City of Tukwila

TUKWILA MUNICIPAL CODE (TMC)

Codified through: Ordinance No. 2727
Includes Initiative Measure No. 1 (2022)**

Last updated: February 2024

Codification of City ordinances is an ongoing process. The City Clerk's office maintains the official version of the Tukwila Municipal Code. Updates to the TMC typically occur within 30 days of the City Council adopting a codifiable* ordinance. If you have any questions, please contact the City Clerk's office at 206-433-1800.

*A Codifiable Ordinance is a law or rule adopted by the Tukwila City Council. An example of Non-codifiable Ordinances would be an ordinance relating to the City's budget, land use, street vacations, and moratoriums.

**The power of initiative refers to the authority of the voters of a city to directly initiate and enact legislation.

TUKWILA MUNICIPAL CODE

TITLE NUMBER	TITLE NAME	INCLUDES TOPICS
1	GENERAL PROVISIONS	Code Adoption; City Seal; Initiative & Referendum
2	ADMINISTRATION & PERSONNEL	Mayor & City Council; Boards & Commissions; City Departments & Staff; Municipal Court; Public Records Requests
3	REVENUE & FINANCE	Taxes; Funds
4	*(Reserved)*	
5	BUSINESS LICENSES & REGULATIONS	Business Licensing; Adult Cabarets and Entertainers; Panoram; Massage; Safety in Overnight Lodging
6	HEALTH & SANITATION	Refuse Disposal; Hazardous Materials; Rodents
7	ANIMALS	Licensing and Regulations; Leash Law; Dangerous Dogs; Potbellied Pigs; Livestock; Enforcement
8	PUBLIC PEACE, MORALS & SAFETY	Crimes; False Alarms; Fireworks; Nuisances; Civil Violations; Noise; Curfew for Minors
9	VEHICLES & TRAFFIC	Traffic and Parking Regulations; Abandoned/Junk Motor Vehicles; Commute Trip Reduction Program
10	*(Reserved)*	
11	RIGHT-OF-WAY USE	Permits; Required Improvements; Sign/Banner Placement; Undergrounding; Street Vacations
12	PARKS & RECREATION	Park Rules and Regulations; Foster Golf Links
13	PUBLIC IMPROVEMENTS	Local Improvement District Assessments
14	WATERS & SEWERS	Water Rates and Regulations; Sewer Regulations; Allentown; Duwamish Sewer Connection; Storm Water
15	*(Reserved)*	
16	BUILDINGS & CONSTRUCTION	Building Code; Fire Alarms; Sprinkler Systems; Land Altering; Flood Plains
17	SUBDIVISIONS & PLATS	Boundary Line Adjustments; Short Subdivisions; Improvement Standards; Binding Site Improvement Plans
18	ZONING	Zones; Shoreline and Sensitive Areas Overlays; Tree Regulations; Design Review; Variances
19	SIGN & VISUAL COMMUNICATION CODE	Permits; Design and Construction; Prohibited Signs; Regulations Based on Land Use
20	*(Reserved)*	
21	ENVIRONMENTAL REGULATIONS	State Environmental Policy Act; Siting of Hazardous Waste Treatment/Storage Facilities
22	SOLID WASTE & RECYCLING	Garbage Collection; Single & Multi-Family Recycling Collection; Yard Waste
23	*(Repealed)*	

TITLE 1
GENERAL PROVISIONS

Chapters:

CHAPTER 1.01
CODE ADOPTION

Sections:

1.01.010 Adoption of the "Tukwila Municipal Code"

As authorized by RCW 35.21.500 through 35.21.570, there is adopted the "Tukwila Municipal Code" as compiled, edited and published by Book Publishing Company, Seattle, Washington.

(Ord. 618 §1, 1970)

1.01.020 Title - Citation - Reference

This code shall be known as the "Tukwila Municipal Code", and it is sufficient to refer to said code as the "Tukwila Municipal Code" in any prosecution for the violation of any provision thereof or in any proceeding at law or equity. It is also sufficient to designate any ordinance adding to, amending, correcting or repealing all or any part or portion thereof as an addition to, amendment to, correction or repeal of the "Tukwila Municipal Code." Further, reference may be had to the titles, chapters, sections and subsections of the "Tukwila Municipal Code" and such reference shall apply to that numbered title, chapter, section or subsection as it appears in this code.

(Ord. 618 §2, 1970)

1.01.030 Reference applies to amendments

Whenever a reference is made to this code as the "Tukwila Municipal Code" or to any portion thereof, or to any ordinance of the City, the reference shall apply to all amendments, corrections and additions heretofore, now, or hereafter made.

(Ord. 618 §3, 1970)

1.01.040 Codification authority

This code consists of all of the regulatory and penal ordinances and certain of the administrative ordinances of the City, codified pursuant to RCW 35.21.500 through 35.21.570.

(Ord. 618 §4, 1970)

1.01.050 Definitions

The following words and phrases whenever used in this code shall be construed as defined in this section unless from the context a different meaning is intended, or unless different meaning is specifically defined and more particularly directed to the use of such words or phrases:

(1) "*Building official*" means the officer or other designated authority who is charged with the administration and enforcement of the City's "Building Code," or his duly authorized representative.

(2) *"City"* means the City of Tukwila, Washington, or the area within the territorial City limits of the City of Tukwila, Washington, and such territory outside of the City over which the City has jurisdiction or control by virtue of any constitutional provision, or any law.

(3) *"Council"* means the City Council of the City of Tukwila, Washington. "All its members" or "all councilmen" means the total number of councilmen provided for in RCW 35.24.020.

(4) "*County*" means the county of King, Washington.

(5) *"Law"* denotes applicable federal law, the constitution and statutes of the State of Washington, the ordinances of the City of Tukwila, Washington, and when appropriate, any and all rules and regulations which may be promulgated thereunder.

(6) "*Oath*" includes affirmation.

(7) *"Office."* The use of the title of any officer, employee, or any office, or ordinance shall mean such officer, employee, office, or ordinance of the City of Tukwila unless otherwise specifically designated.

(8) *"Ordinance"* means a law of the City; provided that a temporary or special law, administrative action, order or directive, may be in the form of a resolution.

(9) "*Person*" means a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

(10) *"State"* means the State of Washington.

(11) *"Street"* includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this City which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this State.

(12) *"May"* is permissive.

(13) *"Must"* and *"shall."* Each is mandatory.

(14) *"Written"* includes printed, typewritten, mimeographed or multigraphed.

(Ord. 618 §5, 1970)

1.01.060 Grammatical interpretation

The following grammatical rules shall apply in this code:

(1) Gender. Any gender includes the other genders.

(2) Singular and plural. The singular number includes the plural and the plural includes the singular.

(3) Tenses. Words used in the present tense include the past and the future tenses and vice versa.

(4) Use of words and phrases. Words and phrases used in this code and not specifically defined shall be construed according to the context and approved usage of the language.

(Ord. 618 §6, 1970)

1.01.070 Construction

The provisions of this code and all proceedings under it are to be construed with a view to effect its objects and to promote justice.

(Ord. 618 §7, 1970)

1.01.080 Title, chapter and section headings

Title, chapter and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section hereof.

(Ord. 618 §8, 1970)

1.01.090 Reference to specific ordinances

The provisions of this code shall not in any manner affect deposits or other matters of record which refer to, or are otherwise connected with ordinances which are therein specifically designed by number or otherwise and which are included within the code, but such reference shall be construed to apply to the corresponding provisions contained within this code.

(Ord. 618 §9, 1970)

1.01.100 Effect of code on past actions and obligations

Neither the adoption of this code nor the repeal or amendments of any ordinance or part or portion of any ordinance of the City shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license, fee, or penalty at said effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee, or penalty, on the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed, or deposited pursuant to any ordinance, and all rights and obligations thereunder appertaining shall continue in full force and effect.

(Ord. 618 §10, 1970)

1.01.110 Repeal shall not revive any ordinances

The repeal of an ordinance shall not repeal the repealing clause of such ordinance or revive any ordinance which has been repealed thereby.

(Ord. 618 §11, 1970)

1.01.120 Repeal

All general ordinances of the City of Tukwila not included in this code or excluded from the operation and effect of this section are repealed.

(Ord. 618 §12, 1970)

1.01.130 Exclusions

Every special ordinance of this City governing the following subject matter, whether contained in whole or in part within this code, is excluded from the operation and effect of TMC 1.01.120 and is not affected by the repeal provisions hereof. Annexations; franchises; naming roads, streets and public places; acquisition or disposal of public property; vacation of streets, alleys, or public ways; acceptance of any gift, devise, license or other benefit; provided that the foregoing enumeration of exceptions or exclusions shall not be deemed to be exclusive or exhaustive, it being the intent and purpose to exclude from repeal any and all ordinances not of a general nature.

(Ord. 618 §13, 1970)

1.01.140 Prohibited acts include causing, permitting, etc.

Whenever in this code any act or omission is made unlawful, it includes causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission.

(Ord. 618 §14, 1970)

1.01.150 Effective date

This code shall become effective on the date the ordinance adopting this code as the "Tukwila Municipal Code" is enacted.

(Ord. 618 §15, 1970)

1.01.160 Constitutionality

If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code. The council declares that it would have passed this code, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional, and if for any reason this code should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

(Ord. 618 §16, 1970)

CHAPTER 1.04
CITY SEAL

Sections:

1.04.010 Adopted - Description

A corporate seal for the City shall be adopted, and is described as follows: 1-5/8 inches in diameter, the impression of which shall be a cluster of three hazelnuts in the husk, in the center, and an inscription around the outer edge having the words "Seal of Tukwila, Washington, 1908." This seal shall be used as the official corporate seal of the City.

(Ord. 1 §1, 1908)

CHAPTER 1.08
GENERAL PENALTY

Sections:

1.08.010 Violations - Penalty

It is unlawful for any person to violate any provision or to fail to comply with any of the requirements of this code. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this code, unless provision is otherwise therein made, shall upon conviction thereof, be punished by a fine of not more than $500.00, or by imprisonment for a period of not more than six months, or by both such fine and imprisonment. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provisions of this code is committed, continued, or permitted by such person and shall be punished accordingly. In addition to the penalties hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this code shall be deemed a public nuisance and may be, by this City, summarily abated as such, and each day that such condition continues shall be regarded as a new and separate offense.

(Ord. 568 §1, 1969)

CHAPTER 1.12
INITIATIVE AND REFERENDUM

Sections:

1.12.010 Powers of initiative and referendum

The citizens of the City are hereby granted the powers of referendum and initiative as provided for in RCW 35A.11.080 as of the effective date of the ordinance from which this chapter derives or as thereafter amended. Pursuant to RCW 35A.11.100 as of the effective date of the ordinance from which this chapter derives or as thereafter amended, these powers of initiative and referendum shall be exercised in the manner set forth in RCW 35.17.240 through 35.17.360 as of the effective date of the ordinance from which this chapter derives or as thereafter amended.

(Ord. 1602 §1, 1991)

TITLE 2

ADMINISTRATION AND PERSONNEL

Chapters:

CHAPTER 2.04
CITY COUNCIL

Sections:

2.04.010 Composition, Duties

A. The City of Tukwila is a non-charter code city under the laws and statutes of the State of Washington, and its City Council shall consist of seven members who shall be elected at large and serve for four-year terms.

B. The duties of Councilmembers shall be those prescribed in RCW 35A.11.020 and as otherwise provided by law.

(Ord. 2653 §3, 2021)

2.04.020 Meetings Declared Open and Public

A. All meetings of the Tukwila City Council and its committees shall be open and public, and all persons shall be permitted to attend any meeting of these bodies except as otherwise provided in the Washington State Open Public Meetings Act.

B. Notice of meetings shall be provided in accordance with the requirements of Chapter 42.30 RCW, the Washington State Open Public Meetings Act. The City Clerk or designee shall prepare meeting minutes containing an account of all official actions of the City Council.

C. Emergency meetings may be called by the Mayor or Council President when by reason of fire, flood, earthquake, or other emergency there is a need for expedited action by the City Council to meet the emergency, in which case, the meeting site notice requirements otherwise applicable shall not apply.

D. The City Council may hold an Executive Session during a Regular Meeting, Special Meeting or Committee of the Whole meeting to consider certain matters as set forth in RCW 42.30.110.

(Ord. 2653 §4, 2021)

2.04.030 Rules of Procedure of the City Council

The Rules of Procedure of the City Council of the City of Tukwila, Washington, shall be adopted by resolution as approved by a majority vote of the City Council and periodically reviewed for consistency with applicable statutes and best governmental practices.

(Ord. 2653 §5, 2021)

CHAPTER 2.05
COUNCIL COMPENSATION

Sections:

2.05.010 Council Compensation

A. **Monthly compensation levels.** Pursuant to the provisions of RCW 35A.12.070, members of the Tukwila City Council shall receive the following monthly compensation during the years listed here according to their position and the date their term of office commences:

	POSITIONS 1, 3, 5, 7	POSITIONS 2, 4, 6
YEAR	*Term of Office:* 1/1/22 – 12/31/25	*Term of Office:* 1/1/20 – 12/31/23
2023	$1,250/month	$1,250/month
2024	$1,250/month	$1,450/month
2025	$1,250/month	$1,450/month
2026	$1,450/month	$1,450/month

B. **Compensation review**. At any time the Tukwila City Council compensation rate of increase falls significantly below the cost of living increase as measured by the Seattle-Tacoma-Bellevue Consumer Price Index (CPI-U), the City Council will review and may increase the compensation accordingly.

(Ord. 2687 §1, 2022)

CHAPTER 2.08
MAYOR

Sections:

2.08.010 Compensation

Pursuant to the provisions of RCW 35A.12.070, the person holding the position of Mayor shall be compensated at a yearly rate set forth by ordinance, payable in equal monthly installments.

(Ord. 2016 §1, 2003)

2.08.020 Salary

Beginning January 1, 2003, the salary for the Tukwila Mayor shall be set at $78,000 per year. Beginning January 1, 2004, that salary will be increased to $80,000 per year. Beginning January 1, 2005, the salary will be adjusted annually at the same rate of inflation as determined by the current method prescribed for the non-represented employees.

(Ord. 2016 §2, 2003)

2.08.030 Benefits

Subject to any applicable restrictions, the Mayor shall be eligible to receive the same or an equivalent benefit package as is given to department heads in the City of Tukwila and established from time to time by resolution.

(Ord. 2016 §3, 2003)

CHAPTER 2.12
DIRECTOR OF PUBLIC WORKS

Sections:

2.12.010 Office Created

There is created the office of Director of Public Works in and for the City, which office shall be filled by appointment of the Mayor subject to confirmation of the Council.

(Ord. 707 (part), 1972; Ord. 562 §1, 1969)

2.12.020 Duties

Subject to the direction of the Mayor, the Director of Public Works shall perform the following duties:

1. He shall have charge of construction, maintenance, repair and cleaning of the streets, sidewalks, gutters, sewers and drains, and such other related activities.

2. He shall exercise general supervision over the municipal water and sewer systems.

(Ord. 1494 §1, 1988; Ord. 707 (part), 1972; Ord. 562 §3, 1969)

2.12.030 Compensation

The Director of Public Works shall receive such salary and in such amounts as the Council may, from time to time, establish by ordinance and as fixed by the City's annual budget.

(Ord. 707(part), 1972; Ord. 562 §3, 1969)

CHAPTER 2.16
CITY ATTORNEY

Sections:

2.16.010 Office Created

There is created the office of City Attorney in and for the City, pursuant to the laws of the State of Washington, which office shall be filled by appointment of the Mayor subject to confirmation by a majority vote of the entire City Council.

(Ord. 1320 §1, 1984)

2.16.020 Duties

The City Attorney, or a designated representative, shall advise the City authorities and officers in all legal matters pertaining to the business of the City, in all actions brought by or against the City or against City officials in their official capacity. He or she shall perform such other duties as the City Council by ordinance may direct. In addition to the duties prescribed by the laws of the State as hereinabove set forth, the City Attorney shall:

1. Attend all regular and special meetings of the Council, Committee of the Whole meetings, or be represented by an attorney of his or her designation, unless otherwise excused by the Council;

2. Prepare, draft or supervise the preparation of all ordinances, resolutions, leases, instruments or conveyances, contracts and agreements, and such other and similar instruments as may be required by the business of the City;

3. Advise the Council and its committees, boards, commissions, department heads and other City officials and officers, including the rendering of formal opinions when so requested, or when it appears to the Attorney advisable to do so;

4. Represent the City in traffic court actions and prosecute all violations of City ordinances;

5. Consult with and participate with other City officials or representatives of the City concerning settlement of claims against the City or its officials, officers and employees while acting in their official governmental capacities;

6. Attend official meetings of any board or commission in connection with the proposed drafting of any ordinances, resolutions or contracts.

(Ord. 1320 §2, 1984)

2.16.030 Compensation

The compensation of the City Attorney shall be governed by contractual agreement as entered into by the City and the City Attorney, and made with the consent of the majority of the City Council.

(Ord. 1320 §3, 1984)

CHAPTER 2.20
CITY CLERK

Sections:

2.20.010 Office Created

There is created the office of City Clerk in and for the City, pursuant to the laws of the State. This office shall be filled by appointment by the Mayor subject to confirmation by the Council as provided in RCW 35.24.020 and RCW 35.24.050. The Deputy City Clerk, if any, shall be appointed by the Clerk subject to the approval of the Mayor.

(Ord. 558 §1, 1969)

2.20.020 Duties

A. The City Clerk shall keep a full and true record of every proceeding of the City Council and keep such books, accounts and make such reports as may be required by the Division of Municipal Corporations in the office of the State Auditor. The City Clerk shall record all ordinances, annexing thereto his certificate, giving the number and title of the ordinance, stating that the ordinance was published and posted according to law and that the record is a true and correct copy thereof. The record copy with the Clerk's certificate shall be prima facie evidence of the contents of the ordinance and of its passage and publication, and shall be admissible as such evidence in any court or proceeding.

B. The City Clerk shall be custodian of the seal of the City, and have authority to acknowledge the execution of all instruments by the City which require acknowledgment.

C. The City Clerk may appoint a Deputy for whose acts he and his bondsmen shall be responsible, and he and his Deputy shall have authority to take all necessary affidavits to claims against the City and certify them without charge.

D. The City Clerk shall perform such other duties as may be now or hereinafter required by statute or ordinance.

(Ord. 558 §2, 1969)

2.20.025 Agent Appointed — Claims for Damages

The City Clerk, and in the absence of the City Clerk the Deputy City Clerk, is hereby appointed to be the City agent responsible to receive claims for damages made under RCW Chapter 4.96. The City Clerk (or Deputy City Clerk) shall be available to receive claims for damages during normal City Hall business hours at Tukwila City Hall, 6200 Southcenter Blvd., Tukwila, Washington 98188.

(Ord. 1972 §1, 2001)

2.20.030 Compensation

The City Clerk and the Deputy clerk, if any, shall receive such salary and in such amounts as the Council may, from time to time, establish by ordinance and as fixed by the City's annual budget.

(Ord. 558 §3, 1969)

CHAPTER 2.21

PUBLIC RECORDS INDEXES AND RECORDS REQUESTS UNDER THE PUBLIC DISCLOSURE ACT

Sections:

2.21.010 Findings

A. The Revised Code of Washington (RCW) requires all cities and public agencies to maintain and make available a current index of all public records.

B. The RCW also states that if maintaining such an index would be unduly burdensome, or interfere with agency operation, a city must issue and publish a formal order specifying the reasons why and the extent to which compliance would be unduly burdensome.

C. When such an order is made, all indexes maintained by that city must be made available to provide identifying information on those records which are available for inspection and/or copying.

D. The City of Tukwila is comprised of eight departments, their divisions and subdivisions, which maintain separate databases and/or record-keeping systems for the indexing of records and information.

E. Because the City has records which are diverse, complex and stored in multiple locations and in multiple computer systems and databases, it is unduly burdensome, if not physically impossible, to maintain a central index of records.

F. The City will fully comply with the provisions of the RCW as they relate to the Public Disclosure Act, under RCW Chapter 42.17.

(Ord. 1923 §1 (part), 2000)

2.21.020 Order Regarding Public Records Index

Based upon the findings set forth in TMC 2.21.010, and pursuant to RCW 42.17.260(4)(a), the City Council orders the following:

1. The City of Tukwila is not required to maintain an all-inclusive index of public records, due to findings of the City Council that the requirement is unduly burdensome and such a list is nearly impossible to create and/or maintain.

2. The City of Tukwila shall make available all public records and any indexes created for internal use upon request by any citizen. Said indexes shall be maintained and released in order to obtain those records which are public and not protected by the exemption portion of the statute, namely RCW 42.17.310.

(Ord. 1923 §1 (part), 2000)

CHAPTER 2.22

ACCOUNT CLERK

Sections:

2.22.010 Position Created

There is created the position of Account Clerk within the office of the City Treasurer, the duties of which position shall include the preparation and maintenance of accounting records as more specifically detailed in the job description on file with the City Clerk.

(Ord. 877 §1, 1974)

2.22.020 Effective Date Of Position

The position of Account Clerk shall be effective as of August 1, 1974.

(Ord. 877 §2, 1974)

CHAPTER 2.24
FIRE PERSONNEL

Sections:

2.24.010 Offices Created

There is created in the City the offices of Fire Chief and Fire Marshal.

(Ord. 2719 §2, 2023)

2.24.020 Puget Sound Regional Fire Authority Designated as Agency

A. Effective retroactively to January 1, 2023, City fire and emergency medical services shall be provided by the Puget Sound Regional Fire Authority ("PSRFA") pursuant to terms of an interlocal agreement. Any references in the Tukwila Municipal Code to the Tukwila Fire Department, Fire Chief, or Fire Marshal, shall be interpreted to refer to the PSRFA.

B. The Fire Chief and Fire Marshal for the PSRFA shall serve as the Fire Chief and Fire Marshal for the City of Tukwila.

C. All PSRFA fire personnel serve the City of Tukwila pursuant to the terms of an interlocal agreement that shall remain in effect until the effective date of the annexation as approved by Tukwila voters and certified by King County Elections on August 15, 2023.

(Ord. 2719 §3, 2023)

CHAPTER 2.26
CITY ADMINISTRATOR

Sections:

2.26.010 Position Created

There is created the position of City Administrator. The City Administrator's duties shall include assisting the Mayor in all administrative affairs, including the supervision of department heads.

(Ord. 1295 §1, 1983)

2.26.020 Appointment - Removal

The Mayor shall appoint, with confirmation of the City Council, and the Mayor shall remove the City Administrator.

(Ord. 1295 §2, 1983)

2.26.030 Prerequisites to Employment

The City Administrator shall be required to sign a contract with the City, which covers detailed terms of employment including, as a prerequisite to employment by the City, to agree to reside in the City during his/her term as City Administrator. This residency requirement may be waived with the recommendation of the Mayor and majority vote of the Council.

(Ord. 2039 §1, 2004; Ord. 1295 §3, 1983)

2.26.040 Budget

The City Administrator shall receive such salary and in such amount as the Council may, from time to time, establish by resolution and as fixed by the City's annual budget.

(Ord. 2039 §2, 2004; Ord. 1295 §4, 1983)

CHAPTER 2.28
OFFICIAL BONDS

Sections:

2.28.010 Designated

Pursuant to RCW 35A.12.080, the following City officials are required to be bonded in the amount stated:

Finance Director	$25,000
City Clerk	10,000
Chief of Police	10,000
Administrative Court Clerk	10,000
Evidence Technician	10,000
City Attorney	5,000
Municipal Court Judge and pro tem judges	5,000
Accounting Clerk II (treasury function)	10,000

(Ord. 1187, 1980; Ord. 1179 §1, 1980)

CHAPTER 2.29
EQUITY AND SOCIAL JUSTICE COMMISSION

Sections:

2.29.010 Establishment of Commission – Purpose

The Equity and Social Justice Commission ("Commission") is hereby established to serve in an advisory capacity to the Mayor and City Council for the City of Tukwila. The objectives of the Commission shall be:

1. To promote understanding that accepts, celebrates, and appreciates diversity within the community.

2. To serve as a resource for the community by providing information and educational forums that will facilitate a better understanding and awareness of social justice and human rights.

3. To provide recommendations to the Mayor and City Council regarding opportunities to increase equity and social justice awareness and promote social justice programs.

(Ord. 2530 §4, 2017)

2.29.020 Membership

A. **Qualifications.** Members must meet at least one of the following requirements:

1. Be a resident of the City of Tukwila;

2. Own or work at a business within the city limits of the City of Tukwila; or

3. Work in the education field in the City of Tukwila.

B. **Number of Members.** The Commission shall be comprised of nine members. To the extent possible, membership shall be representative of the diversity of the community and should include:

1. Two City employees and one Tukwila City Councilmember (Positions 1, 4 and 7). If the City is unable to fill one of its two positions, a community member may fill one City position.

2. Three community members that meet the resident or business criteria as stated in TMC Section 2.29.020.A (Positions 3, 6 and 9).

3. Three members representing the education field in Tukwila (Positions 2, 5 and 8). If needed, a community member may fill one education field position.

C. **Appointment Process.** Community members that meet the requirements stated in TMC Section 2.29.020.A shall submit a completed Boards and Commissions Application to the Mayor's Office. The Mayor's Office will forward the application to the Commission Staff Liaison for review. The Mayor recommends appointments of applicants to the City Council and all appointments are confirmed by the City Council.

D. **Term of Appointment.** The term of appointment for the members of the Equity and Social Justice Commission shall be two years provided, however, that in order for the fewest terms to expire in any one year all current terms of existing appointed Commission members shall expire on March 31 of the year set forth below for each respective position number:

Term for Positions 1, 2, 3, 7 and 8 shall expire March 31, 2024
Term for Positions 4, 5, 6 and 9 shall expire March 31, 2025

After the expiration of the current terms for the existing Commission positions listed above, each term thereafter shall be for a period of two years.

E. **Student Representation.** In addition to the appointed positions, the Commission shall seek to recruit one student representative to participate on the Commission. The student representative shall be a high school student who resides in the City of Tukwila. The term of this position will be a minimum of one year and may not exceed four years or when the student graduates from high school, whichever comes first.

F. **Resignations.** If a Commission member is unable to complete their term of service, a letter of resignation shall be sent to the Mayor indicating the effective date of the resignation.

G. **Vacancies.** Any appointment to a position vacated other than by the expiration of the term of the appointment shall be to fill only the unexpired portion of said term.

H. **Revocation of Appointment.** A Commission member may be removed from the position if absent without being excused for three consecutive meetings or six meetings in a calendar year.

(Ord. 2711 §1, 2023; Ord. 2530 §5, 2017)

2.29.030 Commission Organization

Members of the Commission shall meet and organize by electing from the members of the Commission a Chair and a Vice-Chair to serve for one year. The Vice-chair shall promote to the Chair the following year and a new Vice-Chair shall be elected by the members. It shall be the duty of the Chair to preside at all meetings. The Vice-chair shall perform this duty in the absence of the Chair. If neither the Chair nor the Vice-Chair is present, a member chosen by agreement of the attending members shall act as Chair.

(Ord. 2530 §6, 2017)

2.29.040 Meetings

A. **Conduct.** The Commission shall hold at least one regular meeting per quarter. Commission meetings shall be conducted in public session and noticed in accordance with the Open Public Meetings Act (OPMA).

B. **By-Laws.** The Commission shall adopt bylaws to provide guidelines for the conduct of business.

C. **Quorum.** A majority of the seated members shall constitute a quorum for the transaction of business.

D. **Staff Assistance.** The City shall provide assigned staff to support the Commission. The primary role of staff is to represent the City and facilitate communication between the

Commission, City Administration, the City Council and other City departments. Staff responsibilities include:

1. Ensuring that meeting notifications and recordkeeping are consistent with applicable state laws;
2. Ensuring compliance with applicable laws, such as the Open Public Meetings Act (OPMA) and Public Records Act (PRA);
3. Providing professional guidance, issue analysis and recommendations;
4. Assisting with research, report preparation and correspondence; and
5. Compiling agendas, maintaining minutes, forwarding recommendations and/or implementing actions.

(Ord. 2530 §7, 2017)

2.29.050 Reporting Requirements and Biennial Review

A. **Reporting Requirements.** The Commission shall keep the City of Tukwila apprised of its activities and recommendations by submitting an annual written report by January 31 each year summarizing the activities for the previous year.

B. **Biennial Review.** The City Council shall review the ongoing relevance of all Boards and Commissions in conjunction with review of requested funding allocations during the biennial budget process.

(Ord. 2530 §8, 2017)

2.29.060 Sister Cities and Civic Awareness Committee

A. **Establishment.** The Tukwila Sister Cities and Civic Awareness Committee is hereby established as a sub-committee of the Equity and Social Justice Commission. It shall be made up of members of the Equity and Social Justice Commission chosen by the Commission Chair and shall operate under the procedures set forth for the Equity and Social Justice Commission.

B. **Purpose.** The purpose of the Sister Cities and Civic Awareness Committee shall be to advise the Mayor and City Council on how to best promote understanding and goodwill between the Tukwila community and the peoples of other nations through collaboration, communication and programs, and by connecting youth and residents with civic organizations for education and awareness.

C. **Responsibilities.** The Committee shall be responsible for the planning, development and coordination of programs that enhance goodwill and understanding between the residents of the Tukwila community and peoples of other nations and promote civic awareness.

(Ord. 2530 §9, 2017)

CHAPTER 2.30
TUKWILA ARTS COMMISSION

Sections:

2.30.010 Establishment of Commission - Purpose

The Tukwila Arts Commission (the "Commission") is hereby established to serve in an advisory capacity to the Mayor, City Council or other commission or board of the City on matters including, but not limited to, those set forth hereinafter. The activities of the Commission shall include the following:

1. To represent the City's interest in art matters, to be a spokes-group for art matters in the City, and to keep the Mayor and City Council informed on all such related matters.
2. To be a central body to whom art organizations, artists and anyone interested in cultural advancement of the community may come for information or assistance.
3. To encourage and aid programs for cultural enrichment of Tukwila citizens.
4. To coordinate and strengthen existing organizations in the field of art, and to develop cooperation with schools and regional and national art organizations.
5. To explore ways and methods of obtaining private, local, State, and federal funds to promote art projects within the community.
6. To review and make recommendations on all works of art acquired by the City, inclusive of all art incorporated into capital improvement projects.
7. To render any other advice and assistance in the field of art, aesthetics and beautification as requested.
8. To render any other assistance to the City in any other artistic activities as may be referred to by the City.

(Ord. 2527 §3, 2017)

2.30.020 Membership

A. **Qualifications.** Members must be residents of the City of Tukwila or own/work at a business within the city limits of the City of Tukwila.

B. **Number of Members.** The Commission shall be comprised of not less than five and not more than seven members. At least three members of said Commission shall be involved in the instruction of or otherwise professionally engaged in the visual and/or performing arts whenever possible.

C. **Appointment Process.** Community members that meet the requirements stated in TMC Section 2.30.020.A shall submit a completed Boards and Commissions Application to the Mayor's Office. The Mayor's Office will forward the application to the Commission Staff Liaison for review. The Mayor recommends appointment of applicants to the City Council and all appointments are confirmed by the City Council.

D. **Term of Appointment.** The term of appointment for the members of the Tukwila Arts Commission shall be four years provided, however, that in order for the fewest terms to expire in any one year all current terms of existing appointed Commission members shall expire on -March 31 of the year set forth below for each respective position number:

Term for Positions 1 and 2 shall expire March 31, 2027
Term for Positions 3, 4 and 5 shall expire March 31, 2025
Term for Positions 6 and 7 shall expire March 31, 2026

After the expiration of the current terms for the existing Commission members listed above, each term thereafter shall be for a period of four years.

E. **Student Representation.** In addition to the appointed positions, the Commission shall seek to recruit one student representative to participate on the Commission. The student representative shall be a high school student who resides in the City of Tukwila. The term of this position will be a minimum of one year and may not exceed four years or when the student graduates from high school, whichever comes first.

F. **Resignations.** If a Commission member is unable to complete their term of service, a letter of resignation shall be sent to the Mayor indicating the effective date of the resignation.

G. **Vacancies.** Any appointment to a position vacated other than by the expiration of the term of the appointment shall be to fill only the unexpired portion of said term.

H. **Revocation of Appointment.** A Commission member may be removed from the position if absent without being excused for three consecutive meetings or six regular meetings in a calendar year.

(Ord. 2712 §2, 2023; Ord. 2527 §4, 2017)

2.30.030 Commission Organization

Members of the Commission shall meet and organize by electing from the members of the Commission a Chair and a Vice-chair, and such other officers as may be determined by the Commission, to serve for one year. The Vice-chair shall promote to the Chair the following year and a new Vice-Chair shall be elected by the members. It shall be the duty of the Chair to preside at all meetings. The Vice-chair shall perform this duty in the absence of the Chair. If neither the Chair nor the Vice-Chair is present, a member chosen by agreement of the attending members shall act as chairperson.

(Ord. 2527 §5, 2017)

2.30.040 Meetings

A. **Conduct.** The Commission shall hold at least one regular meeting per quarter. Commission meetings shall be conducted in public session and noticed in accordance with the Open Public Meetings Act (OPMA).

B. **By-Laws.** The Commission shall adopt bylaws to provide guidelines for the conduct of business.

C. **Quorum.** A majority of the seated members shall constitute a quorum for the transaction of business.

D. **Staff Assistance.** The City shall provide assigned staff to support the Commission. The primary role of staff is to represent the City and facilitate communication between the Commission, City Administration, the City Council and other City departments. Staff responsibilities include:

1. Ensuring that meeting notifications and recordkeeping are consistent with applicable state laws;
2. Ensuring compliance with applicable laws, such as the Open Public Meetings Act (OPMA) and Public Records Act (PRA);
3. Providing professional guidance, issue analysis and recommendations;
4. Assisting with research, report preparation and correspondence; and
5. Compiling agendas, maintaining minutes and records, forwarding recommendations and/or implementing actions.

(Ord. 2527 §6, 2017)

2.30.050 Reporting Requirements and Biennial Review

A. **Reporting Requirements.** The Commission shall keep the City of Tukwila apprised of its activities and recommendations by submitting an annual written report by January 31 each year summarizing the activities for the previous year.

B. **Biennial Review.** The City Council shall review the ongoing relevance of all Boards and Commissions in conjunction with review of requested funding allocations during the biennial budget process.

(Ord. 2527 §7, 2017)

2.30.060 Creation of Municipal Arts Fund for Capital Arts Projects

A special fund entitled the Municipal Arts Fund has been established, into which 1% of all qualifying Capital Improvement Project funds, as calculated below, shall be transferred. These funds, together with such other funds that the City may from time to time transfer into said fund, shall be used to incorporate public art into qualifying Capital Improvement Projects, or for the purpose of acquisition of or otherwise providing for the advancement of public art within the City of Tukwila. Qualifying Capital Improvement Projects shall include Parks development projects and Public Works projects. 1% of qualifying Capital Improvement Projects shall be calculated based upon construction cost identified at the time the project is funded, and shall exclude any City funded amount for the acquisition of real property, demolition, or equipment. This shall be a fixed amount and shall not fluctuate with future project budget adjustments.

(Ord. 2527 §8, 2017)

CHAPTER 2.31
SISTER CITIES COMMITTEE

Sections:

2.31.010 Created

This Chapter was repealed by Ordinance 2530, April 2017

CHAPTER 2.32
PARK COMMISSION

Sections:

2.32.010 Establishment of Commission – Purpose

The City of Tukwila Park Commission (the "Commission") is hereby established to serve in an advisory capacity to the Mayor and City Council for the City of Tukwila. The objectives of the Commission shall be:

1. To submit recommendations to the City Council on the acquisition, development, expansion and operation of parks and recreation facilities and programs in the City.

2. To explore ways and methods of obtaining private, local, state and federal funds for special projects with the parks, trails and open space system.

3. To advocate for healthy and active lifestyles and promote the quality of life that is provided through the programs and actions of the City's Parks and Recreation Department.

4. To recommend policy and standards for the construction, development, maintenance and operations of parks, playfields and recreation grounds belonging to or leased by the City. This includes community buildings as designated by the Tukwila City Council and improvements of such buildings.

5. To make recommendations on ornamentation of all parks and designated community buildings, and to control seasonal and other temporary decoration or ornamentation of street lights and standards.

6. To recommend to the City Council for adoption by ordinance rules and regulations for the use and management of any municipally-owned or controlled park or recreation facility. Publication of rules or changes in rules shall be in such manner as the City Council shall direct. Rules and regulations so adopted shall be enforced by the Police Department of the City.

7. To recommend names for parks in the City to the City Council for consideration, as per City of Tukwila resolution.

(Ord. 2533 §3, 2017)

2.32.020 Membership

A. **Qualifications.** Members must be residents of the City of Tukwila or own/work at a business within the city limits of the City of Tukwila.

B. **Number of Members.** The Commission shall be comprised of not less than five and not more than seven members. At least one of the commissioners shall be a senior citizen.

C. **Appointment Process.** Community members that meet the requirements stated in TMC Section 2.32.020.A shall submit a completed Boards and Commissions Application to the Mayor's

Office. The Mayor's Office will forward the application to the Commission Staff Liaison to contact the applicant. The Mayor recommends appointment of applicants to the City Council and all appointments are confirmed by the City Council.

D. **Term of Appointment.** The term of appointment for the members of the Tukwila Park Commission shall be three years provided, however, that in order for the fewest terms to expire in any one year all current terms of existing appointed Commission members shall expire on March 31 of the year set forth below for each respective position number:

Term for Positions 1 and 6 shall expire March 31, 2026
Term for Positions 2, 4 and 7 shall expire March 31, 2025
Term for Positions 3 and 5 shall expire March 31, 2024

After the expiration of the current terms for the existing Commission members listed above, each term thereafter shall be for a period of three years.

E. **Student Representation.** In addition to the appointed positions, the Commission shall seek to recruit one student representative to participate on the Commission. The student representative shall be a high school student who resides in the City of Tukwila. The term of this position will be a minimum of one year and may not exceed four years or when the student graduates from high school, whichever comes first.

F. **Resignations.** If a Commission member is unable to complete their term of service, a letter of resignation shall be sent to the Mayor indicating the effective date of the resignation.

G. **Vacancies.** Any appointment to a position vacated other than by the expiration of the term of the appointment shall be to fill only the unexpired portion of said term.

H. **Revocation of Appointment.** A Commission member may be removed from the position if absent without being excused for three consecutive meetings or six regular meetings in a calendar year.

(Ord. 2712 §3, 2023; Ord. 2533 §4, 2017)

2.32.030 Commission Organization

Members of the Commission shall meet and organize by electing from the members of the Commission a Chair and a Vice-chair, and such other officers as may be determined by the Commission, to serve for one year. It shall be the duty of the Chair to preside at all meetings. The Vice-chair shall perform this duty in the absence of the Chair. If neither the Chair nor the Vice-Chair is present, a member chosen by agreement of the attending members shall act as Chair.

(Ord. 2533 §5, 2017)

2.32.040 Meetings

A. **Conduct.** The Commission shall hold at least one regular meeting per quarter. Commission meetings shall be conducted in public session and noticed in accordance with the Open Public Meetings Act (OPMA).

B. **By-Laws.** The Commission shall adopt bylaws to provide guidelines for the conduct of business.

C. **Quorum.** A majority of the seated members shall constitute a quorum for the transaction of business.

D. **Staff Assistance.** The City shall provide assigned staff to support the Commission. The primary role of staff is to represent the City and facilitate communication between the Commission, City Administration, the City Council and other City departments. Staff responsibilities include:

1. Ensuring that meeting notifications and recordkeeping are consistent with applicable state laws;
2. Ensuring compliance with applicable laws, such as the Open Public Meetings Act (OPMA) and Public Records Act (PRA);
3. Providing professional guidance, issue analysis and recommendations;
4. Assisting with research, report preparation and correspondence; and
5. Compiling agendas, maintaining minutes, forwarding recommendations and/or implementing actions.

(Ord. 2533 §6, 2017)

2.32.050 Reporting Requirements and Biennial Review

A. **Reporting Requirements.** The Commission shall keep the City of Tukwila apprised of its activities and recommendations by submitting an annual written report by January 31 each year summarizing the activities for the previous year.

B. **Biennial Review.** The City Council shall review the ongoing relevance of all Boards and Commissions in conjunction with review of requested funding allocations during the biennial budget process.

(Ord. 2533 §7, 2017)

CHAPTER 2.33
LIBRARY ADVISORY BOARD

Sections:

2.33.010 Establishment of Board – Purpose

The Library Advisory Board ("Board") is hereby established to serve in an advisory capacity to the Mayor and the City Council and shall submit to the Mayor and City Council any recommendations regarding library services. The Board shall:

1. Conduct an annual review of the library agreement between the City and the King County Library System.
2. Recommend programs for library services to be incorporated into such agreement.
3. Develop recommended programs to promote library services for City citizens, and make the public aware of those facilities that are available for public use.
4. Assist in planning, scheduling and participating in special programs or projects, such as setting up displays, making posters, providing information to the media, etc.
5. Meet with a variety of public groups to promote library services for City citizens, including the King County Library System and library staff.
6. Promote gift giving/donations to the library, including setting standards for such gifts.
7. Render any other advice and assistance on library services.

(Ord. 2532 §3, 2017)

2.33.020 Membership

A. **Qualifications.** Members must be a resident of the City of Tukwila.

B. **Number of Members.** The Board shall be comprised of not less than five members and not more than seven members.

C. **Appointment Process.** Community members that meet the requirements stated in TMC Section 2.33.020.A shall submit a completed Boards and Commissions Application to the Mayor's Office. The Mayor's Office will forward the application to the Board Staff Liaison to contact the applicant. The Mayor recommends appointment of applicants to the City Council and all appointments are confirmed by the City Council.

D. **Term of Appointment.** The term of appointment for the members of the Library Advisory Board shall be two years provided, however, that in order for the fewest terms to expire in any one year all current terms of existing appointed Board members shall expire on March 31 of the year set forth below for each respective position number:

Term for Positions 1, 2, 4 and 6 shall expire March 31, 2025

Term for Positions 3, 5 and 7 shall expire March 31, 2024

After the expiration of the current terms for the existing Board members listed above, each term thereafter shall be for a period of two years.

E. **Student Representation.** In addition to the appointed positions, the Board shall seek to recruit one student representative to participate on the Board. The student representative shall be a high school student who resides in the City of Tukwila. The term of this position will be a minimum of one year and may not exceed four years or when the student graduates from high school, whichever comes first.

F. **Resignations.** If a Board member is unable to complete their term of service, a letter of resignation shall be sent to the Mayor indicating the effective date of the resignation.

G. **Vacancies.** Any appointment to a position vacated other than by the expiration of the term of the appointment shall be to fill only the unexpired portion of said term.

H. **Revocation of Appointment.** A Board member may be removed from the position if absent without being excused for three consecutive meetings or six regular meetings in a calendar year.

(Ord. 2712 §4, 2023; Ord. 2532 §4, 2017)

2.33.030 Board Organization

Members of the Board shall meet and organize by electing from the members of the Board a Chair and a Vice-chair, and such other officers as may be determined by the Board, to serve for one year. The Vice-chair shall promote to the Chair the following year and a new Vice-Chair shall be elected by the members. It shall be the duty of the Chair to preside at all meetings. The Vice-chair shall perform this duty in the absence of the Chair. If neither the Chair nor the Vice-Chair is present, a member chosen by agreement of the attending members shall act as Chair.

(Ord. 2532 §5, 2017)

2.33.040 Meetings

A. **Conduct.** The Board shall hold at least one regular meeting per quarter. Board meetings shall be conducted in public session and noticed in accordance with the Open Public Meetings Act (OPMA).

B. **By-Laws.** The Board shall adopt bylaws to provide guidelines for the conduct of business.

C. **Quorum.** A majority of the seated members of the Board shall constitute a quorum for the transaction of business.

D. **Staff Assistance.** The City shall provide assigned staff to support the Board. The primary role of staff is to represent the

City and facilitate communication between the Board, City Administration, the City Council and other City departments. Staff responsibilities include:

1. Ensuring that meeting notifications and recordkeeping are consistent with applicable state laws;
2. Ensuring compliance with applicable laws, such as the Open Public Meetings Act (OPMA) and Public Records Act (PRA);
3. Providing professional guidance, issue analysis and recommendations;
4. Assisting with research, report preparation and correspondence; and
5. Compiling agendas, maintaining minutes, forwarding recommendations and/or implementing actions.

(Ord. 2532 §6, 2017)

2.33.050 Reporting Requirements and Biennial Review

A. **Reporting Requirements**. The Board shall keep the City of Tukwila apprised of its activities and recommendations by submitting an annual written report by January 31 each year summarizing the activities for the previous year.

B. **Biennial Review**. The City Council shall review the ongoing relevance of all Boards and Commissions in conjunction with review of requested funding allocations during the biennial budget process.

(Ord. 2532 §7, 2017)

CHAPTER 2.34
HUMAN SERVICES ADVISORY BOARD

Sections:

2.34.010 Establishment of Board – Purpose

The Tukwila Human Services Advisory Board ("Board") is hereby established to serve in an advisory capacity to the Mayor and the City Council and shall submit to the Mayor and City Council any recommendations regarding human services needs and programs in the City. The Board shall:

1. Assist in monitoring and assessing the need for human services in Tukwila.
2. Provide recommendations for the prioritizing of human services needs within the City.
3. Recommend human services policies.
4. Recommend human services projects for City funding.
5. Receive and review proposals for human services programs.
6. Render other assistance or advice on the human services issue as needed.

(Ord. 2531 §3, 2017)

2.34.020 Membership

A. **Qualifications.** Members must meet at least one of the following requirements:

1. Be a resident of the City of Tukwila;
2. Own or work at a business within the City of Tukwila;
3. Be an employee or a board member of a faith-based or non-profit organization operating within the City;
4. Be an employee of one of the school districts operating within the City; or
5. Be an employee within the medical health community operating within the City.

B. **Number of Members.** The Board shall be comprised of seven members that meet the requirements of TMC Section 2.34.020.A and should include, to the extent possible:

1. One representative from Tukwila's business community.
2. One representative from a Tukwila faith-based or non-profit organization.
3. Three community members.
4. One representative from the local school districts.
5. One representative from Tukwila's medical health community.

C. **Appointment Process.** Community members that meet the requirements stated in TMC Section 2.34.020.A shall submit a completed Boards and Commissions Application to the Mayor's Office. The Mayor's Office will forward the application to the Board Staff Liaison to contact the applicant. The Mayor recommends appointment of applicants to the City Council and all appointments are confirmed by the City Council.

D. **Term of Appointment.** The term of appointment for the members of the Human Services Advisory Board shall be three years provided, however, that in order for the fewest terms to expire in any one year all current terms of existing appointed Board members shall expire on March 31 of the year set forth below for each respective position number:

Term for Positions 5 and 6 shall expire March 31, 2024
Term for Positions 3 and 7 shall expire March 31, 2025
Term for Positions 1, 2 and 4 shall expire March 31, 2026

After the expiration of the current terms for the existing Board members listed above, each term thereafter shall be for a period of three years.

E. **Resignations.** If a Board member is unable to complete their term of service, a letter of resignation shall be sent to the Mayor indicating the effective date of the resignation.

F. **Vacancies.** Any appointment to a position vacated other than by the expiration of the term of the appointment shall be to fill only the unexpired portion of said term.

G. **Revocation of Appointment.** A Board member may be removed from the position if absent without being excused for three consecutive meetings or six regular meetings in a calendar year.

(Ord. 2712 §5, 2023; Ord. 2531 §4, 2017)

2.34.030 Board Organization

Members of the Board shall meet and organize by electing from the members of the Board a Chair and a Vice-chair, and such other officers as may be determined by the Board, to serve for one year. The Vice-chair shall promote to the Chair the following year and a new Vice-Chair shall be elected by the members. It shall be the duty of the Chair to preside at all meetings. The Vice-chair shall perform this duty in the absence of the Chair. If neither the Chair nor the Vice-Chair is present, a member chosen by agreement of the attending members shall act as Chair.

(Ord. 2531 §5, 2017)

2.34.040 Meetings

A. **Conduct.** The Board shall hold at least one regular meeting per quarter. Board meetings shall be conducted in public session and noticed in accordance with the Open Public Meetings Act (OPMA).

B. **By-Laws.** The Board shall adopt bylaws to provide guidelines for the conduct of business.

C. **Quorum.** A majority of the seated members of the Board shall constitute a quorum for the transaction of business.

D. **Staff Assistance.** The City shall provide assigned staff to support the Board. The primary role of staff is to represent the City and facilitate communication between the Board, City

Administration, the City Council and other City departments. Staff responsibilities include:

1. Ensuring that meeting notifications and recordkeeping are consistent with applicable state laws;
2. Ensuring compliance with applicable laws, such as the Open Public Meetings Act (OPMA) and Public Records Act (PRA);
3. Providing professional guidance, issue analysis and recommendations;
4. Assisting with research, report preparation and correspondence; and
5. Compiling agendas, maintaining minutes, forwarding recommendations and/or implementing actions.

(Ord. 2531 §6, 2017)

2.34.050 Reporting Requirements and Biennial Review

A. **Reporting Requirements.** The Board shall keep the City of Tukwila apprised of its activities and recommendations by submitting an annual written report by January 31 each year summarizing the activities for the previous year.

B. **Biennial Review.** The City Council shall review the ongoing relevance of all Boards and Commissions in conjunction with review of requested funding allocations during the biennial budget process.

(Ord. 2531 §7, 2017)

CHAPTER 2.35
LODGING TAX ADVISORY COMMITTEE

Sections:

2.35.010 Establishment of Committee – Purpose

Pursuant to RCW 67.28, the Tukwila Lodging Tax Advisory Committee is established to serve in an advisory capacity to the Mayor and the City Council, and shall submit to the Mayor and City Council any recommendations regarding:

1. any change or increase to the lodging tax;
2. the repeal or exemption from the tax;
3. the use of the revenue received from that tax; or
4. any change in the use of revenue received from that tax.

(Ord. 2537 §3, 2017)

2.35.020 Membership

A. **Qualifications.** Members must have a connection to a business or activity in the City of Tukwila that either collects the lodging tax or is authorized to be funded by revenue received from the tax.

B. **Number of Members.** The Committee shall comprise seven members that meet the requirements of TMC Section 2.35.020.A, and shall include:

1. One elected official of the City who shall serve as the Committee Chair;
2. Three representatives of businesses required to collect the lodging tax pursuant to RCW 67.28; and
3. Three representatives involved in activities authorized to be funded by revenue received from the tax pursuant to chapter 67.28 RCW.

C. **Appointment Process.** Interested parties who meet the requirements stated in TMC Section 2.35.020, subparagraphs A and B, shall submit a completed Boards and Commissions Application to the Mayor's Office for processing by the City Council. The Mayor's Office will forward the application to the Committee's staff liaison. The Chair of the Lodging Tax Advisory Committee recommends appointments to the City Council and all appointments are confirmed by the City Council.

D. **Term of Appointment.** The City Council shall review and appoint members on an annual basis.

E. **Resignations.** If a Committee member is unable to complete their term of service, a letter of resignation shall be sent to the Chair of the Committee indicating the effective date of the resignation.

F. **Vacancies.** Any appointment to a position vacated other than by the expiration of the term of the appointment shall be to fill only the unexpired portion of said term.

G. **Revocation of Appointment.** A Committee member may be removed from the position if absent without being excused for three regular meetings in a calendar year or if they no longer meet the membership qualifications as stated in TMC Section 2.35.020, subparagraphs A and B.

(Ord. 2725 §1, 2023; Ord. 2537 §4, 2017)

2.35.030 Committee Organization

The City Council President or designated Councilmember shall serve as the elected official on the Lodging Tax Advisory Committee and shall be the Committee Chair. It shall be the duty of the Chair to preside at all meetings. In the event the Chair is unavailable, the City Council shall designate an elected official to serve as a Chair Pro Tem.

(Ord. 2537 §5, 2017)

2.35.040 Meetings

A. **Conduct.** The Committee shall hold at least one regular meeting per quarter. Committee meetings shall be conducted in public session and noticed in accordance with the Open Public Meetings Act (OPMA).

B. **By-Laws.** The Committee shall adopt bylaws to provide guidelines for the conduct of business.

C. **Quorum.** A majority of the seated members of the Committee shall constitute a quorum for the transaction of business.

D. **Staff Assistance.** The City shall provide assigned staff to support the Committee. The primary role of staff is to represent the City and facilitate communication between the Committee, City Administration, the City Council and other City departments. Staff responsibilities include:

1. Ensuring that meeting notifications and recordkeeping are consistent with applicable state laws;
2. Ensuring compliance with applicable laws, such as the Open Public Meetings Act (OPMA) and Public Records Act (PRA);
3. Providing professional guidance, issue analysis and recommendations;
4. Assisting with research, report preparation and correspondence; and
5. Compiling agendas, maintaining minutes, forwarding recommendations and/or implementing actions.

(Ord. 2537 §6, 1994)

2.35.050 Reporting Requirements and Annual Review

A. **Reporting Requirements.** The Committee shall keep the City of Tukwila apprised of its activities and recommendations by submitting an annual report by June 30 each year summarizing the activities for the prior year.

B. **Annual Review.** Pursuant to RCW 67.28 the City Council shall review the Lodging Tax Advisory Committee on an annual basis.

(Ord. 2725 §2, 2023; Ord. 2537 §7, 2017)

CHAPTER 2.36
PLANNING COMMISSION

Sections:

2.36.010 Establishment of Commission – Purpose

Pursuant to the authority conferred by RCW 35A.63, the Tukwila Planning Commission ("Commission") is hereby established to serve in an advisory capacity to the Mayor and City Council on matters relating to land use, comprehensive planning and zoning. They shall have such other powers and duties as enumerated by ordinance and codified in the Tukwila Municipal Code.

(Ord. 2534 §3, 2017)

2.36.020 Membership

A. **Qualifications.** Members must meet the following requirements:

1. Be a resident of the City of Tukwila; or be a business owner, operator or management level employee, or qualified representative of a business operating in the City;
2. Be of voting age; and
3. Has lived or worked (if a non-resident) in the City for at least one year.

B. **Number of Members.** The Commission shall be comprised of seven members and shall include:

1. Six community members representing a cross section of the community from different trades, occupations, activities and geographical areas.
2. One member representing a business operating in the City.

C. **Appointment Process.** Community members that meet the requirements stated in TMC Section 2.36.020.A shall submit a completed Boards and Commissions Application to the Mayor's Office. The Mayor's Office will forward the application to the Commission Staff Liaison for review. The Mayor recommends appointment of applicants to the City Council and all appointments are confirmed by the City Council.

D. **Term of Appointment.**

1. The term of appointment for the members of the Planning Commission shall be four years provided, however, that in order for the fewest terms to expire in any one year all current terms of existing appointed Commission members shall expire on March 31 of the year set forth below for each respective position number:

Term for Positions 1, 2, and 5 shall expire March 31, 2027

Term for Positions 3, 4, 6 and 7 shall expire March 31, 2024

2. After the expiration of the current terms for the existing Commission members listed above, each term thereafter shall be for a period of four years.
3. Members who become non-residents during their term of office shall remain on the Commission no more than 90 days unless granted a special project extension by the Mayor and City Council. If the member who represents the business community is no longer employed within the City, or his or her business relocates out of the City, that member shall remain on the Commission no more than 90 days unless granted a special project extension by the Mayor and City Council.

E. **Resignations**. If a Commission member is unable to complete their term of service, a letter of resignation shall be sent to the Mayor indicating the effective date of the resignation.

F. **Vacancies.** Any appointment to a position vacated other than by the expiration of the term of the appointment shall be to fill only the unexpired portion of said term.

G. **Revocation of Appointment.** A Commission member may be removed from the position if absent without being excused for three consecutive meetings or six regular meetings in a calendar year.

(Ord. 2713 §1, 2023; Ord. 2534 §4, 2017)

2.36.030 Commission Organization

Members of the Commission shall meet and organize by selecting from the members of the Commission a Chair and a Vice-chair to serve for one year as outlined in the bylaws. It shall be the duty of the Chair to preside at all meetings. The Vice-chair shall perform this duty in the absence of the Chair. If neither the Chair nor the Vice-Chair is present, a member chosen by agreement of the attending members shall act as Chair.

(Ord. 2534 §5, 2017)

2.36.040 Meetings

A. **Conduct.** The Commission shall hold at least one regular meeting in each month for not less than nine months in each year per RCW 35.63.040. Commission meetings shall be conducted in public session and noticed in accordance with the Open Public Meetings Act (OPMA).

B. **By-Laws.** The Commission shall adopt bylaws to provide guidelines for the conduct of business.

C. **Quorum.** A majority of the seated members shall constitute a quorum for the transaction of business.

D. **Staff Assistance.** The City shall provide assigned staff to support the Commission. The primary role of staff is to represent the City and facilitate communication between the Commission, City Administration, the City Council and other City departments. Staff responsibilities include:

1. Ensuring that meeting notifications and recordkeeping are consistent with applicable state laws;
2. Ensuring compliance with applicable laws, such as the Open Public Meetings Act (OPMA) and Public Records Act (PRA);
3. Providing professional guidance, issue analysis and recommendations;
4. Assisting with research, report preparation and correspondence; and
5. Compiling agendas and agenda packets, maintaining minutes, forwarding recommendations and/or implementing actions.

E. **Minutes.** Minutes of Planning Commission meetings shall be distributed to the City Council not more than ten days after formal approval of such minutes by the Commission. Further, when items are to be discussed by the Council and the Commission minutes are pertinent, those minutes should be supplied to the Council in time to be read before Council consideration.

(Ord. 2713 §2, 2023; Ord. 2534 §6, 2017)

2.36.050 Reporting Requirements and Biennial Review

A. **Reporting Requirements.** The Commission shall keep the City of Tukwila apprised of its activities and recommendations by submitting an annual written report by January 31 each year summarizing the activities for the previous year.

B. **Biennial Review.** The City Council shall review the Planning Commission and the requested funding allocations during the biennial budget process.

(Ord. 2534 §7, 2017)

CHAPTER 2.37
TRANSIT ADVISORY COMMISSION

Sections:

2.37.010 Commission Established

The Tukwila Transit Advisory Commission (herein "Commission") is hereby established.

(Ord. 1797 §1, 1997)

2.37.020 Membership

The Mayor shall appoint seven members to the commission, subject to confirmation by a majority of the Council. Commission members shall be representative of the residential and business composition of the City.

(Ord. 1797 §2, 1997)

2.37.030 Duration

The Commission shall function from date of appointment until December 31, 1999, or until completion of its designated responsibilities, whichever is first, whereupon it shall expire and the functions of the Commission shall cease.

(Ord. 1797 §3, 1997)

2.37.040 Duties

The Commission shall be tasked with the responsibility of providing review and recommendations to the Mayor and City Council regarding the development of a master transit service plan for the City of Tukwila. Areas of focus shall include: the alignment of rail services within the City; the type and placement of ancillary facilities such as park-and-ride lots and stations; the creation of transit hubs; and other associated activities and facilities related to the development and implementation of the RTA construction and service delivery plan.

(Ord. 1797 §4, 1997)

2.37.050 Meetings

The Commission shall meet at least monthly, at a time and place deemed to be convenient to a majority of the membership. To assist the Commission, appropriate staff support shall be made available for the conduct of research and analysis, preparation of reports, and coordination of meetings and agendas.

(Ord. 1797 §5, 1997)

CHAPTER 2.38
POLICE DEPARTMENT

Sections:

2.38.010 Department Acknowledged and Ratified

The past, present and future existence of the City Police Department is acknowledged and ratified.

(Ord. 639 §1, 1970)

2.38.020 Law Enforcement Officer and City Police Officer - Defined - Positions Created

The terms "law enforcement officer" and "City police officer" shall cover all such regular, full-time personnel of the City Police Department who have been appointed to offices, positions or ranks of the City Police Department, which are herewith expressly created as follows: Chief of Police, Assistant Chief(s), Commander(s), Sergeant(s), Officers, and full or part-time, limited-commission Transport Services Officers.

(Ord. 2325 §1, 2011)

2.38.030 Ordinance Copy Mailed to State Employees' Retirement System Director

Upon the passage, approval and publication of Ordinance No. 639, the City Clerk shall cause a certified copy thereof to be mailed to the Director, State of Washington Public Employees' Retirement System, along with a correct list of the names of each City police officer filling one of the City law enforcement positions as created in TMC 2.38.020, to comply with the provisions of RCW 41.26.

(Ord. 639 §3, 1970)

CHAPTER 2.39

COMMUNITY-ORIENTED POLICING CITIZENS ADVISORY BOARD (COPCAB)

Sections:

2.39.010 Establishment of Board – Purpose

A. The City of Tukwila Community-Oriented Policing Citizens Advisory Board (COPCAB) is hereby established to serve in an advisory capacity to the Police Chief, the Mayor and the City Council.

B. The duties of the Board shall include, but not be limited to, advising and making recommendations on issues concerning public safety and police services within the City, such as:

1. To enhance police-community relations.
2. To review and provide a community perspective and recommendations concerning procedures, programs, and the effectiveness of the police service.
3. To promote public awareness of the City's police services and programs including, but not limited to, business and residential crime prevention programs, safety training, domestic violence intervention, and D.A.R.E.
4. To hold public meetings from time to time to solicit public input regarding police services and programs.
5. To serve as a liaison between the Police Department and the community.
6. To encourage individuals and community groups to assist the Police Department in the implementation of police programs and services.
7. To review and make recommendations concerning such other and further matters as may be referred to the Board from time to time by the Mayor, the City Council, or the Police Chief.

C. Notwithstanding the duties of the Board as described within TMC Section 2.39.010.A, the Board shall have no power or authority to investigate, review, or otherwise participate in matters involving specific police personnel or specific police-related incidents. The Board in no way shall receive or stand in review of complaints initiated against personnel of the Police Department, nor play any role in civil or criminal litigation.

(Ord. 2529 §3, 2017)

2.39.020 Membership

A. **Qualifications.** Members must meet at least one of the following requirements:

1. Be a resident of the City of Tukwila;
2. Own or work at a business within the city limits of the City of Tukwila;
3. Be an employee or a board member of a faith-based or non-profit organization operating within the City; or
4. Be an employee of one of the school districts operating within the City.

B. **Number of Members.** The Board shall be comprised of eight members who shall meet the following qualifications:

1. Not less than five of the members shall be City residents, representing residential property owners and renters;
2. At least two members shall be owners or managers of businesses located within the City; and
3. One member shall represent one of the school districts within the City.

C. **Appointment Process.** Community members that meet the requirements listed in TMC Section 2.39.020.A shall submit a completed Boards and Commissions Application to the Mayor's Office. The Mayor's Office will forward the application to the Board Staff Liaison to contact the applicant. The Mayor recommends appointment of applicants to the City Council and all appointments are confirmed by the City Council.

D. **Term of Appointment.** The term of appointment for the members of COPCAB shall be four years provided, however, that in order for the fewest terms to expire in any one year all current terms of existing appointed members shall expire on March 31 of the year set forth below for each respective position number:

Term for Positions 1, 4 and 7 shall expire March 31, 2026
Term for Positions 2, 5 and 8 shall expire March 31, 2027
Term for Positions 3 and 6 shall expire March 31, 2024

After the expiration of the current terms for the existing Board members listed above, each term thereafter shall be for a period of four years.

E. **Student Representation.** In addition to the appointed positions, the Board shall seek to recruit one student representative to participate on the Board. The student representative shall be a high school student who resides in the City of Tukwila. The term of this position will be a minimum of one year and may not exceed four years or when the student graduates from high school, whichever comes first.

F. **Resignations.** If a Board member is unable to complete their term of service, a letter of resignation shall be sent to the Mayor indicating the effective date of the resignation.

G. **Vacancies.** Any appointment to a position vacated other than by the expiration of the term of the appointment shall be to fill only the unexpired portion of said term.

H. **Revocation of Appointment.** A Board member may be removed from the position if absent without being excused for three consecutive meetings or six regular meetings in a calendar year.

(Ord. 2712 §6, 2023; Ord. 2529 §4, 2017)

2.39.030 Board Organization

Members of the Board shall meet and organize by electing from the members of the Board a Chair and a Vice-chair, and such other officers as may be determined by the Board, to serve for one year. It shall be the duty of the Chair to preside at all meetings.

The Vice-chair shall perform this duty in the absence of the Chair. If neither the Chair nor the Vice-Chair is present, a member chosen by agreement of the attending members shall act as chairperson.

(Ord. 2529 §5, 2017)

2.39.040 Meetings

A. **Conduct.** The Board shall hold at least one regular meeting per quarter. Board meetings will be conducted in public session and noticed in accordance with the Open Public Meetings Act (OPMA).

B. **By-Laws.** The Board shall adopt bylaws to provide guidelines for the conduct of business.

C. **Quorum.** A majority of the seated members of the Board shall constitute a quorum for the transaction of business.

D. **Staff Assistance.** The City shall provide assigned staff to support the Board. The primary role of staff is to represent the City and facilitate communication between the Board, City Administration, the City Council and other City departments. Staff responsibilities include:

1. Ensuring that meeting notifications and recordkeeping are consistent with applicable state laws;
2. Ensuring compliance with applicable laws, such as the Open Public Meetings Act (OPMA) and Public Records Act (PRA);
3. Providing professional guidance, issue analysis and recommendations;
4. Assisting with research, report preparation and correspondence; and
5. Compiling agendas, maintaining minutes, forwarding recommendations and/or implementing actions.

(Ord. 2529 §6, 2017)

2.39.050 Reporting Requirements and Biennial Review

A. **Reporting Requirements.** The Board shall keep the City of Tukwila apprised of its activities and recommendations by submitting an annual written report by January 31 each year summarizing the activities for the previous year.

B. **Biennial Review.** The City Council shall review the ongoing relevance of all Boards and Commissions in conjunction with review of requested funding allocations during the biennial budget process.

(Ord. 2529 §7, 2017)

CHAPTER 2.40
POLICE CHIEF

Sections:

2.40.010 Office Created

There is created in the City the office of Police Chief.

(Ord. 1318 §1, 1984)

2.40.020 Duties

The duties of the office of Police Chief are as set forth in this chapter. The Police Chief, under the direction of the Mayor and/or City Administrator, is head of the municipal Police Department, and is responsible for planning, organizing and directing the Police Department. This includes the planning, coordinating and supervision of patrol, investigation, crime prevention, training and all other programs and services of the Department.

(Ord. 1318 §2, 1984)

2.40.030 Appointment - Removal

The Police Chief shall be appointed by the Mayor, subject to confirmation by a majority vote of the City Council, and shall serve at the pleasure of the Mayor.

(Ord. 1318 §3, 1984)

2.40.040 Non Civil Service Position - Exception

The person holding the position of Police Chief on the date of passage of Ordinance No. 1318 *(4/16/84)* shall continue to serve subject to, and with rights accorded by, the civil service ordinances of the City.

(Ord. 1318 §4, 1984)

2.40.050 Salary

The salary for the position of Police Chief shall be set at the rate provided for in the annual budget adopted by the City Council.

(Ord. 1318 §5, 1984)

2.40.060 Compliance with Applicable Laws

The Police Chief shall serve pursuant to the ordinances and regulations of the City and any applicable State and federal statutes.

(Ord. 1318 §6, 1984)

CHAPTER 2.42
CIVIL SERVICE COMMISSION

Sections:

2.42.010 Establishment of Commission – Purpose

Pursuant to the authority conferred by RCW 41.12.030, the City of Tukwila Civil Service Commission ("Commission") is hereby established.

(Ord. 2691 §3, 2022)

2.42.020 Membership

A. **Qualifications.** Members must meet the following requirements:

1. Be a citizen of the United States;
2. Be a resident of the City of Tukwila for three years preceding the appointment; and
3. Be registered to vote in King County.

B. **Number of Members.** The Commission shall be comprised of three members that meet the requirements listed in TMC Section 2.42.020.A, "Qualifications."

C. **Appointment Process.** Community members that meet the requirements listed in TMC Section 2.42.020.A shall submit a completed Boards and Commissions Application to the Mayor's Office. The Mayor's Office will forward the application to the Commission Staff Liaison to contact the applicant. The Mayor appoints applicants to the Civil Service Commission.

D. **Term of Appointment.** The term of appointment for the members of the Civil Service Commission shall be six years provided, however, that in order for the fewest terms to expire in any one year all current terms of existing appointed Commission members shall expire on March 31 of the year set forth below for each respective position number:

Term for Position 1 shall expire March 31, 2028
Term for Position 2 shall expire March 31, 2024
Term for Position 3 shall expire March 31, 2026

After the expiration of the current terms for the existing Commission members listed above, each term thereafter shall be for a period of six years.

E. **Compensation.** The members of the Commission shall serve without compensation.

F. **Resignations.** If a Commission member is unable to complete their term of service a letter of resignation should be sent to the Mayor indicating the effective date of the resignation.

G. **Vacancies.** Any appointment to a position vacated other than by the expiration of the term of the appointment shall be to fill only the unexpired portion of said term.

H. **Revocation of Appointment.** Any member of the Commission may be removed from office for incompetence, incompatibility or dereliction of duty, or malfeasance in office, or other good cause; provided, however, that no member of the Commission shall be removed until charges have been preferred, in writing, due notice and a full hearing held. [RCW 41.12.030]

(Ord. 2712 §7, 2023; Ord. 2691 §4, 2022)

2.42.030 Commission Organization – Duties

A. **Election of Chair and Vice Chair.** Members of the Commission shall meet and organize by electing from the members of the Commission a Chair and a Vice-chair to serve for one year. The Vice-chair shall promote to the Chair the following year and a new Vice-Chair shall be elected by the members. It shall be the duty of the Chair to preside at all meetings. The Vice-chair shall perform this duty in the absence of the Chair.

B. **Duties of the Commission.** The duties of the Civil Service Commission shall include:

1. To make suitable rules and regulations that shall provide in detail the manner in which examinations may be held, and appointments, promotions, transfers, reinstatements, demotions, suspensions and discharges shall be made. The rules and regulations shall also provide for the classification of all positions within the Police Department according to the duties, responsibilities and qualifications of each and shall further provide the manner in which such classification shall be accomplished. The rules and regulations and any amendments thereof shall be available to the public.

2. All tests shall be practical and shall consist only of subjects which will fairly determine the capacity of persons examined to perform duties of the position to which appointment is to be made, and may include tests of physical fitness and/or manual skill.

3. The rules and regulations adopted by the Commission shall provide for a credit in favor of all applicants for appointment under civil service, who, in time of war, or in any expedition of the Armed Forces of the United States, have served in and been honorably discharged from the Armed Forces of the United States, including the Army, Navy and Marine Corps and the American Red Cross, in compliance with RCW 41.04.010.

4. The Commission shall make investigations concerning and report upon all matters touching the enforcement and effect of the provisions of this chapter, and the rules and regulations prescribed hereunder; inspect all institutions, departments, offices, places, positions and employments affected by this chapter, and ascertain whether this chapter and all such rules and regulations are being obeyed.

5. Such investigations may be made by the Commission or by any commissioner designated by the Commission for that purpose. Not only must these investigations be made by the Commission as aforesaid, but the Commission must make like investigation on petition of a citizen, duly verified stating that irregularities or abuses exist, or setting forth in concise language, in writing, the necessity for such investigation. In the course of such investigation, the Commission or designated commissioner, or Chief Examiner, shall have the power to administer oaths, subpoena and require the attendance of witnesses and the production by them of books, papers, documents and accounts pertaining to the investigation and also to cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior court; and the failure upon the part of any person so subpoenaed to comply with the provisions of this section shall be deemed a violation of this chapter and punishable as such.

6. All hearings and investigations before the Commission, or designated commissioner, or Chief Examiner, shall be governed by this chapter and by rules of practice and procedure to be adopted by the Commission, and in the conduct thereof neither the Commission, nor designated commissioner, shall be bound by the technical rules of evidence. No informality in any proceedings or hearing, or in the manner of taking testimony before the Commission or designated commissioner, shall invalidate any order, decision, rule or regulation made, approved or confirmed by the Commission; provided, however, that no order, decision, rule or regulation made by any designated commissioner conducting any hearing or investigation alone shall be of any force or effect whatsoever unless and until concurred in by at least one of the other two members.

7. To hear and determine appeals or complaints respecting the administrative work of the Human Resources Department related to the Commission's duties, the rejection of any examination and such other matters as may be referred to the Commission pursuant to the duties outlined in TMC Section 2.42.030.B.1.

8. To establish and maintain in card or other suitable form a roster of employees covered by civil service.

9. To provide for, formulate and hold competitive tests to determine the relative qualifications of persons who seek employment in any class or position and, as a result thereof, establish eligible lists for the various classes of positions as established by the City; and to provide that employees laid off because of curtailment of expenditures, reduction in force, and for like cause, head the list in the order of their seniority, to the end that they shall be the first to be reemployed.

10. When a vacant position is to be filled, to certify to the appointing authority, on written request, the names of the five persons highest on the eligible list for the class. The Commission shall make provision in its rules for provisional or temporary appointments to be utilized when there is no such eligible list applicable to the vacant position, or which may be utilized at the discretion of the appointing authority when there are less than five names on the eligibility list applicable to the vacant position. Such temporary or provisional appointment shall not exceed a period of six months in duration but may be extended for up to an additional six months if for any reason it cannot be determined at the expiration of the initial appointment that the position being filled by temporary or provisional appointment will in fact continue to be vacant, such as in the instance of a position vacant due to an officer on disability leave under the LEOFF Act, or for other good cause which in the discretion of the Commission warrants an additional extension of such a provisional or temporary appointment.

11. To keep such records as may be necessary for the proper administration of this chapter.

12. Approval of payroll in accordance with RCW 41.12.120.

C. **Appointment of Secretary and Chief Examiner.** The Commission shall appoint a person to hold the position of Secretary and Chief Examiner. The method of appointment and duties of the Secretary and Chief Examiner shall be as prescribed in the rules adopted by the Commission. The duties of the Secretary and Chief Examiner shall be to keep the records of the Commission, preserve all reports made to it, superintend and keep a record of all examinations held under its direction, and perform such other duties as the Commission may prescribe.

(Ord. 2697 §1, 2023; Ord. 2691 §5, 2022)

2.42.040 Meetings

A. **Frequency and Conduct.** Commission meetings shall be held at least monthly and shall be conducted in public session and noticed in accordance with the Open Public Meetings Act (OPMA).

B. **By-Laws.** The Commission shall adopt bylaws to provide guidelines for the conduct of business.

C. **Quorum.** Two members of the Commission shall constitute a quorum and the votes of any two members of such Commission concurring shall be sufficient for the decision of all matters and the transaction of all business to be decided or transacted by the Commission.

D. **Staff Assistance.** The City shall provide assigned staff to support the Commission. The primary role of staff is to represent the City and facilitate communication between the Commission, City Administration, the City Council and other City departments. Staff responsibilities include:

1. Ensuring that meeting notifications and recordkeeping are consistent with applicable state laws;

2. Ensuring compliance with applicable laws, such as the Open Public Meetings Act (OPMA) and Public Records Act (PRA);

3. Providing professional guidance, issue analysis and recommendations;

4. Assisting with research, report preparation and correspondence; and

5. Compiling agendas, maintaining minutes, forwarding recommendations and/or implementing actions.

6. Duties of civil service Secretary and Chief Examiner as appointed per TMC Section 2.42.030.C.

(Ord. 2691 §6, 2022)

2.42.050 Persons Included – Competitive Examination – Transfers, Discharges and Reinstatements

The provisions of this chapter shall include all full-time, fully paid employees of the City's Police Department, with the exception of the chiefs thereof who, because of the nature of their positions and pursuant to RCW 41.12.050, shall serve in the position as other City department heads, and with the further exception of unclassified position appointments as authorized by RCW 41.12.050(2)(b), that may only include selections from the following positions up to the limit of the number of positions authorized: Assistant chief, deputy chief, bureau commander, and administrative assistant or administrative secretary pursuant to RCW 41.12.050(3). The position of civil service Secretary and Chief Examiner shall not be a civil service position.

(Ord. 2691 §7, 2022)

2.42.060 Qualifications of Applicants

An applicant for a position of any kind under civil service must be a citizen of the United States of America who can read and write the English language. An applicant for a position of any kind under civil service must be of an age suitable for the position applied for, in ordinary good health, of good moral character and of temperate and industrious habits; these facts to be ascertained in such manner as the Commission may deem advisable.

(Ord. 2691 §8, 2022)

2.42.070 Power to Create Offices, Make Appointments and Fix Salaries Not Infringed

All offices, places, job descriptions, positions and employments and Police Department classifications coming along within the purview of this chapter shall be created by the Mayor and City Council or Mayor alone or whomever otherwise is vested with power and authority to select, appoint, or employ any person coming within the purview of this chapter; and nothing contained in this section shall infringe upon the power and authority of any such person or group of persons, or appointing authority, to fix the salaries and compensation of all employees employed hereunder.

(Ord. 2691 §9, 2022)

2.42.080 Enforcement by Civil Action – Legal Counsel

It shall be the duty of the Commission to begin and conduct all civil suits which may be necessary for the proper enforcement of this chapter and of the rules of the Commission. The Commission shall be represented in such suits by the chief legal officer of the City, or his/her designee, but the Commission may in any case be represented by special counsel appointed by it.

(Ord. 2691 §10, 2022)

2.42.090 Deceptive Practices, False Marks, Etc., Prohibited

No commissioner or any other person shall, by himself or in cooperation with one or more persons, defeat, deceive, or obstruct any person in respect of his right of examination or registration according to the rules and regulations of this chapter, or falsely mark, grade, estimate or report upon the examination or proper standing of any person examined, registered or certified pursuant to the provisions of this chapter, or aid in so doing, or make any false representation concerning the same, or concerning the person examined, or furnish any person any special or secret information for the purpose of improving or injuring the prospects or chances of any person so examined, registered or certified, or to be examined, registered or certified or persuade any other person, or permit or aid in any manner any other person to personate him, in connection with any examination or registration of application or request to be examined or registered.

(Ord. 2691 §11, 2022)

2.42.100 Penalty – Jurisdiction

Any person who shall willfully violate any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than $100 and by imprisonment in jail for not longer than 30 days, or by both fine and imprisonment.

(Ord. 2691 §12, 2022)

2.42.110 Applicability

The examination and eligibility provisions of this chapter and establishment of positions covered by civil service by the provisions of this chapter shall be effective for all appointments made after the effective date of this ordinance.

(Ord. 2691 §13, 2022)

CHAPTER 2.48

CITY FIRE DEPARTMENT PENSION PARTICIPANTS

Sections:

2.48.010 State Death and Disability Provisions

A. On and after March 19, 1945, all firefighters, including volunteer and fully-paid, shall be entitled to the benefits of the death and disability provisions provided under chapter 41.24 RCW.

B. The City Clerk shall be the secretary-treasurer of the board of trustees created by said act and shall enroll each firefighter under the death and disability provisions of said law.

(Ord. 2692 §3, 2022)

2.48.020 Fire and Emergency Medical Services Provided by Puget Sound Regional Fire Authority

Effective January 1, 2023, City fire and emergency medical services shall be provided by the Puget Sound Regional Fire Authority ("PSRFA") pursuant to terms of an interlocal agreement. Any references in this Tukwila Municipal Code to the Tukwila Fire Department or Fire Marshal shall be interpreted to refer to the PSRFA effective January 1, 2023.

(Ord. 2692 §4, 2022)

CHAPTER 2.52
EMPLOYEE BENEFITS

Sections:

2.52.010 Social Security

A. The City shall become a participant in the Social Security System, and the benefits of old age and survivors' insurance as provided in RCW 41.48 shall be extended to its employees and officers.

B. The Mayor and the City Clerk are authorized to execute and deliver to the Washington Department of Employment Security for its approval the plan or plans required under the provisions of RCW 41.48.050 of said State enabling act and of the Social Security Act, to extend coverage to the employees and officers of this municipality and to do all other things necessary to that end.

C. The proper fiscal officers are authorized to make all required payments into the contribution fund established by the enabling act, and to establish such system of payroll deductions from the salaries of employees and officers as may be necessary to their coverage under said old age and survivors insurance system.

D. The proper officials of the City shall do all things necessary to the continued implementation of said system.

E. This City shall become a participant in the Social Security System effective as of January 1, 1951.

(Ord. 210 (part), 1951)

2.52.020 State-Wide City Employee Retirement System

A. The City hereby elects to participate as a member of the State-wide City employees' retirement system for pension, relief, disability and retirement for the employees of the City, as provided by RCW 41.44. All employees and officials of the City shall be included in this system, provided that no elective official shall be included unless the official so elects and files a written notice of such election with the board of trustees of the pension system and with the City Clerk.

B. The number of employees and officials, other than elective officials, who shall be included as members of the pension system is approximately 14.

C. A certified copy of Ordinance No. 210 shall be transmitted to the board of trustees of the State-wide system as evidence of an election of the City to join such pension system.

D. The basis for prior service credit shall be 100% of final compensation known as full prior service credit.

E. The basis of social security coverage will be coordination.

F. The basis for contribution shall be maximum contribution basis.

(Ord. 441 §1-6, 1965)

2.52.030 Legal Holidays

A. Unless otherwise provided in applicable collective bargaining agreements, all employees shall receive the following holidays off with 8 hours' compensation at their regular straight-time hourly rate of pay:

New Year's Day	January 1
Martin Luther King, Jr. Day	3rd Monday of January
President's Day	3rd Monday of February
Memorial Day	Last Monday of May
Juneteenth	June 19
Independence Day	July 4
Labor Day	1st Monday of September
Veteran's Day	November 11
Thanksgiving Day	4th Thursday of November
Day after Thanksgiving Day	Friday
Christmas Day	December 25
Two (2) Floating Holidays	At employee's choice

B. An employee may select two personal holidays each calendar year as floating holidays and the City must grant such days provided:

1. The employee has been or is scheduled to be continuously employed by the City for more than four months during the calendar year in which the floating holidays are to be taken;

2. The employee has given not less than 14 calendar days' notice to the supervisor, provided, however, that the employee and the supervisor may agree upon an earlier date; and

3. The number of employees selecting a particular day off does not prevent the City from providing continued public service.

C. The floating personal holidays must be taken during the calendar year of entitlement or the days shall lapse, except when an employee has requested a personal holiday and the request has been denied.

D. In the event that a holiday falls upon a Sunday, the following Monday shall be deemed to be the legal holiday. In the event the legal holiday falls on a Saturday, the preceding Friday shall be deemed to be the legal holiday.

E. Nothing in this section shall be construed to have the effect of adding or deleting the number of paid holidays provided for in existing agreements between employees and the City.

F. Employees of the City will be granted up to 2 unpaid holidays per year for reasons of faith or conscience or an organized activity conducted under the auspices of a religious denomination, church or religious organization. If an employee prefers to take the two unpaid holidays on specific days, then the employee will be allowed to take the unpaid holidays on the days he or she has selected unless the absence would unduly disrupt operations, impose an undue hardship, or the employee is necessary to maintain public safety.

(Ord. 2670 §1, 2022; Ord. 2446 §1, 2014;Ord. 1663 §1, 1993; Ord. 1382 §1, 1986)

2.52.040 Sick Leave

Unless otherwise provided by applicable collective bargaining agreements, every regular full-time and regular part-time City employee or officer hereafter employed by the City shall accumulate sick leave with pay at the rate of eight hours for each completed full calendar month of service up to a maximum of 720 hours. All of the foregoing shall be subject to the following conditions:

1. Any full-time employee who is on sick leave as above specified for a period of five days or longer shall, prior to being entitled to any compensation therefor, furnish without delay a report from a qualified doctor which shall contain a diagnosis of the sickness, whenever possible. "Qualified doctor" shall be a duly licensed doctor of medicine.

2. In the event an employee or officer terminates employment, or such employment is terminated for any reason whatsoever with the City, prior to using his or her accumulated sick-leave time, he or she shall be entitled to pay equal to 25% of the amount payable for any unused sick leave; provided that the employee has successfully completed his/her probationary period.

3. In any case in which the employee shall be entitled to benefits or payments under the Worker's Compensation Act or similar legislation of the State of Washington or any other governmental unit, the City of Tukwila shall pay the difference between the benefits and payments received under such act by such employee and the regular rate of compensation he or she would have received from the City of Tukwila if able to work. The foregoing payment or contribution by the City shall be limited to the period of time such employee had accumulated sick leave credits as hereinabove specified. Furthermore, the sick leave benefits herein specified shall not be applicable to any employee who is covered by any relief and pension act or similar legislation providing for sickness and/or disability payments, or the State of Washington, or any union contract granting substantially equal or greater benefits than herein provided.

(Ord. 1415 §1, 1987)

2.52.050 Domestic Partner Benefits

A. *Benefits Extended.* The City of Tukwila self-insured healthcare plan extends dependent eligibility to employees' domestic partners and their children. The City will provide benefit coverage to a domestic partner of the same or opposite sex and dependent children on the same basis as provided to a spouse and dependent children.

B. *Eligibility.* Eligibility for domestic partnership status will be established by presentation of proof of a registered domestic partnership of the State of Washington or the submission of an affidavit and documentation as required by the City's Personnel Policies as currently written or hereinafter amended.

(Ord. 2188 §1 & 2, 2007)

CHAPTER 2.57
EMERGENCY MANAGEMENT

Sections:

2.57.010 Purpose

Recognizing the existing and future possibility of emergencies in the City and surrounding regions, the declared purposes of this chapter are:

1. to insure that preparations of the City will be adequate to deal with emergencies;
2. to protect the public peace, health and safety and to preserve the lives and property of the people of the City;
3. to provide for emergency management of the City;
4. to confer upon the Mayor and others emergency powers and authority; and
5. to declare that all emergency management functions of the City be coordinated to the maximum extent with other governmental entities, tribal nations, and private entities to provide the most effective preparation and use of City staff, resources and facilities to deal with any emergency situation that may occur.

(Ord. 2337 §1 (part), 2011)

2.57.020 Definitions

As used in this chapter, these terms shall be defined as follows:

1. "*Emergency*" – Any incident, whether natural or man-made, that requires responsive action to protect life and property. An emergency can also mean any occasion or instance for which assistance is needed to supplement our local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the City.
2. "*Emergency Management*" – The preparation for and the carrying out of all emergency functions to mitigate, prepare for, respond to, and recover from emergencies, and to aid victims suffering from injury or damage resulting from emergencies caused by all hazards, whether natural, technological or human caused, and to provide support for search and rescue operations for persons and property in distress.
3. "*Emergency Worker*" – Any person registered with the City's Emergency Management Organization under the provision of TMC Section 2.57.090, or any member of the military, and who holds an identification issued by said organizations, for the purpose of engaging in authorized emergency management activities, or any employee of the City or any subdivision of the City who is called upon to perform emergency management activities.
4. "*Hazardous Materials*" – Materials which, because of their chemical, physical, or biological nature, pose a potential risk to life, health, environment, or property when released.
5. "*Incident Command System" (ICS)* – A standardized on-scene emergency management construct specifically designed to provide an integrated organizational structure that reflects the complexity and demands of single or multiple incidents, without being hindered by jurisdictional boundaries. ICS is the combination of facilities, equipment, personnel, procedures, and communications operating within a common organizational structure, designed to aid in the management of resources during incidents. It is used for all kinds of emergencies and is applicable to small as well as large and complex incidents. ICS is used by various jurisdictions and functional agencies, both public and private, to organize field-level incident management operations.
6. "*Mitigation*" – Activities providing a critical foundation in the effort to reduce the loss of life and property from natural and/or manmade emergencies by avoiding or lessening the impact of an emergency and providing value to the public by creating safer communities. Mitigation seeks to fix the cycle of damage as a result of an emergency, reconstruction, and repeated damage. These activities or actions, in most cases, will have a long-term, sustained effect.
7. "*Preparedness*" – A continuous cycle of planning, organizing, training, equipping, exercising, evaluating, and taking corrective action in an effort to ensure effective coordination during incident response. Within the National Incident Management System, preparedness focuses on the following elements: planning, procedures and protocols, training and exercises, personnel qualification and certification, and equipment certification.
8. "*Recovery*" – The development, coordination, and execution of service- and site-restoration plans; the reconstitution of government operations and services; individual, private-sector, nongovernmental, and public assistance programs to provide housing and to promote restoration; long-term care and treatment of affected persons; additional measures for social, political, environmental, and economic restoration; evaluation of the incident to identify lessons learned; post-incident reporting; and development of initiatives to mitigate the effects of future incidents.
9. "*Response*" – Activities that address the short-term, direct effects of an incident. Response includes immediate actions to save lives, protect property, and meet basic human needs. Response also includes the execution of emergency operations plans and of mitigation activities designed to limit the loss of life, personal injury, property damage, and other unfavorable outcomes. As indicated by the situation, response activities

include applying intelligence and other information to lessen the effects or consequences of an incident; increased security operations; continuing investigations into nature and source of the threat; ongoing public health and agricultural surveillance and testing processes; immunizations, isolation, or quarantine; and specific law enforcement operations aimed at preempting, interdicting, or disrupting illegal activity, and apprehending actual perpetrators and bringing them to justice.

(Ord. 2337 §1 (part), 2011)

2.57.030 Emergency Powers of the Mayor

In the event of a proclamation of emergency as herein provided, or upon a proclamation of state of emergency by the Governor, the Mayor is hereby empowered to:

1. Proclaim a State of Emergency for the City when necessary.
2. Make, and issue rules and regulations on all matters reasonably related to the protection of life or property as affected by such emergency; provided, however, that such rules and regulations must be confirmed at the earliest practicable time by the City Council.
3. Request that the County Executive or other chief executive or legislative officer of the county request a proclamation of a state of emergency when, in the opinion of the Mayor, the resources of the area or region are inadequate to cope with the emergency.
4. Obtain vital supplies, equipment, and such other properties found lacking and needed for the protection of life and property of the people and to bind the City of Tukwila for the fair value thereof, and, if required immediately, to commandeer the same for public use.
5. Waive and dispense with public bidding requirements of RCW 35.23.352 on an emergency basis as necessary.
6. Control and direct the efforts of the emergency management organization of the City of Tukwila for the accomplishment of the purposes of this chapter.
7. Requisition necessary personnel or material of any City department or agency.
8. Execute all the special powers conferred upon the Mayor by this chapter, by any other statute, agreement, or lawful authority, as necessary.
9. Establish continuity of government and ensure proper succession of authority (TMC Section 2.04.070 (B).

(Ord. 2337 §1 (part), 2011)

2.57.040 City Council – Duties

It shall be the duty of the City Council, consistent with the provisions set forth in TMC Section 2.57.060, to:

1. Give input and consent to the Mayor regarding appointments made pursuant to TMC Section 2.57.050.
2. Consider adoption of or ratify emergency management mutual aid plans and agreements, and such ordinances, resolutions, rules and regulations as necessary to implement such plans and agreements as are referred to them by the Emergency Management Council, pursuant to TMC 2.57.060, provided the same or parts thereof are not inconsistent with this chapter.
3. Approve or ratify, at the earliest possible time after their issuance, rules and regulations related to the protection of life, environment and property that are affected by an emergency, such rules and regulations having been made and issued by the Emergency Management Director pursuant to TMC Section 2.57.070, provided the same or parts thereof are not inconsistent with this chapter.
4. Distribute, pursuant to resolution, the functions and duties of the City's Emergency Management Organization among the departments, divisions, services and special staff referred to in TMC Section 2.57.100.

(Ord. 2337 §1 (part), 2011)

2.57.050 Emergency Management Council– Membership

The Emergency Management Council shall consist of the following:

1. The Mayor, who shall be chairperson.
2. The Director of Emergency Management, who shall be vice-chairperson.
3. City Administrator, all City department heads and the Emergency Manager.
4. Such City employees and other citizens with technical expertise in related areas as may be appointed by the Mayor, with the input and consent of the City Council.

(Ord. 2337 §1 (part), 2011)

2.57.060 Emergency Management Council's Powers and Duties

The Emergency Management Council shall have the following powers and duties consistent with the purposes of this chapter:

1. Advise the Mayor and the Director of Emergency Management in all matters pertaining to City emergency management, and appoint such ad hoc committees, subcommittees and working groups as are required to develop specific recommendations for the improvement of emergency management practices, standards, policies or procedures.
2. Ensure the Mayor and City Council receive an annual assessment of Citywide emergency preparedness, including but not limited to, specific progress on hazard mitigation and reduction efforts, implementation of seismic safety improvements, reduction of flood hazards and coordination of hazardous materials planning and response activities.
3. Review administrative rules governing City emergency management practices and recommend necessary revisions to the Director of Emergency Management.
4. Meet regularly, as called by the chairperson or, in his/her absence from the City or inability to call such meeting, the vice chairperson.

(Ord. 2337 §1 (part), 2011)

2.57.070 Director's Powers and Duties

A. The Mayor, pursuant to RCW 38.52.070 (1), appoints the Director of Emergency Management ("Director"). In the absence of the Director, the Mayor shall appoint a temporary Director until the Director returns or a replacement is found.

B. The Director shall have the following powers and duties consistent with the purposes of this chapter:

1. Responsible for the organization, administration, and operation of emergency management in the City, subject to the direction and control of the Mayor.

2. Oversee implementation of, and annual updates to, the City's Comprehensive Emergency Management Plan ("the Plan"), consistent with the requirements specified in Chapter 38.52 RCW, and coordinated with other state and county plans and programs; ensure compliance with the National Incident Management System and ensure operation and maintenance of the City's Incident Command System; coordinate with the Emergency Management Council to conduct at least one tabletop exercise annually and one full-scale exercise every 3 to 5 years to maintain proficiency in the use of the Plan.

3. Coordinate efforts of the Emergency Management Organization of the City for the accomplishment of the purposes of this chapter.

4. Coordinate efforts between departments, divisions, services, and staff of the Emergency Management Organization of the City, and resolve questions of authority and responsibility that may arise between them.

5. Represent the Emergency Management Organization of the City in dealings with public or private agencies pertaining to emergency management and response to emergencies.

6. Coordinate the ongoing development and evaluation of emergency plans concerning the application of mitigation strategies and preparation, response, and recovery mechanisms, and include such in the City's emergency management activities with various federal, state, tribal, and local governments, non-governmental organizations (NGOs), and the private sector; conduct and evaluate testing of emergency plans; and preside over and guide interdepartmental emergency management planning committees that may be created by the Emergency Management Council.

7. Coordinate development and presentation of rules and regulations to the Emergency Management Council that will assist in efforts to reasonably protect life, environment, and property during an emergency.

8. Prepare for the Mayor's signature any proclamation of local emergency and, upon approval, submit it to federal, state, regional, and local agencies, as required. This proclamation authorizes the City to take necessary measures to combat an emergency; protect persons, environment and property; provide emergency assistance to victims of the emergency; and exercise powers authorized in RCW 38.52.070. These include, but are not limited to, rationing; curfew; and waiver of requirements pertaining to budget law limitations, competitive bidding processes, publication of notices, provisions to the performance of public work, entering into contracts, incurring obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials, the levying of taxes, and the appropriation and expenditure of public funds. Such proclamation must be confirmed and ratified by the City Council, as soon as is reasonably practical, and provided the purposes of any such proclamation are consistent with the purposes of this chapter.

9. As required by state law and upon approval by the Mayor and the City Council, submit all plans and programs for State review and certification.

10. Coordinate the services and resources of volunteers, provided that volunteers so directed shall be entitled during the period of such service to all privileges, benefits and immunities as are provided by state law and federal and state emergency management regulations for registered emergency workers.

11. Execute all the special powers conferred by this chapter or by resolution adopted pursuant thereto, and all powers conferred by statute, by agreement approved by the Emergency Management Council, or by any other lawful authority.

(Ord. 2337 §1 (part), 2011)

2.57.080 Emergency Manager

The Emergency Manager (EM) is a full-time position that reports to the Director of Emergency Management. As part of the position's responsibilities, the EM will ensure the Comprehensive Emergency Management Plan and its supporting procedures are reviewed and updated annually; an education and training program is developed and implemented in emergency management tasks for City employees, residents and businesses; and periodic training and exercises are conducted pursuant to TMC Section 2.57.070.

(Ord. 2337 §1 (part), 2011)

2.57.090 Emergency Management Organization

All officers and employees of the City, together with those citizens enrolled to aid them during an emergency, and all groups, organizations and persons who may, by agreement or operation of law, including persons pressed into service under the provisions of TMC Section 2.57.070 who shall be charged with duties incident to the protection of life, environment and property in the City during such emergency, shall constitute the Emergency Management Organization of the City.

(Ord. 2337 §1 (part), 2011)

2.57.100 Departments, Divisions, Services, and Staff

The functions and duties of the City's Emergency Management Organization shall be distributed among such departments, divisions, services and special staff as the Director of Emergency Management shall direct.

(Ord. 2337 §1 (part), 2011)

2.57.110 Mutual Aid Agreements

The Mayor shall have the power to sign, on behalf of the City and the Emergency Management Council, mutual aid agreements with other governmental entities, tribal nations and non-governmental entities that have been approved by the City Council. All previous mutual aid agreements that have been signed by the Mayor are hereby confirmed and ratified, provided the same or parts thereof are not inconsistent with this chapter.

(Ord. 2337 §1 (part), 2011)

2.57.120 Punishment of Violations

It is a misdemeanor punishable as provided in TMC Section 1.08.010 for any person, during an emergency, to:

1. Willfully obstruct, hinder, or delay any member of the Emergency Management Organization in the enforcement of any lawful rule or regulation issued pursuant to this chapter or in the performance of any duty imposed by virtue of this chapter.
2. Do any act forbidden by any lawful rules or regulations issued pursuant to this chapter.
3. Wear, carry or display, without authority, any means of identification specified by the State Department of Emergency Management.
4. In any manner loot or carry off any items of value not belonging to the person charged during an emergency or its aftermath.

(Ord. 2337 §1 (part), 2011)

2.57.130 No Private Liability.

No individual, firm, association, corporation or other party, or their successors in interest, or the agents or employees of any of them, owning, maintaining or controlling any building or premises, who voluntarily and without compensation grants to the City a license or privilege or otherwise permits the City to inspect, designate and use the whole or any part or parts of the building or premises for the purpose of sheltering persons, property and/or animals during an actual or impending emergency, or during full-scale exercise or any other training event, shall be subject to legal liability for damage to property or injury or death to any persons or animals while in or upon the building or premises for the purposes expressed above. All legal liability for damage to property or injury or death to persons or animals caused by acts done, or attempted, under color of this chapter and a bona fide attempt to comply therewith, other than acts done in bad faith, gross negligence, or willful misconduct, shall be the obligation of the State of Washington. The City is immune from liability under this chapter to the fullest extent allowed by law.

(Ord. 2337 §1 (part), 2011)

CHAPTER 2.60
ELECTRIC UTILITY FRANCHISE

Sections:

2.60.040 Area Determination

It is the policy of the City that all electric public utilities heretofore or hereafter franchised shall exclusively serve such area within the City as shall be determined by the City Council, to be consistent with the health, safety and welfare of the public in the elimination of duplicate electrical installations, attendant hazards and burden upon the City's various real property.

(Ord. 353 §1, 1962)

2.60.050 Exclusive Service Area to Prior Franchise

Those electric public utilities now franchised shall be, and by Ordinance No. 353 are, granted exclusive service areas consisting of such areas within the City limits as they exclusively served on January 1, 1962.

(Ord. 353 §2, 1962)

2.60.060 Filing Map Required

Every electric public utility shall, within 60 days of the first publication of Ordinance No. 353, file with the City Clerk a map showing the boundary of all areas within the City in which such utility actually exclusively served consumers on January 1, 1962. Unless controverted by an interested citizen or another such utility within 30 days of filing, such map shall conclusively determine the established service area of the filing utility.

(Ord. 353 §3, 1962)

2.60.070 Establishing Facility in Service Area of Another Utility

No electric public utility shall hereafter be permitted to establish any facility pursuant to its franchise for the purpose of serving any area now or hereafter established as the exclusive service area of another electric public utility.

(Ord. 353 §4, 1962)

2.60.080 Common Service Area

Any area actually served by any two or more franchised electric public utilities on January 1, 1962, shall be and remain the common service area of both unless or until such service shall be discontinued by any such utility for 30 days or more, in which case such discontinuing utility shall thereafter be deemed to be excluded from servicing such area.

(Ord. 353 §5, 1962)

2.60.090 Boundaries

The boundaries of service areas shall in every instance follow the exterior property line of the consumer actually served. In the event of any dispute among utilities, the location and boundary of service areas shall be investigated by the City supervisor and reported to the City Council. The Council shall hear the supervisor's report together with any evidence submitted to the supervisor by any interested person and shall, by ordinance, determine and locate such boundary.

(Ord. 353 §6, 1962)

2.60.100 Common Service Area – Excluded Utility

Should any common service area of two or more electric public utilities exist wherein any such utility shall be excluded as provided in TMC 2.60.080, then such excluded utility shall, within 30 days of such exclusion, abate and remove any electrical equipment or facilities which serve only the area from which it was thereby excluded, it being the purpose of this provision that hazards arising from the continuation of such facilities be abated as soon as is reasonable.

(Ord. 353 §7, 1962)

CHAPTER 2.64
SALE OF CITY PROPERTY

Sections:

2.64.010 Authorization – Effecting Transfer of Property Conveyance

Whenever it shall appear to the Mayor and the City Council that it is for the best interests of the City and the people thereof that any lot, parcel, or portion of such lot or parcels is no longer needed and the property, whether real, personal, or mixed, belonging to the City, should be sold, it shall be the duty of the Council to authorize a sale of such property acting by and through the Mayor of the City, to cause to be effected the conveyance as necessary to transfer the property under the limitations and restrictions provided in this chapter and in State law.

(Ord. 2582 §2, 2018)

2.64.020 Minimum Price Set

Subsequent to receipt of an assessment of the value of the property, the Council shall fix a minimum price at which such may be sold. No offer or bid shall be deemed acceptable that does not meet the minimum price fixed by the Council.

(Ord. 2582 §3, 2018)

2.64.030 Call for Bids – Exceptions

The City Clerk shall cause a call for bids to be published relating to such property, and the City shall abide by the provisions of Tukwila Municipal Code Sections 2.64.040, 2.64.050, and 2.64.060, except when:

1. Selling to a governmental agency in the manner provided in the laws of the State of Washington;
2. The value of the property to be sold is less than $10,000.00;
3. The Council setting forth the facts by resolution has declared an emergency to exist;
4. The Council has approved an alternative process for receiving offers, selecting the buyer and negotiating the price; or
5. The Council desires to dispose of the property pursuant to a settlement agreement.

(Ord. 2582 §4, 2018)

2.64.040 Notice of Intent to Sell

The City Clerk shall give notice of the City's intention to make such sale by one publication in the official newspaper of the City; the City Clerk shall also cause notice of the City's intention to make such sales to be posted in the City's on-line Digital Records Center. Both posting and the date of publication must be at least five calendar days before the final date for submission of offers or bids.

(Ord. 2582 §5, 2018)

2.64.050 Opening Bids – Rejection

Bids shall be opened in public at the time and place stated in such publication. The City Council may reject any and all bids, or the bid for any one or more of the parcels, real or personal, included in the aforesaid call for bids.

(Ord. 2582 §6, 2018)

2.64.060 Receipt of Acceptable Offers or Bids – Preparation of Instruments

Upon receipt of an acceptable offer or bid relating to the property, the Council shall authorize the Mayor to cause necessary instruments to be prepared, and further authorizes the Mayor to execute such instruments.

(Ord. 2582 §7, 2018)

CHAPTER 2.68
MUNICIPAL COURT

Sections:

2.68.005 Court Established

There is established a municipal court entitled "the Municipal Court of the City of Tukwila," hereinafter referred to as "Municipal Court," which court shall have jurisdiction and shall exercise all powers enumerated herein and in RCW 3.50 as amended by Chapter 258, Laws of 1984, together with such other powers and jurisdiction as are generally conferred upon such court in this state either by common law or by express statute.

(Ord. 1324 §2, 1984)

2.68.006 Court Seal

The Municipal Court shall have a seal which shall be the vignette of George Washington, with the words "Seal of the Municipal Court of Tukwila, State of Washington," surrounding the vignette.

(Ord. 1324 §15, 1984)

2.68.010 Jurisdiction

The Municipal Court shall have exclusive original jurisdiction over traffic infractions arising under City ordinances, and exclusive original criminal jurisdiction of all violations of City ordinances duly adopted by the City. The Municipal Court shall have original jurisdiction of all other actions brought to enforce or recover license penalties or forfeitures declared or given by such ordinances or by State statutes. The Municipal Court is empowered to forfeit cash bail or bail bonds and issue execution thereon; and in general to hear and determine all causes, civil or criminal, including traffic infractions, arising under such ordinances and to pronounce judgment in accordance therewith.

(Ord. 1324 §3, 1984)

2.68.020 Judges – Appointment – Qualifications

A. The municipal judge holding office on July 1, 1984, the effective date of Ordinance No. 1324, shall continue to hold office until expiration of his or her term or January 1, 1986, whichever occurs first. The term of a successor shall commence on January 1, 1986, and/or January 1 of each fourth year thereafter, pursuant to appointment as provided below.

B. The municipal judge shall be appointed by the Mayor, subject to confirmation by the City Council, for a term of four years. Appointments shall be made on or before December 1 of the year next preceding the year in which the term commences.

C. A person appointed as municipal judge shall be a citizen of the United States of America and of the State of Washington; and an attorney admitted to practice law before the courts of record of the State.

(Ord. 1324 §4, 1984)

2.68.025 Salaries - Costs

All costs of operating the Municipal Court, including but not limited to, salaries of judges and court employees, dockets, books of records, forms, furnishings and supplies, shall be paid wholly out of the funds of the City. The City shall provide a suitable place for holding court and pay all expenses of maintaining it.

(Ord. 2261 §1, 2009; Ord. 1324 §5, 1984)

2.68.026 Municipal Judge Salary

The salary of the Municipal Court Judge shall be set at the rate of 90% of the District Court Judges Salary as set by the Salary Schedule adopted by the Washington Citizens' Commission on Salaries for Elected Officials on an annual basis.

(Ord. 2659 §2, 2021; Ord. 2261 §2, 2009)

2.68.027 Removal of Judge

A. A municipal judge shall be removed only upon conviction of misconduct or malfeasance in office, or because of physical or mental disability rendering the judge incapable of performing the duties of the office, or by operation of law. For the purposes hereof, conviction of misconduct or malfeasance in office shall include:

1. Conviction of any criminal offense by the Municipal Judge during the term of office of the Municipal Judge;

2. A determination by the Washington State Judicial Conduct Commission that a code or standard of judicial conduct has been violated; or

3. A finding by the City Council, after notice and a hearing and reasonable opportunity to be heard, that conduct has occurred, not limited to criminal convictions, which interferes with or prevents the Municipal Judge from being able to adequately administer or handle judicial functions of the Municipal Court, or which indicates that the judge cannot act in a fair and/or impartial manner.

B. It is provided, however, that if the Washington State Judicial Conduct Commission, or the Washington State Supreme Court or other court with the jurisdiction to make such decisions, decides that the Municipal Judge is to be removed from office or that the Municipal Judge is not qualified or able to serve as a Municipal Judge, then no further or separate action by the City Council is required to effect such removal.

C. Any vacancy in the Municipal Court due to death, disability or resignation of the Municipal Court judge shall be filled by the Mayor for the remainder of the unexpired term. The appointment shall be subject to confirmation by the City Council. The appointed judge shall be qualified to hold the position of judge of the Municipal Court, as provided in TMC Chapter 2.68 and RCW 3.50 as amended by Chapter 258, Laws of 1984.

(Ord. 2013 §1, 2003)

2.68.030 Municipal Court Employees

All employees of the Municipal Court shall, for all purposes, be deemed employees of the City. They shall be appointed by and serve at the pleasure of the Court; provided, that all applicable personnel practices and procedures with respect to hiring and termination are followed. Supervision of the Court employees shall be by the Mayor or designee.

(Ord. 1324 §6, 1984)

2.68.040 Judges Pro Tem – Court Commissioners

A. The Mayor shall, in writing, appoint judges pro tem who shall act in the absence or disability of the regular judge of the Municipal Court or subsequent to the filing of an affidavit of prejudice. The judge pro tem shall be qualified to hold the position of judge of the Municipal Court as provided herein. The judge pro tem shall receive such compensation as shall be fixed by ordinance. The term of the appointment shall be specified in writing but in any event shall not extend beyond the term of the appointing Mayor.

B. The Municipal Court judge may appoint one or more Municipal Court commissioners, who shall hold office at the pleasure of the Municipal Court judge. Each Municipal Court commissioner shall have such power, authority and jurisdiction in civil and criminal matters as the municipal court judge shall prescribe by court order.

(Ord. 1324 §7, 1984)

2.68.045 Judicial Vacancy

Any vacancy in the municipal court due to a death, disability, or resignation of a Municipal Court judge shall be filled by the Mayor for the remainder of the unexpired term. The appointment shall be subject to confirmation of the City Council. The appointed judge shall be qualified to hold the position of judge of the Municipal Court as provided in this chapter.

(Ord. 1324 §8, 1984)

2.68.050 Municipal Court Hours

The Municipal Court shall be open and shall hold such regular and special sessions as may be prescribed by the Municipal Court judge; provided, that the Municipal Court shall not be open on nonjudicial days.

[Ord. 1324 §9, 1984)

2.68.060 Revenue Deposit

All fees, costs, fines, forfeitures and other moneys imposed or collected by the Municipal Court for the violation of any municipal ordinance, together with any other revenue received by the Municipal Court, shall be deposited with the City Treasurer as a part of the general fund of the City.

(Ord. 726 §6, 1972)

2.68.070 Sentences

A. In all cases of conviction, unless otherwise provided in RCW Chapters 3.30 through 3.74 as now or hereafter amended, where a jail sentence is given to the defendant, execution shall issue accordingly; and where the judgment of the court is that the defendant pay a fine and costs, the defendant may be committed to jail until the judgment is paid in full.

B. A defendant who has been committed shall be discharged upon the payment for such part of the fine and costs as remains unpaid after deducting from the whole amount any previous payment, and after deducting the amount allowed for each day of imprisonment, which amount shall be the same and computed in the same manner as provided for superior court cases in RCW 10.82.030 and 10.82.040, as now or hereafter amended. In addition, all other proceedings in respect of such fine and costs shall be the same as in like cases in the superior court.

C. Every person convicted by the Municipal Court of a violation of the criminal provisions of an ordinance for which no punishment is specifically prescribed in the ordinance shall be punished by a fine of not more than $5,000.00, or imprisonment in the City jail for a period not to exceed one year, or both such fine and imprisonment.

(Ord. 1324 §10, 1984)

2.68.075 Deferral and Suspension of Sentences

A. After a conviction, the Court may defer sentencing and place the defendant on probation and prescribe the conditions thereof, but in no case shall it extend for more than two years from the date of conviction. During the time of the deferral, the Court may, for good cause shown, permit a defendant to withdraw the plea of guilty, permit the defendant to enter a plea of not guilty, and dismiss the charges.

B. For a period not to exceed two years after imposition of sentence, the Court shall have continuing jurisdiction and authority to suspend the execution of all or any part of the sentence upon stated terms, including installment payment of fines.

C. Deferral of sentence and suspension of execution of sentence may be revoked if the defendant violates or fails to carry out any of the conditions of the deferral or suspension. Upon the revocation of the deferral or suspension, the Court shall impose the sentence previously suspended or any unexecuted portion thereof. In no case shall the Court impose a sentence greater than the original sentence, with credit given for time served and money paid on fine and costs.

D. Any time before entering an order terminating probation, the Court may revoke or modify its order suspending the imposition or execution of the sentence. If the ends of justice will be served, and when warranted by the reformation of the probationer, the court may terminate the period of probation and discharge the person so held.

(Ord. 1324 §11, 1984)

2.68.080 Rules of Pleading, Practice and Procedure

The following rules of pleading, practice and procedure shall govern criminal proceedings in the Tukwila Municipal Court:

A. COMPLAINT:

1. *Initiation*. Except as otherwise provided in this rule, all criminal proceedings shall be initiated by a complaint;

2. *Contents*. The complaint shall be in writing and shall set forth:

a. The name of the court,

b. the title of the action and the name of the offense charged,

c. the name of the person charged, and

d. the offense charged, in the language of the ordinance, together with a statement as to the time, place, person and property involved, to enable the defendant to understand the character of the offense charged;

3. *Verification*. The complaint shall be signed under oath by the City attorney or other authorized officer.

B. CITATION AND NOTICE TO APPEAR:

1. *Issuance*. Whenever a person is arrested for a violation of law which is punishable as a misdemeanor or gross misdemeanor, the arresting officer or any other authorized peace officer, may serve upon the arrested person a citation and notice to appear in court, in lieu of continued custody. In determining whether to issue a citation and notice to appear, a peace officer may consider the following factors:

a. whether the person has identified himself satisfactorily,

b. whether detention appears reasonably necessary to prevent imminent bodily harm to himself or to another, injury to property, or breach of the peace,

c. whether the person has ties to the community reasonably sufficient to assure his appearance, or whether there is substantial likelihood that he will refuse to respond to the citation, and

d. whether the person previously has failed to appear in response to a citation issued pursuant to this section or to other lawful process;

2. *Contents*. The citation and notice shall contain substantially the same information as the "Uniform Traffic Ticket and Complaint" sponsored by the American Bar Association Traffic Court Program, adopted in JTRT 2.01, and shall include:

a. the name of the court and a space for the court's docket, case or file number,

b. the name of the person, his address, date of birth, and sex,

c. the date, time, place and description of the offense charged, the date on which the citation was issued, and the name of the citing officer,

d. the time and place at which the person is to appear in court which need not be a time certain, but may be within 72 hours or within a greater period of time not to exceed 15 days after the date of the citation,

e. a space for the person to sign a promise to appear;

3. *Release*. To secure his release, the person must give his written promise to appear in court as required by the citation and notice served;

4. *Certificate*. The citation and notice to appear shall contain a form of certificate by the citing official that he certifies, under penalties of perjury as provided by RCW 3.50.140 and any law amendatory thereof, that he has reasonable grounds to believe, and does believe, the person committed the offense contrary to law. The certificate need not be made before a magistrate or any other person. Such citation and notice when signed by the citing officer and filed with a court of competent jurisdiction shall be deemed a lawful complaint for the purpose of initiating prosecution of the offense charged therein;

5. *Additional information*. The citation and notice may also contain such identifying and additional information as may be necessary and appropriate for law enforcement agencies in the State. The rules of pleading, practice and procedure which shall govern civil proceeding in the Tukwila Municipal Court shall be as provided in the case of like actions in district courts or before justices of the peace in the county.

(Ord. 1085 §3, 1978; Ord. 735 §1, 1972; Ord. 726 §8 (1), 1972)

2.68.085 Pleadings, Practice and Procedure

Pleadings, practice and procedure in cases not governed by statutes or rules specifically applicable to municipal courts shall, insofar as applicable, be governed by the statutes and rules now existing or hereafter adopted governing pleadings, practice and procedure applicable to district courts.

(Ord. 1324 §13, 1984)

2.68.090 Complaint – Swearing – Examination – Filing

The complaint shall be sworn to before the Municipal Court judge and shall be filed by him when, from his examination of the complainant and other witnesses, if any, he has reasonable grounds to believe that an offense of which he has jurisdiction has been committed and that the defendant committed it. No objection to a complaint on grounds that it was not signed or sworn to as herein required may be made after a plea to the merits has been entered.

(Ord. 726 §8 (2), 1972)

2.68.095 Complaints

All criminal prosecutions for the violation of a City ordinance shall be conducted in the name of the City and may be upon the complaint of any person.

(Ord. 1324 §12, 1984)

2.68.100 Complaint – Oath Requirement – Penalty

A. No oath shall be required when the complaint is made by a county or municipal prosecutor or City Attorney, and if it contains or be verified by a written declaration that it is made under the penalties of perjury.

B. Any other person who willfully certifies falsely to any matter set forth in any such complaint shall be guilty of a gross misdemeanor.

(Ord. 726 §8 (3), 1972)

2.68.110 Complaint – Amendments

The Court may permit a complaint to be amended at any time before judgment if no additional or different offense is charged, and if substantial rights of the defendant are not thereby prejudiced.

(Ord. 726 §8 (4), 1972)

2.68.115 Criminal Process

All criminal process issued by the Municipal Court shall be in the name of the State and run throughout the State, and be directed to and served by the Chief of Police, marshal, or other police officer of any city or to a sheriff in the State.

(Ord. 1324 §15, 1984)

2.68.120 Warrant – Issuance

If, from the examination of the complainant and other witnesses, if any, the Court has reasonable grounds to believe that an offense has been committed and that the defendant has committed it, a warrant shall issue for the arrest of the defendant.

(Ord. 726 §8 (5), 1972)

2.68.130 Warrant – Form and Contents

The warrant shall be in writing and in the name of the State, shall be signed by the Municipal Court judge with the title of his office, and shall state the date when issued and the municipality where issued. It shall specify the name of the defendant or, if his name is unknown, any name or description by which he can be identified with reasonable certainty. It shall describe the offense charged against the defendant. It shall command the defendant be arrested and brought before the Court at a stated place, without unnecessary delay, unless he deposits bail as stated in the warrant and is released for appearance in court on a date certain stated therein.

(Ord. 726 §8 (6), 1972)

2.68.140 Warrant – Execution – Procedure

The warrant shall be directed to all peace officers in the State and shall be executed only by a peace officer. It shall be executed by the arrest of the defendant and may be executed in any county or municipality of the State by any peace officer in the State. The officer need not have the warrant in his possession at the time of arrest, but in that case he shall then inform the defendant of the offense charged and of the fact that a warrant has been issued; and, upon request, shall show the warrant to the defendant as soon as possible.

(Ord. 726 §8 (7), 1972)

2.68.150 Warrant – Return – Unexecuted

The officer executing a warrant shall forthwith make return thereof to the court issuing it. Any unexecuted warrants shall be returned to the Municipal Court and may be cancelled by him. While a complaint is pending, a warrant returned and unexecuted and not cancelled, or a duplicate thereof, may be delivered by the Municipal Court to a peace officer for execution or service.

(Ord. 726 §8 (8), 1972)

2.68.160 Warrant – Arrest Procedure

An officer making an arrest under a warrant shall take the arrested person without unnecessary delay and, in any event, within 24 hours, exclusive of nonjudicial days, before the Municipal Court or admit him to bail as commanded in the warrant. Any person making an arrest without a warrant shall take the arrested person without unnecessary delay and, in any event, within 48 hours, exclusive of nonjudicial days, before the Municipal Court. When a person is arrested without a warrant and brought before the Municipal Court, a complaint shall be filed forthwith.

(Ord. 726 §8 (9), 1972)

2.68.170 Bail

The judge of the Municipal Court may accept money as bail for the appearance of persons charged with bailable offenses. The amount of bail or recognizance in each case shall be determined by the Court in its discretion and may, from time to time, be increased or decreased as circumstances may justify.

(Ord. 726 §8 (10), 1972)

2.68.180 Bail Bonds

A person required or permitted to give bail may execute a bond conditioned upon his appearance at all stages of the proceedings until final determination of the cause, unless otherwise ordered by the Court. One or more sureties may be required; cash may be accepted; and, in proper cases, no security need be required. Bail given on appeal shall be deposited with the clerk of the Court.

(Ord. 726 §8 (11), 1972)

2.68.190 Justification of Sureties – Bond Approval

Every surety, except an approved corporate surety, shall justify by affidavit and shall describe in the affidavit the property which he proposes to justify and the encumbrances thereon; the numbered amount of bonds and undertakings for bail entered into by him and remaining undischarged and all of his other liabilities; provided, that persons engaged in the bail bond business shall justify annually. No bond shall be approved unless the surety thereon shall be financially responsible. The Municipal Court judge shall approve all bonds.

(Ord. 726 §8 (12), 1972)

2.68.200 Arraignment – Defendant's Rights

When a person arrested either under a warrant or without a warrant is brought before the Court, he shall then be informed of the charge against him, advised of his constitutional rights, and he shall be arraigned then or within a reasonable time set by the Court. The arraignment shall be conducted in open court and shall consist of stating to him the substance of the charge and calling on him to plead thereto. The defendant shall be given a copy of the complaint if he requests the same. Defendants who are jointly charged may be arraigned separately or together in the discretion of the Court.

(Ord. 726 §8 (13), 1972)

2.68.210 Pleas

The defendant may plead guilty; not guilty; and a former conviction or acquittal of the offense charged, which may be pleaded with or without a plea of not guilty. The Court may refuse to accept a plea of guilty and shall not accept a plea without first determining that the plea is made voluntarily with understanding of the nature of the charge. If a defendant refuses to plead, or if the Court refuses to accept a plea of guilty, the Court shall enter a plea of not guilty. The Court may strike out a plea of guilty and enter a plea of not guilty, if it deems such action necessary in the interest of justice.

(Ord. 726 §8 (14), 1972)

2.68.220 Continuances

The Municipal Court may, in its discretion, grant continuances for good cause shown. If a continuance is granted, the cost thereof shall abide the event of the prosecution in all cases. If a continuance is granted, the Court may recognize the defendant and the witnesses to appear from time to time, in the same manner as is provided in other criminal examinations.

(Ord. 726 §8 (15), 1972)

2.68.230 Sentence – Decision

A. If the complaint is for a crime within the jurisdiction of the Court, and the defendant pleads guilty, the Court shall sentence him upon a proper showing of a prima facie case against him.

B. If the defendant pleads not guilty or pleads a former conviction or acquittal of the offense charged, the Court shall hear and determine the cause, and either acquit or convict and punish.

(Ord. 726 §8 (16), 1972)

2.68.240 Civil Jury Trials

In all civil cases, the plaintiff or defendant may demand a jury, which shall consist of six citizens of the State who shall be impaneled and sworn as in cases before district courts, or the trial may be by a judge of the Municipal Court; provided, that no jury trial may be held on a proceeding involving a traffic infraction. A party requesting a jury shall pay to the Court a fee which shall be the same as that for a jury in district court. If more than one party requests a jury, only one jury fee shall be collected by the Court. The fee shall be apportioned among the requesting parties. Each juror shall receive $10.00 for each day in attendance upon the Municipal Court, and in addition thereto shall receive mileage at the rate determined under RCW 43.03.060.

(Ord. 1324 §17, 1984)

2.68.250 Sentence – Delay Prohibited – New Bail

Sentence shall be imposed by the Court without unreasonable delay. Pending sentence, the Court may commit the defendant or may allow the defendant to post bail anew.

(Ord. 726 §8 (18), 1972)

2.68.270 Conviction of Corporation

If a corporation is convicted of any offense, the Court may give judgment thereon and may cause the judgment to be enforced in the same manner as a judgment in a civil action.

(Ord. 726 §8 (20), 1972)

2.68.310 Clerical Mistakes, Errors – Correction

A. Clerical mistakes in judgments, orders or other parts of the record, and errors in the record arising from oversight or omission may be corrected by the Court at any time and after such notice, if any, as the Court may order.

B. If an appeal has been taken, such mistakes may be so corrected until the record has been filed in the appellate court and thereafter, while the appeal is pending, may be so corrected with leave of the appellate court.

(Ord. 726 §8 (24), 1972)

2.68.320 Trial – Presence of Defendant and Counsel

The defendant shall be present in person or by counsel at the arraignment and shall be present at every later stage of the trial. A corporation may appear by counsel for all purposes.

(Ord. 726 §8 (25), 1972)

2.68.360 Appeal Bond – Disposition of Bail

A. The appellant shall be committed to the City jail until he shall recognize or give bond to the City in such reasonable sum with such sureties as the Municipal Court may require that he will diligently prosecute the appeal and that, within ten days after he has received notice from the Municipal Court judge or his clerk that the judgment in the lower court has been filed with the clerk of the superior court, together with the transcript duly certified by the lower court judge containing a copy of all records and proceedings in the lower court, he will cause the case to be set for trial at the earliest open date; that he will appear at the court appealed to and comply with any sentence of the superior court; and will, if the appeal is dismissed for any reason, comply with the sentence of the lower court.

B. Whenever the transcript is filed in the superior court and any cash bail or bail bond has been filed with the lower court, the judge thereof shall transfer the same to the superior court, there to be held pending disposition of the appeal; and shall also deliver to the court any exhibits introduced into evidence in the trial before the lower court, which exhibits, subject to the proper rulings of the appellant court, may be offered in evidence if the trial is had in the superior court; otherwise, to be returned to the custody of the lower court.

(Ord. 726 §8 (29), 1972)

2.68.370 Appeal to Superior Court – Record on Review – Appeal to Supreme Court

In the superior court, the contents of the record on appeal and the procedures governing the transmittal and copying of this record shall be in accordance with Title 6 of the Washington State Supreme Court Rules for Appeal of Decisions of Courts of Limited Jurisdiction (RALJ), and with any amendments or additions to said Rules. Appeals shall lie to the Supreme Court or the Court of Appeals of the State of Washington as in other criminal cases in the superior court.

(Ord. 1288, 1983; Ord. 726 §8 (30), 1972)

2.68.380 Superior Court Judgment Notice

Upon conclusion of the case in the superior court, the clerk thereof shall forthwith mail a true and correct copy of the judgment to the Municipal Court appealed from.

(Ord. 726 §8 (31), 1972)

2.68.390 Traffic Cases – Complaint and Citation

A. In traffic cases the complaint and citation shall be substantially in the form known as the "Uniform Traffic Ticket and Complaint" sponsored by the American Bar Association Traffic Court Program. The uniform traffic ticket and complaint shall consist of at least four parts. Additional parts may be inserted by law enforcement agencies for administrative use. Except when electronic data processing equipment is being used, the required parts, which must be the original, the first, the second, and the last carbon respectively, are:

1. The complaint, printed on white paper;
2. The abstract of court record for the State licensing authority, which shall be a copy of the complaint, printed on yellow paper;
3. The traffic citation, printed on green paper; and
4. The police record, which shall be a copy of the complaint, printed on pink paper.

B. In the case of law enforcement agencies utilizing electronic data processing equipment, or desiring to use such format, the required parts, which must be the original, the first, the second, and the last carbon respectively, are:

1. The abstract of court record for the State licensing authority, which shall be identical to the complaint and printed on yellow paper;
2. The traffic citation, printed on green paper;
3. The police record, which shall be identical to the complaint and printed on pink paper; and
4. The complaint, printed on a white card.

C. Each of the parts shall contain the following information or blanks in which such information shall be entered:

1. The name of the court and space for the court's docket, case or file number;
2. The name of the person cited, his address, date of birth, sex, operator's license number, his vehicle's make, year, type, license number and state in which licensed;
3. The offense of which he is charged, the date, the time and place at which the offense occurred, the date on which the citation was issued, and the name of the citing officer. Several offenses may be cited on one ticket;
4. In all cases where the person is not arrested, the time and place at which the person cited is to appear in court or the traffic violations bureau need not be to a time certain but may be within 72 hours or within a greater period of time not to exceed 15 days after the date of the citation;
5. A space for the person cited to sign a promise to appear; and
6. A space for the entry of bail in accordance with the established bail schedule.

D. Each of the parts may also contain such identifying and additional information as may be necessary or appropriate for law enforcement agencies in the State.

E. Complaint:

1. Complaint – Officers. The complaint shall contain a form of certificate by the citing official to the effect that he certifies, under penalties of perjury, as provided by RCW 3.50.140, and any law amendatory thereof, he has reasonable grounds to believe, and does believe, the person cited committed the offense(s) contrary to law. The certificate need not be made before a magistrate or any other person. Such complaint when signed by the citing officer and filed with a court, or traffic violations bureau of competent jurisdiction, shall be deemed a lawful complaint for the purpose of prosecuting the traffic offenses charged therein.
2. Complaint by others. When a person other than a police officer wishes to make a traffic violation charge, he shall do so by filling out and signing a complaint as set forth in TMC 2.68.080 and 2.68.090.

(Ord. 726 §8 (32), 1972)

2.68.400 Case Transfers

A transfer of a case from the Municipal Court to either another municipal judge of the same City or to a judge pro tempore appointed in the manner prescribed by this chapter shall be allowed in accordance with RCW 3.66.090 in all civil and criminal proceedings.

(Ord. 1324 §14, 1984)

2.68.420 Judges – Bonds

Pursuant to RCW 35.24.450, the amount of the bonds for the municipal judge and judges pro tem is set in the amount of $1,000.00.

(Ord. 726 §11, 1972)

2.68.470 Savings

The enactments of this chapter shall not affect any case, proceeding, appeal or other matter pending in the Tukwila Municipal Court, or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of Ordinance No. 1324 and RCW 3.50 as amended by Chapter 258, Laws of 1984.

(Ord. 1324 §19, 1984)

CHAPTER 2.70
PUBLIC DEFENSE

Sections:

2.70.010 Purpose and Intent

The purpose of this chapter is to ensure that indigent criminal defendants receive high-quality legal representation through a public defense system that efficiently and effectively protects the constitutional requirement of effective assistance of counsel.

(Ord. 2410 §2, 2013)

2.70.020 Definitions

As used in this chapter, the following terms shall have the meanings set forth in this section:

1. "**Attorney."** The term "attorney" shall mean an attorney under contract with the City of Tukwila for the provision of indigent defense services, and shall also mean the law firm for which the attorney works. Therefore, these standards shall also apply to law firms who are under contract with the City for the provision of indigent defense services.

2. "**Defendant."** The term "defendant" shall mean a person who has been charged with a misdemeanor offense in the Tukwila Municipal Court, and who is represented by an attorney as the term "attorney" is defined in TMC Section 2.70.020.

(Ord. 2410 §3, 2013)

2.70.030 Public Defender Appointment

The judge of the Municipal Court of the City is authorized to appoint, on a case-to-case basis as may be required, an attorney licensed to practice before the courts of the State of Washington to act as public defender in representing indigent persons charged with offenses tryable in the Municipal Court and cases appealed therefrom.

(Ord. 2410 §4, 2013)

2.70.040 Public Defender – Statement for Services

The attorney appointed to act as public defender shall present his statement for services to the City, and the same shall be paid in the same manner as the other obligations of the City.

(Ord. 2410 §5, 2013)

2.70.050 Public Defense Standards

The following Public Defense Standards are hereby adopted:

Standard 1: Compensation. The charges submitted by the public defender and approved by the City Council shall be paid from the current fund. The City's contracts for public defense services should provide for compensation at a rate commensurate with the attorney's training and experience. To attract and retain qualified personnel, compensation and benefit levels should be comparable to those of attorneys and staff in prosecutorial offices in the South King County region. Assigned counsel should be compensated for out-of-pocket expenses. Contracts shall provide for additional compensation for jury trials and appeals. Attorneys who have a conflict of interest shall not have to compensate the new, substituted attorney out of their own funds.

Standard 2: Duties and Responsibilities of Counsel. Attorneys shall provide services in a professional and skilled manner consistent with the minimum standards of the Washington State Bar Association, Washington's Rules of Professional Conduct, applicable case law, the Constitutions of the United States and the State of Washington, and the court rules that define the duties of counsel and the rights of defendants. At all times during the representation of a defendant, the attorney's primary responsibility shall be to protect the interests of the defendant.

Standard 3: Caseload Limits, Types of Cases, and Limitations on Private Practice. Attorneys shall maintain a caseload such that he or she can provide each and every defendant effective assistance of counsel as guaranteed by these standards. The attorney shall be mindful of the number of open cases for which he or she is counsel of record, the type or complexity of those cases and any prospective cases, his or her experience, the manner in which the jurisdiction processes cases, and any private practice in which he or she is engaged. When contracting with an attorney, the City may, if appropriate, limit the number of cases an attorney may handle. Such limitation may be based upon the experience of the attorney, the training the attorney has received, the complexity of the cases being assigned the attorney, defense services the attorney may provide to other municipalities, the scope and extent of the attorney's private practice, justified complaints that may have been made against the attorney, and any other relevant factors.

Standard 4: Responsibility for Expert Witness Services. The City's contracts for public defense services should provide reasonable compensation for expert witnesses when necessary. Expert witness fees should be maintained and allocated from funds separate from those provided for defender services. Requests for expert witness fees should be made through an ex parte motion. The defense should be free to retain the expert of its choosing and in no cases should be forced to select experts from a list pre-approved by either the court or the prosecution.

Standard 5: Administrative Expenses and Support Services. The City's contracts for public defense services should provide for or include administrative costs associated with providing legal representation. These costs should include but are not limited to travel, telephones, law library including electronic legal research, financial accounting, case management systems, computers and software, office space and supplies, training, meeting the reporting requirements imposed by these standards, and other costs necessarily incurred in the day-to-day management of the contract. Public defense attorneys shall have an office that accommodates confidential meetings with clients and receipt of mail, and adequate telephone services to ensure prompt response to client contact.

Standard 6: Investigators. Public defense attorneys shall use investigation services as appropriate and shall employ investigators with investigation training and experience. A minimum of one investigator should be employed for every four attorneys. The City's contracts for public defense services shall provide reasonable compensation for investigation services when necessary.

Standard 7: Support Services. Public defense attorneys shall have adequate access to support staff and services. At least one full-time legal assistant should be employed for every four attorneys. Fewer legal assistants may be necessary, however, if the agency or attorney has access to word processing staff or other additional staff performing clerical work. Public defenders should have a combination of technology and personnel that will meet their needs. Social work staff should be available to assist in developing release, treatment, and dispositional alternatives. Each agency or attorney should have access to mental health professionals to perform mental health evaluations. Investigation staff should be available as provided in Standard 6 at a ratio of one investigator for every four attorneys. Each agency or attorney providing public defense services should have access to adequate and competent interpreters to facilitate communication with non-English speaking and hearing-impaired clients for attorneys, investigators, social workers, and administrative staff.

Standard 8: Reports of Attorney Activity. Attorneys shall maintain a case reporting and case management information system, which includes number and type of cases, attorney hours and disposition. This information shall be provided to the City upon request and shall also be made available to the Office of the Administrator of the Courts. Any such system shall be maintained independently from client files so as to disclose no privileged information. A standardized voucher form should be used by those attorneys seeking payment upon completion of a case. For attorneys under contract, payment should be made monthly, or at times agreed to by the parties, without regard to the number of cases closed in the period.

Standard 9: Training. The City's contracts for public defense services shall require that attorneys participate in regular training programs on criminal defense law, including a minimum of seven hours of continuing legal education annually in areas relating to their public defense practice. In offices of more than seven attorneys, an orientation and training program for new attorneys and legal interns should be held to inform them of office procedure and policy. All attorneys should be required to attend regular training programs on developments in criminal law, criminal procedure and the forensic sciences. Attorneys in civil commitment and dependency practices should attend training programs in these areas. Offices should also develop manuals to inform new attorneys of the rules and procedures of the courts within their jurisdiction. Every attorney providing counsel to indigent accused should have the opportunity to attend courses that foster trial advocacy skills and to review professional publications and other media.

Standard 10: Supervision. Each firm providing public defense services to the City should provide one full-time supervisor for every ten staff lawyers or one half-time supervisor for every five lawyers. Supervisors should be chosen from among those lawyers in the office qualified under these guidelines to try Class A felonies. Supervisors should serve on a rotating basis, and except when supervising fewer than ten lawyers, should not carry caseloads.

Standard 11: Monitoring and Evaluation of Attorneys. Attorneys will establish a procedure for systematic monitoring and evaluation of attorney performance based upon publicized criteria. Supervision and evaluation efforts should include review of time and caseload records, review and inspection of transcripts, in-court observations, and periodic conferences. Performance evaluations made by a supervising attorney should be supplemented by comments from judges, prosecutors, other defense lawyers and clients. Attorneys should be evaluated on their skill and effectiveness as criminal lawyers or as dependency or civil commitment advocates.

Standard 12: Substitution of Counsel and Assignment of Contracts. Attorneys should remain directly involved in the provision of representation and shall not sub-contract with another firm or attorney to provide representation without first obtaining the express written permission of the City. If the contract is with a firm or office, the City should request the names and experience levels of those attorneys who will actually be providing the services to ensure they meet minimum qualifications. The employment agreement shall address the procedures for continuing representation of clients upon the conclusion of the agreement. Alternate or conflict counsel shall be available for substitution in conflict situations at no cost to the counsel declaring the conflict.

Standard 13: Limitation on Private Practice. Private attorneys who provide public defense representation shall set limits on the amount of privately retained work which can be accepted. These limits shall be based on the percentage of a full-time caseload which the public defense cases represent.

Standard 14: Qualifications of Attorneys. Attorneys providing defense services shall meet the following minimum professional qualifications:

A. Satisfy the minimum requirements for practicing law in Washington as determined by the Washington Supreme Court; and

B. Be familiar with the statutes, court rules, constitutional provisions, and case law relevant to their practice area; and

C. Be familiar with the Washington Rules of Professional Conduct; and

D. Be familiar with the Performance Guidelines for Criminal Defense Representation approved by the Washington State Bar Association; and

E. Be familiar with the consequences of a conviction or adjudication, including possible immigration consequences and the possibility of civil commitment proceedings based on a criminal conviction; and

F. Be familiar with mental health issues and be able to identify the need to obtain expert services; and

G. Complete seven hours of continuing legal education within each calendar year in courses relating to their public defense practice.

H. Each attorney who is counsel alone for a case on appeal to the Superior Court from the Tukwila Municipal Court should have had significant training or experience in either criminal appeals, criminal motions practice, extensive trial level briefing, clerking for an appellate judge, or assisting a more experienced attorney in preparing and arguing an RALJ (Rules for Appeal of Decisions of Courts of Limited Jurisdiction) appeal.

I. Each attorney who is counsel for a case on appeal to the Washington Supreme Court or to the Washington Court of Appeals shall:

1. Have filed a brief with the Washington Supreme Court or any Washington Court of Appeals in at least one criminal case within the past two years; or

2. Have equivalent appellate experience, including filing appellate briefs in other jurisdictions, at least one year as an appellate court or federal court clerk, extensive trial level briefing or other comparable work.

Standard 15: Disposition of Client Complaints. Attorneys shall have a method to respond promptly to client complaints. Complaints should first be directed to the attorney, firm or agency that provided representation. If the client feels that he or she has not received an adequate response, they can contact the City Administrator and/or his/her designee to evaluate the legitimacy of complaints and to follow up on meritorious ones. The complaining client should be informed as to the disposition of his or her complaint in writing.

Standard 16: Cause for Termination of Defender Services and Removal of Attorney. The City's contracts for indigent defense services shall include the grounds for termination of the contract by the parties. Termination of a contract should only be for good cause. Termination for good cause shall include the failure of the attorney to render adequate representation to clients; the willful disregard of the rights and best interests of the client; and the willful disregard of the standards herein addressed. Removal by the court of counsel from representation normally should not occur over the objection of the attorney and the client.

Standard 17: Non-Discrimination. Neither the City, in its selection of an attorney, firm or agency to provide public defense representation, nor the attorneys selected, in their hiring practices or in their representation of clients, shall discriminate on the grounds of race, color, religion, national origin, age, marital status, gender, sexual orientation or disability. Both the City and the contractor shall comply with all federal, state, and local non-discrimination requirements.

Standard 18: Guidelines for Awarding Public Defender Contracts. The City shall award contracts for public defense services only after determining that the attorney or firm chosen can meet accepted professional standards. Under no circumstances should a contract be awarded on the basis of cost alone. Attorneys or firms bidding for contracts must demonstrate their ability to meet these standards. Contracts should only be awarded to:

1. Attorneys who have at least one year's criminal trial experience in the jurisdiction covered by the contract (i.e., City and District Courts, Superior Court or Juvenile Court), or

2. A firm where at least one attorney has one year's trial experience.

City attorneys, county prosecutors, and law enforcement officers should not select the attorneys who will provide indigent defense services.

(Ord. 2450 §1, 2014; Ord. 2410 §6, 2013)

CHAPTER 2.76
HEARING EXAMINER

Sections:

2.76.010 Office of the Hearing Examiner Established

The Office of the Hearing Examiner is hereby created, and "Hearing Examiner" shall mean any person appointed by the Mayor, and approved by the City Council, for the purpose of presiding over appeals and other matters as enumerated below.

(Ord. 1796 §2 (part), 1997)

2.76.020 Powers and Duties – Designated

The Hearing Examiner shall have the powers and duties assigned to that office by ordinance. In deciding any of the matters assigned to the Hearing Examiner, the Hearing Examiner shall issue a written report citing the facts and reasons that support the decision.

(Ord. 1796 §2 (part), 1997)

2.76.030 Action Final

The action of the Hearing Examiner shall be final and conclusive unless, within ten days from the date of action, the original applicant or an adverse party files a petition to the superior court.

(Ord. 1796 §2 (part), 1997)

CHAPTER 2.80
PLANNING DEPARTMENT

Sections:

2.80.010 Office Created

The Planning Department is created and shall be under the supervision of the Planning Director who shall report directly to the Mayor. The Director shall be appointed by the Mayor, subject to confirmation by a majority of the members of the City Council. The Planning Department shall be responsible for:

1. Administrative enforcement and public information involving land use and related matters;

2. Development and recommendations for ensuring compliance with State, federal laws relating to the environment, shoreline management and EIS requirements;

3. Serve in an advisory capacity to boards and commissions of the City;

4. The Building Division is transferred to the Planning Department and shall be under the supervision of the Planning Director. The building official shall be responsible for:

a. Field enforcement and public information involving building and related codes,

b. Services to various boards and commissions in an advisory capacity.

(Ord. 1209 §1, 1981; Ord. 1198 §2, 1980)

2.80.020 Positions and Compensation

The City Council will authorize the necessary positions and appropriate compensation within the Department through establishment of annual budgetary ordinances.

(Ord. 1198 §4 (part), 1980)

CHAPTER 2.84
DEPARTMENT OF FINANCE

Sections:

2.84.010 Department Created

There is created the Department of Finance of the City of Tukwila, which shall be responsible for general supervision over the financial affairs of the City.

(Ord. 1009 §5, 1977)

2.84.020 Duties

A. The functions of the Department shall be executed under the supervision and control of a Director of Finance. The Director shall be appointed for an indefinite term by the Mayor, subject to confirmation by a majority of the members of the City Council. The Director shall serve at the pleasure of the Mayor.

B. The Director of Finance shall be the chief financial officer of the City. He shall perform all of the duties of the City Treasurer as set forth in RCW 35A.42.010 beginning at such time as the term of office of the current elected treasurer ends. The Director of Finance shall also perform such duties of the City Clerk which, in the opinion of the Mayor, are solely and directly related to the City's financial affairs.

C. The Director of Finance shall be designated City Treasurer to perform in such capacity whenever the laws of the State or the ordinances of the City make reference to such position. The Director may appoint a subordinate employee from the Department of Finance to assist in the performance of the duties of City Treasurer.

D. If the Director is appointed and confirmed prior to the time that the term of office of the current elected treasurer ends in January, 1978, the Director of Finance shall perform such duties related to the financial affairs of the City which are not specifically delegated by law to the City Treasurer and to the City Clerk.

E. In all cases where the fiscal affairs of the City are not expressly or otherwise charged by the laws of the State to another department or office, the Director of Finance shall have control and supervision over such fiscal affairs and shall act to promote, secure and preserve the financial interests of the City.

F. The Finance Director shall serve as the chief financial and accounting advisor to the Mayor and City Council, and shall advise the Mayor and City Council of the plans, functions and needs of the Department of Finance.

G. The Finance Director shall be responsible for all financial and accounting matters in divisions of the Department of Finance of the City and for the administration of all Department of Finance matters.

(Ord. 1009 §6, 1977)

2.84.025 Designation of Official to Declare Official Intent

The Finance Director of the City is designated to make declarations of official intent, substantially in the form attached to Ordinance 1818 as Exhibit A or in such other form as shall be prescribed by Treasury Regulation Section 1.103-18, on behalf of the City as may be necessary or appropriate from time to time for any purpose under, and in compliance with, the requirements of the federal reimbursement regulations.

(Ord. 1818 §1, 1997)

2.84.030 Oath and Bond

Before entering upon the performance of his duties, the Director of Finance shall take an oath or affirmation for the faithful performance of his duties, and shall furnish an official bond in the amount of $5,000.00.

(Ord. 1009 §7, 1977)

2.84.040 Compensation

The Director of Finance shall receive such salary and in such amounts as the City Council may from time to time establish by ordinance and as fixed by the City's annual budget.

(Ord. 1009 §8, 1977)

CHAPTER 2.88
PARKS AND RECREATION DEPARTMENT

Sections:

2.88.010 Office Created

The Parks and Recreation Department is created and shall be under the supervision of the Parks and Recreation Director who shall report directly to the Mayor. The Director shall be appointed by the Mayor, subject to confirmation by a majority of the members of the City Council. The Recreation Department shall be responsible for:

1. Development and implementation of a comprehensive parks and recreation program to meet community needs;
2. Drafting of long range parks acquisitions and development programs;
3. Serve as an advisory to the Park Commission and various ad hoc advisory committees;
4. Exercising general supervision over the maintenance of the municipal parks and golf course(s).

(Ord. 1494 §2, 1988; Ord. 1209 §2, 1981; Ord. 1198 §3, 1980)

2.88.020 Positions and Compensation

The City Council will authorize the necessary positions and appropriate compensation within the Department through establishment of annual budgetary ordinances.

(Ord. 1198 §4 (part), 1980)

CHAPTER 2.92

HAZARDOUS MATERIALS INCIDENT COMMAND AGENCY

Sections:

2.92.010 Puget Sound Regional Fire Authority Designated as Agency

The governing body of the City designates the Puget Sound Regional Fire Authority as the hazardous materials incident command agency for all hazardous materials incidents within the corporate limits of the City.

(Ord. 2693 §3, 2022)

2.92.020 Puget Sound Regional Fire Authority Authorized to Seek Assistance

Puget Sound Regional Fire Authority is authorized to enter into written agreements with persons, agencies, and/or corporations who may provide assistance with respect to a hazardous materials incident. In accordance with the provisions of RCW 70.136.050, 70.136.060, and 70.136.070, any person or public agency whose assistance has been requested by an incident command agency, who has entered into a written hazardous materials assistance agreement before or at the scene of the incident, and who, in good faith, renders emergency care, assistance, or advice with respect to a hazardous materials incident, is not liable for civil damages resulting from any act or omission in rendering of such care, assistance, or advice, other than acts or omissions constituting gross negligence or willful or wanton misconduct.

(Ord. 2693 §4, 2022)

CHAPTER 2.94

POLITICAL ACTIVITIES OF CITY EMPLOYEES

Sections:

2.94.010 Prohibited Activities

A. No City officer or employee shall use City time, City property or his/her position or title as a City employee to promote any political issue or candidate, to solicit funds for any political purpose or to influence the outcome of any election during working hours.

B. City officers or employees shall not campaign for candidates or issues while in any City vehicles, or when in a uniform which identifies them as a City employee, or using City facilities including but not limited to such things as copy machines, paper supplies, typewriters, computers and other office equipment.

C. No City officer or employee shall coerce or intimidate any City employee to contribute to or not to contribute to, or to promote or oppose any political cause or candidate.

D. No City officer or employee shall perform or refrain from performing their normal job duties in order to obtain a benefit for political purposes.

(Ord. 1440 §1, 1987).

2.94.020 Permitted Political Activities

Employees shall have the right to vote and to express their opinions on all political subjects and candidates and to hold any political party office which would not be incompatible with or interfere with the discharge of their official duties. Employees may also participate in the management of a partisan, political campaign as long as it does not interfere with their job or use City property or facilities except as they are available to any member of the general public.

(Ord. 1440 §2, 1987).

2.94.030 Penalty

Violation of TMC Chapter 2.94 shall not be a criminal offense. Any officer or employee who violates this ordinance shall, however, be subject to discipline, including possible termination.

(Ord. 1440 §3, 1987)

CHAPTER 2.95

CODE OF ETHICS FOR EMPLOYEES AND APPOINTED OFFICIALS

Sections:

2.95.010 Purpose

A. It is the policy of the City of Tukwila to uphold, promote and demand the highest standard of ethics from all of its employees and appointed officials. City officers and employees shall maintain the utmost standards of personal integrity, truthfulness, honesty and fairness in carrying out their public duties; they shall avoid any improprieties in their roles as public servants and they shall never use their City positions or powers for improper personal gain.

B. It is the intention of the City Council that TMC Chapter 2.95 be liberally interpreted to accomplish its purpose of protecting the public against decisions that are affected by undue influence, conflicts of interest, or any other violation of this Code of Ethics. In interpreting TMC Chapter 2.95, City officers and employees should be guided by common sense and practicality. This Code of Ethics is supplemental to Washington State law, RCW 42.23.

(Ord. 2448 §2, 2014; Ord. 2127 §1, 2006; Ord. 2068 §1 (part), 2004).

2.95.020 Definitions

As used in TMC Chapter 2.95, these words shall have the following meanings, unless the context clearly indicates otherwise:

1. *"Business"* means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, consultant, holding company, joint stock company, receivership, trust, or any legal entity organized for profit.

2. *"City officer or employee"* means every individual appointed, hired, or otherwise selected to an office or position with the City, or any subdivision thereof, whether such individual is paid or unpaid.

3. *"Compensation"* means payment in any form, for real or personal property or services of any kind.

4. *"Gift"* means a voluntary transfer of real or personal property of any kind, or the voluntary rendition of services of any kind, without consideration of equal or greater value, but not including any reasonable hosting, including travel, entertainment, meal, or refreshment expenses incurred in connection with appearances, ceremonies, and occasions reasonably related to official City business, where otherwise permitted by law.

5. *"Hearing Examiner"* shall mean the duly appointed and qualified Hearing Examiner for the City of Tukwila, or his/her designee.

6. *"Immediate family"* shall mean spouses, dependents, anyone residing in the person's household, and anyone within three generations by blood or marriage of the person or the person's spouse (e.g., within three degrees of relationship by blood or marriage).

7. *"Person"* means any individual, corporation, business or other entity, however constituted, organized or designated.

(Ord. 2448 §3, 2014; Ord. 2068 §1 (part), 2004).

2.95.030 Prohibited Conduct

The following shall constitute violations of this Code of Ethics:

1. **General Prohibition Against Conflicts of Interest.** In order to avoid becoming involved or implicated in a conflict of interest or impropriety, no current City officer or employee should be involved in any activity that might be seen as conflicting with the conduct of official City business.

2. **Beneficial Interests in Contracts Prohibited.** No City officer or employee shall participate in his/her capacity as a City officer or employee in the making of a contract in which she/he has a financial interest, direct or indirect. This shall include any contract for sale, lease or purchase, with or for the use of the City, or the acceptance directly or indirectly of any compensation, gratuity or reward from any other person beneficially interested therein. Except, that this prohibition shall not apply where the City officer or employee has only a remote interest in the contract, and where the fact and extent of such interest is disclosed and noted in the official minutes or similar records of the City prior to formation of the contract, and thereafter the governing body authorizes, approves or ratifies the contract in good faith, by a vote of its membership sufficient for the purpose without counting the vote(s) of the officer(s) having the remote interest. For purposes of TMC Chapter 2.95, a "remote interest" means:

a. That of a non-salaried officer of a nonprofit corporation;

b. That of an employee or agent of a contracting party where the compensation of such employee or agent consists entirely of fixed wages or salary;

c. That of a landlord or tenant of a contracting party; or

d. That of a holder of less than one percent of the shares of a corporation, a limited liability company, or other entity, which is a contracting party.

3. **Beneficial Influence in Contract Selection Prohibited.** No City officer or employee shall influence the City's selection of, or its conduct of business with, a corporation, person or firm having or proposing to do business with the City, if the City officer or employee has a financial interest in or with the corporation, person or firm, unless such interest is a remote interest and where the fact and extent of such interest is disclosed and noted in the official minutes or similar records of the City prior to formation of the contract.

4. **Representation of Private Person at City Proceeding Prohibited.** No City officer or employee shall appear on behalf of a private person, other than him/herself or an immediate family member, or except as a witness under subpoena, before any regulatory governmental agency or court of law in an action or proceeding to which the City or a City officer in an official capacity is a party, or accept a retainer or compensation that is contingent upon a specific action by the City. This provision shall not preclude an employee from exercising rights protected by the Public Employees Collective Bargaining Act, including the right to appear and/or testify in a legal proceeding on behalf of a labor organization representing employees or seeking to represent employees of the City.

5. **Certain Private Employment Prohibited.** No City officer or employee shall engage in or accept private employment from—or render services for—any private interest, when such employment or service is incompatible with the proper discharge of official duties or would tend to impair independence of judgment or action in the performance of official duties. This provision shall not interfere with an employee's right to engage in off duty employment that is authorized pursuant to a collective bargaining agreement and/or Tukwila Police Department General Orders.

6. **Beneficial Interest in Legislation Prohibited.** No City officer or employee, in appearing before the City Council or when giving an official opinion before the City Council, shall have a financial interest in any legislation coming before the City Council or participate in discussion with or give an official opinion to the City Council, unless such interest is a remote interest and where the fact and extent of such interest is disclosed and noted on the record of the Council or similar records of the City, prior to consideration of the legislation by the City Council.

7. **Disclosure of Confidential Information Prohibited.** No City officer or employee shall disclose or use any confidential, privileged or proprietary information, gained by reason of his/her official position, for a purpose which is other than a City purpose; provided, that nothing shall prohibit the disclosure or use of information which is a matter of public knowledge, or which is available to the public upon request. This provision shall not preclude an employee from exercising rights protected by the Public Employees Collective Bargaining Act, including the right of a labor organization to utilize and disclose properly obtained information that the City deems confidential, privileged, or proprietary.

8. **Improper Use of Position Prohibited.** No City officer or employee shall knowingly use his/her office or position to secure personal benefit, gain or profit, or use his/her position to secure special privileges or exceptions for him/herself, or for the benefit, gain or profit of any other persons. This provision shall not preclude an employee from exercising rights protected by the Public Employees Collective Bargaining Act, including the right to negotiate agreements that address the wages, hours, and working conditions of employees of the City.

9. **Improper Use of City Personnel Prohibited.** No City officer or employee shall employ or use any person under the officer's or employee's official control or direction for the personal benefit, gain or profit of the officer or employee, or another. This section does not apply to off-duty employment relationships, which are mutually negotiated.

10. **Improper Use of City Property Prohibited.** No City officer or employee shall use City owned vehicles, equipment, materials, money or property for personal or private convenience or profit. Use is restricted to such services as are available to the public generally, for the authorized conduct of official City business, and for such purposes and under such conditions as are approved by administrative order of the Mayor; provided, the use of a City vehicle by a City officer or employee participating in a carpooling program established by the City, and for a purpose authorized under such program, shall not be considered a violation of TMC Chapter 2.95 or of any other provision of the Tukwila Municipal Code.

11. **Acceptance of Compensation, Gifts, Favors, Rewards or Gratuity Prohibited.** No City officer or employee may, directly or indirectly, give or receive, or agree to give or receive, any compensation, gift, favor, reward or gratuity, for a matter connected with or related to the officer's or employee's services with the City of Tukwila; except this prohibition shall not apply to:

a. Attendance of a City officer or employee at a hosted meal when it is provided in conjunction with a meeting directly related to the conduct of City business, or where official attendance by the officer or employee as a City representative is appropriate;

b. An award publicly presented in recognition of public service;

c. Any gift valued at $100.00 or less, which cannot reasonably be presumed to influence the vote, action or judgment of the officer or employee, or be considered as part of a reward for action or inaction; or

d. An employee serving as a representative of a labor organization and/or an employee receiving compensation, gifts, or rewards from a labor organization of which he/she is a member.

12. **Impermissible Conduct After Leaving City Service.**

a. *Disclosure of Privileged, Confidential, or Proprietary Information Prohibited.* No former officer or employee shall disclose or use any privileged, confidential or proprietary information gained because of his/her City employment.

b. *Participation in City Matters Prohibited.* No former officer or employee shall, during the period of one year after leaving City office or employment:

(1) Assist any person in matters involving the City if, while in the course of duty with the City, the former officer or employee was officially involved in the matter, or personally and substantially participated in the matter, or acted on the matter;

(2) Represent any person as an advocate in any matter in which the former officer or employee was involved while a City officer or employee; or

(3) Participate as or with a bidder, vendor or consultant in any competitive selection process for a City contract in which s/he assisted the City in determining the project or work to be done, or the process to be used.

c. *Duty to Inform.* Whenever a City officer or employee wishes to contract with a former City officer or employee for expert or consultant services within one year of the latter's leaving City service, advance notice shall be given to the Mayor about the proposed agreement.

d. *Exceptions.* The prohibitions of TMC Section 2.95.030, paragraphs 12.b(1) and (2), shall not apply to a former officer or employee acting on behalf of a governmental agency, unless such assistance or representation is adverse to the interest of the City.

(Ord. 2448 §4, 2014; Ord. 2127 §2, 2006; Ord. 2068 §1 (part), 2004).

2.95.040 Complaint Process

A. A complaint that this Code of Ethics has been violated may be filed with any one of the following officers, or his/her designee(s):

1. Mayor; or
2. City Attorney.

B. No person shall knowingly file a false complaint or report of violation of this Code of Ethics.

C. Any individual receiving a complaint that this Code of Ethics has been violated has an obligation to promptly forward the complaint, in writing, to the Mayor. The Mayor shall promptly designate an individual to conduct an investigation of the complaint.

D. The individual designated to conduct the investigation shall notify the subject of the complaint that a complaint has been made. The designated investigator shall then complete the investigation and prepare written findings and conclusions within 60 days of the date the complaint is received by the Mayor or City Attorney, unless an extension is granted in writing by the Mayor. A copy of the written investigation findings and conclusions shall be provided to the Mayor.

E. Within 5 business days of receipt of the investigator's written findings and conclusions, the Mayor shall prepare a written recommended disposition of the complaint. Copies of the recommended disposition and the investigation findings and conclusions shall be forwarded by certified mail to the complaining party and the party complained against at their last known addresses. Additional copies of the recommended disposition shall be forwarded to the investigator, the City Attorney or the City Attorney's designee, and the person(s) responsible for acting on the recommended disposition. The recommended disposition shall not be implemented until the time for requesting a formal hearing, pursuant to TMC Section 2.95.040(G), has lapsed and no such hearing has been requested.

F. When the complaint is against an appointed board or commission member, the investigative findings and conclusions as discussed in TMC Section 2.95.040(E), as well as the recommended disposition, shall be placed on the next regularly scheduled Council meeting agenda, for informational purposes only.

G. The party complained against may, within 10 business days following the date of a recommended disposition that finds a violation of this Code of Ethics, request a formal hearing before the Hearing Examiner. A request for a formal hearing shall be in writing. Except for good cause shown, the hearing shall be scheduled to take place not sooner than 20 days nor later than 60 days from the date the appeal is filed.

H. Within 30 days after the conclusion of a formal hearing, the Hearing Examiner shall, based upon a preponderance of the evidence, prepare findings of fact, conclusions of law, and his/her order. Copies of the Hearing Examiner's findings, conclusions and order shall be forwarded by certified mail to the complaining party and the party complained against at their last known addresses. Additional copies of the findings, conclusions and order shall be forwarded to the investigator, the City Attorney or the City Attorney's designee, and the person(s) responsible for acting on the Hearing Examiner's order. In the case of a complaint against an appointed board or commission member, the Hearing Examiner's findings shall be forwarded to the City Council and placed on the next regularly scheduled Council meeting agenda, for informational purposes only.

(Ord. 2448 §5, 2014; Ord. 2127 §3, 2006; Ord. 2068 §1 (part), 2004).

2.95.050 Penalties for Noncompliance

A. Any person, other than an employee covered by a collective bargaining agreement, found by a preponderance of the evidence to have violated any provision of this Code of Ethics may be subject to one or more of the following penalties:

1. A cease and desist order as to violations of this Code of Ethics;
2. An order to disclose any reports or other documents or information requested by the Mayor;
3. An order to pay to the City a civil penalty of up to $1,000.00, where it is determined disciplinary measures are not appropriate under the circumstances;
4. Discipline, up to and including termination or removal from any position whether paid or unpaid, only after notice and hearing as provided by law. The pre-disciplinary procedures set forth in the provisions of the Tukwila Municipal Code and applicable personnel policies shall be followed for regular employees in the Classified City Service;
5. Exclusion from bidding on City contracts for a period of up to 5 years; and/or
6. Termination or invalidation of contract(s) entered into in violation of the Code of Ethics, only if such contract(s) provide for termination in the event of a Code of Ethics violation.

B. Any allegation that an employee who is covered by a collective bargaining agreement has violated any provision of this Code of Ethics shall be investigated in accordance with the applicable collective bargaining agreement and Department Policies, Procedures, or General Orders. For any proven violation of this Code of Ethics, an employee may be disciplined up to and including termination in accordance with the applicable collective bargaining agreement. Any such discipline may be appealed in accordance with the applicable collective bargaining agreement or Civil Service Rules.

(Ord. 2448 §6, 2014; Ord. 2127 §4, 2006; Ord. 2068 §1 (part), 2004).

2.95.060 Where to Seek Review

A. **Cease and Desist Order.** If ordered to cease and desist violating this Code of Ethics, an affected party may seek review by writ of review from the King County Superior Court pursuant to RCW 7.16, or other appropriate legal action.

B. **Public Disclosure.** If ordered to disclose any documents or papers pursuant to this Code of Ethics, an affected party may seek review by writ of review from the King County Superior Court pursuant to RCW 7.16, or other appropriate legal action.

C. **Civil Penalty.** If ordered to pay a civil penalty, an appeal may be taken in the form of a trial de novo in the Tukwila Municipal Court, which shall hear the case according to the Civil Rules for Courts of Limited Jurisdiction and applicable local rules of the Tukwila Municipal Court. This appeal shall be taken by filing in the Tukwila Municipal Court a notice of appeal within 14 days of the date of the final written order. The person filing the appeal shall also, within the same 14 days, serve a copy of the notice of appeal on the person who issued the final written order and the City Attorney, or his/her designee, and file an acknowledgment or affidavit of service in the Tukwila Municipal Court.

D. **Discipline or Removal.** If an employee or officer is disciplined or removed from office, then the person disciplined or removed from office may seek whatever remedies may be available at law or in equity.

E. **Exclusion from Public Bidding.** If ordered to be excluded from bidding on public contracts and the exclusion actually occurs, the person excluded may seek whatever remedies exist at law or in equity.

F. **Termination of Contract(s).** If termination of contract(s) is ordered, the person whose contract(s) was/were terminated may seek whatever remedies exist at law or in equity.

(Ord. 2448 §7, 2014; Ord. 2068 §1 (part), 2004).

CHAPTER 2.97
CODE OF ETHICS FOR ELECTED OFFICIALS

Sections:

2.97.010 Purpose

A. It is the policy of the City of Tukwila to uphold, promote and demand the highest standard of ethics from all of its Elected Officials. Elected Officials shall maintain the utmost standards of personal integrity, truthfulness, honesty and fairness in carrying out their public duties; avoid any improprieties or material misrepresentations regarding their roles or authority as public servants, as defined herein; and never use their City positions or powers for improper personal gain.

B. It is the intention of the City Council that TMC Chapter 2.97 be liberally interpreted to accomplish its purpose of protecting the public against decisions that are affected by undue influence, conflicts of interest, or any other violation of this Code of Ethics. In interpreting TMC Chapter 2.97, Elected Officials should be guided by common sense and practicality. This Code of Ethics is supplemental to Washington state law, RCW Chapter 42.23.

(Ord. 2447 §2, 2014).

2.97.020 Definitions

As used in TMC Chapter 2.97, these words shall have the following meanings, unless the context clearly indicates otherwise:

1. *"Business"* means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, consultant, holding company, joint stock company, receivership, trust, or any legal entity organized for profit.

2. *"Elected Official"* means every individual elected to an office or position with the City.

3. *"Compensation"* means payment in any form for real or personal property or services of any kind.

4. *"Gift"* means a voluntary transfer of real or personal property of any kind or the voluntary rendition of services of any kind without consideration of equal or greater value, but not including any reasonable hosting expenses, including travel, entertainment, meal, and refreshment expenses incurred in connection with appearances, ceremonies, and occasions reasonably related to official City business, or where otherwise permitted by law.

5. *"Hearing Examiner"* shall mean the duly appointed and qualified Hearing Examiner for the City of Tukwila, or his/her designee.

6. *"Immediate family"* shall mean spouses, dependents, anyone residing in the person's household, and anyone within three generations by blood or marriage of the person or the person's spouse (e.g., within three degrees of relationship by blood or marriage).

7. *"Person"* means any individual, corporation, business or other entity, however constituted, organized or designated.

(Ord. 2447 §3, 2014).

2.97.030 Prohibited Conduct

The following shall constitute violations of this Code of Ethics:

1. **General Prohibition Against Conflicts of Interest.** In order to avoid becoming involved or implicated in a conflict of interest or impropriety, no current Elected Official should be involved in any activity that might be seen as conflicting with the conduct of official City business.

2. **Beneficial Interests in Contracts Prohibited.** No Elected Official shall participate in his/her capacity as an Elected Official in the making of a contract in which she/he has a financial interest, direct or indirect. This shall include any contract for sale, lease or purchase, with or for the use of the City, or the acceptance directly or indirectly of any compensation, gratuity or reward from any other person beneficially interested therein. Provided, however, that this prohibition shall not apply where the Elected Official has only a remote interest in the contract, and where the fact and extent of such interest is disclosed and noted in the official minutes or similar records of the City prior to formation of the contract, and thereafter the governing body authorizes, approves or ratifies the contract in good faith, by a vote of its membership sufficient for the purpose without counting the vote(s) of the official(s) having the remote interest. For purposes of this TMC Chapter 2.97, a "remote interest" means:

a. That of a non-salaried officer of a nonprofit corporation;

b. That of an employee or agent of a contracting party where the compensation of such employee or agent consists entirely of fixed wages or salary;

c. That of a landlord or tenant of a contracting party; or

d. That of a holder of less than one percent of the shares of a corporation, a limited liability company, or other entity, which is a contracting party.

3. **Beneficial Influence in Contract Selection Prohibited.** No Elected Official shall influence the City's selection of, or its conduct of business with, a corporation, person or firm having or proposing to do business with the City if the Elected Official has a financial interest in or with the corporation, person or firm, unless such interest is a remote interest and where the fact and extent of such interest is disclosed and noted in the official minutes or similar records of the City prior to formation of the contract.

4. **Representation of Private Person at City Proceeding Prohibited.** No Elected Official shall appear on behalf of a private person, other than him/herself or an immediate

family member, or except as a witness under subpoena, before any regulatory governmental agency or court of law in an action or proceeding to which the City or an Elected Official in an official capacity is a party, or accept a retainer or compensation that is contingent upon a specific action by the City.

5. **Certain Private Employment Prohibited.** No Elected Official shall engage in or accept private employment from—or render services for—any private interest, when such employment or service is incompatible with the proper discharge of official duties or would tend to impair independence of judgment or action in the performance of official duties.

6. **Beneficial Interest in Legislation Prohibited.** No Elected Official, in appearing before the City Council or when giving an official opinion before the City Council, shall have a financial interest in any legislation coming before the City Council or participate in any discussion with or give an official opinion to the City Council, unless such interest is a remote interest and where the fact and extent of such interest is disclosed and noted on the record of the Council or similar records of the City, prior to consideration of the legislation by the City Council.

7. **Disclosure of Confidential Information Prohibited.** No Elected Official shall disclose or use any confidential, privileged or proprietary information, gained by reason of his/her official position, for a purpose which is other than a City purpose; provided, however, that nothing shall prohibit the disclosure or use of information which is a matter of public knowledge, or which is available to the public upon request.

8. **Improper Use of Position Prohibited.** No Elected Official shall knowingly use his/her office or position to secure personal benefit, gain or profit, or use his/her position to secure special privileges or exceptions for him/herself, or for the benefit, gain or profits of any other persons.

9. **Improper Use of City Personnel Prohibited.** No Elected Official shall employ or use any person under the Elected Official's official control or direction for the personal benefit, gain or profit of the Elected Official or another. This section does not apply to off-duty employment relationships, which are mutually negotiated.

10. **Improper Use of City Property Prohibited.** No Elected Official shall use City owned vehicles, equipment, materials, money or property for personal or private convenience or profit. Such use is restricted to those services which are available to the public generally, for the authorized conduct of official City business, and for such purposes and under such conditions as are approved by administrative order of the Mayor or Council; provided, however, that the use of a City vehicle by an Elected Official participating in a carpooling program established by the City, and for a purpose authorized under such program, shall not be considered a violation of TMC Chapter 2.97 or any other provision of the Tukwila Municipal Code.

11. **Acceptance of Compensation, Gifts, Favors, Rewards or Gratuity Prohibited.** No Elected Official may, directly or indirectly, give or receive, or agree to give or receive, any compensation, gift, favor, reward or gratuity, for a matter connected with or related to the Elected Official's services with the City of Tukwila; provided, however, that this prohibition shall not apply to:

a. Attendance by an Elected Official at a hosted meal when it is provided in conjunction with a meeting directly related to the conduct of City business, or where official attendance by the Elected Official as a City representative is appropriate;

b. An award publicly presented in recognition of public service; or

c. Any gift valued at $100.00 or less, which gift cannot reasonably be presumed to influence the vote, action or judgment of the Elected Official, or be considered as part of a reward for action or inaction.

12. **Impermissible Conduct After Leaving City Service.**

a. *Disclosure of Privileged, Confidential, or Proprietary Information Prohibited.* No former Elected Official shall disclose or use any privileged, confidential or proprietary information gained because of his/her City position.

b. *Participation in City Matters Prohibited.* No former Elected Official shall, during the period of one year after leaving City office:

(1) Assist any person in matters involving the City if, while in the course of duty with the City, the former Elected Official was officially involved in the matter, or personally and substantially participated in the matter, or acted on the matter; or

(2) Participate as or with a bidder, vendor or consultant in any competitive selection process for a City contract in which he/she assisted the City in determining the project or work to be done, or the process to be used.

(Ord. 2447 §4, 2014).

2.97.040 Ethics Officer and Board of Ethics

A. There is created a position of Ethics Officer. The purpose of the Ethics Officer is to review ethics complaints for an initial determination of sufficiency as described in TMC Section 2.97.050, before an investigation is initiated, and to provide advisory opinions for elected officials when requested. The City will contract with one or more qualified individuals or agencies to fill this position. To be qualified, the Ethics Officer must have prior experience working as a hearing examiner for Washington State municipalities or as a licensed attorney in good standing with the Washington State Bar Association. The Ethics Officer shall not conduct or participate in any hearing or decision in which the Ethics Officer has a direct or substantial financial interest or that otherwise constitutes a conflict of interest for the Ethics Officer.

B. There is created a Board of Ethics for the City of Tukwila. The purpose of this Board of Ethics is to adjudicate ethics complaints against elected officials, once an initial determination of sufficiency has been made by the Ethics Officer.

C. The Board of Ethics shall be composed of five members and shall be comprised of one member from each of the City's five standing Commissions: Planning Commission, Arts Commission, Park Commission, Equity and Social Justice Commission and Civil Service Commission. Should the chair of any Commission be unable or unwilling to serve on the Board of Ethics, the Commission shall select a member to serve on the Board.

D. The Chair of the Board shall be elected by the Board members and shall serve as Chair for one year, at which time a new election shall occur.

E. A majority of the Board of Ethics shall constitute a quorum. The Board shall meet as frequently as it deems necessary and in accordance with the provisions of the Tukwila Municipal Code. The Board shall adopt procedures consistent with the provisions of the Tukwila Municipal Code governing the conduct of its meetings. The Board shall be supported by the City Attorney or assigned independent legal counsel.

(Ord. 2601 §1, 2018; Ord. 2447 §5 (part), 2014).

2.97.050 Complaint Process

A. A complaint that this Code of Ethics has been violated may be filed with any one of the following officers, or his/her designee(s):

1. Mayor;
2. City Attorney
3. Council President, or
4. City Clerk.

B. No person shall knowingly file a frivolous or false complaint or report of violation of this Code of Ethics.

C. No complaints shall be accepted or considered which relate to actions that took place more than five years prior to the date such complaint was filed.

D. Any individual receiving a complaint that this Code of Ethics has been violated has an obligation to promptly forward the complaint, in writing, to the Ethics Officer for a sufficiency determination. After reviewing the complaint, the Ethics Officer may take any of the following actions:

1. Determine that the facts stated in the complaint, even if true, would not constitute a violation of the Code of Ethics.

2. Determine that the facts stated in the complaint, even if true, would not constitute a material violation of the Code of Ethics because any potential violation was inadvertent or minor or has been adequately cured, such that further proceedings on the complaint would not serve the purposes of the Code of Ethics.

3. Make a preliminary determination that the facts stated in the complaint, if true, could potentially constitute a violation of the Code of Ethics such that further proceedings are warranted.

E. The Ethics Officer shall submit a written report of its determination of sufficiency to the complainant, the respondent, and the City Attorney within 20 days of its receipt of the written complaint. If the Ethics Officer determines that the complaint is insufficient, the complaint is dismissed and the matter is thereby closed. If the Ethics Officer determines the complaint sufficient, then the complaint shall be investigated as set forth in this section. The Ethics Officer's determination of sufficiency is final and binding and no appeal is available.

F. For all complaints determined to be sufficient by the Ethics Officer, the City Attorney shall promptly designate an individual to conduct an investigation of the complaint and shall forward a confidential memorandum to all Elected Officials informing them that a complaint has been made.

G. The individual designated to conduct the investigation shall notify the subject of the complaint that a complaint has been made. The designated investigator shall then complete the investigation and prepare written findings and conclusions within 60 days of the date the complaint is deemed sufficient, unless an extension is granted in writing by the City Attorney. A copy of the written investigation findings and conclusions shall be provided to the City Attorney.

H. Within 5 business days of receipt of the investigator's written findings and conclusions, the City Attorney shall forward a copy of the investigation to the Chair of the Ethics Board. Copies of the recommended disposition and investigation findings and conclusions shall be forwarded by certified mail to the complaining party and the party complained against at their last known addresses.

I. Within 10 business days of receipt of the investigator's report, the Board of Ethics shall convene and review the complaint, findings, conclusions and recommended disposition. As soon as practicable after giving due consideration to the complaint, the Board shall take any action or combination of actions that it deems appropriate and for which it is lawfully empowered to take including, but not limited to, the following:

1. Determine that no violation of the Code of Ethics has occurred.

2. Determine that a violation of the Code of Ethics has occurred.

3. If the Board determines that it needs more information to make a determination as to whether the Code of Ethics has been violated, it may convene a hearing to take such additional evidence as required by the Board. The scope of evidence requested by the Board should be strictly construed. At such hearing, the Board may call additional witnesses or consider additional documentary evidence. After final deliberations on the investigator's findings, as well as any additional testimony, statements, or documents presented at the hearing, the Board shall determine whether or not a violation of the Code of Ethics has occurred. Throughout the process, the Board may seek legal advice from the City Attorney or independent legal counsel as assigned by the City Attorney. Assigned independent legal counsel shall have a minimum of five years municipal law experience.

4. After the Board has made its final determination under TMC Section 2.97.050, subsection I, (1), (2) or (3), the

Board shall issue its written findings of fact and conclusions of law, along with its recommended disposition, if applicable. The Board's conclusions shall be based on the preponderance of evidence standard. The Board may recommend and the City Council may impose upon any Elected Official the penalties set forth in TMC Section 2.97.060.

5. Copies of the written findings of fact, conclusions and recommended disposition of the Board shall be forwarded by certified mail to the complaining party and the party complained against at their last known addresses. Additional copies shall be forwarded to the investigator, the City Attorney (or independent legal counsel), and the City Council.

J. The written findings of fact, conclusions and recommended disposition shall be placed on the next regularly scheduled Council meeting agenda for discussion and disposition pursuant to TMC Section 2.97.060, by majority vote of the Council.

K. **Ex Parte Communications.** After a complaint has been filed and during the pendency of a complaint before the Board, no member of the Board may communicate directly or indirectly with any party or other person about any issue or fact or law regarding the complaint, except that members of the Board may obtain legal advice with the City Attorney or assigned independent legal counsel.

L. The party complained against may, within 10 business days following the date of a recommended disposition that finds a violation of this Code of Ethics, request a formal hearing before the Hearing Examiner. A request for a formal hearing shall be in writing. Except for good cause shown, the hearing shall be scheduled to take place not sooner than 20 days nor later than 60 days from the date the appeal is filed.

M. Within 30 days after the conclusion of a formal hearing, the Hearing Examiner shall, based upon a preponderance of the evidence, prepare findings of fact, conclusions of law, and his/her order. Copies of the Hearing Examiner's findings, conclusions and order shall be forwarded by certified mail to the complaining party and the party complained against at their last known addresses. A copy of the Hearing Examiner's findings, conclusions and order shall also be provided to the City Council and placed on the next regularly scheduled Council meeting agenda, for informational purposes only. Additional copies of the findings, conclusions and order shall be forwarded to the investigator, the City Attorney or the City Attorney's designee, and the person(s) responsible for acting on the Hearing Examiner's order.

(Ord. 2601 §2, 2018; Ord. 2447 §5 (part), 2014).

2.97.060 Penalties for Noncompliance

Any Elected Official found, by a preponderance of the evidence, to have violated any provision of this Code of Ethics may be subject to one or more of the following penalties by majority vote of the Council:

1. A cease and desist order as to violations of this Code of Ethics.

2. An order to disclose any reports or other documents or information requested.

3. An order to pay to the City civil penalty of up to $1,000.00, where it is determined disciplinary measures are not appropriate under the circumstances.

4. Exclusion from bidding on City contracts for a period of up to 5 years.

5. Termination or invalidation of contract(s) entered into in violation of the Code of Ethics, but only if such contract(s) provide for termination in the event of a Code of Ethics violation.

6. **Admonition.** An admonition shall be a verbal statement approved by the City Council and made to the Elected Official by the Council President, or if the complaint is against the Council President, then by the next most senior Councilmember. An admonition under this section is not subject to further review or appeal except as may be otherwise provided by law.

7. **Reprimand.** A reprimand shall be administered to the Elected Official by a resolution of reprimand by the City Council. A reprimand under this section is not subject to further review or appeal, except as may be otherwise provided by law.

8. **Censure.** A censure shall be a written statement administered personally to the individual. The individual shall appear at a time and place directed by the Council to receive such censure. Notice shall be given at least 20 days before the scheduled appearance at which time a copy of the proposed censure shall be provided to the individual. Within 5 days of receipt of the notice, the individual may file a request for review of the content of the proposed censure with the City Council. Such a request will stay the administration of the censure. The City Council shall review the proposed censure in light of the investigator's findings of fact and the request for review, and may take whatever action appears appropriate under the circumstances. The action of the Council shall be final and not subject to further review. If no such request is received, the censure shall be administered at the time and place set. It shall be given publicly, and the individual shall not make any statement in support of or in opposition to or in mitigation thereof. A censure shall be deemed administered at the time it is scheduled whether or not the individual appears as required.

(Ord. 2447 §6, 2014).

2.97.070 Where to Seek Review

A. **Cease and Desist Order.** If ordered to cease and desist violating this chapter, the affected Elected Official may seek review by writ of review from the King County Superior Court pursuant to RCW 7.16, or other appropriate legal action.

B. **Public Disclosure.** If ordered to disclose any documents or papers pursuant to this chapter, the affected Elected Official may seek review by writ of review from the King County Superior Court pursuant to RCW 7.16, or other appropriate legal action.

C. **Civil Penalty.** If ordered to pay a civil penalty, an appeal may be taken in the form of a trial de novo in the Tukwila Municipal Court, which shall hear the case according to the Civil Rules for Courts of Limited Jurisdiction and applicable local rules of the Tukwila Municipal Court. This appeal shall be taken by filing in the Tukwila Municipal Court a notice of appeal within 14 days of the date of the final written order. The person filing the appeal shall also, within the same 14 days, serve a copy of the notice of appeal on the person who issued the final written order and the City Attorney, or his/her designee, and file an acknowledgment or affidavit of service in the Tukwila Municipal Court.

D. **Exclusion from Public Bidding.** If ordered to be excluded from bidding on public contracts and the exclusion actually occurs, the Elected Official excluded may seek whatever remedies exist at law or in equity.

E. **Termination of Contract(s).** If termination of contract(s) is ordered, the person whose contract(s) was/were terminated may seek whatever remedies exist at law or in equity.

(Ord. 2447 §7, 2014).

CHAPTER 2.98

COMPLIANCE WITH FEDERAL IMMIGRATION LAWS

Sections:

2.98.010 Immigration Inquiries Prohibited

Unless otherwise required by law or court order, or during the course of a criminal investigation where identity is in question and cannot otherwise be determined, no officer, agent, or employee of the City of Tukwila shall inquire into the immigration or citizenship status of any person or engage in activities designed to ascertain the immigration status of any person.

(Ord. 2587 §2, 2018)

2.98.020 Enforcement of Federal Immigration Law

A. Unless otherwise required by law or court order, no officer of the City of Tukwila shall stop, search, arrest, detain, or continue to detain a person based on any administrative or civil immigration detainer request unless accompanied by a valid criminal warrant issued by a judge or magistrate.

B. The Tukwila Police Department shall not stop, search, investigate, arrest, or detain an individual based solely on immigration or citizenship status.

C. Unless Immigration and Customs Enforcement (ICE) agents have a criminal warrant or City officials have a legitimate law enforcement purpose that is not solely related to the enforcement of civil immigration laws, the City shall not give ICE agents access to individuals in the City's custody.

D. The Tukwila Police Department shall maintain policies and training procedures consistent with this chapter.

(Ord. 2587 §3, 2018)

2.98.030 Applicability

A. This chapter is intended to be consistent with federal laws regarding communications between local jurisdictions and federal immigration authorities, including but not limited to United States Code Title 8, Section 1373.

B. Nothing in this chapter shall be construed to prohibit any Tukwila City officer or employee from cooperating with federal immigration authorities as required by law.

C. Nothing in this chapter is intended to create or form the basis for liability on the part of the City, or its officers, employees or agents.

(Ord. 2587 §4, 2018)

CHAPTER 2.105

INDEMNIFICATION OF CITY EMPLOYEES, OFFICIALS AND VOLUNTEERS

Sections:

2.105.010 Purpose

The purpose of this chapter is to protect past and current City employees, officials and volunteers acting in good faith purporting to perform his or her official duties and to authorize the defense of any action or proceeding against such employee, official or volunteer and to create a procedure to determine whether or not the acts or omissions of the employee, official or volunteer were, or in good faith purported to be, within the scope of their official duties.

(Ord. 2667 §2, 2021)

2.105.020 Definitions

Unless the context indicates otherwise, the words and phrases used in this chapter shall have the following meanings:

1. "Employee" means any person who is or has been employed by the City. "Employee" does not include independent contractors.

2. "Official" means any person who is serving or has served as an elected City official, and any person who is serving or has served as an appointed member of any City Board, Commission, Committee, or other appointed position with the City. "Official" does not include independent contractors performing the duties of appointed positions.

3. "Volunteer" means any person who performs or has performed his or her services gratuitously for the benefit of the City and has no employer-employee relationship with the City.

(Ord. 2667 §3, 2021)

2.105.030 Legal Representation

A. As a condition of service or employment with the City of Tukwila, the City shall provide to a City employee, official, or volunteer, and any spouse or registered domestic partner of a City employee, official, or volunteer to the extent the community, as community is defined in Chapter 26.16 RCW is implicated, subject to the conditions and requirements of this chapter, and notwithstanding the fact that such employee, official, or volunteer may have concluded service or employment with the City, such legal representation as may be reasonably necessary to defend a claim or lawsuit filed against such employee, official, or volunteer resulting from any conduct, act or omission of such employee, official, or volunteer performed or omitted on behalf of the City in his or her capacity as a City employee, official, or volunteer, which act or omission is within the scope of their service or employment with the City.

B. The legal services shall be provided by the Office of the City Attorney unless:

1. Any provision of an applicable policy of insurance or self-insurance plan provides otherwise; or

2. A conflict of interest or ethical bar exists with respect to said representation; or

3. The Mayor determines that the assignment of counsel other than the City Attorney is necessary or prudent under the circumstances.

C. In the event that outside counsel is retained under subsection (B) of this section, the City shall indemnify the City employee, official, or volunteer from the reasonable costs of defense; provided, that in circumstances where outside counsel is retained under subsection (B) of this section, the City controls the defense of the matter consistent with the contract with the outside counsel selected by the City.

(Ord. 2667 §4, 2021)

2.105.040 Exclusions

In no event shall protection be offered under this chapter by the City to:

1. Any dishonest, fraudulent, criminal, intentionally wrongful or malicious act or course of conduct of a City employee, official, or volunteer;

2. Any act or course of conduct of a City employee, official, or volunteer that is not performed on behalf of the City;

3. Any act or course of conduct that is outside the scope of a City employee's, official's, or volunteer's service or employment with the City; and/or

4. Any lawsuit brought against a City employee, official, or volunteer by or on behalf of the City.

B. Nothing herein shall be construed to waive or impair the right of the City Council to institute suit or counterclaim against any City employee, official, or volunteer, nor to limit its ability to discipline or terminate an employee. The protections of this chapter shall not apply with respect to any accident, occurrence, or circumstance for which the City or the City employee, official, or volunteer is insured against loss or damages under the terms of any valid insurance policy or self-insurance program; provided, that this chapter shall provide protection, subject to its terms and limitations, above any loss limit of such policy. The provisions of this chapter are intended to be secondary to any contract or policy of insurance owned or applicable to any employee, official, or volunteer. The City shall have the right to require any employee, official, or volunteer to utilize any such policy protection prior to requesting the protection afforded by this chapter.

(Ord. 2667 §5, 2021)

2.105.050 Determination of Exclusion

The determination of whether a City employee, official, or volunteer shall be afforded a defense by the City under the terms of this chapter shall be finally determined by the City Council on the recommendation of the Mayor. The City Council may request the City Attorney to provide an opinion or recommendation concerning the determination. The decision of the City Council shall be final as a legislative determination of the Council. Nothing herein shall preclude the City from undertaking a City employee's, official's, or volunteer's defense under a reservation of rights.

(Ord. 2667 §6, 2021)

2.105.060 Representation and Payment of Claims – Conditions

The protections of this chapter shall apply only when the following conditions are met:

1. In the event of any incident or course of conduct potentially giving rise to a claim for damage, or the commencement of a suit, the City employee, official, or volunteer involved shall, as soon as practicable, give the City Administrator written notice thereof, identifying the City employee, official, or volunteer involved; all information known to the employee, official, or volunteer involved; all information known to the employee, official, or volunteer with respect to the date, time, place and circumstances surrounding the incident or conduct giving rise to the claim or lawsuit; as well as the names and addresses of all persons allegedly injured or otherwise damaged thereby, and the names and addresses of all witnesses.

2. Upon receipt thereof, the City employee, official, or volunteer shall forthwith deliver any claim, demand, notice or summons or other process relating to any such incident or conduct to the City Attorney, and shall cooperate with the City Attorney, or an attorney designated by the City, and, upon request, assist in making settlement of any suit and enforcing any claim for any right of subrogation against any persons or organizations that may be liable to the City because of any damage or claim of loss arising from the incident or course of conduct, including but not limited to rights of recovery for costs and attorneys' fees arising out of state or federal statute upon a determination that the suit brought is frivolous in nature.

3. Such City employee, official, or volunteer shall attend interviews, depositions, hearings, and trials and shall assist in securing and giving evidence and obtaining attendance of witnesses all without any additional compensation to the employee, official, or volunteer and, in the event that an employee has left the employ of the City, no fee or compensation shall be provided. The City shall pay reasonable out-of-pocket expenses and costs (e.g., travel expenses, parking expenses, etc.) incurred by City employees, officials, and volunteers (including former employees, former officials, and former volunteers) in connection with such attendance. All such expenses shall be approved by the City Administrator, or designee, and the City Administrator's determination shall be final.

4. Such City employee, official, or volunteer shall not accept nor voluntarily make any payment, assume any obligations, or incur any expense relating to the claim or suit, other than for first aid to others at the time of any incident or course of conduct giving rise to any such claim, loss, or damage.

(Ord. 2667 §7, 2021)

2.105.070 Effect of Compliance with Conditions

If legal representation of a City employee, official, or volunteer is undertaken consistent with this chapter, all of the conditions of representation are met, and a judgment is entered against the employee, official, or volunteer, or a settlement made, the City shall pay such judgment or settlement; provided, that the City may, at its discretion, appeal as necessary such judgment.

(Ord. 2667 §8, 2021)

2.105.080 Failure to Comply with Conditions

In the event that any City employee, official, or volunteer fails or refuses to comply with any of the conditions of TMC Section 2.105.060 or elects to provide his/her own representation with respect to any such claim or litigation, then all of the protections of this chapter shall be inapplicable and shall have no force or effect with respect to any such claim or litigation.

(Ord. 2667 §9, 2021)

2.105.090 Reimbursement of Incurred Expenses

A. If the City determines that a City employee, official, or volunteer does not come within the provisions of this chapter, and a court of competent jurisdiction later determines that such claim does come within the provisions of this chapter, then the City shall pay any judgment for nonpunitive damages rendered against the employee, official, or volunteer and reasonable attorneys' fees incurred in defending against the claim. Consistent with RCW 4.96.041(4), the City Council may by motion agree to pay an award for punitive damages based on the specific facts and circumstances of the case, which shall be determined on a case-by-case basis. The City shall pay any attorneys' fees incurred in obtaining the determination that such claim is covered by the provisions of this chapter.

B. If the City determines that a claim against a City employee, official, or volunteer does not come within the provisions of this chapter, and a court of competent jurisdiction later finds that such claim does not come within the provisions of this chapter, then the City shall be reimbursed by the employee, official, or volunteer for costs or expenses incurred in obtaining the determination that such claim is not covered by the provisions of this chapter.

(Ord. 2667 §10, 2021)

2.105.100 Conflict with Provisions of Insurance Policies or Self-insurance Plan

Nothing contained in this chapter shall be construed to modify or amend any provision of any policy of insurance or self-insurance plan where any City employee, official, or volunteer thereof is the named insured. In the event of any conflict between this chapter and the provisions of any such policy of insurance or self-insurance plan, the policy or plan provisions shall be controlling; provided, however, that nothing contained in this section shall be deemed to limit or restrict any City employee's, official's, or volunteer's right to full protection pursuant to this chapter, it being the intent of this chapter and section to provide the protection detailed in this chapter outside and beyond insurance policies that may be in effect, while not compromising the terms and conditions of such policies by any conflicting provision contained in this chapter.

(Ord. 2667 §11, 2021)

2.105.110 Pending Claims

The provisions of this chapter shall apply to any pending claim or lawsuit against a City employee, official, or volunteer, or any such claim or lawsuit hereafter filed, irrespective of the date of the events or circumstances which are the basis of such claim or lawsuit.

(Ord. 2667 §12, 2021)

TITLE 3
REVENUE AND FINANCE

Chapters:

Figures (located at back of this section)

CHAPTER 3.04
ADVANCE TRAVEL EXPENSE REVOLVING FUND

Sections:

3.04.010 Created

This Chapter was repealed by Ordinance 2398, March 2013

CHAPTER 3.08
GAMBLING ACTIVITIES TAX

Sections:

3.08.010 Statutory Provisions Incorporated by Reference

The provisions of Chapter 218, Laws of Washington, 1973 First Extraordinary Session, as amended by Chapters 135 and 155, Laws of Washington, Third Extraordinary Session 1974, are incorporated in total by reference as though fully set forth, and in particular, the definitions as contained in Section 2, Chapter 218, Laws of 1973, First Extraordinary Session, as amended, relating, among others, to "amusement games," "bingo," "raffles," "gambling," "punchboards," "pulltabs," and "social card games."

(Ord. 2349 §1, 2011; Ord. 1809 §1 (part), 1997)

3.08.020 License Required – Nuisance Designated

No gambling activity of any kind or nature shall be permitted without a valid, subsisting license issued by the Washington State Gambling Commission as provided by law; and any person, firm or corporation who conducts any such gambling activity without such license shall be guilty of a misdemeanor.

The conducting of any such gambling activity without a license or beyond the scope specified in such license as required under State laws is a common nuisance and shall be subject to abatement by injunction or as otherwise provided by law.

(Ord. 1809 §1 (part), 1997)

3.08.030 Tax Rates

A. Pursuant to RCW 9.46.110 and RCW 9.46.120, as amended by the Laws of Washington, effective July 27, 1997, there is levied upon all persons, associations and organizations who have been duly licensed by the Washington State Gambling Commission, as authorized by law, the following tax:

1. **Bingo games and raffles:** To conduct or operate any bingo games and raffles, a tax rate of 5% of the gross revenue received therefrom, less the actual amount paid by such person, association or organization for or as prizes.

2. **Amusement game:** To conduct any amusement game, a tax rate of 2% of the gross revenue received therefrom, less the actual amount paid by such person, association or organization for or as prizes.

3. **Punchboards or pulltabs:** For the conduct or operation of any punchboards or pulltabs, a tax rate of 5% of the gross receipts from such activities for commercial stimulant operators (taverns, restaurants, etc.); and a tax rate of 10% on the gross receipts less the amount paid out as prizes for charitable or nonprofit organizations.

4. **Social card games:**

a. For the conduct or operation of any premises or facility used to play social card games, a tax rate of 11% of the gross receipts received therefrom; provided that when the number of card rooms in the City exceeds five, the tax rate shall increase to 15% of the gross receipts received therefrom. Additionally, when the number of card rooms exceeds six, the tax rate shall increase to 20% of the gross receipts received therefrom.

b. For purposes of this provision, an operating business is defined as: a business open to the public and engaged in the business of operating a social card room for a period of 30 days. For purposes of this section, the 30 days are not required to be consecutive days. After the 30 days of operations, which triggers the increased tax rate, the Finance Director or his or her designee, shall notify the social card rooms of the increased rate and that rate shall be paid thereafter by all card rooms in this tax category, starting the financial quarter after notification.

B. *Non-Profit Organizations.*

1. No tax shall be imposed under the authority of TMC Chapter 3.08 on bingo or raffles when such activities or any combination thereof are conducted by any bona fide charitable or nonprofit organization as defined in RCW 9.46.0209, which organization has no paid or management personnel, and has gross income from bingo and raffles, or any combination thereof, not exceeding $5,000 per year, less the amount paid for or as prizes.

2. The Finance Director may waive the tax due each quarter from a bona fide charitable or nonprofit organization as defined in RCW 9.46.0209. This waiver may occur only if the charitable or nonprofit organization demonstrates by clear and convincing documentation that an amount equal to at least 70% of the tax due the City, as computed pursuant to TMC Section 3.08.030, will be donated to charitable nonprofit organizations serving the City whose purpose is to provide programs or facilities for meeting the basic health, education, welfare, or other needs of the residents of the City. Failure to donate at least 70% of the tax due the City will result in revocation of the waiver and the disqualification of the bona fide charitable or nonprofit organization to receive a waiver for future tax payments.

(Ord. 2590 §1, 2018; Ord. 2349 §2, 2011; Ord. 1809 §1 (part), 1997)

3.08.040 Fundraising Events Allowed – Limitations

Any and all fundraising events conducted or operated by bona fide charitable or nonprofit organizations as authorized by the Revised Code of Washington, Chapter 9.46 as it now exists or is hereafter amended, are allowed subject to the following limitations:

1. No organization shall be allowed to conduct more than two such events in the City in any one calendar year; and

2. No more than four such events may take place at the same location in the City in any one calendar year.

(Ord. 1809 §1 (part), 1997)

3.08.050 Administration and Collection of Tax

The administration and collection of tax imposed by this chapter shall be by the Finance Director and in strict pursuance of the rules and regulations as may be adopted by the Washington State Gambling Commission from time to time. The Finance Director shall adopt and publish such rules and regulations as may be reasonably necessary to enable the collection of the tax imposed hereby.

(Ord. 1809 §1 (part), 1997)

3.08.060 Declarations and Statements Required to be Filed

A. For the purpose of properly identifying the person, association and organization subject to any tax imposed by this chapter, such person, association or organization intending to conduct or operate any gambling activity authorized by the above specified laws, or as the same may be amended hereafter, shall, prior to commencement of any such activity, file with the Finance Director a sworn declaration of intent to conduct or operate such activity, together with a true and correct copy of the license issued by the Washington State Gambling Commission or any renewal or extension of such license or temporary license.

B. Thereafter, for any period covered by such State license or any renewal or extension thereof, any person, association or organization shall, on or before the last day of the month following the end of the quarterly period in which the tax accrued, file with the Finance Director a sworn statement, under penalty of perjury, on a form to be provided and prescribed by the Finance Director for the purpose of ascertaining the tax due for the preceding quarterly period.

C. In addition, any such person, association or organization shall file with the Finance Director copies of any daily, weekly, monthly or other periodic tax statements, financial reports, daily control sheets, daily time sheets, records of attendance, or any other information required to be filed by it to the State of Washington Gambling Commission.

D. The Chief of the Police Department may establish such further and additional reporting requirements of any person, association or organization authorized to conduct gambling activities in the City which are reasonably intended to provide information to the City regarding the conduct of said activities.

(Ord. 1809 §1 (part), 1997)

3.08.070 Filing of Application with Finance Director

Each person, association, or organization licensed by the Washington State Gambling Commission shall likewise submit to the Finance Director a true and correct copy of any application made to such commission for a license, together with any and all amendments thereof. Such copy shall be submitted at or prior to the filing of the first tax return due under this chapter.

(Ord. 1809 §1 (part), 1997)

3.08.080 Payment of Tax – Penalty for Late Payments

A. The tax imposed by this chapter shall be due and payable in quarterly installments, and remittance therefor shall accompany each return and be made on or before the last day of the month following the quarterly period in which the tax accrued.

B. If a person subject to this tax fails to pay any tax required by this chapter within 15 days after the due date thereof, there shall be added to such tax a penalty of 10% of the tax per month for each month overdue, which shall be added to the amount of the tax due.

(Ord. 2349 §3, 2011; Ord. 2323 §3, 2011; Ord. 1809 §1 (part), 1997)

3.08.090 Unlawful Acts Designated – Liability

A. Any person, association or organization that shall fail, neglect or refuse to pay the tax required by this chapter, or that shall willfully disobey any rule or regulation promulgated by the Finance Director under this chapter, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the City jail for not more than 90 days or by a fine of not more than $500.00 or both. Any such fine shall be in addition to any tax and penalties required.

B. All officers, directors and managers of any organization or association conducting gambling activities shall be jointly and severally liable for the payment of said tax penalties and for the payment of any fine imposed under this chapter.

(Ord. 1809 §1 (part), 1997)

3.08.100 Finance Director – Powers and Duties

The Finance Director or authorized representative shall adopt, publish and enforce such rules and regulations not inconsistent with this chapter as may be necessary to enable the prompt collection of the tax and penalties imposed by this chapter; prescribe and issue the appropriate forms for determination and declaration of the amount of tax to be paid; and have the power to enter into contracts with other municipalities and/or State agencies for the collection of the tax imposed on gambling activities conducted within the City.

(Ord. 1809 §1 (part), 1997)

3.08.110 Enforcement Authority – Access to Financial Records

A. The Mayor and Chief of Police shall have the power to enter into contracts with other municipalities and/or State agencies for the enforcement of applicable State laws, rules and regulations and City ordinances relating to all gambling activities.

B. It shall be the responsibility of any owner, director and manager of any organization conducting any gambling activity as licensed by the Washington State Gambling Commission and taxed under the provisions of this chapter, to provide access at all reasonable times to all financial records, including bank deposits, invoices, accounts payable and related financial statements, as the Finance Director or his/her authorized representative, or any bona fide law enforcement representative of the City may require in order to determine full compliance with this chapter and all rules and regulations adopted or hereafter adopted by the State of Washington Gambling Commission.

(Ord. 1809 §1 (part), 1997)

3.08.120 Notification of License Suspension or Revocation

In the event any license issued by the Washington State Gambling Commission is suspended or revoked, then the person, association or organization affected by such suspension or revocation shall immediately notify in writing the Finance Director of such action, together with a true copy of such notice of suspension or revocation.

(Ord. 1809 §1 (part), 1997)

3.08.130 List of Licenses to be Kept

It shall further be the responsibility of the Finance Director to keep on file a complete and up-to-date list of the licenses issued by the Washington State Gambling Commission, as the same is made available at said office, which information shall include the name, address, type of license and license number of each such licensee.

(Ord. 1809 §1 (part), 1997)

3.08.140 Review of Gambling Activities by City Council

The propriety of the conduct of gambling and gambling-related activities and the desirability of continuing those activities in the City shall be reviewed by the City Council or by a committee designated by the City Council for such review, at least one time every twelve months.

(Ord. 1809 §1 (part), 1997)

CHAPTER 3.12

SALES AND USE TAX

Sections:

3.12.010 Imposed

There is imposed a sales or use tax, as the case may be, upon every taxable event as defined in Section 3, Chapter 94, Laws of 1970, First Extraordinary Session, occurring within the City. The tax shall be imposed upon and collected from those persons from whom the State sales or use tax is collected pursuant to Chapters 82.08 and 82.12 RCW.

(Ord. 611 §1, 1970)

3.12.020 Rate

The rate of the tax imposed by TMC 3.12.010 shall be ½ of 1% of the selling price or value of the article used, as the case may be. Provided, however, that during such period as there is in effect a sales or use tax imposed by King County, the rate of tax imposed by this chapter shall be 425/1000 of 1%.

(Ord. 611 §2, 1970)

3.12.030 Administration and Collection – Statutory Compliance

The administration and collection of the tax imposed by this chapter shall be in accordance with the provisions of Section 6, Chapter 94, Laws of 1970, First Extraordinary Session.

(Ord. 611 §3, 1970)

3.12.040 Records Inspection

The City consents to the inspection of such records as are necessary to qualify the City for inspection of records of the Department of Revenue, pursuant to RCW 82.32.330.

(Ord. 611 §4, 1970)

3.12.050 Violation

Any seller who fails or refuses to collect the tax as required with the intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any buyer who refuses to pay any tax due under this chapter is guilty of a misdemeanor.

(Ord. 611 §5, 1970)

CHAPTER 3.14

SALES AND USE TAX FOR AFFORDABLE HOUSING

Sections:

3.14.010 Imposition of Sales and Use Tax for Affordable Housing

A. There is imposed a sales and use tax as authorized by Washington State Legislature Chapter 338, Laws of 2019, which shall be codified in Chapter 82.14 RCW, upon every taxable event, as defined in Chapter 82.14 RCW, occurring within the City of Tukwila. The tax shall be imposed upon and collected from those persons from whom the State sales tax or use tax is collected pursuant to Chapter 82.08 and 82.12 RCW.

B. The rate of the tax imposed by TMC Section 3.14.010 shall be 0.0073 percent of the selling price or value of the article used.

C. The tax imposed under TMC Section 3.14.010 shall be deducted from the amount of tax otherwise required to be collected or paid to the Department of Revenue under Chapter 82.08 or 82.12 RCW. The Department of Revenue will perform the collection of such taxes on behalf of the City of Tukwila at no cost to the City.

D. The Department of Revenue will calculate the maximum amount of tax distributions for the City of Tukwila based on the taxable retail sales in the City in State Fiscal Year 2019, and the tax imposed under TMC Section 3.14.010 will cease to be distributed to the City of Tukwila for the remainder of any State Fiscal Year in which the amount of tax exceeds the maximum amount of tax distributions for the City as properly calculated by the Department of Revenue. Distributions to the City of Tukwila that have ceased during a State Fiscal Year shall resume at the beginning of the next State Fiscal Year.

(Ord. 2613 §2, 2019)

3.14.020 Purpose of Tax

A. The City may use the moneys collected by the tax imposed under TMC Section 3.14.010 or bonds issued only for the following purposes:

1. Acquiring, rehabilitating, or constructing affordable housing, which may include new units of affordable housing within an existing structure or facilities providing supportive housing services under RCW 71.24.385; and
2. Providing the operations and maintenance costs of new units of affordable or supportive housing; and
3. Providing rental assistance to tenants.

B. The housing and services provided under TMC Section 3.14.020 may only be provided to persons whose income is at or below 60 percent of the median income of the City.

C. In determining the use of funds under TMC Section 3.14.020, the City must consider the income of the individuals and families to be served, the leveraging of the resources made available under TMC Section 3.14.010, and the housing needs within the City.

D. The Finance Director must report annually to the Washington State Department of Commerce, in accordance with the Department's rules, on the collection and use of the revenue from the tax imposed under TMC Section 3.14.010.

E. The tax imposed by the City under TMC Section 3.14.010 will expire 20 years after the date on which the tax is first imposed. The Finance Director shall provide notice to the City Council and the Mayor of the expiration date of the tax each year beginning three years before the expiration date, and shall also promptly notify the City Council and the Mayor of any changes to the expiration date.

(Ord. 2613 §3, 2019)

3.14.030 Administration and Collection – Statutory Compliance

The administration and collection of the tax imposed by Chapter 3.14 shall be in accordance with the provisions of Washington State Legislature Chapter 338, Laws of 2019, which shall be codified in Chapter 82.14 RCW.

(Ord. 2613 §4, 2019)

CHAPTER 3.16
ADDITIONAL SALES OR USE TAX

Sections:

3.16.010 Imposition of Additional Sales and Use Tax

There is imposed an additional sales or use tax, as the case may be, as authorized by RCW 82.14.030(2), upon every taxable event, as defined in RCW 82.14.020, occurring within the City. The additional tax shall be imposed upon and collected from those persons from whom the State sales or use tax is collected pursuant to RCW Chapters 82.08 and 82.12. This tax is in addition to the sales or use tax imposed by Ordinance No. 611.

(Ord. 1551 §1, 1989)

3.16.020 Rate of Tax Imposed

The rate of the tax imposed by TMC 3.16.010 shall be 5/10 of 1% of the selling price or value of the article used, as the case may be; provided, however, that in the event the County shall impose a sales and use tax under RCW 82.14.030(2) at a rate equal to or greater than the rate imposed by the City under this section, the County shall receive 15% of the tax imposed by the City under TMC 3.16.010; provided further, that during such period as there is in effect a sales or use tax imposed by the County under RCW 82.14.030(2) at a rate which is less than the rate imposed by this section, the County shall receive from the tax imposed by TMC 3.16.010 that amount of revenues equal to 15% of the rate of the tax imposed by the County under RCW 82.14.030(2).

(Ord. 1551 §2, 1989)

3.16.030 Administration and Collection of Tax

The administration and collection of the tax imposed by this chapter shall be in accordance with the provisions of RCW 82.14.050.

(Ord. 1551 §3, 1989)

3.16.040 Consent to Inspection of Records

The City consents to the inspection of such records as are necessary to qualify the City for inspection of records by the Department of Revenue, pursuant to RCW 82.32.330.

(Ord. 1551 §4, 1989)

3.16.050 Agreement with Department of Revenue

The Mayor is authorized to enter into an agreement with the Department of Revenue for the administration of the tax imposed under this chapter.

(Ord. 1551 §5, 1989)

3.16.060 Distribution of Tax Proceeds and Limitation on the Use Thereof

The proceeds of the tax imposed in this chapter shall be placed in municipal capital improvement funds, 80%; general fund operations, 10%; and general fund designated ending fund balance, 10%. The general fund designated ending fund balance portion will be applicable to the 1990, 1991, and 1992 budget years and then revert to capital improvement funds.

(Ord. 1551 §6, 1989)

3.16.070 Violation – Penalties

Any seller who fails or refuses to collect the tax as required with the intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any buyer who refuses to pay any tax due under this chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not to exceed $5,000 or by imprisonment in jail for a term not exceeding one year or by both such fine and imprisonment.

(Ord. 1551 §7, 1989)

3.16.080 Severability

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

(Ord. 1551 §8, 1989)

CHAPTER 3.20

ADMISSIONS AND ENTERTAINMENT TAX

Sections:

3.20.010 Admission Charge – Definitions

A. "Admission charge," in addition to its usual meaning, shall include but not be limited to the following:

1. A cover charge or a charge made for use of seats or tables, reserved or otherwise, and similar accommodations.

2. A charge made for rental or use of equipment or facilities for purposes of entertainment or amusement and, where the rental of the equipment or facilities is necessary to the enjoyment of the privilege for which general admission is charged, the combined charge shall be considered as the admission charge.

3. A charge made for entertainment activities or admission to any theater, dance hall, cabaret, adult entertainment cabaret, private club, auditorium, circus, side show, outdoor amusement park or any similar place; and includes equipment to which persons are admitted for purposes of entertainment such as merry-go-rounds, Ferris wheels, dodge 'ems, roller coasters, go-carts and other rides, whether such rides are restricted to tracks or not.

4. A sum or money referred to as "a donation" which must be paid before entrance is allowed.

5. "Admission charge" does not include public school activities and other non-profit endeavors.

(Ord. 2080 §1, 2004; Ord. 1733 §1, 1995)

3.20.020 Admissions Tax Levied

A. There is hereby levied a 5% tax on admissions for entertainment purposes in the City of Tukwila. Such tax is to continue indefinitely or until amended or repealed by the City Council.

B. *The transfer of admissions tax from the Foster Golf Links Fund to the General Fund shall be waived:* Beginning in the 2019-2020 budget biennium, the City of Tukwila's General Fund will forego collection of admissions tax from Foster Golf Course until legislative action is taken to reinstate said collection and, further, admissions tax revenues collected by the Foster Golf Course shall be allocated to the Foster Golf Link Fund until legislative action is taken to reallocate such revenues to the General Fund.

(Ord. 2674 §1, 2022; Ord. 2080 §2, 2004; Ord. 1733 §2, 1995)

3.20.030 Determination of Amount

A. Amount – The tax here imposed shall be in the amount of 5% on each admission or entertainment charge.

B. Cabarets and similar places – The admission charge to any cabaret, adult entertainment cabaret, private club conducting cabaret activities, or any similar place of entertainment is deemed to be the total amount charged as an admission charge, a cover charge, and/or a charge made for the use of seats and tables reserved or otherwise, and other similar accommodations. A minimum drink or participation cost in lieu of a cover charge is deemed a taxable event.

C. Signs posted – Whenever a charge is made for admission to any place, a sign shall be posted in a conspicuous place on the entrance or ticket office stating that a 5% city admission tax is included in the admission charge.

(Ord. 1733 §3, 1995)

3.20.040 Collection – Remittance to Finance Director

A. The tax imposed hereunder shall be collected from the person paying the admission charge at the time the admission charge is paid, and such taxes shall be remitted by the person collecting the tax to the Finance Director in monthly remittances on or before the last day of the month succeeding the end of the monthly period in which the tax is collected or received, and accompanied by such reports as the Finance Director shall require.

B. Any person receiving any payment for admissions shall make out a return upon such forms and setting forth such information as the Finance Director may require, showing the amount of the tax upon admissions for which he is liable for the preceding monthly period, and shall sign and transmit the same to the Finance Director with a remittance for the amount; provided, that the Finance Director may at his discretion require verified annual returns from any person receiving admission payments setting forth such additional information as he may deem necessary to determine correctly the amount of tax collected and payable.

C. If the return provided for herein is not made and transmitted and the tax is not collected and remitted to the City by the last day of the month succeeding the end of the month in which the tax was collected, the Finance Director shall add a penalty of 10% of the tax per month or fraction thereof for each month overdue, which shall be added to the amount of the tax due, and remitted in the same manner.

D. Whenever any theater, circus, show, exhibition, entertainment or amusement makes an admission charge which is subject to the tax herein levied, and the same is of a temporary or transitory nature or there exists a reasonable question of financial responsibility, of which the Finance Director shall be the judge, the report and remittance of the admission tax may be required immediately upon the collection of the same, at the conclusion of the performance or exhibition, or at the conclusion of the series of performances or exhibitions.

E. Every person liable for the collection and payment of the tax imposed by this chapter shall keep and preserve for a period of five years all unused tickets, ticket manifests, books and all other records from which can be determined the amount of admission tax which he was liable to remit under the provisions of this chapter, and all such tickets, books and records shall be open for examination and audit at all reasonable times by the Finance Director or his duly authorized agent.

(Ord. 1733 §4, 1995)

3.20.050 Application and Reporting

A. Any person conducting or operating any place for entrance to which an admission charge is made shall procure from the City an annual certificate of registration, the fee for which shall be $1.00, and it shall be posted in a conspicuous place where tickets of admission are sold or the activity occurs. Annual renewals will be provided without a fee.

B. The applicant for a certificate of registration shall furnish the Finance Director with the application, with the name and address of the owner, lessee or the custodian of the premises upon which the amusement is to be conducted; and such owner, lessee or custodian shall be notified of the issuance of such certificate and of his joint liability for collection and remittance of such tax.

C. The Finance Director shall have the power to adopt rules and regulations not inconsistent with the terms of this chapter for carrying out and enforcing the payment, collection and remittance of the tax herein levied; and a copy of the rules and regulations shall be on file and available for public examination in the City Clerk's office.

(Ord. 1733 §5, 1995)

3.20.060 Violations

A. Violation a misdemeanor – Each violation of or failure to comply with the provisions of this chapter constitutes a separate offense and is a misdemeanor.

B. Collection of tax by civil action – Any fee or tax due and unpaid and delinquent under the provisions of this chapter and all penalties thereon, may be collected by civil action, which remedies shall be in addition to any and all other existing remedies.

C. Violators designated – Any person who directly or indirectly performs or omits to perform any act in violation of the provisions of this chapter, or aids or abets the same, whether present or absent, and every person who directly or indirectly counsels, encourages, hires, commands, induces or otherwise procures another to commit such violation is and shall be a principal under the terms of this chapter and may be proceeded against as such.

(Ord. 1733 §6, 1995)

CHAPTER 3.24
CENTRAL TREASURY FUND

Sections:

3.24.010 Established

There is hereby established in the City, pursuant to RCW 35.21.085, a special fund to be known as the Central Treasury Fund for payment of salaries, wages, employee benefits, and claims against the City.

(Ord. 2322 §1, 2011)

CHAPTER 3.26
BUSINESS AND OCCUPATION TAX

Sections:

3.26.010 Purpose

The purpose of this Chapter is to implement Washington Constitution Article XI, Section 12, RCW 35A.11.020, and RCW 35A.82,020, which give municipalities the authority to license for revenue. In the absence of a legal or constitutional prohibition, the City has the power to define taxation categories as they see fit in order to respond to the unique concerns and responsibilities of local government.

(Ord. 2689 §2, 2022)

3.26.020 Exercise of Revenue License Power

The provisions of this Chapter shall be deemed an exercise of the power of the City to license for revenue. The provisions of this Chapter are subject to periodic statutory or administrative rule changes or judicial interpretations of the ordinances or rules. The responsibility rests with the licensee or taxpayer to reconfirm tax computation procedures and remain in compliance with the City code.

(Ord. 2689 §3, 2022)

3.26.030 Administrative Provisions

The administrative provisions contained herein and as codified in TMC Chapter 3.27 shall be fully applicable to the provisions of this Chapter, except as expressly stated to the contrary herein.

(Ord. 2689 §4, 2022)

3.26.040 Definitions

In construing the provisions of this chapter, the following definitions shall be applied. Words in the singular number shall include the plural, and the plural shall include the singular.

A. **"Business"** includes all activities engaged in with the object of gain, benefit, or advantage to the taxpayer or to another person or class, directly or indirectly.

B. **"Business and occupation tax"** or **"gross receipts tax"** means a tax imposed on or measured by the value of products, the gross income of the business, or the gross proceeds of sales, as the case may be, and that is the legal liability of the business.

C. **"Commercial or industrial use"** means the following uses of products, including by-products, by the extractor or manufacturer thereof:

1. Any use as a consumer; and
2. The manufacturing of articles, substances or commodities.

D. **"Director"** means the Finance Director of the City or any officer, agent or employee of the City designated to act on the Director's behalf.

E. **"Delivery"** means the transfer of possession of tangible personal property between the seller and the buyer or the buyer's representative. Delivery to an employee of a buyer is considered delivery to the buyer. Transfer of possession of tangible personal property occurs when the buyer or the buyer's representative first takes physical control of the property or exercises dominion and control over the property. Dominion and control means the buyer has the ability to put the property to the buyer's own purposes. It means the buyer or the buyer's representative has made the final decision to accept or reject the property, and the seller has no further right to possession of the property and the buyer has no right to return the property to the seller, other than under a warranty contract. A buyer does not exercise dominion and control over tangible personal property merely by arranging for shipment of the property from the seller to itself. A buyer's representative is a person, other than an employee of the buyer, who is authorized in writing by the buyer to receive tangible personal property and take dominion and control by making the final decision to accept or reject the property. Neither a shipping company nor a seller can serve as a buyer's representative. It is immaterial where the contract of sale is negotiated or where the buyer obtains title to the property. Delivery terms and other provisions of the Uniform Commercial Code (Title 62A RCW) do not determine when or where delivery of tangible personal property occurs for purposes of taxation.

F. **"Digital automated service," "digital code,"** and **"digital goods"** have the same meaning as in RCW 82.04.192 as now in effect or as may be subsequently amended or recodified.

G. **"Digital products"** means digital goods, digital codes, digital automated services, and the services described in RCW 82.04.050(2)(g) and (6)(b) as now in effect or as may be subsequently amended or recodified.

H. **"Eligible gross receipts tax"** means a tax which:

1. Is imposed on the act or privilege of engaging in business activities within TMC Section 3.26.050; and

2. Is measured by the gross volume of business, in terms of gross receipts and is not an income tax or value added tax; and

3. Is not, pursuant to law or custom, separately stated from the sales price; and

4. Is not a sales or use tax, business license fee, franchise fee, royalty or severance tax measured by volume or weight, or concession charge, or payment for the use and enjoyment of property, property right or a privilege; and

5. Is a tax imposed by a local jurisdiction, whether within or without the State of Washington, and not by a Country, State, Province, or any other non-local jurisdiction above the County level.

I. **"Engaging in business"** means commencing, conducting, or continuing in business, and also the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.

1. This section sets forth examples of activities that constitute engaging in business in the City, and establishes safe harbors for certain of those activities so that a person who meets the criteria may engage in de minimis business activities in the City without having to register and obtain a business license or pay City business and occupation taxes. The activities listed in this section are illustrative only and are not intended to narrow the definition of "engaging in business" in TMC Section 3.26.040.I. If an activity is not listed, whether it constitutes engaging in business in the City shall be determined by considering all the facts and circumstances and applicable law.

2. Without being all inclusive, any one of the following activities conducted within the City by a person, or its employee, agent, representative, independent contractor, broker or another acting on its behalf constitutes engaging in business and requires a person to register and obtain a business license.

a. Owning, renting, leasing, maintaining, or having the right to use, or using, tangible personal property, intangible personal property, or real property permanently or temporarily located in the City.

b. Owning, renting, leasing, using, or maintaining, an office, place of business, or other establishment in the City.

c. Soliciting sales.

d. Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance.

e. Providing technical assistance or service, including quality control, product inspections, warranty work, or similar services on or in connection with tangible personal property sold by the person or on its behalf.

f. Installing, constructing, or supervising installation or construction of, real or tangible personal property.

g. Soliciting, negotiating, or approving franchise, license, or other similar agreements.

h. Collecting current or delinquent accounts.

i. Picking up and transporting tangible personal property, solid waste, construction debris, or excavated materials.

j. Providing disinfecting and pest control services, employment and labor pool services, home nursing care, janitorial services, appraising, landscape architectural services, security system services, surveying, and real estate services including the listing of homes and managing real property.

k. Rendering professional services such as those provided by accountants, architects, attorneys, auctioneers, consultants, engineers, professional athletes, barbers, baseball clubs and other sports organizations, chemists, consultants, psychologists, court reporters, dentists, doctors, detectives, laboratory operators, teachers, veterinarians.

l. Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings.

m. Training or recruiting agents, representatives, independent contractors, brokers or others, domiciled or operating on a job in the City, acting on its behalf, or for customers or potential customers.

n. Investigating, resolving, or otherwise assisting in resolving customer complaints.

o. In-store stocking or manipulating products or goods, sold to and owned by a customer, regardless of where sale and delivery of the goods took place.

p. Delivering goods in vehicles owned, rented, leased, used, or maintained by the person or another acting on its behalf.

3. If a person, or its employee, agent, representative, independent contractor, broker or another acting on the person's behalf, engages in no other activities in or with the City but the following, it need not register and obtain a business license and pay tax.

a. Meeting with suppliers of goods and services as a customer.

b. Meeting with government representatives in their official capacity, other than those performing contracting or purchasing functions.

c. Attending meetings, such as board meetings, retreats, seminars, and conferences, or other meetings wherein the person does not provide training in connection with tangible personal property sold by the person or on its behalf. This provision does not apply to any board of director member or attendee engaging in business such as a member of a board of directors who attends a board meeting.

d. Renting tangible or intangible property as a customer when the property is not used in the City.

e. Attending, but not participating in a "trade show" or "multiple vendor events". Persons participating at a trade show shall review the City's trade show or multiple vendor event ordinances.

f. Conducting advertising through the mail.

g. Soliciting sales by phone from a location outside the City.

4. A seller located outside the City merely delivering goods into the City by means of common carrier is not required to register and obtain a business license, provided that it engages in no other business activities in the City. Such activities do not include those in TMC Section 3.26.040.I.3.

5. The City expressly intends that engaging in business include any activity sufficient to establish nexus for purposes of applying the tax under the law and the constitutions of the United States and the State of Washington. Nexus is presumed to continue as long as the taxpayer benefits from the activity that constituted the original nexus generating contact or subsequent contacts.

J. **"Extracting"** is the activity engaged in by an extractor and is reportable under the extracting classification.

K. **"Extractor"** means every person who from the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, for sale or for commercial or industrial use, mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral or other natural resource product; or fells, cuts or takes timber, Christmas trees, other than plantation Christmas trees, or other natural products; or takes fish, shellfish, or other sea or inland water foods or products. "Extractor" does not include persons performing under contract the necessary labor or mechanical services for others; or persons meeting the definition of farmer.

L. **"Extractor for Hire"** means a person who performs under contract necessary labor or mechanical services for an extractor.

M. **"Gross income of the business"** means the value proceeding or accruing by reason of the transaction of the business engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds, or other evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other emoluments however designated, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.

N. **"Gross proceeds of sales"** means the value proceeding or accruing from the sale of tangible personal property, digital goods, digital codes, digital automated services or for other services rendered, without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount paid, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.

O. **"Manufacturing"** means the activity conducted by a manufacturer and is reported under the manufacturing classification.

P. **"Manufacturer," "to manufacture."**

1. "Manufacturer" means every person who, either directly or by contracting with others for the necessary labor or mechanical services, manufactures for sale or for commercial or industrial use from the person's own materials or ingredients any products. When the owner of equipment or facilities furnishes, or sells to the customer prior to manufacture, materials or ingredients equal to less than 20% of the total value of all materials or ingredients that become a part of the finished product, the owner of the equipment or facilities will be deemed to be a processor for hire, and not a manufacturer.

2. "To manufacture" means all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials or ingredients so that as a result thereof a new, different or useful product is produced for sale or commercial or industrial use, and shall include:

a. The production of special made or custom made articles;

b. The production of dental appliances, devices, restorations, substitutes, or other dental laboratory products by a dental laboratory or dental technician;

c. Crushing and/or blending of rock, sand, stone, gravel, or ore; and

d. The producing of articles for sale, or for commercial or industrial use from raw materials or prepared materials by giving such materials, articles, and substances of trade or commerce new forms, qualities, properties or combinations including, but not limited to, such activities as making, fabricating, processing, refining, mixing, slaughtering, packing, aging, curing, mild curing, preserving, canning, and the preparing and freezing of fresh fruits and vegetables.

3. "To manufacture" shall not include the production of digital goods or the production of computer software if the computer software is delivered from the seller to the purchaser by means other than tangible storage media, including the delivery by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser.

Q. **"Person"** means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, municipal corporation, political subdivision of the State of Washington, corporation, limited liability company, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit, or otherwise in the United States or any instrumentality thereof.

R. **"Retailing"** means the activity of engaging in making sales at retail and is reported under the retailing classification.

S. **"Retail Service"** shall include the sale of or charge made for personal, business, or professional services including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities:

1. Amusement and recreation services including but not limited to golf, pool, billiards, skating, bowling, swimming, bungee jumping, ski lifts and tows, basketball, racquet ball, handball, squash, tennis, batting cages, day trips for sightseeing purposes, and others, when provided to consumers. "Amusement and recreation services" also include the provision of related facilities such as basketball courts, tennis courts, handball courts, swimming pools, and charges made for providing the opportunity to dance. The term "amusement and recreation services" does not include instructional lessons to learn a particular activity such as tennis lessons, swimming lessons, or archery lessons.

2. Abstract, title insurance, and escrow services;

3. Credit bureau services;

4. Automobile parking and storage garage services;

5. Landscape maintenance and horticultural services but excluding (i) horticultural services provided to farmers and (ii) pruning, trimming, repairing, removing, and clearing of trees and brush near electric transmission or distribution lines or equipment, if performed by or at the direction of an electric utility;

6. Service charges associated with tickets to professional sporting events; and

7. The following personal services: Physical fitness services, tanning salon services, tattoo parlor services, steam bath services, Turkish bath services, escort services, and dating services.

8. The term shall also include the renting or leasing of tangible personal property to consumers and the rental of equipment with an operator.

T. **"Sale," "casual or isolated sale."**

1. "Sale" means any transfer of the ownership of, title to, or possession of, property for a valuable consideration and includes any activity classified as a "sale at retail," "retail sale," or "retail service." It includes renting or leasing, conditional sale contracts, leases with option to purchase, and any contract under which possession of the property is given to the purchaser but title is retained by the vendor as security for the payment of the purchase price. It also includes the furnishing of food, drink, or meals for compensation whether consumed upon the premises or not.

2. "Casual or isolated sale" means a sale made by a person who is not engaged in the business of selling the type of property involved on a routine or continuous basis.

U. **"Sale at retail," "retail sale"**

1. "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers, other than a sale to a person who presents a resale certificate under RCW 82.04.470 and who:

a. Purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person; or

b. Installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person; or

c. Purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale; or

d. Purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or

e. Purchases for the purpose of providing the property to consumers as part of competitive telephone service, as defined in RCW 82.04.065. The term shall include every sale of tangible personal property which is used or consumed or to be used or consumed in the performance of any activity classified as a "sale at retail" or "retail sale" even though such property is resold or utilized as provided in TMC Section 3.26.040.U.1.a, b, c, d, or e following such use.

f. Purchases for the purpose of satisfying the person's obligations under an extended warranty as defined in TMC Section 3.26.040.U.7 if such tangible personal property replaces or becomes an ingredient or component of property covered by the extended warranty without intervening use by such person.

2. "Sale at retail" or "retail sale" also means every sale of tangible personal property to persons engaged in any business activity which is taxable under TMC Section 3.26.050.A.7.

3. "Sale at retail" or "retail sale" shall include the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following:

a. The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for

consumers, including charges made for the mere use of facilities in respect thereto, but excluding charges made for the use of coin-operated laundry facilities when such facilities are situated in an apartment house, rooming house, or mobile home park for the exclusive use of the tenants thereof, and also excluding sales of laundry service to nonprofit health care facilities, and excluding services rendered in respect to live animals, birds and insects;

b. The constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and shall also include the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture;

c. The charge for labor and services rendered in respect to constructing, repairing, or improving any structure upon, above, or under any real property owned by an owner who conveys the property by title, possession, or any other means to the person performing such construction, repair, or improvement for the purpose of performing such construction, repair, or improvement and the property is then reconveyed by title, possession, or any other means to the original owner;

d. The sale of or charge made for labor and services rendered in respect to the cleaning, fumigating, razing or moving of existing buildings or structures, but shall not include the charge made for janitorial services; and for purposes of this section the term "janitorial services" shall mean those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term "janitorial services" does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting;

e. The sale of or charge made for labor and services rendered in respect to automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16 RCW;

f. The sale of and charge made for the furnishing of lodging and all other services, except telephone business and cable service, by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same. For the purposes of this subsection, it shall be presumed that the sale of and charge made for the furnishing of lodging for a continuous period of one month or more to a person is a rental or lease of real property and not a mere license to enjoy the same;

g. The installing, repairing, altering, or improving of digital goods for consumers;

h. The sale of or charge made for tangible personal property, labor and services to persons taxable under TMC Section 3.26.040.U.3.a, b, c, d, e, f, and g when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property, labor and services may be resold after such use or consumption. Nothing contained in this section shall be construed to modify TMC Section 3.26.040.U.1 and nothing contained in TMC Section 3.26.040.U.1 shall be construed to modify this subsection.

4. "Sale at retail" or "retail sale" shall also include the providing of competitive telephone service to consumers.

5. "Sale at retail" or "retail sale":

a. "Sale at retail" or "retail sale" shall also include the sale of prewritten software other than a sale to a person who presents a resale certificate under RCW 82.04.470, regardless of the method of delivery to the end user. For the purposes of this section, the sale of prewritten computer software includes the sale of or charge made for a key or an enabling or activation code, where the key or code is required to activate prewritten computer software and put the software into use. There is no separate sale of the key or code from the prewritten computer software, regardless of how the sale may be characterized by the vendor or by the purchaser. The term "sale at retail" or "retail sale" does not include the sale of or charge made for:

i. Custom software; or

ii. The customization of prewritten software.

b. The term also includes the charge made to consumers for the right to access and use prewritten computer software, where possession of the software is maintained by the seller or a third party, regardless of whether the charge for the service is on a per use, per user, per license, subscription, or some other basis.

i. The service described in TMC Section 3.26.040.U.5.b includes the right to access and use prewritten software to perform data processing.

ii. For the purposes of TMC Section 3.26.040.U.5.b(i), "data processing" means the systematic performance of operations on data to extract the required information in an appropriate form or to convert the data to usable information. Data processing includes check processing, image processing, form processing, survey processing, payroll processing, claim processing, and similar activities.

6. "Sale at retail" or "retail sale" shall also include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state, the State of Washington, or by the United States and which is used or

to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind.

7. "Sale at retail" or "retail sale" shall also include the sale of or charge made for an extended warranty to a consumer. For purposes of this subsection, "extended warranty" means an agreement for a specified duration to perform the replacement or repair of tangible personal property at no additional charge or a reduced charge for tangible personal property, labor, or both, or to provide indemnification for the replacement or repair of tangible personal property, based on the occurrence of specified events. The term "extended warranty" does not include an agreement, otherwise meeting the definition of extended warranty in this subsection, if no separate charge is made for the agreement and the value of the agreement is included in the sales price of the tangible personal property covered by the agreement.

8. "Sale at retail" or "retail sale" shall also include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing, or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation (government contracting).

9. "Sale at retail" or "retail sale" shall not include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority. Nor shall the term include the sale of services or charges made for cleaning up for the United States, or its instrumentalities, radioactive waste and other byproducts of weapons production and nuclear research and development.

10. "Sale at retail" or "retail sale" shall not include the sale of or charge made for labor and services rendered for environmental remedial action.

11. "Sale at retail" or "retail sale" shall also include the following sales to consumers of digital goods, digital codes, and digital automated services:

a. Sales in which the seller has granted the purchaser the right of permanent use;

b. Sales in which the seller has granted the purchaser a right of use that is less than permanent;

c. Sales in which the purchaser is not obligated to make continued payment as a condition of the sale; and

d. Sales in which the purchaser is obligated to make continued payment as a condition of the sale. A retail sale of digital goods, digital codes, or digital automated services under TMC Section 3.26.040.U.5.b.2 includes any services provided by the seller exclusively in connection with the digital goods, digital codes, or digital automated services, whether or not a separate charge is made for such services. For purposes of this subsection, "permanent" means perpetual or for an indefinite or unspecified length of time. A right of permanent use is presumed to have been granted unless the agreement between the seller and the purchaser specifies or the circumstances surrounding the transaction suggest or indicate that the right to use terminates on the occurrence of a condition subsequent.

12. "Sale at retail" or "retail sale" shall also include the installing, repairing, altering, or improving of digital goods for consumers.

V. **"Sale at wholesale,"** or **"wholesale sale"** means any sale of tangible personal property, digital goods, digital codes, digital automated services, prewritten computer software, or services described in TMC Section 3.26.040.U.5.b.i, which is not a retail sale, and any charge made for labor and services rendered for persons who are not consumers, in respect to real or personal property and retail services, if such charge is expressly defined as a retail sale or retail service when rendered to or for consumers. Sale at wholesale also includes the sale of telephone business to another telecommunications company as defined in RCW 80.04.010 for the purpose of resale, as contemplated by RCW 35.21.715.

W. **"Taxpayer"** means any "person", as herein defined, required to have a business license under this chapter or liable for the collection of any tax or fee under this chapter, or who engages in any business or who performs any act for which a tax or fee is imposed by this chapter.

X. **"Value proceeding or accruing"** means the consideration, whether money, credits, rights, or other property expressed in terms of money, a person is entitled to receive or which is actually received or accrued. The term shall be applied, in each case, on a cash receipts or accrual basis according to which method of accounting is regularly employed in keeping the books of the taxpayer.

Y. **"Value of products"**

1. The value of products, including by-products, extracted or manufactured, shall be determined by the gross proceeds derived from the sale thereof whether such sale is at wholesale or at retail, to which shall be added all subsidies and bonuses received from the purchaser or from any other person with respect to the extraction, manufacture, or sale of such products or by-products by the seller.

2. Where such products, including by-products, are extracted or manufactured for commercial or industrial use; and where such products, including by-products, are shipped, transported or transferred out of the City, or to another person, without prior sale or are sold under circumstances such that the gross proceeds from the sale are not indicative of the true value of the subject matter of the sale; the value shall correspond as nearly as possible to the gross proceeds from sales in this state of similar products of like quality and character, and in similar quantities by other taxpayers, plus the amount of subsidies or bonuses ordinarily payable by the purchaser or by any third person with respect to the extraction, manufacture, or sale of such products. In the absence of sales of similar products as a guide to value, such value may be determined upon a cost basis. In such cases, there shall be included every item of cost attributable to the particular article or article extracted or manufactured, including

direct and indirect overhead costs. The Director may prescribe rules for the purpose of ascertaining such values.

3. Notwithstanding TMC Section 3.26.040.Y.2 above, the value of a product manufactured or produced for purposes of serving as a prototype for the development of a new or improved product shall correspond to (a) the retail selling price of such new or improved product when first offered for sale; or (b) the value of materials incorporated into the prototype in cases in which the new or improved product is not offered for sale.

Z. **"Wholesaling"** means engaging in the activity of making sales at wholesale, and is reported under the wholesaling classification.

(Ord. 2689 §5, 2022)

3.26.050 Imposition of the Tax – Tax or Fee Levied

A. Except as provided in TMC Section 3.26.050.B, there is hereby levied upon and shall be collected from every person a tax for the act or privilege of engaging in business activities within the City, whether the person's office or place of business be within or without the City. The tax shall be in amounts to be determined by application of rates against gross proceeds of sale, gross income of business, or value of products, including by-products, as the case may be, as follows:

1. Upon every person engaging within the City in business as an extractor; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products, including by-products, extracted within the City for sale or for commercial or industrial use, multiplied by the rate of 0.085%. The measure of the tax is the value of the products, including by-products, so extracted, regardless of the place of sale or the fact that deliveries may be made to points outside the City.

2. Upon every person engaging within the City in business as a manufacturer, as to such persons the amount of the tax with respect to such business shall be equal to the value of the products, including by-products, manufactured within the City, multiplied by the rate of 0.085%. The measure of the tax is the value of the products, including by-products, so manufactured, regardless of the place of sale or the fact that deliveries may be made to points outside the City.

3. Upon every person engaging within the City in the business of making sales at wholesale, as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of such sales of the business without regard to the place of delivery of articles, commodities or merchandise sold, multiplied by the rate of 0.085%.

4. Upon every person engaging within the City in the business of making sales at retail, as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of such sales of the business, without regard to the place of delivery of articles, commodities or merchandise sold, multiplied by the rate of 0.05%.

5. Upon every person engaging within the City in the business of making sales of retail services; as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of sales multiplied by the rate of 0.05%.

6. Upon every person engaging within the City in the business of (i) printing, (ii) both printing and publishing newspapers, magazines, periodicals, books, music, and other printed items, (iii) publishing newspapers, magazines and periodicals, (iv) extracting for hire, and (v) processing for hire; as to such persons, the amount of tax on such business shall be equal to the gross income of the business multiplied by the rate of 0.085%.

7. Upon every other person engaging within the City in any business activity other than or in addition to those enumerated in the above subsections; as to such persons, the amount of tax on account of such activities shall be equal to the gross income of the business multiplied by the rate of 0.085%. This subsection includes, among others, and without limiting the scope hereof (whether or not title to material used in the performance of such business passes to another by accession, merger or other than by outright sale), persons engaged in the business of developing, or producing custom software or of customizing canned software, producing royalties or commissions, and persons engaged in the business of rendering any type of service which does not constitute a sale at retail, a sale at wholesale, or a retail service.

B. The gross receipts tax imposed in this section shall not apply to any person whose gross proceeds of sales, gross income of the business, and value of products, including by-products, as the case may be, from all activities conducted within the City during any calendar year is equal to or less than $750,000.

(Ord. 2689 §6, 2022)

3.26.070 Multiple Activities Credit When Activities Take Place in One or More Cities with Eligible Gross Receipt Taxes

A. Persons who engage in business activities that are within the purview of two or more subsections of TMC Section 3.26.050 shall be taxable under each applicable subsection.

B. Notwithstanding anything to the contrary herein, if imposition of the City's tax would place an undue burden upon interstate commerce or violate constitutional requirements, a taxpayer shall be allowed a credit to the extent necessary to preserve the validity of the City's tax, and still apply the City tax to as much of the taxpayer's activities as may be subject to the City's taxing authority.

C. To take the credit authorized by this section, a taxpayer must be able to document that the amount of tax sought to be credited was paid upon the same gross receipts used in computing the tax against which the credit is applied.

D. **Credit for persons that sell in the City products that they extract or manufacture.** Persons taxable under the retailing or wholesaling classification with respect to selling products in this City shall be allowed a credit against those taxes for any eligible gross receipts taxes paid (a) with respect to the manufacturing of the products sold in the City, and (b) with respect to the extracting of the products, or the ingredients used in the products, sold in the City. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the sale of those products.

E. **Credit for persons that manufacture products in the City using ingredients they extract.** Persons taxable under the manufacturing classification with respect to manufacturing products in this City shall be allowed a credit against those taxes for any eligible gross receipts tax paid with respect to extracting the ingredients of the products manufactured in the City. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the manufacturing of those products.

F. **Credit for persons that sell within the City products that they print, or publish and print.** Persons taxable under the retailing or wholesaling classification with respect to selling products in this City shall be allowed a credit against those taxes for any eligible gross receipts taxes paid with respect to the printing, or the printing and publishing, of the products sold within the City. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the sale of those products.

(Ord. 2689 §7, 2022)

3.26.075 Deductions to Prevent Multiple Taxation of Manufacturing Activities and Prior to January 1, 2008, Transactions Involving More Than One City With An Eligible Gross Receipts Tax

A. **Amounts subject to an eligible gross receipts tax in another city that also maintains nexus over the same activity.** For taxes due prior to January 1, 2008, a taxpayer that is subject to an eligible gross receipts tax on the same activity in more than one jurisdiction may be entitled to a deduction as follows:

1. A taxpayer that has paid an eligible gross receipts tax, with respect to a sale of goods or services, to a jurisdiction in which the goods are delivered or the services are provided may deduct an amount equal to the gross receipts used to measure that tax from the measure of the tax owed to the City.

2. Notwithstanding the above, a person that is subject to an eligible gross receipts tax in more than one jurisdiction on the gross income derived from intangibles such as royalties, trademarks, patents, or goodwill shall assign those gross receipts to the jurisdiction where the person is domiciled (its headquarters is located).

3. A taxpayer that has paid an eligible gross receipts tax on the privilege of accepting or executing a contract with another city may deduct an amount equal to the contract price used to measure the tax due to the other city from the measure of the tax owed to the City.

B. **Person manufacturing products within and without.** A person manufacturing products within the City using products manufactured by the same person outside the City may deduct from the measure of the manufacturing tax the value of products manufactured outside the City and included in the measure of an eligible gross receipts tax paid to the other jurisdiction with respect to manufacturing such products.

(Ord. 2689 §8, 2022)

3.26.076 Assignment of Gross Income Derived from Intangibles

Gross income derived from the sale of intangibles such as royalties, trademarks, patents, or goodwill shall be assigned to the jurisdiction where the person is domiciled (its headquarters is located).

(Ord. 2689 §9, 2022)

3.26.077 Allocation and Apportionment of Income when Activities Take Place in More than One Jurisdiction

Effective January 1, 2024, gross income, other than persons subject to the provisions of chapter 82.14A RCW, shall be allocated and apportioned as follows:

A. Gross income derived from all activities other than those taxed as service or royalties under TMC Section 3.26.050.A.7. shall be allocated to the location where the activity takes place.

B. In the case of sales of tangible personal property, the activity takes place where delivery to the buyer occurs.

C. In the case of sales of digital products, the activity takes place where delivery to the buyer occurs. The delivery of digital products will be deemed to occur at:

1. The seller's place of business if the purchaser receives the digital product at the seller's place of business;

2. If not received at the seller's place of business, the location where the purchaser or the purchaser's donee, designated as such by the purchaser, receives the digital product, including the location indicated by instructions for delivery to the purchaser or donee, known to the seller;

3. If the location where the purchaser or the purchaser's donee receives the digital product is not known, the purchaser's address maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith;

4. If no address for the purchaser is maintained in the ordinary course of the seller's business, the purchaser's address obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith; and

5. If no address for the purchaser is obtained during the consummation of the sale, the address where the digital good or digital code is first made available for transmission by the seller or the address from which the digital automated service or service described in RCW 82.04.050 (2)(g) or (6)(b) was provided, disregarding for these purposes any location that merely provided the digital transfer of the product sold.

D. If none of the methods in TMC Section 3.26.077.C for determining where the delivery of digital products occurs are available after a good faith effort by the taxpayer to apply the methods provided in TMC Section 3.26.077.C.1 through TMC Section 3.26.077.C.5, then the City and the taxpayer may mutually agree to employ any other method to effectuate an equitable allocation of income from the sale of digital products. The taxpayer will be responsible for petitioning the City to use an alternative

method under TMC Section 3.26.077.D. The City may employ an alternative method for allocating the income from the sale of digital products if the methods provided in TMC Section 3.26.077.C.1 through TMC Section 3.26.077.C.5 are not available and the taxpayer and the City are unable to mutually agree on an alternative method to effectuate an equitable allocation of income from the sale of digital products.

E. For purposes of TMC Section 3.26.077.C.1 through TMC Section 3.26.077.C.5, the following definitions apply:

1. "Digital automated services," "digital codes," and "digital goods" have the same meaning as in RCW 82.04.192;

2. "Digital products" means digital goods, digital codes, digital automated services, and the services described in RCW 82.04.050(2)(g) and (6)(c); and

3. "Receive" has the same meaning as in RCW 82.32.730.

F. Gross income derived from activities taxed as services and other activities taxed under TMC Section 3.26.050.A.7 shall be apportioned to the City by multiplying apportionable income by a fraction, the numerator of which is the payroll factor plus the service income factor and the denominator of which is two.

1. The payroll factor is a fraction, the numerator of which is the total amount paid in the City during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid everywhere during the tax period. Compensation is paid in the City if:

a. The individual is primarily assigned within the City;

b. The individual is not primarily assigned to any place of business for the tax period and the employee performs 50% or more of his or her service for the tax period in the City; or

c. The individual is not primarily assigned to any place of business for the tax period, the individual does not perform 50% or more of his or her service in any city and the employee resides in the City.

2. The service income factor is a fraction, the numerator of which is the total service income of the taxpayer in the City during the tax period, and the denominator of which is the total service income of the taxpayer everywhere during the tax period. Service income is in the City if the customer location is in the City.

3. Gross income of the business from engaging in an apportionable activity must be excluded from the denominator of the service income factor if, in respect to such activity, at least some of the activity is performed in the City, and the gross income is attributable under TMC Section 3.26.077.F.2 to a city or unincorporated area of a county within the United States or to a foreign country in which the taxpayer is not taxable. For purposes of TMC Section 3.26.077.F.3, "not taxable" means that the taxpayer is not subject to a business activities tax by that city or county within the United States or by that foreign country, except that a taxpayer is taxable in a city or county within the United States or in a foreign country in which it would be deemed to have a substantial nexus with the city or county within the United States or with the foreign country under the standards in RCW 35.102.050 regardless of whether that city or county within the United States or that foreign country imposes such a tax.

4. If the allocation and apportionment provisions of TMC Section 3.26.077.F do not fairly represent the extent of the taxpayer's business activity in the City, the taxpayer may petition for or the tax administrator may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

a. Separate accounting;

b. The exclusion of any one or more of the factors;

c. The inclusion of one or more additional factors that will fairly represent the taxpayer's business activity in the City; or

d. The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

5. The party petitioning for, or the tax administrator requiring, the use of any method to effectuate an equitable allocation and apportionment of the taxpayer's income pursuant to TMC Section 3.26.077.F.4 must prove by a preponderance of the evidence:

a. That the allocation and apportionment provisions of this TMC Section 3.26.077.F do not fairly represent the extent of the taxpayer's business activity in the City; and

b. That the alternative to such provisions is reasonable.

c. The same burden of proof shall apply whether the taxpayer is petitioning for, or the tax administrator is requiring, the use of an alternative, reasonable method to effectuate an equitable allocation and apportionment of the taxpayer's income.

6. If the tax administrator requires any method to effectuate an equitable allocation and apportionment of the taxpayer's income, the tax administrator cannot impose any civil or criminal penalty with reference to the tax due that is attributable to the taxpayer's reasonable reliance solely on the allocation and apportionment provisions of TMC Section 3.26.077.F.

7. A taxpayer that has received written permission from the tax administrator to use a reasonable method to effectuate an equitable allocation and apportionment of the taxpayer's income shall not have that permission revoked with respect to transactions and activities that have already occurred unless there has been a material change in, or a material misrepresentation of, the facts provided by the taxpayer upon which the tax administrator reasonably relied in approving a reasonable alternative method.

G. The definitions in this subsection apply throughout this section.

1. **"Apportionable income"** means the gross income of the business taxable under the service classifications of a city's gross receipts tax, including income received from activities outside the City if the income would be taxable under the service classification if received from activities within the City, less any exemptions or deductions available.

2. **"Business activities tax"** means a tax measured by the amount of, or economic results of, business activity

conducted in a city or county within the United States or within a foreign country. The term includes taxes measured in whole or in part on net income or gross income or receipts. "Business activities tax" does not include a sales tax, use tax, or a similar transaction tax, imposed on the sale or acquisition of goods or services, whether or not denominated on a gross receipts tax or a tax imposed on the privilege of doing business.

3. **"Compensation"** means wages, salaries, commissions, and any other form of remuneration paid to individuals for personal services that are or would be included in the individual's gross income under the federal Internal Revenue Code.

4. **"Customer"** means a person or entity to whom the taxpayer makes a sale or renders services or from whom the taxpayer otherwise receives gross income of the business.

5. **"Customer location"** means the following:

a. For a customer not engaged in business, if the service requires the customer to be physically present, where the service is performed.

b. For a customer not engaged in business, if the service does not require the customer to be physically present:

(1) The customer's residence; or

(2) If the customer's residence is not known, the customer's billing/mailing address.

c. For a customer engaged in business:

(1) Where the services are ordered from;

(2) At the customer's billing/mailing address if the location from which the services are ordered is not known; or

(3) At the customer's commercial domicile if none of the above are known.

6. **"Individual"** means any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee of that taxpayer.

7. **"Primarily assigned"** means the business location of the taxpayer where the individual performs his or her duties.

8. **"Service-taxable income"** or **"service income"** means gross income of the business subject to tax under either the service or royalty classification.

9. **"Tax period"** means the calendar year during which tax liability is accrued. If taxes are reported by a taxpayer on a basis more frequent than once per year, taxpayers shall calculate the factors for the previous calendar year for reporting in the current calendar year and correct the reporting for the previous year when the factors are calculated for that year, but not later than the end of the first quarter of the following year.

H. Assignment or apportionment of revenue under this section shall be made in accordance with and in full compliance with the provisions of the interstate commerce clause of the United States Constitution where applicable.

(Ord. 2689 §10, 2022)

3.26.078 Allocation and Apportionment of Printing and Publishing Income when Activities Take Place in More than One Jurisdiction

Notwithstanding RCW 35.102.130, gross income from the activities of printing, and of publishing newspapers, periodicals, or magazines, shall be allocated to the principal place in this state from which the taxpayer's business is directed or managed. As used in this section, the activities of printing, and of publishing newspapers, periodicals, or magazines, have the same meanings as attributed to those terms in RCW 82.04.280(1) by the Department of Revenue. Until January 1, 2034, these activities include those for which the exemption in RCW 82.04.759 applies.

(Ord. 2727 §1, 2023; Ord. 2689 §11, 2022)

3.26.090 Exemptions

A. **Gross receipts taxed under other Tukwila Municipal Code sections.** This chapter shall not apply to any person in respect to a business activity with respect to which tax liability is specifically imposed under the provisions of TMC Chapter 3.50 (Utility Tax) or TMC Chapter 3.08 (Gambling Activities Tax).

B. **Investments - dividends from subsidiary corporations.** This chapter shall not apply to amounts derived by persons, other than those engaging in banking, loan, security, or other financial businesses, from investments or the use of money as such, and also amounts derived as dividends by a parent from its subsidiary corporations.

C. **Insurance business.** This chapter shall not apply to amounts received by any person who is an insurer or their appointed insurance producer upon which a tax based on gross premiums is paid to the state pursuant to RCW 48.14.020, and provided further, that the provisions of this subsection shall not exempt any bonding company from tax with respect to gross income derived from the completion of any contract as to which it is a surety, or as to any liability as successor to the liability of the defaulting contractor.

D. **Employees.**

1. This chapter shall not apply to any person in respect to the person's employment in the capacity as an employee or servant as distinguished from that of an independent contractor. For the purposes of this subsection, the definition of employee shall include those persons that are defined in the Internal Revenue Code, as hereafter amended.

2. A booth renter is an independent contractor for purposes of this chapter.

E. **Amounts derived from sale of real estate.** This chapter shall not apply to gross proceeds derived from the sale of real estate. This, however, shall not be construed to allow an exemption of amounts received as commissions from the sale of real estate, nor as fees, handling charges, discounts, interest or similar financial charges resulting from, or relating to, real estate transactions. This chapter shall also not apply to amounts received for the rental of real estate if the rental income is derived from a contract to rent for a continuous period of 30 days or longer.

F. **Mortgage brokers' third-party provider services trust accounts.** This chapter shall not apply to amounts received from

trust accounts to mortgage brokers for the payment of third-party costs if the accounts are operated in a manner consistent with RCW 19.146.050 and any rules adopted by the director of financial institutions.

G. **Amounts derived from manufacturing, selling or distributing motor vehicle fuel.** This chapter shall not apply to the manufacturing, selling, or distributing motor vehicle fuel, as the term "motor vehicle fuel" is defined in RCW 82.38.020 and exempt under RCW 82.38.280, provided that any fuel not subjected to the state fuel excise tax, or any other applicable deduction or exemption, will be taxable under this chapter.

H. **Amounts derived from liquor, and the sale or distribution of liquor.** This chapter shall not apply to liquor as defined in RCW 66.04.010 and exempt in RCW 66.08.120.

I. **Casual and isolated sales.** This chapter shall not apply to the gross proceeds derived from casual or isolated sales.

J. **Accommodation sales.** This chapter shall not apply to sales for resale by persons regularly engaged in the business of making retail sales of the type of property so sold to other persons similarly engaged in the business of selling such property where (1) the amount paid by the buyer does not exceed the amount paid by the seller to the vendor in the acquisition of the article and (2) the sale is made as an accommodation to the buyer to enable the buyer to fill a bona fide existing order of a customer or is made within 14 days to reimburse in kind a previous accommodation sale by the buyer to the seller.

K. **Taxes collected as trust funds.** This chapter shall not apply to amounts collected by the taxpayer from third parties to satisfy third party obligations to pay taxes such as the retail sales tax, use tax, and admission tax.

L. **Nonprofit organizations.** This chapter shall not apply to entities that are exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, except retail sales.

M. **Businesses operating as a public card room.** This chapter shall not apply to entities operating "public card rooms," as defined in WAC 230-15-001.

N. **Amateur/Professional/Semi-professional sports teams.** This chapter shall not apply to amateur, professional or semi-professional sports teams or clubs operating in the City primarily engaged in participating in live sporting events, such as baseball, basketball, football, hockey, soccer, and jai alai games, before a paying audience. These teams or clubs may or may not operate their own arena, stadium, or other facility for presenting these events.

O. **Adult family homes.** This chapter shall not apply to adult family homes which are licensed as such under chapter 70.128 RCW, or which are specifically exempt from licensing under the rules of the Washington State Department of Social and Health Services.

P. **Health maintenance organization, health care service contractor, certified health plan.** This chapter shall not apply to any health maintenance organization, health care service contractor, or certified health plan in respect to premiums or prepayments that are taxable under RCW 48.14.0201. This exemption is limited to premiums and payments for health benefit plans offered by health care service contractors under chapter 48.44 RCW and health maintenance organizations under chapter 48.46 RCW and does not apply to health care services directly delivered by the employees of a health maintenance organization under chapter 48.46 RCW.

Q. **International banking facilities.** This chapter shall not apply to the gross receipts of an international banking facility. As used in this section, an "international banking facility" means:

1. A facility represented by a set of asset and liability accounts segregated on the books and records of a commercial bank, the principal office of which is in this state, and which is incorporated and doing business under the laws of the United States or of this state; or

2. A United States branch or agency of a foreign bank; or

3. An Edge corporation organized under Section 25(a) of the Federal Reserve Act, 12 United States Code 611-631; or

4. An Agreement corporation having an agreement or undertaking with the Board of Governors of the Federal Reserve System under Section 25 of the Federal Reserve Act, 12 United States Code 601-604 (a), that includes only international banking facility time deposits as defined in 12 CFR 204.8(a)(2) and international banking facility extensions of credit as defined in 12 CFR 204.8(a)(3).

R. **Real estate brokers and associated brokers, agents, or salesmen.** This chapter shall not apply to that portion of a real estate commission assigned to another brokerage office pursuant to the division of revenue between the originating brokerage office and a cooperating brokerage office on a particular transaction. Each brokerage office shall pay the tax upon its respective revenue share of the transaction. Furthermore, where a brokerage office has paid the business and occupation tax imposed under this chapter on the gross commission earned by that brokerage office, associate brokers, salesmen, or agents within the same office shall not be required to pay the tax upon their share of the commission from the same transaction.

S. **Ride sharing.** This chapter does not apply to any funds received in the course of ride sharing or ride sharing for persons with special transportation needs in accordance with RCW 46.74.010.

T. The City of Tukwila is exempt from the tax levied by this chapter.

U. **Credit unions.** This chapter shall not apply to the gross income of credit unions organized under the laws of this state, any other state, or the United States.

V. **Farmers—Agriculture.** This chapter shall not apply to any farmer in respect to amounts received from selling fruits, vegetables, berries, butter, eggs, fish, milk poultry, meats, or any other agricultural product that is raised, caught, produced, or manufactured by such persons. "Agricultural product" does not include cannabis or cannabis products as defined in RCW 69.50.101.

W. **Certain corporations furnishing aid and relief.** This chapter shall not apply to the gross sales or the gross income received by corporations which have been incorporated under any act of the congress of the United States of America and whose principal purposes are to furnish volunteer aid to members of the armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other national calamities and to devise and carry on measures for preventing the same.

X. **Certain fraternal and beneficiary organizations.** This chapter shall not apply to fraternal benefit societies or fraternal fire insurance associations, as described in Title 48 RCW; nor to beneficiary corporations or societies organized under and existing by virtue of Title 24 RCW, if such beneficiary corporations or societies provide in their bylaws for the payment of death benefits. Exemption is limited, however, to gross income from premiums, fees, assessments, dues or other charges directly attributable to the insurance or death benefits provided by such societies, associations, or corporations.

Y. **Operation of sheltered workshops.** This chapter shall not apply to income received from the department of social and health services for the cost of care, maintenance, support, and training of persons with developmental disabilities at nonprofit group training homes as defined by chapter 71A.22 RCW or to the business activities of nonprofit organizations from the operation of sheltered workshops. For the purposes of this section, "the operation of sheltered workshops" means performance of business activities of any kind on or off the premises of such nonprofit organizations which are performed for the primary purpose of:

1. providing gainful employment or rehabilitation services to persons with disabilities as an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market or during such time as employment opportunities for them in the competitive labor market do not exist; or

2. providing evaluation and work adjustment services for persons with disabilities.

Z. Nonprofit organizations – Credit and debt services. This chapter shall not apply to nonprofit organizations in respect to amounts derived from provision of the following services:

1. Presenting individual and community credit education programs including credit and debt counseling;

2. Obtaining creditor cooperation allowing a debtor to repay debt in an orderly manner;

3. Establishing and administering negotiated repayment programs for debtors; or

4. Providing advice or assistance to a debtor with regard to subsection (Z)(1), (Z)(2), or (Z)(3) of this section.

AA. **Nonprofit organizations that are guarantee agencies, issue debt, or provide guarantees for student loans.** This chapter shall not apply to gross income received by nonprofit organizations exempt from federal income tax under section 501(c)(3) of the internal revenue code, as hereafter amended, that (1) are guarantee agencies under the federal guaranteed student loan program or that issue debt to provide or acquire student loans; or (2) provide guarantees for student loans made through programs other than the federal guaranteed student loan program.

(Ord. 2727 §2, 2023; Ord. 2689 §12, 2022)

3.26.100 Deductions

In computing the business and occupation tax imposed under this chapter, there may be deducted from the measure of tax the following items:

A. **Receipts from tangible personal property delivered outside the State.** In computing tax, there may be deducted from the measure of tax under retailing or wholesaling amounts derived from the sale of tangible personal property that is delivered by the seller to the buyer or the buyer's representative at a location outside the State of Washington.

B. **Cash discount taken by purchaser.** In computing tax, there may be deducted from the measure of tax the cash discount amounts actually taken by the purchaser. This deduction is not allowed in arriving at the taxable amount under the extracting or manufacturing classifications with respect to articles produced or manufactured, the reported values of which, for the purposes of this tax, have been computed according to the "value of product" provisions.

C. **Credit losses of accrual basis taxpayers.** In computing tax, there may be deducted from the measure of tax the amount of credit losses actually sustained by taxpayers whose regular books of account are kept upon an accrual basis.

D. **Constitutional prohibitions.** In computing tax, there may be deducted from the measure of the tax amounts derived from business which the City is prohibited from taxing under the Constitution of the State of Washington or the Constitution of the United States.

E. **Receipts from the Sale of Tangible Personal Property and Retail Services Delivered Outside the City but Within Washington.** Effective January 1, 2024, amounts included in the gross receipts reported on the tax return derived from the sale of tangible personal property delivered to the buyer or the buyer's representative outside the City but within the State of Washington may be deducted from the measure of tax under the retailing, retail services, or wholesaling classification.

F. **Professional employer services.** In computing the tax, a professional employer organization may deduct from the calculation of gross income the gross income of the business derived from performing professional employer services that is equal to the portion of the fee charged to a client that represents the actual cost of wages and salaries, benefits, workers' compensation, payroll taxes, withholding, or other assessments paid to or on behalf of a covered employee by the professional employer organization under a professional employer agreement.

G. **Interest on investments or loans secured by mortgages or deeds of trust.** In computing tax, to the extent permitted by Chapter 82.14A RCW, there may be deducted from the measure of tax by those engaged in banking, loan, security or other financial businesses, amounts derived from interest received on investments or loans primarily secured by first mortgages or trust deeds on non-transient residential properties.

H. **Compensation from public entities for health or social welfare services.** In computing tax there may be deducted from the measure of tax amounts received from the United States or any instrumentality thereof or from the state of Washington or any municipal corporation or political subdivision thereof as compensation for, or to support, health or social welfare services rendered by a health or social welfare organization, as defined in RCW 82.04.431, or by a municipal corporation or political subdivision, except deductions are not allowed under this section for amounts that are received under an employee benefit plan. For purposes of this subsection, "employee benefit plan" includes the military benefits program authorized in 10 USC Sec. 1071 et seq., as amended, or amounts payable pursuant thereto.

I. **Membership fees and certain service fees by nonprofit youth organization.** In computing tax due under this chapter, there may be deducted from the measure of tax all amounts received by a nonprofit youth organization:

1. As membership fees or dues, irrespective of the fact that the payment of the membership fees or dues to the organization may entitle its members, in addition to other rights or privileges, to receive services from the organization or to use the organization's facilities; or

2. From members of the organization for camping and recreational services provided by the organization or for the use of the organization's camping and recreational facilities.

For purposes of this subsection (I), "nonprofit youth organization" means a nonprofit organization engaged in character building of youth which is exempt from property tax under RCW 84.36.030.

J. **Initiation fees, dues, and certain charges received by nonprofit organization.** In computing tax, a nonprofit organization may deduct from the measure of tax amounts derived from bona fide:

1. Initiation fees;
2. Dues;
3. Contributions;
4. Donations;
5. Tuition fees;
6. Charges made by a nonprofit trade or professional organization for attending or occupying space at a trade show, convention, or educational seminar sponsored by the nonprofit trade or professional organization, which trade show, convention, or educational seminar is not open to the general public;
7. Charges made for operation of nonprofit kindergartens; and
8. Endowment funds.

This subsection (J) shall not be construed to exempt any person, association, or society from tax liability upon selling tangible personal property or upon providing facilities or services for which a special charge is made to members or others. If dues are in exchange for any significant amount of goods or services rendered by the recipient thereof to members without any additional charge to the member, or if the dues are graduated upon the amount of goods or services rendered, the value of such goods or services shall not be considered as a deduction under this subsection.

K. **Artistic and cultural organizations.** In computing tax, there may be deducted from the measure of tax those amounts received by artistic or cultural organizations, as defined in this chapter, which represent:

1. Income derived from business activities conducted by the organization; provided, that this deduction does not apply to retail sales made by artistic and cultural organizations;

2. Amounts received from the United States or any instrumentality thereof or from the state of Washington or any municipal corporation or subdivision thereof as compensation for, or to support, artistic or cultural exhibitions, performances, or programs provided by an artistic or cultural organization for attendance or viewing by the general public; or

3. Amounts received as tuition charges collected for the privilege of attending artistic or cultural education programs.

L. **Interest on obligations of the state, its political subdivisions, and municipal corporations.** In computing tax, there may be deducted from the measure of tax by those engaged in banking, loan, security, or other financial businesses amounts derived from interest paid on all obligations of the state of Washington, its political subdivisions, and municipal corporations organized pursuant to the laws thereof.

M. **Interest on loans to farmers and ranchers, producers, or harvesters of aquatic products, or their cooperatives.** In computing tax, there may be deducted from the measure of tax amounts derived as interest on loans to bona fide farmers and ranchers, producers, or harvesters of aquatic products, or their cooperatives by a lending institution which is owned exclusively by its borrowers or members and which is engaged solely in the business of making loans and providing finance-related services to bona fide farmers and ranchers, producers, or harvesters of aquatic products, their cooperatives, rural residents for housing, or persons engaged in furnishing farm-related or aquatic-related services to these individuals or entities.

N. **Repair, maintenance, replacement, etc., of residential structures and commonly held property – Eligible organizations.**

1. In computing tax, there may be deducted from the measure of tax amounts used solely for repair, maintenance, replacement, management, or improvement of the residential structures and commonly held property, but excluding property where fees or charges are made for use by the public who are not guests accompanied by a member, which are derived by:

a. A cooperative housing association, corporation, or partnership from a person who resides in a structure owned by the cooperative housing association, corporation, or partnership;

b. An "association of apartment owners" as defined in RCW 64.32.010, as now or hereafter amended, from a person who is an "apartment owner" as defined in RCW 64.32.010; or

c. An association of owners of residential property from a person who is a member of the association. "Association of owners of residential property" means any organization of all the owners of residential property in a defined area who all hold the same property in common within the area.

2. For the purposes of this subsection "commonly held property" includes areas required for common access such as reception areas, halls, stairways, parking, etc., and may include recreation rooms, swimming pools, and small parks or recreation areas; but is not intended to include more grounds than are normally required in a residential area, or to include such extensive areas as required for golf courses, campgrounds, hiking and riding areas, boating areas, etc.

3. To qualify for the deductions under this subsection:

a. The salary or compensation paid to officers, managers, or employees must be only for actual services rendered and at levels comparable to the salary or compensation of like positions within the country wherein the property is located;

b. Dues, fees, or assessments in excess of amounts needed for the purposes for which the deduction is allowed must be rebated to the members of the association;

c. Assets of the association or organization must be distributable to all members and must not inure to the benefit of any single member or group of members.

O. **Radio and television broadcasting – Advertising agency fees – National, regional, and network advertising – Interstate allocations.** In computing tax, there may be deducted from the measure of tax by radio and television broadcasters amounts representing the following:

1. Advertising agencies' fees when such fees or allowances are shown as discount or price reduction in the billing or that the billing is on a net basis, i.e., less the discount;

2. Actual gross receipts from national network, and regional advertising or a "standard deduction" as provided by RCW 82.04.280; and

3. Local advertising revenue that represents advertising which is intended to reach potential customers of the advertiser who are located outside the state of Washington. The director may issue a rule that provides detailed guidance as to how these deductions are to be calculated.

(Ord. 2727 §3, 2023; Ord. 2689 §13, 2022)

3.26.120 Tax Part of Overhead

It is not the intention of this chapter that the taxes or fees herein levied upon persons engaging in business be construed as taxes or fees upon the purchasers or customer, but that such taxes or fees shall be levied upon, and collectible from, the person engaging in the business activities herein designated and that such taxes or fees shall constitute a part of the cost of doing business of such persons.

(Ord. 2689 §14, 2022)

3.26.130 Severability Clause

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

(Ord. 2689 §15, 2022)

CHAPTER 3.27

BUSINESS AND OCCUPATION TAX ADMINISTRATIVE PROVISIONS

Sections:

3.27.010 Purpose

The purpose of this Chapter is to provide for the administrative procedures for the Business and Occupation Tax as codified in TMC Chapter 3.26, setting administrative fees and prescribing penalties for noncompliance with the provisions of this chapter.

(Ord. 2689 §17, 2022)

3.27.015 Application of Chapter Stated

The provisions of this Chapter shall apply with respect to the taxes imposed under TMC Chapter 3.26 and under other titles, chapters, and sections in such manner and to such extent as indicated in each such title, chapter or section.

(Ord. 2689 §18, 2022)

3.27.020 Definitions

For purposes of this Chapter, the definitions contained in TMC Chapter 3.26 shall apply equally to the provisions of this chapter unless the term is defined otherwise in this chapter. In addition, the following definitions shall apply:

A. **"Reporting period"** means:

1. A one-month period beginning the first day of each calendar month (monthly); or

2. A three-month period beginning the first day of January, April, July or October of each year (quarterly); or

3. A twelve-month period beginning the first day of January of each year (annual).

B. **"Return"** means any document a person is required by the City to file to satisfy or establish a tax or fee obligation that is administered or collected by the City and that has a statutorily defined due date.

C **"Successor"** means any person to whom a taxpayer quitting, selling out, exchanging, or disposing of a business sells or otherwise conveys, directly or indirectly, in bulk and not in the ordinary course of the taxpayer's business, any part of the materials, supplies, merchandise, inventory, fixtures, or equipment of the taxpayer. Any person obligated to fulfill the terms of a contract shall be deemed a successor to any contractor defaulting in the performance of any contract as to which such person is a surety or guarantor.

D **"Tax year"** or **"taxable year"** means the calendar year.

(Ord. 2689 §19, 2022)

3.27.021 Definitions – References to Chapter 82.32 RCW

Where provisions of Chapter 82.32 RCW are incorporated in TMC Section 3.27.090 of this Title, "Department" as used in the RCW shall refer to the "Director" as defined in TMC Section 3.26.040.D and “warrant” as used in the RCW shall mean "citation or criminal complaint."

(Ord. 2689 §20, 2022)

3.27.025 Registration/License Requirements

No person shall engage in any business or conduct any business activity without first obtaining a valid current business registration as required by TMC 5.04.015.

(Ord. 2689 §21, 2022)

3.27.040 When Due and Payable – Reporting Periods – Monthly, Quarterly, and Annual Returns – Threshold Provisions or Relief from Filing Requirements – Computing Time Periods – Failure to File Returns

A. Other than any annual license fee or registration fee assessed under this chapter, the tax imposed by this chapter shall be due and payable in quarterly installments. At the Director's discretion, businesses may be assigned to a monthly or annual reporting period depending on the tax amount owing or type of tax. Effective January 1, 2024, tax payments are due on or before the time as provided in RCW 82.32.045(1), (2), and (3).

B. Taxes shall be paid as provided in this chapter and accompanied by a return on forms as prescribed by the Director. The return shall be signed by the taxpayer personally or by a responsible officer or agent of the taxpayer. The individual signing the return shall swear or affirm that the information in the return is complete and true.

C. Tax returns must be filed and returned by the due date whether or not any tax is owed.

D. *Minimum threshold and nonreporting status.*

1. For purposes of the tax imposed by TMC Chapter 3.26, any person whose value of products, gross proceeds of sales, or gross income of the business, subject to tax after all allowable deductions, is equal to or less than $750,000 in the current calendar year, shall file a return, declare no tax due on their return, and submit the return to the Director. The gross receipts and deduction amounts shall be entered on the tax return even though no tax may be due.

2. Notwithstanding subsection (D)(1) of this section, the Director may assign a nonreporting status and relieve any person of the requirement to file returns if the person's value of products, gross proceeds of sales, or gross income of the business subject to tax after allowable deductions does not exceed $750,000 per calendar year.

E. A taxpayer that commences to engage in business activity shall file a return and pay the tax or fee for the portion of the reporting period during which the taxpayer is engaged in business activity.

F. Except as otherwise specifically provided by any other provision of this chapter, in computing any period of days prescribed by this chapter the day of the act or event from which the designated period of time runs shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday, or City or Federal legal holiday, in which case the last day of such period shall be the next succeeding day which is neither a Saturday, Sunday, or City or Federal legal holiday.

G. If any taxpayer fails, neglects or refuses to make a return as and when required in this chapter, the Director is authorized to determine the amount of the tax or fees payable by obtaining facts and information upon which to base the Director's estimate of the tax or fees due. Such assessment shall be deemed prima facie correct and shall be the amount of tax owed to the City by the taxpayer. The Director shall notify the taxpayer by mail of the amount of tax so determined, together with any penalty, interest, and fees due; the total of such amounts shall thereupon become immediately due and payable.

(Ord. 2727 §4, 2023; Ord. 2689 §22, 2022)

3.27.050 Payment Methods – Mailing Returns or Remittances – Time Extension – Deposits – Recording Payments – Payment Must Accompany Return – NSF Checks

A. Taxes shall be paid to the Director in United States currency by bank draft, certified check, cashier's check, personal check, money order, cash, or by wire transfer or electronic payment if such wire transfer or electronic payment is authorized by the Director. If payment so received is not paid by the bank on which it is drawn, the taxpayer, by whom such payment is tendered, shall remain liable for payment of the tax and for all legal penalties, the same as if such payment had not been tendered. Acceptance of any sum by the Director shall not discharge the tax or fee due unless the amount paid is the full amount due.

B. A return or remittance that is transmitted to the City by United States mail shall be deemed filed or received on the date shown by the cancellation mark stamped by the Post Office upon the envelope containing it. The Director may allow electronic filing of returns or remittances from any taxpayer. A return or remittance which is transmitted to the City electronically shall be deemed filed or received according to procedures set forth by the Director.

C. If a written request is received prior to the due date, the Director, for good cause, may grant, in writing, additional time within which to make and file returns.

D. The Director shall keep full and accurate records of all funds received or refunded. The Director shall apply payments first against all penalties and interest owing, and then upon the tax, without regard to any direction of the taxpayer.

E. For any return not accompanied by a remittance of the tax shown to be due thereon, the taxpayer shall be deemed to have failed or refused to file a return and shall be subject to the penalties and interest provided in this chapter.

F. Any payment made that is returned for lack of sufficient funds or for any other reason will not be considered received until payment by certified check, money order, or cash of the original amount due, plus a "non-sufficient funds" (NSF) charge of $25.00 for checks of $50.00 or less and $40.00 for checks over $50.00 is received by the Director. Any license issued upon payment with a NSF check will be considered void, and shall be returned to the Director. No license shall be reissued until payment (including the NSF charge) is received.

G. The Director is authorized, but not required, to mail tax return forms to taxpayers, but failure of the taxpayer to receive any such forms shall not excuse the taxpayer from filing returns and making payment of the taxes or fees, when and as due under this chapter.

(Ord. 2689 §23, 2022)

3.27.060 Records to be Preserved – Examination – Estoppel to Question Assessment

Every person liable for any fee or tax imposed by this chapter shall keep and preserve, for a period of 5 years after filing a tax return, such records as may be necessary to determine the amount of any fee or tax for which the person may be liable; which records shall include copies of all federal income tax and state tax returns and reports made by the person. All books, records, papers, invoices, vendor lists, inventories, stocks of merchandise, and other data including federal income tax and state tax returns and reports shall be open for examination at any time by the Director or its duly authorized agent. Every person's business premises shall be open for inspection or examination by the Director or a duly authorized agent.

A. If a person does not keep the necessary books and records within the City, it shall be sufficient if such person (a) produces within the City such books and records as may be required by the Director, or (b) bears the cost of examination by the Director's agent at the place where such books and records are kept; provided that the person electing to bear such cost shall pay in advance to the Director the estimated amount thereof including round-trip fare, lodging, meals and incidental expenses, subject to adjustment upon completion of the examination.

B. Any person who fails, or refuses a Department request, to provide or make available records, or to allow inspection or examination of the business premises, shall be forever barred from questioning in any court action, the correctness of any assessment of taxes made by the City for any period for which such records have not been provided, made available or kept and preserved, or in respect of which inspection or examination of the business premises has been denied. The Director is authorized to determine the amount of the tax or fees payable by obtaining facts and information upon which to base the estimate of the tax or fees due. Such fee or tax assessment shall be deemed prima facie correct and shall be the amount of tax owing the City by the taxpayer. The Director shall notify the taxpayer by mail the amount of tax so determined, together with any penalty, interest, and fees due; the total of such amounts shall thereupon become immediately due and payable.

(Ord. 2689 §24, 2022)

3.27.070 Accounting Methods

A. A taxpayer may file tax returns in each reporting period with amounts based upon cash receipts only if the taxpayer's books of account are kept on a cash receipts basis. A taxpayer that does not regularly keep books of account on a cash receipts basis must file returns with amounts based on the accrual method.

B. The taxes imposed and the returns required hereunder shall be upon a calendar year basis.

(Ord. 2689 §25, 2022)

3.27.080 Public Work Contracts – Payment of Fee and Tax Before Final Payment for Work

The Director may, before issuing any final payment to any person performing any public work contract for the City, require such person to pay in full all license fees or taxes due under this title from such person on account of such contract or otherwise, and may require such taxpayer to file with the Director a verified list of all subcontractors supplying labor and/or materials to the person in connection with said public work.

(Ord. 2689 §26, 2022)

3.27.090 Underpayment of Tax, Interest, or Penalty - Interest

A. If, upon examination of any returns, or from other information obtained by the Director, it appears that a tax or penalty less than that properly due has been paid, the Director shall assess the additional amount found to be due and shall add thereto interest on the tax only. The Director shall notify the person by mail of the additional amount, which shall become due and shall be paid within 30 days from the date of the notice, or within such time as the Director may provide in writing.

B. For tax periods after December 31, 2004 the Director shall compute interest in accordance with RCW 82.32.050 as it now exists or as it may be amended.

C. If TMC Section 3.27.090.B is held to be invalid, then the provisions of RCW 82.32.050 existing at the effective date of this ordinance shall apply.

(Ord. 2689 §27, 2022)

3.27.095 Time in Which Assessment May Be Made

The Director shall not assess, or correct an assessment for additional taxes, penalties, or interest due more than four years after the close of the calendar year in which they were incurred, except that the Director may issue an assessment:

A. Against a person who is not currently registered or licensed or has not filed a tax return as required by this chapter for taxes due within the period commencing 10 years prior to the close of the calendar year in which the person was contacted in writing by the Director;

B. Against a person that has committed fraud or who misrepresented a material fact; or

C. Against a person that has executed a written waiver of such limitations.

(Ord. 2689 §28, 2022)

3.27.100 Over Payment of Tax, Penalty, or Interest – Credit or Refund – Interest Rate – Statute of Limitations

A. If, upon receipt of an application for a refund, or during an audit or examination of the taxpayer's records and tax returns, the Director determines that the amount of tax, penalty, or interest paid is in excess of that properly due, the excess amount shall be credited to the taxpayer's account or shall be refunded to the taxpayer. Except as provided in TMC Section 3.27.100.B, no refund or credit shall be made for taxes, penalties, or interest paid more than 4 years prior to the beginning of the calendar year in which the refund application is made or examination of records is completed.

B. The execution of a written waiver shall extend the time for applying for, or making a refund or credit of any taxes paid during, or attributable to, the years covered by the waiver if, prior to the expiration of the waiver period, an application for refund of such taxes is made by the taxpayer or the Director discovers that a refund or credit is due.

C. Refunds shall be made by means of vouchers approved by the Director and by the issuance of a City check or warrants drawn upon and payable from such funds as the City may provide.

D. Any final judgment for which a recovery is granted by any court of competent jurisdiction for tax, penalties, interest, or costs paid by any person shall be paid in the same manner, as provided in TMC Section 3.27.100.C, upon the filing with the Director a certified copy of the order or judgment of the court.

(Ord. 2689 §29, 2022)

3.27.110 Late Payment – Disregard of Written Instructions – Evasion - Penalties

A. If payment of any tax due on a return to be filed by a taxpayer is not received by the Director by the due date, the Director shall add a penalty in accordance with RCW 82.32.090(1), as it now exists or as it may be amended.

B. If the Director determines that any tax has been substantially underpaid as defined in RCW 82.32.090(2), there shall be added a penalty in accordance with RCW 82.32.090(2), as it now exists or as it may be amended.

C. If a citation or criminal complaint is issued by the Director for the collection of taxes, fees, assessments, interest or penalties, there shall be added thereto a penalty in accordance with RCW 82.32.090(3), as it now exists or as it may be amended.

D. If the Director finds that a person has engaged in any business or performed any act upon which a tax is imposed under this title and that person has not obtained from the Director a license as required by City of Tukwila, the Director shall impose a penalty in accordance with RCW 82.32.090(4), as it now exists or as it may be amended. No penalty shall be imposed under TMC Section 3.27.110.D if the person who has engaged in business without a license obtains a license prior to being notified by the Director of the need to be licensed.

E. If the Director determines that all or any part of a deficiency resulted from the taxpayer's failure to follow specific written tax reporting instructions, there shall be assessed a penalty in accordance with RCW 82.32.090(5), as it now exists or as it may be amended.

F. If the Director finds that all or any part of the deficiency resulted from an intent to evade the tax payable, the Director shall assess a penalty in accordance with RCW 82.32.090(5), as it now exists or as it may be amended.

G. The penalties imposed under TMC Section 3.27.110.A through E can each be imposed on the same tax found to be due. This subsection does not prohibit or restrict the application of other penalties authorized by law.

H. The Director shall not impose both the evasion penalty and the penalty for disregarding specific written instructions on the same tax found to be due.

I. For the purposes of this section, “return” means any document a person is required by the City of Tukwila to file to satisfy or establish a tax or fee obligation that is administered or collected by the City, and that has a statutorily defined due date.

J. If incorporation of future changes to RCW 82.32.090 into the Tukwila Municipal Code is deemed invalid, then the provisions of RCW 82.32.090 existing at the time this ordinance is effective shall apply.

(Ord. 2689 §30, 2022)

3.27.120 Cancellation of Penalties

A. The Director may cancel any penalties imposed under TMC Section 3.27.110.A if the taxpayer shows that its failure to timely file or pay the tax was due to reasonable cause and not willful neglect. Willful neglect is presumed unless the taxpayer shows that it exercised ordinary business care and prudence in making arrangements to file the return and pay the tax but was, nevertheless, due to circumstances beyond the taxpayer’s control, unable to file or pay by the due date. The Director has no authority to cancel any other penalties or to cancel penalties for any other reason except as provided in TMC Section 3.27.120.C.

B. A request for cancellation of penalties must be received by the Director within 30 days after the date the Department mails the notice that the penalties are due. The request must be in writing and contain competent proof of all pertinent facts supporting a reasonable cause determination. In all cases the burden of proving the facts rests upon the taxpayer.

C. The Director may cancel the penalties in TMC Section 3.27.110.A one time if a person:

1. Is not currently licensed and filing returns,
2. Was unaware of its responsibility to file and pay tax, and
3. Obtained business licenses and filed past due tax returns within 30 days after being notified by the Department.

D. The Director shall not cancel any interest charged upon amounts due.

(Ord. 2689 §31, 2022)

3.27.130 Taxpayer Quitting Business – Liability of Successor

A. Whenever any taxpayer quits business, sells out, exchanges, or otherwise disposes of his business or his stock of goods, any tax payable hereunder shall become immediately due and payable. Such taxpayer shall, within 10 days thereafter, make a return and pay the tax due.

B. Any person who becomes a successor shall become liable for the full amount of any tax owing. The successor shall withhold from the purchase price a sum sufficient to pay any tax due to the City from the taxpayer until such time as: a) the taxpayer shall produce a receipt from the City showing payment in full of any tax due or a certificate that no tax is due, or b) more than 6 months has passed since the successor notified the Director of the acquisition and the Director has not issued and notified the successor of an assessment.

C. Payment of the tax by the successor shall, to the extent thereof, be deemed a payment upon the purchase price. If such payment is greater in amount than the purchase price, the amount of the difference shall become a debt due such successor from the taxpayer.

D. Notwithstanding the above, if a successor gives written notice to the Director of the acquisition, and the Department does not within 6 months of the date it received the notice issue an assessment against the taxpayer and mail a copy of that assessment to the successor, the successor shall not be liable for the tax.

(Ord. 2689 §32, 2022)

3.27.140 Administrative Appeal

A. *Correction of tax.* Any person, except one who has failed to comply with TMC Section 3.27.060, aggrieved by the amount of the tax, penalty, or interest assessed by the Director pursuant to this chapter, or by the denial of a refund by the Director, may request a correction and conference for review of the assessment or denial of a refund. Such request must be made within 30 calendar days from the date on which such person was issued notice of the assessment or refund denial, or within the period covered by an extension of the due date granted by the Director. The request for correction must state the grounds for the request, including a detailed explanation of why the amount of the tax determined to be due by the Director was incorrect. Interest and penalties shall continue to accrue during the Director's review of a request for a correction, except to the extent that the Director later determines that a tax assessment was too high or the delay in issuing a determination is due to unreasonable delays caused by the Director. The Director shall make a final determination regarding the assessment or refund denial and shall notify the taxpayer of the Director's determination within 60 days after the conference, unless otherwise notified in writing by the Director. Such determination shall be subject to appeal pursuant to subsection (B) of this section. If no request for correction is filed within the time period provided herein, the assessment covered by such notice shall become final and immediately due and payable, and no appeal to the hearing examiner shall be allowed.

B. *Appeal.* The appellant, if aggrieved by the decision of the Director issued under subsection A of this section, may then appeal to the City Hearing Examiner within 30 calendar days of the date the administrative decision is mailed to the appellant. If no appeal is filed within the time period provided herein, the assessment covered by such notice shall become final and immediately due and payable. No refund request may be made for the audit period covered in that assessment. Failure to follow the appeal procedures in this section shall preclude the taxpayer's right to appeal.

The notice of appeal must be accompanied by an Appeal Fee in the amount of $300 and must contain the following information in writing:

1. The name and address of the taxpayer;
2. A statement identifying the determination of the Director from which the appeal is taken;
3. A statement setting forth the grounds upon which the appeal is taken and identifying specific errors the Director is alleged to have made in making the determination; and
4. A statement identifying the requested relief from the determination being appealed.

C. Upon timely filing of a notice of appeal, the Director shall schedule a hearing on the appeal before the City's Hearing Examiner. The hearing shall be conducted no later than 30 days from the date of the notice of appeal, unless an extension is agreed to by the appellant or otherwise ordered by the Hearing Examiner for good cause shown. Notice of the hearing and the appeal shall be given to the appellant by certified mail at least five days prior to the date of the hearing.

D. The hearing shall be governed by the City of Tukwila Hearing Examiner's procedural rules. The hearing shall be de novo. The decision of the City's Hearing Examiner or other hearing body shall be based upon a preponderance of the evidence. The burden of proof shall be on the appellant. The Hearing Examiner or other hearing body may affirm, reverse or modify the Director's decision.

E. Within 20 business days, excluding holidays recognized by the City of Tukwila, from the date of the hearing on an appeal under this section, the Hearing Examiner shall issue a written decision which shall set forth the reasons therefor.

F. Interest and/or penalties shall continue to accrue on all unpaid amounts, in accordance with TMC 3.27.090 and 3.27.110, notwithstanding the fact that an appeal has been filed. If the hearing examiner determines that the taxpayer is owed a refund, such refund amount shall be paid to the taxpayer in accordance with TMC 3.27.100.

(Ord. 2727 §5, 2023; Ord. 2689 §33, 2022)

3.27.145 Judicial Review of Administrative Appeal Decision

After first exhausting the right of administrative appeal set forth in this chapter, the taxpayer or the City may obtain judicial review of the hearing examiner's administrative decision by applying for a writ of review in the King County superior court, in accordance with the procedure set forth in Chapter 7.16 RCW, other applicable law, and court rules, within 21 calendar days of the date of the decision of the hearing examiner. The City shall have the same right of review from the administrative decision of the hearing examiner as does a taxpayer. The decision of the hearing examiner shall be final and conclusive unless review is sought in compliance with this section.

(Ord. 2727 §6, 2023)

3.27.150 Hardship Appeal Procedure

The Director shall develop a financial hardship appeal procedure by January 1, 2024.

(Ord. 2689 §34, 2022)

3.27.160 Stakeholder Involvement

The City shall develop a stakeholder committee that includes members of the business community to advise the Director and City on the long-term financial sustainability of the City. This effort shall include a review of the appropriate levels of taxation of businesses within the City and will culminate before the 2025-2026 Biennial Budget process to inform the Council of any recommended changes to revenue sources for the coming biennium.

(Ord. 2689 §35, 2022)

3.27.170 Review and Reporting Provisions

A. The City shall undertake a regular review of the Business and Occupation Tax as codified in TMC Chapter 3.26. During the 2023-2024 biennium, this review will occur through the stakeholder process identified in TMC Section 3.27.160. Beginning in the 2025-2026 biennium, the review shall occur in odd-numbered years to inform the budget process that commences the following year.

B. The Director and Police Chief shall provide quarterly reports to the Council on public safety funding associated with the Business and Occupation Tax.

(Ord. 2689 §36, 2022)

3.27.180 Director to Make Rules

The Director shall have the power, from time to time, to adopt, publish and enforce rules and regulations not inconsistent with this chapter or with law for the purpose of carrying out the provisions of this chapter and it shall be unlawful to violate or fail to comply with, any such rule or regulation.

(Ord. 2726 §7, 2023)

3.27.190 Ancillary Allocation Authority of Director

The Director is authorized to enter into agreements with other Washington cities which impose an eligible gross receipts tax:

1. To conduct an audit or joint audit of a taxpayer by using an auditor employed by the City of Tukwila, another city, or a contract auditor, provided, that such contract auditor's pay is not in any way based upon the amount of tax assessed;

2. To allocate or apportion in a manner that fairly reflects the gross receipts earned from activities conducted within the respective cities the gross proceeds of sales, gross receipts, or gross income of the business, or taxes due from any person that is required to pay an eligible gross receipts tax to more than one Washington city.

3. To apply the City's tax prospectively where a taxpayer has no office or place of business within the City and has paid tax on all gross income to another Washington city where the taxpayer is located; provided that the other city maintains an eligible gross receipts tax, and the income was not derived from contracts with the City.

(Ord. 2726 §8, 2023)

3.27.200 Mailing of Notices

Any notice required by this chapter to be mailed to any taxpayer or licensee shall be sent by ordinary mail, addressed to the address of the taxpayer or licensee as shown by the records of the Director. Failure of the taxpayer or licensee to receive any such mailed notice shall not release the taxpayer or licensee from any tax, fee, interest, or any penalties thereon, nor shall such failure operate to extend any time limit set by the provisions of this chapter. It is the responsibility of the taxpayer to inform the Director in writing about a change in the taxpayer's address.

(Ord. 2726 §9, 2023)

3.27.210 Tax Declared Additional

The tax and any applicable fee levied herein shall be additional to any license fee or tax imposed or levied under any law or any other ordinance of the city of Tukwila except as herein otherwise expressly provided.

(Ord. 2726 §10, 2023)

3.27.220 Public Disclosure – Confidentiality – Information Sharing

A. For purposes of this section:

1. "Disclose" means to make known to any person in any manner whatever a return or tax information.

2. "Return" means a tax or information return or claim for refund required by, or provided for or permitted under, the Tukwila Municipal Code, which is filed with the Director, on behalf of, or with respect to a person, and any amendment or supplement thereto, including supporting schedules, attachments, or lists that are supplemental to, or part of, the return so filed;

3. "Tax information" means:

a. A taxpayer's identity;

b. The nature, source, or amount of the taxpayer's income, payments, receipts, deductions, exemption, credits, assets, liability, net worth, tax liability deficiencies, over-

assessments, or tax payments, whether taken from the taxpayer's books and records or any other source;

c. Whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing; or

d. Other data received by, recorded by, prepared by, or provided to the City with respect to the determination or the existence, or possible existence, of liability, or the amount thereof, of a person under Chapter 3.26 TMC for a tax, penalty, interest, fine, forfeiture, or other imposition, or offense. However, data, material, or documents that do not disclose information related to a specific or identifiable taxpayer do not constitute tax information under this section. Nothing in this chapter requires any person possessing data, material, or documents made confidential and privileged by this section to delete information from such data, material, or documents so as to permit its disclosure.

3. "City agency" means every city office, department, division, bureau, board, commission, or other city agency.

4. "Taxpayer identity" means the taxpayer's name, address, telephone number, registration number, or any combination thereof, or any other information disclosing the identity of the taxpayer.

B. Returns and tax information are confidential and privileged, and except as authorized by this section, neither the director nor any other person may disclose any return or tax information.

C. This section does not prohibit the Director from:

1. Disclosing such return or tax information in a civil or criminal judicial proceeding or an administrative proceeding:

a. In respect of any tax imposed under Chapter 3.26 TMC if the taxpayer or its officer or other person liable under this title is a party in the proceeding; or

b. In which the taxpayer about whom such return or tax information is sought and another state agency are adverse parties in the proceeding;

2. Disclosing, subject to such requirements and conditions as the Director prescribes by rules adopted pursuant to TMC 3.27.180, such return or tax information regarding a taxpayer to such taxpayer or to such person or persons as that taxpayer may designate in a request for, or consent to, such disclosure, or to any other person, at the taxpayer's request, to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person. However, tax information not received from the taxpayer must not be so disclosed if the Director determines that such disclosure would compromise any investigation or litigation by any federal, state, or local government agency in connection with the civil or criminal liability of the taxpayer or another person, or that such disclosure would identify a confidential informant, or that such disclosure is contrary to any agreement entered into by the City that provides for the reciprocal exchange of information with other government agencies which agreement requires confidentiality with respect to such information unless such information is required to be disclosed to the taxpayer by the order of any court;

3. Publishing statistics so classified as to prevent the identification of particular returns or reports or items thereof;

4. Disclosing such return or tax information, for official purposes only, to the mayor or city attorney, or to any city agency, or to any member of the city council or their authorized designees dealing with matters of taxation, revenue, trade, commerce, the control of industry, or the professions;

5. Permitting the city's records to be audited and examined by the proper state officer, his or her agents, and employees;

6. Disclosing any such return or tax information to a peace officer as defined in RCW 9A.04.110 or county prosecuting attorney, for official purposes. The disclosure may be made only in response to a search warrant, subpoena, or other court order, unless the disclosure is for the purpose of criminal tax enforcement. A peace officer or county prosecuting attorney who receives the return or tax information may disclose that return or tax information only for use in the investigation and a related court proceeding, or in the court proceeding for which the return or tax information originally was sought or where otherwise allowed to be disclosed under this section;

7. Disclosing any such return or tax information to the proper officer of the Internal Revenue Service of the United States, the Canadian government or provincial governments of Canada, or to the proper officer of the tax department of any state or city or town or county, for official purposes, but only if the statutes of the United States, Canada or its provincial governments, or of such other state or city or town or county, as the case may be, grants substantially similar privileges to the proper officers of the city;

8. Disclosing any such return or tax information to the United States Department of Justice, including the Bureau of Alcohol, Tobacco, Firearms and Explosives, the Department of Defense, the Immigration and Customs Enforcement and the Customs and Border Protection Agencies of the United States Department of Homeland Security, the United States Coast Guard, the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of Treasury, and the United States Department of Transportation, or any authorized representative of these federal agencies or their successors, for official purposes;

9. Publishing or otherwise disclosing the text of a written determination designated by the director as a precedent pursuant to RCW 82.32.410;

10. Disclosing, in a manner that is not associated with other tax information, the taxpayer name, entity type, business address, mailing address, revenue tax registration numbers and the active/closed status of such registrations, state or local business license registration identification and the active/closed status and effective dates of such licenses, reseller permit numbers and the expiration date and status of such permits, North American Industry Classification System or Standard Industrial Classification code of a taxpayer, and the dates of opening and closing of business. Except that this subsection may not be construed as giving authority to the city or any recipient to give,

sell, or provide access to any list of taxpayers for any commercial purpose;

11. Disclosing such return or tax information that is also maintained by another Washington State or local governmental agency as a public record available for inspection and copying under the provisions of Chapter 42.56 RCW or is a document maintained by a court of record and is not otherwise prohibited from disclosure;

12. Disclosing such return or tax information to the United States Department of Agriculture, or successor department or agency, for the limited purpose of investigating food stamp fraud by retailers;

13. Disclosing to a financial institution, escrow company, or title company, in connection with specific real property that is the subject of a real estate transaction, current amounts due the city for a filed tax warrant, judgment, or lien against the real property;

14. Disclosing to a person against whom the director has asserted liability as a successor under TMC 3.27.130 return or tax information pertaining to the specific business of the taxpayer to which the person has succeeded;

15. Disclosing real estate excise tax affidavit forms filed under Chapter 3.60 TMC in the possession of the city, including real estate excise tax affidavit forms for transactions exempt or otherwise not subject to tax;

16. Disclosing such return or tax information to the court or hearing examiner in respect to the city's application for a subpoena if there is probable cause to believe that the records in possession of a third party will aid the director in connection with its official duties under this title or a civil or criminal investigation.

D. The Director may disclose return or taxpayer information to a person under investigation or during any court or administrative proceeding against a person under investigation as provided in this subsection (D).

1. The disclosure must be in connection with the Director's official duties under TMC Title 3, or a civil or criminal investigation. The disclosure may occur only when the person under investigation and the person in possession of data, materials, or documents are parties to the return or tax information to be disclosed. The Director may disclose return or tax information such as invoices, contracts, bills, statements, resale or exemption certificates, or checks. However, the Director may not disclose general ledgers, sales or cash receipt journals, check registers, accounts receivable/payable ledgers, general journals, financial statements, expert's workpapers, income tax returns, state tax returns, tax return workpapers, or other similar data, materials, or documents.

2. Before disclosure of any tax return or tax information under this subsection (D), the Director must, through written correspondence, inform the person in possession of the data, materials, or documents to be disclosed. The correspondence must clearly identify the data, materials, or documents to be disclosed. The Director may not disclose any tax return or tax information under this subsection (D) until the time period allowed in subsection (D)(3) of this section has expired or until the court has ruled on any challenge brought under subsection (D)(3) of this section.

3. The person in possession of the data, materials, or documents to be disclosed by the director has 20 days from the receipt of the written request required under subsection (D)(2) of this section to petition the superior court of the county in which the petitioner resides for injunctive relief. The court must limit or deny the request of the Director if the court determines that:

a. The data, materials, or documents sought for disclosure are cumulative or duplicative, or are obtainable from some other source that is more convenient, less burdensome, or less expensive;

b. The production of the data, materials, or documents sought would be unduly burdensome or expensive, taking into account the needs of the director, the amount in controversy, limitations on the petitioner's resources, and the importance of the issues at stake; or

c. The data, materials, or documents sought for disclosure contain trade secret information that, if disclosed, could harm the petitioner.

4. The Director must reimburse reasonable expenses for the production of data, materials, or documents incurred by the person in possession of the data, materials, or documents to be disclosed.

5. Requesting information under subsection (D)(2) of this section that may indicate that a taxpayer is under investigation does not constitute a disclosure of tax return or tax information under this section.

E. Service of a subpoena issued by the court or by a hearing examiner does not constitute a disclosure of return or tax information under this section. Notwithstanding anything else to the contrary in this section, a person served with a subpoena issued by the court or by the hearing examiner may disclose the existence or content of the subpoena to that person's legal counsel.

F. Any person acquiring knowledge of any return or tax information in the course of his or her employment with the City and any person acquiring knowledge of any return or tax information as provided under subsection ©(4), (5), (6), (7), (8), (9), or (11) of this section, who discloses any such return or tax information to another person not entitled to knowledge of such return or tax information under the provisions of this section, is guilty of a misdemeanor. If the person guilty of such violation is an officer or employee of the state, such person must forfeit such office or employment and is incapable of holding any public office or employment in this city for a period of two years thereafter.

(Ord. 2726 §11, 2023)

3.27.230 Tax Constitutes Debt

Any applicable fee or tax due and unpaid under this chapter, and all interest and penalties thereon, shall constitute a debt to the city of Tukwila and may be collected in the same manner as any other debt in like amount, which remedy shall be in addition to all other existing remedies.

(Ord. 2727 §12, 2023)

3.27.240 Unlawful Actions – Violations – Penalties

A. It shall be unlawful for any person subject to the tax, fee, or registration provisions of this chapter:

1. To violate or fail to comply with any of the provisions of this chapter or any lawful rule or regulation adopted by the director;

2. To make any false statement on any license or registration application or tax return;

3. To aid or abet any person in any attempt to evade payment of a license, or fee, or tax;

4. To fail to appear or testify in response to a subpoena;

5. To testify falsely in any investigation, audit, or proceeding conducted pursuant to this chapter.

B. Violation of any of the provisions of this chapter is a gross misdemeanor. Any person convicted of a violation of this chapter may be punished by a fine not to exceed $1,000, imprisonment not to exceed one year, or both fine and imprisonment. Penalties or punishments provided in this chapter shall be in addition to all other penalties provided by law.

C. Any person, or officer of a corporation, convicted of continuing to engage in business after the revocation of a registration certificate shall be guilty of a gross misdemeanor and may be punished by a fine not to exceed $5,000, or imprisonment not to exceed one year, or both fine and imprisonment.

(Ord. 2727 §13, 2023)

3.27.245 Suspension or Revocation of Business License

The Director shall have the power and authority to suspend or revoke any license issued under the provisions of TMC 5.04 if the licensee has failed to comply with the provisions of this chapter and Chapter TMC 3.26 (business and occupation tax). Such suspension or revocation shall follow the same procedure as provided in TMC 5.04.110 and TMC 5.04.112.

(Ord. 2727 §14, 2023)

3.27.250 Closing Agreement Provisions

The Director may enter into an agreement in writing with any person relating to the liability of such person in respect of any tax imposed by any of the chapters within this title and administered by this chapter for any taxable period(s). Upon approval of such agreement, evidenced by execution thereof by the director and the person so agreeing, the agreement shall be final and conclusive as to the tax liability or tax immunity covered thereby, and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact:

A. The case shall not be reopened as to the matters agreed upon, or the agreement modified, by the director or the taxpayer; and

B. In any suit, action or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded.

(Ord. 2727 §15, 2023)

3.27.255 Charge-off of Uncollectible Taxes

The Director may charge off any tax, penalty, or interest that is owed by a taxpayer, if the Director reasonably ascertains that the cost of collecting such amounts would be greater than the total amount that is owed or likely to be collected from the taxpayer.

(Ord. 2727 §16, 2023)

3.27.260 Severability

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

(Ord. 2689 §37, 2022)

CHAPTER 3.30
BUDGET PROCESS

Sections:

3.30.010 Establishment of a Two-Year Fiscal Biennium Budget

The City Council approved the establishment of a two-year biennium budget for the City of Tukwila, beginning January 1, 2009. The 2009-2010 Biennial Budget and all subsequent budgets are adopted under the provisions of RCW Chapter 35A.34.

(Ord. 2205 §1, 2009)

3.30.020 Mid-Biennial review

Pursuant to RCW Chapter 35A.34, the City Council shall provide for a mid-biennial review, and modification shall occur no sooner than eight months after the start, nor later than the conclusion of the first year of the biennium. The Mayor shall prepare a proposed budget modification and shall provide for publication of notice of hearings consistent with publication of notices for adoption of other City ordinances. Such proposal shall be submitted to the City Council and shall be a public record and be available to the public. A public hearing shall be advertised at least once and shall be held at a City Council meeting no later than the first Monday in December and may be considered from time to time. At such a hearing or thereafter, the Council may consider a proposed ordinance to carry out such modifications, which such ordinance shall be subject to other provisions of RCW Chapter 35A.34.

(Ord. 2205 §2, 2009)

CHAPTER 3.32
BUDGET PROVISIONS

Sections:

3.32.010 Transfers

Pursuant to RCW 35A.33.120, transfers within a department or division of the separate funds of the annual budget shall be by formal motion of the City Council.

(Ord. 2245 §1, 2009)

3.32.020 Salary Increase

No salary shall be increased above the amount provided therefor in the annual budget and specified in the adopted salary plan of the City. Salaries may be increased subsequent to salary plan changes formally approved by the City Council.

(Ord. 2245 §1, 2009)

3.32.050 Emergency Procurement

The Mayor or City Administrator is hereby authorized to waive competitive bidding requirements in the event of an emergency, as defined by RCW 39.04.280(3). Such an emergency will be declared in writing by the Mayor or City Administrator. The City Council will meet within two weeks following the award of the contract to consider adoption of a resolution certifying that the emergency situation existed and for approval of the procurement.

(Ord. 2245 §1, 2009)

CHAPTER 3.34
RESERVE POLICY

Sections:

3.34.010 Reserve Policy

This Chapter was repealed by Ordinance 2382, October 2012

CHAPTER 3.36
DONATIONS, DEVISES AND BEQUESTS

Sections:

3.36.010 Generally

In accordance with RCW 35.21.100, the Mayor and the City Council are authorized to accept by resolution money or property donated, devised, or bequeathed to the City and carry out the terms of the donation, devise, or bequest on behalf of the City. If no terms or conditions are attached to the donation, devise, or bequest, the City will expend or use it for any municipal purpose.

(Ord. 1075, 1978)

CHAPTER 3.40
LODGING TAX

Sections:

3.40.010 Imposed

There is hereby created a special excise tax of 1% on the sale of or charge made for the furnishing of lodging that is subject to tax under Chapter 82.08 RCW. The tax imposed under Chapter 82.08 RCW applies to the sale of or charge made for the furnishing of lodging by a hotel, rooming house, tourist court, motel, or trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property. It shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same.

(Ord. 1826 §1, 1998)

3.40.020 Definitions Adopted

The definitions of "selling price," "seller," "buyer," "consumer," and all other definitions as are now contained in RCW 82.08.010, and subsequent amendments thereto, are adopted as the definitions for the tax levied in this chapter.

(Ord. 1826 §2, 1998)

3.40.030 Special Revenue Fund Created

There is created a special revenue fund (Hotel/Motel Tax No. 101) in the City and all taxes collected under this chapter shall be placed in this fund to be used solely for the purpose of paying all or any part of the cost of tourist promotion, acquisition of tourism-related facilities, or operation of tourism-related facilities or to pay for any other uses as authorized in Chapter 67.28 RCW, as now or hereafter amended.

(Ord. 1826 §3, 1998)

3.40.040 Administration, Collection

For the purposes of the tax levied in this chapter:

1. The Department of Revenue is designated as the agent of the City for the purposes of collection and administration of the tax.

2. The administrative provisions contained in RCW 82.08.050 through 82.08.070 and in Chapter 82.32 RCW shall apply to administration and collection of the tax by the Department of Revenue.

3. All rules and regulations adopted by the Department of Revenue for the administration of Chapter 82.08 RCW are adopted by reference.

4. The Department of Revenue is authorized to prescribe and utilize such forms and reporting procedures as the Department may deem necessary and appropriate.

(Ord. 1826 §4, 1998)

3.40.050 Violation, Penalties Designated

It is unlawful for any person, firm, or corporation to violate or fail to comply with any of the provisions of this chapter. Every person convicted of a violation of any provision of this chapter shall be punished by a fine in a sum not to exceed $500.00. Each day of violation shall be considered a separate offense.

(Ord. 1826 §5, 1998)

CHAPTER 3.44
MOTOR VEHICLE INTOXICATION FUND

Sections:

3.44.010 Created

There is created and established a special fund to be entitled "Motor Vehicle Intoxication Fund," Revenue Fund Account 603/389.00, and the City Treasurer is authorized and directed to establish and maintain such fund, pursuant to and in compliance with Chapter 130, Laws of 1974, 3rd Extraordinary Session, and pursuant to the rules and regulations issued or to be issued by the State of Washington Treasurer and Court Administrator.

(Ord. 862 §1, 1974)

3.44.020 Deposits from Forfeitures

There shall be deposited into said fund, for remittance to the State Treasury, a penalty assessment in the minimum amount of 25% of, and which shall be in addition to, any fine, bail forfeiture, or costs on all offenses involving a violation of any State statute or City or County ordinance relating to driving a motor vehicle while under the influence of intoxicating liquor or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor; and said fund shall be used for the exclusive benefit of the department for driver service programs and for a statewide alcohol safety action program, or any other similar program designed primarily for the rehabilitation or control of traffic offenders, as aforesaid. Furthermore, any such penalty assessment as hereinabove described shall be included by the court in any pronouncement of sentence.

(Ord. 862 §2, 1974)

3.44.030 Provisions Adopted by Reference

The applicable provision of Sections 1, 2 and 3 of Chapter 130, laws of 1974, 3rd Extraordinary Session, are hereby incorporated and made a part hereof as if fully set forth.

(Ord. 862 §3, 1974)

CHAPTER 3.48
COMMERCIAL PARKING TAX

Sections:

3.48.010 Definitions

The following definitions shall apply throughout this chapter:

1. *"Commercial parking business"* means the ownership, lease, operation or management of a commercial parking lot in which fees are charged for parking.

2. *"Commercial parking"* means any transaction or arrangement whereby a vehicle is parked and a fee is charged for parking or allowing the vehicle to be parked.

Commercial parking shall include instances where a fee is charged specifically for the parking of a vehicle. This shall include any business which uses part or all of its area to park vehicles for a fee where no other service, lodging or business is being provided or conducted in conjunction with the parking of the vehicle.

Commercial parking shall also include instances such as when a guest of a hotel, motel or other lodging establishment is allowed to park or leave his/her vehicle before or after his or her lodging or business stay there so that, for a fee, the guest's vehicle is parked at the hotel, motel or other lodging establishment during days when the guest is no longer staying there.

(Ord. 2586 §3, 2018)

3.48.020 Exemptions

The following exemptions to the commercial parking tax are allowed:

1. **Local employee parking,** with parking spaces provided or reserved for use by an employee who works within the City, where the employee parks his or her vehicle in connection with his or her employment, without regard to whether arrangements or payment for the parking is made by the employee or by his or her employer.

2. **Apartments and condominiums,** where parking is provided in conjunction with arrangements for residential living spaces.

3. **Offices, retail establishments, warehouses and industrial buildings,** where parking is provided in association with tenant arrangements for the use of such facilities.

(Ord. 2586 §4, 2018)

3.48.030 Local Option Transportation Tax Imposed

There is hereby levied a special local option transportation tax to be imposed in connection with commercial parking businesses within the City.

1. For commercial parking businesses operated by nonprofit organizations on City-owned property, the tax shall be imposed at the rate of 5% of the gross revenues generated by non-exempt commercial parking charges and fees.

2. For all other commercial parking businesses, the tax shall be imposed at the rate of 8% of the gross revenues generated by non-exempt commercial parking charges and fees effective January 1, 2019, and then as follows:

January 1, 2020: 11% of the gross revenues generated by non-exempt commercial parking charges and fees

January 1, 2021: 15% of the gross revenues generated by non-exempt commercial parking charges and fees

(Ord. 2586 §5, 2018)

3.48.040 Tax in Addition to Other License Fees or Taxes

The tax levied under this chapter shall be in addition to any license fee or tax imposed or levied under any law, statute or ordinance whether imposed or levied by the City, State or other governmental entity or political subdivision.

(Ord. 2586 §6, 2018)

3.48.050 Exempt Vehicles

The tax shall not be levied on vehicles with official State disabled person decals, government vehicles which are exempt from tax, and tax-exempt carpool vehicles.

(Ord. 2586 §7, 2018)

3.48.060 Taxes Collected by Business Operators

Taxes imposed herein shall be collected by the operators of the commercial parking businesses, and shall be due and payable to the City in monthly installments. The operators of the commercial parking businesses shall remit to the City the local option transportation taxes collected on or before the last day of the month following the month during which the taxes were collected. The City shall be authorized to review and inspect financial records involving activities of businesses which are taxable by this tax, at least quarterly each year.

(Ord. 2586 §8, 2018)

3.48.070 Late Penalty

If a Commercial Parking Business subject to this tax fails to pay any tax required by this chapter within 15 days after the due date thereof, there shall be added to such tax a penalty of 10% of the tax per month for each month overdue, which shall be added to the amount of the tax due.

(Ord. 2586 §9, 2018)

3.48.080 Use of Fund

All revenues, assessments and other charges generated and collected as local option transportation taxes shall be placed in the City's 104 Bridge and Arterial Street Fund, to be used for transportation purposes within the Transportation Element of the Tukwila Comprehensive Plan, in accordance with RCW 82.80.070; and to be used for administration of the tax, including those activities of the City in keeping and tracking records, financial reports and other documents, reviewing filings and compiling reports by commercial parking businesses, and other activities involved in collection and enforcement of the tax.

(Ord. 2586 §10, 2018)

3.48.090 Liability and Reporting

A. All officers, directors and managers of any organization or association operating a Commercial Parking Business, including owners and lessees of a parking facility used for Commercial Parking, shall be jointly and severally liable for the payment of said tax, penalties, and any fine imposed under this chapter

B. The Finance Director shall have the power to adopt rules and regulations not inconsistent with the terms of this chapter for carrying out and enforcing the payment, collection and remittance of the tax herein levied; and a copy of the rules and regulations shall be on file and available for public examination in the City of Tukwila Finance Department.

(Ord. 2586 §11, 2018)

3.48.100 Violation/Penalty

It is unlawful for any person, firm or corporation engaged in a Commercial Parking Business to fail or refuse to collect and remit parking taxes as required by the provisions of this chapter or to gain for himself or herself some advantage or benefit from the tax, whether direct or indirect. Any such violation shall constitute a misdemeanor and shall be punishable by a fine not to exceed $1,000 and/or by imprisonment not exceeding 90 days. Any such fine shall be in addition to any tax and penalties required.

(Ord. 2586 §12, 2018)

3.48.110 Appeal Procedure

A. Any person aggrieved by the calculation of the tax determined to be due to the City pursuant to this chapter may appeal to the Finance Director or his/her designee from such determination by filing a written notice of appeal with the City Clerk within 20 calendar days from the date on which such person was given notice of the tax. The notice of appeal must state the grounds for appeal, including a detailed explanation of why the amount of the tax was incorrect. The Finance Director or designee shall review the basis for the appeal and may request clarification from the appellant. After the review is complete, the Finance Director or designee shall issue an administrative decision that may sustain or modify the amount of tax owed. Notice of the administrative decision shall be sent to the appellant by certified mail within 10 days of issuance.

B. The appellant, if aggrieved by the decision of the Finance Director or designee, may then appeal to the City Hearing Examiner within 20 calendar days of the date the administrative decision is mailed to the appellant. The notice of appeal must state the grounds for appeal, including a detailed explanation of why the administrative decision is incorrect. The notice of appeal must be accompanied by an Appeal Fee in accordance with the fee schedule adopted by resolution of the City Council.

C. Upon timely filing of a notice of appeal, the Finance Director shall schedule a hearing on the appeal before the City's Hearing Examiner. The hearing shall be conducted no later than 30 days from the date of the notice of appeal, unless an extension is agreed to by the appellant or otherwise ordered by the Hearing Examiner for good cause shown. Notice of the hearing and the appeal shall be given to the appellant by certified mail at least five days prior to the date of the hearing.

D. The hearing shall be governed by the City of Tukwila Hearing Examiner's procedural rules. The hearing shall be de novo. The decision of the City's Hearing Examiner or other hearing body shall be based upon a preponderance of the evidence. The burden of proof shall be on the appellant. The Hearing Examiner or other hearing body may affirm, reverse or modify the Finance Director's decision.

E. Within 20 business days, excluding holidays recognized by the City of Tukwila, from the date of the hearing on an appeal under this section, the Hearing Examiner shall issue a written decision which shall set forth the reasons therefor.

(Ord. 2586 §13, 2018)

CHAPTER 3.50
UTILITY TAX

Sections:

3.50.010 Utility Tax

The tax provided for in this chapter shall be known as the "utility tax," and is levied upon the privilege of conducting an electric energy, natural or manufactured gas, telephone, or cable television business within the City of Tukwila effective February 1, 2003.

(Ord. 1998 §1, 2002)

3.50.020 Use and Accountability of Tax Proceeds

All revenues collected pursuant to this chapter shall be deposited into the General Fund, and shall be used for the funding of City services or capital requirements as the Council shall direct through its annual budget process.

(Ord. 1998 §2, 2002)

3.50.030 Definitions

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.

1. "Cable television services" means the transmission of video programming and associated non-video signals to subscribers together with subscriber interaction, if any, which is provided in connection with video programming.

2. "Cellular telephone service" means any two-way voice and data telephone or similar communications system based in whole or in substantial part on wireless radio communications, including cellular mobile service, and which is not subject to regulation by the Washington State Utilities and Transportation Commission. Cellular mobile service includes other wireless radio communications services including specialized mobile radio, personal communications services, and any other evolving wireless radio communications technology that accomplishes a purpose substantially similar to cellular mobile service. Cellular telephone service is included within the definition of "telephone business" for the purposes of this chapter.

3. "Competitive telephone service" means the providing by any person of telecommunications equipment or apparatus, directory advertising and lease of telephone street directories, or service related to that equipment or apparatus such as repair or maintenance service, if the equipment or apparatus is of a type which may be provided by persons not subject to regulation as telephone companies under Title 80 RCW, and for which a separate charge is made. Transmission of communication through cellular telephones is classified as "telephone business" rather than "competitive telephone service."

4. "Finance Director" means the Finance Director of the City of Tukwila, Washington, or his or her designee.

5. "Gross income" means the value proceeding or accruing from the performance of the particular business involved, including gross proceeds of sales, compensation for the rendition of services, and receipts (including all sums earned or charged, whether received or not) by reason of investment in the business engaged in (excluding rentals, receipts or proceeds from the use or sale of real property or any interest therein, and proceeds from the sale of notes, bonds, mortgages or other evidences of indebtedness, or stocks and the like), all without any deduction on account of the cost of property sold, the cost of materials used, labor costs, taxes, interest or discount paid, delivery costs or any expenses whatsoever, and without any deduction on account of losses.

6. "Pager service" means service provided by means of an electronic device which has the ability to send or receive voice or digital messages transmitted through the local telephone network, via satellite or any other form of voice or data transmission. "Pager service" is included within the definition of "telephone business" for the purposes of this chapter.

7. "Person" means any person, firm, corporation, association, or entity of any type engaged in a business subject to taxation under this chapter.

8. "Telephone business" means the business of providing access to a local telephone network, local telephone network switching service, toll service, or coin telephone services, or providing telephonic, video, data, pager or similar communication or transmission for hire, via a local telephone network, toll line or channel, cable, microwave, or similar communication or transmission system. The term includes cooperative or farmer line telephone companies or associations operating an exchange. "Telephone business" does not include the providing of competitive telephone service or cable television service, or other providing of broadcast services by radio or television stations.

(Ord. 1998 §3, 2002)

3.50.040 Occupations Subject to Tax – Amount

There is levied upon, and shall be collected from a person because of certain business activities engaged in or carried on in the City of Tukwila, taxes in the amount to be determined by the application of rates given against gross income as follows:

1. Upon a person engaged in or carrying on the business of selling, furnishing, or transmitting electric energy, a tax equal to 4% for the calendar years 2003 and 2004; 5% for the calendar years 2005 and 2006; and 6% for the calendar years 2007 and beyond, of the total gross income from such business in the City during the period for which the tax is due;

2. Upon a person engaged in or carrying on the business of selling, furnishing, or transmitting gas, whether natural or manufactured, a tax equal to 4% for the calendar years 2003 and 2004; 5% for the calendar years 2005 and 2006; and 6% for the calendar years 2007 and beyond, of the total gross income from such business in the City during the period for which the tax is due;

3. Upon a person engaged in or carrying on any telephone business a tax equal to 4% for the calendar years 2003 and 2004; 5% for the calendar years 2005 and 2006; and 6% for the calendar years 2007 and beyond, of the total gross income, including income from intrastate long distance toll service, from such business in the City during the period for which the tax is due;

4. Upon a person engaged in or carrying on the business of selling, furnishing or transmitting cable television service, a tax equal to 4% for the calendar years 2003 and 2004; 5% for the calendar years 2005 and 2006; and 6% for the calendar years 2007 and beyond, of the total gross income from such business in the City during the period for which the tax is due.

5. In addition to the automatic annual review of the Financial Planning Model, the City Council will review the need for scheduled rate changes for 2005 and again for 2007.

(Ord. 1998 §4, 2002)

3.50.050 Tax Year

The tax year for purposes of this utility tax shall commence February 1, 2003 and end December 31, 2003, and thereafter shall commence on January 1 and end on December 31 each year.

(Ord. 1998 §5, 2002)

3.50.060 Exceptions and Deductions

There is excepted and deducted from the total gross income upon which the tax is computed:

1. That part of the total gross income derived from business which the City is prohibited from taxing under the constitution or laws of the United States and the constitution or laws of the State of Washington.

2. Income derived from that portion of network telephone service, as defined in RCW 82.04.065, which represents charges to another telecommunications company, as defined in RCW 80.04.010, for connecting fees, switching charges, or carrier access charges relating to intrastate toll telephone services; or for access to, or charges for, interstate services; or charges for network telephone service that is purchased for the purpose of resale.

3. Adjustments made to a billing or customer account in order to reverse a billing or charge that was not properly a debt of the customer.

4. Cash discounts allowed and actually granted to customers of the taxpayer during the tax year.

5. Uncollectible debts written off the taxpayer's books during the tax year. If subsequently collected, the income shall be reported for the period in which collected.

(Ord. 1998 §6, 2002)

3.50.070 Monthly Installments

The tax imposed by TMC 3.50.040 shall be due and payable in monthly installments, and remittance therefore shall be made on or before the last day of the month following the end of the monthly period in which the tax is accrued. Annual returns for smaller entities may be allowed upon written approval from the Finance Director. On or before said due date, the taxpayer shall file with the Finance Director a written return upon such form and setting forth such information as the Finance Director shall reasonably require relating to the accurate computation and collection of this tax, together with the payment of the amount.

(Ord. 1998 §7, 2002)

3.50.080 Taxpayer's Records

Each taxpayer shall keep records reflecting the amount of the taxpayer's gross income on sales and services within the City, and such records shall be open at all reasonable times for the inspection of the Finance Director or his designee to verify information provided on any utility tax return, or to determine whether such return is required to be filed.

(Ord. 1998 §8, 2002)

3.50.090 Failure to Make Returns or to Pay the Tax in Full

If a taxpayer fails, neglects, or refuses to make his return as and when required by this chapter, the Finance Director is authorized to determine the amount of the tax payable under provisions of TMC 3.50.040, and to notify such taxpayer of the amount so determined. The amount so fixed shall thereupon be the tax and be immediately due and payable, together with penalty and interest. Delinquent taxes, including any penalties, are subject to an interest charge of 12% per year on the unpaid balance from the date any such taxes became due as provided in TMC 3.50.070.

(Ord. 1998 §9, 2002)

3.50.100 Penalty for Delinquent Payment

If a person subject to this tax fails to pay any tax required by this chapter within 15 days after the due date thereof, there shall be added to such tax a penalty of 10% of the amount of such tax. Any tax due under this chapter that is unpaid and all penalties thereon shall constitute a debt to the City and may be collected by court proceedings, which remedy shall be in addition to all other remedies.

(Ord. 1998 §10, 2002)

3.50.110 Overpayment of Tax

Money paid to the City through error, or otherwise not in payment of the tax imposed by this chapter, or in excess of such tax, shall, upon discovery, be credited against any tax due or to become due from such taxpayer hereunder, provided however, that overpayments extending beyond one year prior to notification of the City shall not be refunded. If such taxpayer has ceased doing business in the City, any such overpayment shall be refunded to the taxpayer.

(Ord. 1998 §11, 2002)

3.50.120 Noncompliance – Penalty

A. No person subject to this chapter shall fail or refuse to file tax returns or to pay tax when due, nor shall any person make a false statement or representation in, or in connection with, any such tax return, or otherwise violate or refuse to comply with this chapter or with any rule promulgated pursuant to TMC 3.50.140.

B. In addition to the interest and delinquent filing penalties set forth above, a willful violation of or failure to comply with this chapter is a civil infraction, subject to a fine of up to $250 for each day that a violation continues.

(Ord. 1998 §12, 2002)

3.50.130 Appeal

A taxpayer aggrieved by the amount of the tax, penalties, interest, or civil infraction fine determined to be due by the Finance Director or his designee, under the provisions of this chapter, may appeal such determination to the City of Tukwila's City Administrator or his or her designee.

(Ord. 1998 §13, 2002)

3.50.140 Finance Director to Make Rules

The Finance Director shall have the power to adopt and enforce rules and regulations not inconsistent with this chapter or with the law for the purposes of carrying out the provisions thereof.

(Ord. 1998 §14, 2002)

3.50.150 Tax Relief

A. *Provision* – The Finance Director will develop and propose to the Council a utility tax relief program for the City's senior and disabled low-income residents.

B. *Utility tax annual rebate program established* – A utility tax annual rebate program is established for senior and disabled low-income residents in accordance with the eligibility criteria and guidelines described in TMC 3.50.150C. The first period covered under this program is February 1, 2003 – December 31, 2003, and then every calendar year thereafter.

C. *Utility tax annual rebate for electricity and gas services*. For electricity and natural gas services, eligible Tukwila households may apply annually to receive a utility tax rebate. To qualify for utility tax annual rebate from electric and gas services, a household must:

1. Be a household residing in Tukwila.

2. Every person 62 years of age or older (if married, then either spouse) or every person totally and permanently disabled residing in a separately metered dwelling and who is paying directly for such separately billed service either as owner, purchaser or renter and whose individual disposable income if a single person, or whose combined disposable income (as defined in RCW 84.36.383), if a married couple, from all sources is less than $32,000 per year, shall receive an annual utility tax rebate on their electric and natural gas energy bills. Every such person shall file with the Finance Department their affidavit that he or she is qualified to receive the rebate. Such affidavits are to contain information as required by the Finance Director in order to establish eligibility. Each affidavit will also include an unqualified promise to inform the City of any changes in financial condition that would disqualify the person for the rebate. The Finance Director may require affidavits on an annual basis if deemed necessary.

D. *Administration* – The Finance Director shall adopt rules and procedures for the filing of reimbursement claims, and for the administration of the utility tax annual rebate program.

(Ord. 1999 §1 & §2, 2002; Ord. 1998 §15, 2002)

CHAPTER 3.51
SOLID WASTE UTILITY TAX

Sections:

3.51.010 Solid Waste Utility Tax

The tax provided for in this chapter shall be known as the "solid waste utility tax," and is levied upon the privilege of conducting a solid waste collection business within the City of Tukwila, effective October 1, 2009.

(Ord. 2250 §1, 2009)

3.51.020 Use and Accountability of Tax Proceeds

1. All revenues collected pursuant to this chapter shall be deposited into the General Fund, and shall be used for the funding of City services or capital requirements as the City Council shall direct through its biennial budget process.

a. The revenues shall be used as follows:

(1) 6% shall remain in the General Fund and may be used for any City purpose.

(2) The remaining revenues will be dedicated to road maintenance and road related projects.

2. In addition to the automatic annual review of the Financial Planning Model, the City Council will review the need for rate or other changes as part of the biennial budget process.

3. The City Council shall periodically reconsider the need for a Solid Waste Utility Tax given current economic conditions.

(Ord. 2609 §1, 2019; Ord. 2250 §2, 2009)

3.51.030 Definitions

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

1. *"Solid waste"* means all putrescible and nonputrescible solid and semi-solid wastes, including but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction waste, abandoned vehicles or parts thereof, and recyclable materials.

2. *"Solid waste collection business"* means every person who receives solid waste or recyclable materials for transfer, storage, or disposal, including but not limited to, all collection services, public or private solid waste disposal sites, transfer stations, and similar operations.

3. *"Person"* means any person, firm, corporation, association, or entity of any type engaged in a business subject to taxation under this ordinance.

4. *"Finance Director"* means the Finance Director of the City of Tukwila, Washington, or his or her designee.

5. *"Gross income"* means the value proceeding or accruing from the performance of the particular business involved, including gross proceeds of sales, compensation for the rendition of services, and receipts (including all sums earned or charged, whether received or not) by reason of investment in the business engaged in (excluding rentals, receipts or proceeds from the use or sale of real property or any interest therein and proceeds from the sale of notes, bonds, mortgages or other evidences of indebtedness, or stocks and the like), all without any deduction on account of the cost of property sold, the cost of materials used, labor costs, taxes, interest or discount paid, delivery costs or any expenses whatsoever, and without any deduction on account of losses.

6. *"Residential customers"* means any customer of the solid waste collection provider for residential type customers of single-family residential structures, including mobile homes and duplexes, tri-plexes and four-plexes where each residential unit is billed individually, except that the term does not include multiple-unit residences with five or more attached or unattached units billed collectively.

7. *"Non-residential customers"* means any customer other than those identified as a "residential customer."

(Ord. 2250 §3, 2009)

3.51.040 Occupations Subject to Tax – Amount

A. There is levied upon, and shall be collected from a person because of certain business activities engaged in or carried on in the City of Tukwila, taxes in the amount to be determined by the application of rates given against gross income as follows:

B. Upon a person engaged in or carrying on the business of providing solid waste collection service, a tax equal to 6% of the total gross income from such business from all customers in the City, except residential customers, during the period for which the tax is due. On November 1, 2019, said tax rate shall increase to 11%, and shall then increase to 16% effective July 1, 2020.

(Ord. 2609 §2, 2019; Ord. 2250 §4, 2009)

3.51.050 Tax Year

The tax year for purposes of this solid waste utility tax shall commence on January 1 and end on December 31 each year, except for the following tax periods which constitute separate tax periods: November 1, 2019 to June 30, 2020, and July 1, 2020 to December 31, 2020.

(Ord. 2609 §3, 2019; Ord. 2250 §5, 2009)

3.51.060 Exceptions and Deductions

There is excepted and deducted from the total gross income upon which the tax is computed:

1. That part of the total gross income derived from business which the City is prohibited from taxing under the constitution or laws of the United States and the constitution or laws of the State of Washington.
2. Adjustments made to a billing or customer account in order to reverse a billing or charge that was not properly a debt of the customer.
3. Cash discounts allowed and actually granted to customers of the taxpayer during the tax year.
4. Uncollectible debts written off the taxpayer's books during the tax year. If subsequently collected, the income shall be reported for the period in which collected.
5. Gross income derived from residential customers.

(Ord. 1998 §6, 2002)

3.51.070 Monthly Installments

The tax imposed by TMC 3.51.040 shall be due and payable in monthly installments, and remittance therefor shall be made on or before the last day of the month following the end of the monthly period in which the tax is accrued. Annual returns for smaller entities may be allowed upon advance written approval from the Finance Director. On or before said due date, the taxpayer shall file with the Finance Director a written return upon such form and setting forth such information as the Finance Director shall reasonably require relating to the accurate computation and collection of this tax, together with the payment of the amount.

(Ord. 1998 §7, 2002)

3.51.080 Taxpayer's Records

Each taxpayer shall keep records reflecting the amount of the taxpayer's gross income on sales and services within the City, and such records shall be open at all reasonable times for the inspection of the Finance Director or his or her designee to verify information provided on any utility tax return or to determine whether such return is required to be filed.

(Ord. 2250 §8, 2009)

3.51.090 Failure to Make Returns or to Pay the Tax in Full

If a taxpayer fails, neglects, or refuses to make his, her or its return as and when required by this chapter, the Finance Director is authorized to determine the amount of the tax payable under provisions of TMC 3.51.040, and to notify such taxpayer of the amount so determined. The amount so fixed shall thereupon be the tax and be immediately due and payable, together with penalty and interest. Delinquent taxes, including any penalties, are subject to an interest charge of 12% per year on the unpaid balance from the date any such taxes became due as provided in TMC 3.51.070.

(Ord. 2250 §9, 2009)

3.51.100 Penalty for Delinquent Payment

If a person subject to this tax fails to pay any tax required by this chapter within 15 days after the due date thereof, there shall be added to such tax a penalty of 10% of the amount of such tax. Any tax due under this chapter that is unpaid and all interest and penalties thereon shall constitute a debt to the City. The City may, at its discretion, pursuant to Chapter 19.16 RCW, use a collection agency to collect such taxes, interest and penalties owed or assessed, or it may seek collection by court proceedings, which remedies shall be in addition to all other remedies.

(Ord. 2250 §10 2009)

3.51.110 Overpayment of Tax

Money paid to the City through error or otherwise not in payment of the tax imposed by this chapter, or in excess of such tax shall, upon discovery, be credited against any tax due or to become due from such taxpayer hereunder, provided however, that overpayments extending beyond one year prior to notifying the City shall not be refunded. If such taxpayer has ceased doing business in the City, any such overpayment shall be refunded to the taxpayer.

(Ord. 2250 §11, 2009)

3.51.120 Noncompliance – Penalty

A. No person subject to this chapter shall fail or refuse to file tax returns or to pay tax when due, nor shall any person make a false statement or representation in or in connection with any such tax return, or otherwise violate or refuse to comply with this chapter or with any rule promulgated pursuant to TMC 3.51.140.

B. In addition to the interest and delinquent filing penalties set forth above, a willful violation of or failure to comply with this chapter is a civil infraction, subject to a cumulative fine of up to $250 for each day that a violation continues. All penalties imposed under this chapter shall constitute a debt to the City. The city may, at its discretion, pursuant to Chapter 19.16 RCW, use a collection agency to collect taxes, interest, and penalties owed or assessed pursuant to this chapter, or the City may seek collection by court proceedings, which remedies shall be in addition to all other remedies.

(Ord. 2250 §12, 2009)

3.51.130 Appeal

A taxpayer aggrieved by the amount of the tax, penalties, interest, or civil infraction fine determined to be due by the Finance Director or his or her designee under the provisions of this chapter may appeal such determination to the City of Tukwila's City Administrator or his or her designee. Taxpayers shall be required to remit the amounts determined to be due under this chapter prior to filing an appeal.

(Ord. 2250 §13, 2009)

3.51.140 Finance Director to Make Rules

The Finance Director shall have the power to adopt and enforce rules and regulations not inconsistent with this chapter or with the law for the purposes of carrying out the provisions thereof.

(Ord. 2250 §14, 2009)

CHAPTER 3.52
CONTINGENCY FUND

Sections:

3.52.010 Established

A special fund to be known as the Contingency Fund is established in the City pursuant to RCW 35.33.145 for the uses and purposes set forth in the aforesaid statute and subject to the limitations set forth therein.

(Ord. 659 §2, 1971)

CHAPTER 3.54
CITY UTILITY TAX

Sections:

3.54.010 City Utility Tax

There is hereby imposed a tax to be levied on and after December 31, 2008, against and upon the gross earnings of the water, sewer and surface water utility funds and on all water, sewer and surface water utilities at the rates set forth in this chapter. The tax shall, however, be subordinate to any payments required to be made by any of said utility funds from said gross earnings into any fund or funds heretofore or hereafter created for the payment of and interest on revenue bonds of the City heretofore or hereafter issued.

(Ord. 2258 §1, 2009)

3.54.020 Definitions

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.

1. *"Finance Director"* means the Finance Director of the City of Tukwila, Washington, or his or her designee.
2. *"Gross earnings"* means the consideration, whether money, credits, rights or property expressed in terms of money, proceeding or accruing by reason of the transaction of business and includes gross proceeds of sales, compensation for rendition of services, gains realized from interest, rents, royalties, fees, commissions, dividends and other emoluments, however designated, all without any deduction on account of cost of property sold, materials used, labor, interest, losses, discount and any other expense whatsoever.
3. *"Sewer service"* means any connection to the City sewer system and shall be further defined by customer class.
4. *"Surface water service"* means any connection to the City surface water or storm drainage system and shall be further defined by customer class.
5. *"Water service"* means any connection to the City water system and shall be further defined by customer class.

(Ord. 2258 §2, 2009)

3.54.030 Tax Rate and Collections

A. There is levied upon water, sewer and surface water utilities, taxes in the amount to be determined by the application of rates given against gross earnings as follows:

1. Upon the City water, sewer and surface water utility funds, a tax equal to 10% of the total gross revenue from such business from all customers in the City during the period for which the tax is due. Such tax shall be effective from May 1, 2010 through December 31, 2027.
2. **Collection of City Utility Tax.** The City utility tax is calculated monthly, after the close of the month, and will be collected for each of the twelve months in years 2022 through 2027, unless such utility tax collection is earlier terminated or further extended by ordinance.

(Ord. 2669 §1, 2022; Ord. 2258 §3, 2009)

3.54.040 Tax Year

The tax year for purposes of this water, sewer and surface water utility tax shall commence December 31, 2008 and thereafter shall commence on January 1 and end on December 31 each year.

(Ord. 2258 §4, 2009)

3.54.050 Exceptions and Deductions

In computing the gross earnings tax due under the provisions of this chapter, there shall be deducted from the measure of the tax the following items:

1. Uncollected accounts, if the books of the utility are on an accrual basis as distinguished from a cash basis.
2. Amounts received through contemplated or actual condemnation proceedings or in account of any federal, state or local public works project.
3. Amounts received as compensation or reimbursement for damages to or protection of any property of the utility.
4. Contributions for or in aid of construction.
5. Amounts collected as sales tax.
6. Amounts received from surcharge to water rates charged outside-City-limits users for system improvements necessary to meet City standards.

(Ord. 2258 §5, 2009)

3.54.060 Finance Director to Make Rules

The Finance Director shall have the power to adopt and enforce rules and regulations not inconsistent with this chapter or with the law for the purposes of carrying out the provisions thereof.

(Ord. 2258 §,6 2009)

CHAPTER 3.56

REAL ESTATE EXCISE TAX – REET 1

Sections:

3.56.010 Imposition of Real Estate Excise Tax

There is imposed a tax of ¼ of 1% of the selling price on each sale of real property within the corporate limits of this City.

(Ord. 1400 §1, 1986)

3.56.020 Taxable Events

Taxes imposed in this chapter shall be collected from persons who are taxable by the State under RCW Chapter 82.45 and WAC Chapter 458-61 upon the occurrence of any taxable event within the corporate limits of the City.

(Ord. 1400 §2, 1986)

3.56.030 Consistency with State Tax

The taxes imposed in this chapter shall comply with all applicable rules, regulations, laws and court decisions regarding real estate excise taxes as imposed by the State under RCW Chapter 82.45 and WAC Chapter 458-61. The provisions of those chapters to the extent they are not inconsistent with this chapter, shall apply as though fully set forth in this chapter.

(Ord. 1400 §3, 1986)

3.56.040 Distribution of Tax Proceeds and Limiting the Use Thereof

A. The County treasurer shall place 1% of the proceeds of the taxes imposed in this chapter in the County current expense fund to defray costs of collection.

B. The remaining proceeds from City taxes imposed herein shall be distributed to the City on a monthly basis, and shall be placed by the Finance Director in the Land Acquisition, Recreation and Park Development Fund (301), and may be used in conjunction with any project within this fund. Tax proceeds collected pursuant to this chapter may also be placed by the Finance Director into the Public Safety Plan Fund (305) or the City Facilities Fund (306), provided the tax funds placed therein are used only for projects that are a part of the City's Public Safety Plan.

C. This section shall not limit the existing authority of this City to impose special assessments on property benefited thereby in the manner prescribed by law.

D. The City Council shall review the distribution of the tax proceeds three years from the date of the passage of this chapter.

(Ord. 2561 §1, 2017; Ord. 1400 §4, 1986)

3.56.050 Seller's Obligation

The taxes imposed in this chapter are the obligation of the seller and may be enforced through the action of debt against the seller or in the manner prescribed for the foreclosure of mortgages.

(Ord. 1400 §5, 1986)

3.56.060 Lien Provisions

The taxes imposed in this chapter and any interest or penalties thereon are the specific lien upon each piece of real property sold from the time of sale or until the tax is paid, which lien may be enforced in the manner prescribed for the foreclosure of mortgages. Resort to one course of enforcement is not an election not to pursue the other.

(Ord. 1400 §6, 1986)

3.56.070 Notation of Payment

The taxes imposed in this chapter shall be paid to and collected by the treasurer of the county within which is located the real property which was sold. The county treasurer shall act as agent for the City within the county imposing the tax. The county treasurer shall cause a stamp evidencing satisfaction of the lien to be affixed to the instrument of sale or conveyance prior to its recording or to the real estate excise tax affidavit in the case of used mobile home sales. A receipt issued by the county treasurer for the payment of the tax imposed in this chapter shall be evidence of the satisfaction of the lien imposed in TMC 3.56.060, and may be recorded in the manner prescribed for recording satisfactions or mortgages. No instrument of sale or conveyance evidencing a sale subject to the tax may be accepted by the county recorder for filing or recording until the tax is paid and the stamp affixed thereto; in case the tax is not due on the transfer, the instrument shall not be accepted until suitable notation of this is made on the instrument by the county treasurer.

(Ord. 1400 §7, 1986)

3.56.080 Date Payable

The tax imposed under this chapter shall become due and payable immediately at the time of sale and, if not so paid within 30 days thereafter, shall bear interest at the rate of 1% per month from the time of sale until the date of payment.

(Ord. 1400 §8, 1986)

3.56.090 Excessive and Improper Payments

If, upon written application by a taxpayer to the county treasurer for a refund, it appears a tax has been paid in excess of the amount actually due or upon a sale or other transfer declared to be exempt, such excess amount or improper payment shall be refunded by the county treasurer to the taxpayer; provided, that no refund shall be made unless the State has first authorized the refund of an excessive amount or an improper amount paid, unless such improper amount was paid as a result of a miscalculation. Any refund made shall be withheld from the next monthly distribution to the City.

(Ord. 1400 §9, 1986)

CHAPTER 3.60

REAL ESTATE EXCISE TAX – REET 2

Sections:

3.60.010 Imposition of an Additional Real Estate Excise Tax

There is hereby imposed a tax of ¼ of 1% of the selling price on each sale of real property within the corporate limits of this City, pursuant to RCW 82.46.035.

(Ord. 1855 §1, 1999)

3.60.020 Taxable Events

Taxes imposed herein shall be collected from persons who are taxable by the state under Chapter P RCW upon the occurrence of any taxable event within the corporate limits of the City.

(Ord. 1855 §2, 1999)

3.60.030 Consistency with State Tax

The taxes imposed herein shall comply with all applicable rules, regulations, laws and court decisions regarding real estate excise taxes as imposed by the state under Chapter 82.45 RCW. The provisions of this chapter, to the extent it is not inconsistent with TMC Chapter 3.60, shall apply as though fully set forth herein.

(Ord. 1855 §3, 1999)

3.60.040 Distribution of Tax Proceeds and Limiting the Use Thereof

A. The County Treasurer shall place 1% of the proceeds of the taxes imposed herein in the county current expense fund to defray costs of collection.

B. The remaining proceeds from City taxes imposed herein shall be distributed to the City on a monthly basis, and shall be placed by the Finance Director in the appropriate capital or debt service fund which meets the City's existing capital needs.

C. This section shall not limit the existing authority of this City to impose special assessments on property benefited thereby in the manner prescribed by law.

(Ord. 1855 §4, 1999)

3.60.050 Seller's Obligation

The taxes imposed herein are the obligation of the seller and may be enforced through the action of debt against the seller or in the manner prescribed for the foreclosure of mortgages.

(Ord. 1855 §5, 1999)

3.60.060 Lien Provisions

The taxes imposed herein and any interest or penalties thereon are the specific lien upon each piece of real property sold from the time of sale or until the tax is paid, which lien may be enforced in the manner prescribed for the foreclosure of mortgages. Resort to one course of enforcement is not an election not to pursue the other.

(Ord. 1855 §6, 1999)

3.60.070 Notation of Payment

The taxes imposed herein shall be paid to and collected by the Treasurer of the county within which is located the real property which was sold. The County Treasurer shall act as agent for the City within the county imposing the tax. The County Treasurer shall cause a stamp evidencing satisfaction of the lien to be affixed to the instrument of sale or conveyance prior to its recording or to the real estate excise tax affidavit in the case of used mobile home sales. A receipt issued by the County Treasurer for the payment of the tax imposed herein shall be evidence of the satisfaction of the lien imposed in TMC 3.60.060 and may be recorded in the manner prescribed for recording satisfactions or mortgages. No instrument of sale or conveyance evidencing a sale subject to the tax may be accepted by the County Recorder for filing or recording until the tax is paid and the stamp affixed thereto; in case the tax is not due on the transfer the instrument shall not be accepted until suitable notation of this is made on the instrument by the County Treasurer.

(Ord. 1855 §7, 1999)

3.60.080 Date Payable

The tax imposed hereunder shall become due and payable immediately at the time of sale and, if not so paid within thirty days thereafter, shall bear interest at the rate of 1% per month from the time of sale until the date of payment.

(Ord. 1855 §8, 1999)

3.60.090 Excessive and Improper Payments

If, upon written application by a taxpayer to the County Treasurer for a refund, it appears a tax has been paid in excess of the amount actually due or upon a sale or other transfer declared to be exempt, such excess amount or improper payment shall be refunded by the County Treasurer to the taxpayer; PROVIDED, that no refund shall be made unless the state has first authorized the refund of an excessive amount or an improper amount paid, unless such improper amount was paid as a result of a miscalculation. Any refund made shall be withheld from the next monthly distribution to the City.

(Ord. 1855 §9, 1999)

CHAPTER 3.62

NATURAL OR MANUFACTURED GAS USE TAX

Sections:

3.62.010 Use Tax Imposed

There is imposed a use tax for the purposes authorized by Chapter 82, RCW and as specifically authorized by RCW 82.14.230, for the privilege of using natural gas or manufactured gas in the City as a consumer. The use tax is applied to bulk purchases of gas (brokered), which are allowed to be purchased by certain businesses in the State of Washington. The use tax shall be imposed and collected from those consumers from whom the State use tax is collected pursuant to Chapter 82.14 RCW.

(Ord. 2000 §2 (part), 2002)

3.62.020 Rate of Use Tax Imposed

A. The tax shall be imposed in an amount equal to the value of the article used by the taxpayer multiplied by the rate in effect for the tax on the natural gas businesses imposed in Tukwila under RCW 35.21.870 and Tukwila Municipal Code Section 3.62. The "value of the article used" does not include any amounts that are paid for the hire or use of a natural gas business in transporting the gas subject to tax under this chapter, if those amounts are subject to tax under RCW 82.14.230, if those amounts are subject to tax under RCW 35.21.870, and Tukwila Municipal Code Section 3.62.

B. The tax imposed under this section shall not apply to the use of natural or manufactured gas if the person who sold the gas to the consumer has paid a tax under RCW 35.21.870, with respect to the gas for which exemption is sought under RCW 82.14.230.

C. There shall be a credit against the tax levied under this section in an amount equal to any tax paid by:

1. The person who sold the gas to the consumer when that tax is a gross receipts tax similar to that imposed pursuant to RCW 35.21.870 by another state, with respect to the gas for which a credit is sought under RCW 82.14.230; or

2. The person consuming the gas upon which a use tax similar to the tax imposed by RCW 82.14.230 was paid to another state, with respect to the gas for which a credit is sought under RCW 82.14.230.

(Ord. 2000 §2 (part), 2002)

3.62.030 Administration and Collection of Tax

The administration and collection of the tax imposed by this chapter shall be in accordance with the provisions of RCW 82.14.050. The tax imposed shall be paid by the consumer.

(Ord. 2000 §2 (part), 2002)

3.62.040 Consent to Inspection of Records

The City consents to the inspection of such records as are necessary to qualify the City for inspection of records of the Department of Revenue, pursuant to RCW 82.32.330.

(Ord. 2000 §2 (part), 2002)

3.62.050 Authorizing Execution of Contract for Administration

The Finance Director is authorized to enter into a contract with the Department of Revenue for the administration of this tax.

(Ord. 2000 §2 (part), 2002)

3.62.060 Penalties

Any seller who fails or refuses to collect the tax as required with the intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any buyer who refuses to pay any tax due under this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be fined no more than $500.00 or imprisoned for not more than six months, or be punished by both such fine and imprisonment.

(Ord. 2000 §2 (part), 2002)

CHAPTER 3.64

LOCAL IMPROVEMENT GUARANTY FUND

Sections:

3.64.010 Created

In accordance with RCW 35.54, the City establishes and creates a fund for the purpose of guaranteeing, to the extent of such fund, the payment of its bonds and warrants issued to pay for any local improvement ordered in any local improvement districts in the City created subsequent to the effective date of the ordinance codified herein. This fund shall be known and designated as "Local Improvement Guaranty Fund."

(Ord. 323 §1, 1961)

3.64.020 Tax Levy

There shall be levied, from time to time as other taxes are levied, such sums as may be necessary to meet the financial requirements of the Local Improvement Guaranty Fund created in this chapter; and wherever the City has paid out of this Guaranty Fund any sum on account for principal and interest on a local improvement bond or warrant hereunder guaranteed, the City, as trustee for such Fund, shall be subrogated to all the rights of the holder of the bond, interest coupon, or warrant so paid; and the proceeds thereof, or of the underlying assessments, shall become a part of the Fund.

(Ord. 323 §2, 1961)

3.64.030 Payment of Defaulted Bond, Coupon or Warrant

Whenever any interest coupon, bond or warrant guaranteed under the provisions of the laws of the State in pursuance of which the ordinance codified herein is passed shall be in default, the City Clerk shall be and is authorized and directed, upon the presentation and delivery of the defaulted bond, coupon or warrant, to execute, sign and deliver to the person or persons presenting the same, in the order of their presentation; and the treasurer shall honor and pay a warrant on the Local Improvement Guaranty Fund in such amount as may be necessary to pay in full any such coupon, bond or warrant with any interest that may be due thereon. Any defaulted coupon, bond or warrant received by the City Clerk under the provisions of this chapter shall be held for the benefit of the Local Improvement Guaranty Fund.

(Ord. 323 §3, 1961)

3.64.040 Interest – Balance Establishment

Warrants drawing interest at a rate not to exceed 6% shall be issued, as other warrants are issued by the City against the Local Improvement Guaranty Fund, to meet any liability accruing against it; and for the purpose of maintaining such Fund the City shall, at the time of making its annual budget and tax levy, provide for the levying of a sum sufficient, with the other resources of the Fund, to pay warrants so issued during the preceding fiscal year, and to establish such balance therein as the City Council may, from time to time, determine to maintain therein; provided, that the levy in any one year shall not exceed 5% of the outstanding obligations guaranteed by the Fund.

(Ord. 323 §4, 1961)

3.64.050 Interest from Bank Deposits – LID Fund Surplus

The City Treasurer is authorized and directed to pay into the Local Improvement Guaranty Fund all interest received from bank deposits of the fund, as well as any surplus remaining in any local improvement district fund guaranteed under said State laws after the payment of all outstanding bonds or warrants payable primarily out of the local improvement district fund.

(Ord. 323 §5, 1961)

3.64.060 Liability

Neither the owner nor the holder of any bond, interest coupon, or warrant issued against a local improvement fund after May 1, 1961 shall have any claim therefor against the City, except for payment from the special assessments made for the improvement for which the bond or warrant was issued, and except as against the Local Improvement Guaranty Fund created in this chapter; and the City shall not be liable to any holder or owner of such bond, interest coupon, or warrant for any loss to the Guaranty Fund occurring in the lawful operation thereof by the City. The remedy of the holder or owner of a bond or warrant in case of nonpayment shall be confined to the enforcement of the assessment and to the Guaranty Fund. A copy of RCW 35.45.070, the provisions of which are included in this section, shall be plainly written, printed or engraved on each bond issued and guaranteed hereunder.

(Ord. 323 §6, 1961)

CHAPTER 3.68
BOND REGISTRATION

Sections:

3.68.010 Findings

The City Council finds that it is in the City's best interest to establish a system of registering the ownership of the City's bonds and obligations in the manner permitted by law.

(Ord. 1338 §2, 1984)

3.68.020 Definitions

The following words shall have the following meanings when used in this chapter:

1. "*Bond*" or "*bonds*" shall have the meaning defined in section 2(1), chapter 167, Laws of 1983, as the same may be from time to time amended.

2. "*City*" means the City of Tukwila, Washington.

3. "*Fiscal agencies*" means the duly appointed fiscal agencies of the State of Washington serving as such at any given time.

4. "*Obligation*" or "*obligations*" shall have the meaning defined in section 2(3), chapter 167, Laws of 1983, as the same from time to time may be amended.

5. "*Registrar*" is the person or persons designated by the City to register ownership of bonds or obligations under this chapter.

(Ord. 1338 §1, 1984)

3.68.030 Registration System – Adopted

The City adopts the following system of registering the ownership of its bonds and obligations:

1. *Registration Requirement* – All bonds and obligations offered to the public, having a maturity of more than one year and issued by the City after June 30, 1983, on which the interest is intended to be exempt from federal income taxation, shall be registered as to both principal and interest as provided in this chapter.

2. *Method of Registration* – The registration of all City bonds and obligations required to be registered shall be carried out either by:

a. A book entry system of recording the ownership of the bond or obligation on the books of the City or the fiscal agencies, whether or not a physical instrument is issued; or

b. By recording the ownership of the bond or obligation and requiring as a condition of the transfer of ownership of any bond or obligation the surrender of the old bond or obligation and either the reissuance of the old bond or obligation or the issuance of a new bond or obligation to the new owners.

No transfer of any bond or obligation subject to registration requirements shall be effective until the name of the new owner and the new owner's mailing address, together with such other information deemed appropriate by the registrar, shall be recorded on the books of the registrar.

3. *Denominations* – Except as may be provided otherwise by the ordinance authorizing their issuance, registered bonds or obligations may be issued and reissued in any denomination up to the outstanding principal amount of the bonds or obligations of which they are a part. Such denominations may represent all or a part of a maturity or several maturities and on reissuance may be in smaller amounts than the individual denominations for which they are reissued.

4. *Appointment of Registrar* – Unless otherwise provided in the ordinance authorizing the issuance of registered bonds or obligations, the City Finance Director shall be the registrar for all registered interest-bearing warrants, installment contracts, interest-bearing leases and other registered bonds or obligations not usually subject to trading, and the fiscal agencies shall be the registrar for all other City bonds and obligations.

5. *Duties of Registrar*

a. The registrar shall serve as the City's authenticating trustee, transfer agent, registrar and paying agent for all registered bonds and obligations for which he, she, or the finance institution serves as registrar, and shall comply fully with all applicable federal and State laws and regulations respecting the carrying out of those duties.

b. The rights, duties, responsibilities and compensation of the registrar shall be prescribed in each ordinance authorizing the issuance of the bonds or obligations, which rights, duties, responsibilities and compensation shall be embodied in a contract executed by the Mayor and the registrar, except in instances where the fiscal agencies serve as registrar, the City adopts by reference the contract between the State Finance Committee of the State of Washington and the fiscal agencies in lieu of executing a separate contract and prescribing by ordinance the rights, duties, obligations and compensation of the registrar. When the Finance Director serves as registrar, a separate contract shall not be required.

c. In all cases when the registrar is not the fiscal agencies and the obligation is assignable, the ordinance authorizing the issuance of the registered bonds or obligations shall specify the terms and conditions of:

(1) Making payments of principal and interest;

(2) Printing any physical instruments, including the use of identifying numbers or other designation;

(3) Specifying record and payment dates;

(4) Determining denominations;

(5) Establishing the manner of communicating with the owners of the bonds or obligations;

(6) Establishing the methods of receipting for the physical instruments for payment of principal, the destruction of such instruments and the certification of such destruction;

(7) Registering or releasing security interests, if any; and

(8) Such other matters pertaining to the registration of the bonds or obligations authorized by such ordinance as the City may deem to be necessary or appropriate.

(Ord. 1338 §3, 1984)

3.68.040 Statement of Transfer Restrictions

Any physical instrument issued or executed by the City subject to registration under this chapter shall state on its face that the principal of and interest on the bonds or obligations shall be paid only to the owner thereof registered as such on the books of the registrar as of the record date defined in the instrument and to no other person, and that such instrument, either principal or interest, may not be assigned except on the books of the registrar.

(Ord. 1338 §4, 1984)

CHAPTER 3.72

BUILDING AND LAND ACQUISITION FUND

Sections:

3.72.010 Created

There is created within the City a fund to be known as the "Building and Land Acquisition Fund."

(Ord. 654 §1, 1970)

3.72.020 Budgeting or Accounting Entity

The Fund shall be the budgeting or accounting entity authorized for the specific activities and purposes mentioned in TMC 3.72.030.

(Ord. 654 §2, 1970)

3.72.030 Activities – Purposes

The specific activities and purposes of the Fund are for the acquisition of land; the development of lands; the construction of buildings and structures other than buildings all for municipal purposes as determined by the City Council.

(Ord. 654 §3, 1970)

CHAPTER 3.76

WATER SYSTEM CUMULATIVE RESERVE FUND

Sections:

3.76.010 Established

There is established within the City a Cumulative Reserve Fund for the renewal and replacement of existing plant and equipment for the existing water system.

(Ord. 1192 §1, 1980)

3.76.020 Accumulation and Expenditure of Moneys

The moneys in this Fund shall be accumulated and expenditures of these funds shall be determined and approved by the City Council.

(Ord. 1192 §2, 1980)

3.76.030 Moneys to be Budgeted by City

This Fund shall accumulate moneys as budgeted by the City.

(Ord. 1192 §3, 1980)

CHAPTER 3.80

EQUIPMENT RENTAL AND REPLACEMENT FUND

Sections:

3.80.010 Established

The fund is to be known as the Equipment Rental and Replacement (ER&R) Fund, pursuant to RCW 35.21.088, for the purpose of operations, supplies, repairs, maintenance, and replacement of the City's vehicles and related equipment.

(Ord. 2427 §2, 2013)

3.80.020 Purpose of Fund

The purpose of the Equipment Rental and Replacement Fund shall be for the control, operation, and maintenance of the City's fleet equipment, and for the rental of such equipment to the various City departments at rates sufficient to meet the costs of operation and to provide funds for acquisition and replacement of covered equipment. Equipment in the ER&R Fund must have a replacement value of at least $5,000. All City vehicles will be included, as well as other equipment that meets the value threshold and requires maintenance by the Public Works Department's Fleet Division.

(Ord. 2427 §3, 2013)

3.80.030 Sources of Revenue

A. The Equipment Rental and Replacement Fund shall obtain its funding by any of the following:

1. Direct appropriation in the biennial budget;
2. Budget transfer made by ordinance from other funds of the City;
3. From proceeds received from the rental of any equipment owned by the fund to other departments, offices, or funds of the City. This shall include transfers from other funds or direct payment of amounts received for the use of such equipment on reimbursable projects performed by the City;
4. From the sale of any equipment in the ER&R Fund.

B. The funds included in the Equipment Rental Fund for the origination of the system were detailed in City of Tukwila Ordinance No. 1309, as well as calculations related to valuations of the existing equipment at the time of the creation of the Equipment Rental Fund.

(Ord. 2427 §4, 2013)

3.80.040 Rental Rates

A. The administrator of the ER&R Fund or designee shall establish a schedule of reasonable rental rates and other charges sufficient to cover the maintenance, operation, and replacement of the equipment. The rates shall take into consideration the costs of operating supplies, maintenance expenses, insurance, depreciation, and other direct and indirect costs. There shall be a contingency for the purpose of adding additional equipment and replacement of old equipment, including shop and administrative equipment and other items that may be reasonable or necessary in the operation of the ER&R Fund.

B. The annual equipment replacement charge will be determined by dividing estimated years of life into the estimated purchase price and charging the home unit on a monthly basis. Shared equipment may be charged on a pro rata share basis.

C. Replacement exceptions occur when the replacement item is over 10 percent of the estimated cost. The home unit is then responsible to fund the difference or, if an addition to the fleet is proposed, the home unit will fund the entire initial purchase. Departments will also have the ability to set aside funds for future purchases, enhancing the ability to plan for additional capital equipment fleet requirements. These processes will be accomplished through the ER&R transfer procedures.

(Ord. 2427 §5, 2013)

3.80.050 Administration

The Public Works Department will maintain the assigned equipment and provide the detailed records for the equipment replacement plan. All labor, materials, repairs, replacements and other costs will flow through this system and provide the basis for reporting. In addition, because this is a proprietary fund, it will be maintained in a manner similar to the Water and Sewer Funds. Reconciliation with the Finance Department will occur annually by the last day of February, following the close of the fiscal year.

(Ord. 2427 §6, 2013)

3.80.060 Reporting and Review

An equipment replacement plan will be approved in each adopted budget. Criteria for replacement will vary depending on fleet management best practices, type of equipment, and meeting the operational needs of the home unit.

(Ord. 2427 §7, 2013)

CHAPTER 3.84
FEDERAL SHARED REVENUE FUND

Sections:

3.84.010 Established

There is hereby created and established a special fund No. 199, to be designated as the "Federal Shared Revenue Fund," into which fund entitlements received from federal revenue sharing disbursements shall be placed, and from which disbursements and transfers to City departments shall be made in accordance with federal statutes, Treasury Department regulations, and Division of Municipal Corporation directives.

(Ord. 754 §1, 1973)

CHAPTER 3.90

MULTI-FAMILY RESIDENTIAL PROPERTY TAX EXEMPTION

Sections:

3.90.010 Purpose

The purposes of this chapter are:

1. To encourage increased residential opportunities, including affordable housing opportunities, and to stimulate the construction of new multi-family housing within the Southcenter area.

2. To accomplish the planning goals required under the Washington State Growth Management Act, chapter 36.70A RCW, and the King County Countywide Planning Policies as implemented by the City's Comprehensive Plan.

(Ord. 2707 §2, 2023; Ord. 2462 §3, 2014)

3.90.020 Definitions

A. "Administrator" shall mean the Economic Development Administrator of the City of Tukwila or his/her designee.

B. "Affordable housing" means residential housing that is rented by a person or household whose monthly housing costs, including utilities other than telephone, do not exceed 30 percent of the household's monthly income. For the purposes of housing intended for owner occupancy, "affordable housing" means residential housing that is within the means of low- or moderate-income households.

C. "Household" means a single person, family, or unrelated persons living together.

D. "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below 80 percent of the median family income, adjusted for family size, for the county where the project is located, as reported by the United States Department of Housing and Urban Development.

E. "Moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is more than 80 percent but is at or below 115 percent of the median family income, adjusted for family size, for the county where the project is located, as reported by the United States Department of Housing and Urban Development.

F. "Multi-family housing" means a building having four or more dwelling units not designed or used as transient accommodations and not including hotels and motels. Multi-family units may result from new construction or rehabilitation or conversion of vacant, underutilized, or substandard buildings to multi-family housing.

G. "Owner" means the property owner of record.

H. "Owner occupied" means a residential unit that is rented for fewer than 30 days per calendar year.

I. "Permanent residential occupancy" means multi-family housing that is either owner occupied or rented for periods of at least one month.

J. "Residential targeted area" means the area within the boundary as designated by TMC Section 3.90.030.

K. "Urban Center" means a compact, identifiable district where urban residents may obtain a variety of products and services. An urban center must contain:

1. Several existing or previous, or both, business establishments that may include but are not limited to shops, offices, banks, restaurants, governmental agencies;

2. Adequate public facilities including streets, sidewalks, lighting, transit, domestic water, and sanitary sewer systems; and

3. A mixture of uses and activities that may include housing, recreation, and cultural activities in association with either commercial or office or both uses.

(Ord. 2707 §3, 2023; Ord. 2462 §4, 2014)

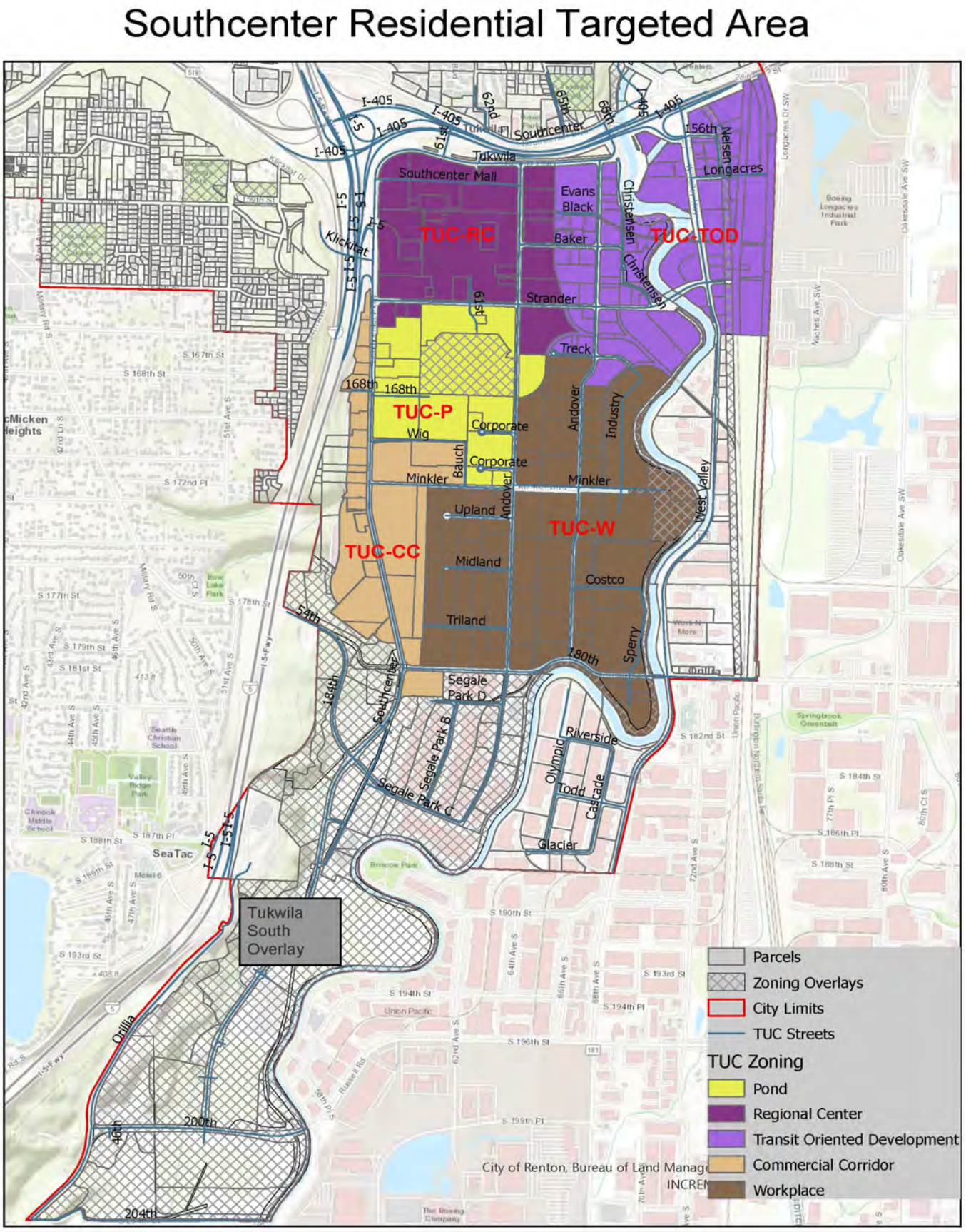
3.90.030 Residential Targeted Area — Criteria — Designation — Recession

A. The boundararies of the residential targeted area are the Tukwila Urban Center zone and the Tukwila South Overlay zone, as shown in ***Figure 3-1***.

B. If a part of any legal lot is within the residential targeted area, then the entire lot shall be deemed to lie within such residential targeted area.

(Ord. 2707 §4, 2023; Ord. 2462 §5, 2014)

Figure 3-1: Map of Targeted Residential Area



3.90.040 Tax Exemption for Multi-Family Housing in Residential Targeted Areas Authorized

A. **Duration of Exemption**. The value of improvements qualifying under this chapter will be exempt from ad valorem property taxation, as follows:

1. For 8 successive years beginning January 1 of the year immediately following the calendar year of issuance of the certificate of tax exemption; or

2. For 12 successive years beginning January 1 of the year immediately following the calendar year of issuance of the certificate of tax exemption, if the property otherwise qualifies for the exemption under Chapter 84.14 RCW and meets the conditions in this subsection. For the property to qualify for the 12-year exemption under this subsection, the applicant must commit to renting or selling at least 20 percent of the multi-family housing units as affordable housing units to low- and moderate-income households. In the case of the projects intended exclusively for owner occupancy, the minimum requirement of this subsection may be satisfied solely through housing affordable to moderate-income households.

B. **Limits of Exemption**.

1. The property tax exemption does not apply to the value of land or to the value of non-housing-related improvements not qualifying under RCW 84.14.

2. This chapter does not apply to increases in assessed valuation made by the assessor on non-qualifying portions of building and value of land, nor to increases made by lawful order of the King County Board of Equalization, the Department of Revenue, or King County, to a class of property throughout the county or specific area of the county to achieve uniformity of assessment of appraisal required by law.

3. The property tax exemption only applies to the value of improvements used for permanent residential occupancy.

(Ord. 2462 §6, 2014)

3.90.050 Project Eligibility

A. To be eligible for exemption from property taxation under this chapter, the residential units must satisfy all of the following criteria:

1. The units must be located in the residential targeted area.

2. The units must be within a residential or mixed-use structure containing at least four dwelling units.

3. The units must have an average size of at least 500 square feet per unit.

4. A minimum of 15 percent of the units must be at least 900 square feet and contain at least two bedrooms.

5. The units must be designed and used for permanent residential occupancy made available to residents of all ages to promote workforce housing.

6. Each unit must have its own private bathroom and private kitchen. Residential projects that utilize common kitchens and/or common bathrooms are not eligible.

7. The entire property shall comply with all applicable zoning requirements, land use regulations, environmental requirements, building codes and fire code requirements, as outlined in the Tukwila Municipal Code.

8. The units must be constructed and receive a certificate of occupancy after this ordinance takes effect

9. The units must be completed within 3 years from the date of issuance of the conditional certificate of acceptance of tax exemption by the City, or within authorized extension of this time limit.

B. In addition to the requirements listed in TMC Section 3.90.050 (A), residential units that request the 12-year property tax exemption, as permitted by TMC Section 3.90.040 (A)(2), must also satisfy the following requirements:

1. The mix and configuration of housing units (e.g., studio, one-bedroom, two-bedroom, etc.) used to meet the requirement for affordable units under TMC Section 3.90.050 shall be substantially proportional to the mix and configuration of the total housing units in the project.

2. For owner-occupied projects, the contract with the City required under TMC Section 3.90.070 shall identify which units meet the affordability criteria..

(Ord. 2665 §1, 2021; Ord. 2462 §7, 2014)

3.90.060 Application Procedure — Fee

A. The owner of property applying for exemption under this chapter shall submit an application to the Administrator, on a form established by the Administrator. The owner shall verify the contents of the application by oath or affirmation. The application shall contain the following information:

1. A brief written description of the project, including phasing if applicable, that states which units are proposed for the exemption and whether the request is for 8 or 12 years.

2. Preliminary schematic site and floor plans of the multi-family units and the structure(s) in which they are proposed to be located.

3. A table of all units in the project listing unit number, square footage, unit type (studio, one bedroom, etc.), and indicating those proposed for the exemption.

4. If applicable, information describing how the applicant will comply with the affordability requirements in TMC Sections 3.90.040 and 3.90.050.

5. A statement from the owner acknowledging the potential tax liability when the property ceases to be eligible for exemption under this chapter.

6. Any other information deemed necessary or useful by the Administrator.

B. At the time of application under this section, the applicant shall pay to the City an initial application fee of $1,000 or as otherwise established by ordinance or resolution. If the application is denied, the City may retain that portion of the application fee attributable to its own administrative costs and refund the balance to the applicant.

C. The complete application shall be submitted any time before, but no later than, the date the certificate of occupancy is issued under Title 16 of the Tukwila Municipal Code.

D. The City will no longer accept applications after December 31, 2028, or if the total number of proposed units in pending and approved applications exceeds 800.

(Ord. 2707 §5, 2023;Ord. 2665 §2, 2021; Ord. 2538 §1, 2017; Ord. 2462 §8, 2014)

3.90.070 Application Review — Issuance of Conditional Certificate — Denial — Appeal

A. The Administrator shall approve or deny an application under this chapter within 90 days of receipt of the complete application. The Administrator shall use the criteria listed in TMC Chapter 3.90 and Chapter 84.14 RCW to review the proposed application. If the application is approved, the owner shall enter into a contract with the City regarding the terms and conditions of the project and eligibility for exemption under this Chapter. The Mayor shall be the authorized signatory to enter into the contract on behalf of the City. Following execution of the contract, the Administrator shall issue a conditional certificate of acceptance of tax exemption. The certificate must contain a statement by the Administrator that the property has complied with the required finding indicated in RCW 84.14.060. The conditional certificate shall expire 18 months from the date of approval if the applicant has not submitted a complete building permit application (as determined by the City) and shall expire 3 years from the date of approval unless an extension is granted as provided in this chapter.

B. If the application is denied, the Administrator shall issue a Notice of Denial stating in writing the reasons for the denial and send the Notice of Denial to the applicant's last known address within 10 days of the denial.

C. An applicant may appeal the Administrator's notice of denial of the application to the City Council by filing a notice of appeal with the City Clerk within 30 days of receipt of the Administrator's notice of denial and paying a fee of $500 or as otherwise established by ordinance or resolution. The appellant shall provide a statement regarding the basis for the appeal. The closed record appeal before the City Council shall be based upon the record before the Administrator, and the Administrator's decision shall be upheld unless the applicant can show that there is no substantial evidence on the record to support the Administrator's decision. The City Council decision on appeal is final.

(Ord. 2707 §6, 2023; Ord. 2462 §9, 2014)

3.90.080 Extension of Conditional Certificate

The conditional certificate may be extended by the Administrator for a period not to exceed 24 consecutive months. The applicant shall submit a written request stating the grounds for the extension, together with a fee as established by ordinance or resolution. The Administrator may grant an extension if the Administrator determines that:

1. The anticipated failure to complete construction or rehabilitation within the required time period is due to circumstances beyond the control of the owner;
2. The owner has been acting and could reasonably be expected to continue to act in good faith and with due diligence; and
3. All the conditions of the original contract between the owner and the City will be satisfied upon completion of the project.

(Ord. 2462 §10, 2014)

3.90.090 Final Certificate — Application — Issuance — Denial — Appeal

A. After completion of construction as provided in the contract between the owner and the City, after issuance of a certificate of occupancy and prior to expiration of the conditional certificate of exemption, the applicant may request a final certificate of tax exemption. The applicant shall file with the Administrator such information as the Administrator may deem necessary or useful to evaluate eligibility for the final certificate, and shall include:

1. A statement of expenditures made with respect to each multi-family housing unit, including phasing if applicable, and the total expenditures made with respect to the entire property.
2. A description of the completed work and a statement of qualification for the exemption.
3. A statement that the work was completed within the required 3-year period or any approved extension.
4. If applicable, information on the applicant's compliance with the affordability requirements in TMC Sections 3.90.040 and 3.90.050.

B. Within 30 days of receipt of all materials required for a final certificate, the Administrator shall determine whether the completed work is consistent with the application and contract approved by the Mayor and is qualified for limited exemption under Chapter 84.14 RCW, and which specific improvements completed meet the requirements of this chapter and the required findings of RCW 84.14.060.

C. If the Administrator determines that the project has been completed in accordance with TMC Section 3.90.090 (A), the City shall file a final certificate of tax exemption with the assessor within 10 days of the expiration of the 30-day period provided under TMC Section 3.90.090 (B).

D. The Administrator is authorized to cause to be recorded, or to require the applicant or owner to record, in the real property records of the King County Department of Records and Elections, the contract with the City required under TMC Section 3.90.070 and such other document(s) as will identify such terms and

conditions of eligibility for exemption under this chapter as the Administrator deems appropriate for recording, including requirements under this chapter relating to affordability of units.

E. The Administrator shall notify the applicant in writing that the City will not file a final certificate if the Administrator determines that the project was not completed within the required 3-year period or any approved extension, or was not completed in accordance with TMC Section 3.90.090 (B); or if the Administrator determines that the owner's property is not otherwise qualified under this chapter or if the owner and the Administrator cannot agree on the allocation of the value of the improvements allocated to the exempt portion of rehabilitation improvements, new construction and multi-use new construction.

F. The applicant may appeal the City's decision to not file a final certificate of tax exemption to the City's Hearing Examiner within 30 days of issuance of the Administrator's notice as outlined in TMC Section 3.90.110.

(Ord. 2462 §11, 2014)

3.90.100 Annual Certification

A. A residential unit or units that receive a tax exemption under this chapter shall continue to comply with the contract and the requirements of this chapter in order to retain its property tax exemption.

B. Within 30 days after the first anniversary of the date the City filed the final certificate of tax exemption and each year for the tax exemption period, the property owner shall file a certification with the Administrator, verified upon oath or affirmation, which shall contain such information as the Administrator may deem necessary or useful, and shall include the following information:

1. A statement of occupancy and vacancy of the multi-family units during the previous year.

2. A certification that the property has not changed use since the date of filing of the final certificate of tax exemption and continues to be in compliance with the contract with the City and the requirements of this chapter.

3. A description of any improvements or changes to the property made after the filing of the final certificate or last declaration, as applicable.

4. If applicable, information demonstrating the owner's compliance with the affordability requirements of TMC Sections 3.90.040 and 3.90.050, including:

a. The total monthly rent or total sale amount of each unit; and

b. The income of each renter household at the time of initial occupancy and the income of each initial purchaser of owner-occupied units at the time of purchase for each of the units receiving a tax exemption.

5. The value of the tax exemption for the project.

6. Any additional information requested by the City in regard to the units receiving a tax exemption (pursuant to meeting any reporting requirements under Chapter 84.14 RCW).

C. Failure to submit the annual declaration may result in cancellation of the tax exemption pursuant to this section.

D. For the duration of the exemption granted under this chapter, the property shall have no violation of applicable zoning requirements, land use regulations, building codes, fire codes, and housing codes contained in the Tukwila Municipal Code for which the designated City department shall have issued a Notice and Order and that is not resolved within the time period for compliance provided in such Notice and Order.

E. For owner-occupied affordable units, in addition to any other requirements in this Chapter, the affordable owner-occupied units must continue to meet the income eligibility requirements of TMC Section 3.90.040. In the event of a sale of an affordable owner-occupied unit to a household other than an eligible household, or at a price greater than prescribed in the contract referenced in TMC Section 3.90.070, the property tax exemption for that affordable owner-occupied unit shall be canceled pursuant to this section.

F. For property with renter-occupied dwelling units, in addition to any other requirements in this chapter, the affordable renter-occupied units must continue to meet the income eligibility requirements of TMC Section 3.90.040. In the event of a rental of an affordable renter-occupied unit to a household other than an eligible household, or at a rent greater than prescribed in the contract referenced in TMC Section 3.90.040, the property tax exemption for the property shall be canceled pursuant to this section.

G. If the owner converts the multi-family housing to another use, the owner shall notify the Administrator and the County Assessor within 60 days of the change in use. Upon such change in use, the tax exemption shall be canceled pursuant to this section.

H. The Administrator shall cancel the tax exemption for any property or individual unit that no longer complies with the terms of the contract or with the requirements of this chapter. Upon cancellation, additional taxes, interest and penalties shall be imposed pursuant to state law. Upon determining that a tax exemption shall be canceled, the Administrator shall notify the property owner by certified mail, return receipt requested. The property owner may appeal the determination by filing a notice of appeal within 30 days of the date of notice of cancellation, specifying the factual and legal basis for the appeal. The appeal shall be heard by the Hearing Examiner pursuant to TMC Section 3.90.110.

(Ord. 2462 §12, 2014)

3.90.110 Appeals to the Hearing Examiner

A. The City's Hearing Examiner is provided jurisdiction to hear appeals of the decisions of the Administrator to deny issuance of a final certificate of tax exemption or cancel tax exempt status. All appeals shall be closed record and based on the information provided to the Administrator when the administrative decision was made.

B. The Hearing Examiner's procedures, as adopted by City Council resolution, shall apply to hearings under this chapter to the extent they are consistent with the requirements of this chapter and Chapter 84.14 RCW. The Hearing Examiner shall give substantial weight to the Administrator's decision and the burden of proof shall be on the appellant. The decision of the Hearing Examiner constitutes the final decision of the City. An aggrieved party may appeal the decision to Superior Court under RCW 34.05.510 through 34.05.598 if the appeal is properly filed within 30 days of the date of the notification by the City to the appellant of that decision.

(Ord. 2462 §13, 2014)

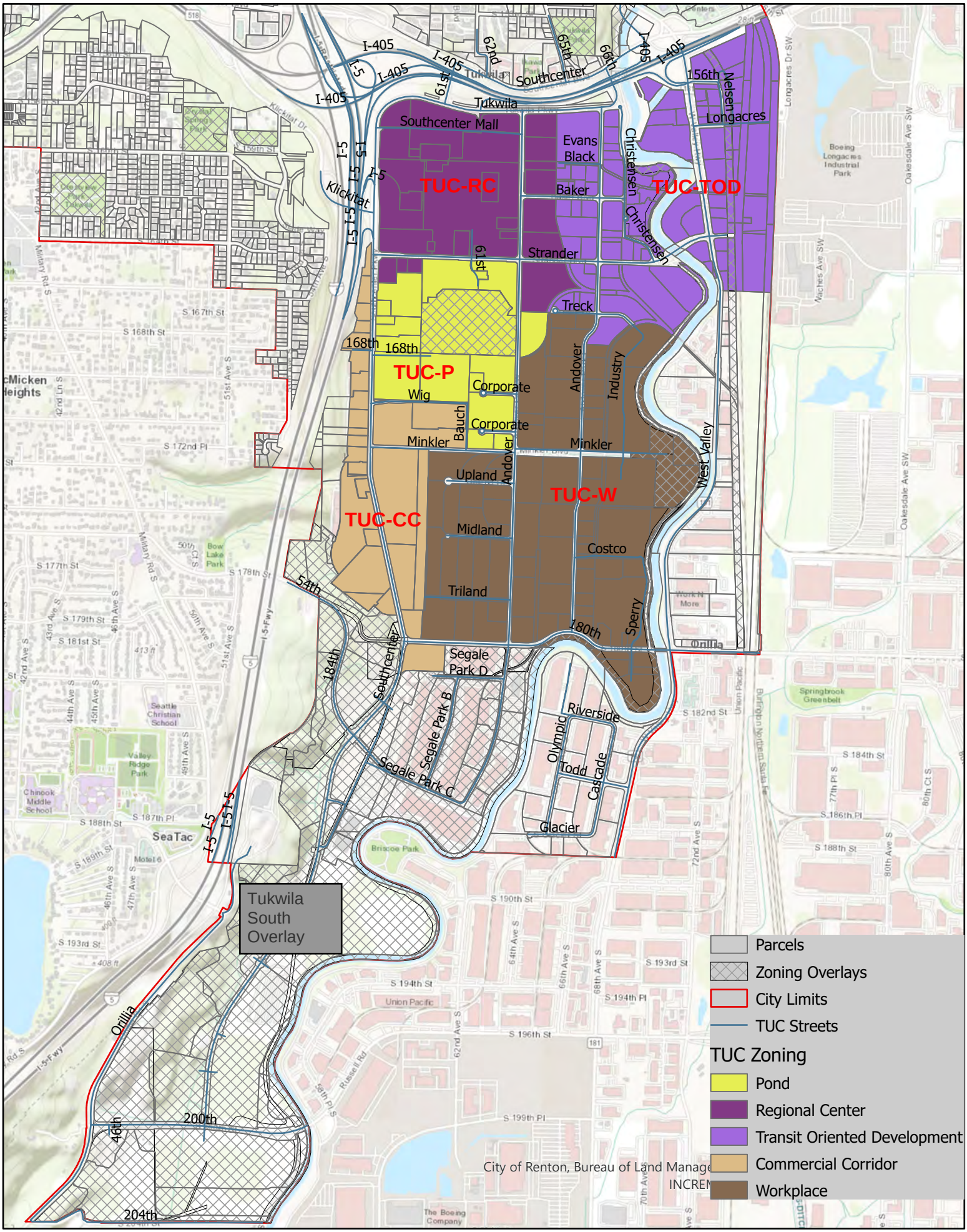
3.90.120 Reporting

The Administrator shall maintain a list of all pending and approved applications and shall notify the City Council: (1) each time the list is updated; and (2) at least six months prior to the time limit established in TMC Section 3.90.060.D.

(Ord. 2707 §7, 2023)

Return to Title

Southcenter Residential Targeted Area



TITLE 5

BUSINESS LICENSES AND REGULATIONS

Chapters:

CHAPTER 5.04
LICENSES GENERALLY

Sections:

5.04.010 Definitions

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

1. "Business," means and includes all activities, occupations, trades, pursuits, or professions located or engaged within the City that involves the manufacturing or processing of materials of any type; the sale of goods, wares or merchandise; the rendition of services or the repair of goods, wares or merchandise for any consideration to the person engaging in the same or to any other person or class, directly or indirectly, whether or not an office or physical location for the business lies within the City limits.

2. "Department," means Finance Department.

3. "Director," means the Finance Director or his or her designee.

4. "Engaging in business" means commencing, conducting, or continuing in business, and also the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.

a. This section sets forth examples of activities that constitute engaging in business in the City, and establishes safe harbors for certain of those activities so that a person who meets the criteria may engage in de minimus business activities in the City without having to pay a business license fee. The activities listed in this section are illustrative only and are not intended to narrow the definition of "engaging in business" as defined above. If an activity is not listed, whether it constitutes engaging in business in the City shall be determined by considering all the facts and circumstances and applicable law.

b. Without being all inclusive, any one of the following activities conducted within the City by a person, or its employee, agent, representative, independent contractor, broker or another acting on its behalf constitutes engaging in business and requires a person to register and obtain a business license:

(1) Owning, renting, leasing, maintaining, or having the right to use, or using, tangible personal property, intangible personal property, or real property permanently or temporarily located in the City.

(2) Owning, renting, leasing, using, or maintaining, an office, place of business, or other establishment in the City.

(3) Soliciting sales.

(4) Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance.

(5) Providing technical assistance or service, including quality control, product inspections, warranty work, or similar services on or in connection with tangible personal property sold by the person or on its behalf.

(6) Installing, constructing, or supervising installation or construction of, real or tangible personal property.

(7) Soliciting, negotiating, or approving franchise, license, or other similar agreements.

(8) Collecting current or delinquent accounts.

(9) Picking up and transporting tangible personal property, solid waste, construction debris, or excavated materials.

(10) Providing disinfecting and pest control services, employment and labor pool services, home nursing care, janitorial services, appraising, landscape architectural services, security system services, surveying, and real estate services including the listing of homes and managing real property.

(11) Rendering professional services such as those provided by accountants, architects, attorneys, auctioneers, consultants, engineers, professional athletes, barbers, baseball clubs and other sports organizations, chemists, consultants, psychologists, court reporters, dentists, doctors, detectives, laboratory operators, teachers, veterinarians.

(12) Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings.

(13) Training or recruiting agents, representatives, independent contractors, brokers or others, domiciled or operating on a job in the City, acting on its behalf, or for customers or potential customers.

(14) Investigating, resolving, or otherwise assisting in resolving customer complaints.

(15) In-store stocking or manipulating products or goods, sold to and owned by a customer, regardless of where sale and delivery of the goods took place.

(16) Delivering goods in vehicles owned, rented, leased, used, or maintained by the person or another acting on its behalf.

c. If a person, or its employee, agent, representative, independent contractor, broker or another acting on the person's behalf, engages in no other activities in or with the City but the following, it need not register and obtain a business license.

(1) Meeting with suppliers of goods and services as a customer.

(2) Meeting with government representatives in their official capacity, other than those performing contracting or purchasing functions.

(3) Attending meetings, such as board meetings, retreats, seminars, and conferences, or other meetings wherein the person does not provide training in connection with tangible personal property sold by the person or on its behalf. This provision does not apply to any board of director member or attendee engaging in business such as a member of a board of directors who attends a board meeting.

(4) Renting tangible or intangible property as a customer when the property is not used in the City.

(5) Attending, but not participating in a "trade show" or "multiple vendor events". Persons participating at a trade show shall review the City's trade show or multiple vendor event ordinances.

(6) Conducting advertising through the mail.

(7) Soliciting sales by phone from a location outside the City.

d. A seller located outside the City merely delivering goods into the City by means of common carrier is not required to register and obtain a business license, provided that it engages in no other business activities in the City. Such activities do not include those in subsection 5.04.010(4)(c).

e. The City expressly intends that engaging in business include any activity sufficient to establish nexus for purposes of applying the license fee under the law and the constitutions of the United States and the State of Washington. Nexus is presumed to continue as long as the taxpayer benefits from the activity that constituted the original nexus generating contact or subsequent contacts.

5. "License or licensee," as used generally in this chapter, means and includes respectively the words "permit" or "permittee" or the holder for any use or period of time of any similar privilege, wherever relevant to any provision of this chapter or other law or ordinance.

6. "Nonprofit organization" includes individual person(s), partnerships, joint ventures, societies, associations, churches, clubs, trustees, trusts or corporations; or any officers, agents, employees, factors or any kind of personal representatives of any thereof, in any capacity, acting either for himself or any other person under either personal appointment or pursuant to law who qualifies under definition of and certification by the Internal Revenue Service as nonprofit.

7. "Person," means any individual, receiver, agent, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, company, joint stock company, business trust, corporation, society, or group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.

8. "Person engaged in business" means the owner or one primarily beneficially interested in lawful business for profit and not employees.

9. "Home occupation" means any business conducted in a residence within the corporate city limits of Tukwila, such business being subject to the requirements set forth in TMC Chapter 18.06, "Definitions," in the section entitled "Home Occupation."

10. "Employee" means and includes each of the following persons who are not required by the City to have his/her/its own separate City of Tukwila business license:

a. Any person employed at any business who performs any part of their duties within the City of Tukwila or reports from a location within the City's corporate limits; and

b. Any person who is on the business's payroll, and includes all full-time, part-time, and temporary employees or workers; and

c. Owners, officers, managers, and partners; and

d. Any other person who performs work, services or labor at the business including, but not limited to, family members, regardless of whether they receive a wage from the business.

e. Self-employed persons, sole proprietors, owners, officers, managers, and partners; and

f. Any other person who performs work, services or labor at the business, including an independent contractor who may be exempt from requirements to have a separate City of Tukwila business license.

Employee is a unit of measure used to determine the Business License fee.

(Ord. 2588 §2, 2018; Ord. 2544, §2, 2017; Ord. 2496 §1, 2016; Ord. 2381 §1, 2012; Ord. 2356 §1, 2011; Ord. 2333 §1, 2011; Ord. 2315 §1 (part), 2010)

5.04.012 Purpose

The purpose of this chapter is to regulate and insure the legal conduct of businesses, assist in the effective administration of health, fire, building, zoning and other codes of the City, to impose fees for revenue purposes, and to provide a means for obtaining public information and compiling statistical information on existing and new businesses in the City.

(Ord. 2315 §1 (part), 2010)

5.04.015 Business License Required

A. No person or persons shall conduct, maintain, operate, or engage in any business within the City without first applying for and obtaining a business license, or renewing an existing license, and paying the fee(s) as prescribed herein, unless exempted in this chapter. All businesses operating or engaging in business within the City are required to submit a business license application or renewal, as appropriate, unless exempted in this chapter.

B. This license shall be in addition to any other licenses or permits required by any other section of this code or by State or Federal laws.

C. Business licenses are nontransferable and a separate business license shall be obtained for each location at which a business operates. Licenses shall be displayed at each business location so as to be viewable by the public.

(Ord. 2588 §3, 2018; Ord. 2381 §2, 2012; Ord. 2333 §2, 2011; Ord. 2315 §1 (part), 2010)

5.04.020 Applications and fees required

A. Application Required. Any person desiring to establish or conduct any business enterprise or undertaking within the corporate limits of the City shall first file a master application through the Washington State Department of Licensing Master License Service in coordination with the City of Tukwila Finance Department for a license to conduct such business. The application shall be upon a form furnished by the Washington State Department of Licensing Master License Service on which the applicant shall state the company name and address; the nature of the business activity or activities in which he/she desires to engage; the place where the business will be conducted; the number of employees, whether full or part-time, on the payroll as of January 1, or, if a new business, the number to be employed on the opening date; the Washington State Unified Business Identifier (UBI) number; and other information pertaining to the business as required by the City. The applicant shall be required to provide all information requested on said form and failure to do so shall be grounds for refusing to issue the business license. Owners of residential rental property are not subject to the application requirements in this chapter but shall adhere to the application requirements in TMC Chapter 5.06.

B. Fee – General.

1. The application must be accompanied by the appropriate application fee in accordance with the fee schedule adopted by resolution of the City Council, as well as the Master License Service handling fee. The license fee for the annual license (Business License fee) issued under this chapter shall be determined based on the total number of employees. The business license fee shall be determined by multiplying the appropriate Business License fee by the number of employees working at or reporting from a location within the City's corporate limits, in accordance with the fee schedule adopted by resolution of the City Council. In no event shall the Business License fee be less than the minimum fee set forth in this chapter. If the number of employees is not known at the time of application or renewal of the license, the business shall estimate the maximum number of employees they anticipate working any time during the 12-month period subject to licensure.

2. It will be the responsibility of the business to determine the total number of employees and, if required, demonstrate to the satisfaction of the Finance Director that the information pertaining to the Business License fee is accurate. Businesses without a full year of operating history shall estimate the number of employees that will be employed in a 12-month period.

C. Minimum Fee. There shall be an annual minimum fee for a Business License in accordance with the fee schedule adopted by resolution of the City Council.

1. For purposes of the license by this chapter, any person or business whose annual value of products, gross proceeds of sales, or gross income of the business in the City is equal to or less than $2,000 and who does not maintain a place of business within the City, shall submit a business license registration to the Finance Director or designee. The threshold does not apply to regulatory license requirements or activities that require a specialized permit.

2. Businesses doing business in the City that have no employees physically working within the City's corporate limits shall pay the minimum fee required under this chapter.

3. An entity subject to exemption pursuant to TMC Section 5.04.090 need not pay a Business License fee. An entity engaging in some activities or functions that are exempt from the Business License fee and some that are not exempt shall pay a Business License fee based on the number of employees involved in the functions or activities that are not exempt.

D. New Businesses. The Business License fee for a new business shall be based on the estimated number of employees that will work in Tukwila for a 12-month period. If, during the first license year for a new business, the City determines the actual number of employees is significantly different than the estimated number identified by the business owner, the amount of the Business License fee will be recalculated for the new business. If the revised Business License fee is higher than the original Business License fee paid by the business owner for the first license year, the business owner must pay the difference to the City within 30 days after written notice of the amount owed is sent to the business owner by the City.

E. Over-reporting of Employees. In the event the business owner miscounted the number of employees by an error factor of more than 15% and paid an excess Business License fee as a result, a business may request that the City refund the overpayment. The request must be made in writing to the Finance Department, and the City must receive the request and all supporting documentation no later than 60 days after the end of the calendar year in which the error was made. If the City is satisfied the business owner paid an excess Business License fee, the City will refund the excess amount paid to the business owner.

F. Under-reporting of Employees. If, at the time of license renewal, the City determines the business owner under-reported the number of employees for the preceding year by an error factor of more than 15%, the business shall pay the balance of the

corrected Business License fee (calculated as the difference between the paid Business License fee and the corrected Business License fee). The Finance Director shall mail written notice of the balance due to the business owner, and the business shall pay the balance due to the City within 30 days of the date the written notice is mailed by the City. A penalty of 20% of the balance due will be applied if payment is not received within 30 days.

G. Payment by Draft or Check. Payment made by draft or check shall not be deemed a payment of the Business License fee unless and until the same has been honored in the usual course of business, nor shall acceptance of any such check or draft operate as a quittance or discharge of the Business License fee unless and until the check or draft is honored. Any person who submits a Business License fee payment by check to the Washington State Department of Licensing Master License Service or City, pursuant to the provisions of this chapter, shall be assessed an NSF fee set by the Finance Director if the check is returned unpaid by a bank or other financial institution for insufficient funds in the account or for any other reason.

(Ord. 2588 §4, 2018; Ord. 2544 §3, 2017; Ord. 2496 §2, 2016; Ord. 2381 §3, 2012; Ord. 2356 §2, 2011; Ord. 2333 §3, 2011; Ord. 2315 §1 (part), 2010)

5.04.030 Issuance of a license and annual renewal

A. Upon review and approval of the application, the Washington State Department of Licensing Master License Service or the Finance Director or designee shall issue a license to the applicant. The license shall grant to the applicant the privilege to conduct such business at a designated location in the City.

B. Persons continuing to engage in business within the City shall renew their business license(s) each year. Businesses must pay a renewal fee, as well as the Master License Service handling fee. The annual business license renewal fee shall be in accordance with the fee schedule adopted by resolution of the City Council. The annual fee may be prorated in order to conform the license expiration date with the expiration date established by the Master License Service. Persons not renewing their business license by the expiration date may be subject to a late renewal penalty charged by the Master License Service.

(Ord. 2588 §5, 2018; Ord. 2315 §1 (part), 2010)

5.04.040 Prorating fee

The license fee set forth in this chapter shall be for the calendar year, and each person engaged in business must pay the full license fee for the current year. License fees are non-refundable, regardless of whether the business operates for the entire calendar year, or whether the business license is denied, revoked, withdrawn or suspended with cause.

(Ord. 2356 §3, 2011; Ord. 2333 §4, 2011; Ord. 2315 §1 (part), 2010)

5.04.050 Late acquisition or renewal

A. Penalty. For new businesses, failure to pay the Business License fee by the first day of commencing business operations pursuant to TMC Section 5.04.020 will result in a late acquisition penalty in accordance with the fee schedule adopted by resolution of the City Council. For renewing businesses, failure to pay the Business License renewal fee by January 31st shall constitute delinquency and shall result in a penalty in accordance with the fee schedule adopted by resolution of the City Council. No business license and/or renewal for the current period shall be granted until all delinquent fees, together with penalties, have been paid in full. The Finance Director or his/her designee is authorized, but not obligated, to waive all or any portion of the penalties and interest provided herein in the event the Finance Director determines that the late payment was the result of excusable neglect or extreme hardship.

B. Collection of Fees and Penalties. Any license fee due and unpaid under this chapter, and all penalties thereon, shall constitute a debt to the City and may be collected in court proceedings in the same manner as any other debt in like amount, which remedy shall be in addition to any and all other existing remedies.

C. Revocation of License. The Finance Director may revoke any business license issued pursuant to this chapter to any business or other person who is in default in payment of any license fee hereunder, or who shall otherwise fail to comply with any of the provisions of this chapter. Notice of such revocation shall be issued pursuant to TMC Section 5.04.110.D. On and after the date of the notice of revocation, any business subject thereto that continues to engage in business shall be deemed to be operating without a license, and shall be subject to any and all penalties herein provided.

D. There shall be a penalty to reinstate any business license revoked through nonpayment of the Business License fee. The penalty shall be identified in the fee schedule adopted by resolution of the City Council.

(Ord. 2544 §4, 2017; Ord. 2496 §3, 2016; Ord. 2381 §4, 2012; Ord. 2356 §4, 2011; Ord. 2333 §5, 2011; Ord. 2315 §1 (part), 2010)

5.04.060 Transferability

The license granted in pursuance hereof shall be personal to the licensee and it shall not be assignable or transferable to any other person.

(Ord. 2315 §1 (part), 2010)

5.04.070 Change in UBI #, ownership, physical location or nature of business

The license granted pursuant hereto shall be used to conduct the particular business or type of business at the designated address for which such license is issued. Any license holder with a change in the nature of the business, a change in the Unified Business Identifier (UBI) issued by the Washington State Department of Licensing, a change in the physical location of the business, and/or a change in ownership of the business shall immediately submit a new application for licensure to the Finance Department documenting the relevant change(s). A change in the UBI or a change in ownership for the business will require payment of the applicable license fee set forth in the fee schedule adopted

by resolution of the City Council, in addition to the submission of a new application.

(Ord. 2496 §4, 2016; Ord. 2381 §5, 2012; Ord. 2356 §5, 2011; Ord. 2333 §6, 2011; Ord. 2315 §1 (part), 2010)

5.04.080 Required – Display

It is unlawful for any person to engage in or carry on any business activity in the City without first procuring a license as provided in this chapter. The license shall thereafter be prominently displayed in the place of business of the applicant.

(Ord. 2315 §1 (part), 2010)

5.04.090 Exemption

A. Exemptions. The following entities may claim an exemption from the Business License fee, but if exempt under this subsection such entities shall still register under this chapter:

1. Certain Organizations Exempt from Federal Income Tax. An organization that files with the City a copy of its current IRS 501(c)(3) exemption determination letter issued by the Internal Revenue Service.

2. A governmental entity that engages solely in the exercise of governmental functions. Activities that are not exclusively governmental, such as some of the activities of a hospital or medical clinic, are not exempt under this chapter.

3. A nonprofit business operated exclusively for a religious purpose, upon furnishing proof to the Finance Director of its nonprofit status. For the purposes of this chapter, the activities that are not part of the core religious functions are not exempt.

4. A civic group, service club, or social organization that is not engaged in any profession, trade, or occupation, but is organized to provide civic, service, or social activities in the City.

a. Examples of such organizations include but are not limited to: Soroptomists, Kiwanis, Lions' Rotary, American Legion, children's and adults' athletic leagues and similar types of groups, clubs or organizations.

5. A court interpreter who provides an oral translation between speakers who speak different languages, and who is either a certified interpreter, qualified interpreter, or registered interpreter, and who makes less than $12,000 in gross annual revenue in Tukwila, Washington. Certified, qualified and registered interpreters are defined as follows:

a. "Certified interpreter" means an interpreter who is certified by the administrative office of the courts.

b. "Qualified interpreter" means a person who is readily able to interpret or translate spoken and written English for non-English-speaking persons and to interpret or translate oral or written statements of non-English-speaking persons into spoken English.

c. "Registered interpreter" means an interpreter who is registered by the administrative office of the courts.

6. A public card room (also known as a social card room) with a house-banked license.

B. Nothing in this chapter shall be construed to require a license for any farmer, gardener, or other person to sell, deliver or peddle any fruits, vegetables, berries, butter, eggs, fish, milk, poultry, meats or any farm produce or edibles raised, caught, produced or manufactured by such person in any place within the State.

(Ord. 2593 §2, 2018; Ord. 2588 §6, 2018; Ord. 2544 §5, 2017; Ord. 2356 §6, 2011; Ord. 2333 §7, 2011; Ord. 2315 §1 (part), 2010)

5.04.100 Failure to Pay Fee

If any person engaged in business fails or refuses to pay the license fee for any year as herein provided, they shall not be granted a license for the current year until such delinquent license fees in accordance with the fee schedule adopted by resolution of the City Council have been paid, in addition to the current years' required fee(s). Such fees may be collected by the City by proper legal action brought for that purpose if any person engaged in business fails or refuses to pay the license fee. This remedy is cumulative and not exclusive.

(Ord. 2588 §7, 2018; Ord. 2315 §1 (part), 2010)

5.04.105 Additional Requirements for Issuance of Business License

A. A business license will only be issued provided the building, structure, operation or location of the business for which the license is sought complies with the requirements or standards of the Tukwila Municipal Code.

B. In any case where an applicant seeks a business license for a business to be located in a building or structure for which a building or land use permit is required to operate the business as proposed, whether as a newly constructed building or structure or a remodeled building or structure, the permit process, including final inspections/issuance of occupancy permits, shall be completed prior to issuance of a business license.

C. In any case where an applicant seeks a business license for a business to be located in a building or structure for which no building or land use permit is required to operate the business as proposed, the building department may require the business premises to be inspected for compliance with life and safety codes. If the inspection reveals outstanding code violations, the business license will not be issued until all life and safety code violations are resolved.

(Ord. 2588 §8, 2018; Ord. 2315 §1 (part), 2010)

5.04.110 Denial, Suspension, Revocation

A. The Finance Director may deny any business license application pursuant to TMC Section 5.04.105.

B. The Finance Director may deny, suspend or revoke any license under this chapter where one or more of the following conditions exist:

1. The licensee is in default of any fee, charges or amounts due and payable to the City of Tukwila, as outlined in the Tukwila Municipal Code or City policy.

2. The license was procured by fraud or by a false or misleading representation of fact in the application, or in any report or record required to be filed with the Finance Department.

3. The building, structure, equipment, operation or location of the business for which the license was issued does not comply with the requirements or standards of the Tukwila Municipal Code.

4. The license holder, his or her employee, agent, partner, director, officer or manager has knowingly violated any provisions of any chapter of the Tukwila Municipal Code, or has knowingly permitted, failed to prevent, or has otherwise allowed a violation of any of the provisions of any chapter of the Tukwila Municipal Code to occur on his or her business premises.

5. The license holder, his or her employee, agent, partner, director, officer or manager has repeatedly violated any provision of City policies or the Tukwila Municipal Code after having received notice of such violation.

6. Conduct of the business would be in violation of any local, state or federal law, rule or regulation prohibiting the conduct of that type of business.

7. The property at which the business is located has been determined by a court to be a chronic nuisance property, a Violation Notice and Order for a chronic nuisance property has been issued and not timely remedied or appealed, or the Hearing Examiner has determined the property to be a chronic nuisance property, as provided in TMC Chapter 8.27.

C. Upon determination that grounds for denial, suspension or revocation of a license exist, the Finance Director shall send the applicant or license holder a Notice of Denial, Suspension or Revocation. The Notice of Denial, Suspension or Revocation shall set forth the grounds for and terms of the denial, suspension or revocation, and a statement advising the applicant or license holder that he/she may appeal the Notice of Denial, Suspension or Revocation in accordance with the provisions of TMC Section 5.04.112. The filing of such appeal shall stay the action of the Finance Director pending decision on the appeal by the City Hearing Examiner or other hearing body pursuant to TMC Section 5.04.112.

D. Receipt of the Notice of Denial, Suspension or Revocation. The Notice of Denial, Suspension or Revocation shall be: (1) sent to the applicant or license holder by registered mail at the address provided on the license application; (2) hand delivered to the address provided on the license application; or (3) posted upon the premises where such applicant or license holder conducts the business that is the subject of the denied, suspended or revoked license. Notice shall be deemed received by the applicant or license holder upon posting, hand delivery, or 3 business days after mailing, whichever occurs first.

(Ord. 2588 §9, 2018; Ord. 2496 §5, 2016; Ord. 2352 §2, 2011; Ord. 2333 §8, 2011; Ord. 2315 §1 (part), 2010)

5.04.112 Appeal of Notice of Denial, Suspension or Revocation

A. The applicant or license holder may appeal the decision of the Finance Director to suspend, deny or revoke a business license by filing a written notice of appeal to the City Clerk within 10 calendar days following receipt of the Notice of Denial, Suspension or Revocation. The notice of appeal must state the grounds for appeal, including a detailed explanation of why the decision to suspend, deny or revoke was incorrect. The notice of appeal must be accompanied by an Appeal Fee in accordance with the fee schedule adopted by resolution of the City Council. A timely notice of appeal shall stay the effect of the notice of non-issuance until the City's Hearing Examiner or other hearing body issues a written decision on the appeal.

B. Upon timely filing of a notice of appeal, the Finance Director shall schedule a hearing on the appeal before the City's Hearing Examiner. The hearing shall be conducted no later than 30 days from the date of the notice of appeal, unless an extension is agreed to by the appellant or otherwise ordered by the Hearing Examiner for good cause shown. Notice of the hearing will be mailed to the applicant or licensee.

C. The hearing shall be de novo. The decision of the City's Hearing Examiner or other hearing body shall be based upon a preponderance of the evidence. The burden of proof shall be on the appellant. The Hearing Examiner or other hearing body may affirm, reverse or modify the Finance Director's decision.

D. Within 20 business days, excluding holidays recognized by the City of Tukwila, from the date of the hearing on an appeal under this section, the Hearing Examiner shall issue a written decision which shall set forth the reasons therefor.

(Ord. 2496 §6, 2016; Ord. 2381 §6, 2012; Ord. 2333 §9, 2011; Ord. 2315 §1 (part), 2010)

5.04.113 Violations of Minimum Wage and Fair Access to Additional Hours Regulations

A. The Finance Director may deny, suspend, or revoke any license under this chapter for violation of TMC Chapter 5.63.

B. The Finance Director must deny, suspend, or revoke any license under this chapter for repeated intentional violations of TMC Chapter 5.63.

C. Any action by the Finance Director under this section shall be subject to the procedures and requirements of TMC subsections 5.04.110.C and 5.04.110.D and Section 5.04.112, as well as other due process rights that a court may require.

(Initiative Measure No. 1, Adopted 2022 Certified by King County Elections on November 29, 2022)

5.04.115 Penalties

Any violation of this chapter, or failure to comply with any of the requirements of this chapter, shall be subject to enforcement and penalties as prescribed in TMC Chapter 8.45 and the issuance of a Notice of Violation in accordance with TMC Section 8.45.070.

(Ord. 2549 §2, 2017; Ord. 2315 §1 (part), 2010)

5.04.116 Effect of Denial or Revocation

No person or business may reapply for a business license merely by renaming the business. The denial or revocation of a license applies to any business entity, regardless of its name, that is operating under the same ownership and/or management and engages in substantially the same type of business enterprise as that of a business that has been previously denied a license or has had its license revoked under this chapter within a year of such application for a license.

(Ord. 2315 §1 (part), 2010)

5.04.120 Regulation adoption and publication – Failure to comply

The Finance Director shall have the power and it shall be their duty from time to time to adopt, publish and enforce rules and regulations not inconsistent with this chapter or with the law, for the purpose of carrying out the provisions hereof, and it is unlawful for any person to violate or fail to comply with any such rule or regulation.

(Ord. 2315 §1 (part), 2010)

5.04.130 Disclaimer of City Liability

The City of Tukwila expressly finds and requires that responsibility for compliance with the provisions of this chapter rests with license applicants and their agents and that no action, inaction, or omission of the City or any of its agents or employees shall serve to assume or shift responsibility for compliance with the provisions of this chapter to any other party, including the City. Furthermore, issuance of a license pursuant to this chapter does not constitute the creation of a duty by the City to indemnify the licensee for any wrongful acts against the public, or to guarantee the quality of goods, services or expertise of a licensee. The issuance of a license does not shift responsibility from the licensee to the City for proper training, conduct or equipment of the licensee or their agents, employees or representatives, even if specific regulations require standards of training, conduct or inspection.

(Ord. 2588 §10, 2018)

CHAPTER 5.06

RESIDENTIAL RENTAL BUSINESS LICENSE AND INSPECTION PROGRAM

Sections:

5.06.010 Purpose

The City Council finds that the establishment of a Residential Rental Business License and Inspection Program for rental units is necessary to protect the public health, safety and welfare by ensuring the proper maintenance of such housing, by identifying and requiring correction of substandard housing conditions, and by preventing conditions of deterioration and blight that could adversely impact the quality of life in the City of Tukwila.

(Ord. 2281 §1 (part), 2010)

5.06.020 Definitions

Unless specifically defined below, words or phrases used in this chapter shall be interpreted using the meaning they have in common usage and to give this chapter its most reasonable application.

1. "*Accessory dwelling unit*" or "*ADU*" means a unit that meets the requirements of Table 18-6, Note 17, of TMC Title 18.

2. *"Applicable laws"* include, but are not limited to, the City's housing code, the City zoning ordinance and other City ordinances, and other laws or regulations relating to the health and safety of City residents or the general public.

3. *"Certificate of Compliance"* means the certificate issued by the City evidencing compliance with the requirements of this chapter. A Certificate of Compliance is required before a unit can be rented.

4. *"Code official"* means the Department of Community Development Director or his/her designee.

5. *"City"* means the City of Tukwila, Washington.

6. *"Deficiency"* means any failure by a rental unit to comply with applicable laws.

7. *"Department"* means the City of Tukwila Department of Community Development.

8. *"Inspection Checklist"* means the document submitted to the City as the result of an inspection conducted by an inspector which shows the true condition of the unit. An Inspection Checklist must be signed and dated by the inspector.

9. *"Inspector"* means:

a. A City building code inspector;

b. A City code enforcement officer;

c. A private inspector, approved by the City upon evidence of at least one of the following credentials: A.A.C.E. Property Maintenance and Housing Inspector certification, I.C.C. Property Maintenance and Housing Inspector certification, or I.C.C. Residential Building Code Inspector;

d. A Washington State licensed architect; or

e. A Washington State licensed home inspector.

10. "*Non-City inspector*" means any inspector meeting the criteria in Section 5.06.020 who is not a City code official.

11. "*Occupant*" means an individual, partnership, corporation or association, or agent of any of them lawfully residing in a unit.

12. "*Owner*" means the owner of record as shown on the last King County tax assessment roll or such owner's authorized agent.

13. "*Rental inspection deficiency point system*" means the point system used by inspectors to evaluate whether a rental unit is in compliance with the requirements of this chapter.

14. "*Rental unit*" means a unit occupied or leased by a tenant.

15. "*Single-family residence*" means a building, modular home, or new manufactured home designed to contain no more than one dwelling unit, plus one accessory dwelling unit.

16. *"Tenant"* means any adult person granted temporary use of a rental unit pursuant to a lease or rental agreement with the owner of the rental unit.

17. *"Unit"* means any structure or part of a structure, which is used as a home, residence or sleeping place by one or more persons, including but not limited to, single-family residences, duplexes, tri-plexes, four-plexes, multi-family dwellings, apartment buildings, condominiums, mobile homes and similar living accommodations.

18. *"Unit unavailable for rent"* means a unit whose owner has filed with the code official a statement signed under penalty of perjury that such unit is not offered or available for rent as a rental unit and that prior to offering or making the unit available as a rental unit, the owner will apply for a Residential Rental Business License and comply with any applicable administrative regulations adopted pursuant to this chapter.

(Ord. 2519 §1, 2016; Ord. 2459 §1, 2014; Ord. 2281 §1 (part), 2010)

5.06.030 Scope

The provisions of this chapter shall apply to all rental units, with the exception of:

1. Owner-occupied rental units;
2. Units unavailable for rent;
3. Housing accommodations in hotels, motels, inns or tourist homes;
4. Housing accommodations in retirement or nursing homes;
5. Housing accommodations in any hospital, State-licensed community care facility, convent, monastery or other facility occupied exclusively by members of a religious order or an extended medical care facility;
6. Housing accommodations that a government unit, agency or authority owns, operates or manages, or which are specifically exempted from municipal regulation by State or federal law or administrative regulation. This exception shall not apply once the governmental ownership, operation or management regulation is discontinued.

(Ord. 2281 §1 (part), 2010)

5.06.040 Residential Rental Business License Requirement

A. Every rental unit owner shall obtain an annual residential rental business license, pursuant to Title 5 of the Tukwila Municipal Code, prior to operating, leasing or causing to be leased a rental unit. Rental unit owners must file a written application annually with the Department for each rental location to be leased. To be considered for approval, residential rental business license applications must be complete and include:

1. Completed and signed Residential Rental Business License Application provided by the City.
2. Appropriate application fee as set forth in the fee schedule adopted by resolution of the City Council. Late fees will be due for applications filed March 1st or later.
3. For multi-family buildings with 2 or more units, documentation of an ongoing integrated pest management (IPM) program. This could be provided by a property manager trained in IPM or a contract with a pest control company.

B. Failure to obtain a residential rental business license will result in the inability to rent the unit.

(Ord. 2519 §2, 2016; Ord. 2281 §1 (part), 2010)

5.06.050 Inspection Required

A. The property owner is responsible for obtaining an inspection of each rental unit and submitting the Inspection Checklist to the code official no later than September 30 of the year the Certificate of Compliance expires.

B. When a unit changes from owner occupancy to a rental, the inspection must occur before the unit is occupied by the tenant. An inspection is not required the year a Certificate of Occupancy is issued for a newly-constructed building, and thereafter the building will be inspected according to the quadrant in which it is located.

C. Owners of complexes with 5 or more units are required to utilize a non-City inspector. Owners of rental properties with fewer than 5 units may utilize a City inspector or a non-City inspector. Non-City inspectors must meet the qualifications defined herein, be preapproved by the City, and may not have a financial interest in the property. The City shall provide the Inspection Checklist to the owner with the application form.

D. The code official shall issue a Certificate of Compliance for rental units that comply with applicable laws based on a submitted Inspection Checklist. If using a non-City inspector, the owner shall be responsible for making the inspection arrangements with the non-City inspector.

E. The code official shall audit Inspection Checklists submitted by private inspectors and based on audit results may reinspect units on that property or inspected by that inspector.

F. Submittal of an Inspection Checklist that the owner knows or should have known is false may result in revocation of the residential rental business license and penalties defined in TMC Section 5.06.200.

G. An Inspector may be removed from the City's approved list for reasons including, but not limited to:

1. Submittal of an Inspection Checklist that the inspector knows or should have known is false.
2. Conviction for any crime that occurs in connection with an inspection.
3. Failure to hold a valid Tukwila business license.

(Ord. 2600 §1, 2018; Ord. 2519 §3, 2016; Ord. 2459 §2, 2014; Ord. 2281 §1 (part), 2010)

5.06.060 Inspection Consent

Owners shall make every effort to make units available for inspection pursuant to this chapter. If the owner fails to arrange for a non-City inspector and/or the owner or occupants do not consent to City entry for inspection, the code official may not force or otherwise attempt to gain entry except in accordance with a court warrant authorizing entry for the purpose of inspection.

(Ord. 2281 §1 (part), 2010)

5.06.070 Rental Inspection Deficiency Point System

A. The code official shall prepare and shall keep on file for public inspection the rental inspection deficiency point system used in the point calculation procedure set forth herein. The code official shall assign points according to the severity of each code violation on a scale of 1 to 25. Except when otherwise provided by State law, conditions in the design or structure of a building such as, but not limited to, the size and dimension of rooms and windows and the electrical and plumbing systems that were legal under existing codes when built, shall not be violations as long as they are maintained in good repair. A violation noted during the inspection shall receive the assigned point value.

B. A rental unit shall be considered unfit for occupancy if it fails an inspection by 25 points or more.

(Ord. 2281 §1 (part), 2010)

5.06.080 Inspection Checklist

As a condition of the issuance of a residential rental business license, the owner shall provide a completed Inspection Checklist signed by the inspector showing the current condition of the rental unit. The code official shall issue a Certificate of Compliance upon receipt of the inspection results indicating compliance with the applicable laws pursuant to this chapter.

(Ord. 2459 §3, 2014; Ord. 2281 §1 (part), 2010)

5.06.090 Deficiencies

Items to be inspected are weighted according to a point system established by the City. Accrual of 25 points or more for deficiencies constitutes a failure of the inspection and requires correction. The inspector shall provide the owner and the City written notice of each deficiency disclosed by inspection. A Certificate of Compliance shall not be issued until the Inspection Checklist indicates a score of less than 25 points. Repairs required to bring the unit into compliance are the responsibility of the owner. Rental units shall be subject to re-inspections pursuant to TMC Section 5.06.110.

(Ord. 2459 §4, 2014; Ord. 2281 §1 (part), 2010)

5.06.100 Violations

If an inspection of a rental unit conducted pursuant to this chapter reveals deficiencies of 25 points or more on the Inspection Checklist, the violation must be cured within 30 days. If upon re-inspection, the unit reveals deficiencies of 25 points or more, the City's code official may seek any remedies permitted by law including, but not limited to, denial or revocation of a residential rental business license for that unit pursuant to Title 5 of the Tukwila Municipal Code, and abatement proceedings pursuant to Chapter 8.45 of the Tukwila Municipal Code. The City may seek legal or equitable relief to enjoin any act or practice that constitutes or will constitute a violation of any regulation under this chapter.

(Ord. 2459 §5, 2014; Ord. 2281 §1 (part), 2010)

5.06.110 Re-inspections

A rental unit that exhibits deficiencies of 25 points or more on the Inspection Checklist shall be subject to a re-inspection and re-inspection fee as set forth in the City's fee schedule adopted pursuant to this chapter.

(Ord. 2459 §6, 2014; Ord. 2281 §1 (part), 2010)

5.06.120 Notice of Non-Issuance of Certificate of Compliance

If, upon re-inspection, the inspector determines a rental unit is unfit for occupancy by failing an inspection by 25 points or more, the City shall provide the owner with written notice of non-issuance of Certificate of Compliance. Such notice shall specify the date of the non-issuance determination, the rental unit address, the name of the owner, the name of the inspector and the specific reasons for the non-issuance determination. Failure to obtain a Certificate of Compliance will result in the non-issuance or revocation of the rental business license for that unit. The unit shall be posted Unfit for Occupancy. Tenants, if any, shall be required to vacate. Relocation Assistance pursuant to TMC 8.46 may apply.

(Ord. 2281 §1 (part), 2010)

5.06.130 Contents of Certificate of Compliance

Certificate of Compliance shall specify the date of issuance, the rental unit address, the name of the owner to whom the certificate is issued, the expiration date of the Certificate, and an indication the rental unit complies with applicable laws as far as could be determined by inspection.

(Ord. 2459 §7, 2014; Ord. 2281 §1 (part), 2010)

5.06.140 Certificate of Compliance Validity and Renewal

Certificates of Compliance expire on December 31, four years from the date of issuance by the City. Failure to renew the Certificate of Compliance every four years shall result in the non-issuance or revocation of the rental business license for that unit. Rental properties that are registered and continue to meet all the requirements of the City's Crime-Free Rental Housing Program, or other City-administered program to certify rental properties as working proactively at crime prevention, may extend their required rental inspection schedule to once every 8 years. If participation in such program is terminated due to failure to meet program requirements or for any other reason, the rental inspection shall be due at the end of the calendar year of the year of termination or 4 years from the last inspection, whichever is later. Furthermore, if a property registered in the Crime-Free Rental Housing Program, or any other City-administered program to certify rental properties as working proactively at crime prevention, is the subject of 3 or more code violation complaints verified by the City in any 6-month period for violations affecting the habitability of a residential unit, the property will revert to a 4-year inspection cycle.

(Ord. 2519 §4, 2016; Ord. 2459 §8, 2014; Ord. 2281 §1 (part), 2010)

5.06.150 Notice

All notices issued pursuant to this chapter shall provide the address and phone number where additional information concerning the inspection may be obtained. Notice to the owner and occupants shall be mailed by first-class mail to the owner's last known address as it appears in the records of the county assessor or other address provided by the owner.

(Ord. 2459 §9, 2014; Ord. 2281 §1 (part), 2010)

5.06.160 Authority

The code official shall be responsible for enforcement and administration of this ordinance.

(Ord. 2281 §1 (part), 2010)

5.06.170 Administrative Regulations

The code official is authorized and directed to promulgate administrative regulations pertaining to the implementation of this chapter.

(Ord. 2281 §1 (part), 2010)

5.06.180 Complaint-Based Inspections

Nothing contained herein shall prevent or restrict the authority of the City's code official to inspect any unit or premises thereof in response to a complaint alleging code violations or other violations of law at such unit and to pursue all code enforcement remedies available under this code or other laws following such a complaint-based inspection of a unit.

(Ord. 2281 §1 (part), 2010)

5.06.190 Voluntary Inspection Requests

Nothing in this chapter shall be construed to prohibit an owner from voluntarily requesting an inspection to determine whether a rental unit complies with applicable laws, even though such inspection may not be required pursuant to this chapter. Such voluntary inspection requests shall be subject to all of the provisions of this chapter including, but not limited to, the provisions governing applications and fees.

(Ord. 2281 §1 (part), 2010)

5.06.200 Penalties

A. Violations of the provisions of this chapter shall be subject to enforcement and penalties as prescribed in TMC Chapter 8.45 and the issuance of a Notice of Violation in accordance with TMC Section 8.45.070.

B. Any violation of this chapter that constitutes an immediate health or safety threat shall constitute a public nuisance.

C. In addition to penalties, the City shall not issue or shall revoke the unit's business license and require that the unit be vacated until the unit is brought into compliance.

(Ord. 2549 §3, 2017; Ord. 2281 §1 (part), 2010)

5.06.210 Appeal

A. The owner may appeal the non-issuance of a Certificate of Compliance by filing a written notice of appeal with the City Clerk within 10 calendar days following receipt of the notice of non-issuance. The notice of appeal must state the grounds for appeal, including a detailed explanation of why the decision was incorrect. The notice of appeal must be accompanied by an Appeal Fee in accordance with the fee schedule adopted by resolution of the City Council. A timely notice of appeal shall stay the effect of the notice of non-issuance until the City's Hearing Examiner or other hearing body issues a written decision on the appeal.

B. Upon timely filing of a notice of appeal, the Finance Director shall schedule a hearing on the appeal before the City's Hearing Examiner or other hearing body. The hearing shall be conducted no later than 30 business days from the date of the notice of appeal, unless an extension is agreed to by the appellant or otherwise ordered by the Hearing Examiner or other hearing body for good cause shown. Notice of the hearing will be mailed to the owner.

C. The hearing shall be de novo. The decision of the City's Hearing Examiner or other hearing body shall be based upon a preponderance of the evidence. The burden of proof shall be on the appellant. The Hearing Examiner or other hearing body may affirm, reverse or modify the Finance Director's decision.

D. Within 20 business days, excluding holidays recognized by the City of Tukwila, from the date of the hearing on an appeal under this section, the Hearing Examiner or other hearing body shall issue a written decision, which shall set forth the reasons therefor.

(Ord. 2496 §7, 2016; Ord. 2281 §1 (part), 2010)

5.06.220 Annual Review and Report

The code official shall conduct an annual review of the Residential Rental Business License and Inspection Program and

shall submit an annual report of the program's effectiveness to the City Council.

(Ord. 2281 §1 (part), 2010)

5.06.230 Immediate Health and Safety Threats

Nothing in this ordinance shall limit the City's ability to inspect properties and issue citations for property-related conditions that may constitute an immediate health or safety threat.

(Ord. 2281 §1 (part), 2010)

5.06.240 No Warranty by City

By enacting and undertaking to enforce this program, the City, City Council, its agents and employees do not warrant or guarantee the safety, fitness or suitability of any dwelling in the City or any unit inspected under this program. Owners and occupants should take whatever steps they deem appropriate to protect their interests, health, safety and welfare.

(Ord. 2281 §1 (part), 2010)

CHAPTER 5.08
CABARETS

Sections:

5.08.010 Definitions

When used in this chapter and unless otherwise distinctly expressed, the following words and phrases shall have the meaning set out in this section:

1. "Cabaret" means any room, place or space whatsoever in the City in which any music, singing, dancing or other similar entertainment is permitted in connection with any hotel, restaurant, café, club, tavern, or eating place selling, serving, or providing the public, with or without charge, food and/or liquor. The words "music" and "entertainment" as used in this chapter shall not apply to radios, televisions, juke boxes or similar mechanical or technical devices.

2. "Persons" means any individual, firm, corporation, company, partnership, marital community, association, an unincorporated association, any person acting in a fiduciary capacity, or other entity or group of persons however organized.

3. "Liquor" shall have the definition set forth in RCW 66.04.010.

(Ord. 2496 §8, 2016; Ord. 1586 §2 (part), 1990)

5.08.020 Chapter exemption

This chapter shall not apply to any person conducting or engaging in a business providing entertainment or amusement where any admission or similar charges therefor are to be used exclusively for charitable, eleemosynary, educational or religious purposes.

(Ord. 1586 §2 (part), 1990)

5.08.030 Cabaret license required – Fee

It is unlawful to conduct, open up, operate or maintain any cabaret as defined in TMC Section 5.08.010 within the City without a valid license to do so to be known as the "cabaret license." The cabaret license fee shall be paid annually, in accordance with the fee schedule adopted by resolution of the City Council. Each such license shall be non-assignable and nontransferable, and the fee paid shall be nonrefundable.

(Ord. 2496 §9, 2016; Ord. 2355 §1, 2011; Ord. 1586 §2 (part), 1990)

5.08.040 Licenses - Restrictions

A. No "cabaret license" shall be issued to:

1. A natural person who has not attained the age of 21 years, except that licenses may be issued to persons who have attained the age of 18 with respect to cabarets where no intoxicating liquors are served or provided.

2. A person who has been convicted of or forfeited bail for any of the following within three years prior to filing the application.

a. A felony which is reasonably related to a person's fitness or ability to conduct, manage or operate a cabaret.

b. A violation of any federal or state law or city ordinance concerning the manufacture, possession, or sale of liquor.

c. A violation of any federal or state law or city ordinance concerning the manufacture, possession or sale of narcotics.

3. A person whose place of business is conducted by a manager or agent, unless such manager or agent possesses the same qualifications required by the licensee.

4. A partnership, unless all members of the partnership are qualified to obtain a license under this chapter.

5. A corporation, unless all of its officers, directors and stockholders are qualified to obtain a license under this chapter.

(Ord. 2496 §10, 2016; Ord. 2355 §2, 2011; Ord. 1648 §1, 1992; Ord. 1586 §2 (part), 1990)

5.08.050 License application procedure

A. Cabaret License. An applicant for a cabaret license shall make application therefor on the application forms provided by the Finance Director. Each such application form shall require the following information:

1. The name, home address, home telephone number, date and place of birth, and social security number of the applicant, if the applicant is an individual;

2. The names, home addresses, home telephone numbers, dates and places of birth, and social security numbers of the officers and directors of the applicant, if the applicant is a partnership. If the applicant is any other type of business entity, then the applicant shall provide the same information requested in this subsection for all managers or other persons who control the business decisions of that entity;

3. The name, address, and telephone number of the cabaret, and the names of all on-site managers of the cabaret; and

4. The name, address and telephone number of the owner of the property on which the cabaret is located.

Each application must be completed in full and signed by the applicant in affidavit or declaration form wherein the applicant certifies under penalty of perjury that the applicant has personal knowledge of all matters asserted in said application and that the statements contained therein are true and complete.

B. Duty to Supplement Application. In the event that any information on any application for a license under this chapter becomes outdated or otherwise inaccurate, an applicant or license holder shall promptly notify the Finance Director in writing and provide current information.

C. All Completed Applications. A completed application shall be submitted to the Finance Director. An application shall not be considered to be completed unless accompanied by a receipt or other notation from the City showing payment of the required license fee, in accordance with the fee schedule adopted by the City Council. The Finance Director shall refer a completed application to the following City department heads for investigation and report as follows:

1. The Chief of Police shall provide a criminal history record of the applicant;

2. The Director of the Department of Community Development shall provide a report stating whether or not the application or premises of the business reflect any actual or potential violations of the City zoning code; and

3. The Building Official shall provide a report indicating whether or not said premises are in compliance with all applicable health, safety and building statutes and regulations.

(Ord. 2496 §11, 2016; Ord. 2355 §3, 2011; Ord. 1586 §2 (part), 1990)

5.08.055 Licenses – Subject to State Liquor and Cannabis Board Rules

Any license issued pursuant to this chapter shall be subject to any rules or regulations of the Washington State Liquor and Cannabis Board relating to the sale of intoxicating liquor.

(Ord. 2496 §12, 2016)

5.08.060 Grounds for denial of application

Upon receipt of a completed application and reports from the above-named officials, a license application shall be approved, except that said application shall be denied for any one or more of the following reasons:

1. Application form is incomplete; or

2. Purpose of business sought to be licensed does not comply with the requirements of any City ordinance(s) relating to fire, buildings, health and sanitation or is, or will be if licensed, in violation of the City zoning code as determined by the reports from the above-named officials; or

3. The license was procured by fraud or any false statement or misrepresentation of fact in the application or in any report or record filed with the Finance Director. In all events, the Finance Director shall issue the license, or his/her reasons(s) for non-issuance as soon as possible, but in no event more than 30 days after receipt of a completed application.

(Ord. 2355 §4, 2011; Ord. 1586 §2 (part), 1990)

5.08.070 Revocation or suspension of licenses

A. The Finance Director may revoke any license under this chapter, or may suspend any such license for a period of time not to exceed one year, where one or more of the following conditions exist:

1. The license was procured by fraud or by any false statement or misrepresentation of fact in the application or in any report or record required to be filed with the Finance Director;

2. The building, structure, equipment, operation or location of the business for which the license was issued does not comply with the requirements or standards of this code; or

3. The license holder, his or her employee, agent, partner, director, officer or manager has violated or permitted violation of any of the provisions of this chapter.

B. Upon determination that grounds for revocation or suspension of a license exist, the Finance Director shall send by first class mail, postage prepaid, to the license holder a notice of revocation or suspension. The notice shall set forth the grounds for revocation or suspension.

(Ord. 2355 §5, 2011; Ord. 1586 §2 (part), 1990)

5.08.080 Appeals and hearing

A. Receipt of the Notice of Denial, Suspension or Revocation. The Notice of Denial, Suspension or Revocation shall be: (1) sent to the applicant or license holder by registered mail at the address provided on the license application; (2) hand delivered to the address provided on the license application; or (3) posted upon the premises where such applicant or license holder conducts the business that is the subject of the denied, suspended or revoked license. Notice shall be deemed received by the applicant or license holder upon posting, hand delivery, or 3 business days after mailing, whichever occurs first.

B. The applicant or license holder may appeal the decision of the Finance Director to suspend, deny or revoke a cabaret license by filing a written notice of appeal to the City Clerk within 10 calendar days following receipt of the Notice of Denial, Suspension or Revocation. The notice of appeal must state the grounds for appeal, including a detailed explanation of why the decision to suspend, deny or revoke was incorrect. The notice of appeal must be accompanied by an Appeal Fee in accordance with the fee schedule adopted by resolution of the City Council. A timely notice of appeal shall stay the effect of the notice of suspension, non-issuance or revocation until the City's Hearing Examiner or other hearing body issues a written decision on the appeal.

C. Upon timely filing of a notice of appeal, the Finance Director shall schedule a hearing on the appeal before the City's Hearing Examiner or other hearing body. The hearing shall be conducted no later than 30 days from the date of the notice of appeal, unless an extension is agreed to by the appellant or otherwise ordered by the Hearing Examiner or other hearing body for good cause shown. Notice of the hearing will be mailed to the applicant or licensee.

D. The hearing shall be de novo. The decision of the City Hearing Examiner or other hearing body shall be based upon a preponderance of the evidence. The burden of proof shall be on the appellant. The Hearing Examiner or other hearing body may affirm, reverse or modify the Finance Director's decision.

E. Within 20 business days, excluding holidays recognized by the City of Tukwila, from the date of the hearing on an appeal under this section, the Hearing Examiner or other hearing body shall issue a written decision which shall set forth the reasons therefor.

(Ord. 2496 §13, 2016; Ord. 2381 §7, 2012; Ord. 2355 §6, 2011; Ord. 1796 §3 (part), 1997; Ord. 1586 §2 (part), 1990)

5.08.090 Minors – Employment

The following statutes, regulation, and amendments thereto, are adopted and incorporated by references herein:

RCW	66.44.010
	66.44.316
	66.44.340
	66.44.350
WAC	314-16-070
	314-16-075

(Ord. 1586 §2 (part), 1990)

5.08.100 License posting

All licenses issued hereunder shall be posted in a conspicuous place in the establishment of the licensee.

(Ord. 1586 §2 (part), 1990)

5.08.110 Hours of operation – Penalty for violation

A. It is unlawful for the owner, proprietor or person in charge of a cabaret to maintain or permit any dancing or music on the premises of the cabaret between the hours of 2:00 AM and 6:00 AM.

B. Any person violating this section, or any section of this chapter, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed $500.00, or imprisonment not exceeding 90 days, or by both such fine and imprisonment. A separate offense shall be deemed committed upon each day on which a violation occurs.

(Ord. 1586 §2 (part), 1990)

5.08.120 Complaint investigation

The Chief of Police or his duly authorized representative shall promptly investigate all complaints against any establishment, operator or manager holding a cabaret license.

(Ord. 1586 §2 (part), 1990)

CHAPTER 5.10
ADULT CABARETS

Sections:

This Chapter was repealed by Ordinance 2575, May 2018

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CHAPTER 5.12
PEDDLERS/SOLICITORS

Sections:

5.12.010 Definitions

A "peddler/solicitor" is defined as follows:

1. All persons, both principals and agents, as well as employers and employees, who shall sell, offer for or expose for sale, or who shall trade, deal or traffic in any personal property or services in the City of Tukwila by going from house to house, from place to place, or by indiscriminately approaching individuals from a location on any street, alley, sidewalk or other public thoroughfare.

2. Any person, both principals and agents, as well as employers and employees, who, while selling or offering for sale, any goods, wares, merchandise or anything of value, stands in a doorway or any unenclosed vacant lot, parcel of land, or in any other place not used by such person as a permanent place of business.

(Ord 1887 §2, 1999)

5.12.020 License required – exemptions

A. No person, corporation, partnership or other organization shall engage in the business of a peddler within the corporate limits of the City of Tukwila without first obtaining a license to do so. If an individual is acting as an agent for or employed by an individual, corporation, partnership or other organization, both the individual and the employer or principal for whom the individual is peddling must obtain a license to conduct business.

B. The following persons are exempt from the license requirements and fee provisions of this chapter upon establishing proof of exempt status:

1. Farmers, gardeners or other persons who deliver or peddle any agricultural, horticultural, or farm products which they have actually grown, harvested or produced, provided that this exemption does not apply to the sale of firewood;

2. Any person selling or delivering door-to-door or on an established route, milk or milk products, bakery goods, or laundry and dry cleaning services;

3. Newspaper carriers who deliver door-to-door on an established route(s);

4. Any person who is specifically requested to call upon others for the purpose of displaying goods, literature or giving information about any article, service or product;

5. Charitable, religious or nonprofit organizations or corporations which have received tax exempt status under 26 U.S.C. 501 (c)(3) or other similar civic, charitable or nonprofit organizations; and

6. Bona fide candidates, campaign workers and political committees campaigning on behalf of candidates or on ballot issues and persons soliciting signatures of registered voters on petitions to be submitted to any governmental agency.

(Ord 1887 §3, 1999)

5.12.030 License – application

A. Applicants for a license under this chapter must be at least 18 years of age and must file with the Finance Director an application in writing on a form to be furnished by the City. The license issued pursuant to this chapter shall be renewed annually. At the time of initial application or renewal, the applicant shall present picture identification which shall include:

1. a motor vehicle operator's license, issued by the State of Washington, bearing the applicant's photograph, date of birth, and signature; or

2. a Washington State-issued identification card bearing the applicant's photograph, date of birth, and signature; or

3. a valid US Passport

B. All applicants shall provide the following information on the application:

1. Name, description of applicant, and date of birth.

2. Permanent home address and local address of applicant.

3. Telephone number.

4. A brief description of the nature of the business and the goods or services to be sold.

5. If employed by another, the address and name of the employer and a statement of the exact relationship between the applicant and the employer.

6. If a vehicle is to be used, a description of the same, including the license number.

7. A statement as to whether or not the applicant has been convicted of any crime within the last ten years, including misdemeanors, gross misdemeanors, or violations of any municipal ordinance; the nature of the offense; and the punishment or penalty assessed therefore.

8. A statement that a license, if granted, will not be used or represented as an endorsement by the City for solicitations thereunder.

9. For all sales occurring on a parcel of private property, the following must accompany the application:

a. The name and signature of the property owner authorizing the use of the parcel.

b. Other such information as may be required by the City.

C. Any individual, corporation, partnership or other organization which acts as the principal or employer for individual peddlers shall obtain a license as provided herein and shall provide the following information on the application in addition to any information required as set forth above:

1. The applicant's name, address and telephone number and the names and addresses of all individuals who are employed by or acting as an agent for the applicant.

2. If a corporation, the names, addresses and telephone numbers of the corporation's board of directors, principal officers and registered agent.

3. If a partnership, the names, addresses and telephone numbers of the partners.

4. A list of any criminal convictions during the past ten years for the applicant, any owners of the business, and if a corporation, the board of directors and officers.

5. Name, address and telephone numbers (business and home) of the individual, if applicable, acting as the manager for the applicants.

6. A list of all other cities, towns and counties where the applicant has obtained a peddler's permit or similar permit within the past five years.

7. Other information as may be required by the City.

D. At the time of filing, each applicant will have their photo taken by City staff. Such photo will show the applicant's head and shoulders in a clear and distinguishing manner and will be used for issuance of picture identification as referenced in TMC 5.12.050.

E. At the time of filing, each applicant shall pay a non-refundable fee in an amount in accordance with the fee schedule adopted by resolution of the City Council to cover the City's cost of investigation and the issuance of a permit, including each peddler, principals and/or employer.

(Ord. 2496 §14, 2016; Ord 1887 §4, 1999)

5.12.040 Investigation of applicant – issuance and denial of license

A. The Finance Director shall refer the application to the Police Department, which shall determine the accuracy of the information contained in the application and conduct a criminal history background investigation of the applicant. The applicant's information shall be submitted to the Washington State Patrol Identification and Criminal History Section (WASIS). Any Washington State criminal history conviction records on the applicant shall be provided to and reviewed by the City of Tukwila Police Department. The applicant shall submit an additional fee for the WATCH (Washington Access to Criminal History) background check in accordance with the fee schedule to be adopted by resolution of the City Council. Upon completion of the investigation, the Police Department shall forward a recommendation for approval or denial to the Finance Director.

B. If, as a result of the investigation, the character and business responsibility of the applicant is found to be satisfactory, the Finance Director shall issue the license to the applicant. The Finance Director shall deny the applicant the license if the applicant has:

1. Committed any act consisting of fraud or misrepresentation;

2. Committed any act which, if committed by a license holder, would be grounds for suspension or revocation of a license;

3. Within the previous 10 years, been convicted of a misdemeanor or felony directly relating to the occupation of peddler, including, but not limited to, those misdemeanors and felonies involving moral turpitude, fraud or misrepresentation;

4. Been refused a license under the provisions of the chapter; providing, however, that any applicant denied a permit under the provisions of this chapter may reapply if and when the reasons for denial no longer exist; or

5. Made any false or misleading statement in the application.

C. The denial of a license to an individual, corporation, partnership or other organization which serves as the employer or principal for individual peddlers, shall be a sufficient basis to deny a license to the individual applicants who are employed by or acting as an agent for the applicant.

D. The notice of non-issuance of a peddler's license shall be sent to the applicant or license holder by registered mail at the address provided on the license application. Notice shall be deemed received by the applicant 3 business days after mailing.

(Ord. 2496 §16, 2016; Ord. 2496 §15, 2016; Ord 2355 §12, 2011; Ord 1887 §5, 1999)

5.12.050 Photo identification exhibited

Peddlers are required to exhibit their photo identification card in a fully visible manner, on their person, while conducting any peddling activities.

(Ord 1887 §6, 1999)

5.12.060 License expiration

All licenses issued pursuant to this chapter are nontransferable and valid for the calendar year in which issued unless otherwise revoked or suspended. License fees shall not be prorated for any portion of the year.

(Ord 1887 §7, 1999)

5.12.070 License – revocation

A. The Finance Director may revoke any license under this chapter after notice and hearing where one or more of the following conditions exist:

1. The license was procured by fraud, by a materially false or misleading representation of fact in the application or in any report or record required to be filed with the Finance Director.

2. Fraud, misrepresentation or false statements made in the course of carrying on the business as a peddler.

3. Violation of any provision in this chapter.

4. Conviction, after submission of the application for a peddler's license, of a felony or misdemeanor directly relating to the occupation of peddler, including, but not limited to, those misdemeanors and felonies involving moral turpitude, fraud or misrepresentation.

5. Conducting the business of peddling in any unlawful manner or such manner as to constitute a breach of the peace or to constitute a menace to the health, safety and general welfare of the public.

6. The revocation of any permit held by an individual, corporation, partnership or other organization which serves as the employer or principal for individual peddlers shall constitute a basis for revoking the permit issued to individual applicants who are employed by or acting as agents for such individual, corporation, partnership or organization.

7. The revocation of a license for three or more persons who are employees or agents of an individual, corporation, partnership or organization shall constitute a basis for revoking the license issued to the employer or principal, as well as the licenses issued to all other employees or agents of that employer or principal.

B. Upon determination that grounds for revocation of a license exist, the Finance Director shall send the license holder a notice of revocation by certified mail, return receipt requested. Such notice shall be deemed received by the license holder 3 business days after mailing, and the revocation shall be effective 10 days immediately thereafter.

(Ord. 2496 §17, 2016; Ord 2335 §13, 2011; Ord 1887 §8, 1999)

5.12.080 Appeals and hearing

A. The applicant or license holder may appeal the decision of the Finance Director to not issue or revoke a peddler's license by filing a written notice of appeal with the City Clerk within 10 calendar days following receipt of the notice of non-issuance or revocation. The notice of appeal must state the grounds for appeal, including a detailed explanation of why the decision was incorrect. The notice of appeal must be accompanied by an Appeal Fee in accordance with the fee schedule adopted by resolution of the City Council. A timely notice of appeal shall stay the effect of the notice of non-issuance or revocation until the Hearing Examiner or other hearing body issues a written decision on the appeal.

B. Upon timely filing of a notice of appeal, the Finance Director shall schedule a hearing on the appeal before the City's Hearing Examiner or other hearing body. The hearing shall be conducted no later than 30 days from the date of the notice of appeal, unless an extension is agreed to by the appellant or otherwise ordered by the Hearing Examiner or other hearing body for good cause shown. Notice of the hearing will be mailed to the applicant or licensee.

C. The hearing shall be de novo. The decision of the City's Hearing Examiner or other hearing body shall be based upon a preponderance of the evidence. The burden of proof shall be on the appellant. The Hearing Examiner or other hearing body may affirm, reverse or modify the Finance Director's decision.

D. Within 20 business days, excluding holidays recognized by the City of Tukwila, from the date of the hearing on an appeal under this section, the Hearing Examiner or other hearing body shall issue a written decision, which shall set forth the reasons therefor.

(Ord. 2496 §18, 2016; Ord 1887 §9, 1999)

5.12.090 Use of streets

No peddler shall have any exclusive right to any location in the public streets or publicly-owned right-of-way, nor be permitted a stationary location, nor be permitted to operate in any congested area where operations might impede or inconvenience the public. For purposes of this section, the judgment of a police officer, exercised in good faith, shall be conclusive as to whether the area is congested or the public impeded or inconvenienced.

(Ord 1887 §10, 1999)

5.12.100 Hours and notice

No person shall engage in the business of peddler between the hours of 8:00PM and 8:00AM.

(Ord 1887 §11, 1999)

5.12.110 Penalty for violation

Violation of any terms of this chapter shall constitute a misdemeanor, and any person convicted of such offense shall be punished by a fine of up to $1,000 and/or imprisonment for a term not to exceed 180 days.

(Ord 1887 §12, 1999)

5.12.120 Remedies are cumulative

The remedies provided for in this chapter to address non-compliance in this chapter are cumulative and shall be in addition to other remedies available in equity or at law.

(Ord 1887 §13, 1999)

CHAPTER 5.16

CARD AND POOL ROOMS

Sections:

5.16.010 Card and Pool Rooms

This Chapter was repealed by Ordinance 2315, November 2010

CHAPTER 5.20

CERTAIN GAMBLING ACTIVITIES PROHIBITED

Sections:

5.20.010 Prohibition Against Social Card Rooms Operated as a Commercial Stimulant

This Chapter was repealed by Ordinance 2363, December 2011.

CHAPTER 5.32
TRAILER PARKS

Sections:

5.32.010 Trailer Parks

This Chapter was repealed by Ordinance 2355, November 2011

CHAPTER 5.36
ROCK QUARRIES

Sections:

5.36.010 Quarry defined

"Quarry" as described in this chapter, means any place within the City where rock is removed with machinery.

(Ord. 182 §1, 1948)

5.36.020 License required

It is unlawful for any person, firm or corporation to operate a quarry within the corporate limits of the City without having first secured from the City Council a license to operate the quarry. The application for a license shall state the location of the proposed quarry and the number of years for which the license is required.

(Ord. 182 §2, 1948)

5.36.030 Council investigation

Upon the request for a license to operate a quarry within the City limits, the City Council shall investigate such request, giving special consideration to the location of the proposed quarry and the desirability of a quarry in such a location. The Council's decision shall be made without delay and shall be final.

(Ord. 182 §3, 1948)

5.36.040 License issuance

Upon the approval of the City Council for the operation of a quarry within the City, the Finance Director shall be instructed to issue a license without charging a fee.

(Ord. 2355 §14, 2011; Ord. 182 §4, 1948)

5.36.050 Business tax

A. The operator of a quarry shall be required to pay to the City a business tax of two cents per ton on all rock removed from the premises, which is suitable for rockery work, construction work, rip-rapping or road work.

B. The operator shall pay to the City a business tax of five cents per ton on all coal removed from the premises but shall be privileged to leave on the premises, as waste, any coal of which he cannot profitably dispose.

(Ord. 182 §5, 1948)

5.36.060 Dirt and waste removal exempt from tax

The operator of a quarry may remove dirt and waste material, as defined in this chapter, other than coal, from the premises without paying a business tax. Waste, as defined in this chapter, shall be only the material that will not be sold.

(Ord. 182 §6, 1948)

5.36.070 Weighing rock or coal on lawful scale

No rock or coal shall be removed from the licensed premises without having been weighed upon an accurate and lawful scale, which shall be open to the inspection of the City Council or its authorized representative at any time.

(Ord. 182 §7, 1948)

5.36.080 Record of weight required

A record of each load weighed shall be entered, at the time of weighing, in a permanent bound book, to be kept on the premises, and the load slip for each truck load removed, showing the time, weight and type of material, whether rock or coal, shall be made out and signed by the weight-master and the driver of the truck, and shall be retained by the operator for the examination by the City Council or its authorized representative. Such load slips shall be on a special printed form bearing consecutively numbered serial numbers, and each slip shall be accounted for. All such records shall be made in duplicate and the City furnished with a copy. Records shall be carefully preserved by the operator and be constantly available to the City Council or its authorized representative for audit or inspection.

(Ord. 182 §8, 1948)

5.36.090 Statement of weight to City Council

On the 15th day of each month the operator shall furnish to the City Council a written statement showing the weight of all rock and coal removed from the premises during the preceding month, and at the same time shall remit therefor.

(Ord. 182 §9, 1948)

5.36.100 Hours of operation

The quarry shall be operated only on regular working days. The hours of operation shall be between the hours of 6:00 a.m. and 8:00 p.m. on regular working days.

(Ord. 182 §10, 1948)

5.36.110 Operating rock crusher within City limits unlawful

It is unlawful for any person, firm or corporation to operate a rock crusher within the corporate limits of the City.

(Ord. 182 §11, 1948)

5.36.120 Compliance with State and City laws required

The operator of a quarry shall at all times conduct the operation of the quarry in compliance with all requirements of the laws of the State and the City, and legally authorized requirements of public officials, and shall not commit or permit any nuisance on the premises where operating.

(Ord. 182 §12, 1948)

5.36.130 Removal of debris

All wood waste and other debris shall be burned or removed from the premises by the operator and must not be allowed to accumulate.

(Ord. 182 §13, 1948)

5.36.140 Liability

The operator shall post sufficient public liability and property damage insurance as required by the State for the operation of a quarry. Proof of such insurance must be filed with the Finance Director.

(Ord. 2355 §15, 2011; Ord. 182 §14, 1948)

5.36.150 Compliance with State Highway Department

The operator must comply with all requirements of the State Highway Department in all matters such as safety, approaches, fills and culverts.

(Ord. 182 §15, 1948)

5.36.160 Impairing lateral support of adjacent land

The operator shall not impair the lateral support of any adjacent land and in any event shall not, as the result of any excavation, mining or quarrying done by him, leave the property with any slope thereon steeper than a fall of 100 feet and 25 lateral feet if the surface of the slope is solid stone, or such lesser grade as may be reasonably necessary to provide an angle of repose and safety if the surface of the slope is of softer material or liable to slough by reason of cracking or crumbling.

(Ord. 182 §16, 1948)

5.36.170 Grade level depth

If the lower level of operation shall be along a street or highway, the grade shall be left level with the street or highway for a depth of 100 feet. Grade level depth must be maintained parallel to the street or highway for the entire distance of operation.

(Ord. 182 §17, 1948)

5.36.180 Removal of temporary buildings

All buildings not of a permanent nature must be removed when the period of operation is ended.

(Ord. 182 §18, 1948)

5.36.190 License revocation

If any amount of the tax, to be paid under the terms of this chapter, becomes due and remains unpaid, or if default is made in any of the sections herein contained, the license so issued shall be revoked.

(Ord. 182 §19, 1948)

5.36.200 Guarantee to pay damages

The applicant for a license to operate a quarry shall be required to sign a guarantee to pay, or to have his insurance company pay, any and all damages that may be made against the City by any person or persons on account of injury or damage to persons or property occasioned by, or in any manner resulting from, the operation of a quarry under his license. In the event of any damage or injury occurring and an action being brought against the City therefor, the City shall promptly notify the operator and his insurance company of the commencement of the suit and notify him or them to take charge of the defense thereof.

(Ord. 182 §20, 1948)

CHAPTER 5.40
MASSAGE ESTABLISHMENTS

Sections:

This Chapter was repealed by Ordinance No. 2315 November 2010.

CHAPTER 5.44
TOW TRUCK BUSINESSES

Sections:

This Chapter was repealed by Ordinance No. 2461 December 2014.

CHAPTER 5.48

AMUSEMENT CENTERS AND DEVICES

Sections:

5.48.010 Meaning of terms

As used in this chapter, the following terms shall have the following meanings:

1. *"Amusement center"* means any place for business in which there are ten or more amusement devices for purposes of play, use or operation.

2. *"Amusement device"* means any machine or device which provides recreation or entertainment, as a game of skill, for which a charge is made for use or play; and which is not a gambling device or a device that encourages gambling, but does not include music machines, riding devices, television, and other devices for the display of pictures or views on film; nor does it include any automatic vending machine or device used exclusively for the vending of tangible merchandise.

3. *"Amusement device fees"* means fees to be paid to the City of Tukwila on each and every amusement device installed in any location in the City.

4. *"Amusement device lessor"* means a person, corporation or firm who has legal title to an amusement device as defined herein, or as a purchaser or lessee is entitled to possession or control of said amusement device.

5. *"Automatic vending machine"* means an automatic machine or device operated by coins or currency which delivers tangible merchandise upon the deposit of coins or currency.

(Ord. 1273 §1, 1982)

5.48.020 License and fees required

A. It is unlawful for any person, firm or corporation to conduct or operate an amusement center in the City without first obtaining a license pursuant to the provisions of this title.

B. It is unlawful for an amusement device lessor to place amusement devices at any location within the City without first obtaining a business license pursuant to Chapter 5.04 of this code.

C. It is unlawful for any person, firm or corporation to allow any amusement device to be operated within the place of business without first obtaining a license for each machine pursuant to the provisions of this title.

(Ord. 1273 §2, 1982)

5.48.030 License fees

A. The license fee for each amusement center shall be in accordance with the fee schedule adopted by resolution of the City Council. Such fee shall be payable annually.

B. The amusement device fee shall be in accordance with the fee schedule adopted by resolution of the City Council. Such fee shall be payable annually.

(Ord. 2496 §19, 2016; Ord. 2355 §19, 2011; Ord. 1273 §3, 1982)

5.48.040 Issuance of license

A. Any person, firm or corporation desiring to apply for an amusement center license under the provisions of this chapter shall have a Conditional Use Permit as required in the Zoning Code of the City.

B. Any person, firm or corporation desiring to apply for one or more of the licenses provided for by this chapter shall make a written application for such license or licenses with the Finance Director on a form prescribed by the Finance Director. At the time of applying for such license, said applicant shall deposit with the Finance Director the full amount of the license fee for the period for which application is made, in accordance with the fee schedule adopted by resolution of the City Council.

C. Said application shall be reviewed by a committee made up of the Finance Director, Fire Chief, Police Chief and Planning Director. The committee shall establish the qualifications of the applicant for the license being applied for and to assure compliance of all the laws, rules and regulations of the City regarding the installation and maintenance of the amusement devices. The decision of the review committee to grant or deny the application may be appealed in accordance with TMC Section 5.48.100.

D. All licenses issued under this chapter shall be issued only to the person, firm or corporation; the license may not be transferred without prior written consent of the City following review of the proposed transfer by the license review committee.

E. All licenses issued allowing amusement devices within business operations must be prominently displayed. Each license will indicate the number of operable machines allowed on the premises.

F. All application and renewal fees for amusement center licenses and amusement devices, in accordance with the fee schedule adopted by resolution of the City Council, shall be due and payable on the first day of October of each year.

G. All licenses issued hereunder shall be good for a period of one year.

(Ord. 2496 §20, 2016; Ord. 2355 §20, 2011; Ord. 1273 §4, 1982)

5.48.050 Hours of operation

A. Except as provided hereunder, it shall be unlawful for any amusement center to conduct business or be open for business between the hours of 12:00 midnight and 8:00 a.m. on Monday through Friday, and between the hours of 2:00 a.m. and 8:00 a.m. on Saturday and Sunday.

B. Those amusement centers which have a Class H or a combined Class B, E and F retailers' license issued by the State of Washington for the sale of liquor shall not be limited in the hours of operation of amusement devices which are located within the area of the establishment having such liquor license; however, the total of all amusement devices on the premises, both inside and outside the area required to be licensed for the sale of liquor, shall be considered for amusement center licensing purposes.

(Ord. 1273 §5, 1982)

5.48.060 Violations and penalties

A. In the event that the required fees are not paid when due, there shall be levied a delinquency fee of 30% of the annual gross license fee due. This penalty shall also extend to amusement devices placed on the premises anytime during a license year if a license is not acquired at the time of installing the machine.

B. If the penalties and delinquency fees are not paid within 90 days after the due date, all amusement devices will be removed from the premises at the direction of the Chief of Police. An amusement device removal fee on each machine plus an amusement device storage fee per machine shall be charged in accordance with the fee schedule adopted by resolution of the City Council.

C. It is a violation of this chapter for the owner or operator of a business to fail to publicly display his amusement device license.

D. It is unlawful for the owner, operator, manager, or other person in charge of any amusement center or place in which an amusement device is located to permit or allow to be used or played in such place any amusement device not having attached thereto the name and current address of the owner of the amusement device.

E. Any person violating any provisions of this chapter is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine in a sum not to exceed $500.00 or by imprisonment not to exceed six months, or both. Any person who engages in or carries on any business subject to a license hereunder without having first obtained the appropriate license shall be guilty of violation of this chapter for each day during which the business is so engaged. Any person who fails to pay the license fee or any part thereof on or before the due date shall be deemed to be operating without a license.

(Ord. 2496 §21, 2016; Ord. 1273 §6, 1982)

5.48.070 Enforcement

The Finance Director, the Police Chief and Fire Chief are empowered to administer, carry out and enforce the policies and provisions of this chapter.

(Ord. 2355 §21, 2011; Ord. 1273 §7, 1982)

5.48.080 Existing facilities

All amusement centers and amusement devices located or operating within the City on or after September 30, 1982, are subject to the provisions of this chapter.

(Ord. 1273 §8, 1982)

5.48.090 Severability

The provisions of this chapter are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this chapter, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of this chapter, or the validity of its application to other persons or circumstances.

(Ord. 1273 §9, 1982)

5.48.100 Appeals and hearing

A. The applicant or license holder may appeal the decison of the committee, to suspend, deny or revoke a license by filing a written notice of appeal with the City Clerk within 10 calendar days following receipt of the Notice of Denial, Suspension or Revocation. The notice of appeal must state the grounds for appeal, including a detailed explanation of why the decision to suspend, deny or revoke was incorrect. The notice of appeal must be accompanied by an Appeal Fee in accordance with the fee schedule adopted by resolution of the City Council. A timely notice of appeal shall stay the effect of the notice of non-issuance or revocation until the City's Hearing Examiner or other hearing body issues a written decision on the appeal.

B. Upon timely filing of a notice of appeal, the Finance Director shall schedule a hearing on the appeal before the City's Hearing Examiner or other hearing body. The hearing shall be conducted no later than 30 days from the date of the notice of appeal, unless an extension is agreed to by the appellant or otherwise ordered by the Hearing Examiner or other hearing body for good cause shown. Notice of the hearing will be mailed to the applicant or licensee.

C. The hearing shall be de novo. The decision of the City's Hearing Examiner or other hearing body shall be based upon a preponderance of the evidence. The burden of proof shall be on the appellant. The Hearing Examiner or other hearing body may affirm, reverse or modify the committee's decision.

D. Within 20 business days, excluding holidays recognized by the City of Tukwila, from the date of the hearing on an appeal under this section, the Hearing Examiner or other hearing body shall issue a written decision which shall set forth the reasons therefor.

(Ord. 2496 §22, 2016)

CHAPTER 5.50

PAWNBROKERS AND SECOND HAND DEALERS

Sections:

5.50.010 Pawnbrokers and second hand dealers – State statutes adopted

The following statutes of the State of Washington are adopted by reference:

RCW 19.60.010	Definitions.
RCW 19.60.014	Fixed place of business required.
RCW 19.60.020	Duty to record information.
RCW 19.60.040	Report to chief law enforcement officer.
RCW 19.60.045	Duties upon notification that property is reported stolen.
RCW 19.60.050	Retention of property by pawnbrokers – inspection.
RCW 19.60.055	Retention of property by second hand dealers – Inspection.
RCW 19.60.060	Rates of interest and other fees – Sale of pledged property.
RCW 19.60.061	Pawnbrokers – Sale of pledged property limited – Written document required for transactions.
RCW 19.60.062	Attorney fees and costs in action to recover possession.
RCW 19.60.066	Prohibited acts – Penalty.
RCW 19.60.075	Regulation by political subdivisions.
RCW 19.60.085	Exemptions.
RCW 19.60.900	Severability.

(Ord. 1476 §1, 1988)

CHAPTER 5.52

PANORAM DEVICES

Sections:

5.52.010 Definitions

As used in this chapter, the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

1. "*Finance Director*" means the City of Tukwila employee or agent appointed by the Mayor as licensing official under this chapter.

2. *"Panoram," "preview," "picture arcade"* or *"peep show"* means any device which, for payment of a fee, membership fee or other charge, is used to view, exhibit or display a film or videotape. All such devices are denominated in this chapter by the terms "panoram" or "panoram device." The terms "panoram" or "panoram device" as used in this chapter do not include games which employ pictures, views or video displays, or gambling devices regulated by the State.

3. *"Panoram premises"* means any premises or portion of any premises on which any panoram device is located and to which members of the public are admitted. The term "panorama premises" as used in this chapter does not include movie or motion picture theater auditoriums capable of seating more than five people.

4. *"Panoram station"* means a portion of any premises premises on which a panoram device is located and where a patron or customer would ordinarily be positioned while watching the panoram device.

(Ord. 2355 §22, 2011; Ord. 1475 §1 (part), 1988)

5.52.020 Panoram premises license required

A. It is unlawful to display, exhibit, expose or maintain any panoram device upon any premises to which members of the public are admitted unless there is a valid and current panoram premises license for such premises.

B. A separate panoram premises license is required for each panoram premises and the same shall at all times be conspicuously posted and maintained therein.

C. The Finance Director shall prescribe the form of such license, number the same, and shall indicate thereon the number of panoram devices which may be operated thereunder, and the location of the licensed panoram premises.

(Ord. 2355 §23, 2011; Ord. 1475 §1 (part), 1988)

5.52.030 Panoram device license required

A. It is unlawful to exhibit or display for public use any panoram device upon any panoram premises without first having obtained a panoram device license for each such panoram device.

B. Panoram device licenses shall be issued for specific panoram premises only and shall not be transferable.

C. The current panoram device license for each panoram device shall be securely attached to each panoram device in a conspicuous place.

D. The Finance Director shall prescribe the form of such license and number the same.

(Ord. 2355 §24, 2011; Ord. 1475 §1 (part), 1988)

5.52.040 Panoram operator's license required

It is unlawful to own and exhibit or display for public use, or to place with another, by lease or otherwise, for public use, exhibit or display, any panoram device without a valid and current panoram operator's license. The Finance Director shall prescribe the form of such license and shall number the same.

(Ord. 2355 §25, 2011; Ord. 1475 §1 (part), 1988)

5.52.050 License fee – Terms – Assignment – Renewals

A. The license year for licenses under this chapter shall be from January 1 to December 31. All licenses under this chapter shall expire on December 31 of each year. Except as hereinafter provided, all license fees under this chapter shall be payable on an annual basis. Annual license fees for a Panoram premises license, Panoram device license and/or Panoram operator license shall be in accordance with the fee schedule adopted by resolution of the City Council.

B. License fees under TMC Section 5.52.050.A shall not be prorated. Licenses issued under this chapter may not be assigned or transferred to other premises, operators or devices.

C. On or before December 31 of each year, a licensee under this chapter shall file an application for each license he wishes to use in the next license year. An application for a license shall be filed in the same manner as an initial application for such a license, and shall be accompanied by a fee in an amount equal to the license fee applicable to an original application for such a license, in accordance with the fee schedule adopted by resolution of the City Council. Applications filed after December 31 shall be assessed an additional charge as follows:

1. If the application is more than 6 but less than 31 days late, the additional charge is 25% of the application fee.

2. If the application is more than 30 but less than 61 days late, the additional charge is 50% of the application fee.

D. If a licensee, on or before December 31 of any year, gives written notice to the Finance Director that he will not conduct business in a manner requiring a license under this chapter after December 31, such licensee may reapply for a license at any time he wishes to conduct a business requiring such a license.

E. If a licensee does not give written notice as provided for in TMC Section 5.52.050.D or, having given such notice, operates after December 31 in a manner requiring a license under this chapter and does not renew such required license as provided in TMC Section 5.52.050.C, such license shall be automatically revoked on the 61st day of the year, and such licensee may not reapply for such license for a period of one year from such date of revocation. Upon such revocation, the Finance Director shall promptly mail written notice of such revocation to such licensee. The revocation shall be deemed received by the licensee 3 days after mailing.

(Ord. 2496 §23, 2016; Ord. 2355 §26, 2011; Ord. 1475 §1 (part), 1988)

5.52.060 License application – Report by City departments

A. Any person seeking a panoram premises license, panoram operator's license or panoram device license shall file a written application with the Finance Director on a form provided by the Finance Director for that purpose. The Finance Director, upon presentation of such application and before acting upon the same, shall refer such application to the City Police Department, which shall make a full investigation as to the truth of the statements contained therein, and to the City Development Review Committee and City Fire Department, and to the County Health Department, which shall investigate and provide information to the Finance Director concerning compliance of the premises and devices sought to be licensed with this and other applicable City and State health, zoning, building, fire and safety ordinances and laws.

B. Applicants for any license or renewal thereof under this chapter shall provide information as follows:

1. With each application for a panoram premises license or renewal thereof, applicants shall provide:

a. The name, address and telephone number of each person applying for the license;

b. The name, address and telephone number of each person holding an ownership, leasehold or interest in the panoram e premises;

c. The name, address and telephone number of the manager or other person responsible for the operation of the premises;

d. The address of the premises;

e. The number of panoram devices to be located on the premises; and

f. A sketch or drawing sufficient to show the layout of the premises, including all information necessary to determine whether the premises complies with the provisions of this chapter.

2. With each application for a panoram device license or renewal thereof, applicants shall provide:

a. The name, address and telephone number of each person applying for the license;

b. The name, address and telephone number of each person holding an ownership, leasehold or other interest in the panoram device;

c. The name, address and telephone number of each person responsible for the operation of the panoram device;

d. The address at which the panoram device is to be located; and

e. A description of the panoram device, including make, model and serial number.

3. With each application for a panoram operator's license or renewal thereof, applicants shall provide:

a. The name, address and telephone number of each person applying for the license;

b. The name, address and telephone number of each person holding an ownership, leasehold or other interest in the panoram device; and

c. A list of all panoram devices and premises at which panoram devices are located, together with a description of all panoram devices, including make, model and serial number.

(Ord. 2355 §27, 2011; Ord. 1475 §1 (part), 1988)

5.52.070 Inspection of panoram premises

A. Applicants for any license under this chapter with respect to any premises or devices shall allow such premises or devices to be inspected by authorized inspectors from the City Fire Department, City Police Department, City Development Review Committee and County Health Department, for the purpose of determining whether such premises and devices comply with this chapter.

B. Licensees operating premises and devices licensed under this chapter shall hold those areas upon the premises which are accessible to the public and the devices therein open for routine regulatory inspections by the City Fire Department or City Police Department during normal business hours.

(Ord. 1475 §1 (part), 1988)

5.52.080 Issuance of licenses

A. Within 30 days of the date of filing of any application, the Finance Director shall issue the license or licenses applied for or renewal thereof, or notice of non-issuance and the reasons therefor.

B. The Finance Director shall issue the license or licenses applied for if and only if, after an investigation, the Finance Director finds:

1. That the business for which a license is required herein will be conducted in a building, structure and location which complies with the requirements and standards of this chapter; and

2. That the applicant, his or her employee, agent, partner, director, officer, stockholder or manager has not knowingly made any false, misleading or fraudulent statement of material fact in the application for a license, or in any report or record required to be filed with the Finance Director.

C. The Finance Director shall renew a license upon application unless the Finance Director is aware of facts that would disqualify the applicants from holding the license for which they seek renewal.

(Ord. 2355 §28, 2011; Ord. 1475 §1 (part), 1988)

5.52.090 Suspension or revocation of licenses - Notices -–Summary spension

A. After an investigation and upon the recommendation of the Chief of Police, Director of Planning, Fire Chief or the County Health Officer, the Finance Director may, upon 30 days' notice, temporarily or permanently suspend or revoke any license issued pursuant to this chapter where one or more of the following conditions exist:

1. The license was procured by fraud or misrepresentation of a material fact in the application or in any report or record required to be filed with the Finance Director;

2. The building, structure, equipment or location of the business for which the license was issued does not comply with the requirements or the standards of this chapter;

3. The licensee, his or her employee, agent, partner, director, officer or manager has knowingly allowed or permitted in or upon the panoram premises any violations of this chapter or acts made unlawful under this chapter.

B. If the Finance Director finds that any condition set forth in TMC Section 5.52.090.A exists, and that such condition constitutes a threat of immediate serious injury or damage to persons or property, the Finance Director may immediately suspend any license issued under this chapter pending a hearing in accordance with TMC Section 5.52.100. The Finance Director shall issue notice setting forth the basis for the Finance Director's action and the facts supporting the Finance Director's finding regarding the condition found to exist that constitutes a threat of immediate serious injury or damage to person or property.

(Ord. 2355 §29, 2011; Ord. 1475 §1 (part), 1988)

5.52.100 Appeal and hearing

A. The applicant or license holder may appeal the decision of the Finance Director to suspend, deny or revoke a license issued under this chapter by filing a written notice of appeal with the City Clerk within 10 days following receipt of the notice of suspension, denial or revocation. The notice of appeal must state the grounds for appeal, including a detailed explanation of why the decision was incorrect. The notice of appeal must be accompanied by an Appeal Fee in accordance with the fee schedule adopted by resolution of the City Council. A timely notice of appeal shall stay the effect of the notice of non-issuance or revocation until the City's Hearing Examiner or other hearing body issues a written decision on the appeal, except as provided in TMC Section 5.52.100.E.

B. Upon timely filing of a notice of appeal, the Finance Director shall schedule a hearing on the appeal before the City's Hearing Examiner or other hearing body. The hearing shall be conducted no later than 30 days from the date of the notice of appeal, unless an extension is agreed to by the appellant or otherwise ordered by the Hearing Examiner or other hearing body for good cause shown. Notice of the hearing will be mailed to the applicant or licensee.

C. The hearing shall be de novo. The decision of the City's Hearing Examiner or other hearing body shall be based upon a preponderance of the evidence. The burden of proof shall be on the appellant. The Hearing Examiner or other hearing body may affirm, reverse or modify the Finance Director's decision.

D. Within 20 business days, excluding holidays recognized by the City of Tukwila, from the date of the hearing on an appeal under this section, the Hearing Examiner or other hearing body shall issue a written decision which shall set forth the reasons therefor.

E. In cases of summary suspension of licenses because of the threat of immediate serious injury or damage to persons or property pursuant to TMC Section 5.52.090.B, upon receipt of a timely notice of appeal, the Finance Director shall set a hearing within 5 business days before the City's Hearing Examiner or other hearing body. The City's Hearing Examiner or other hearing body shall render a decision within 5 business days of the conclusion of the hearing. The filing of such an appeal shall not stay the action of the Finance Director from which the appeal is taken.

(Ord. 2496 §24, 2016; Ord. 2355 §30, 2011; Ord. 1796 §3 (part), 1997; Ord. 1475 §1 (part), 1988)

5.52.110 Premises regulations

It shall be unlawful and a violation of this chapter for a panoram operator, or anyone owning or controlling a panoram premises, to cause, maintain, or permit to exist any condition in violation of this section; and the Finance Director shall not license any panoram premises which do not conform to the requirements of this section, and shall revoke or suspend the license of any panoram premises, and the license of any operator thereof, which do not maintain conformity with these requirements.

1. The interior of every panoram station shall be visible from a continuous main aisle and shall not be obscured by any curtain, door, wall, or other form of partition or enclosure.

2. The panoram stations on any panoram premises shall be separated by partitions constructed of wood or other solid and opaque material. No openings in such partitions for ventilation or other purposes shall extend higher than 12 inches from the floor or lower than 84 inches from the floor.

3. The licensee shall not permit any doors to areas on the premises which are available for use by persons other than the licensee or employees of the licensee to be locked during business hours.

4. The licensee shall maintain illumination equally distributed in all parts of the premises available for use by the public, at all times when the premises are open or when any member of the public is permitted to enter and remain therein.

5. The entire floor area of a panoram booth or stall must be level with the continuous main aisle. No steps, ramps or risers are allowed in any such booth or stall.

6. The licensee shall permanently post and maintain on the interior and exterior of each booth or stall on the panoram premises a sign with one-inch lettering on a contrasting background stating:

"Occupancy of this booth is at all times limited to only one person. Violators are subject to criminal prosecution under TMC Section 5.52.130."

7. The licensee shall not operate or maintain any warning system or device, of any nature or kind, for the purpose of warning customers or patrons or any other persons occupying panoram booths or stalls located on the licensee's premises that Police officers or City health, fire, licensing or building inspectors are approaching or have entered to the licensee's premises.

8. A licensed panoram operator shall be on the premises at all times that the panoram premises is open to the public for business.

(Ord. 2355 §31, 2011; Ord. 1573 §1, 1990; Ord. 1475 §1 (part), 1988)

5.52.120 Unlawful acts

A. A panoram booth or stall shall be subject to the requirements of this chapter may only be occupied by one person at any one time. It is unlawful for any person to occupy such a booth or stall at the same time it is occupied by any other person.

B. It is unlawful to stand or kneel on any chair or seating surface in a panoram booth or stall.

C. It is unlawful for any owner, operator, manager, employee or other person in charge of premises for which a panoram location license is required to warn, aid and abet the warning of, customers or patrons or any other persons occupying panoram booths or stalls located on the licensee's premise that Police officers or City health, fire, licensing or building inspectors are approaching or have entered the licensee's premises.

(Ord. 1475 §1 (part), 1988)

5.52.130 Violations and penalties

It is unlawful for any person to violate any provision or to fail to comply with any of the requirements of this chapter. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this chapter, including the premises regulations enumerated in TMC 5.52.110, shall upon conviction

thereof be punished by a fine of not more than $500.00, or by imprisonment for a period of not more than six months, or by both such fine and imprisonment. Each such person shall be guilty of a separate offense for each and every day, or part of day, during which any violation of any provision of this chapter is committed, continued, or permitted. In addition to the penalties hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter shall be deemed a public nuisance and may be, by this City, summarily abated as such, and each day that such condition continues shall be regarded as a new and separate offense.

(Ord. 1573 §2, 1990; Ord. 1475 §1 (part), 1988)

5.52.140 Compliance

All persons regulated pursuant to this chapter shall comply with this chapter within 30 days of the effective date of the ordinance codified in this chapter.

(Ord. 1475 §1 (part), 1988)

CHAPTER 5.56

ADULT ENTERTAINMENT CABARETS

Sections:

5.56.010 Purpose

A. This chapter is intended to protect the general health, safety and welfare of the citizenry of the City through the regulation of adult entertainment cabarets. The regulations set forth herein are intended to prevent dangerous and unlawful conduct, and to prevent health and safety problems, in and around adult entertainment cabarets. This regulation is supported specifically by Tukwila's own experience with adult entertainment cabarets, and generally by the experience of other cities with similar establishments.

B. This chapter is intended to deter the serious and repeated violations of criminal law that regularly occur in adult entertainment cabarets. The City Council considers these crimes to be serious, and their prevention and elimination to be of paramount importance to the health, safety and welfare of the City.

(Ord. 2575 §3, 2018; Ord. 1747 §1 (part), 1995; Ord. 1490 §2 (part), 1988)

5.56.020 Definitions

For the purposes of this chapter, the words set out in this section shall have the following meanings:

A. *"Adult entertainment"* means:

1. Any exhibition, performance or dance of any type conducted in a premises where such exhibition, performance, or dance involves a person who is unclothed or in such costume, attire, or clothing as to expose any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, or human male genitals in a discernibly turgid state, or wearing any device or covering exposed to view which simulates the appearance of any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, or human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

2. Any exhibition, performance or dance of any type conducted in a premises where such exhibition, performance or

dance is distinguished or characterized by a predominant emphasis on the depiction, description, simulation or relation to the following specified sexual activities:

(a) Human genitals in a state of sexual stimulation or arousal;

(b) Acts of human masturbation, sexual intercourse or sodomy;

(c) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast; or

3. Any exhibition, performance or dance which is intended to sexually stimulate any member of the public and which is conducted on a regular basis or as a substantial part of the premises activity. This includes, but is not limited to, any such exhibition, performance or dance performed for, arranged with or engaged in with fewer than all members of the public on the premises at that time, with separate consideration paid, either directly or indirectly, for such performance, exhibition or dance and which is commonly referred to as table dancing, couch dancing, taxi dancing, lap dancing, private dancing or straddle dancing.

B. *"Adult entertainment cabaret"* means any premises open to the public in which there is at any time an exhibition or dance constituting "adult entertainment" as described in TMC Section 5.56.020.A, provided for the use or benefit of a member or members of the adult public, or advertised for the use or benefit of a member or members of the adult public; provided, that "adult entertainment cabaret" does not include any tavern or other business that maintains a liquor license.

C. *"Employee"* means any and all persons, including entertainers, who work in or at or render any services directly related to the operation of an adult entertainment cabaret.

D. *"Entertainer"* means any person who performs any entertainment, exhibition or dance of any type within an adult entertainment cabaret, whether or not such person or anyone else charges or accepts a fee for such entertainment, exhibition, or dance.

E. *"Entertainment"* means any exhibition or dance of any type, pantomime, modeling or any other performance.

F. *"Finance Director"* means the City Finance Director or his/her designee who is designated by the Mayor as licensing official under this chapter.

G. *"Manager"* means any person licensed as a manager under this chapter.

H. *"Member of the public"* means any customer, patron, club member, or person, other than an employee as defined in this section, who is invited or admitted to an adult cabaret.

I. *"Operator"* means all persons who own, operate, direct, oversee, conduct, maintain, or effectively exert management control or authority over an adult entertainment cabaret or its affairs, without regard to whether such person(s) owns the premises in which the adult entertainment cabaret does business.

An Operator "effectively exerts management control or authority" when he or she actually does, or is in a position to, participate in the management, direction or oversight of an adult entertainment cabaret or its affairs, whether or not such person's name appears on any public record filed with any government agency in connection with an adult entertainment cabaret or any parent company or affiliate.

An Operator's "parent company or affiliate" means any other person which owns 50% or more of any class of an operator's stock, or which effectively exerts management control or authority over an operator.

J. *"Performance area"* means an area no larger than the area beginning six feet away from, and running parallel to, the front edge of a stage on which adult entertainment is permitted to occur, and which extends away from the stage no deeper than the depth of that stage.

K. *"Person"* means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity, or other entity or group of persons, however organized.

L. *"Sexual conduct"* means acts of:

1. Sexual intercourse within its ordinary meaning, occurring upon any penetration, however slight; or

2. Any penetration of the vagina or anus, however slight, by an object; or

3. Any contact between persons involving the sex organs of one person and the mouth or anus of another; or

4. Masturbation, manual or instrumental, of oneself or of one person by another; or

5. Touching of the sex organs or anus, whether clothed or unclothed, of oneself or of one person by another.

(Ord. 2575 §4, 2018; Ord. 2496 §25, 2016; Ord. 2355 §32, 2011; Ord. 1910 §1, 2000; Ord. 1747 §1 (part), 1995; Ord. 1604 §1, 1991; Ord. 1490 §2 (part), 1988)

5.56.030 Adult entertainment cabaret licenses

A. Required. No adult entertainment cabaret shall be operated or maintained in the City unless the owner or lessee thereof has a current adult entertainment cabaret license under this chapter. It is unlawful for any operator, manager, entertainer or employee to knowingly work in or about, or to knowingly perform any service directly related to the operation of an adult entertainment cabaret, when such cabaret does not have a current adult entertainment cabaret license. It is unlawful for any person to conduct, manage or operate an adult entertainment cabaret unless such person is the holder of a valid license from the City to do so, obtained in the manner provided in this chapter.

B. Expiration. The license year for an adult entertainment cabaret license shall be from January 1 to December 31 of each year. Each such license shall expire at close of business or midnight, whichever is earlier, on December 31 of such year.

C. Fees. The license fee for an adult entertainment cabaret license shall be in accordance with the fee schedule adopted by resolution of the City Council. License fees under this chapter shall not be prorated.

D. Terms. Except as hereinafter provided, the license fee for such license is payable for a full year only and is not refundable.

E. Assignments. An adult entertainment cabaret license under this chapter shall not be assigned or transferred.

F. Renewal of application. The license holder shall submit a new application for a license annually. The application shall be

submitted with a fee in accordance with the fee schedule adopted by resolution of the City Council.

(Ord. 2496 §26, 2016; Ord. 2355 §33, 2011; Ord. 1747 §1 (part), 1995; Ord. 1490 §2 (part), 1988)

5.56.040 Manager's licenses and entertainer's licenses

A. Required. No person shall work as a manager at an adult entertainment cabaret in the City without a current manager's license under this chapter. No person shall work as an entertainer at an adult entertainment cabaret in the City of Tukwila without a current entertainer's license under this chapter. No person shall work at an adult entertainment cabaret in the City of Tukwila unless the adult entertainment cabaret license is valid and current.

B. Expiration. The license year for a manager's license or an entertainer's license shall be from January 1 to December 31 of each year. Each such license shall expire at close of business or midnight, whichever is earlier, on December 31 of each year.

C. Fees. The license fee for a manager's license or entertainer's license shall be in accordance with the fee schedule adopted by resolution of the City Council. The license fee for each such license is payable for a full calendar year only and is not refundable.

D. Assignments. A manager's license or entertainer's license under this chapter shall not be assigned or transferred.

E. Minimum age. No person under 18 years of age may obtain a manager's license or entertainer's license under this chapter.

F. Renewal of application. The license holder shall submit a new application for a license annually. The application shall be submitted with a fee in accordance with the fee schedule adopted by resolution of the City Council.

(Ord. 2575 §5, 2018; Ord. 2496 §27, 2016; Ord. 2355 §34, 2011; Ord. 1747 §1 (part), 1995; Ord. 1490 §2 (part), 1988)

5.56.050 License applications

A. *Adult Entertainment Cabaret License* - Any application for an adult entertainment cabaret license or renewal thereof shall be submitted in the true name of the operator of the adult entertainment cabaret to which the application pertains. The true operator or his/her agent, under penalty of perjury, shall sign and notarize that all of the operators as defined in TMC Section 5.56.020 are listed and all of the information provided is true and correct. Any change in ownership in the adult entertainment cabaret must be reported to the Finance Director within 20 days of such change(s). Each such application shall be submitted on a form supplied by the Finance Director. The form shall require the following information:

1. If the applicant is an individual or partnership, the names, home addresses, home telephone numbers, dates and places of birth, and social security numbers of all operator(s). If the applicant is a partnership, all such information must be provided for all general partners;

2. If the applicant is a corporation, the names, addresses, telephone numbers, and social security numbers of all operators, and of all corporate officers and directors. The same information shall be required from each parent company or affiliate;

3. The name, address, and telephone number of the adult entertainment cabaret;

4. The name, address and telephone number of the owner of the property on which the adult entertainment cabaret is located;

5. The names, addresses, and telephone numbers of all employees of the adult entertainment cabaret;

6. A statement detailing whether the applicant or any operator, partner, corporate officer, director, or shareholder of 50% or more of any class of an operator's stock, holds any other licenses under this chapter or any similar adult entertainment or sexually oriented business ordinance, including motion picture theaters and panorams from the City or another city, county, or state, and if so, the names and addresses of each other licensed business and the jurisdiction(s) in which such businesses are located; and

7. A description of the sexually oriented adult entertainment business history of the applicant; whether such person or entity, in previously operating in this or another city, county or state, has had a business license or adult entertainment license revoked or suspended, the reason therefore, and the activity or occupation of the applicant subsequent to such action, suspension or revocation.

B. *Manager's License or Entertainer's License* -

1. Any application for a manager's license or entertainer's license, or any renewal thereof, shall be signed by the applicant and notarized to be true under penalty of perjury. Each such application shall be submitted on a form supplied by the Finance Director. The form shall require a statement of the applicant's name, home address, home telephone number, date and place of birth, and the name, address and phone number of the adult entertainment cabaret or cabarets at which the applicant will work, and any stage names or nicknames used in entertaining. The form shall also require the applicant to disclose all prior criminal convictions, including the crime(s) convicted of, place, and the approximate date of each such conviction.

2. At the time of application or renewal, the applicant shall present picture identification which shall include (1) a valid motor vehicle operator's license, issued by the state of Washington, bearing the applicant's photograph and date of birth; or (2) a valid Washington state-issued identification card bearing the applicant's photograph and date of birth. At the time of application or renewal the applicant shall be photographed by the Tukwila Police Department for the Finance Director's records and the Police Department's records.

C. *Duty to Supplement Application* - In the event that any information on any application for a license under this chapter becomes outdated or otherwise inaccurate or incomplete, including but not limited to a change in the applicant's name, address, telephone number, or stage name, or substantial changes to an applicant's appearance, including but not limited to a change in hair style and color, or facial or other features including tattoos, an applicant or license holder shall appear before the

Finance Director within 20 days and provide current information, including, when applicable, being photographed by the Tukwila Police Department to accurately reflect any change in looks when compared to the most recent photograph available under TMC Section 5.56.050.B.

(Ord. 2575 §6, 2018; Ord. 2355 §35, 2011; Ord. 1747 §1 (part), 1995; Ord. 1604 §2, 1991; Ord. 1490 §2 (part), 1988)

5.56.060 Issuance of license and renewal of application

A. Upon receipt of any complete application for a license, the Finance Director shall issue a temporary license, pending investigation and disposition of the application or completion of the term of any license suspension issued pursuant to this chapter. The temporary license shall expire upon issuance of a license or renewal thereof or notice of non-issuance or 30 days from the date of issue, whichever is sooner. The holder of a temporary license is subject to all requirements, standards and penalty provisions of this chapter.

B. After issuance of a temporary license, the Finance Director shall further refer the application to the Police Department, which shall investigate the truth of the statements in the application and shall investigate the applicant's compliance with the standards of this chapter. The applicant's information shall be submitted to the Washington State Patrol Identification and Criminal History Section (WASIS). Any Washington State criminal history conviction records on the applicant shall be provided to and reviewed by the City of Tukwila Police Department. The applicant shall submit an additional fee for the WATCH (Washington Access to Criminal History) background check in accordance with the fee schedule adopted by resolution of the City Council.

C. After an investigation, but prior to the expiration of the temporary license, the Finance Director shall issue a license if the Finance Director finds:

1. That the applicant complies with all applicable requirements and standards of this chapter; and

2. That the applicant has not made any false, misleading or fraudulent statement of fact in the application for a license, or in any report or record required to be filed with the Finance Director.

In the event the applicant has not met the enumerated requirements after the required investigations, the Finance Director shall issue a notice of non-issuance of the license. Notice of non-issuance shall specify the reasons therefor.

D. Upon receipt of any application for renewal of a license under this chapter, the Finance Director shall issue the renewal unless the Finance Director has information which indicates the applicant would not qualify for the initial issuance of a license under TMC Section 5.56.060.C. As necessary, the Finance Director may issue temporary licenses after receipt of a renewal application. In the event the applicant has not met the enumerated requirements after the required investigation, the Finance Director shall issue the renewal or notice of non-renewal of the application. Notice of non-renewal of application shall specify the reasons therefor.

E. Receipt of the Notice of Denial, Suspension or Revocation. The Notice of Denial, Suspension or Revocation of a license under this chapter shall be sent to the applicant or license holder by registered mail at the address provided on the license application. Notice shall be deemed received by the applicant or license holder 3 business days after mailing.

F. Each adult entertainment cabaret shall maintain on the premises of the adult entertainment cabaret and retain for a period of two years the names, addresses, home telephone numbers, social security numbers, and ages of each person employed or otherwise permitted to appear or perform on the premises as an entertainer, including independent contractors and employees. This information shall be available for inspection by the Finance Director or the Tukwila Police Department during the adult entertainment cabaret's regular business hours.

(Ord. 2575 §7, 2018; Ord. 2496 §28, 2016; Ord. 2355 §36, 2011; Ord. 1747 §1 (part), 1995; Ord. 1490 §2 (part), 1988)

5.56.070 Lewd performance

Each adult entertainment cabaret and each operator, manager, entertainer and employee thereof shall comply with the following requirements:

1. No employee or entertainer shall be unclothed or in such attire, costume or clothing so as to expose to view any portion of the breast below the top of the areola, or any portion of the pubic hair, anus, buttocks, vulva and/or genitals, except upon a stage at least 18 inches above the immediate floor level and removed at least six feet from the nearest patron.

2. No employee or entertainer shall wear or use any device or covering exposed to view which simulates the breast below the top of the areola, vulva or genitals, anus, and/or buttocks, or any portion of the pubic hair, except upon a stage at least 18 inches above the immediate floor level and removed at least six feet from the nearest patron.

3. No employee or entertainer shall touch, fondle or caress any patron or other person for the purpose of arousing or exciting the patron's or other person's sexual desires.

4. No employee or entertainer shall allow a patron to touch an employee or entertainer on the breast, in the pubic area, buttocks, or anal area. No patron or other person shall touch, fondle or caress an employee or entertainer for the purpose of arousing or exciting the sexual desires of either party.

5. No entertainer performing upon any stage or in a performance area shall be permitted to accept any money offered for any purpose directly to the entertainer by any member of the public. Any money offered to any entertainer performing upon a stage or in a performance area must be provided through a manager on duty on the premises. Money shall not otherwise be exchanged between entertainers and members of the public. It is a gross misdemeanor for an entertainer to directly accept money from a member of the public or for a member of the public to directly give money to an entertainer while in an adult entertainment cabaret.

(Ord. 1747 §1 (part), 1995; Ord. 1604 §3, 1991; Ord. 1490 §2 (part), 1988)

5.56.080 Premises configuration requirements

Every adult entertainment cabaret shall be arranged in such a manner that:

1. Other than as set forth in TMC Section 5.56.080(2) below, adult entertainment shall occur only on a stage, at least 18 inches above the immediate floor level and at least six feet removed from the nearest patron. No members of the public shall be permitted on a stage or within six feet of a stage, while adult entertainment is in progress.

2. One-on-one entertainment, or other entertainment, occurring between an entertainer and a patron shall occur only in a designated performance area and at least four feet away from any patron. The perimeter of each performance area must, at all times, be clearly and completely delineated by a solid strip at least three inches wide in a contrasting color to the floor. Any seating in a performance area shall be arranged to face the stage and shall be permanently affixed to the floor. A strip at least two inches wide, and at least four feet long, in a contrasting color to the floor, shall, at all times, be affixed to the floor beginning at a point immediately under the center of the front edge of any seating in a performance area.

3. At least two licensed managers shall be on the premises of an adult entertainment cabaret at all times that the adult entertainment cabaret is open to the public, and shall be clearly identified at all times by means of a nameplate no less than ¾-inch high and three inches long which reads "ON DUTY MANAGER." Such nameplate shall be conspicuously affixed to the manager's clothing and clearly visible at all times. The names and licenses of the managers on duty shall be prominently posted and illuminated in an area open to the public during such managers' shifts. The managers shall be responsible for verifying that any person who provides adult entertainment within the premises possesses a current and valid entertainer's license. At least one licensed manager shall have at all times a clear, continuous, and unobstructed view of all stages on which adult entertainment is permitted to occur, and of all performance areas. While on duty, no manager shall provide entertainment or adult entertainment.

4. No adult entertainment shall be visible at any time from outside an adult entertainment cabaret.

5. Sufficient lighting shall be provided and equally distributed throughout the public areas of the premises so that all objects are plainly visible at all times to a person of ordinary eyesight.

6. No interior walls shall be allowed, other than to segregate restrooms, employee dressing rooms, manager's office, or other areas reasonably necessary to the business operation of the adult entertainment cabaret. No member of the public shall be allowed in any such segregated area, other than restrooms.

7. There shall be posted and conspicuously displayed in the common areas of each adult entertainment cabaret a sign, at least three feet long and two feet high, listing any and all entertainment provided on the premises. Such list shall be printed in letters of sufficient size so that the list is clearly legible by persons of ordinary eyesight from any location where entertainment is provided. Such list shall further indicate the specific fee or charge in dollar amounts for each form of entertainment listed.

8. There shall be posted in each performance area a well illuminated and conspicuously displayed sign, at least three feet long and two feet high, listing the following:

"It is a crime for entertainers to:

1. Expose their breasts below the top of the areola, any portion of the pubic hair, buttocks, genitals or vulva and/or anus, except upon a stage; or

2. Touch, fondle, or caress a patron or other person for the purpose of sexual arousal; and

It is a crime for patrons or other persons to:

1. Touch, fondle, or caress any entertainer or other employee for the purpose of sexual arousal; and

2. Give directly to any entertainer, or for any entertainer to directly accept, any money from a member of the public, while on this premises."

Such list shall be printed in letters of sufficient size so that the list is clearly legible by persons of ordinary eyesight from any location where entertainment is provided.

(Ord. 2575 §8, 2018; Ord. 1747 §1 (part), 1995; Ord. 1604 §3, 1991; Ord. 1490 §2 (part), 1988)

5.56.090 Revocation or suspension of licenses

A. The Finance Director may revoke any license under this chapter or may suspend any such license for a period of time not to exceed one year where one or more of the following conditions exist:

1. The license was procured by fraud, by a materially false or misleading representation of fact in the application or in any report or record required to be filed with the Finance Director; or

2. The building, structure, equipment, operation or location of the business for which the license was issued does not comply with the requirements or standards of this chapter; or

3. The license holder, his or her employee, agent, partner, director, officer or manager has violated or permitted violation of any of the provisions of this chapter.

B. Upon determination that grounds for revocation or suspension of a license exist, the Finance Director shall send the license holder a notice of revocation or suspension by first class mail, postage prepaid. Such notice shall be effective upon the expiration of the ten-day appeal period set forth in TMC Section 5.56.100.A, unless a timely notice of appeal is filed as specified therein.

(Ord. 2575 §9, 2018; Ord. 2355 §37, 2011; Ord. 1747 §1 (part), 1995; Ord. 1490 §2 (part), 1988)

5.56.100 Appeals

A. Upon notice of non-issuance, revocation or suspension of any license under this chapter, or imposition of any civil penalty under TMC Section 5.56.110, the applicant or license holder may appeal by filing a written notice of appeal with the City Clerk within 10 calendar days following receipt of the Notice of Non-issuance, Denial, Suspension, Revocation, or Imposition of Penalties. The notice of appeal must state the grounds for appeal, including a detailed explanation of why the decision to suspend, deny or revoke was incorrect. The notice of appeal must be accompanied by an Appeal Fee in accordance with the fee schedule adopted by resolution of the City Council. A timely notice of appeal shall stay the effect of the notice of non-issuance or revocation until the City's Hearing Examiner or other hearing body issues a written decision on the appeal. A warning notice to a manager, under TMC Section 5.56.110.A.1, shall not constitute the imposition of a penalty that is appealable under this section.

B. Upon timely filing of a notice of appeal, the Finance Director shall schedule a hearing on the appeal before a Hearing Examiner. The hearing shall be conducted no later than 30 days from the date of the notice of appeal, unless an extension is agreed to by the appellant or otherwise ordered by the Hearing Examiner or other hearing body for good cause shown. Notice of the hearing will be mailed to the applicant or licensee.

C. The hearing shall be de novo. The decision of the City's Hearing Examiner or other hearing body shall be based upon a preponderance of the evidence. The burden of proof shall be on the appellant. The Hearing Examiner or other hearing body may affirm, reverse or modify the Finance Director's decision.

D. Within 20 business days, excluding holidays recognized by the City of Tukwila, from the date of the hearing on an appeal under this section, the Hearing Examiner or other hearing body shall issue a written decision, which shall set forth the reasons therefor.

(Ord. 2575 §10, 2018; Ord. 2496 §29, 2016; Ord. 2381 §9, 2012; Ord. 1747 §1 (part), 1995; Ord. 1490 §2 (part), 1988)

5.56.110 Violation

A. Strict civil liability for managers and operators. Managers of adult entertainment cabarets shall be strictly liable, as set forth below, for any violation of this ordinance committed by other employees or agents of the adult entertainment cabaret, while in the adult entertainment cabaret. These civil violations shall be known as "Permitting Lewd Performance". Notice of any such violations shall be on a form prescribed by the Chief of Police.

1. During any time that a manager is on duty, the first violation committed by any employee or agent of the adult entertainment cabaret, including but not limited to entertainers and managers, shall result in a warning notice to such manager that he has committed the civil violation of Permitting Lewd Performance and that subsequent violations shall result in penalties pursuant to this section. Copies of any warning notices issued under this section shall also be sent or delivered to the operator(s).

2. During any time that a manager is on duty, the second violation committed within twelve consecutive months of the first, by any employee or agent of the adult entertainment cabaret, including but not limited to entertainers and managers, shall result in a civil penalty of a mandatory $500 fine and a mandatory 60-day suspension of that manager's license. Notice of this violation shall be sent or delivered to the operator(s).

3. During any time that a manager is on duty, the third violation committed, within twelve consecutive months of the first, by any employee or agent of the adult entertainment cabaret, including but not limited to entertainers and managers, shall result in a civil penalty of a mandatory $1,000 fine and a mandatory 120-day suspension of that manager's license. Notice of this violation shall be sent or delivered to the operator(s).

4. During any time that a manager is on duty, the fourth violation committed, within any period of twelve consecutive months, by any employee or agent of the adult entertainment cabaret, including but not limited to entertainers and managers, shall result in a mandatory civil penalty of a $1,500 fine and a mandatory suspension of that manager's license for 180 days. Notice of this violation shall be sent or delivered to the operator(s).

B. An operator of an adult entertainment cabaret shall be deemed to have the knowledge, and to be strictly liable for the conduct, of its licensed managers, as set forth below. These civil violations shall be known as "Facilitating Lewd Operations". Notice of any such violations shall be on a form prescribed by the Chief of Police.

1. If any one or more licensed managers of an adult entertainment cabaret are found to have committed a total of two or more civil violations of Permitting Lewd Performance during any 90-day period, the operator(s) shall be strictly liable for a civil penalty of $1,000.

2. If any one or more licensed managers of an adult entertainment cabaret are found to have committed a total of six or more civil violations of Permitting Lewd Performance, within any period of six consecutive months, the operator(s) shall be strictly liable for a civil penalty of $2,500, and the adult entertainment cabaret license shall be suspended for a 14-day period.

3. If any one or more licensed managers of an adult entertainment cabaret are found to have committed a total of twelve or more civil violations of Permitting Lewd Performance, within any period of twelve consecutive months, the operator(s) shall be liable for a civil penalty of $5,000 and the adult entertainment cabaret license shall be suspended for a period not less than 30 nor more than 90 days.

C. Any license suspension that extends beyond the end of a license year shall remain in effect, and any renewal license may be issued, but shall not be effective until the completion of the term of the license suspension.

D. Other than as specifically set forth in TMC 5.56.110A & B, any person who knowingly violates any of the other provisions of this chapter is guilty of a gross misdemeanor punishable by a fine not to exceed $5,000 or imprisonment not to exceed 365 days, or both.

(Ord. 2575 §11, 2018; Ord. 1747 §1 (part), 1995; Ord. 1490 §2 (part), 1988)

5.56.120 Civil remedies – Abatement

The violation of or failure to comply with any of the provisions of this chapter is unlawful and shall constitute a public nuisance. The City may seek legal or equitable relief to enjoin and/or abate any act or practice which constitutes or will constitute a violation of any regulation herein adopted.

(Ord. 2575 §12, 2018; Ord. 1747 §1 (part), 1995; Ord. 1490 §2 (part), 1988)

5.56.130 Other remedies

The remedies provided herein for violations of or failure to comply with provisions of this chapter, whether civil or criminal, shall be cumulative and shall be in addition to any other remedy provided by law.

(Ord. 1747 §1 (part), 1995; Ord. 1490 §2 (part), 1988)

5.56.140 Compliance with other ordinances

This chapter is separate and independent from other provisions of the Tukwila Municipal Code and does not relieve any person of the requirement:

1. To obtain a general business license under Chapter 5.04 of this code; or

2. To obtain any other permit or approval from the City under any provision of the Tukwila Municipal Code.

(Ord. 1747 §1 (part), 1995; Ord. 1490 §2 (part), 1988)

5.56.150 No private right of action

Nothing contained in this chapter is intended to be nor shall be construed to create or form the basis for any civil or criminal liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from the failure of an applicant or license holder to comply with the provisions of this chapter, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or enforcement of this chapter by the City or its officers, employees or agents. This section is specifically intended to include, but not be limited to, a complete grant of immunity from prosecution in favor of police officers and other City employees and agents engaged in covert or overt enforcement of this chapter.

(Ord. 1747 §1 (part), 1995; Ord. 1490 §2 (part), 1988)

CHAPTER 5.60

SAFETY IN OVERNIGHT LODGING

Sections:

5.60.010 Definitions

When used in this chapter and unless otherwise distinctly expressed, the following words and phrases shall have the meaning set out in this section:

1. "Hotel" means a building or portion thereof designed or used for the transient rental of five or more units for sleeping purposes. A central kitchen and dining room and accessory shops and services catering to the general public can be provided. Not included are institutions housing persons under legal restraint or requiring medical attention or care.

2. "Motel" includes tourist cabins, tourist court, motor lodge, auto court, cabin court, motor inn and similar lodgings. A motel is a building or buildings, detached or in connected units or designed as a single structure, the units of which are used as individual sleeping or dwelling units having their own private toilet facilities, and may or may not have their own kitchen facilities, and are designed primarily for the accommodation of transient automobile travelers. Accommodations for travel trailers are not included.

3. "Calls for service" includes any call the Tukwila Police Department receives from a hotel/ motel that must be responded to by a police officer. "Calls for service" shall not be counted when the Tukwila Police Department receives a call from a hotel/motel reporting an incident that did not directly occur at that hotel/motel.

4. "Police" means any authorized agent of the Tukwila Police Department or other law enforcement agency having jurisdiction.

5. "Police Department" means the Police Department of the City.

(Ord. 1918 §2, 2000)

5.60.020 License required

A. It is unlawful for any person, firm or corporation to conduct or operate a hotel or motel without first obtaining a business license pursuant to the provisions of this chapter.

B. All licenses issued pursuant to this chapter are non-transferable and valid for the calendar year in which issued unless otherwise revoked or suspended.

(Ord. 1918 §3, 2000)

5.60.030 Licensing requirements

A. It is unlawful for a person, firm, or corporation to conduct or operate a hotel or motel without having a license pursuant to RCW 70.62 and pursuant to the provisions of this chapter.

B. All hotels and motels may be issued a license under the provisions of this chapter. Based upon an individual hotel/motel's calls for service per room semi-annually, however, a hotel/motel must comply with additional requirements designed to deter crime in order to obtain or maintain its business license. The calls for service will be monitored from January 1 to June 30, and from July 1 to December 31, of each calendar year. Crime statistics for each hotel/motel will be kept on an annual basis from July 1 to June 30 of each calendar year. The time between June and December will allow hotels/motels time to comply with all the requirements of their group level necessary to receive a business license at year's end. The total number of calls for service from a given hotel/ motel for the accounting year will be divided by the total number of rooms in the hotel/motel, then divided by 2, to obtain the semi-annual number.

C. Each hotel/motel licensee will be notified of its semi-annual number of calls for service per room no later than July 31 of each calendar year. Any additional requirements placed on a hotel/motel under this chapter must be met or substantially in progress, as determined and verified by the Tukwila Police Department, before the next year's business license will be issued.

(Ord. 1918 §4, 2000)

5.60.040 Semi-annual calls for police service less than or equal to .25 per room

A. There are no additional requirements necessary to deter crime for hotels/motels whose semi-annual calls for service are less than or equal to .25 per room.

B. At the request of an establishment, the Tukwila Police Department will provide the hotel/motel with inspection services and advice concerning Crime Prevention Through Environmental Design Standards.

C. Hotels/Motels are encouraged to participate in a Tukwila Police Department-created and sponsored Hotel/Motel Manager's Network.

D. At the request of the hotel/motel, the Tukwila Police Department will provide training for the hotel/ motel staff, in cooperation with management, regarding the recognition of criminal or anti-social behavior.

E. At the request of the hotel/motel, the Tukwila Police Department will keep the hotel/motel management apprised of police activity that occurs on the property.

(Ord. 1918 §5, 2000)

5.60.050 Semi-annual calls for police service greater than .25 per room and less than or equal to 1.00 per room

Hotels/Motels whose semi-annual calls for service per room are greater than .25 or less than or equal to 1.00 are required to meet the following additional conditions, designed to deter crime, to obtain a license to operate in the City of Tukwila:

1. Have a representative available on the premises at all times.
2. Install and operate a surveillance camera (with recorder) in the lobby for 24 hours per day, seven days per week.
3. Undergo a Tukwila Police Department crime prevention assessment of their property to be conducted by the Tukwila Police Crime Prevention Unit.

(Ord. 1918 §6, 2000)

5.60.060 Semi-annual calls for police service greater than 1.00 per room

Hotels/Motels whose semi-annual calls for service per room are greater than 1.00 are required to meet the following additional requirements, designed to deter crime, to obtain a license to operate in the City of Tukwila:

1. Conform to the requirements set forth in TMC 5.60.050.
2. Provide the Tukwila Police with the names and dates of birth of all owners, managers and employees to allow for background checks.
3. Hold semi-annual employee training sessions, assisted by the Tukwila Police Department.
4. Provide 24-hour front desk personnel.
5. All guests who stay more than thirty days must fill out an Application for Tenancy (provided by the Tukwila Police Department).
6. Install and operate video monitoring equipment in all parking lots, monitored and recorded at the front desk 24 hours per day, seven days per week.
7. Install lighting in all common areas (minimum maintained 1.5 foot-candles at ground level).
8. Issue parking passes to all vehicles to be allowed to park on the premises with each pass marked with the issue date and expiration date.
9. Maintain a daily key log. Each key that is found to be missing must have its corresponding lock re-keyed prior to the room being rented. Each master key that is found to be missing will require the establishment to re-key all corresponding locks.
10. Participate in the Tukwila Police Department "Criminal Trespass Program." Participation shall mean the facility shall be registered in the "Criminal Trespass Program."
11. Maintain the guestroom according to Uniform Health Code and Uniform Fire Code including tamper-resistant smoke detectors.
12. Report, repair/remove all graffiti and vandalism as quickly as possible.
13. Follow Crime Prevention Through Environmental Design (CPTED) standards for landscaping/plant maintenance. These standards will be provided by the Tukwila Police Department.
14. Enforce the following guest rules:
    a. Rooms cannot be rented for less than a 6-hour period.
    b. No room may be used for drunkenness, fighting or breaches of the peace. No room may be used if loud noises come from that room. Loud noises are those noises that disturb the tranquility of the neighborhood or those noises that would be disturbing to a reasonable person.
    c. Alcohol may not be consumed in common areas except for designated banquet or reception rooms or areas.
15. Submit to scheduled semi-annual audits by the City of Tukwila Police Department to verify compliance with the above-referenced requirements.

(Ord. 1918 §7, 2000)

5.60.070 Enforcement

If the Chief of Police finds that any licensee has violated or failed to comply with any provisions of this chapter, he/she shall make a written record of such finding and shall specify therein the particulars; and will inform the Tukwila Finance Director. Upon recommendation of the Chief of Police, the Finance Director may revoke, suspend, or refuse to issue the City of Tukwila license for that business for a period not less than 90 days or not more than 1 year. This determination shall be made in consultation with the Police Chief and shall be based on the severity of the violation(s).

(Ord. 2355 §38, 2011; Ord. 1918 §8, 2000)

5.60.080 Appeals

A. The applicant or license holder may appeal the decision of the Finance Director, to suspend, deny or revoke a business license by filing a notice of appeal with the City Clerk within 10 calendar days following receipt of the Notice of Suspension, Non-issuance or Revocation. The notice of appeal must state the grounds for appeal, including a detailed explanation of why the decision to suspend, deny or revoke was incorrect. The appeal must be accompanied by an Appeal Fee in accordance with the fee schedule adopted by resolution of the City Council. A timely notice of appeal shall stay the effect of the notice of non-issuance or revocation until the City's Hearing Examiner or other hearing body issues a written decision on the appeal.

B. Upon timely filing of a notice of appeal, the Finance Director shall schedule a hearing on the appeal before the City's Hearing Examiner or other hearing body. The hearing shall be conducted no later than 30 days from the date of the notice of appeal, unless an extension is agreed to by the appellant or otherwise ordered by the Hearing Examiner or other hearing body for good cause shown.

C. The hearing shall be de novo. The decision of the City's Hearing Examiner or other hearing body shall be based upon a preponderance of the evidence. The burden of proof shall be on the appellant. The Hearing Examiner or other hearing body may affirm, reverse or modify the Finance Director's decision.

D. Within 20 business days, excluding holidays recognized by the City of Tukwila, from the date of the hearing on an appeal under this section, the Hearing Examiner or other hearing body shall issue a written decision, which shall set forth the reasons therefor.

(Ord. 2496 §30, 2016; Ord. 1918 §9, 2000)

5.60.090 Remedies cumulative

The remedies provided for herein for failure to comply with this chapter shall be cumulative and in addition to any other remedy at law or equity.

(Ord. 1918 §10, 2000)

CHAPTER 5.61

RETAIL CARRYOUT BAGS

Sections:

This Chapter was repealed by Ordinance 2629, May 2020

CHAPTER 5.62

REVENUE GENERATING REGULATORY LICENSES

Sections:

This Chapter was repealed by Ordinance No. 2356 November 2011.

CHAPTER 5.63

LABOR STANDARDS FOR CERTAIN EMPLOYEES

Sections:

5.63.010 Findings

A. The people of the City of Tukwila hereby adopt this citizen initiative addressing labor standards for certain employees, for the purpose of ensuring that, to the extent reasonably practicable, people employed in Tukwila have good wages and access to sufficient hours of work.

B. The City of Tukwila is one of largest job centers in Washington State, including thousands of retail and food service jobs at and around the Westfield Southcenter Mall. Wages and working conditions in Tukwila contribute to setting the standard for the entire region.

C. The statewide minimum wage is not sufficient to afford rising rents and costs of living in Washington State. According to the National Low Income Housing Coalition's Out of Reach 2021 report, a worker making Washington's minimum wage would have to work 70 hours each week to afford a modest one-bedroom rental home at Fair Market Rent.

D. When working families earn insufficient income due to low wages and involuntary under-employment, they struggle to pay for basic necessities like health care, child care, and groceries, and they are more likely to be evicted and become homeless.

E. Tukwila's neighboring cities of SeaTac and Seattle enacted higher minimum wages in 2013 and 2014, but until now Tukwila has not followed suit.

(Initiative Measure No. 1, Adopted 2022
Certified by King County Elections on November 29, 2022)

5.63.020 Definitions

For purposes of this chapter, the following words or phrases shall have the meaning prescribed as follows:

A. "City" means the City of Tukwila.

B. "Covered employer" means an employer that either: (1) employs at least 15 employees regardless of where those employees are employed, or (2) has annual gross revenue over $2 million.

C. "Effective date" is the effective date of this ordinance[1].

D. "Employee" is defined as set forth in RCW 49.46.010. An employer bears the burden of proof that the individual is, as a matter of economic reality, in business for oneself rather than dependent upon the alleged employer.

E. "Employer" is defined as set forth in RCW 49.46.010.

F. "Employer classification" includes the determination of whether an employer is a covered employer and whether a covered employer is a large employer.

G. "Franchise" means an agreement, express or implied, oral or written, by which:

1. A person is granted the right to engage in the business of offering, selling, or distributing goods or services under a marketing plan prescribed or suggested in substantial part by the grantor or its affiliate;

2. The operation of the business is substantially associated with a trademark, service mark, trade name, advertising, or other commercial symbol; designating, owned by, or licensed by the grantor or its affiliate; and

3. The person pays, agrees to pay, or is required to pay, directly or indirectly, a franchise fee. The term "franchise fee" is meant to be construed broadly to include any instance in which the grantor or its affiliate derives income or profit from a person who enters into a franchise agreement with the grantor.

H. "Hour worked within the City" is to be interpreted according to its ordinary meaning, including all hours worked within the geographic boundaries of the City, excluding time spent in the City solely for the purpose of travelling through the City from a point of origin outside the City to a destination outside the City, with no employment-related or commercial stops in the City except for refueling or the employee's personal meals or errands.

I. "Large employer" means all employers that employ more than 500 employees, regardless of where those employees are employed, and all franchisees associated with a franchisor or a network of franchises with franchisees that employ more than 500 employees in aggregate.

J. "Other covered employer" means a covered employer that does not qualify as a large employer.

K. "Service charge" is defined as set forth in RCW 49.46.160(2)(c).

L. "Tips" means a verifiable sum to be presented by a customer as a gift or gratuity in recognition of some service performed for the customer by the employee receiving the tip.

M. "Wage" is defined as set forth in RCW 49.46.010.

(Initiative Measure No. 1, Adopted 2022
Certified by King County Elections on November 29, 2022)

[1] *"This ordinance" references Initiative Measure No. 1, as approved by voters and certified by King County Elections on November 29, 2022*

5.63.030 Intent

It is the intent of the people to establish fair labor standards and protect the rights of workers by: (1) ensuring that the vast majority of employees in the City of Tukwila receive a minimum wage comparable to employees in neighboring cities of SeaTac and Seattle; (2) requiring covered employers to offer additional hours of work to qualified part-time employees before hiring new employees to fill those hours; and (3) adopting enforcement requirements.

(Initiative Measure No. 1, Adopted 2022 Certified by King County Elections on November 29, 2022)

5.63.040 Large Employers Shall Pay Minimum Wages Comparable to Those in Neighboring Cities

A. Effective July 1, 2023, every large employer shall pay to each employee an hourly wage of not less than the 2022 "living wage rate" in the City of SeaTac, established pursuant to SeaTac Municipal Code Section 7.45.060, adjusted for 2023 by the annual rate of inflation.

B. On January 1, 2024, and on each January 1 thereafter, the hourly minimum wage shall increase by the annual rate of inflation to maintain employee purchasing power.

C. By December 31, 2022, and by October 15 of each year thereafter, the Finance Department shall establish and publish the applicable hourly minimum wage for the following year using the annual rate of inflation.

D For purposes of this chapter, the annual rate of inflation means 100 percent of the annual average growth rate of the bi-monthly Seattle-Tacoma-Bellevue Area Consumer Price Index for Urban Wage Earners and Clerical Workers, termed CPI-W, for the 12-month period ending in August, provided that the percentage increase shall not be less than zero.

E. An employer must pay to its employees:

1. All tips and gratuities; and

2. All service charges as defined under RCW 49.46.160 except those that, pursuant to RCW 49.46.160, are itemized as not being payable to the employee or employees servicing the customer.

Tips and service charges paid to an employee are in addition to, and may not count towards, the employee's hourly minimum wage.

(Initiative Measure No. 1, Adopted 2022 Certified by King County Elections on November 29, 2022)

5.63.050 Other Covered Employers Shall Have a Multiyear Phase-In Period

Other covered employers shall phase in the new minimum wage, as follows:

A. Effective July 1, 2023, other covered employers shall pay employees not less than the hourly minimum wage established under TMC Section 5.63.040 minus Two Dollars ($2) per hour.

B. Effective July 1, 2024, other covered employers shall pay employees not less than the hourly minimum wage established under TMC Section 5.63.040 minus One Dollar ($1) per hour.

C. Effective July 1, 2025, and thereafter, all covered employers shall pay employees not less than the hourly minimum wage established under TMC Section 5.63.040.

(Initiative Measure No. 1, Adopted 2022 Certified by King County Elections on November 29, 2022)

5.63.060 Coverage and Employer Classifications

A. Covered employers must pay employees at least the minimum wage established by this chapter for each hour worked within the City.

B. Employer classification for the current calendar year will be calculated based upon the average number of employees during all weeks in the previous calendar year in which the employer had at least one employee. For employers that did not have any employees during the previous calendar year, classification will be based upon the average number of employees during the most recent three months of the current year. In this determination, all employees will be counted, regardless of their location, and including employees who worked in full-time employment, part-time employment, joint employment, temporary employment, or through the services of a temporary services or staffing agency or similar entity.

C. Employer classification for the current calendar year will be calculated based upon the gross revenue for the previous year. For employers that did not have gross revenue during the previous calendar year, annual gross revenue will be calculated from the gross revenue during the most recent three months of the current year.

D. For the purposes of employer classification, separate entities will be considered a single employer if they form an integrated enterprise, or they are under joint control by one of those entities or a separate entity. The factors to consider in making this assessment include, but are not limited to:

1. Degree of interrelation between the operations of multiple entities;

2. Degree to which the entities share common management;

3. Centralized control of labor relations; and

4. Degree of common ownership or financial control over the entities.

(Initiative Measure No. 1, Adopted 2022 Certified by King County Elections on November 29, 2022)

5.63.070 Part-Time Employees Shall Have Fair Access to Additional Hours

A. Before hiring additional employees or subcontractors, including hiring through the use of temporary services or staffing agencies, covered employers must offer additional hours of work to existing employees who, in the employer's good faith and reasonable judgment, have the skills and experience to perform the work, and shall use a reasonable, transparent, and nondiscriminatory process to distribute the hours of work among those existing employees.

B. This section shall not be construed to require any employer to offer an employee work hours if the employer would be required to compensate the employee at time-and-a-half or other premium rate under any law or collective bargaining agreement, nor to prohibit any employer from offering such work hours.

(Initiative Measure No. 1, Adopted 2022 Certified by King County Elections on November 29, 2022)

5.63.080 Retaliation Prohibited

A. No employer or any other person shall interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this chapter.

B. No employer or any other person shall take any adverse action against any person because the person has exercised in good faith the rights under this chapter. Such rights include but are not limited to the right to make inquiries about the rights protected under this chapter; the right to inform others about their rights under this chapter; the right to inform the person's employer, union, or similar organization, and/or the person's legal counsel or any other person about an alleged violation of this chapter; the right to bring a civil action for an alleged violation of this chapter; the right to testify in a proceeding under or related to this chapter; the right to refuse to participate in an activity that would result in a violation of city, state, or federal law; and the right to oppose any policy, practice, or act that is unlawful under this chapter.

C. For the purposes of this section, an adverse action means denying a job or promotion, demoting, terminating, failing to rehire after a seasonal interruption of work, threatening, penalizing, retaliating, engaging in unfair immigration-related practices, filing a false report with a government agency, changing an employee's status to nonemployee, decreasing or declining to provide additional work hours when they otherwise would have been offered, scheduling an employee for hours outside of their availability, or otherwise discriminating against any person for any reason prohibited by this chapter. "Adverse action" for an employee may involve any aspect of employment, including pay, work hours, responsibilities, or other material change in the terms and conditions of employment.

D. No employer or any other person shall communicate to a person exercising rights protected under this chapter, directly or indirectly, the willingness to inform a government employee that the person is not lawfully in the United States, or to report, or to make an implied or express assertion of a willingness to report, suspected citizenship or immigration status of the person or a family member of the person to a federal, state, or local agency because the person has exercised a right under this chapter.

E. It shall be a rebuttable presumption of retaliation if an employer or any other person takes an adverse action against a person within 90 days of the person's exercise of any right protected in this chapter. However, in the case of seasonal work that ended before the close of the 90-day period, the presumption also applies if the employer fails to rehire a former employee at the next opportunity for work in the same position. The employer may rebut the presumption with clear and convincing evidence that the adverse action was taken for a permissible purpose.

F. Standard of Proof. Proof of retaliation under this chapter shall be sufficient upon a showing that an employer or any other person has taken an adverse action against a person and the person's exercise of rights protected in this chapter was a motivating factor in the adverse action, unless the employer can prove that the action would have been taken in the absence of such protected activity.

G. The protections afforded under this section shall apply to any person who mistakenly but in good faith alleges violations of this chapter.

(Initiative Measure No. 1, Adopted 2022 Certified by King County Elections on November 29, 2022)

5.63.090 Enforcement

A. Any person or class of persons that suffers financial injury as a result of a violation of this chapter or is the subject of prohibited retaliation under this chapter, or any other individual or entity acting on their behalf, may bring a civil action in a court of competent jurisdiction against the employer or other person violating this chapter and, upon prevailing, shall be awarded reasonable attorney fees and costs and such legal or equitable relief as may be appropriate to remedy the violation including, without limitation, the payment of any unpaid wages plus interest due to the person and liquidated damages in an additional amount of up to twice the unpaid wages; compensatory damages; and a penalty payable to any aggrieved party of up to $5,000 if the aggrieved party was subject to prohibited retaliation. For the purposes of this section, an aggrieved party means an employee or other person who suffers tangible or intangible harm due to an employer or other person's violation of this chapter. Interest shall accrue from the date the unpaid wages were first due at the higher of twelve percent per annum or the maximum rate permitted under RCW 19.52.020.

B. For purposes of determining membership within a class of persons entitled to bring an action under this section, two or more employees are similarly situated if they:

1. Are, or were, employed by the same employer or employers, whether concurrently or otherwise, at some point during the applicable statute of limitations period;

2. Allege one or more violations that raise similar questions as to liability; and

3. Seek similar forms of relief.

4. Employees shall not be considered dissimilar solely because their claims seek damages that differ in amount, or their

job titles or other means of classifying employees differ in ways that are unrelated to their claims.

C. Each covered employer shall retain records as required by RCW 49.46.070, as well as such information as the City may require, to confirm compliance with this chapter. If an employer fails to retain such records, there shall be a presumption, rebuttable by clear and convincing evidence, that the employer violated this chapter for the periods and for each employee for whom records were not retained.

D. Employers shall permit authorized City representatives access to work sites and relevant records for the purpose of monitoring compliance with the chapter and investigating complaints of noncompliance, including production for inspection and copying of employment records. The City may designate representatives, including city contractors and representatives of unions or worker advocacy organizations, to access the worksite and relevant records.

E. Complaints that any provision of this chapter has been violated may also be presented to the City Attorney, who is hereby authorized to investigate and, if they deem appropriate, initiate legal or other action to remedy any violation of this chapter.

F. The City has the authority to issue administrative citations and to order injunctive relief including reinstatement, restitution, payment of back wages, or other forms of relief.

G. The City may, in the exercise of its authority and performance of its functions and services, agree by contract or otherwise to participate jointly or in cooperation with Washington State, King County, or any city, town, or other incorporated place, or subdivision thereof, or engage outside counsel, to enforce this chapter.

H. The remedies and penalties provided under this chapter are cumulative and are not intended to be exclusive of any other available remedies or penalties, including existing remedies for enforcement of Tukwila Municipal Code chapters.

I. The statute of limitations for any enforcement action shall be five (5) years.

(Initiative Measure No. 1, Adopted 2022
Certified by King County Elections on November 29, 2022)

5.63.100 Other Legal Requirements

This ordinance shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard that provides for greater wages or compensation; and nothing in this ordinance shall be interpreted or applied so as to create any power or duty in conflict with federal or state law.

(Initiative Measure No. 1, Adopted 2022
Certified by King County Elections on November 29, 2022)

5.63.110 Rulemaking

Within 180 days after the effective date, the City shall adopt rules and procedures to implement and ensure compliance with this chapter, which shall require employers to maintain adequate records and to annually certify compliance with this chapter. The City shall seek feedback from worker organizations and covered employers before finalizing the rules and procedures.

(Initiative Measure No. 1, Adopted 2022
Certified by King County Elections on November 29, 2022)

5.63.120 Constitutional Subject

For constitutional purposes, this measure's subject "concerns labor standards for certain employers." See Filo Foods, LLC v. City of SeaTac, 183 Wash. 2d 770, 783, 357 P.3d 1040, 1047 (2015) (upholding this statement of subject for an initiative that set a minimum wage and addressed employees' access to hours).

(Initiative Measure No. 1, Adopted 2022
Certified by King County Elections on November 29, 2022)

5.63.130 Severability

The provisions of this chapter are declared to be separate and severable. If any clause, sentence, paragraph, subdivision, section, subsection, or portion of this chapter, or the application thereof to any employer, employee, or circumstance, is held to be invalid, it shall not affect the validity of the remainder of this chapter, or the validity of its application to other persons or circumstances.

(Initiative Measure No. 1, Adopted 2022
Certified by King County Elections on November 29, 2022)

TITLE 6
HEALTH AND SANITATION

Chapters:

CHAPTER 6.04
HEALTH SERVICES AGREEMENT

Sections:

6.04.010 Agreement authorization

The Mayor of the City is authorized, pursuant to RCW 70.08.090, to enter into a health services agreement with the governing bodies of the Seattle – King County Department of Public Health.

(Ord. 412 §1, 1964; Ord. 406 §1, 1964)

6.04.020 Filing

A copy of the agreement is on file with the City Clerk and by this reference made a part hereof.

(Ord. 412 §2, 1964; Ord. 406 §2, 1964)

6.04.030 Health officer appointment

The City appoints the Director of Public Health of the Seattle/King County Department of Public Health as the health officer of the City.

(Ord. 412 §3, 1964; Ord. 406 §3, 1964)

CHAPTER 6.10
COMPOST PROCUREMENT

Sections:

6.10.010 Intent and Purpose

The purpose of this chapter is to establish regulations regarding the procurement of compost.

(Ord. 2699 §3, 2023)

6.10.020 Definitions

"Finished compost product" means a product created with "composted material" as defined in RCW 70A.205.015(3). Finished compost products include, but are not limited to, 100% finished compost, or blends that include compost as a primary ingredient. Mulch is considered a finished compost product if it contains a minimum of 60% composted material. Bark is not a finished compost product.

(Ord. 2699 §4, 2023)

6.10.030 General Policy

The City shall purchase finished compost products for which compost is an appropriate material in City projects or on City land.

(Ord. 2699 §5, 2023)

6.10.040 Local Purchasing

The City shall purchase finished compost products from companies producing compost locally, that are certified by a nationally recognized organization, such as the United States Composting Council, and that produce finished compost products derived from municipal solid waste compost programs while meeting quality standards adopted by the Department of Transportation or adopted by rule by the Department of Ecology.

(Ord. 2699 §6, 2023)

6.10.050 Planning

A. In order to meet the general policy set forth in TMC Section 6.10.030, the City shall plan for the use of compost in the following categories:

1. Landscaping projects;
2. Construction and postconstruction soil amendments;
3. Applications to prevent erosion, filter stormwater runoff, promote vegetative growth, or improve the stability and longevity of roadways; and

4. Low-impact development of green infrastructure to filter pollutants to keep water onsite or both.

B. This plan will be re-assessed by December 31, 2024, and each December 31st of even-numbered years thereafter as part of its reporting obligations per TMC Section 6.10.070.

(Ord. 2699 §7, 2023)

6.10.060 Education

The City shall conduct educational outreach to inform residents about the value of compost and how the City uses compost in its operations each year.

(Ord. 2699 §8, 2023)

6.10.070 Reporting

By December 31, 2024, and each December 31st of even-numbered years thereafter, the City shall report the following information to the Department of Ecology:

1. The total tons of organic material diverted each year;
2. The volume and cost of composted material purchased each year; and
3. The source(s) of the finished compost product purchased.

(Ord. 2699 §9, 2023)

CHAPTER 6.12

REFUSE DISPOSAL

Sections:

6.12.010 Title

This chapter shall be known as the "Tukwila Refuse Ordinance" and may be cited as such.

(Ord. 396 §9, 1964)

6.12.020 Definitions

The following definitions shall apply in the interpretation and enforcement of this chapter:

(1) *"Ashes"* means the solid waste products left after combustion of coal, wood, other fuels, or other combustible materials;

(2) "*Commercial waste"* means liquid and semi-liquid waste materials, putrescible and nonputrescible, from factories, water-craft, processing plants, farms, businesses, commercial establishments, and any non-used by-product of a manufacturer or industrial plant and/or sludge and sewage;

(3) *"Dead animals"* means small animals such as dogs, cats, rabbits, squirrels, rats, etc., that are deceased;

(4) *"Garbage"* means all putrescible wastes, except sewage and human body wastes, recognized industrial byproducts and dead animals;

(5) *"Industrial refuse"* means solid waste materials, putrescible and nonputrescible, from factories, processing plants, farms, businesses, and commercial establishments;

(6) *"Litter"* as used in this chapter means and includes refuse, rubbish, ashes, garbage, dead animals, industrial refuse, commercial waste, and all other waste material of every kind and description;

(7) *"Refuse" i*ncludes garbage, rubbish, ashes, dead animals, and all other putrescible and nonputrescible wastes, except sewage and human body wastes;

(8) *"Rubbish"* means all nonputrescible wastes except ashes and recognized industrial by-products; includes tree branches, twigs, grass and shrub clippings, weeds, leaves, and general residential yard and garden waste materials.

(Ord. 396 §1, 1964)

6.12.030 Deposit unlawful – Exemption

It is unlawful to place, throw, deposit, or otherwise dispose of litter in any public place, public road, public park, on any private property; or in the waters within Tukwila except as provided in TMC 6.12.030 or at the official refuse disposal facilities.

(Ord. 396 §2, 1964)

6.12.040 Adequate receptacles required

It is unlawful for the owners or occupants of private property to deposit or accumulate, or to permit the deposit or accumulation of, litter upon such private property; provided however, that this shall not prohibit the storage of garbage or rubbish in public or private litter receptacles, when approved by the health officer or in garbage cans or in securely tied bundles when such garbage cans or bundles are for immediate disposal; provided further that the use of a compost pile or bin shall not be prohibited if the use and maintenance thereof is in such a manner as to prevent the attraction, breeding and/or harboring of insects and rodents. Any such use permitted here under shall not be construed to permit a nuisance as defined by State law.

(Ord. 396 §3, 1964)

6.12.050 Container construction

The storage of refuse, garbage, dead animals, and other putrescible and nonputrescible waste shall be in containers constructed and maintained so as to prevent leakage, rodent and insect infestation and other public health hazards until removed to official disposal sites. Any other type of storage and disposal must be approved by the King County Health Officer.

(Ord. 396 §4, 1964)

6.12.060 Hauling restrictions

It is unlawful for any person, firm or corporation to haul refuse, garbage, rubbish, dead animals, ashes, or any other waste material of the kind defined in this chapter on the highways and roads in Tukwila unless such materials are properly stored, covered and otherwise secured so as to prevent spillage or littering.

(Ord. 396 §5, 1964)

CHAPTER 6.14
HAZARDOUS MATERIALS CLEANUP

Sections:

6.14.010 Definitions

As used in this chapter, these terms shall be defined as follows:

1. "Extraordinary costs" means those reasonable and necessary costs incurred by the City of Tukwila, Tukwila Fire Department, and local authorities in the course of protecting life and property that exceed the normal and usual expenses anticipated for police and fire protection, emergency services and public works. These shall include, but not be limited to, overtime for City employees; unusual fuel consumption requirements; any loss or damage to City-owned equipment; the purchase or lease of any special equipment or services, and all processing and data collection costs required to protect the environment, community property and the public during the hazardous materials incident.

2. "Hazardous materials" means:

a. Materials which, if not contained may cause unacceptable risks to human life within a specified area adjacent to the spill, seepage, fire, explosion, or other release, and will, consequently, require evacuation;

b. Materials that, if spilled, could cause unusual risks to the general public and to emergency response personnel responding at the scene;

c. Materials that, if involved in a fire will pose unusual risks to emergency response personnel;

d. Materials requiring unusual storage or transportation conditions to assure safe containment; or

e. Materials requiring unusual treatment, packaging, or vehicles during transportation to assure safe containment.

3. "Hazardous materials incident" means an incident creating a danger to persons, property, or the environment as a result of spillage, seepage, fire, explosion, or release of hazardous materials, or the possibility thereof.

4. "Person" means an individual, partnership, corporation, or association.

(Ord. 2576 §3, 2018)

6.14.020 Compliance

Any person transporting hazardous materials shall be responsible for the cleanup of any hazardous materials incident that occurs during transportation, and shall take such additional action as may be reasonably necessary after consultation with the Tukwila Fire Department in order to achieve compliance with all applicable federal and State laws and regulations.

(Ord. 2576 §4, 2018)

6.14.030 Liability for extraordinary costs

Any person responsible for causing the hazardous materials incident, other than operating employees of the transportation company involved in the incident, is liable to the City for extraordinary costs incurred by the City in the course of protecting the public from actual or threatened harm resulting from the hazardous materials incident. The liability stated in this chapter applies to an owner of a vehicle or a vehicle operated with the owner's permission, the owner of a property or an individual on the owner's property, or a person who willfully or negligently causes or permits such an incident to occur.

(Ord. 2576 §5, 2018)

6.14.040 Incident response costs

Any person causing a hazardous materials incident requiring a City of Tukwila, Tukwila Fire Department or local authority response shall be responsible for the extraordinary costs of the hazardous materials incident response. Such costs shall include, but not be limited to, traffic control, detours, scene safety, removal of debris resulting from the hazardous materials incident, hazardous material control and hazardous material removal.

(Ord. 2576 §6, 2018)

6.14.050 Presentation of claims

The City of Tukwila, Tukwila Fire Department and local authorities may present claims for liability under this chapter, bring actions for recovery thereon, and settle and compromise, in their discretion, claims arising under this chapter.

(Ord. 2576 §7, 2018)

6.14.060 Fees

Fees related to incident response costs and "extraordinary costs" shall be in accordance with the Fire Department Fee Schedule adopted by resolution of the City Council.

(Ord. 2576 §8, 2018)

CHAPTER 6.16
RODENT CONTROL

Sections:

6.16.010 Title

This chapter shall be known as the "Tukwila Rodent Control Ordinance" and may be cited as such.

(Ord. 397 §7, 1964)

6.16.020 Purpose

It is the purpose of this chapter to prevent the spread of infectious and contagious diseases and especially the disease known as "Bubonic Plague" by rats, mice, and other rodents.

(Ord. 397 §1, 1964)

6.16.030 Building maintenance and protection required – Rodent eradication

It is unlawful for the owner or occupant to fail to reconstruct or repair all store rooms, grain elevators, warehouses, docks, and slaughter houses, and other buildings, including residences, by the use of screens, nets, cement or other materials approved by the health officer as to sufficiency, for the purpose of preventing rats, mice, or other rodents from gaining entrance thereto; and it is also unlawful for the owner of any food or other products or of any goods, wares, and merchandise in such buildings to fail to adequately protect the same to prevent such rodents from gaining access to or coming in contact therewith. Such buildings shall at all times be kept free from such rodents; and the health officer or his representative may, at any reasonable hours, inspect such buildings for the purpose of ascertaining the presence of such rodents; and if found to be present, the owner or occupant of the premises shall apply such reasonable measures for their eradication as shall be approved by said health officer, and shall thereafter continue such reasonable measures likewise approved to keep such buildings free therefrom.

(Ord. 397 §2, 1964)

6.16.040 Keeping premises free from rodents required

All premises and places shall be maintained free from rats, mice and other rodents; and it is unlawful for the owner or occupant thereof to fail to take such reasonable preventive and remedial measures for such purposes as shall be prescribed by the health officer.

(Ord. 397 §3, 1964)

TITLE 7
ANIMALS

Chapters:

CHAPTER 7.01
GENERAL PROVISIONS

Sections:

7.01.010 Regulations

All statutes of King County Code Title 11, as now in effect or as may be subsequently amended or recodified, are hereby adopted by reference.

(Ord. 2698 §4, 2023)

CHAPTER 7.05
LIVESTOCK, SMALL ANIMALS AND FOWL

Sections:

7.05.010 Chapter compliance required

It is unlawful for any person, persons, firm or corporation to keep or maintain livestock, small animals or fowl within the City limits, except as provided in this chapter and TMC Title 18. If there is a conflict between a provision of this chapter and a provision in TMC Title 18, the provision in TMC Title 18 shall control.

(Ord. 2698 §6, 2023)

7.05.020 Livestock defined

"Livestock," where used in this chapter, means and includes horses, mules, ponies, cattle, sheep, goats, llama, oxen and swine. *"Large livestock,"* where used in this chapter, means and includes cattle, goats, llama, oxen and swine. *"Small livestock,"* where used in this chapter, means and includes sheep and goats smaller than 24 inches at the shoulder and/or not more than 150 pounds in weight.

(Ord. 2698 §7, 2023)

7.05.030 Small animals and fowl defined

"Small animals and fowl," where used in this chapter, means and includes rabbits, chinchillas, chickens, geese, ducks, turkeys, peafowl and pigeons.

(Ord. 2698 §8, 2023)

7.05.040 Animals kept as pets

Dogs, cats, guinea pigs, hamsters, ferrets, fish, parrots, parakeets and similar animals kept as household pets within a dwelling unit will not be subject to the limitations of this chapter. Dogs and cats are regulated by TMC Section 7.01.010.

(Ord. 2698 §9, 2023)

7.05.050 Roosters prohibited

The keeping of roosters within the City limits is prohibited.

(Ord. 2698 §10, 2023)

7.05.060 Enclosure construction

All livestock, small animals and fowl shall be kept within an enclosure adequately built and maintained to prevent the livestock, small animals and fowl from breaking through, out, over or under the same. All pens, coops, hutches and housing of any kind used for the housing of livestock, small animals and fowl must be built to include siding or shakes or their equivalent, and must be painted or stained to appear presentable.

(Ord. 2698 §11, 2023)

7.05.070 Maintaining swine within City limits

Swine may be kept or maintained within the City limits provided they are kept within an enclosure as herein described, the outside limits of which shall be not less than 200 feet from the nearest residence.

(Ord. 2698 §12, 2023)

7.05.080 Minimum area for keeping animals

With the exception of chickens, no horses, mules, ponies, small livestock, small animals or fowl shall be kept on any property within the City limits where the parcel does not contain a minimum of 10,000 square feet of area, or other minimum area as set forth in this chapter. Chickens may be kept as an accessory to any legal use regardless of the area of the parcel. No large livestock shall be kept on any property within the City limits where the parcel does not contain a minimum of 43,560 square feet (one acre) of area. At least 20,000 square feet of pasture area is required for keeping a horse, mule or pony in the City.

(Ord. 2698 §13, 2023)

7.05.090 Number of animals per property area size

A. Small animals and fowl shall be permitted in numbers as follows:

1. Twelve rabbits, twelve chinchillas, twelve pigeons or any combination of rabbits, chinchillas or pigeons, not to exceed a total of twelve collectively, for 10,000 square feet of property.

2. The number of rabbits, chinchillas or pigeons may be increased by 1/10th for each additional 1,000 square feet of property.

3. Six geese, six ducks, six peafowls, six turkeys or any combination of geese, ducks or turkeys, not to exceed a total of six collectively for 10,000 square feet of property.

4. The number of geese, ducks, peafowls or turkeys may be increased 1/10th for each additional 1,000 square feet of property.

5. One chicken per every 1,000 square feet of property.

6. At no time shall the total number of small animals or fowl exceed a total of twelve for each 10,000 square feet of property.

B. Livestock shall be permitted in numbers as follows:

1. Not more than one horse, mule or pony for each 20,000 square feet of stable and pasture area, but not more than a total of two of the above-mentioned animals shall be allowed on the same lot.

2. Two large livestock for each 43,560 square feet (one acre) of property. Additional large livestock requires an additional 43,560 square feet (one acre) of property.

3. Not more than 3 small livestock for each 10,000 square feet of property, but not more than a total of 6 of the above-mentioned animals shall be allowed on the same lot.

(Ord. 2698 §14, 2023)

7.05.100 Distance from any dwelling

Enclosures for the housing of small animals and fowl shall be built and located not less than 10 feet from any dwelling and property line. The roaming area for the small animals and fowl shall be fenced and located not less than 10 feet from any dwelling.

(Ord. 2698 §15, 2023)

7.05.110 One building per parcel for housing

Not more than one building for the housing of livestock, small animals or fowl shall be allowed on any one parcel.

(Ord. 2698 §16, 2023)

7.05.120 Nuisance prohibited

No livestock, small animals or fowl shall be kept in such a manner that a condition resulting from same shall constitute a nuisance.

(Ord. 2698 §17, 2023)

7.05.130 Manure removal

A. All enclosures, confinement areas, and/or open run areas shall be kept clean. Provision shall be made for the removal of animal waste and food waste so that the areas are kept free from infestation of insects, rodents or disease, as well as to prevent obnoxious or foul odors. Animal waste shall be properly disposed of and any accumulated animal waste must not be stored within the parcel setback area. Any storage of animal waste must not constitute a nuisance.

B. Manure shall not be allowed to collect in any place where it can prejudicially affect any source of drinking water.

C. Manure, when used as a fertilizer, must be plowed or spaded under within 24 hours after application.

(Ord. 2698 §18, 2023)

7.05.140 Enforcement

Code Enforcement Officers for the City or any law enforcement officer shall be authorized to enforce this chapter, unless otherwise provided.

(Ord. 2698 §19, 2023)

7.05.150 Exemptions

A Residents may keep all animals legally owned and kept prior to the effective date of this ordinance, provided they do not constitute a nuisance.

B. Any person, persons, firm or corporation who discontinues the keeping or reduces the number of livestock, small animals or fowl for a period of more than 90 days, or who sells or transfers his property, shall then become subject to all the provisions of this chapter.

(Ord. 2698 §20, 2023)

CHAPTER 7.10
ANIMAL FECES

Sections:

7.10.010 Definitions

A. "City" shall mean the City of Tukwila.

B. "Owner" means any person, firm, corporation, organization or department having an interest in or right of possession to an animal, or having control, custody or possession of an animal, including temporary possession or possession by reason of the animal being seen residing consistently at a location.

C. "Person" means any individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity.

(Ord. 2698 §22, 2023)

7.10.020 Animal Feces – Unlawful Accmulation and Requirement for Removal

A. It shall be a violation of this chapter for any owner to cause, permit or allow the accumulation of animal feces in any open area, run cage or yard wherein those animals are kept, or to fail to remove or dispose of feces at least once every seven days. The accumulation of animal feces in any quantity that constitutes a hazard to the health, safety or convenience of any persons, or that interferes with the use of or enjoyment of any neighboring property as a result of odors, visual blight, or attraction of insects or pests, constitutes a nuisance.

B. It shall be a violation of this chapter for any person to fail to remove and properly dispose of the fecal matter deposited by a dog or other animal in his or her possession on public property such as park property, school grounds, public rights-of-way, or public easements or on private property that does not belong to the animal's owner or the person currently in possession of the animal.

C. Any law enforcement officer shall have the authority to issue civil infractions under this provision.

(Ord. 2698 §23, 2023)

7.10.030 Enforcement

Code Enforcement Officers for the City or any law enforcement officer shall be authorized to enforce this chapter pursuant to the provisions in TMC Chapter 8.45.

(Ord. 2698 §24, 2023)

TITLE 8

PUBLIC PEACE, MORALS AND SAFETY

Chapters:

CHAPTER 8.01
PRELIMINARY ARTICLE

Sections:

8.01.010 General Provisions

The following statutes of the State of Washington are adopted by reference:

RCW 9.01.055	Citizen, immunity of aiding officer.
RCW 9.01.110	Omission, when not punishable.
RCW 9.01.130	Sending letter, when complete.
RCW 9A.04.020	Purposes – Principles of construction.
RCW 9A.04.050	People capable of committing crimes (capability of children).
RCW 9A.04.060	Common law to supplement statutes.
RCW 9A.04.070	Who amenable to criminal statutes.
RCW 9A.04.090	Application of general provisions of the code.
RCW 9A.04.100	Proof beyond a reasonable doubt.
RCW 9A.04.110	Definitions.

(Ord. 1363 §1 (part), 1985)

8.01.015 Arrest of Probation Violators

Whenever a police officer shall have probable cause to believe that a probationer, prior to the termination of the period of his/her probation, is, in such officer's presence, violating or failing to comply with any requirement or restriction imposed by the court as a condition of such probation, such officer may cause the probationer to be brought before the court wherein sentence was deferred or suspended, and for such purpose such police officer may arrest such probationer without warrant or other process.

As used in this section "probationer" means any person who, after conviction of violation of a provision of this code, an ordinance of the county, or a law of the State, has been placed on probation in connection with the suspension or deferral of sentence by either the Tukwila Municipal Court, a district court of King County, or the King County Superior Court.

(Ord. 1505 §1, 1989)

8.01.020 Principles of Liability

The following statutes of the State of Washington are adopted by reference:

RCW 9A.08.010	General requirements of culpability.
RCW 9A.08.020	Liability for conduct of another, complicity.
RCW 9A.08.030	Criminal liability of corporations and persons acting under a duty to act in their behalf.

(Ord. 1363 §1 (part), 1985)

8.01.030 Defenses

The following statutes of the State of Washington are adopted by reference:

RCW 9A.12.010	Insanity.
RCW 9A.16.010	Definition.
RCW 9A.16.020	Use of force – When lawful.
RCW 9A.16.060	Duress.
RCW 9A.16.070	Entrapment.
RCW 9A.16.080	Action for being detained on mercantile establishment of premises for investigation-"Reasonable grounds" as defense.
RCW 9A.16.090	Intoxication.

(Ord. 1363 § (part), 1985)

8.01.040 Contempt

The following statutes of the State of Washington, as now in effect or as may be subsequently amended or recodified, are hereby adopted by reference:

RCW 7.21.010	Definitions.
RCW 7.21.020	Sanctions – Who may impose.
RCW 7.21.030	Remedial sanctions – Payment for losses.
RCW 7.21.040	Punitive sanctions – Fines.
RCW 7.21.050	Sanctions – Summary imposition – Procedure.

(Ord. 2497 §1, 2016; Ord. 1363 §1 (part), 1985)

8.01.050 Penalty

Except as otherwise provided in RCW 35.21.163 as now in effect or as may be subsequently amended, any person violating any provision of this title shall be guilty of a gross misdemeanor and shall be punished by a fine not to exceed $5,000.00, or by imprisonment in jail for a term not exceeding one year, or by both such fine and imprisonment.

(Ord. 1710 §1, 1994; Ord. 1677 §15, 1993; Ord. 1363 §1 (part), 1985)

CHAPTER 8.02
CRIMES RELATING TO ADVERTISING

Sections:

8.02.010 Advertising Prohibitions

The Revised Code of Washington (RCW) section, 9.04.010 – False advertising, is hereby adopted by reference.

(Ord. 1677 §2, 1993; Ord. 1363 §1 (part), 1985)

CHAPTER 8.03
ALCOHOLIC BEVERAGES

Sections:

8.03.010 Alcoholic Beverage Control – Enforcement

The following statutes of the State of Washington are adopted by reference, as presently constituted or hereinafter amended, and wherever the word "title" or words "this title" are used therein, the same shall be construed to mean and refer to RCW Title 66, and "this act" shall mean and refer to the Washington State Liquor Act:

66.04.010 Definitions.
66.20.200 Unlawful acts relating to card of identification and certification card - Penalties.
66.20.210 Licensee's immunity to prosecution or suit -- Certification card as evidence of good faith.
66.28.080 Permit for music and dancing upon licensed premises.
66.28.090 Licensed premises or banquet permit premises open to inspection -- Failure to allow, violation.
66.44.010 Local officers to enforce law -- Authority of board -- Liquor enforcement officers.
66.44.040 Sufficiency of description of offenses in complaints, informations, process, etc.
66.44.050 Description of offense in words of statutes -- Proof required.
66.44.060 Proof of unlawful sale establishes prima facie intent.
66.44.070 Certified analysis is prima facie evidence of alcoholic content.
66.44.080 Service of process on corporation.
66.44.090 Acting without license.
66.44.100 Opening or consuming liquor in public place -- Penalty.
66.44.120 Unlawful urse of seal.
66.44.130 Sales of liquor by drink or bottle.
66.44.140 Unlawful sale, transportation of spirituous liquor without stamp or seal * Unlawful operation, possession of still or mash.
66.44.150 Buying liquor illegally.
66.44.160 Illegal possession, transportation of alcoholic beverages.
66.44.170 Illegal possession of liquor with intent to sell -- Prima facie evidence, what is.
66.44.175 Violations of law.
66.44.180 General penalties - Jurisdiction for violations.

66.44.200 Sales to persons apparently under the influence of liquor -- Purchases or consumption by persons apparently under the influence of liquor on licensed premises -- Penalty -- Notice -- Separation of actions.
66.44.210 Obtaining liquor for ineligible person.
66.44.240 Drinking in public conveyance - Penalty against carrier - Exception.
66.44.250 Drinking in public conveyance - Penalty against individual -- Restricted application.
66.44.270 Furnishing liquor to minors - Possession, use -- Penalties -- Exhibition of effects -- Exceptions.
66.44.280 Minor applying for permit.
66.44.290 Minor purchasing or attempting to purchase liquor -- Penalty.
66.44.300 Treats, gifts, purchases of liquor for or from minor, or holding out minor as at least twenty-one, in public place where liquor sold.
66.44.310 Minors frequenting off-limits area -- Misrepresentation of age -- Penalty -- Classification of licensees.
66.44.316 Certain persons eighteen years and over permitted to enter and remain upon licensed premises during employment.
66.44.325 Unlawful transfer to minor of age identification.
66.44.328 Preparation or acquisition and supply to persons under age twenty-one of facsimile of official identification card -- Penalty.
66.44.340 Employees eighteen years and over allowed to sell and handle beer and wine for certain licensed employers.
66.44.370 Resisting or opposing officers in enforcement of title.

(Ord. 2151 §1, 2007)

CHAPTER 8.04
CRUELTY TO ANIMALS

Sections:

8.04.010 Cruelty Prohibited
8.04.020 Abuse of Police Animals

8.04.010 Cruelty Prohibited

No person shall, within the corporate limits of the City, beat, whip or mistreat any beast of burden or other animal or bird, nor shall any person starve, neglect to feed, or underfeed any animal or bird, or subject the same to circumstances of unusual or unnecessary hardship and suffering; provided however, that the provisions of this chapter shall not apply to the ordinary treatment of animals in any rodeo or other show licensed under laws of the City.

(Ord. 1677 §16 (part), 1993)

8.04.020 Abuse of Police Animals

It shall be unlawful for any person to willfully or maliciously torture, torment, beat, kick, strike, choke, cut, stab, stone, shoot, mutilate, injure, disable, kill, arouse, anger or excite, or to interfere with or meddle with any animal while it is being caged, kenneled, transported, exhibited, exercised, or used in discharging or attempting to discharge any lawful duty or function or power of office, by any bona fide police officer or his representative, for any police agency.

(Ord. 1677 §16 (part), 1993)

CHAPTER 8.05

ANTICIPATORY OFFENSES

Sections:

8.05.010 Anticipatory Offenses Prohibited

The following statutes of the State of Washington are adopted by reference:

RCW 9A.28.020 (1), (2), (3)(e)	Criminal attempt
RCW 9A.28.030	Criminal solicitation
RCW 9A.28.040 (1), (2), (3)(e)	Criminal conspiracy

(Ord. 1363 §1 (part), 1985)

CHAPTER 8.06

CRIMES RELATING TO CHILDREN AND MINORS

Sections:

8.06.010 Conduct Prohibited

The following statutes of the State of Washington are adopted by reference:

RCW 9A.44.096	Sexual misconduct with a minor in the second degree.
RCW 9.68A.110 (1) (2) (5)	Certain defenses barred, permitted.
RCW 9.68A.120	Seizure and forfeiture of property.
RCW 9.68A.140	Definitions.
RCW 9.68A.150	Minor Access to Erotic Materials.
RCW 9.68A.160	Penalty.

(Ord. 1805 §1, 1997; Ord. 1677 §12, 1993; Ord. 1363 §1 (part), 1985)

8.06.015 Leaving Minor Children in Unattended Vehicle

A. No person shall, while operating or otherwise in charge of any motor vehicle, park or allow such vehicle to stand or remain in any public place, leaving a child or children under the age of twelve years unattended therein. The crime of leaving minor children in an unattended vehicle is a misdemeanor.

B. Probable cause for this offense is established only in circumstances where an officer on the scene:

1. Believes there is an imminent threat of property damage or bodily injury or death to any person; or

2. Is able to articulate reasons from personal observation tending to establish some threat to the safety of persons or property. Articulated reasons sufficient to establish probable cause under this subsection shall include without limitation excessive heat or cold, age of the occupants in the vehicle under observation, the existence of the ignition key for that vehicle in the ignition switch, or the fact that the engine of the vehicle under observation is running.

(Ord. 1535 §1, 1989)

8.06.020 Contributing to the Delinquency of a Minor

A. A person is guilty of contributing to the delinquency of a child if, by act or omission, he knowingly causes or encourages a child to commit, or otherwise contributes to a child's commission of, any delinquent act. Contributing to delinquency of a child is a misdemeanor.

B. For purposes of this section, the following definition shall apply:

1. *"Child"* means any person under the age of 18 years at the time of the act complained of; and

2. *"Delinquent act"* means any act or omission for which an adult could be charged with a crime.

(Ord. 1531 §1, 1989; Ord. 1363 §1 (part), 1985)

8.06.030 Custodial Interference – Prohibited

A. A parent of a child is guilty of custodial interference in the second degree if:

1. The parent takes, entices, retains, detains, or conceals the child, with the intent to deny access from the other parent having the lawful right to time with the child pursuant to a court-ordered parenting plan; or

2. The parent has not complied with the residential provisions of a court-ordered parenting plan after a finding of contempt under RCW 26.09.160(3); or

3. The court finds that the parent has engaged in a pattern of willful violations of the court-ordered residential provisions.

B. Nothing in TMC 8.06.030A.2 prohibits conviction of custodial interference in the second degree under TMC 8.06.030A.1 & A.3 in absence of findings of contempt.

C. The first conviction of custodial interference is a gross misdemeanor.

(Ord. 1569 §1 (part), 1990)

8.06.040 Custodial Interference – Assessment of Costs – Defense – Consent Defense Restricted

A. Any reasonable expenses incurred in locating or returning a child or incompetent person shall be assessed against a defendant convicted under TMC 8.06.030.

B. In any prosecution of custodial interference, it is a complete defense, if established by the defendant by a preponderance of the evidence, that:

1. The defendant's purpose was to protect the child, incompetent person, or himself or herself from imminent physical harm; that the belief in the existence of the imminent physical harm was reasonable; and that the defendant sought the assistance of the police, sheriff's office, protective agencies, or the court of any state before committing the acts giving rise to the charges or within a reasonable time thereafter;

2. The complainant had, prior to the defendant committing the acts giving rise to the crime, for a protracted period of time failed to exercise his or her rights to physical custody or access to the child under a court-ordered parenting plan or order granting visitation rights, provided that such failure was not the direct result of the defendant's denial of access to such person;

3. The acts giving rise to the charges were consented to by the complainant; or

4. The offender, after providing or making a good faith effort to provide notice to the person entitled to access to the child, failed to provide access to the child due to reasons that a reasonable person would believe were directly related to the welfare of the child, and allowed access to the child in accordance with the court order within a reasonable period of time. The burden of proof that the denial of access was reasonable is upon the person denying access to the child.

C. Consent of a child less than 16 years of age or of an incompetent person does not constitute a defense to an action under TMC 8.06.030.

(Ord. 1569 §1 (part), 1990)

8.06.050 Exposing Minor Children to Domestic Violence

A. A person commits the crime of exposing children to domestic violence when he or she:

1. Commits a crime against a family or household member, as defined in RCW 10.99.020; and

2. The crime is committed in the immediate presence of, or is witnessed or heard by, the person's or the victim's minor child, minor stepchild, or a minor child residing within the household of the person or victim.

3. For the purposes of this section, "minor" shall mean under 18 years of age on the date of the violation.

B. Exposing children to domestic violence is a gross misdemeanor. Any person convicted of this crime shall be punished by imprisonment of not less than 30 days.

(Ord. 2614 §1, 2019)

CHAPTER 8.07

CONTROLLED SUBSTANCES, PARAPHERNALIA, POISONS AND TOXIC FUMES

Sections:

8.07.010 State Statutes Adopted by Reference

The following statutes of the State of Washington, as now in effect or as may be subsequently amended, are hereby adopted by reference as if set forth in full herein to non-felonies:

RCW 69.41.030	Sale, delivery, or possession of legend drug without prescription or order prohibited—Exceptions—Penalty.
RCW 69.50.101	Definitions.
RCW 69.50.102	Drug Paraphernalia–Definitions.
RCW 69.50.309	Containers.
RCW 69.50.4011	Counterfeit substances – Penalties.
RCW 69.50.4013	Possession of controlled substance – Penalty – Possession of useable cannabis, cannabis concentrates, or cannabis-infused products – Delivery.
RCW 69.50.4014	Possession of Forty Grams or Less of Marijuana–Penalty.
RCW 69.50.4016	Provisions not applicable to offenses under RCW 69.50.410.
RCW 69.50.412	Prohibited Acts: E–Penalties.
RCW 69.50.4121	Drug paraphernalia – Selling or giving – Penalty.
RCW 69.50.420	Violations – Juvenile driving privileges.
RCW 69.50.435	Violations committed in or on certain public places or facilities – Additional penalty – Defenses – Construction – Definitions.
RCW 69.50.505	Seizure and Forfeiture.
RCW 69.50.506	Burden of Proof.
RCW 69.50.509	Search and Seizure of Controlled Substances.

(Ord. 2710 §2, 2023; Ord. 2049 §1, 2004; Ord. 1568 §2, 1990; Ord. 1363 §1 (part), 1985)

8.07.020 Crimes and Penalties not Specifically Referenced

Any act or omission defined as a misdemeanor or gross misdemeanor in State law and not specifically identified in this chapter is also adopted by reference, as now enacted or hereafter amended. Any penalty in Article IV of chapter 69.50 RCW for a non-felony violation not specifically identified in this chapter is also adopted by reference, as now enacted or hereafter amended.

(Ord. 2710 §5, 2023)

8.07.030 Inhaling Toxic Fumes

The following statutes of the State of Washington are adopted by reference:

RCW 9.47A.010	Definition.
RCW 9.47A.020	Unlawful inhalation – Exception.
RCW 9.47A.030	Possession of certain substances prohibited, when.
RCW 9.47A.040	Sale of certain substances prohibited, when.

(Ord. 1495 §1, 1988; Ord. 1363 §1(part), 1985)

8.07.050 Poisons

The following state statutes (RCW) are hereby adopted by reference:

69.38.020	Poison defined.
69.38.020	Exceptions.
69.38.030	Poison Register.
69.38.040	Poison Register – Penalty for violations.
69.38.060	License Required.

(Ord. 1677 §7, 1993)

CHAPTER 8.08
FALSE ALARMS

Sections:

8.08.010 Audible Alarm Nuisance

Any alarm audible upon abutting property for a period in excess of one-half hour is declared to be a public nuisance and may be summarily abated by the Police Department.

(Ord. 1363 §1 (part), 1985)

8.08.020 Outside Audible Intrusion Alarm – Notice Required

Any person connecting an outside audible intrusion alarm to any building located within the City limits shall notify the Police Department of the City of such connection.

(Ord. 1363 §1 (part), 1985)

8.08.030 Automatic Telephone Dialing System – Connection with Police and Fire Communications Prohibited

No person shall connect any automatic telephone dialing system to the Tukwila Police Department, Tukwila Fire Department, or Valley Communications.

(Ord. 1363 §1 (part), 1985)

8.08.040 False Alarm – Fines

In the event that any department of the City receives or responds to a total of more than one false alarm of fire, intrusion, crime or other safety-related emergency at any single place of business, home, vehicle or other premises or place, the owner of said premises or place shall, within 10 days of receipt of written bill therefor, pay to the City the fee charged in accordance with the fee schedule to be adopted by resolution of the Tukwila City Council.

(Ord. 2634 §1, 2020; Ord. 1363 §1 (part), 1985)

CHAPTER 8.09
CRIMES RELATING TO FIRE

Sections:

8.09.010 Reckless Burning

The following statutes of the State of Washington are adopted by reference.

RCW 9A.48.010 Definition.
RCW 9A.48.050 Reckless burning.
RCW 9A.48.060 Reckless burning – Defenses.

(Ord. 1677 §8, 1993: Ord. 1363 §1 (part), 1985)

8.09.020 Fire – Miscellaneous Crimes

The following statutes of the State of Washington are adopted by reference:

RCW 9.40.040 Operating engine or boiler without spark arrester.

(Ord. 1363 §1 (part), 1985)

CHAPTER 8.10
FIREARMS AND DANGEROUS WEAPONS

Sections:

8.10.010 Firearms and Dangerous Weapons – Prohibitions

The following statutes of the State of Washington, as presently constituted and hereinafter amended, are adopted by reference:

RCW 9.41.010	Terms defined.
RCW 9.41.050	Carrying firearms.
RCW 9.41.060	Exceptions to restrictions on carrying firearms.
RCW 9.41.070	Concealed pistol license – Application – Fee – Renewal.
RCW 9.41.080	Delivery to ineligible persons.
RCW 9.41.090	Dealer deliveries regulated – Hold on delivery.
RCW 9.41.098	Forfeiture of firearms – Disposition – Confiscation.
RCW 9.41.100	Dealer licensing and registration required.
RCW 9.41.120	Firearms as loan security.
RCW 9.41.140	Alteration of identifying marks – Exceptions.
RCW 9.41.170	Alien's license to carry firearms – Exception.
RCW 9.41.230	Aiming or discharging firearms, dangerous weapons.
RCW 9.41.240	Possession of pistol by person from eighteen to twenty-one.
RCW 9.41.250	Dangerous weapons – Penalty.
RCW 9.41.260	Dangerous exhibitions.
RCW 9.41.270	Weapons apparently capable of producing bodily harm – Unlawful carrying or handling – Penalty – Exceptions.
RCW 9.41.280	Possessing dangerous weapons on school facilities – Penalty – Exceptions.
RCW 9.41.300	Weapons prohibited in certain places – Local laws and ordinances – Exceptions – Penalty.

(Ord. 1905 §1, 2000; Ord. 1363 §1 (part), 1985)

8.10.020 Unlawful Use of Air Guns – Penalty

A. It is unlawful for any person to point or shoot an air gun at any person or property of another, or to aim or discharge such weapon in the direction of the person or residence of another, while within such range as to cause or inflict injury to the person or damage the property of another.

B. As used in this section, the words "air gun" mean and include the following: air gun, air pistol, air rifle, BB gun, and toy or other guns of any kind or nature when so designed, contrived, modified and used to propel, by compressed air or spring-loaded plunger, any pellet, dart, hardtipped arrow, bean, pea, BB, rock or other hard substance a distance of more than 25 feet, with sufficient force to break windows or inflict injury upon persons or animals.

C. Any person convicted of a violation of the provisions of this section is guilty of a misdemeanor; and, in addition to any other punishment imposed by the court, the court shall direct that the weapon so used in violation of the provisions hereof be confiscated.

(Ord. 1363 §1 (part), 1985)

8.10.030 Discharge of Firearms Prohibited

It is unlawful for any person to discharge any firearm in the City of Tukwila where there is a likelihood of injury to humans, domestic animals or property, except upon a rifle or pistol firing range which has been issued a business license by the City for such purpose, provided that this prohibition does not apply to the discharge of firearms by law enforcement officers engaged in the performance of their official powers or duties. This section shall not abridge the right of the individual guaranteed by Article I, Section 24 of the State Constitution to bear arms in defense of self or others.

(Ord. 1363 §1 (part), 1985)

8.10.050 Penalty

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, be punished by a fine not to exceed $1,000.00, or by imprisonment in jail for a term not exceeding 90 days, or by both such fine and imprisonment.

(Ord. 1363 §1 (part), 1985)

CHAPTER 8.11

DISPOSAL OF FORFEITED AND SURPLUS FIREARMS

Sections:

8.11.010 Applicable Weapons

A. All illegal firearms as defined by RCW or the Federal Bureau of Alcohol, Tobacco, and Firearms (ATF) regulations, and "short firearms" (handguns) within the inventory of the Tukwila Police Department up to midnight June 30, 1993, and all rifles, shotguns and short firearms that come into the possession of the Tukwila Police Department after June 30, 1993 that are judicially forfeited under RCW 9.41.098, no longer needed for evidence, or forfeited due to a failure to make a claim under RCW 63.32.010 or 63.40.010, or any surplus firearm from the inventory of Tukwila Police Department Service weapons, shall be disposed of by the Tukwila Police Department in the manner set forth in this chapter.

B. Any "short firearm" (handgun) in the inventory of the Tukwila Police Department up to midnight June 30, 1993, destroyed by the City of Tukwila shall cause the City to pay a sum of $25.00 per handgun to the Treasurer of the State of Washington.

C. All legal rifles, shotguns, and antique or relic weapons as described in TMC 8.11.040 in the inventory of the Tukwila Police Department up to midnight June 30, 1993 shall be disposed of through trade and/or auction by commercial sellers.

(Ord. 1668 §1 (part), 1993)

8.11.020 Retention of Firearms for Department Use

A. Any firearm seized after June 30, 1993, having been adjudicated as forfeited to the Tukwila Police Department or forfeited due to a failure to make a claim under applicable State law, that is no longer needed for evidence, that is determined to be of functional value to the Police Service of the City of Tukwila, may be retained for department use. At no time shall the annual number of Department-retained firearms exceed 10% of the total number of firearms forfeited to the Department in any calendar year.

B. Any firearm declared surplus from the inventory of Tukwila Police Department service weapons shall be destroyed in the manner set out in this chapter under 8.11.030.

(Ord. 1668 §1 (part), 1993)

8.11.030 Destruction of Forfeited Firearms

All illegal firearms, all "short firearms" (handguns) in inventory of the Tukwila Police Department up to midnight June 30, 1993, all firearms legally forfeited to the Tukwila Police Department after June 30, 1993, no longer needed for evidence, and all firearms declared surplus from the inventory of weapons in service by the Tukwila Police Department, with the exception of exempted firearms as set out in TMC 8.11.040, shall be destroyed by appropriate means available, under the direction of the Police Department Evidence person.

(Ord. 1668 §1 (part), 1993)

8.11.040 Legislative Exemption for the Destruction of Certain Firearms

A. No antique firearm as defined by RCW 9.41.150, or firearm designated a curio, relic, or firearm of particular historical significance as described in the published regulations of the Bureau of Alcohol, Tobacco, and Firearms, may be destroyed.

B. Any antique or relic firearm meeting the definition of this section may be retained by the Department.

1. All other firearms meeting the definition of this section shall be traded to commercial sellers for equal value applicable police supplies/equipment, or auctioned to commercial sellers.

2. Any proceeds received from the trade or auction of firearms under this chapter shall be utilized in the furtherance of the Police Mission.

(Ord. 1668 §1 (part), 1993)

8.11.050 Severability

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

(Ord. 1668 §2, 1993)

CHAPTER 8.12
FIREWORKS

Sections:

This Chapter was repealed by Ordinance No. 2650, January 2021.

CHAPTER 8.16
FIRE PROTECTION

Sections:

8.16.010 Interference with Firefighters

No one other than members of the Fire Department, except by direction of the Fire Chief, shall be permitted on the fire trucks, and no person shall in any way interfere with firefighters while on duty at a fire or at drill.

(Ord. 1363 §1 (part), 1985)

8.16.020 Following Fire Apparatus

The driver of any vehicle other than one on official business of the City shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

(Ord. 1363 §1 (part), 1985)

8.16.030 Driving Over Hose

No vehicle shall be driven over any unprotected hose of the Fire Department when laid down on any street or private driveway to be used at any fire or alarm of fire without the consent of the Fire Department official in command.

(Ord. 1363 §1 (part), 1985)

8.16.040 Penalty

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, be punished by a fine not to exceed $1,000.00 or by imprisonment in jail for a period not to exceed 90 days, or by both such fine and imprisonment.

(Ord. 1363 §1(part), 1985)

CHAPTER 8.20

FRAUDS, SWINDLES AND FALSE REPRESENTATIONS

Sections:

8.20.010 Frauds and Swindles

The following statutes of the State of Washington, as now in effect or as may be subsequently amended or recodified, are hereby adopted by reference

RCW 9.26A.100	Definitions.
RCW 9.26A.110	Fraud in obtaining telecommunications service – Penalty.
RCW 9.26A.120	Fraud in operating coin-box telephone or other receptacle.
RCW 9.26A.130	Penalty for manufacture or sale of slugs to be used for coin.
RCW 9.45.060	Encumbered, leased, or rented personal property – Construction.
RCW 9.45.070	Mock auctions.
RCW 9.45.080	Fraudulent removal of property.
RCW 9.45.090	Knowingly receiving fraudulent conveyance.
RCW 9.45.100	Fraud in assignment for benefit of creditors.
RCW 9A.56.096	Theft of rental, leased, lease-purchased, or loaned property.
RCW 9A.56.330	Possession of another's identification.
RCW 9A.60.010	Definitions.
RCW 9A.60.040	Criminal impersonation in the first degree.
RCW 9A.60.045	Criminal impersonation in the second degree.
RCW 9A.60.050	False certification.

(Ord. 2497 §2, 2016; Ord. 2049 §2, 2004; Ord. 1907 §1, 2000)

8.20.020 False Representations

The following statutes of the State of Washington are adopted by reference:

RCW 9.38.010	False representation concerning credit.
RCW 9.38.015	False statement by deposit account applicant.
RCW 9.38.020	False representation concerning title.

(Ord. 1807 §1, 1997; Ord. 1363 §1 (part), 1985)

CHAPTER 8.21
GAMBLING OFFENSES

Sections:

8.21.010 Gambling Offenses – Enforcement

The following statutes of the State of Washington, as presently constituted or hereinafter amended, are adopted by reference:

RCW 9.46.010 Legislative declaration.
RCW 9.46.0201 "Amusement game."
RCW 9.46.0205 "Bingo."
RCW 9.46.0209 "Bona fide charitable or nonprofit organization."
RCW 9.46.0213 "Bookmaking."
RCW 9.46.0217 "Commercial stimulant."
RCW 9.46.0221 "Commission."
RCW 9.46.0225 "Contest of chance."
RCW 9.46.0229 "Fishing derby."
RCW 9.46.0233 "Fund raising event."
RCW 9.46.0237 "Gambling."
RCW 9.46.0241 "Gambling device."
RCW 9.46.0245 "Gambling information."
RCW 9.46.0249 "Gambling premises."
RCW 9.46.0253 "Gambling record."
RCW 9.46.0257 "Lottery."
RCW 9.46.0261 "Member," "bona fide member."
RCW 9.46.0265 "Player."
RCW 9.46.0269 "Professional gambling."
RCW 9.46.0273 "Punch boards," "pull-tabs."
RCW 9.46.0277 "Raffle."
RCW 9.46.0282 "Social card game."
RCW 9.46.0285 "Thing of value."
RCW 9.46.0289 "Whoever," "person."
RCW 9.46.190 Violations relating to fraud or deceit.
RCW 9.46.193 Cities and towns – Ordinance adopting certain sections of chapter – Jurisdiction of courts.
RCW 9.46.195 Obstruction of public servant – Penalty.
RCW 9.46.196 Cheating – Defined.
RCW 9.46.1962 Cheating in the second degree.
RCW 9.46.198 Working in gambling activity without license as violation – Penalty.
RCW 9.46.210 Enforcement – Commission as a law enforcement agency.
RCW 9.46.215 Ownership or interest in gambling device – Penalty – Exceptions.
RCW 9.46.217 Gambling records – Penalty – Exceptions.
RCW 9.46.222 Professional gambling in the third degree.
RCW 9.46.231 Gambling devices, real and personal property – Seizure and forfeiture.
RCW 9.46.235 Slot machines, antique – Defenses concerning – Presumption created.
RCW 9.46.240 Gambling information, transmitting or receiving.
RCW 9.46.250 Gambling property or premises – Common nuisances, abatement – Termination of interests, licenses – Enforcement.
RCW 9.46.260 Proof of possession as evidence of knowledge of its character.

(Ord. 2099 §1, 2005)

CHAPTER 8.22
NOISE

Sections:

8.22.010 Policy and Application

A. It is the policy of the City to minimize the exposure of citizens to the physiological and psychological effects of excessive noise and to protect, promote and preserve the public health, safety and welfare. It is the express intent of the City to control the level of noise in a manner which promotes commerce; the use, value and enjoyment of property; sleep and repose; and the quality of the environment.

B. The following environments have been identified and approaches adopted:

1. Use of Property. The different zoning districts of the City establish lawful uses which can be anticipated to produce noise at certain reasonable levels associated with these uses. The provisions of TMC Section 8.22.050 utilize thresholds consistent with those set forth in Chapter 70A.20 RCW entitled "Noise Control" and Chapter 173-60 WAC entitled "Maximum Environmental Noise Levels." Regulation of noise due to the use of property for commercial and industrial purposes or operation of fixed equipment in any zone is appropriate for the use of noise measuring devices and a decibel-based approach. Properly trained and certified City staff or a certified consultant trained in the field of sound level measurement can be utilized in these situations when warranted.

2. Sporadic noise that is loud and raucous, such as noise due to social gatherings, car repair, landscape maintenance, or amplified music, and noise generated for the purpose of annoyance, is more episodic in nature and subject to the plainly audible standard. The provisions of TMC Section 8.22.050(3) are aimed at those situations that are difficult or impossible to address through measurement pursuant to TMC Sections 8.22.050(1) and (2). In administering and enforcing the provisions of this chapter, the City desires to coordinate the application of these two (2) approaches.

3. Similarly, public uses of the rights-of-way, such as parades, and First Amendment speech such as a lawful demonstration should be differentiated from pure commercial speech. Pure commercial speech has been defined by the U.S. Supreme Court as speech "which does no more than propose a commercial transaction." Such speech while protected is susceptible of regulation; provided, that the City address the legitimate public concern of noise pollution in a thoughtful and targeted manner. The content of the speech shall not be considered against any person in determining a violation of this Chapter.

4. Finally, the City recognizes that the use of bells, chimes, carillons, and drums may constitute a call to worship and accordingly such a use is protected as religious speech under the First Amendment. These noises are appropriate when limited by reasonable time, place and manner restrictions.

(Ord. 2723 §2, 2023; Ord. 2293 §2, 2010)

8.22.020 Definitions

As used in this chapter, the following terms shall have the meanings set forth in this section, unless a different meaning is clearly indicated by the context in which the term is used. Terms not defined herein shall be interpreted using the meaning they have in common usage and to give this chapter its most reasonable application.

1. *"***Administrator***"* means the Director of Community Development, the Chief of Police, or their designee, including the Hearing Examiner.

2. ***"*Affected tenant*"*** means a business located within a required public notice area which conducts business or maintains open hours during the time period in which a noise variance is sought. For example, businesses closed during the night are not affected tenants when a nighttime noise variance is sought. "Affected tenants" refers to business tenants only and not residential tenants.

3. ***"*Audio equipment*"*** means compact disc players, radios, stereo systems, televisions, video cassette recorders, mp3 players and other such devices.

4. **"Commercial music"** means music originating from or in connection with the operation of any commercial establishment or enterprise.

5. **"Construction"** means any site preparation, assembly, erection, demolition, substantial repair, alteration, or similar action for or of public or private rights-of-way, structures, utilities or similar property.

6. **"Daytime"** means 7AM-10PM, Monday through Friday and 8AM-10PM, Saturday, Sunday and State-recognized holidays.

7. **"dB(A)"** means the sound level measured in decibels, using the A-weighting network.

8. **"District"** or **"noise control district"** means the land use zones to which the provisions of this chapter are applied. For the purposes of this chapter:

a. ***"Residential district"*** includes zones designated as LDR, MDR and HDR;

b. ***"Commercial district"*** includes zones designated as MUO, O, RCC, NCC, RC, RCM, TUC, C/LI and TVS; and

c. ***"Industrial district"*** includes zones designated as LI, HI, MIC/L and MIC/H.

9. ***"Emergency work"*** means work required to restore property to a safe condition following a public calamity, or work required to protect persons or property from an imminent exposure to danger, or work required to restore property to a safe operating condition following a weather event, or work by private or public utilities for restoring immediately necessary utility service.

10. ***"Equipment"*** means any stationary or portable device or any part thereof capable of generating sound.

11. ***"Motorcycle"*** means any motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, except that farm equipment and vehicles powered by engines of less than five horsepower shall not be included.

12. ***"Motor vehicle"*** means any vehicle that is self-propelled, used primarily for transporting persons or property upon public highways, and required to be licensed under RCW 46.16.010. (Aircraft, watercraft and vehicles used exclusively on stationary rails or tracks are not "motor vehicles" as the term is used herein.)

13. ***"Motor vehicle sound systems"*** means audio equipment installed or used in a motor vehicle.

14. ***"Muffler"*** means a device consisting of a series of chambers or other mechanical designs for the purpose of receiving exhaust gas from an internal combustion engine and designed to reduce the sound resulting therefrom.

15. "**Nighttime**" means 10pm-7am, Monday through Friday and 10pm-8am, Saturday, Sunday and State-recognized holidays.

16. "**Noise**" means the intensity, duration and character of sounds from any and all sources.

17. "**Person**" means any individual, firm, association, partnership, corporation or any other entity, public or private.

18. "**Plainly audible**" means sound made by a sound-producing source that can be heard by a person using their unaided hearing faculties. Plainly audible sound includes any component of sound, including but not limited to, rhythmic bass or comprehensible musical rhythms. It is not necessary for such person to be able to determine the title, specific words or artist of music or the content of any speech for the sound to be considered "plainly audible."

19. "**Public highway**" means the entire width between the boundary lines of every way publicly maintained by the Washington State Department of Transportation (WSDOT) or any county or city, when any part thereof is generally for the use of the public for purposes of vehicular travel or a matter of right.

20. "**Real property**" means an interest or aggregate of rights in land that is guaranteed and protected by law; for purposes of this chapter, the term "real property" includes a leasehold interest.

21. "**Receiving property**" means real property within which the maximum permissible sound levels specified herein shall not be exceeded from sources outside such property. Individual offices or dwelling units within a building may constitute a receiving property.

22. "**Residence**" means a building regularly or intermittently occupied by a person for dwelling, lodging or sleeping purposes.

23. "**Residential party**" means a social gathering held in a place of residence.

24. "**Sound level**" means the weighted sound pressure level measured by the use of a metering characteristic and weighted as specified in American National Standards Institute Specifications, Section 1.4-1971.

25. "**Sound level meter**" means a sound level measuring device, either Type I or Type II, as defined by American National Standards Institute Specifications, ANSI S1.4-1983.

26. "**Sound-producing source**" means anything that is capable of making sound. Sound- producing source includes, but is not limited to, the following:

a. air conditioning or heating units, heat pumps, refrigeration units (including those mounted on vehicles) and swimming pool or hot tub pumps;

b. air horns, bells or sirens;

c. audio equipment;

d. domestic tools, including chain saws, electric drills, electric saws, hammers, lawn mowers, leaf/snow blowers, and similar tools and devices;

e. loudspeakers or public address systems;

f. musical instruments;

g. human voice;

h. animal sounds;

i. mechanical or electrical noise;

j. vehicle engines or exhaust systems, other than regular traffic upon a highway, road or street;

k. residential party;

l. motor vehicle sound systems; or

m. commercial music

27. "**Warning device**" means any device intended to provide public warning of potentially hazardous, emergency or illegal activities, including, but not limited to, a burglar alarm or vehicle backup signal, but not including any fire alarm.

(Ord. 2723 §3, 2023; Ord. 2293 §3, 2010)

8.22.030 General Powers of the Administrator

A. Subject to the provisions of this code, the administrator may take such action as may be necessary to abate a sound-producing source that causes or may cause, by itself or in combination with any other sound-producing source or sources,

an unreasonable or prohibited noise. The administrator may exercise or delegate any of the functions, powers and duties vested in him or her or in the department by this chapter.

B. The administrator may promulgate such rules as are necessary to effectuate the purposes of this chapter, including but not limited to, rules setting forth specifications for the operation, installation, best available technology, or manufacture of sound generating equipment or devices or sound mitigation equipment or devices.

C. The administrator may promulgate such rules as are necessary with regard to standards and procedures to be followed in the measurement of sound pressure levels governed by the provisions of this chapter.

D. The administrator shall have the power to issue notices of violation for violations of this chapter.

(Ord. 2293 §4, 2010)

8.22.040 Measurement of Sound

A. The use of a sound level meter is not required to verify a plainly audible noise complaint for sporadic noise.

B. If the measurement of sound is made with a sound level meter, it shall be an instrument in good operating condition and shall meet the requirement for a Type I or Type II instrument, as described in American National Standards Institute Specifications, ANSI S1.4-1983. If the measurements are made with other instruments or assemblages of instruments, the procedure must be carried out in such a manner that the overall accuracy shall be at least that called for in ANSI S1.4-1983 for Type II instruments.

(Ord. 2723 §4, 2023; Ord. 2293 §5, 2010)

8.22.050 Maximum Permissible Sound Levels

It is a violation to produce sound in excess of the permissible sound levels established by this chapter.

1. No person may produce or permit to be produced sound that exceeds the following maximum permissible sound levels when measured at or within the boundary of a receiving property:

District of Sound Producing Source	District of Receiving Property			
	Residential Daytime	Residential, Nighttime	Commercial	Industrial
Residential	55 dB(A)	45 dB(A)	57 dB(A)	60 dB(A)
Commercial	57 dB(A)	47 dB(A)	60 dB(A)	65 dB(A)
Industrial	60 dB(A)	50 dB(A)	65 dB(A)	70 dB(A)

2. At any hour of the day or night, the applicable noise limitations above may be exceeded for any receiving property by no more than:

a. 5 dB(A) for a total of 15 minutes in any one-hour period;

b. 10 dB(A) for a total of 5 minutes in any one-hour period; or

c. 15dB(A) for a total of 1.5 minutes in any one-hour period.

3. The following sporadic noise also exceeds the maximum permissible sound levels and is not permitted:

a. In all districts of the City, no sound from a sound-producing source is permitted that is:

1) plainly audible from a motor vehicle sound system at a distance of at least 50 feet from the vehicle itself; or

2) plainly audible commercial music at a distance of at least 50 feet from the property line of the commercial establishment.

b. When the receiving property is in a residential district, no sound from a sound- producing source is permitted that is plainly audible at a distance of at least 50 feet from the exterior of a sound-producing source, including sounds created by any motor vehicle operated off public highways.

(Ord. 2723 §5, 2023; Ord. 2293 §6, 2010)

8.22.060 Muffler Requirements

It is unlawful for any person to operate or for any owner to permit any person to operate any motor vehicle upon the public highways that is not equipped with a muffler in good working order and in constant operation.

(Ord. 2293 §7, 2010)

8.22.070 Modification of Motor Vehicles

It is unlawful for any person to operate a vehicle that has been modified or changed in any way or has had installed any device thereon in any manner that permits sound to be emitted by the motor vehicle in excess of the limits prescribed by this chapter. It is unlawful for any person to remove or render inoperative or cause to be removed or rendered inoperative (other than for purposes of maintenance, repair or replacement) any muffler or sound dissipative device on a motor vehicle that is operated on the public highway.

(Ord. 2293 §8, 2010)

8.22.080 Tire Noise

It is unlawful for any person to operate a motor vehicle in such a manner as to cause or allow to be emitted squealing, screeching or other such sound from the tires in contact with the ground because of rapid acceleration or excessive speed around corners or other such reason; provided, that sound resulting from emergency braking to avoid imminent danger shall be exempt from this section.

(Ord. 2293 §9, 2010)

8.22.090 Motor Vehicle Exemptions

Sounds created by motor vehicles operated on public highways are subject to the provisions of TMC Sections 8.22.060 through 8.22.080 and are exempt from TMC Section 8.22.050. However, sounds created by motor vehicles operated off public highways and motor vehicle audio systems operated anywhere are subject to the provisions of TMC Section 8.22.050.

(Ord. 2293 §10, 2010)

8.22.100 Sounds Exempt at all Times

A. The following sound-producing sources are exempt from the provisions of this chapter at all times:

1. Aircraft in flight and sounds that originate at airports that are directly related to flight operations.

2. Safety and protective devices, such as relief valves and fire alarms, where noise suppression would defeat the intent of the device.

3. Systems used to warn the community of an imminent public danger or attack, such as flooding, explosion or hurricane.

4. Emergency equipment activated in the interest of law enforcement, activated to perform emergency work as defined in TMC Section 8.22.020, or activated in response to a power outage where it is necessary to activate such equipment to preserve the health and safety of persons or to prevent harm to property.

5. Warning devices not operated continuously for more than five minutes per incident.

6. The operation of equipment or facilities of surface carriers engaged in commerce by railroad.

7. Natural phenomena.

8. City-sanctioned parades, sporting events and other City-sanctioned public events.

9. Sounds created by equipment used for public highway maintenance and construction, provided the receiving property is located in a commercial or industrial district of the City and provided that the applicant shall provide written notice to all residents within 500 feet of the project including all residents of multi-family complexes. Notice shall be provided between ten and thirty days of the onset of construction activity and shall enumerate the anticipated construction schedule for the length of the project. An affidavit of distribution shall be provided to the City.

10. Sounds created by existing or new electrical substations and existing or new stationary equipment used in the conveyance of water, waste water and natural gas by a utility are exempt from the nighttime reduction of TMC Section 8.22.050(B) only.

B. Nothing in these exemptions is intended to preclude the administrator from requiring installation of the best available noise abatement technology consistent with economic feasibility. The establishment of such requirement shall be subject to the provisions of RCW 34.05.

(Ord. 2293 §11, 2010)

8.22.110 Sounds Exempt During Daytime Hours

A. The following sound-producing sources are exempt from the provisions of this chapter during daytime hours:

1. Aircraft engine testing and maintenance not related to flight operations, provided that aircraft testing and maintenance shall be conducted at remote sites whenever possible.

2. Bells, chimes or carillons operating for not more than five minutes in any one hour.

3. Sounds created by construction or the movement of construction-related materials, including but not limited to, striking or cutting sounds from hammers, saws or equipment with electrical or internal combustion engines emanating from temporary construction sites.

4. Sounds created by hand or powered equipment used in temporary or periodic maintenance or repair of property, uses or structures, including but not limited to, lawnmowers, powered hand tools, snow removal equipment, and composters.

5. Sounds created by the installation or repair of essential utility services.

6. Sounds created by equipment used for public highway maintenance and construction.

7. The testing of emergency back-up generators or other emergency equipment.

B. Sounds originating from the discharge of firearms on shooting ranges authorized under State and local law are exempt from the provisions of this chapter between 7AM and 9PM, Monday through Friday and 8AM and 6PM, Saturday, Sunday and State-recognized holidays.

C. Nothing in these exemptions is intended to preclude the administrator from requiring installation of the best available noise abatement technology consistent with economic feasibility. The establishment of such requirement shall be subject to the provisions of RCW 34.04.

(Ord. 2293 §12, 2010)

8.22.120 Variances

A. Any person who owns or operates a sound-producing source may apply for a variance.

B. Application types are based on the number of days/nights the sound source will exceed the maximum permissible sound levels as shown in the following table:

Number of days/nights maximum permissible sound level may be exceeded within a 12-month period	*Variance Permit Type*	*Notice of Application Requirements*	*Public Hearing Requirements*
30 days or less	*Type 1 Administrative Variance*	*No notice (2,3)*	*No Hearing*
31-60 days	*Type 2 Administrative Variance*	*Mailed notice (1,2)*	*No Hearing*
More than 60 days	*Type 3 Variance*	*Mailed notice (1,2)*	*Public Hearing*

(1) Mailed notice shall be provided per TMC Section 18.104.120 with the exception that tenants that are not affected tenants per TMC Section 8.22.020 are not required to be sent notice.

(2) The administrator shall have the discretion in unusual circumstances (i.e., unusual type or intensity of noise or length of request) to require (additional) public notification procedures, such as causing notice to be published on the City's website, mailed notice provided to a wider geographic area, and/or notice posted at the site.

(3) In the case of residential parties or other noise generating events within a residential area and prior to granting any variance, the applicant shall provide written notice to all residents and businesses within 500 feet of where the party or project is being held. When the 500 foot radius includes multi-family complexes, all residents of the complex shall be notified. Written notice shall be provided between 10 and 30 days of the onset of activity and shall enumerate the anticipated party hours or work schedule for the length of the project. An affidavit of distribution shall be provided to the City.

C. Variance types, procedures and appeals are pursuant to Title 18 of the Tukwila Municipal Code.

D. Applications for a variance to exceed the maximum permissible sound levels shall supply information, including but not limited to:

1. The nature, source, intensity and location of the sound;

2. The hours during the day and/or night the noise will occur;

3. The number of days and/or nights the noise will occur;

4. The ambient sound level during the time of day or night for which the variance is being sought;

5. The time period for which the variance is requested;

6. The reason for which the noise violation cannot be avoided;

7. Mitigating conditions the applicant will implement to minimize the sound level violations;

8. The name, address and means of contacting a responsible party during the hours of operation for which the variance is requested; and

9. Any additional information or studies regarding any aspect of the requested variance that is deemed necessary to complete the review of the variance request.

E. No variance in the provisions or requirements of this chapter shall be authorized by the administrator unless the administrator finds that all of the following facts and conditions exist:

1. There are exceptional or extraordinary circumstances or conditions applying to the appellant's property or as to the intended use thereof that do not apply generally to other properties in the same noise control district;

2. Such variance is necessary for the preservation and enjoyment of a substantial personal or property right of the appellant, such right being possessed by the owners of other properties in the same noise control district;

3. The authorization of such variance does not endanger public health or safety of named persons in the same or adjacent noise control districts;

4. The granting of such variance will not adversely affect the general policy and purpose of this act as set forth in TMC Section 8.22.010.

F. In authorizing a variance, the administrator may attach thereto such conditions regarding noise level, duration, type and other considerations as the administrator may deem necessary to carry out the policy and purpose of this chapter. The variance permit shall enumerate the conditions of the variance, including but not limited to:

1. Specific dates and times for which the variance is valid;

2. Additional mitigation measures or public notice requirements as determined by the administrator.

3. If the notice of application is for a sound generating event that does not start within thirty days of the notice, the applicant shall provide written notice to all residents within 500 feet of the project including all residents of multi-family complexes. Written notice shall be provided between ten and thirty days of the onset of activity and shall enumerate the anticipated work schedule for the length of the project. An affidavit of distribution shall be provided to the City.

G. In establishing conditions on granting a variance, the administrator shall consider:

1. Whether the public health, safety or welfare is impacted;

2. The social and economic value of the activity for which the variance is sought;

3. The ability of the applicant to apply best practical noise control measures;

4. Physical conditions that create a significant financial hardship in complying with the provisions of this chapter; and

5. Any comments received during public notice or public meeting, if provided, and comment or lack of comment received during similar noise generating events in the past.

H. The variance permit may be revoked by the administrator and the issuance of future variance permits withheld, if there is:

1. Violation of one or more conditions of the variance permit;

2. Material misrepresentation of fact in the variance application; or

3. Material change in any of the circumstances relied upon by the administrator in granting the variance.

(Ord. 2676 §1, 2022; Ord. 2293 §13, 2010)

8.22.130 Extension

A. Variances granted pursuant to this chapter may be extended on terms and conditions applicable to the initial granting of the variance.

B. If granted for a shorter timeframe than otherwise allowed under the permit type, the holder of a variance permit may request one or more extensions.

C. Prior to granting an extension, the administrator shall consider any comment or lack of comment received during the initial variance period.

D. The administrator may request any information deemed necessary to the consideration of the extension, including but not limited to noise monitoring reports and an updated assessment demonstrating there are no practical means known or available for the adequate abatement or control of the noise involved.

E. Any request for an extension shall be submitted in writing and received by the administrator at least 15 days prior to expiration of a Type 1 or 2 variance and at least 30 days prior to the expiration of a Type 3 variance.

F. A request for an extension does not require re-noticing or a public hearing, but may be required by the administrator.

(Ord. 2293 §14, 2010)

8.22.140 Fees for Variances

An application fee and charges shall be paid at the time the variance application is filed with the City. The fees and charges shall be per the Land Use Fee Schedule most recently adopted by the City Council.

(Ord. 2293 §15, 2010)

8.22.150 Violation – Penalty

A. Every person, entity, firm or corporation who is determined to be in violation of this chapter has committed a civil infraction and shall be subject to the provisions of TMC Section 8.45.060. The monetary penalties are set forth below:

1. First civil penalty, $250.00.

2. Second civil penalty, $500.00.

3. Third and subsequent violations shall be misdemeanors, the maximum penalty for which shall be 90 days in jail or a fine of $1,000.00 or both fine and imprisonment.

4. At such time that two civil penalties have been assessed within a one-year period, City-issued permits and/or licenses for the site or the site activity may be suspended or revoked until the condition is corrected.

5. Each day that a property or person is not in compliance with the provisions of this chapter may constitute a separate violation of this chapter.

B. The administrator may waive or reduce monetary penalties if findings are made demonstrating that the noise violation has been remedied.

C. The owners, agents, contract buyers, tenants or lessees of all residential dwellings, commercial establishments, and or real restate upon which a violation of this chapter is found shall be jointly and severally responsible for compliance with this chapter and jointly and severally liable for any damages or costs incurred or imposed under this chapter.

D. The penalties set forth in this chapter are not exclusive. The City may avail itself of any other remedies provided by law.

(Ord. 2549 §4, 2017; Ord. 2293 §16, 2010)

8.22.160 Liability

Nothing contained in this chapter is intended to be nor shall be construed to create or form the basis for any liability on the part of the City, its officers, employees or agents for any injury or damage resulting from the failure of anyone to comply with the provisions of this chapter, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or enforcement pursuant to this chapter, or by reason of any action or inaction on the part of the City related in any manner to the enforcement of this chapter by its officers, employees or agents.

(Ord. 2293 §17, 2010)

CHAPTER 8.23

TRESPASS WARNINGS ON CITY PROPERTY

Sections:

8.23.010 Purpose, Authority, and Applicability

A. The purpose of this chapter is to adopt a legally sound process for being able to exclude from City owned or operated property individuals whose behavior is dangerous, unsafe, illegal, or unreasonably disruptive to other users. It is further the purpose of this chapter to provide for a specific method to allow for the issuance of trespass warnings to such individuals, including placing limitations on trespass warnings and providing procedures for such individuals to promptly appeal the issuance of trespass warnings in order to protect their right to engage in legitimate activities protected by the state and federal constitutions.

B. This chapter is enacted as an exercise of the City's authority to protect and preserve the public health, safety and welfare.

C. This chapter shall apply to all City property in the City of Tukwila, which for the purposes of this chapter shall include, but not be limited to: City buildings and other facilities, outdoor areas, parks, unimproved property, open spaces, property that is under lease to or otherwise operated and/or controlled by the City, and property that City owns in common with another property owner. This chapter shall not apply to public streets and sidewalks. Enforcement action shall only be taken for conduct violating rules adopted by the City for the location in which the conduct occurs, including any location covered by rules of conduct incorporated into any relevant City rule. Provided, that officers of the Tukwila Police Department may take enforcement action consistent with TMC Section 8.23.030.A, based on violations of other City codes, state statutes, and government rules or regulations.

(Ord. 2542 §2, 2017)

8.23.020 Definitions

A. Behavior that is "dangerous" is behavior that creates an imminent and unreasonable risk of injury or harm to either persons or property of another or the actor.

B. Behavior that is "illegal" is behavior that is prohibited by the laws of the United States, Washington State, King County, or the City of Tukwila and that includes, but is not limited to, any of the following types of behavior:

1. Threatening another person by communicating either directly or indirectly to another person the intent to cause bodily injury in the future to the person threatened or to any other person; or
2. Selling or using alcohol or drugs; or
3. Threatening or harassing behavior (e.g., fighting or threatening to fight, brandishing a weapon, stalking, verbally threatening to harm others or their property); or
4. Assaulting staff or other patrons; or
5. Sexual misconduct or harassment (e.g., indecent exposure, offensive touching, sexual acts).

C. Behavior that is "unreasonably disruptive to other users" is behavior that is not constitutionally protected and that, in consideration of the nature, scope, use and purpose of the property in question, unreasonably interferes with others' use and enjoyment of said property. Examples of behavior that may unreasonably interfere with others' use and enjoyment of City property include, but are not limited to, any of the following:

1. Use of unreasonably hostile or aggressive language or gestures; or
2. Unreasonably loud vocal expression or unreasonably boisterous physical behavior; or
3. Using electronic or other communication devices in a manner that is unreasonably disruptive to others; or
4. Unreasonably interfering with the free passage of staff or patrons in or on City property; or
5. Behavior that is unreasonably inconsistent with the use for which the City property was designed and intended to be used (e.g., bathing, shaving, or washing clothes in a public bathroom or skateboarding in a public parking area or plaza).

D. Any constitutionally protected action or speech is excluded from the prohibited behavior listed in this section.

(Ord. 2542 §3, 2017)

8.23.030 Trespass Warnings on City Property

A. Officers of the Tukwila Police Department shall be empowered to issue a trespass warning to any individual who the officer has probable cause to believe has violated any City ordinance, state statute, or government rule or regulation relating to or prohibiting conduct that is dangerous, illegal, or unreasonably disruptive to other users of City property, as defined in TMC Section 8.23.020, while such individual is on or within any City property, as more specifically set forth in TMC Section 8.23.010.C.

B. Trespass warnings may be delivered in person to the offender or by first class mail to the offender at the offender's last known address.

C. The offender need not be charged, tried, or convicted of any crime or infraction in order for the trespass warning to be issued or be effective. The warning may be based upon observation by a police officer or a City or other government employee or may be based upon a civilian report that would ordinarily be relied upon by police officers in the determination of probable cause.

D. If the offender:

1. Has not been excluded from City property by a trespass warning issued within one year prior to the violation, then the warning may exclude the offender for a period not exceeding 7 days from the date of the warning.
2. Has been the subject of only one prior trespass warning issued within one year prior to the current violation, then

the warning may exclude the offender for a period of more than 7 days but not more than 90 days from the date of the current warning.

3. Has been the subject of two or more prior trespass warnings issued within one year prior to the current violation, then the warning may exclude the offender for a period of more than 90 days but not more than one year from the date of the current warning.

4. Has been excluded from City property by a trespass warning, and a published rule or regulation applicable to such property establishes a different period of time for an offender to be excluded, the time period under such rule or regulation shall apply notwithstanding the provisions of TMC Section 8.23.030.D., subsections 1, 2 or 3.

E. The trespass warning shall be in writing, shall contain the date of issuance, shall describe the behavior that is the basis for the trespass warning, shall specify the length and place(s) of exclusion, shall be signed by the issuing police officer, and shall state the consequences for failure to comply. A trespass warning for a place or places shall not prohibit access to another place or places that is unrelated to or not a part of the place where the conduct that is the subject of the trespass warning occurred.

F. **Administrative Appeal.**

1. A person receiving a trespass warning for an expulsion of 7 days, or longer, may file an appeal to have the trespass warning rescinded or the duration of the expulsion shortened.

2. The appeal must be in writing, provide the appellant's current address, and shall be accompanied by a copy of the trespass warning that is being appealed.

3. The written notice of appeal must be sent to the City Administrator and postmarked no later than 7 calendar days after the issuance of the trespass warning.

4. The trespass warning shall remain in effect during the pendency of any administrative or judicial proceeding.

G. **Hearing on Appeal.**

1. The City Administrator or his or her designee (hereinafter "Hearing Official") shall:

a. Notify the appellant of the hearing date, time, and location;

b. Conduct a hearing within 30 calendar days of receipt of the notice of appeal; and

c. Issue a ruling upholding, rescinding, or shortening the duration of the expulsion set forth in the trespass warning no later than 5 business days after the hearing.

2. The Hearing Official may consider a sworn report or a declaration under penalty of perjury as authorized by RCW 9A.72.085, written by the officer who issued the trespass warning or by the person upon whose observation the trespass warning was based, without further evidentiary foundation, as prima facie evidence that the offender committed the violation as described. This evidence creates a rebuttable presumption that the violation occurred and the burden thereafter rests with the appellant to overcome the presumption. Such sworn reports or declarations may be considered either in addition to or in lieu of the live testimony of the officer who issued the trespass warning or by the person upon whose observation the trespass warning was based.

3. The Hearing Official shall consider the trespass warning and may consider any written or oral sworn testimony of the appellant or witnesses, as well as pictorial or demonstrative evidence offered by the appellant that the Hearing Official considers relevant and trustworthy. The Hearing Official may consider information that would not be admissible under the evidence rules in a court of law.

4. The Hearing Official may issue subpoenas for the attendance of witnesses and the production of documents, and shall administer individual oaths to witnesses. The Hearing Official shall not issue a subpoena for the attendance of a witness at the request of the appellant unless the request is accompanied by the fee required by RCW 5.56.010 for a witness in district court. The appellant shall be responsible for serving any subpoena issued at the appellant's request.

5. If, after the hearing, the Hearing Official is persuaded on a "more probable than not" basis that the violation did occur, the trespass warning shall be upheld. For good cause, or upon a satisfactory showing by appellant that he or she understands his or her violation and will not repeat the violation, the Hearing Official may shorten the duration of the expulsion set forth in the trespass warning. If, however, the violation is not proved on a "more probable than not" basis, then the Hearing Official shall rescind the expulsion. If the Hearing Official rescinds a trespass warning, the trespass warning shall not be considered a prior expulsion for purposes of this chapter. For purposes of this section, "good cause" to rescind, shorten or modify a trespass warning shall be found where:

a. The alleged offender demonstrates to the satisfaction of the Hearing Official or his/her designee that his or her conduct was intended to be expressive conduct protected by the First Amendment; or

b. The offender was not given prior warning that the conduct in question was subject to a trespass warning; or

c. The trespass warning was based solely upon the statement of a third party, was not observed personally by the issuing officer or a city or other government employee, would not ordinarily be relied upon by police officers in the determination of probable cause, and the alleged offender claims that he or she did not commit the action for which he or she was warned; or

d. In the judgment of the Hearing Official, the circumstances warrant a modification or rescission of the trespass warning. The Hearing Official shall rescind the trespass warning if, considering all the circumstances, he or she finds that reasonable minds could differ on the question of whether the conduct in question was unreasonably disruptive to others on the same City property at that time.

6. The decision of the Hearing Official is final.

7. No determination of facts made by the Hearing Official under this section shall have any collateral estoppel effect on a subsequent criminal prosecution or civil proceeding and shall

not preclude litigation of those same facts in a subsequent criminal prosecution or civil proceeding.

8. In no event will the Hearing Official be a person who is subordinate to the person who issued the trespass warning.

H. If the Hearing Official rescinds an exclusion, for good cause or because the violation was not proved, the exclusion shall not be considered a prior trespass warning for purposes of TMC Section 8.23.030.D.

I. The trespass warning shall remain in effect during the pendency of any administrative or judicial proceeding.

J. No determination of facts made by the Hearing Official shall have any collateral estoppel effect on a subsequent criminal prosecution or civil proceeding and shall not preclude litigation of those same facts in a subsequent criminal prosecution or civil proceeding.

K. This section shall be enforced so as to emphasize voluntary compliance with laws and City property rules and so that inadvertent minor violations that would fall under TMC Section 8.23.030 can be corrected without resort to a trespass warning.

L. Any person, who is found on city or other publicly owned property in violation of a trespass warning issued in accordance with this chapter for a period longer than 7 days and who accordingly has had the right to a hearing regarding the trespass warning may be arrested for trespassing and is guilty of a misdemeanor, which shall be punishable by a fine of up to $1,000 and/or imprisonment for a term not to exceed 90 days.

M. The Chief of Police or his/her designee may upon request authorize an individual who has received a trespass warning in accordance with this chapter to enter City property to exercise his or her First Amendment rights or to conduct government business, if there is no other reasonable alternative location to exercise such rights or conduct such business. Such authorization must be in writing and specify the duration of the authorization and any conditions thereof.

N. The decision of the Hearing Official will be the City's final decision.

(Ord. 2542 §4, 2017)

CHAPTER 8.24

JUNK VEHICLES AND IMPROPER STORAGE OF VEHICLES

Sections:

8.24.010 Definitions

As used in TMC Chapter 8.24, the following definitions shall have the meanings set forth below:

1. "Code Enforcement Officer" is Tukwila's Code Enforcement Officer or his or her designee as set forth in TMC Section 8.45.030, or an officer of the Tukwila Police Department.

2. "Hearing Examiner" is that person authorized by TMC Chapter 2.76 to hear appeals and other matters as set forth therein, or his or her designee.

3. "Junk vehicle" is a vehicle that meets three or more of the following requirements:

a. Is three years old or older;

b. Is extensively damaged, such damage including but not limited to any of the following: a broken window or windshield; or missing wheels, tires, motor, or transmission;

c. Is apparently inoperable;

d. Is without valid, current license plates or is unregistered; or

e. Has an approximate fair market value equal only to the approximate value of the scrap in it. "Junk vehicle" also includes a partially disassembled vehicle or individual parts of vehicles no longer attached to one another.

4. "Repeat violator" is a person, entity or agent thereof, who has received a Notice of Violation for the same property two times within one calendar year.

(Ord. 2549 §5, 2017; Ord. 2045 §1 (part), 2004)

8.24.020 Storage of Junk Vehicles Prohibited

It is unlawful for any person to keep, store or park, or permit any other person to keep, store or park, any junk vehicle upon any privately-owned property in the City of Tukwila. This ordinance shall not apply to:

1. A junk vehicle or part thereof that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or,

2. A junk vehicle or part thereof that is stored or parked in a lawful manner on private property, in connection with the business of a licensed dismantler or licensed vehicle dealer, and is fenced pursuant to the Revised Code of Washington Title 46, Chapter 80, Section 130.

(Ord. 2045 §1 (part), 2004)

8.24.030 Violation Notification Process

A. The Code Enforcement Officer is authorized to issue and serve a Notice of Violation pursuant to TMC Section 8.45.070 upon reasonable belief that a violation of one or more provisions of TMC Chapter 8.24 has occurred.

B. The Notice of Violation shall be issued to the property owner of record upon which land, as shown on the last equalized assessment roll, a vehicle deemed to be in violation of TMC Chapter 8.24 is located; and to the last registered and legal owner of record of such vehicle, unless the vehicle is in such condition or location that identification numbers are not available or accessible by the Code Enforcement Officer to determine ownership.

C. The Notice of Violation shall be delivered by mailing a copy to such person, at his/her last known address as determined by the Code Enforcement Officer.

D. A Notice of Violation shall contain substantially the following information:

1. The name and address of the person to whom the Notice of Violation is issued;

2. The location of the subject property by address or other description sufficient for identification of the subject property;

3. A description of the vehicle and its location, and the reasons for which the City deems it to be a public nuisance in violation of TMC Chapter 8.24;

4. A statement of the corrective action that the Code Enforcement Officer believes necessary to comply with the provisions of TMC Chapter 8.24, and a date by which compliance is required in order to avoid further enforcement action by the Code Enforcement Officer;

5. A statement that if any of the persons to whom the Notice of Violation is issued wish to contest the Notice of Violation, they must request a hearing before the Hearing Examiner pursuant to TMC Section 8.24.040;

6. A statement that if the persons to whom the Notice of Violation is issued fail to complete the corrective action and provide notice of same to the Code Enforcement Officer by the date for compliance specified in the Notice of Violation, fail to appear at the hearing, or fail to demonstrate at the hearing that the Notice of Violation should not be sustained, the City or its designee shall remove, impound and dispose of or sell the vehicle, and will

assess all costs of administration and removal against the owner of the property upon which the vehicle is located or otherwise attempt to collect such costs from the owner of the vehicle; and

7. A statement that the owner of the land upon which the vehicle is located may provide a written statement, in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land with his or her reasons for the denial, as provided in TMC Section 8.24.040.

(Ord. 2549 §6, 2017; Ord. 2045 §1 (part), 2004)

8.24.040 Hearing

A hearing on a Notice of Violation shall be held before the Hearing Examiner in accordance with the provisions set forth in TMC Section 8.45.110, and the Hearing Examiner shall have the same powers as set forth therein. The time limit for an appeal of a Notice of Violation is 10 days as set forth in TMC Section 8.45.110.A. If a request for a hearing is received, a notice giving the time, location and date of the hearing shall be mailed, by certified mail with a five-day return receipt requested, to the owner of the land as shown on the last equalized assessment roll, and to the vehicle's last registered and legal owner of record, unless the vehicle is in such condition that identification numbers are not available to determine ownership. The owner of the land on which the vehicle is located may appear in person at the hearing or present a written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with his or her reasons for the denial. If it is determined at the hearing that the vehicle was placed on the land without the consent of the landowner and that he/she has not subsequently given consent without protest in the presence of the vehicle, then the Hearing Examiner shall not assess costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect the cost from the property owner.

(Ord. 2549 §7, 2017; Ord. 2045 §1 (part), 2004)

8.24.050 Order of the Hearing Examiner–Violation

The decision issued by the Hearing Examiner shall be issued and sent to the persons named in the Notice of Violation pursuant to TMC Section 8.45.110.C. Thereafter, violation of TMC Chapter 8.24 shall constitute a misdemeanor, and a separate misdemeanor shall be committed for each day that an order is violated.

(Ord. 2549 §8, 2017; Ord. 2045 §1 (part), 2004)

8.24.060 Monetary Penalty

The monetary penalty for violation of the Notice of Violation issued pursuant to TMC Chapter 8.24 shall be assessed in the amounts set forth in TMC Chapter 8.45. Payment of a monetary penalty pursuant to TMC Chapter 8.24 does not relieve the person(s) to whom the Notice of Violation was issued of the duty to correct the violation or preclude the City from taking action to abate the situation as provided herein. The monetary penalty constitutes an obligation of the person(s) to whom the Notice of Violation is issued.

(Ord 2549 §9, 2017; Ord. 2045 §1 (part), 2004)

8.24.070 Recovery of Costs and Penalties–Liens

A. After a Notice of Violation or Notice of Repeated Violation has been served pursuant to TMC 8.24.030C, a hearing shall be held if requested by the violator or pursuant to TMC 8.24.080. If the violation is sustained during the hearing, or where no hearing is requested, or the violator fails to appear at the hearing, a junk vehicle shall be removed by a registered disposer pursuant to TMC 9.32.100, and disposed of at the request of the Code Enforcement Officer. The Code Enforcement Officer shall provide notice to the Washington State Patrol and the Washington State Department of Licensing if the vehicle has been disposed of.

B. After a Civil Infraction Citation has been served pursuant to TMC 8.24.030C, a hearing shall be held before the Municipal Court. If the violation is sustained during the hearing, or the violator fails to appear at the hearing, a fine shall be imposed pursuant to TMC 8.24.060.

C. Costs of removal may be assessed against the registered owner of the vehicle if the identity of the owner can be determined, unless the owner – in the transfer of ownership of the vehicle – has complied with RCW 46.12.101, or the costs may be assessed against the owner of the property on which the vehicle is stored, subject to TMC 8.24.070E.

D. The impounding of a vehicle shall not preclude charging the violator with any violation of the law through which such vehicle was impounded.

E. The City is authorized to take action to collect the monetary penalty, including filing civil actions or turning the matter over to collection, in which case costs incurred by the City as a result of the collection process shall be assessed to the violator in addition to the monetary penalty. Any such assessment shall be offset by the amount received by the City for sale of the junk vehicle or improperly stored vehicle, if any.

F. In addition to, or in lieu of, any other State or local provisions for the recovery of costs or penalites incurred or assessed under TMC Chapter 8.24, the City Treasurer may, pursuant to RCW 35.80.030(1)(h), certify to the King County Treasurer an assessment amount equal to the cost of removal of the junk vehicle and/or any associated penalties and collections to the tax rolls against the property for the current year, and the same shall become a part of the general taxes for that year to be collected at the same time and with interest at such rates and in such manner as provided for in RCW 84.56.020. The assessment certified by the City Treasurer shall be offset by the amount received by the City for sale of the junk vehicle, if any.

(Ord. 2045 §1 (part), 2004)

8.24.080 Repeat Violators

If a person is a repeat violator as defined in TMC 8.24.010, the Code Enforcement Officer shall issue a Notice of Repeated Violation. A Notice of Repeated Violation shall be issued and served as provided in TMC 8.24.030C, but need not include a description of the corrective action necessary to eliminate the violation or a date by which the corrective action must be completed to avoid a hearing before the violation's Hearing Examiner. The Notice of Repeated Violation shall notify the person receiving the notice that due to the repeat nature of his/her violations, the Code Enforcement Officer shall seek an order from the Hearing Examiner, at the date and time set forth in the citation, granting any and all relief to which the City is entitled under TMC Chapter 8.24.

(Ord. 2045 §1 (part), 2004)

CHAPTER 8.25

VEHICLE STORAGE AND PARKING ON SINGLE-FAMILY RESIDENTIAL PROPERTY

Sections:

This chapter was repealed by Ordinance No. 2518 December 2016

CHAPTER 8.26

VEHICLE TRESPASS

Sections:

8.26.010 Vehicle Trespass Prohibited

A person is guilty of vehicle trespass if he or she knowingly enters, attempts to enter, or remains unlawfully in a vehicle belonging to another.

(Ord. 2560 §2, 2017)

8.26.020 Definitions

A. The word "enter" shall include the entrance of the person, or the insertion of any part of his or her body, or any instrument or weapon held in his or her hand.

B. A person enters, attempts to enter or remains unlawfully in or upon a vehicle when he or she is not licensed, invited, or otherwise privileged to so enter or remain.

(Ord. 2560 §3, 2017)

8.26.030 Penalty

Vehicle trespass is a misdemeanor, punishable by a fine not to exceed $1,000.00, or by imprisonment in jail for a term not exceeding 90 days, or by both such fine and imprisonment.

(Ord. 2560 §4, 2017)

CHAPTER 8.27
CHRONIC NUISANCE PROPERTIES

Sections:

8.27.010 Definitions

For purposes of this chapter, the following words or phrases shall have the meaning prescribed below:

A. *"Abate"* means to repair, replace, remove, destroy, or otherwise remedy a condition that constitutes a violation of this chapter by such means and in such a manner and to such an extent as the Chief of Police determines is necessary in the interest of the general health, safety and welfare of the community.

B. *"Chief of Police"* means the Chief of Police or his or her designees.

C. *"Control"* means the power or ability to direct or determine conditions, conduct, or events occurring on a property.

D. *"Chronic Nuisance Property"* means:

1. A property on which 3 or more nuisance activities as described in TMC Section 8.27.010(F) exist or have occurred during any 60-day period, or 7 or more nuisance activities have occurred during any 12-month period;

2. A property which, upon a request for execution of a search warrant, has been the subject of a determination by a court 2 or more times within a 12-month period that probable cause exists that illegal possession, manufacture or delivery of a controlled substance or related offenses as defined in RCW Chapter 69.50 has occurred on the property; or

3. In the case of any property on which an establishment that sells, imports, manufactures, or distributes alcohol is located, a property on which 3 or more "chronic illegal activities" as defined by RCW 66.24.010(12) have occurred during any 60-day period, or 7 or more such activities have occurred during any 12-month period.

E. *"Drug Related Activity"* means activity which constitutes a violation of chapter 69.41, 69.50, or 69.52 RCW.

F. *"Nuisance Activity"* includes:

1. A "most serious offense" as defined in RCW 9.94A;

2. A "drug related activity" as defined in TMC Section 8.27.010I;

3. Any of the following activities, behaviors or criminal conduct:

a. Assault, Reckless Endangerment, as defined in RCW 9A.36;

b. Stalking or Harassment, as defined in RCW 9A.46;

c. Disorderly Conduct, as defined in TMC Section 8.70.010;

d. Promoting, advancing or profiting from prostitution as defined in RCW 9A.88;

e. Prostitution, as defined in RCW 9A.88.030;

f. Permitting Prostitution, as defined in RCW 9A.88.090(1);

g. Prostitution Loitering, as defined in TMC Section 8.50.040;

h. Failure to Disperse, as defined in TMC Section 8.70.020;

i. Weapons violations, as defined in TMC Chapter 8.10;

j. Gang related activity, as defined in RCW 59.18.030(7).

G. *"Owner"* means any person who, alone or with others, has title or interest in any property.

H. *"Person"* means an individual, group of individuals, corporation, partnership, association, club, company, business trust, joint venture, organization, or any other legal or commercial entity or the manager, lessee, agent, officer or employee of any of them.

I. *"Person in Charge"* of a property means the owner, lessee, tenant, occupant, agent, manager of a property, and/or any other person in actual or constructive possession of a property.

J. *"Property"* means any land and that which is affixed, incidental or appurtenant to land, including but not limited to any business or residence, parking area, loading area, landscaping, building or structure or any separate part, unit or portion thereof.

K. *"RCW"* means the Revised Code of Washington.

L. *"TMC"* means Tukwila Municipal Code.

(Ord. 2352 §1 (part), 2011)

8.27.020 Violation

A. Any property within the City of Tukwila that is a chronic nuisance property as defined in TMC Section 8.27.010 is in violation of this chapter and subject to its remedies.

B. It is the responsibility of all persons in charge to ensure that the provisions of this code are met on any property they own, possess, or control. Any persons in charge of a chronic nuisance property as defined in TMC Section 8.27.010 shall be in violation of this chapter and subject to its remedies.

C. An owner who fails to comply with TMC Section 8.27.050 is in violation of this chapter and is subject to penalties pursuant to TMC Section 8.27.080.

(Ord. 2352 §1 (part), 2011)

8.27.030 Investigation, Civil Infraction, and Violation Notice and Order

A. **Authority.** Upon presentation of proper credentials, the Chief of Police may, with the consent of any person in charge, or with other lawful authority, enter any building or premises in order to perform the duties imposed by this chapter.

B. **Investigation.** The Chief of Police may investigate any activity that he or she reasonably believes to be a nuisance activity as defined by TMC Section 8.27.010.

C. **Civil Infraction.** If, after investigation, or after the complaint of residents or others, the Chief of Police has probable cause to believe the applicable standards or requirements of the Tukwila Municipal Code have been violated, the Chief of Police may issue a civil infraction citation in accordance with RCW 7.80, which is incorporated herein by this reference, upon the person(s) in charge.

D. **Violation Notice and Order.** Alternatively, after investigation, or based upon the complaint of residents or others, the Chief of Police may serve a Violation Notice and Order upon the person(s) in charge. The Violation Notice and Order shall contain the following information:

1. A declaration that the Chief of Police has determined the property has become a chronic nuisance property and a concise description of the nuisance activities that exist or that have occurred.
2. What corrective action, if any, is necessary in order to remedy the nuisance activities.
3. A reasonable time for compliance.
4. A notice that the owner and other persons in charge of the property are subject to monetary penalties as set forth in TMC Section 8.27.080.
5. An explanation of the appeal process and the specific information required to file an appeal.

E. **Service of a Violation Notice and Order.** A Violation Notice and Order shall be served on the person(s) in charge by personal service, registered mail, or certified mail with return receipt requested, addressed to the last known address of such person. When a notice is issued pursuant to this section to a person in charge other than an owner or an owner's agent, who has permitted a property to become a chronic nuisance property, a copy of such notice shall also be served on the owner of the property. If, after a reasonable search and reasonable efforts are made to obtain service, the whereabouts of the person(s) is unknown or service cannot be accomplished and the Chief of Police makes an affidavit to that effect, then service of the notice upon such person(s) may be made by:

1. Publishing the notice once each week for two consecutive weeks in the City's official newspaper; and
2. Mailing a copy of the notice to each person named on the Violation Notice and Order by first class mail to the last known address if known or, if unknown, to the address of the property involved in the proceedings.

F. **Posting.** A copy of the notice shall be posted at a conspicuous place on the property, unless posting the notice is not physically possible.

G. **Amendment.** A Violation Notice and Order may be amended at any time in order to:

1. Correct clerical errors; or
2. Cite additional authority for a stated violation.

(Ord. 2352 §1 (part), 2011)

8.27.040 Time in Which to Comply

A. **Civil Infraction Citations.** Civil infraction citations will be issued and processed in accordance with RCW 7.80, which is incorporated herein by reference. The Tukwila Municipal Court shall have jurisdiction over all civil infraction citations issued under this chapter.

B. **Determination of Time for Compliance with Violation Notice and Order.** Persons receiving a Violation Notice and Order shall rectify the nuisance activity identified within the time period specified by the Chief of Police pursuant to Section 8.27.030(D) of this chapter.

C. **Order Becomes Final Unless Appealed.** Unless an appeal is filed with the Chief of Police for hearing before the Hearing Examiner in accordance with Section 8.27.070 of this chapter, the Violation Notice and Order shall become the final order of the Chief of Police. A copy of the notice may be filed and recorded with the King County Recorder.

(Ord. 2352 §1 (part), 2011)

8.27.050 Owner Cooperation

An owner who receives a copy of a violation notice and order pursuant to TMC Section 8.27.030(D) describing a chronic nuisance property permitted by a person in charge other than the owner or the owner's agent, shall promptly take all reasonable steps requested in writing by the Chief of Police to assist in abatement of the nuisance property. Such reasonable steps may include, but are not limited to, the owner taking all acts and pursuing all remedies, including pursuing eviction of the person(s) in charge, that are (1) available to the owner pursuant to any lease or other agreement, and (2) consistent with state and local laws, including but not limited to RCW 59.18.580, the Victim Protection Limitation on Landlord's Rental Decisions.

(Ord. 2352 §1 (part), 2011)

8.27.060 Voluntary Correction Agreement and Limited Right to Enter Property

A. **Applicability.** While it is the City's desire to obtain voluntary correction pursuant to TMC Chapter 8.27, compliance is not a prerequisite for pursuing any of the other remedies for correction in TMC Chapter 8.27, or any remedies available in law or equity. This section may apply whenever the Chief of Police determines that a chronic nuisance exists.

B. **General.** The Chief of Police may attempt to secure voluntary correction by contacting any person(s) in charge and explaining the violation and requesting correction.

C. **Voluntary Correction and Limited Right of Entry Agreement.** A Voluntary Correction and Limited Right of Entry Agreement is a contract between the City and any person(s) in charge of the chronic nuisance property in which such person agrees to promptly take all lawful and reasonable actions, which shall be set forth in the agreement, to abate the nuisance activities within a specified time and according to specified conditions. A Voluntary Correction and Limited Right of Entry Agreement may be entered into between the City of Tukwila—acting through the applicable department director—and the person in charge for resolution of the violation. A Voluntary Correction and Limited Right of Entry Agreement shall be signed by the person(s) in charge and, if different, the owner, and may include the following:

1. The name and address of the person(s) in charge;
2. The street address or other description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring;
3. A description of the nuisance activities;
4. The necessary corrective action to be taken, and a date or time by which correction must be completed;
5. An agreement by the person(s) in charge that the City may inspect the premises as may be necessary to determine compliance with the Voluntary Correction and Limited Right of Entry Agreement;
6. An agreement by the person(s) in charge that the City may abate the nuisance and recover its costs and expenses and monetary penalties pursuant to this chapter from the person in charge if the terms of the correction agreement are not met; and
7. When a person in charge other than an owner or an owner's agent has permitted a property to be a chronic nuisance property, an agreement by the owner to promptly take all acts and pursue all remedies requested by the Chief of Police pursuant to TMC Section 8.27.050.

(Ord. 2352 §1 (part), 2011)

8.27.070 Appeal to Hearing Examiner

A. The person(s) incurring the penalty described in a Violation Notice and Order issued by the Chief of Police, pursuant to TMC Section 8.27.030(D), may obtain an appeal of the Notice by requesting such appeal within 10 calendar days after receiving or otherwise being served with the notice pursuant to TMC Section 8.27.030I. When the last day of the period so computed is a Saturday or Sunday, or a Federal or City holiday, the period shall run until 4:30 PM the next business day. The request shall be in writing and include the applicable appeal fee. Upon receipt of the appeal request, the Chief of Police shall schedule an appeal hearing before the Hearing Examiner. Notice of the hearing shall be sent to the appellant and/or the person(s) named on the Violation Notice and Order under the procedures described in TMC Section 8.27.030I, or as may be otherwise requested by the appealing party.

B. The appeal fee for a Violation Notice and Order in an LDR zone shall be $100.00, and in all other zones shall be $200.00.

C. At or after the appeal hearing, the Hearing Examiner may:

1. Sustain the Violation Notice and Order;
2. Withdraw the Violation Notice and Order;
3. Continue the review to a date certain for receipt of additional information; or
4. Modify the Violation Notice and Order, which may include an extension of the compliance date.

D. The Hearing Examiner shall issue a written decision within 14 days of the date of the completion of the review and shall cause the same to be sent to the person(s) named on the Violation Notice and Order under the same procedures described in TMC Section 8.27.030I or as otherwise directed by the appealing party.

E. The decision of the Hearing Examiner shall be final and conclusive unless appealed. In order to appeal the decision of the Hearing Examiner, a person with standing to appeal must file a land use petition, as provided in RCW 36.70C, within 21 days of the issuance of the Hearing Examiner's decision. The cost for transcription of all records ordered certified by the Superior Court for such review shall be borne by the appellant.

(Ord. 2352 §1 (part), 2011)

8.27.080 Penalties

A. Violations of the Tukwila Municipal Code.

1. Civil Infraction. Any person in charge who violates or fails to comply with the provision of this chapter may be issued a civil infraction pursuant to TMC Section 8.27.030I. Each civil infraction shall carry with it a monetary penalty of $100.00 for the first violation, $175.00 for a second violation of the same nature or a continuing violation, and $250.00 for a third or subsequent violation of the same nature or a continuing violation.
2. Violation Notice and Order.

a. Any person in charge who violates or fails to comply with the provision of this chapter may, in the alternative, be issued a Violation Notice and Order that shall carry with it a cumulative monetary penalty of $500.00 per day from the date set for compliance until compliance with the Violation Notice and Order is achieved.

b. In addition to any penalty that may be imposed by the City, the persons in charge shall be liable for all damage to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to the violation.

c. The penalty imposed by this section under a Violation Notice and Order may be collected by civil action brought in the name of the City. The Chief of Police may notify the City Attorney of the name of any person subject to the penalty, and the City Attorney may, with the assistance of the Chief of Police, take appropriate action to collect the penalty, including but not limited to attachment of a lien to the property.

d. The Chief of Police shall have the discretion to impose penalties in an amount lower than those set forth above.

3. An owner who fails to comply with TMC Section 8.27.040 is subject to a civil penalty of up to $25,000.

B. **Additional Relief.** The Chief of Police may seek legal or equitable relief to enjoin any acts or practices and abate any condition that constitutes or will constitute a violation of the

Tukwila Municipal Code. The remedies provided in TMC Chapter 8.27 are cumulative and shall be in addition to any other remedy provided by law.

C. **Continued Duty to Correct**. Payment of a monetary penalty pursuant to TMC Chapter 8.27 does not relieve the person to whom the infraction or Violation Notice and Order was issued of the duty to correct the violation.

(Ord. 2352 §1 (part), 2011)

8.27.090 Abatement by the City

A. **Abatement.** The City may abate nuisance or code violations when:

1. The terms of the Voluntary Correction and Limited Right of Entry Agreement have not been met; or

2. A Violation Notice and Order has been issued and the required correction has not been completed by the date specified in the Violation Notice and Order; or

3. A written decision issued by the City's Hearing Examiner has not been complied with by the date specified in the written decision; or

4. An action has been initiated in a court of competent jurisdiction pursuant to TMC Section 8.27.100, and the court has found that the property is a chronic nuisance property and issued an Order of Abatement for the property accordingly; or

5. The nuisances or code violations are subject to summary abatement as provided for in TMC Section 8.27.090(B).

B. **Summary Abatement.** Whenever any nuisance or code violation causes a condition, the continued existence of which constitutes an immediate threat to the public health, safety or welfare or to the environment, the City may summarily and without prior notice abate the condition. Notice of such abatement, including the reason for it, shall be given to the person(s) in charge as soon as reasonably possible after the abatement. No right of action shall lie against the City or its agents, officers, or employees for actions reasonably taken to prevent or cure any such immediate threats, but neither shall the City be entitled to recover any costs incurred for summary abatement, prior to the time that actual notice of the same is provided to the person(s) in charge.

C. **Authorized Action by the City**. Using any lawful means, the City may enter upon the subject property and may remove or correct the condition that is subject to abatement. Prior to or during such abatement, the City may seek such judicial process as it deems necessary to effect the removal or correction of such condition, including but not limited to obtaining an injunction or warrant of abatement.

D. **Interference.** Any person who knowingly obstructs, impedes, or interferes with the City or its agents, or with the person responsible for the violation, in the performance of duties imposed by TMC Chapter 8.27, shall be guilty of a misdemeanor punishable by imprisonment not exceeding 90 days and a fine not exceeding $1,000.00.

E. **Recovery of Costs and Expenses.** All costs incurred by the City during abatement of nuisance or code violations shall be billed to the person(s) in charge. Such costs may include, but are not limited to, the following legal and abatement expenses:

1. *"Legal expenses,"* for purposes of TMC Chapter 8.27, shall include but are not limited to the following:

a. Personnel costs, both direct and indirect, including attorney's fees and all costs incurred by the City Attorney's office or its designee to abate nuisances and code violations.

b. Actual and incidental expenses and costs incurred by the City in preparing notices, contracts, court pleadings, and all other necessary documents required to abate nuisances and code violations.

c. All costs associated with retention and use of expert witness or consultants during the course of abatement.

2. *"Abatement expenses,"* for purposes of TMC Chapter 8.27, shall include but are not limited to the following:

a. Costs incurred by the City for preparation of notices, contracts, and related documents necessary to abate nuisance or code violations.

b. All costs associated with inspection of the property and monitoring of said property consistent with orders of compliance issued by the City's Hearing Examiner or a court of competent jurisdiction.

c. All costs incurred by the City for hauling, storage, disposal or removal of vegetation, trash, debris, dangerous structures or structures unfit for human habitation pursuant to the International Building Code and/or International Property Maintenance Code, potential vermin habitat or fire hazards, junk vehicles, obstructions to the public right-of-way, and setback obstructions.

d. All costs incurred by law enforcement or related enforcement agencies necessary to assist the City during abatement of nuisance or code violations.

e. All relocation/assistance costs pursuant to TMC Chapter 8.46.

F. **Interest.** All costs incurred by the City during abatement of nuisance and code violations may include interest in amount as prescribed by law. Interest shall start to accrue on the 30th day from mailing of the invoice pursuant to TMC Section 8.27.090.E.2.e.

G. **Lien – Authorized.** The City shall have a lien for any monetary penalty imposed, the cost of any abatement proceedings under TMC Chapter 8.27, and all other related costs including attorney and expert witness fees, against the real property on which the monetary penalty was imposed or any of the work of abatement was performed.

(Ord. 2352 §1 (part), 2011)

8.27.100 Commencement of Action—Enforcement

Upon referral by the Chief of Police, the City Attorney may initiate an action in any court of competent jurisdiction to abate a chronic nuisance property, to impose penalties pursuant to this chapter, to seek alternative remedies under City or state laws and seek any other relief authorized by law.

(Ord. 2352 §1 (part), 2011)

8.27.110 Burden of Proof

A. In an action against the person(s) in charge to abate a chronic nuisance property or to recover penalties authorized by this chapter, the City shall have the burden of proof to show by a preponderance of the evidence that the property is a chronic nuisance property pursuant to this chapter.

B. In an action against an owner to recover penalties authorized by TMC Section 8.27.070, the City shall have the additional burden to prove by a preponderance of the evidence that the owner failed to comply with TMC Section 8.27.040. Copies of police incident reports and reports of other City departments documenting nuisance activities shall be admissible in such actions. Additionally, evidence of a property's general reputation and the reputation of persons residing in or frequenting the property shall be admissible in such actions.

(Ord. 2352 §1 (part), 2011)

8.27.120 Additional Remedies

In addition to the remedies authorized by TMC Section 8.27.090, the court or Hearing Examiner may impose any or all of the following penalties on a person in charge of a chronic nuisance property:

1. Order the person in charge to immediately abate nuisance activity from occurring on the property.

2. Order that the Chief of Police shall have the right to inspect the property to determine if the court's orders have been complied with.

3. Impose a penalty of up to $500 per day against the person in charge for each day from the date the notice pursuant to TMC Section 8.27.030(D) was issued until the Chief of Police confirms the property is no longer a chronic nuisance property.

4. Make any other order that will reasonably abate nuisance activities from occurring on the property, including issuing an injunction to prevent the continued use of the property in a manner that encourages chronic nuisance activity or authorizing the City to take action to abate nuisance activities on the property and providing that the costs of such City action are to be paid for by the person in charge of the property.

5. If the person in charge is an owner and the court finds that this owner failed to take all reasonable steps requested in writing pursuant to TMC Section 8.27.050, the court may impose a civil penalty up to $25,000.

6. If, as part of its order abating a chronic nuisance property, the court orders the person in charge to cease renting or leasing a property, the court may order the person in charge to pay relocation in the amounts authorized by TMC Chapter 8.46 to any tenant who (1) must relocate because of the order of abatement, and (2) the court finds not to have caused or participated in nuisance activities at the property. For purposes of this section (8.27.120), the term "tenant" shall have the meaning as set forth in RCW 59.18.030(19).

(Ord. 2352 §1 (part), 2011)

8.27.130 Suspension or Revocation of Business License

In addition to any other remedy authorized by this chapter or other laws, the business license of any person in charge shall be revoked and a new license not issued for one year, pursuant to Title 5 of the Tukwila Municipal Code, upon:

1. A finding by the court that a property is a chronic nuisance property pursuant to this chapter;

2. Issuance of a Violation Notice and Order for a chronic nuisance property that is not timely remedied or appealed; or

3. A finding by the Hearing Examiner that a property is a chronic nuisance property.

(Ord. 2352 §1 (part), 2011)

CHAPTER 8.28
NUISANCES

Sections:

8.28.010 Declaration of Nuisance

A All violations of development, land use, licensing and public health ordinances are found and declared to be nuisances.

B. Unless otherwise provided, violations of this chapter and any violations of this code deemed a "nuisance" or a "public nuisance" shall be subject to enforcement and penalties as prescribed in TMC Chapter 8.45 and the issuance of a Notice of Violation in accordance with TMC Section 8.45.070.

C. The following are declared to be public nuisances: buildings and structures that are determined by the City's Building Official to be vacant and so old, dilapidated or have become so out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure (collectively referred to as a "Vacant Building").

(Ord. 2549 §10, 2017; Ord. 2144 §1, 2006; Ord. 1837 §2 (part), 1998)

8.28.020 International Property Maintenance Code Adopted

A. The City of Tukwila hereby adopts by reference, as if fully set forth herein, the 2015 edition of the International Property Maintenance Code (the "IPMC"), as published by the International Code Council and as amended in TMC Section 8.28.020.B, to be the Property Maintenance Code of the City of Tukwila. A copy of the adopted IPMC is on file in the Department of Community Development of the City of Tukwila for public use.

B. The City of Tukwila hereby adopts the following changes to the IPMC as adopted in TMC Section 8.28.020.A:

1. IPMC Section 101.1 shall reflect that the name of the jurisdiction is the City of Tukwila.

2. Reference to the International Plumbing Code is hereby deleted from IPMC Section 102.3. The last sentence of IPMC Section 102.3 is hereby deleted in its entirety.

3. The first sentence of IPMC Section 102.7 is hereby amended to read as follows:

The codes and standards referenced in this code shall be those that are listed in IPMC Chapter 9, "Referenced Standards," as herein amended and considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections 102.7.1 and 102.7.2.

4. IPMC Section 103.5 is hereby repealed in its entirety.

5. IPMC Section 111 is hereby repealed in its entirety. Any person directly affected by a decision of the code official or a Notice of Violation and Order or a civil infraction, or any other order issued under this code or TMC Chapter 8.45, shall have the right to appeal to the City Hearing Examiner or the Municipal Court as set forth in TMC Chapter 8.45. In addition to, or in lieu of, any other state or local provisions for the recovery of costs or penalties incurred or assessed under TMC Chapter 8.45, the City Treasurer may, pursuant to RCW 35.80.030(1)(h), certify to the King County Treasurer an assessment amount equal to the costs of abatement, removal, or repair of the property and/or any associated penalties and collections to the tax rolls against the property for the current year and the same shall become a part of the general taxes for that year, to be collected at the same time and with interest at such rates and in such manner as provided for in RCW 84.56.020.

6. IPMC Section 112.4 is hereby repealed in its entirety. Violations shall be subject to enforcement and penalties as prescribed in TMC Chapter 8.45 and the issuance of a Notice of Violation in accordance with TMC Section 8.45.070.

7. References to "International Plumbing Code" and "International Zoning Code" are hereby deleted from IPMC Section 201.3.

8. The following definitions shall be added to IPMC Section 202 as follows:

a. *Accessory Structure*. A detached structure, such as garage or shed, that is subordinate to the principal building(s) on the same premises except Accessory Dwelling Units.

b. *Adequate.* Sufficient to accomplish the purpose intended without unreasonable risk to human health or safety.

c. *Asbestos-Containing Material.* Any material or product containing more than one percent asbestos.

d. *Balusters.* Pillars or columns in a series supporting a rail or guard.

e. *Biological Agent.* Includes but not limited to mold, infestation, human and animal waste, wastewater, sewage, rotting material and accumulation of trash that may harbor viruses, parasites, fungi, and/or bacteria.

f. *Carbon Monoxide Alarm.* An electronic device that measures the level of carbon monoxide gas in the air and is equipped with a sensor that activates an audible alarm when an amount of carbon monoxide above the device's threshold level accumulates in the area in which the alarm is located.

g. *Chemical Agent.* Chemicals that have the potential to cause adverse health effects.

h. *Class ABC Fire Extinguisher.* A fire extinguisher capable of putting out:

(1) fires in ordinary combustible materials, such as wood, cloth, paper, rubber, and many plastics (Class A);

(2) fires in flammable liquids, combustible liquids, petroleum greases, tars, oils, oil-based paints, solvents, lacquers, alcohols, and flammable gases (Class B); and

(3) fires that involve energized electrical equipment (Class C).

i. *Cleanable.* Moisture-resistant, free from cracks, pitting, chips, or tears, and designed to be cleaned frequently.

j. *Code Official* is deemed to refer to the Building Official.

k. *Common Areas.* Areas within multifamily housing that are designated for use by all occupants, owners, tenants or users of a building or building complex, including but not limited to corridors, hallways, lobbies, parking areas, laundry rooms, recreational spaces, pools, and exterior property.

l. *Department of Property Maintenance* is deemed to refer to the Code Enforcement Section.

m. *Egress.* The path available for a person to leave a building. This route shall be unobstructed, and doors along this route cannot be subject to locking from the side to which people will be leaving.

n. *Emergency Escape and Rescue Opening.* An openable window, door, or other similar device that provides for a means of escape and access for rescue in the event of an emergency.

o. *Friable.* Asbestos-containing material that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure.

p. *Grade.* The finished ground level adjoining building at all exterior walls.

q. *Graywater System.* A system for collecting household wastewater from plumbing fixtures other than toilets and treating it for non-potable reuse.

r. *Handrail.* A horizontal or sloping rail intended for grasping by the hand for guidance or support.

s. *Harborage.* Any condition or place where pests can obtain water or food, nest, or shelter.

t. *Health.* See "Safe and Healthy."

u. *Heating System.* Facilities that, for the purpose of maintaining thermal comfort during cold weather, heat air or water through a furnace or heat pump and distribute such heat through vents, ducts, pipes, or radiators, or hardwired electrical heaters.

v. *Insects.* All species of classes of Arachnida and Insecta (Hexapoda) of the Phylum Arthropoda including flies, mosquitoes, bed bugs, crickets, cockroaches, moths, bees, wasps, hornets, fleas, lice, beetles, weevils, gnats, ants, termites, mites, ticks, spiders, and scorpions.

w. *Integrated Pest Management.* A systematic strategy for managing pests that consists of eliminating their harborage places; removing, or making inaccessible their food and water sources; routine inspection and monitoring; identification of evidence found; treatment that is scaled to and designed for the infestation; using the least toxic pesticide for the identified pest; and follow-up inspection until the infestation is gone. Low-toxicity pesticide products are labeled with the single word of CAUTION.

x. *Lead-Based Paint.* Equal to or greater than 1.0 milligram lead per square centimeter or 0.5 percent lead by weight for existing surfaces, paint, or other surface coatings, and equal to or greater than 90 parts per million (ppm) or .009 percent lead for paint and other surface coatings at the point of purchase.

y. *Methamphetamine.* A synthetic drug with rapid and lasting effects sometimes used or manufactured illegally as a stimulant.

z. *Mold.* A growth that a fungus produces on damp or decaying organic matter or on living organisms.

aa. *Multifamily Housing.* Any dwelling containing more than two dwelling units.

bb. *Pests.* Insects, rodents, or other vermin.

cc. *Pesticide.* Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant.

dd. *Privacy.* Conditions that permit an individual or individuals to be without observation, interruption, or interference by unwanted individuals.

ee. *Properly Connected.* Installed in accordance with all applicable codes and ordinances, and in good working order and not constituting a hazard to life or health.

ff. *Radon.* An odorless, tasteless, and invisible gas found in both outdoor air and indoor air that is a form of ionizing radiation produced by the decay of uranium in soil and water.

gg. *Recyclable Materials.* Disposable products composed of glass, metal, paper, plastic, and similar content that can be processed to produce a new supply of the same material or be reused in the production of other materials.

hh. *Riser.* Vertical surface that connects one tread of a step or stair to the next.

ii. *Rodent.* Any member of the order Rodentia, including but not limited to field and wood mice, wood rats, squirrels, woodchucks, gophers, Norway rats (*Rattus norvegicus)*, roof rats *(rattus rattus)*, and house mice *(Mus musculus).*

jj. *Rubbish.* Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials; paper; rags; cartons; boxes; wood; excelsior; rubber; leather; tree branches; yard trimmings; tin cans; metals; mineral matter; glass, crockery and dust; discarded furniture and appliances; and other similar materials.

kk. *Safe and Healthy.* The condition of being free from danger and from chemical, biological, and physical agents that may cause injury, disease, or death; and fit for human occupancy.

ll. *Smoke.* Emissions from a lighted pipe, cigar, cigarette, hookah, weed, herbs, or any other lighted biomass-burning substances such as but not limited to tobacco, marijuana, and incense.

mm. *Smoke Detector.* A device that is equipped to activate an audible alarm when it detects the presence of combustion products in air.

nn. *Space Heater.* A self-contained convection or radiant heater designed to heat a room, two adjoining rooms, or some other limited space or area.

oo. *Supplied.* Paid for, furnished by, provided by, or under the control of the owner or operator.

pp. *Trash.* Garbage, refuse or ashes.

qq. *Tread.* The horizontal surface of a step or stair.

rr. *Unblockable Drain.* Includes a pool, spa, or whirlpool drain of any size and shape that a human body cannot sufficiently block to create a suction entrapment hazard.

ss. *Ventilation System.* The natural or mechanical process of supplying or removing conditioned or unconditioned air to or from a space.

tt. *Volatile Organic Compounds (VOC).* Organic chemical compounds whose composition makes it possible for them to evaporate under normal indoor atmospheric conditions of temperature and pressure.

uu. *Walk-off Mat.* A coarse-ribbed or plush-surfaced mat with nonslip backing placed inside or just outside building entrances designed to capture dirt, water, and other materials tracked inside by people and equipment.

vv. *Waterproof.* Impervious to water.

ww. *Weathertight*. Secure against penetration by air, wind, rain, snow, and other weather conditions.

9. The following is added to IPMC Section 301 as follows:

301.4 Safe and healthy condition. The owner shall ensure that the dwelling is maintained in a safe and healthy condition. The owner shall investigate occupant reports of unsafe or unhealthy conditions, respond in writing, and make needed repairs in a timely manner. Occupants shall report unsafe or unhealthy conditions, including breakdowns, leaks, and other problems requiring repair, to the owner in a timely manner.

10. The first sentence of IPMC Section 302.4 is hereby amended to read as follows:

All premises and exterior property shall be maintained free from weeds or plant growth in excess of 12 inches.

11. The following is added to IPMC Section 302 as follows:

302.5.1 Rodent exclusion. There shall be no holes or open joints in exterior walls, foundations, slabs, floors, or roofs that equal or exceed one-eighth inch (3 mm). The areas surrounding windows, doors, pipes, drains, wires, conduits, vents, and other openings that penetrate exterior walls shall be sealed with low-VOC caulk or closed-cell insulation.

12. IPMC Section 303.2 is hereby amended to read as follows:

Private swimming pools, hot tubs and spas containing water more than 24 inches (610 mm) in depth shall be completely surrounded by a fence or barrier not less than 60 inches (1524 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is not less than 54 inches (1372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of 6 inches (152 mm) from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

Exception: Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.

13. The following is added to IPMC Section 303 as follows:

303.3 Prevention of entrapment. Suction outlets on pools and spas shall have anti-entrapment drain covers compliant with ANSI / ASME A112.19.8 and ANSI / APSP / ICC-8-2013. Pool drains and drain covers shall be clearly visible and in good repair. Where there is a single main drain (other than an unblockable drain), a second anti-entrapment system shall be installed.

303.4 Fences, gates and barriers (collectively "barriers"). Fences and gates shall not have climbable crosspieces. The maximum vertical clearance between grade and the bottom of the barrier shall be 4 inches (51 mm) measured on the side of the barrier which faces away from the swimming pool. Where the top of the pool structure is above grade, such as an above-ground pool, the barrier may be at ground level, or mounted on top of the pool structure. Where the barrier is mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be 4 inches (102 mm). Gates shall open outward away from the pool.

14. The following is added to IPMC Section 304 as follows:

304.7.1 Crawl spaces. The crawl space shall be free of high-moisture conditions or be separated from the dwelling by an air seal or other method suitable to the climate and conditions.

304.10.1 Nonskid surfaces. Treads on exterior stairways shall have nonskid surfaces.

304.13.3 Window guards. In dwelling units, if the vertical distance from the top of the sill of an exterior openable window to the finished grade or other surface below is greater than 72 inches (183 cm), and the vertical distance from the top of the sill to the floor of the room is less than 36 inches (91.5 cm), the window shall have a fall prevention device compliant with ASTM F2006 or ASTM F2090, unless the opening will not allow a 4-inch diameter (102 mm) sphere to pass through when fully opened.

304.13.4 Attached garages. Openings separating an attached garage from a habitable room, including doors, ceilings, floors, and utility and ductwork penetrations, shall be sealed. The doorway between a habitable room and an attached garage shall be equipped with a wood door not less than 1-3/8

inches (35 mm) in thickness, a solid or honeycomb core steel door not less than 1-3/8 inches (35 mm) thick, or a 20-minute fire-rated door. The door shall have a self-closing, self-latching mechanism and be sealed with weather stripping.

15. The first sentence of IPMC Section 304.14 is hereby amended to read as follows:

During the period from January 1 to December 31, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any other areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm) and every screen door used for insect control shall have a self-closing device in good working condition.

16. The following is added to IPMC Section 304 as follows:

304.15.1 Self-closing mechanism. Every exterior door on a multifamily building with a common entry that leads into a foyer or hallway shall have a self-closing, self-latching mechanism.

304.18.4 Change of tenancy. Following each change in tenancy, the entry door(s) lock shall be changed.

17. The following is added to IPMC Section 305 as follows:

305.4.1 Floors and floor coverings. Floors and floor coverings shall be attached at each threshold, capable of being cleaned, and free of bulges and buckling. Carpet shall have no tears, folds, or bumps.

305.7 Mold and moisture. Interior and exterior surfaces and surface coverings, such as but not limited to carpet, wood, cellulose insulation, and paper, paint, and other wall coverings, including paper-faced gypsum board, shall have no signs of visible mold growth or chronic or persistent excessive dampness or moisture. Material that is discolored or deteriorated by mold or mildew or causes a moldy or earthy odor shall be cleaned, dried, and repaired. Structurally unsound material shall be removed and replaced. Removal and repair of moldy material shall be conducted in accordance with New York City's *Guidelines on Assessment and Remediation of Fungi in Indoor Environments,* the EPA guidelines for *Mold Remediation in Schools and Commercial Buildings, or other approved method.* The underlying cause of excessive dampness or moisture, or moldy or earthy odor, shall be investigated and corrected. If the occupant's action has caused pooling of water inside the dwelling unit, the occupant shall clean up and dry out the area in a timely manner.

18. The following is added to IPMC Section 307 as follows:

307.2 Crosspieces. There shall be no climbable crosspieces.

307.3 Openings at floor level. If the guard's balusters do not reach the floor or ground, the narrowest opening between the bottom of the guard and the floor shall be a maximum of four inches (10.2 cm).

19. The following is added to IPMC Section 309 as follows:

309.1.1 Elimination methods. Pest infestation and the underlying cause shall be eliminated using control methods consistent with integrated pest management, such as exclusion, sanitation, and least-risk pesticides scaled to and designed for the targeted infestation.

309.1.2 Prohibited chemicals. Foggers and organic phosphates shall not be used to control or eliminate pests.

309.6 Prevention of pest habitat. Stored materials shall be placed in boxes or stacked in stable piles, elevated at least six inches (152 mm) above the ground or floor, located at least six inches (152 mm) from the walls, and not blocking any egress routes. There shall be no accumulation of trash, paper, boxes, lumber, scrap metal, food, or other materials that support rodent harborage in or about any dwelling or premises. There shall be no trees, shrubs, or other plantings in the soil within six inches (152 mm) of any dwelling.

309.7 Multifamily building. A certified pest management professional or other personnel who has training or certification in integrated pest management shall develop the integrated pest management program for a multifamily building.

20. The following is added to IPMC Section 402 as follows:

402.4 Exterior spaces. The parking areas and walkways of multifamily housing shall be illuminated by outdoor lighting devices suitable for premises.

21. The following is added to IPMC Section 403 as follows:

403.4.1 Exhaust. No exhausted air shall be discharged onto abutting or adjacent public or private property or that of another occupant. Exhaust vent pipe openings and any pest-proofing screens that cover them shall be maintained free of debris.

403.4.2 Basement air. Basement air shall not be used as supply air for an air handling system.

403.5.1 Clothes dryer duct. The exhaust from a clothes dryer shall be vented through a rigid or corrugated semi-rigid metal duct.

403.6 Ventilation system. Every dwelling shall have a ventilation system compliant with ASHRAE Standard 62.2 (Ventilation and Acceptable Indoor Air Quality in Low-Rise Residential Buildings) or ASHRAE 62.1 (Ventilation for Acceptable Indoor Air Quality) as applicable to the dwelling.

403.7 Air Sealing. In a multifamily building, walls, ceilings, and floors that separate a dwelling unit from neighboring units, corridors, chases, stairwells, common areas, and other openings shall be sealed.

22. The following is added to IPMC Section 404 as follows:

404.4.6 Closet. Every dwelling shall have closet space or other storage space to store occupants' clothing and personal belongings.

404.7.1 Kitchen sink. There shall be a kitchen sink in good working condition that is properly connected to heated and unheated water supplies and waste pipes. Any provided dishwasher and components of the sink, including disposal and water filtration devices, shall be in good working condition and properly connected.

404.7.2 Range. There shall be a properly installed range in good working condition with all necessary connections for safe and efficient operation. The range shall include an oven other than a microwave oven, unless both a cooktop and separate oven are provided. A hot plate is not an acceptable substitute for burners on a range or cooktop. The range or cooktop shall have a vertical clearance of not less than 30 inches (762 mm) from above its surface to unprotected combustible material. Reduced clearances are permitted in accordance with the listing and labeling of the range hood.

404.7.3 Refrigerator. There shall be a refrigerator in good working condition that is capable of maintaining a temperature less than 41°F (6°C) but more than 32°F (0°C). The freezer section of the refrigerator, or separate freezer, shall be capable of maintaining a temperature below 0°F (-18°C). If the lease does not provide for a refrigerator, adequate connections for the occupant's installation and operation of a refrigerator shall be provided.

404.7.4 Counters and cabinets. Counters, countertop edges, cabinets, and shelves shall be of sound construction and furnished with surfaces that are impervious to water, smooth, and cleanable. Cabinets shall have tight-fitting doors and no gaps between any surfaces. Each dwelling unit shall have a cabinet or other storage space that is lockable or not readily accessible to children for the storage of medicine and household chemical agents.

23. The following is added to IPMC Section 503 as follows:

503.4.1 Nonslip surfaces. The bottoms of bathtubs and shower floors shall have permanent or removable nonslip surfaces.

503.5 Wall surface. Cleanable, nonabsorbent, waterproof material shall cover the wall extending 72 inches (183 cm) above the floor of a shower stall or the floor of a bathtub fitted with shower head. Such materials shall form a tight joint with each other and with the bathtub or shower. Water/mold-resistant materials shall be used on bathroom walls and floors, showers, and other areas of the home that are likely to be exposed to moisture.

24. The following is added to IPMC Section 505 as follows:

505.4.1 Maximum temperatures. Bathtub faucets and shower heads shall have a maximum temperature of 120°F (49°C).

25. The following is added to IPMC Section 506 as follows:

506.1.1 Cleanout. The drainage system shall have a cleanout.

506.1.2 Graywater. Plumbing fixtures other than toilets may discharge to the dwelling's graywater system.

26. The following is added to IPMC Section 602 as follows:

602.1.1 Maintenance, operation and servicing. The heating system, filtration components, distribution components, heating elements, and cooling elements shall be sealed, cleaned, maintained, and operated in accordance with manufacturer specifications and shall be inspected and serviced annually by a licensed heating, ventilation, and air conditioning systems contractor.

602.1.2 Alternative heat source. If heating equipment becomes inoperative due to a mechanical problem or power failure other than a utility outage, an alternative safe source of necessary heating or ventilating shall be provided within 48 hours.

602.2.1 Maximum temperature. At no time during the heating season shall the system allow the temperature to exceed 78°F (25°C) in any habitable room.

27. The first sentence of IPMC Section 602.3 is hereby amended to read as follows:

Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units, on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from January 1 to December 31 to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, bathrooms, and toilet rooms.

28. The first sentence of IPMC Section 602.4 is hereby amended to read as follows:

Indoor occupiable work spaces shall be supplied with heat during the period from January 1 to December 31 to maintain a temperature of not less than 65°F (18°C) during the period the spaces are occupied.

29. The following is added to IPMC Section 602 as follows:

602.6 Forced-air heating systems. Any dwelling with a forced-air system shall have a thermostat within each dwelling unit capable of controlling the heating system, and cooling system if provided, to maintain a temperature set point between 55°F (13°C) and 85°F (29°C) at different times of the day. The system shall have a clean air filter installed in accordance with manufacturer specifications at each change in tenancy and at least annually. This filter shall have a minimum efficiency reporting value of eight (MERV-8) unless the system is not equipped to use a MERV-8 filter.

602.7 Steam and hot water heating systems. In dwellings with heating equipment utilizing steam or hot water with a temperature of 110°F (43°C) or greater, protective covers/barriers shall be installed on and maintained for exposed surfaces of baseboard units, radiators, and piping between radiators.

602.8 Wood stoves. A free-standing wood stove shall have brackets to prevent tip-over. A wood stove

manufactured after June 1988 shall have a manufacturer's label certifying compliance with the emission standard at 4-0 C.F.R § 60 part AAA. Clearance of 30 inches (76 cm) shall be maintained between combustible materials and a stove with no heat shield. Where a heat shield is present, the clearance between combustible materials and the stove shall be compliant with manufacturer specification for the heat shield.

30. The following is added to IPMC Section 603 as follows:

603.1.1 Equipment located in attached garage. Heating and air conditioning system ductwork and air handling units located in an attached garage shall be insulated and sealed. There shall be no supply or return vent openings in a garage that connect to air handlers serving habitable spaces.

603.1.2 Equipment access. In multifamily buildings, equipment rooms shall be locked.

603.7 Moisture prevention. Cold HVAC and plumbing components and systems (e.g., chilled-water pipes and valves, refrigerant piping, and valves) in readily accessible locations shall be sufficiently and continuously insulated to keep the temperature of their surfaces at least 10°F (4°C) above the dew point of the surrounding air.

31. The following is added to IPMC Section 605 as follows:

605.2.1 Ground fault circuit interrupters. Every kitchen shall contain at least one receptacle outlet with a ground fault circuit interrupter (GFCI). Receptacle outlets in garages, crawl spaces, unfinished basements, and outdoors shall be protected by GFCIs.

605.3.1 Switches. Light switches that control ceiling- or wall-type electric light fixtures shall be located conveniently.

32. Section IPMC 702.4 is amended to read as follows:

702.4 Emergency escape openings. Required emergency escape openings shall comply with the following: Every sleeping room, including sleeping rooms located in basements, shall have at least one openable emergency escape and rescue opening. The opening shall have a minimum net clear opening width of 20 inches (508 mm) and the minimum net clear opening height shall be 24 inches (610 mm). The opening shall be a minimum of 5.7 square feet with the finished sill height a maximum of 44 inches (1118 mm) measured from the finished floor to the bottom of the clear opening. Emergency escape and rescue openings shall be operational from the inside of the room without the use of keys, tools or special knowledge. Bars, grilles, grates or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with these requirements and such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal operation of the escape and rescue opening.

Exception: Structures in existence at the time of the adoption of this code may have their existing use continue without change, if such use was legal at the time of the adoption of this code, provided such continued use is not dangerous to life as deemed by the code official.

33. The following is added to IPMC Section 704 as follows:

704.2.5 Response to alarms. In the event a smoke alarm sounds, the cause of the alarm condition shall be identified and corrected.

704.2.6 Long-lasting batteries. Battery-operated alarms and the battery backup for hardwired alarms shall be powered with long-lasting non-alkaline batteries.

704.3 Fire Extinguisher. Fire extinguishers shall be rated Class ABC and shall be readily accessible.

704.3.1 Multifamily housing. In multifamily housing, there shall be portable fire extinguishers in common areas on each floor of multifamily housing and in areas where flammable or combustible liquids are stored, used, or dispensed. These fire extinguishers shall be placed in conspicuous, unobstructed locations that are not obscured from view.

704.4 Storage. Storage space for flammable and combustible liquids shall be provided in a building separate from the dwelling's habitable space or in an adjacent space that is not connected to the dwelling's ventilation system.

34. A new section – IPMC Section 705 – is added as follows:

SECTION 705 CARBON MONOXIDE

705.1 General. Every dwelling unit shall have at least one functioning carbon monoxide (CO) alarm on every habitable floor and outside each separate sleeping area in the immediate vicinity of the bedroom. In the event a CO alarm sounds, the cause of the alarm condition shall be identified and corrected.

705.2 Long-lasting batteries. Battery-operated alarms and the battery backup for hardwired alarms shall be powered with long-lasting non-alkaline batteries.

705.3 Visual notification. Alternative visual notification shall be provided for hearing-impaired occupants.

35. IPMC Chapter 8 is retitled "Chemical and Radiological Agents."

36. A new section – IPMC Section 801 – is added as follows:

SECTION 801 GENERAL

801.1 Scope. The provisions of this chapter shall govern the minimum conditions and standards for management of chemical and radiological agents during maintenance of dwellings, premises, and accessory structures including but not limited to deteriorated lead-based paint, friable asbestos-containing material, formaldehyde, radon, pesticides, methamphetamine, and carbon monoxide.

801.2 General Requirements. The owner of the structure shall be responsible for containing, storing, removing, or mitigating the presence of chemical or radiological agents in a safe and healthy manner consistent with federal, state and local laws and regulations. When an applicable regulatory limit is more

protective than the level included in this section, the more restrictive limit shall apply.

801.3 Use of Chemical Agents. The owner will provide occupants with at least 48 hours' advance notice of planned use of a pesticide or herbicide, the date and locations of application, and a copy of the warning label.

37. A new section – IPMC Section 802 – is added as follows:

SECTION 802 LEAD-BASED PAINT

802.1 General. All interior and exterior surfaces of any dwelling or dwelling unit shall not contain lead-based paint so as not to pose a threat to the health, safety or welfare of residents. Lead-based paint shall not be applied to the interior or exterior surface of any dwelling or dwelling unit.

802.2 Lead-based paint hazard levels. Lead-based paint hazard levels are regulated by the Washington State Department of Commerce.

802.3 Deteriorated paint. All painted surfaces shall be maintained intact. Deteriorated paint at a property built before 1978 shall be repaired in accordance with the requirements of the Washington State Department of Commerce.

802.4 Renovation, repair and painting work. All renovation, repair and painting work that disturbs a painted surface in a pre-1978 dwelling, shall be performed in accordance with the requirements of the Washington State Department of Commerce.

38. A new section – IPMC Section 803 – is added as follows:

SECTION 803 ASBESTOS

803.1 General. Every owner shall maintain in good repair all asbestos-containing material on the premises. All asbestos-containing material shall be maintained non-friable and free from any defects such as holes, cracks, tears, and/or looseness that may allow the release of fibers into the environment.

803.2 Friable asbestos. All friable asbestos-containing materials shall be abated by licensed asbestos professionals in accordance with the requirements of the Washington State Department of Labor and Industries.

803.3 Renovation. Any renovation, demolition, or other activity that will disturb asbestos-containing materials shall be preceded by an asbestos abatement in accordance with the requirements of the Washington State Department of Labor and Industries.

803.4 Asbestos Abatement. Abatement, removal and disposal of all asbestos-containing materials shall comply with all requirements of the Washington State Department of Labor and Industries.

39. A new section – IPMC Section 804 – is added as follows:

SECTION 804 TOXIC SUBSTANCES IN BUILDING MATERIALS

804.1 Building Materials. Building materials consisting of hardwood plywood, medium-density fiberboard, and particleboard as defined by 15 U.S.C. 2697(b)(2) shall not be used in maintenance and renovations within dwellings, unless the materials have been certified to meet the formaldehyde emission standards of 15 U.S.C. 2697(b)(2):

1. Hardwood plywood with a veneer core, 0.05 parts per million (ppm);
2. Hardwood plywood with a composite core, 0.05 ppm;
3. Medium-density fiberboard, 0.11 ppm;
4. Thin medium-density fiberboard, 0.13 ppm; and
5. Particleboard, 0.09 ppm.

804.2 Volatile Organic Compounds (VOC). Building materials used in maintenance and renovations, including but not limited to paints, coatings, primers, glues, resins, adhesives, and floor coverings, shall be certified as having no volatile organic chemicals (VOCs) or low VOC emissions, and having no halogenated flame retardants (HFRs).

40. A new section – IPMC Section 805 – is added as follows:

SECTION 805 RADON

805.1 General. Radon present at levels at or above the EPA action level of four picocuries radon per liter of air (pCI/L) in the lowest habitable level of the dwelling shall be deemed hazardous. Radon levels shall be determined by an approved testing method in accordance with state and local requirements. Radon levels exceeding 4 pCi/L shall be mitigated by a qualified radon mitigation professional who meets state and local requirements. If there are no state or local requirements qualifying radon testing and mitigation professionals, radon testing and mitigation shall be performed by a professional certified by a national private-sector radon proficiency program.

41. A new section – IPMC Section 806 – is added as follows:

SECTION 806 PESTICIDES

806.1 General. Pesticides shall only be used in accordance with integrated pest management methods using the least-toxic pesticide with demonstrated efficacy for the identified pest.

806.2 Pesticide application. Pesticides shall be applied only in areas and at concentrations which comply with manufacturer specifications. When it is determined by an approved method that a hazardous amount of a pesticide has been applied in a location or at a concentration contrary to manufacturer specifications, the hazard shall be immediately mitigated.

806.3 Storage. Pesticides shall be stored and disposed in accordance with manufacturer specifications.

42. A new section – IPMC Section 807 – is added as follows:

SECTION 807 METHAMPHETAMINE

807.1 General. A dwelling that has been used for methamphetamine manufacture shall be vacated until certified by Public Health Seattle/King County as safe from hazardous materials related to the methamphetamine manufacturing process.

43. A new section – IPMC Section 808 – is added as follows:

SECTION 808 SMOKING IN MULTIFAMILY HOUSING

808.1 Smoke-free Policies. Tenants and prospective tenants shall be informed in writing of any applicable smoke-free policy and the location of designated smoke-free and smoking areas. Signs shall be posted in all designated areas.

44. IPMC Chapter 8, "Referenced Standards," is hereby designated as Chapter 9.

45. References to "International Plumbing Code" and "International Zoning Code" that appear in the index of Chapter 9, "Referenced Standards," are hereby deleted.

46. IPMC Appendix A, "Boarding Standard," is hereby adopted.

(Ord. 2549 §11, 2017; Ord. 2481 §2, 2015)

8.28.030 Vacant Buildings, Structures and Premises

A. All vacant buildings, structures and premises, and all vacant land, shall be maintained in a clean, safe, secure and sanitary condition as required by the International Property Maintenance Code.

B. **Definitions.** As used in TMC Chapter 8.28, the following definitions shall have the meanings set forth below:

1. "Abandoned Premises**"** means buildings, structures and premises for which an owner cannot be identified or located by dispatch of a certificate of mailing to the last known or registered address, which persistently or repeatedly becomes unprotected or unsecured, or which have structural collapse or fire spread to adjacent properties.

2. **"**Boarded" means covering of all entry points, including all doors and windows, with plywood or other materials for the purpose of preventing entry into the building by persons or animals.

3. "Chronic Nuisance Building or Premises" means a vacant nuisance building or vacant nuisance premises that has been abated but is not maintained free from violations for at least one year following abatement.

4. "Code Official" means the Building Official or designated Code Enforcement Officer.

5. "IBC" means International Building Code.

6. "IPMC" means International Property Maintenance Code.

7. "Vacant Building" means a building or structure that has not been occupied for over 30 days.

8. "Vacant Nuisance Building" means a building, structure or portion thereof that is vacant and exists with any one or more of the following conditions:

a. Unsecured against entry;

b. Old, dilapidated or has become so out of repair as to be dangerous, unsafe, and unsanitary or otherwise unfit for human habitation or occupancy;

c. Condemned by the Code Official;

d. Vacant for over 30 days, during which time the Code Official has issued an order to correct the public nuisance violations and those violations have not been corrected;

e. Not monitored and maintained in accordance with the IPMC;

f. Incomplete construction whereby the building permit has expired and the construction project has been abandoned for more than 30 days;

g. An abandoned premises as defined in this section.

9. "Vacant Nuisance Premises" means the exterior premises of a vacant building, or vacant land that harbors junk vehicles, accumulation of rubbish or garbage, overgrown weeds, noxious weeds, unmaintained plant material and landscaping, or other violation of the IPMC for over 30 days, during which time the Code Official has issued an order to correct the public nuisance violations and those violations have not been corrected.

C. **Authority to Inspect.** Whenever the Code Official has reason to believe that a premise or a building is vacant, the Code Official may inspect the premises and/or the building and surrounding premises.

D. **Declaration of Nuisance.** Abandoned premises, chronic nuisance buildings or premises, vacant nuisance buildings, and vacant nuisance properties are found and declared to be public nuisances.

(Ord. 2549 §12, 2017; Ord. 2396 §1, 2013)

8.28.050 Animal Manure

Animal manure in any quantity which is not securely protected from flies and the elements, or which is kept or handled in violation of any ordinance of the City, is declared to be a nuisance.

(Ord. 1837 §2 (part), 1998)

8.28.070 Occupying Recreational Vehicles as Dwelling Units.

A. Definitions.

1. *"Recreational Vehicle"* means travel trailer, motorhome, fifth-wheel trailer, or similar vehicles used for temporary accommodations while traveling. "Recreational vehicles" also includes boats, personal watercraft, snowmobiles and the like.

2. *"Occupied as a dwelling unit"* means used for sleeping, cooking, eating or bathing for longer than two weeks in any six-month period.

B. Recreational vehicles may not be occupied as a dwelling unit in any zone, except when parked in a licensed mobile home park.

(Ord. 2494 §17, 2016; Ord. 2396 §2, 2013)

8.28.140 Disorderly Houses

All disorderly houses, houses of prostitution, or houses or premises kept or resorted to for the purposes of prostitution or lewdness, and all houses, premises, rooms, booths or other structures used as places where people are employed for the purpose of prostitution, or in which people solicit, practice or carry on the business of prostitution, or in which the solicitation of drinks of intoxicating liquors or reputed intoxicants by patrons or employees for their own consumption is regularly and customarily permitted, or in which any drugs are being illegally kept, illegally sold, or illegally consumed are declared to be nuisances.

(Ord. 1837 §2 (part), 1998)

8.28.150 Places Where Disturbance of the Peace Occurs

Any premises, place or business establishment where drunkenness, fighting or breaches of the peace are carried on or permitted or tolerated, or where loud noises are carried on or permitted in such a way as to disturb the peace and tranquility of the neighborhood is declared to be a nuisance.

(Ord. 1837 §2 (part), 1998)

8.28.160 Place Where Liquor Used Illegally

Any building, room or rooms, place or places in the City kept or maintained in which intoxicating liquors are sold or given away contrary to law, or in which such liquors are kept or harbored for the evident purpose of selling or giving away the same contrary to law, or where persons are permitted to resort for the purpose of drinking intoxicating liquors, or where intoxicating liquors are kept for the purpose of inducing people to resort to buy or receive intoxicating liquors in violation of law is declared to be a nuisance.

(Ord. 1837 §2 (part), 1998)

8.28.170 Unguarded Hole Dangerous to Life

Any unguarded or abandoned excavation, pit, well or hole dangerous to life is declared to be a nuisance.

(Ord. 1837 §2 (part), 1998)

8.28.180 Landscape Maintenance

In addition to the foregoing, it constitutes a nuisance for anyone to fail to maintain landscaping, including but not limited to lawns, shrubs, trees and other plantings, whether of native growth or domestic vegetation in commercial, manufacturing or industrial, or multiple dwelling residential areas of the City; and it is a nuisance to fail to maintain any landscaping as designated in the landscaping and maintenance plan required before occupancy.

(Ord. 2372 §1, 2012; Ord. 1837 §2 (part), 1998)

CHAPTER 8.30
CRIMES RELATING TO PERSONS

Sections:

8.30.010 Assault and Other Crimes Involving Physical Harm

The following statutes of the State of Washington are hereby adopted by reference as now in effect or as may be subsequently amended or recodified:

RCW 9A.36.041 Assault in the fourth degree.
RCW 9A.36.050 Reckless endangerment.
RCW 9A.36.070 Coercion.
RCW 9A.90.120 Cyber harassment.
RCW 9A.90.130 Cyberstalking.
RCW 9.61.230 Telephone calls to harass, intimidate, torment or embarrass.
RCW 9.61.240 Telephone calls to harass, intimidate, torment or embarrass - Permitting telephone to be used.
RCW 9.61.250 Telephone calls to harass, intimidate, torment or embarrass - Offenses, where deemed committed.

(Ord. 2680 §4, 2022)

8.30.020 Placing a Person in Fear or Apprehension by Threat

A. Every person who shall intentionally place or attempt to place another person in reasonable fear or apprehension of bodily harm by means of a threat shall be guilty of a misdemeanor.

B. For purposes of this section, *"threat"* means to communicate, directly or indirectly, by act, word or deed, whether written, spoken or otherwise communicated, the intent to imminently:

1. Cause bodily injury to the person threatened or any other person; or

2. Cause physical damage to the property of a person other than the person making the threat; or

3. Subject the person threatened or any other person to physical confinement or restraint.

C. Any threat as defined in this section is deemed to have been committed at the place from which the threat or threats were made or at the place where the threat or threats were received.

(Ord. 1677 §10, 1993; Ord. 1363 §1 (part), 1985)

8.30.030 Domestic Violence - State Statutes Adopted by Reference

The following statutes of the State of Washington, are hereby adopted by reference as now in effect or as may be subsequently amended or recodified:

RCW 7.105.010 Definitions.
RCW 7.105.050 Jurisdiction—Domestic violence protection orders, sexual assault protection orders, stalking protection orders, and antiharassment protection orders.
RCW 7.105.065 Jurisdiction—Vulnerable adult protection orders.
RCW 7.105.070 Jurisdiction—Extreme risk protection orders.
RCW 7.105.075 Venue.
RCW 7.105.080 Personal jurisdiction over nonresidents.
RCW 7.105.085 Out-of-state child custody jurisdictional issues.
RCW 7.105.100 Filing—Types of petitions.
RCW 7.105.105 Filing—Provisions governing all petitions.
RCW 7.105.110 Filing—Provisions applicable to specified orders.
RCW 7.105.115 Forms, instructions, etc.—Duties of the administrative office of the courts—Recommendations for filing and data collection.
RCW 7.105.120 Filing—Court clerk duties.
RCW 7.105.150 Service—Methods of service.
RCW 7.105.155 Service—Completion by law enforcement officer.
RCW 7.105.160 Service—Materials.
RCW 7.105.165 Service—Timing.
RCW 7.105.175 Service—Development of best practices.
RCW 7.105.200 Hearings—Procedure.
RCW 7.105.205 Hearings—Remote hearings.
RCW 7.105.210 Realignment of parties—Domestic violence and antiharassment protection order proceedings.
RCW 7.105.215 Hearings—Extreme risk protection orders.
RCW 7.105.220 Hearings—Vulnerable adult protection orders.
RCW 7.105.225 Grant of order, denial of order, and improper grounds.
RCW 7.105.230 Judicial information system consultation.
RCW 7.105.235 Compliance hearings.
RCW 7.105.240 Appointment of counsel for petitioner.
RCW 7.105.245 Interpreters.
RCW 7.105.250 Protection order advocates and support persons.
RCW 7.105.255 Judicial officer training.
RCW 7.105.300 Application—RCW 7.105.305 through 7.105.325

RCW 7.105.305 Ex parte temporary protection orders—Other than for extreme risk protection orders.
RCW 7.105.310 Relief for temporary and full protection orders—Other than for extreme risk protection orders.
RCW 7.105.315 Duration of full protection orders—Other than for extreme risk protection orders.
RCW 7.105.320 Law enforcement stand-by to recover possessions—Other than for extreme risk protection orders.
RCW 7.105.325 Entry of protection order data—Other than for extreme risk protection orders.
RCW 7.105.330 Temporary protection orders—Extreme risk protection orders.
RCW 7.105.335 Full orders—Extreme risk protection orders.
RCW 7.105.340 Surrender of firearms—Extreme risk protection orders.
RCW 7.105.345 Firearms return and disposal—Extreme risk protection orders.
RCW 7.105.350 Reporting of orders—Extreme risk protection orders.
RCW 7.105.355 Sealing of records—Extreme risk protection orders.
RCW 7.105.360 Certain findings and information in orders.
RCW 7.105.365 Errors in protection orders.
RCW 7.105.370 Sealing of records—Recommendations.
RCW 7.105.375 Dismissal or suspension of criminal prosecution in exchange for protection order.
RCW 7.105.400 Reissuance of temporary protection orders.
RCW 7.105.405 Renewal of protection orders—Other than extreme risk protection orders.
RCW 7.105.410 Renewal—Extreme risk protection orders.
RCW 7.105.450 Enforcement and penalties—Other than antiharassment protection orders and extreme risk protection orders.
RCW 7.105.455 Enforcement and penalties—Antiharassment protection orders.
RCW 7.105.460 Enforcement and penalties—Extreme risk protection orders—False petitions.
RCW 7.105.465 Enforcement and penalties—Knowledge of order.
RCW 7.105.470 Enforcement—Prosecutor assistance.
RCW 7.105.500 Modification or termination—Other than extreme risk protection orders and vulnerable adult protection orders.
RCW 7.105.505 Termination—Extreme risk protection orders.
RCW 7.105.510 Modification or termination—Vulnerable adult protection orders.
RCW 7.105.515 Reporting of modification or termination of order.
RCW 7.105.550 Orders under this and other chapters—Enforcement and consolidation—Validity and enforcement of orders under prior chapters.
RCW 7.105.555 Judicial information system—Database.
RCW 7.105.560 Title to real estate—Effect of chapter.
RCW 7.105.565 Proceedings additional—Filing of criminal charges not required.
RCW 7.105.570 Other authority retained.
RCW 7.105.575 Liability.
RCW 10.99.020 Definitions.
RCW 10.99.030 Law enforcement officers – Training, powers, duties – Domestic violence reports.
RCW 10.99.040 Restrictions upon and duties of court.
RCW 10.99.045 Appearances by defendant – No contact order.
RCW 10.99.050 Victim contact – Restriction, prohibition – Violation, penalties – Written order – Procedures.
RCW 10.99.055 Enforcement of orders.
RCW 10.99.060 Notification of victim of prosecution decision – Description of criminal procedures available.
RCW 10.99.070 Liability of peace officers.

(Ord. 2680 §5, 2022)

8.30.040 Failure to Abide by Court Order

It shall be unlawful for any person subject to a Restraining Order, No Contact Order, or any other court order or condition of probation or release, to knowingly violate the terms of that order or condition. Each violation shall constitute a misdemeanor.

(Ord. 1600 §1, 1991; Ord. 1363 §1 (part), 1985)

8.30.050 Custodial Interference

The following statutes of the State of Washington are hereby adopted by reference:

RCW 9A.40.070 Custodial interference in the second degree.
RCW 9A.40.080 Custodial interference - Assessment of costs - Defense - Consent defense, restricted.

(Ord. 1269 §1, 1982; Ord. 1363 §1 (part), 1985)

8.30.060 Harassment

The following statutes of the State of Washington are hereby adopted by reference as now in effect or as may be subsequently amended or recodified:

RCW 9A.46.020 Definition – Penalties.
RCW 9A.46.030 Place where committed.
RCW 9A.46.040 Court-ordered requirements upon person charged with crime – Violation.
RCW 9A.46.050 Arraignment – No-contact order.
RCW 9A.46.060 Crimes included in harassment.
RCW 9A.46.070 Enforcement of orders restricting contact.
RCW 9A.46.080 Order restricting contact – Violation.
RCW 9A.46.090 Nonliability of peace officer.
RCW 9A.46.100 "Convicted", time when.
RCW 9A.46.110 Stalking.

(Ord. 2680 §6, 2022)

8.30.070 Assault Against Police Officer or Firefighter

A person is guilty of assault against a police officer or firefighter if he/she knowingly and willfully touches, strikes, expectorates, or makes other unwelcome physical contact with a police officer or firefighter when such officer or firefighter is engaged in his/her lawful duties. The touching, striking, expectorating, or other unwelcome physical contact must be of such nature that it would offend an ordinary person who is not unduly sensitive. Assaulting a police officer or firefighter is a gross misdemeanor.

(Ord. 1754 §1, 1995)

CHAPTER 8.40

CRIMES RELATING TO PROPERTY

Sections:

8.40.010 Theft, UIBC, and Possession Of Stolen Property

The following statutes of the State of Washington are adopted by reference:

RCW 9A.56.010	Definitions.
RCW 9A.56.020	Theft - Definition, defense.
RCW 9A.56.050	Theft in third degree.
RCW 9A.56.060 (1)(2)(3)(5)	Unlawful issuance of checks or drafts.
RCW 9A.56.140	Possessing stolen property - Definition, credit cards, presumption.
RCW 9A.56.170	Possessing stolen property in the third degree.
RCW 9.54.130	Restoration of stolen property - Duty of officers.

(Ord. 1363 §1 (part), 1985)

8.40.020 Malicious Mischief and Obscuring Identity of Machines

The following statutes of the State of Washington are adopted by reference:

RCW 9A.48.090	Malicious mischief in the third degree.
RCW 9A.48.100(1)	Malicious mischief and physical damage defined.
RCW 9A.56.180	Obscuring identify of a machine.

(Ord. 1363 §1 (part), 1985)

8.40.030 Injury or Destruction of Property

It is unlawful for any person to wantonly destroy, cut, alter, remove, deface, mark or write upon, or in any manner injure any window, fence, gate, bridge, dwelling, house, engine house, building, awning, railing or any other property, public or private, not his own, in an amount not exceeding $250.

(Ord. 1363 §1 (part), 1985)

8.40.040 Trespass and Related Crimes

The following statutes of the State of Washington are adopted by reference:

RCW 9A.52.010	Definitions.
RCW 9A.52.060	Making or having burglary tools.
RCW 9A.52.070	Criminal trespass in the first degree.
RCW 9A.52.080	Criminal trespass in the second degree.
RCW 9A.52.090	Criminal trespass - Defenses.
RCW 9A.52.100	Vehicle prowling.
RCW 9A.52.120	Computer trespass in the second degree.
RCW 9A.52.130	Computer trespass - Commission of other crime.
RCW 9A.56.063	Making or possessing motor vehicle theft tools.

(Ord. 2196 §1, 2008; Ord. 1363 §1 (part), 1985)

8.40.050 Making or Possessing a Retail Theft Tool

A. Any person who makes or mends, or causes to be made or mended, uses, or has in his or her possession any retail theft tool that is adapted, designed, or commonly used for the commission of retail related theft, under circumstances evincing an intent to use or employ, or allow the same to be used or employed, in the commission of retail related theft, or knowing that the same is intended to be so used, is guilty of making or having retail theft tools, a gross misdemeanor.

B. For the purpose of this section, a retail theft tool includes, but is not limited to, the following: booster bags; any implement carried with the intent to be used to defeat theft protection sensors, devices, or surveillance; or any other implement shown by facts and circumstances that is intended to be used in the commission of a theft from a retail store or similar place, or knowing that the same is intended to be so used.

(Ord. 2497 §4, 2016)

CHAPTER 8.45
ENFORCEMENT

Sections:

8.45.010 Purpose

The purpose of TMC Chapter 8.45 is to establish an efficient system to enforce the development, land use, and public health regulations of the City; to provide an opportunity for a prompt hearing and decision on alleged violations of these regulations; to establish penalties for violations, including abatement of any affected properties; and to collect all costs associated with abatement, including relocation/assistance expenses, pursuant to TMC Chapter 8.46. The enforcement mechanisms in this chapter are used by designated staff throughout the City.

(Ord. 2547 §6, 2017)

8.45.020 Violations

A. Failure to comply with any applicable civil provision of the Tukwila Municipal Code shall be enforced through the procedures set forth in TMC Chapter 8.45. In the event of a conflict between this chapter and any other provision of the Code, the more specific provision shall apply.

B. In addition to specific civil violations enumerated throughout the Tukwila Municipal Code, the following actions are unlawful and are subject to enforcement through this chapter:

1. It is unlawful for any person to initiate, maintain, or cause to be initiated or maintained, the use of any structure, land or property within the City without first obtaining the permits or authorizations required for the use by the applicable provisions of any of the Tukwila Municipal Code.

2. It is unlawful for any person to use, construct, locate, demolish or cause to be used, constructed, located, or demolished, any structure, land, or property within the City in any manner that is not permitted by the terms of any permit or authorization issued pursuant to the applicable provisions of the Tukwila Municipal Code.

3. It is unlawful to remove or deface any sign, notice, complaint or order required by or posted in accordance with TMC Chapter 8.45.

4. It is unlawful to misrepresent any material fact in any application, plans, or other information submitted to obtain any building or construction authorization.

(Ord. 2547 §7, 2017)

8.45.030 Enforcement

A. The Code Enforcement Officer(s) is/are the person(s) authorized by the Mayor to enforce the civil provisions of the Tukwila Municipal Code. Such persons may include staff from the Police, Fire, Public Works and Community Development Departments.

B. The Code Enforcement Officer shall have the responsibility for enforcement of TMC Chapter 8.45. The Code Enforcement Officer may call upon the Police, Fire, Community Development, Public Works or other appropriate City departments to assist in enforcement. The Code Enforcement Officer may seek assistance from outside agencies or private contractors, should the need exist. As used in TMC Chapter 8.45, "Code Enforcement Officer" shall also mean his or her duly authorized designee.

C. TMC Chapter 8.45 shall be enforced for the benefit of the health, safety, and welfare of the general public, and not for the benefit of any particular person or class of persons.

D. It is the intent of TMC Chapter 8.45 to place the obligation for complying with its requirements upon the owner, occupier, tenant, manager, agent, or other person responsible for the condition of land and buildings situated within the City of Tukwila and within the scope of the Tukwila Municipal Code.

E. No provision or any term used in TMC Chapter 8.45 is intended to impose any duty upon the City or any of its officers or employees that would subject them to damages in a civil action.

F. "Person responsible for the condition" and "person responsible," as used in this chapter means any person who is required by the applicable regulation to comply therewith, or who commits any act or omission that is a violation or causes or permits a violation to occur or remain upon property in the City, and includes but is not limited to owner(s), lessor(s), tenant(s), manager(s), agent(s) or other person(s) entitled to control, use and/or occupy property where a violation occurs.

(Ord. 2547 §8, 2017)

8.45.040 Voluntary Correction and Limited Right to Enter Property

A. *APPLICABILITY*. While it is the City's desire to obtain voluntary correction pursuant to TMC Chapter 8.45, compliance is not a prerequisite for pursuing any of the other remedies for correction in TMC Chapter 8.45, or any remedies available in law or equity. This section may apply whenever the Code Enforcement Officer determines that a nuisance or code violation has occurred or is occurring.

B. *GENERAL*. The Code Enforcement Officer may attempt to secure voluntary correction by contacting the owner, occupier, tenant, manager, agent, or other person responsible for the

condition and, where possible, explaining the violation and requesting correction.

C. *VOLUNTARY CORRECTION AND LIMITED RIGHT OF ENTRY AGREEMENT*. A Voluntary Correction and Limited Right of Entry Agreement may be entered into between the City of Tukwila – acting through the applicable department director – and the owner, occupier, tenant, manager, agent, or other person responsible for the condition of land and buildings situated within the City of Tukwila, for resolution of the violation. The Voluntary Correction and Limited Right of Entry Agreement is a contract between the City of Tukwila and the owner, occupier, tenant, manager, agent, or other person responsible for the condition of land and buildings, under which such person agrees to abate the violation cited by the City, within a specified time and according to specified conditions. The Voluntary Correction and Limited Right of Entry Agreement may include the following:

1. The name and address of the person responsible for the violation;
2. The street address or other description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring;
3. A description of the violation and a reference to the regulation that has been violated;
4. The necessary corrective action to be taken, and a date or time by which correction must be completed;
5. An agreement by the person responsible for the violation that the City may inspect the premises as may be necessary to determine compliance with the Voluntary Correction and Limited Right of Entry Agreement; and
6. An agreement by the person responsible for the violation that the City may abate the violation, and recover its costs and expenses as described in TMC Section 8.45.130 and/or a monetary penalty pursuant to TMC Chapter 8.45 from the person responsible for the violation, if the terms of the Voluntary Correction and Limited Right of Entry Agreement are not satisfied.

(Ord. 2547 §9, 2017)

8.45.050 Investigation and Request for Compliance

A. *AUTHORITY:* Upon presentation of proper credentials, the Code Enforcement Officer may, with the consent of the owner or occupier of a building or premises, enter at reasonable times any building or premises in order to perform the duties imposed by TMC Chapter 8.45.

B. *INVESTIGATION:* The Code Enforcement Officer may investigate any structure or use which he or she reasonably believes does not comply with the applicable standards and requirements of the Tukwila Municipal Code.

C. *REQUEST FOR COMPLIANCE:* Upon receipt of a complaint regarding a potential code violation of a non-emergency nature, the Code Enforcement Officer may send a Request for Compliance to the owner, tenant, occupier, manager, agent, or other person responsible for the alleged violation documenting the complaint and seeking voluntary compliance. The Code Enforcement Officer may issue a written Request for Compliance in any manner reasonably sufficient to give notice to the person(s) responsible, such as by mail, e-mail or posting the Request on the subject property. The Code Enforcement Officer may, in his or her discretion, issue multiple Requests for Compliance in an attempt to resolve code violations prior to issuing a civil infraction, Notice of Violation and Order or taking other enforcement action.

D. Nothing in this section prohibits the Code Enforcement Officer from immediately issuing a civil infraction, Notice of Violation and Order or taking other enforcement action without first issuing a Request for Compliance, when the circumstances warrant more expeditious correction or when the person(s) responsible is a repeat offender.

(Ord. 2547 §10, 2017)

8.45.060 Civil Infraction

For violations deemed civil infractions, if the Code Enforcement Officer has probable cause to believe that the applicable standards or requirements of the Tukwila Municipal Code have been violated, the Code Enforcement Officer may issue a civil infraction in accordance with Chapter 7.80 RCW, which is incorporated herein by this reference, upon the person(s) responsible for the condition.

(Ord. 2547 §11, 2017)

8.45.070 Notice of Violation and Order

A. *NOTICE OF VIOLATION AND ORDER:* For all other civil violations of the Tukwila Municipal Code, upon the Code Enforcement Officer determining that a violation of the TMC exists, the Code Enforcement Officer may serve a Notice of Violation and Order upon the person(s) responsible for the condition. The Notice of Violation and Order shall contain the following information:

1. A citation to the standard, code provision or requirement violated, along with a description of the specific violation present;
2. The corrective action, if any, that is necessary to comply with the standard, code provision or requirement;
3. The date by which the corrective action(s) shall be completed by the person(s) responsible ("compliance date"); and
4. An explanation of the appeal process and the specific information required to file an appeal.

B. *SERVICE OF A NOTICE OF VIOLATION AND ORDER:* A Notice of Violation and Order shall be served on the person(s) responsible for the condition by personal service or certified mail with return receipt requested, addressed to the last known address of such person, whichever method the Code Enforcement Officer determines will most likely result in actual service of the Notice of Violation and Order. If, after a reasonable search and reasonable efforts are made to obtain service, the whereabouts of the person(s) is unknown or service cannot be accomplished and the Code Enforcement Officer makes an affidavit to that effect, then service of the notice upon such person(s) may be made by:

1. Publishing the notice once each week for two consecutive weeks in the City's official newspaper; and
2. Mailing a copy of the notice to each person named on the Notice of Violation and Order by first class mail to the last

known address if known or, if unknown, to the address of the property involved in the proceedings; and

3. A copy of the notice shall be posted at a conspicuous place on the property, unless posting the notice is not physically possible.

C. *AMENDMENT:* A Notice of Violation and Order may be amended at any time in order to:

1. Correct clerical errors; or
2. Cite additional authority for a stated violation.

D. *ORDER BECOMES FINAL UNLESS APPEALED:* Unless an appeal is filed with the Code Enforcement Officer for hearing before the Hearing Examiner in accordance with TMC Section 8.45.110, the Notice of Violation and Order shall become the final administrative order of the Code Enforcement Officer.

E. *RECORDING:* A copy of the notice may be filed and recorded with the King County Recorder.

(Ord. 2547 §12, 2017)

8.45.080 Repeat Violations

A. *DEFINITION:* "Repeat violation" means a violation of the same or similar regulation in any location by the same person responsible or on the same property for which either: (1) voluntary compliance previously has been sought within two years; or (2) a Notice of Violation and Order has been issued within two years.

B. *PROCEDURE:* The Code Enforcement Officer may immediately issue a Notice of Violation and Order when a repeat violation occurs.

C. *PENALTY*: For repeat violations that occur within two years of a previous violation, the Code Enforcement Officer or Hearing Examiner may impose the following penalties:

1. For the first repeat violation, the penalty may equal up to $1,000 per day;
2. For the second repeat violation, the penalty may equal up to $2,000 per day;
3. For the third repeat violation, the penalty may equal up to $3,000 per day;
4. For the fourth repeat violation, the penalty may equal up to $4,000 per day; and
5. For each additional repeat violation that may occur beyond the fourth repeat violation, the penalty may equal up to $5,000 per day.

(Ord. 2547 §13, 2017)

8.45.090 Stop Work Orders

Whenever a continuing violation of this Code will materially impair the Code Enforcement Officer's ability to secure compliance with this Code, or when the continuing violation threatens the health or safety of the public, the Code Enforcement Officer may issue a Stop Work Order specifying the violation and prohibiting any work or other activity at the site. Any violation of a Stop Work Order may be prosecuted with a Notice of Violation and Order, and is hereby declared to be a public nuisance. The Code Enforcement Officer is authorized to enjoin or abate such public nuisance summarily by any legal or equitable means as may be available. The City shall assess the cost of abatement, including any and all legal fees incurred by the City attendant thereto, and any fine levied jointly and severally against the responsible parties, the subject property or both. The costs for the injunction or abatement, including any and all penalties and legal fees incurred by the City, shall be recovered by the City from the person(s) responsible in the manner provided by law.

(Ord. 2547 §14, 2017)

8.45.100 Abatement

Any condition or violation described in a Notice of Violation and Order that is not corrected within the time specified therein is hereby declared to be a public nuisance. The Code Enforcement Officer is authorized to enjoin or abate such nuisance summarily by any legal or equitable means as may be available. The City shall assess the cost of abatement, including any and all legal fees incurred by the City attendant thereto, and any fine levied jointly and severally against the responsible parties, the subject property or both. The costs for the injunction or abatement, including any and all penalties and legal fees incurred by the City, shall be recovered by the City from the person(s) responsible, in the manner provided by law.

(Ord. 2547 §15, 2017)

8.45.110 Appeal to Hearing Examiner

A. The person(s) responsible named on a Notice of Violation and Order issued by the Code Enforcement Officer, pursuant to TMC Section 8.45.070, may appeal the Notice by requesting such appeal within 10 calendar days after being served with the Notice pursuant to TMC Section 8.45.070. When the last day of the period so computed is a Saturday, Sunday, or a Federal or City holiday, the period shall run until 4:30 PM on the next business day. The request shall be in writing and include the applicable appeal fee as specified in the City's fee schedule adopted by resolution of the City Council. Upon receipt of the appeal request, the Code Enforcement Officer shall schedule an appeal hearing before the Hearing Examiner. Notice of the hearing shall be sent to the appellant and/or the person(s) named on the Notice of Violation and Order under the procedures described in TMC Section 8.45.070, or as may be otherwise requested by the appealing party.

B. At or after the appeal hearing, the Hearing Examiner may:

1. Sustain the Notice of Violation and Order;
2. Withdraw the Notice of Violation and Order;
3. Continue the review to a date certain for receipt of additional information; or
4. Modify the Notice of Violation and Order, which may include an extension of the compliance date.

C. The Hearing Examiner shall issue a written decision within 14 days of the date of the completion of the review, and shall cause the same to be sent to the person(s) named on the Notice of Violation and Order under the same procedures described in TMC Section 8.45.070 or as otherwise directed by the appealing party.

D. The decision of the Hearing Examiner shall be final and conclusive unless appealed. An appeal of the decision of the Hearing Examiner must be filed with superior court within 21

calendar days from the date the Hearing Examiner's decision was mailed to the person(s) responsible to whom the Notice of Violation and Order was directed, or is thereafter barred. The cost for transcription of all records ordered certified by the superior court for such review shall be borne by the appellant.

(Ord. 2547 §16, 2017)

8.45.120 Penalties

A. *VIOLATIONS OF THE TUKWILA MUNICIPAL CODE:*

1. *Civil Infraction:* Each civil infraction shall carry with it a monetary penalty of $100.00 for the first violation, $175.00 for a second violation of the same nature or a continuing violation, and $250.00 for a third or subsequent violation of the same nature or a continuing violation.

2. *Notice of Violation and Order:*

a. A Notice of Violation and Order shall carry with it a cumulative monetary penalty of $250.00 per day for each violation from the compliance date until compliance with the Notice of Violation and Order is achieved.

b. The Code Enforcement Officer shall have the discretion to impose penalties in an amount lower than those set forth herein, taking into account the mitigating factors described below:

(1) Was the responsible party willful or knowing of the violation?

(2) Was the responsible party unresponsive in correcting the violation?

(3) Was there improper operation or maintenance?

(4) Does the violation provide economic benefit for noncompliance?

(5) Does the discharge result in adverse economic impact to others?

(6) Will cleanup activities be able to fully mitigate or remediate the impacts?

(7) Is there a history of violations?

(8) Were there unforeseeable circumstances that precluded compliance?

(9) Did the responsible party make a good-faith effort to comply?

3. *Liability for Damages:* In addition to any penalty that may be imposed by the City, any person violating or failing to comply with any of the provisions of the Tukwila Municipal Code shall be liable for all damage to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to the violation.

4. Responsibility for violations of the codes enforced under this chapter and the penalties imposed in this section are joint and several, and the City is not prohibited from taking action against a party where other persons may also be potentially responsible for a violation, nor is the City required to take action against all persons potentially responsible for a violation.

5. *Notice of Assessment:* Within 30 days of the compliance date, either set by a Notice of Violation and Order or an Order of the Hearing Examiner, whichever is later, the Code Enforcement Officer shall issue a Notice of Assessment identifying the penalties imposed under this chapter for any remaining uncorrected violations, as well as any other costs and/or damages assessed against the person(s) responsible, pursuant to this chapter. Notices of Assessment shall be served in the same manner as service of a Notice of Violation and Order.

a. **Assessment Appeal:** A person receiving a Notice of Assessment may appeal the fines stated therein within 10 calendar days after the date the Notice is served. When the last day of the period so computed is a Saturday, Sunday, or a Federal or City holiday, the period shall run until 4:30 PM on the next business day. The request shall be in writing and include the applicable appeal fee as identified in the City's fee schedule adopted by resolution of the City Council. Upon receipt of the appeal request, the Code Enforcement Officer shall schedule an appeal hearing before the Hearing Examiner. Notice of the hearing shall be sent to the appellant and/or the person(s) named on the Notice of Assessment under the same manner as the procedures described in TMC Section 8.45.070B, or as may be otherwise requested by the appealing party.

b. **Appeal Hearing:** At or after the appeal hearing, the Hearing Examiner may sustain the assessment, withdraw the assessment if the violation(s) have been corrected or reduce the assessment amount. The Hearing Examiner shall issue a written decision within 14 days of the date of the completion of the review, and shall cause the same to be sent to the person(s) named on the Notice of Assessment under the same procedures described in TMC Section 8.45.070B, or as otherwise directed by the appealing party.

c. The decision of the Hearing Examiner shall be final and conclusive unless appealed. Any judicial review of the Hearing Examiner's order shall be brought in superior court within 21 days of issuance of the Hearing Examiner's decision.

d. **Subsequent Notices of Assessment:** The Code Enforcement Officer shall issue additional notices of assessment in 30-day increments until a violation is corrected. Each subsequent notice of assessment may be appealed in the same manner as described in TMC Section 8.45.110; provided, however, that any such appeal shall be limited to only those penalties incurred since the issuance of the preceding Notice of Assessment.

6. The penalty imposed by this section under a Notice of Violation and Order may be collected by civil action brought in the name of the City. The Code Enforcement Officer may notify the City Attorney of the name of any person subject to the penalty, and the City Attorney may, with the assistance of the Code Enforcement Officer, take appropriate action to collect the penalty, including but not limited to attachment of a lien to the property.

B. *ADDITIONAL RELIEF:* The Code Enforcement Officer may seek legal or equitable relief to enjoin any acts or practices and abate any condition which constitutes or will constitute a violation of the Tukwila Municipal Code. The remedies provided in TMC Chapter 8.45 are cumulative and shall be in addition to any other remedy provided by law.

C. *CONTINUED DUTY TO CORRECT*. Payment of a monetary penalty pursuant to TMC Chapter 8.45 does not relieve the person to whom the Infraction or Notice of Violation and Order was issued of the duty to correct the violation.

(Ord. 2547 §17, 2017)

8.45.130 Abatement by the City

A. *ABATEMENT.* The City may abate nuisance or code violations when:

1. The terms of the Voluntary Correction and Limited Right of Entry Agreement have not been met; or
2. A Notice of Violation and Order has been issued and the required correction has not been completed by the date specified in the Notice of Violation and Order; or
3. A written decision issued by the City's Hearing Examiner has not been complied with by the date specified in the written decision; or
4. The nuisances or code violations are subject to summary abatement as provided for in TMC Section 8.45.130B.

B. *SUMMARY ABATEMENT*. Whenever any nuisance or code violation causes a condition, the continued existence of which constitutes an immediate threat to the public health, safety or welfare or to the environment, the City may summarily and without prior notice abate the condition. Notice of such abatement, including the reason for it, shall be given to the person(s) responsible for the violation as soon as reasonably possible after the abatement. No right of action shall lie against the City or its agents, officers, or employees for actions reasonably taken to prevent or cure any such immediate threats, but neither shall the City be entitled to recover any costs incurred for summary abatement, prior to the time that actual notice of same is provided to the person(s) responsible for the condition of land and buildings.

C. *AUTHORIZED ACTION BY THE CITY*. Using any lawful means, the City may enter upon the subject property and may remove or correct the condition that is subject to abatement. Prior to or during such abatement, the City may seek such judicial process as it deems necessary to effect the removal or correction of such condition, including but not limited to obtaining an injunction or warrant of abatement.

D. *INTERFERENCE.* Any person who knowingly obstructs, impedes, or interferes with the City or its agents, or with the person responsible for the violation, in the performance of duties imposed by TMC Chapter 8.45, shall be guilty of a misdemeanor punishable by imprisonment not exceeding 90 days and a fine not exceeding $1,000.00.

E. *RECOVERY OF COSTS AND EXPENSES*. All costs and expenses incurred by the City during abatement of code violations shall be assessed to the person(s) responsible for the condition, and responsibility for all costs and expenses is joint and several. Such costs and expenses may include, but are not limited to, the following:

1. "Legal expenses," for purposes of TMC Chapter 8.45, shall include but are not limited to the following:

a. Personnel costs, both direct and indirect, including attorney's fees and all costs incurred by the City Attorney's office or its designee to abate nuisances and code violations;

b. Actual and incidental expenses and costs incurred by the City in preparing notices, contracts, court pleadings, and all other necessary documents required to abate nuisances and code violations; and

c. All costs associated with retention and use of expert witness or consultants during the course of abatement.

2. "Abatement expenses," for purposes of TMC Chapter 8.45, shall include but are not limited to the following:

a. Costs incurred by the City for preparation of notices, contracts, and related documents necessary to abate nuisance or code violations;

b. All costs associated with inspection of the property and monitoring of said property consistent with orders of compliance issued by the City's Hearing Examiner or a Court of competent jurisdiction;

c. All costs incurred by the City for hauling, storage, disposal or removal of vegetation, trash, debris, dangerous structures or structures unfit for human habitation pursuant to the International Building Code and/or International Property Maintenance Code, potential vermin habitat or fire hazards, junk vehicles, obstructions to the public right-of-way, and setback obstructions;

d. All costs incurred by law enforcement or related enforcement agencies necessary to assist the City during abatement of nuisance or code violations; and

e. All relocation/assistance costs pursuant to TMC Chapter 8.46.

F. *INTEREST.* All costs incurred by the City during abatement of nuisance and code violations may include interest in amount as prescribed by law.

G. *LIEN – AUTHORIZED.* The City shall have a lien for any monetary penalty imposed, the cost of any abatement proceedings under TMC Chapter 8.45, and all other related costs including attorney and expert witness fees, against the real property on which the monetary penalty was imposed or any of the work of abatement was performed.

(Ord. 2547 §18, 2017)

CHAPTER 8.46

RELOCATION ASSISTANCE PROGRAM

Sections:

8.46.010 Purpose

The purpose of this chapter is to establish, pursuant to RCW 59.18.085, a relocation assistance program for tenants whose dwellings have been condemned by the City.

(Ord. 2122 §1 (part), 2006)

8.46.020 Notification of Relocation Assistance

At the time the City notifies a landlord that a dwelling is condemned or unlawful to occupy due to the existence of conditions that violate applicable codes, statutes, ordinances, or regulations, the City shall also notify both the landlord and the tenant(s) that the tenant(s) may be entitled to relocation assistance from the landlord under RCW 59.18.085.

(Ord. 2122 §1 (part), 2006)

8.46.030 Advancement of Relocation Assistance

If the City determines that the tenant(s) are entitled to relocation assistance, and the landlord has failed to provide the tenant(s) with relocation assistance within seven days of the City notifying the landlord of the condemnation, eviction or displacement order, the City may advance the cost of relocation assistance to the tenant(s). The amount of relocation assistance advanced shall be no more than $2,000 or three times the monthly rent, whichever is greater.

(Ord. 2122 §1 (part), 2006)

8.46.040 Reimbursement of Relocation Assistance

The landlord shall reimburse the City the relocation assistance advanced by the City to the tenant(s) within 60 days from the date that the City first advanced said funds.

(Ord. 2122 §1 (part), 2006)

8.46.050 Penalty

Failure by the landlord to repay the City for the advanced relocation assistance within 60 days shall result in the assessment of civil penalties in the amount of $50 per day for each displaced tenant. In addition, interest shall accrue at the maximum legal rate of interest permitted under RCW 19.52.020, commencing 30 days after the date the City first advanced relocation assistance funds to the displaced tenant(s). The City shall also be entitled to attorney's fees and costs arising from any legal action taken to recover unpaid relocation assistance, penalties and interest. The City may also recover advanced relocation assistance, penalties and interest pursuant to TMC Section 8.48.090, "Remediation/Penalties."

(Ord. 2549 §13, 2017; Ord. 2122 §1 (part), 2006)

8.46.060 Exemption from Reimbursement of Relocation Assistance

A. The landlord may be exempt from reimbursing the City for relocation assistance if the landlord can demonstrate by a preponderance of the evidence within seven days of the City sending notice of the condemnation, eviction or displacement order that the condition(s) causing the dwelling to be condemned or unlawful to occupy was directly caused by:

1. a tenant's or any third party's illegal conduct without the landlord's prior knowledge;
2. a natural disaster, such as an earthquake, tsunami, wind storm or hurricane; or
3. the acquisition of the property by eminent domain.

B. Relocation assistance will not be advanced to a tenant who has entered into a rental agreement after official notice has been given to the landlord, but before the violations have been corrected.

(Ord. 2122 §1 (part), 2006)

CHAPTER 8.47

FAIR HOUSING REGULATIONS

Sections:

8.47.010 Source of Income Discrimination Prohibited

No property owner, property manager, landlord or agent who rents or leases rental units may refuse to rent or lease a rental unit to any tenant or prospective tenant, or otherwise discriminate or retaliate against that person, solely on the basis that the person proposes to pay a portion of the rent from a source of income as defined in this chapter.

(Ord. 2526 §2, 2017)

8.47.020 Definitions

For purposes of this chapter, the following words or phrases shall have the meaning prescribed as follows:

1. "Source of income" includes legally-derived income from social security; supplemental security income; other retirement programs; or any federal, state, local, or nonprofit administered benefit or subsidy programs, including housing assistance, public assistance and general assistance programs.

2. Other terms used in this chapter shall be defined as set forth in Tukwila Municipal Code Chapter 5.06, "Residential Rental Business License and Inspection Program."

(Ord. 2526 §3, 2017)

8.47.030 Applicability

Nothing in this chapter will apply if the rental unit does not qualify for participation in the tenant's "source of income" program, although any property owner or manager that refuses to rent a rental unit to a person on this basis must notify that person in writing of the reasons why the rental unit is ineligible. Refusal to allow a health and safety inspection of the property by a public housing authority shall not be considered a legitimate basis for refusing to rent due to program ineligibility.

(Ord. 2526 §4, 2017)

8.47.040 Exceptions

Nothing in this chapter shall:

1. Apply if the tenant's source of income is pre-scheduled to terminate during the term of the initial lease;

2. Apply to the renting, subrenting, leasing or subleasing of a portion of a single-family dwelling, wherein the owner or person entitled to possession thereof maintains a permanent residence, home or abode therein;

3. Prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, from limiting the rental or occupancy of dwellings it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on the basis of race, color, national origin or other illegal discriminatory basis;

4. Be construed to prohibit treating people with a disability more favorably than people who do not have a disability; or

5. Be construed to protect criminal conduct or prohibit any person from limiting the rental or occupancy of a dwelling based on the use of force, threats, or violent behavior by an occupant or prospective occupant.

(Ord. 2526 §5, 2017)

8.47.050 Enforcement

Violations of the provisions of this chapter shall be subject to enforcement and penalties as prescribed in TMC Chapter 8.45 and the issuance of a Notice of Violation in accordance with TMC Section 8.45.070.

(Ord. 2549 §14, 2017; Ord. 2526 §6, 2017)

CHAPTER 8.48

UNFIT DWELLINGS, BUILDINGS AND STRUCTURES

Sections:

8.48.010 Additional Enforcement Mechanism for Unfit Dwellings, Buildings and Structures

A. In addition to, and in combination with, the enforcement methods set forth in TMC Chapter 8.45 and elsewhere in the Tukwila Municipal Code, unfit dwelling, building and structure violations, as defined by Chapter 35.80 RCW, may be enforced under the provisions set forth in this chapter.

B. RCW Chapter 35.80, "Unfit Dwellings, Buildings, and Structures", as it currently exists or is hereinafter amended, is hereby adopted.

(Ord. 2548 §3, 2017)

8.48.020 Improvement Officer and Appeals Commission Designated

The Code Enforcement Officer, and the Code Enforcement Officer's designee, is designated as the City's "Improvement Officer," and shall have the full scope of authority granted to that official under Chapter 35.80 RCW. The City of Tukwila Hearing Examiner is designated as the City's "Appeals Commission," and shall have the full scope of authority granted to that commission under Chapter 35.80 RCW.

(Ord. 2548 §4, 2017)

8.48.030 Improvement Officer Authority— Issuance of Complaint

If, after a preliminary investigation of any dwelling, building, structure or premises, the Improvement Officer finds that it is unfit for human habitation or other use, the Improvement Officer may issue a complaint conforming to the provisions of RCW 35.80.030, stating in what respects such dwelling, building, structure or premises is unfit for human habitation or other use. In determining whether a dwelling, building, structure or premises should be repaired or demolished, the Improvement Officer shall be guided by the Tukwila Municipal Code and such other codes adopted pursuant to the Tukwila Municipal Code as the Improvement Officer deems applicable, in particular the most recent edition of the International Property Maintenance Code.

(Ord. 2548 §5, 2017)

8.48.040 Service of Complaint

A complaint issued under this chapter shall be served on the parties and posted on the subject property pursuant to RCW 35.80.030, and shall also be filed with the King County Auditor. All complaints or other documents posted on the subject property shall remain in place until the complaint has been resolved. For purposes of service, such complaints or other documents are deemed effective on the day of posting.

(Ord. 2548 §6, 2017)

8.48.050 Complaint Hearing

Not less than 10 days nor more than 30 days after serving a complaint, the Improvement Officer shall hold a hearing conforming to the provisions of RCW 35.80.030, at which all parties in interest shall be given the right to appear in person, to bring witnesses, and to give testimony regarding the complaint. At any time prior to or at the time of the hearing, any party may file an answer to the complaint. The Improvement Officer shall adopt procedural rules governing the procedure of such hearing, which shall be available for public inspection at the Tukwila Department of Community Development.

(Ord. 2548 §7, 2017)

8.48.060 Determination, Findings of Fact, and Order

Within 10 days of the complaint hearing, the Improvement Officer shall issue a Determination, Findings of Fact, and Order stating the Improvement Officer's determination as to whether the subject dwelling, building, structure or premises is unfit for human habitation or other use; the findings of fact supporting the determination; and an order specifying the actions necessary to address any unfitness, and a deadline for completing the actions. The Determination, Findings of Fact, and Order shall be served and posted as set forth in TMC Section 8.48.040, and if no appeal is filed within the deadline specified in TMC Section 8.48.070, a copy of the Determination, Findings of Fact, and Order shall be filed with the King County Auditor.

(Ord. 2548 §8, 2017)

8.48.070 Appeal to Appeals Commission

Within 30 days of service of a Determination, Findings of Fact, and Order, any party may file an appeal to the Appeals Commission. Such an appeal shall be governed by the City of Tukwila Hearing Examiner's procedural rules, except that the Appeals Commission shall conduct a hearing on the appeal and issue a ruling within 60 days from the date the appeal is filed; and if the Appeals Commission issues any oral findings of fact, the ruling shall contain a transcript of such findings in addition to any findings issued at the time of the ruling. The ruling shall be served and posted as set forth in TMC Section 8.48.040, and if no appeal is filed within the deadline specified in TMC Section 8.48.080, a copy of the ruling shall be filed with the King County Auditor.

(Ord. 2548 §9, 2017)

8.48.080 Appeal to Superior Court

Any person affected by a Determination, Findings of Fact, and Order issued by the Improvement Officer, who has brought an appeal before the Appeals Commission pursuant to TMC Section 8.48.070 may, within 30 days after the Appeals Commission's ruling has been served and posted pursuant to TMC Section 8.48.040, petition the King County Superior Court for an injunction restraining the Improvement Officer from carrying out the provisions of the Determination, Findings of Fact, and Order. In all such proceedings, the Court is authorized to affirm, reverse or modify the order, and such trial shall be heard de novo.

(Ord. 2548 §10, 2017)

8.48.090 Remediation/Penalties

If a party, following exhaustion of the party's rights to appeal, fails to comply with the Determination, Findings of Fact, and Order, the Improvement Officer may direct or cause the subject dwelling, building, structure or premises to be repaired, altered, improved, vacated, and closed, removed, or demolished pursuant to Chapter 35.80 RCW.

(Ord. 2548 §11, 2017)

8.48.100 Tax Lien

The cost of any action taken by the Improvement Officer under TMC Section 8.48.090 shall be assessed against the subject property pursuant to Chapter 35.80 RCW. Upon certification by the City of Tukwila Finance Director that the assessment amount is due and owing, the King County Treasurer shall enter the amount of such assessment upon the tax rolls against the subject property pursuant to the provisions of RCW 35.80.030.

(Ord. 2548 §12, 2017)

8.48.110 Salvage

Materials from any dwelling, building, structure, or premises removed or demolished by the Improvement Officer shall, if possible, be salvaged and sold as if the materials were surplus property of the City of Tukwila, and the funds received from the sale shall be credited against the cost of the removal or demolition; and any balance remaining shall be paid to the parties entitled thereto, as determined by the Improvement Officer, after deducting the costs incident thereto.

(Ord. 2548 §13, 2017)

CHAPTER 8.50

CRIMES RELATING TO PUBLIC MORALS

Sections:

8.50.010 Public Indecency – Sex Crimes

The following statutes of the State of Washington, as now in effect or as may be subsequently amended or recodified, are hereby adopted by reference:

RCW 9A.44.010	Definitions.
RCW 9A.44.096	Sexual misconduct with a minor in the second degree.
RCW 9A.44.120	Admissibility of child's statement – Conditions.
RCW 9A.44.132	Failure to register as sex offender or kidnapping offender – Refusal to provide DNA.
RCW 9A.44.170	Custodial sexual misconduct in the second degree.
RCW 9A.88.010	Indecent exposure.
RCW 9A.88.030	Prostitution.
RCW 9A.88.050	Prostitution – Sex of parties immaterial – No defense.
RCW 9A.88.090	Permitting prostitution.
RCW 9A.88.110	Patronizing a prostitute.
RCW 9A.88.120	Additional fee assessments.
RCW 9A.88.130	Additional requirements.
RCW 9A.88.140	Vehicle impoundment – Fees – Fines.
RCW 9A.88.150	Seizure and forfeiture.

(Ord. 2497 §5, 2016; Ord. 1538 §1, 1989; Ord. 1363 §1 (part), 1985)

8.50.020 Lewd Conduct - Lewd Assault

A. *Definitions* – For purposes of this section, the following definitions shall apply:

1. *"Expressive dance"* means any dance which, when considering the context of the entire performance, constitutes an expression of theme, story or ideas, but excluding any dance such as, but not limited to, common barroom-type topless dancing which, when considered in the context of the entire performance is presented primarily as a means of displaying nudity as a sales device or for other commercial exploitation without substantial expression of theme, story or ideas.

2. "*Lewd act"* means:

a. Touching, caressing or fondling the genitals;

b. Exposure of one's own erect penis;

c. Masturbation;

d. Sexual intercourse;

e. Urination or defecation other than in a restroom.

Provided, however, that the foregoing definition shall not apply to any:

f. "Expressive dance" as defined in TMC 8.50.020A.1;

g. Play, opera, musical or other similar work;

h. Class, seminar or lecture conducted for a scientific or educational purpose;

i. Nudity within a locker room or other similar facility used for changing clothing in connection with athletic or exercise activities; or

j. Non-obscene expression.

3. *"Public place"* means:

a. Any place open to the public, including public restrooms;

b. Any place easily visible from a public thoroughfare or from the property of another; and

c. Any vehicle which is itself located in a public place as defined in this section, such that activities inside the vehicle may be observed by a member of the public.

4. *"Lewd assault"* means the uninvited touching, or uninvited attempt to touch, coupled with an apparent present ability to complete the act, another person's genitals, pubic area, or buttocks, or the female breast.

B. *Lewd Conduct Prohibited* - No person shall intentionally perform any lewd act:

1. in a Public place, or

2. in any place under such circumstances as to make it difficult for an unwilling member of the public to avoid exposure.

C. *Lewd Assault Prohibited* - No person shall intentionally commit a lewd assault.

D. *Revocation of Business Licenses* - If the owner, manager or operator of any premises open to the public intentionally permits any lewd act to occur in public on the premises, such permission shall constitute cause for the revocation of any business license granted or issued by the city for such premises. Revocation shall be accomplished pursuant to applicable city ordinances governing revocation proceedings.

(Ord. 1908 §1, 2000; Ord. 1363 §1 (part), 1985)

8.50.030 Indecent Exposure

A. Definitions – For purposes of this section, the following definitions shall apply:

1. *"Expressive dance"* shall have the same meaning as in TMC 8.50.020A.1;

2. *"Indecent exposure"* means showing, or making open to view, one's genitals, pubic area, or buttocks, or the mature female breast;

Provided, however, that the foregoing definition shall not apply to any:

a. "Expressive dance" as defined in TMC 8.50.020A1;(2) Play, opera, musical or other similar work;

b. Class, seminar or lecture conducted for a scientific or educational purpose;

c. Nudity within a locker room or other similar facility used for changing clothing in connection with athletic or exercise activities.

3. *"Public place"* means:

a. Any place open to the public, or open to public view;

b. Any place easily visible from a public thoroughfare or from the property of another; and

c. Any vehicle which is itself located in a public place, as defined in this section, such that activities inside the vehicle may be observed by a member of the public.

B. Indecent Exposure Prohibited – No person shall intentionally make any indecent exposure of his/her person in a public place.

C. Revocation of Business License – If the owner, manager or operator of any premises open to the public intentionally permits any indecent exposure to occur in public on the premises, such permission shall constitute cause for the revocation of any business license granted or issued by the City for such premises. Revocation shall be accomplished pursuant to applicable City ordinances governing revocation proceedings.

(Ord. 1363 §1 (part), 1985)

8.50.040 Prostitution Loitering

A. As used in this section:

1. *"Commit prostitution"* means to engage in sexual conduct for money, but does not include sexual conduct engaged in as part of any stage performance, play or other entertainment open to the public.

2. *"Known prostitute or procurer"* means a person who within one year previous to the date of arrest for violation of this section has, within the knowledge of the arresting officer, been convicted in any court of an offense involving prostitution.

3. *"Public place"* is an area generally visible to public view and includes without limitation streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not), and buildings open to the general public, including those which serve food or drink, or provide entertainment, and the doorways and entrances to buildings or dwellings and the ground enclosing them.

4. *"Sexual conduct"* means:

a. Sexual intercourse within its ordinary meaning, occurring upon any penetration, however slight; or

b. Any penetration of the vagina or anus however slight, by an object, when committed on one person by another, whether such persons are of the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes; or

c. Any act or sexual contact between persons involving the sex organs of one person and the mouth or anus of another, whether such persons are of the same or opposite sex; or

d. Masturbation, manual or instrumental, of one person by another.

B. A person is guilty of prostitution loitering if he or she is in or remains in a public place and intentionally solicits, induces, entices or procures another to commit an illegal sex act, including but not limited to those enumerated in or adopted by TMC Chapter 8.50.

C. The following nonexclusive circumstances may be considered in determining whether the actor intends to commit the crime of prostitution loitering. The actor:

1. Repeatedly beckons to, stops or attempts to stop, or engages passers-by in conversation; or

2. Repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or any other bodily gesture; or

3. Circles or repeatedly returns to an area in a motor vehicle and repeatedly beckons to, contacts or attempts to stop pedestrians; or

4. Is a known prostitute or procurer; or

5. Inquires whether a potential patron or other person is a police officer, searches for articles that would identify a police officer, or requests the touching or exposing of genitals or female breasts to prove that the person is not a police officer.

(Ord. 1752 §1, 1995; Ord. 1533 §1, 1989)

8.50.050 Illicit Conduct

A. No person shall touch, caress or fondle the genitals, pubic area or adult female breast, or that person or another, whether under or through clothing, for the purpose of sexual arousal or exciting the sexual desires of either party, in a place open to the public; provided, however, this subsection shall not apply to any class, seminar, or lecture held for serious scientific, artistic or educational purposes.

B. No person shall expose to view, in any place open to the public, any portion of the adult female breast below the top of the areola, or any portion of the pubic hair, anus, anal cleavage, vulva and/or genitals, except as permitted in a licensed adult entertainment cabaret pursuant to TMC Chapter 5.56; provided, however, this subsection shall not apply to any class, seminar, or lecture held for serious scientific, artistic or educational purposes.

(Ord. 1753 §1, 1995)

CHAPTER 8.60

CRIMES RELATING TO PUBLIC OFFICERS

Sections:

8.60.020 Obstructing Justice, Criminal Assistance, Introducing Contraband and Related Offenses

The following RCW statutes of the State of Washington are adopted by reference:

9.69.100 Withholding knowledge of felony involving violence – Penalty.
9A.72.040 False swearing.
9A.72.140 Jury tampering.
9A.72.150 Tampering with physical evidence.
9A.76.010 Definitions.
9A.76.020 Obstructing a law enforcement officer.
9A.76.030 Refusing to summon aid for a peace officer.
9A.76.040 Resisting arrest.
9A.76.050 Rendering criminal assistance – Definition of terms.
9A.76.060 Relative defined.
9A.76.080 Rendering criminal assistance in the second degree.
9A.76.090 Rendering criminal assistance in the third degree.
9A.76.100 Compounding.
9A.76.160 Introducing contraband in the third degree.
9A.76.170 (1)(2)(d) Bail jumping.
9A.76.175 Making a false or misleading statement to a public servant.
9A.84.040 False reporting.

(Ord. 1806 §1, 1997; Ord. 1677 §14, 1993; Ord. 1532 §1, 1989; Ord. 1363 §1 (part), 1985)

8.60.030 Escape

The following statutes of the State of Washington are adopted by reference:

RCW 9.31.090 Escaped prisoner recaptured.
RCW 9A.76.130 Escape in the third degree.

(Ord. 1363 §1 (part), 1985)

8.60.040 Vehicles Resembling Police or Fire Vehicles

No person shall operate a motor vehicle within the city which is painted and contains decals, numbers, name, or insignia so as to simulate a Tukwila police or fire department vehicle without prior authorization from the police chief, fire chief or their designees.

(Ord. 1677 §13, 1993)

CHAPTER 8.70

CRIMES RELATING TO PUBLIC PEACE

Sections:

8.70.010 Disorderly Conduct

A person is guilty of disorderly conduct if he:

1. Uses abusive language and thereby intentionally creates a risk of assault; or

2. Intentionally disrupts any lawful assembly or meeting of persons without authority; or

3. Intentionally obstructs vehicular or pedestrian traffic without lawful authority; or

4. Intentionally and without lawful authority makes noise which unreasonably disturbs another; or

5. Intentionally engages in any conduct which tends to or does disturb the public peace, provide disorder, or endanger the safety of others.

(Ord. 1363 §1 (part), 1985)

8.70.020 Riot, Failure to Disperse and Obstruction

The following statutes of the State of Washington are adopted by reference:

RCW 9A.84.010 (1)(2)(b) Riot.
RCW 9A.84.020 Failure to disperse.
RCW 9.27.015 Interference, obstruction of any court, building or residence – Violations.

(Ord. 1363 §1 (part), 1985)

8.70.030 Privacy, Violating Right of

The following statutes of the State of Washington are adopted by reference:

RCW 9.73.010 Divulging telegram.
RCW 9.73.020 Opening sealed letter.
RCW 9.73.030 Intercepting, recording or divulging private communication – Consent required – Exceptions.
RCW 9.73.070 Intercepting, recording or divulging private communications – Persons and activities excepted.
RCW 9.73.090 Police and Fire personnel exempted from RCW 9.73.030 through 9.73.080 – Standards.
RCW 9.73.100 Recordings available to defense counsel.

(Ord. 1363 §1 (part), 1985)

8.70.040 Libel and Slander

The following statutes of the State of Washington are adopted by reference:

RCW 9.58.010 Libel, what constitutes.
RCW 9.58.020 How justified or excused – Malice, when presumed.
RCW 9.58.030 Publication defined.
RCW 9.58.040 Liability of editors and others.
RCW 9.58.050 Report of proceedings privileged.
RCW 9.58.070 Privileged communications.
RCW 9.58.080 Furnishing libelous information.
RCW 9.58.090 Threatening to publish libel.
RCW 9.58.100 Slander of financial institution.
RCW 9.58.120 Testimony necessary to convict.

(Ord. 1363 §1 (part), 1985)

8.70.050 Malicious Prosecution – Abuse of Process

The following statutes of the State of Washington are adopted by reference:

RCW 9.62.010 Malicious prosecution.
RCW 9.62.020 Instituting suit in name of another.

(Ord. 1363 §1 (part), 1985)

CHAPTER 8.72
STREET RACING

Sections:

8.72.010 Definitions

Unless the context clearly requires otherwise, the definitions in TMC Chapter 8.72 shall apply throughout this chapter.

1. "Public place" means an area, whether publicly or privately owned, generally open to the public and includes, without limitation, the doorways and entrances to buildings or dwellings and the grounds enclosing them, streets, sidewalks, bridges, alleys, plazas, parks, driveways, and parking lots.

2. "SOAR" is an abbreviation for "Stay Out of Areas of Racing."

3. "Unlawful race event" means an event wherein persons willfully compare or contest relative speeds by operation of one or more motor vehicles.

(Ord. 2017 §1 (part), 2003)

8.72.020 SOAR Orders

A SOAR order prohibits persons from engaging in racing or unlawful race attendance within a "No Racing Zone," as set forth herein, between the hours of 10:00PM and 4:00AM.

(Ord. 2017 §1 (part), 2003)

8.72.030 Designated "No Racing Zones"

A. The SOAR order may apply to any of the following areas, designated herein as "No Racing Zones," between the hours of 10:00PM and 4:00AM:

1. Segale Business Park, including:
   a. Andover Park West, from Tukwila Parkway to Segale Drive C;
   b. Segale Drive A;
   c. Segale Drive B;
   d. Segale Drive C;
   e. Segale Drive D;
2. Southcenter South Business Park, including:
   a. Todd Boulevard;
   b. Olympic Avenue South;
   c. Riverside Drive;
   d. Glacier Street;
3. Andover Park East, from Tukwila Parkway to South 180th Street;
4. Corporate Drive North;
5. Corporate Drive South;
6. Midland Drive;
7. Minkler Boulevard, from Southcenter Parkway to 600 Industry Drive;
8. Strander Boulevard, from Southcenter Parkway to West Valley Highway;
9. Triland Drive;
10. Upland Drive;
11. West Marginal Place, from the 10000 block to the 11000 block; and
12. West Valley Highway, from Southcenter Boulevard to South 190th Street.

B. These "No Racing Zones" include the locations listed in TMC 8.72.030A, together with adjoining property areas (such as sidewalks, entryways, landscaped areas, and parking areas), if those adjoining areas are being used for racing or unlawful race attendance regardless of whether such property is public or private. These "No Racing Zones" shall be designated by the placement of clear and conspicuous signs at all highway entrances to the no racing zone. At a minimum, these signs must include the following statements: "No Racing Zone"; "Race Attendance Prohibited"; TMC 8.72.040.

(Ord. 2017 §1 (part), 2003)

8.72.040 Unlawful Race Attendance Prohibited

Any person who:

1. has actual or constructive knowledge that they are in a designated SOAR area between the hours of 10:00PM and 4:00AM, and
2. has actual or constructive knowledge that an unlawful race event is occurring, has occurred, or is about to occur, and
3. intends to observe or support or encourage the unlawful race event, is guilty of a misdemeanor.

(Ord. 2017 §1 (part), 2003)

8.72.050 Issuance of SOAR Orders

A. The Municipal Court may issue a SOAR order to any person charged with racing, unlawful race attendance, reckless driving associated with race activity, or trespass associated with race activity as a condition of pre-trial release, sentence, or deferred sentence.

B. A person is deemed to have notice of the SOAR order when:

1. The signature of either the person named in the order or that of his or her attorney is affixed to the bottom of the order, which signature shall signify the person named in the order has read the order and has knowledge of the contents of the order; or
2. The order recites that the person named in the order, or his or her attorney, has appeared in person before the court at the time of issuance of the order.

C. The written SOAR order shall contain the court's directives and shall bear the statement: "Violation of this order is a criminal offense under TMC 8.72.060 and will subject the violator to arrest."

(Ord. 2017 §1 (part), 2003)

8.72.060 Violation of SOAR Orders

A. In the event a police officer has probable cause to believe that a person has been issued a SOAR order as a condition of pre-trial release or a sentence imposed by the court and, in the officer's presence, the person is seen violating or failing to comply with any requirement or restriction imposed upon that person by the court as a condition of his or her pre-trial release or condition of sentence, the officer may arrest the violator without warrant for violation of the SOAR order and shall bring that person before the court that issued the order.

B. When a SOAR order is issued pursuant to this chapter and the person so named in the order has notice of the order, a violation of any of the provisions of the SOAR order is a gross misdemeanor and shall be punishable by a fine not to exceed $5,000 or imprisonment not to exceed more than one year, or both.

(Ord. 2017 §1 (part), 2003)

CHAPTER 8.80
MISCELLANEOUS CRIMES

Sections:

8.80.010 Conduct Prohibited

The following statutes of the State of Washington are adopted by reference:

RCW 9.91.010 Denial of civil rights – Terms defined.
RCW 9.91.020 Operating railroad, steamboat, vehicle, etc., while intoxicated.
RCW 9.91.025 Unlawful bus conduct.
RCW 9.91.110 Meal buyers – Records of purchases – Penalty.

(Ord. 1389 §1, 1986; Ord. 1363 §1 (part), 1985)

8.80.020 Littering, Pollution and Smoking

The following statutes of the State of Washington are adopted by reference, as presently constituted or hereinafter amended:

RCW 70.93.060 Littering prohibited – Penalties.
RCW 70.54.010 Polluting water supply – Penalty.
RCW 70.155.080 Purchasing, possessing, or obtaining tobacco by persons under the age of eighteen – Civil infraction – Courts of jurisdiction.
RCW 70.160.020 Definitions.
RCW 70.160.030 Smoking in public places except designated smoking areas prohibited.
RCW 70.160.040 Designation of smoking areas in public places – Exceptions – Restaurant smoking areas – Entire facility or area may be designated as nonsmoking.
RCW 70.160.050 Owners, lessees to post signs prohibiting or permitting smoking – Boundaries to be clearly designated.
RCW 70.160.060 Intent of chapter as applied to certain private workplaces.
RCW 70.160.070 Intentional violation of chapter – Removing, defacing, or destroying required sign – Fine – Notice of infraction – Exceptions – Violations of RCW 70.160.040 or 70.160.050 – Subsequent violations – Fine –Enforcement by fire officials.

(Ord. 1903 §1, 2000; Ord. 1363 §1 (part), 1985)

8.80.030 United States and State Flags – Related Crimes

The following statutes of the State of Washington are adopted by reference:

RCW 9.86.010 "Flag," etc., defined.
RCW 9.86.020 Improper use of flag prohibited.
RCW 9.86.030 Desecration of flag.
RCW 9.86.040 Application of provisions.

(Ord. 1363 §1 (part), 1985)

CHAPTER 8.90
CONSTRUCTION AND SEVERABILITY

Sections:

8.90.010 Construction

In adopting the foregoing State statutes by reference, only those crimes and offenses within the jurisdiction of a non-charter city are intended to be adopted, and in those sections adopted which deal with both misdemeanors and felonies, only the language applicable to misdemeanors is to be applied.

(Ord. 1363 §1 (part), 1985)

8.90.020 Severability

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

(Ord. 1363 §1 (part), 1985)

8.90.030 Amendments to State Statutes

The amendment of any State statute adopted by reference in this title shall be deemed to amend the corresponding section of this chapter, and it shall not be necessary for the City Council to take any action with respect to such amendment.

(Ord. 1677 §1, 1993)

CHAPTER 8.100

CUSTODIAL CARE STANDARDS FOR DETENTION FACILITIES

Sections:

8.100.010 Physical Plant Standards

Holding facilities shall be secure. Such facilities shall have adequate lighting, heat, ventilation, and fire detection and suppression equipment. Each holding facility cell shall be equipped with a bench, toilet, lavatory and drinking water facilities. A telephone shall be accessible.

(Ord. 1464 §1 (part), 1988)

8.100.020 Emergency Suspension Of Custodial Care Standards

Nothing in these standards shall be construed to deny the power of the Chief of Police or his designee to temporarily suspend any standard herein prescribed in the event of an emergency which threatens the safety or security of any jail, prisoners, staff or the public.

(Ord. 1464 §1 (part), 1988)

8.100.030 General Administration

There shall be written policies and procedures which shall be made available to each authorized person who is responsible for the confinement of a prisoner in the facility.

(Ord. 1464 §1 (part), 1988)

8.100.040 Training

All authorized persons responsible for the confinement of a prisoner shall receive an orientation to the policies and procedures of the facility relative to their duties. On-the-job training shall be provided as deemed appropriate by the Chief of Police or his designee.

(Ord. 1464 §1 (part), 1988)

8.100.050 Records

If formal booking occurs in the facility, the information shall be recorded on a booking form. Any medical problems experienced by a prisoner while in the facility shall be recorded and such records maintained. Information concerning medical problems shall be transmitted at the time the prisoner is transported to another jail, hospital, or other facility.

1. Prison population records shall be maintained by keeping a jail register for each holding facility.

2. Written infraction and discipline records shall be maintained for all incidents which result in major property damage or bodily harm.

(Ord. 1464 §1 (part), 1988)

8.100.060 Emergency Procedures

The emergency plan shall outline the responsibilities of department staff, evacuation procedures, and subsequent disposition of the prisoners after removal from the area or facility. All personnel should be trained in the emergency procedures.

(Ord. 1464 §1 (part), 1988)

8.100.070 Use of Force

The Chief of Police or his designee shall establish and maintain written policies and procedures regarding the use of force and the use of deadly force. Control may be achieved through advice, warnings, and persuasion, or by the use of physical force (lethal-nonlethal). While the use of physical force may be necessary in situations which cannot be otherwise controlled, force may not be resorted to unless other reasonable alternatives have been exhausted or would clearly be ineffective under the particular circumstances. Officers are permitted to use only the minimum amount of force that is reasonable and necessary to protect others or themselves from bodily harm and/or to effect an arrest. Officers are to utilize progressive discretion in the use of force, keeping in mind both ends of the spectrum, verbal communication (advice, warning, persuasion, etc.) and lethal force.

1. Lethal force shall be utilized only after all other alternative means have been expended and in concurrence with applicable use of the specific weapon used; firearm, baton, neck holds, etc. The law authorizes an officer to use lethal force when it appears necessary to protect himself or others from what could be reasonably considered as an immediate threat of great bodily harm or imminent peril of death, or to prevent the escape of a fleeing felony suspect when the officer has probable cause to believe that the suspect has committed a dangerous felony as described below:

a. Murder (any);
b. Manslaughter (first or second degree);
c. Rape or attempted rape (first or second degree);
d. Robbery (any);
e. Aggravated assault;
f. Attempted or actual bombing or arson which creates or causes a potential threat to life;
g. Burglary (perpetrator armed or has assaulted any person therein).

2. Neck holds must be considered potentially lethal as documented in the King County medical examiner's reports. Because they are potentially lethal, they may be considered as an alternative to the use of firearms when the use of firearms is permitted by law.

3. A neck hold, as discussed in this policy, is a general term for two different holds:

a. Carotid Restraint (sleeper) – The carotid restraint is a method in which the suspect is approached from behind by the officer. The officer places the interior part of his elbow under the suspect's chin against his windpipe, then brings pressure to the suspect's carotid arteries by pressure from the officer's forearm and biceps. This results in a lack of blood flow to the brain and causes the suspect to lose consciousness.

b. Arm Bar Choke Hold – The arm bar choke hold is a method of controlling the suspect by approaching him from behind and then placing the officer's forearm under the suspect's chin against his windpipe, bringing pressure against the windpipe and causing the suspect to cease resistance due to the lack of air.

4. Neck holds shall be utilized as follows:

a. Neck holds may be used in self-defense or defense of others whenever the force used or attempted to be used against an officer or another is potentially lethal or creates a substantial risk of serious bodily harm.

b. Neck holds will not be used by officers for routine control of a person already in custody.

c. Whenever an officer uses a neck hold, he will notify his on-duty supervisor who will direct that the person on whom the hold was applied be examined by medical personnel.

5. Nonlethal force shall be used as the preferred means in the progression of force used to effect an arrest and to protect one's safety and/or the safety of another.

6. Whenever an officer must employ an amount of force capable of causing injury in the course of effecting an arrest, overcoming resistance, or controlling a dangerous situation, the officer will promptly submit a written report on the incident. This same requirement applies if an incident in which force was used results in actual injury.

(Ord. 1464 §1 (part), 1988)

8.100.080 Admissions

No prisoner shall be confined without proper legal authority.

1. Each prisoner, within a reasonable period of time after completion of booking, shall be advised of his right to, and be allowed to complete, at least two local or collect calls to persons of his choice who may be able to come to his assistance. If the prisoner chooses not to place the calls allowed, this information shall be noted on the booking form; provided, that appropriate protection of access to an attorney shall be maintained for prisoners without funds.

2. Reasonable provisions for communication with non-English speaking, handicapped and illiterate prisoners shall be provided.

3. The booking process shall be completed promptly unless extenuating circumstances necessitate delay.

4. Arrival at the holding facility shall progress as follows:

a. All persons arrested and taken to be processed at the Tukwila Police Department will enter the facility through the sally port area.

b. Officers will park their vehicles as far forward and to one side of the sally area as possible (to allow for other vehicles to pass)

c. Weapons are prohibited in the holding area. They are to be secured in the gun locker or the vehicle trunk prior to removing the prisoner from the vehicle.

5. Registration shall be as follows:

a. All persons who are brought into the booking area in the custody of the Tukwila Police And/or outside agencies will be registered.

b. Officers, upon entering the booking room with prisoner(s), are required to advise the clerk on duty of the subject's name. The clerk on duty will note the "Date In" and "Time In" immediately upon the entry of a prisoner into the booking area, along with other information as it is received.

c. All prisoners will be classified by the shift supervisor or his designee based minimally on, but not limited to, the following criteria:

(1) Age;
(2) Sex;
(3) Prior criminal record;
(4) Dependency problems, mental illness, suicidal tendencies, or drug or alcohol abuse.

d. Officers will be required to advise the clerk upon taking a prisoner from the booking area, so that the appropriate entry in the booking arrest log under "Date In" and "Time In" can be made. The clerk must also be informed of the disposition of the prisoner, i.e., to Renton jail, personal recognizance, posted bail, turned over to the FBI, etc.

6. Search/Examination Guidelines – The Chief of Police or his designee shall establish and maintain written policies and procedures regarding pat searches, strip searches, and body cavity searches, which shall be consistent with this section.

7. Frisks shall be conducted as follows:

a. All persons arrested for a gross misdemeanor or a more serious offense should be frisked at the scene of the arrest.

b. Whenever possible, frisks should be conducted by persons of the same sex as the arrested person.

c. Nothing in this section is intended to preclude officers from conducting frisks that are authorized/consistent with officer safety and current law.

8. Strip searches shall be conducted as follows:

a. No strip search shall be conducted except pursuant to the written policies and procedures required by this section.

b. No strip search shall be conducted prior to the prisoner's first court appearance unless there is reasonable suspicion that the person has on his or her person evidence of a crime, contraband, fruits of the crime, things otherwise criminally possessed, a weapon, or other things by means of which a crime has been or reasonably appears about to be committed.

c. Reasonable suspicion shall be deemed to be present when a prisoner has been arrested for:

(1) A violent offense as defined in RCW 9.94A.030(17) or any successor statute;

(2) An offense involving escape, burglary, or use of a deadly weapon;

(3) An offense involving possession of a drug or controlled substance under RCW Chapter 69.50 or any successor statute.

d. No strip search shall be authorized or conducted in these cases unless a thorough pat-down search (frisk), a thorough electronic metal-detector search, and a thorough clothing search, where appropriate, do not satisfy the safety, security or evidentiary concerns of the jail.

e. A written record or records of any strip search shall be maintained in the individual file of each person strip searched, which record(s) shall contain the following information:

(1) The name and serial number of the officer conducting the strip search and all others present or observing any part of the strip search;

(2) The time, date and place of the strip search;

(3) Any weapons, criminal evidence, other contraband or health conditions discovered as a result of the strip search.

f. Except where reasonable suspicion is deemed present because of the nature of the arrest offense, this report or these reports shall also contain:

(1) The name of the supervisor authorizing the strip search;

(2) The specific facts constituting reasonable suspicion to believe that the strip search was necessary.

9. Body cavity searches shall be conducted as follows:

a. No body cavity search shall be conducted except pursuant to a valid search warrant. No search warrant for a body cavity search shall be sought without prior authorization of the ranking shift supervisor, pursuant to the written policies and procedures required by the definition of search in this section. Before any body cavity search is authorized or conducted, a thorough pat-down search, a thorough electronic metal-detector search and a thorough clothing search, where appropriate, must be used to search for and seize any evidence of a crime, contraband, fruits of a crime, things by means of which a crime has been committed or reasonably appears about to be committed. No body cavity search shall be authorized or conducted unless these other methods do not satisfy the safety, security, or evidentiary concerns of the law enforcement agency.

b. The following additional provisions shall apply to body cavity searches:

(1) A body cavity search shall be conducted under sanitary conditions and conducted by a physician, registered nurse, or registered physician's assistant, licensed to practice in this state, who is trained in the proper medical process and the potential health problems associated with a body cavity search.

(2) When a body cavity search is conducted by a licensed medical professional of the opposite sex, an observer of the same sex as the prisoner shall be present.

(3) Nothing in this section prohibits a person upon whom a body cavity search is to be performed from having a readily available person of his or her own choosing present at the time the search is conducted. However, the person chosen shall not be a person held in custody by a law enforcement agency.

c. The officer requesting the body cavity search shall prepare and sign a report, which shall include:

(1) A copy of the warrant and any supporting documents required;

(2) The name and sex of all persons conducting or observing the search;

(3) The time, date, place, and description of the search;

(4) A statement of the results of the search and list of any items removed from the person as a result of the search.

d. All physical markings and health tags identification should be recorded and made available to the appropriate jail employees and medical professionals responsible for care of the prisoner.

10. The following provisions shall apply to all strip searches and body cavity searches:

a. Strip searches and body cavity searches shall be conducted in a professional manner which protects the prisoner's dignity to the extent possible.

b. A strip search or body cavity search, as well as pre-search undressing or post-search dressing shall occur at a location made private from the observation of persons not physically conducting the search. A strip search or body cavity search shall be performed or observed only by persons of the same sex as the person being searched, except for licensed medical professionals when necessary to assure the safety of the prisoner or any person conducting the search.

c. No person may be present or observe during a strip search or body cavity search unless the person is necessary to conduct the search or to ensure the safety of those persons conducting the search.

d. When a strip search or body cavity search of a prisoner is conducted, it should include a thorough visual check for birthmarks, wounds, sores, cuts, bruises, scars and injuries, health tags, and body vermin. Less complete searches should include the same checks to the extent possible.

e. Persons conducting a strip search or body cavity search shall not touch the person being searched except as reasonably necessary to effectuate the search of the person.

11. Immediately upon entering the booking area all prisoners will be thoroughly searched and all property will be taken from them and placed into a property box. During the booking process, an inventory will be made of that property, and the property box number will be noted on the booking form.

12. Prisoners suspected of having a communicable disease detrimental to the health of the other prisoners shall be segregated.

13. At the time of booking, if the prisoner's personal property is taken from him, the booking officer shall record and store such items.

(Ord. 1464 §1 (part), 1988)

8.100.090 Classification and Segregation

A. If the following prisoner separations cannot be accomplished during their detention in the holding facility, arrangements shall be made to expedite booking and transfer the prisoner(s) to the King County jail or the Renton jail for segregation and supervision.

1. Sex – Male and female prisoners will not be confined in the same cell or other area where they are within visual or physical contact, except under continual supervision of an officer.

2. Age – Juveniles will not be confined to any area within sight or sound of adult prisoners.

a. For purposes of this procedure, a juvenile is a person under the chronological age of 18 who has not been remanded to superior court jurisdiction.

b. Under no circumstance will prisoners under the chronological age of 18 be confined in the holding cell at the same time it is occupied by adult prisoners.

3. Prisoners who are a danger to their own health and safety and/or to the health and safety of other prisoners and Tukwila Police Department employees shall be closely supervised, booked expeditiously, and transported to the King County jail or other appropriate facility. Prisoners with special problems will not be confined with other prisoners.

B. No prisoner will be held in the Tukwila Police Department holding facility for more than six hours after the completion of the booking process. All deviations from this procedure will require a three-part memo from the shift supervisor to the Chief of Police via the chain of command. If the prisoner is to be held to the maximum time, the arresting officer will check, or will have a designee check the prisoner every hour on the hour, until the prisoner is released.

C. Prisoners outside the booking area shall be handled as follows:

1. Persons arrested subsequent to coming to the Police Department will be handled in the confines of the holding area unless there are substantial reasons why the task can be more appropriately accomplished in the office area. If a prisoner is outside the holding area, he/she will be constantly under the supervision of either sworn personnel or a civilian employee (if appropriate).

2. No arrested person will be allowed into the office area until a thorough search for weapons has been conducted.

3. Prisoners being transported to the Tukwila Municipal Court from holding cells and returning shall be taken through the sally port and up the back stairs.

4. Prisoners being released on bail shall be released through the sally port after bail has been posted.

D. In the event of a holding cell emergency, the arresting officer will have primary responsibility for the prisoner's safety. Since the special services division of the Police Department has been equipped in such a manner as to have the ability of visual and/or audio monitoring of the secure garage, booking room, and cell areas, they will assist in maintaining the safety of all arresting officers and arrested persons following the prescribed procedure stated herein.

E. Escape procedures as are follows:

1. If an escape occurs it shall be the responsibility of the clerk on duty to initiate action. When the clerk is first alerted to the fact that an escape is in progress, the clerk will:

a. Immediately notify any and all Police personnel within the confines of the Tukwila Police Department that an escape is in progress. This notification will be accomplished by using the emergency-call button on the intercom system;

b. Notify Valley Communications that all Police personnel that are performing routine patrol duties are needed at the station because an escape is in progress. This notification will be made by using the red direct line telephone provided;

c. Continue to monitor all security equipment, audio and visual, and keep all personnel advised of the movements and acts being committed by the escapee(s);

d. Assure that the door to the communications room is securely closed and locked;

e. Under no circumstances open any electronically-operated doors under their control unless directed to do so by the highest ranking supervisor on duty.

2. When the supervisor on duty is first alerted to the fact that an escape is in progress, the supervisor will:

a. Acquire all pertinent information from the clerk and shall direct the response and deployment of all responding and available Police personnel;

b. Direct the method of operation to be used to assure the fastest and safest apprehension of the escapee(s);

c. Ensure that all Police personnel involved are made aware of the exact charges the escapee(s) are being held on;

d. Ensure that all surrounding police jurisdictions are furnished with any and all pertinent information to apprehend the escapee, should the escapee be successful in gaining freedom from the building and go undetected in perimeter searches of the immediate area. This will be accomplished by providing Valley Communications with the information via land line, if possible;

e. Ensure that the Chief of Police is advised of the situation at the earliest possible convenience;

f. Ensure that complete written reports are prepared on the escape and forwarded to the Chief of Police.

F. When it comes to the attention of any member or employee of this Department that an assault is about to occur, or is occurring, it shall be the responsibility of that person to initiate the appropriate action to prevent such assault from commencing or continuing and immediately notify the supervisor on duty. If an assault has already occurred, the member or employee of the Department discovering such assault shall take the appropriate action to initiate a complete investigation of the matter. If it becomes apparent through the course of investigation that criminal charges can be filed against one or more of the individuals involved in the assault, then the investigator will seek to file such charges.

G. When it comes to the attention of any member of this Department that a prisoner has received an injury, the supervisor and clerk on duty will immediately be notified. The clerk will then immediately summon aid personnel through Valley Communications. The supervisor will evaluate the situation and if required will assure the prisoner is transported to the nearest available hospital for doctor's care. The supervisor will also conduct a complete investigation into the matter of how the prisoner was injured and will reduce the facts obtained to written form and submit the report to the Chief of Police by the start of the following work day. If the prisoner has received a serious injury, the Chief shall be notified immediately.

H. When it comes to the attention of any member of this Department that a prisoner may have committed suicide, he or she shall immediately notify the supervisor on duty and personnel of the Tukwila Fire Department. The employee will not take any other action on this emergency other than checking the prisoner to ascertain whether he may still be alive. In checking the prisoner, the employee shall exercise extreme caution so as not to disturb any evidence at the scene. The supervisor receiving notification of a suicide will immediately notify the Chief of Police, and the Chief of Police will direct the further course of action to be taken. In the case of an attempted suicide, the procedures listed in TMC 8.100.090G will be followed.

I. When it comes to the attention of any member of this Department that a fire has started within the confines of the Police Department, they shall immediately notify the clerk and supervisor on duty. The clerk shall immediately notify Valley Communications personnel to dispatch fire personnel to this location. In the event a prisoner is being housed in the holding facility at the time the fire occurs, it shall be the responsibility of the supervisor and/or clerk or other personnel within the building to immediately take the prisoner from his cell and remove him from the building. In the event the fire has disabled the electrically operated doors within the booking and holding facility, the person who is removing the prisoner will get the keys from the clerk or supervisor which manually unlock these doors. The prisoner's safety is paramount to his incarceration.

J. Response to crimes involving juveniles will not differ from that for adult crimes. Officers may use any reasonable means to protect themselves when a juvenile is a threat to personal or public safety.

K. Officers will take necessary action to protect the welfare of status offenders (runaways, neglected or dependent juveniles) in accordance with appropriate laws and procedures. Referrals to parents or social service agencies will be made as appropriate.

L. When juvenile criminal offenders are taken into custody, they will be treated in the same manner as adults with the following exceptions:

1. Segregation will be maintained from adult offenders as outlined in TMC 8.100.090A.2.

2. Juveniles will not be cited (other than traffic). Completed reports will be filed with the King County juvenile court.

3. Juveniles will be released to a parent or responsible adult unless they are a danger to themselves or others.

4. The King County youth service center will be the place of confinement for those offenders who must be detained.

5. Only those juveniles arrested for a felony or gross misdemeanor are to be photographed and fingerprinted as part of the processing incident to arrest.

(Ord. 1464 §1 (part), 1988)

8.100.100 Release and Transfer

The releasing officer shall determine prisoner identity and ascertain that there is legal authority for the release. Information required on the release forms shall be recorded for each prisoner released from the facility. All prisoners being released shall sign a receipt for personal property returned.

(Ord. 1464 §1 (part), 1988)

8.100.110 Staffing and Surveillance

There shall be continual sight and/or sound surveillance of all prisoners. Such surveillance may be by remote means, provided there is the ability of staff to respond face-to-face to any prisoner within a reasonable time.

(Ord. 1464 §1(part), 1988)

8.100.120 Supervision and Surveillance – Security Devices

Security devices shall be maintained in proper working condition at all times.

(Ord. 1464 §1 (part), 1988)

8.100.130 Critical Articles

All holding facilities shall establish written procedures to insure that weapons shall be inaccessible to prisoners at all times.

1. Weapons are prohibited in the holding area. They are to be secured in the gun locker or the vehicle trunk prior to removing the prisoner from the vehicle.
2. There shall be two sets of keys for the holding area:
   a. One set will be in the key control cabinet in the clerical division. This will be the regularly used set of keys;
   b. One set will be under the control of the detective sergeant.

(Ord. 1464 §1 (part), 1988)

8.100.140 Rules of Conduct

Prisoners shall be informed of facility rules and regulations, if they are established.

(Ord. 1464 §1 (part), 1988)

8.100.150 Written Procedures for Medical Services

Medical services shall be provided only by licensed or certified health care providers.

(Ord. 1464 §1 (part), 1988)

8.100.160 Access to Health Care

Prisoner complaints of injury or illness, or staff observations of such shall be acted upon by staff as soon as reasonably possible. Prisoners shall be provided with medical diagnosis or treatment as necessary.

1. Standard first-aid kits shall be conveniently available to all jails.
2. A record of the date, time, place and name of the health care provider shall be retained on file at the jail if any health care services are provided to prisoners.

(Ord. 1464 §1 (part), 1988)

8.100.170 Access to Facilities

Each prisoner shall have access to toilet, sink, drinking water, and adequate heat and ventilation.

1. Prisoners shall be issued a clean blanket, when appropriate. The blanket shall be washed at frequent intervals to maintain a clean condition, and always before reissue.
2. All jails shall be kept in a clean and sanitary condition, free from any accumulation of dirt, filth, rubbish, garbage, and other matter detrimental to health.
3. The Chief of Police shall establish and post rules which specify regular telephone usage times and the maximum length of calls (not to be less than five minutes).

Long distance calls shall be at the prisoner's expense or collect; provided, that appropriate protection of access to an attorney shall be maintained for prisoners without funds.

4. The Chief of Police or his designee should allow confidential visits from business, educational and law enforcement professionals.

(Ord. 1464 §1 (part), 1988)

8.100.180 Meals

Jail meals shall be nutritious and provide for appropriate caloric intake.

(Ord. 1464 §1 (part), 1988)

TITLE 9
VEHICLES AND TRAFFIC

Chapters:

Figures (located at back of this section)

CHAPTER 9.04
DEFINITIONS

Sections:

9.04.010 Definitions – Adoption by reference

The following definitional provisions of the Washington Model Traffic Ordinance, and all future amendments thereto, are adopted by reference:

RCW	46.90.100	46.90.103	46.90.106
	46.90.109	46.90.112	46.90.118
	46.90.121	46.90.124	46.90.127
	46.90.130	46.90.133	46.90.136
	46.90.142	46.90.145	46.90.148
	46.90.151	46.90.154	46.90.166
	46.90.169	46.90.172	46.90.178
	46.90.181	46.90.184	46.90.187
	46.90.190.		

(Ord. 1370 §1 (part), 1985)

9.04.020 Definition of vehicle

"Vehicle" includes every device designed to travel upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway and shall include, but not be limited to, automobiles, buses, motor-bikes, motor scooters, trucks, tractors, go-carts, golf carts, campers and trailers.

(Ord. 1502 §1, 1989)

CHAPTER 9.08

ENFORCEMENT–ADMINISTRATION

Sections:

9.08.010 Adoption by reference

The following statues relating to enforcement of motor vehicle laws, and all future amendments thereto, are adopted by reference:

RCW	46.30.020	46.30.040	46.64.010
	46.64.015	46.64.020	46.64.025
	46.64.030	46.64.040	46.64.048
	46.64.050	46.64.010	46.90.200
	46.90.205	46.90.210	46.90.215
	46.90.220	46.90.230	46.90.235
	46.90.240	46.90.245	46.90.255
	46.90.260	46.90.265	46.90.270
	46.90.275	46.90.335	46.90.340
	46.90.345	46.90.375	46.90.400
	46.90.403	46.90.640	46.90.650
	46.90.660	46.90.700	46.90.705
	46.61.688		

(Ord. 1570 §1, 1990; Ord. 1419 §1, 1987; Ord. 1370 §1 (part), 1985)

CHAPTER 9.12

MODEL TRAFFIC ORDINANCE - ADOPTION BY REFERENCE

Sections:

9.12.010 Model traffic ordinance – adoption by reference

The "Washington Model Traffic Ordinance," WAC chapters 308-330, is hereby adopted by reference as the traffic ordinance of the City of Tukwila as if set forth in full. Also adopted by reference are Sections 4, 5, 6, 7, 10, 11, 12 and 23 of Chapter 275, Laws of 1994 and RCW 46.20.730 as amended by Section 23 of Chapter 275, Laws of 1994.

(Ord. 1709 §1, 1994)

9.12.020 Sections not adopted

The following sections of the MTO are not adopted by reference and are expressly deleted:

WAC 308-330-250	Police Department to administer bicycle licenses.
WAC 308-330-255	Police Department to regulate parking meters.
WAC 308-330-275	Traffic Safety Commission-powers and duties.
WAC 308-330-500	Bicycle license required.
WAC 308-330-505	Bicycle license application.
WAC 308-330-510	Issuance of bicycle license.
WAC 308-330-515	Attachment of bicycle license plate or decal.
WAC 308-330-520	Inspection of bicycles.
WAC 308-330-525	Renewal of bicycle licenses.
WAC 308-330-530	Bicycle transfer of ownership.
WAC 308-330-535	Bicycle rental agencies.
WAC 308-330-540	Bicycle dealers.
WAC 308-330-560	Bicycle penalties.
WAC 308-330-600	Parking meter spaces.
WAC 308-330-610	Parking meters – Deposit of coins and time limits.
WAC 308-330-620	Parking meters – Use of slugs prohibited.
WAC 308-330-630	Tampering with parking meter.
WAC 308-330-640	Parking meters – Rule of evidence.
WAC 308-330-650	Parking meters – Application of proceeds.
WAC 308-330-660	Service parking.

(Ord. 1709 §2, 1985)

CHAPTER 9.16

LOCAL SPEED LIMITS - ONE-WAY STREETS

Sections:

9.16.010 Forty mph on portion of West Valley Highway

A 40-mile-per-hour speed limit zone is established on the West Valley Highway in the general vicinity of Renton/Tukwila city limits, and then in a generally northerly direction for approximately eight-tenths of a mile, and then in a generally southerly direction to the intersection of West Valley Highway and South 180th Street.

(Ord. 1583 §1, 1990)

9.16.020 Secondary State Highway No. 181

A. A 50 mile-per-hour speed limit is established on Secondary State Highway No. 181 from the south limits of the City of Tukwila, which is State Highway Milepost No. 9.24, north to South 180th Street, which is State Highway Milepost No. 9.74.

B. A 50-mile-per-hour speed limit is established on Secondary State Highway No. 181 from the City limits of Tukwila at a point .24 miles south of the Chicago, Milwaukee, St. Paul and Pacific Railroad crossing which is State Highway Milepost No. 10.29, to a point .15 mile north of the Chicago, Milwaukee, St. Paul and Pacific Railroad crossing, which is State Highway Milepost No. 10.68.

C. A 40-mile-per-hour speed limit is established on Secondary State Highway No. 181 from State Highway Milepost No. 10.68 to State Highway Milepost No. 11.45.

(Ord. 1395 §1, 1986; Ord. 1370 §1 (part), 1985)

9.16.030 South 132nd Street

South 132nd Street shall be a one-way street, traffic moving from 48th South to South 133rd Street.

(Ord. 1370 §1 (part), 1985)

9.16.040 Maule Avenue

Maule Avenue shall be a one-way street, traffic moving from South 147th to South 143 Place.

(Ord. 1370 §1 (part), 1985)

9.16.050 Interurban Avenue

A 35-mile-per-hour speed limit is established on Interurban Avenue from State Highway Milepost No. 11.45 to the north City limits.

(Ord. 1395 §2, 1986)

9.16.060 South 124th Street, 42nd Avenue South, and 50th Place South

A 25 MPH speed limit is established on certain collector arterials as follows:

1. South 124th Street from 42nd Avenue South to 50th Place South.
2. 42nd Avenue South from Interurban Avenue to South 115th Street; except that Type 1, Type 2, and Type 3 trucks, as defined by the American Association of State Highway Officials (AASHTO), shall be restricted to a maximum speed of 15 MPH.
3. 50th Place South from South 124th Street to the east City Limit.

(Ord. 2566 §2, 2018)

9.16.070 Thirty-five mph on portion of Tukwila International Boulevard

A 35 mile per hour speed limit zone is established for both directions of traffic on Tukwila International Boulevard between So. 139th Street and So. 152nd Street.

(Ord. 2380 §1, 2012; Ord. 1875 §1, 1999; Ord. 1866 §1, 1999)

CHAPTER 9.18
FUNCTIONAL ARTERIAL SYSTEM

Sections:

9.18.010 Designation of principal arterials

A. The primary function of principal arterials is to expedite through traffic between communities and traffic generated by major shopping centers, and serve travel between freeways and lesser classified arterials. Principal arterials are 50 or more feet wide with 80 or more feet of right-of-way. Principal arterial speed limits are normally set between 35 and 50 miles per hour. Principal arterial traffic volumes generally range between 10,000 and 50,000 per weekday.

B. The following streets will be classified as principal arterials:

1. Pacific Highway South between Boeing Access Road and south City limit;
2. East Marginal Way between Boeing Access Road and north City limit;
3. Boeing Access Road between East Marginal Way and Empire Way;
4. Empire Way South between I-5 and north City limit;
5. Interurban Ave. S. between I-5 and I-405;
6. West Valley Road between I-405 and south City limit;
7. Southcenter Boulevard and Grady Way between I-5 and east City limit;
8. 16th Avenue between the north and south City limit.

(Ord. 1616 §2, 1991)

9.18.020 Designation of minor arterials

A. The primary function of minor arterials is to serve intercommunity traffic traveling between neighborhoods, traveling between principal and collector arterials. Minor arterials serve smaller geographic areas than principal arterials. Minor arterial speed limits are usually 30 or 35 miles per hour. Traffic generators served by minor arterials include high schools, junior high schools, hospitals, community business centers, neighborhood shopping centers and athletic fields. Minor arterial traffic volumes range from 1,500 to 15,000 per weekday. Minor arterials are normally 44 feet wide with at least 60 feet of right-of-way.

B. The following streets will be classified as minor arterials:

1. Airport Way S. between Boeing Access Road and north City limit;
2. East Marginal Way S. and S. 133rd St. between Boeing Access Road and Interurban Ave S.;
3. Interurban Ave So. Between East Marginal Way S. and I-5;
4. S. 154th St. between I-5 and Pacific Highway S.;
5. Klickitat between SR 518 and Southcenter Parkway;
6. Southcenter Parkway and 57th Ave. S. between Tukwila Parkway and south City limit;
7. Tukwila Parkway between Southcenter Parkway and Southcenter Boulevard;
8. Strander Boulevard between Southcenter Parkway and West Valley Road;
9. Andover Park East between Tukwila Parkway and S. 180th St.;
10. Andover Park West between Tukwila Parkway and S. 180th St.;
11. S. 180th St. and S. 178th St. between West Valley Road and west City limit.

(Ord. 1616 §3, 1991)

9.18.030 Designation of collector arterials

A. The primary function of collector arterials is to serve traffic traveling between access streets and higher classification arterials and primarily serve local traffic of a neighborhood or commercial/industrial area. Collector arterials serve some through traffic and traffic within a local area, and provide access to abutting land with essentially unrestricted numbers of access points. Collector arterial generators include elementary schools, churches, clinics and small apartment areas. Collector arterial traffic volumes are generally less than 10,000 per day. Collector arterials are normally 36 to 40 feet wide with 60 feet of right-of-way. Collector arterials may have bus routes.

B. The following streets will be classified as collector arterials:

1. S. Norfolk St. between East Marginal Way and east City limit;
2. S. 112th St. between Pacific Highway S. and East Marginal Way S.;
3. S. 115th St. and 42nd Ave. S. between East Marginal Way and Interurban Ave. S.;
4. S. 124th St. and 50th Place S. between 42nd Ave. S. and east City limit;
5. Macadam Road S. between Interurban Ave. S. and S. 144th St.;
6. S. 144th St. between 58th Ave. S. and west City limit;

7. 65th Ave. S./S. 147th St./58th Ave. S. between Southcenter Boulevard and Interurban;

8. Macadam Road/53rd Ave. S./52nd Ave. S. between Southcenter Boulevard and Interurban;

9. S. 130th St. between Macadam Road S. and Pacific Highway;

10. 40th Ave. S. and 42nd Ave. S. between East Marginal Way and south City limit;

11. S. 160th St. and 53rd Ave. S. between Military Road and Klickitat;

12. S. 164th St. between Military Road and 51st Ave. S.;

13. 51st Ave. S. between S. 160th St. and south City limit;

14. Minkler Boulevard between Andover Park West and Andover Park East.

(Ord. 1616 §4, 1991)

9.18.040 Designation of conceptual arterials (future construction)

The following streets will be classified as conceptual arterials:

1. Minkler Boulevard between Andover Park East and Southcenter Parkway;

2. S. 168th St. between Southcenter Parkway and Andover Park West;

3. Tukwila Parkway extended between Andover Park East and east City limit;

4. Strander Boulevard extended between West Valley Road and east City limit;

5. S. Norfolk St. extended between East Marginal Way and SR 99;

6. Gateway Boulevard between Interurban Ave. S. and 50th Place So.

(Ord. 1616 §5, 1991)

CHAPTER 9.20

PARKING REGULATIONS

Sections:

9.20.010 Definitions

As used in this chapter, the following terms shall have the meanings set forth in this section, unless a different meaning is clearly indicated by the context in which the term is used. Terms not defined herein shall be interpreted using the meaning they have in common usage and to give this chapter its most reasonable application.

1. *"Class 1 Vehicle"* means vehicles with a gross vehicle weight rating of 6,000 pounds or less as indicated in official state records. See Figure 9-2.

2. *"Class 2 Vehicle"* means vehicles with a gross vehicle weight rating of 6,001 pounds to 10,000 pounds as indicated in official state records. See Figure 9-2.

3. *"Class 3 Vehicle"* means vehicles with a gross vehicle weight rating of 10,001 pounds to 14,000 pounds as indicated in official state records. See Figure 9-2.

4. *"Class 4 Vehicle"* means vehicles with a gross vehicle weight rating of 14,001 pounds to 16,000 pounds as indicated in official state records. See Figure 9-2.

5. *"Class 5 Vehicle"* means vehicles with a gross vehicle weight rating of 16,001 pounds to 19,500 pounds as indicated in official state records. See Figure 9-2.

6. *"Class 6 Vehicle"* means vehicles with a gross vehicle weight rating of 19,501 pounds to 26,000 pounds as indicated in official state records. See Figure 9-2.

7. *"Class 7 Vehicle"* means vehicles with a gross vehicle weight rating of 26,001 pounds to 33,000 pounds as indicated in official state records. See Figure 9-2.

8. *"Class 8 Vehicle"* means vehicles with a gross vehicle weight rating of 33,001 pounds or more as indicated in official state records. See Figure 9-2.

9. *"Pick-up Truck"* means a motor vehicle designed, used or maintained for carrying, pulling or transporting property, typically with an enclosed cab and an open bed and low sides and a tailgate, and may be used with or without a canopy covering the bed.

10. *"Recreational Vehicle"* means travel trailer, motorhome, fifth-wheel trailer, or similar vehicles used for temporary accommodations while traveling. "Recreational vehicles" also includes boats, personal watercraft, snowmobiles and the like.

11. *"Trailer"* means every vehicle without motive power designed for being drawn by or used in conjunction with a motor vehicle, constructed so that no appreciable part of its weight rests upon or is carried by such motor vehicle, whether attached or unattached to a motor vehicle, including, but not limited to semitrailers and pole trailers. "Small trailer" is defined as any trailer with a gross vehicle weight rating of less than 16,000 pounds as indicated in official state records.

(Ord. 2494 §5, 2016)

9.20.020 Alley – Driveway entrance

No person shall park a vehicle within a City alley in such a manner or under such conditions as to leave available 10 feet of the roadway for the free movement of vehicular and emergency traffic, and no person shall stop, stand, or park a vehicle within a City alley in such a position as to block the driveway entrance to any abutting property.

(Ord. 2704 §1, 2023; Ord. 2494 §6, 2016)

9.20.030 Parking on municipal property

A. **Generally.** No person shall stop, stand or park a vehicle in any garage, City of Tukwila park, parking area, or other property operated by the City, where signs prohibit or restrict such stopping, standing or parking without lawful authority or permission.

B. **Municipal Parks and Trails.** No person shall stand, stop or park a vehicle in any municipal park or trail areas except in areas designated for such purposes. No person shall stand, stop or park any vehicle in a parking stall designated for a municipal park or trail area for a period of time exceeding the maximum amount of time permitted as posted or, if a time limit is not posted, for a period of time exceeding 6 hours, without lawful permission or authority.

(Ord. 2704 §2, 2023; Ord. 2494 §7, 2016)

9.20.040 Parking for maintenance purposes prohibited

No person shall park a vehicle upon any roadway for the principal purpose of maintenance or repairing such vehicle except for repairs necessitated by emergency.

(Ord. 2494 §8, 2016)

9.20.050 Parking over time limits on City streets and highways prohibited

A. **Generally.** No person shall stop, park, leave standing, or store any vehicle, whether attended or unattended, on any street or highway within the City for more than 72 hours.

B. **Restricted Parking.** Any street with a sign denoting limited hours for parking shall be restricted for general street parking. The street or area shall be marked by a sign clearly indicating limited hours for parking.

(Ord. 2704 §3, 2023; Ord. 2494 §9, 2016)

9.20.060 General parking regulations

A. Except where necessary to avoid conflict with other traffic, or in compliance with the law or the directions of a law enforcement officer, no person shall stop, stand, or park a vehicle:

1. In front of a public or private driveway or within 5 feet of the end of the radius leading thereto.

2. In a place that restricts vehicular access to mailboxes.

3. In any place where official signs prohibit parking.

4. In such a manner or under such conditions as to leave available less than 10 feet of the width of the roadway for free movement of vehicular and emergency traffic.

5. When signs are displayed giving notice thereof, on one or both sides of a street where parking is prohibited.

6. On cul-de-sacs when such action reduces the radius of the cul-de-sac to less than 35 feet.

7. Wrong way parking: To facilitate the safe flow of traffic entering a lane of travel, vehicles parked along the curb or on a City right-of-way must be parked facing the direction of vehicle travel for that lane of travel.

B. Any vehicle stopped, parked, stored, or left unattended on any street, alley or highway within the City without a valid and current registration record (a license plate issued by any of the United States), and with the expiration of said registration confirmed through checking the license plate attached to the vehicle, or the VIN number of the vehicle, through the applicable State Department of Licensing, shall be subject to immediate issuance of a notice of infraction without regard to the length of time the vehicle has been stopped, parked, stored, or left unattended.

C. It is unlawful for any person to alter or remove a mark placed upon a vehicle by a law enforcement officer to monitor and enforce the parking time limits in this chapter when the alteration or removal is intended to extend the period of parking time authorized.

D. Re-parking the vehicle in the same block to avoid a time limit regulation is a violation of this chapter.

(Ord. 2704 §4, 2023;Ord. 2494 §10, 2016)

9.20.070 Parking large vehicles, trailers and recreational vehicles on City streets

A. **Application.** This section shall apply to any vehicle Class 5 or greater, trailers and recreational vehicles.

B. Except as provided for in this section, no person shall park any vehicle Class 5 or greater, trailer or recreational vehicle on any street, alley or public right-of-way in the City.

C. **Exceptions.** The parking prohibitions outlined in this section do not apply to the following:

1. Stopping or parking while in the process of actively loading or unloading provided that vision and traffic flow are not obstructed.

2. Stopping or parking while actively engaged in a construction or utility project, or while actively engaged in business with a property owner or tenant in the immediate vicinity.

3. Stopping or parking school buses for a period of three hours during the days and hours when students are in school or during school-related special events, provided that vision and traffic flow are not obstructed.

4. Stopping or parking recreational vehicles and small trailers in residential areas as regulated by TMC Section 9.20.090.

5. Stopping or parking authorized emergency vehicles.

(Ord. 2494 §11, 2016)

9.20.080 Parking Class 3 and Class 4 vehicles in residential zones

A. **Application.** This section shall apply to Class 3 vehicles and Class 4 vehicles.

B. No person shall park any vehicle subject to this section on or along any street, alley or public right-of-way in a residential zoning district of the City; provided that this restriction shall not apply to pick-up trucks falling within the Class 3 vehicle rating.

C. As used in this section, a street, alley or public right-of-way in a residential zoning district of the City shall be as defined and described in TMC Chapter 18.08, including the Low Density Residential (LDR) zone, the Medium Density Residential (MDR) zone, and the High Density Residential (HDR) zone. Mixed-use zoning districts shall not constitute a residential zoning district of the City for the purposes hereof. In order for a street, alley or public right-of-way to be considered in a residential zoning district of the City, the property on both sides of the roadway shall be zoned LDR, MDR, and/or HDR.

D. **Exceptions.** The parking prohibitions outlined in this section do not apply to the following:

1. Pick-up trucks falling within the Class 3 vehicle rating.

2. Stopping or parking recreational vehicles in residential areas as regulated by TMC Section 9.20.090.

(Ord. 2494 §12, 2016)

9.20.090 Recreational vehicle and trailer parking in residential zones

A. **Application.** This section shall apply to parking recreational vehicles and small trailers on City streets in residential zones.

B. Recreational vehicles and small trailers may be parked on any City street, alley or public right-of-way in any residential zone in the City for a period of up to 24 hours.

C. Recreational vehicles may be stored or parked on private property as specified in TMC Section 18.56.065.

(Ord. 2545 §1, 2017; Ord. 2494 §13, 2016)

9.20.100 Unsafe parking

No person shall stop, park, leave standing, or store any vehicle, whether attended or unattended, on any street or highway within the City, where such vehicle obstructs visibility or sight distance in such a manner as to jeopardize public safety.

(Ord. 2494 §14, 2016)

9.20.110 Controls—enforcement

A. The Public Works Department or designee is authorized to place and maintain traffic control devices, including signs indicating parking restrictions, as deemed necessary to regulate, warn, or guide traffic under any parking or travel on roadways, highways and intersections in the City.

B. For the purpose of issuing infractions under TMC Chapter 9.20, the Chief of Police may designate other individuals, including individuals not commissioned as police officers, to enforce TMC Chapter 9.20 and to issue citations to violators as provided therein.

(Ord. 2494 §15, 2016)

9.20.120 Penalties and impound procedures

A. Violations of the provisions of TMC Chapter 9.20 are parking infractions punishable by monetary penalties as set forth in the below table, and/or impoundment pursuant to this section.

B. **Delinquent Fee Authorized.** Unpaid parking violations will incur a $25.00 late fee following 30 days from the date of violation or upon failure to comply with a time pay agreement.

Type of Parking Violation	Penalty
Unsafe parking on roadway (TMC 9.20.100)	$150
Parking on municipal property (TMC 9.20.030)	$30
Parking large vehicles, trailers and recreational vehicles on City streets (TMC 9.20.070)	1st violation: $30 2nd violation: $50 3rd or subsequent violation: $75
Parking over time limits on City streets and highways (TMC 9.20.050)	$20
Any parking violations not otherwise specified	$48

C. **Impound Authorized.** Any vehicle parked on any City right-of-way or City owned, leased or operated property in violation of TMC Chapter 9.20 is subject to citation by a law enforcement officer and/or impoundment in accordance with this chapter by the law enforcement officer or a public official having jurisdiction over the right-of-way or property upon which the vehicle is located.

D. **Immediate Impound.** Vehicles parked in violation of TMC Chapter 9.20 are subject to immediate impound under the following circumstances:

1. When the vehicle is impeding the normal flow of vehicular or pedestrian traffic;

2. When the vehicle is parked in violation of a parking restriction sign or when the vehicle is interfering, or is likely to interfere, with the intended use of the restricted parking zone; or

3. When the vehicle poses an immediate danger to public safety.

E. **Other Impound.** A vehicle not subject to immediate impoundment under TMC Section 9.20.120.C may be impounded for violating any provision of TMC Chapter 9.20. A notice of impoundment shall be securely attached to, and conspicuously displayed on, the vehicle for a period of 72 hours prior to impoundment. The notice shall include:

1. The date and time the sticker was attached.

2. The identity of the officer.

3. A statement that if the vehicle is not removed within 72 hours from the time the sticker is attached, the vehicle may be taken into custody and stored at the owner's expense.

4. A statement that if the vehicle is not redeemed as provided in RCW 46.55.120, the registered owner will have committed the traffic infraction of littering–abandoned vehicle.

5. The address and telephone number where additional information may be obtained.

F. **Post-Impoundment Redemption and Hearing.**

1. Not more than 24 hours after impounding a vehicle, the tow operator shall send by first class mail to the last known registered and legal owners of the vehicle (1) a notice containing the full particulars of the impoundment, the redemption procedure, and the opportunity for a hearing to contest the validity of the impoundment pursuant to RCW 46.55.120, and (2) forms for requesting the hearing. The tow operator also shall give the notice and forms to any person redeeming the vehicle within the 24-hour period.

2. The registered or legal owner of the vehicle may request a hearing in Tukwila Municipal Court to contest the validity of the impoundment. The request for a hearing shall be made on the form provided by the tow operator, and shall be received by the Tukwila Municipal Court within 10 days (including Saturdays, Sundays and holidays) of the date on which the notice and forms were mailed. If the request for such a hearing is not received by the Tukwila Municipal Court within the 10-day period, the right to a hearing shall be deemed waived and the registered and legal owners shall be liable for any towing, storage and other charges authorized by RCW 46.55.063.

3. The procedures for redemption of an impounded vehicle and for the hearing to contest the validity of an impoundment shall be in accordance with Chapter 46.55 RCW.

G. **Costs.** Any costs incurred in the removal and storage of an impounded vehicle shall be a lien upon the vehicle. All towing and storage charges on that impounded vehicle shall be paid by the owner or his/her agent if the vehicle is redeemed. Either a registered or legal owner may claim an impounded vehicle by payment of all charges that have accrued at the time of reclamation. If the vehicle was impounded at the direction of a law enforcement agency, the person in possession of the vehicle prior to the time of reclamation shall notify such agency of the fact that the vehicle has been claimed, and by whom.

H. **Nonexclusive Remedies.** The impounding of a vehicle shall not preclude charging the violator with any violation of the law on account of which such vehicle was impounded.

I. **Contract with registered disposer to dispose of vehicles and hulks—Compliance required.**

1. The City may contract with any tow truck operator who is engaged in removing and storing of vehicles and who is registered as a registered disposer of certain automobile hulks, abandoned junk motor vehicles and abandoned vehicles.

2. Any registered disposer under contract to the City for the removing and storing of vehicles or hulks shall comply with all applicable laws, ordinances and regulations, including Chapter 46.55 RCW and the administrative regulations relative to the handling and disposing of vehicles or hulks as may be promulgated by the Police Chief or the Director of the Washington State Department of Licensing.

(Ord. 2704 §5, 2023; Ord. 2494 §16, 2016)

CHAPTER 9.21
INTERFERING WITH TRAFFIC

Sections:

9.21.010 Purpose

The purpose of this chapter is to provide for the free flow of pedestrian and vehicular traffic on streets and sidewalks in the City, to promote tourism and business, and to preserve the quality of urban life. Interference with traffic by pedestrians within the right-of-way is unsafe and should be restricted. By this legislation, the City Council intends to promote the health, safety, and welfare of the citizens of and visitors to the City of Tukwila.

(Ord. 2419 §2, 2013)

9.21.020 Definitions

For the purposes of this chapter, the following words and phrases shall have the meaning ascribed to them in this section:

1. *"Interfere"* means to hinder, obstruct, or slow.

2. *"Right-of-way"* means, without limitation, public streets, state routes and interstate highways (including, but not limited to, on and off ramps), sidewalks, alleys, shoulders, traffic islands, and driveways.

(Ord. 2419 §3, 2013)

9.21.030 Interference with traffic prohibited

It shall be unlawful for any person, while in the right-of-way, to take any action that interferes with the lawful flow of traffic.

(Ord. 2419 §4, 2013)

9.21.040 Penalty for violation

Violations of this chapter shall be punishable as follows:

1. The first violation of this chapter shall be punishable by a civil infraction in an amount not to exceed $124.00.

2. The second violation of this chapter shall be punishable by a civil infraction in an amount not to exceed $200.00.

3. The third and all subsequent violations of this chapter shall be punishable by a civil infraction in an amount not to exceed $300.00.

(Ord. 2419 §5, 2013)

CHAPTER 9.24
BICYCLES

Sections:

9.24.010 Model ordinance - Adoption by reference

The following provisions of the Washington Model Traffic Ordinance, and all future amendments thereto, are adopted by reference:

RCW	46.90.500	46.90.540	46.90.545
	46.90.550	46.90.555	46.90.560
	46.90.565.		

(Ord. 1370 §1 (part), 1985)

CHAPTER 9.28
MISCELLANEOUS REGULATIONS

Sections:

9.28.010 Railroad trains not to block streets

It is unlawful for the directing officer or the operator of any railroad train to direct the operation of or to operate the same in such a manner as to prevent the use of any street for purposes of travel for a period of time longer than five minutes, except that this provision shall not apply to trains or cars in motion other than those engaged in switching.

(Ord. 1794 §1 (part), 1997)

9.28.030 Inattentive driving

It shall be an infraction for any person to operate a motor vehicle within the City in an inattentive manner. For the purposes of this section, *"inattentive manner"* means the operation of a motor vehicle in a manner which evidences a lack of the degree of attentiveness required to safely operate the vehicle under the prevailing conditions of the roadway, presence of other traffic, presence of pedestrians and weather conditions. The offense of operating a motor vehicle in an inattentive manner shall be considered to be a lesser offense than, but included in the offense of, operating a motor vehicle in a negligent manner.

(Ord. 1794 §1 (part), 1997)

9.28.035 Negligent operation of skateboards and other devices prohibited

It is unlawful for any person to rollerskate, rollerblade or operate a skateboard, coaster, toy vehicle or similar device in a negligent, or reckless manner on any roadway, sidewalk, publicly-owned parking lot or park. For the purpose of this section, "to operate in a negligent or reckless manner" means the rollerskating, rollerblading or operation of a skateboard, coaster, toy vehicle or similar device in such a manner as to threaten or endanger or be likely to threaten or endanger any persons or property.

(Ord. 1794 §1 (part), 1997)

9.28.037 Electric Vehicle Parking

The following regulations apply to enforcement of non-electric vehicles that park in electric vehicle charging station spaces and for electric vehicles parked out of compliance with posted days and hours of charging operation. These regulations are applicable for electric vehicle charging station spaces that are publicly accessible (e.g., on-street parking, municipal garages, park-and-ride lots, shopping centers, etc.). Signage regulations for enforcement are included in Title 18, Chapter 18.56, "Off-Street Parking and Loading Regulations."

1. Electric vehicle charging stations are reserved for parking and charging electric vehicles only.

2. Electric vehicles may be parked in any space designated for public parking subject to the restrictions that would apply to any other vehicle that would park in that space.

3. When a sign authorized under TMC Chapter 18.56 provides notice that a space is a designated electric vehicle charging station, no person shall park or stand any non-electric vehicle in a designated electric vehicle charging station space. Any non-electric vehicle is subject to fine or removal.

4. Any electric vehicle in a designated electric vehicle charging station space and not electrically charging, or parked beyond the days and hours designated on regulatory signs posted at or near the space, shall be subject to a fine and/or removal. For purposes of this subsection, "charging" means an electric vehicle is parked at an electric vehicle charging station and is connected to the charging station equipment.

5. Upon adoption by the City of Tukwila, the City Engineer shall cause appropriate signs and marking to be placed in and around electric vehicle charging station spaces, indicating prominently thereon the parking regulations. The signs shall define time limits and hours of operation, as applicable, and shall state that the parking space is reserved for charging electric vehicles and that an electric vehicle may only park in the space for charging purposes. Violators are subject to a fine and/or removal of their vehicle.

6. Violations of this section shall be punishable as infractions. Punishment shall be by a fine not to exceed the fine prescribed in accordance with TMC Section 9.28.040. Each day such violation is committed shall constitute a separate offense and shall be punishable as such. Any commissioned police officer or Tukwila Police Department volunteer authorized by the Police Chief or other designated law official in the manner and subject to the requirements of TMC Section 9.20.120 is authorized to issue electric vehicle parking infractions.

7. In addition to a fine, a vehicle left parked or standing in violation of TMC Section 9.28.037, upon a publicly accessible electric vehicle charging space that is appropriately marked and posted, is subject to being removed from the charging space by any commissioned police officer or Tukwila Police Department volunteer authorized by the Police Chief or other designated law official in the manner and subject to the requirements of TMC Section 9.20.120.

(Ord. 2494 §18, 2016; Ord. 2324 §11, 2011)

9.28.038 Avoiding an Intersection

It is unlawful for any person operating a motor vehicle on the roadways of the City, upon approaching or leaving an intersection, to proceed across any public or private property in such a way as to avoid the intersection or any traffic control device controlling the intersection, unless so directed by lawful authority.

(Ord. 2726 §2, 2023)

9.28.040 Penalty

With the exception of TMC Section 9.28.037, violation of any of the provisions of this chapter constitutes a civil infraction not to exceed $200 per day per violation. Violation of TMC Section 9.28.037 constitutes a parking infraction punishable by monetary penalties in accordance with the table set forth in TMC Section 9.20.120.A and/or impoundment.

(Ord. 2704 §6, 2023; Ord. 2494 §19, 2016; Ord. 1794 §1 (part), 1997)

CHAPTER 9.30
COMPRESSION BRAKES

Sections:

9.30.010 Compression Brakes Prohibited

A. No person shall use motor vehicle brakes, which are in any way activated or operated by the compression of the engine of any such motor vehicle or any unit or part thereof.

B. The use of compression brakes applied in an emergency stopping situation, necessary for the protection of persons and/or property, shall not be deemed a violation of this chapter.

C. Emergency vehicles are not subject to the regulations of this chapter.

(Ord. 2041 §1 (part), 2004)

9.30.020 Signposting

The Public Works Department is authorized to post and maintain appropriate signage consistent with the provisions of this chapter.

(Ord. 2041 §1 (part), 2004)

9.30.030 Violation – Penalty

Violations of TMC Chapter 9.30 are civil infractions punishable by a penalty of not more than $300.00.

(Ord. 2041 §1 (part), 2004)

CHAPTER 9.32

ABANDONED AND JUNKED MOTOR VEHICLES

Sections:

9.32.010 Definitions

For the purposes of this chapter the following words shall have the following meanings:

1. *"Abandoned vehicle"* means any vehicle or automobile hulk left within the right-of-way of any highway or on the owner of such property for a period of 24 hours or longer; provided, that a vehicle or hulk shall not be considered abandoned if it is lawfully parked for a period not exceeding 72 hours; provided further, that a vehicle or hulk shall not be considered abandoned if its owner or operator is unable to remove it from the place where it is located and so notifies law enforcement officials and requests assistance.

2. *"Abandoned junk motor vehicle"* means any motor vehicle substantially meeting the following requirements:

a. Left on private property for more than 24 hours without the permission of the person having right to the possession of the property, or on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right-of-way of any road or highway for 24 hours or longer;

b. Extensively damaged, such damage including but not limited to any of the following: a broken window or windshield, missing wheels, tires, motor or transmission;

c. Apparently inoperable;

d. Without a valid, current registration plate;

e. Having a fair market value equivalent to the scrap therein, only.

3. *"Automobile hulk"* means any portion or portions of a motor vehicle which is inoperative and cannot be made mechanically operative without additional vital parts and a substantial amount of labor.

4. *"Department"* means the Washington State Department of Licensing.

5. *"Director"* means the director of the Department of Licensing or his designee.

6. *"Police Chief"* means the Tukwila Police Chief or his designee.

(Ord. 1370 §1 (part), 1985)

9.32.020 Authority to impound vehicles on the highway

Members of the Police Department are authorized to remove and impound vehicles found on the highway, by means of towing, under any of the following circumstances:

1. When any vehicle is left unattended upon any bridge, viaduct, or causeway, or in any tunnel where such vehicle constitutes an obstruction to traffic;

2. When any vehicle upon a highway, including tunnels, bridges or approaches, is so disabled as to constitute an obstruction to traffic or when the person or persons in charge of the vehicle are incapacitated to such an extent as to be unable to provide for its custody or removal and there is no other person present who may properly act as agent for such operator in the care of his vehicle;

3. When any vehicle is left unattended upon a highway and is so parked illegally as to constitute a hazard or obstruction to the normal movement of traffic;

4. When any vehicle operating on a highway is found to be defective in equipment in such a manner that it may be considered unsafe;

5. When any vehicle is found in a tow-away zone;

6. When the operator of any vehicle is arrested and placed in custody and is not in condition to drive, and the vehicle is not in a place of safety and there is no other person present who may properly act as agent for such operator to drive the vehicle to a place of safety; and

7. When any abandoned vehicle or abandoned junk motor vehicle is found on a highway.

8. When a vehicle is parked upon an elevated sidewalk or upon a designated (by traffic paint delineation) walkway and is obstructing said sidewalk or walkway, causing any pedestrian traffic to be forced to move around it into a vehicle lane of travel.

9. When a vehicle is parked within 5 feet of a driveway and causing a line of sight of oncoming traffic obstruction for vehicles attempted to enter the roadway from that driveway.

(Ord. 2704 §7, 2023; Ord. 2494 §20, 2016; Ord. 1502 §3, 1989; Ord. 1370 §1 (part), 1985)

9.32.030 Notices to owners required

A. Prior to removal and impoundment of a vehicle, as authorized in TMC 9.32.020, an officer shall make a reasonable effort to ascertain the name and address of the owner of such vehicle and to notify said owner of the officer's intent to impound such vehicle unless the vehicle is immediately removed from its illegal location.

B. Whenever an officer removes and impounds a vehicle from a highway as authorized in TMC 9.32.020, he shall as soon as practicable give or cause notice to be given in writing to the owner of such vehicle, if any record exists of the registered or legal owner in the records of the authority last licensing such vehicle, of the fact of such removal and the reasons therefor, and of the place to which such vehicle has been removed. In the event any such vehicle is stored in a public garage, a copy of such notice shall be given to the proprietor of such garage.

C. Whenever an officer does not know and is not able to ascertain the name of the owner, or for any other reason is unable to give notice to the owner as set forth above, and in event the vehicle is not returned to the owner within a period of three days, the officer shall immediately send or cause to be sent a written report of such removal by mail to the department and shall file a copy of such notice with the proprietor of any garage in which the vehicle may be stored. Such notice shall include a complete description of the vehicle, the date, time and place from which removed, the reasons for such removal, and the name of the garage or place where the vehicle is stored.

(Ord. 1502 §4, 1989; Ord. 1370 §1 (part), 1985)

9.32.060 Stolen and abandoned vehicles - Reports of notice –- Disposition

A. It shall be the duty of the Chief of Police to report immediately to the chief of the Washington State Patrol all motor vehicles reported to him as stolen or recovered, upon forms to be provided by the chief of the Washington State Patrol.

B. In the event that any motor vehicle reported as stolen has been recovered, the person so reporting the same as stolen shall be guilty of a misdemeanor unless he shall report the recovery thereof to the Chief of Police to whom such motor vehicle was reported stolen.

C. It shall be the duty of the Chief of Police to report to the chief of the Washington State Patrol all vehicles or automobile hulks found abandoned on a highway or at any other place and the same shall at the direction of a law enforcement officer, be placed in the custody of a registered disposer.

(Ord. 1370 §1 (part), 1985).

9.32.070 Owner of record presumed liable for costs when vehicle abandoned - Exceptions

A. The abandonment of any vehicle or automobile hulk shall constitute a prima facie presumption that the last owner of record is responsible for such abandonment and thus liable for any costs incurred in removing, storing and disposing of any abandoned vehicle.

B. A registered owner transferring a vehicle shall be relieved from personal liability under this chapter if within five days of the transfer he transmits to the department a seller's report of sale on a form prescribed by the director.

(Ord. 1370 §1 (part), 1985)

9.32.080 Owner or agent required to pay charges – Lien

A. Any costs incurred in the removal and storage of an impounded vehicle shall be a lien upon the vehicle. All towing and storage charges on such vehicle impounded shall be paid by the owner or his agent if the vehicle is redeemed. In the case of abandoned vehicles, all costs of removal and storage shall be paid by the owner or his agent if the vehicle is redeemed, but if not redeemed, such costs shall be received from the proceeds of sale.

B. Either a registered or legal owner may claim an impounded vehicle by payment of all charges that have accrued to the time of reclamation. If the vehicle was impounded at the direction of a law enforcement agency, the person in possession of the vehicle prior to the time of reclamation shall notify such agency of the fact that the vehicle has been claimed, and by whom.

(Ord. 1370 §1 (part), 1985)

9.32.090 Impounding not to prevent prosecution

The impounding of a vehicle shall not preclude charging the violator with any violation of the law on account of which such vehicle was impounded.

(Ord. 1370 §1 (part), 1985)

9.32.100 Contract with registered disposer to dispose of vehicles and hulks – Compliance required

A. The City may contract with any tow truck operator who is engaged in removing and storing of vehicles and who is registered as a registered disposer of certain automobile hulks, abandoned junk motor vehicles and abandoned vehicles.

B. Any registered disposer under contract to the City for the removing and storing of vehicles or hulks shall comply with the administrative regulations relative to the handling and disposing of vehicles or hulks as may be promulgated by the Police Chief or the director.

(Ord. 1370 §1 (part), 1985)

9.32.110 Unlawful to abandon junk motor vehicles

A. No person shall willfully leave an automobile hulk and/or abandoned vehicle on private property for more than 24 hours without the permission of the person having the right to possession of the property, or upon or within the right-of-way of any highway or other property open to the public for purposes of vehicular travel or parking for 24 hours or longer without notification to the Chief of Police of the reasons for leaving the motor vehicle in such a place.

B. For the purposes of this section, the fact that a motor vehicle has been left without permission or notification is prima facie evidence of abandonment. Any person convicted of abandoning a junk motor vehicle shall be assessed any costs incurred by the City in disposing of such abandoned junk motor vehicle less any moneys accrued to the City from such disposal.

(Ord. 1370 §1 (part), 1985)

9.32.120 Abandoning vehicles unlawful

No person shall leave or permit a vehicle to remain on private property without the permission of the owner longer than 24 hours.

(Ord. 1370 §1 (part), 1985)

9.32.200 Penalties

Any violation of any provision, or failure to comply with any of the requirements of this chapter, shall be subject to enforcement and penalties as prescribed in TMC Chapter 8.45 and the issuance of a Notice of Violation in accordance with TMC Section 8.45.070.

(Ord. 2549 §16, 2017; Ord. 1838 §6, 1998; Ord. 1370 §1 (part), 1985).

CHAPTER 9.34

OPERATION OF MOTORIZED FOOT SCOOTERS, POCKET BIKES AND EPAMDS

Sections:

9.34.010 Definitions

For the purposes of TMC Chapter 9.34, the following definitions shall apply:

1. "*EPAMD"* is an electric, personal-assistive mobility device, which is a self-balancing device with two wheels not in tandem, designed to transport only one person by an electric propulsion system with an average power of 750 watts (one horsepower), having a maximum speed on a paved surface of less than 20 miles per hour (mph), when powered solely by such a propulsion system.

2. "*Motorized foot scooter"* means a device with no more than two 10-inch-or-smaller diameter wheels, that has handlebars, is designed to be stood or sat upon by the operator, and is powered by an internal combustion engine or electric motor that is capable of propelling the device with or without human propulsion. A motor-driven cycle, a moped, an electric-assisted bicycle or a motorcycle is not a motorized foot scooter.

3. *"Pocket bike"* (also known as *miniature motorcycle, miniature chopper or sports racer)* is a low-profile motorized vehicle 30" or less in height, weighing under 125 pounds, with 10" or smaller wheels, either electric-powered or having an engine displacement of 49cc's or fewer.

(Ord. 2065 §1 (part), 2004)

9.34.020 Pocket Bikes

A. Pocket bikes are prohibited from operation on any street, road or byway publicly maintained and open to the public for vehicular travel in the City of Tukwila.

B. Pocket bikes may not be legally operated on sidewalks, bike lanes, trails or any place prohibiting the use of motorized vehicles.

C. This section applies to pocket bikes and any similar motor vehicle with a low profile but of a slightly different size.

(Ord. 2065 §1 (part), 2004)

9.34.030 Electric Personal Assistive Mobility Device (EPAMD)

A. EPAMDs may be operated on roads and road shoulders where the speed limits are 25 mph or less, and on bicycle lanes, sidewalks and alleys. They are prohibited in City parks, and on multiple-use trails within the City.

B. A person operating an EPAMD shall obey all speed limits and shall yield the right-of-way to pedestrians and human-powered devices at all times. An operator must also give an audible signal before overtaking and passing a pedestrian. Persons operating an EPAMD have all the rights and duties of a pedestrian, though they must follow rules of the road when traveling on the roadway.

C. It is unlawful to operate an EPAMD in a negligent or unsafe manner. They shall be operated with reasonable regard for the safety of the operator and other persons. Examples of operating in a negligent manner include, but are not limited to, failure to obey all traffic control devices, or failure to yield right-of-way to pedestrians and/or vehicular traffic.

D. EPAMDs on roadways should ride as close as practicable to the right side of the road.

E. EPAMD operators should dismount their device on the right side of the road and cross the road at an intersection as a pedestrian would if making a left hand turn.

F. No EPAMD shall be operated between the times of sunset and sunrise, unless operated as a mobility assistant for a disabled occupant, in which case lights and reflectors must be properly installed per RCW 46.04.

G. No EPAMD shall be operated with any passengers in addition to the operator.

H. All operators of EPAMDs shall follow State law as found in RCW 46.61.710, detailing that they have the rights and duties of a pedestrian unless otherwise regulated in this section.

(Ord. 2065 §1 (part), 2004)

9.34.040 Motorized Foot Scooters

A. *GENERAL REQUIREMENTS:*

1. Except as otherwise prohibited in TMC Chapter 9.34, motor scooters may be operated on roads and road shoulders where the speed limits are 25 mph or less.

2. Every internal combustion engine-driven foot scooter shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise.

3. The use of a cutout, bypass, or similar muffler elimination device is prohibited on any motorized foot scooter.

4. Motorized foot scooters shall be equipped with a kill (deadman's) switch, in such a manner that the drive motor is engaged through a switch, lever or other mechanism that, when released, will cause the drive motor to disengage or cease to function.

5. It is unlawful to operate on a public roadway or on public property with a motorized foot scooter that has had factory-installed brakes removed or altered to the extent that the braking device is ineffective. Brakes on motorized foot scooters must enable the operator to make the braked wheels skid on dry, level and clean pavement.

6. Handlebars on a motorized foot scooter must not exceed the shoulders of the operator.

7. Noise Restrictions:

a. Motorized foot scooters must comply with the provisions in TMC Chapter 8.22.110, "Public Disturbance Noises."

b. No motorized foot scooter shall emit frequent, repetitive or continuous sounding of any horn or siren, except as a warning of danger or as specifically permitted or required by law.

c. No motorized foot scooter shall be operated in such a manner that results in screeching or other sounds from scooter tires coming in contact with the ground or pavement because of rapid acceleration, braking or excessive speed around corners or because of such other reason not connected with avoiding danger.

B. *REQUIREMENTS FOR OPERATION:*

1. It is unlawful to operate a motorized foot scooter in a negligent or unsafe manner. They shall be operated with reasonable regard for the safety of the operator and other persons. Examples of operating in a negligent manner include, but are not limited to, failure to obey all traffic-control devices, or failure to yield right-of-way to pedestrians and/or vehicular traffic.

2. No motorized foot scooter shall be operated without the operator wearing a properly fitted and fastened helmet, that meets or exceeds safety standards adopted by Standard Z-90.4 set by the American National Standards Institute (ANSI).

3. No person operating a motorized foot scooter shall tow or pull another person behind such device. In the event that a person is pulled or towed behind a motorized foot scooter, the person operating the scooter and the person being towed or pulled are both in violation of TMC Chapter 9.34.

4. No person may operate a motorized foot scooter on a public byway unless such person is 16 years or older.

5. Any person operating a motorized foot scooter shall obey all rules of the road applicable to vehicle or pedestrian traffic, as well as the instructions of official traffic-control signals, signs and other control devices applicable to vehicles, unless otherwise directed by a police officer.

6. It shall be unlawful to operate a motorized foot scooter other than as close as practicable to the right–hand curb or right edge of the roadway.

7. When preparing for a left turn, the motorized foot scooter operator shall stop and dismount as close as practicable to the right-hand curb or right edge of the roadway and complete the turn by crossing the roadway on foot, subject to the restrictions placed on pedestrians in RCW Chapter 46.61.

8. No motorized foot scooter shall be operated with any passengers in addition to the operator.

9. No motorized foot scooter shall be operated between the times of sunset and sunrise.

10. Prohibited Areas. It is unlawful for any person to operate or ride upon a motorized foot scooter or similar device in any of the following areas:

a. Parks, including their sidewalks, parking lots, streets, paths, trails and similar travel ways.

b. Multi-use trails, including all City and regional recreational trails in the City.

c. Sidewalks within the City limits.

d. Parking lots of any municipal facility.

e. Roads with speeds over 25 mph.

C. *APPLICATION TO OTHER DEVICES:* The provisions of TMC Chapter 9.34 regarding motorized foot scooters apply to any device that:

1. Matches the definition of a motorized foot scooter, except for the number or size of the device's wheels; and

2. Cannot be defined as:

a. A vehicle legally registered by the Washington Department of Vehicle Licensing as a motorcycle or moped.

b. An electric-assisted bicycle.

(Ord. 2065 §1 (part), 2004)

9.34.050 Responsibility

No person shall perform any act forbidden by TMC Chapter 9.34 nor fail to perform any act required in TMC Chapter 9.34. It is unlawful for any parent, guardian or other person having control or custody of a minor child to allow said minor to operate a motorized foot scooter, pocket bike, or EPAMD in violation of TMC Chapter 9.34.

(Ord. 2065 §1 (part), 2004)

9.34.060 Violations and Penalties

A. The City of Tukwila Police Department personnel shall be responsible for enforcing the provisions of TMC Chapter 9.34.

B. Upon determining a violation of TMC Chapter 9.34 has occurred, law enforcement officers may, at their discretion, issue a civil infraction in the amounts specified in TMC 9.34.060.C to any person – including a parent or guardian – violating any of the provisions of TMC Chapter 9.34.

C. The following monetary penalties shall apply:

1. First offense = $40.
2. Second offense = $80.
3. Third and future offenses = $250 each.

(Ord. 2065 §1 (part), 2004)

CHAPTER 9.38
PENALTY FOR VIOLATION

Sections:

9.38.010 Penalty designated

Unless another penalty is expressly provided by law, every person convicted of a violation of any provision of this title shall be punished by a fine not to exceed $5,000, or imprisonment in jail for a term not exceeding one year, or by both fine and imprisonment.

(Ord. 1370 §1 (part), 1985)

9.38.020 Certain penalties to be consistent with State law

All motor vehicle or traffic violations prohibited by this title, and which are described by State statutes adopted by reference in this title, are punishable as criminal offenses or as motor vehicle civil infractions in a manner consistent with Chapters 20, 61, 63 and 64 of Title 46 of the Revised Code of Washington, and other State statutes prescribing punishment or penalty.

(Ord. 1370 §1 (part), 1985)

CHAPTER 9.44

COMMUTE TRIP REDUCTION PLAN AND PROGRAM REQUIREMENTS

Sections:

9.44.010 Purpose

A. The purpose of TMC Chapter 9.44 is to improve air quality, reduce traffic congestion, and minimize energy consumption. These regulations are prepared to comply with RCW 70.94.521, by requiring employer-based programs that encourage employees to find alternatives to drive-alone commuting, with collaboration between the City of Tukwila and affected employers.

B. The Commute Trip Reduction Plan for the City of Tukwila, as required by RCW 70.94.527, is hereby adopted by reference hereto as it appears in Attachment A, or as hereto amended by ordinance of the City Council.

(Ord. 2201 §1 (part), 2008)

9.44.020 Definitions

For the purpose of this ordinance, the following definitions shall apply in the interpretation and enforcement of this ordinance:

1. *"Affected Employee"* means a full-time employee who begins his or her regular workday at a single worksite between 6:00 and 9:00AM (inclusive) on two or more weekdays for at least 12 continuous months. Seasonal, agricultural employees, including seasonal employees of processors of agricultural products, are excluded from the count of affected employees.

2. *"Affected Employer"* means an employer that employs 100 or more full-time employees at a single worksite who are scheduled to begin their regular workday between 6:00 and 9:00AM (inclusive) on two or more weekdays for at least 12 continuous months. Construction worksites, when the expected duration of the construction is less than two years, are excluded from this definition.

3. *"Alternative Mode"* means any means of commute transportation other than that in which the single-occupant motor vehicle is the dominant mode, including telecommuting and compressed work weeks, if they result in reducing commute trips.

4. *"Alternative Work Schedules"* means programs such as compressed work weeks that eliminate work trips for affected employees.

5. *"Base Year"* means the 12-month period that commences when a major employer is determined by the local jurisdiction to be participating within the local CTR program. The City of Tukwila uses this 12-month period as the basis upon which it develops local commute trip reduction goals.

6. *"Base Year Survey"* or *"Baseline Measurement"* means the survey, during the base year, of employees at a major employer worksite to determine the drive-alone rate and vehicle miles traveled per employee at the worksite. The jurisdiction uses this measurement to develop commute trip reduction goals for the major employer. The baseline measurement must be implemented in a manner that meets the requirements specified by the City of Tukwila.

7. *"Carpool"* means a motor vehicle, occupied by two to six people traveling together for their commute trip, resulting in the reduction of a minimum of one motor vehicle commute trip.

8. *"Commute Trips"* means trips made from a worker's home to a worksite (inclusive) on weekdays.

9. *"CTR Plan"* means the City of Tukwila's plan and ordinance to regulate and administer the CTR programs of affected employers within its jurisdiction.

10. *"CTR Program"* means an employer's strategies to reduce employees' drive- alone commutes and vehicle miles traveled (VMT) per employee.

11. *"Compressed Work Week"* means an alternative work schedule, in accordance with employer policy, that regularly allows a full-time employee to eliminate at least one work day every two weeks by working longer hours during the remaining days, resulting in fewer commute trips by the employee. This definition is primarily intended to include weekly and bi-weekly arrangements, the most typical being four 10-hour days or 80 hours in nine days, but may also include other arrangements.

12. *"Custom Bus/Buspool"* means a commuter bus service arranged specifically to transport employees to work.

13. *"Dominant Mode"* means the mode of travel used for the greatest distance of a commute trip.

14. *"Drive Alone"* means a motor vehicle occupied by one employee for commute purposes, including a motorcycle.

15. *"Drive-Alone Trips"* means commute trips made by affected employees in single occupant vehicles.

16. *"Employee"* means anyone who receives financial or other remuneration in exchange for work provided to an employer, including owners or partner of the employer.

17. *"Employee Transportation Coordinator (ETC)"* means a person who is designated as responsible for the development, implementation and monitoring of an employer's CTR program.

18. *"Employer"* means a sole proprietorship, partnership, corporation, unincorporated association, cooperative, joint venture, agency, department, district, or other individual or entity, whether public, non-profit or private, that employs workers.

19. *"Exemption"* means a waiver from any or all CTR program requirements granted to an employer by a city, based on unique conditions that apply to the employer or employment site.

20. *"Flex-Time"* is an employer policy that provides work schedules allowing individual employees flexibility in choosing the start and end time, but not the number of their working hours.

21. *"Full-Time Employee"* means a person, other than an independent contractor, scheduled to be employed on a continuous basis for 52 weeks for an average of at least 35 hours per week.

22. *"Good Faith Effort"* means that an employer has met the minimum requirements identified in RCW 70.94.531 and this ordinance, and is working collaboratively with the City of Tukwila to continue its existing CTR program or is developing and implementing program modifications likely to result in improvements to its CTR program over an agreed-upon length of time.

23. *"Implementation"* means active pursuit by an employer of the CTR goals of RCW 70.94.521-555 and this ordinance, as evidenced by appointment of an ETC, distribution of information to employees regarding alternatives to drive-alone commuting, and commencement of other measures according to its approved CTR program and schedule.

24. *"Major Employer"* means a private or public employer, including state agencies, that employs 100 or more full-time employees at a single worksite who begin their regular workday between 6:00 and 9:00 AM on weekdays for at least 12 continuous months during the year.

25. *"Major Employer Worksite"* or *"Affected Employer Worksite"* or *"Worksite"* means the physical location occupied by a major employer, as determined by the local jurisdiction.

26. *"Major Employment Installation"* means a military base or federal reservation, or other facilities as designated by the City of Tukwila, at which there are 100 or more full-time employees who begin their regular workday between 6:00 and 9:00 AM on weekdays for at least 12 continuous months during the year.

27. *"Mode"* is the means of transportation or alternate mode used by employees, such as single-occupant motor vehicle, rideshare vehicle (carpool, vanpool), transit, ferry, bicycle, walking, compressed work schedule and telecommuting.

28. *"Notice"* means written communication delivered via the United States Postal Service with receipt deemed accepted three days following the day on which the notice was deposited with the Postal Service, unless the third day falls on a weekend or legal holiday, in which case the notice is deemed accepted the day after the weekend or legal holiday.

29. *"Peak Period"* means the hours between 6:00 and 9:00 AM (inclusive), Monday through Friday, except legal holidays.

30. *"Peak Period Trip"* means any employee trip that delivers the employee to begin his or her regular workday between 6:00 and 9:00 AM (inclusive), Monday through Friday, except legal holidays.

31. *"Proportion of Drive-Alone Trips"* or *"Drive-Alone Rate"* means the number of commute trips over a set period made by affected employees in single-occupancy vehicles, divided by the number of potential trips taken by affected employees working during that period.

32. *"Ride Matching Service"* means a system that assists in matching commuters for the purpose of commuting together.

33. *"Telecommuting"* means the use of telephones, computers, or other similar technology to permit an employee to work from home, eliminating a commute trip, or to work from a work place closer to home, reducing the distance traveled in a commute trip by at least half.

34. *"Transit"* means a multiple-occupant vehicle operated on a for-hire, shared-ride basis, including bus, passenger ferry, rail, shared-ride taxi, shuttle bus, or vanpool.

35. *"Transportation Demand Management (TDM)"* means a broad range of strategies that are primarily intended to reduce and reshape demand on the transportation system.

36. *"Transportation Management Association (TMA)"* means a group of employers or an association representing a group of employers in a defined geographic area. A TMA may represent employers within specific city limits or may have a sphere of influence that extends beyond city limits.

37. *"Urban Growth Area"* means the City of Tukwila in its entirety.

38. *"Vanpool"* means a vehicle occupied by 4 to 15 people traveling together for their commute trip, resulting in the reduction of a minimum of one motor vehicle trip.

39. *"Vehicle Miles Traveled (VMT) Per Employee"* means the sum of the individual vehicle commute trip lengths in miles made by employees over a set period, divided by the number of employees during that period.

40. *"Week"* means a seven-day calendar period starting on Monday and continuing through Sunday.

41. *"Weekday"* means any day of the week except Saturday or Sunday.

42. *"Writing," "Written"* or *"In Writing"* means original signed and dated documents. Facsimile (fax) transmissions are a temporary notice of action that must be followed by the original signed and dated document via mail or delivery.

(Ord. 2201 §1(part), 2008)

9.44.030 CTR Goals

A. Commute Trip Reduction Goals for the Urban Growth Area.

1. The City of Tukwila's goals for reductions in the proportions of drive-alone commute trips and vehicle miles traveled (VMT) per employee by affected employers in the City are hereby established by reference to the City of Tukwila's CTR plan. These goals establish the desired level of performance for the CTR program in its entirety in the City of Tukwila. Future adopted versions of the CTR plan may establish new goals for the urban growth area and affected employers. This ordinance is not required to be amended in order for the new adopted goals to take effect.

2. The City of Tukwila will set the individual worksite goals for affected employers based on how the worksite can contribute to the City's overall goal for its urban growth area.

B. Commute Trip Reduction Goals for the Urban Growth Area.

1. The drive-alone and VMT goals for affected employers in the City are hereby established as set forth in the CTR plan.

2. If the goals for an affected employer or newly-affected employer are not listed in the CTR plan, they shall be established by Tukwila at a level designed to achieve the goals for the urban growth area. The City shall provide written notification of the goals for each affected employer worksite by either incorporating the information into the results of the baseline measurement or subsequent survey measurements, or providing the information when the City reviews the employer's proposed CTR program.

3. Each affected employer is required to develop and implement a CTR program that is designed to meet the affected worksite's assigned CTR goals.

C. Recognition for Commute Trip Reduction Efforts. As public recognition for their efforts, affected employers who meet or exceed the CTR goals as set forth in Section 9.44.030.B will receive a Commute Trip Reduction Certificate of Leadership from the City.

(Ord. 2201 §1(part), 2008)

9.44.040 Responsible City Agencies

The Mayor of the City of Tukwila shall be responsible for implementing this ordinance, the CTR plan, and the City's CTR program, together with any authority necessary to carry out such responsibilities such as rule-making or certain administrative decisions.

(Ord. 2201 §1(part), 2008)

9.44.050 Applicability

A. Generally, the provisions of this ordinance shall apply to any affected employer within the corporate city limits of the City of Tukwila.

B. *Notification of Applicability.*

1. In addition to the City's established public notification for adoption of an ordinance, a notice of availability of a summary of this ordinance, a notice of the requirements and criteria for affected employers to comply with the ordinance, and subsequent revisions shall be published at least once in the newspaper of record of the City of Tukwila, not more than 30 days after passage of this ordinance or amendments.

2. Affected employers located in Tukwila are to receive written notification that they are subject to this ordinance. Such notice shall be addressed to the company's 'hief executive officer, senior official, or ETC at the worksite. Such notification shall provide 90 days for the affected employer to perform a baseline measurement consistent with the measurement requirements outlined by WAC 468-63-050 or as defined by the City of Tukwila CTR Coordinator.

3. Affected employers that, for whatever reason, do not receive notice within 30 days of passage of the ordinance and are either notified or identify themselves to the City within 90 days of the passage of the ordinance will be granted an extension of up to 90 days within which to perform a baseline measurement consistent with the measurement requirements specified by the City.

4. Affected employers that have not been identified or do not identify themselves within 90 days of the passage of the ordinance and do not perform a baseline measurement consistent with the measurement requirements specified by the City within 90 days from the passage of the ordinance are in violation of this ordinance.

5. If an affected employer has already performed a baseline measurement, or an alternative acceptable to the City under previous iterations of this ordinance, the employer is not required to perform another baseline measurement.

C. *Newly-Affected Employers.*

1. Employers meeting the definition of "affected employer" in this ordinance must identify themselves to the City within 90 days of either moving into the boundaries of Tukwila or growing in employment at a worksite to 100 or more affected employees. Employers who do not identify themselves within 90 days are in violation of this ordinance.

2. Newly-affected employers identified as such shall be given 90 days to perform a baseline measurement consistent with the measurement requirements specified by the City. Employers who do not perform a baseline measurement within 90 days of receiving written notification that they are subject to this ordinance are in violation of this ordinance.

3. Newly-affected employers identified as such will also be given 90 days to designate an ETC to work closely with the City's CTR Coordinator to develop, implement, and monitor strategies and processes to meet defined CTR goals for their specific job site. If for any reason the ETC is displaced from the position, a new Transportation Coordinator must be designated by the employer within 90 days. Employers who fail to designate an ETC within 90 days of being identified as an affected employer, or in the event of the absence of a current ETC position, are in violation of this ordinance.

4. Not more than 90 days after receiving written notification of the results of the baseline measurement, the newly-affected employer shall develop and submit a commute trip reduction program to the City of Tukwila. The program shall be implemented not more than 90 days after approval by the City. Employers who do not implement an approved commute trip reduction plan according to this schedule are in violation of this ordinance.

D. *Change in Status as an Affected Employer.* Any of the following changes in an employer's status will change the employer's CTR program requirements:

1. If an employer initially designated as an affected employer no longer employs 100 or more affected employees and expects not to employ 100 or more affected employees for the next 12 months, that employer is no longer an affected employer. It is the responsibility of the employer to notify the City that it is no longer an affected employer.

2. If the same employer returns to the level of 100 or more affected employees within the same 12 months, that employer will be considered an affected employer for the entire 12 months and will be subject to the same program requirements as other affected employers.

3. If the same employer returns to the level of 100 or more affected employees 12 or more months after its change in status to an "unffected" employer, that employer shall be treated as a newly-affected employer and will be subject to the same program requirements as other newly-affected employers.

(Ord. 2201 §1(part), 2008)

9.44.060 Requirements for Employers

A. *Compliance Required.* An affected employer is required to make a good faith effort, as defined in RCW 70.94.534(2) and this ordinance, to develop and implement a CTR program that will encourage its employees to reduce VMT per employee and drive-alone commute trips. The employer shall submit a description of its program to the City of Tukwila, and provide an annual progress report to the City on employee commuting and progress toward meeting the drive-alone reduction goals. The CTR program must include the mandatory elements as described in this section.

B. *CTR Program Description Requirements.*

1. The CTR program description presents the strategies to be undertaken by an employer to achieve the commute trip reduction goals for each goal year. Employers are encouraged to consider innovative strategies and combine program elements in a manner that will best suit their location, site characteristics, business type, and employees' c'mmuting needs. Employers are further encouraged to cooperate with each other and to form or use transportation management associations in developing and implementing CTR programs.

2. At a minimum, the employer's CTR program description must include:

a. a general description of the employment site location, transportation characteristics, and surrounding services, including unique conditions experienced by the employer or its employees;

b. number of employees affected by the CTR program;

c. documentation of compliance with the mandatory CTR program elements (as described in this section);

d. description of the additional elements included in the CTR program (as described in this section); and

e. a schedule of implementation, assignment of responsibilities, and commitment to provide appropriate resources.

C. *Mandatory Program Elements.* Each employer's 'TR program shall include the following mandatory elements:

1. *Employee Transportation Coordinator*. The employer shall designate an ETC to administer the CTR program. The ETC and/or designee's name, location, and telephone number must be displayed prominently at each affected worksite. The ETC shall oversee all elements of the employer's CTR program and act as liaison between the employer and the City of Tukwila. The objective is to have an effective Transportation Coordinator presence at each worksite; an affected employer with multiple sites may have one ETC for all sites. The Transportation Coordinator must complete the basic ETC training course as provided by King County within six months of assuming the status of designated transportation coordinator, in order to help ensure consistent knowledge and understanding of CTR laws, rules, and guidelines statewide.

2. *Information Distribution.* Information about alternatives to drive-alone commuting shall be provided to employees at least once a year. Each employer's 'rogram description and annual report must report the information to be distributed and the method of distribution. The information distributed shall be forwarded to the City's CTR Coordinator upon distribution to employees, to ensure a consistent marketing element in promoting the targeted and accomplished goals of the employer's CTR program.

3. *Regular Review.* The CTR program must include a regular review of employee commuting and progress and good-faith efforts toward meeting the drive-alone reduction goals. Affected employers shall file a regular progress report with the City of Tukwila in accordance with the format provided by the City. The report shall describe each of the CTR measures that were in effect for the previous year, the results of any commuter surveys undertaken during the year, and the number of employees participating in CTR programs. Within the report, the employer should evaluate the effectiveness of the CTR program and, if necessary, propose modifications to achieve the CTR goals. Survey information or approved alternative information must be provided in the reports.

4. *Biennial Measurement.* In addition to the baseline measurement, employers shall conduct a program evaluation as a means of determining worksite progress toward meeting CTR goals. As part of the program evaluation, the employer shall distribute and collect Commute Trip Reduction Program Employee Questionnaires (surveys) every two years, and strive to achieve at least a 70% response rate from employees at the worksite.

D. *Additional Program Elements.* In addition to the specific program elements described in this section, the employer's 'TR program shall include additional elements as needed to meet CTR goals. Elements may include, but are not limited to, one or more of the following:

1. Provision of preferential parking or reduced parking charges, or both, for high-occupancy vehicles;

2. Instituting or increasing parking charges for drive-alone commuters;

3. Provision of commuter ride matching services to facilitate employee ride-sharing for commute trips;

4. Provision of subsidies for transit or vanpool fares and/or transit passes;

5. Provision of vans or buses for employee ridesharing;

6. Provision of subsidies for carpools or vanpools;

7. Provision of incentives for employees that do not drive alone to work;

8. Permitting the use of the employer's ’ehicles for carpooling or vanpooling;

9. Permitting flexible work schedules to facilitate employees' u’e of transit, carpools, or vanpools;

10. Cooperation with transportation providers to provide additional regular or express service to the worksite;

11. Construction of special loading and unloading facilities for transit, carpool, and vanpool users;

12. Provision of bicycle parking facilities, lockers, changing areas, and showers for employees who bicycle or walk to work;

13. Provision of a program of parking incentives such as a rebate for employees who do not use the parking facilities;

14. Establishment of a program to permit employees to work part-time or full-time at home or at an alternative worksite closer to their homes;

15. Establishment of a program of alternative work schedules, such as a compressed work week, which reduces commuting;

16. Implementation of other measures designed to facilitate the use of high-occupancy vehicles, such as on-site daycare facilities and emergency taxi services;

17. Charging employees for parking, and/or the elimination of free parking;

18. Intensive marketing campaigns through the distribution of informational newsletters, emails, brochures, or memos in a consistent manner.

(Ord. 2201 §1 (part), 2008)

9.44.070 Record Keeping

Affected employers shall include a list of the records they will keep as part of the CTR program as submitted to the City of Tukwila for approval. Employers will maintain all records listed in their CTR program for a minimum of 24 months. The City and the employer shall agree on the recordkeeping requirements as part of the accepted CTR program.

(Ord. 2201 §1 (part), 2008)

9.44.080 Schedule and Process for CTR Reports

A. *CTR Program.* Not more than 90 days after the adoption of this ordinance, or within three months after an employer qualifies under the provisions of this ordinance, the employer shall perform a baseline measurement consistent with the measurement requirements specified by the City of Tukwila. Not more than 90 days after receiving written notification of the results of the baseline measurement, the newly-affected employer shall develop and submit a commute trip reduction program to the City’s CTR Coordinator. The program shall be implemented not more than 90 days after approval by the CTR Coordinator.

B. *Document Review.* The City of Tukwila shall provide the employer with written notification if a CTR program is deemed unacceptable. The notification must give cause for any rejection. If the employer receives no written notification of extension of the review period of its CTR program or comment on the CTR program or annual report within 90 days of submission, the employer's ’rogram or annual report is deemed accepted. The City may extend the review period up to an additional 90 days. The implementation date for the employer's CTR program will be extended an equivalent number of days.

C. *CTR Annual Progress Reports.* Upon review of an employer's ’nitial CTR program, the City of Tukwila shall establish the employer's ’nnual reporting date, which shall not be less than 12 months from the day the program is submitted. Each year on the employer's ’eporting date, the employer shall submit to the City its annual CTR report.

D. *Modification of CTR Program Elements.* Any affected employer may submit a request to the City of Tukwila for modification of CTR requirements. Such request may be granted if one of the following conditions exist:

1. The employer can demonstrate it would be unable to comply with the CTR program elements for reasons beyond the control of the employer; or

2. The employer can demonstrate that compliance with the program elements would constitute an undue hardship.

E. *Extensions.* An employer may request additional time to submit a CTR program or CTR annual progress report or to implement or modify a program. Such requests shall be via written notice at least 30 days before the due date for which the extension is being requested. Extensions not to exceed 90 days shall be considered for reasonable causes. The City of Tukwila shall grant or deny the employer's ’xtension request by written notice within ten working days of its receipt of the extension request. If there is no response issued to the employer, an extension is automatically granted for 30 days. Extensions shall not exempt an employer from any responsibility in meeting program goals. Extensions granted due to delays or difficulties with any program element(s) shall not be cause for discontinuing or failing to implement other program elements. An employer's annual reporting date shall not be adjusted permanently as a result of these extensions. An employer's annual reporting date may be extended at the discretion of the City.

F. *Implementation of Employer's CTR Program.* Unless extensions are granted, the employer shall implement its approved CTR program, including approved program modifications, not more than 90 days after receiving written notice from the City of Tukwila that the program has been approved.

(Ord. 2201 §1 (part), 2008)

9.44.090 Enforcement

A. *Compliance.* For purposes of this section, compliance shall mean fully implementing in good faith all provisions in an approved CTR program.

B. *Program Modification Criteria.* The following criteria for achieving goals for VMT per employee and proportion of drive-alone trips shall be applied in determining requirements for employer CTR program modifications:

1. If an employer meets either or both goals, the employer has satisfied the objectives of the CTR plan and will not be required to modify its CTR program.

2. If an employer makes a good faith effort, as defined in RCW 70.94.534(2) and this ordinance, but has not met or is not likely to meet the applicable drive-alone or VMT goal, the City/County shall work collaboratively with the employer to make modifications to its CTR program. After agreeing on modifications, the employer shall submit a revised CTR program description to the City/County for approval within 30 days of reaching agreement.

3. If an employer fails to make a good faith effort as defined in RCW 70.94.534(2) and this ordinance, and fails to meet the applicable drive-alone or VMT reduction goal, the City of Tukwila shall work collaboratively with the employer to identify modifications to the CTR program, and shall direct the employer to revise its program within 30 days to incorporate the modifications. In response to the recommended modifications, the employer shall submit a revised CTR program description, including the requested modifications or equivalent measures, within 30 days of receiving written notice to revise its program. The City shall review the revisions and notify the employer of acceptance or rejection of the revised program. If a revised program is not accepted, the City will send written notice to that effect to the employer within 30 days and, if necessary, require the employer to attend a conference with program review staff for the purpose of reaching a consensus on the required program. A final decision on the required program will be issued in writing by the City within ten working days of the conference.

C. *Violations.* The following constitute violations if the deadlines established in this ordinance are not met:

1. Failure to perform a baseline measurement, including:

a. Employers notified or that have identified themselves to the City of Tukwila within 90 days of the ordinance being adopted and that do not perform a baseline measurement consistent with the requirements specified by the City within 90 days from the notification or self-identification.

b. Employers not identified or self-identified within 90 days of the ordinance being adopted and that do not perform a baseline measurement consistent with the requirements specified by the City within 90 days from the adoption of the ordinance.

2. Failure to develop and/or submit on time a complete CTR program.

3. Failure to implement an approved CTR program, unless the program elements that are carried out can be shown through quantifiable evidence to meet or exceed VMT and drive-alone goals as specified in this ordinance.

4. Failure to designate an ETC within 90 days from notification or self-identification, to implement and carry out the approved CTR program elements.

5. Failure to make a good faith effort, as defined in RCW 70.94.534 and this ordinance.

6. Failure to revise a CTR program as defined in RCW 70.94.534(4) and this ordinance.

D. *Penalties.*

1. No affected employer with an approved CTR program, which has made a good faith effort, may be held liable for failure to reach the applicable drive-alone or VMT goal.

2. Any violation of any provision, or failure to comply with any of the requirements of this chapter, shall be subject to the terms and conditions of Chapter 8.45.

3. An affected employer shall not be liable for civil penalties if failure to implement an element of a CTR program was the result of an inability to reach agreement with a certified collective bargaining agent under applicable laws where the issue was raised by the employer and pursued in good faith. Unionized employers shall be presumed to act in good faith compliance if they:

a. Propose to a recognized union any provision of the employer's CTR program that is subject to bargaining as defined by the National Labor Relations Act; and

b. Advise the union of the existence of the statute and the mandates of the CTR program approved by the City of Tukwila, and advise the union that the proposal being made is necessary for compliance with State law (RCW 70.94.531).

(Ord. 2201 §1 (part), 2008)

9.44.100 Exemptions and Goal Modifications

A. *Worksite Exemptions.* An affected employer may request the City of Tukwila to grant an exemption from all CTR program requirements or penalties for a particular worksite. The employer must demonstrate that it would experience undue hardship in complying with the requirements of the ordinance as a result of the characteristics of its business, its work force, or its location(s). An exemption may be granted if, and only if, the affected employer demonstrates that it faces extraordinary circumstances, such as bankruptcy, and is unable to implement any measures that could reduce the proportion of drive-alone trips and VMT per employee. The City shall issue a decision regarding an exemption no more than 30 days from receiving a written request from the employer for such status. The notice should clearly explain the conditions for which the affected employer is seeking an exemption from the requirements of the CTR program. Appeals to these decisions are addressed in Section 9.44.110, "Appeals," of this ordinance. The City shall review annually all employers receiving exemptions, and shall determine whether the exemption will be in effect during the following program year.

B. *Employee Exemptions.* Specific employees or groups of employees who are required to drive alone to work as a condition of employment may be exempted from a worksite's CTR program. Exemptions may also be granted for employees who work variable shifts throughout the year and who do not rotate as a group to identical shifts. The City of Tukwila will use the criteria identified in the State CTR Board Guidelines outlined in RCW 70.94.521 to assess the validity of employee exemption requests. All employee exemption requests received by September 30 of each year shall be administratively reviewed by December 31 of the same year, and shall determine whether the exemption will be in effect during the following program year.

C. *Modification of CTR Program Goals.*

1. An affected employer may request that the City of Tukwila modify its CTR program goals. Such requests shall be filed in writing at least 60 days prior to the date the worksite is required to submit its program description or annual report. The goal modification request must clearly explain why the worksite is unable to achieve the applicable goal. The worksite must also demonstrate that it has implemented all of the elements contained in its approved CTR program.

2. The City of Tukwila will review and grant or deny requests for goal modifications in accordance with procedures and criteria identified in the CTR Board Guidelines.

3. An employer may not request a modification of the applicable goals until one year after the City's approval of its initial program description or annual report.

(Ord. 2201 §1 (part), 2008)

9.44.110 Appeals

A. Any affected employer may appeal administrative decisions made by the City regarding exemptions, modification of goals, CTR program elements. Appeals must arrive, by registered mail, within 14 calendar days following an administrative decision from the City. An appeal must be made in writing and specify the decision being appealed, as well as the specific basis for the appeal.

B. The City's Hearing Examiner shall hear timely appeals. Determinations made in the review of such appeals shall be based on consistency with State statutes RCW 70.94.521-551.

(Ord. 2201 §1 (part), 2008)

CHAPTER 9.48

CONCURRENCY STANDARDS AND TRANSPORTATION IMPACT FEES

Sections:

9.48.010 Authority and Purpose

A. **Authority**. The City of Tukwila's impact fee financing program has been developed pursuant to the City of Tukwila's police powers, the Growth Management Act as codified in Chapter 36.70A of the Revised Code of Washington (RCW), the enabling authority in RCW Chapter 82.02, RCW Chapter 58.17 relating to platting and subdivisions and the State Environmental Policy Act (SEPA), and RCW Chapter 42.12C.

B. **Purpose**. The purpose of the financing plan is to:

1. Develop a program consistent with Tukwila's Comprehensive Plan, the Six- Year Transportation Program and the Capital Improvement Program, for joint public and private financing of transportation improvements necessitated in whole or in part by development within the City of Tukwila;

2. Ensure adequate levels of transportation and traffic service consistent with the level of service identified in the Comprehensive Plan;

3. Create a mechanism to charge and collect fees to ensure that new development bears its proportionate share of the capital costs of transportation facilities necessitated by new development; and

4. Ensure fair collection and administration of such transportation impact fees.

C. The provisions of the City of Tukwila's impact fee ordinance shall be liberally construed to effectively carry out its purpose in the interests of the public health, safety and welfare.

(Ord. 2111 §1 (part), 2005)

9.48.020 Definitions

The words and terms contained in this chapter shall have the following meanings for the purposes of this chapter, unless the context clearly requires otherwise. Terms or words not defined herein shall be defined pursuant to RCW 82.02.090 when given their usual and customary meaning.

1. The *"Act"* means the Growth Management Act, Chapter 17, Laws of 1990, First Extraordinary Session, Chapter 36.70A RCW et seq., and Chapter 32, Laws of 1991, First Special Session, as now in existence or hereinafter amended.

2. *"Building permit"* means an official document or certification of the City of Tukwila issued by the City's building official which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, placement, demolition, moving, or repair of a building or structure.

3. *"City"* means the City of Tukwila, Washington.

4. *"Development"* means the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure that requires a building permit.

5. *"Development activity"* means any construction of a building or structure that creates additional demand and need for transportation facilities.

6. *"Development approval"* means any written authorization from the City, which authorizes the commencement of the "development activity."

7. *"Early Learning Facility"* is defined consistent with RCW 43.31.565(3) as now enacted or hereafter amended.

8. *"Fee payer"* is a person, corporation, partnership, an incorporated association or governmental agency, municipality, or similar entity commencing a land development activity, which requires a building permit and creates a demand for additional facilities.

9. *"Impact fee"* means the payment of money imposed by the City on development activity pursuant to this chapter as a condition of granting development approval, in order to pay for the transportation facilities needed to serve new growth and development that is a proportionate share of the cost of the capital facilities that is used for facilities that reasonably benefit new development. Impact fees are independent of a permit fee, an application fee, a concurrency test fee, and the administrative fee for collecting and handling impact fees or cost of reviewing independent fee calculations.

10. *"Letter encumbered"* means to reserve, set aside, or earmark the impact fees in order to pay for commitments, contractual obligations, or other liabilities incurred for the provision of transportation facilities.

11. *"Low-income housing"* means housing where monthly costs, including utilities other than telephone, do not exceed 30% of the resident's household monthly income and where household monthly income must be 80 percent or less of the King County Median family income adjusted for family size as reported by the U.S. Department of Housing and Urban Development.

12. *"Owner"* means the owner of record of real property, as found in the records of King County, Washington, or a person with an unrestricted written option to purchase property; provided, that if the real property is being purchased under a recorded real estate contract, the purchaser shall be considered the owner of the property.

13. *"Proportionate fair share"* means that portion of the cost for transportation facility improvements that are reasonably related to the service demands and needs of new development.

(Ord. 2657 §1, 2021; Ord. 2521 §1, 2016; Ord. 2305 §1, 2010; Ord. 2111 §1 (part), 2005)

9.48.030 Imposition of Transportation Impact Fees

A. The City hereby authorizes the assessment and collection of impact fees on development activity at the rates set forth in Figure 9-1.

B. Transportation impact fees imposed by this chapter:

1. Shall only be imposed for system improvements that are reasonably related to the new development;

2. Shall not exceed the proportionate fair share of the costs of system improvements that are reasonably related to the new development;

3. Shall be used for the system improvements that will reasonably benefit new development;

4. May be collected and spent only for system improvements, which are provided for in the transportation element of the Capital Improvement Plan and Comprehensive Land Use Plan;

5. Shall not be used to correct existing transportation system deficiencies as of the date of adoption of this chapter; and

6. Shall be collected only once for each development, unless changes or modifications to the development are proposed which result in greater direct impacts on transportation facilities than were considered when the development was first approved.

(Ord. 2156 §1, 2007; Ord. 2111 §1 (part), 2005)

9.48.040 Calculation of Impact Fees

A. The method of calculating the transportation impact fees in this chapter incorporate, among other things, the following:

1. The cost of public streets and roads necessitated by new development;

2. An adjustment to the costs of the public streets and roadways for past or future mitigation payments made by previous development to pay for a particular system improvement that was prorated to the particular street improvement;

3. The availability of other means of funding public street and roadway improvements; and

4. The methods by which public street and roadway improvements were financed.

B. Fees for development shall be calculated based on their net new "p.m. peak hour" trip generation rates as determined by the Public Works Director, or designee, applying the ITE Trip Generation Manual. If the proposed development activity concerns an existing use, the fee shall be based on net new trips generated by the redevelopment. If an existing building has not been used for its intended purpose or has been vacant for twelve months or more preceding application, no credit for existing trips shall be given.

(Ord. 2622 §2, 2019; Ord. 2305 §2, 2010; Ord. 2111 §1 (part), 2005)

9.48.050 Credit

A credit, not to exceed the impact fee otherwise payable, shall be provided for the fair market value of any dedication of land for, improvement to, or new construction of any system improvements provided by the developer, to facilities that are identified in the Capital Improvement Program and that are required as a condition of approving the development activity. The determination of "value" shall be consistent with the assumptions and methodology used by the City in estimating the capital improvement costs.

(Ord. 2111 §1 (part), 2005)

9.48.060 Time of Payment of Impact Fees

A. The impact fees imposed pursuant to this chapter shall be assessed by the City at the time of the application for the development permit, and shall be due and payable in full at the time of issuance of such permit, unless a fee deferral agreement is executed pursuant to TMC 9.48.095. The fee paid shall be the amount in effect as of the date of the permit issuance.

B. Impact fees may be paid under protest in order to obtain a permit or other approval of development activity.

(Ord. 2484 §1, 2015; Ord. 2305 §3, 2010 Ord. 2111 §1 (part), 2005)

9.48.070 Adjustments

A. The amount of fee to be imposed on a particular development may be adjusted by the Public Works Director, giving consideration to studies and other data submitted by the developer demonstrating by clear and convincing evidence that an adjustment should be made in order to carry out the purposes of this chapter.

B. The Public Works Director shall review the study to determine if the adjustment request:

1. Is based on accepted impact fee assessment practices and methodologies;

2. Uses acceptable data sources and if the data used is comparable with the uses and intensities planned for the proposed development activity;

3. Complies with the applicable State laws governing impact fees;

4. Is prepared and documented by professionals who are mutually agreeable to the City and the developer and are qualified in their respective fields; and

5. Shows the basis upon which the independent fee calculation was made.

C. In reviewing the study, the Public Works Director may require the developer to submit additional or different documentation. If the Public Works Director agrees with the study's findings, an adjustment to the impact fee will be made. If a compelling case has not been made, the developer shall pay the full impact fee amount.

D. A developer requesting an adjustment or independent fee calculation may pay the impact fees imposed by this chapter to obtain a building permit while the City determines whether to partially reimburse the developer by making an adjustment or accepting the independent fee calculation.

(Ord. 2111 §1 (part), 2005)

9.48.080 Establishment of Impact Fee Account

Impact fees received pursuant to this chapter shall be earmarked and retained in special interest-bearing accounts. All interest shall be retained in the account and expended for the purpose or purposes for which the impact fees were collected.

(Ord. 2111 §1 (part), 2005)

9.48.090 Use of Impact Fees

A. Pursuant to this chapter, impact fees shall be used for facilities that will reasonably benefit the City and its residents.

B. Fees shall not be used to make up deficiencies in City facilities serving an existing development.

C. Fees shall not be used for maintenance and operations, including personnel.

D. Traffic impact fees shall be used for but not limited to land acquisition, site improvements, engineering and architectural services, permitting, financing, administrative expenses and applicable mitigation costs, and capital equipment pertaining to transportation systems and facilities.

E. Traffic impact fees may also be used to recoup public improvement costs incurred by the City to the extent that new growth and development will be served by the previously constructed improvement.

F. In the event bonds or similar debt instruments are or have been issued for system improvements, impact fees may be used to pay the principal on such bonds.

G. Transportation impact fees shall be expended or letter encumbered for a permissible use within ten years of receipt, unless there exists an extraordinary or compelling reason for fees to be held longer than ten years. The Public Works Director may recommend to the Council that the City hold fees beyond ten years in cases where extraordinary or compelling reasons exist. Such reasons shall be identified in written findings by the Council.

H. The Finance Director shall prepare an annual report on the transportation impact fee account showing the source and amount of all moneys collected, earned or received and projects that were financed in whole or in part by transportation impact fees.

(Ord. 2622 §3, 2019; Ord. 2111 §1 (part), 2005)

9.48.095 Transportation Impact Fee Deferral

A. In order to encourage residential and mixed-use development within the Tukwila Urban Center Transit-Oriented Development (TUC-TOD) zoning district, fee deferrals of all or a portion of the required transportation impact fees for a project may be granted provided the following criteria are met:

1. The property owner must submit a technically-complete building permit application clearly depicting the project for which the fee deferral agreement would apply.

2. Before issuance of the building permit, the property owner must submit a written letter requesting that the transportation impact fee be deferred. The City will not consider any fee deferral requests from a tenant, contractor, or other third party. The request must be submitted to the City no later than December 31, 2016.

3. The project must be located west of the Green River and be within the TUC-TOD zoning district per Figure 18-16, District Map, in Title 18 of the Tukwila Municipal Code.

4. The project must include at least 100 residential units and at least 50 percent of the gross building square footage must be used for residential purposes. For purposes of this section, the term "residential" does not include hotels, motels, bed and breakfasts or other similar transient lodging accommodations.

5. A fee deferral agreement between the City and the property owner must be executed prior to issuance of the building permit. The Mayor is authorized to execute such agreements on behalf of the City. Provisions must be included in the agreement to secure payment of the deferred impact fees, plus accrued interest, in the case of default by the property owner. Provisions may include, but are not limited to, a lien against subject property, letter of credit and/or surety bond.

6. As part of the agreement, the property owner must agree to waive any appeals under TMC Section 9.48.120.

B. The Mayor may consider other relevant information in approving fee deferral requests including, but not limited to, the ability of the property owner to satisfy the obligations of the agreement and pay the deferred impact fees. The Mayor is authorized to include any other provisions or requirements in the deferral agreement that he/she deems necessary to meet the intent of this chapter, to protect the financial interest of the City, and/or to protect the public welfare.

C. Transportation impact fees may be deferred up to 10 years from the date of building permit issuance. The property owner shall make 8 equal, annual installment payments to the City, with the first payment due to the City no later than 36 months after issuance of the building permit, with the final payment being due no later than 120 months from issuance of the building permit. The property owner may pay off the entire balance any time prior to the end of the 10-year deferral term.

D. Interest shall be charged on deferred transportation impact fees. The interest rate shall be the same as the stated interest rate on the Ten Year US Treasury Note on the date the building permit is issued (or closest date thereof). Interest shall be compounded annually and shall begin to accrue upon issuance of the building permit.

E. The transportation impact fee deferral agreement may be consolidated with any agreements to defer fire, parks, or building permit fees as outlined in TMC Chapters 16.26 and 16.28, and the consolidated permit fee resolution adopted by the City Council.

(Ord. 2484 §2, 2015)

9.48.100 Plan and Fee Update

The impact fee may be updated annually to evaluate the consistency of development density assumptions, estimated project costs and adjusted for awarded grant funding, if any. Updates that result in a change in impact fees will be reviewed by the City Council. Impact fee changes will only occur through an ordinance requiring Council action.

(Ord. 2111 §1 (part), 2005)

9.48.110 Refunds

A. A developer may request and shall receive a refund when the developer does not proceed with the development activity for which transportation impact fees were paid, and the developer shows that no impact has resulted.

B. The developer must submit a request for a refund to the City in writing within one year of the date the right to claim the refund arises. Any transportation impact fees that are not expended or encumbered within the time limitations established, and for which no application for a refund has been made within this one-year period, shall be retained and expended on any project identified in the Capital Improvement Plan.

C. In the event that transportation impact fees must be refunded for any reason, they shall be refunded with interest earned to the applicant.

(Ord. 2111 §1 (part), 2005)

9.48.120 Appeals

A. Any fee payer may pay the impact fees imposed by this chapter under protest in order to obtain a building permit.

B. Appeals regarding traffic impact fees imposed on any development activity may only be taken by the fee payer of the property where such development activity will occur. No appeal shall be permitted unless and until the impact fee at issue has been paid.

C. Determinations of the Public Works Director or his designee, with respect to the applicability of traffic impact fees to a given development activity, or the availability of a credit, can be appealed to the City's Hearing Examiner. Such appeal shall be a closed record appeal.

D. An appeal shall be taken within 10 working days of payment of the impact fees under protest or within 10 working days of the City's issuance of a written determination of a credit or exemption decision by filing with the City Clerk a notice of appeal with an accompanying appeal fee, as set forth in the existing fee schedule for land use decisions.

E. Notices of appeal shall contain the following information:

1. The name of the appealing party;

2. The address and phone number of the appealing party; and

3. A statement identifying the decision being appealed and the alleged errors in that decision. The notice of appeal shall state specific errors of fact or errors in the application of the law to the facts presented and shall also state the relief sought. The scope of the appeal shall be limited to issues raised in the notice of appeal.

(Ord 2305 §4, 2010; Ord. 2111 §1 (part), 2005)

9.48.125 Exemptions

A. The impact fees are generated from the formula for calculating the fees as set forth in this chapter. The amount of the impact fees is determined by the information depicted on Figure 9-1 herein. All development activity located within the City shall be charged a transportation impact fee, provided that the following exemptions shall apply.

B. The following shall be exempt from transportation impact fees:

1. Replacement of a structure with a new structure having the same use, at the same site, and with the same gross floor area, when such replacement is within 12 months of demolition or destruction of the previous structure.

2. Alteration, expansion, or remodeling of an existing dwelling or structure where no new units are created and the use is not changed.

3. Construction of an accessory residential structure.

4. Miscellaneous improvements including, but not limited to, fences, walls, swimming pools and signs that do not impact the transportation system.

5. Demolition of or moving an existing structure within the City from one site to another.

6. Transportation impact fees for the construction of low-income housing may be reduced at the discretion of the Public Works Director when requested by the property owner in writing prior to permit submittal and subject to the following criteria:

a. Submittal of a fiscal impact analysis of how a reduction in impact fees for the project would contribute to the creation of low-income housing;

b. Fee reduction table.

Unit Size	Affordability Target [1]	Fee Reduction
2 or more bedrooms	80% [2]	40%
2 or more bedrooms	60% [2]	60%
Any size	50% [2]	80%

[1] – Units to be sold or rented to a person or household whose monthly housing costs, including utilities other than telephone, do not exceed 30% of the household's monthly income.

[2] – Percentage of King County Median family income adjusted for family size as reported by the U.S. Department of Housing and Urban Development.

c. The developer must record a covenant per RCW 82.02.060 (3) that prohibits using the property for any purpose other than for low-income housing at the original income limits for a period of at least 10 years. At a minimum, the covenant must address price restrictions and household income limits for the low-income housing, and that if the property is converted to a use other than low-income housing within 10 years, the property owner must pay the City the applicable impact fees in effect at the time of conversion.

7. *Change of Use.* A development permit for a change of use that has less impact than the existing use shall not be assessed a transportation impact fee.

8. A fee payer required to pay for system improvements pursuant to RCW 43.21C.060 shall not be required to pay an impact fee for the same improvements under this ordinance.

9. An Early Learning Facility is exempt from paying 80 percent of the required Transportation Impact Fee.

(Ord. 2657 §2, 2021; Ord. 2622 §4, 2019; Ord. 2521 §2, 2016)

9.48.130 Residential Impact Fee Deferral

A. **Purpose.** The purpose of this chapter is to comply with the requirements of RCW 82.02.050, as amended by ESB5923, Chapter 241, Laws of 2015, to provide an impact fee deferral process for single-family residential construction in order to promote economic recovery in the construction industry.

B. **Applicability.**

1. The provisions of this chapter shall apply to all impact fees established and adopted by the City pursuant to Chapter 82.02 RCW, including transportation system impact fees assessed under Tukwila Municipal Code Chapter 9.48.

2. Subject to the limitations imposed in the Tukwila Municipal Code, the provisions of this chapter shall apply to all building permit applications for single-family detached and single-family attached residential construction. For the purposes of this chapter, an "applicant" includes an entity that controls the named applicant, is controlled by the named applicant, or is under common control with the named applicant.

C. **Impact Fee Deferral.**

1. *Deferral Request Authorized.* Applicants for single-family attached or single-family detached residential building permits may request to defer payment of required impact fees until the sooner of:

a. final inspection; or

b. the closing of the first sale of the property occurring after the issuance of the applicable building permit;

which request shall be granted so long as the requirements of this chapter are satisfied.

2. *Method of Request.* A request for impact fee deferral shall be declared at the time of preliminary plat application (for platted development) or building permit application (for non-platted development) in writing on a form or forms provided by the City, along with applicable application fees.

3. *Calculation of Impact Fees.* The amount of impact fees to be deferred under this chapter shall be determined as of the date the request for deferral is submitted.

D. **Deferral Term.** The term of an impact fee deferral granted under this chapter may not exceed 18 months from the date the building permit is issued ("Deferral Term"). If the condition triggering payment of the deferred impact fees does not occur prior to the expiration of the Deferral Term, then full payment of the impact fees shall be due on the last date of the Deferral Term.

E. **Deferred Impact Fee Lien.**

1. *Applicant's Duty to Record Lien.* An applicant requesting a deferral under this chapter must grant and record a deferred impact fee lien, in an amount equal to the deferred impact fees, against the property in favor of the City in accordance with the requirements of RCW 82.02.050(3)(c).

2. *Satisfaction of Lien.* Upon receipt of final payment of all deferred impact fees for the property, the City shall execute a release of deferred impact fee lien for the property. The property owner at the time of the release is responsible, at his or her own expense, for recording the lien release.

F. **Limitation on Deferrals.** The deferral entitlements allowed under this chapter shall be limited to the first 20 single-family residential construction building permits per applicant, as identified by contractor registration number or other unique identification number, per year.

(Ord. 2521 §3, 2016)

9.48.150 Authority Unimpaired

Nothing in this chapter shall preclude the City from requiring the fee payer to mitigate adverse and environmental effects of a specific development pursuant to the State Environmental Policy Act, Chapters 43.21C RCW and/or Chapter 58.17 RCW, governing plats and subdivisions; provided, that the exercise of this authority is consistent with Chapters 43.21C and 82.02 RCW.

(Ord 2305 §7, 2010; Ord. 2111 §1 (part), 2005)

9.48.160 Relationship to SEPA

A. All development shall be subject to environmental review pursuant to SEPA and other applicable City ordinances and regulations.

B. Payment of the impact fee pursuant to this chapter shall constitute satisfactory mitigation of those traffic impacts related to the specific improvements identified on the project list.

C. Further mitigation in addition to the impact fee shall be required for identified adverse impacts, appropriate for mitigation pursuant to SEPA, that are not mitigated by an impact fee.

D. Nothing in this chapter shall be construed to limit the City's authority to deny development permits when a proposal would result in significant adverse traffic impacts identified in an environmental impact statement and reasonable mitigation measures are insufficient to mitigate the identified impact.

(Ord 2305 §8, 2010; Ord. 2111 §1 (part), 2005)

CHAPTER 9.50
CONCURRENCY MANAGEMENT

Sections:

9.50.010 Purpose

A. Pursuant to the State Growth Management Act, RCW 36.70A, after the adoption of its Comprehensive Plan, the City of Tukwila is required by RCW 36.70A.070(6)(b) to ensure that transportation improvements or strategies to accommodate the impacts of development are provided concurrent with the development. Further, the City is bound by the planning goals of RCW 36.70A.020 to ensure that public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards, hereinafter "concurrency."

B. The intent of this chapter is to establish a concurrency management system to ensure that concurrency facilities and services needed to maintain minimum level of service standards can be provided simultaneous to, or within a reasonable time after, development occupancy or use. Concurrency facilities adopted by the City's Comprehensive Plan are roads, potable water, sanitary sewer, and storm water management. This chapter furthers the goals, policies and implementation strategies and objectives of the Comprehensive Plan.

C. The concurrency management system provides the necessary regulatory mechanism for evaluating requests for development to ensure that adequate concurrency facilities can be provided within a reasonable time of the development impact. The concurrency management system also provides a framework for determining facilities and services needs and provides a basis for meeting those needs through capital facilities planning.

D. For water, sewer, and surface water, the facilities must be in place at the time of development approval; and for roads, the facilities must be in place within six years of the time of the development approval. Applicants with developments that would cause the level of service on concurrency facilities to decline below City standards can have their developments approved by implementing measures that offset their impacts and would maintain the City's standard for level of service.

(Ord. 2635 §3, 2020)

9.50.020 Definitions

The definitions contained in TMC 9.50.020 apply throughout this chapter unless, from the context, another meaning is clearly intended.

1. *"Adequate"* means equal to or better than the level of service standards specified in the current adopted capital facilities element.

2. *"Applicant"* means a person who applies for any certificate of concurrency under this chapter and who is the owner of the subject property or the authorized agent of the property.

3. *"Available water, sewer, and surface water capacity"* means there is adequate capacity, based on adopted level of service standards, for water, sewer, and surface water facilities currently existing without requiring facility construction, expansion, or modification.

4. *"Building permit"* refers to any permit issued under the Uniform Building Code.

5. *"Certificate of concurrency"* means the statement accompanying the Public Works Department's development standards that are issued with an approved development permit or the Public Works Department's conditions of approval that are issued with an approved building permit. The statement shall state that a certificate of concurrency is issued and indicate:

   a. For water, sewer, and surface water, the capacity of the concurrency facilities that are available and reserved for the specific uses, densities and intensities as described in the development permit or building permit; and

   b. For road facilities assigned to the development for the specific uses, densities and intensities as described in the development permit or building permit; and

   c. Conditions of approval, if applicable; and

   d. An effective date; and

   e. An expiration date.

6. *"Concurrency"* means facilities or strategies that achieve the City's level of service standards and that:

   a. For water, sewer, surface water, and roads: facilities that exist at the time development is approved by the Public Works Department; or

   b. For roads:

      (1) Are included in the City's Capital Improvement Plan at the time development is approved by the Public Works Department; or

      (2) Will be available and complete no later than six years after completion of the development, and the applicant and/or the City provides a financial commitment which is

in place at the time the development is approved by the Public Works Department.

7. "*Concurrency facilities"* means facilities for which concurrency is required in accordance with the provision of this chapter. They are roads, water, sanitary sewer, and surface water facilities.

8. "Concurrency test" means:

a. For water, sewer, and surface water, the comparison of a development's demand to the available capacity of each concurrency facility; and

b. For roads, the comparison of the development's impact on the level of service standards of each effected subarea.

A concurrency test must be passed for roads, and a notice issued by the Public Works Department in order to obtain a certificate of concurrency.

9. *"Development permit"* means a land use permit and includes short plat, preliminary or final rezone/reclassification, zoning permit, master plan, shoreline substantial development permit/conditional use permit, planned unit development, or any other permit or approval under the Zoning Code or Subdivision Code or Shoreline Master Program.

10. "Financial commitment" means:

a. Revenue sources anticipated to be available and designated for facilities in the Comprehensive Plan;

b. Unanticipated revenue from federal and state grants for which the City has received notice of approval;

c. Funding that is assured by the applicant in a form approved by the Public Works Department.

11. *"Level of service standard"* means those standards specified in the adopted transportation element of the Comprehensive Plan. For water, sewer, and surface water, "level of service standard" also means those standards defined in TMC Title 14.

12. *"Non-City managed facilities"* include any non-city provider of water or sewer.

13. *"Planned capacity"* means road facilities that do not exist but for which the necessary facility construction, expansion, or modification project is contained in the current capital facilities element of the Comprehensive Plan. The improvements must be scheduled to be completed within six years and the financial commitment must be in place at the time of approval of the certificate of concurrency to complete the improvements within six years.

14. *"Public Works Department"* means the Public Works Director or designee.

15. *"Transportation strategies"* means transportation demand management strategies and other techniques or programs that reduce single occupant vehicle travel.

16. *"Vested"* means the right to develop or continue development in accordance with the laws, rules, and other regulations in effect at the time the building permit application is deemed complete.

(Ord. 2635 §4, 2020)

9.50.030 Concurrency Test

A. **Timing.** All applicants must apply for the transportation concurrency test and receive notice of passing the test before the City will approve an application for any development permit or building permit. An application for a concurrency test may be submitted with other development submittals.

B. **Procedures.**

1. Applications for a concurrency test shall be submitted on forms provided by the Public Works Department. The concurrency test shall be done in order of "first in, first out," once the Public Works Department determines the application is complete.

2. The applicant shall provide to the Public Works Department a certificate of availability for water and sewer with the application submittal if the property is serviced by a non-City managed utility. For City managed utilities, a determination will be made on availability and a certificate of availability shall be issued. This certificate of availability shall suffice as meeting the concurrency test for water and sewer utilities.

3. The applicant shall submit a detailed project description of the development, including location, vehicular circulation, and gross floor area by use, as part of the concurrency application and shall pay the concurrency test fee as adopted by motion or resolution of the Tukwila City Council.

4. A concurrency test shall be performed only for specific property, uses, densities and intensities based on the information provided by the applicant. The applicant shall specify densities and intensities that are consistent with the uses allowed for the property. If the concurrency test is being requested in conjunction with an application for rezone, the applicant shall specify densities and intensities that are consistent with the proposed zoning for the property. Changes to the uses, densities and intensities that create additional impacts on concurrency facilities shall be subject to an additional concurrency test.

5. The Public Works Director or designee shall perform the concurrency test. The project must pass the concurrency test prior to approval of the development permit or building permit.

6. The Public Works Director or designee shall notify the applicant of the test results in writing. The date of written notification to the applicant shall be the date of issuance of the concurrency certificate.

7. The concurrency certificate shall expire within one year of its issuance unless the applicant submits a building permit application, a SEPA environmental checklist and all required documentation pursuant to TMC Chapter 21.04, or an extension is granted within one year from the date of issuance of the concurrency certificate.

8. If the deadline for submittal of a complete building permit application, SEPA environmental checklist and all required documentation is met as described in TMC Section 9.50.030.B.7, or other submittal as determined by the Public Works Director or designee, the concurrency certificate shall be valid for two years from the date of issuance of the building permit, SEPA Determination, or other City-issued approval. If the building permit, SEPA environmental checklist, or other submittal is withdrawn by the applicant prior to approval by the City or expires, the concurrency certificate shall expire one year after the date of issuance.

9. An applicant must apply for a new concurrency test if the certificate expires or an extension is not granted.

10. The Public Works Director may approve an extension of up to one year if:

a. The applicant submits a letter in writing requesting the extension before the expiration date. The applicant must show that they are not responsible for the delay in obtaining a building permit, SEPA approval, or other City-issued approval, and has acted in good faith to obtain the permit or approval; and

b. If the property is serviced by a non-City managed utility, then the applicant must submit a letter from the utility approving the extension before the expiration date.

11. The Public Works Department shall be responsible for accumulating the impacts created by each application and removing any impacts from the City's concurrency records for an expired concurrency certificate, an expired development permit or building permit, or other action resulting in an applicant no longer causing impacts that have been accounted for in the City records.

12. The Public Works Department shall be responsible to coordinate with applicable non-City managed utility operators for maintenance and monitoring of available and planned capacity for these utilities.

13. A certificate of concurrency shall apply only to the specific land use, density and intensity described in the application for a development permit or building permit. No development shall be required to obtain more than one certificate of concurrency for each building, unless the applicant or subsequent owner proposes changes or modifications to the property location, density, intensity, or land use that creates additional impacts on concurrency facilities.

14. A certificate of concurrency is not transferable to other land but may be transferred to new owners of the original land.

(Ord. 2635 §5, 2020)

9.50.040 Test Criteria

Development applications that would result in a level of service reduction below the adopted standard shall not be approved.

1. For water and sanitary sewer conveyance systems, a certificate of availability must be issued to pass the concurrency test. For surface water conveyance systems, the water quality and detention standards described in the currently-adopted King County Surface Water Design Manual must be met to pass the concurrency test.

2. For roads, the concurrency test compares level of service at intersections or corridors, as defined in the transportation element, both with and without the development at a time 6 years after the estimated occupancy of the development. If the level of service is equal to or better than the level of service standard, the concurrency test is passed.

3. If the concurrency test is not passed for water, sewer, surface water, or roads, then the applicant may retest for concurrency after doing one or both of the following:

a. Modifying the application to reduce the need for the non-existent concurrency facilities. Reduction of need can be through the reduction of the size of the development, reduction of trips generated by original proposed development, or phasing of the development to match future concurrency facility construction; or

b. Arranging to fund the improvements for the additional capacity required for the concurrency facilities, as approved by the Public Works Director.

(Ord. 2635 §6, 2020)

9.50.050 Concurrency for Phased Development

A. An applicant may request concurrency for a phased development if the Public Works Director determines that the two criteria described in TMC Section 9.50.050.B are met. The application for concurrency must be accompanied by a schedule for construction of the buildings, parking and other improvements and by a written request for the development to be considered in phases.

B. The Public Works Director or designee may approve concurrency for phased development if both of the following criteria are met:

1. No associated development permit is required before building permit applications can be submitted; and

2. The application is for an integrated development site plan with multiple buildings that are interdependent for vehicular and pedestrian access and parking.

C. A concurrency application for phased development shall follow the same timing and procedure as set forth in this chapter, except that:

1. Only one concurrency certificate shall be issued for all buildings proposed for phased development;

2. The concurrency certificate for an approved phased development shall be valid for five years from the date of its issuance; provided that a building permit is issued for a building within one year of the date of issuance of the concurrency certificate or within two years if an extension is timely requested and the request is granted.

D. The Public Works Director or designee may approve an extension of up to one year of the concurrency certificate for the phased development, consistent with the terms of this chapter.

E. In no case shall the concurrency certificate be valid for more than six years from the date of issuance of the certificate. The applicant must apply for a new concurrency test for any building approved for phased development that has not been issued a building permit within six years from the date of issuance of the concurrency certificate.

(Ord. 2635 §7, 2020)

9.50.060 Exemptions

Applications for single-family dwelling unit building permits, multi-family building permits for projects containing four or fewer units, short plats, any non-residential project that is categorically exempt from SEPA pursuant to TMC Section 21.04.080, .100, or .110, or any other project that will generate less than 30 net new P.M. peak hour trips shall be considered as exempt from meeting concurrency requirements and shall be automatically granted a concurrency certificate. The applicant is required to submit for a concurrency certificate, along with the associated fee, but is not subject to receiving a passing grade in order to obtain other development approvals.

(Ord. 2635 §9, 2020)

9.50.070 Vesting

Applicants shall be vested under the laws, rules and other regulations in effect prior to the effective date of this chapter if they have, prior to the effective date of the ordinance codified in this chapter:

1. Submitted a building permit application that the City has deemed complete; or

2. Entered into formal negotiations with the City for a development agreement in accordance with RCW 36.70B.170 through 36.70B.210; or

3. Have a signed agreement with the City that is still in effect.

(Ord. 2635 §10, 2020)

9.50.080 Improvements to Concurrency Facilities

A. The City shall provide, or arrange for others to provide, adequate facilities through construction of needed capital improvements in implementing strategies which do the following:

1. Achieve level of service standards for anticipated future development and redevelopment caused by previously issued and new development and building permits; and

2. Repair or replace obsolete or deteriorating facilities.

B. Improvements to the facilities shall be consistent with the Transportation Element, Utilities Element and Capital Improvement Program of the Comprehensive Plan.

(Ord. 2635 §11, 2020)

9.50.090 Capital Facilities Plan and Capital Improvement Program

The City shall include in the capital appropriations of its budget for expenditure during the appropriate fiscal year financial commitments for all capital improvement projects required for adopted level of service standards, except the City may omit from its budget any capital improvements for which a binding agreement has been executed with another party to provide the same project in the same fiscal year.

(Ord. 2635 §12, 2020)

9.50.100 Intergovernmental Coordination

A. The City may enter into agreements with other local governments, applicable non-City managed utilities, King County, the state of Washington, and other facility providers to coordinate the imposition of level of service standards and other mitigations for concurrency.

B. The City may apply standards and mitigations to development in the City that impacts other local jurisdictions. The City may agree to accept and implement conditions and mitigations that are imposed by other jurisdictions on development in their jurisdiction that impact the City.

(Ord. 2635 §13, 2020)

9.50.110 Administrative Rules and Procedures

The Public Works Department shall be authorized to establish administrative rules and procedures for administering the concurrency test system. The administrative rules and procedures shall include but not be limited to application forms, necessary submittal information, processing times, and issuance of the concurrency certificate.

(Ord. 2635 §14, 2020)

9.50.120 Appeals

A. **Procedures.** The applicant may appeal the results of the concurrency test based on three grounds:

1. A technical error;

2. The applicant provided alternative data or a traffic mitigation plan that was rejected by the City; or

3. Delay in review and approval caused solely by the City that allowed capacity to be given to another applicant. The applicant must file a notice of appeal with the Public Works Department within 15 days of the notification of the test results. The notice of appeal must specify the grounds thereof, and must be submitted on the form authorized by the Public Works Department. Each appeal must be submitted with the appeal fee set forth in TMC Section 18.90.010.

B. **Hearing Schedule and Notification.** When the appeal has been filed within the time prescribed, in proper form, with the appropriate data and payment of the required fee, the Public Works Department shall transmit the appeal to the hearing examiner for scheduling. Notice of the public hearing shall be given to the applicant at least 15 days prior to the hearing date.

C. **Record.** The Public Works Department shall transmit to the Hearing Examiner all papers, calculations, plans and other materials constituting the record of the concurrency test, at least 7 days prior to the scheduled hearing date. The Examiner shall consider the appeal upon the record transmitted, supplemented by any additional competent evidence, which the parties in interest may desire to submit.

D. **Burden of Proof.** The burden of proof shall be on the appellant to show by a preponderance of the evidence that the Public Works Director was in error.

(Ord. 2635 §15, 2020)

9.50.130 SEPA Exemption

A determination of concurrency shall be an administrative action of the City of Tukwila that is categorically exempt from the State Environmental Policy Act.

(Ord. 2635 §16, 2020)

CHAPTER 9.53
AUTOMATED TRAFFIC SAFETY CAMERAS

Sections:

9.53.010 Automated traffic safety cameras – Detection of violations – Restrictions

A. City law enforcement officers and persons commissioned by the Tukwila Police Chief are authorized to use automated traffic safety cameras and related automated systems to detect and record the image of vehicles engaged in violations in school speed zones and public park speed zones, as defined by RCW 46.63.170(B)(ii)(A); provided, however, pictures of the vehicle and the vehicle license plate may be taken only while an infraction is occurring, and the picture shall not reveal the face of the driver or of any passengers in the vehicle.

B. Each location where an automated traffic safety camera is used shall be clearly marked by signs placed in locations that clearly indicate to a driver that the driver is entering a zone where traffic laws are enforced by an automated traffic safety camera.

C. "Automated traffic safety camera" means a device that uses a vehicle sensor installed to work in conjunction with an intersection traffic control system or a speed measuring device, and a camera synchronized to automatically record one or more sequenced photographs, microphotographs or electronic images of the rear of a motor vehicle at the time the vehicle exceeds a speed limit in a school zone or city public park zone as detected by a speed measuring device.

(Ord. 2696 §2, 2022; Ord. 2612 §2, 2019)

9.53.020 Notice of infraction

A. Whenever any vehicle is photographed by an automated traffic safety camera, a notice of infraction shall be mailed to the registered owner of the vehicle within 14 days of the violation, or to the renter of a vehicle within 14 days of establishing the renter's name and address. A person receiving a notice of infraction based on evidence detected by an automated traffic safety camera may respond to the notice by mail.

B. If the registered owner of the vehicle is a rental car business, the law enforcement agency shall, before a notice of infraction is issued, provide a written notice to the rental car business that a notice of infraction may be issued to the rental car business if the rental car business does not, within 18 days of receiving the written notice, provide to the agency by return mail: (1) a statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred; or (2) a statement under oath that the business is unable to determine who was driving or renting the vehicle when the infraction occurred; or (3) in lieu of identifying the vehicle operator, the rental car business may pay the applicable penalty. Timely mailing of this statement to the agency shall relieve the rental car business of any liability under this chapter for the infraction.

C. The law enforcement officer issuing a notice of infraction shall include with it a certificate or facsimile thereof, based upon the inspection of photographs, microphotographs or electronic images produced by an automated traffic safety camera, citing the infraction and stating the facts supporting the notice of infraction. This certificate or facsimile shall be prima facie evidence of the facts contained in it and shall be admissible in a proceeding charging a violation under this chapter. The photographs, microphotographs or electronic images evidencing the violation must be available for inspection and admission into evidence in a proceeding to adjudicate the liability for the infraction.

D. The registered owner of a vehicle is responsible for an infraction detected through the use of an automated traffic safety camera unless the registered owner overcomes the presumption set forth in TMC Section 9.53.030, or, in the case of a rental car business, satisfies the conditions under TMC Section 9.53.020.B. If appropriate under the circumstances, a renter identified under TMC Section 9.53.020.B is responsible for an infraction.

E. All photographs, microphotographs or electronic images prepared under this chapter are for the exclusive use of law enforcement in the discharge of duties under this chapter and, as provided in RCW 46.63.170(1)(g), they are not open to the public and may not be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation under this chapter. No photograph, microphotograph or electronic image may be used for any purpose other than enforcement of violations under this chapter nor retained longer than necessary to enforce this chapter.

(Ord. 2612 §3, 2019)

9.53.030 Prima facie presumption

A. In a traffic infraction case involving an infraction detected through the use of an automated traffic safety camera under this chapter, proof that the particular vehicle described in the notice of traffic infraction was involved in a school speed zone violation or city public park zone speed violation, together with proof that the person named in the notice of infraction was at the time of the violation the registered owner of the vehicle, shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person in control of the vehicle at the point where, and for the time during which, the violation occurred.

B. This presumption may be overcome only if the registered owner, under oath, states in a written statement to the court or in testimony before the court that the vehicle involved was, at the time, stolen or in the care, custody or control of some person other than the registered owner.

(Ord. 2696 §3, 2022; Ord. 2612 §4, 2019)

9.53.040 Infractions processed

Infractions detected through the use of automated traffic safety cameras shall be processed in the same manner as parking infractions.

(Ord. 2612 §5, 2019)

9.53.050 Fine

A. The fine for an infraction detected under authority of this chapter shall be as follows:

1. $210.00 for travelling at a speed greater than, but less than 11 miles per hour more than, the posted speed limit; and

2. $240.00 for travelling at a speed at least 11 miles per hour more than the posted speed limit.

B. The maximum penalty for infractions detected pursuant to the provisions of this chapter shall not exceed the maximum amount of fine issued for parking infractions within the City.

(Ord. 2616 §1, 2019; Ord. 2612 §6, 2019)

9.53.060 Nonexclusive enforcement

Nothing in this chapter prohibits a law enforcement officer from issuing a notice of traffic infraction to a person in control of a vehicle at the time a violation occurs under RCW 46.63.030(1)(a), (b) or (c).

(Ord. 2612 §7, 2019)

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Figure 9-1

Traffic Impact Fee Schedule 2020

Land Uses	Unit of Measure	Zone 1	Zone 2	Zone 3	Zone 4
Cost per Trip All Other Uses		$4,438.73	$4,863.14	$5,345.42	$2,057.66
Residential					
Single Family	dwelling	$4,394.34	$4,814.51	$5,291.97	$2,037.08
Multi Family	dwelling	$2,012.22	$2,204.62	$2,423.26	$932.81
Retirement Community	dwelling	$821.17	$899.68	$988.90	$380.67
Nursing Home/Convalescent Center	bed	$976.52	$1,069.89	$1,175.99	$452.69
Assisted Living	dwelling	$1,154.07	$1,264.42	$1,389.81	$534.99
Residential Suites/Microunit apartments	dwelling	$1,331.62	$1,458.94	$1,603.63	$617.30
Commercial - Services					
Drive-in Bank	sq ft/GFA	$59.00	$64.64	$71.05	$27.35
Walk-in Bank	sq ft/GFA	$43.07	$47.19	$51.87	$19.97
Day Care Center	sq ft/GFA	$49.36	$54.08	$59.44	$22.88
Library	sq ft/GFA	$27.17	$29.76	$32.71	$12.59
Post Office	sq ft/GFA	$37.32	$40.89	$44.94	$17.30
Hotel/Motel	room	$2,663.24	$2,917.88	$3,207.25	$1,234.60
Service Station	VFP	$36,119.72	$39,573.32	$43,497.82	$16,744.00
Service Station/Minimart	VFP	$27,323.05	$29,935.54	$32,904.27	$12,666.13
Service Station/Minimart/Car Wash	VFP	$17,750.48	$19,447.70	$21,376.33	$8,228.58
Carwash (Self-Serve)	Stall	$15,983.87	$17,512.17	$19,248.86	$7,409.63
Movie Theater	screen	$339.56	$372.03	$408.92	$157.41
Health Club	sq ft/GFA	$16.21	$17.76	$19.52	$7.52
Racquet Club	sq ft/GFA	$12.72	$13.93	$15.31	$5.90
Public Park	acre	$488.26	$534.95	$588.00	$226.34
Golf Driving Range	tees	$5,548.41	$6,078.93	$6,681.78	$2,572.08
Batting Cages	cage	$9,853.98	$10,796.17	$11,866.83	$4,568.01
Multipurpose Recreational Facility	sq ft/GFA	$15.89	$17.41	$19.14	$7.37
Trampoline Park	sq ft/GFA	$6.66	$7.29	$8.02	$3.09
Bowling Alley	sq ft/GFA	$5.15	$5.64	$6.20	$2.39
Ice Skating Rink	sq ft/GFA	$5.90	$6.47	$7.11	$2.74
Casino/Video Lottery Estab. With Food	sq ft/GFA	$59.88	$65.60	$72.11	$27.76
Commercial - Institutional					
Elementary School/Jr. High School	student	$754.58	$826.73	$908.72	$349.80
High School	student	$621.42	$680.84	$748.36	$288.07
University/College	student	$843.36	$924.00	$1,015.63	$390.96
Religious Institutions	sq ft/GFA	$2.17	$2.38	$2.62	$1.01
Hospital	sq ft/GFA	$3.44	$3.77	$4.15	$1.60
Commercial - Restaurant					
Quality Restaurant	sq ft/GFA	$19.39	$21.24	$23.35	$8.99
High Turnover Restaurant	sq ft/GFA	$24.72	$27.08	$29.77	$11.46
Fast Food Restaurant w/o drive thru	sq ft/GFA	$62.90	$68.91	$75.74	$29.16
Fast Food Restaurant w/ drive thru	sq ft/GFA	$72.51	$79.44	$87.32	$33.61
Drinking Place	sq ft/GFA	$37.85	$41.47	$45.58	$17.55
Coffee/Donut Shot w/ drive thru	sq ft/GFA	$19.26	$21.10	$23.19	$8.93
Industrial		$0.00	$0.00	$0.00	$0.00
Light Industry/High Technology	sq ft/GFA	$2.80	$3.06	$3.37	$1.30
Industrial Park	sq ft/GFA	$1.78	$1.95	$2.14	$0.82
Warehousing/Storage	sq ft/GFA	$0.84	$0.92	$1.02	$0.39
Mini Warehouse	sq ft/GFA	$0.75	$0.83	$0.91	$0.35

GLA= Gross Leasible Area
GFA= Gross Floor Area
VFP= Vehicle Fueling Positions (Maximum number of vehicles that can be fueled simultaneously)

Return to Title

Figure 9-1

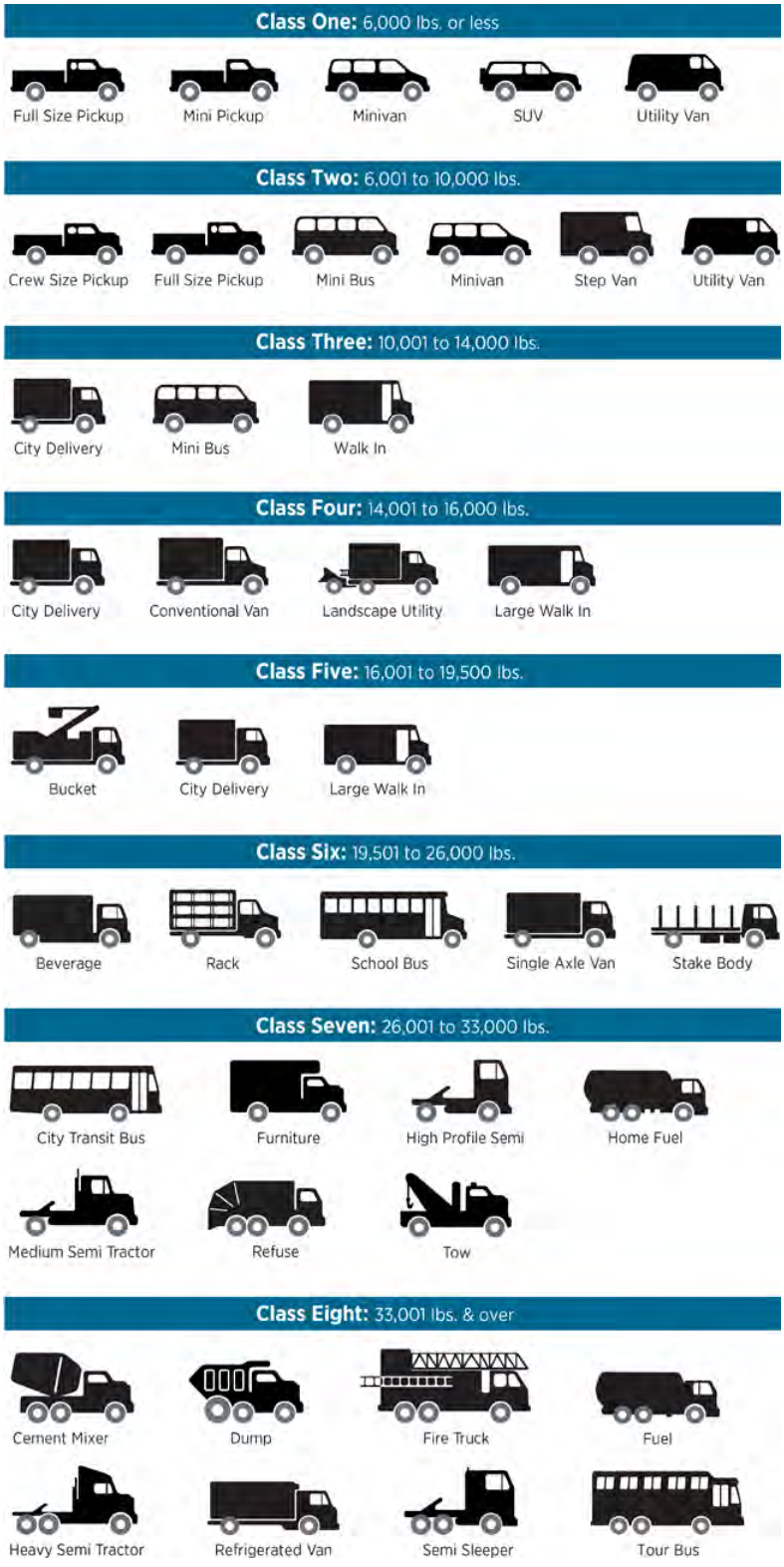
Traffic Impact Fee Schedule 2020

Land Uses	Unit of Measure	Zone 1	Zone 2	Zone 3	Zone 4
Cost per Trip All Other Uses		$4,438.73	$4,863.14	$5,345.42	$2,057.66
Commercial - Retail					
Shopping Center					
up to 9,999 sq ft	sq ft/GLA	$26.28	$28.79	$31.64	$12.18
10,000 sq ft-49,999 sq ft	sq ft/GLA	$16.49	$18.07	$19.86	$7.64
50,000 sq ft-99,999 sq ft	sq ft/GLA	$14.31	$15.67	$17.23	$6.63
100,000 sq ft-199,999 sq ft	sq ft/GLA	$13.02	$14.27	$15.68	$6.04
200,000 sq ft-299,999 sq ft	sq ft/GLA	$12.35	$13.53	$14.87	$5.72
300,000 sq ft-399,999 sq ft	sq ft/GLA	$12.18	$13.34	$14.67	$5.65
over 400,000 sq ft	sq ft/GLA	$12.62	$13.82	$15.19	$5.85
Miscellaneous Retail Sales	sq ft/GFA	$12.48	$13.68	$15.03	$5.79
Supermarket	sq ft/GFA	$26.25	$28.76	$31.61	$12.17
Convenience Market	sq ft/GFA	$106.81	$117.03	$128.63	$49.52
Nursery/Garden Center	sq ft/GFA	$21.56	$23.63	$25.97	$10.00
Furniture Store	sq ft/GFA	$1.08	$1.19	$1.31	$0.50
Car Sales - New/Used	sq ft/GFA	$10.97	$12.02	$13.21	$5.09
Auto Care Center	sq ft/GLA	$13.80	$15.12	$16.62	$6.40
Quick Lubrication Vehicle Shop	Service Bay	$15,069.49	$16,510.36	$18,147.70	$6,985.76
Auto Parts Sales	sq ft/GFA	$15.26	$16.71	$18.37	$7.07
Pharmacy (with Drive Through)	sq ft/GFA	$23.29	$25.52	$28.05	$10.80
Pharmacy (no Drive Through)	sq ft/GFA	$17.75	$19.45	$21.38	$8.23
Free Standing Discount Store	sq ft/GFA	$17.79	$19.50	$21.43	$8.25
Hardware/Paint Store	sq ft/GFA	$7.78	$8.53	$9.37	$3.61
Discount Club	sq ft/GFA	$11.69	$12.81	$14.08	$5.42
Video Rental	sq ft/GFA	$27.17	$29.76	$32.71	$12.59
Home Improvement Superstore	sq ft/GFA	$6.00	$6.57	$7.22	$2.78
Tire Store	Service Bay	$10,929.93	$11,975.00	$13,162.56	$5,066.78
Electronics Superstore	sq ft/GFA	$13.24	$14.50	$15.94	$6.14
Commercial - Office					
Administrative Office					
up to 9,999 sq ft	sq ft/GFA	$5.27	$5.78	$6.35	$2.44
10,000 sq ft-49,999 sq ft	sq ft/GFA	$4.83	$5.30	$5.82	$2.24
50,000 sq ft-99,999 sq ft	sq ft/GFA	$4.63	$5.08	$5.58	$2.15
100,000 sq ft-199,999 sq ft	sq ft/GFA	$4.47	$4.90	$5.39	$2.07
200,000 sq ft-299,999 sq ft	sq ft/GFA	$4.35	$4.77	$5.24	$2.02
over 300,000 sq ft	sq ft/GFA	$4.31	$4.73	$5.20	$2.00
Medical Office/Clinic	sq ft/GFA	$10.92	$11.96	$13.15	$5.06

GLA= Gross Leasible Area
GFA= Gross Floor Area
VFP= Vehicle Fueling Positions (Maximum number of vehicles that can be fueled simultaneously)

Vehicles by Weight Class

Figure 9-2



TITLE 11
RIGHT-OF-WAY USE

Chapters:

CHAPTER 11.04
GENERAL PROVISIONS

Sections:

11.04.010 Short Title

Chapter 11 is known as and may be referred to as the "right-of-way use code."

(Ord. 1995 §1 (part), 2002)

11.04.020 Purpose

The purpose of this title is to regulate the use of the public right-of-way in the interest of public health, safety, welfare and convenience, and the operation and protection of public work infrastructure.

(Ord. 1995 §1 (part), 2002)

11.04.030 Territorial Application

TMC Title 11 and the procedures adopted hereunder shall be in effect throughout the City of Tukwila.

(Ord. 1995 §1 (part), 2002)

11.04.040 Definitions

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.

1. *"Abutting Property"* means all property having a frontage upon the sides or margins of any public right-of-way.
2. *"Affiliate"* means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person.
3. *"Applicant"* shall mean any owner or developer, or duly authorized agent of such owner or developer, who has submitted an application for a permit under this title.
4. *"Assessment Reimbursement Area"* means all real properties that will benefit from the street and/or utility system improvements.
5. *"Banner"* means a sign consisting of fabric and containing a public service message or event announcement which is hung above or across a public right-of-way.

6. *"Business Registration"* means a requirement of all telecommunications and cable providers who are not otherwise required to license or franchise with the City.

7. *"Cable Act"* means the Federal Cable Communications Policy Act of 1984, as amended by the Federal Cable Television Consumer Protection and Competition Act of 1992, as amended by portions of the Federal Telecommunications Act of 1996, and hereafter amended.

8. *"Cable Facilities"* – see "Facilities."

9. *"Cable Operator"* shall have the same meaning as defined in the Cable Acts.

10. *"Cable Service"* shall have the same meaning as defined in the Cable Acts.

11. *"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.

12. *"City"* means the City of Tukwila, Washington, in King County, and all the territory within the corporate boundaries of Tukwila, as these may change from time to time.

13. *"City Council"* means the City of Tukwila Council acting in its official capacity.

14. *"Curb"* means a cement, concrete or asphaltic concrete raised structure designed to delineate the edge of the street and to separate the vehicular area of the public right-of-way from the area provided for pedestrians.

15. *"Department"* means the City of Tukwila Public Works Department.

16. *"Deposit"* shall mean any bond, cash deposit, or other security provided by the applicant in accordance with TMC Section 11.08.110.

17. *"Developer"* means the owner and/or building permit applicant who is required – by any ordinance of the City, as the result of the review under State Environmental Policy Act, or in connection with any decision of the City Council – to construct street system and/or utility system improvements which abut the development site.

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

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

20. *"Director"* means the Director of the Public Works Department or designee.

21. *"Electrical or Communication Systems"* means facilities carrying electrical energy, including but not limited to, electric power, telephone, telegraph, telecommunication, fiber optics, and cable television services.

22. *"Emergency"* shall mean any unforeseen circumstances or occurrence, the existence of which constitutes an immediate danger to persons or property, or which causes interruption of utility or public services.

23. *"Excavation"* shall mean any work in the surface or subsurface of the public right-of-way, including, but not limited to, opening the public right-of-way for installing, servicing, repairing, or modifying any facility or facilities in or under the surface or subsurface of the public right-of-way.

24. *"Excess Capacity"* means the volume or capacity in any existing or future duct, conduit, manhole, handhold or other utility facility within the right-of-way that is or will be available for use for additional telecommunications or cable facilities.

25. *"Facilities"* or *"Facility"* means the plant, equipment, and/or property, including, but not limited to, overhead and underground water, gas, electric, and telecommunication facilities and appurtenance such as cables, wires, conduits, transformers, substation, pad-mounted J-boxes, switch cabinets, ducts, pedestals, antennas, electronics, vaults, poles, meter boxes, sewers, pipes, drains, and tunnels.

26. *"FCC"* or *"Federal Communications Commission"* means the Federal administrative agency, or lawful successor, authorized to regulate and oversee telecommunications carriers, services and cable operators on a national level.

27. *"Franchise"* is an agreement required with a right-of-way user who desires to construct, install, operate, maintain or otherwise locate facilities in rights-of-way.

28. *"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.

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

30. *"Grantee"* means the holder of a franchise or a right-of-way permit.

31. *"Hazardous Waste"* includes any and all such materials as defined by RCW 70A.384.005 (radioactive wastes) and RCW 70A.300.010(5), (6) and (15) (other hazardous wastes), now or as hereafter amended.

32. *"Installer"* means the person or organizations who actually and physically hangs the banner over the public right-of-way and who has the required skill and equipment to properly and safely hang the banner. The Director will maintain a list of approved installers having the required skill and equipment to properly and safely hang banners.

33. *"Maintain or Maintenance"* means mowing, trimming, pruning (but not including topping or tree removal), edging, root control, cultivation, reseeding, fertilization, spraying, control of pests, insects and rodents by nontoxic methods whenever possible, watering, weed removal, and other actions necessary to assure normal plant growth.

34. *"New Electrical or Communication Service"* means installation of service lines to a building where none existed before, and shall not include overlashing, restorations and repairs.

35. *"Nonconforming Paved Street Surface"* means asphaltic concrete or cement concrete street surface that does not conform to the current "City of Tukwila Infrastructure Design and Construction Standards," but that the Director finds to be adequate for projected vehicular traffic.

36. *"Occupant"* means a person who is occupying, controlling or possessing real property, or his or her agent or representative.

37. *"Open Video System"* means those systems defined and regulated as Open Video Systems by the FCC, pursuant to Section 653 of the Federal Communications Act of 1934, as amended, 47 U.S.C. 573.

38. *"Overhead Facilities"* means facilities located above the surface of the ground, including the underground supports and foundations for such facilities.

39. *"Owner"* shall mean any developer or person, including the City, who owns any facility or facilities that are, or are proposed to be, installed or maintained in the public right-of-way.

40. *"Paved Street Surface"* means street surface that is either standard street surface or nonconforming paved street surface.

41. *"Permit"* means a document issued by the City granting permission to engage in an activity that involves the use of the public right-of-way.

42. *"Permittee"* shall mean the applicant to whom a permit to use the public right-of-way has been granted and thereby has agreed to fulfill the requirements of TMC Title 11.

43. *"Person"* means, and includes: corporations, companies, associations, joint stock companies or associations, firms, partnerships, limited liability companies and individuals, and includes their lessors, trustees and receivers, but excludes the City.

44. *"Personal Wireless Services"* means commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services as defined by Federal laws and regulations.

45. *"Private Use"* means use of the public right-of-way – other than as a thoroughfare for ordinary transit of vehicles, pedestrians, or equestrians – for the benefit of a particular person or entity.

46. *"Procedure"* means a procedure adopted by the Director to implement this title, or to carry out other responsibilities as may be required by this title or by other codes, ordinances, or resolutions of the City or other agencies as they may apply.

47. *"Real Property Improvements"* means:

a. Construction of a structure on an unimproved lot;

b. 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; or

c. Construction of an additional structure or structures on a campus.

48. *"Recently Improved Street"* shall mean any street that has been reconstructed or resurfaced by the Department or any other owner or person in the preceding three-year period.

49. *"Reimbursement Agreement"* means contracts authorized by RCW Chapter 35.91, as presently constituted or as may be subsequently amended, for utility system improvements, and may be referred to from time to time in this title as "Latecomer Agreements."

50. *"Replacement Vegetation"* means vegetation of equal species, size, quality and number to that which has been removed.

51. *"Restoration"* means all work including, but not limited to, backfilling, compacting, replacing street pavement, replacing sidewalks, or other public right-of-way to like-new condition in the manner prescribed by the Department's Infrastructure Design and Construction Manual. (See TMC Section 11.08.270 for more details.)

52. *"Right-of-Way"* means all public streets, alleys and property granted, reserved for, or dedicated to public use for streets and alleys, together with all public property granted, reserved for, or dedicated to, public use including, but not limited to, walkways, sidewalks, trails, shoulders, drainage facilities, bike ways and horse trails, whether improved or unimproved, including the air rights, subsurface rights, and easements related thereto, but does not include:

1. State highways;

2. Land dedicated for roads, streets, and highways not opened and not improved for motor vehicle use by the public;

3. Structures, including poles and conduits, located within the right-of-way;

4. Federally granted trust lands or Forest Board trust lands;

5. Lands owned or managed by the Washington State Parks and Recreation Commission; or

6. Federally granted railroad rights-of-way acquired under 43 U.S.C. 912 and related provisions of federal law that are not open for motor vehicle use.

53. *"Right-of-Way User"* means any person with any facility in the right-of-way, including but not limited to, persons who have been granted City approval via franchise or other agreement to be in the right-of-way.

54. *"Service Connection"* means a connection made to a telecommunications facility and/or cable facility for the purpose of providing telecommunications or cable services.

55. *"Service Connections"* are facilities extending from a distribution system and terminating on private property and/or for the specific purpose of servicing one (1) customer.

56. *"Sidewalk"* means that property between the curb and the abutting property, set aside and intended for the primary use of pedestrians, but may include mixed uses such as pedestrians and bicyclists, improved by paving with cement concrete or asphaltic concrete, including all driveways.

57. *"Standard Street Surface"* means street surface that is paved in accordance with the "City of Tukwila Infrastructure Design and Construction Standards."

58. *"State"* means the State of Washington.

59. *"Stop Work Notice"* means a notice authorized by the Director or his/her designee, posted at the site of an activity that requires all work to be stopped until the City approves continuation of work.

60. *"Street"* means any street, road, boulevard, alley, lane, way or place, or any portion thereof within the City limits.

61. *"Street System Improvements"* include half street section of street pavement (including appropriate sub paving preparation), surface water drainage facilities, sidewalks where required, curbs, gutters, utility undergrounding, street lighting, right-of-way landscaping (including street trees where required), and other similar improvements.

62. *"Street System Improvements"* means such improvements as are defined in TMC Section 11.12.030.

63. *"Street Trees"* means any trees located on any street or public right-of-way.

64. *"Surface Water Drainage Facilities"* means ditches, piped and covered surface water drainage, including catch basins, and such detention, retention, and biofiltration as the Director shall require in accordance with sound engineering principles and the adopted ordinances and policies of the City.

65. *"Surplus Space"* means that portion of the usable space on a utility pole which has the necessary clearance from other pole users, as required by the orders and regulations of the Washington Utilities and Transportation Commission, to allow its use by a telecommunications carrier for a pole attachment.

66. *"Telecommunications Carrier"* for the purposes of this chapter includes every person that directly or indirectly owns, controls, operates or manages plant, equipment, structures, or property within the City, used or to be used for the purpose of offering telecommunication service. Provided, however, this does not include lessees that solely lease bandwidth (and do not own telecommunication facilities within the City of Tukwila).

67. *"Telecommunication Facilities"* – see "Facilities."

68. *"Telecommunication Service"* means the providing or offering for rent, sale or lease, or in exchange for other value received, the transmittal of voice, data, image, graphic or video programming information or service(s) between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities, with or without benefit of any closed transmission medium.

69. *"TMC"* means the Tukwila Municipal Code adopted by the City Council.

70. *"Topping"* means the severe cutting of the top of a street tree resulting in stubs beyond the branch collar in the crown or severe cutting which removes a substantial portion of the normal canopy, disfigures the street tree, and reduces the height.

71. *"Underground Facilities"* means facilities located under the surface of the ground, alone or in combination, direct buried or in utility tunnels or conduits, excluding the underground foundations or supports for overhead facilities.

72. *"Unpaved Street Surface"* means street surface that is neither standard nor nonconforming paved street surface.

73. *"Unsafe Condition"* means any condition that the Director reasonably determines is a hazard to health, 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 may cause damage thereto.

74. *"Utility System Improvements"* means water and/or sewer facilities as specified in RCW 35.91.020 as it now reads, or as hereafter amended.

75. *"Vegetation"* means all trees, plants, shrubs, groundcover, grass, and other vegetation.

76. *"Wire"* means a guided transmission medium, consisting of either one strand or a group of stands insulated together, which are used to power and/or send multiple transmission signals.

77. *"Washington Utilities and Transportation Commission"* or *"WUTC"* means the State administrative agency, or lawful successor, authorized under Title 80 of the Revised Code of Washington to regulate and oversee telecommunications carriers, services and telecommunications providers in the State of Washington to the extent prescribed by law.

(Ord. 2701 §2, 2023; Ord. 1995 §1 (part), 2002)

11.04.050 Powers of Director

The Director shall have the following powers:

1. Prepare and adopt procedures as needed to implement this title and to carry out the responsibilities of the Department. Such procedures do not require approval of the City Council to be implemented; however, the Council may, by motion or resolution, direct that procedures and fees be amended or modified to the satisfaction of the Council.

2. Approve the issuance of any permit applied for under the provisions of this title.

3. Deny the issuance or renewal of any permit applied for, or to revoke, suspend, or otherwise restrict any permit issued under this title.

4. Order the correction or discontinuance of any condition, activity, or use of any right-of-way that violates or is contrary to any provision of this chapter or procedures adopted under this chapter or other applicable codes or standards; or that is being conducted without a right-of-way use permit.

5. Have all powers and remedies available under State law, this title, and procedures adopted under this title for securing the correction or discontinuance of any condition contrary to this title.

6. Prioritize conflicting uses of the rights-of-way, or deny any or all such uses or proposed uses.

7. Administer and coordinate the enforcement of this title and all procedures adopted under this title.

8. Advise the City Council, Mayor, City Administrator, and other City departments on matters relating to applications for use of rights-of-way.

9. Carry out such other responsibilities as required by this title or other codes, ordinances, resolutions or procedures of the City.

10. Request the assistance of other City departments to administer and enforce this title, as necessary.

(Ord. 1995 §1 (part), 2002)

11.04.060 Appeals

A decision of the Director made in accordance with this title shall be considered determinative and final. Any appeal must be filed in Superior Court within 30 days of the date of issuance of the final determination.

(Ord. 1995 §1 (part), 2002)

11.04.070 Hazardous Conditions on Public Right-of-Way

It is unlawful for the owner and /or person occupying or having charge or control of any premises abutting upon any public right-of-way or alley in the City to construct, place, cause, create, maintain or permit to remain upon any part of such right-of-way located between the curbline or, if there is no curbline, then between the adjacent edge of the traveled portion of such right-of-way by the members of the general public, including but not limited to the following conditions:

1. Defective sidewalk surfaces including, but not limited to, broken or cracked cement, sub-toes, depressions within or between sidewalk joints.

2. Defective cement surfaces placed adjacent to the public sidewalk or defects at the juncture between such cement surfaces and public sidewalks, including stub-toes or depressions at the junction.

3. Defects in sidewalks or public ways caused or contributed to by the roots of trees or similar growth or vegetation located either on private adjoining property or on the parking strip portion of any such street right-of-way.

4. Defective conditions caused by tree limbs, foliage, brush or grass on or extending over such public sidewalks or rights-of-way.

5. Defective conditions on the parking strip area between the curbline and the sidewalk or, if there is no curbline, then between the edge of the traveled portion of the street and the sidewalk and between the sidewalk and the abutting property line.

6. Defects resulting from accumulation of ice and snow on public sidewalks or on the right-of-way between the curbline or, if there is no curbline, then between the adjacent edge of the traveled portion of the street roadway and the abutting property line.

7. Defects consisting of foreign matter on the public sidewalks including, but not limited to, gravel, oil, grease, or any other foreign subject matter that might cause pedestrians using the sidewalk to fall, stumble or slip by reason of the existence of such foreign matter.

8. Defective handrails or fences or other similar structures within or immediately adjacent to said right-of-way area.

(Ord. 1995 §1 (part), 2002)

11.04.080 Compliance with One-Call, One-Number Locator Service

All grantees shall, before commencing with any construction in the right-of-way, comply with all regulations pertaining to the One-Call, One-Number Locator System. Grantees shall also subscribe to and maintain membership in the One-Call utility location service, and shall promptly locate all of its facilities upon request.

(Ord. 1995 §1 (part), 2002)

11.04.090 As-Built Drawings

A drawing of a completed project, in a form acceptable to the Department and conforming to generally accepted engineering practices, shall be submitted in duplicate to the Public Works Department within 30 days of project completion. No bond money, deposit, or fee shall be released until receipt of the drawings.

(Ord. 1995 §1 (part), 2002)

11.04.100 Violation – Penalty

A. The violation of or failure to comply with any provision of this title is declared to be unlawful.

B. Any violation of any provision of this title is a criminal violation as provided for in Chapter TMC 1.08.010, for which a monetary penalty may be assessed and abatement may be required as provided therein.

C. As an alternative to any other penalty provided by this title or by law, any person who violates any provision of this title shall be guilty of a misdemeanor.

D. In addition, any violation of any provision of this title is hereby declared a public nuisance and is subject to the civil enforcement provisions of TMC Chapter 8.45.

(Ord. 1995 §1 (part), 2002)

CHAPTER 11.08
PERMITS

Sections:

11.08.010 Purpose

A. The purpose of this chapter is to establish minimum rules and regulations to govern activities within the right-of-way in the City of Tukwila; and to provide for the fees, charges, warranties, and procedures required to administer the permit process. To the extent the provision of any current franchise or other written agreement conflicts with any provision of this chapter, the applicable provision of the franchise or other written agreement shall prevail.

B. This code is enacted to protect and preserve the public health, safety, and welfare. Its provisions shall be liberally construed for the accomplishment of these purposes.

C. It is expressly the purpose of this code and any procedures adopted hereunder to provide for and promote the health, safety, and welfare of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this code or any procedures adopted hereunder.

(Ord. 2682 §3, 2022)

11.08.020 Definitions

A. "Applicant" means a person who has submitted a complete application pursuant to the terms and conditions of this Chapter.

B. "Blanket Activities" means work that does not include cutting, removing, or disturbing the pavement surface including:

1. Simple service disconnects for customers;
2. Repair or replacement of standard crossarms, insulators, and/or other existing equipment on poles or bundles;
3. Replacement of blown fuses or limiters on cutouts;
4. Replacement of existing faulted, broken, or damages overhead service drops;
5. Repairs or splices to existing overhead primary and secondary wires;
6. Replacement of damaged poles with similar dimensioned stock;
7. Operation of existing overhead primary switches, i.e. the open and closing of overhead primary switches as necessary;
8. Disconnection of existing services due to non-payment;
9. Changing wire type;
10. Installation of secondary conductors;
11. Accessing existing vaults;
12. Maintaining hydrants/vaults;
13. Raising or adjusting valves;
14. Vegetation management;
15. Replacing above-ground meters;
16. Installing water sampling stations;
17. Flushing activities, and lining pipes.

C. "City" means the City of Tukwila.

D. "Department" means the City of Tukwila's Public Works Department

E. "Director" means the City of Tukwila Public Works Director or designee.

F. "Emergency" shall mean any unforeseen circumstance or occurrence, the existence of which constitutes an immediate danger to persons or property, or which causes interruption of utility or public services.

G. "Facility" or "Facilities" means any plant, equipment and/or property, including but not limited to, overhead and underground water, gas, electric, and telecommunication facilities and appurtenances such as cables, wires, conduits, transformers, conduit, substation, pad-mounted J boxes, switch cabinets, ducts, pedestals, antennas, electronics, vaults, poles, meter boxes, sewers, pipes, drains, and tunnels.

H. "Franchise Holder" means a person that was issued a franchise agreement by the City and which franchise is not expired.

I. "Permittee" means a person that has applied for and received a permit pursuant to TMC Chapter 11.08.

J. "Person" means any individual, association, partnership, corporation or legal entity, public or private, and includes the agents, contractors, and assigns of such person, including registered agents thereof.

K. "Preconstruction Meeting" means a meeting between the designated City staff and the applicant's contractor or designee prior to beginning any construction activity on the site or within the right-of-way to discuss project approval conditions and preliminary requirements.

L. "Public Improvement" means any capital improvement, maintenance, or repair that is undertaken by or on behalf of the City within the franchise area and is funded by the City (either directly or indirectly), including any capital improvement within the City's adopted Transportation Improvement Plan or Capital Improvement Program.

M. "Right-of-Way" or "Rights-of-Way" means all public streets and property granted or reserved for, or dedicated to, public use for street purposes, together with public property granted or reserved for, or dedicated to, public use for walkways, sidewalks, bikeways and horse trails, whether improved or unimproved, including the air rights, sub-surface rights and easements related thereto.

N. "Right-of-Way Use Permit" means any permit issued pursuant to TMC Chapter 11.08.

O. "Right-of-Way User" means any person with any facility in the Right-of-Way.

(Ord. 2682 §4, 2022)

11.08.030 Administration and Enforcement

A. The Director, under the authority of the City Administrator, shall have the following administrative and enforcement powers:

1. Prepare and adopt procedures as needed to implement this chapter and to carry out the responsibilities of the Department. Such procedures do not require approval of the City Council to be initially implemented; however, the Council may take Council action directing that procedures, guidelines, fees, or other aspects of the permitting system be amended or modified to the satisfaction of the Council.

2. Administer and coordinate the enforcement of this chapter and all procedures adopted under this chapter relating to the use of rights-of-way.

3. Carry out such other responsibilities as required by this chapter or other codes, ordinances, resolutions, or procedures of the City.

4. Request the assistance of other City departments to administer and enforce this chapter, as necessary.

5. Render interpretations of this chapter or assign the responsibility for interpretation and application of specified procedures to such designees as may be deemed appropriate.

(Ord. 2682 §5, 2022)

11.08.040 Permit Required

A. It is unlawful for any person, except the Department or its agent, to perform work of any kind in the right-of-way, or to make private use of any right-of-way without obtaining a right-of-way use permit pursuant to this chapter.

B. The decision by the City to issue a permit shall include, among other factors determined by the City, the following:

1. The capacity of the right-of-way to accommodate the facilities or structures proposed to be installed in the right-of-way.

2. The capacity of the right-of-way to accommodate wire, cables, conduits, pipes or other facilities or structures of other existing users of the right-of-way, such as electrical power, telephone, gas, surface water, sewer, and water.

3. The damage or disruption, if any, of public or private facilities, improvements, or landscaping previously existing in the right-of-way.

4. The public interest in minimizing the cost and disruption of construction in the right-of-way.

C. The issuance of a permit for use of a right-of-way is subject to the use and needs of the City and the general public, whether such needs are temporary or permanent, or for public or private purposes (i.e., utility construction work in the right-of-way by private service provider), and is a grant of a temporary revocable privilege to use a portion of the right-of-way to serve and benefit the general public. The applicant shall have the burden to prove that any proposed use will enhance and further the public interest consistent and not in conflict with the use of the right-of-way by the general public and the City for other authorized uses and activities.

(Ord. 2682 §6, 2022; Ord. 1995 §1 (part), 2002)

11.08.050 Right-Of-Way Use Permits

A. The following classes of right-of-way use permits are hereby established:

1. Public Works Permit. These permits may be issued to applicants who do not hold a current franchise with the City.

2. Public Works Franchise Permit. These permits may be issued to applicants who do not hold a current franchise with the City.

3. Annual Blanket Activities Permit. These permits may be issued to franchise holders on an annual basis to undertake blanket activities as defined by this chapter.

(Ord. 2682 §7, 2022; Ord. 1995 §1 (part), 2002)

11.08.060 Application Contents

A. To obtain a right-of-way use permit, the applicant shall submit, in the format and manner specified by the Director, an application to the City.

B. Every application shall contain, as applicable:

1. The name, address, telephone number, and email address of the applicant. Where an applicant is not the owner of the facility to be installed, maintained or repaired in the right-of-way, the application shall also include the name, address, telephone number, and email address of the owner. Where the applicant is not the owner of the facility or facilities to be installed, maintained, or repaired, the applicant must demonstrate in a form and manner specified by the Director their authorization to act on behalf of the owner.

2. A description of the location, including the address and GPS coordinates, nature and extent of the work proposed.

3. A site plan showing the location of the proposed work.

4. If the applicant holds a franchise, easement, encroachment permit, license or other legal instrument with the City that authorizes the applicant or owner to use or occupy the right-of-way for the purpose described in the application, the applicant shall attach a copy of that document to the application.

5. The proposed start date and duration of the work, which shall include the restoration of the right-of-way physically disturbed by the work.

6. Written acknowledgment that the applicant will comply with all terms and conditions of this title, the orders, regulations, and standard plans and specifications as promulgated by the Director; and that the applicant is not subject to any outstanding assessments, fees or penalties that have been finally determined by the City or a court of competent jurisdiction.

7. A current business license through the Washington State Department of Revenue with an endorsement for the City of Tukwila.

8. Evidence of insurance as required by TMC Section 11.08.150.

9. A financial guarantee as required by TMC Section11.08.160.

10. A traffic control plan to be approved by the Director.

11. Any other information that may be reasonably required by the Director.

12. An estimate of the value of the project. The Director may also require an applicant to submit separate cost estimates for each item of improvement.

13. An application fee as required by TMC Section11.08.110.

C. The Director may allow an applicant to maintain documents complying with TMC Sections 11.08.060.B, subparagraphs 4, 8, 9 and 10 on file with the Department, rather than requiring submission of such documents with each separate application.

(Ord. 2682 §8, 2022; Ord. 1995 §1 (part), 2002)

11.08.070 Preconstruction Meeting Required

A preconstruction meeting may be required at the Director's discretion.

(Ord. 2682 §9, 2022)

11.08.080 Permit Approval and Conditions

A. If the Director finds that the application conforms to the requirements and procedures of this chapter and and title, that the proposed use of such right-of-way will not unduly interfere with the rights and safety of the public, and if the application has not been disapproved by another department with authority, the Director may approve the permit, and may impose such conditions thereon as are reasonably necessary to protect the public health, welfare and safety, and to mitigate any impacts resulting from the use. Such conditions may include but are not limited to:

1. Compliance with all applicable provisions of TMC Title 11;

2. Compliance with applicable provisions of the Infrastructure Design and Construction Standards Manual;

3. Limitations on the hour, the day and the period of the year in which the work may be performed;

4. Requirement of a traffic control supervisor onsite during approved working hours;

5. Installation and maintenance of temporary erosion control measures, as applicable;

6. Pre-construction storm drainage patterns shall be met during and after construction; and

7. Compliance with all applicable provisions of TMC Chapters 8.45 and 14.30.

B. Additionally, if at any time conditions unforeseen at the time of issuance of the permit are discovered which could, in the opinion of the Director, cause unforeseen damage to public or private property or a hazard to life or property or become a public nuisance, the Director may stop any further work under the permit until the permit conditions have been modified by the Director in such a manner as to protect from or eliminate the potential damages, hazards or nuisances enumerated in this chapter.

(Ord. 2682 §10, 2022; Ord. 1995 §1 (part), 2002)

11.08.090 No Permit Transfer or Assignment

Permits issued pursuant to this chapter shall not be transferable or assignable unless prior written consent is received from the City, and work shall not be performed under a permit in any place other than that specified in the permit. Nothing herein contained shall prevent a permittee from subcontracting the work to be performed under a permit provided; however, the holder of the permit shall be and remains responsible for the performance of the work under the permit, and responsible for all bonding, insurance and other requirements of this title and under said permit.

(Ord. 2682 §11, 2022; Ord. 1995 §1 (part), 2002)

11.08.100 Emergency Work

A. In the event that an emergency necessitates work in the right-of-way for the protection of public or private property, a person may conduct the work after the person performing the work has notified the City's Police and Fire Departments of such work and an application for a permit as provided in this chapter shall be made on the next succeeding business day whether or not the emergency work has been completed.

B. The person commencing and conducting such emergency work shall take all necessary safety precautions for the protection of the public, the direction and control of traffic, and shall insure that work is accomplished according to City standards, regulations, the Manual on Uniform Traffic Control Devices, and other applicable laws, regulations or generally recognized practices in the industry.

C. Nothing contained in this chapter shall be construed to prevent any person from taking any action necessary for the preservation of life or property or for the restoration of interrupted service when such necessity arises during days or times when the City is closed.

(Ord. 2682 §12, 2022; Ord. 1995 §1 (part), 2002)

11.08.110 Permit Fees and Charges

A. The permit and inspection fees for any permit issued pursuant to this chapter shall be set forth in a fee schedule to be adopted by motion or resolution of the Tukwila City Council and as amended from time to time.

B. As applicable, additional fees may be imposed as follows:

1. A fee associated with the issuance of the permit and the required inspection of the construction (Permit Issuance and Inspection Fee), which is determined from the value of the construction;

2. A Grading Plan Review fee.

3. A pavement mitigation fee associated with the loss of pavement life from any proposed excavation in the right-of-way, the fee amount determined from the square footage of excavation being performed and the age of the pavement;

4. Each revision review, shall be charged as a separate fee in accordance with the fee schedule adopted by resolution of the City Council. These fees will be added to the balance due and be payable prior to issuance or final of the permit.

(Ord. 2682 §13, 2022; Ord. 1995 §1 (part), 2002)

11.08.120 Permit Exception

Permits under this chapter shall not be required for public use; i.e., persons using the right-of-way as pedestrians or while operating motor and non-motorized vehicles for routine purposes such as travel, commuting, or personal business.

(Ord. 2682 §14, 2022; Ord. 1995 §1 (part), 2002)

11.08.130 Revocation or Suspension of Permits

A. The Director may revoke or suspend any permit issued under this chapter whenever:

1. The activity or work does not proceed in accordance with the permit as approved, in accordance with conditions of approval, or is not in compliance with the requirements of this chapter or procedures, or other City ordinances, or State laws;

2. The City has been denied access to investigate and inspect how the right-of-way is being used;

3. The permittee has misrepresented a material fact in applying for a permit (a material fact is a fact which, had the truth been known at the time of the issuance of the permit, the permit would not have been granted);

4. The City believes the permitted activity is, or will be, endangering the public, adjoining property, the street, or infrastructure in the street.

B. Upon suspension or revocation of a permit, all use of the right-of-way shall cease, except as authorized by the Director.

C. Continued activity following revocation or suspension under this section shall be subject to the enforcement provisions in TMC Chapter 8.45.

(Ord. 2682 §15, 2022; Ord. 1995 §1 (part), 2002)

11.08.140 Renewal of Permits

Each permit shall be of a duration as specified on the permit. A permit may be renewed at the discretion of the Director, if requested by the permit holder before expiration of the permit; provided, however, that the use or activity is progressing in a satisfactory manner as reasonably determined by the Director.

(Ord. 2682 §16, 2022; Ord. 1995 §1 (part), 2002)

11.08.150 Insurance

A. Unless the Director determines that there is not a probability of injury, damage, or expense to the City arising from an applicant's proposed use of the right-of-way or public place, or the applicant holds a current franchise with the City, the applicant shall obtain and maintain in full force and effect, throughout the term of the permit, or as long as the permittee has facilities in the right-of-way, an insurance policy issued by an insurance company satisfactory to the Director, insuring both the applicant and the City against claims for injuries to persons, death or damages to property that may arise from, or in connection with, the exercise of the rights, privileges and authority granted to the applicant under this chapter:

1. Commercial general liability insurance written on an occurrence basis. The insurance policy shall be endorsed to provide a per project general aggregate and there shall be no exclusive for liability arising from explosion, collapse, or underground property damage. The policy shall have limits not less than:

a. $3,000,000 for bodily injury, property damage, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured contract;

b. $6,000,000 general aggregate, per project aggregate and products-completed operations aggregate.

2. Business automobile liability insurance with limits not less than $2,000,000 each occurrence combined single limit for bodily injury and property damage, including owned, non-owned, and hired auto coverage, as applicable.

3. Pollution liability insurance, on an occurrence form, with limits not less than $1,000,000 each occurrence combined single limit for bodily injury and property damage, and $2,000,000 in the aggregate.

4. Worker's compensation within statutory limits and employer's liability insurance, with limits of not less than $1,000,000.

5. Excess or umbrella liability policy shall be excess over and at least as broad in coverage as the commercial general liability and automobile liability insurance, with limits not less than $5,000,000 per occurrence and annual aggregate.

6. Said policy or policies shall include the City and its officers, officials (appointed and elected), employees, and agents jointly and severally as additional insureds, shall apply as primary insurance, shall stipulate that no insurance affected by the City will be called on to contribute to a loss covered there under, and shall provide for severability of interests.

7. Underwriters shall have no right of recovery or subrogation against the City, it being the intent of the parties that the insurance policy so affected shall protect both parties and be primary coverage for any and all losses covered by the described insurance.

8. The insurance companies issuing the policy or policies shall have no recourse against the City for payment of any premiums due or for any assessments under any form of any policy

9. Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the City, its employees, officers, officials, agents, volunteers, and assigns.

10. Each insurance policy shall be endorsed to state that the coverage shall not be suspended, voided, cancelled, or reduced in coverage or in limits, except after 30 days' prior written notice by certified mail, return receipt requested sent to the City.

11. Each policy shall be endorsed to indemnify, save harmless and defend the City and its officers, officials (appointed and elected), employees, and agents against any claim or loss, damage or expense sustained on account of damages to persons or property occurring by reason of permit work done by permittee, his/her subcontractor or agent, whether or not the work has been completed and whether or not the right-of-way has been opened to public travel.

12. Each policy shall be endorsed to indemnify, hold harmless and defend the City, and its officers, officials (appointed and elected), employees, and agents against any claim or loss, damage or expense sustained by any person occurring by reason of doing any work pursuant to the permit including, but not limited to, falling objects or failure to maintain proper barricades and/or lights as required from the time work begins until the work is completed and the right-of-way is opened for public use.

B. The permittee shall furnish the City with certificates of insurance and original endorsements affecting coverage required by the permit. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The City expressly reserves the right to require complete, certified copies of all required insurance policies at any time. Consequently, the permittee shall be prepared to provide such copies prior to the issuance of the permit.

C. If any of the required policies are, or at any time become, unsatisfactory to the City as to form or substance, or if a company issuing any such policy is, or at any time becomes, unsatisfactory to the City, the permittee shall promptly obtain a new policy, submit the same to the City for approval, and thereafter submit verification of coverage as required by the City. Upon failure to furnish, deliver and maintain such insurance as provided herein, the City may declare the permit to be in default and pursue any and all remedies the City may have at law or in equity, including those actions outlined in this chapter.

D. The permittee shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all the requirements stated herein.

E. A property owner performing work adjacent to his/her residence may submit proof of a homeowner's insurance policy in lieu of the insurance requirements of this section.

(Ord. 2682 §17, 2022; Ord. 1995 §1 (part), 2002)

11.08.160 Deposits, Fees and Bonds

A. Before a permit pursuant to the provisions of this chapter may be issued, the applicant may be required, unless otherwise provided in a current franchise, to execute to the City a financial guarantee in a form as approved by the City for the proper protection of the City and conditioned that obligors of the financial guarantee will pay to the City the costs and expenses incurred by the City should the person obtaining the permit fail, neglect or refuse to properly complete the work authorized by the permit within the time limit specified by said permit. Such financial guarantees are as follows:

1. Performance Financial Guarantee – In a sum as shall be designated by the Director (but not less than 150% of the estimated cost of the improvements within the right-of-way). This financial guarantee shall be released upon acceptance of the work and the receipt of a maintenance financial guarantee. Otherwise, it will be released under the same time frame as outlined in TMC Section 11.08.160.A.2.

2. Right-of-Way Occupation Financial Guarantee – In a sum of not less than $5,000. Permits allowing right-of-way obstructions, not including the take up, breaking, excavating, tunneling, undermining, or cutting in any right-of-way in the City, may be allowed to provide a financial guarantee pursuant to this subsection. The Director may release the financial guarantee, without requiring a subsequent maintenance financial guarantee per TMC Section 11.08.160.A.3, once the work has been accepted

as complete by a city inspector and the permit is finaled and closed.

3. Maintenance Financial Guarantee – In a sum as shall be designated by the Director (but not less than $5,000 or 10% of the estimated cost of the improvements within the right-of-way, whichever is greater). This financial guarantee will be in force for 2 years after the City accepts the work if no repair work is identified within that 2-year period. If the City identifies any repair work, the financial guarantee will extend to either 1 year after the repair is accepted by the City or the end of the original 2-year time period, whichever is longer. At the Director's discretion, this maintenance financial guarantee may be waived if the Director documents in writing a decision that a financial guarantee is not necessary to protect the interests of the City.

4. The amount of the financial guarantees required above may be increased or decreased at the discretion of the Director whenever it appears that the amount and cost of the work to be performed may vary from the amount of the security otherwise required under this chapter.

B. Public utilities holding a current City franchise shall not be required to file any right-of-way financial guarantee if such requirement is expressly waived in the franchise documents, however public utilities franchisees shall guarantee workmanship and materials through a maintenance financial guarantee.

C. The security required by this section shall be conditioned as follows:

1. That the permittee shall fully comply with the requirements of the City ordinances and regulations, specifications and standards promulgated by the Department relative to work in the right-of-way, and respond to the City in damages for failure to conform therewith;

2. That after work is commenced, the permittee shall proceed with diligence and shall promptly complete such work and restore the right-of-way to City standards, so as not to obstruct the public place or travel thereon more than is reasonably necessary;

3. That unless authorized by the Director on the permit, all paving, resurfacing or replacement of street facilities on principal arterial, major or collector streets shall be done in conformance with the regulations contained herein within three calendar days, and within seven calendar days from the time the excavation commences on all other streets, except as provided for during excavation in winter or during weather conditions which do not allow paving according to City standards. In winter, a temporary patch must be provided. In all excavations, restoration or pavement surfaces shall be made immediately after backfilling is completed or concrete is cured. If work is expected to exceed the above duration, the permittee shall submit a detailed construction schedule for approval. The schedule will address means and methods to minimize traffic disruption and complete the construction as soon as reasonably possible.

D. In lieu of a financial guarantee to cover particular work, an applicant may maintain with the City a general bond in the sum of $100,000 conditioned and used for the same purpose as the financial guarantee described in TMC Section 11.08.160.A and covering all work to be done rather than any particular work, provided, however, that the total work being performed shall not exceed a cumulative total of $100,000. The applicant shall track and submit with each new permit the applicant's approved permits that are covered by this financial guarantee and include: permit number, date of approval, and date work is complete.

(Ord. 2682 §18, 2022; Ord. 1995 §1 (part), 2002)

11.08.170 Hold Harmless

Unless the permittee holds a current franchise with the City, as a condition to the issuance of any permit under this chapter, the permittee shall be required to execute a written agreement to forever hold and save the City free and harmless from any and all claims, actions or damages of every kind and description that may accrue to or be suffered by any person by reason of the use of such public place or the construction, existence, maintenance, use or occupation of any such structure, services, fixtures, equipment and/or facilities on or in a public place pursuant to this chapter. In addition, such agreement shall contain a provision that the permit is wholly of a temporary nature, and that it vests no permanent right whatsoever.

(Ord. 2682 §19, 2022; Ord. 1995 §1 (part), 2002)

11.08.180 Compliance with Specifications, Standards, and Traffic-Control Regulations

A. The work performed in the right-of-way shall conform to the requirements of the Department's Infrastructure Design and Construction Standards, Manual on Uniform Traffic Control Devices, King County Surface Water Design Manual, Part VIII, "Regulations for Use of Public Streets and Projections over Public Property," International Building Code, and the Tukwila Municipal Code as currently exists and as hereafter amended.

B. When a job is left unattended, before completion of the work, signage with minimum two-inch high letters shall be attached to a barricade or otherwise posted and maintained at the site, indicating the permittee's name, or company name, telephone number, and after-hours telephone number.

(Ord. 2682 §20, 2022; Ord. 1995 §1 (part), 2002)

11.08.190 Inspections

As a condition of issuance of any permit or authorization that requires approval of the Department, each permittee shall be required to consent to inspections by the Department or any other City department. Additionally, the permittee is obligated to request a final inspection to close out the permit.

(Ord. 2682 §21, 2022; Ord. 1995 §1 (part), 2002)

11.08.200 Violations and Unsafe Conditions

A. Whenever the Director determines that any condition on any right-of-way is in violation of (i) this chapter, or (ii) procedures adopted under this chapter or other applicable codes or standards, the Director may order the correction or discontinuance pursuant to this section.

B. The Director is authorized to use any or all of the following methods in ordering correction or discontinuance:

1. Service of oral or written directives to the permittee or other responsible person requesting immediate correction or discontinuance of the specified condition;

2. Service of a written notice of violation, ordering correction or discontinuance of a specific condition or activity within five days of notice, or such other reasonable period the Director may determine;

3. Issuance of an order to immediately stop work until authorization is received from the City to proceed with such work;

4. Revocation of previously granted permits where the permittee or other responsible person has failed or refused to comply with requirements imposed or notices served;

5. Service of notice and order or service of a criminal citation to appear by a law enforcement officer upon the permittee or other responsible person who is in violation of this chapter or other City ordinances.

C. Any object that shall occupy any right-of-way without a permit is declared a nuisance. The Director may attach a notice to any such object stating that if it is not removed from the right-of-way within 24 hours of the date and time stated on the notice, the object may be taken into custody and stored at the owner's expense. The notice shall provide an address and telephone number where additional information may be obtained. If the object is a hazard to public safety, the Director may remove it summarily. Notice of such removal shall be thereafter given to the owner, if known. This section shall not apply to motor vehicles.

D. All expenses incurred by the City in abating any violation or condition shall constitute a civil debt owing to the City jointly and severally by such persons who have been given notice or who own the object or who placed it in the right-of-way, which debt shall be collectible in the same manner as any other civil debt.

E. The City shall also have all powers and remedies whether legal or equitable that may be available under law or ordinance including but not limited to TMC Chapter 8.45, TMC Chapter 11.08, and procedures adopted under this chapter for securing the correction or discontinuance of any conditions specified by the City.

(Ord. 2682 §22, 2022; Ord. 1995 §1 (part), 2002)

11.08.210 Warning and Safety Devices

A. Warning lights, safety devices, signs, and barricades shall be provided on all rights-of-way when there might be an obstruction or hazard to vehicular or pedestrian traffic. All obstructions on rights-of-way shall have sufficient barricades and signs posted in such a manner as to indicate plainly the danger involved. Warning and safety devices may be removed when the work for which the right-of-way use permit has been granted is complete and the right-of-way restored to the conditions directed by the Department.

B. As a condition of the issuance of any permit issued pursuant to this chapter, the Director may require an applicant to submit a traffic control plan showing any proposed detour routing and location and the type of warning lights, safety devices, signs, and barricades intended to protect vehicular or pedestrian traffic at the site for which the right-of-way use permit is requested. If a traffic control plan is required, no permit shall be issued until after the traffic control plan is approved.

C. Any permit issued pursuant to this chapter that requires a partial lane or street closure may require a traffic control supervisor; certified flag person, properly attired; or an off-duty police officer for the purpose of traffic control during construction.

D. All decisions of the Director shall be final in all matters pertaining to the number, type, locations, installation and maintenance of warning and safety devices in the right-of-way during any actual work or activity for which a duly authorized permit has been issued pursuant to this chapter.

(Ord. 2682 §24, 2022; Ord. 1995 §1 (part), 2002)

11.08.220 Clearance for Fire Equipment

Unless when specifically authorized by the Director, all excavation work shall be performed and conducted so as not to interfere with access to fire stations and fire hydrants. Materials or obstructions shall not be placed within 15 feet of fire hydrants. Passageways leading to fire escapes or firefighting equipment shall be kept free from obstructions at all times.

(Ord. 2682 §25, 2022; Ord. 1995 §1 (part), 2002)

11.08.230 Protection of Adjoining Property – Access

Right-of-way users shall at all times, and at the right-of-way user's expense, preserve and protect from injury adjoining property by complying with such measures as the Director may deem reasonably suitable for such purposes. Right-of-way users shall at all times maintain access to all property adjoining the excavation or work site.

(Ord. 2682 §26, 2022; Ord. 1995 §1 (part), 2002)

11.08.240 Preservation of Monuments

Right-of-way users shall not disturb any survey monuments or markers found on the line of excavation work until ordered to do so by the Director. All street monuments, property corners, benchmarks, and other monuments disturbed during the progress of the work shall be replaced by a licensed surveyor, at the expense of the right-of-way user, to the satisfaction of the Director.

(Ord. 2682 §27, 2022; Ord. 1995 §1 (part), 2002)

11.08.250 Protection from Pollution

Right-of-way users shall comply with all State laws, City ordinances, and procedures adopted hereunder by the Director to protect the public from air and water pollution. Right-of-way users shall provide for the flow of all watercourses, sewers or drains intercepted during the excavation work, and shall replace the same in as good or better condition as the right-of-way user found them. Right-of-way users shall not obstruct the gutter of any street, but shall use all proper measures to provide for the free passage of surface water. Right-of-way users shall make provision to take care of all surplus water, muck, silt, or other runoff pumped from excavations or resulting from sluicing or other operations, and shall be responsible for any damage resulting from their failure to so provide.

(Ord. 2682 §28, 2022; Ord. 1995 §1 (part), 2002)

11.08.260 Impact of Work on Existing Improvements

A. If any sidewalk or curb ramp is blocked by excavation work, a temporary sidewalk or curb ramp shall be constructed or provided. Said temporary improvement shall be safe for travel, convenient for users, and consistent with City standards.

B. Each right-of-way user shall cover an open excavation with non-skid steel plates ramped to the elevation of the contiguous street, pavement, or other right-of-way, or otherwise protected in accordance with City standards.

C. All excavated material that is piled adjacent to any excavation shall be maintained in such a manner so as not to endanger those working in the excavation, pedestrians, or users of the right-of-way. When the confines of the area being excavated are too small to permit the piling of excavated material next to the excavation, the Director shall have the authority to require the right-of-way user to haul the excavated material to a storage site and then return the excavated material to the excavation at the time of backfilling. It is the responsibility of the right-of-way user to secure the necessary permission and make all arrangements for any required storage and disposal of excavated material.

D. At any time a right-of-way user disturbs the yard, residence or the real or personal property of a private property owner or the City, such right-of-way user shall insure, at the right-of-way user's expense, that such property is returned, replaced and/or restored to a condition that is comparable to or better than the condition that existed prior to the commencement of the work, as determined by the private property owner or the City.

E. Existing drainage channels, such as gutters or ditches, shall be kept free of dirt or other debris so that natural flow will not be interrupted. When it is necessary to block or otherwise interrupt flow of the drainage channel, a method of rerouting the flow must be submitted for approval by the Director prior to the blockage of the channel.

(Ord. 2682 §29, 2022; Ord. 1995 §1 (part), 2002)

11.08.270 Restoration of the Public Right-Of-Way

A. Restoration. If work is undertaken in the right-of-way, the right-of-way user shall restore the right-of-way in the manner prescribed by the orders, regulations, and City standards.

B. Backfilling in a right-of-way excavated pursuant to a permit issued under the provisions of this chapter shall be compacted to a degree equivalent to that of the undisturbed ground in which the excavation was begun, unless the Director determines a greater degree of compaction is necessary to produce a satisfactory result. All backfilling shall be accomplished according to City standards and specifications. All backfills shall be inspected and approved by the Director prior to any overlaying or patching.

C. The right-of-way user shall restore the surface of any right-of-way to City standards, and replace any removed or damaged pavement with the same type and depth of pavement as that which is adjoining, including the gravel base material. All restoration shall be accomplished within the time limits set forth in the permit.

(Ord. 2682 §30, 2022; Ord. 1995 §1 (part), 2002)

11.08.280 Recently Improved Streets

The City shall not issue any permit to excavate in any recently improved street as defined at TMC Chapter 11.04; provided, however, that the Director may grant a waiver for good cause. The Director is specifically authorized to grant a waiver for an excavation that facilitates deployment of new technology as directed pursuant to official City policy. The Director may place additional conditions on a permit subject to a waiver. The Director's decision regarding a waiver shall be final.

(Ord. 2682 §31, 2022; Ord. 1995 §1 (part), 2002)

11.08.290 Coordination of Construction and Notification

A. At the time of submitting an application for a permit, the applicant shall notify all other entities known to be using or proposing to use the same right-of-way as the applicant's proposed construction, and the proposed timing of such construction. Any such entity notified may, within seven days of such notification, request a reasonable delay in the commencement of such proposed construction for the purpose of coordinating other right-of-way construction with that proposed by the applicant.

B. The Director shall coordinate the approval of permits with City street improvements and maintenance and may defer or delay the commencement date for the applicant's right-of-way construction, until such time as such official deems proper. In all cases, any work of the City, its contractors, or employees for municipal purposes shall have precedence over all work of every other kind.

C. Before commencing construction, the permittee shall provide notice to all adjoining properties that access onto the roadway work location, or are within 200 linear feet from the roadway work location. Notification shall be done no less than 3 days prior to the work commencing and shall be in the form of signage, door hangers, or door-to-door distribution of flyers. Notifications shall include contact information for the applicant or contractor doing the work.

(Ord. 2682 §32, 2022; Ord. 1995 §1 (part), 2002)

11.08.300 Relocation

A. Unless otherwise provided for in a current franchise, the Director may direct any right-of-way user owning or maintaining facilities in the right-of-way to alter, modify, or relocate such facilities or as may be required herein.

B. Within 30 days following written notice from the Director, the right-of-way user shall provide a schedule to the City indicating the estimated completion date for temporarily or permanently removing, relocating, changing, or altering (collectively the "relocation work") the position of any facilities within the right-of-way whenever the Director shall have determined that such removal, relocation, change, or alteration is reasonably necessary for:

1. A public improvement; or
2. The construction, repair, maintenance, or installation of any improvement in or upon the right-of-way as required by development approval; or
3. The operations of the City or other governmental entity in or upon the right-of-way.

C. The right-of-way user owning or maintaining the facilities shall, at their own cost and expense, promptly protect or promptly alter or relocate such facilities, or part thereof, within 90 days following the original notice by the Director, unless a different duration is specifically authorized by the Director.

D. In the event that the right-of-way user refuses or neglects to conform to the directive of the City, the City shall have the right to break through, remove, alter or relocate such part of the facilities without liability to the right-of-way user. The right-of-way user shall pay to the City all costs incurred by the City in connection with such work performed by the City, including, but not limited to, design, engineering, construction, materials, insurance, court costs, and attorney fees. Upon the right-of-way user's failure to accomplish such work or reimburse the City of such costs, and after 3 working days' notice, all other permits held by the right-of-way user may be suspended, except in only an emergency, until such time as the work required under this section is completed or the City has been reimbursed for work performed.

E. The City may, at any time, in case of fire, disaster or other emergency as determined by the City, cut or move any parts of the system and appurtenances on, over or under the right-of-way, in which event the City shall not be liable therefore to the right-of-way user.

(Ord. 2682 §33, 2022; Ord. 1995 §1 (part), 2002)

11.08.310 Abandonment and Removal of Facilities

A. Any right-of-way user that intends to discontinue use of any facilities within the rights-of-way shall notify the Director, in writing, of the intent to discontinue use. Such notice shall describe the facilities for which the use is to be discontinued, a date of discontinuance of use (the date shall not be less than 30 days from the date such notice is submitted), and the method of removal and restoration of the rights-of-way. The right-of-way user may not remove, destroy, or permanently disable any such facilities during said 30-day period without written approval of the Director. After 60 days from the date of such written approval from the Director, the right-of-way user shall remove and dispose of such facilities as set forth in the notice unless additional time is requested from and approved by the Director. The Director may place conditions upon the removal and restoration in order to protect public health and safety and the rights-of-way.

B. At the discretion of the City, and upon written notice from the Director within 30 days of the notice of abandonment, the right-of-way user may abandon the facilities in place, and shall further convey full title and ownership of such abandoned facilities to the City. The consideration for the conveyance is the City's permission to abandon the facilities in place. The right-of-way user is responsible for all obligations as owner of the facilities, or other liabilities associated therewith, until conveyance to the City is completed. Conveyance of the abandoned facilities shall also automatically include all record information, including GIS data as available, or as agreed upon with the Director.

(Ord. 2682 §34, 2022; Ord. 1995 §1 (part), 2002)

11.08.320 Record Drawings

Upon request by the City, a right-of-way user shall, within 10 business days, submit to the City, at no cost to the City, the right-of-way user's most current and accurate record drawings in use by the right-of-way user showing the location specified by the City in its request before final permit approval. Record drawings shall show all facilities including but not limited to power poles, guy poles and anchors, overhead transformers, pad-mounted transformers, submersible transformers, conduit, substation (with its name) pedestals, pad-mounted J boxes, vaults, switch cabinets, and meter boxes.

(Ord. 2682 §35, 2022)

11.08.330 Joint Excavation

A. If an applicant submits a permit application to excavate for installation of its facilities, the City may request in writing that such applicant provide an opportunity to install City facilities within the excavation; provided, that:

1. Such joint use shall not unreasonably delay the work of the applicant's excavation; and

2. Such joint use shall be arranged and accomplished on terms and conditions satisfactory to both parties.

B. To the extent reasonably possible, the applicant shall, at the direction of the City, cooperate with the City and provide other private utility companies with the opportunity to utilize joint or shared excavations in order to minimize disruption and damage to the right-of-way as well as to minimize traffic-related impacts.

(Ord. 2682 §36, 2022)

11.08.340 Additional Ducts or Conduits

Any right-of-way user shall upon written request of the City, provide the City with additional duct or conduit space over and above the conduit or conduits planned to be constructed for the right-of-way user. Such additional ducts or conduits shall be of a size and configuration specified by the City and shall be dedicated to the City. The City shall have the right to use the ducts and conduits for any purpose including, but not limited to, leasing them to other entities. Except as otherwise applicable under RCW 35.99.070, the incremental costs of adding the specified ducts and conduits for the City shall be borne by the City.

(Ord. 2682 §37, 2022)

11.08.350 Undergrounding

A. Subject to and in accordance with any applicable rates and tariffs on file with the Washington Utilities and Transportation Commission (WUTC) (or such other regulatory agency having jurisdiction), the right-of-way user shall cooperate with the City in promoting a policy of undergrounding facilities within the right-of-way.

B. If the City directs the right-of-way user to underground its facilities, such undergrounding shall be arranged and accomplished subject to and in accordance with applicable rates and tariffs on file with the WUTC (or such other regulatory agency having jurisdiction).

C. In the event that the City undertakes any public improvement that would otherwise require, at the discretion of the Director, the relocation of the right-of-way user's aboveground facilities, the Director may, by written notice to the right-of-way user, direct that any such facilities be converted to underground facilities. Any such conversion shall be done subject to and in accordance with applicable schedules and tariffs on file with the WUTC (or such other regulatory agency having jurisdiction).

D. All new facilities installed within the City during the term of any permit or franchise shall be located underground to the extent technologically feasible as determined at the discretion of the Director.

(Ord. 2682 §38, 2022)

11.08.360 Hazardous Substances

Right-of-way users shall not introduce or use any hazardous substances (chemical or waste) in violation of any applicable law or regulation, and the right-of-way user shall not allow any of its agents, contractors, or any person under its control to do the same.

(Ord. 2682 §39, 2022)

11.08.370 Utility Locates

Prior to doing any work in the rights-of-way, right-of-way users shall follow established procedures, including contacting the Utility Notification Center in Washington and complying with all applicable State statutes regarding the One Call Locator Service pursuant to Chapter 19.122 RCW. Further, upon request by the City or a third party, the right-of-way user shall promptly locate its facilities in order for them to be surveyed or as required by Chapter 19.122 RCW. The right-of-way user shall provide enough detail to verify the vertical (depth) and horizontal location of its facilities. The City shall not be liable for any damages to the right-of-way user's facilities or for interruptions in service to right-of-way user's customers that are a direct result of the right-of-way user's failure to locate its facilities within the prescribed time limits and guidelines established by the One Call Locator Service regardless of whether the City issued a permit.

(Ord. 2682 §40, 2022)

11.08.380 Moving of Building(s) and/or Equipment

Right-of-way users shall, upon 7 days' notice, disconnect or move their facilities to allow for the moving of building(s) and/or equipment across or along any such street, alley or other public place; provided, that the advance notice may be reduced to 24 hours if the facilities are below the minimum clearance set by law or regulation or in the case of an emergency. The cost of the right-of-way user moving their facilities shall be borne as follows: (i) by the right-of-way user if the facilities are below the minimum vertical clearance required by State statutes, City ordinance, or rules of the Director; above the surface of the right-of-way, and no adjustment would be necessary if the minimum clearance had been maintained; and (ii) by the person desiring to move the building(s) and/or equipment under other circumstances.

(Ord. 2682 §41, 2022)

11.08.390 Tree Trimming

Any right-of-way user required by State statute or regulation to trim or remove trees that may interfere with their facilities shall first obtain a permit and ensure that the work is accomplished in accordance with TMC Chapter 11.20, "Right-of-Way Vegetation," and TMC Section 18.52.100, "Maintenance and Pruning," as appliable.

(Ord. 2682 §42, 2022)

CHAPTER 11.12

REQUIRED IMPROVEMENTS FOR NEW BUILDINGS AND DEVELOPMENTS

Sections:

11.12.010 Purpose of Provisions

The purpose of this section is to implement regulations in connection with the development and improvement of land, and to facilitate adequate provision for water, sewer, surface water drainage, curbs, gutters, sidewalks, driveways, street and other public improvements by requiring the construction and dedication of such improvements at the time of the construction of industrial, commercial, or residential buildings or developments. The requirements set forth in this chapter are intended to supplement the requirements of RCW Chapter 58.17 and Title 17 of the Tukwila Municipal Code relating to subdivision of land.

(Ord. 1995 §1 (part), 2002)

11.12.020 Statute Adopted by Reference

For purposes of this chapter, those factors set forth in RCW 58.17.110 as it currently exists and as hereafter amended are adopted by reference as constituting the conditions to be considered in the approval or disapproval of any building or development permit.

(Ord. 1995 §1 (part), 2002)

11.12.030 Street Frontage Improvements

(See TMC Title 17 for further detail)

A. The installation of street frontage improvements is required prior to issuance of a certificate of occupancy for new construction, other than single-family homes, or prior to final approval for subdivisions and 5–9 lot short plats and Planned Residential Developments. For additions and remodels to existing buildings, see TMC Section 11.12.070.

B. Complete street frontage improvements shall be installed along the entire frontage of the property at the sole cost of the permittee as directed by the Director. Street frontage improvements may include curb, gutter, sidewalk, storm drainage, street lighting, traffic signal equipment, utility installation or relocation, landscaping strip, street trees and landscaping, irrigation, street widening, and channelization. Beyond the property frontage, the permittee shall provide ramps from the new sidewalk or walkway to the existing shoulder, and pavement and channelization tapering back to the existing pavement and channelization as needed for safety.

C. When (due to site topography, city plans for improvement projects, or other similar reasons) the Director determines that street frontage improvements cannot or should not be constructed at the time of building construction, the property owner shall, prior to issuance of the building permit, at the direction and discretion of the Director:

1. Enter into an agreement to pay to the City an amount equal to the property owner's cost of installing the required improvements. At the direction and discretion of the Director, the property owner shall be required to provide a bond or other financial security for its payment obligation. The property owner shall provide documentation satisfactory to the Director that establishes the cost of the materials, labor, and quantities; or

2. Record an agreement which provides for these improvements to be installed by the property owner by a date acceptable to the Director; or

3. Record an agreement to not protest a local improvement district to improve the street frontage.

D. If, at a time subsequent to the issuance of a building permit, a local improvement district is established that includes the property for which the building permit was issued, the property may be considered in the compilation of the local improvement district assessment with the appropriate amount of costs of construction expended by the developer.

E. The Director under either of the following conditions may waive the requirement for installation of frontage improvements:

1. If adjacent street frontage improvements are unlikely to be installed in the foreseeable future; or

2. If the installation of the required improvement would cause significant adverse environmental impacts.

(Ord. 2470 §1, 2015; Ord. 1995 §1 (part), 2002)

11.12.040 Dedication of Right-of-Way

A. The City may require the dedication of right-of-way in order to incorporate transportation improvements that are reasonably necessary to mitigate the direct impacts of the development. The property owner may be required to dedicate right-of-way to accommodate:

1. Motorized and nonmotorized transportation, landscaping, utility, street lighting, traffic control devices, and buffer requirements;

2. Street frontage improvements where the existing right-of-way is not adequate; or

3. The extension of existing or future public street improvements.

B. The Director may grant some reduction in the minimum right-of-way requirements where it can be demonstrated that sufficient area has been provided for all frontage improvements, including utilities, within the right-of-way.

C. The owner of a subdivision may be required to dedicate right-of-way, as a condition of approval of the subdivision, where existing right-of-way for public streets is not adequate to incorporate necessary frontage improvements for public safety and to provide compatibility with the area's circulation system.

D. The owner of a short subdivision may be required to dedicate right-of-way, as a condition of approval of the short subdivision, where such dedication is necessary to mitigate the direct impacts of the short subdivision and:

1. The short subdivision abuts an existing substandard public street and the additional right-of-way is necessary to incorporate future frontage improvements for public safety; or

2. Right-of-way is needed for the extension of existing public street improvements necessary for public safety; or

3. Right-of-way is needed to provide future street improvements necessary for public safety for planned new public streets.

(Ord. 1995 §1 (part), 2002)

11.12.050 Easements and Other Dedications

A. Easements and other dedications for all public streets and utilities needed to serve the proposed development consistent with the provisions of the Comprehensive Plan and other adopted City plans shall be granted by the property owner. Easements and other dedications may be for private streets, sidewalks, street lighting, traffic control devices, utilities, and temporary construction. Design features of a street may necessitate the granting of slope, wall, and drainage easements or other dedications.

B. Nonmotorized easements and other dedications may be required where necessary to facilitate pedestrian circulation between neighborhoods, schools, shopping centers and other activity centers, even if the facility is not specifically shown on the City's nonmotorized circulation plan.

C. Nonmotorized easements and other dedications shall be wide enough to include the trail width and a minimum clear distance of two feet on each side of the trail. The width of easements and other dedications may vary according to site-specific design issues such as topography, buffering, and landscaping.

D. Easements and other dedications shall be designated "City of Tukwila nonmotorized public easement", and easement and other dedication documents shall specify the maintenance responsibility.

E. The City may accept dedications of sensitive areas which have been identified and are required to be protected as a condition of development. Dedication of such areas to the City will be considered when:

1. The dedicated area would contribute to the City's overall open space and greenway system;

2. The dedicated area would provide passive recreation opportunities and nonmotorized linkages;

3. The dedicated area would preserve and protect ecologically sensitive natural areas, wildlife habitat and wildlife corridors;

4. The dedicated area is of low hazard/liability potential; and

5. The dedicated area can be adequately managed and maintained.

(Ord. 1995 §1 (part), 2002)

11.12.060 Sites Shall be Served by Paved Streets

All development sites shall be served by a paved street surface that connects to an existing paved street surface.

(Ord. 1995 §1 (part), 2002)

11.12.070 Special Provisions – Additions, Alterations, or Repairs to Existing Structures

The following special provisions shall apply to additions, alterations, repairs, accessory buildings, and campus additions:

1. In the case of real property improvements consisting of additions, alterations, or repairs to an existing structure where square footage is added to the structure, or an accessory building is constructed, street system improvements shall be constructed. The Director shall decide the limit of the street system improvements. The cost for these improvements, to be borne by the property owner, will not be more than 10% of the total cost of the improvement. The Director may waive the construction of the street system improvements if it is determined that the street system improvements are negligible and not in the public interest.

2. In the case of real property improvements consisting of construction of an additional structure or structures on a private campus, street system improvements shall be constructed. The Director shall select the street system improvements to be made. The cost for these improvements, to be borne by the property owner, will not be more than 10% of the total cost of the improvement. In the case of real property improvements consisting of construction of an additional structure or structures

on a campus owned by a public entity, street system improvements shall be constructed along the full frontage.

3. In the case of corner lots or other development sites fronting more than one right-of-way, should the cost of the real property improvement be such that street system improvements would not be required on all rights-of-way fronting the development site, street system improvements shall be constructed on the right-of-way or rights-of-way selected by the Director.

(Ord. 1995 §1 (part), 2002)

11.12.080 Special Provisions – Single-Family Residence

The developer of one single-family residence shall construct the following street system improvements as a condition of building permit approval:

1. If the development site fronts entirely on an unpaved street surface, the developer shall construct a half-street section of street pavement along the frontage of the development site abutting the unpaved surface or, as an alternative, the property owner shall enter into an agreement with the City waiving the right of the property owner under RCW 35.43.180 to protest the formation of a local improvement district for the construction of a paved street surface and surface water drainage facilities. The agreement shall be recorded with the King County auditor;

2. If the development site is a corner lot and fronts on both a paved street surface and an unpaved street surface, the developer shall construct half-street section of street pavement and surface water drainage facilities along the frontage of the development site abutting the unpaved street surface;

3. If the development site is contiguous to a parcel that is served by paved street surface, the developer shall construct half-street section of street pavement and surface water drainage facilities along the frontage of the development site abutting the existing paved street surface;

4. Surface water drainage facilities in all cases, whether the development site fronts a paved street surface or an unpaved street surface; and

5. If the development site fronts a paved street surface, minor edge improvements to the street pavement, as required by the Director, shall be constructed.

(Ord. 1995 §1 (part), 2002)

11.12.090 Inspections

All such public improvements shall be constructed under the supervision of the Director in accordance with City standards. No final installation shall be done until the City has inspected and approved the installation and forms, and has certified they are according to proper profile and location.

(Ord. 1995 §1 (part), 2002)

11.12.100 Landscaping in Right-of-Way, Easements, and Access Tracts

A. The requirements of this section apply when street frontage improvements are required as part of any development. The City shall review proposed street frontage improvements for compliance with this section.

B. Retention of existing vegetation may be required along City streets. Whenever it is necessary to remove or relocate plant materials from the right-of-way in connection with a development project, the property owner shall replant such trees or replace them according to City standards as defined in TMC Chapter 11.20. Any landscaping in the right-of-way that is disturbed by construction activity on private property shall be replaced or restored to its original condition by the property owner. Landscaping and other improvements within the right-of-way are subject to removal at the request of the City when the right-of-way is needed for public use.

C. Street landscape installation or improvement is required when applicable projects are to be undertaken along arterials and according to City standards and guidelines. Ground cover shall be provided for site frontage right-of-way with a potential for erosion. The selection of tree species shall be in accordance with City standards.

D. The abutting property owner(s) shall maintain landscaping within the right-of-way unless maintenance has been accepted by the City. All landscape materials in the right-of-way shall be maintained to industry standards. Trees shall be pruned according to standards adopted by either the National Arborists Association or the International Society of Arboriculture. The property owner is responsible for ensuring that landscaping fronting his/her property does not impair sight-distance. Topping of street trees is prohibited.

(Ord. 1995 §1 (part), 2002)

11.12.110 Street Lighting

A. Street lighting is required along all public streets, including new public streets in subdivisions and short subdivisions. The developer is responsible for design and installation of new lighting and relocation of existing lighting along the street frontage of the development.

B. All street light installations, including wiring, conduit and power connections, shall be located or relocated underground, except in residential areas with existing aboveground utilities.

C. For new subdivisions, the City will accept maintenance and power cost responsibility for the public street light system when a subdivision is 50% or more occupied. Until then, the property owner shall remain responsible for the maintenance of and energy charges for the street lighting system.

D. Street illumination is required at the intersection of a private street and a pullic street. NI street lighting is required along a private street.

(Ord. 1995 §1 (part), 2002)

11.12.120 Private Streets

Private streets will be allowed when:

1. A covenant that provides for maintenance and repair of the private street by property owners has been approved by the City and recorded with King County;

2. The covenant includes a condition that the private street will remain open at all times for emergency and public service vehicles; and

3. The private street would not hinder public street circulation; and

4. At least one of the following conditions exists:

a. The street would ultimately serve four or fewer lots; or

b. The private street would be part of a planned residential development; or

c. The private street would serve commercial or industrial facilities where no circulation continuity is necessary.

(Ord. 1995 §1 (part), 2002)

11.12.130 Acceptance of Dedicated Private Streets as Public Streets

Acceptance of dedicated private streets as public streets will be considered if the street meets all public street design and construction standards. Consideration of acceptance is also subject to the requirements of other City departments. Final acceptance is subject to City Council approval. The following criteria will be evaluated:

1. Acceptability of street and utility construction. Pavement condition shall be brought up to the standards of new construction;

2. Condition of title;

3. Survey requirements for monumentation and conveyance;

4. The need for additional right-of-way and easements; and

5. Cost of accepting the street and future maintenance requirements.

(Ord. 1995 §1 (part), 2002)

11.12.140 Americans with Disabilities Act

All street improvements and nonmotorized facilities shall be designed and constructed to meet the intent of applicable requirements of the Americans with Disabilities Act (ADA). In accordance with the State law and Federal guidelines established by the ADA, wheelchair curb ramps shall be provided at all pedestrian crossings with curbs.

(Ord. 1995 §1 (part), 2002)

11.12.150 Nonmotorized Facilities

A. The City's goals and policies for nonmotorized facilities are described in the pedestrian and bicycle transportation plan. The users of nonmotorized facilities are separated in that plan into two categories: pedestrians (which includes people, wheelchairs, horses, and other nonmotorized users) and bicycles. Internal pedestrian circulation systems shall be provided within and between existing, new and redeveloping commercial, multifamily and single-family developments; activity centers; and existing frontage pedestrian systems.

B. Concrete sidewalks shall be provided:

1. On both sides of all arterial streets.

2. On both sides of all non-arterial streets longer than 200 feet and on one side of all non-arterial less than 200 feet in length.

3. On both sides of all public streets which provide access to existing or planned future sidewalks, activity centers, parks, schools, neighborhoods, or public transit facilities.

B. The Director may grant an exception to the requirement for concrete sidewalk when the subdivision design provides an acceptably surfaced and maintained public walkway system.

C. A paved path shall be provided in lieu of concrete sidewalk when:

1. The Director determines that the paved path is to be temporary in nature; or

2. The Director determines that the soil or topographic conditions dictate a flexible pavement; or

3. The pedestrian and bicycle transportation plan indicates that the neighborhood character does not warrant concrete sidewalks.

D. When street system frontage improvements are required under TMC 11.12.040 additional right-of-way and pavement may be required if indicated on a designated bicycle route as identified in the comprehensive plan for pedestrian and bicycle transportation.

(Ord. 1995 §1 (part), 2002)

11.12.160 Traffic Signals

A. When a proposed street or driveway design interferes with existing traffic signal facilities, traffic signal modification or relocation must be provided, at the expense of the developer.

B. To mitigate the traffic impacts of a development, modification of an existing signal or installation of a new signal may be required.

C. All traffic signal modification designs shall be prepared by a licensed engineer experienced in traffic signal design.

(Ord. 1995 §1 (part), 2002)

11.12.170 Street Ends

A. All dead-end public streets and private streets shall be designed as a cul-de-sac, except as provided below.

B. A hammerhead may be used in lieu of a circular turnaround if the street is less than 200 feet long and serves six or fewer lots. An alternative design may be used if approved by the Department and the Fire Marshal.

C. Streets which temporarily deadend and will be extended in the future will not have a turnaround or hammerhead unless determined necessary by the Department and the Fire Marshal. When no turnaround or hammerhead is provided, street-end barricading shall be installed and must conform to the most recent edition of the Manual on Uniform Traffic Control Devices (MUTCD).

D. A landscaped island delineated by curbing shall be provided in the cul-de-sac by the property owner. The landscaping shall be maintained by the homeowners' association or adjacent property owners. The maintenance agreement shall contain this requirement and be recorded with King County.

(Ord. 1995 §1 (part), 2002)

CHAPTER 11.16

DEVELOPER REIMBURSEMENT (LATECOMERS) AGREEMENTS

Sections:

11.16.010 Purpose

This chapter is intended to implement and thereby make available to the public the provisions of RCW Chapter 35.72 and RCW Chapter 35.91, Contracts for Utilities, as presently constituted or as may be subsequently amended. The rules and regulations included in this chapter are based on Tukwila's interpretation that Chapter 35.91 contemplates that reimbursement agreements will be executed prior to commencement of construction.

(Ord. 1995 §1 (part), 2002)

11.16.020 Application, Terms

A developer – as required by an ordinance of the City, or as a result of review under the State Environmental Policy Act, or in connection with a decision of the City Council to construct street system and/or utility system improvements on public rights-of-way – may apply to the City to establish a latecomer agreement for recovery of a pro rata share of the costs of constructing the system improvements, from the owners of record who will subsequently derive benefit from the improvements. No latecomer agreement shall extend for a period longer than 15 years from the date of final acceptance by the City. The developer is required to assign such recovery to run with the land in order that the recovery is made for the benefit of the owner of the real property at the time payment is made.

(Ord. 1995 §1 (part), 2002)

11.16.030 Rights and Non-liability of the City

The City Council reserves the right to refuse to enter into any latecomer agreement or reject an application therefore. All applications for latecomer agreements are made on the basis that the applicant releases and waives any claims for liability of the City in establishment and enforcement of latecomer agreements. The City is not responsible for locating a beneficiary or survivor entitled to benefits by or through latecomer agreements. Any collected funds unclaimed by developers after three years from the expiration of the agreement are returned to parties making payment to the City. Any remaining undeliverable funds shall inure to the benefit of the appropriate utility and/or fund approved by City Council.

(Ord. 1995 §1 (part), 2002)

11.16.040 Authorization

A. The Public Works Director is authorized to accept applications for the establishment by contract of an assessment reimbursement area as provided by state law, provided such application substantially conforms to the requirements of this chapter.

B. The Public Works Director shall establish administrative rules, regulations, policies, and procedures necessary to implement the provisions of this chapter.

(Ord. 1995 §1 (part), 2002)

11.16.050 Minimum Project Size

In order to be eligible for a reimbursement agreement, the estimated cost of the proposed improvement must be $50,000.00 or more. The estimated cost of the improvement shall be determined by the Director, based upon a construction contract for the project, bids, engineering or architectural estimates, or other information deemed by the Director to be a reliable basis for estimating costs. The determination of the Director shall be final.

(Ord. 1995 §1 (part), 2002)

11.16.060 Application – Contents

Applications for the establishment of an assessment reimbursement area are accompanied by the application fee as set by this chapter, and shall include the following items:

1. Detailed construction plans and drawings, prepared and stamped by a State-licensed engineer, of the entire project to be borne by the assessment reimbursement area.

2. Itemization of all costs of the project, including – but not limited to – design, grading, paving, installation of curbs, gutters, storm drainage, sidewalks, street lights, right-of-way landscaping, street trees, engineering, construction, property acquisition, and contract administration.

3. A map and legal description identifying the proposed boundaries of the assessment reimbursement area and each separately owned parcel within such area. Such map shall identify the location of the project in relation to the parcels of property in such area.

4. A proposed assessment reimbursement roll stating the proposed assessment for each separate parcel of property within the proposed assessment reimbursement area, as determined by apportioning the total project cost on the basis of the benefit of the project to each parcel of property within said area.

5. A complete list of record owners of property within the proposed assessment reimbursement area, certified as complete and accurate by the applicant and which states names and mailing addresses for each such owner.

6. Envelopes addressed to each of the owners of record within the assessment reimbursement area who have not contributed their pro rata share of such costs. Proper postage for certified mail shall be affixed or provided.

7. Copies of executed deeds and/or easements in which the applicant is the grantee for all property necessary for the installation of such project.

(Ord. 1995 §1 (part), 2002)

11.16.070 Notice to Property Owners

A. All notices required by this chapter, including notices approved as to form by the City, and pre-addressed envelopes with proper postage affixed are the responsibility of the applicant.

B. Prior to the execution of a contract with the City establishing an assessment reimbursement area, the Director or designee shall mail, via certified mail, a notice to all property owners of record within the assessment reimbursement area as determined by the City on the basis of information and materials supplied by the applicant, stating the preliminary boundaries of such area and assessments, along with substantially the following statement:

> "As a property owner within the Assessment Reimbursement Area whose preliminary boundaries are enclosed with this notice, you or your heirs and assigns will be obligated to pay under certain circumstances a pro rata share of construction and contract administration costs of a certain street and/or utility project that has been preliminarily determined to benefit your property. The proposed amount of such a pro rata share or assessment is also enclosed with this notice. You, or your heirs and assigns, will have to pay such share if any development permits are issued for development on your property within [ ] years of the date a contract establishing such area is recorded with King County provided such development would have required similar street improvements for approval. You have a right to request a hearing before the City Council within 20 calendar days of the date of this notice. All such requests must be made in writing and filed with the City Clerk. After such contract is recorded, it is binding on all owners of record within the assessment area who are not a party to the contract."

(Ord. 1995 §1 (part), 2002)

11.16.080 City Council Action

If an owner of property within the proposed assessment reimbursement area requests a hearing, notice of such is given to all affected property owners in the manner provided in TMC 11.16.070 and 11.16.090. At such hearing, the City Council shall take testimony from affected property owners and make a final determination of the area boundaries, the amount of assessments, and the length of time for which reimbursement is required, and shall authorize the execution of appropriate documents. The City Council's ruling on these matters is determinative and final. If no hearing is requested, the Council may consider and take final action on these matters at any public meeting 20 calendar days after notice was mailed to the affected property owners.

(Ord. 1995 §1 (part), 2002)

11.16.090 Preliminary Assessment Reimbursement Area – Amendments

If the preliminary determination of area boundaries and assessments is amended so as to raise any assessment appearing thereon, or to include omitted property, a new notice of area boundaries and assessment shall be given as in the case of an original notice; provided, that as to any property originally included in the preliminary assessment area which assessment has not been raised, no objections shall be considered by the City Council unless objections were made in writing at or prior to the date fixed for the original hearing. The City Council's ruling shall be determinative and final.

(Ord. 1995 §1 (part), 2002)

11.16.100 Contract Execution and Recording

A. Within 30 days of the final City Council approval of an assessment reimbursement agreement, the applicant shall execute and present such agreement for signature of the appropriate city officials.

B. The latecomer agreements must be recorded in the King County Department of Records within 30 days of the final execution of the agreement. It is the sole responsibility of the latecomer applicant to record said agreement and to provide the City with a copy of the recorded instrument. Failure to comply with the requirements of this subsection is grounds for unilateral rescission of the agreement by the City.

C. Once recorded, the latecomer agreement is binding on owners of record within the assessment area who are not party to the agreement.

(Ord. 1995 §1 (part), 2002)

11.16.110 Application Fee

A. All applications for latecomer agreements are on forms approved by the Department and are accompanied by a nonrefundable application fee. The Department is responsible for administration, review and processing of such application and preparing the agreement. The fee for these services shall be set forth in a fee schedule to be adopted by motion or resolution of the City Council.

B. In the event that costs incurred by the City for engineering or other professional consultant services required in processing the application exceed the amount of the application fee, the applicant shall reimburse the City for such costs before the agreement is recorded.

(Ord. 1995 §1 (part), 2002)

11.16.120 Construction and Acceptance of Improvements

A. After the reimbursement agreement has been signed by both parties, and all necessary permits and approvals have been obtained, the applicant shall construct the improvements and, upon completion, request final inspection and acceptance of the improvements by the City, subject to any required obligation to repair defects. An appropriate bill of sale, easement and any other document needed to convey the improvements to the City and to insure right of access for maintenance and replacement shall be provided, along with documentation of the actual costs of the improvements and a certification by the applicant that all of such costs have been paid.

B. In the event actual costs are less, by 10% or more, than the Director's estimate used in calculating the estimated reimbursement fees, the Director shall recalculate the fees, reducing them accordingly, and shall cause a revised list of fees to be recorded with the county auditor.

(Ord. 1995 §1 (part), 2002)

11.16.130 Collection of Reimbursement Fees

A. Subsequent to the recording of a reimbursement agreement, the City shall not permit connection of any property within the reimbursement area to any water or sewer facility constructed pursuant to the reimbursement agreement, unless the share of the costs of such facilities required by the recorded agreement is first paid to the City.

B. Upon receipt of any reimbursement fees, the City shall deduct a 17% administrative fee and remit the balance of the reimbursement fees to the party entitled to the fees pursuant to the agreement. If an error were to occur in calculating the fee amount, the City shall make diligent efforts to collect such fee, but shall under no circumstances be obligated to make payment of the difference to the party entitled to reimbursement.

(Ord. 1995 §1 (part), 2002)

11.16.140 Segregation of Reimbursement Fees

The reimbursement agreement shall provide that the City is authorized to make segregation or adjustments to reimbursement fees because of subdivision or boundary line adjustment of the benefited properties. The segregation or adjustment shall generally be made in accordance with the method used to establish the original reimbursement fees. Segregation or adjustment shall not increase or decrease the total reimbursement fees to be paid. Should a segregation or adjustment be undertaken, a separate fee will be owed to the City for this additional administrative work.

(Ord. 1995 §1 (part), 2002)

11.16.150 Disposition of Undeliverable Reimbursement Fees

In the event that, after reasonable effort, the party to which reimbursement fees are to be paid pursuant to a reimbursement agreement cannot be located, and upon the expiration of 180 days from the date fees were collected by the City, the fees shall become the property for the City and shall be revenue to the appropriate City fund.

(Ord. 1995 §1 (part), 2002)

CHAPTER 11.20
RIGHT-OF-WAY VEGETATION

Sections:

11.20.010 Purpose

This chapter is intended to be implemented in a manner to:

1. Facilitate the planting, maintenance, restoration, replacement, and survival of desirable trees, shrubs, and groundcover within the public right-of-way;

2. Protect the public from personal injury and property damage caused or threatened by the improper planting, maintenance, or removal of vegetation;

3. Promote the use of drought tolerant vegetation and the reduction in the use of irrigation systems;

4. Provide a process for the beautification of the community; and

5. Promote the concept of a "walkable community."

(Ord. 1995 §1 (part), 2002)

11.20.020 Permit

Any person wishing to perform any vegetation work within the public right-of-way must file an application with the City and obtain a right-of-way use permit prior to commencing any work.

(Ord. 1995 §1 (part), 2002)

11.20.030 Permit Exemptions

Owners or occupants of abutting property may maintain such property, other than plant replacement without obtaining a permit. The City and its employees, agents and representatives may perform such work without obtaining a permit.

(Ord. 1995 §1 (part), 2002)

11.20.040 Permit Fee

Permit fees will not be charged in connection with right-of-way applications made pursuant to TMC 11.20.030, except for applications requiring public notice under TMC 11.20.060.

(Ord. 1995 §1 (part), 2002)

11.20.050 Permit Criteria

The Director may grant any vegetation permit application submitted pursuant to TMC 11.20.020, if all of the following criteria exist:

1. The proposed vegetation work is consistent with achieving the purposes of this chapter pursuant to TMC 11.20.010; and

2. The proposed work is consistent with the City's Comprehensive Plan; and

3. The proposed work is consistent with the City's intended use of the public right-of-way; and

4. The proposed work is consistent with TMC Chapter 18.54 and all other applicable statutes, laws, rules, policies, and regulations; and

5. The granting of the permit will not constitute a grant of a special privilege; and

6. If the proposed work is located within a designated environmentally sensitive area, all necessary environmental and sensitive area approvals have been granted pursuant to TMC Title 18, the State Environmental Policy Act as adopted by the City, and all other applicable environmental regulations, as now existing or hereafter amended or adopted; and

7. The granting of the permit will not be materially detrimental to the public welfare or injurious to property or improvements located in the area surrounding the abutting property; and

8. The proposed vegetation work is consistent with the character of the neighborhood.

(Ord. 1995 §1 (part), 2002)

11.20.060 Public Notice

A. The Director shall distribute, by regular mail, a public notice of any vegetation right-of-way permit application to persons receiving the property tax statements for all property within 100 feet of the affected vegetation, whenever such application covers the removal or significant pruning of vegetation that is 4 inches or larger in diameter measured at 4.5 feet (54 inches) above the ground; provided, however, that such public notice shall not be required for applications covering red alder, cottonwood, poplar, big leaf maple, or willow trees regardless of size.

B. The public notice shall contain the following information:

1. The name of the applicant;

2. The street address of the abutting property which is adjacent to the affected vegetation, or if this is not available, a locational description other than legal description. The notice must also include a vicinity map that identifies the location of the vegetation;

3. A citation of this chapter;

4. A brief description of the proposed vegetation work;

5. A statement of availability of the official file;

6. A statement of the right of any person to submit written comments to the Director; and

7. A statement that "Only persons who submit written comments to the Director within 14 calendar days from the date of the notice may appeal the Director's decision."

C. The Director shall issue a written decision to either grant or deny the application, and shall attach a final vegetation restoration plan to such decision. The Director shall use the decisional criteria set forth in this chapter and shall consider all public comments in deciding upon the application. The Director shall issue the decision within 14 calendar days after the close of the time period for public comments. The Director shall include in the written decision any restrictions and conditions that are determined reasonably necessary to eliminate or minimize any undesirable effects of granting the application. The Director's 'ecision is determinative and final.

(Ord. 1995 §1 (part), 2002)

11.20.070 Vegetation Restrictions

No one shall plant in any public place any maple, Lombardy poplar, cottonwood or gum, or any other tree, the roots of which cause damage to the sewers, sidewalks, or pavements, or which breed disease dangerous to other trees or to the public health, or allow to remain in any public place any planted tree which has become dead or is in such condition as to be hazardous to the public. No illegal or illegally manufactured, collected or delivered vegetation, as codified by the Revised Code of Washington or other applicable laws rules and regulations, as now exist or are hereafter adopted or amended, or carrying harmful diseases, such as worms, insects, caterpillars or larvae, shall be permitted within the City.

(Ord. 1995 §1 (part), 2002)

11.20.080 Interference

A. No flowers, shrubs or trees shall be allowed to overhang or prevent the free use of the sidewalk or roadway, or street maintenance activity, except that trees may extend over the sidewalk when kept trimmed to a height of eight feet above the walkway, and 18 feet above a roadway.

B. No trees shall be allowed to come into contact with telephone, telegraph, electric or power wires of public service companies or of the City; provided, however, that such wires are 25 feet above the level of the public place over which they pass.

C. When the Director finds that trees, shrubs or landscaping are coming in contact with the wires of a public service company or of the City or are interfering with the free use of the sidewalk or roadway, the Director may order the trees or landscaping trimmed; and if not so trimmed within ten days after service of written notice to the owner of such trees or landscaping, or the posting of written notice upon the premises, the Director may issue a permit to the owners of the wires, authorizing them to trim such trees or landscaping at their own expense.

(Ord. 1995 §1 (part), 2002)

11.20.090 Sight Distance Requirements

A. Areas around all intersections, including the entrance and exit of driveways onto streets, must be kept clear of sight obstructions. Intersection sight distance shall be based on posted speed limits per AASHTO Policy on Geometric Design requirements, current edition. The Director may require a traffic study, at the owner's expense, to determine safety requirements.

B. When the Director finds that the public safety has been jeopardized because sight distance requirements at intersections are not being maintained, the Director may order the trees or landscaping to be trimmed; and if not trimmed within ten days after the service of written notice to the owner, or the posting of written notice upon the premises, the Director may have the trees or landscaping trimmed and the cost for such work charged to the owner.

(Ord. 1995 §1 (part), 2002)

11.20.100 Response to Emergencies

In the event of an emergency, any person may take all reasonably necessary actions involving the maintenance, removal, or cutting of any vegetation or street tree in order to prevent injury to persons or damage to property without prior permit approval. The Director must be notified in a written report within three working days as to the nature and location of the emergency, and the action taken by the person.

(Ord. 1995 §1 (part), 2002)

11.20.110 Replacement Vegetation

No person shall remove vegetation within a public right-of-way without replacing the removed vegetation in accordance with the right-of-way vegetation plan. The replacement vegetation shall be equivalent in number, size, quality, species, and placement as the removed vegetation, unless otherwise approved by the Director. An exemption from the requirements of this section may be granted by the Director if the proposed exemption is found to be consistent with the criteria set forth in TMC 11.20.050. The cost of such removal and replacement shall be borne by the person removing or causing the removal of such vegetation.

(Ord. 1995 §1 (part), 2002)

11.20.120 Damaging Vegetation

No person shall intentionally damage, destroy or mutilate any vegetation located in any public right-of-way or other public place, or attach any rope or wire (other than used to support a young or broken tree), nail, sign, poster, handbill or other item to such vegetation, or allow any gaseous liquid, or solid substance which is harmful to such vegetation to come in contact with the vegetation, or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of such vegetation. The owner or the occupant shall not be precluded from removing or maintaining damaged vegetation.

(Ord. 1995 §1 (part), 2002)

11.20.130 Topping

No person may top any street tree located in the public rights-of-way. The Director may exempt the City and other persons from the provisions of this section when the street tree to be topped has been severely damaged by storms or other natural causes, or the street tree is located under utility wires or other obstructions where other pruning practices are impractical, or where the topping is necessary to preserve the public safety and welfare.

(Ord. 1995 §1 (part), 2002)

11.20.140 Tree Root Damage – Liability

Any person who owns any tree or vegetation within private property, the roots of which cause damage to the public right-of-way or other public space, including limitation, damage to utilities located in the public right-of-way, sidewalks, paved areas, or create a safety hazard, shall be liable for repairing any damage to public rights-of-way, or other public places, or utilities located therein by said trees or vegetation.

(Ord. 1995 §1 (part), 2002)

11.20.150 Maintenance of Plant Materials

A. Landscaping in the right-of-way shall be maintained by the abutting property owner(s) unless maintenance has been accepted by the City.

B. All landscape materials in the public right-of-way shall be maintained to industry standards. Trees shall be pruned according to standards adopted by either the National Arborists Association or the International Society of Arboriculture.

C. The property owner is responsible for ensuring that landscaping fronting his/her property does not impair sight distance.

(Ord. 1995 §1 (part), 2002)

11.20.160 Violations

Any person violating any of the provisions of this chapter, which results in a hazard to the public health, safety and welfare is guilty of a misdemeanor and shall be punished as provided by law. Damage to each item of vegetation shall be deemed a separate violation. The value of damaged vegetation shall be calculated pursuant to the International Society of Arboriculture Tree Replacement Guide.

(Ord. 1995 §1 (part), 2002)

CHAPTER 11.24

PLACEMENT OF SIGNS OR BANNERS

Sections:

11.24.010 Banner Permit

No person shall hang or cause to be hung a banner above or across a public right-of-way, except in conformance with the provisions of this chapter, nor without first obtaining a permit from the City of Tukwila.

(Ord. 1995 §1 (part), 2002)

11.24.020 Permit Application Requirements

A. An application will not be accepted, except from a qualified applicant, as defined in TMC 11.24.030, nor will it be accepted more than one year in advance of the time the banner is to be installed.

B. Permit applications along with a permit fee must be submitted to the Director at least 30 days in advance of installation, and shall contain the following information:

1. Date of event or public service announcement.
2. Name and purpose of event.
3. Date of proposed placement of banner.
4. Proposed location of banner.
5. Type of banner – quality, brand, type, size, weight, clearance, and name of vendor who is producing the banner.
6. Draft art work – sample specification and message to be printed on the banner.
7. Mechanism to be used for hanging the banner.
8. Date banner will be removed.
9. Names of installer who will hang, remove and service the banner should a problem arise.
10. Written permission from private property owner(s) to attach a banner to private property, if applicable.
11. Copy of IRS tax exempt certificate.
12. Contact person, name and phone number to be used in the event of a problem.
13. Current comprehensive liability insurance certificate and hold harmless agreement.

C. Minimum requirements for the banner:

1. Banner text shall reflect a public service message or event announcement.
2. Banner shall maintain minimum clearance of 20 feet above the right-of-way.
3. The banner shall not exceed four feet in height.
4. All banners must be manufactured or produced by a banner company; "homemade" banners shall not be permissible.

(Ord. 1995 §1 (part), 2002)

11.24.030 Qualified Applicants

Applications will only be accepted from organizations meeting all of the following criteria:

1. A Tukwila-based organization; and
2. Be a nonprofit organization, having obtained IRS certification as tax exempt; and
3. City Sponsored. For the purposes of this chapter, "city sponsored" means an organization which meets one or more of the following criteria: receives grant money from the City of Tukwila; or has a contractual relationship with the City of Tukwila; or receives in-kind services from the City of Tukwila; or the City of Tukwila is a member of the applying organization.

(Ord. 1995 §1 (part), 2002)

11.24.040 Approved Locations

A. Banner permits shall be issued only on approval of the application by the Director.

B. The Director will maintain a list of approved locations for hanging banners. Request for hanging banners at locations not on the pre-approved list will be subject to approval by the Director. Newly approved sites will be added to the list of approved locations. The Director will approve the method of attachment, and the first installation of a banner at an approved location will be performed by the Department of Public Works.

C. Applicants are responsible for making arrangements and contracting with an approved installer to hang any banner after the first banner at an approved location. Any installations performed by the Department of Public Works will be done for the current installation fee established by the Director and shall be payable in advance.

D. If a banner will be secured by anchor bolts, lag screws or other similar methods of attachment to the exterior wall or face of a building, approval by the Building Department will be required.

(Ord. 1995 §1 (part), 2002)

11.24.050 Time Limitation

A banner shall be hung no more than two weeks in advance of an event and shall be removed by an approved installer no later than 5:00PM the first business day following the event.

(Ord. 1995 §1 (part), 2002)

11.24.060 Banner Removal Cost

The City will remove banners hung over the right-of-way without prior approval by the Director, and the responsible party shall reimburse the City for the cost of having the banner removed. The holder of a permit to hang banners will be responsible for the cost to repair any damage to City-owned property that may result from the installation, attachment, hanging or suspension of the banner.

(Ord. 1995 §1 (part), 2002)

11.24.070 Removal of Signs

A sign placed in violation of TMC 11.24.070 shall be removed by the City immediately and without prior notice. If the owner of the sign is present at the time of removal, the owner is given an opportunity to remove the sign immediately.

(Ord. 1995 §1 (part), 2002)

11.24.080 Disposition of Signs

A. Except as provided in this chapter, signs removed under TMC 11.24.080 will be immediately destroyed by the City without compensation to the owner.

B. Non-business signs are retained while the apparent owner is contacted by the City. If the owner cannot be located or does not reply to the City within five working days, the City shall destroy the sign. If the owner is located and replies within five working days, the City shall make the sign available for pickup, except the sign shall be destroyed if:

1. The sign is not picked up within five working days of the owner's reply; or

2. A sign owned by the same person had been removed by the City within the past six months.

(Ord. 1995 §1 (part), 2002)

CHAPTER 11.28
UNDERGROUNDING OF UTILITIES

Sections

11.28.010 Policy

It is the policy of the City to require the underground installation of all new electrical and communication facilities, with certain exceptions noted in this chapter. The City Council finds that the convenience, health, safety, and general welfare of the residents of the community require that all new facilities specified in this chapter be installed underground.

(Ord. 2701 §5, 2023)

11.28.020 Purpose

The purpose of this chapter is to establish minimum requirements and procedures for the underground installation of electric and communication facilities within the City.

(Ord. 2701 §6, 2023)

11.28.030 Undergrounding – Scope

This chapter shall apply to any person or entity, other than the City, who owns electrical or communication facilities, and to all new electrical and communication systems, including but not limited to electric power, telephone, telecommunication, and cable television facilities within the corporate City limits.

(Ord. 2701 §7, 2023)

11.28.040 Facilities Exempted

The following facilities are exempted from the undergrounding requirements of this chapter:

1. Electric utility substations, pad-mounted transformers, and switching facilities not located on the public right-of-way where site screening is or will be provided in accordance with TMC Chapter 18.54.

2. Electric transmission systems of a voltage of 115 kV or more (including poles and wires) and equivalent communication facilities.

3. Ornamental street lighting standards, as defined by the Director.

4. Telephone pedestals, cross connect terminals, repeaters, cable warning signs, and other equivalent communication facilities.

5. Government equipment, including but not limited to: traffic control equipment and police and fire sirens.

6. Temporary services for construction.

7. Replacement of existing overhead facilities due to damage by natural or man-made causes.

8. Overlashing onto existing facilities installed, subject to the limitations and restrictions set forth in TMC Section 11.28.070.

9. Secondary wiring for street lighting.

10. Upgrade or replacement service of existing facilities pursuant to TMC Section 11.28.080.

11. Other facilities as determined by the Director.

(Ord. 2701 §8, 2023)

11.28.050 Undergrounding Requirements

Except for wireless communication facilities specifically permitted, pursuant to TMC Chapter 18.58, all new facilities shall be constructed, installed, and located in accordance with the following terms and conditions, unless otherwise specified in a franchise. Right-of-way users shall be responsible for all costs associated with undergrounding its facilities except as otherwise provided herein or within Federal or State law.

1. The right-of-way user shall install its new facilities underground, unless otherwise approved by the City, pursuant to TMC Section 11.28.060.

2. The right-of-way user shall install its new facilities within an existing underground duct or conduit whenever excess capacity exists within such facility and the right-of-way user is able to access such underground duct or conduit for a commercially reasonable fee; otherwise, the right-of-way user shall place its new facilities within its own new underground duct or conduit. The right-of-way user is encouraged to place conduit underground that can accommodate both the new facilities and future facilities, including any existing above ground facilities that may be relocated underground at a later date.

3. Whenever any new or existing electric utilities are being located underground, or upon a City project within a public right-of-way, the right-of-way user, with permission to occupy the same right-of-way, shall also relocate its facilities underground or along an alternative public way, consistent with the requirements of RCW 35.99.060 and TMC Section 11.08.300.

4. If requested, the right-of-way user shall provide the City with additional ducts and conduits, at the right-of-way user's cost, and related structures necessary to access the ducts and conduits; provided, that the terms and conditions under which such additional ducts and/or conduits are provided shall be consistent with RCW 35.99.070.

5. These locational requirements shall apply even if the right-of-way user is providing services to a wireless communication facility in the right-of-way, and such wireless communication facility is allowed to remain above ground.

(Ord. 2701 §9, 2023)

11.28.060 Deviations

A. The right-of-way user may request that the Director allow a deviation from the requirements in this section by establishing that such compliance would be an undue hardship to the right-of-way user, a user of the facilities, or any other affected person. The term "undue hardship" shall mean either:

1. The installation would be technologically unfeasible; or

2. The impact of the underground construction outweighs the general welfare consideration in requiring underground construction; or

3. Delay of the installation of the underground facilities would better coordinate the project with other private improvements which are in the permitting process or public improvements shown on the Capital Improvement or Transportation Improvement elements of the Comprehensive Plan; or

4. Strict application of this chapter would materially inhibit or would have the effect of materially inhibiting a right-of-way user's ability to provide telecommunication services; or

5. For existing or new single-family residences only, the requirement to underground new facilities constitutes a financial hardship.

B. The Director may also deviate from these requirements if a statute or tariff prohibits the enforcement thereof or requires the City or rate payers to pay for such undergrounding.

C. Deviations shall be requested in writing by the applicant, which shall include how the applicant meets the criteria of TMC Section 11.28.060.A or B. The Director shall determine, in writing, if the undue hardship criteria are sufficiently established such that the applicant is not required to underground the new facilities. The Director's decision shall be final.

(Ord. 2701 §10, 2023)

11.28.070 Overlashing

Existing right-of-way users may overlash to their existing wires, subject to all applicable local, state, and federal regulations; and further provided that existing right-of-way users may only overlash a total of two additional new wires per existing wire owned by the right-of-way users on a given pole, not to exceed three wires in total for any given right-of-way user. The overlashed wire(s) shall be limited to like-in-kind only, meaning that it shall not exceed the same size, weight and diameter of the original wire that is being overlashed to.

(Ord. 2701 §11, 2023)

11.28.080 Upgraded Service

Existing wires may be replaced or upgraded for increased service capacity provided that no additional wires are added (i.e., a new wire can be added but the existing wires shall be removed). The new upgrade or replacement wires shall be limited to like-in-kind only, meaning that it shall not exceed the size, weight, and diameter of the original wire that the applicant proposes to remove.

(Ord. 2701 §12, 2023)

11.28.090 Connections and Disconnections of Affected Service

The owner of real property abutting an underground project shall be responsible, at his or her expense, for converting to underground service and disconnecting his or her aerial services within 30 days following notice in writing of availability of such underground service. Time in consummating such connection and disconnection is of the essence, and such notice to the property owner, customer or subscriber may be mailed, postage prepaid, or delivered in person. In the event that such conversion and disconnection is not accomplished within 30 days of receipt of notice, the City may order the work done and the actual cost shall constitute a lien against the real property, subject to enforcement as provided by law.

(Ord. 2701 §13, 2023)

11.28.100 Service Connection Requirements

A. Single-Family Residential Areas. All electrical or communication service lines from either existing overhead or underground facilities to the service connection of new structures shall be installed underground.

B. Non-Single Family Residential Areas. All new electrical or communication service lines from either existing overhead or underground facilities to the service connection of new and existing structures shall be installed underground.

(Ord. 2701 §14, 2023)

CHAPTER 11.32
TELECOMMUNICATIONS

Sections:

11.32.010 Purpose

The purpose of this chapter is to:

1. Permit and manage reasonable, fair and equitable access to the public rights-of-way of the City for telecommunications purposes on a competitively neutral basis;

2. Establish predictable, enforceable, clear and nondiscriminatory local regulations, guidelines, standards and time frames for the exercise of local authority with respect to the regulation of telecommunications carriers and cable operators;

3. Conserve the limited physical capacity of the public rights-of-way held in public trust by the City;

4. Assure that the City's current and ongoing costs of granting and regulating private access to and use of the public rights-of-way and/or public property are fully compensated by the persons seeking such access and causing such costs;

5. Assure that the City can continue to fairly and responsibly protect the public health, safety and welfare; and

6. Enable the City to discharge its public trust consistent with rapidly evolving Federal and State regulatory policies, industry competition and technological development.

(Ord. 1995 §1 (part), 2002)

11.32.020 Administration

The Director is authorized to administer this chapter and to establish further rules, regulations and procedures for the implementation of this chapter.

(Ord. 1995 §1 (part), 2002)

11.32.030 Existing Licenses or Telecommunications or Cable Franchises

Except as otherwise provided in this chapter, and to the extent provided by law, this chapter shall have no effect on any license or telecommunications or cable franchise existing as of the date of adoption of this chapter until the expiration of said license, franchise or cable franchise; or an amendment to an unexpired license, franchise or cable franchise, unless both parties agree to defer full compliance to a specific date not later than the present expiration date.

(Ord. 1995 §1 (part), 2002)

11.32.040 Existing Telecommunications Carriers and/or Cable Operators Occupying the Rights-of-Way Without a License or Franchise

Notwithstanding the foregoing, the requirements of this chapter shall apply to any telecommunications carrier or cable operator who currently occupies rights-of-way without a license, franchise, cable franchise, right-of-way use permit or other agreement with the City. Any such telecommunications carrier or cable operator shall register or apply for a license, telecommunication franchise or cable franchise as provided by this chapter within 120 days of the effective date of this chapter. This chapter shall not apply to lessees that solely lease bandwidth (and do not own telecommunications facilities within the City), so long as the lessor has complied with the requirements of this chapter.

(Ord. 1995 §1(part), 2002)

11.32.050 Registration Required

A. Business Registration. All telecommunications carriers or cable operators having facilities within the City that offer or provide telecommunications or cable service within the City, who are not otherwise required to acquire a license or franchise, shall register with the City as set forth in TMC Chapter 5.04.

B. Exception to Registration. A person that provides telecommunications or cable services solely to itself, its affiliates or members between points in the same building, or between closely located buildings under common ownership or control, provided that such person does not use or occupy any rights-of-way of the City or other ways within the City, is excepted from the registration requirements pursuant to this chapter.

(Ord. 1995 §1 (part), 2002)

11.32.060 License or Franchise Application

To the extent permitted by law, any telecommunications carrier or cable operator who currently occupies or desires in the future to occupy any rights-of-way with any facilities for the purpose of providing telecommunications or cable services shall file an application on a form provided by the Director for one or more of the following:

1. *Right-of-Way License.* If the telecommunications carrier or cable operator provides or intends to provide services exclusively to persons or areas outside the City, a right-of-way use permit will be required in order to construct, install, control or otherwise locate telecommunication facilities in, under, over or across any rights-of-way. TMC Chapter 11.08 provides guidance.

2. *Telecommunications Franchise.* Required if the telecommunications carrier provides or intends to provide service to any person or area within the City.

3. *Cable Franchise.* Required if the cable operator provides or intends to provide cable services to any person or area in the City. Services similar to cable service, such as Open Video Systems, shall also be subject to this chapter, and subject to substantially similar terms and conditions as those contained in franchise agreement(s) issued to cable operator(s) in the City with respect to franchise fee obligations, public, educational, and governmental access programming obligations, and all other franchise obligations to the extent provided by law.

4. *Persons Asserting an Existing State-Wide Grant.* Any person asserting an existing State-wide grant based on a predecessor telephone or telegraph company's existence at the time of the adoption of the Washington State Constitution may continue to operate under the existing State-wide grant, provided the person provides the City with documentation evidencing the existing State-wide-grant. Upon acceptance of the documentation by the City, the person shall then be required to obtain all applicable right-of-way use permits from the City pursuant to TMC Chapter 11.08.

5. *Facilities Lease Required.* Any person, including but not limited to service providers and non-service providers, who occupies or desires to locate telecommunications equipment on or in City property, including lands or City-owned physical facilities other than the public rights-of-way, shall not locate such facilities or equipment on City property unless granted a facilities lease from the City pursuant to this chapter. The City reserves unto itself the sole discretion to lease City property for telecommunication facilities, and no vested or other right shall be created by this section or any provision of this chapter applicable to such facilities leases. For purposes of this section, "City property" shall include site-specific locations in the rights-of-way.

(Ord. 1995 §1 (part), 2002)

11.32.070 Determination by the City

Within 120 days after receiving a complete application hereunder, the City Council shall make a determination on behalf of the City granting or denying the application in whole or in part. If the application is denied, the determination shall include the reasons for denial. The following criteria shall apply when determining whether to grant or deny the application:

1. The applicant must have current registration issued by the FCC and WUTC.

2. The applicant must demonstrate the willingness and ability to mitigate and/or repair damage or disruption, if any, to public or private facilities, improvements, services or landscaping, if the application is granted.

3. The grant to use the rights-of-way will serve the community interest.

4. Applicable Federal, State and local laws, regulations, rules and policies will be met.

(Ord. 1995 §1 (part), 2002)

11.32.080 Conditions

The following conditions apply to each license, lease, or franchise granted hereunder:

1. *Area and Location.* As part of the construction permitting process for specific routes requested within each license or telecommunications or cable franchise, a determination will be made whether sufficient capacity is available in the rights-of-way. Alternate routes or locations for the proposed facilities may be considered if feasible.

a. License Route. A license granted hereunder shall be limited to a grant of specific rights-of-way and defined portions thereof, as may be indicated in the license agreement.

b. Franchise Territory. A telecommunications or cable franchise granted hereunder shall encompass all territory within the corporate limits.

c. Facilities Maps. Upon request by the Director, the grantee shall provide the City with maps in a format prescribed by the Director, identifying the location of all telecommunications and cable facilities within the rights-of-way.

2. *Leased Capacity.* A grantee shall have the right to offer or provide excess conduit capacity to another telecommunications or cable provider with prior City notification, provided that:

a. The grantee shall furnish the City 60 days advance written notice of any such proposed lease or agreement;

b. The proposed lessee shall comply with all of the requirements of this chapter prior to providing telecommunications or cable services.

3. *Consistency within Class.* All licenses and telecommunications and cable franchises granted pursuant to this chapter shall contain substantially similar terms which, taken as a whole and considering relevant characteristics of applicants, are substantially consistent with those required of other licensees and telecommunications and cable franchises.

4. *Limitations.*

a. No grant shall convey any right, title or interest in rights-of-way but shall be deemed a license or franchise only to use and occupy the rights-of-way for the limited purposes and term stated in the grant.

b. No grant shall authorize or excuse a licensee or franchisee from securing such further easements, leases, permits or other approvals as may be required to lawfully occupy and use rights-of-way.

c. No grant shall expressly or implicitly authorize a licensee or franchisee to provide service to, or install a system on private property without owner consent, or to use publicly or privately owned poles, ducts or conduits without a separate agreement with the owners and to the extent provided by law.

d. No grant shall confer any exclusive right, privilege or license to occupy or use the rights-of-way for delivery of telecommunications or cable services or for any other purposes.

e. Nothing herein shall be deemed or construed to impair or affect, in any way or to any extent, the City's power of eminent domain.

5. *Term.* Unless otherwise specified in a license, telecommunications franchise or cable franchise agreement, the term shall be for no more than three years.

(Ord. 1995 §1 (part), 2002)

11.32.090 Applicability to Use of Rights-of-Way

A. General Duties.

1. Except as otherwise provided herein, the holder of a right-of-way license, franchise or lease granted pursuant to this chapter, or otherwise authorized to use and occupy the public rights-of-way, shall – in addition to said right-of-way license, franchise, lease or grant – be required to obtain a right-of-way use permit from the City pursuant to TMC Chapter 11.08 before performing any work in City rights-of-way. No work, construction, development, excavation, installation or maintenance and repair of any equipment or facilities shall take place within the rights-of-way or upon City property until such time as the right-of-way use permit is issued

2. All grantees shall have no ownership rights in rights-of-way, even though they may be granted a license, franchise or cable franchise to construct or operate their facilities.

3. Nothing herein shall limit or otherwise affect the authority of the City to require a lease for any use, occupation, construction, installation, maintenance or location upon any property owned in fee by the City.

B. Physical Location of Facilities. Unless otherwise required in current or future City ordinances regarding underground construction requirements, all facilities shall be constructed, installed and located in accordance with hierarchy of the following terms and conditions:

1. Telecommunications and cable facilities shall be installed within an existing underground duct or conduit whenever excess capacity exists within such utility facility and permission can be obtained reasonably from the installer of such duct or conduit;

2. Whenever one or more existing telephone, electric utilities, cable systems or telecommunications facilities are located underground within rights-of-way, a licensee or franchisee shall occupy the same trench where reasonable and practical;

3. When sufficient capacity is not available under 11.32.090 A.1 or A.2 above, the telecommunications or cable facility shall be installed underground within the rights-of-way, below the sidewalk, or within the planter strip;

4. A franchisee or licensee with written authorization from the utility pole owner to install overhead facilities shall install its telecommunications or cable facilities on pole attachments to existing utility poles only, and then only if surplus space is available;

5. When a franchisee or licensee has been granted authority to install overhead facilities as in 11.32.090 B.4 above and the City directs such facilities to be relocated to allow construction or reconstruction within the right-of-way, a licensee or franchisee that occupies the same rights-of-way shall concurrently relocate its facilities underground at its own expense.

C. Conduit Occupancy. In furtherance of the public purpose of reduction of rights-of-way excavation, it is the goal of the City to encourage both the shared occupancy of underground conduit as well as the construction, whenever possible, of excess conduit capacity for occupancy of future rights-of-way occupants.

1. *City Use*. At the option of the City, whenever new conduit is laid by the licensee or franchisee, the City shall be provided access to the open trench or bore hole, and space shall be made available for purposes of installing two 4-inch conduits for City use. There shall be no cost to the City associated with the trenching, backfilling, boring or surface restoration involved with these activities.

2. *Use by Others.* When the City reasonably determines such construction is in an area in which another telecommunications or cable provider may also construct telecommunications or cable facilities in the future, the City may require the franchisee or licensee to construct or install excess conduit capacity in the rights-of-way. The expense of such excess conduit capacity shall be borne by the City or other such person that contracts with the City to bear the expense. The grantee may manage the excess conduit itself and be permitted to charge a reasonable market lease rate for occupancy of the additional conduit space, provided such lease revenues shall be first applied to reimburse the City for its actual contribution to the construction of the excess conduit (plus interest compounded at the Washington State Local Government Investment Pool rate during the time in question).

D. Occupancy of City-Owned Conduit. In furtherance of the same object of 11.32.090-C, if the City owns conduit in the path of a grantee's proposed facilities, and provided it is

technologically feasible for a grantee to occupy the conduit owned by the City, a grantee shall be required to occupy the conduit owned by the City in order to reduce the necessity to excavate the rights-of-way. The grantee shall pay to the City for such occupancy a reasonable fee, to be determined by the City Council.

E. Relocation or Removal of Facilities. Within 90 days following written notice from the City, a grantee shall, at its own expense, temporarily or permanently remove, relocate, place underground, change or alter the position of any telecommunications or cable facilities within the rights-of-way whenever the Director shall have determined that such removal, relocation, undergrounding, change or alteration is reasonably necessary for:

1. The construction, repair, maintenance or installation of any City or other public improvement in or upon the rights-of-way; or

2. The operations of the City or other governmental entity in or upon the rights-of-way.

F. Removal of Unauthorized Facilities.

1. A telecommunications or cable facility is unauthorized and subject to removal in the following circumstances:

a. Upon expiration or termination of the grantee's license, telecommunications franchise or cable franchise unless otherwise provided by law.

b. Upon abandonment of a facility within the rights-of-way.

c. If the facility was constructed or installed without prior issuance of a required encroachment or utility permit, license, telecommunications franchise, or cable franchise.

d. If the facility was constructed or installed at a location not permitted by the grantee's license, franchise or cable franchise.

e. To the extent permitted by law, any such other reasonable circumstances affecting public health, safety and welfare deemed necessary by the Director.

2. The Director may exercise discretion to allow an unauthorized facility to come into compliance with this chapter upon written request of the unauthorized telecommunications carrier or cable operator made within 30 days after said carrier or operator is notified that the facility is unauthorized pursuant to this chapter. Notice shall be given in accordance with TMC 11.32.120. The Director shall make the determination of whether to allow said carrier or operator to cure by using the standards of review set forth in TMC 11.32.120.

3. Notwithstanding any other provision of this chapter, the Director may, if deemed appropriate, allow a grantee or other person who may own, control or maintain telecommunications or cable facilities within the rights-of-way to abandon such facilities in place. No facilities of any type may be abandoned in place without the express written consent of the Director. Any plan for abandonment or removal of such facilities must be first approved by the Director, and all necessary permits must be obtained prior to commencement of such work in accordance with TMC 11.08.270. Upon permanent abandonment of any telecommunications or cable facilities of such persons in place, the facilities shall become the property of the City, and such persons shall submit to the Director an instrument in writing, to be approved by the City Attorney, transferring ownership of such facilities to the City. The consideration for the conveyance is Tukwila's permission to abandon the facilities in place. The provisions of this section shall survive the expiration, revocation or termination of any license, franchise or cable franchise granted under this chapter.

(Ord. 1995 §1(part), 2002)

11.32.100 Amendment of Grant

A. Adding or modifying services. Additions or modifications to initial route(s) identified for licenses which are determined to be significant by the Director will require a new license.

B. Relocation of services. If ordered by the City to locate or relocate its telecommunications or cable facilities in rights-of-way not included in a previously granted license, telecommunications franchise or cable franchise, the City shall grant a license or franchise amendment without further application.

C. Assignments or Transfers. All assignees or transferees of interest in a license, franchise, or cable franchise of any telecommunications carrier or cable operator must comply with the terms and conditions of this chapter, the license, telecommunications franchise, or cable franchise agreement, the requirements of the FCC, and the requirements of the WUTC. If said assignee or transferee fails to comply with such requirements, the license, telecommunications franchise, or cable franchise assigned or transferred is subject to revocation.

(Ord. 1995 §1(part), 2002)

11.32.110 Renewal of Grant

A. Renewal Application. A licensee or franchisee that desires to renew its license or franchise hereunder shall, not more than 180 days nor less than 120 days before expiration of the current license or franchise, file an application with the City for renewal of its license or franchise.

B. Renewal Determination. Within 90 days after receiving an application hereunder, the City Council shall make a determination on behalf of the City granting or denying the renewal application in whole or in part. If the renewal application is denied, the determination shall include the reasons for non-renewal. The criteria enumerated in this chapter shall apply when determining whether to grant or deny the application, and the City may further

consider the applicant's compliance with requirements of this chapter and the license or franchise agreement.

C. Obligation to Cure as a Condition of Renewal. No license or franchise shall be renewed until any on-going violations or defaults in the licensee's or franchisee's performance of the license or franchise agreement, of the requirements of this chapter, and all applicable laws, statutes, codes, ordinances, rules and regulations have been cured, or a plan detailing corrective action to be taken by the licensee or franchisee has been approved by the Director. Failure to comply with the terms of an approved corrective action plan shall be grounds for non-renewal or revocation of the license or franchise.

(Ord. 1995 §1(part), 2002)

11.32.120 Revocation or Termination of Grant

A license, telecommunications franchise or cable franchise granted by the City to use or occupy rights-of-way may be revoked pursuant to the provisions of TMC Sections 11.32.090F, 11.32.110C, and 11.32.120.

1. *Notice and Duty to Cure.* In the event that the Director believes that grounds exist for revocation of a license or franchise, written notice shall be given of the apparent violation or noncompliance, including a short and concise statement of the nature and general facts of the violation or noncompliance. The Grantee shall be given a reasonable period of time, not exceeding 30 days to furnish evidence:

a. That corrective action has been, or is being actively and expeditiously pursued, to remedy the violation or noncompliance.

b. That rebuts the alleged violation or non-compliance.

c. That it would be in the public interest to impose some monetary damages, penalty or sanction less than revocation.

2. *Standards for Revocation or Lesser Sanctions.* If persuaded that the grantee has violated or failed to comply with a material provision of this chapter or of a license, tele-communications franchise or cable franchise or applicable codes, statutes, or rules and regulations, the City Council shall make a preliminary determination whether to revoke the license, telecommunications franchise or cable franchise, and issue a written order, or to impose monetary damages, a penalty, or other such lesser sanction and cure, considering the nature, circumstances, extent and gravity of the violation as reflected by one or more of the following factors:

a. Whether the misconduct was egregious.

b. Whether substantial harm resulted.

c. Whether the violation was intentional.

d. Whether there is a history of prior violations of the same or other requirements.

e. Whether there is a history of overall compliance.

f. Whether the violation was voluntarily disclosed, admitted or cured.

(Ord. 1995 §1(part), 2002)

11.32.130 Grantee Insurance and Bond

A. Insurance required. Commercial General Liability Insurance, and, if necessary, Umbrella Liability Insurance, which will cover bodily injury, property damage, and any other exposure which can be reasonably identified as potentially arising from the grantee's activities within the rights-of-way shall be required. The limit of liability shall not be less than $2,000,000 for each occurrence. The City, its elected and appointed officers, officials, employees, agents, and representatives shall be named as additional insured with respect to activities occurring within its rights-of-way. Coverage shall be comprehensive with respect to the grantee's activities within the rights-of-way, and shall include completed operations, explosions, collapse, and underground hazards. Such insurance shall name the City as additional insured and provide a certificate of insurance with a 45-day cancellation notice

B. Bond required. The grantee or the contractor for the grantee shall post with the City a bond from a surety qualified to do bonding business in this state, a cash deposit or an assigned savings account or other security acceptable to the City in an amount equal to 150% of the cost of the work as estimated by the Director or in an amount as set forth in the franchise agreement. Such bond, deposit or other security shall be conditioned upon the grantee or its contractor performing the work pursuant to the terms of this chapter, including the restoration and/or replacement of the street, sidewalk, or other rights-of-way within the time specified by the Director.

(Ord. 1995 §1(part), 2002)

11.32.140 Release, Indemnity, and Hold Harmless

A. Additional requirements. In addition to and distinct from the insurance requirements of this chapter, a grantee releases and shall defend, indemnify, and hold harmless the City from any and all claims, losses, costs, liabilities, damages, and expenses (except those damages caused solely by the negligence of the City), including, but not limited to, those of the grantee's lessees, and also including, but not limited to, reasonable attorney's fees arising out of or in connection with the telecommunications or cable facilities, the performance of any work, the operation of any telecommunications or cable facilities, or the grantee's system, or the acts or omissions of the grantee or any of its suppliers or contractors of any tier, or anyone acting on the Grantee's behalf in connection with said installation of telecommunications or cable facilities, performance of work, or operation of telecommunications or cable facilities or grantee's system.

B. Inclusions. Such indemnity, protection, and hold harmless shall include any demand, claim, suit, or judgment for damages to property or injury to or death of persons, including officers, agents, and empl of any person iInIment made under or in connection with any Worker's Compensation Law or under any plan for employee's disability and death benefits, which may arise out of or be caused or contributed to directly or indirectly by the erection, maintenance, presence, operation, use, or removal of the

grantee's telecommunication or cable facilities, including any claims or demands of customers of the grantee with respect thereto.

C. Indemnification. The City shall not be liable to the grantee or to the grantee's customers, and the grantee hereby indemnifies, protects and saves harmless the City against any and all such claims or demands, suit or judgment for loss, liability, damages, and expense by the grantee's customers, or for any interruption to the service of the grantee, or for interference with the operation of the telecommunications or cable facilities.

D. Application. To the fullest extent permitted by applicable law, the foregoing release, indemnity and hold harmless provisions shall apply to and be for the benefit of the City.

E. Successors and assigns. All provisions of this chapter shall apply to the successors and assigns of the Grantee.

(Ord. 1995 §1(part), 2002)

11.32.150 Applicability of Fees and Compensation

A. Fees. The fees to be paid to the City at the time of application for registration, license, lease, franchise, or right-of-way use permits shall be established by resolution of the City Council. All fees paid shall be nonrefundable. Fees may include, but not limited to, business registration, administrative fee, application review, utility permit and inspection, pavement mitigation, and other regulatory fees.

B. Compensation to City. RCW 35.21.860 currently prohibits a municipal franchise fee for permission to use the public rights-of-way from any person engaged in the "telephone business," as defined in RCW 82.04.065. If this statutory prohibition is repealed, the City reserves the right to impose and receive a fee of a percentage, up to the maximum allowed by law, of the grantee's gross receipts from its business activities in the City. The City shall collect fees for other telecommunications activities not covered by the statutory prohibition. The fee shall be compensation for use of the rights-of-way and shall not be applied as credit towards business license fees or taxes required under TMC Chapter 11.32 and TMC Title 5. Each license granted hereunder is subject to the City's right, to the extent permitted by law, to fix a fair and reasonable compensation to be paid for use of property pursuant to the license or franchise, provided nothing in this chapter shall prohibit the City and a licensee or franchisee from agreeing upon the compensation to be paid or services to be provided. In the absence of such an agreement, such compensation shall be in an amount reasonably established by the City Council. Provided that the compensation required from any telecommunications provider or carrier engaged in the telephone business as defined in RCW 82.04.065 shall be consistent with RCW 35.21.860.

C. Fees and Compensation Not a Tax. The fees, charges and fines provided for in this chapter and any compensation charged and paid for the rights-of-way provided herein, whether fiduciary or in-kind, are separate from and additional to any and all Federal, State, local and City taxes as may be levied, imposed or due from a telecommunications carrier or provider, its customers, or subscribers or on account of the lease, sale, delivery, or transmission of telecommunication services.

D. Compensation for City Property Occupancy and Use and Facility Leases. Each facilities lease granted under this chapter or a lease for use and occupancy of a specific site in the right-of-way is subject to the City's right, which is expressly reserved, to fix a fair and reasonable compensation to be paid for the rights granted to the lessee; provided, nothing in this chapter shall prohibit the City and a lessee from agreeing to the compensation to be paid. Notwithstanding any other provision in this chapter, any charges for use and occupancy of a specific site in the right-of-way pursuant to an agreement between the City and a service provider of personal wireless services shall be in accordance with RCW 35.21.860(1)I.

(Ord. 1995 §1(part), 2002)

11.32.160 Other Remedies

Nothing in this chapter shall be construed as limiting any other remedies that the City may have, at law or in equity, for enforcement of TMC Chapter 11.32. Notwithstanding the existence or use of any other remedy, the City may seek legal or equitable relief to enjoin any acts or practices and abate any conditions that constitute or will constitute a violation of this chapter.

(Ord. 1995 §1(part), 2002)

CHAPTER 11.40

HIGHWAY ACCESS MANAGEMENT

Sections:

11.40.010 Revised Code of Washington Chapter Adopted

RCW Chapter 47.50 is hereby adopted by reference, to provide for the regulation and control of vehicular access and connection points of ingress to, and egress from, the State highway system within the incorporated areas of the City of Tukwila.

(Ord. 2194 §1, 2008)

11.40.020 Washington Administrative Code Chapters Adopted

In order to implement the requirements and authority of RCW Chapter 47.50, provisions of Chapter 468-51 and 468-52 of the Washington Administrative Code are hereby adopted by reference, together with all future amendments.

(Ord. 2194 §2, 2008)

CHAPTER 11.60

STREET AND ALLEY VACATION PROCEDURE

Sections:

11.60.010 Purpose

This chapter establishes street vacation policies and procedures regarding petition for vacation by owner(s) of an interest in any real estate abutting a street right-of-way pursuant to RCW 35.79.

(Ord. 1995 §1 (part), 2002)

11.60.020 Streets Abutting Water

Streets abutting water shall not be vacated unless in compliance with RCW 35.79.030.

(Ord. 1995 §1 (part), 2002)

11.60.030 Filing

A. The petition for street vacation shall be submitted to the Department. The complete application shall include a completed petition form, a vicinity map, a tax assessor's map showing all properties abutting the vacation, total of assessed land value proposed for vacation, an appraisal per TMC 11.60.050, mailing labels for all property owners within 500 feet of the vacation boundaries, and a non-refundable application fee pursuant to TMC 11.60.040.

B. A completed petition form shall be one that is signed by owners of more than two-thirds of the properties abutting the street proposed for vacation.

C. If the assessed value of the land proposed for vacation is greater than $10,000, the complete application shall include a fair market appraisal.

D. The petition and application expire two years from date of application, if the vacation conditions have not been met and compensation paid.

(Ord. 1995 §1 (part), 2002)

11.60.040 Fees and Charges

The Department shall be responsible for review of the petition, inspection and acceptance of all required construction, and vacation plan review. The fee for these services shall be set forth in a fee schedule to be adopted by motion or resolution of the City Council.

(Ord. 1995 §1 (part), 2002)

11.60.050 Valuation and Compensation

A. The value of the right-of-way proposed for vacation shall be determined utilizing either of two methods: First, based on the assessed value of land abutting the street or, second, on an appraisal which was conducted no more than 3 months prior to the date of the application for vacation. Under the first method, the value shall be calculated by multiplying the total square footage of right-of-way by the assessed value per square foot of the abutting land, as set by the County Department of Records and Elections and the County Assessor's office. Under the second method of calculation, a real property appraisal from a member of the American Institute of Real Estate Appraisers will be conducted.

B. If the calculated value is less than $10,000.00, the calculated value shall be used as the right-of-way value. If the calculated value is $10,000 or more, then the right-of-way value shall be set under the second method above.

C. Compensation shall be one-half of the valuation, except any part of the right-of-way that has been part of a dedicated right-of-way for 25 years or more shall be compensated at the full valuation.

D. One-half of the revenue received by the City as compensation must be dedicated to the acquisition, improvement, development and related maintenance of public open space or transportation capital projects within the City.

(Ord. 1995 §1 (part), 2002)

11.60.060 Property Trade in Lieu of Payment

The petitioners may grant or dedicate to the City, for street or other purposes, real property which has a fair market value, set by an appraisal less than three months old, at least equal to the compensation value set in TMC 11.60.050.

(Ord. 1995 §1 (part), 2002)

11.60.070 Waiving Compensation - Other Governmental Agencies

For a vacation petitioned by another governmental agency, the City Council may waive compensation required by this code and may waive the filing fee, if the Council determines the waiver is in the public interest. In this case, the petitioner shall record a covenant at King County Records that provides the City compensation by the current fair market value, for future sale or lease by the governmental agency of the vacated property.

(Ord. 1995 §1 (part), 2002)

11.60.080 Title to Vacated Street

The title to the vacated street shall be granted equally to abutting property owners.

(Ord. 1995 §1 (part), 2002)

11.60.090 Procedure

Once the Department receives a complete application, the Department shall:

1. Propose a resolution to the City Council fixing a time, pursuant to RCW 35.79.010, when the matter will be heard.
2. Forward the petition and resolution to all City departments and all concerned utilities for review and comment.
3. Post on-site notification of the public hearing per RCW 35.79.020.
4. Provide notification of the public hearing to all property owners within 500 feet of the right-of-way proposed for vacation.
5. Provide the City Council all relevant information for decision deliberations during the public hearing.

(Ord. 1995 §1 (part), 2002)

11.60.100 Limitations on Vacation

The vacation shall meet limitations on vacations spelled out in RCW 35.79.030 and RCW 35.79.035, and shall not prevent legal access to public right-of-way for any existing lot.

(Ord. 1995 §1 (part), 2002)

11.60.110 Approval of Vacation

If the City Council approves all or part of a proposed vacation, it shall, by ordinance, vacate the property pursuant to RCW 35.79.030. The ordinance shall contain the valuation and compensation amounts, and all conditions that shall be met before the vacation is effective.

(Ord. 1995 §1 (part), 2002)

11.60.120 Effective Date of Vacation

The vacation shall be effective after the parties acquiring the land have compensated the City and have met all conditions of the ordinance, and all relevant documents have been recorded with King County Records, and all applicable fees pursuant to TMC 11.60.040 have been paid to the City.

(Ord. 1995 §1 (part), 2002)

TITLE 12

PARKS AND RECREATION

Chapters:

CHAPTER 12.04

PARKS, RECREATION AND OPEN SPACE PLAN

Sections:

12.04.010 Adopted

The 2014 Parks, Recreation and Open Space Plan is hereby adopted. The 2014 Parks, Recreation and Open Space Plan is adopted by reference as part of the Comprehensive Plan.

(Ord. 2430 §1, 2014; Ord. 2430 §3, 2014

12.04.020 Authentication–Availability

A copy of the Plan shall be filed in the City Clerk's Office for use and examination by the public.

(Ord. 2430 §2, 2014)

12.04.030 Filing

A copy of Ordinance 2430 and the Parks, Recreation and Open Space Plan shall be filed with the following City Departments:

1. Community Development;
2. Public Works Department;
3. Finance Department;
4. Parks and Recreation Department; and
5. Mayor's Office.

(Ord. 2430 §4, 2014)

12.04.040 Six-Year Master Plan for Foster Golf Course

A. The Foster Golf Links Revised Six-Year Master Plan Update dated June 28, 1999 is hereby adopted.

B. The Foster Golf Links Revised Six-Year Master Plan will be a component in the Park, Golf and Public Places Plan when that document is completed.

(Ord. 1882 §1, 1999)

CHAPTER 12.08
PARK RULES AND REGULATIONS

Sections:

12.08.005 Police Power

This chapter is hereby declared to be an exercise of the police power of the City for the public peace, health, safety and welfare and its provisions are to be liberally construed.

(Ord. 2476 §3, 2015)

12.08.010 Definitions

The terms herein used, unless clearly contrary to or inconsistent with the context in which used, shall be construed as follows:

1. *"Director"* means the Director of the Parks and Recreation Department of the City.

2. *"Park"* means and includes all City-owned or operated parks and all areas within the boundaries of such City parks, improved or unimproved trails or open spaces, public squares, golf courses, beaches, play and recreation grounds, City-owned or operated community centers, shelters, restrooms, athletic fields and facilities, or parking lots associated with any park within the City limits.

3. Wherever consistent with the context of this chapter, words in the present, past or future tenses shall be construed to be interchangeable with each other and words in the singular number shall be construed to include the plural.

(Ord. 2476 §4, 2015)

12.08.020 Motorized Vehicles

Unless otherwise posted or approved by the Parks and Recreation Director, it is unlawful to operate any motorized vehicles in any park except upon a paved roadway or parking lot.

(Ord. 2476 §5, 2015)

12.08.030 Fireworks or Firearm Discharge

It is unlawful to shoot, fire or explode any firearms, fireworks, firecracker, torpedo or explosive of any kind or to shoot or fire any air gun, bows and arrows, B.B. gun, or use any slingshot or other propelling device wherein the applied human energy or force is artificially aided, directed or added to in any park.

(Ord. 2476 §6, 2015)

12.08.040 Fires

It is unlawful to build any fire, except in devices designed and designated to contain such fires and such designation is clearly defined by signs posted in such area. No open fires are permitted unless authorized by the Parks and Recreation Director.

(Ord. 2476 §7, 2015)

12.08.050 Charcoal Grills

The use of charcoal for barbecues is not allowed except in devices designated by the City and such designation is clearly defined by signs posted in such area. Charcoal must be disposed of in designated charcoal receptacles.

(Ord. 2476 §8, 2015)

12.08.060 Smoking

A. Persons should refrain from the use of any form of tobacco and electronic smoking devices in all City parks and outdoor recreational facilities at all times, excluding Foster Golf Links.

B. It is unlawful to use any form of tobacco, nicotine, or electronic smoking devices, including but not limited to vaporizers and e-cigarettes, within 25 feet of any children's play equipment.

(Ord. 2476 §9, 2015)

12.08.070 Amusement Attractions

Unless otherwise posted or approved by the Parks and Recreation Director, it is unlawful to erect any inflatable structure or attraction including, but not limited to, "bounce houses," dunk tanks, pony rides, etc. in or on park property with the exception of City-sponsored events.

(Ord. 2476 §10, 2015)

12.08.080 Soliciting, Concessions, Commercial Activities

Unless otherwise posted, or approved by the Parks and Recreation Director, it is unlawful to conduct any of the following activities in or on park property:

1. Sell refreshments or merchandise, or operate a fixed or mobile concession, event, or traveling exhibition.
2. Solicit, sell, offer for sale, peddle, hawk any goods or services.
3. Film, record, or photograph for commercial purposes.
4. Conduct classes or organized competitions.
5. Attach or secure to any vehicle or structure any circular notice, leaflet, pamphlet or printed material of any kind.
6. Use, place or erect any advertising in any park; or attach any notice bill, poster, sign, wire, rod, or cord to any tree, shrub, railing, post or structure within any park; or place or erect in any park, a structure of any kind.

(Ord. 2476 §11, 2015)

12.08.090 Trail Use

Trail users must abide by all posted signs along trails in the City.

(Ord. 2476 §12, 2015)

12.08.100 Facilities Use Reservations

Programs and activities scheduled by the Parks and Recreation Department have first priority for use of parks and facilities. Otherwise, parks and facilities will be available on a "first-come, first-served" basis; provided, users shall yield use of a park area or facility to the participants in any program or activity scheduled by the Parks and Recreation Department. All park users shall abide by all rules and regulations and shall not unreasonably interfere with other persons' use of or the City's maintenance or operation of park facilities.

(Ord. 2476 §13, 2015)

12.08.110 Park Hours

Unless otherwise posted or approved by the Parks and Recreation Director, it is unlawful for any person to be in or on park property when it is closed. A park may be closed to public use during certain hours as determined by the Mayor. Unless otherwise posted, public parks are closed from 30 minutes past sunset until 30 minutes before sunrise.

(Ord. 2476 §14, 2015)

12.08.120 Violation – Penalty

Except as otherwise provided by state law or the Tukwila Municipal Code, violation of any provision of Tukwila Municipal Code Chapter 12.08 shall be punishable by a civil infraction in an amount not to exceed $100.

(Ord. 2476 §15, 2015)

CHAPTER 12.12

FOSTER GOLF LINKS FEES

Sections:

12.12.010 Fee Schedule

Fees established. The green fees shall be set by the Director of Parks and Recreation.

(Ord. 2623 §3, 2020; Ord. 2567 §3, 2018)

12.12.020 Residential Fee Eligibility

In order to be eligible for Residential Fees, the individual must present identification to prove they reside within the City limits of Tukwila.

(Ord. 2623 §4, 2020; Ord. 2567 §4, 2018)

12.12.030 "Extra Hole" Charge

An "Extra Hole" fee shall be charged when a player desires to play an additional 9 holes after the first 9-hole fee has been paid. The amount of the Extra Hole fee shall be the difference between the 9-hole and 18-hole fee for the particular player.

(Ord. 2623 §5, 2020; Ord. 2567 §5, 2018)

12.12.040 "Twilight" Fee

A "Twilight" fee shall be charged to all golfers one hour before the official sundown time or when there is not enough time to complete nine holes. Twilight fee applies to golfers of all ages and categories. Official sundown time shall be as stated in the Nautical Almanac, U.S. Naval Observatory for Seattle, Washington.

(Ord. 2623 §6, 2020; Ord. 2567 §6, 2018)

12.12.050 "Weekend" Fee

A "Weekend" fee shall be established on Saturdays and Sundays.

(Ord. 2623 §7, 2020; Ord. 2567 §7, 2018)

12.12.060 "Winter" Fee

A "Winter" fee shall be established for all days from November 1st through the last day of March.

(Ord. 2623 §8, 2020; Ord. 2567 §8, 2018)

12.12.070 Application of "Senior" Fee

A "Senior" fee shall apply anytime to anyone 62 years old and older.

(Ord. 2623 §9, 2020; Ord. 2567 §8, 2018)

12.12.080 Application of "Junior" Fee

A "Junior" fee shall apply anytime to anyone 17 years old and younger.

(Ord. 2623 §10, 2020; Ord. 2567 §9, 2018)

12.12.090 "Promotional" Fee

A "Promotional" fee may be authorized by the Parks and Recreation Director to encourage play and promote the golf course.

(Ord. 2623 §11, 2020; Ord. 2567 §10, 2018)

12.12.100 Inclusion of Taxes in Green Fees

All green fees as established by this ordinance include the City's Admissions Tax and State Sales Tax within the stated amount.

(Ord. 2623 §12, 2020; Ord. 2567 §11, 2018)

TITLE 13
PUBLIC IMPROVEMENTS

Chapters:

CHAPTER 13.04
LOCAL IMPROVEMENT DISTRICTS – ASSESSMENTS

Sections:

13.04.010 State Provisions

Whenever the City Council provides for making local improvements and for paying the whole or any portion of the cost and expense thereof by levying and collecting special assessments on property especially benefited, the proceedings therefor shall be in accordance with the provisions of RCW Chapters 35.43, 35.44, 35.45, 35.49, 35.50 and 35.53, and the provisions of TMC Chapter 13.04.

(Ord. 322 §1, 1961)

13.04.020 Initiation and Order of Improvement

Any such improvement may be initiated either upon petition or by resolution therefor, but such improvement may be ordered only by ordinance.

(Ord. 322 §2 (part), 1961)

13.04.030 Initiation by Petition

In case the improvement is initiated by petition, such petition shall be presented to and filed with the City Clerk, or such other officer as may be designated by the City Council. The City Supervisor shall thereupon examine such petition, determine the sufficiency thereof and ascertain if the facts therein stated are true, and shall cause an estimate of the cost and expense of such improvement to be made and shall transmit the same to the City Council, together with all papers and information in his possession regarding the same, together with his recommendations thereon and a description of the boundaries of the district and a statement of the proportionate amount of the cost and expense of such improvement which shall be borne by property within the proposed assessment district, and a statement of the actual valuation of the real estate, including 25% of the actual valuation of the improvements in such proposed district according to the valuation last placed upon it for purpose of general taxation, together with all other outstanding and unpaid local improvement assessments against the property included in the district, excluding penalties and interest; and in case the said petition is sufficient, shall also submit a diagram showing thereon the lots, tracts or parcels of land and other property which will be specially benefited thereby and the estimated amount of the cost and expense of such improvement to be borne by each lot, tract or parcel of property; provided, that no such diagram shall be required where such estimates are on file in the office of the City Supervisor, or other designated City office, together with a detailed copy of the preliminary assessment roll and the plans and assessment maps of the proposed improvement.

(Ord. 322 §2(part), 1961)

13.04.040 Initiation by Resolution

A. The City Council may initiate such improvement directly by resolution declaring its intention to order such improvement, and setting forth the nature and territorial extent thereof and notifying all persons who may desire to object thereto to appear and present such objections at a meeting of the City Council, or a committee thereof, at the time specified in the resolution. The resolution shall be published in at least two consecutive issues of the official newspaper of the City, or, if there is no official newspaper, in a newspaper of general circulation within the City, and the date of hearing thereon shall be at least 15 days after the date of the first publication of the same. The City Supervisor shall submit to the City Council, at or prior to the date fixed for the hearing, the same data and information required to be submitted in the case of a petition.

B. Notice of the hearing upon the resolution shall be given by mail at least 15 days before the day fixed for hearing to the owners or reputed owners of all lots, tracts, and parcels of land or other property to be specially benefited by the proposed improvement, as shown on the rolls of the County Treasurer, directed to the address thereon shown. The notice shall set forth the nature of the proposed improvement, the estimated cost, and the estimated benefits of the particular lot, tract, or parcel.

(Ord. 322 §2 (part), 1961)

13.04.050 Authorization by Ordinance

The City Council may, by ordinance, authorize the making of any such improvement and, in case of an improvement initiated by resolution of the City Council, such ordinance may be passed on or at any time after the date of the hearing specified in the resolution.

(Ord. 322 §2 (part), 1961)

13.04.060 LID Establishment

Every ordinance ordering a local improvement to be paid in whole or in part by assessments against the property specially benefited shall establish a local improvement district to be known as "Local Improvement District No. _____," which shall embrace as nearly as practicable all the property specially benefited by the improvement.

(Ord. 322 §3(part), 1961)

13.04.070 LID Property Inclusions

Unless otherwise provided in the ordinance ordering the improvement, the improvement district shall include all the property between the termini of the improvement abutting upon, adjacent, vicinal, or proximate to the street, avenue, land, alley, boulevard, park drive, parkway, public place or square proposed to be improved to a distance of 90 feet back from the marginal lines thereof or to the centerline of the blocks facing or abutting thereon, whichever is greater (in the case of unplatted property, the distance back shall be the same as in the platted property immediately adjacent thereto); provided, that if the local improvement is such that the special benefits resulting therefrom extent beyond the boundaries as above set forth, the Council may create an enlarged district to include as nearly as practicable all the property to be specially benefited by the improvement; the petition or resolution for an enlarged district and all proceedings pursuant thereto shall conform as nearly as is practicable to the provisions relating to local improvement districts generally, except that the petition or resolution must describe it as an enlarged district and state what proportion of the amount to be charged to the property specially benefited shall be charged to the property lying between the termini of the proposed improvement and extending back from the marginal lines thereof to the middle of the block (or 90 feet back) on each side thereof, and what proportion thereof to the remainder of the enlarged district; provided further, that whenever the nature of the improvement is such that the special benefits conferred on the property are not fairly reflected by the use of the aforesaid termini and zone method, the ordinance ordering the improvement may provide that the assessment shall be made against the property of the district in accordance with the special benefits it will derive from the improvement without regard to the zone and termini method.

(Ord. 322 §3 (part), 1961)

13.04.080 Determination of Authority

All local improvements, funds for the making of which are derived in whole or in part from assessments upon property specially benefited, shall be made either by the City itself or by contract upon competitive bids in the manner provided by law. The City Council shall determine whether such local improvement shall be done by contract or by the City itself.

(Ord. 322 §4, 1961)

13.04.090 Cost

The cost and expense of any such improvement, or such portion thereof as the City Council may determine to be assessed, shall be distributed and assessed against all the property included in such local improvement district, in accordance with the special benefits conferred thereon, and in the manner provided by law.

(Ord. 322 §5, 1961)

13.04.095 Assessment Roll – Hearing and Appeal

At the time fixed for hearing on the assessment roll and at the times to which such hearing may be continued, the City's Hearing Examiner shall consider all objections timely filed with the City Clerk pursuant to RCW 35.44.080, following which the Hearing Examiner shall make recommendations that the City Council correct, revise, raise, lower, change or modify the roll or any part thereof, or set aside the roll and order the assessment to be made de novo, or that the Council adopt or correct the roll or take other action on the roll. The City Council shall adopt or reject the recommendation of the Hearing Examiner at a public meeting; provided, that any person who shall have challenged his or her assessment before the Examiner, may appeal the recommendation of the Hearing Examiner to the City Council by filing written notice of such appeal with the City Clerk within 10 calendar days of the date of mailing of the Hearing Examiner's recommendation. The appeal shall be upon the record made before the Hearing Examiner, based on a preponderance of evidence standard and shall be considered by the Council at a public meeting in accordance with the City Council's rules of procedure. Confirmation of the roll shall be by ordinance.

(Ord. 2397 §1, 2013)

13.04.100 Bonds – Payment of Cost

The City Council may provide by ordinance for the payment of the whole or any portion of the cost and expense of any local improvement by bonds of the improvement district, but no bonds shall be issued in excess of the cost and expense of the improvement, nor shall they be issued prior to 20 days after the 30 days allowed for the payment of assessments without penalty or interest.

(Ord. 322 §6, 1961)

13.04.110 Bonds – Issuance and Sale

A. Local improvement bonds may be issued to the contractor or sold by the officers authorized by the ordinance directing their issue to do so, in the manner prescribed therein, and at not less than par and accrued interest. Any portion of the bonds of any issue remaining unsold may be issued to the contractor constructing the improvement in payment thereof.

B. The proceeds of all sales of bonds shall be applied in payment of the cost and expense of the improvement.

(Ord. 322 §7, 1961)

13.04.120 Warrants – Payment of Cost

The City Council may provide by ordinance for the issuance of warrants in payment of the cost and expense of any local improvement, payable out of the local improvement district fund. The warrants shall bear interest at the rate of not to exceed 8% per year and shall be redeemed either in cash or by local improvement bonds for the same improvement authorized by ordinance.

(Ord. 322 §8, 1961)

13.04.130 Warrants Deemed Claims and Liens

All warrants against any local improvement fund sold by the City or issued to a contractor and by him sold or hypothecated for a valuable consideration shall be claims and liens against the improvement fund against which they are drawn prior and superior to any right, lien or claim of any surety upon the bond or bonds given to the City by or for the contractor to secure the performance of his contract or to secure the payment of persons who have performed work thereon, furnished materials therefor, or provisions and supplies for the carrying on of the work.

(Ord. 322 §8 (part), 1961)

13.04.140 Assessment Funds – Collection

A. All assessments for local improvements shall be collected by the City Treasurer and shall be kept in a separate fund to be known as "Local Improvement Fund, District No. __," and shall be used for no other purpose than the redemption of warrants drawn upon and bonds issued against the fund to provide payment for the cost and expense of the improvement.

B. As soon as the assessment roll has been placed in the hands of the City Treasurer for collection, he shall publish a notice in the official newspaper of the City for ten consecutive daily or two consecutive weekly issues, or if there is no official newspaper, in a newspaper of general circulation within the City, that the roll is in his hands for collection and that any assessment may be paid within 30 days from the date of the first publication of the notice without penalty, interest or costs.

(Ord. 322 §9 (part), 1961)

13.04.150 Payment Installments

In all cases where bonds are issued to pay the cost and expense of a local improvement, the ordinance levying the assessments shall provide that the sum charged against any lot, tract, and parcel of land, or other property, or any portion thereof, may be paid during the 30-day period allowed for the payment of assessments without penalty or interest and that thereafter the sum remaining unpaid may be paid in equal annual installments. The number of installments shall be less by two than the number of years which the bonds issued to pay for the improvements are to run. Interest on the whole amount unpaid at the rate fixed by the ordinance shall be due on the due date of the first installment of principal and each year thereafter on the due date of each installment of principal. The first installment shall become due and payable during the 30-day period succeeding a date one year after the date of first publication of the Treasurer's notice, as provided in TMC 13.04.140, and annually thereafter each succeeding installment shall become due and payable in like manner. If the whole or any portion of any assessment remains unpaid after the first 30-day period herein provided for, interest upon the whole unpaid sum shall be charged at the rate to be fixed by ordinance, and each year thereafter one of said installments, together with interest due upon the whole of the unpaid balance, shall be collected. Any installment not paid prior to the expiration of the 30-day period during which such installment is due and payable shall thereupon become delinquent. All delinquent installments shall be subject to a charge for interest at the rate fixed on the unpaid balance of the roll and to an additional charge of not less than 8% penalty levied upon both principal and interest due on such installment or installments. The exact penalty shall be stated in the ordinance approving and confirming the assessments and assessment roll for said LID.

(Ord. 1348 §1, 1985; Ord. 1256, 1982; Ord. 322 §10, 1961)

13.04.160 Report of Collection on Bond Installment

In case the improvement is made on the bond installment plan, the City Treasurer shall, at the expiration of 30 days after the first publication of the notice to pay assessment, report to the City Council the amount collected by him upon the roll and shall specify in the report the amount remaining unpaid upon the roll, and the City Council may then, or at a subsequent meeting, by ordinance direct the Mayor and City Clerk to issue the bonds on the local improvement district established by the ordinance ordering the improvement in an amount equal to the amount remaining unpaid on said assessment roll. The ordinance shall specify the denomination of the bonds which, except for bond numbered "one," shall be in multiples of $100.00 each.

(Ord. 322 §11, 1961)

13.04.170 Bond Form

A. All bonds, unless otherwise specially ordered by the council, issued in pursuance of the provisions of TMC Chapter 13.04, may be in substantially the following form:

"No. ___ _____$

UNITED STATES OF AMERICA

STATE OF WASHINGTON

LOCAL IMPROVEMENT BOND

LOCAL IMPROVEMENT DISTRICT NO. _____

N.B. This bond is issued by virtue of the provisions of RCW 35.45.010 et seq., §35.45.070 of which reads as follows:

Neither the holder nor the owner of any bond or warrant issued under the provisions of this act shall have any claim therefor against the City or town by which the same is issued, except for payment from the special assessments made for the improvement for which said bond or warrant was issued, and except as against the local improvement guaranty fund of such City or town and the City or town shall not be liable to any holder or owner of such bond or warrant for any loss to the guaranty fund occurring in the lawful operation thereof by the City or town. The remedy of the holder or owner of a bond or warrant in case of nonpayment shall be confined to the enforcement of the assessment and to the guaranty fund.

The City of Tukwila, a municipal corporation of the State of Washington, hereby promises to pay to ____ or bearer _____ _____ dollars ($_____), in lawful money of the United States, with interest thereon at the rate of _____% per annum, payable annually out of the fund established by Ordinance No. _____ of said City, and known as "Local Improvement Fund, District No. _____" and not otherwise, except from the guaranty fund, as herein provided. Both principal of and interest on this bond are payable at the office of the City Treasurer of said City.

A coupon is hereto attached for each installment of interest to accrue hereon and said interest shall be paid only on presentation and surrender of such coupon to the City Treasurer.

This bond is payable on the ___ day of _____, 19__, but is subject to call by the City Treasurer of said City whenever there shall be sufficient money in said local improvement fund to pay the same and all unpaid bonds of the series of which this bond is one, which are prior to this bond in numerical order, over and above sufficient for the payment of interest on all unpaid bonds of said series. The call for payment of this bond, or of any bond of the series of which this is one, shall be made by the City Treasurer by publishing the same once in the official newspaper, or, if there is no official newspaper, in a newspaper of general circulation within the City, and when such call is made for the payment of this bond it will be paid on the day the next interest coupon thereon shall become due after said call and upon said day interest upon this bond shall cease and any remaining coupons shall be void.

The City Council of said City, as the agent of said Local Improvement District No. _____, established by Ordinance No. _____, has caused this bond to be issued in the name of said City as the bond of said Local Improvement District, the bond or the proceeds thereof to be applied in part payment of so much of the cost and expense of the improvement of _____ under said Ordinance No. ____ as is levied and assessed against the property included-in said Local Improvement District No. _____and benefited by said improvement, and the said Local Improvement Fund has been established by ordinance for said purpose; and the holder or holders of this bond shall look only to said fund and to the Local Improvement Guaranty Fund of the City of Tukwila for the payment of either the principal of or interest on this bond.

This bond is one of a series of _____ bonds aggregating in all the principal sum of _____ dollars ($_____), all of which bonds are subject to the same terms and conditions as herein expressed.

IN WITNESS WHEREOF, the City of Tukwila has caused these presents to be signed by its Mayor and attested by its City Clerk and sealed with its corporate seal this _____ day of _____, 19____.

City Of Tukwila, Washington
By _____
Mayor

Attest:
By _____
City Clerk"

B. There shall be attached to each bond such a number of coupons as shall be required to represent the interest thereon, payable either annually or semiannually as the case may be, for the term of said bonds, which coupons shall be substantially in the following form:

"On the _____ day of _____, 19_ the City of Tukwila, State of Washington, promises to pay to the bearer at the office of the City Treasurer ____ dollars ($_____), being (six) (twelve) months' interest due that day on Bond No._____ of the bonds of Local Improvement District No. __ and not otherwise, provided that this coupon is subject to all the terms and conditions contained in the bond to which it is annexed, and if said bond shall be called for payment before maturity hereof, then this coupon shall be void.

City Of Tukwila, Washington
By _____
Mayor

Attest:
By _____
City Clerk"

C. The City Treasurer shall keep in his office a register of all such bonds in which he shall enter the local improvement district for which the same are issued, and the date, amount and number of each bond and the terms of payment.

(Ord. 322 §12, 1961)

13.04.180 Chapter Application

The laws of the State and the provisions of TMC Chapter 13.04 shall be applicable to all local improvements and proceedings therein initiated by petition or resolution subsequent to the passage and legal publication or posting of the ordinance codified herein, including Local Improvement District No. _, and all proceedings and the manner of the collection and enforcement of all assessments in such proceedings shall be in compliance therewith.

(Ord. 322 §14, 1961)

13.04.190 Delinquent Assessment – Foreclosure

If, on the first day of January in any year, two installments of any local improvement assessment are delinquent, or if the final installment thereof has been delinquent for more than one year, the City Attorney is authorized to commence foreclosure proceedings on the delinquent assessment or delinquent installments by an appropriate action on behalf of the City in King County Superior Court. Such foreclosure proceedings shall be commenced on or before July 1 of each year

(Ord. 1348 §2, 1985)

13.04.200 Delinquent Assessment – Notice to Property Owner

The City Finance Director shall send by certified mail to each person whose name appears on the assessment roll and/or tax rolls as owner of the property charged with any delinquent assessment or installment, at each address listed on said assessment roll and/or County tax roll, a notice at least 30 days before commencement of any action to foreclose a delinquent assessment or installment. The notice shall state the amount due on each separate lot, tract or parcel of land, and the date after which the foreclosure proceedings will commence.

(Ord. 1348 §3, 1985)

13.04.210 Delinquent Assessment – Acceleration of Installments – Attorneys' Fees

In any action brought for the foreclosure of a delinquent assessment or installment, future installments not otherwise due and payable may, at the election of the City, be accelerated and the entire balance of the assessment with interest, penalty and cost shall become due and payable and the collection thereof shall be enforced by foreclosure as set forth in TMC Chapter 13.04; provided, however, that in the case of such foreclosure there shall be added to the cost and expense as provided by RCW Chapter 35.50 such reasonable attorneys' fees as the court may adjudge to be equitable.

(Ord. 1348 §4, 1985)

13.04.220 Delinquent Assessment – Applicability

The provisions of TMC Chapter 13.04 shall govern the collection by foreclosure of any and all assessments or installments that were delinquent as of January 1, 1985, as well as subsequent delinquent assessments or installments.

(Ord. 1348 §5, 1985)

TITLE 14
WATER AND SEWERS

Chapters:

Figures (located at back of this section)

CHAPTER 14.04
WATER RATES AND REGULATIONS

Sections:

14.04.010 Definitions

A. *"Director,"* wherever used in TMC Title 14, means the Director of Public Works or his or her designee.

B. "*Department,*" wherever used in TMC Title 14, means the Department of Public Works.

C. "*Person,*" wherever used in TMC Title 14, means and includes natural persons of either sex, associations, partnerships, or corporations, whether acting by themselves or by a servant, agent or employee; the singular number includes the plural and the masculine pronoun includes the feminine.

(Ord. 2313 §1 (part), 2010)

14.04.020 Application to Connect Required

Any person desiring to be connected with the City water supply system shall make application therefor to the Department. Applications shall be made upon a printed form furnished for that purpose, which application shall contain a description of the property where such water supply is desired, the size of the service pipe, and shall be signed by the owner of the property to be served or his duly authorized agent.

(Ord. 2313 §1 (part), 2010)

14.04.030 Contents of Application

The application provided for in Section 14.04.020 shall contain a contract on the part of the person making the same to pay for the water applied for at the rate and in the manner specified in such contract, and shall reserve to the City the right to charge and to collect the rates and enforce the penalties provided for in this chapter, in the manner herein provided; to change the rates at any time by ordinance; to temporarily discontinue the service at any time without notice to the consumer; and shall specify that said contract is subject to all the provisions of this chapter and of any ordinance of the City relating to the subject hereafter passed; and shall provide that the City shall not be held responsible for any damage by water or other cause resulting from defective plumbing or appliances in the property supplied with water, installed by the owner or occupant of said property; and shall provide that in case the supply of water shall be interrupted or fail by any reason, the City shall not be held liable for damages for such interruption or failure, nor shall such interruptions or failures for any reasonable period of time be held to constitute a breach of contract on the part of the City or in any way relieve the consumer from performing the obligations of his contract.

(Ord. 2313 §1 (part), 2010)

14.04.040 Effective Date of Contracts

All contracts shall take effect from the day they are signed and rates shall be charged from the day the property is connected with the City water supply.

(Ord. 2313 §1 (part), 2010)

14.04.050 Connection Procedure

Upon the presentation to the Director of the receipt for the installation fees, the Director shall cause the property described in the application to be connected with the City's water main by a service pipe extending at right angles from the main to the property line and including a stopcock placed within the lines of the street curb, which connection shall thereafter be maintained and kept within the exclusive control of the City.

(Ord. 2313 §1 (part), 2010)

14.04.060 Installation and Apparatus Standards and Specifications

The current requirements of the Tukwila Municipal Code, the Tukwila Public Works Department, the Tukwila Fire Department, the Rules and Regulations of the Washington State Department of Health, the Uniform Plumbing Code, American Water Works Association Standards, and the American Public Works Association Standards shall be met and apply to any and all water main installations, extensions, service connection, irrigation sprinkler connections, hydrant connection, fire sprinkler and fire main connections, and branches hereinafter installed in the City. Detailed criteria and permit requirements are available through the City of Tukwila Infrastructure and Development Standards.

(Ord. 2313 §1 (part), 2010)

14.04.070 Connection Installation Fees

The water meter shall be installed by the City water utility. The water meter installation fee shall be payable at the time of application for connection. Whenever the fee is not sufficient to cover the total expense for labor, materials, and overhead, the deficit shall be charged to the property for which installation was made and to the owner thereof. Any excess payment shall be returned to the person applying for the installation.

(Ord. 2313 §1 (part), 2010)

14.04.071 Regular Connection Charge

In order that property owners shall bear their equitable share of the cost of the City's entire water system, the property owner seeking connection to the water system of the City shall pay, prior to connection to a City water system, a regular water meter installation charge in accordance with the fee schedule to be adopted by motion or resolution of the Tukwila City Council.

(Ord. 2313 §1 (part), 2010)

14.04.072 Special Connection Charge

In addition to the regular connection charge imposed under TMC Section 14.04.071, a special connection charge shall be paid by the owners of properties that have not been assessed or charged or borne the cost of private development of mains or laterals or borne an equitable share of the cost of the City water system. The special connection charge shall be computed as provided in TMC Section 14.04.074 in the absence of latecomers' agreements, Local Improvement Districts, or special assessment ordinances.

(Ord. 2313 §1 (part), 2010)

14.04.074 Computation of Special Connection Charge

A. The special connection charge imposed by TMC Section 14.04.072 shall be paid to the water fund and shall be computed in accordance with RCW 35.44.030 and 35.44.040.

B. If the property for which a special connection charge has been paid is subsequently included in a Local Improvement District for the construction of water mains or lateral lines of a similar nature, the amount so paid shall be credited to the assessment against such property and such amount shall be paid from the water fund to such Local Improvement District fund.

(Ord. 2313 §1 (part), 2010)

14.04.076 Regional Capital Facilities Charge

In addition to the regular connection charge imposed under TMC Section 14.04.071 and any special connection charges under TMC Section 14.04.072, a regional system growth fee known as the Regional Capital Facilities Charge (RCFC) shall be paid for all new residential, multi-family housing, or commercial service connections on or after January 1, 2003, for regional capital costs associated with new supply and transmission of water. Property owners shall pay the RCFC prior to permit issuance for connection to a City water system. The fee for this expense shall be established by the Cascade Water Alliance and passed through without additional markup.

(Ord. 2313 §1 (part), 2010)

14.04.080 Connection Notification

Whenever the owner or occupant of any property connected with the City water supply system desires to use the water, he shall notify the Director and request that the water be turned on to the property. The owner shall leave his portion of the service exposed in the trench until it has been inspected and the water turned on, when he shall immediately cover the pipe.

(Ord. 2313 §1 (part), 2010)

14.04.090 Connection to Water Main

All water used for any purpose other than fire protection service shall be supplied through a meter. Every house or building supplied by City water must install its own separate service connection with the City main, and the house or building so supplied will not be allowed to supply water to others, except temporarily where there are no mains in the street. When a new main is laid in any street, owners of property on the street who are being supplied with City water from a private main or a connection to a private service shall make application for a tap and shall connect up with a separate service connection to the main in front of the property.

(Ord. 2313 §1 (part), 2010)

14.04.110 Change in Size or Location of Connection

A change in the size or location of a service connection shall be paid for by the owner on the basis of the cost of materials and labor involved in making said change, plus administrative overhead.

(Ord. 2313 §1 (part), 2010)

14.04.120 Application to Discontinue Water – Fee to Turn Water Meter On

Whenever any water customer desires to discontinue the use of water for a period of not less than one month, he shall make written application to have the water turned off and pay all arrears in full. A charge in accordance with the fee schedule to be adopted by motion or resolution of the Tukwila City Council will be assessed to turn water on. No reduction of rates will be made for less than one month, or without the application prescribed in this section. Work performed outside of normal working hours, due to customer request, will receive an additional charge in accordance with the fee schedule to be adopted by motion or resolution of the Tukwila City Council.

(Ord. 2313 §1 (part), 2010)

14.04.122 Special Meter Read

Whenever a water customer desires to have the water meter read outside the water department's normal meter reading schedule, a written application shall be submitted specifying the requested read date. A fee will be charged for this meter reading service in accordance with the fee schedule to be adopted by motion or resolution of the Tukwila City Council.

(Ord. 2313 §1 (part), 2010)

14.04.125 Charge for Shut-off Notices for Delinquent Water Service Billings

A. When water service customers are 60 days in arrears, a shut-off notice shall be mailed or posted. There shall be a service charge on water accounts for all shut-off notices in accordance with the fee schedule to be adopted by motion or resolution of the Tukwila City Council. This fee will be applied first before regular service charges are credited.

B. All monies in arrears, which is defined as the amount owing eleven days after the billing date, are due upon receipt of a shut-off notice. To avoid water shut-off, arrangements for payment may be made with the Finance Director.

C. When water is used after the meter has been turned off and locked for non-payment, an unauthorized water turn-on fee will be charged in accordance with the fee schedule to be adopted by motion or resolution of the Tukwila City Council.

(Ord. 2313 §1 (part), 2010)

14.04.130 Cost of Shutoff and Turn-on by City

When water has been shut off by the City for any cause and is turned on again or allowed or caused to be turned on by the owner without written application, no remission of rates will be made on account of its having been shut off, and the Director may then shut off the water at the main or remove a portion of the service connection in the street, and shall charge the actual cost of cutting out and reinstating the water supply to the owner of the property.

(Ord. 2313 §1 (part), 2010)

14.04.150 Water Utility Billing

All accounts for water shall be the responsibility of the owner of the property for which the service was installed regardless of whether the property has a tenant and/or third-party paying agents. A fee will be charged for the administrative cost of updating the utility records for changes in owners, tenants, and third party paying agents in accordance with the fee schedule to be adopted by motion or resolution of the Tukwila City Council.

(Ord. 2313 §1 (part), 2010)

14.04.160 Chapter Compliance Required

It is unlawful for any person to make any connection with any service or branch pipe thereof, or to make any repairs, additions, or alterations of any pipe, stop, or waste, or any fixtures connected or designed to be connected with the City water system, except in compliance with this chapter.

(Ord. 2313 §1, 2010)

14.04.165 Water Shortage Response Plan

A water shortage response plan is required by the wholesale water supplier, the Cascade Water Alliance, and by the public welfare to effect conservation of water during water emergencies. A water shortage response plan for the Tukwila water system, as required by WAC 246-290-42, shall be updated by the Council as required.

(Ord. 2313 §1 (part), 2010)

14.04.170 Emergency Change in Water Use

A. Upon finding that an emergency situation exists, the Director shall:

1. Immediately seek to communicate with the Mayor and Council through the fastest means feasible to advise them of this emergency situation and the reason for such restrictions.

2. Immediately take steps to notify the public within the service area affected through the media and other means to advise said water users of such emergency water conservation measures and the necessity thereof.

3. Implement such measures and regulations as may be necessary to implement water use restrictions under this ordinance and the plan adopted in TMC Section 14.04.165.

B. The Mayor, upon finding that an emergency situation exists which threatens to seriously disrupt or diminish the municipal water supply, may order restrictions on water use so as to distribute the available supply on a just and equitable basis to all customers, including residential, industrial and commercial users who purchase water.

C. Upon declaration of a water supply emergency by the Mayor, no water shall be used for nonessential outdoor uses including, but not limited to, irrigation of lawns, the washing of cars, driveways or other outdoor surfaces by any customer at any residence, apartment building, commercial building, or property or structure except at such times and under those conditions as specified by the Director. These restrictions are to be implemented even though more restrictive than the plan provisions and shall in no way limit indoor rationing provisions of the plan.

(Ord. 2313 §1 (part), 2010)

14.04.175 Violations

A. The Director shall be authorized to impose sanctions and/or surcharges upon those customers within the affected area who refuse or otherwise fail to comply with the emergency conservation measures directed by levying a surcharge in accordance with the fee schedule to be adopted by motion or resolution of the Tukwila City Council and/or disconnecting water service to said customers.

B. The restrictions and surcharge shall not compromise the health, safety or welfare of the public. Exemption from the imposition of a surcharge may be granted by the Mayor or Director in the Mayor's absence, upon written request, if it is found that a surcharge will constitute an undue burden on the customer.

(Ord. 2313 §1 (part), 2010)

14.04.180 Water Falling on Street or Sidewalk

It is unlawful for any person willfully to place any automatic sprinkling device in a wasteful manner or willfully to place or to hold any hose in such position or manner that water falls on any person while on any public street or sidewalk.

(Ord. 2313 §1 (part), 2010)

14.04.190 Violation of Section 14.04.180

If any person violates any provision of TMC Section 14.04.180, the City shall shut off the water furnished to the property upon which such violation is made, and shall charge a fee for turning on the water in accordance with the fee schedule to be adopted by motion or resolution of the Tukwila City Council.

(Ord. 2313 §1 (part), 2010)

14.04.200 City Control of Water Use

The City reserves the right in case of a shortage of water from any cause to make an order forbidding or suspending the use of water for sprinkler or irrigation, or to fix the hours during which the same may be done, by proper notice. Any person violating such order shall have his water shut off by the City and shall pay a fee for having the water turned on again as in accordance with the fee schedule to be adopted by motion or resolution of the Tukwila City Council.

(Ord. 2313 §1 (part), 2010)

14.04.210 Use of Water Restricted During Fire

It is unlawful for any person to use water for irrigation or sprinkling during the progress of any fire in the City, unless for the protection of property; and all irrigation and sprinkling shall stop when an alarm of fire is sounded, and shall not begin again until the fire is extinguished.

(Ord. 2313 §1 (part), 2010)

14.04.220 Right of City to Shut Off Supply

The City reserves the right at any time, without notice, to shut off the water supply for repairs, extensions, nonpayment of rates, or any other reason, and the City shall not be responsible for any damage such as bursting of boilers supplied by direct pressure, the breaking of any pipe or fixtures, stoppages or interruptions of water supply, or any other damage resulting from the shutting off of water.

(Ord. 2313 §1 (part), 2010)

14.04.230 Meter Ownership and Maintenance

All meters on services of consumers shall be and remain the property of the City. In all cases where meters are lost, injured or broken by carelessness or negligence of owners or occupants, and in the case of nonpayment, the water shall be shut off and will not be turned on until such fee and the charge for turning on the water are paid. In event of the meter getting out of order or failing to register properly, the consumer shall be charged on an estimate made by the Director on the average monthly consumption during the last three months that the same was in good order or from what he may consider the most reliable data at his command.

(Ord. 2313 §1 (part), 2010)

14.04.240 Rates for Metered Water

A. The rates for metered water supplied within the City for commercial/ industrial customers, in one-month increments or any fractional part thereof, shall be in accordance with the fee schedule to be adopted by motion or resolution of the Tukwila City Council.

B. Single-family customers (one dwelling unit): Each single-family residence shall be charged in accordance with the fee schedule to be adopted by motion or resolution of the Tukwila City Council.

C. Multi-family customers (more than one dwelling unit): Each dwelling unit shall be charged in accordance with the fee schedule to be adopted by motion or resolution of the Tukwila City Council.

D. Every person 62 years of age or older (if married, then either spouse) and every person totally and permanently disabled residing in a separately metered dwelling and who is paying directly for such separately billed service either as owner, purchaser or renter and whose individual disposable income if a single person, or whose combined disposable income, if a married couple, from all sources is less than $32,000 per year, shall pay a rate equal to 50% of all water service charges. Every such person shall file with the Finance Department their affidavit that he or she is qualified to be charged the special rate. Such affidavits are to contain information as required by the Finance Director in order to establish eligibility. Each affidavit will also include an unqualified promise to inform the City of any changes in financial condition that would disqualify the person for the special rates. The Finance Director may require affidavits on an annual basis if deemed necessary.

E. Tukwila's current fee schedule will be reviewed annually and at such time the City may amend the water rates to reflect the City's increased costs.

(Ord. 2313 §1 (part), 2010)

14.04.250 Fire Protection

A. Any service connection to the main for a fire sprinkler system shall be approved in advance by the City, and shall be installed at the expense of the owner, and fitted only with such fixtures as are needed for fire protection and must be entirely disconnected from those used for other purposes.

B. Any service connection other than fire sprinkler installed on private property for fire protection, and fitted with fire hydrants,

stand pipes or other outlets for fire protection, shall be approved in advance by the City.

C. It is unlawful for any person to fail, neglect or refuse to give the Director or his duly authorized representative free access at all reasonable hours to all parts of premises supplied with water from the City mains for the purpose of inspecting the condition of pipes and fixtures and noting the amount of water being used and the manner in which it is used.

D. The rates for water supplied for fire protection purposes exclusively shall be deemed service charges and shall be, for any one month or fractional part thereof, charged in accordance with the fee schedule to be adopted by motion or resolution of the Tukwila City Council.

E. Water used for any other purpose than for fire protection service shall be deemed as theft and the owner will be made liable for the cost of water used and a meter shall be required on any fire protection service connection.

(Ord. 2313 §1 (part), 2010)

14.04.260 Rates Outside City Limits

The rates for water supplied to consumers not within the City limits shall be as follows: The same rate schedule as provided in TMC Sections 14.04.240 and 14.04.250 shall apply. The above rates to consumers outside the City limits are subject to the same rates to consumers inside the City limits, provided that nothing in this section shall prevent the City Council from fixing other and different rates for the sale of water to water districts, provided that all meters for measuring water to outside consumers are installed within the City limits or within the limits of easements, franchises, or rights-of-way belonging to the City.

(Ord. 2313 §1 (part), 2010)

14.04.270 Payment of Charges – Delinquency

All water charges and related fees shall be due and payable on the first day of each and every month for the water consumed and the services provided during the previous month and shall be paid to the Finance Department. In all cases when the water bill becomes delinquent, the Director may shut off the water and shall not turn it on again until all arrearages have been paid. All bills will become delinquent on the eleventh day of the month following the month that the water was consumed. Interest will be charged on delinquent balances 30 days in arrears in accordance with the fee schedule to be adopted by motion or resolution of the Tukwila City Council.

(Ord. 2313 §1 (part), 2010)

14.04.280 Failure to Receive Bill

Failure to receive a bill will not be recognized as a valid excuse for failure to pay fees when due. Change of ownership of property and change in mailing address must be filed in writing with the Finance Director.

(Ord. 2313 §1 (part), 2010)

14.04.290 Bathing or Discarding Substance in City Water System

It is unlawful for any person to bathe in or to throw any substance into any reservoir, water tank, or impounding dams of the City water system.

(Ord. 2313 §1 (part), 2010)

14.04.300 Connection Without Permission

It is unlawful for any person to make connections with any fixtures or to connect any pipe with any water main or water pipe belonging to the water system or to open or to close any valves in the system without first obtaining permission from the Director.

(Ord. 2313 §1 (part), 2010)

14.04.310 Supervisor Authority – Appeal to Council

The Director shall have authority to decide any question that may arise and that is not fully covered in this chapter, and his decision shall be final unless an appeal is made to the City Council. In such a case, the decision of the Council shall be final.

(Ord. 2313 §1 (part), 2010)

14.04.330 Temporary Water Meters

A. Temporary water meters are available on a rental basis from the Public Works Department, with the rental deposit amount charged in accordance with the fee schedule to be adopted by motion or resolution of the Tukwila City Council.

B. Meters are to be used only for the designated project.

C. Meters are to be returned promptly upon completion of the project or at the end of 60 days, whichever comes first.

D. Meters are to be returned in the same condition as when rented. The user is responsible for meter damage and shall pay all costs related to repair. Lost or stolen meters are the responsibility of the renter and renter shall pay all costs associated with replacement of the meter, shall forfeit the rental deposit and shall pay for an estimated amount of water used.

E. Meters may be moved from one hydrant to another within the same project providing:

1. Water Department is notified in advance of proposed relocation;

2. Hydrant wrenches are used in making all connections and disconnections.

F. Rates for water usage through temporary meters shall be charged in accordance with the June through September Commercial/ Industrial fee schedule to be adopted by motion or resolution of the Tukwila City Council.

(Ord. 2313 §1 (part), 2010)

CHAPTER 14.06

BACKFLOW PREVENTION ASSEMBLIES

Sections:

14.06.010 Purpose of Chapter

The purpose of this chapter is to protect the public water system from contamination due to backflow through cross-connections, and eliminate or control cross-connections between the public water system and any private water supply.

(Ord. 2313 §2 (part), 2010)

14.06.020 Authority

A. The Public Works Director, or his or her designee, shall administer this chapter. The Director's authority includes the establishment of regulations and procedures, enforcement, and implementation of measures necessary to carry out the intent of this chapter.

B. The Director promulgates and implements the City's policy on cross-connection control for the operation of the Cross-Connection Control Program. The Cross-Connection Control Program policy shall be enforced under the requirements of this Chapter.

(Ord. 2313 §2 (part), 2010)

14.06.030 Definitions

A. "*Backflow*" means undesirable reversal of flow of water or other substances through a cross-connection into the public water system or customer's potable water system.

B. "*Approved backflow prevention assembly*" means a Reduced Pressure Principle Assembly (RPPA), Reduced Pressure Detector Assembly (RPDA), Double Check Valve Assembly (DCVA), Double Check Detector Assembly (DCDA), Pressure Vacuum Breaker Assembly (PVBA), or a Spill-Resistant Vacuum Breaker Assembly (SVBA) that is approved by the Washington State Department of Health (DOH). Assemblies that will be approved will appear on the current approved backflow prevention assemblies list developed by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research or other entity acceptable to the DOH.

C. "*Cross-connection*" means any physical connection whereby a public water supply is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture or other device which contains or may contain contaminated water, sewage or other wastes or liquids of unknown or unsafe quality, which may be capable of imparting contamination to a public water supply as a result of backflow.

(Ord. 2313 §2 (part), 2010)

14.06.040 Cross-Connections Declared Unlawful

The installation or maintenance of a cross-connection, which in the opinion of the Director, or his or her designee, will endanger the water quality of the potable water supply of the City, is unlawful.

(Ord. 2313 §2 (part), 2010)

14.06.050 Backflow Prevention Assemblies

Approved backflow prevention assemblies, when required to be installed in the opinion of the Public Works Director, or his or her designee, shall be installed and maintained by the service customer on any service connection to the City's water supply system where said approved backflow prevention assemblies are necessary for the protection of the City's water supply.

(Ord. 2313 §2 (part), 2010)

14.06.060 Regulation of Private Water Supplies

Use or operation of a private water supply system, contrary to the provisions of the ordinances of the City, or the laws of the State, or the rules and regulations of the DOH regarding public water supplies where said private system is served by the City public water supply, is unlawful.

(Ord. 2313 §2 (part), 2010)

14.06.070 Adoption of State Regulations

DOH rules and regulations regarding public water supplies, entitled "Cross-Connection Control Regulation in Washington State" codified at WAC 246-290-490, and the American Water Works Association, Pacific Northwest Sections' Second Edition of "Accepted Procedure and Practice in Cross-Connection Manual" as they presently exist or are hereafter amended, are adopted by this reference as if set forth in full and are on file in the office of the City Clerk.

(Ord. 2313 §2 (part), 2010)

14.06.080 Abatement of Unlawful Cross-Connections and Installation of Approved Backflow Prevention Assemblies – Procedure

Cross-connections declared in TMC Chapter 14.06 to be unlawful, whether presently existing or hereinafter installed, and/or services requiring backflow prevention assemblies and/or unlawful use or operation of a private water supply system served by the City public water supply system are public nuisances, and in addition to any other provisions of this code or the ordinances of the City where abatement of public nuisances shall be subject to abatement in accordance with the following procedure:

1. In the event that the Public Works Director determines that a nuisance as herein provided does exist, written

notice shall be sent to the person in whose name the water service is established under the records of the City water department, or alternatively, a copy of such written notice shall be posted on the premises served.

2. The notice shall provide that the nuisance described herein shall be corrected within 30 days of the date said notice is mailed or posted on the premises.

3. In the event said nuisance is not abated within the prescribed time, water service to said premises shall be discontinued.

4. In the event that the nuisance, in the opinion of the Public Works Director, or his or her designee, presents an immediate danger of contamination to the public water supply, service from the City water supply system to the premises may be terminated without prior notice, provided, however, notice will be posted on the premises in the manner heretofore provided at the time said service is terminated.

(Ord. 2313 §2 (part), 2010)

14.06.090 Penalties

Any violation of any provision, or failure to comply with any of the requirements of TMC Chapter 14.06, shall be subject to the terms and conditions of Chapter 8.45 (""Enforcement"").

(Ord. 2313 §2 (part), 2010)

CHAPTER 14.08

SEWAGE WASTE DISPOSAL SYSTEMS

Sections:

14.08.010 County Ordinance Adopted

The regulations and provisions of Title 13 of the Board of Health of King County, Washington, entitled ""Board of Health On-site Sewage Regulations""as they presently exist or are hereafter amended, are adopted by the reference as if set forth in full and are on file in the office of the City Clerk.

(Ord. 2314 §1, 2010)

CHAPTER 14.12
SEWER REGULATIONS

Sections:

14.12.020 Definitions

See TMC Section 14.04.010

(Ord. 2314 §2 (part), 2010)

14.12.030 Notice -–Connection Requirements

The owner of each lot or parcel of real property within the area to be served by the sanitary sewage disposal system, upon which such lot or parcel of property there shall be situated any building or structure for human occupancy or use for any purpose, shall within 30 days after the publication in a newspaper of general circulation within the City of a notice signed by the Mayor and City Clerk, for connections to be made therewith, cause a connection to be made between the said sewage system and each such building or structure; provided that where more than one such building is located on a lot or parcel of land not larger than 50 feet in width and 100 feet in depth, and all such buildings may be served by one sanitary sewer connection, only one connection for all such buildings need be made. All premises upon which any portion of any building is situated within 250 feet of a sanitary sewer line or lateral shall be deemed to be within the area served by said sanitary sewage system. All connections shall be made to said sanitary sewage system in a permanent and sanitary manner subject to the approval of the Director, and shall be sufficient to carry all sanitary sewage and waste fluids of any kind from said buildings into said sanitary sewage system, and each toilet, sink, stationary wash stand, or any other piece or type of equipment having waste fluids shall be connected with said sanitary sewage system; provided, that where such building or structure has not been completed before the publication of such notice, connections shall be made on or before the completion of such building or structure and before any use or occupancy.

(Ord. 2314 §2 (part), 2010)

14.12.040 Penalty for Late Connection – Payment

If any connection shall not be made within the time herein provided, the Director or such other employee of the City as the Mayor or City Council designate is hereby authorized and directed to cause the same to be made and to file a statement of the costs thereof with the City Clerk; and thereupon a warrant shall be issued under the direction of the City Council against the sewer fund for the payment of such cost. Such amount, together with a penalty of 10%, plus interest at the rate of 8% per annum upon the total amount of such costs and penalty, shall be assessed against the property upon which the said building or structure is situated, and shall become a lien thereon as hereinafter provided as in the case of delinquent sanitary sewer service charges. The total amount when collected shall be paid into the sewer fund. In the alternative, if any such connection shall not be made within the time hereinabove provided, the Director or such other employee of the City as the Mayor and City Council may hereinafter designate, shall certify to the City Clerk that the connection has not been made, and the City Council shall cause an action to be instituted in the Superior Court of the State of Washington for King County against the owner or owners of the property upon which the building or structure requiring said person to forthwith cause the connection to be made. Nothing in TMC Chapter 14.12 shall be construed to relieve the property owner from paying monthly sanitary sewage service charges as herein established pending the making of the connection.

(Ord. 2314 §2 (part), 2010)

14.12.050 Permit Required

It is unlawful for any person to make any opening in any public sanitary sewer or to connect any private drain or sewer therewith, or to lay, repair, alter or connect any private drain or sanitary sewer in a public street, avenue, alley or other public place, unless such person has first obtained a permit to do so from the Director.

(Ord. 2314 §2 (part), 2010)

14.12.060 Sanitary Side Sewer Installation Permit Required

It is unlawful for any person to connect any private sanitary sewer system to the public sanitary sewer system without complying with all the provisions of TMC Chapter 14.12 in relation thereto and having a permit to do so from the Director.

(Ord. 2314 §2 (part), 2010)

14.12.070 Obtaining Permit to Install Sanitary Side Sewer

In order to obtain the permit provided for in TMC Section 14.12.060, the owner shall file an application therefor with the Department pursuant to TMC Section 18.104.060, together with plans and specifications showing the whole course of the drain from the public sanitary sewer to its connection with the building or premises, and all branches, traps and fixtures to be connected therewith, which plans and specifications shall be submitted to the Department for approval, and Director may change or modify the same and designate the manner in which the connecting sanitary sewers shall be connected with the building, the place where such connections with the public sanitary sewer shall be made, and specify the material, size and grade of the connecting sanitary sewer, and shall endorse his approval on such plans and specifications as originally prepared or as modified and changed. The owner shall further provide an expressed written consent to the Department to enter upon such premises for the purposes of inspection as hereinafter provided. Upon approval of the plans and specifications, the Department shall issue a permit to the owner to construct that portion of sanitary side sewer within the owner's property, and shall also issue a work order to the street department to install sanitary side sewer from sanitary sewer main to property line; and it is unlawful for any person to alter the approved plans and specifications or to do any other work than is provided for in the permit, or to repair, extend, remove or connect to any private sanitary sewer without first obtaining a permit as provided in TMC Chapter 14.12.

(Ord. 2314 §2 (part), 2010)

14.12.080 Issuance of Temporary Permit

At the discretion of the Department, a temporary permit may be issued permitting connection to a public sanitary sewer, sanitary sewer outfall, or sanitary side sewer. The temporary permit shall be revocable upon 60 days' notice posted on the premises directed to the owner or occupant of the premises, and in the event that the private sanitary sewers are not disconnected at the expiration of the notice, the Department of Public Works may disconnect the same and collect the cost of the disconnection from the owner or occupant of the premises by suit in any court of competent jurisdiction. Any such temporary permit shall be granted only on the condition that the permittee will save the City harmless from any damage by reason of the issuance or revocation of the temporary permit.

(Ord. 2314 §2 (part), 2010)

14.12.090 Permit to Construct or Extend Sanitary Sewer Inside Property

A. It is unlawful for any person to construct, extend, relay, or make connections to a private or lateral sanitary sewer within the property line without obtaining a permit therefor as provided in TMC Chapter 14.12 and filing a scale drawing showing the location thereof, as provided in TMC Section 14.12.050.

B. The Department may issue the permit to the owner or agent of any property to construct, extend, relay, or make connections to a lateral or private sanitary sewer inside of property line provided that such owner or agent shall comply with the applicable provisions of TMC Chapter 14.12.

(Ord. 2314 §2 (part), 2010)

14.12.100 Additional Work Permit

When a permit has been issued for a private sanitary sewer or drain, as provided in TMC Chapter 14.12, no additional work shall be put in without the approval of the Department, and a new permit must be taken out covering all such additional work.

(Ord. 2314 §2 (part), 2010)

14.12.110 New Permit Fee

In case work shall not be done or completed within the time specified in any permit and no extension thereof has been granted, a new permit shall be applied for and all applicable fees will be charged.

(Ord. 2314 §2 (part), 2010)

14.12.120 Time Limit

No permit issued under the provisions of TMC Chapter 14.12 shall be valid for a longer period than that specified in the permit, but the same may be renewed or extended at the reasonable discretion of the Director upon application therefor prior to the expiration of the time originally limited in the permit.

(Ord. 2314 §2 (part), 2010)

14.12.130 Display of Permit

The permit from the Department required under the terms of TMC Chapter 14.12 must, at all times during the performance of the work and until the completion thereof, be posted in some conspicuous place at or near the work.

(Ord. 2314 §2 (part), 2010)

14.12.140 Work Without a Permit

It shall be the duty of any police officer, in case he finds any person engaged in the work of breaking the ground for the purpose of making connections with the public sanitary sewer, to ascertain if such person has a permit from the Department to make such sanitary sewer connections, and in the event that such person has no permit for making such connections, it shall be the duty of such officer to immediately report the fact to the Director.

(Ord. 2314 §2 (part), 2010)

14.12.150 Description of Sanitary Side Sewers

All sanitary side sewers shall be laid on not less than 2% grade, nor more than two vertical to one foot horizontal; shall not be less than 30 inches from any building; shall have not less than 12 inches of cover inside the property line; and shall be not less than six inches in diameter from the main sanitary sewer to the property line. No storm drains, such as roof, patio or yard drains, shall be connected directly or indirectly to the sanitary sewers. Not more than one house shall be connected with a lateral sanitary sewer, except where such connection is made inside the property line and the owner or owners of such property shall make and file in the office of the City Clerk an easement for such purposes; except also, where connection is to an existing sanitary side sewer within a public street, and written permission from the owner or owners of the premises served by such sanitary side sewer has been filed with the Director. In the event that physical or other conditions render the enforcement of the above provisions impracticable, the Director may issue a special permit for the installation of a lateral or private sanitary sewer requiring compliance only with the above conditions, as far as practicable; but such special permit shall be issued only upon the condition that the permittee will save the City harmless from any damages by reason of such installation.

(Ord. 2314 §2 (part), 2010)

14.12.170 Call for Inspection

Any person performing work under permit pursuant to the provisions of TMC Chapter 14.12 shall notify the Director when the work will be ready for inspection, and shall specify in such notice the location of the premises. If the inspector finds the work or material used is not in accordance with the provisions of TMC Chapter 14.12, he shall notify the person doing the work and also the owner of the premises by posting a written notice upon the premises, and such posted notice shall be all the notice that is required to be given of the defects in the work or material found in such inspection; and a copy of such notice shall be kept on file in the office of the Director.

(Ord. 2314 §2 (part), 2010)

14.12.180 Inspection Before Trenches Filled

No trench shall be filled or any connecting sanitary sewer covered, until the work from the point where the same connects with the public sanitary sewer or other outlet to the point where it connects with the iron pipe or other plumbing of the building or premises to be connected shall have been inspected and approved by or under the directions of the Director and until the same shall have been made in all respects to conform to the provisions of TMC Chapter 14.12.

(Ord. 2314 §2 (part), 2010)

14.12.190 Inspector's Right of Entry

For the purpose of examining any or all private sanitary sewers or drains and of ascertaining whether the provisions of TMC Chapter 14.12 are being complied with, the Director or his duly authorized representatives or agents shall, upon the issuance of a search warrant or in any emergency or when consent has been given, at all reasonable times have the right to enter and inspect such buildings; and it is unlawful for any person to prevent or attempt to prevent any entrance or inspection, or to obstruct or interfere with any such officer while engaged in such an inspection.

(Ord. 2314 §2 (part), 2010)

14.12.210 Improper Work – Completion by City

If any work done in pursuance of a permit granted, as prescribed in TMC Chapter 14.12, is not constructed and completed in accordance with the provisions of TMC Chapter 14.12 and the plans and specifications as approved by the Director, and if the contractor or person doing the work refuses to properly construct and complete the work, notice of the failure or refusal shall be given to the owner of the property, for whom the work is being done, as provided in TMC Chapter 14.12; and the Director shall cause the work to be completed and the sewer connected in the proper manner, and the full cost of the work and any materials necessary therefor shall be charged and become a lien against the property, and shall be collected in the manner provided in TMC Chapter 14.12.

(Ord. 2314 §2 (part), 2010)

14.12.220 Obstructed or Broken Sewer Repair

Whenever any private sewer connected with any public sanitary sewer becomes obstructed, broken or out of order, and if the owner, agent or occupant of the premises fails to repair the same after five days when notified to do so by the Director, the Director is authorized to remove, reconstruct, replace, alter or clear the same as he may deem expedient, at the expense of the owner, agent or occupant of the premises; and when two or more houses or buildings are connected with the same private sanitary sewer, the owners, agents or occupants shall be jointly and equally liable for any work done by the City supervisor under TMC Section 14.12.220.

(Ord. 2314 §2 (part), 2010)

14.12.230 Injury to Public Sewers and Drains

It is unlawful for any person to injure, break, remove or alter any portion of any manhole, clean-out, flush tank, or any part of the public sanitary sewers or drains of the City.

(Ord. 2314 §2 (part), 2010)

14.12.240 Depositing Rubbish in Public Sewers and Drains

It is unlawful for any person to deposit in any manhole, clean-out, flush tank, sanitary sewer opening, drain, ditch, or natural water course any garbage, rubbish, dead animals or any substance that will obstruct, or have a tendency to obstruct, the flow of any sanitary sewer, drain, ditch or natural water course.

(Ord. 2314 §2 (part), 2010)

14.12.250 Exhaust Steam and Hot Water

No steam exhaust or blow-off, or any heated water higher than 150° Fahrenheit shall be discharged into a sanitary sewer.

(Ord. 2314 §2 (part), 2010)

14.12.260 Unlawful Discharge of Prohibited Foreign Substance into Public Sewer

A. It is unlawful to discharge or cause to be discharged into any sewer any waste which may have an adverse or harmful effect on the sanitary sewer system, public treatment works, its personnel or equipment. None of the following waters or wastes shall be discharged into the public sanitary sewer:

1. Polar and non-polar fats, oils, or grease (FOG) in amounts that exceed King County wastewater division standards or cause a visible sheen on the discharge or in the public sewer system or build-up of grease in any public sewer facility or which accumulations either alone or in combination with other discharges cause obstructions of the public sewer system;
2. Any gasoline, benzene, fuel oil, or other flammable or explosive liquid, solid, or gas;
3. Food waste or animal parts, including food-grinder waste, that cannot pass through a one-quarter inch sieve;
4. Any ashes, cinders, sand, gravel, mud, straw, grass, metal, glass, rags, feathers, tar, plastics, wood, paunch manure or any other solid or viscous substances capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewerage works;
5. Any waters or wastes having a pH lower than 5.5 or higher than 9.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel;
6. Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard in the receiving waters of the treatment plant;
7. Any water or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant;
8. Any noxious or malodorous substance capable of creating a public nuisance.

(Ord. 2314 §2 (part), 2010)

14.12.263 Pretreatment Facilities

A. All such prohibited substances identified in TMC Section 14.12.260 shall be intercepted by an adequate and suitable separation device or interceptor, installed in such a manner that allows the safe and convenient removal of the waste product or other prohibited substances, materials or liquid as identified in TMC Section 14.12.260, which shall not flow or be discharged into the sanitary sewer system. All such interceptors shall be of design, construction and capacity as shall be approved by the City Engineer. The grease interceptor shall be adequately maintained and readily accessible for inspection by the City at any time to ensure its proper operation.

B. Any violation of this section is subject to the terms specified in "Enforcement" as set forth in TMC 14.12.265.

(Ord. 2314 §2 (part), 2010)

14.12.265 Unlawful Discharge – Enforcement

All violations of TMC Section 14.12.260 shall be considered civil infractions, and are subject to the actions and penalties set forth in TMC Chapter 8.45.

(Ord. 2314 §2 (part), 2010)

14.12.270 Discharge of Surface or Subsurface Drainage

It is unlawful to discharge surface or subsurface drainage into any portion of the sanitary sewer system.

(Ord. 2314 §2 (part), 2010)

14.12.280 Trees and Shrubbery Obstructing Sewers

It is unlawful to plant poplar, cottonwood, soft maple, gum, or any other tree or any shrub whose roots are likely to obstruct public or private sanitary sewers, within 30 feet of any public or private sewer or drainpipe. The Director is authorized to remove any trees or shrubs from any public street, or the roots of any trees or shrubs that extend into any public street, when said trees or the roots thereof are obstructing, or when he determines they are liable to obstruct, public or private sanitary sewers or drains; provided, however, that he shall give ten days notice in writing to the owner or occupant of the abutting property to remove the same; and if the owner or occupant fails refuses so to do so, the reasonable cost of removal when done by the Director shall be a charge against, and a lien upon, the abutting property from which such trees or shrubs are removed, and the Director is authorized and directed to collect such charge by suit maintained in the name of the City as plaintiff, against the owner, in any court of competent jurisdiction.

(Ord. 2314 §2 (part), 2010)

14.12.290 Non-compliance – Notice – Remedy

When any sanitary sewer is constructed, laid, connected or repaired, and does not comply with the provisions of TMC Chapter 14.12, or where it is determined by the Director that a sanitary side sewer is obstructed, broken or inadequate and is a menace to health, or is liable to cause damage to public or private property, the Director shall give notice to the owner, agent or occupant of the property in which such condition exists, of such condition; and if he refuses to construct, relay, reconstruct or remove the obstruction of said sanitary side sewer within the time specified in such notice, the Director may perform such work as may be necessary to comply with TMC Chapter 14.12, and the cost of such work as done by the Director shall be assessed against the property or collected from the person responsible for the condition, and the amount thereof shall become a lien upon the property, and the City Attorney is authorized, empowered and directed to collect such cost, either by the foreclosure of the lien or by a suit against the owner or occupant of the property, or other person responsible for such condition, which suit shall be maintained in the name of the City as plaintiff, in any court of competent jurisdiction.

(Ord. 2314 §2 (part), 2010)

14.12.300 Regulation Authority

The Director may make and issue such rules and regulations as may be expedient and necessary to carry out the provisions of TMC Chapter 14.12.

(Ord. 2314 §2 (part), 2010)

14.12.310 Lien – Collection – Notice

A. Whenever any sum of money is to be charged as a lien upon the particular property upon which work shall be done by any department of the City under the terms and provisions of TMC Chapter 14.12, the manner and method of collecting said amounts shall be substantially as follows:

The owner or agent of the property shall be given a notice in writing by the Department that said owner or agent is required to do the particular work at the expense of the property owner. The notice shall be in substantially the following form:

"To ____, Owner, and _____, Agent, of that certain property described as Lot ____, in Block _____, Addition to the City of Tukwila, King County, Washington:

You are hereby notified to perform the following work upon the above described property within ten (10) days of the date of the service of this notice upon you, viz.:_____ _____. And you are further notified that if you do not perform said work within said period of ten (10) days, then the City of Tukwila will perform the same and charge the amount of said work against said property, and will proceed to collect the same according to law.

The City Of Tukwila
By: _____
Director"

B. A copy of this notice shall be posted upon the property affected, and a further copy shall be mailed to the agent or owner at his last known address. In case the agent or owner fails to perform the work within ten days, after the notice shall have been mailed and posted, then the work shall be done by the proper department of the City; and as soon as practicable after the work is performed, the owner or agent shall be notified in the same manner as provided in TMC Chapter 14.12, that the work has been done by the City, and of the amount of the charge for doing the work and shall require either to pay to the Finance Department said amount, within 30 days after the date of the posting and mailing of the notice, or to file with the City Council objections in writing against said charge. The form of notice just provided for shall be substantially as follows:

"To _____, Owner, and _____, Agent, of that certain property described as Lot _____, in Block _____, Addition to the City of Tukwila, King County, Washington:

You are hereby notified that pursuant to a former notice given you upon the ____day of _____, 20__, that the City of Tukwila has performed the work required to be done pursuant to the said former notice, and that the cost and expense of doing said work is the sum of _____ dollars. You are further notified that unless you pay said amount to the City treasurer, or file objections against said amount within thirty (30) days of the date of service of this notice upon you, the same shall be a lien against the above described real property and will be collected by the City of Tukwila according to law.

The City Of Tukwila
By: _____
Director"

C. The City Council shall at its next regular meeting after the filing of any objections or as soon thereafter as may be convenient, hear the same. At such hearing, the Council may take any action in the matter as may seem just. After said hearing, or after the expiration of the 30-day period hereinbefore provided for when no objection is filed, the amount thereof shall become a lien against the property upon which the work was performed, and the City Attorney is authorized to proceed to collect the amount in any lawful manner.

(Ord. 2314 §2 (part), 2010)

CHAPTER 14.16
SEWER CHARGES

Sections:

14.16.010 Definitions

A. *"Commercial and industrial sewage service"* means sewage collection and/or sewage disposal service, furnished or available to the use of premises used or engaged in the selling, manufacturing, processing, and/or dispensing of products or services, or otherwise catering to the public.

B. *"Dwelling unit"* means a unit in an apartment house, rooming house, trailer court, motel, hotel, building or space for human habitation having plumbing facilities for preparation of food, washing dishes, etc., and/or for bathing, and for toilet purposes, for the exclusive use of the individual or individuals occupying the dwelling unit.

C. *"Multiple dwelling (permanent type) sewage service"* means sewage collection and/or sewage disposal service, furnished or available to the use of premises used for renting of apartments, rooms, other dwelling units with water connections, providing for human habitation on a permanent basis.

D. *"Multiple dwelling (transient type) sewage service"* means sewage collection and/or sewage disposal service, furnished or available to the use of premises used for renting of motels, hotels, trailer space, and any other building or space providing for human habitation on a transient basis.

E. *"Multiple tenant commercial and/or industrial unit sewage service"* means sewage collection and/or sewage disposal service, furnished or available to the use of premises used for renting, leasing, subleasing or sale to more than one tenant within a single structure for the purpose of retail or wholesale sales, commercial or industrial use for the manufacture, processing, assembly, disassembly or other related use of similar nature.

F. *"Recipient of service"* – All property owners within the City, within the area served by the sewerage system of the City, are hereby required and shall be compelled to connect their private drains and sewers with the sewerage system of the City; and it is unlawful for any property owner to fail or refuse to make such connections.

G. *"Residential sewage service"* means sewage collection and/or sewage disposal furnished or available to the use of premises used primarily for human habitation, excluding those premises used for the renting of rooms, apartments, and trailer space.

H. *"Sanitary side sewer"* means a sanitary sewer laid generally perpendicularly from a main sanitary sewer in a public right-of-way to the property line of the property to be served by the sewage collection and/or sewer disposal service.

I. *"School sewage service"* means sewage collection and/or sewage disposal service furnished or available to the use of premises used for public and/or private schools.

J. *"Sewage collection system"* means the collection and carrying of sewage through the City's system of sanitary sewers.

K. *"Sewage disposal service"* means the disposition of sewage by purification in a sewage treatment plant.

(Ord. 2314 §3 (part), 2010)

14.16.020 Date of Commencement and Payment for Service Charges

Charges shall be made for all sewage collection service and/or sewage disposal service furnished, or available for use, from November 30, 1961. All sewer charges and related fees shall be due and payable on the first day of each and every month for the sewer and services provided during the previous month and shall be paid to the Finance Department. All bills will become delinquent on the eleventh day of the following month.

(Ord. 2314 §3 (part), 2010)

14.16.030 Schedule of Charges

Rates and charges for sewer service furnished and available for use shall be paid by the owner of the property and shall be as follows:

1. *Residential Sewage Service (single dwelling unit)* – A flat monthly rate for each single-family residence shall be charged in accordance with the fee schedule to be adopted by motion or resolution of the Tukwila City Council. Every person 62 years of age or older (if married, then either spouse) and every person totally and permanently disabled residing in a separately metered dwelling and who is paying directly for such separately-billed service either as owner, purchaser or renter and whose individual disposable income, if a single person, or whose combined disposable income, if a married couple, from all sources is less than $32,000 per year, shall pay a rate equal to 50% of sewer service charges. Every such person shall file with the Finance Department their affidavit that they are qualified to be charged the special rate. Such affidavits are to contain information as required by the Finance Director in order to establish eligibility.

Each affidavit will also include an unqualified promise to inform the City of any changes in financial condition that would disqualify the person for special rates. The Finance Director may require affidavits on an annual basis if deemed necessary.

2. *Residential Sewage Service (multiple dwelling unit, permanent type)* – A flat monthly rate for each dwelling unit shall be charged in accordance with the fee schedule to be adopted by motion or resolution of the Tukwila City Council.

3. *School Sewage Service* – The rate shall be the commercial/industrial sewage rate.

4. *Commercial and Industrial Sewage Service* – Each account will be charged a flat monthly rate in accordance with the fee schedule to be adopted by motion or resolution of the Tukwila City Council. In addition, the charge for sewage service on premises using more than 750 cubic feet of water per month shall be at the rate per 750 cubic feet, in accordance with the fee schedule to be adopted by motion or resolution of the Tukwila City Council.

5. *Payment of charges* – Interest will be charged on delinquent balances 30 days in arrears in accordance with a fee schedule to be adopted by motion or resolution of the Tukwila City Council. All balances will become delinquent on the eleventh day of the month following the month that the sewer service was provided.

(Ord. 2314 §3 (part), 2010)

14.16.040 Special Rates

A. Nothing herein shall be construed to prevent the charging of special rates under agreement between the City and commercial and/or industrial recipient.

B. For the properties complying with TMC Section 14.16.040, the charges for sewer services outside the corporate limits of the City shall be the same as those charged within the City, provided that the parties seeking the service shall have paid for the construction of their sewer by a Local Improvement District or by and at their sole expense in accordance with applicable ordinances, regulations, specifications and comprehensive sewage plans of the City. Prior to the connection of the sewer service outside the City limits, a written sewer service contract shall be made and executed between the City and the customer.

C. For those properties outside the City corporate limits requesting sewer service who do not comply with the provisions of TMC Section 14.16.040B, the charges for sewer service shall be two times the amount chargeable under TMC Section 14.16.030, if the service was provided within the corporate limits of the City. Prior to the connection of the sewer service outside the City limits, a written sewer service contract shall be made and executed between the City and the customer.

D. The connection of service outside the City limits shall be solely at the discretion of the City Council.

Ord. 2314 §3 (part), 2010)

14.16.050 Responsibility of Owner to Pay

All accounts for sewer shall be the responsibility of the owner of the property for which the service was installed regardless of whether the property has a tenant or third-party paying agents. A fee will be charged for the administrative cost of updating the utility records for changes in owners, tenants, and/or third party paying agents in accordance with the fee schedule to be adopted by motion or resolution of the Tukwila City Council.

(Ord. 2314 §3 (part), 2010)

14.16.060 City/King County Agreement Charges

In addition to those charges set forth in TMC Section 14.16.030, there shall be charged each month those charges as set forth and defined in Section 5 of the Tukwila/King County agreement as adopted by Ordinance 461. King County in this context refers to King County Department of Natural Resources and Parks, Wastewater Treatment Division.

(Ord. 2314 §3 (part), 2010

14.16.065 City/King County Wastewater Treatment Rate

A. *Regular Rate.* The City/King County charges as provided in TMC Section 14.16.060 and as required by the Agreement for Sewage Disposal between King County and the City of Tukwila is set at the most current King County rate per month per residential customer and per residential customer equivalent as now defined or hereafter amended in the agreement for sewage disposal between King County and the City of Tukwila.

B. *Reduced Rate.* Every person 62 years of age or older (if married, then either spouse) and every person totally and permanently disabled residing in a separately metered dwelling and who is paying directly for such separately billed service either as owner, purchaser or renter and whose individual disposable income, if a single person, or whose combined disposable income, if a married couple, from all sources is less than $32,000 per year, shall pay a rate equal to 50% of the City/King County charge. Every such person shall file with the Finance Department their affidavit that they are qualified to receive the special rate. Such affidavits are to contain information as required by the Finance Director in order to establish eligibility. Each affidavit will also include an unqualified promise to inform the City of any changes in financial condition that would disqualify the person for special rates. The Finance Director may require affidavits on an annual basis if deemed necessary.

(Ord. 2314 §3 (part), 2010)

14.16.070 Regular Connection Charge

In addition to the permit fees required by TMC Chapter 14.16, the property owner seeking connection to the sewerage system of the City, in order that such property owner shall bear his equitable share of the cost of the City's entire sewer system, shall pay, prior to connection to a City sewer, a regular connection charge in accordance with the fee schedule to be adopted by motion or resolution of the Tukwila City Council.

(Ord. 2314 §3 (part), 2010)

14.16.072 Special Connection Charge – Payment

In addition to the regular connection charge imposed under TMC Section 14.16.070, a special connection charge shall be paid by the owners of properties which have not been assessed or charged or borne an equitable share of the cost of the City sewerage system. Such charge shall be paid prior to connection to the City sewer and shall be in an amount to be computed under TMC Section 14.16.074.

(Ord. 2314 §3 (part), 2010)

14.16.074 Special Connection Charge – Computation

The special connection charge imposed by TMC Section 14.16.072 shall be paid to the sewer fund and shall be computed as follows:

1. For lateral sewers – The number of units of property furnished to be served by the sewer determined in the manner prescribed in RCW 35.44.030 and 35.44.040 for determining "assessable units of frontage" shall be multiplied by the average five-year local improvement assessment per unit of frontage for lateral sewers for the five-year period in which the property to be connected was constructed and accepted as completed, as follows:

Year	1955-59	1960-64	1965-69	1970
Sewer Rate	$5.26	$8.11	$10.97	$12.00

The lateral sewer charge shall be waived by the City providing the owner, developer or applicant constructs at his own expense a sanitary sewer to serve his property, and providing that the sewer is in compliance with the comprehensive sewage plan and specifications and requirements of the City. The City shall also waive the area or trunk sewer charge if the owner, developer or applicant constructs at his sole expense a sanitary sewer so as to serve other properties, and is over-sized to accept sewage generated from other properties, which properties are not contributing to the construction cost of the over-sizing. The construction shall be in accordance with the comprehensive sewage plan and specifications and requirements of the City.

2. For trunk sewers – The number of square feet of property area to be served by the sewer shall be multiplied by the average local improvement assessment per square foot for trunk sewers for the five-year period in which the trunk sewer to which the lateral sewer serving the property is to be connected was constructed and accepted, as follows:

Year	1955-59	1960-64	1965-69	1970
Sewer Rate per Sq. Ft.	.0160	.0195	.0200	.0200

Such special connection charge for property abutting on a street, in which a sewer can be constructed or extended to serve such property, shall be computed as if the sewer were so constructed or extended; and the special connection charge for property located back from the margin of the street in which the sewer exists and outside of the assessment district created therefor shall be made giving consideration to the distance of the property from the street margin. In no case shall credit be allowed for the cost of extra length of side sewer required for connection to the City's sewerage system. Provided, that in cases where application of the foregoing formula to a particular property results in a charge which because of unusual conditions is in excess of charges to similar properties, the Director with express approval of the City Council is authorized to reduce the special connection charge to the amount charged to properties similarly situated.

(Ord. 2314 §3 (part), 2010)

14.16.076 Special Connection Charge – Inclusion of Property in Local Improvement District – Credit

If the property for which a special connection charge has been paid is subsequently included in a Local Improvement District for the construction of sewers of a similar nature, the amount so paid shall be credited to the assessment against such property, and such amount shall be paid from the sewer fund to such Local Improvement District fund.

(Ord. 2314 §3 (part), 2010)

14.16.078 Side Sewer Stub Installation

If the side sewer stub has not been installed to the property line where the property owner elects to connect, it shall be his responsibility to acquire the necessary permits and bear the cost of all necessary construction to provide the required side sewer stub connection to the sanitary sewer. Any property served by the sewer stub connection that has been installed, but which was never assessed nor paid for, shall pay the charge in accordance with the fee schedule to be adopted by motion or resolution of the Tukwila City Council prior to connection to or for the stub.

(Ord. 2314 §3 (part), 2010)

14.16.080 Conformance to Comprehensive Sewage Plan – Lateral and Trunk Sewer Dedication

No sewer shall be connected to the City system that does not conform to the comprehensive sewage plan. Prior to being accepted by the City and connected to the City sewer system, all lateral and trunk sewers shall be dedicated to the City pursuant to a developer's agreement or similar agreement satisfactory to the City.

(Ord. 2314 §3 (part), 2010)

14.16.090 Lien for Unpaid Charges

The City shall have a lien against the property to which sewer service has been furnished for the delinquent and unpaid rates and charges therefor in accordance with the fee schedule to be adopted by motion or resolution of the Tukwila City Council. All costs and fees of foreclosing the unpaid sewer costs shall be included in the charges to be paid. The City shall and is required to enforce said liens and foreclose the same in the manner provided by law.

(Ord. 2314 §3 (part), 2010)

14.16.100 Police Power

It is declared to be necessary for the protection of the health of the people of Tukwila that all property within the City within the area served by said sewerage system be connected therewith, and TMC Chapter 14.16 is declared to be an exercise by the police power of the City.

(Ord. 2314 §3 (part), 2010)

14.16.110 Penalty for Violation

Any violation of any provision, or failure to comply with any of the requirements of TMC Chapter 14.16, shall be subject to the terms and conditions of TMC Chapter 8.45 (“Enforcement”).

(Ord. 2314 §3 (part), 2010)

CHAPTER 14.17

ALLENTOWN SEWER AND WATER CONNECTIONS

Sections:

14.17.010 Phase I Sewer Connection Charge

A. Allentown Phase I homes existing on September 1, 1996 will be required to connect to the sewer and pay associated connection charges, if any portion of any building is situated within 250 feet of a sanitary sewer line or lateral and if:

1. septic or health problems are identified by King County Health Department that require repair of the septic tank system, or;
2. the home changes ownership, or;
3. remodeling occurs adding a bathroom or bedroom.

B. Homes north of S. 124th St. on 43rd Ave. S. and on 44th Ave. S. existing on March 1, 1996 are exempt from connection charges as the sewer was constructed as part of the Metro project at no charge to the City or the property owners.

C. Allentown sewer connection charges by year will be given a 10% reduction for connecting before January 31, 1998 to encourage early connections and the base fee of $7,278.00 will be increased $363.90 per year until 2006 in accord with RCW35.92.025:

UNTIL	CHARGE	
January 31, 1998	$6,550.20	10% reduction
January 31, 1999	$7,278.00	Base price
January 31, 2000	$7,641.90	
January 31, 2001	$8,005.80	
January 31, 2002	$8,369.70	
January 31, 2003	$8,733.60	
January 31, 2004	$9,097.50	
January 31, 2005	$9,461 .40	
January 31, 2006	$9,825.30	
January 31, 2007	$10,189.20	

in accord with RCW 35.92.025 where it is capped at $10,189.20.

D. Payment methods for Phase I sewer connection charges are:

1. deferring connection fee or subsidizing low income applicants who qualify in accord with CDBG block grant requirements in effect at the time of application,
2. connection charges for Phase I residences existing September 1, 1996 may pay the sewer connection charge on a time plan with their monthly bills. The monthly payment with an annual interest rate of 5% will be calculated for a 5-, 7-, 10-, 12-, or 15-year term.
3. only existing individual single-family applicants are eligible for the payment plans. New homes constructed after September 1, 1996 are required to make full connection charge payment prior to building permit final construction approval for occupancy. Change of ownership requires payment in full of connection fees. Remodeling construction is required to pay connection fees prior to issuance of building permit unless home is on the payment plan which may be continued.
4. monthly payments may be started prior to obtaining a sewer connection permit.
5. monthly payments may be initiated as a payment method until January 31, 2001 for Phase I.

E. Notice of sewer availability and connection requirements shall be placed on titles of properties within the Allentown area with sewer service.

(Ord. 1777 §1, 1996)

14.17.020 Allentown and Ryan Hill Regular Water Connection Charges

A. Existing facilities connected to the water system will not be assessed a water connection fee.

B. Allentown water connection fees for any new single-family connection increase $198.40 per year:

UNTIL	CHARGE
January 31, 1998	$3.968.00
January 31, 1999	$3.968.00
January 31, 2000	$4,166.40
January 31, 2001	$4,364.80
January 31, 2002	$4,563.20
January 31, 2003	$4,761.60
January 31, 2004	$4,960.00
January 31, 2005	$5,158.40
January 31, 2006	$5,356.80
January 31, 2007	$5,555.20

in accord with RCW 35.92.025 where it is capped at $5,555.20.

C. Ryan Hill water connection fees for any new single-family connection increase $207.30 per year:

UNTIL	CHARGE
January 31, 1998	$4,146.40
January 31, 1999	$4,146.00
January 31, 2000	$4,353.30
January 31, 2001	$4,560.60
January 31, 2002	$4,767.90
January 31, 2003	$4,975.20
January 31, 2004	$5,182.50
January 31, 2005	$5,389.80
January 31, 2006	$5,597.10
January 31, 2007	$5,804.40

in accord with RCW 35.92.025 where it is capped at $5,804.40.

(Ord. 1777 §2, 1996)

14.17.030 Phase I Service Area Boundaries

Allentown is bordered by the BNSF railroad on the east, the Duwamish River on the south and the west, and S. 115th St. on the north. Ryan Hill includes the area approximately bounded by S. 114th St., 51st Ave. S., S. Ryan Way, and 47th Ave. S. Allentown is depicted on map, Figure 14-1 (attached to the ordinance codified herein as Exhibit A) and Ryan Hill on Figure 14-2 (Exhibit B); both maps are incorporated herein by this reference as if set forth in full.

(Ord. 1777 §3, 1996)

14.17.040 Funding Recovery Review

The successful implementation of later phases of the Sewer Plan for the seven residential areas is dependent on the repayment of general fund revenues from the connection fees. The City Council will review connection requirements, exemptions and other revenue recovery alternatives to insure that the sewer plan remains viable and adequately funded in 2001.

(Ord. 1777 §4, 1996)

14.17.050 Allentown Phase 2 and Foster Point Sewer Connection Charges

A. Allentown Phase 2 and Foster Point homes existing on September 1, 2007 will be required to connect to the sewer and pay associated connection charges if any portion of any building is situated within 250 feet of a sanitary sewer line or lateral, and if:

1. septic or health problems are identified by King County Health Department that require repair of the septic tank system, or;
2. the home changes ownership, or;
3. remodeling occurs adding a bathroom or bedroom.

B. Tukwila's Allentown Phase 2 and Foster Point sewer connection fee will start at $15,000 and increase by $600 (4% of $15,000) per year until 2017, in accordance with RCW 35.92.025:

UNTIL	CHARGE
December 31, 2008	$15,000.00
December 31, 2009	$15,600.00
December 31, 2010	$16,200.00
December 31, 2011	$16,800.00
December 31, 2012	$17,400.00
December 31, 2013	$18,000.00
December 31, 2014	$18,600.00
December 31, 2015	$19,200.00
December 31, 2016	$19,800.00
December 31, 2017	$20,400.00

The maximum Allentown Phase 2 and Foster Point sewer connection fee thereafter will be $20,400.00, in accordance with RCW 35.92.025.

C. Payment options for Tukwila's Allentown Phase 2 and Foster Point sewer connection fees are as follows:

1. Sewer connection fees for Allentown Phase 2 and Foster Point residences existing prior to September 1, 2007, may be deferred if applicants qualify as low-income households in accordance with City policies that are in effect at the time of application. The sewer connection fee will be placed as a lien on the property's title, and must be paid before there is a change of ownership.
2. Sewer connection fees for Allentown Phase 2 and Foster Point residences existing prior to September 1, 2007, may be paid on a time plan, included with their monthly water bills. The monthly payment, with an annual interest rate of 4%, will be calculated for a 5-year, 10-year, or 15-year term. Only existing individual single-family applicants are eligible for the payment plans.
3. New homes constructed after September 1, 2007 are required to make full sewer connection fee payment before issuance of the City of Tukwila's building permit. New homes are also required to pay in full the current fee set for the King County Sewer capacity charge, and bring proof of payment to the City's Permit Center prior to the Public Work's final inspection approval.
4. Change of ownership requires payment in full of the sewer connection fees. Remodeling construction is required to pay sewer connection fees prior to issuance of building permit unless home is on the payment plan, which may be continued.
5. Monthly payments may be started prior to obtaining a sewer connection permit.
6. Monthly payments may be initiated as a payment method until December 31, 2017 for Allentown Phase 2 and Foster Point. After December 31, 2017, the sewer connection fee must be paid in full.

D. Notice of sewer availability and connection requirements shall be placed on titles of properties within Tukwila's Allentown Phase 2 and Foster Point area with sewer service.

(Ord. 2177 §1, 2007)

14.17.060 Allentown Phase 2 and Foster Point Sewer Connection Charges

A. Residences existing prior to September 1, 2007 and connected to the water system will not be assessed a water connection fee.

B. New homes constructed after September 1, 2007 are required to make full water connection fee payment upon issuance of the building permit.

C. Tukwila's Allentown Phase 2 and Foster Point water connection fees will start at $8,247.13 for any new single-family water connection, and will increase by $329.88 (4% of $8,247.13) per year until 2017, in accordance with RCW 35.92.025:

UNTIL	CHARGE
December 31, 2008	$ 8,247.13
December 31, 2009	$ 8,577.01
December 31, 2010	$ 8,906.89
December 31, 2011	$ 9,236.77
December 31, 2012	$ 9,566.65
December 31, 2013	$ 9,896.53
December 31, 2014	$10,226.41
December 31, 2015	$10,556.29
December 31, 2016	$10,886.17
December 31, 2017	$11,216.05

The maximum Allentown Phase 2 and Foster Point water connection fee thereafter will be $11,216.05, in accordance with RCW 35.92.025.

(Ord. 2177 §2, 2007)

14.17.070 Phase 2 Service Area Boundaries

Allentown is bordered by the BNSF railroad on the east, the Duwamish River on the south and the west, and South 115th Street on the north. Foster Point is bordered by South 130th Place to the east, the Duwamish River on the south and the north, and includes 56th Avenue South, 57th Avenue South, South 133rd Street and Pamela Drive. The areas are shown on the attachment to this ordinance, and incorporated herein by this reference as if set forth in full.

(Ord. 2177 §3, 2007)

14.17.080 Funding Recovery Review

The successful implementation of later phases of the Sewer Plan for the four residential areas is dependent on the repayment of general fund revenues from the connection fees. The City Council will review connection requirements, exemptions and other revenue recovery alternatives to insure that the sewer plan remains viable and adequately funded.

(Ord. 2177 §4, 2007)

CHAPTER 14.18

DUWAMISH SEWER AND WATER CONNECTIONS

Sections:

14.18.010 Sewer Connection Requirements

Duwamish area homes – as spelled out by TMC 14.18.020, existing on November 30, 2002 will be required to connect to the sewer and pay the associated connection charges, if any portion of any building is situated within 250 feet of a sanitary sewer line or lateral, and if:

1. Septic or health problems are identified by King County Health Department that require repair of the septic tank system, or;
2. The home changes ownership, or;
3. Remodeling occurs, adding a bathroom or bedroom.

(Ord. 2007 §1, 2002)

14.18.020 Sewer Service Area Boundaries

The Duwamish service area is bordered by the Duwamish River on the north and the east; East Marginal Way South on the west; and Interurban Avenue South on the south, as shown on Figure 14-3.

(Ord. 2007 §2, 2002)

14.18.030 Regular Water Connection Charges

A. Existing facilities in the Duwamish neighborhood which are connected to the water system on the effective date of this ordinance will not be assessed a water connection fee.

B. Water connection for any new single-family connection in the Duwamish neighborhood will be assessed the following fees, which reflect a 1% increase per year in accordance with RCW 35.92.025:

UNTIL	CHARGE
January 31, 2006	3,975.44
January 31, 2007	4,015.19
January 31, 2008	4,055.34
January 31, 2009	4,095.89
January 31, 2010	4,136.84
January 31, 2011	4,178.20
January 31, 2012	4,219.98
January 31, 2013	4,262.17
January 31, 2014	4,304.79
January 31, 2015	4,347.83

C. The applicable water connection charge shall be paid before the City gives any final building permit approval.

(Ord. 2058 §1, 2004)

14.18.040 Water Service Area Boundaries

The Duwamish service area is bordered by the Duwamish River on the north and the east; East Marginal Way South on the west; and Interurban Avenue South on the south, as shown on Figure 14-3.

(Ord. 2058 §2, 2004)

CHAPTER 14.19

SEWER CONNECTIONS — PRELIMINARY PLAT OF TUKWILA SOUTH

Sections:

14.19.010 Sewer Connection Requirements and Fees

A. Homes on Orillia Road existing on July 1, 2013 will be required to connect to the sewer and pay associated connection charges if any portion of any building is situated within 250 feet of a sanitary sewer line or lateral and if:

1. Septic tank or health problems are identified by the King County Health Department that require repair of the septic tank system; or;
2. The home changes ownership; or;
3. Remodeling occurs adding a bathroom or bedroom.

B. Parcels within the Preliminary Plat of Tukwila South will be required to connect to the sanitary sewer system and pay in full associated sewer connection charges before issuance of the City of Tukwila's building permit for the specific development.

C. Change of ownership requires payment in full of the sewer connection fees.

D. The Preliminary Plat of Tukwila South and Orillia Road sewer connection fees will start at $0.056530 per square foot of total property based on King County records and the Tukwila South Sewer Connection Fees as shown in ***Figure 14-7***.

E. Notice of sewer availability and connection requirements shall be placed on titles of properties within the Tukwila South Plat and Orillia Road sewer service area. King County recording fees will also be paid in full with the sewer connection fees.

(Ord. 2441 §2, 2014)

14.19.020 Service Area Boundaries

A. The sewer service boundary area is the north margin of South 204th Street; the area west of the Green River and Segale Business Park; the east margin of Orillia Road, Interstate I-5 and the City SeaTac; and the south margin of South 180th Street. A map of the parcels within the service area known as the Preliminary Plat of Tukwila South as shown in ***Figure 14-8***.

B. The Preliminary Plat of Tukwila South is dated June 2013, the King County Bow Lake Transfer Station, tax parcel 352304-9037 and tax parcel 023900-0300, 023900-0310, 023900-0247, 023900-0365, and 023900-0320 along Orillia Road with the exception of Plat #7 of the Preliminary Plat of Tukwila South, tax parcel 023900-0310, and portions of that plat that are labeled Sensitive Area Tracts, Exceptions, Reserve Drainage Tracts, Open Space Tracts and Not Buildable Tracts, will have sanitary sewer system connection costs based on net area of 12,062,664 square feet of area that is tributary to the sanitary sewer system.

(Ord. 2441 §3, 2014)

14.19.030 Funding Recovery Review

The successful implementation of later phases of the sanitary sewer installation for the City is dependent on the repayment of sewer fund revenues from the sewer connection fees. The City Council will review connection requirements, exemptions and other revenue recovery alternatives to ensure the sewer plan remains viable and adequately funded.

(Ord. 2441 §4, 2014)

CHAPTER 14.20
COMPREHENSIVE SEWER PLAN

Sections:

14.20.010 Adopted

"Exhibit 1" of the ordinance codified herein and described as the "Comprehensive Sewer Plan for the City of Tukwila, Washington, August, 1970" is incorporated by reference, and adopted and ordained as the comprehensive sewer plan for the City.

(Ord. 646 §1, 1970)

14.20.020 Copies on File

Not less than three copies of the comprehensive sewer plan have been and shall hereafter remain on file for use in examination by the public in the office of the City Clerk.

(Ord. 646 §2, 1970)

CHAPTER 14.24
FIRE HYDRANTS

Sections:

14.24.010 Applicability of Provisions

All fire hydrants installed within the corporate limits of the City of Tukwila shall meet or exceed the specifications and standards set out in TMC Chapter 14.24.

(Ord. 1692 (part), 1994)

14.24.020 Type

Hydrants shall conform to American Water Works Association Specifications C502-54; shall be compression type and shall have a two-piece breaking flange with breaking thimble at the ground line or stem; and shall have a self-oiling dry bonnet with factory-filled reservoir holding approximately 8 ounces of oil. Oil reservoir shall have not less than two "O" ring seals. Oil reservoir shall be so designed as to give a complete lubrication of stems each time the hydrant is operated. The upper stem shall have a brass sleeve.

1. Hydrants shall be equipped with two 2-1/2" NST hose ports and one 5" Stortz pumper discharge port, and shall have a 1-1/4" Pentagon open-lift operating nut.

2. Hydrants shall have a 6" MJ bottom connection and a 5-1/4" main valve opening, and shall have 18" above-grade level to the center of the pumper discharge port.

3. Hydrant color is to be "Rustoleum" #659 Yellow Gloss or Farwest #X-3472 Case Yellow. The bonnets and ports of City hydrants shall be painted:

Red for up to 500 gpm	Rustoleum #1210, Farwest #X-6270, or equivalent
Orange for 500 to 1,000 gpm	Rustoleum #559, Farwest #261, or equivalent
Green for more than 1,000 gpm	Rustoleum #935, Farwest #255, or equivalent

4. Private hydrants shall be all yellow.

5. Any exception to stated paint standards must be authorized by the Director of Public Works.

6. Hydrants are to be compression-type, equal to Mueller #A-423 or Mueller #A-419.

(Ord. 2052 §1(part), 2004)

14.24.030 Installation

A. Hydrants shall not be closer than 4 feet to any fixed object (e.g., fences, parking, building, etc.), with the exception of hydrant guard posts. The 4-foot circumference will be a level surface. Grade changes in excess of 30 inches shall have a 42-inch railing installed. Guard posts shall be installed around hydrants not protected by curbs, so as to help prevent motor vehicles from contacting the hydrant. The guard posts shall be either steel pipe (minimum 4" diameter) filled with concrete, or concrete (minimum 8" diameter). Posts shall be 3 feet from the center of the hydrant, and shall not be in direct line with any discharge ports. Posts shall be 6 feet long; 3 to 3-1/2 feet shall be buried. Painted finish shall be the same color as for the applicable hydrants.

B. All hydrants shall be installed with an auxiliary gate valve between the hydrant main valve and the water main. The gate valve shall be UL approved and have a 2" square operating nut. The valve shall be installed at the hydrant lateral tee. If the hydrant is greater than 10 feet from the main, an additional valve may be required, but not closer than 3 feet from the hydrant. The protector cover for the valve shall be left in plain view, flush with grade after landscaping or paving.

C. Hydrants, auxiliary gate valves, and supply lines shall be installed to meet sound engineering standards per NFPA #24, Chapters 5, 6 and 7.

(Ord. 2052 §1(part), 2004)

14.24.040 Coverage

A. Except as otherwise provided herein for single-family short plat and individual single-family homes, all commercial, single-family subdivision and multi-family development, including approved conditional uses, shall have hydrants spaced so that a hydrant is no more than 150 feet by line of vehicular travel from a building and that no point around the perimeter of any building is more than 300 feet from a hydrant. Hydrants on water mains within the City shall be spaced no more than 300 feet apart.

B. For short plat development (four single-family homes or less) and individual single-family homes that do not otherwise meet the 150-foot requirement of TMC 14.24.040A, hydrants shall be placed so that a hydrant is no more than 250 feet by line of vehicular travel to the nearest point of the building, provided that:

1. The property owner shall sign an agreement, on a form prepared by the Director of Public Works, which form shall include an agreement not to protest the formation of any LID or ULID, to participate in future water system improvements to correct deficiencies that have been identified in the applicable Water Comprehensive Plan and/or an engineering analysis of the development. Examples of deficiencies include, but are not limited to, failure to meet Tukwila pipe size standards, minimum flow rate (gpm) and residual pressure (psi) from DOH, fire code or insurance underwriters (whichever is more stringent), and flow velocity as determined by the applicable comprehensive plan (Water District No. 75, Water District No. 125, Renton, etc.) and engineering analysis; and

2. The hydrant flows a minimum of 1,000 gallons per minute with 20 psi residual pressure.

C. When geographical or construction features prevent the placing of water mains and/or hydrants, the Fire Prevention Bureau may authorize in writing the use of approved "wall hydrants" or similar devices.

(Ord. 2052 §1(part), 2004)

14.24.050 Accessibility

A. Hydrants and guard posts shall be in plain view for a distance of 50 feet in the line of vehicular approach, free from shrubs, trees, fences, landscaping and similar obstruction.

B. The 5" Stortz pumper discharge port shall face the street or, in the case of private hydrants, the direction shall be determined by the Fire Department. All hydrants shall have a Type 2 RPM blue raised pavement marker, reflective on two sides, located as approved by the Fire Marshall.

C. Hydrant supply lines shall be of such size and design as to provide the fire flow required by Appendix B of the International Fire Code, Fire Flow Requirements for Buildings, and the City's comprehensive water design standards.

D. Tapping into City water mains shall be by the process known as "wet tapping" so as to allow un-interrupted service on those mains.

(Ord. 2132 §1, 2006; Ord. 2052 §1(part), 2004)

14.24.060 Exceptions

Any exceptions to items covered in TMC Chapter 14.24 shall be made in writing by the Chief of the Fire Department and the officer in charge of the Fire Prevention Bureau of the Tukwila Fire Department, and must conform to the City's Public Works' standards and/or the City's Comprehensive Water Plan. Any written exception shall set forth the basis for the exception and its relationship to public health, safety or avoidance of undue hardship. Requests for exceptions must be made in writing; exceptions granted or denied shall be in writing.

(Ord. 2132 §2, 2006; Ord. 2052 §1(part), 2004)

14.24.070 Re-inspection Fees for New Construction, Tenant Improvements, and Spot Inspections

When an inspection is requested for new construction, tenant improvements or spot inspections, and then, upon arrival, the Fire Inspector finds that the work is not complete, not ready for inspection, or does not comply with fire code requirements, a follow-up inspection will be required, and a re-inspection fee of $80 will be assessed.

(Ord. 2169 §1, 2007; Ord. 2132 §3, 2006)

14.24.080 Violations–Penalties

Any person who shall violate any of the provisions of TMC Chapter 14.24, the International Fire Code or appendices adopted by TMC Chapter 16.16, or who shall fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder or any certificate or permit issued thereunder and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the Fire Marshal or by a court of competent jurisdiction within the time fixed therein, shall be guilty of a gross misdemeanor, and upon conviction thereof, shall be punished by a fine in an amount not to exceed $5,000.00, as outlined in TMC 16.16.080, or imprisonment for a term not to exceed one year or by both such fine and imprisonment. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue. Each day or portion thereof during which any violation of the provisions of this section is caused, permitted or continued shall constitute a separate offense and shall be punishable as such. Application of the penalty specified in this section shall not be held to prevent the enforced removal of prohibited conditions.

(Ord. 2132 §4, 2006)

14.24.090 Appeals

Whenever the Fire Marshal disapproves an application or refuses to grant a permit applied for, the applicant may appeal the decision to the Board of Appeals established in Section 108 of the International Fire Code within 30 days from the date of the Fire Marshal's decision(s). Section 108 shall be amended to read: Disputes regarding interpretation of code provisions shall be settled by the International Fire Code Institute. When deemed appropriate, the Fire Marshal will request a formal, written interpretation from the Institute.

(Ord. 2132 §5, 2006)

CHAPTER 14.28

STORM AND SURFACE WATER UTILITY

Sections:

14.28.010 Creation of Storm and Surface Water Utility

A. There is created and established a storm and surface water utility of the City, which shall administer the City's storm and surface water management program and shall be known as the "City of Tukwila, Washington Storm and Surface Water Utility ("the utility").

B. The City shall exercise, through the utility, where possible, all the lawful powers necessary and appropriate to the construction, condemnation and purchase, acquisition, addition to, maintenance, conduct and operation, management, regulation and control of the storm and surface water public utility created by TMC 14.28.010 as the same may hereafter be added to, bettered or extended within or without the present and future limits of the City; including, without limitation, all the lawful powers to fix, alter, regulate and control the rates, charges and conditions for the use thereof, to purchase and condemn property on behalf of the utility, to regulate actions taken with respect to public and private property which affect the flow of storm and surface water and the use of storm and surface water facilities, and to alter and amend the plan adopted in TMC 14.28.030 as necessary to implement the policies of the City pertaining to storm and surface water. *(SEE TMC CHAPTER 14.30.)*

(Ord. 1523 §1, 1989)

14.28.020 Administrator of Utility

The Director of Public Works or that official designated by the Mayor shall be administrator of the utility and shall report directly to the Mayor.

(Ord. 1523 §2, 1989)

14.28.030 Adoption of Storm and Surface Water Utility Plan

The City Council hereby approves and adopts as the original system or plan of the storm and surface water utility that report entitled "City of Tukwila Storm and Surface Water Utility Plan" dated May 23, 1989, on file with the City Clerk and City engineer and incorporated in TMC Chapter 14.28 by this reference as though set forth herein. This original system or plan shall include all properties, interests, and physical and intangible rights of every kind or nature owned or held by the City, however acquired, insofar as they relate to or concern storm or surface water, further including without limitations all such properties, interests and rights acquired by adverse possession or by prescription, directly or through another, in and to the movement, drainage or storage, or any or all of these, of storm or surface waters, or both, through, under or over land, landforms, watercourses, sloughs, streams, ponds, lakes and swamps; all beginning, in each case or instance, at a point where storm or surface waters first enter the storm or surface water system of the City and ending in each case or instance at a point where such storm or surface waters exit from the storm or surface water system of the City, and in width to the full extent of inundation caused by storm or flood conditions. Such plan includes various improvements and betterments of the existing facilities and extensions thereof as are described therein.

(Ord. 1523 §3, 1989)

14.28.040 Property Transferred to Utility

The City Council expressly finds that the above-described system and plan of storm surface water properties, interests and physical intangible rights transferred to the utility is equal to the value of release from primary responsibility therefor insofar as it relates to or concerns storm or surface waters within the City; and accordingly, all of the above-mentioned facilities for purposes of RCW 43.09.210 are transferred to and subject to the administration of the utility created by TMC Chapter 14.28, and all other institutions and departments of the City having responsibility therefor are, to the same extent, released from such primary responsibility.

(Ord. 1523 §4, 1989)

14.28.050 Storm and Surface Water Utility Fund

A. There is created a fund which shall be known as the "storm and surface water utility fund." All revenues, assessments and other charges collected by the utility, or otherwise received for storm and surface water purposes or attributable to the operation and maintenance of the utility, and all loans to or grants or funds received for its construction, improvement and operation, shall be deposited in the storm and surface water utility fund. All disbursements for costs of planning, construction, acquiring, maintaining, operating and improving the utility facilities, whether such facilities are natural, constructed or both, and administering the utility, shall be made from the storm and surface water utility fund.

B. The City may create, at such time or times as it deems appropriate, any other funds necessary to the administration of the storm and surface water utility, and may designate the revenues to be placed therein and the purpose or purposes of such funds which may be the same as one, some or all of the purposes designated in TMC 14.28.050 as the purposes of the storm and surface water utility fund created herein, and such purposes shall then be transferred to such newly created fund.

(Ord. 1523 §5, 1989)

14.28.060 Authority to Establish Rates and Charges

A. The City has authority to establish, by ordinance of the City Council, rate classifications, services charges, system development charges, inspection and permitting fees, application and connection fees and such other fees and charges necessary and sufficient in the opinion of the City Council to pay for the following:

1. The costs, including debt service and related financing expenses, of the construction, reconstruction and improvement of storm and surface water facilities necessary and required for the handling of storm and surface waters within the service area, but not presently in existence;

2. The operation, repair, maintenance, improvement, replacement and reconstruction of storm and surface water facilities within the service area which presently exist;

3. The purchase of a fee or lesser interest, including easements, in land which may be necessary for the storm and surface water system in the service area including, but not limited to, land necessary for the installation and construction of storm and surface water facilities and all other facilities, including retention and detention facilities, which are reasonably required for proper and adequate handling of storm and surface waters within the service area;

4. The costs of monitoring, inspection, enforcement and administration of the utility including, but not limited to, water quality surveillance, private maintenance inspection, construction inspection and other activities which are reasonably required for the proper and adequate implementation of the City's storm and surface water policies; and

5. The construction and subsequent maintenance of those future facilities as required by the storm and surface water plan adopted in TMC 14.28.030, as it shall be amended from time to time.

B. The fees and charges to be paid and collected pursuant hereto shall not be used for general or other governmental or proprietary purposes of the City, except to pay for the equitable share of the costs of accounting, management and government thereof incurred on behalf of the utility.

(Ord. 1523 §6, 1989)

14.28.070 Limitation of Liability

TMC Chapter 14.28, any storm and surface water code to be adopted by the City Council to implement TMC Chapter 14.28, and any guidelines, rules, standards, specifications, requirements, regulations and procedures established pursuant to any section of such code are intended to provide the authority and processes to achieve cost-effective storm and surface water management in normal conditions, including periods and events of precipitation common to the Tukwila area. No City liability shall be inferred, implied or interpreted by the adoption and application of TMC Chapter 14.28, for damages which result from existing conditions or which occur subsequent to the date of the ordinance codified in TMC Chapter 14.28 during that period of time necessary for the City to study the storm and surface water system of the City, to diagnose the storm and surface water problems of the City, and to appropriate funds to alter the existing conditions in order to remedy certain storm and surface water problems as and in the order that the City determines to be most critical to the health and safety of the residents of the City as funds become available to remedy these problems. There shall be no liability associated with the utility's approval of any privately constructed portion of the storm and surface water system and/or privately maintained portion of the storm and surface water system, unless the City accepts the same as part of its publicly owned and/or maintained system.

(Ord. 1523 §7, 1989)

14.28.080 Civil Penalties

A. The violation of or failure to comply with any order or requirement made in accordance with the provisions of TMC Chapter 14.28 is a civil violation. The provisions of TMC Chapter 8.45 shall be used to enforce TMC Chapter 14.28.

B. It shall not be a defense to the prosecution for failure to obtain a permit required for TMC Chapter 14.28 that a contractor, subcontractor, person with responsibility on the site, or person authorizing or directing the work erroneously believed a permit had been issued to the property owner or any other person.

(Ord. 1755 §4 (part), 1995)

CHAPTER 14.30
SURFACE WATER MANAGEMENT

Sections:

14.30.010 Authority

A. The Public Works Director shall administer and enforce the provisions of TMC Chapter 14.30. The Director's authority includes the establishment and publication of regulations and procedures to supplement and implement this Chapter, approval of permits and exceptions, and enforcement and implementation of measures necessary to carry out the intent of TMC Chapter 14.30. Such regulations and procedures shall be incorporated within Chapter 5 of the Public Works Development Guidelines and Infrastructure Design and Construction Standards, as amended, revised or re-adopted from time to time and hereinafter known and referred to as the Public Works Surface Water Regulations and Procedures.

B. The Public Works Director is authorized to develop and implement an inspection program for the investigation of sites that have the potential to discharge pollutants to the stormwater drainage system, suspected illicit discharges, and illicit connections in the City of Tukwila.

C. The Public Works Director may initiate all required actions to prevent or stop acts or intended acts of an applicant or other person that constitute a hazard to life or safety; endangered property; or adversely affect the safety, use or stability of a public way, surface water, a conveyance system or a critical area or buffer.

D. If the Director determines that a person engaged in an activity that could or does negatively affect surface water has failed to comply with City code or with approved surface water plans and/or other permit conditions, the Director may implement any or all of the following enforcement actions:

1. Suspend or revoke without written notice any surface water permit issued by the City, when the Director determines an immediate danger to life, safety or property exists in a downstream area or adjacent property.

2. Serve a written notice of violation upon that person by registered or certified mail or personal service. The notice shall set forth the measures necessary to achieve compliance, specify the time to commence and complete corrections and indicate the consequences for failure to correct the violation.

3. Suspend or revoke any stormwater related permit issued by the City after written notice is given to the applicant for any of the following reasons:

a. Any violation(s) of the conditions of the surface water permit;

b. Changes in site runoff characteristics upon which a permit or exception was granted;

c. Construction not in accordance with the approved plans; or

d. Non-compliance with correction notice(s) or "stop work" order(s) issued for the construction of temporary or permanent stormwater management facilities.

4. Post a "stop work" order at the site directing that all activities that could affect surface water or a conveyance system cease immediately. The "stop work" order may include any discretionary conditions and standards adopted in TMC 14.30.070 that must be fulfilled before any work may continue.

(Ord. 2675 §4, 2022)

14.30.020 Purpose and Intent

A. The purpose of TMC Chapter 14.30 is to provide for the health, safety, and general welfare of the citizens of Tukwila, Washington, through the regulation of development activities that could affect stormwater and non-stormwater discharges to the stormwater drainage system to the maximum extent practicable as required by federal and state law. This chapter also establishes methods for controlling the introduction of pollutants into the stormwater drainage system in order to comply with the requirements of the National Pollutant Discharge Elimination Systems ("NPDES") permit process. The provisions of TMC Chapter 14.30 shall be liberally construed to accomplish the following purposes:

1. Promote sound development policies and procedures that protect and preserve the City's water courses, groundwater, and surface water infrastructure.

2. Protect surface water conveyance systems and receiving waters from pollution, mechanical damage, excessive flows, and other conditions that increase erosion and/or turbidity, siltation and other pollution, or that will reduce groundwater recharge or endanger aquatic and benthic life within surface waters and receiving waters within the State.

3. Meet the requirements of state and federal law.

4. Fulfill the City's responsibilities as trustee of the environment for future generations.

5. Promote the health, safety and welfare of the public.

6. Protect private and public property from drainage related damage.

7. Promote site planning and construction practices that are consistent with natural topographical, vegetative, and hydrological conditions.

8. Preserve and enhance the suitability of water bodies for recreation and wildlife habitat.

9. Regulate the contribution of pollutants to the stormwater drainage system by stormwater discharges by any person.

10. Prohibit illicit connections and illicit discharges to the stormwater drainage system.

11. Establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this chapter.

B. The intent of this chapter is to place the obligation of complying with its requirements upon the stormwater facility owner. Neither the City nor its officers, agents, or employees shall incur liability or be held liable by reason of taking any action required or permitted hereunder.

C. The intent of this chapter is not to repeal, abrogate, or impair any existing regulations, easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail.

(Ord. 2675 §5, 2022)

14.30.030 Definitions

Unless specifically defined below, words or phrases used in TMC Chapter 14.30 shall be interpreted using the meaning they have in common usage and to give TMC Chapter 14.30 its most reasonable application; provided that words or phrases not defined herein that are defined in the "Surface Water Design Manual" or "Stormwater Pollution Prevention Manual," shall have the meaning given therein.

1. "AKART" means All Known, Available, and Reasonable methods of prevention, control, and Treatment (see also the State Water Pollution Control Act, RCW 90.48.010 and RCW 90.48.520).

2. "Applicant" means any person, governmental agency, or other entity that executes the necessary forms to procure official approval of a project or a permit to carry out construction of a project. Applicant also means any person, governmental agency, or other entity that is performing or plans to perform permitted work within the City.

3. "Approval" means proposed work or completed work conforming to TMC Chapter 14.30 as approved by the Director.

4. "Best Management Practice" or "BMP" means those practices, prohibitions of practices, or schedules of activities, which provide the best available and reasonable physical, structural, managerial, or behavioral activity to: (a) reduce or eliminate pollutant loads and/or concentrations leaving a site; or (b) prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters or stormwater conveyance systems. BMPs also include operating procedures and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

5. "City" means the City of Tukwila or the City Council of Tukwila.

6. "Clean Water Act" means the Federal Water Pollution Control Act (33 U.S.C. §1251 et seq) and any subsequent amendments thereto.

7. "Comprehensive Surface Water Management Plan" means a plan adopted by the City Council that provides direction for management of the City's surface and stormwater system to benefit the community and meet the City's overriding goal of health and sustainability.

8. "Conveyance system" means natural and man-made drainage features that collect, convey, channel, hold, inhibit, retain, detain, infiltrate, divert, treat or filter surface water. Natural drainage features include swales, streams, rivers, lakes and wetlands. Man-made features include gutters, ditches, pipes, detention/retention facilities, dikes, levees and revetments.

9. "Critical drainage area" means an area, as determined by the City, needing additional controls to address flooding, drainage, and/or erosion conditions that pose an imminent likelihood of harm to the welfare and safety of the surrounding community.

10. "Development" means any man-made change of improved or unimproved real estate; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any mining, excavation, landfill, clearing or land disturbance; or any use or extension of the use of land.

11. "Director" means the Director of Public Works or designee.

12. "Drainage review" means an evaluation by the City to determine compliance with the City's standards and adopted Surface Water Management Manual.

13. "Erosion" means detachment and transport of soil or rock fragments by water, wind, ice, etc.

14. "Groundwater" means water in a saturated zone or stratum beneath the surface of the land or below a surface water body.

15. "Hazardous materials" means any material, including any substance, waste or combination thereof, which because of its quantity, concentration or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety,

property or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

16. "Hyperchlorinated" means water that contains more than 10 mg/liter chlorine.

17. "Illicit connection" means any man-made conveyance that is connected to a stormwater drainage system without a permit, excluding roof drains or other similar type connections. Examples include sanitary sewer connections, floor drains, channels, pipelines, conduits, and inlets or outlets that are connected directly to the stormwater drainage system.

18. "Illicit discharge" means all non-surface water discharges to surface water conveyance systems that cause or contribute to a violation of State water quality, sediment quality or ground water quality standards. These discharges include, but are not limited to, sanitary sewer connections, industrial process water, interior floor drain connections, waste dumping, car washing and grey water systems.

19. "Imminent hazard" means the existence of a condition that presents a substantial endangerment to health, property or the environment.

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

21. "National Pollutant Discharge Elimination System Stormwater Discharge Permit" means a permit issued by the Washington Department of Ecology under the authority delegated pursuant to 33 U.S.C. §1342(b) (Clean Water Act) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general areawide basis.

22. "Non-stormwater discharge" means any discharge to the stormwater drainage system that is not composed entirely of stormwater.

23. "Person" means any individual, association, organization, partnership, firm, corporation, or other entity recognized by law and acting as either the owner or as the owner's agent.

24. "Plans" means the plans, profiles, cross sections, elevations, details and supplementary specifications, showing the location, character, dimensions and details of the work to be performed. These plans are approved by the Public Works Director and are usually signed by a registered professional engineer licensed in the State of Washington.

25. "Pollutant" means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes and solvents; oil and other automotive fluids; non-hazardous liquid, solid waste and yard waste; refuse, rubbish, garbage, litter or other discarded or abandoned objects, ordnance and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal waste; waste and residue that results from constructing a building or structure; and noxious or offensive matter of any kind.

26. "Pollution" means contamination or other alteration of the physical, chemical, or biological properties of waters of the State that will or is likely to create a nuisance or render waters harmful, detrimental or injurious to: 1) public health, safety or welfare, or 2) domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses, or 3) livestock, wild animals, birds, fish or other aquatic life. Contamination includes discharge of any liquid, gas or solid radioactive or other substance. Alteration includes temperature, taste, color, turbidity or odor.

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

28. "Project" means activity encompassing all phases of the work to be performed and is synonymous to the term "improvement" or "work."

29. "Runoff" means water originating from rainfall and other precipitation that is found in drainage facilities, rivers, streams, springs, seeps, ponds, lakes and wetlands, as well as shallow groundwater and that portion of precipitation that becomes surface flow and interflow.

30. "Sediment" means fragmented material originating from weathering and erosion of rocks or unconsolidated deposits, which is transported by, suspended in or deposited by water.

31. "Sedimentation" means the deposition or formation of sediment

32. "Single-family residence" means a project that constructs or modifies one single family dwelling unit and/or makes related on-site improvements, such as a driveway, outbuildings or play courts.

33. "Source Control Best Management Practice" or "Source Control BMP" means a structure or operation that is intended to prevent pollutants from coming into contact with stormwater through physical separation of areas or careful management of activities that are sources of pollutants. Structural Source Control BMPs are physical, structural, or mechanical devices, or facilities that are intended to prevent pollutants from entering stormwater. Operational BMPs are non-structural practices that prevent or reduce pollutants from entering stormwater.

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

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

36. "Stormwater related permit" means a Public Works permit or a surface water concurrency test.

37. "Stormwater Pollution Prevention Plan" means a document that describes the best management practices and activities to be implemented by a person to identify sources of pollution or contamination at premises and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

38. "Surface flow" means flow that travels overland in a dispersed manner (sheet flow) or in natural channels or streams or constructed conveyance system.

39. "Surface Water" means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow channels, or pipes into a natural drainage system, a surface water conveyance system, or into a constructed surface water facility.

40. "Surface water plan" means a set of drawings and documents submitted as prerequisite to obtaining a development permit.

41. "TMC" means the Tukwila Municipal Code.

42. "Typical" means the guidelines that shall be followed unless the Director approves an exception.

43. "Water body" means a creek, stream, pond, wetland, lake, or river.

44. "Watershed" means a geographic region within which water drains into a particular river, stream, or water body as identified and numbered by the State of Washington Water Resource Inventory Area (WRIAs) as defined in the Washington Administrative Code.

(Ord. 2675 §6, 2022)

14.30.040 Applicability

TMC Chapter 14.30 applies to:

1. All development activities occurring within the City limits that could affect surface water; and

2. Any materials and discharges other than stormwater entering the stormwater drainage system generated on any developed and undeveloped lands lying within the City of Tukwila.

(Ord. 2675 §7, 2022)

14.30.050 Compliance

A. TMC Chapter 14.30 contains minimum requirements. The requirements do not replace, repeal, abrogate, supersede, or affect any other more stringent requirements, rules, regulations, covenants, standards, or restrictions. Where TMC Chapter 14.30 imposes requirements that provide more protection to human health or the environment, the requirements of TMC Chapter 14.30 shall prevail.

B. Approvals and permits granted under TMC Chapter 14.30 do not imply waiver of other laws and regulations, nor do they indicate compliance with other laws and regulations.

C. Compliance with the minimum standards and requirements set forth in TMC Chapter 14.30 and related regulations, standards, and manuals adopted by the City does not necessarily mitigate all impacts to human health and the environment. In such cases, the applicant must implement additional mitigation to protect human health and the environment.

D. City departments shall comply with all the requirements of TMC Chapter 14.30, with the exception of obtaining permit and approvals from the City for works performed in the public rights-of-way, or for operation and maintenance activities by the Department of Parks and Recreation.

(Ord. 2675 §8, 2022)

14.30.060 Standards

A. Unless the Director requires more stringent standards to mitigate a project's impact to the public and environmental health and safety, development activities within the City shall be undertaken in accordance with the following minimum standards, which may be amended from time to time by the Director:

1. The City's National Pollutant Discharge Elimination System (NPDES) permit.

2. The 2021 King County Surface Water Design Manual, attached hereto[1] as "Exhibit A," is hereby adopted by reference as the City of Tukwila "Surface Water Design Manual" and, together with the amendments thereto as set forth in this section, shall be known and referred to as the "Surface Water Design Manual" or the SWDM.

3. The Department of Ecology 2019 Stormwater Management Manual for Western Washington ("DOE SWDM"), may be used for project design for multi-jurisdictional development projects wherein a substantial and material portion of the development project will take place outside of the jurisdictional boundaries of the City and will be required by a permitting authority to comply with the standards set forth in the DOE SWDM; provided that the Public Works Director approves of the DOE SWDM based upon a finding that application of differing standards set forth in the SWDM and the DOE SWDM will create a hardship for the applicant, and that approval of use of the DOE SWDM will not result in requirements that are less restrictive than the SWDM or otherwise inconsistent with the purpose of this chapter..

4. The 2021 King County Stormwater Pollution Prevention Manual, attached hereto[2] as "Exhibit B", is hereby adopted by reference as the City of Tukwila Stormwater Pollution Prevention Manual and, together with the amendments thereto as set forth in this section, shall be known and referred to as the "Stormwater Pollution Prevention Manual" or the "SPPM."

[1] *City Clerk's Note: Attachments are not included in the Tukwila Municipal Code. Exhibit A can be found in the Digital Records Center under Ord. 2675.*

[2] *City Clerk's Note: Attachments are not included in the Tukwila Municipal Code. Exhibit B can be found in the Digital Records Center under Ord. 2675.*

5. The Public Works Surface Water Regulations and Procedures.

6. Any applicable standards, codes, or recommendations in specific reports such as the geotechnical report and the Technical Information Report.

7. The City's Development Guidelines and Infrastructure Design and Construction Standards.

8. The Comprehensive Surface Water Management Plan or Drainage Basin Plans.

B. Unless the context indicates otherwise, the following terms and phrases, as used in the SWDM or the SPPM, shall have the meaning or reference given:

1. See *Figure 14-4* relating to Tukwila Terminology Equivalents to King County Terminology.

2. All references to King County codes or any section thereof in the SWDM or the SPPM shall be replaced by reference as indicated in *Figure 14-5* to the applicable code and comparable section thereof.

3. All references to maps in the SWDM and SPPM shall be replaced by reference as indicated in *Figure 14-6*.

(Ord. 2675 §9, 2022)

14.30.070 Permits

A. Activities that trigger drainage review pursuant to the "Surface Water Design Manual" require a permit to be issued by the City. Such permits shall be non-transferable without approval of the Director and shall be limited to the specific activities for which they are granted.

B. All plans, drawings, and calculations shall be prepared, stamped, signed and dated by a registered professional engineer, licensed in the State of Washington. A single-family residence that is not in a critical area and does not trigger drainage review may be exempt from this requirement.

C. The submittals for the permit must meet or exceed the minimum criteria as required in the standards adopted in this chapter. The Director may require additional submittals to those described therein.

D. Any significant changes to the approved plans or specifications of a permitted project require a revision submittal to the City for approval before the changes are implemented.

(Ord. 2675 §10, 2022)

14.30.080 Compliance Required

Property owners are responsible for the maintenance, operation and repair of stormwater drainage systems within their property. Property owners shall maintain, operate and repair stormwater drainage systems in compliance with the requirements of this chapter and the "Surface Water Design Manual."

(Ord. 2675 §11, 2022)

14.30.085 Maintenance Required

A. All stormwater drainage systems in the City shall be maintained according to this chapter and the minimum maintenance standards detailed in the "Surface Water Design Manual."

B. All stormwater drainage systems shall be inspected on a periodic basis, as described in the "Surface Water Design Manual." If, during an inspection, a stormwater drainage system is found not to be in compliance with the minimum required standards, the owner or operator of the stormwater drainage system shall immediately repair the system and return it to proper operating condition in compliance with this chapter and any applicable covenant. Inspections may be scheduled more frequently to ensure the stormwater drainage system continually functions as designed.

C. Where abatement is found necessary to correct health or safety problems, to control pollutants from entering the stormwater drainage system, to prevent surface water or ground water quality degradation, or to remove pollutants that have entered the stormwater drainage system, such work shall be completed immediately by the owner or operator of the stormwater drainage system. If the owner does not complete the work, the City is authorized to enter the property and abate the problem in accordance with TMC Section 14.30.090.

D. Where regular maintenance and/or repair is found necessary during inspection, maintenance shall be performed in accordance with the maintenance schedule established by the stormwater manual.

(Ord. 2675 §12, 2022)

14.30.090 Inspection Authority and Procedure

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

B. **Inspection procedure.** The procedure outlined below shall be followed when inspections occur:

1. Prior to making any inspections on private property, the Director shall present identification credentials, state the reason for the inspection and request entry.

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

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

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

5. The Director may inspect the stormwater drainage system without obtaining a search warrant as provided for in TMC Section 14.30.090.B.4, provided the inspection can be conducted while remaining on public property or other property on which permission to enter is obtained.

6. The Director shall investigate illicit discharges in an effort to identify the source. If such discharges are tracked to a specific connection to the public stormwater drainage system, or directly to surface water or ground water, inspection and investigation of that site will be initiated in compliance with the inspection procedures defined in this section. If the discharge is an imminent threat to public safety or the environment, emergency action shall be taken in accordance with this TMC Section 14.30.090.

(Ord. 2675 §13, 2022)

14.30.100 Inspection and Maintenance Schedule for Stormwater Flow Control and Water Quality Treatment Facilities

A. The Director shall establish inspection and maintenance scheduling and standards for all publicly and privately owned stormwater flow control and water quality treatment facilities. The maintenance of the stormwater flow control and water quality facilities shall be guided by the "Surface Water Design Manual." The base frequency for inspection and maintenance shall be in accordance with the NPDES permit currently in effect.

B. The City requires all inspections to be paid for by the property owner and conducted by a City-approved third-party inspector unless approved otherwise by the Director.

C. Adjustment to a less than annual inspection frequency may be revised as approved by the Director based upon maintenance records of double the length of time of the proposed inspection frequency.

(Ord. 2675 §14, 2022)

14.30.110 Maintenance Covenant Required for Stormwater Flow Control and Water Quality Treatment Facilities

A. Prior to the issuance of any permit for which a construction Stormwater Pollution Prevention Plan is required, the City shall require the applicant or property owner to complete and submit a Declaration of Covenant for Inspection and Maintenance of Stormwater Facilities and BMPs ("covenant") for the City's review and approval, warranting that the property owner will manage, inspect, and maintain the stormwater flow control and water quality treatment facilities per the conditions required by TMC Chapter 14.30 and the covenant.

1. At a minimum, the covenant shall describe the maintenance activities, spell out the frequency for each activity and state who performs and who pays for each activity.

2. The covenant shall provide unlimited access, at all reasonable times, to the stormwater drainage systems for inspection by the Public Works Department.

B. Once approved by the City, the covenant shall be signed by the applicant or property owner and promptly recorded on title with the King County Department of Records and Elections. A copy of the recorded covenant shall be provided to the Director prior to the final inspection.

C. The covenant shall be included in any instrument of conveyance of the subject property, shall run with the land, and shall be binding upon such owner's heirs, successors, and assigns.

(Ord. 2675 §15, 2022)

14.30.120 Inspection and Maintenance Records

A. For privately-owned stormwater drainage systems, the applicant shall provide a monitoring and maintenance schedule for the life of each stormwater drainage system or component thereof or best management practice resulting from the development. At a minimum, the schedule shall describe the maintenance activities, spell out the frequency for each activity and state who performs and who pays for each activity.

B. The monitoring and maintenance schedule shall provide unlimited access, at all reasonable times, to the stormwater drainage systems for inspection by the Public Works Department.

C. The Director shall review and approve the monitoring and maintenance schedule before the applicant records the schedule with King County Records.

D. Owners of projects distributing over one acre must maintain records of facility inspections and maintenance actions. Records shall be retained for a period of at least ten years. These maintenance records are to be provided to the City upon request.

E. For new residential developments in excess of 1 acre, additional inspections are required of all new flow control and water quality treatment facilities, including catch basins, every six months during the period of heaviest residential construction (i.e., 1 to 2 years following subdivision approval) to identify maintenance needs and enforce compliance with maintenance standards as needed. The City will perform periodic inspections of these same stormwater drainage systems.

(Ord. 2675 §16, 2022)

14.30.130 Special Drainage Fee

When the City accepts stormwater drainage system infrastructure that requires upkeep in excess of normal maintenance, the City has the right to charge the benefiting parties a special drainage fee in addition to the City's normal surface water charge, as condition of turnover, in order to cover costs for this maintenance.

(Ord. 2675 §17, 2022)

14.30.140 Inlet Marking

A. All new inlets and catch basin grates, public or private, shall be marked "No Dumping! Drains to Stream." In addition, a four-inch raised pavement marking that states "No Dumping—Drains to Streams" or equivalent as approved by the Director shall be installed.

B. Existing inlets and catch basin grates in areas being resurfaced or when being modified or replaced, shall be marked "No Dumping! Drains to Stream." In addition, a four-inch raised pavement marking that states "No Dumping—Drains to Streams" or equivalent as approved by the Director shall be installed.

C. Markings required by this section shall meet the standard in the Development Guidelines and Infrastructure Design and Construction Standards.

(Ord. 2675 §18, 2022)

14.30.150 Trash and Waste Receptacles

A. Restaurants, including food preparation facilities, facilities with an outdoor trash compactor, or facilities that have been determined to generate pollution or waste activities, shall have a dedicated, roof-covered trash enclosure that drains to a catch basin connected to a grease interceptor that drains to the sanitary sewer. The trash enclosure area shall be kept clean and contained and shall not drain to a storm drainage system.

B. Dumpsters and garbage and waste containers shall be leak-proof and kept closed or lidded at all times except when disposing of waste materials.

C. Grease storage containers shall be kept covered at all times and shall have spill containment. The area shall be kept clean and clear of any fats, oil or grease and shall not drain to a storm drainage system or sanitary sewer system.

(Ord. 2675 §19, 2022)

14.30.160 Financial Guarantees

A. The Director may require from the applicant a surety, cash bond, irrevocable letter of credit or other means of financial guarantee acceptable to the City, prior to approving a permit issued under TMC Chapter 14.30.

B. The amount of the financial guarantee shall not be less than the total estimated construction cost of all interim and permanent stormwater control facilities and shall not be fully released without final inspection and approval of completed work by the City.

C. For developments that may involve a risk of property damages or possible hazards, the Public Works Director may require the provision of financial guarantee (bond, note, letter of credit, etc.) with the City to mitigate damages should they occur. The following provisions shall apply in instances where such financial guarantees are required:

1. Such bond or other proof of financial guarantee shall not exceed 150% of the estimated cost of constructing and maintaining those improvements which are the source of the risk or potential hazard; provided that, in the case of surface water activities which do not involve expenditures at least equal to the cost of remedying the possible adverse impacts of such activities, the required financial guarantee shall be equal to City staff's best estimate of the possible cost directly associated with remedying the adverse impacts to public or private properties not associated with the development.

2. The amount of any financial guarantee shall not serve as a gauge or limit to the compensation collected from a property owner because of damages associated with any surface water activity.

D. The City shall retain the financial guarantee until the completion of any project involving surface water activity or following a prescribed trial maintenance period.

E. The City may redeem financial guarantees provided in accordance with this provision in whole or in part upon determination by the Director that any or all of the following circumstances exist:

1. Failure on the part of the party providing such financial guarantee to fully comply, within the time specified, with approved plans and/or any corrective or enforcement actions mandated by TMC Chapter 14.30; or,

2. Damages to public or private property arising from the activities for which the financial guarantee was required.

(Ord. 2675 §20, 2022)

14.30.170 Insurance

A. If, in the opinion of the Director, the risks to property or life and safety associated with a proposed development activity are substantial, the Director may require the owner of the storm drainage system to purchase liability insurance coverage in the following minimum amounts:

1. Bodily injury liability - $3 million per occurrence.

2. Property damage liability - $3 million per occurrence.

B. The Director may require higher policy limits than set forth in TMC Section 14.30.170.A in those cases where the minimum amounts are deemed insufficient to cover possible risks.

C. All insurance policies obtained in accordance with TMC Section 14.30.170 shall name the City of Tukwila as an "additional insured," and shall be written by a company licensed to do business in the State of Washington. Neither issuance of a permit, nor compliance with these provisions or any other conditions imposed by the City relieves any person from responsibility for damage to persons or property otherwise imposed by law, nor for damages in an amount greater than the insured amount. Issuance of a permit shall not form the basis of liability against the City for damages to persons or property arising from the development activities permitted by the City or otherwise undertaken by any person.

(Ord. 2675 §21, 2022)

14.30.180 Discharge Prohibitions

A. **Prohibition of Illicit Discharges.**

1. No person shall throw, drain or otherwise discharge or cause or allow others under its control to throw, drain, or otherwise discharge directly or indirectly into the stormwater drainage system and/or surface and groundwaters any materials other than stormwater.

2. Examples of prohibited contaminants include, but are not limited to, the following:

a. Trash or debris.
b. Construction materials.
c. Petroleum products, including but not limited to oil, gasoline, grease, fuel oil and heating oil.
d. Antifreeze and other automotive products.
e. Metals in either particulate or dissolved form.
f. Flammable or explosive material.
g. Radioactive material.
h. Batteries.
i. Acids, alkalis or bases.
j. Paints, stains, resins, lacquers or varnishes.
k. Degreasers, solvents or drain cleaners.
l. Pesticides, herbicides or fertilizers.
m. Steam cleaning wastes.
n. Soaps, detergents or ammonia.
o. Swimming pool or spa filter backwash.
p. Chlorine, bromine or other disinfectants.
q. Heated water.
r. Domestic animal waste.
s. Sewage.
t. Recreational vehicle waste.
u. Animal carcasses.
v. Food waste.
w. Bark and other fibrous materials.
x. Lawn clippings, leaves or branches.
y. Silt, sediment, concrete, cement, or gravel.
z. Chemicals not normally found in uncontaminated water.
aa. Any other process-associated discharge, except as otherwise allowed in TMC Section 14.30.190 and any hazardous material or waste not listed above.

B. **Prohibition of Illicit Connections.**

1. The construction, use, maintenance, or continued existence of illicit connections to the stormwater drainage system is prohibited.

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

3. A person is considered to be in violation of this chapter if that person allows a currently-illicit stormwater drainage system connection to continue to exist.

(Ord. 2675 §22, 2022)

14.30.190 Allowable Discharges

The following types of discharges shall not be considered illicit discharges for the purposes of this chapter unless the Director determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:

1. Diverted stream flows.
2. Rising groundwaters.
3. Uncontaminated groundwater infiltration, as defined in 40 Code of Federal Regulations (CFR) 35.2005(20).
4. Uncontaminated pumped groundwater.
5. Foundation drains.
6. Air conditioning condensation.
7. Irrigation water from agricultural sources that is comingled with urban stormwater.
8. Springs.
9. Water from crawl space pumps.
10. Footing drains.
11. Flows from riparian habitats and wetlands.
12. Discharges from emergency fire fighting activities

(Ord. 2675 §23, 2022)

14.30.200 Conditional Discharges

The following types of discharges shall not be considered illicit discharges for the purposes of this chapter if they meet the stated conditions or unless the Director determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:

1. Potable water, including water from water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges shall be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted to a level within the range of 6.5 and 8.5, if necessary, and in volumes and velocities controlled to prevent re-suspension of sediments in the stormwater system.

2. Lawn watering and other irrigation runoff are permitted but shall be minimized.

3. ***De-chlorinated swimming pool discharges.*** These discharges shall be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted to a level within the range of 6.5 and 8.5, if necessary, and in volumes and velocities controlled to prevent resuspension of sediments in the stormwater system.

4. Street and sidewalk wash water, water used to control dust and routine external building wash-down that does not use detergents are permitted if the amount of street wash and dust control water used is minimized. At active construction sites, street sweeping must be performed prior to washing the street.

5. Non-stormwater discharges covered by another NPDES permit, provided the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted from the Director for any discharge to the stormwater drainage system.

6. ***Other non-stormwater discharges.*** The discharges shall be in compliance with the requirements of a Stormwater Pollution Prevention Plan ("SWPPP") reviewed and approved by the City that addresses control of such discharges by applying AKART to prevent contaminants from entering surface or groundwater.

7. Storm system dye testing is allowable by the City and dye testing by others requires written notification to the City with approval from the Director.

(Ord. 2675 §24, 2022)

14.30.210 Best Management Practices

A. **Operational Source Control BMPs.** All activities with the potential to release pollutants directly or indirectly to the City's stormwater drainage system must be mitigated by Source Control BMPs to prevent or reduce pollutants in runoff. For all discharges, property owners or persons in control shall implement operational Source Control BMPs to prevent or minimize pollutants from leaving a site or property and to prevent contaminants from coming in contact with stormwater.

B. **Additional BMPs.** Property owners or persons in control of sites with pollutant generating activities shall implement Source Control BMPs to the extent necessary to prevent prohibited discharges. If Operational Source Control BMPs are insufficient to prevent prohibited discharges, the Director may require the implementation of structural Source Control BMPs or treatment BMPs in accordance with the SPPM or SWDM.

(Ord. 2675 §25, 2022)

14.30.220 Liability

Liability for any adverse impacts or damages resulting from work performed in accordance with any permit issued on behalf of the City for the development of any site within the City limits shall be the sole responsibility of the applicant.

(Ord. 2675 §26, 2022)

14.30.230 Enforcement Authority, Procedure, and Penalties

A. The Director shall have the authority to issue an enforcement order to an owner or responsible party to abate an illicit discharge, and/or maintain or repair a component of a stormwater drainage system in accordance with the provisions of this chapter. The order shall include:

1 A description of the specific nature, extent, date, and time of the violation and the damage or potential damage that reasonably might occur;

2. A notice to cease and desist the violation or the potential violation and, in appropriate cases, the specific corrective actions to be taken; and

3. A reasonable time to comply, depending on the circumstances.

B. The Director may impose an inspection fee for any stormwater drainage system found not to be in compliance with this chapter. This inspection fee shall be independent of any current or future penalties that may be incurred by the property owner for noncompliance with this chapter. Inspection fees shall also be applied if the City is required to inspect a stormwater drainage system because the property owner failed to complete the required annual inspection. Inspection fees shall be in accordance with the fee schedule adopted by resolution of the City Council.

C. If the enforcement order is not adhered to, the City may provide such actions as needed to repair, restore or maintain the stormwater drainage system. If at any time the City determines that the existing system creates any imminent threat to public health or welfare, the City may take immediate measures to remedy said threat. Under such circumstances no notice to the owner of the system shall be required.

D. The owner of the stormwater drainage system shall assume all responsibility for the cost of any maintenance and for repairs to the system. Such responsibility shall include reimbursement to the City within 30 days of the receipt of the invoice for any work the City performs pursuant to TMC Section 14.30.230.D. Overdue payments will require payment of interest at the current legal rate for liquidated judgments. If legal action ensues, any costs or fees incurred by the City will be borne by the parties responsible for said reimbursements.

E. In the event the property owner fails to pay the City within 30 days from the date the costs were incurred, the City shall have the right to file a lien against the real property for all charges and expenses incurred. Such lien shall specify the expenses incurred, provide a legal description of the premises and will be filed with the County Auditor within 90 days from the date of the completion of the work. Payment may at any time thereafter be sought by foreclosure procedures of liens under the laws of the State of Washington.

F. Any person who violates or fails to comply with the requirements of this chapter or who fails to conform with the terms of an order issued by the Director shall be subject to a civil penalty as provided in TMC Chapter 8.45. Each day of continued violation shall constitute a separate violation for purposes of this penalty.

(Ord. 2675 §27, 2022)

14.30.240 Injunctive Relief

A. Whenever the City has reasonable cause to believe that any person is violating or threatening to violate TMC Chapter 14.30 or any rule or other provision adopted or issued pursuant to TMC Chapter 14.30, it may either before or after the institution of any other action or proceeding authorized by TMC Chapter 14.30 institute a civil action in the name of the City for injunctive relief to restrain the violation or threatened violation. Such action shall be brought in King County Superior Court.

B. The institution of an action for injunctive relief under TMC Chapter 14.30 shall not relieve any party to such proceedings from any penalty prescribed for violations of TMC Chapter 14.30.

(Ord. 2675 §28, 2022)

14.30.250 Appeals

The appeals process for/by any person aggrieved by the action of the City is provided under TMC Chapter 8.45, "Enforcement."

(Ord. 2675 §29, 2022)

CHAPTER 14.31

ILLICIT DISCHARGE DETECTION AND ELIMINATION

Sections:

This Chapter was repealed by Ordinance 2675, June 2022.

CHAPTER 14.32

STORM AND SURFACE WATER RATES AND CHARGES

Sections:

14.32.010 Purpose

A. The purpose of this chapter is to provide for revenue to construct, reconstruct, replace, improve, operate, repair, maintain, manage, administer, inspect, enforce facilities and activities for the storm and surface water utility plan and utility.

B. This chapter creates a system of rates and charges pursuant to RCW 35.67 for the storm and surface water utility.

(Ord. 1932 §1 (part), 2000)

14.32.020 Definitions

The following words, when used in TMC Chapter 14.32 shall have the meaning identified below:

1. *"Billing year"* means the calendar year in which bills are sent.

2. *"Developed Surface"* means those surfaces which have altered the natural infiltration or runoff patterns that are characteristic of natural land as it existed prior to development and are not green and growing, landscaped, or submerged. Such surfaces shall include hard surfaces that prevent or retard the entry of water into the soil; to include, but not limited to: roof tops, asphalt or concrete paving, driveways, parking lots, patio areas, storage areas, or other compacted surfaces. Such surfaces shall further include porous surfaces which may accelerate the infiltration or transfer of surface or ground water; to include, but not limited to: infiltration pits, piles of rock or quarry spalls, constructed surface water drainage channels, or similar surfaces.

3. *"Natural land"* means parcels that have not been disturbed from their natural state in the last 25 years. 100% of the parcel must be natural land for the parcel to be classified as natural land.

4. *"Parcel"* means the smallest separately segregated unit or plot of land having an identified owner(s), boundaries, and area as defined by the King County assessor and recorded in the King County assessor's real property file or in the King County assessor's maps.

5. *"Percent developed surface"* means the quotient of the total area of developed surface on a parcel divided by the total area of the parcel. For purposes of determining the rate category, the resulting percentage shall be rounded to the nearest whole percent.

6. *"Undeveloped surface"* means any surface area that is green, growing, or landscaped and supporting vegetation and shall include land which is totally submerged.

7. "*Property owner of record"* means the person or persons recorded by the county assessor to be the owner(s) of property and/or to whom property tax statements are directed.

8. "*Rate category"* means the classification of properties, based upon the estimated percentage of developed surface on the parcel, for purposes of establishing Utility Service Charges.

9. *"Service charge"* means that charge imposed on all parcels within the City by the storm and surface water utility, and shall be the rate category to which the parcel is assigned multiplied times the total area of the parcel rounded to the nearest 4,356 square feet (1/10th of one acre).

10. *"Single-family residential parcel"* shall mean any parcel which contains one, two or three single-family units. A "duplex" is equal to two single-family units. A "triplex" is equal to three single-family units.

11. *"Utility"* means the City storm and surface water management utility.

(Ord. 1932 §1 (part), 2000)

14.32.030 Utility Rates and Service Charges

A. A utility rate and service charge is imposed on every parcel within the City and the owner(s) thereof. This includes but is not limited to parcels owned by the City, by the State, by the County, and all other parcels.

B. The rate category established herein shall be based upon the contribution of surface and storm water from a parcel to the system. The amount of contribution to the system shall be measured by the estimated percentage of developed surface area on the parcel. The service charge imposed on each parcel shall be equal to the rate category into which the parcel fits multiplied times the total area of the parcel rounded to the nearest 4,356 square feet (1/10 of one acre). Single-family residential parcels are grouped together into one rate category and will pay one service charge per parcel. This rate category and service charge is determined by estimating the average developed percent surface and the average total area of all single-family parcels in the City.

C. Utility rate categories and annual service charges shall be charged in accordance with the fee schedule to be adopted by motion or resolution of the Tukwila City Council.

D. Pursuant to RCW 90.03.525, all parcels within a limited access highway owned by the State Department of Transportation shall be subject to service charges that are equal to 30% of that which would result if the service charges were calculated according to section 14.32.030C of the Tukwila Municipal Code.

E. Each annual bill will be rounded up to the nearest number of cents. The minimum annual service charge shall be equal to the annual charge for a 4,356 square foot parcel in the lowest rate category (1, Natural).

(Ord. 2104 §1, 2005; Ord. 1932 §1 (part), 2000)

14.32.040 Special Rates

The charge for a residential parcel that is owned by and is the personal residence of a person or persons determined by the King County Assessor as qualified for a low income senior citizen rate adjustment or a low income disabled citizen rate adjustment pursuant to RCW 84.36.381, or as the same may hereafter be amended, shall be 50% of the residential rate set forth in TMC Section 14.32.030.

(Ord. 2594 §1, 2018; Ord. 2104 §2, 2005; Ord. 1932 §1 (part), 2000)

14.32.050 Service Charge Adjustments

A. Any person receiving a utility service charge may apply in writing to the Director of Public Works of the City of Tukwila for a service charge adjustment. Filing such a request does not extend the period for payment of the charge. Requests for adjustments on delinquent accounts will not be acted upon until paid in full.

B. A request for a billing adjustment may be based on one or more of the following:

1. The total area of the non-single-family residential parcel is incorrect;

2. The percent of developed surface on the non-single-family residential parcel(s) for the billing year for which the service charge is imposed is incorrect and the actual percent of developed surface on the parcel places it in a rate category different than that used for calculation of the service charge;

3. The parcel or portion of it is outside the City and the service charge is calculated on that portion outside the City;

4. The service charge calculated is erroneous in applying the terms of this chapter.

C. Application for adjustments may be made to the Director of Public Works of the City of Tukwila. The burden of proof shall be on the applicant to show that the rate adjustment sought should be granted. All decisions of the Director of Public Works shall be final.

D. Applications for service charge adjustments shall be filed within 90 days of the billing date.

E. The Director of Public Works of the City of Tukwila shall establish processes and procedures for reviewing requests for adjustments.

(Ord. 2594 §2, 2018; Ord. 1932 §1 (part), 2000)

14.32.060 Billing and Collecting

A. Pursuant to an interagency agreement, King County is designated as the City's agent for the purpose of billing and collecting storm and surface water service charges from City property owners and disbursing funds to the City. A copy of the interagency agreement shall be available in the office of the City Clerk for use and examination by the public. All parcels subject to a service charge shall be billed annually based upon the rate category and acreage applicable to such parcels as of August 1 of the year prior to the billing year.

B. For all parcels, except those owned by the City, condominium complexes or the Washington State Department of Transportation for public highways, roads and rights-of-way, the service charge shall be included on the annual King County Property Tax Statement, which shall be sent in the manner established by state law and county ordinance. One-half of the total annual service charge applicable to the parcel shall be due on April 30 and the other half shall be due on October 31, consistent with the due date of the King County Property Tax bill. Any payment not received by the due date shall be considered delinquent.

C. For parcels owned by the City; condominium complexes; or those of the Washington State Department of Transportation for public highways, roads and rights-of-way, bills shall be sent to the property owners by the City in January of each year and shall be due in full within 60 days of the date of the bill. After that period the bill shall be considered delinquent.

D. Property owners shall be responsible for all bills not paid. The City may pursue collection of any delinquent bills outstanding on January 1, 2019. King County, as the City's agent, shall pursue collection of any bills that become delinquent after January 1, 2019.

E. The service charge or any part thereof which becomes delinquent shall bear interest as provided in RCW 35.67.200 at the rate of 8% per annum, or such rate as may hereafter be authorized by law, computed on a monthly basis from the date of delinquency until paid.

F. The City shall have a lien for all delinquent and unpaid service charges, including interest thereon, against any parcel for which the service charges are delinquent, as provided by RCW 35.67.200. The current charges imposed by the King County Records and Elections Division shall be charged to all liened parcels to recover the cost of placing and removing the lien on the parcel. Pursuant to RCW 35.67.215, the lien is effective for up to one year's delinquent service charges without the necessity of any writing or recording of the lien with the King County Records and Elections Division. In the case of foreclosure actions to collect delinquencies, the City shall seek also to collect reimbursement of reasonable costs of collection including, but not limited to, attorney's fees, staff time and filing fees.

(Ord. 2594 §3, 2018; Ord. 2104 §3, 2005; Ord. 1932 §1 (part), 2000)

14.32.070 Service Charge Revenues

All moneys obtained by the City pursuant to TMC Chapter 14.32 shall be credited and deposited in the storm and surface water management utility fund created by TMC Chapter 14.28. Moneys so obtained shall be spent for the purposes allowed in that chapter.

(Ord. 2594 §4, 2018; Ord. 1932 §1 (part), 2000)

CHAPTER 14.36
UTILITY CONCURRENCY STANDARDS

Sections:

14.36.010 Water Supply – Concurrency Determination

A. All applicants for Type 1, 2, 3, 4 and 5 decisions involving projects which will require domestic water supply and or water for fire flow purposes shall obtain a certificate of water availability from the water purveyor serving the area in which the proposal is located, if the site is served by a purveyor other than the City of Tukwila. The certificate shall confirm that the water purveyor has the necessary water rights and the water system capacity, including such water mains, pump stations and other facilities as may be necessary, to provide domestic water service and fire flow meeting City standards or that such capacity will be available by the time a certificate of occupancy is issued or fire flow is required by the City Fire Marshal to protect combustible construction, whichever is earlier.

B. Applications for Type 1, 2, 3, 4 and 5 decisions involving projects which will require domestic water supply from the City of Tukwila shall be referred by the Department of Community Development to the Department of Public Works, which shall determine whether the City has the necessary water rights and the water system capacity, including such water mains, pump stations and other facilities as may be necessary, to provide domestic water service and fire flow meeting City standards or that such capacity will be available by the time a certificate of occupancy is issued or fire flow is required by the City Fire Marshal to protect combustible construction, whichever is earlier. If adequate service is not available, the Department of Public Works shall determine and shall advise the applicant of the improvements which are necessary to provide service meeting City standards.

(Ord. 1769 §2 (part), 1996)

14.36.020 Sewer System – Concurrency Determination

All applicants for Type 1, 2, 3, 4 and 5 decisions involving projects which will require domestic sanitary sewer service shall comply with one of the following:

1. Submit proof that the applicant has received approval for an on-site sewage system design from the Seattle-King County Department of Environmental Health in accordance with the rules and regulations of the King County Board of Health.

2. Obtain a certificate of sewer availability from the sewer purveyor serving the area in which the proposal is located, if the site is served by a purveyor other than the City of Tukwila. The certificate shall confirm that the sewer purveyor has the necessary sewer system capacity, including such sewer mains, pump stations and other facilities as may be necessary, to provide sewer service meeting City standards or that such capacity will be available by the time a certificate of occupancy is issued.

3. Applications for Type 1, 2, 3, 4 and 5 decisions involving projects which will require sanitary sewer service from the City of Tukwila shall be referred by the Department of Community Development to the Department of Public Works, which shall determine whether the City has the necessary sewer system capacity, including such mains, pump stations and other facilities as may be necessary, to provide sanitary sewer service meeting City standards or that such capacity will be available by the time a certificate of occupancy is issued. If adequate service is not available, the Department of Public Works shall determine and shall advise the applicant of the improvements which are necessary to provide service meeting City standards.

(Ord. 1769 §2 (part), 1996)

14.36.030 Mitigation

A. If water or sewer service to a project requiring such service from the City of Tukwila cannot meet City standards with existing facilities, the applicant shall be required to either:

1. complete the improvements required to provide such level of service; or

2. if the City anticipates that the improvements necessary to meet the City's water and sewer standards will be constructed within six years by a public capital facilities project, the applicant may pay a mitigation payment equal to the applicant's fair share of the cost of the improvements necessary to meet the City's water and sewer standards ; or

3. In appropriate cases, mitigation may consist of a combination of improvements constructed by the applicant and mitigation payments.

B. In the event that the applicant agrees to complete improvements pursuant to TMC 14.36.030A.1, the applicant shall be entitled to apply to enter into a Latecomer Agreement with the City.

(Ord. 1769 §2 (part), 1996)

14.36.040 Appeals

Any party seeking to appeal a mitigation requirement imposed by a City administrator under TMC Chapter 14.36 may file an appeal of a Type 1 decision as provided in TMC 18.104.010(B) and TMC 18.108.010(B).

(Ord. 1847 §6, 1998)

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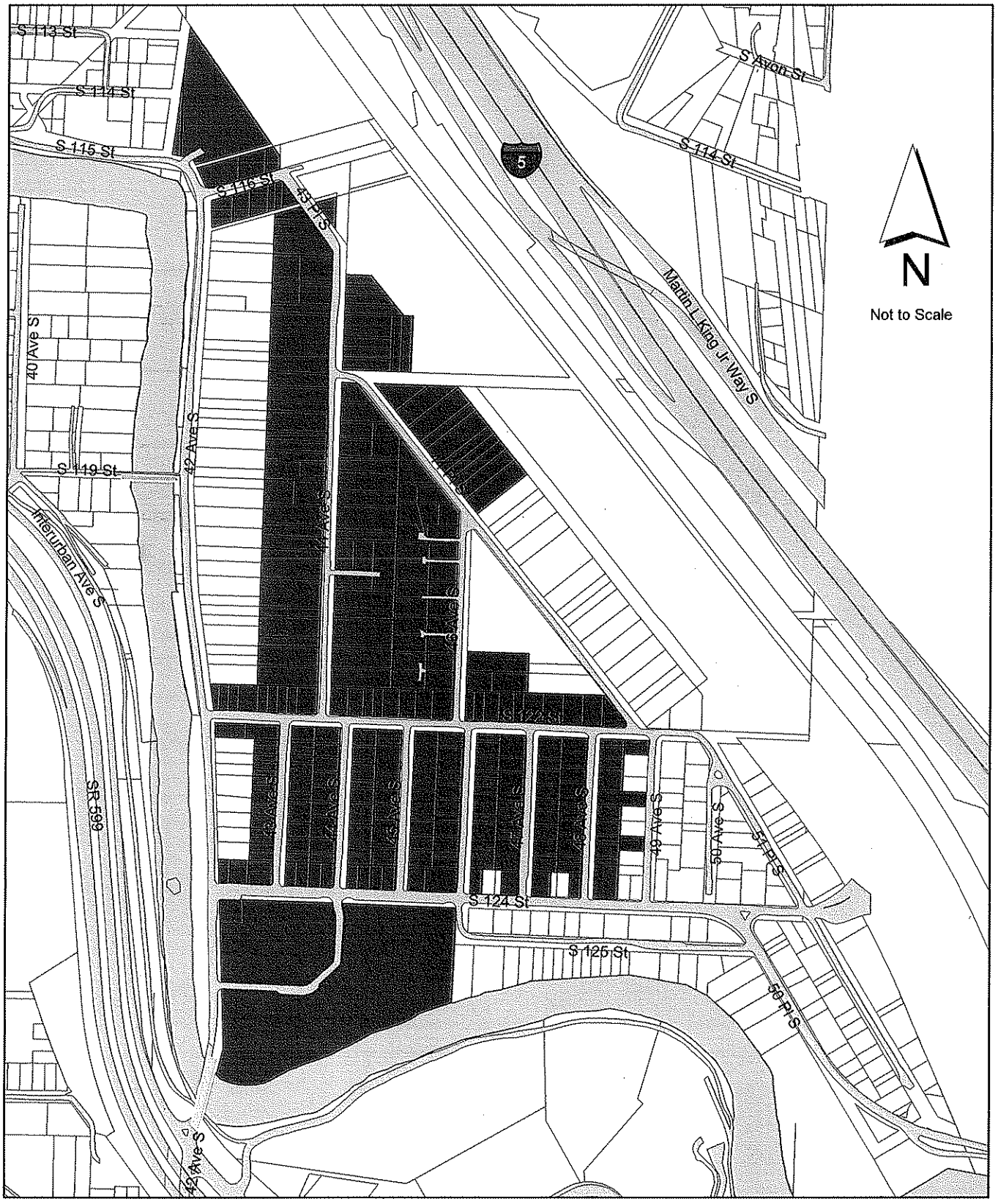

Date: November 12, 1996

Legend

- Phase 1
- Parcel
- Pavement
- Waterbody
- Bridge

Allentown Improvements
Phase 1

ORD 1777

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Return :	City of Tukwila						
	6200 Southcenter Blvd						
	Tukwila Wa 98188-2599						
CITY OF TUKWILA ORDINANCE #1777 - SEWER CONNECTION REQUIREMENTS (see pages 4-7)							
GRANTOR : CITY OF TUKWILA 6200 SOUTHCENTER BLVD TUKWILA WA 98188							
GRANTEE:	(continued on page 2 & 3)						
PARCEL#	OWNER	LOCATION	LEGAL DESCRIPTION				
0179000005	JACOBSON JAMES	12202 42ND AVE S	LOT	1&2	BLK	1	ALLENTOWN ADD
0179000065	TURPIN ROLAND	12229 43RD AVE S	LOT	34-35	BLK	1	ALLENTOWN ADD
0179000100	HOWE LARRY & EVELYN	12258 42ND AVE S	LOT	19	BLK	1	ALLENTOWN ADD
0179000105	WALKER FREDERICK F	4208 S 124TH ST	LOT	20-21-22	BLK	1	ALLENTOWN ADD
0179000200	SMITHAM DENNIS	12223 43RD AVE S	LOT	36-39	BLK	1	ALLENTOWN ADD
0179000220	WAGERS LARRY & KIM	12203 43RD AVE S	LOT	1-2&43-44	BLK	2	ALLENTOWN ADD
0179000230	MATSON JIM D	12204 43RD AVE S	LOT	1-2	BLK	2	ALLENTOWN ADD
0179000265	BRAUCHER ANNE A	12226 43RD AVE S	LOT	6-9	BLK	2	ALLENTOWN ADD
0179000270	CITY OF TUKWILA	12232 43RD AVE S	LOT	10	BLK	2	ALLENTOWN ADD
0179000290	CARLSON JACK JAY	12248 43RD AVE S	LOT	16-17	BLK	2	ALLENTOWN ADD
0179000300	DELEZA SANDRA	12240 43RD AVE S	LOT	14-15	BLK	2	ALLENTOWN ADD
0179000310	SHUMWAY TODD	12236 43RD AVE S	LOT	11-13	BLK	2	ALLENTOWN ADD
0179000315	GEARHART CHARLENE	12254 43RD AVE S	LOT	18	BLK	2	ALLENTOWN ADD
0179000320	ANDERSON KIM	4304 S 124TH ST	LOT	19-20	BLK	2	ALLENTOWN ADD
0179000330	BLAND FLOYD L	4306 S 124TH ST	LOT	21-22	BLK	2	ALLENTOWN ADD
0179000340	GREENWAY JEFFREY	4316 S 124TH ST	LOT	23-24	BLK	2	ALLENTOWN ADD
0179000350	GARRISON LORI W	4318 S 124TH ST	LOT	25-26	BLK	2	ALLENTOWN ADD
0179000360	NISTOR IOAN	12253 44TH AVE S	LOT	27	BLK	2	ALLENTOWN ADD
0179000365	WEIKUM LAURENCE	12249 44TH AVE S	LOT	28-29	BLK	2	ALLENTOWN ADD
0179000380	JACOBSEN GAYLE M	12245 44TH AVE S	LOT	30-32	BLK	2	ALLENTOWN ADD
0179000390	JACOBSEN CHRIS	12235 44TH AVE S	LOT	33-34	BLK	2	ALLENTOWN ADD
0179000400	BAILEY EDWARD R	12227 44TH AVE S	LOT	35-36	BLK	2	ALLENTOWN ADD
0179000410	KLISE HAROLD & JUNE	12221 44TH AVE S	LOT	37-38	BLK	2	ALLENTOWN ADD
0179000420	CUNNINGHAM CHARL	12207 44TH AVE S	LOT	39-40	BLK	2	ALLENTOWN ADD
0179000429	MOLTANE GARY	12205 44TH AVE S	LOT	41-42	BLK	2	ALLENTOWN ADD
0179000450	REED SHIRLEY	12202 44TH AVE S	LOT	1-3	BLK	3	ALLENTOWN ADD
0179000460	FITTERER MARCUS	12208 44TH AVE S	LOT	3-5	BLK	3	ALLENTOWN ADD
0179000475	COYNE BETTY L	12218 44TH AVE S	LOT	5-8	BLK	3	ALLENTOWN ADD
0179000495	CROWSTON CHAD	12228 44TH AVE S	LOT	9-10	BLK	3	ALLENTOWN ADD
0179000505	JENSEN ROBERT A	12236 44TH AVE S	LOT	11-13	BLK	3	ALLENTOWN ADD
0179000525	PRESTEGAARD HANNE	12242 44TH AVE S	LOT	14-16	BLK	3	ALLENTOWN ADD
0179000535	HUNLEY JAMES D	12254 44TH AVE S	LOT	17-18	BLK	3	ALLENTOWN ADD
0179000550	LECKBAND DONALD	4402 S 124TH ST	LOT	19-20	BLK	3	ALLENTOWN ADD
0179000555	JOSLYN JIM	4408 S 124TH ST	LOT	21-22	BLK	3	ALLENTOWN ADD
0179000565	SCHWALD GERALD A	4412 S 124TH ST	LOT	23-24	BLK	3	ALLENTOWN ADD
0179000575	LEVACK ROBERT J	4426 S 124TH ST	LOT	25-26	BLK	3	ALLENTOWN ADD
0179000585	DECKER ROE S	12253 45TH AVE S	LOT	27-28	BLK	3	ALLENTOWN ADD
0179000600	MATHIS LOIS D	12245 45TH AVE S	LOT	29-32	BLK	3	ALLENTOWN ADD
0179000615	RADU DORIN	12235 45TH AVE S	LOT	33-34	BLK	3	ALLENTOWN ADD
0179000625	VICKERS LANNY L	12227 45TH AVE S	LOT	35-36	BLK	3	ALLENTOWN ADD
0179000635	FORREY JAMES R	12221 45TH AVE S	LOT	37-38	BLK	3	ALLENTOWN ADD
0179000645	REED EUGENEN & DOR	12215 45TH AVE S	LOT	39-42	BLK	3	ALLENTOWN ADD
0179000660	BRUBAKER LEO	12205 45TH AVE S	LOT	43	BLK	3	ALLENTOWN ADD
0179000665	BRUBAKER LEO	12203 45TH AVE S	LOT	44	BLK	3	ALLENTOWN ADD
0179000690	ARCHER MARY	12202 45TH AVE S	LOT	1-8	BLK	4	ALLENTOWN ADD
0179000715	WALKER MARIA I	12228 45TH AVE S	LOT	9-12	BLK	4	ALLENTOWN ADD
0179000735	CORE STEPHEN D	12238 45TH AVE S	LOT	13-14	BLK	4	ALLENTOWN ADD
0179000745	BURRINGTON ARTHUR	12244 45TH AVE S	LOT	15-16	BLK	4	ALLENTOWN ADD
0179000755	STEINBERG HARRY	12252 45TH AVE S	LOT	17-18	BLK	4	ALLENTOWN ADD
0179000782	GOMEZ GEORGE G	4504 S 124TH ST	LOT	19-21	BLK	4	ALLENTOWN ADD
0179000785	GOMEZ GEORGE G	4518 S 124TH ST	LOT	22-26	BLK	4	ALLENTOWN ADD
0179000810	MARKU ARBEN	12253 46TH AVE S	LOT	27-28	BLK	4	ALLENTOWN ADD
0179000820	ARAGON DANIEL C	12245 46TH AVE S	LOT	29-30	BLK	4	ALLENTOWN ADD
0179000830	WILSON CHERYL Y	12239 46TH AVE S	LOT	31-32	BLK	4	ALLENTOWN ADD
0179000835	PETERS ANNETTE & ED	LOT 22	LOT	22	BLK	4	ALLENTOWN ADD

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PARCEL#	OWNER	LOCATION		LEGAL DESCRIPTION			
0179000840	PETERS ANNETTE & ED	12231 46TH AVE S	LOT	34-35	BLK	4	ALLENTOWN ADD
0179000850	CASCIOLA MYRNA E	12221 46TH AVE S	LOT	36-38	BLK	4	ALLENTOWN ADD
0179000870	BROOKS ROBERT	12217 46TH AVE S	LOT	39-42	BLK	4	ALLENTOWN ADD
0179000885	BRYANT RAYMOND	12201 46TH AVE S	LOT	43-44	BLK	4	ALLENTOWN ADD
0179000895	CARTER LARRY M	46TH & 122ND ST	LOT	1	BLK	5	ALLENTOWN ADD
0179000900	CARTER LARRY M	12204 46TH AVE S	LOT	2-3	BLK	5	ALLENTOWN ADD
0179000910	OFSDAHL PHILIP J	12212 46TH AVE S	LOT	4-5	BLK	5	ALLENTOWN ADD
0179000925	TINGLEY BRYCE & CHR	12218 46TH AVE S	LOT	6-8	BLK	5	ALLENTOWN ADD
0179000935	LEE JO ANN	12230 46TH AVE S	LOT	9-12	BLK	5	ALLENTOWN ADD
0179000965	APPLEGATE THOMAS N	12246 46TH AVE S	LOT	13-16	BLK	5	ALLENTOWN ADD
0179000975	KNIGHT ELDON	12252 46TH AVE S	LOT	16-18	BLK	5	ALLENTOWN ADD
0179000985	ARAGON DANIEL C	LOT 19-20	LOT	19-20	BLK	5	ALLENTOWN ADD
0179001010	SWANSON DAVID C	4616 S 124TH ST	LOT	24-26	BLK	5	ALLENTOWN ADD
0179001025	ROSS CHARLIE & ROSE	12253 47TH AVE S	LOT	27-30	BLK	5	ALLENTOWN ADD
0179001045	ROSS CHARLIE & ROSE	47TH & 123RD	LOT	31-33	BLK	5	ALLENTOWN ADD
0179001046	SCHUBERT TIMOTHY	47TH & 123RD ST	LOT	34-36	BLK	5	ALLENTOWN ADD
0179001065	SCHUBERT TIM	12219 47TH AVE S	LOT	37-39	BLK	5	ALLENTOWN ADD
0179001090	DREBIN HAROLD	12211 47TH AVE S	LOT	40-41	BLK	5	ALLENTOWN ADD
0179001100	CRAWFORD MAYME	12203 47TH AVE S	LOT	42-44	BLK	5	ALLENTOWN ADD
0179001115	DAVIS MARK	4705 S 122ND ST	LOT	1-3	BLK	6	ALLENTOWN ADD
0179001130	WERTMAN DONALD	12210 47TH AVE S	LOT	4-5	BLK	6	ALLENTOWN ADD
0179001140	ROBAR KEITH & TANI	12216 47TH AVE S	LOT	5-7	BLK	6	ALLENTOWN ADD
0179001155	BARNES JUDITH M	12222 47TH AVE S	LOT	7-9	BLK	6	ALLENTOWN ADD
0179001160	SUNGA EDMON & VICT	12226 47TH AVE S	LOT	9-10	BLK	6	ALLENTOWN ADD
0179001170	VADER JOHN A	12228 47TH AVE S	LOT	11-12	BLK	6	ALLENTOWN ADD
0179001185	CLOTHIER RONALD M	12240 47TH AVE S	LOT	13-14	BLK	6	ALLENTOWN ADD
0179001195	JIMENEZ VIRGILIO	12244 47TH AVE S	LOT	15-16	BLK	6	ALLENTOWN ADD
0179001200	GARNETT DORIS B	12252 47TH AVE S	LOT	17-18	BLK	6	ALLENTOWN ADD
0179001210	PRICE ROBERT	4702 S 124TH ST	LOT	19-21	BLK	6	ALLENTOWN ADD
0179001240	NELSON THEA G	4718 S 124TH ST	LOT	25-26	BLK	6	ALLENTOWN ADD
0179001250	RAFATJAH RICHARD	LOT 27-28	LOT	27-28	BLK	6	ALLENTOWN ADD
0179001260	BURROWS RUBY E	12243 48TH AVE S	LOT	29-30	BLK	6	ALLENTOWN ADD
0179001270	LEENDERS DANIEL L	12235 48TH AVE S	LOT	31-34	BLK	6	ALLENTOWN ADD
0179001300	BARTON SANDRA	12223 48TH AVE S	LOT	35-38	BLK	6	ALLENTOWN ADD
0179001310	WELLS FARGO BANK	12215 48TH AVE S	LOT	39-40	BLK	6	ALLENTOWN ADD
0179001320	FULLER KEITH	12211 48TH AVE S	LOT	41-42	BLK	6	ALLENTOWN ADD
0179001330	STAUDT STEVE	12203 48TH AVE S	LOT	43-44	BLK	6	ALLENTOWN ADD
0179001340	COPELAND PHILIP	LOT 1	LOT	1	BLK	7	ALLENTOWN ADD
0179001345	COPELAND PHILIP	12208 48TH AVE S	LOT	2-3	BLK	7	ALLENTOWN ADD
0179001355	BAILEY EDWARD	12212 48TH AVE S	LOT	3-4	BLK	7	ALLENTOWN ADD
0179001370	HUGHES MALENE	12218 48TH AVE S	LOT	5-7	BLK	7	ALLENTOWN ADD
0179001380	TINSLEY RANDY	12224 48TH AVE S	LOT	8-9&36-37	BLK	7	ALLENTOWN ADD
0179001390	HOVLAND RUTH	12228 48TH AVE S	LOT	10-11	BLK	7	ALLENTOWN ADD
0179001400	ABDULMALIK ABDULN	LOT 12-13	LOT	12-13	BLK	7	ALLENTOWN ADD
0179001410	LOONEY WILLIAM A	LOT 14	LOT	14	BLK	7	ALLENTOWN ADD
0179001415	TRIMBLE LEE & BARBAI	12242 48TH AVE S	LOT	15-16	BLK	7	ALLENTOWN ADD
0179001425	BARRETT RAYNOLD E	12250 48TH AVE S	LOT	17	BLK	7	ALLENTOWN ADD
0179001435	HARRIS KEITH B	12258 48TH AVE S	LOT	18-22	BLK	7	ALLENTOWN ADD
0179001490	DOLEJSKA CHRIS	12241 49TH AVE S	LOT	30-31	BLK	7	ALLENTOWN ADD
0179001555	FINN MICHAEL T	LOT 43-44	LOT	43-44	BLK	7	ALLENTOWN ADD
0179003238	HARRIS VERLINE	12404 42ND AVE S	LOT	18	BLK		ALLENTOWN ADD
3347400005	DECKER DEAN	4208 S 116TH ST	LOT	1-5	BLK	1	HILLMNS CD MDW GRDNS DIV NO 01
3347400030	STEVENS ARTHUR	4218 S 116TH ST	LOT	6-9	BLK	1	HILLMNS CD MDW GRDNS DIV NO 01
3347400050	ADDINGTON ARLENE	4230 S 116TH ST	LOT	10-11	BLK	1	HILLMNS CD MDW GRDNS DIV NO 01
3347400070	RUSSELL WILLIAM P	11602 42ND AVE S	LOT	1-3	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01
3347400085	PHITSNOUKANE SOMM	4217 S 116TH ST	LOT	4-6	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01
3347400100	FRITZINGER MERRY	4219 S 116TH ST	LOT	6-8	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01
3347400110	CLARK M VIVIAN	42ND & S 116TH ST	LOT	9-10	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01
3347400120	BURLINGTON NORTHE	42ND & S 116TH ST	LOT	11-13	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01
3347400355	TYE MARGUERITE	4202 S 122ND ST	LOT	65	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01
3347400360	RAMEY REGGIE	4206 S 122ND ST	LOT	66	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01
3347400365	BEEMAN BETH	4210 S 122ND ST	LOT	67	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01
3347400370	BLAKE SALLY H	4214 S 122ND ST	LOT	68-69	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01
3347400380	TAKAI KALAMA	4220 S 122ND ST	LOT	70	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01
3347400390	MCGUIRE CHARGLES T	S 122ND ST	LOT	71-72	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01
3347400395	MCGUIRE CHARGLES T	S 122ND ST	LOT	72-73	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01
3347400400	ADAIR RON	4310 S 122ND ST	LOT	74-75	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01
3347400420	JENNE C	12055 44TH AVE S	LOT	78-79	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01
3347400430	ELLIS EVERETT	12049 44TH AVE S	LOT	80	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01
3347400435	ELLIS SONJA	12045 44TH AVE S	LOT	81-82	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01
3347400445	FASANO MARK P	LOT 83 HILLMANS	LOT	83	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01
3347400450	FASANO MARK	12029 44TH AVE S	LOT	84-86	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01
3347400465	ROMEO RIVERA	12017 44TH AVE S	LOT	87-89	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01

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PARCEL#	OWNER	LOCATION		LEGAL DESCRIPTION			
3347400486	GOODWIN JOHN B	11863 44TH AVE S	LOT	91-92	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01
3347400510	SIMONTON ROBERT C	11845 44TH AVE S	LOT	94-96	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01
3347400520	PYLE BARBARA A	11835 44TH AVE S	LOT	97-98	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01
3347400525	LENTZ MICHAEL & VAR	11837 44TH AVE S	LOT	97-98	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01
3347400530	JACKS BEN	11831 44TH AVE S	LOT	99	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01
3347400555	BUSS DARRELL	11811 44TH AVE S	LOT	104	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01
3347400565	MILLER GARTH	11803 44TH AVE S	LOT	105-106	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01
3347400570	HOFFMAN DARRELL	11685 44TH AVE S	LOT	106-107	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01
3347400580	CITY OF TUKWILA	LOT 108-113	LOT	108-113	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01
3347400585	GILLIDAN HUGH	11659 44TH AVE S	LOT	114	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01
3347400590	BRATCHER KEVIN	11651 44TH AVE S	LOT	115-116	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01
3347400600	KAPONE AL P	11645 44TH AVE S	LOT	115	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01
3347400610	BELMONTE HERMOGE	11637 44TH AVE S	LOT	117-119	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01
3347400615	CASE SALLY	11635 44TH AVE S	LOT	120-121	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01
3347400625	BURLINGTON NORTHE	LOT 122	LOT	122	BLK	2	HILLMNS CD MDW GRDNS DIV NO 01
3347400630	BURLINGTON NORTHE	VACANT	LOT	-	BLK	-	HILLMNS CD MDW GRDNS DIV NO 01
3347400650	HITCHCOCK DOUGLAS	11650 44TH AVE S	LOT	16	BLK	3	HILLMNS CD MDW GRDNS DIV NO 01
3347400685	GULLA JUAN	11662 44TH AVE S	LOT	19	BLK	3	HILLMNS CD MDW GRDNS DIV NO 01
3347400700	POMEROY JACQUELINE	LOT 22 HILLMANS	LOT	22	BLK	3	HILLMNS CD MDW GRDNS DIV NO 01
3347400705	POMEROY JACQUELINE	LOT 23 HILLMANS	LOT	23	BLK	3	HILLMNS CD MDW GRDNS DIV NO 01
3347400710	MARTIN ALLISON	11682 44TH AVE S	LOT	24	BLK	3	HILLMNS CD MDW GRDNS DIV NO 01
3347400715	POMEROY JACQUELINE	LOT 25	LOT	25	BLK	3	HILLMNS CD MDW GRDNS DIV NO 01
3347400720	THOMPSON EARL D III	LOT 26	LOT	26	BLK	3	HILLMNS CD MDW GRDNS DIV NO 01
3347400730	TRAN THUOC Q	11808 44TH PL S	LOT	1	BLK	4	HILLMNS CD MDW GRDNS DIV NO 01
3347400735	ALBRECHT JEFF	11818 44TH PL S	LOT	2-3	BLK	4	HILLMNS CD MDW GRDNS DIV NO 01
3347400745	SAXTON SHIRLEY A	11826 44TH PL S	LOT	4-5	BLK	4	HILLMNS CD MDW GRDNS DIV NO 01
3347400755	SAXTON SHIRLEY A	LOT 6 HILLMANS	LOT	6	BLK	4	HILLMNS CD MDW GRDNS DIV NO 01
3347400760	UNION TANK WORKS II	11840 44TH PL S	LOT	7-8	BLK	4	HILLMNS CD MDW GRDNS DIV NO 01
3347400770	WOYVODICH EDWARD	LOT 9	LOT	9	BLK	4	HILLMNS CD MDW GRDNS DIV NO 01
3347400775	WOYVODICH EDWARD	LOT 10	LOT	10	BLK	4	HILLMNS CD MDW GRDNS DIV NO 01
3347400780	WOYVODICH EDWARD	LOT 11	LOT	11	BLK	4	HILLMNS CD MDW GRDNS DIV NO 01
3347400785	UNION TANK WORKS	LOT 12-13	LOT	12-13	BLK	4	HILLMNS CD MDW GRDNS DIV NO 01
3347400790	QUICKSALL LARRY E	11870 44TH PL S	LOT	13-15	BLK	4	HILLMNS CD MDW GRDNS DIV NO 01
3347400975	VAN VOORHEES NORM	11814 44TH AVE S	LOT	1-2	BLK	5	HILLMNS CD MDW GRDNS DIV NO 01
3347400991	SEAVEY RUTH	11829 44TH PL S	LOT	3-6	BLK	5	HILLMNS CD MDW GRDNS DIV NO 01
3347400992	TIBKE JON & NANCY	11826 44TH AVE S	LOT	4-6	BLK	5	HILLMNS CD MDW GRDNS DIV NO 01
3347401000	DOOLIN KATHY	11828 44TH AVE S	LOT	6-7	BLK	5	HILLMNS CD MDW GRDNS DIV NO 01
3347401015	ANDERSON ALLEN	11836 44TH AVE S	LOT	8-9	BLK	5	HILLMNS CD MDW GRDNS DIV NO 01
3347401025	GREEN SANDY	11846 44TH AVE S	LOT	10-11	BLK	5	HILLMNS CD MDW GRDNS DIV NO 01
3347401060	FAGAN ROBERT & CAR	12012 44TH AVE S	LOT	15-18	BLK	5	HILLMNS CD MDW GRDNS DIV NO 01
3347401065	MCPHERSON LOREN	12010 44TH AVE S	LOT	15-19	BLK	5	HILLMNS CD MDW GRDNS DIV NO 01
3347401066	BATES GILBERT	12014 44TH AVE S	LOT	15-18	BLK	5	HILLMNS CD MDW GRDNS DIV NO 01
3347401100	CASE DUANE	12028 44TH AVE S	LOT	20-21	BLK	5	HILLMNS CD MDW GRDNS DIV NO 01
3347401110	CASE DUANE JR	12040 44TH AVE S	LOT	22	BLK	5	HILLMNS CD MDW GRDNS DIV NO 01
3347401120	NASON STEVE & MARY	12044 44TH AVE S	LOT	23-25	BLK	5	HILLMNS CD MDW GRDNS DIV NO 01
3347401130	MATHIAS ROBERT	12056 44TH AVE S	LOT	26-27	BLK	5	HILLMNS CD MDW GRDNS DIV NO 01
3347401140	REED PAT	12064 44TH AVE S	LOT	28-29	BLK	5	HILLMNS CD MDW GRDNS DIV NO 01
3347401165	MELLINGER JUDY	4402 S 122ND ST	LOT	31-32	BLK	5	HILLMNS CD MDW GRDNS DIV NO 01
3347401170	SHAFLIK GREGG	4410 S 122ND ST	LOT	33-34	BLK	5	HILLMNS CD MDW GRDNS DIV NO 01
3347401180	UNION TANK WORKS	LOT 35-39	LOT	35-39	BLK	5	HILLMNS CD MDW GRDNS DIV NO 01
3347401205	CHAMPA ASSOCIATION	LOT 40-41	LOT	40-41	BLK	5	HILLMNS CD MDW GRDNS DIV NO 01
3347401215	UNION TANK WORKS	LOT 42-48	LOT	42-48	BLK	5	HILLMNS CD MDW GRDNS DIV NO 01
3347401250	UNION TANK WORKS	LOT 49	LOT	49	BLK	5	HILLMNS CD MDW GRDNS DIV NO 01
3347401255	UNION TANK WORKS	12065 46TH PL S	LOT	50-53	BLK	5	HILLMNS CD MDW GRDNS DIV NO 01
3347401275	UNION TANK WORKS	46TH AVE S	LOT	54-56	BLK	5	HILLMNS CD MDW GRDNS DIV NO 01
3347401290	UNION TANK WORKS	12005 46TH AVE S	LOT	57-60	BLK	5	HILLMNS CD MDW GRDNS DIV NO 01
3347401301	UNION TANK WORKS	12001 46TH AVE S	LOT	59-60	BLK	5	HILLMNS CD MDW GRDNS DIV NO 01
3347401310	BRUNS JOHN H	11857 44TH PL S	LOT	61-62	BLK	5	HILLMNS CD MDW GRDNS DIV NO 01
3347401315	BRUNS JOHN H	44TH PL S	LOT	61-62	BLK	5	HILLMNS CD MDW GRDNS DIV NO 01
3347401320	DOVE JON B	11841 44TH PL S	LOT	63	BLK	5	HILLMNS CD MDW GRDNS DIV NO 01
3347401330	UNION TANK WORKS	12065 44TH PL S	LOT	POR	BLK	6	HILLMNS CD MDW GRDNS DIV NO 01
3347401380	CASE DUANE M	12052 46TH AVE S	LOT	11-12	BLK	6	HILLMNS CD MDW GRDNS DIV NO 01
3347401390	UNION TANK WORKS	LOT 13-14	LOT	13-14	BLK	6	HILLMNS CD MDW GRDNS DIV NO 01
3347401400	RICKETTS CRAIG	4602 S 122ND ST	LOT	15	BLK	6	HILLMNS CD MDW GRDNS DIV NO 01
3347401405	RICKETTS CRAIG	LOT 16	LOT	16	BLK	6	HILLMNS CD MDW GRDNS DIV NO 01
3347401415	NGUYEN CHUC	4620 S 122ND ST	LOT	18-19	BLK	6	HILLMNS CD MDW GRDNS DIV NO 01
3347401420	BUI QUYEN VAN & BUI	4604 S 122ND ST	LOT	17-18	BLK	6	HILLMNS CD MDW GRDNS DIV NO 01
3347401425	KAUFMAN BRET	4622 S 122ND ST	LOT	20	BLK	6	HILLMNS CD MDW GRDNS DIV NO 01
3347401430	BECK L V & FRANCESC	4702 S 122ND ST	LOT	21-22	BLK	6	HILLMNS CD MDW GRDNS DIV NO 01
3347401440	JERDE GENE D	4708 S 122ND ST	LOT	23-24	BLK	6	HILLMNS CD MDW GRDNS DIV NO 01
3347401455	PEIRANO MELVIN	4716 S 122ND ST	LOT	25-26	BLK	6	HILLMNS CD MDW GRDNS DIV NO 01
3347401470	BICE MAXINE	4730 S 122ND ST	LOT	29	BLK	6	HILLMNS CD MDW GRDNS DIV NO 01

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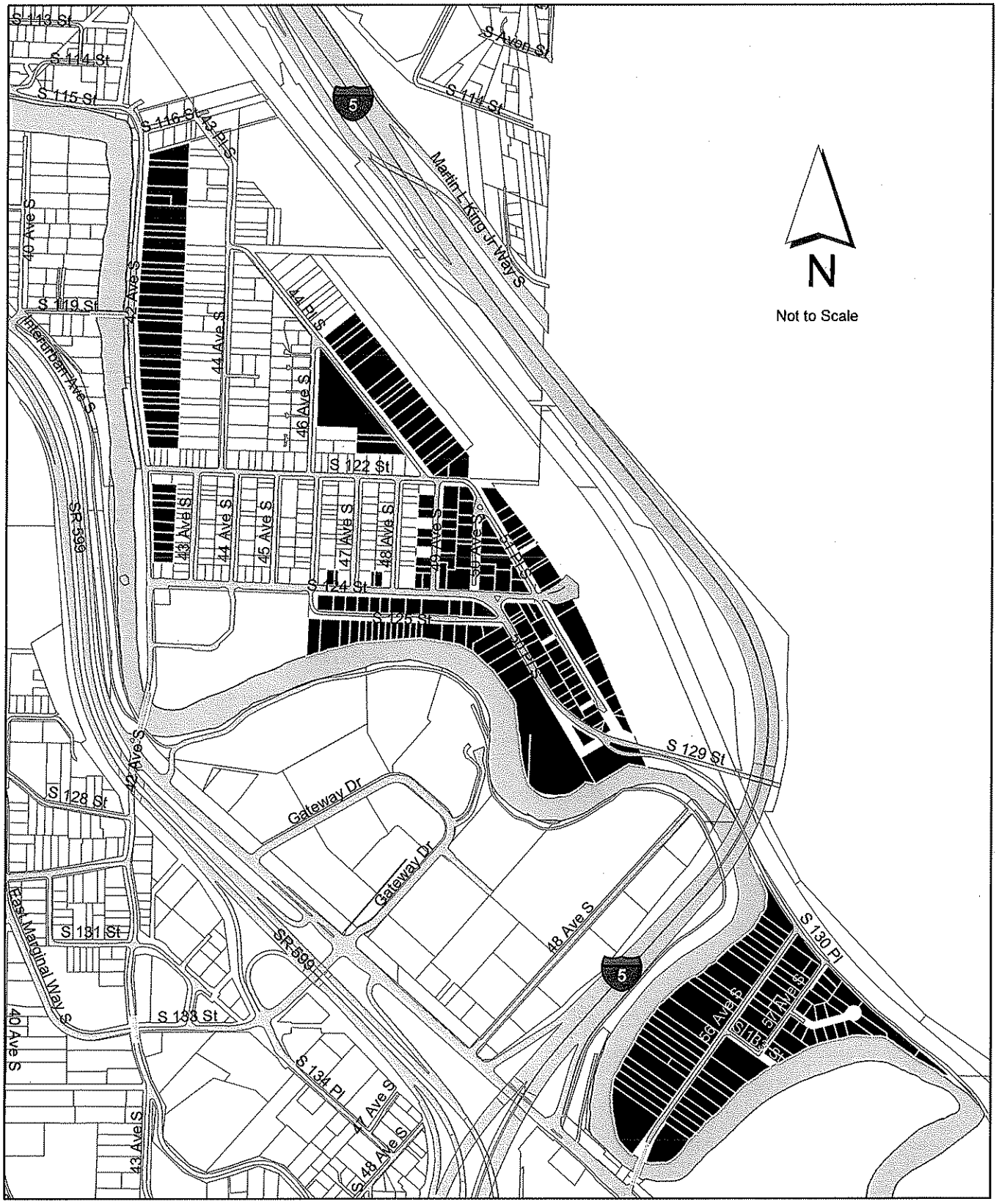

Date: April 27, 2006

Legend

Phase 2	Parcel
Pavement	Waterbody
Bridge	

Allentown and Foster Point Improvements Phase 2

ORD 2007

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Figure 14.4 – Tukwila Terminology Equivalents to King County Terminology	
King County Term	**City of Tukwila Term**
Agricultural Project	Term does not apply.
Critical Drainage Area	Critical Drainage Area means an area as determined by the City needing additional controls to address flooding, drainage and/or erosion condition that poses an imminent likelihood of harm to the welfare and safety of the surrounding community.
DDES[1]	City of Tukwila Department of Community Development.
DNRP[1]	City of Tukwila Department of Community Development.
Director	City of Tukwila Public Works Director.
King County	City of Tukwila.
King County Road Standards	City of Tukwila Infrastructure Design and Construction Standards and the requirements of the City of Tukwila Public Works Department.
Water and Land Resource Division	City of Tukwila Public Works.
Zoning Classifications: Agriculture (A); Forest (F); Rural (Z)	These zoning classifications are intended for areas outside the Urban Growth Boundary; therefore the City of Tukwila contains no equivalent zoning. Refer to City of Tukwila zoning maps and designations.
[1]Other terms used in the KCSWDM to reference other King County staff or departments shall also refer to the City of Tukwila Department of Community Development.	

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Figure 14-5 Tukwila Municipal Code Equivalent to King County Code[1]

King County Code (KCC)	Description	Tukwila Municipal Code (TMC)	Description
KCC 2.98	Critical Drainage Areas	TMC 14.30	WATER AND SEWER – Stormwater Management
KCC 16.82	BUILDING AND CONSTRUCTION STANDARDS – Clearing and Grading	TMC 16.54	BUILDING AND CONSTRUCTION – Grading
KCC 21A.14	Development Standards Design Requirements	TMC 14.30	WATER AND SEWER – Stormwater Management
KCC 21A.24	Critical Areas	TMC 18.45	ZONING – Environmentally Sensitive Areas
KCC 21A.06	Technical Terms and Land Use Definitions	TMC 18.08	ZONING – Districts Established - Map
KCC 20.14	Basin Plans	TMC 14.30	WATER AND SEWER – Stormwater Management
KCC 25	Shoreline Management	TMC 18.44	ZONING – Shoreline Overlay District
KCC 9 KCC 9.02 KCC 9.04 KCC 9.08 KCC 9.12 KCC 9.14	Surface Water Management General Provisions Surface Water Runoff Policy Surface Water Management Program Water Quality Groundwater Protection	TMC 14.30 TMC 18.45	WATER AND SEWER – Stormwater Management ZONING – Environmentally Sensitive Areas

[1]This table identifies the main City municipal code chapters that contain information/requirements for the City where the SWDM references the King County code. There may be other instances where other City code chapters also apply.

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Figure 14.6 – Tukwila Maps Equivalent to King County Maps or Designation	
King County Map or Designation	**City of Tukwila Map or Designation**
Coal Mine Hazard Areas Map	Maps delineating landslide areas, steep slopes and coal mine hazard areas within Tukwila are available at the Department of Community Development service desk.
Landslide Hazard Area and Landslide Drainage Areas Map	Maps delineating landslide areas, steep slopes and coal mine hazard areas within Tukwila are available at the Department of Community Development service desk.
Water Quality Applications Map	Not applicable.
Aquatic areas (as defined in KCC 21A.06)	Maps delineating stream and wetland types and their associated buffers within Tukwila are available at the Department of Community Development service desk.
Wetlands (as defined in KCC 21A.06)	Maps delineating stream and wetland types and their associated buffers within Tukwila are available at the Department of Community Development service desk.
Seismic Hazard Areas	Defined and regulated through the Washington State Building Code.
Flood Hazard Area (as defined in KCC 21A.06)	Flood Plain Management will be regulated through TMC Section 16.52.
Steep Slope Hazard Area (no map referenced in the KCSWDM)	Maps delineating landslide areas, steep slopes and coal mine hazard areas within Tukwila are available at the Department of Community Development service desk.
Critical Aquifer Recharge Area (as defined in KCC 21A.06)	Not applicable.
Wildlife Habitat Conservation Area (as defined in KCC 21A.06)	Fish and wildlife habitat conservation areas will be regulated through TMC Chapter 18.44, Shoreline Overlay District, and the regulations in TMC Chapter 18.45 related to wetlands and watercourses.
Wildlife Habitat Networks (as defined in KCC 21A.06)	No equivalent.
All references in the SWDM to the Stormwater Pollution Prevention Manual shall mean and refer to the SPPM as adopted by the City of Tukwila pursuant to this Chapter 14.30 of the Tukwila Municipal Code.	
All references in the SPPM to the Stormwater Design Manual shall mean and refer to the SWDM as adopted by the City of Tukwila pursuant to this Chapter 14.30 of the Tukwila Municipal Code.	
The definition of Critical Drainage Area in Chapter 1 of the SWDM is amended by striking “by administrative rule under the procedures specified in KCC 2.98.”	
The reference in Section 1.1.2.4 of the SWDM to Urban Planned Development shall mean and refer to the equivalent such designation under the City of Tukwila Comprehensive Plan as determined by the City of Tukwila Community Development Director.	
The note following the third sentence of Section 1.1.3 of the SWDM is stricken.	
The last paragraph of Section 1.1.4 beginning with “Additional mitigation” is stricken.	
The reference in Section 1.2.2 at paragraph 2 of the SWDM to KCC 21A.24.110 shall mean and refer to the applicable provision of Title 18 of the Tukwila Municipal Code.	

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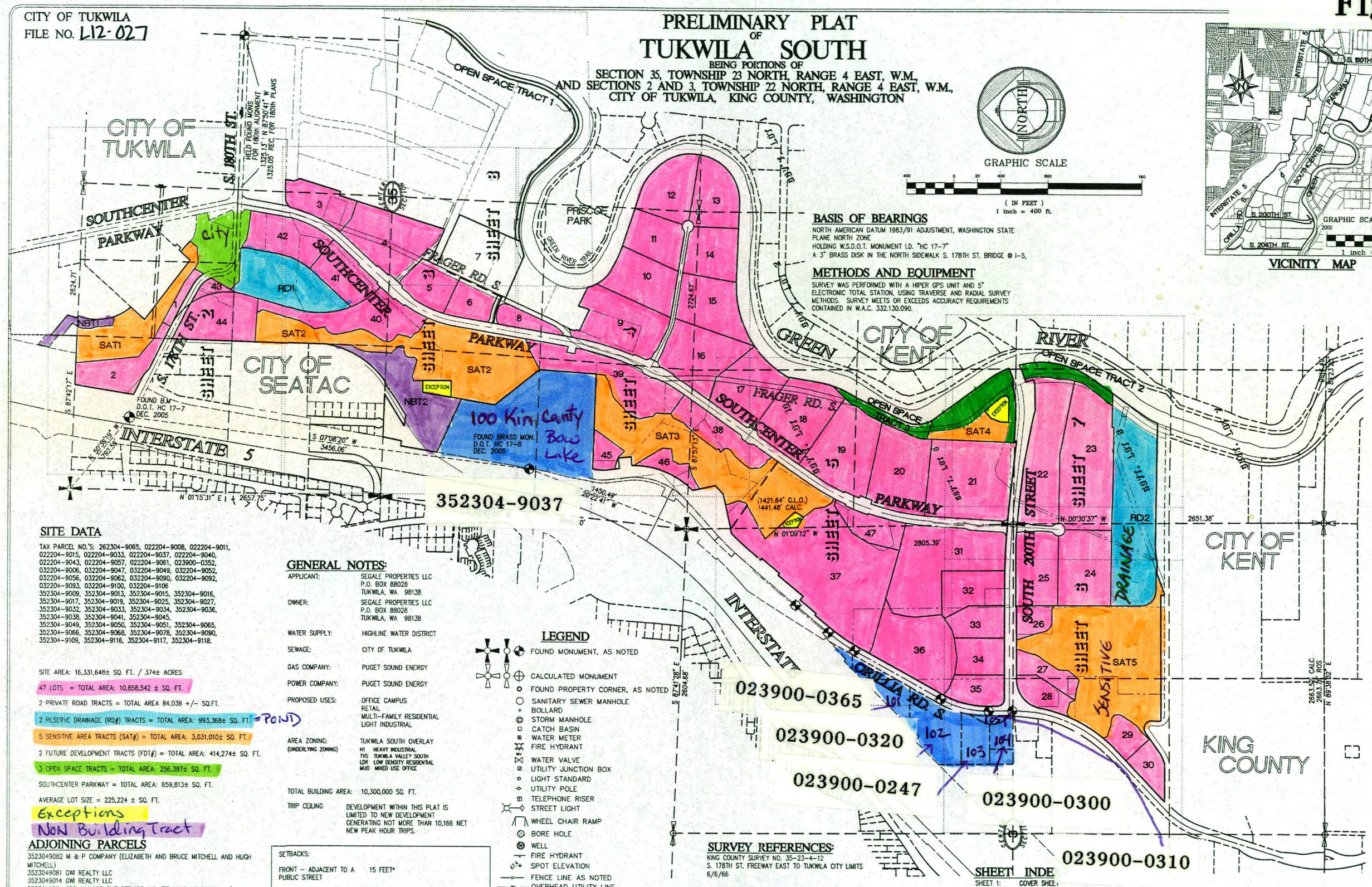
All references to Critical Area Review in the SWDM and the SPPM shall mean and refer to Environmentally Sensitive Area Review pursuant to Title 18 of the Tukwila Municipal Code.
References in the SWDM and SPPM to Chapter 16.82 of the King County Code shall mean and refer to the clearing and grading provisions of Title 16 of the Tukwila Municipal Code.
Subsection F of Section 1.2.4.3 of the SWDM is omitted.
The reference in Section 1.2.7 to King County Ordinance 12020 shall mean and refer to the financial guarantee requirements of the applicable provisions of the Tukwila Municipal Code or the Public Works Surface Water Regulations and Procedures.
Section 1.4.4 of the SWDM is stricken and replaced with the following: All variances ("Adjustments") from Chapter 14.30 of the TMC, the SWDM and the SPPM shall be governed by the procedures, standards and requirements set forth in Chapter 18.72 of the Tukwila Municipal Code, as it now exists or may hereafter be amended.
The reference in Section 1.4.5 of the SWDM to KCC 20.20 shall mean and refer to the applicable provisions of Title 18 of the Tukwila Municipal Code.
References to offices of King County shall mean and refer to the equivalent offices of the City of Tukwila.
Except when the context indicates otherwise, references in the SWDM and the SPPM to specific codes or sections of codes of King County, such as the King County critical areas code, shoreline management code, clearing and grading code, and road standards, shall mean and refer to the equivalent codes or sections of codes of the City of Tukwila.

Figure 14–7

CITY OF TUKWILA
FILE NO. L12-027

PRELIMINARY PLAT OF TUKWILA SOUTH

BEING PORTIONS OF
SECTION 35, TOWNSHIP 23 NORTH, RANGE 4 EAST, W.M.,
AND SECTIONS 2 AND 3, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M.,
CITY OF TUKWILA, KING COUNTY, WASHINGTON



BASIS OF BEARINGS

NORTH AMERICAN DATUM 1983/91 ADJUSTMENT, WASHINGTON STATE PLANE NORTH ZONE
HOLDING W.S.D.O.T. MONUMENT I.D. "HC 17-7"
A 3" BRASS DISK IN THE NORTH SIDEWALK S. 178TH ST. BRIDGE @ I-5,

METHODS AND EQUIPMENT

SURVEY WAS PERFORMED WITH A HIPER GPS UNIT AND 5" ELECTRONIC TOTAL STATION, USING TRAVERSE AND RADIAL SURVEY METHODS. SURVEY MEETS OR EXCEEDS ACCURACY REQUIREMENTS CONTAINED IN W.A.C. 332.130.090.

VICINITY MAP

REV. NO.	DESCRIPTION OF REVISION	DATE	BY

C:\PARKWAY 2011\dwg\2013-01\PP.dwg, 8/17/2013 4:52:55 PM, \\Server\Xerox 6

TUKWILA SOUTH
PRELIMINARY PLAT

SITE DATA

TAX PARCEL NO.'S: 262304-9065, 022204-9008, 022204-9011, 022204-9015, 022204-9033, 022204-9037, 022204-9040, 022204-9043, 022204-9057, 022204-9061, 023900-0352, 032204-9006, 032204-9047, 032204-9049, 032204-9052, 032204-9056, 032204-9062, 032204-9090, 032204-9092, 032204-9093, 032204-9100, 032204-9106 352304-9009, 352304-9013, 352304-9015, 352304-9016, 352304-9017, 352304-9019, 352304-9025, 352304-9027, 352304-9032, 352304-9033, 352304-9034, 352304-9036, 352304-9038, 352304-9041, 352304-9045, 352304-9049, 352304-9050, 352304-9051, 352304-9065, 352304-9066, 352304-9068, 352304-9078, 352304-9090, 352304-9109, 352304-9116, 352304-9117, 352304-9118.

SITE AREA: 16,331,648± SQ. FT. / 374± ACRES

47 LOTS = TOTAL AREA: 10,858,542 ± SQ. FT.

2 PRIVATE ROAD TRACTS = TOTAL AREA 84,038 +/- SQ.FT.

2 RESERVE DRAINAGE (RD#) TRACTS = TOTAL AREA: 993,368± SQ. FT. = POND

5 SENSITIVE AREA TRACTS (SAT#) = TOTAL AREA: 3,031,010± SQ. FT.

2 FUTURE DEVELOPMENT TRACTS (FDT#) = TOTAL AREA: 414,274± SQ. FT.

3 OPEN SPACE TRACTS = TOTAL AREA: 256,397± SQ. FT.

SOUTHCENTER PARKWAY = TOTAL AREA: 659,813± SQ. FT.

AVERAGE LOT SIZE = 225,224 ± SQ. FT.

Exceptions
NON Building Tract

ADJOINING PARCELS

3523049082 M & P COMPANY (ELIZABETH AND BRUCE MITCHELL AND HUGH MITCHELL)
3523049081 GWI REALTY LLC
3523049014 GWI REALTY LLC
3523049031 GRE MANAGEMENT SERVICE INC. (FRANMO HOLDINGS LLC)
3523049107 ANDOVER PROPERTY MANAGEMENT (ROHRBACK SOUTHCENTER LLC)
3523049087 LEVITZ TUKWILA LLC
3523049088 LEVITZ TUKWILA LLC
262304-9067 CLPF - TUKWILA LP
262304-9136 CLPF - TUKWILA LP
3523049124 KING COUNTY PROPERTY SERVICES
3523049033 SEGALE PROPERTIES L.L.C.
3523049012 SEGALE PROPERTIES L.L.C.
0322049021 CCAS PROPERTY & CONSTRUCTION
0322049020 ANTON JOSEPH, ROSE MARY AND MARIE ROSE ZGRAGGEN
0222049017 O'CONNELL HERITAGE LLC
0222049022 O'CONNELL HERITAGE LLC
3523049039 BUI VIEN THIE
0222049036 TUKWILA HISTORICAL SOCIETY
0222049061 KING COUNTY STORM POND
3523049008 CITY OF TUKWILA
3523049040 CITY OF TUKWILA

GENERAL NOTES:

APPLICANT:	SEGALE PROPERTIES LLC P.O. BOX 88028 TUKWILA, WA 98138
OWNER:	SEGALE PROPERTIES LLC P.O. BOX 88028 TUKWILA, WA 98138
WATER SUPPLY:	HIGHLINE WATER DISTRICT
SEWAGE:	CITY OF TUKWILA
GAS COMPANY:	PUGET SOUND ENERGY
POWER COMPANY:	PUGET SOUND ENERGY
PROPOSED USES:	OFFICE CAMPUS RETAIL MULTI-FAMILY RESIDENTIAL LIGHT INDUSTRIAL
AREA ZONING: (UNDERLYING ZONING)	TUKWILA SOUTH OVERLAY HI HEAVY INDUSTRIAL TVS TUKWILA VALLEY SOUTH LDR LOW DENSITY RESIDENTIAL MUO MIXED USE OFFICE
TOTAL BUILDING AREA:	10,300,000 SQ. FT.
TRIP CEILING	DEVELOPMENT WITHIN THIS PLAT IS LIMITED TO NEW DEVELOPMENT GENERATING NOT MORE THAN 10,166 NET NEW PEAK HOUR TRIPS.

SETBACKS:	
FRONT - ADJACENT TO A PUBLIC STREET	15 FEET*
SECOND FRONT - ADJACENT TO A PUBLIC STREET	15 FEET*
SIDES:	NONE*; INCREASED TO 10 FEET IF ADJACENT TO RESIDENTIAL USE OR NON-TSO ZONED PROPERTY
REAR:	NONE*; INCREASED TO 10 FEET IF ADJACENT TO RESIDENTIAL USE OR NON-TSO ZONED PROPERTY
HEIGHT:	125 FEET

* SUBJECT TO MODIFICATION TO MEET FIRE DEPARTMENT REQUIREMENTS

LEGEND

- FOUND MONUMENT, AS NOTED
- CALCULATED MONUMENT
- FOUND PROPERTY CORNER, AS NOTED
- SANITARY SEWER MANHOLE
- BOLLARD
- STORM MANHOLE
- CATCH BASIN
- WATER METER
- FIRE HYDRANT
- WATER VALVE
- UTILITY JUNCTION BOX
- LIGHT STANDARD
- UTILITY POLE
- TELEPHONE RISER
- STREET LIGHT
- WHEEL CHAIR RAMP
- BORE HOLE
- WELL
- FIRE HYDRANT
- SPOT ELEVATION
- FENCE LINE AS NOTED
- OVERHEAD UTILITY LINE
- UNDERGROUND WATER LINE
- UNDERGROUND UTILITY LINE
- UNDERGROUND SANITARY SEWER LINE
- UNDERGROUND STORM LINE
- UNDERGROUND GAS LINE
- PLAT BOUNDARY

SURVEY REFERENCES:

KING COUNTY SURVEY NO. 35-23-4-12
S. 178TH ST. FREEWAY EAST TO TUKWILA CITY LIMITS 6/6/66

KING COUNTY SURVEY NO. 3-22-4-11
ORILLIA ROAD - S. 212TH ST.
NO DATE FOUND

WA. STATE HIGHWAY COMMISSION RIGHT-OF-WAY PLAT
S.R. 5, SOUTH 188TH STREET INTERCHANGE, 4/12/66

WA. STATE HIGHWAY COMMISSION RIGHT-OF-WAY PLAT
S.R. 5, JCT. S.S.H. 5A TO SO. 178TH ST., 03/24/58

RECORD OF SURVEY UNDER RECORDING NO. 20111109900001
RECORD OF SURVEY UNDER RECORDING NO. 20091112900001
RECORD OF SURVEY UNDER RECORDING NO. 20090825900006
RECORD OF SURVEY UNDER RECORDING NO. 20060607900015
RECORD OF SURVEY UNDER RECORDING NO. 20010618900001
RECORD OF SURVEY UNDER RECORDING NO. 20010315900006
RECORD OF SURVEY UNDER RECORDING NO. 8909159013
RECORD OF SURVEY UNDER RECORDING NO. 8907069008
RECORD OF SURVEY UNDER RECORDING NO. 8804299009
RECORD OF SURVEY UNDER RECORDING NO. 8701059005
RECORD OF SURVEY UNDER RECORDING NO. 8509109014
RECORD OF SURVEY UNDER RECORDING NO. 8212079001
RECORD OF SURVEY UNDER RECORDING NO. 8206019001
RECORD OF SURVEY UNDER RECORDING NO. 8103109004

SHEET INDEX

JAY D. BABCOCK STATE OF WASHINGTON 30429 REGISTERED PROFESSIONAL LAND SURVEYOR

SURVEYOR'S CERTIFICATE

I, JAY D. BABCOCK, REGISTERED AS A LAND SURVEYOR BY THE STATE OF WASHINGTON, CERTIFY THAT THIS PRELIMINARY PLAT IS BASED ON AN ACTUAL SURVEY OF THE LAND DESCRIBED HEREIN, CONDUCTED BY ME OR UNDER MY DIRECT SUPERVISION; THAT THE DISTANCES, COURSES AND ANGLES ARE SHOWN HEREON CORRECTLY.

JAY D. BABCOCK P.L.S. NO. 30429 DATE

SEGALE PROPERTIES
A LIMITED LIABILITY COMPANY
P.O. Box 88028, Tukwila, WA. 98138
581 Strander Blvd., Tukwila, WA. 98188
www.segaleproperties.com
Phone 206-575-2000
Fax 206-575-1837

DESIGNED BY:	
DRAWN BY:	J.B./P.S.I.
CHECKED BY:	J.B.
SCALE:	AS-NOTED
DATE:	
SHEET	1 OF 13
PROJECT NO.	

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Tukwila South Sewer Connection Fees

Figure 14-8

Area Tributary to the Sewer System based on the Preliminary Plat Map Figure 14-7

5/28/2014

Installation of the Sewer System minus Grants	$	**681,904.14**
Total Area Tributary to the Sewer System (sq. ft.)		12,062,664
Cost per Square Foot		$0.056530

Design	$	59,416.80
Construction Mgmt		91,950.62
Construction		2,374,203.48
Total Sewer	$	**2,525,570.90**
Less Grants (73%)	$	**681,904.14**
63 parcels x $200 KC Recording		12,600.00
	$	**694,504.14**

Lot Number #7 not included as it can connect to existing sewer.
Lot Number #105 not included due to lot size.

Lot Number	AREA (Square Feet)	AREA (Acres)	Percent of Total Area	Sewer Connection Fee		Reference Only of Adjoining Parcel Numbers	Additional Parcel Numbers	
1	40,142	0.92	0.003327789	$ 2,669.23		3523049038	3523049008	2
2	186,049	4.27	0.015423542	$ 10,917.38		3523049025	3523049009	2
3	158,037	3.63	0.013101335	$ 9,133.85		3523049032		1
4	335,971	7.71	0.02785214	$ 19,192.49		3523049118		1
5	144,011	3.31	0.011938574	$ 8,340.96		3523049015		1
6	112,996	2.59	0.009367417	$ 6,587.68		*3523049027*		1
7	0	0.00	0	$ 200.00	310,716	3523049036		1
8	71,429	1.64	0.005921471	$ 4,237.88		*3523049116*		1
9	323,645	7.43	0.02683031	$ 18,495.70		3523049017		1
10	230,637	5.29	0.019119907	$ 13,237.94		3523049041		1
11	178,101	4.09	0.01476465	$ 10,268.08		3523049117		1
12	219,571	5.04	0.01820253	$ 12,612.38		*3523049013*		1
13	213,166	4.89	0.017671553	$ 12,250.31		0222049033		1
14	192,232	4.41	0.015936115	$ 11,066.90		*3523049013*		1
15	248,319	5.70	0.020585752	$ 14,237.51		0222049008		1
16	293,127	6.73	0.024300354	$ 16,770.51		0222049037		1
17	271,250	6.23	0.022486742	$ 15,533.80		0222049040		1
18	324,473	7.45	0.026898951	$ 18,542.51		0222049043		1
19	349,001	8.01	0.028932333	$ 19,929.08		0222049057		1
20	322,937	7.41	0.026771616	$ 18,455.68		0222049061		1
21	477,529	10.96	0.039587359	$ 27,194.78		0222049011		1
22	393,093	9.02	0.032587579	$ 22,421.60		0222049015		1
23	505,132	11.60	0.04187566	$ 28,755.19		0322049049		1
24	289,626	6.65	0.02401012	$ 16,572.60		*3523049124*		1
25	226,576	5.20	0.018783248	$ 13,008.37		*3523049039*		1
26	73,558	1.69	0.00609799	$ 4,358.24		0322049092		1
27	96,008	2.20	0.007959104	$ 5,627.35		0322049093		1
28	97,651	2.24	0.00809531	$ 5,720.23		0322049052		1
29	82,078	1.88	0.006804302	$ 4,839.88		0322049062		1
30	88,991	2.04	0.007377392	$ 5,230.67		0322049056		1
31	501,134	11.50	0.041544224	$ 28,529.18		0322049006		1
32	173,621	3.99	0.014393256	$ 10,014.82		0222049036		1
33	122,299	2.81	0.01013864	$ 7,113.58		0322049090		1
34	130,953	3.01	0.01085606	$ 7,602.79		0322049100		1
35	116,946	2.68	0.009694874	$ 6,810.97		0239000352		1
36	358,928	8.24	0.029755286	$ 20,490.25		0222049036		1
37	904,596	20.77	0.074991397	$ 51,336.94		0322049047		1
38	180,593	4.15	0.014971237	$ 10,408.95		3523049045		1
39	339,873	7.80	0.028175618	$ 19,413.07		0323049068		1
40	282,045	6.47	0.023381652	$ 16,344.05		3523049050	3523049049	2
41	170,722	3.92	0.014152927	$ 10,050.94		3523049034	3523049051	2
42	218,906	5.03	0.018147402	$ 12,774.79		3523049040	3523049033	2
43	28,132	0.65	0.002332176	$ 1,990.32		3523049090	3523049019	2
44	246,379	5.66	0.020424925	$ 14,127.84		3523049109		1
45	60,778	1.40	0.005038522	$ 3,835.79		3623049078	3523049065	2
46	69,579	1.60	0.005768129	$ 4,333.31		3523049016	3523049066	2
47	121,674	2.79	0.010086827	$ 7,078.25		0322049106		1
PARCEL B	45,604	1.05	0.003780632	$ 2,778.03		CITY OF TUKWILA 3523049038		1
PARCEL C	147,231	3.38	0.012205525	$ 8,523.00		CITY OF TUKWILA 3523049008		1
100	873,082	20.04	0.072378873	$ 49,355.45		352304-9037 KC Transfer Station	Paid	
101	79,385	1.82	0.006581051	$ 4,887.65		023900-0365 COLUCCIO	0322049067	2
102	204,767	4.70	0.016975272	$ 11,975.51		023900-0320 COLUCCIO	0322049005	2
103	94,200	2.16	0.007809221	$ 5,525.14		023900-0247 THOMPSON		1
104	45,900	1.05	0.00380513	$ 2,794.73		023900-0300 KOYAMOATSU		1
105			0	$ -		023900-0310 LA PIANTA LLC		
	12,062,664	276.92	100%	**$ 694,504.14**				63

TITLE 16

BUILDINGS AND CONSTRUCTION

Chapters:

Figures:

CHAPTER 16.04

BUILDINGS AND CONSTRUCTION

Sections:

16.04.010 Purpose of Chapter

TMC Chapter 16.04 is enacted for the purpose of adopting rules and regulations governing the conditions and maintenance of all property, buildings and structures by providing standards for supplied utilities, facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; governing the condemnation of buildings and structures unfit for human occupancy, and use and abatement of such structures in Tukwila; regulating the issuance of permits and the collection of fees; to help ensure the protection of the health, safety and the general welfare of the public; and governing the creation, construction, enlargement, conversion, alteration, repair, occupancy, use, height, court area, sanitation, ventilation and maintenance of all buildings and structures within this jurisdiction. The purpose of the codes adopted herein is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of these codes.

(Ord. 2648 §1, 2021; Ord. 2171 §1 (part); 2007)

16.04.020 Codes Adopted

A. Effective on the date established by the State Building Code Council, the specified editions of the following model codes are adopted by reference as if fully set forth and as numerated in Chapter 19.27 RCW:

2021 International Building Code with statewide amendments

ICC/ANSI A117.1-09, Accessible and Usable Buildings and Facilities, with statewide amendments

2021 International Residential Code with statewide amendments

2021 International Mechanical Code with statewide amendments

2021 International Fuel Gas Code with statewide amendments (part of the International Mechanical Code (IMC) adoption)

2020 Liquefied Petroleum Gas Code (NFPA 58)

2021 National Fuel Gas Code (NFPA 54) (for LP Gas installation only)

2023 National Electrical Code with statewide amendments

2021 Uniform Plumbing Code with statewide amendments

2021 Washington State Energy Code

2021 International Existing Building Code with statewide amendments found in the IBC

2021 International Swimming Pool and Spa Code

B. The International Building Code, 2021 Edition, as published by the International Code Council and as amended and adopted by the State of Washington. The following amendments are specifically adopted:

1. Work exempt from a building permit. Section 105.2 of the International Building Code, 2021 Edition, is amended to include provisions regarding the following work that is exempt from a building permit:

a. Work performed by the City of Tukwila and located in City of Tukwila right-of-way; work performed by Washington State Department of Transportation and located in WSDOT right-of-way to include public utility towers and poles, mechanical equipment not specifically regulated in this code, hydraulic flood control structures including levees; provided that any structure or building constructed in a municipal or state right-of-way and intended to be used as any occupancy classification of the State Building Code is not exempt from the provisions of this code or the related permit requirements.

b. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet, and such structure is outside of and entirely separated, as prescribed by Code, from any existing building on the premises.

c. Fences not over 6 feet high.

C. The International Residential Code, 2021 Edition as published by the International Code Council and as amended and adopted by the State of Washington. The following amendments are specifically adopted:

1. Work exempt from a building permit. Section R105.2 of the International Residential Code, 2021 Edition, is amended to include provisions regarding the following work that is exempt from a building permit:

a. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet, and such structure is outside of and entirely separated, as prescribed by Code, from any existing building on the premises.

b. Fences not over 6 feet high.

D. The Uniform Plumbing Code, 2021 Edition, published by the International Association of Plumbing and Mechanical Officials, as amended and adopted by the State of Washington. The following amendments are specifically adopted:

1. All reference to and definition of "authority having jurisdiction" is deemed to refer to and shall mean the City of Tukwila Building Official.

2. Water Supply and Distribution. Cross connection control for premises isolation related to the City's public water system shall be in accordance with the City of Tukwila Public Works Department's "Development Guidelines and Design and Construction Standards." Cross connection control for premises isolation related to water purveyors outside of the City of Tukwila water system shall be in accordance with that water purveyor's policies and standards.

3. Sanitary Drainage. Side sewer, private sewer main extensions beyond a point defined in the plumbing code as the building drain, and required grease interceptors all within the City's sewer districts shall be in accordance with the City of Tukwila Public Works Department's "Development Guidelines and Design and Construction Standards," in conjunction with the Uniform Plumbing Code requirements. Sanitary drainage, side sewers, private sewer main extensions beyond the building drain and grease interceptors outside the Tukwila sewer district shall be in compliance with that purveyor's policies and standards.

E. The Washington Cities Electrical Code. Article 80.3 National Electrical Code: The 2023 Edition of the National Electrical Code (NFPA 70) is adopted by reference as if fully set forth.

1. Article 85.11 of the National Electrical Code, sections (A), (B) and (C), is amended entirely and replaced as follows: The authority having jurisdiction within the City of Tukwila shall mean the Building Official, and shall include the Chief Electrical Inspector or other individuals or jurisdictions when designated by the Building Official. All references to "Code Official" shall mean the City of Tukwila Building Official or designee.

(Ord. 2705 §2, 2023; Ord. 2702 §2, 2023; Ord. 2648 §2, 2021;Ord. 2171 §1 (part), 2007;)

16.04.030 Filing Copies of State Building Codes

The Department of Community Development Permit Center shall maintain a copy of software of the codes referred to in TMC Section 16.04.020 and the codes shall be open to public inspection.

(Ord. 2702 §3, 2023; Ord. 2648 §3, 2021; Ord. 2171 §1 (part), 2007)

16.04.040 Compliance with Other Regulations as Prerequisite for Building Permits

No building permit shall be issued if the construction authorized by the permit will violate any existing applicable law or City ordinance.

(Ord. 2171 §1 (part), 2007)

16.04.050 Building, Moving and Demolition Permits

A. No person shall move any existing building or structure within or into the City without first obtaining a relocation permit and a building permit from the Building Division. No person shall effect any demolition of any building or structure or any part thereof that is not exempted by Section 105.2 of the International Building Code without first obtaining a demolition permit from the Building Division.

B. Except as otherwise provided in TMC 16.04.050, a relocation permit shall not be issued for any building or structure that is included within any one or more of the following categories:

1. So constructed or in such condition as to constitute a danger of injury or death through collapse of the building, fire, defects, and substandard electrical wiring or other substantial hazard to the persons who occupy or enter said building after relocation;

2. Infested with rats or other vermin, or the wood members of which are infested with rot, decay or insects;

3. So unsanitary or filthy that it would constitute a hazard to the health of the persons who would occupy said building after relocation, or, if not intended for occupancy by human beings, would make it unsuitable for its intended use;

4. In such condition or of a type, character, size or value, and is so inharmonious with other buildings in the neighborhood of the relocation site, that placing the building at the proposed relocation site would substantially diminish the value of other property or improvements in the district into which the building is to be relocated;

5. The proposed use of the building is prohibited at the proposed relocation site under any zoning ordinance or other land use ordinance of this City;

6. The building, structure or relocation site does not conform to all applicable provisions of law or ordinance.

(Ord. 2171 §1 (part), 2007)

16.04.060 Application for Relocation/Demolition Permit

Every application for a relocation or a demolition permit shall be in writing upon a form furnished by the Building Division, and shall set forth such information as may reasonably be required in order to carry out the purposes of TMC Chapter 16.04. Such information may include:

1. Pre-move inspection and investigation of the structure by the Building Division;
2. Photographs of the building or structure to be moved and/or demolished;
3. Report from a licensed pest control contractor, stating the condition of the building as to pest infestation;
4. Report from a registered engineer or architect, stating the structural condition of the building and clearly indicating the steps to be taken to preserve/enhance said condition.

(Ord. 2171 §1 (part), 2007)

16.04.070 Correction of Defects Before Issuance of Permit

A. If the building or structure to be moved fails to meet any of the standards set forth in TMC 16.04.100, but it appears to the Building Official that the deficiencies can be corrected, the permits shall be issued only on condition that all deficiencies are corrected prior to the building being used or occupied.

B. In order to determine any matter regarding relocation of a building or structure, the Building Official may cause any investigation to be made which he believes necessary.

(Ord. 2171 §1 (part), 2007)

16.04.080 Terms and Conditions of Issuance

A. In granting a relocation permit, the Building Official may impose such terms and conditions as are necessary, in the opinion of the Building Official, to ensure that its relocation will not be materially detrimental or injurious to the public safety or welfare, or to the property or improvements in the district to which the building is to be moved, including, but not limited to, changes, alterations, additions or repairs to the building or structure.

B. A separate foundation permit, good for 90 days, must be applied for and approved, prior to issuance of the relocation permit.

(Ord. 2171 §1 (part), 2007)

16.04.090 Application Fee

The fee for relocation investigation service shall be a $25 base fee, plus $15 for every 10 miles distance or increment thereof, outside the City limits. In the event a building permit is issued for a relocated building, the fees for the building permit and plan review shall be based upon the total value of the building or structure at its relocated site, using the same valuation formula as used for new residential construction.

(Ord. 2171 §1 (part), 2007)

16.04.100 Debris and Excavations

A. It shall be the duty of any person to whom any permit is issued for the demolition or removal of any building or any section or portion of any building pursuant to the provisions of TMC Chapter 16.04, and of any person leasing, owning, or occupying or controlling any lot or parcel of ground from which a building is removed or demolished, to remove all demolition rubble and loose miscellaneous material from such lot or parcel of ground, to properly cap the sanitary sewer connections, and to properly fill or otherwise protect all basements, cellars, septic tanks, wells and other excavations.

B. After the work is completed, an inspection will be required.

(Ord. 2171 §1 (part), 2007)

16.04.110 Expiration

A relocation permit shall expire and become null and void if the moving of the building or structure onto a permanent foundation is not completed within 180 days from the date of issuance of the permit. No extensions will be granted.

(Ord. 2171 §1 (part), 2007)

16.04.120 Relocation Bond – Required

No relocation permit required by TMC Chapter 16.04 shall be issued by the Building Division unless the applicant therefore first posts a bond, in a form approved by the City Attorney, executed by the owner of the premises where the building or structure is to be located as principal, and a surety company authorized to do business in the State as surety. The bond shall be in form joint and several, shall name the City as obligee, and shall be in an amount equal to the cost plus 10% of the work required to be done, in order to comply with all the conditions of such relocation permit as such cost is established by the Building Official. In lieu of a surety bond, the applicant may post a bond executed by the owner as principal and which is secured by a deposit in cash in the amount specified above with a banking or escrow agent acceptable to the City, and conditioned as required in the case of a surety bond; such a bond as so secured is hereafter call a “cash bond” for the purposes of TMC Chapter 16.04.

(Ord. 2171 §1 (part), 2007)

16.04.130 Relocation Bond – Conditions

Every bond posted pursuant to TMC Chapter 16.04 shall be conditioned as follows:

1. Each and all of the terms and conditions of the relocation permit shall be complied with to the satisfaction of the Building Official;

2. All of the work required to be done pursuant to the conditions of the relocation permit shall be fully performed and completed within the time limit specified in the relocation permit; or, if no time limit is specified, within 90 days after the date said building is moved to the new location. The time limit herein specified, or the time limit specified in any permit, may be extended by the Building Official for good and sufficient cause. No such extension of time shall be valid unless written, and no such extension shall release any surety upon any bond.

(Ord. 2171 §1 (part), 2007)

16.04.140 Relocation Bond – Default in Performance of Conditions

A. Whenever the Building Official finds that a default has occurred in the performance of any term or condition of any permit required by TMC 16.04.140, written notice thereof shall be given to the principal and to the surety of the bond. Such notice shall state the work to be done, the estimated cost thereof, and the period of time deemed by the Building Official to be reasonably necessary for the completion of such work. After receipt of such notice, the surety must, within the time therein specified, either cause the required work to be performed or, failing therein, must pay the full amount of the approved bond to the City. Upon receipt of such funds, the Building Official shall proceed by such mode as he deems convenient to cause the building or structure to be demolished and to clear, clean and restore the site to a natural condition, but no liability shall be incurred therein other than for the expenditure of the sum in hand therefor.

B. When any default has occurred on the part of the principal under the preceding provisions, the surety shall have the option, in lieu of completing the work required, to demolish the building or structure and to clear, clean and restore the site to a natural condition.

(Ord. 2171 §1 (part), 2007)

16.04.150 Relocation Bond – Refund of Surplus on Termination

The term of each bond posted pursuant to TMC Chapter 16.04 shall begin upon the date of the posting thereof, and shall end upon completion, to the satisfaction of the Building Official, of the performance of all the terms and conditions of the relocation permit required by this section and release of the bond by the Building Official. Such completion and release shall be evidenced by a statement thereof signed by the Building Official, a copy of which will be sent to the surety or principal upon request. When a cash bond has been posted, the cash shall be returned to the depositor or his successors or assignees upon the termination of the bond, except any portion thereof that may have been used or deducted as provided elsewhere in TMC Chapter 16.04.

(Ord. 2171 §1 (part), 2007)

16.04.170 Additional Requirements for Security Devices

The following requirements shall apply to all apartment houses, hotels, and motels, provided that nothing in TMC Chapter 16.04 shall be construed to relieve any party from compliance with the International Building Code and the International Fire Code.

1. Entrance doors to individual housing units shall be without glass openings and shall be capable of resisting forcible entry equal to a wood, solid core door, 1-3/4 inches thick. TMC 16.04.170(1) shall apply in a structure constructed after June 24, 1998. Any door replaced in existing structures must comply with TMC 16.04.170.

2. Every entrance door to an individual housing unit shall have a keyed, single-cylinder, 1-inch deadbolt lock. The lock shall be so constructed that the deadbolt lock may be opened from inside without use of a key. In hotels and motels every entrance door to an individual unit shall also be provided with a chain door guard or barrel bolt on the inside.

3. The door of a housing unit to an interior corridor shall have a visitor observation port, which shall not be in excess of ½-inch in diameter.

4. In all apartment houses as defined in TMC 16.04.180, lock mechanisms and keys shall be changed upon a change of tenancy.

5. All exit doors shall be able to open from the interior without the use of a key or any special knowledge or effort.

6. Deadbolts or other approved locking devices shall be provided on all sliding patio doors which are less than one story above grade or are otherwise accessible from the outside. The lock shall be installed so that the mounting screws for the lock cases are inaccessible from the outside.

7. Locks and latches and the unlatching thereof shall be in accordance with the provisions of the State Building Code. Installation and approval of any alternate locking devices in existing buildings shall be in accordance with approval of the Tukwila Fire Department.

(Ord. 2171 §1 (part), 2007)

16.04.180 Definitions

For the purpose of TMC 16.04.170 through 16.04.190, the following definitions shall apply:

1. "Apartment house" means any building or portion thereof (including residential condominiums, for the purpose of this code) that contains three or more dwelling units.

2. "Hotel" means any building containing six or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests.

3. "Motel" means hotel as defined in TMC 16.04.180-2.

(Ord. 2171 §1 (part), 2007)

16.04.190 Enforcement – Right of Entry

The Building Official is authorized and directed to enforce the provisions of TMC 16.04.170 through 16.04.190 for all new construction. The Chief of Police is authorized and directed to enforce the provisions of TMC 16.04.170 through 16.04.190 for all existing buildings or premises; and upon presentation of proper credentials, the Chief of Police or his duly authorized representative may, with the consent of the occupant or pursuant to a lawfully issued warrant, enter at reasonable times any building or premises for the purposes of inspecting the physical security of exterior accessible openings of such building or premises.

(Ord. 2171 §1 (part), 2007)

16.04.210 Adoption of County Health Regulations

Seattle-King County Department of Public Health rules and regulations for construction, maintenance and operation of swimming pools, one copy of which is filed with the City Clerk for use and examination by the public, are adopted by reference as Tukwila's rules and regulations.

(Ord. 2171 §1 (part), 2007)

16.04.220 Enforcement Officer Designated

The director of the Seattle-King County Department of Public Health or his authorized representative is designated as the enforcement officer of TMC 16.04.200 through 16.04.230.

(Ord. 2171 §1 (part), 2007)

16.04.230 Fee Payment

Any fees to be paid under TMC 16.04.200 through 16.04.230 shall be collected by, paid directly to, and retained by the Seattle-King County Department of Public Health.

(Ord. 2171 §1 (part), 2007)

16.04.240 Abatement of Dangerous Buildings by City

A. The City Council may, upon approval and passage of an appropriate resolution or ordinance, direct the Mayor or a designated representative to abate a dangerous building as determined by the provisions of TMC Chapter 16.04; and such dangerous building may be abated by City personnel or by private contractor under the direction and pursuant to the order of the Planning Director or designated representative.

B. The City Council shall appropriate sufficient funds to cover the cost of such repair or demolition work. The costs incurred by the City in any such abatement proceedings shall be recovered by special assessment against the real property involved, and shall constitute a lien as provided by law, and particular reference being made to RCW 35.80.030.

C. Nothing in TMC 16.04.240 shall be construed to abrogate or impair the power of the City or any department thereof to enforce any provision of its charter or its ordinances or regulations, nor to prevent or punish violations thereof; and any powers conferred by TMC 16.04.240 shall be in addition to and supplemental to powers conferred by other laws; nor shall TMC 16.04.240 be construed to impair or limit in any way the power of the City to define and declare nuisances and to cause their removal or abatement, by summary proceedings or in any manner provided by law.

(Ord. 2171 §1 (part), 2007)

16.04.250 Procedures applicable to all construction permits

A. Permit and plan review fees applicable to all construction permits shall be in accordance with the permit fee schedule adopted by resolution of the City Council.

B. Work covered without inspection or work not ready at the time of inspection may be charged a re-inspection fee at the hourly rate in accordance with the permit fee schedule adopted by resolution of the City Council. Neither the Building Official nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

C. Work without a permit. Any person who commences work before obtaining the necessary permits required by the Washington State adopted codes and Tukwila Municipal Code to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure; or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system; or to cause any such work to be performed on a building or structure before obtaining the necessary permits shall be charged double the fee established in accordance with the permit fee schedule adopted by resolution of the City Council.

D. Fee refunds. The Building Official may refund any permit fee paid by the original permit applicant that was erroneously paid or collected. The Building Official may also authorize the refund of not more than 80% of the permit fee when no work has been done under a permit issued in accordance with the code. Where a plan review fee has been collected, no refund will be authorized once it has been determined that the application is complete, and the plan review process has commenced. Refund of any permit fee paid shall be requested by the original permit applicant in writing and not later than 180 days after the date of fee payment.

E. Expiration of permits. Permits issued under the Washington State adopted codes and Tukwila Municipal Code shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. Each valid inspection requested by the applicant shall extend the permit for an additional 180 days. The Building Official is authorized to grant, in writing, two extensions of time, for periods not more than 180 days each. It shall be the responsibility of the applicant to request a permit extension. The extension shall be requested in writing and justifiable cause shall be demonstrated.

F. Time limitation of permit application.

1. All proposed work under Washington State adopted codes and Tukwila Municipal Code shall require a complete permit application, plans, and submittal documents. All documents shall be submitted electronically. After each department completes review of the submittal documents, the Permit Center shall return the electronic plan, with corrections, to the applicant, as identified on the application, for review and amendment.

2, The applicant shall then resubmit the amended electronic plan to the Permit Center within 180 days of notification, or the application shall be deemed to have been abandoned and shall expire. Each time the Permit Center receives amended documents within the 180 day time limit, the application will be extended for an additional 180 days before expiration.

3. An expired permit application cannot be renewed and is not entitled to a refund. In order to obtain a new permit, a new permit application shall be submitted along with the required submittal documents and a new fee shall be paid in accordance with the permit fee schedule adopted by resolution of the City Council, which may be amended from time to time.

G. Reactivating expired permit for final. Expired permits that have completed the inspection process and need only final inspection approval may be reactivated. Reactivation shall require a new permit application, and the fee shall be in accordance with the permit fee schedule adopted by resolution of the City Council. The Building Official may grant one 30-day extension to an expired permit for the purpose of performing a final inspection and closing out the permit as long as not more than 90 days have passed since the permit expired. Provided no changes have been made or will be made in the plans or scope of work, the 30-day extension commences on the date of written approval. If work required under a final inspection is not completed within the 30-day extension period, the permit shall expire.

H. Owner-occupied residential remodel permits. Owner-occupied residential remodel permits for projects not exceeding $20,000.00 in valuation are eligible for a flat fee per the following:

1. The flat fee includes all permit and other associated fees in accordance with the permit fee schedule adopted by resolution of the City Council.

2. The valuation will be cumulative during a rolling one-year period.

3. All requirements for submittal documents and inspections are as required for a new house under this section; only the fee is reduced.

4. Projects that exceed the $20,000.00 limit will be subject to the standard permit fees in accordance with the permit fee schedule adopted by resolution of the City Council.

I. Appeals. All references to Board of Appeals are amended as follows: Any person, firm or corporation may register an appeal of a decision or determination of the Building Official provided that such appeal is made in writing within 14 calendar days after such person, firm or corporation shall have been notified of the Building Official's decision. Any person, firm or corporation shall be permitted to appeal a decision of the Building Official to the Tukwila Hearing Examiner when it is claimed that any one of the following conditions exists.

1. The true intent of the code or ordinance has been incorrectly interpreted.

2. The provisions of the code or ordinance do not fully apply.

3. The decision is unreasonable or arbitrary as it applies to alternatives or new materials.

4. Notice of Appeal procedures shall be in accordance with TMC Section 18.116.030.

J. Violations. Whenever the authority having jurisdiction determines there are violations of this code, a Notice of Violation shall be issued to confirm such findings. Any Notice of Violation issued pursuant to this code shall be served upon the owner, operator, occupant or other person responsible for the condition or violation, either by personal service or mail, or by delivering the same to and leaving it with some person of responsibility upon the premises. For unattended or abandoned locations, a copy of such Notice of Violation shall be posted on the premises in a conspicuous place, at or near the entrance to such premises, and the Notice of Violation shall be mailed by registered or certified mail, with return receipt requested, to the last known address of the owner, occupant or both.

K. Penalties. Any person, firm or corporation who shall willfully violate or fails to comply with a Notice of Violation is liable for the monetary penalties prescribed in TMC Section 8.45.120.A.2.

(Ord. 2702 §4, 2023; Ord. 2673 §1, 2022; Ord. 2648 §4, 2021; Ord. 2171 §1 (part), 2007)

16.04.260 Affordable Housing Fee Reductions

Development permit fees for the construction or substantial improvement of dwelling units may be reduced by the DCD Director. Development permits include building, mechanical, electrical and plumbing permits. "Substantial improvement" is a repair, reconstruction or rehabilitation of a building or structure the cost of which exceeds 50 percent of the building or structure's assessed value. The property owner must request the reduction in writing prior to permit submittal and when all of the following conditions are met:

1. Fee reduction table.

Unit Size	Affordability Target [1]	Fee Reduction
2 or more bedrooms	80% [2]	40%
2 or more bedrooms	60% [2]	60%
Any size	50% [2]	80%

[1] – Units to be sold or rented to a person or household whose monthly housing costs, including utilities other than telephone, do not exceed 30% of the household's monthly income.

[2] – Percentage of King County Median family income adjusted for family size as reported by the U.S. Department of Housing and Urban Development.

2. If the project contains a mix of dwelling units that qualify for fee reduction per the table in subparagraph 1 above and units that do not qualify due to unit size or expense, the fee reduction shall be pro-rated to reflect the proportion of low-income units in the project.

3. If converted to market rate housing within 10 years of the issuance of the Certificate of Occupancy, the full applicable permit fees at the time of conversion shall be paid to the City.

4. If the project contains commercial tenant space that occupies more than 15% of the building, along with dwelling units that qualify for fee reduction per the table in subparagraph 1 above, the fee reduction shall be pro-rated to reflect the proportion of the total building square footage occupied by the low-income units. Commercial spaces that occupy less than 15% of the building are considered accessory and will not affect the fee reduction.

(Ord. 2520 §1, 2016)

CHAPTER 16.05

5-STORY TYPE V-A BUILDINGS

Sections:

This Chapter was repealed by Ordinance 2648, January 2021

CHAPTER 16.08

BLANKET TENANT IMPROVEMENT BUILDING PERMITS

Sections:

16.08.010 Blanket Permitting - Allowed

Qualifying applicants and projects may be issued an annual blanket permit to allow tenant improvements to start before issuance of a building permit.

(Ord. 1529 §1, 1989)

16.08.020 Policy and Procedure

Rules and regulations for determining qualifying applicants and projects and the policies and procedures to be used are to be determined by the Administration, and kept on file with and administered by the Building Official of the City.

(Ord. 1529 §2, 1989)

16.08.030 Fees and Security

The administrative policy shall require a fee for a blanket permit of $2,500 for each calendar year or part thereof, and shall require that there be in effect at all times a cash or surety bond acceptable to the City in the amount of $250,000, to guarantee that all projects will be constructed pursuant to building permits finally issued.

(Ord. 1529 §3, 1989)

16.08.040 Blanket Permit Not in Lieu of Regular Permits

The purpose of the blanket permit is to allow early construction and such permit is not in lieu of all normally required permits, and the policies and procedures shall require timely applications and fees for all such permits.

(Ord. 1529 §4, 1989)

CHAPTER 16.16

INTERNATIONAL FIRE CODE

Sections:

16.16.010 Adoption of the International Fire Code

A. Effective on October 29, 2023, or whichever date is established by the State Building Code Council, in accordance with RCW 19.27, the *International Fire Code,* 2021 Edition, including Appendix B, published by the International Code Council, Inc., together with any additions, deletions, and exceptions currently enacted or as may be amended from time to time by the State of Washington through its Building Code Council pursuant to WAC 51-54A, and as further amended in this ordinance, are hereby adopted by this reference as if fully set forth, subject to the modifications and amendments set forth in TMC Chapter 16.16.

B. One copy of said Fire Code shall be maintained on file with the Puget Sound Regional Fire Authority at the Fire Marshal's Office.

(Ord. 2706 §2, 2023; Ord. 2703 §6, 2023)

16.16.020 Conflicts with Existing Codes and Ordinances

Whenever any provision of the International Fire Code or appendices adopted by this ordinance conflicts with any provision of any other adopted code or ordinance of the City, the provision providing the greater or most effective protection shall govern.

(Ord 2703 §7, 2023)

16.16.030 Amendments to the International Fire Code – Chapter 1, "Scope and Administration"

A. Section 104 of the *International Fire Code*, entitled "Duties and Powers of the Fire Code Official," is amended by adding the following new subsection 104.1.1:

> Section 104.1.1 Retained authority – Additional conditions. The Fire Code Official retains the authority to impose additional conditions where the Official determines it necessary to mitigate identified fire protection impacts and problematic fire protection systems. These conditions may include, by way of example and without limitation, increased setbacks, use of fire-retardant materials, installation or modification of standpipes, automatic fire sprinkler and fire alarm systems.

B. Section 104 of the *International Fire Code*, entitled "Duties and Powers of the Fire Code Official," is amended by adding the following new subsection 104.13:

> Section 104.13 Lot lines and setback lines. Notwithstanding the authority of the Fire Code Official to administer and enforce the fire code, the Fire Code Official shall have no duty to verify or establish lot lines or setback lines. No such duty is created by this Code, and none shall be implied.

C. Section 105 of the *International Fire Code*, entitled "Permits," is amended by substituting subsection 105.2.3 with the following:

> Section 105.2.3 Expiration of applications. Expiration of applications shall be in accordance with TMC Section 16.04.250.F.

D. Section 105 of the *International Fire Code*, entitled "Permits," is amended by substituting subsection 105.3.1 with the following:

> Section 105.3.1 Expiration. An operational permit shall remain in effect until reissued, renewed or revoked, or for such a period of time as specified in the permit. Construction permit expiration shall be in accordance with TMC Section 16.04.250.E.

E. Section 105 of the *International Fire Code*, entitled "Permits," is amended by substituting subsection 105.5 with the following:

> Section 105.5 Required operational permits. The Fire Code Official is authorized to issue operational permits for the operations set forth in Sections 105.5.1 through 105.5.56.

F. Section 105 of the *International Fire Code*, entitled "Permits," is amended by substituting subsection 105.5 with the following:

> Section 105.5.32 Mobile food preparation vehicles. A permit is required for mobile preparation vehicles equipped with appliances that produce smoke or grease-laden vapors or utilize LP-gas systems or CNG systems.

Exception: Mobile food preparation vehicles which are not parked, or visiting a location for more than three consecutive calendar days.

G. Section 105 of the *International Fire Code*, entitled "Permits," is amended by adding the following new subsection 105.5.53:

Section 105.5.53 Commercial Kitchens. An operational permit is required for all commercial kitchens with type I hood systems.

Exception: No fee will be required if another operational fire permit in accordance with Section 105.5 is issued for the occupancy.

H. Section 105 of the *International Fire Code*, entitled "Permits," is amended by adding the following new subsection 105.5.54.

Section 105.5.54 Emergency and Standby Power Systems. An Operational Permit is required for emergency or standby power systems required by code and identified in NFPA 110.

I. Section 105 of the *International Fire Code*, entitled "Permits," is amended by adding the following new subsection 105.5.55:

Section 105.5.55 Fire Protection System Contractor. An operational permit is required for all contractors or other entities performing any installation, inspection, service, maintenance, or repair of any fire protection system.

J. Section 105 of the *International Fire Code*, entitled "Permits," is amended by adding the following new subsection 105.5.56.

Section 105.5.56 Commercial Kitchen Hood and Duct Systems Contractor. An operational permit is required for all contractors or other entities performing any inspection or cleaning of commercial kitchen hood and duct systems.

K. Section 105 of the *International Fire Code*, entitled "Permits," is amended by modifying subsection 105.6:

Section 105.6 Required construction permits. The Fire Code Official is authorized to issue construction permits for work as set forth in Sections 105.6.1 through 105.6.26.

L. Section 105 of the *International Fire Code*, entitled "Permits," is amended by adding the following new subsection 105.6.26:

Section 105.6.26 Emergency and Standby Power Systems. A Construction Permit is required for the installation of emergency or standby power systems required by code and identified in NFPA 110.

M. Section 107 of the *International Fire Code*, entitled "Fees," is amended by substituting subsection 107.1 with the following:

Section 107.1 Fees. The Fire Code Official shall collect fees as a condition to issuance or renewal of any permit or certificate.

N. Section 107 of the *International Fire Code*, entitled "Fees," is amended by substituting subsection 107.2 with the following:

Section 107.2 Schedule of Permit Fees. The Fire Code Official shall prepare a resolution establishing a schedule of fees for council consideration, which fees shall include the cost involved in the processing, issuance, and renewal of permits and certificates. Any fee schedule adopted by resolution shall govern the fee amount to be assessed for any permit or certificate.

O. Section 107 of the *International Fire Code*, entitled "Fees," is amended by substituting subsection 107.4 with the following:

Section 107.4 Work commencing before permit issuance. When work for which a permit is required by this code has commenced without a permit, the fees shall be doubled. The payment of such fees shall not relieve any persons from the requirements of this code or from any penalties prescribed by this code.

P. Section 107 of the *International Fire Code*, entitled "Fees," is amended by adding the following new subsection 107.7:

Section 107.7 Termination. Failure to pay for the required renewal within 60 days of the date notice is given shall result in the City's termination of the permit.

Q. Section 109 of the *International Fire Code*, entitled "Maintenance," is amended by substituting subsection 109.3 with the following:

Section 109.3 Recordkeeping. A record of periodic inspections, tests, servicing and other operations and maintenance shall be maintained on the premises or other approved location for not less than 3 years, or a different period of time where specified in this code or referenced standards.

1. Records shall be made available for inspection by the Fire Code Official, and a copy of the records shall be provided to the Fire Code Official upon request. This applies to all life safety systems regulated by the Fire Code that require periodic testing, inspections, and maintenance.
2. The Fire Code Official is authorized to prescribe the form and format of such recordkeeping.
3. The Fire Code Official is authorized to require that certain required records be filed with the Fire Code Official.
4. All test reports must be filed with the Compliance Engine (https://www.TheComplianceEngine.com/) within 14 days of the reportable activity.

R. Section 111 of the *International Fire Code*, entitled "Board of Appeals," is amended by substituting Section 111 with the following:

Section 111 Means of Appeals.

1. Whenever the Fire Code Official disapproves an application or refuses to grant a permit applied for, the

applicant may appeal the decision to the City's Hearing Examiner. A written notice of appeal shall be filed with the City Clerk within 14 days of the date of final decision by the Fire Code Official. The notice of appeal must be accompanied by an appeal fee in accordance with the Tukwila Fire Permit Fee Schedule adopted by resolution of the City Council.

2. The Notice of Appeal shall contain the following information:

a. The name of the appealing party.

b. The address and phone number of the appealing party; and if the appealing party is a corporation, association or other group, the address and phone number of a contact person authorized to receive notices on the appealing party's behalf.

c. A statement identifying the decision being appealed and the alleged errors in that decision.

d. The Notice of Appeal shall state specific errors of fact or errors in application of the law in the decision being appealed, the harm suffered or anticipated by the appellant, and the relief sought. The scope of an appeal shall be limited to matters or issues raised in the Notice of Appeal.

3. Upon timely filing of a Notice of Appeal, the Fire Code Official shall set a date for hearing the appeal before the City's Hearing Examiner. Notice of the hearing will be mailed to the applicant.

4. Deference shall be given to the decision being appealed. The standard on review shall be based upon a preponderance of evidence. The Hearing Examiner may affirm, reverse or modify the Fire Code Official, or designee's, decision.

5. The decision of the Hearing Examiner shall be final.

S. Section 112 of the *International Fire Code* entitled "Violations" is amended by substituting subsection 112.4 with the following:

Section 112.4 Violations and Penalties.

1. Any person who violates any of the Fire Code provisions of TMC Chapter 16.16 or the *International Fire Code* or who fails to comply therewith, or who violates or fails to comply with any order made thereunder, or who builds in violation of any detailed statement of specifications or plans submitted and approved thereunder or any certificate or permit issued thereunder and from which no appeal has been taken, or who fails to comply with such an order as affirmed or modified by the Fire Code Official or by a court of competent jurisdiction within the time fixed therein, shall, as deemed applicable by the Fire Code Official, be subject to the enforcement proceedings provided in TMC Chapter 8.45, or shall be guilty of a gross misdemeanor, and upon conviction thereof, shall be punished by a fine in an amount not to exceed $5,000.00, as outlined in IFC Section 112.4, or imprisonment for a term not to exceed one year or by both such fine and imprisonment.

2. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue. Each day or portion thereof during which any violation of the provisions of this section is caused, permitted, or continued shall constitute a separate offense and shall be punishable as such. Application of the penalty specified in this section shall not be held to prevent the enforced removal of prohibited conditions.

3. Fire lane parking violations shall be considered a non-traffic civil infraction subject to the fine listed in the Fire Penalty Bail Schedule, and the vehicle may be impounded.

4. In addition to the imposition of the penalties herein described, the Fire Code Official is authorized to institute appropriate action to prevent unlawful construction or to restrain, correct or abate a violation; or to prevent illegal occupancy of a structure or premises;

OFFENSE	BAIL
Non-compliance with orders and notices	$5,000.00
Unlawful removal of a tag	$5,000.00
Unlawful continuance of a hazard	$5,000.00
Non-compliance with a Stop Work Order	$5,000.00
Illegal parking on fire apparatus access roads / Fire Lane	$100.00
Failure to: Clean commercial kitchen hoods	$500.00
Failure to: Maintain fire protection systems	$500.00
Failure to: Conduct a required fire watch	$500.00
Failure to: Maintain commercial cooking extinguishing systems	$500.00
Failure to: Maintain means of egress continuity	$250.00
Failure to: Provide required UL central station monitoring	$500.00

or to stop an illegal act, conduct of business or occupancy of a structure on or about any premises.

5. Fire Penalty Bail Schedule:

6. Other Violations. Bail for all other violations is $250.00 plus court costs. Fines are forfeitable on the first offense and mandatory appearance is required on the second offense.

(Ord 2703 §8, 2023)

16.16.040 Amendments to the International Fire Code – Chapter 2, "Definitions"

A. Section 202 of the International Fire Code, entitled "General Definitions," is amended by adding the following definitions to subsection 202:

Fire Code Official. The fire chief or other designated authority charged with the administration and enforcement of the code, or a duly authorized representative.

Outdoor storage. The on-site storage of materials outdoors, including materials stored in vehicles, which are not in transit.

Problematic fire protection system. A fire protection system that generates repeated preventable alarms.

(Ord 2703 §9, 2023)

16.16.050 Amendments to the International Fire Code – Chapter 3, "General Requirements"

A. Section 308 of the *International Fire Code* entitled "Open Flames" is amended by substituting subsection 308.1.6.3 with the following:

Section 308.1.6.3 Sky Lanterns. The use of sky lanterns is prohibited.

(Ord 2703 §10, 2023)

16.16.060 Amendments to the International Fire Code – Chapter 5, "Fire Service Features"

A. Section 503 of the International Fire Code, entitled "Fire Apparatus Access Roads," is hereby adopted.

B. Section 503 of the International Fire Code, entitled "Fire Apparatus Access Roads," is amended by substituting subsection 503.1.1 with the following:

Section 503.1.1 Buildings and Facilities. Approved fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction. The fire apparatus access road shall comply with the requirements of this section and shall extend to within 150 feet (45,720 mm) of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility.

Exceptions: The Fire Code Official is authorized to increase the distance:

1. Up to 300 feet where the building is equipped throughout with an approved automatic sprinkler system installed.
2. Where fire apparatus access roads cannot be installed because of location on property, topography, waterways, nonnegotiable grades or other similar conditions, and an approved alternative means of fire protection is provided.

Alternate means may include installation of stairs that extend to the roof, sprinkler system, fire alarm system, standpipes, smoke control system, ready access to fire service elevators and others (sometimes in combination) to mitigate the additional access distance.

3. There are not more than two Group R-3 or Group U occupancies.

C. Section 503 of the International Fire Code entitled "Additional Access" is amended by substituting subsection 503.1.2 with the following:

Section 503.1.2 Additional Access. The Fire Code Official is authorized to require more than one fire apparatus access road based on the potential for impairment of a single road by vehicle congestion, condition of terrain, climatic conditions or other factors that could limit access.

D. Section 503 of the International Fire Code entitled "Fire Apparatus Access Roads" is amended by substituting subsection 503.2.1 with the following:

Section 503.2.1. Dimensions. The following minimum dimensions shall apply for fire apparatus access roads:

1. Fire apparatus access roads and fire lanes shall have an unobstructed width of not less than 20 feet (6,096 mm), and an unobstructed vertical clearance of not less than 13 feet 6 inches (4,115 mm).
2. Fire apparatus access road routes shall be approved by the Fire Code Official.
3. Where a fire hydrant is located on a fire apparatus access road, the minimum road width shall be 26 feet for 20 feet on both sides of the hydrant operating nut, as shown in D103.1 and shall be marked as a fire lane per Section 503.3.

Exception: When the fire apparatus access road is serving no more than 2 single family houses and all are equipped with approved automatic sprinkler system, the Fire Code Official may approve a reduced width, but the reduction shall not be less than 16 feet wide.

E. Section 503 of the International Fire Code entitled "Fire Apparatus Access Roads" is amended by substituting subsection 503.2.3 with the following:

Section 503.2.3. Surface. Fire apparatus access roads shall be constructed with a surface of asphalt or concrete or other permanent material approved by the Fire Code Official, capable of supporting the imposed load of fire apparatus weighing at least 85,000 lbs (38,555 kg).

F. Section 503 of the International Fire Code entitled "Fire Apparatus Access Roads" is amended by substituting subsection 503.2.4 with the following:

Section 503.2.4. Turning Radius. All fire apparatus access roads shall have a 30-foot minimum inside turning radius (curb radius) and a 50-foot minimum outside turning radius, unless otherwise approved by the Fire Code Official. The radius is measured from the travel lane edge (curb).

G. Section 503 of the International Fire Code is amended by substituting subsection 503.2.5 with the following:

Section 503.2.5. Dead-Ends. Dead-end fire apparatus access roads in excess of 150 feet in length shall be provided with a turnaround that is approved by the Fire Code Official.

Exception: The Fire Code Official is authorized to increase the length up to 300 feet for dead-end access roads when all of the following apply:

1. The road is serving no more than 4 single-family homes that are equipped throughout with an approved automatic fire sprinkler system.

2. The road shall have an unobstructed width of not less than 20 feet, and an unobstructed vertical clearance of not less than 13 feet 6 inches.

3. Where the vertical distance between the grade plane and the highest point of the roof eave is no more than 30 feet for any of the structures served by the fire access road.

H. Section 503 of the International Fire Code entitled "Fire Apparatus Access Roads" is amended by substituting subsection 503.2.6 with the following:

Section 503.2.6. Bridges and Elevated Surfaces. Where a bridge or an elevated surface is part of a fire apparatus access road, the bridge or elevated surface shall be constructed and maintained in accordance with specifications established by the Fire Code Official and the City's Public Works Director, or their designees; at a minimum, however, the bridge or elevated surface shall be constructed and maintained in accordance with AASHTO Standard Specifications for Highway Bridges.

1. Bridges and elevated surfaces shall be designed for a live load sufficient to carry the imposed loads of an 85,000 lb. fire apparatus, the total imposed load to be determined by the Fire Code Official.

2. Vehicle load limits shall be posted at both entrances to bridges when required by the Fire Code Official.

3. Where elevated surfaces designed for emergency vehicle use are adjacent to surfaces that are not designed for that use, approved barriers or approved signs, or both, shall be installed and maintained, if required by the Fire Code Official.

I. Section 503 of the International Fire Code entitled "Fire Apparatus Access Roads" is amended by substituting subsection 503.2.7 with the following:

Section 503.2.7. Grade. Fire apparatus access roads shall comply with the following:

1. Fire apparatus access roads shall not exceed 15 percent longitudinal and/or 6 percent laterally in grade.

2. Driveway approach and departure angles for fire apparatus access shall not exceed 10 percent for the first 75 feet when measured from the right of way, unless otherwise approved by the Fire Code Official.

J. Section 503 of the International Fire Code, entitled "Fire Apparatus Access Roads," is amended by substituting subsection 503.3 with the following:

Section 503.3 Marking. Fire apparatus access roads shall be marked whenever necessary to maintain the unobstructed minimum required width of roadways. Subject to the Fire Code Official's prior written approval, marked fire apparatus access roads, or "fire lanes," may be established or relocated at the time of plan review, pre-construction site inspection, and/or post construction site inspection as well as any time during the life of the occupancy. Only those fire apparatus access roads established by the fire code official can utilize red marking paint and the term "fire lane." Fire lanes shall be marked as directed by the Fire Code Official.

Section 503.3.1 Type 1. Type 1 marking shall be installed to identify fire lanes on hammerhead turnarounds, commercial and multi-family developments or as directed by the Fire Code Official.

Section 503.3.2 Type 2. Type 2 marking shall be installed to identify fire lanes in one- and two-family dwelling developments, or as directed by the Fire Code Official.

Section 503.3.3 Type 3. Type 3 marking shall be installed to address situations where neither Type 1 or 2 marking is effective as determined by the Fire Code Official.

Specific areas designated by the Fire Code Official shall be marked with diagonal striping across the width of the fire lane. Diagonal marking shall be used in conjunction with painted curbs and/or edge striping and shall run at an angle of 30 to 60 degrees from one side to the other. These diagonal lines shall be in red traffic paint, parallel with each other, at least 6 inches in width, and 24 inches apart. Lettering shall occur as with Type 1 marking.

K. Section 503 of the International Fire Code, entitled "Fire Apparatus Access Roads," is amended by substituting subsection 503.5 with the following:

Section 503.2 Required gates or barricades. The Fire Code Official is authorized to require the installation and maintenance of gates or other approved barricades across fire apparatus access roads, trails, or other accessways, not including public streets, alleys, or highways. Installations shall meet the following:

1. Electric gate operators, where provided, shall be listed in accordance with UL 325.

2. Gates intended for automatic operation shall be designed, constructed, and installed to comply with the requirements of ASTM F 2200 and must be equipped with "Click 2 Enter" or similar equipment that is approved by the Fire Code Official, that allows for operations of the gate by Fire and Police personnel via their vehicle mobile

radio, on a dedicated radio frequency, with a hold-open for a specified amount of time.

3. Gates over the fire access road that are intended for automatic operation shall be designed to operate during a loss of power or fail in the open position.

4. Gates shall be at a minimum as wide as the required access road width.

5. If manually operated, a Knox padlock is required if the gate is locked.

6. Installations must be set back 40 feet from roadway edge of pavement.

Exception: Automated gates meeting the requirements of item 2 of this subsection.

L. Section 503 of the International Fire Code entitled "Fire Apparatus Access Roads" is amended by substituting subsection 503.6 with the following:

Section 503.6 Security Gates, Bollards, And Other Obstructions. The installation of security gates, bollards or other obstructions across a fire apparatus access road shall be reviewed and approved by the Fire Code Official. Where installed, they shall have an approved means of emergency operation. The installation of security gates, bollards, and other obstructions shall be in accordance with 503.5. The security gates, bollards or other obstruction and the emergency operation shall be maintained operational at all times. The use of directional-limiting devices (tire spikes) is prohibited.

M. Section 503 of the International Fire Code, entitled "Fire Apparatus Access Roads," is amended by adding the following new subsection 503.7:

Section 503.7 Establishment of fire lanes. Fire lanes in conformance with this code shall be established by the Fire Code Official and shall be in accordance with 503.7.1 through 503.7.8.

Section 503.7.1 Obstruction of fire lanes prohibited. The obstruction of a designated fire lane by a parked vehicle or any other object is prohibited and shall constitute a traffic hazard as defined in State law and an immediate hazard to life and property.

Section 503.7.2 Existing fire lane signs and markings. The following signs and markings shall be provided:

1. Signs (minimum nine-inch by 16-inch) may be allowed to remain until there is a need for replacement and at that time the sign shall meet the requirements of subsection 503.3.2.

2. Markings may be allowed to remain until there is a need for repainting and at that time the provisions outlined in 503.3 shall be complied with.

Section 503.7.3 Maintenance. Fire lane markings shall be maintained at the expense of the property owner(s) as often as needed to clearly identify the designated area as being a fire lane.

Section 503.7.4 Towing notification. At each entrance to any property where fire lanes have been designated, signs shall be posted in a clearly conspicuous location and shall clearly state that vehicles parked in fire lanes may be impounded, and the name, telephone number, and address of the towing firm where the vehicle may be redeemed.

Section 503.7.5 Responsible property owner. The owner, manager, or person in charge of any property upon which designated fire lanes have been established shall prevent the parking of vehicles or placement of other obstructions in such fire lanes.

Section 503.7.6 Violation – Penalty. Penalties of this section shall be in accordance with Section 112.4.

Section 503.7.7 Impoundment. Any vehicle or object obstructing a designated fire lane is declared a traffic hazard and may be abated without prior notification to its owner by impoundment pursuant to the applicable State law in accordance with Section 112.4. The owner or operator shall be responsible for all towing and impound charges.

N. Section 503 of the International Fire Code, entitled "Fire Apparatus Access Roads," is amended by adding the following new subsection 503.8:

Section 503.8 Commercial and Industrial Developments. Fire apparatus access roads serving commercial and industrial developments shall be in accordance with Sections 503.8.1 through 503.8.3.

Section 503.8.1 Buildings or facilities exceeding three stories or 30 feet in height. Buildings or facilities exceeding 30 feet or three stories in height shall have at least two means of fire apparatus access for each structure.

Section 503.8.2 Buildings or facilities exceeding 62,000 square feet in area. Buildings or facilities having a gross building area of more than 62,000 square feet shall be provided with two separate and approved fire apparatus access roads.

Exception: Buildings or facilities having a gross building area of up to 124,000 square feet that have a single approved fire apparatus access road when all buildings or facilities are equipped throughout with approved automatic sprinkler systems.

Section 503.8.3 Remoteness. Where two access roads are required, they shall be placed a distance apart equal to not less than one half of the length of the maximum overall diagonal dimension of the property or area to be served, measured in a straight line between accesses or as approved by the Fire Code Official and the fire chief.

O. Section 503 of the International Fire Code, entitled "Fire Apparatus Access Roads," is amended by adding the following new subsection 503.9:

Section 503.9 Aerial fire apparatus roads. The fire apparatus access roads that accommodate aerial fire apparatus shall be in accordance with Sections 503.9.1 through 503.9.4.

Section 503.9.1 Where required. Buildings, or facilities, or portions of buildings thereof exceeding 30 feet in height above the lowest level of fire department vehicle access shall be provided with approved fire apparatus access roads that are capable of accommodating fire department aerial apparatus. Overhead utility and power lines shall not be located within the aerial fire apparatus access roadway.

Section 503.9.2 Width. Aerial fire apparatus access roads shall have a minimum unobstructed width of 26 feet, exclusive of shoulders, in the immediate vicinity of any building or portion of building more than 30 feet in height.

Section 503.9.3 Proximity to building or facility. At least one of the required access routes meeting this condition shall be positioned parallel to one entire side of the building or facility. The location of the parallel access route shall be approved.

Section 503.9.4 Obstructions. Overhead utility and power lines shall not be located over the aerial fire apparatus access road or between the aerial apparatus access road and the building or facility. Other obstructions shall be permitted to be placed with the approval of the Fire Code Official.

P. Section 503 of the International Fire Code, entitled "Fire Apparatus Access Roads," is amended by adding the following new subsection 503.10:

Section 503.10 Multi-family residential developments. The fire apparatus access roads serving multi-family residential developments shall be in accordance with Sections 503.10.1 through 503.10.3.

Section 503.10.1 Projects having from 100 through 200 dwelling units. Projects having from 100 through 200 dwelling units shall be provided with two separate and approved fire apparatus access roads.

Exception: Projects having up to 200 dwelling units may have a single approved fire apparatus access road when all buildings, including nonresidential occupancies, are equipped throughout with approved automatic sprinkler systems installed in accordance with Section 903.3.1.1 or 903.3.1.2.

Section 503.10.2 Projects having more than 200 dwelling units. Projects having more than 200 dwelling units shall be provided with two separate and approved fire apparatus access roads regardless of whether they are equipped with an approved automatic sprinkler system.

Section 503.10.3 Remoteness. Where two access roads are required, they shall be placed a distance apart equal to not less than one half of the length of the maximum overall diagonal dimension of the property or area to be served, measured in a straight line between accesses or as approved by the Fire Code Official and the fire chief.

Q. Section 503 of the International Fire Code, entitled "Fire Apparatus Access Roads," is amended by adding the following new subsection 503.11:

Section 503.11 One- and Two-family residential developments. The fire apparatus access roads serving one- and two-family residential developments shall be in accordance with Section 503.11.1 and 503.11.2.

Section 503.11.1 Projects having more than 30 dwelling units. Developments of one- or two-family dwellings where the number of dwelling units exceeds 30 shall be provided with two separate and approved fire apparatus access roads.

Exceptions:

1. Where there are more than 30 dwelling units on a single public or private fire apparatus access road and all dwelling units are equipped throughout with approved automatic sprinkler systems installed in accordance with Section 903.3.1.1, 903.3.1.2, or 903.3.1.3 of the International Fire Code, access from two directions shall not be required.
2. The number of dwelling units on a single fire apparatus access road shall not be increased unless fire apparatus access roads will, within a reasonable time, connect with future development, as determined by the Fire Code Official.

Section 503.11.2 Remoteness. Where two access roads are required, they shall be placed a distance apart equal to not less than one half of the length of the maximum overall diagonal dimension of the property or area to be served, measured in a straight line between accesses or as approved by the Fire Code Official and the fire chief.

R. Section 503 of the International Fire Code, entitled, "Fire Apparatus Access Roads," is amended by adding the following new subsection 503.12:

Section 503.12 Underground structures. Installation of underground structures under or within 10 feet of fire apparatus access roads shall be designed using approved load criteria that shall accommodate the loading of fire department aerial apparatus unless otherwise approved.

S. Section 504 of the International Fire Code, entitled "Access to Building Openings and Roofs," is amended by adding the following new subsection 504.4:

Section 504.4 Buildings With Interior Courtyards. New buildings with enclosed interior courtyards shall have a straight/direct access corridor and/or stairway from the exterior to the courtyard at a location acceptable to the Fire Code Official. If a stairway is used it shall

comply with International Fire Code Section 1011 and a corridor shall comply with International Fire Code Section 1020. The access shall have a minimum width of 5 feet and be large enough to carry a 35-foot-long sectional ladder (minimum folded length 20 feet) directly from the exterior to the courtyard without obstructions. The access door shall be marked at the street as "Direct Fire Access to Courtyard".

T. Section 506 of the International Fire Code, entitled "Key Boxes," is amended by substituting subsection 506.1 with the following:

Section 506.1 Where required. Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or firefighting purposes, the fire code official is authorized to require a key box/vault to be installed. The key box shall be a Knox KLS product listed in accordance with UL 1037 and shall contain keys to gain necessary access. The location, key box and key requirements shall be in accordance with the Rapid Entry System Policy of the Puget Sound Regional Fire Authority.

U. Section 506 of the International Fire Code, entitled "Key Boxes," is amended by adding new subsection 506.3 with the following:

Section 506.3 Compliance. Compliance with this chapter shall be in accordance with the following:

1. Newly constructed buildings not yet occupied or buildings currently under construction and all buildings applying for a certificate of occupancy shall comply prior to occupancy, permit final, or approval of any certificate.

2. Existing buildings without existing key boxes shall comply within 180 days of notification.

3. Existing buildings, gates, or barriers with non-compliant key boxes or locks installed shall comply within 1 year of notification.

V. Section 507 of the International Fire Code, entitled "Fire Protection Water Supplies," is amended by substituting subsection 507.5. with the following:

Section 507.5 Fire Hydrant systems. Fire hydrant systems shall comply with Section 507.5.1 through 5.6.8 and Tukwila Municipal Code Chapter 14.24.

W. Section 507 of the International Fire Code, entitled "Fire Protection Water Supplies," is amended by substituting subsection 507.5.6 with the following:

Section 507.5.6 Physical protection. Where fire hydrants are subject to impact by a motor vehicle, guard posts shall be designed and installed in accordance with TMC Section 14.20.030.

X. Section 507 of the International Fire Code, entitled "Fire Protection Water Supplies," is amended by adding a new subsection 507.5.7 as follows:

Section 507.5.7 Fire hydrant. Fire hydrants shall be designed and installed in accordance with the local water purveyor's design and construction standards.

Y. Section 507 of the International Fire Code, entitled "Fire Protection Water Supplies," is amended by adding a new subsection 507.5.8 as follows:

Section 507.5.8 Backflow prevention. All private fire systems shall be isolated by an approved method in accordance with the local water purveyor.

Z. Section 507 of the International Fire Code, entitled "Fire Protection Water Supplies," is amended by adding a new subsection 507.6 as follows:

Section 507.6 Capacity for residential areas. All hydrants installed in single family residential areas shall be capable of delivering 1,500 gpm fire-flow over and above average maximum demands at the farthest point of the installation.

AA. Section 507 of the International Fire Code, entitled "Fire Protection Water Supplies," is amended by adding a new subsection 507.7 as follows:

Section 507.7 Spacing. The spacing of hydrants shall be in accordance with Sections 507.7.1 through 507.7.5.

Section 507.7.1 Single family. The maximum fire hydrant spacing serving single family residential areas shall be 600 feet as measured along the fire apparatus access road.

Section 507.7.2 Commercial, industrial and multi-family. The maximum fire hydrant spacing serving commercial, industrial, multi-family or other areas shall be 300 feet as measured along the fire apparatus access road.

Section 507.7.3 Medians. Where streets are provided with median dividers which cannot be crossed by firefighters pulling hose lines, hydrants shall be provided on each side of the street and be arranged on an alternating basis, providing, on each side of the street, no more than the maximum spacing.

Section 507.7.4 Arterials. Where arterial streets are provided with four or more traffic lanes hydrants shall be provided on each side of the street and be arranged on an alternating basis, providing, on each side of the street, no more than the maximum spacing.

Section 507.7.5 Transportation. Where new water mains are extended along streets where hydrants are not needed for protection of structures or similar fire problems, fire hydrants shall be provided at a spacing not to exceed 1,000 feet to provide for transportation hazards.

BB. Section 507 of the International Fire Code, entitled "Fire Protection Water Supplies," is amended by adding a new subsection 507.8 as follows:

Section 507.8 Required hydrants. The number of hydrants required for a building shall be based on the calculated fire-flow. The first hydrant will be calculated for up to 1,500 gpm. An additional hydrant will be required for every additional 1,000 gpm, or fraction thereof. The required hydrants shall be within 600 feet of the building as measured along the fire apparatus access roads serving the building.

CC. Section 507 of the International Fire Code, entitled "Fire Protection Water Supplies," is amended by adding a new subsection 507.9 as follows:

Section 507.9 Notification. The owner of property on which private hydrants are located and the public agencies that own or control public hydrants must provide the fire code official with the following written service notifications in accordance with 507.9.1 and 507.9.2:

Section 507.9.1 In-service notification. The Fire Code Official shall be notified when any newly installed hydrant or main is placed into service.

Section 507.9.2 Out-of-service notification. Where any hydrant is out of service or has not yet been placed in service, the hydrant shall be identified as being out of service and shall be appropriately marked as out of service, by a method approved by the Fire Code Official.

DD. Section 507 of the International Fire Code, entitled "Fire Protection Water Supplies," is amended by adding a new subsection 507.10 as follows:

Section 507.10 Building permit requirements. No building permit shall be issued until all plans required by this section have been submitted and approved in accordance with the provisions of this section.

No construction beyond the foundation shall be allowed until all hydrants and mains required by this section are in place and approved.

EE. Section 510 of the International Fire Code entitled "Emergency Responder Radio Coverage" is amended by substituting Section 510 with the following language:

Section 510.1 Emergency Responder Radio Coverage (New Buildings). Approved radio coverage for emergency responders shall be provided within buildings that meet any one of the following conditions:

1. The building is five stories or more above grade plane (as defined by the International Building Code, Section 202); or
2. The total building area is 50,000 square feet or more; or
3. The total basement area is 10,000 square feet or more; or
4. There are floors used for human occupancy more than 30 feet below the finished floor of the lowest level of exit discharge; or
5. Buildings or structures where the Fire or Police Chief determines that in-building radio coverage is critical because of its unique design, location, use or occupancy. The radio coverage system shall be installed in accordance with Section 510 of this code and with the provisions of NFPA 1221 (current edition).

Exceptions:

1. Buildings and areas of buildings that have minimum radio coverage signal strength levels of the King County Regional 800 MHz Radio System within the building in accordance with Section 510.4.1 without the use of a radio coverage system.
2. In facilities where emergency responder radio coverage is required and such systems, components or equipment required could have a negative impact on the normal operations of that facility, the Fire Code Official shall have the authority to accept an automatically activated emergency responder radio coverage system.
3. One- and two-family dwellings and townhouses.

When determining if the minimum signal strength referenced in Section 510.4.1.1 exists at a subject building, the signal strength shall be measured at any point on the exterior of the building up to the highest point on the roof.

Section 510.2 Emergency Responder Radio Coverage (Existing Buildings).

Existing buildings shall be provided with approved radio coverage for emergency responders when:

1. Whenever an existing wired communications system cannot be repaired or is being replaced.
2. When a building undergoing substantial alteration meets any one of the conditions listed in Section 510.1. For purposes of this section, a substantial alteration shall be defined as an alteration that costs 50 percent or more of the current assessed value of the structure and impacts more than 50 percent of the gross floor area.
3. When buildings, classes of buildings or specific occupancies do not have the minimum radio coverage signal strength as identified in Section 510.4.1 and the Fire or Police Chief determines that the lack of minimum signal strength poses an undue risk to emergency responders that cannot be reasonably mitigated by other means.

Section 510.3 Permit Required. A Construction Permit for the installation of or modification to emergency responder radio coverage systems and related equipment is required as specified in Section 105.7.6. Maintenance performed in accordance with this code is not considered a modification and does not require a permit.

Prior coordination and approval from the Public Safety Radio System Operator is required before installation of an Emergency Responder Radio System. Until PSERN is the single operator of the county wide system (projected date Q4 2022 / Q1 2023), such approval is required from EPSCA, King County, Seattle or ValleyCom depending on the location of the installation. To be forward compatible, designers and contractors should be aware of PSERN's requirements for Distributed Antenna Systems which can be found on their website (https://PSERN.org).

Section 510.4 Technical Requirements. Systems, components and equipment required to provide the emergency responder radio coverage system shall comply with Sections 510.4.1 through 510.4.2.8.

Section 510.4.1 Emergency responder communication enhancement system signal strength. The building shall be considered to have acceptable emergency responder communications enhancement system coverage when signal strength measurements in 95 percent of all areas on each floor of the building meet the signal strength requirements in Sections 510.4.1.1 through 510.4.1.3.

Exception: Critical areas, such as the fire command center(s), the fire pump room(s), interior exit stairways, exit passageways, elevator lobbies, standpipe cabinets, sprinkler sectional valve locations, and other areas required by the Fire Code Official, shall be provided with 99 percent floor area radio coverage.

Section 510.4.1.1 Minimum signal strength into the building. The minimum inbound signal strength shall be sufficient to provide usable voice communications throughout the coverage area as specified by the Fire Code Official. The inbound signal level shall be a minimum of -95 dBm in 95 percent of the coverage area and 99 percent in critical areas and sufficient to provide not less than a Delivered Audio Quality (DAQ) of 3.0 or an equivalent Signal-to-Interference-Plus-Noise Ratio (SINR) applicable to the technology for either analog or digital signals.

Section 510.4.1.2 Minimum signal strength out of the building. The minimum outbound signal strength shall be sufficient to provide usable voice communications throughout the coverage area as specified by the Fire Code Official. The outbound signal level shall be sufficient to provide not less than a DAQ of 3.0 or an equivalent SINR applicable to the technology for either analog or digital signals. A minimum signal strength of -95 dBm shall be received by the King County Regional 800 MHz Radio System when transmitted from within the building.

Section 510.4.1.3 System performance. Signal strength shall be sufficient to meet the requirements of the applications being utilized by public safety for emergency operations through the coverage area as specified by the radio system manager in Section 510.4.2.2.

Section 510.4.2 System design. The emergency responder radio coverage system shall be designed in accordance with Sections 510.4.2.1 through 510.4.2.8 and NFPA 1221 (2019).

Section 510.4.2.1 Amplification systems and components. Buildings and structures that cannot support the required level of radio coverage shall be equipped with systems and components to enhance the public safety radio signals and achieve the required level of radio coverage specified in Sections 510.4.1 through 510.4.1.3. Public safety communications enhancement systems utilizing radio-frequency-emitting devices and cabling shall be allowed by the Public Safety Radio System Operator. Prior to installation, all RF-emitting devices shall have the certification of the radio licensing authority and be suitable for public safety use.

Section 510.4.2.2 Technical criteria. The Public Safety Radio System Operator shall provide the various frequencies required, the location of radio sites, the effective radiated power of radio sites, the maximum propagation delay in microseconds, the applications being used and other supporting technical information necessary for system design upon request by the building owner or owner's representative.

Section 510.4.2.3 Power supply sources. Emergency responder radio coverage systems shall be provided with dedicated standby batteries or provided with 2-hour standby batteries and connected to the facility generator power system in accordance with Section 1203. The standby power supply shall be capable of operating the emergency responder radio coverage system at 100 percent system capacity for a duration of not less than 12 hours.

Section 510.4.2.4 Signal booster requirements. If used, signal boosters shall meet the following requirements:

1. All signal booster components shall be contained in a National Electrical Manufacturer's Association (NEMA) 4, IP66-type waterproof cabinet or equivalent.

Exception: Listed battery systems that are contained in integrated battery cabinets.

2. Battery systems used for the emergency power source shall be contained in a NEMA 3R or higher-rated cabinet, IP65-type waterproof cabinet or equivalent.

3. Equipment shall have FCC or other radio licensing authority certification and be suitable for public safety use prior to installation.

4. Where a donor antenna exists, isolation shall be maintained between the donor antenna and all inside

antennas to not less than 20dB greater than the system gain under all operating conditions.

5. Bi-Directional Amplifiers (BDAs) used in emergency responder radio coverage systems shall be fitted with anti-oscillation circuitry and per-channel AGC.

6. The installation of amplification systems or systems that operate on or provide the means to cause interference on any emergency responder radio coverage networks shall be coordinated and approved by the Public Safety Radio System Operator.

7. Unless otherwise approved by the Public Safety Radio System Operator, only channelized signal boosters shall be permitted.

Exception: Broadband BDAs may be utilized when specifically authorized in writing by the Public Safety Radio System Operator.

BDAs must also comply with PSERN's detailed requirements, which include channelized, minimum of 28 channels, supporting analog, P25 Phase I (FDMA), and P25 Phase II (TDMA). Information regarding PSERN requirements can be found via their website (https://PSERN.org).

Section 510.4.2.5 System monitoring. The emergency responder radio enhancement system shall include automatic supervisory and trouble signals that are monitored by a supervisory service and are annunciated by the fire alarm system in accordance with NFPA 72. The following conditions shall be separately annunciated by the fire alarm system, or, if the status of each of the following conditions is individually displayed on a dedicated panel on the radio enhancement system, a single automatic supervisory signal may be annunciated on the fire alarm system indicating deficiencies of the radio enhancement system:

1. Loss of normal AC power supply.
2. System battery charger(s) failure.
3. Malfunction of the donor antenna(s).
4. Failure of active RF-emitting device(s).
5. Low-battery capacity at 70 percent reduction of operating capacity.
6. Active system component malfunction.
7. Malfunction of the communications link between the fire alarm system and the emergency responder radio enhancement system.

Section 510.4.2.6 Additional frequencies and change of frequencies. The emergency responder radio coverage system shall be capable of modification or expansion in the event frequency changes are required by the FCC or other radio licensing authority, or additional frequencies are made available by the FCC or other radio licensing authority.

Section 510.4.2.7 Design documents. The Fire Code Official shall have the authority to require "as-built" design documents and specifications for emergency responder communications coverage systems. The documents shall be in a format acceptable to the Fire Code Official.

Section 510.4.2.8 Radio communication antenna density. Systems shall be engineered to minimize the near-far effect. Radio enhancement system designs shall include sufficient antenna density to address reduced gain conditions.

Exceptions:

1. Class A narrow band signal booster devices with independent AGC/ALC circuits per channel.
2. Systems where all portable devices within the same band use active power control.

Section 510.5 Installation requirements. The installation of the public safety radio coverage system shall be in accordance with NFPA 1221 and Sections 510.5.1 through 510.5.7.

Section 510.5.1 Approval prior to installation. Amplification systems capable of operating on frequencies licensed to any public safety agency by the FCC or other radio licensing authority shall not be installed without prior coordination and approval of the Public Safety Radio System Operator.

Section 510.5.2 Minimum qualifications of personnel. The minimum qualifications of the system designer and lead installation personnel shall include both of the following:

1. A valid FCC-issued general radio telephone operator's license.
2. Certification of in-building system training issued by an approved organization or approved school, or a certificate issued by the manufacturer of the equipment being installed.

Section 510.5.3 Acceptance test procedure. Where an emergency responder radio coverage system is required, and upon completion of installation, the building owner shall have the radio system tested to verify that two-way coverage on each floor of the building is in accordance with Section 510.4.1. The test procedure shall be conducted as follows:

1. Each floor of the building shall be divided into a grid of 20 approximately equal test areas, with a maximum test area size of 6,400 square feet. Where the floor area exceeds 128,000 square feet, the floor shall be divided into as many approximately equal test areas as needed, such that no test area exceeds the maximum square footage allowed for a test area.
2. Coverage testing of signal strength shall be conducted using a calibrated spectrum analyzer for each of the test grids. A diagram of this testing shall be created for each floor where coverage is provided, indicating the testing grid used for the test in Section 510.5.3(1), and including signal strengths and frequencies for each test area. Indicate all critical areas.

3. Functional talk-back testing shall be conducted using two calibrated portable radios of the latest brand and model used by the agency's radio communications system or other equipment approved by the Fire Code Official. Testing shall use Digital Audible Quality (DAQ) metrics, where a passing result is a DAQ of 3 or higher. Communications between handsets shall be tested and recorded in the grid square diagram required by Section 510.5.3(2): each grid square on each floor; between each critical area and a radio outside the building; between each critical area and the fire command center or fire alarm control panel; between each landing in each stairwell and the fire command center or fire alarm control panel.

4. Failure of more than 5 percent of the test areas on any floor shall result in failure of the test.

Exception: Critical areas shall be provided with 99 percent floor area coverage.

5. In the event that two of the test areas fail the test, in order to be more statistically accurate, the floor shall be permitted to be divided into 40 equal test areas. Failure of not more than two nonadjacent test areas shall not result in failure of the test. If the system fails the 40-area test, the system shall be altered to meet the 95 percent coverage requirement.

6. A test location approximately in the center of each test area shall be selected for the test, with the radio enabled to verify two-way communications to and from the outside of the building through the public agency's radio communications system. Once the test location has been selected, that location shall represent the entire test area. Failure in the selected test location shall be considered to be a failure of that test area. Additional test locations shall not be permitted.

7. The gain values of all amplifiers shall be measured, and the test measurement results shall be kept on file with the building owner so that the measurements can be verified during annual tests. In the event that the measurement results become lost, the building owner shall be required to rerun the acceptance test to reestablish the gain values.

8. As part of the installation, a spectrum analyzer or other suitable test equipment shall be utilized to ensure spurious oscillations are not being generated by the subject signal booster. This test shall be conducted at the time of installation and at subsequent annual inspections.

9. Systems incorporating Class B signal booster devices or Class B broadband fiber remote devices shall be tested using two portable radios simultaneously conducting subjective voice quality checks. One portable radio shall be positioned not greater than 10 feet (3048 mm) from the indoor antenna. The second portable radio shall be positioned at a distance that represents the farthest distance from any indoor antenna. With both portable radios simultaneously keyed up on different frequencies within the same band, subjective audio testing shall be conducted and comply with DAQ levels as specified in Sections 510.4.1.1 and 510.4.1.2.

10. Documentation maintained on premises. At the conclusion of the testing, and prior to issuance of the building Certificate of Occupancy, the building owner or owner's representative shall place a copy of the following records in the DAS enclosure or the building engineer's office. The records shall be available to the Fire Code Official and maintained by the building owner for the life of the system:

a. A certification letter stating that the emergency responder radio coverage system has been installed and tested in accordance with this code, and that the system is complete and fully functional.

b. The grid square diagram created as part of testing in Sections 510.5.3(2) and 510.5.3(3).

c. Data sheets and/or manufacturer specifications for the emergency responder radio coverage system equipment; back up battery; and charging system (if utilized).

d. A diagram showing device locations and wiring schematic.

e. A copy of the electrical permit.

11. Acceptance test reporting to Fire Code Official. At the conclusion of the testing, and prior to issuance of the building Certificate of Occupancy, the building owner or owner's representative shall submit to the Fire Code Official an acceptance test report that includes items (10a-10e).

Section 510.5.4 FCC compliance. The emergency responder radio coverage system installation and components shall comply with all applicable federal regulations including, but not limited to, FCC 47 CFR Part 90.219.

Section 510.5.5 Mounting of the donor antenna(s). To maintain proper alignment with the system designed donor site, donor antennas shall be permanently affixed on the highest possible position on the building or where approved by the Fire Code Official. A clearly visible sign shall be placed near the antenna stating, "movement or repositioning of this antenna is prohibited without approval from the Fire Code Official or designee." The antenna installation shall be in accordance with the applicable requirements in the International Building Code for weather protection of the building envelope.

Section 510.5.6 Wiring. The backbone, antenna distribution, radiating, or any fiber-optic cables shall be rated as plenum cables. The backbone cables shall be connected to the antenna distribution, radiating, or copper cables using hybrid coupler devices of a value

determined by the overall design. Backbone cables shall be routed through an enclosure that matches the building's required fire-resistance rating for shafts or interior exit stairways. The connection between the backbone cable and the antenna cables shall be made within an enclosure that matches the building's fire-resistance rating for shafts or interior exit stairways, and passage of the antenna distribution cable in and out of the enclosure shall be protected as a penetration per the International Building Code.

Section 510.5.7 Identification Signs. Emergency responder radio coverage systems shall be identified by an approved sign located on or near the Fire Alarm Control Panel or other approved location stating "This building is equipped with an Emergency Responder Radio Coverage System. Control Equipment located in room".

A sign stating "Emergency Responder Radio Coverage System Equipment" shall be placed on or adjacent to the door of the room containing the main system components.

Section 510.6 Maintenance. The emergency responder radio coverage system shall be maintained operational at all times in accordance with Sections 510.6.1 through 510.6.7.

Section 510.6.1 Testing and proof of compliance. The owner of the building or owner's authorized agent shall have the emergency responder radio coverage system inspected and tested annually or where structural changes occur including additions or remodels that could materially change the original field performance tests. Testing shall consist of the following items (1) through (7):

1. In-building coverage test as required by the Fire Code Official as described in Section 510.5.3, "Acceptance test procedure," or 510.6.1.1, "Alternative in-building coverage test".

Exception: Group R Occupancy annual testing is not required within dwelling units.

2. Signal boosters shall be tested to verify that the gain/output level is the same as it was upon initial installation and acceptance or set to optimize the performance of the system.

3. Backup batteries and power supplies shall be tested under load of a period of 1 hour to verify they will properly operate during an actual power outage. If within the 1-hour test period the battery exhibits symptoms of failure, the test shall be extended for additional 1-hour periods until the integrity of the battery can be determined.

4. If a fire alarm system is present in the building, a test shall be conducted to verify that the fire alarm system is properly supervising the emergency responder communication system as required in Section 510.4.2.5. The test is performed by simulating alarms to the fire alarm control panel. The certifications in Section 510.5.2 are sufficient for the personnel performing this testing.

5. Other active components shall be checked to verify operation within the manufacturer's specifications.

6. At the conclusion of the testing, a report that shall verify compliance with Section 510.6.1 shall be submitted to the Fire Code Official by way of the department's third-party compliance vendor.

7. At the conclusion of testing, a record of the inspection and maintenance along with an updated grid diagram of each floor showing tested strengths in each grid square and each critical area shall be added to the documentation maintained on the premises in accordance with Section 510.5.3.

Section 510.6.1.1 Alternative In-building coverage test. When the comprehensive test documentation required by Section 510.5.3 is available, or the most recent full five-year test results are available if the system is older than six years, the in-building coverage test required by the Fire Code Official in Section 510.6.1(1), may be conducted as follows:

1. Functional talk-back testing shall be conducted using two calibrated portable radios of the latest brand and model used by the agency's radio communications system or other equipment approved by the Fire Code Official. Testing shall use Digital Audible Quality (DAQ) metrics, where a passing result is a DAQ of 3 or higher. Communications between handsets in the following locations shall be tested: between the fire command center or fire alarm control panel and a location outside the building; between the fire alarm control panel and each landing in each stairwell.

2. Coverage testing of signal strength shall be conducted using a calibrated spectrum analyzer for:

(a) Three grid areas per floor. The three grid areas to be tested on each floor are the three grid areas with poorest performance in the acceptance test or the most recent annual test, whichever is more recent; and

(b) Each of the critical areas identified in acceptance test documentation required by Section 510.5.3, or as modified by the Fire Code Official, and

(c) One grid square per serving antenna.

3. The test area boundaries shall not deviate from the areas established at the time of the acceptance test, or as modified by the Fire Code Official. The building shall be considered to have acceptable emergency responder radio coverage when the required signal strength requirements in Sections 510.4.1.1 and 510.4.1.2 are located in 95 percent of all areas on each floor of the building and 99 percent in Critical Areas, and any non-functional serving antenna are repaired to function within normal ranges. If the documentation of the acceptance test or most recent previous annual test

results are not available or acceptable to the Fire Code Official, the radio coverage verification testing described in 510.5.3 shall be conducted.

The alternative in-building coverage test provides an alternative testing protocol for the in-building coverage test in subsection (1) of Section 510.6.1. There is no change or alternative to annual testing requirements enumerated in subsections (2) – (7) of Section 510.6.1, which must be performed at the time of each annual test.

Section 510.6.2 Additional frequencies. The building owner shall modify or expand the emergency responder radio coverage system at his or her expense in the event frequency changes are required by the FCC or other radio licensing authority, or additional frequencies are made available by the FCC or other radio licensing authority Public Safety Radio System Operator or FCC license holder. Prior approval of a public safety radio coverage system on previous frequencies does not exempt this section.

Section 510.6.3 Nonpublic safety system. Where other nonpublic safety amplification systems installed in buildings reduce the performance or cause interference with the emergency responder communications coverage system, the nonpublic safety amplification system shall be corrected or removed.

Section 510.6.4 Field testing. The Fire Code Official or designee shall have the right to enter onto the property at any reasonable time to conduct field testing to verify the required level of radio coverage or to disable a system that due to malfunction or poor maintenance has the potential to impact the emergency responder radio system in the region.

(Ord 2703 §11, 2023)

16.16.070 Amendments to the International Fire Code – Chapter 6, "Building Services and Systems"

A. Section 607 of the International Fire Code, entitled "Commercial Cooking Equipment and Systems," is amended by adding the following subsections to section 606.2:

Section 606.2.2 Permit Required. Permits shall be required as set forth in Section 105.6.

Section 606.2.3 Approved drawing. The stamped and approved cook line drawing shall be displayed adjacent to the suppression system pull station prior to the final inspection. The approved drawing shall be maintained and available for inspection.

(Ord 2703 §12, 2023)

16.16.080 Amendments to the International Fire Code – Chapter 7, "Fire and Smoke Prevention Systems"

A. Section 705 of the International Fire Code, entitled "Door and Window Openings," is amended by substituting 705.2.3 with the following:

Section 705.2.3 Hold-open devices and closers. Hold-open devices and automatic door closures, where provided, shall be maintained. During the period that such device is out of service for repairs, the door it operates shall remain in the closed position.

The Fire Code Official is authorized to require the installation of hold-open devices of existing door installations where there has been documented use of door closure impairment devices.

(Ord 2703 §13, 2023)

16.16.090 Amendments to the International Fire Code – Chapter 9, "Fire Protection Systems"

A. Section 901 of the International Fire Code, entitled "General," is amended by substituting subsection 901.1 with the following:

Section 901.1 Scope and application. The provisions of this chapter shall apply to all occupancies and buildings, shall specify where fire protection systems are required, and shall apply to the design, installation, inspection, operation, testing, and maintenance of all fire protection systems; however, nothing contained in this chapter shall diminish or reduce the requirements of any duly adopted building codes, including state and local amendments, or other city ordinances, resolutions, or regulations. In the event of any conflict in requirements among these codes, ordinances, resolutions, or regulations, the more stringent provision shall apply.

B. Section 901 of the International Fire Code entitled "General" is amended by adding the following new subsection 901.7.7:

Section 901.7.7 Fire Watch for Impaired Fire Protection Systems. In the event of failure of the emergency responder radio system, fire alarm system, fire sprinkler system or any other required fire protection system; or an excessive number of accidental alarm activations, the Fire Code Official is authorized to require the building owner or occupant to provide standby personnel as set forth in the International Fire Code until the system is restored, repaired or replaced.

C. Section 901 of the International Fire Code, entitled "General," is amended by adding the following new subsection 901.11:

Section 901.11 Emergency contacts. It shall be the responsibility of the owner of any monitored fire protection system to provide and maintain a minimum of three emergency contacts that are capable of responding to the system location with their monitoring company.

D. Section 902 of the International Fire Code, entitled "Definitions," is amended by adding the following to the list in subsection 902.1:

PROBLEMATIC FIRE PROTECTION SYSTEM

E. Section 903 of the International Fire Code, entitled "Automatic Sprinkler Systems," is amended by substituting subsection 903.2 with the following:

Section 903.2 Where required. Approved automatic fire sprinkler systems shall be installed as follows:

1. In all buildings without adequate fire flow.

Exception: Miscellaneous Group U Occupancies.

2. All new buildings and structures regulated by the International Building Code requiring 2,000 gallons per minute or more fire flow, or with a gross floor area of 10,000 or more square feet (929 m2), or where this code provides a more restrictive floor/fire area requirement, and shall be provided in all locations or where described by this code.

Exception: Spaces or areas in telecommunications structures used exclusively for telecommunications equipment, associated electrical power distribution equipment, batteries, and standby engines, provided those spaces or areas are equipped throughout with an automatic smoke detection system in accordance with Section 907.2 and are separated from the remainder of the building by not less than 1 hour fire barriers constructed in accordance with Section 707 of the International Building Code or not less than 2 hour horizontal assemblies constructed in accordance with Section 712 of the International Building Code, or both.

3. Where this code requires the installation of an automatic sprinkler system to protect an occupancy within an otherwise non-sprinklered building, then automatic sprinkler protection will be required throughout the entire building.

4. When the required fire apparatus access roadway grade is 12 percent or greater.

F. Section 903 of the International Fire Code, entitled "Automatic Sprinkler Systems," is amended by adding the following new subsection 903.2.9.5:

Section 903.2.9.5 Speculative use warehouses. Where the occupant, tenant, or use of the building or storage commodity has not been determined or it is otherwise a speculative use warehouse or building, the automatic sprinkler system shall be designed and installed to protect not less than Class IV non-encapsulated commodities on wood pallets, with no solid, slatted, or wire mesh shelving, and with aisles that are 8 feet or more in width and up to 20 feet in height.

G. Section 903 of the International Fire Code, entitled "Automatic Sprinkler Systems," is amended by substituting subsection 903.3 as follows:

Section 903.3 Installation Requirements. Automatic sprinkler systems shall be designed and installed in accordance with Sections 903.3.1 through 903.3.9.

H. Section 903 of the International Fire Code, entitled "Automatic Sprinkler Systems," is amended by adding a new subsection 903.3.9 as follows:

Section 903.3.9 Check valve. All automatic sprinkler system risers shall be equipped with a check valve.

I. Section 903 of the International Fire Code, entitled "Automatic Sprinkler Systems," is amended by adding a new subsection 903.7 as follows:

Section 903.7 Riser room access. All risers shall be located in a dedicated room with an exterior door, and with lighting and heat for the room.

J. Section 907 of the International Fire Code, entitled "Fire Alarm and Detection Systems," is amended by substituting subsection 907.1.3 with the following:

Section 907.1.3 Equipment. Systems and their components shall be listed and approved for the purpose for which they are installed. All new alarm systems shall be addressable. Each device shall have its own address and shall annunciate individual addresses at a UL Central Station.

K. Section 907 of the International Fire Code, entitled "Fire Alarm and Detection Systems," is amended by substituting subsection 907.6.3 with the following:

Section 907.6.3 Initiating device identification. The fire alarm system shall identify the specific initiating device address, location, device type, floor level where applicable and status including indication of normal, alarm, trouble and supervisory status, as appropriate.

Exception: Special initiating devices that do not support individual device identification.

L. Section 907 of the International Fire Code, entitled "Fire Alarm and Detection Systems," is amended by adding a new subsection 907.12 as follows:

Section 907.12 Latched alarms. All signals shall be automatically "latched" at the fire alarm control unit until their operated devices are returned to normal condition, and the control unit is manually reset.

M. Section 907 of the International Fire Code, entitled "Fire Alarm and Detection Systems," is amended by adding a new subsection 907.13 as follows:

Section 907.13 Resetting. All fire alarm control units shall be reset only by an approved person.

Section 907.13.1 Reset code. The reset code for the fire alarm control unit or keypad shall be 1-2-3-4-5. The reset code shall not be changed without approval of the Fire Code Official.

N. Section 907 of the International Fire Code, entitled "Fire Alarm and Detection Systems," is amended by adding a new subsection 907.14 as follows:

Section 907.14 Fire alarm control unit location. All fire alarm control units shall be located in the riser room designed and installed in accordance with Section 903.7, or an approved location.

O. Section 912 of the International Fire Code, entitled "Fire Department Connections," is amended by substituting 912.5 with the following:

Section 912.5 Signs. Fire department connections shall be clearly identified in an approved manner.

All fire department connections shall have an approved sign attached below the Siamese clapper. The sign shall specify the type of water-based fire protection system, the structure, and the building areas served.

(Ord 2703 §14, 2023)

16.16.100 Amendments to the International Fire Code – Chapter 11, "Construction Requirements for Existing Buildings"

A. Section 1103 of the International Fire Code, entitled "Fire Safety Requirements for Existing Buildings," is amended by adding a new subsection 1103.5.6 as follows:

Section 1103.5.6 Substantial Alterations. The provisions of this chapter shall apply to substantial alterations to existing buildings regardless of use when a substantial alteration occurs in a structure equaling 10,000 or greater square feet. For purposes of this section, a substantial alteration shall be defined as an alteration that costs 50 percent or more of the current assessed value of the structure and impacts more than 50% of the gross floor area.

B. Section 1103 of the International Fire Code, entitled "Fire Safety Requirements for Existing Buildings," is amended by adding substituting 1103.7 as follows:

Section 1103.7 Fire alarm systems. An approved fire alarm system shall be installed in existing buildings and structures in accordance with Sections 1103.7.1 through 1103.7.7 and provide occupant notification in accordance with Section 907.5 unless other requirements are provided by other sections of this code.

C. Section 1103 of the International Fire Code, entitled "Fire Safety Requirements for Existing Buildings," is amended by adding a new subsection 1103.7.7 as follows:

Section 1103.7.7 Fire alarm control unit replacement. If an existing fire alarm control unit is replaced with identical equipment that has the same part number it shall be considered maintenance.

(Ord 2703 §15, 2023)

16.16.110 Amendments to the International Fire Code – Chapter 56, "Explosives and Fireworks"

A. Section 5601 of the International Fire Code entitled "General" is amended by substituting the following subsection 5601.1.3:

Section 5601.1.3 Fireworks. No person, firm or corporation shall manufacture, sell, or store fireworks in the City of Tukwila, except for a person granted a permit for a temporary fireworks stand or public display of fireworks, shall be allowed to buy, possess, and store fireworks according to the permit granted.

Section 5601.1.3.1 Fireworks Discharge Prohibited. No person shall ignite or discharge any fireworks at any time.

Exceptions:

a. Displays authorized by permit issued by the City pursuant to RCW 70.77.260(2) now enacted or as hereafter amended.

b. Use by a group or individual for religious or other specific purposes on an approved date at an approved location pursuant to a permit issued pursuant to RCW 70.77.311(2)(c) now enacted or as hereafter amended and as required by Tukwila Municipal Code.

c. Use of trick and novelty devices as defined in WAC 212-17-030, as amended, and as hereafter amended and use of agricultural and wildlife fireworks as defined in WAC 212-17-045 now enacted or as hereafter amended.

d. Legal consumer fireworks, as defined by RCW 70.77.136 now enacted or as hereafter amended, are small devices designed to produce: (1) visible effects by combustion and which must comply with the construction, chemical composition, and labeling regulations of the United States Consumer Product Safety Commission; and (2) audible effects such as a whistling device, ground device containing 50 milligrams or less of explosive materials—provided that devices that are aerial, airborne, discharged, launched, or explode are prohibited.

Section 5601.1.3.2 Limitation on Use of Legal Consumer Fireworks.

a. It is unlawful for any person under the age of 16 years to possess, use, discharge, or transport any fireworks unless under immediate supervision of an adult (18 years old or older). It is unlawful for any person or entity to sell or give fireworks to anyone under the age of 16 years unless that person is under the immediate supervision of an adult (18 years old or older).

b. It is unlawful for any person to smoke within 25 feet of any building or stand in which fireworks are sold at retail or stored after hours.

c. It is unlawful for any person to discharge any fireworks, or to permit the discharge of fireworks, within 300 feet of any structure, combustible material, or person, or any building or stand in which fireworks are sold at retail or stored after hours.

d. It is unlawful at any time to throw or toss any fireworks at any person, animal, vehicle, thing or object.

e. It is unlawful to have in possession or to use, fire, or discharge any fireworks in any public park within the City, including vehicle parking areas within or adjacent to a park.

f. During periods of extreme fire danger, the Fire Code Official may prohibit the discharge of all fireworks including those described in section 5601.1.3.1.d.

g. Legal consumer fireworks may only be used or discharged within the City on the following days and times as provided in RCW 70.77.395:

From 12:00 noon to 11:00 p.m. on June 28th of each year;

From 9:00 a.m. to 11:00 p.m. on each day from June 29th through July 3rd of each year;

From 9:00 a.m. to 12:00 midnight on July 4th of each year;

From 9:00 a.m. to 11:00 p.m. on July 5th of each year; and

From 6:00 p.m. on December 31st until 1:00 a.m. on January 1st of the subsequent year.

B. Section 5601 of the International Fire Code entitled "General" is amended by substituting the following subsection 5601.2.2:

Section 5601.2.2 Sale and Retail Display. Retail sales of fireworks shall be permitted only from within a temporary fireworks stand, and the sale from any other building or structure is prohibited. Temporary stands shall be subject to the following conditions:

a. It is unlawful for any person, firm or corporation to engage in the retail sale of any fireworks within the city limits of Tukwila without first obtaining a City business license.

b. Applications for temporary fireworks stand permits shall be made to the Fire Code Official, and must be accompanied by the appropriate application fee in accordance with the fee schedule adopted by resolution of the City Council and RCW 70.77.555. Pursuant to this chapter, applications may be filed only during the period between April 15 and June 1st of the year for which the permit is sought.

c. Any issued permit shall be used only by the designated permittee and shall be nontransferable.

d. The maximum number of permits issued by the City in any year shall not exceed four. Applications shall be reviewed on a first-come, first served basis.

e. A temporary fireworks stand permit shall be issued only upon compliance with the following terms and conditions:

(1) The applicant shall have a valid and subsisting Washington State fireworks license issued by the Washington State Patrol authorizing the holder thereof to engage in the fireworks business.

(2) The applicant shall provide proof of a liability insurance policy with coverage of not less than $50,000; and $500,000 for bodily injury liability for each person and occurrence, respectively; and not less than $50,000 for property damage liability for each occurrence, or such policy as may comply with, or exceed, the requirements of RCW 70.77.270.

(3) The applicant shall provide an inventory list of resale items in accordance with the provisions of section 5601.1.3.1.d.

f. Temporary fireworks stands shall be erected under the supervision of the Fire Code Official and shall conform to the following minimum standards:

(1) Temporary fireworks stands shall not be located:

Within 100 feet of any gasoline stations, oil storage tanks, or premises where flammable liquids are kept or stored;

Closer than 20 feet to buildings, combustibles, parking, storage, public roads, motor vehicle traffic, or generators;

Within 25 feet of any property line;

Within 100 feet of tents, other fireworks stands, fuel dispensing devices, retail propane dispensing stations, flammable liquid storage, and combustible storage; and

Within 300 feet of bulk fuel storage.

(2) Each temporary fireworks stand shall have at least two exits that shall be unobstructed at all times and located as far from each other as possible. Parking for customers shall be located at least 20 feet away from the stand.

(3) Each temporary fireworks stand shall have fire extinguishers in a readily accessible place and approved by the Fire Code Official as to location within the stand, number and type. No smoking shall be permitted in or near a fireworks stand, and signs reading "NO SMOKING WITHIN 25 FEET" shall be prominently displayed on the fireworks stand.

(4) Each stand shall be operated by adults (18 years old or older) only. No fireworks shall be left unattended in a stand.

(5) All weeds and combustible materials shall be cleared from the location of the stand to at least a distance of 20 feet.

(6) All unsold fireworks, cartons and other rubbish shall be removed from the location and from the City by 12:00 noon on July 6 each year. The fireworks stand shall be dismantled and removed from the location by 12:00 noon on July 10 each year.

(7) Fireworks shall not be discharged within 300 feet of a fireworks stand. Signs reading "NO FIREWORKS DISCHARGE WITHIN 300 FEET" shall be in letters at least two inches high, with a principal stroke of not less than one-half inch on contrasting background, and such signs shall be conspicuously posted on all four sides of the stand.

(8) Fireworks retailers shall not knowingly sell fireworks to persons under the age of 16 and shall require proof of age by means of display of a driver's license or photo identification card issued by a public or private

school, state, federal or foreign government showing a photograph and date of birth.

(9) Retail sales of legal consumer fireworks shall only be allowed within the City on the following days and times as provided in RCW 70.77.395 as now enacted or hereafter amended:

From 12:00 noon to 11:00 p.m. on June 28th of each year;

From 9:00 a.m. to 11:00 p.m. on each day from June 29th through July 4th of each year;

From 9:00 a.m. to 9:00 p.m. on July 5th of each year,

From 12:00 noon to 11:00 p.m. on each day from December 27th through December 31st of each year.

(10) If the fireworks stand is proposed for placement on leased property, the applicant shall provide an affidavit from the property owner that the use is acceptable.

(11) Additional signage required by the Fire Code Official shall be prominently displayed on the fireworks stand.

g. Any person who violates any portion of this ordinance shall have their fireworks subject to seizure by the Tukwila Police Chief, or designee, as provided for in RCW 70.77.435 and shall be guilty of a civil violation and penalty as provided in TMC Chapter 8.45.

h. Any person who uses or discharges fireworks in a reckless manner that creates a substantial risk of death or serious physical injury to another person or damage to the property of another is guilty of a gross misdemeanor and shall be punishable by a maximum penalty of 364 days in jail and/or a $5,000 fine. Upon conviction, the sentencing court may order restitution for any property damage or loss caused by the offense.

C. Section 5608 of the International Fire Code entitled "Fireworks Display" is amended by substituting 5608.3 with the following:

Section 5608.3 Pyrotechnic Display Requirements. All fireworks displays shall conform to the following minimum standards and conditions:

1. All fireworks displays must be planned, organized, and discharged by a state-licensed pyrotechnician.

2. All pyrotechnic displays must comply with applicable requirements set forth in the WAC and RCW's, the International Fire Code, applicable NFPA codes, and as required by the Tukwila Municipal Code.

3. A Pyrotechnic Display Permit (explosives operational fire permit) must be submitted at least 45 days prior to the desired display date. Approval by the Fire Code Official is required prior to any display of pyrotechnics or the setup of the pyrotechnic display.

4. The fee for a Pyrotechnic Display Permit shall be in accordance with the Tukwila Fire Permit Fee Schedule adopted by resolution of the City Council.

5. At the discretion of the Fire Chief that such requirement is necessary to preserve the public health, safety and welfare, the Pyrotechnic Display Permit may require that Fire Department apparatus and fire personnel be on site from 30 minutes prior to the start until 30 minutes after the conclusion of the display. All compensation/costs for fire personnel and apparatus will be paid by the applicant in accordance with the fee schedule adopted by resolution of the City Council and amended from time to time.

6. Permits granted shall be in effect for the specified event, date and time. Permit applications shall specify if a pyrotechnic display is needed for a multi-day event (example: pyrotechnics for professional sports season, concert, or other multi-day event).

7. An approved Pyrotechnic Display Permit shall not be transferable.

8. The Chief of Police and the Fire Code Official are both directed to administer and enforce the provisions of this chapter. Upon request by the Chief of Police or the Fire Code Official, all other City departments and divisions are authorized to assist them in enforcing this chapter.

9. An approved Pyrotechnic Display Permit may be immediately revoked at any time deemed necessary by the Fire Code Official due to any noncompliance or weather conditions such as extremely low humidity or wind factor. The display may also be canceled by accidental ignition of combustible or flammable material in the vicinity due to fall debris from the display.

10. For displays other than the 4th of July, the permit application must also include a public notification plan for affected residents or businesses. This may include newspaper, radio, and/or television announcements; door to door distribution of written announcements; reader boards and/or other methods or media. The public notification plan is subject to approval by the Fire Chief or designee. Costs associated with public notification to affected residents shall be borne by the permit applicant.

(Ord 2703 §16, 2023)

16.16.120 Amendments to the International Fire Code – Chapter 80, "Referenced Standards"

A. Section NFPA of the *International Fire Code*, entitled "Referenced Standards," is amended by modifying the standard reference number dates of publication as follows:

13-22	Installation of Sprinkler Systems
13D-22	Installation of Sprinkler Systems in One- and Two-family Dwellings and Manufactured Homes
13R-22	Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height
20-22	Installation of Stationary Pumps for Fire Protection
24-22	Installation of Private Fire Service Mains and Their Appurtenances
72-22	National Fire Alarm and Signaling Code
110-22	Emergency and Standby Power Systems
111-22	Stored Electrical Energy Emergency and Standby Power Systems
1225-22	Standard for Emergency Services Communications

(Ord 2703 §17, 2023)

16.16.130 Amendments to the International Fire Code – Appendix B, "Fire-Flow Requirements for Buildings"

A. Section B103 of the *International Fire Code*, entitled "Modifications," is amended by substituting subsection B103.2 with the following:

Section B103.2 Increases. The fire chief is authorized to increase the fire-flow requirements where exposures could be impacted by fire. An increase shall not be more than twice that required for the building under consideration.

Exception: For one- and two-family residences when either of the following conditions apply:

1. The building and exposure are equipped with the 1-hour fire resistant rated exterior walls tested in accordance with ASTM E 119 or UL 263 with exposure on the exterior side and projections with 1-hour underside protection, fire blocking installed from the wall top plate to the underside of the roof sheathing and no gable vent openings.
2. The walls are a distance greater than 11' to the nearest exposure or lot line; or face an unbuildable lot, tract or buffer. The distance shall be measured at right angles from the face of the wall.

B. Section B105 of the *International Fire Code*, entitled "Fire-Flow Requirements for Buildings," is amended by substituting section B105 with the following:

Section B105.1 One- and two-family dwellings. Fire-flow requirements for one- and two-family dwellings shall be in accordance with Sections B105.1.1 through B105.1.2.

Section B105.1.1 Buildings less than 3,600 square feet. The minimum fire-flow and flow duration requirements for buildings less than 3,600 square feet shall be 1,000 gallons per minute for 1 hour.

Exception: A reduction in required fire-flow of 50 percent, as approved, is allowed when the building is equipped with an approved automatic sprinkler system.

Section B105.1.2 Buildings greater than 3,600 square feet or more. The minimum fire-flow and flow duration requirements for buildings that are 3,600 square feet or larger shall not be less than that specified in Table B105.1(2).

Exception: A reduction of fire-flow and flow duration to 1,000 gallons per minute for 1 hour, as approved, is allowed when the building is equipped with the following:

1. An approved automatic sprinkler system.

Section B105.2 Buildings other than one- and two-family dwellings. The minimum fire-flow and flow duration for buildings other than one- and two-family dwellings shall be as specified in Table B105.1(2).

Exception: A reduction in required fire-flow of 50 percent, as approved, is allowed when the building is provided with an approved automatic sprinkler system. The resulting fire-flow shall not be less than 1,500 gallons per minute for the prescribed duration as specified in Table B105.1(2).

Section B105.2.1 Tents and Membrane structures. No fire flow is required for tents and membrane structures.

Section B105.2.2 Accessory residential Group U buildings. Accessory residential Group U buildings shall comply with the requirements of B105.1.

Section B105.3 Water supply for buildings equipped with an automatic sprinkler system. For buildings equipped with an automatic sprinkler system, the water supply shall be capable of providing the greater of:

1. The automatic sprinkler system demand, including hose stream allowance.
2. The required fire flow.

C. Section B105 of the *International Fire Code*, entitled "Fire-Flow Requirements for Buildings," is amended by deleting the following tables from section B105:

Table B105.1(1). Required Fire-Flow for One- and two-family dwellings, Group R-3 and R-4 Buildings and Townhouses.

Table B105.2. Required Fire-Flow for Buildings Other than One- and two-family dwellings, Group R-3 and R-4 Buildings and Townhouses.

D. Section B105 of the *International Fire Code*, entitled "Fire-Flow Requirements for Buildings," is amended by adding new subsection B105.4 as follows:

Section B105.4 Alternative Fire Flow Mitigation. For development projects, where it has been determined not feasible to extend the water main by the local water

purveyor, the following alternative fire flow mitigations are approved for use in accordance with Sections B105.4.1 through B105.4.2

Section B105.4.1 One- and two-family dwellings. Fire flow will not be required for one- and two-family dwellings if all of the following mitigations are met;

1. The fire-flow calculation area is less than 3600 square feet.
2. The construction type of the dwelling is Type VA.
3. The dwelling is equipped with an automatic fire sprinkler system installed in accordance with Section 903.3.1.3 with a water supply of no less than 30 minutes.
4. The dwelling has a fire separation distance of no less than 150 feet on all sides.

Section B105.4.2 Buildings other than one- and two-family dwellings. Fire flow will not be required for buildings other than one- and two-family dwellings if all of the following mitigations are met;

1. The fire-flow calculation area is less than 3600 square feet.
2. The construction type of the building is not Type VB.
3. The building is equipped with an automatic fire sprinkler system installed in accordance with Section 903.3.1.1 with a water supply of no less than 30 minutes.
4. The building has a fire separation distance of no less than 150 feet on all sides.

(Ord 2703 §18, 2023)

CHAPTER 16.20
EMERGENCY SERVICE ELEVATORS

Sections:

This Chapter was repealed by Ordinance 2703, May 2023

CHAPTER 16.25

ADDITIONAL SWIMMING POOL REGULATIONS

Sections:

16.25.010 Location

A swimming pool may not be located in any front yard required by the zoning code of the City, nor closer than five feet measured from the edge of the water surface to any exterior property line.

(Ord. 1363 §2(part), 1985)

16.25.020 Required Fencing

A. Every person who owns real property, or any person who is in possession of real property either as owner, purchaser under contract, as the lessee, tenant or licensee, and which real property is located within the boundaries of any residential district zone (R-I through RMH) or which is located within the boundaries of any C-I, C-2 or M-I district, and which property is located within the incorporated area of the City, and upon which real property there is situated a man-made, hard-surfaced swimming pool, or, any person above named who hereinafter constructs upon any real property, as above designated, a man-made, hard-surfaced swimming pool, shall erect thereon and maintain thereupon a solid structure or a fence not less than five feet in height with no opening therein, other than doors or gates, larger than six inches square. The fence or other solid structure shall completely surround the swimming pool in such a manner as to minimize, as nearly as possible, the danger of unsupervised children gaining access thereto. All gates or doors opening through such enclosure shall be equipped with a self-closing and self-latching device designed to keep and capable of keeping such doors or gates securely closed at all times when not in actual use, and all latches shall be placed at least 4-1/2 feet above the ground or shall be made inaccessible to small children from the outside; provided, however, that the door to any dwelling occupied by human beings and forming any part of the enclosure hereinabove required need not be so equipped. Such fencing and latches shall be installed prior to the filling of the pool with water for use.

B. When a swimming pool that is located within a yard enclosed by a fence meets the requirements of TMC Chapter 16.25, and when the gates or doors in the fence meet the requirements of TMC Chapter 16.25, no fence immediately surrounding the swimming pool shall be required.

(Ord. 1363 §2(part), 1985)

16.25.030 Plan Approval Required

Plans for swimming pools to be constructed shall be submitted to the Building Department, and shall show on their face the form of proposed compliance with the requirements of TMC Chapter 16.25; and the final inspection and approval of all pools hereafter constructed shall be withheld until all requirements of TMC Chapter 16.25 shall have been complied with. Use of the swimming pools before inspection and approval shall constitute a violation of TMC Chapter 16.25.

(Ord. 1363 §2(part), 1985)

16.25.040 Public Swimming Pools

The provisions of TMC Chapter 16.25 shall not apply to public swimming pools for which a charge or admission price is required to be paid for the use thereof, nor to swimming pools which are a part of and located upon the same premises as a hotel or motel, nor to swimming pools operated by a school district when the pools are made unavailable except at times when attended by adult supervisors or guards.

(Ord. 1363 §2(part), 1985)

16.25.050 Conformance of Prior-Existing Swimming Pools

Swimming pools of a type subject to the provisions of TMC Chapter 16.25, which were in existence on the effective date of the ordinance codified herein but which swimming pools do not possess the safety features required in TMC Chapter 16.25, shall, within a period of not to exceed six months from the effective date of the ordinance codified herein, be brought into conformity with the provisions and requirements of TMC Chapter 16.25. Swimming pools not brought into conformity within the period of time herein stipulated are hereby declared to be public nuisances and public hazards, and the owners of the premises upon which such pools exist shall be subject to the penalties prescribed herein.

(Ord. 1363 §2(part), 1985)

CHAPTER 16.26

FIRE IMPACT FEES

Sections:

16.26.010 Authority and Purpose

A. Authority. The City of Tukwila's impact fee financing program has been developed pursuant to the City of Tukwila's policy powers, the Growth Management Act as codified in Chapter 36.70A of the Revised Code of Washington (RCW).

B. Purpose. The purpose of the financing plan is to:

1. Develop a program consistent with Tukwila's Fire Department Capital Facilities Plan and the Capital Improvement Program for joint public and private financing of fire protection services necessitated in whole or in part by development within the City of Tukwila;

2. Ensure adequate levels of public fire protection and service are consistent with the current level of service standards;

3. Create a mechanism to charge and collect fees to ensure that development bears its proportionate share of the capital costs of public fire protection facilities necessitated by development; and

4. Ensure fair collection and administration of such fire impact fees.

(Ord. 2571 §4, 2018)

16.26.020 Findings

The City Council finds and determines that growth and development in the City create additional demand and need for public fire protection facilities in the City, and the City Council finds that growth and development should pay its proportionate share of the costs of the facilities needed to serve the growth and development in the City. Therefore, pursuant to RCW 36.70A and RCW 82.02.050 through 82.02.100, which authorize the City to impose and collect impact fees to fund public facilities that serve growth, the City Council adopts this ordinance to impose fire protection impact fees for fire protection services. It is the Council's intent that the provisions of this ordinance be liberally construed in establishing the fire impact fee program.

(Ord. 2571 §5, 2018)

16.26.030 Definitions

Terms or words not defined herein shall be defined pursuant to RCW 82.02.090 when given their usual and customary meaning. For the purposes of this ordinance, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the following meanings:

1. "Accessory residential structure" means a structure that is incidental and subordinate to the principal residence on the property and is physically detached to the principal residence, but does not include accessory dwelling units. For example, a detached garage or storage shed for garden tools are considered accessory residential structures.

2. "Accessory dwelling unit (ADU)" means a dwelling unit that is within or attached to a single-family dwelling or in a detached building on the same lot as the primary single-family dwelling. An ADU is distinguishable from a duplex by being clearly subordinate to the primary dwelling unit, both in use and appearance.

3. "Building permit" means an official document or certification of the City of Tukwila issued by the City's building official which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, placement, demolition, moving, or repair of a building or structure.

4. "City" means the City of Tukwila, Washington, County of King.

5. "Development activity" means any construction, reconstruction, or expansion of a building, structure, or use, or any changes in use of a building or structure, or any changes in the use of land, requiring development approval.

6. "Development approval" means any written authorization from the City, which authorizes the commencement of the "development activity."

7. "Early Learning Facility" is defined consistent with RCW 43.31.565(3) as now enacted or hereafter amended.

8. "Encumber" means to reserve, set aside, or earmark the fire impact fees in order to pay for commitments, contractual obligations, or other liabilities incurred for the provision of fire protective services.

9. "Fee payer" is a person, corporation, partnership, an incorporated association or governmental agency, municipality, or similar entity commencing a land development activity that requires a building permit and creates a demand for additional fire capital facilities.

10. "Fire protection facilities" means all publicly owned apparatus and buildings within the City that are used for fire protection and/or emergency response and aid.

11. "Impact fee" means the payment of money imposed by the City on development activity pursuant to this ordinance as a condition of granting development approval in order to pay for the fire facilities needed to serve growth and development that is a proportionate share of the cost of fire capital facilities used for facilities that reasonably benefit development. Impact fees do not include reasonable permit fees, application fees, administrative fees for collecting and handling fire impact fees, or the cost of reviewing independent fee calculations.

12. "Low-income housing" means housing where monthly costs, including utilities other than telephone, are no greater than 30% of the resident's household monthly income and where household monthly income is 80% or less of the King County Median family income adjusted for family size as reported by the U.S. Department of Housing and Urban Development.

13. "Owner" means the owner of record of real property, as found in the records of King County, Washington, or a person with an unrestricted written option to purchase property; provided, that if the real property is being purchased under a recorded real estate contract, the purchaser shall be considered the owner of the property.

14. "Proportionate share" means that portion of the cost for fire facility improvements that are reasonably related to the service demands and needs of development..

(Ord. 2655 §1, 2021; Ord. 2571 §6, 2018)

16.26.040 Fire Impact Fee Assessment

A. The City shall collect fire impact fees from applicants seeking development approvals from the City for any development activity in the City for which building permits are required effective January 1, 2009, consistent with the provisions of this ordinance.

B. Fire impact fees shall be assessed at the time of a technically-complete building permit application that complies with the City's zoning ordinances and building and development codes. Fire impact fees shall be collected from the fee payer at the time the building permit is issued.

C. Except if otherwise exempt, the City shall not issue the required building permit unless or until the fire impact fees are paid.

(Ord. 2571 §7, 2018)

16.26.050 Use of Fire Impact Fees

A. Pursuant to this ordinance, fire impact fees shall be used for fire facilities that will reasonably benefit growth and development, and only for fire protection facilities addressed by the City's Capital Facilities Element of the Comprehensive Plan.

B. Fees shall not be used to make up deficiencies in City facilities serving an existing development.

C. Fees shall not be used for maintenance and operations, including personnel.

D. Fire impact fees shall be used for, but not limited to, land acquisition, site improvements, engineering and architectural services, permitting, financing, administrative expenses and applicable mitigation costs, and capital equipment pertaining to fire protection facilities.

E. Fire impact fees may also be used to recoup public improvement costs incurred by the City to the extent that growth and development will be served by the previously constructed improvement.

F. In the event bonds or similar debt instruments are or have been issued for fire facility improvements, impact fees may be used to pay the principal and interest on such bonds.

(Ord. 2571 §8, 2018)

16.26.060 Fire Impact Fee Capital Facilities Plan

In order to collect fire impact fees, the City must first adopt a Fire Capital Facilities Plan as an element of the City's Comprehensive Plan. The City's Capital Facilities Plan for fire protection services shall consist of the following elements:

1. The City's capacity over the next six years, based on an inventory of the City's fire facilities both existing and under construction;
2. The forecast of future needs for fire facilities based upon the City's population projections;
3. A six-year financial plan component, updated as necessary, to maintain at least a six-year forecast for financing needed within projected funding levels;
4. Application of the formula set forth in this ordinance based upon the information in the Capital Facilities Plan; and
5. City Council Action. No new or revised impact fee shall be effective until adopted by the City Council following a duly advertised public hearing to consider the City's Capital Facilities Plan or plan update, except for fees adjusted through the annual update process outlined in TMC Section 16.26.080.

(Ord. 2571 §9, 2018)

16.26.070 Fire Impact Fee Formula

A. The impact fee formula is based on the assumptions found in "Tukwila Fire and Parks Impact Fee Rate Study, 2018," Exhibit A attached to the ordinance and by this reference fully incorporated herein. A fee schedule is codified as Figure 16-1, Fee Schedule, attached hereto[1] as Exhibit B.

B. Each development shall mitigate its impacts on the City's fire protection facilities by payment of a fee that is based on the type of land use of the development, and proportionate to the cost of the fire protection facility improvements necessary to serve the needs of growth. For residential development, fee amount is based on number of units; for commercial development, fee amount is based on square footage of the development.

C. Applications for a change of use shall receive credit based on the existing use. This credit is calculated by deducting the fee amount of the existing use from the fee of the proposed use.

(Ord. 2571 §10, 2018)

16.26.080 Annual Fire Impact Fee Updates

Fire impact fee rates shall be updated annually using the following procedures:

1. The Fire Chief shall use the Construction Cost Index for Seattle (June-June) published by the Engineering News Record to calculate annual inflation adjustments in the impact fee rates. The fire impact fees shall not be adjusted for inflation should the index remain unchanged.
2. The impact fee rates, as updated annually per TMC Section 16.26.080(1), shall be effective January 1, 2019, and on January 1 of each year thereafter, and a copy shall be provided to the City Council.

(Ord. 2571 §11, 2018)

16.26.090 Individual Project Fire Impact Fee Adjustments

A. The City may adjust a fire impact fee at the time the fee is imposed in order to consider unusual circumstances in specific cases to ensure that impact fees are imposed fairly.

B. In calculating the fee imposed on a particular development, the City shall permit consideration of studies and data submitted by a developer in order to adjust the amount of the fee. The developer shall submit an independent fee calculation study to the Fire Chief who shall review the study to determine that the study:

1. Is based on accepted impact fee assessment practices and methodologies;
2. Uses acceptable data sources and the data used is comparable with the uses and intensities planned for the proposed development activity;
3. Complies with the applicable state laws governing impact fees;
4. Is prepared and documented by professionals who are mutually agreeable to the City and the developer and who are qualified in their respective fields; and
5. Shows the basis upon which the independent fee calculation was made.

C. In reviewing the study, the Fire Chief may require the developer to submit additional or different documentation. If an acceptable study is presented, the Fire Chief may adjust the fee for the particular development activity. The Fire Chief shall consider the documentation submitted by the applicant, but is not required to accept such documentation that the Chief reasonably deems to be inaccurate or unreliable.

D. A developer requesting an adjustment or independent fee calculation may pay the impact fees imposed by this ordinance in order to obtain a building permit while the City determines whether to partially reimburse the developer by making an adjustment or by accepting the independent fee calculation.

(Ord. 2571 §12, 2018)

16.26.100 Credits

In computing the fee applicable to a given development, credit shall be given for the fair market value measured at the time of dedication, for any dedication of land for improvements to, or new construction of, any fire protection facilities that are identified in the Capital Facilities Element and that are required by the City as a condition of approving the development activity.

(Ord. 2571 §13, 2018)

16.26.110 Appeals

A. Any fee payer may pay the impact fees imposed by this ordinance under protest in order to obtain a building permit.

B. Appeals regarding fire impact fees imposed on any development activity may only be submitted by the fee payer of the property where such development activity will occur. No appeal shall be permitted unless and until the impact fee at issue

[1] *City Clerk's Note: Attachments are not included in the Tukwila Municipal Code. Exhibit B can be found in the Digital Records Center under Ord. 2694.*

has been paid.

C. Determinations by the City staff with respect to the applicability of fire impact fees to a given development activity, or the availability of a credit, can be appealed to the City's Hearing Examiner pursuant to this section.

D. An appeal shall be filed within 10 working days of payment of the impact fees under protest or within 10 working days of the City's issuance of a written determination of a credit or exemption decision by filing with the City Clerk a notice of appeal giving the reasons for the appeal and paying the accompanying appeal fee as set forth in the existing fee schedule for land use decisions.

(Ord. 2570 §14, 2018)

16.26.120 Exemptions

A. The fire impact fees are generated from the formula for calculating the fees as set forth in this chapter. The amount of the impact fees is determined by the information contained in the adopted fire department master plan and related documents, as appended to the City's Comprehensive Plan. All development activity located within the City shall be charged a fire impact fee; provided, that the following exemptions shall apply.

B. The following shall be exempt from fire impact fees:

1. Replacement of a structure with a new structure having the same use, at the same site, and with the same gross floor area, when such replacement is within 12 months of demolition or destruction of the previous structure.

2. Alteration, expansion, or remodeling of an existing dwelling or structure where no new units are created and the use is not changed.

3. Construction of an accessory residential structure.

4. Miscellaneous improvements including, but not limited to, fences, walls, swimming pools, and signs that do not create an increase in demand for fire services.

5. Demolition of or moving an existing structure within the City from one site to another.

6. Fire impact fees for the construction of low-income housing may be reduced when requested by the property owner in writing prior to permit submittal and subject to the following:

a. The property owner must submit a fiscal impact analysis of how a reduction in impact fees for the project would contribute to the creation of low-income housing; and

b. The property owner must record a covenant per RCW 82.02.060(3) that prohibits using the property for any purpose other than for low-income housing at the original income limits for a period of at least 10 years. At a minimum, the covenant must address price restrictions and household income limits for the low-income housing, and that if the property is converted to a use other than low income housing within 10 years, the property owner must pay the City the applicable impact fees in effect at the time of conversion.

c. Should the property owner satisfy the criteria in TMC Section 16.26.120.B.6., a and b, the fees will be reduced, based on the following table:

Unit Size	Affordability Target [1]	Fee Reduction
2 or more bedrooms	80% [2]	40%
2 or more bedrooms	60% [2]	60%
Any size	50% [2]	80%

[1] – Units to be sold or rented to a person or household whose monthly housing costs, including utilities other than telephone, do not exceed 30% of the household's monthly income.

[2] – Percentage of King County Median family income adjusted for family size as reported by the U.S. Department of Housing and Urban Development.

7. Change of Use. A development permit for a change of use that has less impact than the existing use shall not be assessed a fire impact fee.

8. A fee payer required to pay for system improvements pursuant to RCW 43.21C.060 shall not be required to pay an impact fee for the same improvements under this ordinance.

9. A fee payer installing a residential fire sprinkler system in a single-family home shall not be required to pay the fire operations portion of the impact fee. The exempted fire operations impact fee shall not include the proportionate share related to the delivery of emergency medical services.

10. An Early Learning Facility is exempt from paying 80 percent of the required Fire Impact Fee.

(Ord. 2655 §2, 2021; Ord. 2571 §15, 2018)

16.26.125 Residential Impact Fee Deferral

A. Applicability.

1. The provisions of this section shall apply to all impact fees established and adopted by the City pursuant to Chapter 82.02 RCW, including impact fees for fire facilities assessed under Tukwila Municipal Code Chapter 16.26.

2. Subject to the limitations imposed in the Tukwila Municipal Code, the provisions of this section shall apply to all building permit applications for single-family detached and single-family attached residential construction. For the purposes of this section, an "applicant" includes an entity that controls the named applicant, is controlled by the named applicant, or is under common control with the named applicant.

B. Impact Fee Deferral.

1. *Deferral Request.* Applicants for single-family attached or single-family detached residential building permits may request to defer payment of required impact fees until the sooner of:

a. final inspection; or

b. the closing of the first sale of the property occurring after the issuance of the applicable building permit;

which request shall be granted so long as the requirements of this section are satisfied.

2. *Method of Request.* A request for impact fee deferral shall be submitted at the time of preliminary plat application (for platted development) or building permit application (for non-platted

development) in writing on a form or forms provided by the City, along with payment of the applicable application or permit fees.

3. *Calculation of Impact Fees.* The amount of impact fees to be deferred under this section shall be determined as of the date the request for deferral is submitted.

C. Deferral Term. The term of an impact fee deferral granted under this section may not exceed 18 months from the date the building permit is issued ("Deferral Term"). If the condition triggering payment of the deferred impact fees does not occur prior to the expiration of the Deferral Term, then full payment of the impact fees shall be due on the last date of the Deferral Term.

D. Deferred Impact Fee Lien.

1. *Applicant's Duty to Record Lien.* An applicant requesting a deferral under this section must grant and record a deferred impact fee lien, in an amount equal to the deferred impact fees, against the property in favor of the City in accordance with the requirements of RCW 82.02.050(3)(c).

2. *Satisfaction of Lien.* Upon receipt of final payment of all deferred impact fees for the property, the City shall execute a release of deferred impact fee lien for the property. The property owner at the time of the release is responsible, at his or her own expense, for recording the lien release.

E. Limitation on Deferrals. Each applicant for a single-family residential construction permit, in accordance with his or her contractor registration number or other unique identification number, is entitled to annually receive deferrals for the first 20 single-family residential construction building permits.

(Ord. 2571 §16, 2018)

16.26.130 Refunds

A. If the City fails to expend or encumber the impact fees within 10 years from the date the fees were paid, unless extraordinary, compelling reasons exist for fees to be held longer than 10 years, the current owner of the property on which the impact fees were paid may receive a refund of such fees. Such extraordinary or compelling reasons shall be identified in written findings by the City Council.

B. The City shall notify potential claimants by first class mail that they are entitled to a refund. In determining whether impact fees have been expended or encumbered, impact fees shall be considered expended or encumbered on a first-in, first-out basis.

C. Owners seeking a refund must submit a written request for a refund of the fees to the City within one year of the date the right to claim a refund arises or notice is given, whichever comes later.

D. Any impact fees for which no application has been made within the one-year period shall be retained by the City and expended on appropriate fire facilities.

E. Refunds of impact fees shall include any interest earned on the impact fees by the City.

(Ord. 2571 §17, 2018)

16.26.140 Authority Unimpaired

Nothing in this ordinance shall preclude the City from requiring the fee payer to mitigate adverse environmental effects of a specific development pursuant to the State Environmental Policy Act, Chapters 43.21C RCW and/or Chapter 58.17 RCW, governing plats and subdivisions, provided that the exercise of this authority is consistent with Chapters 43.21C and 82.02 RCW.

(Ord. 2571 §18, 2018)

CHAPTER 16.28
PARKS IMPACT FEES

Sections:

16.28.010 Authority and Purpose

A. Authority. The City of Tukwila's impact fee financing program has been developed pursuant to the City of Tukwila's policy powers, the Growth Management Act as codified in Chapter 36.70A of the Revised Code of Washington (RCW).

B. Purpose. The purpose of the financing plan is to:

1. Develop a program consistent with Tukwila's Parks and Recreation Department Capital Facilities Plan for joint public and private financing of public parks facilities and services necessitated in whole or in part by development within the City of Tukwila;

2. Create a mechanism to charge and collect fees to ensure that development bears its proportionate share of the capital costs of public parks facilities necessitated by development; and

3. Ensure fair collection and administration of such parks impact fees.

(Ord. 2572 §4, 2018)

16.28.020 Findings

The City Council finds and determines that growth and development in the City create additional demand and need for public parks facilities in the City, and the City Council finds that growth and development should pay its proportionate share of the costs of the facilities needed to serve the growth and development in the City. Therefore, pursuant to RCW 36.70A and RCW 82.02.050 through 82.02.100, which authorize the City to impose and collect impact fees to fund public facilities that serve growth, the City Council adopts this ordinance to impose parks impact fees for parks services. It is the Council's intent that the provisions of this ordinance be liberally construed in establishing the parks impact fee program.

(Ord. 2572 §5, 2018)

16.28.030 Definitions

Terms or words not defined herein shall be defined pursuant to RCW 82.02.090 when given their usual and customary meaning. For the purposes of this ordinance, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the following meanings:

1. "Accessory residential structure" means a structure that is incidental and subordinate to the principal residence on the property and is physically detached to the principal residence, but does not include accessory dwelling units. For example, a detached garage or storage shed for garden tools are considered accessory residential structures.

2. "Accessory dwelling unit (ADU)" means a dwelling unit that is within or attached to a single-family dwelling or in a detached building on the same lot as the primary single-family dwelling. An ADU is distinguishable from a duplex by being clearly subordinate to the primary dwelling unit, both in use and appearance.

3. "Building permit" means an official document or certification of the City of Tukwila issued by the City's building official which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, placement, demolition, moving, or repair of a building or structure.

4. "City" means the City of Tukwila, Washington, County of King.

5. "Development activity" means any construction, reconstruction, or expansion of a building, structure, or use, or any changes in use of a building or structure, or any changes in the use of land, requiring development approval.

6. "Development approval" means any written authorization from the City, which authorizes the commencement of the "development activity."

7. "Early Learning Facility" is defined consistent with RCW 43.31.565(3) as now enacted or hereafter amended.

8. "Encumber" means to reserve, set aside, or earmark the parks impact fees in order to pay for commitments, contractual obligations, or other liabilities incurred for the provision of parks services.

9. "Fee payer" is a person, corporation, partnership, an incorporated association or governmental agency, municipality, or similar entity commencing a land development activity that requires a building permit and creates a demand for additional parks capital facilities.

10. "Impact fee" means the payment of money imposed by the City on development activity pursuant to this ordinance as a condition of granting development approval in order to pay for the parks facilities needed to serve growth and development that is a proportionate share of the cost of parks capital facilities used for facilities that reasonably benefit development. Impact fees do not include reasonable permit fees, application fees, administrative fees for collecting and handling parks impact fees, or the cost of reviewing independent fee calculations.

11. "Low-income housing" means housing where monthly costs, including utilities other than telephone, are no greater than 30% of the resident's household monthly income and where household monthly income is 80% or less of the King County Median family income adjusted for family size as reported by the U.S. Department of Housing and Urban Development.

12. "Owner" means the owner of record of real property, as found in the records of King County, Washington, or a person with an unrestricted written option to purchase property; provided, that if the real property is being purchased under a recorded real estate contract, the purchaser shall be considered the owner of the property.

13. "Parks facilities" means those capital facilities identified as park and recreational facilities in the City's Capital Facilities Plan.

14. "Proportionate share" means that portion of the cost for parks facility improvements that are reasonably related to the service demands and needs of development.

(Ord. 2656 §1, 2021; Ord. 2572 §6, 2018)

16.28.040 Parks Impact Fee Assessment

A. The City shall collect parks impact fees from applicants seeking development approvals from the City for any development activity in the City for which building permits are required, effective January 1, 2009, consistent with the provisions of this ordinance.

B. Parks impact fees shall be assessed at the time of a technically-complete building permit application that complies with the City's zoning ordinances and building and development codes. Parks impact fees shall be collected from the fee payer at the time the building permit is issued.

C. Except if otherwise exempt, the City shall not issue the required building permit unless or until the parks impact fees are paid.

(Ord. 2572 §7, 2018)

16.28.050 Use of Parks Impact Fees

A. Pursuant to this ordinance, parks impact fees shall be used for parks facilities that will reasonably benefit growth and development, and only for park facilities addressed by the City's Capital Facilities Element of the Comprehensive Plan.

B. Fees shall not be used to make up deficiencies in City facilities serving an existing development.

C. Fees shall not be used for maintenance and operations, including personnel.

D. Parks impact fees shall be used for but not limited to land acquisition, site improvements, engineering and architectural services, permitting, financing, administrative expenses and applicable mitigation costs, and capital equipment pertaining to parks facilities.

E. Parks impact fees may also be used to recoup public improvement costs incurred by the City to the extent that growth and development will be served by the previously constructed improvement.

F. In the event bonds or similar debt instruments are or have been issued for parks facility improvements, impact fees may be used to pay the principal and interest on such bonds.

(Ord. 2572 §8, 2018)

16.28.060 Parks Impact Fee Capital Facilities Plan

In order to collect parks impact fees, the City must first adopt a parks capital facilities plan as an element of the City's Comprehensive Plan. The City's Capital Facilities Plan for parks services shall consist of the following elements:

1. The City's capacity over the next six years, based on an inventory of the City's parks facilities both existing and under construction;

2. The forecast of future needs for parks facilities based upon the City's population projections;

3. A six-year financial plan component, updated as necessary, to maintain at least a six-year forecast for financing needed within projected funding levels;

4. Application of the formula set forth in this ordinance based upon the information in the capital facilities plan; and

5. City Council Action. No new or revised impact fee shall be effective until adopted by the City Council following a duly advertised public hearing to consider the City's Capital Facilities Plan or plan update, except for fees adjusted through the annual update process outlined in TMC Section 16.28.080.

(Ord. 2572 §9, 2018)

16.28.070 Parks Impact Fee Formula

A. The impact fee formula is based on the assumptions found in "Tukwila Fire and Parks Impact Fee Rate Study, 2018," Exhibit A attached to the ordinance and by this reference fully incorporated herein. A fee schedule is codified as Figure 16-1, Fee Schedule, attached hereto[1] as Exhibit B.

B. Each development shall mitigate its impacts on the City's parks facilities by payment of a fee that is based on the type of land use of the development, and proportionate to the cost of the parks facility improvements necessary to serve the needs of growth. For residential development, fee amount is based on number of units; for commercial development, fee amount is based on square footage of the development.

C. Applications for a change of use shall receive credit based on the existing use. This credit is calculated by deducting the fee amount of the existing use from the fee of the proposed use.

(Ord. 2572 §10, 2018)

[1] *City Clerk's Note: Attachments are not included in the Tukwila Municipal Code. Exhibit B can be found in the Digital Records Center under Ord. 2695.*

16.28.080 Annual Parks Impact Fee Updates

Park impact fee rates shall be updated annually using the following procedures:

1. The Director of Parks and Recreation ("Director") shall use the Construction Cost Index for Seattle (June-June) published by the Engineering News Record to calculate annual inflation adjustments in the impact fee rates. The parks impact fees shall not be adjusted for inflation should the index remain unchanged.

2. The impact fee rates, as updated annually per TMC Section 16.28.080(1), shall be effective January 1, 2019, and on January 1 of each year thereafter, and a copy shall be provided to the City Council.

(Ord. 2572 §11, 2018)

16.28.090 Individual Project Parks Impact Fee Adjustments

A. The City may adjust a parks impact fee at the time the fee is imposed in order to consider unusual circumstances in specific cases to ensure that impact fees are imposed fairly.

B. In calculating the fee imposed on a particular development, the City shall permit consideration of studies and data submitted by a developer in order to adjust the amount of the fee. The developer shall submit an independent fee calculation study to the Director of Parks and Recreation, who shall review the study to determine that the study:

1. Is based on accepted impact fee assessment practices and methodologies;

2. Uses acceptable data sources and the data used is comparable with the uses and intensities planned for the proposed development activity;

3. Complies with the applicable state laws governing impact fees;

4. Is prepared and documented by professionals who are mutually agreeable to the City and the developer and who are qualified in their respective fields; and

5. Shows the basis upon which the independent fee calculation was made.

C. In reviewing the study, the Director of Parks and Recreation may require the developer to submit additional or different documentation. If an acceptable study is presented, the Director may adjust the fee for the particular development activity. The Director shall consider the documentation submitted by the applicant, but is not required to accept such documentation that the Director reasonably deems to be inaccurate or unreliable.

D. A developer requesting an adjustment or independent fee calculation may pay the impact fees imposed by this ordinance in order to obtain a building permit while the City determines whether to partially reimburse the developer by making an adjustment or by accepting the independent fee calculation.

(Ord. 2572 §12, 2018)

16.28.100 Credits

In computing the fee applicable to a given development, credit shall be given for the fair market value measured at the time of dedication, for any dedication of land for improvements to, or new construction of, any parks facilities that are identified in the Capital Facilities Element and that are required by the City as a condition of approving the development activity.

(Ord. 2572 §13, 2018)

16.28.110 Appeals

A. Any fee payer may pay the impact fees imposed by this ordinance under protest in order to obtain a building permit.

B. Appeals regarding parks impact fees imposed on any development activity may only be submitted by the fee payer of the property where such development activity will occur. No appeal shall be permitted unless and until the impact fee at issue has been paid.

C. Determinations by the City staff with respect to the applicability of parks impact fees to a given development activity, or the availability of a credit, can be appealed to the City's Hearing Examiner pursuant to this section.

D. An appeal shall be filed within 10 working days of payment of the impact fees under protest or within 10 working days of the City's issuance of a written determination of a credit or exemption decision by filing with the City Clerk a notice of appeal giving the reasons for the appeal and paying the accompanying appeal fee as set forth in the existing fee schedule for land use decisions.

(Ord. 2572 §14, 2018)

16.28.120 Exemptions

A. The parks impact fees are generated from the formula for calculating the fees as set forth in this chapter. The amount of the impact fees is determined by the information contained in the adopted parks master plan and related documents, as appended to the City's Comprehensive Plan. All development activity located within the City shall be charged a parks impact fee; provided, that the following exemptions shall apply.

B. The following shall be exempt from parks impact fees:

1. Replacement of a structure with a new structure having the same use, at the same site, and with the same gross floor area, when such replacement is within 12 months of demolition or destruction of the previous structure.

2. Alteration, expansion, or remodeling of an existing dwelling or structure where no new units are created and the use is not changed.

3. Construction of an accessory residential structure.

4. Miscellaneous improvements including, but not limited to, fences, walls, swimming pools, and signs that do not create an increase in demand for parks services.

5. Demolition of or moving an existing structure within the City from one site to another.

6. Parks impact fees for the construction of low-income housing may be reduced when requested by the property owner in writing prior to permit submittal and subject to the following:

a. The property owner must submit a fiscal impact analysis of how a reduction in impact fees for the project would contribute to the creation of low-income housing; and

b. The property owner must record a covenant per RCW 82.02.060(3) that prohibits using the property for any purpose other than for low-income housing at the original income limits for a period of at least 10 years. At a minimum, the covenant must address price restrictions and household income limits for the low-income housing, and that if the property is converted to a use other than low income housing within 10 years, the property owner must pay the City the applicable impact fees in effect at the time of conversion.

c. Should the property owner satisfy the criteria in TMC Section 16.28.120.B.6., a and b, the fees will be reduced, based on the following table:

Unit Size	Affordability Target [1]	Fee Reduction
2 or more bedrooms	80% [2]	40%
2 or more bedrooms	60% [2]	60%
Any size	50% [2]	80%

[1] – Units to be sold or rented to a person or household whose monthly housing costs, including utilities other than telephone, do not exceed 30% of the household's monthly income.
[2] – Percentage of King County Median family income adjusted for family size as reported by the U.S. Department of Housing and Urban Development.

7. *Change of Use.* A development permit for a change of use that has less impact than the existing use shall not be assessed a parks impact fee.

8. A fee payer required to pay for system improvements pursuant to RCW 43.21C.060 shall not be required to pay an impact fee for the same improvements under this ordinance.

9. An Early Learning Facility is exempt from paying 80 percent of the required Parks Impact Fee.

(Ord. 2656 §2, 2021; Ord. 2572 §15, 2018)

16.28.125 Residential Impact Fee Deferral

A. Applicability.

1. The provisions of this section shall apply to all impact fees established and adopted by the City pursuant to Chapter 82.02 RCW, including parks impact fees assessed under Tukwila Municipal Code Chapter 16.28.

2. Subject to the limitations imposed in the Tukwila Municipal Code, the provisions of this section shall apply to all building permit applications for single-family detached and single-family attached residential construction. For the purposes of this section, an "applicant" includes an entity that controls the named applicant, is controlled by the named applicant, or is under common control with the named applicant.

B. Impact Fee Deferral.

1. *Deferral Request.* Applicants for single-family attached or single-family detached residential building permits may request to defer payment of required impact fees until the sooner of:

a. final inspection; or

b. the closing of the first sale of the property occurring after the issuance of the applicable building permit;

which request shall be granted so long as the requirements of this section are satisfied.

2. *Method of Request.* A request for impact fee deferral shall be submitted at the time of preliminary plat application (for platted development) or building permit application (for non-platted development) in writing on a form or forms provided by the City, along with payment of the applicable application or permit fees.

3. *Calculation of Impact Fees.* The amount of impact fees to be deferred under this section shall be determined as of the date the request for deferral is submitted.

C. Deferral Term. The term of an impact fee deferral granted under this section may not exceed 18 months from the date the building permit is issued ("Deferral Term"). If the condition triggering payment of the deferred impact fees does not occur prior to the expiration of the Deferral Term, then full payment of the impact fees shall be due on the last date of the Deferral Term.

D. Deferred Impact Fee Lien.

1. *Applicant's Duty to Record Lien.* An applicant requesting a deferral under this section must grant and record a deferred impact fee lien, in an amount equal to the deferred impact fees, against the property in favor of the City in accordance with the requirements of RCW 82.02.050(3)(c).

2. *Satisfaction of Lien.* Upon receipt of final payment of all deferred impact fees for the property, the City shall execute a release of deferred impact fee lien for the property. The property owner at the time of the release is responsible, at his or her own expense, for recording the lien release.

E. Limitation on Deferrals. Each applicant for a single-family residential construction permit, in accordance with his or her contractor registration number or other unique identification number, is entitled to annually receive deferrals for the first 20 single-family residential construction building permits.

(Ord. 2572 §16, 2018)

16.28.130 Refunds

A. If the City fails to expend or encumber the impact fees within 10 years from the date the fees were paid, unless extraordinary, compelling reasons exist for fees to be held longer than 10 years, the current owner of the property on which the impact fees were paid may receive a refund of such fees. Such extraordinary or compelling reasons shall be identified in written findings by the City Council.

B. The City shall notify potential claimants by first class mail that they are entitled to a refund. In determining whether impact fees have been expended or encumbered, impact fees shall be considered expended or encumbered on a first-in, first-out basis.

C. Owners seeking a refund must submit a written request for a refund of the fees to the City within one year of the date the right to claim a refund arises or notice is given, whichever comes later.

D. Any impact fees for which no application has been made within the one-year period shall be retained by the City and expended on appropriate parks facilities.

E. Refunds of impact fees shall include any interest earned on the impact fees by the City.

(Ord. 2572 §17, 2018)

16.28.140 Authority Unimpaired

Nothing in this ordinance shall preclude the City from requiring the fee payer to mitigate adverse environmental effects of a specific development pursuant to the State Environmental Policy Act, Chapters 43.21C RCW and/or Chapter 58.17 RCW, governing plats and subdivisions, provided that the exercise of this authority is consistent with Chapters 43.21C and 82.02 RCW.

(Ord. 2572 §18, 2018)

CHAPTER 16.34

ROAD, BRIDGE AND MUNICIPAL CONSTRUCTION SPECIFICATIONS

Sections:

16.34.010 Specifications Adopted

The 2012 edition of the Standard Specifications for Road, Bridge, and Municipal Construction, prepared by the Washington State Department of Transportation and the Washington State Chapter of the American Public Works Association, and all subsequent editions or amendments thereto, is hereby adopted as the Code of the City of Tukwila, Washington, for regulating the construction and maintenance of public works, including streets, bridges, sanitary sewers, storm sewers, water distribution, structures and other public works. The Public Works Director may allow the use of American Institute of Architects (AIA), Construction Specifications Institute (CSI), or other building and facilities standard specifications, on a case-by-case basis.

(Ord. 2367 §1 (part), 2012)

16.34.020 Copies to be on File

Not less than three copies of said Standard Specifications and City of Tukwila supplements shall remain on file for use in examination by the public in the Public Works Department

(Ord. 2367 §1 (part), 2012)

CHAPTER 16.36

INFRASTRUCTURE DESIGN AND CONSTRUCTION STANDARDS

Sections:

16.36.010 Adopted

The City of Tukwila Infrastructure Design and Construction Standards are hereby adopted by this reference as if fully set forth herein. Said Infrastructure Design and Construction Standards shall be in addition to such specific terms and conditions as may be established for any permit issued by the City. The Mayor and/or the Director of Public Works is hereby authorized to develop, disseminate, revise and update the City of Tukwila Infrastructure Design and Construction Standards for utility work, work in the public right-of-way or in easements, and all other work performed pursuant to construction related permits issued by the City of Tukwila.

(Ord. 1783 §1, 1996)

16.36.015 Incorporation of MIC/L and MIC/H Zone Driveway Design and Bus Pullout Requirements

The Public Works Director shall incorporate the "MIC/L and MIC/H Zone Driveway Design and Bus Pullout Requirements," as presented in the Tukwila Manufacturing/Industrial Center Strategic Implementation Plan (pages 28 and 29), into the City of Tukwila Infrastructure Design and Construction Standards (Ord. 1783).

(Ord. 1853 §10, 1998)

16.36.020 Copies to be on File

Not less than three copies of said Infrastructure Design and Construction Standards shall remain on file for use in examination by the public in the Public Works Department.

(Ord. 1783 §2, 1996)

CHAPTER 16.40
FIRE ALARM SYSTEMS

Sections:

This Chapter was repealed by Ordinance 2703, May 2023

CHAPTER 16.42
SPRINKLER SYSTEMS

Sections:

This Chapter was repealed by Ordinance 2703, May 2023

CHAPTER 16.46

FIRE PROTECTION IN MID-RISE BUILDINGS

Sections:

This Chapter was repealed by Ordinance 2703, May 2023

CHAPTER 16.48

FIRE PROTECTION IN HIGH-RISE BUILDINGS

Sections:

This Chapter was repealed by Ordinance 2703, May 2023

CHAPTER 16.52
FLOOD PLAIN MANAGEMENT

Sections:

16.52.010 Statutory Authorization

The Legislature of the State of Washington delegated the responsibility to the City of Tukwila to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

(Ord. 2637 §3, 2020)

16.52.020 Purpose

This chapter aims to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas, by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money and costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
6. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
7. Ensure that potential buyers are notified that property is in an area of special flood hazard;
8. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions; and
9. Participate in and maintain eligibility for flood insurance and disaster relief.

(Ord. 2637 §4, 2020)

16.52.030 Definitions

Unless specifically defined below, words or phrases used in this chapter shall be interpreted to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. **Alteration of watercourse:** Any action that will change the location of the channel occupied by water within the banks of any portion of a riverine waterbody.
2. **Appeal:** A request for a review of the interpretation of any provision of this chapter or a request for a variance.
3. **Area of shallow flooding:** A designated zone AO, AH, AR/AO or AR/AH (or VO) on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow. Also referred to as the sheet flow area.
4. **Area of special flood hazard:** The land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as zone A, AO, AH, A1-30, AE, A99, AR (V, VO, V1-30, VE). "Special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard".
5. **ASCE 24:** The most recently published version of ASCE 24, "Flood Resistant Design and Construction", published by the American Society of Civil Engineers.
6. **Base flood:** The flood having a 1% chance of being equaled or exceeded in any given year (also referred to as the "100-year flood").
7. **Base Flood Elevation (BFE):** The elevation to which floodwater is anticipated to rise during the base flood.
8. **Basement:** Any area of the building having its floor sub-grade (below ground level) on all sides.
9. **Building:** See "Structure."
10. **Building Code:** The current editions of the building codes and amendments adopted by Washington State and amended by the City of Tukwila.
11. **Breakaway wall:** 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.
12. **Critical facility:** A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools; nursing homes; hospitals; police, fire and emergency response installations; and installations that produce, use, or store hazardous materials or hazardous waste.
13. **Development:** Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

14. Director: The Director of Public Works or designee.

15. Elevation Certificate: An administrative tool of the National Flood Insurance Program (NFIP) that can be used to provide elevation information, to determine the proper insurance premium rate and to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F).

16. Elevated building: For insurance purposes, a non-basement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

17. Essential facility: This term has the same meaning as "Essential Facility" defined in ASCE 24. Table 1-1 in ASCE 24-14 further identifies building occupancies that are essential facilities.

18. Flood or Flooding:

(a) A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters;

(2) The unusual and rapid accumulation or runoff of surface waters from any source; and/or

(3) Mudslides (i.e., mudflows), which are proximately caused by flooding as defined in subparagraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event that results in flooding as defined in subparagraph (a)(1) of this definition.

19. Flood elevation study: An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards. Also known as a Flood Insurance Study (FIS).

20. Flood Insurance Rate Map (FIRM): The official map of a community on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

21. Floodplain or flood-prone area: Any land area susceptible to being inundated by water from any source. See "Flood or Flooding."

22. Floodplain Administrator: The community official designated by title to administer and enforce the floodplain management regulations.

23. Floodplain management regulations: Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance) and other application of police power. The term describes such state or local regulations, in any combination thereof, that provide standards for the purpose of flood damage prevention and reduction.

24. Flood proofing: Any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. Flood-proofed structures are those that have the structural integrity and design to be impervious to floodwater below the Base Flood Elevation.

25. Floodway: 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 a designated height. Also referred to as "Regulatory Floodway."

26. Functionally dependent use: A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

27. Highest adjacent grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

28. Historic structure: Any structure that is:

a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

c. Individually listed on a state inventory of historic places in states with historic preservation programs that have been approved by the Secretary of the Interior; or

d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(1) By an approved state program as determined by the Secretary of the Interior, or

(2) Directly by the Secretary of the Interior in states without approved programs.

29. Lowest floor: 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 non-elevation design requirements of this chapter (i.e. provided there are adequate flood ventilation openings).

30. Manufactured home: A structure, transportable in one or more sections, that 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."

31. Manufactured home park or subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

32. Mean sea level: For purposes of the National Flood Insurance Program, the vertical datum to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

33. New construction: For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial Flood Insurance Rate Map or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

34. NFIP means National Flood Insurance Program.

35. One-hundred-year flood or 100-year flood: See "Base flood."

36. Reasonably safe from flooding: Development that is designed and built to be safe from flooding based on consideration of current flood elevation studies, historical data, high water marks and other reliable data known to the community. In unnumbered "A" zones where flood elevation information is not available and cannot be obtained by practicable means, "reasonably safe from flooding" means the lowest floor is at least two feet above the Highest Adjacent Grade.

37. Recreational vehicle: A vehicle:

a. Built on a single chassis;

b. 400 square feet or less when measured at the largest horizontal projection;

c. Designed to be self-propelled or permanently towable by a light-duty truck; and

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

38. Special Flood Hazard Area (SFHA): The land in the flood plain subject to a 1% or greater chance of flooding in any given year. It is also referred to as the 100-year flood elevation or the base flood elevation. These areas are designated on Flood Insurance Rate Maps (FIRMs) using the letters A or V. Special flood hazard areas include flood-prone areas designated by the City.

39. Start of construction: Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or 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.

40. Structure: For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

41. Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

42. Substantial improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

a. Any project for improvement of a structure to correct previously identified existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions; or

b. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

43. Variance: A grant of relief by a community from the terms of a floodplain management regulation.

44. Violation: The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is a grant of relief by a community from the terms of a floodplain management regulation.

45. Water surface elevation: The height, in relation to the vertical datum utilized in the applicable flood insurance study of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

46. Water Dependent: 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.

(Ord. 2637 §5, 2020)

16.52.040 Applicability

This chapter applies to all special flood hazard areas within the City of Tukwila jurisdiction.

(Ord. 2637 §6, 2020)

16.52.050 Basis for Establishing the Areas of Special Flood Hazard

A. The special flood hazard areas identified by the Federal Insurance Administrator in a scientific and engineering report entitled "The Flood Insurance Study (FIS) for King County, Washington and Incorporated Areas" dated August 19, 2020, and any revisions thereto, with accompanying Flood Insurance Rate Maps (FIRMs) dated August 19, 2020, and any revisions thereto, are hereby adopted by reference and declared to be a part of this chapter. The FIS and the FIRMs are on file at 6300 Southcenter Boulevard, Suite 100.

B. The best available information for flood hazard area identification as outlined in TMC Section 16.52.080.C2 shall be the basis for regulation until a new FIRM is issued which incorporates this data.

(Ord. 2637 §7, 2020)

16.52.060 Interpretation

In the interpretation and application of TMC Chapter 16.42, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under State statutes.

(Ord. 2637 §8, 2020)

16.52.070 Warning and Disclaimer of Liability

The degree of flood protection required by TMC Chapter 16.52 is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City of Tukwila, any officer or employee thereof, or the Federal Insurance Administration for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(Ord. 2637 §9, 2020)

16.52.080 Administration

A. The Public Works Director is hereby appointed to administer, implement, and enforce this ordinance by granting or denying development permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.

B. The Director may:

1. Restrict or prohibit development that is dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion, or in flood heights or velocities;
2. Require that development vulnerable to floods be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
4. Control filling, grading, dredging and other development which may increase flood damage; and
5. Prevent or regulate the construction of flood barriers that would unnaturally divert floodwaters or that might increase flood hazards in other areas.

C. The Director's duties shall include, but shall not be limited to:

1. *Permit Review.*

a. Review all development permits to determine that the permit requirements of this chapter have been satisfied.

b. Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.

c. The site is reasonably safe from flooding.

d. Review all development permits to determine if the proposed development is located in the floodway, and ensure that the encroachment provisions of TMC Section 16.52.110, "Floodways," are met.

e. Notify FEMA when annexations occur in the Special Flood Hazard Area.

2. *Special Flood Hazard Area*.

a. When base flood elevation data has not been provided in A zones, the Director shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer TMC Chapter 16.52.

b. Where elevation data is not available either through the FIS, FIRM, or from another authoritative source (TMC Section 16.52.080), applications for floodplain development shall be reviewed to assure that proposed construction will be *reasonably safe from flooding*. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above the highest adjacent grade in these zones may result in higher insurance rates.

c. Where needed, the Director shall interpret exact location of the boundaries of the areas of special flood hazards – for example, where there appears to be a conflict between a mapped boundary and actual field conditions. The Director shall provide the person contesting the boundary location a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the National Flood Insurance Program (44 CFR 59-76).

3. *Changes to Special Flood Hazard Area.*

a. If a project will alter the Base Flood Elevation (BFE) or boundaries of the Special Flood Hazard Area (SFHA), then the project proponent shall provide the community with engineering documentation and analysis regarding the proposed change. If the change to the BFE or boundaries of the SFHA would normally require a Letter of Map Change, then the project proponent shall initiate, and receive approval of, a Conditional Letter of Map Revision (CLOMR) prior to approval of the development permit. The project shall be constructed in a manner consistent with the approved CLOMR.

b. If a CLOMR application is made, the project proponent shall also supply the full CLOMR documentation package to the Floodplain Administrator to be attached to the floodplain development permit, including all required property owner notifications.

4. *Watercourse Alteration*.

a. Notify adjacent communities and the Department of Ecology (DOE) prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration through appropriate notification means. *(44 CFR 60.3(b)(6))*

b. Require that maintenance be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

5. *Information to be Obtained and Maintained*.

a. Where base flood elevation data is provided through the FIS, FIRM, or required as in TMC Section 16.52.080.C.2, obtain and maintain a record of the actual (as-built) elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

b. For all new or substantially improved flood-proofed nonresidential structures where base flood elevation data is provided through the FIS, FIRM, or as required in TMC Section 16.52.080.C.2:

(1) Obtain and maintain a record of the elevation (in relation to mean sea level) to which the structure was flood-proofed.

(2) Maintain the floodproofing certifications required in TMC Section 16.52.090.D.3.

c. Certification required by TMC Section 16.52.110.A.1.

d. Records of all variance actions, including justification for their issuance.

e. Improvement and damage calculations.

f. Maintain for public inspection all records pertaining to the provisions of this ordinance.

(Ord. 2637 §10, 2020)

16.52.090 Permits

A. A Flood Zone Control Permit (FZCP) shall be obtained before construction or development begins within any area of special flood hazard established in TMC Section 16.52.050. The permit shall be for all structures including manufactured homes, as set forth in the "Definitions," and for all development including clearing, filling, grading, and other activities, also as set forth in the "Definitions."

B. Application for an FZCP shall be submitted with the project application for a clearing and grading permit, shoreline permit, plat or subdivision permit, or a building permit, whichever comes first.

C. An FZCP is a Type 1 permit processed pursuant to TMC Section 18.108.010.

D. Application for an FZCP shall be made on forms furnished by the City and shall meet the City's standards for plan submittals. The applicant must provide the following information:

1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures recorded on a current elevation certificate with Section B completed by the Floodplain Administrator;

2. Elevation in relation to mean sea level to which any structure has been flood-proofed;

3. Where a structure is to be flood-proofed, certification by a registered professional engineer or architect that the flood-proofing methods for any nonresidential structure meet flood-proofing criteria in TMC Section 16.52.100 B.2;

4. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development;

5. Where development is proposed in a floodway, an engineering analysis determination of no rise of the Base Flood Elevation, and

6. Any other such information that may be reasonably required by the Floodplain Administrator in order to review the application.

(Ord. 2637 §11, 2020)

16.52.100 General Standards

A. General Standards. In all areas of special flood hazards, the following standards are required:

1. *Elevation.* Where flood elevation data is not available, either through the FIRM or from another authoritative source, all new construction and substantial improvements shall be elevated at least two feet above the highest adjacent grade.

2. *Anchoring.*

a. All new construction and substantial improvements, including those related to manufactured homes, shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

b. All manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

3. *Construction Materials and Methods.*

a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

c. All new construction and substantial improvements on slopes shall have drainage paths to guide floodwaters around and away from proposed structures.

d. Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

4. *Storage of Materials and Equipment.*

a. The storage or processing of materials that could be injurious to human, animal, or plant life if released due to damage from flooding are prohibited in special flood hazard areas.

b. Storage of other material or equipment may be allowed if not subject to damage by floods and if firmly anchored to prevent flotation, or if readily removable from the area within the time available after flood warning.

5. *Utilities.*

a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;

b. A proposed water well shall be approved by Department of Ecology and be located on high ground that is not in the floodway;

c. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters; and

d. Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

6. *Subdivision Proposals and Development.* All subdivisions, as well as new development shall:

a. Be consistent with the need to minimize flood damage;

b. Have public utilities and facilities – such as sewer, gas, electrical and water systems – located and constructed to minimize or eliminate flood damage;

c. Have adequate drainage provided, to reduce exposure to flood damage; and,

d. Where subdivision proposals and other proposed developments contain greater than 50 lots or 5 acres (whichever is the lesser), base flood elevation data shall be included as part of the application.

B. Specific Standards. In all areas of special flood hazards where Base Flood Elevation data has been provided as set forth in TMC Section 16.52.050 or TMC Section 16.52.080.C.2, the following provisions are required:

1. *Residential Construction*.

a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above the Base Flood Elevation. Mechanical equipment and utilities shall be waterproofed or elevated one or more feet above the Base Flood Elevation.

b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, and must meet or exceed the following minimum criteria:

(1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(2) The bottom of all openings shall be no higher than one foot above grade.

(3) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

2. *Nonresidential Construction:*

a. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated one foot or more above the base flood elevation, or elevated as required by ASCE 24, whichever is greater, or together with attendant utility and sanitary facilities, shall:

(1) Be dry flood-proofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water or dry flood-proofed to the elevation required by ASCE 24, whichever is greater;

(2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

(3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in TMC Section 16.52.080.C.5.

b. Nonresidential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in TMC Section 16.52.100, B.1.b., for residential construction.

c. The City shall notify applicants who propose to flood-proof nonresidential buildings that flood insurance premiums will be based on rates that are one foot below the flood-proofed level (e.g. a building flood-proofed to the base flood level will be rated as one foot below). Flood-proofing the building an additional foot will reduce insurance premiums significantly.

3. *Manufactured Homes:*

a. All manufactured homes to be placed or substantially improved on sites, outside of a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to an adequately-designed foundation system to resist flotation, collapse and lateral movement.

b. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the above manufactured home provisions shall be elevated so that either:

(1) The lowest floor of the manufactured home is elevated one foot or more above the base flood elevation, or

(2) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.

4. *Recreational Vehicles.* Recreational vehicles placed on sites are required to either:

a. Be on the site for fewer than 180 consecutive days;

b. Be fully licensed and ready for highway use, on its wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

c. Meet the requirements for manufactured homes, including the elevation and anchoring requirements for manufactured homes.

5. *Enclosed Areas Below the Lowest Floor:* If buildings or manufactured homes are constructed or substantially improved with fully-enclosed areas below the lowest floor, the areas shall be used solely for parking of vehicles, building access, or storage.

C. Green River. In addition to the general and specific standards in the section, the following standards apply to all areas adjacent to the Green River:

1. *Construction/Reconstruction of Dikes/Levees:* As part of the flood-proofing for developments adjacent to the Green River through Tukwila, construction or reconstruction of the dike/levee system, in accordance with dike/levee plans and engineering studies, and in accordance with the Green River Management Agreement (AG No. 85-043), will be required as part of the plan submittal.

2. If dike/levee improvements are not required, and the natural riverbank is allowed as bank protection, then a riverbank stability analysis shall be provided to the Public Works Department for review as part of the plan submittal.

3. Dedication of levee/dike/riverbank access construction and maintenance easements on all properties adjacent to the Green River shall, as part of their development, dedicate construction and maintenance easements for access and maintenance of existing or future dikes/levees/riverbanks along the Green River as part of their plan submittal. These easements shall be provided in such a manner so that immediate access is allowed from other public rights-of-way for maintenance and construction of dikes/levees.

(Ord. 2637 §12, 2020)

16.52.110 Floodways

A. Located within areas of special flood hazard established in TMC Section 16.52.050 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that can carry debris, and increase erosion potential, the following provisions apply:

1. *No Rise Standard.* Prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a registered professional engineer is provided demonstrating, through hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.

2. *Residential Construction in Floodways.* Construction or reconstruction of residential structures is prohibited within designated floodways, except for: (i) repairs, reconstruction, or improvements to a structure that do not increase the ground floor area; and (ii) repairs, reconstruction, or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either, (a) before the repair or reconstruction is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred.

Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions, or to structures identified as historic places, may be excluded in the 50 percent.

3. *Substantially Damaged Residences in Floodway*.

a. For all substantially damaged residential structures located in a designated floodway, the Floodplain Administrator may make a written request that the Department of Ecology assess the risk of harm to life and property posed by the specific conditions of the floodway. Based on analysis of depth, velocity, flood-related erosion, channel migration, debris load potential, and flood warning capability, the Department of Ecology may exercise best professional judgment in recommending to the local permitting authority repair, replacement, or relocation of a substantially damaged structure consistent with WAC 173-158-076. The property owner shall be responsible for submitting to the local government and the Department of Ecology any information necessary to complete the assessment. Without a favorable recommendation from the Department for the repair or replacement of a substantially damaged residential structure located in the regulatory floodway, no repair or replacement is allowed per WAC 173-158-070(1).

b. Before the repair, replacement, or reconstruction is started, all requirements of the NFIP, the state requirements adopted pursuant to 86.16 RCW, and all applicable local regulations must be satisfied. In addition, the following conditions must be met:

(1) There is no potential safe building location for the replacement residential structure on the same property outside the regulatory floodway.

(2) A replacement residential structure is a residential structure built as a substitute for a legally existing residential structure of equivalent use and size.

(3) Repairs, reconstruction, or replacement of a residential structure shall not increase the total square footage of floodway encroachment.

(4) The elevation of the lowest floor of the substantially damaged or replacement residential structure is a minimum of one foot higher than the Base Flood Elevation.

(5) New and replacement water supply systems are designed to eliminate or minimize infiltration of floodwater into the system.

(6) New and replacement sanitary sewerage systems are designed and located to eliminate or minimize infiltration of floodwater into the system and discharge from the system into the floodwaters.

(7) All other utilities and connections to public utilities are designed, constructed, and located to eliminate or minimize flood damage.

B. All Other Building Standards Apply in the Floodway. If TMC Section 16.52.110.A.1 is satisfied or construction is allowed pursuant to TMC Section 16.52.110.A.2, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of TMC Section 16.52.100.

(Ord. 2637 §13, 2020)

16.52.120 Critical Facility

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA). The Director may permit construction of a new critical facility within the SFHA if no feasible alternative is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet above base flood elevation or elevated to the 500-year flood elevation, whichever is higher. Flood-proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access to and from the critical facility should also be protected to the height utilized above. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

(Ord. 2637 §14, 2020)

16.52.125 Compliance

All development within special flood hazard areas is subject to the terms of this ordinance and other applicable regulations.

(Ord. 2637 §15, 2020)

16.52.130 Penalties

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $1,000, or imprisoned for not more than 90 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City of Tukwila from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. 2637 §16, 2020)

16.52.140 Abrogation and Greater Restrictions

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this chapter and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. 2637 §17, 2020)

CHAPTER 16.54
GRADING

Sections:

16.54.010 Purpose

The provisions of TMC Chapter 16.54 shall be liberally construed to accomplish the following purposes:

1. Prevent damage to life, public and private property, surface waters, sensitive areas and associated buffers.
2. Regulate grading activities, including excavation, fill, grading, earthwork construction, and structural preloads.
3. Prevent erosion and control sedimentation.
4. Establish the standards to govern grading activities.
5. Provide for approval and inspection of grading activities.
6. Prevent and minimize disturbance of native soils and landscapes, and restore the moisture-holding capacity of disturbed soils.

(Ord. 2517 §1, 2016; Ord. 2062 §1 (part), 2004)

16.54.020 Authority

A. The Public Works Director shall administer TMC Chapter 16.54. The Director's authority includes the establishment of regulations and procedures, approval of permits and exceptions, inspection of work, and enforcement and implementation of measures necessary to carry out the intent of TMC Chapter 16.54.

B. The Public Works Director may initiate all required actions to prevent or stop acts or intended acts which the Director determines to constitute a hazard to life or safety, or endanger property, or adversely affect the safety, use or stability of a public or private property or a sensitive area or its buffer.

C. If the Director determines that a person is engaged in grading activities that do not comply with City code or with approved permit plans and/or other permit conditions, the Director may implement any or all of the following enforcement actions:

1. Suspend or revoke without written notice any grading activity, when the Director determines that activity poses an immediate danger to life, safety or property.
2. Serve a written notice of violation upon that person by registered or certified mail or personal service. The notice shall set forth the measures necessary to achieve compliance, specify the time to commence and complete corrections, and indicate the consequences for failure to correct the violation.
3. Suspend or revoke any City approval for grading activities after written notice is given to the Applicant for any of the following reasons:

a. Any violation(s) of the permit or the permit conditions;

b. Construction not in accordance with the approved plans; or

c. Non-compliance with correction notice(s) or "Stop Work Order(s)" issued for the construction of temporary or permanent storm water management facilities.

4. Post a "Stop Work Order" at the site, directing that all grading activities cease immediately. The "Stop Work Order" may include any discretionary conditions and standards adopted in TMC Chapter 16.54 that must be fulfilled before any work may continue.

(Ord. 2062 §1 (part), 2004)

16.54.030 Definitions

As used in TMC Chapter 16.54, the terms shall be defined as follows:

1. "Applicant" means any person who has applied for a grading permit.
2. "Buffer" means the area contiguous to a sensitive area that is required for the continued maintenance, function and structural stability of the sensitive area as defined in the Environmentally Sensitive Areas chapter of the Zoning Code (TMC Chapter 18.45).
3. "Compaction" means the densification of a fill or of existing soils by mechanical or other means, whether intentional or incidental.
4. "Director" means the Public Works Director or his/her designee, including the City Engineer and Public Works inspectors.
5. "Erosion" means the wearing away of land surface by the action of wind, water, gravity, or any combination thereof.
6. "Excavation" means the digging or removal of earth material, also referred to as a "cut."
7. "Fill" means a deposit of material placed by artificial means.
8. "Grade" means the vertical location of the ground surface.
9. "Grading" means any activity that results in change of the cover or topography, or any activity that may cause erosion, including clearing, excavating, filling, and stockpiling associated with excavating and filling.
10. "Sensitive area" means wetlands, watercourses, areas of potential geologic instability, abandoned coal mines, and fish and wildlife habitat areas, per the City's Environmentally Sensitive Areas chapter of the Zoning Code (TMC Chapter 18.45.).

11. "Site" means any legally defined section of real property, whose boundaries are recorded with the King County Assessor's Office for the purposes of assessing taxes, or a group of adjoining sections of such real property that are proposed as the location for grading activities.

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

(Ord. 2517 §2, 2016; Ord. 2062 §1 (part), 2004)

16.54.040 Applicability

A. TMC Chapter 16.54 applies to all grading activities within the City limits.

B. Flood zone grading, excavation and earthwork construction, including fills and embankments, shall comply with the requirements of TMC Chapter 16.52.

C. City departments shall comply with all the requirements of TMC Chapter 16.54, except that they are not required to obtain permits and approvals from the City for work performed in the public right-of-way, nor for operation and maintenance activities by the Department of Parks and Recreation.

(Ord. 2062 §1 (part), 2004)

16.54.050 Permit

A. A permit is required for all grading activities occurring within the City limits, except the following:

1. Excavation for construction of a structure permitted under the Buildings and Construction chapter of Title 16 (TMC Chapter 16.04).

2. Cemetery graves.

3. Refuse disposal sites controlled by other regulations.

4. Excavations for wells, or trenches for utilities.

5. Mining, quarrying, excavating, processing or stockpiling rock, sand, gravel, aggregate or clay controlled by other regulations, provided such operations do not affect the lateral support of, or significantly increase stresses in, soil on adjoining properties.

6. Exploratory excavations performed under the direction of a registered design professional, as long as this exploratory excavation does not constitute the beginning of construction of a building prior to obtaining a permit.

7. Gardening and routine landscape maintenance on a single-family residential lot.

B. Applications for permits pursuant to TMC Chapter 16.54 shall be submitted to the City in the format and manner specified in TMC Section 16.54.055.

C. An approved grading permit applies to one site. A separate permit shall be obtained for each site.

D. The City shall collect a nonrefundable permit fee, the amount set by resolution of the City Council.

(Ord. 2517 §3, 2016; Ord. 2062 §1 (part), 2004)

16.54.055 Permit Application Requirements

A. To obtain a permit, the applicant shall submit an application on a form provided by or approved by the Director that shall include, at a minimum:

1. Identification and description of the work to be covered by the permit.

2. An estimate of the quantities of excavation and fill involved by volume and by the total area graded in square feet and as a percentage of the total site area.

3. Identification and description of all sensitive areas on the site or visible from the boundaries of the site.

4. Plans, reports, and specifications that, at a minimum, include those items required in IBC Section J104 and:

a. Property boundaries, all existing and proposed easements and required setbacks;

b. A 1:2000 scale vicinity map with a north arrow;

c. Horizontal and vertical scale;

d. Size and location of existing improvements on and within 50 feet of the project, indicating which will remain and which will be removed;

e. Location of all proposed cleared areas;

f. Existing and proposed contours at maximum 2-foot intervals, extending for 20 feet beyond the project edge, that provide sufficient detail to identify how grade changes will conform to the requirements of this code;

g. At least two cross sections, one in each direction, showing existing and proposed contours and horizontal and vertical scales; and

h. A proposed erosion and sediment control plan consistent with TMC Chapter 14.30 and the Surface Water Design Manual, as adopted and as may be amended from time to time.

B. Materials in addition to those required in TMC Section 16.54.055.A may be necessary for the Director to complete the review. The following materials shall be submitted when required by the Director:

1. Higher accuracy contours and more details of existing terrain and area drainage, limiting dimensions, elevations or finished contours to be achieved by the grading, and proposed drainage channels and related construction.

2. If applicable, all drainage plans and documentation consistent with TMC Chapter 14.30 and the Surface Water Design Manual, as adopted and as may be amended from time to time.

3. Studies prepared by qualified specialists, as necessary to substantiate any submitted materials and compliance with this chapter or other law, particularly if clearing or grading is proposed to take place in or adjacent to an environmentally sensitive area.

C. Plans and specifications shall include permanent drainage facilities and be prepared by a civil engineer if the project is:

1. in conjunction with the placement of a structure; or

2. located in steep slope or landslide hazard areas as defined in the Environmentally Sensitive Areas chapter of the Zoning Code (TMC Chapter 18.45).

The Director may modify this requirement depending on the circumstances of the site or the proposed project.

D. The Director shall determine the number of copies of the required plans, specifications and supporting materials necessary to perform the review and may require submittal of materials in alternative formats.

E. The Director may waive specific submittal requirements if they are determined to be unnecessary for the acceptance and subsequent review of an application.

(Ord. 2517 §4, 2016)

16.54.060 Standards

A. All grading activities require erosion prevention and sediment control that prevents, to the maximum extent practicable, the transport of sediment from the site to drainage facilities, rights-of-way, water resources, and adjacent properties. Erosion and sediment controls shall be applied commensurate with the degree of risk, and as specified by the temporary erosion and sediment control measures, performance criteria, and implementation requirements of TMC Chapter 14.30 and the Surface Water Design Manual.

B. All grading activities shall be undertaken according to the following mandatory standards:

1. All design and construction shall be performed to minimize soil disturbance, to minimize compaction where not required for structural stability, and to maximize erosion prevention and sediment control.

2. All grading activities shall be consistent with:

a. The standards provided by this chapter.

b. The Buildings and Construction Chapter (TMC Chapter 16.04), the Zoning Code (TMC Title 18,) and the International Building Code ("IBC") Appendix J. Appendix J is hereby adopted by reference, except as amended in TMC Sections 16.54.050, 16.54.060 and 16.54.065, and as may be amended from time to time.

c. The Infrastructure Design and Construction Standards chapter (TMC Chapter 16.36).

d. The Surface Water Design Manual, as adopted in accordance with TMC Chapter 14.30 and as may be amended from time to time.

e. Policies and procedures set forth by the Director.

C. Cuts and fills shall conform to the standards provided in IBC Section J106, "Excavations," and J107, "Fills," except as modified below or otherwise approved by the Director:

1. Provisions shall be made to:

a. Prevent any surface water or seepage from damaging the cut face of any excavation or the sloping face of a fill.

b. Address any surface water that is or might be concentrating as a result of a fill or excavation to a natural watercourse in accordance with TMC Chapter 14.30 and the Surface Water Design Manual.

2. Fill shall be compacted according to the following standards:

a. Fill greater than 18 inches in depth shall be engineered and compacted to accommodate the proposed use in accordance with the applicable standard listed below unless a notice on title documenting the location of the fill is recorded and the fill is sufficiently stable so as not to pose a hazard, as follows:

(1) Fill material at the location of a proposed building or a location not listed in subparagraphs (2) or (3) below shall be compacted in accordance with IBC Section J107.B.

(2) Fill material at the location of proposed public infrastructure, such as streets and roads, shall be compacted in accordance with the Infrastructure Design and Construction Standards (TMC Chapter 16.36).

(3) Fill material including, but not limited to, imported soils and compost, at the location of a proposed stormwater facility or placed as part of earthwork construction of a stormwater facility, shall be compacted in accordance with the Surface Water Design Manual and TMC Chapter 14.30.

D. Access roads to grading sites shall be:

1. Maintained and located to the satisfaction of the Director to minimize problems with dust, mud, and traffic circulation;

2. Located where the permanent access to the site is proposed in the permit application to minimize site disturbance; and

3. Controlled by a gate when required by the Director.

E. Signs warning of hazardous conditions, if determined by the Director to exist on a particular site, shall be affixed at locations as required by the Director.

F. Where required by the Director to protect life, limb and property, fencing shall be installed with lockable gates that must be closed and locked when no work is being conducted on the site. The fence shall be no less than six feet in height and the fence material shall have no opening larger than two inches.

G. Rocks, dirt, mud, vegetation, topsoil, duff layer and any other materials stripped from, imported onto, used or produced on-site in the course of grading activities shall not be spilled onto, stockpiled, or otherwise left on public roadways or on any off-site property not specifically authorized as a receiving site under a valid permit.

H. The duff layer and native topsoil shall be retained in an undisturbed state to the maximum extent practicable. Any duff layer or topsoil removed during grading shall be stockpiled to the maximum extent practicable on-site in a designated, controlled area not adjacent to public resources or to environmentally sensitive areas. The material shall be reapplied to other portions of the site where feasible.

I. The soil moisture holding capacity of the soil shall be restored as follows:

1. Except as otherwise provided in TMC Section 16.54.060.I.2, areas that have been cleared and graded shall have the soil moisture-holding capacity restored to that of the original undisturbed soil native to the site to the maximum extent practicable. The soil in any area that has been compacted or that has had some or all of the duff layer or underlying topsoil removed shall be amended to mitigate for lost moisture-holding capacity. The amendment shall take place between May 1 and September 30. The topsoil layer shall be a minimum of eight inches thick, unless the applicant demonstrates that a different thickness will provide conditions equivalent to the soil moisture-holding capacity native to the site. The topsoil layer shall have an organic matter content of between 5% to 10% dry weight and a pH suitable for the proposed landscape plants. Subsoils below the topsoil layer should be scarified at least four inches with some incorporation of the upper material to avoid stratified layers. Compost used to achieve the required soil organic matter content must meet the definition of "composted materials" in WAC 173-350-220.

2. This subsection does not apply to areas that will be covered by an impervious surface at project completion, incorporated into a drainage facility or engineered as structural fill or slope.

(Ord. 2517 §5, 2016; Ord. 2062 §1 (part), 2004)

16.54.065 Seasonal Limitation Period

A. An annual period of limitation on site disturbance is established from October 1 through April 30.

B. During the seasonal limitation period, grading shall only be permitted if demonstrated to the satisfaction of the Director that runoff leaving the construction site will comply with the erosion and sediment control measures, performance criteria and implementation requirements in the Surface Water Design Manual and after a review of the following:

1. Site conditions, including, but not limited to, vegetative coverage, slope, soil type, and proximity to receiving waters;

2. Proposed limitations on activities and the extent of disturbed areas; and

3. Proposed erosion and sedimentation control measures.

C. Based on the information provided under TMC Section 16.54.065.B, the Director may expand or restrict the seasonal limitation on site disturbance. The Director shall set forth in writing the basis for approval or denial of clearing or grading during the seasonal limitation period.

D. During the seasonal limitation period, grading will be allowed only if there is installation and maintenance of an erosion and sedimentation control plan approved by the Director that defines any limits on clearing and grading and specific erosion and sediment control measures required during the seasonal limitation period. The department may require or approve alternate best management practices.

E. If, during the course of construction activity or soil disturbance during the seasonal limitation period, silt-laden runoff violating standards in the Surface Water Design Manual leaves the construction site or if clearing and grading limits or erosion and sediment control measures shown in the approved plan are not maintained, a Violation Notice and Order shall be issued in accordance with TMC Section 8.45.070.

F. If the erosion and sediment control problem defined in the Violation Notice and Order is not adequately repaired within 24 hours of issuance, then a Stop Work Order may be issued in accordance with TMC Section 8.45.070 until such time as adequate erosion and sediment control measures to stop silt-laden runoff from leaving the site are installed. The Stop Work Order may also require the property owner or authorized agent to discontinue any further clearing or grading, except for erosion and sediment control maintenance and repair, until the following May 1.

G. The following activities are exempt from the seasonal limitations of this section:

1. Routine maintenance and necessary repair of erosion and sediment control facilities.

2. Routine maintenance of public facilities or existing utility structures that do not expose the soil or result in removal of the vegetative cover to the soil.

3. Activities where there is 100% infiltration of surface water runoff within the site in approved and installed erosion and sedimentation control facilities.

4. Typical landscaping activities of existing single-family residences that do not require a permit.

5. Class I, II III and IV special forest practices in accordance with Chapter 76.09 RCW.

6. Response to emergencies that threaten the public health, safety or welfare.

(Ord. 2549 §19, 2017; Ord. 2517 §6, 2016)

16.54.070 Supplemental Information

A. The Director may require supplemental studies, inspections, or testing by an approved testing agency to be performed at the owner's expense.

B. The Director may require a Hold Harmless Agreement for activities in or near a sensitive area, or for a deviation from standards set forth in TMC 16.54.060.

(Ord. 2062 §1 (part), 2004)

16.54.080 Financial Guarantees

A. The Director may require a maintenance bond for erosion prevention and sediment control in the amount of 10% of the total project cost on projects which clear more than 6,000 square feet or contain or abut sensitive areas such as, but not limited to, Class 2 or steeper slopes, wetlands, or critical drainage.

B. If the Director determines the nature of any work creates a hazard to human life or endangers public or private property or sensitive areas, the Director may require the applicant to file a Certificate of Insurance. The Director, based on the nature of the risks involved, shall determine the amount of insurance.

(Ord. 2517 §7, 2016; Ord. 2062 §1 (part), 2004)

16.54.090 Exceptions

The Director may grant a written variance from any requirements of TMC Chapter 16.54 if there are exceptional circumstances applicable to the site such that strict adherence to these provisions will not fulfill the intent of TMC Chapter 16.54.

(Ord. 2062 §1 (part), 2004)

16.54.100 Penalties

A. Any violation of any provision, or failure to comply with any of the requirements of TMC Chapter 16.54, shall be subject to the terms and conditions of TMC Chapter 8.45, "Enforcement".

B. The City Attorney shall bring injunctive, declaratory, or other actions as necessary to ensure compliance with TMC Chapter 16.54. Any person failing to comply with TMC Chapter 16.54 shall be subject to a civil penalty not to exceed $1,000 for each violation. Each violation or each day of noncompliance constitutes a separate violation.

C. A notice in writing shall impose the penalty provided for in TMC Chapter 16.54 by certified mail, either with return receipt requested or by personal service, to the person incurring the notice. The notice shall describe the violation with reasonable particularity, and order the act or acts constituting the violation or violations to cease and desist or, in appropriate cases, require necessary corrective action within a specific and reasonable time.

D. A schedule of penalty fees pursuant to TMC Chapter 16.54 is subject to review by the Tukwila City Council.

(Ord. 2062 §1(part), 2004)

16.54.110 Affordable Housing Fee Reductions

Type C permit fees for the construction of dwelling units may be reduced by the Public Works Director when requested in writing by the property owner prior to permit submittal and when all of the following conditions are met:

1. Fee reduction table.

Unit Size	Affordability Target [1]	Fee Reduction
2 or more bedrooms	80% [2]	40%
2 or more bedrooms	60% [2]	60%
Any size	50% [2]	80%

[1] – Units to be sold or rented to a person or household whose monthly housing costs, including utilities other than telephone, do not exceed 30% of the household's monthly income.

[2] – Percentage of King County Median family income adjusted for family size as reported by the U.S. Department of Housing and Urban Development.

2. If the project contains a mix of dwelling units that qualify for fee reduction per the table in subparagraph 1 above and units that do not qualify due to unit size or expense, the fee reduction shall be pro-rated to reflect the proportion of low-income units in the project.

3. If converted to market rate housing within 10 years of the issuance of the Certificate of Occupancy, the full applicable permit fees at the time of conversion shall be paid to the City.

4. If the project contains commercial tenant space that occupies more than 15% of the building, along with dwelling units that qualify for fee reduction per the table in subparagraph 1 above, the fee reduction shall be pro-rated to reflect the proportion of the total building square footage occupied by the low-income units. Commercial spaces that occupy less than 15% of the building are considered accessory and will not affect the fee reduction.

(Ord. 2520 §2, 2016)

16.54.120 Appeals

A decision of the Director made in accordance with TMC Chapter 16.54 shall be considered determinative and final. Any appeal must be filed in King County Superior Court within 30 days of the date of issuance of the final determination.

(Ord. 2062 §1(part), 2004)

CHAPTER 16.60
HISTORIC PRESERVATION

Sections:

16.60.010 Definitions

The following words and terms shall, when used in this chapter, be defined as follows unless a different meaning clearly appears from the context. The definitions provided below shall be used in administering this chapter and supersede any definitions found elsewhere in Title 16. These definitions shall have no meaning or relevance outside of TMC Chapter 16.60.

1. "Alteration" is any construction, demolition, removal, modification, excavation, restoration or remodeling of a landmark.

2. "Building" is a structure created to shelter any form of human activity, such as a house, barn, church, hotel or similar structure. Building may refer to a historically related complex, such as a courthouse and jail or a house and barn.

3. "Certificate of appropriateness" is written authorization issued by the Commission or its designee permitting an alteration to a significant feature of a designated landmark.

4. "Commission" is the Landmark Commission created by this chapter.

5. "Community landmark" is a historic resource that has been designated pursuant to TMC Chapter 16.60 but which may be altered or changed without application for or approval of a Certificate of Appropriateness.

6. "Designation" is the act of the Commission determining that a historic resource meets the criteria established by this chapter.

7. "Designation report" is a report issued by the Commission after a public hearing setting forth its determination to designate a landmark and specifying the significant feature or features thereof.

8. "Director" is the director of the City of Tukwila Department of Community Development or his or her designee.

9. "District" is a geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history.

10. "Heritage" is a discipline relating to historic preservation and archaeology, history, ethnic history, traditional cultures and folklore.

11. "Historic preservation officer" is the King County Historic Preservation Officer or his or her designee.

12. "Historic resource" is a district, site, building, structure or object significant in national, state or local history, architecture, archaeology, and culture.

13. "Historic resource inventory" is an organized compilation of information on historic resources considered to be significant according to the criteria listed in TMC Section 16.60.030 (B). The Historic Resource Inventory is kept on file by the Historic Preservation Officer and is updated from time to time to include newly eligible resources and to reflect changes to resources.

14. "Incentives" are such compensation, rights or privileges or combination thereof, which the City Council or other local, state or federal public body or agency, by virtue of applicable present or future legislation, may be authorized to grant to or obtain for the owner or owners of designated landmarks. Examples of economic incentives include but are not limited to tax relief, conditional use permits, rezoning, street vacation, planned unit development, transfer of development rights, facade easements, gifts, preferential leasing policies, private or public grants-in-aid, beneficial placement of public improvements, or amenities, or the like.

15. "Interested person of record" is any individual, corporation, partnership or association that notifies the Commission or the City Council in writing of its interest in any matter before the Commission.

16. "Landmark" is a historic resource designated as a landmark pursuant to TMC Chapter 16.60.

17. "Nomination" is a proposal that a historic resource be designated a landmark.

18. "Object" is a material thing of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

19. "Owner" is a person having a fee simple interest, a substantial beneficial interest of record or a substantial beneficial interest known to the Commission in a historic resource. Where the owner is a public agency or government, that agency shall specify the person or persons to receive notices under this chapter.

20. "Person" is any individual, partnership, corporation, group or association.

21. "Person in charge" is the person or persons in possession of a landmark including, but not limited to, a mortgagee or vendee in possession, an assignee of rents, a receiver, executor, trustee, lessee, tenant, agent, or any other person directly or indirectly in control of the landmark.

22. "Preliminary determination" is a decision of the Commission determining that a historic resource that has been nominated for designation is of significant value and is likely to satisfy the criteria for designation.

23. "Significant feature" is any element of a landmark the Commission has designated pursuant to this chapter as of importance to the historic, architectural or archaeological value of the landmark.

24. "Site" is the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains a historical or archaeological value regardless of the value of any existing structures.

25. "Structure" is any functional construction made usually for purposes other than creating human shelter.

26. "City Council" or "Council" shall refer to the City Council of the City of Tukwila.

(Ord. 2384 §2, 2012)

16.60.020 Landmark Commission

A. The King County Landmark Commission established pursuant to King County Code (K.C.C.) Chapter 20.62 is hereby designated and empowered to act as the Landmark Commission for the City pursuant to the provisions of this chapter.

B. The Commission shall have the authority to review nominations and designate any real property within the City of Tukwila as a landmark and to issue a Certificate of Appropriateness for any property that has been designated as a landmark, provided the property owner(s) has provided written consent to the landmark designation.

C. The special member of the King County Landmark Commission provided for in K.C.C. Section 20.62.030 shall be appointed by the Mayor of the City of Tukwila, subject to confirmation by the City Council. Such special member shall be a Tukwila resident who has a demonstrated interest in historic preservation. Such appointment shall be made for a three-year term. In the event that the special member cannot attend a required meeting, the chair of the Planning Commission or Vice-Chair may serve as an alternate Commission member.

D. In the event of a vacancy, an appointment shall be made to fill the vacancy in the same manner and with the same qualifications as if at the beginning of the term, and the person appointed to fill the vacancy shall hold the position for the remainder of the unexpired term.

E. The Commission shall not conduct any public hearings required under this chapter with respect to properties located within the City of Tukwila until the Commission's rules and regulations, including procedures consistent with this chapter, have been filed with the Tukwila City Clerk. All meetings of the Commission shall be open to the public. All public hearings to consider a landmark designation within the City of Tukwila shall be held within the City of Tukwila.

F. The Commission shall file its rules and regulations, including procedures consistent with this ordinance, with the Tukwila City Clerk.

(Ord. 2433 §1, 2014; Ord. 2384 §3, 2012)

16.60.030 Incorporation of King County Provisions

The following sections of King County Code (K.C.C.) Chapter 20.62 are hereby adopted and are incorporated by reference herein and made a part of this chapter the same as though they were set forth herein:

A. K.C.C. Section 20.62.030 – "Landmark Commission created – membership and organization."

B. K.C.C. Section 20.62.040 – "Designation criteria," *except Paragraph A is amended to read as follows:*

A. Real property owned by the City of Tukwila may be designated as a City of Tukwila landmark if it is more than 40 years old or, in the case of a landmark district, contains resources that are more than 40 years old, and possesses integrity of location, design, setting, materials, workmanship, feeling and association, and:

1. Is associated with events that have made a significant contribution to the broad patterns of national, state or local history; or

2. Is associated with the lives of persons significant in national, state or local history; or

3. Embodies the distinctive characteristics of a type, period, style or method of design or construction, or that represents a significant and distinguishable entity whose components may lack individual distinction; or

4. Has yielded, or may be likely to yield, information important in prehistory or history; or

5. Is an outstanding work of a designer or builder who has made a substantial contribution to the art.

C. K.C.C. Section 20.62.050 – "Nomination procedure," except *paragraphs E and F are added to read as follows:*

E. The Tukwila City Council shall first issue a Notice to Proceed before any property owned by the City of Tukwila is considered by the Historic Preservation Officer. The Notice to Proceed shall be a discretionary, legislative act. A Notice to Proceed may be approved by the City Council via a resolution or motion. No public hearing is required when considering a Notice to Proceed; however, this shall not preclude the City Council from allowing public testimony. A Notice to Proceed may be placed on the regular City Council consent agenda for action.

F. As part of the consideration of a Notice to Proceed, a fiscally responsible person or entities shall be identified. The fiscally responsible person or entities shall be responsible for compensating the City for any charges incurred on the City by King County related to King County's assistance in the nomination process. The City shall pay the charges for any Tukwila-based 501(c)(3) organization. The fiscally responsible person or entities (except for Tukwila-based 501(c)(3) organizations) shall also pay to the City an overhead charge of 3% above those charges that are incurred by King County.

D. K.C.C. Section 20.62.070 – "Designation procedure," except all references to "King County" within this section are changed to read "City of Tukwila".

E. K.C.C. Section 20.62.080 – "Certificate of Appropriateness procedure," except *paragraph E is added to read as follows:*

E. The applicant who submitted an application for a Certificate of Appropriateness, or other willing fiscally responsible party, shall be responsible for payment of all fees associated with King County's review of the Certificate of Appropriateness application, plus a 3% overhead fee for City staff time. All fees shall be paid directly to the City of Tukwila, which shall then reimburse King County for their time as specified in the interlocal agreement between the City and the County. In the case of a Tukwila-based 501(c)(3) organization, the City shall pay all charges and no overhead fee shall be assessed.

F. K.C.C. Section 20.62.100 – "Evaluation of economic impact."

G. K.C.C. Section 20.62.110 – "Appeal procedure," *except paragraph A is amended to read as follows:*

A. Any person aggrieved by a decision of the Commission designating or rejecting a nomination for designation of a landmark or issuing or denying a Certificate of Appropriateness may, within 35 calendar days of mailing of notice of such designation or rejection of nomination, or of such issuance or denial or approval of a Certificate of Appropriateness, appeal such decision in writing to the City Council. The written notice of appeal shall be filed with the Tukwila City Clerk and shall be accompanied by a statement setting forth the grounds for the appeal, supporting documents, and argument. The appellant shall pay an appeal fee of $250 to the City of Tukwila, which shall be provided to the City within the time frame for filing appeals established by this paragraph. Failure to provide the required fee shall constitute a failure to file a timely appeal. An appeal which is not timely filed shall be dismissed by the City Council.

H. K.C.C. Section 20.62.120 – "Funding."

I. K.C.C. Section 20.62.140 – "Special valuation for historic properties."

(Ord. 2384 §4, 2012)

16.60.040 Historic Resources – Review Process

The official responsible for the issuance of building and related permits shall promptly refer applications for permits that affect inventoried historic buildings, structures, objects, sites, districts, or archaeological sites to the King County Historic Preservation Officer (HPO) for review and comment. For the purposes of this section, "affect" shall be defined as an application for change to the site of the inventoried property, whether through new construction, alterations or excavation. Inventoried properties are those that are listed in the King County Historic Resource Inventory. The responsible official shall seek and take into consideration the comments of the HPO regarding mitigation of any adverse effects affecting historic buildings, structures, objects, sites, or districts.

(Ord. 2384 §5, 2012)

16.60.050 Redesignation of Existing Landmarks

All King County landmarks designated pursuant to the provisions of *King County Code Chapter 20.62* that are located within the boundaries of the City of Tukwila shall be subject to the provisions of this ordinance and considered City of Tukwila landmarks.

(Ord. 2384 §6, 2012)

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Figure 16-1 “Fee Schedule”

Exhibit B

CITY OF TUKWILA
FIRE IMPACT FEE SCHEDULE

	FIRE Impact Fee
RESIDENTIAL – per dwelling unit	
[a] Single family	$2,363
[d] with fire sprinkler system installed	2,221
[b] Multi-family	$2,722
COMMERCIAL/NON-RESIDENTIAL	
- per 1,000 square feet of development	
[c] Retail	$2,647
[c] Office	$1,033
[c] Industrial/manufacturing	$221

[a] Attached accessory dwelling units are exempt from impact fees.

[b] A structure with more than two dwelling units.

[c] See the more detailed land use descriptions in the Land Use Categories document.

[d] 6% discount for single family units with fire sprinkler system installed representing the portion of all incidents that were fire only—as opposed to emergency medical incidents. Per Section 16.26.120.B.9. of the Tukwila Municipal Code, "A fee payer installing a residential fire sprinkler system in a single-family home shall not be required to pay the fire operations portion of the impact fee.”

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Figure 16-1 “Fee Schedule”

Exhibit B

CITY OF TUKWILA
PARKS IMPACT FEE SCHEDULE (2023)

	PARKS Impact Fee
RESIDENTIAL – per dwelling unit	
[a] Single family	$3,773
[b] Multi-family	$3,287
COMMERCIAL/NON-RESIDENTIAL	
- per 1,000 square feet of development	
[c] Retail	$1,726
[c] Office	$1,555
[d] K-12 Educational Facilities	312
[c] Industrial/Manufacturing	863

[a] Attached accessory dwelling units are exempt from impact fees.
[b] A structure with more than two dwelling units.
[c] See the more detailed land use descriptions in the Land Use Categories document.
[d] 80% discount for K-12 educational facilities.

TITLE 17

SUBDIVISIONS AND PLATS

Chapters:

CHAPTER 17.04

GENERAL PROVISIONS

Sections:

17.04.010 Title

This code shall be known as the "City of Tukwila Subdivision Code."

(Ord. 1833 §1(part), 1998)

17.04.020 Purpose

The purpose of this code is to provide rules, regulations, requirements, and standards for subdividing land in the City, insuring that the public health, safety, general welfare, and aesthetics of the City shall be promoted and protected; that orderly growth, development, and the conservation, protection and proper use of land shall be insured; that the character of the developing area is safeguarded and promoted; that proper provisions for all public facilities including circulation, utilities, open space, and services shall be made; and that the goals and policies of the Tukwila Comprehensive Plan are furthered through the subdivision of land.

(Ord. 1833 §1(part), 1998)

17.04.030 Scope, exceptions

A. *SCOPE:*

1. The subdivision of land within the City of Tukwila shall comply with Chapter 58.17 RCW.

2. Where this code imposes greater restrictions or higher standards upon the development of land than other laws, ordinances or restrictive covenants, the provisions of this code shall prevail.

B. *EXCEPTIONS:* This ordinance shall not apply to divisions and activities described as inapplicable in RCW 58.17.040; provided that boundary line adjustments and lot consolidations are subject to the provisions contained in TMC Chapter 17.08; provided further that binding site improvement plans are subject to the provisions contained in TMC Chapter 17.16.

(Ord. 1833 §1(part), 1998)

17.04.040 Definitions

The definitions of the Zoning Code, TMC Chapter 18.06, are hereby adopted by reference.

(Ord. 1833 §1(part), 1998)

17.04.050 Dedications

A. *ACT OF DEDICATION:* The intention to dedicate real property to the public shall be evidenced by showing the dedication on the plat prepared for approval. All dedications, including easements, rights-of-way and real property shall be clearly and precisely indicated on the face of the plat. Unless specifically noted otherwise on the plat, approval of the plat for recording shall constitute acceptance of the dedications.

B. *PUBLIC STREETS:* All streets and parcels of land shown on the final plat and intended for public use shall be offered for dedication for public use, except the approving entity may allow the conveyance of certain public improvements to be conveyed to a homeowner's association or similar non-profit corporation.

C. *CERTIFICATE:* If the subdivision includes a dedication, the final plat shall include a certificate of dedication or reference to a separate written instrument which dedicates all required streets and other areas to the public. The certificate or instrument of dedication shall be signed and acknowledged before a notary public by every person having any ownership interest in the lands divided and recorded as part of the final plat.

D. *TITLE REPORT:* Every proposed final plat containing a dedication must be accompanied by a title report confirming that the title of the lands as described and shown on the plat is in the name of the owners signing the certificate of dedication.

(Ord. 1833 §1(part), 1998)

17.04.060 Survey content

A. *INFORMATION* - Whenever a survey is submitted for a short plat or subdivision, the following information shall be included:

1. The name of the plat, City of Tukwila file number, graphic scale and north arrow. The survey shall be done to a scale of one inch equals 100 feet unless otherwise approved by DCD, and shall be drawn with black drawing ink in record of survey format.

2. Existing features such as rivers, streets, railroads and structures.

3. The lines and names of all existing or platted streets or other public ways, parks, playgrounds, and easements adjacent to the final plat, subdivision or dedication, including municipal boundaries, township lines, and section lines.

4. In the event the plat constitutes a replat, the lots, blocks, streets, etc., of the previous plat shall be shown by dotted lines in their proper positions in relation to the new arrangement of the plat, the new plat being shown in solid lines so as to avoid ambiguity.

5. Legal description of the subdivision boundaries.

6. A complete survey of the section or sections in which the plat or replat is located, if necessary, including:

a. All stakes, monuments or other evidence found on the ground and used to determine the boundaries of the subdivision. Location and monuments found or reset with respect to any established centerline of streets adjacent to or within the proposed subdivision. All other monuments found or established in making the survey of this subdivision or required to be installed by provisions of this title.

b. City or County boundary lines when crossing or adjacent to the subdivision.

c. The location and width of streets and easements intersecting the boundary of the tract.

d. Tract, block and lot boundary lines and street rights-of-way and centerlines, with dimensions, bearings, radii, arcs and central angles, points of curvature and tangent bearings. Tract boundaries, lot boundaries and street bearings shall be shown to the nearest second with basis of bearings. All distances shall be shown to the nearest one-hundredth foot.

e. The width and location of existing and proposed easements and rights-of-way.

7. Lot and block numbers beginning with the number one (1) and numbered consecutively without omission or duplication.

8. Tracts to be dedicated to any public or private purpose shall be distinguished from lots intended for general development with notes stating their purpose and any limitations.

B. *STATEMENTS* - The plat shall include the following statements:

1. A statement to be signed by the Public Works Director approving the survey data, the layout of the streets, alleys and other rights-of-way, design of bridges, sewage and water systems, drainage systems and other structures.

2. A certificate bearing the printed names of all persons having an interest in the subdivided land, signed by the persons and acknowledged by them before a notary public, consenting to the subdivision of the land and reciting a dedication by them of all land shown on the plat to be dedicated for public uses, and a waiver by them and their successors of all claims for damages against any governmental authority arising from the construction and maintenance of public facilities and public property within the subdivision.

3. A certificate with the seal of and signature of the surveyor responsible for the survey and final plat with the following statement:

"I,_____, registered as a land surveyor by the State of Washington, certify that this plat is based on an actual survey of the land described herein, conducted by me or under my supervision; that the distances, courses and angles are shown thereon correctly; and that monuments other than those monuments approved for setting at a later date, have been set and lot corners staked on the ground as depicted on the plat."

4. Certification from the King County Treasurer that all taxes and assessments for which the property may be liable have been duly paid, satisfied or discharged as of the date of certification.

5. Certification of examination and approval by the County Assessor.

6. Recording Certificate for completion by the King County Department of Records and Elections.

7. Certification of Examination and Approval by the Seattle-King County Health Department when the lot(s) are served by septic system(s).

8. City of Tukwila Finance Director Certificate that states there are no delinquent special assessments, and that all special assessments on any of the property that is dedicated as streets, alleys or for other public use are paid in full at the date of certification.

9. Certification by the Public Works Director that the subdivider has complied with one of the following:

a. All improvements have been installed in accordance with the requirements of this title and with the preliminary plat approval, and that original and reproducible mylar or electronic records in a format approved by Public Works and meeting current Public Works drawing standards for road, utility and drainage construction plans certified by the designing engineer as being "as constructed" have been submitted for city records.

b. An agreement and bond or other financial security have been executed in accordance with TMC 17.24.030 sufficient to assure completion of required improvements and construction plans.

10. Certificate of dedication pursuant to TMC 17.04.050C.

11. For short plats, binding site improvement plans and boundary line adjustments, a certificate of approval to be signed by the DCD Director, Public Works Director and Fire Chief.

12. For subdivisions, a certificate of approval to be signed by the Mayor and City Clerk.

(Ord. 1833 §1(part), 1998)

17.04.070 Notification of other agencies

Notice of the filing of a preliminary plat within 1,000 feet of the municipal boundaries, or which contemplates the use of special use districts or other city's or town's utilities, shall be given to the appropriate special districts, county, city or town authorities. Notice of the filing of a preliminary plat located adjacent to the right-of-way of a State highway shall be given to the State Department of Highways. In addition, notice of all preliminary plats shall be submitted to the appropriate school district. All such notices shall include the hour, location, and purpose of the hearing and a description of the property to be platted.

(Ord. 1833 §1(part), 1998)

CHAPTER 17.08

BOUNDARY LINE ADJUSTMENTS AND LOT CONSOLIDATIONS

Sections:

17.08.010 Purpose

It is the intent to provide an efficient and timely process that allows consistent review; to ensure such actions do not create non-conformities with zoning and other city regulations; to provide a permanent record of boundary line adjustments and lot consolidations; and to ensure appropriate provisions are made for access and utility easements; in a manner consistent with RCW 58.17.040(6).

(Ord. 1833 §1(part), 1998)

17.08.020 Scope

This chapter applies to all boundary line adjustments and lot consolidations which are otherwise exempt from RCW 58.17.040(6), Subdivision Regulations.

(Ord. 1833 §1(part), 1998)

17.08.030 Preliminary approval

A. In order to receive preliminary approval, the applicant shall submit to the Director (as defined in TMC Chapter 18.06) a complete application, in quantities specified by the City, and meet the criteria for approval.

B. A complete application consists of the following:

1. A completed application on a form provided by the City and fee as identified in TMC Chapter 18.88.

2. A neat and readable plan drawn to a standard decimal (engineer) scale. A survey may be required if it is determined that level of information is needed to ensure the adjustment meets the approval criteria. The plan shall show the following information:

a. Property lines, with those that remain in their existing location shown as a solid line, those that are being moved or removed shown as a dashed line, and those that have been relocated shown as a solid line and clearly identified as a relocated line.

b. Dimensions of all property lines and area of the lots, before and after the adjustment.

c. Location and floor area of all structures on the site, and their setbacks from existing and new property lines.

d. Location and purpose of all easements on the site.

e. Location, purpose and legal description of any new or extended easements proposed.

f. Location of adjacent public roads and points of access from the public road(s) if a lot does not front on a public road; show how and where access is provided.

g. Location of existing utilities and utility easements.

h. Calculations that demonstrate that required yards of the Uniform Building Code are met.

3. Before and after legal description of the affected lots.

C. In order to approve a boundary line adjustment or lot consolidation, the Short Subdivision Committee shall determine the project complies with the following criteria:

1. No additional lots, sites, parcels, tracts or divisions are created.

2. The adjustment will not create non-conforming lots with respect to zoning dimension and area standards, zoning setbacks and lot area coverage standards. The adjustment shall not result in the creation of lots with split zoning.

3. The degree of non-conformance on existing non-conforming lots with respect to zoning dimension and area standards, zoning setbacks and floor area ratio are not increased.

4. All lots have legal access to a public road. Existing required private access road improvements and easements are not diminished below subdivision ordinance standards for lots that are served by a private access road.

5. Existing easements for utilities are appropriate for their intended function, or they are extended, moved or otherwise altered to an appropriate location.

6. The adjustment does not create any non-conformities with respect to the Uniform Building Code or any other locally administered regulation.

D. **Minor and major modifications to a preliminary approval.**

1. Minor modifications proposed by an applicant after a preliminary approval decision has been issued may be approved by the Director as a Type 1 decision, based on review and recommendations of the Short Subdivision Committee. The Director may include conditions as part of an approval of a minor modification to ensure conformance with the criteria below. Minor modifications are those which:

a. Do not increase the number of lots beyond the number previously approved, or which maintain the number of lots, or that decrease the number of lots in the subdivision below the number previously approved.

b. Do not decrease the aggregate area of open space, or the design or location of stormwater systems or roadways in the project by 10% or more.

c. May realign internal roadways and lot lines, but do not relocate any roadway access point to an exterior street.

d. Do not alter the exterior boundaries of the project.

e. Are consistent with applicable development standards and will not cause the boundary line adjustment or lot consolidation to violate any applicable City policy or regulation.

f. Are consistent with the conditions of the preliminary approval, provided that a minor modification may revise conditions of the preliminary approval so long as the revisions are consistent with the minor modification limitations set by TMC Section 17.08.030.D.a-e.

2. Major modifications are those which, as determined by the Director, are not minor modifications as defined in this code, or either add property or lots or substantially change the basic design, density, open space, or other substantive requirement or provision. If the applicant proposes to make one or more major changes, the revised plan(s) shall be processed as a new application.

(Ord. 2677 §1, 2022; Ord. 2649 §2, 2021; Ord. 1833 §1 (part), 1998)

17.08.040 Recording

A. After preliminary approval has been granted, an application for final approval shall be submitted to DCD for final review.

B. A complete final application shall consist of the documents required for recording including:

1. Drawing or survey of the boundary line adjustment.

2. Before and after legal descriptions of the affected lots.

3. Affidavit of ownership.

4. Application on a form provided by the Department of Community Development.

5. Other documentation necessary to demonstrate the conditions of the approval have been met.

C. Upon receiving approval from the City, the applicant will be responsible for picking up the documents from DCD and recording them with King County Office of Records. A copy of the recorded documents must be returned to DCD to finalize the approval process. The adjustment shall not be deemed complete until the City receives these documents.

(Ord. 1833 §1(part), 1998)

17.08.050 Expiration

The boundary line adjustment application shall expire if it has not been recorded within one year from the date of approval. Upon written request from the applicant prior to the expiration date, the Short Subdivision Committee is authorized to grant one extension, not to exceed six months.

(Ord. 1833 §1(part), 1998)

CHAPTER 17.12

DETAILED PROCEDURES FOR SHORT SUBDIVISIONS

Sections:

17.12.010 Scope

Any land being divided into nine or fewer parcels, lots, unit lots, tracts or sites for the purpose of sale, lease, or gift, any one of which is less than 20 acres in size, shall meet the requirements of this chapter.

(Ord. 2199 §1, 2008; Ord. 1833 §1(part), 1998)

17.12.015 Decision process

Applications for short plat approval shall be processed as a Type 2 decision, subject to the provisions of TMC 18.108.020.

(Ord. 1833 §1(part), 1998)

17.12.020 Preliminary short plat approval

A. **Application/fees.** The following items are required, in quantities specified by the City, for a complete Short Plat application for preliminary approval. Items may be waived if, in the judgment of the Short Subdivision Committee, they are not applicable to the proposal:

1. Items contained in TMC Section 18.104.060.
2. Completed Preliminary Short Plat Application Form as prescribed by the City with fee as identified in TMC Chapter 18.88.
3. Completed Application Checklist.
4. A complete SEPA Checklist application if project is not exempt from SEPA.
5. Complete applications for other required land use approvals.
6. A vicinity map showing location of the site.
7. A survey prepared to the standards identified in TMC Section 17.04.060.
8. Site and development plans that provide the following information:

a. The owners of adjacent land and the names of any adjacent subdivisions.

b. Lines marking the boundaries of the existing lot(s) (any existing lot to be eliminated should be a dashed line and so noted).

c. Locations of existing and proposed public street rights-of-way and easements and private access easements.

d. Location, floor area and setbacks of all existing structures on the site.

e. Lot area, lot line dimensions and average widths for each lot.

f. Location of proposed new property lines and numbering of each lot.

g. Location, dimension and purpose of existing and proposed easements. Provide recorded documents that identify the nature and extent of existing easements.

h. Location of any proposed dedications.

i. Existing and proposed topography at two-foot contour intervals, extending to five feet beyond the project boundaries.

j. Location of any critical areas and critical area buffers (slopes 15% or greater, wetlands or watercourses) on the site.

k. Location, size and species of any trees located within a critical area or its buffer or the shoreline zone unless none of these trees are to be removed and their location is not likely to create undue hardship on individual lots with respect to TMC Chapter 18.54, "Urban Forestry and Tree Regulations."

l. Location of existing and/or proposed fire hydrants to serve the project.

m. Description, location and size of existing and proposed utilities, storm drainage facilities and roads to serve the lots.

n. Expected location of new buildings and driveways, including finished floor elevations of the buildings.

9. Letter of water and sewer availability if the provider is other than the City of Tukwila.

B. **Review procedures.**

1. ***Referral to Other Departments.*** Upon receipt of an application for a short subdivision, the Director shall transmit one copy of the application to each member of the Short Subdivision Committee, and one copy to any department or agency deemed necessary.

2. ***Short Subdivision Committee Decision.*** The Short Subdivision Committee may approve, approve with modifications, or deny the application for a short subdivision pursuant to Type 2 permit procedures. No formal meeting of the Committee is required so long as the Chair obtains the recommendations and consent of the other members of the Committee before issuing a decision.

C. **Criteria for preliminary short plat approval.** The Short Subdivision Committee shall base its decision on an application on the following criteria:

1. The proposed Short Plat is in conformance with the Tukwila Comprehensive Plan, and any other such adopted plans.
2. Appropriate provisions have been made for water, storm drainage, erosion control and sanitary sewage disposal for the short plat that are consistent with current standards and plans.
3. Appropriate provisions have been made for road, utilities and other improvements that are consistent with current standards and plans.

4. Appropriate provisions have been made for dedications, easements and reservations.

5. The design, shape and orientation of the proposed lots are appropriate to the proposed use for which the lots are intended and are compatible with the area in which they are located.

6. Appropriate provisions for the maintenance of commonly owned private facilities have been made.

7. The short plat complies with the relevant requirements of the Tukwila Subdivision Ordinance.

8. The short plat complies with the requirements of the Tukwila Zoning Ordinance and other relevant local regulations.

D. **Minor and major modifications to a preliminary short plat approval.**

1. Minor modifications proposed by an applicant after a preliminary approval decision has been issued may be approved by the Director as a Type 2 decision, based on review and recommendations of the Short Subdivision Committee. The Director may include conditions as part of an approval of a minor modification to ensure conformance with the criteria below. Minor modifications are those which:

a. Do not increase the number of lots beyond the number previously approved, or which maintain the number of lots, or that decrease the number of lots in the subdivision below the number previously approved.

b. Do not decrease the aggregate area of open space, or the design or location of stormwater systems or roadways in the project by 10% or more.

c. May realign internal roadways and lot lines, but do not relocate any roadway access point to an exterior street.

d. Do not alter the exterior boundaries of the project.

e. Are consistent with applicable development standards and will not cause the short plat to violate any applicable City policy or regulation.

f. Are consistent with the conditions of the preliminary approval, provided that a minor modification may revise conditions of the preliminary approval so long as the revisions are consistent with the minor modification limitations set by TMC Section 17.12.020.D.a-e.

2. Major modifications are those which, as determined by the Director, are not minor modifications as defined in this code, or either add property or lots or substantially change the basic design, density, open space, or other substantive requirement or provision. If the applicant proposes to make one or more major changes, the revised plan(s) shall be processed as a new application.

(Ord. 2649 §3, 2021; Ord. 1833 §1(part), 1998)

17.12.030 Final short plat approval

A. *APPLICATION:* The following items are required, in quantities specified by DCD, for a complete application for final short plat approval. Items may be waived if in the judgment of the Short Subdivision Committee said items are not applicable to the particular proposal:

1. Completed Short Plat Final Approval Form.

2. Completed Application Checklist.

3. Documentation of the square footage of each lot and mathematical boundary closure of the subdivision, of each lot and block, of street centerlines, showing the error of closure, if any.

4. A final survey which complies with the standards set forth in TMC 17.04.060 and with all certificates signed except for those to be signed by the City and those to be signed at recording.

5. A title insurance report confirming that the title of the land in the proposed subdivision is vested in the name of the owners whose signatures appear on the plat's certificate.

6. A bond in a form acceptable to the City Attorney pursuant to TMC 17.24.030 if improvements are to be deferred.

7. Legal descriptions of all the tracts located within the boundaries of the short plat.

8. As-built plans for all new roads and utilities.

9. Binding maintenance agreements to provide for the maintenance of commonly owned private facilities.

10. Signatures on the following certificates on the face of the plat (when appropriate) from the surveyor that prepared the plat, the King County Treasurer, Seattle-King County Health Department, City of Tukwila Finance Director, Owner's affidavit and certificate of dedication as identified in TMC 17.04.060.

B. FINAL APPROVAL REVIEW PROCEDURES:

1. The Short Subdivision Committee may grant final approval of the short subdivision when they find the criteria listed in TMC 17.12.030C have been met. No formal meeting of the Committee is required so long as the Chair obtains the recommendations and consent of the other members of the Committee before issuing a decision.

2. Upon final approval of the short plat, the applicant shall record the plat and all other relevant documents with the King County Department of Records and Elections. The subdivider is responsible for paying the recording fee(s). Upon completion of recording, the applicant shall provide DCD with a copy of the recorded documents. The short plat shall not be considered final until these documents have been provided to DCD.

C. *CRITERIA FOR APPROVAL:* To grant final approval of a short plat, the Short Subdivision Committee must determine that it meets the following decision criteria:

1. All requirements for short plats as set forth in the Subdivision Code are met.

2. All terms of the preliminary short plat approval have been met.

3. The requirements of Chapter 58.17 RCW, other applicable state laws, and any other applicable City ordinances have been met.

4. All required improvements have been installed in accordance with City standards or an improvement agreement with financial guarantee pursuant to TMC 17.24.030 has been entered into by the applicant and accepted by the City.

5. That the plat is technically correct and accurate as certified by the land surveyor responsible for the plat.

(Ord. 1833 §1(part), 1998)

17.12.040 Expiration

If the short plat is not recorded within one year of the date of preliminary short plat approval, the short plat shall become null and void. Upon written request by the subdivider prior to the expiration date, the Short Subdivision Committee may grant one extension of not more than one year.

(Ord. 1833 §1(part), 1998)

17.12.050 Limitations on further subdivision

Any land subdivided under the requirements of this chapter shall not be further divided for a period of five years without following the procedures for subdivision, except when the short plat contains fewer lots than allowed for a short plat, in which case an additional short plat may be approved if the total number of lots within the boundaries of the original short plat does not exceed nine.

(Ord. 1833 §1(part), 1998)

17.12.060 Contiguous short plats

No application for a short plat shall be approved if the land being divided is held in common ownership with a contiguous parcel which has been divided in a short plat within the preceding five years and the total number of lots created in both short plats would exceed nine. When the total number of lots exceeds four but is less than ten, the paving, curb, gutter and sidewalk shall be provided per TMC 17.20.030C.6.c(1).

(Ord. 1833 §1(part), 1998)

17.12.070 Unit lot short plats

A. Sites developed or proposed to be developed with townhouses, cottage housing, compact single-family, or zero-lot-line units may be subdivided into individual unit lots. The development as a whole shall meet development standards applicable at the time the permit application is vested. Any private, usable open space for each dwelling unit shall be provided on the same lot as the dwelling unit that it serves.

B. Subsequent platting actions, additions or modifications to the structure(s) may not create or increase any nonconformity of the parent lot.

C. Access easements and joint use and maintenance agreements shall be executed for use of common garage or parking areas, common open space (such as common play areas), and other similar features, as recorded with the King County Department of Records and Elections.

D. Within the parent lot, required parking for a dwelling unit may be provided on a different unit lot than the lot with the dwelling unit, as long as the right to use that parking is formalized by an easement on the plat, as recorded with the King County Department of Records and Elections.

E. The fact that the unit lot is not a separate buildable lot, and that additional development of the individual unit lots may be limited as a result of the application of development standards to the parent lot, shall be noted on the plat, as recorded with the Director of the King County Department of Records and Elections.

F. Construction of townhouse dwelling foundations may commence prior to final short plat approval, provided:

1. The proposed short plat has received preliminary approval, and the necessary financial sureties have been filed to assure construction of required public improvements;

2. Partial or complete construction of structures shall not relieve the subdivider from, nor impair City enforcement of, conditions of subdivision approval;

3. Construction shall not proceed beyond foundations, and units shall not be rented or sold, nor occupancy permits issued, until final short plat approval is granted.

(Ord. 2199 §2, 2008)

CHAPTER 17.14

DETAILED PROCEDURES FOR SUBDIVISIONS

Sections:

17.14.010 Scope

Any land being divided into ten or more parcels, lots, unit lots, tracts or sites, for the purpose of sale or gift, any one of which is less than 20 acres in size, or any land which has been divided under the short subdivision procedures within five years and is not eligible for further short platting, pursuant to Section 17.12.010, shall conform to the procedures and requirements of this chapter. *(Ord. 2199 §3, 2008; Ord. 1833 §1(part), 1998)*

17.14.020 Preliminary plat

A. **Decision process.** Applications for preliminary plat approval shall be processed as a Type 3 decision (or Type 4 decision when there is an associated design review) subject to the provisions of TMC Section 18.108.030 (or TMC Section 18.108.040).

B. **Application.** The following items are required, in quantities specified by the City, for a complete application for preliminary plat approval. Items may be waived if, in the judgment of the Director, the items are not applicable to the particular proposal:

1. Completed Preliminary Plat Application Form and fee, as identified in TMC Chapter 18.88.
2. Completed Application Checklist.
3. A complete SEPA Checklist application if project is not exempt from SEPA.
4. Complete applications for other required land use approvals.
5. A vicinity map showing location of the site.
6. A survey prepared to the standards identified in TMC Section 17.04.060.
7. All existing conditions shall be delineated. Site and development plans shall provide the following information:

a. Owners of adjacent land and the names of any adjacent subdivisions.

b. Lines marking the boundaries of the existing lot(s). (Any existing lot to be eliminated should be a dashed line and so noted.)

c. Approximate names, locations, widths and dimensions of existing and proposed public street rights-of-way and easements and private access easements, parks and other open spaces, reservations, and utilities.

d. Location, floor area and setbacks of all existing structures on the site.

e. Lot area, dimensions and average widths for each lot.

f. Location of proposed new property lines and numbering of each lot.

g. Location, dimension and purpose of existing and proposed easements. Provide recorded documents that identify the nature and extent of existing easements.

h. Location of any proposed dedications.

i. Existing and proposed topography at two-foot contour intervals extending to five feet beyond project boundaries.

j. Location of any critical areas and critical area buffers (slopes 15% or greater, wetlands or watercourses) on the site.

k. Location, size and species of any trees located within a critical area or its buffer or the shoreline zone unless none of these trees are to be removed and their location is not likely to create undue hardship on individual lots with respect to TMC Chapter 18.54, "Urban Forestry and Tree Regulations."

l. Source of water supply, method of sewage disposal, and manner of surface runoff control.

m. Location of existing and proposed fire hydrants to serve the project.

n. Description, location and size of existing and proposed utilities, storm drainage facilities and roads to serve the lots.

o. A survey of existing trees and vegetation with a retention/removal plan for the preservation of significant trees and vegetation.

p. Expected location of new buildings, their driveways and finished floor elevations.

8. Letter of water and sewer availability if the provider is other than the City of Tukwila.
9. Two sets of mailing labels for all property owners and tenants (residents or businesses) within 500 feet of the subdivision.
10. Items required by TMC Section 18.104.060 not already listed above.

C. **Review procedures.**

1. ***Referral to Other Offices.*** Upon receipt of a complete preliminary plat application, the Director shall transmit a notice of application and one copy of the preliminary plat to each of the following offices, where appropriate: Public Works, Building Division, Fire Department, Police Department, King County Health Department, the appropriate school district, and each public utility agency serving the area in which the property proposed for subdivision is located.
2. ***Departmental Review.*** The other interested departments and agencies shall review the preliminary plat and may submit to the Department of Community Development written comments with respect to the preliminary plat decision criteria.

3. ***Public Notice and Public Hearing.*** The process for public notice, hearings, decisions and appeals shall be as provided for Type 3 decisions (or Type 4 decisions if the plat is combined with an associated design review) as identified in TMC Title 18, "Zoning Code."

D. **Criteria for preliminary plat approval.** The decision-maker shall base its decision on an application for preliminary plat approval on the following criteria:

1. The proposed subdivision is in conformance with the Tukwila Comprehensive Plan and any other City adopted plans.

2. Appropriate provisions have been made for water, storm drainage, erosion control and sanitary sewage disposal for the subdivision that are consistent with current standards and plans.

3. Appropriate provisions have been made for road, utilities and other improvements that are consistent with current standards and plans.

4. Appropriate provisions have been made for dedications, easements and reservations.

5. The design, shape and orientation of the proposed lots are appropriate to the proposed use for which the lots are intended and are compatible with the area in which they are located.

6. The subdivision complies with the relevant requirements of the Tukwila Subdivision and Zoning Ordinances, and all other relevant local regulations.

7. Appropriate provisions for maintenance of privately owned common facilities have been made.

8. The subdivision complies with RCW 58.17.110.

E. **Minor and major modifications to an approved preliminary plat.**

1. Minor modifications proposed by an applicant after a preliminary approval decision has been issued may be approved by the Director as a Type 2 decision, based on review and recommendations of City departments including Public Works, Fire, Building, and Planning. The Director may include conditions as part of an approval of a minor modification to ensure conformance with the criteria below. Minor modifications are those which:

a. Do not increase the number of lots in the subdivision beyond the number previously approved, or which maintain the number of lots, or that decrease the number of lots in the subdivision below the number previously approved.

b. Do not decrease the aggregate area of open space, or the design or location of stormwater systems or roadways in the subdivision by 10% or more.

c. May realign internal roadways and lot lines, but do not relocate any roadway access point to an exterior street from the plat.

d. Do not alter the exterior boundaries of the subdivision.

e. Are consistent with applicable development standards and will not cause the subdivision to violate any applicable City policy or regulation.

f. Are consistent with the conditions of the preliminary approval, provided that a minor modification may revise conditions of the preliminary approval so long as the revisions are consistent with the minor modification limitations set by TMC Section 17.14.020.E.a-e.

2. Major modifications are those which, as determined by the Director, are not minor modifications as defined in this code, or either add property or lots or substantially change the basic design, density, open space, or other substantive requirement or provision. If the applicant proposes to make one or more major changes, the revised plan(s) shall be processed as a new application.

(Ord. 2649 §4, 2021; Ord. 2124 §1, 2006; Ord. 1833 §1(part), 1998)

17.14.030 Final plat

A. **Application.** The following items are required, in quantities specified by the City, for a complete application for final plat approval. Items may be waived if in the judgment of the Director said items are not applicable to the particular proposal:

1. Completed Application Form and fee as identified in TMC Chapter 18.88.

2. Completed Application Checklist.

3. Copies and one original of the final plat survey in conformance with the standards set forth in TMC Section 17.04.060.

4. A plat certificate from a title insurance company documenting the ownership and title of all interested parties in the plat, subdivision or dedication, and listing all encumbrances. The certificate must be dated within 45 calendar days prior to the date of filing the application for final plat approval.

5. Private covenants intended to be recorded with the plat.

6. Any documentation necessary to demonstrate conditions of preliminary plat approval have been met.

7. King County Assessor's maps which show the location of each property within 500 feet of the subdivision; two sets of mailing labels for all property owners and tenants (residents or businesses) within 500 feet of the subdivision.

8. Maintenance agreements, easements and other documents ready for recording.

9. Signatures on the following certificates on the face of the plat (when appropriate) from the surveyor that prepared the plat, the King County Treasurer, Seattle-King County Health Department, City of Tukwila Finance Director, Owner's affidavit and certificate of dedication as identified in TMC Section 17.04.060.B.2.

B. **Final Plat Review Procedures.** Applications for final plat approval shall be processed as a Type 2 decision subject to the provisions of TMC Section 18.108.020.

1. ***Referral to Other Departments and Agencies.*** The Director shall distribute the final plat to all departments and agencies who received the preliminary plat, and to any other departments, special purpose districts and other governmental agencies deemed necessary.

2. ***Departmental Approval.*** The other interested departments and agencies shall review the final plat and may submit to the Department of Community Development written comments with respect to the final plat decision criteria. If the final plat is in order, the Public Works Director shall sign the appropriate certificates on the mylar original.

3. ***Filing Final Plat.***

a. Before the final plat is submitted to the Director, it shall be signed by the City Treasurer (Finance Director) and the Director of Public Works. Upon approval by the Director, it shall be signed by the Mayor and attested by the City Clerk.

b. The applicant shall file the final plat with the King County Department of Records and Elections. The plat will be considered complete when a copy of the recorded documents is returned to the Director.

C. **Criteria for final plat approval.** In approving the final plat, the Director shall find:

1. That the proposed final plat bears the required certificates and statements of approval.

2. That a title insurance report furnished by the subdivider confirms the title of the land, and the proposed subdivision is vested in the name of the owner(s) whose signature(s) appears on the plat certificate.

3. That the facilities and improvements required to be provided by the subdivider have been completed or, alternatively, that the subdivider has submitted with the proposed final plat a performance bond or other security in conformance with TMC Section 17.24.030.

4. That the plat is certified as accurate by the land surveyor responsible for the plat.

5. That the plat is in conformance with the approved preliminary plat.

6. That the plat meets the requirements of Chapter 58.17 RCW and other applicable state and local laws which were in effect at the time of preliminary plat approval.

(Ord. 2649 §5, 2021; Ord. 1833 §1(part), 1998)

17.14.040 Phasing

A. **Approval of phasing plan.** The subdivider may develop and record the subdivision in phases. Any phasing proposal shall be submitted for Hearing Examiner review at the time at which a preliminary plat is submitted. If there is an associated design review application, the phasing proposal and associated preliminary plat may be combined with the design review application and submitted for Planning Commission review. If modifications to an approved phasing plan are proposed, they shall be resubmitted for review by the original preliminary plat decision-maker. Approval of the phasing plan shall be based upon making the following findings:

1. The phasing plan includes all land contained within the approved preliminary plat, including areas where off-site improvements are being made.

2. The sequence and timing of development is identified on a map.

3. Each phase shall consist of a contiguous group of lots that meets all pertinent development standards on its own. The phase cannot rely on future phases for meeting any City codes.

4. Each phase provides adequate circulation and utilities. Public Works has determined that all street and other public improvements, including but not limited to drainage and erosion control improvements, are assured. Deferment of improvements may be allowed pursuant to TMC Chapter 17.24.

5. The first phase submitted for final subdivision approval must be recorded within five years of the date of preliminary plat approval, unless an extension is granted pursuant to TMC Section 17.14.050.B, TMC Section 17.14.050.C and TMC Section 17.14.050.D.

(Ord. 2649 §6, 2021; Ord. 1833 §1(part), 1998)

17.14.050 Expiration

A. The preliminary plat approval for a subdivision shall expire unless a complete application for final plat meeting all requirements of this chapter is submitted to the Director within five years of the date of preliminary plat approval; provided that the Director may extend a preliminary plat pursuant to this section.

B. **Time Limitations.** Extension(s) shall be requested in writing and are subject to the criteria set forth in TMC Section 17.14.050.C. The extension(s) shall be subject to the following time limitations:

1. Preliminary plats less than 100 acres that receive approval after the effective date of this ordinance shall expire within five years from the date of the preliminary approval; provided that the subdivider has the option of requesting one 1-year extension, for a maximum of six years from the date of the preliminary approval to the date of recording of the final phase.

2. Preliminary plats greater than 100 acres and that received approval prior to the effective date of this ordinance shall expire within five years from the date of the preliminary plat approval; provided that the subdivider has the option of requesting up to three extensions as follows: the first extension may be for three years, and each subsequent extension for not exceeding two years each. This allows for a maximum of 12 years between the date of the preliminary approval and the date of recording of the final phase.

C. **Criteria for Granting Extensions.** The following criteria shall be used to review an extension request for a preliminary plat approval:

1. A written request for extension is filed at least 30 days before the expiration of the preliminary plat; and

2. Unforeseen circumstances or conditions that are not the result of voluntary actions of the applicant necessitate the extension of the preliminary plat; and

3. Conditions within the subject property or immediately adjacent to the subject property have not changed substantially since the preliminary plat was first approved; and

4. An extension of the preliminary plat will not cause substantial detriment to existing uses in the immediate vicinity of the subject property or to the community as a whole; and

5. The applicant has demonstrated reasonable diligence in attempting to meet the time limit imposed; and

6. The preliminary plat complies with applicable City code provisions in effect on the date the application for extension was made.

D. **Process for Granting Extensions.** Applicant shall request the extension in writing prior to the expiration of the preliminary plat approval. The request shall include discussion of how it complies with the criteria listed under TMC Section 17.40.050.C. The Director shall review and approve requests for an extension of a preliminary plat. The Director shall provide 14-day notice to all parties of record for the preliminary plat approval prior to making the decision on the extension. The Director's decision will also be provided to all parties of record.

E. **Appeal Process for Extensions.** The Director's decision regarding the extension request may be appealed to the Hearing Examiner pursuant to TMC Chapter 18.116. The Hearing Examiner shall hold a closed record appeal hearing based on the information presented to the Director.

(Ord. 2649 §7, 2021; Ord. 2124 §2, 2006; Ord. 1833 §1 (part), 1998)

17.14.060 Unit lot subdivisions

A. Sites developed or proposed to be developed with townhouses, cottage housing, compact single-family, accessory dwelling units, or zero-lot line units may be subdivided into individual unit lots. The development as a whole shall meet development standards applicable at the time the permit application is vested. Any private, usable open space for each dwelling unit shall be provided on the same lot as the dwelling unit it serves.

B. Subsequent platting actions, additions or modifications to the structure(s) may not create or increase any nonconformity of the parent lot.

C. Access easements and joint use and maintenance agreements shall be executed for use of common garage or parking areas, common open space (such as common play areas), and other similar features, as recorded with the King County Department of Records and Elections.

D. Within the parent lot, required parking for a dwelling unit may be provided on a different unit lot than the lot with the dwelling unit, as long as the right to use that parking is formalized by an easement on the plat, as recorded with the King County Department of Records and Elections.

E. The fact that the unit lot is not a separate buildable lot, and that additional development of the individual unit lots may be limited as a result of the application of development standards to the parent lot, shall be noted on the plat, as recorded with the Director of the King County Department of Records and Elections.

F. Construction of townhouse dwelling foundations may commence prior to final plat approval, provided:

1. The proposed plat has received preliminary approval, and the necessary financial sureties have been filed to assure construction of required public improvements;

2. Partial or complete construction of structures shall not relieve the subdivider from, nor impair City enforcement of conditions of, subdivision approval;

3. Construction shall not proceed beyond foundations, and units shall not be rented or sold, nor occupancy permits issued, until final plat approval is granted.

(Ord. 2716 §2, 2023; Ord. 2199 §4, 2008)

CHAPTER 17.16

DETAILED PROCEDURES FOR BINDING SITE IMPROVEMENT PLAN (BSIP)

Sections:

17.16.010 Purpose

This chapter is established to:

1. Provide an optional process for land under single ownership to be divided for the purpose of sale or lease;

2. Accommodate the division of land for the purpose of sale or lease of property within an integrated commercial or industrial center, which allows certain zoning standards (minimum parking, setbacks, landscaping, lot area and lot dimension) on the individual lots to be modified provided the standards for the entire center are met;

3. Facilitate alternative ownership options by allowing Binding Site Improvement Plans in conjunction with a condominium process for residential, commercial, or industrial purposes (RCW 64.34);

4. Allow phased infrastructure improvements for large tracts of land.

(Ord. 2236 §1, 2009; Ord. 1833 §1(part), 1998)

17.16.020 Applicability

A. *ELIGIBILITY*: A Binding Site Improvement Plan application may be submitted for a project located on any land zoned multi-family, commercial or industrial consistent with the terms of this chapter.

B. *CONSTRUCTION AUTHORIZATION THROUGH OTHER PERMITS*: A Binding Site Improvement Plan creates or alters existing lot lines. A Binding Site Improvement Plan does not authorize construction. Construction is permitted upon approval of construction and building permits that implement the Binding Site Improvement Plan.

(Ord. 2236 §2, 2009; Ord. 1833 §1(part), 1998)

17.16.030 Preliminary Binding Site Improvement Plan (BSIP) approval

A. APPLICATION/FEES: The following items are required, in quantities specified by DCD, for a complete Binding Site Improvement Plan application. Items may be waived if, in the judgment of the Short Subdivision Committee, said items are not applicable to the particular proposal:

1. Completed Binding Site Improvement Plan Application Form as prescribed by the DCD Director with fee as identified in TMC Chapter 18.88.

2. Completed Application Checklist.

3. A complete SEPA Checklist application if project is not exempt from SEPA.

4. Complete applications for other required land use approvals.

5. A vicinity map showing location of the site.

6. A survey prepared to the standards specified in TMC 17.04.060.

7. Site and development plans which provide the following information. The plans shall be neat and accurate on a decimal scale sufficient in size and detail to demonstrate the Binding Site Improvement Plan meets the ordinance requirements, on sheets in record of survey format:

a. The owners of adjacent land and the names of any adjacent subdivisions.

b. Lines marking the boundaries of the existing lot(s) (any existing lot to be eliminated should be a dashed line and so noted).

c. Locations of existing and proposed public street rights-of-way and easements and private access easements.

d. Location, floor area and setbacks of all existing structures on the site.

e. Lot area, lot line dimensions and average widths for each lot.

f. Location of proposed new property lines and numbering of each lot.

g. Location, dimension and purpose of existing and proposed easements. Provide recorded documents that identify the nature and extent of existing easements.

h. Location of proposed dedications.

i. Existing and proposed topography at two-foot contour intervals extending to five feet beyond the project boundaries.

j. Location of sensitive areas and sensitive area buffers (slopes 20% or greater, wetlands or watercourses) on the site.

k. Location, size and species of any trees located within a sensitive area or its buffer or the shoreline zone unless none of these trees are to be removed and their location is not likely to create undue hardship on individual lots with respect to TMC Chapter 18.54.

l. Location of existing and/or proposed fire hydrants to serve the project.

m. Description, location and size of existing and proposed utilities, storm drainage facilities and roads to serve the lots.

n. Expected location of new buildings and driveways, including finished floor elevations of the buildings. This requirement may be waived by the Responsible Official for long-term, phased developments where a phasing plan is required.

8. Letter of water and sewer availability if the provider is other than the City of Tukwila.

9. Parking calculations to demonstrate that the requirements of TMC Chapter 18.56 have been met.

10. Proposed cross easement and maintenance agreement for shared parking, circulation, utility and landscaping improvements.

11. Legal descriptions of all tracts located within the boundaries of the short plat.

12. Consistency report addressing how the project complies with the applicable review criteria.

13. Estimated construction schedule with phasing plan and schedule.

14. Additional requirements for condominiums: Provide the following information on the site plan: number of units proposed, building dimensions, height and number of stories, distance between buildings, type of construction, sprinkler or non-sprinkler, and occupancy classification.

15. Items contained in TMC 18.104.060 not already listed above.

B. *REVIEW PROCEDURES:* An application for Binding Site Improvement Plan shall be reviewed and acted upon in the same manner prescribed in TMC 17.12.020B for short subdivisions.

C. *APPROVAL CRITERIA:*

1. Prior to approval of any Binding Site Improvement Plan, the Short Subdivision Committee shall insure that the following improvements are provided to sufficiently service the anticipated uses throughout the proposed plan and the decision criteria that follow are met:

a. Adequate water supply.

b. Adequate sewage disposal.

c. Appropriate storm drainage improvements.

d. Adequate fire hydrants.

e. Appropriate access to all anticipated uses within the plan.

f. Provision for all appropriate deed, dedication, and/or easements.

g. Monumentation of all exterior tract corners.

2. Legal Lots:

a. Residential Binding Site Improvement Plan shall consist of one or more contiguous, legally-created lots and each lot shall meet the minimum dimensional requirements of the applicable zone or overlay district.

b. If the site will contain commercial or industrial uses, or mixed-use commercial and residential uses, the lots shall meet the minimum dimensional requirements of the zoning district or meet the definition of “integrated site” in TMC Chapter 18.06, such that when taken as a whole and not considering interior lot lines, the integrated site meets all applicable zoning and subdivision requirements.

3. Appropriate easements and maintenance agreements for shared facilities, including but not limited to, circulation, parking, utilities and landscaping, have been provided.

4. Modifications to the minimum zoning standards for individual lots located within the integrated site -- including setbacks, parking, landscaping, lot area and lot dimension -- are not detrimental to the public health, safety and welfare, do not adversely affect the rest of the integrated site or other properties in the vicinity, and do not impede planned street, trail or pedestrian networks for the neighborhood or district.

5. Common improvements necessary to serve any particular phase of development must be sufficient for meeting the zoning and subdivision requirements for that phase.

6. Access to the integrated site meets the subdivision ordinance standards. Access within the site provides for safe and efficient circulation and meets Fire Department access requirements.

7. The circulation system incorporates appropriate provisions for safe pedestrian activity to the site from the street and from building to building within the site.

8. The sign regulations shall be applied to the integrated site as a whole. For example, the number of freestanding signs allowed is based on one site within the Binding Site Improvement Plan. Individual ownerships within the integrated site are not considered to be separate sites in determining the number of freestanding signs allowed.

9. The requirements of the Washington State Building Code are met.

10. Future Development: The Binding Site Improvement Plan shall contain a provision requiring that any subsequent development of the site shall be in conformance with the approved and recorded Binding Site Improvement Plan.

11. Dedication Statement: Where lands are required or proposed for dedication, the applicant shall provide a dedication statement and acknowledgement on the Binding Site Improvement Plan.

12. Additional Approval Criteria for Binding Site Improvement Plans Proposing Condominium Ownership: Condominium developments are eligible for Binding Site Improvement Plan approval when the purpose of such approval is to divide the property so a portion of the parcel or tract can be subjected to either RCW Chapter 64.32 or 64.34. A Binding Site Improvement Plan can only be approved when the development has already been constructed or when the approval has been obtained and a building permit for an entire development or a portion of a development is issued.

13. Additional Approval Criteria for Phased Development: If the applicant chooses to develop the property in a phased development, the applicant must execute a development agreement with the City pursuant to RCW 36.70B.170 if one is not already in place. This agreement shall govern, at a minimum, the use and development of the property subject to the Binding Site Improvement Plan, including:

a) vesting applicable to subsequent permits;

b) the manner in which each phase of the development will proceed to ensure that the roads and utilities necessary to serve each phase of the development are constructed prior to the development of each phase;

c) expiration of the agreement and all provisions therein.

14. Consistency: The Binding Site Improvement Plan shall be consistent with any City approved master plans and development agreements.

(Ord. 2236 §3, 2009; Ord. 1833 §1(part), 1998)

17.16.040 Final approval of plan

A. Prior to the plan being granted final approval, a survey, prepared by a licensed surveyor to the standards contained in TMC 17.04.060, shall be submitted to the Short Subdivision Committee with the final plan. The survey and plan shall be consistent with the preliminary approval.

B. Once the Short Subdivision Committee determines the survey, plan and other documents for recording are consistent with the preliminary approval, it will be certified for filing by the chair of the Short Subdivision Committee.

C. After being certified for filing by the Short Subdivision Committee, Binding Site Improvement Plans and survey shall be filed by the applicant with the King County Department of Records and Elections, and a copy of the recorded documents shall be returned to the Department of Community Development prior to issuance of any building permits for construction within the site. The applicant shall pay all costs associated with this filing.

D. Binding Effect: Approved Binding Site Improvement Plans shall be binding and shall be enforceable by the City. All provisions, conditions and requirements of the Binding Site Improvement Plan shall be legally enforceable on the purchaser or on any person acquiring a lease or other ownership interest of any lot, tract, or parcel created pursuant to the Binding Site Improvement Plan.

(Ord. 2236 §4, 2009; Ord. 1833 §1(part), 1998)

17.16.050 Improvements

A. *IMPROVEMENTS:* The following improvement requirements shall be met for each Binding Site Improvement Plan prior to the issuance of a building permit for construction within a Binding Site Improvement Plan.

1. *IMPROVEMENTS REQUIRED:* Consistent with TMC Chapter 17.20, and subject to any applicable development agreement, the following tangible improvements shall be provided for, either by actual construction or a construction schedule approved by the City and bonded by the applicant, before a Binding Site Improvement Plan may be recorded: grading and paving of streets and alleys; installation of curbs, gutters, sidewalks, monuments, sanitary and storm sewers, street lights, water mains and street name signs; together with all appurtenances thereto to specifications and standards of this code, approved by the Short Subdivision Committee and in accordance with other standards of the City. A separate construction permit will be required for any such improvements, along with associated engineering plans prepared per the City Drafting Standards.

2. Modifications: Proposals that contain commercial or industrial uses, or mixed-use commercial and residential uses, and meet the definition of "integrated site" in TMC 18.06 are not required to submit a modification request. Where a proposal is not eligible to be an "integrated site" or where the definition of "integrated site" does not expressly allow for a modification of a particular standard(s), modifications of improvement standards required in TMC Chapter 17.20 shall be made through the exception process in TMC Chapter 17.28.

B. Phasing of Improvements: To satisfy improvement requirements, the Short Subdivision Committee is authorized to impose conditions and limitations on the Binding Site Improvement Plan. If the Short Subdivision Committee determines that any delay in satisfying requirements will not adversely impact the public health, safety or welfare, the Committee may allow requirements to be satisfied prior to issuing the first building permit for the site, or prior to issuing the first building permit for any phase, or prior to issuing a specific building's certificate of occupancy, or in accordance with an approved phasing plan, or in accordance with plans established by a development agreement or as otherwise permitted or required under City code.

(Ord. 2236 §5, 2009; Ord. 1833 §1(part), 1998)

17.16.060 Revision of plan

A. *ALTERATION*: Alteration of an approved Binding Site Improvement Plan, excluding standard easements for utilities and lot line adjustments, shall be accomplished following the same procedures required for a new Binding Site Improvement Plan application as set forth in this chapter; provided, that only owners of lots within the Binding Site Improvement Plan that are directly affected by the proposed alteration shall be required to authorize application for the alteration. If property subject to a Binding Site Improvement Plan approval is the subject of a development agreement, the alteration of the approved Binding Site Improvement Plan shall not require an amendment to the development agreement or approval by the City Council and, after approval and recording, shall automatically be incorporated within the development agreement unless otherwise provided in the development agreement.

B. *VACATION*: Vacation of a recorded Binding Site Improvement Plan shall be accomplished by following the same procedures required for a new Binding Site Improvement Plan application as set forth in this chapter. If a portion of a Binding Site Improvement Plan is vacated, the property subject to the vacation shall constitute one lot, and the balance of the approved Binding Site Improvement Plan shall remain as approved. Any non-conformities created by such a vacation must be remedied prior to final approval of the vacation. If a Binding Site Improvement Plan property subject to a Binding Site Improvement Plan approval is the subject of a development agreement, the vacation of the approved Binding Site Improvement Plan, whether total or partial, shall not require an amendment to the development agreement or approval by the City Council and, after approval and recording shall automatically be incorporated within the development agreement unless otherwise provided in the development agreement.

(Ord. 2236 §6, 2009; Ord. 1833 §1(part), 1998)

17.16.070 Expiration

If the binding site improvement plan is not recorded within one year of the date of the preliminary BSIP, the BSIP shall become null and void. Upon written request by the applicant prior to the expiration date, the Short Subdivision Committee may grant one extension of not more than one year.

(Ord. 2251 §2, 2009)

CHAPTER 17.20

DESIGN AND IMPROVEMENT STANDARDS FOR THE SUBDIVISION OF LAND

Sections:

17.20.010 Applicability

The standards contained in this chapter are to be used as the basic standards for addressing the approval criteria for subdivisions, short plats, boundary line adjustments and binding site improvement plans. The decision making entity may require additional standards be met if it is determined necessary to meet the approval criteria for a particular application.

(Ord. 1833 §1(part), 1998)

17.20.020 Improvements, supervision, inspections and permits required

A. *REQUIRED IMPROVEMENTS:* Every subdivider may be required to grade and pave streets and alleys, install curbs and gutters, sidewalks, monuments, sanitary and storm sewers, water mains, fire hydrants, street lights and name signs, together with all appurtenances in accordance with specifications and standards of this code, approved by the Public Works Department, and in accordance with other standards of the City.

B. *SUPERVISION AND INSPECTION:* A licensed engineer or engineering firm, acceptable to the Department of Public Works, shall be responsible for the supervision and inspection of all subdivision improvements. All improvements shall be certified in writing as completed in accordance with plans and specifications as approved by the Department of Public Works.

C. *PERMITS:* Prior to proceeding with any subdivision improvements, the subdivider shall obtain those permits from the City as are necessary. The subdivider is also responsible for complying with all applicable permit requirements of other Federal, State and local agencies.

(Ord. 1833 §1(part), 1998)

17.20.030 General Standards

A. **Environmental Considerations.**

1. ***Critical Areas***. Land that contains a critical area or its buffer as defined in TMC Title 18, or is subject to the flood zone control ordinance as defined in TMC Chapter 16.52, shall be platted to reflect the standards and requirements of the critical areas overlay zone, TMC Chapter 18.45, the planned residential development overlay if required pursuant to TMC Chapter 18.46, and/or the flood zone control ordinance, TMC Chapter 16.52. No lot shall be created that does not contain an adequate building site, given the environmental considerations of the lot and current development standards.

2. ***Trees***. In addition to meeting the requirements of TMC Chapter 18.54, "Urban Forestry and Tree Regulations," every reasonable effort shall be made to preserve existing trees and vegetation, and integrate them into the subdivision's design.

B. **Compatibility with Existing Land Use and Plans**.

1. ***Buffer between uses.*** Where single-family residential subdivisions are to be adjacent to multiple-family, commercial or industrial land use districts, and where natural separation does not exist, adequate landscape buffer strips and/or solid fences for screening shall be provided.

2. ***Conformity with existing plans.*** The location of all streets shall conform to any adopted plans for streets in the City. If a subdivision is located in the area of an officially designated trail, provisions may be made for reservation of the right-of-way or for easements to the City for trail purposes. The proposed subdivision shall respond to and complement City ordinances, resolutions, and comprehensive plans.

3. ***Other City regulations.*** All subdivisions shall comply with all adopted City regulations. In the event of a conflict, the more restrictive regulation shall apply.

4. ***Accessory structures.*** If a subdivision, short plat, or boundary line adjustment in a residential zone would result in an accessory structure remaining alone on a lot, the structure must be demolished before preliminary approval, or the owner must provide a bond or other financial guarantee acceptable to the Director in the amount of 150% of the cost of demolition and assurance that the accessory structure will be demolished if a residence is not built on the lot within 12 months of final approval.

C. **Streets.**

1. ***Extension.*** Proposed street systems shall extend existing streets at the same or greater width, unless otherwise approved by the Department of Public Works and authorized by the Director in approval of the plat. Where appropriate, streets shall be extended to the boundaries of the plat to ensure access to neighboring properties. The City's goal is to have an integrated system of local streets whenever practical. Grading of steep topography may be necessary to achieve this objective. However, in critical areas, the layout and construction of streets shall follow the standards and procedures of the critical areas overlay zone. Dedication of additional right-of-way may be required for a short plat when it is necessary to meet the minimum street width standards or when lack of such dedication would cause or contribute to an unsafe road or intersection.

2. ***Names.*** All proposed street names or numbers shall be subject to approval by the Department of Community Development.

3. ***Intersections.*** Any intersection of public streets, whatever the classification, shall be at right angles as nearly as possible and not be offset insofar as practical.

4. ***Street layout***. Street layout shall provide for the most advantageous development of the subdivision, adjoining areas, and the entire neighborhood. Evaluation of street layout shall take into consideration potential circulation solutions. While it is important to minimize the impact to the topography from

creating an integrated road system, improved site development and circulation solutions shall not be sacrificed to minimize the amount of cut and fill requirements of the proposal. Where critical areas are impacted, the standards and procedures for rights-of-way in the critical areas overlay zone shall be followed.

5. Private access roads may be authorized if:

a. Allowing private access roads in the area being subdivided will not adversely affect future circulation in neighboring parcels of property; and

b. Adequate and reasonable provisions are made for the future maintenance and repair of the proposed private access roads; and

c. The proposed private access roads can accommodate potential full (future) development on the lots created; and

d. For residential subdivisions, the proposed private access roads do not serve more than four lots nor are more than 200 feet in length. Those access roads 150 feet or greater in length shall have a turnaround built to Fire Department standards.

e. For commercial and industrial subdivisions, when private access roads are authorized, there shall be a minimum easement width of 40 feet. With the exception of minimum easement widths, private access roads shall be designed and constructed in accordance with the Department of Public Works standards, and zoning setbacks shall be required as though the easement were a public right-of-way.

6. ***Public roads.***

a. Right-of-way and paving widths for public roads shall be based as shown in the following table. The minimum paving and right-of-way width shall be used unless the City Engineer demonstrates a wider width is needed due to site circumstances, including but not limited to topography, traffic volume, street patterns, on-street parking, lot patterns, land use and bike and transit facilities, that justify an increase in width.

Type of Street	Right-of-Way	Roadway Pavement
Principal Arterial	80 - 100 feet	48 - 84 feet
Minor Arterial	60 - 80 feet	36 - 64 feet
Collector Arterial	60 - 80 feet	24 - 48 feet
Access Road	50 - 60 feet	28 - 36 feet
Cul-De-Sac		
Roadway	40 feet	26 feet
Turnaround	92 feet (dia.)	81 feet (dia.)
Alley	20 feet	15 feet
Private Access Roads		
Residential	20 feet	20 feet
Commercial	40 feet	28 feet

b. *Design:* The design and alignment of all public streets shall conform to the following standards unless otherwise approved by the Department of Public Works:

(1) Cul-de-sacs: Cul-de-sacs are not allowed unless there is no reasonable alternative or the cul-de-sac is shown on an officially adopted street plan. When allowed, they shall not exceed a length of 600 feet unless the City determines that adequate alternative emergency access will be provided.

(2) Street Grades: Street grades shall not exceed 15%. However, provided there are no vehicular access points, grades may be allowed up to 18%, for not more than 200 feet when:

(a) Exceeding the grades would facilitate a through street and connection with the larger neighborhood;

(b) The greater grade would minimize disturbance of critical slopes;

(c) The Fire Marshal grants approval of the grade transition; and

(d) Tangents, horizontal curves, vertical curves, and right-of-way improvements conform to Department of Public Works standards.

c. Full width improvement:

(1) When interior to a subdivision or a short plat of five or more lots, all publicly owned streets shall be designed and installed to full width improvement as provided below:

(a) Shall be graded as necessary to conform to Department of Public Works standards.

(b) Shall be of asphaltic concrete according to Department of Public Works standards.

(c) Shall have permanent concrete curbs and gutters according to Department of Public Works standards.

(d) Shall have storm drains consisting of the proper size pipe and catch basins; sizes to be approved by the Department of Public Works prior to the public hearing for the preliminary plat.

(e) Shall have sidewalks provided at a minimum width as specified in TMC Chapter 11.12.

(2) When interior to a short plat of four or fewer lots, all public streets and all privately owned streets that have the potential to serve five or more lots shall be designed and installed to full width improvement as provided below:

(a) Shall be graded as necessary to conform to Department of Public Works standards.

(b) Shall be of asphaltic concrete according to Department of Public Works standards.

(c) Shall provide storm drainage to be approved by the Department of Public Works.

(d) Shall provide sidewalk right-of-way or easements at a minimum width as specified in TMC Chapter 11.12.

(e) Shall construct or provide L.I.D. no-protest agreements for permanent concrete curbs, gutters, and sidewalks according to Department of Public Works standards.

(f) Shall be dedicated to the City or subject to a binding agreement for future dedication.

(3) All privately owned roads that will serve four or fewer houses shall be designed and installed to full width improvement as provided below:

(a) Shall be graded as necessary to conform to Department of Public Works standards.

(b) Shall be of asphaltic concrete according to Department of Public Works standards.

(c) Shall provide storm drainage to be approved by the Department of Public Works.

d. Half width improvement:

(1) Streets abutting the perimeter of a subdivision or short plat of five or more lots shall provide the full improvements on the half of the street adjacent to the site, provided additional paving may be required to ensure safe and efficient roads exist to serve the subdivision; provided further that there are no physical obstructions to completing the other half of the roadway; and that there is a minimum of 20 feet of paving.

(2) If the future grade or alignment of the adjacent public street is unknown and it is not feasible to establish the grade in a reasonable period or the immediate improvement of the street would result in a short, isolated segment of improved street and similar street improvements in the vicinity are unlikely to occur within six years, the City may approve a delay of improvements. The owner(s) must agree to enter into a binding L.I.D. no-protest agreement to further improve the street to full public street standards in the future; however adjacent streets must still be improved to the minimum level necessary, in the judgment of the City Engineer, to safely accommodate traffic generated by the proposed subdivision or short plat.

(3) Streets abutting the perimeter of a short plat of four or fewer lots shall provide L.I.D. no-protest agreements for construction of frontal improvements on the half of the street adjacent to the site, provided that there is a minimum of 20 feet of paving.

D. **Utilities**.

1. ***Generally.*** All utilities designed to serve the subdivision shall be placed underground and, if located within a critical area, shall be designed to meet the standards of the critical areas overlay zone. Those utilities to be located beneath paved surfaces shall be installed, including all service connections, as approved by the Department of Public Works; such installation shall be completed and approved prior to application of any surface materials. Easements may be required for the maintenance and operation of utilities as specified by the Public Works Department.

2. ***Sanitary sewers.*** Sanitary sewers shall be provided to each lot at no cost to the City and designed in accordance with City standards. Septic systems may be installed when approved by the Seattle-King County Department of Public Health and when the existing sewer system will not be available to the lot within the life of the preliminary approval.

3. ***Storm drainage.*** The storm drainage collection system shall meet the requirements of the City's stormwater ordinance standards (TMC Chapter 14.28).

4. ***Water system.*** Each lot within a proposed subdivision shall be served by a water distribution system designed and installed in accordance with City standards. Locations of fire hydrants and flow rates shall be in accordance with City standards and the Uniform Fire Code.

E. **Blocks.**

1. ***Length.*** Residential blocks should not be less than 300 feet nor more than 1,000 feet in length, (600 - 2,000 feet for commercial and industrial areas). Where circumstances warrant for the purpose of implementing the Comprehensive Plan, the Planning Commission may require one or more public pathways of not less than six feet nor more than 15 feet in width, either by dedication or easement, to extend entirely across the width of the block to connect public rights-of-way.

2. ***Width***. Blocks shall be wide enough to allow two tiers of lots, except where abutting a major street or prevented by topographical conditions or size of the property, in which case the Director may approve a single tier.

3. ***Pedestrian considerations***. Blocks, roads and pedestrian improvements shall be designed to provide a safe and convenient pedestrian network.

F. **Lots.**

1. ***Arrangement.*** Insofar as practical, side lot lines shall be at right angles to street lines or radial to curved street lines. Each lot must have access to a public street that is approved at the time of plat review; however, rather than designing flag lots, access shall be accomplished with common drive easements.

2. ***Lot design.*** The lot area, width, shape, and orientation shall be appropriate for the location of the subdivision, for the type of development and land use contemplated, and shall conform with the requirements of the zoning ordinance.

3. ***Corner lots.*** Corner lots may be required to be platted with additional width to allow for the additional side yard requirements.

G. **Landscaping**.

1. Each lot within a new subdivision or short plat of five lots or greater shall be landscaped with at least one tree in the front yard to create a uniform streetscape.

2. Landscaping shall conform with Public Works standards.

H. **Street Signs.** The subdivider shall be responsible for the initial cost of any street name or number signs, or street markings, including installation thereof, that Public Works finds necessary for the subdivision.

I. **Lighting.** Street lighting shall conform to the Department of Public Works standards unless the Public Works Director requires alternative fixtures, poles, and/or spacing to contribute to an overall design concept of the subdivision.

J. **Monumentation.**

1. ***Imprinted monument.*** All monuments set in subdivisions shall be at least 1/2 inch x 24-inch steel bar or rod, or equivalent, with durable cap imprinted with the license number of the land surveyor setting the monument.

2. ***Centerline monument.*** After paving, except as provided in TMC Section 17.20.030.J.5, monuments shall be driven flush with the finished road surface at the following intersections:

a. Centerline intersections.

b. Points of intersection of curves if placement falls within the paved area; otherwise, at the beginnings and endings of curves.

c. Intersections of the plat boundaries and street center lines.

3. ***Property line monumentation.*** All front corners, rear corners, and beginnings and endings of curbs shall be set with monuments, except as provided in TMC Section 17.20.030.J.5. In cases where street curbs are concentric and/or parallel with front right-of-way lines, front property line monumentation may be provided by brass screws or concrete nails at the intersections of curb lines and the projections of side property lines. If curb monumentation is used, it shall be noted on the plat, and also that such monumentation is good for projection of line only and not for distance.

4. ***Post-monumentation.*** All monuments for exterior boundaries of the subdivision shall be set and referenced on the plat prior to plat recording. Interior monuments need not be set prior to recording if the developer certifies that the interior monuments shall be set within 90 days of final subdivision construction inspection by the Department of Public Works, and if the developer guarantees such interior monumentation.

5. ***Post-monumentation bonds.*** In lieu of setting interior monuments prior to final plat recording as provided in TMC Section 17.20.030.J.3, the Public Works Director may accept a bond in an amount and with surety and conditions satisfactory to the Director, or other secure method as the Public Works Director may require, providing for and securing the actual setting of the interior monuments.

(Ord. 2649 §8, 2021; Ord. 1971 §21, 2001; Ord. 1833 §1(part), 1998)

CHAPTER 17.24

PROCEDURES FOR PUBLIC IMPROVEMENTS

Sections:

17.24.005 Purpose

It is the intent to have all infrastructure improvements required by a subdivision, short plat, binding site improvement plan, or boundary line adjustment completed prior to final approval of the proposed land action. The City realizes that there may be instances where the completion of the improvement may not be the best course of action, including, but not limited to: final lift for the roadway, completing sidewalks while development construction is ongoing, minor punch list items, etc. In those instances, the Director of Public Works may accept a bond or other financial security in lieu of the completion of the infrastructure improvements.

(Ord. 2124 §3(part), 2006)

17.24.010 Plans and permits required for public improvements

A. Approval of a preliminary plat, short plat, binding site improvement plan or boundary line adjustment shall constitute approval for the applicant to develop construction plans and specifications, for all facilities and improvements, in substantial conformance to the preliminary approval, design standards, and any special conditions required by the Short Subdivision Committee, Hearing Examiner, or Planning Commission; to obtain permits and complete installation for said improvements; and to prepare a final plat, plans, surveys and other documents for recording.

B. Prior to installing improvements, the developer shall apply for all required permits for those improvements. The applications shall include development plans as specified on the application form. *[Note: See TMC Chapters 11.08 and 11.12 for additional guidance on standards and permit requirements for improvements in the public right-of-way.]*

(Ord. 2649 §9, 2021; Ord. 2124 §3(part), 2006; Ord. 1833 §1(part), 1998)

17.24.020 Process for installing public improvements

Improvements installed by the developer of the subdivision or short plat, either as a requirement or of the subdividers own option, shall conform to the requirements of this title and improvement standards, specifications, inspections and procedures as set forth by the Department of Public Works, and shall be installed in accordance with the following procedures:

1. Work shall not be commenced until plans have been checked for adequacy and approved by Public Works to the extent necessary for the evaluation of the subdivision or short plat proposal. Plans shall be prepared in accordance with the requirements of the City.

2. Work shall not commence until Public Works has been notified in advance and, if work has been discontinued for any reason, it shall not be resumed until Public Works has been notified.

3. Public improvements shall be constructed under the inspection and to the satisfaction of the Director of Public Works. The City may require changes in typical sections and details if unusual conditions arise during construction to warrant the change.

4. All underground utilities, sanitary sewers and storm drains installed in the streets by the developer of the subdivision or short plat shall be constructed prior to the surfacing of streets. Stubs for service connections and underground utilities and sanitary sewers shall be placed to a length obviating the necessity for disturbing the street improvements when surface connections are made.

5. Plans showing all improvements as built shall be filed with the City upon completion of the improvements.

(Ord. 2124 §3(part), 2006; Ord. 1833 §1(part), 1998)

17.24.030 Improvement agreements and financial guarantees

A. **Required improvements.** Before any final subdivision, short plat, binding site improvement plan or boundary line adjustment is finally approved, the subdivider shall install required improvements and replace or repair any such improvements which are damaged in the development of the subdivision. In lieu of the completion of the actual construction of all required improvements (public and private) and prior to the approval of a final plat, the Public Works Director may accept a bond in an amount and with surety and conditions satisfactory to the Director, or other secure method, providing for and securing to the City the actual construction and installation of all required improvements. This is in addition to the requirements of TMC Chapter 11.08 requiring a performance bond for all work being done in the public right-of-way. If the Public Works Director accepts a bond for the completion of the work, the subdivider shall execute and file with the City an agreement guaranteeing completion of such improvements together with any needed replacement or repair. The agreement shall:

1. Specify the period of time within which all work required shall be completed. The time for completion shall not exceed one year from the date of final approval of the subdivision. The agreement may provide for reasonable extensions of time for completion of work. Extensions must be requested, approved by the Public Works Director, and properly secured in advance of the required initial completion date.

2. Require notice by the subdivider to the Public Works Director promptly upon completion of all required improvements.

3. Provide for notice of approval or disapproval by the Public Works Director of the improvement within a reasonable time after receiving notice of completion.

4. Require financial security to be provided by the subdivider pursuant to TMC Section 17.24.030.C.

5. Provide that, if the subdivider fails to complete all required work within the period specified, the City may take steps to demand performance of the developer's obligation within a reasonable time not to exceed 90 days from the date of demand.

6. Provide that, if the required improvements are not completed within that time, the City may take action to require the subdivider to forfeit the financial security.

7. Provide that the City shall be entitled to recover all costs of such action including reasonable attorney's fees.

8. Provide that, following recovery of the proceeds of the financial security, those proceeds shall be used to complete the required improvements and pay the costs incurred.

9. Provide that, should the proceeds of the financial security be insufficient for completion of the work and payment of the costs, the City shall be entitled to recover the deficiency from the subdivider.

B. **Maintenance agreement.** Regardless of whether all required improvements are completed prior to final approval of any subdivision of land, as a condition of such approval the subdivider shall execute an agreement to assure successful operation of said improvements. *[Note: See TMC Section 11.08.110 for details.]* The agreement shall:

1. Require the subdivider to post a bond or other financial security to secure successful operation of all required improvements and full performance of the developer's maintenance obligation. Such financial security shall be effective for a two-year period following approval of installation of all required improvements.

2. Require the subdivider to perform maintenance functions on drainage improvements for a period of time not to exceed two years from approval of their completion or final plat approval, whichever is later. Such maintenance functions shall be specified by the Public Works Director, and shall be reasonably related to the burdens that the subdivision will impose on drainage facilities during the time maintenance is required. The City may agree to accept and perform maintenance of the improvements, in which case the subdivider's obligation to perform maintenance functions shall terminate.

3. Not relieve the subdivider of liability for the defective condition of any required improvements discovered following the effective term of the security given.

4. Provide a waiver by the subdivider of all claims for damages against any governmental authority, which may occur to the adjacent land as a result of construction, drainage, and maintenance of the streets and other improvements.

C. **Performance bond.** To assure full performance of the agreements required herein, the subdivider shall provide one or more of the following in a form approved by the City Attorney:

1. A surety bond executed by a surety company authorized to transact business in the State of Washington.

2. An irrevocable letter of credit from a financial institution stating that the money is held for the purpose of development of the stated project.

3. An assignment of account with a financial institution which holds the money in an account until such time the City signs a written release. The assignment of account will allow the City to withdraw the funds in the event the provisions of the agreement are not met.

4. A cash deposit made with the City of Tukwila.

D. **Amount of Financial Security.** The financial security provided shall be 150% of the estimated cost of the improvements to be completed and all related engineering and incidental expenses, final survey monumentation and preparation of reproducible Mylar or electronic records in a format approved by Public Works and meeting current Public Works drawing standards of the "as-built" improvements. The subdivider shall provide an estimate of these costs for acceptance by the Public Works Director.

E. **Defective Work.** The acceptance of improvements by the City shall not prevent the City from making a claim against the subdivider for any defective work if such is discovered within two years after the date of completion of the work.

(Ord. 2649 §10, 2021; Ord. 2124 §3(part), 2006; Ord. 1833 §1(part), 1998)

CHAPTER 17.28

EXCEPTIONS, PENALTIES, SEVERABILITY, LIABILITY

Sections:

17.28.010 Exceptions

A. *EXCEPTION CRITERIA:* Exceptions from the requirements of this code may be granted when undue hardship may be created as a result of strict compliance with the provisions of this code. Any authorization for exception may prescribe conditions deemed necessary or desirable for the public interest.

An exception shall not be granted unless:

1. There are special physical circumstances or conditions affecting said property, such that the strict application of the provisions of this code would deprive the applicant of the reasonable use or development of his land; and

2. The exception is necessary to insure such property rights and privileges as are enjoyed by other properties in the vicinity and under similar circumstances; and

3. The granting of the exception will not be detrimental to the public welfare or injurious to other property in the vicinity.

B. *PROCEDURES:* An application for any exception from this code shall be submitted in writing by the subdivider, as part of the application for short subdivision, binding site improvement plan, or preliminary plat. Such application shall fully state all substantiating facts and evidence pertinent to the request.

1. *Short subdivision:* A short subdivision or binding site improvement plan exception shall be reviewed by the Short Subdivision Committee in conjunction with review of the short subdivision or binding site improvement plan application. The decision of the Short Subdivision Committee shall be final and conclusive unless appealed in accordance with the appeal procedure for Type 2 decisions set forth in TMC 18.108.020.

2. *Preliminary plat:* A preliminary plat exception shall be considered by the Planning Commission at the same time the public hearing is conducted for the preliminary plat.

(Ord. 2124 §4, 2006; Ord. 1833 §1(part), 1998)

17.28.015 Sale, lease or transfer of land in violation of this chapter

Any person, firm, corporation, association, or any agent of any person, firm, corporation, or association who violates any provision of RCW 58.17 or Tukwila Municipal Code Title 17, "Subdivisions and Plats", relating to the sale, offer for sale, lease, or transfer of any lot, tract, or parcel of land, shall be guilty of a gross misdemeanor; and each sale, offer for sale, lease or transfer of each separate lot, tract, or parcel of land in violation of any provision of RCW 58.17 or Tukwila Municipal Code Title 17, "Subdivisions and Plats", shall be deemed a separate and distinct offense.

(Ord. 2549 §20, 2017)

17.28.020 Penalties

Any other violation of any provision, or failure to comply with any of the requirements of this chapter, shall be subject to enforcement and penalties as prescribed in TMC Chapter 8.45 and the issuance of a Notice of Violation in accordance with TMC Section 8.45.070.

(Ord. 2549 §21, 2017; Ord. 1838 §16, 1998; Ord. 1833 §1 (part), 1998)

17.28.030 City not liable

This code shall not be construed to relieve from or lessen the responsibility of any person owning any land or building, constructing or modifying any subdivisions in the City for damages to anyone injured or damaged either in person or property by any defect therein; nor shall the City or any agent thereof be held as assuming such liability by reason of any preliminary or final approval or by issuance of any permits or certificates authorized herein.

(Ord. 1833 §1 (part), 1998)

17.28.040 Severability

If any section, subsection, clause or phrase of this code is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

(Ord. 1833 §1 (part), 1998)

TITLE 18
ZONING

Chapters:

Figures and Tables:

Figures 18-16 through 18-59 and Tables 18-1 through 18-5 are associated with TMC Chapter 18.28, Tukwila Urban Center (TUC) District

Tables:

Table 18-6 is associated with TMC Chapter 18.09, land uses allowed by district

CHAPTER 18.02
TITLE

Sections:

18.02.010 Short Title

This title shall be known and may be cited as "The Tukwila Zoning Code."

(Ord. 1758 §1 (part), 1995)

CHAPTER 18.04
GENERAL PROVISIONS

Sections:

18.04.010 Application of Provisions

In the interpretation and application of the provisions of this title, such provisions shall be held to be the minimum requirements adopted for the promotion of the health, safety, morals, or the general welfare of the community. It is not intended by this title to repeal, abrogate, annul, or in any way impair or interfere with any existing provisions of law or ordinance or any rules or regulations previously adopted pursuant to law, relating to the use of buildings or land, nor is it intended to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this title imposes a greater restriction upon the use, erection, alteration or extension of buildings, or use of land, or upon the number of square feet of lot area per family, or where the yard or building line requirements are more restrictive than the requirements imposed by such existing provision of law or ordinance, or by such rules or regulations or by such covenants or agreements, the provision of this title shall control.

(Ord. 1758 §1 (part), 1995)

18.04.020 Change in Existing Structure, Use or Proposed Use

Nothing contained in this title shall require any change in any existing building or structure or in the plan, construction or designated use of a proposed building or structure which would conform with the zoning regulations then in effect, and for which a building permit shall have been issued, and plans for which are on file in the Department of Community Development prior to the effective date of the ordinance codified in this title, and the construction of which building or structure shall have been started within twelve months of the date of such building permit and diligently prosecuted to its completion.

(Ord. 1758 §1 (part), 1995)

CHAPTER 18.06
DEFINITIONS

Sections:

18.06.005 General Definitions

Except where specifically defined in this Chapter, all words used in this title shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular; the word "he" or "his" shall also refer to "she" or "her," the word "shall" is always mandatory, the word "may" denotes a use of discretion in making a decision; the words "used" or "occupied" shall be considered as though followed by the words "or intended, arranged or designed to be used or occupied."

(Ord. 1758 §1 (part), 1995)

18.06.010 Abandoned Mine Areas

"Abandoned mine areas" means those areas directly underlain by, adjacent to, or affected by mine workings such as adits, tunnels, drifts, or air shafts.

(Ord. 1758 §1 (part), 1995)

18.06.015 Access Road

"Access road" means that portion of a driveway which provides access to one or more parking lot or area, provides access to more than one property or lot, or may provide internal access from one street to another. This shall not include that portion of driveways whose primary function is to provide direct access to adjacent parking spaces and which, as a secondary function, also provides circulation within parking areas.

(Ord. 1758 §1 (part), 1995)

18.06.016 Accessory Dwelling Unit

"Accessory dwelling unit (ADU)" means a dwelling unit located on the same lot as a single-family housing unit, duplex, triplex, townhome, or other housing unit.

(Ord. 2716 §3, 2023; Ord. 2581 §1, 2018)

18.06.017 Adaptive Management

"Adaptive management" means the use of scientific methods to evaluate how well regulatory and non-regulatory actions protect a critical area.

(Ord. 2625 §1, 2020; Ord. 2075 §1 (part), 2004)

18.06.018 Adjacent

"Adjacent" means lying near or close to; sometimes, contiguous; neighboring. Adjacent implies that the two objects are not widely separated, though they may not actually touch.

(Ord. 2075 §1 (part), 2004)

18.06.020 Adult Day Care

"Adult day care" means a facility which provides supervised daytime programs where up to six frail and/or disabled adults can participate in social, educational, and recreational activities led by paid staff and volunteers.

(Ord. 1758 §1 (part), 1995)

18.06.025 Adult Entertainment Establishments

A. "Adult entertainment establishments" means adult motion picture theaters, adult drive-in theaters, adult bookstores, adult cabarets, adult video stores, adult retail stores, adult massage parlors, adult sauna parlors or adult bathhouses, which are defined as follows:

1. "Adult bathhouse" means a commercial bathhouse which excludes any person by virtue of age from all or any portion of the premises or which provides to its patrons an opportunity for engaging in "Specified Sexual Activities," with or without a membership fee."

2. "Adult bookstore" means a retail establishment in which:

a. 30% or more of the "stock-in-trade" consists of books, magazines, posters, pictures, periodicals or other printed materials distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas"; and/or

b. Any person is excluded by virtue of age from all or part of the premises generally held open to the public where such material is displayed or sold.

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

4. "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 age from all or any portion of the premises in which such service is provided.

5. "Adult motion picture theater" means a building, enclosure, or portion thereof, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

6. "Adult retail store" means retail establishment in which:

a. 30% or more of the "stock-in-trade" consists of items, products or equipment distinguished or characterized by an emphasis on or simulation of "specified sexual activities" or "specified anatomical areas"; and/or

b. Any person is excluded by virtue of age from all or part of the premises generally held open to the public where such items, products or equipment are displayed or sold.

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

8. "Adult video store" means a retail establishment in which:

a. 30% or more of the "stock-in-trade" consists of prerecorded video tapes, disks, or similar material distinguished or characterized by an emphasis on matter depicting, describing or

relating to "specified sexual activities" or "specified anatomical areas"; and/or

b. Any person is excluded by virtue of age from all or any part of the premises generally held open to the public where such prerecorded video tapes, disks or similar material are displayed or sold.

B. "Specified anatomical areas" means:

1. Less than completely and/or opaquely covered human genitals, pubic region, buttock, or female breast below a point immediately above the top of the areola;

2. Human male genitals in a discernibly turgid state even if completely or opaquely covered.

C. "Specified sexual activities" means:

1. Acts of human masturbation, sexual intercourse or sodomy; or

2. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast; or

3. Human genitals in a state of sexual stimulation or arousal.

D. "Stock-in-trade" means:

1. The dollar value of all products, equipment, books, magazines, posters, pictures, periodicals, prerecorded video tapes, discs, or similar material readily available for purchase, rental, viewing or use by patrons of the establishment, excluding material located in any storeroom or other portion of the premises not regularly open to patrons; or

2. The number of titles of all products, equipment, books, magazines, posters, pictures, periodicals, other printed materials, prerecorded video tapes, discs, or similar material readily available for purchase, rental, viewing or use by patrons of the establishment, excluding material located in any storeroom or other portion of the premises not regularly open to patrons.

(Ord. 2678 §1, 2022; Ord. 1758 §1 (part), 1995)

18.06.030 Airports

"Airports" means any area of land that is used or intended for the landing and takeoff of aircraft, any appurtenant areas that are used or intended for airport buildings or other airport facilities or rights-of-way, and all airport buildings and facilities.

(Ord. 2678 §2, 2022)

18.06.035 Alley

"Alley" means a public thoroughfare or way usually having a width of not more than 20 feet which affords only a secondary means of access to abutting property and is not intended for general traffic circulation.

(Ord. 1834 §1, 1998; Ord. 1758 §1 (part), 1995)

18.06.036 Alteration

"Alteration" means any human-induced change in an existing condition of a critical area or its buffer. Alterations include, but are not limited to, grading, filling, channelizing, dredging, clearing of vegetation, construction, compaction, excavation, or any other activity that changes the character of the critical area.

(Ord. 2625 §2, 2020)

18.06.037 Amusement Device

"Amusement device" means a structure such as a ferris wheel, roller coaster or climbing wall.

(Ord. 1815 §1, 1997)

18.06.045 Applicant

"Applicant" means a property owner or a public agency or public or private utility which owns a right-of-way or other easement, or has been adjudicated the right to an easement pursuant to RCW 8.12.090, or any person or entity designated in writing by the property or easement owner to be the applicant for a project permit, and who requests approval for a project permit.

(Ord. 1768 §1 (part), 1996; Ord. 1758 §1 (part), 1995)

18.06.048 Appurtenance

"Appurtenance" means a structure that is necessarily connected to the use and enjoyment of a single family residence, including a garage, deck, driveway, utilities, fences, installation of a septic tank and drain field and grading that does not exceed 250 cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark (WAC 173-27-040 (2) (g)).

(Ord. 2347 §1, 2011)

18.06.050 Area, Site

"Site area" means the total two-dimensional horizontal area within the property lines excluding external streets.

(Ord. 1758 §1 (part), 1995)

18.06.055 Areas of Potential Geologic Instability

"Areas of potential geologic instability" means those areas subject to potential landslides and/or potential seismic instabilities.

(Ord. 1758 §1 (part), 1995)

18.06.056 Armoring

"Armoring" means the control of shoreline erosion with hardened structures, such as bulkheads, sea walls, and riprap.

(Ord. 2347 §2, 2011)

18.06.058 Assisted Living Facility

"Assisted Living Facility" means a facility that is licensed by the Department of Social and Health Services pursuant to Chapter 18.20 RCW as currently defined or as may be thereafter amended. This definition does not include "diversion facility" or "diversion interim services facility."

(Ord. 2500 §1, 2016)

18.06.059 Bank

"Bank" means the rising ground bordering a water body and forming an edge or slope.

(Ord. 2347 §3, 2011)

18.06.060 Basement

"Basement" means that portion of a building between floor and ceiling which is all or partly below grade. If the finished floor level directly above a basement is more than two feet above grade for more than 20% of the total perimeter or is twelve feet above grade as defined at any point, such basement shall be considered as a story.

(Ord. 1758 §1 (part), 1995)

18.06.061 Battery Charging Station

"Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles and that meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and is consistent with rules adopted under RCW 19.27.540.

(Ord. 2324 §1, 2011)

18.06.062 Battery Exchange Station

"Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swap-able battery to enter a drive lane and exchange the depleted battery for a fully charged battery through a fully automated process that meets or exceeds any standards, codes, and regulations set forth by chapter 19.27 RCW and is consistent with rules adopted under RCW 19.27.540.

(Ord. 2324 §2, 2011)

18.06.063 Bed-and-Breakfast Lodging

"Bed-and-breakfast" means an owner-occupied dwelling unit that contains guest rooms where lodging is provided for compensation.

(Ord. 1976 §3, 2001; Ord. 1758 §1 (part), 1995)

18.06.064 Best Available Science

"Best Available Science" means that scientific information applicable to the critical area prepared by appropriate local, state or federal agencies, a qualified scientist or team of qualified scientists, which will be consistent with the criteria established in WAC 365-195-900 through WAC 365-195-925. Characteristics of a valid scientific process will be considered to determine whether information received during the permit review process is reliable scientific information. A valid scientific process includes some or all of the following characteristics:

1. Peer reviewed research or background information.
2. Study methods clearly stated.
3. Conclusions based on logical assumptions.
4. Quantitative analysis.
5. Proper context is established.
6. References are included that cite relevant, credible literature and other pertinent information.

(Ord. 2625 §3, 2020; Ord. 2075 §1 (part), 2004)

18.06.065 Best Management Practices

"Best management practices (BMPs)" means conservation practices and management measures which serve to protect trees, including the following practices:

1. Avoiding physical damage to tree trunk, branches, foliage and roots;
2. Restricting the movement, operation, and location of construction materials and equipment to avoid the area under a tree canopy;
3. Minimizing adverse changes in drainage conditions around tree roots;
4. Minimizing adverse changes to the chemical, physical, structural, and organic characteristics of soil around tree roots;
5. Those conservation practices defined by the State of Washington Department of Agriculture, Washington State Department of Ecology, and International Society of Arborists as intended to protect trees.

(Ord. 1758 §1 (part), 1995)

18.06.066 Binding Site Improvement Plan

"Binding Site Improvement Plan" means an improvement plan processed in accordance with Chapter 17.16, which is legally binding on the land owner, his heirs, successors and assigns.

(Ord. 1834 §2 (part), 1998)

18.06.070 Bioengineering

"Bioengineering" means integrating living woody and herbaceous materials with organic (plants, wood, jute mats, coir logs, etc) and inorganic materials (rocks, soils) to increase the strength and structure of the soil along a riverbank, accomplished by a dense matrix of roots that hold the soil together. The above-ground vegetation increases the resistance to flow and reduces flow velocities by dissipating energy.

(Ord. 2347 §4, 2011)

18.06.072 Block

"Block" means a group of lots, tracts or parcels, which have been subdivided, and are entirely surrounded by highways or streets or in part by a well-defined or fixed boundary.

(Ord. 1834 §2 (part), 1998)

18.06.073 Boarding House

"Boarding house" means a residential building or use which provides housing on a short term commercial basis for tenants. The following uses are excluded: Bed and breakfast facilities, hotels and motels, extended-stay hotels or motels, shelters, and facilities which provide short- or long-term care for tenants suffering from physical, mental or other disabilities.

(Ord. 2251 §3, 2009; Ord. 1976 §12, 2001)

18.06.074 Brew Pub

"Brew pub" means a restaurant-type establishment that meets the following criteria:

1. Sells beer for consumption on site and sale in sealed containers;
2. Restaurant portion can be no larger than 8,000 square feet;
3. Produces beer in batch sizes not less than seven U.S. barrels (thirty one gallons);
4. Produces no more than 2,000 barrels of beer per year;
5. The brew house is enclosed with an air treatment system;
6. Revenue from food sales must comprise at least 60% of total business revenues

(Ord. 1814 §1, 1997)

18.06.075 Buffer

"Buffer" means an area separating two different types of uses or environments for the purpose of reducing incompatibilities between them, or reducing the potential adverse impacts of one use or environment upon the other.

(Ord. 1758 §1 (part), 1995)

18.06.080 Building

"Building" means a structure as defined in this definitions chapter. When a total structure is separated by division walls without openings, each portion so separate shall be considered a separate building.

(Ord. 1758 §1 (part), 1995)

18.06.085 Building, Accessory

"Accessory building" means a subordinate building, the use of which is incident to the use of the main building on the same lot.

(Ord. 1758 §1 (part), 1995)

18.06.090 Building Area

"Building area" means the total ground coverage of a building or structure which provides shelter, measured from the outside of its external walls or supporting members or from a point four feet in from the outside edge of a cantilevered roof.

(Ord. 1758 §1 (part), 1995)

18.06.095 Building, Detached

"Detached building" means a building surrounded on all sides by open space.

(Ord. 1758 §1 (part), 1995)

18.06.097 Building Footprint

"Building footprint" means the square footage contained within the foundation perimeter of all structures located on a lot, plus overhangs projecting in excess of 18 inches, but excluding decks less than 18 inches above grade.

(Ord. 1971 §1, 2001)

18.06.100 Building Height

"Building height" means the height of a building as calculated by the method in the Washington State Building Code.

(Ord. 1971 §2, 2001; Ord. 1758 §1 (part), 1995)

18.06.105 Building Line

"Building line" means the line of face or corner of part of a building nearest the property line.

(Ord. 1758 §1 (part), 1995)

18.06.110 Building, Nonconforming

"Nonconforming building" means a building or structure which does not conform in its construction, area, yard requirements or height to the regulations of the district in which it is located.

(Ord. 1758 §1 (part), 1995)

18.06.115 Building Permit

"Building permit" means a permit for construction in accordance with specific approved plans that are on file with the DCD.

(Ord. 1758 §1 (part), 1995)

18.06.118 Bulk Retail

"Bulk retail" is a business or store that specializes in the sale of large goods, requiring large on-site storage. Bulk retail is further distinguished by a lower trip generation rate than other retail stores, as evidenced by a traffic study or other appropriate analysis. Examples include furniture stores, appliance stores and other uses as approved by the Director.

(Ord. 1795 §1 (part), 1997)

18.06.119 Bulkhead

"Bulkhead" means vertical structures erected parallel to and near the ordinary high water mark for the purpose of protecting adjacent uplands from erosion from the action of waves or currents.

(Ord. 2347 §5, 2011)

18.06.120 Bus Station

"Bus station" means a facility providing connections between buses serving different inter-city routes.

(Ord. 1758 §1 (part), 1995)

18.06.125 Caliper

"Caliper" means the AmericanHort accepted standard for measurement of trunk size of nursery stock. Caliper of the trunk for new trees shall be taken six inches above the ground for up to and including four-inch caliper size trees, and 12 inches above ground for larger size trees.

(Ord. 2569 §2, 2018; Ord. 1758 §1 (part), 1995)

18.06.130 Canopy

"Canopy" means an area encircling the base of a tree, the minimum extent of which is delineated by a vertical line extending from the outer limit of a tree's branch tips down to the ground.

(Ord. 1758 §1 (part), 1995)

18.06.135 Canopy Cover

"Canopy Cover" means the extent of the canopy for an individual tree, or the cumulative areal extent of the canopy of all trees on a site. When a tree trunk straddles a property line, 50% of the canopy shall be counted towards each property. The canopy coverage of immature trees and newly planted trees is determined using the projected canopy areas in the City of Tukwila's Recommended Tree List.

(Ord. 2569 §3, 2018; Ord. 1758 §1 (part), 1995)

18.06.137 Cargo Container

"Cargo container" means a standardized, reusable vessel that was:

1. Originally, specifically or formerly designed for or used in the packing, shipping, movement or transportation of freight, articles, goods or commodities; and/or,
2. Designed for or capable of being mounted or moved on a rail car; and/or
3. Designed for or capable of being mounted on a chassis or bogie for movement by truck trailer or loaded on a ship.

(Ord. 1989 §1, 2002)

18.06.140 Certified Arborist

See "Qualified Tree Professional"[1].

(Ord. 2569 §4, 2018; Ord. 1758 §1 (part), 1995)

18.06.142 Charging Levels

"Charging levels" means the standardized indicators of electrical force, or voltage, at which an electric vehicle's battery is recharged. The terms "Level 1, 2, and 3" are the most common EV charging levels and include the following specifications:

1. Level 1 is considered slow charging.
2. Level 2 is considered medium charging.
3. Level 3 is considered fast or rapid charging.

(Ord. 2324 §3, 2011)

18.06.143 Channel Migration Zone

"Channel migration zone" means the area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.

(Ord. 2347 §6, 2011)

18.06.145 Clearing

"Clearing" means removal or causing to be removed, through either direct or indirect actions, any vegetation from a site. Actions considered to be clearing include, but are not limited to, causing irreversible damage to roots or trunks; poisoning; destroying the structural integrity; and/or any filling, excavation, grading, or trenching in the root area of a tree which has the potential to cause irreversible damage to the tree.

(Ord. 1758 §1 (part), 1995)

18.06.150 Clinic, Outpatient Medical

"Clinic, Outpatient Medical" means a building designed and used for the medical, dental and surgical diagnosis and treatment of patients under the care of doctors and nurses and/or practitioners and does not include overnight care facilities. This category does not include diversion facility or diversion interim services facility.

(Ord. 2678 §3, 2022; Ord. 2287 §3, 2010; Ord. 1758 §1 (part), 1995)

18.06.152 Closed Record Appeal

"Closed record appeal" means a quasi-judicial appeal to a hearing body designated by this chapter from a decision regarding a project permit application that was made after an open record hearing. Testimony and submission of relevant evidence and information shall not be permitted at a hearing on such an appeal.

The hearing on such an appeal shall be limited to argument based on the testimony, evidence and documents submitted at the open record hearing conducted on the project permit application.

(Ord. 1768 §1 (part), 1996)

18.06.155 Club

"Club" means an incorporated or unincorporated association of persons organized for a social, education, literary or charitable purpose.

(Ord. 1758 §1 (part), 1995)

18.06.160 Commercial Laundries

"Commercial laundries" means an establishment where textiles are washed for commercial, industrial, and institutional entities not located on the same site.

(Ord. 2678 §4, 2022)

18.06.165 Comprehensive Plan

"Comprehensive Plan" means the adopted City of Tukwila Comprehensive Plan.

(Ord. 1758 §1 (part), 1995)

18.06.170 Continuing Care Retirement Community

"Continuing care retirement community" means housing planned and operated to provide a continuum of accommodations and services for seniors including, but not limited to, at least two of the following housing types: independent living, congregate housing, assisted living, and skilled nursing care.

(Ord. 2235 §1 (part), 2009)

18.06.172 Contractor Storage Yards

"Contractor storage yards" means storage yards operated by, or on behalf of, a contractor for storage of large equipment, vehicles, or other materials commonly used in the individual contractor's type of business; storage of scrap materials used for repair and maintenance of contractor's own equipment; and buildings or structures for uses such as offices and repair facilities.

(Ord. 2678 §5, 2022)

18.06.173 Convalescent/Nursing Home

"Convalescent/nursing home" means a residential facility, such as a hospice, offering 24-hour skilled nursing care for patients suffering from an illness, or receiving care for chronic conditions, mental or physical disabilities or alcohol or drug detoxification, excluding correctional facilities. Care may include in-patient administration of special diets, bedside nursing care and treatment by a physician or psychiatrist. The stay in a convalescent/nursing home is in excess of 24 consecutive hours. This category does not include diversion facility or diversion interim services facility.

(Ord. 2287 §4, 2010; Ord. 1976 §13, 2001)

18.06.175 Cooperative Parking Facility

"Cooperative parking facility" means an off-street parking facility shared by two or more buildings or uses.

(Ord. 1758 §1 (part), 1995)

18.06.178 Correctional Institution

"Correctional institution" means public and private facilities providing for:

1. the confinement of adult offenders; or
2. the incarceration, confinement or detention of individuals arrested for or convicted of crimes whose freedom is partially or completely restricted other than a jail owned and operated by the City of Tukwila; or
3. the confinement of persons undergoing treatment for drug or alcohol addictions whose freedom is partially or completely restricted; or
4. transitional housing, such as halfway houses, for offenders who are required to live in such facilities as a condition of sentence or release from a correctional facility, except secure community transitional facilities as defined under RCW 71.09.020.

(Ord. 1991 §1, 2002; Ord. 1976 §14, 2001)

18.06.180 Coverage

"Coverage" means the percentage of the area of a lot which is built upon or used for business or commercial purposes.

(Ord. 1758 §1 (part), 1995)

18.06.181 Critical Root Zone

"Critical Root Zone (CRZ)" means the area surrounding a tree at a distance from the trunk that is equal to one foot for every inch of trunk diameter measured at four and one-half feet from grade (DBH) or otherwise determined by a Qualified Tree Professional. *Example: A 24-inch diameter tree would have a CRZ of 24 feet. The total protection zone, including trunk, would be 48 feet in diameter.*

(Ord. 2569 §5, 2018)

18.06.182 Critical Areas

"Critical areas" means wetlands, watercourses, areas of potential geologic instability (other than Class I areas), abandoned coal mine areas, fish and wildlife habitat conservation areas, and special hazard flood areas.

(Ord. 2625 §9, 2020; Ord. 2075 §1 (part), 2004; Ord. 1758 §1 (part), 1995)

(001) Critical Area Buffer

"Critical area buffer" means an area lying adjacent to but outside a critical area as defined by this Title, whose function is to protect critical areas from the potential adverse impacts of development, land use, or other activities. A wetland or watercourse critical area buffer also provides critical habitat value, bank stabilization, or water overflow area functions.

(Ord. 2625 §7, 2020; Ord. 1758 §1 (part), 1995)

(007) Critical Areas Ordinance

"Critical Areas Ordinance" means the Environmentally Critical Areas chapter of this title or as amended hereafter which establishes standards for land development on lots with critical areas (e.g. steep slopes, wetlands, watercourses, etc.).

(Ord. 2625 §10, 2020; Ord. 2075 §1 (part), 2004; Ord. 1758 §1 (part), 1995)

(010) Critical Area Regulated Activities

"Critical area regulated activities" means any of the following activities that are directly undertaken or originate in a regulated wetland or watercourse or their buffers:

1. Removal, excavation, grading or dredging of soil, sand, gravel, minerals, organic matter or material of any kind;
2. Dumping, discharging or filling with any material;
3. Draining, flooding or disturbing the water level or water table;
4. Driving of pilings;
5. Placing of obstructions;
6. Construction, reconstruction, demolition or expansion of any structure;
7. Destruction or alteration of wetlands, watercourses or their buffers through clearing, harvesting, shading, intentional burning or planting of vegetation that would alter the character of a regulated wetland, watercourse or buffer, provided that these activities are not part of a forest practice governed under RCW 76.09 and its rules; or
8. Activities that result in a significant change to the water sources of wetlands or watercourses. These alterations include a significant change in water temperature; physical or chemical characteristics, including quantity; and the introduction of pollutants.

(Ord. 2625 §8, 2020; Ord. 1758 §1 (part), 1995)

(013) Critical Area Tract or Easement

"Critical area tract or easement" means a tract or portion of a parcel that is created to protect the critical area and its buffer, whose maintenance is assured, and which is recorded on all documents of title of record for all affected lots and subsequent owners.

(Ord. 2625 §11, 2020; Ord. 2075 §1 (part), 2004; Ord. 1758 §1 (part), 1995)

18.06.183 Cul-de-Sac

"Cul-de-sac" means a street having one end open to traffic and being terminated at the other end by a circular vehicular turn-around.

(Ord. 1834 §2 (part), 1998)

18.06.185 Curb-Cut

"Curb-cut" means a depression in the roadside curb for driveway purposes which provides access to a parking space on private premises from a public street.

(Ord. 1758 §1 (part), 1995)

18.06.190 Dangerous Waste

"Dangerous waste" means those solid wastes designated in WAC 173-303-070 through 173-303-103 as dangerous waste.

(Ord. 1758 §1 (part), 1995)

18.06.195 Day Care Center

"Day care center" means a state licensed agency which regularly provides care for a group of children during part of the 24-hour day.

(Ord. 1758 §1 (part), 1995)

18.06.196 Daylighting

"Daylighting" means removing piped sections of a watercourse to create open channels for watercourse conveyance.

(Ord. 2075 §1 (part), 2004)

18.06.198 Dedication

"Dedication" means a deliberate appropriation of land by its owner for any general and public uses, reserving to himself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.

(Ord. 1834 §2 (part), 1998)

18.06.199 Defective Tree

"Defective Tree" means a tree that meets all of the following criteria:

1. A tree with a combination of structural defects and/or disease that makes it subject to a high probability of failure; and
2. A tree in proximity to moderate to high frequency targets (persons or property that can be damaged by tree failure); and
3. The hazard condition of the tree cannot be lessened with reasonable and proper arboricultural practices nor can the target be removed.

(Ord. 2523 §1, 2017)

18.06.200 Density Transfer

"Density transfer" means a percentage number which represents a credit for housing units which are not allowed to be built in wetlands, watercourses or their buffers. The density transfer is used in a formula for determining the number of residential units allowed on the buildable portion of a lot containing wetlands, watercourses and their buffers.

(Ord. 1758 §1 (part), 1995)

18.06.202 Department

"Department" means the Department of Community Development.

(Ord. 1768 §1 (part), 1996)

18.06.203 Design Criteria

"Design criteria" explains mandatory design requirements for development proposals subject to design review. They are the decision criteria by which the Board of Architectural Review or DCD Director decides whether to approve, condition or deny a project.

(Ord. 2235 §3 (part), 2009; Ord. 1865 §1, 1999)

18.06.204 Design Guidelines

"Design guidelines" consist of advisory or recommended descriptions and illustrations that augment each design criteria, and provide guidance to the project applicant developing the project, to City staff in reviewing a project proposal, and to the Board of Architectural Review or DCD Director in determining whether the project meets the design criteria.

(Ord. 2235 §4 (part), 2009; Ord. 1865 §2, 1999)

18.06.205 Designated Facility Zone

"Designated facility zone" means a zoning district in which hazardous waste treatment and storage facilities are allowed uses, subject to the State siting criteria designated in RCW 70.105.

(Ord. 1758 §1 (part), 1995)

18.06.208 Detached Zero-Lot-Line Units

"Detached zero-lot-line units" means a development pattern of detached dwelling units constructed immediately adjacent to one side lot line (i.e., no side yard setback), coupled with an easement on the adjacent lot in order to maintain separation between structures. The easement will provide access rights for maintenance purposes, and help preserve privacy and usable yard space.

(Ord. 2199 §5, 2008)

18.06.210 Development

"Development" means the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure that requires a building permit.

(Ord. 1758 §1 (part), 1995)

18.06.215 Development Area

"Development area" means the impervious surface area plus 75% of any area of pervious hard surface.

(Ord. 2518 §3, 2016; Ord. 2075 §1 (part), 2004; Ord. 1758 §1 (part), 1995)

18.06.217 Development, Shoreline

"Development, shoreline" means, when conducted within the Shoreline Jurisdiction on shorelands or shoreland areas as defined herein, a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; construction of bulkheads; driving of piling; placing of obstructions; or any project of a permanent or temporary nature that interferes with the normal public use of the waters overlying lands subject to the Shoreline Management Act at any stage of water level. "Development, Shoreline" does not include dismantling or removing structures if there is no other associated development or re-development.

(Ord. 2627 §1, 2020; Ord. 2347 §8, 2011)

18.06.220 Diameter at Breast Height (DBH)

"Diameter at Breast Height (DBH)" means the diameter of existing trees measured four and one-half feet above the ground.

(Ord. 2569 §8, 2018; Ord. 1758 §1 (part), 1995)

18.06.222 Dike

"Dike" means an embankment or structure built in the river channel to contain or redirect flow within the channel and prevent shoreline destabilization.

(Ord. 2347 §7, 2011)

18.06.225 Director

"Director" means the Director of the Department of Community Development.

(Ord. 1758 §1 (part), 1995)

18.06.230 District

"District" means an area or district accurately defined as to boundaries and location on the official zoning map *(Figure 18-10)* and within which district only certain types of land uses are permitted.

(Ord. 1758 §1 (part), 1995)

18.06.232 District, Overlay

"District, overlay" means a set of zoning requirements that is described in the title text, mapped, and is imposed in addition to those of the underlying district

(Ord. 1758 §1 (part), 1995)

18.06.234 Diversion Facility

"Diversion facility" is a facility that provides community crisis services, which diverts people from jails, hospitals or other treatment options due to mental illness or chemical dependency, including those facilities that are considered "Triage facilities" under RCW 71.05.020 (43) and those facilities licensed as crisis stabilization units by the State of Washington.

(Ord. 2353 §2, 2011; Ord. 2287 §1, 2010)

18.06.235 Diversion Interim Services Facility

"Diversion interim services facility" is a facility that provides interim or respite services, such as temporary shelter, medical mental health treatment, case management or other support options such as transportation arrangements for patients who are referred to such a facility from a diversion facility.

(Ord. 2287 §2, 2010)

18.06.237 Dormitory

"Dormitory" means a residential building or use which provides housing for students attending an affiliated school or housing for members of a religious order. Dormitories may include kitchens, cafeterias, meeting rooms, laundry rooms and other accessory facilities to serve the residents of the facility.

(Ord. 1976 §15, 2001)

18.06.240 Driveway

"Driveway" means a private road giving access from a public way to a building or abutting grounds.

(Ord. 1758 §1 (part), 1995)

18.06.242 Durable Uniform Surface

"Durable uniform surface" means a durable uniform surface approved for the storage of vehicles by the City and consists of:

1. Permeable pavement, such as grasscrete, porous pavers, permeable asphalt; or
2. Three inches of 3/8" to 1-1/4" crushed porous aggregate consisting of open-graded top course, base course, or similar material with 35-40% porosity. Mud or other fine materials should be prevented from working their way to the surface by the installation of a geotextile fabric, quarry spalls, or other approved materials below the porous aggregate; or

3. Concrete (4" minimum Portland cement concrete) over gravel section as described above and sloped to drain to prevent drainage impacts; or

4. Blacktop (2" minimum asphalt concrete pavement) over gravel section as described above and sloped to drain to prevent drainage impacts; or

5. Any other configuration of materials approved by the City that maintains a durable uniform surface and prevents drainage impacts.

(Ord. 2518 §5, 2016)

18.06.245 Dwelling, Manufactured Home or Mobile Home

"Manufactured home dwelling" means a single-family dwelling required to be built in accordance with the regulations adopted under the National Manufactured Housing Construction and Safety Standards Act of 1974

(Ord. 2097 §1, 2005; Ord. 1758 §1 (part), 1995)

18.06.246 Dwelling, Mobile Home

"Dwelling, mobile home" means a factory-built dwelling constructed before June 15, 1976, to standards other than the National Manufactured Housing Construction and Safety Standards Act of 1974 and acceptable under applicable State codes in effect at the time of construction or introduction of the home into this state.

(Ord. 2097 §1, 2005)

18.06.247 Dwelling, Multi-Family

"Multi-family dwelling" means a building designed to contain two or more dwelling units. Duration of tenancy in multi-family dwellings is not less than one month.

(Ord. 1976 §4, 2001; Ord. 1758 §1 (part), 1995)

18.06.248 Dwelling, Single-Family

"Single-family dwelling" means a building, modular home or new manufactured home, designed to contain no more than one dwelling unit plus two accessory dwelling units.

(Ord. 2716 §4, 2023; Ord. 2098 §1, 2005; Ord. 1976 §5, 2001; Ord. 1758 §1 (part), 1995)

18.06.249 Dwelling Unit

"Dwelling unit" means the whole of a building or a portion thereof providing complete housekeeping facilities for a group of individuals living together as a single residential community, with common cooking, eating and bathroom facilities, other than transitory housing or correctional facilities as defined in this code, which is physically separated from any other dwelling units which may be in the same structure.

(Ord. 1976 §7, 2001; Ord. 1758 §1 (part), 1995)

18.06.250 Ecological/Ecosystem Functions (or Shoreline Functions)

"Ecological/ecosystem functions (or shoreline functions)" means the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. See WAC 173-26-200 (2)(c).

(Ord. 2347 §9, 2011)

18.06.252 Ecosystem-Wide Processes

"Ecosystem-wide processes" means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.

(Ord. 2347 §10, 2011)

18.06.255 Emergency Housing

"Emergency housing" shall have the meaning listed in RCW 36.70A.030.

(Ord. 2658 §2, 2021)

(001) Emergency Shelter

"Emergency shelter" shall have the meaning listed in RCW 36.70A.030.

(Ord. 2658 §3, 2021)

(002) Permanent Supportive Housing

"Permanent supportive housing" shall have the meaning listed in RCW 36.70A.030.

(Ord. 2658 §4, 2021)

(003) Transitional Housing

"Transitional housing" means a facility that provides housing, case management, and supportive services to homeless persons or families and that has as its purpose facilitating the movement of homeless persons and families into independent living.

(Ord. 2658 §5, 2021)

(004) Domestic Shelter

"Domestic Shelter" means a one- or two-unit residential building providing housing on a short-term basis for victims of abuse and their dependents (children under the age of 18).

(Ord. 2658 §5, 2021; Ord. 1976 §16, 2001)

18.06.258 Electric vehicle

"Electric vehicle" means any vehicle that operates, either partially or exclusively, on electrical energy from the grid, or an off-board source, that is stored on-board for motive purpose. "Electric vehicle" includes: (1) a battery electric vehicle; (2) a plug-in hybrid electric vehicle; (3) a neighborhood electric vehicle; and (4) a medium-speed electric vehicle.

(Ord. 2324 §4, 2011)

18.06.259 Electric Vehicle Charging Station

"Electric vehicle charging station" means a public or private parking space that is served by battery charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle.

(Ord. 2324 §5, 2011)

18.06.260 Electric Vehicle Charging Station-Restricted

"Electric vehicle charging station—restricted" means an electric vehicle charging station that is (1) privately owned and has restricted access (e.g., single-family home, executive parking, designated employee parking) or (2) publicly owned and restricted (e.g., fleet parking with no access to the general public).

(Ord. 2324 §6, 2011)

18.06.261 Electric Vehicle Charging Station-Public

"Electric vehicle charging station—public" means an electric vehicle charging station that is (1) publicly owned and publicly available (e.g., Park & Ride parking, public library parking lot, on-street parking) or (2) privately owned and publicly available (e.g., shopping center parking, non-reserved parking in multi-family parking lots).

(Ord. 2324 §7, 2011)

18.06.262 Electric Vehicle Infrastructure

"Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

(Ord. 2324 §8, 2011)

18.06.263 Electric Vehicle Parking Space

"Electric vehicle parking space" means any marked parking space that identifies the use to be exclusively for the parking of an electric vehicle.

(Ord. 2324 §9, 2011)

18.06.264 Engineer, Geotechnical

"Geotechnical engineer" means a professional engineer who can document at least four years of employment as a professional engineer in the field of geotechnical engineering.

(Ord. 2075 §1 (part), 2004; Ord. 1758 §1 (part), 1995)

18.06.266 Engineer, Professional

"Professional engineer" means an engineer licensed in the State of Washington.

(Ord. 2075 §1 (part), 2004)

18.06.268 Engineering, Geotechnical

"Geotechnical engineering" means the application of civil engineering technology that combines the basic physical sciences, geology and pedology, with hydraulic, structural, transportation, construction, and mining engineering as each relates to the natural materials found at or near the earth's surface (soils and rock). Geotechnical engineering includes:

1. Soils mechanics: kinematics, dynamics, fluid mechanics, and mechanics of material applied to soils in order to build with or on soils.

2. Foundation engineering: applied geology, soil mechanics, rock mechanics, structural engineering to design, and construction of civil engineering and other structures. Evaluate foundation performance (static and dynamic loading), stability of natural and excavated slopes, stability of permanent and temporary earth-retaining structures, construction problems, control of water movement and soil pressures, maintenance and rehabilitation of old buildings.

3. Rock engineering: buildings, dams, deep excavations, tunnels.

(Ord. 2075 §1 (part), 2004)

18.06.269 Environment Designation

"Environment designation" means the term used to describe the character of the shoreline in Tukwila based upon the recommended classification system established by WAC 173-26-211 and as further refined by Tukwila's Shoreline Master Program (SMP).

(Ord. 2347 §11, 2011)

18.06.270 Essential Public Facility

"Essential public facility" means a facility which provides a basic public service, provided in one of the following manners: directly by a government agency, by a private entity substantially funded or contracted for by a government agency, or provided by a private entity subject to public service obligations (i.e., private utility companies which have a franchise or other legal obligation to provide service within a defined service area). This does not include facilities that are operated by a private entity in which persons are detained in custody under process of law pending the outcome of legal proceedings.

(Ord. 2678 §6, 2022; 1758 §1 (part), 1995)

18.06.280 Essential Use

"Essential use" means that use for the preservation or promotion of which the use district was created and to which all other permitted uses are subordinate.

(Ord. 1758 §1 (part), 1995)

18.06.283 Essential Utility

"Essential utility" means a utility facility or utility system where no feasible alternative location exists based on an analysis of technology and system efficiency.

(Ord. 2625 §5, 2020)

18.06.285 Essential Street, Road, or Right-of-Way

"Essential street, road, or right-of-way" means a street, road or right-of-way where no feasible alternative location exists based on an analysis of technology and system efficiency.

(Ord. 2625 §4, 2020; Ord. 1758 §1 (part), 1995)

18.06.287 Extended-Stay Hotel or Motel

"Extended-stay hotel or motel" means a building or buildings or portion thereof, the units of which contain independent provisions for living, eating and sanitation including, but not limited to, a kitchen sink and permanent cooking facilities, a bathroom and a sleeping area in each unit, and are specifically constructed, kept, used, maintained, advertised and held out to the public to be a

place where temporary residence is offered for pay to persons for a minimum stay of more than 30 days and a maximum stay of six months per year. Extended-stay hotels or motels shall not include dwelling units, as defined in this section, for permanent occupancy. The specified units for extended-stay must conform to the required features, building code, and fire code provisions for dwelling units as set forth in this code. Nothing in this definition prevents an extended-stay unit from being used as a hotel or motel unit. Extended-stay hotel or motels shall be required to meet the hotel/motel parking requirements. Not included are institutions housing persons under legal restraint or requiring medical attention or care.

(Ord. 2251 §4, 2009)

18.06.290 Extremely Hazardous Waste

"Extremely hazardous waste" means those solid wastes designated in WAC 173-303-070 through 173-303-103 as extremely hazardous waste.

(Ord. 1758 §1 (part), 1995)

18.06.300 Family Child Care Home

"Family child care home" means a "family day-care provider" as defined in RCW 74.15.020: a state-licensed facility in the family residence of the licensee providing regularly scheduled care for 12 or fewer children, including children who reside at the home, within an age range of birth through 11 years, exclusively for periods less than 24 hours per day. An off-street parking space shall be made available for any non-resident employee.

(Ord. 1976 §10, 2001; Ord. 1758 §1 (part), 1995)

18.06.305 Feasible

"Feasible" means, for the purpose of the Shoreline Master Program, that an action such as a development project, mitigation, or preservation requirement, meets all of the following conditions:

1. The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;
2. The action provides a reasonable likelihood of achieving its intended purpose; and
3. The action does not physically preclude achieving the project's primary intended legal use.

In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

(Ord. 2347 §12, 2011)

18.06.310 Fence

"Fence" means a wall or barrier for the purpose of enclosing space, separating parcels of land or acting as a screen or protective barrier.

(Ord. 1758 §1 (part), 1995)

18.06.315 Filling

"Filling" means the act of transporting or placing (by any manner or mechanism) fill material from, to, or on any soil surface, natural vegetative covering of soil surface, or fill material (including temporary stockpiling of fill material).

(Ord. 1758 §1 (part), 1995)

18.06.318 Final Plat

"Final plat" means the final drawing of the subdivision and dedication prepared for filing for record with the Department of Records and Elections, and containing all elements and requirements set forth in the subdivision code.

(Ord. 1834 §2 (part), 1998)

18.06.320 Fire Lane

"Fire lane" means an aisle, lane or roadway on an improved site which is designed, constructed and required for emergency access of fire and aid unit vehicles.

(Ord. 1758 §1 (part), 1995)

18.06.325 Floor Area

"Floor area" means the sum of the gross horizontal areas of the floors of a building or buildings, measured from the exterior walls and from the centerline of divisions walls. Floor area includes basement space, elevator shafts and stairwells at each floor, mechanical equipment rooms or attic spaces with headroom of 7 feet 6 inches or more, penthouse floors, interior balconies and mezzanines, enclosed porches, and malls. Floor area shall not include accessory water tanks and cooling towers, mechanical equipment or attic spaces with headroom of less than 7 feet 6 inches, exterior steps or stairs, terraces, breezeways and open spaces.

(Ord. 1758 §1 (part), 1995)

18.06.330 Flood Plain

"Flood plain" means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year (synonymous with 100-year flood plain). The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method that meets the objectives of the Shoreline Management Act.

(Ord. 2347 §13, 2011)

18.06.335 Flood Hazard Reduction

"Flood hazard reduction" means actions taken to reduce flood damage or hazards. Flood hazard reduction measures may consist of nonstructural or indirect measures, such as setbacks, land use controls, wetland restoration, dike removal, use relocation, bioengineering measures, and storm water management programs; and of structural measures such as dikes and levees intended to contain flow within the channel, channel realignment, and elevation of structures consistent with the National Flood Insurance Program.

(Ord. 2347 §14, 2011)

18.06.338 Floodway

"Floodway" means the area that has been established in effective federal emergency management agency flood insurance rate maps or floodway maps. The floodway does not include lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

(Ord. 2627 §2, 2020; Ord. 2347 §15, 2011)

18.06.340 Fraternal Organization

"Fraternal organization" means a group of people formally organized for a common interest, usually cultural, religious or entertainment, with regular meetings, rituals and formal written membership requirements.

(Ord. 1758 §1 (part), 1995)

18.06.345 Garage, Private

"Private garage" means sheltered or enclosed space designed and used for the storage of motor vehicles or boats of the residents of the premises.

(Ord. 1758 §1 (part), 1995)

18.06.353 General Retail

"General retail" is a business or a store which engages in the sale of goods and/or services to the general public. Examples include department stores and personal service shops.

(Ord. 1795 §1 (part), 1997)

18.06.355 Geologist

"Geologist" means a person licensed to practice as a geologist in the State of Washington who has earned a degree in geology, engineering geology, hydrogeology or one of the related geological sciences from an accredited college or university, or a person who has equivalent educational training and has experience as a practicing geologist.

(Ord. 2075 §1 (part), 2004; Ord. 1758 §1 (part), 1995)

18.06.365 Grade

"Grade" (adjacent ground elevation) means the lowest point of elevation of the finished surface of the ground between the exterior wall of a building and a point five feet distant from said wall, or the lowest point of elevation of the finished surface of the ground between the exterior wall of a building and the property line, if it is less than five feet distant from said wall. In case walls are parallel to and within five feet of a public sidewalk, alley, or other public way, the grade shall be the elevation of the sidewalk, alley or public way.

(Ord. 1758 §1 (part), 1995)

18.06.370 Grading

"Grading" means activity that results in change of the cover or topography of the earth, or any activity that may cause erosion, including clearing, excavation, filling and stockpiling.

(Ord. 2347 §16, 2011; Ord. 1758 §1 (part), 1995)

18.06.380 Groundcover

"Groundcover" means trees, shrubs and any other plants or natural vegetation which covers or shades in whole or in part the earth's surface.

(Ord. 1758 §1 (part), 1995)

18.06.385 Hazardous Substance

"Hazardous substance" means any liquid, solid, gas or sludge, including any material, substance, product, commodity or waste, regardless of quantity, that exhibits any of the characteristics or criteria of hazardous waste as defined by WAC 173-303.

(Ord. 1758 § 1 (part), 1995)

18.06.390 Hazardous Substance Processing or Handling

"Hazardous substance processing or handling" means the use, storage, manufacture, production, or other land use activity involving hazardous substances. Hazardous substances processing and handling activities do not include individually packaged household consumer products or quantities of hazardous substances of less than five gallons in volume per container.

(Ord. 1758 §1 (part), 1995)

18.06.395 Hazardous Tree

See "Defective Tree."

(Ord. 2523 §2, 2017; Ord. 1758 §1 (part), 1995)

18.06.400 Hazardous Waste

"Hazardous waste" means and includes all waste as defined in this definitions chapter and all extremely hazardous waste as defined in this definitions chapter.

(Ord. 1758 §1 (part), 1995)

18.06.405 Hazardous Waste Storage

"Hazardous waste storage" means the holding of hazardous waste for a temporary period. Accumulation of waste on the site of generation is not storage as long as the storage complies with applicable requirements of WAC 173-303.

(Ord. 1758 §1 (part), 1995)

18.06.410 Hazardous Waste Treatment

"Hazardous waste treatment" means the physical, chemical, or biological processing of dangerous waste to make such wastes non-dangerous or less dangerous, safer for transport, or amenable for energy or material resource recovery.

(Ord. 1758 §1 (part), 1995)

18.06.415 Hazardous Waste Treatment and Storage Facility, Off-Site

"Off-site hazardous waste treatment and storage facility" means the treatment and storage of hazardous wastes from generators on properties other than that on which the off-site facility is located.

(Ord. 1758 §1 (part), 1995)

18.06.420 Hazardous Waste Treatment and Storage Facility, On-Site

"On-site hazardous waste treatment and storage facility" means the treatment and storage of hazardous wastes generated on the same site.

(Ord. 1758 §1 (part), 1995)

18.06.430 Home Occupation

"Home occupation" means an occupation or profession which is customarily incident to or carried on in a dwelling place, and not one in which the use of the premises as a dwelling place is largely incidental to the occupation carried on by a resident of the dwelling place.

(Ord. 2718 §3, 2023; Ord. 1974 §11, 2001; Ord. 1758 § 1 (part), 1995)

18.06.435 Hospital

"Hospital" means a building requiring a license pursuant to Chapter 70.41 RCW and used for the medical and surgical diagnosis, treatment and housing of persons under the care of doctors and nurses. Rest homes, nursing homes, convalescent homes, diversion facility/diversion interim services facility and outpatient medical clinics are not included.

(Ord. 2287 §5, 2010; Ord. 1758 §1 (part), 1995)

18.06.440 Hotel

"Hotel" means a building, or buildings or portion thereof, the units of which are used, rented or hired out as sleeping accommodations only for the purpose of transitory housing. Hotel rooms shall have their own private toilet facilities, and may or may not have their own kitchen facilities. Hotels shall not include dwelling units, as defined in this section, for permanent occupancy. A central kitchen, dining room and accessory shops and services catering to the general public can be provided. No room may be used by the same person or persons for a period exceeding thirty (30) calendar days per year. Not included are institutions housing persons under legal restraint or requiring medical attention or care.

(Ord. 2251 §5, 2009; Ord. 1758 §1 (part), 1995)

18.06.445 Impervious Surface

"Impervious surface" means those hard surfaces which prevent or retard the entry of water into the soil in the manner that such water entered the soils under natural conditions prior to development; or a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Such surfaces include, but are not limited to, rooftops, asphalt or concrete paving, compacted surfaces or other surfaces which similarly affect the natural infiltration or runoff patterns existing prior to development.

(Ord. 1758 §1 (part), 1995)

18.06.450 Infrastructure

"Infrastructure" means the basic installations and facilities on which the continuance and growth of a community depend, such as roads, public buildings, schools, parks, transportation, water, sewer, surface water and communication systems.

(Ord. 1758 §1 (part), 1995)

18.06.453 Integrated Site

"Integrated site" means a commercial or industrial zoned property for which a Binding Site Improvement Plan is being or has been approved and recorded. The site typically contains within it multiple tracts of land under separate leasehold or ownership, but functions as a single center. Characteristics of an integrated site includes commonly shared access, parking, utilities, signage and landscaping; the site is not bisected by a public or private street; and zoning and sign regulations are applied to the entire site, as if there were no interior property lines.

(Ord. 1834 §2 (part), 1998)

18.06.454 Internet Data/Telecommunication Center

"Internet data/telecommunication center" means a secure, climate-controlled facility with emergency backup power that contains internet data transmission and switching equipment and/or telecommunication transmission and switching equipment. This equipment may include computer network routers, switches and servers for one or more companies.

(Ord. 1974 §1, 2001)

18.06.456 Invasive Plant and Tree List

"Invasive Plant and Tree List" means the City of Tukwila's list of plants and trees that are prohibited from being planted in

landscaped areas subject to an approved landscape plan, and City properties and rights-of-way.

(Ord. 2569 §12, 2018)

18.06.460 Junk Yard

"Junk yard" means a lot, land or structure, or part thereof, used for the collection, storage and sale of waste paper, rags, scrap metal or discarded material; or for the collecting, dismantling, storage, salvaging and sale of parts of machinery or vehicles not in running condition.

(Ord. 1758 §1 (part), 1995)

18.06.465 Kennel

"Kennel" means a place where four or more dogs or cats or any combination thereof are kept.

(Ord. 1758 §1 (part), 1995)

18.06.470 Laboratory, Medical and Dental

"Medical or dental laboratory" means premises devoted to sample testing or product development in any branch of medicine or dentistry, including the application of scientific principles in testing, analysis, or preparation of drugs, chemicals or other products or substances but specifically excluding the commercial manufacturing or storage and distribution operations in excess of 20,000 square feet of floor area.

(Ord. 1758 §1 (part), 1995)

18.06.472 Large Woody Debris (LWD)

"Large Woody Debris (LWD)" means whole trees with root wads and limbs attached, cut logs at least 4 inches in diameter along most of their length, root wads at least 6.5 feet long and 8 inches in diameter. Large woody debris is installed to address a deficiency of habitat and natural channel forming processes.

(Ord. 2347 §17, 2011)

18.06.473 Land Surveyor

"Land surveyor" means an individual registered in accordance with the provisions of RCW 18.43 and licensed to perform land surveys in the State of Washington.

(Ord. 1834 §2 (part), 1998)

18.06.475 Land-Altering Activity

"Land-altering activity" means any activity that results in change of the natural cover or topography, as defined in TMC Chapter 16.54, Land Altering.

(Ord. 1758 §1 (part), 1995)

18.06.480 Land-Altering Permit

"Land-altering permit" means a permit for land-altering activity issued by the City of Tukwila pursuant to TMC Chapter 16.54, Land Altering.

(Ord. 1758 §1 (part), 1995)

18.06.486 Landscape Design Professional

"Landscape Design Professional" means a landscape architect licensed by the State of Washington or an individual who has graduated from an accredited landscape design program.

(Ord. 2569 §14, 2018)

18.06.490 Landscaping or Landscaped Areas

"Landscaping or landscaped areas" means natural vegetation such as trees, shrubs, groundcover, and other landscape materials arranged in a manner to produce an aesthetic effect appropriate for the use to which the land is put. In addition, landscaping or landscaped areas may serve as bioswales to reduce storm water runoff, subject to the standards of this chapter and TMC Chapter 14.30.

(Ord. 2569 §15, 2018; Ord. 1758 §1 (part), 1995)

(001) Mulch

"Mulch" means wood chips, bark or other organic material that covers the ground for weed control and water retention purposes.

(Ord. 2569 §16, 2018)

18.06.492 Lease

"Lease" means a contract or agreement whereby one party grants to another party general or limited rights, title or interest in real property. This definition is intended to apply to those agreements which are ordinarily considered "ground leases", and shall not apply to those which are ordinarily considered "space leases."

(Ord. 1834 §2 (part), 1998)

18.06.493 Levee

"Levee" means a broad embankment of earth built parallel with the river channel to contain flow within the channel and prevent flooding from a designated design storm.

(Ord. 2347 §18, 2011)

18.06.495 Loading Space

"Loading space" means a space which is on the same site with the principal use served and which provides for the temporary parking of a vehicle while loading or unloading merchandise, materials or passengers.

(Ord. 1758 §1 (part), 1995)

18.06.500 Lot

A. "Lot" means a physically separate and distinct parcel of property which:

1. was created by plat, short plat, or binding site plan; or

2. was bought or sold as a separately-owned parcel of property prior to the requirement that lots be created by plat, short plat, or binding site plan; or

3. was created by a transaction which was exempt from the requirement that lots be created by plat, short plat or binding site plan.

B. "Lots" may be bought or sold as separate parcels of property, but the fact that a parcel of property is defined as a "lot" does not necessarily mean that it may be developed as a separate building site.

(Ord. 2097 §3, 2005; Ord. 1758 §1 (part), 1995)

18.06.505 Lot Area

"Lot area" means the total horizontal area within the boundary lines of a lot and exclusive of street right-of-way, street easement, fire access roads or private access roads except, where the private road serves four or fewer lots.

(Ord. 2251 §6, 2009; Ord. 1834 §3, 1998; Ord. 1758 §1 (part), 1995)

18.06.510 Lot, Corner

"Corner lot" means a lot abutting two or more streets or parts of the same street forming an interior angle of less than 135 degrees within the lot lines.

(Ord. 1758 §1 (part), 1995)

18.06.520 Lot Depth

"Lot depth" means the mean dimension of the lot from the front street line to the rear line.

(Ord. 1758 §1 (part), 1995)

18.06.525 Lot Frontage

"Lot frontage" means that front portion of a lot nearest the street, except on a corner lot in which case the front yard shall be considered the narrowest part of the lot that abuts a street.

(Ord. 1758 §1 (part), 1995)

18.06.530 Lot Lines

"Lot lines" means the property lines bounding the lot; except that in MDR and HDR zones, lot lines shall also include the curbline or edge or easement, whichever provides a greater width, of any adjacent 'access roads'.

(Ord. 1758 §1 (part), 1995)

18.06.535 Lot, Interior

"Interior lot" means a lot other than a corner lot with only one frontage on a street.

(Ord. 1758 §1 (part), 1995)

18.06.538 Lot, Parent

"Parent lot" means the initial lot from which unit lots are subdivided for the exclusive use of townhouses, cottage housing, compact single-family, zero-lot-line units, or any combination of the above types of residential development.

(Ord. 2199 §6, 2008)

18.06.540 Lot, Through

"Through lot" means a lot fronting on two streets that do not intersect on the parcel's lot lines.

(Ord. 1758 §1 (part), 1995)

18.06.543 Lot, Unit

"Unit lot" means one of the individual lots created from the subdivision of a parent lot for the exclusive use of townhouses, cottage housing, compact single-family, zero-lot-line units, or any combination of the above types of residential development.

(Ord. 2199 §7, 2008)

18.06.545 Lot Width

"Lot width" means the mean horizontal distance between lot side lines.

(Ord. 1758 §1 (part), 1995)

18.06.551 Marijuana

"Marijuana" means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(Ord. 2407 §2, 2013)

18.06.552 Marijuana Processor

"Marijuana processor" means a person licensed by the state Liquor and Cannabis Board to process marijuana, whether medical or recreational, into marijuana concentrates, useable marijuana and marijuana-infused products; package and label marijuana concentrates, useable marijuana and marijuana-infused products for sale in retail outlets; and sell marijuana concentrates, useable marijuana and marijuana-infused products at wholesale to marijuana retailers.

(Ord. 2479 §3, 2015; Ord. 2407 §3, 2013)

18.06.553 Marijuana Producer

"Marijuana producer" means a person licensed by the state Liquor and Cannabis Board to produce and sell marijuana, whether medical or recreational, at wholesale to marijuana processors and other marijuana producers.

(Ord. 2479 §4, 2015; Ord. 2407 §4, 2013)

18.06.554 Marijuana Retailer

"Marijuana retailer" means a person licensed by the state Liquor and Cannabis Board to sell marijuana concentrates, useable marijuana, and marijuana-infused products in a retail outlet, for either recreational or medical use.

(Ord. 2479 §5, 2015; Ord. 2407 §5, 2013)

18.06.555 Major Adjustment

"Major adjustment" means an adjustment determined by the Director as a major change in a final development plan which changes the basic design, density, open space or other substantive requirements or provisions.

(Ord. 1758 §1 (part), 1995)

18.06.556 Marijuana-infused Products

"Marijuana-infused products" means products that contain marijuana or marijuana extracts; are intended for human use, whether medical or recreational; and have a THC concentration within the limits set forth in RCW 69.50.101. The term "marijuana-infused products" does not include either useable marijuana or marijuana concentrates.

(Ord. 2479 §6, 2015; Ord. 2407 §6, 2013)

18.06.557 Marijuana Concentrates

"Marijuana concentrates" is as defined under RCW 69.50.101.

(Ord. 2479 §2, 2015)

18.06.560 Mall

"Mall" means an enclosed public area, typically a concourse, designed as a pedestrian walkway along rows of shops and often set with landscaping and/or seating.

(Ord. 1758 §1 (part), 1995)

18.06.565 Manufactured/Mobile Home Park

"Manufactured/mobile home park" means a master planned development consisting of a grouping of manufactured or mobile home dwellings, and may include park management offices and accessory community facilities for the exclusive use of park residents, such as recreation, laundry or storage facilities.

(Ord. 1758 §1 (part), 1995)

18.06.567 Manufacturing

"Manufacturing" is a building or group of buildings which specializes in the manufacturing of products or in the research and testing of products. Examples include factories, testing laboratories, creameries, bottling establishments, bakeries, canneries, printing and engraving shops.

(Ord. 1795 §1 (part), 1997)

18.06.568 Mass Transit Facilities

"Mass transit facilities" shall include structures and infrastructure for public or private transportation systems having established routes and schedules such as transit centers, commuter and light rail facilities, both rail lines and stations, monorails, people movers and other similar mass transit facilities but not including incidental improvements such as bus stops.

(Ord. 1865 §3, 1999)

18.06.570 Mean High Water Mark

"Mean high water mark" means the elevation of the surface of Green River and Duwamish River waters when the discharge rate at the U. S. Geological Survey Stream Gauging Station, Green River near Auburn (121130), is 9,000 cfs and as determined by maps on file with the City Clerk.

(Ord. 1758 §1 (part), 1995)

18.06.571 Mean Higher High Water (MHHW)

"Mean Higher High Water (MHHW)" means the average of the higher high water height of each tidal day, and used in determining the ordinary high water mark for the tidally influenced portions of the river.

(Ord. 2347 §20, 2011)

18.06.575 Mining and Quarrying

"Mining and quarrying" means removal and processing of sand, gravel, rock, peat, black soil, and other natural deposits, greater than 50,000 cubic yards cumulative.

(Ord. 1758 §1 (part), 1995)

18.06.580 Minor Adjustment

"Minor adjustment" means any change which is not determined by the Director to be a major change.

(Ord. 1758 §1 (part), 1995)

18.06.581 Mitigation

"Mitigation" means replacing project induced critical area and buffer losses or impacts, and includes but is not limited to the following:

1. ***Restoration:*** Actions performed to reestablish critical area and its buffer functional characteristics and processes that have been lost by alterations, activities or catastrophic events within an area that no longer meets the definition of a critical area;
2. ***Creation:*** Actions performed to intentionally establish a critical area and its buffer at a site where it did not formerly exist;
3. ***Enhancement:*** Actions performed to improve the condition of an existing degraded critical area or its buffer so that the functions it provides are of higher quality.

(Ord. 2625 §6, 2020; Ord. 2075 §1 (part), 2004; Ord. 1758 §1 (part), 1995)

18.06.583 Modular Home

"Modular home" means a factory-built residential structure, transportable in one or more sections, which meets the requirements of the Uniform Building Code.

(Ord. 1974 §6, 2001)

18.06.585 Motel

"Motel" means a building or buildings or portion thereof, the units of which are used, rented, or hired out as sleeping accommodations only for the purposes of transitory housing. A motel includes tourist cabins, tourist court, motor lodge, auto court, cabin court, motor inn and similar names but does not include accommodations for travel trailers or recreation vehicles. Motel rooms shall have their own private toilet facilities and may or may not have their own kitchen facilities. Motels are distinguished from hotels primarily by reason of providing adjoining parking and direct independent access to each rental unit. Motels shall not include dwelling units, as defined in this section, for permanent occupancy. No room may be used by the same person or persons for a period exceeding 30 calendar days per year. Not included are institutions housing persons under legal restraint or requiring medical attention or care.

(Ord. 2251 §7, 2009; Ord. 1758 §1 (part), 1995)

18.06.586 Native Vegetation

"Native vegetation" means plant species, other than noxious weeds, that are indigenous to the coastal region of the Pacific Northwest and that reasonably could be expected to have occurred naturally on the site.

(Ord. 2518 §4, 2016; Ord. 2347 §21, 2011)

18.06.587 New Manufactured Home

"New manufactured home" means any manufactured home required to be titled under Title 46 RCW, which has not been previously titled to a retail purchaser, and is not a "used mobile home" as defined in RCW 82.45.032(2).

(Ord. 2097 §4, 2005)

18.06.588 No Net Loss

"No net loss" means a standard intended to ensure that shoreline development or uses, whether permitted or exempt, are located and designed to avoid loss or degradation of shoreline ecological functions that are necessary to sustain shoreline natural resources.

(Ord. 2347 §22, 2011)

18.06.589 Nonconforming Use, Shoreline

"Nonconforming use, shoreline" means a use or development that was lawfully constructed or established prior to the effective date of the Shoreline Management Act or the Shoreline Master Program or amendments thereto, but which does not conform to present regulations or standards of the program.

(Ord. 2347 §23, 2011)

18.06.590 Nonconforming Use

"Nonconforming use" means the use of land which does not conform to the use regulations of the district in which the use exists.

(Ord. 1758 §1 (part), 1995)

18.06.591 Non-Water-Oriented Uses

"Non-water-oriented uses" means those uses that are not water-dependent, water-related, or water-enjoyment.

(Ord. 2347 §24, 2011)

18.06.592 Office

"Office" is a building or a group of buildings dedicated to non-manufacturing types of work that are for the use of employees but may or may not be for use by the general public. Examples include services such as accounting, advertising, architectural/engineering, consulting, information processing, legal, medical and/or dental.

(Ord. 1795 §1 (part), 1997)

18.06.593 Open Record Appeal

"Open record appeal" means a quasi-judicial appeal to a hearing body designated by this chapter from a decision regarding a project permit application that was made without an open record hearing. Testimony and submission of relevant evidence and information shall be permitted at the hearing on such an appeal.

(Ord. 1768 §1 (part), 1996)

18.06.594 Open Record Hearing

"Open record hearing" means a quasi-judicial hearing conducted by a hearing body which creates the official record regarding a permit application. Oral testimony and submission of relevant evidence and documents shall be permitted at such a hearing.

(Ord. 1768 §1 (part), 1996)

18.06.595 Open Space

"Open space" means that area of a site which is free and clear of building and structures and is open and unobstructed from the ground to the sky.

(Ord. 1758 §1 (part), 1995)

18.06.600 Open Space Tract

"Open space tract" means a tract that is established to preserve open space, and which is recorded on all documents of title of record for all affected lots and subsequent owners.

(Ord. 1758 §1 (part), 1995)

18.06.605 Ordinary High Water Mark

"Ordinary High Water Mark" means the mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters (all lakes, streams, and tidal water) are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the Department of Ecology. In any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water.

(Ord. 2347 §25, 2011; Ord. 1758 §1 (part), 1995)

18.06.607 Overwater Structure

"Overwater structure" means any device or structure projecting over the ordinary high water mark, including, but not limited to bridges, boat lifts, wharves, piers, docks, ramps, floats or buoys.

(Ord. 2347 §26, 2011)

18.06.610 Parcel

"Parcel" means a tract or plat of land of any size which may or may not be subdivided or improved.

(Ord. 1758 §1 (part), 1995)

18.06.611 Park and Ride

"Park and Ride" means a facility for temporarily parking automobiles, the occupants of which transfer to public transit to continue their trips.

(Ord. 1986 §3, 2001)

18.06.613 Parking, Commercial

"Commercial parking" is a use of land or structure for the parking of motor vehicles as a commercial enterprise for which hourly, daily or weekly fees are charged.

(Ord. 1986 §4, 2001)

18.06.615 Parking Space

"Parking space" means an off-street parking space which is maintained and used for the sole purpose of accommodating a temporarily parked motor vehicle and which has access to a street or alley.

(Ord. 1758 §1 (part), 1995)

18.06.617 Pawnbroker

"Pawnbroker" is an establishment engaged in the buying or selling of new or secondhand merchandise and offering loans in exchange for personal property.

(Ord. 1974 §2, 2001)

18.06.618 Performance Bond or Guarantee

"Performance bond or guarantee" means that security to ensure installation of certain required improvements which may be accepted to defer those improvements when such a deferment is warranted and acceptable to the City.

(Ord. 1834 §2 (part), 1998)

18.06.620 Performance Standards

"Performance standards" means specific criteria for fulfilling environmental goals, and for beginning remedial action, mitigation or contingency measures, which may include water quality standards or other hydrological, geological or ecological criteria.

(Ord. 1758 §1 (part), 1995)

18.06.625 Person

"Person" means any legal entity recognized by the State of Washington for the purpose of assigning legal responsibility, to include - but not limited to - individuals, partnerships, corporations, associations, commissions, boards, utilities, institutions, and estates.

(Ord. 1758 §1 (part), 1995)

18.06.627 Pervious Hard Surface

"Pervious hard surface" means permeable pavement or a green roof.

(Ord. 2518 §6, 2016)

18.06.630 Plan

"Plan" means a sketch, survey or other drawing, photograph or similar document which may be a part of the set of permit drawings or construction documents, sufficient for the Director to make a final permit decision.

(Ord. 1758 §1 (part), 1995)

18.06.632 Planned Residential Development (PRD)

"Planned residential development (PRD)" means a form of residential development characterized by a unified site design for a number of dwelling units, clustered buildings, common open space, and a mix of building types. The PRD is an overlay district which is superimposed over the underlying district as an exception to such district regulations, as processed through procedures specified in the Planned Residential Development District chapter of this title.

(Ord. 1758 §1 (part), 1995)

18.06.633 Planning Commission

"Planning Commission" means that body as defined under Title 2.36 of the Tukwila Municipal Code.

(Ord. 1834 §2 (part), 1998)

18.06.635 Plat

"Plat" means a map or representation of a subdivision, showing thereon the division of a tract or parcel of land into lots, blocks, streets, and alleys or other divisions and dedications.

(Ord. 1834 §2 (part), 1998)

18.06.636 Preliminary Plat

"Preliminary plat" means a neat and approximate drawing of a proposed subdivision or short plat, showing the general layout of streets and alleys, lots, blocks, utilities, and restrictive covenants to be applicable to the proposal, and other elements of a plat which shall furnish a basis for the approval or disapproval of the application.

(Ord. 1834 §2 (part), 1998)

18.06.637 Principal Building

"Principal building" means the principal structure on a lot or building site designed or used to accommodate the primary use to which the premises are devoted.

(Ord. 1834 §2 (part), 1998)

18.06.638 Private Access Road

"Private access road" means a minor, privately owned and maintained road which serves to provide access to lots as authorized pursuant to TMC 17.24.030 and 17.28.050.

(Ord. 1834 §2 (part), 1998)

18.06.640 Property Owner

"Property owner" means the owner of record for a site, or his or her authorized representative.

(Ord. 1758 §1 (part), 1995)

18.06.645 Protected Tree/Protected Vegetation

"Protected tree/protected vegetation" means tree or area of understory vegetation identified on an approved landscape plan to be retained and protected during construction.

(Ord. 1758 §1 (part), 1995)

18.06.650 Protection Measure

"Protection measure" means the practice or combination of practices (e.g. construction barriers, protective fencing, tree wells, etc.) used to control construction or development activity, where such activity may impact vegetation which is approved for retention in a Tree Permit.

(Ord. 2569 §18, 2018; Ord. 1758 §1 (part), 1995)

18.06.651 Protective Fencing

"Protective fencing" means a non-flexible, temporary fence or other structural barrier installed to prevent permitted clearing or construction activity from adversely affecting vegetation, which is required by a Tree Permit or approved landscaping plan.

(Ord. 2569 §19, 2018; Ord. 1758 §1 (part), 1995)

18.06.652 Pruning

"Pruning" means the cutting or limbing of tree or shrub branches as specified in the American National Standards Institute (ANSI) A300 Pruning standards, and the companion "Best Management Practices – Tree Pruning" published by the International Society of Arboriculture. Pruning does not include the removal of any portion of the top of the tree, sometimes referred to as "topping".

(001) Topping

"Topping" means the inappropriate pruning practice used to reduce tree height by cutting to a predetermined crown limit without regard to tree health or structural integrity. Topping does not use acceptable pruning practices as described in the American National Standards Institute (ANSI) A300 Pruning standards, and the companion "Best Management Practices – Tree Pruning" published by the International Society of Arboriculture, such as crown reduction, utility pruning, or crown cleaning to remove a safety hazard, dead or diseased material.

(Ord. 2569 §20, §27, 2018)

18.06.655 Public Access

"Public access" means the ability of the general public to reach, touch or enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. Public access may be provided by an owner by easement, covenant, or similar legal agreement of substantial walkways, corridors, parks, or other areas serving as a means of view and/or physical approach to public waters. The Director may approve limiting public access as to hours of availability, types of activity permitted, location and area.

(Ord. 2347 §27, 2011)

18.06.656 Public Entity

"Public entity" mean any Federal, State, or local government body or agency.

(Ord. 2135 §2 (part), 2006)

18.06.657 Public Meeting

"Public meeting" means an informal meeting or workshop to provide public information regarding a project permit application and to obtain comments about the application from the public. The information gathered at such a meeting does not constitute part of the official record regarding a project permit application.

(Ord. 1768 §1 (part), 1996)

18.06.658 Public Right-of-Way

"Public right-of-way" means all public streets, alleys and property granted, reserved for, or dedicated to public use for streets and alleys, together with all public property granted, reserved for, or dedicated to public use, including but not limited to walkways, sidewalks, trails, shoulders, drainage facilities, bikeways and horse trails, whether improved or unimproved, including the air rights, subsurface rights, and easements related thereto.

(Ord. 2135 §2 (part), 2006)

18.06.660 Rapid Charging Station

"Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels and that meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and is consistent with rules adopted under RCW 19.27.540.

(Ord. 2324 §10, 2011)

18.06.662 Reach

"Reach" means a segment of a watercourse with uniform characteristics.

(Ord. 1758 §1 (part), 1995)

18.06.665 Recreation Space

"Recreation space" means covered and uncovered space designed and intended for active and/or passive recreational activity including but not limited to tennis courts, swimming pools, cabanas, playgrounds, playfields, or wooded areas, and specifically excluding any parking area, driveway, or rockery.

(Ord. 1758 §1 (part), 1995)

18.06.670 Recreation Space, Covered

"Covered recreation space" means an area of ground covered or overlaid by an artificial or manmade surface, such as rooftops or pavement.

(Ord. 1758 §1 (part), 1995)

18.06.675 Recreation Space, Uncovered

"Uncovered recreation space" means an area of ground characterized by a natural surface, such as lawn, forests, or sandboxes (for children's play).

(Ord. 1758 §1 (part), 1995)

18.06.676 Regional Detention Facility

"Regional detention facility" means a stormwater detention and/or retention facility that accepts flow from multiple parcels and/or public right-of-way. The facility may be public or private.

(Ord. 2347 §28, 2011)

18.06.677 Revetment

"Revetment" means a sloping structure built to increase bank strength and protect an embankment or shore against erosion by waves or river currents. A revetment is usually built of rock rip-rap, wood, or poured concrete. One or more filter layers of smaller rock or filter cloth and "toe" protection are included. A revetment typically slopes and has a rough or jagged face. The slope differentiates it from a bulkhead, which is a vertical structure.

(Ord. 2347 §29, 2011)

18.06.680 Research and Development Facility

"Research and development facility" means a use in which research and experiments leading to the development of new products or technology are conducted. This definition includes, but is not limited to, facilities engaged in all aspects of bio-medical research and development. This use may be associated with, or accessory to, institutional and commercial uses such as business or administrative offices and medical facilities.

(Ord. 2235 §2 (part), 2009)

18.06.682 Religious Facility

"Religious facility" means a facility operated for worship, prayer, meditation or similar activity by an organization granted tax exempt status by the Federal Internal Revenue Service.

(Ord. 2251 §8, 2009)

18.06.685 Residence

"Residence" means a building or structure, or portion thereof, which is designed for and used to provide a place of abode for human beings.

(Ord. 1758 §1 (part), 1995)

18.06.687 Restaurant

"Restaurant" is an establishment whose principal business is the sale of foods to be eaten on the premises, including either indoor or outdoor seating, which may also include an area reserved for the sale of alcoholic beverages.

(Ord. 1795 §1 (part), 1997)

18.06.688 Restaurant, Fast Food

"Restaurant, fast food" means an establishment whose principal business is the sale of foods, frozen desserts, or beverages served in or on disposable containers for consumption while seated within the building or in a vehicle or incidentally within a designated outdoor area, or for takeout with consumption off the premises.

(Ord. 1795 §1 (part), 1997)

18.06.689 Right-of-Way

"Right-of-way" means a right belonging to a party to pass over land of another.

(Ord. 1834 §2 (part), 1998)

18.06.690 Riparian

"Riparian" means the land along the margins of rivers and streams.

(Ord. 2347 §30, 2011)

18.06.691 River Channel

"River Channel" means that area of the river lying riverward of the mean high water mark.

(Ord. 2627 §4, 2020; Ord. 1758 §1 (part), 1995)

18.06.696 Riverbank Analysis and Report

"Riverbank analysis and report" means a scientific study or evaluation conducted by qualified experts and the resulting report to evaluate the ground and/or surface hydrology and geology, the geomorphology and hydraulic characteristics of the river, the affected land form and its susceptibility to mass wasting, erosion, scouring and other geologic hazards or fluvial processes. The report shall include conclusions and recommendations regarding the effect of the proposed development on geologic and/or hydraulic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological, hydrological and hydraulic impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical/hydrological/hydraulic reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.

(Ord. 2347 §31, 2011)

18.06.697 Roadway

"Roadway" means that improved portion of a street intended for the accommodation of vehicular traffic, generally within curb lines.

(Ord. 1834 §2 (part), 1998)

18.06.705 Screening

"Screening" means a continuous fence and/or evergreen landscaped planting that effectively conceals the property it encloses.

(Ord. 1758 §1 (part), 1995)

18.06.706 Secure Community Transitional Facility

"Secure community transitional facility" means a secure community transitional facility as defined under RCW 71.09.020, which defines it as "a residential facility for persons civilly committed and conditionally released to a less restrictive alternative under this chapter. A secure community transition facility has supervision and security, and either provides or ensures the provision of sex offender treatment services. Secure community transition facilities include but are not limited to the facilities established pursuant to RCW 71.09.250 and any community-based facilities established under this chapter and operated by the DSHS secretary or under contract with the secretary."

(Ord. 1991 §2, 2002; Ord. 1758 §1 (part), 1995)

18.06.707 Self-Storage Facility

"Self-Storage facility" means a building designed and used for the purpose of renting or leasing individual indoor storage space to customers who are to have access to the space for the purpose of storing or removing personal property on a self-service basis.

(Ord. 2021 §1, 2003)

18.06.708 Senior Citizen Housing

"Senior citizen housing" is housing in a building or group of buildings with two or more dwelling and/or sleeping units, restricted to occupancy by at least one senior citizen per unit, and may include Food Preparation and Dining activities, Group Activity areas, Medical Supervision or other similar activities. Such housing is further distinguished by the use of funding restrictions, covenants between the developer, tenants, operators and/or the City or other agreements that restrict the development to those individuals over 60 years of age. Senior Citizen Housing strategies may include provisions for units dedicated to persons under 60 years of age that have medical conditions consistent with definitions in the Americans with Disabilities Act; however, the percentage of such units may not exceed 20% of the total units. These facilities may not include populations requiring convalescent or chronic care, as defined under RCW 18.51.

(Ord. 2500 §2, 2016; Ord. 1795 §1 (part), 1997)

18.06.735 Vehicle Service Station

"Vehicle service station" means any area of land, including structures thereon, that is used for the sale of gasoline or other motor fuels, oils, lubricants, and auto accessories which may or may not include washing, lubricating, tune-ups, enclosed engine repair, and other minor servicing incidental to this use, but no painting or major repair operations.

(Ord. 2678 §7, 2022; Ord. 1758 §1 (part), 1995)

18.06.740 Setbacks

"Setbacks" means the distances that buildings or uses must be removed from their lot lines except that roof eaves may intrude a maximum of 24 inches into this area. A maximum 24-inch overhang may also be allowed for portions of a building (such as a bay window) if approved as part of design review approval where the overhang provides modulation of the façade.

(Ord. 2251 §9, 2009; Ord. 1758 §1 (part), 1995)

18.06.745 Shelter Station

"Shelter station" means a shelter for protection from the elements for the waiting customers of a public transportation system.

(Ord. 1758 §1 (part), 1995)

18.06.750 Shopping Center, Planned

"Planned shopping center" means a group of architecturally unified commercial establishments built on a site which is planned, developed, owned, and managed as an operating unit related in its location, size, and type of shops to the trade area that the unit serves. The unit provides on-site parking in definite relationship to the types and total size of the stores.

(Ord. 1758 §1 (part), 1995)

18.06.756 Shorelands or Shoreland Areas

"Shorelands or shoreland areas" means those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous flood plain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes and tidal waters that are subject to the provisions of the Shoreline Management Act.

(Ord. 2347 §32, 2011)

18.06.757 Shorelines or Shoreline Areas

"Shorelines" or "Shoreline areas" means all "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.

(Ord. 2627 §5, 2020; Ord. 2347 §33, 2011)

18.06.758 Shoreline Jurisdiction

"Shoreline jurisdiction**"** means the channel of the Green/Duwamish River, its banks, the upland area which extends from the ordinary high water mark landward for 200 horizontal feet on each side of the river, floodways and all associated wetlands within its 100-year flood plain. For the purpose of determining shoreline jurisdiction only, the floodway shall not include those lands that have historically been protected by flood control devices and therefore have not been subject to flooding with reasonable regularity.

(Ord. 2347 §34, 2011)

18.06.759 Shoreline Modifications

"Shoreline modifications**"** means those actions that modify the physical configuration or qualities of the shoreline area, through the construction or alteration of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. "Shoreline modifications" may also include other actions, such as clearing, grading, or application of chemicals.

(Ord. 2347 §35, 2011)

18.06.760 Shoreline Restoration or Ecological Restoration

"Shoreline restoration or ecological restoration**"** means the re-establishment or upgrading of impaired ecological shoreline processes, functions or habitats, including any project that is approved by the Federal, State, King County, or City government or the WRIA 9 Steering Committee, is intended to provide habitat restoration and where the future use of the site is restricted through a deed restriction to prohibit non-habitat uses. This may be accomplished through measures including, but not limited to, re-vegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

(Ord. 2347 §36, 2011)

18.06.761 Shoreline Stabilization

"Shoreline stabilization" means actions taken to protect riverbanks or adjacent uplands from erosion resulting from the action of waves or river currents. "Hard" structural stabilization includes levees, bulkheads and revetments. "Soft" shoreline stabilization includes use of bioengineering measures where vegetation, logs, and/or certain types of rock is used to address erosion control and/or slope stability.

(Ord. 2347 §37, 2011)

18.06.767 Short plat

"Short plat" means the map or representation of a short subdivision.

(Ord. 1834 §2 (part), 1998)

18.06.768 Short Subdivision

"Short subdivision" means the division of land into nine or less lots, unit lots, tracts, parcels, sites or divisions.

(Ord. 2199 §9, 2008; Ord. 1834 §2 (part), 1998)

18.06.769 Short Subdivision Committee

The Short Subdivision Committee (SSC) shall consist of the Director of the Department of Community Development who shall be the chair, the Public Works Director, and the Fire Chief, or their designated representatives.

(Ord. 1834 §2 (part), 1998)

18.06.770 Sign

"Sign" means any medium, including paint on walls, merchandise, or visual communication device, its structure and component parts, which is used or intended to be used to attract attention to the subject matter for advertising or identification purposes. Bulletin boards and readerboards are considered to be signs.

(Ord. 1758 §1 (part), 1995)

18.06.775 Significant Tree

"Significant Tree" means a single-trunked tree that is six inches or more in diameter (DBH), or a multi-trunked tree with a diameter of two inches or more on any trunk (such as willows or vine maple).

(Ord. 2569 §23, 2018; Ord. 1775 §1, 1996; Ord. 1758 §1 (part), 1995)

18.06.777 Significant Vegetation Removal

"Significant vegetation removal" means the removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.

(Ord. 2347 §40, 2011)

18.06.780 Site

"Site" means any lot or group of adjoining lots, as defined in TMC 18.06.500, which are proposed as the location for a development, as defined in TMC 18.06.210, or for some other activity which requires a permit or approval pursuant to TMC Titles 16, 17 or 18.

(Ord. 2097 §5, 2005; Ord. 1758 §1 (part), 1995)

18.06.781 Site Disturbance

"Site disturbance" means any development, construction, or related operation that could alter the subject property, including, but not limited to, soil compaction including foot traffic; tree or stump removal; road, driveway or building construction; installation of utilities; or grading.

(Ord. 2569 §24, 2018)

18.06.790 Story

"Story" means story as defined in the Washington State Building Code.

(Ord. 1971 §3, 2001; Ord. 1758 §1 (part), 1995)

18.06.795 Street

"Street" means a public thoroughfare which affords the principal means of access to abutting properties. Limited access State routes such as I-5, I-405, or SR 518; subdivision tracts dedicated for access; private easements for access; and streets that provide no access to abutting properties shall be considered streets for the purposes of determining the type of lots such as corner or through lots and their setbacks and landscape requirements.

(Ord. 2251 §10, 2009; Ord. 1758 §1 (part), 1995)

18.06.800 Structure

"Structure" means a combination of materials constructed and erected permanently on the ground or attached to something having a permanent location on the ground, but excluding all forms of vehicles even though immobilized. Not included are residential fences up to six feet in height, retaining walls or rockeries with up to four feet of exposed face, and similar improvements of minor character.

(Ord. 2176 §1, 2007; Ord. 1758 §1 (part), 1995)

(001) Nonconforming Structure, Shoreline

"Nonconforming Structure, Shoreline" means a structure legally established prior to the effective date of the Shoreline Master Program, but which does not conform to present regulations or standards of the program.

(Ord. 2627 §3, 2020)

18.06.805 Structural Alteration

"Structural alteration" means any change in load or stress of the loaded or stressed members of a building or structure.

(Ord. 1758 §1 (part), 1995)

18.06.810 Studios

"Studios" means a building or portion of a building used as a place of work by an artist, photographer, or artisan, or used for dance instruction.

(Ord. 1758 §1 (part), 1995)

18.06.813 Subdivision

"Subdivision" means the division or redivision of land into ten or more lots, unit lots, tracts, parcels, sites or divisions.

(Ord. 2199 §10, 2008; Ord. 1834 §2 (part), 1998)

18.06.815 Substantial Construction

"Substantial construction" means completion of more than 50% of the cost of work described in specified and approved plans.

(Ord. 1758 §1 (part), 1995)

18.06.817 Substantial Development

"Substantial development" means any development of which the total cost or fair market value exceeds $7,047.00 or any development that materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in this definition must be adjusted for inflation by the Office of Financial Management every five years, beginning July 1, 2007, based upon changes in the Consumer Price Index during that time period. "Consumer Price Index" means, for any calendar year, that year's annual average Consumer Price Index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the Bureau of Labor and Statistics, United States Department of Labor. In accordance with WAC 173-27-040, as it now reads and as hereafter amended, the following shall not be considered developments which require a shoreline substantial development permit, although shall still comply with the substantive requirements of the Shoreline Master Program:

1. Normal maintenance or repair of existing structures or developments, including repair of damage caused by accident, fire, or elements.

2. Emergency construction necessary to protect property from damage by the elements.

3. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels. A feedlot of any size, all processing plants, other activities of a commercial nature, and alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations.

4. Construction or modification of navigational aids such as channel markers and anchor buoys.

5. Construction on shorelands by an owner, lessee, or contract purchaser of a single family residence for his own use or for the use of his or her family, which residence does not exceed a height of 35 feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this chapter.

6. Construction of a dock, including a community dock, designed for pleasure craft only, for the private non-commercial use of the owner, lessee, or contract purchaser of single and multiple family residences. This exception applies if either:

(a) In salt waters, the fair market value of the dock does not exceed $2,500; or

(b) in fresh waters, the fair market value of the dock does not exceed:

(1) $20,000 for docks that are constructed to replace existing docks, and are of equal or lesser square footage than the existing dock being replaced; or

(2) $10,000 for all other docks constructed on fresh waters.

(3) However, if subsequent construction occurs within five years of completion of the prior construction, and the combined fair market value of the subsequent and prior construction exceeds the amount specified above, the subsequent construction shall be considered a substantial development for the purpose of this chapter.

7. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored groundwater for the irrigation of lands.

8. The marking of property lines or corners on state owned lands, when such marking does not significantly interfere with normal public use of the surface of the water.

9. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed, or utilized primarily as a part of an agricultural drainage or diking system.

10. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:

a. The activity does not interfere with the normal public use of the surface waters;

b. The activity will have no significant adverse impact on the environment including, but not limited to, fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;

c. The activity does not involve the installation of a structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;

d. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure the site is restored to preexisting conditions; and

e. The activity is not subject to the permit requirements of RCW 90.58.550 (Oil and Natural Gas exploration in marine waters).

11. The process of removing or controlling an aquatic noxious weed, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the Department of Agriculture or the department jointly with other state agencies under chapter 43.21C RCW.

12. Watershed restoration projects, which means a public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities:

a. A project that involves less than 10 miles of stream reach, in which less than 25 cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings.

b. A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water.

c. A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than 200 square feet in floor area and is located above the ordinary high water mark of the stream.

13. Watershed restoration plan, which means a plan, developed or sponsored by the Department of Fish and Wildlife, the Department of Ecology, the Department of Natural Resources, the Department of Transportation, a federally recognized Indian tribe acting within and pursuant to its authority, a city, a county or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area or watershed for which agency and public review has been conducted pursuant to the State Environmental Policy Act.

14. A public or private project that is designed to improve fish or wildlife habitat or fish passage, when all of the following apply:

a. The project has been approved in writing by the Department of Fish and Wildlife;

b. The project has received hydraulic project approval by the Department of Fish and Wildlife pursuant to Chapter 77.55 RCW; and

c. The local government has determined the project is substantially consistent with the local Shoreline Master Program. The local government shall make such determination in a timely manner and provide it by letter to the project proponent.

Additional criteria for determining eligibility of fish habitat projects are found in WAC 173-27-040 2 (p) and apply to this exemption.

15. The external or internal retrofitting of an existing structure for the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.

(Ord. 2627 §6, 2020; Ord. 2347 §41, 2011)

18.06.820 Surveyor

"Surveyor" means a person licensed by the State of Washington to engage in the practice of land surveying, as defined by RCW 18.43.020.

(Ord. 1758 §1 (part), 1995)

18.06.821 Theater

"Theater" is a building or part of a building devoted to showing motion pictures or for dramatic, dance, musical or other live performances.

(Ord. 1795 §1 (part), 1997)

18.06.822 Tow Truck Operations

"Tow Truck Operations" means any storage yard, building, or vehicle storage/impounding lot for a towing business, including tow vehicles with towed vehicles attached. Tow truck operations do not include central offices for phone dispatch if tow trucks, drivers, or impounded vehicles do not come to the office.

(Ord. 2368 §2, 2012)

18.06.829 Townhouse

"Townhouse" means a form of ground-related housing in which individual dwelling units are attached along at least one common wall to at least one other dwelling unit. Each dwelling unit occupies space from the ground to the roof and has direct access to private open space. No portion of a unit may occupy space above or below another unit, except that townhouse units may be constructed over a common shared parking garage, provided the garage is underground.

(Ord. 2199 §8, 2008)

18.06.830 Tract

"Tract" means a parcel of land proposed for subdivision or a distinct parcel designated for a specific use.

(Ord. 1834 §4, 1998; Ord. 1758 §1 (part), 1995)

18.06.833 Trailer Court or Park

"Trailer court or park" means any area of land occupied or designed for the occupancy of two or more travel trailers or mobile homes.

(Ord. 1758 §1 (part), 1995)

18.06.835 Trailer, Travel

"Travel trailer" means a vehicular portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes.

(Ord. 1758 §1 (part), 1995)

18.06.840 Transit Center

"Transit center" means a location where groups of buses or other public transportation vehicles can be brought together at the same time, allowing patrons to transfer between the routes.

(Ord. 1758 §1 (part), 1995)

18.06.843 Transit-Oriented Development (TOD) Housing

"Transit-Oriented Development (TOD) Housing" means a multiple-unit housing or mixed-use project including multiple-unit housing that is located near transit services and thus encourages people to decrease their dependence on driving.

(Ord. 2084 §1, 2005)

18.06.845 Tree

"Tree" means any self-supporting woody plant characterized by one main trunk or, for certain species, multiple trunks, typically reaching 12-15 feet in height at maturity, that is recognized as a Tree in the nursery and arboricultural industries.

(Ord. 2569 §30, 2018; Ord. 2075 §1 (part), 2004; Ord. 1758 §1 (part), 1995)

(001) At-Risk Tree

"At-Risk Tree" means a tree that is exposed to potential damage but can be retained during construction by use of appropriate tree protection measures as prescribed by a Qualified Tree Professional or by TMC Chapter 18.54.

(Ord. 2569 §1, 2018)

(002) Crown

"Crown" means the area of a tree containing leaf- or needle-bearing branches.

(Ord. 2569 §6, 2018)

(003) Dead Tree

"Dead Tree" means a tree with no live crown and no functioning vascular tissue.

(Ord. 2569 §7, 2018)

(004) Dripline

"Dripline" means the distance from the tree trunk that is equal to the furthest extent of the tree's crown or six-foot radius from the trunk of the tree, whichever is greater.

(Ord. 2569 §9, 2018)

(005) Exceptional Tree

"Exceptional Tree" means a tree that is at least 18 inches in diameter (DBH). For trees with two stems, if the stems have a combined total diameter of at least 18 inches, the tree shall be considered an Exceptional Tree. For trees with three or more stems, if the three largest stems have a combined total diameter of at least 18 inches, the tree shall be considered an Exceptional Tree.

(Ord. 2569 §10, 2018)

(006) Heritage Tree or Heritage Grove

"Heritage Tree" means a tree, or group of trees comprising a grove, specifically designated by the City because of historical significance, special character, and/or community benefit.

(Ord. 2569 §11, 2018)

(007) Invasive Tree

"Invasive Tree" means a non-native tree species, which is likely to spread and disrupt the balance of an eco-system.

(Ord. 2569 §10, 2018)

(008) Nuisance Tree

"Nuisance Tree" means a tree that is causing obvious physical damage to structures including, but not limited to, sidewalks; curbs; the surfaces of streets, parking lots, and driveways; underground utilities; or building foundations. Nuisance Tree does not include trees that currently meet the definition of Hazardous or Defective Tree.

(Ord. 2569 §17, 2018)

(009) Qualified Tree Professional

"Qualified Tree Professional" means an individual who is a certified professional with academic and/or field experience that makes them a recognized expert in urban forestry and tree protection. A Qualified Tree Professional shall be a member of the International Society of Arboriculture (ISA) and/or the Association of Consulting Arborists, and shall have specific experience with urban tree management in the state of Washington. A Qualified Tree Professional preparing tree valuations shall have the necessary training and experience to use and apply the appraisal methodology prescribed in the most recent edition of the ISA Plant Appraisal Guide.

(Ord. 2569 §21, 2018)

(010) Risk

"Risk" means, in the context of urban forestry and trees, the likelihood of tree failure causing damage to a Target such as property or persons.

(Ord. 2569 §22, 2018)

(011) Street Tree

"Street Tree" means a tree located within the public right-of-way, or easement for street use granted to the City, provided that, if the trunk of the tree straddles the boundary line of the public right-of-way and the abutting property, it shall be considered to be on the abutting property.

(Ord. 2569 §25, 2018)

(012) Target or Risk Target

"Target or Risk Target" means, as used in the context of urban forestry or trees, people, property, or activities that could be injured, damaged, or disrupted by a tree.

(Ord. 2569 §26, 2018)

(013) Tree Risk Assessment

"Tree risk assessment" means the systematic process to identify, analyze and evaluate tree risk prepared by a Qualified Tree Professional in accordance with the latest version of the International Society of Arboriculture (ISA) Best Management Practices Guide.

(Ord. 2569 §28, 2018)

(014) Tree Risk Assessor

"Tree Risk Assessor" means a Qualified Tree Professional with a Tree Risk Assessment Qualification, who identifies subject tree(s) and site conditions, evaluates and classifies the likelihood of failure, estimates the consequences of tree(s) hitting a Target, and determines options for treatment or mitigation.

(Ord. 2569 §29, 2018)

(015) Viable Tree

"Viable Tree" means a Significant Tree that a Qualified Tree Professional has determined to be in good health with a low risk of failure; is relatively Windfirm if isolated or exposed; and is a species that is suitable for its location and is therefore worthy of long-term retention.

(Ord. 2569 §33, 2018)

(016) Windfirm

"Windfirm" means a tree that is healthy and well-rooted and that a Qualified Tree Professional has evaluated and determined can withstand normal winter storms or surrounding tree removal.

(Ord. 2569 §34, 2018)

18.06.850 Tree Permit

"Tree Permit" means a permit issued by the Director authorizing tree removal activities, or work that may impact the Critical Root Zone, pursuant to the general permit provisions of this title.

(Ord. 2569 §31, 2018; Ord. 1758 §1 (part), 1995)

18.06.852 Tree Removal

"Tree Removal" means the direct or indirect removal of a tree through actions including, but not limited to: clearing, cutting, girdling, topping, or causing irreversible damage to roots or stems; destroying the structural integrity of trees through improper pruning, poisoning or filling; excavating, grading, or trenching within the dripline that results in the loss of more than 20 percent of the tree's root system; or the removal through any of these processes of greater than 50 percent of the live crown of the tree.

(Ord. 2569 §32, 2018)

18.06.854 Truck Terminal

"Truck terminal" means land and buildings used as a relay station for the transfer of a load from one vehicle to another or one party to another. The terminal cannot be used for permanent or long-term storage.

(Ord. 2678 §8, 2022)

18.06.855 Turbidity

"Turbidity" means a cloudy condition in water due to the suspension of silt, finely divided organic matter, or other pollutants.

(Ord. 1758 §1 (part), 1995)

18.06.860 Understory Vegetation

"Understory vegetation" means small trees, shrubs, and groundcover plants, growing beneath and shaded by the canopy of a significant tree, which affect and are affected by the soil and hydrology of the area surrounding the significant tree roots.

(Ord. 1758 §1 (part), 1995)

18.06.863 Usable Floor Area

"Usable Floor area" means that part of the floor area of any structure which is actually used from time to time for any commercial purposes, such as a sales area, display area, walkways or storage area. Parking calculation shall not include common corridors designed for the circulation of people at non-retail establishments, restrooms, elevator shafts and stairwells at each floor, mechanical equipment rooms or attic spaces and exterior covered loading docks.

(Ord. 1795 §1 (part), 1997)

18.06.864 Useable Marijuana

"Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include marijuana-infused products.

(Ord. 2407 §7, 2013)

18.06.865 Use

"Use" means the nature of the activities taking place on private property or within structures thereon.

(Ord. 2097 §6, 2005; Ord. 1758 §1 (part), 1995)

18.06.870 Use, Accessory

"Accessory use" means a use incidental and subordinate to the principal use and located on the same lot or in the same building as the principal use.

(Ord. 1758 §1 (part), 1995)

18.06.875 Use, Conditional

"Conditional use" means an unusual and/or unique type of land use which, due to its nature, requires special consideration of its impacts on the neighborhood and land uses in the vicinity.

(Ord. 1758 §1 (part), 1995)

18.06.880 Use, Permitted

"Permitted use" means any use authorized or permitted alone or in conjunction with any other use in a specified district and subject to the limitation of the regulations of such use district.

(Ord. 1758 §1 (part), 1995)

18.06.885 Use, Primary or Principal

"Primary or principal permitted use" means the use for which a lot, structure or building, or the major portion thereof, is designed or actually employed.

(Ord. 1758 §1 (part), 1995)

18.06.890 Use, Unclassified

"Unclassified use" means an unusual, large-scale, unique and/or special type of land use which, due to its nature, requires special review of its impacts on the community and land uses in the vicinity.

(Ord. 1758 §1 (part), 1995)

18.06.895 Unlisted Use

"Unlisted use" means uses which are not specifically named as permitted in any use classification contained within this title.

(Ord. 1758 §1 (part), 1995)

18.06.900 Utilities

"Utilities" means all lines and facilities related to the provision, distribution, collection, transmission or disposal of water, storm and sanitary sewage, oil, gas, power, information, telecommunication and telephone cable, or refuse, and includes facilities for the generation of electricity.

(Ord. 1758 §1 (part), 1995)

18.06.905 Variance

"Variance" means an adjustment in the specific regulation of this title regarding a particular piece of property as provided in the Variance chapter of this title.

(Ord. 1758 §1 (part), 1995)

18.06.910 Vegetation

"Vegetation" means living trees, shrubs or groundcover plants.

(Ord. 1758 §1 (part), 1995)

18.06.915 Vehicles

"Vehicles" means mechanical devices capable of movement by means of wheels, skids or runners of any kind, specifically including, but not limited to, all forms of trailers, recreational vehicles 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 device is or is not the conveyance of persons or objects, and specifically including all such automobiles, buses, trucks, cars, vans, recreational vehicles, 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.

(Ord. 1758 §1 (part), 1995)

18.06.916 Warehouse

"Warehouse" is a building or group of buildings that are primarily for the storage of goods.

(Ord. 1795 §1 (part), 1997)

18.06.917 Water Dependent

"Water dependent" means a use or portion of a use that cannot exist in a location that is not adjacent to the water and that is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-dependent uses include ship cargo terminal loading areas, marinas, ship building and dry docking, float plane facilities, sewer outfalls, and shoreline ecological restoration projects.

(Ord. 2347 §42, 2011)

18.06.918 Water Enjoyment

"Water enjoyment" means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use. The use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment. Examples of water-enjoyment uses include parks, piers, museums, restaurants, educational/scientific reserves, resorts and mixed use projects.

(Ord. 2347 §43, 2011)

18.06.919 Water Oriented

"Water oriented**"** means a use that is water-dependent, water-related or water-enjoyment or a combination of such uses.

(Ord. 2347 §44, 2011)

18.06.920 Watercourse

"Watercourse" means a course or route formed by nature or modified by man, generally consisting of a channel with a bed and banks or sides substantially throughout its length along which surface water flows naturally, including the Green/Duwamish River. The channel or bed need not contain water year-round. Watercourses do not include irrigation ditches, stormwater runoff channels or devices, or other entirely artificial watercourses unless they are used by salmonids or to convey or pass through stream flows naturally occurring prior to construction of such devices.

(Ord. 2075 §1 (part), 2004; Ord. 1758 §1 (part), 1995)

18.06.921 Water Related

"Water related**"** means a use or portion of a use that is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

a. The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or

b. The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

Examples of water-related uses are warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, and log storage or oil refineries where transport is by tanker.

(Ord. 2347 §45, 2011)

18.06.922 Wetland

"Wetland" means those areas that are inundated or saturated by groundwater or surface water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include bogs, swamps, marshes, ponds, lakes and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including but not limited to irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, 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. However, those artificial wetlands intentionally created from non-wetland areas to mitigate conversion of wetlands as permitted by the City shall be considered wetlands.

(Ord. 2075 §1 (part), 2004; Ord. 1758 §1 (part), 1995)

18.06.924 Wetland Edge

"Wetland edge" means the delineated boundary of a wetland performed in accordance with approved federal wetland delineation manual and current applicable regional supplements.

(Ord. 2625 §12, 2020; Ord. 2368 §3, 2012; Ord. 1758 §1 (part), 1995)

18.06.934 Wetland, Scrub-Shrub

"Scrub-shrub wetland" means a wetland with at least 30% of its surface area covered by woody vegetation less than 20 feet in height as the uppermost strata.

(Ord. 2075 §1 (part), 2004)

18.06.944 WRIA

"WRIA**"** means Water Resource Inventory Area — river basin planning and management areas formalized under Washington Administrative Code (WAC) 173-500-04 and authorized under the Water Resources Act of 1971, Revised Code of Washington (RCW) 90.54. WRIA 9 refers to the Green/Duwamish River Basin within which Tukwila is located.

(Ord. 2347 §46, 2011)

18.06.945 Yard

"Yard" means a required open space unoccupied and unobstructed by any structure or portion of a structure from 30 inches above the general ground level of the graded lot upward.

(Ord. 1758 §1 (part), 1995)

18.06.950 Yard, Front

"Front yard" means a yard extending between side lot lines across the front of a lot. In MDR and HDR zones, this shall also include areas adjacent to 'access roads'.

(Ord. 1758 §1 (part), 1995)

18.06.955 Yard, Rear

"Rear yard" means a yard extending across the rear of the lot between inner side yard lines.

(Ord. 1758 §1 (part), 1995)

18.06.960 Yard, Second Front

"Second front yard" means any yard adjacent to a public street that is not a front yard as defined in the Definitions chapter of this title. *(See also the Supplemental Development Regulations chapter of this title and Figure 18-4.)*

(Ord. 1758 §1 (part), 1995)

18.06.965 Yard, Side

"Side yard" means a yard extending from the rear line of the required front yard to the rear lot line, or in the absence of any clearly defined rear lot line to the point on the lot farthest from the intersection of the lot-line involved with the public street.

(Ord. 1758 §1 (part), 1995)

CHAPTER 18.08

DISTRICTS ESTABLISHED - MAP

Sections:

18.08.010 Use Districts

In order to classify, segregate and regulate the uses of land, buildings, and structures, the City is divided into the following use districts:

LDR.....Low Density Residential
MDR.....Medium Density Residential
HDR .....High Density Residential
MUO.....Mixed Use Office
O .....Office
RCC .....Residential Commercial Center
NCC .....Neighborhood Commercial Center
RC.....Regional Commercial
RCM.....Regional Commercial Mixed-use
TUC.....Tukwila Urban Center
C/LI .....Commercial/Light Industrial
LI.....Light Industrial
HI .....Heavy Industrial
MIC/L .....Manufacturing Industrial Center/Light
MIC/H.....Manufacturing Industrial Center/Heavy
TSO .....Tukwila South Overlay
TVS.....Tukwila Valley South
PRO .....Public Recreation Overlay
SOD .....Shoreline Overlay
SAOD.....Sensitive Areas Overlay
UROD .....Urban Renewal Overlay

(Ord. 2257 §3, 2009; Ord. 2235 §5 (part), 2009; Ord. 1758 §1 (part), 1995)

18.08.020 Unclassified Areas

All lands not classified according to the classification in TMC 18.08.010 on the official zoning map, and all lands, if any, of the City not shown on the official zoning map, shall be considered unclassified and, pending future classification, shall be subject to the restrictions and regulation of the LDR District.

(Ord. 1758 §1 (part), 1995)

18.08.030 Official Zoning Map

A. The boundaries of the use districts as outlined in TMC 18.08.010 are shown on the official zoning map ***(Figure 18-10)*** which, together with all explanatory matters thereon, is hereby adopted by reference and declared to be a part of this title. The regulations of this title governing the uses of land, buildings and structures, the height of buildings and structures, the sizes of yards about buildings and structures, and other matters set forth in this title are hereby established and declared to be in effect upon all land included within the boundaries of each and every district shown upon said zoning map.

B. The boundaries of the use districts shall be determined and defined or redefined from time to time, by the adoption of district maps covering the City showing the geographical area and location of the districts. Each district map shall be, upon its final adoption, a part of this title, and the map and all notations, references and other information shown thereon, thereafter shall be made a part of this title as though all matters and information set forth on the map were fully described herein.

C. The official zoning map shall be identified by the signature of the Mayor, attested by the City Clerk and shall bear the seal of the City of Tukwila. The original of the official zoning map shall be retained in the office of the City Clerk.

See Zoning Map, Figure 18-10.

(Ord. 1758 §1 (part), 1995)

18.08.040 Rules of Interpretation

When uncertainty exists as to the boundaries of any use district shown on the official zoning map, the following rules of interpretation shall apply:

1. Where district boundaries are indicated as approximately following the centerline of streets, alleys, highways, structure or railroad tracts, the actual centerline shall be construed to be the boundary;
2. Where district boundaries are indicated as running approximately parallel to the centerline of a street, the boundary line shall be construed to be parallel to the centerline of the street;
3. Where district boundaries are indicated on such map as approximately following the lot or tract lines, the actual lot or tract lines shall be construed to be the boundary of such use district;
4. Where a district boundary on the official zoning map divides a tract in unsubdivided property, the location of the use district boundary, unless the same is indicated by dimensions thereon, shall be determined by use of the scale appearing on the official zoning map;
5. Unmapped shorelands shall be considered to be within the same land use district as the adjacent upland as shown on the official zoning map;
6. Where a public street or alley is officially vacated or abandoned, the regulations applicable to the abutting property to which the vacated portion reverts shall apply to such vacated or abandoned street or alley;

7. Where a district boundary line divides a lot which was in single ownership at the time of passage of this title, the Hearing Examiner may permit, as a special exception, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot;

8. In case uncertainty exists which cannot be determined by application of the foregoing rules, the Hearing Examiner shall determine the location of such use district boundaries. Applications for such special exceptions shall be a Type 3 decision processed pursuant to TMC 18.108.030.

(Ord. 1796 §3 (part), 1997; Ord. 1770 §23, 1996; Ord. 1758 §1 (part), 1995)

18.08.050 Title Compliance

Except as provided in this title:

1. No building or structure shall be erected and no existing building or structure shall be moved, altered, added to or enlarged, nor shall any land, building, structure or premises be used, designed or intended to be used for any purpose or in any manner other than a use listed in this title as permitted in the use district in which such land, building, structure or premises is located.

2. No building or structure shall be erected, nor shall any existing building or structure be moved, reconstructed or structurally altered, to exceed in height the limit established by this title for the use district in which such building or structure is located.

3. No building or structure shall be erected, nor shall any building or structure be moved, altered, enlarged or rebuilt, nor shall any open spaces surrounding any building or structure be encroached upon or reduced in any manner, except in conformity with the building site requirements and the area and yard regulations established by this title for the use district in which such building or structure is located.

4. No yard or other open spaces, provided about any building or structure for the purpose of complying with the regulations of this title, shall be considered as providing a yard or open space for any other building or structure.

(Ord. 1758 §1 (part), 1995)

CHAPTER 18.09
LAND USES ALLOWED BY DISTRICT

Sections:

18.09.010 Land Uses by Districts

Refer to Table 18-6, “Land Uses Allowed by District.”

Refer to Table 18-2, “Tukwila Urban Center – Land Uses Allowed by District” for uses in the Tukwila Urban Center District

Refer to Figure 1, “Shoreline Use Matrix,”for uses in the Shoreline Buffer and Zone.

(Ord. 2500 §3, 2016)

CHAPTER 18.10

LOW DENSITY RESIDENTIAL (LDR) DISTRICT

Sections:

18.10.010 Purpose

A. This district implements the Low-Density Residential Comprehensive Plan designation, which allows a maximum of 6.7 dwelling units per net acre. It is intended to provide low-density family residential areas together with a full range of urban infrastructure services in order to maintain stable residential neighborhoods, and to prevent intrusions by incompatible land uses. Certain LDR properties are identified as Commercial Redevelopment Areas (***see Figures 18-9 or 18-10***) to encourage aggregation with commercial properties that front on Tukwila International Boulevard. Aggregation and commercial redevelopment of these sites would implement the Pacific Highway Revitalization Plan and provide opportunities to redefine and create more uniform borders between the commercial corridor and the adjacent residential neighborhoods.

B. Certain LDR properties are located in the Urban Renewal Overlay (***see Figure 18-15***). Existing zoning and development standards will remain in place, although multi-family buildings would be permitted. The overlay provides additional alternate development standards that may be applied to development within the Urban Renewal Overlay upon request of the property owner, and if the development meets certain qualifying criteria. Urban Renewal Overlay district standards would implement the Tukwila International Boulevard Revitalization Plan through more intensive development.

(Ord. 2257 §4, 2009; Ord. 1865 §4, 1999; Ord. 1758 §1 (part), 1995)

18.10.020 Land Uses Allowed

Refer to TMC Chapter 18.09, "Land Uses Allowed by District."

(Ord. 2500 §4, 2016)

18.10.055 Design Review

Design review is required for all conditional uses, unclassified uses, or non-residential development within the shoreline jurisdiction that involve construction of a new building or exterior changes if the cost of the exterior work equals or exceeds 10% of the building's assessed valuation. Design review is required for developments in a Commercial Redevelopment Area that propose the uses and standards of an adjacent commercial zone as well as development in the Urban Overlay District.

(See TMC Chapter 18.60, Board of Architectural Review.)

(Ord. 2368 §5, 2012; Ord. 2257 §5, 2009; Ord. 2251 §13, 2009; Ord. 1865 §7, 1999)

18.10.057 Maximum Building Footprint

The maximum total footprint of all residential structures located on a lot in the Low-Density Residential District shall be limited to 35% of the lot area, provided:

1. The maximum footprint is reduced by 0.125% for each 100 square feet of lot area in excess of 6,500 square feet and less than 19,000 square feet;
2. The maximum footprint shall be 4,000 square feet for lots between 19,000 square feet and 32,670 square feet;
3. The maximum footprint shall be 5,000 square feet for lots between 32,760 square feet and 43,560 square feet;
4. The maximum footprint shall be 6,000 square feet for lots over 43,560 square feet; and
5. For lots less than 6,500 square feet in size, the maximum total footprint shall be the area defined by the application of the standard setback requirements set forth in the applicable Basic Development Standards, up to a maximum of 2,275 square feet.

(Ord. 1971 §6, 2001)

18.10.060 Basic Development Standards

Development within the Low-Density Residential District shall conform to the following listed and referenced standards:

LDR BASIC DEVELOPMENT STANDARDS

Lot area, minimum	6,500 sq. ft.
Average lot width (min. 20 ft. street frontage width), minimum	50 feet
Development Area, maximum (only for single family development)	75% on lots less than 13,000 sq. ft. up to a maximum of 5,850 sq. ft.
	45% on lots greater than or equal to 13,000 sq. ft.
Setbacks to yards, minimum:	
• *Front*	20 feet
• *Front, decks or porches*	15 feet
• *Second front*	10 feet
• *Sides*	5 feet
• *Rear*	10 feet
Refer to TMC Chapter 18.52, "Landscape Requirements," Table A, for perimeter and parking lot landscaping requirements.	
Height, maximum	30 feet
Off-street parking:	
• *Residential*	See TMC Chapter 18.56, Off-street Parking & Loading Regulations
• *Accessory dwelling unit*	See TMC Section 18.50.220
• *Other uses*	See TMC Chapter 18.56, Off-street Parking & Loading Regulations

(Ord. 2678 §23, 2022; Ord. 2581 §2, 2018; Ord. 2518 §7, 2016; Ord. 1971 §4, 2001; Ord. 1758 §1 (part), 1995)

CHAPTER 18.12

MEDIUM DENSITY RESIDENTIAL (MDR) DISTRICT

Sections:

18.12.010 Purpose

A. This district implements the Medium Density Residential Comprehensive Plan designation, which allows up to 14.5 dwelling units per net acre. It is intended to provide areas for family and group residential uses, and serves as an alternative to lower density family residential housing and more intensively developed group residential housing and related uses. Through the following standards this district provides medium-density housing designed to provide:

1. Individual entries and transition from public and communal areas to private areas;

2. Building projections, level changes and so forth to effectively define areas for a variety of outdoor functions as well as privacy; and

3. Landscaping and open space to serve as extension of living areas.

B. Certain MDR properties are identified as Commercial Redevelopment Areas (***see Figures 18-10 or 18-9***) to encourage aggregation with commercial properties that front on Tukwila International Boulevard. Aggregation and commercial redevelopment of these sites would implement the Pacific Highway Revitalization Plan and provide opportunities to redefine and create more uniform borders between the commercial corridor and adjacent residential neighborhoods.

C. Certain MDR properties are located in the Urban Renewal Overlay (*see Figure* 18-15). Existing zoning and development standards will remain in place, although multi-family buildings would be permitted. The overlay provides additional alternate development standards that may be applied to development within the Urban Renewal Overlay upon request of the property owner and if the development meets certain qualifying criteria. Urban Renewal Overlay district standards would implement the Tukwila International Boulevard Revitalization Plan through more intensive development.

(Ord. 2257 §6 (part) 2009; Ord. 1865 §8, 1999; Ord. 1758 §1 (part), 1995)

18.12.020 Land Uses Allowed

Refer to TMC Chapter 18.09, "Land Uses Allowed by District."

(Ord. 2500 §5, 2016)

18.12.030 Recreation Space Requirements

In the MDR zoning district, any proposed multiple-family structure, complex or development shall provide, on the premises and for the use of the occupants, a minimum amount of recreation space according to the following provisions:

1. ***Required Area.***

a. For each proposed dwelling unit in the multiple-family development and detached zero-lot-line type of development, a minimum of 400 square feet (100 square feet for senior citizen housing) of recreation space shall be provided. Any multiple-family structure, complex or development shall provide a minimum of 1,000 square feet of total recreation space.

b. Townhouse units shall provide at least 250 square feet of the 400 square feet of recreation space as private, ground level open space measuring not less than 10 feet in any dimension.

c. The front, side and rear yard setback areas required by the applicable zoning district shall not qualify as recreation space. However, these setback areas can qualify as recreation space for townhouses if they are incorporated into private open space with a minimum dimension of 10 feet on all sides.

2. ***Indoor or Covered Space***.

a. No more than 50% of the required recreation space may be indoor or covered space in standard multi-family developments. Senior citizen housing must have at least 20% indoor or covered space.

b. The Board of Architectural Review may grant a maximum of two square feet of recreation space for each one square foot of extensively improved indoor recreation space provided. Interior facility improvements would include a full range of weight machines, sauna, hot tub, large screen television and the like.

3. ***Uncovered Space.***

a. A minimum of 50% of the total required recreation space shall be open or uncovered, up to 100% of the total requirement may be in open or uncovered recreation space in standard multi-family developments. Senior citizen housing allows up to 80% of recreation space to be outdoors and has no minimum outdoor space requirement.

b. Recreation space shall not exceed a 4% slope in any direction unless it is determined that the proposed space design clearly facilitates and encourages the anticipated use as endorsed by the Director.

c. The Board of Architectural Review may grant a maximum credit of two square feet of recreation space for each one square foot of outdoor pool and surrounding deck area.

4. ***General Requirements.***

a. Multiple-family complexes (except senior citizen housing, detached zero-lot-line and townhouses with nine or fewer units), which provide dwelling units with two or more bedrooms, shall provide adequate recreation space for children with at least one space for the 5-to-12-year-old group. Such space shall be at least 25% but not more than 50% of the total recreation space required under TMC Section 18.12.030 (1), and shall be designated, located and maintained in a safe condition.

b. Adequate fencing, plant screening or other buffer shall separate the recreation space from parking areas, driveways or public streets.

c. The anticipated use of all required recreation areas shall be specified and designed to clearly accommodate that use.

(Ord. 2525 §2, 2017)

18.12.060 Design Review

Design review is required for all new multi-family structures, mobile or manufactured home parks, developments in a Commercial Redevelopment Area that propose the uses and standards of an adjacent commercial zone, and in the shoreline jurisdiction, if new building construction or exterior changes are involved and the cost of the exterior work equals or exceeds 10% of the building's assessed valuation. Multi-family structures up to 1,500 square feet will be reviewed administratively.

(See TMC Chapter 18.60, Board of Architectural Review.)

(Ord. 2368 §7, 2012; Ord. 2251 §16, 2009; Ord. 2005 §1 2002; Ord. 1865 §11, 1999; Ord. 1758 §1 (part), 1995)

18.12.070 Basic Development Standards

Development within the Medium Density Residential District shall conform to the following listed and referenced standards:

MDR BASIC DEVELOPMENT STANDARDS

Lot area, minimum	8,000 sq. ft. (Applied to parent lot for townhouse plats)
Lot area per unit (multi-family)	3,000 sq. ft. (For townhouses the density shall be calculated based on one unit per 3000 sq. ft. of parent lot area. The "unit lot" area shall be allowed to include the common access easements).
Average lot width (min. 20 ft. street frontage width), minimum	60 feet (Applied to parent lot for townhouse plats)
Setbacks, minimum:	Applied to parent lot for townhouse plats
• *Front - 1st floor*	15 feet
• *Front - 2nd floor*	20 feet
• *Front - 3rd floor*	30 feet (20 feet for townhouses)
• *Second front - 1st floor*	7.5 feet
• *Second front - 2nd floor*	10 feet
• *Second front - 3rd floor*	15 feet (10 feet for townhouses)
• *Sides - 1st floor*	10 feet
• *Sides - 2nd floor*	20 feet (10 feet for townhouses unless adjacent to LDR)
• *Sides - 3rd floor*	20 feet (30 feet if adjacent to LDR; 10 feet for townhouses unless adjacent to LDR)
• *Rear - 1st floor*	10 feet
• *Rear - 2nd floor*	20 feet (10 feet for townhouses unless adjacent to LDR)
• *Rear - 3rd floor*	20 feet (30 feet if adjacent to LDR; 10 feet for townhouses unless adjacent to LDR)
Refer to TMC Chapter 18.52, "Landscape Requirements," Table A, for perimeter and parking lot landscaping requirements.	
Townhouse building separation, minimum	
• *1 and 2 story buildings*	10 feet
• *3 story buildings*	20 feet
Height, maximum	30 feet
Development area coverage	50% maximum (75% for townhouses)
Recreation space	400 sq. ft. per dwelling unit (1,000 sq. ft. min.)
Off-street parking:	
• *Residential*	See TMC Chapter 18.56, Off-street Parking & Loading Regulations.
• *Accessory dwelling unit*	See TMC Section 18.50.220
• *Other uses*	See TMC Chapter 18.56, Off-street Parking & Loading Regulations

(Ord. 2678 §24, 2022; Ord. 2581 §3, 2018; Ord. 2199 §12, 2008; Ord. 1976 §23, 2001; Ord. 1758 §1 (part), 1995)

CHAPTER 18.14

HIGH DENSITY RESIDENTIAL (HDR) DISTRICT

Sections:

18.14.010 Purpose

A. This district implements the High-Density Residential Comprehensive Plan designation, which allows up to 22.0 dwelling units per net acre. Senior citizen housing is allowed up to 60 dwelling units per acre, subject to additional restrictions. It is intended to provide a high-density, multiple-family district which is also compatible with commercial and office areas. Certain HDR properties are identified as Commercial Redevelopment Areas (***see Figures 18-9 or 18-10***) to encourage aggregation and redevelopment of properties that front on Tukwila International Boulevard. Aggregation and commercial redevelopment of these sites would implement the Pacific Highway Revitalization Plan and provide opportunities to redefine and create more uniform borders between the commercial corridor and adjacent residential neighborhoods.

B. Certain HDR properties are located in the Urban Renewal Overlay (***see Figure 18-15***). Existing zoning and development standards will remain in place. The overlay provides additional alternate development standards that may be applied to development within the Urban Renewal Overlay upon request of the property owner, and if the development meets certain qualifying criteria. Urban Renewal Overlay district standards would implement the Tukwila International Boulevard Revitalization Plan through more intensive development.

(Ord. 2257 §7 (part), 2009; Ord. 1865 §12, 1999; Ord. 1830 §1, 1998; Ord. 1758 §1 (part), 1995)

18.14.020 Land Uses Allowed

Refer to TMC Chapter 18.09, "Land Uses Allowed by District."

(Ord. 2500 §6, 2016)

18.14.030 Recreation Space Requirements

In the HDR zoning district, any proposed multiple-family structure, complex or development shall provide, on the premises and for the use of the occupants, a minimum amount of recreation space according to the provisions of TMC Section 18.14.030, subparagraphs 1 through 4. In the TSO zone with underlying LDR zoning on land that adjoins the City of SeaTac, recreation space shall meet the provisions of TMC Section 18.14.030, subparagraphs 2 through 4, in addition to the minimum required area as specified in TMC Section 18.41.090.A.1.

1. ***Required Area.***

a. For each proposed dwelling unit in the multiple-family development and detached zero-lot-line type of development, a minimum of 400 square feet (100 square feet for senior citizen housing) of recreation space shall be provided. Any multiple-family structure, complex or development shall provide a minimum of 1,000 square feet of total recreation space.

b. Townhouse units shall provide at least 250 square feet of the 400 square feet of recreation space as private, ground level open space measuring not less than 10 feet in any dimension.

c. The front, side and rear yard setback areas required by the applicable zoning district shall not qualify as recreation space. However, these setback areas can qualify as recreation space for townhouses if they are incorporated into private open space with a minimum dimension of 10 feet on all sides.

2. ***Indoor or Covered Space.***

a. No more than 50% of the required recreation space may be indoor or covered space in standard multi-family developments. Senior citizen housing must have at least 20% indoor or covered space.

b. The Board of Architectural Review may grant a maximum of two square feet of recreation space for each one square foot of extensively improved indoor recreation space provided. Interior facility improvements would include a full range of weight machines, sauna, hot tub, large screen television and the like.

3. ***Uncovered Space.***

a. A minimum of 50% of the total required recreation space shall be open or uncovered; up to 100% of the total requirement may be in open or uncovered recreation space in standard multi-family developments. Senior citizen housing allows up to 80% of recreation space to be outdoors and has no minimum outdoor space requirement.

b. Recreation space shall not exceed a 4% slope in any direction unless it is determined that the proposed space design clearly facilitates and encourages the anticipated use as endorsed by the Director.

c. The Board of Architectural Review may grant a maximum credit of two square feet of recreation space for each one square foot of outdoor pool and surrounding deck area.

4. ***General Requirements.***

a. Multiple-family complexes (except senior citizen housing, detached zero-lot-line and townhouses with nine or fewer units), which provide dwelling units with two or more bedrooms, shall provide adequate recreation space for children with at least one space for the 5- to 12-year-old group. Such space shall be at least 25% but not more than 50% of the total recreation space required under TMC Section 18.14.030 (1), and shall be designated, located and maintained in a safe condition.

b. Adequate fencing, plant screening or other buffer shall separate the recreation space from parking areas, driveways or public streets.

c. The anticipated use of all required recreation areas shall be specified and designed to clearly accommodate that use.

(Ord. 2580 §2, 2018; Ord. 2525 §3, 2017)

18.14.060 Design Review

Design review is required for all multi-family structures, mobile or manufactured home parks, developments in a Commercial Redevelopment Area that propose the uses and standards of an adjacent commercial zone, and in the shoreline jurisdiction, if new building construction or exterior changes are involved and the cost of the exterior work equals or exceeds 10% of the building's assessed valuation. Multi-family structures up to 1,500 square feet will be reviewed administratively.

(See TMC Chapter 18.60, Board of Architectural Review.)

(Ord. 2368 §9, 2012; Ord. 2005, §2, 2002; Ord. 1865 §15, 1999; Ord. 1758 §1 (part), 1995)

18.14.070 Basic Development Standards

Development within the High-Density Residential District shall conform to the following listed and referenced standards:

HDR BASIC DEVELOPMENT STANDARDS

Lot area, minimum	9,600 sq. ft. (Applied to parent lot for townhouse plats)
Lot area per unit (multi-family, except senior citizen housing)	2,000 sq. ft. (For townhouses the density shall be calculated based on one unit per 2000 sq. ft. of parent lot area. The "unit lot" area shall be allowed to include the common access easements.)
Average lot width (min. 20 ft. street frontage width), minimum	60 feet (Applied to parent lot for townhouse plats)
Setbacks, minimum:	Applied to parent lot for townhouse plats
• *Front - 1st floor*	15 feet
• *Front - 2nd floor*	20 feet
• *Front - 3rd floor*	30 feet (20 feet for townhouses)
• *Front – 4th floor*	45 feet (20 feet for townhouses)
• *Second front - 1st floor*	7.5 feet
• *Second front - 2nd floor*	10 feet
• *Second front - 3rd floor*	15 feet (10 feet for townhouses)
• *Second front – 4th floor*	22.5 feet (10 feet for townhouses)
• *Sides - 1st floor*	10 feet
• *Sides - 2nd floor*	20 feet (10 feet for townhouses unless adjacent to LDR)
• *Sides - 3rd floor*	20 feet (30 feet if adjacent to LDR) (10 feet for townhouses unless adjacent to LDR)
• *Sides – 4th floor*	30 feet (20 feet for townhouses unless adjacent to LDR)

• *Rear - 1st floor*	10 feet
• *Rear - 2nd floor*	20 feet (10 feet for townhouses unless adjacent to LDR)
• *Rear - 3rd floor*	20 feet (30 feet if adjacent to LDR; 10 feet for townhouses unless adjacent to LDR)
• *Rear – 4th floor*	30 feet (20 feet for townhouses unless adjacent to LDR)
Refer to TMC Chapter 18.52, "Landscape Requirements," Table A, for perimeter and parking lot landscaping requirements.	
Townhouse building separation, minimum	
• *1 and 2 story buildings*	10 feet
• *3 and 4 story buildings*	20 feet
Height, maximum	45 feet
Development area coverage	50% maximum (except senior citizen housing), (75% for townhouses)
Recreation space	400 sq. ft. per dwelling unit (1,000 sq. ft. min.)
Recreation space, senior citizen housing	100 sq. ft. per dwelling unit
Off-street parking:	
• *Residential (except senior citizen housing)*	See TMC Chapter 18.56, Off-street Parking & Loading Regulations.
• *Accessory dwelling unit*	See TMC Section 18.50.220
• *Other uses, including senior citizen housing*	See TMC Chapter 18.56, Off-street Parking & Loading Regulations
Performance Standards: Use, activity and operations within a structure or a site shall comply with (1) standards adopted by the Puget Sound Air Pollution Control Agency for odor, dust, smoke and other airborne pollutants, (2) TMC Chapter 8.22, "Noise", and, (3) adopted State and Federal standards for water quality and hazardous materials. In addition, all development subject to the requirements of the State Environmental Policy Act, RCW 43.21C, shall be evaluated to determine whether adverse environmental impacts have been adequately mitigated.	

(Ord. 2678 §25, 2022; Ord. 2581 §4, 2018; Ord. 2199 §14, 2008; Ord. 1976 §27, 2001; Ord. 1830 §3, 1998; Ord. 1758 §1 (part), 1995)

CHAPTER 18.16

MIXED USE OFFICE (MUO) DISTRICT

Sections:

18.16.010 Purpose

This district implements the Mixed-Use Office Comprehensive Plan designation which allows up to 14.5 dwelling units per net acre. Senior citizen housing is allowed up to 60 dwelling units per acre, subject to additional restrictions. It is intended to create and maintain areas characterized by professional and commercial office structures, mixed with certain complementary retail and residential uses.

(Ord. 1830 §4, 1998; Ord. 1758 §1 (part), 1995)

18.16.020 Land Uses Allowed

Refer to TMC Chapter 18.09, "Land Uses Allowed by District."

(Ord. 2500 §7, 2016)

18.16.060 On-Site Hazardous Substances

No on-site hazardous substance processing and handling, or hazardous waste treatment and storage facilities shall be permitted, unless clearly incidental and secondary to a permitted use. On-site hazardous waste treatment and storage facilities shall be subject to the State siting criteria (RCW 70.105). *(See TMC Chapter 21.08.)*

(Ord. 1758 §1 (part), 1995)

18.16.070 Design Review

Design review is required for all projects located within the shoreline jurisdiction that involve new building construction or exterior changes if the cost of the exterior changes equals or exceeds 10% of the building's assessed valuation, for commercial structures 1,500 square feet or larger outside the shoreline jurisdiction, for all structures containing multi-family dwellings and all structures in the Tukwila International Boulevard corridor. Commercial structures between 1,500 and 5,000 square feet, multi-family structures up to 1,500 square feet, and all buildings up to 1,500 square feet in the Tukwila International Boulevard corridor will be reviewed administratively. Design review is also required for certain exterior repairs, reconstructions, alterations or improvements to buildings over 10,000 square feet.

(See TMC Chapter 18.60, Board of Architectural Review.)

(Ord. 2368 §11, 2012; Ord. 2005 §3, 2002; Ord. 1758 §1 (part), 1995)

18.16.080 Basic Development Standards

Development within the Mixed Use Office District shall conform to the following listed and referenced standards. In the Tukwila International Boulevard corridor, there are circumstances under which these basic standards may be waived *(see TMC 18.60.030)*. Certain setback and landscaping standards may be waived by the Director of Community Development as a Type 2 decision when an applicant can demonstrate that shared parking is provided. If a project requires a Type 4 approval process, certain setbacks and landscaping may be waived by the BAR when an applicant can demonstrate that the number of driveways is reduced, efficiency of the site is increased, joint use of parking facilities is allowed or pedestrian oriented space is provided. Landscaping and setback standards may not be waived on commercial property sides adjacent to residential districts. *(See the Tukwila International Boulevard Design Manual for more detailed directions.)*

MUO BASIC DEVELOPMENT STANDARDS

Lot area per unit, multi-family (except senior citizen housing), minimum	3,000 sq. ft.
Setbacks to yards, minimum:	
• *Front*	25 feet
• *Second front*	12.5 feet
• *Sides*	10 feet
• *Sides, if any portion of the yard is within 50 feet of LDR, MDR, HDR*	Ratio of 1.5:1 setback (for every 1.5 feet of bldg. height, setback 1 foot from property line) min. of 10 feet and a max. of 30 feet
• *Rear*	10 feet
• *Rear, if any portion of the yard is within 50 feet of LDR, MDR, HDR*	Ratio of 1.5:1 setback (for every 1.5 feet of bldg. height, setback 1 foot from property line) min. of 10 feet and a max. of 30 feet
Refer to TMC Chapter 18.52, "Landscape Requirements," Table A, for perimeter and parking lot landscaping requirements.	
Height, maximum	4 stories or 45 feet
Recreation space	200 sq. ft. per dwelling unit (1,000 sq. ft. min.)
Recreation space, senior citizen housing	100 sq. ft. per dwelling unit
Off-street parking:	
• *Residential (except senior citizen housing)*	See TMC Chapter 18.56, Off street Parking & Loading Regulations
• *Office, minimum*	3 per 1,000 sq. ft. usable floor area
• *Retail, minimum*	2.5 per 1,000 sq. ft. usable floor area
• *Other uses, including senior citizen housing*	See TMC Chapter 18.56, Off-street Parking & Loading Regulations
Performance Standards: Use, activity and operations within a structure or a site shall comply with (1) standards adopted by the Puget Sound Air Pollution Control Agency for odor, dust, smoke and other airborne pollutants, (2) TMC Chapter 8.22, "Noise", and, (3) adopted State and Federal standards for water quality and hazardous materials. In addition, all development subject to the requirements of the State Environmental Policy Act, RCW 43.21C, shall be evaluated to determine whether adverse environmental impacts have been adequately mitigated.	

(Ord. 2678 §26, 2022; Ord. 2581 §5, 2018; Ord. 2251 §22, 2009; Ord. 1976 §30, 2001; Ord. 1872 §1, 1999; Ord. 1865 §18, 1999; Ord. 1830 §7, 1998; Ord. 1758 §1 (part), 1995)

CHAPTER 18.18
OFFICE (O) DISTRICT

Sections:

18.18.010 Purpose

This district implements the Office Comprehensive Plan designation. It is intended to provide for areas appropriate for professional and administrative offices, mixed with certain retail uses. Because of the generally light environmental and traffic impacts and daytime use characteristics of offices, it is further intended that such districts may serve as buffers between residential districts and commercial and/or industrial areas.

(Ord. 1758 §1 (part), 1995)

18.18.020 Land Uses Allowed

Refer to TMC Chapter 18.09, "Land Uses Allowed by District."

(Ord. 2500 §8, 2016)

18.18.060 On-Site Hazardous Substances

No on-site hazardous substance processing and handling, or hazardous waste treatment and storage facilities shall be permitted, unless clearly incidental and secondary to a permitted use. On-site hazardous waste treatment and storage facilities shall be subject to the State siting criteria (RCW 70.105).

(See TMC Chapter 21.08.)

(Ord. 1758 §1 (part), 1995)

18.18.070 Design Review

Design review is required for all projects located within the shoreline jurisdiction that involve new building construction or exterior changes if the cost of the exterior changes equals or exceeds 10% of the building's assessed valuation, and for commercial structures 1,500 square feet or larger outside the shoreline jurisdiction. Commercial structures between 1,500 and 5,000 square feet will be reviewed administratively. Design review is also required for certain exterior repairs, reconstructions, alterations or improvements to buildings over 10,000 square feet.

(See TMC Chapter 18.60, Board of Architectural Review.)

(Ord. 2368 §13, 2012; Ord. 2005 §4, 2002; Ord. 1758 §1 (part), 1995)

18.18.080 Basic Development Standards

Development within the Office District shall conform to the following listed and referenced standards:

OFFICE BASIC DEVELOPMENT STANDARDS

Setbacks to yards, minimum:	
• *Front*	25 feet
• *Second front*	12.5 feet
• *Sides*	10 feet
• *Sides, if any portion of the yard is within 50 feet of LDR, MDR, HDR*	
- 1st Floor	10 feet
- 2nd Floor	20 feet
- 3rd Floor	30 feet
• *Rear*	10 feet
• *Rear, if any portion of the yard is within 50 feet of LDR, MDR, HDR*	
- 1st Floor	10 feet
- 2nd Floor	20 feet
- 3rd Floor	30 feet
Refer to TMC Chapter 18.52, "Landscape Requirements," Table A, for perimeter and parking lot landscaping requirements.	
Height, maximum	3 stories or 35 feet
Off-street parking:	
• *Residential*	See TMC 18.56, Off-street Parking/Loading Regulations
• *Office, minimum*	3 per 1,000 sq. ft. usable floor area
• *Retail, minimum*	2.5 per 1,000 sq. ft. usable floor area
• *Other uses*	See TMC 18.56, Off-street Parking & Loading Regulations
Performance Standards: Use, activity and operations within a structure or a site shall comply with (1) standards adopted by the Puget Sound Air Pollution Control Agency for odor, dust, smoke and other airborne pollutants, (2) TMC 8.22, "Noise", and, (3) adopted State and Federal standards for water quality and hazardous materials. In addition, all development subject to the requirements of the State Environmental Policy Act, RCW 43.21C, shall be evaluated to determine whether adverse environmental impacts have been adequately mitigated.	

(Ord. 2678 §27, 2022; Ord. 2581 §6, 2018; Ord. 1976 §35, 2001; Ord. 1872 §2, 1999; Ord. 1758 §1 (part), 1995)

CHAPTER 18.20

RESIDENTIAL COMMERCIAL CENTER (RCC) DISTRICT

Sections:

18.20.010 Purpose

This district implements the Residential Commercial Center Comprehensive Plan designation which allows a maximum of 14.5 dwelling units per net acre. It is intended to create and maintain pedestrian-friendly commercial areas characterized and scaled to serve a local neighborhood, with a diverse mix of residential, retail, service, office, recreational and community facility uses.

(Ord. 1758 §1 (part), 1995)

18.20.020 Land Uses Allowed

Refer to TMC Chapter 18.09, "Land Uses Allowed by District."

(Ord. 2500 §9, 2016)

18.20.060 On-Site Hazardous Substances

No on-site hazardous substance processing and handling, or hazardous waste treatment and storage facilities shall be permitted, unless clearly incidental and secondary to a permitted use. On-site hazardous waste treatment and storage facilities shall be subject to the State siting criteria (RCW 70.105).

(See TMC Chapter 21.08.)

(Ord. 1758 §1 (part), 1995)

18.20.070 Design Review

Design review is required for all new commercial and multifamily structures and all projects located within the shoreline jurisdiction that involve new building construction or exterior changes if the cost of the exterior changes equals or exceeds 10% of the building's assessed valuation. Commercial and multi-family structures up to 1,500 square feet will be reviewed administratively. Design review is also required for certain exterior repairs, reconstructions, alterations or improvements to buildings over 10,000 square feet.

(See TMC Chapter 18.60, Board of Architectural Review.)

(Ord. 2368 §15, 2012; Ord. 2005 §5, 2002; Ord. 1758 §1 (part), 1995)

18.20.080 Basic Development Standards

Development within the Residential Commercial Center District shall conform to the following listed and referenced standards:

RCC BASIC DEVELOPMENT STANDARDS

Lot area, minimum	5,000 sq. ft.
Lot area per unit (multi-family), minimum	3,000 sq. ft.
Setbacks to yards, minimum:	
• *Front*	20 feet
• *Second front*	10 feet
• *Sides*	5 feet
• *Sides, if any portion of the yard is within 50 feet of LDR, MDR, HDR*	10 feet
• *Rear*	10 feet
Refer to TMC Chapter 18.52, "Landscape Requirements," Table A, for perimeter and parking lot landscaping requirements.	
Height, maximum	3 stories or 35 feet
Recreation space	200 sq. ft. per dwelling unit (1,000 sq. ft. min.)
Off-street parking:	
• *Residential*	See TMC Chapter 18.56, Off-street Parking & Loading Regulations
• *Office, minimum*	3 per 1,000 sq. ft. usable floor area
• *Retail, minimum*	2.5 per 1,000 sq. ft. usable floor area
• *Other uses*	See TMC Chapter 18.56, Off-street Parking & Loading Regulations
Performance Standards: Use, activity and operations within a structure or a site shall comply with (1) standards adopted by the Puget Sound Air Pollution Control Agency for odor, dust, smoke and other airborne pollutants, (2) TMC Chapter 8.22, "Noise", and (3) adopted State and Federal standards for water quality and hazardous materials. In addition, all development subject to the requirements of the State Environmental Policy Act, RCW 43.21C, shall be evaluated to determine whether adverse environmental impacts have been adequately mitigated.	

(Ord. 2678 §28, 2022; Ord. 2581 §7, 2018; Ord. 2518 §8, 2016; Ord. 1976 §39, 2001; Ord. 1872 §3, 1999; Ord. 1758 §1 (part), 1995)

CHAPTER 18.22

NEIGHBORHOOD COMMERCIAL CENTER (NCC) DISTRICT

Sections:

18.22.010 Purpose

A. This district implements the Neighborhood Commercial Center Comprehensive Plan designation. Senior citizen housing is allowed up to 60 dwelling units per acre, subject to additional restrictions. It is intended to provide for pedestrian-friendly areas characterized and scaled to serve multiple residential areas, with a diverse mix of uses. Uses include residential uses at second story or above when mixed with certain retail, service, office, recreational and community facilities, generally along a transportation corridor.

B. Certain NCC properties are located in the Urban Renewal Overlay (***see Figure 18-15***). Existing zoning and development standards will remain in place. The overlay provides additional alternate development standards that may be applied to development within the Urban Renewal Overlay upon request of the property owner, and if the development meets certain qualifying criteria. Urban Renewal Overlay district standards would implement the Tukwila International Boulevard Revitalization Plan through more intensive development.

(Ord. 2257 §8(part), 2009; Ord. 1865 §22, 1999; Ord. 1830 §10, 1998; Ord. 1758 §1 (part), 1995)

18.22.020 Land Uses Allowed

Refer to TMC Chapter 18.09, "Land Uses Allowed by District."

(Ord. 2500 §10, 2016)

18.22.060 On-Site Hazardous Substances

No on-site hazardous substance processing and handling, or hazardous waste treatment and storage facilities shall be permitted, unless clearly incidental and secondary to a permitted use. On-site hazardous waste treatment and storage facilities shall be subject to the State siting criteria (RCW 70.105).

(See TMC Chapter 21.08.)

(Ord. 1758 §1 (part), 1995)

18.22.070 Design Review

Design review is required for all commercial and for all multi-family structures and all projects located within the shoreline jurisdiction that involve new building construction or exterior changes if the cost of the exterior changes equals or exceeds 10% of the building's assessed valuation. Commercial and multi-family structures up to 1,500 square feet will be reviewed administratively. Design review is also required for certain exterior repairs, reconstructions, alterations or improvements to buildings over 10,000 square feet or in the Tukwila International Boulevard corridor.

(See the Board of Architectural Review chapter of this title.)

(Ord. 2368 §17, 2012; Ord. 2005 §6, 2002; Ord. 1758 §1 (part), 1995)

18.22.080 Basic Development Standards

Development within the Neighborhood Commercial Center District shall conform to the following listed and referenced standards: In the Tukwila International Boulevard corridor, there are circumstances under which these basic standards may be waived (see TMC 18.60.030). Certain setback and landscaping standards may be waived by the director of Community Development as a Type 2 decision when an applicant can demonstrate that shared parking is provided. If a project requires a Type 4 approval process, certain setbacks and landscaping may be waived by the BAR when an applicant can demonstrate that the number of driveways is reduced, efficiency of the site is increased, joint use of parking facilities is allowed or pedestrian space is provided. Landscaping and setback standards may not be waived on commercial property sides adjacent to residential districts.

See the Tukwila International Boulevard Design Manual for more detailed directions

NCC BASIC DEVELOPMENT STANDARDS

Lot area per unit for senior citizen housing, minimum	726 sq. ft. (senior housing)
Setbacks to yards, minimum:	
• *Front*	6 feet (12 feet if located along Tukwila International Blvd. S.)
• *Second front*	5 feet
• *Sides*	10 feet
• *Sides, if any portion of the yard is within 50 feet of LDR, MDR, HDR*	Ratio of 1.5:1 setback (for every 1.5 feet of bldg. height, setback 1 foot from property line) min. of 10 feet and a max. of 20 feet
• *Rear*	10 feet
• *Rear, if any portion of the yard is within 50 feet of LDR, MDR, HDR*	Ratio of 1.5:1 setback (for every 1.5 feet of bldg. height, setback 1 foot from property line) min. of 10 feet and a max. of 20 feet
Refer to TMC Chapter 18.52, "Landscape Requirements," Table A, for perimeter and parking lot landscaping requirements.	
Height, maximum	3 stories or 35 feet (4 stories or 45 feet in the NCC of the Tukwila International Boulevard, if a mixed use with a residential and commercial component)
Recreation space	200 sq. ft. per dwelling unit (1,000 sq. ft. min.)
Recreation space, senior citizen housing	100 sq. ft. per dwelling unit
Off-street parking:	
• *Residential (except senior citizen housing)*	See TMC 18.56, Off-street Parking/Loading Regulations
• *Office*	3 per 1,000 sq. ft. usable floor area
• *Retail*	2.5 per 1,000 sq. ft. usable floor area
• *Manufacturing*	1 per 1,000 sq. ft. usable floor area minimum
• *Warehousing*	1 per 2,000 sq. ft. usable floor area minimum
• *Other uses, including senior citizen housing*	See TMC 18.56, Off-street Parking & Loading Regulations
Performance Standards: Use, activity and operations within a structure or a site shall comply with (1) standards adopted by the Puget Sound Air Pollution Control Agency for odor, dust, smoke and other airborne pollutants, (2) TMC 8.22, "Noise", and, (3) adopted State and Federal standards for water quality and hazardous materials. In addition, all development subject to the requirements of the State Environmental Policy Act, RCW 43.21C, shall be evaluated to determine whether adverse environmental impacts have been adequately mitigated.	

(Ord. 2678 §29, 2022; Ord. 2581 §8, 2018; Ord. 1976 §42, 2001; Ord. 1872 §4, 1999; Ord. 1865 §25, 1999; Ord. 1830 §13, 1998; Ord. 1758 §1 (part), 1995)

CHAPTER 18.24

REGIONAL COMMERCIAL (RC) DISTRICT

Sections:

18.24.010 Purpose

This district implements the Regional Commercial Comprehensive Plan designation. It is intended to provide for areas characterized by commercial services, offices, lodging, entertainment, and retail activities with associated warehousing, and accessory light industrial uses, along a transportation corridor and intended for high-intensity regional uses. Where the area and streetscape is more residential than commercial in character, residential or mixed use residential is also allowed in order to provide redevelopment options and additional households, which would support the surrounding commercial district. In areas where residential uses are permitted, senior citizen housing is allowed up to 60 dwelling units per acre, subject to additional restrictions. The zone's standards are intended to promote attractive development, an open and pleasant street appearance, and compatibility with adjacent residential areas.

(Ord. 1865 §26, 1999; Ord. 1758 §1 (part), 1995)

18.24.020 Land Uses Allowed

Refer to TMC Chapter 18.09, "Land Uses Allowed by District."

(Ord. 2500 §11, 2016)

18.24.060 On-Site Hazardous Substances

No on-site hazardous substance processing and handling, or hazardous waste treatment and storage facilities shall be permitted, unless clearly incidental and secondary to a permitted use. On-site hazardous waste treatment and storage facilities shall be subject to the State siting criteria (RCW 70.105). *(See TMC Chapter 21.08.)*

(Ord. 1758 §1 (part), 1995)

18.24.070 Design Review

Design review is required for all projects located within the shoreline jurisdiction that involve new building construction or exterior changes if the cost of the exterior changes equals or exceeds 10% of the building's assessed valuation, and all hotels and motels and for other commercial structures 1,500 square feet or larger outside the shoreline jurisdiction. Outside of the Tukwila International Boulevard corridor, commercial structures between 1,500 and 5,000 square feet and multi-family structures up to 1,500 square feet will be reviewed administratively. Within the Tukwila International Boulevard corridor (***see TMC Figure 18-9***), design review is required for all new development as well as certain exterior repairs, reconstructions, alterations or improvements. Commercial and multi-family structures up to 1,500 square feet will be reviewed administratively. *(See TMC Chapter 18.60, Board of Architectural Review.)*

(Ord. 2368 §21, 2012; Ord. 2005 §7, 2002; Ord. 1865 §30, 1999; Ord. 1758 §1 (part), 1995)

18.24.080 Basic Development Standards

Development within the Regional Commercial district shall conform to the following listed and referenced standards. In the Tukwila International Boulevard corridor, there are circumstances under which these basic standards may be waived (see TMC 18.60.030). Certain setback and landscaping standards may be waived by the Director of Community Development as a Type 2 decision when an applicant can demonstrate that shared parking is provided. If a project requires a Type 4 approval process, certain setbacks and landscaping may be waived by the BAR when an applicant can demonstrate that the number of driveways is reduced, efficiency of the site is increased, joint use of parking facilities is allowed, or pedestrian-oriented space is provided. Landscaping and setback standards may not be waived on commercial property sides adjacent to residential districts. See the Tukwila International Boulevard Design Manual for more detailed directions. See also Chapter 18.50, Supplemental Development Regulations.

RC BASIC DEVELOPMENT STANDARDS

Lot area per unit (multifamily, except senior citizen housing), minimum	2,000 sq. ft. Where height limit is 6 stories: 622 sq. ft. Where height limit is 10 stories: 512 sq. ft.
Setbacks to yards, minimum:	
• *Front*	20 feet
• *Second front*	10 feet
• *Sides*	10 feet
• *Sides, if any portion of the yard is within 50 feet of LDR, MDR, HDR*	Ratio of 1.5:1 setback (for every 1.5 feet of bldg. height, setback 1 foot from property line) min. of 10 feet and a max. of 30 feet
When 3 or more stories	30 feet
• *Rear*	10 feet
• *Rear, if any portion of the yard is within 50 feet of LDR, MDR, HDR*	Ratio of 1.5:1 setback (for every 1.5 feet of bldg. height, setback 1 foot from property line) min. of 10 feet and a max. of 30 feet
When 3 or more stories	30 feet
Refer to TMC Chapter 18.52, "Landscape Requirements," Table A, for perimeter and parking lot landscaping requirements.	
Height, maximum	3 stories or 35 feet
Recreation space	200 sq. ft. per dwelling unit (1,000 sq. ft. min.)
Recreation space, senior citizen housing	100 sq. ft. per dwelling unit
Off-street parking:	
• *Residential (except senior citizen housing)*	See TMC 18.56, Off street Parking/Loading Regulations
• *Office*	3 per 1,000 sq. ft. usable floor area minimum
• *Retail*	2.5 per 1,000 sq. ft. usable floor area minimum
• *Manufacturing*	1 per 1,000 sq. ft. usable floor area minimum
• *Warehousing*	1 per 2,000 sq. ft. usable floor area minimum
• *Other uses, including senior citizen housing*	See TMC 18.56, Off-street Parking & Loading Regulations
Performance Standards: Use, activity and operations within a structure or a site shall comply with (1) standards adopted by the Puget Sound Air Pollution Control Agency for odor, dust, smoke and other airborne pollutants, (2) TMC 8.22, "Noise", and, (3) adopted State and Federal standards for water quality and hazardous materials. In addition, all development subject to the requirements of the State Environmental Policy Act, RCW 43.21C, shall be evaluated to determine whether adverse environmental impacts have been adequately mitigated.	

(Ord. 2678 §30, 2022; Ord. 1976 §45, 2001; Ord. 1872 §5, 1999; Ord. 1865 §31, 1999; Ord. 1758 §1 (part), 1995)

CHAPTER 18.26

REGIONAL COMMERCIAL MIXED-USE (RCM) DISTRICT

Sections:

18.26.010 Purpose

This district implements the Regional Commercial Mixed Use Comprehensive Plan designation, which allows up to 14.5 dwelling units per net acre. Senior citizen housing is allowed up to 60 dwelling units per acre, subject to additional restrictions. It is intended to provide for areas characterized by commercial services, offices, lodging, entertainment, and retail activities with associated warehousing, and accessory light industrial uses, along a transportation corridor and intended for high-intensity regional uses. Residential uses mixed with certain commercial uses are allowed at second story or above. The zone's standards are intended to promote attractive development, an open and pleasant street appearance, and compatibility with adjacent residential areas.

(Ord. 1830 §16, 1998; Ord. 1758 §1 (part), 1995)

18.26.020 Land Uses Allowed

Refer to TMC Chapter 18.09, "Land Uses Allowed by District."

(Ord. 2500 §12, 2016)

18.26.060 On-Site Hazardous Substances

No on-site hazardous substance processing and handling, or hazardous waste treatment and storage facilities shall be permitted, unless clearly incidental and secondary to a permitted use. On-site hazardous waste treatment and storage facilities shall be subject to the State siting criteria (RCW 70.105).

(See TMC Chapter 21.08.)

(Ord. 1758 §1 (part), 1995)

18.26.070 Design Review

Design review is required for all projects located within the shoreline jurisdiction that involve new building construction or exterior changes if the cost of the exterior changes equals or exceeds 10% of the building's assessed valuation, and for commercial structures 1,500 square feet or larger and for all structures containing multi-family dwellings outside the shoreline jurisdiction. Commercial structures between 1,500 and 5,000 square feet and multi-family structures up to 1,500 square feet will be reviewed administratively. Design review is also required for certain exterior repairs, reconstructions, alterations or improvements to buildings over 10,000 square feet.

(See TMC Chapter 18.60, Board of Architectural Review.)

(Ord. 2368 §24, 2012; Ord. 2005 §8, 2002; Ord. 1758 §1 (part), 1995)

18.26.080 Basic Development Standards

Development within the Regional Commercial Mixed Use District shall conform to the following listed and referenced standards:

RCM BASIC DEVELOPMENT STANDARDS

Lot area per unit (multifamily, except senior citizen housing), minimum	3,000 ft
Setbacks to yards, minimum:	
• *Front*	20 feet
• *Second front*	10 feet
• *Sides*	10 feet
• *Sides, if any portion of the yard is within 50 feet of LDR, MDR, HDR*	
1st Floor	10 feet
2nd Floor	20 feet
3rd Floor	30 feet
• *Rear*	10 feet
• *Rear, if any portion of the yard is within 50 feet of LDR, MDR, HDR*	
1st Floor	10 feet
2nd Floor	20 feet
3rd Floor	30 feet
Refer to TMC Chapter 18.52, "Landscape Requirements," Table A, for perimeter and parking lot landscaping requirements.	
Height, maximum	3 stories or 35 feet
Recreation space	200 sq. ft. per dwelling unit (1,000 sq. ft. min.)
Recreation space, senior citizen housing	100 sq. ft. per dwelling unit
Off-street parking:	
• *Residential (except senior citizen housing)*	See TMC 18.56, Off street Parking/Loading Regulations
• *Office*	3 per 1,000 sq. ft. usable floor area minimum
• *Retail*	2.5 per 1,000 sq. ft. usable floor area minimum
• *Manufacturing*	1 per 1,000 sq. ft. usable floor area minimum
• *Warehousing*	1 per 2,000 sq. ft. usable floor area minimum
• *Other uses, including senior citizen housing*	See TMC 18.56, Off-street Parking & Loading Regulations
Performance Standards: Use, activity and operations within a structure or a site shall comply with (1) standards adopted by the Puget Sound Air Pollution Control Agency for odor, dust, smoke and other airborne pollutants, (2) TMC 8.22, "Noise", and, (3) adopted State and Federal standards for water quality and hazardous materials. In addition, all development subject to the requirements of the State Environmental Policy Act, RCW 43.21C, shall be evaluated to determine whether adverse environmental impacts have been adequately mitigated.	

(Ord. 2678 §31, 2022; Ord. 1976 §47, 2001; Ord. 1872 §6, 1999; Ord. 1830 §19, 1998; Ord. 1758 §1 (part), 1995)

CHAPTER 18.28

TUKWILA URBAN CENTER (TUC) DISTRICT

Sections:

Introduction

18.28.010 Purpose and Orientation

The purpose of this chapter is to implement the goals and policies of the Tukwila Comprehensive Plan and Southcenter Subarea Plan. This chapter contains the primary development code that will be used to evaluate development projects or improvement plans proposed on properties within the Tukwila Urban Center (TUC) zone area. The Code contains regulations governing Use, Height, Building Placement, Public and Private Frontage, Parking, Streets, Blocks, Open Space, Landscaping, Site Design, and Architecture. See the Tukwila Comprehensive Plan and *Southcenter Subarea Plan* for more detail about the long range vision for the Plan area and a discussion of City actions and investments that support implementation of the Southcenter vision. *(Ord. 2443 §2, 2014)*

18.28.020 How to Use the Development Code

A. The Development Code is organized into four primary sections:

1. District-based standards,
2. Corridor-based standards,
3. Supplemental development regulations, and
4. A separate Southcenter Design Manual.

B. Following are instructions on how to locate and review the development regulations that apply to a specific property:

1. Locate the property on the District Map ***(Figure 18-16),*** and Corridor Map ***(Figure 18-19).*** Identify which District and Corridor Type(s) apply to the property.

2. Review the District Standards ***(Tables 18-2 and 18-3)*** and Corridor Standards ***(Figures 18-20 through 18-27)*** and identify the specific standards for the applicable District and Corridor Type. Note that the tables and figures are intended as a summary and do not encompass all mandatory requirements presented throughout the development regulations.

3. District-Based Standards (TMC Sections 18.28.040 through 18.28.110) govern:

a. The use of a building or site; see Table 2, "Land Uses Allowed by District."

b. The scale and configuration of the built environment; see Table 3, "District Standards."

4. Corridor-Based Standards (TMC Sections 18.28.120 through 18.28.200) govern:

a. Thoroughfare configuration, public frontage conditions, building and parking placement, front yard landscaping, and architectural aspects of that portion of a building's façade within the first 185 feet of a parcel, measured from the curb line provided, however, that for Future Corridors mapped on ***Figure 18-19*** these Corridor Standards do not apply until the Corridor is activated by: (i) City acquiring the right-of-way and installing thoroughfare and public frontage improvements or lawfully requiring dedication and installation of the same in connection with a project proposal; or (ii) an applicant or owner elects to install the Corridor improvements and provide public access in connection with adjoining development. See the Corridor Standards ***(Figures 18-20 through 18-27).***

b. More detailed information about the development regulations and guidelines that apply to each Corridor can be reviewed in the subsequent sections. These regulations are set forth to ensure that the configuration, location, orientation and design of new development match the envisioned character of all streets and open spaces in the Plan area.

5. **Supplemental Development Regulations** (TMC Sections 18.28.220 through 18.28.280): These sections contain regulatory definitions, requirements and guidelines that are common for all properties in Southcenter. They address front yard encroachments, special corner features, new streets configurations and guidelines, open space, landscaping, site components, and parking.

C. **Interpretation of the Development Code.** Most sections of the code feature the following elements:

1. **Purpose.** Purpose statements are overarching objectives.

2. **Standards.** Standards use words such as "shall", "must", or "is/are required", signifying required actions.

3. **Guidelines.** Guidelines use words such as "should" or "is/are recommended", signifying voluntary measures.

4. **Alternatives.** Some standards within the code allow applicants to propose alternative methods of meeting the particular standards. In such cases, the applicant shall demonstrate how the proposal meets the purpose of the standard and the overall objectives of the Plan.

D. See the Applicability and Design Review section (TMC Section 18.28.030) to determine how the provisions in this chapter apply to properties in the TUC zone and which other Tukwila codes may apply to a specific property.

(Ord. 2443 §3, 2014)

18.28.030 Applicability and Design Review

A. **Relationship to Other Tukwila Codes**.

1. The provisions of this chapter apply to properties within the Southcenter Plan Area, shown on the District Map ***(Figure 18-16).***

2. The provisions of this chapter shall modify the regulations and other provisions in TMC Title 18, "Zoning," provided that the regulations and provisions of the entire Tukwila Municipal Code shall apply when not specifically covered by this chapter; and, further, provided that where Title 18 and the goals of the Southcenter Plan and this chapter are found to be in conflict, the provisions of this chapter shall apply unless otherwise noted.

3. Areas within 200 feet of the Ordinary High Water Mark (OHWM) of the Green River are subject to the regulations in TMC Chapter 18.44, "Shoreline Overlay," which supersede this chapter when in conflict.

4. Areas meeting the definition of sensitive areas or sensitive area buffers are subject to the regulations of TMC Chapter 18.45, "Environmentally Critical Areas," and TMC Chapter 18.54, "Urban Forestry and Tree Regulations."

5. Alterations to non-conforming structures, uses, landscape areas or parking lots shall be made in accordance with the standards in TMC Chapter 18.70, "Non-Conforming Lots, Structures and Uses," except that existing structures greater than the applicable district's maximum building height at the time of adoption of Ordinance No. 2443 (effective June 10, 2014) shall not be considered non-conforming as to height provisions.

6. Tukwila has adopted local amendments to the International Building and Fire Codes, which should be reviewed early in the development process; see TMC Title 16, "Buildings and Construction."

7. Boundary line adjustments, lot consolidations, short plats, subdivisions and binding site improvement plans shall be subject to the requirements of TMC Title 17, "Subdivisions and Plats."

8. Signs shall be regulated according to Title 19, "Sign and Visual Communication Code."

9. Public and private infrastructure must be designed and built in compliance with the standards contained in the current edition of the Tukwila Public Works Department Infrastructure Design and Construction Standards.

B. **Intensification of Use.** Maximum block face length (TMC Section 18.28.080) and public frontage improvements (TMC Section 18.28.150) are required when an individualized assessment by the Director determines that the improvements are reasonably necessary as a direct result of the transportation impacts of a proposed development.

C. **Pad Development, Expansions or Complete Redevelopment.**

1. Construction of a new pad building on a site with existing development shall meet all requirements for the new structure, and any alterations to non-conforming landscape areas or parking lots shall be made in accordance with the standards in TMC Chapter 18.70, "Non-Conforming Lots, Structures and Uses."

2. Expansions of existing buildings shall meet all requirements for the new portions of the structure, and any alterations to non-conforming landscape areas or parking lots shall be made in accordance with the standards in TMC Chapter 18.70, "Non-Conforming Lots, Structures and Uses."

3. Development of a vacant site or complete redevelopment of a site shall require compliance with all of the standards and guidelines in this chapter.

D. **Design Review. (*Table 18-1*)**

1. Design review for projects located in the Regional Center (TUC-RC), Transit Oriented Development Neighborhood (TUC-TOD), Pond (TUC-P), or Commercial Corridor (TUC-CC) Districts:

a. Projects meeting the thresholds for design review set forth in subparagraph 18.28.030.D.1.b. and c. shall be evaluated using applicable regulations in this chapter and the guidelines set forth in the Southcenter Design Manual. Work performed within the interior of a structure does not trigger design review or application of District or Corridor Standards.

b. ***Major remodels and small-scale projects.*** Projects meeting any one of the following criteria shall be reviewed administratively as a Type 2 decision (see TMC Chapter 18.60):

(1) New non-residential structures between 1,500 and 25,000 square feet in size (total on premises).

(2) New residential or mixed-use buildings providing up to 50 dwelling units (total on premises).

(3) Any exterior repair, reconstruction, cosmetic alterations or improvements, when the cost of that work exceeds 10% of the building's current assessed valuation (the cost of repairs to or reconstruction of roofs screened by parapet walls is exempt). Compliance with corridor-based architectural design standards and building orientation is required for existing buildings only if they are destroyed by any means to an extent of more than 50% of their replacement cost at the time of destruction, in the judgment of the City's Building Official.

(4) Exterior expansions between 1,500 and 25,000 square feet in size (total on premises).

c. ***Large scale projects.*** Projects meeting the following criteria shall be reviewed by the Board of Architectural Review (BAR) as a Type 4 decision (see TMC Chapter 18.60):

(1) New non-residential structures greater than 25,000 square feet in size (total on premises).

(2) New residential or mixed-use buildings with more than 50 dwelling units (total on premises).

(3) Exterior expansions greater than 25,000 square feet in size (total on premises).

d. ***Minor remodels and very small scale projects.*** Projects NOT meeting the design thresholds set forth in subparagraph 18.28.030.D.1.b. or c. are not subject to design review and shall be evaluated using applicable regulations in this chapter EXCEPT for the corridor-based architectural design standards.

2. **Design Review for Projects located in the Workplace District**.

a. Buildings containing any dwelling units that meet the following thresholds for design review shall be evaluated using applicable regulations in this chapter and the guidelines set forth in the Southcenter Design Manual. Work performed within the interior of a structure does not trigger design review or application of District or Corridor Standards.

Type of Review:

(1) New small scale residential or mixed-use buildings providing up to 50 dwelling units (total on premises) shall be reviewed administratively as a Type 2 decision (see TMC Chapter 18.60).

(2) ***Major remodels.*** Any exterior repair, reconstruction, cosmetic alterations or improvements to buildings over 10,000 square feet, when the cost of that work exceeds 10% of the building's current assessed valuation (the cost of repairs to or reconstruction of roofs screened by parapet walls is exempt) shall be reviewed administratively as a Type 2 decision (see TMC Chapter 18.60).

(3) New large scale residential or mixed-use building projects with more than 50 dwelling units (total on premises) will be reviewed by the Board of Architectural Review (BAR) as a Type 4 decision (see TMC Chapter 18.60).

b. All other projects meeting the following thresholds for design review shall be evaluated using the applicable regulations in this chapter and the design review criteria in TMC Section 18.60.050.

Type of Review:

(1) Small scale new construction or exterior expansions between 1,500 and 25,000 square feet shall be reviewed administratively as a Type 2 decision (see TMC Chapter 18.60).

(2) ***Major remodels.*** Any exterior repair, reconstruction, cosmetic alterations or improvements to buildings over 10,000 square feet, when the cost of that work exceeds 10% of the building's current assessed valuation (the cost of repairs to or reconstruction of roofs screened by parapet walls is exempt) shall be reviewed administratively as a Type 2 decision (see TMC Chapter 18.60). Compliance with corridor-based building orientation/placement and architectural design standards is required for existing buildings only if they are destroyed by any means to an extent of more than 50% of their replacement cost at the time of destruction, in the judgment of the City's Building Official.

(3) Large-scale new construction or exterior expansions greater than 25,000 square feet shall be reviewed by the Board of Architectural Review as a Type 4 decision (see TMC Chapter 18.60).

c. ***Minor remodels and very small scale projects.*** Projects NOT meeting the design thresholds set forth in subparagraph 18.28.030.D.2.a. or b. shall be evaluated using applicable regulations in this chapter EXCEPT for the corridor-based architectural design standards.

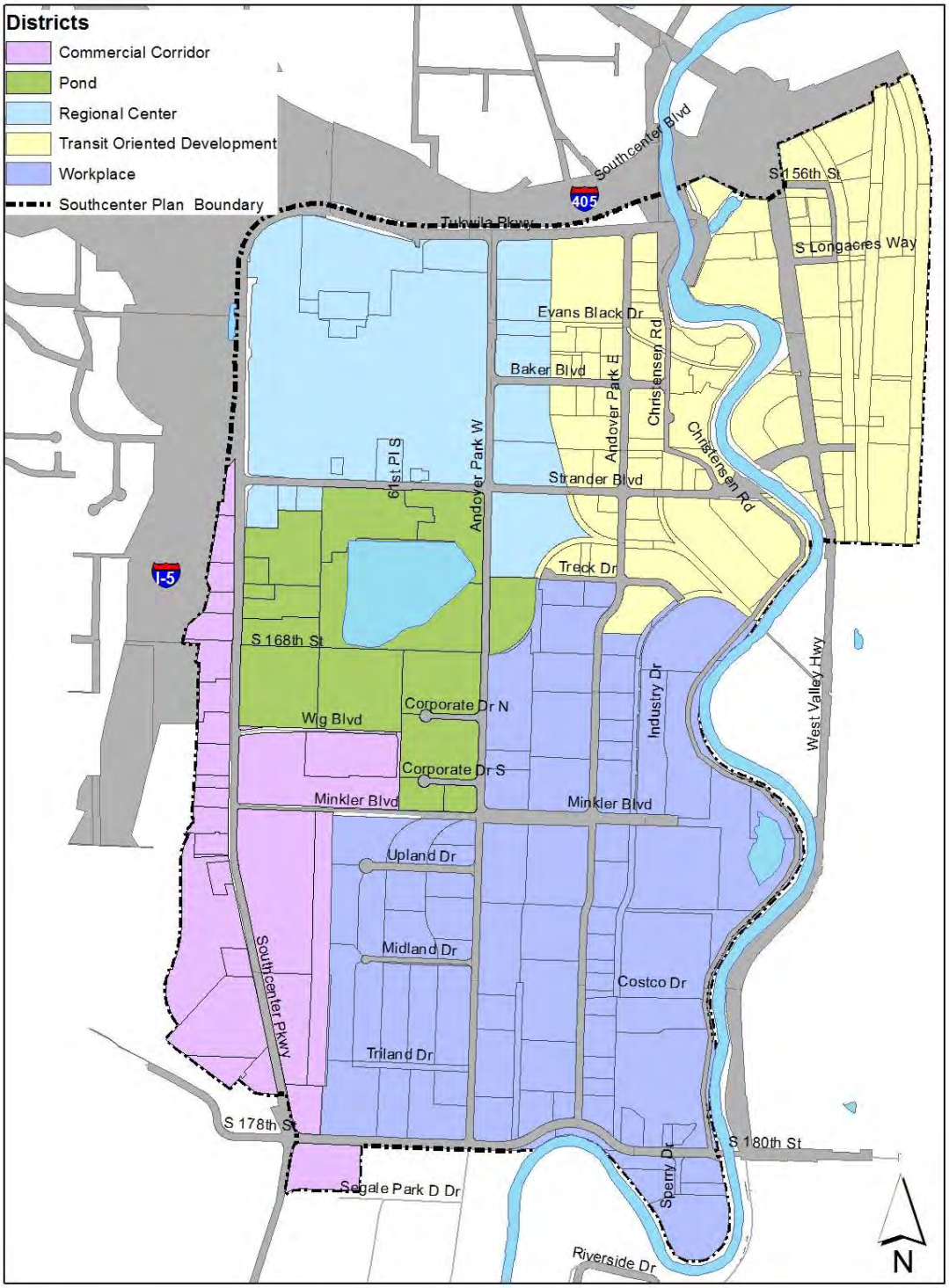
(Ord. 2678 §9, 2022; Ord. 2500 §14, 2016; Ord. 2443 §4, 2014)

DISTRICT-BASED STANDARDS

18.28.040 Districts

A. Five Districts are hereby established within the Tukwila Urban Center in the specific locations and with the specific names indicated in the District Map ***(Figure 18-16).***

Figure 18-16: District Map



B. **Districts – Purpose.**

1. **TUC-RC, Regional Center.** The area in the vicinity of Westfield Southcenter Mall, with easy access to the bus Transit Center, is intended to provide an area that will continue to infill and intensify with more retail, services, and entertainment uses southward toward Strander Boulevard and eastward across Andover Park West. Over the long term, infill development on the high-value property of the Mall may continue the transition from surface parking to structured parking, and may be increasingly characterized by mid-rise or high-rise building components built over the retail base.

2. **TUC-TOD, Transit Oriented Development (TOD) Neighborhood.** The area extending from the bus transit center on Andover Park West eastward towards the Sounder commuter rail/Amtrak station is intended to provide a more compact and vibrant mix of housing, office, lodging and supportive retail and service uses. Parking will be accommodated by a combination of off- and on-street parking spaces/lots. The overall structure of the TOD Neighborhood will be characterized by moderate development intensities and building heights. A fine-grained network of streets with pedestrian amenities will increase the walkability of the area.

3. **TUC-P, Pond District.** The northern edge of the Pond District is intended to provide an area of higher-density mixed-use development over retail, restaurants and services, oriented towards the Pond and a paved waterfront esplanade. Maximum building heights will be lower than in the adjacent Regional Center District, to provide sunlight to and views of the Pond. The eastern, western, and southern edges of the Pond will be characterized by a more natural park environment. Buildings will be separated from the Pond by streets on the eastern and southern edges, and stepped down in height toward the water to preserve views. Ground floors on these edges will range from office to support services and retail uses, with more private uses like residential above.

4. **TUC-CC, Commercial Corridor District.** Southcenter Parkway will continue to feature auto-oriented retail and services in a manner similar to the existing patterns of development in that area.

5. **TUC-WP, Workplace District.** The large southern portion of the plan area will continue to provide a wide range of distribution, warehousing, light industrial, "big box" retail, and furniture outlets, with incremental infill by office and other complementary commercial uses. Residential uses may front the Green River.

C. The scale and pattern of all development shall be governed by the standards and regulations for the applicable District.

(Ord. 2443 §5, 2014)

18.28.050 District Land Uses

For permitted uses of a building or site, see ***Table 18-2***, "Land Uses Allowed by District."

1. All Districts appear in the top row of the table.

2. The uses are organized by category and if allowed in a District are listed as either Permitted (P), Accessory (A), Conditional (C), or Unclassified Use Permit (UUP).

3. All permitted uses for a single district are allowed either alone or in combination with any other permitted uses within a parcel.

4. Other uses not specifically listed in this title are permitted should the Director determine them to be similar in nature to and compatible with other uses permitted outright within a District, consistent with the stated purpose of the District, and consistent with the policies of the Southcenter Plan.

(Ord. 2443 §6, 2014)

18.28.060 District Standards

For the scale and configuration of the built environment, see ***Table 18-3,*** "District Standards."

1. All Districts appear in the top row of the table.

2. The primary regulations are listed in the left-most column of the table in the order that they appear in the text.

3. The development standards that apply to each District can be reviewed by cross referencing a regulation with a District.

4. More detailed information about the regulations and guidelines that apply to each District can be reviewed in the Tukwila Municipal Code section referenced in the row sub-headings. These regulations are set forth to ensure that the height and setbacks of new buildings and the scale of new blocks and streets are consistent with the purpose of each Southcenter District.

(Ord. 2443 §7, 2014)

18.28.070 Structure Height

A. The minimum and maximum height of a structure shall be as specified by District or modified by a special height overlay. See Table 3, "District Standards."

1. Structures oriented to Baker Boulevard shall have an average height at least as high as the minimum listed in ***Table 18-3***, "District Standards."

B. **Pond Edge Height Limit**.

1. Development located within 150 feet of the edge of Tukwila Pond is not eligible for incentive height increases.

2. The maximum height in this location shall be as specified by District.

C. **Public Frontage Improvement Height Incentive**.

1. As an incentive to provide public frontage improvements and/or new streets that are not otherwise required under this code, allowable structure heights may be increased to the limits as specified for each District as shown in ***Table 18-3***, "District Standards," when:

a. Developers construct public frontage improvements along their parcel frontages on existing streets, constructed to the standards of this code; or

b. Developers construct new 20 foot wide half streets with one side of public frontage improvements, constructed to the standards of this code; or

c. The existing sidewalk width and configuration along a parcel's frontage meets or exceeds the public frontage standard and, when averaged, the landscape width and street tree spacing meet the required public frontage standard. Additional sidewalk width may substitute for an equal area of landscaping.

d. In order to take advantage of this incentive, the public frontage improvements must start and stop at property boundaries, intersections or traffic signals and transition safely to neighboring conditions.

2. The public frontage height incentive will be applied proportionally to parcels with more than one frontage based on the following:

a. Each frontage will be evaluated separately based on its Corridor Type's public frontage standards.

b. The height bonus will be applied to a percentage of the total building footprint(s) on site based on the percentage of the parcel's total public frontage that, when averaged, meets the public frontage standard. For example, when averaged, if one of a parcel's two similar length frontages meets the corridor's public frontage standard, then 50% of the total building footprint on site is eligible for the height incentive.

D. **Multi-Family Height Incentive**.

1. As an incentive to construct residential dwelling units, allowable structure heights may be increased to the limits specified in ***Table 18-3***, "District Standards."

2. Structures may be completely residential or mixed use, with residential uses comprising at least half of the occupied floor area of the building.

E. Structures qualify for increased height as set forth in ***Table 18-3***, "District Standards," when integrating any of the following combination of height incentives:

1. In the TUC-TOD District, allowable structure heights may be increased to 115 feet for developments that meet both the frontal improvement and multi-family height incentive requirements.

2. In the TUC-TOD District, allowable structure heights may be increased to 115 feet for developments that achieve a LEED certification of silver or higher and meet either the frontal improvement or multi-family height incentive requirements.

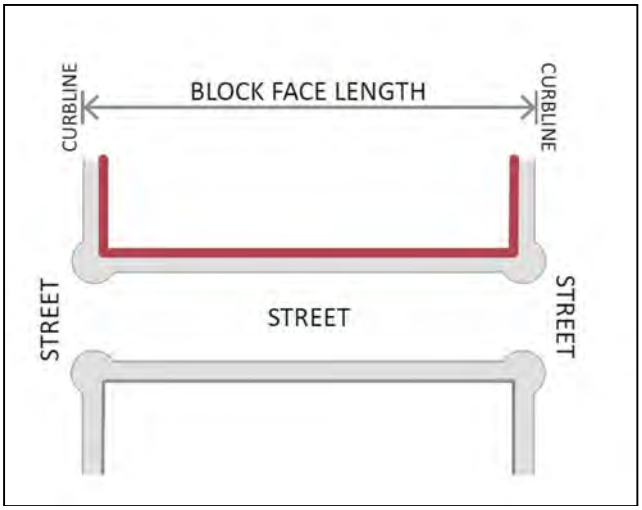
3. In the TUC-TOD District, allowable structure heights may be increased to 115 feet for developments that meet the multi-family height incentive requirements and make at least 20% of the residential units affordable per the standards in WAC 365-196-870. For rental units, affordability is set at 50% of the county median family income, adjusted for family size. For owner-occupied units, affordability is set at 80% of the county median family income, adjusted for family size.

(Ord. 2443 §8, 2014)

18.28.080 Maximum Block Face Length

A. **Definition.** Block face length is a measure of a length of a block, in feet, from curb face to curb face of two intersecting and publicly accessible streets (public or private).
See Figure 18-17 (below).

Figure 18-17: Block face length



B. **Regulation.**

1. When required per TMC Section 18.28.030.B, development sites (properties or assemblages of contiguous properties) with a block face that exceeds the specified maximum block face length standard must construct new publicly accessible streets in locations that result in the creation of city blocks that do not exceed the maximum block face length for that District.

2. For the purposes of determining block face length, alleys are considered as part of the interior of a block. For development sites bounded by rivers or ponds, property lines along the adjacent water body and pedestrian ways providing waterfront access may qualify as defining the edge of a block. In no other case shall pedestrian ways qualify as defining the edge of a block.

3. New streets must be designed, configured, and located in accordance with TMC Section 18.28.140, "New Streets."

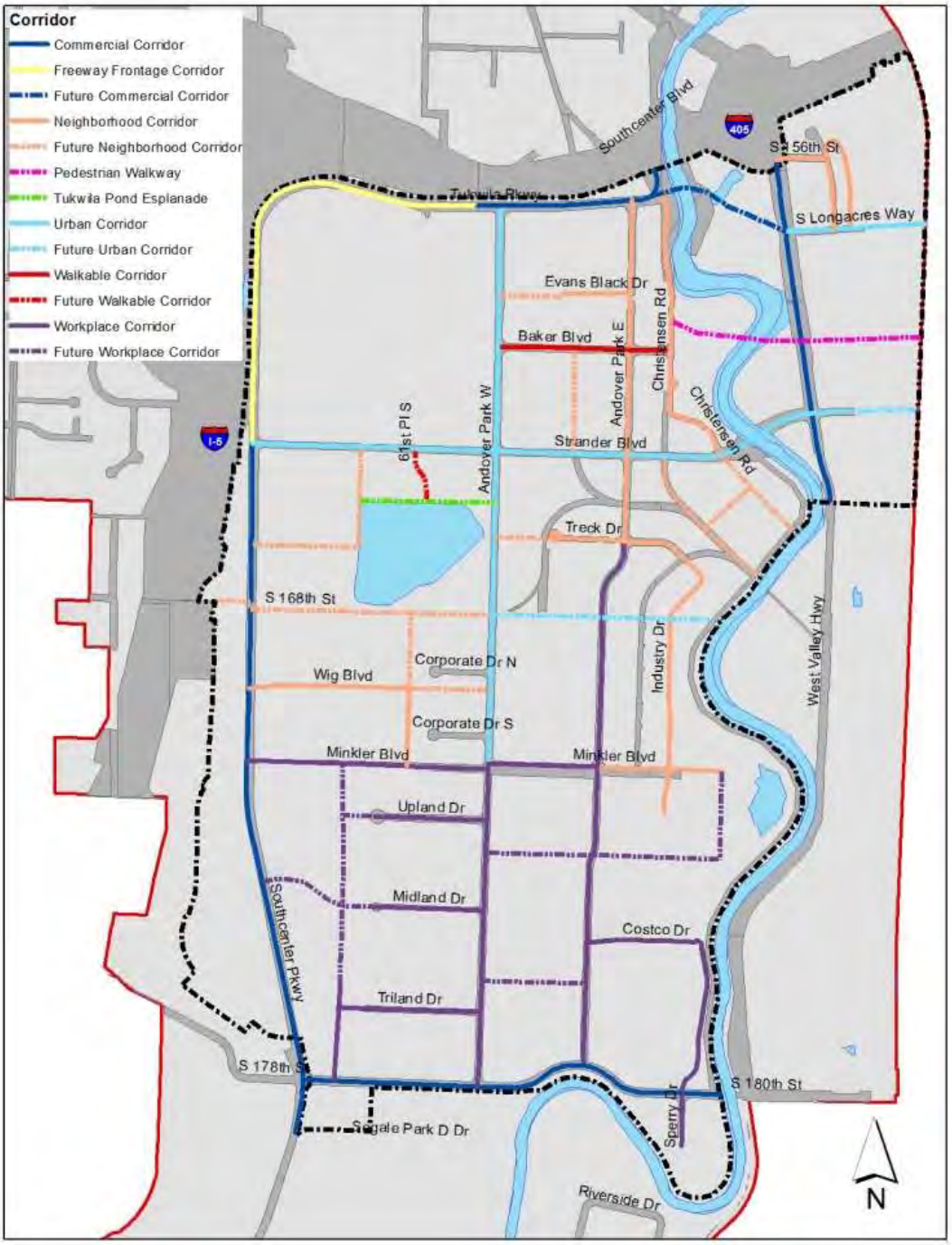
(Ord. 2443 §9, 2014)

18.28.090 Permitted Corridor Types for New Streets

New streets built to satisfy maximum block face requirements or built voluntarily by a developer that are not shown on the Corridor Type Map ***(Figure 18-19)*** shall be built as one of the Corridor Types permitted in ***Table 18-3***, "District Standards." See TMC Section 18.28.140, "New Streets," for more details.

(Ord. 2443 §10, 2014)

Figure 18-19: Corridor Type Map



18.28.100 Side and Rear Setbacks

A. The width of side and rear setbacks shall be as specified by ***Table 18-3***, "District Standards."

B. Front yard setbacks are specified by the Corridor Standards ***(Figures 18-20 through 18-27).***

(Ord. 2443 §11, 2014)

18.28.110 Side and Rear Yard Landscaping Requirements

A. The width of side and rear yard landscaping shall be as specified by Table 3, "District Standards."

B. Side and rear yard landscaping shall be designed, planted and maintained as specified in TMC Section 18.28.230.B, "Side and Rear Yard Landscape Types," and TMC Section 18.28.240, "General Landscaping."

(Ord. 2443 §12, 2014)

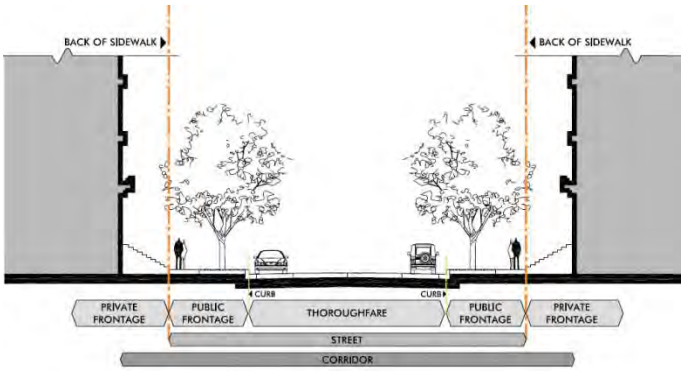
CORRIDOR-SPECIFIC STANDARDS

18.28.120 Corridors

A. **Purpose.** To provide standards specific to a hierarchy of corridors and to implement the vision for Southcenter as set forth in the Subarea Plan.

B. A Corridor consists of the following elements ***(see figure 18-18 below):***

Figure 18-18: Corridor Definition of Terms



1. **Street:** Comprised of the thoroughfare and public frontage.

a. ***Thoroughfare –*** Includes the moving and parking lanes from curb face to curb face.

b. ***Public Frontage –*** The portion of a property between the curb face and back of sidewalk, including the sidewalk and any sidewalk landscaped areas. Public frontage is also associated with pedestrian walkways and open spaces, such as Tukwila Pond or the Green River.

2. **Private Frontage.** The portion of a property between the back of sidewalk and the primary building façade along the street, pedestrian walkway or open space, and portions of all primary building façades up to the top of the first or second floor, including building entrances, located along and oriented toward the street, pedestrian walkway or open space.

C. Eight Corridor Types are hereby established in the specific locations and with the specific names indicated in ***Figure 18-19, "Corridor Type Map."***

1. **Walkable Corridors.** To provide and support a high-quality pedestrian realm for shopping and strolling along active retail, eating and entertainment uses, with buildings pulled up to the street and parking located to the side or rear, on Southcenter's primary streets connecting the Mall, Tukwila Pond, the Transit Center, and the Sounder Commuter Rail/Amtrak Station. Sidewalks associated with these Corridors should be wide and unobstructed to provide ample room for pedestrians to walk, and, where appropriate, to encourage activities including outdoor dining and locations for kiosks, food carts, and flower stalls.

2. **Pedestrian Walkways.** The design and location of this corridor is intended to supplement the existing and future street network with non-motorized pathways; to support and foster an alternative mode of travel to motorized vehicles within the area; and to provide a safe, pleasant, and direct route for pedestrians between significant activity areas (such as the Sounder Commuter Rail/Amtrak Station and Baker Boulevard, and the Mall and Tukwila Transit Center with Tukwila Pond Park). Pedestrian walkways should be wide with amenities such as trees, planters, benches and other street furniture. Buildings should be pulled up to the edge of the corridor and designed to be pedestrian-friendly. Where appropriate, uses such as kiosks, viewing areas, food carts and flower stalls shall be encouraged along this corridor. Walkways will be well-lit to create a safe night-time environment.

3. **Tukwila Pond Esplanade.** To provide a public esplanade environment along the northern edge of Tukwila Pond Park that functions as a focal point and central gathering spot for the urban center, suitable for shopping or strolling. The esplanade is intended to be integrated with adjoining retail and restaurant activities, providing an active waterside promenade to augment the shopping, eating and other uses in the vicinity.

4. **Neighborhood Corridors.** To provide an intimately-scaled pedestrian environment within northern Southcenter's higher density mixed-use neighborhoods, in a "complete streets" setting with on-street parking and bicycles sharing the roadway with vehicles.

5. **Urban Corridors.** To provide an attractive streetscape along the crossroads in the urban center, which provide greater capacity for transit and auto traffic, with modest improvements for pedestrian safety.

6. **Commercial Corridors.** To provide greater capacity for vehicles, and attractive streetscapes along heavily travelled roadways serving auto-oriented commercial uses, with modest improvements for pedestrian safety.

7. **Freeway Frontage Corridors.** To provide heavily travelled parkways oriented towards both the area's freeways and Westfield Southcenter Mall, with modest improvements for pedestrian safety.

8. **Workplace Corridors.** To provide streets serving truck loading and parking access for primarily warehouse/distribution uses in the southern part of the Southcenter area, with modest improvements for pedestrian safety.

(Ord. 2443 §13, 2014)

18.28.130 Corridor Regulations

A. This section contains regulations and guidelines for the provision, design, and configuration of new and existing streets and adjacent public and private frontage to ensure that these components of a Corridor support the type of development desired within each district, enhance the connectivity of the street network, create safe and attractive streetscape environments, encourage walking, and provide sufficient capacity and proper accessibility and circulation as the area intensifies.

B. The form of all development along a street, primary open space, or water body shall be governed by the standards and regulations of the applicable Corridor Type. Corridor Type establishes the following:

1. **For existing streets:** A specific configuration of the public frontage.

2. **For new streets:** A specific configuration for the thoroughfare and public frontage.

3. **For existing and new streets:** Specific private frontage requirements.

4. **For projects that trigger design review:** Architectural Design Standards.

C. **Modifications.** An applicant may propose modifications to the Corridor standards. Modifications must be approved by the Director as a Type 2 decision (TMC Chapter 18.104). The applicant must show that the modified Corridor design:

1. Satisfies the urban design goals as stated in each Corridor Type's purpose, requirements, and description;

2. Is designed to transition safely to the existing conditions at either end; and

3. Enhances the streetscape of the site and adjacent development.

D. **Summary of Standards.** ***Figures 18-20 through 18-27*** summarize the corridor regulations. TMC Sections 18.28.140 through 18.28.200 provide supporting details.

(Ord. 2443 §14, 2014)

18.28.140 New Streets

A. **Purpose.** New street regulations ensure the creation of an appropriate sized network of blocks, streets and pedestrian paths that will support the envisioned future development.

B. **Regulations.**

1. New streets shall be required when an individualized assessment by the Director determines that the improvements are reasonably necessary as a direct result of the proposed development. New streets may also be provided voluntarily by a developer, or constructed by the City.

2. **All New Streets:**

a. New streets shall be designed based on their Corridor Type.

b. New street locations must meet safety and spacing requirements, as approved by the Public Works Director.

c. New streets may be publicly or privately owned and maintained, as approved by the Public Works Director.

d. New streets shall connect with existing streets and be configured to allow for future extension whenever possible.

e. Permanent dead ends shall not be permitted, unless the new street dead ends at a public access point to the Green River.

f. In order to maintain the accessibility provided by the block structure of the urban center, existing public streets or alleys may not be closed permanently unless the closure is part of the provision of a network of new streets that satisfies all street regulations.

g. New alleys and passageways do not satisfy street provision requirements.

h. New streets are encouraged to be located along side property lines. These new streets may require coordination with neighboring property owners in order to maximize the continuity of the new street network.

i. As part of new street construction or sidewalk improvements, landscaped areas within the street right-of-way should be designed to be functional stormwater treatment facilities where appropriate.

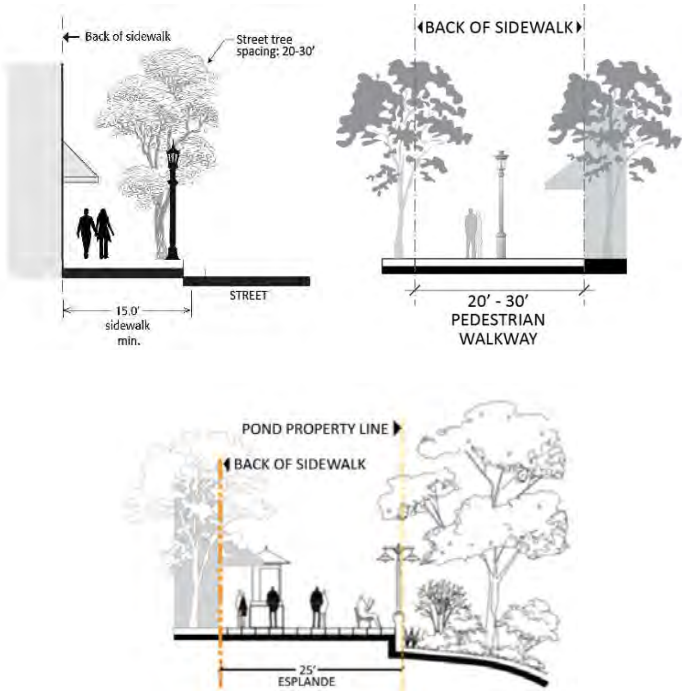
(Ord. 2443 §15, 2014)

18.28.150 Public Frontage Standards

A. **Regulations**.

1. Public frontage standards establish a specific configuration of improvements that match the configuration and design of new and existing thoroughfares. See ***Figure 18-28*** for an example of public frontage.

Figure 18-28: Three examples of public frontages



2. Installation of new public frontage improvements, if required by TMC Section 18.28.030.B or constructed voluntarily, shall be as specified by the Corridor Type's public frontage standards ***(see Figures 18-20 through 18-27)*** along all parcel frontages, except where the public frontage area already contains the required features.

3. In instances where existing public frontage areas already contain features that are sufficiently similar to those required in the Plan, all or part of the required public frontage requirements may be waived by the Director.

4. In instances where new streets are required or constructed voluntarily—that is, in instances where there are no existing public frontage conditions—the public frontage shall be configured as specified by the Corridor Type's public frontage standards. ***See Figures 18-20 through 18-27.***

5. The exact location of the new back of sidewalk may or may not coincide with the front property line. As a result, newly installed public frontage improvements may be partially located on private property.

6. Along Tukwila Pond, all public frontage improvements are measured from the pond property line.

7. Each block shall have no more than 40% of the same species of large, open-habit deciduous trees. To provide optimum canopy cover for the streetscape, each block shall be planted with deciduous trees at intervals set forth in the Corridor Standards ***(Figures 18-20 through 18-27).*** Spacing shall be a function of mature crown spread, and may vary widely between species or cultivars. The trees shall have a minimum branching width of 8 feet within 5 years and when mature shall be large broad canopy species selected from the City's recommended street tree list established for each corridor.

8. Pedestrian-scale decorative street lighting shall be installed with a maximum spacing consistent with recommendations of the Illuminating Engineering Society of America (IES). The light source shall be located 12 to 14 feet above finished grade. Where vehicular lights are needed, vehicular lighting height and location should be consistent with IES recommendations.

9. Where appropriate, special paving patterns should be used to emphasize the pedestrian realm within the public frontage. The sidewalk shall include a 1 foot wide paved auto passenger landing located along the curb where on-street parking is present.

10. Street furnishings such as benches and trash receptacles shall be provided where appropriate.

B. **Exceptions**.

1. In instances where installation of required public frontage improvements as part of on-site construction are found to be impractical—for example in instances where the private frontage is particularly narrow or fragmented—the property owner may pay an in-lieu fee covering the construction cost to install the required public frontage improvements when they can be combined with those on adjacent properties or as part of a City-sponsored street improvement program with the approval of the Director.

2. When public frontage improvements are triggered by development on a portion of a larger site and the cost of the public frontage improvements is disproportionate to the triggering work, the Director will determine the degree of compliance.

(Ord. 2443 §16, 2014)

18.28.160 Building Orientation to Street/Open Space

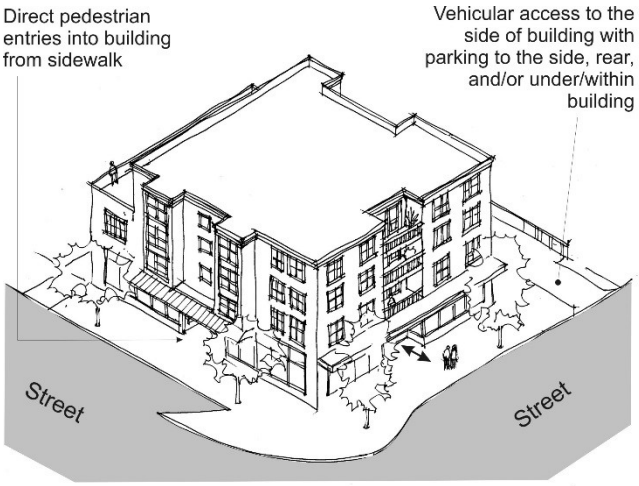
A. **Intent.** The building orientation to street provisions are intended to implement the vision for Southcenter by creating a network of "complete streets" and corridors that provide pedestrian comfort, bicycle safety, and automobile movement according to their location and necessary function in the overall area. The provisions herein include a hierarchy of street or "corridor" types ranging from vibrant and activated shopping and dining frontages (Walkable Corridors) to the Workplace Corridors, which accommodate significant truck traffic and support warehouse/distribution uses. The design provisions intend to physically enclose the street or pedestrian corridor to create the sense of an outdoor room with connections across the street to the extent appropriate for the particular street or corridor type. This is accomplished by locating buildings close to the street and containing visible pedestrian entries directly accessible from the street, with parking areas predominately located to the side or rear of buildings along most corridors.

B. **Regulation.**

1. Building orientation is required or not required, as specified by Corridor Type ***(see Figures 18-20 through 18-27.***

2. A building is oriented to a street or open space ***(Figure 29)*** if the building has a primary public entrance that opens directly on to or facing new or existing streets or open space, excluding alleys. See Section 7 of the Southcenter Design Manual for additional standards and guidelines for entrances.

Figure 18-29: Example of a building oriented to the street



3. Where building orientation to streets/open spaces is required for the applicable Corridor Type, weather protection at least 6 feet in width along at least 75 percent of the façade must be provided ***(see Figures 18-30 and 18-31).*** See Section 14 of the Southcenter Design Manual for additional standards and guidelines for weather protection.

Figure 18-30: Example of features on a building oriented to street

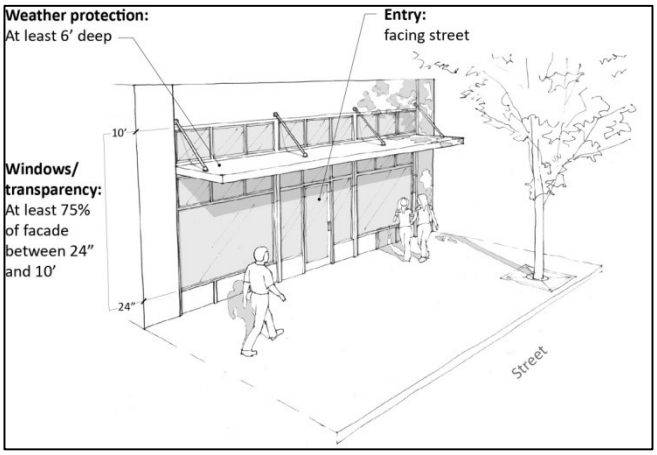


Figure 18-31: Examples of building orientation to streets / open space treatments

4. Parking structures, garages, and accessory buildings are permitted and encouraged to be located along alleys in lieu of streets or open spaces. Those portions of parking structures, garages, and accessory buildings that are within 185 feet of the street are subject to applicable Corridor Standards ***(see Figures 18-20 through 18-27.***

C. **Corner Parcels.** New buildings located at the intersection of two or more Corridors where building orientation is required shall have an entrance(s) oriented towards at least one Corridor to be determined by the developer.

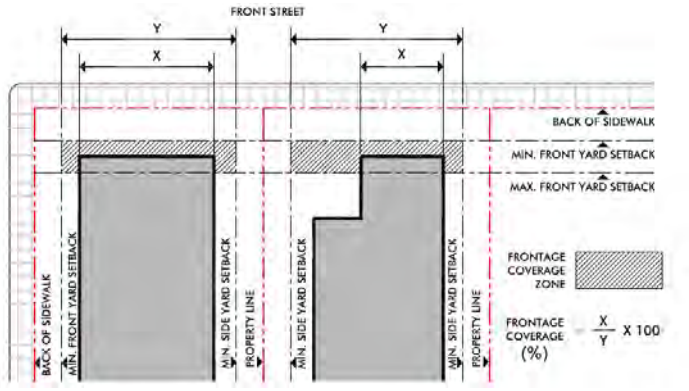
(Ord. 2443 §17, 2014)

18.28.170 Frontage Building Coverage

A. **Regulations**.

1. Frontage building coverage is the percentage of the length of the street frontage that is occupied by a primary building façade(s) excluding any side yard setbacks ***(Figure 18-32).***

Figure 18-32: Frontage Building Coverage



2. Minimum building frontage coverage percentages are required by the Walkable Corridor and Tukwila Pond Esplanade Corridor Types (see frontage building coverage minimum in ***Figures 18-20 and 18-22***).

3. Where required, all new development shall include buildings sited such that minimum frontage building coverage requirements are met.

B. **Exceptions**.

1. In order to provide vehicular access to parking areas in the interior or at the rear of a parcel if no other access is available, vehicular breezeways may count toward frontage coverage requirements.

a. A vehicular breezeway is a covered driveway penetrating the building.

b. The width of a vehicular breezeway shall not exceed the width of the curb cut plus the width of an adjacent pedestrian sidewalk.

c. In order to connect the public sidewalk with active open spaces, courtyards, parking areas, and alleys in the interior or at the rear of a parcel, pedestrian passages designed to the standards in the Open Space Regulations, TMC Section 18.28.250.E.2.j, may count toward frontage coverage requirements.

(Ord. 2443 §18, 2014)

18.28.180 Front Yard

A. **Setback.**

1. The minimum and/or maximum required front yard setback shall be as specified in the applicable Corridor Standards. ***See Figures 18-20 through 18-27.***

2. Setbacks for the Walkable Corridor may be increased to allow for additional pedestrian space ***(see Figure 18-33)*** between the sidewalk and the building.

Figure 18-33: Example of exceeding maximum building setbacks to provide pedestrian space

B. **Landscaping.**

1. The minimum required landscaping shall be as specified in the applicable Corridor Standards. ***See Figures 18-20 through 18-27.***

2. Front yard landscaping shall be designed, planted and maintained as specified in TMC Section 18.28.230.A, "Front Yard Landscape Types," and TMC Section 18.28.240, "General Landscaping."

3. Front yard landscaping requirements shall be waived if the public frontage improvements are built to the required standard. Exceptions: perimeter parking lot landscaping (see TMC Section 18.28.240.B.6) and blank wall screening standards (see Section 15 of the Southcenter Design Manual) still apply, where applicable.

(Ord. 2443 §19, 2014)

18.28.190 On-Site Surface Parking Location

A. **Permitted Locations.** The permitted on-site surface parking locations on a parcel shall be as specified in the applicable Corridor Standards ***(Figures 18-20 through 18-27).*** See TMC Sections 18.28.260 and 18.28.270 for additional parking regulations and guidelines.

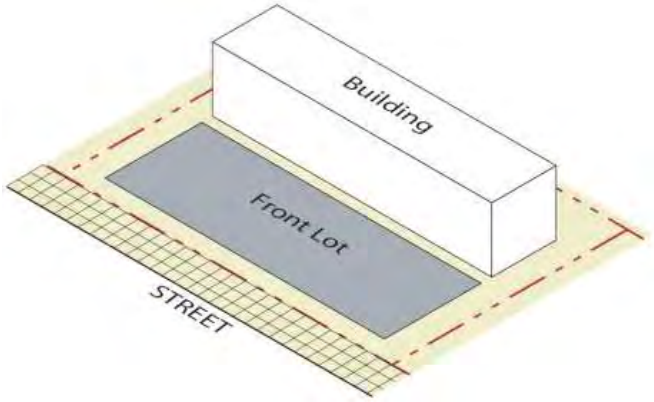
B. **On Site Parking Types.**

1. Parking areas shall be designed as one of the parking types defined in this section. A property's permitted parking types shall be as specified by Corridor Type. For all parking types, parking shall be connected with the street by a driveway as stated in TMC Section 18.28.260.C., "Vehicular Access."

2. **Surface Parking Lot – Front.**

a. ***Definition:*** A parking lot that is located between a building and the primary street fronting a development ***(Figure 18-34).***

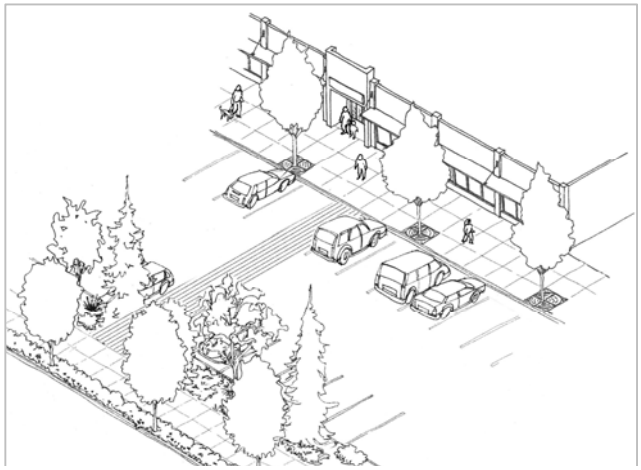
Figure 18-34: Surface Parking - Front



3. **Street Front Parking:**

a. This regulates the width of a front parking area allowed between a building and the closest street ***(Figure 18-35).***

Figure 18-35: Examples of Street Front Parking



b. For new construction the maximum width of street front parking is regulated by Corridor Type. (***See Figures 18-20 through 18-27.)***

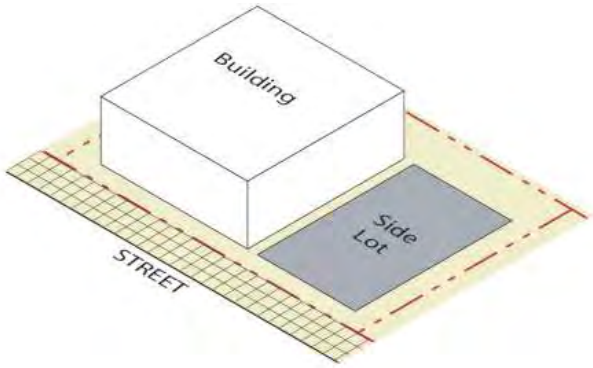
c. This standard does not apply when adding on to an existing building, constructing a parking garage or where there is an existing structure at least as wide as the proposed structure between the new construction and the closest street.

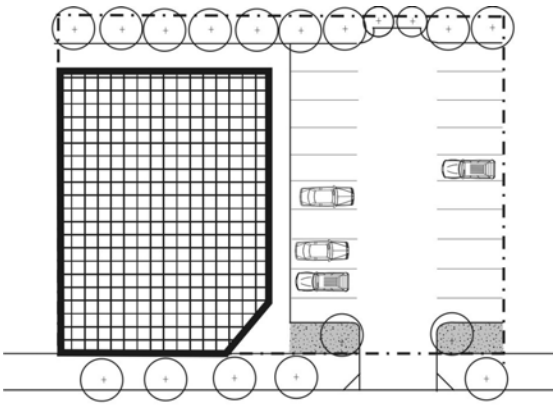
d. For buildings with complex shapes, the section of the building meeting the criteria must be at least 80 percent of the overall width of the building, measured parallel to the primary street.

4. **Surface Parking Lot – Side**.

a. ***Definition:*** A parking lot that is located in part or entirely along the side of a building, in a side yard, and fully or partially extends toward, but does not encroach into, the front yard setback area. Parking located between a building and a side property line that is directly visible from a street. ***(Figure 18-36).***

Figure 18-36: Examples of Surface Parking – Side

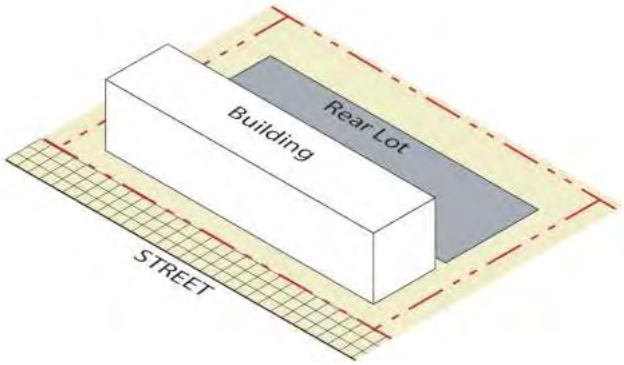




5. Surface Parking Lot – Rear.

a. ***Definition:*** A parking lot where a building(s) is located between the entire parking lot and the street so that it is not directly visible from a street. A rear parking lot does not extend beyond the rear wall of the primary building into any side yard setback, except where driveway access is provided. ***(Figure 18-37).***

Figure 18-37: Surface Parking – Rear



6. **Parking Structure**.

a. Parking structures may stand alone or be integrated into a building.

b. Parking structures are permitted in all Districts.

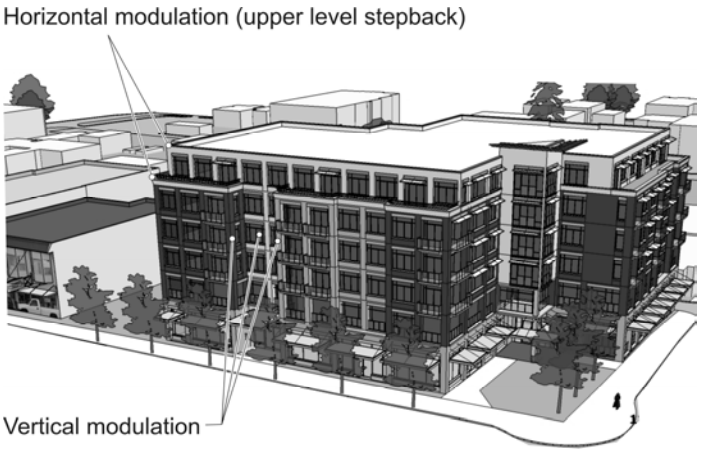
c. Those portions of parking structures that are within 185 feet of the street are subject to applicable Corridor Type standards.

(Ord. 2443 §20, 2014)

18.28.200 Architectural Design Standards

A. **Applicability and definitions** ***(see Figure 18-38)***.

Figure 18-38: Example of vertical modulation and horizontal modulation



1. Architectural design regulations control the minimum required façade articulation and transparency, and are determined by Corridor Type as shown in the Corridor Standards. ***See Figures 18-20 through 18-27.***

2. **Street Façade.** The architectural design regulations apply to the plane of a façade that fronts upon a street, extending from the ground up to the street façade eave line.

3. **Articulation.** The giving of emphasis to architectural elements that create a complementary pattern of rhythm, dividing large buildings into smaller identifiable pieces.

4. **Modulation.** The stepping back or projecting forward of portions of a building face, as a means of the building function and/or breaking up the apparent bulk of a structure's continuous exterior walls.

B. **Façade Articulation Regulations**.

1. **Intent.** The objective of this section is to ensure that the length of new or renovated building façades maintain the desired human scale and urban character appropriate for the Southcenter area.

2. **Façade Articulation Increment – Requirements.** The maximum increment shall be as specified by Corridor Type and ground level use. When a notch or pilaster/pier is used for the massing element, measurement of the vertical increment shall be from centerline to centerline of elements ***(see Figures 18-39 and 18-40).*** See the Southcenter Design Manual, Section 10, "Building Massing," A. and B., Façade Articulation, for techniques to achieve this standard.

Figure 18-39: **Façade articulation example for a mixed-use building**

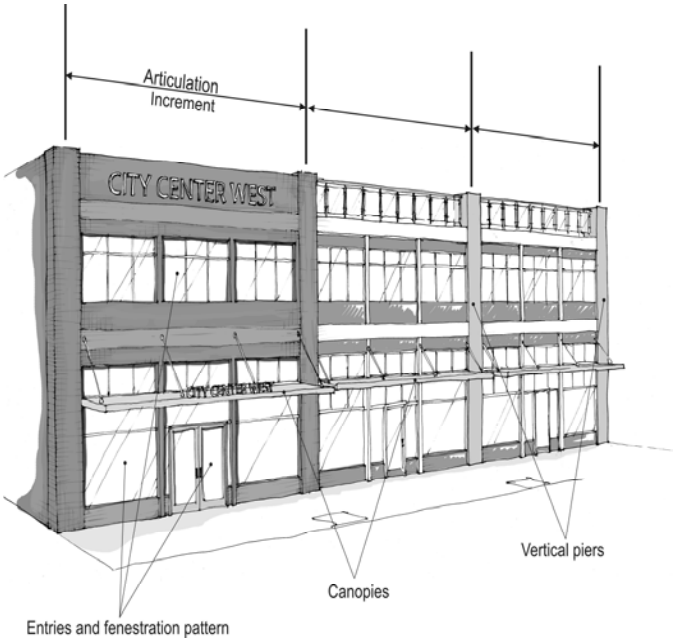
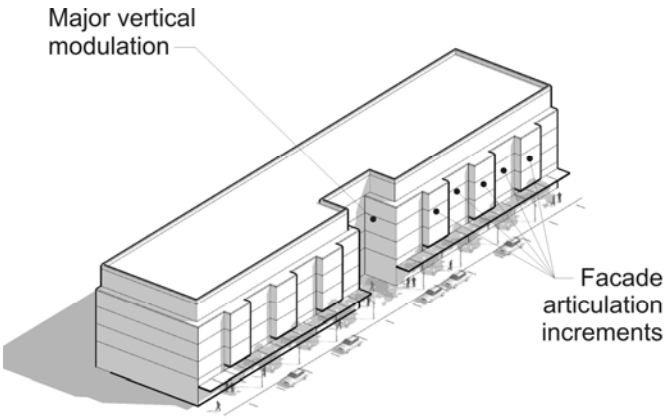


Figure 18-40: Example of articulating façade of a residential building

3. **Major Vertical Modulation Increment** – Requirements. The maximum increment shall be as specified by Corridor Type. ***See Figure 18-41*** for an example, and the Southcenter Design Manual, Section 10, "Building Massing," C., Major Vertical Modulation Increment, for techniques to achieve this standard.

Figure 18-41: Major Vertical Modulation Example



4. **Side and rear façades.** While there are no specific requirements for side or rear façades they should continue the design vocabulary used on the other sides of the building.

C. **Ground Level Transparency Regulations.**

1. **Intent.** The objective is to promote a hierarchy of vibrant and activated streets in the Southcenter area. Transparent windows and doors add visual interest to the street for pedestrians, help to promote commercial uses within the building, and enhance the safety of streets by allowing visibility towards the street by building users.

2. A minimum transparency percentage for the area between the height of 2 and 10 feet along the length of a building façade ***(Figures 18-42 and 18-43)*** that faces the applicable Corridor is listed in ***Figures 18-20 through 18-27***.

Figure 18-42: Ground level transparency requirements apply to the transparency percentage for the area between the height of 2 and 10 feet along the length of a building façade

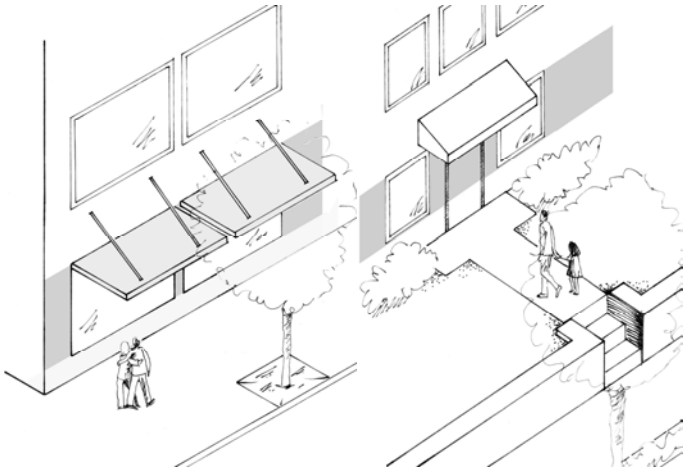


Figure 18-43: Examples of percentage of transparency between 2 and 10 feet along the length of a building façade

75% Transparency

50% Transparency

3. A minimum 3 foot zone behind the window glazing must provide an unobstructed view of the establishment's goods or services. Display areas separated from the interior of the space may be used to meet this requirement if they have a depth of at least 3 feet and contain displays that are regularly updated (***see Figure 18-44***).

Figure 18-44: Display window example

This example meets the display window criteria:

This example does <u>not</u> meet the display window criteria:

4. Darkly tinted glass, mirrored glass, and glass covered by screening sheets, white, or UV protection film shall not meet transparency requirements.

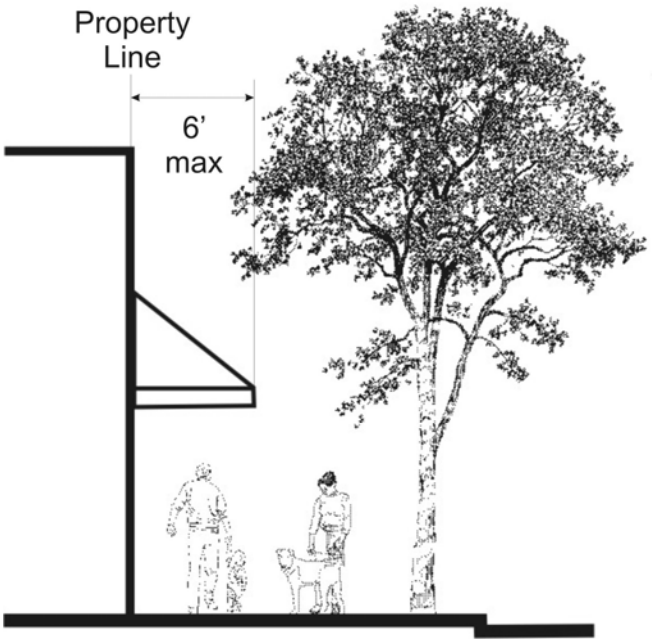
5. On sites where all sides of a building are subject to Corridor Standards per TMC Section 18.28.020.B.4.a., ground level transparency may be waived for the facade facing the least travelled Corridor.

(Ord. 2443 §21, 2014)

18.28.210 Front Yard Encroachments

Building overhangs such as trellises, canopies, awnings and freestanding covered walkways may extend horizontally into the public frontage up to a maximum of 6 feet and no closer than 8 feet from the back of curb. These overhangs must provide a minimum of 8 feet clear height above sidewalk grade and not interfere with street trees ***(see Figure 18-45).***

Figure 18-45: Encroachment provisions for building overhangs or weather protection features



(Ord. 2443 §22, 2014)

SUPPLEMENTAL DEVELOPMENT STANDARDS

18.28.220 Special Corner Feature

A. Special corner features are permitted by District as shown in **Table 18-3,** "District Standards."

B. A special corner feature is a distinctive building element used to emphasize the corner of a building at an important intersection. See the <u>Southcenter Design Manual</u>, Section 9, "Corner Treatments," for additional guidance.

C. Special corner feature masses may encroach up to 2 feet into the required setback areas but may not encroach into the public right-of-way. See TMC Section 18.28.210, "Front Yard Encroachments."

D. Special corner features may exceed the permitted height limit by 20 feet, up to a maximum of 115 feet.

(Ord. 2443 §23, 2014)

18.28.230 Landscaping Types

A. **Front Yard Landscaping Types.**

1. **Frontage Improvements per Corridor Type.**

a. When public frontage is constructed to meet the Corridor standard, any other front yard landscaping requirement shall be waived. Exceptions: perimeter parking lot landscaping (see TMC Section 18.28.240.B.6) and blank wall screening standards (see Section 15 of the Southcenter Design Manual) still apply, where applicable. To qualify for the waiver, public frontage improvements must be made along the entire street fronting the parcel. Public frontage improvements may continue into a courtyard or plaza.

b. For Corridor Types that contain a planting strip (Urban, Commercial, Freeway Frontage and Workplace), minimum plantings shall consist of:

(1) Trees at the spacing listed per Corridor Type.

(2) 1 shrub per 4 linear feet of frontage, excluding curb cuts, or a planted berm at least 24 inches high.

(3) Sufficient live groundcovers of varying heights, colors and textures to cover, within 3 years, 100% of the landscape area not needed for trees and shrubs. Groundcover must be planted with a minimum spacing of 12 inches on center for 4-inch pots and 18 inches on center for 1-gallon pots. If grass is being used as the groundcover, a 3-foot diameter ring of bark mulch is required around each tree.

2. **Paved / Sidewalk Extension.**

a. Provide paved pedestrian areas along the back of sidewalk, such as plazas or courtyards that enhance/enlarge the public frontage.

b. Only permitted on parcels where the public frontage improvements meet the Corridor Standards in this code.

c. Must meet applicable pedestrian space design requirements (see TMC Section 18.28.250.E.).

3. **Streetscape**.

a. Cover front yards with landscaped, pervious surfaces that visually soften and enhance the built environment.

b. Provide pathways connecting the public sidewalk to the front door through parking areas.

c. 1 tree per 500 square feet of landscaped setback area or 1 tree per 20 to 30 linear feet of frontage (depending on tree species and location of underground or at-ground utilities and excluding curb cuts), whichever results in more trees.

d. Where there are existing street trees, the additional trees required by this section shall be planted behind the sidewalk in an informal pattern and consist of a mix of deciduous and evergreens.

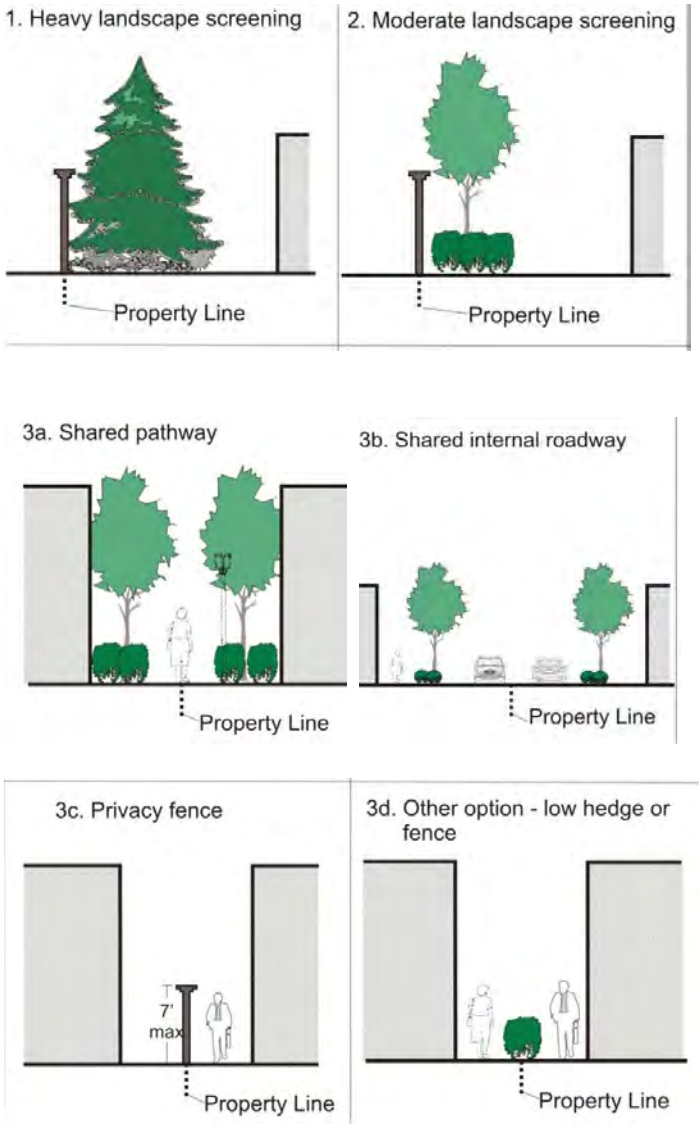
e. Minimum 1 shrub per 4 linear feet of frontage, excluding curb cuts, or a planted berm at least 24 inches high.

f. Sufficient live groundcovers of varying heights, colors and textures to cover, within 3 years, 100% of the landscape area not needed for trees and shrubs. Groundcover shall be planted with a minimum spacing of 12 inches on center for 4-inch pots and 18 inches on center for 1-gallon pots. If grass is being used as the groundcover, a 3-foot diameter ring of bark mulch is required around each tree.

4. When there is an existing sidewalk that does not meet the Corridor standard for public frontage and the sidewalk remains in place, the required front yard landscaping width shall be measured from the back of sidewalk or edge of right-of-way, whichever is further from the road centerline.

B. **Side and Rear Yard Landscape Types *(see Figure 18-46).***

Figure 18-46: Illustrating the various side and rear yard treatment standards and options



1. **Groundcover**.

a. This is appropriate where the adjacent uses are compatible and no screening is necessary.

b. Cover side and rear yards with landscaped, pervious surfaces. Landscaping treatment at a minimum shall consist of sufficient live groundcovers of varying heights, colors and textures to cover, within 3 years, 100% of the landscape area not needed for trees and shrubs. Groundcover must be planted with a minimum spacing of 12 inches on center for 4-inch pots and 18 inches on center for 1-gallon pots. If grass is being used as the groundcover, a 3-foot diameter ring of bark mulch is required around each tree.

2. Shared pathway along or adjacent to the property line with landscaping. This is a desirable configuration that can enhance pedestrian circulation and provides an efficient use of space. This treatment requires a recorded agreement with applicable adjacent property owner(s).

3. Shared internal drive along or adjacent to the property line. This is a desirable configuration for non-residential uses that can enhance circulation and provides an efficient use of space.

4. **Moderate Screening**.

a. Provide light visual separation along property lines between somewhat incompatible development.

b. Landscaping designed to screen parking/service areas and blank side and rear building façades.

c. Landscaping that maintains views to building entrances and signage.

d. 1 tree per 20 linear feet of property line (excluding curb cuts) spaced regularly (except where there are conflicts with utilities) and consisting of a mix of deciduous and evergreen trees along the applicable property line.

e. 1 shrub per 4 linear feet of property line, excluding curb cuts.

f. Sufficient live groundcovers of varying heights, colors and textures to cover, within 3 years, 100% of the yard area not needed for trees and shrubs. Groundcover must be planted with a minimum spacing of 12 inches on center for 4-inch pots and 18 inches on center for 1-gallon pots. If grass is being used as the groundcover, a 3-foot diameter ring of bark mulch is required around each tree.

5. **Heavy Screening**.

a. Provide heavy visual separation along property lines between highly incompatible development, such as warehousing and residential uses.

b. Landscaping designed to screen parking/service areas and blank side and rear building façades.

c. 1 tree per 20 linear feet of property line (excluding curb cuts) spaced regularly (except where there are conflicts with utilities) and consisting of at least 50% conifers along the applicable property line (75% along property line adjacent to residential uses).

d. Privacy screening utilizing evergreen shrubs, screening walls or fences (up to 7 feet tall) is allowed.

e. Sufficient live groundcovers of varying heights, colors and textures to cover, within 3 years, 100% of the yard area not needed for trees and shrubs. Groundcover must be planted with a minimum spacing of 12 inches on center for 4-inch pots and 18 inches on center for 1-gallon pots. If grass is being used as the groundcover, a 3-foot diameter ring of bark mulch is required around each tree.

(Ord. 2443 §24, 2014)

18.28.240 General Landscaping

A. The provisions herein are applicable to setbacks, public frontage areas, open space, and other areas on-premises. These regulations address plant materials and design, visibility, irrigation, landscape plans, utility and service areas.

B. **General Landscaping Requirements.**

1. **Plant Materials**.

a. A mix of evergreen trees and evergreen shrubs shall be used to screen blank walls.

b. All plant material shall meet the most recent American Standards for Nursery Plant Stock (ANSI Z60.1).

c. Evergreen trees shall be a minimum of 6 feet in height at time of planting.

d. Deciduous trees shall be a minimum 2.5 inch caliper six inches off the ground when installed.

e. Shrubs shall be at least 18 inches in height at time of planting.

f. Existing vegetation may be used to meet the perimeter landscaping requirements. All significant trees located within any required perimeter landscape area that are not dead, dying, or diseased and that do not pose a safety hazard as determined by the City or a qualified arborist shall be retained and protected during construction with temporary fencing or other enclosure, as appropriate to the site. The area designated for protection will vary based on the tree's diameter, species, age, and the characteristics of the planted area. Property owners may be required to furnish a report by an International Society of Arborist (ISA) certified arborist to document a tree's condition. The Director may require that an ISA certified arborist be retained to supervise tree protection during construction. Grade changes around existing trees are to be avoided whenever possible.

g. New plant materials shall include native species or non-native species that are drought tolerant and have adapted to the climatic conditions of the Puget Sound Region. There must be a diversity of tree and shrub genus and species in the site landscaping, taking into account species in existing development around the site.

h. No species that are listed on the State or King County noxious weed lists may be planted.

i. Plant materials shall be selected that reinforce the landscape design concept, and are appropriate to their location in terms of hardiness, tolerance to urban conditions, maintenance needs and growth characteristics. Large and medium canopy tree species are required, except where there is insufficient planting

area (due to proximity to a building, street light, above ground or underground utility line, etc.).

2. **Visibility.**

a. Design of new landscaping and maintenance of existing landscaping shall consider Crime Prevention Through Environmental Design (CPTED) principals and visibility for safety and views. Appropriate plant species shall be specified to avoid the need for excessive maintenance pruning. Trees along the street frontages, as they mature, shall be limbed up to a minimum height of 6 feet (8 feet where they extend over sidewalks) to allow adequate visibility and clearance for vehicles. Trees may be pruned to improve views of signage and entryways by using such techniques as windowing, thinning, and limbing-up. However, no more than 1/4 of the canopy may be removed within any 2-year period, and the crown should be maintained to at least 2/3 the height of the tree. All pruning shall be done in accordance with ANSI Standard A-300 specifications. Trees may not be topped for any reason. Trees may only be pruned to lower their height to prevent interference with an overhead utility or electrical line, with prior approval by the Director.

b. Landscaping shall not obstruct views from or into the driveway, sidewalk or street. Landscape design shall allow for surveillance from streets and buildings and avoid creating areas that might harbor criminal activity.

c. Landscaping at crosswalks and other locations where vehicles and pedestrians intersect must not block pedestrians' and drivers' views.

d. Evergreen shrubs and trees shall be used for screening along rear property lines, around solid waste/recycling areas and mechanical equipment, and to obscure grillwork and fencing associated with subsurface parking garages.

3. **Soil Preparation and Planting.**

a. For trees and plants planted in sidewalks and parking lots, or in limited areas of soil volume, structural soils (Cornell University "CU" product or similar) must be used to a preferred depth of 36 inches, to promote root growth and provide structural support to the paved area. Minimum soil volumes for tree roots shall be 750 square feet per tree (see specifications and sample plans for CU-Structural Soils). Trees and other landscape materials shall be planted per specifications in "CU Structural Soils – A Comprehensive Guide" or using current BMPs subject to administrative review and approval of the technical information report (TIR.) Suspended pavement systems (Silva Cells or similar) may also be used if approved.

b. For soil preparation in bioretention areas, existing soils must be protected from compaction. Bioretention soil media must be prepared in accordance with standard specifications of the Surface Water Design Manual, adopted in accordance with TMC Chapter 14.30, to promote a proper functioning bioretention system. These specifications shall be adhered to regardless of whether a stormwater permit is required from the City.

c. For all other plantings, soils must be prepared for planting in accordance with specifications to restore soil moisture-holding capacity in accordance with TMC Chapter 16.54, Grading, regardless of whether a stormwater permit is required by the City.

d. The applicant will be required to schedule an inspection by the City of the planting areas prior to planting to ensure soils are properly prepared.

e. Installation of landscape plants must comply with best management practices including:

(1) Planting holes that are the same depth as the size of the root ball and 2 times wider than the size of the root ball.

(2) Root balls of potted and balled and burlapped (B&B) plants must be loosened and pruned as necessary to ensure there are no encircling roots prior to planting. At least the top 2/3 of burlap and all straps or wire baskets are to be removed from B&B plants prior to planting.

(3) The top of the root flare, where the roots and the trunk begin, should be about one inch from the surrounding soil. The root ball shall not extend above the soil surface.

(4) If using mulch around trees and shrubs, maintain at least a 3-inch mulch-free ring around the base of the plant trunks and woody stems of shrubs. If using mulch around groundcovers until they become established, mulch shall not be placed over the crowns of perennial plants.

4. **Irrigation**.

a. The intent of this standard is to ensure that plants will survive the critical establishment period when they are most vulnerable due to lack of watering.

b. All required plantings must be served by a permanent automatic irrigation system.

(1) Irrigation shall be designed to conserve water by using the best practical management techniques available. These techniques may include, but not be limited to: drip irrigation to minimize evaporation loss, moisture sensors to prevent irrigation during rainy periods, automatic controllers to insure proper duration of watering, sprinkler head selection and spacing designed to minimize overspray, and separate zones for turf and shrubs and for full sun exposure and shady areas to meet watering needs of different sections of the landscape.

(2) Exceptions to the irrigation requirement may be approved by the Director, such as xeriscaping (i.e., low water usage plantings), plantings approved for low impact development techniques, established indigenous plant material, or landscapes where natural appearance is acceptable or desirable to the City. However, those exceptions will require temporary irrigation until established.

5. **Landscape Plan Requirements**.

a. A Washington State licensed landscape architect shall prepare and stamp the landscape plans in accordance with the standards herein. Detailed plans for landscaping and screening shall be submitted with plans for building and site improvements. Included in the plans shall be type, quantity, spacing and location of plants and materials; typical planting details; and the location of irrigation systems. Underground and

at-ground utilities shall be shown on the plans so that planting conflicts are avoided.

b. Installation of the landscaping and screening shall be completed and a Landscaping Declaration submitted by the owner or owner's agent prior to issuance of the Certificate of Occupancy. If necessary due to weather conditions or construction scheduling, the installation may be postponed to the next planting season if approved by the Director and stated on the building permit. A performance assurance device equal to 150% of the cost of the labor and materials must be provided to the City before the deferral is approved.

6. **Parking Lots**.

a. **Setback and Perimeter Landscaping**:

(1) Surface parking lots shall set back a minimum of five feet from any open space, building façade, or Corridor back of sidewalk. The setback shall be designed and planted with:

(a) 1 evergreen shrub per 4 linear feet of property line, excluding curb cuts.

(b) Sufficient live groundcovers of varying heights, colors and textures to cover, within 3 years, 100% of the yard area not needed for trees and shrubs. Groundcover must be planted with a minimum spacing of 12 inches on center for 4-inch pots and 18 inches on center for 1-gallon pots. If turf grass is being used as the groundcover, a 3-foot diameter ring of bark mulch is required around any tree.

(2) Surface parking lots shall be buffered from adjacent residential development with heavy screening in the side and rear setback areas.

b. **Interior Parking Lot Landscaping**:

(1) For surface parking lots adjacent to public or private streets, a minimum of 20 square feet of interior parking lot landscaping is required for each parking stall. In the Workplace District, a minimum of 15 square feet per stall is required for warehouse and light industrial uses.

(2) For surface parking lots located behind buildings or otherwise screened from public or private streets or public spaces, a minimum of 10 square feet of interior parking lot landscaping is required for each parking stall.

(3) Flexibility is allowed for the layout of parking lots and landscaped areas, but the goal is to provide shade from trees that are evenly distributed throughout the parking lot. Planting trees in continuous, landscaped planting strips between rows of parking is encouraged. This approach may also be combined with surface water management design. For parking lots adjacent to public or private streets, if landscape islands are designed into the parking lot layout to divide continuous rows of parking stalls, they must be placed at minimum spacing of every 10 parking spaces. For parking areas located behind buildings or otherwise screened from public or private streets or public spaces, if landscape islands are used, they shall be placed at a minimum of one island every 15 parking stalls.

(4) Landscape islands must be a minimum of 6 feet wide and a minimum of 100 square feet in area. All landscaped areas must be protected from damage by vehicles (curbs, tire stops, other techniques).

(5) Landscape islands shall be placed at the ends of each row of parking to protect parked vehicles from turning movements of other vehicles.

(6) A minimum of one large-canopy evergreen or deciduous tree or two medium-canopy trees are required for every 100 square feet of landscaped island, with the remaining area to contain a combination of shrubs, living groundcover, and mulch ***(see Figure 18-47).***

Figure 18-47: A single tree planted with no other materials and little room for viability is not acceptable.

7. **Utility and Service Areas.** Utility easements and other similar areas between property lines and curbing shall be landscaped and/or treated with dust and erosion control planting or surfacing. Trees proposed under overhead transmission lines shall be approved by the City on a case-by-case basis.

8. **Street Trees in the Public Frontage.**

a. Street tree spacing in the public frontage shall be as specified in the applicable Corridor Standards. For smaller stature trees (those with canopies at maturity of less than 20 feet), spacing should be every 20 feet. For larger canopy trees, spacing should be wider as appropriate to the mature spread of the tree. Spacing will also need to consider sight vision distance at intersections, driveway locations, and utility conflicts.

b. Street trees in the public frontage shall be planted to at least the following spacing standards:

(1) At least 3.5 feet back from the face of the curb and with an approved root barrier installed on the curb side.

(2) At least 5 feet from underground utility lines.

(3) At least 10 feet from power poles.

(4) At least 7.5 feet from driveways.

(5) At least 3 feet from pad-mounted transformers (except 10 feet in front for access).

(6) At least 4 feet from fire hydrants and connections.

c. When used, tree grates and landscaped tree wells shall be a minimum 36 square feet in size (6' x 6'). Tree grates are not encouraged, but when used grates must have easily removable rings so that sections of grate can be removed incrementally as the tree matures. Tree well size may be adjusted to comply with ADA standards on narrower sidewalks. Root barriers must be installed at curb face. See TMC Section 18.28.240.B.3, "Soil Preparation and Planting," for structural soil requirements.

d. Planting and lighting plans shall be coordinated so that trees are not planted in locations where they would obstruct existing or planned street or site lighting, while maintaining appropriate spacing and allowing for their size and spread at maturity.

9. **Maintenance and Pruning**.

a. Any landscaping required by this chapter shall be retained and maintained by the property owner for the life of the project in conformance with the intent of the approved landscape plan and this chapter. Maintenance shall include keeping all planting areas free of weeds and trash and replacing any unhealthy or dead plant materials.

b. Pruning of trees is only allowed for the health of the tree, to maintain sight distances or sight lines into commercial areas, or if interfering with overhead utilities. All pruning must be done in accordance with American National Standards Institute (ANSI) A-300 specifications. No tree planted by a property owner or the City to fulfill landscape requirements, or any existing tree, may be topped or removed without prior approval from the City. If a tree is topped or removed without approval, it shall be replaced with a new tree that meets the intent of this chapter within 120 days or the property owner will be subject to code enforcement and penalties as prescribed in TMC Chapter 8.45 and the issuance of a Notice of Violation in accordance with TMC Section 8.45.070. Options at the Director's discretion are to require replacement of the tree with a new tree of similar species that will achieve a similar canopy size at maturity, replace the tree with multiple smaller diameter trees of an appropriate species (only if there are limitations on space or conflicts with utility infrastructure), and/or require an in-lieu fee for off-site tree replacement.

C. **General Landscaping Considerations.**

1. Plant Materials.

a. Drought resistant species are encouraged in order to minimize irrigation requirements, except where site conditions within the required landscape areas ensure adequate moisture for growth.

b. The mature size of selected tree species should be suitable to lot size, the scale of adjacent structures, and the proximity to utility lines.

c. In general, deciduous trees with open branching structures are recommended to ensure visibility to retail establishments. More substantial shade trees are recommended in front of private residences.

d. All trees should be selected and located so they will not obstruct views to showroom windows and building signage as they mature.

e. Evergreen landscaping ***(Figure 18-48)*** is appropriate for screening utility vaults, loading docks and some storage areas. (Also see TMC Section 18.52.050 for screening outdoor storage areas.)

Figure 18-48: Using evergreen landscaping to screen utilities

f. Species selection is very important in grouped plantings ***(Figure 18-49)***. Drought tolerant species are strongly recommended and monoculture plantings are discouraged. Low maintenance cost and low replacement costs are two advantages of planting drought tolerant species in grouped configurations. Low (24-30 inches) shrubs, perennial or groundcover plantings that provide a superior degree of separation between the sidewalk and street at reduced maintenance costs may be used.

Figure 18-49: Examples of landscaped tree wells

2. Design.

a. Shade trees should be planted to shade buildings' east and west-facing windows to provide a balance between summer cooling and winter heating through solar gain.

b. All landscaped areas should be designed to allow aquifer filtration and minimize stormwater run-off utilizing bio-swales, filtration strips, and bio-retention ponds where appropriate.

(Ord. 2625 §56, 2020; Ord. 2549 §22, 2017; Ord. 2518 §9, 2016; Ord. 2443 §25, 2014)

18.28.250 Open Space Regulations

A. **Purpose.** This section contains regulations and guidelines for the provision, design, and configuration of new open spaces that may be publicly accessible. Open space regulations are set forth to ensure that the provision, design, and configuration of new open spaces contribute to the character of and support the type of development desired within each District. Open space for residential uses is also intended to promote the health of residents by providing on-site open space for recreational activities, physical exercise, and/or food production. Open spaces may consist of pedestrian spaces for commercial uses, and common and private open space for residential uses.

B. All new open spaces, whether or not they are required by open space regulations, shall be designed and configured according to the following regulations.

C. The following requirements for the provision and design of pedestrian, common and private open spaces are organized by Use Type. These regulations are established to ensure a wide range of public spaces that complement the primary public streets and open spaces in each District as the Southcenter area intensifies.

D. **General Open Space Regulations.**

1. Open space requirements for commercial and residential uses are as specified in ***Table 18-4***, "Provision of Open Space."

2. Compliance with the open space square footage ratio listed in ***Table 18-4*** is required for new construction, the area of expansion of existing buildings and changes in use from one category in ***Table 18-4*** to another.

3. Open space for new or expanded commercial and residential uses shall be built within the development by developers at the time development occurs.

4. **Options for provision of open space.**

a. The square footage of all streets built per TMC Section 18.28.140, "New Streets," may be counted toward meeting the provision of open space requirements for pedestrian space. They may not be used to satisfy common and/or private open space requirements for residential uses.

b. The Director shall give credit for existing on-site open space amenities that meet the requirements of this section toward the open space square footage triggered by the new construction or change of use.

c. At the discretion of the Director, required pedestrian space for commercial uses or residential common open space may be constructed off-premises and/or as part of a larger open space being provided by the City or other private developments within that District or within 1,000 feet of the project premises.

d. If strict compliance with these regulations would create substantial practical difficulties for a site and none of the above approaches would provide relief, the property owner may apply for a Special Permission Modification and propose an alternate solution that meets the intent of the regulations.

(1) Special Permission Modification shall be a Type 2 decision. An applicant shall submit evidence of the above (subparagraph 18.28.250.D.4.d) to the Director, which could take the form of a brief report and site plan that addresses the difficulties of meeting the regulations, the proposed alternative solution, and how the proposed solution meets the intent of the applicable open space regulations.

(2) Applicants may request that up to 75 percent of their required pedestrian open space be provided indoors.

E. **Pedestrian Space for Commercial Uses**.

1. Pedestrian spaces for commercial uses are publicly accessible, outdoor, landscaped spaces used primarily for active or passive community recreation and civic purposes. These may include a linear green, square, plaza, courtyard, or pedestrian passage. Play areas for children may be provided indoors or outdoors. These spaces shall be privately owned and maintained, including keeping the space free of trash and graffiti. Amenities provided within the space, such as benches, planters, art and water features, shall be maintained for the life of the project.

2. **Pedestrian Space Design Requirements**.

a. Ground level pedestrian spaces shall be connected to public sidewalks and abut public rights-of-way on at least one side.

b. Ground level pedestrian spaces shall be located where they are visible and easily accessible to the public from adjacent sidewalks and avoid masses of shrubs around edges. The space shall not be more than 2 feet above or below the adjacent sidewalk.

c. Pedestrian spaces shall be comprised of a greater proportion of hardscape (paved areas, fountains, plants in pots), than softscape (grass or other landscape material). ***See Figure 18-50.***

Figure 18-50: Examples of pedestrian spaces

d. Pedestrian spaces shall be publicly accessible during the hours of operation of the use. Pedestrian spaces, except for passages, shall be a minimum of 500 square feet or the required amount of open space (whichever is less) in size, contain seating areas, and open on to pedestrian generators such as entrances to offices, stores, or restaurants.

e. Pedestrian spaces shall be located to take advantage of sunlight to the greatest extent possible. South-facing plazas are generally preferred, unless particular lot configurations prevent such orientation.

f. At least 3 feet of seating area (bench, ledge, etc.) or one individual seat per 60 square feet of plaza area or open space shall be provided. This provision may be relaxed or waived where there are provisions for movable seating that meet the purpose of the standard. See Section 4 of the Southcenter Design Manual for guidelines on designing walls for seating.

g. Site design features that create entrapment areas in locations with pedestrian activity shall be avoided.

h. Development shall incorporate Crime Prevention Through Environmental Design (CPTED) principles into open space site design.

i. Pedestrian spaces shall not be located adjacent to dumpster enclosures, loading/service areas, or other incompatible uses unless fully screened with an architecturally consistent wall or solid fence (no chain link) and landscaping.

j. Pedestrian passage design requirements:

(1) A passage shall serve as a pedestrian connector passing between buildings to provide shortcuts through long blocks and access to rear parking areas or courtyards. ***(See Figure 18-51.)***

Figure18-51: Examples of pedestrian passages

(2) Passages shall be paved and landscaped, and specifically reserved for pedestrian travel.

(3) Passages shall be a minimum of 10 feet and a maximum of 30 feet wide.

(4) The design of the passage shall encourage pedestrian circulation. This can be accomplished by:

(a) Having the walkway meet the public sidewalk in an engaging and identifiable manner.

(b) Providing pedestrian amenities such as alternative paving methods, seating, and planters.

(c) Designing the passage using CPTED principles.

(5) Incorporate design treatments to mitigate impacts of any blank walls along the passageways (see Section 15 of the Southcenter Design Manual).

(6) For properties adjacent to fixed rail transit or bus facilities, a passage may include transit station or bus stop access.

(7) For properties adjacent to the Green River, a passage may include a pedestrian connection between the Green River Trail and a publicly accessible street/sidewalk. The passage should be established in an easement allowing for public access through private property.

F. **Common Open Space for Residential Uses**.

1. **Purpose**:

a. To provide accessible, safe, convenient, and usable common open space for residential uses;

b. To promote the health of residents by providing access to common open space for recreational activities, physical exercise, and/or food production; and

c. To create common open spaces that enhance the residential setting.

2. Common open spaces are privately owned and maintained interior common spaces, such as pools or exercise rooms, and/or outdoor landscaped spaces, such as rooftop decks, ground level open spaces, children's play areas, or other multipurpose green spaces associated with multi-family developments that provide for the recreational needs of the residents of the development and are not publicly accessible.

3. **Common open space design requirements** (see ***Figure 18-52,*** and Section 5 of the Southcenter Design Manual, for additional guidance).

Figure 18-52: Common open space examples

a. Required building setback areas shall not be counted towards common open space.

b. No more than 50 percent of the required common space may be indoor or covered space.

c. Common open spaces shall be easily visible and readily accessible to multi-family residents.

d. The common open spaces for a site shall provide at least one of the following amenities for every 200 square feet of common open space up to a maximum requirement of three amenities to accommodate a variety of ages and activities:

(1) Site furnishings (tables, benches)
(2) Picnic and/or barbecue areas
(3) Patios, plazas, courtyards, or rooftop terraces
(4) Active play areas for children
(5) Urban (private/individual) garden plots
(6) Pool and/or hot tub
(7) Multi-purpose room with cooking facilities
(8) Exercise facility

e. Common open spaces shall not be less than 20 feet wide.

f. Courtyards shall be a minimum of 30 feet along the east-west axis and 20 feet along the north-south axis.

g. Adequate fencing, plant screening or other buffer shall separate the common open space area from parking areas, driveways, utility areas, mechanical equipment or public streets. Rooftop utilities shall be adequately screened and separated from rooftop common open spaces.

h. Common open spaces shall be located to take advantage of sunlight to the greatest extent possible.

i. Site design features that create entrapment areas in locations with pedestrian activity shall be avoided.

j. Development shall incorporate Crime Prevention Through Environmental Design (CPTED) principles into open space site design.

k. Common open spaces shall not be located adjacent to dumpster enclosures, loading/service areas, or other incompatible uses, unless fully screened with an architecturally consistent wall or solid fence (no chain link) and landscaping.

l. Interior located common space must be:

(1) Located in visible areas, such as near an entrance lobby and near high traffic corridors.

(2) Designed to provide visibility from interior pedestrian corridors and to the outside. Windows should generally occupy at least one-half of the perimeter of the space to make the space inviting and encourage use.

(3) Designed to specifically serve interior recreational functions and not merely leftover space used to meet the common space requirement.

m. Common open spaces shall be maintained by the property owner, including keeping the space free of trash and graffiti. Amenities provided within the space, such as benches, planters, art and water features, shall be maintained for the life of the project.

G. **Private Open Space for Residential Uses.**

1. Private open spaces are privately owned and maintained and include outdoor balconies, decks, patios, yards, courtyards, rooftop decks or gardens ***(Figure 18-53),*** or landscaped areas used for recreation by inhabitants of a single dwelling unit.

Figure 18-53: Rooftop Garden

2. **Private open space design requirements.**

a. Required setback areas shall not be counted towards private open space provision requirements, unless configured as a private yard and accessed by secondary unit entrance(s).

b. Private open spaces shall have primary access from the dwelling unit served.

c. Private yard landscaping shall be consistent with "Side and Rear Yard Landscape Types" (TMC Section 18.28.230.B).

d. Access to a balcony or patio shall be limited to the dwelling served.

(Ord. 2443 §26, 2014)

18.28.260 General Parking Requirements

A. This section contains regulations and guidelines for the provision, locations, and design of parking. Parking regulations are set forth to ensure that the provision of parking, and the design and configuration of parking areas, contribute to the character of and support the type of development desired within each District in the urban center.

B. **Number of Parking Spaces**.

1. The minimum parking provision for vehicles required by all new development and changes in use shall be as specified in ***Table 18-5***, ***"Provision of Parking."*** In the case of a use not specifically mentioned in this table, the requirements for the number of off-street parking spaces shall be determined by the Director as a Type 2 Special Permission Decision. Such determination shall be based on the requirements for the most comparable use specified in this section or a parking study.

2. Any off-street parking area already in use or established hereafter shall not be reduced below the ratios required in ***Table 18-5***. Any change of use must meet the parking requirements of the new use.

3. A maximum of 30% of the total off-street parking stalls may be designed and designated for compact cars.

4. Electric vehicle charging stations and parking spaces shall be governed by TMC Section 18.56.135.

5. **Parking Reductions.**

a. New on-street parking spaces provided along adjacent new streets may be counted toward the minimum parking requirement for commercial development on that property.

b. Parking requirements for commercial development within 600 feet of the Sounder transit station or the Tukwila bus Transit Center, or residential development within 1,320 feet of either station may be reduced or modified by the Director as a Type 2 Special Permission Decision. This distance will be the walking distance measured from the lot line of the development to the lot line of the station.

c. A reduction in minimum parking requirements may be requested per TMC Section 18.56.140, "Administrative Variance from Parking Standards."

d. ***Shared Parking:*** When two or more property owners agree to enter into a shared parking agreement, the setbacks and landscaping requirements on their common property line(s) may be waived with that land used for parking, driveway and/or building. The total number of spaces may be reduced if it is demonstrated through a parking study that complementary uses, internal trip capture or uses with different peak parking needs justify the reduction in number.

e. All or part of a development's parking requirement may be satisfied through payment of in-lieu fees based on the current real cost of constructing a parking space in an exposed above-ground parking structure, when approved by the Director.

C. **Vehicular Access.**

1. **Curb Cuts and Driveways.**

a. When access to parking facilities and loading areas is provided from front or side streets, the maximum number of curb cuts associated with a single development shall be one two-lane curb cut or two one-lane curb cuts for each 500 linear feet of street frontage. Shared driveways and new public or private streets do not count against this total.

b. The maximum width of driveways/curb cuts is 15 feet for a one-lane and 30 feet for a two-lane driveway. In the Workplace District, the maximum width of driveways/curb cuts is 35 feet.

c. On Walkable and Neighborhood Corridors, the curb cut design for driveways or private streets shall match the height of the sidewalk to ensure that the sidewalk stays at a consistent grade for pedestrians, with the apron dipping down to meet the street level starting at the planting strip or tree wells ***(see Figure 18-54).***

Figure 18-54: Example of driveway level with the height of the sidewalk

d. The total width of parking access openings on the ground level of structured parking may not exceed 30 feet when fronting on a public or private street.

e. Driveways shall be set back a minimum of five feet from adjoining properties (unless the driveway is shared with adjacent premises), and a minimum of three feet from adjacent buildings.

f. If two adjoining properties combine their side yards for the purposes of having a shared driveway, side yard landscaping requirements along that property line will be waived.

g. Driveways may not be signalized. In order to be considered for installation of a traffic signal, a new public or private street must be constructed per the standards in TMC Section 18.28.140.

h. These standards may be varied by the Director when there is a demonstrated conflict with truck maneuvering or fire access that cannot be addressed otherwise.

D. **Parking Lots**.

1. **Dimensions.** Minimum parking area dimensions for surface parking shall be as provided in TMC Chapter 18.56, ***Figure 18-6,*** "Off-street Parking Area Dimensions."

2. **Maneuverability.**

a. Adequate ingress to and egress from each parking space shall be provided without moving another vehicle and without backing more than 50 feet.

b. Tandem parking spaces (where one car is parked directly behind another) are allowed for residential units with two or more bedrooms and both spaces must be assigned for the exclusive use of that unit. All tandem parking spaces must be designed for full size rather than compact size vehicles based on the dimensions in TMC Chapter 18.56, ***Figure 18-6.***

c. Turning and maneuvering space shall be located entirely on private property ***(Figure 18-55)*** unless specifically approved by the Public Works Director.

Figure 18-55. Not enough room on-site to exit loading area, resulting in disruption of traffic movements

d. The slope of off-street parking spaces shall not exceed 5%. The slope of entrance and exit driveways providing access for off-street parking areas and internal driveway aisles without parking stalls shall not exceed 15%.

3. **Surface**.

a. The surface of any required off-street parking or loading facility shall be paved with asphalt, concrete or other similar approved material(s) and shall be graded and drained as to dispose of all surface water, but not across sidewalks.

b. All traffic-control devices, such as parking stripes designating car stalls, directional arrows or signs, curbs and other developments shall be installed and completed as shown on the approved plans.

c. Paved parking areas shall use paint or similar devices to delineate car stalls and direction of traffic.

d. Wheel stops shall be required on the periphery of parking lots so cars will not protrude into the public right-of-way, walkways, off the parking lot or strike buildings. Wheel stops shall be two feet from the end of the stall of head-in parking.

4. **Setbacks, Perimeter, and Interior Landscaping.**

a. Surface parking lots shall set back a minimum of five feet from any back of sidewalk, open space, or building façade. The setback shall be designed and planted as specified in TMC Section 18.28.240.B.6.a.

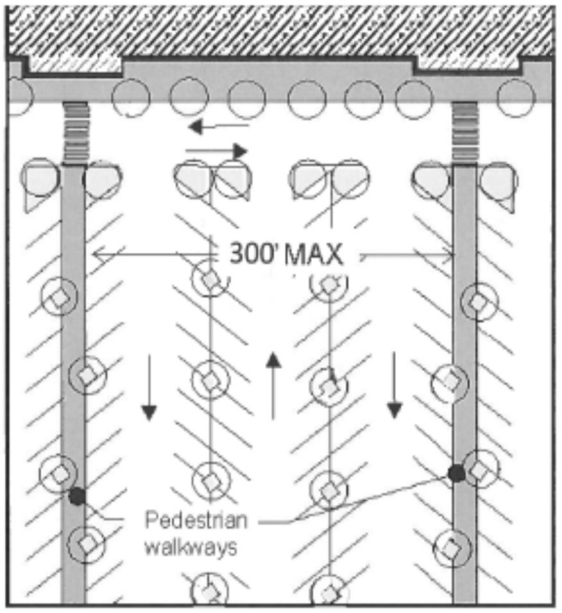
b. See TMC Section 18.28.240.B.6.b for interior parking lot landscaping requirements.

5. **Parking Lot Walkways.**

a. A hard-surfaced walkway a minimum of 6 feet in unobstructed width shall be provided for safe walking areas through surface parking lots between main building entrances and sidewalks adjacent to streets. Front surface parking lots shall provide such routes at a maximum spacing of every 300 feet or to each major building entrance, whichever is closer.

b. Walkways through parking areas ***(see Figure 18-56)*** shall be separated from vehicular parking and travel lanes by use of contrasting paving material, curbing, or landscaping and may be raised above the vehicular pavement. Trees and pedestrian-scaled lighting (maximum 15 feet in height) shall be used to clearly define pedestrian walkways or other pedestrian areas within the parking area.

Figure 18-56: Parking lot walkway standards and example



c. Pedestrian crossings are required when a walkway crosses a paved area accessible to vehicles. Applicants must continue the sidewalk pattern and material across internal driveways.

6. **Lighting and Safety.** Parking and loading areas shall include lighting capable of providing adequate illumination for security and safety, provide clear views both to and within the site, and be in scale with the height and use of the associated structure. See also TMC Section 18.28.280.B, "Lighting."

E. **Drive-Through Facilities**.

1. Stacking lanes shall be located to the rear or least visible portion of a building.

2. Stacking lanes shall be designed to accommodate expected queuing.

F. **Parking Structures**.

1. Parking structures shall be located and designed to minimize their impact on public streets and public spaces. Consider using residential dwelling units, retail storefronts or office space to line the ground level façades of parking structures adjacent to a pedestrian-oriented street or open space.

2. Parking structures shall be buffered from adjacent residential development with heavy screening (see TMC Section 18.28.230.B.5, "Heavy Screening").

3. See the Southcenter Design Manual (Section 16, "Parking Structures") and the City of Tukwila's "Parking Structure Design Guidelines" (2001) for additional requirements and guidelines regulating parking structures, parking podiums, and garages.

(Ord. 2443 §27, 2014)

18.28.270 General Parking Guidelines

A. **Parking Lot Landscaping.**

Note: See TMC Section 18.28.240.B.6 for standards for perimeter and interior parking lot landscaping.

1. Trees in parking areas, when mature, should be large and have a high-branching, broad-headed form to create maximum shade.

2. Landscaping in parking lot interiors and at entries should not obstruct a driver's clear sight lines to oncoming traffic.

3. **Rooftop Parking Landscape Alternatives.**

a. **Landscape Planters**.

(1) For a parking area on the top level of a parking structure, one planter that is 30 inches deep and 5 feet square should be provided for every 10 parking stalls on the top level of the structure.

(2) Each planter should contain a small tree or large shrub suited to the size of the container and the specific site conditions, including desiccating winds.

(3) The planter should be clustered with other planters near driving ramps or stairways to maximize visual effect.

(4) Only non-flammable mulch such as gravel should be used.

b. ***Rooftop Garden or Green Roof.*** An on-site rooftop area, equal in size to a minimum of 5 square feet of

landscaping per each top level parking stall, may be covered with vegetation and soil, or a growing medium, planted over a waterproofing membrane.

c. ***Terraced Planters.*** Upper levels of parking structures can be stepped back and incorporate irrigated terraced planters, equal in size to a minimum of 5 square feet of landscaping per each top level parking stall.

d. ***Green Wall.*** The façade of the parking structure may be trellised and planted with vines or have an irrigated green wall system installed to provide a minimum of 5 square feet of landscaping per each top level parking stall.

B. **Loading Zones.** Loading zones should be separated from customer and occupant pedestrian areas.

C. **Bicycle Parking**.

1. **General Standards.**

a. Racks should be oriented to maximize their efficiency and aligned to keep obstructions away from pedestrian thoroughfares.

b. Clustered arrangements of racks should be set back from walls or street furniture to allow bikes to be parked at both ends or from either side.

c. Where more than one rack is installed, the minimum separation between aisles should be 48 inches (the aisle is measured from tip to tip of bike tires across the space between racks). This provides enough space for one person to walk one bike. In high traffic areas where many users park or retrieve bikes at the same time, the recommended minimum aisle width is 72 inches.

d. Multiple buildings should be served by many small racks in convenient locations rather than a combined, distant rack area.

2. **Short Term Parking.**

a. Bicycle racks should be easy to find and located no more than 50 feet from the entrance of destinations. If bicycle parking is not easily visible from the street, a sign must be posted indicating its location.

b. Racks should be located within sight of gathering places or in busy pedestrian areas that provide constant, informal surveillance of bikes and accessories.

c. Building overhangs, canopies or other features should be used to provide weather protection.

3. **Parking at the Workplace.**

a. Secure bicycle storage areas should be used to park bikes for a full working day.

b. Bike storage areas should be located in high visibility areas close to elevators, stairs and entrances.

c. Bicycle parking should always be protected from the elements either indoors, covered by building elements, or in a separate shelter.

d. Bicycle storage areas should be located as close or closer to elevators or entrances than the closest car parking space, and no more than 200 feet from access points.

(Ord. 2443 §28, 2014)

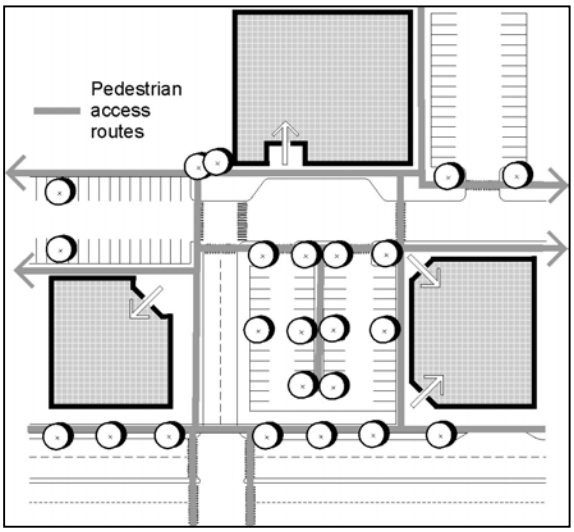
18.28.280 Site Requirements

A. **Pedestrian Circulation**.

Note: For walkways through parking lots, see TMC Section 18.28.260.D.5.

1. Redevelopment of a superblock site shall strive to create a pedestrian-friendly environment within the internal layout ***(see Figure 18-57).*** In addition to providing any required new streets, this can be accomplished by defining a network of pedestrian walkways that serve as a "grid", connecting these walkways to uses with the site and to the larger street network, and creating smaller parking areas in place of one large parking lot.

Figure 18-57: Example of good internal pedestrian circulation. Note connections from the street, between buildings and through parking lots.

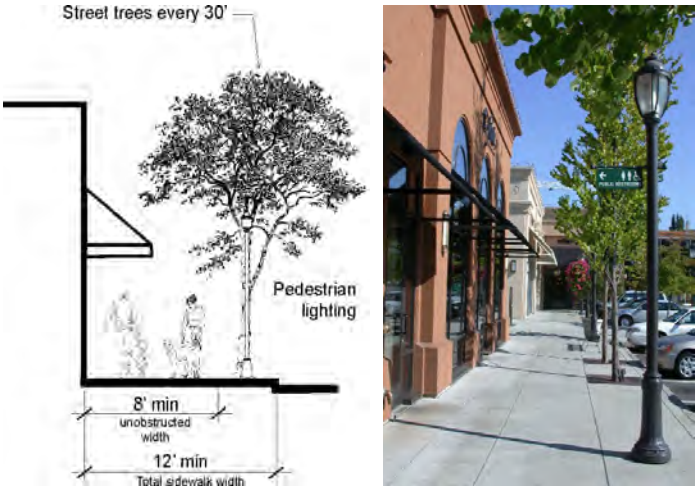


2. Pedestrian access points shall be provided along property edges at pedestrian arrival points and coordinated with crosswalks, transit stops, trails and paths, and existing and planned adjacent development.

3. Pedestrian paths must be provided across landscape areas, where needed, to allow convenient pedestrian circulation and prevent plants from being trampled and their roots compacted.

4. Walkways shall be provided along any building featuring a customer or residential entrance, and along any façade abutting a parking area ***(see Figure 18-58).***

Figure 18-58: Internal walkway standards and an example along retail or mixed-use buildings



5. In the Regional Center, TOD, and Pond Districts, where a walkway crosses a driveway or a paved area accessible to vehicles, the crosswalk shall be distinguished by the use of durable low maintenance surface materials, such as pavers, bricks, or scored concrete, to enhance pedestrian safety and comfort, as well as the attractiveness of development. Pedestrian refuge islands and "speed tables" may also be used to minimize curb cuts and ramps (speed tables maintain the level of the adjacent sidewalk at identified pedestrian crossings, reversing the situation where a pedestrian must enter the zone of moving vehicles to cross the street). These pedestrian features shall be designed to accommodate fire lanes and emergency vehicle access routes.

6. The pedestrian marking style used shall be consistent throughout the development.

B. **Lighting** (also see Section 3 of the Southcenter Design Manual).

1. Safety.

a. Pedestrian-oriented areas, including building entrances, walkways and paths, plazas, parking lots, and parking structures shall be illuminated to increase safety and provide clear views both to and within the site.

b. Pedestrian walkways where stairs, curbs, ramps, and crosswalks occur shall be lit for nighttime safety.

2. Glare Prevention.

a. Where appropriate, exterior lighting practices must follow the recommendations of the Illuminating Engineering Society of North America (IES).

b. New lighting fixtures shall be "dark sky" compliant, i.e. emitted light should be directed downward from the horizontal plane of the light source to preserve a dark sky and prevent unnecessary light pollution. Exceptions may be made for uplit trees and plants and exterior architectural lighting operated on timers to shut off after midnight nightly.

c. Where feasible, new fixtures shall use a reflector and/or a refractor system for efficient distribution of light and reduction of glare.

d. House-side shields and internal reflector caps shall be used to block light from illuminating residential windows.

3. Height.

a. The maximum mounting height for building-mounted lights is 20 feet above finished grade in Workplace and Corridor Commercial Districts and 14 feet above finished grade in all other Districts.

b. The maximum height for pole-mounted lighting at parking lots is 20 feet from grade to light source; lower heights should be used wherever possible.

c. The maximum height for pole-mounted lighting at pedestrian plazas, walkways, and entry areas is 12 to 14 feet in height from grade to light source.

C. **Walls and Fences** (also see Section 4 of the Southcenter Design Manual).

1. All fences shall be placed on the interior side of any required perimeter landscaping.

2. Overall height of fences and walls located in the front yard shall not exceed 3 feet.

3. Barbed-wire, razor-wire, and corrugated metal fencing shall not be permitted. Chain link fencing is permitted only within the Workplace District.

4. Screening walls shall not exceed a height of 7 feet.

D. **Utility and Service Areas** (also see Section 2 of the Southcenter Design Manual).

1. Service areas shall be appropriately screened. Garbage and recycling dumpsters visible from the public realm shall be screened from view using durable materials that complement the building, and incorporate landscaping integrated with other on-premises and adjacent landscaping. The opening to the service area shall be located away from the public sidewalk.

2. Utility and equipment cabinets shall be placed in less visible areas and screened, or located inside of a building.

3. Service equipment, including satellite receiving dishes, transformers, and backflow devices, shall be located away from streets and enclosed or screened from view by landscaping, fencing or other architectural means.

4. Screening of on-site mechanical equipment shall be integrated as part of a project's site and building design and shall incorporate architectural styles, colors and other elements from the roof and façade composition to carefully integrate screening features. Picket fencing, chain-link fencing and exposed sheet metal boxes are not permitted outside of the Workplace District.

(Ord. 2443 §29, 2014)

CHAPTER 18.30

COMMERCIAL/LIGHT INDUSTRIAL (C/LI) DISTRICT

Sections:

18.30.010 Purpose

This district implements the Commercial/Light Industrial Comprehensive Plan designation. It is intended to provide for areas characterized by a mix of commercial, office, or light industrial uses. The standards are intended to promote viable and attractive commercial and industrial areas.

(Ord. 1758 §1 (part), 1995)

18.30.020 Land Uses Allowed

Refer to TMC Chapter 18.09, "Land Uses Allowed by District."

(Ord. 2500 §15, 2016)

18.30.060 On-Site Hazardous Substances

No on-site hazardous substance processing and handling, or hazardous waste treatment and storage facilities shall be permitted, unless clearly incidental and secondary to a permitted use. On-site hazardous waste treatment and storage facilities shall be subject to the State siting criteria (RCW 70.105). *(See TMC Chapter 21.08.)*

(Ord. 1758 §1 (part), 1995)

18.30.070 Design Review

Design review is required for new developments within 300 feet of residential districts, all projects located within the shoreline jurisdiction that involve new building construction or exterior changes if the cost of the exterior changes equals or exceeds 10% of the building's assessed valuation, or for developments larger than 1,500 square feet outside the shoreline jurisdiction. Commercial structures between 1,500 and 10,000 square feet will be reviewed administratively. Design review is also required for certain exterior repairs, reconstructions, alterations or improvements to buildings over 10,000 square feet.

(See TMC Chapter 18.60, Board of Architectural Review.)

(Ord. 2368 §31, 2012; Ord. 2005 §10, 2002; Ord. 1758 §1 (part), 1995)

18.30.080 Basic Development Standards

Development within the Commercial Light Industrial District shall conform to the following listed and referenced standards:

C/LI BASIC DEVELOPMENT STANDARDS

Setbacks to yards, minimum:	
• *Front*	25 feet
• *Second front*	12.5 feet
• *Second front, if any portion of the yard is within 50 feet of LDR, MDR, HDR*	15 feet
• *Sides*	10 feet
• *Sides, if any portion of the yard is within 50 feet of LDR, MDR, HDR*	
1st Floor	15 feet
2nd Floor	20 feet
3rd Floor	30 feet
• *Rear*	5 feet
• *Rear, if any portion of the yard is within 50 feet of LDR, MDR, HDR*	
1st Floor	15 feet
2nd Floor	20 feet
3rd Floor	30 feet
Refer to TMC Chapter 18.52, "Landscape Requirements," Table A, for perimeter and parking lot landscaping requirements.	
Height, maximum	4 stories or 45 feet
Off-street parking:	
• *Warehousing*	1 per 2,000 sq. ft. usable floor area min.
• *Office*	3 per 1,000 sq. ft. usable floor area min.
• *Retail*	2.5 per 1,000 sq. ft. usable floor area min.
• *Manufacturing*	1 per 1,000 sq. ft. usable floor area min.
• *Other Uses*	See TMC 18.56, Off-street Parking & Loading Regulations
Performance Standards: Use, activity and operations within a structure or a site shall comply with (1) standards adopted by the Puget Sound Air Pollution Control Agency for odor, dust, smoke and other airborne pollutants, (2) TMC Chapter 8.22, "Noise", and, (3) adopted State and Federal standards for water quality and hazardous materials. In addition, all development subject to the requirements of the State Environmental Policy Act, RCW 43.21C, shall be evaluated to determine whether adverse environmental impacts have been adequately mitigated.	

(Ord. 2678 §32, 2022; Ord. 1872 §8, 1999; Ord. 1758 §1 (part), 1995)

CHAPTER 18.32

LIGHT INDUSTRIAL (LI) DISTRICT

Sections:

18.32.010 Purpose

This district implements the Light Industrial Use Comprehensive Plan designation. It is intended to provide areas characterized by distributive and light manufacturing uses, with supportive commercial and office uses.

(Ord. 1758 §1 (part), 1995)

18.32.020 Land Uses Allowed

Refer to TMC Chapter 18.09, "Land Uses Allowed by District."

(Ord. 2500 §16, 2016)

18.32.060 On-Site Hazardous Substances

No on-site hazardous substance processing and handling, or hazardous waste treatment and storage facilities shall be permitted, unless clearly incidental and secondary to a permitted use. On-site hazardous waste treatment and storage facilities shall be subject to the State siting criteria (RCW 70.105). *(See TMC Chapter 21.08.)*

(Ord. 1758 §1 (part), 1995)

18.32.070 Design Review

Administrative design review is required for all projects located within the shoreline jurisdiction that involve new building construction or exterior changes if the cost of the exterior changes equals or exceeds 10% of the building's assessed valuation, or new developments within 300 feet of residential districts.

(Ord. 2368 §34, 2012; Ord. 2005 §11, 2002; Ord. 1758 §1 (part), 1995)

18.32.080 Basic Development Standards

Development within the Light Industrial District shall conform to the following listed and referenced standards:

LI BASIC DEVELOPMENT STANDARDS

Setbacks to yards, minimum:	
• *Front*	25 feet
• *Second front*	12.5 feet
• *Sides*	5 feet
• *Sides, if any portion of the yard is within 50 feet of LDR, MDR, HDR*	
1st Floor	10 feet
2nd Floor	20 feet
3rd Floor	30 feet
• *Rear*	5 feet
• *Rear, if any portion of the yard is within 50 feet of LDR, MDR, HDR*	
1st Floor	10 feet
2nd Floor	20 feet
3rd Floor	30 feet
Refer to TMC Chapter 18.52, "Landscape Requirements," Table A, for perimeter and parking lot landscaping requirements.	
Height, maximum	4 stories or 45 feet
Off-street parking:	
• *Warehousing*	1 per 2,000 sq. ft. usable floor area min.
• *Office*	3 per 1,000 sq. ft. usable floor area min.
• *Retail*	2.5 per 1,000 sq. ft. usable floor area min.
• *Manufacturing*	1 per 1,000 sq. ft. usable floor area min.
• *Other Uses*	See TMC 18.56, Off-street Parking & Loading Regulations
Performance Standards: Use, activity and operations within a structure or a site shall comply with (1) standards adopted by the Puget Sound Air Pollution Control Agency for odor, dust, smoke and other airborne pollutants, (2) TMC Chapter 8.22, "Noise", and, (3) adopted State and Federal standards for water quality and hazardous materials. In addition, all development subject to the requirements of the State Environmental Policy Act, RCW 43.21C, shall be evaluated to determine whether adverse environmental impacts have been adequately mitigated.	

(Ord. 2678 §33, 2022; Ord. 1872 §9, 1999; Ord. 1758 §1 (part), 1995)

CHAPTER 18.34

HEAVY INDUSTRIAL (HI) DISTRICT

Sections:

18.34.010 Purpose

This district implements the Heavy Industrial Comprehensive Plan designation. It is intended to provide areas characterized by heavy or bulk manufacturing uses and distributive and light manufacturing uses, with supportive commercial and office uses. The development standards are the minimum necessary to assure safe, functional, efficient, and environmentally sound development.

(Ord. 1758 §1 (part), 1995)

18.34.020 Land Uses Allowed

Refer to TMC Chapter 18.09, "Land Uses Allowed by District."

(Ord. 2500 §17, 2016)

18.34.060 On-Site Hazardous Substances

No on-site hazardous substance processing and handling, or hazardous waste treatment and storage facilities shall be permitted, unless clearly incidental and secondary to a permitted use. On-site hazardous waste treatment and storage facilities shall be subject to the State siting criteria (RCW 70.105). *(See TMC Chapter 21.08.)*

(Ord. 1758 §1 (part), 1995)

18.34.070 Design Review

Administrative design review is required for all projects located within the shoreline jurisdiction that involve new building construction or exterior changes if the cost of the exterior changes equals or exceeds 10% of the building's assessed valuation, or new developments within 300 feet of residential developments. Administrative design review is also required for new developments that are outside the shoreline jurisdiction and over 45 feet in height.

(Ord. 2368 §36, 2012; Ord. 2005 §12, 2002; Ord. 1793 §1, 1997; Ord. 1758 §1 (part), 1995)

18.34.080 Basic Development Standards

Development within the Heavy Industrial District shall conform to the following listed and referenced standards:

HI BASIC DEVELOPMENT STANDARDS

Setbacks to yards, minimum:	
• *Front*	25 feet
• *Second front*	12.5 feet
• *Sides*	5 feet
• *Sides, if any portion of the yard is within 50 feet of LDR, MDR, HDR*	
1st Floor	10 feet
2nd Floor	20 feet
3rd Floor	30 feet
• *Rear*	5 feet
• *Rear, if any portion of the yard is within 50 feet of LDR, MDR, HDR*	
1st Floor	10 feet
2nd Floor	20 feet
3rd Floor	30 feet
Refer to TMC Chapter 18.52, "Landscape Requirements," Table A, for perimeter and parking lot landscaping requirements.	
Height, maximum	115 feet
Off-street parking:	
• *Warehousing*	1 per 2,000 sq. ft. usable floor area min.
• *Office*	3 per 1,000 sq. ft. usable floor area min.
• *Retail*	2.5 per 1,000 sq. ft. usable floor area min.
• *Manufacturing*	1 per 1,000 sq. ft. usable floor area min.
• *Other Uses*	See TMC 18.56, Off-street Parking & Loading Regulations

(Ord. 2678 §34, 2022; Ord. 1872 §10, 1999; Ord. 1793 §2, 1997; Ord. 1758 §1 (part), 1995)

CHAPTER 18.36

MANUFACTURING INDUSTRIAL CENTER/ - LIGHT (MIC/L) DISTRICT

Sections:

18.36.010 Purpose

This district implements the Manufacturing Industrial Center/Light Industrial Comprehensive Plan designation. It is intended to provide a major employment area containing distributive light manufacturing and industrial uses and other uses that support those industries. This district's uses and standards are intended to enhance the redevelopment of the Duwamish Corridor.

(Ord. 1758 §1 (part), 1995)

18.36.020 Land Uses Allowed

Refer to TMC Chapter 18.09, "Land Uses Allowed by District."

(Ord. 2500 §18, 2016)

18.36.060 On-Site Hazardous Substances

No on-site hazardous substance processing and handling, or hazardous waste treatment and storage facilities shall be permitted, unless clearly incidental and secondary to a permitted use. On-site hazardous waste treatment and storage facilities shall be subject to the State siting criteria (RCW 70.105). *(See TMC Chapter 21.08.)*

(Ord. 1758 §1 (part), 1995)

18.36.070 Design Review

Administrative design review is required for all new office development and other new developments within 300 feet of residential districts, or all projects located within the shoreline jurisdiction that involve new building construction or exterior changes if the cost of the exterior changes equals or exceeds 10% of the building's assessed valuation.

(Ord. 2368 §38, 2012; Ord. 2335 §5, 2011; Ord. 2005 §13, 2002; Ord. 1758 §1 (part), 1995)

18.36.080 Basic Development Standards

Development within the Manufacturing Industrial Center/Light Industrial District shall conform to the following listed and referenced standards:

MIC/L BASIC DEVELOPMENT STANDARDS

Setbacks to yards, minimum:	
• *Front*	20 feet
• *Second front*	10 feet
• *Second front, if any portion of the yard is within 50 feet of LDR, MDR, HDR*	15 feet
• *Sides*	None
• *Sides, if any portion of the yard is within 50 feet of LDR, MDR, HDR*	
1st Floor	15 feet
2nd Floor	20 feet
3rd Floor	30 feet
• *Rear*	None
• *Rear, if any portion of the yard is within 50 feet of LDR, MDR, HDR*	
1st Floor	15 feet
2nd Floor	20 feet
3rd Floor	30 feet
Refer to TMC Chapter 18.52, "Landscape Requirements," Table A, for perimeter and parking lot landscaping requirements.	
Height, maximum	4 stories or 45 feet
Off-street parking:	
• *Warehousing*	1 per 2,000 sq. ft. usable floor area min.
• *Office*	3 per 1,000 sq. ft. usable floor area min.
• *Retail*	2.5 per 1,000 sq. ft. usable floor area min.
• *Manufacturing*	1 per 1,000 sq. ft. usable floor area min.
• *Other Uses*	See TMC 18.56, Off-street Parking & Loading Regulations
Performance Standards: Use, activity and operations within a structure or a site shall comply with (1) standards adopted by the Puget Sound Air Pollution Control Agency for odor, dust, smoke and other airborne pollutants, (2) TMC Chapter 8.22, "Noise", and, (3) adopted State and Federal standards for water quality and hazardous materials. In addition, all development subject to the requirements of the State Environmental Policy Act, RCW 43.21C, shall be evaluated to determine whether adverse environmental impacts have been adequately mitigated.	

(Ord. 2678 §35, 2022; Ord. 1872 §11, 1999; Ord. 1758 §1(part), 1995)

CHAPTER 18.38

MANUFACTURING INDUSTRIAL CENTER/ - HEAVY (MIC/H) DISTRICT

Sections:

18.38.010 Purpose

This district implements the Manufacturing Industrial Center/Heavy Industrial Comprehensive Plan designation. It is intended to provide a major employment area containing heavy or bulk manufacturing and industrial uses, distributive and light manufacturing and industrial uses, and other uses that support those industries. This district's uses and standards are intended to enhance the redevelopment of the Duwamish Corridor.

(Ord. 1758 §1 (part), 1995)

18.38.020 Land Uses Allowed

Refer to TMC Chapter 18.09, "Land Uses Allowed by District."

(Ord. 2500 §19, 2016)

18.38.060 On-Site Hazardous Substances

No on-site hazardous substance processing and handling, or hazardous waste treatment and storage facilities shall be permitted, unless clearly incidental and secondary to a permitted use. On-site hazardous waste treatment and storage facilities shall be subject to the State siting criteria (RCW 70.105). *(See TMC Chapter 21.08.)*

(Ord. 1758 §1 (part), 1995)

18.38.070 Design Review

Administrative design review is required for all new office development and other developments within 300 feet of residential districts or all projects located within the shoreline jurisdiction that involve new building construction or exterior changes if the cost of the exterior changes equals or exceeds 10% of the building's assessed valuation.

(Ord. 2368 §40, 2012; Ord. 2335 §9, 2011; Ord. 2005 §14, 2002; Ord. 1758 §1 (part), 1995)

18.38.080 Basic Development Standards

Development within the Manufacturing Industrial Center/Heavy Industrial District shall conform to the following listed and referenced standards:

MIC/H BASIC DEVELOPMENT STANDARDS

Setbacks to yards, minimum:	
• *Front*	20 feet
• *Second front*	10 feet
• *Second front, if any portion of the yard is within 50 feet of LDR, MDR, HDR*	15 feet
• *Sides*	None
• *Sides, if any portion of the yard is within 50 feet of LDR, MDR, HDR*	
1st Floor	15 feet
2nd Floor	20 feet
3rd Floor	30 feet
• *Rear*	None
• *Rear, if any portion of the yard is within 50 feet of LDR, MDR, HDR*	
1st Floor	15 feet
2nd Floor	20 feet
3rd Floor	30 feet
Refer to TMC Chapter 18.52, "Landscape Requirements," Table A, for perimeter and parking lot landscaping requirements.	
Height, maximum	125 feet
Off-street parking:	
• *Warehousing*	1 per 2,000 sq. ft. usable floor area min.
• *Office*	2.5 per 1,000 sq. ft. usable floor area min.
• *Retail*	2.5 per 1,000 sq. ft. usable floor area min.
• *Manufacturing*	1 per 1,000 sq. ft. usable floor area min.
• *Other Uses*	See TMC 18.56, Off-street Parking & Loading Regulations

(Ord. 2678 §36, 2022; Ord. 1872 §12, 1999; Ord. 1758 §1 (part), 1995)

CHAPTER 18.40

TUKWILA VALLEY SOUTH (TVS) DISTRICT

Sections:

18.40.010 Purpose

This district implements the Tukwila Valley South Comprehensive Plan designation. It is intended to provide an area of high-intensity regional uses that include commercial services, offices, light industry, warehousing and retail uses, with heavy industrial uses subject to a Conditional Use Permit.

(Ord. 1758 §1 (part), 1995)

18.40.020 Land Uses Allowed

Refer to TMC Chapter 18.09, "Land Uses Allowed by District."

(Ord. 2500 §20, 2016)

18.40.060 On-Site Hazardous Substances

No on-site hazardous substance processing and handling, or hazardous waste treatment and storage facilities shall be permitted, unless clearly incidental and secondary to a permitted use. On-site hazardous waste treatment and storage facilities shall be subject to the State siting criteria (RCW 70.105). *(See TMC 21.08.)*

(Ord. 1758 §1 (part), 1995)

18.40.070 Design Review

Design review is required for new development within 300 feet of residential districts, for all projects located within the shoreline jurisdiction that involve new building construction or exterior changes if the cost of the exterior changes equals or exceeds 10% of the building's assessed valuation, for developments larger than 1,500 square feet and for all multi-family developments outside the shoreline jurisdiction. Commercial structures between 1,500 and 10,000 square feet and multi-family structures up to 1,500 square feet will be reviewed administratively.

(Ord. 2368 §44, 2012; Ord. 2005 §15, 2002; Ord. 1758 §1 (part), 1995)

18.40.080 Basic Development Standards

Development within the Tukwila Valley South District shall conform to the following listed and referenced standards:

TVS BASIC DEVELOPMENT STANDARDS

Lot area per unit (multifamily, except senior citizen housing), minimum	2,000 sq. ft.
Setbacks to yards, minimum:	
• *Front*	25 feet
• *Second front*	12.5 feet
• *Sides*	5 feet
• *Sides, if any portion of the yard is within 50 feet of LDR, MDR, HDR*	
1st Floor	10 feet
2nd Floor	20 feet
3rd Floor	30 feet
• *Rear*	5 feet
• *Rear, if any portion of the yard is within 50 feet of LDR, MDR, HDR*	
1st Floor	10 feet
2nd Floor	20 feet
3rd Floor	30 feet
Refer to TMC Chapter 18.52, "Landscape Requirements," Table A, for perimeter and parking lot landscaping requirements.	
Height, maximum	115 feet
Recreation space	200 sq. ft. per dwelling unit (1,000 sq. ft. min.)
Recreation space, senior citizen housing	100 sq. ft. per dwelling unit
Off-street parking:	
• *Residential (except senior citizen housing)*	See TMC 18.56, Off street Parking/Loading Regulations
• *Office*	3 per 1,000 sq. ft. usable floor area minimum
• *Retail*	4 per 1,000 sq. ft. usable floor area minimum
• *Manufacturing*	1 per 1,000 sq. ft. usable floor area minimum
• *Warehousing*	1 per 2,000 sq. ft. usable floor area minimum
• *Other uses, including senior citizen housing*	See TMC 18.56, Off-street Parking & Loading Regulations
Performance Standards: Use, activity and operations within a structure or a site shall comply with (1) standards adopted by the Puget Sound Air Pollution Control Agency for odor, dust, smoke and other airborne pollutants, (2) TMC 8.22, "Noise", and, (3) adopted State and Federal standards for water quality and hazardous materials. In addition, all development subject to the requirements of the State Environmental Policy Act, RCW 43.21C, shall be evaluated to determine whether adverse environmental impacts have been adequately mitigated.	

(Ord. 2678 §37, 2022; Ord. 1976 §60, 2001; Ord. 1872 §13, 1999; Ord. 1830 §27, 1998; Ord. 1758 §1 (part), 1995)

CHAPTER 18.41

TUKWILA SOUTH OVERLAY (TSO) DISTRICT

Sections:

18.41.010 Purpose

A. This district implements the Tukwila South Master Plan designation and related policies and provisions of the Tukwila Comprehensive Plan. As an overlay district, the Tukwila South Overlay (TSO) district may be applied by the City Council to any property lying within the Comprehensive Plan's Tukwila South Master Plan Area. Within the Tukwila South Overlay, the provisions of this chapter shall supersede the provisions of the underlying zoning district.

B. The Tukwila South Overlay district is intended to create a multi-use regional employment center containing high technology, office, commercial, and residential uses. National and international employers specializing in emerging technologies (bio-tech/life sciences) are featured in campus settings. Retail activities range from individual large-scale national retailers to gateway and village retail and shopping centers that support office and high-tech campuses and residential neighborhoods. A mix of single-family and multi-family dwellings at low, medium, and high densities provide a variety of housing opportunities. Tukwila South will create a memorable and regionally identifiable place by building upon the Northwest tradition of quality outdoor environments and quality building materials, combined with traditional Puget Sound building elements.

(Ord. 2235 §1 (part), 2009)

18.41.020 Land Uses Allowed

Refer to TMC Chapter 18.09, "Land Uses Allowed by District."

(Ord. 2500 §21, 2016)

18.41.070 On-Site Hazardous Substances

No on-site hazardous substance processing and handling or hazardous waste treatment and storage facilities shall be permitted, unless clearly incidental and secondary to a permitted use. On-site hazardous waste treatment and storage facilities shall be subject to the State siting criteria (RCW 70.105).
(*See TMC Chapter 21.08.*)

(Ord. 2235 §10 (part), 2009)

18.41.080 Design Review

A. The Director shall require that all development within the Tukwila South Overlay district is consistent with the policies of the Tukwila Comprehensive Land Use Plan and the Tukwila South Master Plan, and conforms to the requirements of this title and any applicable development agreement.

B. Design review is required for all non-exempt development within the Tukwila South Overlay district. The applicant may submit a site plan for review for all or a portion of the area covered by the Tukwila South Master Plan. Application requirements are provided by TMC Section 18.104.060. All applications for design review within the TSO shall be processed as Type 2 decisions per TMC Chapter 18.60. Prospective applicants are encouraged to schedule a pre-application conference as provided by TMC Section 18.104.050 prior to submitting a design review application.

C. The following development activities are exempt from design review:

1. Interior remodeling of existing buildings or structures.
2. Underground utility projects.
3. Detached single-family subdivisions subject to TMC Title 17 – Subdivisions and Plats.
4. Exterior repair, reconstruction, cosmetic alterations or improvements if the cost of that work is less than 10% of the building's assessed valuation.
5. Development that is categorically exempt under the State Environmental Policy Act (SEPA) (RCW 43.21C).

D. Design review includes an examination of the following elements: placement and scale of structures, design, height, form, parking, access, signage, vehicular and pedestrian connections and circulation, environmental considerations, open space, landscaping, and infrastructure needs as described in the Tukwila South Master Plan or any applicable development agreement.

The purposes of the review process include:

1. Allowing City staff to review the detailed arrangement of the proposed development to ensure it is consistent with the intent and scope of the Tukwila South Master Plan, as well as any applicable development regulations, zoning district provisions, design review standards, and any approved development agreement provisions.
2. Assure the proposed development is compatible with both the physical characteristics of the site, and the existing and potential uses of the surrounding area as described in an approved Master Plan.
3. Ensure compliance with the requirements of the State Environmental Policy Act (SEPA - RCW 43.21C) and other applicable regulations and standards.

E. All design review applications for development within the Tukwila South Overlay district shall be reviewed in accordance with the following criteria. When two or more of the criteria listed below conflict, the Director shall evaluate the applicability and importance of each based on the intent of the Tukwila South Master Plan and reasonably balance any conflicting criteria in reaching a design review decision.

1. Substantial conformance with the Tukwila South Master Plan, including but not limited to, fostering the vision and guiding principles of the Master Plan.

2. Compliance with the applicable district standards in this title, and other applicable City regulations. Modifications to the development standards may be requested as part of design review per TMC Section 18.41.100.

3. Substantial consistency with Tukwila Comprehensive Land Use Plan goals and policies.

4. Substantial conformance with the provisions of any applicable development agreement.

5. Substantial conformance with all applicable mitigation measures identified in the associated EIS or other SEPA documents.

6. Adequate public services and facilities necessary to accommodate the proposed use and density are or will be made available.

7. The site is physically suitable for the type of development and for the intensity of development proposed.

8. Approval of the application will not be significantly detrimental to the public health, safety or welfare, or be injurious to the property or improvements of adjacent properties and public facilities.

9. Substantial conformance with the criteria contained in the Tukwila South Design Manual for commercial development, the Tukwila South Residential Design Guidelines, or other Design Manual as stipulated by TMC Chapter 18.60.

10. Substantial conformance with the Master Open Space and Trails Plan, if applicable.

F. Upon completion of the City's review, the Director shall approve, approve with conditions or deny the application, as follows:

1. If the Director finds the application meets the applicable criteria and is consistent with the approved Master Plan for that area of the Tukwila South Overlay district, the Director shall approve the proposal.

2. Approve with Conditions: If the Director finds the application does not adequately address one or more of the applicable criteria, but is consistent with the approved Master Plan for the Tukwila South Overlay district, and there is a reasonable basis for conditions, the Director may approve the application with conditions. The intent of such conditions is that they mitigate an impact consistent with the intent of the applicable criterion. Conditions of approval may include, but are not necessarily limited to, the relocation or modification of the proposed structures, additional landscaping, buffering, screening, relocation of access, or other measures necessary to mitigate any impact or reduce hazards. The Director shall specify when the conditions shall be met.

3. Denial: If the Director finds the application does not meet applicable criteria and reasonable conditions cannot be found to mitigate the impact or reduce hazards, the Director shall deny the application as proposed. The Director's decision must specify the reasons for the denial based upon the review criteria.

(Ord. 2661 §1, 2021; Ord. 2580 §3, 2018; Ord. 2235 §10 (part), 2009)

18.41.090 Basic Development Standards

A. **Residential Uses.**

1. Residential use development on all lands within the TSO shall conform to the development standards set forth in TMC Section 18.41.090.A and the Tukwila South Residential Design Guidelines. Modifications to these standards are available pursuant to TMC Section 18.41.100, "Modifications to Development Standards through Design Review."

2. The development standards herein are based on the height of new residential buildings. Specifically:

a. Buildings three stories or less are subject to townhouse and low-rise standards.

b. Buildings between four to seven stories are subject to mid-rise standards.

c. Buildings eight stories or taller are subject to high-rise standards.

d. For buildings with a varying number of stories, the tallest number of stories shall determine which set of standards apply.

Table 18.41.090
Tukwila South Overlay Residential Development Standards

Standard	TSO Townhouses & Low-rise (3 stories or less)	TSO Mid-rise (4-7 stories)	TSO High-rise (8 or more stories)
Setbacks/yards, minimum (feet)			
Front[1]			
Arterial streets	15	15	15
All other streets	10	10	10
Side[2]			
Up to 3rd story	5	5[3]	5[3]
4th story and above	n/a	15[4]	15[4]
Rear[3]			
Up to 3rd story	5	5[3]	5[3]
4th story and above	n/a	15[4]	15[4]
Building height, maximum (feet)			
Building Height	45	85	125
Outdoor lighting height, maximum (feet)			
Light poles in parking areas	20	20	20
Light poles along pedestrian walkways, trails, plazas, building entries, and other pedestrian-oriented areas	12	12	12
Building wall-mounted lighting	15	15	15
Building mounted lights fully recessed into the underside of a ceiling, soffit, or overhang	No limit	No limit	No limit
Building length, maximum (feet)			
Maximum building length	200	200	200
Recreation space per unit, minimum square footage (see TMC Section 18.41.090.3 for more information)[7,8]			

Recreation space	Residential development must provide on-site[9] and off-site[10] recreation space at the following standard:
	• 200 square feet total.
	  ○ 75 square feet per unit, on-site.
	  ○ 125 square feet per unit, off-site.		

Parking spaces per dwelling unit, minimum			
Studio	1	1	1
1-bedroom	1	1	1
2-bedroom	1.5	1.5	1.5
3-bedroom	2	2	2

1 In the event modification is pursued under TMC Section 18.41.100, front setbacks may be reduced to no less than 5 feet.

2 Structures or portions of structures containing multi-family dwelling units that have solar access only from a side or rear setback-facing window(s) must be set back at least 15 feet from side and rear property lines. Structures must also maintain at least 15 feet of separation from adjacent structure elevations that provide the only solar access for a multi-family dwelling unit. See the Tukwila South Residential Guidelines for a graphic example.

3 When adjacent to a townhouse, the minimum setback is 15 feet.

4 When adjacent to a townhouse, the setback for portions of a structure taller than 35 feet must increase by 1 foot for each additional 1 foot in building height.

7 Senior citizen housing must provide 100 square feet of recreation space per unit.

8 Developments with 10 or more dwelling units must provide a children's play area in the on-site recreation space. A children's play area is not required for senior citizen housing or if the proposed structure or related development project is within 1/4 mile, measured along constructed sidewalks and/or trails of the perimeter, of a recreation facility for children that is open to residents of the proposed structure.

9 Recreation area provided on-site must be functional space for active and passive recreation purposes and located within the same parcel or tract as the proposed development.

10 The Director may approve the required off-site recreation area to be located on-site provided that the recreation space meets the design guidelines set forth in this chapter. If off-site recreation space is approved to be located on-site, that space must be active outdoor recreation space.

3. **Off-Site Recreational Area Requirements.** The following requirements would apply to Off-Site Recreational Areas within the TSO district:

a. *Off-Site Recreational Area Conditions:*

(1) Off-site recreation areas must be accessible within 1/4 mile for a children's play area up to 1/2 mile for all other offsite recreation areas as measured from the closest structure containing residential units; accessory buildings such as fitness centers, parking garages, utility structures, etc. will not qualify. Off-site recreation space located up to 1 mile from a structure containing residential units as measured along existing or future sidewalks and trails shall be credited toward meeting the offsite recreation space requirement.

(2) A recreation area constructed in fulfilment of this requirement should be designed to serve the neighborhood in which it is located. The space may be privately-owned, provided residents living in the area have access. New improvements must be located adjacent to, and highly visible from, a street (public or private) or public trail. The facilities to be located will be approved by the Director during the design review and/or platting process.

b. *Minimum Off-Site Recreational Area Design:* Minimum size requirements apply: 1/ 4 acre of usable off-site recreation space must be provided to meet the standard. This qualifies as the minimum size for an off-site recreation area. Off-site recreational areas must be designed and sized to accommodate a combination of active and passive recreational facilities.

Examples of qualifying facilities:

(1) Children's play equipment

(2) Picnic areas and/or tables

(3) Benches

(4) Pea patch/other specialized community garden

(5) Grass fields/areas of suitable size for active recreation

(6) Sport courts

(7) Trails and associated landscaped corridors on private property

(8) Other amenities the Director determines meet the goal of providing active or passive recreation opportunities

c. *Larger Off-Site Recreational Areas:*

(1) Any offsite recreation area developed in excess of the offsite recreation area requirement for a given development, regardless of their size and subject to the 1/4-acre size minimum, may be banked toward future development for an indefinite period.

(2) Should a larger, consolidated recreation area of 2.0 acres or more be provided, the improvements can be used to fulfill current development proposal requirements. See "Timing of Recreation Space Provision" below for more information.

(3) If a project constructs a recreation area of less than 2.0 acres but greater than a development's required offsite recreation amount, the area developed in excess may be banked only if the offsite recreation area is constructed at the same time as the residential project.

(4) To qualify, the proposed recreation area must be located adjacent to, and highly visible from, a street (public or private) or trail and provide a range of active and passive recreational opportunities (as outlined in this Chapter) for multiple ages and physical abilities. Only those areas that are usable may count towards the off-site recreation space requirement. The following areas are excluded: parking lots, utility sheds, inaccessible natural/planted areas, any landscaped area required by code, and unimproved steep slopes as defined in TMC Section 18.45.120.

(5) Larger off-site recreational areas are typically characterized by recreational activities that serve a range of individuals and groups, such as field games, court games, craft areas, playground apparatus, picnicking, and space for quiet/passive activities. Neighborhood recreation areas may contain active recreational facilities such as softball, basketball, volleyball, handball, tennis, children's play structures, trails, and grass areas for activities and/or picnic facilities.

d. *Timing of Recreation Space Provision:* Construction of off-site recreation space must meet the following timelines.

(1) For sites under 2.0 acres in area, the off-site recreation space must be constructed and receive final construction permit approval prior to the issuance of certificate of occupancies for any project receiving credit for the off-site recreation space.

(2) For sites equal to or in excess of 2.0 acres, the City will permit delayed construction of the off-site recreation space as follows:

(a) Construction permits must be applied for within two years of the associated residential project(s) using such off-site recreation space to satisfy their recreation space requirement and receiving certificate(s) of occupancy. Provided:

i. A financial guarantee (bond, assignment of account, irrevocable standby letter of credit, or cash), acceptable to the Director, in an amount necessary to complete the off-site recreation improvements is provided to the City.

ii. The owner of the property for the off-site recreation area has provided an appropriate legal mechanism acceptable to the City to access the identified off-site recreation area, such as an easement, at no cost, and to construct the off-site recreation space improvements in the event that the applicant and/or property owner have not completed the improvements within the prescribed timelines.

iii. The requirements in TMC Section 18.41.090.A.3.d.(a).i and ii are not required if the permits for off-site recreation space have received final approval by the City.

(3) No additional residential projects within the 1/2 mile radius of the deferred off-site recreation area will be allowed to move forward with construction until such off-site recreation space construction has been completed.

(4) Construction of the off-site recreation improvements must be completed within a timely manner from permit approvals. If adequate provisions, as determined by the Director, cannot be put in place to ensure the future construction of the off-site recreation space, then the space shall be constructed prior to the issuance of any certificate of occupancy for any developments using the off-site area to meet recreational space requirements.

e. *Sensitive Area Tracts:* Off-site recreation space credit can be given for any trails, lookouts, or other passive recreation activities constructed within sensitive area tracts, subject to compliance with the City's Sensitive Area Master Plan for Tukwila South and the City's Environmental Areas Ordinance. The sensitive areas tracts would need to meet the locational requirements outlined in this Chapter (1/2 mile from closest perimeter of a residential project). Only the areas of improvement within a sensitive area tract would count towards the recreation space requirement, not the entire tract.

4. **Performance Standards:** Use, activity, and operations within a structure or a site shall comply with: (1) standards adopted by the Puget Sound Air Pollution Control Agency for odor, dust, smoke and other airborne pollutants; (2) TMC Chapter 8.22, "Noise"; and (3) adopted State and Federal standards for water quality and hazardous materials. In addition, all development subject to the requirements of the State Environmental Policy Act, Chapter 43.21C RCW, shall be evaluated to determine whether adverse environmental impacts have been adequately mitigated.

B. **Connectivity and Circulation Guidelines.**

1. Any development with a residential component shall front a roadway that meets City approved public or private street standards.

2. Access to development sites needs to include provisions for non-motorized circulation, including dedicated pedestrian access that separates pedestrians from motorized traffic via curb and/or landscaped planter strip. Development along public rights-of-way should not preclude bus stops and bike infrastructure. Private street development, contained within tracts or easements, may be required to include shared and/or dedicated bike lanes, on-street parking, and/or drop-off/loading zones.

3. Existing curb cuts from Southcenter Parkway and South 200th Street are to be used for access to the adjacent development sites and to extend private streets, contained within tracts or easements. If no curb cut exists along an existing road fronting a development site, City of Tukwila Public Works may review and approve new curb cut location(s) along such street frontage, subject to intersection spacing and site distance standards.

4. New streets are encouraged to connect to adjacent parcels at an interval no greater than 700 feet. Where nearby parcels and associated private streets have already been developed, proposed private streets, whether in tracts or easements, shall align and connect.

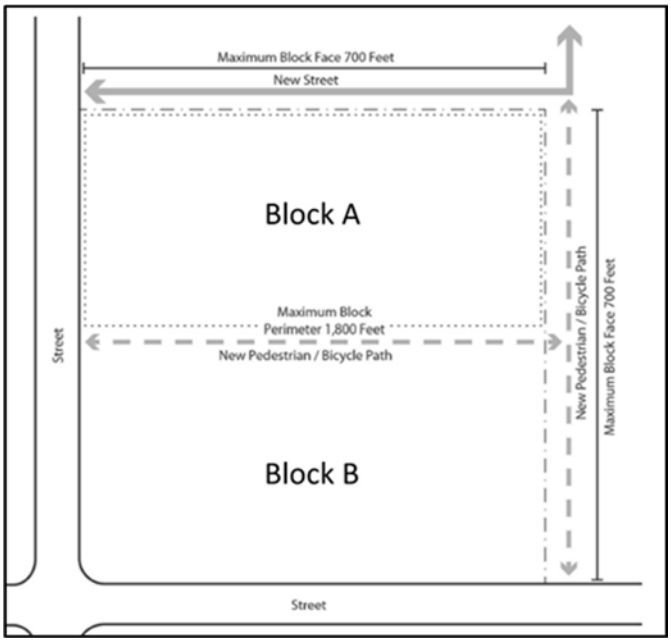
5. Future block development is encouraged to create a maximum block perimeter 2,000 linear feet. The block will be defined with a minimum of two vehicle through connections. The remaining two sides of the block may be pedestrian/bicycle connections only or could accommodate vehicle traffic; see example below.

6. Permanent dead-end streets should be avoided, if possible.

7. All developments must meet minimum Fire Department and Public Works Department access and grade requirements including, but not limited to, minimum street clearance, turning radii, and turnaround design.

8. The Director may provide exceptions to these guidelines in the event they are unable to be adhered to due to physical/topographical constraints, the creation of an unusable parcel(s) of land, or an inability to fulfill the requirements without significantly interfering with the proposed function(s) of the development given that the overall intent of the guidelines is still fulfilled.

BLOCK EXAMPLE:



C. **Non-Residential Uses.** All non-residential use development on all lands within the TSO shall conform to the development standards set forth in TMC Section 18.41.090.C. Modifications to these standards are available pursuant to TMC Section 18.41.100, "Modifications to Development Standards through Design Review."

Lot	N/A
Setbacks:	
Front – adjacent to a public street	15 feet*
Second Front – adjacent to a public street	15 feet*
Sides	None*; increased to 10 feet if adjacent to residential use or non-TSO zoned property
Rear	None*; increased to 10 feet if adjacent to residential use or non-TSO zoned property
Height	125 feet
Landscaping:	
Fronts – adjacent to a public street	15 feet
Side	None; increased to 10 feet if adjacent to residential use or non-TSO zoned property
Rear	None; increased to 10 feet if adjacent to residential use or non-TSO zoned property
Landscape requirements (minimum): See Landscape, Recreation, Recycling/Solid Waste Space requirements chapter for requirements	
Off-street parking:	See TMC Chapter 18.56
*Subject to modification to meet Fire Department Access Requirements	

(Ord. 2678 §10, 2022; Ord. 2661 §2, 2021; Ord. 2580 §4, 2018; Ord. 2235 §10 (part), 2009)

18.41.100 Modifications to Development Standards through Design Review

A. An applicant may request a modification to the Basic Development Standards established by TMC Section 18.41.090 as part of a design review application. The applicant shall submit a written description of the proposed modification and address the decision criteria stated in subsection 18.41.100.B; the Director may condition the approval of a modification request when such conditions are necessary to achieve conformity with these decision criteria.

B. The Director may grant modifications to the Basic Development Standards established by TMC Section 18.41.090 for individual cases provided that, for development of a residential use, the Director shall find that either the modification is allowed because it results in a more thoughtful urban design for the project consistent with the Tukwila South Residential Design Guidelines, or that all five criteria below are met and, for development of a non-residential use, the Director shall find that all five criteria below are met:

1. The modification is required due to unique circumstances related to the subject property that create significant practical difficulties for development and use otherwise allowed by this code;

2. The modification conforms to the intent and purpose of the Tukwila South Master Plan, any applicable development agreements, and this code;

3. The modification will not be injurious to other property(s) in the vicinity;

4. The modification will not compromise the current or reasonably anticipated provision of circulation, access, utility service or any other public service; and

5. An approved modification shall be the minimum necessary to ameliorate the identified practical difficulties giving rise to the request.

(Ord. 2661 §3, 2021; Ord. 2235 §10 (part), 2009)

18.41.110 Final Site Plan

A. Within 90 days of the approval by the Director, final plans shall be prepared and filed with the City. These plans shall include all required modifications and applicable conditions contained in the Director's Notice of Decision.

B. The final plans are not required to be recorded unless there is an associated land division application, such as a binding site plan or subdivision.

(Ord. 2235 §10 (part), 2009)

18.41.120 Performance Guarantee

The Building Official may not issue a Certificate of Occupancy until all improvements included in the approved plans have been installed and approved, with the following exceptions:

1. A performance guarantee has been posted for the improvements not yet completed.

2. The phasing of improvements has been accounted for in an associated Binding Site Plan, infrastructure phasing agreement, a condition of approval, or a development agreement.

(Ord. 2235 §10 (part), 2009)

CHAPTER 18.42

PUBLIC RECREATION OVERLAY DISTRICT

Sections:

18.42.010 Purpose

This district implements the Public Recreation Comprehensive Plan designation, which is intended to reserve certain areas owned or controlled by a public or quasi-public agency for either passive or active public recreation use. As an overlay district, the PRO District may be combined with any other district established by this Title, and the provisions of this chapter shall be in addition to the provision for the underlying district.

(Ord. 1758 §1 (part), 1995)

18.42.020 Land Uses Allowed

Refer to TMC Chapter 18.09, "Land Uses Allowed by District."

(Ord. 2500 §2, 2016; Ord. 1758 §1 (part), 1995)

18.42.030 Basic Development Standards

Development standards for the PRO District shall be as specified by TMC Title 18 for the underlying district. However, when the underlying district is the LDR (Low-Density Residential) District, structures may be granted a height bonus of one additional foot of height for every four feet of excess setback (i.e., setback over and above the LDR minimum standard), up to a maximum height of 50 feet. Ancillary facilities customarily installed in conjunction with a permitted recreational use, including light standards and safety netting, shall not be subject to the height restrictions of the underlying district. Structures for which a height bonus is requested and any ancillary facilities taller than the underlying height restrictions shall be subject to Board of Architectural Review approval under the "Commercial and Light Industrial Design Review Criteria" provisions of TMC Chapter 18.60.

(Ord. 2020 §1, 2003; Ord. 1758 §1 (part), 1995)

CHAPTER 18.43
URBAN RENEWAL OVERLAY DISTRICT

Sections:

18.43.010 Purpose

This chapter implements the Urban Renewal Overlay District, which applies the adopted Tukwila International Boulevard Revitalization and Urban Renewal Plan. The intent is to promote community redevelopment and revitalization, and to encourage investment that supports well-designed, compact, transit-oriented and pedestrian-friendly residential and business developments to activate the community along Tukwila International Boulevard. Urban Renewal Overlay District Boundaries are shown in (*Figure 18-15.)* This overlay may be applied in combination with the Commercial Redevelopment Areas procedures as described in TMC Section 18.60.060.

(Ord. 2257 §9 (part), 2009)

18.43.020 Principally Permitted Uses

The Urban Renewal Overlay District is an overlay zone which allows the uses permitted in the underlying zoning district, while being consistent with all additional requirements of this chapter. In addition, larger scale multi-family buildings are permitted in the LDR and MDR districts within the Urban Renewal Overlay District.

(Ord. 2257 §9 (part), 2009)

18.43.030 Accessory Uses

The Urban Renewal Overlay District is an overlay zone which allows the accessory uses permitted in the underlying zone district, while being consistent with all additional requirements of this chapter.

(Ord. 2257 §9 (part), 2009)

18.43.040 Height, Yard and Area Regulations

All setbacks shall be as provided in the underlying zoning district, except as may otherwise be specified in this chapter.

(Ord. 2257 §9 (part), 2009)

18.43.050 Parking Regulations

Parking shall be required as specified in Chapter 18.56, except as may otherwise be specified by this chapter.

(Ord. 2257 §9 (part), 2009)

18.43.060 Application Regulations

Property located within the Urban Renewal Overlay District is identified on the official Zoning Map, as well as in TMC 18, Figure 18.15, and is subject both to its zone classification regulations and to additional requirements imposed for the overlay district. The overlay district provisions shall apply in any case where the provisions of the overlay district conflict with the provisions of the underlying zone.

(Ord. 2257 §9 (part), 2009)

18.43.070 Specific Urban Renewal Overlay Development Standards and Criteria

A. The Urban Renewal Overlay District's supplemental development standards are as follows, provided certain criteria are met:

1. Building heights shall be permitted up to 65 feet;
2. Existing Neighborhood Commercial Center (NCC) setback standards shall be followed per TMC 18.22.080 as amended. *(See Urban Renewal Basic Development Standards.)*
3. Multi-family parking standards shall be one parking space per each dwelling unit that contains up to one bedroom, plus 0.5 spaces for every bedroom in excess of one bedroom in a dwelling unit.
4. The maximum number of dwelling units shall be determined by the building envelope, rather than a numeric density. The developer shall determine the unit mix with the limitation that studio units contain an average size of at least 500 square feet of interior floor space with no units smaller than 450 square feet and allow no more than 40% of the dwelling units to be studios.
5. Allow live/work space on the ground floor to meet the NCC requirement for ground floor retail or office space if the live/work space is built to commercial building code standards with a typical retail storefront appearance.
6. Allow ground floor residential uses in the NCC zone in buildings or portions of buildings that do not front on an arterial.

B. The Urban Renewal Overlay District's development standards apply if the owner/developer requests, and if all the following criteria are met:

1. At least 100 feet of the development parcel's perimeter fronts on Tukwila International Boulevard.
2. At least 75% of required residential parking is provided in an enclosed structure (garage or podium). The structure must be screened from view from public rights-of-way.
3. The ground floor along Tukwila International Boulevard must contain active uses (except for the width of the garage access) when site conditions allow. Active uses comprise uses such as retail, restaurant, office, live-work or other uses of a similar nature that encourage pedestrian activity, and feature a combination of design and amenities to create a sense in interest with features such as doors, windows, clear glass display windows, wide sidewalks, etc.

4. Development must provide amenities such as some of the following to enable a high-quality pedestrian experience, including retail windows, pedestrian scale design along sidewalks, wide sidewalks, pedestrian access through site, benches, art, landscaping and lighting, quality of materials, and street furniture.

5. The property owner/manager shall prepare a Transportation Management Plan to encourage alternatives to automobile use, and that provides each residential and commercial tenant with materials that may range from offering information about transit and bicycle options to providing transit tickets and passes.

6. Residential development shall provide opportunities for tenants to use a car-sharing program and make one space available at no charge to a car-sharing program (if available) for every 50 to 200 residential units on site. An additional space shall be provided for developments with over 200 units. All car share spaces are in addition to required residential parking. If car-sharing programs are not available when the building is constructed, an equivalent number of guest parking spaces shall be provided. These shall be converted to dedicated car-sharing spaces when the program becomes available.

7. One secure, covered, ground-level bicycle parking space shall be provided for every four residential units in a mixed-use or multi-family development.

(Ord. 2257 §9 (part), 2009)

18.43.080 Basic Development Standards

A. If requested by the developer and if the specific requirements and criteria of TMC 18.43.070a and 18.43.070b are met, development within the Urban Renewal Overlay District shall conform to the following listed and referenced standards.

B. In the Tukwila International Boulevard corridor, there are circumstances under which these basic standards may be waived (*see TMC 18.60.030*). Certain setback and landscaping standards may be waived by the Director of Community Development as a Type 2 decision when an applicant can demonstrate that shared parking is provided. If a project requires a Type 4 approval process, certain setbacks and landscaping may be waived by the BAR when an applicant can demonstrate that the number of driveways is reduced, efficiency of the site is increased, joint use of parking facilities is allowed, or pedestrian space is provided. Landscaping and setback standards may not be waived on commercial property sides adjacent to residential districts.
(*See the Tukwila International Boulevard Design Manual for more detailed directions.)*

Urban Renewal Overlay Basic Development Standards

Unit density	The maximum number of dwelling units to be determined by the building envelope as in the NCC zone, rather than a numeric density.
Unit size and maximum percentage for studio dwellings	The developer shall determine the unit mix with the limitation that the studio units contain an average size of at least 500 square feet of interior floor space with no units smaller than 450 square feet and allow no more than 40% of the dwelling units to be studios.
Setbacks to yards, minimum (unless noted)	
Front	6 feet (12 feet if located along Tukwila International Boulevard South)
Front if any portion of the yard is adjacent to, or across the street from, LDR zoning that is developed with a single-family dwelling and that is outside of the Urban Renewal Overlay District	1st floor - 10 ft. min/max 2nd floor - 10 ft. to 30 ft. 3rd floor and higher - 30 ft. Note: Buildings over two floors must have at least one tier. To achieve tiers, setbacks will be both minimum and maximum
Second front, if any portion of the yard is within 50 feet of MDR, HDR	1st floor - 10 feet 2nd floor and above 20 feet
Second front	5 feet
Front Second front, if any portion of the yard is adjacent to, or across the street from, LDR zoning that is developed with a single-family dwelling and that is outside of the Urban Renewal Overlay District	1st floor - 10 ft. min/max 2nd floor - 10 ft. to 30 ft. 3rd floor and higher - 30 ft. Note: Buildings over two floors must have at least one tier. To achieve tiers, setbacks will be both minimum and maximum
Second front, if any portion of the yard is within 50 feet of MDR, HDR	1st floor - 10 feet 2nd floor and above 20 feet
Sides	10 feet
Sides, if any portion of the yard is adjacent to, or across the street from, LDR zoning that is developed with a single-family dwelling and that is outside of the Urban Renewal Overlay District	1st floor - 10 ft. min/max 2nd floor - 10 ft. to 30 ft. 3rd floor and higher - 30 ft. Note: Buildings over two floors must have at least one tier. To achieve tiers, setbacks will be both minimum and maximum
Sides, if any portion of the yard is within 50 feet of MDR, HDR	1st floor - 10 feet 2nd floor - 20 feet 3rd floor and higher - 20 feet
Rear, if any portion of the yard is adjacent to, or across the street from, LDR zoning that is developed with a single-family dwelling and that is outside of the Urban Renewal Overlay District	1st floor - 10 feet min/max 2nd floor - 10 to 30 feet 3rd floor and higher - 30 feet Note: Buildings over two floors must have at least one tier. To achieve tiers, setbacks will be both minimum and maximum

Rear, if any portion of the yard is within 50 feet of, MDR, HDR	1st floor - 10 feet 2nd floor and above - 20 feet
Height, maximum – 65 feet (if all criteria are met)	
Landscape requirements (minimum): See Landscape requirements of specific underlying zone. Also see Landscape, Recreation, Recycling/Solid Waste Space requirements chapter for further requirements	
Front(s)	All building setback areas must be landscaped or developed with pedestrian improvements per the width of the setback, rather than the landscape standards of the underlying zone.
Front if any portion of the yard is adjacent to, or across the street from, LDR zoning that is developed with a single-family dwelling and that is outside of the Urban Renewal Overlay District	All building setback areas must be landscaped or developed with pedestrian improvements per the width of the setback, rather than the landscape standards of the underlying zone.
Front(s), if any portion of the yard is within 50 feet of MDR, HDR	All building setback areas shall be landscaped or developed with pedestrian improvements per the width of the setback, rather than the landscape standards of the underlying zone.
Sides	None
Sides, if any portion of the yard is within 50 feet of LDR, MDR, HDR	10 feet
Rear	None
Rear, if any portion of the yard is within 50 feet of MDR, HDR	10 feet
Recreation space	See underlying zoning
Recreation space, senior citizen housing	See underlying zoning
Off-street parking:	
Residential (except senior citizen housing)	One automobile parking space per each dwelling unit that contains up to one bedroom plus 0.5 spaces for every bedroom in excess of one bedroom in a multi-family dwelling unit. At least 75% of required residential parking is provided in an enclosed structure (garage or podium). The structure must be screened from view from public rights of way. One automobile space at no charge to a car sharing program (if available) for every 50 to 200 residential units on site. An additional space shall be provided for developments with over 200 units. All car share spaces are in addition to required residential parking. If car sharing programs are not available when the building is constructed, an equivalent number of guest parking spaces shall be provided. These shall be converted to dedicated car-sharing spaces when the program becomes available. One secure, covered, ground-level bicycle parking space shall be provided for every four residential units in a mixed-use or multi-family development.
Other uses, including senior citizen housing	See TMC Chapter 18.56, Off-street Parking & Loading Regulations
Performance Standards: Use, activity and operations within a structure or a site shall comply with (1) standards adopted by the Puget Sound Air Pollution Control Agency for odor, dust, smoke and other airborne pollutants, (2) TMC Chapter 8.22 "Noise" and (3) adopted State and Federal standards for water quality and hazardous materials. In addition all development subject to the requirements of the State Environmental Policy Act, RCW 43.21.C shall be evaluated to determine whether adverse environmental impacts have been adequately mitigated.	

(Ord. 2257 §9 (part), 2009)

CHAPTER 18.44
SHORELINE OVERLAY

Sections:

18.44.010 Purpose and Applicability

A. The purpose of this chapter is to implement the Shoreline Management Act of 1971, as amended, and the rules and regulations thereunder as codified in the Washington Administrative Code; and to provide for the regulation of development that affects those areas of the City under the jurisdiction of the Shoreline Management Act. In particular, the purpose of this chapter is to:

1. Recognize and protect shorelines of State-wide significance;
2. Preserve the natural character of the shoreline;
3. Protect the resources and ecology of the shoreline;
4. Increase public access to publicly-owned areas of the shoreline;
5. Increase recreational opportunities for the public in the shoreline:
6. Protect and create critical Chinook salmon habitat in the Transition Zone of the Green River.

B. **Applicability of Amended Zoning Code.** After the effective date of this ordinance, Chapter 18.44 of the Zoning Code, as hereby amended, shall apply to all properties subject to the shoreline overlay, provided that nothing contained herein shall be deemed to override any vested rights or require any alteration of a non-conforming use or non-conforming structure, except as specifically provided in Chapter 18.44 of the Zoning Code, as amended.

C. Pursuant to WAC 173-26-191 (2)(c), this chapter, together with the Shoreline Element of the Comprehensive Plan, constitutes the City of Tukwila's Shoreline Master Program. Any modifications to these documents will be processed as a Shoreline Master Program Amendment and require approval by the Department of Ecology.

(Ord. 2627 §16, 2020)

18.44.020 Shoreline Environment Designations

All shoreline within the City is designated "urban" and further identified as follows:

1. **Shoreline Residential Environment.** All lands zoned for residential use as measured 200 feet landward from the Ordinary High Water Mark (OHWM).
2. **Urban Conservancy Environment.** All lands not zoned for residential use upstream from the Turning Basin as measured 200 feet landward from the OHWM.
3. **High Intensity Environment.** All lands downstream from the Turning Basin as measured 200 feet landward from the OHWM.
4. **Aquatic Environment.** All water bodies within the City limits and its potential annexation areas under the jurisdiction of the Shoreline Management Act waterward of the Ordinary High Water Mark. The Aquatic Environment includes the water surface together with the underlying lands and the water column.

(Ord. 2627 §17, 2020)

18.44.030 Principally Permitted Uses and Shoreline Use and Modification Matrix

A. TMC Section 18.44.030.A, including the Use Matrix (***Figure 18-1)***, specifies the uses that are permitted outright, permitted as a Conditional Use or prohibited altogether for each Shoreline Environment. Also included are special conditions and general requirements controlling specific uses. These regulations are intended to implement the purpose of each Shoreline Environment designation.

B. In the matrix, shoreline environments are listed at the top of each column and the specific uses are listed along the left-hand side of each horizontal row. The cell at the intersection of a column and a row indicates whether a use may be allowed in a specific shoreline environment and whether additional use criteria apply. The matrix shall be interpreted as follows:

1. If the letter "P" appears in the box at the intersection of the column and the row, the use may be allowed within the shoreline environment if the underlying zoning also allows the use. Shoreline (SDP, CUP and Variance) permits may be required.
2. If the letter "C" appears in the box at the intersection of the column and the row, the use may be allowed within the shoreline environment subject to the shoreline conditional use review and approval procedures specified in TMC Section 18.44.110.E.
3. If the letter "X" appears in the box at the intersection of the column and the row, the use is prohibited in that shoreline environment.

C. In addition to the matrix, the following general use requirements also apply to all development within the shoreline jurisdiction. Additional requirements controlling specific uses are set forth for each Shoreline Environment designation, to implement the purpose of the respective Shoreline Environment designations.

1. The first priority for City-owned property, other than right-of-way, within the shoreline jurisdiction shall be reserved for water-dependent uses including but not limited to habitat restoration, followed by water-enjoyment uses, public access, passive recreation, passive open space uses, or public educational purposes.

2. No hazardous waste handling, processing or storage is allowed within the SMA shoreline jurisdiction, unless incidental to a use allowed in the designated shoreline environment and adequate controls are in place to prevent any releases to the shoreline/river.

3. Overwater structures, shall not cause a net loss of ecological function, interfere with navigation or flood management, or present potential hazards to downstream properties or facilities. They shall comply with the standards in the Overwater Structures Section of TMC Section 18.44.050.K.

4. Parking as a primary use is not permitted, except for existing Park and Ride lots, where adequate stormwater collection and treatment is in place to protect water quality. Parking is permitted only as an accessory to a permitted or conditional use in the shoreline jurisdiction.

5. All development, activities or uses, unless it is an approved overwater, flood management structure or shoreline restoration project, shall be prohibited waterward of the OHWM.

SHORELINE USE MATRIX* (*Figure 18-1)*

P = May be permitted subject to development standards. **C** = May be permitted as a Shoreline Conditional Use. **X** = Not Allowed in Shoreline Jurisdiction.	Shoreline Residential		Urban Conservancy		High Intensity		Aquatic Environment
	Buffer	Non-Buffer	Buffer	Non-Buffer	Buffer	Non-Buffer	
AGRICULTURE							
Farming and farm-related activities	X	X	X	P	X	X	X
Aquaculture	X	X	X	X	X	X	X
COMMERCIAL (1)							
General	X	X	X	P	X	P (2)	P (3)
Automotive services, gas (outside pumps allowed), washing, body and engine repair shops (enclosed within a building)	X	X	X	C	X	C (2)	X
Contractors storage yards	X	X	X	C	X	C (2)	X
Water-oriented uses	C	P	C	P	C	P	C
Water-dependent uses	P (4)	P (5)	P (4)	P	P (4)	P	P
Storage	P (6)	P (5)	P (6)	P	P (6)	P	X
CIVIC/INSTITUTIONAL							
General	X	P	X	P	X	P	X
DREDGING							
Dredging for remediation of contaminated substances	C (7)	NA	C (7)	NA	C (7)	NA	C (7)
Dredging for maintenance of established navigational channel	NA	NA	NA	NA	NA	NA	P (8)
Other dredging for navigation	NA	NA	NA	NA	NA	NA	C (9)
Dredge material disposal	X	X	X	X	X	X	X
Dredging for fill	NA	NA	NA	NA	NA	NA	X
ESSENTIAL PUBLIC FACILITY (WATER DEPENDENT)	P	P	P	P	P	P	P
ESSENTIAL PUBLIC FACILITY (NONWATER DEPENDENT) (10)	C	C	C	C	C	C	C
FENCES	P (11)	P	C (11)	P	C (11)	P	X
FILL							
General	C (12)	P	C (12)	P	C (12)	P	C (12)
Fill for remediation, flood hazard reduction or ecological restoration	P (13)	P	P (13)	P	P (13)	P	P (13)

P = May be permitted subject to development standards. **C** = May be permitted as a Shoreline Conditional Use. **X** = Not Allowed in Shoreline Jurisdiction.	Shoreline Residential		Urban Conservancy		High Intensity		Aquatic Environment
	Buffer	Non-Buffer	Buffer	Non-Buffer	Buffer	Non-Buffer	
FLOOD HAZARD MANAGEMENT							
Flood hazard reduction (14)	P	P	P	P	P	P	P
Shoreline stabilization (15)	P	P	P	P	P	P	P
INDUSTRIAL (16)							
General	X	X	P (3)	P	P (3)	P (2)	P (3)
Animal rendering	X	X	X	C	X	X	X
Cement manufacturing	X	X	X	C	X	C (2)	X
Hazardous substance processing and handling & hazardous waste treatment and storage facilities (on or off-site) (17)	X	X	X	X	X	X	X
Rock crushing, asphalt or concrete batching or mixing, stone cutting, brick manufacture, marble works, and the assembly of products from the above materials	X	X	X	C	X	C (2)	X
Salvage and wrecking operations	X	X	X	C	X	C (2)	X
Tow-truck operations, subject to all additional State and local regulations	X	X	X	C	X	P (2)	X
Truck terminals	X	X	X	P	X	P (2)	X
Water-oriented uses	X	X	C	P	C	P	C
Water-dependent uses (17)	X	X	P (4)	P	P (4)	P	P
MINING							
General	X	X	X	X	X	X	X
OVERWATER STRUCTURES (18)							
Piers, docks, and other overwater structures	P (19)	NA	P (20)	NA	P (20)	NA	P (20,21)
Vehicle bridges (public)	P (31,4)	P (31)	P (31,4)	P (31)	P (31,4)	P (31)	P (31)
Vehicle bridge (private)	C	C	C	C	C	C	C
Public pedestrian bridges	P	P	P	P	P	P	P
PARKING – ACCESSORY							
Parking areas limited to the minimum necessary to support permitted or conditional uses	X	P (5)	X	P	X	P	X
RECREATION							
Recreation facilities (commercial – indoor)	X	X	X	P	X	P (22)	X
Recreation facilities (commercial – outdoor)	X	X	C (23,24)	C (24)	C (23,24)	C (24)	X
Recreation facilities, including boat launching (public)	P (23)	P	P (23,24,25)	C	P (23,25)	P	P (3)
Public and private promenades, footpaths, or trails	P	P	P (26)	P	P (26)	P	X
RESIDENTIAL – SINGLE FAMILY/MULTI-FAMILY							
Dwelling	X (27)	P	X	P	X	X	X
Houseboats	X	X	X	X	X	X	X
Live-aboards	X	X	X	X	X	X	P (21,28)
Patios and decks	P (29)	P	P (29)	P	P	P	X
Signs (30)	P	P	P	P	P	P	X
Shoreline Restoration	P	P	P	P	P	P	P
TRANSPORTATION							
General	C	C	C	C	C	C	C (3)
Park & ride lots	X	X	X	C (9)	X	C (9)	X
Levee maintenance roads	P (32)	P (32)	P (32)	P (32)	P (32)	P (32)	NA
Railroad	X	P	X	X	X	X	X

P = May be permitted subject to development standards. **C** = May be permitted as a Shoreline Conditional Use. **X** = Not Allowed in Shoreline Jurisdiction.	Shoreline Residential		Urban Conservancy		High Intensity		Aquatic Environment
	Buffer	Non-Buffer	Buffer	Non-Buffer	Buffer	Non-Buffer	
UTILITIES							
General (10)	P (4)	P	P (4)	P	P (4)	P	C
Provision, distribution, collection, transmission, or disposal of refuse	X	X	X	X	X	X	X
Hydroelectric and private utility power generating plants	X	X	X	X	X	X	X
Wireless towers	X	X	X	X	X	X	X
Support facilities, such as outfalls	P (33)	P	P (33)	P	P (33)	P	C (33)
Regional detention facilities	X	X	P (34)	P (34)	P (34)	P (34)	X
USES NOT SPECIFIED	C	C	C	C	C	C	C

** This matrix is a summary. Individual notes modify standards in this matrix. Permitted or conditional uses listed herein may also require a shoreline substantial development permit and other permits*.

(1) Commercial uses mean those uses that are involved in wholesale, retail, service and business trade. Examples include office, restaurants, brew pubs, medical, dental and veterinary clinics, hotels, retail sales, hotel/motels, and warehousing.
(2) Nonwater-oriented uses may be allowed as a permitted use where the City determines that water-dependent or water-enjoyment use of the shoreline is not feasible due to the configuration of the shoreline and water body.
(3) Permitted only if water dependent.
(4) Structures greater than 35 feet tall require a conditional use permit.
(5) Permitted if located to the most upland portion of the property and adequately screened and/or landscaped in accordance with the Vegetation Protection and Landscaping section.
(6) Outdoor storage within the shoreline buffer is only permitted in conjunction with a water-dependent use.
(7) Conditionally allowed when in compliance with all federal and state regulations.
(8) Maintenance dredging of established navigation channels and basins is restricted to maintaining previously dredged and/or existing authorized location, depth and width.
(9) Conditionally allowed when significant ecological impacts are minimized and mitigation is provided.
(10) Allowed in shoreline jurisdiction when it is demonstrated that there is no feasible alternative to locating the use within shoreline jurisdiction.
(11) The maximum height of the fence along the shoreline shall not exceed four feet in residential areas or six feet in commercial areas where there is a demonstrated need to ensure public safety and security of property. The fence shall not extend waterward beyond the top of the bank. Chain-link fences must be vinyl coated.
(12) Fill minimally necessary to support water-dependent uses, public access, or for the alteration or expansion of a transportation facility of statewide significance currently located on the shoreline when it is demonstrated that alternatives to fill are not feasible is conditionally allowed.
(13) Landfill as part of an approved remediation plan for the purpose of capping contaminated sediments is permitted.
(14) Any new or redeveloped levee shall meet the applicable levee requirements of this chapter.
(15) Permitted when consistent with TMC Section 18.44.050.F.
(16) Industrial uses mean those uses that are facilities for manufacturing, processing, assembling and/or storing of finished or semi-finished goods with supportive office and commercial uses. Examples include manufacturing processing and/or assembling such items as electrical or mechanical equipment, previously manufactured metals, chemicals, light metals, plastics, solvents, soaps, wood, machines, food, pharmaceuticals, previously prepared materials; warehousing and wholesale distribution; sales and rental of heavy machinery and equipment; and internet data centers.
(17) Subject to compliance with state siting criteria RCW Chapter 70.105 (See also Environmental Regulations, Section 9, SMP).
(18) Permitted when associated with water-dependent uses, public access, recreation, flood control or channel management.
(19) Permitted when the applicant has demonstrated a need for moorage and that the following alternatives have been investigated and are not available or feasible:
  (a) Commercial or marina moorage;
  (b) Floating moorage buoys;
  (c) Joint use moorage pier/dock.
(20) Permitted if associated with water-dependent uses, public access, recreation, flood control, channel management or ecological restoration.
(21) Boats may only be moored at a dock or marina. No boats may be moored on tidelands or in the river channel.
(22) Limited to athletic or health clubs.
(23) Recreation structures such as benches, tables, viewpoints, and picnic shelters are permitted in the buffer provided no such structure shall block views to the shoreline from adjacent properties.
(24) Permitted only if water oriented.
(25) Parks, recreation and open space facilities operated by public agencies and non-profit organizations are permitted.
(26) Plaza connectors between buildings and levees, not exceeding the height of the levee, are permitted for the purpose of providing and enhancing pedestrian access along the river and for landscaping purposes.
(27) Additional development may be allowed consistent with TMC Section 18.44.110.G.2.f. A shoreline conditional use permit is required for water oriented accessory structures that exceed the height limits of the Shoreline Residential Environment.
(28) Permitted only in the Aquatic Environment and subject to the criteria in TMC Section 18.44.050.K.sd

(29) Patios and decks are permitted within the shoreline buffer so long as they do not exceed 18 inches in height and are limited to a maximum of 200 square feet and 50% of the width of the river frontage, whichever is smaller. Decks or patios must be located landward of the top of the bank and be constructed to be pervious and of environmentally-friendly materials. If a deck or patio will have an environmental impact in the shoreline buffer, then commensurate mitigation shall be required.
(30) Permitted when consistent with TMC Section 18.44.050.L.
(31) Permitted only if connecting public rights-of-way.
(32) May be co-located with fire lanes.
(33) Allowed if they require a physical connection to the shoreline to provide their support function, provided they are located at or below grade and as far from the OHWM as technically feasible.
(34) Regional detention facilities that meet the City's Infrastructure Design and Construction Standards along with their supporting elements such as ponds, piping, filter systems and outfalls vested as of the effective date of this program or if no feasible alternative location exists. Any regional detention facility located in the buffer shall be designed such that a fence is not required, planted with native vegetation, designed to blend with the surrounding environment, and provide design features that serve both public and private use, such as an access road that can also serve as a trail. The facility shall be designed to locate access roads and other impervious surfaces as far from the river as practical.

(Ord. 2627 §18, 2020)

18.44.040 Shoreline Buffers

Buffer widths. The following shoreline buffer widths apply in shoreline jurisdiction.

Environment		Buffer width (1)(2)	Modification
Shoreline Residential		50 feet OR the area needed to achieve a slope no steeper than 2.5:1, measured from the toe of the bank to the top of the bank, plus 20 linear feet measured from the top of the bank landward, whichever is greater	(3)
Urban Conservancy	Areas without levees	100 feet	(4)
	Areas with levees	125 feet	(5)
High Intensity		100 feet	(4)
Aquatic		Not Applicable	

(1) Unless otherwise noted, all buffers are measured landward from the OHWM.

(2) In any shoreline environment where an existing improved street or road runs parallel to the river through the buffer, the buffer ends on the river side of the edge of the improved right-of-way.

(3) Removal of invasive species and replanting with native species of high habitat value is voluntary unless triggered by requirement for a Shoreline Substantial Development permit.

(4) The Director may reduce the standard buffer on a case-by-case basis by up to 50% upon construction of the following cross section:

(a) Reslope bank from toe to be no steeper than 3:1 in the Urban Conservancy Environment or reslope bank from OHWM (not toe) to be no steeper than 3:1 in the High Intensity Environment, using bioengineering techniques; and

(b) Minimum 20-foot buffer landward from top of bank; and

(c) Bank and remaining buffer to be planted with native species with high habitat value.

Maximum slope is reduced due to measurement from OHWM and to recognize location in the Transition Zone where pronounced tidal influence makes work below OHWM difficult.

Any buffer reduction proposal must demonstrate to the satisfaction of the Director that it will not result in direct, indirect or long-term adverse impacts to the river. In all cases a buffer enhancement plan must also be approved and implemented as a condition of the reduction. The plan must include using a variety of native vegetation that improves the functional attributes of the buffer and provides additional protection for the shoreline ecological functions.

(5) Upon reconstruction of levee to the levee standards of this chapter, the Director may reduce the buffer to actual width required for the levee. If fill is placed along the back slope of a new levee, the buffer may be reduced to the point where the ground plane intersects the back slope of the levee. If the property owner provides a levee maintenance easement landward from the landward toe of the levee or levee wall which: 1) meets the width required by the agency providing maintenance; 2) prohibits the construction of any structures; and 3) allows the City to access the area to inspect the levee and make any necessary repairs, then the Director may place that area outside of the shoreline buffer and allow incidental uses in the area, such as parking.

(Ord. 2627 §19, 2020)

18.44.050 Development Standards

A. **Applicability.** The development standards of this chapter apply to work that meets the definition of substantial development except for vegetation removal per TMC Section 18.44.060, which applies to all shoreline development. The term "substantial development" applies to non-conforming, new or re-development. Non-conforming uses, structures, parking lots and landscape areas, will be governed by the standards in TMC Section 18.44.110.G, "Non-Conforming Development."

B. **Shoreline Residential Development Standards.** A shoreline substantial development permit is not required for construction within the Shoreline Residential Environment by an owner, lessee or contract purchaser of a single family residence for his/her own use or for the use of a family member. Such construction and all normal appurtenant structures must otherwise conform to this chapter. Short subdivisions and subdivisions are not exempt from obtaining a Shoreline Substantial Development Permit.

1. **Shoreline Residential Environment Standards.** The following standards apply to the Shoreline Residential Environment:

a. The development standards of the applicable underlying zoning district (Title 18, Tukwila Municipal Code) shall apply.

b. New development and uses must be sited so as to allow natural bank inclination of 3:1 slope with a 20-foot setback from the top of the bank. The Director may require a Riverbank Analysis as part of any development proposal.

c. Utilities such as pumps, pipes, etc., shall be suitably screened with native vegetation per the standards in the Vegetation Protection and Landscaping Section, TMC Section 18.44.060.

d. New shoreline stabilization, repair of existing stabilization or modifications to the river bank must comply with the standards in the Shoreline Stabilization Section, TMC Section 18.44.050.F.

e. Short plats of five to nine lots or formal subdivisions must be designed to provide public access to the river in accordance with the Public Access Section, TMC Section 18.44.080. Signage is required to identify the public access point(s).

f. Parking facilities associated with single family residential development or public recreational facilities are subject to the specific performance standards set forth in the Off-Street Parking Section, TMC Section 18.44.050.I.

g. Fences, freestanding walls or other structures normally accessory to residences must not block views of the river from adjacent residences or extend waterward beyond the top of the bank. Chain link fencing must be vinyl coated.

h. Recreational structures permitted in the buffer must provide buffer mitigation.

i. The outside edge of surface transportation facilities, such as railroad tracks, streets, or public transit shall be located no closer than 50 feet from the OHWM, except where the surface transportation facility is bridging the river.

j. Except for bridges, approved above ground utility structures, and water-dependent uses and their structures, the maximum height for structures shall be 30 feet. For bridges, approved above ground utility structures, and water-dependent uses and their structures, the height limit shall be as demonstrated necessary to accomplish the structure's primary purpose. Bridges, approved above ground utility structures, and water-dependent uses and their structures greater than 35 feet in height require approval of a Shoreline Conditional Use Permit.

2. **Design Review.** Design review is required for non-residential development in the Shoreline Residential Environment.

C. **High Intensity, Urban Conservancy and Aquatic Environment Development Standards.**

1. **Standards.** The following standards apply in the High Intensity, Urban Conservancy and Aquatic Environments.

a. The development standards for the applicable underlying zoning district (Title 18, Tukwila Municipal Code) shall apply.

b. All new development performed by public agencies, or new multi-family, commercial, or industrial development shall provide public access in accordance with the standards in the Public Access to the Shoreline Section, TMC Section 18.44.080.

c. Development or re-development of properties in areas of the shoreline armored with revetments or other hard armoring other than levees, or with non-armored river banks, must comply with the Vegetation Protection and Landscaping Section, TMC Section 18.44.060.

d. Any new shoreline stabilization or repairs to existing stabilization must comply with Shoreline Stabilization Section, TMC Section 18.44.050.F.

e. Over-water structures shall be allowed only for water-dependent uses and the size limited to the minimum necessary to support the structure's intended use and shall result in no net loss to shoreline ecological function. Over-water structures must comply with the standards in the Over-water Structures Section, TMC Section 18.44.050.K.

2. **Setbacks and Site Configuration.**

a. The yard setback adjacent to the river is the buffer width established for the applicable shoreline environment.

b. A fishing pier, viewing platform or other outdoor feature that provides access to the shoreline is not required to meet a setback from the OHWM.

3. **Height Restrictions.** Except for bridges, approved above ground utility structures, and water-dependent uses and their structures, to preserve visual access to the shoreline and avoid massing of tall buildings within the shoreline jurisdiction, the maximum height for structures shall be as follows:

a. 15 feet where located within the Shoreline Buffer;

b. 65 feet between the outside landward edge of the Shoreline Buffer and 200 feet of the OHWM.

c. 35 feet above average grade level on shorelines of the State that will obstruct the view of a substantial number of residences on areas adjoining such shorelines. For any building that is proposed to be greater than 35 feet in height in the shoreline jurisdiction, the development proponent must demonstrate the proposed building will not block the views of a substantial number of residences. The Director may approve a 15 foot increase in height for structures within the shoreline jurisdiction if the project proponent provides restoration and/or enhancement of the entire shoreline buffer, beyond what may otherwise be required including, but not limited to, paved areas no longer in use on the property in accordance with the standards of TMC Section 18.44.060, "Vegetation Protection and Landscaping." If the required buffer has already been restored, the project proponent may provide a 20% wider buffer, planted in accordance with TMC Section 18.44.060, "Vegetation Protection and Landscaping," in order to obtain the 15-foot increase in height.

4. **Lighting.** In addition to the lighting standards in TMC Chapter 18.60, "Board of Architectural Review," lighting for the site or development shall be designed and located so that:

a. The minimum light levels in parking areas and paths between the building and street shall be one-foot candle.

b. Lighting shall be designed to prevent light spillover and glare on adjacent properties and on the river channel to the maximum extent feasible, be directed downward so as to illuminate only the immediate area, and be shielded to eliminate direct off-site illumination.

c. The general grounds need not be lighted.

d. The lighting is incorporated into a unified landscape and/or site plan.

D. **Surface Water and Water Quality.** The following standards apply to all shoreline development.

1. New surface water systems shall not discharge directly into the river or streams tributary to the river without pre-treatment to reduce pollutants and meet State water quality standards. Such pre-treatment may consist of biofiltration, oil/water separators, or other methods approved by the City of Tukwila Public Works Department.

2. Shoreline development, uses and activities shall not cause any increase in surface runoff, and shall have adequate provisions for storm water detention/infiltration.

3. Stormwater outfalls must be designed so as to cause no net loss of shoreline ecological functions or adverse impacts where functions are impaired. New stormwater outfalls or maintenance of existing outfalls must include shoreline restoration as part of the project.

4. Shoreline development and activities shall have adequate provisions for sanitary sewer.

5. Solid and liquid wastes and untreated effluents shall not be allowed to enter any bodies of water or to be discharged onto shorelands.

6. The use of low impact development techniques is required, unless such techniques conflict with other provisions of the SMP or are shown to not be feasible due to site conditions.

E. **Flood Hazard Reduction.** The following standards apply to all shoreline development.

1. New structural flood hazard reduction structures shall be allowed only when it can be demonstrated by a Riverbank Analysis that:

a. They are necessary to protect existing development;

b. Non-structural measures are not feasible; and

c. Impacts to ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss.

2. Flood hazard structures must incorporate appropriate vegetation restoration and conservation actions consistent with the standards of the Vegetation Protection and Landscaping Section, TMC Section 18.44.060.

3. Publicly-funded structural measures to reduce flood hazards shall improve public access or dedicate and provide public access unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, or significant ecological impacts that cannot be mitigated.

4. Rehabilitation or replacement of existing flood control structures, such as levees, with a primary purpose of containing the 1% to 0.02% annual chance flood event, shall be allowed where it can be demonstrated by an engineering analysis that the existing structure:

a. Does not provide an appropriate level of protection for surrounding lands; or

b. Does not meet a 3:1 riverside slope or other appropriate engineering design standards for stability (e.g., over-steepened side slopes for existing soil and/or flow conditions); and

c. Repair of the existing structure will not cause or increase significant adverse ecological impacts to the shoreline.

5. Rehabilitated or replaced flood hazard reduction structures shall not extend the toe of slope any further waterward of the OHWM than the existing structure.

6. New structural flood hazard reduction measures, such as levees, berms and similar flood control structures shall be placed landward of the floodway as determined by the best information available.

7. New, redeveloped or replaced structural flood hazard reduction measures shall be placed landward of associated wetlands, and designated fish and wildlife habitat conservation areas.

8. No commercial, industrial, office or residential development shall be located within a floodplain without a Flood Control Zone Permit issued by the City. No development shall be located within a floodway except as otherwise permitted.

9. New, redeveloped or replaced flood hazard reduction structures must have an overall waterward slope no steeper than 3:1 unless it is not physically possible to achieve such as slope. A floodwall may be substituted for all or a portion of a levee back slope where necessary to avoid encroachment or damage to a structure legally constructed prior to the date of adoption of this

subsection, if structure has not lost its nonconforming status, or to allow area for waterward habitat restoration development. The floodwall shall be designed to provide 15 feet of clearance between the levee and the building, or to preserve access needed for building functionality while meeting all engineering safety standards. A floodwall may also be used where necessary to prevent the levee from encroaching upon a railroad easement recorded prior to the date of adoption of this subsection.

F. **Shoreline Stabilization.** The provisions of this section apply to those structures or actions intended to minimize or prevent erosion of adjacent uplands and/or failure of riverbanks resulting from waves, tidal fluctuations or river currents. Shoreline stabilization or armoring involves the placement of erosion resistant materials (e.g., large rocks and boulders, cement, pilings and/or large woody debris (LWD)) or the use of bioengineering techniques to reduce or eliminate erosion of shorelines and risk to human infrastructure. This form of shoreline stabilization is distinct from flood control structures and flood hazard reduction measures (such as levees). The terms "shoreline stabilization," "shoreline protection" and "shoreline armoring" are used interchangeably.

1. Shoreline protection shall not be considered an outright permitted use and shall be permitted only when it has been demonstrated through a Riverbank Analysis and report that shoreline protection is necessary for the protection of existing legally established structures and public improvements.

2. New development and re-development shall be designed and configured on the lot to avoid the need for new shoreline stabilization. Removal of failing shoreline stabilization shall be incorporated into re-development design proposals wherever feasible.

3. Replacement of lawfully established, existing bulkheads or revetments are subject to the following priority system:

a. The first priority for replacement of bulkheads or revetments shall be landward of the existing bulkhead.

b. The second priority for replacement of existing bulkheads or revetments shall be to replace in place (at the bulkhead's existing location).

4. When evaluating a proposal against the above priority system, at a minimum the following criteria shall be considered:

a. Existing topography;
b. Existing development;
c. Location of abutting bulkheads;
d. Impact to shoreline ecological functions; and,
e. Impact to river hydraulics, potential changes in geomorphology, and to other areas of the shoreline.

5. Proponents of new or replacement hard shoreline stabilization (e.g. bulkheads or revetments) must demonstrate through a documented Riverbank Analysis that bioengineered shoreline protection measures or bioengineering erosion control designs will not provide adequate upland protection of existing structures or would pose a threat or risk to adjacent property. The Study must also demonstrate that the proposed hard shoreline stabilization will not adversely affect other infrastructure or adjacent shorelines.

6. Shoreline armoring such as riprap rock revetments and other hard shoreline stabilization techniques are detrimental to river processes and habitat creation. Where allowed, shoreline armoring shall be designed, constructed and maintained in a manner that does not result in a net loss of shoreline ecological functions, including fish habitat, and shall conform to the requirements of the 2004 Washington State Department of Fish and Wildlife (as amended) criteria and guidelines for integrated stream bank protection and shall conform to the requirements of the 2004 Washington State Department of Fish and Wildlife criteria and guidelines for Integrated Stream Bank Protection (2003 as amended), the U. S. Army Corps of Engineers standards (if required), and other regulatory requirements. The hard shoreline stabilization must be designed and approved by an engineer licensed in the State of Washington and qualified to design shoreline stabilization structures.

7. Shoreline armoring shall be designed to the minimum size, height, bulk and extent necessary to remedy the identified hazard.

8. An applicant must demonstrate the following in order to qualify for the RCW 90.58.030(3)(e)(ii) exemption from the requirement to obtain a shoreline substantial development permit for a proposed single family bulkhead and to insure that the bulkhead will be consistent with the SMP:

a. Erosion from currents or waves is imminently threatening a legally established single family detached dwelling unit or one or more appurtenant structures; and

b. The proposed bulkhead is more consistent with the City's Master Program in protecting the site and adjoining shorelines and that non-structural alternatives such as slope drainage systems, bioengineering or vegetative growth stabilization, are not feasible or will not adequately protect a legally established residence or appurtenant structure; and

c. The proposed bulkhead is located landward of the OHWM or it connects to adjacent, legally established bulkheads; and

d. The maximum height of the proposed bulkhead is no more than one foot above the elevation of extreme high water on tidal waters as determined by the National Ocean Survey published by the National Oceanic and Atmospheric Administration.

9. Bulkheads or revetments shall be constructed of suitable materials that will serve to accomplish the desired end with maximum preservation of natural characteristics. Materials with the potential for water quality degradation shall not be used. Design and construction methods shall consider aesthetics and habitat protection. Automobile bodies, tires or other junk or waste material that may release undesirable chemicals or other material shall not be used for shoreline protection.

10. The builder of any bulkhead or revetment shall be financially responsible for determining the nature and the extent of probable adverse effects on fish and wildlife or on the property of

others caused by his/her construction and shall propose and implement solutions approved by the City to minimize such effects.

11. When shoreline stabilization is required at a public access site, provision for safe access to the water shall be incorporated in the design whenever possible.

12. Placement of bank protection material shall occur from the top of the bank and shall be supervised by the property owner or contractor to ensure material is not dumped directly onto the bank face.

13. Bank protection material shall be clean and shall be of a sufficient size to prevent its being washed away by high water flows.

14. When riprap is washed out and presents a hazard to the safety of recreational users of the river, it shall be removed by the owner of such material.

15. Bank protection associated with bridge construction and maintenance may be permitted subject to the provisions of the SMP and shall conform to provisions of the State Hydraulics Code (RCW Chapter 77.55) and U.S. Army Corps of Engineer regulations.

G. **Archaeological, Cultural and Historical Resources**. In addition to the requirements of TMC 18.50.110, Archaeological/Paleontological Information Preservation Requirements, the following regulations apply.

1. All land use permits for projects within the shoreline jurisdiction shall be coordinated with affected tribes.

2. If the City determines that a site has significant archaeological, natural scientific or historical value, a substantial development that would pose a threat to the resources of the site shall not be approved.

3. Permits issued in areas documented to contain archaeological resources require a site inspection or evaluation by a professional archaeologist in coordination with affected Indian tribes. The City may require that development be postponed in such areas to allow investigation of public acquisition potential, retrieval and preservation of significant artifacts and/or development of a mitigation plan. Areas of known or suspected archaeological middens shall not be disturbed and shall be fenced and identified during construction projects on the site.

4. Developers and property owners shall immediately stop work and notify the City of Tukwila, the Washington Department of Archaeology and Historic Preservation and affected Indian tribes if archaeological resources are uncovered during excavation.

5. In the event that unforeseen factors constituting an emergency, as defined in RCW 90.58.030, necessitate rapid action to retrieve or preserve artifacts or data identified above, the project may be exempted from any shoreline permit requirements. The City shall notify the Washington State Department of Ecology, the State Attorney General's Office and the State Department of Archaeology and Historic Preservation Office of such an exemption in a timely manner.

6. Archaeological excavations may be permitted subject to the provision of this chapter.

7. On sites where historical or archaeological resources have been identified and will be preserved in situ, public access to such areas shall be designed and managed so as to give maximum protection to the resource and surrounding environment.

8. Interpretive signs of historical and archaeological features shall be provided subject to the requirements of TMC Section 18.44.080, "Public Access to the Shoreline," when such signage does not compromise the protection of these features from tampering, damage and/or destruction.

H. **Environmental Impact Mitigation**.

1. All shoreline development and uses shall at a minimum occur in a manner that results in no net loss of shoreline ecological functions through the careful location and design of all allowed development and uses. In cases where impacts to shoreline ecological functions from allowed development and uses are unavoidable, those impacts shall be mitigated according to the provisions of this section; in that event, the "no net loss" standard is met.

2. To the extent Washington's State Environmental Policy Act of 1971 (SEPA), chapter 43.21C RCW, is applicable, the analysis of environmental impacts from proposed shoreline uses or developments shall be conducted consistent with the rules implementing SEPA (TMC Chapter 21.04 and WAC 197-11).

3. For all development, mitigation sequencing shall be applied in the following order of priority:

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

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

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

d. Reducing or eliminating the impact over time by preservation and maintenance operations.

e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments.

f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

4. In determining appropriate mitigation measures applicable to shoreline development, lower priority measures shall be applied only where higher priority measures are determined by the City to be infeasible or inapplicable.

5. When mitigation measures are appropriate pursuant to the priority of mitigation sequencing above, preferential consideration shall be given to measures that replace the impacted functions directly and in the immediate vicinity of the impact. However, if mitigation in the immediate vicinity is not scientifically feasible due to problems with hydrology, soils, waves or other factors, then off-site mitigation within the Shoreline Jurisdiction may be allowed if consistent with the Shoreline Restoration Plan. Mitigation for projects in the Transition Zone must take place in the Transition Zone. In the event a site is not available in the Transition Zone to carry out required mitigation, the project proponent may

contribute funds equivalent to the value of the required mitigation to an existing or future restoration project identified in the CIP to be carried out by a public agency in the Transition Zone.

I. **Off Street Parking and Loading Requirements.** In addition to the parking requirements in TMC Chapter 18.56, the following requirements apply to all development in the shoreline jurisdiction.

1. Any parking, loading, or storage facilities located between the river and any building must incorporate additional landscaping in accordance with TMC Section 18.44.060, "Vegetation Protection and Landscaping," or berming or other site planning or design techniques to reduce visual and/or environmental impacts from the parking areas utilizing the following screening techniques:

a. A solid evergreen screen of trees and shrubs a minimum of six feet high; or

b. Decorative fence a maximum of six feet high with landscaping. Chain link fence, where allowed, shall be vinyl coated and landscaped with native trailing vine or an approved non-native vine other than ivy, except where a security or safety hazard may exist; or

c. Earth berms at a minimum of four feet high, planted with native plants in accordance with the Vegetation Protection and Landscaping Section, TMC Section 18.44.060.

2. Where a parking area is located in the shoreline jurisdiction and adjacent to a public access feature, the parking area shall be screened by a vegetative screen or a built structure that runs the entire length of the parking area adjacent to the amenity. The landscape screening shall comply with the Vegetation Protection and Landscaping Section, TMC Section 18.44.060.

3. Where public access to or along the shoreline exists or is proposed, parking areas shall provide pedestrian access from the parking area to the shoreline.

4. Parking facilities, loading areas and paved areas shall incorporate low impact development techniques wherever feasible, adequate storm water retention areas, oil/water separators and biofiltration swales, or other treatment techniques and shall comply with the standards and practices formally adopted by the City of Tukwila Public Works Department.

J. **Land Altering Activities.** All land altering activities in the shoreline jurisdiction shall be in conjunction with an underlying land development permit, except for shoreline restoration projects. All activities shall meet the following standards:

1. **Clearing, Grading and Landfill**.

a. Land altering shall be permitted only where it meets the following criteria:

(1) The work is the minimum necessary to accomplish an allowed shoreline use;

(2) Impacts to the natural environment are minimized and mitigated;

(3) Water quality, river flows and/or fish habitat are not adversely affected;

(4) Public access and river navigation are not diminished;

(5) The project complies with all federal and state requirements;

(6) The project complies with the vegetation protection criteria of the Vegetation Protection and Landscaping Section, TMC Section 18.44.060;

(7) The project will achieve no net loss of shoreline ecological functions or processes. In cases where impacts to shoreline ecological functions from an otherwise allowed land altering project are unavoidable, those impacts shall be mitigated according to the provisions of TMC Section 18.44.050.H above. In that event, the "no net loss" standard is met; and

(8) Documentation is provided to demonstrate that the fill comes from a clean source.

b. Clearing, grading and landfill activities, where allowed, shall include erosion control mechanisms, and any reasonable restriction on equipment, methods or timing necessary to minimize the introduction of suspended solids or leaching of contaminants into the river, or the disturbance of wildlife or fish habitats in accordance with the standards in TMC Chapter 16.54, "Grading."

2. **Dredging.**

a. Dredging activities must comply with all federal and state regulations. Maintenance dredging of established navigation channels and basins must be restricted to maintaining previously dredged and/or existing authorized location, depth, and width.

b. Where allowed, dredging operations must be designed and scheduled so as to ensure no net loss to shoreline ecological functions or processes. In cases where impacts to shoreline ecological functions from allowed dredging are unavoidable, those impacts shall be mitigated according to the provisions of TMC Section 18.44.050.H above; in that event, the "no net loss" standard is met.

K. **Marinas, Boat Yards, Dry Docks, Boat Launches, Piers, Docks and Other Over-water Structures.**

1. **General Requirements**.

a. A dock may be allowed when the applicant has demonstrated a need for moorage to the satisfaction of the Director of Community Development and that the following alternatives have been investigated and are not available or feasible:

(1) commercial or marina moorage;

(2) floating moorage buoys;

(3) joint use moorage pier/dock.

The Director shall use the following criteria to determine if the applicant has demonstrated a need for moorage:

(a) Applicant has provided adequate documentation from a commercial marina within 5 river miles that moorage is not available.

(b) Floating moorage buoy is technically infeasible as determined by a professional hydrologist.

(c) Applicant has provided adequate documentation from any existing moorage pier/dock owner within 5 river miles that joint use is not possible.

b. Prior to issuance of a Shoreline Substantial Development Permit for construction of piers, docks, wharves or other over-water structures, the applicant shall present proof of application submittal to State or Federal agencies, as applicable.

c. Structures must be designed by a qualified engineer and must demonstrate the project will result in no net loss of shoreline ecological function and will be stable against the forces of flowing water, wave action and the wakes of passing vessels.

d. In-water structures shall be designed and located to minimize shading of native aquatic vegetation and fish passage areas. Removal of shoreline, riparian and aquatic vegetation shall be limited to the minimum extent necessary to construct the project. All areas disturbed by construction shall be replanted with native vegetation as part of the project.

e. New or replacement in-water structures shall be designed and located such that natural hydraulic and geologic processes, such as erosion, wave action or floods will not necessitate the following:

(1) reinforcement of the shoreline or stream bank with new bulkheads or similar artificial structures to protect the in-water structure; or

(2) dredging.

f. No structures are allowed on top of over-water structures except for properties located north of the Turning Basin.

g. Pilings or other associated structures in direct contact with water shall not be treated with preservatives unless the applicant can demonstrate that no feasible alternative to protect the materials exists and that non-wood alternatives are not economically feasible. In that case, only compounds approved for marine use may be used and must be applied by the manufacturer per current best management practices of the Western Wood Preservers Institute. The applicant must present verification that the best management practices were followed. The preservatives must also be approved by the Washington Department of Fish and Wildlife.

h. All over-water structures shall be constructed and maintained in a safe and sound condition. Abandoned or unsafe over-water structures shall be removed or repaired promptly by the owner. Accumulated debris shall be regularly removed and disposed of properly so as not to jeopardize the integrity of the structure. Replacement of in-water structures shall include proper removal of abandoned or other man-made structures and debris.

i. Boat owners who store motorized boats on-site are encouraged to use best management practices to avoid fuel and other fluid spills.

2. **Marinas, Boat Yards and Dry Docks.**

a. All uses under this category shall be designed to achieve no net loss of shoreline ecological functions. In cases where impacts to shoreline ecological functions from uses allowed under this category are unavoidable, those impacts shall be mitigated according to the provisions of TMC Section 18.44.050.H above; in that event, the "no net loss" standard is met.

b. Commercial/industrial marinas and dry docks shall be located no further upriver than Turning Basin #3.

c. Marinas shall be located, designed, constructed and operated to avoid or minimize adverse impacts on fish, wildlife, water quality, native shoreline vegetation, navigation, public access, existing in-water recreational activities and adjacent water uses.

d. Marinas shall submit a fuel spill prevention and contingency plan to the City for approval. Haul-out and boat maintenance facilities must meet the City's stormwater management requirements and not allow the release of chemicals, petroleum or suspended solids to the river.

e. Marinas, boat yards and dry docks must be located a minimum of 100 feet from fish and wildlife habitat areas.

f. New marinas, launch ramps and accessory uses must be located where water depths are adequate to avoid the need for dredging.

3. **Boat Launches and Boat Lifts**.

a. Boat launch ramps and vehicle access to the ramps shall be designed to not cause erosion; the use of pervious paving materials, such as grasscrete, are encouraged.

b. Boat launch ramps shall be designed to minimize areas of landfill or the need for shoreline protective structures.

c. Access to the boat ramp and parking for the ramp shall be located a sufficient distance from any frontage road to provide safe maneuvering of boats and trailers.

d. Launching rails shall be adequately anchored to the ground.

e. Launch ramps and boat lifts shall extend waterward past the OHWM only as far as necessary to achieve their purpose.

f. Boat lifts and canopies must meet the standards of the U.S. Army Corps of Engineers Regional General Permit Number 1 for Watercraft Lifts in Fresh and Marine/Estuarine Waters within the State of Washington.

4. **Over-water Structures.** Where allowed, over-water structures such as piers, wharves, bridges, and docks shall meet the following standards:

a. The size of new over-water structures shall be limited to the minimum necessary to support the structure's intended use and to provide stability in the case of floating docks. Structures must be compatible with any existing channel control or flood management structures.

b. Over-water structures shall not extend waterward of the OHWM any more than necessary to permit launching of watercraft, while also ensuring that watercraft do not rest on tidal substrate at any time.

c. Adverse impacts of over-water structures on water quality, river flows, fish habitat, shoreline vegetation, and public access shall be minimized and mitigated. Mitigation measures may include joint use of existing structures, open

decking or piers, replacement of non-native vegetation, installation of in-water habitat features or restoration of shallow water habitat.

d. Any proposals for in-water or over-water structures shall provide a pre-construction habitat evaluation, including an evaluation of salmonid and bull trout habitat and shoreline ecological functions, and demonstrate how the project achieves no net loss of shoreline ecological functions.

e. Over-water structures shall obtain all necessary state and federal permits prior to construction or repair.

f. All over-water structures must be designed by a qualified engineer to ensure they are adequately anchored to the bank in a manner so as not to cause future downstream hazards or significant modifications to the river geomorphology and are able to withstand high flows.

g. Over-water structures shall not obstruct normal public use of the river for navigation or recreational purposes.

h. Shading impacts to fish shall be minimized by using grating on at least 30% of the surface area of the over-water structure on residential areas and at least 50% of the over-water structure on all other properties. This standard may be modified for bridges if necessary to accommodate the proposed use. The use of skirting is not permitted.

i. If floats are used, the flotation shall be fully enclosed and contained in a shell (such as polystyrene) that prevents breakup or loss of the flotation material into the water, damage from ultraviolet radiation, and damage from rubbing against pilings or waterborne debris.

j. Floats may not rest on the tidal substrate at any time and stoppers on the piling anchoring the floats must be installed to ensure at least 1 foot of clearance above the substrate. Anchor lines may not rest on the substrate at any time.

k. The number of pilings to support over-water structures, including floats, shall be limited to the minimum necessary. Pilings shall conform to the pilings standards contained in the US Army Corps of Engineers Regional General Permit No. 6.

l. No over-water structure shall be located closer than five feet from the side property line extended, except that such structures may abut property lines for the common use of adjacent property owners when mutually agreed upon by the property owners in an easement recorded with King County. A copy of this agreement shall be submitted to the Department of Community Development and accompany an application for a development permit and/or Shoreline Permit.

5. **Live-Aboards.** New over-water residences are prohibited. Live-aboards may be allowed provided that:

a. They are for single-family use only.

b. They are located in a marina that provides shower and toilet facilities on land and there are no sewage discharges to the water.

c. Live-aboards do not exceed 10 percent of the total slips in the marina.

d. They are owner-occupied vessels.

e. There are on-shore support services in proximity to the live-aboards.

L. **Signs in Shoreline Jurisdiction**.

1. Signage within the shoreline buffer is limited to the following:

a. Interpretative signs and restoration signage, including restoration sponsor acknowledgment.

b. Signs for water-related uses.

c. Signs installed by a government agency for public safety along any public trail or at any public park.

d. Signs installed within the rights of way of any public right-of-way or bridge within the shoreline buffer.

e. Signs installed on utilities and wireless communication facilities denoting danger or other safety information, including emergency contact information.

2. Billboards and other off-premise signs are strictly forbidden in the shoreline buffer.

(Ord. 2627 §20, 2020)

18.44.060 Vegetation Protection and Landscaping

A. **Purpose.**

1. The purpose of this section is to:

a. Regulate the protection of existing trees and native vegetation in the shoreline jurisdiction;

b. Establish requirements for removal of invasive plants at the time of development or re-development of sites;

c. Establish requirements for landscaping for new development or re-development;

d. Establish requirements for the long-term maintenance of native vegetation to prevent establishment of invasive species and promote shoreline ecosystem processes.

2. The City's goal is to:

a. Preserve as many existing trees as possible and increase the number of native trees, shrubs and other vegetation in the shoreline because of their importance to shoreline ecosystem functions as listed below:

(1) Overhead tree canopy to provide shade for water temperature control;

(2) Habitat for birds, insects and small mammals;

(3) Vegetation that overhangs the river to provide places for fish to shelter;

(4) Source of insects for fish;

(5) Filtering of pollutants and slowing of stormwater prior to its entering the river; and

(6) A long-term source of woody debris for the river.

b. In addition, trees and other native vegetation are important for aesthetics. It is the City's goal that unsightly invasive vegetation, such as blackberries, be removed from the shoreline and be replaced with native vegetation to promote greater enjoyment of and access to the river.

c. The City will provide information to property owners for improving vegetation in the shoreline jurisdiction and will work collaboratively with local citizen groups to assist property

owners in the removal of invasive vegetation and planting of native vegetation, particularly for residential areas.

B. **Applicability.**

1. This chapter sets forth rules and regulations to control maintenance and clearing of trees and other vegetation within the City of Tukwila for properties located within the shoreline jurisdiction. For properties located within a critical area or its associated buffer, the maintenance and removal of trees shall be governed by TMC Chapter 18.45. TMC Chapter 18.54, "Urban Forestry and Tree Regulations" chapter, shall govern tree removal on any undeveloped land and any land zoned Low Density Residential (LDR) that is developed with a single family residence. TMC Chapter 18.52, "Landscape Requirements," shall govern the maintenance and removal of trees on developed properties that are zoned commercial, industrial, or multifamily, and on properties located in the LDR zone that are developed with a non-single family residential use. The most stringent regulations shall apply in case of a conflict.

2. With the exception of residential development/re-development of 4 or fewer residential units, all activities and developments within the shoreline environment must comply with the landscaping and maintenance requirements of this section, whether or not a shoreline substantial development permit is required. Single family residential projects are not exempt if implementing a shoreline stabilization project or overwater structure.

3. The tree protection and retention requirements and the vegetation management requirements apply to existing uses as well as new or re-development.

C. **Minor Activities Allowed without a Permit or Exemption.**

1. The following activities are allowed without a permit or exemption:

a. Maintenance of existing, lawfully established areas of crop vegetation, landscaping (including paths and trails) or gardens within shoreline jurisdiction. Examples include, mowing lawns, weeding, harvesting and replanting of garden crops, pruning, and planting of non-invasive ornamental vegetation or indigenous native species to maintain the general condition and extent of such areas. Cutting down trees and shrubs within the shoreline jurisdiction is not covered under this provision. Excavation, filling, and construction of new landscaping features, such as concrete work, berms and walls, are not covered in this provision and are subject to review;

b. Noxious weed control within shoreline jurisdiction, if work is selective only for noxious species; is done by hand removal/spraying of individual plants; spraying is conducted by a licensed applicator (with the required aquatic endorsements from the Washington State Department of Ecology if work is in an aquatic site); and no area-wide vegetation removal or grubbing is conducted. Control methods not meeting these criteria may still be approved under other provisions of this chapter.

D. **Tree Retention and Replacement**.

1. **Retention.**

a. As many significant trees and as much native vegetation as possible are to be retained on a site proposed for development or re-development, taking into account the condition and age of the trees. As part of a land use application such as but not limited to subdivision or short plat, design review, or development permit review, the Director of Community Development or the Board of Architectural Review may require alterations in the arrangement of buildings, parking or other elements of proposed development in order to retain significant non-invasive trees, particularly those that provide shading to the river.

b. Topping of trees is prohibited and will be regulated as removal with tree replacement required.

c. Trees may only be pruned to prevent interference with an overhead utility line with prior approval by the Director. The pruning must be carried out under the direction of a Qualified Tree Professional or performed by the utility provider under the direction of a Qualified Tree Professional. The crown shall be maintained to at least 2/3 the height of the tree prior to pruning. Pruning more than 25% of the canopy in a 36 month period shall be regulated as removal with tree replacement required.

2. **Permit Requirements**. Prior to any tree removal or site clearing, a Type 2 Shoreline Tree Removal and Vegetation Clearing Permit application must be submitted to the Department of Community Development (DCD) containing the following information:

a. A vegetation survey on a site plan that shows the diameter, species and location of all significant trees and all existing native vegetation.

b. A site plan that shows trees and native vegetation to be retained and trees to be removed and provides a table showing the number of significant trees to be removed and the number of replacement trees required.

c. Tree protection zones and other measures to protect any trees or native vegetation that are to be retained for sites undergoing development or re-development.

d. Location of the OHWM, shoreline buffer, Shoreline Jurisdiction boundary and any critical areas with their buffers.

e. A landscape plan that shows diameter, species name, spacing and planting location for any required replacement trees and other proposed vegetation.

f. An arborist evaluation justifying the removal of hazardous trees if required by DCD.

g. An application fee per the current Land Use Permit Fee resolution.

3. **Criteria for Shoreline Tree Removal.** A Type 2 Shoreline Tree Removal and Vegetation Clearing Permit shall only be approved by the Director of Community Development if the proposal complies with the following:

a. The site is undergoing development or redevelopment;

b. The proposal complies with tree retention, replacement, maintenance, and monitoring requirements of this chapter; and

c. Either:

(1) Tree poses a risk to structures;

(2) There is imminent potential for root or canopy interference with utilities;

(3) Trees interfere with the access and passage on public trails;

(4) Tree condition and health is poor; the City may require an evaluation by an International Society of Arborists (ISA) certified arborist; or

(5) Trees present an imminent hazard to the public. If the hazard is not readily apparent, the City may require an evaluation by an International Society of Arborists (ISA) certified arborist; and

4. **Tree Replacement Requirements.**

a. Significant trees that are removed, illegally topped, or pruned by more than 25 percent in 36 month period within the shoreline jurisdiction shall be replaced pursuant to the tree replacement requirements shown below, up to a density of 100 trees per acre (including existing trees).

b. Significant trees that are removed as part of an approved landscape plan on a developed site are subject to replacement per TMC Chapter 18.52. Dead or dying trees removed from developed or landscaped areas shall be replaced 1:1 in the next appropriate season for planting.

c. Dead or dying trees located within the buffer or undeveloped upland portion of the Shoreline Jurisdiction shall be left in place as wildlife snags, unless they present a hazard to structures, facilities or the public. Removal of non-hazardous trees as defined by TMC Chapter 18.06 in non-developed areas are subject to the tree replacement requirements listed in the table below.

d. The Director or Planning Commission may require additional trees or shrubs to be installed to mitigate any potential impact from the loss of this vegetation as a result of new development.

Tree Replacement Requirements

Diameter* of Tree Removed (*measured at height of 4.5 feet from the ground)	Number of Replacement Trees Required
4 - 6 inches (single trunk); 2 inches (any trunk of a multi-trunk tree)	3
Over 6 - 8 inches	4
Over 8 - 20 inches	6
Over 20 inches	8

e. The property owner is required to ensure the viability and long-term health of trees planted for replacement through proper care and maintenance for the life of the project. Replaced trees that do not survive must be replanted in the next appropriate season for planting.

f. If all required replacement trees cannot be reasonably accommodated on the site, off-site tree replacement within the shoreline jurisdiction may be allowed at a site approved by the City. Priority for off-site tree planting will be at locations within the Transition Zone. If no suitable off-site location is available, the applicant shall pay a fee into a tree replacement fund per the adopted fee resolution.

5. **Large Woody Debris (LWD).** When a tree suitable for use as LWD is permitted to be removed from the shoreline buffer, the tree trunk and root ball (where possible) will be saved for use in a restoration project elsewhere in the shoreline jurisdiction. The applicant will be responsible for the cost of moving the removed tree(s) to a location designated by the City. If no restoration project or storage location is available at the time, the Director may waive this requirement. Trees removed in the shoreline jurisdiction outside the buffer shall be placed as LWD in the buffer (not on the bank), if feasible. Priority for LWD placement projects will be in the Transition Zone.

E. T**ree Protection During Development and Redevelopment.** All trees not proposed for removal as part of a project or development shall be protected using Best Management Practices and the standards below.

1. The Critical Root Zones (CRZ) for all trees designated for retention, on site or on adjacent property as applicable, shall be identified on all construction plans, including demolition, grading, civil and landscape site plans.

2. Any roots within the CRZ exposed during construction shall be covered immediately and kept moist with appropriate materials. The City may require a third-party Qualified Tree Professional to review long term viability of the tree.

3. Physical barriers, such as 6-foot chain link fence or plywood or other approved equivalent, shall be placed around each individual tree or grouping at the CRZ. Minimum distances from the trunk for the physical barriers shall be based on the approximate age of the tree (height and canopy) as follows:

a. Young trees (trees which have reached less than 20% of life expectancy): 0.75 per inch of trunk diameter.

b. Mature trees (trees which have reached 20-80% of life expectancy): 1 foot per inch of trunk diameter.

c. Over mature trees (trees which have reached greater than 80% of life expectancy): 1.5 feet per inch of trunk diameter.

4. Alternative protection methods may be used that provide equal or greater tree protection if approved by the Director.

5. A weatherproof sign shall be installed on the fence or barrier that reads:

> "TREE PROTECTION ZONE – THIS FENCE SHALL NOT BE REMOVED OR ENCROACHED UPON. No soil disturbance, parking, storage, dumping or burning of materials is allowed within the Critical Root Zone. The value of this tree is $ [insert value of tree as determined by a Qualified Tree Professional here]. Damage to this tree due to construction activity that results in the death or necessary removal of the tree is subject to the Violations section of TMC Chapter 18.44."

6. All tree protection measures installed shall be inspected by the City and, if deemed necessary a Qualified Tree Professional, prior to beginning construction or earth moving.

7. Any branches or limbs that are outside of the CRZ and might be damaged by machinery shall be pruned prior to construction by a Qualified Tree Professional. No construction personnel shall prune affected limbs except under the direct supervision of a Qualified Tree Professional.

8. The CRZ shall be covered with 4 to 6 inches of wood chip mulch. Mulch shall not be placed directly against the trunk. A 6-inch area around the trunk shall be free of mulch. Additional measures, such as fertilization or supplemental water, shall be carried out prior to the start of construction if deemed necessary by the Qualified Tree Professional's report to prepare the trees for the stress of construction activities.

9. No storage of equipment or refuse, parking of vehicles, dumping of materials or chemicals, or placement of permanent heavy structures or items shall occur within the CRZ.

10. No grade changes or soil disturbance, including trenching, shall be allowed within the CRZ. Grade changes within 10 feet of the CRZ shall be approved by the City prior to implementation.

11. The applicant is responsible for ensuring that the CRZ of trees on adjacent properties are not impacted by the proposed development.

12. A pre-construction inspection shall be conducted by the City to finalize tree protection actions.

13. Post-construction inspection of protected trees shall be conducted by the City and, if deemed necessary by the City, a Qualified Tree Professional. All corrective or reparative pruning will be conducted by a Qualified Tree Professional.

F. **Landscaping.**

1. **General Requirements.** For any new development or redevelopment in the Shoreline Jurisdiction, except single family residential development of 4 or fewer lots, invasive vegetation must be removed and native vegetation planted and maintained in the Shoreline Buffer, including the river bank.

a. The landscaping requirements of this subsection apply for any new development or redevelopment in the Shoreline Jurisdiction, except: single family residential development of 4 or fewer lots. The extent of landscaping required will depend on the size of the proposed project. New development or full redevelopment of a site will require landscaping of the entire site. For smaller projects, the Director will review the intent of this section and the scope of the project to determine a reasonable amount of landscaping to be carried out.

b. Invasive vegetation must be removed as part of site preparation and native vegetation planted, including the river bank to OHWM.

c. On properties located landward of publicly maintained levees, an applicant is not required to remove invasive vegetation or plant native vegetation on the levees, however the remaining buffer landward of the levee shall be improved and invasive vegetation planted.

d. Removal of invasive species shall be done by hand or with hand-held power tools. Where not feasible and mechanized equipment is needed, the applicant must obtain a Shoreline Tree Removal and Vegetation Clearing Permit and show how the slope stability of the bank will be maintained. A plan must be submitted indicating how the work will be done and what erosion control and tree protection features will be utilized. Federal and State permits may be required for vegetation removal with mechanized equipment.

e. Trees and other vegetation shading the river shall be retained or replanted when riprap is placed, as specified in the approved tree permit if a permit is required.

f. Removal of invasive vegetation may be phased over several years prior to planting, if such phasing is provided for by a plan approved by the Director to allow for alternative approaches, such as sheet mulching and goat grazing. The method selected shall not destabilize the bank or cause erosion.

g. A combination of native trees, shrubs and groundcovers (including grasses, sedges, rushes and vines) shall be planted. The plants listed in the Riparian Restoration and Management Table of the 2004 Washington Stream Habitat Restoration Guidelines (Washington Department of Fish and Wildlife, Washington Department of Ecology, and U.S. Fish and Wildlife Service, Olympia, Washington, as amended) shall provide the basis for plant selection. Site conditions, such as topography, exposure, and hydrology shall be taken into account for plant selection. Other species may be approved if there is adequate justification.

h. Non-native trees may be used as street trees or in approved developed landscape areas where conditions are not appropriate for native trees (for example where there are space or height limitations or conflicts with utilities).

i. Plants shall meet the current American Standard for Nursery Stock (American Nursery and Landscape Association – ANLA).

j. Plant sizes in the non-buffer areas of all Shoreline Environments shall meet the following minimum size standards:

Deciduous trees 2-inch caliper
Conifers 6 – 8 foot height
Shrubs 24-inch height
Groundcover/grasses 4-inch or 1 gallon container

k. Smaller plant sizes (generally one gallon, bareroot, plugs, or stakes, depending on plant species) are preferred for buffer plantings. Willow stakes must be at least 1/2-inch in diameter.

l. Site preparation and planting of vegetation shall be in accordance with best management practices for ensuring the vegetation's long-term health and survival.

m. Plants may be selected and placed to allow for public and private view corridors and/or access to the water's edge.

n. Native vegetation in the shoreline installed in accordance with the preceding standards shall be maintained by the property owner to promote healthy growth and prevent establishment of invasive species. Invasive plants (such as

blackberry, ivy, knotweed, bindweed) shall be removed on a regular basis, according to the approved maintenance plan.

o. Areas disturbed by removal of invasive plants shall be replanted with native vegetation where necessary to maintain the density shown in TMC Section 18.44.060.B.4. and must be replanted in a timely manner, except where a long term removal and re-vegetation plan, as approved by the City, is being implemented.

p. Landscape plans shall include a detail on invasive plant removal and soil preparation.

q. The following standards apply to utilities and loading docks located in the shoreline jurisdiction.

(1) Utilities such as pumps, pipes, etc. shall be suitably screened with native vegetation;

(2) Utility easements shall be landscaped with native groundcover, grasses or other low-growing plants as appropriate to the shoreline environment and site conditions;

(3) Allowed loading docks and service areas located waterward of the development shall have landscaping that provides extensive visual separation from the river.

2. **Shoreline Buffer Landscaping Requirements in all Shoreline Environments.** The Shoreline Buffer in all shoreline environments shall function, in part, as a vegetation management area to filter sediment, capture contaminants in surface water run-off, reduce the velocity of water run-off, and provide fish and wildlife habitat.

a. A planting plan prepared by an approved biologist shall be submitted to the City for approval that shows plant species, size, number and spacing. The requirement for a biologist may be waived by the Director for single family property owners (when planting is being required as mitigation for construction of overwater structures or shoreline stabilization).

b. Plants shall be installed from the OHWM to the upland edge of the Shoreline Buffer unless the Director determines that site conditions would make planting unsafe.

c. Plantings close to and on the bank shall include native willows, red osier dogwood and other native vegetation that will extend out over the water, to provide shade and habitat functions when mature. Species selected must be able to withstand seasonal water level fluctuations.

d. Minimum plant spacing in the buffer shall follow the Shoreline Buffer Vegetation Planting Densities Table shown in TMC Section 18.44.060.F.2. Existing non-invasive plants may be included in the density calculations.

e. Irrigation for buffer plantings is required for at least two dry seasons or until plants are established. An irrigation plan is to be included as part of the planting plan.

f. In the event that a development project allows for setback and benching of the shoreline along an existing levee or revetment, the newly created mid-slope bench area shall be planted and maintained with a variety of native vegetation appropriate for site conditions.

g. The Director, in consultation with the City's Urban Environmentalist, may approve the use of shrub planting and installation of willow stakes to be counted toward the tree replacement standard in the buffer if proposed as a measure to control invasive plants and increase buffer function.

Shoreline Buffer Vegetation Planting Densities Table

Plant Material Type	Planting Density
Stakes/cuttings along river bank (willows, red osier dogwood)	1 - 2 feet on center or per bioengineering method
Shrubs	3 - 5 feet on center, depending on species
Trees	15 – 20 feet on center, depending on species
Groundcovers, grasses, sedges, rushes, other herbaceous plants	1 – 1.5 feet on center, depending on species
Native seed mixes	5 - 25 lbs per acre, depending on species

3. **Landscaping Requirements for the Urban Conservancy and High Intensity Environments — Outside of the Shoreline Buffer.** For the portions of property within the Shoreline Jurisdiction landward of the Shoreline Buffer the landscape requirements in the General section of this chapter and the requirements for the underlying zoning as established in TMC Chapter 18.52 shall apply except as indicated below.

a. Parking Lot Landscape Perimeters: One native tree for each 20 lineal feet of required perimeter landscaping, one shrub for each 4 lineal feet of required perimeter landscaping, and native groundcovers to cover 90% of the landscape area within 3 years, planted at a minimum spacing of 12 inches on-center.

b. Interior Parking Lot Landscaping: Every 300 square feet of paved surface requires 10 square feet of interior landscaping within landscape islands separated by no more than 150 feet between islands.

c. Landscaping shall be provided at yards not adjacent to the river, with the same width as required in the underlying zoning district. This standard may be reduced as follows:

(1) Where development provides a public access corridor between off-site public area(s) and public shoreline areas, side yard landscaping may be reduced by 25 percent to no less than 3 feet; or

(2) Where development provides additional public access area(s) (as allowed by the High Intensity and Urban Conservancy Environment Development Standards) equal in area to at least 2.5% of total building area, front yard landscaping may be reduced by 25 percent.

G. **Vegetation Management in the Shoreline Jurisdiction.** The requirements of this section apply to all existing and new development within the shoreline jurisdiction.

1. Trees and shrubs may only be pruned for safety, to maintain views or access corridors and trails by pruning up or on the sides of trees, to maintain clearance for utility lines, and/or for improving shoreline ecological function. No more than 25% may be pruned from a tree within a 36 month period without prior City

review and is subject to replacement ratios of this chapter. This type of pruning is exempt from any permit requirements. Topping of trees is prohibited and shall be regulated as removal with tree replacement required except where absolutely necessary to avoid interference with existing utilities.

2. Plant debris from removal of invasive plants or pruning shall be removed from the site and disposed of properly.

3. Use of pesticides.

a. Pesticides (including herbicides, insecticides, and fungicides) shall not be used in the shoreline jurisdiction except where:

(1) Alternatives such as manual removal, biological control, and cultural control are not feasible given the size of the infestation, site characteristics, or the characteristics of the invasive plant species;

(2) The use of pesticides has been approved through a comprehensive vegetation or pest management and monitoring plan;

(3) The pesticide is applied in accordance with state regulations;

(4) The proposed herbicide is approved for aquatic use by the U.S. Environmental Protection Agency; and

(5) The use of pesticides in the shoreline jurisdiction is approved in writing by the Department of Ecology or Washington Department of Agriculture.

b. Self-contained rodent bait boxes designed to prevent access by other animals are allowed.

c. Sports fields, parks, golf courses and other outdoor recreational uses that involve maintenance of extensive areas of turf shall provide and implement an integrated turf management program or integrated pest management plan designed to ensure that water quality in the river is not adversely impacted.

4. **Restoration Project Plantings:** Restoration projects may overplant the site as a way to discourage the re-establishment of invasive species. Thinning of vegetation to improve plant survival and health without a separate shoreline vegetation removal permit may be permitted five to ten years after planting if this approach is approved as part of the restoration project's maintenance and monitoring plan.

H. **Maintenance and Monitoring.** The property owner is required to ensure the viability and long term health of vegetation planted for replacement or mitigation through proper care and maintenance for the life of the project subject to the permit requirements as follows:

1. **Tree Replacement and Vegetation Clearing Permit Requirements:**

a. Schedule an inspection with the City's Urban Environmentalist to document planting of the correct number and type of plants.

b. Submit annual documentation of tree and vegetation health to the City for three years.

2. **Restoration and Mitigation Project Requirements:**

a. A five-year maintenance and monitoring plan must be approved by the City prior to permit issuance. The monitoring period will begin when the restoration is accepted by the City and as-built plans have been submitted.

b. Monitoring reports shall be submitted annually for City review up until the end of the monitoring period. Reports shall measure survival rates against project goals and present contingency plans to meet project goals.

c. Mitigation will be complete after project goals have been met and accepted by the City's Urban Environmentalist.

d. A performance bond or financial security equal to 150% of the cost of labor and materials required for implementation of the planting, maintenance and monitoring shall be submitted prior to City acceptance of project.

(Ord. 2627 §21, 2020)

18.44.070 Environmentally Critical Areas within the Shoreline Jurisdiction

A. **Applicable Critical Areas Regulations.** The following critical areas, located in the shoreline jurisdiction, shall be regulated in accordance with the provisions of the Critical Areas Ordinance TMC Chapter 18.45, (Ordinance No. 2625, March 2, 2020), which is herein incorporated by reference into this SMP, except as provided in TMC Section 18.44.070.B. Said provisions shall apply to any use, alteration, or development within shoreline jurisdiction whether or not a shoreline permit or written statement of exemption is required. Unless otherwise stated, no development shall be constructed, located, extended, modified, converted, or altered, or land divided without full compliance with the provisions adopted by reference and the Shoreline Master Program. Within shoreline jurisdiction, the regulations of TMC Chapter 18.45 shall be liberally construed together with the Shoreline Master Program to give full effect to the objectives and purposes of the provisions of the Shoreline Master Program and the Shoreline Management Act. If there is a conflict or inconsistency between any of the adopted provisions below and the Shoreline Master Program, the most restrictive provisions shall prevail.

1. Wetlands
2. Watercourses (Type F, Type Np, Type Ns)
3. Areas of potential geologic instability
4. Fish and wildlife habitat conservation areas

B. The following provisions in TMC Chapter 18.45 do not apply to critical areas in the shoreline jurisdiction:

1. Critical Area Master Plan Overlay (TMC Section 8.45.160).

2. Reasonable Use Exception (TMC Section 18.45.180). Exceptions within shoreline jurisdiction shall require a shoreline variance based on the variance criteria listed in TMC Section 18.44.110.F and WAC 173-27-170.

3. Time Limitation, Appeals, and Vesting (TMC Section 18.45.190).

4. Wetlands Uses, Alterations and Mitigation (TMC Section 18.45.090). Activities and alterations to wetlands and their buffers located within shoreline jurisdiction shall be subject to the provisions and permitting mechanisms of this Master Program.

C. Shoreline buffer widths are defined in TMC Section 18.44.040.

D. Future amendments to the Critical Areas Ordinance require Department of Ecology approval of an amendment to this Master Program to incorporate updated language.

E. If provisions of the Critical Areas Ordinance conflict with provisions of this Master Program, the provisions that are the most protective of the ecological resource shall apply, as determined by the Director.

F. If there are provisions of the Critical Areas Ordinance that are not consistent with the Shoreline Management Act, Chapter 90.58 RCW, and supporting Washington Administrative Code chapters, those provisions shall not apply.

G. Areas of seismic instability are also defined as critical areas. These areas are regulated by the Washington State Building Code, rather than by TMC Section 18.44.070. Additional building standards applicable to frequently flooded areas are included in the Flood Zone Management Code (TMC Chapter 16.52).

(Ord. 2627 §22, 2020)

18.44.080 Public Access to the Shoreline

A. **Applicability.**

1. Public access shall be provided on all property that abuts the Green/Duwamish River shoreline in accordance with this section as further discussed below where any of the following conditions are present:

a. Where a development or use will create increased demand for public access to the shoreline, the development or use shall provide public access to mitigate this impact. For the purposes of this section, an "increase in demand for public access" is determined by evaluating whether the development reflects an increase in the land use intensity (for example converting a warehouse to office or retail use), or a significant increase in the square footage of an existing building. A significant increase is defined as an increase of at least 3,000 square feet.

b. Where a development or use will interfere with an existing public access way, the development or use shall provide public access to mitigate this impact. Impacts to public access may include blocking access or discouraging use of existing on-site or nearby accesses.

c. Where a use or development will interfere with a public use of lands or waters subject to the public trust doctrine, the development shall provide public access to mitigate this impact.

d. Where the development is proposed by a public entity or on public lands.

e. Where identified on the Shoreline Public Access Map in the Shoreline Master Program.

f. Where a land division of five or greater lots, or a residential project of five or greater residential units, is proposed.

2. The extent of public access required will be proportional to the amount of increase in the demand for public access. For smaller projects, the Director will review the intent of this section and the scope of the project to determine a reasonable amount of public access to be carried out. Depending on the amount of increase, the project may utilize the alternative provisions for meeting public access in TMC Section 18.44.080.F. The terms and conditions of TMC Sections 18.44.080.A and 18.44.080.B shall be deemed satisfied if the applicant and the City agree upon a master trail plan providing for public paths and trails within a parcel or group of parcels.

3. The provisions of this section do not apply to the following:

a. Short plats of four or fewer lots;

b. Where providing such access would cause unavoidable health or safety hazards;

c. Where an area is limited to authorized personnel and providing such access would create inherent and unavoidable security problems that cannot be mitigated through site design or fencing; or

d. Where providing such access would cause significant ecological impacts that cannot be mitigated.

An applicant claiming an exemption under items 3(b) - (d) above must comply with the procedures in TMC Section 18.44.080.F.

B. **General Standards.**

1. To improve public access to the Green/Duwamish River, sites shall be designed to provide:

a. Safe, visible and accessible pedestrian and non-motorized vehicle connections between proposed development and the river's edge, particularly when the site is adjacent to the Green River Trail or other approved trail system; and

b. Public pathway entrances that are clearly visible from the street edge and identified with signage; and

c. Clearly identified pathways that are separate from vehicular circulation areas. This may be accomplished through the use of distinct paving materials, changes in color or distinct and detailed scoring patterns and textures.

d. Site elements that are organized to clearly distinguish between public and private access and circulation systems.

2. Required public access shall be fully developed and available for public use at the time of occupancy in accordance with development permit conditions except where the decision maker determines an appropriate mechanism for delayed public access implementation is necessary for practical reasons. Where appropriate, a bond or cash assignment may be approved, on review and approval by the Director of Community Development, to extend this requirement for 90 days from the date the Certificate of Occupancy is issued.

3. Public access easements and related permit conditions shall be recorded on the deed of title or the face of the plat, short plat or approved site plan as a condition tied to the use of the land. Recording with the County shall occur prior to the issuance of an Occupancy Permit or final plat approval. Upon re-development of such a site, the easement may be relocated to facilitate the continued public access to the shoreline.

4. Approved signs indicating the public's right of access and hours of access, if restricted, shall be constructed, installed

and maintained by the applicant in conspicuous locations at public access sites. Signs should be designed to distinguish between public and private areas. Signs controlling or restricting public access may be approved as a condition of permit approval.

5. Required access must be maintained in perpetuity.

6. Public access features shall be separated from residential uses through the use of setbacks, low walls, berms, landscaping, or other device of a scale and materials appropriate to the site.

7. Shared public access between developments is encouraged. Where access is to be shared between adjacent developments, the minimum width for the individual access easement may be reduced, provided the total width of easements contributed by each adjacent development equals a width that complies with Fire Department requirements and/or exceeds the minimum for an individual access.

8. Public access sites shall be connected directly to the nearest public area (e.g., street, public park, or adjoining public access easement). Where connections are not currently possible, the site shall be designed to accommodate logical future connections.

C. **Requirements for Shoreline Trails.** Where public access is required under TMC Section 18.44.080.A.1, the requirement will be met by provision of a shoreline trail as follows:

1. **Development on Properties Abutting Existing Green River Trail.** An applicant seeking to develop property abutting the existing trail shall meet public access requirements by upgrading the trail along the property frontage to meet the standards of a 12-foot-wide trail with 2-foot shoulders on each side. If a 12-foot-wide trail exists on the property, it shall mean public access requirements have been met if access to the trail exists within 1,000 feet of the property.

2. **Development on Properties Where New Regional Trails are Planned.** An applicant seeking to develop property abutting the river in areas identified for new shoreline trail segments shall meet public access requirements by dedicating a 16-foot-wide trail easement to the City for public access along the river.

3. **On-site Trail Standards.** Trails providing access within a property, park or restoration site shall be developed at a width appropriate to the expected usage and environmental sensitivity of the site.

D. **Publicly-Owned Shorelines.**

1. Shoreline development by any public entities, including but not limited to the City of Tukwila, King County, port districts, state agencies, or public utility districts, shall include public access measures as part of each development project, unless such access is shown to be incompatible due to reasons of safety, security, impact to the shoreline environment or other provisions listed in this section.

2. The following requirements apply to street ends and City-owned property adjacent to the river.

a. Public right-of-way and "road-ends," or portions thereof, shall not be vacated and shall be maintained for future public access.

b. Unimproved right-of-ways and portions of right-of-ways, such as street ends and turn-outs, shall be dedicated to public access uses until such time as the portion becomes improved right-of-way. Uses shall be limited to passive outdoor recreation, hand carry boat launching, fishing, interpretive/educational uses, and/or parking that accommodates these uses, and shall be designed so as to not interfere with the privacy of adjacent residential uses.

c. City-owned facilities within the Shoreline Jurisdiction shall provide new trails and trail connections to the Green River Trail in accordance with approved plans and this SMP.

d. All City-owned recreational facilities within the Shoreline Jurisdiction, unless qualifying for an exemption as specified in this chapter, shall make adequate provisions for:

(1) Non-motorized and pedestrian access;

(2) The prevention of trespass onto adjacent properties through landscaping, fencing or other appropriate measures;

(3) Signage indicating the public right-of-way to shoreline areas; and

(4) Mechanisms to prevent environmental degradation of the shoreline from public use.

E. **Public Access Incentives.**

1. The minimum yard setback for buildings, uses, utilities or development from non-riverfront lot lines may be reduced as follows:

a. Where a development provides a public access corridor that connects off-site areas or public shoreline areas to public shoreline areas, one side yard may be reduced to a zero lot line placement; or

b. Where a development provides additional public access area(s) equal in area to at least 2.5% of total building area, the front yard (the landward side of the development) may be reduced by 50%.

2. The maximum height for structures within the shoreline jurisdiction may be increased by 15 feet when:

a. Development devotes at least 5% of its building or land area to public shoreline access; or

b. Development devotes at least 10% of its land area to employee shoreline access.

3. The maximum height for structures within the shoreline jurisdiction may be increased by 15 feet for properties that construct a 12-foot-wide paved trail with a 2-foot-wide shoulder on each side for public access along the river in areas identified for new shoreline trail segments, or where, in the case of properties containing or abutting existing public access trails, the existing trail either meets the standard of a 12-foot-wide trail with 2-foot-wide shoulders on either side or the property owner provides any necessary easements and improvements to upgrade the existing trail to that standard along the property frontage.

4. During the project review, the project proponent shall affirmatively demonstrate that the increased height for structures authorized in subparagraphs E.2 and E.3 of this section will:

a. Not block the views of a substantial number of residences;

b. Not cause environmental impacts such as light impacts adversely affecting the river corridor;

c. Achieve no net loss of ecological function; and

d. Not combine incentives to increase the allowed building height above the maximum height in the parcel's zoning district.

F. **Exemptions from Provision of On-Site Public Access.**

1. Requirements for providing on-site general public access, as distinguished from employee access, will not apply if the applicant can demonstrate one or more of the following:

a. Unavoidable health or safety hazards to the public exist such as active railroad tracks or hazardous chemicals related to the primary use that cannot be prevented by any practical means.

b. The area is limited to authorized personnel and inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions.

c. The cost of providing the access, easement or other public amenity on or off the development site is unreasonably disproportionate to the total long-term cost of the proposed development.

d. Unavoidable environmental harm or net loss of shoreline ecological functions that cannot be adequately mitigated will result from the public access.

e. Access is not feasible due to the configuration of existing parcels and structures, such that access areas are blocked in a way that cannot be remedied reasonably by the proposed development.

f. Significant undue and unavoidable conflict between the proposed access and adjacent uses would occur and cannot be mitigated.

g. Space is needed for water-dependent uses or navigation.

2. In order to meet any of the above-referenced conditions, the applicant must first demonstrate, and the City determine in its findings through a Type II decision, that all reasonable alternatives have been exhausted including, but not limited to:

a. Regulating access by such means as maintaining a gate and/or limiting hours of use;

b. Designing separation of uses and activities through fencing, terracing, hedges or other design features; or

c. Providing access on a site geographically separate from the proposal such as a street end cannot be accomplished.

3. If the above conditions are demonstrated, and the proposed development is not subject to the Parks Impact Fee, alternative provisions for meeting public access are required and include:

a. Development of public access at an adjacent street end; or

b. Protection through easement or setbacks of landmarks, unique natural features or other areas valuable for their interpretive potential; or

c. Contribution of materials and/or labor toward projects identified in the Parks and Recreation Master Plan, the Shoreline Restoration Plan, or other City adopted plan; or

d. In lieu of providing public access under this section, at the Director's discretion, a private applicant may provide restoration/enhancement of the shoreline jurisdiction to a scale commensurate with the foregone public access.

(Ord. 2627 §23, 2020)

18.44.090 Shoreline Design Guidelines

The Green/Duwamish River is an amenity that should be valued and celebrated when designing projects that will be located along its length. If any portion of a project falls within the shoreline jurisdiction, then the entire project will be reviewed under these guidelines as well as the relevant sections of the Design Review Chapter of the Zoning Code (TMC Chapter 18.60). The standards of TMC Chapter 18.60 shall guide the type of review, whether administrative or by the Board of Architectural Review.

A. The following standards apply to development, uses and activities in the Urban Conservancy and High Intensity Environments and non-residential development in the Shoreline Residential Environment.

1. **Relationship of Structure to Site.** Development within the shoreline jurisdiction shall demonstrate compliance with the following:

a. Reflect the shape of the shoreline;

b. Orient building elements to site such that public river access, both visual and physical is enhanced;

c. Orient buildings to allow for casual observation of pedestrian and trail activity from interior spaces;

d. Site and orient buildings to provide maximum views from building interiors toward the river and the shoreline;

e. Orient public use areas and private amenities towards the river;

f. Clearly allocate spaces, accommodating parking, vehicular circulation and buildings to preserve existing stands of vegetation or trees so that natural areas can be set aside, improved, or integrated into site organization and planning;

g. Clearly define and separate public from non-public spaces with the use of paving, signage, and landscaping.

2. **Building Design.** Development within the shoreline jurisdiction shall demonstrate compliance with the following:

a. To prevent building mass and shape from overwhelming the desired human scale along the river, development shall avoid blank walls on the public and river sides of buildings.

b. Buildings should be designed to follow the curve of the river and respond to changes in topography; buildings must not "turn their back" to the river.

c. Design common areas in buildings to take advantage of shoreline views and access; incorporate outdoor seating areas that are compatible with shoreline access.

d. Consider the height and scale of each building in relation to the site.

e. Extend site features such as plazas that allow pedestrian access and enjoyment of the river to the landward side of the buffer's edge.

f. Locate lunchrooms and other common areas to open out onto the water-ward side of the site to maximize enjoyment of the river.

g. Design structures to take advantage of the river frontage location by incorporating features such as:

(1) plazas and landscaped open space that connect with a shoreline trail system;

(2) windows that offer views of the river; or

(3) pedestrian entrances that face the river.

h. View obscuring fencing is permitted only when necessary for documentable use requirements and must be designed with landscaping per TMC Section 18.44.060, "Vegetation Protection and Landscaping." Other fencing, when allowed, must be designed to complement the proposed and/or existing development materials and design; and

i. Where there are public trails, locate any fencing between the site and the landward side of the shoreline trail.

3. **Design of Public Access.** Development within the shoreline jurisdiction shall demonstrate compliance with the following:

a. Public access shall be barrier free, where feasible, and designed consistent with the Americans with Disabilities Act.

b. Public access landscape design shall use native vegetation, in accordance with the standards in TMC Section 18.44.060, "Vegetation Protection and Landscaping." Additional landscape features may be required where desirable to provide public/private space separation and screening of utility, service and parking areas.

c. Furniture used in public access areas shall be appropriate for the proposed level of development, and the character of the surrounding area. For example, large urban projects should provide formal benches; for smaller projects in less-developed areas, simpler, less formal benches or suitable alternatives such as boulders are appropriate.

d. Materials used in public access furniture, structures or sites shall be:

(1) Durable and capable of withstanding exposure to the elements;

(2) Environmentally friendly and take advantage of technology in building materials, lighting, paved surfaces, porous pavement, etc, wherever practical; and

(3) Consistent with the character of the shoreline and the anticipated use.

e. Public-Private Separation.

(1) Public access facilities shall look and feel welcoming to the public, and not appear as an intrusion into private property.

(2) Natural elements such as logs, grass, shrubs, and elevation separations are encouraged as means to define the separation between public and private space.

4. **Design of Flood Walls**. The exposed new floodwalls should be designed to incorporate brick or stone facing, textured concrete block, design elements formed into the concrete or vegetation to cover the wall within 3 years of planting.

(Ord. 2627 §24, 2020)

18.44.100 Shoreline Restoration

A. **Shoreline Substantial Development Permit Not Required.** Shoreline restoration projects shall be allowed without a Shoreline Substantial Development Permit when these projects meet the criteria established by WAC 173-27-040(2)(o) and (p) and RCW 90.58.580.

B. **Changes in Shoreline Jurisdiction Due to Restoration.**

1. Relief may be granted from Shoreline Master Program standards and use regulations in cases where shoreline restoration projects result in a change in the location of the OHWM and associated Shoreline Jurisdiction on the subject property and/or adjacent properties, and where application of this chapter's regulations would preclude or interfere with the uses permitted by the underlying zoning, thus presenting a hardship to the project proponent.

a. Applications for relief, as specified below, must meet the following criteria:

(1) The proposed relief is the minimum necessary to relieve the hardship;

(2) After granting the proposed relief, there is net environmental benefit from the restoration project; and

(3) Granting the proposed relief is consistent with the objectives of the shoreline restoration project and with the Shoreline Master Program.

(4) Where a shoreline restoration project is created as mitigation to obtain a development permit, the project proponent required to perform the mitigation is not eligible for relief under the provisions of this section.

b. The Department of Ecology must review and approve applications for relief.

c. For the portion of property that moves from outside Shoreline Jurisdiction to inside Shoreline Jurisdiction as a result of the shoreline restoration project, the City may consider the following, consistent with the criteria in TMC Section 18.44.100.B.1.a.

(1) permitting development for the full range of uses of the underlying zoning consistent with the Zoning Code, including uses that are not water oriented;

(2) waiving the requirement to obtain a shoreline substantial development permit if it is otherwise exempt from the requirement for a substantial development permit;

(3) waiving the provisions for public access;

(4) waiving the requirement for shoreline design review; and

(5) waiving the development standards set forth in this chapter.

d. The intent of the exemptions identified in TMC Section 18.44.100.B.1.c.(1) through 18.44.100.B.1.c.(5) is to implement the restoration projects of the Shoreline Master Program Restoration Plan, which reflects the projects identified in the Water Resource Inventory Area (WRIA) 9 Plan pursuant to Goals and Policies 5.2 of the Tukwila Comprehensive Plan.

2. Consistent with the provisions of TMC Section 18.44.100.B.1.a, 1.b and 1.c, the Shoreline Residential Environment, High Intensity, Urban Conservancy Environment Shoreline Buffer width may be reduced to no less than 25 feet measured from the new location of the OHWM for the portion of the property that moves from outside the Shoreline Jurisdiction to inside Shoreline Jurisdiction as a result of the shoreline restoration project, subject to the following standards:

a. The 25-foot buffer area must be vegetated according to the requirements of TMC Section 18.44.060, "Vegetation Protection and Landscaping," or as otherwise approved by the City; and

b. The proponents of the restoration project are responsible for the installation and maintenance of the vegetation.

3. The habitat restoration project proponents must record with King County a survey that identifies the location of the OHWM location prior to implementation of the shoreline restoration project, any structures that fall within the Shoreline Jurisdiction, and the new location of the OHWM once construction of the shoreline restoration project is completed.

4. Shoreline restoration projects must obtain all U.S. Army Corps of Engineers and Washington State Department of Fish and Wildlife approvals as well as written approval from the City.

C. **Shoreline Restoration Building Height Incentive.**

1. Consistent with provisions in TMC Section 18.44.050.C, building heights within shoreline jurisdiction may be increased if the project proponent provides additional restoration and/or enhancement of the shoreline buffer, beyond what may otherwise be required in accordance with the standards of TMC Section 18.44.060, "Vegetation Protection and Landscaping." Additional restoration and/or enhancement shall include:

a. creation of shallow-water (maximum slope 5H:1V) off channel rearing habitat and/or

b. removal of fish passage barriers to known or potential fish habitat, and restoration of the barrier site.

(Ord. 2627 §25, 2020)

18.44.110 Administration

A. **Applicability of Shoreline Master Program and Substantial Development Permit.**

1. **Development in the Shoreline Jurisdiction.** Based on guidelines in the Shoreline Management Act (SMA) for a Minimum Shoreline Jurisdiction, Tukwila's Shoreline Jurisdiction is defined as follows: The Tukwila Shoreline Jurisdiction includes the channel of the Green/Duwamish River, its banks, the upland area which extends from the OHWM landward for 200 feet on each side of the river, floodways and all associated wetlands within its floodplain. The floodway shall not include those lands that have historically been protected by flood control devices and therefore have not been subject to flooding with reasonable regularity.

2. **Applicability.** The Tukwila SMP applies to uses, change of uses, activities or development that occurs within the above-defined Shoreline Jurisdiction. All proposed uses and development occurring within the Shoreline Jurisdiction must conform to Chapter 90.58 RCW, the SMA, and this chapter whether or not a permit is required.

B. **Relationship to Other Codes and Regulations.**

1. Compliance with this Master Program does not constitute compliance with other federal, state, and local regulations and permit requirements that may apply. The applicant is responsible for complying with all other applicable requirements.

2. Where this Master Program makes reference to any RCW, WAC, or other state or federal law or regulation, the most recent amendment or current edition shall apply.

3. In the case of any conflict between any other federal, state, or local law and this Master Program, the provision that is most protective of shoreline resources shall prevail, except when constrained by federal or state law, or where specifically provided in this Master Program.

4. **Relationship to Critical Areas Regulations:**

(a) For protection of critical areas where they occur in shoreline jurisdiction, this Master Program adopts by reference the City's Critical Areas Ordinance, which is incorporated into this Master Program with specific exclusions and modifications in TMC Section 18.44.070.

(b) All references to the Critical Areas Ordinance are for the version adopted March 2, 2020. Pursuant to WAC 173-26-191(2)(b), amending the referenced regulations in the Master Program for those critical areas under shoreline jurisdiction will require an amendment to the Master Program and approval by the Department of Ecology.

(c) Within shoreline jurisdiction, the Critical Areas Ordinance shall be liberally construed together with this Master Program to give full effect to the objectives and purposes of the provisions of this Master Program and Chapter 90.58 RCW.

C. **Developments not required to obtain shoreline permits or local reviews.** Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following as described in WAC 173-27-044 and WAC 173-27-045:

1. **Remedial actions.** Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to Chapter 70.105D RCW, or to the Department of Ecology when it conducts a remedial action under Chapter 70.105D RCW.

2. **Boatyard improvements to meet NPDES permit requirements.** Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit.

3. **WSDOT facility maintenance and safety improvements.** Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other local review.

4. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.

5. Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.

D. **Substantial Development Permit Requirements.**

1. **Permit Application Procedures.** Applicants for a Shoreline Substantial Development Permit shall comply with permit application procedures in TMC Chapter 18.104.

2. **Exemptions.**

a. To qualify for an exemption, the proposed use, activity or development must meet the requirements for an exemption as described in WAC 173-27-040, except for properties that meet the requirements of the Shoreline Restoration Section, TMC Section 18.44.100. The purpose of a shoreline exemption is to provide a process for uses and activities which do not trigger the need for a Substantial Development Permit, but require compliance with all provisions of the City's SMP and overlay district.

b. The Director may impose conditions to the approval of exempted developments and/or uses as necessary to assure compliance of the project with the SMA and the Tukwila SMP, per WAC 173-27-040(e). For example, in the case of development subject to a building permit but exempt from the shoreline permit process, the Building Official or other permit authorizing official, through consultation with the Director, may attach shoreline management terms and conditions to building permits and other permit approvals pursuant to RCW 90.58.140.

3. A substantial development permit shall be granted only when the development proposed is consistent with:

a. The policies and procedures of the Shoreline Management Act;

b. The provisions of Chapter 173-27 WAC; and

c. This Shoreline Master Program.

E. **Shoreline Conditional Use Permit.**

1. **Purpose.** As stated in WAC 173-27-160, the purpose of a Conditional Use Permit (CUP) is to allow greater flexibility in the application of use regulations of this chapter in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by the City or the Department of Ecology to prevent undesirable effects of the proposed use and/or assure consistency of the project with the SMA and the City's SMP. Uses which are specifically prohibited by the Shoreline Master Program shall not be authorized with approval of a CUP.

2. **Application.** Shoreline Conditional Use Permits are a Type 3 Permit processed under TMC Chapter 18.104.

3. **Application requirements.** Applicants must meet all requirements for permit application and approvals indicated in TMC Chapter 18.104 and this chapter.

4. **Approval Criteria.**

a. Uses classified as shoreline conditional uses may be authorized, provided that the applicant can demonstrate all of the following:

(1) The proposed use will be consistent with the policies of RCW 90.58.020 and the policies of the Tukwila Shoreline Master Program;

(2) The proposed use will not interfere with the normal public use of public shorelines;

(3) The proposed use of the site and design of the project will be compatible with other permitted uses within the area and with uses planned for the area under the Comprehensive Plan and this chapter;

(4) The proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and

(5) The public interest suffers no substantial detrimental effect.

b. In the granting of all Conditional Use Permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if Conditional Use Permits were granted to other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of Chapter 90.58 RCW and all local ordinances and shall not produce substantial adverse effects to the shoreline environment.

F. **Shoreline Variance Permits.**

1. **Purpose.** The purpose of a Shoreline Variance Permit is strictly limited to granting relief from specific bulk, dimensional, or performance standards set forth in this chapter where there are extraordinary or unique circumstances relating to the physical character or configuration of property such that the strict implementation of this chapter will impose unnecessary hardships on the applicant or thwart the Shoreline Management Act policies as stated in RCW 90.58.020. Reasonable use requests that are located in the shoreline must be processed as a variance, until such time as the Shoreline Management Act is amended to establish a process for reasonable uses. Variances from the use regulations of this chapter are prohibited.

2. **Application requirements.** Applicants must meet all requirements for a Type 3 permit application and approvals indicated in TMC Chapter 18.104.

3. Shoreline Variance Permits should be granted in circumstances where denial of a permit would result in inconsistencies with the policies of the Shoreline Management Act (RCW 90.58.020). In all instances, the applicant must demonstrate that extraordinary circumstances exist and the public interest will suffer no substantial detrimental effect.

4. **Shoreline Variance Permits Landward of OHWM and Landward of Wetlands.** A Shoreline Variance Permit for a use, activity or development that will be located landward of the ordinary high water mark and/or landward of any wetland may be authorized provided the applicant can demonstrate all of the following:

a. The strict application of the bulk, dimensional, or performance standards set forth in this chapter preclude or significantly interfere with a reasonable use of the property not otherwise prohibited by this chapter.

b. The hardship for which the applicant is seeking the variance is specifically related to the property and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of this chapter, and not from the owner's own actions or deed restrictions; and that the variance is necessary because of these conditions in order to provide the owner with use rights and privileges permitted to other properties in the vicinity and zone in which the property is situated.

c. The design of the project will be compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and SMP and will not cause adverse impacts to adjacent properties or the shoreline environment.

d. The variance will not constitute a grant of special privilege not enjoyed by other properties in the area.

e. The variance is the minimum necessary to afford relief.

f. The public interest will suffer no substantial detrimental effect.

g. In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area such that the total of the variances would remain consistent with RCW 90.58.020 and not cause substantial adverse effects to the shoreline environment.

5. **Shoreline Variance Permits Waterward of OHWM or Within Critical Areas.**

a. Shoreline Variance Permits for development and/or uses that will be located either waterward of the ordinary high water mark or within any critical area may be authorized only if the applicant can demonstrate all of the following:

(1) The strict application of the bulk, dimensional or performance standards set forth in this Master Program preclude all reasonable permitted use of the property;

(2) The proposal is consistent with the criteria established under TMC Section 18.44.110.F.4., "Approval Criteria;" and

(3) The public rights of navigation and use of the shorelines will not be adversely affected by the granting of the variance.

G. **Non-Conforming Development.**

1. **Non-Conforming Uses.** Any non-conforming lawful use of land that would not be allowed under the terms of this chapter may be continued as an allowed, legal, non-conforming use, defined in TMC Chapter 18.06 or as hereafter amended, so long as that use remains lawful, subject to the following:

a. No such non-conforming use shall be enlarged, intensified, increased, moved or extended to occupy a greater use of the land, structure or combination of the two, than was occupied at the effective date of adoption of this chapter except as authorized in TMC Section 18.66.120 or upon approval of a conditional use permit.

b. If any such non-conforming use ceases for any reason for a period of more than 24 consecutive months, the non-conforming rights shall expire and any subsequent use shall conform to the regulations specified in this chapter for the shoreline environment in which such use is located, unless re-establishment of the use is authorized through a Shoreline Conditional Use Permit, which must be applied for within the two-year period when the non-conforming use ceases to exist. Water-dependent uses should not be considered discontinued when they are inactive due to dormancy, or where the use is typically seasonal. Upon request of the owner, prior to the end of the 24 consecutive months and upon reasonable cause shown, the City may grant an extension of time beyond the 24 consecutive months using the criteria set forth in TMC Section 18.44.110.G.4.

c. If a change of use is proposed to a use determined to be non-conforming by application of provisions in this chapter, the proposed new use must be a permitted use in this chapter or a use approved under a Type 2 permit with public notice process. For purposes of implementing this section, a change of use constitutes a change from one permitted or conditional use category to another such use category as listed within the Shoreline Use Matrix.

d. A structure that is being or has been used for a non-conforming use may be used for a different non-conforming use only upon the approval of a Type 2 permit subject to public notice. Before approving a change in non-conforming use, the following findings must be made:

(1) No reasonable alternative conforming use is practical.

(2) The proposed use will be at least as consistent with the policies and provisions of the SMP and as compatible with the uses in the area as the non-conforming use.

(3) The use or activity is enlarged, intensified, increased or altered only to the minimum amount necessary to achieve the intended functional purpose.

(4) The structure(s) associated with the non-conforming use shall not be expanded in a manner that increases the extent of the non-conformity.

(5) The change in use will not create adverse impacts to shoreline ecological functions and/or processes.

(6) The applicant restores and/or enhances the entire shoreline buffer, including but not limited to, paved areas no longer in use on the property, to offset the impact of the change of use per the vegetation management standards of this chapter. This may include the restoration of paved areas to vegetated area if no longer in use.

(7) The preference is to reduce exterior uses in the buffer to the maximum extent possible.

2. **Non-Conforming Structures.** Where a lawful structure exists on the effective date of adoption of this chapter that could not be built under the terms of this chapter by reason of restrictions on height, buffers or other characteristics of the structure, it may be continued as an allowed, legal structure so long as the structure remains otherwise lawful subject to the following provisions:

a. Such structures may be repaired, maintained, upgraded and altered provided that:

(1) The structure may not be enlarged or altered in such a way that increases its degree of nonconformity or increases its impacts to the functions and values of the shoreline environment except as authorized in TMC Section 18.66.120; and

(2) If the structure is located on a property that has no reasonable development potential outside the shoreline buffer, there shall be no limit on the cost of alterations, provided the applicant restores and/or enhances the shoreline buffer from above the Ordinary High Water Mark to at least 12 feet landward of the top of the slope along the entire length of the subject property to meet the vegetation management standards of this chapter (TMC Section 18.44.060). If the structure is located on a property that has reasonable development potential outside the shoreline buffer, the cost of the alterations may not exceed an aggregate cost of 50% of the value of the building or structure in any 3-year period based upon its most recent assessment, unless the amount over 50% is used to make the building or structure more conforming, or is used to restore to a safe condition any portion of a building or structure declared unsafe by a proper authority.

(3) Maintenance or repair of an existing private bridge is allowed without a conditional use permit when it does not involve the use of hazardous substances, sealants or other liquid oily substances.

b. Should such structure be destroyed by any accidental means, the structure may be reconstructed to its original dimensions and location on the lot provided application is made for permits within two years of the date the damage occurred and all reconstruction is completed within two years of permit issuance. In the event the property is redeveloped, such redevelopment must be in conformity with the provisions of this chapter.

c. Should such structure be moved for any reason or any distance, it must be brought as closely as practicable into conformance with the applicable master program and the act.

d. When a non-conforming structure, or structure and premises in combination, is vacated or abandoned for 24 consecutive months, the structure, or structure and premises in combination, shall thereafter be required to be in conformance with the regulations of this chapter. Upon request of the owner, prior to the end of the 24 consecutive months and upon reasonable cause shown an extension of time beyond the 24 consecutive months may be granted using the criteria in TMC Section 18.44.110.G.4.

e. Residential structures located in any Shoreline Residential Environment and in existence at the time of adoption of this chapter shall not be deemed nonconforming in terms of height, residential use, or location provisions of this title. Such buildings may be rebuilt after a fire or other natural disaster to their original dimensions, location and height, but may not be changed except as provided in the non-conforming uses section of this chapter.

f. Single-family structures in the Shoreline Residential Environment that have legally non-conforming setbacks from the OHWM per the shoreline buffer shall be allowed to expand the ground floor only along the existing building line(s) as long as the existing distance from the nearest point of the structure to the OHWM is not reduced and the square footage of new intrusion into the buffer does not exceed 50% of the square footage of the current intrusion. As a condition of building permit approval, a landscape plan showing removal of invasive plant species within the entire shoreline buffer and replanting with appropriate native species must be submitted to the City. Plantings should be maintained through the establishment period.

3. For the purposes of this section, altered or partially reconstructed is defined as work that does not exceed 50% of the assessed valuation of the building over a three-year period.

4. **Requests for Time Extension—Non-conforming Uses and Structures.**

a. A property owner may request, prior to the end of the two-year period, an extension of time beyond the two-year period. Such a request shall be considered as a Type 2 permit under TMC Chapter 18.104 and may be approved only when:

(1) For a non-conforming use, a finding is made that no reasonable alternative conforming use is practical;

(2) For a non-conforming structure, special economic circumstances prevent the lease or sale of said structure within 24 months; and

(3) The applicant restores and/or enhances the shoreline buffer on the property to offset the impact of the continuation of the non-conforming use. For non-conforming uses, the amount of buffer to be restored and/or enhanced will be determined based on the percentage of the existing building used by the non-conforming use for which a time extension is being requested. Depending on the size of the area to be restored and/or enhanced, the Director may require targeted plantings rather than a linear planting arrangement. The vegetation management standards of TMC Section 18.44.060 shall be used for guidance on any restoration/enhancement. For non-conforming structures, for each six-month extension of time requested, 15% of the available buffer must be restored/enhanced.

b. Conditions may be attached to the City-approved extension that are deemed necessary to assure compliance with the above findings, the requirements of the Shoreline Master Program and the Shoreline Management Act and to assure that the use will not become a nuisance or a hazard.

5. **Building Safety.** Nothing in this SMP shall be deemed to prevent the strengthening or restoring to a safe condition of any non-conforming building or part thereof declared to be unsafe by order of any City official charged with protecting the public safety.

a. Alterations or expansion of a non-conforming structure that are required by law or a public agency in order to comply with public health or safety regulations are the only alterations or expansions allowed.

b. Alterations or expansions permitted under this section shall be the minimum necessary to meet the public safety concerns.

6. **Non-Conforming Parking Lots.**

a. Parking lot regulations contained in this chapter shall not be construed to require a change in any aspect of a structure or facility that existed on the date of adoption of this chapter covered thereunder including parking lot layout, loading space requirements and curb-cuts, except as necessary to meet vegetation protection and landscaping standards consistent with TMC Section 18.44.110.G.7.

b. If a change of use takes place or an addition is proposed that requires an increase in the parking area by an increment less than 100%, the requirements of this chapter shall be complied with for the additional parking area.

c. If a property is redeveloped, a change of use takes place or an addition is proposed that requires an increase in the parking area by an increment greater than 100%, the requirements of this chapter shall be complied with for the entire parking area. An existing non-conforming parking lot, which is not otherwise subject to the requirements of this chapter, may be upgraded to improve water quality or meet local, state, and federal regulations provided the upgrade does not result in an increase in non-conformity.

d. The area beneath a non-conforming structure may be converted to a contiguous parking lot area if the non-conforming structure is demolished and only when the contiguous parking is accessory to a legally established use. The converted parking area must be located landward of existing parking areas.

7. **Non-Conforming Landscape Areas.**

a. Adoption of the vegetation protection and landscaping regulations contained in this chapter shall not be construed to require a change in the landscape improvements for any legal landscape area that existed on the date of adoption of this chapter, unless and until the property is redeveloped or alteration of the existing structure is made beyond the thresholds provided herein.

b. At such time as the property is redeveloped or the existing structure is altered beyond the thresholds provided herein and the associated premises does not comply with the vegetation protection and landscaping requirements of this chapter, a landscape plan that conforms to the requirements of this chapter shall be submitted to the Director for approval.

H. **Revisions to Shoreline Permits.** Revisions to previously issued shoreline permits shall be reviewed under the SMP in effect at the time of submittal of the revision, and not the SMP under which the original shoreline permit was approved and processed in accordance with WAC 173-27-100.

I. **Time Limits on Shoreline Permits.**

1. Consistent with WAC 173-27-090, shoreline permits are valid for two years, and the work authorized under the shoreline permit must be completed in five years. Construction activity must begin within this two-year period. If construction has not begun within two years, a one-time extension of one year may be approved by the Director based on reasonable factors. The permit time period does not include the time during which administrative appeals or legal actions are pending or due to the need to obtain any other government permits and approvals for the project.

2. Upon a finding of good cause, based on the requirements and circumstances of a proposed project, and consistent with the City's Shoreline Master Program, the City may adopt a different time limit for a shoreline substantial development permit as part of an action on a shoreline substantial development permit.

(Ord. 2678 §11 and §12, 2022; Ord. 2627 §26, 2020)

18.44.120 Appeals

Any person aggrieved by the granting, denying, or rescinding of a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance may seek review from the Shorelines Hearings Board by filing a petition for review within 21 days of the date of filing of the decision as provided in RCW 90.58.140(6).

(Ord. 2627 §27, 2020)

18.44.130 Enforcement and Penalties

A. **Violations.** The following actions shall be considered violations of this chapter:

1. To use, construct or demolish any structure, or to conduct clearing, earth-moving, construction or other development not authorized under a Substantial Development Permit, Conditional Use Permit or Variance Permit, where such permit is required by this chapter.

2. Any work which is not conducted in accordance with the plans, conditions, or other requirements in a permit approved pursuant to this chapter, provided that the terms or conditions are stated in the permit or the approved plans.

3. To remove or deface any sign, notice, complaint or order required by or posted in accordance with this chapter.

4. To misrepresent any material fact in any application, plans or other information submitted to obtain any shoreline use or development authorization.

5. To fail to comply with the requirements of this chapter.

B. **Enforcement.** This chapter shall be enforced subject to the terms and conditions of TMC Chapter 8.45.

C. **Inspection Access.**

1. For the purpose of inspection for compliance with the provisions of a permit or this chapter, authorized representatives of the Director may enter all sites for which a permit has been issued.

2. Upon completion of all requirements of a permit, the applicant shall request a final inspection by contacting the planner of record. The permit process is complete upon final approval by the planner.

D. **Penalties.**

1. Any violation of any provision of the SMP, or failure to comply with any of the requirements of this chapter shall be subject to the penalties prescribed in TMC Chapter 8.45 of the Tukwila Municipal Code ("Enforcement") and shall be imposed pursuant to the procedures and conditions set forth in that chapter.

2. Penalties assessed for violations of the SMP shall be determined by TMC Chapter 8.45.120, Penalties.

3. It shall not be a defense to the prosecution for failure to obtain a permit required by this chapter, that a contractor, subcontractor, person with responsibility on the site, or person authorizing or directing the work, erroneously believed a permit had been issued to the property owner or any other person.

4. **Penalties for Tree Removal:**

a. Each unlawfully removed or damaged tree shall constitute a separate violation.

b. The amount of the penalty shall be $1,000 per tree or up to the marketable value of each tree removed or damaged as determined by an ISA certified arborist. The Director may elect not to seek penalties or may reduce the penalties if he/she determines the circumstances do not warrant imposition of any or all of the civil penalties.

c. Any illegal removal of required trees shall be subject to obtaining a tree permit and replacement with trees that meet or exceed the functional value of the removed trees. In addition, any shrubs and groundcover removed without City approval shall be replaced.

d. To replace the tree canopy lost due to the tree removal, additional trees must be planted on-site. Payment may be made into the City's Tree Fund if the number of replacement trees cannot be accommodated on-site. The number of replacement trees required will be based on the size of the tree(s) removed as stated in TMC Section 18.44.060.B.4.

E. **Remedial Measures Required.** In addition to penalties provided in TMC Chapter 8.45, the Director may require any person conducting work in violation of this chapter to mitigate the impacts of unauthorized work by carrying out remedial measures.

1. Remedial measures must conform to the policies and guidelines of this chapter and the Shoreline Management Act.

2. The cost of any remedial measures necessary to correct violation(s) of this chapter shall be borne by the property owner and/or applicant.

F. **Injunctive Relief.**

1. Whenever the City has reasonable cause to believe that any person is violating or threatening to violate this chapter or any rule or other provisions adopted or issued pursuant to this chapter, it may, either before or after the institution of any other action or proceeding authorized by this ordinance, institute a civil action in the name of the City for injunctive relief to restrain the violation or threatened violation. Such action shall be brought in King County Superior Court.

2. The institution of an action for injunctive relief under this section shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violations of the Master Program.

G. **Abatement.** Any use, structure, development or work that occurs in violation of this chapter, or in violation of any lawful order or requirement of the Director pursuant to this section, shall be deemed to be a public nuisance and may be abated in the manner provided by the TMC Section 8.45.100.

(Ord. 2627 §28, 2020)

18.44.140 Liability

No provision of or term used in this chapter is intended to impose any duty upon the City or any of its officers or employees that would subject them to damages in a civil action.

(Ord. 2627 §29, 2020)

CHAPTER 18.45
ENVIRONMENTALLY CRITICAL AREAS

Sections:

18.45.010 Purpose

A. The purpose of TMC Chapter 18.45 is to protect the environment, human life and property; to designate and classify ecologically critical areas including but not limited to regulated wetlands and watercourses and geologically hazardous areas and to protect these critical areas and their functions while also allowing for reasonable use of public and private property. These regulations are prepared to comply with the Growth Management Act, RCW 36.70A, to apply best available science according to WAC 365-195-900 through 925 and to protect critical areas as defined by WAC 365-190-080.

B. Standards are hereby established to meet the following goals of protecting environmentally critical areas:

1. Minimize developmental impacts on the natural functions of these areas.

2. Protect quantity and quality of water resources.

3. Minimize turbidity and pollution of wetlands and fish-bearing waters and maintain wildlife habitat.

4. Prevent erosion and the loss of slope and soil stability caused by the removal of trees, shrubs, and root systems of vegetative cover.

5. Protect the public against avoidable losses, public emergency rescue and relief operations cost, and subsidy cost of public mitigation from landslide, subsidence, erosion and flooding.

6. Protect the community's aesthetic resources and distinctive features of natural lands and wooded hillsides.

7. Balance the private rights of individual property owners with the preservation of environmentally critical areas.

8. Prevent the loss of wetland and watercourse function and acreage, and strive for a gain over present conditions.

9. Give special consideration to conservation or protection measures necessary to protect or enhance anadromous fisheries.

10. Incorporate the use of best available science in the regulation and protection of critical areas as required by the State Growth Management Act, according to WAC 365-195-900 through 365-195-925 and WAC 365-190-080.

(Ord. 2625 §21, 2020)

18.45.020 Best Available Science

A. Policies, regulations and decisions concerning critical areas shall rely on best available science to protect the functions of these areas and must give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish and their habitats.

B. Nonscientific information may supplement scientific information, but is not an adequate substitution for valid and available scientific information.

C. Incomplete or unavailable scientific information leading to uncertainty for permitting critical area impacts may require application of effective adaptive management on a case by case basis. Adaptive management relies on scientific methods to evaluate how well regulatory or non-regulatory actions protect critical areas or replace their functions.

(Ord. 2625 §22, 2020)

18.45.030 Critical Area Applicability, Maps, and Inventories

A. **APPLICABILITY.** The provisions of TMC Chapter 18.45 shall apply to all land uses and all development activities in a critical area or a critical area buffer as defined in the "Definitions" chapter of this title. The provisions of TMC Chapter 18.45 apply whether or not a permit or authorization is required within the City of Tukwila. No person, company, agency, or applicant shall alter a critical area or buffer except as consistent with the purposes and requirements of TMC Chapter 18.45. The following are critical areas regulated by TMC Chapter 18.45:

1. Coal Mine Hazard Areas;

2. Areas of potential geologic instability: Class 2, 3, 4 areas (as defined in the Definitions chapter of this title and TMC Section 18.45.120.A);

3. Wetlands;

4. Watercourses;
5. Fish and Wildlife Habitat Conservation Areas; and
6. Special Hazard Flood Areas (see TMC Chapter 16.52 for additional regulations).

B. Areas of seismic instability are identified as critical areas by the Growth Management Act and are defined and regulated through the Washington State Building Code.

C. In the event of a conflict between this TMC Chapter 18.45 and any other laws, regulations, ordinances or restrictive covenants, the provision that imposes greater restrictions or higher standards upon the development or use of land shall prevail.

D. **CRITICAL AREAS MAPS AND INVENTORIES**.

1. The distribution of many critical areas and potential critical areas in Tukwila is displayed on the Critical Areas Maps, on file with the Department of Community Development (DCD). These maps are based on site assessment of current conditions and review of the best available scientific data and are hereby adopted by reference. Not all critical areas are shown on the map. Thus it is the responsibility of property owners and applicants to verify actual presence or absence of a critical area or critical area buffer based on the definitions in this code. Applicant is also responsible for delineation and categorization of potential wetland based on methodology required under TMC Section 18.45.080 and verifying that watercourse typing and location is consistent with TMC Section 18.45.100.

2. Studies, preliminary inventories and ratings of potential critical areas are on file with the Department of Community Development.

3. As new environmental information related to critical areas becomes available, the Director is hereby designated to periodically add, remove, or alter new information to the Critical Areas Maps. Removal of any information from the Critical Areas Maps is a Type 1 decision as described in TMC Chapter 18.108.

(Ord. 2625 §23, 2020)

18.45.040 Critical Area Special Studies

A. **Application Required.** An applicant for a development proposal within a parcel that may include a critical area and/or its buffer shall submit those studies as required by the City and specified within this section to adequately identify and evaluate the critical area and its buffers.

1. A required critical area study shall be prepared by a person with experience and training in the scientific discipline appropriate for the relevant critical area as outlined within this section and in accordance with WAC 365-195-905(4). A qualified professional must have obtained a B.S. or B.A. or equivalent degree in ecology or related science, environmental studies, fisheries, geotechnical or related field, and two years of related work experience.

a. A qualified professional for Fish and Wildlife Habitat Conservation Areas must have a degree in ecology or related sciences and professional experience related to the subject species.

b. A qualified professional for wetland critical area studies must be a certified Professional Wetland Scientist or a Wetland Scientist with at least two years of full-time work experience as a wetlands professional, including delineating wetlands using the approved federal manual and applicable regional supplements, preparing wetland reports, conducting functional assessments, and developing and implementing mitigation plans.

c. A qualified professional for a geological hazard study must be a professional geotechnical engineer as defined in the Definitions chapter of this title, licensed in the state of Washington.

d. A qualified professional for watercourses and frequently flooded areas means a hydrologist, fisheries biologist, engineer or other scientist with experience in preparing watercourse assessments.

2. The critical area study shall use scientifically valid methods and studies in the analysis of critical area data and shall use field reconnaissance and reference the source of science used. The critical area study shall evaluate the proposal and all probable impacts to critical areas.

B. **Wetland and Watercourse Critical Area Studies.** Wetland and watercourse special studies are valid for five years following the date of the study, unless otherwise determined by the Director. The critical area study shall contain the following information, as applicable:

1. The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;

2. A copy of the site plan for the development proposal showing: critical areas and buffers and the development proposal with dimensions, clearing limits, proposed storm water management plan, and mitigation plan for impacts due to drainage alterations;

3. The dates, names and qualifications of the persons preparing the study and documentation of any fieldwork performed on the site;

4. Identification and characterization of all critical areas, water bodies, and buffers on or adjacent to the proposed project area or potentially impacted by the proposed project as described in the following sections:

a. Characterization of wetlands must include:

(1) A wetland delineation report that includes methods used, field indicators evaluated and the results. Wetland delineation must be performed in accordance with approved federal wetland delineation manual and current applicable regional supplements. Field data forms are to be included in the report. Data collection points are to be shown on the site plan with their corresponding numbers indicated. After the City of Tukwila confirms the boundaries, they are to be professionally surveyed to the nearest square foot and the site plan modified as necessary to incorporate the survey data. Exact wetland acreage will be calculated after the boundaries have been surveyed. Applicant must submit electronic survey data in Autocad, GIS or similar format at the time of as-built submittal.

(2) Cowardin (Classification of Wetlands and Deepwater Habitats of the U.S. – U.S. Department of Interior) classification of the wetland(s).

(3) Hydrogeomorphic classification of the wetland(s).

(4) Hydroperiod.

(5) Brief landscape assessment of the wetland (identify hydrologic basin/sub-basin; inlets, outlets; surrounding land use; habitat quality and connectivity; ultimate point of discharge; presence of culverts or other constraints to flow; relationship to other wetlands/watercourses adjacent to or potentially impacted by the proposed project).

(6) Description of buffer size per this chapter, conditions (topographic considerations, existing vegetation types and density, habitat features, watercourse edges, presence of invasive species, etc.) and functions.

(7) ***Assessment.*** For proposed wetland filling or proposed projects that will impact buffers, the most current Washington Wetland Classification System shall be used as a functional assessment.

b. Characterization of the watercourses on site, adjacent to or potentially impacted by the proposed project must include:

(1) Description of: flow regime, physical characteristics of streambed, banks, dimensions and bank-full width, stream gradient, stream and buffer vegetation conditions, habitat conditions, and existing modifications.

(2) Brief landscape assessment of the watercourse (identify hydrologic basin/sub-basin, and contributing basin area acreage, outlets, surrounding land use, habitat quality and connectivity, ultimate point of discharge, presence of culverts or other constraints to flow, presence of man-made or natural barriers to fish passage, relationship to wetlands or other watercourses adjacent to or potentially impacted by the proposed project, flow regime).

(3) Classification of the watercourse under Tukwila's rating system.

(4) Description of buffer size per this chapter, conditions (topographic considerations, existing vegetation types and density, habitat features, watercourse edges, presence of invasive species, etc.) and functions.

(5) Description of habitat conditions, wildlife/fish use of the watercourse, including sensitive, threatened or endangered species.

c. Citation of any literature or other resources utilized in preparation of the report.

5. A statement specifying the accuracy of the study and assumptions used in the study.

6. Determination of the degree of hazard and risk from the proposal both on the site and on adjacent properties.

7. An assessment of the probable cumulative impacts to critical areas, their buffers and other properties resulting from the proposal.

8. A description of reasonable efforts made to apply mitigation sequencing to avoid, minimize and mitigate impacts to critical areas.

9. Plans for adequate mitigation to offset any impacts.

10. Recommendations for maintenance, short-term and long-term monitoring, contingency plans and bonding measures.

11. Any technical information required by the Director to assist in determining compliance with this chapter.

C. **Geotechnical Report.**

1. A geotechnical report appropriate both to the site conditions and the proposed development shall be required for development in Class 2, Class 3, Class 4 areas, and any areas identified as Coal Mine Hazard Areas.

2. Geotechnical reports for Class 2 areas shall include at a minimum a site evaluation review of available information regarding the site and a surface reconnaissance of the site and adjacent areas potentially impacted by the proposed project. Subsurface exploration of site conditions is at the discretion of the geotechnical consultant.

3. Geotechnical reports for Class 3, Class 4 and Coal Mine Hazard Areas shall include a site evaluation review of available information about the site, a surface reconnaissance of the site and adjacent areas potentially impacted by the proposed project, a feasibility analysis for the use of infiltration on-site and a subsurface exploration of soils and hydrology conditions. Detailed slope stability analysis shall be done if the geotechnical engineer recommends it in Class 3 or Coal Mine Hazard Areas, and must be done in Class 4 areas.

4. Applicants shall retain a geotechnical engineer to prepare the reports and evaluations required in this subsection. The geotechnical report and completed site evaluation checklist shall be prepared in accordance with the generally accepted geotechnical practices, under the supervision of and signed and stamped by the geotechnical engineer. The report shall be prepared in consultation with the Community Development and Public Works Departments.

5. The opinions and recommendations contained in the report shall be supported by field observations and, where appropriate or applicable, by literature review conducted by the geotechnical engineer, which shall include appropriate explorations, such as borings or test pits, and an analysis of soil characteristics conducted by or under the supervision of the engineer in accordance with standards of the American Society of Testing and Materials or other applicable standards. If the evaluation involves geologic evaluations or interpretations, the report shall be reviewed and approved by a geotechnical engineer.

D. **Critical Area Study – Modifications to Requirements.**

1. The Director may limit the required geographic area of the critical area study as appropriate if the applicant, with assistance from the City, cannot obtain permission to access properties adjacent to the project area.

2. The Director may allow modifications to the required contents of the study where, in the judgment of a qualified

professional, more or less information is required to adequately address the potential critical area impacts and required mitigation.

E. **Review of Studies.** The Department of Community Development will review and verify the information submitted in the critical area study to confirm the nature and type of the critical area. The Public Works Department shall seek a peer review of the geotechnical report on Class 3 and 4 slopes; and peer review on Class 2 slopes may be required at the discretion of the Public Works Director. Peer review of the geotechnical reports shall be at the expense of the applicants. For all other critical areas and at the discretion of the Director, critical area studies may undergo peer review, at the expense of the applicant.

(Ord. 2625 §24, 2020)

18.45.070 Critical Area Permitted Activities

A. **Outright Permitted Activities.** The following activities are outright permitted subject to the provisions of TMC Chapter 21.04 and of the mitigation requirements of this chapter, if applicable:

1. Maintenance and repair of existing facilities provided no alteration or additional fill materials will be placed or heavy construction equipment used in the critical area or buffer.

2. Site exploration or research that does not include use of heavy equipment or native vegetation removal.

3. Maintenance and repair of essential streets, roads, rights-of-way, or utilities, and placement, maintenance, and repair of new fiberoptic utilities within existing improved and paved roads.

4. Actions to remedy the effects of emergencies that threaten the public health, safety or welfare.

5. Maintenance activities of existing landscaping and gardens in a critical area buffer including, but not limited, to mowing lawns, weeding, harvesting and replanting of garden crops and pruning and planting of vegetation. This provision does not apply to removal of established native trees and shrubs, or to the excavation, filling, and construction of new landscaping features, such as concrete work, berms and walls.

6. Voluntary native revegetation and/or removal of invasive species that does not include use of heavy equipment. The use of herbicide by a licensed contractor with certification as needed from the Washington Department of Ecology and the Washington Department of Agriculture is permitted but requires notification prior to application to the City and shall comply with TMC Section 18.45.158.E.3

B. **Permitted Activities Subject to Administrative Review.** The following uses may be permitted only after administrative review and approval of a Type 2 Special Permission application by the Director:

1. Maintenance and repair of existing uses and facilities where alteration or additional fill materials will be placed or heavy construction equipment used in the critical area or buffer.

2. New surface water discharges to critical areas or their buffers from detention facilities, pre-settlement ponds or other surface water management structures may be allowed provided that the discharge meets the clean water standards of RCW 90.48 and WAC 173-200 and 173-201A as amended, and does not adversely affect wetland hydrology or watercourse flow. Water quality monitoring may be required as a condition of use.

3. Construction of bioswales and dispersion trenches are the only stormwater facilities allowed in wetland or watercourse buffers. Water quality monitoring may be required as a condition of use.

4. Enhancement or other mitigation including landscaping with native plants that requires heavy equipment.

5. Construction or maintenance of essential utilities if designed to protect the critical area and its buffer against erosion, uncontrolled storm water, restriction of groundwater movement, slides, pollution, habitat disturbance, any loss of flood carrying capacity and storage capacity, and excavation or fill detrimental to the environment.

6. Construction or maintenance of essential public streets, roads and rights-of-way as defined by TMC Section 18.06.285, provided the following criteria are met:

a. Are designed and maintained to prevent erosion and avoid restricting the natural movement of groundwater.

b. Are located to conform to the topography so that minimum alteration of natural conditions is necessary. The number of crossings shall be limited to those necessary to provide essential access.

c. Are constructed in a way that does not adversely affect the hydrologic quality of the wetland or watercourse and/or its buffer. Where feasible, crossings must allow for combination with other essential utilities.

7. ***Public/Private Use and Access.***

a. Public and private access shall be limited to trails, boardwalks, covered or uncovered viewing and seating areas, footbridges only if necessary for access to other areas of the property, and displays (such as interpretive signage or kiosks), and must be located in areas that have the lowest sensitivity to human disturbance or alteration. Access features shall be the minimum dimensions necessary to avoid adverse impacts to the critical area. Trails shall be no wider than 5 feet and are only allowed in the outer 25 percent of the buffer, except for allowed wetland or stream crossings. Crossings and trails must be designed to avoid adverse impacts to critical area functions. The Director may require mechanisms to limit or control public access when environmental conditions warrant (such as temporary trail closures during wildlife breeding season or migration season).

b. Public access must be specifically developed for interpretive, educational or research purposes by, or in cooperation with, the City or as part of the adopted Tukwila Parks and Open Space Plan. Private footbridges are allowed only for access across a critical area that bisects the property.

c. No motorized vehicle is allowed within a critical area or its buffer except as required for necessary maintenance, agricultural management or security.

d. Any public access or interpretive displays developed along a critical area and its buffer must, to the extent possible, be connected with a park, recreation or open-space area.

e. Vegetative edges, structural barriers, signs or other measures must be provided wherever necessary to protect critical areas and their buffers by limiting access to designated public use or interpretive areas.

f. Access trails and footbridges must incorporate design features and materials that protect water quality and allow adequate surface water and groundwater movement. Trails must be built of permeable materials.

g. Access trails and footbridges must be located where they do not disturb nesting, breeding and rearing areas and must be designed so that sensitive plant and critical wildlife species are protected. Trails and footbridges must be placed so as to not cause erosion or sedimentation, destabilization of watercourse banks, interference with fish passage or significant removal of native vegetation. Footbridges must be anchored to prevent their movement due to water level or flow fluctuations. Any work in the wetland or stream below the OHWM will require additional federal and state permits.

8. Dredging, digging or filling may occur within a critical area or its buffer only with the permission of the Director provided it meets mitigation sequencing requirements and is permitted under TMC Section 18.45.090 (alteration of wetland), TMC Section 18.45.110 (alteration of watercourse), or TMC Sections 18.45.120 and 18.45.130 (areas of geologic instability). Dredging, digging or filling shall only be permitted for flood control, improving water quality and habitat enhancement unless otherwise permitted by this chapter.

(Ord. 2625 §25, 2020)

18.45.075 Mitigation Sequencing

Applicants shall demonstrate that reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas and critical area buffers. When an alteration to a critical area or its required buffer is proposed, such alteration shall be avoided, minimized or compensated for in the following order of preference:

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

2. Minimizing critical area or critical area buffer 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 environment;

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

5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or

6. Monitoring the impact and taking appropriate corrective measures.

(Ord. 2625 §26, 2020)

18.45.080 Wetlands Designations, Ratings and Buffers

A. **WETLAND DESIGNATIONS.**

1. For the purposes of TMC Chapter 18.45, "wetlands" are defined in the Definitions chapter of this title. A wetland boundary is the line delineating the outer edge of a wetland established in accordance with the approved federal wetland delineation manual and applicable regional supplement.

2. Wetland determinations and delineation of wetland boundaries shall be made by a qualified professional, as described in TMC Section 18.45.040.

3. Wetland determinations and delineation or wetland boundaries must be conducted within no more than five years prior to the date of permit application.

B. **WETLAND RATINGS.**

Wetlands shall be designated in accordance with the Washington State Wetlands Rating System for Western Washington (Washington State Department of Ecology, 2014, Publication # 14-06-029); or as otherwise amended by Ecology, as Category I, II, III, or IV.

C. **WETLAND BUFFERS.**

The purpose of the buffer area shall be to protect the integrity and functions of the wetland area. Any land alteration must be located out of the buffer areas as required by this section. Wetland buffers are intended in general to:

1. Minimize long-term impacts of development on properties containing wetlands;

2. Protect wetlands from adverse impacts during development;

3. Preserve the edge of the wetland and its buffer for its critical habitat value;

4. Provide an area to stabilize banks, to absorb overflow during high water events and to allow for slight variation of aquatic system boundaries over time due to hydrologic or climatic effects;

5. Reduce erosion and increased surface water runoff;

6. Reduce loss of or damage to property;

7. Intercept fine sediments from surface water runoff and serve to minimize water quality impacts; and

8. Protect the critical area from human and domestic animal disturbances.

D. **BUFFER REQUIREMENTS.**

Buffer widths in Table 18.45.080-1 have been established in accordance with the best available science. They are based on the category of wetland and the habitat score.

Table 18.45.080-1 – Wetland Buffer Widths

Category	Wetland buffer width (feet), Ecology 2014, high-intensity land use impact					
	Habitat score <6	Habitat score <6	Habitat score 6-7	Habitat score 6-7	Habitat score 8-9	Habitat score 8-9
	Standard Buffer	Alternate Buffer if impact minimization measures taken AND buffer is replanted	Standard Buffer	Alternate Buffer if impact minimization measures taken AND buffer is replanted. Also, 100 feet vegetated corridor between wetland and any nearby Priority Habitats is maintained (see footnote [1])	Standard Buffer	Alternate Buffer if impact minimization measures taken AND buffer is replanted. Also, 100 feet vegetated corridor between wetland and any nearby Priority Habitats is maintained. (see footnote [1])
I	100	**75**	150	**110**	300	**225**
II	100	**75**	150	**110**	300	**225**
III	80	**60**	150	**110**	300	**225**
IV	50	**40**	50	**40**	50	**40**

(1) A relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and any nearby Priority Habitats as defined by the Washington State Department of Fish and Wildlife. The corridor must be protected for the entire distance between the wetland and the Priority Habitat by some type of legal protection such as a conservation easement. Presence or absence of a nearby habitat must be confirmed by a qualified biologist. If no option for providing a corridor is available, Table 18.45.080-1 may be used with the required measures in Table 18.45.080-2 alone.

Table 18.45.080-2 – Required Measures to Minimize Impacts to Wetlands

Disturbance	Required Measures to Minimize Impacts
Lights	• Direct lights away from wetland
Noise	• Locate activity that generates noise away from wetland • If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source • For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10-foot heavily vegetated buffer strip immediately adjacent to the outer edge of wetland buffer
Toxic runoff	• Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered • Establish covenants limiting use of pesticides within 150 feet of wetland • Apply integrated pest management
Stormwater runoff	• Retrofit stormwater detention and treatment for roads and existing adjacent development • Prevent channelized flow from lawns that directly enters the buffer • Use Low Intensity Development (LID) techniques where appropriate (for more information refer to the drainage ordinance and manual)
Change in water regime	• Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	• Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion • Place wetland and its buffer in a separate tract or protect with a conservation easement
Dust	• Use best management practices to control dust

E. **BUFFER SETBACKS.**

1. All commercial and industrial buildings shall be set back 15 feet and all other development shall be set back 10 feet from the buffer's edge. The building setbacks shall be measured from the foundation to the buffer's edge. Building plans shall also identify a 20-foot area beyond the buffer setback within which the impacts of development will be reviewed.

2. The Director may waive setback requirements when a site plan demonstrates there will be no impacts to the buffer from construction or occasional maintenance activities.

F. **VARIATION OF STANDARD WETLAND BUFFER WIDTH.**

1. Buffer averaging may be allowed by the Director as a Type 2 permit if the total area of the buffer after averaging is equal to the area required without averaging and the buffer at its narrowest point is never less than either 3/4 of the required width or 75 feet for Category I and II, 50 feet for Category III, and 25 feet for Category IV, whichever is greater, and so long as the following criteria is met:

a. The wetland has significant differences in characteristics that affect its habitat functions, and the buffer is increased adjacent to the higher-functioning area of habitat or more-sensitive portion of the wetland and decreased adjacent to the lower-functioning or less-sensitive portion as demonstrated by a critical areas report.

b. There are no feasible alternatives to the site design that could be accomplished without buffer averaging, and the averaged buffer will not result in degradation of the wetland's functions and values as demonstrated by a critical areas report.

c. Compliance with mitigation sequencing requirements (TMC Section 18.45.075).

d. Compliance with TMC Chapter 18.45, "Vegetation Protection and Management" section.

e. Submittal of buffer enhancement plan, mitigation monitoring and maintenance plan along with financial guarantee in accordance with this chapter.

2. ***Interrupted Buffer.*** Waiver for interrupted buffer may be allowed by the Director as a Type 2 permit if it complies with the following:

a. The buffer is interrupted by a paved public or private road; existing or future levee legally constructed adjacent to an off-channel habitat; legally constructed buildings or parking lots. This waiver does not apply to accessory structures such as sheds and garages;

b. The existing legal improvement creates a substantial barrier to the buffer function;

c. The interrupted buffer does not provide additional protection of the critical area from the proposed development; and

d. The interrupted buffer does not provide significant hydrological, water quality and wildlife functions. This waiver does not apply if large trees or other significant native vegetation exists.

e. Enhancement of remaining buffer is required if feasible.

3. Buffers for all types of wetlands will be increased when they are determined to be particularly sensitive to disturbance or the proposed development will create unusually adverse impacts. Any increase in the width of the buffer shall be required only after completion of a wetland study by a qualified wetlands professional or expert that documents the basis for such increased width. An increase in buffer width may be appropriate when:

a. The development proposal has the demonstrated potential for significant adverse impacts upon the wetland that can be mitigated by an increased buffer width; or;

b. The area serves as a habitat for endangered, threatened, sensitive or monitor species listed by the federal government or the State.

(Ord. 2625 §27, 2020)

18.45.090 Wetlands Uses, Alterations and Mitigation

A. No use or development may occur in a wetland or its buffer except as specifically allowed by TMC Chapter 18.45. Any use or development allowed is subject to review and approval by the Director. Where required, a mitigation plan must be developed and must comply with the standards of mitigation required in this chapter. Where unauthorized alterations occur within a critical area or its buffer, the City will require the applicant to submit a critical area study, that includes mitigation, subject to approval. The applicant shall be responsible for implementing the mitigation and for additional penalties as determined by the Director. In addition, federal and/or state authorization is required for direct impacts to waters of the United States or the State of Washington.

B. **ALTERATIONS**.

1. Alterations to wetlands are discouraged and are limited to the minimum necessary for project feasibility. Requests for alterations must be accompanied by a mitigation plan, are subject to Director approval, and may be approved only if the following findings are made:

a. The alteration complies with mitigation sequencing requirements (TMC Section 18.45.075);

b. The alteration will not adversely affect water quality;

c. The alteration will not adversely affect fish, wildlife, or their habitat;

d. The alteration will not have an adverse effect on drainage and/or storm water detention capabilities;

e. The alteration will not lead to unstable earth conditions or create an erosion hazard or contribute to scouring actions;

f. The alteration will not be materially detrimental to any other property;

g. The alteration will not have adverse effects on any other critical areas; and

h. Complies with the maintenance and monitoring requirements listed within this section.

2. Alterations are not permitted to Category I and II wetlands unless specifically exempted under the provisions of this chapter.

3. Alterations to Category III and IV wetlands are allowed only where unavoidable and adequate mitigation is carried out in accordance with the standards of this section.

4. Alterations to isolated Category IV wetlands less than 1,000 square feet in size that meet all of the following conditions are allowed where adequate mitigation is carried out in accordance with the standards of this section.

a. They are not associated with a riparian corridor;

b. They are not associated with Shorelines of the State or their associated buffers;

c. They are not part of a wetland mosaic;

d. They do not contain habitat identified as essential for local populations of priority species identified by the Washington State Department of Fish and Wildlife; and

e. They do not score 6 points or greater for habitat in the Western Washington Wetland Rating System.

C. **MITIGATION STANDARDS.**

1. ***Types of Wetland Mitigation:***

a. Mitigation for wetlands shall follow the mitigation sequencing steps in this chapter and may include the following types of actions in order of decreasing preference:

(1) ***Restoration:***

(a) *Re-establishment.* The manipulation of the physical, chemical or biological characteristics of a site with the goal of restoring wetland functions to a former wetland, resulting in a net increase in wetland acres and functions.

(b) *Rehabilitation.* The manipulation of the physical, chemical or biological characteristics of a site with the goal of repairing historic functions and processes of a degraded wetland, resulting in a gain in wetland functions but not acreage.

(2) ***Creation (establishment).***

The manipulation of the physical, chemical or biological characteristics to develop a wetland on an upland or deepwater site, where a biological wetland did not previously exist.

(3) ***Enhancement.*** The manipulation of the physical, chemical or biological characteristics to heighten, intensify, or improve specific functions (such as vegetation) or to change the growth stage or composition of the vegetation present, resulting in a change in wetland functions but not in a gain in wetland acreage.

(4) A combination of the three types of actions listed above.

b. Required mitigation ratios are described in TMC Section 18.45.090.C.1.b.(1)-(4) (below). Alternate mitigation ratios may be accepted by the Director upon presentation of justification based on best available science that shows the proposed compensation represents a roughly proportional exchange for the proposed impacts.

(1) Alterations are not permitted to Category I or II wetlands unless specifically exempted under the provisions of this program. When alterations are allowed, mitigation ratios for Category I wetlands shall be at a 4:1 for creation or re-establishment, 8:1 for rehabilitation, and 16:1 for enhancement. Mitigation ratios for Category II wetlands shall be at 3:1 for creation or re-establishment, 6:1 for rehabilitation and 12:1 for enhancement. Creation or re-establishment shall be contiguous to the wetland, unless an exception is authorized by the Director. For Category II estuarine wetlands, re-establishment, creation and enhancement ratios will be decided on a case-by-case basis.

(2) Alterations to Category III wetlands are prohibited except where unavoidable and mitigation sequencing in accordance with this chapter has been utilized and where mitigation is carried out in accordance with the standards in the section. Mitigation for any alteration to a Category III wetland must be provided at a ratio of 2:1 for creation or re-establishment, 4:1 for rehabilitation and 8:1 for enhancement alone.

(3) Mitigation for alteration to a Category IV wetland will be 1.5:1 for creation or re-establishment, 3:1 for rehabilitation or 6:1 for enhancement. Where only a portion of a Category IV wetland is filled, the potential functionality of the remaining reduced wetland must be considered in mitigation planning.

(4) Mitigation for alteration to wetland buffers will be 1:1.

2. The following shall be considered the minimum performance standards for approved wetland alterations:

a. Wetland functions improved over those of the original conditions.

b. Hydrologic conditions and hydroperiods are improved over existing conditions and the specific hydrologic performance standards specified in the approved mitigation plan are achieved.

c. Square feet requirements for creation, reestablishment, rehabilitation or enhancement and for proposed wetland classes are met.

d. Vegetation native to the Pacific Northwest is installed and vegetation survival and coverage standards over time are met and maintained.

e. Habitat features are installed, if habitat is one of the functions to be improved.

f. Buffer and bank conditions and functions exceed the original state.

3. Maintenance and monitoring of mitigation shall be done by the property owner for a period of no less than five years and for ten years when the mitigation plan includes establishing forested wetland and/or buffers. Maintenance shall be carried out in accordance with the approved mitigation plan. Monitoring reports must be submitted to the City for review with the frequency specified in the approved mitigation plan.

D. **WETLAND AND BUFFER MITIGATION LOCATION.**

1. In instances where portions of a wetland or wetland buffer impacted by development remain after buffer averaging, mitigation for buffer impacts shall be provided on-site, if feasible. Where an essential public road, street or right-of-way or essential public utility cannot avoid buffer alterations, buffer enhancement must be carried out at other locations around the impacted wetland.

2. On-site mitigation for wetland impacts shall be provided, except where the applicant can demonstrate that:

a. On-site wetland mitigation is not scientifically feasible due to problems with hydrology, soils, waves or other factors; or

b. Mitigation is not practical due to potentially adverse impact from surrounding land uses; or

c. Existing functions created at the site of the proposed restoration are significantly greater than lost wetland functions; or

d. Regional goals for flood storage, flood conveyance, habitat or other wetland functions have been established and strongly justify location of mitigation at another site, and where off-site mitigation is demonstrated to provide a greater ecological benefit to the watershed. Refer to 2005 WRIA 9 Salmon Habitat Plan as it now reads and hereafter updated or amended, for potential offsite mitigation locations.

3. Purchase of mitigation credits through mitigation banks and in lieu fee programs is preferred over permittee responsible offsite mitigation.

4. The Community Development Director may approve, through a Type 2 decision, the transfer of wetland mitigation to a wetland mitigation bank or in-lieu fee program using the criteria in 4.a. through 4.f. below. Wetland mitigation bank credits shall be determined by the certified mitigation banking or in-lieu fee instrument.

a. Off-site mitigation is proposed in a wetland mitigation bank that has been approved by all appropriate agencies, including the Department of Ecology, Corps of Engineers, EPA and certified under state rules; and

b. The proposed wetland alteration is within the designated service area of the wetland bank; and

c. The applicant provides a justification for the number of credits proposed; and

d. The mitigation achieved through the number of credits required meets the intent of TMC Chapter 18.45; and

e. The Director bases the decision on a written staff report, evaluating the equivalence of the lost wetland functions with the number of wetland credits required; and

f. The applicant provides a copy of the wetland bank ledger demonstrating that the approved number of credits has been removed from the bank.

5. Where off-site mitigation location is proposed it shall comply with the following criteria:

a. Mitigation sites located within the Tukwila City limits are preferred.

b. Mitigation bank or in-lieu fee option is not feasible.

c. The proposed mitigation will not alter or increase buffers on adjacent properties without their permission.

6. The Director may approve permittee-responsible offsite mitigation sites outside the city upon finding that:

a. Adequate measures have been taken to ensure the non-development and long-term viability of the mitigation site; and

b. Adequate coordination with the other affected local jurisdiction has occurred.

c. The applicant has selected a site in a location where the targeted functions can reasonably be performed and sustained and has pursued sites in the following order of preference:

(1) Sites within the immediate drainage sub-basin;

(2) Sites within the next higher drainage sub-basin; and

(3) Sites within Green/Duwamish River basin.

7. Wetland creation for restoration projects may only be approved if the applicant can show: (1) that the adjoining property owners are amenable to having wetland buffers extend onto or across their property; or (2) that the on-site wetland buffers are sufficient to protect the functions and values of the wetland and the project as a whole results in net environmental benefit.

E. **MITIGATION TIMING.** Mitigation projects shall be completed prior to activities that will permanently disturb wetlands and either prior to or immediately after activities that will temporarily disturb wetlands. Construction of mitigation projects shall be timed to reduce impacts to existing wildlife, flora and water quality, and shall be completed prior to use or occupancy of the activity or development. The Director may allow activities that permanently disturb wetlands prior to implementation of the mitigation plan under the following circumstances:

1. To allow planting or re-vegetation to occur during optimal weather conditions;

2. To avoid disturbance during critical wildlife periods; or

3. To account for unique site constraints that dictate construction timing or phasing.

F. **WETLAND MITIGATION PLAN CONTENT**.

1. The mitigation plan shall be developed as part of a critical area study by a qualified professional. Wetland and/or buffer alteration or relocation may be allowed only when a mitigation plan clearly demonstrates that the changes would be an improvement of wetland and buffer quantitative and qualitative functions. The plan shall show how water quality, habitat, and hydrology would be improved.

2. The scope and content of a mitigation plan shall be decided on a case-by-case basis taking into account the degree of impact and the extent of the mitigation measures needed. As the impacts to the critical area increase, the mitigation measures to offset these impacts will increase in number and complexity.

3. For wetlands, the format of the mitigation plan should follow that established in Wetland Mitigation in Washington State, Part 2 – Developing Mitigation Plans (Washington Department of Ecology, Corps of Engineers, EPA, March 2006 or as amended).

4. The components of a complete mitigation plan are as follows:

a. Baseline information of quantitative data collection or a review and synthesis of existing data for both the project impact zone and the proposed mitigation site.

b. Environmental goals and objectives that describe the purposes of the mitigation measures. This should include a

description of site selection criteria, identification of target evaluation species and resource functions.

c. Performance standards of the specific criteria for fulfilling environmental goals and for beginning remedial action or contingency measures. They may include water quality standards, species richness and diversity targets, habitat diversity indices, or other ecological, geological or hydrological criteria.

d. A detailed construction plan of the written specifications and descriptions of mitigation techniques. This plan should include the proposed construction sequence, construction management and tree protection and be accompanied by detailed site diagrams and blueprints that are an integral requirement of any development proposal.

e. A monitoring and/or evaluation program that outlines the performance standards and methods for assessing whether those performance standards are achieved during the specified monitoring period, at least 5 years. At a minimum, the monitoring plan should address vegetative cover, survival, and species diversity. Any project that alters the dimensions of a wetland or creates a new wetland shall also monitor wetland hydrology. An outline shall be included that spells out how the monitoring data will be evaluated by agencies that are tracking the mitigation project's progress.

f. Contingency plan identifying potential courses of action and any corrective measures to be taken when monitoring or evaluation indicates project performance standards have not been met.

g. Performance security or other assurance devices as described in TMC Section 18.45.210.

(Ord. 2625 §28, 2020)

18.45.100 Watercourse Designations, Ratings and Buffers

A. **WATERCOURSE RATINGS.** Watercourse ratings are consistent with the Washington Department of Natural Resources water typing categories (WAC 222-16-030) or as amended, which are based on the existing habitat functions and classified as follows:

1. **Type S Watercourse:** Watercourses inventoried as Shorelines of the State, under RCW 90.58. These watercourses shall be regulated under TMC Chapter 18.44, Shoreline Overlay.

2. **Type F Watercourse:** Those watercourses that are known to be used by fish or meet the physical criteria to be potentially used by fish (as established in WAC 222-16-031(3) or as amended) and that have perennial (year-round) or seasonal flows.

3. **Type Np Watercourse:** Those watercourses that have perennial flows and do not meet the criteria of a Type F stream or have been proven not to contain fish using methods described in the Forest Practices Board Manual Section 13.

4. **Type Ns Watercourse:** Those watercourses that have intermittent flows (do not have surface flow during at least some portion of the year); do not meet the physical criteria of a Type F watercourse; or have been proven to not support fish using methods described in the Forest Practices Board Manual Section 13.

B. **WATERCOURSE BUFFERS.** Any land alteration must be located out of the buffer areas as required by this section. Watercourse buffers are intended in general to:

1. Minimize long-term impacts of development on properties containing watercourses;

2. Protect the watercourse from adverse impacts during development;

3. Preserve the edge of the watercourse and its buffer for its critical habitat value;

4. Provide shading to maintain stable water temperatures and vegetative cover for additional wildlife habitat;

5. Provide input of organic debris and uptake of nutrients;

6. Provide an area to stabilize banks, to absorb overflow during high water events and to allow for slight variation of aquatic system boundaries over time due to hydrologic or climatic effects;

7. Reduce erosion and increased surface water runoff;

8. Reduce loss of, or damage to, property;

9. Intercept fine sediments from surface water runoff and serve to minimize water quality impacts; and

10. Protect the critical area from human and domestic animal disturbance.

An undisturbed and high quality critical area or buffer may substitute for the yard setback and landscape requirements of TMC Chapter 18.50 and 18.52.

C. **WATERCOURSE BUFFER WIDTHS.** The following buffer widths, measured from the Ordinary High Water Mark (OHWM), apply to each side of a watercourse. If the OHWM cannot be determined, then the buffer will be measured from the top of bank:

1. **Type S Watercourse:** Regulated under TMC Chapter 18.44, Shoreline Overlay.

2. **Type F Watercourse:** 100-foot-wide buffer.

3. **Type Np Watercourse:** Standard 80-foot-wide buffer; alternate buffer in the 50-65 range allowed with buffer enhancement.

4. **Type Ns Watercourse:** 50-foot-wide buffer.

D. **BUFFER SETBACKS.**

1. All commercial and industrial buildings shall be set back 15 feet and all other development shall be set back 10 feet. Building setbacks shall be measured from the foundation to the buffer's edge. Building plans shall also identify a 20-foot area beyond the buffer setback within which the impacts of development will be reviewed.

2. The Director may waive setback requirements when a site plan demonstrates there will be no impacts to the buffer from construction or occasional maintenance activities.

E. **VARIATION OF STANDARD WATERCOURSE BUFFER WIDTH.**

1. Buffer averaging may be allowed by the Director as a Type 2 decision if the total area of the buffer after averaging is equal to the area required without averaging and the buffer at its narrowest point is never less than either 3/4 of the required width; and the following criteria is met:

a. The watercourse has significant differences in characteristics that affect its habitat functions, and the buffer is increased adjacent to the higher-functioning area of habitat or more-sensitive portion of the watercourse and decreased adjacent to the lower-functioning or less-sensitive portion as demonstrated by a critical areas report from a qualified professional.

b. There are no feasible alternatives to the site design that could be accomplished without buffer averaging, and the averaged buffer will not result in degradation of the watercourse's functions and values as demonstrated by a critical areas report.

c. Compliance with mitigation sequencing requirements (TMC Section 18.45.075).

d. Compliance with TMC Chapter 18.45.158, "Vegetation Protection and Management."

e. Submittal of buffer enhancement plan, mitigation monitoring and maintenance plan, along with financial guarantee in accordance with this chapter.

f. Buffer averaging shall not adversely affect water quality.

g. No adverse affect to water temperature or shade potential will occur to the watercourse using methodology per 2011 Washington State Department of Ecology's Green River Temperature Total Maximum Daily Load (TMDL) assessment or as amended.

2. ***Interrupted Buffer.*** Waiver for interrupted buffer may be allowed by the Director as a Type 2 permit if it complies with the following:

a. The buffer is interrupted by a paved public or private road; legally constructed buildings or parking lots. This waiver does not apply to accessory structures such as sheds and garages;

b. The existing legal improvement creates a substantial barrier to the buffer function;

c. The interrupted buffer does not provide additional protection of the critical area from the proposed development; and

d. The interrupted buffer does not provide significant hydrological, water quality and wildlife functions. This waiver does not apply if large trees or other significant native vegetation exists.

e. Enhancement of remaining buffer is required if feasible.

3. Buffers for all types of watercourses will be increased when they are determined to be particularly sensitive to disturbance or the proposed development will create unusually adverse impacts. Any increase in the width of the buffer shall be required only after completion of a watercourse study by a qualified professional or expert that documents the basis for such increased width. An increase in buffer width may be appropriate when:

a. The development proposal has the demonstrated potential for significant adverse impacts upon the watercourse that can be mitigated by an increased buffer width; or

b. The area serves as habitat for endangered, threatened, sensitive or monitor species listed by the federal government or the State.

(Ord. 2625 §29, 2020)

18.45.110 Watercourse Alterations and Mitigation

A. **WATERCOURSE ALTERATIONS.** No use or development may occur in a watercourse or its buffer except as specifically allowed by this chapter. Any use or development allowed is subject to the standards of this chapter.

B. **ALTERATIONS.** Daylighting and meandering of watercourses is encouraged. Culvert replacement is required where applicable, and upgrades are required to meet State standards. Piping, dredging, diverting or rerouting is discouraged. Culverts are piped segments of streams that flow under a road, trail or driveway. Daylighting of a stream refers to taking a stream out of a pipe that is flowing underground, but not necessarily under a road. All watercourse alterations shall be carried out as specified by the State Department of Fish and Wildlife in accordance with an approved Hydraulic Project Approval (HPA).

1. The City encourages daylighting of a watercourse that is located in a pipe or meandering of a previously altered watercourse to restore the stream to a more natural and open condition. As an incentive for daylighting, the Director may approve reduced buffers or setbacks. Daylighting or meandering of a watercourse is only permitted if the following criteria are met:

a. The values and functions of the watercourse are improved, including reducing stream flow during storm and flood events, and providing fish and wildlife habitat.

b. No adverse impact to fish are expected to occur.

c. Water quality is equal or better than existing condition.

d. Hydraulic capacity is maintained within the new channel.

e. The watercourse design complies with the Washington Department of Fish and Wildlife Water Crossing Design Guidelines Manual 2013 as it now reads and hereafter updated or amended.

2. On properties with culverts that are being developed or re-developed, or when stream crossings in public or private rights-of-way are being replaced, existing culverts that carry fish-bearing watercourses or those that could bear fish (based on the criteria in WAC 222-16-031, Washington Forest Practices Rules and Regulations) shall be upgraded to meet the standards in the Washington Department of Fish and Wildlife Water Crossing Design Guidelines Manual 2013, or as amended, if technically feasible. Any culvert replacement shall comply with the following criteria:

a. The values and functions of the watercourse are improved including reducing stream flow during storm and flood events, and providing fish and wildlife habitat.

b. No adverse impact to fish are expected to occur.

c. Water quality is equal or better than existing condition.

d. Hydraulic capacity is maintained within the new channel.

e. The watercourse design complies with the Washington Department of Fish and Wildlife Water Crossing Design Guidelines manual 2013 as it now reads and hereafter updated or amended.

3. Piping, dredging, diverting or rerouting of any watercourse shall be avoided, if possible. Relocation of a watercourse or installation of a bridge is preferred to piping. If piping occurs in a watercourse, it shall be limited to the degree necessary for stream crossings for access. Additionally, these alterations may only occur with the permission of the Director as a Type 2 decision and subject to mitigation sequencing and an approved mitigation plan, and shall meet the following criteria:

a. The watercourse alteration shall comply with the standards in current use and the standards of the Washington Department of Fish and Wildlife Water Crossing Design Guidelines Manual 2013 or as amended.

b. The watercourse alteration shall not cause adverse impacts to fish, confine the channel or floodplain, or adversely affect riparian habitat (including downstream habitat).

c. Maintenance dredging of watercourses shall be allowed only when necessary to protect public safety, structures and fish passage and shall be done as infrequently as possible. Long-term solutions such as stormwater retrofits are preferred over ongoing maintenance dredging.

d. Stormwater runoff shall be detained and infiltrated to preserve the existing hydrology of the watercourse.

e. All construction shall be designed to have the least adverse impact on the watercourse, buffer and surrounding environment. Construction shall minimize sedimentation through implementation of best management practices for erosion control.

f. As a condition of approval, the Director may require water quality monitoring for stormwater discharges to streams, and additional treatment of stormwater if water quality standards are not being met.

g. Where allowed, piping shall be limited to the shortest length possible as determined by the Director to allow access onto a property.

h. Where water is piped for an access point, those driveways or entrances shall be consolidated to serve multiple properties where possible, and to minimize the length of piping.

i. Piping shall not create an entry point for road runoff, create downstream scour, or cause erosion or sedimentation.

j. Water quality must be as good or better for any water exiting the pipe as for the water entering the pipe, and flow must be comparable.

C. **MITIGATION STANDARDS.**

1. The following shall be considered the minimum standards for approved mitigation projects:

a. Maintenance or improvement of stream channel habitat and dimensions such that the fisheries habitat functions of the compensatory stream meet or exceed that of the original stream;

b. Bank and buffer configuration restored to an enhanced state;

c. Channel, bank and buffer areas replanted with native vegetation that improves upon the original condition in species diversity and density;

d. Stream channel bed and biofiltration systems equivalent to or better than in the original stream;

e. Original fish and wildlife habitat enhanced unless technically not feasible; and

f. If onsite mitigation is not possible and to ensure there is no net loss of watercourse functions including, but not limited to, shading, the applicants may pay into an in-lieu fund, if available, to ensure that projects are fully mitigated.

2. Relocation of a watercourse shall not result in the new critical area or buffer extending beyond the development site and onto adjacent property without the written agreement of the affected property owners.

D. **MITIGATION TIMING.** Department of Community Development-approved plans are Type 2 decisions and must have the mitigation construction completed before the existing watercourse can be modified. The Director may allow activities that permanently disturb a watercourse prior to implementation of the mitigation plan under the following circumstances:

1. To allow planting or re-vegetation to occur during optimal weather conditions; or

2. To avoid disturbance during critical wildlife periods; or

3. To account for unique site constraints that dictate construction timing or phasing.

E. **MITIGATION PLAN CONTENT.** All impacts to a watercourse that degrade the functions of the watercourse or its buffer shall be avoided. If alteration to the watercourse or buffer is unavoidable, all adverse impacts resulting from a development proposal or alteration shall be mitigated in accordance with an approved mitigation plan as described below.

1. Mitigation plans shall be completed for any proposals of dredging, filling, diverting, piping and rerouting of watercourses or buffer impacts and shall be developed as part of a critical area study by a qualified professional. The plan must show how water quality, treatment, erosion control, pollution reduction, wildlife and fish habitat, and general watercourse quality would be improved.

2. The scope and content of a mitigation plan shall be decided on a case-by-case basis taking into account the degree of impact and extent of mitigation measures needed. As the impacts to the watercourse or its buffer increase, the mitigation plan to offset these impacts will increase in extent and complexity.

3. The components of a complete mitigation plan are as follows:

a. Baseline information including existing watercourse conditions such as hydrologic patterns/flow rates, stream gradient, bank full width, stream bed conditions, bank conditions, fish and other wildlife use, in-stream structures, riparian conditions, buffer characteristics, water quality, fish barriers and other relevant information.

b. Environmental goals and objectives that describe the purposes of the mitigation measures. This should include a description of site selection criteria, identification of target evaluation species and functions.

c. Performance standards for fulfilling environmental goals and objectives and for triggering remedial action or contingency measures. Performance standards may include water quality standards, species richness and diversity targets, habitat diversity indices, creation of fish habitat, or other ecological, geological or hydrological criteria.

d. Detailed construction plan of the written specifications and descriptions of mitigation techniques. This plan should include the proposed construction sequence and construction management, and be accompanied by detailed site diagrams and blueprints that are an integral requirement of any development proposal.

e. Monitoring and/or evaluation program that outlines the approach for assessing a completed project. At least five years of monitoring is required. An outline shall be included that spells out how the monitoring data will be evaluated by agencies that are tracking the mitigation project's process. For projects that discharge stormwater to a stream, the Director may require water quality monitoring.

f. Contingency plan identifying potential courses of action and any corrective measures to be taken when monitoring or evaluation indicates project performance standards have not been met.

g. Performance security or other assurance devices as described in TMC Section 18.45.210.

(Ord. 2625 §30, 2020)

18.45.120 Areas of Potential Geologic Instability Designations, Ratings and Buffers

A. **DESIGNATION.** Potential areas of geologic instability include areas of potential erosion and landslide hazards. Areas of potential geologic instability are classified as follows:

1. Class 1 areas, which have a slope of less than 15%;

2. Class 2 areas, which have a slope between 15% and 40%, and which are underlain by relatively permeable soils;

3. Class 3 areas, which include areas sloping between 15% and 40%, and which are underlain by relatively impermeable soils or by bedrock, and which also include all areas sloping more steeply than 40%;

4. Class 4 areas, which include sloping areas with mappable zones of groundwater seepage, and which also include existing mappable landslide deposits regardless of slope.

B. **MAPPING.**

1. The approximate location, extent, and designation of areas of potential geologic instability are depicted in the City's Critical Areas Map. Actual boundaries and designations shall be determined by a qualified professional on a site-specific basis.

2. In addition to the City's Critical Areas Map, the following publicly available mapping information may be used to determine appropriate designations:

a. For historic landslides, areas designated as quaternary slumps, earthflows, mudflows, or landslides on maps published by the U.S. Geological Survey or the WDNR Division of Geology and Earth Resources;

b. For potential or historic landslides, those areas mapped by the WDNR (slope stability mapping) as unstable (U or Class 3), unstable old slides (UOS or Class 4), or unstable recent slides (URS or Class 5);

c. For soil characteristics, the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) Official Soil Survey Data; and

d. For general instability, those areas mapped by the NRCS as having a significant limitation for building site development.

C. **BUFFERS.** The buffers for areas of potential geologic instability are intended to:

1. Minimize long-term impacts of development on properties containing critical areas;

2. Protect critical areas from adverse impacts during development;

3. Prevent loading of potentially unstable slope formations;

4. Protect slope stability;

5. Provide erosion control and attenuation of precipitation surface water and stormwater runoff; and

6. Reduce loss of or damage to property.

D. Each development proposal containing or threatened by an area of potential geologic instability Class 2 or higher shall be subject to a geotechnical report pursuant to the requirements of TMC Chapter 18.45.040.C. The geotechnical report shall analyze and make recommendations on the need for and width of any setbacks or buffers necessary to achieve the goals and requirements of this chapter. Development proposals shall then include the buffer distances as defined within the geotechnical report.

(Ord. 2625 §31, 2020)

18.45.130 Areas of Potential Geologic Instability Uses, Exemptions, Alterations and Mitigation

A. **GENERAL.** The uses permitted in the underlying zoning district may be undertaken on sites that contain areas of potential geologic instability subject to the standards of this section and the recommendations of a geotechnical study.

B. **EXEMPTIONS.** The following areas are exempt from regulation as geologically hazardous areas:

1. Temporary stockpiles of topsoil, gravel, beauty bark or other similar landscaping or construction materials;

2. Slopes related to materials used as an engineered pre-load for a building pad;

3. Roadway embankments within right-of-way or road easements; and

4. Slopes retained by approved engineered structures.

C. **ALTERATIONS.**

1. Prior to permitting alteration of an area of potential geologic instability, the applicant must demonstrate one of the following:

a. There is no evidence of past instability or earth movement in the vicinity of the proposed development, and, where appropriate, quantitative analysis of slope stability indicates no significant risk to the proposed development or surrounding properties; or

b. The area of potential geologic instability can be modified or the project can be designed so that any potential impact to the project and surrounding properties is eliminated, slope stability is not decreased, and the increase in surface water discharge or sedimentation shall not decrease slope stability.

2. Where any portion of an area of potential geologic instability is cleared for development, a landscaping plan for the site shall include replanting of preferably native trees (an equal mix of evergreen and deciduous), shrubs and groundcover. The landscaping plan must be approved by the Director. Replacement vegetation shall be sufficient to provide erosion and stabilization protection.

3. Critical facilities shall not be sited within or below an area of potential geologic instability unless there is no practical alternative (demonstrated by the applicant).

4. Land disturbing activities in an area of potential geologic instability shall provide for storm water quality and quantity control, including preparation of a TESC and permanent drainage plan prepared by a professional engineer licensed in Washington.

5. Unless otherwise provided or as part of an approved alteration, removal of vegetation from an area of potential geologic instability or its buffer shall be prohibited. When permitted as part of an approved alteration, vegetation removal shall be minimized to the extent practicable.

6. Surface drainage, including downspouts, shall not be directed across the face of an area of potential geologic instability; if drainage must be discharged from the top of a hazard to its toe, it shall be collected above the top and directed to the toe by tight line drain, and provided with an energy dissipative device at the toe for discharge to a swale or other acceptable natural drainage areas.

7. Structures and improvements shall minimize alterations to the natural contour of the slope, and foundations shall be tiered where possible to conform to existing topography (minimize grading/cut and fill to amount necessary).

8. The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties.

D. **DISCLOSURES, DECLARATIONS AND COVENANTS.**

1. It shall be the responsibility of the applicant to submit, consistent with the findings of the geotechnical report, structural plans that were prepared and stamped by a structural engineer. The plans and specifications shall be accompanied by a letter from the geotechnical engineer who prepared the geotechnical report stating that in his/her judgment the plans and specifications conform to the recommendations in the geotechnical report, the risk of damage to the proposed development site from soil instability will be minimal subject to the conditions set forth in the report, and the proposed development will not increase the potential for soil movement.

2. Further recommendations signed and sealed by the geotechnical engineer shall be provided should there be additions or exceptions to the original recommendations based on the plans, site conditions or other supporting data. If the geotechnical engineer who reviews the plans and specifications is not the same engineer who prepared the geotechnical report, the new engineer shall, in a letter to the City accompanying the plans and specifications, express his or her agreement or disagreement with the recommendations in the geotechnical report and state that the plans and specifications conform to his or her recommendations.

3. The architect or structural engineer shall submit to the City, with the plans and specifications, a letter or notation on the design drawings at the time of permit application stating that he or she has reviewed the geotechnical report, understands its recommendations, has explained or has had explained to the owner the risks of loss due to slides on the site, and has incorporated into the design the recommendations of the report and established measures to reduce the potential risk of injury or damage that might be caused by any earth movement predicted in the report.

4. The owner shall execute a Critical Areas Covenant and Hold Harmless Agreement running with the land on a form provided by the City. The City will file the completed covenant with the King County Department of Records and Licensing Services at the expense of the applicant or owner. A copy of the recorded covenant will be forwarded to the owner.

E. **ASSURANCE DEVICES.** Whenever the City determines that the public interest would not be served by the issuance of a permit in an area of potential geologic instability without assurance of a means of providing for restoration of areas disturbed by, and repair of property damage caused by, slides arising out of or occurring during construction, the Director may require assurance devices pursuant to TMC Section 18.45.210.

F. **CONSTRUCTION MONITORING.**

1. Where recommended by the geotechnical report, the applicant shall retain a geotechnical engineer to monitor the site during construction. The applicant shall preferably retain the geotechnical engineer who prepared the final geotechnical recommendations and reviewed the plans and specifications. If a different geotechnical engineer is retained by the owner, the new geotechnical engineer shall submit a letter to the City stating whether or not he/she agrees with the opinions and recommendations of the original geotechnical engineer. Further recommendations, signed and sealed by the geotechnical engineer, and supporting data shall be provided should there be exceptions to the original recommendations.

2. The geotechnical engineer shall monitor, during construction, compliance with the recommendations in the geotechnical report, particularly site excavation, shoring, soil support for foundations including piles, subdrainage installations, soil compaction and any other geotechnical aspects of the construction. Unless otherwise approved by the City, the specific recommendations contained in the soils report must be implemented by the owner. The geotechnical engineer shall make written, dated monitoring reports on the progress of the construction to the City at such timely intervals as shall be specified. Omissions or deviations from the approved plans and specifications shall be immediately reported to the City. The final construction monitoring report shall contain a statement from the geotechnical engineer that based upon his or her professional opinion, site observations and testing during the monitoring of the construction, the completed development substantially complies with the recommendations in the geotechnical report and with all geotechnical-related permit requirements. Occupancy of the project will not be approved until the report has been reviewed and accepted by the Director.

G. **CONDITIONING AND DENIAL OF USE OR DEVELOPMENTS.**

1. Substantial weight shall be given to ensuring continued slope stability and the resulting public health, safety and welfare in determining whether a development should be allowed.

2. The City may impose conditions that address site-work problems which could include, but are not limited to, limiting all excavation and drainage installation to the dryer season, or sequencing activities such as installing erosion control and drainage systems well in advance of construction. A permit will be denied if it is determined by the Director that the development will increase the potential of soil movement that results in an unacceptable risk of damage to the proposed development, its site or adjacent properties.

(Ord. 2625 §32, 2020)

18.45.140 Coal Mine Hazard Areas

A. Development of a site containing an abandoned mine area may be permitted when a geotechnical report shows that significant risks associated with the abandoned mine workings can be eliminated or mitigated so that the site is safe. Approval shall be obtained from the Director before any building or land-altering permit processes begin.

B. Any building setback or land alteration shall be based on the geotechnical report.

C. The City may impose conditions that address site-work problems which could include, but are not limited to, limiting all excavation and drainage installation to the dryer season, or sequencing activities such as installing drainage systems or erosion controls well in advance of construction. A permit will be denied if it is determined that the development will increase the potential of soil movement or result in an unacceptable risk of damage to the proposed development or adjacent properties.

D. The owner shall execute a Critical Areas Covenant and Hold Harmless Agreement running with the land on a form provided by the City. The City will file the completed covenant with the King County Division of Records and Licensing Services at the expense of the applicant or owner. A copy of the recorded covenant will be forwarded to the owner.

(Ord. 2625 §33, 2020)

18.45.150 Fish and Wildlife Habitat Conservation Areas Designation, Mapping, Uses and Standards

A. **DESIGNATION.**

1. Fish and wildlife habitat conservation areas include the habitats listed below:

a. Areas with which endangered, threatened, and sensitive species have a primary association;

b. Habitats and species of local importance, including but not limited to bald eagle habitat, heron rookeries, mudflats and marshes, and areas critical for habitat connectivity;

c. Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat;

d. Waters of the State;

e. State natural area preserves and natural resource conservation areas; and

f. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity.

2. Type S watercourses, including the Green/Duwamish River, are regulated under TMC Chapter 18.44 and not under this chapter.

3. Wetlands and watercourses are addressed under TMC Sections 18.45.080, 18.45.090, 18.45.100 and 18.45.110, and not under this section.

B. **MAPPING.**

1. The approximate location and extent of known fish and wildlife habitat conservation areas are identified by the City's Critical Areas Maps, inventories, open space zones, and Natural Environment Background Report.

2. In addition to the Critical Areas Maps, the following maps are to be used as a guide for the City, but do not provide a final habitat area designation:

a. Washington State Department of Fish and Wildlife Priority Habitat and Species Maps;

b. Anadromous and resident salmonid distribution maps contained in the Habitat Limiting Factors report for the Green/Duwamish and Central Puget Sound Watersheds published by King County and the Washington Conservation Commission; and

c. NOAA Digital Coast for Washington State.

C. **BUFFERS.**

1. Each development proposal on, adjacent to, or with the potential to impact a Fish and Wildlife Habitat Conservation Area other than wetlands and watercourses shall be subject to a habitat assessment report pursuant to the requirements of TMC Sections 18.45.040.B. The habitat assessment shall analyze and make recommendations on the need for and width of any setbacks or buffers necessary to achieve the goals and requirements of this chapter, with specific consideration of Priority Habitats and Species Management Recommendations from the Washington Department of Fish and Wildlife. Recommended buffers shall be no less than 100 feet in width.

2. Buffers may be increased by the Director when an area is determined to be particularly sensitive to the disturbance created by a development. Such a decision will be based on a City review of the report as prepared by a qualified biologist and by a site visit.

D. **USES AND STANDARDS.** Each development proposal on, adjacent, or with the potential to impact a Fish and Wildlife Habitat Conservation Area that is not fully addressed under TMC Sections 18.45.080, 18.45.090, 18.45.100 and 18.45.110 shall be subject to a habitat assessment report pursuant to the requirements of TMC Sections 18.45.040.B. The habitat assessment shall analyze potential impacts to Fish and Wildlife Habitat Conservation Areas and make recommendations to minimize such impacts, with specific consideration of Priority Habitats and Species Management Recommendations from the Washington Department of Fish and Wildlife.

(Ord. 2625 §34, 2020)

18.45.155 Special Hazard Flood Areas

A. Regulations governing Special Hazard Flood Areas are found in TMC Chapter 16.52, "Flood Plain Management," and TMC Section 18.45.155.B.

B. **Floodplain Habitat Assessment.**

1. When development is proposed within a Special Hazard Flood area, a floodplain habitat assessment shall be prepared pursuant to the requirements of TMC Sections 18.45.040.B.

2. The floodplain habitat assessment shall address the effects of the development on federally listed salmon, including, but not limited to the following:

a. Impervious surfaces,

b. Floodplain storage and conveyance,

c. Floodplain and riparian vegetation, and

d. Stormwater drainage.

3. If the floodplain habitat assessment concludes that the project is expected to have an adverse effect on listed species as evaluated under the guidance issued for ESA compliance under the National Flood Insurance Program in Puget Sound, the applicant shall mitigate those impacts. Such mitigation shall be consistent with, or in addition to, any mitigation required by this chapter and shall be incorporated into the approved project plans.

4. ***Activities Exempt from Floodplain Habitat Assessment.*** A floodplain habitat assessment is not required under the following circumstances:

a. Projects that are undergoing or have undergone consultation with the National Marine Fisheries Service under the Endangered Species Act.

b. Repair or remodeling of an existing structure, if the repair or remodeling is not a substantial improvement.

c. Expansion of an existing structure that is no greater than 10 percent beyond its existing footprint; provided that the repairs or remodeling are not a substantial improvement, or a repair of substantial damage. This measurement is counted cumulatively from September 22, 2011. If the structure is in the floodway, there shall be no change in the dimensions perpendicular to flow.

d. Activities with the sole purpose of creating, restoring, or enhancing natural functions provided the activities do not include construction of structures, grading, fill, or impervious surfaces.

e. Development of open space and recreational facilities, such as parks and trails, that do not include structures, fill, impervious surfaces or removal of more than 5 percent of the native vegetation on that portion of the property in the regulatory floodplain.

f. Repair to on-site septic systems provided the ground disturbance is the minimum necessary.

g. Other minor activities considered to have no effect on listed species, as interpreted using ESA guidance issued by the National Flood Insurance Program in Puget Sound and confirmed through City review of the development proposal.

(Ord. 2625 §35, 2020)

18.45.158 Vegetation Protection and Management

A. **Purpose.** The purpose of this section is to:

1. Regulate the protection of existing trees and native vegetation in the critical areas and their buffers;

2. Establish requirements for removal of invasive plants at the time of development or re-development of sites;

3. Establish requirements for the long-term maintenance of native vegetation to prevent establishment of invasive species and promote ecosystem processes.

B. **Applicability.** This chapter sets forth rules and regulations to control maintenance and clearing of trees within the City of Tukwila for properties located within a critical area or its associated buffer. For properties located within the Shoreline jurisdiction, the maintenance and removal of vegetation shall be governed by TMC Chapter 18.44, "Shoreline Overlay." TMC Chapter 18.54, "Urban Forestry and Tree Regulations," shall govern tree removal on any undeveloped land and any land zoned Low Density Residential (LDR) that is developed with a single-family residence. TMC Chapter 18.52, "Landscape Requirements," shall govern the maintenance and removal of landscaping on developed properties zoned commercial, industrial, or multifamily, and on properties located in the LDR zone that are developed with a non-single family residential use. The most stringent regulations shall apply in case of a conflict.

C. **Vegetation Retention and Replacement.**

1. ***Retention.***

a. Native vegetation in critical areas and their buffers must be protected and maintained. No removal of native vegetation is allowed without prior approval by the City except in cases of emergency where an imminent hazard to public life, safety or property exists. Vegetation may be removed from the buffer as part of an enhancement plan approved by the Director. Enhancements will ensure that slope stability and wetland quality will be maintained or improved. Any temporary disturbance of the buffers shall be replanted with a diverse plant community of native northwest species.

b. Invasive vegetation (blackberry, ivy, laurel, etc.) may be removed from a critical area or its buffer except steep slopes without a permit if removal does not utilize heavy equipment. The use of herbicide by a licensed contractor with certifications as needed from the Washington Department of Ecology and the Washington Department of Agriculture is permitted but requires notification prior to application to the City and shall comply with TMC Section 18.45.158.E.3. Invasive vegetation removal on steep slopes requires prior City approval.

c. Hazardous or defective trees, as defined in TMC Chapter 18.06, may be removed from a critical area if threat posed by the tree is imminent. If the hazard is not obvious, an assessment by a certified professional, as defined in Chapter TMC 18.06, may be required by the Director. Dead and hazardous trees should remain standing or be cut and placed within the critical area to the extent practicable to maximize habitat. Tree replacement in accordance with this chapter is required for any hazardous tree removed from a critical area.

d. In the case of development or re-development, as many significant trees and as much native vegetation as possible are to be retained on a site, taking into account the condition and age of the trees. As part of a land use application including, but not limited to, subdivision or short plat, design review or building permit review, the Director of Community Development or the Board of Architectural Review may require alterations in the arrangement of buildings, parking or other elements of proposed development in order to retain significant vegetation.

2. ***Permit Requirements.*** Prior to any tree removal or site clearing, unless it is part of Special Permission approval for interrupted buffer, buffer averaging or other critical areas deviation, a Type 2 Critical Area Tree Removal and Vegetation Clearing Permit application must be submitted to the Department of Community Development (DCD) containing the following information:

a. A vegetation survey on a site plan that shows the diameter, species and location of all significant trees and all existing native vegetation.

b. A site plan that shows trees and native vegetation to be retained and trees to be removed and provides a table showing the number of significant trees to be removed and the number of replacement trees required.

c. Tree protection zones and other measures to protect any trees or native vegetation that are to be retained for sites undergoing development or re-development.

d. Location of the OHWM, stream buffer, wetland, wetland buffer, steep slope or any other critical areas with their buffers.

e. A landscape plan that shows diameter, species name, spacing and planting location for any required replacement trees and other proposed vegetation.

f. An arborist evaluation justifying the removal of hazardous trees if required by DCD.

g. An application fee in accordance with the Consolidated Permit Fee Schedule adopted by resolution of the City Council.

3. ***Criteria for Tree Removal in a Critical Area or its Buffer.*** A Type 2 Critical Area Tree Removal and Vegetation Clearing Permit shall only be approved if the proposal complies with the following criteria as applicable:

a. The site is undergoing development or redevelopment.

b. Tree poses a risk to structures.

c. There is imminent potential for root or canopy interference with utilities.

d. Tree interferes with the access and passage on public trails.

e. Tree condition and health is poor; the City may require an evaluation by an International Society of Arborists (ISA) certified arborist.

f. Trees present an imminent hazard to the public. If the hazard is not readily apparent, the City may require an

evaluation by an International Society of Arborists (ISA) certified arborist.

g. The proposal complies with tree retention, replacement, maintenance and monitoring requirements of this chapter.

4. ***Tree Replacement Requirements.*** Where permitted, significant trees that are removed, illegally topped, or pruned by more than 25% within a critical area shall be replaced pursuant to the Tree Replacement Requirements Table (below), up to a density of 100 trees per acre (including existing trees). Significant trees that are part of an approved landscape plan on the developed portion of the site are subject to replacement per TMC Chapter 18.52. Dead or dying trees removed that are part of an approved landscape plan on the developed portion of the site shall be replaced at a 1:1 ratio in the next appropriate planting season. Dead or dying trees located within the critical area or its buffer shall be left in place as wildlife snags, unless they present a hazard to structures, facilities or the public. Removal of dead, dying or otherwise hazardous trees in non-developed areas are subject to the replacement requirements listed in the "Tree Replacement Requirements" Table below. The Director may require additional trees or shrubs to be installed to mitigate any potential impact from the loss of this vegetation as a result of new development.

Table 18.45.158-1 – Tree Replacement Requirements

Diameter* of Tree Removed (*measured at height of 4.5 feet from the ground)	Number of Replacement Trees Required
4 - 6 inches (single trunk); 2 inches (any trunk of a multi-trunk tree)	3
Over 6 - 8 inches	4
Over 8 - 20 inches	6
Over 20 inches	8

5. If all required replacement trees cannot be reasonably accommodated on the site, the applicant shall pay into a tree replacement fund in accordance with the Consolidated Permit Fee Schedule adopted by resolution of the City Council.

6. Topping of trees is prohibited and will be regulated as removal subject to the Tree Replacement Requirements Table listed above.

7. Pruning of trees shall not exceed 25% of canopy in a 36-month period. Pruning in excess of 25% canopy shall be regulated as removal with tree replacement required per the Tree Replacement Requirements Table listed above. Trees may only be pruned to lower their height to prevent interference with an overhead utility line with prior approval by the Director as part of Type 2 Critical Area Tree Permit. The pruning must be carried out under the direction of a Qualified Tree Professional or performed by the utility provider under the direction of a Qualified Tree Professional. The crown shall be maintained to at least 2/3 the height of the tree prior to pruning.

D. **Tree Protection.**

All trees not proposed for removal as part of a project or development shall be protected using Best Management Practices and the standards below.

1. The Critical Root Zones (CRZ) for all trees designated for retention, on site or on adjacent property as applicable, shall be identified on all construction plans, including demolition, grading, civil and landscape site plans.

2. Any roots within the CRZ exposed during construction shall be covered immediately and kept moist with appropriate materials. The City may require a third-party Qualified Tree Professional to review long-term viability of the tree.

3. Physical barriers, such as 6-foot chain link fence or plywood or other approved equivalent, shall be placed around each individual tree or grouping at the CRZ.

4. Minimum distances from the trunk for the physical barriers shall be based on the approximate age of the tree (height and canopy) as follows:

a. Young trees (trees which have reached less than 20% of life expectancy): 0.75 per inch of trunk diameter.

b. Mature trees (trees which have reached 20-80% of life expectancy): 1 foot per inch of trunk diameter.

c. Over mature trees (trees which have reached greater than 80% of life expectancy): 1.5 feet per inch of trunk diameter.

5. Alternative protection methods may be used that provide equal or greater tree protection if approved by the Director.

6. A weatherproof sign shall be installed on the fence or barrier that reads:

"TREE PROTECTION ZONE – THIS FENCE SHALL NOT BE REMOVED OR ENCROACHED UPON. No soil disturbance, parking, storage, dumping or burning of materials is allowed within the Critical Root Zone. The value of this tree is $ [insert value of tree as determined by a Qualified Tree Professional here]. Damage to this tree due to construction activity that results in the death or necessary removal of the tree is subject to the Violations section of TMC Chapter 18.45."

7. All tree protection measures installed shall be inspected by the City and, if deemed necessary a Qualified Tree Professional, prior to beginning construction or earth moving.

8. Any branches or limbs that are outside of the CRZ and might be damaged by machinery shall be pruned prior to construction by a Qualified Tree Professional.

9. The CRZ shall be covered with 4 to 6 inches of wood chip mulch. Mulch shall not be placed directly against the trunk. A 6-inch area around the trunk shall be free of mulch. Additional measures, such as fertilization or supplemental water, shall be carried out prior to the start of construction if deemed necessary by the Qualified Tree Professional's report to prepare the trees for the stress of construction activities.

10. No storage of equipment or refuse, parking of vehicles, dumping of materials or chemicals, or placement of permanent heavy structures or items shall occur within the CRZ.

11. No grade changes or soil disturbance, including trenching, shall be allowed within the CRZ. Grade changes within 10 feet of the CRZ shall be approved by the City prior to implementation.

12. The applicant is responsible for ensuring that the CRZ of trees on adjacent properties are not impacted by the proposed development.

13. A pre-construction inspection shall be conducted by the City to finalize tree protection actions.

14. Post-construction inspection of protected trees shall be conducted by the City and, if deemed necessary by the City, a Qualified Tree Professional. All corrective or reparative pruning will be conducted by a Qualified Tree Professional.

E. **Plant Materials Standards.**

For any new development, redevelopment or restoration in a Critical Area, invasive vegetation must be removed, and native vegetation planted and maintained in the Critical Area and its buffer.

1. A planting plan prepared by a qualified biologist shall be submitted to the City for approval that shows plant species, size, number, spacing, soil preparation irrigation, and invasive species removal. The requirement for a biologist may be waived by the Director for single family property owners when the mitigation area is less than 1,500 square feet.

2. Invasive vegetation must be removed as part of site preparation and native vegetation planted in the Critical Area and its buffer where impacts occur.

3. Removal of invasive species shall be done by hand or with hand-held power tools. The use of herbicide by a licensed contractor with certifications as needed from the Washington Department of Ecology and the Washington Department of Agriculture is permitted but requires notification prior to application to the City and shall comply with this TMC Section 18.45.158.E.3. Where removal is not feasible by hand or with hand-held power tools and mechanized equipment is needed, the applicant must obtain a Type 2 permit prior to work being conducted. Removal of invasive vegetation must be conducted so that the slope stability, if applicable, will be maintained and native vegetation is protected. A plan must be submitted indicating how the work will be done and what erosion control and tree protection features will be utilized. Federal and State permits may be required for vegetation removal with mechanized equipment.

4. Removal of invasive vegetation may be phased over several years prior to planting, if such phasing is provided for by a plan approved by the Director to allow for alternative approaches, such as sheet mulching and goat grazing. The method selected shall not destabilize the bank or cause erosion.

5. A combination of native trees, shrubs and groundcovers (including but not limited to grasses, sedges, rushes and vines) shall be planted. Site conditions, such as topography, exposure, and hydrology shall be taken into account for plant selection. Other species may be approved if there is adequate justification.

6. Non-native trees may be used as street trees in cases where conditions are not appropriate for native trees (for example where there are space or height limitations or conflicts with utilities).

7. Plants shall meet the current American Standard for Nursery Stock (American Nursery and Landscape Association – ANLA).

8. Smaller plant sizes (generally one gallon, bareroot, plugs, or stakes, depending on plant species) are preferred for buffer plantings. Willow stakes must be at least 1/2-inch in diameter. For existing developed areas refer to TMC Chapter 18.52, "Landscape Requirements," for plant sizes in required landscape areas.

9. Site preparation and planting of vegetation shall be in accordance with Best Management Practices for ensuring the vegetation's long-term health and survival. Irrigation is required for all plantings for the first three years as approved by the Director.

10. Plants may be selected and placed to allow for public and private view corridors with approval by Director.

11. Native vegetation in critical areas and their buffers installed in accordance with the preceding standards shall be maintained by the property owner to promote healthy growth and prevent establishment of invasive species. Invasive plants (such as blackberry, ivy, knotweed, bindweed) shall be removed on a regular basis, according to the approved maintenance plan.

12. Critical areas, including steep slopes disturbed by removal of invasive plants or development, shall be replanted with native vegetation where necessary to maintain the density shown in the Critical Area Buffer Vegetation Planting Densities Table below, and must be replanted in a timely manner except where a long-term removal and re-vegetation plan, as approved by the City, is being implemented.

Table 18.45.158-2 –
Critical Area Buffer Vegetation Planting Densities Table

Plant Material Type	Planting Density
Stakes/cuttings along streambank (willows, red osier dogwood)	1 - 2 feet on center or per bioengineering method
Shrubs	3 - 5 feet on center, depending on species
Trees	15 – 20 feet on center, depending on species
Groundcovers, grasses, sedges, rushes, other herbaceous plants	1 – 1.5 feet on center, depending on species
Native seed mixes	5 – 25 lbs. per acre, depending on species

13. The Department Director, in consultation with the City's environmentalist, may approve the use of shrub planting and installation of willow stakes to be counted toward the tree replacement standard in the buffer if proposed as a measure to control invasive plants and increase buffer function.

F. **Vegetation Management in Critical Areas.** The requirements of this section apply to all existing and new development within critical areas.

1. Trees and shrubs may only be pruned for safety, to maintain access corridors and trails by pruning up or on the sides of trees, to maintain clearance for utility lines, and/or for improving critical area ecological function. No more than 25% may be pruned from a tree within a 36-month period without prior City review. This type of pruning is exempt from any permit requirements.

2. Plant debris from removal of invasive plants or pruning shall be removed from the site and disposed of properly unless on-site storage is approved by the Director. Per King County Noxious Weed Control Program guidelines, regulated noxious weeds shall be disposed of in the landfill/trash and non-regulated noxious weeds may be disposed of in green waste or composted on site.

3. ***Use of pesticides.***

a. Pesticides (including herbicides, insecticides, and fungicides) shall not be used in the critical area or its buffer except where:

(1) Alternatives such as manual removal, biological control, and cultural control are not feasible given the size of the infestation, site characteristics, or the characteristics of the invasive plant species and herbicide is determined to be least ecologically impactful;

(2) The use of pesticides has been approved by the City through a comprehensive vegetation or pest management and monitoring plan, or a King County Noxious Weed Control Program Best Management Practices document;

(3) The pesticide is applied in accordance with state regulations;

(4) The proposed herbicide is approved for aquatic use by the U.S. Environmental Protection Agency; and

(5) The use of pesticides in the critical area jurisdiction is approved by the City and the applicant presents a copy of the Aquatic Pesticide Permit issued by the Department of Ecology or Washington Department of Agriculture, if required.

b. Self-contained rodent bait boxes designed to prevent access by other animals are allowed.

c. Sports fields, parks, golf courses and other outdoor recreational uses that involve maintenance of extensive areas of turf shall implement an integrated turf management program or integrated pest management plan designed to ensure that water quality in the critical area is not adversely impacted.

4. ***Restoration Project Plantings.*** Restoration projects may overplant the site as a way to discourage the re-establishment of invasive species. Thinning of vegetation without a separate Type 2 Special Permission or critical area tree permit may be permitted five to ten years after planting if this approach is approved as part of the restoration project's maintenance and monitoring plan and with approval by the City prior to thinning work.

G. **Maintenance and Monitoring.**

The property owner is required to ensure the viability and long-term health of vegetation planted for replacement or mitigation through proper care and maintenance for the life of the project subject to permit requirements as follows:

1. ***Tree Replacement and Vegetation Clearing Permit Requirements.***

a. Schedule an inspection with the City of Tukwila's Urban Environmentalist to document planting of the correct number and type of plants.

b. Submit annual documentation of tree and vegetation health for three years.

2. ***Restoration and Mitigation Project Requirements.***

a. A five-year monitoring and maintenance plan must be approved by the City prior to permit issuance. The monitoring period will begin when the restoration is accepted by the City and as-built plans have been submitted.

b. Monitoring reports shall be submitted annually for City review up until the end of the monitoring period. Reports shall measure survival rates against project goals and present contingency plans to meet project goals.

c. Mitigation will be complete after project goals have been met and accepted by the City of Tukwila's Urban Environmentalist.

d. A performance bond or financial security equal to 150% of the cost of labor and materials required for implementation of the planting, maintenance and monitoring shall be submitted prior to City acceptance of project.

(Ord. 2625 §36, 2020)

18.45.160 Critical Area Master Plan Overlay

A. The purpose of this section is to provide an alternative to preservation of existing individual wetlands, watercourses and their buffers in situations where an area-wide plan for alteration and mitigation will result in improvements to water quality, fish and wildlife habitat and hydrology beyond those that would occur through the strict application of the provisions of TMC Chapter 18.45.

B. The City Council may designate certain areas as Critical Area Master Plan Overlay Districts for the purpose of allowing and encouraging a comprehensive approach to critical area protection, restoration, enhancement and creation in appropriate circumstances utilizing best available science. Designation of Critical Area Master Plan Overlay Districts shall occur through the Type 5 decision process established by TMC Chapter 18.104.

C. Criteria for designating a Critical Area Master Plan Overlay District shall be as follows:

1. The overlay area shall be at least 10 acres.

2. The City Council shall find that preparation and implementation of a Critical Area Master Plan is likely to result in net improvements in critical area functions when compared to development under the general provisions of TMC Chapter 18.45.

D. Within a Critical Area Master Plan Overlay District, only those uses permitted under TMC Sections 18.45.070, 18.45.090 and 18.45.110 shall be allowed within a Category I wetland or its buffer.

E. Within a Critical Area Master Plan Overlay District, the uses permitted under TMC Sections 18.45.070, 18.45.090 and 18.45.110 and other uses as identified by an approved Critical Area Master Plan shall be permitted within Category III and Category IV wetlands and their buffers; and within Type F, Np and Ns watercourses and their buffers, provided that such uses are allowed by the underlying zoning designation.

F. A Critical Area Master Plan shall be prepared under the direction of the Director of Community Development. Consistent with subsection A, the Director may approve development activity within a Critical Area Overlay District for the purpose of allowing and encouraging a comprehensive approach to critical areas protection, creation, and enhancement that results in environmental benefits that may not be otherwise achieved through the application of the requirements of TMC Chapter 18.45.

G. The Director shall consider the following factors when determining whether a proposed Critical Areas Overlay and Master Plan results in an overall net benefit to the environment and is consistent with best available science:

1. Whether the Master Plan is consistent with the goals and policies of the Natural Environment Element and the Shorelines Element (if applicable) of the Tukwila Comprehensive Plan.

2. Whether the Master Plan is consistent with the purposes of TMC Chapter 18.45 as stated in TMC Section 18.45.010.

3. Whether the Master Plan includes a Mitigation Plan that incorporates stream or wetland restoration, enhancement or creation meeting or exceeding the requirements of TMC Section 18.45.090 and/or TMC Section 18.45.110, as appropriate.

4. Whether proposed alterations or modifications to critical areas and their buffers and/or alternative mitigation results in an overall net benefit to the natural environment and improves critical area functions.

5. Whether the Mitigation Plan gives special consideration to conservation and protection measures necessary to preserve or enhance anadromous fisheries.

6. Mitigation shall occur on-site unless otherwise approved by the Director. The Director may approve off-site mitigation only upon determining that greater protection, restoration or enhancement of critical areas could be achieved at an alternative location within the same watershed.

7. Where feasible, mitigation shall occur prior to grading, filling or relocation of wetlands or watercourses.

8. At the discretion of the Director, a proposed Master Plan may undergo peer review, at the expense of the applicant. Peer review, if utilized, shall serve as one source of input to be utilized by the Director in making a final decision on the proposed action.

H. A Critical Area Master Plan shall be subject to approval by the Director of Community Development. Such approval shall not be granted until the Master Plan has been evaluated through preparation of an Environmental Impact Statement (EIS) under the requirements of TMC Chapter 21.04. The EIS shall compare the environmental impacts of development under the proposed Master Plan relative to the impacts of development under the standard requirements of TMC Chapter 18.45. The Director shall approve the Critical Area Master Plan only if the evaluation clearly demonstrates overall environmental benefits, giving special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries.

I. The critical area buffer widths for those areas that were altered, created or restored as mitigation (Wetland 10, 1, Johnson Creek and the Green River off-channel habitat), at the time of approval of the Sensitive Area Master Plan (SAMP) Permit No. L10-014 shall be vested as shown on Map A to be codified as Figure 18-59; provided the adjacent land was cleared and graded pursuant to a City-approved grading permit; and provided further that those mitigation measures required by the SAMP were performed and meet the ecological goals, in accordance with the terms of the SAMP.

(Ord. 2625 §37, 2020)

18.45.170 Critical Area Tracts and Easements

A. In development proposals for planned residential or mixed use developments, short subdivisions or subdivisions, and boundary line adjustments and binding site plans, applicants shall create critical areas tracts or easements, in lieu of an open space tract, per the standards of the Planned Residential Development District chapter of this title.

B. Applicants proposing development involving uses other than those listed in TMC Section 18.45.170.A, on parcels containing critical areas or their buffers, may elect to establish a critical areas tract or easement which shall be:

1. If under one ownership, owned and maintained by the owner;

2. If held in common ownership by multiple owners, maintained collectively; or

3. Dedicated for public use if acceptable to the City or other appropriate public agency.

C. A notice shall be placed on the property title or plat map that critical area tracts or easements shall remain undeveloped in perpetuity.

(Ord. 2625 §38, 2020)

18.45.180 Exceptions

A. **REASONABLE USE EXCEPTIONS.**

1. If application of TMC Chapter 18.45 would deny all reasonable use of the property containing designated critical areas or their buffers, the property owner or the proponent of a development proposal may apply for a reasonable use exception.

2. Applications for a reasonable use exception shall be a Type 3 decision and shall be processed pursuant to TMC Chapter 18.104.

3. If the applicant demonstrates to the satisfaction of the Hearing Examiner that application of the provisions of TMC Chapter 18.45 would deny all reasonable use of the property, development may be allowed that is consistent with the general purposes of TMC Chapter 18.45 and the public interest.

4. The Hearing Examiner, in granting approval of the reasonable use exception, must determine that:

a. There is no feasible on-site alternative to the proposed activities, including reduction in size or density, modifications of setbacks, buffers or other land use restrictions or requirements, phasing of project implementation, change in timing of activities, revision of road and lot layout, and/or related site planning that would allow a reasonable economic use with fewer adverse impacts to the critical area.

b. As a result of the proposed development there will be no unreasonable threat to the public health, safety or welfare on or off the development proposal site.

c. Alterations permitted shall be the minimum necessary to allow for reasonable use of the property.

d. The proposed development is compatible in design, scale and use with other development with similar site constraints in the immediate vicinity of the subject property if such similar sites exist.

e. Disturbance of critical areas and their buffers has been minimized to the greatest extent possible.

f. All unavoidable impacts are fully mitigated.

g. The inability to derive reasonable use of the property is not the result of:

(1) a segregation or division of a larger parcel on which a reasonable use was permittable after the effective date of Sensitive Areas Ordinance No. 1599, June 10, 1991;

(2) actions by the owner of the property (or the owner's agents, contractors or others under the owner's control) that occurred after the effective date of the critical areas ordinance provisions that prevents or interferes with the reasonable use of the property; or

(3) a violation of the critical areas ordinance.

h. The Hearing Examiner, when approving a reasonable use exception, may impose conditions, including but not limited to a requirement for submission and implementation of an approved mitigation plan designed to ensure that the development:

(1) complies with the standards and policies of this chapter to the extent feasible; and

(2) does not create a risk of damage to other property or to the public health, safety and welfare.

i. Approval of a reasonable use exception shall not eliminate the need for any other permit or approval otherwise required for a project, including but not limited to design review.

B. **EMERGENCIES.** Alterations in response to an emergency that poses an immediate threat to public health, safety or welfare, or that poses an immediate risk of damage to private property may be excepted. Any alteration undertaken as an emergency shall be reported within one business day to the Community Development Department. The Director shall confirm that an emergency exists and determine what, if any, mitigation and conditions shall be required to protect the health, safety, welfare and environment and to repair any damage to the critical area and its required buffers. Emergency work must be approved by the City. If the Director determines that the action taken, or any part thereof, was beyond the scope of an allowed emergency action, then the enforcement provisions of TMC Section 18.45.195 shall apply.

(Ord. 2625 §39, 2020)

18.45.190 Time Limitation, Appeals and Vesting

A. **Time Limitation.** Type 2 Special Permission decisions for interrupted buffer, buffer averaging or other alterations shall expire one year after the decision unless an extension is granted by the Director. Type 1 tree permits for tree removal within critical areas or their buffers shall expire one year after the permit is issued, unless an extension is granted by the Director. Extensions of a Type 2 Special Permission or Type 1 tree permit may be granted if:

1. Unforeseen circumstances or conditions necessitate the extension of the permit; and

2. Termination of the permit would result in unreasonable hardship to the applicant; and the applicant is not responsible for the delay; and

3. The extension of the permit will not cause substantial detriment to existing uses, critical areas, or critical area buffers in the immediate vicinity of the subject property.

B. **Appeals.** Any appeal of a final decision made by the Community Development Department, pursuant to TMC Chapter 18.45, shall be an appeal of the underlying permit or approval. Any such appeal shall be processed pursuant to TMC Section 18.108.020 and TMC Chapter 18.116.

C. In considering appeals of decisions or conditions, the following shall be considered:

1. The intent and purposes of this chapter;

2. Technical information and reports considered by the Community Development Department; and

3. Findings of the Director, which shall be given substantial weight.

D. **Vesting.** Projects are vested to the critical areas ordinance in effect at the time a complete building permit is submitted except for short plats, subdivisions, binding site plans and shoreline permits. Short plats or subdivisions or binding site plans are vested to the critical area ordinance in effect at the time complete application is submitted for preliminary plats or for the binding site plan. The final plat and all future building permits on the lots remain vested to that same critical areas ordinance in effect for the preliminary plat or preliminary binding site plan application, so long as building permits are applied for within five years of the final plat. For single-family residential short plats and subdivisions that received preliminary plat approval prior to the adoption

of this ordinance, building permits on the lots shall be considered under the critical areas ordinance in effect on the date of the preliminary plat application provided complete building or construction permits are submitted within five years of the final plat approval. Vesting provisions for shoreline permits are provided in TMC Chapter 18.44.

(Ord. 2625 §40, 2020)

18.45.195 Violations

A. **VIOLATIONS.** Failure to comply with any requirement of this chapter shall be deemed a violation subject to enforcement pursuant to this chapter and TMC Chapter 8.45. The following actions shall be considered a violation of this chapter:

1. To use, construct or demolish a structure or to conduct clearing, earth-moving, construction or other development not authorized under a Special Permission, Reasonable Use or other permit where such permit is required by this chapter.

2. Any work that is not conducted in accordance with the plans, conditions, or other requirements in a permit approved pursuant to this chapter, provided the terms or conditions are stated in the permit or the approved plans.

3. To remove or deface any sign, notice, complaint or order required by or posted in accordance with this chapter.

4. To misrepresent any material fact in any application, plans or other information submitted to obtain any critical area use, buffer reduction or development authorization.

5. To fail to comply with the requirements of this chapter.

B. **PENALTIES.**

1. Except as provided otherwise in this section, any violation of any provision of this chapter, or failure to comply with any of the requirements of this chapter, shall be subject to the penalties prescribed in TMC Chapter 8.45, "Enforcement".

2. It shall not be a defense to the prosecution for failure to obtain a permit required by this chapter that a contractor, subcontractor, person with responsibility on the site, or person authorizing or directing the work erroneously believed a permit had been issued to the property owner or any other person.

3. *Penalties for Tree Removal.*

a. In addition to any other penalties or other enforcement allowed by law, any person who fails to comply with the provisions of this chapter also shall be subject to a civil penalty assessed against the property owner as set forth herein. Each unlawfully removed or damaged tree shall constitute a separate violation.

b. Removal or damage of tree(s) without applying for and obtaining required City approval is subject to a fine of $1,000 per tree, or up to the marketable value of each tree removed or damaged as determined by a Qualified Tree Professional, whichever is greater.

c. Any fines paid as a result of violations of this chapter shall be allocated as follows: 75% paid into the City's Tree Fund; 25% into the General Fund.

d. The Director may elect not to seek penalties or may reduce the penalties if he/she determines the circumstances do not warrant imposition of any or all of the civil penalties.

e. Penalties are in addition to the restoration of removed trees through the remedial measures listed in TMC Section 18.54.200.

f. It shall not be a defense to the prosecution for a failure to obtain a permit required by this chapter that a contractor, subcontractor, person with responsibility on the site or person authorizing or directing the work erroneously believes a permit was issued to the property owner or any other person.

C. **REMEDIAL MEASURES REQUIRED.** In addition to penalties assessed, the Director shall require any person conducting work in violation of this chapter to mitigate the impacts of unauthorized work by carrying out remedial measures.

1. Any illegal removal of required trees shall be subject to obtaining a Tree Permit and replacement with trees that meet or exceed the functional value of the removed trees.

2. To replace the tree canopy lost due to the tree removal, additional trees must be planted on-site. Payment shall be made into the City's Tree Fund if the number of replacement trees cannot be accommodated on-site. The number of replacement trees required will be based on the size of the tree(s) removed as stated in Table 18.45.158-1, Tree Replacement Requirements.

3. The applicant shall satisfy the permit provisions as specified in this chapter.

4. Remedial measures must conform to the purposes and intent of this chapter. In addition, remedial measures must meet the standards specified in this chapter.

5. Remedial measures must be completed to the satisfaction of the Director within 6 months of the date a Notice of Violation and Order is issued pursuant to TMC Chapter 8.45, or within the time period otherwise specified by the Director.

6. The cost of any remedial measures necessary to correct violation(s) of this chapter shall be borne by the property owner and/or applicant. Upon the applicant's failure to implement required remedial measures, the Director may redeem all or any portion of any security submitted by the applicant to implement such remedial measures, pursuant to the provisions of this chapter.

(Ord. 2625 §41, 2020)

18.45.197 Enforcement

A. **General.** In addition to the Notice of Violation and Order measures prescribed in TMC Chapter 8.45, the Director may take any or all of the enforcement actions prescribed in this chapter to ensure compliance with, and/or remedy a violation of this chapter; and/or when immediate danger exists to the public or adjacent property, as determined by the Director.

1. The Director may post the site with a "Stop Work" order directing that all vegetation clearing not authorized under a Tree Permit cease immediately. The issuance of a "Stop Work" order may include conditions or other requirements which must be fulfilled before clearing may resume.

2. The Director may, after written notice is given to the applicant, or after the site has been posted with a "Stop Work" order, suspend or revoke any Tree Permit issued by the City.

3. No person shall continue clearing in an area covered by a "Stop Work" order, or during the suspension or revocation of a Tree Permit, except work required to correct an imminent safety hazard as prescribed by the Director.

B. **Injunctive Relief.** Whenever the Director has reasonable cause to believe that any person is violating or threatening to violate this chapter or any provision of an approved Special Permission or Tree Permit, the Director may institute a civil action in the name of the City for injunctive relief to restrain the violation or threatened violation. Such civil action may be instituted either before or after, and in addition to, any other action, proceeding or penalty authorized by this chapter or TMC Chapter 8.45.

C. **Inspection Access.**

1. The Director may inspect a property to ensure compliance with the provisions of a Tree Permit or this chapter, consistent with TMC Chapter 8.45.

2. The Director may require a final inspection as a condition of a Special Permission or Tree Permit issuance to ensure compliance with this chapter. The permit process is complete upon final approval by the Director.

(Ord. 2625 §42, 2020)

18.45.200 Recording Required

The property owner receiving approval of a use or development permit pursuant to TMC Chapter 18.45 shall record the City-approved site plan, clearly delineating the wetland, watercourse, areas of potential geologic instability or abandoned mine and their buffers designated by TMC Sections 18.45.080, 18.45.090, 18.45.100, 18.45.120, 18.45.140 and 18.45.150 with the King County Division of Records and Licensing Services. The face of the site plan must include a statement that the provisions of TMC Chapter 18.45, as of the effective date of the ordinance from which TMC Chapter 18.45 derives or is thereafter amended, control use and development of the subject property, and provide for any responsibility of the property owner for the maintenance or correction of any latent defects or deficiencies. Additionally, the applicant shall provide data (GPS or survey data) for updating the City's critical area maps.

(Ord. 2625 §43, 2020)

18.45.210 Assurance Device

A. In appropriate circumstances, such as when mitigation is not completed in advance of the project, the Director may require a letter of credit or other security device acceptable to the City to guarantee performance and maintenance requirements of TMC Chapter 18.45. All assurances shall be on a form approved by the City Attorney and be equal to 150% of the cost of the labor and materials for implementation of the approved mitigation plan.

B. When alteration of a critical area is approved, the Director may require an assurance device, on a form approved by the City Attorney, to cover the cost of monitoring and maintenance costs and correction of possible deficiencies for five years. If at the end of five years performance standards are not being achieved, an increase in the security device may be required by the Director. When another agency requires monitoring beyond the City's time period, copies of those monitoring reports shall be provided to the City.

C. The assurance device shall be released by the Director upon receipt of written confirmation submitted to the Department from the applicant's qualified professional, and confirmed by the City, that the mitigation or restoration has met its performance standards and is successfully established. Should the mitigation or restoration meet performance standards and be successfully established in the third or fourth year of monitoring, the City may release the assurance device early. The assurance device may be held for a longer period, if at the end of the monitoring period, the performance standards have not been met or the mitigation has not been successfully established. In such cases, the monitoring period will be extended and the bond held until the standards have been met.

D. Release of the security does not absolve the property owner of responsibility for maintenance or correcting latent defects or deficiencies or other duties under law.

(Ord. 2625 §44, 2020)

18.45.220 Assessment Relief

A. **Fair Market Value.** The King County Assessor considers critical area regulations in determining the fair market value of land under RCW 84.34.

B. **Current Use Assessment.** Established critical area tracts or easements, as defined in the Definitions chapter of this title and provided for in TMC Section 18.45.170, may be classified as open space and owners thereof may qualify for current use taxation under RCW 18.34; provided, such landowners have not received density credits, or setback or lot size adjustments as provided in the Planned Residential Development District chapter of this title.

C. **Special Assessments.** Landowners who qualify under TMC Section 18.45.220.B shall also be exempted from special assessments on the critical area tract or easement to defray the cost of municipal improvements such as sanitary sewers, storm sewers and water mains.

(Ord. 2625 §45, 2020)

CHAPTER 18.46

PRD - PLANNED RESIDENTIAL DEVELOPMENT

Sections:

18.46.010 Purpose

It is the purpose of this chapter to encourage imaginative site and building design and to create open space in residential developments by permitting greater flexibility in zoning requirements than is permitted by other sections of this title. Furthermore, it is the purpose of this chapter to:

1. Promote the retention of significant features of the natural environment, including topography, vegetation, waterways, wetlands and views;

2. Encourage a variety or mixture of housing types;

3. Encourage maximum efficiency in the layout of streets, utility networks, and other public improvements; and

4. Create and/or preserve usable open space for the enjoyment of the occupants and the general public.

(Ord. 1758 §1 (part), 1995)

18.46.020 Permitted Districts

Planned residential development (PRD) may be permitted in the LDR, MDR and HDR residential districts and in the TSO district when there are wetlands, watercourses, and associated buffers on the lot.

(Ord. 2235 §11, 2009; Ord. 1758 §1 (part), 1995)

18.46.030 Permitted Uses

The following uses are allowed in planned residential development:

1. In LDR Districts, only single-family detached dwellings may be permitted;

2. In MDR and HDR Districts, residential developments of all types regardless of the type of building in which such residence is located, such as single-family residences, duplexes, triplexes, fourplexes, rowhouses, townhouses or apartments; provided, that all residences are intended for permanent occupancy by their owners or tenants. Hotels, motels, and travel trailers and mobile homes and trailer parks are excluded;

3. Accessory uses specifically designed to meet the needs of the residents of the PRD such as garages and recreation facilities of a noncommercial nature;

(Ord. 1758 §1 (part), 1995)

18.46.060 Relationship of this Chapter to Other Sections and Other Ordinances

A. Lot Size, Building Height and Setbacks.

1. Lot Size and Setbacks. A maximum reduction of 15% for lot areas and setbacks in LDR Districts shall be permitted, provided that the following are also substantially provided:

a. At least 15% of the natural vegetation is retained (in cases where significant stands exist).

b. Advantage is taken or enhancement is achieved of unusual or significant site features such as views, watercourses, or other natural characteristics.

c. Separation of auto and pedestrian movement is provided, especially in or near areas of recreation.

d. Development aspects of the PRD complement the land use policies of the Comprehensive Plan.

2. Building Height. Building heights may be modified within a PRD when it assists in maintaining natural resources and significant vegetation, and enhances views within the site without interfering with the views of adjoining property. For increases in building height, there shall be a commensurate decrease in impervious surface.

B. Off-street Parking. Off-street parking shall be provided in a PRD in the same ratio for types of buildings and uses as required in the Off-street Parking and Loading Regulations chapter of this title. However, for multiple-family zoned sites with sensitive areas, a minimum of two parking stalls per unit will be allowed, with a 50% compact stalls allowance, and parking stalls in front of carports or garages will be allowed if the design does not affect circulation.

C. Platting Requirements. The standards of the subdivision code for residential subdivisions shall apply to planned residential developments if such standards are not in conflict with the provisions of this chapter. Upon final approval of the PRD, filing of the PRD shall be in accordance with procedures of the subdivision code if any lots are to be transferred.

D. Impervious Surface. The maximum amount of impervious surface calculated for the total development allowed on sensitive areas sites will be 50% for each single-family development and each multi-family development.

E. Recreation Space Requirements. Sensitive areas and stands of significant trees may be counted as area required to meet the recreation space minimums, if usable passive recreation opportunities within these areas are demonstrated. Opportunities could include connection and continuation of area-wide trail systems, wildlife or scenic viewing opportunities, or picnic areas.

F. Landscape and Site Treatment for Sites with Class 2, Class 3 and Class 4 Geologic Hazard Areas:

1. Downslope and Side Yard Buffers. Photomontage or computer-generated perspectives, taken from the nearest downslope off-site privately-owned property, shall show minimum landscape coverage of 25% of the structures at the time of project completion with anticipated 40% coverage within 15 years. This standard may supplement or be in lieu of the applicable landscape yard requirement.

2. Roads and Access Drives. Any road or access drive which cuts approximately perpendicular to a slope to the ridge line of a hill shall have minimum five-foot planted medians. Trees shall be a species that provides a branch pattern sufficient to provide, at maturity, 50% coverage of the pavement area. Roads or drives which require retaining walls parallel to the topographic line shall plant roadside buffers of Northwest native plant species.

G. Review guidelines contained in TMC 18.60 “Board of Architectural Review”, shall apply to PRDs.

H. For single-family developments, site plans shall include placement and footprint of the residences, driveways and roads.

(Ord. 1758 §1 (part), 1995)

18.46.070 Multi-Family Density Standards

In multiple-family residential districts, the City Council may authorize a dwelling-unit density not more than 20% greater than permitted by the underlying zones, after entry of findings that the following are substantially provided:

1. A variety of housing types is offered.

2. At least 15% of the natural vegetation is retained (in cases where significant stands exist).

3. Advantage is taken or enhancement is achieved of unusual or significant site features such as views, watercourses, wetlands or other natural characteristics.

4. Separation of auto and pedestrian movement is provided, especially in or near areas of recreation.

5. Developmental aspects of the PRD complement the land use policies of the Comprehensive Plan.

(Ord. 1770 §27, 1996; Ord. 1758 §1 (part), 1995)

18.46.080 Open Space

A. Each planned residential development shall provide not less than 20% of the gross site area for common open space which shall:

1. Provide either passive or active recreation concentrated in large usable areas;

2. Network with the trail and open space system of the City and provide a connection and extension, if feasible; and

3. Be under one ownership, owned and maintained by the ownership; or be held in common ownership by all of the owners of the development by means of a homeowners’ association or similar association. Such association shall be responsible for maintenance of the common open space, or be dedicated for public use if acceptable to the city or other appropriate public agency.

B. Planned residential developments shall set aside sensitive areas and their buffers in a sensitive areas tract as required by TMC 18.45.090, and will be exempted from other open space requirements of this section.

(Ord. 1758 §1 (part), 1995)

18.46.090 Relationship to Adjacent Areas

A. The design and layout of a planned residential development shall take into account the integration and compatibility of the site to the surrounding areas. The perimeter of the PRD shall be so designed as to minimize any undesirable impact of the PRD on adjacent properties.

B. Setbacks from the property lines of the PRD shall be comparable to, or compatible with, those of the existing development of adjacent properties or, if adjacent properties are undeveloped, the type of development which may be permitted.

(Ord. 1758 §1 (part), 1995)

18.46.110 Application Procedure Required for PRD Approval

A. Filing of Application. Application for approval of the PRD shall be made on forms prescribed by the DCD and shall be accompanied by a filing fee as required in the Application Fees chapter of this title and by the following:

1. Justification for the density increases, or lot size and setback reductions, if requested by the applicant;

2. Program for development including staging or timing of development;

3. Proposed ownership pattern upon completion of the project;

4. Basic content of any restrictive covenants;

5. Provisions to assure permanence and maintenance of common open space through a homeowners’ association, or similar association, condominium development or other means acceptable to the City;

6. An application for rezone may be submitted with the PRD application if rezoning is necessary for proposed density. Fees for rezone request shall be in addition to those of the PRD application;

7. An application for preliminary plat may be submitted with the PRD application, if necessary. Fees for the subdivision shall be in addition to those of the PRD application;

8. Graphic images of development in any sensitive area or buffer, including photomontage or computer-generated perspectives in a standardized format required by the Director;

9. Every reasonable effort shall be made to preserve existing trees and vegetation and integrate them into the subdivision's design by preparing a tree inventory of the significant vegetation on-site as part of the preliminary plat application. A tree and vegetation retention/removal plan shall be part of any preliminary plat application. Such tree and vegetation retention/removal plan shall assure the preservation of significant trees and vegetation.

B. City Council Public Hearing.

1. PRD's related to a subdivision or design review permit shall be processed as Type 5 decisions, pursuant to TMC 18.108.050. PRD's related to short plats, boundary line adjustments or binding site improvement plans shall be processed as Type 2 decisions, pursuant to TMC 18.108.020.

2. The PRD shall be an exception to the regulations of the underlying zoning district. The PRD shall constitute a limitation on the use and design of the site unless modified by ordinance.

(Ord. 2097 §18, 2005; Ord. 1770 §29, 1996; Ord. 1758 §1 (part), 1995)

18.46.112 Review Criteria

The City Council shall find that the proposed development plans meet all of the following criteria in their decision making:

1. Requirements of the subdivision code for the proposed development have been met, if appropriate;

2. Reasons for density increases, or lot size and setback reductions, meet the criteria as listed in the Planned Residential Development District chapter of this title;

3. Adverse environmental impacts have been mitigated;

4. Compliance of the proposed PRD to the provisions of this chapter and the Sensitive Areas Overlay District chapter of this title;

5. Time limitations, if any, for the entire development and specified stages have been documented in the application;

6. Development in accordance with the Comprehensive Land Use Policy Plan and other relevant plans;

7. Compliance with design review guidelines *(see TMC Section 18.60);* and

8. Appropriate retention and preservation of existing trees and vegetation recommended by the Director.

(Ord. 1770 §30, 1996; Ord. 1758 §1 (part), 1995)

18.46.115 Restrictive Covenants Subject to Approval by City Council and City Attorney

The restrictive covenants intended to be used by the applicant in a planned residential development (PRD), which purports to restrict the use of land or the location or character of buildings or other structures thereon, must be approved by the City Council and the City Attorney before the issuance of any building permit.

(Ord. 1758 §1 (part), 1995)

18.46.120 Application Procedures for Building Permit

The following procedures are required for approval of construction for the proposed planned residential development:

1. *Time Limitation.* A complete application for the initial building permit shall be filed by the applicant within twelve months of the date on which the City Council approved the PRD. An extension of time for submitting an application may be requested in writing by the applicant, and an extension not exceeding six months may be granted by the Director. If application for the initial building permit is not made within twelve months or within the time for which an extension has been granted, the plan shall be considered abandoned, and the development of the property shall be subject to the requirements and limitations of the underlying zone and the subdivision code.

2. *Application*. Application for building permit shall be made on forms prescribed by the DCD and shall be accompanied by a fee as prescribed by the building code.

3. *Documentation Required*. All schematic plans either presented or required in the approved PRD plans shall be included in the building permit application presented in finalized, detailed form. hese plans shall include but are not limited to landscape, utility, open space, circulation, and site or subdivision plans. Final plats and public dedication documents must be approved by the City Council before the issuance of any building permits.

4. *Sureties Required for Staging*. If the PRD is to be developed in stages, sureties or other security device as shall be approved by the City Attorney shall be required for the complete PRD. The various stages or parts of the PRD shall provide the same proportion of open space and the same overall dwelling unit density as provided in the final plan.

5. *DCD Action*. The DCD shall determine whether the project plans submitted with the building permit are in compliance with and carry out the objectives of the approved PRD.

(Ord. 2097 §19, 2005; Ord. 1758 §1 (part), 1995)

18.46.130 Minor and Major Adjustments

If minor adjustments or changes are proposed following the approval of the PRD, by the City Council as provided in the Planned Residential Development District chapter of this title, such adjustments shall be approved by the DCD prior to the issuance of a building permit. Minor adjustments are those which may affect the precise dimensions or siting of structures, but which do not affect the basic character or arrangement of structures approved in the final plan, or the density of the development or open space provided. Major adjustments are those which, as determined by the DCD, substantially change the basic design, density, open space, or other substantive requirement or provision. If the applicant wishes to make one or more major changes, a revised plan must be approved pursuant to the Planned Residential Development District chapter of this title.

(Ord. 1758 §1 (part), 1995)

18.46.140 Expiration of Time Limits

Construction of improvements in the PRD shall begin within six months from the date of the issuance of the building/development permit. An extension of time for beginning construction may be requested in writing by the applicant, and such extension not exceeding six months may be granted by the Department upon showing of good cause. If construction does not occur within 12 months from the date of permit issuance or if this permit expires the plan shall be considered abandoned, and the development of the property shall be subject to the requirements and limitations of the underlying zone and the Subdivision Code.

(Ord. 2097 §20, 2005; Ord. 1770 §31, 1996; Ord. 1758 §1 (part), 1995)

CHAPTER 18.50

SUPPLEMENTAL DEVELOPMENT STANDARDS

Sections:

18.50.010 Purpose

It is the purpose of this chapter to establish development standards that supplement those established within the various use districts. These supplemental standards are intended to address certain unique situations that may cross district boundaries, and to implement related policies of the Tukwila Comprehensive Plan.

(Ord. 1758 §1 (part), 1995)

18.50.020 Special Height Limitation Areas

There are hereby established special height limitation areas, as depicted by ***Figure 18-3***.

(Ord. 2368 §51, 2012; Ord. 2186 §1, 2007; Ord. 1758 §1 (part), 1995)

18.50.030 Special Height Exception Areas

There are hereby established special height exception areas as depicted by Figure 18-3, within which building heights of up to four, six, or ten stories, as illustrated by the Figure, are allowed, notwithstanding the height standards for zoning districts within which the subject property may lie.

(Ord. 1758 §1 (part), 1995)

18.50.045 Height Regulations Around Major Airports

For the purposes of regulating heights within the vicinity of major airports, there are established and created certain height limitation zones which include all the land lying within the instrument approach zones, non-instrument approach zones, transition zones, horizontal zones and conical zones. Such areas may be shown and defined on an "airport height map" which shall become a part of the ordinance codified in this section by adoption of the Council and found on file in the office of the City Clerk. No building or structure shall be erected, altered or maintained, nor shall any tree be allowed to grow to a height in excess of the height limit herein established in any of the several zones created by this section; provided, however, that this provision shall not prohibit the construction of or alteration of a building or structure to a height of 35 feet above the average finish grade of the lot. Where an area is covered by more than one height limitation zone, the more restrictive limitations shall prevail. Under the provision of this section, the City adopts the following airport height map: Airport Height Map: King County International Airport (Boeing Field), August 1, 1986, and as the same may be amended.

(Ord. 1758 §1 (part), 1995)

18.50.050 Single-Family Dwelling Design Standards

All new single-family dwellings, as well as accessory dwelling units and other accessory structures that require a building permit, must:

1. Be set upon a permanent concrete perimeter foundation, with the space from the bottom of the home to the ground enclosed by concrete or an approved concrete product that can be either load bearing or decorative.
2. If a manufactured home, be comprised of at least two fully-enclosed parallel sections, each of not less than 12 feet wide by 36 feet long.
3. Be thermally equivalent to the current edition of the Washington State Energy Code with amendments.
4. Have exterior siding that is residential in appearance including, but not limited to, wood clapboards, shingles or shakes, brick, conventional vinyl siding, fiber-cement siding, wood-composite panels, aluminum siding or similar materials. Materials such as smooth, ribbed or corrugated metal or plastic panels are not acceptable.

5. Have the front door facing the front or second front yard, if the lot is at least 40 feet wide. This requirement does not apply to ADUs or accessory structures.

6. Have a roofing material that is residential in appearance including, but not limited to, wood shakes or shingles, standing seam metal, asphalt composition shingles or tile.

(Ord. 2678 §13, 2022; Ord. 2581 §9, 2018; Ord. 2500 §23, 2016; Ord. 2098 §2, 2005)

18.50.055 Single-Family Design Standard Exceptions

A. The design standards required in TMC Section 18.50.050 (4), (5) and (6) may be modified by the Community Development Director as part of the building permit approval process.

1. The criteria for approval of use of unconventional exterior siding are as follows:

a. The structure exhibits a high degree of design quality, including a mix of exterior materials, detailing, articulation and modulation; and

b. The proposed siding material is durable with an expected life span similar to the structure; and

c. The siding material enhances a unique architectural design.

2. The criteria for approval of a house with a front door that faces the side or rear yard are as follows:

a. The topography of the lot is such that pedestrian access is safer or more convenient from the side or rear yard;

b. The entrance is oriented to take advantage of a site condition such as a significant view; or

c. The entry feature is integral to a unique architectural design.

B. The design standards required in TMC Section 18.50.050 (5) and (6) may also be modified by the Community Development Director as part of the building permit approval process if the proposal includes a replacement of a single wide manufactured home with a double wide and newer manufactured home. The property owner can apply for this waiver only one time per property starting from the date of adoption of this ordinance. Additionally, the proposal should result in aesthetic improvement to the neighborhood.

C. The design standards required in TMC Section 18.50.220.A (4) may be modified by the Community Development Director as part of the building permit approval process. The design of an attached ADU that does not reflect the design vocabulary of the existing primary residence may be approved if the new portion of the structure exhibits a high degree of design quality, including a mix of durable exterior materials, detailing, articulation and modulation.

(Ord. 2678 §14, 2022; Ord. 2581 §10, 2018; Ord. 2368 §52, 2012; Ord. 2098 §3, 2005)

18.50.060 Cargo Containers as Accessory Structures

A. Cargo containers are allowed outright in the LI, HI, MIC/L, MIC/H and TVS zones, subject to building setbacks.

B. New containers may be allowed as accessory structures in LDR, MDR, and HDR for institutional uses, and in RC, RCM, TUC, TSO and C/LI for any permitted or conditional use. All new containers are subject to a Type 2 special permission decision and the restrictions in the various zoning districts.

C. Criteria for approval are as follows:

1. Only two cargo containers will be allowed per lot, maximum length of 40 feet.

2. The container is located to minimize the visual impact to adjacent properties, parks, trails and rights-of-way as determined by the Director.

3. The cargo container is sufficiently screened from adjacent properties, parks, trails and rights-of-way, as determined by the Director. Screening may be a combination of solid fencing, landscaping, or the placement of the cargo containers behind, between or within buildings.

4. If located adjacent to a building, the cargo container must be painted to match the building's color.

5. Cargo containers may not occupy any required off-street parking spaces.

6. Cargo containers shall meet all setback requirements for the zone.

7. Outdoor cargo containers may not be refrigerated.

8. Outdoor cargo containers may not be stacked.

D. Licensed and bonded contractors may use cargo containers in any zone for temporary storage of equipment and/or materials at a construction site during construction that is authorized by a City building permit.

(Ord. 2235 §12, 2009; Ord. 2066 §1, 2004; Ord. 1989 §9, 2002)

18.50.070 Yard Regulations

A. Fences, walls, poles, posts, and other customary yard accessories, ornaments, furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility to the detriment of public safety. The height of opaque fences along street frontages is limited to 4 feet, with lattice or other open material allowed up to 6 feet.

B. In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages.

C. Where the front yard that would normally be required on a lot is not in keeping with the prevailing yard pattern, the DCD may waive the requirement for the normal front yard and substitute therefore a special yard requirement, which shall not exceed the average of the yards provided on adjacent lots.

D. In the case of corner lots, a front yard of the required depth shall be provided in accordance with the prevailing yard pattern, and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.

E. In the case of corner lots with more than two frontages, the DCD shall determine the front yard requirements, subject to the following conditions:

1. At least one front yard shall be provided having the full depth required generally in the district;
2. The second front yard shall be the minimum set forth in the district;
3. In the case of through lots and corner lots, there will be no rear yards but only front and side yards;
4. In the case of through lots, side yards shall extend from the rear lines of front yards required. In the case of corner lots, yards remaining after full and half depth front yards have been established shall be considered side yards. *(See Figure 18-4.)*

(Ord. 2199 §15, 2008; Ord. 1758 §1 (part), 1995)

18.50.080 Exemption of Rooftop Appurtenances

The height limitations specified in this chapter shall not apply to church spires, monuments, chimneys, water towers, elevator towers, mechanical equipment, and other similar rooftop appurtenances usually required to be placed above the roof level and not intended for human occupancy or the provision of additional floor area; provided, that mechanical equipment rooms or attic spaces are set back at least 10 feet from the edge of the roof and do not exceed 20 feet in height.

(Ord. 1758 §1 (part), 1995)

18.50.083 Maximum Building Length

In the MDR and HDR zone, the maximum building length shall be as follows:

For all buildings except as described below:	MDR……..50 ft. HDR……..50 ft.
Maximum building length with bonus for modulating off-sets:	
• For structures with a maximum building height of 2 stories or 25 feet, whichever is less, and having horizontal modulation or a minimum vertical change in roof profile of 4 feet at least every two units or 50 feet, whichever is less	MDR……..100 ft. HDR……..200 ft.
• For structures with a building height over 2 stories or 25 feet, whichever is less, with a horizontal & vertical modulation of 4 feet or an 8 foot modulation in either direction	MDR……..100 ft. HDR……..200 ft.
• For townhouse structures with horizontal modulation or a minimum vertical change in roof profile of 4 feet at least every two units or 50 feet, whichever is less	MDR……..80 ft. HDR……..125 ft.

Maximum building length with bonus for modulating off-sets: Modulation shall be required for every 2 units or 50 feet, whichever is less, as measured along the building's length. Grouping of offsets in maximum four unit modules may be permitted only with BAR approval *(see Figure 18-5)*.

(Ord. 2661 §4, 2021; Ord. 2580 §5, 2018; Ord. 2199 §16, 2008; Ord. 1758 §1 (part), 1995)

18.50.085 Maximum Percent Development Area Coverage

A. In the LDR zones the maximum percent development area coverage for a single-family development shall be as follows:

1. 75% on lots less than 13,000 square feet up to a maximum of 5,850 sq. ft.; and
2. 45% on lots greater than or equal to 13,000 square feet.

B. In the MDR and HDR zones the maximum percent development area coverage shall be 50%, less the following surfaces:

1. the footprint of an exclusive recreational facility;
2. a proportion of a recreational facility footprint when contained within a general use building as follows: the portion of the footprint area occupied by a recreational facility divided by the number of floors in that portion of the building;
3. vehicle circulation aisles between separate parking areas;
4. sidewalks;
5. paths; and
6. other pedestrian/recreation facilities clearly designed to enhance the pedestrian environment.

C. Senior citizen housing development in HDR is exempt from development area coverage maximum; however, if the senior citizen housing is converted to regular apartments, the 50% limit must be met.

D. The 50% maximum development area coverage for townhouse development may be increased up to a maximum of 75% development area coverage, if the applicant uses low-impact development techniques that are technically feasible and in accordance with the Surface Water Design Manual (TMC Chapter 14.30).

(Ord. 2518 §10, 2016; Ord. 2199 §17, 2008; Ord. 1830 §28, 1998; Ord. 1758 §1 (part), 1995)

18.50.090 Height Limitation for Amusement Devices

Amusement devices shall be allowed up to 115 feet in height in any commercial or industrial zones. Any devices that exceed the height limit of the zone in which they are located shall be subject to a conditional use permit.

(Ord. 1815 §2, 1997)

18.50.110 Archaeological/Paleontological Information Preservation Requirements

The following provisions shall apply in all zones:

1. If there is reason to believe that archaeological resources will be disturbed, a cultural resources assessment shall be conducted and, if warranted, an archaeological response plan and provisions for excavation monitoring by a professional archaeologist shall be made prior to beginning construction. The assessment should address the existence and significance of archaeological remains, buildings and structures on the State or Federal historic registers, observable paleontological deposits and may include review by the State Archaeologist.

2. It is recommended that the applicant coordinate a predetermination study by a professional archaeologist during the geotechnical investigation phase, to determine site archaeological potential and the likelihood of disturbing archaeological resources.

3. Excavations into historically native soil, when in an area of archaeological potential, shall have a professional archaeologist on site to ensure that all State statutes regarding archaeological conservation/ preservation are implemented. The applicant shall provide a written commitment to stop work immediately upon discovery of archaeological remains and to consult with the State Office of Archaeology and Historic Preservation (OAHP) to assess the remains and develop appropriate treatment measures. These may include refilling the excavation with no further responsibility.

4. An applicant who encounters Indian burials shall not disturb them and shall consult with OAHP and affected tribal organizations pursuant to State statutes.

5. The Director is authorized to:

a. conduct studies to generally identify areas of archaeological/ paleontological potential;

b. make determinations to implement these provisions; and

c. waive any and all of the above requirements, except for TMC 18.50.110-4 (reporting of discovered Indian burials), if the proposed action will have no probable significant impact on archaeological or historical resources that are eligible for listing in the National Register of Historic Places, or on observable paleontological resources. Examples of such actions include excavation of fill materials, disturbance of less than 10,000 square feet of native soils to a depth of 12 inches, penetration of native soils with pilings over a maximum 8% of the building footprint, and paving over native soils in a manner that does not damage cultural resources. The above examples are illustrative and not determinative. A case-by-case evaluation of archaeological/paleontological potential value and proposed disturbance must be made.

(Ord. 2076 §1, 2004)

18.50.130 Structures Over Public R-O-W

A developer who controls parcels on both sides of a public right-of-way may request approval to bridge the street with a structure as a Type 2 special permission decision. Only the width of the building that extends across the street is exempt from setbacks; the remainder of the building must meet them. The developer must also obtain air rights and comply with all other relevant codes, including the Washington State Building Code.

(Ord. 1971 §18, 2001)

18.50.140 Charging Station Locations

Level 1 and Level 2 charging stations are allowed as an accessory use in the predominantly residential zones LDR, MDR and HDR. Level 1 and Level 2 charging stations are allowed as a permitted use in all other zones. Level 3 charging stations, battery exchange stations, and rapid charging stations are allowed as a permitted use in all zones that allow other automotive services such as gas stations, and are allowed as an accessory use in all other zones.

(Ord. 2324 §12, 2011)

18.50.150 Retaining Wall Setback Waiver

Retaining walls with an exposed height greater than four feet may be allowed in required front, side or rear yard setbacks as a Type 2 Special Permission decision to the Community Development Director under the following circumstances:

1. When the applicant's property is on the lower side of the retaining wall and it is not visible from adjacent properties or is screened by landscaping; or

2. When a wall built on a property line or perpendicular to it benefits the lots on both sides, and the owners of both properties agree to jointly maintain the wall; or

3. When a wall in a front yard is required due to roadway expansion or improvements.

(Ord. 2678 §15, 2022; Ord. 2176 §2, 2007)

18.50.170 Lighting Standards

A. Parking and loading areas shall include lighting capable of providing adequate illumination for security and safety. Lighting standards shall be in scale with the height and use of the associated structure. Any illumination, including security lighting, shall be directed away from adjoining properties and public rights-of-way.

B. In the MDR and HDR zones, porches, alcoves and pedestrian circulation walkways shall be provided with low level safety lighting. Pedestrian walkways and sidewalks may be lighted with lighting bollards.

C. **MIC/L and MIC/H.** The following site lighting standards shall apply to portions of developments within 100 feet of the Tukwila Manufacturing/Industrial Center boundary as defined in the 1995 Comprehensive Plan:

1. The minimum light levels in parking areas, paths between the building and street or parking areas shall be 1 foot candle;

2. The maximum ratio of average:minimum light level shall be 4:1 for illuminated grounds;

3. Maximum illumination at the property line shall be 2 foot candles;

4. Lights shall be shielded to eliminate direct off-site illumination; and

5. General grounds need not be lighted.

D. Variation from these standards may be granted by the Director of the Department of Community Development based on technical unfeasibility or safety considerations.

(Ord. 2524 §2, 2017; Ord. 1872 §14 (part), 1999)

18.50.180 Recycling Storage Space for Residential Uses

Apartment and condominium developments over six units shall provide 1-1/2 square feet of recycling storage space per dwelling unit, which shall be located in collection points as follows:

1. No dwelling unit within the development shall be more than 200 feet from a collection point.

2. Collection points shall be located so that hauling trucks do not obstruct pedestrian or vehicle traffic on-site, or project into any public right-of-way.

3. Collection points shall not be located in any required setback or landscape area.

(Ord. 2524 §3, 2017; Ord. 1872 §14 (part), 1999)

18.50.185 Recycling Storage Space for Non-Residential Uses

A. Recycling storage space for non-residential uses shall be provided at the rate of at least:

1. Two square feet per every 1,000 square feet of building gross floor area in office, medical, professional, public facility, school and institutional developments.

2. Three square feet per every 1,000 square feet of building gross floor area in manufacturing, industrial and other non-residential uses not specifically mentioned in these requirements.

3. Five square feet per every 1,000 square feet of building gross floor area in retail developments.

B. Outdoor collection points shall not be located in any required setback or landscape area.

C. Collection points shall be located in a manner so that hauling trucks do not obstruct pedestrian or vehicle traffic on-site, or project into any public right-of-way.

(Ord. 2524 §4, 2017; Ord. 1872 §14 (part), 1999)

18.50.190 Design of Collection Points for Garbage and Recycling Containers

Residential and non-residential collection points shall be designed as follows:

1. An opaque wall or fence of sufficient size and height to provide complete screening shall enclose any outside collection point. Architectural design shall be consistent with the design of the primary structure(s) on the site.

2. Collection points shall be identified by signs not to exceed two square feet.

3. Weather protection of recyclables and garbage shall be ensured by using weather-proof containers or by providing a roof over the storage area

(Ord. 2524 § 5, 2017; Ord. 1872 §14 (part), 1999)

18.50.200 Peer Review of Technical Studies

The Department of Community Development will review all technical information submitted as part of any application to verify it meets all requirements of the Tukwila Municipal Code. At the discretion of the Director, any technical studies required as part of the application including, but not limited to, noise reports, lighting plans, and parking demand studies, may undergo peer review at the expense of the applicant.

(Ord. 2251 §60, 2009)

18.50.210 Marijuana Related Uses

A. The production, processing and retailing of marijuana is and remains illegal under federal law. Nothing herein or as provided elsewhere in the ordinances of the City of Tukwila is an authorization to circumvent federal law or provide permission to any person or entity to violate federal law. Only state-licensed marijuana producers, marijuana processors, and marijuana retailers may locate in the City of Tukwila and then only pursuant to a license issued by the State of Washington. The purposes of these provisions is solely to acknowledge the enactment by the state Liquor and Cannabis Board of a state licensing procedure and to permit, but only to the extent required by state law, marijuana producers, processors, and retailers to operate in designated zones of the City.

B. **Marijuana production, processing, selling or delivery.**

1. The production, processing, selling, or delivery of marijuana, marijuana-infused products, or useable marijuana may not be conducted in association with any business establishment, dwelling unit, or home occupation located in any of the following areas:

Low Density Residential
Medium Density Residential
High Density Residential
Mixed Use Office
Office
Residential Commercial Center
Neighborhood Commercial Center
Regional Commercial
Regional Commercial Mixed Use
Tukwila Urban Center
Commercial/Light Industrial
Light Industrial
Manufacturing Industrial Center/Light
Manufacturing Industrial Center/Heavy

2. **Violations.**

a. Any person violating or failing to comply with the provisions of this section of the Tukwila Municipal Code shall be subject to enforcement as prescribed in TMC Chapter 8.45 and the issuance of a Notice of Violation and Order, in accordance with TMC Section 8.45.070, that shall carry with it a cumulative monetary penalty of $1,000.00 per day for each violation from the date set for compliance until compliance with the Notice of Violation and Order is achieved.

b. In addition to any penalty that may be imposed by the City, any person violating or failing to comply with this section shall be liable for all damage to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to the violation.

c. Any penalties imposed under this section may be doubled should the violation(s) occur within 1,000 feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade to which admission is not restricted to persons aged 21 years or older, as such terms are defined in WAC 314-55-010 as now enacted or hereafter amended.

C. Growth of medical marijuana for the personal medical use of an individual qualifying patient as defined in RCW 69.51A.010 is subject to strict compliance with all state regulations, procedures and restrictions as set forth or hereafter adopted at RCW Chapter 69.51A.

D. The establishment, location, operation, licensing, maintenance or continuation of a cooperative, as described in Chapter 69.51 RCW, or medical cannabis collective gardens or dispensaries as described in RCW 69.51A.085, is prohibited in all zones of the City. Any person who violates this subsection (TMC Section 18.50.210.D) shall be guilty of a gross misdemeanor and shall be punished by a fine not to exceed $5,000.00, or by imprisonment in jail for a term not exceeding one year, or by both such fine and imprisonment.

E. Any violation of this section is declared to be a public nuisance per se, and, in addition to any other remedy provided by law or equity, may be abated by the City under the applicable provisions of this code or state law. Such violations shall be enforced and appealed with the procedures set forth in TMC Chapter 8.45. Each day any violation of this section occurs or continues shall constitute a separate offense.

F. **Additional Relief.** The City may seek legal or equitable relief to enjoin any acts or practices and abate any condition which constitutes or will constitute a violation of this section of the Tukwila Municipal Code. The remedies and penalties provided herein are cumulative and shall be in addition to any other remedy provided by law.

(Ord. 2549 §24, 2017; Ord. 2479 §8, 2015; Ord. 2407 §10, 2013)

18.50.220 Accessory Dwelling Unit (ADU) Standards

A. For the purposes of this section, terms shall be defined as follows:

1. "Major transit stop" means a stop on a high-capacity transportation system funded or expanded under the provisions of chapter 81.104 RCW, including but not limited to: commuter rail stops, stops on rail or fixed guideway systems, including transitways, stops on bus rapid transit routes, or routes that run on high-occupancy vehicle lanes, stops for a bus or other transit mode providing actual fixed route service at intervals of at least fifteen minutes for at least five hours during the peak hours of operation on weekdays.

2. "Principal Unit" means the single-family housing unit, duplex, triplex, townhome, or other housing unit located on the same lot as an accessory dwelling unit.

B. **General Standards**.

1. Two (2) ADUs may be created per lot. The lot shall contain one (1) principal unit and a maximum of two (2) ADUs. These ADUs may be either attached or detached.

2. Attached ADUs may occupy a maximum of 40% of the square footage of the principal unit (excluding the area of any attached garage) or up to 1,000 square feet, whichever is greater.

3. Detached ADUs may be a maximum of 1,000 square feet. If built over a detached garage, the detached garage would not count toward the area limit for the ADU.

4. Detached ADUs may be up to 25 feet in height.

5. ADUs are subject to the development standards of the zoning district they are located within. Development standards relating to setbacks and development coverage do not apply to conversions of existing non-conforming structures that are proposed for ADU conversion. New ADUs are not subject to rear yard setbacks on parcels where the rear yard abuts an alley.

6. ADUs may not be rented for periods of less than 30 days.

C. **Parking.**

1. See Figure 18-7 for parking requirements.

2. Tandem spaces are permitted.

(Ord. 2716 §5, 2023; Ord. 2581 §11, 2018)

18.50.240 Home Occupations

A. Home occupations shall meet the following standards:

1. There shall be no change in the outside appearance of the surrounding residential development;

2. No home occupation shall be conducted in any accessory building. This provision shall not apply to adult family homes as defined in RCW 70.128.010 or community facilities as defined in RCW 72.05.020;

3. Traffic generated by a home occupation shall not exceed two (2) visitors at any given time, and no more than eight (8) total two-way visitor and non-resident employee trips per day;

4. The number of vehicles associated with a home-occupation shall not exceed two (2) vehicles and must be parked on-site. Vehicles associated with the business shall not exceed:

a. A gross vehicle weight of 10,000 pounds;

b. A height of ten (10) feet; or

c. A length of 22 feet;

5. An off-street parking space shall be made available for any non-resident employee. All parking spaces shall meet all development standards;

6. The business shall not involve more than one person who is not a resident of the dwelling. This provision shall not apply to adult family homes as defined in RCW 70.128.010 or community facilities as defined in RCW 72.05.020; and

7. Outdoor storage of materials associated with a home occupation is prohibited.

(Ord. 2718 §4, 2023)

18.50.250 Emergency Housing and Emergency Shelter Criteria

Emergency housing and emergency shelter facilities are allowed subject to the following criteria:

1. It must be a 24-hour-a-day facility where beds or rooms are assigned to specific residents for the duration of their stay.

2. On-site services such as laundry, hygiene, meals, case management, and social programs are limited to the residents of the facility and not available for drop-in use by non-residents.

3. The facility must be located within a half mile walking distance of a bus or rail transit stop.

4. Facilities must be at least a half mile from any other emergency housing or emergency shelter, calculated as a radius from the property lines of the site. This distance may be reduced upon the applicant submitting documentation that there is a barrier such as a river or freeway preventing access between the facilities, and the path of travel between them on public roads or trails is at least half a mile.

5. The maximum number of residents in a facility is limited to the general capacity of the building but in no case more than 45.

6. Buildings must have secure entrances staffed 24/7, with individual units only accessible through interior corridors.

(Ord. 2658 §7, 2021)

18.50.260 Permanent Supportive Housing and Transitional Housing Criteria

Permanent supportive housing and transitional housing facilities are allowed subject to the following criteria:

1. On-site services such as laundry, hygiene, meals, case management, and social programs are limited to the residents of the facility and not available for drop-in use by non-residents.

2. The facility must be located within a half mile walking distance of a bus or rail transit stop.

3. Facilities must be at least a half mile from any other permanent supportive housing or transitional housing, calculated as a radius from the property lines of the site. This distance may be reduced upon the applicant submitting documentation that there is a barrier such as a river or freeway preventing access between the facilities, and the path of travel between them on public roads or trails is at least half a mile.

4. The maximum number of residents in a facility is limited to the general capacity of the building but in no case more than 15 in LDR, 30 in MDR, and 45 in HDR or other zones.

5. Buildings must have secure entrances staffed 24/7, with individual units only accessible through interior corridors.

(Ord. 2658 §8, 2021)

18.50.270 Memorandum of Agreement for Emergency Housing, Emergency Shelter, Permanent Supportive Housing or Transitional Housing

Prior to the start of operation, the City and facility operator shall develop and execute a Memorandum of Agreement containing, at a minimum, the following items:

1. A Good Neighbor Agreement addressing the following items:

a. Quiet hours,

b. Smoking areas,

c. Security procedures,

d. Litter, and

e. Adequacy of landscaping and screening.

2. A Code of Conduct establishing a set of standards and expectations that residents must agree to follow.

3. A parking plan approved by the City showing that the facility has adequate parking to meet the expected demand from residents, staff, service providers and visitors. Residents may not park off-site and all vehicles must be operational.

4. A coordination plan with both the Police and Fire Departments, including protocols for response to the facility and to facility residents throughout the City and a maximum number of responses threshold for law enforcement services as established by calls for services in TMC Sections 5.60.040 through 5.60.060. If calls for law enforcement services exceed the agreed upon threshold in any given quarter, the facility operator will work with the City to reduce calls below the threshold level.

5. A requirement to provide regular reports to the City's Human Services Program Coordinator on how facilities are meeting performance metrics such as placement of residents into permanent housing or addiction treatment programs..

(Ord. 2658 §9, 2021)

CHAPTER 18.52
LANDSCAPE REQUIREMENTS

Sections:

18.52.010 Purpose

The purpose of this chapter is to establish minimum requirements for landscaping to:

- Implement the Urban Forestry Comprehensive Plan goals and policies by increasing tree canopy throughout the City to improve air quality; promote the health of residents, visitors and employees; and reduce heat islands and stormwater flows.
- Support the low impact development goals of the Comprehensive Plan and the City's National Pollution Discharge Elimination System permit.
- Promote safety.
- Provide screening between incompatible land uses.
- Mitigate the adverse effects of development on the environment.
- Improve the visual environment for both residents and nonresidents.
- Regulate the protection of existing landscaping.
- Establish requirements for the long-term maintenance of required landscaping.
- Establish procedures for modifying landscaping requirements and penalties for violations of the landscaping code.

(Ord. 2523 §6, 2017; Ord. 1872 §14 (part), 1999)

18.52.020 Applicability

This chapter sets forth rules and regulations to control maintenance, clearing and planting of landscaping and vegetation within the City of Tukwila on any developed properties that are zoned commercial, industrial, or multifamily; and on properties that are zoned LDR and developed with a non-single-family residential use. For properties located within the Shoreline jurisdiction, the maintenance and removal of vegetation shall be governed by TMC Chapter 18.44, "Shoreline Overlay." For properties located within a critical area or its associated buffer, the maintenance and removal of vegetation shall be governed by TMC Chapter 18.45, "Critical Areas." Clearing and removal of trees on undeveloped land and any land zoned LDR that is developed with a single-family residence is regulated by TMC Chapter 18.54, "Urban Forestry and Tree Regulations." In case of conflict the most stringent regulations apply.

(Ord. 2625 §46, 2020)

18.52.030 Landscaping Types

A. **General Standards for All Landscaping Types.**

1. ***Trees.***

a. Trees shall be spaced based on the stature tree selected (small, medium or large stature of tree), excluding curb cuts and spaced regularly, except where there are conflicts with utilities.

b. Large and medium stature tree species are required, per the Tukwila Approved Tree List, except where there is insufficient planting area (due to proximity to a building, street light, above or below ground utility, etc.) or the planned tree location does not permit this size tree at maturity.

2. ***Shrubs.*** Shrubs shall be spaced based on the mature size of the plant material selected and shall achieve a continuous vertical layer within 3 years. The shrubs will provide 4 feet clearance when mature when adjacent to any fire hydrant or fire department connection.

3. ***Groundcover.***

a. Sufficient live groundcovers of varying heights, colors and textures to cover, within 3 years, 100% of the yard area not needed for trees and shrubs.

b. If grass is being used as the groundcover, a 4-foot diameter ring of bark mulch is required around each tree.

B. **Type I – Light Perimeter Screening.**

1. The purpose of Type I landscaping is to enhance Tukwila's streetscapes, provide a light visual separation between uses and zoning districts, screen parking areas, and allow views to building entryways and signage.

2. Plant materials shall consist of the following:
   a. Trees: A mix of deciduous and evergreen trees.
   b. One shrub per 7 linear feet.
   c. Groundcover.

C. **Type II – Moderate Perimeter Screening.**

1. The purpose of Type II landscaping is to enhance Tukwila's streetscapes, provide a moderate visual separation between uses and zoning districts, screen blank building walls and parking areas, and allow views to building entryways and signage.

2. Plant materials shall consist of the following:
   a. Trees: A mix of deciduous and evergreen trees.
   b. One shrub per 4 linear feet, excluding curb cuts.
   c. Groundcover.

D. **Type III – Heavy Perimeter Screening.**

1. The purpose of Type III landscaping is to provide extensive visual separation along property lines between highly incompatible development, such as warehousing and residential uses.

2. Plant materials shall consist of the following:

a. Trees consisting of at least 50% evergreen along the applicable property line (75% along property line adjacent to residential uses).

b. Privacy screen utilizing evergreen shrubs, screening walls or fences (up to 7 feet tall).

c. Groundcover.

E. **Parking Lot Landscaping.** This landscaping is required to mitigate adverse impacts created by parking lots such as noise, glare, stormwater run-off, and increased heat and to improve their physical appearance.

1. Trees shall be evenly distributed throughout the parking lot. Planting in continuous, landscaped planting strips between rows of parking is encouraged. Surface water management design may also be combined with landscaping in parking lots. In industrial districts (C/LI, LI, HI, MIC/L, MIC/H), clustering of interior parking lot landscaping may be permitted to accommodate site usage.

2. ***Landscape islands.***

a. Landscape islands must be a minimum of 6 feet wide, exclusive of overhang, and a minimum of 100 square feet in area. All landscaped areas must be protected from damage by vehicles through the use of curbs, tire stops, or other protection techniques.

b. Landscape islands shall be placed at the ends of each row of parking to protect parked vehicles from turning movements of other vehicles.

c. The number and stature of trees shall be based on the area available in the landscape island. A minimum of one large stature evergreen or deciduous tree or two medium stature trees are required for every 100 square feet of landscaped island, with the remaining area to contain a combination of shrubs, living groundcover, and mulch.

d. For parking lots adjacent to public or private streets, the islands must be placed at minimum spacing of 1 for every 10 parking spaces. For parking areas located behind buildings or otherwise screened from public or private streets or public spaces, if landscape islands are used, islands shall be placed at a minimum of 1 for every 15 parking stalls.

3. Bioretention, which includes trees, shrubs and groundcover, may be used to meet interior parking lot landscaping requirements. The bioretention facility must be designed by a professional trained or certified in low impact development techniques as set forth in TMC Chapter 14.30. All bioretention facilities must be protected by curbing to prevent vehicle damage to the facility and for public safety.

4. ***Vehicular Overhang.***

a. Vehicle overhang into any landscaping area shall not exceed two feet.

b. No plant material greater than 12 inches in height shall be located within two feet of the curb or other protective barrier in landscape areas adjacent to parking spaces and vehicle use areas.

c. Raised curbs or curb stops shall be used around the landscape islands or bioretention facilities to prevent plant material from being struck by automobiles. Where bioretention is used, curb cuts shall be placed to allow stormwater runoff from adjacent pavements to enter the bioretention system.

5. Pervious pavement shall be used, where feasible, including parking spaces and pedestrian paths.

6. Parking lot landscape design shall accommodate pedestrian circulation.

F. **Street Trees in the Public Frontage.**

1. ***Street tree spacing.***

a. Street tree spacing in the public frontage shall be as specified in TMC Section 18.52.080.B.2. based on the stature size of the tree.

b. Spacing must also consider sight distance at intersections, driveway locations, and utility conflicts as specified in TMC Section 18.52.080.B.3.

c. Street trees in the public frontage shall be planted using the following general spacing standards:

(1) At least 3-1/2 feet back from the face of the curb.

(2) At least 5 feet from underground utility lines.

(3) At least 10 feet from utility poles.

(4) At least 7-1/2 feet from driveways.

(5) At least 3 feet from pad-mounted transformers (except 10 feet in front for access).

(6) At least 4 feet from fire hydrants and connections.

d. Planting and lighting plans shall be coordinated so that trees are not planted in locations where they will obstruct existing or planned street or site lighting, while maintaining appropriate spacing and allowing for their size and spread at maturity.

e. Planting plans shall consider the location of existing or planned signage to avoid future conflicts with mature trees and landscaping.

2. ***Tree grates.***

a. Tree grates are not encouraged, but when used, shall be designed so that sections of grate can be removed incrementally as the tree matures and shall be designed to avoid accumulation of trash.

b. When used, tree grates and landscaped tree wells shall be a minimum 36 square feet in size (6' x 6'). Tree well size may be adjusted to comply with ADA standards on narrower sidewalks. See TMC Section 18.52.090.A.1., "Soil Preparation and Planting," for structural soil requirements. Root barriers may be installed at the curb face if structural soils are not used.

3. ***Maintenance and Pruning.***

a. Street trees are subject to the planting, maintenance, and removal standards and Best Management Practices (BMPs) as adopted by the International Society of Arboriculture, as it now reads and as hereafter amended. Street trees planted prior to the adoption of the most current tree planting standards shall be exempt from these planting standards but are still subject to current removal and maintenance standards.

b. The following standards apply to street tree maintenance:

(1) Street trees shall be maintained consistent with International Society of Arboriculture BMPs.

(2) Street trees shall be maintained in a manner that does not impede public street or sidewalk traffic, consistent with the specifications in the Public Works Infrastructure Design Manual, including:

(a) 8 feet of clearance above public sidewalks.

(b) 13 feet of clearance above public local and neighborhood streets.

(c) 15 feet of clearance above public collector streets.

(d) 18 feet of clearance above public arterial streets.

(3) Street trees shall be maintained so as not to become a defective tree as per the definition in TMC Chapter 18.06.

4. Trees planted in a median shall be appropriate for the planting environment and meet the following requirements:

a. Trees shall be consistent with previously approved median tree plans, given space constraints for roots and branches at maturity.

b. Median plantings shall provide adequate species diversity Citywide and reasonable resistance to pests and diseases.

c. Columnar trees may be considered for median plantings to avoid conflicts with vehicles and utilities.

d. Structural soils shall be used to avoid the need for root barriers and to ensure the success of the median plantings.

e. Any median tree that is removed must be replaced within the same median unless spacing constraints exist. Replacement trees shall be of the same stature or greater at maturity as the removed tree, consistent with other space considerations.

(Ord. 2625 §47, 2020; Ord. 2523 §7, 2017; Ord. 2518 §11, 2016; Ord. 2251 §62, 2009; Ord. 1872 §14 (part), 1999)

18.52.040 Perimeter and Parking Lot Landscaping Requirements by Zone District

In the various zone districts of the City, landscaping in the front, rear and side yards and parking lots shall be provided as established by the various zone district chapters of this title. These requirements are summarized in the following table (Table A), except for Tukwila Urban Center (TUC) requirements, which are listed in TMC Chapter 18.28.

TABLE A

ZONING DISTRICTS	FRONT YARD (SECOND FRONT)(linear feet)	LANDSCAPE TYPE FOR FRONTS	LANDSCAPE FOR SIDE YARD (linear feet)	LANDSCAPE FOR REAR YARD (linear feet)	LANDSCAPE TYPE FOR SIDE/REAR	LANDSCAPING FOR PARKING LOTS (square feet)
LDR (for uses other than residential)	15[2]	Type I	10	10	Type I	20 per stall for non-residential uses; 15 per stall if parking is placed behind building
MDR	15[1, 2, 11]	Type I	10	10	Type I	Same as LDR
HDR	15[1, 2, 11]	Type I	10	10	Type I	Same as LDR
MUO	15 (12.5)[2, 11]	Type I[7]	6[4]	6[4, 11]	Type I[7]	20 per stall adjacent to street; 15 per stall if parking is placed behind building
O	15 (12.5)[2]	Type I[7]	6	6[4]	Type I[7]	Same as MUO
RCC	20 (10)[2, 3]	Type I[7]	5; 10 if near LDR, MDR, HDR[4]	10[11]	Type II	Same as MUO
NCC	6[4, 11]	Type I[7, 13]	0[4]	0[4,11]	Type II	Same as MUO
RC	10	Type I[13]	5[4]	0[4]	Type II[8]	Same as MUO
RCM	10	Type I	5[4]	0[4]	Type II[8]	Same as MUO
C/LI	15 Second Front: 12.5; 15 if near LDR, MDR, HDR	Type I[6]	5[5, 12]	0[5, 12]	Type II[8]	15 per stall; 10 per stall for parking placed behind building

ZONING DISTRICTS	FRONT YARD (SECOND FRONT) (linear feet)	LANDSCAPE TYPE FOR FRONTS	LANDSCAPE FOR SIDE YARD (linear feet)	LANDSCAPE FOR REAR YARD (linear feet)	LANDSCAPE TYPE FOR SIDE/REAR	LANDSCAPING FOR PARKING LOTS (square feet)
LI	15[2] Second Front: 12.5	Type II	0[4, 12]	0[4, 12]	Type III	15 per stall; 10 per stall for parking placed behind building
HI	15[2] Second Front: 12.5	Type II	0[4, 12]	0[4, 12]	Type III	15 per stall
MIC/L	10[5]	Type II	0[5, 12]	0[5, 12]	Type III	10 per stall
MIC/H	10[5]	Type II	0[5, 12]	0[5, 12]	Type III	10 per stall
TUC – See TMC Chapter 18.28						
TVS – See TMC Chapter 18.40						
TSO – See TMC Chapter 18.41						

Notes:

1. Minimum required front yard landscaped areas in the MDR and HDR zones may have up to 20% of their required landscape area developed for pedestrian and transit facilities subject to the approval criteria in TMC Section 18.52.120.C.
2. In order to provide flexibility of the site design while still providing the full amount of landscaping required by code, the front yard landscape width may be divided into a perimeter strip and one or more other landscape areas between the building and the front property line if the perimeter strip is a minimum of 10 feet and the landscape materials are sufficient to provide landscaping along the perimeter and screening of the building mass.
3. Required landscaping may include a mix of plant materials, pedestrian amenities and features, outdoor café-type seating and similar features, subject to the approval criteria in TMC Section 18.52.120.C. Bioretention may also be used as required landscaping subject to the approval criteria in TMC Section 18.52.120.E. Required plant materials will be reduced in proportion to the amount of perimeter area devoted to pedestrian-oriented space.
4. Increased to 10 feet if any portion of the yard is within 50 feet of LDR, MDR or HDR.
5. Increased to 15 feet if any portion of the yard is within 50 feet of LDR, MDR or HDR.
6. Increased to Type II if the front yard contains truck loading bays, service areas or outdoor storage.
7. Increased to Type II if any portion of the yard is within 50 feet of LDR, MDR or HDR.
8. Increased to Type III if any portion of the yard is within 50 feet of LDR, MDR or HDR.
9. Only required along public streets.
10. Increased to 10 feet for residential uses; or if adjacent to residential uses or non-TSO zoning.
11. In the MDR and HDR districts and other districts where multifamily development is permitted, a community garden may be substituted for some or all of the landscaping. In order to qualify, a partnership with a nonprofit (501(c)(3)) with community garden expertise is required to provide training, tools and assistance to apartment residents. Partnership with the nonprofit with gardening expertise is required throughout the life of the garden. If the community garden is abandoned, the required landscaping must be installed. If the garden is located in the front landscaping, a minimum of 5 feet of landscaping must be placed between the garden and the street.
12. To accommodate the types of uses found in the C/LI, LI, HI and MIC districts, landscaping may be clustered to permit truck movements or to accommodate other uses commonly found in these districts if the criteria in TMC Section 18.52.120.D are met.
13. For NCC and RC zoned parcels in the Tukwila International Boulevard District, the front landscaping may be reduced or eliminated if buildings are brought out to the street edge to form a continuous building wall, and if a primary entrance from the front sidewalk as well as from off-street parking areas is provided.

(Ord. 2678 §16, 2022; Ord. 2661 §5, 2021; Ord. 2627 §30, 2020; Ord. 2625 §48, 2020; Ord. 2580 §6, 2018; Ord. 2523 §8, 2017; Ord. 2442 §1, 2014; Ord. 2251 §61, 2009; Ord. 2235 §13, 2009; Ord. 1872 §14 (part), 1999)

18.52.050 Screening and Visibility

A. **Screening**.

1. Screening of outdoor storage, mechanical equipment and garbage storage areas and fences:

a. Outdoor storage shall be screened from abutting public and private streets and from adjacent properties. Such screens shall be a minimum of 8 feet high and not less than 60% of the height of the material stored. The screens shall be specified

on the plot plan and approved by the Community Development Director. In the MDR and HDR zones, outdoor storage shall be fully screened from all public roadways and adjacent parcels with a high obscuring structure equal in height to the stored objects and with a solid screen of exterior landscaping.

b. Ground level mechanical equipment and garbage storage areas shall be screened with evergreen plant materials and/or fences or masonry walls.

c. Fences. All fences shall be placed on the interior side of any required perimeter landscaping.

2. A mix of evergreen trees and evergreen shrubs shall be used to screen blank walls.

3. Evergreen shrubs and evergreen trees shall be used for screening along rear property lines, around solid waste/recycling areas, utility cabinets and mechanical equipment, and to obscure grillwork and fencing associated with subsurface parking garages. Evergreen shrubs and trees shall be pruned so that 18 inches visibility at the base is maintained.

B. **Visibility**.

1. Design of new landscaping and maintenance of existing landscaping shall consider Crime Prevention Through Environmental Design (CPTED) principals and visibility for safety and views. Appropriate plant species shall be specified to avoid the need for excessive maintenance pruning.

2. Landscaping shall not obstruct views from or into building windows, the driveway, sidewalk or street. Landscape design shall allow for surveillance from streets and buildings and avoid creating areas that might harbor criminal activity.

3. Landscaping at crosswalks and other locations where vehicles and pedestrians intersect must not block pedestrians' and drivers' views.

4. In general, deciduous trees with open branching structures are recommended to ensure visibility to retail establishments. More substantial shade trees or evergreens are recommended in front of private residences.

(Ord. 2625 §55, 2020; Ord. 2523 §9, 2017)

18.52.060 Significant Tree Retention

A. All significant trees located within any required landscape area that are not dead, dying, diseased, or a nuisance species, as identified in the Tukwila Approved Tree List, and that do not pose a safety hazard or conflict with overhead utility lines as determined by the City or an ISA certified arborist, shall be retained and protected during construction with temporary fencing or other enclosure, as appropriate to the site and following Best Management Practices for tree protection (see TMC Chapter 18.54).

B. Topping of trees is prohibited and is subject to replacement. Additionally, pruning of more than 25% of canopy in a 36-month period is prohibited and is subject to replacement per TMC Section 18.52.130, Table C.

C. Retained significant trees may be counted towards required landscaping. Additionally, the required landscaping may be reduced in exchange for retaining significant trees subject to Director approval and per TMC Section 18.52.120.F.

D. The area designated for protection will vary based on the tree's diameter, species, age, and the characteristics of the planted area, and Best Management Practices for protection shall be utilized (see TMC Chapter 18.54). Property owners may be required to furnish a report by an ISA certified arborist to document a tree's condition if a tree is to be retained. The Director may require that an ISA certified arborist be retained to supervise tree protection during construction. Grade changes around existing trees within the critical root zone are not allowed.

(Ord. 2625 §49, 2020; Ord. 2523 §10, 2017)

18.52.070 Tree Protection Standards

All trees not proposed for removal as part of a project or development shall be protected using Best Management Practices and the standards below.

1. The Critical Root Zones (CRZ) for all trees designated for retention, on site or on adjacent property as applicable, shall be identified on all construction plans, including demolition, grading, civil and landscape site plans.

2. Any roots within the CRZ exposed during construction shall be covered immediately and kept moist with appropriate materials. The City may require a third party Qualified Tree Professional to review long-term viability of the tree.

3. Physical barriers, such as 6-foot chain link fence or plywood or other approved equivalent, shall be placed around each individual tree or grouping at the CRZ.

4. Minimum distances from the trunk for the physical barriers shall be based on the approximate age of the tree (height and canopy) as follows:

a. Young trees (trees which have reached less than 20% of life expectancy): 0.75 per inch of trunk diameter.

b. Mature trees (trees which have reached 20-80% of life expectancy): 1 foot per inch of trunk diameter.

c. Over mature trees (trees which have reached greater than 80% of life expectancy): 1.5 feet per inch of trunk diameter.

5. Alternative protection methods may be used that provide equal or greater tree protection if approved by the Director.

6. A weatherproof sign shall be installed on the fence or barrier that reads:

"TREE PROTECTION ZONE – THIS FENCE SHALL NOT BE REMOVED OR ENCROACHED UPON. No soil disturbance, parking, storage, dumping or burning of materials is allowed within the Critical Root Zone. The value of this tree is $ *[insert value of tree as determined by a Qualified Tree Professional here].* Damage to this tree due to construction activity that results in the death or necessary removal of the tree is subject to the Violations section of TMC Chapter 18.54."

7. All tree protection measures installed shall be inspected by the City and, if deemed necessary, a Qualified Tree Professional, prior to beginning construction or earth moving.

8. Any branches or limbs that are outside of the CRZ and might be damaged by machinery shall be pruned prior to construction by a Qualified Tree Professional. No construction

personnel shall prune affected limbs except under the direct supervision of a Qualified Tree Professional.

9. The CRZ shall be covered with 4 to 6 inches of wood chip mulch. Mulch shall not be placed directly against the trunk. A 6-inch area around the trunk shall be free of mulch. Additional measures, such as fertilization or supplemental water, shall be carried out prior to the start of construction if deemed necessary by the Qualified Tree Professional's report to prepare the trees for the stress of construction activities.

10. No storage of equipment or refuse, parking of vehicles, dumping of materials or chemicals, or placement of permanent heavy structures or items shall occur within the CRZ.

11. No grade changes or soil disturbance, including trenching, shall be allowed within the CRZ. Grade changes within 10 feet of the CRZ shall be approved by the City prior to implementation.

12. The applicant is responsible for ensuring that the CRZ of trees on adjacent properties are not impacted by the proposed development.

13. A pre-construction inspection shall be conducted by the City to finalize tree protection actions.

14. Post-construction inspection of protected trees shall be conducted by the City and, if deemed necessary by the City, a Qualified Tree Professional. All corrective or reparative pruning will be conducted by a Qualified Tree Professional.

(Ord. 2625 §50, 2020)

18.52.080 Plant Material Requirements and Tree Standards

A. **Plant Material Requirements.**

1. Plants shall meet the American Standard for Nursery Plant Stock (American Nursery and Landscape Association-ANLA) (ANSI Z60.1) as it now reads and as hereafter amended, and shall be healthy, vigorous and well-formed, with well-developed, fibrous root systems, free from dead branches or roots. Plants shall be free from damage caused by temperature extremes, pre-planting or on-site storage, lack of or excess moisture, insects, disease, and mechanical injury. Plants in leaf shall be well foliated and of good color. Plants shall be habituated to outdoor environmental conditions (i.e. hardened-off).

2. Evergreen trees shall be a minimum of 6 feet in height at time of planting.

3. Deciduous trees shall have at least a 2-inch caliper at time of planting as measured 4.5 feet from the ground, determined according to the American Standard for Nursery Stock as it now reads and as hereafter amended.

4. Shrubs shall be at least 18 inches in height, and full and bushy at time of planting.

5. New plant materials shall include native species or non-native species with lower water requirements and that are adapted to the climatic conditions of the Puget Sound Region. There must be a diversity of tree and shrub genus and species in the site landscaping, taking into account species in existing development around the site.

a. If there are more than 8 required trees, no more than 40 percent may be of one species.

b. If there are more than 24 required trees, no more than 20 percent may be of one species.

c. If there are more than 25 required shrubs, no more than 50 percent may be of one species.

6. Any species that is listed on the State of Washington or King County noxious weed lists or otherwise known to be a nuisance or invasive shall not be planted.

7. Plant materials shall be selected that reinforce the landscape design concept, and are appropriate to their location in terms of hardiness, cultural requirements, tolerance to urban conditions, maintenance needs and growth characteristics.

8. The classification of plant material as trees, shrubs and evergreens shall be as listed in the Hortus Third, A Concise Dictionary of Plants Cultivated in the U.S. and Canada, as it now reads and as hereafter amended.

9. Plant material requirements for bioretention facilities shall be in accordance with the City's Bioretention Plant List, unless approved by staff.

10. Non-developed site areas, such as utility easements, shall be landscaped and/or treated with erosion control planting or surfacing such as evergreens, groundcover, shrubs, trees, sod or a combination of similar materials. In areas with overhead utility lines, no shrubs or trees shall be allowed that could mature over 20 feet in height. Trees should not be planted within 10 feet of underground utilities, such as power, water, sewer or storm drainage pipes.

B. **Tree Standards.**

1. Tree species shall be appropriate for the planting environment as determined by the Department Director in consultation with the City environmentalist and shall seek to achieve a balance of the following:

a. Consistency with Tukwila Approved Tree List or the City's Bioretention Plant List.

b. Compatibility with space constraints for roots and branches at maturity.

c. Adequate species diversity Citywide and reasonable resistance to pests and diseases.

2. Trees shall be provided adequate spacing from new and existing trees according to the following standards wherever possible:

a. Trees categorized as small stature on the tree list shall be spaced no greater than 20 feet on center and not closer than 15 feet on center from other newly planted or existing trees.

b. Trees categorized as medium stature on the tree list shall be spaced no greater than 30 feet on center and not closer than 20 feet on center from other newly planted or any existing trees.

c. Trees categorized as large stature on the tree list shall be spaced no greater than 40 feet on center and not closer than 30 feet on center from other newly planted or existing trees.

d. Any tree determined to have a mature spread of less than 20 feet (a columnar or fastigiate variety) is discouraged

except under specific conditions and shall be considered a small stature tree and spaced accordingly.

3. Trees shall be placed according to the following standards:

a. Small stature trees shall be planted with the center of their trunks a minimum of 2 feet from any hard surface paving.

b. Medium stature trees shall be planted with the center of their trunks a minimum of 2.5 feet from any hard surface paving.

c. Large stature trees shall be planted with the center of their trunks a minimum of 3 feet from any hard surface paving.

d. Trees shall generally be planted a minimum of:

(1) 4 feet on center from any fire hydrant, above-ground utility or utility pole;

(2) 2 feet on center from any underground utility;

(3) 5 feet on center from a street light standard;

(4) 20 feet from a street intersection; however, a greater or lesser corner setback may be required based on an analysis of traffic and pedestrian safety impacts.

(5) 5 to 10 feet from building foundations depending on species.

4. Where there are overhead utility lines, the tree species selected shall be of a type which, at full maturity, will not interfere with the lines or require pruning to maintain necessary clearances.

5. Root barriers may be installed according to the manufacturer's specifications when a tree is planted within 5 feet of any hard surface paving or utility feature and in areas where structural soil is not required, subject to approval by the Department Director in consultation with the City's environmentalist.

6. Low water usage species are encouraged in order to minimize future irrigation requirements, except where site conditions within the required landscape areas ensure adequate moisture for growth.

7. Shade trees should be planted to shade buildings' east- and west-facing windows to provide a balance between summer cooling and winter heating through solar gain.

(Ord. 2625 §55, 2020; Ord. 2523 §11, 2017)

18.52.090 Soil Preparation, Planting and Irrigation

A. **Soil Preparation and Planting.**

1. For landscaping in sidewalks and parking lots, or in limited areas of soil volume, structural soils (Cornell University product or similar) must be used to a preferred depth of 36 inches to promote tree root growth and provide structural support to the paved area. Minimum soil volumes for tree roots shall be 750 cubic feet per tree (see specifications and sample plans for CU-Structural Soils). Trees and other landscape materials shall be planted according to specifications in "CU Structural Soils – A Comprehensive Guide," as it now reads and as hereafter amended, or using current Best Management Practices (BMPs) as approved by the Director. Suspended pavement systems (Silva Cells or similar) may also be used if approved by the Director.

2. For soil preparation in bioretention areas, existing soils must be protected from compaction. Bioretention soil media must be prepared in accordance with standard specifications of the Surface Water Design Manual, adopted in accordance with TMC Chapter 14.30, to promote a proper functioning bioretention system. These specifications shall be adhered to regardless of whether a stormwater permit is required from the City.

3. For all other plantings (such as large planting areas where soil volumes are adequate for healthy root growth with a minimum volume of 750 cubic feet per tree), soils must be prepared for planting in accordance with BMP T5.13, "Post Construction Soil Quality and Depth," from the Washington Department of Ecology Stormwater Management Manual for Western Washington (as it now reads and as hereafter amended), regardless of whether a stormwater permit is required by the City.

4. The applicant will be required to schedule an inspection by the City of the planting areas prior to planting to ensure soils are properly prepared. Soil must be amended, tilled and prepped to a depth of at least 12 inches.

5. Installation of landscape plants must comply with BMPs including:

a. Planting holes that are the same depth as the size of the root ball and two to three times wider than the root ball.

b. Root balls of potted and balled and burlapped (B&B) plants must be loosened and pruned as necessary to ensure there are no encircling roots prior to planting. All burlap and all straps or wire baskets must be removed from B&B plants prior to planting.

c. The top of the root flare, where the roots and the trunk begin, should be placed at grade. The root ball shall not extend above the soil surface and the flare shall not be covered by soil or mulch.

d. If using mulch around trees and shrubs, maintain at least a 6-inch mulch-free ring around the base of the tree trunks and woody stems of shrubs. If using mulch around groundcovers until they become established, mulch shall not be placed over the crowns of perennial plants.

B. **Irrigation.**

1. The intent of this standard is to ensure that plants will survive the critical establishment period when they are most

vulnerable due to lack of watering and to ensure their long term viability.

2. All required plantings must be served by a permanent automatic irrigation system, unless approved by the Director.

a. Irrigation shall be designed to conserve water by using the best practical management techniques available, including BMPs, for daily timing of irrigation to optimize water infiltration and conservation. These techniques may include, but not be limited to: drip irrigation (where appropriate) to minimize evaporation loss, moisture sensors to prevent irrigation during rainy periods, automatic controllers to ensure proper duration of watering, sprinkler head selection and spacing designed to minimize overspray, and separate zones for turf and other landscaping and for full sun exposure and shady areas to meet watering needs of different sections of the landscape.

b. Exceptions to the irrigation requirement may be approved by the Director, such as xeriscaping (i.e., low water usage plantings), plantings approved for low impact development techniques, established indigenous plant material, or landscapes where natural appearance is acceptable or desirable to the City. However, those exceptions will require temporary irrigation until established.

3. All temporary irrigation must be removed at the end of the 3-year plant establishment period.

(Ord. 2625 §51, 2020; Ord. 2523 §12, 2017)

18.52.100 Maintenance and Pruning

A. Any landscaping required by this chapter shall be retained and maintained by the property owner for the life of the development in conformance with the intent of the approved landscape plan and this chapter. Maintenance shall also include keeping all planting areas free of weeds and trash and replacing any unhealthy or dead plant materials.

B. Green roofs or rooftop gardens shall be maintained to industry standards and any dead or dying plant material replaced.

C. Pruning of trees and shrubs is only allowed for the health of the plant material, to maintain sight distances or sight lines, or if interfering with overhead utilities. All pruning must be done in accordance with American National Standards Institute (ANSI) A-300 specifications, as it now reads and as hereafter amended.

D. No tree planted by a property owner or the City to fulfill landscape requirements, or any existing tree, may be topped or removed without prior approval from the City. Any tree topped or removed without approval shall be subject to code enforcement action per TMC Chapter 8.45 in addition to the requirements of TMC Section 18.52.130, "Violations."

E. Private property owners shall collect and properly dispose of all landscaping debris. Private property landscaping debris shall not be placed or blown into the public right-of-way for City collection. Violations will be subject to code enforcement action per TMC Chapter 8.45.

F. As trees along the street frontages mature, they shall be limbed up, using proper ISA pruning techniques, to a minimum height of 8 to 18 feet depending on location of tree (over sidewalk, adjacent to road, etc.) to allow adequate visibility and clearance for vehicles. Trees may be pruned to improve views of signage and entryways by using such techniques as windowing, thinning, and limbing up; however, no more than 1/4 of the canopy may be removed within any 2-year period. All pruning shall be done in accordance with ANSI Standard A-300 specifications, as it now reads and as hereafter amended.

G. Trees may only be pruned to lower their height to prevent interference with an overhead utility line with prior approval by the Director. The pruning must be carried out under the direction of an ISA certified arborist. The crown shall be maintained to at least 2/3 the height of the tree prior to pruning. Otherwise, trees shall not be topped. Illegal topping is subject to replacement. Additionally, pruning of more than 25% of canopy in a 36-month period is prohibited and is subject to replacement per TMC Section 18.52.130, Table C.

(Ord. 2625 §52, 2020; Ord. 2523 §13, 2017)

18.52.110 Landscape Plan Requirements

A. Landscape plan design shall take into consideration the mature size of proposed landscape materials to minimize the future need for pruning (i.e. placement such that mature trees and shrubs will not cause problems for foundations, obscure signage, grow too close to overhead or underground utility lines, obstruct views of traffic, etc.).

B. A Washington State licensed landscape architect or other accredited landscape design professional shall prepare the landscape plans in accordance with the standards herein. Detailed plans for landscaping and screening shall be submitted with plans for building and site improvements. The plans shall, at a minimum, include the type, quantity, spacing and location of plants and materials; typical planting details; soil amendment/installation; tree protection details as applicable; and the location of irrigation systems and significant trees within 20 feet of the property line on adjacent properties. Underground and at-ground utilities shall be shown on the plans so that planting conflicts are avoided. A detailed list of items to be included on the landscape plan is available in the Landscape Plan handout, available on-line or at the offices of the Department of Community Development.

C. Installation of the landscaping and screening shall be completed and a Landscaping Declaration submitted by the owner or owner's agent prior to issuance of the Certificate of Occupancy. Any plant substitutions shall be noted on the Declaration. If necessary, due to weather conditions or construction scheduling, the installation may be postponed to the next planting season (October – April) if approved by the Director and stated on the building permit. A performance assurance device equal to 150% of the cost of the labor and materials must be provided to the City before the deferral is approved.

(Ord. 2625 §55, 2020; Ord. 2523 §14, 2017; Ord. 2368 §53, 2012; Ord. 2251 §65, 2009; Ord. 1971 §19, 2001; Ord. 1872 §14 (part), 1999)

18.52.120 Request for Landscape Modifications

A. Revisions to existing landscaping may be approved only if the following criteria are met:

1. The revision does not reduce the landscaping to the point that activities on the site become a nuisance to adjacent properties.

2. Proposed vegetation removal, replacement, and any mitigation measures proposed are consistent with the purpose and intent of this chapter and bring landscaping into conformance with standards of TMC Chapter 18.52.

3. Proposed revision will not be detrimental to the public health, safety or welfare or injurious to other property in the vicinity.

4. Any trees proposed to be removed shall be replaced with trees of similar or larger size at a minimum ratio of 1:1.

B. The following deviations to the requirements of this chapter may be considered either as a Type 2, Special Permission Director decision, or through design review if the project is subject to that process.

1. Deviation from the requirements of Type I, II, or III landscaping, including but not limited to the use of the landscape area for pedestrian and transit facilities, landscape planters, rooftop gardens or green roofs, terraced planters or green walls, or revisions to existing landscaping. The amount of landscaping on commercially-zoned properties may be reduced by 15% if buildings are moved to the front of the site with no parking between the building and the front landscaping, to create a more pedestrian-friendly site design.

2. Clustering and/or averaging of required landscaping. The landscape perimeter may be clustered if the total required square footage is achieved, unless the landscaping requirement has been increased due to proximity to LDR, MDR or HDR. In addition, up to 50% of the perimeter landscaping may be relocated to the interior parking to provide more flexibility for site organization.

3. Substitution of bioretention facility for required landscaping for Type I or II landscaping. Landscaping in a bioretention facility that includes trees, shrubs and groundcover may be counted up to 100% towards required landscaping depending on the location, type of bioretention facility proposed and proposed use.

4. Credit for retained significant trees towards landscaping requirement.

C. The following criteria apply to requests for deviation from any required landscaping standards.

1. The deviation does not reduce the landscaping to the point that activities on the site become a nuisance to neighbors; and

2. The modification or revision does not diminish the quality of the site landscape as a whole; and

3. One or more of the following are met:

a. The modification or revision more effectively screens parking areas and blank building walls; or

b. The modification or revision enables significant trees or existing built features to be retained; or

c. The modification or revision is used to reduce the number of driveways and curb cuts and allow joint use of parking facilities between neighboring businesses; or

d. The modification or revision is used to incorporate pedestrian or transit facilities; or

e. The modification is for properties in the NCC or RC districts along Tukwila International Boulevard, where the buildings are brought out to the street edge and a primary entrance from the front sidewalk as well as from off-street parking areas is provided; or

f. The modification is to incorporate alternative forms of landscaping such as landscape planters, rooftop gardens, green roof, terraced planters or green walls; or

g. The modification is to incorporate a community garden, subject to the provisions of TMC Section 18.52.040, Note 11.

D. Clustering or perimeter averaging of landscaping may be considered if:

1. It does not diminish the quality of the site landscape as a whole; and

2. It does not create a nuisance to adjacent properties; and

3. If adjacent to residential development, the impacts from clustering are minimized; and

4. One or more of the following criteria are met:

a. Clustering or perimeter averaging of plant material allows more effective use of the industrial property; or

b. Clustering or perimeter averaging of landscaping enables significant trees to be retained; or

c. Clustering or perimeter averaging is used to reduce the number of driveways and curb cuts and/or allow joint use of parking facilities between neighboring businesses; or

d. Clustering or perimeter averaging avoids future conflicts with signage.

E. Landscaping in a bioretention facility that includes trees, shrubs, and groundcovers as identified on the City's approved Bioretention Plant List and as regulated in TMC Chapter 14.30, may be counted up to 100% towards required Type I or Type II landscaping. Bioretention facilities shall not be counted towards required Type III landscaping. All of the following criteria must be met:

1. The bioretention facility has been designed by a professional trained or certified in low impact development techniques; and

2. The landscaping meets the screening requirements of the specified landscape type; and

3. Public safety concerns have been addressed; and

4. The number of trees required by the landscape type are provided.

F. **Credit for Significant Trees.**

1. Credit for retained significant trees may be counted towards required landscaping if the following criteria are met:

a. Assessment of trees by an ISA certified arborist as to tree health, value of the trees and the likelihood of survivability during and after construction is provided; and

b. Retention of tree(s) supports the Tukwila Comprehensive Plan urban tree canopy goals and policies; and

c. A financial assurance is posted based on 150% of the value of the retained tree(s) to ensure tree replacement should the retained trees be damaged or die as a result of construction impacts. The financial assurance shall be retained for three years.

2. The value of the significant tree(s) to be retained, as determined by an ISA certified arborist, shall be posted on the tree prior to site preparation and retained throughout the construction of the project..

(Ord. 2625 §53, 2020; Ord. 2523 §15, 2017)

18.52.130 Violations

A. **Violations.** The following actions shall be considered a violation of this chapter:

1. Any removal or damage of landscaping that is required by this chapter.

2. Topping or excessive pruning of trees or shrubs, except as explicitly allowed by this chapter.

3. Failure to replace dead landscaping materials.

B. **Penalties.** In addition to any other penalties or other enforcement actions, any person who fails to comply with the provisions of this chapter also shall be subject to a civil penalty assessed against the violator as set forth herein. Each unlawfully removed or damaged tree shall constitute a separate violation.

1. The amount of the penalty shall be assessed based on Table B below. The Director may elect not to seek penalties or may reduce the penalties if he/she determines the circumstances do not warrant imposition of any or all of the civil penalties.

2. Penalties are in addition to the restoration of removed plant materials through the remedial measures listed in TMC Section 18.52.130.C.

3. It shall not be a defense to the prosecution for a failure to obtain a permit required by this chapter that a contractor, subcontractor, person with responsibility on the site or person authorizing or directing the work erroneously believes a permit was issued to the property owner or any other person.

TABLE B – Fines

Type of Violation	Allowable Fines per Violation
Removal or damage of trees or specimen shrubs without applying for and obtaining required City approval	$1,000 per tree, or up to the marketable value of each tree removed or damaged as determined by an ISA certified arborist.

C. **Remedial Measures.** In addition to the penalties provided in TMC Section 18.52.130.B, the Director shall require any person conducting work in violation of this chapter to mitigate the impacts of unauthorized work by carrying out remedial measures.

1. Any illegal removal of required trees shall be subject to obtaining a tree permit and replacement with trees that meet or exceed the functional value of the removed trees. In addition, any shrubs and groundcover removed without City approval shall be replaced.

2. To replace the tree canopy lost due to the tree removal, additional trees must be planted on-site. Payment may be made into the City's Tree Fund if the number of replacement trees cannot be accommodated on-site. The number of replacement trees required will be based on the size of the tree(s) removed as stated in Table C.

TABLE C – Tree Replacement Requirements

Diameter* of Tree Removed *(*measured at height of 4.5 feet from the ground)*	Number of Replacement Trees Required
4-6 inches (single trunk) **OR** 2 inches (any trunk of a multi-trunk tree)	3
Over 6-8 inches	4
Over 8-20 inches	6
Over 20 inches	8

D. **Enforcement.** It shall be the duty of the Community Development Director to enforce this chapter pursuant to the terms and conditions of TMC Chapter 8.45 or as otherwise allowed by law.

E. **Inspection Access.**

1. For the purposes of inspection for compliance with the provisions of a permit or this chapter, authorized representatives of the Community Development Director may enter all sites for which a permit has been issued.

2. Upon completion of all requirements of a permit, the applicant shall request a final inspection by contacting the planner of record. The permit process is complete upon final approval by an authorized representative of the Community Development Director.

(Ord. 2625 §54, 2020; Ord. 2523 §16, 2017)

CHAPTER 18.54

URBAN FORESTRY AND TREE REGULATIONS

Sections:

18.54.010 Purpose

A. The purpose of this chapter is to implement the Urban Forestry Comprehensive Plan goals; to maintain and increase tree canopy throughout the City; and to provide requirements for tree maintenance, tree retention and protection. Trees and their canopy act to improve air quality, promote the public health, reduce human-related stress, increase property values, reduce heat islands, and reduce storm water flows. The tree regulations also support the Low Impact Development goals of the Comprehensive Plan and the City's National Pollution Discharge Elimination System permit.

B. In particular, the purpose of this chapter is to:

1. Protect existing trees prior to and during development;

2. Establish protections for the long-term maintenance of trees and vegetation;

3. Moderate the effects of wind and temperature;

4. Minimize the need for additional storm drainage facilities;

5. Stabilize and enrich the soil and minimize surface water and ground water run-off and diversion which may contribute to increased instability, sedimentation, or turbidity in streams, lakes, or other water bodies;

6. Protect fish, wildlife and their habitats by promoting tree retention and improving water quality;

7. Ensure tree replacement after removal to provide erosion control and to achieve canopy coverage goals;

8. Recognize the importance of Heritage and Exceptional Trees to the history of the community; and

9. Establish procedures for penalties and violations of the tree code.

(Ord. 2570 §2, 2018; Ord. 1758 §1 (part), 1995)

18.54.020 Applicability

This chapter sets forth rules and regulations to control maintenance and clearing of trees within the City of Tukwila on any undeveloped land and any land zoned Low Density Residential (LDR) that is developed with a single family residence. For properties located within the Shoreline jurisdiction, maintenance and removal of vegetation shall be governed by TMC Chapter 18.44, "Shoreline Overlay." For properties located within a critical area or its associated buffer, the maintenance and removal of vegetation shall be governed by TMC Chapter 18.45, "Environmentally Critical Areas". TMC Chapter 18.52, "Landscape Requirements," shall govern the maintenance and removal of landscaping on developed properties that are zoned commercial, industrial, or multifamily; and on properties located in the LDR zone that are developed with a non-single family residential use. The most stringent regulations shall apply in case of a conflict.

(Ord. 2625 §57, 2020; Ord. 2570 §3, 2018; Ord. 1758 §1 (part), 1995)

18.54.030 Tree Permit Required

A. **Permit Required.**

1. A Tree Permit is required prior to work within the Critical Root Zone of any Significant, Exceptional or Heritage Tree or prior to the removal or destruction of any of these trees within the City, unless the action is exempt from this chapter.

2. A Tree Permit is required when any person wishes to prune a Heritage Tree in excess of 20% of the existing crown in a two-year period.

3. All Tree Permit applications shall meet the criteria outlined in this chapter for approval, or meet the criteria for a Tree Permit Exception per TMC Section 18.54.140.

B. **Tree Removal Exemptions.** The following activities are exempt from the permit requirements of this chapter except as noted below:

1. The removal of trees that are less than 6 inches in Diameter at Breast Height (DBH) on a property zoned Low Density Residential and improved with a single-family dwelling.

2. Removal of no more than four trees that are 6-8" DBH on a property zoned Low Density Residential and improved with a single-family dwelling in any 36-month period, as long as the property owner submits a tree inventory survey that includes the following:

a. Number of and size of trees to be removed;

b. The location of any affected utility lines within the overhead "fall zone" or other built infrastructure;

c. Photos of the tree(s) to be removed;

d. The method of removal and identification of contractor; and

e. Time schedule of tree removal.

3. The removal of Dead Trees outside of the shoreline jurisdiction or a sensitive area or its buffer.

4. Routine maintenance of trees necessary to maintain the health of cultivated plants, or to contain noxious weeds or invasive species as defined by the City of Tukwila or King County, and routine maintenance within rights-of-way related to Interference, Sight Distance, Emergencies or Topping, as codified in TMC Chapter 11.20. Routine maintenance includes the removal of up to 25% of the existing tree crown in a 36-month period.

5. Emergency actions necessary to remedy an immediate threat to people or property, or public health, safety or welfare by a high-risk or extreme-risk tree may be undertaken in advance of receiving a permit. Any person, utility or public entity undertaking such an action shall submit a Tree Permit application within one week of the emergency action and replace tree(s) if required by this chapter. Additional time to apply for a Tree Permit may be granted at the discretion of the Director.

6. The removal of trees in the right-of-way related to a capital project that has a landscaping component that includes trees, where there is adequate room in the right-of-way.

7. Removal of trees as allowed with a Class I-IV forest practices permit issued by the Washington State Department of Natural Resources.

(Ord. 2678 §17, 2022; Ord. 2625 §58, 2020; Ord. 2570 §4, 2018; Ord. 1758 §1 (part), 1995)

18.54.040 Permit Submittal Requirements

A. **Permit Application.** Prior to any tree removal, site clearing or work within the Critical Root Zone, a Tree Permit application must be submitted to the Department of Community Development containing the following information:

1. Site Plan of the proposal showing:

a. Diameter, species name, location and canopy of existing Significant Trees in relation to proposed and existing structures, utility lines, and construction limit line;

b. Identification of all Significant Trees to be removed and/or relocated;

c. Existing and proposed topography of the site at 2-foot contour intervals; and

d. Limits of any critical area and critical area buffer and/or shoreline jurisdiction.

2. Landscape Plan for the proposal showing:

a. Diameter, species name, spacing and location of replacement trees to be planted;

b. Diameter, species name and location of all Significant Trees to be retained; and

c. Vegetation protection measures consistent with the criteria in TMC Section 18.54.060.

3. Professional review or recommendation for removal of Heritage Trees or as otherwise required. A Qualified Tree Professional report is not required for the permitted removal of trees, other than Heritage Trees, on a lot zoned Low Density Residential and improved with a single-family dwelling. The Director may require a report from a Qualified Tree Professional if replacement trees are required or when the Director determines that tree removal, site clearing, or work within the Critical Root Zone may result in adverse impacts requiring remedial measures. Third party review of the report or recommendation may be required. The report or recommendation shall address the following:

a. The anticipated effects of proposed construction or tree removal on the viability of Significant Trees to remain on-site;

b. Recommendations on replacement trees, spacing and maintenance of proposed replacement trees once installed;

c. Post-construction site inspection and evaluation; and

d. Estimated cost of maintenance of replacement trees for the purposes of calculation of financial assurance, if required.

4. A photo of the tree(s) to be impacted or removed.

5. ***Time schedule.*** Proposed time schedule of vegetation removal, relocation and/or replacement, and other construction activities that may affect on-site vegetation, sensitive area, sensitive area buffer, and/or shoreline zone.

B. **Permit Materials Waiver.** The Director may waive the requirement for any or all plans or permit items specified in this section upon finding that the information on the application is sufficient to demonstrate that the proposed work will meet the approval criteria detailed in this chapter and other City ordinances. Such waiver of a requirement shall not be construed as waiving any other requirements of this chapter or related regulations.

C. **Permit Application Fee.** A Tree Permit fee shall be paid at the time an application or request is filed with the department, pursuant to TMC Section 18.88.010, except as otherwise noted in this chapter. All fees shall be paid according to the Land Use Fee Schedule in effect at the time of application. There is no permit fee for submittal of the Tree Inventory Survey.

(Ord. 2625 §59, 2020; Ord. 2570 §5, 2018)

18.54.050 Permit Approval Criteria, General

All Tree Permit applications shall meet the criteria outlined below for approval.

1. Existing trees will be retained on-site to the maximum extent possible as required by TMC Section 18.54.060 and as recommended in the Qualified Tree Professional report, if applicable.

2. Tree protection will be implemented as required in TMC Section 18.54.070.

3. Tree replacement will be implemented as required in TMC Section 18.54.080; unless no replacement is required per TMC Section 18.54.080, Table A.

4. Tree replacement funds will be deposited into the City of Tukwila Tree Fund, as described in TMC Section 18.54.100, if required.

5. A performance assurance will be submitted as required in TMC Section 18.54.110.

(Ord. 2625 §60, 2020; Ord. 2570 §6, 2018; Ord. 1758 §1 (part), 1995)

18.54.060 Tree Retention Standards

A. As many Significant, Exceptional and Heritage Trees as possible are to be retained on a site proposed for development or re-development, particularly to provide a buffer between development, taking into account the condition and age of the trees. As part of a land use application such as, but not limited to, subdivision or short plat review, design review or building permit review, the Director of Community Development or the Board of Architectural Review may require reasonable alterations to the arrangement of buildings, parking or other elements of the proposed development in order to retain Significant, Exceptional or Heritage non-invasive Trees.

B. Topping and pruning of more than 25% of the canopy of trees is prohibited and considered removal and subject to replacement requirements of TMC Section 18.54.080.

C. Removal or topping of trees located on undeveloped properties is prohibited except:

1. Those that interfere with access and/or passage on public trails; or

2. When trees, including alders and cottonwoods, have been determined to be one of the following by a Tree Risk Assessment prepared by a Tree Risk Assessor, and where the risk cannot be reduced to Low with mitigation, such as pruning:

   a. Moderate risk with significant consequences;
   b. Moderate risk with severe consequences;
   c. High risk with a Target or Risk Target; or
   d. Extreme risk.

3. Factors that will be considered in approving such tree removal include, but are not limited to, tree condition and health, age, risks to life or structures, and potential for root or canopy interference with utilities.

D. Protection of trees shall be a major factor in the location, design, construction and maintenance of streets and utilities. Removal or significant damage that could lead to tree death of Significant, Exceptional or Heritage Trees shall be mitigated with on- or off-site tree replacement as required by this chapter.

E. A Qualified Tree Professional shall provide an assessment of any tree proposed for retention in a proposed development to ensure its survivability during construction.

F. The Department shall conduct a tree canopy assessment every five years from the date of the adoption of this chapter to ensure the tree canopy goals of the Comprehensive Plan are being met.

(Ord. 2625 §61, 2020; Ord. 2570 §7, 2018; Ord. 1758 §1 (part), 1995)

18.54.070 Tree Protection Standards

All trees not proposed for removal as part of a project or development shall be protected using Best Management Practices and the standards below.

1. The Critical Root Zones (CRZ) for all trees designated for retention, on site or on adjacent property as applicable, shall be identified on all construction plans, including demolition, grading, civil and landscape site plans.

2. Any roots within the CRZ exposed during construction shall be covered immediately and kept moist with appropriate materials. The City may require a third-party Qualified Tree Professional to review long-term viability of the tree.

3. Physical barriers, such as 6-foot chain link fence or plywood or other approved equivalent, shall be placed around each individual tree or grouping at the CRZ.

4. Minimum distances from the trunk for the physical barriers shall be based on the approximate age of the tree (height and canopy) as follows:

   a. Young trees (trees which have reached less than 20% of life expectancy): 0.75 per inch of trunk diameter.

   b. Mature trees (trees which have reached 20-80% of life expectancy): 1 foot per inch of trunk diameter.

   c. Over mature trees (trees which have reached greater than 80% of life expectancy): 1.5 feet per inch of trunk diameter.

5. Alternative protection methods may be used that provide equal or greater tree protection if approved by the Director.

6. A weatherproof sign shall be installed on the fence or barrier that reads:

"TREE PROTECTION ZONE – THIS FENCE SHALL NOT BE REMOVED OR ENCROACHED UPON. No soil disturbance, parking, storage, dumping or burning of materials is allowed within the Critical Root Zone. The value of this tree is $ *[insert value of tree as determined by a Qualified Tree Professional here].* Damage to this tree due to construction activity that results in the death or necessary removal of the tree is subject to the Violations section of TMC Chapter 18.54."

7. All tree protection measures installed shall be inspected by the City and, if deemed necessary a Qualified Tree Professional, prior to beginning construction or earth moving.

8. Any branches or limbs that are outside of the CRZ and might be damaged by machinery shall be pruned prior to construction by a Qualified Tree Professional. No construction personnel shall prune affected limbs except under the direct supervision of a Qualified Tree Professional.

9. The CRZ shall be covered with 4 to 6 inches of wood chip mulch. Mulch shall not be placed directly against the trunk. A 6-inch area around the trunk shall be free of mulch. Additional measures, such as fertilization or supplemental water, shall be carried out prior to the start of construction if deemed necessary by the Qualified Tree Professional's report to prepare the trees for the stress of construction activities.

10. No storage of equipment or refuse, parking of vehicles, dumping of materials or chemicals, or placement of permanent heavy structures or items shall occur within the CRZ.

11. No grade changes or soil disturbance, including trenching, shall be allowed within the CRZ. Grade changes within 10 feet of the CRZ shall be approved by the City prior to implementation.

12. The applicant is responsible for ensuring that the CRZ of trees on adjacent properties are not impacted by the proposed development.

13. A pre-construction inspection shall be conducted by the City to finalize tree protection actions.

14. Post-construction inspection of protected trees shall be conducted by the City and, if deemed necessary by the City, a Qualified Tree Professional. All corrective or reparative pruning will be conducted by a Qualified Tree Professional.

(Ord. 2570 §8, 2018; Ord. 1758 §1 (part), 1995)

18.54.080 Tree Replacement

A. **Replacement Exemption for Single-Family Tree Removal.** Except for Heritage Trees, the removal of Significant Trees, depending on the size within any 36-month period on a property zoned Low Density Residential and improved with a single-family dwelling, is permitted, subject to the requirements of Table A below.

TABLE A –
Single Family Tree Removal without Replacement Limits

Trees (DBH)	# of Trees in 36 month period that can be removed without replacement (1)
>6-8"	4
>8-18"	2
>18"	1 and no other trees

(1) A combination of trees of different sizes may be removed without replacement so long as the total number of trees removed does not exceed the number allowed for the largest tree removed in a 36-month period. See Tree Permit Application for additional details.

B. **Replacement Standards.**

1. Each existing Significant Tree removed, including removal of trees in easements and rights-of-way for the purposes of constructing public streets and utilities, shall be replaced with new tree(s), based on the size of the existing tree as shown below, up to a maximum density of 100 new trees per acre, generally 12-15 feet apart. If the number of required replacement trees exceeds site capacity, payment is required into the City's Tree Fund.

2. ***Tree Replacement Ratios.*** Table B (below) establishes tree replacement ratios when Significant, Exceptional or Heritage Trees are removed. For properties zoned Low Density Residential and improved with a single-family dwelling, when the number of trees permitted to be removed in a 36-month period, as shown in Table A, has been exceeded, the replacement ratios set forth in Table B apply. Trees damaged due to natural disasters, such as wind storms, hail, ice or snow storms, and earthquakes, are not required to be replaced. Trees determined to be Defective by the City or a Qualified Tree Professional, are not required to be replaced. Any tree removal on undeveloped properties is subject to replacement ratios in Table B. Illegal topping and pruning more than 25% in a 36-month period is subject to replacement ratios in Table B.

3. The property owner is required to ensure the viability and long-term health of trees planted for replacement through proper care and maintenance for the life of the site's improvement. Replaced trees that do not survive must be replanted in the next appropriate season for planting.

4. If all required replacement trees cannot be accommodated reasonably on the site, the applicant shall pay into the Tree Fund in accordance with the Consolidated Permit Fee Schedule adopted by resolution of the City Council.

TABLE B – Tree Replacement Requirements

Trees (DBH)	Replacement ratio for trees that are subject to replacement
6-8"	1:1
>8-18"	1:2
>18"	1:3

5. Tree replacement shall also meet the standards in TMC Section 18.54.160.

(Ord. 2625 §62, 2020; Ord. 2570 §9, 2018; Ord. 1758 §1 (part), 1995)

18.54.090 Tree Relocation

Tree relocation shall be carried out according to Best Management Practices, and trees proposed for relocation shall have a reasonable chance of survival.

(Ord. 2570 §10, 2018; Ord. 1758 §1 (part), 1995)

18.54.100 Tree Fund

A. When trees are topped or removed without a permit, or if the number of replacement trees required by Table B cannot be accommodated on-site, the Director shall require payment into the Tree Fund. The fee will be based on the current cost of the following:

1. The cost of purchasing and delivering a 2-inch caliper deciduous or 6-foot evergreen tree;

2. The cost of labor to install a tree;

3. The cost of supplies needed for the installation of a tree, including but not limited to, soil amendments, mulch, stakes, etc.; and

4. The cost of maintenance of a new tree for at least three years, including but not limited to, watering, weeding, and pruning.

B. The cost of a replacement tree shall be updated annually in the Land Use Fee Schedule.

C. The money in this fund shall be used by the City or its contractor to purchase, plant and maintain trees on sites in the City.

D. Tree funds may be used by a single-family property owner to plant one or more street trees if approved by the Director and by the Public Works Department. The tree species must be approved by the City and be appropriate to the site conditions. The property owner is responsible for the site preparation and maintenance of the street tree, pursuant to TMC Section 18.54.160.

(Ord. 2570 §11, 2018; Ord. 1758 §1 (part), 1995)

18.54.110 Performance Assurance

To mitigate potential damages that may result from unauthorized tree removal or maintenance, the Director may require the applicant to submit a bond, letter of credit, or other means of assurance acceptable to the City prior to issuance of a Tree Permit, subject to the following provision:

1. ***Tree Protection Assurance.*** The applicant may be required to post a three year performance bond or other acceptable security device to ensure the installation, maintenance and adequate performance of tree protection measures during the construction process. The amount of this bond shall equal 150 percent of the City's estimated cost of replacing each replacement tree. The estimated cost per tree shall be the fair market value of the tree. Prior to DCD final inspection, any protected tree found to be irreparably damaged, severely stressed or dying shall be replaced according to the standards identified in this chapter. The City may release all or part of the bond prior to the conclusion of the bonding period if the applicant demonstrates that the requirements of this section have been satisfied and there is evidence that the protected trees will survive. If trees designated for retention are damaged, they shall be subject to replacement.

2. ***Tree Maintenance Assurance.*** Where replacement trees are required, the applicant may be required to post a one-year replacement tree maintenance bond or other acceptable security device to ensure the survival of replacement trees. The amount of the maintenance bond shall equal 150 percent of the cost of plant material, periodic fertilizing and pruning, and labor until tree survival is ensured. In the event a required replacement tree becomes irreparably damaged, severely stressed or dies, the tree shall be replaced according to the standards in this chapter. The City may release all or part of the bond prior to the conclusion of the bonding period if the applicant demonstrates that the requirements of this section have been satisfied and there is evidence that the protected trees will survive. Submission of annual photos for three years documenting that the tree is in good health will satisfy this requirement for properties zoned Low Density Residential and improved with a single-family dwelling. Trees that do not survive the three-year maintenance period shall be replanted and the three year maintenance period shall restart at the time of replanting.

3. The applicant shall provide an estimate of the costs associated with the required performance bond or other security as described above. In lieu of an applicant's estimate, the performance assurance shall be equal to City staff's best estimate of possible costs to meet the above requirements. In no case shall the performance-assurance exceed an amount equal to two and one-half times the current cost of replacing the plants in accordance with the tree replacement provisions of this chapter.

4. The performance assurances shall not be fully released without final inspection and approval of completed work by the City, submittal of any post-construction evaluations or following any prescribed trial maintenance period required in the permit.

5. Performance assurances provided in accordance with this chapter may be enforced in whole or in part by the City upon determination by the Director that the applicant has failed to fully comply with approved plans and/or conditions.

(Ord. 2625 §63, 2020; Ord. 2570 §12, 2018; Ord. 1758 §1 (part), 1995)

18.54.120 Liability

A. Liability for any adverse impacts or damages resulting from work performed in accordance with a Tree Permit, will be the sole responsibility of the owner of the site for which the permit was issued.

B. Issuance of a Tree Permit and/or compliance with permit provisions or conditions shall not relieve an applicant from any responsibility otherwise imposed by law for damage to persons or property in an amount greater than the insured amount required by this chapter.

C. Nothing contained in this chapter shall be deemed to relieve any property owner from the duty to keep any tree or vegetation upon his or her property or under his or her control in such condition as to prevent it from constituting a hazard or a nuisance pursuant to TMC Chapter 8.28.

D. The amount of any security shall not serve as a gauge or limit to the compensation collected from a property owner as a result of damages associated with any vegetation clearing.

E. The applicant shall at all times protect improvements to adjacent properties and public rights-of-way or easements from damage during clearing. The applicant shall restore to the standards in effect at the time of the issuance of the permit any public or private improvements damaged by the applicant's operations.

(Ord. 2570 §13, 2018; Ord. 1758 §1 (part), 1995)

18.54.130 Permit Processing and Duration

A. All Tree Permits shall be processed as Type 1 decisions. Exceptions to the requirements of this chapter shall be processed as a Type 2 decision.

B. If the Tree Permit application is not approved, the Director shall inform the applicant in writing of the reasons for disapproval.

C. Tree permits expire one year after the date the permit is issued.

(Ord. 2678 §18, 2022; Ord. 2570 §14, 2018; Ord. 1770 §32, 1996; Ord. 1758 §1 (part), 1995)

18.54.140 Permit Exceptions

A. **Exception Procedures.** An applicant seeking an exception from this chapter shall submit for an exception as part of a Tree Permit application. Such application shall fully state all substantiating facts and evidence pertinent to the exception request, and include supporting maps or plans. The exception shall not be granted unless and until sufficient reasons justifying the exception are provided by the applicant and verified by the City. Approval of the exception is subject to the exception criteria outlined below.

B. **Exception Criteria:**

1. The Director may grant exceptions from the requirements of this chapter when undue hardship may be created by strict compliance with the provisions of this chapter. Any authorization for an exception may prescribe conditions deemed necessary or desirable for the public interest, or necessary to meet the intent of this chapter.

2. An exception to this chapter shall not be granted unless all of the following criteria are met:

a. Strict compliance with the provisions of this code may jeopardize project feasibility or reasonable use of property.

b. Proposed tree removal, replacement, and any mitigative measures proposed, are consistent with the purpose and intent given in this chapter.

c. The granting of the exception or standard reduction will not be detrimental to the public welfare or injurious to other property in the vicinity.

3. In addition to the above criteria, the Director may also require review of an exception request by a third party Qualified Tree Professional at the expense of the applicant.

(Ord. 2678 §19, 2022; Ord. 2570 §15, 2018; Ord. 1758 §1 (part), 1995)

18.54.150 Permit Conformance

All work must be performed in accordance with approved Permit plans specified in this chapter or revised plans as may be determined by the Director. The applicant shall obtain permission in writing from the Director prior to modifying approved plans.

(Ord. 2570 §16, 2018; Ord. 1758 §1 (part), 1995)

18.54.160 Soil Preparation, Plant Material and Maintenance Standards

A. **Soil Preparation.**

1. Soils must be prepared for planting by incorporating compost and/or topsoil to a depth of 12 inches throughout the planting area.

2. An inspection of the planting areas prior to planting may be required to ensure soils are properly prepared.

3. Installation of plants must comply with Best Management Practices including, but not limited to:

a. Planting holes that are the same depth as the size of the root ball and two to three times wider than the root ball.

b. Root balls of potted and balled and burlapped (B&B) plants must be loosened and pruned as necessary to ensure there are no encircling roots prior to planting. All burlap and all straps or wire baskets must be removed from B&B plants prior to planting.

c. The top of the root flare, where the roots and the trunk begin, should be placed at grade. The root ball shall not extend above the soil surface and the flare shall not be covered by soil or mulch. For bare root plants, ensure soil beneath roots is stable enough to ensure correct height of the tree.

d. If using mulch around trees and shrubs, maintain at least a 4-inch mulch-free ring around the base of the tree trunks and woody stems of shrubs. If using mulch around groundcovers until they become established, mulch shall not be placed over the crowns of perennial plants.

B. **Plant Material Standards.**

1. Plant material shall be healthy, vigorous and well-formed, with well-developed, fibrous root systems, free from dead branches or roots. Plants shall be free from damage caused by temperature extremes, pre-planting or on-site storage, lack of or excess moisture, insects, disease, and mechanical injury. Plants in leaf shall show a full crown and be of good color. Plants shall be habituated to outdoor environmental conditions (i.e. hardened-off).

2. Evergreen trees shall be a minimum of 6 feet in height at time of planting.

3. Deciduous trees shall have at least a 2-inch caliper at time of planting as measured 4.5 feet from the ground, determined according to the American Standard for Nursery Stock as it now reads and as hereafter amended.

4. Smaller plant stock may be substituted on a case-by-case basis with approval of the City's environmental specialist.

5. Tree spacing shall take into account the location of existing and new trees as well as site conditions.

6. Where there are overhead utility lines, the tree species selected shall be of a type which, at full maturity, will not interfere with the lines or require pruning to maintain necessary clearances.

C. **Tree Maintenance and Pruning.**

1. Pruning of trees should be (1) for the health of the plant material, (2) to maintain sight distances or sight lines, or (3) if interfering with overhead utilities. All pruning must be done in accordance with American National Standards Institute (ANSI) A300 specifications, as it now reads and as hereafter amended. No more than 25% of the tree canopy shall be pruned in any two-year period, except for fruit trees that are being pruned to increase harvest potential. Any tree pruned in excess of 25% of the canopy shall be subject to replacement ratios listed under TMC Section 18.54.080.

2. All protected and replacement trees and vegetation shown in approved Tree Permit shall be maintained in a healthy condition by the property owner throughout the life of the project, unless otherwise approved by the Director in a subsequent Tree Permit.

3. Trees may only be pruned to lower their height to prevent interference with an overhead utility line with prior approval by the Director. The pruning must be carried out under the direction of a Qualified Tree Professional or performed by the utility provider under the direction of a Qualified Tree Professional. The crown shall be maintained to at least 2/3 the height of the tree prior to pruning.

(Ord. 2625 §64, 2020; Ord. 2570 §17, 2018; Ord. 1758 §1 (part), 1995)

18.54.170 Heritage Trees and Heritage Groves

A. Heritage Trees or a Heritage Grove must be nominated for designation by, or approved for nomination by, the owner of the property on which the tree or grove is located.

B. **Designation Criteria.** A tree or grove that meets the basic definition of Heritage Tree or Heritage Grove must also meet one or more of the following criteria:

1. Has exceptional national, state or local historical significance including association with a historical figure, property, or significant historical event; or

2. Has an exceptional size or exceptional form for its species; or

3. Has an exceptional age for its species; or

4. Is the sole representative of its species in the area; or

5. Has exceptional botanical or ecological value.

C. Once approved, the Heritage Tree or Heritage Grove shall be identified by signage that provides information as to the tree's or grove's significance.

D. **Heritage Tree or Heritage Grove Development Review.**

1. When development is proposed for property that contains a Heritage Tree or Grove, and the Director determines that the proposed development may affect a Heritage Tree, the property owner must have a tree preservation plan prepared by a Qualified Tree Professional as approved by the Director demonstrating how the Heritage Tree will be protected and preserved. A Heritage Tree shall be preserved using the tree protection and retention criteria of this chapter.

2. A tree preservation plan shall be composed of the following:

a. A site plan indicating the location of Heritage Tree(s).

b. The methods to be used to preserve the Heritage Tree(s).

c. A mitigation plan indicating the replacement trees or additional new trees to be placed on the site. The mitigation plan should demonstrate, to the extent possible, that the character of the site will not substantially change as a result of development.

3. Site design adjustments may be approved in some cases for the subject property or an affected adjacent parcel, as follows:

a. Up to a 20% variance to front, side, and/or rear yard setback standards to retain a Heritage Tree(s) or Grove may be reviewed and granted as part of the underlying land use or construction permit. The adjustment shall be the minimum necessary to accomplish preservation of the Heritage Tree(s) or Grove on site and shall not conflict with other adopted ordinances or conditions placed on the property.

b. Up to a 10% variance to the lot size and/or the lot width requirements in approving any land division if necessary to retain Heritage Tree(s) or Grove.

4. Removal of a Heritage Tree. No person may cut or remove a Heritage Tree without approval of a Type 2 permit. The Tree Permit may be approved if one or more of the criteria below is met:

a. Retention of the tree would make reasonable use of the property allowed under the current zoning impractical or impossible; or

b. The removal is necessary to accommodate a new improvement, structure or remodeled structure, and no alternative exists for relocation of the improvement on the site, or that variances to setback provisions will not allow the tree to be saved or will cause other undesirable circumstances on the site or adjacent properties; or

c. The tree is hazardous, diseased or storm damaged and poses a threat to the health, safety or welfare of the public; or

d. The tree has lost its importance as a Heritage Tree due to damage from natural or accidental causes, or is no longer of historic or natural significance; or

e. The tree needs to be removed to accomplish a public purpose and no practical alternative exists.

5. The limb structure or crown of a Heritage Tree may be pruned in any one-year period without obtaining a Type 2 permit provided that at least 80% of the existing tree crown remains undisturbed.

6. Any person who wishes to prune a Heritage Tree or Grove in excess of 20% of the existing crown shall apply for a Tree Permit and meet the following criteria.

a. The protected tree shall be pruned following acceptable arboricultural standards; and

b. The tree shall be pruned in a manner that ensures safety to public and private property and shall be carried out by a Qualified Tree Professional; and

c. Any other conditions necessary to ensure compliance with the goals and policies of the Comprehensive Plan.

(Ord. 2570 §18, 2018; Ord. 1758 §1 (part), 1995)

18.54.180 Approved and Prohibited Trees

The City will maintain on file, and provide upon request, a list of approved trees for planting and trees that are prohibited from being planted in the City. These lists will be updated as new information becomes available.

(Ord. 2570 §19, 2018; Ord. 1758 §1 (part), 1995)

18.54.190 Violations

A. Failure to comply with any requirement of this chapter shall be deemed a violation subject to enforcement pursuant to this chapter and TMC Chapter 8.45.

B. **Penalties.**

1. In addition to any other penalties or other enforcement allowed by law, any person who fails to comply with the provisions of this chapter also shall be subject to a civil penalty assessed against the property owner as set forth herein. Each unlawfully removed or damaged tree shall constitute a separate violation.

2. Removal or damage of tree(s) without applying for and obtaining required City approval is subject to a fine of $1,000 per tree, or up to the marketable value of each tree removed or damaged as determined by a Qualified Tree Professional, whichever is greater.

3. Any fines paid as a result of violations of this chapter shall be allocated as follows: 75% paid into the City's Tree Fund; 25% into the General Fund.

4. The Director may elect not to seek penalties or may reduce the penalties if he/she determines the circumstances do not warrant imposition of any or all of the civil penalties.

5. Penalties are in addition to the restoration of removed trees through the remedial measures listed in TMC Section 18.54.200.

6. It shall not be a defense to the prosecution for a failure to obtain a permit required by this chapter that a contractor, subcontractor, person with responsibility on the site or person authorizing or directing the work erroneously believes a permit was issued to the property owner or any other person.

(Ord. 2625 §65, 2020; Ord. 2570 §20, 2018; Ord. 1758 §1 (part), 1995)

18.54.200 Remedial Measures

In addition to the penalties assessed, the Director shall require any person conducting work in violation of this chapter to mitigate the impacts of unauthorized work by carrying out remedial measures.

1. Any illegal removal of required trees shall be subject to obtaining a Tree Permit and replacement with trees that meet or exceed the functional value of the removed trees.

2. To replace the tree canopy lost due to the tree removal, additional trees must be planted on-site. Payment shall be made into the City's Tree Fund if the number of replacement trees cannot be accommodated on-site. The number of replacement trees required will be based on the size of the tree(s) removed as stated in Table B.

3. The applicant shall satisfy the permit provisions as specified in this chapter.

4. Remedial measures must conform to the purposes and intent of this chapter. In addition, remedial measures must meet the standards specified in this chapter.

5. Remedial measures must be completed to the satisfaction of the Director within 6 months of the date a Notice of Violation and Order is issued pursuant to TMC Chapter 8.45, or within the time period otherwise specified by the Director.

6. The cost of any remedial measures necessary to correct violation(s) of this chapter shall be borne by the property owner and/or applicant. Upon the applicant's failure to implement required remedial measures, the Director may redeem all or any portion of any security submitted by the applicant to implement such remedial measures, pursuant to the provisions of this chapter.

(Ord. 2570 §21, 2018; Ord. 1758 §1 (part), 1995)

18.54.210 Enforcement

A. **General.** In addition to the Notice of Violation and Order measures prescribed in TMC Chapter 8.45, the Director may take any or all of the enforcement actions prescribed in this chapter to ensure compliance with, and/or remedy a violation of this chapter; and/or when immediate danger exists to the public or adjacent property, as determined by the Director.

1. The Director may post the site with a "Stop Work" order directing that all vegetation clearing not authorized under a Tree Permit cease immediately. The issuance of a "Stop Work" order may include conditions or other requirements which must be fulfilled before clearing may resume.

2. The Director may, after written notice is given to the applicant, or after the site has been posted with a "Stop Work" order, suspend or revoke any Tree Permit issued by the City.

3. No person shall continue clearing in an area covered by a "Stop Work" order, or during the suspension or revocation of a Tree Permit, except work required to correct an imminent safety hazard as prescribed by the Director.

B. **Injunctive relief.** Whenever the Director has reasonable cause to believe that any person is violating or threatening to violate this chapter or any provision of an approved Tree Permit, the Director may institute a civil action in the name of the City for injunctive relief to restrain the violation or threatened violation. Such civil action may be instituted either before or after, and in addition to, any other action, proceeding or penalty authorized by this chapter or TMC Chapter 8.45.

C. **Inspection access.**

1. The Director may inspect a property to ensure compliance with the provisions of a Tree Permit or this chapter, consistent with TMC Chapter 8.45.

2. The Director may require a final inspection as a condition of a Tree Permit issuance to ensure compliance with this chapter. The permit process is complete upon final approval by the Director.

(Ord. 2570 §22, 2018)

CHAPTER 18.56

OFF-STREET PARKING AND LOADING REGULATIONS

Sections:

18.56.010 Purpose

It is the purpose of this chapter to provide for adequate, convenient, and safe off-street parking and loading areas for the different land uses described in this title.

(Ord. 1795 §3 (part), 1997; Ord. 1758 §1 (part), 1995)

18.56.020 Chapter Application

Off-street parking and loading spaces shall be provided as an accessory use in all zones in accordance with the requirements of this chapter, at the time any building or structure is erected, enlarged or at the time there is a change in its principal use.

(Ord. 1795 §3 (part), 1997; Ord. 1758 §1 (part), 1995)

18.56.030 Reduction of Existing Parking Spaces

Any off-street parking area already in use or established hereafter shall not be reduced below the limits required by this chapter by the construction of any addition to a building or structure, nor by the erection of an additional building or structure on the property. Any change of principal and/or secondary use must meet the parking requirements of the new use.

(Ord. 1795 §3 (part), 1997; Ord. 1758 §1 (part), 1995)

18.56.040 General Requirements

Any required off-street parking and loading facilities shall be developed in accordance with the following standards:

1. *LOCATION.*

a. Any required off-street parking shall be accessory to a primary use except as allowed by the Land Use Tables 18-2 and 18-6;

b. Additionally, off-premises parking areas shall be subject to compliance with the covenant parking standards in TMC Section 18.56.070, "Cooperative Parking Facility."

2. *PARKING DIMENSIONS.* Minimum parking area dimensions for surface and structured parking facilities shall be as provided in Figure 18-6. Standard and compact parking stalls shall be allowed a two-foot landscaping overhang to count towards the stall length.

3. *TANDEM PARKING SPACES.* In the MDR and HDR zones, tandem spaces (where one car is parked directly behind another) will be allowed for each three bedroom and 1/3 of all two bedroom units. No more than 1/3 of all project parking spaces may be tandem and all tandem parking spaces will be designed for full size rather than compact size vehicles based on the dimensions in Figure 18-6.

4. *PARKING AREA AND PARKING AREA ENTRANCE AND EXIT SLOPES.* The slope of off-street parking spaces shall not exceed 5%. The slope of entrance and exit driveways providing access for off-street parking areas and internal driveway aisles without parking stalls shall not exceed 15%.

5. *DRIVEWAYS AND MANEUVERABILITY.*

a. Adequate ingress to and egress from each parking space shall be provided without moving another vehicle and without backing more than 50 feet.

b. Turning and maneuvering space shall be located entirely on private property unless specifically approved by the Public Works Director.

c. All parking spaces shall be internally accessible to one another without reentering adjoining public streets. This standard does not apply to single family, duplex, triplex, fourplex or townhouse uses or where cooperative parking is approved.

d. When off-street parking is provided in the rear of a building and a driveway or lane alongside the building provides access to rear parking area, such driveway shall require a minimum width of twelve feet and a sidewalk of at least a three-foot section, adjoining the building, curbed or raised six inches above the driveway surface. This standard does not apply to single family, duplex, triplex, fourplex or townhouse uses.

e. Ingress and egress to any off-street parking lot shall not be located closer than 20 feet from point of tangent to an intersection.

f. The Public Works Director or the Community Development Director may require ingress separate from an egress for smoother and safer flow of traffic.

6. The Director may require areas not designed or approved for parking to be appropriately marked and/or signed to prevent parking.

7. *SURFACE.*

a. The surface of any required off-street parking or loading facility shall be paved with permeable pavement, which is the preferred material, or asphalt, concrete or other similar approved material(s) that maintains a durable uniform surface and shall be graded and drained as to dispose of all surface water, but not across sidewalks.

b. Any parking stalls provided in excess of the required minimum shall use permeable pavement where technically feasible in accordance with the Surface Water Design Manual, adopted in accordance with TMC Chapter 14.30.

c. All traffic-control devices, such as parking stripes designating car stalls, directional arrows or signs, bull rails, curbs and other developments shall be installed and completed as shown on the approved plans.

d. Paved parking areas shall use paint or similar devices to delineate car stalls and direction of traffic.

e. Where pedestrian walks are used in parking lots for the use of foot traffic only, they shall be curbed or raised six inches above the lot surface.

f. Wheel stops shall be required on the periphery of parking lots so cars will not protrude into the public right-of-way, walkways, off the parking lot or strike buildings. Wheel stops shall be two feet from the end of the stall of head-in parking.

8. *PARALLEL PARKING STALLS.* Parallel parking stalls shall be designed so that doors of vehicles do not open onto the public right-of-way.

9. *OBSTRUCTIONS.* No obstruction that would restrict car door opening shall be permitted within five feet of the centerline of a parking space.

10. *LIGHTING.* Any lighting on a parking lot shall illuminate only the parking lot, designed to avoid undue glare or reflection on adjoining premises.

11. *CURB-CUTS.* All parking areas shall have specific entrance and/or exit areas to the street. The width of access roads and curb-cuts shall be determined by the Public Works Director. The edge of the curb-cut or access road shall be as required by the Public Works Director for safe movement of vehicles or pedestrians. Curb-cuts in single-family districts shall be limited to a maximum of 20 feet in width and the location shall be approved by the Public Works Director.

12. *PARKING STALL.* Parking stalls shall not be used for permanent or semi-permanent parking or storage of trucks or materials.

(Ord. 2589 §2, 2018; Ord. 2518 §13, 2016; Ord. 2500 §24, 2016; Ord. 2368 §54, 2012; Ord. 2251 §66, 2009; Ord. 1795 §3 (part), 1997; Ord. 1758 §1 (part), 1995)

18.56.050 Required Number of Parking Spaces

The minimum number of off-street parking spaces for the listed uses shall be as shown in ***Figure 18-7.*** Minimum parking requirements shall be maintained over the life of the original or primary use. Any additional uses, either secondary or accessory in nature, must have parking available that does not impact the minimum parking of the original or primary use. This extends to parking spaces used for park-and-fly lots or use of parking for storage or outdoor displays. **NOTE:** Automobile parking requirements for TUC-RC, TUC-TOD and TUC-Pond Districts are listed in TMC Section 18.28.260.

(Ord. 2718 §2, 2023; Ord. 2442 §3, 2014; Ord. 2368 §55, 2012; Ord. 2251 §67, 2009; Ord. 1795 §3 (part), 1997; Ord. 1758 §1 (part), 1995)

18.56.060 Loading Space Requirements

Off-street space for standing, loading and unloading services shall be provided in such a manner as not to obstruct freedom of traffic movement on streets or alleys. For all office, commercial, and industrial uses, each loading space shall consist of at least a 10-foot by 30-foot loading space with 14-foot height clearance for small trucks such as pickup trucks, or a 12-foot by 65-foot loading space with 14-foot height clearance for large trucks, including tractor-trailer. These requirements may be modified as a Type 1 decision, where the Community Development Director finds that such reduction will not result in injury to neighboring property, or obstruction of fire lanes/traffic, and will be in harmony with the purposes and intent of this chapter.

(Ord. 2368 §56, 2012; Ord. 1795 §2 (part), 1997; Ord. 1770 §33, 1996; Ord. 1758 §1 (part), 1995)

18.56.065 Residential Parking and Storage Requirements

A. Parking and vehicle storage limitations on properties devoted to single-family residential use shall be as follows:

1. Motor vehicles on property devoted to single-family residential use shall be parked on an approved durable uniform surface that is designed to retain surface water on-site and without causing impacts. If necessary, surface water may drain to street if no other design is feasible. Motor vehicles, other than those specified in TMC Section 18.56.065.A.2, shall not be parked in setbacks except in front or secondary front-yard setbacks from streets, when in a driveway that provides access to an approved parking location, and is in conformance with TMC Title 18, as that title currently exists or as it may be subsequently amended. Parking in the rear setback for a single-family home is permitted where the parking is connected to a rear alley.

2. Recreational vehicles, boats or trailers shall be parked, kept or stored on an approved durable uniform surface and shall not be parked, kept or stored in required front yard setbacks, except for a driveway. Recreational vehicle parking in the side or rear yard setbacks is allowed, provided no recreational vehicle is parked so as to prevent access by emergency responders to all sides of a structure.

3. No more than 50% of the front yard or 800 square feet, whichever is smaller, may be approved durable uniform surface. An approved durable uniform surface exceeding this requirement prior to August 25, 2004 may be maintained, but shall not be expanded. The Director of Community Development may approve exceptions to this requirement for an access driveway, particularly on pie-shaped or other odd shaped lots where it is infeasible to meet this requirement.

4. Single-family properties on pre-existing, legal lots of record containing less than 6,500 square feet are exempt from the percentages noted in TMC Section 18.56.065.A.3.

5. No more than six motor vehicles shall be parked on a single-family residential property of 13,000 square feet or less outside of a carport or enclosed garage for a period of more than 48 hours. For purposes of this section, "single-family residential property" means any parcel containing a single-family residence or multiple parcels combined containing one single-family residence, typically identified by a single address located in the LDR zone. The parking limitations in this subsection shall apply to all motor vehicles as defined by state law with the exception of motorcycles and mopeds.

B. Each unit in a townhouse development shall have an attached garage with parking for at least one vehicle or a parking space in an underground garage.

C. **Waiver from the requirement for number of required stalls.** The Director shall have the discretion to waive the requirement to construct a portion of the off-street parking requirement if, based on a parking demand study, the property owner establishes that the dwelling will be used primarily to house residents who do not and will not drive due to a factor other than age. Such a study shall ensure that ample parking is provided for residents who can drive, guests, caregivers and other persons who work at the residence. If such a waiver is granted, the property owner shall provide a site plan, which demonstrates that in the event of a change of use that eliminates the reason for the waiver, there is ample room on the site to provide the number of off-street parking spaces required by this Code. In the event that a change of use or type of occupant is proposed that would alter the potential number of drivers living or working at the dwelling, the application for change of use shall be conditioned on construction of any additional off-street parking spaces required to meet the standards of this Code.

(Ord. 2518 §14, 2016; Ord. 2368 §57, 2012; Ord. 2199 §19, 2008; Ord. 1976 §62, 2001)

18.56.070 Cooperative Parking Facility

A. *SHARED PARKING:* When two or more property owners agree to enter into a shared parking agreement, the setbacks and landscaping requirements on their common property line(s) may be waived with that land used for parking, driveway and/or building.

B. *COVENANT PARKING:* When off-premises parking is provided on a lot other than the lot of the use to which it is accessory, the following conditions shall apply:

1. Required off-street parking may be located off-premises when that parking supply is required to meet the minimum number of off-street parking spaces (TMC Section 18.56.050) and is provided as secondary to a principal use, except as allowed by the Land Use Tables 18-2 and 18-6.

2. A covenant shall be executed between the owner or operator of the principal use that the covenant parking will serve, the owner of the parking spaces, and the City stating the responsibilities of the parties. This covenant and accompanying legal descriptions of the principal use and the lot upon which the spaces are to be located shall be recorded with King County, and a copy with the recording number and parking layouts shall be submitted as part of any permit application for development.

3. The covenant lot must be within 800 feet of the primary commercial use or a shuttle service to the use must be provided with its route, service and operations approved by the Director.

C. When any Shared or Covenant parking agreement between parties, as referenced above, is modified or terminated, the owner of the parking spaces shall be responsible for notifying the Director. In this event, all affected parties shall provide documentation that a minimum of 50% of the required minimum parking will be available within 90 days following termination of the agreement, with the remainder to be available 365 days following termination of the original agreement. If a variance is sought, the application must be submitted within 14 days of the signed agreement to terminate and the reduction in parking spaces will only be allowed if the variance is approved.

D. *COMPLEMENTARY PARKING:* A complementary use is a portion of the development that functions differently than the primary use but is designed to serve or enhance the primary land use without creating additional parking needs for the primary traffic generator. Up to 10% of the usable floor area of a building or facility may be occupied by a complementary use without providing parking spaces in addition to the number of spaces for the principal use. Examples of complementary uses include pharmacies in hospitals or medical offices, food courts or restaurants in a shopping center or retail establishments.

E. Applications for shared, covenant or complementary parking shall be processed as Type 2 decisions, pursuant to TMC Section 18.108.020.

(Ord. 2589 §3, 2018; Ord. 1795 §2 (part), 1997; Ord. 1758 §1 (part), 1995)

18.56.080 Parking for the Handicapped

All parking provided for the handicapped, or others meeting definitions of the 1991 Americans with Disabilities Act (ADA), shall meet requirements of the Chapter 11 of the 1994 Uniform Building Code, as amended by Washington Administrative Code, section 51.30, et seq. *(See Figure 18-8.)*

(Ord. 1795 §2 (part), 1997; Ord. 1758 §1 (part), 1995)

18.56.090 Compact Car Allowance

A. A maximum of 30% of the total off-street parking stalls may be permitted and designated for compact cars.

B. Each compact stall shall be designated as such, with the word COMPACT printed onto the stall, in a minimum of eight -inch letters and maintained as such over the life of the use of both the space and the adjacent structure it serves.

C. Dimensions of compact parking stalls shall conform to the standards as depicted in Figure 18-6 of this chapter.

D. Compact spaces shall be reasonably dispersed throughout the parking lot.

(Ord. 1795 §2 (part), 1997; Ord. 1758 §1 (part), 1995)

18.56.100 Uses Not Specified

In the case of a use not specifically mentioned in this chapter, the requirements for off-street parking facilities shall be determined by the Director. Such determination shall be based upon the requirements for the most comparable use specified in this chapter.

(Ord. 1795 §2 (part), 1997; Ord. 1758 §1 (part), 1995)

18.56.110 Landscaping and Screening

Landscaping and screening requirements shall be as provided in the Landscape, Recreation, Recycling/ Solid Waste Space Requirements chapter of this title.

(Ord. 1795 §2 (part), 1997; Ord. 1758 §1 (part), 1995)

18.56.120 Filing of Plans

Detailed plans of off-street parking areas, indicating the proposed development including the location, size, shape, design, curb-cuts, adjacent streets, circulation of traffic, ingress and egress to parking lots and other features and appurtenances of the proposed parking facility, shall be filed with and reviewed by the Community Development Director. The parking area shall be developed and completed to the required standards before an occupancy permit for the building may be issued. The parking lot layout shall be reviewed as part of the underlying land use or the construction permit. If the proposal includes only reconfiguring of the parking lot such as adding/deleting parking spaces, making changes to the interior parking lot landscaping, or altering fire lanes, but no other land use permit or other construction permit is required, then the restriping proposal shall be reviewed as a Type 2 decision process as outlined in TMC Section 18.108.020.

(Ord. 2368 §58, 2012; Ord. 1795 §2 (part), 1997; Ord. 1758 §1 (part), 1995)

18.56.130 Development Standards for Bicycle Parking

A. *Required number of bicycle parking spaces:* The required number of parking spaces for bicycles are included in TMC 18.56.050, Figure 18-7.

B. *Location:*

1. Required bicycle parking must be located within 50 feet of an entrance to the building or use

2. Bicycle parking may be provided within a building, but the location must be accessible for bicycles

C. *Safety and Security:*

1. Legitimate bicycle spaces are individual units within ribbon racks, inverted 'U' racks, locking wheel racks, lockers, or other similar permanent structures.

2. If bicycle lockers are used, windows and/or view holes must be included to discourage improper uses.

3. If bicycle parking is not visible from the street, a sign must be posted indicating the location of the bicycle parking spaces.

4. All bicycle parking must be separated from motor vehicle traffic by a barrier, curb, post, bollard or other similar device.

D. *Process:* Upon application to and review by the Community Development Director, subject to a Type 1 decision process as outlined in TMC Section 18.108.020, the bicycle parking requirements may be modified or waived, where appropriate.

(Ord. 2368 §59, 2012; Ord. 1795 §2 (part), 1997)

18.56.135 Electric Vehicle Charging Station Spaces

A. *Applicability*. Regulations are applicable to all parking lots or garages, except those that include restricted electric vehicle charging stations.

B. *Number of stations.* No minimum number of charging station spaces is required.

C. *Minimum Parking Requirements*. An electric vehicle charging station space may be included in the calculation for minimum required parking spaces that are required pursuant to other sections of this chapter.

D. *Location and Design Criteria*. The provision of electric vehicle parking will vary based on the design and use of the primary parking lot. The following required and additional locational and design criteria are provided in recognition of the various parking lot layout options.

1. Where provided, parking for electric vehicle charging purposes is required to include the following:

a. Signage. Each charging station space shall be posted with signage indicating the space is only for electric vehicle charging purposes. Days and hours of operation shall be included if time limits or tow away provisions are to be enforced. Refer to the Manual on Uniform Traffic Control Devices for electric vehicle and parking signs.

Electric Vehicle Parking Sign Examples:

12" x 12"

12" x 18"

12" x 18"

b. Maintenance. Charging station equipment shall be maintained in all respects, including the functioning of the charging equipment. A telephone number or other contact information shall be provided on the charging station equipment for reporting when the equipment is not functioning or when other problems are encountered.

c. Accessibility. Where charging station equipment is provided within an adjacent pedestrian circulation area, such as a sidewalk or accessible route to the building entrance, the charging equipment shall be located so as not to interfere with accessibility requirements of WAC 51-50-005.

d. Lighting. Where charging station equipment is installed, adequate site lighting shall exist, unless charging is allowed during daytime hours only.

2. Charging station spaces for electric vehicles should also consider the following signage information:

a. Information on the charging station, identifying voltage and amperage levels and any time of use, fees, or safety information.

b. Installation of directional signs at the parking lot entrance and at appropriate decision points to effectively guide motorists to the charging station space(s). Refer to the Manual on Uniform Traffic Control Devices for electric vehicle and directional signs.

Directional Sign Examples:

12" x 12"


12" x 6"

12" x 12"


12" x 6"

(Ord. 2324 §13, 2011)

18.56.140 Administrative Variance from Parking Standards

A. *General:*

1. A request for an administrative variance from required parking standards must be received prior to any issuance of building or engineering permits. Administrative variances are only eligible for requests for reductions of required parking between 1% and 10%. Requests for reductions from minimum parking standards in excess of 10% must be made to the Hearing Examiner.

2. The project developer shall present all findings to the Director prior to any final approvals, including design review, conditional use permit review, building review or any other permit reviews required by the Director.

B. *Criteria:*

1. All requests for reductions in parking shall be reviewed under the criteria established in this section.

2. In addition to the following requirements, the Director may require specific measures not listed to ensure that all impacts with reduced parking are mitigated. Any spillover parking which cannot be mitigated to the satisfaction of the Director will serve as the basis for denial. A reduction may be allowed, pursuant to either an administrative variance or requests to the Hearing Examiner, after:

a. All shared parking strategies are explored.

b. On-site park and ride opportunities are fully explored.

c. The site is in compliance with the City's commute trip reduction ordinance or, if not an affected employer as defined by the City's ordinance, agrees to become affected.

d. The site is at least 300 feet away from a single-family residential zone.

e. A report is submitted providing a basis for less parking and mitigation necessary to offset any negative effects.

C. *Process:*

1. An applicant shall submit evidence that decreased parking will not have a negative impact on surrounding properties or potential future uses. This may take the form of a brief report for administrative variances. Decreases in excess of 10% must be made to the Hearing Examiner. The Director may require additional studies to ensure that negative impacts are properly mitigated. A complete and detailed Parking Demand Study is required for requests reviewed by the Hearing Examiner.

2. All site characteristics should be described in the report, including:

a. Site accessibility for transit.

b. Site proximity to transit, with 15- to 30-minute headways.

c. Shared use of on-site parking.

d. Shared use of off-site parking.

e. Combined on-site parking.

f. Employee density.

g. Adjacent land uses.

D. *Review:* Applications for administrative variances for reductions below minimum parking requirements between 1% and 10% shall be processed as Type 2 decisions, pursuant to TMC Section 18.108.020. Applications for reductions from minimum parking requirements in excess of 10% shall be processed as Type 3 decisions, pursuant to TMC Section 18.108.030, including a hearing before the Hearing Examiner.

(Ord. 2368 §60, 2012; Ord. 1795 §2 (part), 1997)

CHAPTER 18.58
WIRELESS COMMUNICATION FACILITIES

Sections:

18.58.010 Purpose

A. The purpose of this Chapter, in addition to implementing the general purposes of the Comprehensive Plan and development regulations, is to regulate the permitting, placement, construction, and modification of wireless communication facilities, in order to protect the health, safety and welfare of the public, while not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the City. The purpose of this Chapter will be achieved through adherence to the following objectives:

1. Establish clear and nondiscriminatory local regulations concerning telecommunications providers and services that are consistent with Federal and State laws and regulations pertaining to telecommunications providers;

2. Protect residential areas and land uses from potential adverse impacts that wireless communication facilities might create, including but not limited to impacts on aesthetics, environmentally sensitive areas, historically significant locations, and flight corridors;

3. Minimize potential adverse visual, aesthetic, and safety impacts of wireless communication facilities;

4. Establish objective standards for the placement of wireless communications facilities;

5. Ensure that such standards allow competition and do not unreasonably discriminate among providers of functionally equivalent services;

6. Encourage the location or attachment of multiple facilities within or on existing structures to help minimize the total number and impact of such facilities throughout the community;

7. Require cooperation between competitors and, as a primary option, joint use of new and existing towers, tower sites and suitable structures to the greatest extent possible, in order to reduce cumulative negative impact upon the City;

8. Encourage wireless communication facilities to be configured in a way that minimizes the adverse visual impact of the wireless communication facilities, as viewed from different vantage points, through careful design, landscape screening, minimal impact siting options and camouflaging techniques, and through assessment of the carrier's service objective, current location options, siting, future available locations, and innovative siting techniques;

9. Enhance the ability of the wireless communications facility providers to provide such services to the community quickly, effectively and efficiently;

10. Provide for the removal of wireless communication facilities that are abandoned or no longer inspected for safety concerns and Building Code compliance, and provide a mechanism for the City to cause these abandoned wireless communication facilities to be removed, to protect the citizens from imminent harm and danger.

B. In furtherance of these objectives, the City shall give due consideration to the Comprehensive Land Use Plan, zoning code, existing land uses, and environmentally sensitive areas in approving sites for the location of communication towers and antennas.

C. These objectives were developed to protect the public health, safety and welfare, to protect property values, and to minimize visual impact, while furthering the development of enhanced telecommunication services in the City. The provisions of this Chapter are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting personal wireless services. This Chapter shall not be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services or to prohibit or have the effect of prohibiting wireless service within the City.

D. To the extent that any provision of this Chapter is inconsistent or conflicts with any other City ordinance, this Chapter shall control. Otherwise, this Chapter shall be construed consistently with the other provisions and regulations of the City.

(Ord. 2660 §6, 2021; Ord. 2135 §1 (part), 2006)

18.58.020 Authority and Application

The provisions of this Chapter shall apply to the placement, construction or modification of all wireless communication facilities, except as specifically exempted in TMC Section 18.58.030. Any person who desires to locate a wireless communication facility inside or outside the right-of-way, which is not specifically exempted by TMC Section 18.58.030, shall comply with the applicable application permitting requirements, and design and aesthetic regulations described in this Chapter. In addition, applicants for wireless communication facilities inside the City's right-of-way must also obtain a franchise pursuant to TMC Chapter 11.32.

(Ord. 2660, §7, 2021; Ord. 2135 §1 (part), 2006)

18.58.030 Exemptions

The provisions of this Chapter shall not apply to the following:

1. Routine maintenance and repair of wireless communication facilities (excluding structural work or changes in height or dimensions of support structures or buildings); provided that the wireless communication facilities received approval from the City for the original placement and construction and provided further that compliance with the standards of this code is maintained and right-of-use permit obtained if the wireless communication facility is located in the right-of-way.

2. Changing or adding additional antennas within a previously permitted concealed building-mounted installation is exempt provided there is no visible change from the outside.

3. Bird exclusionary devices.

4. Additional ground equipment placed within an approved equipment enclosure, provided the height of the equipment does not extend above the screening fence.

5. An antenna that is designed to receive or send direct broadcast satellite service and/or broadband signals, or other means for providing internet service including direct-to-home satellite services, and that is 1 meter or less in diameter or diagonal measurement, and when the antenna is attached to the residence or business that is utilizing the service.

6. An antenna that is designed to receive video programming services via multipoint distribution services, including multi-channel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, and that is 1 meter or less in diameter or diagonal measurement.

7. An antenna that is designed to receive television broadcast signals.

8. Antennas for the receiving and sending of amateur radio devices or ham radios, provided that the antennas meet the height requirements of the applicable zoning district, and are owned and operated by a Federally-licensed amateur radio station operator or are used exclusively for receive-only antennas and provided further that compliance with the standards of this code is maintained.

9. Emergency communications equipment during a declared public emergency, when the equipment is owned and operated by an appropriate public entity.

10. Any wireless communication facility that is owned and operated by a government entity, for public safety radio systems, ham radio and business radio systems.

11. Antennas and related equipment no more than 3 feet in height that are being stored or displayed for sale.

12. Radar systems for military and civilian communication and navigation.

13. Automated meter reading ("AMR") facilities for collecting utility meter data for use in the sale of utility services, except for WIP and other antennas greater than two feet in length, so long as the AMR facilities are within the scope of activities permitted under a valid franchise agreement between the utility service provider and the City.

14. *Eligible facilities requests.* See TMC Section 18.58.090.

(Ord. 2660; §8, 2021; Ord. 2135 §1 (part), 2006)

18.58.040 Definitions

For the purposes of this Chapter, the following terms shall have the meaning ascribed to them below.

1. **"Antenna(s)"** in the context of small wireless facilities and consistent with 47 CFR 1.1320(w) and 1.6002(b) means an apparatus designed for the purpose of emitting radiofrequency ("RF") radiation, to be operated or operating from a fixed location pursuant to FCC authorization, for the provision of personal wireless and any commingled information services. For the purposes of this definition, the term "antenna" does not include an unintentional radiator, mobile station, or device authorized by 47 CFR Title 15.

2. **"Antenna equipment,"** consistent with 47 CFR 1.1320(d), means equipment, switches, wiring, cabling, power sources, shelters, or cabinets associated with an antenna, located at the same fixed location as the antenna, and when collocated on a structure, are mounted or installed at the same time as the antenna.

3. **"Applicant"** means any person submitting an application for a wireless communication facility permit pursuant to this Chapter.

4. **"Colocation"** means:

a. Mounting or installing an antenna facility on a preexisting structure; and/or

b. Modifying a structure for the purpose of mounting or installing an antenna facility on that structure.

5. **"Director"** means the Department of Community Development Director or designee.

6. **"Equipment enclosure"** means a facility, shelter, cabinet, or vault used to house and protect electronic or other associated equipment necessary for processing wireless communication signals. "Associated equipment" may include, for example, air conditioning, backup power supplies, and emergency generators.

7. **"FCC"** or **"Federal Communications Commission"** means the federal administrative agency, or lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers on a national level.

8. **"Macro Facility"** means a large wireless communication facility that provides radio frequency coverage for wireless services. Generally, macro facility antennas are mounted on ground-based towers, rooftops and other existing structures, at a height that provides a clear view over the surrounding buildings and terrain. Macro wireless communication facilities (WCF) typically contain antennas that are greater than three cubic feet per antenna and typically cover large geographic areas with relatively high capacity and may be capable of hosting multiple wireless service providers. Macro facilities include but are not limited to monopoles, lattice towers, macro cells, roof-mounted and panel antennas, and other similar facilities.

9. **"Permittee"** means a person who has applied for and received a wireless communication facility permit pursuant to this Chapter.

10. **"Personal wireless services"** means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.

11. **"Person"** includes corporations, companies, associations, joint stock companies, firms, partnerships, limited liability companies, other entities, and individuals.

12. **"Service provider"** shall be defined in accord with RCW 35.99.010(6). "Service provider" shall include those infrastructure companies that provide telecommunications services or equipment to enable the construction of wireless communication facilities.

13. **"Small wireless facility"** shall be defined as provided in 47 CFR 1.6002(l).

14. **"Stealth Technique"** means stealth techniques specifically designated as such at the time of the original approval of the wireless communication facility for the purposes of rendering the appearance of the wireless communication facility as something fundamentally different than a wireless communication facility including, but not limited to, the use of nonreflective materials, appropriate colors, and/or a concealment canister.

15. **"Structure"** means a pole, tower, base station, or other building, whether or not it has an existing antenna equipment, that is used or to be used for the provision of personal wireless service (on its own or commingled with other types of services).

16. **"Telecommunications service"** shall be defined in accord with RCW 35.99.010(7).

17. **"Tower"** means any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communication services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services, and fixed wireless services such as microwave backhaul and the associated site.

18. **"Traffic signal pole"** means any structure designed and used primarily for support of traffic signal displays and equipment, whether for vehicular or nonmotorized users.

19. **"Transmission equipment"** means equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio

transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communication services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

20. **"Unified enclosure"** means a small wireless facility providing concealment of antennas and equipment within a single enclosure.

21. **"Utility pole"** means a structure designed and used primarily for the support of electrical wires, telephone wires, television cable, or lighting for streets, parking lots, or pedestrian paths.

22. **"Wireless communication facilities"** or **"WCF"** means facilities used for personal wireless services.

23. **"Wireline"** means services provided using a physically tangible means of transmission including, without limitation, wire or cable, and the apparatus used for such transmission.

(Ord. 2660, §9, 2021)

18.58.050 General Provisions

A. No person may place, construct or modify a wireless communication facility subject to this Chapter without first having in place a permit issued in accordance with this Chapter. Except as otherwise provided herein, the requirements of TMC Chapters 18.100, 18.104 and 18.108 do not apply to this TMC Chapter 18.58.

B. Macro facilities, as defined in TMC Section 18.58.040, are allowed in zones consistent with TMC Section 18.58.060.F and require a macro facility permit pursuant to TMC Section 18.58.020.

C. Small wireless facilities, as defined in TMC Section 18.58.040, are permitted uses throughout the City but still require a small wireless facility permit pursuant to TMC Section 18.58.020. Small wireless facilities located within the City's rights-of-way require a valid franchise.

D. No provision of this Chapter shall be interpreted to allow the installation of a wireless communication facility to reduce the minimum parking or landscaping on a site.

E. Applicants use various methodologies and analyses, including geographically-based computer software, to determine the specific technical parameters of the services to be provided utilizing the proposed wireless communication facilities, such as expected coverage area, antenna configuration, capacity, and topographic constraints that affect signal paths. In certain instances, a third party expert may be needed to review the engineering and technical data submitted by an applicant for a permit. The City may at its discretion require an engineering and technical review as part of a permitting process. The reasonable costs actually incurred by the City for such technical review shall be borne by the applicant, provided that the City provides to the applicant an itemized accounting of the costs actually charged by said third party reviewer and incurred by the City.

F. **Appeals.** Appeals related to wireless communication facilities shall be filed in King County Superior Court or in a court of competent jurisdiction.

G. **Permit Revocation – Suspension – Denial.** A permit issued under this Chapter may be revoked, suspended or denied for any one or more of the following reasons:

1. Failure to comply with any federal, state, or local laws or regulations.

2. Failure to comply with the terms and conditions imposed by the City on the issuance of a permit.

3. When the permit was procured by fraud, false representation, or omission of material facts.

4. Failure to comply with federal standards for RF emissions.

(Ord. 2660 §10, 2021; Ord. 2251 §68, 2009;Ord. 2135 §1 (part), 2006)

18.58.060 Macro Facilities

In order to manage the City in a thoughtful manner that balances the need to accommodate new and evolving technologies with the preservation of the natural and aesthetic environment of the City, the City of Tukwila has adopted this administrative process for the deployment of macro facilities. Applicants are encouraged and expected to provide all related applications listed in TMC Section 18.58.060.A for each facility in one submittal unless they have already obtained a franchise or lease.

A. **Required applications.** The Director is authorized to establish application forms to gather the information required by City ordinances from applicants.

1. **Franchise.** If any portion of the applicant's facilities are to be located in the right-of-way, the applicant shall apply for, and receive, a franchise consistent with TMC Chapter 11.32. An applicant with a franchise for the deployment of macro facilities in the City may apply directly for a macro facility permit and related approvals.

2. **Macro Facility Permits.** The applicant shall submit a macro facility permit application as required by TMC Section 18.58.020. Prior to the issuance of a macro facility permit, the applicant shall pay a permit fee in an amount in accordance with the fee schedule adopted by resolution of the City Council, or the actual costs incurred by the City in reviewing such permit application.

3. **Associated Permit(s) and Checklist(s).** The applicant shall attach all associated required permit applications including, but not limited to, applications required under TMC Chapter 11.08, and applications or check lists required under the City's Critical Areas, Shoreline or SEPA ordinances.

4. **Leases.** An applicant who desires to place a macro facility on City property outside the right-of-way or attach a macro facility to any structure owned by the City shall include an application for a lease as a component of its application. Leases for the use of public property, structures, or facilities shall be submitted to the City Council for approval.

B. **Macro facility application requirements.**

1. A pre-application meeting is encouraged prior to submitting an application for a macro facility permit.

2. The following information shall be provided by all applicants for a macro facility permit:

a. The name, address, phone number and authorized signature on behalf of the applicant.

b. If the proposed site is not owned by the City, the name, address and phone number of the owner and a signed document or lease confirming that the applicant has the owner's permission to apply for permits to construct the macro facility.

c. A statement identifying the nature and operation of the macro facility.

d. A vicinity sketch showing the relationship of the proposed use to existing streets, structures and surrounding land uses, and the location of any nearby bodies of water, wetlands, critical areas or other significant natural or manmade features.

e. Construction drawings as well as a plan of the proposed use showing proposed streets, structures, land uses, open spaces, parking areas, fencing, pedestrian paths and trails, buffers, and landscaping, along with text identifying the proposed use(s) of each structure or area included on the plan.

f. Photo simulations of the proposed macro facility from public rights-of-way, public properties and affected residentially zoned properties. Photo simulations must include all cable, conduit and/or ground-mounted equipment necessary for and intended for use in the deployment regardless of whether the additional facilities are to be constructed by a third party.

g. A sworn affidavit signed by an RF engineer with knowledge of the proposed project affirming that the macro facility will be compliant with all FCC and other governmental regulations in connection with human exposure to radio frequency emissions for every frequency at which the facility will operate. If facilities that generate RF radiation necessary to the macro facility are to be provided by a third party, then the permit shall be conditioned on an RF certification showing the cumulative impact of the RF emissions on the entire installation.

h. Information necessary to demonstrate the applicant's compliance with FCC rules, regulations and requirements that are applicable to the proposed macro facility.

i. If not proposing a collocation, then documentation showing that the applicant has made a reasonable attempt to find a collocation site acceptable to engineering standards and that collocating was not technically feasible, or that it was not financially feasible based on commercially reasonable efforts, or that it posed a physical problem.

j. Information sufficient to establish compliance with TMC Sections 18.58.060.F and TMC 18.58.060.G.

k. If proposing a new monopole/tower, information sufficient to establish compliance with TMC Section 18.58.070.B.

l. Such additional information as deemed necessary by the Director for proper review of the application, and which is sufficient to enable the Director to make a fully informed decision pursuant to the requirements of this Chapter.

C. **Macro facility permit review procedures.**

1. **Completeness.** An application for a macro facility is not complete until the applicant has submitted all the applicable items required by TMC Section 18.58.060.B and to the extent relevant, has submitted all the applicable items in TMC Section 18.58.060.A and the City has confirmed that the application is complete.

2. **Public Notice.** The City shall provide notice of a complete application for a macro facility permit on the City's website with a link to the application. Prior to construction, the applicant shall provide notice of construction to all impacted property owners within 100 feet of any proposed wireless facility via a doorhanger that shall include an email contact and telephone number for the applicant. Notice is for the public's information and is not a part of a hearing or part of the land use appeal process.

3. **Review.** The Director shall review the application for conformance with the application requirements in this Chapter and specifically the review criteria in TMC Section 18.58.060.D to determine whether the application is consistent with this Chapter.

4. **Decision.** The Director shall issue a decision in writing. The Director may grant a permit, grant the permit with conditions pursuant to this chapter and the code, or deny the permit.

a. Any condition reasonably required to enable the proposed use to meet the standards of this chapter and code may be imposed.

b. If no reasonable condition(s) can be imposed that ensure the application meets such requirements, the application shall be denied.

c. The Director's decision is final.

D. **Macro facility review criteria.**

1. No application for a macro facility may be approved unless all of the following criteria, as applicable, are satisfied:

a. The proposed use will be served by adequate public facilities including roads, and fire protection.

b. The proposed use will not be materially detrimental to uses or property in the immediate vicinity of the subject property and will not materially disturb persons in the use and enjoyment of their property.

c. The proposed use will not be materially detrimental to the public health, safety and welfare.

d. The proposed use complies with this Chapter and all other applicable provisions of this code.

2. The Director shall review the application for conformance with the following criteria:

a. Compliance with prioritized locations pursuant to TMC Section 18.58.060.F.

b. Compliance with development standards pursuant to TMC Section 18.58.060.G.

E. **Macro facility permit requirements.**

1. The permittee shall comply with all of the requirements within the macro facility permit.

2. The permittee shall allow collocation of proposed macro facilities on the permittees' site, unless the permittee demonstrates that collocation will impair the technical operation of the existing macro facilities to a substantial degree.

3. The permittee shall notify the City of any sale, transfer, assignment of a macro facility within 60 days of such event.

4. All installations of macro facilities shall comply with any governing construction or electrical code including the National Electrical Safety Code, the National Electric Code or state electrical code, as applicable.

5. A macro facility permit issued under this chapter must be substantially implemented within 24 months from the date of final approval or the permit shall expire. The permittee may request one extension to be limited to 12 months, if the applicant cannot construct the macro facility within the original 24-month period.

6. **Site safety and maintenance.** The permittee shall maintain the macro facilities in safe and working condition. The permittee shall be responsible for the removal of any graffiti or other vandalism and shall keep the site neat and orderly including, but not limited to, following any maintenance or modifications on the site.

F. **Macro facility location hierarchy.** Macro facilities shall be located in the following prioritized order of preference:

1. Collocated on existing macro facility(ies) or another existing public facility/utility facility (i.e., an existing or replacement utility pole or an existing monopole/tower).

2. Collocated on existing buildings and structures located in nonresidential zones.

3. Collocated on existing building and structures in residential zones not used for single-family residential uses (e.g. religious facility or public facility, or multi-family building).

4. New monopole/tower proposed in an industrial, commercial, or business zone district, where the sole purpose is for wireless communication facilities; provided that approval for new monopole/tower is given pursuant to TMC Section 18.58.070. Said monopole/tower shall be the minimum height necessary to serve the target area but in no event may it exceed the height requirements of the underlying zoning district by more than 10 feet; however, the monopole/tower shall be designed to allow extensions to accommodate the future collocation of additional antennas and support equipment. Further, the monopole/tower shall comply with the setback requirements of the commercial or business zone districts, as applicable. In no case shall the monopole/tower be of a height that requires illumination by the Federal Aviation Administration (FAA).

5. New monopole/tower proposed in a residential zone district, where the sole purpose is for wireless communications, but only if the applicant can establish that the monopole/tower cannot be collocated on an existing facility or structure and receives approval pursuant to TMC Section 18.58.070. Further, the proposed monopole/tower shall be no higher than the minimum height necessary to serve the target area but in no event may it exceed the height requirements of the underlying zoning district by more than 10 feet; however, the structure shall be designed to allow extensions to accommodate the future collocation of additional antennas and support equipment. In no case shall the antenna be of a height that requires illumination by the FAA.

G. **Macro facility design and concealment standards.** All macro facilities shall be constructed or installed according to the following standards:

1. Macro facilities must comply with applicable FCC, Federal Aviation Administration (FAA), state, and City regulations and standards.

2. Antennas shall be located, mounted and designed so that visual and aesthetic impacts upon surrounding land uses and structures are minimized, and so they blend into the existing environment.

3. Macro facilities must be screened or camouflaged employing the best available techniques, such as compatible materials, non-glare paint, location, color, artificial trees and hollow flagpoles, and other tactics to minimize visibility of the facility from public streets and residential properties.

a. Macro facilities shall be designed and placed or installed on a site in a manner that takes maximum advantage of existing trees, mature vegetation, and structures by:

(1) Using existing site features to screen the macro facility from residential properties and the right-of-way; and

(2) Using existing or new site features as a background in a way that helps the macro facility blend into the background.

b. As a condition of permit approval, the City may require the applicant to supplement existing trees and mature vegetation within its screened area to screen the facility.

c. A macro facility shall be painted either in a nonreflective color or in a color scheme appropriate to the background against which the macro facility would be viewed from a majority of points within its viewshed, and in either case the color must be approved by the City as part of permit approval.

d. Macro facilities may be subject to additional screening requirements by the Director to mitigate visual impacts to adjoining properties or public right-of-way as determined by site-specific conditions.

4. If proposing to locate on a building, the macro facility shall meet the height requirements of the underlying zoning category; provided the macro facility may exceed the height requirements by 10 feet so long as the macro facility is shrouded or screened.

5. If proposing to locate on a replacement utility pole, the height of the replacement pole shall not exceed 15 feet taller than the existing pole and may not be greater than 50 feet tall in residential zones unless the applicant demonstrates in writing that an additional height increase is required for vertical clearance separation and it is the minimum extension possible to provide sufficient separation. Within all other zones, the height of the replacement utility pole shall not exceed 10 feet taller than the height requirements of the underlying zone.

6. The use of a utility pole for siting of a macro facility shall be considered secondary to the primary function of the pole. If the primary function of the pole serving as the host site of the macro facility becomes unnecessary, the pole shall not be retained for the sole purpose of accommodating the macro facility and the macro facility and all associated equipment shall be removed.

7. Equipment facilities shall be placed underground if feasible, or, if permitted above ground, shall:

a. Be screened from any street and adjacent property with fencing, walls, landscaping, structures or topography or a combination thereof or placed within a building; and

b. Not be located within required building setback areas.

8. If a security barrier is installed that includes a fence, wall or similar freestanding structure, the following shall apply:

a. The height of the barrier shall be restricted by the height limitations in the zoning district. The height is measured from the point of existing or finished grade, whichever is lower at the exterior side of the barrier to the highest point of the barrier.

b. Be screened from adjoining properties and City right-of-way through the use of appropriate landscaping materials including:

(1) Placement of landscape vegetation around the perimeter of the security barrier, except that a maximum 10-foot portion of the fence may remain without landscaping in order to provide access to the enclosure.

(2) The landscaping area shall be a minimum of 5 feet in width.

(3) The permittee shall utilize evergreen plants that shall be a minimum of 6 feet tall at the time of planting and shall obscure the site within 2 years.

(4) Landscaping and the design of the barrier shall be compatible with other nearby landscaping, fencing and freestanding walls.

(5) If a chain link fence is allowed in the zone district, it shall be green vinyl slats.

9. Sufficient space for temporary parking for regular maintenance of the proposed macro facility must be demonstrated.

10. Macro facilities may not: (i) produce noise in excess of the limitation set forth in TMC Chapter 6.04; and (ii) be used for mounting signs, billboards or message displays of any kind.

11. The Director shall consider the cumulative visual effects of macro facilities mounted on existing structures and/or located on a given permitted site in determining whether the additional permits can be granted so as to not adversely affect the visual character of the City.

(Ord. 2660 §11, 2021; Ord. 2251 §69, 2009; Ord. 2135 §1 (part), 2006)

18.58.070 New Towers

A. **Applicability.** Any application for a new macro facility tower shall be reviewed, and approved or denied, by the Hearing Examiner as a Type 3 decision pursuant to TMC Section 18.108.030.

B. **Review Criteria.** The Hearing Examiner shall review the application to construct a new macro facility tower, and shall determine whether each of the following requirements are met:

1. That collocation is not feasible because:

a. Existing structures or towers do not have sufficient structural strength to support the applicant's proposed antenna and ancillary facilities;

b. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing structures would cause interference with the applicant's proposed antenna;

c. The fees, costs or contractual provisions required by the owner or operator in order to share an existing tower or structure, or to locate at an alternative site, or to adapt an existing tower or structure or alternative site for sharing, are unreasonable. Costs exceeding new tower construction by 25% are presumed to be unreasonable; or

d. The applicant demonstrates other limiting factors that render existing towers and structures or other sites unsuitable.

All engineering evidence must be provided and certified by a registered and qualified professional engineer and clearly demonstrate the evidence required.

2. The proposed tower meets all applicable design standards in TMC Section 18.58.060.

3. Where the proposed tower does not comply with the requirements of this Chapter, the applicant has successfully demonstrated that denial of the application would effectively prohibit the provision of service in violation of 47 USC 253 and/or 332.

C. **Determination.** The Hearing Examiner, after holding an open public hearing in accordance with TMC Chapter 18.112, shall either approve, approve with conditions, or deny the application.

(Ord. 2660 §12, 2021; Ord. 2251 §70, 2009; Ord. 2135 §1 (part), 2006)

18.58.080 Removal of Abandoned Wireless Communication Facilities

Any wireless communication facility that, after the initial operation of the facility, is not used for the purpose for which it was intended at the time of filing of the application for a continuous period of 12 months shall be considered abandoned, and the owner of such facility shall remove same within 90 days of receipt of notice from the City notifying the owner of such abandonment. Failure to remove such abandoned facility shall result in declaring the facility a public nuisance. If there are two or more users of a single tower, then this section shall not become effective until all users cease using the tower.

(Ord. 2660 §24, 2021; Ord. 2135 §1 (part), 2006)

18.58.090 Eligible Facilities Requests

A. Under 47 USC 1455 and relevant FCC regulations (see 47 CFR §1.6100), a local jurisdiction must approve a modification of a wireless facility qualifying as an eligible facility request. Accordingly, the City adopts the following provisions for review of applications for eligible facility requests as defined by this chapter and federal law.

B. **Definitions.**

1. *"Base station"* shall mean and refer to the structure or equipment at a fixed location that enables wireless communications licensed or authorized by the FCC, between user equipment and a communications network. The term does not encompass a tower as defined in this chapter or any equipment associated with a tower. Base station includes without limitation:

a. Equipment associated with wireless communications services regardless of technological configuration (including Distributed Antenna Systems ("DAS") and small wireless facilities).

b. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including DAS and small wireless facilities).

c. Any structure other than a tower that, at the time an eligible facilities modification application is filed with the City under this chapter, supports or houses equipment described in subparagraphs (a) and (b) of TMC Section 18.58.090.B, and that has been reviewed and approved under the applicable zoning or siting process, or under another State, county or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

d. The term does not include any structure that, at the time a completed eligible facilities modification application is filed with the City under this section, does not support or house equipment described in subparagraphs (a) and (b) of TMC Section 18.58.090.B.

2. *"Colocation"* shall mean the mounting or installing of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communication purposes.

3. *"Eligible facilities request"* shall mean any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving:

a. Collocation of new transmission equipment;

b. Removal of transmission equipment; or

c. Replacement of transmission equipment.

4. "*Eligible support structure"* shall mean and refer to any existing tower or base station as defined in this chapter provided it is in existence at the time the eligible facilities modification application is filed with the City under this chapter.

5. "*Existing"* shall mean and refer to a constructed tower or base station that was reviewed and approved under the applicable zoning or siting process and lawfully constructed; provided, that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.

6. "*Site"* shall mean and refer to the current boundaries of the leased or owned property surrounding a tower (other than a tower in the public rights-of-way) and any access or utility easements currently related to the site and, for other eligible support structures, shall mean and be further restricted to, that area in proximity to the structure and to other transmission equipment already deployed on the ground. The current boundaries of a site are the boundaries that existed as of the date that the original support structure or a modification to that structure was last reviewed and approved by a state or local government, if the approval of the modification occurred prior to the Spectrum Act or otherwise outside of the Section 6409(a) process.

7. *"Substantial Change".* A modification will substantially change the physical dimensions of an eligible support structure if it meets any of the following criteria:

a. For towers not in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than 10 feet, whichever is greater. The separation of antennas is measured by the distance from the top of the existing antennas to the bottom of the new antennas.

Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act.

b. For towers not in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the

structure that would protrude from the edge of the structure by more than 6 feet.

c. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed 4 cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure.

d. For any eligible support structure:

(1) it entails any excavation or deployment outside the current site; except that, for towers other than towers in the public rights-of-way, it entails any excavation or deployment of transmission equipment outside of the current site by more than 30 feet in any direction. The site boundary from which the 30 feet is measured excludes any access or utility easements currently related to the site;

(2) it would defeat the concealment elements of the eligible support structure; or

(3) it does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment provided, however, that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in this section.

8. "*Tower*" shall mean and refer to any structure built for the sole or primary purpose of supporting any antennas and their associated facilities, licensed or authorized by the FCC, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

9. "*Transmission Equipment*" shall mean and refer to equipment that facilitates transmission for any wireless communication service licensed or authorized by the FCC, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

C. **Application.** The Director shall prepare and make publicly available an application form that shall be limited to the information necessary for the City to consider whether an application is an eligible facilities request. The application may not require the applicant to demonstrate a need or business case for the proposed modification.

D. **Qualification as an eligible facilities request.** Upon receipt of an application for an eligible facilities request, the Director shall review such application to determine whether the application qualifies as an eligible facilities request.

E. **Time frame for review.** Applications for an eligible facilities request are reviewed by the Director or his/her designee, who will approve the application within 60 days of the date an applicant submits an eligible facilities request application, unless the Director determines that the application does not qualify under FWRC 19.257.020.

F. **Tolling the time frame for review.** The 60-day review period begins to run when the application is filed and may be tolled only by mutual agreement by the City and the applicant or in cases where the City determines that the application is incomplete. The time frame for review of an eligible facilities request is not tolled by a moratorium on the review of applications.

1. To toll the time frame for incompleteness, the City shall provide written notice to the applicant within 30 days of receipt of the application, clearly and specifically delineating all missing documents or information required in the application and including a citation to the publicly stated code provision requiring such information. The City recognizes that such a notice is limited to information "reasonably related" to determining whether the application meets the "eligible facilities request" requirements.

2. The time frame for review begins running again when the applicant makes a supplemental submission in response to the City's notice of incompleteness.

3. Following a supplemental submission, the City will notify the applicant within 10 days if the supplemental submission did not provide the information identified in the original notice delineating missing information. The time frame is tolled in the case of second or subsequent notices pursuant to the procedures identified in this subsection. Second or subsequent notice of incompleteness may not specify missing documents or information that were not delineated in the original notice of incompleteness.

G. **Determination that an application is not an eligible facilities request.** If the City determines that the applicant's request does not qualify as an eligible facilities request, the City shall deny the application.

H. **Failure to act.** In the event the City fails to approve or deny an eligible facilities request within the time frame for review (accounting for any tolling), the request shall be deemed granted. The deemed grant does not become effective until the applicant notifies the City in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

I. **Appeals.** Applicants and the City may bring claims related to Section 6409 (a) of the Spectrum Act, 47 USC 1455(a) to any court of competent jurisdiction.

(Ord. 2660 §25, 2021)

18.58.100 Small Wireless Facility Application Process

A. **Applicability.** Any applications for small wireless facilities either inside or outside of the public right-of-way shall comply with the application requirements for a small wireless facility permit described in this Chapter. For small wireless facilities inside the right-of-way, the applicant must also comply with the requirements pursuant to TMC Chapter 11.32.

B. **Completeness.** An application for a small wireless facility is not complete until the applicant has submitted all the applicable items required by TMC Section 18.58.110 and, to the extent relevant, has submitted all the applicable items in TMC Section 18.58.100.C and the City has confirmed that the application is complete. Franchisees with a valid franchise for small wireless facilities may apply for a small wireless permit for the initial or additional phases of a small wireless facilities deployment at any time subject to the commencement of a new completeness review time period for permit processing.

C. **Application Components.** The Director is authorized to establish franchise and other application forms to gather the information required from applicants to evaluate the application and to determine the completeness of the application as provided herein. The application shall include the following components as applicable:

1. ***Franchise.*** If any portion of the applicant's facilities are to be located in the City's right-of-way, the applicant shall apply for, and receive approval of a franchise, consistent with the requirements in TMC Chapter 11.32. An application for a franchise may be submitted concurrently with an application for a small wireless facility permit(s).

2. ***Small Wireless Facility Permit.*** The applicant shall submit a small wireless facility permit application as required in the small wireless facility application requirements established in TMC Section 18.58.110 and pay the applicable permit fee in accordance with the fee schedule adopted by resolution of the City Council and which may be amended by the City Council from time to time.

3. ***Associated Application(s) and Checklist(s).*** Any application for a small wireless permit that contains an element not categorically exempt from SEPA review shall simultaneously apply under Chapter 43.21C RCW and TMC Title 21. Further, any application proposing small wireless facilities in a shoreline area (pursuant to TMC Chapter 18.44) or an environmentally sensitive area (pursuant to TMC Chapter 18.45) shall indicate why the application is exempt or comply with the review processes in such codes. Applications for small wireless facilities for new poles shall comply with the requirements in TMC Section 18.58.160.E.

4. ***Leases.*** An applicant who desires to attach a small wireless facility on any utility pole, light pole, or other structure or building owned by the City shall obtain a lease as a component of its application. City owned utility poles and the use of other public property, structures or facilities including, but not limited to any park land or facility, require City Council approval of a lease or master lease agreement.

(Ord. 2660 §26, 2021)

18.58.110 Small Wireless Facility Application Requirements

The following information shall be provided by all applicants for a small wireless permit.

A. The application shall provide specific locational information including GIS coordinates of all proposed small wireless facilities and specify where the small wireless facilities will utilize existing, replacement or new poles, towers, existing buildings and/or other structures. The applicant shall specify ground-mounted equipment, conduit, junction boxes and fiber and power connections necessary for and intended for use in the small wireless facilities system regardless of whether the additional facilities are to be constructed by the applicant or leased from a third party. The applicant shall provide detailed schematics and visual renderings of the small wireless facilities, including engineering and design standards. The application shall have sufficient detail to identify:

1. The location of overhead and, to the extent applicable, underground public utilities, telecommunication, cable, water, adjacent lighting, sewer drainage and other lines and equipment within 50 feet of the proposed project area (which project area shall include the location of the fiber source and power source). Further, the applicant shall include all existing and proposed improvements related to the proposed location, including but not limited to poles, driveways, ADA ramps, equipment cabinets, street trees and structures within 50 feet of the proposed project area.

2. The specific trees, structures, improvements, facilities, lines and equipment, and obstructions, if any, that applicant proposes to temporarily or permanently remove or relocate and a landscape plan for protecting, trimming, removing, replacing, and restoring any trees or significant landscaping to be disturbed during construction. The applicant is discouraged from cutting/pruning, removing or replacing trees, and if any such tree modifications are proposed the applicant must comply with applicable provisions of TMC Chapter 11.20 and Chapter 18.54.

3 The applicant's plan for fiber and power service, all conduits, cables, wires, handholes, junctions, meters, disconnect switches and any other ancillary equipment or construction necessary to construct the small wireless facility, to the extent to which the applicant is responsible for installing such fiber and power service, conduits, cables, and related improvements. Where another party is responsible for installing such fiber and power service, conduits, cables, and related improvements, applicant's construction drawings shall include such utilities to the extent known at the time of application, but at a minimum applicant must indicate how it expects to obtain power and fiber service to the small wireless facility.

4. A photometric analysis of the roadway and sidewalk within 150 feet of the existing light if the site location includes a new light pole or replacement light pole if in a new location.

5. Compliance with the applicable aesthetic requirements pursuant to TMC Sections 18.58.150 and 18.58.160.

B. The applicant must show written approval from the owner of any pole or structure for the installation of its small wireless facilities on such pole or structure. The approval may be conditional (i.e. that the pole owner approves if the City also approves). Such written approval shall include approval of the specific pole, engineering and design specifications for the pole, as well as assurances that the specific pole can withstand wind and seismic loads as well as assurances in accordance with TMC Section 18.58.110.F, from the pole owner, unless the pole owner is the City. For City-owned poles or structures, the applicant shall obtain a lease from the City prior to or concurrent with the small wireless facility permit application so the City can evaluate the use of a specific pole.

C. The applicant is encouraged to batch the small wireless facility sites within an application in a contiguous service area and/or with similar designs.

D. The applicant shall submit a sworn affidavit signed by a Radio Frequency (RF) engineer with knowledge of the proposed project affirming that the small wireless facility will be compliant with all FCC and other governmental regulations in connection with human exposure to radio frequency emissions for every frequency at which the small wireless facility will operate. If facilities that generate RF radiation necessary to the small wireless facility are to be provided by a third party, then the small wireless permit shall be conditioned on an RF certification showing the cumulative impact of the RF emissions from the entire installation. The applicant may provide one emissions report for the entire batch of small wireless facility applications if the applicant is using the same small wireless facility configuration for all installations within that batch or may submit one emissions report for each subgroup installation identified in the batch.

E. The applicant shall provide proof of FCC or other regulatory approvals required to provide the service(s) or utilize the technologies sought to be installed, if such approvals are required.

F. A professional engineer licensed by the State of Washington shall certify in writing, over his or her seal, that construction plans of the small wireless facilities and structure or pole and foundation are designed to reasonably withstand wind and seismic loads as required by applicable codes. The Building Official may accept alternative forms of the structural approval if the review and calculations are conducted by another agency, such as the pole owner.

G. Those elements that are typically contained in the right-of-way permit pursuant to TMC Chapter 11.08, including a traffic control plan, to allow the applicant to proceed with the build-out of the small wireless facility.

H. Proof of a valid City of Tukwila business license.

I. Recognizing that small wireless facility technology is rapidly evolving, the Director is authorized to adopt and publish standards for the structural safety of City-owned poles and structures, and to formulate and publish application questions for use when an applicant seeks to attach to City-owned poles and structures.

J. Such other information as the Director, in his/her reasonable discretion, shall deem appropriate to effectively evaluate the application based on technical, engineering and aesthetic considerations.

(Ord. 2660 §27, 2021)

18.58.120 Small Wireless Facility Review Criteria and Process

A. The following provisions relate to the review of applications for a small wireless facility permit:

1. In any zone, upon application for a small wireless permit, the City shall permit small wireless facilities only when the application meets the applicable criteria of TMC Chapter 18.58.

2. Vertical clearance shall be reviewed by the Director in accordance with NESC or applicable pole safety codes to ensure the small wireless facilities will not pose a hazard to other users of the rights-of-way.

3. Replacement poles, new poles, and ground-mounted equipment shall only be permitted pursuant to the applicable standards in TMC Section 18.58.160.

4. No equipment shall be operated so as to produce noise in violation of TMC Chapter 8.22.

5. Small wireless facilities may not encroach onto or over private property or property outside of the right-of-way without the property owner's express written consent pursuant to TMC Section 18.58.160.A.1.

B. **Decision.** All small wireless facility applications shall be reviewed and approved or denied by the Director. The Director's decision shall be final and is not subject to appeal under City code or further review by the City.

C. **Eligible Facilities Requests.** Small wireless facilities may be expanded pursuant to an eligible facility request so long as the expansion:

1. does not defeat the specifically designated stealth techniques; and

2. incorporates the aesthetic elements required as conditions of approval set forth in the original small wireless facility approval in a manner consistent with the rights granted an eligible facility; and

3. does not exceed the conditions of a small wireless facility as defined by 47 CFR 1.6002(l).

D. **Public Notice.** The City shall provide notice of a complete application for a small wireless facility permit on the City's website with a link to the application. Prior to construction, the applicant shall provide notice of construction to all impacted property owners within 100 feet of any proposed small wireless facility via a doorhanger that shall include an email contact and telephone number for the applicant. Notice is for the public's information and is not a part of a hearing or part of the land use appeal process.

E. **Withdrawal.** Any applicant may withdraw an application submitted at any time, provided the withdrawal is in writing and signed by all persons who signed the original application or their successors in interest. When a withdrawal is received, the application shall be deemed null and void. If such withdrawal occurs prior to the Director's decision, then reimbursement of fees submitted in association with said application shall be reduced to withhold the amount of actual and objectively reasonable City costs incurred in processing the application prior to time of withdrawal. If such withdrawal is not accomplished prior to the Director's decision, there shall be no refund of all or any portion of such fee.

F. **Supplemental Information.** Failure of an applicant to provide supplemental information as requested by the Director within 90 days of notice by the Director shall be grounds for denial of that application unless an extension period has been approved by the Director. If no extension period has been approved by the Director, the Director shall notify the applicant in writing that the application is denied.

G. **Consolidated Permit.** The issuance of a small wireless permit grants authority to construct small wireless facilities in the rights-of-way in a consolidated manner to allow the applicant, in most situations, to avoid the need to seek duplicative approval by both the Public Works and the Community Development departments. The general standards applicable to the use of the rights-of-way described in TMC Chapter 11.08 shall apply to all small wireless facility permits.

(Ord. 2660 §28, 2021)

18.58.130 Small Wireless Facility Permit Requirements

A. **Permit Compliance.** The permittee shall comply with all of the requirements within the small wireless facility permit.

B. **Post-Construction As-Builts.** Upon request, the permittee shall provide the City with as-builts of the small wireless facilities within 30 days after construction of the small wireless facility, demonstrating compliance with the permit, visual renderings submitted with the permit application and any site photographs taken.

C. **Construction Time Limit.** Construction of the small wireless facility must be completed within 12 months after the approval date by the City. The permittee may request one extension of no more than six months, if the permittee provides an explanation as to why the small wireless facility cannot be constructed within the original 12-month period.

D. **Site Safety and Maintenance.** The permittee must maintain the small wireless facilities in safe and working condition. The permittee shall be responsible for the removal of any graffiti or other vandalism of the small wireless facility and shall keep the site neat and orderly, including but not limited to following any maintenance or modifications on the site.

E. **Operational Activity.** The permittee shall commence operation of the small wireless facility no later than six months after installation. The permittee may request two extensions, each for an additional six-month period if the permittee can show that such operational activity is delayed due to inability to connect to electrical or backhaul facilities.

(Ord. 2660 §29, 2021)

18.58.140 Small Wireless Facility Modification

A. If a permittee desires to modify their small wireless facilities, including but not limited to expanding or changing the antenna type, increasing the equipment enclosure, placing additional pole-mounted or ground-mounted equipment, or modifying the stealth techniques, then the permittee shall apply for a new small wireless permit.

B. A small wireless facility permit shall not be required for routine maintenance and repair of a small wireless facility within the rights-of-way, or the replacement of an antenna or equipment of similar size, weight, and height; provided, that such replacement does not defeat the stealth techniques used in the original small wireless facility and does not impact the structural integrity of the pole. Further, a small wireless facility permit shall not be required for replacing equipment within the equipment enclosure or reconfiguration of fiber or power to the small wireless facilities. Right-of-way use permits may be required for such routine maintenance, repair or replacement consistent with TMC Chapter 11.08.

(Ord. 2660 §30, 2021)

18.58.150 Decorative Poles

A. The City discourages the use or replacement of certain decorative poles for small wireless facilities due to the aesthetic impact to the City's streetscape. Accordingly, the pedestrian light pole (herein referred to as "decorative poles"), designated in the City's Infrastructure Design and Construction Standards Manual, are discouraged from use or replacement for small wireless facilities.

B. Applications for small wireless facilities attached to decorative poles shall comply with TMC Section 18.58.160.F.

(Ord. 2660 §31, 2021)

18.58.160 Small Wireless Facility Aesthetic, Concealment, and Design Standards

A. All small wireless facilities shall conform with the following general aesthetic, concealment, and design standards, as applicable:

1. Except for locations in the right-of-way, small wireless facilities are prohibited on any property containing a single-family residential use in a residential zone; provided that where small wireless facilities are intended to be located more than 400 feet from a right-of-way and within an access easement over residential property, the location may be allowed if:

a. the applicant affirms they have received an access easement from the property owner to locate the facility in the desired location; and

b. the property owner where the facility will be installed has authority to grant such permission to locate the facility and related equipment at the designated location pursuant to the terms of the access easement; and

c. the installation is allowed by, and consistent with, the access easement; and

d. such installation will not frustrate the purpose of the easement or create any access or safety issue; and

e. the location is in compliance with all land use regulations such as, but not limited to, setback requirements.

2. In the event power is later undergrounded in an area where small wireless facilities are located above ground on utility poles, the small wireless facilities shall be removed and may be replaced with a facility meeting the design standards for new poles in TMC Section 18.58.160.E.

3. Except for electrical meters with prior City approval, ground-mounted equipment in the rights-of-way is prohibited, unless such facilities are placed underground, or the applicant can demonstrate that pole-mounted or undergrounded equipment is technically infeasible. If ground-mounted equipment is necessary, then the applicant shall submit a stealth technique plan substantially conforming to the applicable standards in TMC Section 18.58.160.E.3 and comply with the Americans with Disabilities Act, City construction standards, and state and federal regulations in order to provide a clear and safe passage within the public rights-of-way. Generators located in the rights-of-way are prohibited.

4. No signage, message, or identification other than the manufacturer's identification or signage required by governing law is allowed to be portrayed on any antenna or equipment enclosure. Any permitted signage shall be located on the equipment enclosures and be of the minimum amount possible to achieve the intended purpose (no larger than four by six inches); provided, that signs may be permitted as stealth technique where appropriate and safety signage as required by applicable laws, regulations, and standards is permitted.

5. Antennas and related equipment shall not be illuminated except for security reasons, required by a federal or state authority, or unless approved as part of the stealth technique requirements pursuant to TMC Section 18.58.160.E.3.

6. The design standards in this chapter are intended to be used solely for the purpose of concealment and siting. Nothing contained in this chapter shall be interpreted or applied in a manner which dictates the use of a particular technology. When strict application of these requirements would render the small wireless facility technically infeasible or otherwise have the effect of prohibiting wireless service, alternative forms of aesthetic design or concealment may be permitted that provide similar or greater protections from negative visual impacts to the streetscape.

B. **General Pole Standards.** In addition to complying with the applicable general standards in TMC Section 18.58.160.A, all small wireless facilities on any type of utility pole shall conform to the following general pole design requirements as well as the applicable pole specific standards:

1. The preferred location of a small wireless facility on a pole is the location with the least visible impact.

2. The City may consider the cumulative visual effects of small wireless facilities mounted on poles within the rights-of-way when assessing proposed siting locations so as to not adversely affect the visual character of the City. This provision shall neither be applied to limit the number of permits issued when no alternative sites are reasonably available nor to impose a technological requirement on the applicant.

3. Small wireless facilities are not permitted on traffic signal poles unless denial of the siting could be a prohibition or effective prohibition of the applicant's ability to provide telecommunications service in violation of 47 USC 253 and 332.

4. Replacement poles and new poles shall comply with the Americans with Disabilities Act, City construction and sidewalk clearance standards, City development standards, City ordinances, and state and federal laws and regulations in order to provide a clear and safe passage within the rights-of-way. Further, the location of any replacement or new pole must: be physically possible; comply with applicable traffic warrants; not interfere with utility or safety fixtures (e.g., fire hydrants, traffic control devices); and not adversely affect the public welfare, health, or safety.

5. Replacement poles shall be located as near as possible to the existing pole, but in no event further than 10 feet from the existing pole. Compliance with the light standards in the Tukwila Infrastructure and Construction Standards Manual is required and the existing pole shall be removed.

6. Side arm mounts for antennas or equipment must be the minimum extension necessary, and for wooden poles may be no more than 12 inches off the pole, and for nonwooden poles no more than six inches off the pole.

7. The use of the pole for the siting of a small wireless facility shall be considered secondary to the primary function of the pole. If the primary function of a pole serving as the host site for a small wireless facility becomes unnecessary, the pole shall not be retained for the sole purpose of accommodating the small wireless

facility and the small wireless facility and all associated equipment shall be removed.

C. **Nonwooden Pole Design Standards.** In addition to complying with the applicable general standards in TMC Section 18.58.160.A and TMC Section 18.58.160.B, small wireless facilities attached to existing or replacement nonwooden poles inside or outside the right-of-way shall conform to the following design criteria:

1. All replacement poles shall conform to the City's standard small wireless facility pole design(s) published in the City's Infrastructure Design and Construction Standards Manual. The applicant, upon a showing that use or modification of the standard pole design is either technically or physically infeasible, or that the modified pole design will not comply with the City's ADA or sidewalk clearance requirements and/or would violate electrical or other safety standards, may deviate from the adopted standard pole design and use the design standards as described in TMC Section 18.58.160.C., subsections 2 through 8.

2. Antennas and the associated equipment enclosures (including disconnect switches and other appurtenant devices) shall be fully concealed within the pole, unless such concealment is technically infeasible, or is incompatible with the pole design, then the antennas and associated equipment enclosures must be camouflaged to appear as an integral part of the pole or flush-mounted to the pole, meaning no more than six inches off of the pole, and must be the minimum size necessary for the intended purpose, not to exceed the volumetric dimensions of small wireless facilities. If the equipment enclosure is permitted on the exterior of the pole, the applicant is required to place the equipment enclosure behind any banners or road signs that may be on the pole; provided, that such location does not interfere with the operation of the banners or signs, or the small wireless facility.

For purposes of this section, "incompatible with the pole design" may include a demonstration by the applicant that the visual impact to the pole or the streetscape would be reduced by placing the antennas and equipment exterior to the pole.

3. The farthest point of any antenna or equipment enclosure may not extend more than 28 inches from the face of the pole.

4. All conduit, cables, wires, and fiber must be routed internally in the pole. Full concealment of all conduit, cables, wires, and fiber is required within mounting brackets, shrouds, canisters, or sleeves if attaching to exterior antennas or equipment.

5. An antenna on top of an existing pole may not extend more than 6 feet above the height of the existing pole and the diameter may not exceed 16 inches, measured at the top of the pole, unless the applicant can demonstrate that more space is needed. The antennas shall be integrated into the pole design so they appear as a continuation of the original pole, including colored or painted to match the pole, and shall be shrouded or screened to blend with the pole except for canister antennas, which shall not require screening. To the extent technically feasible, all cabling and mounting hardware/brackets from the bottom of the antenna to the top of the pole shall be fully concealed and integrated with the pole.

6. Any replacement pole shall substantially conform to the design of the pole it is replacing (including but not limited to color, shape and style) or the neighboring pole design standards utilized within the contiguous right-of-way.

7. The height of any replacement pole and antenna(s) may not extend more than 10 feet above the height of the existing pole or the minimum additional height necessary; provided, that the height of the replacement pole cannot be extended further by additional antenna height.

8. The diameter of a replacement pole shall comply with the City's setback and sidewalk clearance requirements and shall, to the extent technically feasible, not be more than a 25 percent increase of the existing pole measured at the base of the pole, unless additional diameter is needed in order to conceal equipment within the base of the pole.

D. **Wooden Pole Design Standards.** In addition to complying with the applicable general standards in TMC Section 18.58.160.A and TMC Section 18.58.160.B, small wireless facilities attached to existing or replacement wooden utility poles and other wooden poles inside or outside the right-of-way shall conform to the following design criteria:

1. The wooden pole at the proposed location may be replaced with a taller pole for the purpose of accommodating a small wireless facility; provided, that the replacement pole shall not exceed a height that is a maximum of 10 feet taller than the existing pole, unless a further height increase is required and confirmed in writing by the pole owner and that such height extension is the minimum extension possible to provide sufficient separation and/or clearance from electrical and wireline facilities.

2. A pole extender may be used instead of replacing an existing pole, but may not increase the height of the existing pole by more than 10 feet, unless a further height increase is required and confirmed in writing by the pole owner and that such height increase is the minimum extension possible to provide sufficient separation and/or clearance from electrical and wireline facilities. A "pole extender" as used herein is an object affixed between the pole and the antenna for the purpose of increasing the height of the antenna above the pole. The pole extender shall be painted to approximately match the color of the pole and shall substantially match the diameter of the pole measured at the top of the pole.

3. Replacement wooden poles must either match the approximate color and materials of the replaced pole or shall be the standard new wooden pole used by the pole owner in the City.

4. The diameter of a replacement pole shall comply with the City's setback and sidewalk clearance requirements and shall not be more than a 25 percent increase of the existing utility pole measured at the base of the pole or the otherwise standard size used by the pole owner.

5. All cables and wires shall be routed through conduits along the outside of the pole. The outside conduit shall be colored or painted to match the pole. The number of conduits shall be minimized to the number technically necessary to accommodate the small wireless facility.

6. Antennas, equipment enclosures, and all ancillary equipment, boxes and conduit shall be colored or painted to match the approximate color of the surface of the wooden pole on which they are attached.

7. Antennas shall not be mounted more than 12 inches from the surface of the wooden pole.

8. Antennas should be placed in an effort to minimize visual clutter and obtrusiveness. Multiple antennas are permitted on a wooden pole; provided, that each antenna shall not be more than three cubic feet in volume.

9. A canister antenna may be mounted on top of an existing or replacement wooden pole, which may not exceed the height requirements described in TMC Section 158.58.170.D.1. A canister antenna mounted on the top of a wooden pole shall not exceed 16 inches in diameter, measured at the top of the pole and, to the extent technically feasible, shall be colored or painted to match the pole. The canister antenna must be placed to look as if it is an extension of the pole. In the alternative, the applicant may install a side-mounted canister antenna, so long as the inside edge of the antenna is no more than 12 inches from the surface of the wooden pole. All cables shall be concealed either within the canister antenna or within a sleeve between the antenna and the wooden pole.

10. The farthest point of any antenna or equipment enclosure may not extend more than 28 inches from the face of the pole.

11. An omnidirectional antenna may be mounted on the top of an existing wooden pole, provided such antenna is no more than four feet in height and is mounted directly on the top of a pole or attached to a sleeve made to look like the exterior of the pole as close to the top of the pole as technically feasible. All cables shall be concealed within the sleeve between the bottom of the antenna and the mounting bracket.

12. All related antenna equipment, including but not limited to ancillary equipment, radios, cables, associated shrouding, microwaves, and conduit that are mounted on wooden poles, shall not be mounted more than six inches from the surface of the pole, unless a further distance is technically required and is confirmed in writing by the pole owner.

13. Equipment for small wireless facilities must be attached to the wooden pole, unless otherwise permitted to be ground mounted pursuant to TMC Section 18.58.160.A.3. The equipment must be placed in the smallest enclosure possible for the intended purpose. The equipment enclosure and all other wireless equipment associated with the utility pole, including wireless equipment associated with the antenna, and any preexisting associated equipment on the pole, may not exceed 28 cubic feet. Multiple equipment enclosures may be acceptable if designed to more closely integrate with the pole design and do not cumulatively exceed 28 cubic feet. The applicant is encouraged to place the equipment enclosure(s) behind any banners or road signs that may be on the pole; provided, that such location does not interfere with the operation of the banners or signs, or the small wireless facility.

14. An applicant who desires to enclose both its antennas and equipment within one unified enclosure may do so; provided, that such enclosure is the minimum size necessary for its intended purpose and the enclosure and all other wireless equipment associated with the pole, including wireless equipment associated with the antenna and any preexisting associated equipment on the pole, do not exceed 28 cubic feet. The unified enclosure may not be placed more than six inches from the surface of the pole, unless a further distance is required and confirmed in writing by the pole owner. To the extent possible, the unified enclosure shall be placed so as to appear as an integrated part of the pole or behind banners or signs; provided, that such location does not interfere with the operation of the banners or signs.

E. **Standards for small wireless facilities on new poles in the rights-of-way and installations on decorative poles**. In addition to complying with the applicable general standards in TMC Section 18.58.160.A and TMC Section 18.58.160.B, small wireless facilities proposed to be attached to new poles or decorative poles shall comply with following:

1. *Applicability.* New poles within the rights-of-way or installations on a decorative pole are only permitted if the applicant can establish that:

a. The proposed small wireless facility cannot be located on an existing utility pole, electrical transmission tower, or on a site outside of the public rights-of-way such as a public park, public property, building, transmission tower or in or on a nonresidential use in a residential zone, whether by roof or building mount; and

b. The proposed small wireless facility receives approval for a stealth technique design, as described in TMC Section 18.58.160.E.3; and

c. The proposed small wireless facility also complies with the Shoreline Management Act, Growth Management Act, and State Environmental Policy Act, if applicable; and

d. No new poles shall be located in a critical area or associated buffer required by the City's Environmentally Critical Areas ordinance, TMC Chapter 18.45, except when determined to be exempt pursuant to said ordinance.

2. *Review.* An application for a new pole or installation on a decorative pole is subject to administrative review and approval or denial by the Director.

3. *New poles.* All new poles shall conform to the City's standard pole design adopted in the City's Infrastructure Design and Construction Standards Manual and comply with the stealth technique design consistent with TMC Section 18.58.160.E.5.

4. *Decorative poles.* If the applicant desires to place the small wireless facility on a decorative pole, and the City has adopted a small wireless facility standard for the decorative pole in the City's Infrastructure Design and Construction Standards Manual, then the applicant shall attempt to utilize the adopted decorative pole design. The applicant, upon a showing that using the standard decorative pole design is either technically or physically infeasible, or that a modified pole design will not comply with the city's ADA or sidewalk clearance requirements and/or would violate electrical or other safety standards, may deviate from the adopted standard decorative pole design and propose a stealth technique design consistent with TMC Section 18.58.160.E.5.

5. The stealth technique design shall include the design of the screening, fencing, or other concealment technique for the pole, equipment enclosure, and all related transmission equipment or facilities associated with the proposed small wireless facility, including but not limited to fiber and power connections.

a. The stealth technique design should seek to minimize the visual obtrusiveness of the small wireless facility. The proposed pole or structure should have similar designs to existing neighboring poles in the rights-of-way, including similar height to the extent technically feasible. If the proposed small wireless facility is placed on a replacement pole in a design district, then the replacement pole shall be of the same general design as the pole it is replacing, unless the Director otherwise approves a variation due to aesthetic or safety concerns. Any stealth technique design for a small wireless facility on a decorative pole should attempt to mimic the design of such pole and integrate the small wireless facility into the design of the decorative pole. Other stealth technique methods include, but are not limited to, integrating the installation with architectural features or building design components; utilization of coverings or concealment devices of similar material, color, and texture—or the appearance thereof—as the surface against which the installation will be seen or on which it will be installed; landscape design; or other camouflage strategies appropriate for the type of installation. Applicants are required to utilize designs in which all conduit and wires are installed internally within the structure. Further, applicant designs should, to the extent technically feasible, comply with the generally applicable design standards adopted pursuant to TMC Section 18.58.160.A and TMC Section 18.58.160.B.

b. If the Director has already approved a stealth technique design either for the applicant or another small wireless facility along the same public right-of-way or for the same pole type, then the applicant shall utilize a substantially similar stealth technique design, unless it can show that such stealth technique design is not technically feasible, or that such design would undermine the generally applicable design standards adopted pursuant to TMC Section 18.58.160.A and TMC Section 18.58.160.B.

c. Even if an alternative location is established pursuant to TMC Section 18.58.160.E.1.a, the Director may determine, at the applicant's written request, that a new pole in the right-of-way is, in fact, a superior alternative based on the impact to the City, the stealth technique design, the City's Comprehensive Plan and the added benefits to the community.

d. Prior to the issuance of a permit to construct a new pole or ground-mounted equipment in the right-of-way, the applicant must obtain a master lease agreement from the City to locate such new pole or ground-mounted equipment. This requirement also applies to replacement poles that are taller than the replaced pole, when the overall height of the replacement pole and the proposed small wireless facility is more than 60 feet.

F. **Standards for small wireless facilities attached to cables**. In addition to complying with the applicable general standards in TMC Section 18.58.160.A, all small wireless facilities mounted on existing cables strung between existing utility poles shall conform to the following standards:

1. Each strand-mounted facility shall not exceed three cubic feet in volume.

2. Only one strand-mounted facility is permitted per cable between any two existing poles on an existing cable.

3. The strand-mounted devices shall be placed as close as feasible to the nearest utility pole, in no event more than 10 feet from the pole unless that location is technically infeasible or is not allowed by the pole owner for safety clearance.

4. No strand-mounted device shall be located in or above the portion of the roadway open to vehicular traffic.

5. Ground-mounted equipment to accommodate a shared mounted facility is not permitted except when placed in preexisting equipment cabinets or required by a third party electrical service provider.

6. Pole-mounted equipment shall comply with the requirements of TMC Section 18.58.160.A and TMC Section 18.58.160.B.

7. Such strand-mounted devices must be installed to cause the least visual impact and without excess exterior cabling or wires (other than the original strand).

G. **Standards for small wireless facilities attached to existing buildings**. In addition to complying with the applicable general standards in TMC Section 18.58.160.A, all small wireless facilities attached to existing buildings shall conform to the following design criteria:

1. Small wireless facilities may be mounted to the sides of a building if the antennas do not interrupt the building's architectural theme.

2. The interruption of architectural lines or horizontal or vertical reveals is discouraged.

3. New architectural features such as columns, pilasters, corbels, or other ornamentation that conceal antennas may be used if it complements the architecture of the existing building.

4. Small wireless facilities shall utilize the smallest mounting brackets necessary in order to provide the smallest offset from the building.

5. Skirts or shrouds shall be utilized on the sides and bottoms of antennas in order to conceal mounting hardware, create a cleaner appearance, and minimize the visual impact of the antennas. Exposed cabling/wiring is prohibited.

6. To the extent technically feasible, small wireless facilities shall be painted and textured to match the adjacent building surfaces.

(Ord. 2678 §20, 2022; Ord. 2660 §32, 2021)

CHAPTER 18.60
BOARD OF ARCHITECTURAL REVIEW

Sections:

18.60.010 Purpose and Objectives

It is the purpose of this chapter to provide for the review by public officials of land development and building design in order to promote the public health, safety and welfare. Specifically, the Board of Architectural Review ("BAR") and DCD Director shall only approve well-designed developments that are creative and harmonious with the natural and manmade environments. Throughout this chapter, any reference to the Board or BAR shall also include the DCD Director in the case of administrative design review.

(Ord. 2005 §16, 2002; Ord. 1865 §49, 1999; Ord. 1758 §1 (part), 1995)

18.60.020 Membership

The Board of Architectural Review shall consist of the members of the Planning Commission. The officers of the Planning Commission shall also sit as officers of the Board of Architectural Review.

(Ord. 1758 §1 (part), 1995)

18.60.030 Scope of Authority

A. The rules and regulations of the Board of Architectural Review shall be the same as those stated for the Planning Commission in the bylaws of the Tukwila Planning Commission.

B. The Community Development Director will review projects meeting the thresholds for administrative design review. The BAR will review all other projects requiring design review approval. The Board and the Community Development Director shall have the authority to approve, approve with conditions, or deny all plans submitted based on a demonstration of compliance with all of the guidelines of this chapter, as judged by the preponderance of evidence standard.

C. Design review is required for the following described land use actions:

1. All developments will be subject to design review with the following exceptions:

a. Developments exempted in the various districts;

b. Developments in LI, HI, MIC/L and MIC/H districts, except when within 300 feet of residential districts or within 200 feet of the Green/Duwamish River or that require a shoreline permit;

2. Any exterior repair, reconstruction, cosmetic alterations or improvements, if the cost of that work equals or exceeds 10% of the building's assessed valuation (for costs between 10% and 25%, the changes will be reviewed administratively):

a. For sites whose gross building square footage exceeds 10,000 square feet in MUO, O, RCC, NCC, RC, RCM, and C/LI zoning districts; and

b. For any site in the NCC, MUO or RC zoning districts in the Tukwila International Boulevard corridor (see TMC ***Figure 18-9***).

c. For any multi-family structures in MDR and HDR zones.

d. For all conditional and unclassified uses in the LDR zone that involve construction of a new building or exterior repairs that exceed 10% of the assessed value of the building.

e. For sites in the TUC Districts see TMC Section 18.28.030.D. for design review thresholds.

3. Development applications using the procedures of TMC Section 18.60.60, "Commercial Redevelopment Area."

4. Development applications using the procedures of TMC Chapter 18.43, "Urban Renewal Overlay District."

5. All projects located within the shoreline jurisdiction that involve construction of a new building or exterior changes, if the cost of the exterior work equals or exceeds 10% of the building's assessed valuation, except the construction of a single family house is exempt.

6. Modification of a building and/or the site, if the building and/or site had gone through design review within the last 10 years, shall require modification of the original decision. Minor modifications of BAR approval shall be processed as administrative design review and major modifications of BAR approval shall require BAR approval.

D. For development in the NCC, RC, and MUO zones within the Tukwila International Boulevard corridor, identified in TMC ***Figure 18-9***, certain landscaping and setback standards may be waived and conditioned, upon approval of plans by the BAR, in accordance with criteria and guidelines in the Tukwila International Boulevard Design Manual, as amended. Landscaping and setback standards may not be waived on commercial property sides adjacent to residential districts.

E. No changes shall be made to approved designs without further BAR or Director approval and consideration of the change in the context of the entire project; except that the Director is authorized to approve minor, insignificant modifications which have no impact on the project design.

(Ord. 2442 §4, 2014; Ord. 2368 §61, 2012; Ord. 2257 §11, 2009;Ord. 2251 §73, 2009; Ord. 2235 §15, 2009; Ord. 2118 §1, 2006; Ord. 2005 §17, 2002;Ord. 1865 §50, 1999; Ord. 1758 §1 (part), 1995)

18.60.040 Application Requirements

All applications shall be accompanied by a filing fee as required in the Application Fees chapter of this title and shall include, but are not limited to, site plans, exterior building elevations, an environmental checklist if applicable, and other materials as required by the DCD. Models and/or photo montages shall be required for multi-family projects over six (6) dwelling units. Exemptions for minor projects may be granted by the Director. Minor projects shall include, but not be limited to, new interior garages, dumpster screening, and other changes which have no significant affect on project design.

Building permit applications shall not be granted until approval of plans by the BAR.

(Ord. 1758 §1 (part), 1995)

18.60.050 Design Review Criteria

A. **Generally.** The BAR is authorized to request and rely upon any document, guideline, or other consideration it deems relevant or useful to satisfy the purpose and objectives of this chapter, specifically including but not limited to the following criteria. The applicant shall bear the full burden of proof that the proposed development plans satisfy all of the criteria. The BAR may modify a literal interpretation of the design review criteria if, in their judgment such modifications better implement the Comprehensive Plan goals and policies.

B. **Commercial and Light Industrial Design Review Criteria.** The following criteria shall be considered in all cases, except that multi-family and hotel or motel developments shall use the multi-family, hotel and motel design review criteria; developments within the MUO, NCC and RC districts of the Tukwila International Boulevard corridor (*see Figure* 18-9) shall use the Tukwila International Boulevard design review criteria of this chapter; and developments within the TSO district shall use the Tukwila South design review criteria instead:

1. *RELATIONSHIP OF STRUCTURE TO SITE*.

a. The site should be planned to accomplish a desirable transition with streetscape and to provide for adequate landscaping and pedestrian movement.

b. Parking and service areas should be located, designed and screened to moderate the visual impact of large paved areas.

c. The height and scale of each building should be considered in relation to the site.

2. *RELATIONSHIP OF STRUCTURE AND SITE TO ADJOINING AREA*.

a. Harmony of texture, lines and masses is encouraged.

b. Appropriate landscape transition to adjoining properties should be provided.

c. Public buildings and structures should be consistent with the established neighborhood character.

d. Compatibility of vehicular pedestrian circulation patterns and loading facilities in terms of safety, efficiency and convenience should be encouraged.

e. Compatibility of on-site vehicular circulation with street circulation should be encouraged.

3. *LANDSCAPING AND SITE TREATMENT*.

a. Where existing topographic patterns contribute to beauty and utility of a development, they should be recognized, preserved and enhanced.

b. Grades of walks, parking spaces, terraces and other paved areas should promote safety, and provide an inviting and stable appearance.

c. Landscape treatment should enhance architectural features, strengthen vistas and important axis, and provide shade.

d. In locations where plants will be susceptible to injury by pedestrian or motor traffic, mitigating steps should be taken.

e. Where building sites limit planting, the placement of trees or shrubs in paved areas is encouraged.

f. Screening of service yards and other places that tend to be unsightly should be accomplished by use of walls, fencing, planting or combination.

g. In areas where general planting will not prosper, other materials such as fences, walls and pavings of wood, brick, stone or gravel may be used.

h. Exterior lighting, when used, should enhance the building design and the adjoining landscape. Lighting standards and fixtures should be of a design and size compatible with the building and adjacent area. Lighting should be shielded, and restrained in design. Excessive brightness and brilliant colors should be avoided.

4. *BUILDING DESIGN*.

a. Architectural style is not restricted; evaluation of a project should be based on quality of its design and relationship to its surroundings.

b. Buildings should be to appropriate scale and in harmony with permanent neighboring developments.

c. Building components such as windows, doors, eaves, and parapets should have good proportions and relationship to one another. Building components and ancillary parts shall be consistent with anticipated life of the structure.

d. Colors should be harmonious, with bright or brilliant colors used only for accent.

e. Mechanical equipment or other utility hardware on roof, ground or buildings should be screened from view.

f. Exterior lighting should be part of the architectural concept. Fixtures, standards, and all exposed accessories should be harmonious with building design.

g. Monotony of design in single or multiple building projects should be avoided. Variety of detail, form and siting should be used to provide visual interest.

5. *MISCELLANEOUS STRUCTURES AND STREET FURNITURE*.

a. Miscellaneous structures and street furniture should be designed to be part of the architectural concept of design and landscape. Materials should be compatible with buildings,

scale should be appropriate, colors should be in harmony with buildings and surroundings, and proportions should be to scale.

b. Lighting in connection with miscellaneous structures and street furniture should meet the guidelines applicable to site, landscape and buildings.

C. **Multi-Family, Hotel and Motel Design Review Criteria.** In reviewing any application for multi-family, hotel, motel, or non-residential development in a Low Density Residential zone, the following criteria shall be used by the BAR in its decision making, as well as the Multi-Family Design Manual or Townhouse Design Manual. Detached zero-lot-line type of developments shall be subject to the Townhouse Design Manual. Residential development on those lands located in the TSO with underlying zoning of LDR, which immediately adjoin lands located in the City of SeaTac to the east of Interstate 5, shall also use the following criteria as well as the Multi-Family Design Manual.

1. *SITE PLANNING.*

a. Building siting, architecture, and landscaping shall be integrated into and blend harmoniously with the neighborhood building scale, natural environment, and development characteristics as envisioned in the Comprehensive Plan. For instance, a multi-family development's design need not be harmoniously integrated with adjacent single-family structures if that existing single-family use is designated as "Commercial" or "High-Density Residential" in the Comprehensive Plan. However, a "Low-Density Residential" (detached single-family) designation would require such harmonious design integration.

b. Natural features, which contribute to desirable neighborhood character, shall be preserved to the maximum extent possible. Natural features include, but are not limited to, existing significant trees and stands of trees, wetlands, streams, and significant topographic features.

c. The site plan shall use landscaping and building shapes to form an aesthetically pleasing and pedestrian scale streetscape. This shall include, but not be limited to facilitating pedestrian travel along the street, using architecture and landscaping to provide a desirable transition from streetscape to the building, and providing an integrated linkage from pedestrian and vehicular facilities to building entries.

d. Pedestrian and vehicular entries shall provide a high-quality visual focus using building siting, shapes and landscaping. Such a feature establishes a physical transition between the project and public areas, and establishes the initial sense of high quality development.

e. Vehicular circulation design shall minimize driveway intersections with the street.

f. Site perimeter design (i.e., landscaping, structures, and horizontal width) shall be coordinated with site development to ensure a harmonious transition between adjacent projects.

g. Varying degrees of privacy for the individual residents shall be provided, increasing from the public right-of-way, to common areas, to individual residences. This can be accomplished through the use of symbolic and actual physical barriers to define the degrees of privacy appropriate to specific site area functions.

h. Parking and service areas shall be located, designed and screened to interrupt and reduce the visual impact of large paved areas.

i. The height, bulk, footprint and scale of each building shall be in harmony with its site and adjacent long-term structures.

2. *BUILDING DESIGN.*

a. Architectural style is not restricted; evaluation of a project shall be based on the quality of its design and its ability to harmonize building texture, shape, lines and mass with the surrounding neighborhood.

b. Buildings shall be of appropriate height, scale, and design/shape to be in harmony with those existing permanent neighboring developments that are consistent with, or envisioned in, the Comprehensive Plan. This will be especially important for perimeter structures. Adjacent structures that are not in conformance with the Comprehensive Plan should be considered to be transitional. The degree of architectural harmony required should be consistent with the nonconforming structure's anticipated permanence.

c. Building components, such as windows, doors, eaves, parapets, stairs and decks shall be integrated into the overall building design. Particular emphasis shall be given to harmonious proportions of these components with those of adjacent developments. Building components and ancillary parts shall be consistent with the anticipated life of the structure.

d. The overall color scheme shall work to reduce building prominence and shall blend in with the natural environment.

e. Monotony of design in single or multiple building projects shall be avoided. Variety of detail, form, and siting shall be used to provide visual interest. Otherwise monotonous flat walls and uniform vertical planes of individual buildings shall be broken up with building modulation, stairs, decks, railings, and focal entries. Multiple building developments shall use siting and additional architectural variety to avoid inappropriate repetition of building designs and appearance to surrounding properties.

3. *LANDSCAPE AND SITE TREATMENT.*

a. Existing natural topographic patterns and significant vegetation shall be reflected in project design when they contribute to the natural beauty of the area or are important to defining neighborhood identity or a sense of place.

b. Landscape treatment shall enhance existing natural and architectural features, help separate public from private spaces, strengthen vistas and important views, provide shade to moderate the effects of large paved areas, and break up visual mass.

c. Walkways, parking spaces, terraces, and other paved areas shall promote safety and provide an inviting and stable appearance. Direct pedestrian linkages to the public street, to on-site recreation areas, and to adjacent public recreation areas shall be provided.

d. Appropriate landscape transition to adjoining properties shall be provided.

4. *MISCELLANEOUS STRUCTURES.*

a. Miscellaneous structures shall be designed as an integral part of the architectural concept and landscape. Materials shall be compatible with buildings, scale shall be appropriate, colors shall be in harmony with buildings and surroundings, and structure proportions shall be to scale.

b. The use of walls, fencing, planting, berms, or combinations of these shall accomplish screening of service yards and other places that tend to be unsightly. Screening shall be effective in winter and summer.

c. Mechanical equipment or other utility hardware on roof, ground or buildings shall be screened from view. Screening shall be designed as an integral part of the architecture (i.e., raised parapets and fully enclosed under roof) and landscaping.

d. Exterior lighting standards and fixtures shall be of a design and size consistent with safety, building architecture and adjacent area. Lighting shall be shielded and restrained in design with no off-site glare spill-over. Excessive brightness and brilliant colors shall not be used unless clearly demonstrated to be integral to building architecture.

D. **Tukwila International Boulevard Design Review Criteria.** In reviewing any application for development, in the MUO, NCC, and RC Districts within the Tukwila International Boulevard study area ***(see Figure 18-9)***, the design criteria and guidelines of the Tukwila International Boulevard Design Manual, as amended, shall be used by the BAR in its decision making.

E. **Parking Structure Design Guidelines.** The Parking Structure Design Guidelines shall be used whenever the provisions of this Title require a design review decision on proposed or modified parking structures.

F. **Tukwila South Design Criteria**. The criteria listed below and guidelines contained in the Tukwila South Design Manual shall be used whenever the provisions of this title require a design review decision on a proposed or modified development in the Tukwila South Overlay district. Residential development on those lands located in the TSO with underlying zoning of LDR, which immediately adjoin lands located in the City of SeaTac to the east of Interstate 5, shall use the criteria as stipulated under TMC Section 18.60.050(C).

1. *SITE DESIGN.*

a. ***Site Design Concept and Site Relationships:***

(1) Organize site design elements to provide an orderly and easily understood arrangement of buildings, landscaping, and circulation elements that support the functions of the site.

(2) Maintain visual and functional continuity between the development and adjacent properties where appropriate.

b. ***Site Design for Safety:***

(1) Reduce the potential for conflicts between drivers and pedestrians.

(2) Provide building, site, and landscape designs that allow comfortable and safe navigation by employees, customers, and visitors.

(3) Provide lighting at building entries, along walkways, parking areas, and other public areas to enhance safety and visibility.

(4) Avoid light trespass beyond the boundaries of the property lines.

c. ***Siting and Screening of Parking Areas:***

(1) Organize site and building designs to deemphasize vehicular circulation and parking.

(2) Use building placement, walls, berms, and/or landscaping to create a distinct street edge.

d. ***Siting and Screening of Service Areas and Mechanical Equipment:***

(1) Reduce the visual, sound, and odor impacts of service areas from adjacent residential properties, public view and roadways through site design, building design, landscaping, and screening.

(2) Ensure that larger pieces of mechanical equipment are visually unobtrusive.

(3) Locate and/or screen roof-mounted mechanical equipment to minimize visibility from streets, trails, and adjacent properties.

e. ***Natural Features:***

(1) Incorporate natural features and environmental mitigation areas such as existing topography, significant wooded areas, wetlands, and/or watercourses into the overall site plan where appropriate.

(2) Provide connections to existing and planned trails, open spaces, and parks per the Master Open Space and Trails Plan.

f. ***Pedestrian and Vehicular Circulation:***

(1) Provide an efficient and comprehensive internal circulation system, including motorized and non-motorized access points, parking, loading, and emergency accessways.

(2) Create on-site pedestrian networks from streets and drives to building entrances, through parking lots to connect buildings to the street, and between sites.

g. ***Pedestrian Environment:***

(1) Incorporate amenities in site design to increase the utility of the site and enhance the overall pedestrian/employee environment.

(2) Ensure that pedestrian amenities are durable and easy to maintain.

(3) Select site furnishings that complement the building and landscape design of the development.

h. ***Gateways:***

(1) Designate gateways at key intersections into district and secondary gateways at major use nodes per the Tukwila South Master Plan.

(2) Provide special treatment at designated gateway locations.

2. *BUILDING DESIGN.*

a. ***Architectural Concept:***

(1) Develop an architectural concept for structure(s) on the site that conveys a cohesive and consistent thematic or stylistic statement, and is responsive to the functional characteristics of the development.

(2) Reduce the apparent scale of large commercial and industrial buildings located adjacent to low density residential developments.

(3) Provide distinctive building corners at street intersections through the use of architectural elements and detailing and pedestrian-oriented features where possible.

(4) Provide prominent rooflines that contribute to the character of the area and are consistent with the type of building function and uses.

b. ***Building Elements and Architectural Details:***

(1) Utilize durable, high quality building materials that contribute to the overall appearance, ease of maintenance, and longevity of the building.

(2) Buildings and site design should provide an inviting entry orientation.

(3) Colors used on building exteriors should integrate a building's various design elements or features.

3. *LANDSCAPE AND PLANTING DESIGN.*

a. ***Landscape Design:***

(1) Develop a landscape plan that demonstrates a design concept consistent with or complementary to the site design and the building's architectural character.

(2) Develop a landscape design concept that fulfills the functional requirements of the development, including screening and buffering.

b. ***Planting Design:***

(1) Incorporate existing significant trees, wooded areas and/or vegetation in the planting plan where they contribute to overall landscape design.

(2) Select plant materials that reinforce the landscape design concept, and are appropriate to their location in terms of hardiness, maintenance needs and growth characteristics.

4. *SIGNAGE DESIGN.*

a. Provide signage that is consistent with the site's architectural theme.

b. Manage sign elements such as size, location and arrangement so that signs complement the visual character of the surrounding area and appear in proportion to the building and site to which they pertain.

c. Provide signage that is oriented to both pedestrians and motorists in design and placement.

d. Provide a wayfinding system within the development to allow for quick location of buildings and addresses, that coordinates with other sites and the district, where appropriate.

G. **Southcenter Design Criteria**. The criteria contained in the Southcenter Design Manual shall be used whenever the provisions of this title require a design review decision on a proposed or modified development in the Tukwila Urban Center districts.

H. **Shoreline Design Criteria.** The criteria contained in the Shoreline Design Guidelines (TMC Section 18.44.090) shall be used whenever the provisions of this title require a design review decision on a proposed or modified development in the Shoreline Overlay District.

(Ord. 2627 §31, 2020; Ord. 2580 §7, §8, 2018; Ord. 2442 §5, 2014; Ord. 2368 §62, 2012; Ord. 2235 §16, §17, 2009; Ord. 2199 §20, 2008; Ord. 1986 §16, 2001; Ord. 1865 §51, 1999; Ord. 1758 §1 (part), 1995)

18.60.060 Commercial Redevelopment Areas Approval Procedures and Criteria

The intent of this section is to create a more uniform commercial district along the Tukwila International Boulevard corridor that serves the space needs of mixed use or commercial development that fronts on Tukwila International Boulevard, to allow and create developments that are designed and built to better buffer the negative impacts of the commercial district on the adjacent residential neighborhoods, to better integrate, where appropriate, the mixed use or commercial developments with the adjacent residential neighborhoods. Development within the five identified commercial redevelopment areas that is not in accordance with the underlying zone's uses and standards may be approved by the BAR if the development complies with the following criteria.

1. Uses allowed. The permitted and accessory uses shall be those of the adjacent commercial district to which the residentially zoned properties are being aggregated.

2. Standards. The basic development standards shall be those of the adjacent commercial district to which the site is being aggregated and the standards for the uses that are being proposed.

3. Approval procedure.

a. In a Commercial Redevelopment Area, the BAR must review and approve any development per the Tukwila International Boulevard Design Manual and the intent and criteria of this section.

b. The development must include at least one parcel that fronts on Tukwila International Boulevard and any number of additional adjacent parcels within the commercial redevelopment areas. (Exception: Commercial use of property in Site 2, in the block bounded by 42 Avenue South, South 144th Street Tukwila International Boulevard and South 142nd Street, must aggregate with the property on the north side South 142nd Street.)

c. The following criteria from the Tukwila International Boulevard "Design Manual are augmented to include the following intent:

(1) to create streetscapes that are similar in setback, landscape and building heights where development occurs across from single-family residential:

(2) to create architecture that is compatible with desired residential character and scale where development

occurs adjacent to residential, the following elements must be addressed:

(a) Site Design with special attention to continuity of sites with adjacent sites and siting and screening of service yards; and

(b) Building Design with special attention to architectural relationships; and

(c) Landscape Design

(Ord. 2257 §12, 2009; Ord. 1865 §53, 1999)

18.60.070 Action by Board of Architectural Review

A. *DECISION PROCESS.* Projects meeting the thresholds for administrative design review will be processed as Type 2 decisions pursuant to TMC 18.108.020. All other design review decisions shall be processed as Type 4 decisions pursuant to TMC 18.108.040.

B. *APPROVAL*. If the DCD Director or BAR finds the proposed development plans satisfy the applicable design criteria they shall approve the proposed development. A building permit may then be issued by the appropriate City official providing all other requirements of applicable adopted codes and ordinances of the City have been complied with.

C. *APPROVAL WITH CONDITIONS*. If the DCD Director or BAR approves the proposed development plans with conditions, it may require that such conditions shall be fulfilled prior to the issuance of a building or occupancy permit, where appropriate.

D. *DENIAL*. The DCD Director or BAR may deny the proposed development plans if the plans do not satisfy the criteria listed in this chapter or the applicable design manual.

E. *TIME LIMIT OF APPROVAL*. Construction permitting for design review approved plans must begin within three years from the notice of decision or the approval decision becomes null and void.

(Ord. 2235 §18, 2009 Ord. 2005 §18, 2002; Ord. 1865 §54, 1999; Ord. 1770 §35, 1996; Ord. 1758 §1 (part), 1995)

CHAPTER 18.64
CONDITIONAL USE PERMITS

Sections:

18.64.010 Purpose

It is the purpose of this chapter to establish review and permit approval procedures for unusual or unique types of land uses which, due to their nature, require special consideration of their impact on the neighborhood and land uses in the vicinity. The uses in this chapter may be located in any district, unless specifically not permitted, by special permission of the Hearing Examiner under such conditions as the Hearing Examiner may impose.

(Ord. 2500 §25, 2016; Ord. 1758 §1 (part), 1995)

18.64.020 Uses Requiring a Conditional Use Permit

The conditional uses listed in the specified use districts require a conditional use permit in order to locate and operate in an appropriate zone district within the City.

(Ord. 1758 §1 (part), 1995)

18.64.030 Application - Requirements and Fees

Application for conditional use permit shall be filed with the DCD on forms prescribed by that office. All applications shall be accompanied by a filing fee as required in the "Application Fees" chapter of this title. Applications for conditional use permits shall be Type 3 decisions and shall be processed pursuant to TMC Section 18.108.040.

(Ord. 2500 §26, 2016; Ord. 1770 §36, 1996; Ord. 1758 §1 (part), 1995)

18.64.050 Criteria

The following criteria shall apply in granting a conditional use permit:

1. The proposed use will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the proposed use or in the district in which the subject property is situated;
2. The proposed use shall meet or exceed the performance standards that are required in the district it will occupy;
3. The proposed development shall be compatible generally with the surrounding land uses in terms of traffic and pedestrian circulation, building and site design;
4. The proposed use shall be in keeping with the goals and policies of the Comprehensive Land Use Policy Plan;
5. All measures have been taken to minimize the possible adverse impacts which the proposed use may have on the area in which it is located.

(Ord. 1770 §38, 1996; Ord. 1758 §1 (part), 1995)

18.64.060 Expiration and Renewal

A conditional use permit shall automatically expire one year after a Notice of Decision approving the permit is issued unless a building permit conforming to plans for which the CUP was granted is obtained within that period of time. A conditional use permit shall automatically expire unless substantial construction of the proposed development is completed within two years from the date a Notice of Decision approving the permit is issued. The Hearing Examiner may authorize longer periods for a conditional use permit if appropriate for the project. The Hearing Examiner may grant a single renewal of the conditional use permit if the party seeking the renewal can demonstrate extraordinary circumstances or conditions not known or foreseeable at the time the original application for a conditional use permit was granted, which would not warrant such a renewal. No public hearing is required for a renewal of a conditional use permit.

(Ord. 2500 §27, 2016; Ord. 1770 §39, 1996; Ord. 1758 §1 (part), 1995)

18.64.070 Revocation of Permit

A. The Hearing Examiner may revoke or modify a conditional use permit. Such revocation or modification shall be made on any one or more of the following grounds:

1. That the approval was obtained by deception, fraud, or other intentional and misleading representations.
2. That the use for which such approval was granted has been abandoned.
3. That the use for which such approval was granted has at any time ceased for a period of one year or more.
4. That the permit granted is being exercised contrary to the terms or conditions of such approval or in violation of any statute, resolution, code, law or regulations.
5. That the use for which the approval was granted was so exercised as to be detrimental to the public health or safety.

B. Any aggrieved party may petition the Director of Community Development in writing to initiate revocation or modification proceedings.

C. Before a conditional use permit may be revoked or modified, a public hearing shall be held. Procedures concerning notice, reporting and appeals shall be the same as required by this chapter for the initial consideration of a conditional use permit application.

(Ord. 2500 §28, 2016; Ord. 1758 §1 (part), 1995)

18.64.080 Performance Bond and Other Security

A performance bond or other adequate and appropriate security may be required for any elements of the proposed project which the Hearing Examiner determines are crucial to the protection of the public welfare. Such bond shall be in an amount equal to 100% of the cost of the installation or construction of the applicable improvements.

(Ord. 2500 §29, 2016; Ord. 1770 §40, 1996; Ord. 1758 §1 (part), 1995)

18.64.090 Resubmittal of Application

An application for a conditional use permit that has been denied may not be resubmitted within six months from the date of the Hearing Examiner's disapproval.

(Ord. 2500 §30, 2016; Ord. 1758 §1 (part), 1995)

CHAPTER 18.66
UNCLASSIFIED USE PERMITS

Sections:

18.66.010 Purpose

It is the purpose of this chapter to establish procedures for the regulation of uses possessing characteristics of such unusual, large-scale, unique or special form as to make impractical their being included automatically in any class of use as set forth in the various use districts previously defined.

(Ord. 1758 §1 (part), 1995)

18.66.020 Uses Requiring an Unclassified Use Permit (UUP)

The unclassified uses listed in the specified use districts require an unclassified use permit processed as provided in this chapter.

(Ord. 1758 §1 (part), 1995)

18.66.030 Area and Dimensional Requirements

A. The requirements for front, rear and side yards and open spaces and landscaping applicable to the underlying zone classification in which any such use is proposed to be located shall prevail, unless specific modifications are required in granting the unclassified use permit.

B. The provisions applying to height and minimum lot area and width applicable to the underlying zone classification in which any such use is proposed to be located shall prevail unless specific modifications are required in granting the unclassified use permit.

(Ord. 1758 §1 (part), 1995)

18.66.040 Application Requirements

A. Applications for unclassified use permits shall be Type 5 decisions and shall be processed pursuant to TMC 18.108.050.

B. An unclassified use permit application for a secure community transition facility shall be accompanied by the following:

1. The siting process used for the secure community transition facility, including alternative locations considered.

2. An analysis showing that proper consideration was given to potential sites such that siting of the facility will have no undue impact on any one racial, cultural or socio-economic group, and that there will not be a resulting concentration of similar facilities in a particular neighborhood, community, jurisdiction or region.

3. Documentation demonstrating compliance with Chapter 71.09 RCW for establishing the need for additional secure community transition facility beds and documentation demonstrating compliance with the "equitable distribution" requirements under the same chapter.

4. Proposed mitigation measures including the use of sight-obscuring buffers and other barriers from adjacent uses. At a minimum, the project must provide buffering similar to that required between residential and industrial zones.

5. DSHS must consult with the City's Police Department on the security requirements for both the facility and its residents. A statement from the City's Police Department indicating that the DSHS security and emergency procedures for the facility and its residents comply with the requirements of Chapter RCW 71.09 must be included in the Unclassified Use Permit application. A description of the general security and operational requirements shall also be included with the permit application.

6. Proposed operating rules for the facility.

7. A schedule and analysis of all public input solicited or to be solicited during the siting process.

(Ord. 1991 §11, 2002; Ord. 1770 §41, 1996; Ord. 1758 §1 (part), 1995)

18.66.060 Criteria

The City Council shall be guided by the following criteria in granting an unclassified use permit:

1. Where appropriate and feasible, all facilities shall be undergrounded.

2. The proposed use will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity.

3. The proposed use shall meet or exceed the same standards for parking, landscaping, yards and other development regulations that are required in the district it will occupy.

4. The proposed development shall be compatible generally with the surrounding land uses.

5. The proposed development shall to the maximum extent feasible be consistent with and promote the goals, objectives, and policies of the Comprehensive Land Use Policy Plan and applicable adopted area plans.

6. The proposed unclassified use shall, to the maximum extent feasible, mitigate all significant adverse environmental impacts on public and private properties. Full consideration shall be given to:

(a) alternative locations and/or routes that reduce or eliminate adverse impacts; and

(b) alternative designs that reduce or eliminate adverse impacts.

7. In the event that a proposed essential public facility of a countywide or statewide nature creates an unavoidable significant adverse environmental or economic impact on the

community, compensatory mitigation shall be required. Compensatory mitigation shall include public amenities, incentives or other public benefits which offset otherwise unmitigated adverse impacts of the essential public facility. Where appropriate, compensatory mitigation shall be provided as close to the affected area as possible.

8. For uses in residential areas, applicants shall demonstrate that there is no reasonable nonresidential alternative site for the use.

9. For uses in residential areas, applicants shall demonstrate that the use provides some tangible benefit for the neighborhood.

10. Secure community transition facilities shall be meet the following additional criteria:

(a) No facility shall house more than four persons or the number of persons requested by DSHS after DSHS both demonstrates a need for additional beds in compliance with Chapter 71.09 RCW and it demonstrates compliance with Chapter 71.09 RCW's "equitable distribution" requirements.

(b) The facility shall be located in relation to transportation facilities in a manner appropriate to the transportation needs of the secure community transition facility residents.

(Ord. 1991 §12, 2002; Ord. 1865 §55, 1999; Ord. 1816 §2, 1997; Ord. 1758 §1 (part), 1995)

18.66.070 Expiration and Renewal

An unclassified use permit shall automatically expire one year after the date of issuance of a Notice of Decision granting approval of the application unless a building permit conforming to plans upon which the permit was granted is obtained within that period of time. An unclassified use permit shall automatically expire unless substantial construction shall be completed within two years from the date of issuance of a Notice of Decision granting approval of the application, unless a renewal is granted or unless the unclassified use permit specifically provides for a period greater than two years. The City Council, may renew an unclassified use permit for a maximum period of one additional year. No more than one renewal shall be issued for any unclassified use permit. A renewal may be granted only if there have been no pertinent changes in conditions surrounding the property since the time of original approval. No public hearing is required for renewal of an unclassified use permit.

(Ord. 1770 §44, 1996; Ord. 1758 §1 (part), 1995)

18.66.080 Revocation of Permit

A. The City Council may revoke or modify any unclassified use permit. Such revocation or modification shall be made on any one or more of the following grounds:

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

2. That the use for which such approval was granted has at any time ceased for a period of one year or more;

3. That the use for which such approval was granted has been abandoned;

4. That the permit granted is exercised contrary to the terms or conditions of such approval or in violation of any statute, resolution, code, law or regulation;

5. That the use for which the approval was granted is so exercised as to be detrimental to the public health or safety.

B. Any aggrieved party may petition the City Council in writing to initiate revocation or modification proceedings.

C. Before an unclassified use permit may be revoked or modified, a public hearing shall be held. Procedures concerning notice, reporting, and appeals shall be the same as required for the initial consideration of an unclassified use permit application.

(Ord. 1770 §45, 1996; Ord. 1758 §1 (part), 1995)

18.66.090 Performance Bond or Other Security

A performance bond or other adequate and appropriate security may be required by the City Council for any elements of the proposed project which the Council determines are crucial to the protection of the public welfare. Such bond shall be in an amount equal to 100% of the cost of the installation or construction of the applicable improvements.

(Ord. 1758 §1 (part), 1995)

18.66.100 Resubmittal of Application

An application for an unclassified use permit which has been disapproved by the Council cannot be resubmitted within six months of the date of Council disapproval.

(Ord. 1770 §46, 1996; Ord. 1758 §1 (part), 1995)

18.66.110 Normal Upkeep, Repairs, and Maintenance; Replacement of Existing Structures

Normal upkeep, repairs, maintenance, strengthening, or restoration to a safe condition of any building or structure being used as part of an unclassified use shall not require a new or revised unclassified use permit. The replacement of existing structures with either new structures of equivalent size and/or capacity, or with new structures which do not change the use and do not constitute an expansion or enlargement as described below, shall not require a new or revised unclassified use permit; provided that, in any event, any structure that is non-conforming by reason of its height, bulk, or setbacks shall not be re-constructed in a manner which increases the extent of the nonconformity. Nothing in this section shall modify applicable requirements that such construction work may require a building permit or other construction permits pursuant to TMC Title 16 (construction codes).

(Ord. 1769 §4 (part), 1996)

18.66.120 Expansion of Existing Unclassified Use - Animal Rendering Facilities

In addition to the structures permitted pursuant to TMC Section 18.66.110, existing animal rendering facilities shall be allowed to construct new facilities to update and/or modernize such use without needing to obtain a new or revised unclassified use permit if such construction involves an intensification of the permitted existing facility. For purposes of this section, “facilities” shall refer to all structures, including tanks, processing equipment, buildings and other improvements used in the rendering operation,

and "intensification" shall mean new construction shall meet all of the requirements below. Any proposed new construction that fails to meet one or more of the requirements of intensification shall be considered an enlargement or expansion, and shall require an application for a new or revised unclassified use permit for the facilities which constitute the enlargement or expansion:

1. The construction of new facilities shall be considered an intensification and may be permitted without the need to obtain an Unclassified Use Permit (UUP) if:

a. The total area of the site is not increased.

b. The construction of new facilities does not generate more than 10 new vehicle trips at peak hour, as determined pursuant to TMC Chapter 9.48, related to traffic concurrency.

c. No new facilities are located in the shoreline buffer.

d. The new facilities will comply with the performance standards set forth in TMC Section 18.66.130.

e. The construction of new manufacturing facilities does not result in more than a 5% cumulative increase in the manufacturing capacity of the processing facility.

f. The construction will not increase the extent of any nonconformity of any structure by reason of its height, bulk or setbacks.

2. Any proposed new facility which does not meet criteria 1.a through 1.f above shall be considered an enlargement or expansion, and shall comply with the provisions of TMC Chapter 18.66, Unclassified Use Permits.

3. Whether or not a proposed new facility is considered an intensification or an expansion/enlargement, all other applicable codes such as construction codes, SEPA, etc., shall continue to apply.

(Ord. 2368 §63, 2012; Ord. 1769 §4 (part), 1996)

18.66.130 Performance Standards for Rendering Plants

The following performance standards shall apply to rendering plants, in addition to the performance standards for the applicable zoning district.:

1. Any new facilities constructed at a rendering plant which will be used for storage or transmission of liquid or semi-liquid products will be protected by containment facilities capable of preventing the release of any product into surface or ground waters in the event of a spill or breakage. If more than one storage or transmission facility is protected by a containment facility, such containment facility shall be of sufficient size to contain a spill of the largest storage or transmission facility so protected.

2. Any new facilities will utilize the best feasible odor abatement control equipment and shall be designed, constructed and operated so that the new facilities will not increase the risk of odor emissions from the site.

3. The facility, including both existing and new facilities, shall comply with applicable air pollution control requirements of the Puget Sound Air Pollution Control Agency, including both procedural and substantive standards.

4. A copy of the current Spill Prevention Control and Countermeasure Plan (SPCCP) for the new facilities required by the Puget Sound Air Pollution Control Agency shall be on file with the DCD.

(Ord. 1769 §4 (part), 1996)

CHAPTER 18.70

NONCONFORMING LOTS, STRUCTURES AND USES

Sections:

18.70.010 Purpose

It is the purpose of this chapter to establish limitations on the expansion and extension of nonconforming uses and structures which adversely affect the development and perpetuation of desirable residential, commercial, and industrial areas with appropriate groupings of compatible and related uses.

(Ord. 1819 §1 (part), 1997)

18.70.020 Construction Approved Prior to Adoption of Title

To avoid undue hardship, nothing in this title shall be deemed to require a change in plans, construction or designated use of any building on which actual construction was lawfully begun prior to adoption of this title and upon which actual building construction has been carried on in a diligent manner. Actual construction shall consist of materials in permanent positions and fastened in a permanent manner, and demolition, elimination and removal of one or more existing structures in connection with such construction; providing, that actual construction work shall be diligently carried on until the completion of the structure involved.

(Ord. 1819 §1 (part), 1997)

18.70.030 Substandard Lots

A. A lot, as defined in TMC 18.06.500, which does not meet the minimum standard for average lot width and/or minimum lot area for the zone in which it is located, may still be developed, without the need for a variance, as a separate lot if the proposed use is one which is permitted in the zone, and the proposed development can comply with the remaining requirements of this title regarding basic development standards for the applicable zone and other applicable land use and environmental requirements.

B. Nothing in this subsection shall be deemed to prevent the owner of a sub-standard lot from applying for or receiving approval of variances pursuant to TMC Chapter 18.72.

(Ord. 2718 §5, 2023; Ord. 2153 §1, 2007; Ord. 2097 §21, 2005)

18.70.040 Nonconforming Uses

Any preexisting lawful use of land made nonconforming under the terms of this title may be continued as a nonconforming use, defined in TMC Chapter 18.06, so long as that use remains lawful, subject to the following:

1. No such nonconforming use shall be enlarged, intensified, increased or extended to occupy a greater use of the land, structure or combination of the two, than was occupied at the effective date of adoption of this title.

2. No nonconforming use shall be moved or extended in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this title.

3. If any such nonconforming use ceases for any reason for a period of more than six consecutive months, or a total of 365 days in a three-year time period, whichever occurs first, any subsequent use shall conform to the regulations specified by this title for the district in which such use is located.

4. No existing structure devoted to a use not permitted by this title in the zone in which it is located shall be structurally altered, except in changing the use of the structure to a use permitted in the zone in which it is located; except where minor alterations are made, pursuant to TMC Section 18.70.050(1), TMC Section 18.70.060, or any other pertinent section, herein.

5. If a change of use is proposed to a use determined to be nonconforming by application of provisions in this title, the proposed new use must be a permitted use in its zone or a use approved under a Conditional Use or Unclassified Use Permit process, subject to review and approval by the Hearing Examiner and/or the City Council. For purposes of implementing this section, a change of use constitutes a change from one Permitted, Conditional or Unclassified Use category to another such use category as listed within the Zoning Code.

6. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the zone in which such structure is located, and the nonconforming use may not thereafter be resumed.

(Ord. 2500 §31, 2016; Ord. 1819 §1 (part), 1997)

18.70.050 Nonconforming Structures

Where a lawful structure exists at the effective date of adoption of this title that could not be built under the terms of this title by reason of restrictions on area, development area, height, yards or other characteristics of the structure, it may be continued so long as the structure remains otherwise lawful subject to the following provisions:

1. No such structure may be enlarged or altered in such a way that increases its degree of nonconformity. Ordinary maintenance of a nonconforming structure is permitted, pursuant

to TMC Section 18.70.060, including but not limited to painting, roof repair and replacement, plumbing, wiring, mechanical equipment repair/replacement and weatherization. These and other alterations, additions or enlargements may be allowed as long as the work done does not extend further into any required yard or violate any other portion of this title. Complete plans shall be required of all work contemplated under this section.

2. Should such structure be destroyed by any means to an extent of more than 50% of its replacement cost at time of destruction, in the judgment of the City's Building Official, it shall not be reconstructed except in conformity with provisions of this title, except that in the LDR zone, structures that are nonconforming in regard to yard setbacks or sensitive area buffers, but were in conformance at the time of construction may be reconstructed to their original dimensions and location on the lot.

3. Should such structure be moved for any reason or any distance whatsoever, it shall thereafter conform to the regulations for the zone in which it is located after it is moved.

4. When a nonconforming structure, or structure and premises in combination, is vacated or abandoned for 24 consecutive months, the structure, or structure and premises in combination, shall thereafter be required to be in conformance with the regulations of the zone in which it is located. Upon request of the owner, the City Council may grant an extension of time beyond the 24 consecutive months.

5. If a primary structure on a property is demolished but nonconforming accessory structures remain, a primary permitted use on the site must be applied for within one year or remaining accessory structures will need to be demolished. A performance bond or financial security equal to 150% of the cost of labor and materials required for the demolition of accessory structures shall be submitted prior to City acceptance of project of primary structure demolition.

6. Residential structures and uses located in any single-family or multiple-family residential zoning district and in existence at the time of adoption of this title shall not be deemed nonconforming in terms of bulk, use, or density provisions of this title. Such buildings may be rebuilt after a fire or other natural disaster to their original dimensions and bulk, but may not be changed except as provided in the non-conforming uses section of this chapter.

7. Single-family structures in single- or multiple-family residential zone districts that have legally nonconforming building setbacks, shall be allowed to expand the ground floor only along the existing building line(s), so long as the existing distance from the nearest point of the structure to the property line is not reduced, and the square footage of new intrusion into the setback does not exceed 50% of the square footage of the current intrusion.

8. In wetlands, watercourses and their buffers, existing structures that do not meet the requirements of the Critical Areas Overlay District chapter of this title may be remodeled, reconstructed or replaced, provided that:

a. The new construction does not further intrude into or adversely impact an undeveloped critical area or the required buffer, except where an interrupted buffer waiver has been granted by the Director. However, legally constructed buildings, other than accessory structures, may:

(1) Expand vertically to add upper stories in exchange for buffer enhancement, provided no significant tree is removed.

(2) Expand laterally along the building side that is opposite of critical area up to a maximum of 1,000 square feet, provided that expansion is outside 75 percent of the required buffer; buffer enhancement is proposed; and no significant tree is removed.

(3) Expand laterally along the existing building lines in exchange for buffer enhancement, provided the expansion into the buffer is less than 50 percent of the current encroachment or 500 square feet, whichever is less; expansion is outside 75 percent of the required buffer; and no significant tree is removed.

(4) Enclose within existing footprint in exchange for buffer enhancement, provided no significant tree is removed.

b. The new construction does not threaten the public health, safety or welfare.

c. The structure otherwise meets the requirements of this chapter.

9. In areas of potential geologic instability, coal mine hazard areas, and buffers, as defined in the Critical Areas Overlay District chapter of this title, existing structures may be remodeled, reconstructed or replaced, provided that:

a. The new construction is subject to the geotechnical report requirements and standards of TMC Sections 18.45.120.B and 18.45.120.C;

b. The new construction does not threaten the public health, safety or welfare;

c. The new construction does not increase the potential for soil erosion or result in unacceptable risk or damage to existing or potential development or to neighboring properties; and

d. The structure otherwise meets the requirements of this chapter.

(Ord. 2678 §21, 2022; Ord. 2625 §66, 2020; Ord. 2518 §15, 2016; Ord. 1819 §1 (part), 1997)

18.70.060 Repairs and Maintenance

If any building is devoted in whole or in part to any nonconforming use, work may be done in any period of twelve consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding 25% of the current replacement value of the building.

(Ord. 1819 §1 (part), 1997)

18.70.070 Building Safety

A. Nothing in this title shall be deemed to prevent the strengthening or restoring to a safe condition of any nonconforming building or part thereof declared to be unsafe by order of any City official charged with protecting the public safety.

B. Alterations or expansion of a nonconforming use which are required by law or a public agency in order to comply with public health or safety regulations are the only alterations or expansions allowed.

(Ord. 1819 §1 (part), 1997)

18.70.080 Nonconforming Parking Lots

A. Nothing contained in the Off-street Parking and Loading Regulations chapter of this title shall be construed to require a change in any aspect of a structure or facility covered thereunder including, without limitation, parking lot layout, loading space requirements and curb-cuts, for any structure or facility which existed on the date of adoption of this title.

B. If a change of use takes place, or an addition is proposed, which requires an increase in the parking area by an increment less than 100%, the requirements of the Off-street Parking and Loading Regulations chapter of this title shall be complied with for the additional parking area.

C. If a change of use takes place, or an addition is proposed, which requires an increase in the parking area by an increment greater than 100%, the requirements of the Off-street Parking and Loading Regulations chapter of this title shall be complied with for the entire parking area.

(Ord. 1819 §1 (part), 1997)

18.70.090 Nonconforming Landscape Areas

A. Adoption of the landscaping regulations contained in this title shall not be construed to require a change in the landscape improvements for any legal landscape area which existed on the date of adoption of this title, unless and until a change of use or alteration of the structure requiring design review approval is proposed (see TMC Chapter 18.60).

B. At such time as a change requiring design review approval is proposed for a use or structure, and the associated premises does not comply with the landscape requirements of this title, a landscape plan which conforms to the requirements of this title shall be submitted for approval along with the design review application. The BAR (or DCD Director in the case of administrative design review) may modify the standards imposed by this title when, in their judgment, strict compliance with the landscaping standards of this code would create substantial practical difficulties, the existing and proposed additional landscaping and screening materials together will adequately screen or buffer possible use incompatibilities, soften the barren appearance of parking or storage areas, and/or adequately enhance the premises appropriate to the use district and location of the site.

(Ord. 2005 §19, 2002; Ord. 1872 §15, 1999; Ord. 1819 §1 (part), 1997)

18.70.100 Conditional and Unclassified Uses

A legal use does not become nonconforming because the zone in which it is located is changed to a zone which requires a conditional or unclassified use permit for the use, or because the use is changed from an allowed use to a conditional or unclassified use within the same zone; provided, however, the use may not be expanded nor may buildings be enlarged, altered or modified without first obtaining a conditional or unclassified use permit if required pursuant to requirements of TMC Chapters 18.64 or 18.66.

(Ord. 1819 §1 (part), 1997)

18.70.110 Nonconforming Adult Entertainment Establishments

Notwithstanding any other provision of this chapter, any adult entertainment use or establishment which is rendered nonconforming by the provisions of any ordinance of the City shall be terminated or discontinued within 90 days from the effective date of that ordinance.

1. The owner or operator of any adult entertainment use or establishment which is rendered nonconforming by the provisions of any ordinance of the City may appeal the 90-day termination provision of this section by filing a notice of appeal with the City Clerk within 60 days of the effective date of this section.

2. Within ten days of receipt of a notice of appeal, the City Clerk shall schedule a hearing on the appeal before a hearing examiner. The hearing shall be no later than 20 days from the date of receipt by the City of the notice of appeal, unless extended by mutual agreement of the parties. The hearing examiner shall be the City Clerk or his/her designee.

3. Within ten days, excluding weekends and holidays recognized by the City, from the date of the hearing on an appeal under this section, the hearing examiner shall issue a written decision, which shall set forth the hearing examiner's findings of fact and conclusions of law. The hearing examiner shall consider the following factors and any other factors that he/she determines to be relevant or helpful in reaching a decision:

a. The harm or hardship to the appellant caused by the 90-day termination provision of this section;

b. The benefit to the public to be gained from termination of the use;

c. The nature of the leasehold or other ownership interest that an appellant may have in premises occupied by the adult entertainment use;

d. Restrictions or lack of same imposed on an appellant's use of such premises by a lease or other binding agreement;

e. Amounts expended by an appellant for improvements to such premises or for necessary equipment and the extent to which those amounts have been recovered through depreciation, tax savings, or whether such improvements are contemplated to be left as property of the lessor; and

f. Any clear evidence of substantial economic harm caused by enforcement of the 90-day termination provision of this section.

4. Any appeal of the 90-day termination provision filed pursuant to this section shall be classified as a Type 1 decision to be rendered by the Hearing Examiner pursuant to the provisions of TMC Chapters 18.104 and 18.108.

(Ord. 1819 §1 (part), 1997)

18.70.120 Sidewalk Dedication

No building setback or landscape area on the subject lot at the time of donation or easement to the City for sidewalk purposes shall become nonconforming by reasons of such donation or easement.

(Ord. 1819 §1 (part), 1997)

18.70.130 Cargo Containers

A. All cargo containers that have been installed in the LDR, MDR, HDR, MUO, O, RCC, NCC, RC, RCM, TUC or C/LI zones as of April 15, 2002 must either receive Type 2 special permission approval or be removed by April 15, 2003. Criteria for approval are as follows:

1. Only one cargo container will be allowed per lot.

2. The cargo container is sufficiently screened from adjacent properties, parks, trails and rights-of-way, as determined by the Director. Screening may be a combination of solid fencing, landscaping, or the placement of the cargo containers behind, between or within buildings.

3. If located adjacent to a building, the cargo container must be painted to match the building's color.

4. Cargo containers may not occupy any required off-street parking spaces.

5. Cargo containers shall meet all setback requirements for the zone.

6. Outdoor cargo containers may not be stacked.

B. All containers so approved will be considered legal structures and may remain in place so long as the location and screening are not altered. If an approved cargo container is moved off a residential zoned property containing a residential use, no new container may be moved onto the property.

(Ord. 1989 §10, 2002)

CHAPTER 18.72
VARIANCES

Sections:

18.72.010 Purpose

It is the purpose of this chapter to authorize upon appeal in specific cases such variances from the provisions of the zoning ordinance or other land use regulatory ordinances as the City may adopt which will not be contrary to the public interest and only where, owing to special conditions, a literal enforcement of the provisions of such ordinance(s) would result in unnecessary hardship.

(Ord. 1758 §1 (part), 1995)

18.72.020 Criteria for Granting Variance Permit

The Hearing Examiner shall consider all requests for variance from the Zoning Code; variance from the provisions of such ordinances shall not be granted by the Hearing Examiner unless the Hearing Examiner finds that the applicant has demonstrated all of the following facts and conditions exist:

1. The variance shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and in the zone in which the property on behalf of which the application was filed is located.

2. The variance is necessary because of special circumstances relating to the size, shape, topography, location or surrounding of the subject property in order to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located.

3. The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and in the zone in which the subject property is situated.

4. The authorization of such variance will not adversely affect the implementation of the Comprehensive Land Use Policy Plan.

5. The granting of such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same zone or vicinity.

6. The need for the variance is not the result of deliberate actions of the applicant or property owner.

(Ord. 2500 §32, 2016; Ord. 1796 §3 (part), 1997; Ord. 1758 §1 (part), 1995)

18.72.030 Conditions for Granting - Extension

In authorizing the variance, the Hearing Examiner may attach thereto such conditions that it deems to be necessary or desirable in order to carry out the intent and purposes of this chapter and in the public interest. A variance so authorized shall become void after the expiration of one year or a longer period as specified at the time of the Hearing Examiner action, if no building permit has been issued in accordance with the plans for which such variance was authorized, except that the Hearing Examiner may extend the period of variance authorization without a public hearing for a period not to exceed twelve months upon a finding that there has been no basic change in pertinent conditions surrounding the property since the time of the original approval.

(Ord. 1796 §3 (part), 1997; Ord. 1758 §1 (part), 1995)

18.72.040 Application Requirements

An application to the Hearing Examiner for the issuance of a variance shall be made on forms prescribed by the DCD. All applications shall be accompanied by a filing fee as required in the Application Fees chapter of this title. All variances shall be processed as Type 3 decisions pursuant to TMC 18.108.030.

(Ord. 1796 §3 (part), 1997; Ord. 1770 §48, 1996; Ord. 1758 §1 (part), 1995)

18.72.070 Prohibited Variance

Under no circumstances shall the Hearing Examiner grant a variance to permit a use not generally or conditionally permitted in the zone involved, or any use expressly or by implication prohibited by the terms of this title in said zone.

(Ord. 1796 §3 (part), 1997; Ord. 1758 §1 (part), 1995)

CHAPTER 18.80

AMENDMENTS TO THE COMPREHENSIVE PLAN AND DEVELOPMENT REGULATIONS

Sections:

18.80.010 Application

A. Any interested person (including applicants, residents, City staff and officials, and staff of other agencies) may submit an application for a text amendment to the Comprehensive Plan to the Department. Such applications, except site specific rezones along with the underlying Comprehensive Plan map change, are legislative decisions and are not subject to the requirements or procedures set forth in TMC Chapters 18.104 to 18.116. The application shall specify, in a format established by the Department:

1. A detailed statement of what is proposed and why;
2. A statement of the anticipated impacts of the change, including the geographic area affected and the issues presented by the proposed change;
3. An explanation of why the current Comprehensive Plan or development regulations are deficient or should not continue in effect;
4. A statement of how the proposed amendment complies with and promotes the goals and specific requirements of the Growth Management Act;
5. A statement of how the proposed amendment complies with applicable Countywide Planning Policies;
6. A statement of what changes, if any, would be required in functional plans (i.e., the City's water, sewer, storm water or shoreline plans) if the proposed amendment is adopted;
7. A statement of what capital improvements, if any, would be needed to support the proposed change, and how the proposed change will affect the capital facilities plans of the City; and
8. A statement of what other changes, if any, are required in other City codes, plans or regulations to implement the proposed change.

(Ord. 2717 §2, 2023; Ord. 2368 §64, 2012; Ord. 1770 §52, 1996; Ord. 1758 §1 (part), 1995)

18.80.020 Comprehensive Plan Amendment Docket

A. Purpose. The purpose of this section is to establish procedures, pursuant to chapter RCW 36.70A, for the review and amendment of the Comprehensive Plan.

1. The Growth Management Act, chapter RCW 36.70A, provides that the Comprehensive Plan amendments be considered no more than once a year with limited exceptions. The Growth Management Act further provides that all proposals shall be considered by the governing body concurrently so the cumulative effect of the various proposals can be ascertained.
2. The Annual Comprehensive Plan Amendment Review Docket ("Annual Review Docket") will establish the annual list of proposed Comprehensive Plan amendments and related development regulations that the City Council determines should be included for review and consideration for any given year.
3. Placement of an amendment request on the Annual Review Docket does not mean the amendment request will be approved by the City Council.

B. If either the Department or the Council determines that a proposed change is an emergency, the Department shall prepare the staff report described below and forward the proposed change to the Council for immediate consideration, subject to the procedural requirements for consideration of amendments. An emergency amendment is a proposed change or revision that necessitates expeditious action to address one or more of the following criteria:

1. Preserve the health, safety or welfare of the public.
2. Support the social, economic or environmental well-being of the City.
3. Address the absence of adequate and available public facilities or services.
4. Respond to decisions by the Central Puget Sound Growth Management Hearings Board, the state or federal courts, or actions of a state agency or the legislature.

C. Non-emergency changes shall be compiled and submitted to the Council for review on an annual basis to establish items to be included on the annual docket, and so that cumulative effects of the proposals can be determined. Proposed changes received by the Department after January 1 of any year shall be held over for the following year's review, unless the Department determines the proposed change is an emergency.

(Ord. 2717 §4, 2023; Ord. 2071 §1, 2004; Ord. 1770 §54, 1996; Ord. 1758 §1 (part), 1995)

18.80.030 Notice and Comment

The docket of proposed changes shall be posted on the Department of Community Development's website and made available to any interested person. At least 28 days prior to the Council's annual consideration of the changes proposed on the docket, the City shall publish a notice in a newspaper of general circulation in the City, generally describing the proposed changes including areas affected, soliciting written public input to the Department on the proposed changes, and identifying the date on which the Council will consider the proposed changes.

(Ord. 2717 §5, 2023; Ord. 1758 §1 (part), 1995)

18.80.040 Staff Report

A. At least 14 days prior to Council consideration of any proposed amendment to the Comprehensive Plan, the Department shall prepare and submit to the Council a staff report that addresses the following:

1. An evaluation of the application material;
2. Impact upon the Tukwila Comprehensive Plan and zoning code;
3. Impact upon surrounding properties, if applicable;
4. Alternatives to the proposed amendment; and
5. Appropriate code citations and other relevant documents.

B. The Department's report shall transmit a copy of the application for each proposed amendment, any written comments on the proposals received by the Department, and shall contain the Department's recommendation on adoption, rejection, or deferral of each proposed change.

(Ord. 2717 §6, 2023; Ord. 1758 §1 (part), 1995)

18.80.050 Review Procedure for Comprehensive Plan Docket Requests

A. The City Council shall consider each request for an amendment to the Comprehensive Plan at a Council meeting, at which any person may submit a written comment on the proposed change or make an oral presentation. Such opportunities for oral presentation shall be subject to reasonable time limitations established by the Council.

B. The Council will consider the following in deciding what action to take regarding any proposed amendment:

1. Is the issue already adequately addressed in the Comprehensive Plan?
2. If the issue is not addressed in the Comprehensive Plan, is there a public need for the proposed change?
3. Is the proposed change the best means for meeting the identified public need?
4. Will the proposed change result in a net benefit to the community?

C. Following Council consideration as provided by TMC Sections 18.80.050.A and 18.80.050.B, the City Council shall take action as follows:

1. Add the proposed amendment to the Annual Review Docket and refer it to the Planning Commission for further review and a recommendation to the City Council;
2. Defer further Council consideration for one or more years to allow the City further time to evaluate the application of the existing plan or regulations and consider it as part of a future Annual Review Docket; or
3. Reject the proposed amendment.

(Ord. 2717 §7, 2023; Ord. 2368 §66, 2012; Ord. 1856 §1, 1998; Ord. 1770 §55, 1996; Ord. 1758 §1 (part), 1995)

18.80.060 Council Decision

Following receipt of the Planning Commission's recommendation on a proposed amendment referred to the Commission, the City Council shall hold a public hearing on the proposal, for which public notice has been provided as required under the Public Notice of Hearing chapter of this title. Following the public hearing, the City Council may:

1. adopt the amendment as proposed;
2. modify and adopt the proposed amendment; or
3. reject the proposed amendment.

(Ord. 1856 §2, 1998; Ord. 1758 §1 (part), 1995)

CHAPTER 18.82

AMENDMENTS TO DEVELOPMENT REGULATIONS

Sections:

18.82.010 Application

Any interested person (including applicants, residents, City staff and officials, and staff of other agencies) may submit an application for a text amendment to the Tukwila Municipal Code development regulations to the Department. Such applications are legislative decisions and are not subject to the requirements or procedures set forth in TMC Chapters 18.104 to 18.116. The application shall specify, in a format established by the Department:

1. A detailed statement of what is proposed and why;
2. A statement of the anticipated impacts of the change, including the geographic area affected and the issues presented by the proposed change;
3. An explanation of why the current regulations are deficient or should not continue in effect;
4. A statement of what changes, if any, would be required in functional plans (i.e., the City's water, sewer, stormwater or shoreline plans) if the proposed amendment is adopted;
5. A statement of what capital improvements, if any, would be needed to support the proposed change, and how the proposed change will affect the capital facilities plans of the City; and
6. A statement of what other changes, if any, are required in other City codes plans or regulations to implement the proposed change.

(Ord. 2717 §9, 2023)

18.82.020 Staff Report

A. Prior to consideration of any proposed amendment, the Department shall prepare and submit to the reviewing body a staff report that addresses the following:

1. An evaluation of the application materials;
2. Impact upon the Tukwila Comprehensive Plan and Zoning Code;
3. Impact upon surrounding properties, if applicable;
4. Alternatives to the proposed amendment; and
5. Appropriate code citations and other relevant documents.

B. The Department's report shall transmit a copy of the application for each proposed amendment, any written comments on the proposals received by the Department, and shall contain the Department's recommendation on adoption, rejection, or deferral of each proposed change.

(Ord. 2717 §10, 2023)

18.82.030 Review Procedures

The following shall apply to processing a text amendment to development regulations:

1. The City Council shall either forward the amendment to the Planning Commission for a recommendation or reject the amendment.
2. If the Planning Commission is directed to review the amendment, the Planning Commission shall, after considering the amendment at a public hearing, vote and forward a written recommendation to the City Council.
3. The Planning Commission's written recommendation shall be presented to the City Council unchanged and accompanied by an Informational Memorandum that includes any staff proposed changes to the Planning Commission's recommendation. If any of staff's proposed changes are substantively different from the Planning Commission's recommendation, the City Council may remand the changes to the Planning Commission before proceeding further with action on the amendment.
4. At least one public hearing shall be held before the Planning Commission prior to the City Council acting on an amendment. An additional hearing before the City Council may be held at the Council's discretion.
5. At least 14 days prior to the public hearing, the City shall publish a notice in the City's newspaper of record generally describing the proposed changes including areas affected, soliciting written public input to the Department on the proposed changes, and identifying the date on which the proposed changes will be considered.

(Ord. 2717 §11, 2023)

18.82.040 Council Decision

Following receipt of the Planning Commission's recommendation on a proposed amendment the City Council may:

1. Adopt the amendment as proposed;
2. Modify and adopt the proposed amendment;
3. Remand to the Planning Commission for further proceedings; or
4. Deny the proposed amendment.

(Ord. 2717 §12, 2023)

CHAPTER 18.84
REQUESTS FOR CHANGES IN ZONING

Sections:

18.84.010 Application Submittal

Applications for rezone of property, along with the request for a Comprehensive Plan map change, shall be submitted to the Department. Proposed changes received by the Department after January 1 of any year shall be held over for the following year's review. A site specific rezone and the accompanying Comprehensive Plan map change application shall be a Type 5 decision processed in accordance with the provisions of TMC Section 18.108.050.

(Ord. 2717 §13, 2023; Ord. 2368 §67, 2012; Ord. 2116 §1 (part), 2006)

18.84.015 Documents to be Submitted with Application

A. Applications for rezones and the accompanying Comprehensive Plan map change shall provide the following documents in such quantities as are specified by the Department:

1. An application form provided by the Department.
2. King County Assessor's map(s) which show the location of each property within 300 feet of the property that is the subject of the proposed amendment.
3. Two sets of mailing labels for all property owners and occupants (businesses and residents), including tenants in multiple occupancy structures, within 300 feet of the subject property, or pay a fee to the City for generating mailing labels.
4. A vicinity map showing the location of the site.
5. A surrounding area map showing Comprehensive Plan designations, zoning designations, shoreline designations, if applicable, and existing land uses within a 1,000-foot radius from the site's property lines.
6. A site plan, including such details as may be required by the Department.
7. A landscaping plan, including such details as may be required by the Department.
8. Building elevations of proposed structures, including such details as may be required by the Department.
9. Such photomaterial transfer or photostat of the maps, site plan and building elevation, including such details as may be required by the Department.
10. Such other information as the applicant determines may be helpful in evaluating the proposal, including color renderings, economic analyses, photos, or material sample boards.

B. The Department shall have the authority to waive any of the requirements of this section for proposed amendments when, in the Department's discretion, such information is not relevant or would not be useful to consideration of the proposed amendment.

(Ord. 2368 §68, 2012)

18.84.020 Criteria

Each determination granting a rezone and the accompanying Comprehensive Plan map change shall be supported by written findings and conclusions, showing specifically that all of the following conditions exist:

1. The proposed amendment to the Zoning Map is consistent with the goals, objectives, and policies of the Comprehensive Plan;
2. The proposed amendment to the Zoning Map is consistent with the scope and purpose of TMC Title 18, "Zoning Code," and the description and purpose of the zone classification applied for;
3. There are changed conditions since the previous zoning became effective to warrant the proposed amendment to the Zoning Map; and
4. The proposed amendment to the Zoning Map will be in the interest of furtherance of the public health, safety, comfort, convenience and general welfare, and will not adversely affect the surrounding neighborhood, nor be injurious to other properties in the vicinity in which the subject property is located.

(Ord. 2368 §69, 2012; Ord. 2116 §1 (part), 2006)

18.84.030 Conditions on Rezone Approvals

The City Council shall have the authority to impose conditions and safeguards as it deems necessary to protect or enhance the health, safety and welfare of the surrounding area, and to ensure that the rezone fully meets the findings set forth in TMC 18.84.020.

(Ord. 2116 §1 (part), 2006)

18.84.040 Council Decision

A. After holding a public hearing and evaluating the application against the criteria at TMC Section 18.84.020, the City Council may:

1. Adopt the rezone and map amendment as proposed;
2. Modify or condition the proposed rezone and map amendment; or
3. Deny the proposed rezone and map amendment.

B. Action under TMC Chapter 18.84, which amends the official Zoning Map, shall require the adoption of an ordinance by the City Council pursuant to the Tukwila Municipal Code and State law. Due to the Growth Management Act, RCW 36.70A, which provides that Comprehensive Plan amendments be considered no more frequently than once a year, any rezone ordinance must be adopted by the Council concurrently with action on the Annual Review Docket items.

(Ord. 2717 §14, 2023; Ord. 2116 §1 (part), 2006)

CHAPTER 18.86
DEVELOPMENT AGREEMENTS

Sections:

18.86.010 Development Agreements - Authorized

The City may enter into a development agreement with a person having ownership or control of real property within its jurisdiction. The City may enter into a development agreement for real property outside its boundaries as part of a proposed annexation or a service agreement. A development agreement must set forth the development standards and other provisions that shall apply to and govern and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement.

(Ord. 2378 §2, 2012)

18.86.020 "Development Standards" Defined

For purposes of this chapter, the term "development standards" means and includes, but is not limited to:

1. Project elements such as permitted uses, residential densities, and non-residential densities and intensities or building sizes;
2. The amount and payment of impact fees imposed or agreed to in accordance with any applicable provisions of state law, any reimbursement provisions, other financial contributions by the property owner, or dedications;
3. Mitigation measures, development conditions, and other requirements under chapter 43.21C RCW;
4. Design standards such as maximum heights, setbacks, drainage and water quality requirements, landscaping, and other development features;
5. Parks and open space preservation;
6. Phasing;
7. Review procedures and standards for implementing decisions;
8. A build-out or vesting period for applicable standards; and
9. Any other development requirement or procedure deemed appropriate by the City Council.

(Ord. 2378 §3, 2012)

18.86.030 Development Standards, Flexibility

A development agreement shall be consistent with applicable development regulations to the fullest extent possible; *provided,* a development agreement may allow development standards different from those otherwise imposed under the Tukwila Municipal Code in order to provide flexibility to achieve public benefits, respond to changing community needs, or encourage modifications which provide the functional equivalent or adequately achieve the purposes of otherwise applicable City standards. Any approved development standards that differ from those in the Code shall not require any further zoning reclassification, variance from City standards or other City approval apart from development agreement approval. The development standards as approved through a development agreement shall apply to and govern the development and implementation of each covered site in lieu of any conflicting or different standards or requirements elsewhere in the Tukwila Municipal Code. Subsequently adopted standards that differ from those of a development agreement adopted by the City as provided in this chapter shall apply to the covered development project only where necessary to address imminent public health and safety hazards or where the development agreement specifies a time period or phase after which certain identified standards can be modified. Determination of the appropriate standards for future phases that are not fully defined during the initial approval process may be postponed. Building permit applications shall be subject to the building codes/regulations/ordinances and fire codes/ regulations/ordinances in effect when the permit is applied for.

(Ord. 2378 §4, 2012)

18.86.040 Exercise of City Police Power and Contract Authority

As provided in RCW 36.70B.170(4), the execution of a development agreement is a proper exercise of the City's police power and contract authority. Accordingly, a development agreement may obligate a party to fund or provide services, infrastructure, or other facilities. A development agreement shall reserve authority to impose new or different regulations to the extent required by a serious threat to public health and safety.

(Ord. 2378 §5, 2012)

18.86.050 Form – Public Hearing Required

Development agreements shall be consistent with RCW 36.70B.170 through 36.70B.210. All development agreements shall be in a form and content as approved by the City Attorney. Development agreements shall be approved by ordinance or resolution and shall be subject to review and approval by the City Council after a duly noticed public hearing pursuant to RCW 36.70B.200.

(Ord. 2378 §6, 2012)

18.86.060 Conditions of Approval

In approving a development agreement, conditions of approval shall at a minimum establish:

1. A site plan for the entire project, showing locations of sensitive areas and buffers, required open spaces, perimeter buffers, location and range of densities for residential development, and location and size of non-residential development;
2. The expected build-out time period for the entire project and the various phases, if proposed;
3. Project phasing, if proposed, and other project-specific conditions to mitigate impacts on the environment, on public facilities and services including transportation, utilities, drainage, police and fire protection, schools, and parks;
4. Road and storm water design standards that shall apply to the various phases, if proposed, of the project;
5. Bulk design and dimensional standards that shall be implemented throughout subsequent development within the project;
6. The size and range of uses authorized for any non-residential development within the project; and
7. Any sewer and/or water comprehensive utility plans or amendments required to be completed before development can occur.
8. Any other item deemed necessary by the City Council.

(Ord. 2378 §7, 2012)

18.86.070 Recording

A development agreement shall be recorded with the real property records of the county in which the property is located pursuant to RCW 36.70B.190.

(Ord. 2378 §8, 2012)

18.86.080 Discretionary, Legislative Act

The decision of the City Council to approve or reject a request for a development agreement shall be a discretionary, legislative act.

(Ord. 2378 §9, 2012)

CHAPTER 18.88
APPLICATION FEES

Sections:

18.88.010 Application Fees

Land use application fees and charges shall be paid at the time an application or request is filed with the City. All fees and charges shall be per the Land Use Fee Schedule most recently adopted by the City Council.

(Ord. 1994 §1, 2002; Ord. 1971 §20, 2001; Ord. 1834 §6, 1998; Ord. 1758 §1 (part), 1995)

18.88.020 Affordable Housing Fee Reductions

Design review, reasonable use exception, platting, planned residential development, SEPA, conditional use and shoreline permit fees for the entitlement of dwelling units may be reduced by the DCD Director when requested in writing by the property owner prior to permit submittal and when all of the following conditions are met:

1. Fee reduction table.

Unit Size	Affordability Target [1]	Fee Reduction
2 or more bedrooms	80% [2]	40%
2 or more bedrooms	60% [2]	60%
Any size	50% [2]	80%

[1] – Units to be sold or rented to a person or household whose monthly housing costs, including utilities other than telephone, do not exceed 30% of the household's monthly income.

[2] – Percentage of King County Median family income adjusted for family size as reported by the U.S. Department of Housing and Urban Development.

2. If the project contains a mix of dwelling units that qualify for fee reduction per the table in subparagraph 1 above and units that do not qualify due to unit size or expense, the fee reduction shall be pro-rated to reflect the proportion of low-income units in the project.

3. If converted to market rate housing within 10 years of the issuance of the Certificate of Occupancy, the full applicable permit fees at the time of conversion shall be paid to the City.

4. If the project contains commercial tenant space that occupies more than 15% of the building, along with dwelling units that qualify for fee reduction per the table in subparagraph 1 above, the fee reduction shall be pro-rated to reflect the proportion of the total building square footage occupied by the low-income units. Commercial spaces that occupy less than 15% of the building are considered accessory and will not affect the fee reduction.

(Ord. 2520 §3, 2016)

CHAPTER 18.90
APPEALS

Sections:

18.90.010 Appeals from Decisions or Interpretations of the Director

A. Any person aggrieved by any interpretation of this title by the Director may appeal the Director's interpretation to the Hearing Examiner. Any such appeal shall be a Type 2 decision and shall be processed pursuant to TMC 18.108.020.

B. At the time the appeal is filed, the appealing party shall pay an appeal fee pursuant to the fee schedule.

(Ord. 2120 §3, 2006; Ord. 1796 §3 (part), 1997; Ord. 1770 §62, 1996; Ord. 1758 §1 (part), 1995)

18.90.040 Appeals from Decisions of the City Council

The action of the City Council on all matters shall be final and conclusive unless, within ten days from the date of the Council's action, an applicant or an aggrieved party makes an application to the Superior Court of King County for a writ of certiorari, a writ of prohibition, or a writ of mandamus.

(Ord. 1758 §1 (part), 1995)

CHAPTER 18.96
ADMINISTRATION AND ENFORCEMENT

Sections:

18.96.010 Administrative Responsibility

The Director, as the duly authorized representative of the Mayor, is charged with the responsibility of carrying out the provisions of the zoning ordinance. He may be provided with the assistance of such other persons as the Mayor may direct.

(Ord. 1758 §1 (part), 1995)

18.96.020 Interpretations

An interpretation of this title by the Director or the Director's delegate may be requested in writing by any person or may be initiated by the Director. A decision by the Director that an issue is not subject to an interpretation request shall be final and not subject to administrative appeal. Any request for interpretation shall be a Type 2 Decision filed with the Director, accompanied by a fee according to the most recently adopted Land Use Fee Schedule. The interpretation of the Director shall be given substantial weight, and the burden of establishing the contrary shall be upon the appellant.

(Ord. 2117 §1, 2006; Ord. 1758 §1 (part), 1995)

18.96.030 Review of Zoning Compliance

No department, official, or employee of the City shall issue an occupancy permit until there has been endorsed thereon certification of compliance with the applicable regulations of this title by the Director or his delegate. For the purposes of Chapter 18.96, an occupancy permit shall mean the review and recording of zoning compliance as accomplished through the building permit and business license application procedures.

(Ord. 2251 §74, 2009; Ord. 1758 §1 (part), 1995)

18.96.040 Performance Bond

The Department of Community Development may authorize the issuance of a temporary occupancy permit conditioned upon the subsequent completion or satisfaction of unfulfilled requirements or regulations, or uncompleted development proposals. A condition for issuance of such temporary permit may be the posting with the City of a performance bond or its equivalent, to insure fulfillment of all conditions to which such permit is subject. The conditions to which such temporary occupancy permit is subject shall be listed upon the permit or attached thereto. No occupancy permit or certificate of occupancy shall be issued except as hereinabove provided. No occupancy permit shall be issued until all such conditions are satisfied. If the conditions are not satisfied within one year from the date of the deadline specified in the temporary occupancy permit, demand may be made by the City against the bond, or its equivalent, for completion and performance. Prior to such demand being given, the Director shall give ample notice to the person or persons involved.

(Ord. 1758 §1 (part), 1995)

18.96.050 Amount of Bond, or Equivalent

The performance bond, or equivalent, shall be in a form acceptable to the City Attorney, and represent a proportion of the fair cost estimate of the proposed development or improvement as determined by the Director, according to the following schedule:

Fair Cost Estimate	Amount of Bond
Up to $50,000	100% of estimate
$50,001 to $100,000	75% of estimate
$100,001 to $250,000	50% of estimate
$250,001 and over	25% of estimate

(Ord. 1758 §1 (part), 1995)

18.96.060 Change in Use

Whenever a change in use of land or structures takes place the owner of such land or structures shall be required to submit an application for an occupancy permit for the new use or structures within 15 days of the date of such change in use. Failure to do so shall be a violation of this title.

(Ord. 1758 §1 (part), 1995)

18.96.070 Record of Certificates Issued

The Director or his/her delegate shall circulate a request for an occupancy permit for a change in use to all City departments, and shall maintain a record of all occupancy permits issued.

(Ord. 1758 §1 (part), 1995)

18.96.110 Penalty

Any violation of any provision, or failure to comply with any of the requirements of this chapter, shall be subject to enforcement and penalties as prescribed in TMC Chapter 8.45 and the issuance of a Notice of Violation in accordance with TMC Section 8.45.070.

(Ord. 2549 §25, 2017; Ord. 1758 §1 (part), 1995)

18.96.120 Other Legal Action

Nothing herein contained shall prevent the City from seeking such other legal or equitable remedies as may be available to prevent or remedy any violation.

(Ord. 1758 §1 (part), 1995)

CHAPTER 18.100

STANDARDS FOR APPROVAL OF PERMITS

Sections:

18.100.010 Determination of Consistency with Adopted Plans and Regulations - Type 1 and 2 Decisions

When the Department issues a decision on a Type 1 or 2 decision, the Department or hearing body shall determine whether the decision is consistent with, carries out and helps implement applicable state laws and regulations and the regulations, policies, objectives and goals of the City of Tukwila Comprehensive Plan, the City of Tukwila's Development Regulations and other official laws, policies and objectives of the City of Tukwila. The Department is not required to enter findings of fact or conclusions when issuing Type 1 and 2 decisions, provided that findings of fact and conclusions are required for Shoreline Substantial Development permits.

(Ord. 1769 §1 (part), 1996)

18.100.020 Determination of Consistency with Adopted Plans and Regulations - Appeals of Type 2 Decisions

When a hearing body renders a decision on an appeal of a Type 2 decision, the hearing body shall make and enter findings of fact and conclusions from the record which support the decision or recommendation. Such findings and conclusions shall set forth and demonstrate the manner in which the decision or recommendation is consistent with, carries out and helps implement applicable state laws and regulations and the regulations, policies, objectives and goals of the City of Tukwila Comprehensive Plan, the City of Tukwila's Development Regulations and other official laws, policies and objectives of the City of Tukwila.

(Ord. 1769 §1 (part), 1996)

18.100.030 Determination of Consistency with Adopted Plans and Regulations - Type 3, 4 and 5 Decisions

When a hearing body renders a decision on a Type 3, 4 or 5 decision, the hearing body shall make and enter findings of fact and conclusions from the record that support the decision or recommendation. Such findings and conclusions shall set forth and demonstrate the manner in which the decision or recommendation is consistent with, carries out and helps implement applicable state laws and regulations and the regulations, policies, objectives and goals of the City of Tukwila Comprehensive Plan, the City of Tukwila's Development Regulations and other official laws, policies and objectives of the City of Tukwila.

(Ord. 2500 §33, 2016; Ord. 1769 §1 (part), 1996)

18.100.040 Additional Findings - Reclassifications and Shoreline Redesignations

When the City Council makes a decision regarding an application for a reclassification of property or for a shoreline environment redesignation, the decision shall include additional findings which support the conclusion that at least one of the following circumstances applies:

1. The reclassification is for the purpose of achieving consistency with the Comprehensive Plan; or

2. The applicant has demonstrated with substantial evidence that:

a. Since the adoption of the last version of the Comprehensive Plan or Shoreline Master Program affecting the subject property, authorized public improvements, permitted private development or other conditions or circumstances affecting the subject property have undergone substantial and material change not anticipated or contemplated in the adopted Comprehensive Plan or Shoreline Master Program;

b. The impacts from the changed conditions or circumstances affect the subject property in a manner and to a degree different than other properties in the vicinity such that rezoning or redesignation by means of a generalized amendment to the Comprehensive Plan or Shoreline Master Program is not appropriate; and

c. The requested reclassification or redesignation is required in the public interest.

(Ord. 1769 §1 (part), 1996)

18.100.050 Additional Findings - Preliminary Plats

When the hearing body makes a decision regarding an application for a proposed preliminary plat, the decision shall include additional findings as to whether:

1. Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students walking to and from school.

2. The public use and interest will be served by the platting of such subdivision and dedication.

3. If the hearing body finds that the proposed subdivision and dedication make such appropriate provisions and that the public use and interest will be served, then the hearing body shall approve the proposed subdivision and dedication. Dedication of land to any public body, provision of public improvements to serve the subdivision, and/or impact fees may be required as a condition of subdivision approval. Dedications shall be clearly shown on the final plat.

(Ord. 2500 §34, 2016; Ord. 1769 §1 (part), 1996)

CHAPTER 18.104

PERMIT APPLICATION TYPES AND PROCEDURES

Sections:

18.104.010 Classification of Project Permit Applications

Project permit decisions are classified into five types, based on the degree of discretion associated with each decision, as set forth in this section. Procedures for the five different types are distinguished according to who makes the decision, whether public notice is required, whether a public meeting and/or a public hearing is required before a decision is made, and whether administrative appeals are provided.

1. **TYPE 1 DECISIONS** are made by City administrators who have technical expertise, as designated by ordinance. Type 1 decisions may be appealed to the Hearing Examiner who will hold a closed record appeal hearing based on the information presented to the City administrator who made the decision. Public notice is not required for Type 1 decisions or for the appeals of those decisions.

TYPE 1 DECISIONS

TYPE OF PERMIT	DECISION MAKER
Administrative Variance for Noise – 30 days or less *(TMC Section 8.22.120)*	Community Development Director
Any land use permit or approval issued by the City, unless specifically categorized as a Type 2, 3, 4, or 5 decision by this chapter	As specified by ordinance
Boundary Line Adjustment, including Lot Consolidation *(TMC Chapter 17.08)*	Community Development Director
Minor Modification of a Boundary Line Adjustment or Lot Consolidation Preliminary Approval *(TMC Section 17.08.030)*	Community Development Director
Development Permit	Building Official
Minor modification to design review approval *(TMC Section 18.60.030)*	Community Development Director
Minor Modification to PRD *(TMC Section 18.46.130)*	Community Development Director
Tree Permit *(TMC Chapter 18.54)*	Community Development Director
Wireless Communication Facility, Eligible Facilities *(TMC Chapter 18.58)*	Community Development Director

2. **TYPE 2 DECISIONS** are decisions that are initially made by the Director or, in certain cases, other City administrators or committees, but which are subject to an open record appeal to the Hearing Examiner, Board of Architectural Review, or, in the case of shoreline permits, an appeal to the State Shorelines Hearings Board pursuant to RCW 90.58.

TYPE 2 DECISIONS

TYPE OF PERMIT	INITIAL DECISION MAKER	APPEAL BODY (open record appeal)
Administrative Design Review *(TMC Section 18.60.030)*	Community Development Director	Board of Architectural Review
Administrative Planned Residential Development *(TMC Section 18.46.110)*	Short Plat Committee	Hearing Examiner
Administrative Variance for Noise – 31-60 days *(TMC Section 8.22.120)*	Community Development Director	Hearing Examiner
Binding Site Improvement Plan *(TMC Chapter 17.16)*	Short Plat Committee	Hearing Examiner

TYPE OF PERMIT	INITIAL DECISION MAKER	APPEAL BODY (open record appeal)
Cargo Container Placement *(TMC Section 18.50.060)*	Community Development Director	Hearing Examiner
Code Interpretation *(TMC Section 18.90.010)*	Community Development Director	Hearing Examiner
Exception from Single-Family Design Standard *(TMC Section 18.50.050)*	Community Development Director	Hearing Examiner
Modification to Development Standards *(TMC Section 18.41.100)*	Community Development Director	Hearing Examiner
Parking standard for use not specified *(TMC Section 18.56.100)*, and modifications to certain parking standards *(TMC Sections 18.56.065, .070, .120)*	Community Development Director	Hearing Examiner
Critical Areas (except Reasonable Use Exception) *(TMC Chapter 18.45)*	Community Development Director	Hearing Examiner
Shoreline Substantial Development Permit *(TMC Chapter 18.44)*	Community Development Director	State Shorelines Hearings Board
Shoreline Tree Permit	Community Development Director	Hearing Examiner
Short Plat *(TMC Chapter 17.12)*	Short Plat Committee	Hearing Examiner
Minor Modification of a Short Plat Preliminary Approval *(TMC Section 17.12.020)*	Community Development Director	Hearing Examiner
Minor Modification of a Subdivision Preliminary Plat *(TMC Section 17.14.020)*	Community Development Director	Hearing Examiner
Subdivision – Final Plat *(TMC Section 17.14.030)*	Community Development Director	Hearing Examiner
Modification to TUC Corridor Standards *(TMC Section 18.28.110.C)*	Community Development Director	Hearing Examiner
Modification to TUC Open Space Standards *(TMC Section 18.28.250.D.4.d)*	Community Development Director	Hearing Examiner
Transit Reduction to Parking Requirements *(TMC Section 18.28.260.B.5.b)*	Community Development Director	Hearing Examiner
Wireless Communication Facility, Macro Facilities – No New Tower *(TMC Section 18.58.060)*	Community Development Director	Hearing Examiner

3. **TYPE 3 DECISIONS** are quasi-judicial decisions made by the Hearing Examiner following an open record hearing. Type 3 decisions may be appealed only to Superior Court, except for shoreline variances and shoreline conditional uses that may be appealed to the State Shorelines Hearings Board pursuant to RCW 90.58.

TYPE 3 DECISIONS

TYPE OF PERMIT	INITIAL DECISION MAKER	APPEAL BODY (closed record appeal)
Resolve uncertain zone district boundary	Hearing Examiner	Superior Court
Variance (zoning, shoreline, sidewalk, land alteration, sign)	Hearing Examiner	Superior Court
TSO Special Permission Use *(TMC Section 18.41.060)*	Hearing Examiner	Superior Court
Conditional Use Permit	Hearing Examiner	Superior Court
Modifications to Certain Parking Standards *(TMC Chapter 18.56)*	Hearing Examiner	Superior Court
Reasonable Use Exceptions under Critical Areas Ordinance *(TMC Section 18.45.180)*	Hearing Examiner	Superior Court
Variance for Noise in excess of 60 days *(TMC Section 8.22.120)*	Hearing Examiner	Superior Court
Variance from Parking Standards over 10% *(TMC Section 18.56.140)*	Hearing Examiner	Superior Court
Subdivision – Preliminary Plat with no associated Design Review application *(TMC Section 17.14.020)*	Hearing Examiner	Superior Court
Subdivision Phasing Plan *(TMC Section 17.14.040)*	Hearing Examiner	Superior Court
Wireless Communication Facility, Macro Facility – New Tower *(TMC Chapter 18.58.070)*	Hearing Examiner	Superior Court
Shoreline Conditional Use Permit	Hearing Examiner	State Shorelines Hearings Board

4. **TYPE 4 DECISIONS** are quasi-judicial decisions made by the Board of Architectural Review or the Planning Commission, following an open record hearing. Type 4 decisions may be appealed to the Hearing Examiner based on the record established by the Board of Architectural Review or Planning Commission.

TYPE 4 DECISIONS

TYPE OF PERMIT	INITIAL DECISION MAKER	APPEAL BODY (closed record appeal)
Public Hearing Design Review *(TMC Chapter 18.60)*	Board of Architectural Review	Hearing Examiner
Subdivision – Preliminary Plat with an associated Design Review application *(TMC Section 17.14.020)*	Planning Commission	Hearing Examiner
Subdivision Phasing Plan (for a subdivision with an associated Design Review) *(TMC Section 17.14.040)*	Planning Commission	Hearing Examiner

5. **TYPE 5 DECISIONS** are quasi-judicial decisions made by the Hearing Examiner or City Council following an open record hearing. Type 5 decisions may be appealed only to Superior Court.

TYPE 5 DECISIONS

TYPE OF PERMIT	INITIAL DECISION MAKER	APPEAL BODY (closed record appeal)
Planned Residential Development (PRD), including Major Modifications *(TMC Chapter 18.46)*	City Council	Superior Court
Site specific rezone along with an accompanying Comprehensive Plan map change *(TMC Chapter 18.84)*	City Council	Superior Court
Critical Area Master Plan Overlay *(TMC Section 18.45.160)*	City Council	Superior Court
Shoreline Environment Re-designation (Shoreline Master Program)	City Council	Superior Court
Unclassified Use *(TMC Chapter 18.66)*	City Council	Superior Court

(Ord. 2718 §6, 2023; Ord. 2678 §22, 2022; Ord. 2649 §11, 2021; Ord. 2627 §32, 2020; Ord. 2442 §6, 2014; Ord. 2368 §70, 2012; Ord. 2251 §75, 2009; Ord. 2235 §19, 2009; Ord. 2135 §19, 2006; Ord. 2119 §1, 2006)

18.104.020 Consolidation of SEPA Procedures and Appeals

Except as provided in TMC 21.04.280, no administrative appeals of procedural and substantive SEPA decisions shall be permitted. In any case in which an administrative appeal of a procedural or substantive SEPA decision is made, the hearing on such appeal shall be consolidated with the hearing on the merits of the underlying permit(s).

(Ord. 1768 §2 (part), 1996)

18.104.030 Consolidation of Permit Applications

A. Applicants shall have the right to request that all permit applications related to a single project be processed as a consolidated permit application.

B. All permits included in consolidated permit applications that would require more than one Type of land use decision process, shall be processed together, including any administrative appeals, using the highest numbered land use decision Type applicable to the project application; *except* that decisions on Type 1 applications shall still be made by the responsible administrative agency or officer and shall not be subject to administrative review or appeal.

(Ord. 1768 §2 (part), 1996)

18.104.040 Relationship to SEPA

Land use permits that are categorically exempt from review under the State Environmental Policy Act ("SEPA") will not require a threshold determination. For all other projects, the SEPA review procedures codified in TMC Chapter 21.04 are supplemental to the procedures set forth in TMC Chapter 18.104.

(Ord. 1768 §2 (part), 1996)

18.104.050 Pre-Application Conferences

Prior to filing a permit application requiring a Type 1, 2, 3, 4 or 5 decision, the applicant may contact the Department to schedule a pre-application conference. The purpose of the pre-application conference is to review and discuss the application requirements with the applicant and provide comments on the development proposal. The pre-application conference shall be scheduled by the Department at the request of an applicant, and shall be held in a timely manner.

(Ord. 1768 §2 (part), 1996)

18.104.060 Application Requirements

In order to comply with the requirements of RCW 36.70B.080 (which requires that the City specify the contents of a complete application for a land use permit), RCW 36.70B.070 (which requires the City to determine whether applications are complete within 28 days of submission) and RCW 36.70B.090 (which requires the City to make a decision on a permit application within 120 days of determining the application is complete), the following standards for permit applications are established:

1. Applications shall be made by the property owner, lessee, contract purchaser, governmental agency, or by an authorized agent thereof. The Department shall not commence review of any application set forth in this chapter until the applicant

has submitted the materials and fees specified for complete applications. Applications shall be considered complete as of the date of submittal upon determination by the Department that the materials submitted meet the requirements of this section. Except as provided in Subsections 2 and 4 of this section, all land use permit applications shall include the following in quantities specified by the Department:

a. An application form provided by the Department and completed by the applicant. The applicant shall be allowed to file a consolidated application for all land use project permits requested by the applicant for the development proposal at the time the application is filed.

b. If the water utility serving the site is an entity other than the City, a current Certificate of Water Availability from the water utility purveyor serving the site pursuant to TMC 14.36.010.

c. Site percolation data approved by the Seattle-King County Department of Environmental Health pursuant to TMC 14.36.020 if the site is proposed for development using a septic system, or a Certificate of Sewer Availability from the sewer utility purveyor serving the site if the sewer utility serving the site is an entity other than the City.

d. A site plan, prepared in a form prescribed by the Director.

e. Proof that the lot or lots are recognized as separate lots pursuant to the provisions of TMC Title 17 and RCW 58.17.

f. Any sensitive areas studies required by TMC Chapter 18.45.

g. A completed environmental checklist, if required by TMC Chapter 21.04.

h. A list of any existing environmental documents known to the applicant or the City that evaluate any aspect of the proposed project.

i. A list of any permits or decisions applicable to the development proposal that have been obtained prior to filing the application or that are pending before the City or any other governmental entity.

j. A storm water design which meets the requirements set forth in the Surface Water Design Manual adopted pursuant to TMC 16.54.060.

k. For land use permits requiring a Type 3, 4 or 5 decision: current Assessor's maps and a list of tax parcels to which public notice must be given; a set of mailing labels addressed to the owners thereof; and a set of mailing address labels addressed to the occupants thereof, including tenants in multiple occupancy structures, to the extent the owner's addresses are not the same as the street addresses of the properties to which notice is required. In lieu of the mailing labels, the applicant can pay public notice mailing fee as established by the Land Use Fee Schedule.

l. Legal description of the site.

m. A soils engineering report for the site.

n. Traffic study or studies, if required pursuant to TMC Chapter 9.48.

o. A landscaping plan, if required by TMC Chapter 18.52.

p. A tree-clearing plan, if required by TMC Chapter 18.54.

q. A parking plan, if required by TMC Chapter 18.56.

r. Design review plans and related documents, if required by TMC Chapter 18.60 or the Shoreline Master Program.

s. Verification of applicable contractor's registration number, if required by RCW 18.27.110.

2. The Director may waive any of the specific submittal requirements listed in this section that are determined to be unnecessary for review of an application.

3. A permit application is complete for purposes of this section when it meets the procedural submission requirements of the Department and is sufficient for continued processing even though additional information may be required or project modifications may be subsequently undertaken. The determination of completeness shall not preclude the Department from requesting additional information or studies either at the time of notice of completeness or subsequently if new or additional information is required or substantial changes in the proposed action occur, as determined by the Department.

4. There are additional application requirements for the following land use permits, which must be provided in addition to the materials identified in this section in order for an application to be deemed complete:

a. Land altering permit, see TMC 16.54.100, .110 and .230.

b. Construction permits, see TMC Title 16, building and construction codes.

c. Water system connections, see TMC 14.04.030.

d. Sanitary sewer connection, see TMC 14.12.070.

e. Flood control zone permit, see TMC 16.52.070.

f. Short subdivisions, see TMC 17.08.030.

g. Preliminary subdivisions, see TMC 17.12.020.

h. Final subdivisions, see TMC 17.12.030.

i. Binding site improvement plans, see TMC 17.16.030.

j. Planned residential developments, see TMC 18.46.110.

k. Sign permits, see TMC 19.12.020 and .030.

l. Shoreline substantial development permits, shoreline conditional use permits and shoreline variances, see TMC Chapter 18.44, RCW 90.58 and the applicable Shoreline Master Program.

m. Wireless communication facility permits, see Chapter TMC 18.58.

5. The applicant shall attest by written oath to the accuracy of all information submitted for an application. The Department shall have the authority to require the applicant to submit a title report or other proof of ownership of the property or other proof of the applicant's authority to submit an application regarding the property.

6. Applications shall be accompanied by the payment of applicable filing fees, if any.

(Ord. 2251 §76, 2009; Ord. 2135 §20, 2006; Ord. 1768 §2 (part), 1996)

18.104.070 Notice of Complete Application to Applicant

A. Within 28 days following receipt of a permit application, the Department shall mail or provide in person written notice to the applicant that the application is either complete or incomplete. If the application is incomplete, the notice shall state with specificity what is necessary to make the application complete. To the extent known by the Department, the notice shall identify other agencies of local, state, regional or federal governments that may have jurisdiction over some aspect of the development proposal.

B. An application shall be deemed complete under this section if the Department does not provide written notice to the applicant that the application is incomplete within the 28-day period as provided herein.

C. If the application is incomplete and the applicant submits the additional information requested by the Department, the Department shall mail or provide in person written notice to the applicant, within 14 days following the receipt of the additional information, whether the application is complete or what further information, specified by the Department as provided in TMC 18.104.070A, is necessary to make the application complete. An application shall be deemed complete if the Department fails to provide written notice to the applicant within such 14-day period that the application is incomplete.

D. An application shall be conclusively deemed to be complete on the Department's issuance of a notice of complete application as provided in Subsections A or C hereof, or the expiration of the time periods for issuance of such a notice as provided in Subsections B or C hereof.

E. The Department shall cancel an incomplete application if the applicant fails to submit the additional information required by TMC 18.104.070A or 070C within 90 days following notification from the Department that the application is incomplete. The Department may extend this cancellation date up to 120 additional days if the applicant submits a written request for an extension prior to cancellation. The request must clearly demonstrate that the delay is due to circumstances beyond the applicant's control (such as the need for seasonal wetland data) or unusual circumstances not typically faced by other applicants, and that a good faith effort has been made to provide the requested materials.

F. The fact that an application is deemed complete pursuant to this section shall not, under any circumstances, prevent the City from subsequently requesting additional information or studies regarding any aspect of a proposed project which is deemed necessary to a complete review of the proposed project.

(Ord. 1768 §2 (part), 1996)

18.104.080 Notice of Application - Contents

A. A Notice of Application shall be provided to the public and departments and agencies with jurisdiction for all land use permit applications requiring Type 2, 3, 4 or 5 decisions and for all Type 1 decisions which require SEPA review, except that a Notice of Application is not required in the case of a Code Interpretation pursuant to TMC 18.96.010 or a Sign Permit Denial pursuant to TMC Chapter 19.12.

B. A Notice of Application shall be issued by the Department within 14 days following the Department's determination that the application is complete.

C. If the Responsible Official has made a Determination of Significance (DS) under RCW 43.21 prior to the issuance of the Notice of Application, notice of the determination shall be combined with the Notice of Application. If a determination of significance (DS) has been made prior to the issuance of the Notice of Application, the Notice of Application shall also include the scoping notice required by WAC 197-11-360.

D. All required Notices of Application shall contain the following information:

1. The file number.

2. The name of the applicant and the owner of the property, if different than the applicant.

3. A description of the project, the location, a list of the permits included in the application and the location where the application and any environmental documents or studies can be reviewed.

4. A statement establishing a public comment period, which shall be 14 days for Type 1, 2, 3 and 4 decisions and 21 days for Type 5 decisions following the date of the Notice of Application, provided that a public comment period is not required in the case of a Code Interpretation pursuant to TMC 18.96.010 or a Sign Permit Denial pursuant to TMC Chapter 19.12, and further provided that the comment period for projects requiring a Shoreline Substantial Development permit shall be either 20 or 30 days, as specified in RCW 90.58.140.

5. The procedures and deadline for filing comments, requesting notice of any required hearings, and any appeal rights. Any person may comment in writing on the application during the public comment period, and may participate by submitting either written or oral testimony, or both, at any hearings, and may request a copy of the decision once made. The Notice shall specify any appeal procedures that apply to the permit application.

6. For Type 5 decisions, the date, time and place of the public meeting required by TMC 18.108.050 and an explanation of the purpose of and procedure to be followed at such meeting.

7. The date, time place and type of hearing, if applicable and scheduled at the time of notice.

8. The identification of other permits not included in the application to the extent known by the Department.

9. A statement of the preliminary determination, if one has been made, of those development regulations that will be used for project mitigation and for determining consistency with applicable City requirements.

E. Additional information is required by RCW 90.58 for Notices of Application for projects which require a Shoreline Substantial Development permit.

F. Except for a determination of significance, the Department shall not issue a threshold determination pursuant to RCW 43.21C, and the Department shall not issue a decision or a recommendation on the application until the expiration of the public comment period on the Notice of Application.

(Ord. 2251 §77 2009; Ord. 1768 §2 (part), 1996)

18.104.090 Notice of Application - Procedure

Notice of Application shall be provided as follows:

1. For all Type 2, 3, 4 and 5 decisions, and Type 1 decisions which require SEPA review, the Notice of Application shall be mailed by first class mail to the applicant and to departments and agencies with jurisdiction, except that a Notice of Application is not required in the case of a Code Interpretation pursuant to TMC 18.96.020 or a Sign Permit Denial pursuant to TMC Chapter 19.12.

2. For Type 1 decisions and Type 2 decisions which require SEPA review, the Notice of Application shall be provided by posting pursuant to TMC 18.104.110, provided that the Notice of Application for a Type 1 decision involving a single-family residence need not be posted but shall be published one time in a newspaper of general circulation in the City.

3. For short plats of 5 through 9 lots and Type 3, 4 and 5 applications, the Notice of Application shall be posted pursuant to TMC 18.104.110 and mailed pursuant to TMC 18.104.120. Notice requirements for secure community transition facilities shall be in accordance with RCW 71.09.315 as amended.

4. For applications which require any Shoreline permit, additional notice shall be provided as required by RCW 90.58.

5. For preliminary plats, additional published notice shall be provided as required by RCW 58.17.090(a).

6. The Director shall have the discretion in unusual circumstances (i.e., lengthy utility corridor or right-of-way construction projects) where posting and mailed notice would be impractical, to require the notice of application to be published in a newspaper of general circulation in the area where the proposal is located, in lieu of posting and mailed notice

7. Email notification can substitute for large mailings where the parties of record were informed about this form of notification and they elected to receive information electronically.

(Ord. 2251 §78, 2009; Ord. 1991 §13, 2002; Ord. 1834 §8, 1998; Ord. 1768 §2 (part), 1996)

18.104.100 Party of Record

Any person who (1) submits comments, in writing, on an application during the public comment period, (2) requests, in writing, copies of notice of any public hearing on an application (3) requests, in writing, copies of any decision on the application, (4) testifies on an application at a public hearing, or (5) who otherwise indicates, in writing, a desire to be informed of the status of the application, shall be a party of record. The applicant shall always be considered a party of record.

(Ord. 1768 §2 (part), 1996)

18.104.110 Posted Notice

Posted notice for a proposal shall consist of one or more notice boards prepared and posted by the applicant within 14 days following the Department's determination of completeness as follows:

1. A single notice board shall be posted for a project. This notice board shall also be used for the posting of the Notice of Decision and any Notice of Hearing, and shall be placed by the applicant as follows:

a. The notice board shall be located at the midpoint of the site street frontage or as otherwise directed by the Department for maximum visibility.

b. The notice board shall be five feet inside the street property line except when the board is structurally attached to an existing building, provided that no notice board shall be placed more than five feet from the street property without approval of the Department.

c. Notice boards shall be at least four feet by four feet in size and shall be designed, constructed and installed in accordance with specifications promulgated by the Department.

d. The top of the notice board shall be between seven to nine feet above grade.

e. The notice board shall be placed so that it is completely visible to pedestrians.

2. Additional notice boards may be required by the Department when:

a. The site does not abut a public road;

b. A large site abuts more than one public road; or

c. The Department determines that additional notice boards are necessary to provide adequate public notice.

3. Notice boards shall be maintained in good condition by the applicant during the notice period as follows:

a. For Type 3, 4 or 5 decisions, from 14 days after the determination of completeness until the date of the public hearing on the application.

b. For Type 2 decisions requiring posted notice of application, from 14 days after the determination of completeness until the later of (i) 14 days after the issuance of a decision by the Director or other administrative authority, or (ii) the date of any administrative appeal hearing on the application.

c. For a Type 1 decision requiring posted notice of application, from 14 days after the determination of completeness until the expiration of the public comment period.

d. For any project requiring a Shoreline Substantial Development permit, the notice board shall be posted for a minimum of 30 days.

4. The Department shall have the discretion to determine that removal of the notice board prior to the end of the notice period, or failure to maintain it in good condition, is cause for discontinuance of review of the application until the notice board is replaced and remains in place for a specified time period.

5. An affidavit of posting shall be submitted to the Department by the applicant within 14 days following the

Department's determination of completeness to allow continued processing of the application by the Department.

(Ord. 1768 §2 (part), 1996)

18.104.120 Mailed Notice

A. Mailed notice shall be issued by the Department within 14 days following the Department's determination of completeness as follows:

1. To owners of record of property within 500 feet of the site, and to the occupants thereof to the extent the street addresses of such properties are different than the mailing addresses of the owners.

2. To any agency or tribe which the Department may identify as having an interest in the proposal.

3. To any other party of record.

B. Mailed notice shall be considered supplementary to posted notice and be deemed satisfactory despite the failure of one or more persons to receive mailed notice.

(Ord. 2251 §79, 2009; Ord. 1768 §2 (part), 1996)

18.104.130 Time Periods for Permit Issuance

A. Final decisions by the City on all permits shall be issued within 120 days from the date the applicant is notified by the Department that the application is complete. The following periods shall be excluded from this 120-day period:

1. Any period of time during which the applicant has been requested by any City department, agency or hearing body with jurisdiction over some aspect of the application to correct plans, perform required studies, or provide additional information. The period shall be calculated from the date the applicant is notified of the need for additional information until the earlier of:

(a) the date the department, agency or heaing body determines whether the additional information satisfies the request, or

(b) 14 days after the date the information has been provided to the department, agency or hearing body.

If the department, agency or hearing body determines that the action by the applicant is insufficient, it shall notify the applicant of the deficiencies and the procedures of this section shall apply as if a new request for information had been made.

If the applicant fails to provide a requested correction or additional information within 90 days of the request the Department may cancel the application due to inactivity.

2. The period of time during which an environmental impact statement is being prepared following a determination of significance pursuant to RCW 43.21C.

3. A period of no more than 90 days for an open record appeal hearing on a Type 2 land use decision, and no more than 60 days for a closed record appeal on a Type 4 land use decision appealable to the City Council.

4. Any additional time period for administrative review agreed upon by the Department and the applicant.

5. Any additional time period agreed upon by the Department, the applicant and any parties to an appeal.

6. Any period of time during which an applicant fails to post the property, if permit processing is suspended by the Department pursuant to TMC 18.104.110.

B. The time limits established in this section shall not apply if a project permit application requires an amendment to the comprehensive plan or a development regulation.

C. The time limitations established in this section shall not apply to street vacations or other approvals related to the use of public areas or facilities issued pursuant to TMC Title 11.

D. If a final decision cannot be issued within the time limits established by this section, the Department shall provide written notice of this fact to the project applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the notice of final decision.

(Ord. 2097 §23, 2005; Ord. 1768 §2 (part), 1996)

18.104.140 Applications - Modifications to Proposal

A modification to project plans occurring before issuance of the permit shall be deemed a new application for the purpose of establishing time periods pursuant to TMC 18.104.130 when such modification would result in a substantial change in a project's review requirements, as determined by the Department.

(Ord. 1768 §2 (part), 1996)

18.104.150 Vesting

A. Applications for Type 1, 2, 3, 4 and Type 5 decisions (other than rezones and shoreline environment redesignations) shall be considered under the zoning and other land use control ordinances in effect on the date a complete application is filed meeting all of the requirements of TMC 18.104.070. The Department's issuance of a notice of complete application as provided in TMC 18.104.070A or 070C, or the failure of the Department to provide such a notice as provided in TMC 18.104.070B or 070C, shall cause an application to be deemed complete for purposes of the vested rights doctrine.

B. Supplemental information required after filing of a complete application shall not affect the validity of the vesting for such application.

C. Vesting of an application does not vest any subsequently required permits, nor does it affect the requirements for vesting of subsequent permits or approvals.

D. A determination that an application is complete shall not be deemed to affect the requirement of the vested rights doctrine that an application is not vested if it fails to comply with the zoning and other land use control ordinances in effect at the time a complete application is filed.

(Ord. 1768 §2 (part), 1996)

18.104.160 Hearing Scheduling - Notice of Hearing

A. At least 14 days prior to any public hearings on Type 3, 4 and 5 decisions, open record appeal hearings on Type 2 decisions and closed record appeal hearings on Type 4 decisions, the Department shall issue a Notice of Hearing by mail pursuant to the provisions of TMC 18.104.120. Notice requirements for secure community transition facilities shall be in accordance with RCW 71.09.315 as amended.

In addition, at least 14 days before such hearing, the Director shall post the Notice of Hearing on any posted notice board(s) erected pursuant to TMC 18.104.110. Such Notice of Hearing shall include the following information:

1. The file number.
2. The name of the applicant.
3. A description of the project, the location, a list of the permits included in the application, and the location where the application, the staff report, and any environmental documents or studies can be reviewed.
4. The date, time, place and type of hearing.
5. The phone number of the Department and the name of the staff person who can provide additional information on the application and the hearing.

B. The Director shall have the discretion to include additional information in the Notice of Hearing if the Director determines that such information would increase public awareness or understanding of the proposed project.

C. Email notification can substitute for large mailings where the parties of record were informed about this form of notification and they elected to receive information electronically.

(Ord. 2251 §80, 2009; Ord. 1991 §14, 2002; Ord. 1768 §2 (part), 1996)

18.104.170 Notice of Decision

A. The Department shall provide written notice in a timely manner of the final decision on permits requiring Type 2, 3, 4 and 5 decisions and on permits requiring Type 1 decisions which require SEPA review. Such notice shall identify the threshold determination, if any, and the procedures for administrative appeals, if any. Notice shall be delivered by first class mail, email or in person to the applicant, to the Department of Ecology and to agencies with jurisdiction, and to all parties of record.

B. Notices of Decision for Shoreline Substantial Development permits shall also comply with the requirements of RCW 90.58.

(Ord. 2368 §71, 2012; Ord. 1768 §2 (part), 1996)

18.104.180 Referral to Other City Departments

The Department shall refer permit applications and portions of permit applications to other City departments and administrators with authority and/or expertise to review such applications. The Department shall incorporate the decisions and consider the recommendations of such other City departments and administrators in permits, approvals and recommendations issued pursuant to this Title.

(Ord. 1768 §2 (part), 1996)

18.104.190 Date of Mailing

All notices issued pursuant to this chapter shall be deemed to have been issued on the date on which they are mailed by the Department.

(Ord. 1768 §2 (part), 1996)

CHAPTER 18.108
DECISION PROCESSES

Sections:

18.108.010 Type 1 Decision Process

A. Type 1 decisions shall be made by the City department or officer specified by ordinance.

B. Type 1 decisions shall be final unless an appeal is filed with the City department pursuant to TMC Chapter 18.116.

(Ord. 1847 §3, 1998; Ord. 1768 §3 (part), 1996)

18.108.020 Type 2 Decision Process

A. All Type 2 decisions shall be made by the Director, or in appropriate cases, the Short Plat Committee, pursuant to the procedures set forth in TMC Chapter 18.104.

B. Type 2 decisions other than Shoreline Substantial Development permits shall be final unless appealed to the Hearing Examiner, the Planning Commission, or City Council, as specified in TMC 18.104.010.

C. All appeals of Type 2 decisions other than appeals of Shoreline Substantial Development permits shall be filed with the Department, which shall coordinate scheduling of the appeal hearing with the appropriate appeal hearing body.

D. Appeal of a Shoreline Substantial Development permit shall be to the State Shoreline Hearings Board pursuant to RCW 90.58.

E. In the event that a project involves more than one Type 2 decision appealable to different bodies and no Type 3, 4 or 5 decision, all appeals shall be consolidated in the following sequence:

1. If an appeal to the City Council is involved, all appeals of Type 2 decisions shall be consolidated before the City Council.

2. If no appeal to the City Council is involved, all appeals of Type 2 decision shall be consolidated before the Planning Commission.

F. All appeals of Type 2 decisions shall be open record appeals, processed pursuant to the time limits and other procedures for such appeals specified in TMC Chapter 18.116.

G. Following an open record appeal hearing on a Type 2 decision, the hearing body shall render a written decision, including findings of fact and conclusions, and the Department shall promptly issue a Notice of Decision pursuant to TMC 18.104.170.

H. The decisions of the Hearing Examiner, the Planning Commission and the City Council regarding Type 2 decisions shall be final and shall be appealable only to Superior Court pursuant to RCW 36.70C.

(Ord. 1796 §3 (part), 1997; Ord. 1768 §3 (part), 1996)

18.108.030 Type 3 Decision Process

A. Type 3 decisions shall be made by the Hearing Examiner following an open record public hearing. Such public hearing shall be conducted in accordance with the procedures for open record public hearings specified in TMC Chapter 18.112.

B. Following a public hearing on a Type 3 decision, the hearing body shall render a written decision, including findings of fact and conclusions, and the Department shall promptly issue a Notice of Decision pursuant to TMC 18.104.170.

C. The decision of the Hearing Examiner shall be final and shall be appealable only to Superior Court pursuant to RCW 36.70C.

(Ord. 1796 §3 (part), 1997; Ord. 1768 §3 (part), 1996)

18.108.040 Type 4 Decision Process

A. The Board of Architectural Review or Planning Commission shall make Type 4 Decisions, as appropriate, following an open record public hearing.

B. Type 4 decisions by the Board of Architectural Review or Planning Commission, except shoreline conditional use permits, shall be final unless an appeal is filed to the City Council or Hearing Examiner pursuant to TMC Chapter 18.116.

C. Following a public hearing on a Type 4 decision, the Board of Architectural Review or Planning Commission shall render a written decision, including findings of fact and conclusions, and the Department shall promptly issue a Notice of Decision pursuant to TMC 18.104.170.

D. All appeals of Type 4 decisions shall be filed with the Department within the time limits specified in TMC 18.116.010, except Shoreline Conditional Use Permits, that shall be appealable only to the State Shorelines Hearings Board pursuant to RCW 90.58. The Department shall coordinate scheduling of any City appeal hearing with the City Council.

E. All appeals of Type 4 decisions, except Shoreline Conditional Use Permits, shall be closed-record appeals, and processed pursuant to the time limits for such appeals specified in TMC 18.104.130.

F. Following a closed-record appeal hearing on a Type 4 decision, the City Council or Hearing Examiner shall render a written decision, including findings of fact and conclusions, and the Department shall promptly issue a Revised Notice of Decision pursuant to TMC 18.104.170.

G. The decision of the City Council or Hearing Examiner regarding a Type 4 decision shall be final and shall be appealable only to Superior Court pursuant to RCW 36.70C.

(Ord. 2119 §2, 2006; Ord. 1768 §3 (part), 1996)

18.108.050 Type 5 Decision Process

A. The Notice of Application for a Type 5 decision shall set a date for a public meeting, which shall be conducted at least 5 calendar days prior to the end of the public comment period and at least 14 calendar days prior to the City Council public hearing. The public meeting shall be staffed by a representative of the Department, who shall explain the decision criteria applicable to the proposal and the process by which decisions will be reached. The applicant or applicant's representative shall describe the proposal which is the subject of the application. Information and comments submitted at the public meeting shall be considered by the Department in the preparation of its recommendation to the City Council, but shall not constitute part of the public record to be considered by the City Council in its deliberations.

B. Type 5 decisions shall be made by the City Council following an open record public hearing.

C. Following a public hearing on a Type 5 decision, the City Council shall render a written decision, including findings of fact and conclusions, and the Department shall promptly issue a Notice of Decision pursuant to TMC 18.104.170.

D. The decision of the City Council regarding a Type 5 decision shall be final and shall be appealable only to Superior Court pursuant to RCW 36.70C.

(Ord. 1768 §3 (part), 1996)

18.108.060 Legislative Decisions

The procedures set forth in TMC Chapters 18.104 through 18.116 shall not be applicable to the adoption or amendment of any comprehensive plan or subarea plan, or to area wide rezoning processes, area wide shoreline redesignation processes, street vacations, or other legislative decisions.

(Ord. 1768 §3 (part), 1996)

CHAPTER 18.112
PUBLIC HEARING PROCESSES

Sections:

18.112.010 Rules Applicable to Public Hearings and Appeals

The provisions of this chapter shall apply to all public hearings and to all appeal hearings under this Title. The provisions of this chapter do not apply to the adoption or amendment of the Comprehensive Plan or Development Regulations, or other legislative decisions.

(Ord. 1768 §4 (part), 1996)

18.112.020 Report by Department, Notice of Hearing

A. When a Type 3, 4, or 5 decision has been set for public hearing, or an appeal of a Type 2 decision has been set for an open record appeal hearing, the Department shall coordinate and assemble the reviews of other departments and governmental agencies having an interest in the application and shall prepare a report summarizing the factors involved and the Department's findings and recommendation, or decision, as appropriate. Attachments and appendixes to the report need not be mailed to parties, but shall be made available for inspection and copying during normal City business hours at the Department. Prior to the scheduled hearing, the report, and in the case of appeals, the Notice of Appeal submitted to the City, shall be filed with the hearing body which will conduct the hearing and copies thereof shall be mailed to all parties of record who have requested a copy thereof.

B. If the Notice of Application did not identify a date for the public hearing, a Notice of Hearing shall be issued by the Department at least 14 days prior to any public hearing or open record appeal hearing under this chapter. Such Notice shall be mailed pursuant to TMC 18.104.120 and the posted notice erected pursuant to TMC 18.104.110 shall be modified to include the Notice of Hearing.

C. All required Notices of Hearing shall contain the following information:

1. The file number.
2. The name of the applicant and the owner of the property, if different than the applicant.
3. A description of the project, the location, a list of the permits included in the application and the location where the application, staff report and any environmental documents or studies can be reviewed.
4. The date, time and place of the public hearing.
5. The name and telephone number of the Department staff person who can be called for further information.

(Ord. 1768 §4 (part), 1996)

18.112.030 Hearing Scheduling

Public hearings on Type 3, 4 and 5 decisions, open record appeal hearings on Type 2 decisions and closed record appeal hearings on Type 4 decisions shall be scheduled by the Department to ensure that final decisions are issued within the time periods provided in TMC 18.104.130.

(Ord. 1768 §4 (part), 1996)

18.112.040 Hearing Process - Limitations on Testimony

To avoid unnecessary delay and to promote efficiency of the hearing process, the hearing body shall limit testimony to that which is relevant to the matter being heard, in light of adopted City policies and regulations, and shall exclude evidence and cross examination that is irrelevant, cumulative or unduly repetitious. The hearing body may establish reasonable time limits for the presentation of direct oral testimony, rebuttal testimony and argument.

(Ord. 1768 §4 (part), 1996)

18.112.050 Scope of Decisions

A. Any hearing body conducting a public hearing shall have the authority to approve, deny or approve with conditions a project permit application, based on the hearing body's findings of fact and conclusions.

B. Said findings and conclusions shall set forth and demonstrate the manner in which the action is consistent with, carries out and helps implement applicable state laws and regulations and the regulations, policies, objectives and goals of the City's Comprehensive Plan, the City's Development Regulations and other applicable official laws, ordinances, rules and regulations. Any hearing body may adopt as its own, findings and conclusions recommended by the Department. The City Council may adopt as its own all or portions of Board of Architectural Review and Planning Commission's findings and conclusions regarding Type 4 decisions.

C. In the event that a hearing body determines that it lacks adequate information on which to make findings of fact necessary to its decision, the hearing body may remand the project permit to the Department for additional information, *provided* that if the City Council, in the case of a Type 4 closed record appeal hearing, determines that it lacks adequate information on which to make

findings of fact necessary to its decision, the City Council shall remand the project permit to the Board of Architectural Review or Planning Commission with instructions to re-open the public hearing to take additional testimony and provide the Board of Architectural Review or Planning Commission's findings on the factual issue(s) identified by the City Council as requiring such additional information.

(Ord. 1768 §4 (part), 1996)

18.112.060 Combined Public Hearing Processes - Other Agencies

If requested to do so by the applicant, the Department, pursuant to RCW 36.70B.110(7), shall combine any public hearing held pursuant to this chapter with public hearings held by other agencies on the same project, so long as such joint hearing can be held within the time limits of TMC 18.104.130, unless the applicant agrees to a different hearing schedule.

(Ord. 1768 §4(part), 1996)

CHAPTER 18.116
APPEAL PROCESSES

Sections:

18.116.010 Time for Filing Appeal

A. Except for shoreline permits that are appealable to the State Shorelines Hearings Board, all notice of appeal of Type 2 land use decisions and Type 4 decisions made by the Board of Architectural Review or Planning Commission shall be filed within 14 calendar days from the date of issuance of the Notice of Decision; provided that the appeal period shall be extended for an additional seven calendar days if the project involves any one or more of the following situations:

1. There is another agency with jurisdiction as defined in WAC 197-11-714(3).

2. The project involves the demolition of any structure or facility that is not categorically exempt under WAC 197-11-800(2)(f) or 197-11-880.

3. The project involves a clearing or grading permit not categorically exempt under WAC 197-11 - 800 through 197-11-880.

4. A Mitigated Determination of Nonsignificance was issued for the project pursuant to WAC 197- 11-350.

5. A Declaration of Significance for the project has been withdrawn pursuant to WAC 197-11-360(4) and replaced by a Declaration of Nonsignificance.

B. All notices of appeal shall be submitted along with an appeal fee pursuant to the fee schedule.

C. Any appeal from a code interpretation issued by the Director shall be filed within 14 days of the date of issuance of a final code interpretation by the Director.

D. All notices of appeal of Type 1 decisions issued by City administrators shall be filed within 14 days of the date of the issuance of a final decision of a City administrator.

E. Except as specifically provided in this chapter, no administrative appeals are permitted or required for Type 1, 2, 3, 4, or 5 land use decisions.

(Ord. 2120 §4, 2006; Ord. 1847 §4, 1998; Ord. 1768 §5 (part), 1996)

18.116.020 Dismissal of Untimely Appeals

On its own motion, or on the motion of a party, the Department or any hearing body shall dismiss an appeal for untimeliness or lack of jurisdiction.

(Ord. 1768 §5 (part), 1996)

18.116.030 Notice of Appeal - Contents

A. Every Notice of Appeal shall contain the following information:

1. The name of the appealing party.

2. The address and phone number of the appealing party; and if the appealing party is a corporation, association or other group, the address and phone number of a contact person authorized to receive notices on the appealing party's behalf.

3. A statement identifying the decision being appealed and the alleged errors in that decision. The Notice of Appeal shall state specific errors of fact or errors in application of the law in the decision being appealed; the harm suffered or anticipated by the appellant, and the relief sought. The scope of an appeal shall be limited to matters or issues raised in the Notice of Appeal.

B. The Notice of Appeal shall be distributed by the Department to the body designated to hear the appeal and to parties of record pursuant to TMC 18.112.020A.

(Ord. 1768 §5 (part), 1996)

CHAPTER 18.120

HOUSING OPTIONS PROGRAM - TEMPORARY

Sections:

18.120.010 Program Goals

The goals of the Housing Options Program are to:

1. Increase the choice of housing styles available in the community through projects that are compatible with existing single-family developments;

2. Promote housing affordability and ownership by encouraging smaller homes;

3. Stimulate innovative housing design that improves the character and sense of community in a neighborhood and can serve as a model for other areas;

4. Develop high-quality site, architectural and landscape elements in neighborhoods; and

5. Provide a greater variety of housing types, which respond to changing household sizes and ages (e.g. retirees, small families, single-person households) and provide a means for seniors to remain in their neighborhoods.

(Ord. 2103 §1(part), 2005)

18.120.020 Program Standards

In order to meet the goals of the Housing Options Program as set forth in TMC 18.120.010, there will be flexibility with regard to normally applicable requirements. Standards identified in this section will apply to the selected housing projects and will prevail if they conflict with normal regulations. All other requirements of the City of Tukwila will continue to apply; however, applicants may propose additional modifications to the Tukwila Municipal Code, as provided for within the Code.

1. The Permitted Uses and Basic Development Standards and Maximum Building Footprint sections of the Low-, Medium- and High-Density Residential Districts (TMC 18.10.020, 18.10.060, 18.10.057, 18.12.020, 18.12.070, 18.14.020, 18.14.070); the Supplemental Development Standards (TMC 18.50) that relate to yards, house design and orientation; and the requirements of Minimum Number of Required Parking Spaces (TMC 18.56.050) shall be replaced by the standards identified in this section.

2. Existing homes within a proposed project site must continue to conform to the existing code standards unless it can be demonstrated that the existing home meets the description of a housing type listed below.

3. The density limitations identified in the Land Use Map of the Tukwila Comprehensive Plan shall be determined to have been met as long as the proposed project does not exceed the equivalent unit calculation set forth in TMC 18.120.020-4.

4. The following development parameters, as shown on Figure 18-13, are applicable to all Housing Options Program applications.

5. The following development parameters are supplemental to those in 18.120.020-4, and are applicable to any cottage proposed as a housing options project.

ADDITIONAL HOUSING OPTIONS PROGRAM COTTAGE STANDARDS

Common Open Space	• Shall abut at least 50% of the cottages in the development, and those units must be oriented to and have their main entry from the common open space. • Shall have cottages on at least two sides. • Shall not be required to be indoors. • Each cottage shall be within 60 feet walking distance of the common open space.
Private Open Space	• Shall be oriented to the common open space as much as is feasible. • Shall be in one contiguous and useable piece with a minimum dimension of 10 feet on all sides. • Shall be adjacent to each cottage and be for the exclusive use of the resident of that cottage.
Attached Covered Porches	• 80 square feet minimum per unit. • Shall have a minimum dimension of 8 feet on all sides.
Height	• 18 feet maximum for all structures, except 25 feet maximum for cottages with a minimum roof slope of 6:12 for all parts of the roof above 18 feet.
Parking - surface, garages or carports	• Shall be provided on the subject property. • Shall be screened from public streets and adjacent residential uses by landscaping and/or architectural screening. • Shall be located in clusters of not more than six adjoining spaces. • Shall not be located in the front yard, except on a corner lot where it shall not be located between the entrance to any cottage. • Shall not be located within 40 feet of a public street, except if the stalls lie parallel to the street and the driveway providing access to those stalls has parking on only one side. • May be located between or adjacent to structures if it is located toward the rear of the structure and is served by an alley or driveway. • All garages shall have a pitched roof design with a minimum slope of 4:12.
Community Buildings - if provided	• Shall be clearly incidental in use and size to the cottages. • Shall be commonly owned by the residents of the cottages.

(Ord. 2103 §1 (part), 2005)

18.120.030 Selection Process and Criteria

A. The Director of DCD shall follow the selection criteria outlined in TMC 18.120.030-C to decide which projects are eligible for project selection and allowed to apply for design review and/or for platting.

B. A neighborhood meeting organized by the applicant and attended by City staff shall be required of the applicant in order to evaluate the project for program selection. The applicant must follow the notification procedures outlined in TMC 18.120.060 for public meetings.

C. The Director of Community Development shall be the sole decision-maker on whether an application for consideration in the demonstration program satisfies the criteria. The criteria for project selection for the Housing Options Program are as follows:

1. Consistency with the goals of the housing options program as enumerated in TMC 18.120.010.

2. Not more than one housing option project shall be approved per City neighborhood, which are as follows and illustrated in Figure 18-14.

a. McMicken Heights
b. Tukwila Hill
c. Ryan Hill
d. Allentown
e. Duwamish
f. Foster Point
g. Cascade View
h. Riverton
i. Foster
j. Thorndyke

Foster and Thorndyke are generally divided by South 136th Street and 48th Avenue South.

3. Proposals must be at least 1,500 feet from any other housing project considered under TMC Chapter 18.120.

4. Demonstration of successful development by the applicant of the proposed product elsewhere.

5. The location and size of the project is acceptable and of low impact relative to the neighborhood, the surrounding land uses, topography and street system. For example, attached housing should be located on land with direct access to a collector arterial or along a neighborhood edge or in or adjacent to medium or high-density districts.

6. The concerns of the community are addressed in the proposal's design.

D. The decision of the Director of Community Development, in the form of a letter inviting the applicant to submit for the project within one year of the date of the letter, shall be the final decision of the City on selection of eligible projects and may not be administratively appealed.

(Ord. 2103 §1 (part), 2005)

18.120.040 Fees

There is no fee for application for selection into the Housing Options Program as described in TMC 18.120.030. The adopted fees for the processes, which are described in TMC 18.120.050 shall be charged for the relevant required underlying applications.

(Ord. 2103 §1 (part), 2005)

18.120.050 Review and Application Process

A. *Limited time frame to apply.* When the Director of DCD selects an application as outlined in TMC 18.120.030, the project proponent must apply within one year for the appropriate decision(s) or the selection will become null and void.

B. *Type of Application.* Decision types are described in the Permit Application Types and Procedures Chapter of the Tukwila Zoning Code (TMC Chapter 18.104). In all cases, design review is required and shall be consolidated per "Consolidation of Permit Applications" in the Permit Application Types and Procedures Chapter (TMC Section 18.104.030). The type of land use application shall be determined pursuant to the permit types and thresholds listed under TMC Section 18.104.010.

C. *Decision Criteria.* The relevant decision makers shall use the following criteria to review and either approve, approve with conditions, or deny any project allowed into the Housing Options Program as well as use the relevant decision criteria for design review and/or platting.

1. Meets the goals of the program, as set forth in TMC 18.120.010;

2. Complies with the Multi-family, Hotel and Motel Design Review Criteria, stated in the Board of Architectural Review chapter, Design Review Criteria section of the Tukwila Zoning Code (TMC 18.60.050-C); and

3. Demonstrates the following:

a. The proposal is compatible with and is not larger in scale than surrounding development with respect to size of units, building heights, roof forms, building setbacks from each other and property lines, parking location and screening, access, and lot coverage;

b. Variety is provided through a mixture of building designs, sizes and footprints;

c. The proposal provides elements that contribute to a sense of community within the development and the surrounding neighborhood by including elements such as front entry porches, common open space and/or common building(s); and

d. Any proposed Type 2, 3 and 4 modifications to requirements of the Permit Application Types and Procedures (TMC 18.104), other than those specifically identified in TMC 18.120.020, are important to the success of the proposal as a housing options project.

D. *Expiration of Approval.* When a Notice of Decision is issued on a Housing Options Program project, the applicant shall have one year to apply for subsequent permits.

(Ord. 2368 §72, 2012; Ord. 2103 §1 (part), 2005)

18.120.060 Public Notice

A. Notice of the pre-proposal meeting with the neighborhood will be a letter from the applicant mailed first class to all property owners and residents within 500 feet of the proposed development.

B. Subsequent publishing, mailing and posting shall follow the procedures of the Permit Application Types and Procedures of TMC Chapter 18.104.

(Ord. 2103 §1 (part), 2005)

18.120.070 Program Expiration

The Housing Options Program is available for three years from the effective date of this ordinance. A total of three projects may be developed as part of the Program and selected projects must vest themselves with a Type 2, 4, or 5 application before the program expires on October 8, 2008.

(Ord. 2103 §1 (part), 2005)

18.120.080 Program Evaluation

Upon completion and full occupancy of a project, DCD shall evaluate and report to the Planning Commission and City Council on the results of the Program.

(Ord. 2103 §3, 2005)

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SHORELINE USE MATRIX* *(FIGURE 18-1)*

P = May be permitted subject to development standards. **C** = May be permitted as a Shoreline Conditional Use. **X** = Not Allowed in Shoreline Jurisdiction.	Shoreline Residential		Urban Conservancy		High Intensity		Aquatic Environment
	Buffer	Non-Buffer	Buffer	Non-Buffer	Buffer	Non-Buffer	
AGRICULTURE							
Farming and farm-related activities	X	X	X	P	X	X	X
Aquaculture	X	X	X	X	X	X	X
COMMERCIAL (1)							
General	X	X	X	P	X	P (2)	P (3)
Automotive services, gas (outside pumps allowed), washing, body and engine repair shops (enclosed within a building)	X	X	X	C	X	C (2)	X
Contractors storage yards	X	X	X	C	X	C (2)	X
Water-oriented uses	C	P	C	P	C	P	C
Water-dependent uses	P (4)	P (5)	P (4)	P	P (4)	P	P
Storage	P (6)	P (5)	P (6)	P	P (6)	P	X
CIVIC/INSTITUTIONAL							
General	X	P	X	P	X	P	X
DREDGING							
Dredging for remediation of contaminated substances	C (7)	NA	C (7)	NA	C (7)	NA	C (7)
Dredging for maintenance of established navigational channel	NA	NA	NA	NA	NA	NA	P (8)
Other dredging for navigation	NA	NA	NA	NA	NA	NA	C (9)
Dredge material disposal	X	X	X	X	X	X	X
Dredging for fill	NA	NA	NA	NA	NA	NA	X
ESSENTIAL PUBLIC FACILITY (Water Dependent)	P	P	P	P	P	P	P
ESSENTIAL PUBLIC FACILITY (Nonwater Dependent) (10)	C	C	C	C	C	C	C
FENCES	P (11)	P	C (11)	P	C (11)	P	X
FILL							
General	C (12)	P	C (12)	P	C (12)	P	C (12)
Fill for remediation, flood hazard reduction or ecological restoration	P (13)	P	P (13)	P	P (13)	P	P (13)
FLOOD HAZARD MANAGEMENT							
Flood hazard reduction (14)	P	P	P	P	P	P	P
Shoreline stabilization (15)	P	P	P	P	P	P	P
INDUSTRIAL (16)							
General	X	X	P (3)	P	P (3)	P (2)	P (3)

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P = May be permitted subject to development standards. **C** = May be permitted as a Shoreline Conditional Use. **X** = Not Allowed in Shoreline Jurisdiction.	Shoreline Residential		Urban Conservancy		High Intensity		Aquatic Environment
	Buffer	Non-Buffer	Buffer	Non-Buffer	Buffer	Non-Buffer	
Animal rendering	X	X	X	C	X	X	X
Cement manufacturing	X	X	X	C	X	C (2)	X
Hazardous substance processing and handling & hazardous waste treatment and storage facilities (on or off-site) (17)	X	X	X	X	X	X	X
Rock crushing, asphalt or concrete batching or mixing, stone cutting, brick manufacture, marble works, and the assembly of products from the above materials	X	X	X	C	X	C (2)	X
Salvage and wrecking operations	X	X	X	C	X	C (2)	X
Tow-truck operations, subject to all additional State and local regulations	X	X	X	C	X	P (2)	X
Truck terminals	X	X	X	P	X	P (2)	X
Water-oriented uses	X	X	C	P	C	P	C
Water-dependent uses (17)	X	X	P (4)	P	P (4)	P	P
MINING							
General	X	X	X	X	X	X	X
OVERWATER STRUCTURES (18)							
Piers, docks, and other overwater structures	P (19)	NA	P (20)	NA	P (20)	NA	P (20,21)
Vehicle bridges (public)	P (31, 4)	P (31)	P (31, 4)	P (31)	P (31, 4)	P (31)	P (31)
Vehicle bridges (private)	C	C	C	C	C	C	C
Public pedestrian bridges	P	P	P	P	P	P	P
PARKING – ACCESSORY							
Parking areas limited to the minimum necessary to support permitted or conditional uses	X	P (5)	X	P	X	P	X
RECREATION							
Recreation facilities (commercial – indoor)	X	X	X	P	X	P (22)	X
Recreation facilities (commercial – outdoor)	X	X	C (23, 24)	C (24)	C (23, 24)	C (24)	X
Recreation facilities, including boat launching (public)	P (23)	P	P (23,24, 25)	C	P (23, 25)	P	P (3)
Public and private promenades, footpaths, or trails	P	P	P (26)	P	P (26)	P	X
RESIDENTIAL – SINGLE FAMILY/MULTI-FAMILY							
Dwelling	X (27)	P	X	P	X	X	X
Houseboats	X	X	X	X	X	X	X
Live-aboards	X	X	X	X	X	X	P (21,28)
Patios and decks	P (29)	P	P (29)	P	P	P	X
Signs (30)	P	P	P	P	P	P	X
Shoreline Restoration	P	P	P	P	P	P	P

P = May be permitted subject to development standards. **C** = May be permitted as a Shoreline Conditional Use. **X** = Not Allowed in Shoreline Jurisdiction.	Shoreline Residential		Urban Conservancy		High Intensity		Aquatic Environment
	Buffer	Non-Buffer	Buffer	Non-Buffer	Buffer	Non-Buffer	
TRANSPORTATION							
General	C	C	C	C	C	C	C (3)
Park & ride lots	X	X	X	C (9)	X	C (9)	X
Levee maintenance roads	P (32)	P (32)	P (32)	P (32)	P (32)	P (32)	NA
Railroad	X	P	X	X	X	X	X
UTILITIES							
General (10)	P (4)	P	P (4)	P	P (4)	P	C
Provision, distribution, collection, transmission, or disposal of refuse	X	X	X	X	X	X	X
Hydroelectric and private utility power generating plants	X	X	X	X	X	X	X
Wireless towers	X	X	X	X	X	X	X
Support facilities, such as outfalls	P (33)	P	P (33)	P	P (33)	P	C (33)
Regional detention facilities	X	X	P (34)	P (34)	P (34)	P (34)	X
USES NOT SPECIFIED	C	C	C	C	C	C	C

**This matrix is a summary. Individual notes modify standards in this matrix. Permitted or conditional uses listed herein may also require a shoreline substantial development permit and other permits.*

(1) Commercial uses mean those uses that are involved in wholesale, retail, service and business trade. Examples include office, restaurants, brew pubs, medical, dental and veterinary clinics, hotels, retail sales, hotel/motels, and warehousing.

(2) Nonwater-oriented uses may be allowed as a permitted use where the City determines that water-dependent or water-enjoyment use of the shoreline is not feasible due to the configuration of the shoreline and water body.

(3) Permitted only if water dependent.

(4) Structures greater than 35 feet tall require a conditional use permit.

(5) Permitted if located to the most upland portion of the property and adequately screened and/or landscaped in accordance with the Vegetation Protection and Landscaping section.

(6) Outdoor storage within the shoreline buffer is only permitted in conjunction with a water-dependent use.

(7) Conditionally allowed when in compliance with all federal and state regulations.

(8) Maintenance dredging of established navigation channels and basins is restricted to maintaining previously dredged and/or existing authorized location, depth and width.

(9) Conditionally allowed when significant ecological impacts are minimized and mitigation is provided.

(10) Allowed in shoreline jurisdiction when it is demonstrated that there is no feasible alternative to locating the use within shoreline jurisdiction.

(11) The maximum height of the fence along the shoreline shall not exceed four feet in residential areas or six feet in commercial areas where there is a demonstrated need to ensure public safety and security of property. The fence shall not extend waterward beyond the top of the bank. Chain-link fences must be vinyl coated.

(12) Fill minimally necessary to support water-dependent uses, public access, or for the alteration or expansion of a transportation facility of statewide significance currently located on the shoreline when it is demonstrated that alternatives to fill are not feasible is conditionally allowed.

(13) Landfill as part of an approved remediation plan for the purpose of capping contaminated sediments is permitted.

(14) Any new or redeveloped levee shall meet the applicable levee requirements of this chapter.

(15) Permitted when consistent with TMC Section 18.44.050.F.

(16) Industrial uses mean those uses that are facilities for manufacturing, processing, assembling and/or storing of finished or semi-finished goods with supportive office and commercial uses. Examples include manufacturing processing and/or assembling such items as electrical or mechanical equipment, previously manufactured metals, chemicals, light metals, plastics, solvents, soaps, wood, machines, food, pharmaceuticals, previously prepared materials; warehousing and wholesale distribution; sales and rental of heavy machinery and equipment; and internet data centers.

(17) Subject to compliance with state siting criteria RCW Chapter 70.105 (See also Environmental Regulations, Section 9, SMP).

(18) Permitted when associated with water-dependent uses, public access, recreation, flood control or channel management.

(19) Permitted when the applicant has demonstrated a need for moorage and that the following alternatives have been investigated and are not available or feasible:

(a) commercial or marina moorage;

(b) floating moorage buoys;

(c) joint use moorage pier/dock.

(20) Permitted if associated with water-dependent uses, public access, recreation, flood control, channel management or ecological restoration.

(21) Boats may only be moored at a dock or marina. No boats may be moored on tidelands or in the river channel.

(22) Limited to athletic or health clubs.

(23) Recreation structures such as benches, tables, viewpoints, and picnic shelters are permitted in the buffer provided no such structure shall block views to the shoreline from adjacent properties.

(24) Permitted only if water oriented.

(25) Parks, recreation and open space facilities operated by public agencies and non-profit organizations are permitted.

(26) Plaza connectors between buildings and levees, not exceeding the height of the levee, are permitted for the purpose of providing and enhancing pedestrian access along the river and for landscaping purposes.

(27) Additional development may be allowed consistent with TMC Section 18.44.110.G.2.f. A shoreline conditional use permit is required for water oriented accessory structures that exceed the height limits of the Shoreline Residential Environment.

(28) Permitted in only in the Aquatic Environment and subject to the criteria in TMC Section 18.44.050.K.

(29) Patios and decks are permitted within the shoreline buffer so long as they do not exceed 18 inches in height and are limited to a maximum of 200 square feet and 50% of the width of the river frontage, whichever is smaller. Decks or patios must be located landward of the top of the bank and be constructed to be pervious and of environmentally-friendly materials. If a deck or patio will have an environmental impact in the shoreline buffer, then commensurate mitigation shall be required.

(30) Permitted when consistent with TMC Section 18.44.050.L.

(31) Permitted only if connecting public rights-of-way.

(32) May be co-located with fire lanes.

(33) Allowed if they require a physical connection to the shoreline to provide their support function, provided they are located at or below grade and as far from the OHWM as technically feasible.

(34)Regional detention facilities that meet the City's Infrastructure Design and Construction Standards along with their supporting elements such as ponds, piping, filter systems and outfalls vested as of the effective date of this program or if no feasible alternative location exists. Any regional detention facility located in the buffer shall be designed such that a fence is not required, planted with native vegetation, designed to blend with the surrounding environment, and provide design features that serve both public and private use, such as an access road that can also serve as a trail. The facility shall be designed to locate access roads and other impervious surfaces as far from the river as practical.

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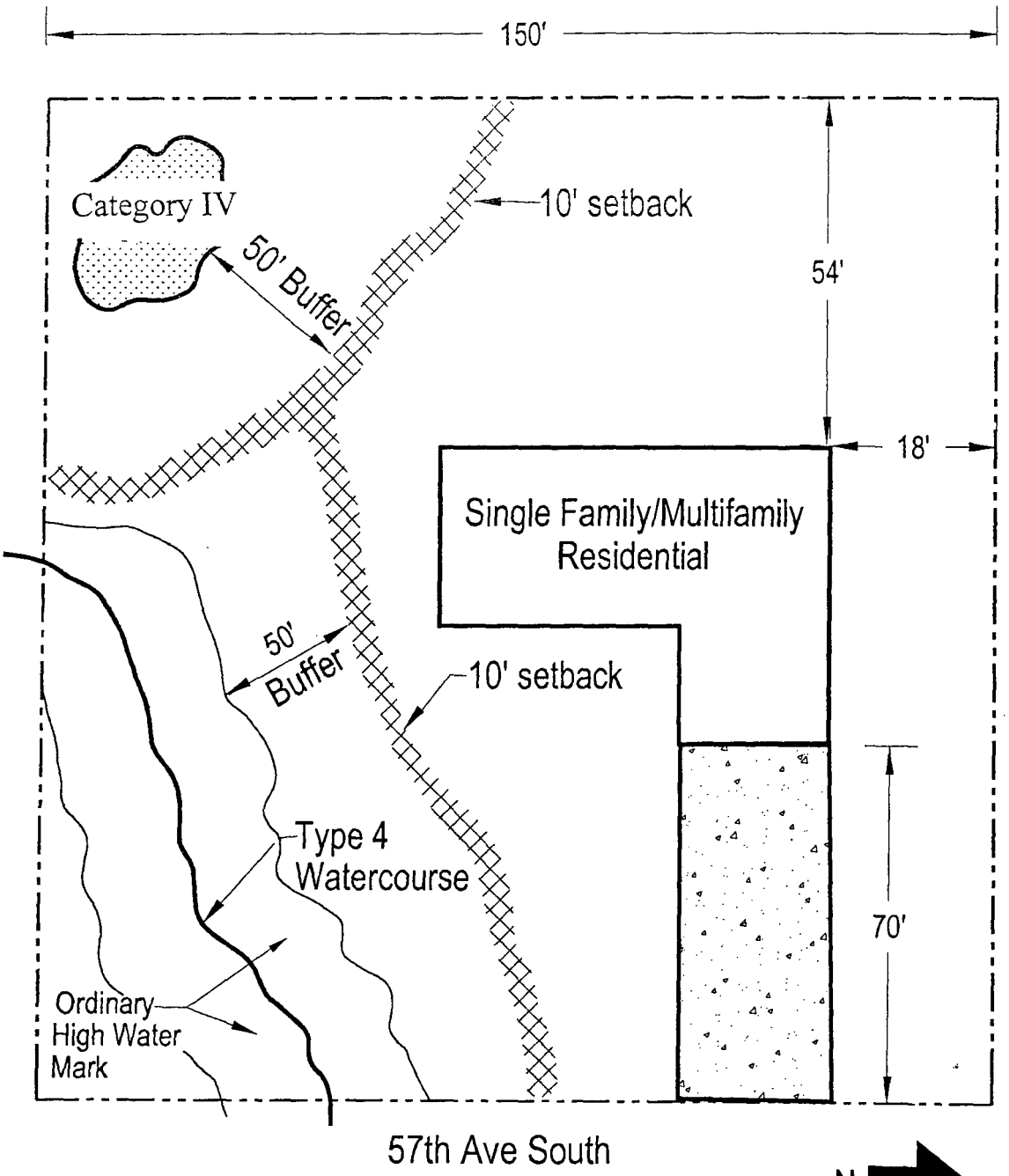

Watercourse buffers

Type 1- subject to shoreline overlay
Type 2-100 foot wide buffer
Type 3-80 foot wide buffer
Type 4-50 foot wide buffer

Wetland buffers

Category I and II- 100 foot wide buffer
Category III-80 foot wide buffer
Category IV-50 foot wide buffer

Figure 18-2
Sample Residential
Sensitive Area
Site Plan Submittal

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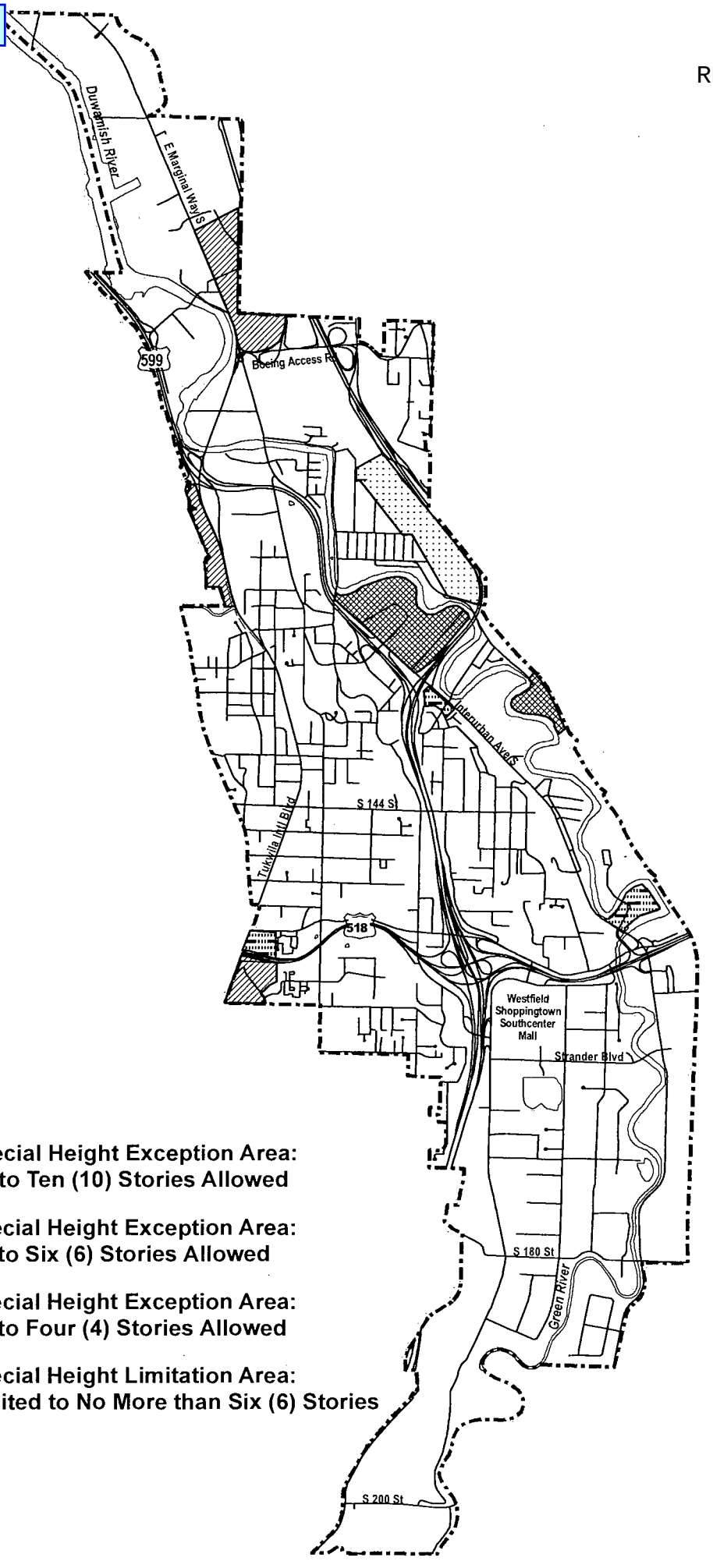
REVISED April 2012



Special Height Exception Area:
Up to Ten (10) Stories Allowed

Special Height Exception Area:
Up to Six (6) Stories Allowed

Special Height Exception Area:
Up to Four (4) Stories Allowed

Special Height Limitation Area:
Limited to No More than Six (6) Stories

north

Figure 18-3
Building Height Exception Areas

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Location and Measurement of Yards on Lots

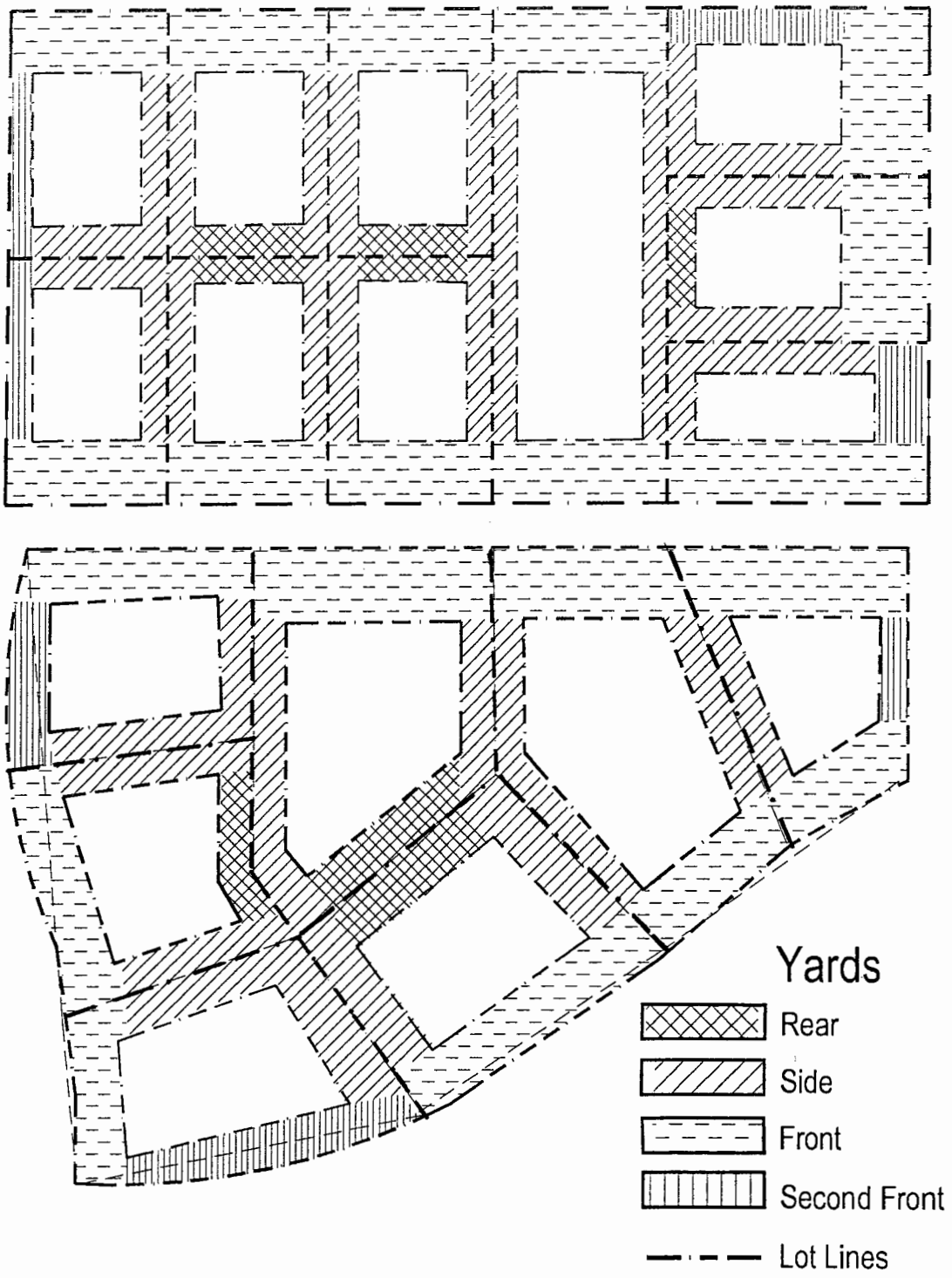
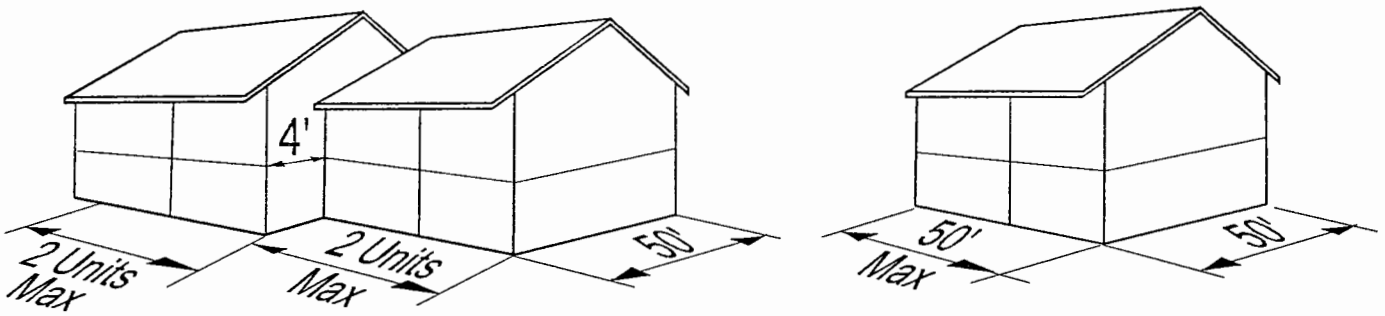
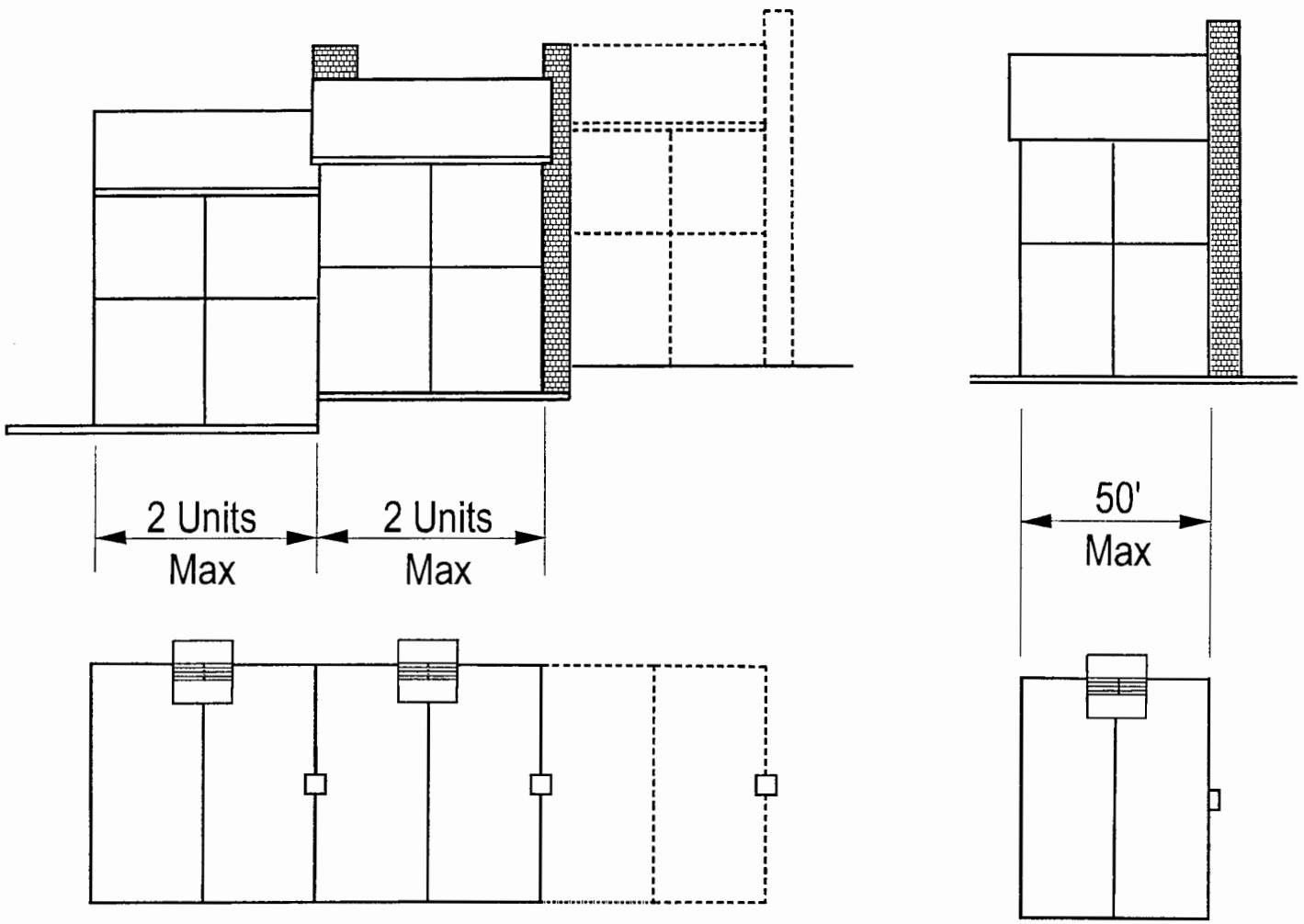


Figure 18-4
Location and Measurement
Yards on Lots

Return to Title



Vertical Modulation



Horizontal Modulation

Figure 18-5
Multi-Family
Design Guideline

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Off-Street Parking Area Dimensions
TMC 18.56.040

A	B	C	D		E	F	
Parking Angle	Stall Width	Stall Depth	Aisle Width		Curb Length	Unit Width	
			1-way traffic	2-way traffic		1-way traffic	2-way traffic
0°	8*	8*	12	20	20*	28*	36*
30°	8*	15*	11	20	16*	41*	54*
	8.5	17	11	20	17	45	54
	9	17.5	11	20	18	46	55
45°	8*	17*	12.5	20	11.5*	46.5*	54*
	8.5	19.5	12.5	20	12	51.5	59
	9	20	12	20	12.7	52	60
60°	8*	18*	17.5*	20	9.2*	53.5	56*
	8.5	21	17.5	20	9.8	59.5	62
	9	21	17	20	10.4	59	62
90°	8*	16*	24	25	8*	56*	57*
	8.5	19	24	25	8.5	62	63
	9	19	23	24	9	61	62

*These figures are for use with compact cars only. Any bays that contain combined compact and normal spaces shall be designed for normal spaces.

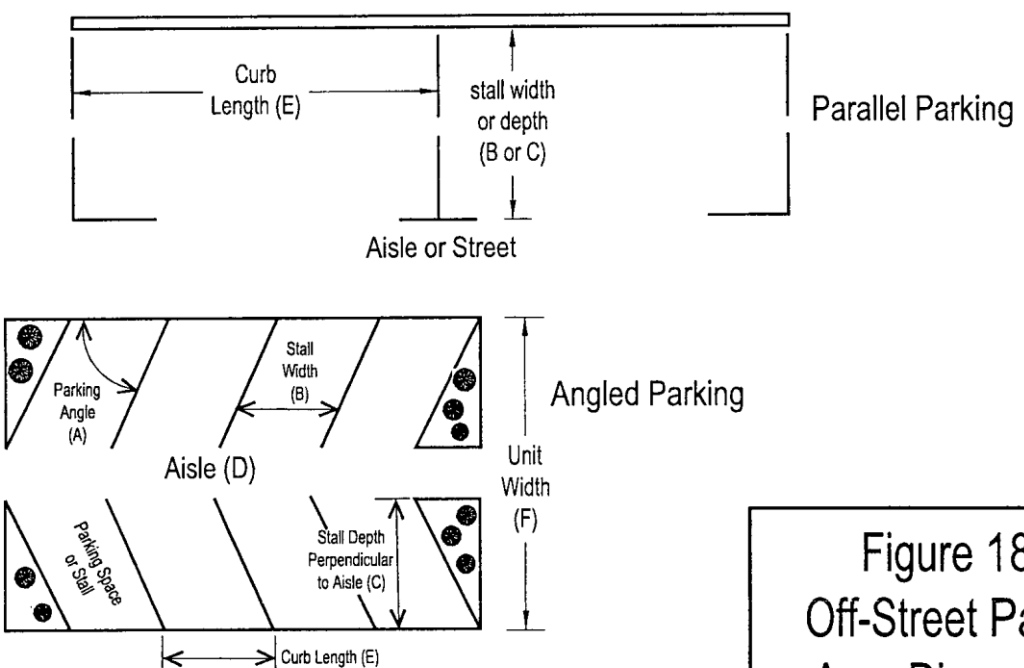

Figure 18-6
Off-Street Parking
Area Dimensions

Revised Dec 2016

Figure 18-7 – Required Number of Parking Spaces for Automobiles and Bicycles		
NOTE: Automobile parking requirements for TUC-RC, TUC-TOD and TUC-Pond Districts are listed in TMC Section 18.28.260.		
Use	**Automobile Standard**	**Bicycle Standard**
Single-family and multi-family dwellings	2 for each dwelling unit that contains up to 3 bedrooms. 1 additional space for every 2 bedrooms in excess of 3 bedrooms in a dwelling unit. Additional parking may be required for home occupations as otherwise proved by this title.	For multi-family, 1 space per 10 parking stalls, with a minimum of 2 spaces. No requirement for single family.
Multi-family dwelling within one-quarter mile of a transit stop that receives transit service at least four times per hour for twelve or more hours per day. *See RCW 36.70A.620(3)	0.75 for each studio 1 for each one bedroom unit 2 for each unit two bedrooms or larger	For multi-family, 1 space per 10 parking stalls, with a minimum of 2 spaces.
Single-family and multi-family dwellings affordable to 0 - 50% area median income (AMI) within one-quarter mile of a transit stop that receives transit service at least two times per hour for twelve or more hours per day. *See RCW 36.70A.620(1)	0.75 for each studio 1 for each one bedroom unit 2 for each unit two bedrooms or larger	For multi-family, 1 space per 10 parking stalls, with a minimum of 2 spaces. No requirement for single family.
Accessory dwelling units	1 for each unit	N/A
Accessory dwelling units within a half-mile of a major transit stop *See TMC 18.50.220(A)(1)	No parking required	N/A

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Use	Automobile Standard	Bicycle Standard
Multi-family and mixed-use residential (in the Urban Renewal Overlay (URO))	One for each dwelling unit that contains up to one bedroom. 0.5 additional spaces for every bedroom in excess of one bedroom in a multi-family dwelling unit. At least 75% of required residential parking is provided in an enclosed structure (garage or podium). The structure must be screened from view from public rights of way. One automobile space at no charge to a car sharing program (if available) for every 50 to 200 residential spaces on site. An additional space shall be provided for developments with over 200 parking spaces. All car share spaces are in addition to required residential parking. If car sharing programs are not available when the building is constructed, an equivalent number of guest parking spaces shall be provided. These shall be converted to dedicated car-sharing spaces when the program becomes available	One secure, covered, ground-level bicycle parking space shall be provided for every four residential units in a mixed-use or multi-family development.
Senior citizen housing	For 15 units or less, 1 space per dwelling unit. For dwellings with more than 15 units, a minimum of 15 spaces are required, plus 1 space per 2 dwelling units.	1 space per 50 parking stalls, with a minimum of 2 spaces.
Senior citizen housing and housing for persons with disabilities within one-quarter mile of a transit stop that receives transit service at least four times per hour for twelve or more hours per day. *See RCW 36.70A.620(2)	1 for 15 beds with a minimum of 2, to accommodate staff and visitors	1 space per 50 parking stalls, with a minimum of 2 spaces.
Religious facilities, mortuaries and funeral homes	1 for each 4 fixed seats	1 space per 50 parking stalls, with a minimum of 2 spaces.
Convalescent/nursing/ rest homes	1 for every 4 beds with a minimum of 10 stalls	1 space per 50 parking stalls, with a minimum of 2 spaces.
Food stores and markets	1 for each 300 square feet of usable floor area	1 space per 50 parking stalls, with a minimum of 2 spaces.
High schools	1 for each staff member plus 2 for every 5 students or visitors	1 space per 50 parking stalls, with a minimum of 2 spaces.
Hospitals	1 for each bed	1 space per 50 parking stalls, with a minimum of 2 spaces.

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Use	Automobile Standard	Bicycle Standard
Hotels, motels and extended stay	1 for each room, plus one employee space for each 20 rooms, rounded to the next highest figure	1 space per 50 parking stalls, with a minimum of 2 spaces.
Manufacturing	1 for each 1,000 square feet of usable floor area	1 space per 50 parking stalls, with a minimum of 2 spaces.
Office, commercial and professional buildings, banks, dental and medical clinics	3.0 for each 1,000 square feet of usable floor area	1 space per 50 parking stalls, with a minimum of 2 spaces.
Places of public assembly, including auditoriums, exhibition halls, community clubs, community centers, and private clubs	The Director shall determine the number of required parking spaces, with a minimum of 1 space for every 100 square feet of assembly area. To ensure parking adequacy for each proposal, the Director may consider the following: a. A parking study or documentation paid for by the applicant and administered by the City regarding the actual parking demand for the proposed use, or b. Evidence in available planning and technical studies relating to the proposed use.	1 space per 50 parking stalls, with a minimum of 2 spaces.
Post offices	3 for each 1,000 square feet of usable floor area	1 space per 50 parking stalls, with a minimum of 2 spaces.
Restaurant	1 for each 100 square feet of usable floor area	1 space per 50 parking stalls, with a minimum of 2 spaces.
Restaurant, fast food	1 for each 50 square feet of usable floor area. Fifty percent of any outdoor seating area will be added to the usable floor area for parking requirement calculations.	1 space per 50 parking stalls, with a minimum of 2 spaces.
Retail sales, bulk	2.5 for each 1,000 square feet of usable floor area	1 space per 50 parking stalls, with a minimum of 2 spaces.
Retail sales, general	4 for each 1,000 square feet of usable floor area if located within the TVS zoning district; 2.5 for each 1,000 square feet of usable floor area if located in any other zoning district. NOTE: Reference TMC Section 18.28.260 for TUC Districts.	1 space per 50 parking stalls, with a minimum of 2 spaces.
Schools, elementary & junior high	1.5 for each staff member	1 space per classroom
Shopping center (mall), planned, per usable floor area size, as listed below:		
500,000 sq. ft. or larger	5 for every 1,000 square feet	1 space per 50 parking stalls, with a minimum of 2 spaces.
25,000 – 499,999 sq. ft.	4 for every 1,000 square feet	1 space per 50 parking stalls, with a minimum of 2 spaces.
Taverns	1 for every 4 persons based on occupancy load.	1 space per 50 parking stalls, with a minimum of 2 spaces.
Use	Automobile Standard	Bicycle Standard

Theaters	1 for every 4 fixed seats. If seats are not fixed, 1 per 3 seats, with concurrence of Fire Chief, consistent with maximum allowed occupancy	1 space per 100 seats, with a minimum of 2 spaces.
Warehousing	1 for every 2,000 square feet of usable floor area	1 space per 50 parking stalls, with a minimum of 2 spaces.

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Parking For The Handicapped
TMC 18.56.080

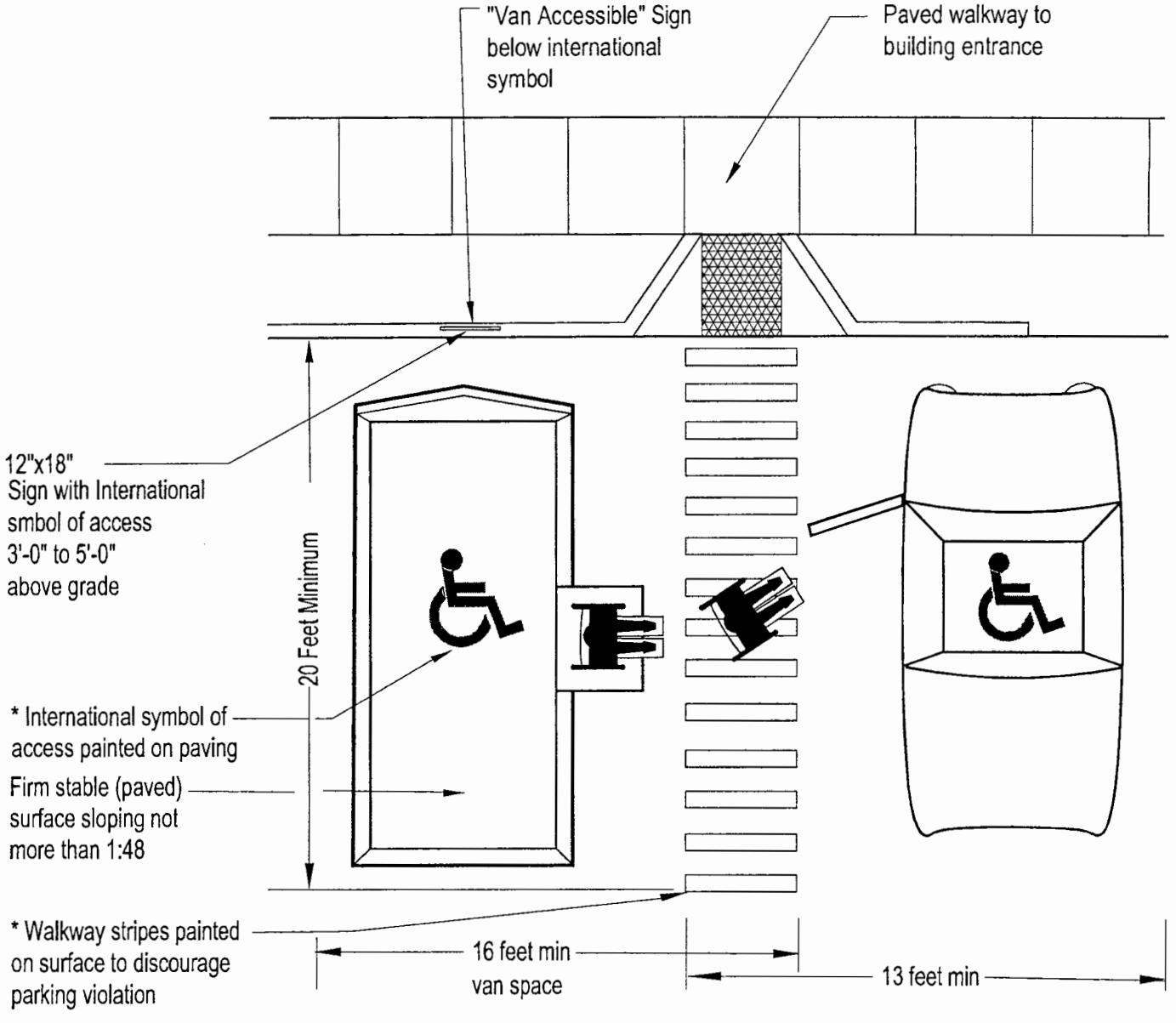

Figure 18-8
Parking for The Handicapped

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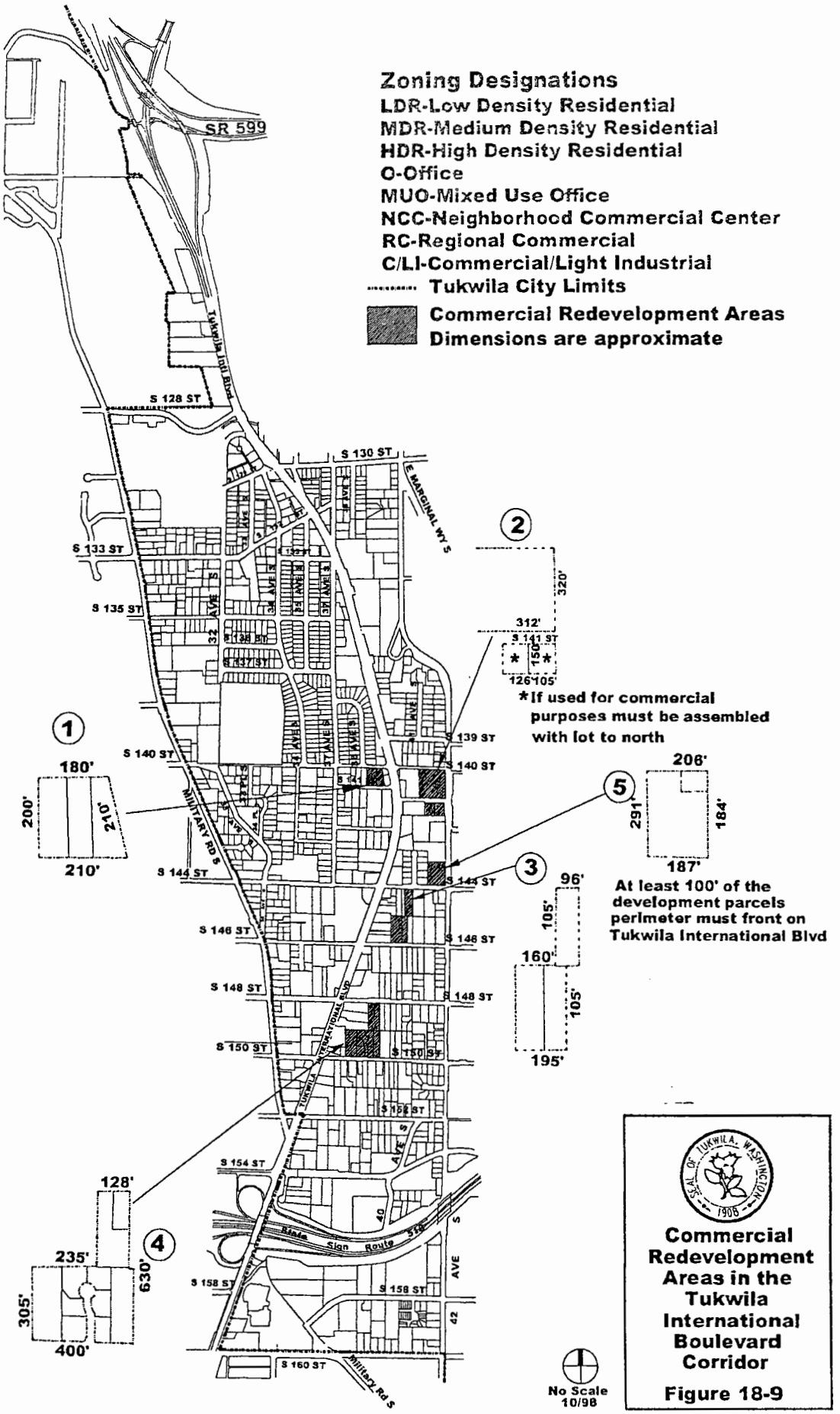

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City of Tukwila Zoning Map

1'=1000'

H:\PLANNING\#1ZONE COMP MAPS\#1ZONE COMP MAPS\zone map 24x42_10_9.mxd

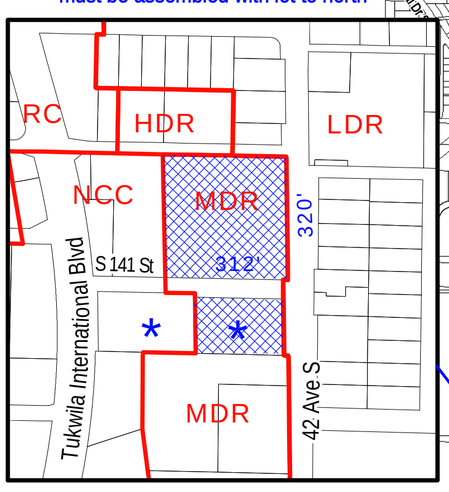
This is a graphic representation of land use designations adopted by City Council 12/04/95

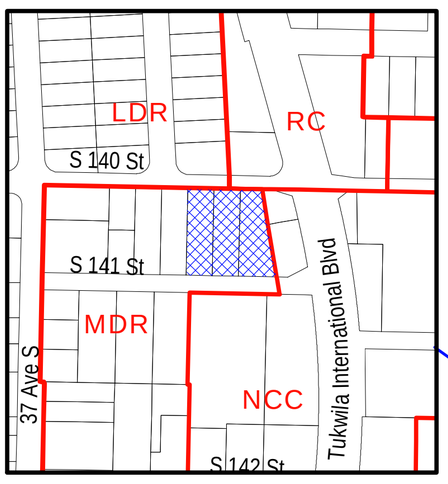
printed 3/17/2010

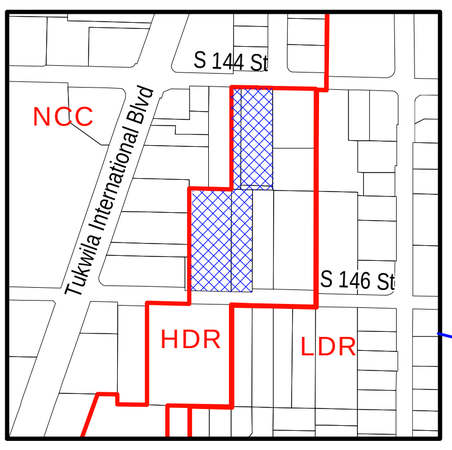
Revisions

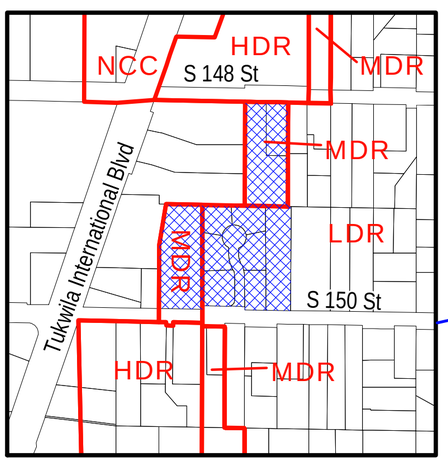
Date	File #	Description	Ord #
1/22/99	L98-043	Designate Commercial Revitalization Areas	1865
6/07/01	L99-092	Designate East Marginal & Interurban Island from MIC to LDR	
8/19/02	L01-075	Change Parcels located between S. 139th St. & S. 140th St. from LDR to CLI	1992
11/18/04	L03-078	LDR & C/LI to MIC/L at Tukwila International Blvd. at 34th Ave. S. and S. 126th St.	2070
12/03/07	L06-096	RCC to LDR at 14427 51st Ave. S.	2184
12/03/07	L07-066	MIC/H to LI between E. Marginal Way, S. Norfolk and Boeing Access Rd.	2185
10/19/09		MDR to HDR at 3421 S 144th St.	2254

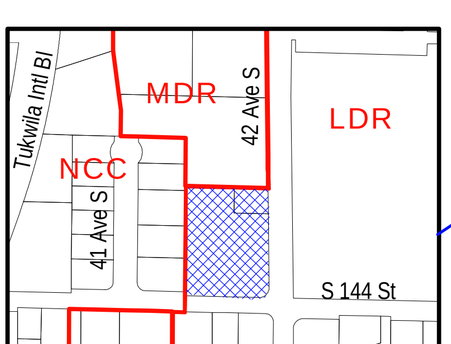
* If used for commercial purposes must be assembled with lot to north











At least 100' of the development parcels perimeter must front on Tukwila International Blvd

Figure 18-9

Legend

LDR Low Density Residential
MDR Medium Density Residential
HDR High Density Residential
O Office
MUO Mixed Use Office
RCC Regional Commercial Center
NCC Neighborhood Commercial Center
RC Regional Commercial
RCM Regional Commercial Mixed Use
TUC Tukwila Urban Center
C/LI Commercial Light Industrial
TVS Tukwila Valley South
LI Light Industrial
HI Heavy Industrial
MIC/L Manufacturing Industrial Center/Light Industrial
MIC/H Manufacturing Industrial Center/Heavy Industrial

Overlays and Sub Areas

Tukwila City Limits
Potential Annexation Areas
Public Recreation Overlay
TIB Urban Renewal Overlay District
Tukwila South Overlay District
Shoreline Overlay (Approximately 200' each side of the river)

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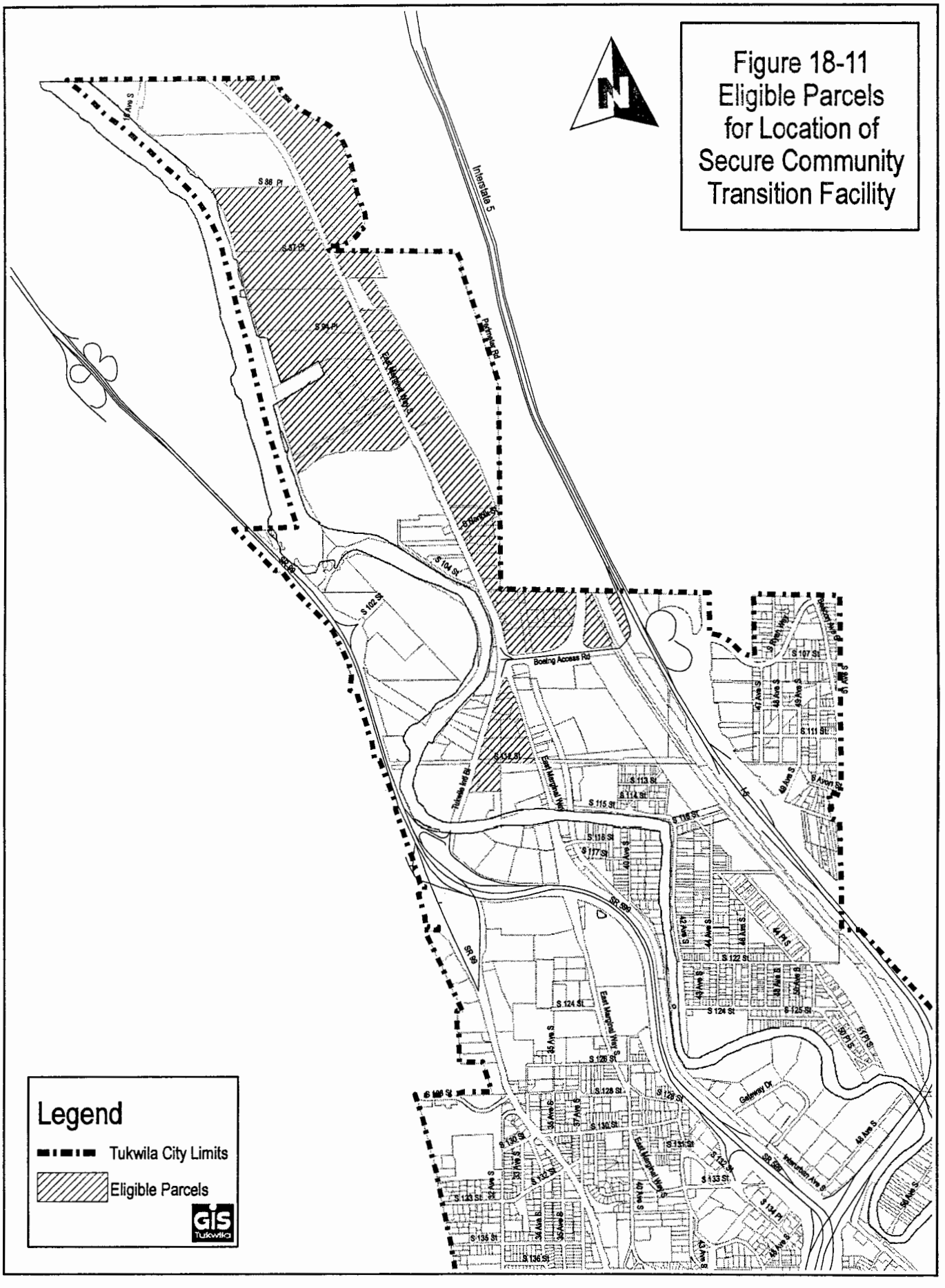

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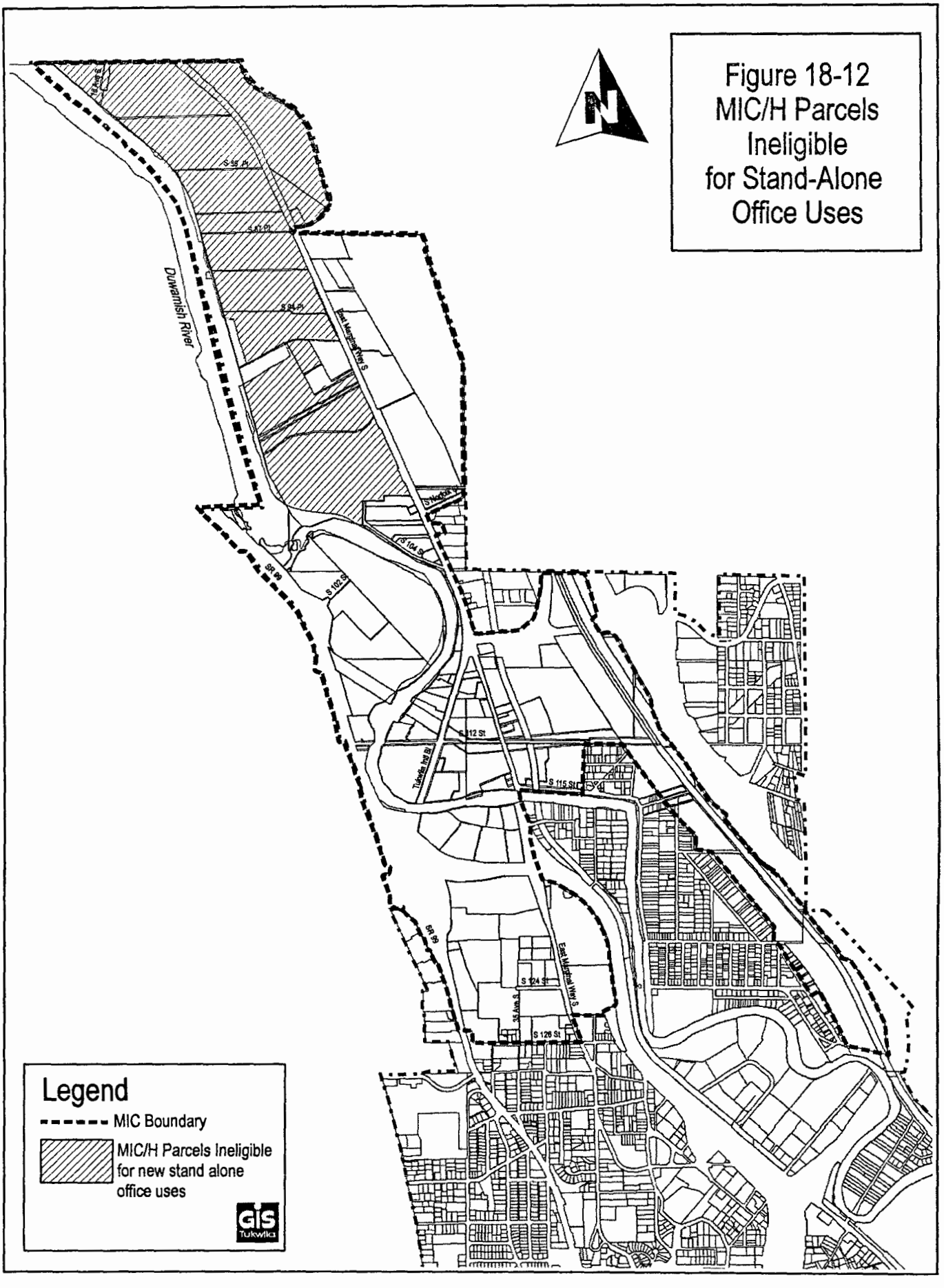

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Figure 18-13
HOUSING OPTIONS PROGRAM STANDARDS

Housing Types	• Cottages. • Compact single-family. • Duplexes designed to look like a single-family home or with zero lot lines for fee simple ownership; and included with at least one other housing type in a proposed development (the other housing type may be traditional single-family). • A combination of the above types.
Unit Size Limits A covenant restricting any increases in unit size after initial construction shall be recorded against the property.	• Cottages = 800 square feet minimum and 1,000 square foot maximum floor area. • Compact single-family = 1,500 square foot maximum floor area. • Duplexes = 1,500 square foot maximum floor area per unit. • Side yard setbacks are waived so that these homes may be sold on fee simple lots.
Equivalent Units There is no minimum lot size, but there is a maximum project density. The number of allowable dwelling units shall be totalled for each of the existing lots in order to determine equivalent units. Existing single-family homes may remain on the subject property and will be counted as units in the equivalent unit calculation.	• Cottages = two per each single-family unit that could be built on an existing lot, or a maximum of one unit for every 3,250 net square feet. • Compact single family = one and one-half per each single-family unit that could be built on the lot, or a maximum of 4,875 net square feet. • Duplexes = overall development not to exceed one and one-half times the number of single-family units that could be built on the lot, or a maximum of 4,875 net square feet. • Rounding up to the next whole number of equivalent units is allowed when the conversion from typical single-family units to equivalent units results in a fraction of one-half or above.
Locations	• All LDR, MDR & HDR districts, but not within 1,500 feet of another housing options proposal under review or approved under TMC Chapter 18.120.
Floor Area	• Variety in building sizes and footprints is required.
Access Requirements	• Determine flexibility for road widths, public versus private, and turnaround requirements with input from Public Works and Fire Departments.
Development Size	• Minimum of 8 units, maximum of 36 units. • Cottages may have a maximum of 12 units per cluster.
Parking Requirements	• 1.5 stalls per unit for units 800 to 1,000 square feet in size. • 2 stalls per unit for units over 1,000 square feet in size.
Building Coverage	• 35%
Ownership Structure	• Subdivision • Condominium
Distance Between Structures	• 10 feet minimum
Common Open Space for cottages and projects of 20 or more homes.	• Provide required area according to Recreation Space Requirements (TMC 18.52.060)(1).
Exceptions to Floor Area Limitations	• Spaces with a ceiling height of 6 feet or less measured to the exterior walls, such as in a second floor area under the slope of the roof. • Unheated storage space located under the main floor of a cottage. • Architectural projections, such as bay windows, fireplaces or utility closets not greater than 18 inches in depth and 6 feet in width. • Detached garages and carports. • Attached roofed porches.
Accessory Dwelling Units	• Shall not be allowed as part of this Housing Options Program.

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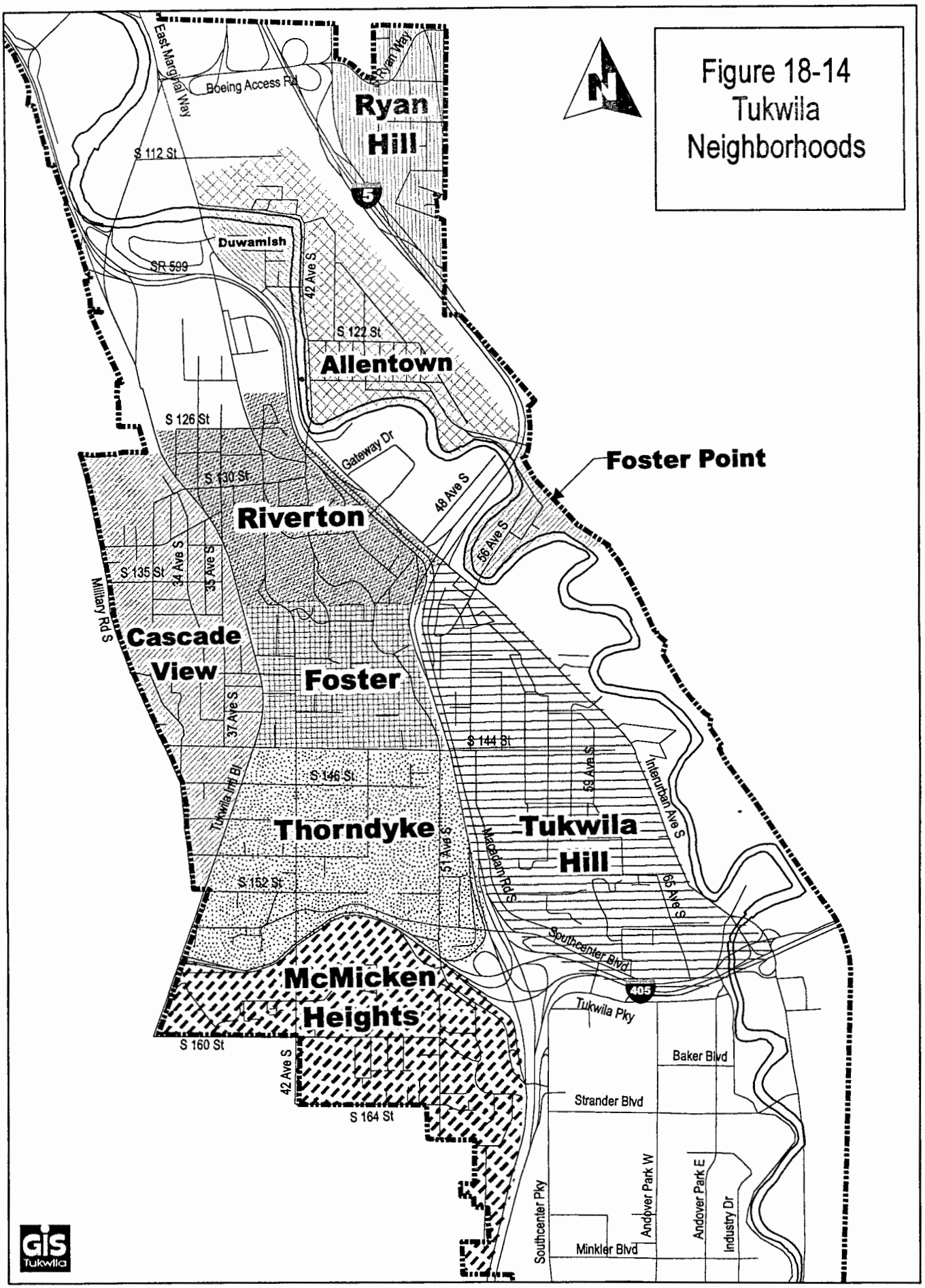

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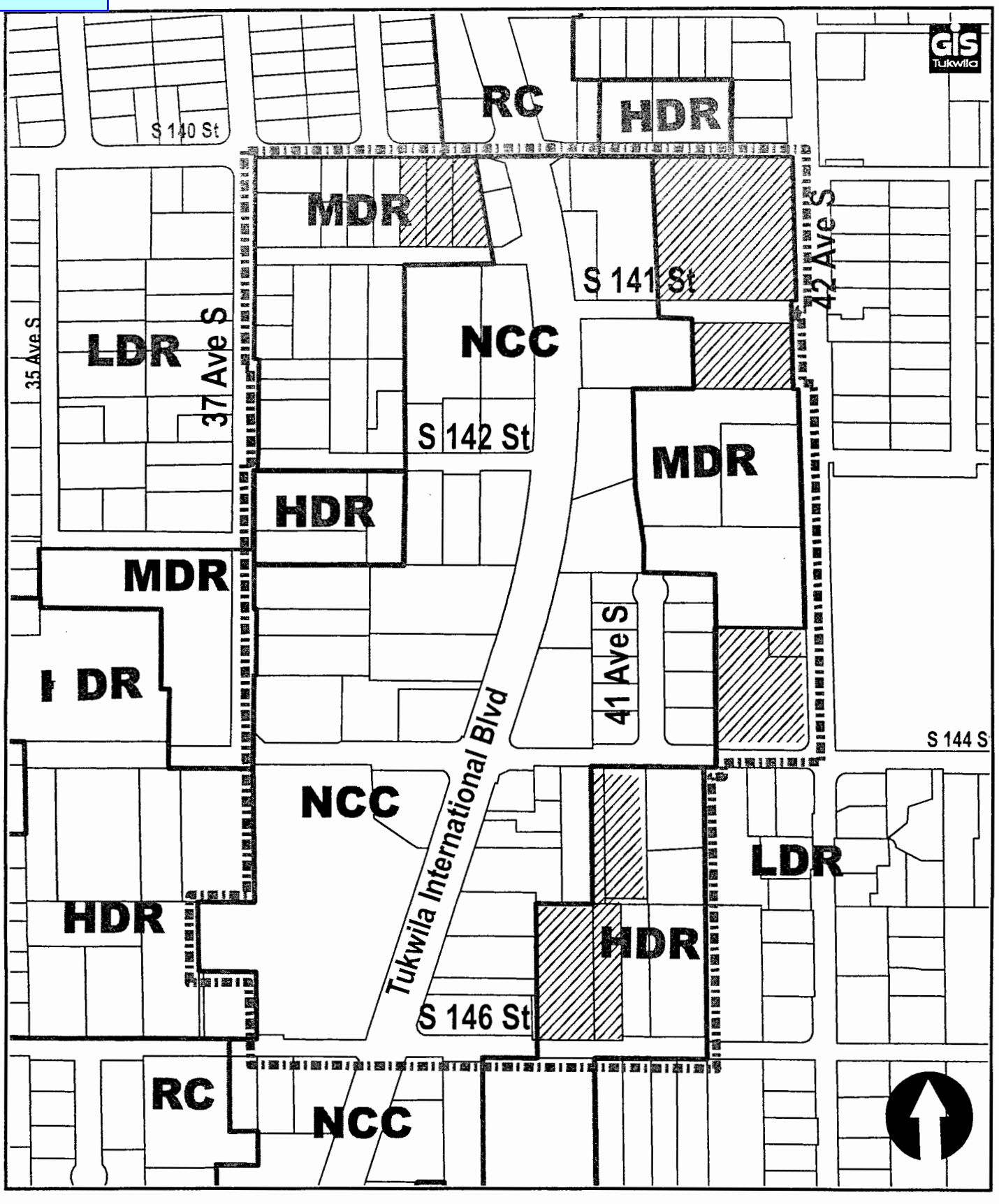

Commercial Redevelopment Areas

Urban Renewal Overlay District

Tukwila International Blvd Urban Renewal Overlay District

Figure 18-15

Return to Title

Figure 18-16: District Map

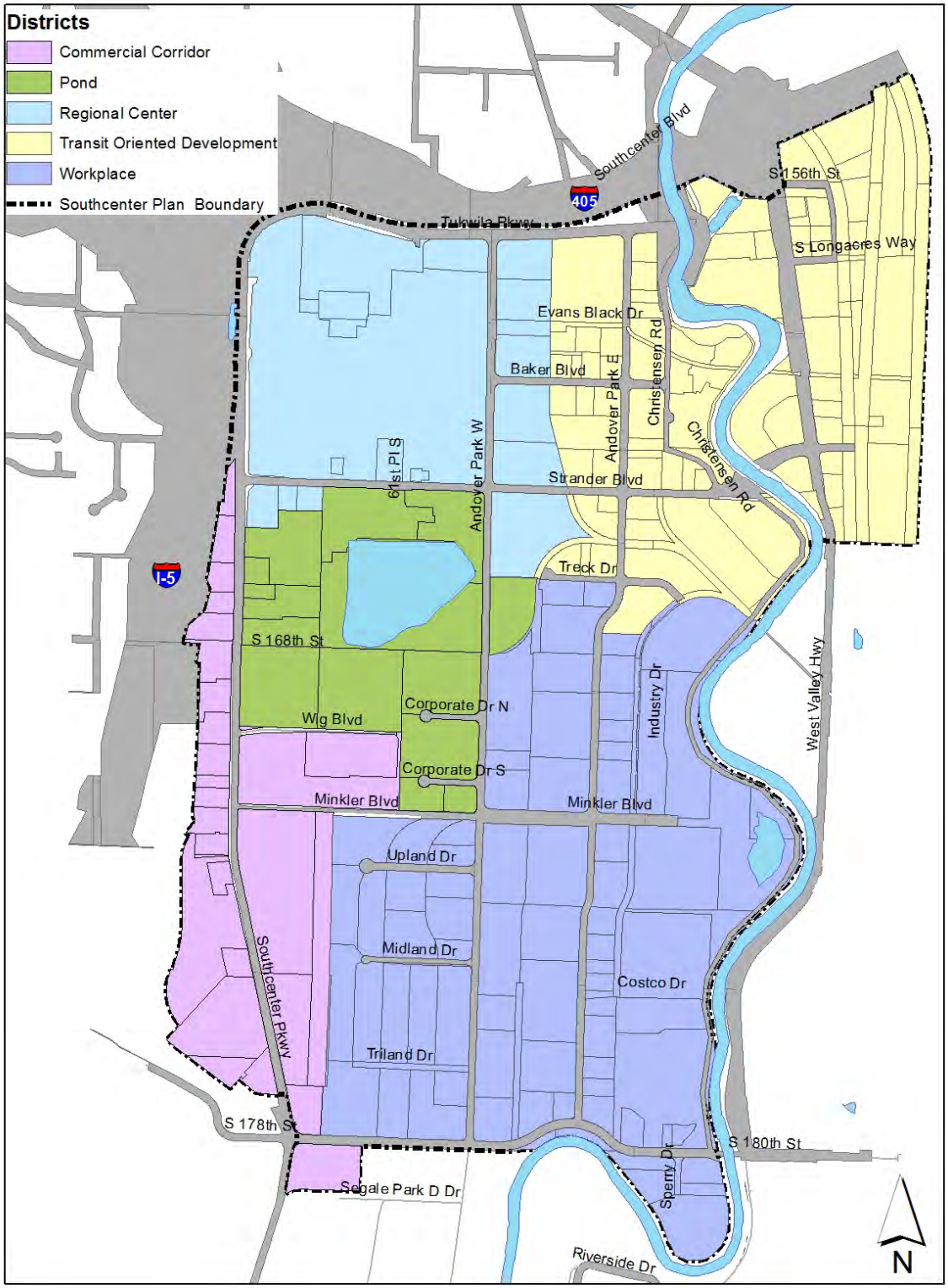

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Figure 18-17: Block face length

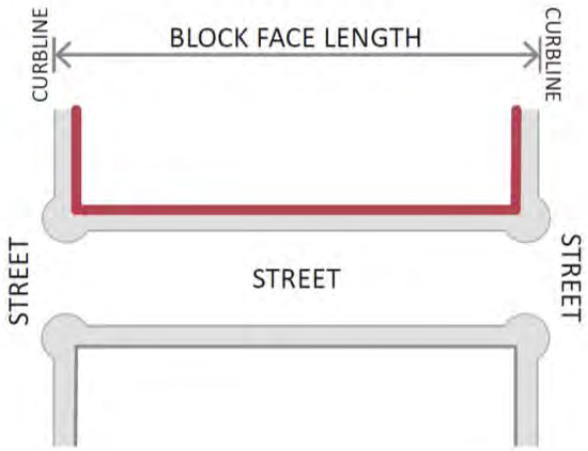

Figure 18-18: Corridor Definition of Terms

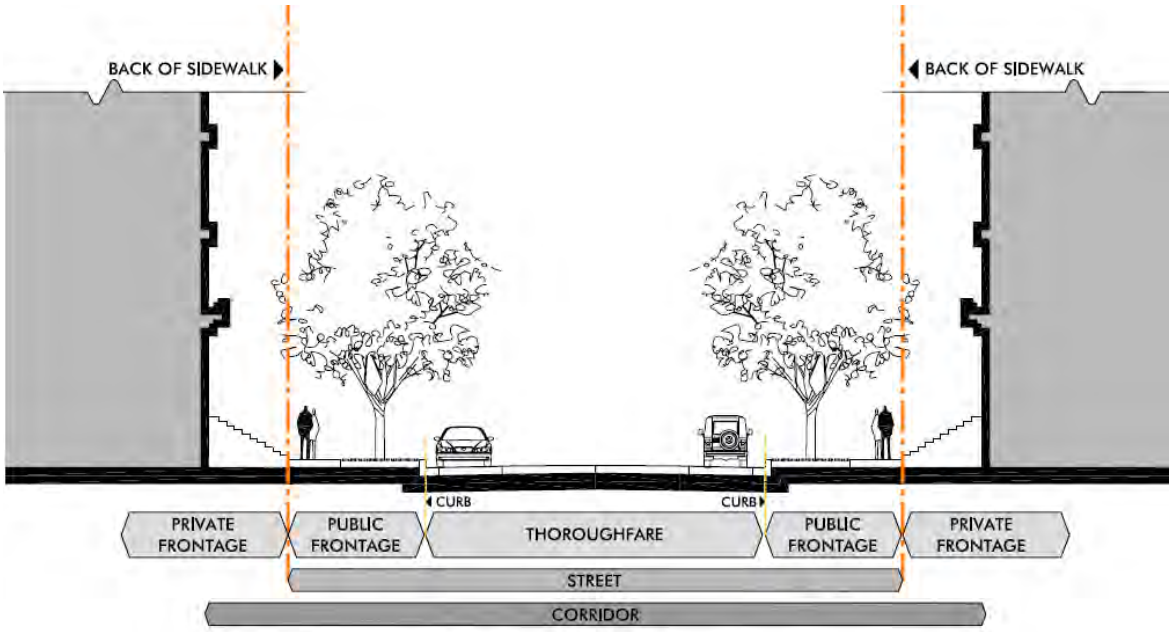

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Figure 18-19: Corridor Type Map

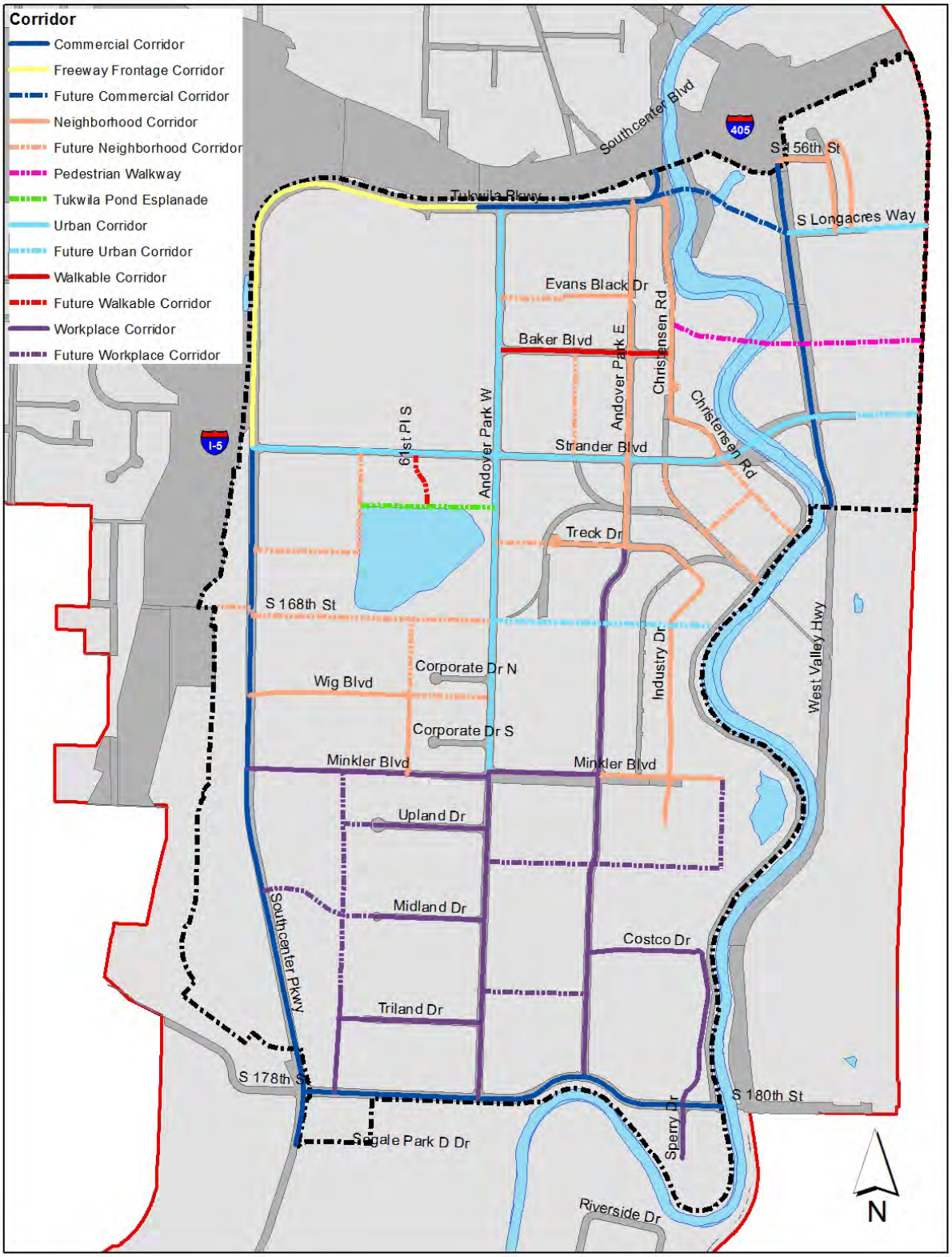

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Figure 18-20: Walkable Corridor Standards

Walkable Corridor

Intent: *To provide and support a high quality pedestrian realm for shopping and strolling along active retail, eating and entertainment uses.*

APPLIED TO:

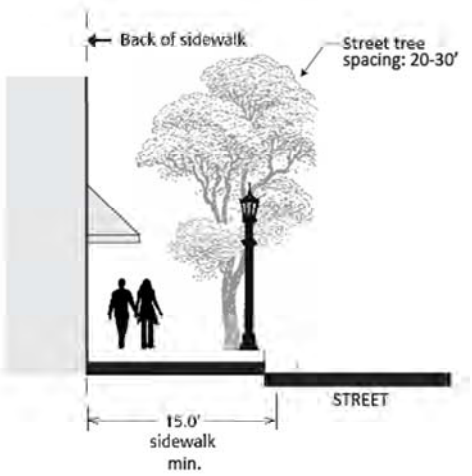
Existing Streets: Baker Blvd, 61st Place

New Streets: As indicated on Corridor Type Map

Note: *This is a summary of key corridor standards. See 18.28.120 to .210 for supplemental details.*

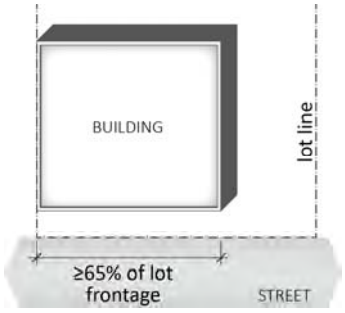
THOROUGHFARE CROSS-SECTION *(See 18.28.140)*	
Existing street	No change
New street	Public frontage only

PUBLIC FRONTAGE STANDARDS *(See 18.28.150)*	
Total required width	15 ft
Sidewalk width minimum	15 ft
Landscaping	Street trees, located at back of curb face. Also see 18.28.240 General Landscaping.
Tree spacing	20-30 ft, depending on species.
Lighting	Pedestrian and vehicular-scale decorative street lighting.



Public frontage

BUILDING ORIENTATION/PLACEMENT & LANDSCAPING *(See 18.28.160 - .190)*	
Building orientation to street	Required
Frontage building coverage minimum	65%
Front yard setback maximum	10 ft
On-site surface parking locations	Side or rear of building
Front yard landscaping *(waived if Public Frontage improvements are built to standard)*	15 ft min of streetscape



Frontage building coverage minimum

ARCHITECTURAL DESIGN STANDARDS *(See 18.28.200)*	
Façade articulation increment	
Commercial / mixed-use maximum	30 ft
Residential maximum	30 ft
Major vertical modulation maximum	120 ft
Ground level transparency	
Commercial-use minimum	75%

Facade articulation and ground level transparency

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Figure 18-21: Pedestrian Walkway Corridor Standards

Pedestrian Walkways

Intent: *To supplement the street network with non-motorized pathways, support and foster an alternative mode of travel to motorized vehicles within the area, and provide a safe, pleasant, and direct route for pedestrians between significant activity areas.*

APPLIED TO:

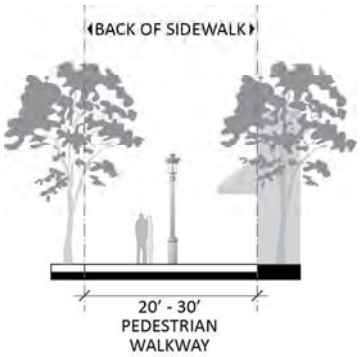
Existing Streets: n/a

New Streets: As indicated on Corridor Type Maps

Note: *This is a summary of key corridor standards. See 18.28.120 to .210 for supplemental details.*

THOROUGHFARE CROSS-SECTION *(See 18.28.140)*

Existing street	n/a
New pedestrian walkway	See new cross-section



Thoroughfare cross-section

THOROUGHFARE STANDARDS *(See 18.28.150)*

Total required width	20-30 ft
Landscaping	Street trees, along outside edges of walkway. Also see 18.28.240 General Landscaping.
Tree spacing	20-30 ft, depending on species.
Lighting	Pedestrian-scale decorative street lighting.

BUILDING ORIENTATION/PLACEMENT & LANDSCAPING *(See 18.28.160 - .190)*

Building orientation walkway	Not required
Front yard setback minimum	0 ft
On-site surface parking locations	Front, side or rear of building
Front yard landscaping *(waived if Public Frontage improvements are built to standard)*	Required, except where buildings are adjacent to walkways

ARCHITECTURAL DESIGN STANDARDS *(See 18.28.200)*

Façade articulation increment	
Commercial/mixed-use maximum	30 ft
Residential maximum	30 ft
Major vertical modulation maximum	120 ft
Ground level transparency	
Commercial-use minimum	75%

Facade articulation and ground level transparency

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Figure 18-22: Tukwila Pond Esplanade Standards

Tukwila Pond Esplanade

Intent: *To provide a public esplanade along the northern edge of Tukwila Pond Park that is a focal point and central gathering spot suitable for strolling providing a place for public activity to augment the shopping, dining, and other uses in the vicinity.*

APPLIED TO:

Existing Streets: n/a

New Streets: Tukwila Pond Esplanade[1] – North Edge

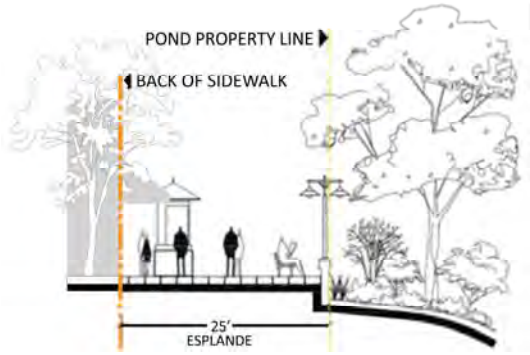
Note: *This is a summary of key corridor standards. See 18.28.120 to .210 for supplemental details.*

THOROUGHFARE CROSS-SECTION *(See 18.28.140)*

Existing streets	n/a
New esplanade	See new cross-section

THROUGHFARE STANDARDS *(See 18.28.150)*

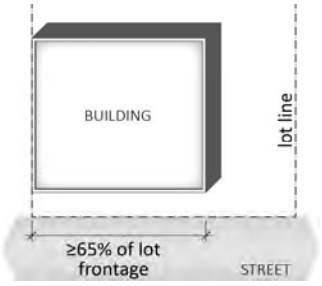
Total required width minimum	25 ft
Landscaping	Street trees in grates, except where buildings are adjacent to esplanade. Also see 18.28.240 and 18.28.250 Open Space Regulations.
Lighting	Pedestrian-scale decorative street lighting.



Thoroughfare cross-section

BUILDING ORIENTATION/PLACEMENT & LANDSCAPING *(See 18.28.160 - .190)*

Building orientation to esplanade	Required
Frontage building coverage minimum	65%
Front yard setback maximum	0 ft
On-site surface parking locations	Permitted rear of building.



Frontage building coverage

ARCHITECTURAL DESIGN STANDARDS

Façade articulation increment	
Commercial/mixed-use maximum	30 ft
Residential maximum	30 ft
Major vertical modulation maximum	120 ft
Ground level transparency	
Commercial-use minimum	75%

Facade articulation and ground level transparency

[1] These standards are not applicable until the City invests in design & construction of the esplanade (in part or in its entirety). In addition, for those properties bordering the esplanade that are already developed with structures and improvements oriented away from the pond and esplanade, the Corridor Standards will be applied only when a complete redevelopment of the property is proposed.

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Figure 18-23: Neighborhood Corridor Standards

Neighborhood Corridor

Intent: *To provide an intimately-scaled pedestrian environment within northern Southcenter's higher density mixed-use neighborhoods, in a "complete streets" setting with on-street parking and bicycles sharing the roadway with vehicles.*

APPLIED TO:

Existing Streets: Andover Park E. (Tukwila Pkwy to Trek Christensen), Trek Dr, Industry Dr, Minkler (Andover Park E.), to River, Wig Dr, Bauch Dr, Nelson Pl, S. 156th St

New Streets: As indicated on Corridor Type Map

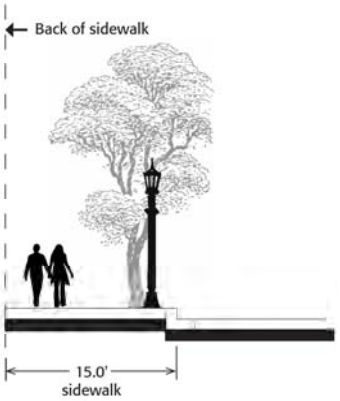
Note: *This is a summary of key corridor standards. See 18.28.120 to .210 for supplemental details.*

THOROUGHFARE CROSS-SECTION *(See 18.28.140)*

Existing street	No change
New street	See new cross-section

PUBLIC FRONTAGE STANDARDS *(See 18.28.150)*

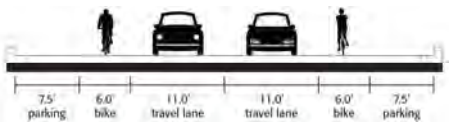
Total required width minimum	15 ft; 10 ft on Minkler
Landscaping	Street trees, located at back of curb face. On Minkler, trees in a continuous landscaped strip a minimum of 5 ft wide located at back of curb face. Also, see 18.28.240 General Landscaping.
Tree spacing	20-30 ft, depending on species.
Lighting	Pedestrian and vehicular-scale decorative street lighting.



Public frontage

BUILDING ORIENTATION/PLACEMENT & LANDSCAPING *(See 18.28.160 - .190)*

Building orientation to streets/ open spaces	Required
Front yard setback minimum	15 ft
On-site surface parking locations	Side or rear of building. Street Front: 1 double-loaded aisle of parking between building and primary street (maximum 63 ft in width). [2]
Front yard landscaping minimum *(waived if Public Frontage Improvements are built to standard)*	15 ft of streetscape



New thoroughfare cross-section

Facade articulation and ground level transparency

ARCHITECTURAL DESIGN STANDARDS

Façade articulation increment	
Commercial/mixed-use maximum	50 ft
Residential maximum	30 ft
Major vertical modulation maximum	120 ft
Ground level transparency	
Commercial-use minimum	50%

[2] New street south of Tukwila Pond shall only have on-street parking on the south side of the street.

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Figure 18-24: Urban Corridor Standards

Urban Corridor

Intent: *To provide safe and supportive pedestrian facilities and an attractive streetscape along the crossroads in the urban center that provide greater capacity for transit and auto traffic.*

APPLIED TO:

Existing Streets: Andover Park W. (Tukwila Pkwy S. to Minkler), Longacres Way, Strander Blvd

New Streets: As Indicated on Corridor Type Map

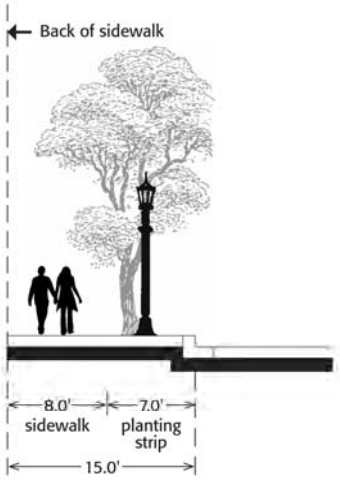
Note: *This is a summary of key corridor standards. See 18.28.120 to .210 for supplemental details.*

THOROUGHFARE CROSS-SECTION *(See 18.28.140)*

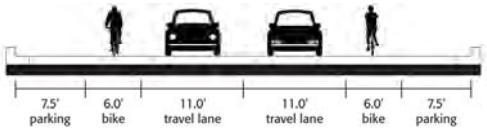
Existing street	No change
New street	See new cross-section

PUBLIC FRONTAGE STANDARDS *(See 18.28.150)*

Total required width	15 ft
Sidewalk width minimum	8 ft
Landscaping	Trees in a continuous landscaped strip 7 ft wide located at back of curb on existing streets; trees in wells on new streets. Also see 18.28.240 General Landscaping
Street tree spacing	20-30 ft, depending on species.
Lighting	Pedestrian and vehicular-scale decorative street lighting.



Public frontage



New thoroughfare cross-section

BUILDING ORIENTATION/PLACEMENT & LANDSCAPING *(See 18.28.160 - .190)*

Building orientation to street	Required
Front yard setback minimum	15 ft
On-site surface parking locations	Side or rear of building. Street Front: 1 double-loaded aisle of parking between building and primary street (max 63 ft in width).
Front yard landscaping minimum *(waived if Public Frontage Improvements are built to standard)*	15 ft of Streetscape

Facade articulation and ground level transparency

ARCHITECTURAL DESIGN STANDARDS

Façade articulation increment	
Commercial/mixed-use maximum	50 ft
Residential maximum	30 ft
Major vertical modulation maximum	200 ft
Ground level transparency	
Commercial-use minimum	60%

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Figure 18-25: Commercial Corridor Standards

Commercial Corridor

Intent: *To provide safe and supportive pedestrian facilities, greater capacity for vehicles, and attractive streetscapes along heavily travelled roadways serving auto-oriented commercial uses.*

APPLIED TO:

Existing Streets: Tukwila Pkwy, Southcenter Pkwy, S. 180th St, West Valley Hwy

New Streets: As Indicated on Corridor Type Map

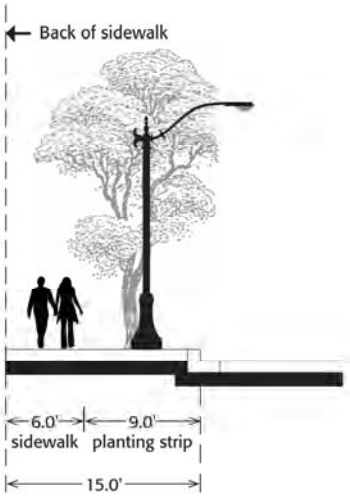
Note: *This is a summary of key corridor standards. See 18.28.120 to .210 for supplemental details.*

THOROUGHFARE CROSS-SECTION *(See 18.28.140)*

Existing street	No change
New street	See new cross-section

PUBLIC FRONTAGE STANDARDS *(See 18.28.150)*

Total required width	15 ft
Sidewalk width minimum	6 ft
Landscaping	Street trees in a continuous landscaped strip 9 ft wide located at back of curb. Also see 18.28.240 General Landscaping.
Street tree spacing	20-30 ft, depending on species.
Lighting	Vehicular-scale decorative street lighting.



Public frontage

BUILDING ORIENTATION/PLACEMENT & LANDSCAPING *(See 18.28.160 - .190)*

Building orientation to streets	Not required
Front yard setback minimum	15 ft
On-site surface parking locations	Front, side or rear of building
Front yard landscaping minimum *(waived if Public Frontage Improvements are built to standard)*	15 ft of Streetscape

Facade articulation and ground level transparency

ARCHITECTURAL DESIGN STANDARDS

Façade articulation increment	
Commercial/mixed-use maximum	50 ft
Residential maximum	30 ft
Major vertical modulation maximum	200 ft
Ground level transparency	
Commercial-use minimum	50%

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Figure 18-26: Freeway Frontage Corridor Standards

Freeway Frontage Corridor

Intent: *To provide safe and supportive pedestrian facilities along heavily travelled parkways oriented towards both the area's freeways and Westfield Southcenter Mall.*

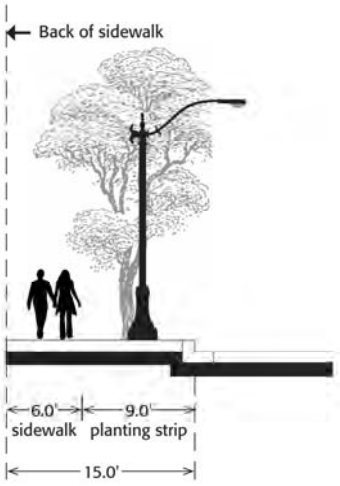
APPLIED TO:

Existing Streets: Tukwila Parkway (Southcenter Pkwy to 185' west of Andover Park West), Southcenter Pkwy (Tukwila Pkwy to Stander Blvd)

New Streets: n/a

Note: *This is a summary of key corridor standards. See 18.28.120 to .210 for supplemental details.*

THOROUGHFARE CROSS-SECTION *(See 18.28.140)*	
Existing street	No change
New street	NA
PUBLIC FRONTAGE STANDARDS *(See 18.28.150)*	
Total required width	15 ft
Sidewalk width minimum	6 ft
Landscaping	Street trees in a continuous landscaped strip 9 ft wide located at back of curb or a combination of curb landscaping and street trees integrated into sidewalk, provided total public frontage meets required width. Also see 18.28.240 General Landscaping.
Street tree spacing	30-50 ft, depending on species.
Lighting	Vehicular-scale decorative street lighting.
BUILDING ORIENTATION/PLACEMENT & LANDSCAPING *(See 18.28.160 - .190)*	
Building orientation to street	Not required
Front yard setback minimum	15 ft
On-site surface parking locations	Front, side or rear of building
Front yard landscaping minimum *(waived if Public Frontage Improvements are built to standard)*	15 ft of streetscape
ARCHITECTURAL DESIGN STANDARDS	
Façade articulation increment	
Commercial/mixed-use maximum	100 ft
Major vertical modulation maximum	200 ft
Ground level transparency**	
Commercial-use minimum	20%



Public frontage

Facade articulation and ground level transparency

***Minimum ground-level transparency requirements do not apply when: 1) the sidewalk grade is 10 feet or more above the finished grade of the structure; or 2) there is another building located directly between the street frontage and the proposed building, screening the view of the proposed building from the street.*

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Figure 18-27: Workplace Corridor Standards

Workplace Corridor

Intent: *To provide safe and supportive pedestrian facilities along streets serving truck loading and parking access for primarily warehouse/distribution uses in the southern part of the Southcenter area.*

APPLIED TO:

Existing Streets: Minkler Blvd (Southcenter Pkwy to APW, Costco Dr), Upland Dr, Midland Dr, Triland Dr, N./W. between Costco Dr and S. 180th St, Andover Park W. (Minkler to S. 180th St), Andover Park E. (Trek to S. 180th St), Sperry Dr

New Streets: As indicated on Corridor Type Map

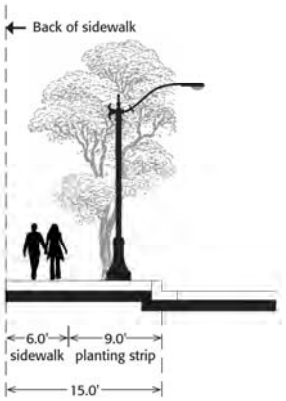
Note: *This is a summary of key corridor standards. See 18.28.120 to 2.10 for supplemental details.*

THROUGHFARE CROSS-SECTION *(See 18.28.140)*

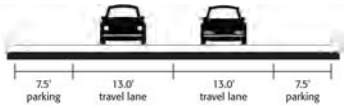
Existing street	No change
New street	See new cross-section

PUBLIC FRONTAGE STANDARDS *(See 18.28.150)*

Total required width	15 ft
Sidewalk width minimum	6 ft
Landscaping	Street trees in a continuous landscaped strip 9 ft wide located at back of curb. Also see 18.28.240 General Landscaping.
Street tree spacing	30-50 ft, depending on species.
Lighting	Vehicular-scale street lighting.



Public frontage



New thoroughfare cross-section

BUILDING ORIENTATION/PLACEMENT & LANDSCAPING *(See 18.28.160 - .190)*

Building orientation to street	Not required
Front yard setback minimum	15 ft
On-site surface parking locations	Front, side or rear of building
Front yard landscaping minimum *(waived if Public Frontage Improvements are built to standard)*	15 ft of streetscape

Facade articulation and ground level transparency

ARCHITECTURAL DESIGN STANDARDS

Façade articulation increment	
Non-residential maximum	140 ft
Residential maximum	30 ft
Major vertical modulation maximum	280 ft
Ground level transparency	
Warehouse/light industrial buildings minimum	20%
Commercial-use minimum	50%

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Figure 18-28: Examples of public frontages

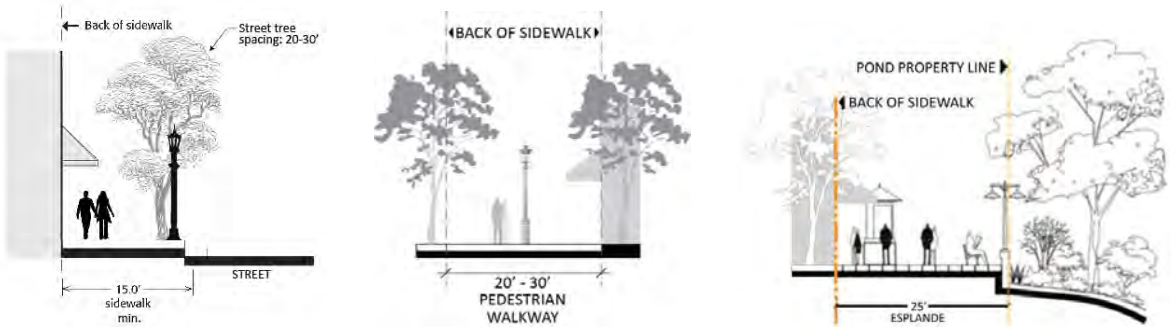

Figure 18-29: Example of a building oriented to the street

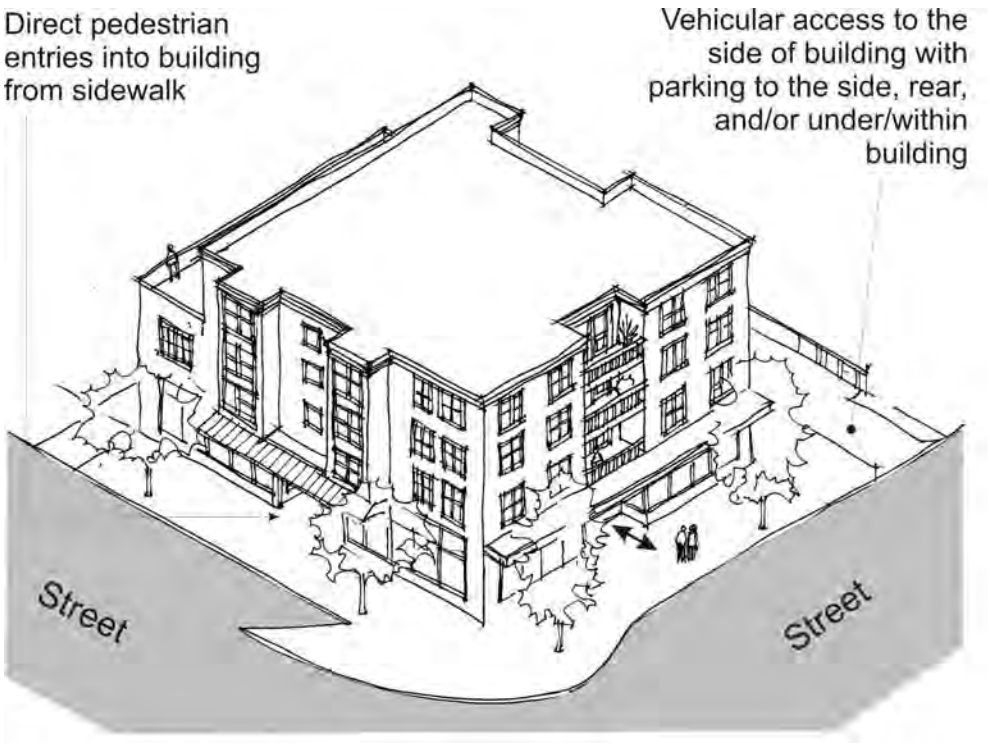

Figure 18-30: Example of features on a building oriented to street

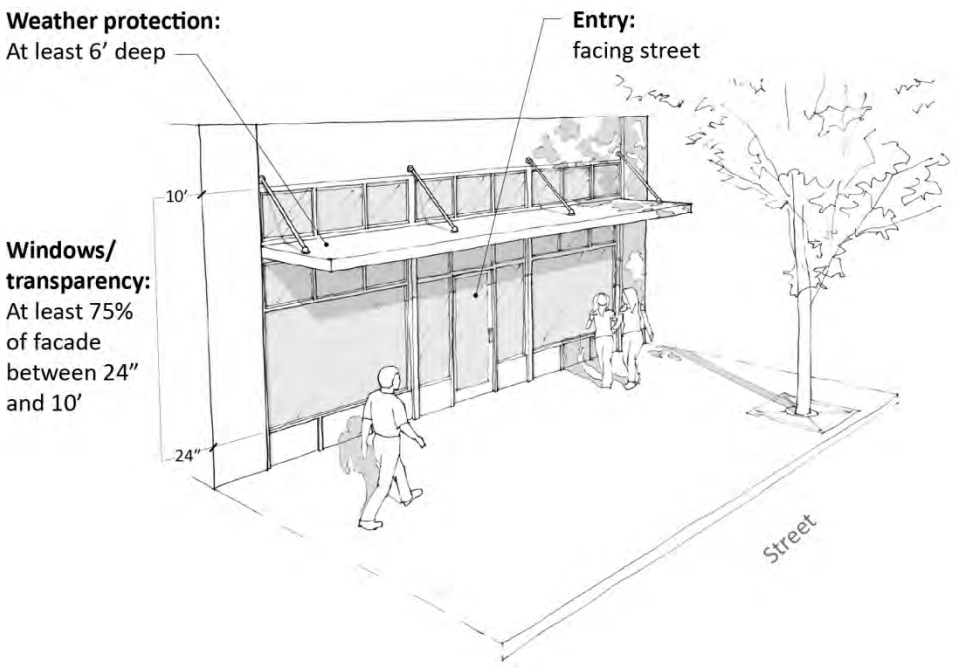

Figure 18-31: Examples of Building Orientation to Streets/Open Space Treatments

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Figure 18-32: Frontage Building Coverage

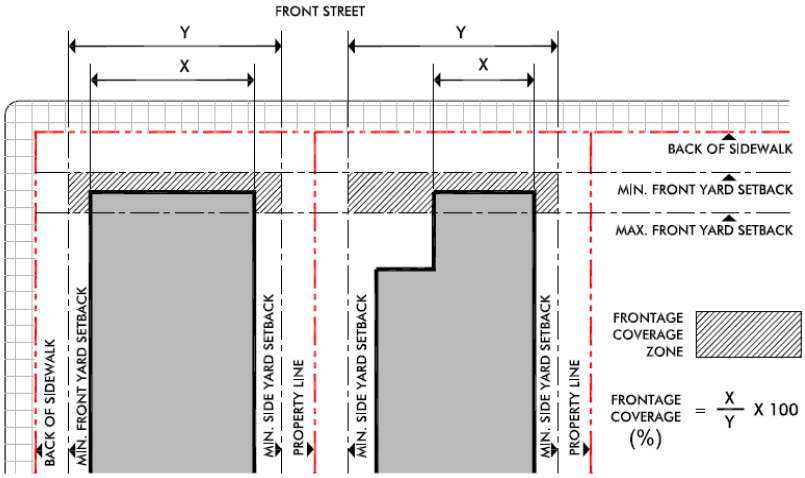

Figure 18-33: Example of exceeding maximum building setbacks to provide pedestrian space

Figure 18-34: Surface Parking – Front

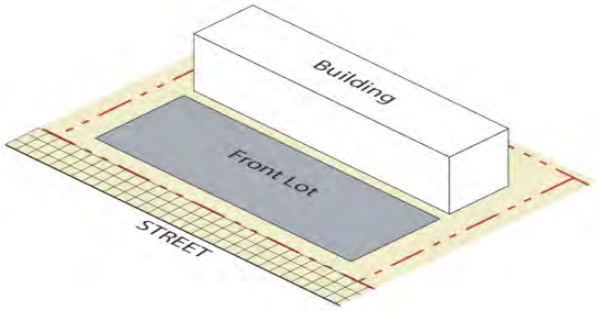

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Figure 18-35: Street Front Parking Examples

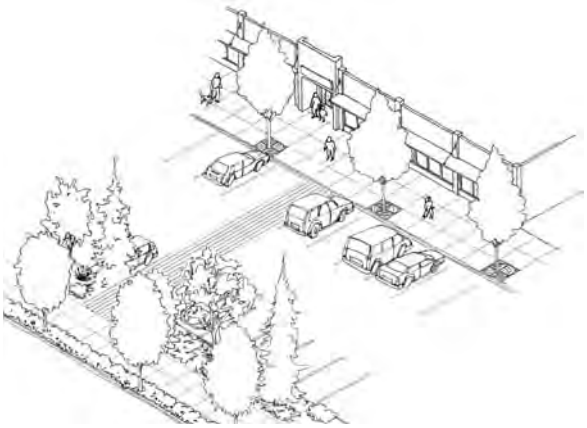
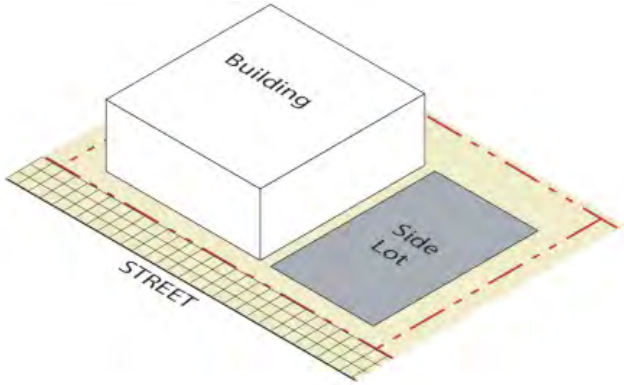


Figure 18-36: Surface Parking – Side



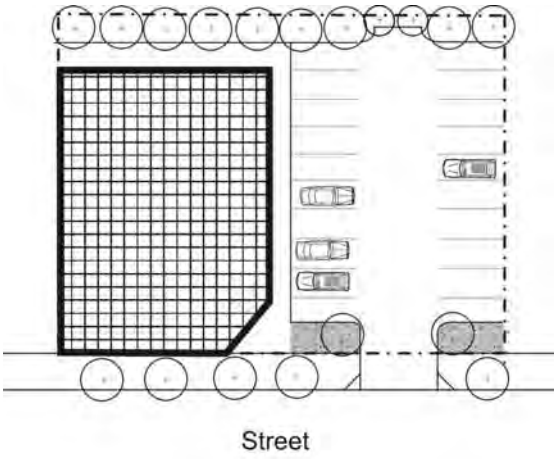


Figure 18-37: Surface Parking – Rear

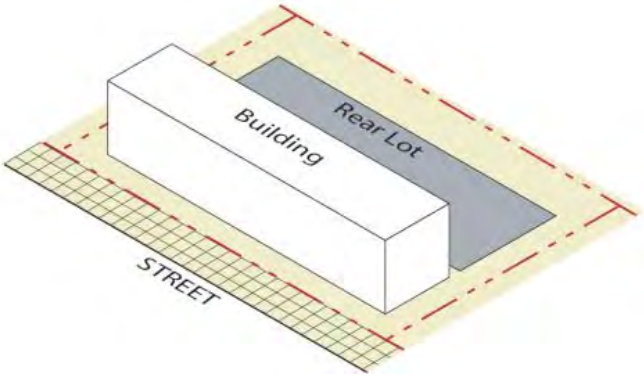


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Figure 18-38: Example of vertical modulation and horizontal modulation

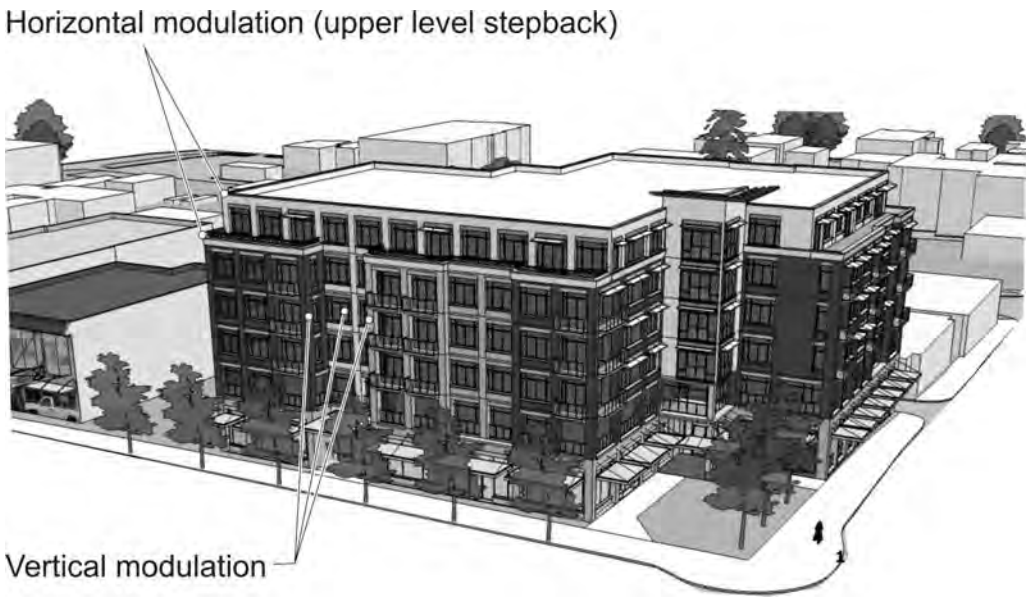

Figure 18-39: Façade articulation example for a mixed-use building

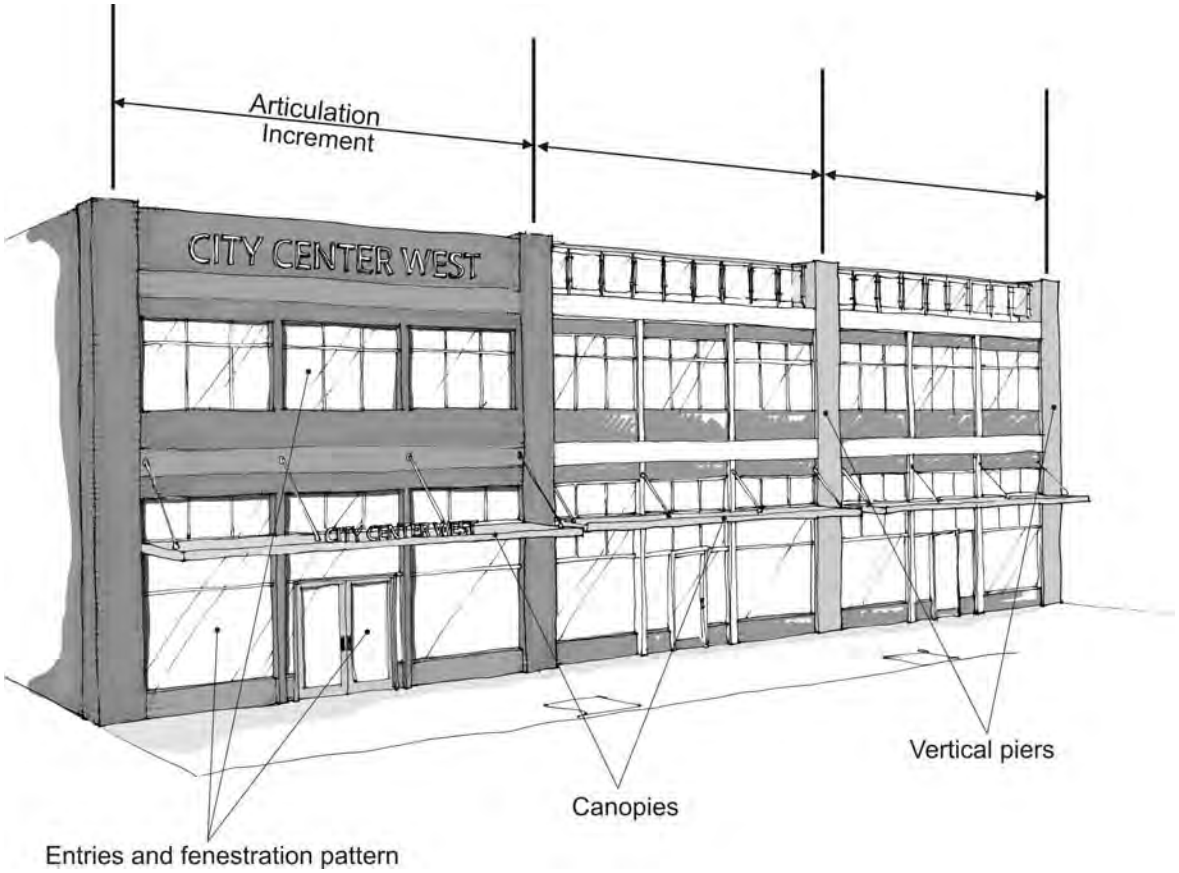

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Figure 18-40: Example of articulating the façade of a residential building

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Figure 18-41: Major Vertical Modulation Example

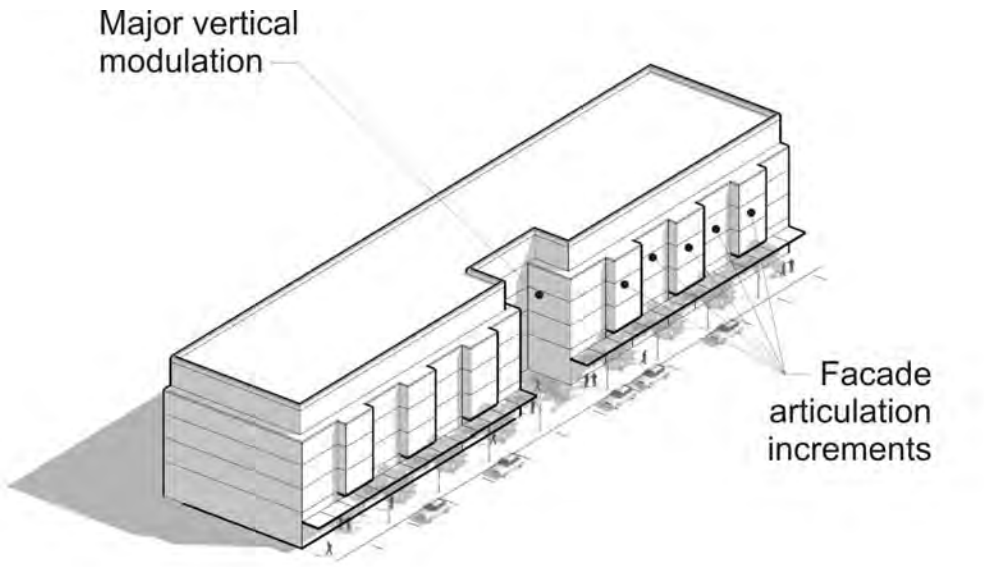

Figure 18-42: Ground level transparency requirements apply to the transparency percentage for the area between the height of 2 and 10 feet along the length of a building façade

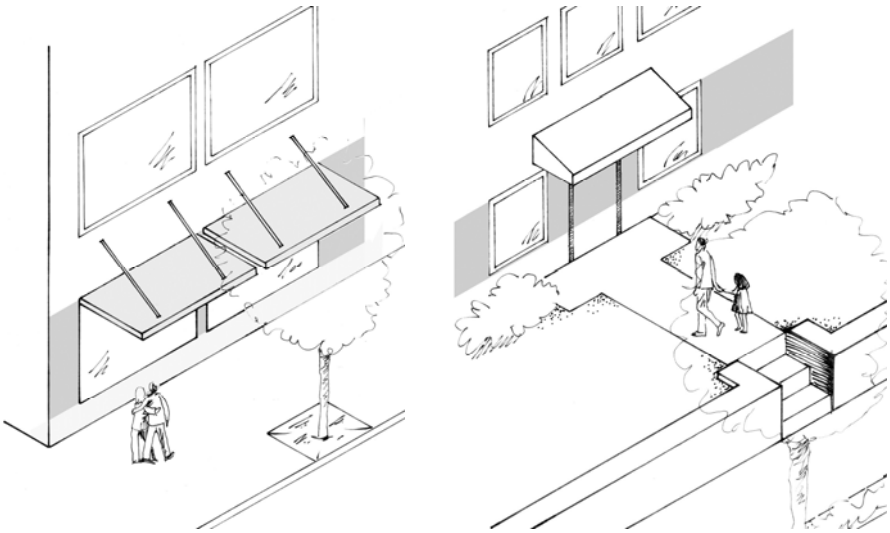

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Figure 18-43: Examples of percentage of transparency between 2-10'along the length of a building façade

75% Transparency

50% Transparency

Figure 18-44: Display window example

This example meets the criteria.

This does not.

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Figure 18-45: Encroachment provisions for building overhangs or weather protection features

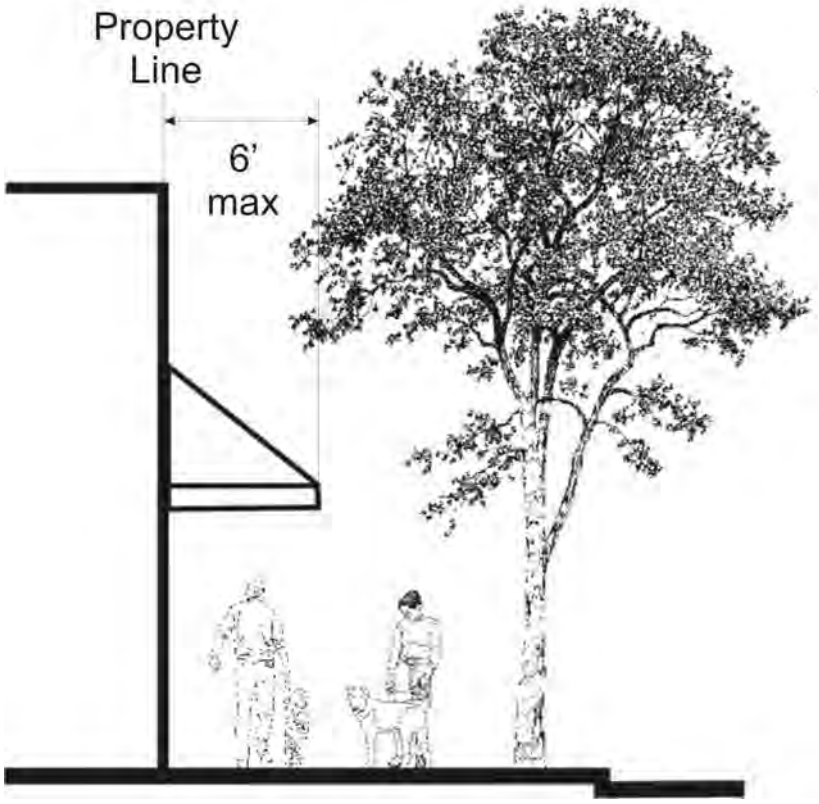

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Figure 18-46: Illustrating the various side and rear yard treatment standards and options.

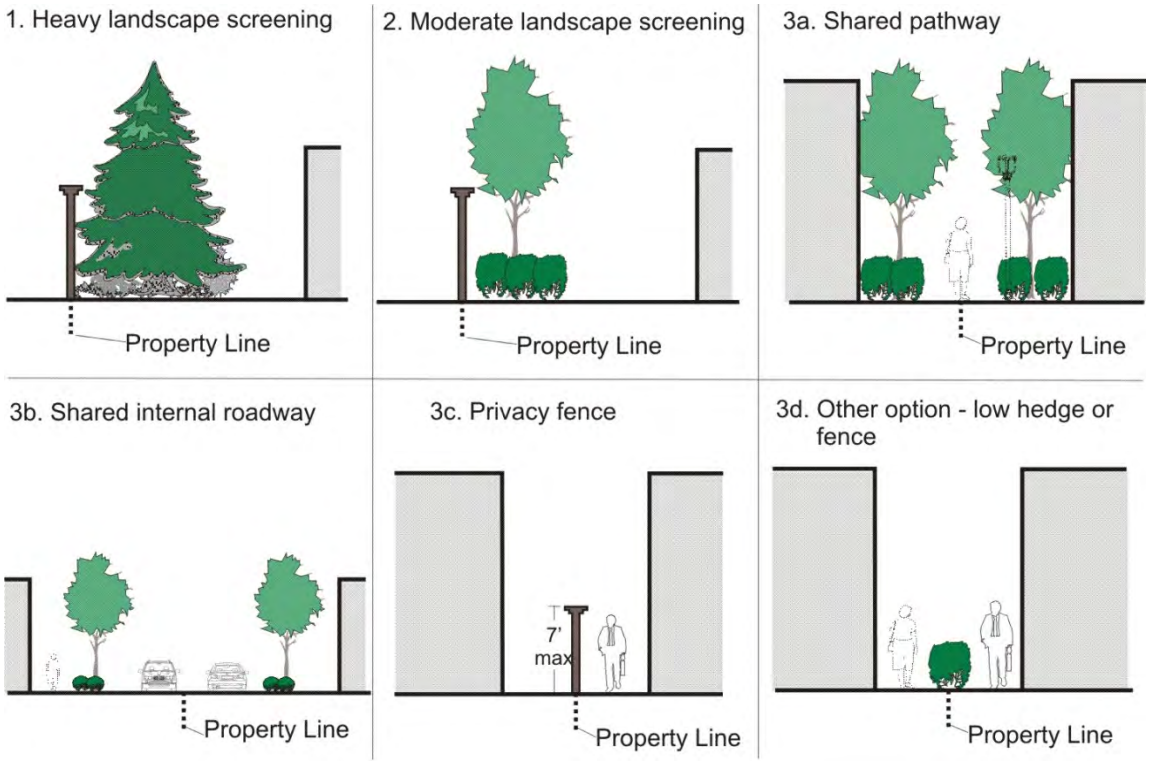

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Figure 18-47: *Not OK* – A single tree planted with no other materials and little room for viability.

Figure 18-48: Using evergreen landscaping to screen utilities

Figure 18-49: Examples of landscaped tree wells

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Figure 18-50: Examples of Pedestrian Spaces

Figure 18-51: Examples of pedestrian passages

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Figure 18-52: Common open space examples

Figure 18-53: Rooftop Garden

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Figure 18-54: Example of Driveway level with the height of the sidewalk

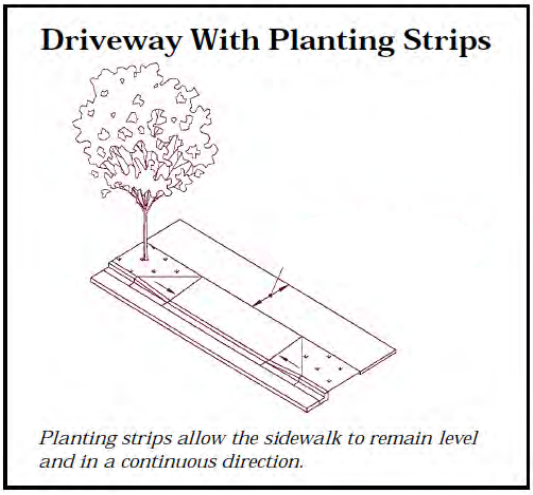

Figure 18-55: *Not OK* – Not enough room on-site to exit loading area, resulting in disruption of traffic movements

Figure 18-56: Parking lot walkway standards and example

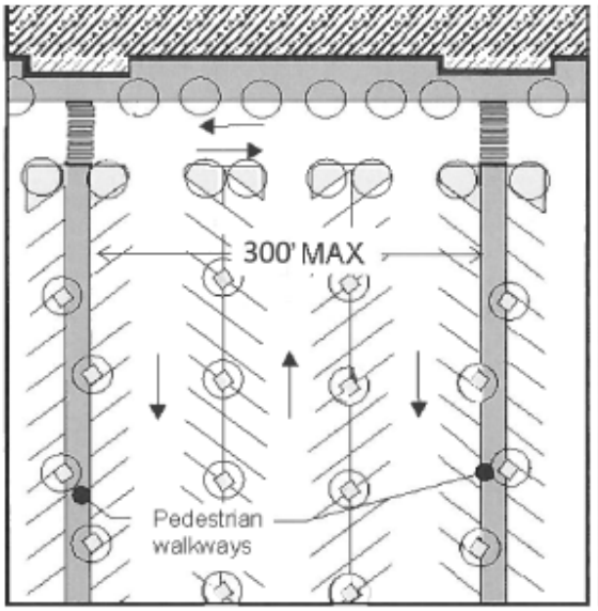

Figure 18-57: Example of good internal pedestrian circulation. Note connections from the street, between buildings and through parking lots

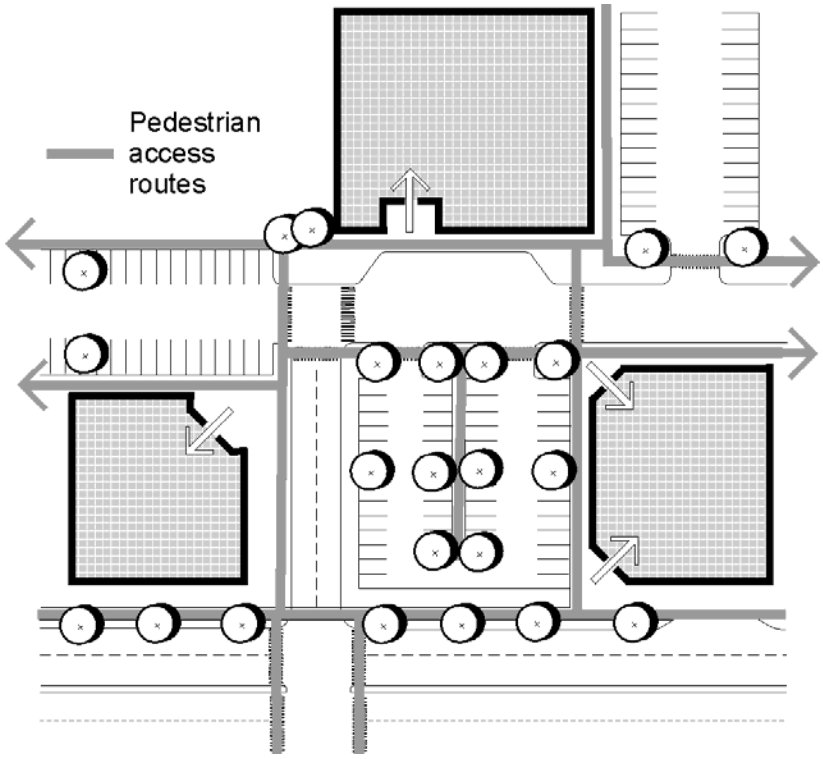

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Figure 18-58: Internal walkway standards and an example along retail or mixed-use buildings

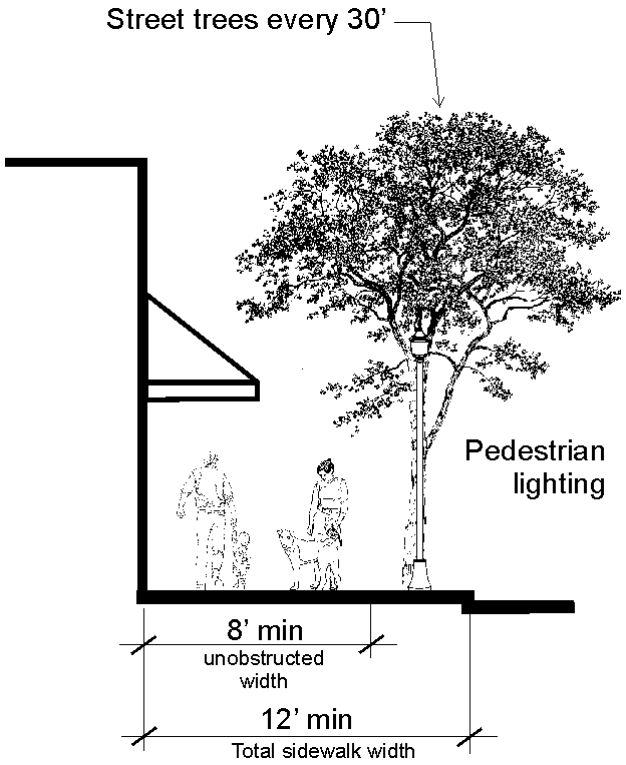

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Figure 18-59

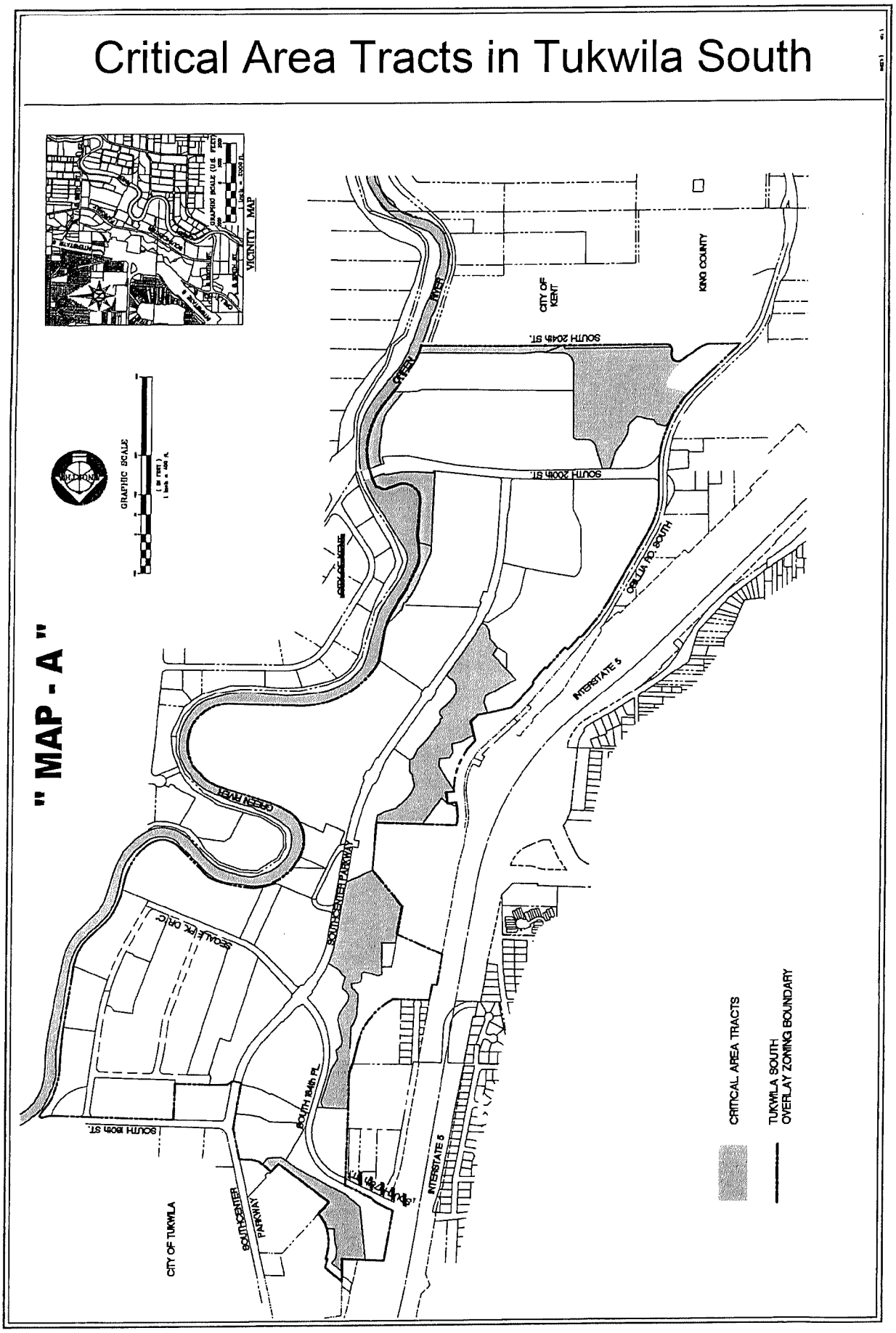

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Figure 18-60: Tukwila International Boulevard (TIB) Study Area

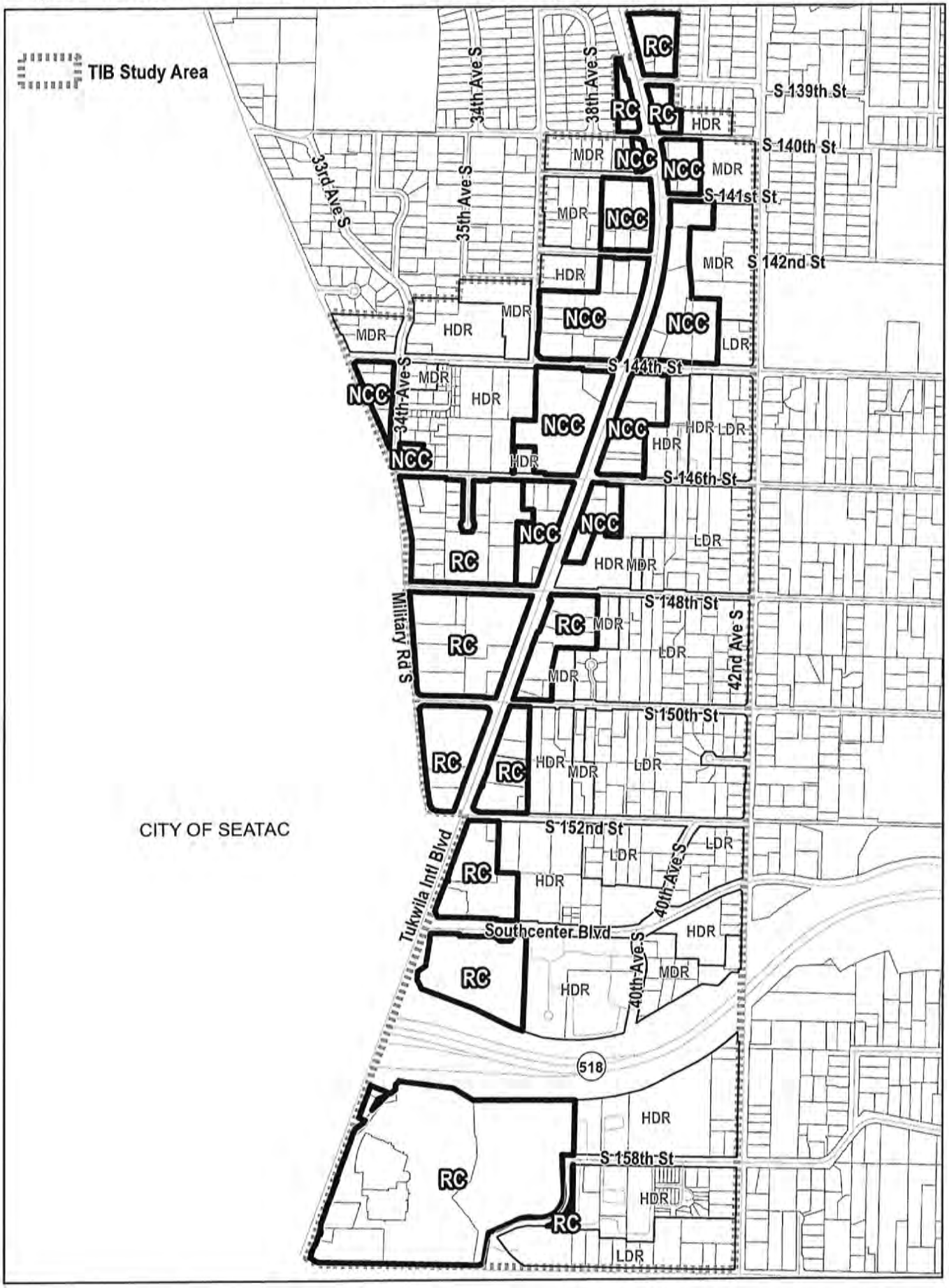

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Table 18-1:
Summary of applicable review process and standards/guidelines.
See subsection 18.28.030 (D) for detailed provisions.

Project Type	Review Type	Applicable Standards/Guidelines: District-Based Standards	Corridor-Based Standards	Supplemental Standards	Southcenter Design Manual	Design Review Criteria in TMC 18.60.050
Projects located in the TUC-RC, TUC-TOD, TUC-P, or TUC-CC Districts						
Minor remodels or very small projects see subsection (D)(1)(d)	Type 1	●	●*	●		
Major remodels and small-scale projects see subsection (D)(1)(b)	Type 2	●	●	●	●	
Large-scale projects see subsection (D)(1)(c)	Type 4 (BAR)	●	●	●	●	
Projects located in the TUC-Workplace District						
Residential/mixed-use building – small scale project see subsection (D)(2)(a)(1)	Type 2	●	●	●	●	
Residential/mixed-use building – major remodel see subsection (D)(2)(a)(2)	Type 2	●	●	●	●	
Residential/mixed-use building – large scale project see subsection (D)(2)(a)(3)	Type 4 (BAR)	●	●	●	●	
Other small scale new construction or exterior expansions, see subsection (D)(2)(b)(1)	Type 2	●	●	●		●
Other major remodels see subsection (D)(2)(b)(2)	Type 2	●	●	●		●
Other large-scale new construction or exterior expansions –see subsection (D)(2)(b)(3)	Type 4 (BAR)	●	●	●		●
Minor remodels or very small projects see subsection (D)(2)(c)		●	●*	●		

* Not required to meet corridor-based architectural design standards

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Table 18-2: Tukwila Urban Center Land Uses Allowed By District**

Business license	P = Permitted, A = Accessory, C = Conditional, UUP = Unclassified Use Permit *For parking requirements see Table 18-5 or Figure 18-7*	Regional Center	TOD	Pond District	Commercial Corridor	Work-Place
	Retail[1]					
60	Animal Kennels and Shelters, including doggy daycare				C	C
810A	Athletic or Health Clubs	P	P	P	P	P
90	Automotive Service and Repair	P[2]				P
400	Banks, Financial, Insurance, and Real Estate Services	P	P	P		
1030	Bar & Nightclubs	P	P[3]	P	P	
Ref. above†	Brew Pubs, On-Site Brewing, Cocktail Lounges, & Pool Halls	P	P	P	P	
	Bulk Retail	P			P	P
	Business Services (e.g. copying, fax and mailing centers)	P	P	P		P
Ref. above†	Drive Through Facilities or Services	P	P[3]		P	P
360A	Electric Vehicle Charging Station L1&2	P	P	P	P	P
360B	Electric Vehicle Charging State L3	A	P[3]	A	A	A
90	Gas Stations, including Car Wash		P[3]		P	P
	General Retail	P	P	P	P	P
Ref. above†	Laundries, Tailors, and Dry Cleaners	P	P	P	P	P
Ref. above†	Personal Services (e.g. beauty & barber shops, nail salons, spa, travel agencies)	P	P	P	P	
Ref. above†	Recreation Facilities (commercial indoor)	P	P	P		P
810C	Recreation Facilities (commercial outdoor)					P
Ref. above†	Repair Shops (small scale goods: bicycle, appliance, shoe, computer)	P	P	P		P
Ref. above†	Restaurants with associated cocktail lounges and sidewalk cafes	P	P	P	P	P[6]
Ref. above†	Theaters except adult entertainment	P		P	P	
840	Vehicle Rental and Sales (not requiring a commercial DL)	P	P[3]	P[5]		P
70	Veterinary Clinic with temporary indoor boarding and grooming	P	P	P	P	P
	Office					
	Professional, Outpatient Medical, Dental, Governmental Services, and Research	P	P	P	P	P
630	Medical and Dental Laboratories	P	P	P		P
	Lodging					
Ref. above†	Hotel, Motel, Extended Stay, Bed and Breakfasts	P	P	P		
	Civic & Institutional					
290	Convention & Exhibition Facilities, including multipurpose arena facilities	P	P[3]	P		

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Ref. above†	Cultural Facilities, including: libraries, museums, art galleries, performing arts centers	P	P	P		
Ref. above†	Daycare Centers	P	P	P	P	P
Ref. above†	Education and Instructional Facilities, public and private including college and universities	P	P	P		
Ref. above†	Parks, Trails, Picnic Areas, Playgrounds, and Public Community Centers	P	P	P	P	P
410	Police and Fire Stations	C	C	C	P	P
Business license	**P = Permitted, A = Accessory, C = Conditional, UUP = Unclassified Use Permit** *For parking requirements see Table 18-5 or Figure 18-7*	Regional Center	TOD	Pond District	Commercial Corridor	Work-Place
	Post Office	P	P	P		
820B	Religious Institutions, greater than 750 sf assembly area	C	C	C	C	C
820A	Religious Institutions, less than 750 sf assembly area	P	P	P	P	P
	Industrial, Manufacturing, & Warehouse					
190	Cargo Containers subject to TMC 18.50.060					A
550	Industrial Commercial Services (e.g. etching, film processing, lithography, printing & publishing)					P
Ref. above†	Light Industrial: Manufacturing, Processing and Assembling uses that have little potential for creating off-site noise, smoke, dust, vibration or other external impacts or pollution. Manufacturing and processing of food and beverages including fermenting and distilling; with or without a tasting room, provided the tasting room occupies less than 50% of the total area of the building occupied by the tenant but no more than 3500 square feet; and the manufacturing process does not cause off-site impacts to neighboring properties or create a public nuisance.					P
990A/B	Outdoor storage of materials to be manufactured or handled as part of a permitted use within the Zone, screened pursuant TMC 18.52					A
960	Self-Storage Facilities					P
1110	Warehouse Storage and Wholesale Distribution Facilities					P
	Transportation, Communication, & Infrastructure					
240	Commercial Parking , day use only	P	P	P	P	P
370	Essential Public Facilities, except those listed separately	UUP	UUP	UUP	UUP	UUP
	Intermodal Transit Stations, Rail transit facilities	UUP	UUP	UUP	UUP	UUP
Ref. above†	Internet Data Centers & Telephone Exchanges					P
7100	Park and Ride Lots	UUP	UUP	UUP		UUP
720	Parking Areas	A	A	A	A	A
	Public Transit Facilities and Stations (Bus)	P	P	P	P	P
780	Radio, Television, Microwave, or Observation Stations and Towers	C	C	C	C	C
Ref. above†	Utility Facilities, above ground/ not in ROW	C	C	C	C	P
Ref. above†	Utility Facilities, underground/in ROW	P	P	P	P	P
1140	Wireless Communication Facilities	P[7]	P[7]	P[7]	P[7]	P[7]

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	Residential					
320	Dormitories		A	A		
Ref. above[†]	Dwelling: Multi-family, Townhouses, Mixed Use, Senior Citizen Housing	P	P	P		P[4]
510	Home Occupation	A	A	A		P[4]
270	Continuing Care Retirement Community		P	P		

[†] Reference the above general zoning code use matrix for specific business license code.

** See TMC 18.28.260 for District specific parking standards.

1. Minimum interior height for ground level retail of all types is 18 feet from floor to floor plate. Use conversions in existing buildings are not required to meet this standard.
2. New businesses are limited to locations within the Freeway Frontage Corridor. See additional design standards in the Southcenter Design Manual.
3. East of the Green River only.
4. Only on properties fronting the Green River or Minkler Pond.
5. Excludes vehicle storage or maintenance.
6. 3,500 sf max per use.
7. Subject to TMC 18.58.

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Table 18-3 District Standards:

District Standards	Regional Center	TOD	Pond District	Corridor Comm.	Workplace
18.28.070 Structure Height [1]					
Minimum Height	25 ft fronting Baker Bl.	25 ft fronting Baker Bl.	n/a	n/a	n/a
Maximum Height without Incentives	85 ft	45 ft	45 ft	45 ft	45 ft
Frontal Improvement Height Incentive	115 ft, or 214 ft w/in 300 ft of Tukwila Pkwy & Southcenter Pkwy	70 ft, 115' if combined with MF, LEED or Affordable Housing Incentive	70 ft, no increase w/in 150 ft of Pond edge	n/a	n/a
Multi-Family Height Incentive	115 ft, or 214 ft w/in 300 ft of Tukwila Pkwy & Southcenter Pkwy	70 ft, 115' if combined with Frontal Imp., LEED or Affordable Housing Incentive	70 ft, no increase w/in 150 ft of Pond edge	n/a	70 ft River adjacent parcels only
18.28.080 Maximum Block Face Length					
Provision of New Streets	850 ft max[2]	700 ft max	700 ft max	900 ft max	900 ft max
18.28.090 Permitted Corridor Types for New Streets					
Pedestrian Corridor	-	permitted	permitted	-	
Walkable Corridor	permitted	permitted	-	-	
Neighborhood Corridor	permitted	permitted	permitted	-	permitted[3]
Urban Corridor			permitted	permitted	permitted
Commercial Corridor				permitted	permitted
Workplace Corridor	-		-	permitted	permitted
Tukwila Pond Esplanade	-		permitted		
Pedestrian Walkway		permitted			
18.28.100 Side and Rear Setbacks					
Side and Rear Yards	5 ft [4]	5 ft [4]	5 ft [4]	5 ft	5 ft
18.28.110 Side and Rear Landscaping Requirements					
Side and Rear Yards	5 ft [4]	5 ft [4]	5 ft [4]	0 ft	0 ft
18.28.220 Special Corner Feature					
Special Corner Feature on Building	permitted	permitted	permitted		

1) Portions of the building that extend above the primary building mass, such as non-habitable space (clock towers, roof-top cupolas, elevator and mechanical equipment enclosures), unenclosed space (roof deck trellises, gazebos), and other special architectural features, shall not exceed the maximum height requirement by more than 20 feet, provided they are set back a minimum of 10 feet from the edge of the roof (see also TMC 18.50.080).

2) Does not apply to Freeway Frontage Corridors

3) Permitted adjacent to residential uses.

4) May be waived as part of design review if Building and Fire Code requirements are met.

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Table 18-4 Provision of Open Space

Districts	Regional Center	TOD Neighborhood & Pond	Commercial Corridor & Workplace
Use Type	**Required Type/Amount of Open Space (minimums)**		
Retail	Pedestrian space: 30 sf/1,000 sf of building footprint; min 100 sf	Pedestrian space: 30 sf/1,000 sf of building footprint; min 100 sf and max 3,000 sf per site	--
Civic & Institutional	--	--	--
Office	Pedestrian space: 50 sf/1,000 sf of building footprint	Pedestrian space: 50 sf/1,000 sf of building footprint	Pedestrian space: 50 sf/1,000 sf of building footprint
Lodging	Pedestrian space: 50 sf/1,000 sf of building footprint	Pedestrian space: 50 sf/1,000 sf of building footprint	--
Residential	10% of residential unit floor area, may be any combination of common or private open space	10% of residential unit floor area, may be any combination of common or private open space	10% of residential unit floor area, may be any combination of common or private open space
Transportation, Communication & Infrastructure	--	--	--
Industrial, Manufacturing & Warehouse	--	--	--

Legend

-- Open Space Not Required

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Table 18-5 Provision of Parking

Districts	Regional Center, TOD Neighborhood & Pond District	Commercial Corridor & Workplace	All Districts
Use	**Required Minimum Vehicular Parking**	**Required Minimum Vehicular Parking**	**Required Minimum Bicycle Parking**
Retail, except as listed below	3.3 spaces/1,000 sf of ufa	See TMC Figure 18-7 Required Number of Parking Spaces for Automobiles and Bicycles	See TMC Figure 18-7 Required Number of Parking Spaces for Automobiles and Bicycles
Eating & Drinking Establishments	6 spaces/1,000 sf of ufa		
Planned Shopping Center 100,000 – 500,000 sf of ufa	4 spaces/1,000 sf of ufa		
Planned Shopping Center 500,000 – 1,000,000 sf of ufa	5 spaces/1,000 sf of ufa		
Planned Shopping Center over 1 million square feet gross leasable floor area including pad buildings [1]	4 spaces/1,000 sf of gross leasable floor area		
Entertainment & Recreation	6 spaces/1,000 sf of ufa, or as determined by DCD Director		
Business & Personal Services	3 spaces/1,000 sf of ufa		
Civic & Institutional	As determined by DCD Director		
Office	3 spaces/1,000 sf of ufa		
Lodging	1 space/guest room		
Residential			
1 bedroom unit or studio	1 space/unit		
2+ bedroom unit	1.5 plus .5 space for each additional bedroom over 2		
Home occupation	1 space/employee in addition to spaces otherwise required		
Senior Citizen Housing	1 space per unit for the first 15 units, .5 space per unit for additional units		
Industrial, Manufacturing & Warehouse	Not permitted		
Essential Public Facilities	As determined by DCD Director		

[1] Parking for office and residential uses within Regional Mall shall be calculated separately according to Table 5.

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Exhibit A – Table 18-6: Land Uses Allowed by District

See Table 18-2 for uses allowed in TUC and Figure 18-1 for uses allowed in Shoreline.

For properties zoned LDR, MDR and HDR that are designated as Commercial Redevelopment Areas (see figure 18-9 or 18-10), the uses and development standards of the adjacent commercial zone are permitted and shall apply, subject to the specific criteria and procedures defined in TMC 18.60.060

P = Permitted outright; A = Accessory (customarily appurtenant and incidental to a permitted use) ; C = Conditional (subject to TMC 18.64); U = Unclassified (subject to TMC 18.66); S = Special Permission (Administrative approval by the Director)	LDR	MDR	HDR	MUO	O	RCC	NCC	RC	RCM	C/L I	LI	HI	MIC/L	MIC/H	TVS	TSO	PRO
Adult day care	A	A	A	A	A			A	A							P	
Adult entertainment (subject to location restrictions[1])										P	P	P	P	P	P	P	
Airports, landing fields and heliports (except emergency sites)										U	U	U	U	U	U	U	
Amusement Parks								C	C	C	C	C			C	P	
Animal rendering											U					P	
Animal shelters and kennels, subject to additional State and local regulations (less than 4 cats/dogs = no permit)								C	C	C	C	C			C		
Animal Veterinary, including associated temporary indoor boarding; access to an arterial required	P	P	P	P		P	P	P	P	P					P		
Bed and breakfast lodging for not more than twelve guests[5]	C	C	C														
Bed and breakfast lodging (no size limit specified)				C												P	
Bicycle repair shops				P	P	P	P	P	P	P	P	P	P	P	P	P	
Boarding Homes		C	C														
Brew Pubs				P	P	C	P	P	P	P	P	P	P	P	P	P	
Bus stations							P	P	P	P	P	P	P	P	P	P	
Cargo containers (*see also TMC 18.50.060)	A&S	A&S	A&S					A&S	A&S	A&S	P	P	P	P	P		
Cement manufacturing										U	U	U	U	U	U		
Cemeteries and crematories	C	C	C	C	C			C	C	C	C	C			C	C	
Colleges and universities				C	C		C	C	C	C	C	C	C6	C6	C6	P	
Commercial laundries								P	P	P	P	P	P		P		
Commercial Parking (Commercial parking is a use of land or structure for the parking of motor vehicles as a commercial enterprise for which hourly, daily, or weekly fees are charged. TMC Section 18.06.613)				P7	P7			P7	P7	P7	P8	P8			P8		

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P = Permitted outright; A = Accessory (customarily appurtenant and incidental to a permitted use) ; C = Conditional (subject to TMC 18.64); U = Unclassified (subject to TMC 18.66); S = Special Permission (Administrative approval by the Director)	LDR	MDR	HDR	MUO	O	RCC	NCC	RC	RCM	C/L I	LI	HI	MIC/L	MIC/H	TVS	TSO	PRO
Contractor storage yards										P	P	P	P	P	P		
Continuing care retirement facility				C	C		C	C	C	C					C	P	
Convalescent & nursing homes & assisted living facility for not more than twelve patients		C	P	P	P	C	P	P	P	P					P	P	
Convalescent & nursing homes & assisted living facility for more than twelve patients				C	C		C	C	C	C					C	P	
Convention facilities								P	P	P	P	P			P	P	
Correctional institutes					U11						U	U		U			
Daycare Centers (not home-based)		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Daycare Family Home (Family Child Care Home)[12]	A	A	A	A	A	A	A	A	A						A	A	
Diversion facilities and diversion interim services facilities south of Strander Blvd										U							
Domestic Shelter	P	P	P	P	P												
Dormitory	C	C	C	A13	A13	A13	A13	A13	A13	A13	A13	A13			A13	A13	
Drive-in theatres								C	C	C	C	C			C		
Dwelling – Detached single family (Includes site built, modular home or new manufactured home). One detached single family dwelling per existing lot permitted in MUO, O, RCC, NCC, TVS.	P	P	P	P	P	P	P								P	P	
Dwelling- Detached Zero-Lot Line Units		P															
Dwelling- Duplex, triplex or fourplex or townhouse up to four attached units		P														P	
Dwelling- Townhouses			P													P	
Dwelling –Multi-family			P					P14								P	
Dwelling – Multi-family units above office and retail uses				P		P	P		P						C15 22/ ac	P	
Dwelling – Senior citizen housing, including assisted living facility for seniors *see purpose section of chapter, uses sections, and development standards		P meeting density and all other MDR standards	P 60/ac	P 60/ac			P 60/ ac	P 60/ac	P 60/ac						C15 100/ ac	P	
Dwelling unit – Accessory [16]	A	A	A														
Electrical Substation – Distribution	C	C	C	C	C		C	C	C	C	C	C	C	C	C	P	
Electrical Substation – Transmission/Switching												U		U	U	U	

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Electric Vehicle Charging Station – Level 1 and Level 2	A	A	A	P	P	P	P	P	P	P	P	P	P	P	P	P	
Electric Vehicle Charging Station – Level 3, battery exchange stations, and rapid charging stations. (TMC 18.50.140)	A	A	A	A	A	A	P	P	P	P	P	P	P	P	P	P	
Emergency Housing								P37	P37	P37	P37	P37	P37	P37	P37	P37	
Emergency Shelter								P37	P37	P37	P37	P37	P37	P37	P37	P37	
Essential public facilities, except those uses listed separately in any of the other zones								U	U	U	U	U	U	U	U	U	
Extended-stay hotel								P34	P	P	P	P			P	P	
Farming and farm-related activities															P	P	
Fire & Police Stations	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P	
Fraternal organizations				P	P	C	P	P	P	P	P	P			P	P	
Garage or carport (private) not exceeding 1,500 sq.ft. on same lot as residence and is subject to the regulations affecting the main building	A	A															
Greenhouses (noncommercial) and storage sheds not exceeding 1,000 sq./ft	A	A	A	A													
Greenhouses or nurseries (commercial)						P	P	P	P	P	P	P			P	P	
Hazardous waste treatment and storage facilities (off-site) subject to compliance with state siting criteria (RCW Chapter 70.105) (See TMC 21.08)												C		C			
Heavy equipment repair and salvage										P	P	P	P	P	P		
Helipads, accessory																C	
Home Occupation (Permitted in dwellings as covered in TMC Section 18.06.430.)	A	A	A	A	A	A	A		A						A	A	
Hospitals				C	C			C	C	C	C	C			C	P	
Hotels								P34	P	P	P	P	C	C	P	P	
Hydroelectric and private utility power generating plants								U	U	U	U	U	U	U	U		
Industries involved with etching, film processing, lithography, printing and publishing								P	P	P	P	P	P	P	P	P	
Internet Data/Telecommunication Centers								C		P	P	P	P	P	P	P	
Landfills and excavations which the responsible official, acting pursuant to the State Environmental Policy Act, determines are significant environmental actions	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U		
Laundries; self-serve, dry cleaning, tailor, dyeing				P	P	P	P	P	P	P	P	P	P	P	P	P	
Libraries, museums, or art galleries (public)	C	C	P	P	P	C	P	P	P	P	P	P	P	P	P	P	
Manuf./Mobile home park [17]		C	P														

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Manufacturing and industrial uses that have little potential for creating off-site noise, smoke, dust, vibration or other external environmental impacts or pollution:																	
A) Manufacturing, processing and/or packaging pharmaceuticals and related products, such as cosmetics and drugs							P18	P	P	P	P	P	P	P	P	P	
B) Manufacturing, processing and/or packaging previously prepared materials including, but not limited to, bags, brooms, brushes, canvas, clay, clothing, fur, furniture, glass, ink, paint, paper, plastics, rubber, tile, and wood							P18	P	P	P	P	P	P	P	P	P	
C) Manufacturing, processing, assembling, packaging and/or repairing electronic, mechanical or precision instruments such as medical and dental equipment, photographic goods, measurement and control devices, and recording equipment							P18	P	P	P	P	P	P	P	P	P	
D) Manufacturing, processing, packaging of foods, such as baked goods, beverages, candy, canned or preserved foods, dairy products and byproducts, frozen foods, instant foods, and meats (no slaughtering) i) Fermenting and distilling included											P	P	P	P			
ii) No fermenting and distilling							P18	P	P	P					P	P	
Manufacturing and industrial uses that have moderate to substantial potential for creating off-site noise, smoke, dust, vibration or other external environmental impacts:																	
(A) Manufacturing, processing and/or assembling chemicals, light metals, plastics, solvents, soaps, wood, coal, glass, enamels, textiles, fabrics, plaster, agricultural products or animal products (no rendering or slaughtering)										C	C	P	C	P	C		
(B) Manufacturing, processing and/or assembling of previously manufactured metals, such as iron and steel fabrication; steel production by electric arc melting, argon oxygen refining, and consumable electrode melting; and similar heavy industrial uses										C	C	P	C	P	C		
(C) Manufacturing, processing and/or assembling of previously prepared metals including, but not limited to, stamping, dyeing, shearing or punching of metal, engraving, galvanizing and hand forging								C	C	C	P	P	P	P	C		
D) Manufacturing, processing, assembling and/or packaging of electrical or mechanical equipment, vehicles and machines including, but not limited to, heavy and light machinery, tools, airplanes, boats or other transportation vehicles and equipment										P	P	P	P	P	C		
E) Heavy metal processes such as smelting, blast furnaces, drop forging or drop hammering													C	P			

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Manufacturing that includes rock crushing, asphalt or concrete batching or mixing, stone cutting, brick manufacture, marble works, and the assembly of products from the above materials										C	C	P	C	P	C	C	
Manufacturing, refining or storing highly volatile noxious or explosive products (less than tank car lots) such as acids, petroleum products, oil or gas, matches, fertilizer or insecticides; except for accessory storage of such materials												U		U	U	U	
Marijuana producers, processors, or retailers (with state issued license)												P			P	P19	
Mass transit facilities	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	
Medical and dental laboratories				P	P			P	P	P	P	P			P	P	
Minor expansion of an existing warehouse [20]																S	
Mortician and funeral homes								P	P	P	P	P			P	C	
Motels								P	P	P	P	P	C	C	P	P	
Offices including: medical, dental, government (excluding fire & police stations), professional, administrative, computer software development, business, e.g. travel, real estate & commercial				P22	P	P22	P23	P	P	P	P	P	P9 C10	P24 C25	P	P	
Office or sample room for wholesale or retail sales, with less than 50% storage or warehousing							P										
Park & ride lots				C	C		C	C	C	C	C	C	C	C	C	C	
Parking areas	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Parking areas, for municipal uses and police stations	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P	
Parks, trails, picnic areas and playgrounds (public), but not including amusement parks, golf courses, or commercial recreation	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Pawnbroker/Payday lender								C	C	P	P	P			P	P	
Permanent Supportive Housing	P38	P38	P38	P38	P38	P38	P38	P38	P38	P38	P38	P38	P38	P38	P38	P38	
Planned Shopping Center (mall)								P	P	P	P	P			P	P26	
Radio, television, microwave, or observation stations and towers	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Railroad freight or classification yards												U	U	U	U		
Railroad tracks (including lead, spur, loading or storage)										P	P	P	P	P	P		

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Recreation facilities (commercial – indoor) – athletic or health clubs				P	P		P	P	P	P	P	P	C3	P	P	P	
Recreation facilities (commercial – indoor), including bowling alleys, skating rinks, shooting ranges							C	P	P	P	P				P	P	
Recreation facilities (commercial – outdoor), including golf courses, golf driving ranges, fairgrounds, animal race tracks, sports fields										C	C	C			C		
Recreation facilities (public), including, but not limited to sports fields, community centers and golf courses	C	C	C	C	C		C	C	C	C	C	C	C	C	C		P
Recreational area and facilities for employees				A	A	A	A	A	A	A	A	A	A	A	A	A	
Religious facilities with an assembly area less than 750 sq.ft.	C	C	C	P	P	P	P	P	P	P	P	P			P	P	
Religious facilities with an assembly area greater than 750 sq.ft. and associated community center buildings	C	C	C	C	C	C	C	C	C	C	C	C			C	C	
Removal and processing of sand, gravel, rock, peat, black soil and other natural deposits together with associated structures										U	U	U	U	U	U		
Rental of vehicles not requiring a commercial driver's license								P36	P	P	P	P	P	P	P	P	
Rental of commercial trucks and fleet rentals requiring a commercial driver's license										P	P	P	P	P	P	P	
Research and development facilities															P	P	
Residences for security or maintenance personnel				A	A	A	A	A	A	A	A	A	A	A	A	A	
Restaurants, drive-through permitted								P35	P	P	P	P	P	P	P	P	
Restaurants, drive-through not permitted				P	P	C	P										
Retail, General				P	P4	P	P35	P35	P	P	P	P	C3	C3	P	P	
Sales and rental of heavy machinery and equipment subject to landscaping requirements of TMC Chapter 18.52*										P	P	P	P	P	P	P	
Salvage and wrecking operations												P		P	C		
Salvage and wrecking operations which are entirely enclosed within a building										P	P		P		P		
Sanitariums, or similar institutes															C		
Schools and studios for education or self-improvement				P	P	P	P	P	P	P	P	P	P9 C10	P27	P	P	
Schools, preschool, elementary, junior & senior high schools (public), and equivalent private schools	C	C	C	C	C	C	C	C	C						C	C	P (public only)
Secure community transition facility [28]														U			

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Self-storage facilities								P	P	P	P	P	P	P	P	P	
Sewage lift station	U	U	U	U	U	U	U									P	
Shelter	P	P	P	P	P												
Stable (private)	A29	A29	A29													P	
Storage (outdoor) of materials allowed to be manufactured or handled within facilities conforming to uses under this chapter; and screened pursuant to TMC Chapter 18.52								P	P	P	P	P	P	P	P	P	
Storage (outdoor) of materials is permitted up to a height of 20 feet with a front yard setback of 25 feet, and to a height of 50 feet with a front yard setback of 100 feet; security required												P	P	P	C	C	
Storm water - neighborhood detention + treatment facilities	U	U	U	U	U	U	U									P	
Storm water pump station	U	U	U	U	U	U	U										
Studios – Art, photography, music, voice and dance				P	P	P	P	P	P	P					P	P	
Taverns, nightclubs								P	P	P	P	P	P30	P30	P	P	
Telephone exchanges				P	P		P	P	P	P	P	P	P	P	P	P	
Theaters, except those theaters which constitute “adult entertainment establishments” as defined by this Zoning Code							P	P	P	P	P	P			P	P31	
Tow-truck operations, subject to all additional State and local regulations										P	P	P	P	P	P	P	
Transfer stations (refuse and garbage) when operated by a public agency												U	U	U	U		
Transitional Housing	P38	P38	P38	P38	P38	P38	P38	P38	P38	P38	P38	P38	P38	P38	P38	P38	
Truck terminals										P	P	P	P	P	P		
Utilities, regional																C	
Vehicle sales lot[2]								P32	P	P	P	P			P	P	
Vehicle service station							P33	P33	P	P	P	P	P	P	P	P	
Vehicle storage (no customers onsite, does not include park-and-fly operations)																P	
Warehouse storage and/or wholesale distribution facilities								P	P	P	P	P	P	P	P		
Water pump station	U	U	U	U	U	U	U									P	
Water utility reservoir and related facilities	U	U	U	U	U	U	U										
Wireless Telecommunications Facilities (*see TMC Ch. 18.58)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

Note: The Director of Community Development will make a determination for uses not specifically listed in the Zoning Code. The Director will consider whether the proposed use is:

a. Similar in nature to and compatible with other uses permitted out right within a similar zone; and

b. Consistent with the stated purpose of the zone; and

c. Consistent with the policies of the Tukwila Comprehensive Plan.

1. Adult entertainment establishments are permitted, subject to the following location restrictions:
   a. No adult entertainment establishment shall be allowed within the following distances from the following specified uses, areas or zones, whether such uses, areas or zones are located within or outside the City limits:
      (1) In or within 1,000 feet of any LDR, MDR, HDR, MUO, O, NCC, RC, RCM or TUC zone districts or any other residentially-zoned property;
      (2) In or within one-half mile of:
         (a) Public or private school with curricula equivalent to elementary, junior or senior high schools, or any facility owned or operated by such schools; and
         (b) Care centers, preschools, nursery schools or other child care facilities;
      (3) In or within 1,000 feet of:
         (a) public park, trail or public recreational facility; or
         (b) church, temple, synagogue or chapel; or
         (c) public library.
   b. The distances specified in TMC Section 18.30.020.1.a shall be measured by following a straight line from the nearest point of the property parcel upon which the proposed use is to be located, to the nearest point of the parcel of property or land use district boundary line from which the proposed land use is to be separated.
   c. No adult entertainment establishment shall be allowed to locate within 1,000 feet of an existing adult entertainment establishment. The distance specified in this section shall be measured by following a straight line between the nearest points of public entry into each establishment.

2. No dismantling of cars or travel trailers or sale of used parts allowed.

3. Retail sales and services are limited to uses of a type and size that clearly intend to serve other permitted uses and/or the employees of those uses.

4. Retail sales as part of a planned mixed-use development where at least 50% of gross leasable floor area development is for office use; no auto-oriented retail sales (e.g. drive-ins, service stations).

5. Bed and breakfast facilities, provided:
   a. the manager/owner must live on-site,
   b. the maximum number of residents, either permanent or temporary, at any one time is twelve,
   c. two on-site parking spaces for the owner and permanent residents and one additional on-site parking space is provided for each bedroom rented to customers,
   d. the maximum length of continuous stay by a guest is 14 days,
   e. breakfast must be offered on-site to customers, and
   f. all necessary permits or approvals are obtained from the Health Department.

6. Colleges and universities with primarily vocational curriculum if associated with an established aviation, manufacturing or industrial use.

7. Commercial parking; provided it is:
   a. a structured parking facility located within a structure having substantial ground floor retail or commercial activities and designed such that the pedestrian and commercial environments are not negatively impacted by the parking use; or
   b. a surface parking facility located at least 175 feet from adjacent arterial streets and behind a building that, combined with appropriate Type III landscaping, provides effective visual screening from adjacent streets.

8. Commercial parking subject to TMC Chapter 18.56, Off-Street Parking and Loading Regulations.

9. Offices including, but not limited to, software development and similar uses, financial services, schools for professional and vocational education if associated with an established aviation, manufacturing or industrial use, less than 20,000 square feet. This category does not include outpatient medical and dental clinics.

10. Offices including, but not limited to, software development and similar uses, financial services, schools for professional and vocational education if associated with an established aviation, manufacturing or industrial use, 20,000 square feet and over.

11. Correctional institution operated by the City of Tukwila.

12. Family child care homes, provided the facility shall be licensed by the Department of Early Learning or its successor agency and shall provide a safe passenger loading zone.

13. Dormitory as an accessory use to other uses that are otherwise permitted or approved conditional uses such as churches, universities, colleges or schools.

14. Dwelling - multi-family units on a lot that does not front on Tukwila International Boulevard South, subject to the HDR requirements of TMC Section 18.50.083, Maximum Building Length, and TMC Section 18.52.060, 2-4, Recreation Space Requirements.

15. Dwelling - Multi-family units (Max. 22.0 units/acre except senior citizen housing which is allowed to 100 units/acre, as a mixed-use development that is non-industrial in nature); must be located on property adjacent to and not greater than 500 feet from the Green River, Tukwila Pond, or Minkler Pond.

16. See TMC Section 18.50.220 for accessory dwelling unit standards.

17. Manufactured/mobile home park, meeting the following requirements:
    a. the development site shall comprise not less than two contiguous acres;
    b. overall development density shall not exceed eight dwelling units per acre;
    c. vehicular access to individual dwelling units shall be from the interior of the park; and
    d. emergency access shall be subject to the approval of the Tukwila Fire Department.

18. NCC allows businesses that include a retail component in conjunction with their manufacturing operation and meeting other performance standards of Chapter 18.22. These businesses may manufacture, process, assemble and/or package the following:
    a. foods, including but not limited to baked goods, beverages, candy, canned or preserved foods, dairy products and by products, frozen foods, instant foods and meats (no slaughtering);
    b. pharmaceuticals and related products such as cosmetics and drugs;
    c. bags, brooms, brushes, canvas, clay, clothing, fur, furniture, glass, ink, paints, paper, plastics, rubber, tile and wood;
    d. electronic, mechanical, or precision instruments;
    e. other manufacturing and assembly of a similar light industrial character;
    f. industries involved with etching, lithography, printing, and publishing, meeting the City's performance standards and offering their services to the local populace on a walk-in basis;
    g. businesses that service and repair the above products, that are entirely enclosed within a building, offering their services to the local populace on a walk-in basis and meeting the City's performance standards.

19. Where the underlying zoning is HI or TVS.

20. Minor expansion of an existing warehouse if the following criteria are met:
    a. The area of the proposed expansion may not exceed 5% of the floor area of the existing warehouse;
    b. The proposed expansion will not increase any building dimension that is legally non-conforming;
    c. Only one minor expansion may be permitted per warehouse in existence as of the date of adoption of the Tukwila South Project Development Agreement;
    d. The proposed expansion must be constructed within two years of the date of approval;
    e. The proposed development shall be compatible generally with the surrounding land uses in terms of traffic and pedestrian circulation, building and site design;
    f. All measures have been taken to minimize the possible adverse impacts the proposed expansion may have on the area in which it is located.

21. Movie theaters with more than three screens if the following criteria are met:
    a. The applicant must demonstrate through an economic analysis that the theater will not have a significant financial impact on any other theater in Tukwila;
    b. The proposed development shall be compatible generally with the surrounding land uses in terms of traffic and pedestrian circulation, building and site design;
    c. The proposed theater must demonstrate substantial conformance with the goals and policies of the Comprehensive Land Use Policy Plan and the Tukwila South Master Plan;
    d. All measures have been taken to minimize the possible adverse impacts the proposed theater may have on the area in which it is located.

22. Offices, when such offices occupy no more than the first two stories of the building or basement and floor above.

23. Offices, when such offices occupy no more than the first two stories of the building, or basement and floor above, or three stories, in the Urban Redevelopment Area along Tukwila International Boulevard.

24. Offices; must be associated with another permitted use (e.g., administrative offices for a manufacturing company present within the MIC).

25. Offices not associated with other permitted uses and excluding medical/dental clinics, subject to the following location and size restrictions:
    a. New Office Developments:
        (1) New office developments shall not exceed 100,000 square feet of gross floor area per lot that was legally established prior to 09/20/2003.
        (2) No new offices shall be allowed on lots that abut the Duwamish River and are north of the turning basin. The parcels that are ineligible for stand-alone office uses are shown in Figure 18-12.
    b. An existing office development established prior to 12/11/1995 (the effective date of the Comprehensive Plan) that exceeds the maximum size limitations may be recognized as a conforming Conditional Use under the provisions of this code. An existing office development established prior to 12/11/1995 (the effective date of the Comprehensive Plan) may convert to a stand-alone office use subject to the provisions of this code.

26. Planned shopping center (mall) up to 500,000 square feet.

27. Schools for professional and vocational education if associated with an established aviation, manufacturing or industrial use.

28. Secure community transition facility, subject to the following location restrictions:
    a. No secure community transition facility shall be allowed within the specified distances from the following uses, areas or zones, whether such uses, areas or zones are located within or outside the City limits:
        (1) In or within 1,000 feet of any residential zone.
        (2) Adjacent to, immediately across a street or parking lot from, or within the line of sight of a "risk potential activity/facility" as defined in RCW 71.09.020 as amended, that include:
            (a) Public and private schools;
            (b) School bus stops;

(c) Licensed day care and licensed preschool facilities;
(d) Public parks, publicly dedicated trails, and sports fields;
(e) Recreational and community centers;
(f) Churches, synagogues, temples and mosques; and
(g) Public libraries.

(3) One mile from any existing secure community transitional facility or correctional institution.

b. No secure community transition facility shall be allowed on any isolated parcel which is otherwise considered eligible by applying the criteria listed under TMC 18.38.050-12.a, but is completely surrounded by parcels ineligible for the location of such facilities.

c. The distances specified in TMC 18.38.050-12.a shall be measured as specified under Department of Social and Health Services guidelines established pursuant to RCW 71.09.285, which is by following a straight line from the nearest point of the property parcel upon which the secure community transitional facility is to be located, to the nearest point of the parcel of property or land use district boundary line from which the proposed land use is to be separated.

d. The parcels eligible for the location of secure community transition facilities by applying the siting criteria listed above and information available as of August 19, 2002, are shown in Figure 18-11, "Eligible Parcels for Location of Secure Community Transition Facilities." Any changes in the development pattern and the location of risk sites/facilities over time shall be taken into consideration to determine if the proposed site meets the siting criteria at the time of the permit application.

29. Private stable, if located not less than 60 feet from front lot line nor less than 30 feet from a side or rear lot line. It shall provide capacity for not more than one horse, mule or pony for each 20,000 square feet of stable and pasture area, but not more than a total of two of the above mentioned animals shall be allowed on the same lot.

30. No night clubs.

31. Theaters for live performances, not including adult entertainment establishments and movie theaters with three or fewer screens are permitted. Movie theaters with more than three screens will require a Special Permission Permit.

32. Automotive sales must have an enclosed showroom with no outdoor storage of vehicles. Pre-existing legally established uses in the TIB Study Area, as set forth in Figure 18-60, on December 15, 2020, are exempt from the enclosed showroom requirement, provided the use is limited to the existing parcel(s) currently occupied on that date. Pre-existing legally established automotive sales where existing parking lots abut the public frontage must provide effective visual screening of the parking lot from sidewalks (or street if no sidewalk currently exists) using Type II landscaping when any of the following occurs: an expansion or alteration of the structure, a change of ownership, or when the business is vacated or abandoned for more than 24 consecutive months and a new business is proposed.

33. Allowed; however, if in the TIB Study Area, as set forth in Figure 18-60, the following conditions apply: Outdoor storage of vehicles, tires, or other materials used for service is not permitted. Gas stations are permitted if the pumps and parking are located behind the building, the pumps meet the setback requirements, and the pumps comply with building and fire codes. Queuing lanes are not permitted between buildings and back of sidewalk. Wholesale distribution and storage of fuel (e.g. natural gas, propane, gasoline) are not permitted in the TIB Study Area. Pre-existing legally established automotive service uses with outdoor storage or parking abutting the public frontage must provide effective visual screening of the parking and outdoor stored materials from sidewalks (or street if no sidewalk currently exists) using Type II landscaping when any of the following occurs: an expansion or alteration of the structure, a change of ownership, or when the business is vacated or abandoned for more than 24 consecutive months and a new business is proposed.

34. Allow if the following are provided: a full-service restaurant and a Class A liquor license, 24-hour staffed reception, all rooms accessed off interior hallways or lobby, and a minimum 90 rooms.

35. Allowed, however if in the TIB Study area, as set forth in Figure 18-60, the following conditions apply: Drive-through facilities are permitted when located behind a building. Queuing lanes are not permitted between buildings and public frontage sidewalks. Where the use is located on a corner or with access to an alley, drive-throughs must exit to a side street or an alley that connects to a side street, where feasible.

36. Automotive rentals must have an enclosed showroom with no outdoor storage of vehicles. Pre-existing legally established uses in the TIB Study Area, as set forth in Figure 18-60, on December 15, 2020, are exempt from the enclosed showroom requirement, provided the use is limited to the existing parcel(s) currently occupied on that date.

37. Subject to the criteria and conditions at TMC 18.50.250 and 18.50.270.

38. Subject to the criteria and conditions at TMC 18.50.260 and 18.50.270.

TITLE 19

SIGN AND VISUAL COMMUNICATION CODE

Chapters:

Figures (located at back of this section):

CHAPTER 19.04
GENERAL PROVISIONS

Sections:

19.04.010 Title

This title shall be hereinafter known as the "Tukwila Sign and Visual Communication Code." It may be cited as such and will be hereinafter referred to as the "Sign Code."

(Ord. 2303 §1 (part), 2010)

19.04.020 Intent

The purpose of this code is to enhance the City's aesthetic character; to protect the public health, safety and welfare; and to increase the effectiveness of visual communication in the City by providing opportunities for Tukwila businesses, residents and property owners to display signage. The regulations for signs have the following specific objectives:

1. To have signs that attract and invite rather than demand the public's attention along the City's streetscapes.
2. To have streets that appear orderly and safe, because clutter is minimized.
3. To have signs that enhance the visual environment of the City, because they are in harmony with building architecture and landscape design.
4. To allow business identification that is not unduly hindered by regulatory standards.
5. To ensure typical communication and civic discussion is fostered in the City's residential neighborhoods.
6. To allow signs that utilize high quality construction materials, fine architectural detailing, harmonious proportionality, and that serve a multi-modal environment.

(Ord. 2303 §1 (part), 2010)

19.04.030 Liability for Damages

Nothing in this code shall relieve any person, corporation, firm or entity from responsibility for damages to any other person suffering physical injury or damage to property as a result of the installation, display, maintenance or removal of any sign authorized under this code. The City and its employees, agents and officials shall assume no liability for such injury or damage resulting from the authorization of any permit or inspection implementing the provisions of this code.

(Ord. 2303 §1 (part), 2010)

19.04.040 Severability Clause

If any section, subsection, paragraph, sentence, clause or phrase of this code or its application to any person or situation should be held invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this code or its application to any other person or situation.

(Ord. 2303 §1 (part), 2010)

19.04.050 Third Party Review and Inspections

A. In the event an application to install a sign requires a level of expert review the City cannot complete in house, the City shall have the right to have a third party assist in the review. In such cases where a third party review is required, the applicant shall reimburse the City for the full cost of the third party review.

B. If the installation of a sign requires inspection services that due to complexity or specialty cannot be completed by City staff, the applicant shall be responsible for coordinating and paying a private firm to complete such inspections. Copies of any inspection reports shall be submitted to the City in order to demonstrate the inspections have been completed.

(Ord. 2303 §1 (part), 2010)

19.04.060 Substitution

Notwithstanding anything herein to the contrary, noncommercial copy may be substituted for commercial copy on any lawful sign structure.

(Ord. 2303 §1 (part), 2010)

19.04.070 Conflict with Other Adopted Environmental Regulations

Nothing in this title shall be interpreted to allow a violation of the City's Sensitive Area Regulations or Shoreline Regulations. In cases of conflict between the Sign Code and the City's adopted Sensitive Area Regulations and/or Shoreline Regulations, the requirements of the Sensitive Area Regulations and/or Shoreline Regulations shall prevail.

(Ord. 2303 §1 (part), 2010)

CHAPTER 19.08

DEFINITIONS

Sections:

19.08.010 Generally

As used in this chapter, the following terms shall have the meanings set forth in this section, unless a different meaning is clearly indicated by the context in which the term is used. Terms not defined herein shall be interpreted using the meaning they have in common usage and to give this chapter its most reasonable application.

(Ord. 2303 §2 (part), 2010)

19.08.020 "Abandoned Sign"

Abandoned Sign means any sign that advertises a business, lessor, owner, product, service or activity that has not been located on the premises where the sign is displayed for 60 days or more or a sign cabinet where the face has been broken or missing for 30 days or more.

(Ord. 2303 §2 (part), 2010)

19.08.030 "Awning"

Awning means a fabric-covered structure mounted on the face of a building above a window, entrance or storefront opening, providing weather protection.

(Ord. 2303 §2 (part), 2010)

19.08.040 "Awning/Canopy Side Sign"

Awning/Canopy Side Sign means a sign applied to or mounted on the side of an awning or canopy, contained completely within the end area and oriented perpendicular to the building wall surface.

(Ord. 2303 §2 (part), 2010)

19.08.050 "Awning/Canopy Sign, Under"

Awning/Canopy Sign, Under means a sign suspended from an awning, canopy or arcade, but does not extend beyond the horizontal limits of the awning, canopy or arcade structure.

(Ord. 2303 §2 (part), 2010)

19.08.055 "Awning Face Sign"

Awning Face Sign means a sign applied to the main face of an awning, including sloped and vertical surfaces.

(Ord. 2303 §2 (part), 2010)

19.08.060 "Billboard"

Billboard means an off-premise, freestanding sign or visual communication device that has a sign area of at least 150 square feet in message area per face. Freeway interchange signs are not included in this definition.

(Ord. 2303 §2 (part), 2010)

19.08.065 "Building-Mounted Sign"

Building-Mounted Sign means a sign permanently attached to a building and includes flush-mounted signs, awning signs, projecting signs, etc.

(Ord. 2303 §2, 2010)

19.08.067 "Billboard Receiving Areas"

Billboard Receiving Areas are those areas of the City along South 180th Street zoned as Commercial/Light Industrial; those properties south of South 180th Street along West Valley Highway zoned as Commercial/Light Industrial; all properties located along Boeing Access Road; those properties along East Marginal Way, north of Boeing Access Road; and all properties located along Airport Way, north of Boeing Access Road, for which permits for new billboards may be issued if the criteria of this title are satisfied. Attachments A and B, codified in Title 19 as ***Figures 19-1*** and ***19-2***, are hereby amended. These maps show the billboard receiving areas listed with this definition and are for illustrative purposes only.

(Ord. 2375 §1, 2012; Ord. 2303 §2 (part), 2010)

19.08.069 "Billboard Sending Areas"

Billboard Sending Areas are those areas of the City that are not designated as billboard receiving areas from which billboards existing as of the time of the enactment of these regulations, must be removed before a permit for a new billboard may be issued by the City.

(Ord. 2303 §2 (part), 2010)

19.08.070 "Cabinet Sign"

Cabinet Sign means a geometrically-shaped sign with a translucent face, backlit by an internal light source.

(Ord. 2303 §2 (part), 2010)

19.08.072 "Canopy"

Canopy means a rigid structure projecting from the face of a building above a window, entrance or storefront opening, providing weather protection.

(Ord. 2303 §2 (part), 2010)

19.08.074 "Canopy Edge Sign"

Canopy Edge Sign means a sign mounted along or above the edge of a canopy and oriented parallel to the building wall.

(Ord. 2303 §2 (part), 2010)

19.08.076 "Channel Letters"

Channel Letters mean three-dimensional, individually-cut letters or figures affixed to a structure.

(Ord. 2303 §2 (part), 2010)

19.08.080 "Commercial Real Estate Signs"

Commercial Real Estate Signs are signs located in commercial and industrial zones are used to denote a property, building or tenant space available for sale, lease or rental.

(Ord. 2303 §2 (part), 2010)

19.08.082 "Commercial Zones"

Commercial Zones means any area of the City zoned O, MUO, RCC, NCC, RC, RCM, TUC, C/LI, TVS or TSO.

(Ord. 2303 §2 (part), 2010)

19.08.084 "Corner Projecting Sign"

Corner Projecting Sign means a tall, vertically-oriented sign that projects from a building corner and is structurally integrated into the building.

(Ord. 2303 §2 (part), 2010)

19.08.090 "Department"

Department means the Department of Community Development or subsequent organizational successor.

(Ord. 2303 §2 (part), 2010)

19.08.091 "Digital Billboard"

Digital Billboard means an off-premise sign using digital technology that produces static images which are changed remotely. Digital billboards may not scroll, flash or feature motion pictures. A digital billboard may be internally or externally illuminated. Digital billboards shall contain static messages only and shall not meet the definition of a dynamic sign except that the static image may change every ten seconds. Each static message shall not include flashing, scintillating lighting or the varying of light color or intensity.

(Ord. 2303 §2 (part), 2010)

19.08.092 "Director"

Director means the Director of Community Development or his/her designee.

(Ord. 2303 §2 (part), 2010)

19.08.094 "Dynamic Sign"

Dynamic Sign is any sign or part of a sign that appears to move or change due to any method other than physically removing and replacing the sign or its components, whether the apparent movement or change is in the display, the sign structure itself, or in any other component of the sign. This includes a display that incorporates a technology or method allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components, including a display that includes any rotating panels, LED lights manipulated through digital input, "digital ink" or displays in which the display or sign appears to move more frequently than once every 24 hours.

(Ord. 2303 §2 (part), 2010)

19.08.100 "Electronic Sign"

Electronic Sign means a sign containing a display that can be changed by electrical, electronic or computerized process.

(Ord. 2303 §2 (part), 2010)

19.08.110 "Exposed Building Face"

Exposed Building Face means that portion of the building exterior wall fronting a tenant space as seen in elevation together with one-half the vertical distance between eaves and ridge of a pitched roof above it, used for sign area calculation purposes.

(Ord. 2303 §2 (part), 2010)

19.08.120 "Flush Mounted Building Sign"

Flush Mounted Building Sign means a sign located on and parallel to a building wall.

(Ord. 2303 §2 (part), 2010)

19.08.130 "Freestanding Sign"

Freestanding Sign means a sign supported by one or more uprights, poles or braces installed on a permanent foundation, not attached to a building or other structure.

(Ord. 2303 §2 (part), 2010)

19.08.140 "Freeway Interchange Sign"

Freeway Interchange Sign means a freestanding sign at least 100 feet in height, for a business located within a radius of 1,000 feet from a freeway entry/exit point or industrial zone, but not separated by a physical barrier from the entry/exit intersection. The freeway interchange sign is primarily oriented to the passing motorists on the adjacent freeway.

(Ord. 2303 §2 (part), 2010)

19.08.142 "Fuel Canopy"

Fuel Canopy is a structure designed to provide weather protection to motorists in order for them to fill vehicles with gasoline, diesel, compressed natural gas, propane, electricity or other similar compounds that allow for the powering of vehicles. The following components must be in place beneath the structure in order for this definition to apply to a structure: 1) There must be at least two fuel dispensing devices; and 2) Customers must have the ability to pay electronically.

(Ord. 2375 §3, 2012)

19.08.144 "GBCI"

GBCI means the Green Building Certification Institute or successor entity.

(Ord. 2375 §2, 2012)

19.08.145 "Height, Freestanding Sign"

Height, Freestanding Sign means the distance measured vertically from the lowest point of elevation of the ground within five feet from said sign to the top of the sign. *See Figure 19-3.*

(Ord. 2303 §2 (part), 2010)

19.08.150 "Industrial Zone"

Industrial Zone means any area of the City zoned LI, HI, MIC/L or MIC/H.

(Ord. 2303 §2 (part), 2010)

19.08.155 "Institutional Use"

Institutional Use means any non-residential use located within a residential zone that provides services to the surrounding neighborhood or residential community. Common institutional uses include, but are not limited to, fire stations, public or private schools, religious institutions, public parks, libraries and other similar type uses.

(Ord. 2303 §2 (part), 2010)

19.08.160 "Landmark Business"

Landmark Business is an entity that occupies at least 60,000 square feet of building space on a premise that contains at least five separate businesses or uses.

(Ord. 2303 §2 (part), 2010)

19.08.162 "LEED"

LEED means the Leadership in Energy and Environmental Design or successor program, as administered by the United States Green Building Council or successor agency.

(Ord. 2375 §4, 2012)

19.08.165 "Master Sign Program"

Master Sign Program means a coordinated signage scheme for all signs on a premise that may include deviations from the standard sign requirements.

(Ord. 2303 §2 (part), 2010)

19.08.170 "Monument Sign"

Monument Sign means a sign supported by at least two posts or columns or with a base that extends at least 75 percent of the sign panel length. Monument signs may also consist of painted text or channel letters mounted on a freestanding seating wall or retaining wall where the total height of the structure meets the limitations of this code.

(Ord. 2303 §2 (part), 2010)

19.08.180 "Multi-Family Complex"

Multi-Family Complex means any structure or group of structures within a residential zone that contains at least five dwelling units.

(Ord. 2303 §2 (part), 2010)

19.08.183 "Mural"

An expression of public art painted directly on the exterior of a building or on a backing that is affixed to the building and that has the consent of the property owner. Text or logos related to the businesses located at the site are not considered to be part of a mural and are subject to the regulations set forth in this code.

(Ord. 2679 §1, 2022)

19.08.185 "Off-Premise Signage"

Off-Premise Signage means a permanent sign not located on the premises of the use or activity to which the sign pertains.

(Ord. 2303 §2 (part), 2010)

19.08.190 "Parking Structure Incentive Sign"

Parking Structure Incentive Sign means a flush-mounted building sign permitted on parking structures and intended for periodic changes in copy.

(Ord. 2303 §2 (part), 2010)

19.08.195 "Permanent Sign"

Permanent Sign means any sign erected without a restriction on the time period allowed for its display as specified in this code.

(Ord. 2303 §2 (part), 2010)

19.08.200 "Pole Banner"

Pole Banner means a fabric banner sign attached to a street or parking lot light pole.

(Ord. 2303 §2 (part), 2010)

19.08.210 "Portable Sign"

Portable Sign means a sign not permanently affixed to a structure and is designed for or capable of being relocated, except those signs explicitly designed for people to carry on their persons or those permanently affixed to motor vehicles operating in their normal course of business.

(Ord. 2303 §2 (part), 2010)

19.08.215 "Projecting Sign"

Projecting Sign means a permanent sign perpendicular to the building façade and suspended from a bracket or armature or cantilevered to the building.

(Ord. 2303 §2 (part), 2010)

19.08.220 "Premises"

Premises means one or more contiguous lots of record not separated by right-of-way and owned or managed by the same individual or entity.

(Ord. 2303 §2 (part), 2010)

19.08.225 "Residential Zone"

Residential Zone means any area of the City zoned LDR, MDR or HDR.

(Ord. 2303 §2 (part), 2010)

19.08.230 "Sight Distance Triangle"

Sight Distance Triangle. *See Figure 19-4*

(Ord. 2303 §2 (part), 2010)

19.08.235 "Sign"

Sign means materials placed or constructed, or light projected, that (a) convey a message or image and (b) are used to inform or attract the attention of the public, but not including any lawful display of merchandise. Some examples of "signs" are materials or lights meeting the definition of the preceding sentence and which are commonly referred to as signs, placards, A-boards, posters, murals, diagrams, banners, flags, or projected slides, images or holograms. The scope of the term "sign" does not depend on the content of the message or image conveyed.

(Ord. 2303 §2 (part), 2010)

19.08.240 "Sign Area"

Sign Area means the entire area within a continuous perimeter, composed of straight lines or arcs, enclosing all elements of the sign copy, including text, logo and designs, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed. The area of a three-dimensional sign shall be the surface area of a geometric figure such as sphere, rectangle or cylinder that completely contains the sign element.

(Ord. 2303 §2 (part), 2010)

19.08.245 "Standard Billboard"

Standard Billboard means a billboard of at least 150 square feet in which copy is physically changed and is not considered a digital sign under Section 19.08.091.

(Ord. 2303 §2 (part), 2010)

19.08.247 "Tukwila Urban Center"

Tukwila Urban Center is defined as all current and future real properties that are zoned Tukwila Urban Center (TUC) by the City's official Zoning Map kept on file with the Department of Community Development.

(Ord. 2303 §2 (part), 2010)

19.08.250 "Temporary Sign"

Temporary Sign is a sign that is only permitted to be displayed for a limited period of time specified by this code after which it must be removed.

(Ord. 2303 §2 (part), 2010)

19.08.260 "Tukwila International Boulevard Corridor"

Tukwila International Boulevard Corridor means that area of the City subject to the City's Tukwila International Boulevard Plan and depicted in Zoning Code *Figure 18-9*.

(Ord. 2303 §2 (part), 2010)

19.08.265 "Window Sign"

Window Sign is a sign applied to a window or mounted or suspended directly behind a window.

(Ord. 2303 §2 (part), 2010)

19.08.270 "Window Sign, Temporary"

Window Sign, Temporary is a sign applied directly to a window or mounted or suspended directly behind a window and is designed, constructed, and intended for display on real property for not more than 30 days per calendar quarter for any particular sign.

(Ord. 2303 §2 (part), 2010)

19.08.280 "Wireless Communications Facility"

Wireless Communications Facility means any tower, antennas, ancillary structure or facility, or related equipment or component thereof, used for the transmission of radio frequency signals through electromagnetic energy for the purpose of providing phone, internet, video, information services, specialized mobile radio, paging, wireless digital data transmission, broadband, unlicensed spectrum service utilizing part 15 devices and other similar services that currently exist or that may in the future be developed.

(Ord. 2303 §2 (part), 2010)

CHAPTER 19.12

PERMITS

Sections:

19.12.010 Administration

The Director of Community Development (hereinafter "Director") or his or her designee shall have the authority to administer this code. The Director may, if needed, develop administrative rules to resolve any conflicts arising out of the administration of the Sign Code. Any rules shall not be in conflict with this code and shall be consistent with Section 19.04.020, "Intent," and the legislative record used to create this code. Sign permits are issued by the Director unless otherwise noted in this code. The Director may require the assistance of other departments in administering this code.

(Ord. 2303 §3 (part), 2010)

19.12.020 Sign Permits Required

A. A sign discernible from any public right-of-way, adjacent premise or an adjacent off-site business shall not be erected, re-erected, constructed or altered, including changes to the sign panel, face or copy, without a sign permit, except as provided by this code.

B. The installation of some signage within the City may require a permit from the Washington State Department of Transportation. It is an applicant's responsibility to obtain all required permits from the appropriate government agency.

C. The issuance of a sign permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of the City. Permits presuming to give authority to violate or cancel the provisions of this code or other ordinances of the City shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the Director from requiring the correction of errors in the construction documents and other data.

(Ord. 2303 §3(part), 2010)

19.12.030 Exceptions –Sign Permits Not Required

The following shall not require issuance of permits by the City. The exception is only from the need to obtain a permit and shall not be construed as relief from compliance with other requirements of this title. The provisions of this section shall be narrowly construed so as to effectuate the purposes of this title, as enumerated in TMC Section 19.04.020.

1. Repainting of an existing sign when there is no other alteration. This exception shall not be interpreted to allow the changing of copy or face changes on an existing sign.

2. Refacing, panel change or copy change on existing conforming, monument signs that have valid Tukwila sign permits as permitted by TMC Sections 19.20.030 (B)(7), 19.20.040 (6), or 19.32.075.

3. Temporary window signs, subject to the limitations of TMC Section 19.24.080.

4. Traffic signs and/or markings installed by the City of Tukwila, King County or Washington State Department of Transportation for the purpose of regulating, warning or directing traffic. Signs may be installed within the right-of-way or on private property, with the permission of the property owner. All signs installed under this exception shall meet the requirements of the Manual on Uniform Traffic Control Devices for Streets and Highways, current edition, published by the U.S. Department of Transportation.

5. Signs typically installed on utilities and wireless communication facilities denoting danger or other safety information, including emergency contact information.

6. Land use notice boards per TMC Section 18.104.110.

7. Text or graphics on umbrellas located in outdoor seating or plaza areas.

8. Up to four directional signs per premises where there is a need to direct vehicular traffic. Freestanding signs may be up to three feet in height and two square feet per face or a total of four square feet for all faces. Flush-mounted building signs may be up to three square feet in size.

9. The following exceptions are specific to properties developed with residential uses in residential zones:

a. Each residential property shall be permitted one 1.5-square-foot, building-mounted plaque; and

b. Each residential property shall be permitted four signs that are temporary in nature, for a total sign area of 12 square feet, with no sign larger than 6 square feet.

10. Display of up to three flags, each on individual flag poles, per premise. Content of the flags is not regulated.

11. Banners within the City's right-of-way, located on City-owned light poles, City-owned street light signal poles, or hanging above the right-of-way when approved by the Director of Public Works or designee.

(Ord. 2501 §1, 2016; Ord. 2469 §1, 2015; Ord. 2375 §5, 2012; Ord. 2303 §3 (part), 2010)

19.12.040 Prohibited Signs and Devices

A sign, sign style or device is prohibited by this code and subject to removal if it is not specifically permitted by this code. This includes, but is not limited to, the following examples:

1. Signs adjacent to State roads that do not comply with Washington State Department of Transportation regulations.
2. Any sign using the word "stop," "look" or "danger" or any other word, symbol, character or color, that might be confusing to traffic or detract from any legal traffic control device.
3. Any sign, symbol, object or device located within City or State rights-of-way or City easement or City-owned property without City and/or State approval.
4. Any sign, symbol, object or device located on a traffic control device, City light pole or other City-owned facility, even if such facility is located on private property, with the exception of TMC Section 19.12.030.4.
5. Any sign, symbol, object or device that is placed or hung from a tree, bush, shrub or other vegetation.
6. Strings of pennants, banners or streamers, searchlights, clusters of flags, wind-animated objects, balloons and similar devices except as provided under TMC Section 19.24.060.
7. The use of portable signs or other similar devices, unless permitted under TMC Section 19.24.070.
8. Dynamic signs, except those types specifically permitted under this code.
9. Abandoned signs.
10. No sign may be placed on any property without the property owner's permission. Private property owners shall be responsible for the removal of signs placed on their property without their permission.

(Ord. 2501 §2, 2016; Ord. 2303 §3 (part), 2010)

19.12.050 Party-of-Record

Any person who submits comments in writing on an application during the public comment period, requests in writing copies of notice of any public hearing on an application, requests in writing copies of any decision on the application, testifies on an application at a public hearing, or who otherwise indicates in writing a desire to be informed of the status of the application, shall be a party-of-record. The applicant shall always be considered a party-of-record.

(Ord. 2303 §3 (part), 2010)

19.12.060 Notice of Complete Application

A. Within 28 days following receipt of a permit application, the Department shall mail, email or provide in person written notice to the applicant that the application is either complete or incomplete. If the application is incomplete, the notice shall state with specificity what is necessary to make the application complete.

B. An application shall be deemed complete under this section if the Department does not provide written or electronic (email) notice to the applicant that the application is incomplete within the 28-day period, as provided herein.

C. If the application is incomplete and the applicant submits the additional information requested by the Department, the Department shall mail, email or provide in person written notice to the applicant, within 14 days following the receipt of the additional information, whether the application is now complete or what further information is necessary to make the application complete. An application shall be deemed complete if the Department does not provide written or electronic (email) notice to the applicant within the 14-day period that the application is incomplete.

D. The Department may cancel an incomplete application if the applicant fails to submit the additional information listed in the notice of incompleteness within 90 days of the date of the notice.

E. The Department may extend this cancellation date up to 120 additional days if the applicant submits a written or electronic (email) request for an extension prior to cancellation. The request must clearly demonstrate the delay is due to circumstances beyond the applicant's control or unusual circumstances not typically faced by other applicants and that a good faith effort has been made to provide the requested materials.

F. The fact that an application is deemed complete pursuant to this section shall not under any circumstances prevent the City from subsequently requesting additional information or studies regarding any aspect of a proposed project that are deemed necessary to a complete review of the proposed project.

(Ord. 2303 §3 (part), 2010)

19.12.070 Notice of Application

A. For sign permit variances and Board of Architectural Review (BAR) reviewed Master Sign Program applications a Notice of Application shall be provided to property owners and tenants within 500 feet of the subject site, departments and agencies with jurisdiction and any parties-of-record.

B. A Notice of Application shall be issued by the Department within 14 days following the Department's determination that the application is complete.

C. All required Notices of Application shall contain:

1. the file number;
2. the name of the applicant and the owner of the property, if different than the applicant;
3. a description of the sign(s), the location, a list of the permits included in the application and the location where the application and any environmental documents or studies can be reviewed;
4. a site plan;
5. a statement establishing a public comment period, which shall be 14 days following the date of the Notice of Application. Comment period for projects requiring a Shoreline Substantial Development Permit shall be either 20 or 30 days, as specified in RCW 90.58.140;
6. the procedures and deadline for filing comments, requesting notice of any required hearings and any appeal rights. Any person may comment in writing or via email on the application during the public comment period and may participate by submitting either written or oral testimony, or both, at any hearings and may request a copy of the decision once made. The Notice

shall specify any appeal procedures that apply to the permit application;

7. the date, time, place and type of hearing, if applicable and scheduled at the time of notice; and

8. the identification of other permits not included in the application, to the extent known by the Department.

D. Additional information is required by RCW 90.58 for Notices of Application for projects that require a Shoreline Substantial Development Permit.

E. Except for a Determination of Significance, the Department shall not issue a threshold determination pursuant to RCW 43.21C and the Department shall not issue a decision or a recommendation on the application until the expiration of the public comment period on the Notice of Application.

F. Email notification may substitute for mailings when the relevant party agrees to this form of communication. A party-of-record may request and the City shall honor any request to only receive notification via U.S. mail.

G. Notice required per this code may be combined with land use notifications for concurrent actions required under Title 18.

H. Mailed notice shall be deemed satisfactory despite the failure of one or more persons to receive mailed notice.

(Ord. 2303 §3 (part), 2010)

19.12.080 Notice of Hearing

A. At least 14 days prior to any public hearings on sign permit variances, BAR reviewed Master Sign Program applications or appeal of a sign decision, the Department shall issue a Notice of Hearing by mail to property owners and tenants within 500 feet of the subject site, departments and agencies with jurisdiction and any parties-of-record.

B. A Notice of Hearing shall include:

1. the file number;

2. the name of the applicant;

3. a description of the sign(s), the location, a list of the permits included in the application and the location where the application, the staff report and any environmental documents or studies can be reviewed;

4. a site plan;

5. the date, time, place and type of hearing;

6. the phone number of the Department and the name of the staff person who can provide additional information on the application and the hearing;

7. the Director shall have the discretion to include additional information in the Notice of Hearing if the Director determines such information would increase public awareness or understanding of the proposed project; and

8. email notification may substitute for mailings when the relevant party agrees to this form of communication. A party-of-record may request and the City shall honor any request to only receive notification via U.S. mail.

(Ord. 2303 §3 (part), 2010)

19.12.090 Notice of Decision

The Department shall provide written notice in a timely manner of the final decision on permit applications. Such notice shall identify the procedures for administrative appeals, if any. Notice shall be delivered by either first class mail, email or in person to the applicant, agencies with jurisdiction and all parties-of-record.

(Ord. 2303 §3 (part), 2010)

19.12.100 Time Periods for Permit Issuance

A. The City strives to make final decisions on all sign permit applications within 120 days from the date the applicant is notified by the Department that the application is complete. The following periods shall be excluded from this 120-day period:

1. Any period of time during which the applicant has been requested by any City department, agency or hearing body with jurisdiction over some aspect of the application to correct plans, perform required studies or provide additional information. The period shall be calculated from the date the applicant is notified of the need for additional information until the earlier of:

a. the date the department, agency or hearing body determines whether the additional information satisfies the request; or

b. 14 days after the date the information has been provided to the department, agency or hearing body. If the department, agency or hearing body determines the action by the applicant is insufficient, it shall notify the applicant of the deficiencies and the procedures of this section shall apply as if a new request for information had been made. If the applicant fails to provide a requested correction or additional information within 90 days of the request, the Department may cancel the application due to inactivity.

2. Any additional time period for administrative review agreed upon by the Department and the applicant.

3. Any additional time period agreed upon by the Department, the applicant and any parties to an appeal.

B. The time limits established in this section shall not apply if a project permit application requires an amendment to the Comprehensive Plan or a development regulation.

C. If a final decision cannot be issued within the time limits established by this section, the Department shall provide written notice of this fact to the project applicant. The notice shall include a statement of explanation as to why the time limits have not been met and an estimated date for issuance of the notice of final decision.

D. A modification to project plans occurring before issuance of the permit shall be deemed a new application for the purpose of the 120-day permit clock when such modification would result in a substantial change in a project's review requirements, as determined by the Department.

(Ord. 2303 §3 (part), 2010)

19.12.110 Date of Decision

All notices issued pursuant to this title shall be deemed to have been issued on the date on which they are deposited in the U.S. mail or transmitted via electronic mail by the Department.

(Ord. 2303 §3(part), 2010)

19.12.120 Appeals

All appeals of decisions issued under this code must be filed with the Department within 14 days of the date of decision. At the time an appeal is filed, the appealing party shall pay an appeal fee pursuant to the current fee schedule. Appeals will be heard by the Hearing Examiner who shall conduct a closed-record appeal and consider only the information originally presented to the Director. No administrative appeal is permitted for sign variances which shall go directly to King County Superior Court.

(Ord. 2303 §3 (part), 2010)

19.12.130 Notice of Appeals

A. Every Notice of Appeal shall contain:

1. the name of the appealing party;

2. the address and phone number of the appealing party, and if the appealing party is a corporation, association or other group, the address and phone number of a contact person authorized to receive notices on the appealing party's behalf; and

3. a statement identifying the decision being appealed and the alleged errors in that decision. The Notice of Appeal shall state specific errors of fact or errors in application of the law in the decision being appealed, the harm suffered or anticipated by the appellant, and the relief sought. The scope of the appeal shall be limited to matters or issues raised in the Notice of Appeal.

B. The Notice of Appeal shall be distributed by the Department to the office of the Hearing Examiner.

(Ord. 2303 §3 (part), 2010)

19.12.140 Dismissal of Untimely Appeals

On its own motion or on the motion of a party, the Hearing Examiner shall dismiss an appeal for failure to file the appeal with the Department prior to the end of the appeal period.

(Ord. 2303 §3 (part), 2010)

19.12.150 Sign Permit Expiration for Permanent Signs

Sign permits are valid for 180 days from the date of issuance. The applicant must request a final inspection or submit a request for extension to the City prior to the permit expiration date or the permit will expire. The Director may grant an extension if the request is submitted prior to permit expiration.

(Ord. 2501 §3, 2016; Ord. 2303 §3(part), 2010)

19.12.160 Sign Code Interpretation

A. The Director shall, upon written request, issue a Sign Code Interpretation to resolve an issue arising out of the administration of this code to a specific sign proposal. Any Sign Code Interpretation issued by the Director shall be in keeping with the intent of this code as specified in Section 19.04.020, the legislative documents utilized to write this code, the Zoning Code, the Comprehensive Plan, and any other City regulation or policy such as, but not limited to, the Walk and Roll Plan and the Shoreline Master Plan.

B. Any aggrieved party may file an appeal of the Director's code interpretation following the process specified in Sections 19.12.120 and 19.12.130.

(Ord. 2303 §3 (part), 2010)

19.12.170 Sign Code Violations

A. It is the responsibility of a property owner and/or business owner to ensure the provisions of this code are met on any real property they own or control. The City shall issue a warning to any property owner where illegal permanent or temporary signs have been installed or where permanent or temporary signs have been installed without first obtaining a permit. Each day that an unlawful sign remains will be deemed a separate violation.

B. The City shall have the right to remove any signs illegally placed within the City's right-of-way, easements under City control or property owned and/or controlled by the City. No duty is created to require the City to remove such signs. The City shall retain all signs removed from the City's right-of-way for 10 days. The owner of the signs may retrieve the signs from the City and pay a $50-per-sign fee to the City to recover a portion of the City's cost in removing the illegal signs. Once the 10-day period has expired, the City shall have the right to dispose of the signs.

C. Any violation of this code shall be considered a public nuisance and subject to enforcement and penalties as prescribed by TMC Chapter 8.45 and the issuance of a Notice of Violation in accordance with TMC Section 8.45.070.

(Ord. 2549 §26, 2017; Ord. 2303 §3 (part), 2010)

19.12.180 Business License and Affidavit Requirement

A. Any sign contractor who does business within the City must first obtain a business license from the City. As part of the business license registration, the contractor shall sign an affidavit acknowledging they have read the City's Sign Code, specifically:

1. Section 19.12.020, "Sign Permits Required."
2. Chapter 19.36, "Non-Conforming Provisions."

B. Any sign contractor who possesses a City business license and violates the requirements of this code shall be subject to enforcement and penalties as prescribed by TMC Chapter 8.45 and the issuance of a Notice of Violation in accordance with TMC Section 8.45.070. The City shall also revoke the business license of the sign contractor and the City shall not permit a new business license to be issued for at least one year, pursuant to TMC Section 5.04.110.

C. Any sign contractor found operating in the City without a Tukwila business license shall be subject to a fine not less than $1,000. Additionally, the City shall report the violation to the State for further enforcement action. Any contractor who has a business license revoked or has fines issued shall have the right to appeal such actions to the Hearing Examiner, pursuant to TMC Section 5.04.112.

(Ord. 2549 §27, 2017; Ord. 2303 §3 (part), 2010)

CHAPTER 19.16

CONSTRUCTION, MAINTENANCE AND REMOVAL OF SIGNS

Sections:

19.16.010 Construction

A. All signs within the City shall comply with the structural requirements of the Washington State Building Code.

B. All signs within the City shall comply with the electrical requirements of the City's adopted Electrical Code.

(Ord. 2303 §4 (part), 2010)

19.16.020 Structural Review

The City's Building Official may require that proposed building-mounted signs that weigh 400 pounds or more, monument signs 50 square feet or more in face area and freestanding signs 15 feet or more in height undergo structural review in order to preserve the public health, safety or welfare. When structural review is required, the applicant shall pay the full amount of the City's cost to conduct such review. Construction details that describe either the proposed foundation (for freestanding signs) or wall brackets (for building-mounted signs) must be submitted with the sign permit application. Structural calculations for the sign shall be prepared by a licensed Washington State structural engineer.

(Ord. 2303 §4 (part), 2010)

19.16.030 Required Inspections for Permanent Signs

A. When a sign triggers structural review, per Section 19.16.020, the applicant or installer shall contact the City to request a footing inspection before the concrete has been poured or bracket inspection before a building-mounted sign is installed.

B. It is the responsibility of the installer to obtain an electrical permit and associated inspections from the City if the sign uses electrical power.

C. It is the responsibility of the installer to contact the City for a final inspection for all signs when installation is complete

(Ord. 2303 §4 (part), 2010)

19.16.040 Maintenance

All signs, including their support structures, shall be kept in good repair, specifically:

1. Signs shall be regularly painted or appropriately maintained.
2. Damaged signs or support structures shall be replaced in accordance with the original permit unless the sign is non-conforming, per Chapter 19.36.

3. All lighting shall be maintained in good working order with no broken or burned- out lamps. Signs do not have to be illuminated at all times; however, if they are illuminated, the entire sign shall be illuminated and there shall be no dark portions of the sign.

4. Electrical and power cords shall not be visible.

5. Cabinet signs with missing sign faces are strictly prohibited within the City.

6. If a building-mounted sign is removed, the building wall shall be restored to a condition to match the remaining wall area. There shall be no evidence that a sign was located on the building.

(Ord. 2303 §4 (part), 2010)

19.16.050 Removal of Abandoned Signs

A. The Director shall order the removal of any sign that is abandoned as defined by TMC Section 19.08.020. The particular mitigation measures shall be based on the circumstances outlined below:

1. *Non-conforming Freestanding Sign.* In the event that a non-conforming freestanding sign has been abandoned and the sign is not covered under a grace period found in Chapter 19.36, the Director shall order the property owner to remove the sign and sign structure within 45 days of issuance of a Notice and Order from the City.

2. *Non-conforming Building-Mounted Sign.* In the event that a non-conforming building-mounted sign has been abandoned, the Director shall order the property owner to remove the sign within 45 days of issuance of a Notice and Order from the City. The building wall shall be completely restored, as ordered by the Director.

3. *Conforming Freestanding Sign.* In the event that a conforming freestanding sign is abandoned, the Director shall order the property owner to install a blank face on the sign within 30 days of issuance of a Notice and Order, until such time as a new tenant obtains a sign permit from the City.

4. *Conforming Building-Mounted Sign.* In the event that a conforming building-mounted sign is abandoned, the Director shall order the property owner to install a blank face on the sign within 30 days of issuance of a Notice and Order until such time as a new tenant obtains a sign permit from the City. Building-mounted signs utilizing channel letters shall be completely removed and the wall restored within 30 days of issuance of a Notice and Order.

B. It shall be the responsibility of the property owner to provide sufficient evidence that a sign is conforming to the regulations of the City's current Sign Code.

(Ord. 2303 §4 (part), 2010)

19.16.060 Immediate Removal, Public Safety

The Director shall order the immediate removal of any sign or sign support structure that in his/her opinion poses an imminent threat to public safety or damage to adjacent structures.

(Ord. 2303 §4 (part), 2010)

CHAPTER 19.20
PERMANENT SIGNS

Sections:

19.20.010 Intent

The number of signs permitted on individual properties varies based on several factors. These factors include, but are not limited to, zoning, type of use and site design. It is the goal of the City to allow a wide range of sign types, while also protecting the aesthetic character of the City's various zoning districts. Signs permitted under this chapter may only list on-premise businesses, products and uses.

(Ord. 2303 §5 (part), 2010)

19.20.020 Permanent Sign Application Materials

All applications to install a permanent sign or other visual communication device shall include the following:

1. Three copies of a completed and signed application form provided by the City.

2. Three copies of a dimensioned and scaled site plan showing property lines, streets, buildings and parking areas; the location of all existing freestanding signs on the premises; and the location of all existing building-mounted signs on the same building as the proposed signs. Generally, the City will not require site plans to be prepared by a licensed surveyor; however, the City shall have the authority to require a site plan prepared by a Washington State Licensed Surveyor if such site plan will assist in the City's review of the proposed application.

3. Three copies of scaled and dimensioned drawings of the proposed sign or signs with area calculations.

4. If building-mounted signs are proposed, three copies of a scaled elevation of the building walls where the signs will be located indicating the location and extent of the exposed building face used to calculate the sign area.

5. Three copies of a scaled and dimensioned building profile, if projecting signs are proposed.

6. Method of illumination, if proposed.

7. Details for any dynamic portions of the proposed signs.

8. Method of support and attachment for building-mounted signs.

9. If freestanding signs are proposed, the scaled and dimensioned footing designs and height calculations.

10. Structural calculations, if required per Section 19.16.020.

11. Fee as established in the most current fee schedule.

12. One copy of a valid Washington State contractor's license or owner's affidavit.

13. Valid Tukwila business license number for the sign contractor, if applicable.

(Ord. 2303 §5 (part), 2010)

19.20.030 Permanent Signs in Residential Zones

A. Institutional uses and multi-family complexes are allowed one flush-mounted wall sign per building and one freestanding monument-style sign for each public street that provides access to the premise.

B. *Monument Sign Design Standards.*

1. The area of a monument sign is limited to 30 square feet per sign face and a total of 60 square feet for all sides. Monument signs located on a premise with at least one building that is certified as LEED by the GBCI shall be permitted to be 35 square feet per face and a total of 70 square feet for all sides.

2. The sign shall be no taller than five feet.

3. Maximum width of the sign shall not exceed 15 feet.

4. The sign must meet sight distance triangle restrictions.

5. The sign shall be located in a landscaped area.

6. The sign may only use indirect down lighting methods except for dynamic signs as allowed under TMC 19.20.030.D. The lighting shall have no spillover impact on adjacent properties.

7. A monument sign permitted under this section is permitted to complete refaces, panel changes and copy changes without the need to obtain a new permit, provided ALL of the following criteria are met:

a. The monument sign was authorized by the City under a permit issued on or after August 24, 2010.

b. The property owner, or authorized agent of the property owner, was the applicant to secure the permit as required under this section.

c. The reface or copy change does not include any structural changes to the sign that result in a change of sign or message area, modification in sign height, inclusion of a dynamic sign component, or change in the monument sign's location.

C. *Flush-Mounted Building Signs (Wall Signs) - Design Standards.*

1. The maximum area of any flush-mounted building sign is limited to the calculation from Table 2 in Section 19.20.050; however, in no case shall the area of a flush-mounted building sign be greater than 50 square feet.

2. Lighting for flush-mounted building signs shall be limited to indirect, concealed and backlit devices. The lighting shall produce no spillover or glare onto adjacent properties.

D. *Dynamic Signs in Residential Zones.*

1. One monument sign per premise, as permitted under Section 19.20.030.B, may contain a dynamic feature. The following design standards apply to all dynamic signs installed under this section:

a. The image of the sign may not change more frequently than once every ten seconds.

b. The image must appear and disappear as one image. The image may not appear to flash, undulate, pulse or portray explosions, fireworks, flashes of light, or blinking or chasing lights, or appear to move toward or away from the viewer, to expand, contract, bounce, rotate, spin, twist, scroll, travel or otherwise portray movement.

c. Illumination of the dynamic sign is limited to the hours of 7AM to 10PM.

d. All signs shall have installed ambient light monitors, and shall at all times allow such monitors to automatically adjust the brightness level of the electronic sign based on ambient light conditions. Maximum brightness levels for electronic signs shall not exceed 3-foot candle above ambient light conditions, measured 100 feet from the face.

2. *Notice of Understanding.* The owner of any dynamic sign installed per this subsection must submit a letter to the Director stating that he/she understands and agrees to abide by the above requirements.

(Ord. 2679 §2, 2022; Ord. 2375 §6, 2012; Ord. 2303 §5 (part), 2010)

19.20.040 Permanent Free-Standing Signage in Commercial/Industrial Zones

Monument/freestanding signs are permitted within all commercial and industrial zones, subject to the following standards:

1. Design Standards. Each premise is permitted to have one free-standing monument-style sign. Additional monument signs are permitted if the premise contains over 800 feet of linear frontage on City or quasi-public streets, per Table 1 below.

Table 1 – Design Standards for Permanent Monument Signs in Commercial and Industrial Zones

Total ROW of Premise	Allowable Sign Message Area	Total Allowable Sign Size	Maximum Height	Number of Signs
Less than 400 feet	36 square feet per side/72 square feet total	54 square feet per side/108 square feet total	6 feet	One
400-599 feet	50 square feet per side/100 square feet total	70 square feet per side/140 square feet total	7 feet	One
600-799 feet	60 square feet per side/120 square feet total	80 square feet per side/160 square feet total	7 feet	One
800-999 feet	66 square feet per side/132 square feet total	88 square feet per side/176 square feet total	8 feet	Two
1,000 feet and over	72 square feet per side/144 square feet total	96 square feet per side/192 square feet total	8 feet	One for every 400 feet of linear street frontage.

a. Allowable sign message area is either the face panel of the sign or, for channel letters or signs painted on seating or retaining walls, that portion of the sign devoted to the actual message, logo or business name.

b. Total size is the entire area of the sign, including the support structure.

c. Monument signs located on a premise with at least one building that is certified as LEED by the GBCI shall be permitted to have a sign message area increase and total size area increase of one percent.

2. *Special Corner Properties or Properties with Multiple Street Frontages.* A property that borders on more than one public street, but has less than 800 total feet of linear frontage, is permitted to have one monument sign per street frontage if the following criteria are met:

a. The property has at least 200 feet of frontage on each public street where a sign will be placed;

b. Each public street provides direct access to the property; and

c. For each separate street frontage Table 1 shall be used to determine the design standards for any proposed monument sign.

3. *Setback*. All monument signs shall be placed at a minimum of five feet from all property lines. No sign taller than three feet shall be placed within the sight distance triangle of an access point, unless it can be demonstrated the sign will not pose a safety issue by reducing visibility.

4. *Maximum Width*. The maximum permitted width of a monument sign is 15 feet.

5. *Address*. In order to facilitate emergency response, all new freestanding signs shall have the address number or address number range of the premise listed on the structure. The address shall not be counted toward the allowable sign message area limit. Address numbers must be plainly legible and visible from the street fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of four inches high with a minimum stroke width of 1.5 inches.

6. A monument sign permitted under this section is permitted to complete refaces and copy changes without having to obtain a new permit, provided ALL of the following criteria are met:

a. The monument sign was authorized by the City under a permit issued on or after August 24, 2010.

b. The property owner, or authorized agent of the property owner, was the applicant to secure the permit as required by TMC Section 19.20.040 (6)(a).

c. The reface or copy change does not include any structural changes to the sign that result in a change of sign or message area, modification in sign height, inclusion of a dynamic sign component, or change in the monument sign's location.

(Ord. 2679 §3 and §4, 2022; Ord. 2375 §7, 2012; Ord. 2303 §5 (part), 2010)

19.20.050 Permanent Building-Mounted Signs in Commercial/Industrial Zones

A. Flush-Mounted Building Signs (Wall Signs).

1. Each separate tenant suite with an exterior public entrance is permitted to have one flush-mounted building sign per exterior public entrance. Additionally, each multi-tenant premise with one or more buildings totaling 25,000 square feet or more, but that does not qualify for the Master Sign Program and has gone through design review, is allowed one additional flush-mounted building sign of up to 50 square feet for the complex in addition to individual tenant signs. In the MIC/H zone no more than one flush-mounted wall sign shall be permitted per cardinal direction; regardless of the location of public entrances.

2. Buildings where multiple tenants share a common entrance may have one flush-mounted building sign per exterior public entrance.

3. Wall signs may only be placed within the section of exposed building face that qualifies for the placement of the building-mounted sign.

4. The area of the wall sign shall be a percentage of the area of exposed building face where the sign is proposed to be displayed, as calculated per Table 2.

5. Wall signs may not extend above the top of the parapet or eave of the roof of the wall on which they are located.

Table 2 – Allowable Message Area for Permanent Wall Signs in Commercial and Industrial Zones

Area (LxH) of Exposed Building Face (EBF) in Square Feet	Permitted Sign Area
0 - 500	EBF x .05 or 20 square feet
501 - 1,500	(EBF-500) x .04 + 25 square feet
1,501 - 3,000	(EBF-1,500) x .03 + 65 square feet
3,001 - 5,000	(EBF-3,000) x .02 + 110 square feet
Over 5,000 (except for buildings within the MIC/H District	150 square feet maximum size permitted
The additional sign allowances below shall only apply to buildings located on properties within the MIC/H District.	
5,001 - 20,000	(EBF-5,000) x .015 + 150 square feet
20,001 - 50,000	(EBF-20,000) x .015 + 375 square feet
50,001 - 80,000	(EBF-50,000) x .015 + 825 square feet
80,001 - 100,000	(EBF-80,000) x .01 + 1,275 square feet
Over 100,000	1,500 square feet maximum size permitted

(1) Any flush-mounted (wall) sign affixed to a building certified as LEED by the GBCI shall be permitted an area increase of .5 percent of the permitted sign area from Table 2.

(2) A fuel canopy, as defined in this title, is permitted to install one flush-mounted building sign (wall sign) on each separate elevation of the fuel canopy structure. The area of the sign shall not exceed 10 square feet or one-third the area of the surface to which the sign is attached (whichever is less); illumination of the sign is permitted.

B. *Awning Face Sign*. An awning face sign may be substituted for a flush-mounted building sign, allowed under Section 19.20.050.A, when the following standards are met:

1. The size of the awning face sign may be no larger than the flush-mounted sign that would otherwise be allowed per Table 2.

2. Awning face signs are only permitted on awnings located over a public entrance to a building. The sign area may be distributed among multiple awnings on an exposed building face.

3. The awning face sign may not exceed 30 percent of the total area of the awning on which the sign is located.

4. Only indirect lighting shall be used for awning face signs.

5. The sign may only consist of vinyl or paint applied directly to the awning.

6. In commercial zones awnings may only be constructed of canvas or nylon fabric.

C. *Projecting Signs.* One projecting sign per separate business is permitted in addition to any other type of building-mounted sign when the following standards are met:

1. Projecting signs shall only be permitted for tenant spaces that have a direct ground-floor public entrance.

2. No portion of a projecting sign may extend above the lower sill of any second story window on the same exposed building face.

3. No projecting sign may exceed 20 square feet per face or a total of 40 square feet for all faces.

4. Projecting signs may project no more than four feet out from the façade of the building. In no case shall the sign extend beyond the sidewalk which it overhangs.

5. No portion of the projecting sign shall be lower than eight feet above the level of sidewalk or other public right-of-way over which it projects.

6. Projecting signs may utilize rotating mechanical displays.

D. *Corner Projecting Sign*. In order to foster an urban-style environment, a corner projecting sign may be substituted for a projecting sign allowed under Section 19.20.050.C, when the following standards are met:

1. Signs shall only be permitted in the TUC and NCC zones.

2. Signs are only permitted on the corners of buildings that are built to the minimum zoning setbacks of two public streets or a private street developed to public standards including sidewalks and landscaping. One corner projecting sign is permitted for each corner of a building that meets the above standards.

3. Public entrances must be provided directly from the adjacent public right-of-way into the tenant space in order to qualify for a corner projecting sign.

4. Signs shall be no taller than 25 feet from the bottom-most part of the sign to the tallest part of the sign and may not extend above the wall on which it is mounted.

5. Sign area is limited to 75 square feet per face or a total of 150 square feet for all faces.

6. Signs shall project no more than six feet from the façade of the building. In no case shall the sign extend out beyond the street edge of the sidewalk under the sign.

7. No portion of a sign shall be lower than 12 feet above the level of the sidewalk.

8. Signs may utilize the following dynamic features: neon, chasing lights, flashing lights or rotating mechanical displays. The use of strobe lights, video displays and rotating lights is prohibited.

E. *Canopy-Edge Sign.* A canopy-edge sign may be substituted for a projecting sign, allowed under Section 19.20.050.C, when the following standards are met:

1. Canopy-edge signs may only be permitted for canopies located above a public entrance to a business.

2. The sign is limited to a single row of individual letters not to exceed 12 inches in height.

3. The letters may not project beyond the edge of the canopy.

4. The length of the sign may not exceed two-thirds of the canopy length.

5. The letters may be illuminated.

F. *Pedestrian-Oriented Building-Mounted Signs*. The signs listed under this section are allowed in addition to the building-mounted signs permitted under Section 19.20.050.A through E.

1. Under-Awning/Canopy Sign.

a. Under-awning/canopy signs must be located adjacent to a public entrance from a public or private sidewalk into a business.

b. No more than one sign shall be permitted per business, per façade.

c. No sign may exceed three square feet in size.

d. No sign may project farther from the building than its associated awning or canopy.

e. No part of the sign may be less than eight feet above the level of the sidewalk or right-of-way over which it projects.

2. Awning/Canopy Side Sign.

a. Only awnings/canopies that are over exterior public entrances are permitted signs.

b. Only one awning/canopy per façade may have a sign.

c. Awning text and graphics may not exceed 12 inches in height with total sign area not to exceed 40 percent of the awning side area.

d. Canopy signs are permitted one line of lettering, not to exceed two-thirds the thickness of the canopy or 12 inches, whichever is less.

e. Signs shall not project beyond the edge of the associated awning or canopy.

f. No portion of the sign may be less than eight feet above the sidewalk or other public right-of-way over which it projects.

g. Awning signs may only consist of vinyl or paint applied directly to the awning.

3. Permanent Window Signs.

a. Permanent window signs are permitted to be placed within ground-floor windows that provide a direct line of sight in and out of an area open to the public. Permanent window signs are not permitted to be placed in windows located along private offices, storage space, display windows, residential units or other areas of the building that are not open to the public.

b. Only windows along the same façade as a public entrance to the business are eligible for permanent window signs.

c. No more than ten percent of the total ground-floor transparent-window area along the exposed building face of a business may be occupied by permanent window signs. Spandrel, opaque and mirrored glass do not qualify for window signage.

d. No individual sign may be larger than six square feet.

e. In no case shall the total sign area in the window, both of permanent window signs and temporary window signs, exceed 25 percent of the window area.

f. The letter height for window signs shall not exceed eight inches.

g. The signs may be made of gold or silver leaf, vinyl or paint, applied directly to the glass; etched into the glass; neon mounted or suspended behind the glass; or framed and mounted paper signs. Posters that are not framed are not considered permanent window signs and may only be permitted under Section 19.24.080, "Temporary Window Signs."

h. If the signs are illuminated, only exposed neon tubing is permitted.

4. *Incentive Signage.* The allowable area of the sign allowed under this provision is 50 percent of that calculated in Table 2, "Allowable Message Area for Permanent Wall Signs in Commercial and Industrial Zones." Businesses may be permitted additional flush-mounted building signage on walls fronting their tenant spaces that do not qualify for the signage described in TMC Section 19.20.050.A, under the following circumstances:

a. The business or use may not have any other building-mounted signage oriented in the same direction as the incentive sign.

b. Architectural interest must be provided through at least one of the following methods:

1) At least 50 percent of the wall area between the height of two and seven feet must be transparent with either an unobstructed view into the business or use, or a display window with a depth of at least three feet.

2) Architectural detailing consistent with the building design using changes in color, materials, texture and variations in the wall plane.

3) Artwork such as mosaic, mural or sculptural relief over at least 50 percent of the wall surface.

4) One or more trellises covering at least 50 percent of the wall area between the height of two and seven feet, planted with climbing vines and other plant materials in a planting bed at least two feet in width and provided with permanent irrigation.

G. *Parking Garage Incentives*. The City desires to encourage the construction of parking garages and will permit special incentive signs for parking garage structures under the following conditions:

1. Signs may only be flush mounted to the walls of parking structures have two or more above-ground parking levels.

2. The sign must be designed to allow periodic replacement of the copy. Electronic signs are permitted as long as they are operated in a way that does not meet the definition of dynamic sign.

3. The sign face must be contained within a frame that is architecturally compatible with the building design.

4. Internally-illuminated cabinet signs are not permitted.

5. Each sign may be a maximum of 288 square feet in area.

6. One wall of the parking structure may have signage, including incentive signage and permanent channel letter signs, that does not exceed eight percent of the exposed parking structure face. All other exposed parking structure walls are

permitted signage, including incentive signage and permanent channel letter signs, that does not exceed six and one-half percent of the exposed face area. Ventilation openings may be included in the parking structure face area calculation.

7. A maximum of two parking structure incentive signs are allowed per parking structure wall.

(Ord. 2501 §4 and §5, 2016; Ord. 2409 §1, 2013; Ord. 2375 §8, 2012; Ord. 2303 §5 (part), 2010)

19.20.060 Pole Banners

A. Pole banners are permitted in the Tukwila Urban Center zone and on properties that contain a Public Recreation Overlay as defined by Title 18 of the Tukwila Municipal Code.

B. Pole banners may only be attached to parking lot light poles on private property.

C. Banners may have periodic changes in copy without submittal for a new sign permit.

D. The maximum area per banner is 10 square feet, with a limit of 2 banners per pole.

E. The lower edge of the banner must be at least 12 feet above grade.

F. Annual renewal of the banner permit is required.

(Ord. 2375 §9, 2012; Ord. 2303 §5 (part), 2010)

19.20.070 Dynamic Displays in Commercial/Industrial Zones

Dynamic signs are strictly prohibited within commercial and industrial zones, except where specifically allowed for designated sign types.

(Ord. 2303 §5 (part), 2010)

CHAPTER 19.22

TUKWILA URBAN CENTER OPT-OUT PROVISIONS

Sections:

19.22.010 Purpose

The Tukwila Urban Center defined in TMC Section 19.08.247 is an area of existing development that due to its high traffic counts and auto-oriented property configuration is well served by the historical sign regulations. This chapter establishes an "opt-out" provision for properties that currently do not have the development pattern that would benefit from the sign regulations found in TMC Chapter 19.20.

(Ord. 2303 §6 (part), 2010)

19.22.020 Opt-out Permitted

A. A property owner within the Tukwila Urban Center (TUC) may choose to "opt out" of the requirements found in Chapter 19.20 of this Title if the following criteria are met:

1. The property owner of record must submit a letter to the Director of DCD notifying the City of the property owner's intent to "opt-out" of Chapter 19.20 within one year of the effective date of this Title, with copies of the opt out letter provided to all tenants on the premise.

2. The letter must include a map identifying all parcels included in the "opt-out" request and verifying that the premise is located within the TUC.

3. An "opt-out" request will apply to all buildings, tenants and signs on a premise.

4. The letter must be accompanied by the fee established in the most current fee schedule.

B. Upon receipt of the letter, the Director of Community Development shall confirm receipt and issue a determination regarding whether the property meets the opt-out criteria listed above.

(Ord. 2303 §6 (part), 2010)

19.22.025 Other Chapters Remain in Force

A decision to opt out as permitted by TMC Section 19.22.020 is only from Chapter 19.20 and all other chapters of this Title shall remain in full force. Properties that have opted out of the requirements of Chapter 19.20 are ineligible to participate in the Master Sign Program found in Chapter 19.32 unless the property owner chooses to opt back in pursuant to TMC Section 19.22.040.

(Ord. 2303 §6 (part), 2010)

19.22.027 Permanent Sign Application Materials

All applications to install a permanent sign or other visual communication device under this chapter shall include the following:

1. Three copies of a completed and signed application form provided by the City noting that the sign is proposed on an "opt-out" premise.

2. Three copies of a dimensioned and scaled site plan showing property lines, streets, buildings and parking areas; the location of all existing freestanding signs on the premises; and the location of all existing building-mounted signs on the same building as the proposed signs. Generally, the City will not require site plans to be prepared by a licensed surveyor; however, the City shall have the authority to require a site plan prepared by a Washington State Licensed Surveyor if such site plan will assist in the City's review of the proposed application.

3. Three copies of scaled and dimensioned drawings of the proposed sign or signs with area calculations.

4. If wall signs are proposed, three copies of a scaled elevation of the building walls where the signs will be located indicating the location and extent of the exposed building face used to calculate the sign area.

5. Method of illumination, if proposed.

6. Method of support and attachment for wall signs.

7. If freestanding signs are proposed, the scaled and dimensioned footing designs and height calculations.

8. Structural calculations, if required per Section 19.16.020.

9. Fee as established in the most current fee schedule.

10. One copy of a valid Washington State contractor's license or owner's affidavit.

11. Valid Tukwila business license number for the sign contractor, if applicable.

(Ord. 2303 §6 (part), 2010)

19.22.030 Allowable Signage

A premise that has opted out will only be allowed permanent signs under the provisions of this section.

1. *Permanent Wall Signs*. Each tenant space shall be permitted one permanent wall sign. An additional permanent wall sign is permitted if the tenant is not listed on a freestanding sign on the premises. The following criteria shall be met for all permanent wall signs:

a. The area of the wall sign shall be a percentage of the area of exposed building face of the tenant space, as calculated per *Table 1*.

Table 1 – Allowable Message Area for Permanent Wall Signs in the Southcenter Parkway Corridor

Area (LxH) of Exposed Building Face (EBF) in Square Feet	Permitted Sign Area
0-500	EBF x .05 or 20 square feet
501-1,500	(EBF-500) x .04 + 25 square feet
1,501-3,000	(EBF-1,500) x .03 + 65 square feet
3,001-5,000	(EBF-3,000) x .02 + 110 square feet
Over 5,000	150 square feet maximum size permitted

b. The permanent wall sign must be located on the exposed building face of the tenant space that qualifies for the sign.

c. Only one permanent wall sign is permitted per tenant space per exposed building face.

2. *Freestanding Signs.* One freestanding sign shall be permitted for each premise. One additional freestanding sign may be permitted for premises that meet the following conditions:

a. The site has at least 400 linear feet of frontage on a public street;

b. The site has at least two detached commercial occupied buildings, neither of which is accessory to the other;

c. The site is occupied by at least two tenants.

3. *Development Standards for Freestanding Signs.* The following development standards shall apply to freestanding signs permitted under TMC Section 19.22.030 (B):

a. Area of Sign.

Street Frontage	Sign Area/Sign
Up to 200 feet	50 sq ft. with a total of 100 sq ft. for all sides.
200 to 400 feet.	75 sq. ft. with a total of 150 sq. ft. for all sides.
Over 400 feet.	100 sq. ft. with a total of 200 sq ft. for all sides.

b. *Height*. Any permitted freestanding sign shall be not taller than the building it identifies up to a maximum height of 35 feet.

c. *Setback*. All freestanding signs shall be set back from all property lines a distance equal to the height of the sign.

d. *Address.* In order to facilitate emergency response, all new freestanding signs shall have the address number or address number range of the premise listed on the structure. The address shall not be counted toward the allowable sign message area limit. Address numbers must be plainly legible and visible from the street fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of four inches high with a minimum stroke width of 1.5 inches.

(Ord. 2303 §6 (part), 2010)

19.22.035 Dynamic Signs

Properties that choose to opt out of the provisions of TMC Chapter 19.20 are prohibited from having any sign which may be considered a dynamic sign.

(Ord. 2303 §6 (part), 2010)

19.22.040 Right to Opt-Back In

A property owner that previously chose to opt out under TMC Section 19.22.020 may choose to opt back in to the signs permitted under TMC Chapter 19.20. A decision to opt back in is permanent and may be made at any time provided the following conditions are met:

1. The property owner provides the Director of Community Development a letter indicating their intent to opt back in to TMC Chapter 19.20 with copies to all affected tenants.

2. The letter must identify all signs that do not conform to the requirements of TMC Chapter 19.20 and either modify or remove them within 30 days of the date of the letter.

3. If existing signs are to be modified to meet the standards in TMC Chapter 19.20, the letter must be accompanied by sign permit applications identifying how they will achieve conformance.

(Ord. 2303 §6 (part), 2010)

CHAPTER 19.24
TEMPORARY SIGNS

Sections:

19.24.010 Purpose

Temporary signs serve an important economic function and contribute to the success of the City's businesses. However, the City also desires to limit the number of temporary signs and control the placement and size of such signage in order to minimize visual clutter.

(Ord. 2303 §7 (part), 2010)

19.24.020 Application Materials for Temporary and Special Event Sign Permits

All applications to install a temporary sign or other visual communication device shall include:

1. Two copies of a completed and signed application form provided by the City;
2. Two copies of a site plan showing proposed sign location(s). If applicable, the site plan shall show the location of adjacent streets, buildings, sidewalks and parking areas;
3. Two copies of scaled and dimensioned drawings of the proposed sign or signs with area calculations and text;
4. Two copies of an elevation of the building wall showing placement of the sign if a building-mounted sign is proposed;
5. Length of proposed display; and
6. Fee, as established in the most current fee schedule.

(Ord. 2303 §7 (part), 2010)

19.24.030 Temporary Signs in Residential Zones

In addition to the signage permitted under Section 19.12.030, institutional and multi-family uses are permitted the following temporary signage:

1. Each institutional use and multi-family complex is permitted up to two temporary signs per temporary sign permit.
2. The total area of all temporary signs displayed under a permit may not exceed 64 square feet in sign face area.
3. Temporary signs may be either flat cloth or vinyl banners, or rigid plastic or cardboard signs.
4. Temporary signs may remain in place for not more than 30 days per calendar quarter. A temporary sign permit from the City is required for each separate display of temporary signage within the calendar quarter.
5. In addition to the temporary signage allowed above, each institutional use and multi-family complex may have up to 12 special event signage permits per year to display signs and devices that would be prohibited under Section 19.12.040.6. The duration of the permit shall not exceed 72 hours.

(Ord. 2303 §7 (part), 2010)

19.24.040 Temporary Signs in Commercial and Industrial Zones

A. Each business is permitted up to two temporary signs per temporary sign permit.

B. The total area of all temporary signs displayed under a permit may not exceed 64 square feet in sign face area.

C. Temporary signs may be either flat cloth or vinyl banners, or flat plastic or cardboard rigid signs.

D. Temporary signs may remain in place for not more than 30 days per calendar quarter. A temporary sign permit from the City is required for each separate display of signage within the calendar quarter.

(Ord. 2303 §7 (part), 2010)

19.24.050 General Provisions for all Temporary Signs

A. *Placement*. Temporary signs may only be placed on the wall fronting the tenant space of the applicant that has been issued the temporary sign permit or on the associated premises. The sign must be securely attached, either to the wall if located on the building, or securely tied to stakes located in a landscaped area. Display of temporary signs in any other manner, except as outlined by this code, is strictly forbidden.

B. *Setbacks.* All temporary signs not attached to buildings shall be placed a minimum of five feet from all property lines. No temporary sign more than three feet in height shall be placed within the sight distance triangle of a vehicular access point, unless it can be demonstrated the sign will not pose a safety issue by reducing visibility.

(Ord. 2303 §7 (part), 2010)

19.24.060 Additional Temporary Signage

Each business operating within the City shall be permitted one additional temporary sign permit every 24 months. That permit allows:

1. The type and size of temporary signs permitted under TMC Sections 19.24.040 and 19.24.050.
2. Any of the sign types otherwise prohibited under TMC Section 19.12.040.6, "Prohibited Signs and Devices."
3. These signs may remain in place for up to 30 days.

(Ord. 2501 §6, 2016; Ord. 2303 §7 (part), 2010)

19.24.070 Portable Signs

A. In order to facilitate the orderly movement of automobile traffic and pedestrians, portable signs may be used for limited duration with special permission from the City.

B. The City may approve the use of portable signs if all of the following conditions are met:

1. The portable signs are being used strictly to assist motorists and/or pedestrians in navigating City streets and/or commercial properties. The portable signs are not intended to be used for advertising or as a means to circumvent the intent of this code.

2. The placement of the portable signs will not impact public safety.

3. The use of the portable signs is part of a larger motorist and/or pedestrian management plan.

4. The anticipated traffic for the event represents a 50 percent increase above the ordinary traffic for the site that will be hosting the event.

5. The special permit shall be valid for up to 30 days. Portable signs shall be removed within 24 hours following the conclusion of the event.

6. The signs can be safely displayed and placed.

(Ord. 2501 §7, 2016; Ord. 2303 §7 (part), 2010)

19.24.080 Temporary Window Signs

A. Temporary window signs do not require sign permits.

B. No sign may be displayed for longer than 30 days.

C. Signs are permitted to be placed within ground-floor windows that provide a direct line of sight in and out of an area open to the public. Temporary window signs are not permitted to be placed in windows located along private offices, storage space, residential units or other areas of the building that are not open to the public.

D. Only windows along the same façade as a public entrance to the business are eligible for temporary window signs.

E. No more than 15 percent of the total ground-floor transparent-window area of a business along an exposed building face may be occupied by temporary window signs. Spandrel, opaque and mirrored glass do not qualify for window signage.

F. No individual sign may be larger than six square feet.

G. In no case may the total sign area in the window, both of permanent window signs and temporary window signs, exceed 25 percent of the eligible window area.

(Ord. 2303 §7 (part), 2010)

19.24.090 Violations

Any violation of this chapter, or failure to comply with any of the requirements of this chapter, shall be subject to enforcement and penalties as prescribed in TMC Chapter 8.45 and the issuance of a Notice of Violation in accordance with TMC Section 8.45.070.

(Ord. 2549 §28, 2017)

CHAPTER 19.28

VARIANCES

Sections:

19.28.010 Variance Process

Variance decisions shall be made by the Hearing Examiner at an open record public hearing and any appeals shall be made to King County Superior Court.

(Ord. 2303 §8 (part), 2010)

19.28.020 Sign Variance Application

Applications for sign variances must be accompanied by the following materials:

1. Three copies of a completed and signed application form provided by the City.

2. Three copies of a dimensioned and scaled site plan showing property lines, streets, buildings, parking areas and the location of all existing and proposed signs on the premises, including both building-mounted and freestanding signs. Highlight the change requested through the variance. Generally, the City will not require site plans to be prepared by a licensed surveyor; however, the City shall have the authority to require a site plan prepared by a Washington State Licensed Surveyor if such site plan will assist in the City's review of the proposed application.

3. Three copies of scaled and dimensioned drawings of the proposed sign or signs with area calculations.

4. If building-mounted signs are proposed, three copies of a scaled elevation of the building walls where the signs will be located indicating the location and extent of the exposed building face used to calculate the sign area.

5. If freestanding signs are proposed, scaled and dimensioned drawing with height calculations.

6. Three copies of a scaled and dimensioned building profile, if projecting signs are proposed.

7. Method of illumination, if proposed.

8. Details for any dynamic portions of the proposed signs.

9. Written narrative responding to the seven variance criteria found in Section 19.28.030.

10. Mailing labels for all property owners, tenants and businesses within 500 feet of the subject property requesting the variance, or the Public Notice Mailing Fee per the City's current fee schedule, if the City is to generate the labels.

11. Payment of fee as established in the City's current fee schedule.

(Ord. 2303 §8 (part), 2010)

19.28.030 Variance Criteria

The Hearing Examiner may grant a variance to the requirements of this code only when the applicant demonstrates compliance with the following:

1. The variance as approved shall not constitute a grant of special privilege, which is inconsistent with the intent of this Sign Code.

2. The variance is necessary because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located.

3. Granting of the variance will not be materially detrimental to the public welfare or injurious to property, improvements or environment in the vicinity and in the zone in which the subject property is located.

4. The special conditions and circumstances prompting the variance request do not result from the actions of the applicant.

5. The variance as granted represents the least amount of deviation from the prescribed regulations necessary to accomplish the purpose for which the variance is sought and which is consistent with the stated intent of this code.

6. The variance request is not inconsistent with any other adopted City plan or policy, including the Zoning Code, Walk and Roll Plan and/or Shoreline Master Program.

7. Granting of the variance shall result in greater convenience to the public in identifying the business location for which a Sign Code variance is sought.

(Ord. 2303 §8 (part), 2010)

19.28.040 Variance Not Permitted

In no case shall the Hearing Examiner permit a variance to be issued for a sign type that is prohibited under this code.

(Ord. 2303 §8 (part), 2010)

CHAPTER 19.32

MASTER SIGN PROGRAM

Sections:

19.32.010 Intent of Master Sign Program

The Master Sign Program is intended to provide a voluntary process to allow for adaptation of the standard provisions of the Sign Code to the specific needs of larger sites. The signs approved through this process must be integrated into a cohesive design and communication approach for the site, while continuing to meet the overall intent of the Sign Code listed in Section 19.04.020. Signs permitted under this chapter may only list on-premise businesses, products and uses.

(Ord. 2303 §9 (part), 2010)

19.32.020 Eligibility

Property owners of premises that meet one of the following conditions may apply for approval of a Master Sign Program to customize the standard Sign Code requirements to their specific site conditions:

1. Sites of 15 acres or more, developed with one or more buildings, totaling at least 200,000 square feet.

2. Essential Public Facilities within commercial or industrial zones.

(Ord. 2303 §9 (part), 2010)

19.32.030 Process

Master Sign Programs that propose to vary the size, number or location of otherwise permissible signs under Section 19.32.060.A will be reviewed administratively by the Director. Programs that propose to allow unique sign types or signs not otherwise permissible under this code, per Section 19.32.060.B, will be reviewed by the Board of Architectural Review. Amendments to previously-approved Master Sign Programs will be reviewed administratively by the Director. No appeals of Master Sign Program decisions are permitted. Approval of a Master Sign Program does not waive the permit requirements for individual signs.

(Ord. 2303 §9 (part), 2010)

19.32.040 Criteria

A Master Sign Program may be approved if all of the following criteria are met:

1. The Master Sign Program meets the intent of the Sign Code as well or better than the signage allowed under the standard code provisions.

2. The requested deviations from the code respond to the specific characteristics or use of the premises.

3. The program complies with the applicable standards in this chapter.

4. The existing and proposed signage is integrated with an overall lighting scheme for the project site to create a safe, lively and inviting night-time environment if the site is in a commercial zone.

5. No sign-related code enforcement violations on the premises for at least one year prior to submitting the Master Sign Program application.

6. The program must contain a schedule for the removal of all non-conforming signs on the premise within three years from the date of Master Sign Program approval.

(Ord. 2303 §9 (part), 2010)

19.32.050 Master Sign Program Application Materials

Applications for Master Sign Programs must be accompanied by the following materials:

1. Three copies of a completed and signed application form provided by the City.

2. Three copies of a dimensioned and scaled site plan showing property lines, streets, buildings, parking areas and the location of all existing and proposed signs on the premises, including both building-mounted and freestanding signs. Highlight the changes requested through the program. Generally, the City will not require site plans to be prepared by a licensed surveyor; however, the City shall have the authority to require a site plan prepared by a Washington State Licensed Surveyor if such site plan will assist in the City's review of the proposed application.

3. Three copies of scaled and dimensioned drawings of the proposed sign or signs with area and height calculations.

4. If building-mounted signs are proposed, three copies of a scaled elevation of the building walls where the signs will be located indicating the location and extent of the exposed building face used to calculate the sign area.

5. Three copies of a scaled and dimensioned building profile, if projecting signs are proposed.

6. Method of illumination, if proposed.

7. Details for any dynamic portions of the proposed signs.

8. Written narrative justifying the requested deviations from the Sign Code and demonstrating compliance with the standards in this chapter.

9. Analysis of sight distance safety if increases in size to monument signs or installation of a grand-monument sign is proposed.

10. Mailing labels for all property owners, tenants and businesses within 500 feet of the subject property for programs reviewed by the BAR, or the Public Notice Mailing Fee, per the City's current fee schedule, if the City is to generate the labels.

11. Payment of fee as listed in the City's current fee schedule.

(Ord. 2303 §9 (part), 2010)

19.32.060 Allowable Modifications Under a Master Sign Program

A. Modifications to the following standards may be allowed under an administratively approved Master Sign Program:

1. Increase in monument sign total area of up to 25 percent. No increase in height permitted.

2. Increase in the area of a flush-mounted building sign, allowed per Section 19.20.050.A shall be allowed as follows:

a. For premises up to 85 acres in size, the flush-mounted building sign can be increased to six percent of the exposed building face, up to a maximum of 250 square feet.

b. For premises 85 acres and over in size, the flush-mounted building sign can be increased up to six percent of the exposed building face, up to a maximum of 500 square feet, provided that no flush-mounted building sign with an area greater than 250 square feet is located within 250 feet of a public street.

3. Aggregation of the building-mounted or freestanding sign area allowed per Table 1 or Table 2 into fewer, larger signs of the same type.

4. Up to four additional directional signs. The directional signs must utilize materials, colors and details consistent with the design of the other site signage.

5. In no more than one location on a premise, the allowable sign area for an exposed building face may be split between two flush-mounted building signs located on the same exposed building face so long as there is a minimum vertical separation of 20 feet between the two flush-mounted building signs.

B. In addition to the above-listed modifications, the following additional sign types may be allowed with Board of Architectural Review approval:

1. Roof signs, subject to the following standards:

a. Roof signs may be allowed only within the TUC zone.

b. Roof signs may only be permitted on sloping roofs.

c. Roof signs may not exceed a maximum height of four feet above the eave of the roof, but in no case may any part of the sign be higher than the peak of the roof.

d. Roof signs may not exceed 40 square feet in total size.

e. Roof signs may only be individual channel letters supported by an architecturally-integrated structure.

f. Roof signs may not project beyond the face of the building.

g. One roof sign may be allowed per structure. One additional roof-top sign may be permitted if the roof-top signs are approved as part of the design review approval of the structure.

2. Grand monument signs, subject to the following standards:

a. Grand monument signs may be allowed only within the TUC and TVS zones.

b. Each grand monument sign would substitute for one of the monument signs the premises is eligible to install under Section 19.20.040.

c. Any poles or columns supporting the sign must have an architectural treatment such as brick, stone or wood cladding that is consistent with the design of the buildings on site.

d. Sign message area may be increased up to 100 square feet per side, 200 square feet total and the limitation on structure size is removed. For sites over 85 acres, the sign message area may be increased up to 500 square feet per side, 1000 square feet total.

e. The sign structure must be set back from the side and rear property lines of the premise a distance equal to the height increase requested or five feet, whichever is greater. The minimum front setback is the smaller of the front yard required in the zoning district or the height increase requested.

f. Total height of the sign structure may not exceed the height of the tallest building on the premises, except for sites over 85 acres, the height may exceed the tallest building but shall not exceed 115 feet.

g. No more than two grand monument signs are allowed per premises.

3. Landmark business wall signs, subject to the following standards:

a. Landmark businesses are allowed up to four flush-mounted building signs, one for each wall that faces a cardinal direction.

b. The allowed sign area is six percent of the total exterior wall of the tenant space, up to a maximum of 500 square feet.

c. Landmark businesses that have a portion of their exterior wall obscured by a structure may place their signage on the structure wall parallel to their obscured wall.

(Ord. 2501 §8, 2016; Ord. 2303 §9 (part), 2010)

19.32.070 Existing Signs Not Conforming to a Master Sign Program

Any new or amended Master Sign Program shall include the removal of any existing, non-conforming signs on the premises. The applicant may propose a phased schedule for bringing into conformance all signs not conforming to the proposed or amended program, or Chapter 19.36 of this code, within three years. If phasing is proposed, a financial guarantee acceptable to the Director shall be held by the City until the premises is brought into compliance with the Sign Code and approved Master Sign Program.

(Ord. 2303 §9 (part), 2010)

19.32.075 Copy and Refaces of Monument and Grand Monument Signs Approved under this Chapter

A monument sign or grand monument sign permitted under this section is permitted to complete refaces and copy changes without having to obtain a new permit, provided ALL of the following criteria are met:

1. The monument sign or grand monument sign was authorized by the City under a permit issued on or after August 24, 2010.

2. The property owner, or authorized agent of the property owner, was the applicant to secure the permit as required by TMC Section 19.32.075 (1).

3. The reface or copy change does not include any structural changes to the sign that result in a change of sign or message area, modification in sign height, inclusion of a dynamic sign component, or change in the monument or grand monument sign's location.

(Ord. 2679 §5, 2022; Ord. 2375 §10, 2012)

19.32.080 Regional Gateway Sign

In addition to the signs otherwise allowed under the Master Sign Program, the City may allow by development agreement on property adjacent to two interstate highways, installation of one sign intended to attract and welcome visitors to the Tukwila Urban Center area of the City. The standards for such a sign shall be set forth in the development agreement.

(Ord. 2303 §9 (part), 2010)

19.32.090 Binding Effect

After approval of a Master Sign Program, no permanent signs shall be erected, placed, painted or maintained, except in conformance with such plan, and such plan shall be enforced in the same way as any provision in this code. The Master Sign Program shall be referenced to the lease agreements for all leasable space within the project and recorded on the property title. In case of any conflict between the provisions of such a plan and any other provisions in this code, this section shall control.

(Ord. 2303 §9 (part), 2010)

CHAPTER 19.36

NON-CONFORMING PROVISIONS

Sections:

19.36.010 Purpose

The purpose of this chapter is to establish limits on the use of and requirements for the removal of non-conforming signs. Subject to the remaining restrictions of this chapter, non-conforming signs that were otherwise lawful on the effective date of this code, or lawful at the time of their installation, may be continued until their removal is triggered. The provisions of this chapter do not apply to billboards.

(Ord. 2303 §10 (part), 2010)

19.36.020 Definition and Removal of Legally Non-Conforming Permanent Signs

A. All permanent signs that do not conform to the specific standards of this code may be considered legally non-conforming if the sign was erected in conformance with a valid permit, if a permit was required, and complied with all applicable laws at the time of the sign's installation. Non-conforming rights are not granted to temporary signs or signs that were in violation of previous versions of the Sign Code.

B. Any monument sign that was installed in the City prior to the effective date of this code and that exceeds Sign Code standards as to sign area, height or setback by 15 percent or less shall be deemed a conforming sign.

C. Grace Period for Permanent Signs that Complied with the Previous Sign Code. Signs that were installed under the City's previous Sign Code, which was adopted by Ordinance No. 1274 and amended by Ordinance Nos. 1617, 1649, 1773, 1792, 1857, 1892, 1913, 1964, 1982, 2004, 2019, 2096 and 2126, and became non-conforming upon adoption of this code, may be issued a non-conforming sign permit that will allow them to remain for 10 years from the effective date of this ordinance. This shall be known as "the grace period." This section does not apply to signs that were classified as "freeway interchange" under the previous Sign Code.

D. *Sign Modifications During the Grace Period.* During the grace period, the sign may be refaced and the panel or copy changed, provided the area, height and location of the sign remain unchanged. A non-conforming sign permit will be issued for work covered under this section. Permanent signs and sign structures that are moved, replaced or structurally altered must be brought into conformance with the current Sign Code regulations.

E. *Sign Modifications After the Grace Period.* After the grace period, the sign is permitted to remain as-is indefinitely. However, relocation, re-erection, alteration, replacement or change in any way to a legal, non-conforming sign, including the structure or sign panel/face/copy, will require the sign be brought into compliance with this code.

(Ord. 2303 §10 (part), 2010)

19.36.030 Permanent Signs that Did Not Comply with the Previous Sign Code

Permanent signs that did not comply with the City's Sign Code as of August 2010, as adopted by Ordinance No. 1274 and amended by Ordinance Nos. 1617, 1649, 1773, 1792, 1857, 1892, 1913, 1964, 1982, 2004, 2019, 2096 and 2126, are permitted to remain as-is indefinitely, provided the property owner or tenant applies for a non-conforming sign permit and is able to demonstrate the signs were legally conforming at the time of installation and that any modifications made to the sign complied with the City's Sign Code regulations at the time of the modification. Any change to the structure or sign panel/face/copy or any relocation, re-erection, alteration, replacement or change in any way to a sign covered under this section will require the sign be brought into compliance with this Code

(Ord. 2303 §10 (part), 2010)

19.36.040 Non-Conforming Sign Permits

A. *Non-conforming Sign Inventory*. The Director shall, as soon as practicable, survey the City for signs that do not conform to the requirements of this code. Upon determination that a sign is non-conforming or illegal, the Director shall use reasonable efforts to so notify in writing the sign owner, and where practicable, the owner of the property on which the sign is located. Notification shall include:

1. Whether the sign is non-conforming or illegal.
2. Whether the sign may be eligible for a non-conforming sign permit. If the identity of the sign owner cannot be determined after reasonable inquiry, the notice may be affixed in a conspicuous place on the sign or on the business premises with which the sign is associated. However, the failure of the City to identify the sign owner shall not relieve the property owner from the requirements of this section.

B. *Non-conforming Sign Permits*.

1. *Eligibility.* A non-conforming sign permit may be issued only in accordance with the standards listed in this chapter.
2. *Permit Required.* A non-conforming sign permit is required for all eligible non-conforming signs within the City. The sign owner shall obtain the permit within 180 days of notification by the City and for any panel or copy changes allowed during the grace period.
3. *Applications*. Applications for a non-conforming sign permit shall contain the name and address of the sign user, the sign owner and the owner of the property upon which the sign is located, and such other pertinent information as the Director may

require to ensure compliance with this chapter. The Director may waive specific submittal requirements determined to be unnecessary for review of an application.

4. *Permit Issuance.* Any person submitting an application for a non-conforming sign permit shall use the forms provided by the Department. The Director shall issue nonconforming sign permits upon a determination of eligibility. The Director may require the filing of plans or other pertinent information where such information is necessary to determine compliance with this chapter. Appeals shall be filed in accordance with Section 19.12.120.

C. *Loss of Legal Non-conforming Status.* Non-conforming signs shall either be removed or immediately brought into compliance with this chapter upon the occurrence of one or more of the following events:

1. When a non-conforming sign permit is required but not obtained within 180 days of notice of non-conformance.

2. When an application is submitted to the City for a project that is subject to design review, on any non-conforming building-mounted signs on the premise affected by the construction and all non-conforming free-standing signs lose their non-conforming status.

3. When any panel or copy changes are proposed after the expiration of the grace period.

4. When the sign meets the definition of abandoned.

5. Damage of 25 percent or more in the value of either the non-conforming sign or the structure to which it is affixed.

D. *Maintenance.* Ordinary maintenance and repair of a sign shall be permitted without loss of nonconforming status if the cost of all maintenance and repair over a two-year period is less than 25 percent of the cost of replacing the sign.

(Ord. 2303 §10 (part), 2010)

19.36.050 Existing Freeway Interchange Signs

Existing signs classified as freeway interchange signs under the previous Sign Code are permitted a five year grace period starting from the effective date of Ordinance No. 2303 (August 24, 2010). During the grace period, freeway interchange signs may be enlarged to a maximum of 125 square feet per side, 250 square feet total, be refaced and have copy changes provided the height and location of the sign remain unchanged. Relocation or re-erection of the sign is not permitted. Application for a sign permit is required for all sign face, area or copy changes to a freeway interchange sign. After the grace period has terminated the sign is permitted to remain as-is indefinitely; however, compliance with the Sign Code is triggered by any relocation, re-erection, alteration, replacement or change in any way to the structure or sign panel/face/copy. Ordinary maintenance and repair of a sign shall be permitted without loss of non-conforming status if the cost of all maintenance and repair over a two-year period is less than 25 percent of the cost of replacing the sign.

(Ord. 2444 §1, 2014; Ord. 2303 §10 (part), 2010)

19.36.060 Non-Conforming Temporary Signs

A. Non-conforming temporary signs must be removed within 30 days of the adoption of this code or the expiration of their sign permit, whichever comes first.

B. Commercial real estate signs in existence in the City prior to the adoption of this code are permitted to remain for up to three months, after which time the signs must be removed and any future signage must comply with the terms of this code.

(Ord. 2303 §10 (part), 2010)

19.36.070 Additional Signage Prohibited

No additional permanent building-mounted signage is permitted on a tenant space that contains a non-conforming building-mounted sign. No additional permanent free-standing signs are permitted on a premises that contains a non-conforming freestanding sign other than a sign that was classified as "freeway interchange" under the previous Sign Code.

(Ord. 2444 §2, 2014; Ord. 2303 §10 (part), 2010)

19.36.080 Financial Incentives – Tukwila International Boulevard Corridor

In order to assist with the removal of non-conforming signs within the Tukwila International Boulevard Corridor, the City Council may develop a grant program to provide financial incentives to property owners and businesses.

1. Applications to the grant program shall be reviewed quarterly and approved by the Director, subject to the availability of allocated funds.

2. In order to be eligible for grant funding the project must comply with the following requirements:

a. Sites must be located within the Tukwila International Boulevard Redevelopment Area, Zoning Code *Figure 18-9.*

b. Removal of non-conforming signs listed in Section 19.36.030 shall have a higher priority than removal of non-conforming signs listed in Section 19.36.020.

c. Payment of the grant award shall not occur until after the sign has been removed and properly disposed of.

d. No applicant or business shall receive more than $2,000 from the grant.

e. The Director is hereby authorized to develop written procedures for award and administration of the grant funds.

(Ord. 2303 §10 (part), 2010)

CHAPTER 19.37

NON-CONFORMING SIGNS IN ANNEXATION AREAS

Sections:

19.37.010 Purpose

The purpose of this chapter is to establish limits on the use of and requirements for the removal of non-conforming signs within areas of the City that were annexed after May 1, 2012. Subject to the remaining restrictions of this chapter, non-conforming signs that were otherwise lawful on the effective date of the annexation may remain subject to the limitations under this chapter. The provisions of this chapter do not apply to billboards within annexation areas.

(Ord. 2375 §11 (part), 2012)

19.37.020 Definition and Removal of Legally Non-Conforming Permanent Signs

A. All permanent signs within annexation areas are considered legally non-conforming if the sign was erected in conformance with a valid permit, if a permit was required, and complied with all applicable laws at the time of the sign's installation. Non-conforming rights are not granted to temporary signs or signs that were in violation of King County ordinances or regulations of the State of Washington. The burden of establishing that a sign is non-conforming lies solely with the individual asserting the claim that a sign is non-conforming.

B. Any monument sign installed within an annexation area that exceeds Sign Code standards as to sign area, height or setback by 15 percent or less shall be deemed a conforming sign.

C. *Grace Period for Permanent Signs in Annexation Areas.* Signs that were installed within the annexation area prior to the effective date of the City's annexation and became non-conforming upon annexation in the City, may be issued a non-conforming sign permit that will allow the signs to remain for 10 years from the effective date of the annexation. This 10-year period shall be known as the "annexation grace period."

D. *Sign Modifications During the Annexation Grace Period*. During the annexation grace period, signs with non-conforming sign permits may be refaced and the panel or copy changed, provided the area, height and location of the sign remain unchanged. A non-conforming sign permit will be issued for work covered under this section. Permanent signs and sign structures that are moved, replaced or structurally altered must be brought into conformance with the current Sign Code regulations.

E. *Sign Modifications After the Annexation Grace Period*. After the annexation grace period, the sign is permitted to remain as-is indefinitely. However, relocation, re-erection, alteration, replacement or change in any way to a legal, non-conforming sign, including the structure or sign panel/face/copy, will require the sign be brought into compliance with the sign code in effect at the time of submittal of a complete sign permit application.

(Ord. 2375 §11 (part), 2012)

19.37.030 Non-Conforming Sign Permits

A. *Non-Conforming Sign Inventory*. The Director shall, as soon as practicable after the effective date of the annexation, survey the annexation area for signs that do not conform to the requirements of Title 19. Upon determination that a sign is non-conforming or illegal, the Director shall use reasonable efforts to notify the sign owner, in writing and, where practicable, the owner of the property on which the sign is located. Notification shall include:

1. Whether the sign is non-conforming or illegal.

2. Whether the sign may be eligible for a non-conforming sign permit. If the identity of the sign owner cannot be determined after reasonable inquiry, the notice may be affixed in a conspicuous place on the sign or on the business premises with which the sign is associated. The failure of the City to identify the sign owner shall not relieve the property owner from the requirements of this section.

B. *Non-Conforming Sign Permits.*

1. *Eligibility.* A non-conforming sign permit may be issued only in accordance with the standards listed in this chapter.

2. *Permit Required.* A non-conforming sign permit is required for all eligible non-conforming signs within the annexation areas. The sign owner shall obtain the permit within 180 days of notification by the City. Sign permits shall be obtained for any panel or copy change allowed during the annexation grace period. There is no permit fee for the issuance of the non-conforming sign permit.

3. *Applications*. Applications for a non-conforming sign permit shall contain the name and address of the sign user, the sign owner and the owner of the property upon which the sign is located, and such other pertinent information as the Director may require to ensure compliance with this chapter. The Director may waive specific submittal requirements determined to be unnecessary for review of an application.

4. *Failure to Respond.* It is the sign owner and/or property owner's responsibility to return the non-conforming sign permit to the City within the 180 days of notice as outlined in this section. Failure to respond will constitute a waiver of any grace period provided to the sign under this chapter and modifications to the sign will be controlled by TMC Section 19.36.030.

5. *Permit Issuance.* Any person submitting an application for a non-conforming sign permit shall use the forms provided by the Department. The Director shall issue non-conforming sign permits upon a determination of eligibility. The Director may require the filing of plans or other pertinent information where such information is necessary to determine compliance with this chapter. Appeals shall be filed in accordance with TMC Section 19.12.120.

C. *Loss of Legal Non-conforming Status.* Non-conforming signs shall be brought into compliance with this chapter upon the occurrence of one or more of the following events:

1. When an application is submitted to the City for a project that is subject to design review, any non-conforming building-mounted signs on the premise affected by the construction and all non-conforming free-standing signs lose their non-conforming status.

2. When any panel or copy changes are proposed after the expiration of the annexation grace period.

3. When the sign meets the definition of abandoned.

4. Damage of 25 percent or more in the value of either the non-conforming sign or the structure to which it is affixed.

D. *Maintenance.* Ordinary maintenance and repair of a sign shall be permitted without loss of non-conforming status if the cost of all maintenance and repair over a two-year period is less than 25 percent of the cost of replacing the sign.

(Ord. 2375 §11 (part), 2012)

19.37.040 Non-Conforming Temporary Signs

A. Non-conforming temporary signs in annexation areas must be removed within 120 days of the effective date of the annexation.

B. Commercial real estate signs in existence in the annexation area prior to the adoption of this code are permitted to remain for up to three months, after which time the signs must be removed and any future signage must comply with the terms of this code.

(Ord. 2375 §11 (part), 2012)

19.37.050 Additional Signage Prohibited

No additional permanent building-mounted signage is permitted on a tenant space that contains a non-conforming sign. No additional permanent freestanding signs are permitted on a premises that contains a non-conforming freestanding sign.

(Ord. 2375 §11 (part), 2012)

CHAPTER 19.38

BILLBOARDS

Sections:

19.38.010 Purpose

The purpose of this chapter is to establish regulations for the use of billboards within the City. The City desires to establish a process that will allow some use of billboards within certain areas of the City while at the same time working to remove billboards in areas of the City where the use of such signs is no longer appropriate or desired.

(Ord. 2303 §11 (part), 2010)

19.38.020 Billboard Receiving Areas Established

New billboards shall only be permitted in designated receiving areas.

(Ord. 2303 §11 (part), 2010)

19.38.030 Billboard Sending Areas Established

All areas of the City that are not designated as receiving areas in TMC 19.38.020 are hereby designated as billboard sending areas, from which billboards must be removed before construction of the billboard in the receiving area can commence.

(Ord. 2303 §11 (part), 2010)

19.38.040 New Billboards

No new billboards, neither digital nor standard, will be permitted within the City unless the applicant reduces the total number of existing billboards within the City sending areas.

1. Installing new billboards within designated receiving areas requires securing the removal of existing billboards within designated sending areas.

2. Table 1 shows the ratio that will be used to determine the number of billboards that must be removed (cut to or below grade, including removal of the pole structure) within designated sending area. The ratio outlined in Table 1 shall only be valid for five years following the effective date of this title. Removal of all billboards included in an application for a new billboard must be removed before construction can commence on the proposed billboard.

Table 1

Type of Billboard Proposed in Designated Receiving Area	Number of Billboard Faces That Must Be Removed Within Designated Sending Areas
One Static Billboard Face	Three billboard faces
One Digital Billboard Face	Five billboard faces

3. Five years after the effective date of this code, the ratio outlined in Table 1 shall expire and the ratio in Table 2 shall be used to determine the number of billboards that must be removed with designated sending areas in order to install a

billboard within designated receiving areas. Removal of all billboards included in an application for a new billboard must be completed before construction can commence on the proposed billboard in the application.

Table 2

Type of Sign Proposed in Designated Receiving Area	Number of Billboards That Must Be Removed Within Designated Sending Areas
One Static Billboard Face	Five billboard faces
One Digital Billboard Face	Seven billboard faces

4. The following requirements shall apply to new billboards within designated receiving areas:

a. No more than two faces are permitted for each billboard structure.

b. Area of an individual face shall not exceed 500 square feet.

c. Billboards shall be spaced at least 500 feet away from any existing or proposed billboard.

d. Billboards shall not exceed a height of 35 feet.

e. No portion of the billboard shall be within 10 feet of any adjacent right of way.

f. No portion of the billboard's foundation shall be within 15 feet of the adjacent right of way. The billboard shall meet any required side or rear setback in the zone in which it is located.

g. Lighting of billboards:

1) The billboard may be illuminated; non-digital billboards shall utilize lights that shine directly on the sign structure. Digital billboards shall not operate at a brightness level of more than 3-foot candles above ambient light as measured using a foot candle meter at a pre-set distance as outlined in Table 3.

Table 3

Billboard Style	Dimensions	Measurement Distance
Posters	12 x 24 feet	150 feet
Bulletins	14 x 48 feet	250 feet

2) Each display must have a light sensing device that will adjust the brightness as ambient light conditions change.

3) The technology currently being deployed for digital billboards is LED (light emitting diode), but there may be alternate, preferred and superior technology available in the future. Any other technology that operates under the maximum brightness stated in Table 3 above shall be permitted.

4) If a digital display is proposed, the rate of change for the sign shall not exceed a frequency of more than once every 8 seconds.

5) One sign, 8.5 square feet in size shall be permitted to be attached to the billboard. The sign can only be used to identify the operator of the billboard. Address or billboard identification numbers are permitted and shall not exceed an area of three square feet.

5. Billboard Placement, Street Tree Pruning.

Upon application to place a billboard within a designated receiving area, the City and the applicant shall work to determine a billboard location that will not be visually obscured either now or in the future by surrounding street trees. If placement of the billboard cannot be accomplished in such a way that will avoid conflicts between the billboard and current or future street trees, pruning of the street trees is permitted, provided:

a. The applicant obtains a street use permit from the City's Public Works Department. The purpose of the permit is to regulate the manner by which the trees will be pruned, such as lane closures, sidewalk closures, etc.

b. All pruning is done by the applicant and all cost is borne entirely by the applicant.

c. All pruning activities are supervised by a certified arborist and all pruning complies with ANSI A300 as currently written or as may be amended.

d. Only those street trees on or adjacent to the property where the billboard is located are eligible for pruning.

e. In the event of death of the tree(s) as a result of the pruning activities, the applicant shall be responsible for paying the landscape value of the tree(s) as determined by a certified arborist or landscape architect.

(Ord. 2501 §9, 2016; Ord. 2303 §11 (part), 2010)

19.38.050 Refurbishing Existing Billboards

Existing billboards within designated sending areas may be refurbished and upgraded, subject to the following standards:

1. The refurbished billboard must remain on the same premise.

2. The applicant shall demonstrate that the billboard that is being refurbished was legally installed.

3. The number of faces for the billboard remains the same or is reduced from the existing billboard.

4. The height of the billboard may not be increased.

5. Setbacks for the billboard remain unchanged. If the setbacks do not comply with setbacks for the underlying zoning, the billboards can be relocated provided they come closer to complying with the required setbacks. In no case shall the billboard be moved closer to a property zoned LDR, MDR or HDR.

6. Non-digital billboards cannot be refurbished or upgraded to either tri-vision or digital displays.

7. Improvement of lighting is permitted. Foot candles produced by the billboard may not extend offsite.

8. Additional signage may be attached to sign provided it complies with TMC Section 19.38.040.H.

9. Area of an individual face shall not exceed 500 square feet. The area of a face can be increased to up to 672 square feet if the billboard operator agrees to make the billboard available for public service announcements and emergency alerts. Public service announcements shall include, but not be limited to, advertising for civic events such as Tukwila Days and the Backyard Wildlife Fair. Emergency alerts shall include those messages necessitating the immediate release of information pertaining to the protection and preservation of public safety. Emergency alerts include, but are not limited, Amber Alerts and

emergency evacuation orders. The Director of Community Development, working with the Director of Public Works, Director of Parks and Recreation, Police Chief, and Fire Chief, shall develop administrative rules that shall be used for public service and emergency alerts. The rules shall specify required message duration and length of display for both public service announcements and emergency alerts.

(Ord. 2303 §11 (part), 2010)

19.38.060 Application Materials for Billboards within the City

All applications to install a billboard shall include the following:

1. Three copies of completed and signed application form provided by the City.

2. Three copies of a dimensioned and scaled site plan showing property lines, streets, buildings, parking areas and proposed location of the billboard. The site map shall clearly show the location of the billboard footings and the edge of the billboard structure. Generally, the City will not require site plans to be prepared by a licensed surveyor; however, the City shall have the authority to require a site plan prepared by a Washington State Licensed Surveyor, if such site plan will assist in the City's review of the proposed application.

3. Three copies of a vicinity map showing the location and distance in feet of any other billboards located within 600 feet.

4. Three copies of scaled and dimensioned drawings of the proposed billboard. The drawing shall also indicate if the billboard will be a static or digital billboard.

5. Three sets of scaled and dimensioned footing design and height calculations.

6. Specific location of billboards proposed to be removed in compliance with Section 19.38.040 three sets of structure calculations.

7. If a digital billboard is proposed, a site plan shall be provided showing proposed foot-candle distribution pattern.

8. If the rate of change on a digital billboard is proposed to exceed the permitted rate of change found in Section 19.38.040.G, the applicant shall provide three sets of a traffic safety study specific to the proposed location of the digital billboard. The study shall examine specific traffic impacts of the proposed digital billboard, including potential distraction to motorists and impact to traffic flows. The City Engineer may request that additional factors be examined based on specific site issues.

9. Fee as established in the most current fee schedule.

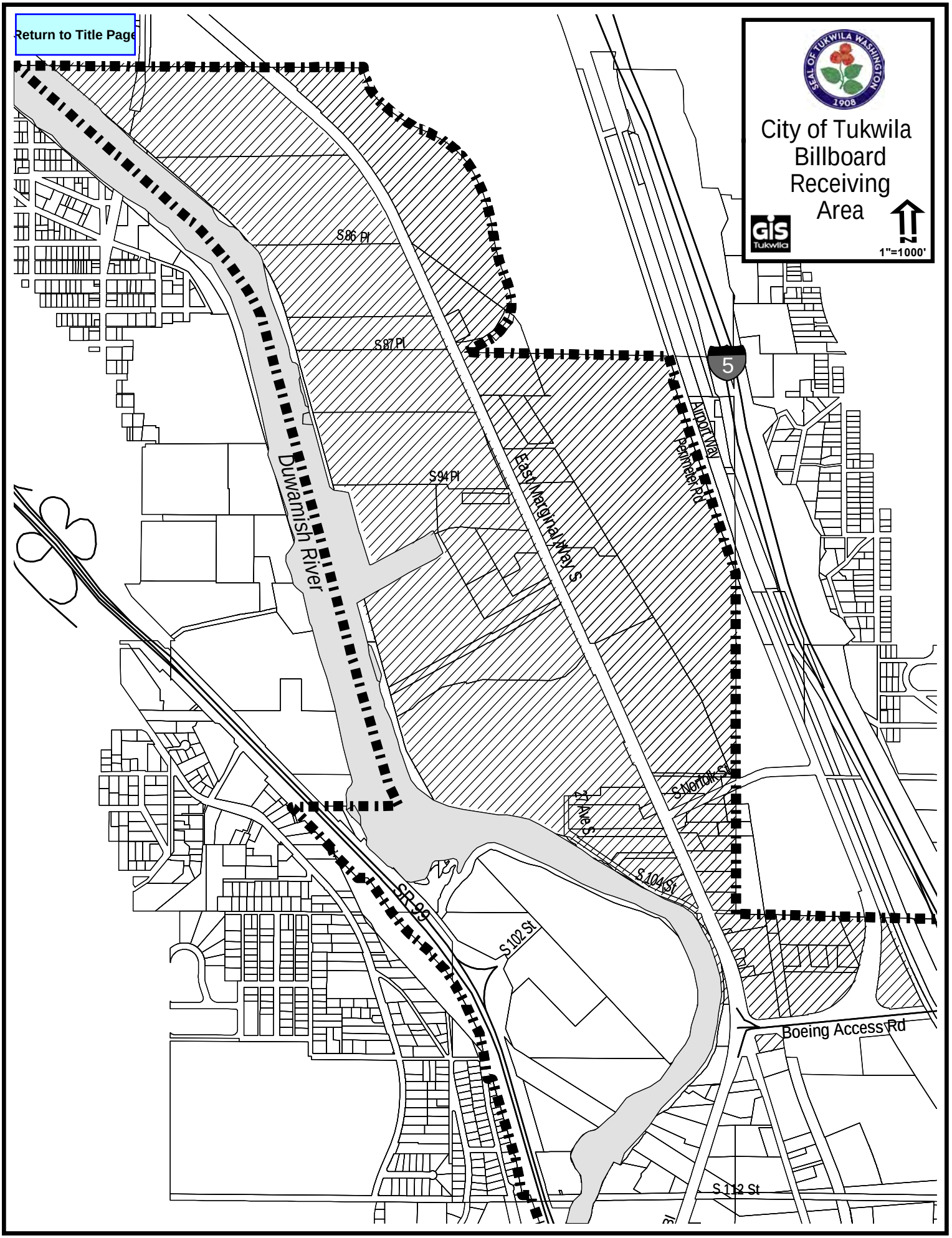
10. One copy of a valid Washington State contractor's license or owner's affidavit.

11. Tukwila business license number for the sign contractor, if applicable.

(Ord. 2303 §11 (part), 2010)

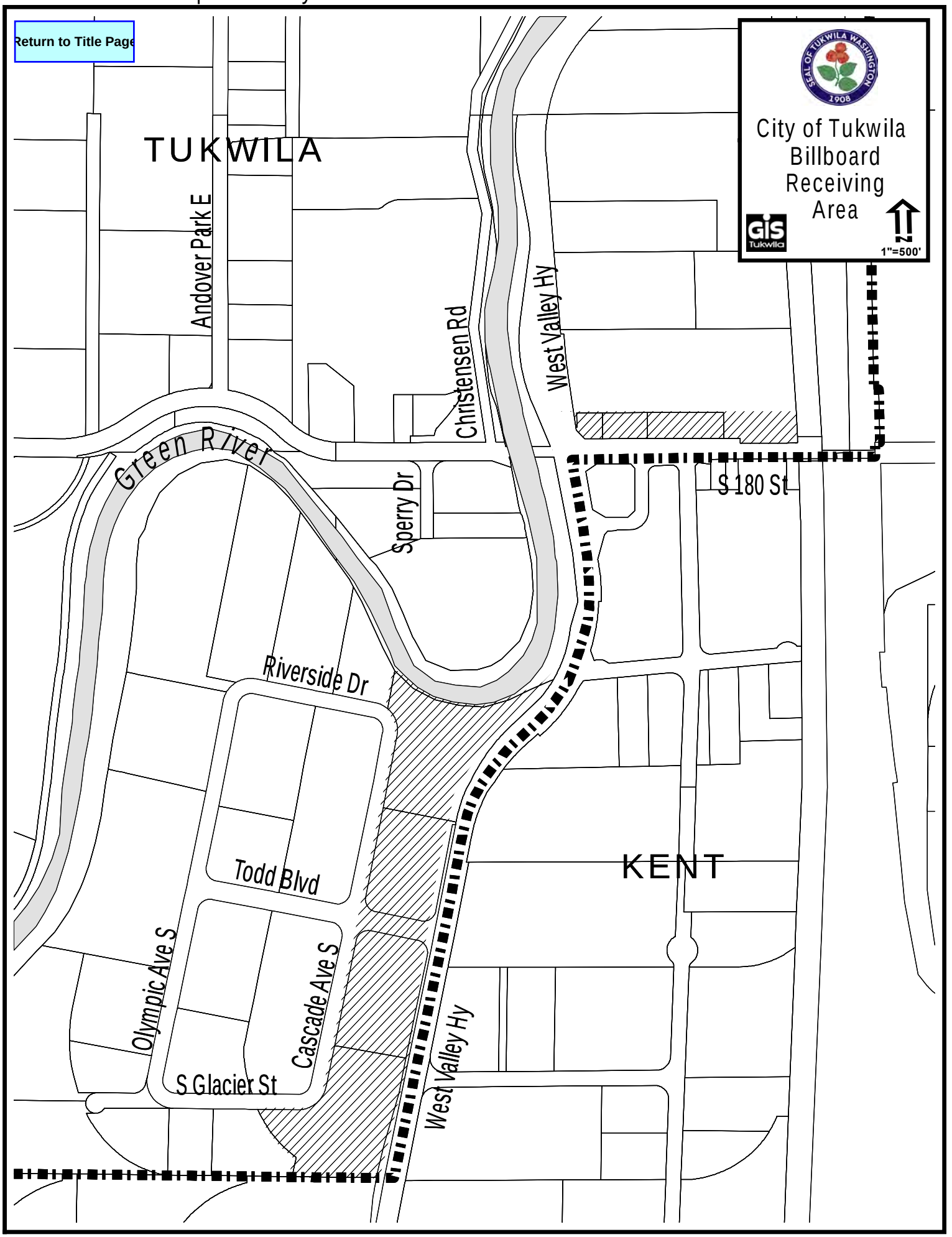
For Illustrative Purposes Only

FIGURE 19-1



For Illustrative Purposes Only

FIGURE 19-2



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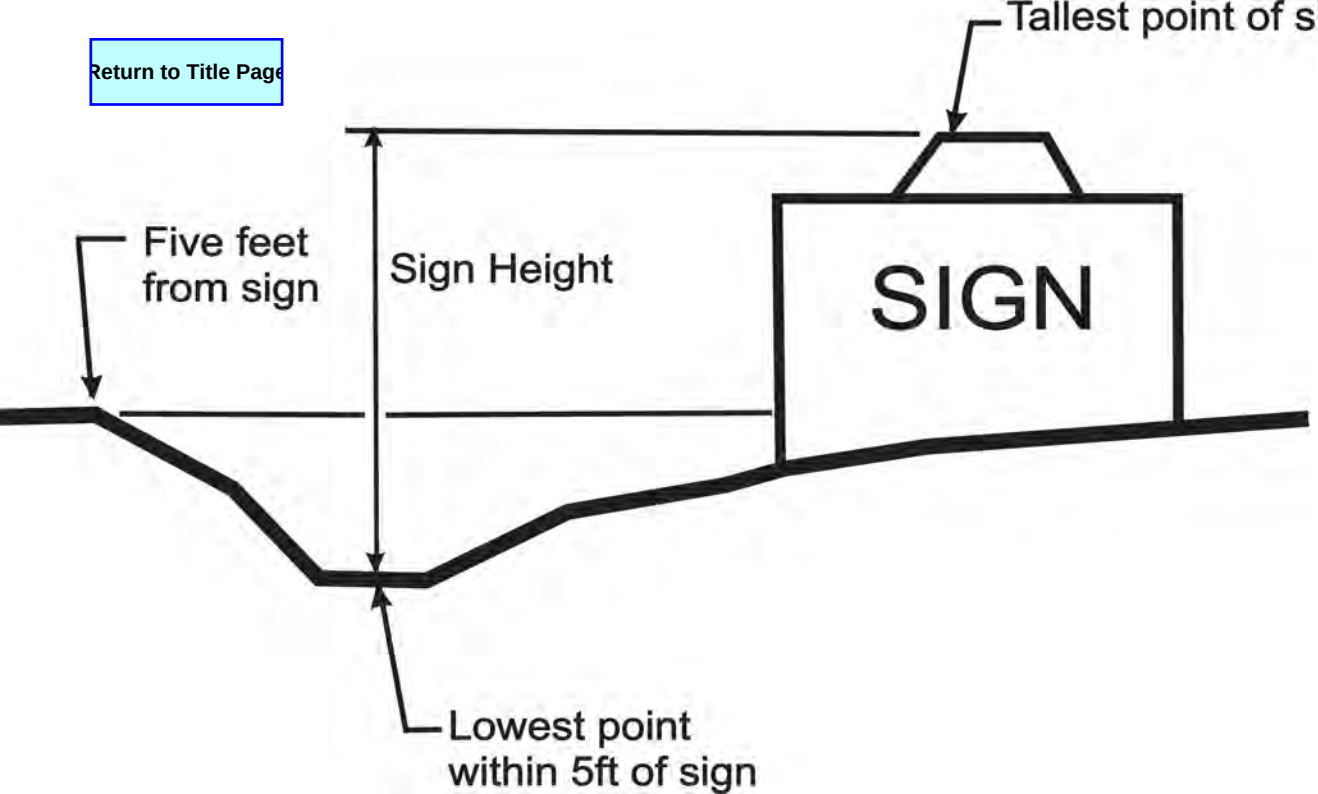

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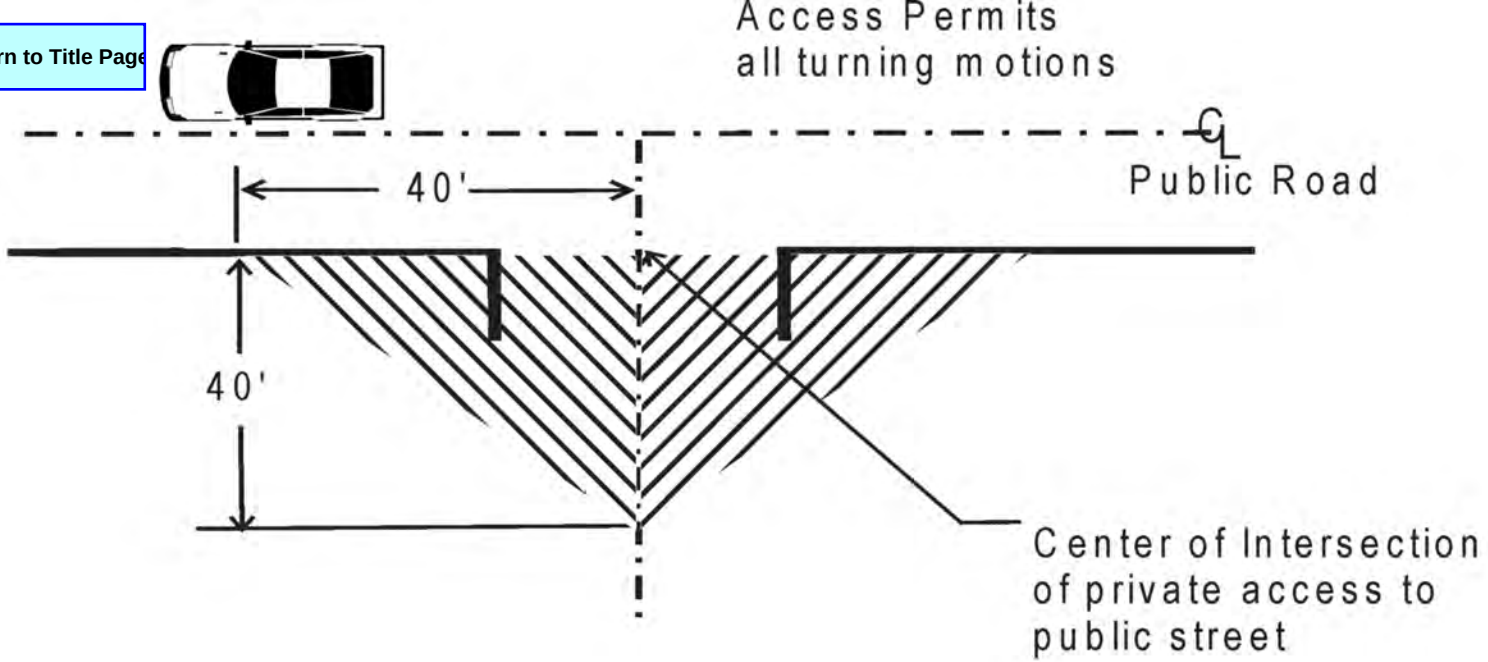

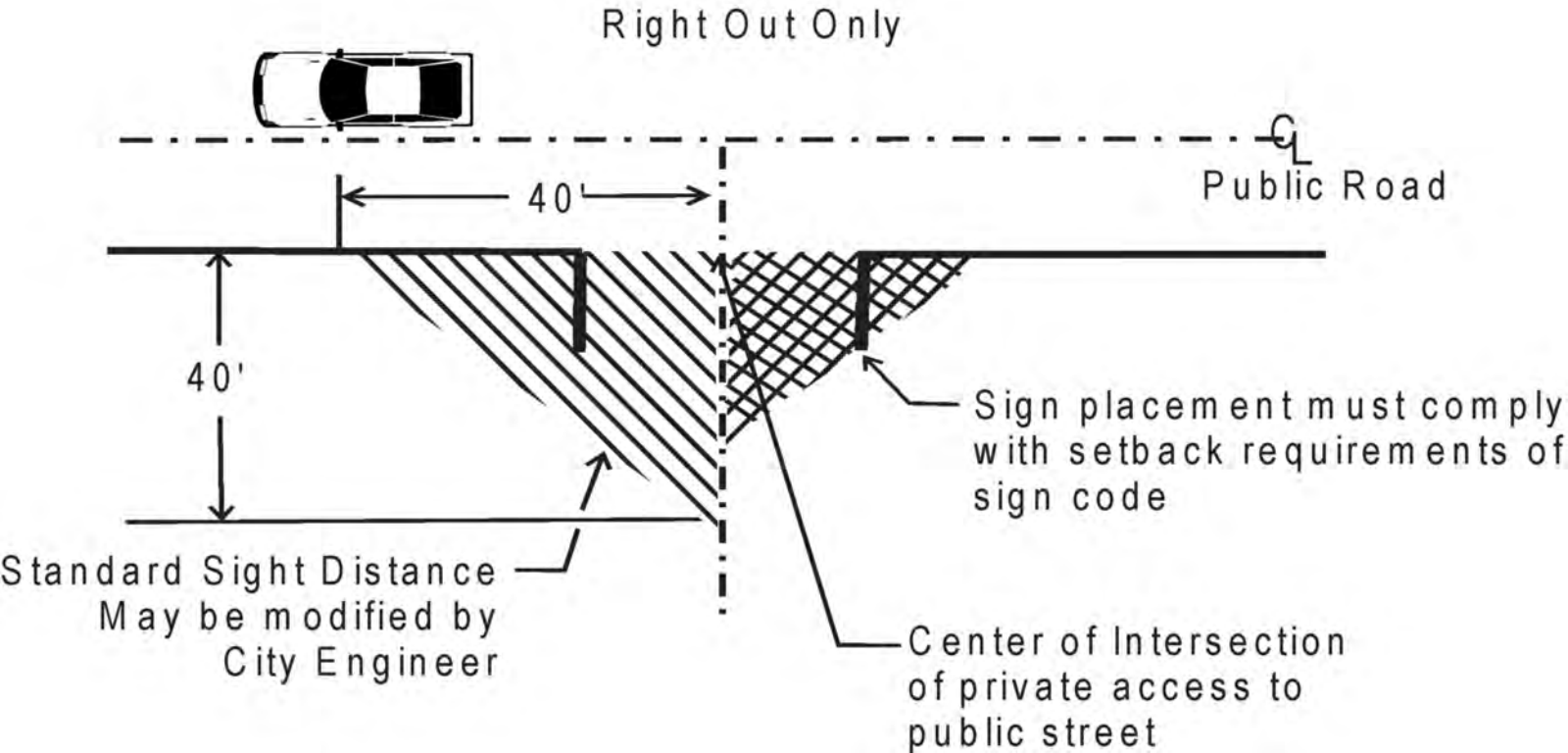

TITLE 21

ENVIRONMENTAL REGULATIONS

Chapters:

CHAPTER 21.04
STATE ENVIRONMENTAL POLICY ACT

Sections:

21.04.010 Adopted - Authority

A. The City adopts the ordinance codified in this chapter under the State Environmental Policy Act (SEPA), RCW 43.21C.120 and the SEPA rules WAC 197-11-904. This chapter contains the City's SEPA procedures and policies.

B. The SEPA rules contained in WAC Chapter 197-11 must be used in conjunction with this chapter.

(Ord. 1331 §1, 1984)

21.04.020 General provisions - Adoption by reference

The City adopts the following sections of WAC Chapter 197-11, as now existing or as may be amended hereafter, by reference:

197-11-040 Definitions
197-11-050 Lead agency
197-11-055 Timing of the SEPA process
197-11-060 Content of environmental review
197-11-070 Limitations on actions during SEPA process
197-11-080 Incomplete or unavailable information
197-11-090 Supporting documents
197-11-100 Information required of applicants

(Ord. 1331 §2, 1984)

21.04.030 Definitions - Adoption by reference

The City adopts the following sections of WAC Chapter 197-11, as now existing or as may be amended hereafter, by reference, as supplemented in this chapter:

197-11-700 Definitions
197-11-702 Act
197-11-704 Action
197-11-706 Addendum
197-11-708 Adoption
197-11-710 Affected tribe
197-11-712 Affecting
197-11-714 Agency
197-11-716 Applicant
197-11-718 Built environment
197-11-720 Categorical exemption
197-11-722 Consolidated appeal
197-11-724 Consulted agency
197-11-726 Cost-benefit analysis
197-11-728 County/City
197-11-730 Decision maker
197-11-732 Department
197-11-734 Determination of Non-Significance (DNS)
197-11-736 Determination of Significance (DS)
197-11-738 EIS
197-11-740 Environment
197-11-742 Environmental checklist
197-11-744 Environmental document
197-11-746 Environmental review
197-11-748 Environmentally sensitive area
197-11-750 Expanded scoping
197-11-752 Impacts
197-11-754 Incorporation by reference
197-11-756 Lands covered by water
197-11-758 Lead agency
197-11-760 License
197-11-762 Local agency
197-11-764 Major action

197-11-766 Mitigated DNS
197-11-768 Mitigation
197-11-770 Natural environment
197-11-772 NEPA
197-11-774 Non-project
197-11-776 Phased review
197-11-778 Preparation
197-11-780 Private project
197-11-782 Probable
197-11-784 Proposal
197-11-786 Reasonable alternative
197-11-788 Responsible official
197-11-790 SEPA
197-11-792 Scope
197-11-793 Scoping
197-11-794 Significant
197-11-796 State agency
197-11-797 Threshold determination
197-11-799 Underlying governmental action

(Ord. 1331 §27, 1984)

21.04.040 Definitions - Additional

In addition to those definitions contained within WAC 197-11-700 through 799, when used in this chapter the following terms shall have the following meanings, unless the content indicates otherwise:

1. *"Department"* means any division, subdivision or organizational unit of the City established by ordinance, rule or order.

2. *"Early notice"* means the City's response to an applicant stating whether it considers issuance of the Determination of Significance likely for the applicant's proposal.

3. *"Environmentally sensitive area":* see TMC 21.04.300 and TMC Chapter 18.45.

4. *"Notice of action"* means the notice (as specified in RCW 43.21C.080) of the time for commencing an appeal of a SEPA determination that the City or the applicant may give following final City action upon an application for a permit or approval when the permit or approval does not have a time period set by statute or ordinance for commencing an appeal.

5. *"SEPA Rules"* means WAC Chapter 197-11, as now adopted or hereafter amended by the Department of Ecology.

(Ord. 2711 §2, 2023; Ord. 1770 §81, 1996; Ord. 1599 §7(1), 1991; Ord. 1344 §1, 1985; Ord. 1331 §3, 1984)

21.04.050 Designation of responsible official

A. For those proposals for which the City is a lead agency, the responsible official shall be the Community Development Director or their designee or such other person as the Mayor may designate in writing.

B. For all proposals for which the City is a lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required Environmental Impact Statement (EIS), and perform any other functions assigned to the lead agency or responsible official by those sections of the SEPA Rules that have been adopted by reference.

(Ord. 2711 §3, 2023; Ord. 1344 §2, 1985; Ord. 1331 §4, 1984)

21.04.060 Lead agency - Determination - Responsibilities

A. The responsible official shall determine the lead agency for that proposal under WAC 197-11-050 and WAC 197-11-922 through 197-11-940, unless the lead agency has been previously determined or the responsible official is aware that another department or agency is in the process of determining the lead agency.

B. When the City is not the lead agency for a proposal, all departments of the City shall use and consider as appropriate either the Determination of Non-Significance (DNS) or the final EIS of the lead agency in making decisions on the proposal. No City department shall prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency unless the City determines a supplemental environmental review is necessary under WAC 197-11-600.

C. If the City, or any of its departments, receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-922 through 197-11-940, it may object to the determination. Any objection must be made to the agency originally making the determination and resolved within 15 days of receipt of the determination, or the City must petition the Department of Ecology for a lead agency determination under WAG 197-11-946 within the 15-day time period. Any such petition on behalf of the City may be initiated by the responsible official or Mayor.

D. The responsible official is authorized to make agreement as to lead agency status or shared lead agency's duties for a proposal under WAC 197-11-942 and 197-11-944.

E. The responsible official shall require sufficient information from the applicant to identify other agencies with jurisdiction.

(Ord. 1344 §3, 1985; Ord. 1331 §5, 1984)

21.04.070 Lead agency - Transfer of status to State agency

For any proposal for a private project where the City would be the lead agency and for which one or more State agencies have jurisdiction, the City may elect to transfer the lead agency duties to the State agency. The State agency with jurisdiction appearing first on the priority list in WAC 197-11-936 shall be the lead agency. To transfer lead agency duties, the responsible official must transmit a notice of the transfer, together with any relevant information available on the proposal, to the appropriate State agency with jurisdiction. The responsible official shall also give notice of the transfer to the private applicant and any other agencies with jurisdiction over the proposal.

(Ord. 1344 §4, 1985; Ord. 1331 §6, 1984)

21.04.080 Categorical exemptions and threshold determinations - Adoption by reference

The City adopts the following sections of WAC Chapter 197-11 and RCW 43.21C.410, as now existing or as may be amended hereafter, by reference as supplemented in this chapter:

197-11-300 Purpose of this part
197-11-305 Categorical exemptions
197-11-310 Threshold determination required
197-11-315 Environmental checklist
197-11-330 Threshold determination process
197-11-335 Additional information
197-11-340 Determination of Non-Significance (DNS)
197-11-350 Mitigated DNS
197-11-355 Optional DNS process
197-11-360 Determination of Significance (DS)/initiation of scoping
197-11-390 Effect of threshold determination
43.21C.410 Battery Charging and exchange station installation

(Ord. 2324 §14, 2011; Ord. 2173 §1, 2007; Ord. 1331 §10, 1984)

21.04.100 Categorical exemptions - Adoption by reference

The City adopts the following rules for categorical exemption of WAC Chapter 197-11, as now existing or as may be amended hereafter, by reference, as supplemented in this chapter:

197-11-800 Categorical exemptions
197-11-880 Emergencies
197-11-890 Petitioning DOE to change exemptions

(Ord. 1331 §28, 1984)

21.04.110 Categorical exemptions - Flexible thresholds for Minor New Construction

A. The City establishes the following exempt levels for minor new construction as allowed under WAC 197-11-800(1)(c) and (d), based upon local conditions:

1. For single-family residential projects, up to thirty (30) dwelling units;
2. For multifamily residential projects, up to two hundred (200) dwelling units;
3. For agricultural structures, up to forty thousand (40,000) square feet;
4. For office, school, commercial, recreational, service or storage buildings, up to thirty thousand (30,000) square feet;
5. For parking facilities, up to ninety (90) parking spaces;
6. For fills or excavations, up to one thousand (1,000) cubic yards. All fill or excavation, of any quantity, necessary for an exempt project in subsections 1 through 4 of this section shall be exempt.

B. The exemptions in this subsection apply except when the project:

1. Is undertaken wholly or partly on lands covered by water;
2. Requires a license governing discharges to water that is not exempt under RCW 43.21C.0383;
3. Requires a license governing emissions to air that is not exempt under RCW 43.21C.0381 or WAC 197-11-800 (7) or (8); or
4. Requires a land use decision that is not exempt under WAC 197-11-800(6).

C. Whenever the City establishes new exempt levels under this section, it shall send them to the Department of Ecology, Headquarters Office, Olympia, Washington, 98504 under WAC 197-11-800(1)(c).

(Ord. 2711 §4, 2023; Ord. 2502 §1, 2016; Ord. 2173 §1, 2007; Ord. 1344 §6, 1985; Ord. 1331 §11, 1984)

21.04.120 Categorical exemptions - Determination

A. When the City receives an application for a license or, in the case of governmental proposals, a department initiates a proposal, the responsible official shall determine whether the license and/or the proposal is exempt. The determination that a proposal is exempt shall be final and not subject to administrative review. If a proposal is exempt, none of the procedural requirements of this chapter shall apply to the proposal.

B. In determining whether or not a proposal is exempt, the responsible official shall made certain the proposal is properly defined and shall identify the governmental license required. If a proposal includes exempt and nonexempt actions, the responsible official shall determine the lead agency, even if the license application that triggers the consideration is exempt.

C. If a proposal includes both exempt and nonexempt actions, the City may authorize exempt actions prior to compliance with the procedural requirements of this chapter, except that:

1. The City shall not give authorization for:

a. Any nonexempt action;

b. Any action that would have an adverse environmental impact; or

c. Any action that would limit the choice of reasonable alternatives.

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

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

(Ord. 1331 §12, 1984)

21.04.130 Threshold determination - Review at conceptual stage

A. If the City's only action on a proposal is a decision on a building permit or other license that requires detailed project plans and specifications, the applicant may request in writing that the City conduct environmental review prior to submission of the detailed plans and specifications.

B. In addition to the environmental documents, an applicant may be required to submit the following information:

1. Conceptual site plans and building plans;

2. Other information as the responsible official may determine;

3. Environmentally sensitive areas studies as described in TMC 21.04.140 for sensitive areas.

(Ord. 1599 §7(2), 1991; Ord. 1344 §5, 1985; Ord. 1331 §9, 1984)

21.04.140 Threshold determinations - Environmental checklist

A. A completed environmental checklist shall be filed at the same time as an application for a permit, license, certificate or other approval not exempted by this chapter. The checklist shall be in the form of WAC 197-11-960.

B. If the site is an environmentally critical area, a critical area study that meets the requirements of TMC Chapter 18.45 may be required. The SEPA official may waive any study requirements determined to be unnecessary for review of a particular use or application. Funding for a qualified professional, selected and retained by the City, shall be paid for by the applicant to review the geotechnical reports on Class 2 and Class 3 landslide, seismic and coal mine hazard areas if the geotechnical report indicates Class 3 or Class 4 characteristics, and will be required in all Class 4 landslide hazard areas. Applicants may also be required to pay for peer review of wetland and watercourse studies per TMC Section 18.45.040.E.

C. A checklist is not needed if the City and the applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency.

D. The City shall use the environmental checklist to determine the lead agency and, if the City is the lead agency, for making the threshold determination.

E. For private proposals, the applicant is required to complete the environmental checklist. The City may provide information as necessary. For City proposals, the department initiating the proposal shall complete the environmental checklist for that proposal.

F. The City may decide to complete all or part of the environmental checklist for a private proposal, if either of the following occurs:

1. The City has technical information on a question or questions that is unavailable to the private applicant; or

2. The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration.

(Ord. 2711 §5, 2023; Ord. 1599 §7(3), 1991; Ord. 1344 §7, 1985; Ord. 1331 §13, 1984)

21.04.150 Threshold determinations - Mitigated DNS

A. The responsible official may issue a Determination of Non-Significance (DNS) based on conditions attached to the proposal by the responsible official or on changes to, or clarifications of, the proposal made by the applicant.

B. An applicant may request in writing early notice of whether a Determination of Significance (DS) is likely. The request must:

1. Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the department is lead agency; and

2. Precede the City's actual threshold determination for the proposal.

C. The responsible official's written response to the request for early notice shall:

1. State whether the City currently considers issuance of a DS likely and, if so, indicate the general or specific areas of concern that are leading the City to consider a DS; and

2. State that the applicant may change or clarify the proposal to mitigate the indicated impacts, and may revise the environmental checklist and/or permit application as necessary to reflect the changes or clarifications.

D. When an applicant submits a changed or clarified proposal, along with a revised environmental checklist, the City shall base its threshold determination on the changed or clarified proposal.

1. If the City indicated specific mitigation measures in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the City shall issue and circulate a Determination of Non-Significance if the City determines that no additional information or mitigation measures are required.

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

3. The applicant's proposed mitigation measures, clarifications, changes or conditions must be in writing and must be specific.

4. Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies or other documents.

E. The City shall not act upon a proposal for which a mitigated DNS has been issued for 15 days after the date of issuance.

F. Mitigation measures incorporated in the mitigated DNS shall deemed conditions of approval of the licensing decision and may be enforced in the same manner as any term or condition of the permit or enforced in any manner specifically prescribed by the City. Failure to comply with the designated mitigation measures shall be grounds for suspension and/or revocation of any license issued.

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

H. The City's written response under 21.04.150C shall not be construed as a determination of significance. In addition, preliminary discussion of clarification or changes to a proposal, as opposed to a written request for early notice, shall not bind the City to consider the clarifications or changes in its threshold determination.

(Ord. 1599 §7(4), 1991; Ord. 1344 §8, 1985; Ord. 1331 §14, 1984)

21.04.156 Designating a development as a planned action

A. The Director of the Department of Community Development shall be authorized to designate a specific development proposal which is eligible to be a planned action, has mitigated all of its significant adverse impacts, and is consistent with the Comprehensive Plan, as a planned action.

B. This designation shall be final, with no administrative appeals.

(Ord. 1853 §8, 1998)

21.04.158 Planned action development review process

Designation of a planned action would relieve the application from any SEPA review including a threshold determination, any final threshold determination, public notice of SEPA action, and any administrative appeals. A notice of complete application would NOT be sent for Type 1 applications which choose the planned action option.

(Ord. 1853 §9, 1998)

21.04.170 EIS - Adoption by reference

The City adopts the following sections of WAC Chapter 197-11, as now existing or as may be amended hereafter, by reference as supplemented by this chapter:

197-11-400 Purpose of EIS
197-11-402 General requirements
197-11-405 EIS types
197-11-406 EIS timing
197-11-408 Scoping
197-11-410 Expanded scoping
197-11-420 EIS preparation
197-11-425 Style and size
197-11-430 Format
197-11-435 Cover letter or memo
197-11-440 EIS contents
197-11-442 Contents of EIS on non-project proposals
197-11-443 EIS contents when prior non-project EIS
197-11-444 Elements of the environment
197-11-448 Relationship of EIS to other considerations
197-11-450 Cost-benefit analysis
197-11-455 Issuance of DEIS
197-11-460 Issuance of FEIS

(Ord. 1331 §15, 1984)

21.04.180 EIS - Preparation

A. Preparation of draft EIS's (DEIS) and final EIS's (FEIS) and supplemental EIS's(SEIS) shall be under the direction of the responsible official. Before the City issues an EIS, the responsible official shall be satisfied that it complies with this chapter and WAC Chapter 197-11.

B. The DEIS and FEIS or SEIS shall be prepared at the City's option by the City staff, the applicant, or by a consultant approved by the City. If the responsible official requires an EIS for a proposal and determines that someone other than the City will prepare the EIS, the responsible official shall notify the applicant immediately after completion of the threshold determination. The responsible official shall also notify the applicant of the City's procedure for EIS preparation, including approval of the draft and final EIS prior to distribution.

C. The City may require an applicant to provide information the City does not possess, including specific investigations. However, the applicant is not required to supply information that is not required under this chapter or that is being requested from another agency; provided, however, this does not apply to information the City may request under another ordinance or statute.

(Ord. 1344 §9, 1985; Ord. 1331 §16, 1984)

21.04.185 Time for preparation

Unless a different time limit is agreed to by the Department and the applicant, the time limit for completion of environmental impact statements for purposes of TMC 18.104.130 shall be 365 calendar days from the date of issuance of a Declaration of Significance. The following periods shall be excluded from this 365-day period:

1. Any period of time during which the applicant has been requested by any City department, agency or hearing body with jurisdiction over some aspect of the EIS to correct plans, perform required studies, or provide additional information. The period shall be calculated from the date the applicant is notified of the need for additional information until the earlier of (a) the date the department, agency or hearing body determines whether the additional information satisfies the request, or (b) 14 days after the date the information has been provided to the department, agency or hearing body. If the department, agency or hearing body determines that the action by the applicant is insufficient, it shall notify the applicant of the deficiencies and the procedures of this section shall apply as if a new request for information had been made.

2. Any additional time period for preparation of the EIS agreed upon by the Department and the applicant.

(Ord. 1770 §83, 1996)

21.04.190 EIS - Additional elements

The following additional elements may be part of the environment for the purpose of EIS content, but do not add to the criteria for threshold determinations or perform any other function of purpose under this chapter:

1. Economy;
2. Social policy analysis;
3. Cost-benefit analysis;
4. Such other elements as may be required by the responsible official.

(Ord. 1331 §17, 1984)

21.04.200 EIS - Commenting - Adoption by reference

The City adopts the following sections of WAC Chapter 197-11, as now existing or as may be amended hereafter, by reference as supplemented in this chapter:

197-11-500 Purpose of this part
197-11-502 Inviting comment
197-11-504 Availability and cost of environmental documents
197-11-508 SEPA Register
197-11-535 Public hearings and meetings
197-11-545 Effect of no comment
197-11-550 Specificity of comments
197-11-560 FEIS response to comments
197-11-570 Consulted agency costs to assist lead agency

(Ord. 1331 §18, 1984)

21.04.210 Public notice - Procedure

A. Whenever public notice is required, the City shall follow the procedures set forth in this section.

B. Public notice will be given in the following situations:

1. When the City issues the following Determinations of Non-Significance (DNS):

a. DNS involving another agency with jurisdiction;

b. DNS involving the demolition of any structure or facility not exempted by WAC 197-11-800(2) (f) or 197-11-880;

c. DNS involving the issuance of a clearing or grading permit not exempted by WAC 197-11-800 through 197-11-890;

d. DNS issued following a request for early notice pursuant to WAC 197-11-350(2);

e. Mitigated DNS issued pursuant to WAC 197-11-350(3);

f. DNS issued following the withdrawal of a DS pursuant to WAC 197-11-360(4).

2. When the City issues a Determination of Significance to commence scoping.

3. When a draft EIS (DEIS) is available for public comment.

4. Whenever the City holds a public hearing pursuant to WAC 197-11-535, provided that if the project requires a Type 3, 4 or 5 decision such hearing shall be consolidated with the public hearing on the merits of the project.

5. Whenever the responsible official determines that public notice is required.

C. The City shall give public notice by using the public notice procedures set forth in TMC Sections 18.104.110 and .120 at the time the application is determined complete. The notice of decision shall be emailed or mailed to the applicant, parties of record and the agencies with jurisdiction for the projects listed under subsection B above.

D. Notice of public hearings on non-project proposals shall be published in a newspaper of general circulation in the City.

E. The City may require an applicant to compensate the City for the costs of compliance with the public notice requirements for the applicant's proposal and/or provide services and materials to assist.

(Ord. 2374 §1, 2012; Ord. 1770 §84, 1996; Ord. 1344 §10, 1985; Ord. 1331 §19, 1984)

21.04.220 Consulted agency responsibilities - Official designated

A. The responsible official shall be responsible for preparation of written comments for the City in response to a consultation request prior to a threshold determination, participation in scoping and reviewing of a draft EIS.

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

(Ord. 1331 §20, 1984)

21.04.230 Using existing environmental documents - Adoption by reference

The City adopts the following sections of WAC Chapter 197-11, as now existing or as may be amended hereafter, by reference:

197-11-600 When to use existing environmental documents
197-11-610 Use of NEPA documents
197-11-620 Supplemental environmental impact statements
197-11-625 Addenda - Procedures
197-11-630 Adoption - Procedures
197-11-635 Incorporation by reference - Procedures
197-11-640 Combining documents

(Ord. 1331 §21, 1984)

21.04.240 SEPA - Decisions - Adoption by reference

The City adopts the following sections of WAC Chapter 197-11, as now existing or as may be amended hereafter, by reference:

197-11-650 Purpose of this part
197-11-655 Implementation
197-11-660 Substantive authority and mitigation
197-11-680 Appeals
197-11-700 Definitions

(Ord. 1331 §22, 1984)

21.04.250 SEPA - Decisions - Substantive authority

A. The City may attach conditions to a license or approval for a proposal so long as:

1. Such conditions are necessary to mitigate specific adverse environmental impacts clearly identified in an environmental document prepared pursuant to this chapter; and
2. Such conditions are in writing; and
3. Such conditions are reasonable and capable of being accomplished; and
4. The City has considered whether other local, State or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and
5. Such conditions are based on one or more policies in TMC 21.04.270 and cited in the permit, approval, license or other decision document.

B. The City may deny a permit or approval for a proposal on the basis of SEPA so long as:

1. A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a final EIS or final supplemental EIS; and
2. A finding is made that there are no reasonable mitigation measures that are insufficient to mitigate the identified impact; and
3. The denial is based on one or more policies identified in TMC 21.04.270 and identified in writing in the decision document.

(Ord. 1331 §23, 1984)

21.04.260 SEPA- Compliance - Adoption by reference

The City adopts the following sections of WAC Chapter 197-11, as now existing or as may be amended hereafter, by reference, as supplemented in this chapter:

197-11-900 Purpose of this part
197-11-902 Agency SEPA policies
197-11-916 Application to ongoing actions
197-11-920 Agencies with environmental expertise
197-11-922 Lead agency rules
197-11-924 Determining the lead agency
197-11-926 Lead agency for governmental proposals
197-11-928 Lead agency for public and private proposals
197-11-930 Lead agency for private projects with one agency with jurisdiction
197-11-932 Lead agency for private projects requiring licenses for more than one agency, when one of the agencies is a county/city
197-11-934 Lead agency for private projects requiring licenses from a local agency, not a county/ city, and one or more State agencies
197-11-936 Lead agency for private projects requiring licenses from more than one State agency
197-11-938 Lead agencies for specific proposals
197-11-940 Transfer of lead agency status to a State agency
197-11-942 Agreements on lead agency status
197-11-944 Agreements on division of lead agency duties
197-11-946 DOE resolution of lead agency disputes
197-11-948 Assumption of lead agency status

(Ord. 1331 §29, 1984)

21.04.270 SEPA - Policies

A. The policies and goals set forth in this chapter are supplementary to those in the existing authorization of the City.

B. The City adopts by reference the policies in the following City codes, ordinances, resolutions and plans as now exist or as may be amended hereafter:

1. Annexation Policy Plan
2. Comprehensive Land Use Policy Plan
3. Comprehensive Water Plan
4. International Building Code
5. Long Range Parks and Open Space Plan
6. Sanitary Sewer Comprehensive Plan
7. Shoreline Master Plan
8. Sidewalk Ordinance
9. Southcenter Subarea Plan
10. Southcenter Design Manual
11. Standard Specifications for Municipal Construction
12. Subdivisions and Plats – TMC Title 17
13. Surface Water Comprehensive Plan
14. Transportation Improvement Plan
15. Zoning Code – TMC Title 18

(Ord. 2502 §4, 2016; Ord. 1757 §2, 1995; Ord. 1599 §7(5), 1991; Ord. 1344 §14, 1985; Ord. 1331 §24, 1984)

21.04.280 Appeals

A. In the event that the Department issues a Mitigated Determination of Non-Significance (MDNS), any party of record may file an appeal challenging either the conditions, which were imposed, or the failure of the Department to impose additional conditions. No other administrative SEPA appeal shall be allowed.

B. At the time the appeal is filed, the appealing party shall pay an appeal fee pursuant to the fee schedule.

C. All appeals filed pursuant to this section must be filed in writing with the Department within 14 calendar days of the date of the decision appealed from.

D. All appeals pursuant to this section shall be consolidated with the public hearing on the merits of a Type 3, 4 or 5 decision. In the event that an appeal related to a Type 2 decision is filed pursuant to this section, such appeal shall be consolidated with an appeal on the merits of the application. No appeals pursuant to this section shall be permitted for proposals which involve only Type 1 decisions.

E. The substantive and procedural determination by the City's responsible official shall carry substantial weight in any appeal proceeding.

(Ord. 2120 §5, 2006; Ord. 1770 §85, 1996; Ord. 1344 §11, 1985; Ord. 1331 §25, 1984)

21.04.290 Notice - Statute of limitations

A. The City shall give official notice whenever it issues a permit or approval for which a statute or ordinance establishes a time limit for commencing judicial appeal.

B. The City, applicant for, or proponent of an action may publish a notice of action pursuant to RCW 43.21C.080 for any action.

1. The form of the notice of action shall be substantially in the form provided in WAC 197-11-990.

2. The notice of action shall be published by the City Clerk, applicant or proponent pursuant to RCW 43.21C.080.

(Ord. 1344 §12, 1985; Ord. 1331 §26, 1984)

21.04.300 Environmentally sensitive areas

A. Environmentally critical areas designated on the zoning maps, and/or as defined in TMC Section 18.45.030 as of the effective date of the ordinance from which this section derives and as thereafter amended, designate the locations of environmentally critical areas within the City and are adopted by reference. In addition to those areas identified in WAC 197-11-908 and for purposes of this chapter, environmentally critical areas shall also include wooded hillsides, and the Green/Duwamish River and its shoreline zone as defined by the Tukwila Shoreline Master Program. For each environmentally critical area, all categorical exemptions within WAC 197-11-800 are applicable.

B. The City shall treat proposals located wholly or partially within an environmentally critical area no differently than other proposals under this chapter, making a threshold determination for all such proposals. The City shall not automatically require an EIS for a proposal merely because it is proposed for location in an environmentally critical area.

C. Certain exemptions do not apply on lands covered by water, and this remains true regardless of whether or not lands covered by water are mapped.

(Ord. 2711 §10, 2023; Ord. 1608 §2, 1991; Ord. 1599 §7(6), 1991; Ord. 1344 §13, 1985; Ord. 1331 §30, 1984)

21.04.310 Fees

The City shall require the following fees for its activities in accordance with the provisions of this chapter:

1. Threshold Determination. For every environmental checklist the City will review when it is lead agency, the City shall collect a fee according to the adopted Land Use Fee Schedule from the proponent of the proposal prior to undertaking the threshold determination; provided that no fee shall be charged to or collected from the proponents of any proposal for annexation to the City, and the City shall review such checklists without charge. Where payment of a fee is required, the time periods provided by this chapter for making a threshold determination shall not begin to run until payment of the fee is received by the City.

2. Environmental Impact Statement.

a. When the City is the lead agency for a proposal requiring an EIS and the responsible official determines the EIS shall be prepared by employees of the City, the City may charge and collect a reasonable fee from any applicant to cover costs incurred, including overhead, by the City in preparing the EIS. The

responsible official shall advise the applicant of the projected costs for the EIS prior to actual preparation.

b. The responsible official may determine that the City will contract directly with a consultant for preparation of an EIS, or a portion of the EIS, for activities initiated by some persons or entity other than the City, and may bill such costs and expenses directly to the applicant. Such consultants shall be selected by the City. Also, the City will charge an administrative fee in addition to the consultant fees, according to the adopted Land Use Fee Schedule.

c. The applicant shall pay the projected amount to the City prior to commencing work. The City will refund the excess, if any, at the completion of the EIS. If the City's costs exceed the projected costs, the applicant shall immediately pay the excess. If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under a. or b. of this subsection which remain after incurred costs, including overhead, are paid.

3. The City shall collect a fee from an applicant to cover the cost of meeting the public notice requirements of this chapter relating to the applicant's proposal according to the adopted Land Use Fee Schedule.

4. The City may charge any person for copies of any document prepared under this chapter, and for mailing the document, in a manner provided by chapter 42.17 RCW.

(Ord. 2711 §11, 2023; Ord. 1650 §1, 1992; Ord. 1576 §6, 1990; Ord. 1425 §1, 1987; Ord. 1331 §31, 1984)

21.04.320 Forms - Adoption by reference

The City adopts the following forms and sections of WAC Chapter 197-11, as now existing or as may be amended hereafter, by reference:

197-11-960 Environmental checklist
197-11-965 Adoption notice
197-11-970 Determination of Non-Significance (DNS)
197-11-980 Determination of Significance and scoping notice (DS)
197-11-985 Notice of assumption of lead agency status
197-11-990 Notice of action

(Ord. 1331 §32, 1984)

21.04.340 Severability

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

(Ord. 1331 §35, 1984)

CHAPTER 21.08

SITING CRITERIA FOR HAZARDOUS WASTE TREATMENT AND STORAGE FACILITIES

Sections:

21.08.010 State criteria adopted

Siting criteria for on-site and off-site hazardous waste treatment and storage facilities set forth in RCW 70.105 are adopted.

(Ord. 1489 §4, 1988)

21.08.020 Specific siting criteria

Siting criteria for on-site and off-site hazardous waste treatment and storage facilities in the City shall be as set forth in Table 1.

TABLE 1
TUKWILA SITING CRITERIA FOR HAZARDOUS WASTE TREATMENT AND STORAGE FACILITIES

CRITERIA	ON-SITE As defined in TMC 18.06.420	OFF-SITE As defined in TMC 18.06.415
Structural Stability		
Unstable slopes/soils	200 feet	X
Coastal flooding	X	X
Surface Water Quality Protection		
Proximity to nearest surface water	M	1/4 mile
FEMA 100-year flood zone	X	X
Shorelines of statewide significance	M	1/2 mile
Protection of Domestic Water		
Watersheds	1/2 mile	1/2 mile
Distance to ground water intake	1/4 mile	1/2 mile
Air Quality Protection		
Ambient air quality	M	M
Sensitive Area Protection		
Threatened and endangered species	X	X
Wetlands	X	1/4 mile
State shorelines	M	X
Parks and recreational areas	X	1/4 mile
Archaeological and historic areas and national monuments	X	1/4 mile
Transportation Routes		
Traffic flow and capacity*	M	M
Safety standards for transport routes	M	M
Adjacent Land Use Considerations		
Buffer zone	M	200 feet
Minimum distance from residential zones/ residences	750 ft/	1/2 mile/
Motels and hotels	100 feet	500 feet
Minimum distance from occupied structures	100 feet	1/2 mile
Agricultural lands/ agricultural zone	500 feet	500 feet
Public gathering place	750 feet	750 feet
Host Community Considerations		
Utilities and public services	M	M
Costs for emergency services	M	M

X - A proposed facility is prohibited from siting under this criterion.
M - Mitigation measures required to site in this area.
* - *Hazardous substance land uses shall be prohibited from using traffic routes which pass through residential zones.*

In the event that Tukwila's hazardous waste siting criteria conflict with development criteria of specific zoning districts or siting criteria to be developed and adopted by the State of Washington, the more restrictive standard shall apply.

(Ord. 1489 §4, 1988)

TITLE 22

SOLID WASTE AND RECYCLING

Chapters:

CHAPTER 22.04

GENERAL PROVISIONS

Sections:

22.04.010 Purpose

This chapter is created to:

(1) Encourage the management of solid wastes according to the priorities defined in RCW 70.95.010;

(2) Set minimum solid waste and recycling collection service levels for WUTC-certified solid waste haulers;

(3) Define solid waste collection rate objectives that provide incentives for waste reduction and recycling;

(4) Set standards for the provision of recycling opportunities to multi-family residences; and

(5) Require the source separation of yard waste materials.

(Ord. 1595 §3, 1991)

22.04.020 Definitions

For the purposes of this chapter:

(1) *"City"* means the City of Tukwila.

(2) *"Haulers"* means all Washington Utilities and Transportation Commission certified solid waste haulers.

(3) *"Multi-family residence"* means any structure that contains four or more single-family units.

(4) *"Recyclable plastic containers"* means all plastic containers that can be collected and recycled without undue economic impacts, as determined by City staff. These plastics may include, but are not limited to, polyethylene terepthalate (PET) and high-density polyethylene (HDPE) containers.

(5) *"Single-family residence"* means any structure that contains one, two, or three single-family units. A duplex is equal to two single-family units. A triplex is equal to three single-family units.

(6) *"Solid waste"* means all putrescible and non-putrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and recyclable materials.

(7) *"Yard waste"* means the biodegradable wastes produced as a result of the maintenance of vegetation on residential property including, but not limited to, grass clippings, leaf matter, and brush.

(Ord. 1595 §4, 1991)

22.04.030 Commercial garbage and recycling collection monitoring

Although the City is not now exerting service level control over nonresidential garbage and recycling collection, certain information will be required of both franchised and nonfranchised haulers by the City to assist in its waste reduction and recycling development and monitoring activities. This information will include, but is not limited to, a monthly accounting of all commercial garbage and recycling accounts within the limits of the City. This accounting shall include the number of subscribers for each container size, and the total volume of commercial waste collected for each month within the quarter. Haulers who are not franchised shall provide this information as part of their business license requirements. The City Clerk is authorized to require this information on the business license application and renewal forms provided to such haulers.

(Ord. 1635 §1, 1992; Ord. 1595 §5, 1991)

22.04.040 Collection service levels

(a) No person, partnership or corporation shall engage in the primary business of hauling or transporting residential garbage refuse, yard waste, or recyclables for compensation within the City without complying with the requirements of this chapter and possessing proper operating authority as determined by the Washington Utilities and Transportation Commission.

(b) Haulers will provide adequate office facilities and phone operators to conveniently handle customer sign-ups, service changes, billings, and complaints. Customer service will be the sole responsibility of each hauler. Haulers will also assist the City with the development of program promotion and public education activities.

(c) Haulers shall request the WUTC to adopt a rate structure which includes the costs to implement the source separation residential collection program contained in these minimum levels of service and consistent with the priorities of RCW 70.95.010 to encourage maximum recycling. The collection rates should include:

(1) A combined garbage and recycling incentive rate that encourages "mini-can" and one 32-gallon can weekly service. It is the City's objective to have rates whereby the new "mini-can plus" recycling rate should be less than, or equal to, the previous one-can garbage only rate. The new "one can plus" recycling rate should be less than, or equal to, the previous two-can or 60-gallon-wheeled-container garbage-only rate.

(2) Customers who self-haul their recyclable materials and do not place any materials accepted by the recycling collection program in their garbage container shall be eligible for a $1.00 discount, which will be deducted from their monthly garbage collection rate. Residents will be responsible for notifying their hauler that they wish to participate in the rebate program, and haulers will be responsible for periodically monitoring eligibility.

(3) A yard waste collection rate shall be developed on a cost-of-service model, and will be offered as an additional service with a separate tariff.

(4) The haulers are required to order equipment to carry out the recycling and yard waste collection programs as soon as practicably possible and to begin these services on August 1, 1991.

(5) Whenever certificated haulers file tariffs with the Washington Utilities and Transportation Commission, an incentive solid waste collection rate structure shall be used. An incentive solid waste collection rate structure is one that rewards customers who recycle and includes substantial cost differentials between solid waste collection service levels. The tariffs filed shall include the following percentages of increases between levels of service: a minimum of 60% between mini and one can; a minimum of 40% between one and two cans or equivalent; and a minimum of 25% between two and three cans or equivalent. These percentages should apply to the combined charge to the customer for both solid waste and recyclable materials collection. The WUTC is strongly encouraged to approve tariffs that are consistent with the policies set forth in this chapter, and that meet the minimum percentages specified in this section.

(d) To assist in evaluating the financial and service impacts of City service level policies, the City requires access to all cost and service level data provided to the WUTC at the time of any rate modifications. Therefore, when new rates or rate modifications are proposed to the WUTC by a hauler, the hauler will provide a duplicate copy of all rate documentation which shall be immediately delivered to the City. The City will exercise its best effort to assure the confidentiality of any such documentation that is specifically marked with the word "proprietary" on the top of each page deemed to be sensitive by the hauler.

(e) All single-family residential collection services shall be offered to each account on a consistent day, in a coordinated manner whenever possible, on an economic basis.

(f) Materials will be collected between 6:30 a.m. and 5:00 p.m., Monday through Friday.

(g) Materials may be collected on legal holidays or at the hauler's discretion; alternative arrangements may be made as long as materials are collected within two days of each account's regular collection day.

(h) Missed materials from single-family residences must be collected within 24 hours of initial notification except in the case of hazardous weather conditions. If collections are missed due to hazardous weather conditions, missed materials shall be collected during the following regular collection cycle. Extra materials shall be collected at no extra charge under these circumstances.

(i) Special arrangements, on an individual account basis, shall be made to allow disabled single-family residential customers full access to all collection services.

(j) A quarterly report shall be delivered to the City by April 15, July 15, October 15, and January 15 of each year, containing the following data for each of the previous three months for the following sectors. During the first six months of the new collection programs, reports shall be delivered monthly by the 15th day of the following month on the following subjects:

(1) Single-family:

(A) Total garbage and recycling collection accounts;

(B) Total sign-ups for recycling and yard waste collection;

(C) Total customers actually participating in recycling collection, based on the collection of at least one set-out per month;

(D) Total customers actually participating in yard waste collection, based on the collection of at least one set-out per month;

(E) Number of pickups offered for each service (number of sign-ups multiplied by the number of drive-bys each month);

(F) Number of pickups actually made for each service;

(G) Separate totals for monthly tonnage collected for garbage, recycling and yard waste;

(H) A log of customer compliments and complaints, including date, time, subject, and resolution.

(2) Multi-family:

(A) Monthly total weights for garbage and recycling collection within the City limits;

(B) A monthly summary of the number of multi-family sites serviced, and a profile of garbage and recycling subscription rates including container size and frequency of collection;

(C) A log of customer compliments and complaints, including date, time, subject, and resolution.

(k) Single-family recycling and/or yard waste collection shall be offered independently, at a cost-of-service rate, for those who do not wish to subscribe to garbage collection.

(Ord. 1635 §2, 1992; Ord. 1595 §6, 1991)

22.04.050 Garbage collection

Garbage collection shall be offered weekly, and shall include the following container options: hauler or customer-provided 20-gallon "mini-cans", customer-provided 32-gallon cans, and hauler-provided 60 or 90-gallon wheeled containers.

(Ord. 1595 §7, 1991)

22.04.060 Recycling collection - Single-family

Single-family recycling collection service levels are as follows:

(1) The following materials shall be collected: newspaper, mixed waste paper, cardboard, glass containers, tin and aluminum cans, and recyclable plastic containers.

(2) Collection shall be offered at least biweekly (or semimonthly at the hauler's option).

(3) Materials may be commingled to the extent that the marketability of the collected materials is not compromised.

(4) Collected materials must be recycled unless prior approval is obtained from the City.

(5) Haulers shall deliver recycling containers to households that subscribe to the recycling collection service. These containers shall be capable of holding all materials to be collected with the exception of cardboard.

(6) Containers will be owned by the hauler. The cost of the first set of household recycling containers(s) shall be included in the collection tariff. Subsequent container(s) required due to negligence on the part of the hauler shall be provided at no cost to the customer; all other containers shall be offered at a price equal to the hauler's cost. Haulers shall incorporate information on the prevention of container theft into their promotional materials.

(7) Set-outs that contain obvious contamination shall be tagged by the hauler with instructions for proper separation and not collected. If the uncollected materials are not properly prepared on the following collection cycle, they shall be collected as garbage and the customer shall be billed accordingly.

(8) If the City determines that sign-up and diversion rates are too low, haulers shall be directed to deliver containers to all garbage customers, including those who have not yet subscribed to recycling.

(Ord. 1635 §3, 1992; Ord. 1595 §8, 1991)

22.04.070 Recycling collection - Multi-family

Multi-family recycling collection service levels are as follows:

(1) The following materials shall be collected: newspaper, mixed waste paper, cardboard, glass containers, tin and aluminum cans, and recyclable plastic containers.

(2) Materials may be commingled to the extent that the marketability of the collected materials is not compromised.

(3) Collected materials must be recycled unless prior approval is obtained from the City.

(4) Collection companies shall provide durable outdoor containers appropriate to the size of the multi-family account, and assist customers with adjusting garbage and recycling collection service levels to assure adequate and cost-effective service.

(5) Haulers shall work with the City to determine and implement a system of multi-family collection that meets the needs of the City, multi-family owners, managers, occupants, and haulers.

(Ord. 1595 §9, 1991)

22.04.080 Yard waste collection - Single-family

Single-family yard waste collection service levels are as follows:

(a) Yard waste collection shall include grass clippings, leaves, brush and woody debris up to three inches in diameter and three feet in length. No food waste shall be included.

(b) Yard waste collection shall be offered on a biweekly (or semimonthly at the hauler's option) basis except during the months of December, January, and February, during which collection shall be monthly.

(c) Yard waste material shall be source-separated and bagged, bundled or canned with the exception that plastic bags may not be used. If containers are used, they may be customer or hauler-provided.

(d) Set-outs that contain obvious contamination shall be tagged by the hauler with instructions for proper separation and not collected. If the uncollected materials are not properly prepared on the following collection cycle, they shall be collected as garbage and the customer shall be billed accordingly.

(Ord. 1595 §10, 1991)

22.04.090 Non-exclusive franchises established

Haulers operating under the authority of RCW 81.77 and other applicable statutes shall sign a franchise agreement and pay a franchise fee as provided by ordinance.

(Ord. 1635 §4, 1992)

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