for a boat or boats owned and operated only by the occupants of the premises.

"Private parking area" means an open area, other than a street, alley, or other public property, limited to the parking of automobiles of occupants or employees of a dwelling, hotel, motel, apartment hotel, apartment house, boarding house, or lodging house to which these facilities are appurtenant.

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"Private solid waste container" means a solid waste container that is either privately owned or privately used and maintained for the purpose of waste reduction or providing health and sanitation support for a private facility or organization.

"Professional offices" means offices maintained and used as a place of business conducted by persons engaged in the healing arts for human beings, such as doctors and dentists (but wherein no overnight care for patients is given), and by engineers, attorneys, realtors, architects, accountants, and other persons providing services utilizing training in and knowledge of the mental discipline as distinguished from training in occupations requiring mere skill or manual dexterity or the handling of commodities.

"Public hearing" means a hearing, conducted by either the Hearing Examiner or the City Council, that creates a record through testimony and the submission of evidence and information under procedures prescribed by law. An open record public hearing held prior to a decision on a proposed land use action is to be known as an "open record pre-decision hearing." An open record hearing may be held on an appeal, to be known as an "open record appeal hearing," if no open record pre-decision hearing has been held on the land use action.

"Public parking area" means an open area other than a street, alley, or private parking area as defined in this Title, whether privately or publicly owned, which area is used for the parking of more than four automobiles.

"Public solid waste container" means a solid waste container placed for the purpose of providing a receptacle for public use to prevent littering, promote health and sanitation of the general public, and/or promote waste reduction on publicly owned and operated facilities, properties, or rights-of-way, when such facilities or properties are generally open to the public and used for public purposes. Without limitation, such public facilities shall include schools, parks, marinas, public buildings, and the like, but shall not include public facilities that are not generally open to the public.

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"Public trailer camp" means any area or tract of land used or designed to accommodate two or more automobile house trailers.

"Public utility" means a private business organization such as a public service corporation performing some public service and subject to special governmental regulations, or a governmental agency performing similar public services, the services by either of which are paid for directly by the recipients thereof. Such services shall include, but are not limited to, water supply, electric power, gas, and transportation for persons and freight.

"Public utility distribution" means the method or mode by which a private business organization or governmental agency performing some public service, such as, but not limited to, water supply, electric power, gas, sewer, or transportation, delivers or spreads those services over an area and to individual customers.

"Public utility facilities" means a building or complex that facilitates an action or process associated with a public utility which can be a private business or governmental agency performing some public service, such as, but not limited to, water supply, electric power, gas, sewer, or transportation.

"Rear line of the required front yard" means a line parallel to the lot front line and at a distance therefrom equal to the depth of the required front yard, and extending across the full width of the lot.

"Reclassification of property" means a change in zone boundaries upon the zoning map, which map is part of this Title when adopted in the manner prescribed by law.

"Required open space" means a portion of the area of a lot or building site, other than required yards, which area is required by this Title, as set forth in the different zones contained in this Title, to be maintained between buildings, between wings of a building, and between buildings and any portion of a property boundary line not contiguous to a required front or side yard. Such open spaces, as in the case of required yards, are required to be free and clear of buildings and

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structures and to remain open and unobstructed from the ground to the sky.

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

"Retirement housing" means a building or complex of buildings, exclusively designed for and occupied by households having at least one person 62 years of age or older, which provides common facilities such as but not limited to dining and recreation. Some or all of the dwellings may contain kitchens.

"Reverse corner lot" means a corner lot the side street line of which is substantially a continuation of the lot front line of the lot upon which the rear of the corner lot abuts.

"Sanitarium" means a health station or retreat or other place where resident patients are kept, and which specializes in giving clinical, temporary, and emergency services of a medical or surgical nature to human patients and licensed by state agencies under provisions of law to provide facilities and services in surgery, obstetrics, and general medical practice as distinguished from treatment of mental and nervous disorders and alcoholics, but not excluding surgical and postsurgical treatment of mental cases.

"School" means any institution of learning giving general academic instruction in the several branches of learning and study required by the education code of the state to be taught in the public and parochial schools.

"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.

"Side yard" means an open area measured from the lot side line toward the center of the lot and extending from the rear line of the required front yard, or from the lot front line if there is no required front yard, toward the lot rear line to a point measuring two-thirds of the depth of the lot, except that

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on the side street side of corner lots and reverse corner lots the required side yard shall extend to the rear line of the lot. The width of the side yard shall be measured horizontally from, and be parallel to, the lot side line from which it is measured.

"Significant trees" means healthy evergreen trees six inches (6") in diameter or greater as measured at fifty-four inches (54") above the ground, and healthy deciduous trees (excluding alders, European ashes, cottonwoods and willows) eight inches (8") in diameter or greater as measured at fifty-four inches (54") above the ground.

"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:

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°

"Small animal hospital or clinic" means an establishment in which veterinary medical services, clipping, bathing, and similar services are rendered to dogs, cats, and other small animals and domestic pets, but not including kennels.

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"Solid waste container" means a garbage can, dumpster, or other receptacle used for disposal and/or storage of trash, rubbish, garbage, junk, scrap, debris, refuse, recycling, yard waste, and other discarded materials.

"Specified anatomical areas" means:

(1) Less than completely and opaquely covered human genitals, anus, pubic region, buttock, or female breast below a point immediately above the top of the areola; or

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

"Specified sexual activities" means any of the following:

(1) Human genitals in a state of sexual stimulation or arousal;

(2) Acts of human masturbation, sexual intercourse, sodomy, oral copulation, or bestiality;

(3) Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts, whether clothed or unclothed, of oneself or of one person by another; or

(4) Excretory functions as part of or in connection with any of the activities set forth in this section.

"Stable" means a detached building in which horses or other beasts of burden owned by the occupants of the premises are kept, and in which no such animals are kept for hire, remuneration, or sale.

"Structural alterations" means any change in the supporting members of a building or structure, such as foundations, bearing walls, columns, beams, floor or roof joists, girders or rafters, or changes in the exterior dimensions of the building or structure, or increase in floor space.

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"Substantial change" means modification of the scope, use, or other attribute of a pending land use action that results in, or may result in, significant differences in the type or degree of impact(s), as determined by the Planning, Building and Public Works Director.

"Through lot" means a lot having frontage on two streets, including a lot at the intersection of two streets when the street sides of such lot form an internal angle of less than 45 degrees. Corner lots and reverse corner lots as defined in this section are not through lots.

"Townhouse development" means two or more lots approved through the subdivision or short subdivision process for townhouse dwellings.

"Townhouse dwelling" means one dwelling unit on an internal lot within a townhouse development designed exclusively for occupancy by one family. A townhouse dwelling is located at an internal lot line and attached to one or more other townhouse dwellings. The first floor of a townhouse dwelling is at or near ground level. A townhouse dwelling occupies the building area from ground level to the roof with no townhouse dwelling located above or below another townhouse dwelling.

"Trailer court" means any area or tract of land used or designed to accommodate two or more automobile house trailers.

"Trailer park" means any area or tract of land used or designed to accommodate two or more automobile house trailers.

"Transitional lot" means a residentially zoned lot a side line of which forms a common boundary with contiguous property zoned for either a higher density residential use or commercial or industrial uses.

"Tree" means a living woody plant characterized by one main stem or trunk and many branches, and having a diameter of four inches or more measured at 24 inches above ground level.

"Tree topping" means the indiscriminate cutting of tree branches to stubs or lateral branches that are not large enough to assume the terminal role. Other names for topping include

Ordinance No. ____
 Page 69 of 74

but are not limited to "heading," "tipping," "hat-racking," and "rounding over."

"Unlisted uses" means uses which are not specifically named as permitted in any zone contained within this Title.

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

"Variance" means an adjustment in the application of the specific regulations of this Title to a particular piece of property, which property, because of special circumstances applicable to it, is deprived of privileges commonly enjoyed by other properties in the same vicinity and zone and which adjustment remedies disparity in privileges.

"Vegetation" means the general plant life and the groundcover provided by plants, including trees.

"Vehicle" as used in this Title, means all instrumentalities capable of movement by means of circular wheels, skids, or runners of any kind, along roadways or paths or other ways of any kind, specifically including, but not limited to, all forms of automotive vehicles, buses, trucks, cars and vans, all forms of trailers or mobile homes of any size whether capable of supplying their own motive power or not, without regard to whether the primary purpose of which instrumentality is or is not the conveyance of persons or objects, and specifically including all such automobiles, buses, trucks, cars, vans, trailers, and mobile homes even though they may be at any time immobilized in any way and for any period of time of whatever duration.

"Zone" means an area accurately defined as to boundaries and location on an official map and within which area only certain types of land uses are permitted, and within which other types of land uses are excluded, as set forth in this Title.

Sec. 12. DMMC 18.195.020 and section 413 of Ordinance No. 1591 are amended as follows.

Ordinance No. ____
Page 70 of 74

(1) General Applicability. Landscaping required pursuant to this chapter shall be installed throughout the entire building site in accordance with an approved site plan, prior to issuance of the certificate of occupancy or business license for any of the following development activities:

(a) Construction of a new building or structure;

(b) Expansion of an existing building or structure where such expansion contains 20 percent or more of the floor area of the existing building or structure;

(c) Creation or expansion of a parking area or other paved surface; and

(d) Creation or expansion of an outdoor use, activity, or storage area.

(2) Exceptions. The provisions of this chapter shall not apply in the following circumstances:

(a) Single-family residential development activities shall not be subject to the provisions of this chapter except as may be specifically required by any section.

(b) Where the Planning, Building and Public Works Department determines that existing structures are situated so as to preclude installation of required landscaping, such required landscaping shall be waived for the area affected by such structures.

(c) Where compliance with the provisions of chapter 18.210 DMMC, loading areas and off-street parking requirements for existing buildings or structures, conflicts with the requirements of this chapter, the required landscaping shall be waived, or modified in accordance with DMMC 18.195.420.

(d) The irrigation requirements of DMMC 18.195.080 shall apply only to construction of a new building or structure or expansion of an existing building or structure.

(3) Nothing in this chapter shall be construed to relieve the applicant of open space, buffer, setback, and other such

Ordinance No. ____
Page 71 of 74

development constraints defined by the zoning code, conditional use permit concomitant rezone agreement, subdivision code, planned unit development, shorelines master program, and terms of approvals associated therewith.

(4) Plan Requirements. The Planning, Building and Public Works Department shall review and may approve, approve with modifications, or disapprove site landscape development plans for all development activities subject to the provisions of this chapter. A landscaping plan shall be submitted to the Planning, Building and Public Works Department accurately drawn using an appropriate engineering or architectural scale which shows the following:

- (a) Boundaries and dimensions of the site;
- (b) Location and identification of all streets, alleys, sidewalks, and easements abutting the site, including dimensions;
- (c) Proposed topography at a maximum of five-foot contours;
- (d) Proposed location and dimensions of all on-site buildings including height of structures and distance between buildings;
- (e) Details of any proposed architectural barriers;
- (f) Dimensions and location of storage and trash areas, loading docks, exterior utility installations, and mechanical equipment;
- (g) Layout and dimensions of all parking stalls, easements, access ways, turnaround areas, driveways, and sidewalks on-site;
- (h) Percentage of landscaping for total site and net square footage of parcel;
- (i) Proposed landscaping including location, species, and size at time of planting;

Ordinance No. ____
Page 72 of 74

(j) Existing vegetation in general, and identifying all evergreen trees six inches in diameter DBH ~~(diameter at breast height)~~ or greater as measured at fifty-four inches (54") above the ground and all deciduous trees eight inches in diameter DBH ~~or greater~~ as measured at fifty-four inches (54") above the ground;

(k) Irrigation plan, indicating the location of pipes, sprinkler heads and pumps, pipe size, head capacity, water pressure in pounds per square inch at the pump and sprinkler heads, and timer system.

Sec. 13. DMMC 18.195.110 and section 422 of Ordinance No. 1591 are amended as follows.

(1) All existing healthy evergreen trees six inches DBH (diameter at breast height) or greater and all existing healthy deciduous trees (excluding alders, European ashes, cottonwoods and willows) eight inches in diameter DBH ~~or greater~~ as measured at fifty-four inches (54") above the ground, shall be retained to the extent feasible within landscape areas. The Planning, Building and Public Works Department shall designate trees to be retained prior to issuance of a land clearing, grading, and filling permit.

(2) All clearing and grading shall take place outside the drip line of those trees to be retained; provided, that the Planning, Building and Public Works Department may approve hand clearing within the drip line if it can be demonstrated that such grading can occur without damaging the tree. If the roots are damaged, the Planning, Building and Public Works Department may require restoration measures such as the application of phosphate or potash.

(3) Any tree identified to be retained that is destroyed or damaged during construction shall be replaced by the applicant with five trees on the subject property or within a street planting strip near the subject property. Replacement trees shall be a minimum size of eight feet in height for evergreen trees, and two inches in caliper for deciduous, and shall be approved by the Planning, Building and Public Works Department. The Planning, Building and Public Works Department may approve smaller trees if it determines they are of specimen

Ordinance No. ____
Page 73 of 74

quality. These trees shall be provided in addition to any street trees required under chapter 12.15 DMMC. The exact type and location of street trees shall be determined by the Planning, Building and Public Works Department.

Sec. 14. DMMC 18.95.130 and section 424 of Ordinance No. 1591 are repealed.

~~18.195.130 Scenic view preservation. Landscaping shall be designed, installed, and thereafter maintained in such a manner which preserves scenic views and vistas of neighborhood and upland properties. Under no circumstances shall species of trees be planted which by virtue of their height and/or breadth at maturity impinge upon the views of other properties.~~

NEW SECTION. **Sec. 15. Codification.** Section 2 of this Ordinance shall be codified as a new section in chapter 12.05 DMMC, entitled "Trees on City property and right-of-way."

NEW SECTION. **Sec. 16. 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.

NEW SECTION. **Sec. 17. Effective date.** This Ordinance shall take effect and be in full force thirty (30) days after its passage and approval in accordance with law.

PASSED BY the City Council of the City of Des Moines this ____ day of _____, 2014 and signed in authentication thereof this ____ day of _____, 2014.

Ordinance No. _____
Page 74 of 74

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

Published: _____

Effective Date: _____

Response to Councilmember Burrage's questions on Draft Ordinance No.14-043:

1. How can this go under "development regulations" if there is no "development"? (First sentence).

As currently defined in Title 18, "Development activity" means any work, condition, or activity which requires a permit or approval under Title 11, 12, 14, 16, 17 DMMC or this Title." This is interpreted to mean that tree cutting or removal would be considered an "development activity". Draft Ordinance No. 14-043 adds this definition to other Titles/Chapters of the code to provide clarification and consistency throughout.

2. What is wrong with the National Arborist Association and the American Society of Consulting Arborists? (page 3 of ordinance-definition of arborist)

The International Society of Arboriculture (ISA) is the industry standard which most arborists and landscape architects follow. I am not as familiar with the National Arborist Association and American Society of Consulting Arborists but based on a quick review of their websites, all three seem to tie back to certification in accordance with the American National Standards Institute (ANSI) guidelines for tree care. Below is a summary that differentiates these organizations:

- ISA was founded in 1924 and has served the tree care industry for more than 80 years as a scientific and educational organization. The ISA promotes the professional practice of arboriculture and fosters a greater worldwide awareness of the benefits of trees through research, technology, and education.
- The National Arborist Association was established in 1938 (changed their name to "Tree Care Industry Association") and focuses on the safety and education programs, standards of tree care practice, and management information for arboriculture firms. Although I am not familiar with this organization, they do provide certification per ANSI standards.
- The American Society of Consulting Arborists (ASCA) is a professional association focusing on arboricultural consulting. Like ISA, they promote ongoing skills and educational development, impartiality, rules of professional conduct, and best practices.

Perhaps we could include some language in the Code that would give the Director or the City Manager some discretion regarding use of ISA or comparable certification/organization.

3. It looks like information was taken from Wikipedia for this ordinance. Was there any investigation where the text in Wikipedia says "citation needed"? There are many of those.

Regarding definitions, we try to limit when we put common definitions in the code and rely on the Merriam Webster definitions. Do you have concerns with the wording on any of the new definitions we have proposed in Draft Ordinance No. 14-043?

4. Land clearing is removal of even one tree? Correct? Topping of even one tree (P.5)

It depends. DMMC 14.20.180 Exemptions, lists the conditions under which a clearing and grading permit would not be needed. Examples listed in DMMC 14.20.180(1) include:

- (b) Removal of trees and ground cover in emergency situations involving immediate danger to life or property or substantial fire hazards;
- (c) Removal of trees or ground cover or dumping of fill on partially developed lots for the purpose of general property and utility maintenance, landscaping, or gardening; provided, that this exemption shall not apply to land clearing, grading, or filling for the purpose of developing the property with substantial permanent improvements such as roads, driveways, utilities, or buildings;
- (d) Removal of dead or diseased ground cover or trees;

Per 14.20.180(2) "Exemption from the permit requirements of this chapter shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of the City."

Regarding tree topping, the proposed ordinance regulates tree topping for trees located on private undeveloped sites, on city-owned property/right-of-way, and on properties with designated environmentally critical areas and shoreline areas.

5. Did you consider a definition of dangerous tree topping to distinguish bad topping from regular trimming type topping as used by most people not arborists?

There is not a "regular type of tree topping." There is a specific definition for tree topping which also has graphic examples to illustrate what not to do: "Tree Topping" means the indiscriminate cutting of tree branches to stubs or lateral branches that are not large enough to assume the terminal role." Basically, removing too much of a tree's canopy stresses the tree and results in rapid growth and a weakened and disease prone tree.

Draft Ordinance No. 14-043 adds clarification on what "routine pruning" means: "Tree pruning of not more than 25 percent of a tree's total leaf area."

6. What is a "terminal role?" (P.8)

Tree growth comes from buds at the tips of branches (**terminal buds**). "Terminal role" refers to the tree's ability to take in nutrients via the tree canopy.

7. Removing some bushes is land clearing even if it is less than 50 square feet? 20 square feet? 5 square feet? (p 10)

It depends. DMMC 14.20.180 Exemptions, lists the conditions under which a clearing and grading permit would not be needed. Per DMMC 14.20.180(1)(g) Clearing less than 200 square feet would be exempt from permit requirements provided it is not within an environmentally critical area or shoreline area.

8. What are the criteria for an exemption letter? (P. 16)

A person would have to submit a clearing and grading permit application. Currently the fee is \$1,500; however, we should consider a lower fee or fee exemption for minor activities. The goal of requiring an application is to enable staff to determine the extent and location of the work, and to ensure critical areas and shoreline areas are protected.

9. Why does it say tree pruning and removal is subject to chapter 14.20 when it is in chapter 14.20? p, 16 (c).

Because a clearing and grading permit would be the mechanism for reviewing the tree pruning or removal.

10. Why do you need to define vegetation if it is everything? Is there another definition? This means one scotch broom bush or one rhododendron, correct?

We added the definition because there was debate as to whether trees constituted "vegetation." It could be removed as we commonly defer to Merriam Webster's definition.



City of Des Moines
Critical Area Map Series
Geologically Hazardous Areas

- Seismic Hazards**
 Seismic Hazards
- Erosion Hazards**
 Erosion Hazards
- Landslide Hazards**
 Landslide Hazards
- Streams**
 Streams
- 10 ft Interval Contours**
 10 ft Interval Contours

**CITY OF DES MOINES
CRITICAL AREAS MAP SERIES**
This map series is intended for general planning purposes related to the Greater Des Moines Comprehensive Plan. The Growth Management Act (GMA) requires that local jurisdictions designate and protect critical areas (as described in RCW 36.70A.505, 36.70A.172(1) and Chapter 365-190 and 365-195 WAC). GMA also requires jurisdictions to include the best available science when designating critical areas. These maps include the best available science to locate, illustrate and categorize critical areas. However due to scale, the maps are not precise delineations of every critical area and are not a substitute for site-specific analysis. These maps are a composition of various sources of information in both paper and electronic format. They were created from available public records and existing map sources. Where available, scientific delineations and field surveys were digitized at the original scale and merged into the GIS database.

- PRIMARY MAP SOURCES AND ORIGINAL SCALES:**
PAPER MAP SOURCES
USNRCS (SCS) 1973 Soil Survey 1:24,000 (1"=2,000')
WSDNR Hydrography 1:24,000 (1"=2,000')
1987 & 1990 King County Sensitive Areas Map Folio 1:24,000 (1"=2,000')
City of Des Moines Surface Water Management Maps 1:1200 (1"=100')
WSDOE Coastal Zone Atlas of Washington (1:24,000) (1"=2,000')
WSDNR Liquefaction Susceptibility of the Des Moines & Poverty Bay Quad 1:24,000
ELECTRONIC GIS LAYERS
King County GIS Data CD #3 September 2002 (No Scale)
Washington State DOT Des Moines Creek GIS Data June 2001 (No Scale)
Slope derived from USGS 10m Digital Elevation Models (No Scale)
Triathlon, Inc. Orthophotography May 2002 6" resolution (1"=600')
Triathlon, Inc. Topography - 2 foot contour interval May 2002 (1"=600')



Planning, Building & Public Works
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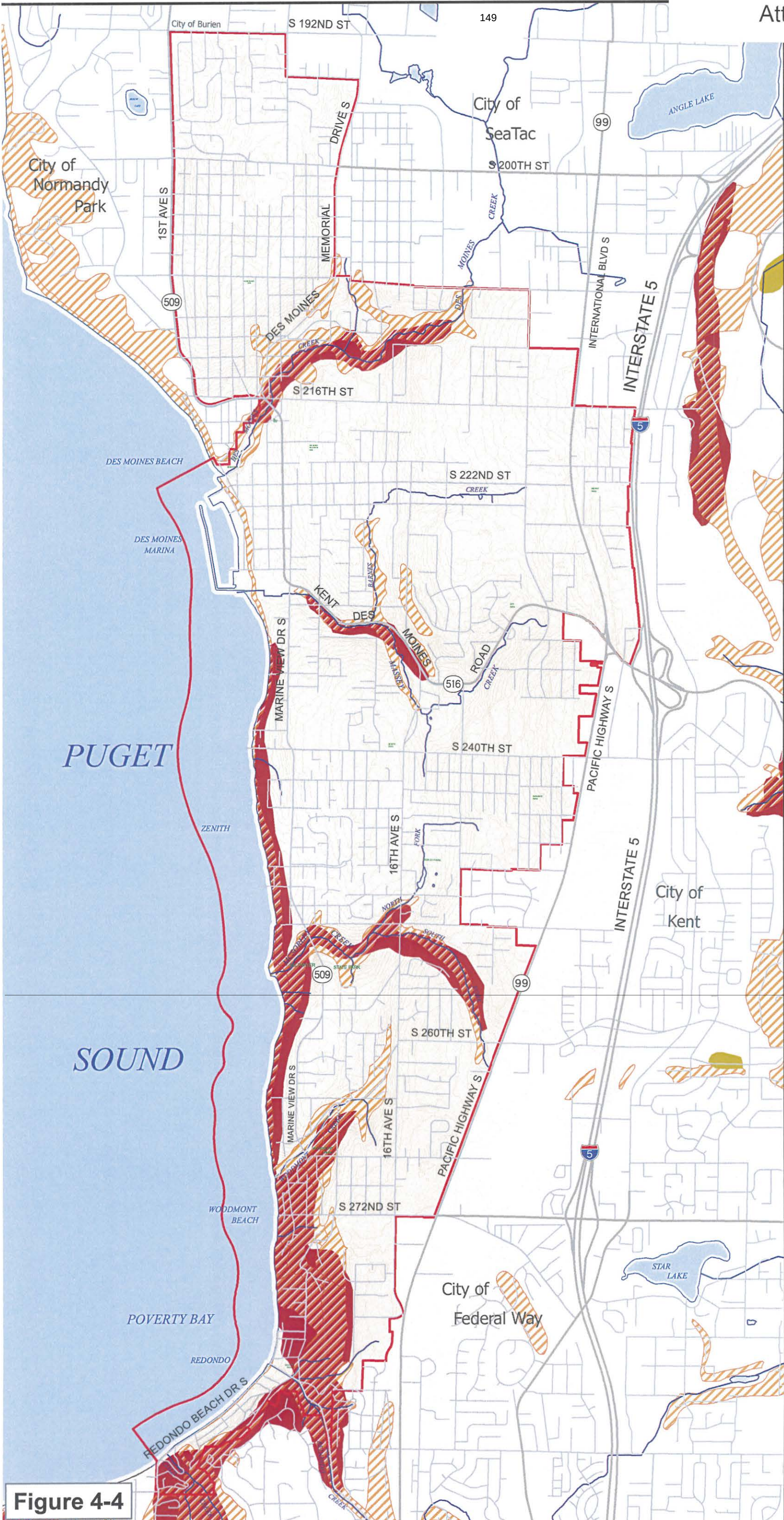
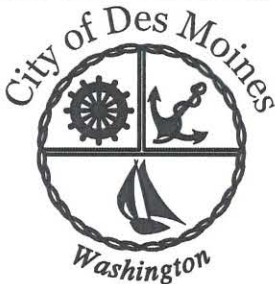


Figure 4-4



City of Des Moines

Critical Area Map Series

Slope & Topography

Hillsides / Slope

- 0 - 15%
- 15 - 25%
- 25 - 45%
- 45% or Greater

Streams

Des Moines City Limits

Jurisdictions

- Normandy Park
- Burien
- SeaTac
- Kent
- Federal Way
- Unincorporated King County

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NRCS (SCS) 1972 Soil Survey 1:24,000 (1"=2,000')

Digitized Assessor's tax maps 1:1200 (1"=100')

1987 & 1990 King County Sensitive Areas
Map Folio 1:24,000 (1"=2,000')

ELECTRONIC GIS LAYERS

Slope derived from King Co 6 ft LIDAR Digital Ground
Model (No Scale)

Triathlon, Inc. Orthophotography May 2002 6"
resolution (1"=600')

Triathlon, Inc. Topography - 2 foot contour interval
May 2002 (1"=600')

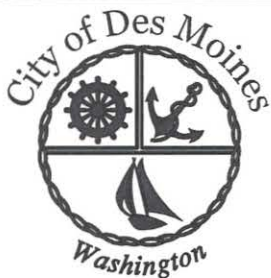
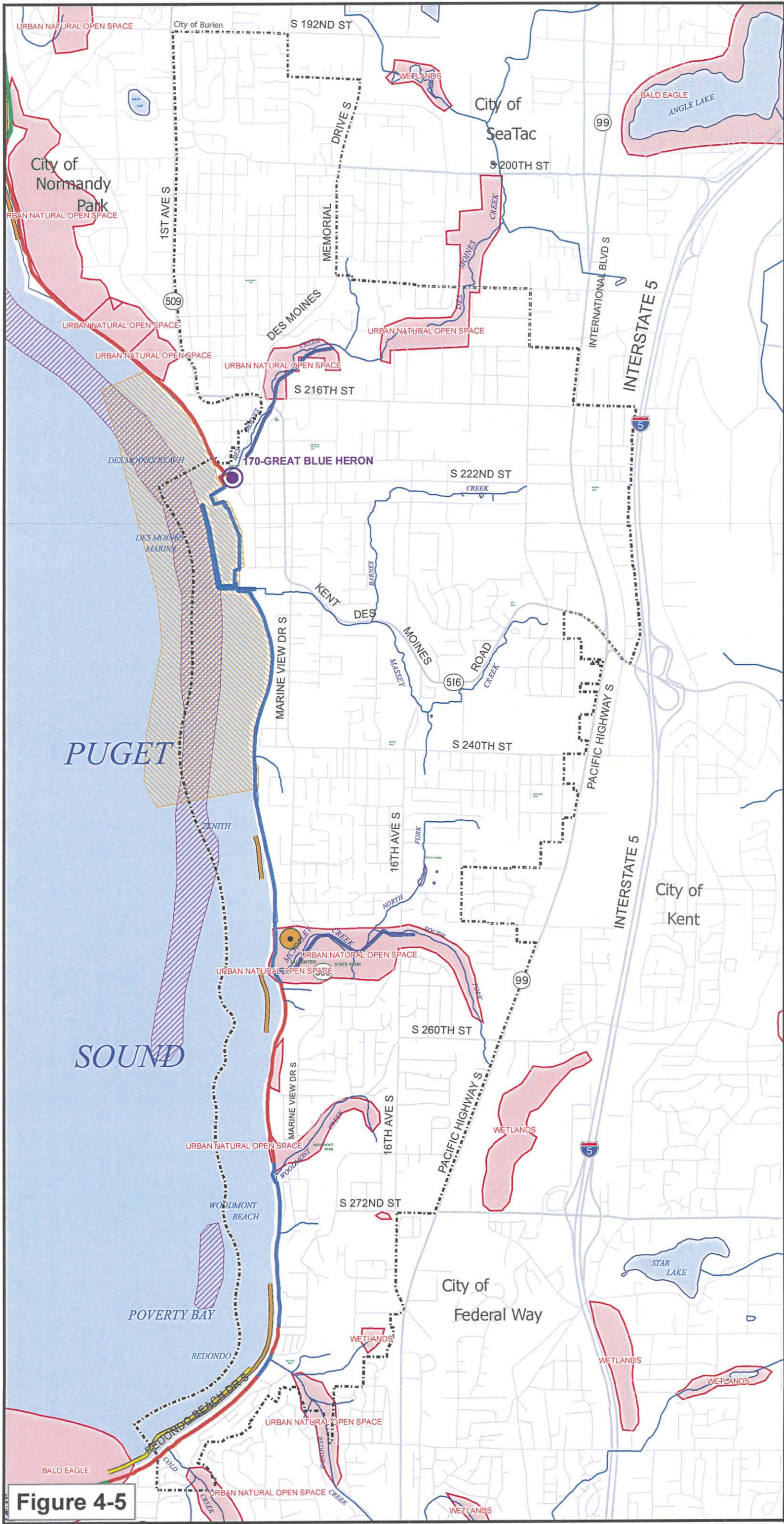
Des Moines Community Development Department
December 2003



Community Development

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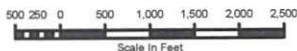
Figure 4-1



City of Des Moines
Critical Area Map Series

**Fish & Wildlife
Conservation
Areas**

- Wildlife Heritage Pts (WDFW)**
●
- Seabird Colony (WDFW)**
●
- Eelgrass (WDNR)**
— ABSENT
— CONTINUOUS
— PATCHY
- PHS Fish Presence**
— PHS Fish Presence
- Sand Lance (WDFW)**
—
- Surf Smelt (WDFW)**
—
- Hard Shell Clam (WDFW)**
—
- Geoduck (WDFW)**
—
- PHS Polygons**
—
- Des Moines City Limits**
—
- Streams**
—
- Jurisdictions**
Normandy Park
Burien
SeaTac
Kent
Federal Way
Unincorporated King County

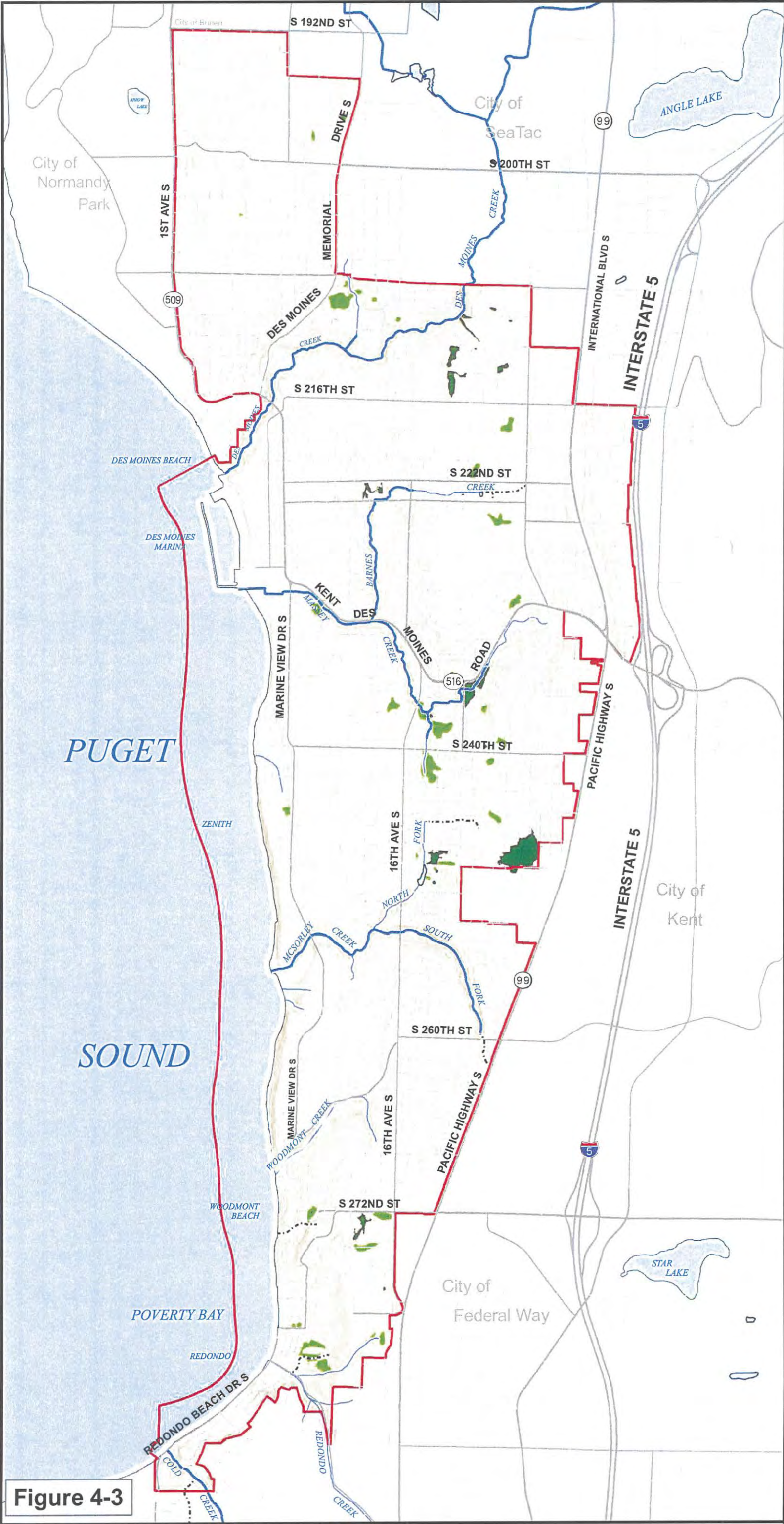


**Planning, Building &
Public Works**

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File: FWHCA.mxd - April 2007
Product of City of Des Moines GIS

Figure 4-5



City of Des Moines

Critical Area Map Series

Wetlands & Surface Water

- 10 ft Interval Contours
- Des Moines City Limits
- Streams
- F - Fish habitat
 - N - Non-Fish habitat
 - S - Shorelines
 - U - Unknown
 - X - Mapped feature - no water type
- Wetlands Status
- Delineation
 - Potential Wetland / Not Field Surveyed
- Jurisdictions
- Normandy Park
 - Burien
 - SeaTac
 - Kent
 - Federal Way
 - Unincorporated King County

CITY OF DES MOINES CRITICAL AREAS MAP SERIES

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Please see Wetland Update Log.xls for updates.

PRIMARY MAP SOURCES AND ORIGINAL SCALES:

PAPER MAP SOURCES

NRCS (SCS) 1973 Soil Survey 1:24,000 (1"=2,000')

National Wetland Inventory 1:24,000 (1"=2,000')

King County Area Hydric Soils List

WSDNR Hydrography 1:24,000 (1"=2,000')

Digitized Assessor's tax maps 1:1200 (1"=100')

1987 & 1990 King County Sensitive Areas Map Folio 1:24,000 (1"=2,000')

City of Des Moines Surface Water Management maps 1:1200

ELECTRONIC GIS LAYERS

King County GIS Data CD #3 September 2005 (No Scale)

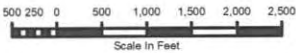
City of Kent GIS Wetland Data January 2003 (No Scale)

Washington State DOT Des Moines Creek GIS Data June 2001 (No Scale)

Slope derived from USGS 10m Digital Elevation Models (No Scale)

Triathlon, Inc. Orthophotography May 2002 6" resolution (1"=600')

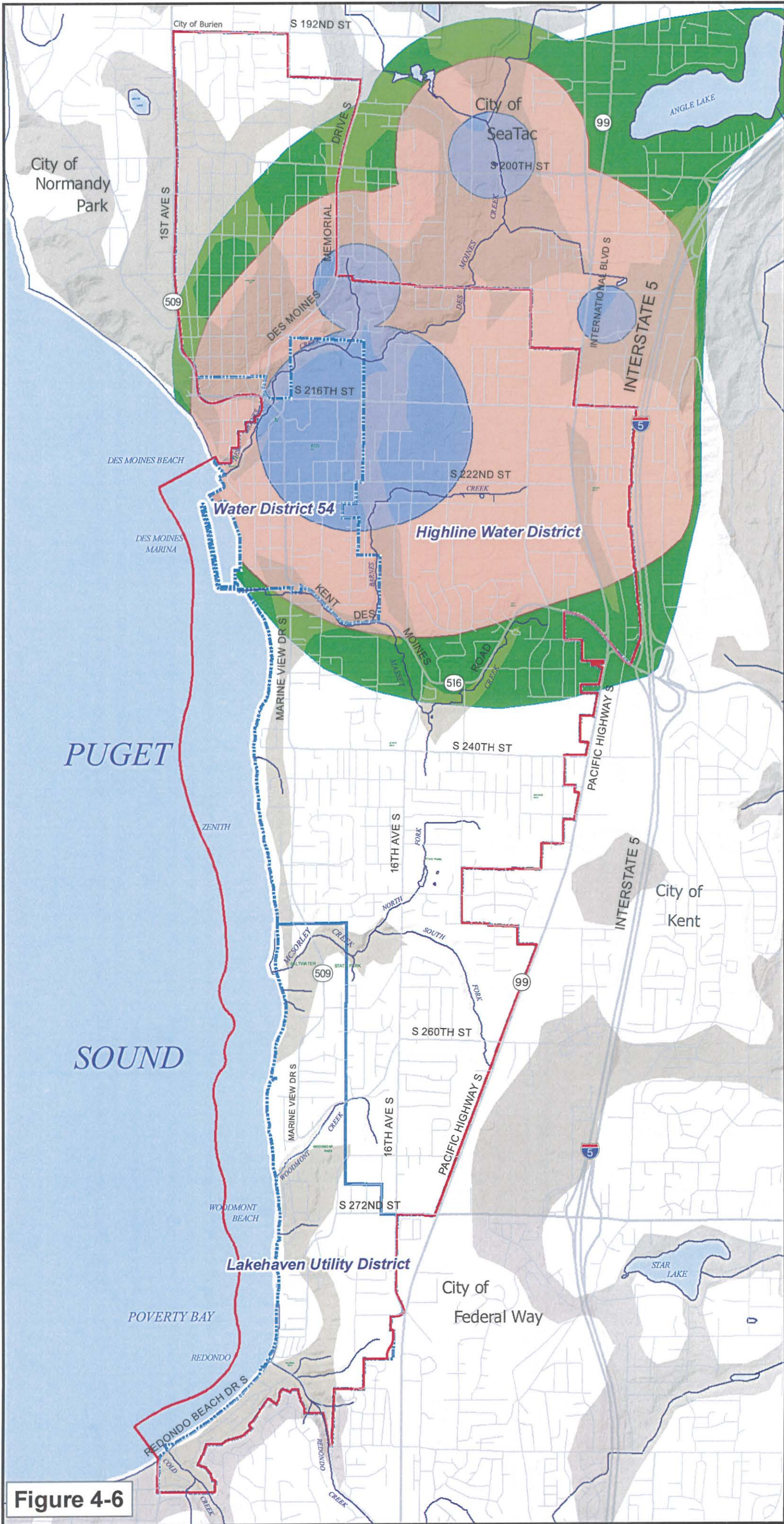
Triathlon, Inc. Topography - 2 foot contour interval May 2002 (1"=600')



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Figure 4-3



City of Des Moines

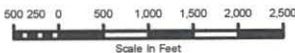
Critical Area Map Series

Critical Aquifer Recharge Areas

- Streams**
- Des Moines City Limits**
- Water District Boundary**
- Areas of High Susceptibility (King Co.)**
- Wellhead Protection Zones**
- Class 1 - One Year
 - Class 1 - 5 Year
 - Class 2 - 10 Year
- Jurisdictions**
- Normandy Park
 - Burien
 - SeaTac
 - Kent
 - Federal Way
 - Unincorporated King County

CITY OF DES MOINES
CRITICAL AREAS MAP SERIES
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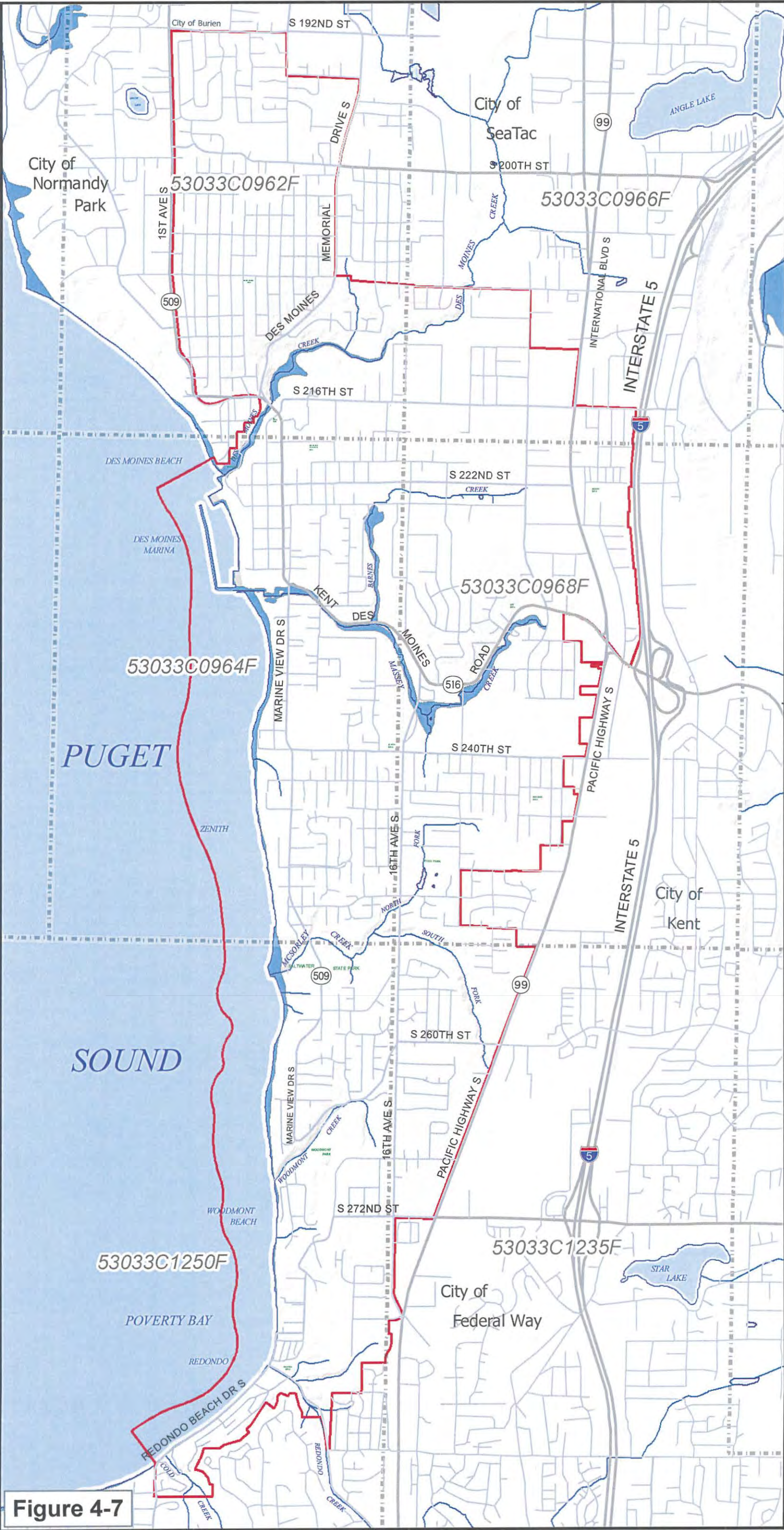
- PRIMARY MAP SOURCES AND ORIGINAL SCALES:**
- PAPER MAP SOURCES**
- King Co. Water District 54 Wellhead Protection Plan
 - Highline Water District Wellhead Protection Plan
 - Digitized Assessor's tax maps 1:1200 (1"=100')
 - 1987 & 1990 King County Sensitive Areas Map Folio 1:24,000 (1"=2,000')
- ELECTRONIC GIS LAYERS**
- King County GIS Data CD #3, September 2002
 - King County GIS LIDAR Data, September 2002



Planning Building & Public Works

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Figure 4-6

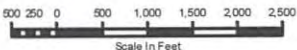


City of Des Moines
Critical Area Map Series
Frequently Flooded Areas

- Frequently Flooded Areas**
- A
 - AE
 - VE
- FIRM Map Boundary**
-
- Streams**
-
- Des Moines City Limits**
-

**CITY OF DES MOINES
CRITICAL AREAS MAP SERIES**
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- PRIMARY MAP SOURCES AND ORIGINAL SCALES:**
- PAPER MAP SOURCES**
WSDNR Hydrography 1:24,000 (1"=2,000')
FEMA Flood Insurance Rate Maps - Panels 962, 964 & 966 1:24,000 (1"=2,000')
Digitized Assessor's tax maps 1:1200 (1"=100')
1987 & 1990 King County Sensitive Areas Map Folio 1:24,000 (1"=2,000')
City of Des Moines Surface Water Management maps 1:1200
- ELECTRONIC GIS LAYERS**
FEMA National Flood Insurance Program Q3 Flood Data (1:24,000)
King County GIS Data CD #3 September 2002 (No Scale)
Washington State DOT Des Moines Creek GIS Data June 2001 (No Scale)
Slope derived from USGS 10m Digital Elevation Models (No Scale)
Triathlon, Inc. Orthophotography May 2002 6" resolution (1"=600')
Triathlon, Inc. Topography - 2 foot contour interval May 2002 (1"=600')



Planning, Building & Public Works
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Why Topping Hurts Trees

Learn why topping is not an acceptable pruning technique and discover recommended alternatives.



Topping is perhaps the most harmful tree pruning practice known. Yet, despite more than 25 years of literature and seminars explaining its harmful effects, topping remains a common practice.

What is Topping?

Topping is the indiscriminate cutting of tree branches to stubs or to lateral branches that are not large enough to assume the terminal role. Other names for topping include "heading," "tipping," "hat-racking," and "rounding over."

Topping is often used to reduce the size of a tree. A homeowner may feel that a tree has become too large for his or her property, or that tall trees may pose an unacceptable risk. Topping, however, is not a viable method of height reduction and certainly does not reduce future risk. In fact, topping will increase risk in the long term.

Topping is cutting branches back to stubs or lateral branches not large enough to sustain the remaining branch.



Topping Stresses Trees

Topping can remove 50 to 100 percent of a tree's leaf-bearing crown. Leaves are the food factories of a tree. Removing them can temporarily starve a tree and trigger various survival mechanisms. Dormant buds are activated, forcing the rapid growth of multiple shoots below each cut. The tree needs to put out a new crop of leaves as soon as possible. If a tree does not have the stored energy reserves to do so, it will be seriously weakened and may die.

A stressed tree with large, open pruning wounds is more vulnerable to insect and disease infestations. The tree may lack sufficient energy to chemically defend the wounds against invasion, and some insects are actually attracted to the chemical signals trees release.

Topping Leads to Decay

Correct pruning cuts are made just beyond the branch collar at the point of attachment. The tree is biologically equipped to close such a wound, provided the tree is healthy enough and the wound is not too large. Cuts made along a limb between lateral branches create stubs with wounds that the tree may not be able to close. The exposed wood tissues begin to decay. Normally, a tree will "wall off," or compartmentalize, the decaying tissues, but few trees can defend the multiple severe wounds caused by topping. The decay organisms are given a free path to move down through the branches.



Topping Can Lead to Sunburn

Branches within a tree's crown produce thousands of leaves to absorb sunlight. When the leaves are removed, the remaining branches and trunk are suddenly exposed to high levels of light and heat. The result may be sunburn of the tissues beneath the bark, which can lead to cankers, bark splitting, and death of some branches.

Topping Can Lead to Unacceptable Risk



The survival mechanism that causes a tree to produce multiple shoots below each topping cut comes at great expense to the tree. These shoots develop from buds near the surface of the old branches. Unlike normal branches that develop in a socket of overlapping wood tissues, these new shoots are anchored only in the outermost layers of the parent branches and are weakly attached.

The new shoots grow quickly, as much as 20 feet (6 m) in one year in some species. Unfortunately, the shoots are prone to breaking, especially during windy or icy conditions. While the original goal was to reduce risk by reducing height, risk of limb failure has now increased.

Topping Makes Trees Ugly

The natural branching structure of a tree is a biological wonder. Trees form a variety of shapes and growth habits, all with the same goal of presenting their leaves to the sun. Topping removes the ends of the branches, often leaving ugly stubs. Topping destroys the natural form of a tree. Without leaves (for up to six months of the year in temperate climates), a topped tree appears disfigured and mutilated. With leaves, it is a dense ball of foliage, lacking its simple grace. A tree that has been topped can never fully regain its natural form.

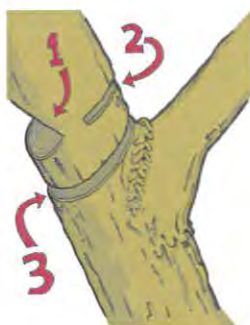
Topping Is Expensive

The cost of topping a tree is not limited to only the job cost. Some hidden costs of topping include:

- Increased maintenance costs. If the tree survives, it will likely require corrective pruning within a few years (e.g., crown reduction or storm damage repair). If the tree dies, it will have to be removed.
- Reduced property value. Healthy, well-maintained trees can add 10 to 20 percent to the value of a property. Disfigured, topped trees are considered an impending expense.
- Increased liability potential. Topped trees may pose an unacceptable level of risk. Because topping is considered an unacceptable pruning practice, any damage caused by branch failure of a topped tree may lead to a finding of negligence in a court of law.

Alternatives to Topping

Sometimes a tree must be reduced in height or spread, such as for providing utility line clearance. There are recommended techniques for doing so. Small branches should be removed back to their point of origin. If a larger limb must be shortened, it should be pruned back to a lateral branch that is large enough (at least one-third the diameter of the limb being removed) to assume the terminal role. This method of branch reduction helps to preserve the natural form of the tree. However, if large cuts are involved, the tree may not be able to close over and compartmentalize the wounds. Sometimes the best solution is to remove the tree and replace it with a species that is more appropriate for the site.



Proper branch reduction preserves natural form.

This brochure is one in a series published by the International Society of Arboriculture as part of its Consumer Information Program. You may have additional interest in the following titles currently in the series:

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